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VOLUME V.

THE REPORTS IN THIS VOLUME ARE CONTRIBUTED BY THE FOLLOWING GENTLEMEN —

PRIVY COUNCIL by Thomas Campbell Foster, Esq of the Middle Temple, Special Pleader

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LORD CHANCELLOR'S COURT by Richard Griffiths Welford, Esq of the Inner Temple, Barrister-at-Law

VICE-CHANCELLOR of ENGLAND'S COURT by George Goldsmith, Esq of the Middle Temple, Barrister-at-Law

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The EXCHEQUER CHAMBER by A. A. Fry, Esq of Lincoln's Inn, Barrister-at-Law.

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NORFOLK CIRCUIT by John B Dasent, Esq Barrister at Law

SITTINGS AT NISI PRIUS AFTER TERM by John Lane, Esq D C L of the Inner Temple, Barrister at-Law.

ELECTION LAW

REGISTRATION APPEALS in the COMMON PLEAS by Edward W Cox Esq of the Middle Temple, Barrister at Law and Henry Lindal Atkinson, Esq of the Middle Temple, Barrister at Law

ELECTION COMMITTEES by Edward W Cox, Esq of the Middle Temple, Barrister at-Law

The REGISTRATION COURTS, collected and edited by Edward W Cox, Esq of the Middle Temple, Barrister at Law

IRISH REPORTS

The LORD CHANCELLOR'S COURT by William Dugan, Esq Barrister at Law

QUEEN'S BENCH and CRIMINAL COURTS by Wm St. Leger Babington, LL D Barrister at-Law

The Written Judgments are reported verbatim in Short hand by Mr H Crickory, Short-hand Writer

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PRIVY COUNCIL by Thomas Campbell Foster, of the Middle Temple, Esq. Special Pleader.

HOUSE of LORDS by William Paterson, Esq. of Gray's-inn, Barrister-at-Law.

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N. B.—The names of the reporters of such important points as may arise upon Circuit will be announced as the arrangements for each are completed.

The Written Judgments are reported verbatim in Short-hand by Mr. H. Gregory, Short-hand Writer.

Equity Courts.

LORD CHANCELLOR'S COURT.

Morral v. Sutton.

Construction of bequest—Inconsistent clauses—Rules of interpretation—Intention.

The rules by which inconsistent clauses of a will are construed or rejected, should be governed by the intention of the testator, apparent upon consideration of the whole will.

Diversity of opinion amongst the judges.

This was an appeal from the decision of the Master of the Rolls upon the construction of the will of Edward Lloyd, after two arguments. The Lord Chancellor had called to his assistance Mr. Baron Parke and Mr. Justice Coleridge, and those two learned judges having differed, his lordship gave the parties time to consider whether they would re-argue the case before his lordship and two other common law judges, or whether they would prefer his lord ship's immediate decision.

The testator, after giving to three persons for life all his leasehold estate in Gloucestershire, held under the dean and chapter of Bristol, subject to certain annuities charged thereon; after their decease "gave all his said leasehold estate *to Sarah Calcot, the younger, if she should be then living, her executors, administrators, and assigns, subject to the said annuities charged thereon, during the time of her natural life.*" And if the said S. C. the younger, should die in the lifetime of the three tenants for life, leaving any lawful issue of her body, the testator gave the said leasehold premises to such issue as tenants in common. But in the event of the death of S. C. in the lifetime of the tenants for life without issue, then the leasehold premises were given over. Sarah Calcot survived the three tenants for life, and then died, leaving issue; and the question was, whether, under the will, she had an absolute interest, or only a life estate in these leaseholds.

The following is the substance of the opinions delivered by the two learned judges.

Parke, B. after regretting that a difference of opinion existed between himself and Mr. Justice Coleridge, and stating the clause of the will on which the doubt arose, to the effect above set forth, said, The question is, whether Sarah Calcot took an absolute estate, or only a life interest in the leasehold property. In ascertaining this, we must look at the rules of construction in cases of this sort, and apply them so far as they are applicable to construing this inaccurate will. One rule of construction is, that technical words are, as far as possible, to be understood in their proper technical sense. Another is, that an endeavour must be made to give every expression contained in the will some effect. If two somewhat inconsistent modes of expression appear, that interpretation must be given which will prevent an intestacy; but if they are absolutely inconsistent, and cannot stand together, then the last must prevail. The testator must be taken to have expressed his meaning in the last bequest. It was argued that this rule of construction applied only to wills wherein separate clauses were inconsistent, not where the inconsistent expressions were in the same sentence; and *Doe* v. *Leicester* (2 Taunton, 113) was cited; but I think that rule is equally applicable when the repugnant expressions are contained in the same sentence. In applying the rule that technical words are to be used in a technical sense, the counsel of both parties contended that both clauses were strictly technical, and each contended that his own interpretation best carried out the testator's intention. The appellants contended that an absolute interest in terms was given to Sarah Calcot by the first part of the bequest, and that the subsequent words, "during the term of her natural life," referred to the annuities which were mentioned in the parenthesis immediately preceding those words. The respondents contend either that the last words qualify the former absolute gift, or that the effect of the first absolute gift was to give the legatee the legal estate, for the purpose of enabling her to renew the leases, when necessary; but there are difficulties in either construction.

For the appellant it was said that an absolute interest was intended to be given to Sarah Calcot; because it appears from that which immediately follows, that if she should die in the lifetime of certain persons, leaving issue, her issue shall take the property, which shews an intention to provide for the issue of Sarah Calcot, and that by giving her an absolute interest she is enabled to provide for her issue. If I could find in the context of the will any intention to provide for her issue, I might, in favour of that intention, reject such words of the will as would be inconsistent. But I find no indication of any intention to provide for the issue of Sarah Calcot generally, but only in the event of her death during the lifetime of the tenants for life. There is an express provision by which the benefit to the issue is made dependent upon Sarah Calcot dying in the lifetime of the tenants for life. It was suggested that the words "her executors, administrators," &c. slipped into the will by accident and through the inadvertence of the person who prepared it; and that is the most plausible construction, and most consistent with the other parts of the will. I shall not go through the cases which were cited, in some of which the last of two inconsistent clauses in a will was rejected; but I will mention some of them. In *Reece* v. *Steele* (2 Simons, 233) a clear estate tail was given, and the Court rejected a few inconsistent words. In *Doe* v. *Stenlake* (12 East, 515) there was really no difficulty. *Smith* v. *Pybus* (9 Ves. 566) is more like the present; and in *Boon* v. *Cornforth* (2 Ves. 277) words were necessarily rejected. Here there is no such necessity. There is another class of cases in which "or" has been construed "and," collected in 1 Jarman on Wills, 453.

Nor is the argument derived from a supposed intestacy, in case Sarah Calcot be held to have only a life estate, of any weight, for there is no intestacy. There is a plain residuary bequest, though remote. Under these circumstances, I must decide on the construction of this will according to established rules. The two parts of the bequest being repugnant, the last must prevail, and Sarah Calcot, therefore, took only a life interest under the will.

Coleridge, J. regretted that he was obliged to differ both from Mr. Baron Parke and the Master of the Rolls, as to the true construction of this will, but said there was no substantial difference between those learned judges and himself on principle, as to the rules by which wills are to be construed. And having stated the terms of the gift, said—I concur with Baron Parke that no satisfactory [...] suggested at the bar, by which the repugnant parts of this will can be reconciled. Then, if they cannot be reconciled, I must reject one, and that one must be rejected which does not express the intention of the testator; and in ascertaining which is to be rejected, I must shew what is the subject-matter of the bequest, and I shall shew also that the technical rules of construction which have been referred to have no bearing on the present case. It is necessary to adopt a wider construction, and in so doing I must reject the last clause and prefer the first. Whatever may be the technical rules for construing wills, whenever the general intention can be discerned, it is clearly established that no rule shall clash with that intention of the testator, but that which is inconsistent with the general purpose of his will, whether it stand first or last, must be rejected. The rule of construction is not merely an arbitrary one that in a deed you must adopt the first, and in a will the last, of two inconsistent clauses. It is no departure from the original rule to reject either the first or the last in favour of the intention. This has been done where the repugnancy was in the same sentence, as in *Doe* v. *Biggs* (2 Taunt. 309) and *Boon* v. *Cornforth* (2 Ves. 277). If I apply the rule of rejecting the first expression, contained in the same sentence, I must suppose the testator to have altered his intention while writing the same sentence, but it is much more reasonable to presume that he altered his words rather than his intention. Mr. Jarman, in the 15th chapter of his book on wills, has well stated the question, and I use his expressions:—"It is clear that words and passages in a will which are irreconcilable with the general context, may be rejected, whatever may be the local position which they happen to occupy; for the rule which gives effect to the posterior of several inconsistent clauses, must not be so applied as in any degree to clash or interfere with the doctrine which teaches us to look for the intention of a testator in the general tenor of the instrument, and to sacrifice to the scheme of disposition so disclosed any incongruous words and phrases which have found a place therein." Up to this point there is no material difference between myself and the other judges. The question is, whether the rule of taking the last expression is to be applied to this case; whether there is evidence of an alteration of intention by the testator when he used the last expression; whether there is a sufficient amount of evidence to take this clause out of the will. Now, if he has shewn an intention to provide for the children of Sarah Calcot, I must retain the words which give effect to that intention, and reject those which would defeat it. It was argued that no inference of intention can be drawn from the will it it is expressed. But that is putting the construction upon narrow ground. If a testator has provided for four contingencies, and there is a fifth contingency clearly within the scope of his general intention, that is a warrant for rejecting an inconsistent clause. All the words he has used are large enough, whether the first be taken or rejected. A mere guess, it is true, ought not to influence the decision. But it cannot be said that there is any rule of construction so strict as to bind me to reject the first of these clauses, where I see a general intention expressed in other parts of the will which is not consistent with the rejection of that clause. There is enough in this will to shew that the general tenor of the context is opposed to the rejection of the first part of the bequest.

There is a class of cases closely analogous, which shews that in order to do these strong acts, it is not necessary that there should be an inevitable cogency; it is sufficient if there is only a high degree of probability as to the intention, to be consistent with the rejection of the last clause. (*Soulle* v. *Gerard*, Cro. Eliz. 525; *White* v. *Barber*, 5 Burr. 2703, S.C. Ambler.) A posthumous child was held to take under the will, though against the words, on the presumed intention arising out of the whole context. To apply this to the present case, what is the evidence of intention? His object is plainly to limit the property to Sarah Calcot and her issue; and on the other hand, in a certain event there would be an intestacy as to this large property. Though there is a residuary clause, it is enough to say that he has shewn it was not intention that should operate to the prejudice of the issue of Sarah Calcot. His object was to preserve the estate; he anxiously provides for the renewal of the lease. Sarah Calcot and her issue are the objects of his bounty, and limitations in favour of her issue are expressly inserted, in the event of her death during the lifetime of the tenants for life. If she survived the tenants for life, she would take the absolute interest, and so could provide for her issue. The remainder-man was only to take in default of her issue. To apply the reasoning of the Court in *White* v. *Barber* to this case, it is obvious the construction above indicated will prevail. Why should the remainder-man be provided for in the one case and not in the other? It is said we cannot infer conclusions, but that is not correct; I cannot take one construction to be reasonable, the other the reverse, solely because he is to be taken to have changed his intention before he had written the same sentence. I am of opinion that Sarah Calcot took an absolute interest in the lease-

hold estates in Gloucestershire given by the testator's will.

This case has been mentioned several subsequent times, and has stood over, in consequence of negotiations for a compro[illegible] stated by counsel to have been in progress.

VICE-CHANCELLOR OF ENGLAND'S COURT.

Thursday, Feb. 13.

BROWN *v.* COLE.

Mortgage—Under what circumstances the Court will refuse a mortgagor to redeem before the day mentioned in the mortgage-deed, upon payment of principal and interest up to the day of redemption.

The plaintiff B demised to the defendant C certain leasehold property to secure to him the repayment of 1,000l. subject to the following proviso for redemption, viz. that "if B, his heirs, executors, or administrators, should well and truly pay or cause to be paid to the said C, his executors, administrators, or assigns, the said principal sum of 1,000l. on the 1st day of April, 1845, and also interest thereon in the meantime, without any deduction or abatement whatever, together with all costs and expenses which the said C, his executors, administrators, or assigns, might have incurred on account of the thereby demised premises, or in carrying the therein-mentioned trusts into effect, then and immediately after such payment the said C, his executors, administrators, or assigns, would, at the request, costs, and charges of the person making such payment, assign and assure the said premises thereby demised unto the person making such payment, &c."

B, being desirous of paying off the mortgage-money with interest before the time mentioned in the mortgage deed for redemption, viz. 1st of April, 1845, applied to C for that purpose, offering to pay, in addition to the principal sum, and interest up to the 1st of April, 1845, all costs, charges, and expenses which might be incurred in so doing, and a draft release was accordingly submitted to C for that purpose. This C refused to comply with.

Held, upon a demurrer, that B, the mortgagor, could not compel C to receive his money, and interest in advance, before the time mentioned in the mortgage deed.

The bill [illegible] that the plaintiff, b[illegible] possessed of cert[illegible] leaseh[illegible] dw[illegible]lling [illegible]uses and pieces of land situate in th[illegible] parish of L[illegible]eth, in the county of Surrey, and ha[illegible] occasion for a sum of money, applied to the defe[illegible]ant, Edmund Cole, to lend him the same. Whereupon, by a certain indenture of assignment by way of mortgage, bearing date the 1st of April, 1844, and made between W. West therein described of the first part, the plaintiff of the second part, and the defendant of the third part, reciting a certain indenture of mortgage, 16th March, 1844, for s[illegible] W. W[illegible] the sum of 1,200l.; and furt[illegible] reciting that the p[illegible] having occasion for the s[illegible] of 1,000l. had applied to the said defendant t[illegible] lend him the same, and that it was intended that the [illegible] sum of 1,000l. should be paid to the said W. We[illegible] part disc[illegible] of the said mortgage of 1,200l. h[illegible] pl[illegible]iff, by the direction of the said W. We[illegible] therein mentioned, demised, and the s[illegible] W. We[illegible] did demise and confirm unto the said defendant, his [illegible]cutors administrators, and assigns, all th[illegible] pie[illegible] parcel of ground and messuages thereon [illegible] with [illegible] th the said W. West [illegible] and assigns and [illegible] for th[illegible] b[illegible]ing, to hold unto th[illegible] defendant [illegible] administra-tors [illegible] day of the date thereof, for the [illegible] of [illegible] years wanting twe[illegible] lease granted less one d[illegible] in contained. And [illegible] April 1844. prov[illegible] said plaintiff, or either [illegible] his heirs, execu-tors [illegible] well and truly pay, [illegible] said defendant, his exec[illegible] the said prin-cipal [illegible] money, on the 1st d[illegible] there in the [illegible] per annum by [illegible] of July, the 1st [illegible] and the 1st d[illegible] together wi[illegible] said defendant, his ex[illegible] assigns might hav[illegible] be thereby de-mi[illegible] in afore-sai[illegible] immediately after such [illegible] executors, ad[illegible] request, cost[illegible] person or persons so mak[illegible] his or their exe-cut[illegible] assign and assure the s[illegible] unto the person or per[illegible] aforesaid, his or the[illegible] assigns, or as he [illegible] however, to such equity of redemption as should for the time being be subsisting therein under or by virtue of the said indenture of 16th day of March, 1844, and particularly to the lien, claim, or demand, if any, of the said W. West, his executors, administrators, or assigns thereon in respect of the remainder of the said mortgage debt of 1,200l. or the interest thereof, or any part thereof respectively, or otherwise.

On or about the 18th of November, 1844, the plaintiff having paid off to W. West the whole of the mortgage-money and interest; the said W. West, by an indenture of that date, released the property from all claim in respect of the same.

The plaintiff being desirous of granting a lease of part of the mortgaged estate, applied to the defendant to concur with him therein, which he agreed to do upon having 250l. part of the purchase-money for the said lease, paid to him in part discharge of his mortgage of 1,000l. In consequence of which a lease was, on the 29th of November following, granted by the plaintiff and defendant, to one James Smith, from the 29th of September, then past, for the term of 78¾ years wanting twenty-one days, at a yearly rent therein mentioned.

All interest in respect of the sum of 1,000l. so secured to be paid to the defendant as before mentioned, was duly paid by the plaintiff to the defendant down to the 1st of October, 1844, and all interest in respect of the sum of 250l. part of the said principal sum of 1,000l. was duly paid by the plaintiff to the defendant down to the day of payment of the said sum of 250l. as before mentioned.

The principal sum of 750l. only, with interest thereon from the 1st of October, 1844, remained due from the plaintiff to the defendant by virtue of the [in]denture of mortgage of the 1st of April, 1844.

The plaintiff being desirous of having the estate and premises discharged from the mortgage of 1,000l. and interest, proposed to the defendant to pay him the principal sum of 750l. so remaining due to him, together with interest thereon at the rate of 5l. per cent., to be computed from the 1st of October, 1844, to the 1st of April, 1845, being the day mentioned in the proviso for redemption of the estate in the indenture of mortgage contained, and a release was accordingly prepared. The plaintiff was ready and offered to the defendant to invest the balance of the mortgage money in the public funds or otherwise to secure the same with a view to the full guarantee of the defendant against all possibility of loss, and offered also to deposit the sum of 50l. with the solicitor of the defendant to secure to him the ultimate payment of his full demand; but the defendant refused to accede to any terms of compromise or arrangement; the present suit was therefore instituted. The bill prayed for the usual account and for liberty to redeem and to have the estate re-assigned to the plaintiff upon payment of the principal, interest, and costs. It prayed also for an injunction to restrain any proceedings at law or in equity against the plaintiff in respect of the mortgage security, and for a receiver. Authors cited: Coote on Mort. 646; 2 Black.

Stuart and *Miller*, in support of the demurrer, contended that the mortgagor was bound by a contract to allow the money to remain on the security of the property until a certain period mentioned in the mortgage-deed (this contract the plaintiff sought to break); that in the bill the mortgagor asks not only that the mortgagee shall take his money back before the proper time, but even that he may pay the costs; that the bill prayed not only for a receiver, but that the defendant should not take any proceedings either at law or in equity. The equity of redemption was established because it was formally considered in the light of a penalty, viz. an absolute forfeiture. That the contract for the money being paid on, and not before, the 1st of April, with costs, ought to be regarded strictly, and with regard to the general question, as between mortgagor and mortgagee, the bill could not be sustained, and the demurrer ought to be allowed.

Wakefield and *Steere*, for the plaintiff.—The mortgagor having borrowed 1,000l. has continued to pay the interest up to the present time, the mortgagee in the [mean]while having consented to receive 250l. of his money. The mortgagor having finished one or two houses wishes to sell, and offers to pay off the remainder of the mortgage-money; but the mortgagee says, "I will not receive my money, but will have your sale." What difference can it make, whether the money is paid now, with interest up to the 1st of April, and its being paid at that time? There is a difference between a bill to foreclose, and one to redeem; because in the former you take away a man's rights. We [can]not come too soon, and have a right to redeem. The mortgaged estate is only a pledge till the mortgagor chooses to repay his money, and all the interest due, when he has a right to have his property back again. It is contended on the other side that we seek to break a contract, which is that the money shall not be repaid till a certain day. Now, if there be any contract, it has been broken already by the defendant, when he received back 250l. of his money. Suppose the plaintiff had made his tender on the 31st March, instead of the 1st of April, the actual day mentioned in the deed, is he to be told that he must wait till the next day? Now, if he can come a day before, why not a week or a month? We cannot get back the estate at law; our only remedy is in this Court, which does not look at the penalty, but only the principal, interest, and costs.

The VICE-CHANCELLOR.—I endeavoured some time ago to find out whether there existed any law to support the usage in the Profession, as between mortgagor and mortgagee, but was not able. It does not appear that at present this Court has any jurisdiction, because the bill is silent with regard to the estate having become forfeited at law; and until the mortgagor comes to claim his equity of redemption, in consequence of such forfeiture, I cannot interfere.

Demurrer allowed.

VICE-CHANCELLOR KNIGHT BRUCE'S COURT.

Thursday, March 6.

NORTON *v.* PRITCHARD.

Executors of insolvent estate—Breach of trust—Costs. Where a breach of trust had been committed by several persons, and one of them died insolvent, his executors, who had fully administered the assets come to their hands, being made parties to a suit with regard to the breach of trust without previous inquiry by the plaintiff as to the solvency of the estate, were held under the circumstances to be entitled to their costs as between party and party.

In this suit a question arose as to costs, which will be sufficiently explained by the Vice-Chancellor's judgment.

Russell and *Sydney Bell*, for the plaintiffs, who were infants.

Chandless, for the executors, cited *Adair* v. *Shaw* (1 Sch. & Lef. 262).

The VICE-CHANCELLOR.—Bradbury Norton was one of several persons who had committed a breach of trust. He died leaving other trustees who had participated in the breach of trust. His will was proved by these defendants. The plaintiff, complaining of this breach of trust, there being living parties liable, does not inquire before the institution of the suit how the affairs of Bradbury Norton stood—whether he left property or not—but makes the executors of Bradbury Norton parties. The executors by their answer allege that the estate of their testator was insolvent, and they state that all the assets which have come to their hands have been duly administered. By the decree made in the suit, an account is directed to be taken of his assets. Neither the plaintiff nor any of the defendants think it proper to pursue that account. The cause now comes on upon further directions, and it is stated that all the parties are unwilling to pursue this account. Under all these circumstances, then, I am of opinion that the executors of Bradbury Norton are entitled, having conducted themselves reasonably and properly in this suit, to their costs between party and party, to be paid to them by the next friend, but the next friend will be entitled to add them to his own.

Saturday, March 8.

WORTHAM *v.* PEMBERTON.

Practice—Married woman—Infant.

A bill may be filed in the name of an infant married woman by her next friend without her consent.

In this case a petition was presented by W. B. Newenham, a prisoner under sentence for the abduction of the plaintiff, Frances Louisa Wortham, praying that he might be discharged from contempt; that certain orders made in the cause on the 16th and 18th of December, 1843, might be discharged, and that the bill might be taken off the file.

This petition was presented under the following circumstances:—On the 13th of October, 1843, the petitioner eloped with Miss Wortham, then under fifteen years of age, and went to Scotland, where they were married on the 15th of October. On the 15th of December a bill was filed by the mother in the name and as the next friend of the infant against the trustees of the infant's property, stating the circumstances of the abduction, and praying the appointment of a guardian, &c. On the 16th of December an order was made restraining the petitioner from all intercourse with the infant, and on the 18th of December the petitioner was ordered to deliver up the infant to her mother, and personally to attend in court on the 22nd of December. The petitioner did not attend on that day, and an order was then made for his committal for contempt. Before this order was executed the petitioner was apprehended for the misdemeanor, of which he was afterwards convicted, and he was sentenced to two years' imprisonment. In August 1844 a child, the issue of the petitioner and the infant, was born. The Master had found and reported that the marriage had taken place on the 15th October, 1843.

Russell and *Malins*, for the petitioner, stated that he was sorry for his contempt in not obeying the orders of the Court, though they were irregular. The suit was, however, erroneously instituted, as the plaintiff was a married woman, and they had described

her by her maiden name and as a spinster, without making her husband a party.

Swanston and *Prendergast*, for the mother and next friend of the infant.

Cole, for the trustees.

The cases of *Cooke* v. *Prior* (3 Bea. Repts.); *Like* v. *Beresford* (3 Ves. 506); and *Ball* v. *Coutts* (1 V. & B. 300), were cited.

The Vice-Chancellor.—I do not intend finally to dispose of this petition now. If the second part of the argument for the petitioner were to prevail, it would strike at the root of the power and authority of the Court. It would deprive it of its authority in those most serious and most affecting cases where the infant is carried off by fraud or force, and the family is in ignorance where the infant is, whether married or not. The infant in this case is described as a single woman, at a period when it has since appeared she was married, but when it was uncertain whether she was married or not. She is described as a single woman, and by the name she bore when single, in a bill the object of which was to make her a ward of court. The husband, the man who carried her off, as might be expected, was not made a party. It has been said that such a bill ought to be taken off the file, and that every thing which has been done under it should go for nothing. I cannot accede to such a proposition, without admitting that a bill cannot be filed by her next friend in the name and on behalf of a married woman, who is an infant, without the consent of such infant. The question occurred to me during the argument, and I have the opinion of Mr. Colville and Mr. Colville, jun. that such a bill can be filed, and that opinion appears to coincide with the impression of the Master of the Rolls in *Cooke* v. *Prior*. Although the infant was married before the bill was filed, yet this may be a case in which it will be my duty to direct a settlement. If the bill is not now regular, it may, either by amendment or supplemental bill, be made so. I am not now in a position to do complete justice, by reason of my ignorance of the real state of the property, and I cannot, therefore, fully dispose of the petition. Taking the master's report to be final, I shall direct that part of the order to be discharged which directs the infant to be delivered to the custody of her mother, and restrains the petitioner from having intercourse with the infant.

Discharge such part of the order of the 18th of December as directs the infant to be delivered to her mother. Direct that the petitioner shall have such correspondence, communication, and intercourse with the infant as he would be entitled to have if neither of the orders had been made; and, the defendants consenting, let the next friend of the plaintiff be at liberty to amend the bill, or to file a bill of supplement, as she may be advised; the amendment to be made without prejudice to the contempt; and let the petition in all other respects stand over.

Circuit Reports.

SPRING ASSIZES.

NORFOLK CIRCUIT.

Huntingdon, Wednesday, March 19.

(Before Mr. Justice Patteson.)

Nix v. The Earl of Fitzwilliam and William Bristow.

Landlord and tenant—Distress—Condition of sale according to custom of country—Auction duty—Evidence under general issue by statute.

Where the declaration in an action for an excessive distress omits some of the goods seized, the plaintiff cannot rely on them in order to prove his count for seizing too much, though they are included in the notice of distress.

It is not competent to sell goods seized under a distress for rent subject to any condition, though grounded on the custom of the country, the Act requiring the goods to be sold for the best price which can be gotten for them.

Where enough money has been raised by the sale of goods under a distress to satisfy the rent and charges, and the plaintiff requests the auctioneer to proceed to sell others, the property so sold is subject to the auction duty.

The defendants may give evidence of "leave and license" under the plea of the general issue by statute; and the presence of the plaintiff at the sale, and his request to the auctioner to sell the surplus goods, are evidence to support such defence.

Case—for taking more goods than were reasonably sufficient to cover a distress for the sum of 182*l.* 12*s.* 6*d.* due from the plaintiff to the defendant for the rent of a farm, the said goods being stated in the 1st count to be stacks, stock, agricultural implements, and furniture. The 2nd count was for not selling the same for the best prices which could be gotten for them; the 3rd, for not appraising the goods; and the 4th, for extortionate charges on the part of the auctioneer, the defendant Bristow.

Plea—Not guilty by statute.

Dasent and *O'Malley*, for the plaintiff, proved, in support of the first count, that the notice of distress contained not only the goods mentioned in the declaration, but also the growing crops, which, together with the rent, amounted in value to the sum of 450*l.* Under the second count it was shewn, that at the sale of the stacks the defendant Bristow gave out the conditions of sale by word of mouth, and among them was one which bound the purchasers to thresh the corn on the farm and leave the straw on the premises, such condition being in accordance with the custom of the country, which imposed such terms on tenants. By this condition it was proved that a loss of 40*l.* was sustained at the sale of the stacks, and this, it was contended, was a loss which conferred a right of action on the plaintiff; for though the custom of the country might be such as between landlords and tenants whereby the proper cultivation of the lands should be secured, yet the landlord had no right to impose that custom by way of condition of sale under a distress for rent, when the Act expressly stated that the goods distrained should be sold for the best price which could be gotten for the same. In support of the third count, evidence was given to shew that no appraisement had taken place of the goods sold; and as to the fourth count, reliance was placed on the account furnished by defendant Bristow, in which was an item of 1*l.* 14*s.* for auction duty on 34*l.* which, it was urged, he was not authorized by law to charge, the auction duty being expressly excluded from all sales under distress for rent. On cross-examination, it appeared that the plaintiff was present on the farm, and in the house during the sale, and that when the auctioneer had sold a sufficient quantity of goods to satisfy the distress and the charges, he said to him that, "as he had sold the best of the things, he might as well go on and sell the rest;" on which the defendant Bristow proceeded to sell property to the amount of 34*l.*

At the close of the plaintiff's case,

Byles, Serjt. (with whom was *Archer*), submitted that the plaintiff was not at liberty to introduce the growing crops into the claim under the count for an excessive distress, as though they had been seized and were included in the notice of distress, they were not enumerated in the declaration. As to the second count, he contended that the defendants were justified by the custom of the country in selling the stacks, subject to the condition of sale complained of, and that, therefore, the best price had been gotten for them that was attainable under the circumstances. With reference to the third count, for not appraising, though it certainly did not appear that that step had been taken, yet, as the defendant had pleaded the general issue by statute, they were at liberty to prove leave and license under it, just as they would before the new rules; and on that point it was contended, that the presence of the plaintiff, and his request to the defendant Bristow to sell the further lots, were facts from which the jury might infer his assent both to the non-appraisement and to the imposition of the condition of sale. With respect to the fourth count, it was argued, that the duty was properly chargeable on goods sold after the request of the plaintiff, for then the sale ceased to be one under the distress, and became a private one, which was not exempted therefrom.

Patteson, J. (having consulted Parke, B.) said.—It is clear that the plaintiff cannot introduce the seizure of the growing crops under the first count, for they are not specified therein together with the rest of the goods seized. I do not think, therefore, that there is any ground for damages on that count, for the balance, 31*l.* 19*s.* is not too wide a margin for the landlord to take under such circumstances; and if he requested the defendant to sell goods to the amount of 34*l.* after the distress was satisfied, he cannot now complain on that score. With respect to the second count, for not selling the goods for the best price that could be gotten for them, I am clearly of opinion that there is evidence to support it; for the auctioneer had no right to impose such a condition of sale upon the purchaser under a distress for rent, although it may be in accordance with the custom of the country that the produce of the farm should be consumed on it by the tenant. When goods are sold under a distress, the best price cannot be said to be gotten for them if their sale is clogged with a condition which (as is here proved) entails a diminution of 40*l.* on their value. On this subject I have so ruled before, and on speaking to my brother Parke, I learn that on that occasion there was a rule *nisi* for a new trial, which was refused by the Court of Exchequer, out of which the record issued in that case. It, however, appears from the same authority that, on a subsequent occasion, my brother Maule ruled the same point the other way, and the same Court, on motion, refused a rule in that case, their attention not having been drawn to what had been done on a former occasion. My brother Parke adds, however, that he agrees with me, and I shall have, therefore, no hesitation in adhering to my original opinion upon this subject, leaving it to the defendants to move if it be necessary. As for the fourth count, I entertain no doubt that the charge for auction duty is not illegal, as the sale, to the extent of 34*l.* was clearly a private one, and not under the distress for rent.

His lordship then summed up the case to the jury, in accordance with the opinion thus expressed, leaving it to them to say whether they saw enough in the conduct of the plaintiff at the sale from which they could infer his assent to the proceedings which were illegal. If so, they might, under the plea of the general issue, find a verdict for the defendants, as it was not competent to the plaintiff to assent to an illegality, and then make it the foundation for an action.

Dasent objected that there was no evidence to go to the jury of any assent; but the question being so left to them, they found a verdict generally for the defendants.

Cambridge, Tuesday, March 25.

Reg. v. Brabcock.

Embezzlement—Authority to receive money—Employment.

An indictment for embezzlement cannot be supported, unless there either be an employment of the prisoner as a servant by the prosecutor, or an express authority be given to him to demand and receive the money charged to have been embezzled by him.

The prisoner was indicted for having feloniously embezzled the sum of 10s. received by him by virtue of his employment as the servant of the prosecutor.

Sanders, for the prosecution, proved that the prisoner had formerly been apprenticed to the prosecutor, who is a shoemaker, and that on a certain day he came to him and ordered two pairs of shoes to be made for two ladies. When the shoes were made, he called again, and offered to take home the shoes. They were therefore given to him for that purpose by the prosecutor, but no authority whatever was given to him to ask for or receive the price of them. Not long after this the prosecutor met him, and demanded the money; which, though he did not deny to have received, he declined to hand over.

Patteson, J.—This charge cannot be supported on this evidence. An express authority to receive the money charged to have been feloniously embezzled, or a general employment as a servant, must be proved; for the indictment alleges that the money was received by virtue of such employment as servant. The prisoner in this case was not employed to carry home these goods as a servant, nor had he any authority to demand or receive the price of them. He did not, therefore, receive money by virtue of any employment by the prosecutor; and if customers pay money under such circumstances, they do so in their own wrong; and being still liable to the prosecutor, he is not damnified by the act of the prisoner. The prisoner, therefore, must be acquitted. *Not guilty.*

CENTRAL CRIMINAL COURT.

FEBRUARY SESSION.

Monday, Feb. 10.

Reg. v. Smison.

Indictment against a master of vessel for leaving behind in foreign parts a seaman, one of his crew—A certificate by the authorized officer, to the effect that the master had sworn before him that the seaman had deserted, is insufficient under the 42nd section—The fact of the desertion must be certified by the officer.

The defendant was indicted under the 5 & 6 Wm. 4, c. 19, for having, as master of a vessel, left behind, in foreign parts, a seaman who had been one of the crew of the said vessel, engaged for a certain voyage. The indictment was as follows:—

"Central Criminal Court, To wit, } The jurors of our lady the Queen, upon their oath, present, that Alexander Smison, late of London, mariner, heretofore, to wit, on the 1st day of May, in the seventh year of the reign of our Sovereign Lady, &c. upon the high sea, within the jurisdiction of the Admiralty of England, and within the jurisdiction of the said Court, was the master of a certain ship, that is to say, a certain British merchant ship, called the *Elizabeth*, of Bristol, belonging to certain subjects of the United Kingdom of Great Britain and Ireland; that is to say, the said Alexander Smison and one William Martin; and that one William Burgess was then and there a person belonging to the crew of the said Alexander Smison, and on board the said ship, duly engaged by the said Alexander Smison, so being such master as aforesaid, as one of the original crew to serve in the said ship in a certain voyage, to wit, a voyage from the port of London to the city of Quebec, in Lower Canada, North America, in parts beyond the seas, and back to the port of London. And the jurors aforesaid, on their oath aforesaid, do further present that the said Alexander Smison, so being such master as aforesaid, and whilst he was such master as aforesaid, and whilst the said William Burgess was one of his crew as aforesaid, afterwards, to wit, on the 13th June, in the year aforesaid, with force and arms, unlawfully, wilfully, and wrongfully did leave the said William Burgess behind on shore at a certain place in her Majesty's dominions, to wit at Quebec, in Lower Canada, North America, aforesaid, before the return of the said ship to the said United Kingdom, and before the completion of the said voyage, for which he, the said William Burgess, had been, and then was, engaged as aforesaid; against the form of the statute in such case made and provided, and against the peace, &c. And the jurors

aforesaid, upon their oath aforesaid, do say that the said Alexander Smison afterwards, to wit, on the 28th day of January, in the 8th year of the reign, &c. was found, happened to be, and now is, at the parish of St. Dunstan, Stebonheath, otherwise Stepney, in the county of Middlesex, and within the jurisdiction of the said Court."

The 42nd section of the above statute enacts, "That no such master shall be at liberty to leave behind at any place abroad, either on shore or at sea, any person of his crew, as aforesaid, on the plea of such person not being in a condition to proceed on the voyage, or having deserted from the ship, or otherwise disappeared, unless upon a previous certificate in writing of one of such functionaries or merchants as aforesaid, if there be any such at or within a reasonable distance from the place where the ship shall then be, if there be time to procure the same, certifying that such person is not in such condition, or has deserted, or disappeared, and cannot be brought back; and all such functionaries as aforesaid are hereby authorized and required, on the application of any such master, to inquire, by examination on oath, into the circumstances, and to give or refuse such certificate, according to the result of such examination."

Ballantine, for the defendant, put in a certificate of which the following is a copy:—

"Province of Lower Canada, District of Quebec.

"Personally came and appeared before me this day, Alexander Smison, master of the bark *Elizabeth*, of Bristol, who, being duly sworn on the Holy Evangelists, declared and said that Wm. Burgess and Augustus Warnby, seamen belonging to the said vessel, did on the 10th instant desert from her while at Quebec, and further saith that they are now absent without leave.

"(Signed) Edward Boxer,
Commissioner for carrying into effect the Imperial Act of 5 & 6 Wm. 4, c. 19, respecting Merchant Seamen.

"Sworn before me at Quebec, this 11th day of June, 1844."

Mr. Commissioner Bullock.—This is merely the evidence of the captain, which does not seem to have been acted upon. He seems to have taken the first step properly, but there is no certificate such as the Act requires.

Ballantine.—It is proved in evidence that this is the only certificate ever granted. There is no question that the party granting it was duly authorized to do so. The captain's information was duly taken upon oath, and that seems by the Act all that is required to give security to the master.

Mr. Commissioner Bullock, after consultation with the Recorder.—I cannot receive this as a certificate under the Act. It does not state the facts as ascertained by the proper authority; it merely proves that the captain swore certain things before him. The Act requires the proper officer to certify that the truth is so, not that that another person deposed to it.

The case proceeded, but the defendant was acquitted.

MARCH SESSION.
Friday, March 7.
Reg. v. Scully and Others.

Where a box of plate was brought up from the bottom of the river by ballast-heavers while engaged in their ordinary business, and the contents were disposed of by them, it is a question for the jury whether, under the circumstances, they had sufficient means of discovering the owner, or had wilfully abstained from making any endeavours towards such discovery, to constitute a larceny.

The prisoners were indicted for larceny under the following circumstances:—The prosecutor in October last in going up the river with a box of plate, had lost it overboard under Waterloo-bridge. There was a card with his name on it fastened on the box at the time. Early in February the prisoners, in getting up ballast from the bottom of the river in a spot considerably below Waterloo-bridge, had picked up the said box, and having broken it open, had sold the plate to different parties, to whom, however, they related how they became possessed of it. There was no evidence to shew whether the card was on the box at the time it was found, but having lain under water so long, and having drifted so far, the fair presumption might be that it was destroyed.

Payne, for the prisoners, suggested that, under these circumstances, the charge of larceny could not be sustained. It is laid down in Arch. 173, 7th ed., that if a man lose goods and another find them, and, not knowing the owner, convert them to his own use, it is no larceny, even although he deny the finding of them or secrete them.

Bodkin, as *amicus curiæ*, mentioned the very late case of *R.* v. *Mole* (1 Car. & Kir. 417), in which it was held by Mr. Justice Coleridge that the finder of a purse of gold, converting the money to his own use, could not be convicted of larceny if he acted under the *bonâ fide* belief that by the finding he had acquired a right so to appropriate it.

Mr. Commissioner Bullock, after consulting Mr. Baron Parke.—The learned baron is of opinion that the question must be left to the jury, whether, under the circumstances, the prisoners had sufficient means of discovering the owner, or had wilfully abstained from making any endeavours towards such discovery. In either of these cases the offence would be larceny; but, on the other hand, if they believed at the time they obtained the property that inquiry would be useless, or if the jury should be of opinion that no sufficient means of inquiry was open to them, an acquittal ought to be the result.

The question was so left, and the jury immediately acquitted the prisoners.

Monday, March 3.
Reg. v. Howell and Others.

Indictment for burglary. The dwelling-house was alleged to be in parish A. the evidence shewed that it was partly in parish A and partly in parish B, but that the part broken was situated in A—Held, a good description.

The indictment alleged the intent to be then and there (viz. in the parish of A) to steal, and further, that the prisoners did then and there steal certain property. The room in which the felony was committed was partly in parish A and partly in B; the property actually stolen was in part B, but in the same room there was abundant other property of the prosecutor situated in part A: Held, that the portion of the charge which alleged an actual stealing in A might be rejected, and the prisoners might be convicted of breaking with intent to steal property in the parish of A.

The prisoners were indicted for burglary, upon the following indictment:—

"Central Criminal Court, to wit. } The jurors of our sovereign lady the Queen, upon their oath, present that T. Howell, late of the parish of St. Edmund the King and Martyr, in London, and within the jurisdiction of the Central Criminal Court, labourer, F. Smith, late of the same place, labourer, and R. Franklin, late of the same place, labourer, on the 10th day of January, in the 8th year of the reign of our sovereign lady Victoria, by the grace of God, &c. about the hour of ten in the night of the same day, with force and arms, at the parish aforesaid, and within the jurisdiction of the said Court, the dwelling house of Geo. Warriner *there situate* feloniously and burglariously did break and enter, with intent the goods and chattels in the same dwelling-house then and there being feloniously and burglariously to steal, take, and carry away, and *then and there*, with force and arms, two rings of the value of five shillings, of the goods and chattels of Felix Gatayes, in the same dwelling-house then and there being found, feloniously and burglariously did steal, take, and carry away, against the peace of our said lady the Queen, her crown and dignity."

The house in which the burglary was committed was a tavern, of which Geo. Warriner was the proprietor, and Felix Gatayes was a guest occupying a room in the said tavern. The outer door of the house always remained open during the day, and through this the prisoners had made their way to the room in question, which they entered by means of a skeleton key. The tavern was situated within two parishes, the boundary line which separated them running through the room of Gatayes. The door of the house, the door of the room, and the greater portion of the room itself, were in the parish laid in the indictment; but a chest of drawers from which the rings were abstracted was in the parish of St. Michael, Cornhill.

Payne, on behalf of the prisoner Howell, submitted that there was a variance between the local description in the indictment, and that proved. The prisoners were alleged to be of a certain parish, and this was referred to subsequently in describing the dwelling-house as *there situate*, meaning in the parish of St. Edmund the King and Martyr; but it was proved in evidence that the dwelling was situate in two parishes, and therefore the allegation, which was a material one, was not sustained. It was true that the part of the house broken was in the parish laid, but the statement was not that the breaking was in the parish, but that the dwelling-house was so. It is further alleged that certain property was *there* stolen, meaning in the before-mentioned parish; but it was now clear that the place where the rings were deposited was in another parish. He then referred to *R.* v. *Bennett* (R. & R. 289) where a somewhat similar point was raised but not determined. This was, therefore, a new case, and one which, he confidently submitted, must be decided in favour of the prisoner. At any rate he was entitled to ask of the prosecution whether they would rely on the burglary, or relinquishing that, rest their case on the larceny of the goods.

B. C. Robinson, for the prosecution.—It is not less true that the dwelling-house of a party is in a particular parish, merely because some small portion of it is in another parish. Every part material to the present indictment is situated as laid, and this constitutes the distinction between the present case and that of *R.* v. *Bennett*. There the part broken was not in the parish laid, but was assumed to be parcel of a dwelling-house situated in the alleged parish. A single dwelling, part of which is occupied by A, and another part by B, may be taken to be two; so that a burglary in B.'s portion may be alleged to be in his dwelling-house. This shews that a house is severable when occupied by two persons, and why may it not be so when occupied by one? As to the goods stolen being located in another parish, it is immaterial, since there is no necessity to allege a stealing at all; breaking, with *intent to steal*, is the gist of the charge, and as there were other goods in the same room which were situated in the alleged parish, it will be a question for the jury whether the intent was not to steal them as well as those which were actually stolen. The portion of the indictment, therefore, which sets out the stealing may be rejected as surplusage, as far as the burglary is concerned. But still the jury may, if they think proper, convict of the simple larceny, for local description is for such purpose unnecessary, and a stealing being alleged, the words *there situate* are superfluous, and may be struck out.

The Recorder.—The common sense of the matter seems to me to be that the dwelling-house may be properly laid to be in the parish, where all the acts necessary to support the charge were committed; although some part of it is in another parish, but it is for you to consider whether it may not be safer to rely on the larceny alone, since, if I am wrong in my view of the point, the whole indictment will fail.

B. C. Robinson submitted that he was not bound to elect, and considering that no property was found upon the prisoners, though they were immediately apprehended, the jury might perhaps think that the larceny was not sufficiently proved. He deemed it right, therefore, that the whole case should go to the jury, and the prosecution would take the risk of such verdict as they might think proper to pronounce.

The Recorder (in summing up).—It appears to me that the indictment is sufficient. The objection relied on is, that the word "dwelling-house" has relation to the whole house, and, as the whole house is not in the parish laid, that there is therefore a variance. But whatever might have been the mode of access, or whether we take the outer door or the door of the room itself, they are all in the alleged parish. It might have been charged that the dwelling-house was in two parishes, but I doubt whether that would have been correct, inasmuch as the part broken could only be situated in one. It is true that the local description must be strictly proved, but I think it is here fully established by the evidence. I would, however, assuming you believe the facts, recommend you to limit your verdict to the breaking with intent to steal, rejecting that part which alleges the stealing, since it is clear that the stealing, if any, was in another parish. Or you may in your discretion, omitting all reference to the burglary, limit your verdict to the mere stealing.

The jury pronounced the following verdict:—Guilty of the offence of burglary in the parish in the indictment mentioned; not guilty of stealing the goods.

The Recorder respited the judgment until he should have had an opportunity of consulting the judges on the point above raised.

March 7.—The Recorder said that he had consulted two of the learned judges on the above case, and they were of opinion that the evidence supported the indictment, and that the conviction was good.

THE LEGISLATOR.

Summary.

The Legislature has resumed its labours, but as yet it has done nothing of special interest to the Profession.

Imperial Parliament.

PUBLIC BUSINESS TRANSACTED.

BILLS READ A FIRST TIME.
Wednesday, April 2.

Poor Law Amendment (Scotland) Bill,—"for the amendment and better administration of the Laws relating to the Relief of the Poor in Scotland."

Thursday, April 3.

Glass (Excise Duty) Bill,—"to repeal the Duty on Glass."

Maynooth College Bill,—"to amend two Acts passed in Ireland, for the better Education of persons professing the Roman Catholic Religion, and for the better government of the College established at Maynooth for the Education of such persons, and also an Act passed in the Parliament of the United Kingdom for amending the said two Acts."

BILLS READ A SECOND TIME.
Tuesday, April 1.

Customs (Import Duties).
Public Museums, &c.

Wednesday, April 2.

Calico Print Works.
Museums of Art.

PRIVATE BUSINESS TRANSACTED.

BILLS READ A FIRST TIME.
Monday, March 31.

Boddam Harbour.
Sheffield and Rotherham Railway.
Agricultural and Commercial Bank of Ireland.

BILLS READ A SECOND TIME.

London and South Western Railway (No. 2).
Midland Railways (Ely to Lincoln).
Ditto (Nottingham to Lincoln).
Ditto (Swinton to Lincoln).
Ditto (Syston to Peterborough).
Sheffield, Ashton-under-Lyne and Manchester Railway.
Paisley Gas.
Standard Life Assurance Company.
Clerkenwell Improvement.
London Orphan Asylum

Tuesday, April 1.

Winwick Rectory.
Newcastle-upon-Tyne Port.
Nottingham Inclosure.

BILLS READ A THIRD TIME AND PASSED.

Tuesday, April 1.

Birkenhead (Commissioners) Dock.

Wednesday, April 2.

Pudsey Gas.

Thursday, April 3.

Birkenhead (Company's) Docks.

SESSIONAL PRINTED PAPERS.

Par, Num.
119. (2.) Railways, North and West of Ireland - Errata to the Report of the Board of Trade.
138. Attorneys' Certificates—Return.
139. Bank Notes—Account.
151. Classification of Railway Bills — First Report of Committee.
137. Hops, Malt, Brewers, &c.—Accounts.
153. Railways, London and York, &c.--Report of the Board of Trade.
154. Railways, South of Ireland—Report of the Board of Trade.
155. Railways, South Wales—Report of the Board of Trade.
156. Railways, Westward of Dublin—Report of the Board of Trade
88. Railways, Norfolk and Suffolk—Map.
118. Railways, Trent and Churnet Valleys—Map.
123. General Register House, Edinburgh —Fourth Report of Commissioners.
152. Wheat and Wheat Flour—Paper.
92. Grand Jury Presentments, Ireland - Abstracts of Accounts.
93. Royal Messengers, &c.—Return.
140. Highland Roads and Bridges—Twenty-first Report of Commissioners.
154. (2.) Railways, South of Ireland—Erratum to the Report of the Board of Trade.
160. Commissariat — Abstracts of Accounts of Officers Abroad.
120. Railways, Scotland - Map.
150. Public Debt—Account.
159. Commissariat Account.
158. Sierra Leone—Papers.
166. Exchequer Bills- Return.
167. Customs Department - Return.
188. Sugar—Copy of Memorial from Sugar Refiners.
142. Bills—Museums of Art.
157. —— Customs Import Duties.
Poor Law Inquiry, Scotland -Appendix, Part 6.
99. Gambia—Copies of Letters Patent, &c.
146. Dominica—Copies of Despatches.
164. Dartmouth Election Petition—Minutes of Proceedings and Evidence.
121. Factories—Return.
72. Railways, Portsmouth -Report of the Board of Trade.
173. Railways, North of Leeds, &c. Report of the Board of Trade.
174. Railways, Colchester and Harwich—Report of the Board of Trade.
65. Shipping Dues—Return.
Framework Knitters- -Report of the Commissioners
44. Committals, Ireland--Returns.
73. Slave Trade, Slave Vessels - Returns.
95. Shipping, Russian and British Vessels—Returns.
149. Superannuations—Account.
176. Military Savings Banks—Account.

Bills in Progress.

CITY OF LONDON TRADE.

Intituled, " An Act for enabling persons to trade and work within the city of London." (Brought in by Lord Brougham.)

Recites, that in the city of London, as well as in other cities, towns, and boroughs, a certain custom had prevailed, and certain bye-laws have been made, that no person, not being free of such city and of such other cities, towns, and boroughs, or of certain liveries, guilds, mysteries, or trading companies within the same, or some or one of them, shall keep any shop or place for putting to shew or sale any or certain wares or merchandize, by way of retail or otherwise, or use any or certain trades or occupations, mysteries or handicrafts, for hire, gain, or sale, within the same city, or other cities, towns or boroughs, and whereas by law all such disqualifications, exclusions, and incapacities to deal or trade, or work and labour, have now for some time ceased and determined in all other cities, towns, and boroughs; and whereas it is expedient that the same should now from henceforward likewise cease and determine within the city of London: be it enacted, that any person may, within the city of London, keep any shop for the sale of all lawful wares or merchandizes, by wholesale or retail, and use any lawful trade, occupation, mystery, and handicraft, for hire, gain, sale, or otherwise, within the said city of London, any law, custom, bye-law, or usage to the contrary in anywise notwithstanding.

PUBLIC MUSEUMS, &c.

Intituled, "A Bill for the Protection of Property contained in public Museums, Galleries, Cabinets, Libraries, and other public repositories, from malicious injuries." (Brought in by the Solicitor-General and Sir J. Graham.) Proposes to enact:—

Sec. 1. That from and after the *passing of this Act*, if any person shall maliciously destroy or damage any thing contained or kept in any public museum, gallery, cabinet, library, or other public repository whether such thing be kept for the purposes of art, science, or literature, or as an object of curiosity, and whether such thing be or be not of any intrinsic value, every such person so offending shall be guilty of a misdemeanor, and, being duly convicted thereof by due course of law, shall be liable to be imprisoned with or without hard labour for any period not exceeding *two* years, and, if a male, may, during the period of such imprisonment, be once, twice, or thrice publicly or privately whipped, in such manner and form as the Court before which such person shall be tried shall direct.

2. The word " public" shall be deemed and construed to extend to all museums, galleries, cabinets, libraries, and other repositories to which the public are admitted, either gratuitously or for money, and also to all such as belong to any university, college, hospital, or to any body of persons incorporated or associated for the promotion of any art, science, or branch of learning or literature whatsoever.

3. The destruction or damage of any such thing as aforesaid shall be deemed to be malicious in all cases where the Act is wilful, without lawful justification or excuse.

4. Any person found committing any offence against this Act may be immediately apprehended without a warrant by any other person, and forthwith taken before some neighbouring justice of the peace to be dealt with according to law.

5. Nothing herein contained shall be deemed or construed to take away the right of any owner or trustee of such property so destroyed or damaged to recover by action at law compensation or damages for the injury so committed by any person against his property.

LAW OF BASTARDY.

Recites that divers questions have been raised as to the validity of certain orders in bastardy made by justices under the 7 & 8 Vict. c. 101, which questions are wholly beside the merits of the cases; and it is desirable to remove such questions, and to prevent the recurrence of the same or similar questions in future: it is therefore proposed to be enacted:—

1. That where any proceedings have been had or taken before the passing of this Act, or shall hereafter be had or taken in matters of bastardy under the provisions of the said recited Act, and shall have been set forth according to the forms in the schedule hereunto annexed, or to the like tenor or effect, the same shall be taken respectively to have been and to be valid and sufficient in law; provided that nothing herein contained shall prevent any Court of General Quarter Sessions from proceeding to hear and determine the merits of any case brought before them on appeal against any such order, or apply to any order made or professed to have been made under the said Act, which shall have been quashed on appeal to any General Quarter Session of the peace, or in respect whereof any writ of *certiorari* shall have been sued out of the Court of Queen's Bench, and served before the twenty-sixth day of *February* last.

2. That when any order made under the provision of the said Act prior to the passing of this Act shall have been or shall be quashed for any defect therein, and not upon the merits, it shall be lawful for the mother of the bastard child in whose favour such order shall have been made to take proceedings for the obtaining of another order, according to the provisions of the said Act, at any time within the space of six calendar months after the passing of this Act, although the period limited for her application to the justice under the said Act shall have expired.

3. Reciting that power is given by the said Act to the putative father to appeal against an order made upon him by the justices in petty session assembled, giving notice of appeal as therein specified, and also sufficient security, by recognizance or otherwise, for the payment of costs, to the satisfaction of some one justice of the peace; be it enacted, that the condition of any such recognizance shall be for the appearance of the said putative father at such general quarter session of the peace as is required by the said Act, and his trial of the appeal thereat, and the payment of such costs as he shall be then and there ordered to pay; and that in respect of any order to be made after the passing of this Act the party entering into any such recognizance shall forthwith give or send a notice in writing of his having so entered into such recognizance to the woman in whose favour the said order shall have been made, and unless he shall enter into the recognizance before one of the justices who shall have made the order, to one at least of such justices; and in default of his giving or sending such notice or notices as aforesaid the appeal shall not be allowed, provided that the sending of such notice or notices by the post shall be taken to be sufficient.

4. That if at any time before the hearing of the appeal the putative father who shall have entered into any such recognizance shall give notice in writing of his abandonment of the appeal, to the mother of the child in whose favour the order shall have been made, and to the justice or justices before whom the said recognizance shall have been taken, and shall pay or tender to the said mother all sums then due under the said order, and such costs and expenses as she shall have incurred by reason of such notice of appeal, the said recognizance so entered into by the said putative father shall not be estreated, nor in any manner put in force or otherwise proceeded with.

5. And reciting that by the said recited Act it is enacted, that where any woman shall apply to the justices at a petty session for an order upon the person whom she shall allege to be the father of her bastard child, such justices shall hear the evidence of such woman and such other evidence as she may produce, and shall also hear any evidence tendered by or on behalf of the person alleged to be the father, and if the evidence of the said mother be corroborated in some material particular by other testimony, to the satisfaction of the said justices, they may make such order as is therein set forth: and reciting that power is thereby given to the putative father to appeal to the General Quarter Sessions of the Peace against such order, but it is not therein set forth what evidence the said General Quarter Sessions shall or may hear on the trial of such appeal, and doubts have been raised as to whether the said mother can be heard by the said Court of Quarter Sessions; be it therefore enacted, that on the trial of any such appeal before any Court of Quarter Sessions the justices therein assembled, or the recorder (as the case may be) shall hear the evidence of the said mother, and such other evidence as she may produce, and any evidence tendered on behalf of the appellant, and proceed to hear and determine the said appeal in other respects according to law, but shall not confirm the order so appealed against unless the evidence of the said mother shall have been corroborated in some material particular by other testimony, to the satisfaction of the said justices in quarter session assembled, or the said recorder.

6. That it shall be lawful for any woman who shall apply to the justices at any petty session for any such order as aforesaid to be assisted in her application by counsel or attorney, and for any person summoned under the said act to appear at any such petty session as the alleged putative father to appear and make his answer thereto by counsel or attorney; and it shall be lawful for either of such parties to have all witnesses examined and cross-examined by such counsel or attorney.

7. That any one magistrate of the police courts of the metropolis, sitting at a police court within the metropolitan police district, has and shall have full power to issue summonses for the appearance of parties and witnesses before such police court, and to do alone any other thing in any matter of bastardy arising under the said act, within these parts of the said district for which a police court has been or shall be established, which may be done by any justices at a petty session holden for their several petty sessional divisions in any such matter arising within their divisions respectively, and that the sitting of such magistrate at such police court shall be within all the provisions of the said act, and of this act, concerning a petty session of justices.

HOUSE OF LORDS.

THURSDAY, April 3.—Lord STANLEY begged to express a hope that their lordships would, although it was irregular, allow him to move the second reading of the Bastardy Bill, with a view to its being committed on Friday, and to their obtaining to it the royal assent in time for the quarter sessions, which commenced next week. Their lordships were perhaps aware that it did not interfere at all with the general question of which notice had been given by a noble lord opposite, but that it had been introduced merely for the purpose of removing some technical difficulties in the practical working of the Act of last session.—Lord CAMPBELL thought the course proposed by the noble lord not only unobjectionable, but salutary; but regretted that the noble lord (Radnor) who had a bill on the subject was not present.—Lord STANLEY said, that this Bill did not at all interfere with the measure of the noble lord, or with the general law of bastardy.—Read a second time, and ordered to be committed on Friday.

HOUSE OF COMMONS.

IMPRISONMENT FOR DEBT BILL.

MONDAY, March 31.—Lord DUNCAN, seeing the right hon baronet the Secretary of State for the Home Department in his place, begged to renew an important question on the subject of the Bill passed last session for the abolition of imprisonment for debt, and to which before Easter he had received an unsatisfactory answer. He begged again to call to his attention the confusion caused by the facility given by the 57th clause of that Act to fraudulent debtors to escape from paying debts under 20*l.* in amount, and he begged again to complain of the hardships many unfortunate tradesmen in Bath are suffering owing to

the *ex post facto* operation of the law in question, and he would again ask whether her Majesty's Government intended to adhere to their former resolution, or now contemplated taking some steps to remedy the evils complained of?—Sir J. GRAHAM said, that he still adhered to the answer which he had given to the noble lord's question on a former occasion, for he was not aware that the Bill for abolishing imprisonment for debts under 20*l.* had not worked well. He knew, of course, that the retroactive effect of the Bill must have been productive of hardship in some cases, but this was an effect from which any measure of the kind could not be wholly free. What was done could not be undone without great inconvenience; he, therefore, was not prepared to repeal the Act. Every attention would be given to the working of the system; but there was hardly sufficient experience on that subject yet to justify the Legislature in interfering with it. Besides, he was not aware that it had the effect of unduly interfering with the credit given to the working classes.—Mr. DIVETT, while the subject was before the House, would beg to call the attention of the right hon. baronet to a Bill which had passed last year for facilitating the recovery of small debts, some of the provisions of which were inconsistent with those of the Act for abolishing imprisonment for debts under 20*l.*—Colonel RAWDON wished to know whether the right hon. baronet intended to apply the measure to Ireland?—Sir J. GRAHAM thought it would be better not, until they had an opportunity of seeing how it worked in this country.

ENCLOSURE OF COMMONS.

TUESDAY, April 1.—The Earl of LINCOLN gave notice that he should, on the 10th of April, move for leave to bring in a Bill for the enclosure of commons and the drainage of waste lands.

HEALTH OF TOWNS.

Mr. S. O'BRIEN, with reference to an extremely important petition he had presented from Limerick, asked, whether it was the intention of the Government to extend to Ireland any measure introduced with reference to the sanatory condition of large towns?—The Earl of LINCOLN said, the report of the commission had only been produced last February. It embraced details of great complication, and he should be sorry yet to pledge the Government as to the precise extent of any measure they might introduce; but at the same time he had every reason to hope that whatever Bill was introduced would apply to Ireland and Scotland as well as England.

AUCTION DUTIES.

Captain PECHELL inquired when the Chancellor of the Exchequer intended to go into committee on the auction duties; and when the duties would cease after the resolutions were adopted by the House?—The CHANCELLOR of the EXCHEQUER would have been very glad to go into committee before this, but the state of public business had prevented; it would be necessary to take the vote for the army to-morrow, but after that he should go into committee as soon as possible. With respect to the period when the duties would cease, it must be recollected that considerable opposition was threatened to their remission; therefore, it was not very easy to say beforehand what the decision of the House would be. His own view would be to effect the reduction at the earliest moment.—Captain PECHELL asked the hon. member for Dorchester whether it was his intention to persist in the motion of which he had given notice, and to move a resolution against the abolition of the auction duty?—Mr. G. BANKES said, it certainly was his intention to follow up the notice which he had given at an early period of the session, and take the sense of the House against the remission of the auction duty, in order to afford the Government a fund to be applied to a particular interest. (A laugh.)

THURSDAY, April 3.—Mr. E. ELLICE moved for a select committee to inquire into the practical operation of the Acts 2 & 3 Vict. c. 42, 5 & 6 Vict. c. 67, and 7 & 8 Vict. c. 31, so far as the regulation of assessment in counties and burghs is concerned, and to report their opinion thereupon to the House.—Agreed to.

HOW LAW IS MADE UNINTELLIGIBLE AND UNAVAILABLE.

The enormous overgrowth of the statute-book is an evil which is often pointed out, and it begins to excite serious alarm. The current number of the *Westminster Review* attacks it, and the *Morning Chronicle* echoes the complaint. The *Westminster* says:—

The public Acts alone already fill five-and-thirty quarto volumes, measuring nearly three yards in thickness, of which two feet only belong to the period from Magna Charta to George III.; the subsequent six or seven feet of quarto law being the exclusive produce of the last eighty years, and of which about one-third part is the growth of the last twenty years. Of the number of individual statutes contained in this mass of typography we really can form no idea. We have measured the outside covers, but broke down in a patient endeavour to count the separate Acts they inclosed by the time we got back to the beginning of this reign; after ascertaining, however, that our present gracious Majesty is already the parent of one hundred and five statutes! It is true that this latter pile of enactment is small when compared with the materials professedly used in its foundation. Commissions of inquiry, reports, accounts, and the whole mass of huge folios which decorate fifty yards of wall in the Reform Club, and which are mainly the offspring of the Reformed Parliaments, could hardly be expected to produce less than a tithe of fruit. It would be improper to question whether the august assemblies which have made the country pay for the collection of all this knowledge, at an enormous cost, have read it themselves? The vacations are doubtlessly devoted to its perusal, and the mind is lost in admiration at the concentration—at the analytical and intellectual power which, having first digested these leviathan tomes, can afterwards mould and enact laws for the empire at the rate of a statute per night. Deducting Sundays, Saturdays, recesses, idle Wednesdays, and countings-out, from the interval between the assembling and prorogation of Parliament, the real working days of last session were scarcely more than one hundred; during which one hundred and thirteen public Acts were framed and enacted, besides one hundred and fifty-seven private Bills or Acts affecting local or personal interests.

The *Chronicle* undertakes to point out the causes of this vain diffuseness:—

Much of this *cacoethes* of legislation arises, no doubt, from the mingled vanity and shallowness of our age and time; somewhat, also, from the wider scope which is opened by new and diversified subjects, and the wants and desires incident to the very great wealth and civilization of our epoch. Other causes are 'the obscurity, the involution, the ungrammatical, the chaotic heap of long-strung, unmeaning expletives, with which modern lawgivers lard their lean purposes of legislative amendment and reform.' 'It is impossible for any stranger to visit any one of the courts of law or equity, on any given day, in any given term out of the four, without hearing endless variations to some such judicial tune as the following—'I have tried, like my brother A, to find out a meaning in these words; but I protest I cannot. I thought at the first blush, looking to section 3, they might bear the interpretation suggested by the learned counsel who made the motion; but then, attentively considering the language of section 23, I perceive that cannot be the intention of the framers; and, indeed, looking to the whole of the clauses in this act, it is impossible to say distinctly what was really the intention of the Legislature.' These are comments which every-day occurrence.'

The censor also suggests remedies—

Government is responsible for a great deal of this crude legislation. It should be a part of the duty of the Attorney and Solicitor-General to look to the framing and wording of all Acts, and to see in how far the contemplated measures trench on, repeal, or modify existing laws. * * * The spirit of crude and common-place legislation must be checked. We should have no more penny-a-lining it in Acts of Parliament. It will not do to flood the judges with 1,500 pages of foolscap and 1,000 Acts of Parliament every session; and if the duty of washing the dirty linen of M.P.'s (to use the idea of Voltaire, in speaking of his own corrections of the King of Prussia's French) be deemed too severe a labour for the official law-officers of the Crown—if they cannot or will not write sinewy Saxon, and allow the transparent meaning of the framer to appear in plain words, or, to use Swift's definition of a good style (which applies as well to Acts of Parliament as to better things), will not place 'proper words in proper places,' let them at least employ or name substitutes, as in France, who are capable and have the leisure to do the state this great service.

We suspect that this kind of revision, however desirable in many respects, would go a very little way to remedy the evil; the root of which lies much deeper,—in two principles, one of which is an intellectual, the other a moral blunder. The intellectual blunder it is that has dictated the peculiar style of all law language; and it consists in the supposition that perfect precision is attainable in language. It has in vain been shewn that ideas, especially general ideas, are seldom capable of precision, and that the language in which they are conveyed must partake of the vagueness: lawmakers and lawyers have acted upon the notion that words can be so arranged as to set forth the intent with plainness sufficient to prevent any deviation either through misconception or evasive ingenuity. Failing of that object when a common amount of words was used, resort has been had to more words, without getting any nearer to the goal—to more, and still to more: until the mind, unable to follow the meaning through the labyrinth, is baffled, and is content to take it for granted that the meaning is there when occasion shall require it to be extracted. The occasion does arise: counsel, judge, and jury labour at the process of transmutation; but no alchemist ever laboured more fruitlessly—the precious substance is not really in the dross. Strip from an Act of Parliament its mere verbiage and expletives, reduce it to plain language, and you still find that it will not compel comprehension, but is as dependent as any other kind of precept on the willingness, the common sense, and good faith of the interpreter. All human language must be so; and you only disguise, not alter, the qualities of language by a tenfold reduplication,—with this incidental effect, that the mere extension of the field by the interposition of meaningless words baffles the mind to traverse it; and laws are made absolutely impossible to know, by exceeding in amount the mechanical and physical powers of reading.

The nature of the remedy is pointed out by explaining the nature of the evil: it is, to keep the texture of our laws down to the plain and necessary language, and to leave it to the learning (not mere law "learning," but philosophical and philological learning) of judges, truly to interpret the manifest intent of the lawmaker; banishing for ever those silly and idle verbal quibbles which now so often occupy the courts in solemn council.

But this remedy points to the other, the moral blunder. It is our practice not to give due respect and value to moral worth—to individual virtues; and the want of that attention to social law recoils upon us at every step in the shape of serious inconveniences. Wealth, religious conformity, and the observance of certain set obligations, are exacted of every man: personal virtue obtains no honour worth mention. With due deference to outward decorum, every kind of license may be safely though notoriously indulged: a devotion to absolute truth is deemed ridiculous, scoffed at, denounced as dangerous. Making so light account of personal virtue, we distrust its existence and efficacy: we dare not rest on the integrity of judges to administer justice according to the plain intent of the law, but we must strive to make *the law* an all-sufficing, undeviating rule, of which the judge is the mere minister—to make it not an exposition of principles for his guidance, but a set of minute detailed instructions to serve in every case. The attempt is impossible; but it is not the less persevered in. Our laws have grown verbose, huge beyond comprehension, silly, inefficacious, weak with infinite extension to the degree of yielding at every rude touch: our judges are puzzled, are mocked with an unavoidable discretion from which the law professes to free them, are overwhelmed with a duty of interpreting what is uninterpretable—of analyzing whole mountains of dross: every body is dissatisfied—the system grows oppressive and intolerable; and yet little peddling prescriptions to patch up better details are all that occur to reformers. No good will be done in that way. Our Statute-book, like the supernatural lodger in *The Castle of Otranto*, will outgrow its procreant dwelling-place and bring the house about the ears of the law-makers by the simple force of size and weight, breeding rack and ruin and anarchy, unless this plan of piling up inexplicable enactments as substitutes for plain sense in law and trustworthy honesty in judges shall be relinquished. No "sinewy Saxon" can contend against the process of overgrowth inherent in the system.—*Spectator*.

THE MAGISTRATE.

Summary.

WE have nothing to report peculiarly affecting magistrates, or the branches of law they administer. It is said with some confidence, by persons who affect the best information on such topics, that the New Settlement Bill will not pass, at least during the present session.

TO THE EDITOR OF THE LAW TIMES.

SIR,—Permit me to call your attention to the Bill before Parliament for payment of Clerks to Justices and Clerks of Peace by salary instead of fees, as there is a very general impression abroad that the Bill in question does not affect boroughs. I have authority for stating that the word "*not*," in clause 44, line 6, is a mere printer's error, and that the Bill will undergo correction before going into committee. It is important that borough officers should be made acquainted with the fact, and their attention called at the same time to that part of the clause which regu-

lates the amount of salary. It will be seen that the council of every municipal corporation in England and Wales having (as the Bill will stand) a separate sessions of the peace or separate commission of justices is to pay in the case of existing officers a salary *not exceeding* an average estimate of the amount of fees received during the seven years preceding 1st January last, determining what the amount shall be, but leaving it open to councils to fix any lesser sum. The justice of the case is, and it is probably so intended, that an amount of salary should be paid *equal* to an average of the fees, but the clause should be so worded that there may be no doubt on the matter.

Requesting that you will be so good in your next number to call attention to the subject,

I am, &c.
JOHN HOWARD.

Portsmouth, April 1, 1845.

THE LAWYER.

Summary.

THE Index occupies so much of our space, that we are compelled to curtail the usual information.

THE following practical suggestions for remedy of an acknowledged grievance have appeared in the *Times*. They deserve the attention of the authorities and of the Profession, and in hope that here they may be noticed by many whose eyes they may have escaped in the crowded columns of the newspaper, we reprint the letter:—

TO THE EDITOR OF THE TIMES.

SIR,—Having lately been an eye-witness to the great loss of time and inconvenience sustained by professional men in the mode in which summonses before a judge at chambers are conducted, especially at this time, when only one judge is in attendance to transact the business of all the courts, I am induced to call your attention to the subject, in the hope that, through the instrumentality of your powerful organ, some improvement in the present system may be adopted, so as not only to benefit the public at large, but also lessen the inconvenience personally sustained by the Profession. From the great amount of business, the judge now in attendance is sometimes fully occupied from ten o'clock in the forenoon until six or seven in the evening. A portion of the day—say from two o'clock, is set apart for summonses attended by counsel, whilst the rest of the time is occupied by the attorneys, who, by themselves or their clerks, are frequently compelled to wait many hours, if not the entire day, in expectation of being called in their turn; and such is the uncertainty as to the length of time which may be consumed by the previous cases, that it is seldom safe to be away half an hour. The usage is, for the judge's clerk to call over the summonses on the file (of which there are usually from 100 to 120 on each day) at five minutes after ten o'clock; and, in regard to those attorneys to whom a late number is given, they can scarcely go away, reckoning with safety that it may not come to their turn until the middle or end of the day; for if they be absent when their numbers are called, they must wait until the succeeding numbers are gone through; and that day may be altogether lost if the adversary chooses to go away also.

There is no doubt that the present mode is not only tedious and inconvenient to practitioners, but alike harassing to the judge himself; and it has occurred to me that if the numbers were apportioned in some regular manner, so as to leave a certain number of summonses for each hour, a great benefit would arise.

The following are the results which suggest themselves to my mind, and I respectfully beg the consideration of professional men to them, with the view to their being adopted, either in whole or part, as may be deemed consistent or practicable by the judges themselves, viz.:—

1. That every summons shall be peremptory, and that they shall be numbered consecutively, as they are issued by the judge's clerk.

2. That one hour shall be set apart for the hearing of a given number of summonses—say 25 or 30.

3. That the first 25 or 30 numbers shall be returnable, and attended peremptorily at the first hour.

4. That the succeeding 25 or 30 numbers shall be returnable, and attended peremptorily at the second hour, and so on, until the whole of the numbers issued shall have been disposed of.

5. That in default of attendance of the party summoned, the order shall be made upon the usual affidavit of service and attendance by the party at whose instance the summons is issued.

Probably arrangements might be made for one master of each court (there being five of them) to sit each day to assist the judges and dispose of a certain class of summonses to be settled by the judges, with the right of appeal to the judge, on summons taken out for that purpose, the party appealing being bound previously to deposit a certain amount for costs, in the event of a decision against him.—I am, Sir, your very obedient servant, AN ATTORNEY.

March 24.

PRACTICAL NOTES.
No. II.

WRIT OF RESTITUTION IN EJECTMENT.

The action of ejectment, although purely fictitious, has, more than any other, and from that very cause, been treated by the courts as a mere form for obtaining justice, and they therefore look as much as possible to the substantial right, and exercise a supervising power over the technical rights and mode of proceeding which otherwise would become oppressive and pernicious. To use the words of Bayley, J. in *Thrustout* v. *Shenton* (10 B. & C. 110), the court will exercise an equitable jurisdiction over the proceedings in actions of ejectment, which for the purposes of justice and convenience may be said to be peculiarly its own creature. Some recent cases upon writs of restitution afford an illustration of this, and are deserving of notice, as, but for them, the practitioner, under similar circumstances, might consider the more dilatory and expensive remedy of ejectment was the proper course to be pursued. The old books (2 Lill. Pr. Reg. 472) seemed to lay down that a reversal of the judgment by a writ of error, or a clear decision as to the title of the party by whom restitution was sought, were conditions precedent to the issuing of the writ. In *Withers* v. *Harris*, indeed, according to one report (2 Ld. Raym. 806; but see Salk. 258), the writ was awarded because a *habere facias possessionem* had been sued out upon a judgment more than a year old without *sci. fa.*; but the objection does not appear to have been taken, and neither the case of *Doe dem. Williams* (2 A. & E. 381), nor *Doe dem. Stevens* v. *Lord* (7 A. & E. 610: 6 D.P.C. 256) decided that such reversal was *not* necessary. In the former case the writ of restitution was set aside on the ground that it had issued without the authority of the Court, and in the second case the judgment was still remaining, and then it was clearly a wrong mode of proceeding. In *Goodright* v. *Noright* (Barnes, 178) the writ was allowed, but the lessee of the plaintiff had absconded, and no attachment for disobedience to the order to give up the possession could have been enforced.

The recent cases, however, are more decisive. In *Doe dem. Pitcher* v. *Roe* (9 D.P.C. 971), after the lessor of the plaintiff had been let into possession (we presume by writ of *habere*), and the tenant had irregularly possessed himself of the premises, upon which a writ of restitution was granted and executed. But on the following night the tenant again took forcible possession, and upon motion for an attachment or an order to give up possession, it was argued that the Court would leave the party ousted to his action of ejectment. Wightman, J. however, made the rule absolute for a fresh writ of restitution to be executed within a week. If, in a case of this description, the *habere facias* has not been returned before the expulsion of the rightful occupants, the proper remedy is to obtain a fresh writ of possession, which is, however, only *nisi* in the first instance. (*Doe dem. Thompson* v. *Ninehouse*, 2 D. P. C. 200; *Doe dem. Lloyd* v. *Roe*, 2 D. N. S. 407.)

Doe dem. Stratford v. *Shail* (2 Dowl. & Lownd. 161; 3 Law T. 185), which was decided in last Trinity Term, is, however, a distinct authority that reversal of the judgment is not necessary, and that it is sufficient if it be set aside for irregularity. There, after judgment against the casual ejector, the landlord was let in to defend, and the order contained the following proviso: "that possession be restored, in case the said J. Shail (the landlord) succeeds in his defence, or the lessor of the plaintiff does not proceed to trial at the next assizes for the county of Berks." At the trial, no one appeared for the lessor of the plaintiff, and a nonsuit was accordingly entered. Possession was demanded by Mr. Shail, but refused, and he then moved for a writ of restitution; and although in his affidavits there was no express allegation of title to the property, the writ was ordered to issue by Mr. Justice Coleridge, who gave his judgment as follows:—

I must take it that in the present case the prior judgment had been irregularly obtained. The effect of the former rule is decisive on that point, and I think that when that rule was made it was competent to the Court to have awarded restitution of the premises to the defendant. *Such must be considered to be the effect of the authorities on this subject.* They did not, however, do so, but made a conditional rule, with which the lessor of the plaintiff has not complied, and application is now made, under stronger circumstances, for the Court to award that remedy which they could have done before. The lessor of the plaintiff ought not to be allowed, under colour of the process of the Court, to reap the benefit of a judgment which has since been set aside. The rule will therefore be absolute.

The learned reporter of this case seems to throw some doubt upon it, on account of the supposed inconsistency of the writ with the record, as the party in whose favour it is ordered does not appear upon the record at all. This would be a good objection to a writ of restitution in any other action, but the peculiar nature of an ejectment justifies the distinction; for if by virtue of the fiction that Richard Roe was in possession, the real owner has been turned out, it is *equitable* that, when the Court have declared that Richard Roe was an ill-used man, justice should be done to his representative, as the actual tenant or owner may be called.

We are enabled, moreover, to lay before our readers another case in which, after a judgment had been set aside for fraud, a writ of restitution was obtained. This was *Doe dem. Selden* v. *Roe*, briefly referred to in 4 Law T. 154, 157, the facts of which we can state correctly, having the affidavits now before us. Some persons had taken forcible possession of an empty house, which it appeared, by the affidavits, had been in the possession of Esther Selden, or those whom she represented, for upwards of thirty years. The new occupants claimed to hold as tenants of one Grace Selden, under an alleged agreement for a yearly tenancy, commencing from March 12, 1844, the rent to be paid quarterly. An action of ejectment on the demise of Esther Selden was then commenced, which Walters, the party in possession, defended. About a month, however, before the assizes (June 25), upon receiving a sum of money, Walters gave up possession, and Esther Selden's agent remained in possession until July 31, when he was turned out by the sheriff of Somersetshire, under a writ of *habere facias*. On inquiry it appeared that upon the very day that the declaration had been served upon Walters, on the demise of Esther Selden, another declaration on the demise of Grace Selden, the alleged landlord, had also been served upon him. This was on May 18, and it contained two demises, one on March 27 in the preceding year, and one on March 27 in that year, just fifteen days after the alleged lease. Walters had allowed judgment to go by default in this action, while he defended the other, and the *habere facias* had been thereupon issued. Subsequently, in the early part of October, a summons was taken out before Pollock, C. B. at chambers, calling upon Grace Selden to shew cause why this judgment should not be set aside. The facts stated in the affidavits on both sides, which need not be here detailed, satisfied his lordship that the proceedings had been collusive and fraudulent, and overruling an objection that the application was too late,(a) he set aside the judgment, and ordered that the premises should be restored to the party who was in possession at the time the sheriff entered under the *habere facias*. This order was served upon Grace Selden and the person occupying the premises, but they refused to obey it. Esther Selden might now have applied for an attachment for contempt (2 Salk. 588; 2 W. Blackst. 892; *Doe dem. Williams* v. *Williams*, 4 Nev. & Man. 259); but, as under the circumstances, this would have been useless, the order was made a rule of court, and a rule was then moved for by *Ogle*, calling upon Grace Selden to shew cause why a writ of restitution should not issue. Before the order was made a rule of court, *Butt* had moved in the Bail Court, before Patteson, J. for a rule *nisi* to rescind the order of Pollock, C.B. Patteson, J. after taking time to consider, referred him to the full Court, and the rule *nisi* was then granted, but not until the order had been made a rule of court. The two rules came on together upon the last day of Term (4 Law T. 157), but were adjourned, by consent, to be heard before Mr. Justice Wightman at chambers. On December 5th they were heard. *Butt* appeared on behalf of Grace Selden, and *Ogle* for Esther. *Butt's* cross-rule was discharged in accordance with *Clement* v. *Weaver* (1 D. N. S. 193), because it was framed at the order, when the order had been merged in the *rule* of

(a) In *Doe dem. Stephens* v. *Lord* (6 D. P. C. 256) the application for an order to restore possession after two months' delay was granted.

court; and the rule for the writ of restitution was then made absolute. It was duly issued, and pursued the terms of the order, directing the sheriff to restore possession "to the person in possession at the time" the *habere facias* had been executed.

This may be an extreme case, but as the Lord Chief Baron took time to consider his judgment, and Patteson, J. referred it to the full Court, and Wightman, J. confirmed the grant of the writ of restitution, it materially strengthens the authority of *Doe dem. Stratford v. Shail*, and accords with the views taken there by Mr. Justice Coleridge. So that where the judgment is set aside for fraud or irregularity, a writ of restitution may be obtained, instead of the owner who has been ousted by the process of the Court being compelled to proceed by an adverse ejectment. E. W.

COURT PAPERS.

COMMON PLEAS.

Sittings appointed in Middlesex and London, before the Right Hon. Sir Nicholas Conyngham Tindal, Knt. Lord Chief Justice of Her Majesty's Court of Common Pleas, in and after Easter Term, 1845

IN TERM.

MIDDLESEX.	LONDON.
Wednesday, April 23	Friday, April 25
Wednesday, April 30	Friday, May 2.

AFTER TERM.

Friday, May 9	Saturday, May 10, to adjourn only.

The Court will sit at ten during Term, and at half-past nine after Term.

The Court will sit from day to day during Term, till the causes in each list are disposed of.

No causes will be tried in London on May 10, but the Court will adjourn to a future day.

EXCHEQUER OF PLEAS.

Sittings at Nisi Prius in Middlesex and London, before the Right Hon. Sir Frederick Pollock, Knt. Lord Chief Baron of Her Majesty's Court of Exchequer, in and after Easter Term, 1845.

IN TERM - MIDDLESEX.

1st sitting, Wednesday, April 16.
2nd sitting, Thursday, April 24.
3rd sitting, Friday, May 2.

LONDON.

1st sitting, Tuesday, April 22.
2nd sitting, Wednesday, April 30.
And by adjournment, Thursday, May 1.

AFTER TERM. MIDDLESEX.

Friday, May 9

LONDON.

Friday, May 9, to adjourn only

The Court will sit in Middlesex, at Nisi Prius in Term, by adjournment, from day to day, until the causes entered for the respective Middlesex sittings are disposed of.

The Court will sit, during and after Term, at ten o'clock

CAUSE LISTS, EASTER TERM, 184 .

COURT OF QUEEN'S BENCH.

New Trials remaining undetermined at the end of the Sittings after Hilary Term, 1845

Michaelmas Term, 1842.
Essex - Corporation of Colchester *v.* Brooke.

Michaelmas Term 1843.
Middlesex - Rogers *v.* Braxton, part heard.

Hilary Term, 1844
London - Collett *v.* Whitmarsh and Others

Easter Term, 1844
Kent - Allen *v.* Hayward
Bucks Doe dem. Brise *v.* Brise.
Cambridge - Reg. *v.* Mortlock.
Chester - Wharton *v.* Walton.
„ Worthington, admors. &c. *v.* Grimsditch.
Stafford Bromley *v.* Spurrier.
Gloucester Hosford *v.* Baily.
„ Green *v.* Pryce and Others
Hants—Doe dem. Edney and Others *v.* Wise
Devon —Mayor, &c. of Saltash *v.* Pennamore
„ Woolcombe *v.* Sleeman
Somerset Gale *v.* Bernal
Northampton Simmons *v.* Spier
Lincoln Mayfield *v.* Robinson
„ Doe dem. Sinton and Others *v.* Cook
Notts Spencer *v.* Carlin
Derby Doe dem. Vevers, clerk, and Others *v.* Ault
„ Winterbottom *v.* Ingham
Warwick —Elliott *v.* Blackwell
Carlisle - Topping *v.* Dayton
York - Doe dem. of Corporation of Richmond *v.* Morphitt
„ Gibson *v.* Caul and Others
„ Adam, a pauper, *v.* Hartley
„ Ferrand *v.* Milligan
„ Dawson *v.* Gregory
Lancaster —Wynne *v.* Pailey and Another
Liverpool Hargreaves and Another *v.* Wood and Another
Pow *v.* Taunton and Another
Allan *v.* Faith and Others.

Tried during Easter Term, 1844.
Middlesex—Littlechild *v.* Banks
Brooks *v.* Beckett
Same *v.* Same
Skilbeck and Another *v.* Garbett

Trinity Term, 1844.
Middlesex —Harrison *v.* Varty and Another
Same *v.* Same
Gladman *v.* Plumer.

Tried during Trinity Term, 1844.
Middlesex— Mercer *v.* Bartlett
Croucher *v.* Currie and Another
Moses *v.* Joco

Michaelmas Term, 1844.
Middlesex - Belcher and Others *v.* Gommo
Macarthy *v.* Varty and Another
Same *v.* Same
Bennett *v.* Duncan
De Medina *v.* Grove and Others
Same *v.* Same
Reg. *v.* Waller
London—De Freis *v.* Littlewood and Another
Exley *v.* Tassell
Bodner *v.* Butterworth
Northampton Sutton *v.* Macguire
Notts Reg. *v.* Inhabitants of Hickle
Leicester Wood *v.* Dixie, bart.
Warwick - Cooper *v.* Harding
Same *v.* Same
Hants Doe dem. Edney and Others *v.* Benham
Same *v.* Billett
Devon Doe dem. Clarke *v.* Smarridge
Dovill *v.* Jeve
Schank *v.* Beard
Cornwall - Richards *v.* Symonds
Somerset - Atwool *v.* Joliffe and Another
Doe dem. Earl of Egremont *v.* Langdon
Alford *v.* Ashford
Bristol - Gale *v.* Lewis
Norfolk - Corporation of Thetford *v.* Tyler
Denbigh Oldfield *v.* Dalrymple
Chester Collier *v.* Clarke and Another
Oxford Exeter College *v.* Butler and Others
Worcester - Doe dem. Blayney and Others *v.* Savage and Oth
Bate and Another *v.* Blurton
Stafford Hilton *v.* Earl Granville
York Reg *v.* Richard Chasley
Lockwood *v.* Wood
Musgrove *v.* Emerson
Durham Elliott and Another *v.* Stobart and Other
Wilson *v.* Anderson
Westmoreland - Webster *v.* Wilson
Liverpool Reg. *v.* The Corporation of Manchester
Wharton *v.* Wright
Reg. *v.* Liverpool and Manchester Railway Co.
Essex —Doe dem. Copland and Others *v.* Burrell
Doe dem. Cozens *v.* Cozens
Kent - Bracegirdle *v.* Peacock and Another
Doe dem. Jacobs *v.* Phillips and Others
Surrey—Queen *v.* Sewell
Glamorgan - Burgess *v.* Taff Vale Railway Company
Pembroke - Doe dem. Butler and Others *v.* Lord Kensington and Othe
Radno Doe dem. Woodho Powell

Tried during Michaelmas Term, 1844.
Middlesex —Paine *v.* Guardians of Strand Union.

Hilary Term, 1844.
Middlesex Hill *v.* Stratford
Wood *v.* Williams and Another
Stirton *v.* Bloxham and Others
Hope *v.* Horman and Others
Davis *v.* Carling.
Londo -Henzell *v.* Hocking and Another
Bengley *v.* Young
Hayne *v.* Rhodes and Others
Daniel and Another *v.* Pedding
Thompson *v.* Thorne and Others
Nutts *v.* Abrahams
Lowe *v.* Penn

Tried during Hilary Term 18
Coldon *v.* Brown
Hill and Another *v.* Kendall
Pownell *v.* Smith and Another
Same *v.* Same.

For Judgment.

Michaelmas Term, 1842.
Corporation of Colchester *v.* Brooke.

Easter Term, 1843.
Pilchard *v.* Powell and Others.

Michaelmas Term 1843.
Stemp *v.* Saveland
Doe dem. Angell *v.* Angell
Willoughby *v.* Willoughby

Hilary Term, 1844.
Bird *v.* Jones

Hilary Term, 1845.
Bernie *v.* Head.

COURT OF EXCHEQUER.

Sittings in Easter Term, 184.

Tuesday .. April	15	Peremptory Paper, after Motions	
Wednesday	16	Do. before Motions	Midd. 1st sitting
Thursday .	.17	.....	......
Friday .	18	.....	......
Saturday ..	.19	.....	......
Monday	21	Special Paper	......
Tuesday ..	.22	Errors	London 1st Sitting
Wednesday	.23	Special Paper	..
Thursday .	.24	......	Midd. 2nd sitting.
Friday......	.25	......	
Saturday	.26	Crown Cases.	
Monday....	...28	Special Paper	
Tuesday.. . .	.29	. ...	....
Wednesday	...30	Special Paper	London 2nd sitting.
Thursday . May	1	.....	Ditto by adjournmt.
Friday	2	. ...	Midd. 3rd Sitting.
Saturday .	. 3	......	
Monday......	5	......	
Tuesday ..	6		
Wednesday			
Thursday ..			

PEREMPTORY PAPER, for Easter Term, 1845.

To be called on the First Day of the Term after the Motions, and to be proceeded with the next day, if necessary, before the Motions.

Date Rule Nisi.

4th June, 1844 - The Mayor, Aldermen, and Burgesses of the Borough of Ludlow, in the County of Salop, *v.* Charlton. Mr. Alexander, Mr. Crompton.

15th Jan. 1845—Hugger *v.* Baker. Mr. Serjeant Byles, Mr. Butt.

NEW TRIAL PAPER, for Easter Term, 1845.

For Judgment.

Moved Easter Term, 1845.
Liverpool Rodgers and Another *v.* Maw.

Moved Michaelmas Term, 1844.
Middlesex—Chapple *v.* Purday
Bartlett *v.* Dimond
Northampton - Watson *v.* Bodell.

For Argument.

Moved Hilary Term, 1844.
London—A. J. Acraman *v.* Cooper and Others.

Moved Michaelmas Term, 1844.
Middlesex Russell *v.* Ledsam and Others
London Redman *v.* Wilson
Redman *v.* Hay
Mold - Doe dem. Lloyd *v.* Ingleby
Liverpool—Crellin *v.* Calvert
Crellin *v.* Brooke
Ipswich—Mills *v.* Goff
Warwick— Geach and Others, Assignees, &c. *v.* Ingall
Worcester—Benbow *v.* Jones
Biss *v.* Arkell
Devizes—Hayward *v.* Hayward
Frude and Another *v.* Powell
Bristol—Fargues *v.* Bradshaw
Kynaston and Another, Assignees, &c. *v.* Crouch
Doran and Another, Assignees, &c. *v.* Worboys.

Moved after the 4th day of Michaelmas Term, 1844.
Middlesex —Hogarth *v.* Penny and Another
Eat *v.* Leigh

Moved Hilary Term, 1845.
Middlesex—Sanger *v.* Hart
Caldon, exor. &c. *v.* Walton
Same *v.* Same
Eglinton *v.* Rack and Others
Parnell *v.* Williams and Another
Belcher and Others, assignees, *v.* Magnay and Others
Same *v.* Same
Richards *v.* Macey
Sherborn *v.* Arlieff
Whitmore and Others, assignees, &c. *v.* Hind
Davey *v.* Warne
Playfair *v.* Musgrove and Another
Surfling *v.* Ovenden and Others
London— Newall *v.* Webster and Others
Hawley *v.* Gilbert
Brean and Wife *v.* Messer and Wife
Stapleton *v.* Baker.

Moved after the 4th day of Hilary Term, 1845.
Middlesex—Carlewis *v.* Page
Woodbridge *v.* Cooper.

SPECIAL PAPER, for Easter Term, 1845.

For Judgment.

Buron *v.* Denman. Demurrer. Heard 13th Nov. 1844

For Argument.

Martinez *v.* Denman. Demurrer.
Jiminez *v.* Denman. Demurrer.
(These two cases to stand over until judgment given in Buron *v.* Denman.)
Doe dem Sims *v.* Garlick. Special case, by order of Mr Baron Rolfe.
The Company of Proprietors of the Calder and Hebble Navigation *v.* Pilling and Others. Demurrer.
Thomas *v.* Hodson. Demurrer.
Fisher and Others *v.* Gibbon. Demurrer.
Williams and Wife *v.* Waters, exor. &c. Demurrer.
Smale *v.* Franklin. Demurrer
Piper and Others, the Masters and Wardens, &c. *v.* Chappell. Demurrer.
Simmons *v.* Haslett Demurrer.
Hodgins *v.* Cook, sued with Hancock. Demurrer.
Aston *v.* Breuth Demurrer.
Turner *v.* Mason. Demurrer.
Jones *v.* Chapman and Others. Demurrer.
Surman and Others *v.* Darley and Others Special case, by order of Mr. Baron Parke.
Watson, cashier, &c. *v.* Earl of Egremont. Demurrer.
Beadle *v.* Snelling. Demurrer.
Wiggins and Another *v.* Johnston. Special case, by order of Mr. Baron Alderson.
Wrightson *v.* Macauley. Special case, by order of Vice-Chancellor Wigram.
Miller and Another *v.* Large. Demurrer.

PROMOTIONS, APPOINTMENTS, ETC.

Whitehall, March 29, 1845.—The Queen has been pleased to order a *congé d'élire* to pass the Great Seal, empowering the Dean and Chapter of the cathedral church of Ely to elect a bishop of that see, the same being void by the death of Doctor Joseph Allen, late bishop thereof; and her Majesty has also been pleased to recommend to the said dean and chapter, Thomas Turton, doctor in divinity, now dean of the cathedral church of St. Peter, Westminster, to be by them elected bishop of the said see.

Whitehall, March 31.—The Lord Chancellor has appointed Robert James Sisson, of St. Asaph, in the county of Flint, gent. to be a Master Extraordinary in the High Court of Chancery.

Downing-Street, April 1.—The Queen has been pleased to appoint the Honourable George Warren Edwardes to be Auditor of Accounts to the Government of St. Helena.

Her Majesty has further been pleased to appoint Jules Virieux, esq. to be Juge de Paix for the Island of Mauritius.

PRACTICAL PRECEDENTS.

[UNDER this title we purpose to collect such Precedents as may have been found practically useful by experienced members of the Profession, and such as may have been settled by eminent counsel, and we shall be obliged by readers forwarding any precedents in their possession which they may deem to be serviceable to their legal brethren.]

Brandon, Feb. 28, 1845.

SIR,—Herewith you receive another Precedent, being a copy of the deed of release and covenants *which accompanied* the absolute surrender sent you some time ago, and in which I find there are two errors, viz. You have printed the word which should have been *surrendered*, "severed," and have spelt the word steward with a *u* instead of a *w*: *this* is immaterial, but the first is very material, and may mislead a young draftsman. Yours, &c.

E. J. S.

Deed of Release and Covenant to accompany Surrender of Copyholds.

THIS indenture, made the day of , A.D. 1842, between W. G. of, &c. of the first part, C. G. of, &c. of the second part, and R. S. of, &c. of the third part: Whereas, by indenture of bargain and sale, dated on or about the day of August 1820, and made or expressed to be made between T. W. surviving devisee in trust for sale, named in the last will and testament of W. P. late of , in the county of , of the first part; W. P. (farmer) of the second part, and the said W. G. of the third part, it was witnessed that, in consideration of the sum of £ . . to the said T. W. paid by the said W. G. he, the said T. W. in exercise of the power given to, and then solely vested in him, by the will of the said W. P. deceased, did bargain, sell, surrender, and release, and the said W. P. party thereto, as heir-at-law and customary heir of the said W. P. the testator, did remise, release, and confirm unto the said W. G. all those, &c. which premises, with the residue of the land, by the former descriptions thereof, the said T. W. took up to him, and his heirs and assigns, upon the trusts of the will of the said W. P. deceased, on the day of , then last, with their appurtenances, to hold the same unto and to the use of the said W. G. his heirs and assigns for ever, of the lord of the said manor of . and according to the custom thereof, subject to apportioned land-tax of , and the fines, suits, and services thenceforth to become due in respect thereof: And whereas, at a court holden in and for the said manor, on or about the day of , 1822, the said W. G. was admitted to the messuage and hereditaments comprised in the hereinbefore recited bargain and sale, to hold to him and his heirs, of the lord of the said manor, at his will, according to the custom thereof; and whereas, by a surrender out of court, dated on or about the day of , 1829, the said W. G. did surrender all and singular the messuages, lands, tenements, and hereditaments whatsoever, of him the said W. G. holder of the said by copy of court roll, with their appurtenances, to the use of G. C. his heirs and assigns for ever, subject to a proviso for avoidance of the said surrender upon payment by the said W. G. his heirs, executors, administrators, or assigns, unto the said G. C. his executors, administrators, or assigns, of the sum of £ . . with lawful interest, on the day of then next; and whereas, the said principal sum of £ . . and all interest thereon, have long since been fully paid or satisfied; and whereas, by indenture dated on or about the day of , 1840, and made between the said W. G. of the one part, and the said C. G. of the other part, the said W. G. did grant, bargain, sell, and demise unto the said C. G. all those, &c. and their appurtenances, to hold the same unto the said C. G. his heirs, executors, administrators, and assigns, from the day next before the day of the date of the now reciting indenture, for the term of five hundred years, subject to a proviso for cesser of the said term, upon payment by the said W. G. his heirs, executors, or administrators, unto the said C. G. his executors, administrators, and assigns, of the sum of £ . . with interest after the rate of 5*l.* per cent. per annum, on the day of then next; and in the said indenture now in recital, the said W. G. did covenant to surrender the said copyhold hereditaments and premises at the then next or some subsequent court to be held for the said manor, or out of court before the steward thereof, or his deputy, to the use of the said C. G. his heirs or assigns, as he or they should direct, according to the custom of the said manor, and that in the meantime, and until such surrender should be made and admittance had by virtue thereof, he, the said W. G. and his heirs, should stand seized or possessed thereof, free and clear from all incumbrances whatsoever; and whereas, by indenture dated on or about the day of , 1840, and made between the said W. G. of the one part, and the said C. G. of the other part, after reciting the lastly hereinbefore recited indenture, the said W. G. did covenant, and also did grant, bargain, sell, and demise, all and singular the said freehold and copyhold messuages or tenements, hereditaments and premises, and every part thereof, with the appurtenances described in the therein and hereinbefore recited indenture of demise, and that the same should, from time to time, and at all times thereafter during the remainder of the said term of 500 years then to come and unexpired, remain and continue charged and chargeable with, and be a security unto the said C. G. his executors, administrators, and assigns, as well for the said sum of £ . . then advanced, with interest from thenceforth to grow due for the same, as also for the payment of the said sum of £ . . before lent and advanced, and the interest thereof, making together £ . . and that the said premises should not be redeemed until full satisfaction and payment of the said sums should be made. And whereas the said principal sums of £ . . and £ . . secured by the two lastly hereinbefore recited indentures of mortgage, together with the sum of £ . . for interest thereon up to the day of the date of these presents, and making together the sum of £ . . are now due and owing unto the said C. G. And whereas the said R. S. hath contracted with the said W. G. for the absolute purchase of the said copyhold messuages, tenements, and hereditaments hereinbefore mentioned and described, with their appurtenances, and the inheritance in fee-simple of the same, according to the custom of the said manor, discharged from all incumbrances, at the price of £ . . the land-tax of per annum, and quit-rent of only excepted; and whereas it having been agreed that the said sum of £ . . so due unto the said C. G. by virtue of his said securities, should be paid out of the said purchase-money; therefore in pursuance and part performance of the said contract, and by means of a surrender bearing even date with and passed immediately before the execution of these presents, in consideration of the sum of £ . . part of the said purchase-money of £ . . at the request and by the direction of the said W. G. paid by the said R. S. unto the said C. G. and also in consideration of the sum of £ . . residue of the said purchase-money of £ . . paid by the said R. S. unto the said W. G. at the same time, he, the said W. G. hath, out of court, duly surrendered the copyhold hereditaments so purchased by the said R. S. by the description of all that, &c. to the use of the said R. S. his heirs and assigns for ever, according to the custom of the said manor. And whereas the said C. G. for releasing the lien of the said mortgage securities, and the said W. G. for to enter into the appropriate covenants for the title of the said hereditaments respectively, have consented to concur in these presents in manner hereinafter contained. Now this indenture witnesseth, that in consideration of the sum of £ . . in part of the said purchase-money or sum of £ . . so paid to the said C. G. in satisfaction of all principal money and interest so due to him in manner aforesaid, the receipt of which said sum of £ . . he, the said C. G. doth hereby acknowledge, and from the same and every part thereof doth hereby for ever release and discharge the said R. S. and W. G. respectively, and their respective heirs, executors, administrators, and assigns; he, the said C. G. upon the request and by the direction of the said W. G. testified by his executing these presents, doth by these presents remise and release unto the said R. S. his heirs and assigns, all and singular the said messuages, tenements, hereditaments, and premises comprised in or surrendered by, or intended to be comprised in or surrendered by, the hereinbefore recited surrender, of even date herewith, and their respective rights, members, and appurtenances, and to the intent that the said several securities, and all the estate, right, title, and interest of the said C. G. under by virtue of the same, may be extinguished, and all lien for the principal money and interest thereby secured may be discharged. And the said C. G. doth hereby for himself, his heirs, executors, and administrators, covenant with the said R. S. his heirs and assigns, that he, the said C. G. hath not at any time or times heretofore made, done, committed, executed, or knowingly or wilfully suffered any act, deed, matter, or thing whatsoever whereby or by reason or means whereof the said messuage, hereditaments, and premises hereby released, or intended to be, or any part thereof, are, is, can, shall, or may be in any manner impeached, charged, forfeited, or incumbered in title, charge, or otherwise howsoever; and the said W. G. doth hereby, for himself, his heirs, executors, and administrators, covenant with the said R. S. his heirs and assigns, in manner following; that is to say,—That notwithstanding any act, deed, matter, or thing whatsoever made, done, committed, permitted, or suffered to the contrary by him, the said W. G. or the said G. C. or the said C. G. he, the said W. G. with the concurrence of the said C. G. had, at the time of the passing of the hereinbefore recited surrender of even date herewith, in himself, good, right, or full power and lawful and absolute authority by the said surrender to surrender, and by these presents to release the said copyhold messuages, tenements, and hereditaments comprised in the said surrender, with their appurtenances, unto and to the use of the said R. S. his heirs and assigns, for ever, according to the custom of the said manor, and the true intent and meaning of the same surrender and of these presents. And also that it shall be lawful for the said R. S. his heirs and assigns [illegible] diately upon and after the exe[illegible] of these presents, and from time to time, [illegible] at all times hereafter, to enter into [illegible], and have, hold, use, occupy, possess, [illegible] the said messuages, tenements, heredita[ments] [illegible] premises so surrendered as aforesaid, with their appurtenances, and to receive and take the rents and profits thereof, without any let, suit, trouble, eviction, ejection, expulsion, interruption, hindrance, or denial whatsoever of, from, or by them, the said W. G., C. G. or G. C. or any other person [illegible] whomsoever, lawfully or equitably and rightfully [illegible], or to claim by, from, through, or in trust for them, respectively, and that free and clear, and freely, clearly, and absolutely acquitted, exonerated, released, and discharged or otherwise, by him, the said W. G. his heirs, executors, or administrators, at his or their own costs and charges, ... all things and sufficiently protected, defended, saved harmless, and kept indemnified of, from, or against all and all manner of former and other gifts, grants, surrenders, mortgages, leases, bargains, and other, freebench, and right and title of freebench, uses, trusts, wills, entails, annuities, legacies, [illegible] estates, titles, troubles, liens, charges, and incumbrances whatsoever heretofore, or to be hereafter had, made, done, committed, occasioned, permitted, or suffered by the said W. G., C. G. or G. C. or any person [illegible] persons rightfully claiming or to claim by, from, under, through, or in trust for them, [illegible] of them, or their or any, or either of their [illegible] default, privity, or procu[rement] [illegible] moreover that they, the said W. G., C. G. and [illegible] respectively, and their respective heirs, and all persons whosoever lawfully or equitably and rightfully claiming, or to claim by, from, under, or in trust for him or them respectively, shall and will, from time to time, and at all times hereafter, upon every reasonable request, and at the costs and charges in all things of the said R. S. his heirs and assigns, make, do, execute, and perfect, or cause or procure to be made, done, executed, and perfected, all such further lawful and reasonable acts, deeds, surrenders, or assurances for the further, better, and more absolutely or satisfactorily surrendering, confirming, or otherwise assuring the said copyhold messuages, tenements, hereditaments, and premises comprised in the said surrender, and the appurtenances, to the use of the said R. S. his heirs and assigns for ever, according to the true intent and meaning of said surrender, of even date herewith, and of these presents, as by the said R. S. his heirs or assigns, or his or their counsel in the law, shall be reasonably devised or advised and required, and be tendered to be made, done, and executed. In witness, &c.

LEGAL INTELLIGENCE.

INCREASE OF ATTORNEYS. [illegible] a return just published by the House of Commons, on the motion of Mr. Aglionby, [illegible] the [illegible] of attorneys who took out certificates between Easter term 1843, and Easter term 1844, was 9,4[illegible], and the duties they paid amounted to 81,18[illegible]. In the [illegible] year the number was 9,480, and it went on progressively increasing to 9,713, 9,719, 9,7[illegible] [illegible], 9,9[illegible], 10,03[illegible], 10,073 9,993, 10,1[illegible], and 10,120 in the [illegible] ending Easter term 1845. The duties paid in the last year amounted to 89,222*l.*

THE SCOTCH BANKS.—The principal features of the contemplated measures of Sir Robert Peel in reference to the Scottish banking system, are said to be, that the existing banks are to be limited to their present circulation, and that they will be forced to keep an amount of gold equal to one-fifth of that circulation, with the option of having one-fourth of that fifth in silver; so that if a circulation of a bank be 200,000*l.* it must keep 40,000*l.* in sovereigns to meet the demands upon it, or else 30,000*l.* in sovereigns, and 10,000*l.* in silver. Any bank that exceeds its present circulation must have gold to meet every pound of such excess.—*Caledonian Mercury.*

THE WILL OF THE MARQUIS OF SLIGO.—The original will and codicil of the Most Hon. Howe Peter Browne, late Marquis of Sligo, Earl of Altamont, in Ireland, and Baron Monteagle of the United Kingdom, Knight of the Most Illustrious Order of St. Patrick, deceased, has just been proved in Ireland. The personal estate in that country is sworn under 60,000*l.* —the personalty in England is about a third of that amount. The executors are the Marchioness of Sligo, the relict; the present Marquis; the Marquis of Clanricarde; Mr Robert Browne, of Killeskea, in Galway; Mr. John Browne, of Mount Browne, in Mayo; and Mr. George Hildebrand, of Westport; who are also the guardians of the minors. He charges his real and personal estate with the payment of all debts: bequeaths to his wife, Hester Catherine, Marchioness of Sligo, his leasehold house and offices in Mansfield street, Cavendish-square; also the use for her life of all the furniture, &c. except plate and other articles specified; leaves to her all diamonds, jewellery, and trinkets, the diamond star and badge of the Order of

St. Patrick excepted, which he gives to his son George John, then Earl of Altamont, as also the plate and furniture, after the decease of the Marchioness. He also leaves to the Marchioness, for her own absolute use, all wines, liquors, and other stores, and the horses and carriages at Mansfield-street, or elsewhere in England. All the horses and carriages of every kind in Ireland he bequeaths to his son, the present Marquis. With regard to his younger children (excepting his daughter Louisa, in whose favour he had already made an appointment under her marriage settlement), he charges his real estate with the payment of such sums as shall, with the respective portions appointed to them under a power reserved to the former Marquis over 300,000*l.* to make up to each of his children the following amounts:—To his sons James and John Thomas, 10,000*l.* each; to his daughters Elizabeth and Catherine, 7,000*l.* each; to his sons Ulick and Richard, and his daughters Harriet and Emily, 5,000*l.* each; and to his daughters Hester, Augusta, and Mary Ann, and any after-born children, 4,000*l.* each. The residue of his personal estate he leaves to his son, the present Marquis.

Will of Sir Thomas Fowell Buxton, Bart. Probate of the will of Sir Thomas Fowell Buxton, late of Northrepps, in the county of Norfolk, bart. and of the firm of Truman, Hanbury, Buxton, and Co. brewers, Brick-lane, Spitalfields, in the county of Middlesex, was granted on the 25th instant to Sir Edward North Buxton, bart. and Thomas Fowell Buxton, esq. the sons, two of the executors, a power being reserved to Dame Hannah Buxton, widow, the relict, and Andrew Johnston, esq. the son-in-law, the other executor, to prove hereafter. The personal estate sworn under 250,000*l.* The will is of great length, and dated October 17, 1844; witnessed by John Gurney Hoare, of Lombard-street, and Esther Neave Lincoln, of Northrepps Hall. Sir Thomas died on the 19th of February last. He leaves his manuscripts and papers to his son Edward and daughter Priscilla, either to publish or destroy, or to be kept by the survivor, in compliance with the wishes of his deceased sister, Sarah Buxton, from whom he had recently derived an addition to his property. Leaves to his son Edward his guns and sporting implements, and the selection of two horses. Bequeaths to his wife the carriages, horses, and the whole of the furniture, and directs 1,000*l.* to be paid to her within one month, and 3,000*l.* at the end of twelve months. The establishment to be kept up for six months after his decease. Bequeaths to his daughter, Priscilla Johnston, a legacy of 2,000*l.* and a further sum of 5,000*l.* from his share in the brewery; and to his daughter, Richenda Buxton, the sum of 9,000*l.*; leaves one-third of his share in the brewery to his wife for her life; appoints his son Charles to succeed to one-third of his share in the brewery, and leaves certain other portions to his family; the remainder of his share and interest in the brewery he leaves to his son and partner, Edward; leaves the whole of his plate to his wife for her life, and at her decease to be distributed as follows:—the plate presented to him by his late constituents at Weymouth, and by his brothers, sisters, nephews, nieces, and all other relations, he gives to his son Edward; the plate presented to him by the young people at Weymouth, he gives to his son-in-law, Andrew Johnston; the plate presented to him from the directors and members of the Alliance Assurance Company, he gives to his sons, Thomas Fowell, and Charles. Other specific articles of plate he leaves to his daughters. He gives his college prize-books to his son Edward and his children. Devises his freehold and leasehold estates at Runton and Fellbrig, in the county of Norfolk, to his son, Edward North Buxton. Devises his freehold, copyhold, and leasehold estates in Trimington, Sidestrand, Southrepps, Gironingham, and in all other towns, parishes or places, in or near the county of Norfolk, to his sons, Thomas Fowell Buxton, and Charles Buxton. Directs the Belfield estate to be sold, and, with the share in the partnership of the brewery, and the residue of his personal estate, to be held in trust to pay thereout 3,000*l.* a year to his wife for her life. Appoints his son, now Sir Edward North Buxton, his residuary legatee.

Will of Lady Flora Hastings.—On the 4th instant letters of administration of the estate and effects of the late Right Hon. Lady Flora Elizabeth Hastings, of Loudown castle, in the county of Ayr, North Britain, and of Buckingham Palace, one of the ladies in waiting on the Duchess of Kent, were granted by the Prerogative Court of Canterbury to Lady Sophia Frederica Christina Hastings, the sister of the deceased; the Honourable Flora Muir Campbell, Dowager Marchioness of Hastings, her mother, having survived her, but died without administering. Lady Flora died on the 5th of July, 1839. Administration would have been applied for earlier, but owing to a sum of 30,000*l.* divisible among the daughters of the late Marquis, having only now been realized by the sale of certain estates, a representative of her ladyship has not before been required. The personal effects were sworn to, as under 8,000*l.* —*Ibid.*

Judicial Pleasantry.—On the 29th March, during the trial of an action for an ejectment, Mr. Chilton, Q.C. had occasion to examine witnesses as to their knowledge of the boundaries of a certain farm, the subject under consideration. One of these was ninety-four years of age, the other two upwards of eighty. The well-developed figures and florid looks of the old men astonished the learned counsel, who inwardly contrasted his own attenuated and delicate frame with the yet burly proportions of the fine old fellows. "It is astonishing, my lord," said he, addressing Mr. Justice Cresswell, "how well men of such an age look—the place surely must be healthy. I wonder what they take." The learned judge gave one of his blandest smiles, dropped his pen, and looking significantly at the learned counsel, said, "I'm sure, Mr. Chilton, I don't know what they *take*, but I'm quite sure they don't take *briefs*."

PROCEEDINGS OF LAW SOCIETIES.

DENBIGHSHIRE AND FLINTSHIRE LAW ASSOCIATION.

The general annual meeting of this society was held at the Lion Hotel, Ruthin, on Monday, the 24th inst. Mr. Hughes, of Astead, president of the society, in the chair. Mr. Eyton, of Mold, was elected president, and Mr. Read, of Llanrwst, vice-president for the ensuing. The proceedings of the general committee were read, and all their recommendations, after some discussion, adopted. Amongst the recommendations adopted were the following: "That the treasurer (being clerk of the peace for Denbighshire) shall, one month before each Quarter Sessions for the counties of Denbigh and Flint, insert an advertisement in the Law Times, *at the expense of the society*, of the days of holding such Quarter Sessions;" and "That this society shall join the Provincial Law Societies' Association." Greatly to the inconvenience of the Profession, the magistrates of Denbighshire had refused to allow the expense of an advertisement of their sessions in the Law Times to be paid out of the county stock, which mistaken parsimony the Association countervails by the resolution adopted.

CORRESPONDENCE.

TO THE EDITOR OF THE LAW TIMES.

Sir,—Allow me to call your attention, and through you that of the public, to another practical grievance requiring a remedy. In cases of manslaughter, the coroner has no right to take bail, neither is that power vested in the magistrates. Many cases may occur in which respectable persons may unfortunately and undesignedly be guilty of manslaughter, or there might be circumstantial evidence sufficient to warrant the coroner's inquest bringing in such a verdict, but which would not justify a jury, when all the evidence is adduced on both sides, to arrive at such a conclusion. The inquest may take place immediately after the Summer Assizes; in that case the accused is incarcerated till the next assizes, a period generally of near eight months; it is true he may apply to a judge to be admitted to bail; but that is attended with an expense that many may not be able to afford, though they may be enabled to procure good and responsible bail for their appearance.

In other cases it ought not to be left to the *discretion* of magistrates to take bail. Every man is presumed innocent until he is proved guilty. How many are there imprisoned for months before their trial, and afterwards acquitted, who, if bail had been taken when offered, would not have been so *unjustly* punished.

In a late case, on one of the circuits, a man was imprisoned in August, and kept in gaol till the Spring Assizes; the evidence adduced was too unsatisfactory even to authorize the grand jury's returning a true bill, yet this man suffered six months' imprisonment without having been guilty of any crime whatever,—his business was ruined, and his family starved! Should this continue in a land of liberty?

Yours, &c. P.

TO THE EDITOR OF THE LAW TIMES.

Sir,—Having observed in the Law Times of the 22nd inst. that a commission has been appointed to consider the propriety of altering the assize circuits, I have thought it a fit occasion to offer a suggestion on the rumoured transfer of Yorkshire from the Northern to the Midland Circuit. On an average, two-thirds of the business, civil and criminal, at York Assizes, are from the West-Riding, and a fortnight is generally inadequate to the completion of the assizes. If, however, the West-Riding alone were detached from the Northern Circuit, a fortnight would, upon an average, be sufficient to transact the business for that riding without unseemly haste. The assizes for the North and East Ridings might be held at York as heretofore, and four or five days would be sufficient to get through the business from those Ridings, thus leaving more time for the Liverpool Assize, and preventing an undue extension of the time occupied on the Northern Circuit.

The assizes for the West-Riding might be held at Wakefield, to the great diminishing of expense to suitors, witnesses, jurymen, and the Riding-rate. There is a direct railway communication to Wakefield, which is in the centre of the West-Riding, and at which place the sheriff holds his court for the election of members of Parliament for the Riding. At Wakefield are the Register Office for Deeds, and the Clerk of the Peace's Office for the West-Riding, and also the Riding prison, which is now undergoing the process of enlargement to the extent of several acres. There is also a court-house (in which the sessions are held) much larger than the Crown Court at York, and adjoining to which there is ample room for the erection of a Nisi Prius Court at a small cost. The holding of the assizes for the West-Riding, near the centre of that riding, would be so unquestionably advantageous to the public, that few, unbiased by interest or prejudice, will be found to advocate their continuance at York.

It is well known that the chief expense of an assize trial is caused by the attendance of parties, their attorneys and witnesses, at the assize town, and too frequently this expense is mixed up with and considered as part of the attorney's bill. Any reasonable plan, therefore, for curtailing this expense, well merits the attention of the Profession.

Yours, &c. An Attorney,
March 29, 1845. Resident in the West-Riding.

SELECTIONS FROM CORRESPONDENCE.

"A. W." transmits the following comments on the preparation of "Abstracts of Title to Mortgaged Premises:"—

In the discussion respecting the preparation of an abstract by the solicitor to the mortgagee or mortgagor, the interest of the client appears to be entirely overlooked, and attention paid merely to the point of which solicitor should profit.

In the case put by Mr. Bond, I should say neither should profit, except as to the abstract of the mortgage-deed itself, and, if necessary, a copy of the abstract of the other deeds, for there appears to have been an abstract already in existence of all the deeds but the mortgage-deed.

In that case the duty of the mortgagor's solicitor was to have ascertained whether the fair copy of this abstract (which I assume to have been in the possession of Mr. Bond) was in a fit state for delivery, *i. e.* not disfigured with requisitions in the margins, &c. and if it was, to have requested Mr. Bond to add an abstract of the mortgage-deed to it and send it to him (the mortgagor's solicitor) for delivery to the purchaser. If it was not in a state for delivery, it was the duty of the mortgagor's solicitor to make a copy of the draft abstract he had and perfect it by adding an abstract of the mortgage-deed prepared from his own copy of the draft, and then deliver the abstract to the purchaser, charging his client with the fair copy only of the draft abstract, and with the drawing and fair copying of the abstract of the mortgage-deed. This would have been doing the business efficiently at a very great saving of expense to the client, and therefore it was the duty of the mortgagor's solicitor so to have done it, and the duty of the mortgagee's solicitor to have acquiesced in its being so done.

The claims set up on behalf of solicitors to mortgagees to prepare abstracts and perfect titles to estates in mortgage to their clients on sales of such estates, appears monstrous. What! is a man, because he borrows money on his estate, to be obliged to change his solicitor or employ two, and pay perhaps three pounds for what his own could do for him for one? The duty, and the only duty of the solicitor to a mortgagee is to ascertain, in the first instance, the goodness of the title and prepare the mortgage-deed, and afterwards take care that he permits his client to exhibit the deeds for inspection on proper occasions only; and when his client is called on to transfer or release his interest in the premises, that the deed by which he does so is such a one as is proper as regards his client. If indeed no abstract exists, then, on a sale or transfer, the mortgagee's solicitor should prepare one, simply because the deeds are in his custody.

A Correspondent, under the signature "An Attorney," thus comments on the employment of Justices' Clerks in Prosecutions:—

In addition to the many reasons given by able correspondents in your journal, that justices' clerks should not be allowed to be employed in prosecutions, I send you the following:—

A client of mine caused his servant to be brought before the magistrates sitting in petty sessions on a charge of larceny. The magistrates committed the servant to take her trial at the then *next assizes or quarter sessions* which should happen first; and my client, together with the servant, her sureties, and the witnesses, were bound over to appear at *either the assizes or the sessions* which should happen first. *For one whole week* the clerk to the justices tried all

he could to get my client to give him the prosecution; and when he saw it was *useless* for him to interfere with another person's client, he told him he would some day or other be *upsides* with him. But this *worthy attorney and magistrates' clerk* did not rest here with his *dirty work*, but (like a dog in a manger) he was *determined* that I should not have the prosecution, and accordingly he prevailed on one of the committing justices to rebind the parties over *to the quarter sessions*, thereby jumping over the assizes; and as there is a county solicitor appointed to conduct all prosecutions at the quarter sessions for the county in which I reside, I of course shall be prevented interfering in the case on behalf of my client. I could give several other shameful instances of the conduct of the above alluded to justices' clerk; and if he does not alter his ways, I shall give you his name and address, together with a few of *his dirty actions*.

To Readers and Correspondents.

W. SNUCHER.—*We cannot answer legal questions.*

CALEB.—*Commissions will only be granted to certificated attorneys.*

G. and Co. *will see that their suggestion has been anticipated.*

T. M., Market Harborough.—*Typographical errors, such as our correspondent alludes to, are next to unavoidable.*

J. G., Southwold.—*The communication, which came to hand too late to be turned to account in this number, will receive proper attention.*

C. C., Lamborne.—*We are obliged by the manuscript forwarded, and doubt not that it will be of service for the purpose suggested.*

A STUDENT.—*The best works for the required purpose are the second volume of Blackstone's Commentaries (Serjeant Stephens' Edition we would recommend), and a valuable treatise by Mr. Williams, recently published.*

TO SUBSCRIBERS.

THE PUBLISHER *begs to state, in reply to repeated applications, that he will readily accommodate the Subscribers to the* LAW TIMES *by procuring for them and inclosing in the parcels he may have occasion to transmit to them, any Books, Law Forms, or other Publications they may desire to receive from London. They may also, if they please, avail themselves of the transmission of their Volumes of the* LAW TIMES *for binding, to inclose any other books for the binder.*

An Alphabetical Index to the Cases in the current Volume of the LAW TIMES *always lies at the Office for the purpose of reference.*

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THE LAW TIMES.

SATURDAY, APRIL 5, 1845.

TO READERS.

WITH the present number commences the FIFTH volume of the LAW TIMES.

Again it is our gratifying duty to announce a steady accession to the roll of subscribers as exhibited in the two lists published since we had occasion to report progress six months ago. The addition during the progress of the volume just completed will be found on reference to be no less than TWO HUNDRED AND FIFTY-ONE.

It has been the custom of the LAW TIMES, upon such occasions as the present, briefly to review the improvements introduced during the progress of the expired half-year, to shew how strenuously its conductors have striven to deserve the increasing confidence of the Profession, and how far performances may have kept pace with promises.

No volume since the commencement of the LAW TIMES has exhibited so many and such great improvements as the one just completed. It has witnessed some novel experiments, the issue of which was extremely doubtful when they were undertaken, but which in their results have proved successful beyond the most sanguine anticipations of the editors or the readers.

Foremost of these in novelty and importance was the design (first announced as to be submitted to early trial in the address which opened the fourth volume) for presenting to the Profession *all* the written judgments of the Courts of Common Law *verbatim* within a few days after their delivery.

The experiment was a bold, because it was an untried one, and had been deemed hitherto to be a practical impossibility. However, with some difficulties, which patience, perseverance, and experience were demanded to overcome, the attempt was perfectly successful. The experiment has been tried during the entire period that has since elapsed, and the result is, that the LAW TIMES has been enabled to publish *all the written judgments*, with one solitary exception, delivered since the commencement of Michaelmas Term, and this has presented to the Profession a mass of the most valuable, because the most authentic, law ever collected, no portion of which they could elsewhere procure for many weeks after they had obtained it here, and a considerable part of which will be found nowhere beside; almost every other series of reports being necessarily *selections*, whereas in the LAW TIMES all the cases are to be found.

A second great improvement introduced during the progress of the last volume, has been the perfecting of the reports generally, by the enlarged and costly plan of placing two Reporters in each court; the consequence of this has been, that the cases are prepared and citations given with more accuracy, and greater attention to detail, than was practicable under former arrangements. The effect has been already most marked. The reader will doubtless have noticed how frequently of late the LAW TIMES has been cited in the Courts, and with what respect its reports have been received by the judges.

The Summaries of the decisions of each Term, commenced twelve months since, and regularly continued, as respects the Common Law Courts and Magistrates' Cases, were found to be so useful to the Profession, that the plan has been extended to the decisions of the Equity Courts, and a like Summary of the decisions in the Bankrupt and Insolvent Courts is now in preparation. The unsettled state of the law and practice in this department of our jurisprudence will make such a summary peculiarly valuable at this time, and it will, therefore, be somewhat more elaborately written than the others have been.

Another addition made during the progress of the last volume has been a large variety of commentaries on current law, which we have arranged under appropriate headings, so that the information on any particular topic may be found at a glance by the inquirer. Magistrates' Law, Common Law, and the Law of Real Property have been severally treated in this manner, and a vast number of topics of present interest and utility have been thus brought prominently under the notice of the practitioner.

The new classification of the Legal Intelligence under the headings of *Promotions and Appointments* and *Court Papers* has given a still more methodical appearance to a journal whose chief recommendation must ever be the ease with which the information sought in its columns may be found amidst the hurry of business.

It is hoped that the arrangement made with M. TREITT, a distinguished *Avocat* at Paris, to supply the series of articles illustrative of so much of the jurisprudence of France as an English lawyer ought to be acquainted with, will be deemed a desirable acquisition.

The publication of the *verbatim* reports of the written-judgments, and the introduction of so much new material, have necessarily trenched largely upon our columns, ample though they be. We have been compelled, in consequence of this, to a less frequent insertion of the law lectures than we had desired. But, nevertheless, the last half-year has enabled us to complete Professor CAREY's instructive series of lectures on *Pleading, Practice, and Evidence*, and to commence a new series (promising still more interest and utility) *on the Law of Contracts*. Professor TAYLOR's course on *Medical Jurisprudence* has made considerable progress, and will, we hope, be completed in the course of the current volume. It may be as well to add that all these lectures are published nowhere beside.

So much for what *has been* done. In the way of promise of further improvements little can now be offered. We propose to devote a distinct department of the LAW TIMES to a collection of practical forms and precedents, of which we anticipate many to be contributed by experienced practitioners, whose offices must contain not a little that they will be willing to circulate for the benefit of the other members of the Profession.

Still do we invite suggestions for additions and improvements in any department of the LAW TIMES, assuring our subscribers that every such communication will receive careful consideration, and, whether ultimately adopted or not, will be deemed an act of friendship.

Nothing further remains to be said save once again to thank the Profession for the great and steadily growing confidence which it has been pleased to repose in the LAW TIMES, and to close with assurances that still, as hitherto, unceasing efforts will be made to become more and more worthy of the high and gratifying position to which that confidence has lifted this journal, which in number and width of circulation is now exceeded by few, while in character and influence it is excelled by none, of the weekly journals of Great Britain.

LAW OF DEBTOR AND CREDITOR.

SIR JAMES GRAHAM has again turned a deaf ear to the complaints of the multitudes of honest men brought to the verge of ruin by the Rogues' Indemnity Act. He prays for it a fair trial; as if it had not already proved itself to be full of ills. Sir JAMES refers to certain advantages resulting from the limitation of imprisonment for debt, and, having cited these, he imagines that he has answered the complaints of the objectors.

But Sir JAMES GRAHAM, and the representatives in Parliament of, the ruined traders, persist in misunderstanding and mistaking both the grievance and the remedy proposed. Again and again have we assured them that the complainants pray not for the restoration of imprisonment for debt, but for more efficient remedies against the property of debtors. They say, "You, the Legislature, have taken from us our remedy against the persons of our debtors without giving us a remedy against their properties. Scarcely a day passes but some fraudulent fellow suffers us to obtain judgment against him, and then takes furnished lodgings, and, though possessing an income of hundreds a year, derived from a source which, as the law stands, cannot be taken in execution, he laughs at our judgment, snaps his fingers at our claims, and lives in luxury while we are starving. We do not ask you to restore the remedy that has been taken away. All that we ask of you is, that you shall give us another in its stead, which may enable us to take, in payment of his debts, any property of any kind possessed by a debtor; and if he have none, that he shall be

punished if it should appear that the debts were fraudulently contracted. We want no powers new to our law. We pray only that you will extend the existing law of insolvency to all debtors, so that if a man contract a debt, however small, which he cannot pay, he shall be subjected to the same process to obtain relief as he is now compelled to resort to when his debts have swollen to a certain amount."

This prayer is so rational, so manifestly just, so accordant with the policy of our law, that we cannot believe, if it were fairly and fully stated to Parliament by some intelligent member, but that it would be granted without the further trial which Sir James Graham is soliciting for a measure, founded indeed upon a good principle, but rendered most noxious in practice by the omission to accompany the removal of an evil with some provisions for the attainment by other obvious means of the end it was originally framed to accomplish, but which was unhappily marred by the petty spite of an influential peer, jealous of the fame another would have acquired by a scheme which at once abolished imprisonment for debt and increased the security of the creditor.

ADVERTISING ATTORNEYS.

The following advertisement appears in the *Sunday Times* of 30th March last. The reference to the Porter's Lodge, at Gray's-Inn, might, if the benchers of the Society would insist upon their own servant telling the truth, lead to a discovery of the offender.

INSOLVENCY AND EMBARRASSED AFFAIRS.

An entirely new practice having arisen, in consequence of Lord Brougham's humane Acts, a Solicitor who has devoted his time entirely to Insolvent practice, offers his services to London and Country Solicitors and persons in difficulties, to prepare Schedules and intricate Balance-sheets. Agency terms. *References to the Bar* and to the Profession. Address, P. P. T. *Porter's Lodge, Gray's Inn.*

VERULAM SOCIETY.

The *seventh* number of Magistrates' Cases, and the *fifth* of Practice Cases, are now ready. The *eighth*, completing the second part of Magistrates' Cases; the *ninth* and *tenth* numbers of *Real Property and Conveyancing Cases*, and the *sixth* of *Practice Cases*, are in the press.

The *Conditions of Sale* already announced are settled, and in the hands of the printer, and will be ready for delivery in a few days.

Many other *Forms* are in preparation; but works of this kind are necessarily suspended during the circuits, which wholly absorb the time of the counsel to whom their framing is intrusted.

THE CRITIC.

New Books.

On Legislative Expression; or, the Language of the Written Law. By George Coode, of the Inner Temple, Barrister-at-Law. London, 1845, Benning and Co.

The purpose of this treatise is to examine what is essential to the enunciating in language the will of the Legislature, and to state the rules to be deduced from the analysis.

Every lawyer will recognize the necessity for the establishment of some rules for legislative expression, when he remembers the doubts and difficulties continually arising from loose and inaccurate language in our laws.

Mr. Coode has endeavoured to furnish some rules by which the draftsman of a statute may be guided in his labour. His argument may be thus analyzed.

The expression of every law consists of,

1st. The description of *the legal subject.*

2nd. The enunciation of *the legal action.*

When the law is not of universal application to these must be added,

3rd. The description of *the*   to which the legal action is confined.

4th. The *conditions* on performance of which the legal action operates.

Mr. Coode illustrates his argument by applying it to the Poor Law, and the reader will be pleased to bear that in mind as he proceeds.

The *legal subject*, or person to be affected by the law, is readily defined; but the description of the *legal action* is extremely difficult, and requires the utmost vigilance of the Legislature, inasmuch as it is in the terms in which it is expressed that every right, privilege, power, obligation, and sanction depends.

The rules for the expression of the *legal subject* are two.

First, to keep the *legal subject* distinct in form and in place from other parts of the legal sentence.

Secondly, not to permit it to be withdrawn from view, or disguised by the non-description of *persons*, or by the substitution of *things* instead of persons, or by the use of impersonal forms of expression.

The utmost care and accuracy are required in the use of the proper auxiliaries to the enacting verb, *may* and *shall*, by the neglect of which the most serious difficulties are frequently occasioned. Mr. Coode's rules for their employment are as follows:

If a right, privilege, or power is conferred, the appropriate *copula* is *may* or *may not*: if a right, power, or privilege is to be abridged, the appropriate *copula* is *may not*; if an obligation is imposed to render any duty, the appropriate *copula* is *shall*; if the obligation is to abstain, the appropriate *copula* is *shall not*; again, if the purpose is to affect the legal subject with a liability or sanction, the appropriate *copula* is still *shall*;" only when the subject is to be active, the whole enacting verb will be active, "*shall* forfeit," &c. and where the subject is to submit, or be passive, the whole enacting verb will be passive, as "*shall* be imprisoned," &c.

In no case should any other than permissive or imperative language in the enacting verb be used, and these two rules should never be infringed.

1st. That the copula, which joins the *legal subject* and the *legal action* is to be *may*, or *may not*, or *shall*, or *shall not*, as, "any person *may*," "no person *may*, 'every person *shall*," or 'no person *shall*.'

2nd. That the whole of the enacting verb is always to be an active verb, excepting only where the legal subject is to submit or suffer, as where executory force, or punishment (sanctions), are directed to be submitted to by the person described in the legal subject.

And again—

—whenever an act is allowed *as a right*, or *as a privilege*, that is to all the members of the community, or to certain persons for their own benefit, the proper *copula* is "*may*;"

—whenever the act is authorized *as a power*, that is to certain persons to perform, not for their own benefit, but for the benefit of others on whose behalf the power is given, the proper *copula* is *shall*.

Mr. Coode recommends that the subject and the action should be printed in distinctive type, so as to be instantly apparent to the eye.

But a large portion of modern legislation is not general, but addressed to particular cases; and to insure that this be done with accuracy, it is this suggestion is offered.

As on the due expression of the *legal subject* the extent of the law depends, and as on that of the *legal action* the *nature* of the law depends, so on the expression of *the case*, and of *the conditions*, do the clearness, precision, and form of our statute law mainly depend.

The rule to be observed is of such simplicity as to make its utterance appear almost an absurdity; but simple as it is, it is the most frequently neglected of any rule of composition.

It is, that *wherever the law is intended to operate only in certain circumstances, those circumstances should be invariably described* before *any other part of the enactment is expressed.*

Some laws are intended to operate only on certain *conditions*, and it is essential that they be clearly defined. The proper language of a condition is the conditional, "*If he give* notice," &c.

There may be many distinct conditions imposed. In this case the conditions are never to be performed simultaneously. The order of their performance in time ought to be carefully observed in expressing them; so that the person, or several persons, on whom they are imposed may see the order in which to proceed to realize all the conditions of the legal action, and may be in no doubt when those conditions are all complied with. For the reason that the legal action is postponed, and cannot act upon the legal subject until these conditions are all complied with, *the expression of the conditions ought immediately to precede that of the legal subject.*

The order of expression should therefore be—1st, the *case*; 2nd, the *conditions*; 3rd, the *legal subject*; 4th, the *legal action*. The advantages of this order are thus admirably illustrated by Mr. Coode:—

The specific importance of each of these several elements of a legal sentence has been adverted to above, but the importance of observing invariably the order of expression of—1st, the *case*; 2nd, the *conditions*; 3rd, the *legal subject*; 4th, the *legal action*, is still to be pointed out.

The case being placed first, the first few words of the sentence answer immediately to the inquirer, whether his case is included in the provision or not; whether he need read on, or should proceed to seek the law applicable to his circumstances in another clause. Suppose, for instance, these are the words:—

Case—Where any Quaker (7 & 8 Wm. 3, c. 34, s. 4) refuses to pay any church-rates, or any customary or other rights, dues, or payments belonging to any church or chapel, or which of right by law and custom ought to be paid for the stipend or maintenance of any minister or curate officiating therein (1 Geo. 1, stat. 2, c. 6, s. 2);

—it is evident that no person who knows the circumstances of any case can doubt whether the law presently to be expressed applies to his case or not; he can at once determine, (if the case is thus expressed at the threshold, and he is not to be balked by some subsequent limitation of the law to some more special case, by some subsequent parenthetical phrase or proviso, or some clause somewhere else in the statute) whether he has or has not before him the law he seeks.

Having ascertained that there is law applicable to his case, he next learns what is to be done to make it operative; this he learns from *the conditions* which follow immediately upon the case, and precede the expression of the law:—

Conditions—if any churchwarden or other person who ought to receive or collect the same complain thereof (7 & 8 Wm. 4, c. 34, s. 4), and if such Quaker have reasonable warning of such complaint (1 Geo. 1, stat. 2, c. 6, s. 2);

—here, whether complainant or defendant, he sees at once all the requisites to make the law operate in the case. Whoever seeks to make the law operate proceeds to do the things required as conditions in the order in which they are prescribed, and these being done, the right of the claimant and the liability of the defendant and the duty of the functionary are complete,—the law has now only to operate functionally.

The *legal subject* describes the person now enabled or commanded to act:—

Legal subject—one of the next justices of the peace (53 Geo. 3, c. 127, s. 6), of the same county (1 Geo. 1, stat. 2, c. 6, s. 2) other than such justice of the peace as is patron of such church or chapel (1 Geo. 1, stat. 2, c. 6, s. 2):

—here will be found determined all the persons who, in the case, and on performance of the conditions prescribed, are immediately authorized, obliged, or prohibited by the legal action. The suitor, the defendant, the Court itself, all look here to see that the Court (or other *legal subject*) is competent. The Court finds from its description here, as the *legal subject*, that it has or has not jurisdiction in *the case*; it finds whether it is yet empowered to act or not, according as *the conditions* have or have not been complied with.

The case before the Court (or other legal subject) is seen to be the case described in the statute; the conditions as prescribed are executed; the Court (or other legal subject) is recognized as conforming to its description, and is therefore competent; now comes *the legal action*.—

Legal action may, by warrant under his hand and seal, summon such Quaker before the two next justices of the peace of the same county (7 & 8 Wm. 3, c. 34, s. 4);

—here the Court (or other *legal subject*) finds what by law it is required to do, to summon, convict, execute, or what else.

Apply the above to the oral or documentary proceedings in any court, and the advantage of this mode of expressing the law will be at once apparent. Suppose the complaint is to be made, the complainant has nothing to do but to look at the case and conditions, to word his complaint so as to include the very words of the statute, filling in his own and the defendant's personal description and the necessary dates and places. Nothing can be simpler than this process; when done, no astuteness can successfully impugn it.

Consider on the other hand the defence. The defendant or other antagonist has only to shew in his defensive allegation, his plea, or other appropriate answer, that the case is other than *the case* described in the statute, and he ousts the jurisdiction of the Court, or the competence of the other *legal subject*;

or he has only to shew that the prescribed *conditions* have not been complied with, and he justly and inevitably defeats the complaint, the declaration, or other allegation of the pursuing party.

Next as to the decision—the Court recites in it the very same words in which the case is described, that the conditions in the words of the statute were performed, or that they or some of them were not; it describes itself by the use of the very terms of the legal subject, by which the competence of the tribunal is established in terms which can only be successfully attacked by defeating the statute itself; the Court now proceeds to execute its authority, to convict or to give its decision or judgment, using the very words of the *legal action*, and abstaining from every thing going beyond those words.

At every stage the proceedings would thus run parallel, *pari passu* with the words of the statute, in a manner which would greatly diminish the perplexity of all who have only to obey or execute the law.

It often happens that many legal actions are intended to apply to the same legal subject, and care should be taken to keep them distinct by the use of distinct copulæ, and they should follow in the order in which they are to take place. Mr. COODE illustrates his argument by taking s. 12 of the statute 55 Geo. 3, c. 51, upon one page, and on the opposite setting forth the substance of it, after his plan, by which it is abbreviated nearly three-fourths, and certainly rendered vastly more intelligible.

He excepts to the present indiscriminate use of provisoes, which, he contends, should be expressed as exceptions, and the specimens he has collected from two or three statutes only serve to exhibit, in a striking point of view, the slovenly and inartistic form of our legislation. The following rule is proposed for the use of verbs in *cases* and *conditions*:—

If the law be regarded while it remains in force as *constantly speaking*, we get a clear and simple rule of expression, which will, whenever a case occurs for its application, accurately correspond with the then state of facts. The law will express in the present tense facts and conditions required to be concurrent with the operation of *the legal action*: in the perfect past tense, facts and conditions required as precedents to *the legal action*.

And we think that most of our readers will be inclined to concur with Mr. COODE in his concluding comments:—

In conforming to these rules, it is to be observed that, after all, nothing more is required than that, instead of an accidental and incongruous style, the common popular structure of plain English should be resorted to.

There is apparently a notion amongst amateurs, that legislative language must be intricate and barbarous. Certain antick phrases are apparently thought by them to be essential to law writing. A readiness in the use of 'nevertheless,' 'provided always,' 'it shall and may be lawful, and he is hereby authorized, empowered, and required to,' 'anything in any act or acts to the contrary notwithstanding,' &c. &c. seem to be admitted to constitute the qualification for drawing acts of Parliament. The merit appears to mount higher in proportion as the author can succeed in including a greater number of limitations, qualifications, conditions, and provisoes, between the nominative case and its verb, or any other pair of dependent words. It is, however, a clear mistake to think that this absurd style, prevalent as it is, and much as we sacrifice to adhere to it, has the sanction of authority. The bills prepared by judges and well-informed lawyers, or by men really practised in the forms of legal expression, have at all times been, as a rule, remarkable for simplicity and directness, and allowing occasionally something to the technical nature of the subjects, for the popularity of their style and construction.

If it could be made to be generally recognized that the essentials of every law are simple, and that their direct expression is the perfection of law writing, the greatest defects of our statute law would cease.

We trust that the attention of our legislators, and of their draftsmen, will be attracted by this valuable little essay to the very important subject of which it treats, and that we may yet be indebted to Mr. COODE's hints on *legislative expression*, for laws framed according to the rules of good grammar and the genius of the English language.

NECROLOGY.

DEATH OF THE EARL OF ROMNEY.

We have to announce the death of the Earl of Romney; it took place on the 29th ultimo at his lordship's seat, Mote, near Maidstone, in the 68th year of his age. The noble earl's death was nearly sudden. On the 27th ultimo he was visited by a paralytic stroke, which, from its violence, left little hope of recovery. Dr. Hawkins was immediately sent for from town, and hastened with all dispatch to the relief of his noble patient; but skill was unavailing; the noble lord gradually sunk and expired, as stated, on the 29th ultimo.

Charles Marsham, Earl of Romney, Viscount Marsham of the Mote, county of Kent, Baron Romney, and a baronet, was born on the 22nd November, 1777; succeeded his father, Charles, March 1, 1811; married, on 9th November, 1806, Sophia, daughter and sole heiress of Wm. Morton Pitt, esq. of Kingston House, in the county of Dorset, by whom he had issue Charles Viscount Marsham (born 31st July, 1808) and three daughters. Her ladyship died on the 9th Sept. 1812. In February, 1832, the noble earl married, secondly, Mary Elizabeth, daughter of John Thomas, second Viscount Sydney, and widow of George James Cholmondeley, esq. and had issue a son and daughter, the latter still-born.

The noble earl is succeeded in his title and estates by Viscount Marsham (now Earl of Romney), member for West Kent.

In politics the deceased was a moderate constitutional Whig, but of late years he rarely interfered with political matters. His last public act was a journey to Oxford to add his *placet* to that of the majority who, to preserve our Protestant Church and institutions, voted for the degradation of Mr Ward. His death will be severely felt by the trading interests of Maidstone, of which he was a steady and liberal patron. The labouring poor will also lose in his lordship a warm friend—one who did good in the most unexceptionable way of giving abundant employment. The noble lord was fond of building and making other improvements upon his estates, and hence, for years past, he has given constant work to a considerable number of artisans and labourers.

The present earl was elected a member of the House of Commons for the western division of Kent, at the last election, on the Conservative interest. His lordship married, in February, 1832, Lady Margaret Harriet Scott, sister of the Duke of Buccleuch, and has issue.

The family is an ancient one. Sir John Marsham, son of Thomas Marsham, Alderman of London, was created a baronet in 1663; his grandson, the fifth baronet, was created Baron Romney in 1716. He married Elizabeth, the daughter of the celebrated Admiral Sir Cloudesley Shovel, then commander-in-chief of the British fleet.

BIRTHS, MARRIAGES, AND DEATHS.

[The charge for the insertion of the above is 5s.]

BIRTHS.

BROWNE.—On the 31st ult. at Monkton Farleigh, the lady of Wade Browne, esq. High Sheriff of Wilts. of a son.

CLARKE.—On Friday, the 28th ult. the wife of Mr. William Tredway Clarke, of Great James-st. Bedford-row, of a son.

HEATHFIELD.—On the 31st ult. the wife of Richard Heathfield, esq Barrister-at-Law, of a son.

SPEED.—On Saturday, the 29th ult. at 92, Camden-road-villas, the wife of William Speed, esq. Barrister-at-Law, of a son.

TYERMAN.—On the 31st ult. the wife of C. R. Tyerman, esq. of Gresham-street, of a daughter.

MARRIAGES.

CRIPPS, Henry William, esq Barrister-at-Law, and Fellow of New College, Oxford, eldest son of the Rev. Henry Cripps, to Julia, daughter of Charles Laurence, esq. of the Querns, Cirencester, on the 25th ult. at Preston, near Cirencester.

DENISON, Stephen Charles, esq. of the Inner Temple, Barrister-at-Law, to Susan Anne Frances, only daughter of the late Rev. John Fellowes, Rector of Shotesham, in the county of Norfolk, on Tuesday, March 25, at Shotesham.

FRETWELL, Robert Rowell, esq. of Staple Inn, London, to Sarah, eldest daughter of James Startin, esq. late of Harborne, Staffordshire, on Wednesday, the 26th ult. at St. Mary's Leamington Spa.

NOYES, Samuel Frederick, esq. of Chester-square, youngest son of the late Harry Noyes, esq. of Thruxton, Hants, to Charlotte, daughter of John Hodgson, esq. of Lincoln's-inn, and of South Lambeth, one of her Majesty's Counsel, on the 2nd inst. at St. Mark's, Kennington.

PRESTON, Charles, esq. Solicitor, Hull, to Julia, eldest daughter of the Rev. James Britton, late Vicar of Great Bardfield, Essex, on Thursday, the 27th ult. at Skirpenbeck, near York

WHALLEY, Frederick Buxton, M.A. Barrister, to Frances Augusta Caroline, only child of Major Hamerton, of Hamerton, county of Tipperary, on the 27th ult. at Cheltenham.

DEATHS.

ADNEY, Frederick, esq. Solicitor, of Paplands-house, on the 30th ult. at Chard.

ALINGTON, Henry, esq. one of her Majesty's Justices of the Peace for Herts, and formerly, for upwards of half a century, the respected treasurer of that county, on the 26th ult. at his residence, Bayley-hall, Hertford, aged 83.

BAUER, Mary Gerhold, relict of A. Bauer, LL.D. late Professor of Criminal Law in the University of Göttingin, President of the College of Justice, and Knight of the Guelphic Order, &c. on the 22nd ult. at Göttingen, aged 60.

EDWARDS, Charles, esq. of the Inner Temple, Barrister-at-Law, on the 26th ult. at his chambers, Paper-buildings, Temple.

LANGRIDGE, William Balcombe, esq. formerly for many years Clerk of the Peace for the county of Sussex, on the 28th ult. at Lewes, aged 89.

RAVENHILL, ——, esq. He was a magistrate for the county of Surrey, and a fine specimen of an English gentleman of the old school; on the 27th ult. at Clapham-common, aged 86.

FUNERAL OF SIR JAMES DOWLING.

We extract the following particulars of the funeral of the lamented Chief Justice Dowling, from a Sydney paper:—

"The remains of the late Sir James Dowling were interred in the family vault yesterday morning. The body was removed from Brougham Hall shortly after eleven o'clock, and was conveyed to St. James's Church, and thence to the burial-ground. The attendance on the funeral was most numerous. There were *one hundred and five carriages* in the mournful procession, which extended from St. James's Church to Campbell-street. Before the hearse was a carriage containing his Honour's medical attendants, and two containing the Bishop of Australia and several clergymen. After the hearse were two carriages containing relatives, and the carriage containing his Excellency the Governor. The pall-bearers were Sir Maurice O'Connell, Mr. E. D. Thomson, Mr. Riddell, Dr. Bland, Dr. Dawson, Mr. Norton. After the Governor's carriage, the remainder of the company followed, without distinction of rank. Among those we noticed nearly the whole of the civil officers, several military and commissariat officers, Mr. Justice A'Beckett, the Speaker and several members of the Legislative Council, the Attorney-General and a number of barristers and attorneys; the Mayor and City Councillors, Bishop Murphy and some Roman Catholic priests, the French and American consuls, and a large portion of the respectable inhabitants of the city. The burial service, both in the church (which was crowded to excess) and in the burial-ground, was read by the Bishop of Australia. The bells of St. James's Church and the *Roman Catholic Cathedral* were tolled during the morning. There was a vast concourse of people in attendance upon the whole line of procession. His Honour was fifty-seven years of age."

JOURNAL OF PROPERTY.

It will be seen on reference to our advertising columns that, at their Periodical Sale, announced for the 10th instant, Messrs. Fuller and Marsh will dispose of some important and valuable Lots, in the shape of Reversions, Policies of Assurance, Patented Rights, and other vested interests.

THE MONEY MARKET.

	Sat.	Mon.	Tues.	Wed	Thurs.	
Three per Cents. Consols	99½	99¾	99¾	99¾	99⅛	99⅞
Three per Cents. Reduced	100⅛	100⅛	100½	100	100	99⅞
New Three-&-a quarter per Cts	103⅞	103¾	103	103¼	103¼	103¼
Long Annuities	12⅛	12⅛	12¼	12⅛	12⅛	12⅛
Bank Stock	216½	216	217	217	216	216
India Stock	281	282	282	282	282½	282¾
India Bonds, prem.	70	73	72	72	72	71
Exchequer Bills, prem.	68	67	65	59	60	62
FOREIGN.						
Spanish Five per Cents.	30¼	30¾	30¾	30¼	30⅛	29¾
Spanish Three per Cents.	40½	40¾	40¼	40¾	40¾	40¾
Russian	119½	117½	119¾	119¾	120	119¾
Peruvian	27	27	27½	28	29	29
Portuguese	66½	68	69	69	69¼	66½
Mexican	36½	36¾	36½	36¼	36½	35½
Deferred	16½	16¾	16½	17¼	17¾	17
Dutch Two-and-a-Half per Cents.	63½	63¾	61	64¾	63¼	63¼
—— Four per Cents.	99¼	99¼	99¼	99¼	99¼	99¾
Danish	91	90¼	91	91½	91¾	91
Colombian	14½	14½	14½	14¾	14⅛	15¾
Chilian	102½	101½	101½	102	102	100
Buenos Ayres	43½	44	43½	43½	43½	42
Brazilian	90	89	89	89	89	89
Belgian	101½	102	101½	101½	101½	102

NEW PROJECTED RAILWAYS.

(From the *Gazette* of Friday)

Railway Department, Board of Trade,
Whitehall, March 27, 1845.

Notice is hereby given, that the board constituted by the minute of the Lords of the Committee of Privy Council for Trade, for the transaction of railway business, having had under consideration the under-mentioned railway schemes, have determined on reporting to Parliament in favour of the

Birkenhead, Manchester, and Cheshire Junction,
Chester and Birkenhead Extension,
Blackburn and Preston — Alterations, Extensions, and Branch,
Coventry, Bedworth, and Nuneaton,
Eastern Counties—Finsbury Extension,
Huddersfield and Sheffield Junction,
Lancaster and Carlisle — Deviation in parish of Kendal,
Lancaster and Carlisle—Branch to Newcastle and Carlisle Railway,

Lancaster and Carlisle—Scotforth to Slyne,
Newcastle-upon-Tyne and North Shields—Tynemouth Extension and New-quay branch,
North Union Extension to the River Ribble,
Sheffield and Rotherham — Branch to the Sheffield and Manchester Railway,
Norwich and Brandon—Extension into Norwich,
York and North Midland—Brilington branch;

against the

Liverpool and Manchester—Rainforth and Liverpool branch,
Chester and Preston Brook,
Eastern Counties — Thames Junction and North Woolwich,
Great North of England—Clarence and Hartlepool Junction—Extension and branch,
Grand Junction—Friar's Park to Dudley branch,
London and Gravesend, *vid* North Woolwich;

and recommending the postponement until a future period of the

Liverpool, Ormskirk, and Preston,
Southport and Euxton,
Preston Brook and Runcorn Junction,
Epping,
Grand Junction—Potteries branch.

DALHOUSIE.
C. W. PASLEY. G. R. PORTER.
D. O'BRIEN.

THE GAZETTES.

AMOUNT OF DIVIDENDS.

The sum stated as the Dividènd, means so much declared in the Pound. The Assignees, when chosen, follow this statement.

Tuesday, March 25.

Burrell and *Hall*, ironfounders, last exam. April 30.—*Graves*, R. saddler, last exam. *sine die*: div. next week. Johnson, London.—*Gray*, H. P. horse dealear, last exam. April 17.—*Paul*, W. C. sheep salesman. last exam. passed.—*Tyler*, S. W. carpenter, last exam. April 17. *Watt*, R. merchant, last exam. passed.—*White*, J. leather seller, last exam. April 22.—*Williams*, L. woollen draper, div. next week. Groom, London.—*Wood* and *Co.* bankers, first joint div. next week. Groom, London.

Wednesday, March 26.

Bellenger, H. F. victualler, last exam. April 22.—*Bradshaw*, J. coal merchant, last exam. May 14.—*Cottrell*, W. tea dealer, last exam. April 22.

Friday, March 28.

Beard, J. builder, last exam. passed.—*Birley*, J. P. plumber, last exam. passed.—*Brown*, J. grocer, div. next week. Whitmore, London.—*Challenor*, J. grocer, last exam. *sine die*.—*Christian*, W. A. innkeeper, last exam passed.—*Creeke*, T. tailor, div. next week. Graham, London.—*Flint*, A. L. warehouseman, annulled. *Fowler* and *Green*, merchants, first div. next week. Graham, London.—*Ford*, T. H. victualler, div. next week. Bell, London. *Haywood*, G. bricklayer, last exam. April 25.—*Herbert*, R. M. tea dealer, last exam. May 2.—*Law*, W. draper, div. next week. Pennell, London.—*Turner* and *Weeks*, masons, last exam. April 18.

Saturday, March 29.

Robinson, C. tailor, last exam. passed.

DIVIDENDS.

Bankrupts' Estates.

Official Assignees are given, to whom apply for the Dividends.

Bail, J. cabinet maker, first and final, 6s. Green, London.—*Bowser*, J. timber merchant, no further div. Johnson, London.—*Campion*, J. and W. ship builders, first and final W. C. 8s. 1½d. to new proofs, and second and final, 5s. 1½d.; first J. C. 5s. 10d. to new proofs, and second, 3s. 6d. Fearne, Leeds.—*Clough* and *Co.* alkali manufs. second S. C. 7s. 6½d. Cazenove, Liverpool.—*Cochran* and *Robertson*, merchants, second, 2d. & 11-32nds of 1d. and 11d. & 11-32nds of 1d. to new proofs. Turner, Liverpool.—*Currie*, R. bookseller, second, 8d. Baker, Newcastle.—*Davis*, J. P. innkeeper, first and final, 1½d. Follett, London.—*Eskrigge*, T. cotton manufacturer, second, 7d. Cazenove, Liverpool.—*Fraser*, T. Italian warehouseman, 7d. Johnson, London.—*Harrison*, S. W. mason, 4s. Hutton, Bristol.—*Hart*, D. perfumer, first, 8d. Follett, London.—*Hoar*, J. ironmonger, *sine die*. Edwards, London.—*James*, C. Italian warehouseman, 6d. Johnson, London.—*Montefiore* and *Co.* merchants, first separate Jacob M. 5s.; Joseph M. none made. Follett, London.—*Newton*, G. hosier and potter, first and final, 3s. 10d. Baker, Newcastle.—*Prosser* and *Prosser*, drapers, final, 9d. Pennell, London.—*Read*, W. engraver, final, 2d. Follett, London.—*Richards*, G. metal broker, 1s. Johnson, London.—*Robertson* and *Robertson*, merchants, joint. 6d. Turner, Liverpool.—*Robinson*, T. tallow merchant, third, 0¾d. Follett, London.—*Roby*, J. W. builder, 3½d. Johnson, London.—*Sharp* and *Clarke*, upholsterers, final, 3d. Green, London.—*Shotter*, F. grocer, *sine die*. Whitmore London.—*Simmons* and *Co.* potash manufacturers, final, 5d. Green, London.—*Tapp*, C. coachmaker, 5-8ths of 1d. Follett, London.—*Terry*, C. quill merchant, final, 1d. and 1-16th. Follett, London.—*Webb*, R. J. wine merchant, first, 1s. 9d. Miller, Bristol.—*Worsley*, T. hosier, final, 1s. 0¼d. Hob. Manchester.—*Whittaker*, H. silk throwster, first, 7s. 4d. Fraser, Manchester.—*Williams*, W. builder, final, 1d. Miller, Bristol.

ASSIGNMENTS

To Trustees for the benefit of Creditors.

Gazette, March 28.

Annison, R. W. grocer, Maidstone, March 24. Trust W. Laurence, cheesemonger, Maidstone. Sol. King, Maidstone.—*Bolton*, S. shoemaker, Bedford, March 9. Trust. P. K. Duncan, leather merchant, Half Moon-st. Sols. Jenkins, Swansea, and Walthew, Furnival's-inn.—*Parker*, H. clothier, Cambridge, March 13. Trusts. A. Caldecott, Cheapside, and J. S. Basset, Wood st. warehousemen. Sol. Sole, Aldermanbury.—*Sanderson*, E. farmer, Brownsover, Warwickshire, March 24. Trusts. E. Bates, farmer, Gosford, and E. Haswell, saddler, Rugby. Sol. Wratislaw, Rugby.—*Smith* T. glassman, Salisbury, March 14. Trusts. W. B. Brodie, banker, Salisbury. T. Goodwin, earthenware manufacturer, Burslem, and E. Walley, earthenware manufacturer, Cobridge. Sol. Alford, Salisbury.—*Turner*, A. draper, Brompton, March 19. Trusts. J. A. Bennett, Watling-st. and S. Wreford, Aldermanbury, warehousemen. Sol. Sole, Aldermanbury.

Gazette, April 1.

Coates, T. draper, Ilfracombe, Devonshire, March 18. Trust. G. Coates, jun. gent. Ilfracombe. Sol. Turner, Ilfracombe.—*Gunn*, J. draper, Norwood, Surrey, Jan. 13. Trust T. Puzey, warehouseman, Bread-st. Sols. Reed and Shaw, Friday-st.—*Hopkins*, J. slater Banbury, Oxfordshire, March 18. Trusts. C. Judge and H. Ward, coal merchants, Banbury. Sol. Judge, Banbury.—*Hopping*, G. F. and *Bennett*, W. B. wholesale ironmongers, Plymouth, March 8. Trusts. S. Tonks, brass founder, Birmingham, and J. Gibbons, general factor, Wolverhampton. Sol. Slaney, Birmingham.—*Hunt*, S. general shop keeper, Middleton, Suffolk, March 12. Trusts. B. Fisher, yeoman, Middleton, and R. Stopher, auctioneer, Saxmundham. Sol. Crabtree, Halesworth.

Bankrupts.

DATE OF FIAT AND PETITIONING CREDITORS' NAMES.

Gazette, March 28.

GARDNER, GEORGE, tavern keeper, Gravesend, April 11, at two, May 13, at eleven, Basinghall-st. Com. Holroyd; Groom, off. ass.; Tilson and Co. Coleman-st. sols. Date of fiat, March 18. Bankrupt's own petition.

JOHNSTON, LAING, wine merchant, Hammersmith and Hounslow, April 5, at twelve, May 9, at one, Basinghall-st. Com. Fane; Whitmore, off. ass.; Lonsdale, Temple-chambers, sol. Date of fiat, March 26. Bankrupt's own petition.

MAY, ELIJAH, draper, 31, Aldgate High-st. April 5, at half-past two, May 7, at eleven, Basinghall-st. Com. Goulburn; Green, off. ass.; Mardon and Prichard, Newgate-st. sols. Date of fiat, March 26. B. Smith, J. Hanson, J. Smith, and W. Stephens, warehousemen, St Martin's-le-Grand, pet. crs.

MORTON, DANIEL, fishmonger, 18, East Cheap, April 4, at two, May 9, at twelve, Basinghall-st. Com. Fonblanque; Pennell, off. ass.; Bell, Austin-friars, sol. Date of fiat, March 25. Bankrupt's own petition.

PHILLIPS, JOHN, tailor, Pinners'-ct. Old Broad-st. London, and 5, Brunswick-ter. Park-rd. New Peckham, April 9, at two, May 9, at twelve, Basinghall-st. Com. Evans; Bell, off. ass.; Cox, Pinners'-hall, sol. Date of fiat, March 25. Bankrupt's own petition.

WOODHEAD, JONAS and DANIEL, woollen cloth manufacturers and dyers, Netherthong, near Huddersfield, April 14 and May 2, at eleven, Leeds, Com. Boteler; Fearne, off. ass.; Reed and Shaw, Friday-st., Sale and Worthington, Manchester, and Richardsons, Leeds, sols. Date of fiat, March 26. T. Houghlaad, accountant, Manchester, pet. cr.

Gazette, April 1.

BRECKELS, JOHN, bedstead-maker, 2, North-st. Finsbury market, April 8, at half-past twelve, May 13, at twelve Basinghall-st. Com. Fonblanque; Belcher, off. Taylor, North-buildings, Finsbury-circus, sol. Date fiat, March 29. Bankrupt's own petition.

CANN, ROBERT, boot and shoe maker, 6, Brewer-st. Woolwich, April 9, at half-past one May 9, at twelve, Basinghall-st. Com. Shepherd; Turquand, off. ass.; Biggenden, [illegible] k, sol. Date of fiat, March 25. Bankrupt's own petition.

HICK, JOHN ATKINSON, carver and gilder, Leeds, April 14 and May 2, at eleven, Leeds, Com. Boteler; Hope, off. ass.; Hawkins and Co. New Boswell-court, and Horsfal and Harrison, Leeds, sols. Date of fiat, March 25. Bankrupt's own petition.

LAGOE, WILLIAM HARRINGTON, victualler, Atherstone, Warwick, April 11 and May 9, at half-past ten, Birmingham; Valpy, off. ass.; Harrison and Smith, Birmingham, sols. Date of fiat, March 25. Bankrupt's own petition.

NORTH, JOSEPH, blanket manufacturer, High-town, Birstal, York, April 15 and May 3, at eleven, Leeds, Com. West; Young, off. ass.; Chadwick, Dewsbury, and Bond, Leeds, sols. Date of fiat, March 25. Bankrupt's own petition.

RADCLIFFE, AUGUSTUS, the elder and younger, patent glaziers and artists' diamond manufacturers, 61, Hermitage-pl. St. John's-street-road, April 9 and May 9, at eleven, Basinghall-st. Com. Shepherd; Graham, off. ass.; M'Leod and Stenning, London-st. Fenchurch-st. sols. Date of fiat, March 18. J. Christie, Dumbarton Glass Works Company, pet. cr.

REAY, JOHN, and JOHN ROBERT, wine merchants, Mark-lane, April 14, at half-past eleven, May 30, at eleven, Basinghall-st. Com. Goulburn; Trehern and White, Barge-yard-chambers, Bucklersbury, sols. Date of fiat, March 27. W. Morris, R. Sanderson, and R. S. Gard, bill brokers, King William-st. pet. crs.

SCHAFFER, JOHN, fringeman, 16, Clark's-pl. High-st. Islington, April 9, at half-past twelve, May 14, Basinghall-st. Com. Evans; Johnson, off. ass.; Humphreys, Newgate-st. sol. Date of fiat, March 24. J. Martin, warehouseman, Gutter-lane, pet. cr.

WHITTAKER, JOHN, druggist and commission agent, Strand, Swansea, April 8, at twelve, May 9, at eleven, Bristol, Com. Stevenson; Miller, off. ass.; David, Swansea, sol. Date of fiat, March 18. M. Whitaker, widow, Swansea, pet. cr.

WILLIAMS, THOMAS HOLTLAND, wine merchant, Chelmsford, Essex, April 15, at two, May 13, at twelve, Basinghall-st Com. Holroyd; Edwards, off. ass.; Shirreff, Lincoln's-inn-fields, sol. Date of fiat, March 25. E. G. Cuff, wine merchant, 41, Crutched-friars, pet. cr.

PARTNERSHIPS DISSOLVED.

Gazette, March 25.

Alexander, J. and F. grocers, Chippenham, Feb. 21.—*Arlin*, T. and *Fannin*, T. salt proprietors, Liverpool, Sept. 24.—*Blyth*, D. *Hamilton*, A. and *Hughes*, W. feather dressers, Little Britain, and Elizabeth-street, Hackney-road, so far as regards Hughes, March 25. Debts paid by the remaining partners.—*Brice*, J. and *Burton*, J. coach proprietors, Exeter, Taunton, and elsewhere, March 20.—*Collins*, S. and *Aspland*, R. printers, Brownlow-st. Holborn, March 22.—*Clarke*, J. and *Boyce*, G. wine coopers, Beer-lane, Great Tower-st. March 25.—*Clark*, W. *Anderson*, W. and *Humble*, J. J. owners of the Mickley colliery, Northumberland, so far as regards J. Humble, Feb. 10.—*Craven*, J., G. jun. and *Hardman*, J. dyers, Holme Dye Works, near Wakefield, March 14.—*East*, C. J., H. V. and *Landon*, W. drapers, Sackville-st. Dec. 31.—*Edmett*, W., G., and T. C. woollen-drapers and pawnbrokers, Maidstone, so far as regards W. Edmett, Jan. 1. Debts paid by the remaining partners.—*Ellis*, S. and *Noton*, M. ironfounders, Salford, Jan. 1. Debts paid by Ellis.—*Evans*, W. and *Liberty*, G. linen-drapers, Piccadilly, March 20. Debts paid by Evans.—*Ginger*, E. and *Tisdall*, H. dyers, Bradford, Mar. 12. Debts paid by Tisdall.—*Hood*, W. and *Ridout*, C. V. rectifiers, Holborn-hill, March 19. Debts paid by Ridout.—*Jenkinson*, G., *Hughes*, S. and *Tillotson*, T. livery-stable keepers, Bradford, March 11. Debts paid by Hughes.—*Lee*, R. L., *Haigh*, W. and *Womack*, C. stock brokers, Leeds, March 19.—*Lunn*, J., B. and *Cunningham*, R. G. smiths and machine makers, Staleybridge, so far as regards Cunningham, July 17, last.—*Mason*, C. and *Holt*, J. manufacturers of paper hangings, Manchester, March 20. Debts paid by Mason.—*Mellor*, J. jun. and *Green*, J. scribbling and fulling millers, Kirkburton, March 21. Debts paid by Mellor, jun.—*Morgan*, W. B. and *Bond*, J. P. stock brokers, Angel-court, Throgmorton-st. March 17. Debts paid by Morgan.—*Newman*, J. and *Watt*, J. R. stationers, Watling st. March 25. Debts paid by Newman.—*Otter*, F. and *Oldman*, T. attorneys, Gainsborough, March 15. Debts paid by Oldman.—*Reyner*, N. and *Clegg*, W. cotton spinners, Oldham, March 7.—*Sims*, J. and *Hyet*, J. barge owners, Framilode, Gloucestershire, March 22.—*Silvanus*, D. and *Shore*, A. drapers, High-st. Whitechapel, March 24.—*Walker*, R. and R. cotton spinners, Blue-pits, near Rochdale, March 24. Debts paid by Richard Walker.—*Wright*, J. and N. timber merchants, Morpeth and Blyth, Jan. 1.—*Wright*, T. and F. music sellers, Brighton, Mar. 25.

Gazette, March 28.

Bell, C. and *Rhodes*, J. stock brokers, Leeds, March 13. Debts paid by Rhodes.—*Boden*, E. and *Chorlton*, W. braid manufacturers, Manchester, March 25. Debts paid by Boden.—*Brill*, W. F. and *Bready*, T. earthenware dealers, Colchester, March 20. Debts paid by Brill.—*Boyle*, Z. deceased, S. and J. china manufacturers, Stoke-upon-Trent, so far as regards J. Boyle, Nov. 11.—*Cuttell*, J. and *Alexander*, A. fellmongers, Leeds, March 26.—*Edge*, S. and *Parker*, W. B. attorneys, Manchester, March 25.—*Haigh*, T., *Rhodes*, J. and *Bell*, C. stock brokers, Bradford, so far as regards Rhodes, March 13. Debts paid by the remaining partners.—*Jackson*, J. and E. coal merchants, Shad Thames, March 25.—*Joules*, E. and *Lilley*, H. H. schoolmistresses, Richmond, March 25.—*Leavers*, J. and *Greenhalgh*, R. lace thread manufacturers, Nottingham, March 25.—*Leete*, H. and J. G. surgeons, Thrapston, Jan. 1.—*Lord*, P. and *Whitehead*, J. grocers, Burnley, March 18. Debts paid by Lord.—*Palmer*, J. and *Smith*, H. victuallers, Roupell-st. Lambeth, March 27.—*Paul*, T. D. and *Brown*, H. ironmongers, Newmarket, March 26.—*Phillips*, J. and *Gill*, W. plumbers, Warwick, March 25.—*Perrot*, J., *Bayston*, F. and *Lane*, J. watch makers, Bristol, March 25.—*Pinner*, B. and *Boddington*, W. house agents, Rathbone-place, March 25. Debts paid by Pinner.—*Prince*, G. and *Grossmith*, W. G. brewers, Romsey, March 24.—*Roberts*, S. and *White*, J. worsted stuff manufacturers, Bradford, March 22. Debts paid by Roberts.—*Rhodes*, T. and *Weatherburn*, L. jun. stock brokers, Huddersfield, March 28. Debts paid by Weatherburn.—*Scott*, J. B. and *M'Ewen*, R. calico printers, Manchester, Feb. 28.—*Smith*, E. and M. and *Bell*, J. brick manufacturers, Conisbrough, so far as regards J. Bell and Anne, his wife, March 12. Debts paid by the remaining partners.—*Street*, E. and S. haberdashers, Bristol, March 27.—*Thimbleby*, J. and J. pawnbrokers, Chipping Barnet, Sept. 29, 1841.—*Tickle*, W. and *Webster*, J. joiners, St. Helens, March 26. Debts paid by Webster.—*Underdown*, J. and *Prior*, J. W. ironmongers, Chichester, March 25. Debts paid by Underdown.—*Walmsley*, Sir J. and *Owen*, J. corn factors, Manchester and Liverpool, Dec. 31. Debts paid by Owen.—*Walmsley*, Sir J., *Procter*, R. and *Coulthard*, R. corn brokers, Liverpool, March 25. Debts paid by Walmsley.—*White*, J. F. and *Sparks*, W. bookbinders, Nottingham, March 22. Debts paid by White.—*Williams*, G. G. and *Williams*, G. pawnbrokers, High-st. Stepney, March 25.

Insolvents

Petitioning the Courts of Bankruptcy.

PETITIONS TO BE HEARD AT BASINGHALL-STREET.

Gazette, March 25.

Andrews, W. gent. Windsor-terrace, Vauxhall-bridge-rd. and Old Jewry-chambers, April 10, at one.—*Bayles*, M. grocer, South-row, Old Brompton, April 21, at twelve.—*Davies*, T. carpenter, Prospect-house, Dalston, April 14, at eleven.—*Comrie*, J. house agent, Lower Belgrave-place, Pimlico, April 10, at twelve.—*Hayward*, H. coach builder, Canterbury, April 10, at eleven.—*Lake*, W. master mariner, Farmer-st. Shadwell, March 29, at one.—*Lunn*, T. hoop bender, Bexley, April 14, at twelve.—*Mullins*, C. W. house agent, Melbourne-sq. North Brixton, April 17, at eleven.—*Rathbone*, J. E. gent. Norfolk-st. Hyde-park, March 29, at eleven.—*Ryan*, J. out of business, Moscow-rd. Bayswater, April 28, at eleven.—*Smith*, S. farmer, St. Alban's, April 10, at twelve.—*Shorthouse*, W. hawker, Martha-st. Haggerstone, April 10, at twelve.—*Walker*, T. baker, St. Alban's and North Mimms, April 17, at eleven.—*Woodruff*, P. M. butcher, Iver, April 17, at eleven.

IN THE COUNTRY.

Baldy, J. P. surgeon, Devonport, April 8, at one, Exeter.—*Braithwaite*, B. commission agent, Calverley, April 1, at eleven, Leeds.—*Brock*, W. clerk, Epworth, April 8, at eleven, Leeds.—*Davis*, W. miller, Cradley, April 7, at half-past ten, Birmingham.—*Foley*, J. tailor, Willenhall, April 5, at half-past ten, Birmingham.—*Force*, R. accountant, Exeter, April 8, at one, Exeter.—*Hall*, J. innkeeper, Bramley,

April 1, at eleven, Leeds.—*Martindale*, J. schoolmaster, Durham, April 9, at half-past twelve, Newcastle.—*North*, J. H. milkman, Littleover, April 12, at eleven, Birmingham.—*Osborne*, T. cordwainer, Bromsgrove, April 5, at half-past ten, Birmingham.—*Speed*, W. tripe salesman, Liverpool, April 8, at twelve, Liverpool.—*Stubley*, J. dealer in rags, Batley, April 2, at eleven, Leeds.—*Thomas*, W. smith, Lyncombe and Widcombe, April 17, at eleven, Bristol.—*Town*, J. ale dealer, Manchester, April 7, at twelve, Manchester.—*Vernon*, J. R. lieutenant, Bristol, April 15, at one, Bristol.—*Wills*, J. out of business, Kingskerswill, April 8, at one, Exeter.—*Wills*, W. butcher, Thorverton, April 8, at one, Exeter.—*Worth*, J. band maker, Wakefield, April 8, at eleven, Leeds.

MEETINGS AT BASINGHALL-STREET.

Snagg, D. whitesmith, Freemantle's-buildings, April 14, at half-past eleven.

Gazette, March 28.

Field, T. H. corn dealer and farmer, Chesham.

PETITIONS TO BE HEARD AT BASINGHALL-STREET.

Aldersley, E. jun. coal-merchant, West-st. Walworth-road, April 9, at twelve.—*Caralewsky*, E. out of business, Skinner-st. Bishopsgate, April 8, at twelve.—*Cullen*, E. B. out of business, Old Cavendish-st. April 9, at half-past eleven.—*Munns*, W. attorney, Southampton-place, Camberwell, and Fenchurch-buildings, Fenchurch-st. April 2, at twelve.—*Sturgis*, O. jun. stone-mason, Northampton and Wellingborough, April 5, at one.—*Vorgan*, W. clerk, Bedford-ter. Holloway, April 10, at one.—*Wonfor*, W. publican, Ampthill, April 5, at one.

MEETINGS IN THE COUNTRY.

Brown, J. baker, Stoney Stanton, April 12, at twelve, Birmingham.—*Dyke*, S. P. butcher, Croscomb, April 24, at eleven, Bristol.—*Fisher*, H. poulterer, Manchester, April 12, at twelve, Manchester.—*Foster*, G. innkeeper, Carlisle, April 3, at eleven, Newcastle.—*Griffiths*, G. farmer, Llawaber, April 9, at half-past eleven, Liverpool.—*Powton*, G. publican, Bishop Auckland, April 2, at eleven, Newcastle.—*Shattock*, J. attorney, Bristol, April 3, at eleven, Exeter.—*Willoughby*, R. horse-breaker, Sheffield, April 10, at eleven, Leeds.

IN THE COUNTRY.

Lewis, W. pilot, Liverpool, April 21, at eleven, Liverpool.

Bankrupts.

From the Gazette of Friday, April 4.

Paulton, J. stonemason, High-street, Portland-town.—*Dingley*, T. draper, Strutton-ground, Westminster.—*Currie*, J. and *Seignette*, L. E. merchants, Mincing-lane, City.—*Ward*, R. G. and *Perry*, J. meat salesmen, Newgate-market.—*Simpson*, A. H. engineer, Blackfriars-road.—*Giles*, W. boardinghouse keeper, Brighton.—*Day*, C. chemist, Acton-street, Gray's Inn-road.—*Lampard*, J. printer, Stanhope-street, Clare-market.—*Cotterell*, J. K. grocer, Glastonbury.—*Bidder*, S. P. slate dealer, Fleetwood-on-Wyre, Lancashire.—*Hartshorn*, H. plumber, Shrewsbury.

The Danbury Park Estate, with its noble and modern built Mansion, Offices, Pleasure-Grounds, Plantations, and Timber, with a contiguous Farm, the whole embracing about 600 acres.—By Messrs. HOGGART and NORTON, at the Mart, on Friday, May 23, at Twelve, unless an acceptable offer should be previously made by Private Contract.

DANBURY PARK, ornamented with fine stately forest trees and sheets of water, with about 260 acres of land, encircled by a park fence, together with a farm of about 330 acres, within an easy distance, situate in a beautiful and picturesque part of the county of Essex, within five miles of the Chelmsford station and hour and a half's reach of London. Upon an eminence and spot peculiarly well chosen the present proprietor has erected an elegant and most substantial mansion, presenting an elevation of Elizabethan architecture, designed and completed under the superintendence of an architect of great eminence and acknowledged taste, offering one of the most perfect residences in the county, of which immediate possession may be had; and the whole of the elegant modern furniture will be left for the purchaser to take at a fair valuation. The mansion includes 22 principal and secondary bed-rooms and dressing-rooms, bath-room and boudoir, approached by two noble stone and oak staircases, entrance and inner hall splendid suite of rooms 16 feet in height, with massive folding doors, comprising dining-parlour 30 feet by 21 feet, ante-room, drawing-room 28 feet by 21 feet, library feet by 20 feet, ornamented with beautiful marble chimney-pieces. The interior of these apartments is most tastefully decorated and finished under the immediate direction of Morant. Gentleman's retiring library, breakfast parlour, with an infinity of closets, store-rooms, water-closets, and offices of every description suitable and adapted to the mansion. which is erected upon solid brick groined arches, affording a range of not less than 12 spacious vaults for wine, ale, and beer. The mansion and offices are supplied with the purest water by a powerful spring, never failing in the driest seasons, and conveyed by pipes into a spacious reservoir on the top of the mansion, worked by a water-wheel. The out-offices comprise extensive stabling, coach-houses, brew-house, laundry, gardener's cottage, farm-yard, and numerous out-buildings, productive walled garden, extensive gravel-walks, lawns, flower-gardens, and shrubberies, beautiful sheets of water, well stored with fish, and the park is approached by an ornamental Elizabethan lodge: the whole estate is freehold, and subject to the usual outgoings, which are not heavy. May be viewed by tickets only, which with particulars may shortly be had of Messrs. Poole and Gamlen, solicitors, 3, Gray's-inn-square; of Mr. J. O. Parker, Woodham Mortimer, at the Black Boy, Chelmsford; Cups, Colchester; White Hart, Brentwood; at the Mart, and of Messrs. HOGGART and NORTON, 62, Old Broad-street, Royal Exchange.

Upton near Stratford, Essex

MESSRS. HOGGART and NORTON have received instructions from the executors of the late Mrs. Wackerbath to offer for SALE, at the Mart, on Friday, April 18, at twelve, a capital and substantially built FAMILY RESIDENCE, with pleasure-grounds, gardens, and meadow land, containing together upwards of five acres and a half, most delightfully situate, at Upton, near Stratford, a fine dry healthy spot, and in all respects adapted for the immediate reception of a respectable family. It contains ten bed-chambers, dressing-rooms, water-closet, excellent entrance-hall, noble dining-room, twenty-seven feet long, breakfast-room or library, two drawing-rooms, communicating by folding doors, and opening into a conservatory, butler's pantry, housekeeper's room, capital servants' offices, binned wine, beer, and coal cellars; detached are stabling for five horses, coach-houses, cart-stable, barn, piggeries, and various out-buildings; the lawn and grounds are beautifully laid out, and lead to the ornamental paddocks; in the rear there is a very productive kitchen garden, principally walled, and a thriving orchard, the whole containing between five and six acres. Particulars may be had at the Mart, and of Messrs. HOGGART and NORTON, 62, Old Broad-street, Royal Exchange.

Most desirable Church Preferment in a fine part of the County of Essex.—By Messrs. HOGGART and NORTON, at the Mart, in May,

THE next PRESENTATION to the Rectory of Inworth, subject to the life of the present incumbent, in his 75th year, situate near Witham, a short distance from the Eastern Counties Railway. The income is about 800*l*. per annum net, exclusive of the rectory house, but inclusive of 57 acres of fine glebe land tithe free. The house is an old-fashioned residence, containing every accommodation for a family, with an excellent garden and offices. Population under 400, and the extent of the parish 1,200 acres. Particulars will shortly be ready, and may be had of J. D. Warter, esq. solicitor, Carey-street; at the Mart; and of Messrs. HOGGART and NORTON, 62, Old Broad-street, Royal Exchange.

Freehold Residence, with large Garden, Lawn, and upwards of 20 acres of capital Meadow Land, situate at Little Missenden, near Amersham, in the county of Bucks.—By Messrs. HOGGART and NORTON, at the Mart, on Friday, April 18 (instead of April 11, as before advertised), at Twelve, in one lot, by direction of the Administratrixes of the late Miss Bates,

A FREEHOLD ESTATE, situate in the village of Little Missenden, near the church, and about two miles from Amersham, in the county of Bucks, comprising a spacious residence, containing numerous bed-rooms, morning-room, dining-room, library, lofty drawing-room opening to the pleasure-ground, servants' rooms and offices; detached coach-house, stabling, and various out-buildings, garden and pleasure-ground intersected by a stream of water, and a paddock in the rear, richly ornamented with timber, with two capital inclosures of meadow land, having extensive frontages to the two roads leading to Aylesbury, and lying entirely within a ring fence, the whole containing upwards of 20 acres. The land is in an exceeding advantageous situation for building, or would let at high accommodation rents to persons residing in the village. May be viewed and particulars had at the Griffin Inn, Amersham; on the premises at Little Missenden; of Messrs. Riches and Woodbridge, solicitors, Uxbridge, Middlesex; at the Mart; and of Messrs. HOGGART and NORTON, 62, Old Broad-street, Royal Exchange.

Capital and very valuable Freehold Estates, near Daventry, Southam, and Leamington, in the county of Warwick, part extra-parochial.—By Messrs. HOGGART and NORTON, at the Mart, on Friday, May 23, at 12,

THE following important and valuable FREEHOLD ESTATES, in the parishes of Ladbroke, Bishop's Itchington, and Burton Dassett, a fine part of the county of Warwick, about 12 miles from Rugby, 8 from Leamington, and 10 from Banbury, containing together 1,400 acres of fine land, let at rentals amounting to about 1,700*l*. per annum, lying as follows—The Manor Farm and Estate of Hodnell, lying well together, and abutting upon the high road from Southam to Banbury, comprising 511 acres of capital arable and pasture land, in a high state of cultivation, having been considerably improved by drainage and a separation of the buildings; the whole tithe-free and land-tax redeemed; let to Mr. Thomas Russell, a responsible tenant, on lease, at a low rental of 700*l* per annum. Also Radbourne Farm adjoining, and containing 262 acres of fine land, land-tax redeemed and tithe-free, let to Mr. John Pearson at a rent of 330*l*. per annum; also a Farm at Bishop's Itchington, comprising about 286 acres of fine land, land-tax redeemed, let to Mr. Daniel Knib, tenant at will, at a rent of 320*l*. per annum; also a farm contiguous to the preceding, in the occupation of Mr. Thomas Norton, at a rent of 80*l*. per annum, containing altogether about 122 acres; and a Farm at Knightcote, in the parish of Burton Dassett, comprising about 227 acres of fine land, in the occupation of Messrs. Keyte, as yearly tenants, at a low rental of 250*l*. per annum. These estates may be viewed on application to the tenants, and printed particulars, with plans, ready for delivery, 20 days prior to the sale, on application to Messrs. Western and Sons, solicitors, Great James-street, Bedford-row; also at the principal inns at Leamington, Rugby, Banbury, Southam; Dee's Hotel, Birmingham; at the Mart, and of Messrs. HOGGART and NORTON, 62, Old Broad-street, Royal Exchange

Valuable and well-secured Rental of 170*l*. per annum, arising out of the Ship Wine-vaults and Dwelling house adjoining, in Ivy-lane, Newgate-market.—By Messrs. HOGGART and NORTON, at the Mart, on Friday, April 18, at twelve,

A RENTAL of 170*l*. per annum, amply secured upon the extensive premises situate Nos 17 and 18, Ivy-lane, Newgate-market, and known as the Ship Wine-vaults, carrying on a capital trade, with dwelling-house adjoining, commanding a frontage of nearly 40 feet to Ivy-lane, and offering a first-rate investment for capital. The property is held on lease under the Dean and Chapter of St. Paul's for a term of 48 years from Christmas, 1841, renewable according to custom every 14 years on payment of a fine, at a rent of 1*l*. 10s. and 8*l*. 10s. 8d. per annum for redeemed land-tax, and underlet for a term which ex 1861, at a clear rental of 170*l* per annum. At the expiratio of the tenant's lease a considerable premium may be expected for a further renewal. Particulars may be had of M Maples, Pearce, Stevens, and Maples, Solicitors, Frederick place, Old Jewry; at the Mart; and of Mr HOGGART and NORTON, 62, Old Broad-street, Royal Exchange.

In Chancery.—"Lyddon v. Woolcock."—Freehold Building Land, and Freehold Houses, in 52 Lots, known as Mount Preston Estate Leeds, Yorkshire.

MR. FREDERICK CHINNOCK will SELL by AUCTION, at Scarborough's Hotel, Leeds, on Thursday, April 17, at Twelve precisely, pursuant to a Decree of the High Court of Chancery, made in a cause of "Lyddon v. Woolcock," and with the approbation of James Farrer, esq. one of the Masters of the said Court, the above PROPERTY, comprising a Freehold Estate, with undulating ground, situate on a delightful eminence, and forming one of the most eligible spots in the environs of Leeds for building purposes. The new church of St. George is erected close to the property. It is known as the Mount Preston Estate, and situate on the verge of Woodhouse-moor, in the town of Leeds. Also two excellent Freehold Dwelling-houses, situate in Lyddon-terrace, each considerably underlet at £30. per annum.—Descriptive particulars, with plans of the estate, are ready, and may be obtained on application (gratis) at the Master's chambers, Southampton-buildings, Chancery-lane; of Messrs. Richardson, Smith, and Sadler, plaintiff's solicitors, 28, Golden-square; of Messrs. Ensor and Pittendreigh, solicitors, Gray's-inn; of Messrs. Bischoff and Coxe, solicitors, Coleman-street, City; of Messrs. Sandys and Pearson, solicitors, Serjeants'-inn, Fleet-street, London; of John Moss, esq. solicitor, Derby; of Mr. Thomas Wm. Tottie, Leeds; of Messrs. Simmons, Passingham, and Simmons, solicitors, Truro, Cornwall; at Scarborough's Hotel, of Mr. Burrell, carpenter, Fountain-street, Leeds, who will shew the land; and at M FREDERICK CHINNOCK'S auction and estate ffices, 28, Regent-street, Waterloo-place.

Notting-hill.—Kensington-park Estate. Highly important and valuable Building Land, embracing nearly one-half of this most eligible and rapidly-improving property.

MR. FREDERICK CHINNOCK has been favoured with instructions from the Assignee of Jacob Connop, with the concurrence of the Mortgagees, to submit for SALE by AUCTION, at the Auction Mart, on Tuesday, April 29, in lots, the above most desirable PROPERTY. It comprehends about 50 acres of land, presenting sites for the erection of upwards of 300 detached and other houses, upon which an immense outlay has been made in building sewers, forming squares, draining the land, laying out and ornamenting the grounds. It embraces that portion of the estate nearest to London, and is situate on a commanding eminence, from which views of the most pleasing and delightful kind are obtained of the surrounding country. The situation is, beyond doubt, one of the most healthy and desirable in the environs of London for building purposes, affording to the builder, capitalist, or speculator, a rare opportunity for the investment of money. More descriptive advertisements will shortly appear, and plans and particulars of the estate will be published early, and may be obtained of T. B. Hudson, esq. solicitor, 4, Old Jewry; of Messrs. Humphrys, Keightley, and Parkin, solicitors, 43, Chancery-lane; of Joseph Lucas, esq. solicitor, 8, Gray's-inn-square; at the Auction Mart; and at Mr. FREDERICK CHINNOCK'S auction and estate offices, 28, Regent-street, Waterloo-place.

Freehold Houses, with Shops and Freehold Building Land, Peckham, Surrey.

MR. FREDERICK CHINNOCK has been instructed by the Mortgagee to SELL by AUCTION peremptorily, at the Auction Mart, on Wednesday, April 23, TWO FREEHOLD HOUSES, with Shops, situate in High-street, Peckham, one let to Mr. Wayte, butcher, the other to Mr. Pritchard, linen-draper, at the annual rent of £45 each; also, a Plot of Building Ground in the rear, having a frontage sufficient for the erection of four or six dwelling-houses. Particulars will shortly be published, and may be obtained of Messrs. Springall, Thompson, and Powell, solicitors, 3, Raymond-buildings, Gray's-Inn; at the Auction Mart; and at Mr. F. CHINNOCK'S auction and estate offices, 28, Regent-street, Waterloo-place.

Leaseholds.—Penton-place, Pentonville, producing £60. 10s. per annum.

MR. FREDERICK CHINNOCK will SELL by AUCTION, peremptorily, by order of the administrator of Mr. Lucy, deceased, at the Auction Mart, on Wednesday, April 23, at One, THREE brick-built Leasehold DWELLING-HOUSES, being 35, 36, and 37, Penton-place, Pentonville, let to respectable tenants at rents amounting to £74 per annum, and held for a term of 95 years from Michaelmas, 1784, at a ground rent of £4. 10s. per annum. May be viewed by permission of the tenants, particulars had at the Auction Mart; of Messrs. Dod and Wray, solicitors, 16, Great Marlborough-street; of J. Cliff, Esq., solicitor, 30, Bloomsbury-square; of W. J. Boulton, Esq., solicitor, 21 A, Northampton-square, Clerkenwell; and at the Auctioneer's offices, 28, Regent-street, Waterloo-place.

Valuable Leasehold Ground Rents, amounting to nearly £200 per annum.

MR. FREDERICK CHINNOCK will SELL by AUCTION, by order of the assignees of Jacob Connop, with the consent of the mortgagees, at the Auction Mart, on Tuesday, April 29, GROUND RENTS, amply and abundantly secured upon first-class houses situate in Kensington-park, of which descriptive particulars will shortly be printed, and may be obtained of T. B. Hudson, esq. solicitor, 4, Old Jewry; of Messrs. Humphrys, Keightley, and Parkin, solicitors, 43, Chancery-lane; of J. Lucas, esq. solicitor, 8, Gray's-inn-square; at the Auction Mart; and at Mr. F. CHINNOCK'S auction and estate offices, 28, Regent street, Waterloo-place.

...nd-s... Notting-hill. Two capital Leasehold Houses, with C... and Stables in the rear, at £175 per ... th possession.

MR. FREDERICK CHINNOCK will SELL by AUCTION, at the Auction Mart, on Wednesday, April 23, at One, TWO excellent DWELLING HOUSES, being 45 and 46, Norland-square; No. 45 with possession, a large sum of money having been lately expended upon it by the late tenant, in building a conservatory, fitting up gas-lights, and in tasteful decoration and finish. No. 46 is let on agreement to a highly respectable tenant, at the low rent of £85 per annum; held direct from the freeholder, for 99 years, at a low ground rent. May be viewed, and particulars obtained of Messrs. Cope and Eales, 21, Langham-place; and at Mr. CHINNOCK'S offices, 28, Regent-street, Waterloo-place.

Kensington-park, Notting-hill.—Three first-class detached Villas, with large Gardens and back entrance for Coach-house and Stables, designed with the greatest taste, and most substantially built.

MR. FREDERICK CHINNOCK has been instructed to SELL by AUCTION, at the Auction Mart, in the month of April, the above desirable RESIDENCES, each presenting different styles of architecture, of the Swiss, Italian, and Gothic, in the highest style of art, not only with regard to the elevation, but to the interior arrangements, decoration, and finish, inclosed by ornamental brick walls, in the centre of grounds tastefully laid out with trees, shrubs, and plants. They are most delightfully situate, commanding extensive views of the surrounding country, and every way adapted for the occupation of families of the highest respectability. Held for long terms at exceedingly low ground rents.—Descriptive particulars will shortly be ready, and may be obtained of Joseph Lucas, esq. solicitor, 8, Gray's-inn-square; at the Auction Mart; and at Mr. FREDERICK CHINNOCK'S, auction and estate offices, 28, Regent-street, Waterloo-place.

Highbury-vale, Middlesex.—Four modern Villas, with good Gardens, producing a rental of £126 per annum.

MR. FREDERICK CHINNOCK will sell by AUCTION, at the Auction Mart, on Wednesday, April 23, FOUR valuable long leasehold semi-detached VILLAS, pleasantly situate, near Highbury-park, commanding a pleasant prospect of the Hampstead hills, built in pairs with fore courts, side entrances, and garden in the rear inclosed by brick walls, and are held for a term of 90 years at a ground rent of £30, and producing a rental of £126 per annum.—Particulars will shortly be ready, and may be obtained at the Highbury-barn Tavern; of H. Aldridge, esq. solicitor, 11, Bentinck-street; at the Auction Mart; and at Mr. FREDERICK CHINNOCK'S auction and estate offices, 28, Regent-street, Waterloo-place.

TO SOLICITORS.—GOOD and CHEAP WRITING-PAPERS.

Good Useful Writing-Paper, 6s. per Ream.
Ditto, of the best quality, 11s. per ream.
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Best Draft, 9s.—the usual charges 10s. 6d. and 12s.
Superfine Laid Foolscap, 16s. per ream.
Superfine Lined Brief, 19s. per ream.
Ditto, very best made, 21s. per ream.
Finest Vermilion Wax, 3s. 6d. per lb.—warranted equal to any 5s.
Best Thick Satin Envelopes, 6s. per 1,000, usually charged 1s. per 100.
Any Article exchanged, if not approved of.—Samples can be had gratis.

⁎ Orders from the Country, accompanied with a remittance, will be punctually attended to.

W. PARKINS'S STATIONERY WAREHOUSE, 11, Hanway-street, Oxford-street.

THE REPORTS.

Equity Courts.

LORD CHANCELLOR'S COURT.

Wednesday and Thursday, March 5 and 6.

MATHEWMAN *v.* WOODCOCK.

Infants—Next friend—Reference to the Master as to an infant's suit.

Where a suit had been instituted by the next friend of infant devisees against the trustee and executrix, and a reference made on the application of the defendant to inquire whether such suit was proper for the infants' benefit, and afterwards the executrix commenced an administration suit, and obtained a decree, the references in the first suit become unnecessary, and the frame of that suit being defective, the next friend was allowed to apply in the second suit.

This was a motion for the discharge of an order made by the Vice-Chancellor of England, which directed a reference to the Master to inquire if this suit had been properly instituted, and whether James Roberts, the next friend of the infant plaintiffs in this suit, was a proper person to be continued as next friend. It appeared that the infants were the children of John Mathewman, who had devised and bequeathed a very considerable property, amounting in value to 100,000*l.* to his infant children, and had appointed their grandmother, his wife's mother, sole trustee and executrix of his will. There was no question upon the construction of the will: but the next friend, Roberts, one of the nearest paternal relatives of the infants, being their first cousin once removed, alleged that the grandmother of the infants was misapplying the infants' property, by carrying on a farm which the testator had himself occupied, and by keeping up an establishment unnecessarily expensive at the testator's late dwelling-house. The defendant was Mrs. Hannah Woodcock, the sole executrix. The testator had married the daughter of Mrs. Woodcock, who occupied a house and farm belonging to the testator; and upon the marriage the testator had gone to reside in the same house, and continued there until about two years before his death, when he was removed to a lunatic asylum, where he died. During the testator's residence in the asylum, a lease of another of his farms had been granted to John Brailsford, as was alleged, upon terms too advantageous; and immediately after the testator's death, his widow married Brailsford. It was also alleged that the executrix was a person of no property, and the case made by the bill was, that she could not safely be intrusted with the administration of this large estate. A second suit had been instituted since the commencement of this suit, with the concurrence of the executrix, in which a decree had been obtained.

Cooper and *H. Clarke*, for the plaintiff, contended that a very strong case must be made out against the next friend to justify such an order as that of the Vice-Chancellor's. (*Stephens* v. *Stephens*, 6 Mad. 97; *Whittaker* v. *Marlar*, 1 Cox, 286; *Naldar* v. *Hawkins*, 2 Mylne & Keene, 243.) The executrix had obtained great influence over the testator's mind, and his will was executed under that influence. The defendant by her answer stated that she was supporting the infant plaintiffs, and keeping up the establishment out of the rents and profits. A brother of the testator, and also his aunt, both of whom resided with him, made wills on the same day as the testator, and disposed of their property in the same way. This was in Dec. 1838. He was removed to a lunatic asylum in Sept. 1841, but no commission of lunacy was issued. The same solicitor made all the wills. These wills were made under the defendant's dictation.

The LORD CHANCELLOR.—The will contains no provisions for the benefit of Mrs. Woodcock, or her daughter, except in the event of the death of the children.

Cooper read affidavits on the part of the next friend. Any stranger might file a bill on the behalf of infants; and it is the habit of the Court to encourage persons to come forward as next friends. (Chambers on Infancy; Macpherson on Infancy.)

The LORD CHANCELLOR.—The defendant having instituted a suit, is an admission that some suit was necessary for the administration of the estate.

Clarke.—The decree in the other suit was obtained as a short cause with the utmost possible speed; and then notice was given in this suit of a motion that the bill should be dismissed, or for a reference to the Master in the terms of the Vice-Chancellor's order. There ought to be some person to see that the accounts are properly taken.

The LORD CHANCELLOR.—It is nothing more than this; the suits are identical, and, it being admitted that some suit is proper, the question is, which is the proper suit to be proceeded with. It does not turn on the priority of the suits, but which is most for the benefit of the infants. If the Vice-Chancellor's order is discharged, the plaintiff, the next friend, may ask for leave to give notice in both suits. I see nothing, as far as the case has gone, against Mr. Roberts. The reason he appointed another solicitor than the testator's solicitor, arose out of some delicacy on the part of the latter. Roberts is the second cousin of the infants, he is a substantial farmer, and able to pay costs. He was a relation of, and in communication with the testator. Any thing stated in the affidavits to shew that he acted from pique, is a mere possibility. How does it lie in the defendant's mouth to say no suit is necessary, when, according to the affidavits on that side, a suit has been deemed proper?

James Parker and *Hetherington*, for the defendant.—The decree in the second suit is more comprehensive than any which could be obtained in the first. That decree is for the administration of the estates of Mary Amos, the aunt, and William Mathewman, the brother of the testator, as well as that of the testator. Although no imputation was made against the defendant, the intention of instituting this suit was studiously concealed.

The LORD CHANCELLOR.—Was it argued on the question as to the other estates before the Vice-Chancellor? The bill in the first suit might have been amended, or a supplemental bill filed.

Parker.—The next friend having instituted a suit without inquiry, furnishes ground for inquiry as to the propriety of this suit, and into his conduct.

The LORD CHANCELLOR.—It seems idle to refer it to the Master in this suit.

Parker.—If the decree in the second suit had not been made, the frame of this suit created a difficulty, inasmuch as the testator's heir-at-law is made a plaintiff. It is a misjoinder to make the heir-at-law a co-plaintiff with the devisees. The testator had directed 5,000*l.* to be raised for the maintenance of his younger children, and it is no breach of trust to apply the interest of that sum to the purpose. The sums charged to have been improperly called in by the executrix were part of the estate of W. Mathewman, and were required for the purposes of that estate. Roberts had no right to an explanation of the management of the estate.

The LORD CHANCELLOR.—I do not consider the allegations very material, only, in answering those allegations, the defendant goes on to shew that the suit is proper. It is admitted that a suit is necessary. If it were the suit of the solicitor, still it might be proper; or if Roberts had stated imputations, of danger to the estate, it might have been a proper one. I can't find fault with the will. But it is proper a suit should be instituted; the imputations are answered, which leaves the case where it stood; now, by this order it is referred to the Master, to inquire whether this is a proper suit.

Parker and *Hetherington.*—The will has not been proved against the heir-at-law. If it should turn out, or be alleged that the testator was not of sound mind when he executed the will, the suit, as at present framed, would be ineffectual for proving the will.

Cooper, in reply.

The LORD CHANCELLOR.—There are two points in this case; the misjoinder of the heir-at-law, and that such misjoinder should have been corrected by amending the bill. If the bill should be now amended, the discussion will be had over again, and without amendment what is the use of this suit? This suit cannot be carried on. But the subsequent facts can be brought before me in the other suit, if I discharge the order upon facts which were not before the court below. If an application is made to me in the suit in which a decree has been made, all necessary acts can be directed. Why should there be a reference to the Master in a suit which is at an end? I will discharge the Vice-Chancellor of England's order, not on the ground of its being improper, but as being now unnecessary. I will dispose of the costs of this motion after I have decided on the application the next friend intends to make. The plaintiffs in the second cause are not to take any step in the cause, and the defendants will have liberty to apply.

Friday, March 14.

HUGHES *v.* WYNNE.

Taxation of costs—Reference to Master in ordinary, notwithstanding orders of 26th of October, 1842—Practice—Solicitor's lien for costs—Exception to Master's certificate by solicitors.

Where a reference had been previously made to the ordinary Master to tax all parties their costs, including a specific direction to allow "sums just and reasonable for payment of time and labour to an accountant," and the Master had disallowed a great part of the accountant's bill, it was held, that an order directing the Master to review his report on that point, made in 1844, was not an order for the taxation of costs within the orders of the 26th of October, 1842, and therefore was not referable to the taxing Master.

Wood and *Fleming* moved to discharge an order of the Master of the Rolls of the 30th of January last, which directed that the taxation of costs in this cause should be referred to the Master in ordinary, to whom the cause stood referred, and that notwithstanding the 10th general order of the 26th of October, 1842, the order of 1839, made in the cause might be acted on. By the 9th general order of the 26th of October, 1842, made in pursuance of 5 & 6 Vict. c. 103, "An Act for abolishing certain offices in the High Court of Chancery," all the duties in relation to the taxation of costs which had been previously performed by the Masters in ordinary were transferred to the taxing Masters. And by the 10th order it was directed that all references for the taxation of costs should be made to the taxing Master in rotation.

On the 28th of March, 1835, an order was made, on the petition of Emma Wynne, for a reference to the Master to tax all parties their costs, charges, and expenses, including the costs, charges, and expenses of several petitions which had been presented in the cause, for investing the produce of estates sold, taking accounts, making valuations, and other proceedings in the cause; and it was ordered that in taxing the costs the Master should tax the petitioner her costs and should allow to the petitioner, not only sums and costs payable to solicitors, but also any sums which should appear to the Master to be just and reasonable, for payment of the time and labour of accountants, in respect of the subject matter of the cause.

The LORD CHANCELLOR.—Would not that have been incident to the account?

Wood.—Not without an express order. The Master proceeded with the reference, and certified that he had taxed the bill of costs of the petitioner's solicitor at the sum of 673*l.* the amount of the bill being 1,076*l.*; and a bill of charges and expenses of an accountant amounting to 1,650*l.* had been taxed at 219*l.* The solicitor had not included the accountant's bill in his own, but had made an item in his bill of "Paid accountant as per bill," no sum being set against that item in the solicitor's bill. The accountant's bill was carried in before the Master. The charges of the accountant ran parallel with those of the solicitor's bill. The solicitors for the petitioner petitioned for leave to except to the Master's report. If the report of the Master was an ordinary report, that was an improper mode; but objections to the report ought to have been left in the Master's office. On the other hand, if the report was a mere certificate of taxation, then the application at once by petition was right. An amendment had been made in the prayer of the petition, to ask for payment of certain costs. Pending the petition, Miss Wynne changed her solicitor, and the petitioning solicitor then obtained, on the 4th of November, 1839, an order to use the name of Emma Wynne, indemnifying her against all consequences of so doing. The petition having been proceeded with, was, on the 27th of March, 1840, dismissed with costs. Subsequently a review of the Master's report in the cause up to July, 1844, was ordered, and the Master was, on the 19th of July last, prepared to make a report, and was about to allow 1,200*l.* on the accountant's bill. An objection was made to the draft report on the part of Chas. Wynne, one of the parties in the cause, and if the report was an ordinary one, that was the right course. The solicitors appeared by counsel, and argued against the Master's power to grant a certificate. They then presented a petition for leave to except, but it was then too late, as the last petition day was on the 23rd of July. If this be a certificate for the taxation of costs, it ought to have gone to the taxing master. The Master says that it is a certificate of taxation, and that he is satisfied, since the general orders of October 1842, he has no power to make such a certificate. A petition was presented in Nov. last by the solicitors, in the name of Emma Wynne, on which the order now sought to be discharged was made. The solicitors had treated it all through as a taxation of costs. If it was not, no petition was necessary.

Kenyon Parker and *Elderton*, contra.

Wright, for John Wynne.

The LORD CHANCELLOR.—This is not a taxation of costs. Sir William Horne, the Master in ordinary, is quite as competent to consider the *quantum meruit*, the amount just and reasonable to be paid to the accountant, as the taxing Master. The direction to the Master to proceed in the matter is only a courteous mode of intimating to him that the Court does not concur in his difficulty. I think it a proper reference to the Master in ordinary. The orders of 26th October, 1842, do not apply to this case.

VICE-CHANCELLOR OF ENGLAND'S COURT.

Thursday, March 6.

PEMBERTON *v.* JACKSON.

Will. Appointment by a father to his infant child under a will is not fraudulent, provided he does not exceed his power, notwithstanding he makes the appointment in such a way as may ultimately put him into the absolute possession of the whole fund, for his own benefit, and thus defeat the contingent interests of others interested therein.

A testator, being possessed of considerable property, by his will gave certain legacies to his three nieces, and their children, as therein mentioned. He then devised all the residue of his freehold, copyhold, and leasehold estates (except a certain leasehold house at B.), and personal property to trustees, upon trust for

his nephew E. J. J. for life, and on his decease (subject to a power of jointuring his wife), upon trust for the children and grandchildren of E. J. J. as he should appoint, and, in default of appointment, to his children generally, they taking vested interests at twenty-one; and in default of their taking such vested interests, upon trust for his nieces, and their several families, *to take in the same manner as before declared respecting the several legacies.*

After the testator's death, E. J. J. married, and had one child, a son, born 2nd June, 1839, and four days after this event, viz. 6th June, he, by a deed-poll (reciting the will) appointed to his children generally, with a power of r ation, as he should by deed or will appoint, and default of such appointment, subject as therein mentioned, in trust for his said son then born, and all his after-born children, as joint tenants, for their absolute use and benefit. This appointment was objected to by the children of one of the testator's nieces, who were thus excluded from the contingent interest in their favour pointed out by the testator, on the ground that it operated as a fraud against those interests, and contrary to the testator's intention. Held, however, that as the testator had intrusted E. J. J. with such a power of appointment, the Court could not restrain the exercise of that power, however it might frustrate his ultimate intention.

The testator, Randall Jackson, esq. late of North Brixton, in the county of Surrey, by his will bearing date 11th June, 1836, ga d bequeathed to Henry Johnson and Robert Edward Jackson, and his nephew, Edward James Jackson, and James Patrick Macdougall, the sum of 10,000*l.* sterling, upon trust to invest the same in their names, for the benefit of his niece, Caroline Butcher, for life, and afterwards for her children, the plaintiffs, absolutely; and in failure of issue he directed the same to sink into his residue; and he gave the sum of 26,000*l.* to his trustees upon trust to invest for the benefit of the said plaintiffs as therein mentioned. The testator then bequeathed the sum of 16,000*l.* upon similar trusts for his niece, Eliza Macdougall, and her children, and 30,000*l.* for his other niece, Ellen Catherine Jackson, and her children, provided she should marry and have any. There was also a like direction in case of failure of the respective issues of his three nieces, that the last-mentioned sums should sink into and form part of his residue. The testator then devised and bequeathed unto his said trustees and their heirs, &c. his freeholds and leaseholds at Brixton, in trust for his said niece, Ellen Catherine Jackson, for life, and after her decease, upon trust for her children, to be vested interests at twenty-one; *and in failure of her issue taking a vested interest*, upon the trusts afterwards declared concerning the residue of his freehold and leasehold property; and he made his copyholds at Brixton liable to the same trusts as his freeholds and leaseholds at the same place. The testator afterwards devised and bequeathed unto his said trustees, their heirs, executors, &c. all the rest, residue, and remainder of his freehold, copyhold, and leasehold messuages, and all his residuary trust moneys, stocks, funds, and securities, and other residuary estate, upon trust for his nephew, Edward J. Jackson, for life, and on his decease (subject to a power of making a provision by E. J. Jackson for any wife), upon trust for the children and grandchildren of E. J. Jackson, as he should appoint; and in default of appointment, in trust for the children of E. J. Jackson in equal shares and proportions, with benefit of accruer in case of their dying under twenty-one years of age; and in default of such children taking a vested interest, upon trust, to sell the residuary estate and invest the net produce in the purchase of stock, and stand possessed of the same upon the trusts next after declared of the residuary personal estate; and on failure of issue of E. J. Jackson, upon trust, that all the moneys, stocks, funds, &c. should be divided between the testator's said nieces, Eliza Macdougall, Ellen C. Jackson, and C. Butcher, the share of Eliza Macdougall to be held upon the like trusts as the legacy of 16,000*l.*; the share of Ellen C. Jackson, upon the like trusts as the legacy of 30,000*l.*; and the share of Caroline Butcher, upon the like trusts as the legacy of 10,000*l.* with benefit of accruer in case of failure of children.

The testator died on 15th March, 1837, and his will, with several codicils, were duly proved by his executors.

The children of Caroline Butcher filed their original bill in 1837, as being the only persons representing the inheritance and corpus of the real and personal estates (all the rest of the legatees being mere tenants for life), for the purpose of having the will administered.

Edward J. Jackson, who was a batchelor at the time of filing the original bill, married in July 1838, and upon such marriage settled a jointure upon his wife under and by virtue of the power given him under the testator's said will.

There were issue of this marriage a son and a daughter; the son, Randall Jackson, was born on the 2nd of June, 1839; and the daughter, Eliza Margaret Jackson, was born on the 25th September, 1840.

A few days after the birth of his son, E. J. Jackson executed a deed-poll or deed of appointment, dated 6th of June, 1839, whereby, reciting the will, he appointed all the testator's residuary, real, and personal estates (subject to his wife's jointure) in trust for the child, grandchild, or other issue of him, the said E. J. Jackson, in such manner and form, &c. as he, the said E. J. Jackson, at any time, and from time to time, by any deed, &c. with or without power of revocation and new appointment, might direct or appoint, and, in default of such direction or appointment, subject as therein mentioned, in trust for the said son then born, and all the after-born children of the said E. J. Jackson by his present or any after-taken wife, their heirs, executors, administrators, or assigns, as joint tenants, for their absolute use and benefit.

The plaintiffs to the original bill filed their supplemental bill in consequence of this appointment, charging that it was not a due and valid execution of the power contained in the will of the testator, and that the same did not defeat the contingent interests of the plaintiffs, as the children of Caroline Butcher, in the testator's freehold, leasehold, and personal estates, and praying that the deed-poll and assignment might be declared fraudulent and void against the plaintiffs and the other parties whose interests under the will were thereby sought to be affected.

Upon a decretal order and reference to the Master, he certified, among other things, that the said E. J. Jackson had executed an instrument or deed-poll bearing date the 6th of June, 1839, and that the said E. J. Jackson thereby executed a power of appointment, and that he executed such appointment in pursuance of the powers given by the said testator's will in respect of the residuary real and personal estate of the said testator as were thereinbefore set forth, bearing date respectively the 25th day of July, 1838, and the 6th day of June, 1839; but, save as aforesaid, the said E. J. Jackson had not executed any appointment in pursuance of such powers or either of them.

To this report the plaintiffs excepted, contending that the Master ought to have certified that the said E. J. Jackson had executed such appointment in pursuance of the powers given by the testator's will in respect of the residuary real and personal estate of the said testator as therein set forth, bearing date the 25th of July, 1838, and that, save such appointment of the 25th of July, 1838, the said E. J. Jackson had not executed any appointment in pursuance of such powers, or either of them; or that the Master ought to have certified that the said E. J. Jackson had not made any appointment in pursuance of the power given by the testator's will.

The exception came on to be argued with the cause upon further directions, and although it was heard as an exception, yet it in fact involved the whole equity of the case, namely, the validity of the appointment.

Bethel, *Hodgson*, and *Hallett*, in support of the exception, contended that the appointment by Edward F. Jackson, the tenant for life, was made when his infant son was of tender age, so that if such infant died the very next moment after such an exercise of the power, and there should be no other child, the father, as next of kin to his son, would be entitled to the whole fund, which would operate as a fraud upon the contingent interests of the plaintiffs: for, looking at the effect of the deed-poll, which was in reality an appointment to the father himself, the Court would not allow such a device to hold good in opposition to the manifest intention of the testator.

Stuart and several others appeared for the various defendants, but were not called upon to address the Court.

Cases cited: *Chadwick* v. *Doleman* (2 Vern. 528); *Hinchinbroke* v. *Seymour* (1 Bro. C. C. 395); *Cunynghame* v. *Thurlow* (1 Russ. & My. 436, *n*); *Ward* v. *Hartpole* (3 Bligh, 470); *Tankerville* v. *Coke* (Moseley, 146); *M'Queen* v. *Farquhar* (11 Ves. 478-80); Sug. on Pow. 101.

The VICE-CHANCELLOR.—Looking at the testator's will and the deed-poll of June 6, 1839, I think that Mr. Edward J. Jackson has exercised his power of appointment in a very reasonable manner, and perfectly within the limits given him by the will. If, therefore, it was competent for the testator to intrust such an authority to the appointor, it is not within the jurisdiction of the Court to restrain such an exercise of authority. Now equality I conceive to be the highest equity known to the Court; and as the father has appointed among his children in equal shares, this Court cannot determine the appointment to be improper, upon the bare suggestion that a contingency might arise, in which the appointment would ultimately turn out for the benefit of the appointor. At any rate the Court cannot declare the appointment to have been improperly made before that contingency happens. *Exception overruled.*

Saturday, March 8.

BARNACLE *v.* NIGHTINGALE.

Will—Construction—Tenant for life—Strict settlement.

A testator, by his will, gave his estates to his son A. T. for life, and from and after his decease then to the first son of the said A. T. lawfully issuing; and for default of such first issue, then to the use and behoof of the second, third, &c. and all and every other son and sons, and the heirs of his or their bodies lawfully issuing; and for default of such issue, remainder to daughters of his son A. T. and the heirs of their bodies; and for default of issue, with remainder over to J. T. another son of the testator, in like manner. Held, that the eldest son of A. T. took only a life estate.

Mr. John Taylor, the testator, of Mickleton, Gloucestershire, by his last will and testament, dated Feb. 27, 1794, devised his estates in fee-simple as follows:—"I give, devise, and bequeath all that sum of money, &c. to my son Albright Taylor for and during the term of his natural life, so that he pays all my just debts and funeral expenses and legacies hereinafter mentioned, with and out of the real and personal estate which I do hereby charge with the payment thereof; and from and after the decease of my son Albright Taylor, then *to the first son of my son Albright Taylor lawfully issuing; and for default of such first issue*, then to the use and behoof of the second, third, fourth, fifth, and all and every other son and sons, and the heirs of his or their bodies lawfully issuing; the elder always to be preferred, and to take before the younger of such sons and the heirs of his body; and for default of such issue, then to the use and behoof of all and every the daughter of the body of my son Albright Taylor, and the heirs of the body of such daughter and daughters; and for default of such issue, then I give, devise, and bequeath it to my son John Taylor, during the term of his natural life, and, after his decease, to his first son lawfully issuing; and for default of such issue, then to the use and behoof of the second, third, fourth, fifth, and all and every other son and sons he heirs of his or their bodies lawfully issuing, the elder always to be preferred and to take before the younger of such sons and the heirs of his body; and for default of such issue, then to the use and behoof of all and every daughter of the body of my son John Taylor, and the heirs of the body of such daughter and daughters; and for default of such issue, then to remain to the right male heir for ever." The testator, who died in November 1798, left his two sons, Albright Taylor and John Taylor, his only children him surviving. John Taylor, the son, died unmarried and without issue in February 1801, Albright Taylor died in August 1809, leaving several children. His eldest son, John Taylor, upon arriving at the age of twenty-one years, suffered a recovery of the property which had been so devised, and by his will gave and devised them to the plaintiffs upon trust for sale. After his decease the property was accordingly put up for sale by public auction, and bought by the defendant John Nightingale, who was the highest bidder. When, however, the abstract of title was delivered, it was objected by the defendant, among other things, that when John Taylor suffered the recovery he was only a tenant for life of the premises. The devisees in trust, therefore, filed their bill for a specific performance, when the title being referred to the Master, he reported that a good title was shewn. The defendant took exceptions to the Master's report, and the main question raised upon the argument was whether, under the will of John Taylor, the testator, in 1794, John Taylor, the son of Albright Taylor, took an estate tail or a mere life interest.

Bethel and *Rudall*, in support of the exception, contended that John Taylor, the grandson of the testator, took only a life-estate in the property so devised by his will.

Bagshave and *Daniel*, on the other side, argued that it was not the intention of the testator to exclude all the children of the eldest son of Albright Taylor, any more than the children of the other sons of Albright Taylor, for that it was clearly his intention, by the words, "and for default of such first issue," to signify in default of *issue of the first son*, so that an estate tail ought to be implied in the eldest son of Albright Taylor, as being in perfect accordance with the testator's meaning, who could not have had the slightest reason for making any distinction among the first and other sons of Albright Taylor. (*Robinson* v. *Robinson*, 2 Ves. 225.)

The VICE-CHANCELLOR admitted that it was probably a blunder on the part of the testator, who doubtless intended to limit the estates to the heirs of the body of Albright Taylor's eldest son; but as the testator had omitted to do so, the Court could not supply that omission. *Exceptions allowed.*

ROLLS COURT.

February 11 and 27.

HARNETT *v.* M'DOUGALL.

Separate use—Anticipation—Charge—Construction.

Money settled to be paid to such persons as a married woman should appoint, but so as she should not anticipate, and on default, to her to her separate use, cannot be charged.

The property of the petitioner, Mrs. Ashton, had, on her marriage with her first husband, Mr. Harnett, been vested in trustees to pay the interest, dividends, &c. to such person as she by any writ-

ing, &c. should appoint, but so as that she should not alienate the same by any assignment, charge, or other anticipation, and in default of such appointment, to her to her separate use. Mr. Harnett having died, she married Mr. Ashton, from whom she is now living apart, differences having arisen between them. Mr. Ashton instituted a suit (*Ashton* v. *M'Dougall*) respecting his wife's settlement, which lasted three years; and the suit in which the present petition was made was instituted by the infant children of Mrs. Ashton by her first husband, and the fund was brought in in it from the other suit. During the litigation in the suit of *Ashton* v *M'Dougall*, Mrs. Ashton having no means of support, incurred debts of which she had no means of payment, except out of her separate estate. She had now agreed with Mr. Flack and Mr. Vallance, to pay 30*l*. a year for the use of her creditors; and to enable her to carry out this arrangement the present petition was presented, for an order to the accountant-general to pay that sum.

Daniel, for the petitioner.—The arrangement was made on the faith of *Brown* v. *Bamford* (11 Sim. 127). The settlement consists of a power of appointment, a restriction as to anticipation, and in default of appointment, a limitation to her separate use. The case of *Brown* v. *Bamford* is in point, and it was affirmed on appeal. [The Master of the Rolls.—Under circumstances which deprive it of all its authority.] Then *Barrymore* v. *Ellis* (8 Sim. 1), and *Medley* v. *Horton* (8 Jur. July 1844), are also authorities. The case of *Moore* v. *Moore* (1 Collyer, 54) is perhaps unfavourable. All that is asked is an order which will be an authority to the accountant-general to pay the sum agreed upon in the meantime till the question is decided. If this Court, permitting a married woman to exercise the privileges of a *feme sole*, makes her liable as such, it is carrying the case too far to prevent her from having the means of obtaining credit. Lord Thurlow's object was to guard a married woman from the influence of her husband, and because separation did not effect that object, he introduced the restraint on anticipation. Where a married woman has contracted debts which are necessary to her subsistence, the alienation clause does not prevent her from arranging to pay them. [The Master of the Rolls.—She can pay them out of her own hands when she receives the money,—perhaps you would not like that?] No. If you think the object can be effected, it will be most desirable. There is 140*l*. of a windfall now in hand.

The Master of the Rolls.—The only thing I can do is to look at the cases, and consider what can be done.

Daniel.—If the order was, till further order, without prejudice.

The Master of the Rolls.—No; that would be doing the very thing.

Feb. 27.—The Master of the Rolls.—In this case the trust funds are settled to the use of such persons as Mrs. Ashton shall appoint, but so as that she shall not alienate, &c.; and in default, to her to her separate use. Mrs. Ashton having become indebted, desires to charge the fund; and this petition is presented to give effect to such charge. To make the order would be in direct opposition to all the authorities, and I must refuse to do so, except so far as the fund in hand is concerned. I have read the cases bearing on the subject, and cannot make the order as asked; but take it as to the fund in hand, and any dividend since fallen due.

Tuesday, March 4.

Hobson *v.* Shearwood.

If a decree has been obtained in a cause, and has for a long time been prevented from being worked out by the obstinate conduct of some of the defendants, the solicitor of the plaintiff is entitled to have his costs taxed, without waiting for the end of the suit; and he is also entitled to have a stop order on funds in court to the credit of the plaintiff in the cause, if another solicitor is likely to be employed by the plaintiff.

This was a petition by Thomas William Rodgers, the plaintiff's solicitor, and it asked that his bill of costs should be taxed, and for a stop order on funds standing to the credit of the plaintiff in the cause. The suit was instituted by Jonathan Cripps Hobson, for the partition of certain property, to part of which he was entitled by marriage settlement, and a decree had been made, but it could not be prosecuted by the commissioners for partition, because Elizabeth and Helen Shearwood, defendants in the cause, obstinately persisted in refusing to deliver up the title-deeds in compliance with the directions of the Court. They were committed for the contempt, and have continued ever since and are now in prison. Mr. Rodgers being desirous of having his costs paid, delivered his bill two years ago, but it was not paid. He therefore delivered a signed bill on the 7th of December last, including the costs since incurred. This bill he now asked to be taxed, and a stop order on the fund in court.

Wood, for the petition, insisted that resistance of the defendants to the carrying out of the decree was no just reason why his client should be kept out of his costs. He was also entitled to a stop order on the fund in court to the credit of the plaintiff.

The Master of the Rolls inquired whether the solicitor was changed; and, on its being stated that though he was not he probably would be, made the order as asked.

Re William Wells.

At a meeting held to complete the transfer of a mortgage, the clerk of the solicitor employed to effect the transfer presented his master's bill of costs, and on certain items being objected to as improper charges, refused to defer the payment of the bill till his master could be seen about it. The bill was then paid under protest. Held, That this was a very special circumstance in support of a petition for taxation, and that, together with receiving payment after the objections raised and the averment of overcharges, was sufficient to justify the order.

It is no objection, however, to a bill purporting to be as against the mortgagee, that some charges are therein contained with which the mortgagor is charged.

This was the petition of Elizabeth Driver, asking taxation of the bill of costs of William Wells, of Bradford, solicitor.

Mrs. Driver, as executrix of her husband, was interested in an estate he had mortgaged. The money being called in by the mortgagee, Mary Ann Lister had agreed to take a transfer of the mortgage, and Mr. Wells was applied to by the intended transferee and the representative of the mortgagor for an abstract of title, &c. At the meeting of the parties to complete the transfer, one Hodgson, the clerk of Mr. Wells, delivered his bill of costs, amounting to 19*l*. 1s. 10d. and demanded payment thereof. Mrs. Driver and her solicitor, Mr. Robinson, objected to the bill as containing items that were extravagant and unreasonable; and among the more prominent was a charge of four guineas for an abstract, which was charged for as an entirely new abstract, though it was only a copy of an old abstract then in the possession of Mr. Wells. There was also a charge of 3s. 4d. for an attendance which had never been given, and 1*l*. for serving notices on tenants, which could have been done much cheaper through the bailiff. Hodgson refused to make any abatement, and would not even allow the payment to stand over for a few days for the purpose of an interview between Mrs. Driver and Mr. Wells on the subject. The bill was accordingly paid under protest, and the present petition was presented for taxation.

Goodere, for the petitioner.—Mr. Wells does not dispute the facts as sworn to by us, so far as regards the abstract, nor that he had an old abstract at the time. The charge for attendance is sworn to by us, and that it never was had; neither is this denied. We applied to him also to moderate the charges, but he refused. Besides, he adds a great deal for business done for the mortgagor, though the bill is headed as for business done for the mortgagee. [The Master of the Rolls.—Supposing the items otherwise proper, would it be material to put a charge against the mortgagor in a bill for business done for the mortgagee? Do you desire to strike out such a charge or only to tax it?] Only to tax.

Turner, contrà.—This bill, amounting in all to 19*l*. 1s. 10d. contains only 3s. 4d. charges for attendance, and we have no objection to rectify that; but the question is whether we are to submit to taxation. The statute says that special circumstances must after payment be shewn. The objections were made, and the party nevertheless paid the bill, and the next day presents her petition. It is not shewn how much additional expense there would have been if the old abstract had been compared with the copy of it only. Now suppose the party called upon to deliver a proper abstract of the title of the mortgagor, and he does so, it is not said how much consists of the old abstract and how much of the mortgage-deed itself. This is not enough, therefore, to send the bill to be taxed. (*Smith* v. *Horlock*, 2 My. & Cr. 495; *Waters* v. *Taylor*, Id. 526.) [The Master of the Rolls.—You seem to me to pass over the most special circumstance of all, viz. that the clerk said, when asked for his master, that he could not be seen that day, and if the bill was not paid, the transfer could not be made. That was a great opportunity for oppression. Mrs. Driver asked that it should stand over for a day or two, to see Mr. Wells; so did Mr. Robinson; but the clerk would not consent. The refusal of time is a very special circumstance.] The only refusal was, that if part of the transaction must stand over, it must all stand over; that was all.

The Master of the Rolls.—Taxation must be allowed, and that on three grounds; first, because it was impracticable to examine the bill properly; secondly, because material items were objected to at the time, so that the solicitor received payment with a knowledge that there were items objected to; and thirdly, because there are apparent overcharges. There does not appear any ground for blaming the solicitor, except as regards the items specified, for the other charges seem very moderate. If I were asked to say what difference there would be between the expense of a copy of the old abstract and a new one altogether, I should be unable to determine, because I have no means of measuring it. But the circumstances which are stated are sufficient to make out the right to taxation, viz. the demand of immediate payment, and the objection of unreasonable items. There are charges against the mortgagor introduced into the mortgagee's bill; there must be a direction that that is not an objection. Probably, in the end, the petitioner, though entitled to the order, may not find the costs of taxation falling on the person she expects, as the amount both of the bill and objectionable items is so small. The taxing master may state special circumstances and reserve costs.

Turner.—We offer to take off 3*l*.

The Master of the Rolls.—That is very reasonable. *The offer was not accepted.*

VICE-CHANCELLOR KNIGHT BRUCE'S COURT.

Thursday, Feb. 20.

Re Newlands.

7 & 8 *Vict. c.* 96 —*Appeal from Commissioner—Habeas corpus.*

A B, in custody upon an execution for damages, petitioned the Insolvent Debtors Court for his discharge, and the usual vesting order was made. Being subsequently in contempt, he petitioned the Court of Bankruptcy under the 7 & 8 *Vict. c.* 96, *s.* 6, *and obtained an interim order; but upon application for his final order, the Commissioner made an order, stating the proceedings, &c. in the Insolvent Debtors' Court, and remanding him to his former custody. Held, that this order could not be reviewed upon a writ of habeas corpus.*

Quære, as to the appeal from such an order?

This was an application by a prisoner, William Newlands, upon a writ of *habeas corpus*, to be discharged from custody, under the following circumstances:—The prisoner was a defendant in an action in which the plaintiff, Mr. Holmes, obtained a verdict for damages and costs. The prisoner, upon his nonpayment, was taken in execution on the 15th of February, 1844, and on the 5th of March following, he petitioned the Insolvent Debtors Court for his discharge, and the usual vesting order was made. The prisoner, after filing his schedule, made an application to be discharged upon bail, which application was, on the 3rd of May, 1844, refused, on the ground of the opposition made by him to the broker of the court going to the prisoner's house to examine the property there. The prisoner was accordingly remanded, and he, being in contempt for disobedience to the order of the Court in refusing the broker admission to his house, the Court refused to hear him again until he had submitted. Subsequently, upon the passing of the 7 & 8 Vict. c. 96, the prisoner, not being a trader, applied to the Court of Bankruptcy under the 6th section of the Act, and obtained his discharge on an interim order for protection. On the 7th September, 1844, the prisoner applied for his final order, when the commissioner enlarged the interim order until the 4th of November following. Upon that day Mr. Holmes opposed the prisoner's application, on the ground that the insolvent was already *sub judice* and in contempt of the Insolvent Debtors Court; and Mr. Commissioner Fane having reserved his decision, made an order on the 11th of January, 1845, by which, after stating the circumstances, he remanded the prisoner to his former custody.

The prisoner now, in person, supported his application upon the writ of *habeas corpus*.

E. Cooke, for Mr. Holmes, the opposing creditor, cited *Ex parte Partington* (8 Jur. 1167), a decision by the Court of Queen's Bench, subsequently confirmed by the Court of Exchequer.

The prisoner, in reply.

The Vice-Chancellor.—I think it right to state now my present impression on this case, which will be my decision, unless I mention it again on Tuesday morning. I have great satisfaction in entirely agreeing with the opinion of the learned judges of the Court of Queen's Bench, that if, after an order of discharge, the Commissioner, upon examination, shall duly determine that the petitioner's case does not bring him within the benefit of the Act, it is in the Commissioner's power to remand him, that is, to restore him to a state of imprisonment in which he before stood, and out of which I hold him to have been temporarily, provisionally, and conditionally removed. The next question is, whether, looking at the order of remand made by Mr. Commissioner Fane, on the 11th of January, 1845, that order is *ex facie* void. It is said that the ground appearing upon the order for remand is one which the Acts of Parliament do not make a ground of remand, and that the order being founded on that reason and consideration alone, is therefore void. I am not sitting as a court of appeal from this order, and, with Lord Denman and the other judges of the Court of Queen's Bench, I abstain from expressing an opinion whether there is a court of appeal from this order. But supposing there were a court of appeal, and that I were sitting as such court, I should entertain a doubt whether such order was not erroneous; whether the ground of the order was

a sufficient ground. I am not satisfied that it is insufficient, and I am not satisfied that it is sufficient. Assuming that this is not sufficient ground, the question still remains, whether upon the return to the writ of *habeas corpus* the order can be held to be wrong for this reason alone. Considering the real nature of this jurisdiction, and considering some cases in other branches of the law supposed to furnish an analogy, I am not satisfied that the order is not *ex facie* bad; on the other hand, I am not satisfied that it is *ex facie* bad. Eight judges have decided that whether the reason given be bad or good, the order is not without the jurisdiction, and that it is not examinable unless upon appeal, and that the hearing upon the return to a writ of *habeas corpus* is not a hearing upon appeal. Now as at present advised, I only *doubt* upon the point whether there be such an error as would be cognizable by a court of appeal; but assuming there to be that error, I must then decide that the reason assigned upon the order makes the order void: to decide that I must decide against the judges of the Courts of Queen's Bench and Exchequer. I have not a strong opinion that their view is not according to law, I have only that degree of doubt which must of necessity be overruled by the opinion of the judges. Upon these grounds, therefore, I am at present disposed to say that the prisoner must be remanded, and if I continue of the same opinion, that remand must be continued.

Note. — His Honour did not mention the case again.

Wednesday, March 12.

WILDING *v.* RICHARDS.

This case, which is reported 4 Law T. 411, was again before the Court as to the trustee's claim by way of lien on account of his debt upon the interest conveyed to him.

Wigram and *Bird*, for the defendant.

The VICE-CHANCELLOR. — An instrument in favour of creditors, though in form a deed of trust or agency, may have been intended to be merely an instrument, in effect, of agency—a mere direction to a person in the position of a steward or agent, or in an analogous position, as to the mode of distributing or applying the property of the person executing the deed, without an intention of creating in any other person a right against him. It is established in such a case, that if the Court is satisfied that the intention is so, the Court will give effect to the deed as a deed of agency. I apprehend that it is not rendered necessary by those authorities that every deed in favour of creditors, though no creditor is a party, is of necessity a deed of that sort. The Court in every case must be guided by the circumstances, and I entirely agree in the observations of Lord Cottenham in *Bell* v. *Carlton*. Here there is a deed of trust created in favour of creditors, but no creditor is a party to it; the deed, therefore, may belong to one class or the other. If it is alleged to belong to the first class, I accede; but if it is contended to belong to the latter, I differ. The question, then, is, to which class does it belong. In the first place, as to value, I think there is a clear antecedent debt which formed a good and sufficient valuable consideration for the subsequent security, although the transactions were distinct. Volunt[illegible] is out of the question; if it was a deed of trust, it was one for value. It is true that the trustee or agent was the solicitor of the debtor executing the deed. It is equally established that he was also the solicitor of the creditors in whose favour the deed professes to be executed, and was so at the time. The instrument does not purport to be in favour of all the creditors or all of a particular class, but only in favour of particular specified creditors, whose debts are mentioned, and their securities are also specified. Two of the securities bear even date with the deed, and I think it would be a grievous miscarriage to say that these two are to be considered without reference to the deed. If these two are to be read, they are to be read and considered together with the deed. In one of them, the trustee or agent is himself an obligor, and there is a statement in the evidence of one witness that the security was on behalf of creditors. On the whole, my conclusion is, that this was a deed of trust, and not of agency, taken by Mr. Watson on behalf of the creditors as well as the debtor, and that it was taken for valuable consideration, and therefore I agree with [illegible] Master on the last exception.

Thursday, March 13.

SMITH *v.* HURST.

1 & 2 *Vict. c.* 110, *s.* 13—*Practice*—*Judgment*.

A motion for a receiver of real estate by a judgment creditor, whose judgment had been registered, but who had not issued a writ of elegit, refused on the ground of the judgment's not having been entered up a year previous to the motion being made.

Whether a motion could be made to restrain the parting with the legal estate, or the cutting down of timber, although the judgment had not been entered up a year previous to the motion, quære?

This was a motion for a receiver, &c. made on behalf of the plaintiff, under the following circumstances. On the 28th of Nov. 1844 an action was commenced by the plaintiffs against the defendant, Mr. Hurst, and on the 22nd January, 1845, judgment was obtained, and the writ issued and lodged with the sheriff. Padwick, however, another of the defendants, was in possession of the real and personal property, which it was desired to make available for this judgment, and the sheriff's officer was unable to gain admittance to the house. Padwick, who was also a creditor of Hurst's, claimed under a deed dated in October 1844, and the defendants, in their answer, alleged it to be a conveyance and assignment of the real and personal property of Hurst for the benefit of creditors, but the plaintiffs were unable to obtain any further information concerning it.

Wigram and *R. Palmer* contended that the deed was invalid as against the plaintiffs, and cited *Garrod* v. *Lord Lauderdale*, and *Wallwyn* v. *Coutts*.

Simpkinson and *John Evans*, for the defendant Padwick, contended that as to the real estate the plaintiffs were precluded by the 13th section of the 1 & 2 Vict. c. 110, from proceeding in equity upon their judgment until a year after the judgment had been entered up. They could not proceed under the old law without having a writ of *elegit*.

Swanston and *Goodeve*, for the defendant Hurst.

The VICE-CHANCELLOR.—I shall assist the plaintiffs as far as I can as to the personal estate. As to the real estate, the argument turns upon the meaning of the word "proceed" in the 13th section of the Act.

Wigram, in reply, referred to the 11th section of the Act.

The VICE-CHANCELLOR.—I am of opinion that I cannot interfere under the law independent of the Act of Parliament which has been mentioned, as there has been no writ of *elegit* issued. With regard to the Act of Parliament, this judgment not being a year old, by reason of the 13th clause, construing it as well as I can, I am of opinion that I cannot appoint a receiver. Whether the Court could proceed by way of injunction to restrain the parting with the legal estate or cutting down the timber, I avoid giving any opinion, which under the circumstances of this case I may properly do. With regard to the other property, it is in a different position. The *scire facias* issued binds the property. The deed is stated in such a manner, and with such circumstances, as to render it probable that it is rather a deed of agency than a deed of trust. That must be distinctly stated, and the personal estate must be placed in the hands of a receiver, or otherwise as may be thought most advisable for the protection of the property.

SUTHERLAND *v.* COOKE.

Tenant for life—*Conversion*—*Interest*.

Where no direction is given by a testator for the conversion of his property, or where from innocent mistake conversion has not been made, the rule is that the tenant for life is entitled to interest at four per cent.

In this case, which is reported 4 Law T. 192, a motion was made to vary the minutes as to the rate of interest, &c.

Whitmarsh, *Whitmarsh*, jun. *K. Parker*, *Craig*, and *Giffard*, for the several parties.

The VICE-CHANCELLOR said, that where no direction was given as to conversion, and where from innocent mistake conversion had not been made, his impression was, that it was competent to the Court to allow the tenant for life four per cent.; that was in accordance with *Howe* v. *Lord Dartmouth*, and the other cases. That was the rule, the other cases were exceptions.

JUDGES' CHAMBERS.

Wednesday, April 9.

(Before Mr. Baron ROLFE.)

REG. *v.* CONNOR.

Habeas corpus—*Coroner*.

Shortly after Mr. Baron Rolfe came to chambers, Mr. Wakley, M.P. the coroner for Middlesex, went before his lordship for the purpose of applying for a *habeas corpus* to be directed to the Sheriffs and the Governor of Newgate to bring up the body of Joseph Connor, who stands committed for the murder of Mary Brothers, in St. Giles's. It will be recollected that at the adjourned inquest, held on Saturday, both the coroner and jury refused to proceed with the inquiry unless the prisoner was before them, and the coroner then declared his determination to apply for a *habeas*.

The coroner, in pursuance of that promise, now made the application, and contended that it was essential for the ends of justice, whenever an individual stood charged with the crime of murder, that he should be brought before the coroner; not only ought he to be allowed to hear the evidence which was adduced against him, but it was essential that he should be identified, for it might happen that the evidence given might in reality refer to another person, and thus at the trial the proceedings might be rendered nugatory.

The learned JUDGE observed, that he was not aware that a *habeas corpus* had ever been granted in such a case. From what had occurred, it appeared that a person had been examined before a magistrate on a charge of murder, and upon the evidence adduced he had been committed for trial, and the authorities were bound to keep him in safe custody until a gaol delivery took place. He (Mr. Baron Rolfe) was satisfied that the judges had no power to grant a *habeas*, and it was right they should not, for it would be impossible to say what abuse of power might be made if a *habeas* should be granted. Persons in custody for very serious offences might succeed in escaping from justice if they could be brought out of prison on a writ of *habeas corpus*.

The Coroner then contended, that the accused ought to be brought before the coroner's court, and observed, in that opinion the Secretary of State fully concurred.

The learned JUDGE remarked, that if the prisoner had been improperly committed, then some such application might be made, but nothing of that sort was attempted to be shewn. The prisoner had been examined, and the evidence adduced against him in his presence was of that nature as to justify his committal. Looking at the whole of the case, he felt bound to refuse the application.

Mr. Wakley then retired.

The jury will consequently have to come to a verdict in the absence of the accused.

COMMISSIONERS' COURTS.

Friday, April 4.

(Before Mr. Commissioner HOLROYD.)

Re RICHARD DUNN.

An insolvent in custody on a judgment in an action of trespass is not entitled to his discharge upon an application made previously to his filing his petition for his interim order.

The insolvent came up in custody from the Queen's Prison, in which he had been confined for nearly four years, upon a judgment debt for "costs," brought by a Mr. Alexander, for 80*l*. His application was to be released from custody, as a preliminary step to his obtaining his interim order.

Bailey, Sir J. attended as counsel to oppose the application.

Mr. Dunn contended that his case came within the provisions of the 7 & 8 Vict. c. 96, s. 6, and also within the previous Act of 5 & 6 Vict. both Acts having for their object the release of all persons in custody for debt, provided that they had so been, before application for release from "all maunner of process," for twelve months preceding, unless such applicant was in custody for the excepted cases of—1, breaches of the revenue; 2, libel; 3, seduction; 4, criminal conversation; and 5, malicious arrest. Now he was not in custody for any of these excepted cases, and under the well-known rule of *exceptio probat regulam*, he considered himself to be entitled to his immediate discharge from custody, either in law or equity, and that the judgment had only been obtained by bad and improper practices. He was determined to bring a writ of error for its reversal, but while he was detained in custody he was prevented from effectually proceeding with it. He had no other opposing creditor but Mr. Alexander. The whole amount of his debts was 590*l*. while he had 580*l*. due to him; but the truth was that he felt himself to be an oppressed, injured, and an outraged man, and one from whom Mr. Alexander would consent to take nothing less than his "pound of flesh."

Mr. Commissioner HOLROYD.—There is a judgment against you, and I am not, upon this application, to inquire into its validity.

Bailey, Sir J.—A writ of error, your honour, has been brought by Mr. Dunn, but it has some time since been *nonpross'd*.

Mr. Dunn urged that the opposing party had no *locus standi* in this court, as, although he had obtained a judgment, it was the practice in bankruptcy to inquire into the grounds upon which such judgment had been obtained.

Mr. Commissioner HOLROYD.—I have the certificate of your gaoler that you are in custody, and your present application is not for your interim order, but that you should be discharged from custody before you file your petition for such interim order, and with notice to your detaining creditor, in order to give him the right of opposing you if he should so think proper. Under the Small Debts Act, 48 Geo. 3, c. 123, where parties had been imprisoned for twelve months for debt under 20*l*. they could successfully apply for their release; and several of the provisions of 7 & 8 Vict. are enacted in the same spirit; but you are not in custody upon a judgment for "debt," and that makes a most material difference.

Bailey, Sir J. contended that the applicant did not come within the meaning of the 7 & 8 Vict. as he was not in custody for debt, but for a false and malicious arrest, which excluded him from the benefit otherwise conferred under that Act.

Mr. Commissioner HOLROYD, having conferred with Commissioners Fonblanque and Fane, said, it was their united opinion that the insolvent was not entitled to his discharge from custody upon an application made previously to his filing his petition for his interim order. Here Mr. Dunn was in custody, not for debt but on action of trespass, and hence the benefit of the indulgence granted by the 7 & 8 Vict. could

not be extended to him. Upon application for his final order the larger question could be opened, and for that purpose he would name an early day, when he could again apply to the Court.

Ecclesiastical Courts.

COURT.

(Before Sir H. Jenner Fust.)

The office of the Judge promoted by Faulkner *v.* Litchfield and Stearn.

The Court will not confirm a faculty for the erection of a stone altar and a credence-table in a parish church, the same not being a communion-table according to the canons and the statutes.

JUDGMENT.

Sir H. J. Fust said this was an appeal from a decree of the Archdeaconry of Ely, made in favour of the churchwardens of the church of the Holy Sepulchre of Cambridge, who had obtained a faculty to repair the fabric. A grant was also extended to such other repairs as were not previously included. The Rev. Mr. Faulkner was not a party to the second faculty. On the contrary he opposed it, and the question which had arisen for the consideration of the Court was between the churchwardens and the Rev. Mr. Faulkner. The first faculty was granted on the 25th February, 1842, to "repair the fabric there, if the church were furnished with a table, in good and substantial repair, standing in the chancel of the said church, well suited and commonly used therein." When notice was given by the churchwardens of the intended re-opening of the church for divine service, and the Rev. Mr. Faulkner had seen that a stone communion-table and a stone credence-table had been erected, he declared his intention of opposing a second faculty for approving of what had been done by the churchwardens, as far as respected the stone table and credence-table. On the 29th February last year a vestry meeting was called, and a report made of what had been done under the faculty. On that day the minister took the chair, and a resolution was proposed, "That the report should be adopted; that the works had the full sanction and approval of the meeting, and that the churchwardens take measures to complete the works relative to the restoration of the church." A further resolution was proposed, returning thanks to the Camden Society, and to the Rev. Archdeacon Thorpe, for their services in restoring the church. The minister alone objected to the resolutions, and left the chair. On the 25th of March last year a further faculty was sought to confirm what had been done, as well as the report and minutes, and another vestry was called for such purposes, as well as to receive the report. Now, that faculty was opposed by the minister, otherwise the ordinary would have granted it. Mr. Faulkner gave an appearance by his proctor to oppose the confirmation of the first faculty, and the churchwardens appeared on the 25th of July before the archdeacon of the chancellor of the diocese of Ely. The result was, after hearing counsel, that a decree was directed to issue for the second faculty. From that decree a notice of an appeal was immediately given, and the case regularly argued the last term in this court. The case is somewhat a novel one, and much attention has been created in the public mind with respect to the result. The Court took time to consider the cases cited, as well as its decision. And here the Court must return its thanks to the learned civilians for the lists of cases and information received from the practitioners of the court bearing upon the subject. The intimation that the Court was desirous of such information appeared in the public prints, and it appears to have been thought that the invitation was a general one. He (the learned judge) had in consequence received many letters, some signed by name and others anonymously. The Court would refer to some of them, which were good; but among them was a copy of a sermon delivered by a clergyman, with the title of "The Restoration of Churches is the Restoration of Popery." The party who sent this forgot his duty to the Court in its administration of justice. This sermon was sent anonymously, and contained an extract from a newspaper, which the judge read and commented upon, as being in the same style. It was extremely improper that any such communication should be addressed to the Court. Its judgment could not be warped by such communications—rather the reverse. The Court had received a letter from the Rev. Mr. Faulkner, but not as the judge of this court, but as the master of Trinity Hall, Cambridge, soliciting subscriptions to pay the heavy expenses that he had incurred in carrying on the present proceedings. The Court did not think that there was on the part of Mr. Faulkner, in sending the circular, any thing tending to disrespect, or wish to forestal its opinion. The question the Court had to decide was between the churchwardens and the clergyman. With the Camden Society the Court had nothing whatever to do, except as far as regarded the works complained of, and which were carried on by voluntary subscriptions. All the works have had full approbation, with the exception of the stone altar and the credence-table. It was stated that these were innovations in the practice of the Reformed Church, for the purposes of idolatrous and heretical purposes in Popery. With the motives of the parties the Court had nothing whatever to do—it could look only to the case as submitted to it by the churchwardens and the Rev. Mr. Faulkner, without considering the motives of the Camden Society. The question to be decided was simply as to the construction to be placed on the rubric and the canons, as applied to the facts, and how the 13 & 14 Charles 2, the Act of Uniformity, and the canon of 1603, would bear upon the points raised. The Court would not go out of its way to meet particular motives, as the simple question was, as stated in the argument, Was this, or was it not, a communion-table, according to the canons and the statutes? If it was, the Court could not refuse to issue a confirmatory faculty; the Court would be bound to do so. If it was not, the Court could not confirm the faculty; indeed it would be useless to issue a faculty at all. If the canon meant that the communion-table must be of wood, and moveable, such a one as that erected in this church of the Holy Sepulchre at Cambridge could not be a legal one, within the meaning of the statutes. The Court gave credit to the churchwardens for the way in which they had acted, as also to the Rev. Mr. Faulkner for having refused to perform service, on the ground that the introduction of the stone altar and the credence-table was repugnant to the laws and canons ecclesiastic, as established in this country, and as being contrary to the tenets of the Protestant Reformed Church. The Rev. Mr. Faulkner was warranted in taking the decision of this Court upon the questions raised. What were the facts? Mr. Faulkner sets forth, "That at the time alleged, the said church, previously to the time when a faculty was obtained to repair the fabric thereof, was furnished with a table in good and substantial repair, standing in the chancel of the said church, well suited, and commonly used therein for the celebration of the Lord's Supper, and of a kind such as are generally used for that purpose in all churches of and belonging to the Established Church in this country. That in the course of repairing the fabric of the said church, but without the sanction, as he expressly alleged, of the said faculty, and without the previous knowledge and consent or approval of his said party, the vicar of the said parish church, a stone altar, or altar-table, and credence-table, such as are erected and used for idolatrous and heretical purposes in Popish churches, have been erected and set up in the chancel of the said church, in lieu of the said Lord's table of and belonging to the said church, and previously used for the celebration of the Lord's Supper thereon; the said stone altar being moreover cemented to the wall of the said chancel, and being, from its form and great weight, incapable of being moved to any other part of the said chancel or church, if required to be so at any time hereafter by proper ecclesiastical authority; and he humbly submitted that the said erection and fixing of the same is contrary, as well to the laws, canons, and constitutions of the Reformed Protestant Church, as by law established in this country, as to the rubrical directions contained and set forth in the Book of Common Prayer, published by the authority of the same; and repugnant moreover to the pure and apostolical doctrines maintained and taught by the said Church, the said article of furniture called a credence-table being, as he expressly alleged, an article of church furniture not recognized by the rubric or canons of the said Church; which also enjoin that in every church there shall be provided a decent and moveable table for the celebration of the Lord's Supper thereon, and not an altar of stone or an altar-table of stone such as has been erected in the said church, and cemented to the chancel-wall thereof. Wherefore he prayed the worshipful the judge to reject the prayer of the said Edward Litchfield and Thomas Stearn for the confirmation of the said faculty, so far as the said stone altar and credence-table are concerned, to monish them moreover to take down and remove the same, as having been wrongfully and unlawfully set up, and to provide the said church with a decent communion-table conformably to the uses and custom of the Established Church, and to condemn them in the costs of this suit." In reply, the churchwardens have averred, "that prior to the attainment of the faculty (to which they crave leave to refer, and to the minute of vestry therein recited), a table formed of wood, commonly used for the celebration of the Lord's Supper, stood in the chancel of the said church (of which the Rev. Richard Rowland Faulkner is not, as alleged, vicar, but perpetual curate); but they deny, that in lieu of the said table a stone altar or altar-table and credence-table, such as are erected and used for idolatrous and heretical purposes in Popish countries, have been placed in the said chancel; it being essential, in accordance with such restoration, and to preserve the uniformity of the internal arrangements of the said church, that a new communion-table, corresponding with such arrangements, should be provided; and from the rare architectural style of the said church, and the interest it excited among the admirers of ancient ecclesiastical architecture, and from the desire for the preservation, as far as practicable, of the character and harmony of the edifice, and the carrying out of the terms of the before-mentioned faculty, a private contributor to the funds for the restoration of the said church presented, as a free gift to the said parish, a new stone communion-table, corresponding in design with the interior arrangements of the said church, and also a table (usually termed a credence-table) for the reception of the bread and wine about to be used in the celebration of the Holy Communion prior to the consecration of the same, and such gifts were thankfully accepted by the churchwardens and parishioners, and the said tables were thereupon (in accordance with the ancient design of the fabric) placed in the said chancel; but they, the said churchwardens, deny that such tables were placed in the said chancel without the sanction of the said faculty, or without the previous knowledge of the said perpetual curate (whose consent and approval they deny to be necessary)." The learned judge referred to the contents of the other remaining pleas, but no detail of them is necessary here except to state that the rev. gentleman did protest against the proceedings of the churchwardens, and that the Round Church was consecrated in 850, and that in 1550 the altar was removed. The churchwardens had invited inspection by competent authorities, as they alleged that the erection of the stone table was not cemented to the walls of the chancel of the church. It was, however, sworn by Messrs. Clayton, stonemasons, that the three upright stones and the slab were cemented to the wall. These affidavits were made on the 12th of June, 1844. There may (the learned judge said) have been some alteration made since; but it would make no difference if the cement to the uprights had been removed. If, however, the table is imbedded in concrete, it made no difference, and the course of proceeding by removing the adhesion was not exactly fair to the Court. Under the Popish law it was imperative that the altar should be fixed to the wall of the chancel. Looking to the plan at first, there did not appear to be any intention of raising such an erection as that now formed, and therefore, as Mr. Faulkner said, it was an afterthought, in consequence of a liberal offer by a party to defray the expense of an altar and credence table more in conformity with the renovated appearance of the church. That the offer was made to the churchwardens from the purest motives the Court could not doubt, and the churchwardens, in accepting the offer, were equally perhaps blameless in so doing. The old communion-table had, it appears, been broken up; but the question came back to this point: Was the erection of a stone communion-table, not moveable, and a credence-table, in conformity with the Act of Parliament and the Rubrics? The conduct of the individuals has nothing to do with the judgment of the question, which is one of principle, and by which all the churches of the kingdom might be affected. The great principle by which the Court must be guided would be the Acts establishing uniformity in the church service. It had been cited that there were three or more ancient churches of this country with similar erections. The Temple Church, recently renovated, had had no such alteration like that in the church of the Holy Sepulchre, at Cambridge. But the Court would dismiss this part of the case, as far as respects other churches; neither could it consider a point raised in argument, that the expenses in this case would be a bar to any such erections as the present in future. The Court must consider that its decision in this case, if confirmatory of the faculty, might hereafter affect similar erections in all the churches of the country. The Court must decide the question by the construction of the rubrics, the canons, and the Act of Uniformity, according to the general and popular interpretation of the Acts of Parliament, which had been upheld, with a slight interval, since the earliest period of the Reformation. What, then, was the difference between an altar and a communion-table? What were the fittings up of the church before the Reformation? All knew that the Church of Rome held the doctrine of transubstantiation. It was upon this point that the two churches most materially differed from each other, and that the Reformed Church changed the altars fixed of stone, where sacrifices were made by the Roman Catholics, to a table. Even in cases where the altars had been removed, they had to be fresh consecrated by the Catholic bishops before the sacrifices of their religion could again be performed upon them. It was not necessary that the Court should come to a conclusion that an erection must be immoveable to constitute an altar. All it had to decide was, if this was, or was not, a communion-table according to the rubric? Since the Reformation, what had been the changes made in these tables? In the arguments reference had been made to Cardinal Bona, who gave the origin of altars from the earliest period. This authority traced their existence to the most remote times—that they were consecrated for offerings so early as 509. There were some of wood as well as of stone; but the doctrine of transubstantiation was not then general—indeed, not till the ninth or perhaps the tenth century. Moveable altars were

only used while the people were on journeys; they were the exception to the general rule that altars should be fixed and immoveable, as laid down by the authorities of the Roman Catholic Church. Another author in the same Church gives the mode in which the altars were to be built. It was on the authority of these two eminent writers that the Court, with others, came to the conclusion that the altars were fixed and of stone. It was in consequence of the death of the martyrs, that the form of a tomb, open in front, was first used for sacrifices, and such continued to be the case up to the time of the Reformation, when all those structures were removed, so that superstitious ideas might no longer exist in the minds of the people, such as the doctrine of transubstantiation, &c. This was done at the time of Henry VIII. It was true that mass continued to be performed till the 2nd or 3rd of Edward VI. or about the year 1549. The word "altar" continued to be made use of in the Prayer Book long after. In the second Prayer Book of Edward VI. a very great alteration was made. The words "holy mass" were left out, and the "holy communion" substituted. In 1552, the communion-table stood either in the body of the church or in the chancel. Before that period it was fixed and immoveable. In the book of 1552, the priest was ordered to stand by the side of the table. In the earlier Prayer Books he was directed to stand in front of the "altar." Then, again, the bread used at the sacrament by the later books was to be the same "as were usually eaten with meats." This threw a very important light on the question the Court had to decide, as in the second Prayer Book the word "table" is used for that of altar. A long time had elapsed, it is true, before the alteration was made—from 1549 to 1552; but an order had been issued to destroy altars, images, &c. In 1555, Bishop Ridley, in his visit to his diocese, issued an admonition, in which the "Lord's Board" was used, instead of the "altar." The Court referred to the "Documentary Annals," and to many other ancient and modern authorities, as strengthening him in the opinion that the communion-table must be of wood, and moveable. In 1550, an order in council was sent to every bishop to pluck down every altar, and "that a 'table' be set up for the performance of the service of the blessed communion," so as to remove from the minds of the people superstitious ideas. From 1550 to the present time, with a short interval, the table had been used instead of the altar. This alteration by Edward VI. was most important to be borne in mind, as assisting the Court in coming to a decision on the present suit. The table must be a moveable one. The Court held this to be a point most perfectly established. From the time of Edward VI., the reign of Philip and Mary excepted, the altars had been removed. In 1558, Queen Elizabeth gave orders for the removal of the altars raised in the reign of Mary, on the ground that they encouraged superstitions. Something must have been intended by the issuing of those orders to remove those altars. In 1559 there was a further order issued by Queen Elizabeth upon the same subject, and for substituting the holy communion for the high mass, as directed by Edward VI. In the following year, Queen Elizabeth being informed that there were still some altars up, ordered that one uniform practice should exist in removing them. The Court said, it should be remarked that, in the 1st of Mary, the altars were directed to be re-erected. It was quite clear, therefore, what was intended by the 2nd of Elizabeth. By the order in council issued by Queen Elizabeth, all ministers were enjoined not to have the altars pulled down without their consent, as the rabble had broken in some of the churches and destroyed them. But when removed, it was charged, "Let the 'holy table' be decently laid and placed where the altar formerly stood." The interpretation of the "Injunctions" drawn up by the archbishops and bishops fully warranted the Court in the opinion that the communion-table must be a moveable one, and not one of stone. In 1569, Archbishop Parker issued to the clergy inquiries, such as "Have you a decent table?" "Has the altar been taken down?" according to the Queen's injunctions? The Court was seeking to establish that the altar was abolished and wooden tables substituted. Whether this was or was not by Act of Parliament was not the question. In the State Trials in Charles the First's time the Court saw grounds, from the expressions of Bishop Laud, for its decision. In 1571 Archbishop Pringle issued injunctions that all altars should be pulled down. In 1576 it was enjoined on the clergy to take down the altars to the very foundations, and that a decent "table" should be provided for the performance of the holy communion. The "Injunctions" of the 2nd of Queen Elizabeth were followed up by a visitation from two commissioners referred to in Stripe's Reports in 1559, and soon after which the altars and the images were pulled down in St. Paul's and in Westminster Abbey, and "decent tables" provided. It was argued that Queen Elizabeth had kept the image of our Saviour in her chamber. The Court must look to her public, not her private acts. In 1571 there were certain canons and constitutions ecclesiastic issued to which the attention must be directed—at least the most important one. The canon 82 is now in force, and it as follows:—It is headed "A Decent Communion Table in every Church." "Whereas we have no doubt but that in all churches within the realms of England convenient and decent tables are provided and placed for the celebration of the holy communion &c." (The remainder need not be quoted, as it does not immediately apply to the question at issue.) The Court commented upon the contents of the canon and upon the mode in which the sacrament, &c. was performed, as supporting him in the decision of the case. The Court now approached a period which is considered of the greatest importance, the reign of Charles I. when it was well known a faction existed in the two parties of the Church, which were called the High and Low Church, and when the most painful events occurred. Lord Clarendon, in his History p. 95, and a few following pages, refers to the subject of the communion-table. This History was printed 1702, at Oxford, and the Court cited from the octavo volume. The extract stated that when Archbishop Laud became acquainted of the want of care by the clergy of the churches, as well as by the churchwardens, he expressed a strong desire to cleanse them, in aided by the bishops (and a most praiseworthy object it was). Bishop Abbott was of the low party. On the removal of the communion-table (the History states) into the chancel of the church of his diocese, it was found in a very bad condition, and a new one ordered, as well as books. The learned judge remarked that he had quoted the passage from Lord Clarendon's History, to shew that the table was clearly a moveable one; and there were other authorities which fully confirmed this fact—viz. from a pamphlet called "The Holy Table a name and thing," &c. A great number of discussions took place about this time respecting the mode in which the service ought to be performed; but in all the publications the word "table" was used, and that it was moveable. The Bishop of Lincoln, in a letter he wrote, gave directions where ministers should stand at the "table." In another letter on the table, it is enjoined by the bishop that the "table" should be "a fair joined table," pursuant to the 82nd canon. All these facts led to the decision the Court ought to come to. The bishop enjoined to one of his clergymen that he should not set a stone altar at his own expense; and, also, where the clergy should stand at the side of the "table." Upon another occasion he stated "an altar was to sacrifice upon, but a table was to eat upon." Again that the "table" should be placed where the morning and evening prayers are read The Court had read this letter to a greater extent than it would have done, but that it was rather difficult to be got. From a communication the Court had received, it had reason to believe that the original of this letter of the Bishop of Lincoln was to be found in MS. in the British Museum. It was published in a tract some time after the discussion took place in 1637. The point in the letter turned on the question of the removal of the table, and it shewed further that the "Injunctions" issued so many years previously had been complied with. This letter was replied to in the same year as to the right position the table should be placed in, as well as another by Dr. Pocklington; others in 1641, &c. Not a question was raised in the many pamphlets which touched the question as to what the table should be composed of, but as to the place in which it should stand. The Court was, therefore, confirmed in the view it must take of the question. There were churches, however, in which altars existed of stone. There was no alteration made in the Prayer Book till the time of the Reformation. In the course of the arguments, the State Trials, 1st edit. p. 393, had been adverted to. In 1632, the Recorder of Salisbury was tried for damaging the church, and in the course of the proceedings Bishop Laud stated, that the churchwardens should obtain "a fair joined" table for the celebration of the service of the communion. In the 13th Charles I. a trial took place for innovations in the performance of divine service, when Bishop Laud had said that the tables had, ever since the Reformation, stood at the upper head of the chancel and altarwise. There cannot be a doubt that it was intended by the "Injunctions" that the table should be moveable. In the year 1633 there was a great dispute in the parish of Crayford as to where was the most proper place in which the communion-table should stand, and it was referred to Bishop Laud, and he decided it should be placed at the upper head of the chancel. In 1633 an order in council was issued to give directions to the parish of St. Gregory; it was stated that it was in the discretion of the minister to place the table, and "how long" it might so remain. The Court cited this order in council and other learned authorities on this part of the case. The arguments all appear in favour of the adherence to the "Injunctions of Edward VI. confirmed by Elizabeth, &c." Could this altar be considered a table? It was the very object of the "Injunctions" to do away with all superstitious forms. The table must be of wood, and a moveable one. Then what was the next question? Did the rubric of 1662 admit of any variation? The word altar does not appear in the rubric or in the text-books. In the performance of the service according to the rubric, a table must be provided with a fair linen cloth, to stand in the body of the church, or in the chancel of the church. Was it the intention of Charles II. to make any variation? In the sacramental service, to take away all superstitions, it was ordered that the bread to be used should be the same as that which is usually eaten. There was no intention in any way to revive superstitious feelings by the mode in which the sacrament was taken by the "Injunctions." An ingenious argument had been addressed to the Court, that any thing on which a plate stood was a table, and that a stone, resting as the model before the Court did, must be a table. The Court did not hold the model to be a table in the meaning of the "Injunctions," which have for so long a period been complied with. After referring to the various minor points brought forward in argument, the Court remarked that the learned civilian who advised the churchwardens in the suit, knew well that they could not have asked for a faculty to erect an altar. He well knew what the fate of such an application would have been. What the ornaments of a church should be is explicitly stated. It was asked why stone fonts were used, and stone tables disallowed? The reason was that superstitions were engendered and perpetuated by using stone altars, while the same remark did not apply to a stone font. Then as to the expenses of such a suit as this—that they will be so great as to prevent such suits for the future. The Court was not satisfied upon this point, as there may be other equally liberal men as the party who had advanced the means for erecting the altar and credence-table in this case. The Court could not possbly hold this to be a communion-table, and it must, most certainly, be fully satisfied that it was so before it could grant a faculty confirming the decision of the court below respecting it. The learned judge refused to allow the faculty to issue. The next point was as to the credence-table. The Court had not had any information to be depended upon as to the period when credence-tables were introduced into churches. They were in use at the time of Bishop Laud, as he mentions having used them. According to a German authority, they are said to have been used as a sort of sideboard, or buffet, to receive the elements of the service before its performance. In the Greek and Latin churches they were used as tables of preparation. Most authors disagree as to where the credence-table ought to be placed. The ancient fathers held that there ought to be but one table used in the service. The learned judge cited numerous authorities from the old Greek and Latin writers, as well as commentaries upon them, upon this branch of the subject. There was a credence-table in a church consecrated by the Bishop of Bangor in 1843; of course, therefore, of recent erection. There was also another in a church consecrated by the Archbishop of Canterbury. The Court might have done so itself; but if so it must take blame for the act. But, after mature consideration, the Court must hold that the credence-table must follow the stone table. This is the first time the Court has been called upon to decide if such an erection as this was a communion-table, and the Court must refuse to let the faculty go, and the churchwardens must be left to act for themselves. The table was similar to an altar for sacrifice, precisely like that mentioned by Bona, upon which the prayers were said for the martyrs. The Court is bound to pronounce for the appeal. The Court would, if possible, aid the churchwardens by directing faculty to go, subject to some alterations. There was another question to decide, namely—that as to costs. The archdeacon was first put in motion, and the Rev. Mr. Faulkner had appealed, and had succeeded in his appeal. The Court was, therefore, bound to pronounce that Mr. Faulkner was entitled to his costs.

Circuit Reports.

SPRING ASSIZES.

WESTERN CIRCUIT.

Taunton, Tuesday, April 1.

(Before Mr. Justice Coleridge.)

Reg. v. Mary Buncombe.

Husband and wife—Robbery.

Quære, can a femme covert be convicted of robbery if her husband were present at the committing of the crime?

Prisoner was indicted for assaulting and robbing W. Boley.

Marshman stated the case for the prosecution, from which it appeared that the offence was committed by the prisoner in the presence of her husband, who had absconded.

Coleridge, J.—Can you proceed with this case? If the offence was committed in the presence of her husband, how can she be liable?

Marshman contended that a wife is liable for an offence committed in the presence of her husband where violence is used: citing the following passage from Russell on Crimes, vol. 1, p. 16, in reference to a *femme covert.* "And if she commit a theft of her own voluntary act, or by the bare command of her husband, or be guilty of treason, murder, or robbery

in company with or by coercion of her husband, she ... le as if she were sole."

Coleridge, J.—On such an authority the case must proceed. But if the prisoner be convicted, I shall reserve the point for the consideration of the Judges.

The prisoner, however, was found *Not Guilty.*

Taunton, Thursday, April 3.

Reg. v. Eli Andrews and George Payne.

Evidence—Accomplice.

The confirmation of the evidence of an accomplice against one of two prisoners jointly indicted is sufficient. Sed quære?

The Court has no right to withdraw the evidence of an accomplice, even though unconfirmed, from the consideration of the jury.

The prisoners were indicted for burglary.

The facts were proved by an accomplice. Having detailed the manner in which the entry had been made, and the property carried off, he proved that the prisoners first took the goods to the house of Andrews, where they divided the spoil; Payne then carried his share to his own house, and hid it in an outhouse.

The confirmatory evidence against Andrews was, that he was seen in a public-house about seven o'clock with the prisoner Payne, the accomplice, and others; as against Payne, that some of the goods were found in his house.

Edwards, for the prisoners, submitted that the evidence of the accomplice as against Andrews was not confirmed in some material particular, shewing *his* connection with the transaction.

Coleridge, J.—I do not think it necessary that there should be a confirmation as to each of the prisoners; a confirmation as to one would be sufficient.

Edwards cited *Rex* v. *Willes* (2 Russell on Crimes, 964), and other cases.

Coleridge, J.—It is a question for the jury. I think it right to say that in my opinion the necessity for the confirmation of an accomplice has been stated too strongly in some of the cases. I do not wish it to be understood that I am overruling any of the decided cases; but it appears to me that even the testimony of an accomplice, though entirely unconfirmed, must go to the jury, accompanied, of course, by such recommendations as the judge in such case would feel it his duty to make. If a witness be admissible at all, I have no right to withdraw his testimony from the consideration of the jury, and the law having admitted the evidence of an accomplice, it is the province of the jury to determine its value.

Hadow, for the prosecution.

Edwards, for the prisoner. *Guilty.*

SOMERSET SPRING ASSIZES, 1845.

Exeter, Saturday, March 22.

(Before Mr. Justice Erle.)

Reg. v. John Haydon.

Murder by poison.

The term "deadly poison" in an indictment for murder need not be strictly proved. The word "deadly" is surplusage, and it will be sufficient to shew that the substance administered is capable of destroying life, without shewing it to be what is usually called "deadly."

The prisoner was indicted for the murder of an infant child, by administering to her a certain deadly poison, called spirit of hartshorn, with intent, &c. *well knowing the said spirits of hartshorn to be a deadly poison.*

It was proved by the medical men and the apothecary, that spirits of hartshorn was not sold in the shops as a poison, nor was it treated of as a poison in medical books. They should certainly *not* term it a *deadly* poison; and it was further proved that it was commonly bought and taken by the people of the neighbourhood for bodily ailments.

Cox, for the prisoner, submitted that spirits of hartshorn was not a *deadly* poison, and therefore that the evidence did not sustain the indictment, which charged not only that it *was* a deadly poison, but that the prisoner *knew* it to be a *deadly poison.* He cited from *Taylor's Medical Jurisprudence*, p. 4, a case which occurred on the Norfolk Spring Circuit, in 1836, in which the point was raised, but not decided. He contended that the term *deadly* must have some definite meaning. It could not be construed to apply to every thing that, taken in excess, would destroy life. For instance, new bread, eaten largely, in some circumstances would produce death, but it could not be described as a deadly poison. What, then, was meant by the term? He would suggest that it was applicable only to those substances which are poisons in the common understanding of the term, and which by apothecaries and medical men would be described as such.

Erle, J.—The word "deadly" appears to me to be used merely in pursuance of an ancient form, and not to be essential to the validity of the indictment. It would be sufficient to describe it simply as a poison, and under that term would fall any thing calculated to destroy life. Substances harmless in themselves might become poisons by the time or manner of their administration. This seems to me the view most accordant with common sense, and therefore I hold this indictment to be good, even though it describes spirit of hartshorn as a *deadly poison.*

Not guilty.

Tyrrell and *Kekewich* for the prosecution.

Cox for the prisoner.

Irish Report.

MUNSTER CIRCUIT.

LIMERICK COUNTY ASSIZES.

Friday, March 7.

CROWN SIDE.

(Before the Honourable Mr. Justice Jackson.)

Reg. v. O'Brien.

The testimony of a deaf and dumb person, who although intelligent and capable of communicating and receiving information by signs, yet cannot be made to understand clearly the nature and obligation of an oath—Held, to be inadmissible.

The prisoner was indicted for the murder of Thomas Mac Namara, by striking him a blow upon the back of the head, of which he died. The evidence, which was chiefly of a circumstantial nature, went to shew that the prisoner struck the deceased a blow upon the head with a spade, while they were both in a turf-bog, in which several persons were at the time occupied in drawing turf.

Catharine Heany, one of the witnesses for the Crown, deposed to having seen the prisoner and the deceased together upon the day named in the indictment on the bog, the prisoner having a spade in his hand; that she then lost sight of them behind a stack of turf for a short time, when she saw the prisoner going away towards his house with the spade in his hand, and shortly after she perceived MacNamara lying dead and bleeding from a wound in his head. The witness also stated, that her sister was with her both at the time she saw the prisoner and MacNamara together, and also when she afterwards saw his dead body.

It was then proposed by the Crown to examine Bridget Heany, who, it appeared, was deaf and dumb, and had been so from an early period of her life; Catharine Heany stated that her sister could make herself understood by signs, and that she (Catharine) understood them, and could make her understand her questions, and that she (Bridget) would speak the truth. That she had ideas of religion, and that she used to attend the duties of the Roman Catholic religion, and that the former priest of her parish could understand her and communicate with her by signs. Catharine Heany was then directed to administer to her sister the oath, which was repeated by the Clerk of the Crown; upon which she made several very curious signs to the deaf and dumb witness, not, however, employing the well-known finger alphabet by which deaf and dumb persons are able to hold conversation.

Coppinger, for the prisoner, desired to know what was the precise meaning of the signs and gestures used.

Catharine Heany stated, that they meant that if the witness did not tell the truth "the priest would kill her," and she stated that she had no doubt that the witness would tell the truth; but it appeared that the precise terms and nature of the oath could not be conveyed to the witness, upon which,

Coppinger, under these circumstances, objected to her testimony being received; it did not appear that the witness could clearly understand the nature of an oath.

Jackson, J.—The counsel for the Crown have done their duty in producing this witness, but I do not think that she can, with propriety, be examined.

The witness was then withdrawn.

For the Crown *Bennett*, Q. C. *Keller*, Q. C. and *M'Dermott.*

For the prisoner, *Coppinger.*

CENTRAL CRIMINAL COURT.

JANUARY SESSION.

Jan. 9.

Reg. v. Bateman.

Where a party receives a blank cheque signed, with directions to fill in a certain amount and to appropriate the instrument to a certain purpose, and he fraudulently fills in a different amount, and devotes the cheque to other purposes, he commits forgery.

But to sustain the charge, it is essential to negative every fact from which an authority to act as he has done might be presumed.

The prisoner was indicted for forgery under the following circumstances. He was clerk to Messrs. Sewell and Cross, and had been in the habit of getting blank cheques signed by the firm, and filling in the amount himself, to meet demands upon them. It was proved that on a certain day he brought the cheque in question to one of the partners and requested him to sign it, stating at the time that he had been told by Mr. Sewell to pay certain rent which was due from Mr. Sewell to a Mr. Gardiner, but that the amount was not ascertained. The cheque when completed was as follows:—

"No. 7476. London, Dec. 18th, 1844.

"London and Westminster Bank. Pay to 1238 or bearer 100*l.* "Sewell and Co."

At the bottom was written "pay in notes;" but neither this memorandum, nor the date, nor the amount was filled in when it was signed. The words "and Co." were across the cheque originally. The name of the firm was written by the partner above mentioned, who stated that he never gave the prisoner any authority to receive cash for the cheque or to appropriate it otherwise than for the rent.

Clarkson, for the prosecution, opened the case as clearly one of forgery. That where a party had authority to fill up cheques under certain circumstances, and with certain limitations, and he chose to do so for purposes of his own, and quite beside such authority (which he was in a condition to prove was the case in the present instance), the offence was undoubtedly committed.

Before the evidence was gone into, *Ballantine* and *Wilkins*, for the prisoner, suggested that as there would be no question made as to the facts, it might be convenient at once to discuss the law of the case.

Erle, J.—We cannot in a criminal case take anything as admitted, and therefore the evidence must be gone into.

In addition to the testimony given by the partner above referred to, it was then proved that the amount of the cheque had been received by the prisoner; and the notes were traced to the possession of parties to whom the prisoner had paid them on account of certain gaming debts of his own. It was admitted by the prosecution that the rent due to Mr. Gardiner was much larger in amount than the sum for which the cheque was filled up. Neither Mr. Sewell nor Mr. Gardiner was called.

Ballantine, on the case for the prosecution being closed, contended that there was no evidence to sustain a charge of forgery. How could a party be charged with forging an instrument which he had a lawful authority to make. Admitting that such authority was limited, still in this instance it had not been exercised to its full extent; inasmuch as the amount actually filled in was less than he was permitted to insert. Of what part then of the cheque could the forgery be asserted. It is true that there might be a subsequent misappropriation of the proceeds, but that could not be adduced in support of the present charge, although it might be available under a different one. It is necessary to look to the precise period when the cheque was completed, and if the prisoner had authority at that time to act as he did, no subsequent conduct could make that a forgery which was not one in the first instance. Again, the evidence of Mr. Sewell and of Mr. Gardiner is absolutely essential to the support of any charge at all. We know nothing of what were Mr. Sewell's directions to the prisoner, except as far as he himself stated them to one member of the firm, and that statement is not at all inconsistent with his having implicitly obeyed his instructions in appropriating the money as he has done. Neither can the jury be satisfied in Mr. Gardiner's absence that the rent has not in fact been paid.

Erle, J. to Mr. Clarkson.—Without now expressing an opinion upon this point, I will ask you whether you are content to rest the case where it is, without calling these gentlemen?

Clarkson.—I have sent for them, my lord, and expect them here every moment.

Erle, J.—I will wait them a short time for the chance of their arrival.

The witnesses however did not arrive.

Erle, J. observed.—I think the prisoner must be acquitted. It is clear that he had authority to fill up the cheque in some way or another; that was an authority derived from Mr. Sewell, and there is no evidence to shew that his directions were not to get a blank cheque filled up for 100*l.* and appropriate it as this has been. Moreover it should have been shewn that Mr. Gardiner did not authorize him to receive the money. He might, for any thing that appears in the evidence, have gone to that gentleman, have tendered him the cheque, and got it subsequently cashed by his directions. On this ground, therefore, the charge fails. But as some doubt appears to exist as to the law in cases of this sort, it is my duty to state, that I look upon the principle as laid down by the prosecution to be perfectly correct. If a cheque is given to a person with a certain authority, the agent is confined strictly within the limits of that authority, and if he choose to alter it, the crime of forgery is committed. If the blank cheque was delivered to him with a limited authority to complete it, and he filled it up with an amount different from the one he was directed to insert; and if after the authority was at end, he filled it up with any amount whatever, that too would be clearly forgery.

Patteson, J.—I quite agree with my learned brother that if the prisoner filled up the cheque with a different amount, and for different purposes than those which his authority warranted, the crime of forgery would be undoubtedly made out.

THE LEGISLATOR.

Summary.

Parliament has sanctioned the repeal (the auction duty, and thereby relieved th sellers of property from that which wa practically rather a vexation and an imped ment than a burden, for evasion was so eas that few large properties really paid the ta intended to be imposed upon them. Th Lord Chancellor has laid his Charitable Trust Bill on the table of the House of Lords. W shall give to its provisions the attention thei importance demands.

Imperial Parliament.

PRIVATE BUSINESS TRANSACTED.

BILLS READ A FIRST TIME.

Friday, April 4.

Castle-hill Dock.
Cromer Protection.
Liverpool and Bury Railway.
Lyme Regis Improvement.
Southampton and Dorchester Railway.
Dunstable, London, and Birmingham Railway.
Totness Market and Waterworks.

Monday, April 7.

Northumberland Railway.
Spond, &c. Enclosure.
Ely and Huntingdon Railway.
Clifton Bridge.
Lynn and Dereham Railway.
Wilts, Somerset, and Weymouth Railway.
Direct London and Portsmouth Railway.

Tuesday, April 8.

Coventry, Bedworth, and Nuneaton Railway.
Edinburgh and Northern Railway.

Wednesday, April 9.

Brighton and Chichester Railway.
Scottish Midland Junction Railway.

Thursday, April 10.

Dublin and Belfast Junction Railway.
Preston-on-Wyre Railway Branches.
Grand Junction Railway.
Chester and Holyhead Railway (No. 2).
Exeter and Crediton Railway.
Monmouth and Hereford Railway.
Runcorne and Preston Brook Railway and Docks.
Dublin Pipe Water.

BILLS READ A SECOND TIME.

Friday, April 4.

Dublin and Drogheda Railway.
Newcastle-on-Tyne Coal.
Glasgow and Shottes Road.
Yoker Road.
Shaw's Waterworks.
Calton and Bridgetown Police.
Bridgetown Municipal and Police.
Blackburn Waterworks.
St. Helen's Canal and Railway.
St. Helen's Improvement.
Wolverhampton Waterworks.
Dundalk and Enniskillen Railway.
Waterford and Kilkenny Railway.
Stokenchurch Road.
Glasgow Bridge.
Lowestoft Railway and the Bar.
Stoke upon-Trent Market.

Monday, April 7.

Cornwall Railway.
Glossop Gas.
Crediton Small Debts.
Greenwich Colliery Railway.
North Woolwich Railway.
Andersten Municipal and Police.
Eastern Union Railway.
Shepley, Lanehead, and Barnsley Road.
Great Southern and Western Railway (Ireland).

Tuesday, April 8.

Rye and Tenterden Railway.
Horrogate and Ripon Junction Railway.
Belfast Improvement.
Wear Valley Railway.
Manchester, Bury, and Rossendale Railway.
Blackburn, Darwen, and Bolton Railway.
Bedford, London, and Birmingham Railway.
Glasgow Police.
Middlesborough and Redcar Railway.
Oxford, Worcester, and Wolverhampton Railway.
Huddersfield Water Works.

Wednesday, April 9.

Erewash Valley Railway.
Keyingham Drainage.
Battersea Poor.

Thursday, April 10.

Taunton Gas.

BILLS READ A THIRD TIME AND PASSED.

Friday, April 4.

Sparrows Herne Road.

Thursday, April 10.

Thames Navigation Debt.

PUBLIC BUSINESS TRANSACTED.

BILLS READ A FIRST TIME.

Friday, April 4.

Marine Mutiny Bill.

Wednesday, April 9.

Auction Duties Repeal.

Thursday, April 10.

Statute Labour (Scotland).

BILLS READ A SECOND TIME.

Friday, April 4.

Glass Excise Duty.

Tuesday, April 8.

Sugar Duties.

Wednesday, April 9.

Field Gardens Bill.

BILLS READ A THIRD TIME AND P

Wednesday, April 9.

Public Museums.
Glass Excise Duty.

Thursday, April 10.

Marine Mutiny.

PAPERS

Par. Num.
163. Hafod Estate—Return.
180. Bank of England—Return.
181. Classification of Railway Bills—Second Report of Committee.
171. Ecclesiastical Commission—Returns.
175. Expiring Laws—Report.
184. Copper—Returns.
117. Railways (Metropolitan Division)—Map.
187. Palm Oil—Account.
190. Mazzini, M.—Copies and Extracts of Despatches.
188. Bills—Glass (Excise Duty).
189. - Maynooth College (Ireland).
182. - Public Museums, &c. (amended).
Mazzini, M.—Copies and Extracts of Despatches.
Duchies of Cornwall and Lancaster—Account.
Health of Towns—Appendix to Second Report (Part 2)
172. Railways (Portsmouth Division)—Map.
186. Newspaper Stamps—Return.
141. Pawnbrokers (Ireland)—Return.
Harbours of Refuge—Report of Commissioners.
192. Annuities—Return.
193. Falkland Islands—Return.
194. Classification of Railway Bills—Third Report of Committee.
170. Union Workhouses (Ireland)—Paper.
185. Butter—Account.
191. Oxford and Cambridge Universities—Returns.
195. Classification of Railway Bills—Fourth Report of Committee.
196. University of London—Returns.
197. Bill—Sugar (Excise Duties).

PARLIAMENTARY PAPERS.

Attorneys' Certificates.—A retur[n] of certificates annually taken out by Attorneys [and] Solicitors practising in England and Wales, from the [firs]t day of Easter Term 1833 to the present time; and th[e] [gro]ss annual amount of stamp duties paid during those peri[ods] [u]pon such certificates, in continuation of Parliamentary P[aper] No. 329, of session 1833, gives the following results:—

Easter Term 1833 to Easter Term	9,450	,19
Easter Term 1834 to Easter Term 33.	9,449	65
Easter Term 1835 to Easter Term 136	9,713	5
Easter Term 1836 to Easter Term 137.	9,719	8..9
Easter Term 1837 to Easter Term 138.	9,735	218
Easter Term 1838 to Easter Term 139.	9,573	586
Easter Term 1839 to Easter Term 140.	9,909	224
Easter Term 1840 to Easter Term 41.	9,033	924
Easter Term 1841 to Easter Term 42	9,073	651
Easter Term 1842 to Easter Term 143	9,098	153
Easter Term 1843 to Easter Term ...	9,184	176
Easter Term 1844 to the 6... of Ma[r]ch 10, ... 45. TE	9,120	122

Malt, Hops, and Brewers.—Since the adjournment of the House for the Easter holidays there as been rather a paucity of Parliamentary papers; ne, however, came to hand on Saturday purporting o contain a series of accounts relating to hops and malt, and the number of persons licensed as brewers, ictuallers, &c. for the year 1843-44. It is printed in ursuance of a motion made by Mr. Alderman Humhery, M.P. for Southwark, and ex-Lord Mayor of ondon. It appears, firstly, that the total number f acres in land in Great Britain under the cultivaion of hops in the year 1844 amounted to 44,485 7-80ths, of which 9,001 lay in the collection of parishes in the district of Canterbury, 1,551 in the colection of Hants, 6,538 in that of Hereford, 1,134 in he Isle of Wight, 13,474 in the collection of Rocheser, 9,928½ in that of Sussex, and 1,252 in that of Vorcester. The gross total amount of the duty on ops of the growth of the year 1844 amounted to 56,240*l.* 15*s.* 2*d.*; the old duty, at 1 12-20d. per lb. aving realized 140,322*l.*; and the new duty, at 8-20d. per lb. 103,716*l.* From the additional duty 5 per cent. under the Act of 3 Vict. c. 17, there ccrued an amount of 12,201*l.* The total quantity of ritish hops exported from Great Britain to various reign countries, from the 5th Jan. 1844, to the 5th an. 1845, amounted altogether to 153,849lbs. of hich 20,137 lbs. were the growth of the year 1842, 35,685 lbs. of the growth of the year 1843, and 1,103 lbs. of the growth of the year 1844. The prinipal customers abroad for our hops appear to be the Cape of Good Hope, Guernsey and Jersey, Hobartown, the Isle of Man, Launceston, New South Wales, New Zealand, Port Philip, St. Petersburg, Sydney, and Van Diemen's Land. The quantities of foreign hops exported from the United Kingdom in 1844-45, amounted to 38 cwt. only. The quantity of foreign hops imported into the United Kingdom in 1844-5 amounted to 267 cwt. chiefly from the United States of North America. We next come to the article of malt. The total quantity of malt made between the 10th of October, 1843, and the 10th of October, 1844, amounted to 4,617,217 quarters, of which 3,979,020 quarters were made in England, 478,562 in Scotland, and 159,665 in Ireland; of this quantity, 3,280,975 quarters were used by brewers and victuallers, and 420,332 quarters by retail brewers, making altogether 3,701,307 quarters so used. The number of persons licensed as brewers in the United Kingdom amounts to 2,695; the number licensed as victuallers, to 86,234; the number of persons licensed to sell beer to be drunk on the premises, to 31,729; the number licensed to sell beer not to be drunk on the premises, to 4,022; the number of victuallers who brew their own beer, to 26,715; the number of persons licensed to sell beer to be drunk on the premises who brew their own beer, to 12,603; and the number of those licensed to sell beer not to be drunk on the premises, and who brew their own beer, to 1,225. The bushels of malt consumed by each class are as follows:—viz. by brewers, 18,434,469 bushels; by victuallers, 7,813,338 bushels; by persons licensed to sell beer to be drunk on the premises, 2,961,017 bushels; and by those licensed to sell beer not to be drunk on the premises, 401,644 bushels. Such seems to be the substance of Mr. Alderman Humphery's return.

Newspaper Stamps.—A return of the aggregate number of stamps issued for newspapers in Great Britain and Ireland in each year from January 1842 to January 1845, was received at the office yesterday. It was obtained and printed on the motion of Mr. J. Brotherton, M.P. In 1842 there were issued in England 50,145,912 penny and 1,473,664 halfpenny stamps; in Scotland, 4,977,344 penny and 443,550 halfpenny stamps; in Wales, 440,200 penny and 10,830 halfpenny stamps. In 1843 England consumed 51,282,900 penny and 1,898,682 halfpenny stamps; Scotland, 5,293,726 penny and 243,150 halfpenny stamps; and Wales, 456,925 penny and 2,000 halfpenny stamps. In 1843, the number of stamps thus issued for England were, respectively, 53,933,843 and 3,738,128; for Scotland, 5,727,585 and 317,620; and for Wales, 479,700 and 7,000. Ireland took, in 1842, 6,099,656 stamps, and paid a net duty of 19,057*l.*; in 1843, 6,594,652, paying a net duty of 20,385*l.*; and in 1844, 7,018,617, paying a net duty of 21,586*l.* By the Act 6 & 7 Wm. 4, c. 76, the purchasers of 10*l.* and upwards of these stamps are allowed 25*l.* for every 100*l.*

HOUSE OF LORDS.

BASTARDY BILL.

Friday, April 4.—Lord Stanley said that Government had received representations which made it highly desirable to reconsider the forms in the Bastardy Bill. Unfortunately, the legal gentleman usually consulted was out of town, which rendered it necessary to defer the committee until Monday.—The Duke of Richmond thought that all persons who had commenced appeals under the existing law were entitled to compensation for costs, and as the good principle had been established, he hoped the payment would be made out of the Consolidated Fund. (Cheers.)—The order of the day for the committee was then discharged, and fixed for Monday.

CORONERS' COURTS.

Tuesday, April 8.—The Marquis of Normanby also gave notice, that on Monday next he would put a question to some noble lord opposite as to the present state of the practice with respect to prisoners committed previously to the termination of an inquiry before the coroner. He would ask whether the Government intended to provide a remedy for the present state of things, which was a great scandal,—the conflict of different authorities for the possession of a person accused of murder?

COMMON LAW PROCESS BILL.

On the motion of Lord Campbell, this Bill was read a third time and passed.

CHARITABLE FUNDS BILL.

The Lord Chancellor laid on the table a Bill for securing the better administration of charitable funds in England and Wales; which was read a first time.

SANITARY REGULATIONS.

The Marquis of Normanby, in presenting a petition from the city of Limerick, signed by the mayor, on behalf of a meeting of the inhabitants, praying for the extension to Ireland of the contemplated sanitary measures, inquired when the proposed measure would be introduced in the other House of Parliament, and whether it would extend to the sister kingdom or not?—The Duke of Buccleuch said he could not state the exact period when the measure would be introduced in the other House of Parliament, but it would not be delayed for any great length of time. Ever since the report upon the subject had been completed, a measure had been in course of preparation; but it

required a great deal of research and care, from the complicated nature of the subject, involving, as it did, the examination of no less than 400 local Acts of Parliament. He trusted, however, that at no very distant time the measure would be completed, and be hoped also that there would be ample time, after its introduction, for its full consideration by both Houses of Parliament. (Hear, hear.) With regard to the intention of the Government to extend its regulations to Ireland, he begged to say that he could see no reason why the provisions of the measure should not be extended both to Scotland and Ireland, and he hoped no difficulties would occur to prevent the measure being extended to both these countries. (Hear, hear.) — The Marquis of NORMANBY said that nothing could be more satisfactory than the explanation of the noble duke, and he now begged to present another petition on the subject from the town of Derby.

IMPRISONMENT FOR DEBT.

Lord CAMPBELL presented several petitions from various parts of Gloucestershire, complaining of the law passed last session abolishing imprisonment for debts under 20*l.* The noble lord said that he did not concur in the prayer of the petitions, although he should be quite ready to give his assent to any measure, the object of which was to prevent fraud upon creditors.—Lord COTTENHAM presented a petition from Lancaster praying for the total abolition of imprisonment for debt.—Lord DENMAN presented a petition, signed by upwards of 100 persons, complaining of the hardship endured by a bankrupt who had been confined in the Queen's Bench Prison for the last three years, because he conscientiously objected to take the necessary oaths in order to pass his examination. The petitioners stated that they had no doubt the person in question was a strictly honourable man, and was prevented from passing his examination and obtaining his certificate entirely in consequence of his conscientious scruples as to the taking of an oath. The petitioners also stated that the party referred to had been in a state of almost utter destitution, because he objected to take the usual oath in order to be entitled to the prison allowance. The petitioners prayed that some legislative measure might be adopted on the subject.

LAW OF DEBTOR AND CREDITOR.

WEDNESDAY, April 9.—Lord ASHBURTON said he had a petition to present on a subject which was frequently brought under consideration in their lordships' House; namely, the state of the law of debtor and creditor. The petition was signed by from 600 to 700 of the most respectable tradesmen of the town of Newcastle, and made the same complaints of the present law which were so often brought before the House in petitions.—Lord BROUGHAM said he agreed with his noble friend that there were some alterations necessary in the existing law, and he had always said so, but these alterations could easily be made without breaking down the present system, and that he did not think the petitioners wished to have done. He had himself a petition to present, most numerously signed, from traders residing in Westminster, and their prayer was, that they should be put upon the same footing in the case of small debts as creditors to a high amount, or those claiming debts above 20*l.* The latter had the privilege of examining the debtor, and other remedies which creditors to a small amount thought they also should be allowed to exercise.

HOUSE OF COMMONS.

CHARITABLE TRUSTS BILL.

FRIDAY, April 4.—Sir G. GREY wished to ask the right honourable Secretary for the Home Department a question respecting a Bill on the subject of charitable trusts. At the commencement of the session, in answer to a question put by him, the right honourable gentleman stated that it was the intention of the Lord Chancellor to introduce a measure on the subject, without delay, into the other House. Two months of the session had now elapsed, and no Bill on the subject had been introduced, he therefore wished to know when this Bill would be introduced?—Sir JAMES GRAHAM replied that he had seen the draft of the proposed Bill, and he hoped that it would be shortly produced.

WEDNESDAY, April 9.—Mr. COWPER moved the second reading of the Fields Garden Bill.—Mr. B. ESCOTT contended that the House ought not to allow this Bill to go to a second reading. Mr. Cowper had stated that its enactments were not compulsory; but he scarcely expected that he would repeat that observation. The hon. member then pointed out several clauses which were compulsory, and contended that of all the bills professedly introduced for benevolent purposes, this was, in point of fact, the most monstrous and indefensible. The allotment system had been productive of good, because it was voluntary; but it was a most mischievous proposal to mix it up, as it was mixed up by this Bill, with an odious mode of levying relief for the poor. He moved that the Bill be read a second time this day six months.—Mr. COWPER defended his measure. He requested Mr. Escott to let the Bill go into committee, and then he would shew him that his objections—which were all objections of detail—were ill-founded. It depended on each parish whether this Bill should come into operation or not.—Sir JAMES GRAHAM considered the object of the Bill to be a very praiseworthy one. He hoped that Mr. B. Escott would not persevere in his objection to the second reading of the Bill. At the same time he must inform Mr. Cowper that there were in his Bill certain provisions, to which, if they were not previously altered, he should feel it his duty to object when the Bill went into committee. One of those provisions was that which made the poor-rates a security for the payment of the rents of these field gardens, and another was that which referred to the constitution of the local board.—Lord J. MANNERS defended, and Mr. HENLEY opposed the Bill.—Mr. J. S. WORTLEY said, that if this had been a compulsory bill he should certainly object to it; but it was not a compulsory bill, and he therefore considered it worthy of support. He hoped that the House would allow the Bill to go to a second reading.

The House then divided, when the numbers were—

For the second reading	92
Against it	18
	—
Majority	74

The Bill was ordered to be committed on Wednesday next.

INFEOFTMENT (SCOTLAND) BILL.

On the motion of the LORD ADVOCATE the Infeoftment (Scotland) Bill went through committee *pro forma.*

The Heritable Securities (Scotland) Bill also went through committee.

INFERIOR LAW COURTS.

THURSDAY, April 10.—Mr. ESCOTT presented a petition from a barrister residing in the county of Southampton, complaining of malpractices in the small Crown courts, and praying for remedy.

THE CLASSIFICATION OF RAILWAY BILLS.

The select committee appointed for the classification of Railway Bills, according to the resolutions adopted by the House, and who are empowered to report from time to time, report as follows:—

Your committee having further considered the several matters referred to them, are of opinion that it is expedient that there be referred to one and the same committee the following bills and projects:—

T. Bedford, London, and Birmingham Railway; Midland Railways Extension (Syston and Peterborough); Dunstable and London and Birmingham Railway.

Your committee further recommend that the following bills and projects be referred to one and the same committee:

U. Hull and Gainsborough Railway; Great Grimsby and Sheffield Junction Railway.

Your committee further recommend that the following bills and projects be referred to one and the same committee:—

V. Midland Railways Extension (Nottingham and Lincoln); Newark and Sheffield Railway; Manchester, Sheffield, and Midland Junction Railway.

Your committee further recommend that the following bills and projects be referred to one and the same committee:—

W. Goole and Snaith Railway; Goole, Doncaster, and Sheffield and Manchester Junction Railway; Wakefield, Pontefract, and Goole Railway; York and North Midland Railway (Goole Branch); Manchester, Barnsley, and Goole Railway.

Your committee further recommend that the following bills and projects be referred to one and the same committee:—

X. London and York Railway; Lincoln, York, and Leeds Railway, Direct; Cambridge and Lincoln Railway; Direct Northern Railway; Eastern Counties Railway (Cambridge and Huntingdon); Eastern Counties Railway (Ely and Whittlesen); Eastern Counties Railway (Hertford and Biggleswade); Eastern Counties Railway (Finsbury Extension); Eastern Counties Railway (Ely and Lincoln Extension); Midland Railways Extension (Swinton and Lincoln); Midland Railways Extension (Lincoln and Ely); Rotherham, Bawtry, and Gainsborough Junction Railway; Sheffield and Lincolnshire Junction Railway; York and North Midland and Doncaster Railway Extension; Tottenham and Farringdon-street Junction Railway.

Your committee further recommend that the following bills and projects be referred to one and the same committee:—

Y. Midland (Branches) Railway; Sheffield and Rotherham Railway.

Your committee further recommend that the following bills and projects be referred to the same committee to which the recommendation under letter G in their last report applied:—

G. Berks and Hants Railway; Salisbury and Dorsetshire (Poole Branch) Railway.

Your committee further recommend that the following bills and projects be referred to one and the same committee:—

Z. Great Western (Dublin to Mullingar and Athlone) Railway; Irish Great Western (Dublin to Galway) Railway; Portarlington and Tullamore Railway.

Your committee further recommend that the following bills and projects be referred to one and the same committee:—

AA. Great Southern and Western Railway (Ireland); Great Southern and Western Railway (direct Cork and Limerick); Waterford and Limerick Railway.

Your committee further recommend that the following bills and projects be referred to one and the same committee:—

BB. Waterford and Kilkenny Railway; Wexford, Carlow, and Dublin Railway; Kilkenny Junction Railway: Kinstown and Waterford Railway (Carlow and Wexford).

Your committee further recommend that the following bill be referred to a separate committee:—

CC. Cork and Bandon Railway.

The following is the Fourth report of the Select Committee appointed for the Classification of Railway Bills according to the resolutions adopted by the House, who are empowered to report from time to time, and who have further considered the several matters referred to them:—

Your committee further recommend that the following bill or project be referred to the same committee to which the recommendation under letter L. in their former report applied:—

L. Direct London and Portsmouth Railway.

Your committee further recommend that the following bills and projects be referred to the same committee to which the recommendation under letter F. in their former report applied:—

F. Grand Junction (Dudley Branch) Railway; Grand Junction (Shrewsbury and Stafford) Railway; Grand Junction (Shrewsbury and Wolverhampton Branch) Railway; Shrewsbury and Birmingham Railway.

Your committee further recommend that the following bill or project be referred to the same committee to which the recommendation under letter KK. in their former report applied:—

KK. Southport and Euxton Railway.

Your committee further recommend that the following bills and projects be referred to the same committee to which the recommendation under the letter Q. in their former report applied:—

Q. Bangor and Carnarvon Railway; Portdenllaen and Bangor Railway; Chester and Holyhead Railway; Chester and Holyhead (Mold Branch); North Wales Mineral Railway.

Your committee further recommend that the following bills and projects be referred to one and the same committee:—

LL. London and South-Western Metropolitan Railway; London and South-Western Railway, No. 2; Richmond (Surrey) Railway; Staines and Richmond Railway; London and Brighton (Wandsworth Branch) Railway; London and South-Western (Epsom Branch) Railway.

Your committee further recommend that the following bills and projects be referred to one and the same committee:—

MM. Grosvenor Railway; Great Western, Uxbridge, and Staines Railway; South London and Windsor Railway; West London (Thames Extension) Railway; West London (Knightsbridge Extension) Railway.

Your committee further recommend that the following bills and projects be referred to one and the same committee:—

NN. London and Epping Railway; North Woolwich Railway.

Your committee further recommend that the following bills and projects be referred to one and the same committee.

OO. Hull and Selby (Bridlington Branch); York and Scarborough (Deviation) Railway; York and North Midland (Bridlington Branch) Railway; Whitby and Pickering Railway.

Your committee further recommend that the following bills and projects be referred to one and the same committee:—

PP. Great North of England (Clarence and Hartlepool Junction) Railway; Sunderland, Durham, and Auckland Union Railway; Wear Valley Railway; Middlesborough and Redcar Railway.

Your committee further recommend that the following bills and projects be referred to one and the same committee;—

QQ. Manchester and Leeds (Oldham Branch) Railway; Manchester and Birmingham (Ashton Branch) Railway; Manchester and Buxton Railway; Ashton, Stalybridge, and Liverpool Junction (Newton and Ardwick Junction) Railway; Ashton, Stalybridge, and Liverpool Junction (Guide Bridge Junction) Railway.

Your committee further recommend that the following bills and projects be referred to one and the same committee:—

RR. Birkenhead, Manchester, and Cheshire Junc-

tion Railway; Chester, Manchester, and Liverpool Junction Railway; Preston Brook and Runcorn Railway; Grand Junction (Huyton Branch) Railway; Chester and Birkenhead Extension Railway.

Your committee further recommend that the following bills and projects be referred to one and the same committee:—

88. Coventry, Bedworth, and Nuneaton Railway; Erewash Valley Railway.

THE MAGISTRATE.

Summary.

THE Bastardy Bill has been stopped in its progress through the House of Lords, it having been discovered that Mr. LUMLEY'S Schedule of Forms is not exactly such as the Legislature ought to adopt without careful review and amendment. It is strange that they should have advanced to such a stage without one of our legislators having protested against the extraordinary course adopted by Sir JAMES GRAHAM in taking forms that have been pronounced invalid and illegal by the judges of the land, and not only legalizing them for the past, but prescribing them for the future. It is at least pleasant to find that the Lords are alive to the indignity (for such it is) thus sought to be inflicted upon the judgment of our Law Courts, and insist that the forms they are asked to sanction shall be, for the future at least, sufficiently accurate to reflect no discredit to the legislature from which they emanate, even though they should see fit to make a law to correct past blunders.

THE LAWYER.

Summary.

WE have brought up arrears preparatory to the commencement of Term, for many cases are yet standing over for judgment, and in all probability these, with the addition of the judgments arising out of the Term itself, will make large demands upon our space. No incident of the week calls for particular notice.

COURT PAPERS.

COURT OF QUEEN'S BENCH.

Sittings appointed in Middlesex and London, before the Right Hon. THOMAS LORD DENMAN, Lord Chief Justice of her Majesty's Court of Queen's Bench, in and after Easter Term, 1845.

IN TERM.—MIDDLESEX.

1st sitting, Wednesday, April 16, at 11.
And until the jury are desired to attend at the
2nd sitting, Monday, April 21, at 11.
And until the jury are desired to attend at the
3rd sitting, Tuesday, May 6, at half-past 9.

LONDON.

Wednesday, May 7, at 12.
Sitting for undefended and such defended Causes as produce no satisfactory affidavit of merits.

In Term in Middlesex.—The undefended remanets and new causes with proper notice will be taken first; then will follow a limited number of short causes, and such short causes of tort as shall have been appointed in the same way as special juries are for fixed days, by leave of the presiding judge.

AFTER TERM.—MIDDLESEX.

Friday, May 9, at half-past 9.

LONDON.

Saturday, May 10, to adjourn only.
Adjournment-day, Tuesday, May 13, at half-past nine.

CAUSE LISTS, EASTER TERM, 1845.
COMMON PLEAS.

DEMURRER PAPER.

Wednesday, April 23, Special Arguments.

Pim v. Grazebrook and Another.
Cumberlege and Others v. Smither.
Same v. Bucknell.
Salkeld v. Johnson.
Phillips and Another v. Smith.
Doe dem. Stevenson v. Glover.
Glynes and Others v. Laurence.
Stead v. Carey.

Friday, April 25.

Wright v. Tallis and Another.
Homes v. Lock.
Dawson v. Cropp.
Marriage v. Marriage.

PROMOTIONS, APPOINTMENTS, ETC.

[Clerks of the Peace for Counties, Cities, and Boroughs, will oblige, by regularly forwarding the names and addresses of all new Magistrates who may qualify.]

WHITEHALL, April 2, 1845.—The Queen has been pleased to grant unto Henry Aldridge, of Bentinck-street, Manchester-square, in the county of Middlesex, esq. son of James Aldridge, of Notting-hill, Kensington, in the said county of Middlesex, esq. by Elizabeth, his wife, the sister of Edward Bliss, late of Brandon Park, in the parish of Brandon, in the county of Suffolk, and of Berkeley-house, Hyde Park, in the aforesaid county of Middlesex, esq. deceased, her royal license and authority that he and his issue may, from grateful and affectionate respect to the memory of his said late maternal uncle, Edward Bliss, and in compliance with a request contained in his last will and testament, henceforth take and use the surname of Bliss only, and also bear the arms of Bliss only; such arms being first duly exemplified according to the laws of arms, and recorded in the Herald's Office, otherwise the said royal license and permission to be void and of none effect; and also to command that the said Royal concession and declaration be recorded in her Majesty's College of Arms.

MARLBOROUGH-HOUSE, April 5.—The Queen Dowager has been pleased to appoint Mr. Serjeant Henry Alworth Merewether to be her Majesty's Attorney-General; the Hon. James Stuart Wortley to be her Majesty's Solicitor-General.

SIR GEORGE STEPHEN.—We understand that Sir George Stephen, whose name is as honourably connected with the abolition of West India slavery as that of his father with the abolition of the slave-trade, has received and accepted the appointment of agent to the Bahamas by the colonial legislature.—*Patriot.*

LEGAL INTELLIGENCE.

SHERIFFS' FUND SOCIETY.—Thursday the annual meeting of the supporters of this society, which was established several years since, for the purpose of rendering pecuniary assistance to the distressed families of persons confined in Newgate, and other metropolitan prisons, for debt or crime, and for assisting persons discharged from confinement, in order that they may be provided with the means of obtaining a proper livelihood, was held at the London Coffee-house. Mr. Alderman and Sheriff Sidney presided, and there were present Sir Moses Montefiore (late sheriff), Alderman Sir James Duke, Alderman John Johnson, and others. Mr. Cooper, the honorary secretary, read the report of the late sheriffs, Messrs. Musgrove and Moon, which referred at some length to the operations of the past year, and called attention to many interesting but affecting cases which had come before them (the sheriffs) in their official capacity. It appeared that the total amount received toward the Sheriffs' Fund and Permanent Fund had been 581*l*. 14*s*. of which 200*l*. 11*s*. 3*d*. had been received on account of the former, and 381*l*. 2*s*. 9*d*. for the latter. The sum of 107*l*. 19*s*. 6*d*. had been applied out of the Sheriffs' Fund for the relief of 385 poor persons in Newgate; 120 persons in Whitecross-street prison had also received as much relief as could be afforded. The sum of 60*l*. 11*s*. had been awarded from the Permanent Fund for the benefit of the Royal Asylum for Destitute Females. The remainder of the receipts had been added to the funded property, which now, amounts to 9,400*l*. in the Consols. Sir Moses Montefiore expressed a hope that arrangements would be made for the holding of an annual dinner, as he knew of no society that was more entitled to the support of all parties in the country. The suggestion was unanimously adopted, and the festival, at which one of her Majesty's ministers is intended to preside, was fixed for the 28th of May next.

DUELLING IN FRANCE.—The Court of Cassation met on Tuesday, to pronounce on the appeal of the Attorney-General against the decision of the Court of Orleans, which had acquitted M. Servient of the charge of manslaughter, for killing his adversary in a duel, on the ground that duelling constituted neither a crime nor an offence, and that there was no legal penalty against it. The Court, after hearing M. Ledru Rollin in defence of the decision, and M. Dupin, the Attorney-General, in support of the appeal, issued a decree, in which it stated, that "whereas no exception had been introduced by the Legislature in favour of duelling in the articles 295 and 296 of the Penal Code; that duelling could not be classed among facts which constituted neither crime nor offence, since, so far from being a case of legitimate defence, it is the result of a culpable agreement; that to view it otherwise would be to recognize the right of taking redress into one's own hands; and that, in infringing these principles, the Royal Court of Orleans had violated the law. For those reasons, the Court of Cassation reversed the decision, and directed the case to be tried over again by another tribunal."

COMPENSATION AND SUPERANNUATION ALLOWANCES.—On the 3rd instant was received from the Parliamentary publishers a return, lately presented to the House of Commons, relative to superannuation and compensation allowances. It hence appears that the total amount of "compensation" allowances remaining payable on the 31st of December, 1844, was 250,565*l*.; and the total amount of the "superannuation" allowances remaining payable at the same period of time 376,896*l*. allowing for certain deductions made pursuant to the provisions of the Act 4 & 5 William 4, cap. 24. The total amount of the compensation and superannuation allowances, taken together, was consequently 627,461*l*. Of the sums appropriated to the compensation allowan[ces] 14,247*l*. was swallowed up by the Ordnance, 49,155*l*. by the Admiralty, 28,238*l*. by the Customs, 25,930*l*. by the Excise, 25,282*l*. by the Stamps and Taxes, 4,533*l*. by the Treasury, 16,489*l*. by the War-office, 7,104*l*. by the Audit-office, and 9,650*l*. by the Exchequer.

IRISH CRIME.—Returns from the clerks of the Crown and clerks of the peace of the several counties, &c. in Ireland, of the number of persons committed to the different gaols thereof for trial during the year 1844, were laid upon the table on Thursday, pursuant to the Act 56 Geo. 3, cap. 120. We find, on perusing this paper, that the total number of committals for crimes in Ireland was as follows:—viz. in the county of Antrim, 131, 358, and 3; in the county of Armagh, 77 and 451; in Carlow, 76 and 271; in Cavan, 66 and 491; in Clare, 106 and 515; in Cork, 211, 1,754, 20, and 330; in Donegal, 66 and 232; in Downshire, 163 and 471; in Louth, 15 and 41; in Dublin county, 54, 247, 131, and 1,238; in Fermanagh, 29 and 221; in Galway, 219, 994, 24, and 24; in Kerry, 141 and 605; in Kildare, 44 and 144; in Kilkenny, 54 and 400, 18 and 7; in King's County, 58; in Leitrim, 33 and 356; in Limerick 85, 697, and 109; in Londonderry, 37 and 327; in Longford, 48 and 214; in Louth, 35 and 257; in Mayo, 134 and 767; in Meath, 44 and 272; in Monaghan, 70 and 348; in Queen's County, 75 and 521; in Roscommon, 114 and 549; in Sligo, 83 and 452; in Tipperary, 141, 171, and 1,390; in Tyrone, 126 and 374; in Waterford, 48, 410, and 57; in Westmeath, 71 and 274; in Wexford, 45 and 298; and in Wicklow, 75 and 349.

THE BANK OF ENGLAND.—A return of the notes, securities, bullion, &c. of the Bank of England, as published weekly in the *London Gazette*, from the passing of the Act of the 7 & 8 Vict. c. 32, up to the present time, was ordered a short time since upon the motion of Mr. C. Wood, M.P. and is now printed for the information of the public. Taking the very last return afforded, it will be found, as far as concerns the issue department, that upon the 22nd ult. the notes in circulation amounted to 29,213,555*l*.; the Government debt to 11,015,100*l*.; other securities to 2,984,900*l*.; gold bullion to 13,177,831*l*. and silver bullion to 2,035,724*l*. Thus much for the issue department. Turning to the other, or "banking" department, it will be perceived that at the same period (the 22nd March, 1845), the capital amounted to 14,553,000*l*.; the public deposits to 6,890,121*l*.; the private deposits to 10,452,425*l*.; seven days and other bills to 992,192*l*.; public securities to 13,474,379*l*.; other securities to 12,535,169*l*.; notes to 9,673,205*l*. and coin to 786,869*l*. Hence it follows, that to meet the amount of notes in circulation on the 22nd ult. (29,213,555*l*.) there was an amount of bullion lying in the coffers of the Bank of 15,213,555*l*. or upwards of one-half the outstanding liabilities.

WILL OF THE LATE MR. WILLIAM STURGES BOURNE.—Probate of the will and codicil of the late Right Hon. William Sturges Bourne, late of Testwood, near Southampton, and of Upper Brook-street, Grosvenor-square, who died on the 1st of February last, at his seat, Testwood-house, in his 76th year, has just been granted to Mr. Frederick Moysey, one of the executors. A power is reserved to Anne Sturges, widow, the relict, to prove hereafter. The personal estate alone is sworn under 60,000*l*. The will and codicil were made in the year 1836, signed, "W. Sturges Bourne;" the codicil is in his own handwriting. He desires that he might be buried at Winchester, near his father, the late Rev. Dr. Sturges, in Winchester Cathedral. He leaves to the County Hospital, at Winchester, 100*l*. and to St. George's Hospital, Hanover-square, also 100*l*. He bequeaths a few legacies to his own relations, a year's wages to his servants, except Susan Hopkins, to whom he leaves a legacy of 20*l*. After the payment of all debts, expenses and legacies, he devises and bequeaths his real and personal estate to his wife for her life, and, at her decease, to his daughter Anna, then to her husband and their issue, on failure to his right heirs. The will is of moderate length.—*Evening Paper.*

WILL OF LADY HOARE.—The will of the widow of the late Sir H. Hoare, bart. banker, of Fleet-street, has been proved. Her own personal property is sworn under 8,000*l*. She bequeaths the bulk of the property to her daughter, Julia Lethbridge, the wife of John Hesketh Lethbridge, esq. for life, and after her decease for her children. Her son Henry is to have the picture of General Acland, and the china and plate, and the gold cup given to her late husband Sir Henry, by the general. There are several other bequests to the family. Her executors are B. Scott and Christopher Pearse, esqrs.

WILL OF DR. WILLIAM HEBERDEN, M.D.—The will of this gentleman, late of Cumberland-street, Marylebone, has just been proved. To his two sons and two daughters he leaves his property as follows:—To William, his eldest son, his divinity MSS. the presentation to the Rectory of Great Bookham, and a moiety of the tithes, with a gift of the parsonage adjoining. To Charles, his son, the tithes of Bevington and Blisbury. To his daughters Emily and Mary, the former 6,850*l.* in Consols, and to the latter the residue of the stock to be divided with her sister; also an annuity of 30*l.* to his housekeeper. The personal property was sworn under 9,000*l.*

CORRESPONDENCE.

PREPARING ABSTRACTS.

TO THE EDITOR OF THE LAW TIMES.

SIR,—So long as the question raised by myself in No. 82, and again by Mr. Bond in last week's number of your valuable publication, as to the exclusive right of the mortgagee's solicitor to furnish the abstract of title on a sale be an open one, *undetermined by some acknowledged authority*, there will be found many who will form their opinions in accordance with their interests. To my mind there is not a particle of doubt on the subject, and I shall in every case insist upon my right, as solicitor for a mortgagee, to furnish an abstract of all deeds in the possession of my client, and, in case my right to furnish such abstract be forestalled or called in question, I shall avail myself of the hint in the last paragraph contained in the letter of "T. H. A." in No. 83 of your journal, and refuse to produce the deeds. I have consulted many solicitors of extensive practice, and of great experience, and who invariably have recommended the course I have above suggested. In one case only will this course be no remedy—where the solicitor for the mortgagor is also instructed to act for the purchaser, and being acquainted with the title, he may, if he thinks proper, complete the purchase without an abstract, tender the mortgage-money and interest, and receive the deeds, and so far he may be justified, provided he does not charge the mortgagor for an abstract, which being unnecessary and not made, he would scarcely do. This, however, can occur but seldom, and only where the solicitor is perfectly acquainted with the title, and to save expense. It appears to me, therefore, that so long as the different law societies promulgate no rule, so long must every solicitor act on his own judgment. The remarks of "P. B. T." in No. 84 appear to me quite irrelevant. The case he supposes of the mortgage-money being paid off without the title-deeds being handed over, would, I fancy, not occur often in the experience of a prudent solicitor; and supposing the case to arise, how does it affect the question? If a mortgagor desires to pay off principal and interest, and take a reconveyance, no solicitor would think of saddling him with an abstract.

But how is it in practice on a transfer of mortgage? I need scarcely say that invariably the mortgagee's solicitor furnishes the abstract to the solicitor of the transferree, and, from strict analogy, there can be no doubt, I think, that the solicitor of a mortgagee is, in *every case* where an abstract is necessary or required, entitled to furnish it.

I am, yours, &c. A. F.

April 4, 1845.

A POINT OF PRACTICE.

TO THE EDITOR OF THE LAW TIMES.

With reference to an article which appeared in the LAW TIMES of the 29th March last, as to the respective rights of the solicitors of a mortgagor or mortgagee to furnish the abstract of title in the case of a sale by the former, and upon which point you therein solicited opinions, I beg to observe that, according to town practice, such right clearly belongs to the solicitor of the mortgagee. How could such practice be otherwise; for who ever heard of an abstract being framed from a copy, or an abstract from copies, and not from the original deeds? and who would be satisfied with such copies without the power to examine the same with the title-deeds, which the solicitor to the mortgagee might very properly refuse?

Yours, &c. A. N.

April 2, 1845.

THE LAW LIST.

TO THE EDITOR OF THE LAW TIMES.

SIR,—Allow me to avail myself of the invaluable facilities afforded by your useful columns, to direct attention to, and if possible to correct, what I think is to many in the Profession no inconsiderable evil.

Every one would naturally imagine that the Law List, which does not appear till the 1st April in each year, should contain the names of all barristers and pleaders called and certificated in the previous Hilary Term. All who know any thing of printing must be aware that the insertion of a very few names in the body of a work nearly two months before it is published, could not be inconvenient, and that even if it were so, it could be easily done at least by way of appendix or "addenda."

How it is as to barristers I know not; but I was astonished to find that pleaders certificated in Hilary Term would not appear for the current year. The result is, that from Jan. 7 to April next year, that is, for full 15 months, all pleaders in that position will not be registered in the authentic roll of the Profession. The practical injury resulting from this must be as apparent as the injustice; and on remonstrating with the highly respectable publishers of the Law List, what was the only answer?—that it was for the sake of avoiding any difficulty, or of preventing any inconvenience? Confessedly there was neither difficulty nor inconvenience in the course suggested. All they urged was an arbitrary agreement or understanding with a Mr. Cockell of the Stamp-office, that no name should be received after January 1st. In vain I represented the result, and the ease with which it might be avoided. In vain I urged that it was exceedingly unsatisfactory to hear that the only reason why a great injustice and injury should be inflicted was an arbitrary agreement with some one else. What conceivable motive there can be for so yielding to mere paltry official caprice, I, for one, am ignorant. I am much more interested, however, Sir, in the remedy of this evil. And I beg to suggest that a Verulam Law List should be projected, the distinguishing feature of which should be that each Term a leaf be struck off (which could easily be inserted in the book) containing the names of gentlemen called, certificated, or passed in that term. Or if a new Law List be deemed unnecessary, would it not be a great convenience to the profession if there were issued each Term such a leaf to be inserted in the current number of the Law List? The evil I speak of of course attaches equally to attorneys, and could thus easily be remedied. As at present managed, the Law List is for those parties to whom alone it is of importance (viz. those who have not attained sufficient standing to render a year or two *unimportant*) worse than useless; a positive injury, as leading to the natural impression that they entered practice upwards of a year after they really did.

I remain, &c.

5, Essex-court, Temple. W. FINLASON.

TO THE EDITOR OF THE LAW TIMES.

SIR,—Many public bodies, such as commissioners under Improvement Acts, are empowered to raise money upon the security of their rates.

The principal upon such securities does not seem to be recoverable from the commissioners, but the holders sell and transfer them according to a form prescribed by the Acts. Sometimes they are sold above and sometimes below par.

Should the duty on the transfer be the same as upon a sale and conveyance, or as upon a transfer of mortgage? Each of those titles in the Stamp Act would seem to comprise the case in question.

I should like to know the opinion of some of my brother subscribers on the subject.

I am yours, &c.

April 9, 1845. T.

TRANSFERS OF RAILWAY SHARES.

TO THE EDITOR OF THE LAW TIMES.

SIR,—Railway speculations now absorb so large a portion of the money formerly employed in mortgage and other investments, that I am surprised at the apathy with which solicitors regard the encroachments made upon their privileges by share-brokers. The deeds necessary to effectuate the transfer of registered shares are prepared by the brokers engaged in the business; and, although they make no specific charge for that portion of the transaction, they receive remuneration for it in another form, namely, in their charge for commission. Surely this calls for the attention of our law societies.

Whilst on this subject I am tempted to inquire why the whole of the business usually committed to a share-broker may not be properly transacted by a solicitor. There appears to be no distinction between negotiations for investments in mortgages, &c. and investments in railways and other undertakings, and yet we relinquish the latter to persons of a separate calling. Is it wise, in the present state of our profession, to abandon so large a field of legitimate and profitable exertion?

I am yours, &c.

9th April, 1845. A SUBSCRIBER.

CHANCERY ORDERS.

TO THE EDITOR OF THE LAW TIMES.

SIR,—Every new order that is issued for the regulation of Chancery practice, seems to us to shew, more clearly than the last, the practical ignorance of the parties by whom these orders are framed. Complaints have been made, and in many cases with justice, of the imperfection of the copies made in the Masters' offices, to remedy which an order has been lately issued that the copies made in the Master's office should be similar to those obtained from the Record Office, on foolscap, written on both sides, and with six words in each line. Now, independently of the copies obtained from the Record Office being the very worst that could be selected as a model, on account of the confusion which arises from the practice of leaving a long blank wherever figures occur, we beg to say that it is the universal opinion of solicitors and their Chancery clerks, that this mode of copying is peculiarly inconvenient in the Master's office, where the documents left are frequently amended, without any limitation, as in the case of records, and where, in settling long reports, numerous alterations are always found necessary. If the Master of the Rolls would make an order that no copy should be allowed to go out of the Master's office without first being examined, he would be conferring a boon on solicitors. The present alteration has no other effect than that of giving the additional trouble.

A LONDON FIRM.

SELECTIONS FROM CORRESPONDENCE.

"G. G." (Staffordshire) thus writes on the subject of Abstracts of Title to Mortgaged Premises:—

Your correspondent "A. W." appears to entertain an opinion, as to the solicitor who ought properly to prepare these documents, which I conceive to be at variance with that entertained by the Profession generally.

It is submitted that the usages of the Profession *never* require the mortgagee to part with the possession of the abstract of title, whether freed or not from marginal notes; but his solicitor, on application, makes a copy of it, and prepares a separate abstract of the mortgage deed. This, however, is deemed a matter of favour; as the mortgagee might (were he so disposed) refuse to sanction any exposure of the title whatever. I conceive it, therefore, to be the interest of the mortgagor to secure the assent of the mortgagee to the sale, which would be implied from the solicitor of the latter preparing the abstract. Your correspondent, in styling such a proceeding "monstrous," can scarcely be serious. The question which immediately follows the observation alluded to appears to me as being nothing to the purpose; as I cannot conceive how the charges of the mortgagee's solicitor for the abstract can materially differ from those of the mortgagor's solicitor.

"J. C. B." (Manchester), thus expresses his opinion upon the point of practice raised by our correspondents as to the preparation of the abstract on a sale by the mortgagor:—

By examining the position of the attorneys for the mortgagor and mortgagee with a little care, I think it no difficult matter to settle the question as to furnishing the abstract. The mortgagor's attorney possesses an old abstract and copy draft mortgage, from which he supplies a purchaser from *his* client with abstract of title; and in this, I submit, he is fully justified; and if the purchaser is satisfied that such abstract is correct, and *will forego the examination thereof with deeds*, the mortgagee's attorney can have no right whatever to interfere, and his client *must* execute reconveyance or join mortgagor in conveying to the purchaser on the amount of his claim being paid off.

If, on the other hand, the purchaser insists upon examining the abstract with the deeds (which is almost invariably the case), then, I apprehend, the mortgagee's attorney is perfectly justified in refusing inspection of deeds for examination with any abstract prepared otherwise than by himself.

By each party, therefore, acting strictly according to his rights, every case will adjust itself without any general rule being promulgated as to the party who shall in *all* cases prepare the abstract.

TO SUBSCRIBERS.

THE PUBLISHER *begs to state, in reply to repeated applications, that he will readily accommodate the Subscribers to the* LAW TIMES *by procuring for them and inclosing in the parcels he may have occasion to transmit to them, any Books, Law Forms, or other Publications they may desire to receive from London. They may also, if they please, avail themselves of the transmission of their Volumes of the* LAW TIMES *for binding, to inclose any other books for the binder.*

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To Readers and Correspondents.

I. O. G.—*The letter is much too long for our restricted space at this moment. Should we be enabled to find room for it hereafter, it shall appear.*

J. R. (Bideford).—*Thanks. All his suggestions will be duly considered.*

NOTICE.

The Subscriptions for the current half-year are now due, and the Publisher will be obliged by their transmission in the course of the next week.

THE LAW TIMES.

SATURDAY, APRIL 12, 1845.

TO READERS.

The new volume having introduced the Law Times to many new readers, perhaps it may be desirable to repeat the contract we have made with our subscribers, lest the advertisement columns of last week might occasion some discontent among them.

The understanding is, and strictly will it be fulfilled, that upon the average of a volume the advertisements shall not trench upon the reader's domain beyond the two outside leaves, and that to whatever extent beyond that proportion they may chance to extend, compensation shall be made to the reader in the shape of supplements.

During the season it must frequently happen that the Law Times, as the recognized medium for advertisements of sales of estates, &c. will be compelled to dedicate to them very varying space, according to the accidental influx. But our subscribers may be assured that any such excess shall be faithfully accounted for, and restored in the shape of supplements.

ANNOUNCEMENTS OF QUARTER SESSIONS.

We beg to direct the notice of our readers both in the magistracy and of the Profession, to the proceedings of the Denbighshire and Flintshire Law Association, reported last week.

It appears that the members feel so keenly the importance of an advertisement of the Quarter Sessions being published in a central medium, where it may be readily found by the Profession, both in London and the country, without the present inconvenience of consulting the local newspapers, as the only places in which they now appear, and the magistrates having refused to expend the paltry sum such an announcement would cost, the Association has directed the Sessions to be advertised in the Law Times, at the cost of the funds of the Society.

This is a spirited proceeding on the part of the Association; but it reflects great discredit upon the magistracy that such a resolution should be rendered necessary at all. It is clearly the duty of the magistrates to see that their sessions are duly announced to the parties who are mainly interested in them. It is farcical to say that this is already done by the advertisements in the county newspapers. What lawyer, living out of the county, ever sees a local paper? And of those who reside in it, the chances are that one half at least do not chance to light upon the particular journals selected by the justices for their advertisements; for, be it known, they are not inserted even in *all* the county papers, but often only in those of the least circulation; party and other interests, and not the information of the public, usually directing the choice of the newspapers for this purpose.

The lawyers, who are scattered over the whole face of the country, and who are more interested even than the inhabitants of the county in the Quarter Sessions to which they may be called by business, ask of the magistrates that they may be supplied with information so necessary to them. They allege that they cannot be expected to take in all the county papers in England and Wales in order to find out the times appointed for the sessions; they say, that a ready means is afforded for such a necessary announcement to them through the medium of the Law Times, where those who seek, wherever resident, would be enabled at once to find it, and that the few shillings that it would cost the county ought not to be an obstacle to the carrying out of a plan which is so obviously desirable.

Many of the counties and cities have acceded to the request of the attorneys resident in them, and their Quarter Sessions are now regularly announced in the Law Times. We would suggest to the attorneys and Law Societies in the counties, cities, and boroughs, which have not done so, to present a memorial to the magistrates at the next sessions, setting forth the evil of which they complain, and requesting that the example of Lancashire and the other counties who have adopted the remedy proposed may be followed, and an order given for the announcement of their sessions in like manner.

Such a memorial would scarcely fail to effect the object desired; and if each Law Society would see that one is voted by its members, and presented to the magistracy in its own county, and in each of its cities and boroughs having a quarter sessions, success would be almost certain.

REPEAL OF THE AUCTION DUTY.

Heartily do we congratulate the Profession and the public on the repeal of the auction duty. Its practical operation was to impede the transfer of property, without materially benefiting the revenue. Everybody knew how easily the tax might be evaded, and in sales of land and large personal estates, the farce of buying in, and then selling by private contract, was so invariably played that the impost was lost to the Treasury, and whatever it yielded was obtained not from those most able to pay, but in the very cases in which it was least desirable that it should be levied, when poverty compelled a hasty disposal of effects.

But the impediment, although so often evaded, was yet a serious one to sales by auction, and probably one-half of the estates sold were disposed of by private contract purposely ... trouble and inconvenience with which the law surrounded a public sale. Now, however, that these are entirely removed, all properties will of course be submitted to public competition, because thus they could never reach a *less* price than by private sale, and might possibly fetch a greater one. Auctions now will be realities, and not mockeries, as heretofore; and the bidding at which the hammer descends will be the *bonâ fide* purchase. The profession of an auctioneer will become yet more important than ever, and as there will doubtless be a great influx of new competitors, it is of extreme pubiic concernment that they should be men of high character and station as well as of ability.

The Legal Profession being the chief employers of the auctioneers, and responsible to their clients for the selection of good men and true for the conduct of their sales, we could not more usefully employ the influence of the Law Times than in the exposition of the law and practice of sales by auction; of the selling prices of properties; the rights and duties of auctioneers; the qualifications required of them; the rules that should guide the solicitor in his choice, &c. &c. It is, therefore, our purpose to enlarge the department of the Property Journal by the addition of treatises, articles, correspondence, and intelligence on matters relating to sales of property by auction, and in which we invite the cordial co-operation alike of the Profession and of the auctioneers throughout the country, to both of whom it will be equally interesting and of equal practical utility.

So in time, as the plan becomes understood and its advantages seen, we hope to make the Journal of Property as important as it will be a novel feature of the Law Times.

SHAM LAWYERS.

The following advertisement appears in the *Suffolk Chronicle* of the 29th ult. The advertiser should be strictly watched :—

WILLIAM TURNER,
Auctioneer, Land Surveyor, Appraiser,
LAW AND ESTATE AGENT,

Begs to inform the Public that he has taken an Office in *Wangford*, where he intends carrying on business in the above Professions, and trusts that with moderate charges and unremitting attention to business, to be enabled to obtain the support and patronage of the neighbourhood and public in general.

Southwold, 26th March, 1845.

VERULAM SOCIETY.

The fifth number of *Practice Cases* and the seventh and eighth of *Magistrates' Cases* are published, completing the second Part of the latter. The ninth and tenth numbers of *Real Property and Conveyancing Cases* and the sixth number of *Practice Cases* are in the press.

The forms of *Conditions of Sale* are in the hands of the printer, and will be ready in a few days. They have been settled expressly for the Society by an experienced and skilful Conveyancer.

A further supply has been procured of the forms of *General Retainer*, and more of the bound volumes of that form for the office table are now ready for delivery.

Upwards of twenty of the Common Law and Magistrates' Forms are now in the press. They will be duly announced as they are completed.

LECTURES ON MEDICAL JURISPRUDENCE.

By Alfred S. Taylor.

Delivered at Guy's Hospital, 1844.

Lecture XI.

Mercury—Corrosive sublimate—Calomel—Symptoms—Post-mortem appearances—Quantity required to destroy life—Period at which death takes place—Chemical analysis.

We now pass on to the consideration of poisoning by mercury and its compounds.

Metallic mercury, in the state of vapour, is well known to be pernicious to health, producing paralysis and other disorders of the system. The most important mercurial poison is corrosive sublimate, but this substance is not often taken as a poison. In the Coroners' Report for 1837-8 there were about fifteen cases of mercurial poisoning, in twelve of which corrosive sublimate was the poison taken. This poison is commonly seen under the form of very heavy crystalline masses, or of a white powder. Its taste is powerfully austere and metallic, so that no poisonous quantity of it can be easily swallowed without the individual becoming immediately aware of it. It is very soluble in water, in which respect it differs strikingly from arsenic. Twenty parts of cold water (60°) and two parts of boiling water (212°) will dissolve one part of the poison. It is also readily dissolved by alcohol and ether; the last body takes up one third of its weight, and has the property of abstracting it from its aqueous solution, a principle which has been advantageously resorted to in separating the poison from organic liquids. It is soluble without change in nitric and muriatic acids, and it is a fact of some

medico-legal importance that common salt renders it much more soluble in water. Corrosive sublimate, as its name implies, is a corrosive poison; it corrodes and chemically combines with the animal tissues; if it be much diluted with water, these corrosive properties are in great part destroyed; but it may, under these circumstances, act as a powerful irritant.

The symptoms produced by corrosive sublimate generally come on immediately, or within a few minutes after the poison has been swallowed. In the first place there is perceived a strong metallic taste in the mouth, often described as a coppery taste, and there is, during the act of swallowing, a sense of constriction and burning heat in the throat. In a few minutes violent pain is felt in the abdomen, especially in the region of the stomach, which is increased by pressure. Pain in the abdomen is, however, sometimes wholly absent. There is nausea, with frequent vomiting of long stringy masses of white mucus mixed with blood; and this is accompanied by profuse diarrhœa. The countenance is sometimes swollen and flushed, in other cases it has been pale and anxious. The pulse is small, frequent, and irregular, becoming scarcely perceptible as the symptoms become aggravated. The tongue is white and shrivelled, the skin cold and clammy, the respiration difficult, and death is commonly preceded by syncope, convulsions, or general insensibility. Suppression of urine has also been noticed among the symptoms. This symptom was observed lately in a well-marked case of poisoning by this substance, at Guy's Hospital. The patient lived four days, but did not pass any urine during the whole of that time. This poison differs from arsenic—1st, in having a well-marked taste; 2nd, in producing violent symptoms within a few minutes; and 3rd, in the fact of the evacuations being more frequently mixed with blood. The symptoms produced by corrosive sublimate, in the first instance, resemble those of cholera; if the individual should survive several days, they are more like those of dysentery, tenesmus and mucous discharges mixed with blood being very frequently observed.

Mercurial preparations are well known to have a peculiar effect on the salivary glands, increasing the flow of saliva; but salivation is rather an uncertain, and by no means a necessary symptom in cases of acute poisoning by corrosive sublimate. In many instances the patient dies too rapidly for this effect to follow; but even where he survives some days, salivation is not always observed. In a case related by Dr. Venables, where two drachms of the poison had been taken, and the woman survived eight days, this symptom did not exist. But another, reported by Mr. Wood, where half a teaspoonful of the poison was taken, salivation was profuse in the course of a few hours; also, in a case which occurred at Guy's Hospital, in February 1843, where two drachms had been taken, salivation commenced in four hours. In the chronic form of poisoning, where the dose has been small and frequently repeated, we may expect to meet with this symptom, with fœtor of the breath and sponginess and ulceration of the gums. Should the person survive some time, salivation is more commonly met with than not; but in looking for it as an indication of mercurial poison, a medical jurist must remember that some persons are wholly insusceptible of salivation. On the other hand, there are cases in which the salivary glands are most easily excited, so that the usual innocent doses of mercurial medicines have been known to produce salivation to such a degree as to cause death. Facts of this kind are of some importance, since charges of malapraxis may be easily raised in respect to them. Dr. Christison mentions a case in which two grains of calomel destroyed life by the severe salivation induced, as well as by ulceration of the throat. Another case was mentioned to me in 1839, in which five grains of calomel killed an adult by producing fatal salivation. From some cases related by Mr. Samuel, of Newark, it appears that two grains of calomel divided into three powders, were given in the proportion of one powder daily (two-thirds of a grain), to a little boy aged eight. This small dose produced the most violent salivation, sloughing, and exfoliation, from which he was some weeks in recovering. In another instance a little girl, aged five, took daily, for three days, three grains of mercury and chalk powder. Her mouth was severely affected, sloughing ensued, and she died in eight days. In a third case three grains of blue pill given twice a day for three days, making eighteen grains, were ordered for a girl aged nineteen, who complained of a slight pain in her abdomen. Severe salivation supervened; the teeth separated, and she died in twelve days. With respect to the effect of corrosive sublimate, Dr. Christison states that three grains of this substance, in three doses, caused violent salivation. When this state results from the use of mild mercurial medicines in small doses, we must refer the effects to idiosyncrasy. A person may die under these circumstances, either from simple exhaustion or from extensive sloughing of the fauces with exfoliation of the bones. When an individual has recovered from the first effects of acute poisoning by corrosive sublimate, he may die at almost any period from these secondary consequences. It is generally admitted by toxicologists that salivation may be intermittent, *i.e.* that it may cease and reappear without more mercurial poison, or any mercurial preparation being given in the interim, although such cases are rare. This important question was brought to an issue at the trial of Butterfield, at Croydon, in 1775. The deceased was supposed to have been killed by the administration of small doses of corrosive sublimate; and the fact of his having become salivated at or about the time of the alleged administration, was regarded as a proof of poisoning. In the defence it was urged that the deceased had been salivated for two months previously under a common mercurial course; that although the salivation had ceased for that period, it was probable that this was nothing more than a recurrence of the former; it did not prove that there had been any fresh administration of mercury in the interim. There was a difference of opinion on this point among the witnesses, as there probably would be in the present day, if each relied upon his own individual experience. However, one of the witnesses had known salivation to recur without a fresh exhibition of mercury after the long interval of three months, and the prisoner was acquitted. Cases are reported of salivation recurring even after longer intervals than this. Salivation is a symptom not necessarily connected with the exhibition of mercury, and therefore taken alone, can never furnish evidence of mercurial poisoning. It may come on spontaneously from disease in the salivary organs. It may also be produced by many other substances besides the preparations of mercury. Thus it has been known to follow the use of the preparations of gold, copper, bismuth, lead, iodine, iodide of potassium, croton oil, prussic acid, sulphuric acid, arsenic, and foxglove. Some have asserted that fœtor of the breath, a brassy taste in the mouth, and spongy and ulcerated gums, would indicate the salivation caused by mercury; but these characters have been equally met with in the salivation produced by bismuth.

Corrosive sublimate, as well as other mercurial preparations, is liable to produce gangrene of the mouth and fauces; a state which may equally occur from spontaneous causes; death is commonly the result. In a case of this kind, supposing any mercurial preparation to have been given medicinally, it may become a serious consideration whether death actually resulted from the mercury acting as a poison, or from natural disease. Several fatal cases have occurred within the last few years, among young children; and the subject has become a matter of inquiry before coroners. Salivation and its *sequelæ* are said not to be common among young children, as an effect of mercurial preparations, except where there is idiosyncrasy; but notwithstanding this, it is clear, from the cases already recited, that small doses of mercury may have a most violent effect on young subjects, and render the suspicion of poisoning probable. Of two children, whose deaths became the subject of investigation under these circumstances, one was affected with hooping-cough, and the other with measles. Powders containing calomel were prescribed in both cases; gangrene of the mouth followed, and the children died. There was some reason to believe, from the evidence, that the mercury had really produced the effect attributed to it, at least in one of the cases. It is proper to observe that this kind of disease, gangrene of the mouth, has been observed to occur in children, to whom no calomel, nor any mercurial preparation whatever, had been administered:—the subjects have been observed to be chiefly young infants, badly fed and clothed, and generally labouring under, or recovering from, fever, smallpox, measles, or hooping-cough. The disease has often been described under the name of *cancrum oris*. A case occurred in August 1840, in which a charge was made against a medical practitioner of having caused the death of a child, aged four years, by administering an over-dose of some mercurial preparation. The child was labouring under hooping-cough, some medicine was prescribed; but on the fourth day the child complained of soreness of the mouth, the teeth became loose and fell out, the tongue and cheek were very much swollen, and the child died in the course of a very few days from gangrene in the left cheek. The answer to the charge was, that not a particle of mercury had been exhibited, a fact clearly proved by the production of the prescription book of the medical attendant. This, then, was a case where the gangrene proceeded from spontaneous causes; and yet it is almost certain, that had any mercury been proved to exist in the medicine prescribed, a verdict affecting the character of the practitioner would have been returned. Sometimes the case may be of a doubtful nature. A boy, aged three years, while suffering under an attack of measles, took small doses of mercury by the prescription of a physician. Soon after the administration of the medicine the child became worse, the mouth became inflamed, dark, and discoloured, and the teeth dropped out. He died in a few days. A practitioner, who had been called in, pronounced that the child had been excessively salivated. Mercury had undoubtedly been taken, and it was proved that the person who had dispensed the medicine did not weigh it. An inquest was held and a verdict returned that the child had died from an over-dose of mercury. It is worthy of remark, that in cases of this description, the popular opinion is generally supported by that of some medical practitioner, shewing how easily members of the profession, as well as the public, are led to refer the effects to what, in many instances, is only an apparent cause. A child, aged about four years, suffering from hooping-cough, took, according to a prescription obtained from a dispensary, three grains of calomel on the 29th of October; this dose was repeated five times between that date and the 7th of November following. About this time the right cheek became much swollen, and there was great difficulty in opening the mouth, with very offensive breath. The gums and inside of the cheek became ulcerated, and on the 16th a sphacelus appeared on the right cheek of the size of a shilling, which rapidly extended, and the child died on the 28th. In a case recorded by Dr. Christison, where gangrene resulted from mercury, it was observed to occur on the skin, near the mouth on each side: it thence spread over the whole of the cheek and destroyed life in eight days. In general, however, it begins in the mouth or in the throat, and spreads onwards. Besides, it is quite possible that the spontaneous gangrene may present a diffused character. There are no general rules to guide a medical opinion; each case must be judged of by itself. The time of the occurrence of the symptoms, after taking the medicine, may be sometimes a good criterion; but this is not always applicable; for by mere coincidence the symptoms may supervene without being connected with the medicine. Then again, the symptoms may not have been caused, but aggravated by the continued use of mercurials. The fact of the dose of calomel, and other preparation, having been small, is no obstacle to the admission of the view, that it has really caused the gangrene; since cases have been already related, which shew that in certain constitutions small doses of mercury have produced the most alarming and unexpected effects. It is also not improbable, that the diseases under which such subjects have been observed to labour, may aggravate the effects of mercury so administered, and render them more prone to diseases of the salivary organs.

The *post mortem* appearances are chiefly confined to the alimentary canal. It affects both the mouth and fauces; the mucous membrane is softened, and of a white or bluish-grey colour; that lining the œsophagus is similarly affected, and partially corroded and softened. The mucous membrane of the stomach is more or less inflamed, sometimes in patches, and there are masses of black extravasated blood found beneath it. Occasionally the whole cavity has a slate-grey colour, from the partial decomposition of the poison by the membrane itself; beneath this the mucous coat may be found reddened. This grey tint of the mucous membrane has been considered by some to be indicative o the action of the poison on the lining mucous membrane; but it is not always present. In a recent case at Guy's Hospital, the mucous membrane was simply inflamed, and very much resembled the condition presented in cases of arsenical poisoning.

The coats of the stomach are sometimes corroded and so much softened that they cannot be removed from the body without laceration. Similar appearances have been met with in the small intestines and rectum. Perforation of the stomach is very rare as an effect of this poison; there is, I believe, only one case on record. Certain morbid changes have been found in the urinary and circulating organs; but these are not by any means characteristic of this variety of poisoning. Appearances like those described have been seen, not only where the case has terminated fatally in a few hours, but where it has been protracted for six, eight, and eleven days respectively.

Cases of poisoning by the *external* application of corrosive sublimate are rare; it acts energetically through the unbroken skin, producing severe local and constitutional symptoms, and even death. Two fatal cases of this kind have been reported by Mr. Ward, of Bodmin. A man, aged twenty-four, rubbed over every part of his body one ounce of corrosive sublimate, mixed with six ounces of hog's lard, for the purpose of curing the itch. In an hour he suffered from excruciating pain in the abdomen, and over the whole of the body; he said he felt roasted alive; he also suffered from intolerable thirst. The skin was found completely vesicated. He died on the eleventh day, having suffered from bloody vomiting, purging, and tenesmus. Ptyalism did not shew itself until thirty-six hours after the application of the poison. The brother of the deceased, aged nineteen, rubbed in the same quantity of the poison. The symptoms were much the same, but more aggravated. There was constant vomiting, with complete suppression of urine, and frequent bloody stools; the ptyalism was not so severe. He died on the fifth day. On inspection the stomach was found much inflamed, and partially ulcerated. The small intestines were also greatly inflamed throughout; and the lower portion of the colon and rectum was in a state of mortification. The bladder was contracted, and without urine. Thirty large worms were found alive in the stomach and intestines.

The quantity of corrosive sublimate required to destroy life is a question which it is somewhat difficult to answer with any degree of certainty, since it is only by accident that the quantity taken can be ascertained. A child, aged three years, died in twenty-three days from the effects of twelve grains of this poison. The smallest dose which has destroyed life was three grains. This was also in the case of a child, and the quantity was accurately determined from the fact of its having been made up by mistake for three grains of calomel, which the physician intended to order. It is probable that from three to five grains would destroy an adult. In its power as a poison it is therefore somewhat similar to arsenic. Persons have been known to recover who had taken very large doses, where remedies were timely administered, or vomiting promoted. In one instance lately recorded in the *Journal de Pharmacie*, a man recovered in three days after having taken one drachm of the poison; and Dr. Booth mentions a case where an ounce of corrosive sublimate had been swallowed after a full meal; and by timely vomiting the subject of this rash act escaped with comparative impunity.

In an acute case an individual commonly dies in from one to five days. But death may take place much sooner and much later than this. A person has been known to die from the effects of the poison in eleven hours, and in one instance of a child two years old, by whom twelve grains had been taken, death probably occurred in six hours. A case is reported by Niemann, in which a child aged seven was killed in three hours by eighteen grains of corrosive sublimate. The shortest case on record, although the period is only inferential, I believe to be the following, which occurred to Mr. Illingworth. A man, ætat. 30, was found dead on the 4th Dec. 1842, at half-past seven A.M. He had vomited some half-digested food, mixed with blood and mucus. On a shelf near him was a drinking-horn, containing about three drachms of corrosive sublimate. It was ascertained at the inquest that he had died from the effects of this poison. He had put water into the drinking-vessel, and had probably swallowed the poison while thus loosely suspended,—the exact quantity taken could not be ascertained. The deceased was last seen alive at half-past eleven the preceding evening, therefore only eight hours before he was found dead. When discovered, the face, as well as the extremities, was cold. From all the circumstances it was inferred that, even admitting the deceased to have taken the poison immediately after he was last seen alive, he could not have been dead less than six hours. This would carry the duration of the ___ to two hours from the time of taking the poison. There is probably no instance in which the poison has acted with greater rapidity than in this. Mr. Bigsley has published a case which proved fatal in two hours and a half; but the poison was a solution of the nitrate of mercury, not corrosive sublimate. On the other hand, the case may be protracted for several days. The following cases will not only shew this, but will also prove that the time at which the poison destroys life cannot be inferred from the quantity taken. In a case related by Dr. Venables two drachms of the poison killed a woman in eight days; about the same quantity destroyed life in six days in a case that occurred to Mr. Watson, of Edinburgh. In a third, reported by Sobernheim, three drachms did not kill for eleven days; while, in an instance recorded by Niemann, where one ounce of the poison was swallowed, the person did not die until the sixth day.

With regard to the treatment, if vomiting does not already exist, it must be promoted by the exhibition of emetics. Various antidotes have been suggested for this poison, and among these albumen mixed with water is, perhaps, the best fitted to counteract the effects of the poison. This remedy was proposed some time since by Taddei, an Italian chemist; and there are many instances of its efficacy on record. It appears to have had good effects, even when it was not taken until some time after the poison had been swallowed.

A man, aged sixty-eight, swallowed a drachm of corrosive sublimate. The usual symptoms appear to have followed, but he was not seen until about three-quarters of an hour had elapsed. His countenance was pale and anxious; his extremities cold, and the pulse small, hard, and frequent. Emetics were given to him, with the whites of six eggs, and after vomiting violently, he recovered in three days. There was some reason to suppose that the effect of the antidote was aided by the application of other remedial means. These remedies cannot be expected to be always successful. A case is related by Dr. Buckler (of Baltimore) of a young man who took about fifty-five grains of corrosive sublimate in a state of perfect solution, and albumen to the amount of a quart was afterwards administered to him, but nevertheless he died on the eighth day. In all cases, the entire expulsion of the poison from the stomach should be looked to, and the antidote may be given to aid the efforts at vomiting. The use of the stomach-pump is of questionable propriety; since the parietes of the stomach and œsophagus are commonly softened and corroded, so that very slight force in its employment might lead to perforation.

The chemical analysis of this poison, in the solid state, is as follows. It is entirely volatilized at a moderate heat, and in this property only, it resembles arsenic. It is very soluble in water; it is turned of a light scarlet colour by iodide of potassium, and of a yellow colour by potash; but by the hydrosulphuret of ammonia it is turned black. When it is rubbed on a clean surface of copper, with a mixture of one part of muriatic acid and two parts of water, a bright silvery stain is produced, which is entirely volatilized by heat. The metal may be easily reduced by heating it, when mixed, with three or four parts of carbonate of soda. Mercury is the only metal which is sublimed in globules, and therefore the experiment of reduction completely establishes the nature of this metal.

Corrosive sublimate is very soluble in water, forming a clear solution, which, when concentrated, has a faintly acid reaction, and a strong metallic taste. A small quantity of the solution may be first gently evaporated on a slip of glass, and then set to crystallize. If it be corrosive sublimate, it forms slender opaque, silky prisms, sometimes of considerable length, and intersecting each other. When a solution of iodide of potassium is dropped on them, they acquire a bright scarlet colour, and chloride of potassium is formed. These characters distinguish it from every other mineral poison, and all other substances whatever.

Law Magazine, No. II. New Series.

We resume our notice of this publication, before necessarily brief, limiting it chiefly to illustrative extracts. As of practical utility to our readers, we take two or three of the notes on leading cases.

TIME FOR THE DELIVERY OF GOODS.

Startup v. M'Donald (7 Scott, N.R. 269).

Wherever the terms of a contract are silent as to the time when goods are to be delivered or payment made, the law has long implied that such delivery or payment shall be within a *reasonable* time, leaving it as a question of fact, to be gathered from the circumstances of each case, what a reasonable time may be. (Co. Lit. 56 b.) Where the question of time has been left wholly open by the express terms of the contract, the law has been ever explicit to this effect, and exempt from judicial doubt, as in the cases of *Ellis* v. *Thompson* (3 M. & W. 445), *Greaves* v. *Ashlin* (3 Camp. 426), and very many others. But where the time of delivery has been generally though not definitely specified, as for instance, where the month or week, but not the day or hour, has been stated, and where the precise time was in question, more exact rules have obtained, and it is difficult to loosen the law from the terse rule in Bac. Abridg. (Tender, D), that delivery or tender must be made at "the uttermost *convenient* time" of the last day; and that "a tender is not good unless there be, after it is made, time enough, *before the sun sets*, to examine and tell the money, or to examine and take account of the goods; for if a man should be compelled to receive either money or goods in the dark, there would be great danger of his being imposed upon." And it has been also laid down in the old books, and acted upon in constant practice, that the party receiving the goods or money, is not bound to wait or attend at the proper place, for the delivery or tender of either, after such reasonable time shall have elapsed, although the day itself shall not have terminated. (*Wade's* case, Shep. Touch. 135.) And in all cases the law has regarded a tender at such time and place equivalent to performance and actual delivery. Questions of the time or place for the tender of rent and the presentment of bills are governed in great measure by customs which are amply definite (Com. Dig. Temps. D.E.F.); but do not affect the point mooted in *Startup* v. *M'Donald*, of which the chief facts and the decision were as follows.

An action of assumpsit was brought to recover damages for the non-acceptance of ten tuns of oil pursuant to contract. The jury found, by special verdict, that "the plaintiffs, on the 31st March, 1838, *at the hour of half-past eight in the night* of the said day, the said 31st of March being a Saturday, did tender and offer to deliver to the defendant, in the city of London, the ten tuns of oil in the declaration mentioned; that from the said hour when the said ten tuns of oil were so tendered and offered to the defendant, there was full and sufficient time, before twelve o'clock of the said 31st of March, for the plaintiff to deliver, and for the defendant to examine and weigh, and to receive into his possession the whole of the said tuns of oil." There was then a finding of a tender by the plaintiff, and a refusal by the defendant, who alleged "that the said hour of the said tender was a late, and by reason thereof, an unreasonable hour in that behalf" (the words of the second plea). The jury then found, in the same terms, that the said hour of half-past eight "*was* a late, and, by reason of its lateness, *an unreasonable and improper* time of that day for the tender and delivery of the said oil," and that there had been no earlier tender. A judgment in favour of the defendant was obtained in the Common Pleas (reported in 2 Scott, 480), and that judgment was reversed in error; Patteson, J., Williams J., Parke, B., Alderson, B., Gurney, B., and Rolfe, B. for the reversal; and Denman, C. J. for the affirmation of the judgment of the court below. It was held by this majority of judges, that the vendor on his part is bound to make tender at an hour which leaves a sufficient period in *point of time* to complete the performance of delivery and acceptance within the last day prescribed by the contract. That, furthermore, the vendee is not bound to *wait* for such tender of performance beyond the usual hours of mercantile business, or at any other than the place where the contract ought to be performed; so that if the tender were offered after the vendee had retired to rest, he would not be bound to get up to enable the vendor to perform his contract at an unreasonable hour; nor would he, the vendee, be guilty of default by absenting himself from the place of tender after such customary hours of business had closed; but that if the vendor had the good fortune to meet the vendee at the proper place, though after the close of such period, yet in sufficient time to complete the delivery and acceptance, and enable the vendee to examine the goods, the tender is good, the impropriety or unreasonableness of the hour notwithstanding; and that the vendee is bound under such circumstances to accept the goods so offered, and is liable in damages for refusing to do so. It was also laid down by Mr Baron Parke, "that where a thing is to be done anywhere, a tender a convenient time before midnight is sufficient. Where the thing is to be done at a particular place, and where the law implies a duty on the party to whom the thing is to be done to attend, that attendance is to be by daylight, and a convenient time before sunset." This distinction is, however, clearly operative only as to the duty

of attendance, not of acceptance, when tender is made at the proper place, though at an improper time. Lord Denman, C. J. on the other hand, held, that "there ought to be opportunity as well as time. The known habits (his lordship remarked) of the contracting parties may be taken into the account. Supposing it to be clear that such delivery cannot be made without a certain force of labourers to receive and stow away the goods, and it is notorious that all labourers employed in that trade left their work at an earlier hour than that of the tender, I think a tender after that hour would be unreasonable;" and this especially "where the question is as to the delivery of bulky goods in a great commercial community, notoriously conducting its operations by certain rules known among all merchants."

The result of this decision must be regarded as introducing a relaxation of the law which governs the specific performance of the contracts in question. Delivery or tender is now complete, wherever performance and acceptance are physically possible, within the uttermost time limited by the contract, without regard to the convenience of trade, or the ordinary observance of business hours. The right, however, so to complete a contract clearly depends upon the accident of finding the vendee upon the spot. Mr. Baron Alderson expressly says,—"In this case the plaintiffs have had *the good fortune* to meet the defendant;" and on this chance the law turns. In the same judgment it is stated that "the party, therefore, who does not make his tender at that usual place, or during those usual hours, *runs a great risk* of not being able to make it at all. If the vendee be present, and the tender of goods be personally made as stated, the tender is complete, and an action lies for non-acceptance; but if he be not present, no action will lie against him for non-acceptance, but he will have, on the contrary, his remedy against the vendor for non-delivery.

This case may be noted in Chitty on Contracts, 3rd edit. pp. 108, 730.

EXECUTION OF A WRIT AGAINST THE GOODS OF A PARTNERSHIP.

JOHNSON and ANOTHER v. EVANS and ANOTHER (1 Dowl. & Lowndes, 935).

The equitable rights of partners *inter se*, and the claims of creditors of the partnership, have rendered the position of a judgment creditor against one partner, and the course which he should pursue, somewhat difficult to define with absolute certainty. It has however been generally understood, notwithstanding the doubt thrown out by Lord Tenterden in *Burton* v. *Green* (3 C. & P. 306), that the sheriff, under a *fi. fa.* against one partner, was bound to seize the whole of the partnership goods, and that by the seizure he became tenant in common with the other partner; and after he had sold the undivided moiety, the vendee became tenant in common in a similar manner. The law was laid down by Holt, C.J. in *Heydon* v. *Heydon* (Salk. 392), as follows:—"If he seizes but a moiety, and sell that, the other will have a right to a moiety of that moiety; but he must seize the whole and sell a moiety undivided, and the vendee will be tenant in common with the other partner." And in *Jacky* v. *Butler* (2 Ld. Raym. 871), it is said—"The property in the other moiety is not affected by the judgment nor by the execution." The practical bearing of this was exemplified in *Bachurst* v. *Clinkard* (1 Show. 173), in which a return of *nulla bona* was held to be false to a writ against one Dyke, partner with Brown and others, although the partnership goods had already been seized under a *fi. fa.* against Brown. This view was supported by *Chapman* v. *Koops* (3 B. & P. 290), and *Fox* v. *Hanbury* (Cowp. 449), and adopted by the Court of Common Pleas in the principal case.

But it is the clear rule of law, that a seizure by the sheriff under any one of several writs in his possession, is a seizure under all, and the proceeds must be applied according to the order in which the writs are delivered, and that no distinct seizure is necessary for each. (*Drewe* v. *Lainson*, 11 A. & E. 531; and as to *ca. sa.* see *Barrack* v. *Newton*, 1 Q. B. 525.) Now the 2 & 3 Vict. c. 29, protects all executions, not being under judgments upon warrants of attorney, executed by seizure of the goods before the fiat; and in *Johnson* v. *Evans* (1 Dowl. & Lowndes, 935), it became necessary to apply both these principles under the following circumstances.

Innes and Bracher were partners. Under a *fi. fa.* against Innes, the partnership goods were seized on November 22nd, 1839. A judgment, in an action adversely commenced against both partners, was obtained, and a *fi. fa.* issued thereon upon the 30th of November. A writ of *fi. fa.* was lodged with the sheriff, who made out a warrant thereon, directed to another officer, and not to the one in possession. Under this warrant no seizure was made, the law, as above stated, being probably supposed to render it unnecessary. On the 9th of December a fiat against both partners was issued; and upon the sheriff satisfying *both* writes out of the proceeds of the sale, which took place after the fiat, the assignees brought trover against him for the undivided moiety of the goods seized on the 23rd of November belonging to Bracher, and thereby liable to the partnership debts, on the ground that there had been no seizure to bring the case within the protection of the Act. A verdict was found for the assignees, with leave to the defendants to move for a nonsuit, upon the ground that the seizure was sufficient. The judgment was delivered in last Hilary vacation by Tindal, C. J. after the Court had taken time to consider, in favour of the assignees. The principles above laid down were reconciled by the consideration, that the seizure of the whole of the partnership effects was *ex necessitate rei*, because one partner had no distinct interest in any portion, but in an undivided moiety of the whole, and that consequently there was no change of property by the seizure of that undivided moiety which belonged to the solvent partner; and as the property in chattels draws to it the possession, the possession of the undivided moiety, not liable under the first writ, also continued in him. The statute meant "a real and substantial seizure for the purpose of satisfying the execution by actual sale," and here no portion claimed by the assignees could have been applied to the payment of the judgment debt against Innes; and consequently; that as there had been no actual seizure by the sheriff under the second writ, the assignees were entitled to recover in this action.

This case plainly points out, that the course in future to be adopted to secure the fruits of a judgment against a partnership, is to take care that a seizure is *actually* made upon the goods under the writ, and not to be satisfied with the delivery of the writ to the sheriff. It will also be the sheriff's duty in such cases to render the writ effectual by an actual seizure.

This case may be noted in Chitty's Archbold, p. 453, and Montagu & Ayrton's Bankruptcy, vol. 1, p. 765.

NECROLOGY.

THE EARL OF EGREMONT.

We have to announce the death of the Earl of Egremont, which event took place at his seat, Silverton Park, Devon, on the evening of the 2nd instant, after a short illness of eight days. Indeed, till the 31st ultimo, but little apprehension of any danger was entertained. George Wyndham, Earl of Egremont, Baron Cockermouth, and a baronet, was born in Aug. 1785. He succeeded his uncle, the late earl, Nov. 11, 1837; married Nov. 14, 1820, Jane, third daughter of the late Rev. Wm. Roberts, Vice Provost of Eton College, and Rector of Warplesdown, Surrey, but has no issue, and his titles are extinct. His lordship was son of the Hon. William Frederick Wyndham, the youngest brother of the late earl. He was a captain in the navy, having entered the service in 1799; lieutenant in 1806; commander in 1810; and captain in 1812. Was midshipman in his Majesty's ship Canopus, in Sir John Duckworth's action, off St. Domingo, February 1806; commanded his Majesty's sloop Hawke from 1810 to 1812; and commanded his Majesty's ship Bristol from 1812 to the end of 1814, in the Mediterranean, and at the siege of Tarragona.

The title thus become extinct was granted in 1749. The Wyndham family, however, is one of great antiquity, the descent being from Ailwardus, who, soon after the Norman conquest, was possessed of lands in Wymondham, in the county of Norfolk, from whom sprung Sir John Wyndham, of Crownthorpe and Fellbrigge, in the same county, who was knighted at the battle of Stoke, and was beheaded for his adherence to the house of York, on the 6th of May, 1503. His son, Sir Thomas Wyndham, died in 1512, leaving issue two sons, the youngest of whom, Sir John, married Elizabeth, daughter and co-heiress of John Sydenham, of Orchard, county of Somerset, esq., and died in 1575, leaving four sons and four daughters. John, the eldest of these, died in his father's lifetime, leaving by his wife Florence, daughter of John, and sister and co-heiress of Nicholas Wadham, of Merrifield, county of Somerset, esq., an only son, Sir John Woodham, knt., who married Joan, daughter of Sir Hugh Portman, of Orchard, knight, and died in 1641, leaving nine sons and six daughters. Thomas, the third of these sons, was the ancestor of the Wyndhams of Crownthorpe, county of Norfolk; Humphrey, the fourth, was ancestor of the Wyndhams of Dunraven Castle, county of Glamorgan, and Clearwell, county of Gloucester; and the eighth, Sir George, was the ancestor of the Wyndhams of Cromer, county of Norfolk. Sir William Wyndham, the celebrated statesman, married first, Catherine, second daughter of Charles Duke of Somerset, in 1708. In October, 1749, Algernon, the seventh Duke of Somerset, was created Baron of Cockermouth and Earl of Egremont, with remainder to his nephews, Sir Charles Wyndham, bart., and Percy O'Brien Wyndham, sons of his sister Catherine, wife of Sir William Wyndham, before mentioned. Pursuant to the patent, on the death of the duke, without issue, on the 7th February, 1750, these titles devolved on the first-named nephew, Charles, the second earl, and grandfather of George O'Brien, Earl of Egremont, who died in November 1837, and was succeeded by George Francis, now deceased.

JOURNAL OF PROPERTY.

THE following scale of charges, *reduced more than one-third*, has been adopted for Advertisements of Estates for Sale, &c., exceeding 10 lines in length:

For the first 70 words . . . . . 5s.
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THE MONEY MARKET.

				Wed.		Frid.
Three per Cents. Consols	99½	99¾	99⅞	99⅞	99⅛	
Three per Cents. Reduced	98	100⅛	100⅛	99	99	
New Three-&-a-quarter per Cts	103⅞	103⅞	103	101⅛	103⅛	
Long Annuities..............	12⅛	12⅛	12¼	12⅛	12⅛	12
Bank Stock	216	216	217½	214	212	216
India Stock	281	282	282	282	282½	282½
India Bonds, prem.			72			72
Exchequer Bills, prem. ..			65			62
FOREIGN.						
Spanish Five per Cents...	29⅞	30¼	30⅜	30¼	30⅛	29⅝
Spanish Three per Cents.	40½	40⅞	40½	40½	40⅞	40½
Russian	119½	117½	119⅞	119⅞	120	119½
Peruvian..............	27		30½	28	29	
Portuguese	60½		69	69		
Mexican	35½		35½	36⅛	36½	36⅛
Deferred	16½	16⅞	16½	17¼	17⅞	17½
Dutch Two-and-a-Half per Cents..............	63⅞	63⅞	61	64⅞	63½	63⅛
—— Four per Cents.	99½	99½	99½	99½	99¾	97⅛
Danish	91	90½	91	91½	90	88
Colombian..............	14½	14½	14½	14⅞	14½	15⅞
Chili	101½	101½	101½	102	102	00
Buenos Ayres	43½	44	43½	43½	43½	43
Brazilian....	89	89	89	89	89	88½
Belgian	101½	102	101½	101½	101½	02

We understand that the romantic and beautiful property of Strathmill, and lands on the banks of the Avon, West Lothian, have been purchased by Walter Gowans, esq. of Gowan Bank, and builder in Edinburgh.—*Edinburgh Paper.*

SALE BY AUCTION OF THE FLEET PRISON.—On the 4th instant the sale of the first portion of the Fleet Prison took place in the front yard adjoining the governor's house, by order of the corporation of London, Mr. Pullen, jun. officiating as auctioneer. The lots disposed of consisted of the fittings-up and the materials of the governor's house, the strong room, the kitchen, and the various out-buildings of the prison. The lots sold fetched remarkably high prices; for instance, the bricks composing the governor's house sold for near 300*l*.

Public Sales.

By Messrs. RUSHWORTH and JARVIS, at Garraway's.

A family residence, No. 32, Wimpole-street, Cavendish-square, with good stabling in the rear, let at 200*l*. per annum; held for 26 years at a ground-rent of 19*l*. 12*s*. per annum—1,740*l*.

A residence, with spacious workshop in the rear, situate No. 12, Barnsbury-row, Islington, let at 24*l*.; held for 73½ years at a rent of 4*l*. per annum—260*l*.

A leasehold property, comprising the Stag's Head public-house, the corner of New Cavendish-street and Duke-street, Portland-place, let at 70*l*. per annum; held for 22 years at the annual ground-rent of 10*l*. 10*s*. per annum—1,300*l*.

Five houses, Nos. 1 to 5, South-street, Britannia-fields, Islington, let at 117*l*. per annum; held for the remainder of a term, which will expire at Christmas, 1817, but with the benefit of the lessor's covenant to obtain a license from the lord of the manor for a further term of 21 years, until a term of 84 years, to be computed from Michaelmas, 1824, shall have expired, at a ground-rent of 34*l*. per annum, taxes 14*l*.—180*l*.

A residence, No. 12, George's place, Holloway, let at 22*l*.; held until 1901, subject to a ground-rent of 6*l*. 6*s*. per annum—105*l*.

By Messrs. WINSTANLEY.

The newly-built premises, Nos. 1 and 2, Bluecoat-buildings, and Nos. 16 and 17, Bull-and-Mouth-street, City, with spacious shops, three rooms, and workshops; held by lease from the Governors of Christ's Hospital, for a term whereof 29 years were unexpired at Christmas, 1844, at a reserved rent of 126*l*. and 5*l*. 10*s*. 6*d*. for insurance—2,920*l*.

By Messrs. COCKERELL, SON, and HOARD, at Garraway's.

Three freehold houses, Nos. 6, 7, and 8, Little Trinity-lane, City, let at 65*l*. per annum—693*l*.

An improved rent of 15*l*. arising from the India House Platform public-house, Rotherhithe, for 26 years—147*l*.

Three houses, Nos. 8, 9, and 10, Philadelphia-terrace, Mount-gardens, Lambeth, let at 92*l*.; held for 61 years, from Michaelmas, 1842, at a ground-rent of 15*l*. per annum—756*l*.

Four houses, Nos. 11, 12, 18, and 19, Philadelphia-terrace, let at 126*l*.; held for 61 years, from June 1843, at a ground-rent of 20*l*.—1,020*l*.

By Messrs. MUSGROVE and GADSDEN, at the Mart.

A freehold estate in the High-street, at Homerton, near to Homerton Cottage, comprising a residence known as the Manor House, with a dwelling-house adjoining, extensive out-buildings, three cottages, garden, and a paddock—2,460*l*.

A leasehold property, comprising four houses, being Nos. 1, 2, 3, and 4, Elmes-row, Rotherhithe; held for 99 years from Midsummer, 1843, at a ground-rent of 15*l*. 17*s*. per annum—1,150*l*.

The lease and goodwill of a butcher's business, established upwards of a century, and carried on at No. 75, Church-street, Greenwich; also two houses, Nos. 7 and 8, Roan-street, Greenwich; the whole held for f42 years, at 112*l*. 8*s*. per annum—140*l*.

A residence, No. 2, Church-street, Hackney; held for 4¢ years, at a ground-rent of 6*l*. 1*s*. per annum—35*l*.

Twenty-five 50*l*. shares in the Commercial and General Life Assurance Association, upon which 3*l*. per share has been paid—38*l*.

THE GAZETTES.

AMOUNT OF DIVIDENDS.

The sum stated as the Dividend, means so much declared in the Pound. The Assignees, when chosen, follow this statement.

Monday, March 31.

Hone, W. coach proprietor, assignees, May 2.

Tuesday, April 1.

Barwick, J. F. wheelwright, div. next week. Graham, London.—***Hagg***, I. tailor, last exam. July 1.

Wednesday, April 2.

Crabb, J. bricklayer, last exam. passed.—***Ransford***, C. grocer, outlawed.

Thursday, April 3.

Closson, E. stationer, last exam. April 22.—***Collinson***, H. W. hat maker, div. next week. Alsager, London.—***Smith***, W. printer, div. next week. Whitmore, London.—***Wood*** and ***Wood***, Blackwell-hall factors, div. next week. Whitmore, London.

Friday, April 4.

Behnes, W. marble mason, last exam. passed.—***Dale***, W. boot maker, last exam. passed.—***Dolbell***, L. D. dyer, last exam. passed.—***George***, L. shawl warehouseman, last exam. passed.—***Lee***, C. miller, last exam. passed.—***Oglan***, H. victualler, div. next week. Belcher, London.

DIVIDENDS.

Bankrupts' Estates.

Official Assignees are given, to whom apply for the Dividends.

Atkinson, M. banker, fourth and final 2*s*. 6*d*. and 1-3rd of 1*d*. Baker, Newcastle.—***Benson***, T. stationer, first, 3*s*. 3*d*. Graham, London.—***Drence***, J. scrivener, first and final, 2*s*. 9*d*. Acraman, Bristol.—***Fletcher***, W. oilman, first, 6*s*. 8*d*. Christie, Birmingham.—***Garnett***, J. F. hatter, 1*s*. 4*d*. Graham, London. ***Gray***, J. L. tailor, second 10*d*. Groom, London.—***Hilton***, J. surgeon, first, 4*s*. 3*d*. Cazenove, Liverpool. ***Holdroyd***, J. farmer, first and final, 7*d*. and 1-12th of 1*d*. Baker, Newcastle. ***King***, J. R. druggist, first, 1*s*. 9*d*. Acraman, Bristol.—***Laidman***, J. sen. banker, second and final, 1*d*. and 1-16th of a penny. Baker, Newcastle.—***Pearson***, T. wine merchant, first, 2¾*d*. Groom, London.—***Robertson***, W. insurance broker, first, 11*d*.—Groom, London.—***Tomkinson***, M. draper, first, 4*s*. Whitmore, Birmingham.

ASSIGNMENTS

To Trustees for the benefit of Creditors.

Gazette, April 1.

Birch, M. J. grocer, Broadstairs, March 29. Trust. R. Lillwall, wholesale cheesemonger, Lime-street, and Hulbert Wathen, tea dealer, Fenchurch-street. Sols Clutton and Co. High-street, Southwark.—***Clegg***, R. draper, Malton, Yorkshire, Feb. 10. Trusts. C. Hickson, merchant, and C. Cobden, calico printer, both of Manchester. Sol. Sale, Manchester.—***Dowling***, W. draper, Egham, April 3. Trusts. B. Smith, St. Martin's-le-Grand, and J. W. Barnett, Wood-street, warehousemen. Sol. Mardon, Newgate-street.—***Murphy***, B. draper, Worksop, March 31. Trust. J. Bullivant, draper, Retford. Sol. Wake, Worksop.—***Norton***, W. sack maker, Bishop's Stortford, Feb. 17. Trust. D. Cullimore, upholsterer, Gray's inn-lane. Sols. Cookney and Bridge, Lamb's Conduit-place.—***Richmond***, F draper, Taunton, March 19. Trusts. T. Newton, Wiveliscombe, ironmonger, T. W. Elstob, wholesale hosier, Wood-street, and R Baggallay, warehouseman, Love-lane. Sols. Soles and Turner, Aldermanbury.

Gazette, April 8.

Ennew, R. C. and ***Porter***, H. grocers and tallow chandlers, Ipswich, Feb. 14. Trusts. E. Goodwin, grocer, and E. Sewell, cheese factor, both of Ipswich. Sol. Aldrich, Ipswich.—***Mowbray***, W. plumber, Leicester, March 26. Trust. H. Taylor, traveller, Birmingham. Sols Haywood and Webb, Birmingham.—***Pares***, H. plumber, Loughborough, March 20. Trusts. H. Taylor, traveller, Birmingham, and T. W. Marshall, banker's clerk, Loughborough. Sols. Craddock and Woolley, Loughborough.—***Reid***, A. bookseller, Berwick upon Tweed, Feb. 15. Trusts. J. Cunningham, gent. and J. H. Innes, corn merchant, both of Berwick upon Tweed. Sol. Home, Berwick upon Tweed.—***Sturch***, H. grocer and ironmonger, Wellesbourn Mountfort, Warwickshire, April 3. Trusts. E. D. Ford, gent. Stratford upon Avon, W. E. Sturch, grocer, Shipston upon Stour, and L. Court, butcher, Stratford upon Avon. Sol. Hunt, Stratford upon Avon.

Bankrupts.

Gazette, April 4.

BIDDER, SAMUEL PARKER, slate and coal dealer and civil engineer, Fleetwood-on-Wire, Lancashire, April 14 and May 9, at twelve, Liverpool, Com. Ludlow; Turner, off. ass.; Bridger and Blake, London-wall, and Dodge, Liverpool, sols. Date of fiat, March 25. Bankrupt's own petition.

CURRIE, JOHN, and SEIGNETTE, LOUIS ELIZE, merchants, No. 36, Mincing-lane, April 17 and May 15, at eleven, Basinghall-street, Com. Fonblanque; Pennell, off. ass.; Trehern and White, Barge-yard-chambers, sols. Date of fiat, March 29. Bankrupt's own petition.

COTTERELL, JAMES KNIGHT, grocer, Glastonbury April 23 and May 16, at eleven, Bristol, Com. Stephen; Kynaston, off. ass.; Nash and Rooke, Glastonbury, sols. Date of fiat, March 25. J. J. Rocke, gent. Glastonbury, pet. cr.

DAY, CHARLES, chemist and druggist, late of No. 1, Buckingham-st. Fitzroy-sq. but now of No. 35, Acton-st. Gray's-inn-road, out of business, April 16, at half-past twelve, May 16, at twelve, Basinghall-st. Com. Evans; Bell, off. ass.; Pain and Hatherley, Basinghall-st. sols. Date of fiat, March 29. Bankrupt's own petition.

DINGLEY, THOMAS, draper and hosier, No. 2, Strutton-ground, Westminster, April 11, at one, May 16, at two, Basinghall-st. Com. Fane; Alsager, off. ass.; Dean and Co. St. Swithin's-lane, sols. Date of fiat, March 26. Bankrupt's own petition.

GILES, WILLIAM, boarding-house keeper, Marine Mansion, Marine-parade, Brighton, April 16, at half-past two, May 12, at one, Basinghall-st. Com. Evans; Johnson, off ass.; Sanford, John-st. Adelphi, sol. Date of fiat, March 29. Bankrupt's own petition.

HARTSHORN, HENRY, plumber, glazier, and licensed victualler, Shrewsbury, April 14 and May 15, at eleven, Birmingham, Com. Daniell; Whitmore, off. ass.; Parker, New Boswell-court, and Powell, Birmingham, sols. Date of fiat, March 25. Bankrupt's own petition.

LAMPARD, JOHN, printer and publisher, 9, Stanhope-st. Clare-market, April 16, at eleven, May 22, at one, Basinghall-st. Com. Holroyd; Edwards, off. ass.; Vandercom and Co Bush-lane, sols. Date of fiat, March 27. J. Barry and G. Hayward, stationers, Queenhithe, pet. crs.

PAULTON, JOHN, marble and stone mason, 2, High-st. Portland-town, Middlesex, April 11, at twelve, May 16, at one, Basinghall-st. Com. Fane; Whitmore, off. ass.; Letts, Bartlett's-buildings, sol. Date of fiat, April 1. T. Robson, marble merchant, Abingdon-st. Westminster, pet. cr.

SIMPSON, ALEXANDER HORATIO, engineer, Blackfriars-road, April 15 and May 24, at eleven, Basinghall-st. Com. Goulburn; Follett, off. ass.; Michael, Red Lion-square, sol. Date of fiat, April 1. C. Farmer, ironmonger, Market-st. Paddington, and R. Palmer, builder, Bartholomew-close, pet. crs.

WARD, RICHARD GEORGE, and PERRY, JOHN, meat salesmen, 14, Newgate-market, April 15 and May 24, at twelve, Basinghall-st. Com. Goulburn; Follett, off. ass.; Young, Warwick-sq. sol. Date of fiat, April 3. H. R. and C. Hicks, meat salesmen, Newgate-st. pet. crs.

Gazette, April 8.

HOLLINGSWORTH, JOHN, butcher, Paddington-st. St. Marylebone, April 18 and May 20, at eleven, Basinghall-st. Com. Shepherd; Turquand, off. ass.; Goren, South Molton-st. sol. Date of fiat, April 4. Bankrupt's own petition.

KILFORD THOMAS, cabinet maker and upholsterer, Bridge-st. Southampton April 15, at two, May 13, at eleven, Basinghall-st. Com. Shepherd; Graham, off. ass.; Dolman, Clifford's-inn, and Wright, London-st. Fenchurch-st. sols Date of fiat, March 31. J A. Moore and J. Mason, cabinet manufacturers, Paul-st. Finsbury pet. crs.

LAMBERT, JOHN, licensed victualler, Old Black Jack Tavern, Portsmouth-st. Lincoln's-inn-fields, April 17, and May 20, at twelve, Basinghall-st. Com. Fane; Alsager, off. ass.; King Saint Mary Axe, sol. Date of fiat, April 5. Bankrupt's own petition.

M'KNOTT, ELIZABETH, and GLASS, JAMES, coal merchants, Ordnance-wharf, Belvidere-road, Lambeth, and Blackfriars-road, April 22, at one, May 22, at eleven, Basinghall-st. Com. Shepherd; Graham, off. ass.; Freeman and Co. Coleman-st. sols. Date of fiat, April 7. Bankrupt's own petition.

ROBINSON, EDWARD EDWARDS, grocer, Wolverhampton, Stafford, April 28, and May 15, at eleven, Birmingham, Com. Daniell; Bittleston, off. ass.; Capes and Stuart, Gray's-inn, and Robinson, Wolverhampton, sols. Date of fiat, March 18. T. and S. Jones, pork merchants, Wolverhampton, pet. crs.

SHEFFORD, JOHN, hay and corn merchant, Widmore-farm, Kent, April 15, and May 31, at eleven, Basinghall-st. Com. Goulburn; Green, off. ass., King, Saint Mary Axe, sol. Date of fiat, April 5. Bankrupt's own petition.

SMITH, EDWARD, cheesemonger and butterman, No. 30, South Molton-street, and No. 291, Oxford-street, April 18, at two, May 23, at one, Basinghall-st. Com. Evans; Johnson, off ass.; Pain and Hatherly, Basinghall-st. and Great Marlborough-st. sols. Date of fiat, April 4. E Pain and J. Hatherly, gents. 5, Great Marlborough-st. pet. crs.

SMITH, JOHN, cotton manufacturer, Barnoldswick, Yorkshire, April 21, and May 13, at eleven, Leeds, Com. West; Young, off. ass.; Wiglesworth and Co. Gray's-inn; Barr and Co. Leeds; and Hartley and Heath, Settle, sols. Date of fiat, March 24. W. Clayton, E. Clayton, and R. Clayton, cotton manufacturers, Giggleswick, Yorkshire, pet crs.

STUART, THOMAS STRETT, the younger, drysalter, Liverpool, Lancaster, April 11, and May 13, at twelve, Liverpool, Com. Ludlow; Bird, off. ass.; Gregory and Co. Bedford-row, and Green, Liverpool, sols. Date of fiat, March 25. Bankrupt's own petition.

WRIGHT, FRANCIS, builder, Earl's Colne, Essex, April 18, at eleven, May 20, at one, Basinghall-st. Com. Fane; Whitmore, off. ass.; Bell, Bedford-row, and Mayhew, Coggeshall, sols. Date of fiat, March 31. H. Weudon, Earl's Colne, butcher, Essex, pet. cr.

PARTNERSHIPS DISSOLVED.

Gazette, April 1.

Abraham, A. and ***Dancer***, I. B. opticians, Manchester, Dec. 31. Debts paid by Dancer.—***Bacon***, G. and ***Smith***, E. blacksmiths, Great Yarmouth, March 28.—***Barrow***, J. sen. and ***Turner***, T. jun. engineers, East-st. Manchester-sq. so far as regards Barrow, March 31.—***Bicknell***, C. and A. B. ladies' schoolmistresses, Maidstone, March 31.—***Capurn***, D. and ***Parker***, D. C. chemists, Horncastle, March 19. Debts paid by Capurn.—***Cumberland***, W. and ***Gunn***, A. W. ship owners and merchants, London, Macao, and Sydney, Oct. 1.—***Churchus*** R. and ***Copp***, W. carpenters, Yatton, March 25. Debts paid by either partner.—***Dromgole***, J. and ***Linton***, J. window glass dealers, Barbican, and Bath-place, New-road, March 31. Debts paid by Dromgole, Barbican, and Linton, Bath-place, New-road.—***Empson***, E. and ***Holman***, H. B. surgeons, Crediton, March 25.—***Foweraker***, J. and ***Baker***, T. stationers, Exeter, March 6. Debts paid by Foweraker.—***Frankland***, J. and ***Cooper***, W. coal owners, Dronfield, March 1. Debts paid by Cooper.—***Ingleby***, H. R. and ***Briddon***, W. cotton brokers, Liverpool, March 28. Debts paid by Ingleby.—***Marples***, G. and ***Hibbert***, W. carvers and gilders, Sheffield, March 22. Debts paid by either partner.—***Woodward***, J., ***Yapp***, J. and ***Woodward***, J. silversmiths, Birmingham and Thavies-inn, Dec. 31. Debts paid by Woodward and Yapp.

Gazette, April 4.

Beynon, J. and ***Lowther***, J. P. ship brokers, Newport, March 24.—***Bowen***, H. J. and ***Lloyd***, D. surgeons, Greenwich, March 31. Debts paid by Lloyd.—***Cattley***, J. and S. W., ***Carr***, I. and ***Cattley***, J. G. Moorgate-st. so far as regards S. W. Cattley, June 30. Debts paid by the remaining partners.—***Josland***, R. and ***Baker***, J. drapers, Exeter, Feb. 14. Debts paid by Baker.—***Kenyon***, J. and ***Shepherd***, J. butter merchants, Rochdale, March 31. Debts paid by Kenyon.—***Lewis***, J. and ***Turpin***, J. timber merchants, Brighthelmstone, April 3. Debts paid by Lewis.—***Mackarell***, J. sen. and jun. and T. joiners, Bootle cum Linacre and Liverpool, Dec. 31. Debts paid by Mackarell, sen.—***Overton***, G. and ***Langley***, J. carpenters, Kirton, Lincolnshire, April 2.—***Perkes***, S. and ***Barton***, G. commission agents, Liverpool, April 3.—***Richardson***, G. R. and ***Midgley***, J. drapers, Hull, April 1. Debts paid by Richardson.—***Satterthwaite***, S. and E. F. tanners, Manchester and Gorton, March 29. Debts paid by S. Satterthwaite.—***Sharp***, W. and ***Hutchinson***, J. brewers, Pudsey, March 26.

Insolvents

Petitioning the Courts of Bankruptcy.

PETITIONS TO BE HEARD AT BASINGHALL-STREET.

Gazette, April 1.

Alder, D. gent. Dalston and Cannon-st. April 21, at eleven.—***Butt***, the Rev. J. W. vicar, Kings Langley, April 28, at half-past twelve.—***Coon***, M. draftsman and printer, Queen-st. Cheapside, April 16, at eleven.—***Harral***, T. author, Frith-st. Soho, April 16, at eleven.—***Maxey***, H. cabinet maker, Garden-walk, Curtain-road, April 28, at half-past eleven.—***Simmonds***, A. jun. beershop-keeper, Southgate, April 28, at twelve.—***Tost***, C. G. pianoforte maker, Tottenham-court-rd. April 7, at half-past eleven.—***Vine***, T. ironmonger, Blandford, April 16, at half-past eleven.—***Woodward***, E. bricklayer, Fore-st. Ipswich, April 17, at eleven.

MEETINGS AT BASINGHALL-STREET.

Gazette, April 1.

Jeeves, T. bricklayer, Hitchin, April 24, at eleven.

MEETINGS IN THE COUNTRY.

Gazette, April 1.

Bale, J. farmer's servant, Middle, Salop, April 29, at twelve, Birmingham.—***Bosward***, W. builder, Whitehaven, April 10, at half-past twelve, Newcastle.—***Brock***, W. clerk, Epworth, April 8, at eleven, Leeds.—***Cundall***, W. farmer's servant, Addle-cum-Eccup, April 16, at eleven, Leeds.—***Deacon***, J. glove manufacturer, Leicester, April 19, at half-past ten, Birmingham.—***Henry***, N. out of business, Ripon, April 16, at eleven, Leeds.—***Hollis***, H. private tutor, Leeds, April 16, at eleven, Leeds.—***Jackson***, J. coal leader, April 16, at eleven, Leeds.—***Johnson***, E. miner, Bilston, April 19, at half-past ten, Birmingham.—***Jones***, L. agent, Merthyr Tydfil, April 25, at eleven, Bristol.—***Latham***, G. schoolmaster, Little Bolton, April 14, at twelve, Manchester.—***Ledger***, G. Maplewell, April 16, at eleven, Leeds.—***Parry***, J. miller and victualler, Llamonda, April 7, at twelve, Liverpool.—***Parey***, J. miller, Cheddah, April 24, at one, Bristol.—***Sanderson***, W. boot maker, Thorne, April 16, at eleven, Leeds.—***Sides***, T. B. labourer, Oswestry, April 12, at one, Birmingham.—***Thomas***, D. farmer, Coychurch, April 24, at eleven, Bristol.—***Williams***, W. sheriff's-officer, Merthyr Tydfil, April 25, at one, Bristol.

MEETINGS IN THE COUNTRY.

Fisher, H. slater, Batheaston, April 28, at eleven, Bristol.—***Garraway***, H. hairdresser, Bristol, April 23, at twelve, Bristol.—***Hill***, T. schoolmaster, Gloucester, April 22, at eleven, Bristol.—***Longman***, J. cabinet maker, Wells, April 22, at twelve, Bristol.

Gazette, April 4.

PETITIONS TO BE HEARD AT BASINGHALL-STREET.

Brakenridge, D. tailor, Bryanstone-street, April 18, at half-past eleven.—***Colls***, A. S. butcher, Dartford, April 7, at half-past one.—***Dunn***, R. King-st. Westminster, April 10, at two.—***Green***, W. J. baker, Portsea, April 28, at one.—***Griffiths***, H. attorney, Nelson-sq. Blackfriars, and Southampton-bldgs. April 16, at half-past eleven.—***Harris***, G. writer on glass, Little Queen-st. Holborn, April 16, at twelve.—***Palmer***, G. out of business, Bury St. Edmunds, April 22, at eleven.—***M'Cormick***, E. tailor, Carlton-st. April 18, at eleven.—***Pearce***, J. plumber, Great Tichfield-st. April 17, at eleven.—***Roberts***, W. painter, St. Mary Cray, Kent, April 16, at half-past eleven.—***Terry***, T. beer retailer, Bath-place, New-road, April 17, at twelve.

IN THE COUNTRY.

Baldwin, R. fruit dealer, Burnley and Stockport, April 18, at eleven, Manchester.—***Bateman***, J. carpenter, Bath, April 29, at twelve, Bristol.—***Clark***, H. publican, Bristol, April 29, at eleven, Bristol.—***Cubbin***, J. porter, Liverpool, April 14, at eleven, Liverpool.—***Knight***, J. watch maker, Bath, April 29, at eleven, Bristol.—***Ross***, J. shopkeeper, Lambley, April 21, at half-past ten, Birmingham.

MEETINGS AT BASINGHALL-STREET.

Potter, J. scalemaker, Britannia-st. City-road, April 22, at eleven, to choose assignee.

Bankrupts.

From the Gazette of Friday, April 11.

Poynter, W. warehouseman, St. Paul's Church-yard.—***Payne***, G. tailor, King-st. Covent-garden.—***Adlington***, T. coal merchant, Kingsland.—***Forty***, T. hotel keeper, Richmond.—***Simpson***, A. H. and ***Irvin***, P. H. engineers, Blackfriars-road.—***Litten***, R. P. grocer, Newmarket-place, Kingsland.—***Hone***, J. veterinary surgeon, Woodstock-mews, New Bond-st.—***Coggan***, H. D. warehouseman, Friday-st.—***Emans***, W. bookseller, Warwick-lane, Newgate-st.—***Pritchard***, J. builder, Lilleshall, Shropshire.—***Winscombe***, J. boot maker, Bristol.—***Blackmoor***, J. builder, Rotherham, Yorkshire.

THE REPORTS.

Equity Courts.

LORD CHANCELLOR'S COURT.

Friday, March 14.

Re COVENTRY CHARITIES.

Two petitions—Practice—Right to begin—Title petition.

A petition in the matter of these charities had been presented, on which the Vice-Chancellor of England had made an order which was appealed from. The respondents had also presented an original petition in this court, which had been opened.

Wakefield, for the appellants.

James Parker, for the respondents.

The question was who should begin, and the Lord Chancellor decided that Mr. Wakefield ought to go on.

Parker then objected that the petition was entitled only in Sir Samuel Romilly's Act, and that it ought to have been also entitled in the Municipal Corporations Act.

The LORD CHANCELLOR.—The petition must be presented under the Municipal Corporations Act, and therefore the petition will require amendment, and it must stand over for that purpose. The question is, whether the fiat of the Attorney-General is necessary before the petition can be presented at all.

Re · RAILWAY.

Costs of application under a railway Act.

Neate supported a petition for payment out of court of a sum of money which had been paid by the railway company for settled land of the petitioner taken under the powers of an Act of Parliament, and paid into court during the petitioner's infancy. The petitioner had come of age, and had executed a disentailing deed. He asked for the costs of this application against the railway company.

Osborne, for the railway company, contended that the Act of Parliament did not authorize the payment of these costs by the company. The only applications of the purchase-money of land belonging to infants taken by the company which the Act authorized were, first, in paying off incumbrances; secondly, in redeeming the land-tax; and, thirdly, in the purchase of other lands to be settled to the same uses. An interim investment was directed until either of the above objects could be effected, and the company was bound to pay the costs of the requisite proceedings. But the Act did not contemplate the executing a disentailing deed, and therefore the present application was one not provided for by the Act.

The LORD CHANCELLOR.—If the petitioner is entitled to have the money out of court, he is also entitled to his costs from the company. He has acquired the absolute interest.

Osborne.—But the Court is not at liberty to go beyond the express terms of the Act of Parliament in directing the company to pay costs.

The LORD CHANCELLOR.—The Act directs the payment by the company of the reasonable expenses of a purchase, and of the reinvestment of the purchase-money in land, together with the costs, charges, and expenses of obtaining such reinvestment. Here an investment has been made by the purchase of other securities, and it is proper that an order should be made for the expenses of other proceedings necessary to render those securities available, as for the payment of the dividends. If the money had been taken out for the purpose of purchasing land, the company must have paid the costs. Now the petitioner cannot get this money out of court, he cannot get that to which he is entitled without an application to the Court which must occasion further expense, and which it is fair the company should pay.

Osborne.—The Act does not contemplate the tenant in tail disentailing his money and coming to have it out of court. The Vice-Chancellor of England held the words to be limited.

The LORD CHANCELLOR.—The Act contemplates the payment of money out of court, and the words are general. This comes within the reason, and the justice of the thing requires that all the costs should be paid by the company. *Ordered.*

Re TWEEDIE.

Conveyance under 1 *Wm.* 4, *c.* 60, *by the infant heir of trustee of lands in a colony—Evidence of colonial law.*

Hallett supported a petition praying that a person might be appointed under the Act 1 Wm. 4, c. 46, s. 8, to convey to a new trustee lands in Demerara which had been vested in G. B. Whitehead as a trustee. Whitehead had died, and, by the law of Demerara, his son and his two daughters constituted his heir, to whom the legal estate had descended. By the 29th section of the Act it was expressly provided that the powers and authorities given by the Act to the Court of Chancery in England should extend to all land and stock within the dominions, plantations, and colonies belonging to the crown (except Scotland). There is also a similar clause in the Lunacy Act. The two daughters of Whitehead were in England, and the son was in France, and all parties concurred in appointing Dr. Tweedie as the new trustee. The Master had found that the deceased Mr. Whitehead was a trustee within the meaning of the Act, and had found that Mr. Hyde was a proper person to convey. The petition prayed the confirmation of the Master's report.

The LORD CHANCELLOR.—Some evidence should be produced to satisfy me what is the law in Demerara, and assuming it to be as stated in this petition, the order may be made under this Act. Let an affidavit on the point be made by some person competent to speak positively to the law of the colony. The petition must stand over for that purpose.

Hallett cited *Re Welsh* in Lunacy (3 Mylne & Craig, 292).

The LORD CHANCELLOR.—What have I to shew what is the law of Demerara? It appears that part of the property consisted of slaves, and I must have an affidavit to shew that slaves were deemed real property in Demerara, and that, on the death of Whitehead, the real property would vest in his son and two daughters as heir; and what is the proper mode of conveyance. The case you referred to, *R. Welch*, seemed to relate to the interest of the lunatic in the trust funds, and the Lord Chancellor said that that part of the Act which related to such cases was obscure. *Petition to stand over.*

Re WHARTON, a Lunatic.

Whether surplus money produced by the sale of lunatic's real estate under the act for payment of debts belonged to the heir-at-law or next of kin?—Conviction of heir-at-law.

Rogers supported a petition by the heir-at-law of the deceased lunatic for a reference to inquire whether the heir-at-law or the administrator was entitled to the surplus proceeds of an estate sold for payment of the lunatic's debts. The father of the heir-at-law, the petitioner, had been convicted of horse-stealing in 1820 and transported, but corruption of blood in cases of felony was now taken away.

Loraf, for a creditor of the heir-at-law, asked for a stop order, which was not objected to. The reference must be to inquire who is the heir-at-law of the lunatic, and whether the lunatic and his late heir, the petitioner's father, died intestate.

The LORD CHANCELLOR.—Who will be parties to that reference? How can such an *ex parte* proceeding decide a question of title? How can I with propriety make the order?

Rogers.—There is no defendant; if the real estate had not been sold, an ejectment might have been brought to try the title, but that is now impossible. The father of the petitioner has been found to have been the eldest brother of the lunatic.

The LORD CHANCELLOR.—There must be advertisements for the heir-at-law; there cannot be any thing more done. *Reference ordered.*

Re STUART, a Lunatic.

Committee's accounts—Practice in lunacy.

The late Lord Carhampton was the committee of the person of this lunatic. Sir Simeon Stuart, the committee of the estate, was abroad, had not passed his accounts for many years, and consequently had been suspended; and a receiver of the lunatic's estate had been appointed *ad interim*. The commissioner had reported that Mrs. Long, the lunatic's granddaughter, was a proper person to be appointed committee of the person, and that Mr. Smith was fit to be appointed receiver of the estate. The allowance for the maintenance of the lunatic was 2,000*l.* a year, the rents of her real estate amounted to 2,500*l.*, and she was also entitled to the dividends of a fund in court in a pending cause. A further sum for maintenance was sought.

Pole, for Wm. Stuart, one of the next of kin, urged that no further allowance ought to be made.

The LORD CHANCELLOR.—I never knew a case in which such neglect had taken place as in this lunacy. There had been no inquiry as to the lunatic's property. The petition suggests that nothing has been accounted for, and nothing done for years. There has been so much neglect, and so much misconduct in the affairs of the lunacy, that it must come before the Court as if for the first time. There must be an inquiry as to what the lunatic's property consists of, and what is the proper sum to be allowed for maintenance.

Re JOHN SMITH.

Lunatic trustee, not found lunatic by commission—Joint trustee.

A reference had been made to inquire whether John Smith, a person of unsound mind, but not found so by commission, was a trustee within the Act of 1 Wm. 4, c. 60. The report stated that he was such a trustee for part of the estate, but did not say for whom.

Rogers, for the petitioner.

The LORD CHANCELLOR.—The petition must be amended.

Re SMITH, a Lunatic.

Sale without a reference—Practice in lunacy.

Blunt supported a petition to confirm the sale of a leasehold estate of the lunatic without a previous reference to the commissioner. The lunatic was a publican in Golden-square, and after the death of his wife the business had been carried on by the eldest son, but he was losing the business. The lease had only produced 500*l.* and the only other property of the lunatic consisted of his stock in trade. The commissioner was unable to say what sum should be allowed for maintenance, but it was asked that 1*l.* 3*s.* per week should be allowed.

The LORD CHANCELLOR.—If the profits do not amount to that sum, then the whole profits must be allowed. The costs must stand over.

Re CLARKE, a Lunatic.

Allowance to lunatic's family—Costs.

Rasch supported a petition to confirm the commissioner's report that 2,000*l.* a year was fit to be allowed for the maintenance of the lunatic and his family. The report apportioned the application of the amount. One of the sons, Thomas, had 100*l.* a year allotted to him.

Geldart, for some of the parties, opposed the allowance of Thomas's costs, upon the ground that his conduct in the matter of the lunacy had been litigious.

Phillips, for Thomas Clark.

The LORD CHANCELLOR.—There is a considerable property, much more than sufficient to pay the living of the lunatic. The rest of the family receiving an interest under this report should not object to pay Thomas's costs.

Wednesday, April 9.

FRISBY *v.* STAFFORD.

Extension of time for payment of money into court—Contempt—Terms—Practice.

Tinney, for the defendant, applied to extend the time fixed by the decree in this cause for payment into court of a sum of money. The defendant's solicitor stated that he was engaged in raising the money by mortgage, but that owing to the length of the abstracts and other temporary difficulties, the money could not be obtained by the appointed day.

Teed and *Freeling*, contrà.

The LORD CHANCELLOR.—The affidavit should mention the name of the person who is about to advance the money, and that such person is ready to make the advance on a good title being shewn. The other side might then have an opportunity of contradicting that statement.

Freeling, for the plaintiff, then offered, that on the defendant consenting to the plaintiff being in the same situation as at present with respect to attachment on the expiration of the extended time, the required time should be given.

Ordered, and that the costs of the present application be paid by the defendant.

Friday, April 11.

Re CLARKE, *Ex parte* BUCKLEY.

Proof on promissory note—Joint and several liability—Banker's notes—Signing partner—Agency—Costs—The case of Hall v. Smith.

Where a banker signs a promissory note for himself and all the other members of his firm, although the form of the note is "I promise to pay bearer on demand, &c." it would, in the absence of decision, looking at the object and intent of the transaction, be a joint obligation of the whole firm, and not a separate liability of the signing partner: that, consequently, on the bankruptcy of the bankers, the holder of a note could not prove against the separate estate of the signing partner.

But the case of Hall v. Smith is an express decision of the Court of King's Bench to the contrary: and, therefore, the Lord Chancellor, though expressing a strong opinion, would not decide contrary to Hall v. Smith, without sending a case for the opinion of a court of law.

This was a special case stated in bankruptcy by way of appeal from the Court of Review. A fiat in bankruptcy had issued against John Clarke, Richard Mitchell, Joseph Phillips, and Thomas Smith, who were bankers at Leicester, under which Mr. Buckley, the petitioner, as holder of several promissory notes of the firm, sought to prove against the separate estate of Richard Mitchell, who had signed the note. It was in this form:—

"Leicester and Leicestershire Bank.

"I promise to pay bearer on demand five pounds, here or at Messrs. Deacon, Labouchere, Thornton, and Co. bankers, London; value received.—For John Clarke, Richard Mitchell, Joseph Phillips, and Thos. Smith. (Signed) "RICHARD MITCHELL."

The Commissioner admitted the proof as against the separate estate of Richard Mitchell, upon the authority of the case of *Hall* v. *Smith* (1 Barnewall & Cresswell, 407); but upon a petition by the assignees to the Court of Review, the proof was ordered to be expunged.

James Russell and *Daniel*, for the admission of the proof, relied upon the case of *Hall* v. *Smith*, and contended that the liability of Mitchell upon the notes which he had signed, was a several liability, and he alone might have been sued upon it when solvent. The case in the Court of Review had been decided by

Sir George Rose, who held that, as between themselves, Mitchell was only a surety for the others, and that in administering the estate in bankruptcy the contract must be so dealt with, no demand of payment having been made before the bankruptcy.

The Lord Chancellor.—If a note in the same form had been signed by all the partners, each would have been liable.

Russell.—That is clear. (*Clayton* v. *Gosling*, 3 Barn. & Cres.) No demand was necessary to give a right against any estate administered under that bankruptcy. The notion that Mitchell, who signed the note, being a surety for his partners, taken up by Sir George Rose, was a surprise on all sides. (*Sayer* v. *Clator*, Lutwyche Rep. 696; *March* v. *Ward*, Peake's Nisi Prius Cases, 130.) In the latter case the note was substantially in the same form as the present, but signed by both parties, and it was held to be several as well as joint. If the note had been signed by two or more, each person signing would have been severally liable. The case of *Hall* v. *Smith* was referred to in a note to Bayley on Bills in the last edition published by Mr. Francis Bayley, the son of Mr. Justice Bayley, one of the judges who decided *Hall* v. *Smith*, and that note was taken from the learned judge's own note. In *Lee* v. *Niron* (1 Ad. & Ell. 204), and several other modern cases, *Hall* v. *Smith* had been cited as a sound authority. Suretyship is out of the question between the holder of the note and any of the estates of the bankrupt firm.

M. D. Hill and *Cankrien* for the assignees, contended that *Hall* v. *Smith* was contrary to principle, and was not in harmony with the commercial law of the rest of the world. In Story on Partnership the writer, after commenting upon that case, says, "this construction goes to the very verge of the law, and, perhaps, may be thought to deserve further consideration." This is the joint note of the firm.

The Lord Chancellor.—I don't think you cannot say Mr. Story objects to the case of *Hall* v. *Smith* so far as it relates to a separate liability, but as to its operation as a joint note. The point under consideration was whether it was a joint note.

Hill.—At that time it was settled law that it was a joint note. The notes of the Bank of England are in precisely the same form, only they are signed by a clerk; and it is a mere accident that the agent who in this case signed on behalf of the firm was himself a partner. In signing the note he acted as a mere agent for the firm. If an agent discloses the name of his principal, and if he had authority from his principal to enter into a contract, the agent will not be personally liable in any form of action. (*Hall* v. *Ashurst*, in Crompton & Meeson's Reports.) Here Mitchell signed the note only as agent; he had no other power to bind the firm.

The Lord Chancellor.—The liability depends upon the grammatical construction of the words, in conjunction with the intention of the parties.

Hill.—It would be contrary to the intention of the parties to hold the signing partner severally liable. If it is a joint note of the firm, it cannot be a several liability. If the agent promises for principal and has authority, he may rightly say, "I promise to pay," because that is according to the fact; and should I say, "We promise to pay," it would be speaking according to the legal effect.

The Lord Chancellor.—The last edition of Mr. Justice Bayley's book on Bills, which contains a reference to *Hall* v. *Smith*, was published in his lifetime, and he revised the notes, which shews that he adhered to that decision.

Hill.—It may be so; it nevertheless is contrary to principle.

The Lord Chancellor.—Is there any case in which *Hall* v. *Smith* has ever been called in question? It is difficult for me to overrule a decision which is directly in point.

Hill.—That case has not been approved of by the Profession. The mistake the judges there made was resting on the words of promise; but every agent promises; the question is, what does he promise? He does not promise to pay, but that his principal shall pay. (*Lord Galway* v. *Mathew*.)

The Lord Chancellor.—When I first read the note, the construction I put upon it was this:—"I, acting for Clarke, Mitchell, Philips, and Smith, promise to pay." I was not aware of the case of *Hall* v. *Smith*.

Hill.—Sir George Rose said the credit had been given to the firm, the value received for the note went to the firm, and asked whether, in such a state of things, the holder of the note was to prove against the separate estate; and neither does insolvency or bankruptcy of the firm excuse the holder from presenting his note.

The Lord Chancellor.—I shall state a case for the opinion of a court of law. My impression was, and is now, that it is a promise by Mitchell for the firm of which he was a member. I confess that if the case of *Hall* v. *Smith* had not been in existence, I should have decided this to have been a partnership debt; but I think I ought not to overrule that case, which has been decided so many years ago, and which has since remained unquestioned, without sending a case to a court of law.

Russell.—This being a question between two separate classes of creditors, the expense of the case ought to be borne by the estate.

The Lord Chancellor.—Let it be so. A case must be stated for the opinion of the Court of Exchequer: it is sent for the purpose of reviewing the case of *Hall* v. *Smith*.

VICE-CHANCELLOR OF ENGLAND'S COURT.

Friday, March 14.

Samuel *v.* Samuel.

Will—Executory gift—Issue—Settlement for the sole use of females.

A testator, A. P. by his will appointed his executors to be guardians of his children until they should each severally attain the age of twenty-five years. He then directed that all property of whatsoever kind he might be possessed of, or which might accrue to his estate, to be equally divided among his four children, share and share alike. The testator then directed as follows:—"All moneys inherited by my daughters under this will shall be placed in the hands of trustees appointed by their guardians to be settled on them for the sole use of themselves and their lawful issue." One of the daughters having attained her age of twenty-five years, being unmarried, petitioned the Court (a suit having been already instituted by the executors) to have her interest declared by the Court. Held, that she was absolutely entitled to her share.

The testator Alfred Phillips, by his will bearing date the 10th of June, 183 , constituted, nominated, and appointed Mr. Philip Samuel and Mr. Deni Moses Samuel to be his lawful executors for all purposes, and guardians to his children until they should each severally attain the age of twenty-five years, which age, he declared, should constitute their majority. He then directed his executors to execute certain trusts with reference to his business. The testator then willed as follows:—"I hereby declare that I desire all property of whatsoever kind I may be possessed of, or which may accrue to my estate, to be equally divided among my four children, share and share alike, in the manner hereinafter mentioned, that is to say, that whenever my partner, Mr. D. M. Samuel, shall think fit to pay any money into the hands of my executors, such money shall be invested in any manner they shall think fit, for the benefit of my children; and I hereby give my executors unlimited power and control over the management of such property, and I desire that my daughters do not marry during their minority without the consent of their guardians had in writing; and I authorize them to give to each of my daughters such sum of money as dowry as they shall think fit; and in case that either of my daughters shall marry without the consent of her guardians before she shall attain the age of twenty-five years, she shall only be entitled to one half or moiety of her quarter share of my estate: and I hereby direct that all moneys inherited by my daughters under this will shall be placed in the *hands of trustees* appointed by their guardians, *to be settled on them for the sole use of themselves and their lawful issue.*" The testator died very shortly after the execution of his will, and, under the circumstances, it was thought advisable to have the estate, which consisted of personalty only, administered under the direction of the Court. Accordingly a friendly bill was filed by one of the executors against his co-executor and the testator's children for that purpose; pending the suit, sums of money were paid into court to the amount of nearly 80,000*l.* to the credit of the cause. When Margaret, the eldest daughter of the testator, arrived at the age of twenty-one years, she petitioned the Court for the purpose of having it declared that she was absolutely entitled to one-fourth part of the moneys already paid in, as before stated. The Court made an order upon that petition for the payment of the dividends upon such one-fourth part to Margaret, without prejudice to the question raised by her petition, until the Court should further direct. The petitioner, however, having now attained her testamentary majority of twenty-five years, and being still a spinster, again presented her petition, praying that it might be declared that she was absolutely entitled to her share of the trust moneys, and that the same might be transferred into her own name, or that a reference might be made to the Master to approve of a proper settlement.

Swanston, *Cooper*, and *Tripp* appeared in support of the petition.—If the testator had said nothing about the settlement, but the bequest had been made to the daughter direct, it is manifest that she would have taken an absolute interest; and had there been nothing executory, the word "issue" must have had its own legal operation as a word of limitation. Where questions of this description arise upon a will, they are distinguishable from those springing out of a marriage settlement, for, in the latter instance, the issue of the marriage take their settled interests as purchasers, but in the case of a will they take as simple volunteers. Moreover, where the terms of a trust are well defined, there is no distinction in their construction, whether the trust be executed or only executory. In the present case the petitioner takes an absolute interest, for the words are perfectly clear and unambiguous. The sole reason for the testator interposing a trust for the separate use of his daughters was for the protection of their respective shares from the control of their husbands. There is not, according to the true construction of the will, any authority to make a settlement except it should happen that any one of the daughters should marry under twenty-five. Lastly, the trustees are to be appointed by the guardians, whose office is but temporary, and will expire with each daughter as she attains her age of twenty-five years. Whatever is done therefore in regard to any settlement must take place during the period of minority fixed by the testator.

Simpson, for one of the daughters under the age of twenty-five.

Gordon, for the trustees.

Cases cited: *Jervoise* v. *The Duke of Northumberland* (1 J. & W. 559); *Stoner* v. *Curwen* (5 Sim. 264); *Tuckett* v. *Armstrong* (4 My. & C. 377); *Anderson* v. *Anderson* (2 My. & K. 427); *Sweetapple* v. *Bindon* (2 Vern. 536).

The Vice-Chancellor.—I must look at the mere legal effect of the words and decide accordingly. Suppose now the testator had said that when any money shall come into the hands of his executors they should invest it for the only benefit of his daughter Margaret, thus confining the bequest to a single daughter, the subsequent passage of the will would stand in the singular number as follows—"to be settled on her for the sole use of herself and her lawful issue;" this would give it to her. I am therefore of opinion that Margaret is absolutely entitled to her share in the money.

ROLLS COURT.

Feb. 26 and 27, and March 3.

Connolly *v.* Butcher.

Will—Construction—Maintenance—Contribution of legatees to payment of debts.

A testator gives to his wife "the goodwill of a public-house, stock, &c. for the use of herself and her daughter, subject to the trusts that she and the daughter should live together, and that the wife should take charge and see to the maintenance and support of her daughter during her minority, with the advice of his executor, and if she disposed of the place, she should adopt the best means which might seem expedient for the future maintenance of the daughter during minority."

Held, that though the daughter married and left the mother under age, she was nevertheless entitled to something for her support till twenty-one.

The testator in the cause gave to his wife, Elizabeth Hersey, the goodwill of the Blue Pig public-house in St. Mary Axe, the stock in hand of fixtures, furniture, and household goods for the use of his said wife and his daughter, Sarah Hersey, but subject to the trusts that his said wife and daughter should live together, and that his said wife should take charge of and see to the maintenance and support of his daughter during her minority, with the advice of the plaintiff, Hugh Connolly (whom with his wife he appointed executor); and if his said wife should dispose of the Blue Pig, he desired that the plaintiff and his said wife should act jointly, and adopt the best means which might seem expedient to them for the future maintenance of his daughter during her minority. And he gave his daughter 330*l.* in the hands of his brewers, to be placed in the funds till his daughter attained twenty-one, and then disposed of for her advantage, as might be expedient. Also he gave 105*l.* in the funds to be transferred to the names of his wife and Connolly, and the dividends to be applied for the maintenance of his daughter till twenty-one, and then the principal to be divided between his sons William and Thomas. Also 100*l.* to his wife for the support of herself and her daughter. The testator died in Feb. 1829. Mrs. Hersey afterwards married Butcher, a defendant, and Miss Hersey married one Farrell before attaining twenty-one. A suit being instituted for the administration of the estate, it was found that the assets were insufficient, after payment of debts, to satisfy the legacies, which were accordingly liable to contribute proportionably to make up the deficit, which was a sum agreed upon. The principal question, however, was as to the bequest to Mrs. Butcher and Mrs. Farrell. And the cause now came on for argument.

Kindersley, *Boston*, *Roupell*, *Willcock*, and *Purvis*, for the different parties.

The following cases were cited: *Robinson* v. *Tickell* (8 Ves. 142); *Jubber* v. *Jubber* (9 Sim. 503); *Gilbert* v. *Bennett* (10 Sim. 371); *De Witte* v. *De Witte* (11 Sim. 41); *Wood* v. *Wood* (1 Myl. & Cr. 401); *Wood* v. *Richardson* (4 Beav. 174); *Wetherell* v. *Wilson* (1 Keen, 80); *Pride* v. *Fooks* (2 Beav. 430); *Longmore* v. *Elcum* (2 Y. & C. C.C. 363); *Foley* v. *Parry* (2 Myl. & K 138); *Camden* v. *Benson* (4 Law J. N.S. 256).

The Master of the Rolls.—This will disposes of the property almost all in specific legacies. The testator left a widow, two sons, and a daughter; but the wife and daughter seem to be the principal objects of

his bounty. First he gives the house, &c. to his wife, for the use of her and her daughter. Something, one would think, the daughter took by those words; but the drawer of the will was very inaccurate. Then follows the direction that the wife shall take charge of the daughter, and if the wife should dispose of the house, &c.—shewing that she might—she should adopt the most expedient means for maintaining the daughter during minority, and so on. The will was proved by the widow and Connolly, and there being no assets to pay debts, the suit was instituted to ascertain the debts, &c. It would appear that the wife disposed of the first and last legacies at her pleasure, and that the debts were to be paid out of the specific legacies. First, the debts and the costs of this suit, so expedient and necessary for the protection of the plaintiff, ought to be paid by the partakers of the testator's bounty. The contest is as to the surplus after the contribution by the first and last legacies of the will. Now, I think it is not intended that the wife should have the legacies, subject to the support of the daughter till marriage only. There is something more than in the case of *Camden* v. *Benson*, because of the words following the use, viz. "subject to the trust." The daughter is to have maintenance up to twenty-one, though married. I put no faith in *Pride* v. *Fooks*, it is no authority. This case is such that I ought to allow something for the daughter's maintenance till twenty-one, but what I must refer to the Master to report, if the parties cannot agree.

Monday, March 10.

FLACK *v.* LONGMATE.

The death of the mortgagee of real estate is the period to be considered as to the question of the mortgage being absolute or subject to redemption, and as to whether his wife be thereout dowable or not.

If interest were paid on the mortgage within the twenty years preceding the death of the mortgagee, his interest therein is personal, and his wife is not dowable, though a claimant to the equity of redemption has failed to establish his right, and there is not, nor is there expected to be, any other claim set up.

In July 1781, Sewell Mansell, claiming the equity of redemption of certain lands subject to a mortgage thereof in fee, conveyed the same to Abel Jenkins on trust to sell and pay off the mortgages and debts due and owing by him, and to pay over the surplus to him. In 1781, the mortgage was vested in Susanna Biou and Frances Biou; and on the death of Frances, it became vested in Susanna alone. Interest was paid on the mortgage up to 1816. Abel Jenkins died in 1802, having devised to James and Owen his freehold, copyhold, and leasehold estates upon the trusts therein mentioned. Susanna Biou died in January 1821, having devised her mortgage estates to Flack, who entered into possession and received the rents and profits. A suit was instituted by the devisees of Abel Jenkins in the lifetime of Susanna Biou, and revived after her death, for the redemption of the premises; but it was dismissed with costs, the purposes of the trust, beyond the mortgages, having been satisfied, and the title of Sewell Mansell not being established, or rather not having been put in issue. In 1830, Flack died, having by his will given his residuary estate to his four children, and an annuity of 200*l.* to his wife. A suit was instituted for the administration of his estate, and a decree was made in 1831; and on the 26th July of the same year, the Master made his first report. On the 31st July, there was a decree on further directions, and a reference to the Master to inquire of what real estate the testator died seised, out of which his widow was entitled to dower; and the Master reported that the testator died seised of the estates in question, and that they descended to his heir-at-law, subject to the equity of redemption (if any) of the mortgagor, but that the widow was not entitled to dower. The case now came on upon exceptions to the Master's report, and upon further directions.

Kindersley (with him *Bailey*), for the exceptions.—Flack, at his death, was mortgagee in fee in possession, and no recognition of the mortgagor's title had been made since 1816. Besides, in the suit of *James* v. *Biou*, and *Owen* v. *Flack* (2 Sim. & St. 600), the claimant was unable to make good his title, and there is, in fact, nobody to claim, nor any one entitled to the equity of redemption; it is, therefore, reasonable to suppose the fee has become absolute, and the heir-at-law is entitled absolutely, and therefore also the widow has a right to her dower. [The MASTER of the ROLLS.—Suppose the mortgagor to appear and claim, would not the widow have to account?] True, and so would the heir, &c. [The MASTER of the ROLLS.—It is curious to report that the estate belongs to the heir, subject to the equity of redemption, if any, and yet that the widow is not entitled to dower.] The Court will not so decree, for if it is a fee absolute, it must have the incidents of a fee absolute, and among them the being subject to dower. The Master was asked to consider it personal estate, but the objection was overruled, and the estate held to be real estate at the testator's death; and if so, the widow is entitled to priority.

Tinney (with him *Stinton*), for the residuary legatees.—The Master's finding leads to the conclusion that it was not property out of which the wife was dowable, for he makes it subject to the equity of redemption. In 1816 it was clearly a mortgage, and the equity of redemption, therefore, did not become forfeited till 1836. Flack took it by the express words of the devise as a mortgage, and at his death it was a mortgage, and therefore personal estate; and therefore it then went to the residuary legatees as such, though eventually it might become freehold. The wife therefore cannot claim.

Barber, for other parties.

Kindersley, in reply.—It is conceded that at law it is a fee-simple, and that the wife is dowable thereout. But it is said it is redeemable for twenty years. I admit that if it was argued to be irredeemable on the ground only of time, the point could not be maintained, but the ground was that there is no person claiming the equity of redemption at all, for there is no heir; so that the argument as to time does not apply. It is a windfall in the hands of the mortgagee, who cannot be called upon by the trustee, Jenkins, or his representatives, Owen and James, or their representatives, to have the estates redeemed, as the incumbrances, except the mortgage, are all paid off. The fee is therefore absolute, and the widow entitled to dower.

The MASTER of the ROLLS.—The case is unsatisfactory in the way in which it is brought forward; still I must make a decision. Here the widow claims dower, and it is therefore necessary to consider what the estate was at the death of the testator. That it was originally a mortgage estate there is no doubt. This mortgage was vested in Susanna Biou in 1816, but who was then or after entitled to redeem does not appear. She, however, was mortgagee, and received interest so late as 1816, probably from the proper source. Not long after a bill was filed by a claimant to the equity of redemption in her lifetime, and the suit was after her death revived, and ultimately the bill was dismissed in 1826. In the meantime, in January 1829, S. Biou died, having bequeathed her mortgaged estates to Flack, who received them and enjoyed them as mortgagee in possession. The person claiming had not proved his title, and there was no mortgagor, but only a right to redeem. He continued in possession, and did not know who had a right to redeem; probably he thought his own right absolute, and was congratulating himself as to the windfall which he had got. Now, to see whether the widow was dowable, we must look to the time when the mortgagee died, and at that time he had only a mortgage estate, and there was a right to redeem. We cannot look at the subsequent events which have happened. There may be no right in any one now, but did that state of things exist at the death of the husband of the widow who now claims dower? That is the real question. I regret that the quality of the property in this court is such as to exclude her from dower after the possession of it so long by the husband as absolute estate; it is a hard case. I overrule the exceptions, but without costs.

Thursday, March 13.

OKE *v.* HOOPER.

Practice—Attachment—Motion to take a bill pro confesso—Service.

The bill was filed on the 5th of October, 1843, and an appearance was entered by the plaintiffs on the 8th of November, 1843. The answer was put in on the 22nd of June, 1844, and on the 3rd of October following the bill was amended. On the 13th of November, 1844, an appearance was entered by the defendant, C. Wallis (a solicitor) himself in person, describing him as of 12, South-square, Gray's-inn, in the county of Middlesex. Besides this, the defendant had an office at a place in Cornwall. No answer being put in, an application was now made to take the bill *pro confesso* against him.

Prior, for the motion, stated that on various occasions they had called at Gray's-inn, but Wallis could not be found. An attachment having issued for want of an answer, they had endeavoured to serve it in Cornwall, but on inquiry it was found his family were gone from the place, and there was no trace of him. It was believed he was gone to France to avoid process. Under these circumstances, it was now moved to take the bill *pro confesso*. The attachment had issued only to Cornwall, not to Middlesex, and they had served notice by pushing it through the door of the office at Gray's-inn.

The MASTER of the ROLLS thought the attachment must issue to Middlesex as well as Cornwall, as the notice was served in the former place.

Monday, March 17.

Re TUGWELL.

On a petition for taxation of the payment of a bill of costs, the fact of payment at the time of delivery, without an opportunity for inquiry, is itself a very special circumstance.

The petitioner had occasion to have a mortgage of copyhold estates transferred to a second mortgagee, the first having called in his money; and at a meeting for the completion of the transfer, the solicitor of the first mortgagee presented his bill of costs for the transfer, &c.; and the matter being adjourned for a week, he presented it again, and was paid under protest. The items that were selected as overcharges were seven guineas for writing half-yearly each year for seven years to ask payment of interest on the mortgage, a charge for a common copy, and also an attested copy of a deed. A third charge was the expenses of two ladies (on whom, with four others, the legal estate in the premises had descended) going to Cheltenham and taking with them a solicitor from Devizes to surrender the estate; and a fourth charge objected to was a power of attorney by the husband of one of the ladies to surrender, but which by accident, not being directed to any one, became inoperative, and rendered the journey to Cheltenham useless, as the transfer could not be completed. At this meeting, however, the solicitor presented his bill of costs; and a week afterwards at a second meeting he presented it again, and was paid under protest. [The MASTER of the ROLLS.—When was it paid?] On the same day it was presented.

Bazalgette now asked an order for taxation after payment, and stated the overcharges already mentioned as special circumstances. He had no objection to reasonable travelling expenses, but taking besides a solicitor from Devizes at a charge of two guineas a day for three days was not at all necessary.

Kindersley (with him *Grove*), contrà.—The bill of costs was made out at 61*l.* 0s. 3d. but by some mistake in summing up that was 10*l.* too little, and should have been 71*l.* 0s. 3d.; but it is not asked to rectify the mistake, we are satisfied to let it stand, and we are willing to arrange out of court. A great deal of trouble was taken about getting in the interest, and a great many things were done which were not charged, but if they were, they would amount to much more than a guinea a year. It was right that the ladies should have some one to direct them as to what they were to do, and the omission in the power of attorney was an accident.

The MASTER of the ROLLS.—I cannot help saying the respondents have acted well in endeavouring to arrange the matter out of court. I have had occasion to notice the contrary conduct so often, that it is gratifying to me to have it in my power to speak differently on this occasion. But the main question is, whether there are special circumstances to justify an order for taxation after payment, the party coming here in time. Now there is in this as in all these cases, this very special circumstance, that the bill is delivered when the payment is made. True, it was shewn some days before, but that was not enough; the bill was not complete, nor could it be. There were great expenses up to the last, and the bill was paid under these circumstances, that it was paid under the pressure of circumstances before deliberate inquiry. As to the items themselves, seven guineas may not be enough for the letters and correspondence, and as to the other matters stated, I cannot say whether they are chargeable; but considering the circumstances under which the bill was paid, and the doubtful items, I think there must be taxation. The proposal to arrange, however, is material as to costs, and I shall consider of that again.

VICE-CHANCELLOR KNIGHT BRUCE'S COURT.

Thursday, March 13.

ATTORNEY-GENERAL *v.* BERRY.

Practice—Production of documents.

Documents mentioned in the answer to be in the defendant's possession, but not scheduled, and alleged by the defendants to the best of their knowledge and belief not to relate to the matters in question, ordered to be produced.

Fooks, in this case, moved for the production of documents admitted by the defendants to be in their possession. The suit related to a charity, of which the defendants, who were churchwardens and overseers of the parish in which the property was situated, were trustees. In the body of the answer, the defendants stated incidentally their possession of the churchwardens' and overseers' books, but they denied, to the best of their knowledge and belief, that the books related to the matters in question. The books were not mentioned in the schedule to the answer.

Osborne, for the defendants.

The VICE-CHANCELLOR directed the books to be produced.

MORRIS *v.* M'FEE.

Practice—Bill taken pro confesso.

Where it is proposed to take a bill pro confesso against a sole defendant, it is the more proper course to have the cause set down.

B. Gaselee moved, under the 1st Order of the 11th April, 1842, to take the bill *pro confesso* against M'Fee, who was the sole defendant. The only question was, whether the decree should be taken at once upon this motion, or the cause should be set down and appear in the paper. He mentioned *Harrison* v. *Stewardson* (2 Hare, 533).

The VICE-CHANCELLOR thought it would be the more proper course to have the cause set down for a certain day.

Friday, March 14.

ROBINSON *v.* ASTON.

Practice—Partition suit—Infant defendant—Costs.

To a bill by a mortgagee for a partition, an infant defendant had not appeared, and the solicitor to the suitors' fund was appointed guardian ad litem, under the 28th Order of 26th Oct. 1842. At the hearing of the cause, it was directed that the plaintiff should pay the infant's costs and add them to his debt.

In this case a bill for partition was filed by the mortgagee of a life estate, [illegible] divided reversionary share in certain freehold property. One of the defendants, who was tenant in tail in remainder of an undivided share in the property, was an infant, and did not appear to the bill. Upon a motion made on behalf of the plaintiff under the 28th Order of the 26th Oct. 1842, the solicitor to the suitors' fund was appointed guardian ad litem for the infant. The cause being brought to a hearing, a question was raised as to the party by whom the infant's cost should be borne.

Taylor, for the infant, submitted that, according to the terms of the 28th Order of 26th Oct. 1842, the infant's costs should be paid by the plaintiff, who would be repaid as the Court might direct. In the case of *Robey* v. *Whitwood*, which was a foreclosure suit, the Master of the Rolls, on the 13th inst. adopted the course now proposed, and directed the plaintiff to add the infant's costs to his mortgage debt.

Wigram, Tripp, and *Hitchcock*, for other parties.

The VICE-CHANCELLOR directed the costs of the infant to be paid as proposed, and that the plaintiff should add them to his mortgage debt.

March 13 and 18.

MONHAY *v.* INDERWICK.

Practice—Privileged documents.

A B acted as the solicitor of the defendant in the matters in dispute up to the time of the filing of the bill, when he ceased to act as solicitor in these matters, though he continued the defendant's solicitor in other business. At the defendant's request A B wrote for the defendant his observations upon the bill. Quere, whether these observations were privileged from production or not?

In this case *R. Palmer* moved for the production of documents mentioned in the defendant's answer, amongst which [illegible] which was [illegible] "Observations by Mr. [illegible] upon the bill." This document was alleged to be privileged, as Mr. Pritchard had been the defendant's solicitor previous to the filing the bill, though since that time he had ceased to be as to the subject-matter of the suit. He cited *Greenlaw* v. *King* (1 Beav. 137); *Shore* v. *Lord Grosvenor* (1 Keen, 311); and *Lord Hardwicke* (3 Hare 177).

Mills for the defendant, [illegible] for opportunity to make an affidavit [illegible] other documents, the case stood over until

March [illegible]—when *R. P*[illegible]

The VICE-CHANCELLOR [illegible] *Mills*.—This is so far from clear, that if [illegible] for production is to be made, I should [illegible] made by the Lord Chancellor. [illegible] stands the Mr. Pritchard was the defendant's [illegible] and particularly in the transactions [illegible] are the subject of this suit. After the bill was filed Mr. Pritchard ceased to be the defendant's solicitor as to these particular transactions [illegible] is not [illegible] to those transactions, but in other matters he does act as his solicitor. In this state of things, the defendant having to answer the bill wishes assistance with reference to such matters as occurred within the knowledge of Mr. Pritchard when he was the solicitor. Accordingly Mr. Pritchard writes his remarks upon a copy or brief of the bill, which remarks are sworn were received as instructions for the answer. I doubt very much, to say the least, whether an order for production can, under such circumstances, be made, but I should prefer that it should be mentioned to the Lord Chancellor.

Wednesday, March 19.

FRANKCOMBE *v.* HAYWARD.

Wills Amendment Act—Appointment.

A B having a general power of appointment by deed or will over personal property, gave and bequeathed by her will "one moiety or half part of her property which she might be possessed of and entitled to at the time of her decease:"—Held, to be a valid exercise of her power of appointment.

In this suit the following question arose under the Wills Amendment Act. By a deed of settlement one moiety of the personal property settled was, upon the determination of the life interests, to go to the husband, and the other moiety was to go as the wife by deed or will should appoint, and in default of appointment to her next of kin. By the wife's will, after making certain specific bequests, she gave and bequeathed "one moiety or half-part of her property which she might be possessed of or entitled to at the time of her decease" to William Frankcombe, the plaintiff.

Schomberg argued that this was not an exercise of the power of appointment given to her by the settlement. By the 1 Vict. c. 26, s. 27, it is enacted that "a bequest of the personal estate of the testator, or any bequest of personal property described in a general manner, shall be construed to include any personal estate or any personal estate to which such description shall extend (as the case may be) which he may have power to appoint in any manner he may think proper, and shall operate as an execution of such power unless a contrary intention shall appear by the will." In this case the power is not alluded to or intended to be exercised. The testatrix limits her bequest of property to that which she shall be possessed of or entitled to at the time of her decease. Here the property subject to her power of appointment cannot come under such a description, she not being either possessed of or entitled to it. Had she used only the words "my property," the 27th section might have applied, but she qualifies the words by that which renders them inapplicable to the property in question.

Nicholls, on the same side.

Rogers, Follett, and *Babington*, for other parties, were not heard.

The VICE-CHANCELLOR.—The Legislature has said that where a testator by his will gives the personal estate of the testator, which means all his personal estate, it shall be construed to include any personal estate which he may have power to appoint, in any manner he may think proper, and shall operate as an execution of such power, unless a contrary intention shall appear by the will. The first question is, what is the definition of "the personal estate of the testator"? and I consider it to be the personal estate of or to which the testator is possessed or entitled. It seems to me the same thing. Now here both expressions occur. Mr. Schomberg has very ingeniously argued that the testatrix has made a distinction by adding these words; but, construing the Act as I do, and I have considered the point before, I must put that interpretation upon it.

Thursday, April 10.

HOLCOMBE *v.* TROTTER.

Practice—8th Order of August, 1841—Service of subpœna—Husband and wife.

Where a husband and wife were defendants in a suit, and the wife had appeared to and answered the original bill, and the husband, upon being served with subpœna for himself and wife to a bill of revivor, entered an appearance for himself but refused to do so on behalf of his wife, the Court gave leave to the plaintiff to enter an appearance for her under the 8th Order of August, 1841.

Whether such leave would have been given under similar circumstances upon an original bill, quere?

Cole applied in this cause for leave to enter an appearance for one of the defendants under the following circumstances. A husband and his wife were defendants, and had appeared to and answered the original bill. A bill of revivor being necessary, the husband was, on the 13th of March last, served in the Queen's Bench Prison, where he was detained a prisoner, with a *subpœna* on behalf of himself and his wife. To this bill of revivor the husband caused an appearance to be entered for himself, but refused to do so on behalf of his wife. The plaintiff did not know where the wife was residing.

The VICE-CHANCELLOR.—I think I may venture to give the leave, but I do not say what I should have done if this had not been a bill of revivor to an original suit in which the wife had appeared and answered.

Saturday, April 12.

NEWENHAM *v.* PEMBERTON.

Service of subpœna—8th Order of August 1841.

Where a defendant was imprisoned for a misdemeanor, and neither the deputy governor of the gaol nor the visiting magistrates would allow him to be seen, the service of the subpœna upon the deputy-governor was held to be good service.

One of the defendants in this suit was imprisoned under a sentence for misdemeanor. Upon application being made to the deputy-governor of the prison in which he was confined for liberty to serve him with a *subpœna*, the deputy-governor refused to give the permission without an order from the visiting magistrates. The magistrates having refused to grant such an order, a copy of the *subpœna* was, on the same [illegible] served [illegible] Mr. Phillips, clerk to Messrs. Makinson [illegible] Sanders, who had before acted as the defendant's solicitors. Mr. Phillips stated that Messrs. Makinson and Sanders would not appear for the defendant, and accordingly Mr. Southee, the plaintiff's solicitor, personally applied to the visiting magistrates for permission to see the defendant, and upon their refusal a copy of the *subpœna* was left with the deputy-governor, the original being at the same time shewn to him. No appearance having been entered by the defendant,

Prendergast moved for leave to enter an appearance for the defendant under the 8th Order of 26th August, 1841. He submitted that the service of the *subpœna* was good service.

The VICE-CHANCELLOR.—My impression is that it is good service; but if Mr. Colville doubts about it, you had better mention the case to the Lord Chancellor.

COHENS *v.* NAIRNE.

Pleading—Parties.

In a case of admitted intestacy, and where the right to administration is being contested in the Ecclesiastical Court, whether a creditor's suit should be instituted against both the contending parties, or only against the one in possession of the property—Quere?

This was a bill filed by two creditors against the brother of an intestate to restrain him from parting with the property of the intestate, &c. The brother was in possession of the property, but he and the nephew were contesting the right to administer in the Ecclesiastical Court.

Fooks moved for the injunction.

The VICE-CHANCELLOR asked why the nephew was not made a party?

Fooks submitted that it was not necessary, as the brother was the only person in possession.

The VICE-CHANCELLOR.—If it is an urgent case, I will not refuse the injunction on this ground. I will not decide the point; but my impression is that it is the practice to make both parties defendants.

Common Law Courts.

COURT OF QUEEN'S BENCH.

Tuesday, April 15.

(Before Lord DENMAN, C. J., PATTESON, J. WILLIAMS, J. and WIGHTMAN, J.)

DOE *dem.* BRISE *v.* BRISE.

The officer appointed by the 1 & 2 Vict. c. 94, s. 13 to certify a copy from any record in the custody of the Master of the Rolls as a true and authentic copy, must follow the words of the Act of Parliament. If he chooses to use words of his own, the certificate and copy are inadmissible in evidence.

Quere, whether under the statute of Victoria, an entire copy of any record is necessary, or whether, with regard to awards under an Inclosure Act, that statute is not to be construed together with the 41 Geo. 3, c. 109, s. 35, so that a copy of "any part thereof" will be entitled to admission.

Entry of the verdict—Costs.

Ejectment to recover possession of certain lands in the parish of Stewkley, in the county of Buckingham, tried before Mr. Justice Patteson, at Aylesbury, in 1842.

The lessors of the plaintiff sought to recover, amongst other lands, certain land which had been allotted in the year 1811, under an Inclosure Act (51 Geo. 3, c. 99), "An Act for inclosing lands in the parish of Stewkley, in the county of Buckingham"), [illegible]d, in proof of their title, they offered in evidence a document, which purported to be "*an extract from the original*" award of the Commissioners appointed [illegible]ler the local Act, with a certificate of the Deputy-keeper of the Records in the custody of the Master of the Rolls that the "extract" was a true and authentic "extract from the original." The admissibility of this document was objected to on the ground that an extract alone was insufficient, and that the statute required "a copy of the record;" meaning thereby the whole record. The learned judge, however, admitted it, giving the counsel for the defendant leave to move for a rule "to enter the verdict for the defendant as to the allotted land." Another objection was raised as to the identity of the allotted land, but the argument was now confined to the first point.

Byles, Serjt. having obtained a rule,

Gunning and *Worlledge* now shewed cause.—The Act relating to the custody and production of public records was the 1 & 2 Vict. c. 94, and the defendant relied upon the 12th and 13th sections of that Act. The 12th section was as follows:—"And be it enacted, that the Master of the Rolls or Deputy Keeper of the Records may allow copies to be made of any records in the custody of the Master of the Rolls at the request and costs of any person desirous of procuring the same; and any copy so made shall be examined and certified as a true and authentic copy by the deputy Keeper of the Records or one of the Assistant Record Keepers aforesaid, and shall be sealed or stamped with the seal of the Record Office, and delivered to the party for whose use it was made." The 13th section admitted "*every copy of a record* in the custody of the Master of the Rolls *certified as aforesaid*" as evidence in all courts of justice. But the record in dispute in this case was an award under an Inclosure Act, and the statute of Victoria must be construed together with the provisions of the General Inclosure Act (41 Geo. 3, c. 109), as far as they related to the award of the commissioners. In the latter portion of the 35th section of the General Inclosure Act, it was enacted that "the said award, and each copy of the same, or *of any part thereof*, signed as aforesaid, shall at all times be admitted, &c. as legal evidence." Now, these statutes in relation to the awards of commissioners under an Inclosure Act were *in pari materiâ*, and being so, they must be construed together. It was not the object of the Act of Victoria to alter the law with regard to the admissibility of public records in evidence. Its sole scope was to provide for their safe custody and preservation.

It repealed nothing in the former Act, and clearly intended to repeal nothing. The omission, then, of the words, "or of any part thereof," ought to be supplied from that former Act. The principle of construction laid down in various cases was, that when statutes were *in pari materiâ*, they were so to be read and construed together that effect should be given to their combined intention—not to the separate enactments of each. (*Gale* v. *Laurie*, 5 B. & C. 162; *Duck* v. *Addington*, 4 T. R. 447; *Edwards* v. *The Bishop of Exeter*, 6 Bing. N. C. 146.) In obedience to this rule of construction, a copy of "any part" of the award, as well as of the whole award, was admissible, and the rule must be discharged. [PATTESON, J.—The officer does not, in this certificate, use the word "copy" of the award, or of any part of it. He certifies it to be an "extract."] The words "extract," and "copy of a part," were synonymous. A true extract must be a copy. Besides, this objection was not raised on the trial, and could not now be urged. [Lord DENMAN, C. J.—The objection on the trial was that the certificate is bad. We can decide it to be inadmissible on any ground we please.] They also referred to the 3rd section of the Act of Vict. and cited *Hine* v. *Reynolds* (2 M. & G. 71).

Byles, Serjt. in support of his rule.—The defendant relied upon the plain and simple words of the Act of Vict. By a strict adherence to those words, no injury could be done. There were many modes of proving the contents of an award like this. The original award could be produced, or the enrolment which was made evidence by the General Inclosure Act, or a copy of [illegible] 'n came the [illegible] enacted that every copy of a record in the custody of the Master of the Rolls, "*certified as a true and authentic copy*," &c. should be received as evidence. By that section was of course meant a copy, not of the original award, but of the enrolment in the custody of the Master of the Rolls. Was this such a copy? No. It only purported to be an "extract." It was not certified to be even "a copy of any part" of the award; but the officer was only empowered by the statute to certify as to the authenticity of the copy of the whole award—not of a part. He had no authority to make "extracts." The words "copy" and "extract" were not synonymous. A piece cut out with a knife would be an extract, but it would not be a copy. [Lord DENMAN, C. J.—Here the officer certifies that it is an extract from the "original."] That was another objection. The original award was not in the custody of the Master of the Rolls, and an extract from that it could not be.

Lord DENMAN, C. J.—The question is not without difficulty, whether the power of making a copy "of any part" of the award given by the first Act is transferred to the second; but supposing this certificate to be under the first statute, and that supposition is the one most favourable to the plaintiffs, this rule must be made absolute. The words of the Act must be followed. Now what are the words of the Act of Geo. 3?—"And the said award and *each copy of the same or of any part thereof*," shall be admitted, &c. But this certificate refers to what it says is "true extracts from the original in the custody of the Master of the Rolls." The officer has not followed the words even of this Act, and we ought to be slow in allowing a variation from the form of an Act of Parliament.

PATTESON, J.—I was unwilling to reject this evidence on the trial, because the Act of Victoria does not seem to have intended any alteration as to the admissibility of copies of records; but it is not necessary now to determine that question. If the Act of Victoria had never been passed, and this case had come before us under the previous statute, the result must have been the same. The officer has not chosen to follow the words of the Act, and we cannot be sure by the language he has used that he means the same thing. In his certificate there is nothing about "a true copy," and I do not know whether by "a true extract from the original," he means the same.

WILLIAMS, J.—I am of the same opinion, on the short ground that the words of the Act of Parliament have not been followed.

WIGHTMAN, J. concurred.

Byles, Serjt. then prayed that the "verdict as to the allotted land," should be entered for the defendant. That was the way in which the rule was framed, and the manner of entering the verdict would make a difference as to the costs. By the 74th rule of Hilary Term, 2 Wm. 4, it was provided that "no costs shall be allowed on taxation to a plaintiff upon any counts or issues upon which he has not succeeded, and the costs of all issues found for the defendant shall be deducted from the plaintiff's costs." There had been a doubt, whether this rule applied to actions of ejectment, but Mr. Welsby had furnished him with a note of a recent case in the Exchequer, in which it had been held to apply. (*Doe dem. Beaumont* v. *Lewis*.)

PATTESON, J.—I certainly intended, if the rule were made absolute, that the verdict should be confined to the lands which had been recovered. I did not intend that the verdict should be entered for the defendant as to the allotted land.

Gunning.—The only effect of the rule ought to be, that the writ of possession should be limited to the lands which have been recovered. The sheriffs will not let the plaintiffs into possession of the allotted land.

Lord DENMAN, C. J.—Unless we hear further, the plaintiff's verdict will be confined to the other land; the allotted land will be excluded.

Rule absolute accordingly.

DOE dem. CHARTERIS *v.* FINE.

M. D. Hill, Q. C. moved for a rule to shew cause why a new trial should not be had in this case, on the ground of misdirection.

This was an action of ejectment, tried before the Lord Chief Justice of the Common Pleas, at Lincoln, when the verdict had been for the plaintiff, and it was brought to recover possession of certain lands lying on the coast, which had recently, by gradual accretions, risen from the waters. They were still occasionally inundated by spring tides, but at low water they were dry, and appeared covered with herbage. The lessor of the plaintiff claimed as frontager, upon the authority of Lord Yarborough's case (*Rex* v. *Lord Yarborough*, 3 B. & C. 91; 1 Dow. & Clerk, Ap. C., H. of L. 178); and, as owner of the land, he had built, at different times, two sea-walls, to keep back the sea. He had exercised other acts of ownership over the land, as by putting sheep thereon to consume the herbage. On the trial, the defendant had not gone into the question of title, but had rested his case on a possession for more than twenty years. The acts of user had certainly been rare, but their rarity was, perhaps, accounted for by the dangerous position of the land. There had been, however, some eviden[ce] of possession, if this piece of half-ground half-water were land in the ordinary sense of the word; but it had occurred to him that this was not land in the sense that a party was to be shut out by a possession for less than twenty years. A question might arise, when such land first became useful; and one person might think it worth possessing at one time, and another person at another.

Lord DENMAN, C. J.—The difficulty turns upon the point when the property really became land. We will consult the Lord Chief Justice.

REG. ON THE PROSECUTION OF LANGLEY *v.* THE MAYOR OF DOVER.—*Kelly*, Q. C. moved for further time for a return to a *mandamus*. The rule had been made absolute on the last day of the Term, Jan. 31, but, as had recently become usual, the *mandamus* had not been served until the 31st of March.

The Court granted three weeks, but then the return to be peremptory.

BELCHINS *v.* PAROLE.—*Pashley* moved for a rule to shew cause why a new trial should not be had, on the ground of an insufficient notice of trial having been served on the defendant. *Rule nisi granted.*

Ex parte DOWSEY.—*Jervis*, Q. C. moved for a rule to shew cause why a prisoner now confined in the prison of the Borough Court of Liverpool should not be discharged therefrom. He was confined under the authority of a bench-warrant granted by Mr. Justice Wightman, but that warrant did not set forth, as was required by the statute 48 Geo. 3, c. 58, before whom the party was to appear, or in what sum he was bound to answer the charge against him.

Rule nisi granted.

HASSEL *v.* HEMING.—*Assumpsit*.—Upon an agreement to deliver 100 quarters of malt. *Breach*—Th[e non-de]livery. Tried at Warwick at the last assizes before the Lord Chief Justice of the Common Pleas. Verdict for the plaintiff—damages, 100*l.* *Humfrey*, Q. C. in accordance with leave reserved, [mov]ed for a rule *nisi* to enter a nonsuit, on the ground that the plaintiff was no party to the contract. Lord DENMAN, C. J.—We will consult the Lord Chief Justice.

VERDISQUE *v.* LEPAGE.—*Corry* moved for a rule *nisi* to set aside a rule which had been taken out for a special jury in this case. The action had been entered for to-morrow, and the rule had not been served until last night. The rule had been taken out before six days next preceding the trial, in accordance with the requirements of the rule of Hilary Term 1828, but it had not been served until late last night. The action was on a promissory note, and the *venue* laid in Middlesex.

Rule nisi granted, and cause to be shewn early to-morrow.

SHUCK *v.* BENET. *Rule nisi.*
TAYLOR *v.* HODGSON. *Rule nisi.*

Memorandum.—Mr. Serjeant Manning and Mr. Serjeant Channell, having received patents of precedence, took their seats accordingly. Messrs. Lee and Wood, of the Equity Bar, and Messrs. Humfrey, Gurney, Butt, and Hayward, of the Common Law, having been chosen her Majesty's Counsel, were called within the bar.

Wednesday, April 16.

DOE dem. DOWNE *v.* GOVIER.

A statement indorsed on a mortgage deed by the mortgagee, from which it appears that the consideration money was partly advanced by himself and partly by another person, does not make it necessary, for the admission of the deed in evidence, that it bear a stamp for each sum, instead of one stamp only on the aggregate amount.

Ejectment by a mortgagee.

When the mortgage-deed was produced at the trial, before Mr. Justice Earle, it appeared that it was a security for the loan of 420*l.* and it bore a 4*l.* stamp. Indorsed thereon, however, was a declaration by the mortgagee that he had only advanced 350*l.*; that the remaining sum of 70*l.* had been advanced by a third person; and that in the event of the property not realizing more than the 350*l.* he was not to be held responsible. Hereupon it was contended that the deed ought to have had a further stamp of 1*l.* 10s. because the facts were within a provision of the 55 Geo. 3, c. 184, sched. Part I. which is in these terms:—"And in case the same shall be made as a security for the payment or transfer to different persons of separate and distinct sums of money or shares in any of the said stocks or funds, the said *ad valorem* duty shall be charged for and in respect of such separate and distinct sum of money or share in any of the said stock or funds therein specified and secured, and not upon the aggregate amount thereof." The learned judge was about to reject the deed, when *Reed* v. *Wilmot* (7 Bing. 577) was quoted, whereupon the deed was admitted, and a verdict passed for the plaintiff.

Greenwood now moved for a rule calling on the plaintiff to shew cause why the verdict should not be set aside and a new trial had. The words of the Act are clear; and in the case of *Reed* v. *Wilmot*, the fact that the money had been advanced by different persons first came out on the deposition of witnesses; in this case that fact appears on the deed.

By the COURT.—That fact appears from the deed, but in a form that makes it parol testimony. The right to sue is in one person only, though that person may be a trustee for another. We must abide by the law of *Reed* v. *Wilmot*. *Rule refused.*

THOMPSON *v.* SWINSTON and ANOTHER.

Where a plaintiff declared on a contract to effect an insurance of certain goods to be shipped to the West Indies, or to give notice if the insurance should not be effected, and the evidence shewed only a contract to effect the insurance—Held, that the judge was justified in amending by striking out the latter alternative of the contract as stated.

In this case the plaintiff declared on a contract to effect an insurance on certain wines that were to be shipped to the West Indies, or to give notice to him that the insurance had not been effected, and assigned breaches coextensive with the promise as set forth. The defendant pleaded the general issue. The parties lived in London: evidence of a custom that would support the promise as laid could not be given, neither was evidence tendered to shew that the contract had been specifically entered into in its terms as laid; but it was shewn that the plaintiff had said to the defendant after the loss of the vessel in which the wines had been shipped,—"You know I ordered you to insure," and that the defendant had replied, "You may have done so, but I don't recollect whether you did or not." The variance having been insisted on, an application to the judge to amend was made, which, at first, he refused; eventually, however, he made the amendment by striking out such parts of the declaration as related to the notice that an insurance had not been effected; and the jury, after hearing the counsel for the defendant, and his evidence as to the contract as amended, returned a verdict for the plaintiff.

Chilton, Q.C. now moved for a rule that should call on the plaintiff to shew cause why the verdict should not be set aside, and a nonsuit entered, or why a new trial should not be had. If the judge had power to amend, he ought not to have amended, except on terms; payment of costs, namely, withdrawal of the record, and postponement of the trial; but he ought not to have amended at all. (*David* v. *Preece*, 13 L. Jour. Q. B. 88.) The defendant, therefore, is entitled to have a nonsuit entered. The evidence was not sufficient to warrant the jury in finding a verdict for the plaintiff on the contract as amended.

By the COURT.—The question now is simply this, whether, after the amendment, the verdict was against evidence; we think that it was not. The question in the case was, whether the defendant had undertaken to insure; whether he had undertaken to give notice if he did not insure was wholly immaterial. The defendant knew very well that he had undertaken to insure; whether he had or had not undertaken to give notice, did not signify anything; the verdict is according to the justice of the case; and the only prejudice that has accrued to the defendant from the amendment is this: that he has not been allowed to take advantage of a variance wholly immaterial. *Rule refused.*

BUSINESS OF THE WEEK.

Wednesday.

FOLLETT *v.* ASTLEY.—Rule *nisi* for a new trial.
TANNER *v.* MOORE.—Rule *nisi* to enter nonsuit.

Pitch v. Lyall.—Rule *nisi* to enter verdict for plaintiff.

Brown v. Eyre.—Rule *nisi* to enter nonsuit.

Reilly v. M'Graith.—*Martin*, Q. C. moved for a new trial onthe ground that the verdict was against evidence. *Refused.*

M'Intosh v. Hamilton.—Cost of issues under Tithe Commutation Act. *Gurney*, Q. C. and *Cowling*, for plaintiff. *Peacock* for defendant *Cur. adv. vult.*

Reg. v. Trustees of the River Welland.—Rule absolute for a *mandamus*, the discussion to take place on the return. *Kelly*, Q. C. and *Webster*, for the Crown; *Whitehurst*, Q. C. and *Pearson*, for the defendants.

Reg. v. The Guardians of the Rochdale Union.—Rule *nisi* for entering verdict for the defendant, on some or all of the issues, or for a new trial, or to arrest judgment, or to stay proceedings and quash the writ. *Crompton.*

Doe dem. Spilsbury v. Burdett.—A motion for interest on costs in ejectment from time of jugdment in this court, which was before the 1 & 2 Vict. c. 110, up to date of judgment in the House of Lords, reversing judgment of Exchequer Chamber, and confirming judgment of this Court. *Kelly*, Q. C. and *Peacock*, for plaintiff; *Cowling*, for defendant. *Cur. adv. vult.*

COURT OF COMMON PLEAS.

Wednesday, April 16.

Atkinson v. Stacey and Another.

License—Assignment—Grant—Parol evidence.

Kinglake, Serjt. moved for a rule *nisi* to enter a verdict for the defendant on the third issue, which had been found for the plaintiff in an action of trespass for seizing and carrying away clay. A license to raise clay had been granted to the defendant and one Dixon. The defendant had subsequently assigned all his interest to Dixon, who had, by a verbal agreement, assigned his interest to the plaintiff. An issue involving this latter fact had been found for the defendant, no evidence having been given at the trial to shew that an assignment had passed. The plaintiff had new assigned that the clay taken was other clay than that raised under the license. To this the defendant pleaded not guilty, and also that the "other clay" was not the goods and chattels of the plaintiff. The verdict as it stood was, that the clay was the goods and chattels of the plaintiff. It was submitted, at the trial, that the plaintiff had no property in the goods, there being no deed of assignment; that the right to distrain could only be conferred under the original license; and that there was no property in the clay except in the licensee. A license to search for and raise metals, and convert them to the licensee's use, passes an interest which, although capable of being assigned, can only be assigned by deed. (*Muskett* v. *Hill*, 5 Bing. N. C. 694.) *Rule nisi.*

Smith v. Moore.

A party who had been robbed put forth a handbill, stating that whoever would give such information as would lead to the apprehension and conviction of the offenders, should receive 20l. reward. A voluntary statement was made by the offender to the plaintiff, who suggested to a police officer that if he gave the party making the statement some refreshment, he would tell him, the police officer, something respecting the robbery. The prisoner was, upon this suggestion, taken into custody, and afterwards convicted. Held, that this was giving such information as was required by the terms of the handbill, and sufficient to support the action.

Talfourd, Serjt. moved for a rule to shew cause why the verdict in this cause should not be set aside, and a new trial had, on the ground of misdirection. The action, which was on promises for a reward of 20l. for discovering an offender, had been tried at Worcester Spring Assizes, before Platt, B. verdict for plaintiff for the full amount. The declaration was in the usual form; first plea, *non assumpsit*. second, that the plaintiff did not give such information as led to the discovery of the offender. It appeared in evidence that the prisoner had come to the plaintiff, and had made a voluntary confession, upon which confession he was subsequently convicted and transported. The question was, whether a person who merely receives a voluntary statement from an offender, brings himself within the right to recover the reward. (*Lancaster* v. *Walsh*, 4 M. & W. 16.)

Cresswell, J.—In this case the handbill states, "whoever shall give such information as will lead to the conviction of the offender, shall receive the above reward." Now, the plaintiff answers the terms proposed; he does give such information by which the prisoner is convicted.

Tindal, C. J.—The direction in this case was right. I have observed that, when parties are suffering under the loss of their property, they are extremely ready to give their promise, but slow to perform after the conviction of the offender. *Rule refused.*

Steadman v. Du Hamill.

Bill of exchange—Variance.

Channell, Serjt. moved for a rule to shew cause why the verdict in this case should not be set aside, and instead thereof a nonsuit entered, according to leave reserved. The action had been brought on a bill of exchange, by the indorsee against the acceptor. The bill, which was in the French language, was drawn and accepted in England. Upon the bill being put in at the trial, it was objected by the counsel that it was a foreign bill of exchange, and did not support the plaintiff's declaration, in which it was described as an inland bill of exchange; and the question is, whether this is a sufficient declaration as against the acceptor. (14 L. Jour. part i. p. 36, Exch.; *Gale* v. *Walsh*, 5 T. R. 239; *Kearney* v. *King*, 2 B. & Ald. 301.) *Rule nisi.*

Cooper v. Willowmatt.

Shee, Serjt. moved for a rule to shew cause why the nonsuit in this case should not be set aside, and instead thereof a verdict entered for the plaintiff. Cases cited: *Dean* v. *Hogg* (10 Bing. 345) *Christie* v. *Lewis* (B. & B. 410); *Loeschman* v. *Machin* (Starkie, 311); *Pain* v. *Whittaker* (R. & Moo. 99). *Rule nisi.*

Gulliver v. Coltman.

Sir *T. Wilde*, Serjt. moved for a rule to shew cause why a verdict should not be entered for the defendant.

Cases cited: *Lindon* v. *Hooper* (Cowp. 414); *Ashmole* v. *Wainwright* (2 Q. B. 837); *Hills* v. *Street* (5 Bing. 37); *Shaw* v. *Woodcock* (7 B. & C. 73). *Rule nisi.*

Thursday, April 17.

Thomson v. Hardinge and Others.

Pleading—Liberum tenementum.

Channell, Serjt. moved for a rule to shew cause why the verdict found for the defendants on the sixth issue should not be set aside, and a new trial had, on the ground of misdirection. The declaration was in trespass for entering a close of the plaintiff. The defendants pleaded several pleas of right of way, and sixthly, a plea of *liberum tenementum*; which 6th plea was traversed by the plaintiff. At the trial before Lord Denman, at the last Kent Spring Assizes, the defendants gave evidence to shew that the defendant Hardinge was lord of the manor, and that the close in which, &c. was a customary tenement of the manor, held at a quit rent; that a relief was payable; that the property passed by common law assurances, but that there was an admission at the Lord's Court, though not a surrender, and that in the case of a mortgage it was not usual for the mortgagee to be admitted. Lord Denman left this evidence to the jury, who, under his lordship's direction, found for the defendants on the issue raised by the 6th plea, and the plaintiff obtained a verdict on all the others. It was now submitted that by this evidence the plaintiff either had a freehold tenure or a freehold interest, which would in either case destroy the defendant's plea.

Cases cited: *Doe* v. *Wright* (10 A. & E. 763); *Lambert* v. *Strowther* (Willes, 218); and 1 Cruise, tit. Copyholds, c. 1, p. 254. *Rule nisi.*

Styles v. Meek.

Rule of Court ordering sum of money to be paid and obtained under 1 & 2 Vict. c. 110, s. 18, need not be personally served.

Byles, Serjt. moved to make absolute a rule obtained last Term under 1 & 2 Vict. c. 110, s. 18, ordering a sum of money to be paid pursuant to an award, instead of proceeding by attachment. The party serving the rule had been unable to effect personal service, but it was apprehended that this rule might be served the same as any other rule of court, and did not require to be personally served.

By the Court.—That is so. *Rule absolute.*

BUSINESS OF THE WEEK.

Tuesday.

Davies v. Lowndes.—The four knights appeared, and chose of themselves and twenty others a jury for the trial of this writ of right.

Ex parte Woodcock.—*Clarke*, Serjt. moved for an order under 3 & 4 Wm. 4, c. 74, s. 91, to enable a married woman living apart from her husband to convey certain of her property without her husband's [con]sent, the affidavit stating that the husband, on being applied to, refused to concur. *Rule granted.*

Wednesday.

Stewart v. Patch.	*Rule nisi.*
Brooke v. Wilson.	*Rule nisi.*
Ayling v. Goldring.	*Rule nisi.*
Needham v. Fraser.	*Rule nisi.*
Doe dem. Wyatt v. Roe.	*Rule nisi.*
Wilkes v. Hopkins.	*Partly heard.*

Thursday.

Milligen v. Picken.—*Byles*, Serjt. moved for a rule for leave to enter a verdict for the defendant on a point reserved, or for a new trial, on the ground of misdirection and against evidence. Cases cited: *Blofeld* v. *Payne* (4 B. & Ad. 410); *Morison* v. *Salmon* (2 M. & G. 385); *Sykes* v. *Sykes* (3 B. & C. 541). *Rule nisi.*

Deacon v. Williamson.—*Channell*, Serjt. moved that the award made in this case should be referred back to the arbitrator to reconsider. *Rule nisi.*

Wilkes v. Hopkins.—*Channell*, Serjt. on behalf of plaintiff, and *Byles*, Serjt. (with him *Gray*) on behalf of defendant, were heard. *Cur. adv. vult.*

COURT OF EXCHEQUER.

Tuesday, April 15.

Chanter v. Johnson.

New Trial.

Common count in *debt* for using the plaintiff's patent furnace.

Plea—Never indebted.

Verdict for plaintiff, damages 33l.

Martin, Q. C. now moved (pursuant to leave reserved) for a nonsuit, or for a new trial, on the grounds that there was no evidence to go to the jury of the license having been accepted, and that the count should have been a special one for not accepting the license.

Case cited: *Chanter* v. *Dewhirst* (4 Law J. 198). *Rule nisi.*

Rawlinson v. Clark.

Construction of a covenant in a deed not to Practice as a surgeon.

Semble, where two parties covenant by deed that one shall pay a certain sum as "liquidated damages," in event of a certain [a]ct being done by him, and the word "penalty" is not mentioned, the Court will construe these words strictly.

This was an action brought against the defendant, who was a surgeon, for a breach of covenant. At the trial it appeared that the defendant had sold his practice to the plaintiff, and at the same time had covenanted by deed not "to carry on or practise the business or profession of a surgeon or apothecary, either by residing or visiting a patient within three miles" of a certain street in London; it further appeared, that there was a clause in the deed, whereby the defendant covenanted to continue to reside in his old house of business for one year, and to practise in conjunction with the plaintiff during that time, with a view of introducing him to the various patients, for which he was to receive one moiety of the money received from such patients as he should attend during that time. Some short time after this year had expired, the defendant was sent for by a lady whom he had always been in the habit of attending, to attend her in her confinement, which he accordingly did; but at the same time it was shewn that the plaintiff was cognizant of this, and attended her himself with the defendant during the time of her confinement. There was also another patient of the plaintiff's proved to have been attended by the defendant; but it appeared that he did so for the plaintiff, he being ill at the time; it also appeared that this person had made a present of fourteen guineas to the defendant.

The jury found a special verdict, that the defendant had acted as a surgeon by visiting patients, but with both the knowledge and consent of the plaintiff. They also assessed the damages at seven guineas, being half of what he had received from the patient. The learned judge directed a verdict to be entered generally for the plaintiff for 500l. being the sum agreed to be paid as liquidated damages in event of the covenant not to practise being broken; but he at the same time gave the defendant's counsel leave to move to enter a verdict for the defendant, or to reduce the damages to seven guineas, should the Court think that the proviso in the deed for the payment of the 500l. could be treated as a penalty, and not as liquidated damages.

Crowder, Q.C. now moved accordingly, and contended that, upon this finding of the jury, the verdict ought to be entered for the defendant: that upon a fair construction of the deed, the defendant could not be held to have violated the covenant in question. That covenant had been inserted to prevent the defendant from injuring the plaintiff. Now, here the jury had found that what he had done had been to assist the plaintiff. Then as to receiving the fee, it might be he was bound to pay over that to the plaintiff; but it was a mere gratuity, and was not enough to bring him within the covenant.

Pollock, C. J.—I do not think the mere receipt of the fee by the defendant will decide the question. The question really is, the *animus* with which he did so; for he might receive it, not liking to offend the person offering it. I think you are entitled to a rule *nisi* on the first point.

Crowder.—Then, as to the second point, the verdict cannot stand for 500l. The question is, whether this is a case of liquidated damages; here the damage is easily ascertained, which distinguishes this case from the principle laid down by Tindal, C. J. in *Kemble* v. *Farren* (6 Bing. 148); it cannot be said here that the parties meant that the mere attending one patient was to subject the defendant to pay 500l. *Davies* v. *Pentum* (6 B. & C. 216) is in point, and is an authority for the defendant.

Pollock, C.J.—But in that case the words "penal

sum" occur, which is not the case here. Whenever the word "penalty" occurs in a deed, the Court will adhere to that, and not to the words "liquidated damages." Therefore if parties want liquidated damages, they must exclude the word "penalty" from the deed. Here there is no such word as penalty, and it is clear that the parties meant liquidated damages, and that they agree that 500*l.* shall be paid by the defendant as such if a certain act is done by him.

PARKE, B., ALDERSON, B., and ROLFE, B. concurred.

Rule nisi to enter a verdict for the defendant, but refused as to the reduction of damages.

DOE *dem.* CLARK *v.* PARKER.

Miller moved to enter a verdict for the defendant, on the ground that the lessor of the plaintiff would not proceed to settle the special case which it had been agreed between the parties to submit to this Court. The action had been tried before Mr. Baron Gurney, and that learned judge being dead, a difficulty existed in getting his notes of the case.

The COURT suggested that the best course would be to take out a summons, calling on the plaintiff to shew cause before Mr. Baron Platt at chambers with Mr. Baron Gurney's notes, as Mr. Baron Platt's clerk had been the clerk of Mr. Baron Gurney, and could transcribe his notes.

Miller acceding to this suggestion,

Rule refused.

Wednesday, April 16.

CHARLTON *v.* THE MAYOR AND CORPORATION OF LUDLOW and ANOTHER.

Quære, whether it is necessary for a corporation to authorize their attorney under their corporate seal to refer a cause to arbitration?

Semble, that the Court will not entertain so important a question when it is argued to determine a question of costs, unless at the peril of the party arguing it paying costs if he fail.

This was a rule calling on the Mayor and Corporation of Ludlow to shew cause why a certain order in reference made in this cause, and all the proceedings had under it should not be set aside, and why Downs, the attorney for the corporation, should not pay the costs of the application. It appeared that the cause which was at issue had been referred to arbitration in 1842, by a judge's order, and several meetings held under it; it further appeared that the order to refer was not under the corporate seal, nor was the attorney of the corporation authorized under their seal to refer. In moving for the rule it was contended, on the authority of *Arnold* v. *The Mayor and Corporation of Poole* (4 M. & G. 860, and 5 Scott, N. R. 741), that all the proceedings were void for want of an authority under the corporate seal to the attorney to refer.

Whately, Q.C. and *Crompton* now shewed cause.—There has been a subsequent ratification under seal by the corporation since the rule was moved for, therefore this rule must be discharged.

ALDERSON, B.—Then the only question is as to the costs of this application. Must not the corporation pay the costs up to the time of the ratification?

Whately, Q.C.—No, the attorney, it is contended, has a right to bind the corporation under an order of this Court, or else how is any railway or other chartered company to refer a cause in court? It is not the attorney who refers, but the Court.

Alexander, Q. C. contrà, was stopped by the Court.

POLLOCK, C. B.—The question is one of some difficulty, and the Court do not desire to discuss it on a mere question of costs. The party has obtained all he wants by the subsequent ratification by the corporation, and if you persist in arguing the question, you must do so at the peril of having to pay costs, should our opinion be against you.

ALDERSON, B.—In all subsequent cases, it will be better to take a verdict against the corporation subject to a reference.

PARKE, B. and ROLFE, B. concurred.

Rule discharged.

HAGGER *v.* BARKER.

Where an arbitrator who is a barrister makes a mistake in law, and which does not appear upon the face of his award, the Court will not interfere.

Semble, that there is no distinction between a mistake in the law of evidence and any other law.

This was a rule obtained by *Butt*, Q. C. to set aside an award, on the ground that the arbitrator had knowingly received improper evidence.

It appeared that at one of the meetings before the arbitrator, certain books had been tendered on behalf of the plaintiff, in which entries had been made by an agent of the plaintiff, principally from information derived from hearsay; but there were some entries that were unobjectionable. The admission of the books in evidence being objected to on behalf of the defendant, the arbitrator, who was a barrister, said, that in his opinion, the same strictness was not necessary in arbitrations as at Nisi Prius, and admitted the books; it was not, however, sworn in the defendant's affidavits that the arbitrator acted on the entries objected to.

Byles, Serjt. and *Birch* now shewed cause, and contended that, even if the books were not admissible, it was merely a mistake in a point of law.

Stopped by the Court, who called on *Butt* to support his rule.

Butt, Q. C.—There is a clear case made out here of the arbitrator knowingly admitting evidence improperly. *Hall* v. *Hinds* (2 M. & G. 874, and 3 Scott, N. R. 250) is in point, and is in favour of the defendant.

PARKE, B.—But this is merely a mistake in law.

POLLOCK, C. B.—It has been clearly decided, that where an arbitrator makes a mistake in law, and it does not appear on the face of the award, the Court will not interfere; and I cannot distinguish between a mistake in the law of evidence and any other law; and at the same time I am not prepared to say that in this case any mistake has been made, but it is not necessary to consider that question.

ALDERSON, B. and ROLFE, B. concurred.

Rule discharged with costs.

RICHARDSON and ANOTHER *v.* PALMER and OTHERS.

NEW TRIAL.

This was an action of *assumpsit* on a special contract by the plaintiffs to make two machines for the defendants for the manufacture of pins, and for which they were to be paid 30*l.* each, and 45s. a day for three years on each machine, for the working thereof.

The alleged breach was, that the defendants did not pay the said sum of 45s. to wit, for 49 weeks, and would not allow the plaintiffs to remain in the defendants' service to work the said machines.

A verdict was found for the plaintiffs.

Talfourd, Serjt. now moved to arrest the judgment, and for a new trial, on the ground that the breach was ill assigned, there being no contract by the defendants to keep the plaintiffs in their service, but merely to pay them 45s. a week for such time as the machines should be worked.

Cases cited: *Dunn* v. *Sayles* (13 L. J. N. S., Q. B. 159); *Apsdin* v. *Austin* (ib. 155). *Rule nisi.*

JACKLIN *v.* FYTCHE.

Nonsuit.

This was an action against a magistrate for false imprisonment. Verdict for the plaintiff.

Clarke, Serjt. now moved for a nonsuit, on the ground that the notice to the magistrate did not contain any allegation of the place in which the said arrest took place.

Case cited: *Martins* v. *Wheler* (2 G. & D. 716).

Rule nisi.

ISRAEL *v.* NOON.

Judgment on the issue of nul tiel record, practice in moving for—Costs.

J. W. Bankes moved for judgment in this case, on an issue of *nul tiel record*, and stated that the record was with the Master.

PARKE, B.—You must hand in a copy of the pleadings to enable the Master to compare them with the records. In all cases this should be done before the sitting of the Court, to give that officer time to do so. You must now wait until that is done before you can have judgment. You had better move again to-morrow.

Bankes then stated he wished to move also for costs.

PARKE, B.—Why ask for costs?

Bankes.—The plaintiff, was obliged to bring this action to recover his debt; the debt was under 20*l.* and the officer was enabled to bring on a *fieri facias*, which had been issued through the stratagems of the defendant; it was sworn that there were goods on which to levy, but that the defendant locked his doors and set the officers at defiance.

Case cited: *Garnwall* v. *Barker* (5 Taunt. 264).

Rule nisi as to the costs.

HEATH *v.* UNWIN.

Taxation of costs.

Jervis, Q. C. moved for a rule calling upon the defendant to shew cause why the Master should not review his taxation.

The action was brought to try the right to a patent; the defendant pleaded not guilty, and several pleas, alleging that the plaintiff was not the true inventor, and that the patent was not a new one; a verdict was found generally for the plaintiff; but on a motion to this Court after argument, the Court directed a verdict for the defendant on the plea of not guilty, it being held that the process which the defendant had used was not an infringement of the patent. On the taxation, however, the Master had allowed the defendant the costs of many scientific witnesses, who had been called on the other issues, and it was contended that the defendant was only entitled to the costs of those who went to prove the plea of "not guilty." *Rule nisi.*

MADELEY *v.* ADEGETT and HENEWAY.

Nonsuit.

Assumpsit for goods sold and delivered, and on account stated.

Whitehurst, Q. C. moved (pursuant to leave reserved) for a nonsuit or for a new trial, on the ground that there had been no delivery and acceptance within the Statute of Frauds, and also that the plaintiff had only acted as a factor in the matter, and therefore that there was no contract of sale between him and the defendants.

Case cited: *Seymour* v. *Pychlau* (1 B. & Ad. 14).

Rule nisi to enter a nonsuit.

BUSINESS OF THE WEEK.

Tuesday.

REG. *v.* SMITH and ANOTHER.—Adjourned to Wednesday, April 23.

LAUD *v.* LANCASTER and OTHERS.—*Watson*, Q.C. (*Cowling* with him), moved for a new trial. *Rule refused.*

IRELAND *v.* HARRIS.—*M. D. Hill*, Q. C. moved for a new trial. *Cur. adv. vult.*

Re WILLIAM COBBETT.—Mrs. *Cobbett* in person moved for a *habeas corpus* to bring up William Cobbett, with a view to his discharge out of custody, on the ground that the warrant on which the said William Cobbett was confined for a certain alleged contempt of Court was bad on the face of it, as containing no allegation of any adjudication. *Cur. adv. vult.*

Wednesday.

DEMBY *v.* BARGONZIE and OTHERS.—*Martin*, Q. C. moved for a new trial, on the ground that the verdict was perverse, as against evidence, and also against the summing up of the judge. *Rule nisi.*

WALLER *v.* BLACKLOCK.—*Knowles*, Q. C. moved to set aside the verdict in this case, and for a new trial, on the ground of misdirection. *Cur. adv. vult.*

FRANCE *v.* HINDLE.—*Martin*, Q. C. moved to enter a verdict for the plaintiff, or for a new trial, on the ground that the verdict was against evidence. *Rule nisi.*

GREEN *v.* PRICE.—*Jervis*, Q. C. moved for a new trial, on the ground of misdirection. *Rule refused.*

DOE *dem.* —— *v.* ENGLEFIELD. — No cause shewn. *Rule absolute.*

TESTERTON and ANOTHER *v.* WARN.—*Jervis*, Q. C. moved for a new trial. *Rule nisi.*

Thursday.

HARRIS *v.* SLATTER.—*Godson*, Q. C. for a new trial. *Rule refused.*

NORMAN *v.* PHILLIPS.—*Talfourd*, Serjt. for a rule to enter a nonsuit, pursuant to leave reserved at the trial. He cited *Dodsley* v. *Varley* (12 Ad. & E. 632). *Rule nisi.*

GODE *v.* JONES.—*Whateley*, Q. C. for a new trial. *Cur. adv. vult.*

BREECH *v.* KNIGHT.—*Hill*, Q. C. for a new trial, on the ground of misdirection, and also that the verdict for the defendant was against evidence. *Rule nisi.*

HOBBY *v.* RUEL.—*Chilton*, Q. C. for a new trial, on the ground that the verdict for the defendant was perverse. *Cur. adv. vult.*

HUMPHREYS *v.* JONES.—*Knowles*, Q. C. to enter a nonsuit or verdict for defendant. *Rule refused.*

HALE *v.* OLDROYD.—*Martin*, Q. C. for a new trial. *Rule nisi.*

BARBER *v.* SANDERS.—*Clarke*, Serjt. for a new trial. *Rule refused.*

HINSTON *v.* HEATHER.—*Crowder*, Q. C. for a new trial. *Cur. adv. vult.*

TANNER *v.* SCOBELL.—*Jervis*, Q. C. for a new trial. *Cur. adv. vult.*

THOMPSON *v.* DOMINY.—*Kinglake*, Serjt. for a new trial to enter a nonsuit, or to arrest the judgment. *Rule nisi.*

SILK *v.* STONES.—*Horn*, to set aside service of writ. *Rule nisi.*

BAIL COURT.

Tuesday, April 15.

(Before Mr. Justice COLERIDGE.)

REG. *v.* BIRD and OTHERS.

Certiorari to remove an indictment for a nuisance from the Sessions into this Court. The motion is not invariably absolute in the first instance.

Peacock moved for a *certiorari* to remove into this court an indictment found against the defendants at the last Middlesex sessions, for a nuisance in Spafields burial-ground. The grounds of the application were, first, that it is desirable that the case should be tried by a special jury; second, that important questions of law are likely to arise, particularly as to whether or not the act charged amounts to an indictable misdemeanor; third, that it is proper that there should be a view.

H. Wilde said that he was instructed to oppose the rule in the first instance, unless it were a rule *nisi* only.

Peacock.—The rule is absolute in the first instance in misdemeanors, but *nisi* only in felonies.

COLERIDGE, J.—The Master informs me that it is not necessarily absolute in the first instance.

Peacock.—It was so held in *Reg.* v. *Spencer* (8 Dowl. 127).

COLERIDGE, J.—I cannot assent to that; it may be that the other side have good cause to shew against the rule. In this case I think it should be *nisi* only. *Rule nisi.*

REG. v. THE MAYOR AND TOWN COUNCIL OF SALFORD.

Mandamus to aldermen and assessors to proceed with the election of town councillors.

Hoggins moved for a writ of *mandamus* to be directed to the aldermen and assessors of the four wards of the borough of Salford, commanding them to proceed to the election of town councillors. The borough of Salford was incorporated by a royal charter, bearing date the 16th April, 1844, which provided for the election of the first councillors on the 12th of July, and for the aldermen and mayor on the following 20th. No provision was made for subsequent elections, or for the appointment of assessors, but the corporation was left to the provisions of the Municipal Corporation Act, 5 & 6 W. 4, c. 76 (pursuant to s. 141). By s. 43 of the above Act, it is provided that the election of councillors for each ward shall be held before the aldermen and assessors of the wards respectively; and by a subsequent act the assessors are to be elected in March. The borough being divided into four wards, and two councillors retiring each year on the 1st of November, there were, in November last, eight to be elected; but in consequence of the charter not having made any provision for assessors, and the period for their election not having arrived, no election of councillors could take place.

COLERIDGE, J.—Why did you not apply before?

Hoggins.—We waited until the election of assessors in March, before whom the election of councillors must take place.

Hodges, on behalf of the corporation, appeared to consent to the *mandamus*, which had been rendered necessary by the peculiar circumstances.

Rule absolute in the first instance.

Wednesday, April 16.

GEDGE v. ELGIE.

Motion to tax an agent's bill.

Lush moved, on the part of the defendant, for a rule to refer the plaintiff's bill to taxation. This was an action brought against an attorney by his agent; and the only question was, whether, under the 6 & 7 Vict. c. 73, s. 37, an agent's bill is taxable.

Cur. adv. vult.

Thursday, April 17.

REG. v. BUCHANNAN.

Quære, whether it is an indictable offence under the 6 & 7 Vict. c. 73, for an unqualified person to act as an attorney?

Horn, in the last Term, having obtained a rule for a *certiorari*, to remove the indictment found against the defendant at the last summer assizes for Kent (see 4 Law T. 320), now moved to quash the indictment. It appeared that the defendant was overseer of the poor and clerk to the guardians of the Chatham Union, and that in the latter capacity, and by the direction of the guardians, he prosecuted some appeal business in the borough court of Canterbury, whereupon this indictment was preferred against him for acting as an attorney, he, in fact, not being one, in contravention of the 6 & 7 Vict. c. 73. It was now sought to quash the indictment, on the ground that it charges no indictable offence, it being settled law that where an Act of Parliament creates an offence, and points out a specific penalty (as in the 35th section of the 6 & 7 Vict. c. 73), that that penalty alone can be resorted to. (2 Hawk. b. 2, c. 25, s. 4; *Castle's* case, Cro. Jac. 644; *Reg.* v. ——, Fitzgibbon, 17.) *Rule nisi.*

BUSINESS OF THE WEEK.

Tuesday.

DOE *dem.* UNWIN v. ROE.—*M. Chambers* moved for a rule calling upon the lessor of the plaintiff to shew cause why the judgment and all subsequent proceedings should not be set aside, and why the possession of the premises should not be delivered back to Mr. O'Reilly, the original landlord, upon the peculiar facts stated in the affidavits. *Rule nisi.*

Ex parte DAVID SMITH.—*Hall* moved for a *certiorari* to remove into this court an order of the West Riding of Yorkshire Sessions (adjudging the applicant to be the father of a bastard child), with the view to quashing the same, on the ground that the corroborative evidence does not appear on the face of the order to have been taken on oath. (*Reg.* v. *The Justices of Buckinghamshire*, 4 Law T. 341.) There were other minor objections. *Certiorari granted.*

Ex parte MACKAY and OTHERS.—*Archbold* moved for a rule *nisi* for a *mandamus* to be directed to the chairman of the vestry and inhabitant ratepayers of All Saints, Southampton, commanding them to proceed to a poll, and election of certain commissioners under a local Act. *Rule nisi.*

Wednesday.

Ex parte WEBB.—*Lush* moved for a rule calling upon an attorney to refund 250*l.* placed in his hands to pay legacies. *Cur. adv. vult.*

SMALLRIDGE v. SMITH.—*Bramwell* moved for a rule to set aside the judgment signed as in case of a nonsuit, the same having been signed against good faith. *Rule nisi.*

Ex parte THOMAS TAYLOR.—*Lush* moved for permission to enrol the assignment of the articles of clerkship of the applicant *nunc pro tunc*, on the ground of the necessary affidavit not having been made within the six months, on account of the illness of the party who should have made it.

Application granted.

Thursday.

REG. v. THE INHABITANTS OF HICKLING.—*Whitehurst*, Q. C. moved to set aside an order of Mr. Justice Coltman, giving costs on this indictment, which was for the non-repair of a highway, on the ground (amongst others) that the order does not set out all the facts giving jurisdiction. *Rule nisi.*

ELLWOOD v. BULLER.—*Lush* moved for a rule to set aside the interlocutory judgment signed herein, for irregularity.

Crown Cases.

Serjeants'-Inn, Friday, Feb. 14.

(Before the Fifteen Judges.)

REG. v. WINTERBOTHOM.

Forgery—Indorsement of one of several executors.

The prisoner was convicted of forgery before Gurney, B. at Chester Winter Assize, on an indictment containing several counts. The first, and only material one for this purpose, charged the prisoner with having in his custody and possession a certain bill of exchange, as follows:—

"5,000*l.* Manchester, Dec. 20, 39.

'At seven days' sight pay to Mrs. Elizabeth Isherwood, widow; Miriam Isherwood, spinster; Anne Magdalen Isherwood, spinster; also Anne Maria Isherwood, now the wife of C. Bellairs, esq. on order, the executrixes of the late John Isherwood, esq. five thousand pounds in full for loss under policy No. 11012. "W. J. TATE.'

To the trustees of the Pelican Life Office, London."

He, the said prisoner, afterwards, to wit, on, &c. feloniously did forge, on the back of the said bill of exchange a certain indorsement, which said forged indorsement is as follows, that is to say:—

"Anne Magdalen Isherwood," with intent to defraud, &c.

At the trial it was objected, *inter alia*, that the bill of exchange mentioned in the indictment being made payable to Mrs. Elizabeth Isherwood, Miriam Isherwood, Anne Magdalen Isherwood, and Anne Maria Isherwood, or order, the executrixes of John Isherwood, was negotiable only upon indorsement by all the said payees, and therefore that the forgery of one of the said names was not a forged indorsement of said bill alleged in this indictment.

The objection being reserved,

Welsby now appeared in support of it, and contended that the forgery of one name out of four was not sufficient to bring the prisoner within the penalty of the law. One of many executors cannot indorse and bind his co-executors. Here the form of the bill required the indorsements of all four executrixes, and the single one charged in the indictment is inoperative.

Cases cited: *King* v. *Thom* (1 T. R. 487); *Child* v. *Monnins* (2 B. & B. 460); *Burmester* v. *Hogarth* (4 M. & W. 97).

E. V. Williams (with him Sir *John Bayley*, *Davison*, and *Yardley*), contrà.—This indictment follows the statute on which it is framed, 11 Geo. 4, & 1 Wm. 4, c. 66, s. 3, which speaks of "any indorsement on or assignment of a bill," and charges that the prisoner forged on the bill an indorsement of one; and the whole question is, whether this is an indorsement of the bill. Now, if all four are necessary, each and every of the co-executrixes must indorse. To make a forgery, the thing forged ought to be good if true. The indorsement of this one lady would be good against her if valid. An indorser may be treated as a new drawer, and how he could be sued is immaterial, if he could be sued in any way at all. All these parties might sue as executrixes, and any one might have released the debt, and transfer the property, so that the indorsement of one is such an indorsement as will make the prisoner liable on this indictment.

Cases cited: *Rex* v. *Weeks* (R. & A. 149); *Penny* v. *Innes* (1 C. M. & R. 439); *Gwinnett* v. *Hubert* (5 Ad. & El. 436); *Jackson* v. *Hudson* (2 Camp. 447); *Hill* v. *Lewis* (1 Salk. 133); *Partridge* v. *Court* (5 Price, 412); *Heath* v. *Chilton* (12 M. & W. 632); *Catherwood* v. *Chabaud* (1 B & C. 149); Shepherd's Touchstone, 484.

Welsby replied. *Cur. adv. vult.*

Their lordships held that the prisoner had been properly convicted.

REG. v. CARTER.

Uttering—Order to pay—Public officer of banking company—Proof of appointment.

The prisoner was convicted at the Yorkshire Winter Assizes, before Coleridge, J. on two counts of an indictment, for uttering the instrument hereinafter set out, which was described as an order for the payment of money, the intent being laid in one count to defraud one H. Dresser, as one of the public officers of the Yorkshire District Bank, and in the other to defraud H. Deeper and others.

"Thornton-le-moor, July 20, 44.

"Mr. Johnson.

"Sir,—Please to pay to James Jackson the sum of 13*l.* by order of Chr. Sadler, Thornton-le-moor, brewer.—The District Bank.—I shall see you on Monday. "Your obliged,

"CHR. SADLER."

Christoper Sadler was a customer of the Yorkshire District Bank, and had been, till shortly before the uttering, a brewer. The agent of the bank, to whom the instrument was uttered, stated that Sadler was not in the habit of drawing on the bank, but that if he had been certain of the handwriting being his, he should have paid the money; but it was not proved that Sadler, at the date of the instrument, or time of the uttering, had any effects in the bank.

Three objections were made. First, that Dresser was not proved to be the public officer. He was called, and stated himself to be so, and a shareholder; and an examined copy of the return furnished to the Stamp office was put in, in which he was stated to be so. This copy wanted the affidavit at the close of the return (see sched. A, 7 Geo. 4, c. 46), and of course the signature and the date were left in blank, but it was not objected that the return sent to the office did not relate to the period of the uttering.

Second—That in the case of a company acting under the 7 Geo. 4, c. 46, it was not allowable to lay the intent to be to defraud "one of the partners and others." As to this see the cases collected in 2 Russell, 104, n. (*l.*); but the objection was rested on the case of *Steward* v. *Greaves* (10 M. & W. 711), in which the Court of Exchequer held that the 9th section of the statute was imperative in civil proceedings, and that a creditor of the bank could sue only one of the public officers. It was also urged that the 7 Geo. 4, c. 64, s. 14, only applied where it would otherwise have been necessary to name all the parties.

Third—It was objected that the instrument was improperly described as an order for the payment of money; that it did not, upon the face of it, purport to be an order, nor was it shewn that the party whose signature was forged had any authority to order the payment.

The objections were all overruled and reserved for the consideration of the judges.

Hall now appeared for the prisoner.—As to the last objection, it is submitted that to make an instrument an order, a breach of duty must be involved in the disobedience of it. It is not the form but the legal effect of the instrument which makes it an order. This is "precatory," and if it had been a genuine instrument it would not have been an order. (*Robert's* case, 2 R. & R. 522; *Gilchrist's* and *Rouche's* cases, same volume.)

PARKE, B.—The question is, whether it purports to be an order for the payment of money.

Hall.—As to the second point, the intent could not be laid to be to defraud "one of the partners and others;" for under the Banking Act, as construed by *Steward* v. *Greaves*, the words "shall and may" have been held to be exclusial in civil proceedings. The public officer, therefore, alone ought to be the party put forward. And, as to the first point reserved, it is contended that the case fails on that count, because there was no proof that the party there named was the public officer of the company. His appointment could only be proved by the production of the certificate required by the Act.

Bliss, contrà, was stopped.

Lord DENMAN, C. J.—The judges will consider these points. It may not be necessary to hear any counsel for the Crown. *Cur. adv. vult.*

Their lordships held the conviction to be right.

REG. v. RADFORD.

Uttering.

Where the prisoner shews a forged receipt to a party claiming a debt to look at, but does not deliver it except on compulsion—Held, that he was guilty of uttering.

The prisoner was tried before Gurney, B. at the Chester Winter Assize, 1844, when it appeared that in 1840 he bought some stone from a quarry then managed by one Turner, for which he never paid, although frequent demands were made on him both by Turner and Forster, his successor. At length, in 1844, he asserted he had paid the bill in 1840, and had Turner's receipt for it. On this Forster went to the prisoner, who produced the receipt, and exhibited it to him to look at, but would not part with it out of his hand. Soon afterwards Forster and Turner both went to him, when he again produced it, and held it up for them to look at, but refused to part with it out of his hands. Forster, however, got it from him, and he was apprehended and indicted for uttering the receipt, knowing it to be forged. On the part of the prisoner it was objected that his acts did not amount to an uttering; but the learned judge overruling the objection, subject to the opinion of the judges, the prisoner was convicted.

Townshend now contended that the prisoner was entitled to an acquittal. The words of the Act 11 Geo. 4 & 1 Wm. 4, c. 66, s. 3, are "offer, utter, dispose, or put off," of which the second alone is material now, as the indictment is for uttering. The

old Act 13 Geo. 3, c. 79, contains the words, "utter or publish," and in an indictment under that it was held that merely shewing a forged deed to a party was not an uttering or publishing within those words. (*R. v. Shukard*, R. & R. 200.) The law gives a peculiar meaning to some words, such as "uttering" and "publishing," which mean giving false colour to any thing. There must be a delivering over, a passing it, a publication, in order to comply with this legal definition. (*Tremaine's Placita Coronæ*, 135. There must be the same publication in uttering a forgery as in publishing a libel. There must be either a delivery of the paper or a communication of its contents. (*R. v. Burdett*, 3 B. & Ald. 111.) Here the contents of the instrument were not consigned to Forster, but he got them from the prisoner. The *traditio* was involuntary; and though there might be a *tendering*, that is different from *uttering*. Wherever the Legislature meant to guard against the mere production of an instrument, they used very different language. In 5 & 6 Wm. 4, c. 24, the Seamen's Enlistment Act, the words are "produce, utter, or make use of;" and in 2 & 3 Wm. 4, c. 59, s. 19, the words are "utter, deliver, or produce," which shew that this Act must be construed strictly, and confined to the legal sense of the language used. The 5th Eliz. is a still stronger illustration, for that Act says, "publish or shew forth in evidence." Uttering, therefore, means parting with or shewing forth in evidence, and it is submitted that the acts of the prisoner did not amount to either.

Cur. adv. vult.

No counsel appeared for the Crown.

Their lordships held the decision to be right.

IRELEND.

DUBLIN, April 16.

Yesterday, the several courts were opened with the usual formalities observed on the first day of Term.

The following gentlemen having previously taken the necessary oaths in the Queen's Bench, were called to the bar by the Lord Chancellor.

Ralph Smith Cusack, second son of J. W. Cusack, of Kildare-street, in the city of Dublin, M.D.

Edmund Jordan, seventh son of Myles Jordan, esq. late of Roslevin castle, in the county of Mayo, deceased.

James French M'Gee, second son of James F. M'Gee, of Belfast, esq.

Michael Andrew Rorke, second son of Andrew Rorke, of Tyrrelstown, in the county of Dublin, esq.

Robert Augustus Warren, eldest son of Richard Benson Warren, of Leeson-street, in the city of Dublin, Q.C. one of her Majesty's serjeants-at-law.

James Church, eldest surviving son of John Church, late of Oatlands, in the county of Londonderry, esq.

Frederick William M'Blain, second son of David M'Blain, of Newry, in the county of Armagh, merchant.

Joseph Farran Darley, third son of William Darley, late of St. John's, in the county of Dublin, esq. deceased.

Edward Dwyer, only son of Thomas Dwyer, of Lower Mount-street, in the city of Dublin, solicitor.

Joseph Hoare Reeves, second son of Thomas Somerville Reeves, of Tramore, in the county of Cork, esq.

Matthew William Forde, eldest son of Arthur Forde, late of Seaforde, in the county of Down, esq. deceased.

John Willington, eldest son of James Willington, of Castle Willington, in the county of Tipperary, esq.

Three of the gentlemen called were Roman Catholics.

PROMOTIONS, &c.—The Lord Chancellor of Ireland has appointed the undermentioned gentlemen to the commission of the peace, upon the recommendation of the lieutenants of their respective counties:—Charles Boyle, esq. for the county of Monaghan; Thomas Carty, esq. for the county of Louth; Alexander Creighton, esq. for the county of Sligo; Joseph Holmes, esq. for the King's County; Edward Anderson, esq. for the county of Down; P. W. Filgate, esq. for the county of Louth; Robert Caldwell, esq. for the county of Down; Henry D'Arcy, esq. for the county of Tyrone.

There was a meeting of Benchers of the Honourable Society of the King's Inns on the first day of Term, at which most of the judges remained until near three o'clock. It was expected that their decision in Mr. Hardy's case would have been promulgated; but it is reported that they have not yet come to a formal decision on the subject.

THE LEGISLATOR.

Summary.

ONE topic, wholly foreign to this Journal, has engrossed the Parliament during the week. At such moments as these, all minor matters stand still, and accordingly we find every measure interesting to the Profession indefinitely postponed.

We commence the usual summary of the New Statutes of the present Session. The titles of all as yet passed are given; but their contents are quite unimportant, and need not notice or abstract.

Imperial Parliament.

PRIVATE BUSINESS TRANSACTED.

BILLS READ A FIRST TIME.

Friday, April 11.

Bermondsey Improvement.
Great North of England (Clarence and Hartlepool Junction) Railway.
Cork and Bandon Railway.
Carlow, Wexford, and Dublin Junction Railway.
Bristol and Exeter Railway Branches.
Newry and Enniskillen Railway.

Tuesday, April 15.

Duddlestone and Nechells Improvement, No. 2.

Wednesday, April 16.

Totnes Markets and Waterworks, No. 2.
Westminster Improvement, No. 2.
North Wales Railway.

Thursday, April 17.

Lady's Island and Tacumshin Embankment.
E som and Dorking Railway.
Eastern Union and Bury St. Edmunds Railway.
London, Worcester, and South Staffordshire Railway.

BILLS READ A SECOND TIME.

Friday, April 11.

Glasgow, Gurnkirk, and Coatbridge Railway.
Edinburgh Life Assurance Company.
Dundee and Perth Railway.
Dundee Waterworks.
Glasgow Markets.
Newport and Pontypool Railway.
South Wales Railway.

Monday, April 14.

Boddam Harbour.
Aberdeen Railway.
Chester Improvement.
Royal Naval School.
Yarmouth and Norwich Railway.
Whittle Dean Waterworks.
Hartlepool Pier and Port.
Sheffield and Tinsley Canal.
Chelsea Improvement.
Middlesex County Rates.
Manchester Improvement.
Quinborowe Borough.
North Union and Ribble Navigation Branch Railway.
Southport and Euston Junction Railway.

Tuesday, April 15.

Hemel Hempstead Small Tenements.
Manchester, Sheffield, and Midland Junction Railway.
Watermen's Company Piers and Endowment Fund.
Clifton Bridge.
Bristol Parochial Rates.

Wednesday, April 16.

Kidwelly Inclosure.
Harwell and Stualtey Road.

BILLS READ A THIRD TIME AND PASSED.

Monday, April 14.

Kingston-on-Hull Docks.
Fisher Lane Improvement.
Ellesmere and Chester, and Birmingham and Liverpool Junction Canals.

Wednesday, April 16.

Birmingham and Staffordshire Gas Light Company.
Amicable Society Assurance Bill.

Thursday, April 17.

Forth and Clyde Navigation.

PUBLIC BUSINESS TRANSACTED.

Friday, April 11.

Arrestment of Wages (Scotland) Bill—"to abolish the Arrestment of Wages in Scotland."

Monday, April 14.

Chattel Interests (Real Property) Bill—"to declare to be valid assignments, surrenders, and releases of Chattel Interests in Real Property made in certain cases."

BILLS READ A SECOND TIME.

Friday, April 11.

Auction Duties Repeal.
Sugar (Excise Duties).

BILLS READ A THIRD TIME AND PASSED.

Wednesday, April 16.

Auction Duties Repeal.
Sugar (Excise Duties).

SESSIONAL PRINTED PAPERS.

Par. Num.
148. Increase and Diminution of Salaries, Public Offices—Abstract of Accounts.
169 Glass—Return.
200. Disputed Territory—Copy of Despatch.
155. Railways, South Wales Division—Map.
40. Poor Laws, Ireland—Indexes to Reports of Commissioners.
212. Slave Trade—Return.
201. Bills—Infeftment, Scotland, amended.
202. — Heritable Securities, Scotland, amended.
183. — Poor Law Amendment, Scotland.
205. — Statute Labour, Scotland.
213. — Chattel Interests, Real Property.
208. — Arrestment of Wages, Scotland.
199. — Auction Duties Repeal.
178. Shannon Navigation—Sixth Report of Commissioners.
204. Ecclesiastical Commission, Ireland—Report.
211. Grain and Flour, Australian Colonies—Copies of Communications.
218. Classification of Railway Bills—Fifth Report of Committee.
177. Police, Ireland—Returns.
207. Customs Duty—Abstract of Expository Statement.

PARLIAMENTARY PAPERS.

THE DUCHIES OF CORNWALL AND LANCASTER.—An account of the gross and net revenue of the Duchy of Cornwall for the year ending December 31, 1844, and of the Duchy of Lancaster for the year ending Michaelmas-day 1844, has just been presented to both Houses of Parliament, by command of her Majesty the Queen. It is now printed and published. Taking the general statement, it appears that the total income arising from the revenues of the Duchy of Cornwall, from the 1st of January to the 31st of December, 1844, amounted to the sum of 47,591*l.* and the total amount of the concurrent expenditure to the sum of 42,724*l.* leaving a balance of about 4,867*l.* in the hands of the Receiver-General at the close of the year. Of the revenue (47,591*l.*), the sum of 15,246*l.* arose from rents due to his Royal Highness the Prince of Wales, exclusive of 1,901*l.* arrears of rent, &c.; 6,566*l.* from fines on copyhold grants in the manor of Kennington and renewals; 15,741*l.* for the compensation in lieu of tin, coinage duties, post groats, and white rents; 2,460*l.* from the produce of the royalties of the coal-mines in the county of Somerset; 2,685*l.* from the produce of royalties and reservation of dues of mines in Cornwall and Devon. Of the amount expended (42,724*l.*) the sum of 4,991*l.* was appropriated to the salaries and allowances of the principal offices of the duchy, and their clerks, &c.; 1,275*l.* to the salaries and expenses connected with the new Stannaries Court; 1,270*l.* to superannuation allowances and annuities; 1,536*l.* to law charges; 4,073*l.* to repairs and permanent improvement; 2,500*l.* to investments in the purchase of beneficial leases; whilst a sum total of 22,877*l.* was paid to the trustees and treasurer of his Royal Highness the Prince of Wales, as the income accruing from his duchy. Adverting to the accounts of the sister Duchy of Lancaster, we find that the gross total receipts for the year ending Michaelmas-day 1844, amounted to 35,356*l.* and the gross total on current expenses to 29,241*l.* leaving a balance of about 6,115*l.* in the hands of the Receiver-General. The sum of 24,916*l.* was derived from rents and arrears; 1,127*l.* from fines on renewing leases; 1,217*l.* from sales, grants in fee, grants of rents and enfranchisement of copyholds, under divers Acts of Parliament; and 2,211*l.* from casual revenues. Of the amount expended, the sum of 6,994*l.* was appropriated to the salaries and allowances of the principal officers of the duchy and of the law officers of the County Palatine; 2,861*l.* to law charges; 1,248*l.* to annuities and retired allowances; 4,642*l.* to labourers' wages, expenses of manorial courts, land-tax, and a heap of other charges; 1,217*l.* to the purchase of stock; and 8,000*l.* was paid to her Majesty's Keeper of the Privy Purse. It hence appears that the Royal family (the Queen and the Prince of Wales) derived an income from the two Duchies of Cornwall and Lancaster during the past year amounting altogether to about 30,000*l.* in round numbers, which is nearly half the amount of the annual value of the privy purse paid from the resources of the Civil List. In the Duchy of Cornwall Sir Henry Wheatley, the Receiver-General, receives 1,100*l.* and Lord De L'Isle and Dudley, the Surveyor-General, 1,000*l.* a year. The Chancellor of the Duchy of Lancaster, Lord Granville C. H. Somerset, receives a salary of 2,000*l.*; and Mr. Francis L. Holt, the Vice-Chancellor, 600*l.* less 63*l.* 9s. 6d. received by him for fees.

EXPENSES OF THE ECCLESIASTICAL COMMISSION.—Returns of the salaries, fees, emoluments, &c. paid to counsel, solicitors, architects, agents, and surveyors, and other particulars in each year, from 1839 to 1844, both inclusive, have been embodied in a printed paper, and issued to the public, on the motion of Mr. Evelyn B. Denison, M.P. It appears that the fees and emoluments of counsel and solicitors amounted in 1839 to 137*l.*; in 1840, to 66*l.*; in 1841, to 818*l.*; in 1842, to 828*l.*; in 1843, to 718*l.*; and in 1844, to 1,334*l.*; of which 1,006*l.* went into the pockets of Messrs. White, Meadows, and Murray, solicitors, in London. The fees, travelling expenses, and emoluments paid to the architects employed, Messrs. Blore, D. Burton, R. S. Pope, and W. Railton, amounted in 1841 to 5*l.* 5s.; in 1842, to 1,028*l.*; in 1843, to 579*l.*; and in 1844, to 893*l.* The fees and emoluments paid to agents and surveyors amounted in 1840 to 11*l.*; in 1841, to 378*l.*; in 1842, to 618*l.*; in 1843, to 516*l.*; and in 1844, to 510*l.* It appears that during the last six years the sees of Chichester, Hereford, Lichfield, Oxford, Peterborough, Ripon, and St. David's, have been augmented to the total amount, in 1839, of 6,425*l.*; in 1840, of 7,000*l.*; in 1841, of 8,600*l.*; in 1842, of 8,489*l.*; in 1843, of 8,349*l.*; and in 1844, of 8,349*l.* Episcopal residences have been provided in the dioceses of Glocester and Bristol, Lincoln, and Ripon; in that of Lincoln at a cost of 14,788*l.*; and in that of Ripon

at a cost of 14,611*l*. The cost of the episcopal residence for the bishop of Glocester and Bristol cannot be stated, the building not being yet completed. Reversions were sold, in the dioceses of Glocester and Lincoln in 1839 for a total amount of 11,514*l*.; in 1840, for one of 38,798*l*.; in 1841, for one of 3,900*l*.; in 1842, for one of 5,250*l*.; and in 1843, for one of 3,071*l*. In the diocese of Glocester and Bristol the estate of Stapleton has been purchased for the sum of 11,000*l*.; and in the diocese of Lincoln, that of Riseholme, for the sum of 37,406*l*. including the sum of 2,036*l*. the value of the timber.

Annuities.—A return of the number and amount of annuities granted and payable upon lives up to the 5th day of January, 1845, was ordered by the Hon. the House of Commons on the 13th of February last, on the motion of Mr. John L. Ricardo, M.P. for Stoke-upon-Trent, and was consigned to the Parliamentary printing-office a few nights ago. On an inspection of the return lying before us, it appears that the number of annuities granted and payable upon lives, per Act of 10 Geo. 4, c. 24, was as follows, viz.:—Ages from 20 to 30, 216 annuities, amounting altogether to 9,614*l*.; ages from 30 to 40, 705 annuities, amounting to 46,078*l*.; ages from 40 to 50, 1,706 annuities, amounting to 148,139*l*.; ages from 50 to 60, 2,768 annuities, amounting to 286,204*l*.; ages from 60 to 70, 3,428 annuities, amounting to 264,480*l*.; ages from 70 to 80, and upwards, 1,529 annuities, amounting altogether to 114,832*l*.; and, on the continuance of two lives, and the life of the longer liver of them, at various ages, 421 annuities, amounting to the sum total of 36,744*l*. Upon making the addition, it will be found that the gross totals on the 5th day of January last past were 10,773 annuities, amounting altogether to the sum of 906,094*l*. This paper is issued from the National Debt-office, and signed by Mr. S. Higham, the Controller-General.

Military Savings-banks.—An account of the amount of all sums deposited in the Military or Regimental Savings-banks, within the year ended the 31st day of March, 1844; of all sums withdrawn during the same period, and of the interest allowed upon such deposits, and also the number of depositors on the said 31st day of March, 1844, has been presented to Parliament, pursuant to the provisions of the Act 5 & 6 Vict. c. 71. It was ordered to be printed a few nights ago. It hence appears that the total amount of the sums so deposited was 15,069*l*. 3s. 2d.; the total amount of the deposits so withdrawn, 316*l*. 11s. 5d.; the amount of interest so allowed upon the said deposits, 96*l*. 10s. 1d.; and the amount of the balance due by the public, 14,849*l*. 1s. 11d. The number of depositors is stated to have been 1,890. The warrant establishing the Regimental Savings-bank was dated the 11th of October, 1843. This paper is issued from the War-office, and signed by Mr. Sydney Herbert, the new Secretary at War.

The University of London.—The following returns were obtained by Mr. Christie, the member for Weymouth, of the candidates for medical degrees, and the number who have taken such degrees, in each year, since the foundation of the new University in Upper Gower-street. From 1839 up to 1844, 268 persons presented themselves at the first examination for degrees as bachelors of medicine, of whom 176 passed; and 118 presented themselves at the second examination for the same degree, of whom 106 passed. During the same period 33 persons presented themselves for the degree of doctor of medicine, all of whom passed. The number of colleges in connection with the University of London appears to be 26, and the number of medical schools recognized by the said University (exclusive of 17 independent lecturers) to 63. The following are the only professional privileges attached to the degrees of the London University—viz. at the Middle Temple, exemption from the deposit of 100*l*. on entering as a student at that Inn and at King's Inns, Dublin, the saving of five terms in the period of studentship for the Irish bar. Graduates in medicine of the said University, being also licensed practitioners, are eligible to be medical officers of Poor Law unions. By the Act 1 Vict. c. 56, the provisions of 1 & 2 Geo. 4, c. 48, and 3 Geo. 4, c. 16, relative to the admission and enrolment as attorneys and solicitors of persons who may have taken the degree of B.A. or B.L. in the Universities of Oxford, Cambridge, or Dublin, are extended to the University of London. By the provisions here referred to the duration of the articles is reduced from five to three years in the case of such graduates.

The Salaries of Public Servants.—The usual annual abstract of accounts "of every increase and diminution which has taken place, within the year 1844, in all public offices or departments," has just been presented to both Houses of Parliament, pursuant to the provisions of the Act 4 & 5 Wm. 4, c. 24. The House of Commons ordered that it should be printed on the 19th ult. It is stated by the official compilers of this return, under the superintendence of the Secretary of the Treasury, Mr. E. Cardwell, M.P. that during the past year, 1844, an increase took place in the number of persons employed in all public offices, &c. amounting in all to 617; and in the total expenditure, arising from the salaries, wages, allowances, and expenses thereof, amounting to the sum of 79,520*l*. The concurrent diminution was 62, as regards the number of persons employed, and a sum of 32,875*l*. as regards the expenditure. It accordingly follows that a net increase remains of 555 persons employed, and an extra annual charge upon the public purse amounting to 46,645*l*. The chief increase took place in the departments of the Customs (21,438*l*.), the Stamps and Taxes (11,242*l*.), and the Post-office (31,705*l*.) The principal diminutions are to be remarked in the Treasury, Excise, Audit-office, and Stationery-office; but the decrease bears but a small proportion to the concurrent increase.

Oxford and Cambridge Universities.—The following is the amount of the annual payments to the Universities of Oxford and Cambridge charged on the land revenue of the Crown, and also of the amount of paper duty remitted to each, during the last ten years; moved for by Mr. Christie and Sir R. Inglis.—It appears from this statement, that the annual amounts payable out of the said Crown revenue to both Universities include a sum total of 299*l*. 11s. 2d. of which 151*l*. is appropriated to the Oxford, and 148*l*. to the Cambridge University. These sums are paid, apparently, to preachers, professors of divinity, law, and physic; to various colleges; to the principal scholars of Brasenose College; to the master and fellows of Winchester College; to the poor scholars of Oxford; to Trinity College, Cambridge; and to five exhibition scholars in Oxford University, at 3*l*. 6s. 8d. a year each, &c. A portion of the amount is chargeable on the land revenue of the Crown, under a Treasury-warrant of September 1833, and a portion under the authority of an Act of Parliament (22 Car. 2), entitled, "An Act for advancing the Sale of Fee-farm Rents and other Rents," and under that of the Pension Deed, 30 Car. 2. The total amount of paper duty remitted to the University of Oxford for books in the Latin, Greek, Oriental, or northern languages, and for Bibles, Testaments, Prayer-books, and psalm-books, amounted, in 1844, to 1,426*l*.; in 1843, to 2,746*l*.; in 1842, to 2,841*l*.; in 1841, to 3,299*l*.; in 1840, to 3,743*l*.; in 1839, to 3,052*l*.; in 1838, to 2,645*l*.; in 1837, to 1,784*l*.; in 1836, to 8,883*l*.; and in 1835, to 6,922*l*. The amount of duty concurrently remitted to the sister University of Cambridge was respectively (from 1844 backwards to 1835), 1,209*l*., 598*l*., 500*l*., 1,728*l*., 3,497*l*., 1,873*l*., 1,507*l*., 2,694*l*., 5,290*l*. and 3,448*l*. It appears furthermore that 500*l*. per annum is allowed to each University, charged on the Stamps and Taxes revenue, by the Act 44 Geo. 3, c. 98. The origin and authority of such payment is thus stated: —By the Act 21 Geo. 3, c. 56, an annual sum of 500*l*. was directed to be paid, from the 24th of June, 1781, to each of the Universities of Oxford and Cambridge, out of the almanack duty, grounded on the fact that the Crown had granted to the said Universities the exclusive right of printing almanacks, upon a supposition that the power so to do was inherent in the Crown. A court of law decided that the Crown had no right to confer any exclusive privilege, and the payments accordingly ceased. Parliament enacted, under these circumstances, that a similar sum should be paid to each University out of the duties then imposed upon almanacks; and the reasons for the grant are assigned in the 10th clause of the Act 21 Geo. 3, c. 56. Another return informs the public that the total number of stamps used for the conferring of degrees at Oxford during the last ten years amounted to 5,340*l*. and the total value thereof to 22,962*l*. viz. 342*l*. for D.D.'s, 330*l*. for D.C.L.'s, 132*l*. for M.D.'s, 74*l*. for B.D.'s 330*l*. for B.C.L.'s, 170*l*. for M.B.'s, 11,994*l*. for M.A.'s, and 8,916*l*. for B.A.'s. From 1833 to 1844 there appear to have been created 4 doctors and 10 bachelors in music. The total number of matriculations in the same University, from October 1833 to October 1844, amounted to 4,349, producing a stamp revenue, at 1*l*. for each matriculation, of 4,349*l*. The total amount of fees paid to the Stamp-office during the said ten years by the University of Cambridge for degrees conferred, was 27,686*l*. in which period there were conferred 117 honorary degrees, 23 mand. degrees, 52 of D.D. 15 of LL.D. 51 of M.D. 42 of M.L. 48 of M.B. 113 of B.D. 84 of LL.B. 2,225 of M.A. 3,486 of B.A. 1 of Mus. Doct. and 2 of Mus. Bach. The total number of matriculists amounted to 4,750, producing 4,750*l*. at 1*l*. for each matriculation.

HOUSE OF LORDS.

LAND DRAINAGE.

Monday, April 14.—Lord Redesdale gave notice, on the part of the Duke of Richmond, that he should on Thursday move for a select committee to inquire into the expediency of a legislative enactment being introduced to enable possessors of entailed estates to charge such estates with a sum to be limited, for the purpose of draining and otherwise permanently improving the same.

ENTAILED ESTATES.

Thursday, April 17.—The Duke of Richmond rose to bring forward the motion of which he had given notice. He did not anticipate any objection to the motion, and he would not, therefore, detain their lordships at any length. He ventured to submit the motion (the object of which was to enable the possessors of entailed estates to charge such estates with a limited sum, for the purpose of draining and other permanent improvements), because he had long been of opinion that they were bound to do their utmost to promote the welfare of agriculture in this country, and he believed thorough and extensive draining to be of the greatest advantage. There had long been an Act in Scotland, known as "Montgomery's Act," which allowed the possessors of entailed estates to spend money in improvements, and charge three-fourths of the sum so expended on the estate. He felt satisfied that he could shew to the satisfaction of a select committee that the adoption of a measure founded on his motion would be of the greatest importance to the possessors of entailed estates in this country. He should, therefore, conclude by moving "for a select committee to inquire into the expediency of a legislative enactment being introduced to enable possessors of entailed estates to charge such estates with a sum to be limited, for the purpose of draining and otherwise permanently improving the same."—The Duke of Cleveland thought his noble friend had chosen the best method that could be adopted in moving for a select committee. He had no doubt the result would be of the greatest possible practical utility.—Lord Ashburton said that the Bill which was formerly passed upon this subject, was one to which he at the time took the liberty of offering his opposition, being apprehensive of the result, requiring as it did that the person seeking to avail himself of its provisions should go through the Court of Chancery. He also considered that it did not afford a sufficient check to estates being charged without any adequate benefit, by securing the appropriation of the money to the improvement of the land. Care should be taken not to expose persons owning estates in reversion to have those estates charged without any effectual improvement being made on the land; and that the rights of property were not tampered with, and put in jeopardy. He would suggest to the noble duke that he should not charge the estates permanently with the expenses of draining, but to give a power something like the provision in what was called Mr. Gilbert's Act, for the building of glebe houses—namely, a power to carry the charge over a certain number of years,—ten, fifteen, or twenty years, and paying off the incumbrance by instalments. The motion was agreed to, and the committee nominated.

HOUSE OF COMMONS.

NEW WRIT.

Monday, April 14.—On the motion of Mr. Young, a new writ was ordered to issue for the county of Kent, in the room of Viscount Marsham, now Earl of Romney.

PAROCHIAL SETTLEMENT BILL.

Mr. S. Crawford, seeing the Secretary of State for the Home Department in his place, wished to ask him when he intended to proceed with the Parochial Settlement Bill.—Sir J. Graham said that he would proceed with it on Wednesday.— Mr. S. Crawford gave notice that, on motion for the second reading of the Bill on Wednesday, he would move that it be read a second time that day six months.

MEDICAL REFORM.

Mr. Macaulay wished to ascertain from the right honourable baronet opposite (Sir James Graham) on what day he intended to move the second reading of the Bill which he had introduced on this subject?—Sir J. Graham was anxious, if the House permitted him, to advance the Bill a stage on that evening, and to propose that the discussion should take place at a future stage, previous to which he would state whether he had any modification or alteration to propose in the Bill.

LAW OF MORTMAIN.

Tuesday, April 15.—Lord J. Manners gave notice that on that day fortnight he would move for leave to bring in a Bill to alter and amend the law of mortmain. (Hear, hear.)

INCLOSURE OF COMMONS.

The Earl of Lincoln postponed for a fortnight his motion for leave to bring in a Bill to facilitate the inclosure of commons and waste lands in England and Wales.

JUSTICES' CLERKS BILL.

Wednesday, April 16.—Sir J. Graham said he was desirous to have this Bill pass through committee *pro formâ*, in order to introduce some alterations. If the House had no objection to allow him to adopt this course, he would not proceed with any further stage for ten days or a fortnight. (Hear, hear.)

NEW STATUTES

Of the Sessions 9 *Victoria.*

[In this record of actual Legislation, we adopt the plan of giving the titles alone of the statutes of no general or professional interest; and analyses of the more important changes in the law, printing at length such statutes or parts of statutes, only as are of particular interest to our readers.]

Cap. I.

An Act to apply the Sum of Eight Millions out of the Consolidated Fund to the Service of the

year One thousand Eight Hundred and Forty-Five. (March 18, 1845.)

CAP. II.

An Act to continue for Three Years the Stamp Duties, granted by an Act of the Fifth and Sixth Years of her present Majesty, to assimilate the Stamp Duties in Great Britain and Ireland, and to make Regulations for collecting and managing the same, until the Tenth day of October, 1845. (March 18, 1845.)

CAP. III.

An Act for the Appointment of Constables, or other Officers for keeping the Peace near Public Works in Scotland. (March 18, 1845.)

CAP. IV.

An Act to continue for Three Years the Duties on Profits arising from Property, Professions, Trades, and Offices. (April 5, 1845.)

THIS is a continuation of the Income Tax Act, Sec. 4 continues the power to the Commissioners to compound for duties.

THE MAGISTRATE.

Summary.

IT seems that a vigorous opposition is being offered to the Justices' Clerks Bill. A great number of petitions have been presented, chiefly against the clause that prohibits clerks from conducting prosecutions, and we perceive that Sir JAMES GRAHAM has announced his intention to make some alterations. Probably this will be one of them.

BASTARDY APPLICATIONS.

ON this subject our attention has been called to a point of some practical importance by the following letter:—

Sir,—The Poor Law Amendment Act, 7 & 8 Vict. c. 101, provides in sec. 2 that any single woman delivered of a bastard child as therein mentioned, "may ——— at any time within twelve months from the birth of such child, or at any time thereafter, *upon proof* that the man alleged to be the father" —"has within the twelve months next after the birth of the child paid money for its maintenance"—"make application," &c. &c. for a summons.

I wish to call your attention to the words "upon proof," and to ask, 1st. Whether such proof is a condition precedent to the reception of the application?

2nd. How such proof is to be made; whether by the mother herself or otherwise?

3rd. Whether the justice has authority to receive such proof upon oath, and to administer an oath for that purpose, in this preliminary and *ex parte* proceeding?

This is a *sample* of the sort of questions that arise out of our crude and illogical Acts of Parliament of modern days. Your obedient servant,

W. P. P.

Having looked carefully at the clause to which our correspondent refers, we feel no difficulty as to the construction to be put upon it. In order to prevent the obvious evils which would arise from allowing stale and long-delayed applications of this nature, the clause limits the period within which those applications are to be made. It provides, generally, that no such application shall be made after the expiration of twelve months from the birth of the child; but it engrafts upon that limitation an exception in favour of those cases in which "the man alleged to be the father of the child has, within the twelve months next after its birth, paid money for its maintenance;" and it throws the burden of proving that fact upon the party making the application; so that in every case in which it appears that more than twelve months have elapsed since the birth of the child, the mother is bound to prove a payment of money by the father for its maintenance within the twelve months. Beyond all doubt such proof is a condition precedent to the right of making the application; the jurisdiction of the justice depends upon it, as much as the jurisdiction of the Quarter Sessions in appeals against poor-rates or orders of removal depends upon their being the next practicable sessions after the making of the rate or the order. (*Reg.* v. *The Great Western Railway Co.* 1 Bitt. & Sym. 85.) It stands upon the same footing as proof of the service of notice of appeal against a rate or order of removal, which, though in practice seldom required, has always been considered a condition precedent to the right of appeal. (Archbold's Poor Law, 2nd edit. 162, 545.)

As to the nature of the *proof* by which the fact of payment is to be established, it must be such as to satisfy the justice of the fact; no other rule can be laid down upon the subject. That the evidence of the mother is admissible for that purpose, there is no reason to doubt; nor is it imperative upon the magistrate to require that her testimony on this point should be corroborated by other evidence; but it would, of course, be desirable in any case to produce such corroboration, as the decision of this preliminary inquiry rests entirely in the discretion of the justice; and he might not improbably regulate his proceeding by analogy to the proceedings on the hearing of the application itself; when, by the 3rd sect. of the Act, the mother's testimony must receive some corroboration. The proof, however, of whatever it consists, must be strictly regular; if of the testimony of witnesses, that testimony must be upon oath; if of documents, they must be proved according to the established rules of evidence. The recent cases of *Reg.* v. *The Justices of Bucks* (1 Bit. & Sym. 192), decided upon the 3rd section of this very statute; and *Re Jones*, and *Ex parte Gray*, there cited, leave no room to doubt that the evidence must be taken *upon oath:* and the case of *Reg.* v. *Onslow* (1 Bit. & Sym. 178), decided only last term, is a conclusive authority to shew that where a statute makes it lawful to do a certain thing *on proof* of certain facts, that *proof* must be strictly regular, especially when the proceeding is of an *ex parte* nature, and carried on in the absence of a party whose interests are affected thereby; and the application by the mother of a bastard child for a summons against the putative father, under the 2nd section of the Act of last session, is not only an *ex parte* proceeding, but one of a penal character. The observations already made involve an answer to the third doubt suggested by our correspondent. The stat. 5 & 6 Wm. 4, c. 62, s. 13, provides, "that it shall not be lawful for any justice of the peace or other person to administer, or cause or allow to be administered, or to receive, or cause or allow to be received, any oath, affidavit, or solemn affirmation touching any matter or thing whereof such justice or other person hath not jurisdiction or cognizance by some statute in force at the time being;" and if, therefore, we be right in our interpretation of the duty cast upon the justice by the 2nd section of Poor Law Amendment Act, the question of payment by the putative father for the maintenance of the child within the twelve months, is a matter whereof the justice has jurisdiction and cognizance by a statute in force; but even if there had been no statutory provision as to the *proof* of that fact, the preamble to the stat. of Wm. 4 would render it clear that it was not intended to apply to the case supposed; for it recites that "a practice has prevailed of administering and receiving oaths and affidavits, voluntarily taken and made, in matters *not the subject of any judicial inquiry, nor in anywise pending, or at issue*, before the justice of the peace, or other person by whom such oaths or affidavits have been administered." That was the evil to be remedied; that was the practice against which the statute was directed; but, in the case now under consideration, the administration of the oath would take place in a matter, which was both the subject of an essentially judicial inquiry, and not, as was said by Lord Denman in *R.* v. *Nott* (4 Q. B. 779), "the semblance of a judicial inquiry without the reality," and was also pending and at issue before the justice.

We cannot conclude the observations suggested by the above letter, without expressing our surprise that after the litigation which has taken place upon points of the same description, more care should not be taken in the wording of Acts of Parliament. How much difficulty might be avoided by the careful rejection of all words of equivocal meaning; and by an attentive collation of all the different provisions of the same statute, as well as of other statutes *in pari materiâ!* The clause which we have been considering seems to us, we confess, more than usually free from the prevailing errors and obscurity of modern legislation; and yet in a different provision of that very clause, it is expressly provided that the deposition of the mother is to be "on oath." The insertion of those words in one part of a clause, and their omission in another, is of itself enough to raise doubts, which, however, fortunately, the uniformity of recent decisions is sufficient to dispel. B.

The following buildings are certified as places duly registered for solemnizing marriages, pursuant to an Act of 6 & 7 William 4, cap. 85:— The Independent Chapel, Riddings, Derbyshire; Joseph Pym, superintendent registrar. The Presbyterian meeting-house, Dean-row, Cheshire; J. Roscoe, superintendent registrar. Primitive Methodist Chapel, Luton, Bedfordshire; Thos. Erskine Austin, superintendent registrar. Sardis Chapel, Newbridge, Glamorganshire; Thomas Watkins, superintendent registrar. Tabernacle Chapel, Rhayader, Radnorshire; Ev. Williams, superintendent registrar. Independent Chapel, Newmarket; William Parr Isaacson, superintendent registrar. Ebenezer Chapel, Cromford, Derbyshire; John Barker, superintendent registrar.

THE LAWYER.

Summary.

THE business of the Term has commenced vigorously. There is a long arrear of judgments to be delivered, but the Cause Lists are lighter than usual. Rumours are abroad of probable official changes. We lament to hear that there is little probability of the ATTORNEY-GENERAL being enabled to return to the active duties of his office. Should he vacate it, the SOLICITOR-GENERAL will take his place. As the foremost man at the Bar, Mr. FITZROY KELLY undoubtedly *ought* to have the Solicitor-Generalship. But it is said that this will not be, but that Mr. TURNER, of the Chancery bar, will be promoted to that honour. The Chancellorship will remain as at present. All this is rumour, but still probable in itself, and if changes are delayed, it will only be in consequence of the unsettled condition of the political world, which renders the tenure of office extremely insecure.

We shall continue to report all the written judgments *verbatim* immediately after their delivery.

ON THE GENERAL ISSUE.

IT is now more than eleven years since the New Rules of Pleading came into operation. During this period they have been the subject of frequent discussion, and their effect in most cases of ordinary occurrence is settled by numerous decisions. But it must not be supposed that the cases answer all the questions that can possibly arise. The litigation of two centuries has not removed every difficulty in the construction of the Statute of limitations, and the New Rules of Pleading introduced changes of no less extent or importance. Every new report teems with fresh evidence of the variety of opinions still entertained by practitioners. It will, therefore, be a work of singular practical utility to consider the cases with a view to extract the principles already established, and which must govern the course of future decisions. Such a treatise remains to be written; the digests and books of common reference, which state the authorities without commenting on them, do not supply the defect. We propose to offer, in a series of papers some cursory remarks upon the present effect of the plea of the general issue,—one small branch of this ample subject. No attempt will be made to exhaust even this limited field of inquiry; and the object will be rather to elicit discussion than entirely to satisfy doubts.

We commence with the

ACTION ON THE CASE.

By the New Rules of Pleading, "In actions on the case the plea of not guilty shall operate as a denial only of the breach of duty or wrongful act alleged to have been committed by the defendant, and not of the facts stated in the inducement, and no other defence than such denial shall be admissible under that plea;" and examples are added to illustrate the rule.

It is evident that a precise definition of the meaning of the terms "breach of duty or wrongful act alleged to have been committed by the defendant" applicable to every case would ascertain and settle the effect of the rule; for the facts stated in the inducement, and every other matter not forming a part of "the breach of duty or wrongful act alleged to have been committed by the defendant,"—if there be a third class of facts,—are, by the express words of the rule, not in issue under *not guilty*. But without attempting to lay down such a definition, we will endeavour to develope the meaning of the rule by an examination of the decided cases; premising some general observations which may serve to elucidate the subject of inquiry.

In the application of this rule, all reference to position in the declaration must, notwithstanding some contrary opinions, be abandoned as utterly useless. It is true that the words, "facts stated in the inducement," seem, at first sight, to point to those averments which precede the charging part of the declaration. But the other part of the rule, upon which, as before remarked, its construction turns, has no reference to position. A fact constituting in its nature part of the wrongful act charged,

does not lose that character by being intermixed with introductory averments. If it were so, the effect of not guilty would vary at the will or caprice of the pleader. It is quite obvious, from the examples given, which drop all reference to place, that no such absurdity was contemplated. The rule, therefore, means by "facts stated in the inducement," those which properly form the subject of introductory averments; constituting what may be termed matter of inducement. And this conclusion is fully supported by authorities: see amongst others, *Lewis* v. *Alcock* (3 M. & W. 190); and *Dunford* v. *Trattles* (12 M. & W. 533, 534).

An action on the case consists in general of two main ingredients, the right of the plaintiff, which may be given by general law, or arise out of contract, and the infringement of that right by the defendant. Consequently, the facts averred in the declaration are in general capable of a similar division; and those which constitute the right of the plaintiff may together be called *the inducement*, while those that go to shew an infringement of that right by the defendant may well be termed *the charge*. The word inducement is also used in another sense, to signify matter introduced for the purpose of explaining the charge. The best example of this use of the word occurs in the action for defamation. There the rule is, that the Court will understand the defamatory matter in the sense which, taken by itself, it naturally imports; and if, therefore, it is requisite to impose another meaning upon it for the purpose of sustaining the action, it must be shewn, by proper averments, that the words are capable of bearing that meaning. Applying the foregoing remarks to the examples subjoined to the rule, it will be found that the distinction above laid down between the inducement and charge is in every case coincident with the division then made between the matters put in issue and those not denied by *not guilty*.

Declarations on the case usually annex to the act charged some qualifying epithet, as *maliciously*, *wrongfully*, and the like. Now it is very important to remark the broad distinction existing between cases where such words are used to describe some real quality of the act to be proved by circumstances annexed to it, and those where the same words merely express its legal character, without any reference as to facts. The badge of the latter use of such words is, that their presence will not supply the want of any material allegation, and that their omission will not substantially affect the declaration.

We will now proceed to the examination of decisions, commencing with some actions on the case, which are founded upon the infringement of general legal rights. As they exist independently of particular facts, the Court itself notices them, and therefore no inducement, in one of the senses of the word, is requisite: "in such cases there is no assertion of right, the whole matter alleged in the declaration is an act of injury."

This observation is cited from the judgment of Patteson, J. in *Cotton* v. *Browne*, 3 A. & E. 312. That was an action for indicting the plaintiff maliciously and without probable cause, and a plea, shewing specially a probable cause, pleaded together with the general issue, was struck out as unnecessary. The cases of *Porter* v. *Weston*, 5 N. C. 715, and *Hounsfield* v. *Drury*, 11 A. & E. 98, shew that *not guilty* denies the malice. Here the words maliciously and without probable cause, describe two real qualities of the act, each of which requires proof. (1 T. R. 544, *Johnstone* v. *Sutton*.) They are the very circumstances annexed to the proceeding which alone made it wrongful. It is upon the same principle that, where the scienter is material, as in actions for knowingly keeping dangerous animals, it is in issue under not guilty. (*Thomas* v. *Morgan*, 2 C. M. & R. 496.)

In actions for malicious legal proceedings, the averment of their termination is necessary, "to let the plaintiff in to aver falsity or malice" (Gibb, R. 174, *Parker* v. *Langley*), and therefore a declaration omitting it is bad on demurrer. (S.C.) It appears also to be a part of the evidence of the want of probable cause; for a plaintiff was nonsuited upon failing to prove the termination of the proceeding, though that had not been averred in the declaration. (*Whitworth* v. *Hale*, 2 B. & Ad. 695.) Merely as evidence, it would be sufficient that the proceedings should be at an end at the time of the trial, and no more would be proved by a verdict for the plaintiff upon a declaration omitting the averment. Still, the plaintiff, under those circumstances, would, it seems, be entitled to judgment. (*Skinner* v. *Gunton*, 1 Saund. 228, d.) According to these remarks, the averment removes the objection of a *quasi estoppel*, and also states a matter of evidence. In its former character it is no part of the wrongful act charged, and accordingly is held not to be in issue under not guilty. (*Drummond* v. *Pigou*, N.C. 114; *Watkins* v. *Lee*, 5 M. & W. 270; and *Atkinson* v. *Raleigh*, 3 Q. B. 79.) And if the fact in question is stated in the declaration, and not put in issue, the defendant cannot dispute it for the purpose of proving a probable cause. Admitting that *not guilty* does not deny the termination of the proceedings, and, as is evident, that it does put in issue the fact of the proceeding, and the defendant's participation in it, it is still possible that the general effect of the plea upon the proof would be to render unnecessary any evidence of the fact of the proceeding taken *per se*. That would be the case if the jury may infer its institution from the defendant's not having denied its termination; but it would be otherwise if negative pleas operate simply as a waiver of proof of the facts which they do not put in issue. Some remarks will be hereafter made upon the question here suggested.

(*To be continued.*)

COURT PAPERS.

COURT OF QUEEN'S BENCH.

Easter Term, 184[illegible]

Harris v. Reynolds, dem.
Pargeter and Others v. Harris, dem.
Perry v. Fitz Howe, dem.
Green and Another, assignees, &c. v. Wood and Another, special case.
Ekin and Another v. Flay, special case.
Prothero v. Phelps, dem.
Mortimore v. Moore and Another, dem.
Gregory v. East India Company, dem.
Miles, treasurer, &c. v. Bough, dem.
Scarpellini v. Aitcheson, dem.
Orgar v. Horne, dem.
Doe dem. Wood and Another v. Clarke, special cas
The St. Catherine Dock Company v. Higgs, special
Hanmer v. Fyton, case from New Trial Pap
Kennett and Avon Canal Navigation v. Great Western Railway Company, special case.
Fannin v. Anderson, dem.
Teece v. Brown and Others, in replevin, dem.
Robinson v. Marchant, dem.
Elwell v. Birmingham Canal Company, special case.
Nicholls v. Stretton, dem.
Peake v. Screech, dem.
Belcher and Others, assignees, &c. v. Campbell and Another, special case.
Selby v. Brown, dem.
Edmunds v. Penneger and Others, dem.
Doe dem. Dand v. Thompson, special case.
Vine v. Bird, dem.
Taylor v. Stendall, dem.
Mayor, &c. of Litchfield v. Simpson, dem.
Wrightup v. Greenacre dem.
Clarke and Others v. Tinker, special case.
Pilkinhorn v. Wright, dem.
Nicholas v. Wright, dem.
Boulet v. Maire, dem.
Thorogood v. Robinson the elder, dem.
Ward and Others v. London and Blackwall Railway Company, dem.
Simons v. Lloyd, dem.
Favell v. Manchester, Bolton, and Bury Canal Navigation Company, special case.
Gosling v. Veley and Another, dem.
Roe dem. Jackson and Others v. Hartshorn and Others, special case.
Page v. Hatchett, dem.
Brutton v. Shevill, dem.
Ricketts v. Loftus, dem.
Young and Another v. Tagg, dem.
Simons v. Lloyd, dem.
Taylor v. Clay and Another, dem.
Lomas v. Ashworth, special case.
Lawrie, knt. and Others, v. Boast, dem.
Chaurier v. Cummings, special case.
Hutt v. Morrell and Another de
Blakesley v. Small ood and Another, executors, dem.
Short v. Stone, dem.
Bundock v. House, dem.
Rumball and Anoth . Mount, special case.
Wakefield and Anothe . Brown, dem
Binson v. Staunton and Another, dem.
Oliverson and Another v. Brightman and Others, special case.
Bold and Another v. Rotherham, special case.

PROMOTIONS, APPOINTMENTS, ETC.

[Clerks of the Peace for Counties, Cities, and Boroughs, will oblige by regularly forwarding the names and addresses of all new Magistrates who may qualify.]

Foreign Office, April 15.—The Queen has been graciously pleased to appoint Sir James Turing, bart. British Vice-Consul at Rotterdam, to be her Majesty's Consul at Rotterdam.

The Queen has also been graciously pleased to appoint Francis Waring, esq. British Vice-Consul at Alicante, to be her Majesty's Consul at Norfolk, in the United States.

Court of Common Pleas.—Tuesday the 15th inst. being the first day of Easter Term, the judges breakfasted with the Lord Chancellor, and afterwards proceeded to open, with the usual forms, the several law courts in Westminster Hall. The learned judges who preside in full court are, Lord Chief Justice Tindal, Mr. Justice Coltman, Mr. Justice Erle, and Mr. Justice Cresswell. Mr. Serjeant Channell and Mr. Serjeant Manning having been granted patents of precedence, took their seats accordingly.

George R. Robinson, esq. (Chairman at Lloyd's), and George Forbes, esq. having been appointed Deputy-Lieutenants of the county of Middlesex, on Thursday morning took the usual oaths of allegi and supremacy before Mr. Justice Coleridge.

LEGAL INTELLIGENCE.

EASTER TERM EXAMINATION.

Notices of admission on the Roll of Attorneys have been given for Easter Term by	117 candidates
Of these there have been already examined	29
Leaving only	88
To which are to be added	5
Who have given examination, but not admission notices	
The number for examination therefore is	93

The examiners have appointed the 29th inst. to take the examination. The articles of clerkship and assignments, with answers to the questions as to due service, according to the regulations appointed by the judges, must be left before the 22nd inst. at the usual place; and where the articles have not expired, but will expire during term, the candidate may be examined conditionally, provided the articles are left within the first seven days of term. The answers required in writing to questions are classed under the several heads of—Preliminary, common and statute law, and practice of the courts; conveyancing, equity, and practice of the courts; bankruptcy, and practice of the courts; and criminal law and proceedings before justices of the peace.

The Attorney-General's Health.—It is with real regret that we re-state, on authority which merits confidence, that there is no substantial improvement in the health of Sir William Follett. We would fain hope that a life rendered valuable to his connections by the personal virtues which adorn his character, and to his country by the talents he is known to possess, by the frequent proofs he has supplied in his political and professional course, will yet be spared. This, however, will depend on his total abstinence from business, and his removal from a sphere in which the fevered state of the constitution, drying up the springs of life, is stimulated by a natural wish to be present at, and to take part in, the strife of parties, and to assume the active duties of his post as first law officer of the Crown. Within these few days the reports of the changes which would be rendered necessary in the retirement of Sir William Follett as Attorney-General, have been revived; it is even stated that the arrangements are fixed, subject, of course, to that event. The Solicitor-General would become Attorney-General. The claims of Mr. Fitzroy Kelly to the thus vacated Solicitor-Generalship, on the grounds of party services and of high professional reputation, are very strong. Still many well-informed persons doubt whether Mr. Kelly would be the new Solicitor-General. Sir Robert Peel, it is believed, has no special wish to introduce Mr. Kelly to office, though he would have no objection to shelve him as a puisne judge, and thus relieve himself from the admitted claims which Mr. Kelly has upon him as Prime Minister. Mr. Turner, of the Chancery Bar, is mentioned as a very likely man for the Solicitor Generalship. If the state of Sir William Follett's health would have permitted him to take the seals, there is reason to believe Lord Lyndhurst would have relinquished them, to enable him to do so, and would have been introduced to a less laborious post in the Cabinet. The circumstances to which we have alluded preclude, however, the possibility of such an arrangement; and things will probably remain in the Chancery Court as they now are, until the course of public events, which are manifestly tending to an early break-up of the Peel Government, produces a complete change in all the offices of State.—*Globe*.

Easter Term.—The first day of Easter Term the Lord Chancellor gave his customary entertainment to the Judges and members of the Bar, at his mansion in George-street, preparatory to proceeding to open the several courts of law and equity. The Lord Chief Justice, the Master of the Rolls, the Vice-Chancellor of England, Lord Chief Justice Tindal, the Lord Chief Baron, Vice-Chancellor Knight Bruce, Vice-Chancellor Wigram, Mr. Baron Parke, Mr. Baron Alderson, Mr. Baron Rolfe, Mr. Justice Patteson, Mr.

Justice Coleridge, Mr. Justice Coltman, Mr. Justice Cresswell, Mr. Justice Wightman, and the Recorder of London, attended. There were also present Mr. Commissioner Barlow, Mr. Commissioner Shepherd, and Mr. Commissioner Goulburn, as well as the following members of the Bar:—the Solicitor-General, Sir G. Wilson, Sir G. Rose, Mr. H. Twiss, Mr. Serjeant Merewether, Mr. Serjeant Channell, Mr. Serjeant Lawes, Mr. Serjeant Manning, Mr. Fitzroy Kelly, Mr. Cockburn, Mr. Pemberton, Mr. Alexander, Mr. Stewart, Mr. Bethel, Mr. Whateley, Mr. Austin, Mr. Godson, Mr. S. Wortley, Mr. Turner, Mr. Wilbraham, Mr. Mathews, Mr. Teed, Mr. K. Parker, Mr. Walker, Mr. Russell, Mr. Anderton, Mr. L. Wigram, Mr. Hill, Mr. Millar, Mr. Wakefield, Mr. Kindersley, Mr. Tinney, Mr. Simpkinson, Mr. Williams, Mr. Pollock, Mr. Cooper, Mr. W. Romilly, Mr. Hodgson, Mr. Lee, Mr. Humfrey, Mr. Gurney, Mr. Parry, Mr. Wood, Mr. Parker, and Mr. Chilton. Of the Masters in Chancery Messrs. Dowdeswell, Duckworth, Senior, and Lynch alone attended. The company began to arrive shortly after eleven o'clock, and at half-past twelve the Chancellor, accompanied by the judges in their order of seniority, proceeded to Westminster for the purpose of opening the courts with the usual formalities. The unfavourable state of the weather very much detracted from the interest generally excited on similar occasions, but there were a great many persons congregated along the line of route, anxious to catch a glimpse of the learned dignitaries.

BUSINESS OF THE ROLLS COURT.—The book of causes before the Master of the Rolls, for hearing during Easter Term, and in the sittings after, if any, has just been issued, and it appears that there are in the whole before his lordship, 138; this number includes those causes which were in the list of Hilary Term and remained undecided up to the close of the vacation sittings, as also such new causes as have been set down since the issue of the list of Hilary Term.

EASTER TERM.—On Tuesday Easter Term commenced. The arrears of the common law courts amount in the whole to 217. In the court of Queen's Bench the number of new trials remaining undetermined at the end of the sittings after the last term numbered 114, including seven rules waiting the decision of the Court. In the Court of Common Pleas there are 23 matters in the remanet paper, including two for judgment, and one registration appeal case from York. There are 16 demurrers to be argued in the same court. The whole arrears of the Court of Exchequer amount to 41. In the peremptory paper there are two, and in the special paper 21, which number includes the demurrer, *Baron* v. *Denman*, esq. on which two other causes depend for argument. The present lists, compared to the number which have appeared on former terms, are comparatively light.

THE CORONER AND THE MAGISTRATES.—Mr. Baron Rolfe is reported to have assigned, amongst other reasons for his refusal to grant a *habeas corpus* for the removal of Connor from Newgate to the Coroner's Court, that it would be a dangerous proceeding, inasmuch as a great criminal might, by collusion or otherwise, effect his escape in the transit from one place to the other. It did not, perhaps, occur to the recollection of the learned judge that such an event did actually take place, not many years ago, in the case of the notorious Ikey Solomons. He was supposed to have bribed the officer to whose charge he was intrusted to connive at his rescue by a party of his friends, who surrounded the coach in which, after an unsuccessful application that he might be held to bail, he was being conveyed back to Newgate. He escaped; it was after a long time, and with much trouble, that he was recaptured; and thus the ends of justice had nearly been defeated.—*Globe.*

CORRESPONDENCE.

AUCTIONS.

TO THE EDITOR OF THE LAW TIMES.

SIR,—As it will now doubtless become the general practice to submit all estates for sale to public auction, it would, we think, prove most desirable to settle the *principle* on which auctioneers should be paid on such occasions; for, without any reflection on that body, every practitioner must have experienced the great difficulty of arranging terms with the auctioneer, not only after, but even previous to a sale, and in too many cases, their clients have felt the unreasonableness of their charges. As sales will now be effected by public auction and deposits have to be paid, such deposits ought, we think, to be paid into a bank instead of to the auctioneer, for reasons so self-evident, that we need not here adduce them. In the hope of effecting some desirable arrangement in this most important subject, we would suggest that a committee, consisting of six London, and the same number of country practitioners, should be at once appointed by the London Law Societies, to consider and report thereon, which report, emanating from such a body, could not fail of carrying due weight with, and receiving attention from, all parties interested,—the public, auctioneers, and solicitors.

If the auctioneers decline all negotiation, then we see no practical objection to solicitors taking out the necessary certificate, confining the business to sales of real property; as we have already the trouble and responsibility of preparing the particulars and conditions of sale, and even at the auction are called upon to reply to all important questions.

We are, Sir, &c.

15th April, 1845. A COUNTRY FIRM.

SELECTIONS FROM CORRESPONDENCE.

"R. C." submits the following on the moot point relating to Abstracts of Title:—

Notwithstanding the arguments which have been adduced by your correspondent "A. F." and others, to the contrary, it does seem to me quite clear that the mortgagor's solicitor is entitled to furnish (if he have the means of doing so) the Abstract of Title prior to the mortgage, on a sale of the estate, inasmuch as, in fact, the equity of redemption which is in him can, under the circumstances, be the only subject of contract to be displayed upon the face of such abstract, and with this the mortgagee or his solicitor can have nothing to do. The mortgage is, in fact, scarcely a part of the title, but a blot or excrescence upon it, or, rather, an estate carved out of the fee, and which must be restored ere the contract for the whole estate can be completed. As to this *part* of the estate, then I should certainly think that the solicitor to the mortgagee, whose property that *part* is, is entitled to furnish the abstract; and it would be an unfair advantage for the mortgagor's solicitor to take, were he to prepare the abstract of the mortgage from the draft in his possession. By this course, the mortgagor's solicitor furnishing the abstract generally, and the mortgagee's solicitor furnishing the abstract of the security, the fair and equitable claims of all parties seem to me to be fully satisfied.

"T. M." (Market Harborough) thus comments on "the Abstract question."

I have just read the letter from "A. F." in your last. I agree with a former letter in your paper that it is monstrous for the mortgagee's solicitor to claim the right in every case to prepare the abstract where the estate is sold by the mortgagor, and when his solicitor has the materials to prepare the abstract; and if the plan "A. F." suggests of the mortgagee's solicitor refusing to allow an abstract not prepared by himself to be compared with the deeds, it will tend very much to prevent solicitors applying to other solicitors for loans, and also lead, in a great many cases, to the mortgagor's *solicitor* paying off, out of his own funds, the mortgage, and taking up the deeds with a receipt, and undertaking from the mortgagee to reconvey, &c. on request. I submit, the doctrine that a stranger to the mortgagor should do the principal part of the business for which he is to pay, should be confined within as narrow limits as possible.

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The Publisher begs to inform the Subscribers to the LAW TIMES *that the subscription for the current half-year should be transmitted in the course of the ensuing week, by those who wish to avail themselves of the advantages of pre-payment.*

Members of the Verulam Society are requested at the same time to forward their subscriptions for the current year.

The pre-paid subscription for the current half-year of THE CRITIC, *henceforth to be published weekly, will be* 8s. 6d. *only.*

The Indices to the fourth volume being now completed, the numbers for binding may be sent, through the post, in parcels open at the ends, with a mark by which they may be known, and of which the Publisher should be advised by letter, as also how, when bound, it is to be returned. If sent by parcel, advantage may be taken of the opportunity to inclose other books for the binder.

THE LAW TIMES.

SATURDAY, APRIL 19, 1845.

TO READERS.

The Index, the Reports, and some arrears of long standing, compel us to omit various leading articles that were in type. At this, the most busy season of the year, with the Courts, the Parliament, new Statutes, Legal Intelligence and Sales, all pressing upon us at once, and with the increased demands on our space consequent upon the plan of publishing the *verbatim* reports of the written judgments, we are compelled to curtail comments.

But we are pleased to be able to announce that by the erection of a monster printing machine we hope to be enabled to publish a double sheet of the LAW TIMES, whenever an influx of advertisements or a flood of reports shall make the enlargement desirable.

We beg to refer our readers to the remarks on Solicitors and Auctioneers in the *Journal of Property*, and to invite their cordial co-operation in the design there described.

CONDITIONS OF SALE.

WE regret that the Forms of Conditions of Sale, so anxiously inquired for, are not yet ready for delivery. The fact is, that after they were in type, to insure the utmost accuracy, they were again submitted to the counsel by whom they were settled; the alterations made imposed upon the printer almost the task of recomposing; the proof had again to be revised and again corrected.

But the first Form is now almost completed. It will be ready for delivery on *Thursday next.* This will be a common Form of Conditions of Sale as applicable to Freeholds and Leaseholds, with a Form of Agreement subjoined.

No. II. will be *Conditions of Sale* for Copyholds.

Nos. III. to X. will consist of *Special Conditions*, to be annexed to the usual Conditions, as circumstances may require. The particulars of each will be stated as they are completed.

The convenience of such forms as these will be, that thus the Solicitor and Auctioneer will be enabled at the auction to place copies in the hands of bidders at a very trifling cost, and in sales of small properties in many lots, the saving of time and labour by means of them will be incalculable.

The prices will be, for the conditions and agreement (three pages), 3s. per doz.; for the special conditions (one page), 1s. 6d. per doz.

To members of the Verulam Society they will, of course, be supplied as the other forms, at one-fourth less.

A series of forms in Conveyancing, to comprise the common covenants and provisos in deeds, leases, and agreements, are now being settled by counsel, and will be lithographed.

Forms of cognovits and warrants of attorney will next be added to the list. But really so great is the labour of getting up such works with the care which alone will recommend them to the Profession, that we must ask the members to exercise some patience.

A USEFUL SOCIETY.

A SOCIETY is in course of formation for the purpose of procuring for the members the instruction which our wealthy legal corporations do not provide.

It is to consist of a limited number, say twenty-five or thirty, barristers desirous of obtaining information on those branches of science requisite for the due discharge of the duties of an advocate; such as medical jurisprudence, anatomy and physiology, manufacturing chemistry, mechanics, &c. &c. A trifling subscription would thus procure a series of practical lectures, in which the student will be enabled not merely to hear, but personally to conduct, the experiments.

Gentlemen who may be willing to take part in this endeavour to supply some of the defects in existing legal education, are requested to forward their cards to the Editor of the LAW

Times, and a communication will be made to them from the parties who have suggested this very excellent design.

SHAM LAWYERS.

Here is another of this noxious tribe. We are informed that the very existence of Stow and Burnet is unknown. It is a printed letter.

Bradford, Mar. 7, 1845.

Sir,—We are directed to apply to you for the sum of 4s., which is due from you to Mr. Jas. Ibbetson, and to inform you that unless the same is paid into his hands on or before Thursday next, we have his instructions to commence an Action-at-Law against you for the recovery thereof, without further notice.

We are, your's obediently,

Stow & Burnet.

Your immediate attention is desired, as no further notice will be given.

Addressed to Henry Burt.

VERULAM SOCIETY.

The eighth number of *Magistrates' Cases*, completing the second part, and comprising those of the last Term, is now published.

The ninth and tenth numbers of the *Real Property and Conveyancing Cases* will be delivered early next week.

The ninth number of *Practice Cases* is in the Press.

This will almost bring up arrears, and henceforth we hope the Reports will appear as soon after the close of the Term as is consistent with the research and care necessary for their preparation.

Some members have suggested that the *Practice Cases* would be rendered more complete and valuable by the addition of Practice Cases in Equity. What is the opinion of others? Would they be serviceable?

THE CRITIC.

New Books.

The Law of Nisi Prius; comprising the Declarations, Pleadings, and Evidence in particular Actions, namely, Bills of Exchange, Notes, Cheques, &c. Policies of Insurance in all cases, and in Ejectment. By John Frederick Archbold, Esq. Barrister-at-Law. Vol. II. London, 1845. Richards.

Like all the works to which the name of Mr. Archbold is appended, the characteristic of this is its practical adaptation to the requirements of the man of business. They are eminently books for the office and the court; they supply precisely the information wanted for use, in a shape readily intelligible, and so arranged that it may be found without difficulty.

The first volume of the *Law of Nisi Prius* has been for some time in the hands of the Profession, and has received entire approbation; and now that the work is completed, it will be welcomed by many who would not purchase the single volume. We have not that first volume before us, nor have we seen it; we can, therefore, only speak of it from hearsay, and we can offer no opinion of its merits or account of its plan, other than that which we have above given from report. Our present notice must be limited to the second volume, just published.

As we know nothing of the general design and compass of the work, in the absence of the preface, we can but state the manner of the performance of the volume upon our table.

It is divided into three parts, of which the first treats of *Actions on Bills of Exchange, Promissory Notes, Bankers Notes' and Cheques*; the second, of *Insurance*, and the third, of *Ejectment*.

The method of treatment appears to be as follows:—

The form of action is described; then the declaration (and forms of various courts), with the cases bearing upon them; then the plea (varied and illustrated in like manner); then the evidence necessary to suppor. the plaintiff's case; then the evidence required for the defendant; and, lastly, the verdict, interest, costs, &c.

The cases are brought down to the latest time preceding the publication of the volume; copious notes are appended to the text; there is a table of cases, the number of which proves the labour expended upon the work, and an extremely copious index is subjoined.

The size of this treatise is most convenient; by means of a small but clear type and no waste of margin, the matter is compressed into a volume which may be carried in the portmanteau and the bag without being a burden, and all who have occasion to take their law-books beyond their chambers will recognize the vast advantage of having their portable law brought within the smallest compass consistent with clearness and accuracy. It is certainly a great recommendation to Mr. Archbold's *Nisi Prius* that it supplies the practitioner in both branches of the Profession with the information needed in the courts with the least possible burden to his bag, and this alone would secure for it attention, even were its intrinsic merits much less than they appear to be.

Should we chance hereafter to light upon the first volume, we shall be enabled to convey to our readers a better description of the plan and execution of [illegible] work than we can do from the fragment before [illegible] At present we can say no more of it than that if the execution of the first equals that of the second, it will be a very valuable addition to the *practice* shelf of the law library.

The Law of Judgments and Crown Debts as they affect Real Property. By Frederick Prideaux, of Lincoln's Inn, Esq. Barrister-at-Law. Third edition. London, 1845. Spettigue.

The *third* edition of a law-book is exempt from criticism; it has received the most unequivocal of verdicts, the approval of experience. It must have been tried in many circumstances, and proved faithful to its promises. Its counsels must have been followed frequently with safe results; they who bought once upon speculation must have bought the second edition from confidence, and a *third* edition will be accepted without question as a sure improvement of that which had been already pronounced good.

In this edition Mr. Prideaux has extended his comments to Crown Debts, and with some other topics he has brought down the cases to the present time. Particular attention is given to the recent enactments with reference to judgments and crown debts, as these immediately affect the whole of the debtor's lands, and a purchaser should never complete his contract without considering whether the property which is the subject of the purchase may be affected in his hands by any pre-existing incumbrances of this nature. The importance to the practitioner of such a treatise as this will be obvious.

With these few remarks we submit this new edition of Mr. Prideaux's successful work to the attention of our readers.

BIRTHS, MARRIAGES, AND DEATHS.

[The charge for the insertion of the above is 5s.]

BIRTHS.

Badger.—On the 11th instant, at South-terrace, Rotherham, the wife of Benjamin Badger, esq. barrister-at-law, of a son.

Bromilow.—On Saturday, the 12th inst at Wilton-place, the widow of Adam Bromilow, esq. barrister-at-law, of a son.

On the 11th inst. at Kirby, Isle of Man, the lady of the Attorney-General of that island, of a son.

Downie.—On the 13th instant, at Coleshill-street, Eaton-square, the lady of Judge Downie, of Demerara, of a son.

MARRIAGES.

Prichard, Richard Preston esq. of Milland-house, Sussex, to Marianne, daughter of F. D. Colville, esq. senior registrar of the Court of Chancery, on the 15th inst. at Lewisham, Kent.

DEATHS.

Abergavenny, the Right Hon. John Earl of, at his seat, Eridge Castle, Sussex, on Saturday, the 12th instant, aged [illegible]

JOURNAL OF PROPERTY.

THE AUCTIONEER AND THE SOLICITOR.

The repeal of the Auction Duty will necessarily produce an immediate and entire revolution in the system hitherto adopted for the sale of estates and other properties of large value. The sale by private contract, before resorted to in the great majority of cases, purposely to avoid the burden of the auction duty or the risk and trouble of evading it, will rarely again be heard of, for sellers will always prefer the chance of a better price in the public market. At the most moderate calculation, the number of sales by auction will be doubled, and to the same extent will be enlarged the business and consequent importance and influence of the Auctioneers.

Whatever affects the Auctioneer, for good or for ill, must also deeply interest the Solicitor. The Auctioneer is mainly dependent upon the Solicitor for his employment, and the Solicitor is dependent upon the skill and integrity of the Auctioneer for the advantageous disposal of the property intrusted to his charge. No Auctioneer can flourish unless he enjoys the confidence of the Solicitors, to whom, in the vast majority of cases, he must look for his retainers.

Being thus intimately connected, thus mutually dependent, with the assurance that henceforth they will be brought into still more frequent communication, it is of extreme importance to both that they should proceed with a full understanding on both sides of the terms upon which business is to be conducted. In brief, it appears to us to be very desirable that the Auctioneers, at least all those of them who are intrusted with the sales of estates, should take rank as a regular Profession, recognizing among themselves fixed laws of professional etiquette in the conduct of their business, the violation of which should be followed by the same expulsion from an honourable place among their fellows as is visited upon offences of a like nature in other professions.

For the purpose of present argument, we assume now that which, in future articles, we propose to prove in detail, namely, that it is to the Solicitor a matter of vital moment that he should employ a *good* Auctioneer, and that to be a *really good* Auctioneer demands education, integrity, natural ability, knowledge of business, the manners and feelings of a gentleman, and the guarantee of station in society, and respectability of connection. The Solicitor, therefore, is much concerned in the preservation of the position of the Auctioneers, and it will be for the interest of the Legal Profession to give their cordial aid to any measures that may be likely to advance that object.

At this moment we have a special motive for asking the attention of the readers of the Law Times to this topic. It may be in their power to contribute much to the end we have indicated. As thus:—

The increase of auctions will, no doubt, occasion a great and sudden increase in the number of Auctioneers. As it is a profession that *appears* to require no previous training, which every man *fancies* himself fitted to follow, there will be multitudes of competitors in all parts of the country, the greater portion of whom will be necessarily altogether unfitted for the responsible post for which they will offer themselves.

It is probable that anxiety to obtain some business on any terms will tempt these new men to all kinds of irregular practices. Offers will be made to the sellers of property to conduct the sale, at charges not merely unrecognized, but unremunerative, in hope that the mere show of business might bring business. The consequence of *such* an unfair competition will inevitably be to lower the tone of the entire Profession, and to destroy the character which it is now more than ever important that the Auctioneers should maintain.

It is in the power of the Solicitors to prevent this threatened mischief. Unaided by *them*, no Auctioneer of the better class could subsist. If they will not countenance the adventurers, who will doubtless offer themselves, the danger we have described will be avoided. Our earnest recommendation to the Legal Profession is, to require in the Auctioneers they employ a high standard of character and attainment; to encourage no new applicant who has not both; and to prefer the established men, unless they have the most satisfactory assurance that an aspirant is in all respects a fit candidate for admission into the acknowledged ranks. The reasons for this we will state more particularly hereafter.

It is because the Solicitors are so much concerned in the position of the Auctioneers that we have resolved to enlarge the department of the LAW TIMES entitled the JOURNAL OF PROPERTY, and make it a novel and prominent feature, by devoting special attention to all matters affecting the relationship of Solicitor and Auctioneer; the law and practice of sales by auction; the correspondence of Solicitors and Auctioneers on subjects connected therewith, or with their mutual interests; the prices at which estates and properties are sold, and such other information of a similar nature as experience or readers may suggest as likely to be of practical utility. In this design we shall have the aid of the highest legal ability. Arrangements are in progress with eminent Lawyers to supply the legal information necessary for all engaged in sales by auction, whether Solicitors or Auctioneers. The cases on the subject of auctions will be specially reported, and accompanied with explanatory notes; but we must rely upon the Auctioneers to supply us with statistical and other *facts*, such as the results of their sales, communications as to the selling values of various species of property, and other matters that may properly fall within this department of the LAW TIMES.

There is another reason for this arrangement. The readers of the LAW TIMES will have noticed that it has been adopted by the principal auctioneers in the metropolis as the medium for their advertisements. There is little doubt that ere long it will be the recognized organ for the circulation, among the class by whom it is especially important they should be seen, because they are the principal buyers, of the announcements of all the sales of estates and large properties throughout the kingdom. The want of such a central medium, where all sales may be found, has long been felt, and now it has become indispensable both to the Solicitor and to the Auctioneer. The LAW TIMES, from the very nature of its circulation, and as the established Journal of the Legal Profession, affords unequalled advantages for supplying the defect.

And that it may be enabled to become that which it promises to be, the JOURNAL OF PROPERTY for the United Kingdom, without trenching on any of the space hitherto devoted to purely legal intelligence, arrangements are now in progress by which, whenever required by influx of advertisements, an addition of eight pages will be made to the present sheet. For this purpose, a huge printing machine, the largest in the metropolis, is now in course of erection, and in two or three weeks will be ready for use.

Auctioneers whose advertisements are numerous will be treated with for the regular insertion of *all* their property sales on very liberal terms; and the LAW TIMES, which will henceforth have a special interest and utility for them, will be supplied to *them* regularly on the same terms as to Solicitors making prepayments.

THE following scale of charges, *reduced more than one-third*, has been adopted for Advertisements of Estates for Sale, &c., exceeding 10 lines in length:

For the first 70 words . . . . . 5s.
For every succeeding 30 words . 1s.

REVENUE OF THE RAILWAYS.—We have now before us the official railway returns made up for the last three months, being that quarter of the year in which the traffic is smallest and also least subject to fluctuation. It appears that the aggregate receipts from traffic, since the 1st of January, on the principal public railways, amounts in round numbers to 1,210,000*l.* while last year it only reached 1,054,000*l.* at the same period, being an increase of 156,000*l.* on the quarter. Of this increase we find that 26,000*l.* belongs to the Great Western; 12,000*l.* to the London and Birmingham; 11,000*l.* to the Grand Junction; 5,000*l.* to the North of England; 6,000*l.* to the London and Brighton; 10,000*l.* to the Manchester and Leeds; 21,000*l.* to the Midlands; 22,000*l.* to the South-Eastern; and 5,000*l.* to the Eastern Counties and North-Eastern. Among the smaller lines we have an increase of 1,200*l.* to the Chester and Birkenhead, 3,000*l.* to the Edinburgh and Glasgow, 3,400*l.* to the Glasgow and Ayr, 3,000*l.* to the London and Blackwall, 9,000*l.* to the London and Croydon, 3,500*l.* to the Manchester and Birmingham, 3,700*l.* to the Newcastle and Carlisle. Of the lines not opened last year we have on the Yarmouth and Norwich at present an increase of 26*l.* per week, and on the Newcastle and Darlington an increase at the rate of 200*l.* per week. Some of these amounts are effected by extensions of the line, &c. but the greater part arise solely from the steadily increasing trade of the country. —*Railway Chronicle.*

SALE OF LAND AT BIRKENHEAD. — Messrs. Winstanly and Sons, on Tuesday, sold by auction about 3,000 yards of land, near the new market at Birkenhead, and belonging to the commissioners of that flourishing township. It produced the enormous price of 6*l.* 10s. to 6*l.* 15s. per square yard.

THE MONEY MARKET.

	Sat.	Mon.	Tues.	Wed.	Thurs.	
Three per Cents. Consols	99¼	99⅜	99¼	99½	99¼	99¾
Three per Cents. Reduced	98¾	99⅛	99⅛	99¼	99½	99½
New Three-&-a-quarter per Cts	101⅝	101⅞	101¼	101½	101¼	101½
[illegible]g Annuitie	11⅛	11⅛	11¼	11⅛	11⅛	11¼
Bank Stock	209	209	209½	209½	209¼	219½
India Stock	275	277	276	277	276½	277¾
India Bonds, prem.........	74	75	74	74	74	75
Exchequer Bills, prem. ...	58	59	60	60	61	60
FOREIGN.						
Spanish Five per Cents....		31⅛		30⅞	31¼	31¼
Spanish Three per Cents. .		41⅞		41¼	41¼	41¼
Russian	119¾	117½	119⅜	119¼	120	119¼
Peruvian..................	27	29	30¼	28	29	29
Portuguese	66¼	66½	67	67	67¼	67½
Mexican	37¼	37¼	37½	37½	37½	37¼
— Deferred	17½	17⅜	17½	17¼	17¾	17¼
Dutch Two-and-a-Half per Cents.	63¼	63⅞	63½	61¼	63½	63¼
—— Four per Cents.	97¼	97¼	97½	97½	97¼	97½
Danish	89	89¼	92	92	90	99
Colombian	15⅜	15½	17¼	15¼	15½	16
Chilian	101¼	101⅛	101½	102	102	100
Buenos Ayres		..	43	42½	42½	43
Brazilian......	87	87	88	88	88	88
Belgian	101½	102	101½	101½	101¼	102

Public Sales.

[In future the results of such sales only as are advertised in the LAW TIMES will be published in this list, and reference will be given to the advertisements, it being found that, without the particulars, the results of sales are of no practical value. As sale by auction will in future be generally resorted to, auctioneers in town and country advertising in the LAW TIMES are requested regularly to forward the results of the sales so advertised.]

By Messrs. SHUTTLEWORTH and SONS, at the Mart.

An improved rent of 98*l.* per annum, secured upon a residence, No. 13, on the north side of Soho-square, for 8½ years —520*l.*

A residence, No. 4, Bernard-street, Brunswick-square, let at 68*l.* per annum; held for 17¾ years, at 12*l.* 12s. per annum—400*l.*

A copyhold residence, situate in the Triangle, Hackney, let at 63*l.* per annum – 880*l.*

A copyhold estate, comprising a large garden, enclosed on two sides with lofty walls, and possessing two frontages, in London-field, Hackney, and containing 3r. 34p. let at 26*l.* per annum—800*l.*

A copyhold house in Church-street, Hackney, let at 52*l.* 10s. per annum—800*l.*

A copyhold house in Church-street, let at 42*l.* per annum —750*l.*

A freehold house, situate in Church-lane, Lee, Kent, let at 35*l.* per annum -550*l.*

Four houses, being Nos. 1 to 4, Church-street, Lee, let at 66*l.* 14s.; held for 73 years, at 12*l.* 6s. per annum—450*l.*

Four ditto, Nos. 6 to 8—450*l.*

A policy for 2,500*l.* with the accumulations thereon from 1639, amounting to 375*l.* effected in the Equitable the 19th March, 1810, on the life of a gentleman who completed his 50th year in March last—2,820*l.*

A policy for 2,000*l.* effected with the Clerical, Medical, and General Company, payable on the decease of a lady now in the 80th year of her age—1,290*l.*

The absolute reversion to one-eighth part of 10,391*l.* 14s. 9d. Three per Cent. Consolidated Bank Annuities, on the decease of a lady now in the 75th year of her age—1,070*l.*

The absolute reversion to one-fifth part of 7,610*l.* 16s. 9d. Three-and-a-Half per Cent. now Three-and-a-Quarter per Cent. Bank Annuities, upon the decease of a lady now in the 51st year of her age—550*l.*

A similar reversion—550*l.*

The absolute reversion to 675*l.* Three-and-a-Quarter per Cent. Bank Annuities, upon the decease of a gentleman, now aged 80, and two ladies in the 75th and 72nd years of their age—320*l.*

The absolute reversion to one-[illegible]th part of and in the following sums:—10,626*l.* 3s. 3d. Three per Cent. Consolidated Bank Annuities; 1,111*l.* 2s. 6d. ditto; and 3,200*l.* New Three-and-a-Quarter per Cent. Annuities, on the decease of a gentleman, now in the 66th year of his age, and of a lady, now in the 61st year of her age—1,480*l.*

Three hundred and forty-three shares, of 100 dollars, or 25*l.* sterling each in the Bank of the United States of America—405*l.* 10s.

Five shares, of 20*l.* each, in the European Company, paid in full—100*l.*

Five ditto—100*l.*

The reversionary interest in one seventh part of 3,042*l.* 5s. 1d. Three per Cent. Consolidated Bank Annuities, on the decease of a lady, aged 63 years—340*l.*

The absolute reversion in two freehold houses, at the death of the present life tenants, aged 56 and 52 years, being one-fourth part of the Highlander public house, in Dean-street, Soho; also the life interest in No. 4, Carlisle-street—275*l.*

The reversion to one ninth part of and in one moiety of the following sums, contingent upon the reversioner, aged 38, surviving his mother, now in the 80th year of her age:—700*l.* Three per Cent. Reduced Annuities; 3,400*l.* Three per Cent. Consolidated Annuities; also the absolute reversion to the like proportion of 750*l.* Three and a Quarter per Cent. —380*l.*

By Messrs. FULLER and MARSH, at the Mart.

Two houses, Nos. 37 and 38, Gracechurch-street, City, including a frontage of 65 feet, let at rentals amounting to 340*l.* per annum; held for 80 years from Christmas, 1834, at 287*l.* per annum—910*l.*

A house, No. 19, Wellington-street, Hackney, let at 25*l.*; held for 70½ years from Michaelmas, 1813, at 8*l.* per annum —210*l.*

A house, No. 10, Warren-street, Fitzroy-square, let at 42*l.* per annum; held for 43½ years, at a ground-rent of 4*l.* per annum—180*l.*

A freehold house, situate the corner of East-street and Park-place, Greenwich—560*l.*

Three houses, situate Nos. 12, 13, and 14, Bear-alley, Farringdon-street; held for 21 years from August, 1838, at 54*l.* per annum—60*l.*

Two freehold houses, Nos. 1 and 2, Cherry-tree-court, Aldersgate-street; No. 1 let at 37*l.* 14s., No. 2 let at 43*l.*; adjoining is a workshop, let at 21*l.* 5s. per annum—1,580*l.*

A freehold residence, No. 3, Cherry-tree-court, let at 30*l.* per annum—620*l.*

A ditto, No. 4, let at 26*l.* 13s. - 360*l.*

A freehold house, No. 28, Red Lion-street, Clerkenwell, let at 40*l.* per annum—630*l.*

The patent right for improvements in water wheels, distinguished as Copland's—100*l.*

A policy for 1,000*l.*, and the accumulations thereon now amount to 1,725*l.*, making together the sum of 2,725*l.* effected with the Equitable Society March 10, 1810, on the life of a gentleman now in the 65th year of his age; annual premium 26*l.* 13s. 6d.—1,990*l.*

The perpetual advowson and right of presentation to the rectory of Ulceby cum Fordington, situated in the north eastern part of the county of Lincoln, extending over about 460 acres of land. The property is in the occupation of a tenant at 620*l.* per annum—6,920*l.*

The absolute reversion to one-twelfth part of the moiety of the sum of 19,105*l.* 10s. 4d. Three-and-a-Quarter per Cent. Consols, equal to 1,629*l.* 7s. 11d. stock, and also to one-twelfth part of the moiety of 5,000*l.* Three per Cent. Reduced, equal to 208*l.* 6s. 8d. stock, receivable on the death of the survivor of a gentleman and his wife, the former aged 55, and the latter aged 48—470*l.*

A policy for 3,000*l.* effected with the London Society the 2nd of July, 1819, on the life of a gentleman now in the 70th year of his age: the original premium was 114*l.*; the last premium, due in July 1844, was reduced from that sum to 1*l.* 6s. 9d.—1,720*l.*

A policy for 1,000*l.* with the accumulations thereon, amounting to 365*l.* in 1837, effected with the Atlas Company, on the 30th June, 1819, on the life of a gentleman now in the 70th year of his age, annual premium 37*l.* 17s. 6d.; a bonus will be declared in June next—606*l.*

Ten 5*l.* shares in the Bude Light Company, 3*l.* 10s. called and paid—1*l.* per share.

A policy for 700*l.* effected with the Pelican Company, on the 7th May, 1812, on the life of a gentleman now in the 69th year of his age, annual premium 21*l.* 9s. 4d.—320*l.*

The absolute reversion to one-third part of the moiety of the sum of 1,533*l.* 17s. Three-and-a-Half per Cents. and 15*l.* sterling on the decease of a lady now in the 54th year of her age; also a contingent reversion to a similar share of the above sums, receivable on the death of the sister of the lady above referred to, provided she leaves no issue. There are two children—130*l.*

Twenty shares of 2*l.* 10s. each in the Waterman's Steam-Packet Company; 2*l.* 10s. called and paid—2*l.* 11s. per share.

By Mr. SINGLE.

A villa residence, one of a detached pair, situate No. 15, Park-place Villas, Maida-hill West, held for 92½ years, at a ground-rent of 7*l.* 10s. per annum—1,440*l.*

A residence, situate No. 113, Mount-street, Grosvenor-square; held for 98 years, at a ground-rent of 20*l.* per annum —2,400*l.*

THE GAZETTES.

AMOUNT OF DIVIDENDS.

The sum stated as the Dividend, means so much declared in the Pound. The Assignees, when chosen, follow this statement.

Monday, April 7.

Johnsons and *Mann*, bankers, joint div. and sep. Mann next week, and last exam. Johnsons May 10.

Tuesday, April 8.

Brown, J. perfumer, last exam. April 25.—*Colt*, W. H. grocer, last exam. passed.—*Dansday*, J. H. tailor, last exam. May 9.—*Lorden* and *Hadley*, builders, joint div. and sep. Hadley next week.—*Marshall*, R. stone mason, div. next week. Groom, London.—*Peters*, J. innkeeper, last exam. passed.—*Sumner*, W. H. grocer, last exam. passed.—*Warrilow*, A. J. stationer, last exam. passed.

Wednesday, April 9.

Blundell, F. grocer, div. next week. Johnson, London.—*Davis*, L. wine agent, last exam. passed.—*Dudley*, F. builder, div. next week. Green, London.—*Maynard*, J. bookseller, div. next week. Johnson, London.—*Stevens* and *Co.* road contractors, joint div. next week. Groom, London.—*Stutchbury*, H. R. bookseller, div. next week. Groom, London.—*White*, G. E. tailor, div. next week. Graham, London.—*Wyatt*, A. victualler, last exam. passed.

Thursday, April 10.

Gale and *Gale*, rope makers, joint div. next week. Follett, London.—*Rudge* and *Rudge*, japanned leather manufacturers, div. G. B. Rudge next week.

Friday, April 11.

Christophers, J. S. merchant, div. next week. Belcher, London.—*Swansborough* and *Co.* warehousemen, joint div. and joint div. S. and H. and sep. S. next week. Belcher, London.—*Warman*, C. F. china dealer, div. next week. Pennell, London.

ASSIGNMENTS

To Trustees for the benefit of Creditors.

Gazette, April 11.

Alibone, A. blacksmith, Halford, April 4. Trus. T. Mallins, ironmonger, Evesham Sol. Nicoll, Shipston-on-Stour. —*Aspinall*, R. timber merchant, Birkenhead, April 2. Trusts. J. Johnson, timber merchant, Liverpool, and M. Aspinall, spinster, Barton-within-Downholland. Sol. Colmore, Birmingham.—*Malim* G. grocer, Boroughbridge, April 3. Trusts. W. Abbey, innkeeper, and M. Freeman, bricklayer, Boroughbridge. Sol. Hirst, Boroughbridge.—*Nixon*, G. sadler, Wisbeach St. Peter, April 3. Trusts. J. Goward, baker, and J. H. Andrews, builder, Wisbeach St. Peter. Sol. Jackson, Wisbeach St. Peter.

Gazette, April 15.

Bennetts, C. linen draper, Worthing, April 5. Trusts. D. Miles, builder, Worthing, and F Bennetts, gent. Hastings. Sols. Parrington and Ladbury, King-st. Cheapside.—*Waller*, W. J. linen draper, Bristol, April 3. Trusts. J. Withy, woollen draper, and I. Stephens, flax manufacturer. Sols. Messrs. Livett, Bristol.

Bankrupts.

DATE OF FIAT AND PETITIONING CREDITORS' NAMES.

Gazette, April 11.

ADLINGTON, THOMAS, corn, seed, and coal merchant, Kingsland, Middlesex, April 18, at two, May 31, at eleven, Basinghall-st. Com. Goulburn; Follett, off. ass.; Carter and Gregory, Lord Mayor's Court-office, sols. Date of fiat, April 8. Bankrupt's own petition.

BLACKMOOR, JOHN, builder and cabinet maker, Rotherham, Yorkshire, April 24 and May 15, at eleven, Leeds, Com. West; Freeman, off. ass.; Moss, Cloak-lane, and Ryalls, Sheffield, and Blackburn, Leeds, sols. Date of fiat, April 7. F. W. Everet, gent. Ecclesfield, pet cr.

COGGAN, HEZEKIAH DENBY, warehouseman, 39, Friday-st. April 25, at eleven, May 21, at twelve, Basinghall-st. Com. Evans; Johnson, off. ass., Soles and Turner, Aldermanbury, sols. Date of fiat, April 10. Bankrupt's own petition.

EMANS, WILLIAM, bookseller and publisher, 12, Warwick-sq. Newgate-st. London, and 10 Church-st. Kennington, April 22, at half-past twelve, May 27, at eleven, Basinghall-st. Com. Shepherd, Turquand, off. ass.; Lonsdale, Temple Chambers, sol. Date of fiat, April 9. Bankrupt's own petition.

FORTY, THOMAS, hotel keeper, Royal hotel, Richmond, Surrey, April 18, at two, May 20, at eleven, Basinghall-st. Com. Holroyd; Edwards, off. ass.; Weymouth, Chancery-lane, sol. Date of fiat, April 7. Bankrupt's own petition.

HOME, JAMES, veterinary surgeon, patentee and manufacturer of the anolisthetic horse shoe, Woodstock-mews, Blenheim-st. New Bond-st. Middlesex, April 22, at half-past one, May 23, at two, Basinghall-st. Com. Evans; Belcher, off. ass.; Wormald, Gray's-inn-sq. sol. Date of fiat, April 7. Bankrupt's own petition.

LITTEN, RANDELL P. grocer, 1, Newmarket-pl. Church-road, Kingsland, April 25, at twelve, May 27, at one, Basinghall st. Com. Holroyd; Groom, off. ass.; Egan, Lincoln's-inn-fields. sol. Date of fiat, March 31. T. Green, tallow melter, Leather-lane, pet. cr.

PAYNE, GEORGE, tailor and draper, King-st. Covent-garden, April 18, at half-past ten, May 23, at twelve, Basinghall-st. Com. Fonblanque; Belcher, off. ass.; Wood and Fraser, Dean-st. sols. Date of fiat, April 8. W. S. Wheeler, E. Tewart, J. P. Tewart, and R. Tewart, warehousemen, Ludgate-hill, pet. crs.

POYNTER, WILLIAM, warehouseman, 34, St. Paul's Church-yard, April 24, at eleven, May 23, at one, Basinghall-st. Com. Fonblanque; Pennell, off. ass.; King, St Mary-axe, sol. Date of fiat, ———. Bankrupt's own petition.

PRITCHARD, JOHN, builder, Lilleshall, Salop, April 21 and May 16, at eleven, Birmingham, Com. Daniell, Bittleston, off. ass.; Heane, Newport, and Motteram and Knowle, Birmingham, sol. Date of fiat, March 29. Bankrupt's own petition.

SIMPSON, ALEXANDER HORATIO, and IRVIN, PETER HUNTER, engineers and axletree and pulley block manufacturers, Blackfriars-road, April 15 and May 24, at eleven, Basinghall-st. Com. Goulburn; Follett, off. ass., Kell, Bedford-row, sol. Date of fiat, March 29. D. Hunt, wine merchant, Fenchurch-st. pet. cr.

WINSCOMBE, JAMES, boot and shoe maker, 2 St. Augustine's-parade, and at Saville-pl. Clifton, Bristol, April 23 and May 16, at eleven, Bristol, Com. Stevenson, Acraman, off. ass.; Peters and Abbott, Bristol, sols. Date of fiat, April 7. J. Parker, solicitor's clerk, Crosby-sq pet. cr.

Gazette, April 15.

AYTON, JOSEPH JOBLING, linen draper, South Shields, April 29, at twelve, June 3, at two, Newcastle, Com. Ellison; Baker, off. ass.; Wilson, South Shields, and Hodgson, Broad-street-buildings, London, sols. Date of fiat, April 8. Bankrupt's own petition.

BARKER, PRESTON, publican, Shelton, April 26, at one, May 27, at twelve, Birmingham; Valpy, off. ass.; Challinor, Hanley, and Motteram and Knowles, Birmingham, sols. Date of fiat, April 4. Bankrupt's own petition.

BENN, WILLIAM WILSHERE, merchant, Liverpool, April 25, May 20, at twelve, Liverpool, Com. Ludlow, Turner, off. ass.; Gregory and Co. Bedford-row, and Frodsham, Liverpool, sols. Date of fiat, April 8. Bankrupt's own petition.

BRADSHAW, JOB, draper and tailor, St. Alban's, April 25, at one, May 27, at two, Basinghall-street, Com. Holroyd; Groom, off. ass.; Walker, Furnival's-inn, sol. Date of fiat, April 4. J. B. Nash, stationer, St. Alban's, pet. cr.

DODD, THOMAS STEWARD, innkeeper and boarding-house keeper, Liverpool, April 28 and May 26, at eleven, Liverpool, Com. Phillips; Cazenove, off. ass.; Bridger and Lake, London-wall, and Dodge, Liverpool, sols. Date of fiat, April 9. Bankrupt's own petition.

HAMPSON, KENRICK FREDERICK ALEXANDER, gas-fitter and machinist, 16, Walnut-tree-walk, Lambeth-walk, April 25, at half-past eleven, May 20, at twelve, Basinghall-street, Com. Fonblanque; Pennell, off. ass.; Smith, Wilmington-square, sol. Date of fiat, April 12. Bankrupt's own petition.

HODGKINSON, WILLIAM, slater, 1, Weston-street, Pentonville, April 24, at half-past eleven, May 27, at one, Basinghall-street, Com. Fonblanque; Belcher, off. ass.; Nash, Goswell-road, sol. Date of fiat, April 4. Bankrupt's own petition.

JARVIS, JOSEPH and JAMES, wine and spirit merchants, Great Bush-lane, Cannon-street, April 21 and June 6, at eleven, Basinghall street, Com. Goulburn; Green, off. ass.; Gale, Basinghall-street, sol. Date of fiat, April 10. J. P. Gassiot, S. G. Martinez, and J. P. Gassiot, jun. wine merchants, Mark-lane, pet. crs.

JONES, JOHN, butcher, Pinchbeck, Lincoln, April 26, at twelve, May 27, at half-past ten, Birmingham; Christie, off. ass.; Bonner and Son, Spalding, and Motteram and Knowles, Birmingham, sols. Date of fiat, April 3. C. Bonner, gent. Spalding, pet. cr.

JONES, WILLIAM, commission agent Adelaide Gallery, Strand, and now of Stamford-st. Surrey, April 25, eleven, May 27, at twelve, Basinghall-st. Com. Fonblanque; Belcher, off. ass.; Crouch, Southampton-buildings, sol. Date of fiat, April 11. Bankrupt's own petition.

LEADER, JOHN MORGAN, coach maker, No. 361, Oxford-st. April 25, and May 29, at eleven, Basinghall-st. Com. Shepherd; Graham, off. ass.; Bailey and Shaw, Berners-st. sols. Date of fiat, April 11. J. Russell, coach body manufacturer, Adam and Eve-court, Oxford-st pet. cr.

OVEREND, HANNAH, card maker, Popplewell-in-Scholes, Yorkshire, April 28, and May 10 at eleven, Leeds, Com. Boteler; Fearne, off. ass.; Wigglesworth, and Co, Gray's-inn, and Cronhelm, Leeds, sols. Date of fiat, April 11. Bankrupt's own petition.

PATTINSON, WILLIAM BIRCHALL, currier and leather seller Liverpool, April 25, and May 23, at twelve, Liverpool, Com. Phillips; Morgan, off. ass.; Vincent and Co. Temple, and Jones, Liverpool, sols. Date of fiat, April 1. Bankrupt's own petition.

SPENCE, WILLIAM WHITTAKER, woollen draper, Newcastle-upon-Tyne, April 23, and May 28 at two, Newcastle, Com. Ellison; Wakley, off. ass, à'Becket and Co. Golden-square, sols. Date of fiat, April 5. A. M Bidgood, T. Jones, and A. Wilson, woollen drapers, Vigo-st. pet crs.

WOOLLAMS, JOHN, builder, No. 15, Charles-st. Manchester-square, St. Marylebone April 25, and May 20, at twelve, Basinghall-st. Com. Shepherd, Turquand, off. ass; Kernot, Welbeck-st. sol. Date of fiat, April 9. J. Kernot, gent. Welbeck-st. pet. cr.

PARTNERSHIPS DISSOLVED.

Gazette, April 8.

Ackroyd, E. *Wilson*, M. F. and *Newton*, E. J. colliers, Batley, April 5. Debts paid by Ackroyd.—*Bayley*, R. and J. packers, Friday-st. Dec. 25. Debts paid by J. Bayley.—*Bernard*, C. E. and W. C. West India merchants, May 1. Debts paid by C. E. Bernard.—*Bray*, W. and *Edmonds*, H. clothiers, Bradford, April 2 Debts paid by Edmonds.—*Brown*, J., *Stone*, J. and *Morcom*, W. Manchester, so far as regards Stone, Dec. 31.—*Buckwell*, G., A., and C. D. timber merchants, Brighton, March 25.—*Corkshott*, A. H. and W. chymists, Bradford, Feb. 26.—*Craig*, P. and *Saunders*, B. milliners, Wadebridge, March 25. Debts paid by Craig. *Crathorne*, R. and *Stephenson*, J. millers, Beverley, April 6, 1842.—*Davison*, G. and *Roles*, G. tailors, Sheffield, April 3. —*Dawson*, J., *Curtis*, T. and *Haigh*, J. cloth finishers, Leeds, so far as regards Dawson, April 1. Debts paid by the remaining partners.—*Deighton*, H., W. H., *Maude*, E. and *Deighton*, J. wine merchants, Ottley, Yorkshire, March 29. Debts paid by J. Deighton and E. Maude. *Dodd*, A. T. S. and *Leech*, E. surgeons, Chichester, April 5.—*Figes*, W. C. and *Hollett*, H. furnishing ironmongers, April 3. Debts paid by Figes.—*Haigh*, T. and *Bell*, C. stock brokers, Bradford, April 5. Debts paid by Haigh.—*Harrison*, E. and M. oil merchants, Liverpool, April 5. Debts paid by E. Harrison. —*Hughes*, E. and *Jones*, H. victuallers, Hosier-lane, West Smithfield, March 29. Debts paid by Hughes.—*Major*, W. and *Radcliffe*, J. manufacturers and Manchester warehousemen, Culches, Manchester, and King-st. Cheapside, March 15. Debts paid by Major and Gill.—*Milner*, W., *Morley*, J. P and W. P. silk manufacturers, Leek, so far as regards W. P. Morley, March 27.—*Moon*, J., E., R., and W. and *Hopley*, C. merchants, Liverpool and Rio de Janeiro, Dec. 30.—*Naylor*, W., *Merrall*, M. and *Wood*, J. machine makers, Bradford, so far as regards Wood, April 2. Debts paid by Merrall and Naylor.—*Pitt* C. P. and *Brese*, C. japanners, Birmingham, April 5. Debts paid by Pitt.—*Simmonds*, P. L. and *Clowes*, F. publishers, Cornhill, April 7. Debts paid by Simmonds.—*Thorp*, E., J., J., and H. and *Terry*, J. and M. sawyers, Bradford, so far as regards E. Thorp, March 31. *Webb*, W. and *Barker*, S. nickel refiners, Birmingham January 1.—*Whitaker*, J. and *Worsley*, H. dealers in silk, Huddersfield, April 1. Debts paid by Whitaker.

Gazette, April 11.

Acton, R. and *Hulme*, W. C. umbrella stretcher manufacturers, Manchester, April 4. Debts paid by Hulme.—*Alsop*, J. and *Marsden*, L. coal dealers, Cromford, April 30.—*Axford*, H., *Parker*, J. C. and *Axford*, R. surgeons, Bridgwater, so far as regards Parker, April 1.—*Ball*, E. and *Dames*, E. tailors Birmingham, April 8. Debts paid by Ball. —*Baxter*, W. and *Parkinson*, W. fancy hosiers, Leicester, April 8. Debts paid by Parkinson.—*Beckett*, J. and *Clements*, J. ironmongers, Liverpool, April 5.—*Belton*, A. and *Woodhouse*, W. H. painters, Nottingham, April 3.—*Braham*, J. and J. grocers, Hadleigh, April 5. Debts paid by John Braham.—*Day*, R. and *Clark*, J. shovel makers, Church, near Accrington, April 3.—*Hearle*, N. and *Clogg*, J. bone merchants, West Looe, Cornwall, Feb. 25.—*Heyworth*, O. and L. merchants, Liverpool, April 10.—*Hodgson*, D. and *Wright*, J. cotton spinners, Glossop, March 31. Debts paid by Wright.—*Holmes*, A. and *Tate*, J. commission agents, Bradford and elsewhere, April 5. Debts paid by Holmes.—*Hooper*, S. F. and *Robinson*, G. M. tea brokers, Little Tower-st. April 9. Debts paid by Hooper.—*Ind*, E. *Smith*, J., *Ind*, E. V., *Turner*, J. and *Smith*, H. brewers, Romford, April 5.—*Jakins*, I. N. and *Davies*, E. C. chemists, Ernest-st. Regent's-park, March 31.—*Lewin*, G. and *Whitney*, W. W. butchers, Skinner-st. St. Pancras, March 30. Debts paid by Whitney.—*Mansbridge*, T., *Hodges*, R., and *Chappell*, F. G. warehousemen, Aldermanbury, so far as regards Chappell, April 7.—*Marsden*, W. and *Alsop*, J. coal dealers, Darley, April 18.—*Mayon*, J. and *Skinner*, C. H. E. surgeons and apothecaries, Leicester, March 25, 1843.—*Parker*, C. and *Wilson*, T. dyers, Stairfoot in Ardsley, Jan. 31, 1844. Debts paid by E. Parker, dyer, Stairfoot.—*Parker*, E. and *Wilson*, T. dyers, Stairfoot in Ardsley, March 29. Debts paid by E. Parker.—*Parkes*, Z. and R. malt manufacturers, Birmingham, April 8. Debts paid by Z. Parkes.—*Plumbe*, J. and *Rigby*, W. watch case manufacturers, Liverpool, Feb. 18. Debts paid by Plumbe.—*Shelmerdine*, N. and *Shuttleworth*, J. commission agents, Salford, March 31. Debts paid by Shelmerdine.—*Siviter*, W. and R. jewellers, Birmingham, Dec. 31. Debts paid by W. Siviter.—*Stones*, B. and *Bramwell*, R. brewers, Sheffield, April 1. Debts paid by Stones. —*Stuart*, P., *Agnew*, J. and *Conry*, J. woollen drapers, Castle Blaney, March 24. Debts paid by Stuart and Conry.—*Sykes*, J. and *King*, W. slopsellers, Little Tower-hill, April 7. Debts paid by Sykes.—*Webb*, W. H. and *Higham*, E. general agricultural merchants, Stratford-upon-Avon, April 5. Debts paid by Higham.

Insolvents

Petitioning the Courts of Bankruptcy.

PETITIONS TO BE HEARD AT BASINGHALL-STREET.

Gazette, April 8.

Dyer, J. in no trade, Surrey-street, Strand, May 6, at half-past eleven.—*Mant*, F. E. rule maker, Eagle-street, Red Lion-sq. April 21, at eleven.—*Orchard*, F. oilman, Cannon-street-road, May 6, at half-past eleven.—*Pook*, M. wool worker, Creed-place, Maize-hill, Greenwich, May 6, at eleven.—*Ward*, L. butcher, Drummond st. Euston-sq. May 6, at eleven.—*Winterflood*, H. baker, Moulsham, May 6, at eleven.

MEETINGS IN THE COUNTRY.

Armstrong, R. farmer, Wetheral, April 15, at half-past one, Newcastle.—*Batty*, W. tailor, Halifax, April 23, at eleven, Leeds.—*Carter*, W. butcher, Houghton-le-Spring, April 17, at half-past two, Newcastle.—*Horrocks*, J. out of business, Manchester, April 25, at twelve, Manchester.—*Kettle*, J. victualler, Elton, Cheshire, April 15, at eleven, Liverpool.—*Lamont*, T. draper, tea dealer, and innkeeper, Bath, April 29, at twelve, Bristol.—*M'Nally*, J. breweryman, Blackburn, April 18, at twelve, Manchester.—*Marston*, T. labourer, Tholthorp, April 23, at eleven, Leeds.—*Marwood*, W. jun. cord wainer, Old Bolingbroke, Lincolnshire, April 23, at eleven, Leeds.—*Mitchell*, W. clothier and waste dealer, Calverley, April 23, at eleven, Leeds.—*Poole*, R. auctioneer, Hulme, April 15, at twelve, Manchester.—*Prest*, T. victualler, Pickhill, April 23, at eleven, Leeds.—*Sands*, W. porter merchant, Spalding, April 23, at half-past twelve, Birmingham.—*Tompkin*, W. out of business, Alfreton, Derbyshire, April 21, at twelve, Manchester.—*Whitwell*, J. baker and flour dealer, York, April 23, at eleven, Leeds.—*Wills*, J. schoolmaster, Bridford, April 24, at eleven, Exeter.

MEETINGS AT BASINGHALL-STREET.

Gilbert, J. tailor, Northampton, May 1, at half-past eleven.—*White*, J. boot maker, Rochford, May 1, at half-eleven.

MEETINGS IN THE COUNTRY.

Kitson, G. beer retailer, Leeds, April 30, at eleven, Leeds. —*Shephard*, M. J. May 2, at twelve, Liverpool.—*Towers*, J. May 2, at twelve, Liverpool.

PETITIONS TO BE HEARD AT BASINGHALL-STREET.

Gazette, April 11.

Clement, C. pattern designer, Bromley, Middlesex, April 23, at twelve.—*Foster*, J. I. labourer, Plumstead, April 23, at one.—*Moore*, G. boot maker, Southampton, April 12, at eleven.

IN THE COUNTRY.

Asher, G. dealer in watches, Newcastle-upon-Tyne, April 22, at twelve, Newcastle.—*Carey*, T. the younger, out of business, Bath, May 2, at eleven, Bristol.—*Clark*, H. wife of D. Clark, publican, Bristol, May 6, at eleven, Bristol.—*Clark*, D. wheelwright and publican, Bristol, May 5, at eleven, Bristol.—*Ellis*, G. carpenter, Bristol, May 5, at half-past eleven, Bristol.—*Foster*, G. innkeeper and bookbinder, Carlisle, April 17, at half-past eleven, Newcastle.—*Griffiths*, J. farmer, Penllech, Carnarvonshire, April 25, at eleven, Liverpool.—*Hawthorn*, W. shopkeeper, Liverpool, April 18, at twelve, Liverpool.—*Jones*, T. coal dealer, Lower Tranmere, near Birkenhead, April 25, at eleven, Liverpool. —*Martin*, P. baker and flour dealer, Holywell Lake, near Wellington, April 24, at eleven, Exeter.—*Moore*, W. messenger, Newcastle-upon-Tyne, April 17, at three, Newcastle.

MEETINGS AT BASINGHALL-STREET.

Mathews, C. J. comedian, Westbourne-green, Harrow-rd. April 21, at half-past one, aud.—*Taylor*, G. stationer, Lewisham, April 26, at twelve, div.—*Weddell*, T. Camberwell and Coleman-st.-bldgs. April 26, at twelve, div.

Bankrupts.

From the Gazette of Friday, April 19.

Sterry, W. B. sailmaker, Jamaica-row, Bermondsey. —*Rees*, T. P. iron merchant, Crooked-lane chambers, King William-street, City.—*Underwood*, W. grocer, High-street, Southwark.—*Dent*, J. saddle-tree maker, Hollen-st. Wardour-st. Soho.—*Coyle*, T. H. wine merchant, Argyle-st.—*Pickering*, J. general dealer, Cornbury-place, Old Kent-Road.—*Firth*, C. M. lithographic printer, St. Michael's-alley, Cornhill.—*Cook*, H. P. brewer, Coggleshall, Essex.—*Sprague*, J. W. grocer, Poole, Dorsetshire.—*Long*, J. linen-draper, Tavistock, Devonshire.—*Jones*, T. coal dealer, Liverpool.—*Isherwood*, G. F. S. engraver to calico printers, Hulme, Lancashire.—*Williams*, J. carpenter, Abergavenny, Monmouthshire.—*Hill*, J. hatter, Stroud.—*Parsons*, W. brewer, Bristol.

THE REPORTS.

The following are the names of gentlemen who favour the Law Times with the Reports:—

PRIVY COUNCIL by Thomas Campbell Foster, of the Middle Temple, Esq. Special Pleader.
HOUSE of LORDS by William Paterson, Esq. of Gray's-inn, Barrister-at-Law.

EQUITY COURTS.

LORD CHANCELLOR'S COURT by Richard Griffiths Welford, Esq. of the Inner Temple, Barrister-at-Law.
VICE-CHANCELLOR of ENGLAND'S COURT, by George Goldsmith, Esq. of the Middle Temple, Barrister-at-Law.
ROLLS COURT, by J. Macaulay, Esq. of the Inner Temple, Barrister-at-Law.
VICE-CHANCELLOR KNIGHT BRUCE'S COURT by Geo. S. Allnutt, Esq. of the Middle Temple, Barrister-at-Law.
VICE-CHANCELLOR WIGRAM'S COURT, by Henry Baker, Esq. of Lincoln's Inn, Barrister-at-Law.

COMMON LAW COURTS.

The QUEEN'S BENCH, by J. C. Symons, Esq. of the Middle Temple, Barrister-at-Law, and Edward Wise, Esq. of the Middle Temple, Barrister-at-Law.
The COURT of COMMON PLEAS, by Henry Tindal Atkinson, Esq. of the Middle Temple, Barrister-at-Law, and W. Paterson, Esq. of Gray's-inn, barrister-at-law.
The COURT of EXCHEQUER by John Bridge Aspinall, Esq. of the Middle Temple, Barrister-at-Law, and H. T. Cole, Esq. of the Middle Temple, Barrister-at-Law.
The BAIL COURT by T. W. Saunders, Esq. of the Middle Temple, Barrister-at-Law.
The EXCHEQUER CHAMBER by A. A. Fry, Esq. of Lincoln's-inn, Barrister-at-Law.

BANKRUPT AND INSOLVENT COURTS.

The COURT of REVIEW by Geo. S. Allnutt, Esq. of the Middle Temple, Barrister-at-Law.
LONDON COMMISSIONERS' COURTS and the INSOLVENT COURT, by T. B. Hughes, Esq. of the Inner Temple, Barrister-at-Law.
BRISTOL DISTRICT COURT by J. Angus Hombs, Esq. Barrister-at-Law.

NISI PRIUS, CIRCUITS, AND CROWN CASES.

CENTRAL CRIMINAL COURT, by H. C. Robinson, Esq. of the Middle Temple, Barrister-at-Law.
CROWN CASES (before all the Judges) by H. Tindal Atkinson, Esq. of the Middle Temple, Barrister-at-Law.
NORTHERN CIRCUIT, York, and Liverpool, by J. B. Aspinall, Esq. Barrister-at-Law. The other parts of the Circuit, by G. F. H. Oliphant, Esq. Barrister-at-Law.
WESTERN CIRCUIT, by Edward W. Cox, Esq. of the Middle Temple, Barrister-at-Law.
OXFORD CIRCUIT, by John Lane, Esq. D.C.L. of the Inner Temple, Barrister-at-Law.
NORFOLK CIRCUIT by Jno. B. Dasent, Esq. Barrister-at-Law.
SITTINGS AT NISI PRIUS AFTER TERM, by John Lane, Esq. D.C.L. of the Inner Temple, Barrister-at-Law.

ELECTION LAW.

REGISTRATION APPEALS in the COMMON PLEAS by Edward W. Cox, Esq. of the Middle Temple, Barrister-at-Law; and Henry Tindal Atkinson, Esq. of the Middle Temple, Barrister-at-Law.
ELECTION COMMITTEES by Edward W. Cox, Esq. of the Middle Temple, Barrister-at-Law.
REGISTRATION COURTS, collected and edited by Edw. W. Cox, Esq. of the Middle Temple, Barrister-at-Law.

IRISH REPORTS.

The LORD CHANCELLOR'S COURT by William Duggan, Esq. Barrister-at-Law.
QUEEN'S BENCH and CRIMINAL COURTS by Wm. St. Leger Barington, LL.D. Barrister-at-Law.

N.B.—The names of the reporters of such important points as may arise upon Circuit will be announced as the arrangements for each are completed.
The Written Judgments are reported verbatim in Short-hand by Mr. H. Gregory, Short-hand Writer.

Common Law Courts.

COURT OF QUEEN'S BENCH.

Thursday, April 17.

JOBSON *v.* LOXDALE.

New trial.

Talfourd, Serjt. moved for a rule to shew cause why the verdict for the defendant in this case should not be set aside and a new trial had.

It was an action of *assumpsit*, tried on Thursday before Mr. Baron Platt, for the use and hire of certain carriages and horses, and for the value of divers quantities of provisions supplied to divers persons at the defendant's request. These goods were supplied by the plaintiff, who kept an hotel at Shrewsbury, during a contested election for the office of coroner; and the only question on the trial was, whether the defendant, who had been the agent of one of the candidates, was personally liable. The learned serjeant moved on the ground that the verdict was against evidence.

By the Court.—We cannot disturb the verdict unless the learned baron who tried the case is very much dissatisfied with it. We will consult him on the point.

INSKIP *v.* HARPER and OTHERS.

New trial.

Whately, Q.C. moved for a rule to shew cause why the verdict found for the plaintiff, with 2s. 6d. damages, should not be set aside, and a new trial had, on the ground of the misdirection of the Lord Chief Baron, before whom the case was tried at Stafford.

It was an action of trespass for entering the house of the plaintiff, and for forcing him out of his said house and keeping him in custody, and for seizing divers goods of the plaintiff, &c. The Lord Chief Baron had directed the jury to find a verdict for the plaintiff, but had added, "I should be sorry to tell you to give a farthing or the smallest coin of the realm, but if you give one or two shillings, that will be plenty." The jury had given 2s. 6d. upon this recommendation, but also had ordered the goods which had been improperly seized to be returned, and this had not been done.

Lord Denman, C.J.—The Lord Chief Baron clearly expected that the goods would be returned. That had better be looked to. If they are not returned, you may have your rule.

RAY *v.* THOMPSON.

New trial.

Knowles, Q.C. moved for a rule to shew cause why the verdict for the plaintiff should not be set aside, and the verdict entered for the defendant, or why there should not be a nonsuit, or a new trial. It was an action of *assumpsit* tried at Liverpool before Wightman, J. for breach of an agreement "to sell a ship, the Anne," of Sunderland, for 1,200*l.*, 600*l.* to be paid in cash, and 600*l.* by an "approved" bill in London, six months after date. The declaration alleged the plaintiff's readiness and willingness to pay according to the agreement, and issue was joined on that fact. Upon the trial it appeared that the plaintiff had expressed his readiness to give such a bill as would be "approved" of, but had not actually tendered a bill for the approval of the defendant. The learned judge held that this was a sufficient compliance with the allegation of "readiness and willingness" in the declaration, and on that misdirection the rule was now moved. A distinction was to be drawn between payment by money and by any other means. The assertion that a man was ready to pay the money would be sufficient; but the only evidence of readiness and willingness, with regard to any other mode of payment, was by a tender of the thing itself. Here an inspection of the bill was absolutely necessary to see whether the names were approved of.

Lord Denman, C. J.—You may take a rule.

WILSON *v.* ROBERTSON.

A plea of justification placed on the record in an action for libel, but abandoned on the trial, is no evidence of express malice.

Murphy, Serjt. moved for a rule *nisi* to set aside the verdict found for the defendant in this case, on the ground of misdirection. It was an action for libel tried before Wightman, J. at Durham. The defendant pleaded a plea of justification, but on the trial no witnesses were called in support of it. Under these circumstances, the counsel for the plaintiff requested the learned judge to direct the jury that the fact of putting a justification upon the record, and bringing no witnesses to prove it, was in itself evidence of express malice. The learned judge refused so to direct the jury, and for his omission on that point the present rule was moved. The dictum of Lord Abinger, C.B. in *Warwick* v. *Foulkes* (12 Mee. & W. 508), was strong to shew that a plea of justification placed on the record, without any attempt made to support it, was evidence, though it might be slight evidence, of express malice.

Lord Denman, C. J.—*Warwick* v. *Foulkes* only decides that the fact of putting a plea of justification on the record may be taken into account by the jury in estimating the amount of damages. That case assumes that the defendant is wrong; but it is quite new to me to say that by itself the plea of justification is such evidence of express malice as could cause any change in the verdict itself. It is no evidence of express malice, and my brother Wightman did right in refusing to put it to the jury. *Rule refused.*

MOORE *v.* DOLFORD.

New trial.

Barstow moved for a rule to set aside the verdict found for the plaintiff, and to enter a nonsuit. It was an action against the executor of Thos. Dolford, for use and occupation, and upon the common money counts, tried before the Lord Chief Justice at Guildhall. The pleas were, first, *Non assumpsit*, and secondly, a set-off due to the defendant. The replication to the set-off was, Not indebted *modo et formâ*. On the trial the plaintiff proved his demand, and the defendant a set-off to a larger amount. The plaintiff, to get rid of the set-off, then proved a discharge under the Insolvent Debtors Act in 1841, and that the subject-matter of the set-off was contained in the schedule. For the defendant it was objected, 1st, that this evidence was inadmissible under the general replication, and that it ought to have been specially pleaded; and secondly, that the debt of "Thomas Dolford" had been inserted in the schedule as that of "Samuell Dolford," which description precluded the discharge from being a bar to the debt. On the first point, which was the more important, he now submitted that, though the new rules did not apply to replications, the plaintiff could not, on a set-off, be in a better condition than if he were the defendant in an original declaration in debt. (*Chapple* v. *Durston*, 1 Cr. & Jer. 9.) The Court would look at this case as if it had occurred before the new rules, and then the discharge under the Insolvent Debtors Act must have been pleaded. (*Bircham* v. *Creighton*, 10 Bing. 11.) It had been held in a recent case in the Exchequer (*Phillips* v. *Sherwin*, not yet reported), that the discharge under the Insolvent Act did not extinguish the debt. A debt was not extinguished even in bankruptcy, which was a stronger case. (*Newton* v. *Scott*, 9 Mee. & W. 434, confirmed in error, 10 Mee. & W. 471.) On the second point he relied upon the 69th section of the Insolvent Debtors Act.

By the Court.—You may take a rule on both points.

MAY and WIFE *v.* BURDETT.

New trial.

Cockburn, Q. C. moved for a rule to shew cause why the judgment in this case should not be arrested, or a new trial had, either on the ground of misdirection or of the verdict being against evidence. It was an action on the case for keeping a monkey, which had attacked and wounded the female plaintiff, tried in Middlesex before Wightman, J. *Plea*, Not guilty. In moving for an arrest of judgment, he submitted that the declaration disclosed no sufficient cause of action. It alleged that the defendant "kept a certain monkey, knowing the same to be of a ferocious nature," &c.; and that "the said monkey had attacked and lacerated the said Sophia, the female plaintiff," &c. The declaration did not set forth that the defendant had negligently kept, but merely that he had kept, this ferocious animal, which it was quite lawful for him to do. [Denman, C. J.—This declaration would apply to the trustees of the Zoological Society.] Exactly. The declaration ought to shew such circumstances as implied negligence. There were certainly precedents both ways. There were two forms given in 8 Wentw.; one in the present shape, and the other alleging negligence. In 2 Chitty's Pleading, p. 403, it was stated in a note, that "before H. T. 4 Wm. 4, it had been usual to insert a second count that the animal had not been properly secured, but as there now could only be one count for the same subject-matter, one was omitted;" and the pleader had omitted the one that ought to have been retained. From any thing that appeared in this declaration, the injury might have been produced by the plaintiff's own folly. (*Mitchil* v. *Alestree*, 1 Ventr. 295.) He also moved for a new trial, but that part of his rule was refused. On the motion for an arrest of judgment,

The Court granted the rule.

SOLOMON *v.* LAWSON.

Libel. Tried before the Lord Chief Justice at the last assizes for the county of Surrey. Verdict for the plaintiff—damages 500*l.* It was an action against the publisher of the *Times* newspaper, for inserting in that journal two letters injurious to the character and prospects of the plaintiff.

Shee, Serjt. to-day moved for a rule to shew cause why the judgment should not be arrested, or why a *venire de novo* should not issue, or why there should not be a new trial, on the ground of excessive damages. The declaration contained two counts, and the first commenced with an inducement that before and at the time of committing the grievance in the said declaration mentioned, the plaintiff was a merchant and hotel-keeper at St. Helena, and that he had purchased a schooner and fitted it up with wooden tanks and cisterns for supplying fresh water to the vessels calling at St. Helena, and that he had from these tanks supplied the ship *Moffatt* with fresh water. It then went on to allege that the defendant had published of and concerning the said vessel, and of and concerning the water supplied to the said vessel by the plaintiff, and of and concerning the plaintiff in his trade and business, the following libel. He submitted that this first count was bad. It did not appear upon the face of it that the libel was imputed to the plaintiff, on the contrary, from the letter itself, it clearly appeared that it applied not to the plaintiff, but to the authorities of the island of St. Helena. It was necessary to set out a libel verbatim, in order that the Court might judge of its reference to the plaintiff (*Gutsole* v. *Mathers*, 1 Mee. & W. 495), and if, from the alleged libel, it was clear that there had been no intention to impute any thing to the plaintiff, no formal averment would supply the defect. The second count was also bad. The inducement set out the first letter, the alleged libel of the first count, and averred that it was "*in substance* as follows," &c. and then went on to allege, that after having published the first libel, the defendant had then published "of and concerning the plaintiff, and of and concerning the water, &c. and of and concerning his conduct in selling the water, &c and of and concerning the first letter, the following letter" (setting out verbatim the second of the two letters above given). Now it was distinctly laid down, that if the whole of a libel were set out, it was wrong to allege that it was "*in substance*" as follows. (*Wright* v. *Clements*, 3

B. & Ald. 503.) In all cases it was necessary to set out every word of the libel. (*Zenobio* v. *Axtell*, 6 T. R. 162; *Cook* v. *Cox*, 3 M. & S. 110.) Here the second letter contained no libel by itself, and the first was not properly associated with it, in consequence of the allegation "that it was *in substance* as follows."

Denman, C. J.—We think that you are entitled to a rule to shew cause why judgment should not be arrested, or a *venire de novo* award d, if only one of the counts should turn out to be b

Rule nisi for an arrest of judg ·nt or a venire de de novo granted.

Doe *dem.* Benham v. Somerton.

New Trial.

Pearson moved for a rule *nisi* for a new trial, on the ground that a duplicate notice to quit had been admitted in evidence, without any notice to produce the original notice. He cited *Starkie on Evidence*, vol. 3, last ed. 730, and the cases there quoted.

Lord Denman, C. J.—This point has been long settled, and we cannot now disturb it.

Friday, April 18.

De Medina v. Groves.

New trial.

Watson, Q.C. moved for a ... e to shew cause why the verdict for the plaintiff should not be set aside and a nonsuit entered, or a new trial had. It was an action for money had and rece 1. Mrs. Medina, the mother of the plaintiff, had, in 1810, mortgaged some houses to a Mr. Strahan for 1,000*l.* Strahan left England, having appointed the defendant, Mr. Groves, the manager of his affairs. Mr. Groves brought an action in Strahan's name against Mrs. Medina for not repairing the houses, and the plaintiff, her son, gave a *cognovit* for the sum of 1,000*l.* to cover the breaches, upon which judgment was entered up. The principal became du · in August 1812, and in November of that year Strahan assigned to Mr. Groves the mortgage and the judgment debt, which was recited in the deed, and appointed Groves attorney to recover it. Under this judgment a sum of money had been levied by Groves, which was now sought to be recovered. The grounds for the present rule were, that the plaintiff was estopped from disputing the judgment, and that ... was no evidence of fraud; and *Duchess of Kin ...* 's case (20 How. St. Trials) was cited. *Rule granted.*

Bolam v. Shaw.

Amendment of variance—Contract ... ... ting.

This was an action brought by the plaintiff, a farmer, against the defendant, for removing his son, who had been placed with him to learn the farming business, without due notice. There were also common counts for feeding, boarding, &c. but not for instructing. It was tried before Wightman, J. at the assizes for Northumberland, and a verdict found for the plaintiff, damages 52*l.* 10s.

Knowles, Q.C. now moved to set aside the verdict and enter a nonsuit, or to reduce the damages, pursuant to leave reserved. The grounds were, that the contract was not proved to be in writing, for the only material letter put in was one from the defendant to the plaintiff, in which he had stated he considered the agreement to be for two years, but if he (the plaintiff) wished, there should be an option reserved to each to put an end to it at the end of any half-year, with a month's notice. No answer was given by the plaintiff, and therefore there was no acceptance; nor could the common counts support the verdict, for the defendant's son in fact remained only two days after the commencement of the half-year, the pay for the whole of which was 52*l.* 10s. by the agreement.

Case referred to: *Collins* v. *Price* (5 Bing. 132).

Rule nisi.

Dicken v. Stanley.

Bill of exchange given to induce creditor to forbear opposition.

Whateley, Q.C. moved to set aside the verdict for the plaintiff, as against evidence.

It was an action on a promissory note for 35*l.* and the only witness called proved that it had been given for a debt due from the defendant under a threat of opposition to his certificat ·

The Court said they would confer with the learned judge who tried the cause.

White v. Pery.

Substitution of debt to support a fiat—Pressure to justify payments to creditors.

M. D. Hill, Q.C. moved for a rule *nisi* to set aside the verdict for the plaintiff in this case, and for a new trial, for misdirection, and because the verdict was against evidence.

It was an action by assign · s against the bankers of the bankrupt. The misdirections complained of were—1. That Lord Denman, C. J. had led the jury to believe that to constitute a pressure which would justify payment of moneys to a creditor, at different times, pursuant to an arrangement, there must be pressure on each occasion. *Crosby* v. *Crouch* (11 E. 256) was cited. 2. That the petitioning creditor's debt, which was put in issue, was not proved by shewing a substituted debt by order of the Lord Chancellor, when the debt upon which the original fiat issued never had any existence at all. Here a stranger to the bankrupt, holding a bill of exchange upon which there was an indorsement in his name, became the petitioning creditor, but ultimately discovered that the indorser was another person of the same name. *Muskett* v. *Drummond* (10 B & C. 153) was cited. The facts were detailed at great length to shew that the verdict was against evidence, and the Court granted the rule upon all the points. *Rule nisi.*

Doe on the several demises of the Queen and Finch v. The Archbishop of York.

Manor of Runcorn.

This was an action of ejectment, tried before Mr. Justice Williams, at Chester, and a verdict was found for the lessor of the plaintiff on the said demise.

Jervis, Q. C. now moved for a new trial, or a verdict for defendant upon points reserved, for misdirection, because the verdict was against evidence, and for surprise. The land in dispute was a narrow strip between the "pool" of the Bridgewater Canal and the road, and the boundaries of the manor of Runcorn, and the title to much of the township of Runcorn were involved. It was objected on the evidence,—1. That there was no evidence of a manor at all, as the incidents proved, viz. casting essoigns and paying fines, might have belonged to a leet. 2. If a manor was proved, there was no evidence of wastes. 3. If the manor was proved, the existence of wastes in Runcorn was not. 4. If the land had been taken for the Act, then the plaintiff could not recover; and whether it was so taken should have been left to the jury. (6 Geo. 3, c. 96, s. 84.) 5. The *nullum tempus* Act did not apply, because prerogative process had not been employed.

Rule granted.

Reg. v. Great North of England Railway.

Indictment against a corporation.

S. Wortley, Q. C. moved to enter a verdict for the defendant on some points appearing upon the record, and also upon the evidence. This was an indictment against the company, containing counts at common law and counts upon the statutes under which the company is formed, for obstructing certain roads and bridges. The points taken were,—1. That an indictment for misfeasance would not lie against a corporation. (*Anon.* 12 Mod. 559; *Reg.* v. *Birmingham and Gloucester Railway Company*, 3 Q. B. 223; *Gorell* v. *Shanland*, 5 B. & C. 485; *Reg.* v. *Scott*, 3 Q.B. 543.) Where the doing a certain thing is a condition precedent to another act, an indictment might, perhaps, lie; but that is not so here. 2. In the counts upon the statute there was a fatal variance between the allegation and the evidence. The obstruction was charged as arising under the second of the Acts establishing the company, but was proved to have been under the first. 3. Then the eighth count was uncertain, for it did not ... the bridge, so that there was no obstruction by ...

Rule nisi for arrest of judgment, and for setting aside the verdict as against evidence.

Prickett v. Greatorex.

Warrant of commitment for not finding sureties—Liability of committing magistrate.

This was an action of trespass tried at the last Monmouthshire Assizes, before Mr. Baron Platt, against a magistrate for an improper commitment. A verdict was found for the defendant, the learned judge having directed the jury that he was not liable if he acted *bonâ fide*, and that the commitment was not void.

Godson, Q. C. now moved to set aside the verdict for misdirection. The plaintiff had been ordered to find sureties to keep the peace, and on his failing to do so was committed by the defendant. The warrant, however, did not specify the number of sureties required, or the amount, or the time for which he was committed. (4 Bl. Commen. 254; 2 B. & Ald. 278.)

Rule nisi.

Williams v. Stivell.

Proof of death—Holding over.

Alexander, Q.C. moved for a rule *nisi* to set aside the verdict for the defendant upon the third issue, and to enter it for the plaintiff.

It was an action of *replevin* tried before Mr. Baron Platt at Monmouth.

Declaration for seizing seven cows in Grange and seven in Cawbowr.

Pleas—Non cepit to each, but the plaintiff proved only the second taking, and avowry for two years' rent, describing the days of payment, August 2nd and February 2nd.

Plea in bar—Non tenuit, upon which the defendant had a verdict. It was now moved—1st, That there was no identification of the premises, for the premises proved differed both in name and extent from those mentioned in the deeds by which the defendant obtained title; 2nd, That the terms of the holding were not proved; 3rd, That there was no proof of the death of a party through whose administration the defendant claimed, as letters of administration did not prove the death (*Thompson* v. *Donaldson*, 3 Esp. 63); 4th, If the death was proved, the legal estate did not vest in the defendant so as to enable him to distrain for two years' rent; 5th, That as the defendant had given the plaintiff a notice to quit in July 1843, he could not subsequently treat him as a tenant, and distrain, for holding over does not constitute a *tenancy* upon the old terms. (*Jenner* v. *Clegg*, 1 Moo. & R. 213.)

Rule nisi.

Saturday, April 19.

Powis v. Oldfield.

Talfourd, Serjt. moved for a rule to shew cause why the verdict for the defendant should not be set aside, and a verdict entered for the plaintiff, damages three guineas. *Rule refused.*

Clutterbuck v. Halse.

Talfourd, Serjt. moved for a rule *nisi* to set aside the verdict found in this case for the plaintiff, damages 22*l.* 9s. 4d. and to enter a nonsuit. It was an action of *assumpsit* by a widow residing in the neighbourhood of Gloucester against the defendant, who was an attorney in that city. The declaration set up a special contract, that the defendant, having been retained by the plaintiff in his character of attorney, to institute legal proceedings against a Mr. Rayner, and having issued out a writ of summons in that suit, on the retainer being about to be withdrawn, promised the plaintiff, in consideration that she would not withdraw such retainer, but would continue the same, that he, the said defendant, would save her harmless from all the expenses and costs of the suit, &c. The declaration then contained the usual averment that the plaintiff confided in the said promise of the defendant, and continued the retainer. The suit proceeded, came on for trial before the sheriff, when a verdict was found for the defendant, and the present plaintiff had to pay the amount now sought to be recovered. The evidence of the contract upon which the plaintiff relied was a letter to her from the defendant, in the following words:—

"*Yourself* v. *Rayner*. Madame,—I am so satisfied as to the result of this case, that I do not hesitate to take the consequences upon myself. Do not, therefore, feel alarmed, as I will go on at my own expense."

Three questions had been raised upon the trial, and upon these three points he now moved for his rule: 1st. That the letter, if evidence of the contract at all, was an agreement th... above the amount of ... stamp. (*Wrigley* v. ... That it was an undert... default or miscarriage of another within the Statute of Frauds (29 C. 2, c. 3, s. 4), and that no consideration appeared on the face of the instrument. (*Tomlinson* v. *Gell*, 6 Ad. & Ell. 564; *Green* v. *Cresswell*, 10 Ad. & Ell. 453; *Wain* v. *Warlters*, 5 East, 10; *Hawes* v. *Armstrong*, 1 B. N. C. 761.) 3rd. That the contract was not sufficiently set forth in the declaration. There was also another point, arising on the construction of the letter, whether the defendant meant any thing more than that he would go on with the suit without charging the plaintiff any thing unless she were successful.

Lord Denman, C. J.—You may take a rule.

Stokes v. Boycott.

New Trial.

Talfourd, Serjt. moved for a rule *nisi* to set aside the verdict found for the plaintiff and for a new trial, on the ground of misdirection, and of the verdict being against evidence.

It was an action of *replevin*, tried before Platt, B. at Shrewsbury, for taking the cattle of the plaintiff at Framlingham, in the county of Salop, on a certain common called Rudge Heath. The avowry alleged that the *locus in quo* was the soil and freehold of the defendant. The plea in bar admitted the defendant's title, but set up the plaintiff's right of common under the Prescription Act (2 & 3 Wm. 4, c. 71). It appeared on the trial that Rudge Heath was a large tract of open land 400 or 500 acres in extent, used by the defendant, who was lord of the manor, as a rabbit-warren, and that for the last thirty years the plaintiff, a large farmer in the neighbourhood, had been in the habit of openly sending his sheep to depasture on the heath. Upon the acts of enjoyment thus exercised he rested his claim, but the defendant contended that his use of the common never constituted an enjoyment within the meaning of the statute; that his right to send his sheep had always been resisted, and that a constant rustic warfare had been going on between the parties quite inconsistent with that enjoyment which alone would give him a prescriptive claim as a commoner. The learned Baron on the trial held, under the 4th section, that unless the defendant had shewn that his interruption of the plaintiff's right had been acquiesced in for a year, the latter had established that right, but he submitted that there had never been such an enjoyment as gave the plaintiff a right which required that continuous interruption contemplated by the 4th section. There had in reality been no enjoyment at all.

Lord Denman, C. J.—You may take a rule.

Harris v. Phillips.

Chilton, Q.C. moved for a rule *nisi* for a new trial, on the ground of misdirection, and that the verdict found for the plaintiff was against evidence.

Replevin tried before Cresswell, J. at Pembroke.

By the Court.—We will consult the learned judge.

JAMES v. BROOK.

New Trial.

Watson, Q.C. moved for a rule to shew cause why the judgment in this case should not be arrested, or a nonsuit entered, or a new trial had.

It was an action of slander tried before Coltman, J. at York, when a verdict was found for the plaintiff, damages 45*l.* The plaintiff was a superior officer of the police force in Leeds, and the third count of the declaration stated that "the defendant had spoken of and concerning the plaintiff, as such superior officer of police, the following words; that is to say, "I (meaning the defendant) saw a letter two or three days ago regarding an officer of the Leeds police force (meaning thereby the plaintiff), who is superior in rank to Child (meaning thereby another officer of police inferior in rank to the plaintiff), which stated that that officer (meaning the plaintiff) had been guilty of conduct unfit for publication." There was no innuendo, and this was the whole of the slander alleged in the declaration. The statement that a man had seen a letter which said that the conduct of another was unfit for publication surely could not constitute slander. There was no imputation of crime, and no allegation as to the plaintiff's conduct as an officer of police.

Lord Denman, C.J.—You may take a rule *nisi* to enter a nonsuit.

Assignees of Johnson v. Wolsey.—*Cockburn*, Q.C. moved for a rule to shew cause why the verdict found for the plaintiff in this case should not be set aside, a nonsuit entered, or a new trial had. It was an action of trover by the assignees of a bankrupt to recover the possession of two pictures of considerable value, one by Claude and the other by Ruysdael. The pleas were—Not guilty, and Not possessed. On the trial it appeared that the pictures had previously to the bankruptcy been sent by the bankrupt to a picture-dealer of the name of Grattan; that he had handed them over to one Pennell to be sold; that Pennell had placed them in the possession of the defendant, who had taken a gallery in Pall-mall, which they shared together, each having the disposal of half the gallery. Johnson, the owner of the pictures, became a bankrupt, and the assignee demanded them from the defendant, who refused to deliver them up without an order from Pennell, by whom they had been intrusted to his keeping. This was only a qualified refusal, and did not amount to a conversion. (*Alexander* v. *Southey*, 5 B. & Ald. 247.) On this ground he moved for a nonsuit, but he also moved for a new trial, on the ground that the verdict was against evidence as to the fact of possession.

Lord Denman, C. J.—You may take a rule on the alternative.

DOE *dem.* DAYMAN v. MOORE.

New Trial.

Crowder, Q.C. moved for a rule *nisi* to enter a nonsuit. It was an action of ejectment to recover possession of a cottage at Exeter, which had been in the uninterrupted possession of the defendant for forty years. But a question arose under the 3 & 4 Wm. 4, c. 27. The lessor of the plaintiff was the son of Peter Dayman, who on the marriage of the defendant with his daughter had put him into possession of the messuage. Upon what terms he had remained in possession did not appear, but no rent had been paid. By the 15th sec. of the above Act it was enacted that when the possession was not adverse at the time of the passing of the Act, the right of entry or distress should not be barred until after five years. The Act passed in 1833. Dayman, the father of the lessor of the plaintiff, made a will in 1837 and died. At the date of the will he would have had a power of entry or distress. He never entered, but by the will he devised his property to his wife for her life, and after her death to the lessor of the plaintiff. The latter claimed under the will of 1837, and the question was whether that devise could be considered equivalent to an entry as against the defendant, who had been in possession for forty years. He submitted that it could not, and that the power of entry &c. was now completely barred.

Lord Denman, C. J.—You may take a rule.

CUMMINS v. WILLESFORD.

Kinglake, Serjt. moved for a rule to shew cause why the verdict found for the plaintiff (damages, 700*l.*) should not be set aside, and a new trial had, on the ground that the damages were excessive.

Rule refused.

Monday, April, 21.

SCHLESINGER v. FLUSHEIM.

A deed by which two persons agreed to work a certain patent upon certain specific terms, and A was to be paid a certain sum, and B to supply all the capital, and to be entitled to the whole of the residue, contained a concluding clause that the parties should not be, and were not, by virtue of any of the previous conditions, partners. Held, that this did not so absolutely bar A from receiving money due to the supposed firm as to justify B's asserting that he had received it by false pretences. Semble, such a clause has no effect at all.

This was an action of libel tried before Lord Denman, C. J. and a verdict found for the plaintiff, damages 50*l.* and

Cockburn, Q.C. now moved for a new trial, on the ground of misdirection. It appeared that the plaintiff and defendant had entered into an agreement for working certain patents, with the clause above stated; but to the world they appeared as partners. The plaintiff having received some debts due to the partnership, upon which the defendant had written a letter to other creditors, charging the plaintiff with obtaining money under false pretences, this action was then brought, and in justification the deed was set out, and it was contended that it constituted the plaintiff and defendant partners only *sub modo*, and as between themselves the plaintiff had no right to receive any money, and that it ought to have been put to the jury in that way.

Patteson, J.—There was no false pretence in the plaintiff obtaining the money. To say the least, he had such a fair shadow of right as would have been an answer to any indictment, and I doubt very much whether parties who have entered into a partnership deed can insert such a clause as this to have any effect even between themselves.

The rest of the Court concurred.

Rule refused.

DOE *dem.* STORER v. NIELD.

A sale under a power which directs that the proceeds shall be applied by the trustees in a certain manner will convey a good title, although the proceeds are not so applied.

This was an ejectment tried at Chester before Mr. Justice Maule, and a verdict found for the defendant, with leave to move.

Humfrey, Q. C. now moved accordingly.—The lessee of the plaintiff was the original devisee. The defendants purchased from the trustees, with the consent of the tenant for life, under a power contained in the will, which required that the proceeds of any sale under it should be laid out for the same uses and trusts as contained in the original will. It was contended that the trustees, not having done this, the sale was invalid.

Patteson, J.—Was such a proposition ever heard of before? Why, would the disputes as to the duty of the purchaser to see to the appropriation of the money have arisen if the purchase itself could have been upset? *Rule refused.*

WILSON v. NIGHTINGALE.

Computation of time in calculating the five days required before sale of a distress—Measure of damages for selling without appraising.

This was an action for an irregular distress, with counts for selling without due notice, for not appraising, and before the expiration of the five days. To the count for not appraising, 40s. had been paid into court, and on the replication of damages *ultra*, defendant had a verdict, as well as upon the other counts.

Pashley now moved for a new trial on the ground of misdirection—1st. That the notice to the tenant of the cause of distress should have been in writing. (Vin. Abr. tit. Distress.) *Walker* v. *Rumball* (1 Ld. Raym. 53) is distinguishable. 2nd. That the distress being on Saturday, the sale on Thursday was too soon. (*Lester* v. *Garland*, 15 Ves. 247; *Pellew* v. *Inhabitants of Wonford*, 9 B. & C. 134; *Blunt* v. *Heslop*, 8 A. & E. 577.) [Patteson, J. cited *Wallace* v. *King*, 1 H. Bla. 13, as contrà.] 3rd. The legal rule as to damages for not appraising, is not as laid down by Coltman, J. at the trial, the actual injury sustained in consequence of the omission, but the difference between the proceeds of the sale and the value of them to the tenant. (*Knotts* v. *Curtis*, 5 C. & P. 322; *Biggins* v. *Goode*, 2 C. & J. 364.) [Patteson, J.—It is a wrongful act.] *Rule nisi.*

DAVIDSON v. LEEDS.

Attestation of will before signature by testator.

Ingham moved to set aside the verdict for the plaintiff on two of the issues, and enter it for the defendant, or to enter a nonsuit pursuant to leave reserved. It was an action of covenant, by the devisee of the reversion against the lessee, and the issues were, that testator did not publish his will in manner and form, and that he did not devise. The simple question was, whether signature by the witnesses in the presence of the testator, but before he signed the will, could, in the absence of any acknowledgment by him, be held to be an attestation within the statute.

Cases cited: (2 Curt. 865); *Re Byrn* (3 Curt. 118; ibid. 648). *Rule nisi.*

DOE *dem.* BURT v. BAINES.

Quære—Is acting as churchwardens sufficient to prove their official title, so as to maintain ejectment?

Humfrey, Q. C. moved to enter a nonsuit, pursuant to leave reserved. The simple question is, whether ...ing as churchwardens is sufficient to prove title as churchwardens in ejectment. This has never been decided. (Phillips on Evidence.)

BARNETT v. GRAHAM.

Vesting of property by contract to sell, when payment is made by bills.

This was an action of *trover*, and a verdict had been found for defendant.

Petersdorff now moved to set this aside and enter a verdict for the plaintiff for 148*l.* 4s. The pleas were, Not guilty, and Not possessed. The plaintiff had purchased paper of defendant, which was to be held by defendant until wanted for use by the plaintiff. In the invoice credit was given by bills for three and four months, of 74*l.* 2s. each, and stated that the bills should be renewed, without specifying, however, for what periods; and also stated that the plaintiff was not to be charged for warehouse-room. No conversion was proved before the day upon which the first bill became due, and as on that day it was not paid, it was contended that no subsequent conversion would give a right of action to the plaintiff. It was now moved that the period was immaterial, because the property passed absolutely by the contract; or if not, that the bill was not dishonoured. No presentation, or refusal to pay had been shewn. *Crawshay* v. *Homfray* (4 B. & Ald. 50) was cited.

Rule nisi.

DOE *dem.* WILLIAMSON v. GLADMAN.

Effect of attornment to the mortgagee by tenant of mortgagor let in after the mortgage.

Lush moved for a new trial in this case.—There were two demises; the first by Maria Williamson, and the second by Plumer, both laid October 12, 1844. Maria Williamson had mortgaged the premises to Plumer, and afterwards the defendant had become tenant to her. On October 14, 1842, he had attorned to the mortgagee, and contracted to pay rent from Michaelmas 1840. Notice to quit had been served by Plumer on June 9, 1843, at the expiration of the current year after the end of the half-year from the service. It was now urged that the demise here laid on October 12th was too soon, although one laid on October 15th would have been good. The attornment operated only from the day of its execution, and there was no retrospective tenancy created by it. (*Evans* v. *Elliott*, 4 A. & E.) *Rule nisi.*

[illegible]E v. MERRITT.

Will money had and received lie for a sum settled by mistake in an account between the parties?

Money had and received.

This was an action for money had and received, tried at the last Wilts assizes before Mr. Justice Erle, and a verdict for plaintiff, 24*l.* 19s. with leave reserved to enter a nonsuit on the following ground:—It appeared that there had been a settlement of accounts between the parties in 1843, and a certain sum had been allowed to the defendant, which he had paid for the plaintiff. Subsequently it was discovered that the sum had been allowed in a previous settlement. At the trial, *Kinglake*, Serjt. objected that the action would not lie, but the learned judge thought that it was analogous to the cases where there had been a settlement between three parties and a transfer of the debt, but reserved leave to

Kinglake, Serjt. now moved accordingly, citing *Wharton* v. *Walker* (4 B. & C. 163) as exactly similar to the principal case, and distinguishing the instances referred to by the learned judge, on the ground that there was an original liability, and a transfer of that liability with the consent of the parties. He also moved on the ground of the verdict being against evidence, and for a misdirection.

Rule nisi for a nonsuit only.

LAYTON v. HURRY.

Construction of 5 & 6 W. 4, c. 59, as to sale of beasts impounded.

Trespass quare clausum, and seizing of horses, and selling two.

Pleas, 1st, Not guilty; 2nd, Not possessed; 3rd, as to the impounding and selling, that the defendant was possessed, and distrained the animals damage feasant, and sold two for the expense incurred.

Replication, de injuriâ.

Verdict for the defendant on the second and third issues, and for the plaintiff on the first.

Byles, Serjt. now moved for judgment, *non obstante veredicto*, on the third issue, or for a repleader, or for a new trial, for misdirection, and because the verdict was against evidence.

It was submitted that the evidence of the defendant's possession, although it proved that the plaintiff was not in possession, did not prove that the defendant was. Then, cattle damage feasant can only be distrained upon the *locus in quo* (Com. Dig. Distress); and here it was proved that they were seized off the premises. No account of the keep was put in, and according to the 5 & 6 W. 4, c. 59, one animal is not to be sold for the expense of all: at least, if this is allowable, it should have been alleged in the plea that it was necessary to sell two, or the fact of its being necessary should have been left to the jury. The learned judge considered that it was matter of replication or new assignment. But the statute does not empower any other sale but in respect of the expenses caused by the animal sold. *Rule nisi.*

Doe dem. Simpson v. Johns.
Stamp Act.

V. Williams moved for a new trial on a stamp objection. New parcels had been included as security in a transfer of mortgage, and no deed stamp affixed besides the *ad valorem* duty. (*Lant* v. *Peace*, 8 A. & E. 248.) —— *Rule nisi.*

Bilton v. Trewheller.
Trover—Breach of agreement.

James moved, pursuant to leave, to enter a nonsuit — verdict for the defendant. It was an action of trover to recover a promissory note for 52*l.* 10*s.* given by the plaintiff to the defendant, on condition, as alleged, that he would withdraw opposition to the discharge of the plaintiff's brother at the Insolvent Court, and procure his discharge. Some mistake occurred, and although there was no opposition, the case went into court, and the 2*l.* 10*s.* was said to have been added to repay the defendant the counsel's fees, when the opposition was withdrawn. It was therefore contended that the plaintiff could not recover, for by the payment of the 2*l.* 10*s.* the defendant obtained a lien upon the note, even if he had forfeited his claim to the 50*l.*

Rule nisi, not to go into the new trial paper.

Dobson v. Blackmore.
Injury to enable a reversioner to bring an action on the case for nuisance.

This was an action on the case for a nuisance in obstructing the river Thames by erecting the Waterman's Pier at Greenwich, to the injury of the plaintiff, as tenant in possession of certain houses approached by the river, and also as reversioner to others. It was tried before Lord Denman, C. J. at the last Surrey Assizes, and a verdict found for the plaintiff, with one shilling damages.

Shee, Serjt. now moved for a nonsuit or a new trial in arrest of judgment and a *venire de novo*. There were counts laying the injury to the plaintiff as tenant in possession, and counts laying the injury to him as reversioner. It was submitted that there was no evidence of any particular injury to him, which was essential. (*Wilkes* v. *Hungerford Market Company*, 2 Sc. 146.) 2. That the reversionary interest could be injured by none but a permanent obstruction, as any other would be liable to be abated at any time; and that the obstruction here proved was a temporary one. 3. That the counts charging an injury to the reversion were bad, because they shewed it to be a public nuisance, and therefore abateable. [Patteson, J.—But is it not stated in terms that the obstruction was injurious to the reversion?] Yes, still that will not make the counts good. *Rule nisi.*

Griffiths v. Lewis.
The originator of a slanderous report is not justified in repeating it when asked, in the presence of others, by the party of whom the slander is spoken.

This was an action of slander tried before Lord Denman, C. J. at Hertford; verdict for plaintiff, 10*l.*

M. Chambers now moved for a new trial, for misreception of evidence, for misdirection, and also for a *venire de novo*, as a general verdict had been given upon several counts, one of which was bad. The slanderous words complained of had been uttered in plaintiff's shop, in answer to a question put by the plaintiff to know whether he had previously said "that the plaintiff's son used two balls to his mother's steelyard," when the defendant answered, "Yes," and repeated the charge. It was contended that this being an answer to a question, it was a privileged communication, and although it might have been used as an admission of a prior slander, it could not be relied on alone, and that the question of malice ought to have been put to the jury. (*Toogood* v. *Skyryng*, 1 C. M. & R. 181; *Padmore* v. *Lawrence*, 11 A. & E. 380; *Blake* v. *Pilford*, 1 M. & R. 198; *Warr* v. *Jolly*, 6 Car. & P. 497.) Evidence of loss of an individual customer was admitted when it was not laid in the declaration.

Patteson, J.—There was no misdirection. If slanderous language is used, and any one is asked if he said so, and he replies, yes, and repeats it, it is not privileged communication. If you ask a person who did not originate it, to tell you what he knows about it, then the case is different. The distinction is clearly laid down in *Smith* v. *Matthews* (1 M. & R. 151).

Williams, J. and Wightman, J. concurred.

Lord Denman, C. J.—The proposition contended for is, that the deliberate uttering of slanderous words at one period gives the party a right to repeat them when the party injured calls for satisfaction. No authority is required to disprove such a proposition, and in truth it is contrary to all the authorities.

Rule refused.

The question as to the insufficiency of the 6th count was postponed for consideration.

Miers v. Green.
On a dissolution of partnership A covenants with B, the retiring partner, to pay certain debts due from the firm. Can B recover upon this covenant for any debts which he has not actually been obliged to pay?

Cockburn, Q.C. moved for a rule *nisi* to reduce damages from 509*l.* to 163*l.* It was an action in covenant by one partner against another for not paying certain debts due from the firm, according to his covenant. He proved that he had been forced to pay 163*l.* and that a judgment had been recovered against him for 342*l.* more, but which had not been satisfied. The question was, whether he could recover before actual payment. No authority was cited.

The Court suggested it should be turned into a special case. *To be turned into a special case.*

Stuart v. Wilkinson.
Inconsistent verdict.

Jervis, Q.C. moved to set aside the verdict for the plaintiff and enter it for the defendant, on the ground that it was a substantial finding for him. It was an action of trover for two heifers tried at Chester, and the jury returned the following verdict:—"We find for the plaintiff with the lowest possible damages; each party ought to pay their own costs, because there was a double fraud." Upon this a verdict had been entered for the plaintiff.

By the Court.—We can make nothing of this, unless it be, as you contend, a verdict for the defendant. The rule will be granted, but we recommend a *stet processus*. *Rule nisi.*

Doe dem. Molesworth v. Sleeman.
Is evidence by reputation admissible of boundaries of a reputed manor?

Greenwood moved for a new trial, on the ground of misdirection. Mr. Justice Coleridge, who tried the cause at the last Devon Assizes, held that when a manor was shewn to be only a reputed manor, evidence of reputation of its boundaries was not admissible. The question in dispute was, the right of the lessor of the plaintiff, as lord of the manor of Atherland, to strips of land eighteen feet from the hedge, called in Devonshire "landscores."

Cases cited: *Soane* v. *Ireland* (10 E. 259); *Steel* v. *Prickett* (2 Stark. 463); *Stanley* v. *White* (14 E. 332). —— *Rule nisi.*

Williams v. Wentworth.
Derby sweeps—"First horse" means the horse that is declared the legal winner.

This was an action brought to recover the amount of the stakes in a Derby sweep, consequent upon the Running Rein decision. By a judge's order the defendant paid the sum into court, and admitted the receipt to the use of the drawer of the card upon which was the name of the horse that was the first horse at the Derby, and that the plaintiff was holder of a card with Running Rein thereon. At the trial, before Lord Denman, C. J. his lordship had held "first horse" to mean the horse that won the race, and not Running Rein, and nonsuited the plaintiff.

Jervis, Q. C. now moved to set this aside for misdirection, and contended that "the first horse" must mean the one that first passed the winning-post.

The Court took the same view as Lord Denman, C. J. and the rule was *Refused.*

Tuesday, April 22.
Re Carus Wilson.
Habeas Corpus.

The Court of Queen's Bench will not receive affidavits to shew what the law is in an inferior jurisdiction in the Channel Islands, in contradiction to the return made thereby a competent Court to a writ of habeas corpus, in order to ascertain whether a prisoner has been properly committed by it for contempt of Court. But the Court will interfere where no judgment has been given by such inferior Court, or where the sentence is by an incompetent Court.

Courts are themselves the judges what tone and manner amounts to a contempt of Court.

Mr. Wilson appeared in court.

Peacock, in the absence of *Kelly*, applied for further time to oppose the return to this writ, on the ground that Mr. Wilson had only lately seen the return.

Lord Denman, C.J.—The facts and all the points have been long and well known; there is no sufficient ground for further postponement.

Kelly, Q.C. then applied for leave to file the affidavit of Mr. Laplace, a Jersey barrister, upon the law of the island on committals for contempt of Court, without a warrant in answer to the return. This was in the nature of an attachment, and therefore of a criminal proceeding, within the terms of the statute 56 Geo. 3, c. 100, s. 3.

The *Solicitor-General*.—This writ was not issued under the authority of that statute, and only under it can further affidavits be filed.

Kelly, Q. C. in reply.—The cases are analogous to criminal proceedings; and unless we put in affidavits shewing what the law of Jersey is, how can we contend against an act the validity of which depends on that law?

Peacock claimed to be heard on the same side.

The *Solicitor-General* objected.

Lord Denman, C. J.—We have no objection to hear you; but as the Court does not usually hear two counsel on a preliminary point, this indulgence must not be drawn into a precedent.

The *Solicitor-General*.—This Court cannot constitute a court of appeal, and sit in judgment on the laws of Jersey. The return states the prisoner was in custody under an adjudication by a Court of competent jurisdiction, and this Court cannot, therefore, enter into any discussion as to whether the Royal Court of Jersey has or has not exercised its discretion with propriety.

Their lordships deliberated for several minutes.

Lord Denman, C.J.—The return to the writ alleges that the prisoner was placed under a sentence of the Royal Court of Jersey, for a contempt committed therein, under the custody of the viscomte and gaoler of the island. It is now proposed to offer an affidavit to shew what the law of Jersey is, and that it has been untruly stated in the return. The question now before the Court is, whether that affidavit can be received by us. I take it to be an exception running through the entire law of *habeas corpus* that this Court cannot exert its power where the prisoner appears to be in custody under the legal judgment of a Court of competent jurisdiction. If the affidavit purported to shew that this return was fabricated, and the prisoner was not before the Royal Court of Jersey, then the affidavit might be received. Were we to receive it, we should constitute ourselves a court of error to review the proceedings of foreign and other courts, and be constantly called upon to reverse their proceedings. If a prisoner were convicted of murder, the Court could not interfere to review the sentence, without doing vital injury in delaying the course of justice, and perhaps in compelling criminals to be set at large. This principle has at all times been acted on, and we feel bound to give credit to other courts for having acted with propriety. Recently, a person was committed by an order of the Master of the Rolls. This Court, upon seeing the order, would not inquire whether it was made in his lordship's house or at the Rolls Court, but took for granted that the order was made in the manner and circumstances which the law required for its validity. The affidavit cannot be received.

Patteson J.—I am entirely of the same opinion. The statute applies only to cases where prisoners are detained without any process at all. This is a return by the officer in whose hands the prisoner is in custody. He is imprisoned by sentence of the Court of Jersey. All that is in the return about the law of Jersey is wholly immaterial. It is sufficient that he is in custody by the authority of the Court. The affidavit to shew what the law is, is not receivable therefore.

Williams, J.—The most favourable view of this case is that this writ issued at common law. This affidavit is wholly unauthorized in that case. It is very different from affidavits to shew that there was no judgment, or no competent Court. It is only a matter of common courtesy to suppose the power was exercised according to law. Neither is any principle of natural justice violated; for it is not urged that the party should not have a remedy in the Isle of Jersey; and this I do say, that we are bound to see that justice be done in all parts of the Queen's dominions. These affidavits are not receivable in evidence.

Wightman, J.—The affidavit relates rather to matter of law than of fact. Whether under other circumstances the affidavit might be received, I will not say, but it is not receivable under these.

On the return itself,

Kelly, Q. C. argued at considerable length, that the words of the protest implied no contempt of the Court by Mr. Wilson, and he had no other resource than that of protesting against the composition of the Court, before the interlocutory judgment was given. It would have been too late to have done so afterwards. The words of the sentence were that this tone was inconvenable, or unbecoming, but that did not imply contempt. In the next place, the sentence was bad, because there was no warrant of commitment. [Patteson, J.—There never is a warrant for the sentence of any Court of assize or session, in sentencing a prisoner. There was no necessity for one.] Then he is to be confined till he begs pardon, but of whom, and for what is he to beg pardon? On these grounds the judgment was clearly erroneous and informal.

Peacock followed on the same side, and on the necessity of a warrant cited *Furlong* v. *Bray* (7 Taunt. 83).

The *Solicitor-General* (with whom were *Wortley*, Q.C. and *J. W. Smith*) argued that the decision of the Court on the reception of the affidavit decided the whole question. The Court had already just decided that it would not review the decision of a competent Court. The prisoner had been committed by the Court, if not by warrant, because none was needed. In *Re Clarke* (2 Q. B. 619) the contempt was undoubted of interrupting the Court by repeated interruptions. [Lord Denman, C.J.—I don't find that stated so strongly in the return as you put it.] His tone and manner were inconvenable—which means indecent. Of this manner and tone the Court, who were not present, could not possibly judge, without violating the principle they had just set up, that the Jersey judges must be presumed to have done rightly, and to have passed

a legal sentence. (*Rex* v. *Suddis*, 1 East, 306.) The pardon required was clearly for the offence committed, and it would have been sufficient to have said he begged pardon according to the sentence of the Court.

Peacock replied.

Lord DENMAN, C. J.—We can decide this case on the return made. We must give full credit to the Court for having acted rightly. This party has been committed to prison for an alleged contravention of the law, which renders him liable for a contempt committed against the Royal Court of the Island of Jersey. If the return had shewn on the face of it that anything unjust or absurd had been done, that would have been a good ground for interfering. This occurs with regard to decisions in the colonies, which are made sometimes in the absence of the parties, under circumstances opposed to principles of justice. Here, however, the question was, whether the conduct of the prisoner amounted to a contempt of the Court, and this question it is the unfortunate duty of Courts to decide for themselves. Now, words which in themselves are most innocent may be rendered offensive by the tone in which they are uttered, and may or may not have amounted to disrespect. In this case the Court of Jersey has decided that they did, and this Court cannot interfere or consider the propriety of an adjudication which all courts make with extreme reluctance, an instance of making which has not occurred in this court for more than a century: it is an exercise of authority which no judge of this court would wish to revive except in a case of the most urgent necessity. Far best is it for Courts to pass over mere words of temporary passion, which do not convey premeditated insult; and most reluctantly ought the power of committing for contempt to be exercised. The Court of Jersey has exercised its discretion, and a warrant is clearly not needed for any sentence a Court passes. The prisoner, therefore, must be remanded.

PATTESON, J.—Courts must decide for themselves what is a contempt. Here the prisoner was repeatedly warned to be more cautious in his expressions. I do not put the case on the protest, but the manner of it. There is an appeal to the Queen in Council, but we decide on grounds independent of that. The Court of Jersey has acted, and they are the judges.

WILLIAMS, J.—It is obvious that words that would be innocent spoken respectfully, may be very improper when spoken in a different manner. They who were present are the only persons who can decide upon the tone and manner used by Mr. Wilson. Mr. Kelly has assumed that the manner was not disrespectful, but the return states that it was in a tone of contempt and impropriety:

Dabiturque licentia sumpta pudenter.

I think that we must uphold the sentence of the Court of Jersey, and that the prisoner must be remanded until the fine be paid and the pardon asked.

WIGHTMAN, J. concurred.

[The bailiff here attempted to arrest Mr. Wilson in court, who exclaimed, in a loud tone, "Where is your warrant?" A colloquy ensued.]

Lord DENMAN, C.J.—Let there be no conversation here. The prisoner is remanded to the custody whence he came from.

HARRIS v. REYNOLDS.

Pleaders must briefly state the points to be argued in the margin of special demurrers in the Queen's Bench, in default of which they will be struck out of the paper.

A plea of an arbitration pending is not a plea in abatement, and is bad as a plea in bar to an action for the same subject-matter.

Demurrer, Assumpsit for work and labour, and goods sold; to which it was specially pleaded that the subject-matter of the action had, previously to action brought, been referred by mutual consent.

PATTESON, J.—What is this demurrer about? I have over and over complained of demurrer-books without a brief statement of the points for argument in the margin. I will not be compelled to wade through the mass of nonsense of which special demurrers consist to find out what they mean.

Lord DENMAN, C.J.—I too have frequently complained of the same practice; it is like wandering in a wood to wade through the wilderness of words in these special demurrers to extract the points. I wish it to be understood that hereafter all such demurrers shall be struck out of the paper.

Peacock.—The plea here does not amount to accord and satisfaction, and is bad, for it does not deny the debt, but on the contrary admits it, and merely says that there was an agreement to refer. An arbitrament without performance, is no satisfaction. (*Allen* v. *Milner*, 2 Cr. & Jer. 47). [WIGHTMAN, J.—Suppose that the arbitrator had made his award after action brought and judgment recovered, what would be the effect?] The only course in that case would be for the other party to bring an action for having sued contrary to the agreement. The arbitrator has merely to discover what is the debt, and this alone cannot amount to an accord which is executed. It is executory only. (*Bayley* v. *Homan*, 3 B. N. C. 915; *Good* v. *Cheesman*, 2 B. & Adol. 335.)

Butt, Q. C.—This is in the nature of a plea in abatement, and like a plea of another action pending. We have both agreed to refer. (*Kill* v. *Hollister*, 1 Wils. 129.) If an action pending is a good plea, why not an arbitration? There is no objection taken to the commencement or conclusion in the demurrer.

Peacock, in reply.—This plea is no plea in abatement, as it does not commence or conclude as one in accordance with R. G. 4 Wm. 4. It is a plea in bar. The judgment to a plea in abatement is *respondeat ouster;* here it is final. It can only be known that it is a plea in abatement by its proper conclusion and termination. (2 Saund. 209, c.) Moreover, it must be pleaded within four days, and this was not.

Butt, contrà, cited *Vivian* v. *Jenkins* (3 Ad. & Ell. 741); *Steward* v. *Graves* (10 M. & W. 731).

Lord DENMAN, C. J.—This is clearly a plea in bar, and not a plea in abatement, and is undoubtedly bad.

PATTESON, J.—It is quite clear that it is a plea in bar, and if so, it is admitted that it is bad; or, whether admitted or not, so it is. A plea in abatement must be pleaded in four days. This has not been pleaded for eleven days.

WILLIAMS, J. and WIGHTMAN, J. concurred.

Butt applied for leave to amend.

Lord DENMAN, C. J.—Certainly not. I do not like amendments after argument.

Judgment for the plaintiffs.

EKIN and ANOTHER v. FLAY.

Unless expressly provided to the contrary, wherever a local Act exempts horses, &c. from second tolls which repass the same day, that exemption extends to a down-coach drawn by the same horses, but being a different vehicle and with different passengers to the up-coach of the same day.

Assumpsit.—This was a special case, after issue joined in an action to recover 6*l*. 16*s*. being half the amount paid by the plaintiffs as proprietors of two stage-coaches, called the Telegraph, running daily between Cambridge and London, in respect of tolls for the coach, to the defendant as lessee of the tolls, being 4*d*. on each horse for 103 journeys through a certain gate near Cambridge, and which was levied by defendant on the same four horses which draw the down-coach at night as draw the up-coach in the morning, the coach and passengers being different. The question was whether, under a local Act, 4 Vict. c. 20, this double toll could be legally demanded; the 11th section* of which enacts that one toll "only for passing and repassing once only in the same day, with the same horses, through any of the gates, shall be levied," &c. Sec. 13 provides that no horse shall be thus exempted, drawing another different waggon, wain, cart, or other such carriage. Section 14 then enacts that as to all horses drawing any stage-coach, &c. no additional toll shall be payable at any toll-gate "the payment of which shall be freed by such ticket as aforesaid, on account only of their conveying other passengers, or of the horses or cattle drawing the same having been changed."

Gunning, for the plaintiffs, contended that the toll was levied on the horses, and not on the vehicle, and argued at length that the construction of the statute did not warrant the double toll. He cited *Reg.* v. *Ruscoe* (8 Ad. & Ell. 386); *Sandiman* v. *Breach* (7 B. & Cr. 96); *Williams* v. *Sangar* (10 East. 66); *Norris* v. *Poate* (3 Bing. 41); *Niblett* v. *Pottow* (1 B. N.C. 81); *Hopkins* v. *Thorogood* (2 B. & Adol. 916).

PATTESON, J.—The Act is, as usual, full of confusion throughout; they made it so intentionally, I have no doubt.

Peacock. contrà.

Lord DENMAN, C. J.—I think that, although some of the provisions are unnecessary, and the Act is obscurely worded, the 11th section allows the same horses to pass without second payment. In the 12th section they require persons to produce tickets, but I think they mean that stage-coaches are so well known that they do not need to produce a ticket.

PATTESON, J. — The 13th section is clumsily worded, and the difficulty arises there; but I think that the intent from the whole Act is clearly enough to exempt the return-horses of coaches from second payment.

WILLIAMS, J. concurred.

WIGHTMAN, J.—It is quite clear that the 11th section is strong enough to exempt the return-horses from toll. If it had been intended to except stage-coaches repassing on their return journey from the general exemption in that section, they would have been specially excepted by an express parenthesis, among those with which these Acts abound, in the subsequent and excepting clauses.

Judgment for the plaintiff.

Wednesday, April 23.

REG. v. INHABITANTS OF ORTON.

A notice to produce in the form of a summons from a justice, served upon the overseers of the parish in which the pauper is supposed to be settled, will not be sufficient to let in secondary evidence at the hearing before the removing magistrates.

This was a case sent from the Lancashire Sessions, but the only point decided was as to the sufficiency of a notice to produce, to entitle the respondents to give secondary evidence of the contents of the rate-book. The sessions had admitted the evidence and confirmed the order.

Drinkwater (with whom was *Pashley*) appeared to support the order of sessions. No technical form of notice to produce is necessary. (*Smith* v. *Young*, 1 Campb. 439.) There proof of a parol notice was held sufficient. This was addressed to the overseers of Orton, and served upon one. It gave notice to produce all books of rates or assessments for the relief of the poor between the years 1837 and 1841, and informed them when and where to produce them. The objection is, it is called a summons, and not a notice. The only material point to determine is, whether it conveys the requisite information. More could not have been done, and the notice shews that the proceeding is to fix the parish of Orton. A *subpœna* would not have issued. Besides, after this was served, one of the overseers admitted that the pauper belonged to his parish, and talked of attending at the hearing before the magistrates who made the order, and, as he might have been present, it is like cases where an opportunity for cross-examination has been allowed to pass by. (*Cazenove* v. *Vaughan*, 1 Mau. & S. 4.)

Archbold (with him *Olter*), contrà.—This is no notice at all. It is not signed by the overseers of the respondent parish or any persons on their behalf, but by a justice. It is a summons issued by the justice without any authority. The appellant parish is no party until an order is made. A *subpœna* might have issued, and the party would have been compelled to appear and produce the rate-book. The admission proves nothing, for it is not shewn that the overseer was a rated inhabitant.

Lord DENMAN, C.J.—We cannot support this notice upon any legal principles, consequently the secondary evidence as to the assessment was inadmissible, and the order bad. Justices have no power to summon.(*a*) There are means to compel attendance, and these should be resorted to.

Order quashed.

REG. v. BAKEWELL.

The Court of Queen's Bench will not interfere with a decision of the sessions upon a matter of fact which they are competent to make. The rule laid down in Reg. v. Kesteren will be strictly observed.

In this case the sessions had decided that the examinations were calculated to mislead, and therefore quashed the order, but granted a case. In the case sent up the alleged uncertainty of description was set out, and the decision of the sessions, that they granted a case, but contained nothing for the opinion of the Court of Queen's Bench, nor what was to be the result. It appeared that the objection held fatal at the sessions was, that in proving a derivative settlement, the marriage was described to have taken place in the church at Biwell, and there were two adjoining parishes called respectively Biwell St. Andrew's and Biwell St. Peter's, and the church in each was called Biwell church. There was no parish of Biwell, and the churches were about 200 yards from each other.

Wildman.—The case cannot be heard. (*Reg.* v. *Kesteren*, 3 Q. B. 810.) [Lord DENMAN, C. J.—What point of law are we to decide?] It was suggested that it was whether the sessions were right or not right. [Lord DENMAN, C. J.—They were most wrong to ask our opinion.]

Ingham (with whom was *Willmore*), contended that although the case was worded strangely, the Court would give some meaning to it: and that they were in the same position as if the merits had been found for the respondents, and that would be the result if the Court should now hold that the sessions were wrong. The Court is not precluded from deciding now. [Lord DENMAN, C.J.—But are we *bound* to do so?]

Lord DENMAN, C.J.—It is with very great regret that we decide, that as this decision was made so it must stand, for had the question been put to us, we should have held differently. But we must not take upon ourselves the duty which the law casts upon others. It is a very great sacrifice to this principle when we refuse to hear this case, but we should have a new code of practice altogether if we were to swerve from it.

BUSINESS OF THE WEEK.

Friday.

DOE dem. EGREMONT v. COURTNEY.—*Kinglake*, Serjt. moved to set aside the verdict for the lessor of the plaintiff. *Cur. adv. vult.*

FRANCE v. DAWSON.—*Talfourd*, Serjt. moved for a rule *nisi* for a new trial, on the ground that the verdict was against evidence. *Cur. adv. vult.*

LAMBERT v. LYDDEN.—*Rogers*, Q.C. moved to set aside the verdict for the defendant, and for a new trial, upon affidavits of surprise, and perjury of the only witness for the defendant. *Cur. adv. vult.*

MURIETA v. OLDFIELD.—*Kelly*, Q.C. mentioned that he should move to amend a rule in this case.

(*a*) See now 7 & 8 Vict. c. 101, s. 70.

Reg. v. Douglas.—*Kelly*, Q.C. moved to enter a verdict for the defendant.

To be heard when defendant brought up for judgment.

Hammond v. South Eastern Railway Company.—*Shea*, Serjt. moved to set aside the verdict, as against evidence. *Rule refused.*

Duddon v. Drew.—*Hodges* moved for a new trial, on the ground of surprise, and that the verdict for the defendant was against evidence. The Court said they would see the learned judge before whom the cause was tried.

Cocker v. Musgrove and Moore.—*Bovill* moved for a rule *nisi* for a new trial, on the ground of misdirection. *Cur. adv. vult.*

Saturday.

Wood v. Hewitt. *Rule to shew cause granted.*

Doe *dem.* Lord Downe v. Thompson. *Rule nisi granted.*

Pattendale v. Hudson. *Rule refused.*

Normansel v. Creff.—*Whateley*, Q.C. moved for a rule *nisi* for a new trial, on the ground that the verdict found for the defendant in this case was against evidence. *Rule nisi granted.*

Hansel v. Hatton.—*Knowles*, Q.C. moved for a rule to shew cause why the verdict found for the plaintiff should not be set aside and a new trial had upon the payment of costs. He moved on the ground of surprise, and of the verdict being against evidence. *Rule nisi granted.*

Atkinson v. Lane. *Rule refused.*

Bowles v. Pilburn. *Rule nisi granted.*

Rogers v. Shannon. *Rule nisi granted.*

Rolls v. Gambler and Others. *Rule nisi granted.*

Phillips v. Bradley. *Rule nisi granted.*

Monday.

Alcock v. Netherwood.—At the sitting of the Court, *Bovill* moved to rescind a judge's order, and to set aside a *test. fi. fa.* issued in this case, on the ground that it was against good faith. The Court said they would see Mr. Baron Rolfe, who made the order.

King v. Thompson.—*Mellor* moved for a rule *nisi* to set aside the verdict, on the ground of excessive damages and surprise.

Rule granted not to go into [illegible] trial paper.

Watt v. Darlington.—*Whitehurst*, Q. C. moved to set aside the verdict for the plaintiff, and for a new trial, on the ground of the verdict being against evidence and upon affidavits.

Affidavits handed to the Court.

Sappery v. Wray.—*Clarke*, Serjt. moved for a new trial, on the ground of misdirection. *Rule nisi.*

Doe *dem.* Pennington v. Santers.—*Pearson* moved to set aside the verdict, and enter a nonsuit. *Rule refused.*

Bryant v. Jennings.—*Sanders* moved for a new trial, the verdict being against evidence. *Rule nisi.*

Alfred v. Farlowe.—*Cockburn*, Q.C. moved in arrest of judgment, on the ground that the words did not support the innuendo. *Cur. adv. vult.*

Reg. v. Pelham.—The points to be considered when the defendant is brought up for judgment.

Girdlestone v. M'Gowran.—*James* moved for a new trial, or for judgment for the plaintiff, *obstante veredicto.* *Rule refused.*

Doe *dem.* Archer v. Farley.—*Newton* moved for a new trial, on a stamp objection, and on the ground of surprise. Cases cited: *Lant* v. *Peace* (8 A. & E.); *Brown* v. *Pegg* (12 L. J. Q. B.)

Rule nisi not to go into the New Trial Paper.

Tuesday.

Lane v. Dumaresque.

Rule nisi for new trial.

Wednesday.

Reg. v. Inhabitants of New Sarum.—This was a special verdict upon an indictment against the inhabitants of the borough of New Sarum, for non-repair of a certain bridge, formerly repaired by the county, but situated within the district annexed to the old borough of Sarum by the Municipal Corporation Act. *Cockburn*, Q. C. with whom was *Bull*, Q. C. and *Barston*, appeared to support the indictment; and *Crowder*, Q. C. with whom was *M. Smith*, for the inhabitants. *Cur. adv. vult.*

Reg. v. Inhabitants of Sevenoaks.—This case involved a question as to the justices to whom notice of a writ of *certiorari* is to be given, and the extent of an attorney's authority employed to prosecute an appeal; and was argued by *Deedes* on one side, and by *Pashley* contrà. *Cur. adv. vult.*

Reg. v. Appleby.—A note of this case will be given next week.

Holford v. Grayling.—On the motion of *Talfourd*, Serjt. this was fixed for Tuesday next. It turns upon the proper remedy for disturbance of a general fishery.

COURT OF COMMON PLEAS.

Friday, April 18.

Rawlins v. Bell and Wife.

New trial—Fraudulent misrepresentation.

Channell, Serjt. (*Petersdorff* with him) moved for a rule to shew cause to enter a verdict for the plaintiff for 66*l.*

The plaintiff, in the course of his employment as a broker, had, under the written order of the plaintiff's wife, seized certain goods. It was alleged this representation was fraudulent. A verdict had passed for the defendants on the plea of "Not Guilty," and for the plaintiff on all the other issues.

Cases cited: *Humphreys* v. *Platt* (2 Dow. & Clark, 288); *Collins* v. *Evans* (13 Law Jour. N.S. Q.B. 180); *Adamson* v. *Jervis* (4 Bing. 66); *Williamson* v. *Allison* (2 East, 446); *Brown* v. *Edginton* (2 Scott's N.R. 496); *Toplis* v. *Grane* (5 Bing. N.C. 636).

Rule nisi.

Osborn v. Newport.

New trial—Surprise—Misdirection—Verdict against evidence.

Sir *T. Wilde* (*Bovill* with him) moved for a rule to shew cause why a new trial should not be had, on the ground of,—1. Surprise; 2. Misdirection; and 3. That the verdict was against the evidence.

Cases cited: *Carne* v. *Brice* (7 M. & W. 184); *Wallace* v. *King* (1 H. Blackstone, 13); *Messing* v. *Kemble* (2 Campb. 115). *Rule nisi.*

Smith v. Barretto.

Byles, Serjt. moved on affidavits for a rule to shew cause why the verdict in this cause should not be set aside. *Rule nisi.*

Patteson v. Holland.

Sir *T. Wilde*, Serjt. (*Webster* with him) moved for a rule *nisi* why the verdict in this cause should not be set aside, and a new trial had. *Rule nisi.*

Legrelle v. Davis.

Foreign bills of exchange—Want of stamp—Illegality.

Tried before Lord Denman, C. J. at the last Surrey Assizes: verdict for the plaintiff, damages, 600*l.* Action brought on two foreign bills of exchange drawn in Belgium.

Byles, Serjt. moved for a rule *nisi* to enter a verdict for the defendant on both of the bills.

In this case the bills were without the stamp required by the law of Belgium, and by that law were declared void; and the question was, whether a court of law in this country would so far regard the *lex loci contractûs* as to hold that such a bill of exchange could not be enforced, in England. (Storey's Conflict of Laws, last ed. 341.) *James* v. *Catherwood* (3 Dow. & Ry. 190) is distinguishable from this case.

Rule nisi.

Atkinson and Others Foster.

Action brought on a charter-party, tried at the last assizes at Liverpool, before Wightman, J.; verdict for the defendant.

Byles, Serjt. (*Drinkwater* with him) moved for a rule *nisi* for a new trial, on the ground of surprise, and also misreception of evidence.

Rule nisi on the latter ground only.

Saturday, April 19.

Doe *dem.* White v. Okey.

Landlord and tenant—Notice to quit.

Byles, Serjt. moved, pursuant to leave reserved, to set aside the verdict which had been found for the defendant, and to enter instead a verdict for the lessor of the plaintiff.

This action of ejectment was brought to recover a certain messuage and pasture land of which the defendant was tenant to White under an agreement dated 25th of June, 1842, by which White agreed to let to the defendant the premises in question for one year from the 25th of March then last, and so on from year to year until the tenancy should be determined by either party giving to the other six months' notice to quit. The agreement then reserved a yearly rent of 30*l.* payable half-yearly, or a proportionate part for every time less than a year that the defendant should occupy the premises. A notice to quit was given in August, which expired in February last; and the objection at the trial was, that the notice did not expire at the end of the year of the tenancy. It was submitted that the construction to be put on the agreement was, that a notice might be given expiring at any time of the year, as the rent was reserved payable for a proportionate part of a year, and therefore contemplated a tenancy determinable in a part of a year.

The Court, however, thought that enough was not shewn to deviate from the general rule.

Rule refused.

Wilson v. Boodle.

Landlord and tenant—Surrender—Apportionment.

Channell, Serjt. moved for a rule to shew cause why the verdict found for the plaintiff should not be set aside, and a new trial had, on the ground of misdirection.

The action was for use and occupation. The plaintiff was trustee for certain persons to whom, in 1840, the property in question had been mortgaged by Edward Boodle, who became entitled to the property as devisee under the will of Robert Boodle. In 1832, an agreement had been made between Robert Boodle and the present defendant, Ann Boodle, by which the former agreed to accept the latter as yearly tenant of the land and premises, at the rent of 31*l.* from the 2nd November, 1832, during the term of the natural life of the defendant. The agreement was not under seal, and failed to operate as a conveyance for the life of the defendant, but the defendant having entered into possession thereunder, became a yearly tenant. Before the mortgage by Edward Boodle, it appeared from the evidence that there had been an agreement by which he should take the demised premises back from the defendant, and it also appeared that a valuation of the stock had been made, and money paid on that account. There was afterwards a division of the demised premises; two of the fields being let to a person of the name of Campbell, and the other field being let to one Barker. It was contended at the trial, on behalf of the defendant, that there had therefore been a surrender of the premises by operation of law, before the mortgage under which the plaintiff claimed. In answer to this, the plaintiff shewed that in the letting to Campbell, the lease was granted by the defendant, and although the rent was paid to Edward Boodle, yet it was in the presence of the defendant. The learned judge thought that it made no difference that the field let to Barker was not included in the lease granted by the defendant to Campbell, but left it to the jury whether, notwithstanding the lease, there had been a surrender of the premises to Edward Boodle. It was now submitted that, at any rate, there should have been an apportionment of the rent, by the jury, and that the direction was wrong.

The Court said that they were disposed to think that the learned judge had properly treated the matter as one case, and that no distinction was to be made between the two lettings; that there either was or not a surrender by operation of law, and that no fault was to be found with the manner in which that had been left to the jury. *Rule refused.*

Tuesday, April 22.

Re Atherton.

Acknowledgment of a married woman under 3 & 4 W. 4.

Talfourd, Serjt. applied for a commission to take the acknowledgment of a married woman, who, with her husband, was residing at Sydney. The Act 3 & 4 Wm. 4, c. 74, s. 83, gives authority for the appointment of commissioners to take the acknowledgment of any married woman to be named in the commission; and the difficulty in the present case was, that the Christian name of the lady was not known. The conveyance, however, would be sent out with the commission in blank as to the name, which would be filled up at Sydney.

The Court said, that the commission might issue, care being taken at Sydney that the identity of the married woman be sufficiently established by proper affidavits.

Wednesday, April 23.

Doe *dem.* Stevenson v. Glover.

Testator devised lands after the death of his wife to his son M. and his heirs and assigns for ever: but in case his son M. should happen to depart this life without leaving issue of his body lawfully begotten and living, and he should not have disposed and parted with his interest of and in the devised premises, then and in such case the testator gave and devised the same to his daughter A. in fee. M. the testator's son, died seized of the premises, without having disposed of the same, except by will. Held, that the devise over to the testator's daughter A. was a good executory devise, and that the will of the testator's son M. was not a disposition which prevented the executory devise from taking effect.

This was a special case, the material facts stated in which were as follow:—Glover, the testator, being seized in fee of a copyhold close and premises, by will devised the same to his wife for her life, and after her decease he thereby gave and devised the same to his son Mordecai Glover, to hold unto him the said Mordecai Glover, and his heirs and assigns for ever; but in case his, the said testator's, son Mordecai Glover should happen to depart this life without leaving issue of his body lawfully begotten and living, *and he, the said testator's son, should not have disposed and parted with his interest* of and in the said copyhold close and premises, then and in such case the said testator gave and devised the same to his illegitimate daughter, Ann King, the wife of —— Stevenson, her heirs and assigns for ever.

The testator died leaving his widow, the said Mordecai Glover, and Ann Stevenson him surviving.

After the death of the testator, the widow entered on the devised premises, and continued possessed thereof until her death, which happened in 1804, when the testator's son, Mordecai Glover, entered into possession, and was duly admitted at the Court Baron.

Mordecai Glover, by his will, gave and devised all his freehold and copyhold property unto his wife Sarah in fee, and afterwards died seized of the said copyhold close and premises, without having disposed thereof, except by his said will.

On the death of the said Mordecai Glover in August 1843, Sarah Glover entered into and was admitted of the said close and premises.

Ann Stevenson died, leaving her son William,

the lessor of the plaintiff, her customary heir her surviving.

The question for the opinion of the Court was, whether the lessor of the plaintiff in August 1843, was entitled to the said copyhold, close, and premises.

If the Court should be of opinion that he was, judgment was to be entered for the lessor of the plaintiff; and if, on the contrary, that he was not, the defendant was to have a *non pros.* entered.

Sir *Thomas Wilde*, in behalf of the lessor of the plaintiff, submitted that the estate to the testator's son, Mordecai, was a qualified one, and that the subsequent limitation over operated by way of executory devise, which took effect on the death of Mordecai Glover, without his having disposed of the property in his lifetime, and that the devise did not authorize a disposition by will, but only such a disposition as was to take effect during the life of Mordecai Glover. There was here also no such general restraint of alienation as made the executory devise over void, but only a partial restraint.

The following cases were referred to: *Porter* v. *Bradley* (3 T. R. 143); *Forth* v. *Chapman* (1 P. Wms. 663); 6 Cruise Dig. title "Devise," ch. 19; 2 Jarman's edition of Powell on Devise, 265; *Doe dem. Gill* v. *Pearson* (6 East, 173); *Ware* v. *Cann* (10 B. & C. 433); 1 Roper on Legacies, 559 & 678; *Ross* v. *Ross* (1 J. & W. 154); *Doe dem. Thorley* v. *Thorley* (10 East, 438); Sug. Power, 4 ed. 218; *Rex* v. *Marquis of Stafford* (7 East, 521): *Beachcroft* v. *Broome* (4 T. R. 441).

Gaselee, Serjt. contra, contended, first, that the fee absolutely passed to the son, Mordecai, by the words of the will; and secondly, if it did not pass absolutely and unconditionally, then that the condition had been performed by a disposal by will. Jarman on Devises, 809, was referred to. It was also urged, that the word "dispose" was a term ordinarily used with reference to an alienation by will, and shewed, therefore, an intention that Mordecai Glover should have such power of disposal.

Sir *Thomas Wilde*, in reply, was stopped by the Court.

TINDAL, C. J.—This case appears to me not to fall within that class of cases where there are conditions repugnant to the estates given, but to be an executory devise granted to take effect on the happening of certain events which have in fact happened. The question always is, what is the intention of the testator? There is in the present little or no doubt as to that. What the testator says is, that his daughter should have the property, should his son Mordecai die without issue and without having disposed and parted with his interest in the same. The words "parted with his interest" are explanatory of what the testator meant by the word "dispose," and mean evidently some disposal by deed in his, the son's, lifetime. If the words "parted with" had stood there only, there could have been no doubt that it must have had reference to an alienation before death; and I think that the same construction should have been put, even if it had rested on the word "dispose" alone. But a will is a disposition which does not take effect until after death; that, therefore, would not be a compliance with what is required to take effect during life. Looking generally at this will and the intention of the testator, as collected from the terms of the will, this seems to me to be a devise giving power to the son to dispose of the property during his life; but that if he did not so part with it, and left no issue, it was the wish of the testator that it should go over to his daughter, and which is surely not an unreasonable desire.

COLTMAN, J.—There can be no objection to this limitation as an executory devise. There is no general restraint of alienation, for it recognises a power of disposition by a conveyance in the lifetime of the son. Then, if we look at the grammatical construction of this will, it certainly points to what may be the state of things at the time of the death of the son; and we ought to adhere to such grammatical construction, unless the same would lead to any absurdity, which is not the case here; and I think, therefore, that the judgment should be for the lessor of the plaintiff.

CRESSWELL, J. and ERLE, J. concurred.

Judgment for the lessor of the plaintiff.

Thursday, April 24.

WILLIAMSON *v.* PAGE.

A commission to examine witnesses upon interrogatories authorized the commissioners to put additional questions to the witnesses when it should appear to them to be necessary and proper. It appeared from the return to this commission, that the defendant, having relinquished the greater part of direct interrogatories to a witness produced by him under the commission, proposed to proceed with examining him upon additional questions; that the plaintiff objected to this, but that subject to such objection the commissioners proceeded with the examination of the witness on such additional questions:—Held, that as it appeared the commissioners had not exercised any discretion of their own in putting these additional questions, the examination so taken was unauthorised and inadmissible in evidence.

Assumpsit for work and labour, money paid, and on an account stated. Pleas, except as to 15*l.* *non assumpsit*, and as to that sum payment into court of 15*l.* At the trial before Cresswell, J. at the last Summer Assizes at Liverpool, it appeared that the action was brought against the defendant as the owner of a vessel for work done by the plaintiff as broker in procuring a cargo for her, and for money advanced by him to the captain while at the port of Belfast, in Ireland, to enable the vessel to be cleared off from that port. Under the authority of 1 Wm. 4, c. 22, s. 4, an order had been made by Coltman, J. for the issuing of a commission to Belfast for the examination of witnesses.

The writ of commission issued pursuant to this order, and tested the 12th June, 7 Victoria, was directed to John Bates and Hugh Crawford, commissioners named by the plaintiff, and John Cramsie and James Andrews, commissioners named by the defendant, and empowered them to examine Samuel M'Dowell and Robert Simms, and all such other persons as might be produced at the execution of the said commission as witnesses upon certain interrogatories to be exhibited to them, as well on the part of Wm. Williamson, plaintiff, as on the part of William Sagon Page, defendant in this action; and thereupon the commissioners were required to examine the witnesses upon the interrogatories upon oath, and to take their examinations and reduce them into writing, and to send the same to the chambers of Mr. Justice Coltman, together with the interrogatories and writ of commission, on or before the 1st August then next. The writ of commission then proceeded as follows:—"And we do further authorize and command you, that you put, or cause to be put, additional questions to the said witnesses when it shall appear to you to be necessary and proper, and that you do cause such questions to be put down in writing and returned with the answers thereto, together with the aforesaid interrogatories and answers under this commission."

By the return of the commissioners to this commission it appeared that several witnesses had been produced by the plaintiff, and examined on the interrogatories delivered by him, but that they had been, at the request of the defendant's agent, cross-examined only on two or three of the interrogatories, delivered by way of cross-examination, and that then additional questions had been put to them by way of cross-examination. The return set forth these additional questions and answers in the following manner: "Additional questions put on behalf of the defendant to Samuel M'Dowell, a witness for the plaintiff, by way of cross-examination, with the answers of the said Samuel M'Dowell thereto;" then followed thereunder the questions to and answers of the witness.

Annexed to the deposition of Scott, a witness produced by the defendant, the following statement was contained in the return: "The attorney attending before us on the part of the defendant relinquished the other direct interrogatories of the defendant attached to the commission as regards the witness under examination, and proposed to proceed with his examination upon additional questions to be administered under the commission. The plaintiff objects to the defendant's right to adopt this course; insists that the defendant is bound to examine this witness to all the defendant's direct interrogatories attached to the commission; and also that the defendant is not, under the circumstances, entitled to now proceed to examine this witness on additional questions in the manner proposed. Subject to these objections, we have proceeded with the examination of the said witness on such additional questions."

At the trial, the plaintiff read such of the answers as he required to his interrogatories, and the defendant desired then to have read the answers of the witnesses to the additional questions which had been so put. This was objected to on the part of the plaintiff; no distinction was made as to any particular witness, but the objection was general against reading the answers to the additional questions, and the learned judge allowed the objection and refused to receive the evidence. A verdict was found for the plaintiff, damages 25*l.*

In Michaelmas Term last a rule having been obtained by *Channell*, Serjt. calling on the plaintiff to shew cause why this verdict should not be set aside and a new trial had on the ground of improper rejection of evidence,

Murphy, Serjt. (*Robinson* with him) now shewed cause.

Channell, Serjt. in support of the rule, relied on the additional questions being only such as were proper for the clearing up of doubts arising from the answers to the previous question administered under the commission.

TINDAL, C. J.—In this case an authority is given to certain commissioners in the ordinary way to examine witnesses as well on the part of the plaintiff as of the defendant, and if the authority had stopped there, there can be no doubt that the authority was only to obtain answers to such questions as should be exhibited to them; but there is an additional power given to the commissioners, namely, "to put or cause to be put additional questions to the said witnesses when it shall appear to you to be necessary and proper." The object of this was to guard against surprise to either of the parties by any sudden answer to any of the interrogatories; but it was not to introduce a power of general examination at the will of the commissioners. A reasonable discretion was given only thereby to the commissioners to put such additional questions as they should consider necessary for the purpose of elucidating the answers to the interrogatories exhibited by the parties. It is clear that the Court meant by the commission to intrust this to the discretion of the commissioners, and what we have now to see is whether the commissioners have exercised in the matter any such discretion. It appears to me that they have not exercised any discretion. They had no authority to return any special finding. The parties in the cause have submitted the matter to the discretion of the four commissioners, and it is the misfortune of such parties who chose them if two of the commissioners thought one way, and two the other, so that they came to no determination on the matter. It is not strictly necessary that it should appear the additional questions were put to the witnesses by the commissioners themselves if they adopted the questions, as that would virtually be the same. The return states that the plaintiff objected to the defendant proceeding to examine on additional questions; now what is the determination come to on this by the commissioners? do they say that the defendant shall, or not so proceed? It appears they say neither the one or the other, but that, subject to this objection, they have proceeded with the examination of the witness. It is impossible, therefore, not to see that two of the commissioners thought that the defendant might so proceed, and two thought that he might not, and that, instead of determining the matter for themselves, they have reserved it for the Court. For these reasons I think the verdict ought to stand, and that the evidence was properly rejected.

COLTMAN, J.—My brother *Channell* has satisfied me that many of the additional questions which were put were fit and proper to have been put, but that is not now for us to decide on. The question is, have the commissioners exceeded or not their jurisdiction? and as it doe[illegible] appear that they have exercised any judgment [illegible]he subject of putting these questions, I agree in thinking that they had no authority to take the answers thereto.

ERLE, J. delivered a similar judgment.

Rule discharged.

BUSINESS OF THE WEEK.

Friday.

SMITH *v.* GIBBONS. *Rule nisi.*

GIBBS *v.* TUNALEY.

To consult with Parke, B. before granting the rule.

ROBERTSON *v.* JACKSON. *Rule refused.*

Saturday.

RAWSON *v.* ALLEN.—*Channell*, Serjt. in behalf of defendant, moved for a new trial, on the ground of misdirection. *Cur. adv. vult.*

COOMBER *v.* HOWARD.—*Channell*, Serjt. moved for a rule to shew cause why the verdict, which had been found for the plaintiff, should not be set aside, on the ground of misdirection. *Rule refused.*

WADE *v.* SIMEON.—*Kinglake*, Serjt. obtained a rule calling on the plaintiff to shew cause why all further proceedings in this cause should not be stayed. *Rule nisi.*

Tuesday.

COLSON *v.* BISHOP OF CARLISLE.—*Manning*, Serjt. shewed cause against a rule obtained by *Talfourd*, Serjt. calling on the plaintiff to elect on which of the six counts in this action of *quare impedit* he would proceed, and why the other counts should not be struck out.

Rule enlarged until next term, to enable the parties to agree to the trial of the cause on one count, with such pleas as may meet the justice of the [illegible]

BULL *v.* WESTON.—*Byles*, Serjt. moved to set aside the attachment which had issued against the sheriff of Buckingham upon payment of the costs up to this the day of moving. *Rule nisi.*

FOWLER *v.* RUSSELL.—*Byles*, Serjt. (with him *Hayes*) shewed cause against the rule for a new trial, and *Channell*, Serjt. (*Mellor* with him) appeared in support thereof, when it was agreed to enter *A stet processus.*

CHARLTON *v.* GIBSON.—*Channell*, Serjt. (with him *Granger*) shewed cause, and *Byles*, Serjt. (with him *Otter*) in support of the rule for entering a verdict for the defendant. *Rule discharged.*

Wednesday.

PYM *v.* GRAZEBROOK, stands over to Friday for paper books to be delivered.

PHILLIPS *v.* SMITH.—*Byles*, Serjt. in support of *demurrer*. Sir *T. Wilde*, contrà.

Demurrer by consent withdrawn, each party paying his own costs.

WADE *v.* WOOD.—*Channell*, Serjt. moved to charge the defendant, now in the custody of the Court, with an execution at the suit of the plaintiff. *Granted.*

Fitzgerald v. ——.—*Dowling*, Serjt. moved for leave to plead never indebted to the two last counts of declaration, notwithstanding the order of *Maule*, J. *Rule nisi.*

Lewis v. Bailey.—*Kinglake*, Serjt. (*Gunning* with him) shewed cause against the rule obtained by the defendant for entering a nonsuit. *Byles*, Serjt. in support thereof. *Rule absolute.*

Doe dem. Miller v. Cabbage.—*Dowling*, Serjt. moved for a rule to shew cause why all further proceedings should not be staid until costs of a former action have been paid. *Rule nisi.*

COURT OF EXCHEQUER.

Thursday, April 17.

Bartlett v. Dimond.

Unless there is an admission of a certain sum received by a trustee, and a promise to pay it, his executor is not liable in an action for money had and received brought by the cestui que trust.

Assumpsit for money had and received and account stated.

Plea, non assumpsit.

Jervis, Q. C. shewed cause against a rule for a new trial in this case, which was an action brought against the defendant as the executor of a party who had been appointed by deed the trustee of a mortgage executed by the plaintiff on various trusts. The testator did not execute the deed, but the defendant supplied the plaintiff with accounts which shewed that the testator had balances in his hands. The questions raised in this rule are three in number. 1. Can the defendant be sued for a surplus arising from monies coming to the hands of the testator under a deed of covenant, without any express admission of such surplus being due? 2. Even if he can, money had and received will not lie; and, 3. If it did, are the plaintiffs the proper parties to sue? Now the bare proof of a surplus in the hands of a trustee without a promise to pay amounts to nothing. There must be a positive statement of an admitted surplus even in an action of covenant: but in money had and received a promise to pay the particular surplus must be proved. The surplus sued for must be a positive, ascertained, and admitted one, in any case. But there is none shewn here at all.

Cases cited: *Carse* v. *Roberts* (Holt, N.P. 500); *Harvey* v. *Archbold* (3 B. & C. 526); *Edwards* v. *Bates* (Jurist (C.B.) 589); *Roper* v. *Holland* (3 Ad. & El. 99).

Martin, Q. C. contrà.—By the terms of the deed the testator of the defendant was bound to pay to the plaintiff whatever was in his hands on the 6th of January and July in each year, after satisfying the interest. Now the accounts stated by the defendant shew that such a balance did exist on certain occasions, and that those sums came to his hands from the testator; he is liable in this form of action, without any proof of an express promise to pay; for as the testator did not execute the trust-deed, covenant will not lie. *Cur. adv. vult.*

Afterwards judgment was delivered by

JUDGMENT.

Pollock, C.B.—This case was argued in the last Term, when the Court took time for consideration. The question is, whether an action will lie against the defendant as the executor of a trustee for money had and received by his testator under the peculiar circumstances of the case. The testator was appointed a trustee of a mortgage-deed by the plaintiff, the mortgagor. The mortgagee was to receive the rents of the mortgaged estate, and by the terms of the deed the testator was, after allowing the taxes and repairs to the tenants, to hold all the remaining rents in trust for certain purposes in the deed specified. These purposes were, first, to pay taxes; secondly, the costs of erection; thirdly, commission; fourthly, payments on policies of insurance; and, fifthly, in satisfaction of, on the 6th of January and the 6th of July, the accruing interest on the principal monies secured; and to pay the ultimate surplus, if any, to the plaintiff, with a proviso, that if, on those days, the 6th of January and the 6th of July, the testator should have any rents and profits in his hands, it should be lawful for him to detain the whole or a part for the purpose of paying the premium in that year on the policy, with other provisos. The deed contained a covenant between one Palmer and the testator, stating the obligation, that he, being the receiver, would use his endeavour to give effect to the deed, and recover and cause to be paid for its ends, intents, and purposes, all the rents received by him. The testator did not execute the deed. According to the terms of this indenture the defendant was bound (as was argued by Mr. Martin) to pay whatever was the balance on each 6th day of January and 6th of July; first, in satisfying the interest, and secondly, to pay over the then surplus to the plaintiff; and as the accounts stated by the executrix shewed a balance on some of them, an action might be maintained—not of covenant, because the defendant's testator did not execute the deed—but of special assumpsit, because he agreed in the instrument on a special contract to make the promise; and as nothing more was to be done than to pay the money, an action for money had and received could be maintained against him. This was the argument on the part of the plaintiff. Whether if this had been the true construction of the deed, such an action could be supported, we need not decide; because we are clearly of opinion that the testator was not bound by the terms of the deed to pay the surplus existing on each 6th day of January and 6th of July. Although there is a contract by the testator to receive and pay the money according to the deed, yet it is nothing more than the effect of a contract to perform the trusts specified by the indenture; and all the money received by him under the indenture was in trust. The testator was not a mere receiver, but a *trustee*, and the primary object of his trust was to keep down the mortgage interest. For that purpose he had a discretion under the control of a court of equity to keep the funds in his hands if reasonably necessary; and he was not bound on each 6th of January and 6th of July to balance his accounts, and to pay over on those days the then surplus. For instance, it might happen that on the 6th of July the trustee might know that no rents would be forthcoming in time to pay the half-year's interest in January, and if so, he might, without contravening the deed, keep the then surplus. Whether he did so properly or not could not be tried by a court of law. The only remedy would be in a court of equity, which would make proper inquiries and give proper directions; and so long as the trust continues, the court of equity is the only remedy; and we think the moneys were originally received in trust, and that the trust is not determined. If that trust was ended, and the testator had stated his account, or in other words admitted to the plaintiff he held any sum of money in his hands, there might have been a right of action. He would, in respect of that sum, be a debtor, and not properly a trustee, and then an action could have been maintained. This is the principle which *Roper* v. *Holland* (3 A. & E. 99), and the case reported in 2 A. & E. 66 (which are referred in the judgment of this Court in the case of *Hardman* v. *Price*) decided. There is no evidence here of any such statement of account. If the account rendered by the executor had been rendered by the testator, it would have been a question for the jury whether it was such a statement as to constitute the testator a debtor; but being stated by the executor as the account of the testator, it is only equivalent to evidence that such payment as are therein mentioned were made by the testator to the executor. We therefore think this rule must be discharged. *Rule discharged.*

Saturday, April 19.

Doe dem. ——— v. Davis.

Ejectment—Construction of a power to lease.

Ejectment for certain premises. Verdict for the lessor of the plaintiff, subject to a reference to ascertain whether the best rent had been taken, with leave to the defendant to move to enter a verdict, if the Court should be of opinion that the power to lease had not been rightly exercised. The parties having agreed to take the opinion of the Court before proceeding with the reference,

G. Chilton, Q. C. now moved accordingly.—The power to lease in this case is, "to demise or lease the said premises for any period not exceeding twenty-one years; *or*, one, two, or three lives;" and the short point for the Court is whether, under this power, a freehold lease for three lives can be granted. Now, that is the lease which has been granted to the lessor of the plaintiff, and on which he relies; but it is contended that the power only authorizes the granting of a lease for one, two, or three lives, *during a period* of twenty-one years.

Pollock, C. B.—I think the words of the power may be so read as to support the lease; are we not then bound to give the power a reasonable construction? I know of no rule by which we are to give it a narrow one.

Parke, B.—You must shut your eyes to what has been done, and then see what is a reasonable construction.

Chilton.—There cannot be an option of constructions; and it is for the Court to say which offers the greatest violence; the one put by the plaintiff, or that of the defendant.

Parke, B.—We think the construction put upon the power by the party acting under it a perfectly good construction; the verdict will therefore stand for the plaintiff. *Rule accordingly.*

Pachet v. Sutcliffe.

New trial.

Case for an alleged injury to a right to certain water.

Pleas—Not guilty, a traverse of the right claimed, and the Statute of Limitations.

It appeared that the defendant was the owner of a certain meadow on the side of a hill, which for the greater part of the year was flooded by water, which rose in a copse also the property of the defendant, and was carried into the meadow by certain gutters, but there was no ascertainable stream. The plaintiff, it appeared, was the owner and occupier of a house which was on a level below this meadow; and the right he claimed was, to have the water which was in the habit of running over the meadow in question run into his cistern; to do which it had to percolate through the soil, run into a ditch, and then into the plaintiff's cistern. The right claimed by the plaintiff was, however, limited to all times of the year except the hay season.

The injury complained of was, that since the digging of a certain quarry by the defendant, the water had gradually ceased to flow into the plaintiff's cistern. The jury found a verdict for the plaintiff.

Martin, Q. C. now moved to set aside the verdict, and for a nonsuit or a new trial, on the ground that there was no such right known to the law as that now claimed by the plaintiff.

The Court suggested it had better be turned into a special case.

Stands over, to see whether the Plaintiff will agree; otherwise, rule nisi.

Phillips v. Smith.

New trial.

This was an action against the defendant for the mismanagement of a farm, and cultivating it in an untenantlike manner. The jury found a verdict for the plaintiff, damages 60*l*.

Humfrey, Q. C. now moved for a new trial, or to reduce the damages to 2*l*. 4*s*. 6d. on the ground of misdirection in the learned judge, and that the verdict was against the evidence.

In the declaration the untenantlike farming was alleged to be "against the custom of the country;" but no custom being proved at the trial, the counsel for the plaintiff obtained leave to amend the declaration by striking out those words. It further appeared that 2*l*. 4*s*. 6*d*. was all the damage proved to have accrued to the plaintiff, except through the cutting down of certain birch trees, and this, it was now contended, could not be recovered in an action for farming in an untenantlike manner, or, at all events, not without it being alleged that the untenantlike farming was "by cutting down certain trees," &c. &c. *Rule nisi.*

Dickenson v. Marrow.

This was an action for money had and received. The defendant pleaded three pleas, but the question turned on the first plea, which was *non assumpsit*.

It appeared that the plaintiff, who was a merchant at Sunderland, had consigned a cargo of wheat to the defendant, who was a corn-factor at Newcastle, to sell for him. After the cargo had been consigned, but before it arrived, several letters passed between the parties, in one of which the plaintiff said, "You will please to account for the proceeds of the cargo of wheat to Mr. Scarff, and as soon as it arrives please let us know." This Mr. Scarff was, it appeared, a corn-agent at Newcastle, and being indebted to Marrow for an old debt, Marrow claimed to hold the proceeds of the cargo for that debt. At the trial, however, it was proved that, before the arrival of the cargo, Mr. Dickinson himself went to Newcastle and countermanded the direction to account to Scarff. A verdict having been found for the defendant,

Watson, Q. C. now moved, pursuant to leave reserved, to enter a verdict for the plaintiff, damages 1,042*l*., being the value of the cargo, on the ground that even supposing the letter of the plaintiff to the defendant ever acted as a transfer to Scarff, yet unless the plaintiff knew that the cargo was to be held as a security for Scarff's debt to Marrow, he was entitled to recover, and also that there was an express revocation of the authority before it had been acted upon. *Rule nisi.*

Doe dem. Harley v. Bottomley.

New trial.

Ejectment for a coach-house and garden. Verdict for the lessor of the plaintiff, with leave for the defendant to move to enter a verdict.

It appeared that certain property had been devised to Bottomley under the words "My freehold house, in which Mr. Bottomley is residing, at Croydon, I leave to Mr. Bottomley, and that which he occupies under a lease, to Mr. Harley;" now at the time this devise was made, the coach-house and garden were used by Bottomley, and enjoyed with the house he resided in; and the question was, whether the coach-house and stable passed to the lessor of the plaintiff or to the defendant under the words of the devise: the learned judge left this question to the jury, who found a verdict for the lessor of the plaintiff.

Shea, Serjt. now moved to set aside this verdict, and enter one for the defendant, pursuant to leave reserved, on the ground that it was merely a question of construction of the devise, and was for the Court, and not for the jury. Case cited: *Press* v. *Parker* (2 Bing. 456). *Rule nisi.*

Phillips v. Warren.

New trial.

This was an action by the holder of a bill of exchange against the acceptor; verdict for plaintiff. At the trial it was shewn that the bill, which was two years old, had been paid by some one, it was not

known who, when lying at the banker's, after which it again got into circulation.

M. Chambers now moved to enter a verdict for the defendant, or for a new trial, on the ground that a general receipt on the back of a bill of exchange is *primâ facie* evidence of its having been paid by the acceptor, and if so it required a fresh stamp. Now here there was the letter "R" on the bill, which the banker's clerk stated at the trial to mean "received." Cases cited: *Groves* v. *Key* (3 B.& Ad. 318); *Scholey* v. *Walsby* (Peak, 34). *Rule nisi.*

BARRETT *v.* ROLF.
New trial.

This was an action of trespass, and it appeared that the plaintiff was the widow of a farmer of the name of John Barrett, who had held a farm for a lease which was unexpired at the time of his death, and that the widow had been let in to occupy the farm for the remainder of the term, by Charles Barrett, who was the executor of John Barrett, and had proved the will. Some time after this, however, and before the expiration of the lease to the deceased John Barrett, disputes arose between the executor of Barrett and the widow, and he directed the defendant Rolf to remove the furniture and farming stock of the widow away from the farm, which he accordingly did, upon which she brought an action of trespass against him; verdict having been found for the plaintiff, damages 100*l*.

M. Chambers now moved to set that verdict aside, and for a new trial, or to reduce the damages, on several grounds, but the only one eventually relied on was that as there was a term of eleven months of the lease to the deceased John Barrett unexpired at the time of the alleged trespass, that term was vested in his executor, and could not be passed by parol; but being an interest in land, must be assigned in writing, as required by the third section of the Statute of Frauds; therefore as Rolf had acted and justified under the authority of the executor, no action lay against him.

Cases cited: *Malett* v. *Brayne* (2 Camp. 103); *Thomas* v. *Cooke* (1 Crom. & M. 188). *Rule nisi.*

THE ATTORNEY-GENERAL *v.* FOSTER.

Wilde, Serjt. moved to set aside the verdict in this case, which had been found for the Crown, on the ground of the misreception of evidence. It appeared that a bill of exceptions had been tendered, but that it was doubtful whether it would lie.

POLLOCK, C. B.—Now the case has been mentioned, will it not be better to let it stand over until the fate of the bill of exceptions has been decided, you having leave to mention the case again, after the decision of the court of error?

Wilde, Serjt. acceding, *Rule accordingly.*

THE ATTORNEY-GENERAL *v.* PORTER.

In this case there was a similar point.

Stands over as in the above case.

PARKER *v.* HARRISON.
Time to plead.

In this case, *M. D. Hill*, Q. C. moved for eighteen months' time to plead. It was an action of trover for certain promissory notes, which had been deposited in the hands of the defendant by a Mr. Windle Parker, as his attorney, in the year 1839, who had since that time left this country for Van Diemen's Land, and who, it was stated, had at the time he made the deposits desired the defendant not to give the notes up to any one without his directions; about three weeks since, however, the notes in question had been demanded of the defendant by another Mr. Parker, who was the cousin of Mr. Windle Parker who deposited them with the defendant; and on the notes not being given up, the above action had been brought. The defendant now sought time to communicate with his client, or to give up the notes. *Rule nisi.*

BETTLESTON and ANOTHER *v.* COOPER.

Semble, where there is an express decision of a court of co-ordinate jurisdiction on any point, it is binding on this court, unless reversed in error.

This was an action by the assignees of a bankrupt against the defendant for money had and received, being the value of certain goods of the bankrupt which had been handed over to the defendant by the sheriff after they had been valued, they having been seized under a *fieri facias* issued by the defendant on a judgment under a warrant of attorney. At the trial, the warrant of attorney was held to be bad, for not having been filed within twenty-one days of its execution, and the plaintiffs had a verdict for 85*l*.

M. D. Hill now moved to set aside this verdict, and for a nonsuit, pursuant to leave reserved; and proceeded to state that there was one case dead against his client as to one of the points reserved. (*Biffin* v. *York*, 5 M. & G. 428.)

POLLOCK, C. B.—The decision of a court of coordinate jurisdiction is binding upon us unless reversed in error. If you wished to review the decision in *Biffin* v. *York*, you should have tendered a bill of exceptions. Why should we disturb the decision of the Court of Common Pleas?

M. D. Hill.—Then there is another point. The order to admit certain documents, was to admit all documents described in a notice dated the 4th of March, 1845, and when the notice was produced, it bore date the 1st of March. He further contended that the action was in the wrong form, as there had, in fact, been no sale of the goods, and therefore the action should have been trover.

ROLFE, B.—Suppose the sheriff had taken the money from the party, and then handed it back, instead of merely having the valuation of the goods made, would it not have been just the same?

POLLOCK, C. B.—If the sheriff does not sell, and it is property that was most likely to be sold, it may be presumed that there was a sale, and an action will lie for the proceeds as money had and received.

Hill.—Here the party had the goods in specie.

POLLOCK, C. B.—Yes, but he took them as money. This doctrine seems to be well settled, and as there are authorities for this form of action in circumstances like the present, I should not like to throw out any doubt on the point.

Rule refused on two points, but rule nisi as to the variance in the notice and order to admit.

Tuesday, April 22.

ESDAILE *v.* KING.

Warren moved in this case.—He was at a loss what to do; should be glad if the Court would instruct him. Since the action was commenced, the plaintiff had become insolvent, and the defendant had been appointed sole assignee. Before the insolvency, the matter was referred to an arbitrator, who made his award in favour of the defendant. An attachment was applied for, but the result in the sequel was that defendant had undertaken to proceed to trial. He submitted that, under these circumstances, he was entitled to a rule for judgment as in case of a nonsuit absolute in the first instance.

By the COURT.—This is not like a peremptory undertaking, after an application for judgment as in case of a nonsuit. It can only be a rule *nisi*.

Warren was at a loss how to serve the rule. He was both plaintiff and defendant. He would willingly consent to the rule absolute, so far as he was able to do so.

By the COURT.—Take a rule, if you like; but it must be only a rule *nisi*.

Wednesday, April 23.

EVANS *v.* THE DUBLIN AND DROGHEDA RAILWAY COMPANY.
Motion to set aside proceedings.

Peacock moved to set aside an order of Mr. Baron Platt, and all the proceedings which had been taken in this case, on the ground that the railway company had not been properly served with the writ of summons issued in this court in the above action. He stated that the service had been made on one of the directors who happened to be in London, while the Railway Act provides that, before that can be done, it must be shewn that the party is not able to find any clerk or other person at the office of the company, who can be served, if that office is known and to be found, which it was sworn to be to the plaintiff in this case. The office was in Dublin, and the object of the plaintiff in issuing a writ in this court was to get the cause tried in England instead of Ireland. *Rule nisi.*

SLADE *v.* HAWLEY.

Sheriff—Damages against for not seizing all the goods under a fieri facias which he might have done.

This was an action against the defendant, as sheriff, and the question for the Court was, whether upon a count of the declaration alleging that the sheriff might have seized sufficient goods to satisfy an execution which had been lodged in his hands by the plaintiff, the plaintiff was entitled to recover intermediate damages if he proved that the sheriff might have seized more goods than he had done, but not sufficient to satisfy the whole amount sought to be recovered under the execution.

At the trial before Platt, B. that learned judge ruled that upon the form of the declaration, unless the plaintiff shewed that the sheriff might have seized sufficient to satisfy the whole amount of the judgment he was not entitled to recover any thing.

Kennedy now moved to enter a verdict for the plaintiff, damages 6*l*. 4*s*. 6*d*. on the ground that if he shewed that the sheriff could have seized any larger quantity of goods than he really had done, the plaintiff was entitled to recover *pro tanto*. *Rule nisi.*

THE CALDER AND SALTER HIBBLE BRIDGE NAVIGATION COMPANY *v.* BILLING.

Where a canal company, in the exercise of a power (under a local Act) to make bye-laws for the orderly governing of the navigation of their canal (which was a public one, subject to the payment of a certain toll), made a bye-law prohibiting parties from navigating their canal on a Sunday: Held, a bad bye-law.

Declaration, in trespass for breaking and entering plaintiff's close, and breaking down a certain chain.

Plea, that the said close, &c. was a navigable canal, regulated by a certain local Act (9 Geo. 3, c. 71); and that the public had a right to navigate the said canal with their boats, &c. paying certain tolls; and because the said chain was wrongfully across the said canal, the defendant, in order to navigate and pass along the said canal, broke the said chain.

Replication, setting out a certain bye-law made by the Navigation Company, under their seal, whereby it was ordered that the public should not be allowed to navigate on Sundays.

Averments, that the day on which the defendant broke the said chain was a Sunday, and that the said chain was put across the said canal to enforce the bye-law.

General demurrer.

Cowling now appeared to support the demurrer. There is no clause in the Navigation Company's Act authorizing them to prevent the public from navigating the canal in question on a Sunday. The only clause under which they have any power at all to make by-laws is one giving them power to regulate the mode in which parties who are in the habit of using the canal are to orderly navigate the canal, so as to give the greatest facilities to the public. This clause gives them no power to shut up their canal on a Sunday, and only gives them a power to enforce their bye-laws by fine; it is merely a power for the good governance of the manner of navigating, which this bye-law does not profess to be. Now, in the absence of any express power in their Act, this is a bad bye-law, as in restriction of a public right, without shewing any necessity; and it is contended that all bye-laws in restraint of a public right which the public have are bad if they do not shew a good and sufficient reason for such restraint. Then there is nothing illegal in travelling on a Sunday.

POLLOCK, C.B.—The religious observance of the Sabbath as regulated by the statutes the Court are bound to take notice of, but any other observance must be left to the religious feeling of persons. Formerly the Courts met on a Sunday, and also the Houses of Parliament.

ROLFE, B.—Is this right to travel on a Sunday good independently of the bye-law; is it not affected by the 29 Car. 2, cap. 7; does not the second section apply?

Cowling.—That statute is repealed by 7 & 8 Geo. 4, c. 75, commonly called the Thames Act; but even if not, it does not apply. It has been held in *Sandiman* v. *Breach* (7 B. C. 96), not to apply to stage coaches, as they are not mentioned in the Act; now canals were not in existence in the time of Charles the Second.

Cases cited: *The Gunmakers'* case (Willes's Rep. 389); *Bosworth* v. *Hearn* (Ca. temp. Lord Hardwick); *Adley* v. *Reeves* (2 M. & S. 53); Com. Dig. "Bye-Law," E. 1, E. A.; *The Tailors of Ipswich's* case (11 Coke, 53 a); *Dodwell* v. *The University of Oxford* (2 Ventris, 33); *R.* v. *Grosvenor* (2 Star. 511); *The case of the Free Grammar School of Darlington*, in the Exchequer Chamber (not yet reported).

Addison, contrà.—The simple question is, whether this is a reasonable bye-law. That, I submit, is a question for the Court or a jury to decide. Now, it is submitted, that the Act of Charles is still in force. The Thames Navigation Act is strictly a local Act, and only repeals 29 Car. 2, c. 7, as far as it would affect the river Thames, and therefore the bye-law is a good one.

POLLOCK, C.B.—But even if you convince the Court of that fact, still you are in this difficulty, that statute only gives a penalty of 5*s*.

Addison.—Yes; but our Act gives us a power to impose a penalty of 5*l*. for disobedience to our by-laws, and we merely put up the chain to enforce our bye-law.

ROLFE, B.—Is there any case which shews that a bye-law made *pro salute animæ* is good?

Addison.—This bye-law is for the good and proper observance of the Sabbath generally. Then, again, this is not a public highway, except *pro modo*; and it is submitted that, under the power to make byelaws for the orderly regulation of the navigation, this is a perfectly proper regulation.

Cases cited: *Camden* v. *Anderson* (6 T. R. 723); *R.* v. *Rodgers* (10 East, 569).

ALDERSON, B.—The only question is, whether this bye-law is within the power given by the local Act. That power is for the orderly using of the navigation, and the well-governing of the bargemen and others navigating the canal. Now I think this is for the orderly using of the canal with regard to the general convenience, so as to give the greatest facilities for using it, and not for regulating the religious observance of the Sabbath; that is left to the general law of the land. There is no power to regulate the morals of the boatmen, but merely how they shall carry goods in their boats, so as not to interfere with the navigation. I am far from saying that this is an improper bye-law, but merely that it is an illegal one. The judgment must be for the defendant.

ROLFE, B.—I am entirely of the same opinion. It is quite monstrous to say (whether the statute of Charles is repealed or not) that this canal company has the power to say, *pro salute animæ*, you shall not navigate on a Sunday.

Pollock, C. B. and Platt, B. were of the same opinion. *Judgment for the defendant.*

BUSINESS OF THE WEEK.

Friday.

Smith v. Cameron and Others.—This was an action against officers of the excise for acts committed in the course of a seizure. *Jervis* now moved for a rule to stay the proceedings until after the trial of an information against the plaintiff at the suit of the Crown. *Rule nisi.*

Mayor of Bridgewater v. Allen.—*Crowder*, Q. C. for a new trial. *Rule nisi.*

Rowland v. Springett.—In this case, which was tried before the Lord Chief Baron at Guildhall, and a verdict found for the plaintiff, *Dundas*, Q. C. moved to enter a nonsuit. *Rule refused.*

Chanter v. Johnson.—*Martin*, Q. C. having obtained a rule to enter a nonsuit in this case, on the ground that the plaintiff's case was incomplete without a certain document, which was rejected by the judge at the trial for want of a deed-stamp, *Knowles*, Q. C. now mentioned that he did not think it necessary to move for a separate rule, but that he would ask for leave, upon the argument on the defendant's rule, to contend that the document which would have completed the plaintiff's case was improperly rejected by the judge. *Leave given.*

Brinsley v. Agett.—*Baines*, Q. C. to enter a nonsuit. *Rule nisi.*

Glen v. Thompson.—*Martin*, Q. C. for a new trial, on the ground of misdirection. *Rule refused.*

Udall and Another, Assignees, v. Walter.—*Talfourd*, Serjt. for a new trial. *Rule nisi.*

Cutliffe v. Bremridge.—*Assumpsit*—For work and labour. *Plea*—General issue. The case was tried before Coleridge, J. It appeared that the contract was entered into subject to certain conditions precedent, which had not been performed. It was contended, first, that the declaration should have been special, setting out the terms of the contract, and averring performance, and, secondly, that as the conditions had not been performed, no action would lie at all. *Cockburn*, Q.C. now moved to enter a nonsuit, pursuant to leave reserved. *Rule nisi.*

Cornish v. Daykin.—*Hayward*, Q.C. for a new trial on the ground of misdirection, and also on affidavits of misconduct of jury.

Rule nisi on the latter ground only.

Rutley v. South-Eastern Railway Company.—*Shee*, Serjt. for a new trial, on the ground of misdirection, and that the verdict was against evidence. *Rule nisi.*

Egglrton v. Oliver.—*Lee* moved to enter a nonsuit, pursuant to leave reserved. *Rule nisi.*

Harrison v. Lake.—This case was tried before the Recorder of Hull. *Bain* now moved to enter a nonsuit, pursuant to leave reserved. *Rule nisi.*

Monday.

Alderton v. Richardson.—*Humfrey*, Q.C. for a new trial. *Rule nisi.*

Bailey v. Porter.—*Greaves*, to enter verdict for defendant, pursuant to leave reserved at the trial. *Cur. adv. vult.*

Edwards v. Sloper.—*Gray*, to set aside nonsuit, and for a new trial. *Rule refused.*

Daykin v. Cornish.—*Hayward*, Q.C. for a new trial, on the ground of misdirection. *Rule nisi.*

Doe *dem.* Harris v. Evans.—*Wilson*, for a rule to restrict the verdict to a moiety of the premises mentioned in the declaration. *Rule nisi.*

Heane v. Williams.—*Alexander*, Q.C. for a new trial. *Rule nisi.*

Yearsley v. Heane and Another.—*Alexander*, Q.C. for judgment *non obstante veredicto* or a repleader. *Rule nisi.*

Smith v. Rocke, *Godson*, Q.C. to enter a nonsuit or reduce the damages. *Rule nisi.*

Lawrence v. Clark.—*Petersdorff*, for a new trial, on the ground of improper rejection of evidence and on affidavits. *Rule nisi.*

Langston v. Wetherall.—*Udall*, for a rule to shew cause why defendant should not be discharged out of custody on a *capias.*

Nicholls v. Cross.—*M. D. H*[illegible], for a new trial, on the ground of misdirection. *Cur. adv. vult.*

Saturday

Gilman v. Bulmer.—*Jervis*, Q. C. moved for a new trial, on the ground that the verdict was against evidence, unless the defendant would consent to enter a verdict for the plaintiff on the sixth issue.

Stands over to see whether the parties can enter into any arrangement.

Callan v. Jukes.—*Jervis*, Q.C. (*Hurrell* with him) moved for a new trial in this case, on the ground that the verdict was against evidence.

Cur. adv. vult.

Doe *dem.* Jukes v. Smith.—*Talfourd*, Serjt. moved to set aside the nonsuit in this case.

Rule refused

Boothroyd v. Kay.—*Jervis*, Q. C. moved for a nonsuit. *Rule refused.*

Lowe v. Steel. *Rule nisi.*

King v. Smith.—*Martin*, Q.C. moved to enter a verdict for the plaintiff. *Rule refused.*

Watson v. Stewart.—*Cockburn*, Q. C. moved to set aside the verdict in this case, and to enter a verdict for a larger amount, on the ground that the verdict was perverse, as against evidence, and against the summing up of the judge. *Rule nisi.*

Smith v. Boswell.—*Whitehurst*, Q. C. moved for a new trial in this case, on the ground of surprise. *Rule nisi.*

West v. Stewart and Another.—*Palmer* moved for a new trial. *Rule refused.*

The Mayor of Bridgewater v. Allen.—*Kinglake*, Serjt. moved to enter the verdict for the defendant.

To be turned into a special case, to come on at the same time as the other case between the parties.

Tuesday.

Barratt v. Woodgate.—*E. James* moved for a new trial, on the ground of surprise. *Rule nisi.*

New trial.

Robertson v. Snowler.—*Corrie* (for *Peacock*) moved for a nonsuit or a new trial. The action was in trover for title-deeds, and the main question was, whether a certain devisee of a will took an estate for life only, or an estate in fee. The estate was limited in express terms to the life of the devisee, but there was a charge for the payment of debts, and this, it was submitted, gave the fee. Authority cited: Powell on Wills, 391. *Rule nisi.*

Baron and Others v. Berkeley.—*Corrie* (for *Peacock*) moved to set aside an order of Rolfe, B. *Rule nisi.*

Langston v. Wetherell.—*Udal* moved to set aside the judgment and subsequent proceedings herein, on the ground that the warrant of attorney on which the judgment was signed had been set aside. Rolfe, B. had set aside the warrant of attorney, but had refused to set aside the judgment and subsequent proceedings. *Rule nisi.*

Woolston v. Newcombe.—*Mellor* moved that defendant might be compelled to produce an agreement, that the same might be stamped, or to admit a stamped copy in evidence without objection at the trial. (*Bousfield* v. *Godfrey*, 5 Bing.)

Rule nisi to produce the agreement.

Macintosh v. The Midland Counties Railway Company.—*Kelly*, Q.C. moved for a new trial, or to arrest the judgment. *Rule nisi.*

Anonymous.—Sir *John Bayley*, Bart. moved for an attachment against an attorney absolute in the first instance, for not delivering his bill of costs, obedience to a rule of court. If ever there was a case in which the rule might be absolute in the first instance, this was that case, for the attorney had repeatedly promised to deliver the bill, had experienced the greatest forbearance from the applicant on the faith of such promises, and had trifled most disgracefully with the authority of the Court. [By the Court.—It can only be a rule *nisi*. Suppose he says I have delivered the bill?] *Rule nisi.*

Bevins v. Holme.—*Prideaux* moved to rescind an order of Rolfe, B. for striking out a count in a declaration. The first count was against an attorney, for not accounting for money which he had recovered at the suit of a third party for a personal injury by such third party, on the retainer of the plaintiff, and the other count was for money had and received. *Rule nisi.*

Blackwell v. Badger and Another.—*Dundas*, Q.C. moved for a new trial, on the ground of misdirection. *Cur. adv. vult.*

Colley v. Moses.—*C. Wood* moved for a new trial. *Rule refused.*

Perry v. Round.—*Allen* moved for a new trial. *Rule refused.*

Williams v. Williams.—*Allen* moved for a new trial. *Rule refused.*

Godson v. Paul.—*Birch* moved for a new trial. *Cur. adv. vult.*

Wednesday.

Thomas v. Hudson.—*Martin*, Q. C. (*Cole* with him) was heard in support of the demurrer. *Watson*, Q. C. (*Unthank* with him) contrà. *Martin*, Q. C. in reply. *Part heard.*

Israel v. Noon.—*Bankes* moved in this case to make the rule absolute; and no cause being shewn, *Rule absolute.*

BAIL COURT.

Friday, April 18.

(Before Mr. Justice Coleridge.)

Reg. v. Bird, Vinall, and Others.

Certiorari to remove an indictment from the Middlesex sessions into this Court.

Bodkin and *H. Wilde*, shewed cause against the rule obtained herein by *Peacock*, for a *certiorari* to remove this indictment into this Court from the Middlesex Quarter Sessions, for a nuisance in Spafields burial-ground, and stated, that as the defendants had consented to forego having a special jury, and would undertake to try the indictment at the sittings after this Term, they would not object to the *certiorari*. *Certiorari granted.*

Saturday, April 19.

(Before Mr. Justice Coleridge.)

Watson v. Orme.

The Court will not grant a distringas to compel appearance, unless the copy of the writ has either been shewn to have come to the hands of the defendant, or has been left on the premises.

Sir *John Bayley* applied for a *distringas* to compel an appearance under the following circumstances:—The defendant resides in an isolated house, surrounded partly by a high wall, and partly by a canal. Twelve attempts had been made in vain to serve him, as no one would open the door, and the only answer that could be obtained was, that the defendant was not at home. On one occasion the defendant, although denied to the deponent, was seen on the premises, and, on another occasion, the defendant's brother said to the party, "It is of no use your attempting to serve him, as he *won't* be served." No copy had been left, for the reason that no one would open the door.

Coleridge, J.—Why did you not throw the copy over the wall?

Bayley.—The wall is too high, and the canal too broad.

Coleridge, J.—You could have attached a stone to it, and have so flung it over. The difficulty in this case is, that as no copy has been left, the defendant cannot know in what court he is to appear; where the copy has been left on the premises, we may presume that he has had it. If you will contrive to leave the copy on the premises by throwing it over the wall, I think you may have the *distringas*. You must do so first. *Rule refused.*

Reg. on the Prosecution of the Mayor of Yarmouth v. Aldred.

Criminal information—Withdrawing plea of "Not guilty," and pleading "Guilty."

In this case a rule absolute had been obtained for a criminal information against the defendant for insulting and threatening language (see 4 Law T. 156), to which information the defendant had pleaded "not guilty."

F. Robinson now applied, on behalf of the defendant, for liberty to withdraw his plea and plead "guilty," at the same time making an ample apology to the prosecutor for his conduct, and offering the costs of the proceedings.

Martin, Q.C. on behalf of Mr. Marsh, the late Mayor of Yarmouth, accepted the apology, and expressed himself as satisfied with the defendant's proposal.

A plea of "guilty" was then substituted for that of "not guilty," and a nominal fine of one shilling imposed.

Tuesday, April 22.

(Before Mr. Justice Coleridge.)

Re Hilliard.

Motion to compel an attorney to perform his undertaking to pay a sum of money, such undertaking being in respect of the debt of another, and void under the 4th section of the Statute of Frauds.

Martin, Q. C. shewed cause against a rule obtained by *Gray*, calling upon a Mr. Hilliard, an attorney, to shew cause why he should not pay the sum of 29*l.* pursuant to his undertaking. It appeared that an action had been commenced by one Winnington against Forrester, for which latter Hilliard was the attorney (a Mr. Davis being the attorney for the plaintiff); that the action went on to notice of trial, when the defendant gave a *cognovit* for the debt and costs, which was attested by Hilliard, but which, on account of being irregularly attested, was set aside, and the action continued. Upon this the defendant's attorney applied to the plaintiff's attorney to know on what terms he would stay the action, to which a reply was returned that he would stay the action on the defendant's attorney giving his personal undertaking to pay the debt and costs within a month. Upon this Mr. Hilliard gave the following memorandum:—"I agree to pay Mr. Samuel Smith, within one calendar month, the sum of 29*l.* 14*s.* Witness my hand this 30th day of October, 1844. T. H. Hilliard." Mr. Hilliard having declined to pay the amount pursuant to his undertaking, this rule was obtained, against which it was argued that, as the undertaking in question was to answer for the debt of another, it was void under the Statute of Frauds, for want of a consideration, and would not, therefore, be enforced by the Court. (*Re Greaves*, 1 Crom. & J. 374; *Evans* v. *Duncombe*, 1 Crom. & J. 372; *Carrington* v. *Roots*, 2 M. & W. 248.)

Gray, in support of the rule, contended that, inasmuch as this was an application for the interference of the Court to compel one of its officers to perform his undertaking, the question of the applicability of the Statute of Frauds does not arise; that the Court will compel its officers to do justice, and that sufficient appears upon the face of the correspondence to shew that the consideration for the undertaking was the forbearing to continue the action. *Cur. adv. vult.*

Rennie v. Bruce.

Application to discharge a defendant out of custody who had been arrested on a capias issued under a

judge's order, the copy capias and the original writ of summons being defective.

Borill shewed cause against a rule obtained by *Crompton*, calling upon the plaintiff to shew cause why the defendant should not be discharged out of the custody of the sheriff of Surrey for irregularity, with costs. In this case the defendant had been arrested for a sum of 4,600*l.* by virtue of an order of Mr. Baron Rolfe, and it appeared that the original writ of summons, which was directed to the defendant at Liverpool, in the county of Lancaster, was actually served in Surrey, and was dated in the year *one thousand eight hundred and forty.* It further appeared that the copy of the writ of *capias* delivered to the defendant was not directed to any sheriff, but was in this particular in blank, and had no *teste.* In opposition to the rule it was contended—1st, That the rule was insufficient in not pointing out some irregularity in the process; 2nd, That the delivery of a copy of the *capias* is not rendered necessary by the 1 & 2 Vict. c. 110; that it is the sheriff who delivers such copy, and the delivery is therefore his act, and the plaintiff is not responsible for it; that the object of the statute being to give in certain cases the security of the body of the defendant, the Court will assist in carrying out such intention, and that if necessary the Court will allow the copy to be amended; 3rd, That as to the writ of summons, upon which the *capias* is founded, the Court will permit it to be amended as in a variety of other cases. (*Ireland* v. *Berry*, 1 Dow. & Low. 866; *Reg.* v. *The Sheriff of Montgomeryshire*, 1 Dow. N.S. 388; *Popkins* v. *Smith*, 7 Bing. 434; *Sutton* v. *Burgess*, 1 C. M. & R. 770; *Plock* v. *Pacheco*, 9 M. & W. 342; *Bilton* v. *Clapperton*, 7 M. & W. 473; *Kirk* v. *Dolby*, 8 Dow. 766; *Stevenson* v. *Castle*, 1 Chit. 349; *Galloway* v. *Bleadon*, 1 M. & Gr. 247; *Storr* v. *Mount*, 2 Dowl. 417.)

Crompton, in support of the rule, contended that the rule was in the usual and proper form; that the arrest on such process was a mere nullity, and that the Court could not give the plaintiff liberty to amend, inasmuch as no amendment could rectify the irregularities, particularly that of the erroneous service, and the omission to deliver "on the execution thereof" the true copy of the *capias*; that the objection was not of irregularity, but that the plaintiff had not done that which the statute requires before the defendant could be held to bail. (*Shearman* v. *M'Knight*, 5 Dowl. 572; *Nicol* v. *Boyne*, 2 Dowl. 761.)

Cur. adv. vult.

Wednesday, April 23.

(Before Mr. Justice COLERIDGE.)

WALKER *v.*

Motion to rescind an order of a judge setting aside a writ of summons, on the ground of the plaintiff being described as Henry Walker and Co.

Lush moved for a rule to rescind an order of Mr. Baron Rolfe, setting aside a writ of summons. In this case the writ directed the defendant to enter an appearance, at the suit of "Henry Walker and Co." and the order of the learned judge was to set aside this writ on the ground of the insufficient setting forth of the names of the plaintiffs. The affidavit on which the order was obtained stated, that the *præcipe* was in like form, but did not state that there were any other parties plaintiffs besides the said Henry Walker. It was now argued that it should have been proved affirmatively that the words "and Co." meant "other persons," for that *non constat* that these may not be a portion of the plaintiff's name, and that if this were not so, that the objection could only be taken advantage of after declaration by an application to a judge at chambers to amend. (*Soames* v. *Scott*, 3 East, 111; *Sarjant* v. *Gordon*, 7 Dow. & Ry. 258; *Sumner* v. *Batson*, 11 Moore, 39; 1 Horn. & Hurl. 468.)

Rule nisi.

Monday, April 21.

(Before Mr. Justice COLERIDGE.)

Ex parte WEBB.

The Court will not interfere summarily to compel an attorney to refund money, unless it clearly appear that he has received the same in his character of attorney.

In this case, which was an application by *Lush* to compel an attorney to refund a sum of money which he had received to pay legacies, but which he had neglected to do, his lordship refused the rule, saying, "There was no specific statement of the business in which the party had been engaged as an attorney; it was merely stated that he had been *engaged* and *employed* as an attorney: enough, at least, ought to be shewn to enable the Court to judge for itself whether the party against whom the application was sought had really been acting as an attorney, so as to render himself liable to the summary jurisdiction of the Court. No case had gone further than *Ex parte Aitkin* (4 B. & A. 47), and even that case had been doubted by some of the judges." *Rule refused.*

FIELD *v.* WILLIAMS and ANOTHER.

Amending defective record, after action brought and judgment given thereon.

Stammers, on a former day, had applied for the assistance of the Court under the following circumstances. An action of *assumpsit* had originally been commenced against the two defendants by the plaintiff, in which action judgment had been recovered. Upon this judgment an action of debt had since been brought; in this action one of the defendants suffered judgment by default, and the other pleaded *nul tiel record*. A day was given to produce the record, and notice thereof was given to the defendant. On the day appointed, the record of the recovery in the former action was produced, and the defendant not appearing, judgment was given against him. Subsequently it was discovered by the Master that, by mistake, the judgment in the original action (which was *on promises*, and so recited in the second action) had been drawn up *in debt*, whereupon the Master declined signing final judgment without the authority of the Court. His lordship having taken time to consider the proper course to be adopted, now gave the plaintiff leave to withdraw his notice of trial and the production of the record, and to amend the latter.

Thursday, April 24.

REG. *v.* THE JUSTICES OF LANCASHIRE.

Quære, whether, after an unsuccessful application by guardians under the 4 & 5 Wm. 4, c. 76, s. 72, for an order in bastardy, the mother can apply under the 7 & 8 Vict. c. 101, s. 2.

Archbold moved for a *mandamus* commanding the justices acting for the petty sessional division of Bury, in Lancashire, to hear an application in bastardy. It appeared that on the 31st of January last, the application of the mother came on for hearing, when it having been proved by the putative father that an application for an order against him for the maintenance of the same child had, previously to the passing of the late Act, been made by the guardians of the union, under the 4 & 5 Wm. 4, c. 76, s. 72, and refused, the justices declined to proceed, considering that the former application was an answer to the present one. It was now contended that, inasmuch as the former application was at the instance of the parish, the mother was not precluded from applying for an order on her own behalf now that the altered state of the law gives her an interest in the matter.

Cur. adv. vult.

Friday, April 25.

BAKER *v.* WELLS.

Motion calling upon the sheriff to refund money illegally exacted by his officer as and for expenses of an execution, and calling upon the officer to shew cause why he should not be adjudged guilty of a contempt for his extortion.

Watson, Q.C. moved on behalf of the defendant for a rule calling upon the Sheriff of Berkshire to pay back to the defendant the excess received by him over and above the legal fees taken on the execution of a *fi. fa.* and also on William Cordwell, his officer, to shew cause why he should not be adjudged guilty of a contempt.

It appeared that a writ of *fi. fa.* had been sent to the Sheriff of Berks, and that possession of the defendant's goods was taken under it, when the amount was tendered to the officer Cordwell, who demanded certain fees to which he was not legally entitled; amongst others, for a valuation, preparing advertisements of sale, and posting bills, amounting in all to about 5*l.* Although, at the time of the demand of these fees by the officer, he was informed of their illegality, and his attention drawn to the 7 Wm. 4 & 1 Vict. c. 55, and the scale of fees settled by the judges in pursuance of the Act, and also to the case of *Slater* v. *Haines* (10 L. J. Ex. 100), he still demanded the full amount, which was paid to him under protest. *Rule nisi.*

Ex parte SMITH, *re* HILLIARD.

JUDGMENT.

(*See Report of Tuesday.*)

His lordship gave judgment in this case, which was an application to compel an attorney to pay over a sum of 29*l.* 14s. pursuant to his undertaking, and which was resisted on the ground that the undertaking was to pay the debt of another, and therefore void by the Statute of Frauds, and could not be enforced by this motion. His lordship held, that inasmuch as the Court interfered to compel its officers to perform their undertakings entered into professionally, with the view of insuring their honesty, and not for the purpose merely of enforcing legal contracts, and as the jurisdiction of the Court in such cases is extremely useful and ought not to be narrowed, and as moreover the attorney is not compelled to give such undertakings, the rule ought to be made absolute. *Rule absolute.*

BUSINESS OF THE WEEK.

Friday.

THE QUEEN *v.* THE CAPITAL BURGESSES OF ALDBOROUGH.—*Schomberg* moved for a rule for a *mandamus*, commanding the capital and inferior burgesses of Aldborough to proceed to the election of two bailiffs. *Rule granted.*

Ex parte CANDELL.—*Barstow* moved for a rule directing that the three years' service of the applicant under articles entered into in 1833, should be connected with his present service under different articles. *Rule refused.*

REG. *v.* THE LORDS OF THE MANOR OF OLD PALACE GARDENS.—*Peacock* moved for the costs of the *mandamus* herein. *Rule nisi.*

NEWPORT *v.* HARDING.—*Tomlinson* moved for a rule for a nonsuit, or a new trial in this case, which was tried before the judge of the Sheriff's Court, when a verdict was returned for the plaintiff. *Rule nisi.*

REG. *v.* THE MAYOR AND TOWN COUNCIL OF HASTINGS.—*Petersdorff* moved for a *mandamus* commanding the mayor and assessors of Hastings to proceed with the election of one auditor, one borough assessor, and one assessor for East Ward. *Rule granted.*

CROFTS *v.* BROWN.—*Pearson* moved for a rule to set aside an order of Mr. Baron Rolfe, granting a *distringas*, on the ground of defects in the affidavit, particularly in not stating the residence of the defendant. *Rule nisi.*

HULLARD *v.* NEWBURNE.—*Hawkins* moved for a rule to set aside the defendant's plea herein as frivolous. The action was on a promissory note, and the plea was *non assumpsit.* *Rule nisi.*

HART *v.* STEPHENS.—*J. W. Smith* moved for a rule for the Master to review his taxation herein. *Rule nisi.*

Saturday.

REG. *v.* THE JUSTICES OF WARWICKSHIRE.—*Gale* moved for a *certiorari* to remove an order of Sessions confirming an order of bastardy, together with the latter order, into this court, with the view to quashing same, it not appearing that the evidence was taken upon oath. *Rule granted.*

LEVI *v.* LEVI and ANOTHER.—*Watson*, Q.C. moved for a rule to set aside the *sci. fa.* issued herein, and all subsequent proceedings, and that the plaintiff's attorney should pay the costs. *Rule nisi.*

REG. *v.* GADSDEN.—*Birch* moved for a rule to quash a *certiorari* issued to remove an indictment for false pretences found at the Buckinghamshire Sessions, on the ground that by the 7 & 8 Geo. 4, c. 29, s. 53, the *certiorari* is taken away. *Rule nisi.*

Tuesday.

REG. *v.* O'BRIEN and OTHERS.—*R. Allen* moved for a *certiorari* to remove an indictment for conspiracy into this court from the Central Criminal Court, on the ground that nice points of law would be likely to arise, and that the defendants were anxious to have the assistance of other counsel than those who usually attend the Central Criminal Court. *Cur. adv. vult.*

IN THE MATTER OF THE COUNTY OF THE BOROUGH OF CARMARTHEN.—*Chilton*, Q.C. moved for a *mandamus* commanding the mayor to proceed to the election of auditors and assessors for the borough, pursuant to the 7 W. 4 & 1 Vict. c. 78, s. 6. *Rule granted.*

BEECHY *v.* HAMMOND.—*Carrington* moved for a rule calling upon the plaintiff to give better particulars of demand. *Rule nisi.*

TAYLOR *v.* SHERRITT.—*R. Allen* moved for a rule for a new trial in this case, which was tried before the Under-sheriff of Staffordshire. *Rule refused.*

Wednesday.

Re DENBY.—*Keane* moved that the assignment of the articles of clerkship might be enrolled *nunc pro tunc*, the affidavit having been omitted to be filed in due time. *Cur. adv. vult.*

REG. *v.* O'BRIEN and OTHERS.—In this case, moved yesterday by *Allen* for a *certiorari*, his lordship refused the rule.

MARTIN and ANOTHER *v.* COLLINS.—*Thomas* shewed cause against a rule obtained herein by *Phinn* for a new trial; the cause was tried before the Under-sheriff of Middlesex, when a verdict was returned for the plaintiff. *Phinn* contrà. *Rule absolute.*

Monday.

WHITEHEAD *v.* THE QUEEN.—*Bliss* moved to assign errors, and prayed that the rule might be served on the solicitor of the Treasury. *Rule granted.*

IN THE MATTER OF THE ARBITRATION BETWEEN TURNER AND DOMVILLE. — *Fitzherbert* moved for an attachment for disobedience to an award. *Rule nisi.*

TRENT *v.* HARRISON.—*Grove* moved for a rule to compel the plaintiff to refund certain sums which had been paid on taxation for an allowance to witnesses, on the ground that they had not been paid to the witnesses before taxation, and for the plaintiff or his attorney to pay the costs. *Rule nisi.*

RENNIE *v.* BRUCE.—*Crompton* moved to discharge the defendant, who had been arrested on a *capias* under a judge's order from custody. *Rule nisi.*

Thursday.

REG. *v.* THE JUSTICES OF READING.—*Pashley* moved for a *certiorari* to remove an order of the justices of Reading for the removal of a pauper family to the parish of Beckington, in the county of Somerset, into this court, with the view of quashing the same for defects apparent on its face. *Rule nisi.*

DOWLING *v.* PEREZ.—*Bramwell* moved for a rule to arrest the judgment herein, on the ground of the replication containing no answer to the plea. *Rule nisi.*

DOWNES *v.* GARBETT.—*Lush* moved to set aside the copy and service of a writ of summons, on the ground of irregularity, the irregularity being a defec-

tive description of the place of residence of the defendant, as "Edmund Garbett, of Wellington, in the county of Salop, but now in the county of Middx." (*Hill* v. *Harvey*, 4 Dowl. 163.) *Rule nisi.*

Friday.

Reg. v. Hodges.—*F. V. Lee* moved for a *certiorari* to remove into this court an indictment for perjury found at the Central Criminal Court, on the grounds, 1st, that difficult points of law would be likely to arise; 2nd, that the defendant was desirous of having the professional assistance of Queen's counsel; and, 3rd, that it is desirable that the indictment shall be tried before a judge of one of the superior courts.—*O'Malley*, contrà

Cur. adv. vult.

THE LEGISLATOR.

Summary.

The Lord Chancellor has introduced his Bill for regulating Charitable Trusts. The Reports claim too much space this week to permit us to give any thing like an analysis of it. We shall take an early opportunity to submit its provisions to our readers. In other legal matters little has been done.

Imperial Parliament.

PUBLIC BUSINESS TRANSACTED.

BILLS READ A FIRST TIME.

Monday, April 21.

Malt Drawback Bill, "for allowing a Drawback of Duty on Malt used for the purpose of feeding Cattle."

Tuesday, April 22.

Sheriffs (Wales) Bill.

BILLS READ A SECOND TIME.

Monday, April 21.

Colonial Passengers.

Wednesday, April 23.

Statute Labour (Scotland).

BILLS READ A THIRD TIME AND PASSED.

Monday, April 21.

Customs (Import Duties).

PRIVATE BUSINESS TRANSACTED.

BILLS READ A FIRST T

Friday, April 18.

Belfast Lough Drainage.
Bermondsey Improvement (No. 2).

Monday, April 21.

Calvert's Estate.

Tuesday, April 22.

Erewash Valley Railway.

Wednesday, April 23.

Reversionary Interest Society (No. 2).
Waterford and Limerick Railway.
Aberdare Railway.
London, Worcester, and South Staffordshire Railway (extension from Dudley to Wolverhampton.

Thursday, April 24.

Gravesend and Rochester Railway.

BILLS READ A SECOND TIME.

Friday, April 18.

Lyme Regis Improvement, Market and Waterworks.
Kendal Reservoirs.
Claughton-cum-Grange (St. Andrew's) Church.
Claughton-cum-Grange (St. John the Baptist's) Church.
Castle Hill (Wexford) Docks.

Monday, April 21.

Coventry, Bedworth, and Nuneaton Railway.
Wilts, Somerset, and Weymouth Railway.
Cromer Protection from the Sea.
Direct London and Portsmouth Railway.
Chester and Holyhead Railway.
Liverpool and Bury Railway (Bolton, Wigan, and Liverpool Railway and Bury Extension).
Southampton and Dorchester Railway.
Lynn and Dereham Railway.
Dunstable and London and Birmingham Railway.
Northumberland Railway.
Edinburgh and Northern Railway.
St. Ives Junction Railway.

Tuesday, April 22.

Brighton and Chichester Railway.
Preston and Wyre Railway.
Scottish Midland Junction Railway.
Exeter and Crediton Railway.
Monmouth and Hereford Railway.

Wednesday, April 23.

Spoad (Clun), &c. Inclosure.
Kendal Reservoirs.
London and Greenwich Railway.
Ely and Huntingdon Railway.

BILLS READ A THIRD TIME AND PASSED.

Monday, April 2[illegible].

Wallasey Improvement.
Devonport Gas and Coke.
Plymouth and Stonehouse Gas.

Tuesday, April 22.

Bradford Gas.
South-Eastern Railway (Maidstone to Rochester).
South-Eastern Railway (Branch to Deal and Extension to Canterbury, Ramsgate, and Margate Railway).

Thursday, April 24.

Shelsley Road.
London Orphan Asylum.

SESSIONAL PRINTED PAPERS.

Par. Num.
214. Port of London—Return.
237. Classification of Railway Bills—Seventh Report Committee.
244. Maynooth College—Returns.
218. Post-office—Return.
235. Bills—Malt Drawback.
236. — Bastardy—Lords' Amendments.
239. — Sheriffs (Wales).
223. — Museums of Art (amended).
229. — Calico Print Works (amended).
224. — Colonial Passengers.
222. Midland Railway Branches Bill—Report of Committee on Petitions for Private Bills.
227. Clerks to Attorneys—Return.
230. Classification of Railway Bills—Sixth Report of Committee.
217. National Debt—Account.
Occupation of Land (Ireland)—Evidence, Part 2.
Pentonville Prison—Third Report of Commissioners.
209. Circuits of the Judges—Paper.
216. Education (India)—Paper.
Post Office—Additional Articles agreed upon with the Post Office of France respecting the Convention of 1843.
210. Soap—Accounts.
219. Exports to Brazil—Account.
231. Railway Bills—Resolutions of the Committee.
206. Ships, Shipping—Returns.
Opium (China)—Correspondence.
Colonial Land and Emigration Commission—Fifth Report
215. Dock Yard Apprentices—Return.
225. Railways (Lancashire and adjoining Districts)—Report of the Board of Trade.
226. Railways (Various Districts)—Report of the Board of Trade.
119. Railways (North of Ireland)—Map.

HOUSE OF LORDS.

DEATHS BY ACCIDENT COMPENSATION BILL.

Monday, April 21.—Lord Lyttelton said, that in moving the second reading of this bill it would be unnecessary to take up the time of the House, as he believed that it met with general concurrence. As the law now stood, a person injured by the neglect of another could recover damages from the latter; but in case of death, the family of the person killed could not recover any damages. What he proposed in this bill was, that in case of death through the negligence of another, the wife, or husband, or the child, or children, and the parents, in case the person killed has no family, were to be enabled to recover damages from the person who was the cause of the death. He believed that there would be no practical difficulty in carrying this measure into effect. In fact, the principle which he went upon was at present the law both of Scotland and France.—Lord Campbell felt great satisfaction that his noble friend had taken charge of this Bill for a signal amendment of the law. The measure proposed by the noble lord had his entire concurrence, but at the same time he thought some useful and very necessary alterations could be made in the Bill in committee. He approved of the principle of giving pecuniary compensation where pecuniary damage was inflicted. That was already the principle of the law of England, recognized in what were known as actions on the case. He had himself suspended his Deodand Bill, in order that it might go *pari passu* with the present measure.—The Lord Chancellor said he had no disposition to oppose the second reading of the Bill, more especially as his noble and learned friend the Lord Chief Justice of the Queen's Bench had told him, in a conversation which they had recently held on the subject, that he approved of the principle of the Bill. He (the Lord Chancellor) concurred, however, with his noble and learned friend who had just sat down, that the Bill required considerable alteration in committee, and he would therefore suggest that it be referred to k committee up stairs. (Hear, hear.) He did not anow, for instance, what the noble lord (Lord Lyttelton) proposed doing in a case where a man murdered another. Under the Bill as it now stood the children of the murdered man would have a right to bring an action, and to recover compensation; but then it would be necessary for them in the first place to address the Secretary of State to suspend the execution of the murderer until after three months would have elapsed. He thought it was quite right that a husband should have a right to recover damages in a case where his wife was killed by accident as well as where she merely received an injury; but the Bill as it now stood went much farther, as it gave a similar right of action to the children of the deceased person. He did not, however, object either to the principle or to the second reading of the Bill, on the understanding that it should go before a committee up stairs.—Lord Lyttelton said he had no objection whatever to allow the Bill to go before a committee up stairs.—The Bill was then read a second time.

BAIL IN ERROR BILL.

Tuesday, April 22.—Lord Campbell wished to know when his noble and learned friend on the woolsack would proceed with the Bail in Error Bill.—The Lord Chancellor said he had made considerable alterations in the Bill, and would shortly lay the Bill on the table of the House.

Thursday, April 24.—The Royal Assent was given, by commission, to the Sugar Duties Bill, the Customs (Export Duties) Bill, the Glass Duties Bill, the Mutiny Bill, the Marine Mutiny Bill, the Thames Navigation Bill, and Britten's Divorce Bill.

HOUSE OF COMMONS.

AUCTION DUTIES.

Tuesday, April 22.—Mr. Ricardo wished to ask a question of the Right Hon. Chancellor of the Exchequer with respect to the auction duties. There was some misunderstanding as to the time when these duties ceased to be paid, whether from the date of the passing the resolution of that House, or from the time of the passing of the Bill itself. He wished to ask from which of these dates the duty ceased?—The Chancellor of the Exchequer felt obliged to the hon. gentleman for giving him an opportunity of stating publicly that the auction duties ceased from the date of the report of the resolution of the House. It was necessary still to take an account of the duties, because, in the event of Parliament not passing the Bill, they could not otherwise be recovered; but, in fact, they ceased from the date of the report of the resolution.—Mr. Ricardo had only asked the question because there was some misunderstanding on the subject.

Three New Writs.—It will be seen by our Parliamentary report, that three new writs have been moved for. The first was in the room of Sir W. W. Wynn, who seems tired of Parliament; the second in the room of Mr. Forbes Mackenzie, who has been appointed a Lord of the Treasury, in the place of Mr. Pringle, and will no doubt again offer himself to the electors of Peeblesshire; and the third for Leominster, in the room of Mr. Greenaway, who, in a letter to his constituents, alleges urgent private business as his reason for retiring from Parliament.

Member returned to serve in this present Parliament.—Crown Office, April 21.—Town of Greenock—Walter Baine, esq. merchant, in Greenock, in the room of Robert Wallace, esq. who has accepted the office of Steward of her Majesty's Chiltern Hundreds.

THE MAGISTRATE.

Summary.

A misunderstanding seems to prevail with respect to the Forms in the Schedule to the new Bastardy Bill. It sanctions all Forms *to the like effect* as the defeated ones, and as those prepared by Mr. Symons for the *Verulam Society* are not merely to the like effect, but avoid the errors that have vitiated the former, they are, in fact, confirmed by the new Bill, both for the past and the future. The Profession may, therefore, use them with the most perfect confidence. Multitudes of petitions are being presented against the clause in the Justices' Clerks Bill which prohibits Clerks from conducting prosecutions.

Charges before Magistrates.—The total number of persons who have been charged before the metropolitan magistrates in the year 1844 far exceeds what would be the general belief on the subject, and many of the occupations of persons thus placed would not be thought of by the public. These were—Clergymen, 5; coachmakers, 112; corkcutters, 88; compositors, 44; clockmakers, 46; buttonmakers, 35; carpenters, 1,324; clerks, 582; coach and cabmen, [illegible],018; curriers, 131; cutlers, 76; carvers and gilders, 146; drapers, 122; dyers, 151; engineers, 192; excisemen, 8; fishmongers, 45; French polishers, gardeners, 412; glass makers, 290; glovers, goldbeaters, 116; greengrocers, 133; hairdressers, 125; hatters, 322; interpretors, 4; jewellers, 37; grocers, 91; labourers, 14,849; lawyers, [illegible]7; laundresses, 858; masons, 110; medical men, 159; millers, 25; milliners, 113; musicians, 64; opticians, 2; painters, 676; papermakers, 358; parish officers, 2; pawnbrokers, 12; postmen, 16; printers, 415; publicans, 92; reporters, 25; sailors, 1,968; sawyers, 166; saddlers, 99; servants, 882 (women, 1,072); sheriffs'-officers, 6; shopkeepers, 39; artists, 67; bakers, 502; brushmakers, 96; barmen, 28; brassfounders, 109; brewers, 23; bricklayers, 713; butchers, 48; shoemakers, 145; watermen, 206; women shoemakers, 498; smiths, 697; soldiers, 236; surveyors, 11; tailors, 1,605; tinkers, 117; tobacconists, 74; toolmakers, 110; turners, 71; watchmakers, 197; weavers, 465 (women, 216); woolstorers, 6; sweeps, 209; no trade or occupation—men, 9,519; women, 15,640.

The following buildings are certified as places duly registered for solemnizing marriages, pursuant to an Act of 6 & 7 William 4, cap. 85:—Wesley Rock Chapel, Kea, Cornwall; Geo. D. John, superintendent registrar. Wesleyan Chapel, Swaffham, Norfolk; Robert Sewell, superintendent registrar. Hanover Chapel, Tunbridge Wells, Kent; Edward Stidolph, superintendent registrar.

THE LAWYER.

Summary.

THE written judgments already delivered in the present Term will be found in the Reports of to-day. Other departments of the paper contain various matters of great interest to the Profession, which must be the subject of future discussion. Amid the pressure of Reports comment must be deferred.

COURT PAPERS.

CHANCERY CAUSE LIST.

Easter Term, 1845.

Before the MASTER OF THE ROLLS.

Tristram *v.* Roberts, West *v.* Roberts, dem.
Attorney-gen. *v.* Rickards, plea.
James *v.* James, stand over.
19th April, Johnson *v.* Todd, three causes, fur. dirs. costs, and petition.
Walton *v.* Potter
Langley *v.* Fisher

Trinity Term.

Hope *v.* Hope, three causes.
Till mentioned—Richardson *v.* Horton, Same *v.* Taylor, Same *v.* Derby } Fur. dirs. and costs.
Attorney-gen. *v.* Bedingfield.
Hele *v.* Bexley, two causes, until suppl. bill.
Gibson *v.* Nicol, Same *v.* Alsager } Until suppl. bill.
Mayor of Ludlow *v.* Charlton.
Attorney-gen. *v.* The Ironmongers' Company, exons. fur. dirs. and costs.

Michaelmas Term.

Earl of Dundonald *v.* Norris.

Hilary Term, part heard.

Marquis of Hertford *v.* Lord Lowther, exons.
First cause day—Wiggins *v.* Wiggins.
Same *v.* Linthorne.
Short line—Attorney-gen. *v.* Long.
Same *v.* Cobbe.
Same *v.* Troughton, and petition.
First cause day, part heard—Davenport *v.* Charlesworth.
Charlesworth *v.* Manners, rehearing.
Farquhar *v.* East India Company, exons.

Trinity Term.

Attorney-gen. *v.* Heytesbury Hospital.
Attorney-gen. *v.* Mayor of Plymouth.
S. O. short—Parker *v.* Parker.
Meryon *v.* Collett.
Hornby *v.* Bispham, Same *v.* Kay, Same *v.* Brandon, Same *v.* Ward, Same *v.* Houghton, Same *v.* Yates } Fur. dirs. and costs.
First cause day—Attorney-gen. *v.* Governors of Hartlebury School, fur. dirs. and costs.
Attorney-gen. *v.* Bishop of Worcester, ditto.

Michaelmas Term.

Campbell *v.* Crook, exons.
April 22, part heard—Lethbridge *v.* Chetwoode.
First cause day—Vezey *v.* Fyson.
Gordon *v.* Lowe, two causes.
April 28—Lord Nelson *v.* Lord Bridport, exons. fur. dirs. and costs.
Gee *v.* Gurney.
April 15—Augeraud *v.* Parry.
Lindgren *v.* Lindgren.
Bennett *v.* Cooper.
Hodgkinson *v.* Cooper.
Davis *v.* Prout, Same *v.* Davis } Fur. dirs. costs, and petition.
Love *v.* Gaze.
Hodgkinson *v.* Wyatt.
Thornton *v.* Knight.
Fowler *v.* Durham, two causes, fur. dirs. and costs.
Lockhart *v.* Alder.
Same *v.* Crouch.
Gosling *v.* Townsend.
Atkinson *v.* Bartrum.
Bateman *v.* Hotchkinson.
Sprott *v.* Yorke, two causes.
Carpenter *v.* Bignell, two causes.
Harrison *v.* Harrison, ditto.
Same *v.* Skidmore.
Same *v.* Harrison.
Grubb *v.* Perry.
Whittaker *v.* Whittaker.
Lane *v.* Hardwick.
Same *v.* Goodyear.
Price *v.* Price, fur. dirs. and costs.
Norris *v.* Faint.
Hanmer *v.* Hanmer.
Cross *v.* Cross.
Thomas *v.* Davies.
Budd *v.* Flowerdew, fur. dirs. costs, and petition.
Bradstock *v.* Whatley.
Pelly *v.* Wathen.
Same *v.* Lewis, two causes.
Short—Rolfe *v.* Wright, and petition.
Stocken *v.* Dawson, two causes, Same *v.* Belcher, Same *v.* Wallace } Exons. fur. dirs. & costs.
Macgregor *v.* Macgregor, two causes, fur. dirs. and costs.
Hatfield *v.* Wells.
Barker *v.* Bailey, fur. dirs. and costs.
Butterworth *v.* Harvey, ditto.
Stedman *v.* Burrell, exons.
Attorney-gen. *v.* Drapers' Company, fur. dirs. and costs.
Weekes *v.* Dodson, Same *v.* Smith, Grover *v.* Weekes } Fur. dirs. and costs.
Lord Nelson *v.* Nelson, ditto.
Dormay *v.* Borradaile, exons. and ditto.
Short—Guidici *v.* Kinton, fur. dirs. and costs.
Routh *v.* Hutchinson.
Harris *v.* Farwell.
Short—Attorney-gen. *v.* Wright.
Compton *v.* Bloxham, two causes.
Cathcart *v.* East India Company.
Stanes *v.* Parker.
Haldenby *v.* Spofforth, two causes, Same *v.* Dunn, Clark *v.* Same } Fur. dirs. and costs.
Short—Hall *v.* Williams.
Kightly *v.* Trimbey, two causes.
Horrocks *v.* Leadman.
Bishopp *v.* Capel.
Short—Fowke *v.* Rigge.
Hill *v.* Maurice, fur. dirs. and costs.
Willis *v.* Douglas.
Short—Tench *v.* Stephens.
Smith *v.* Webster, fur. dirs. and costs.
Johnston *v.* Todd.
Same *v.* Marshall.
Short—Joyce *v.* Joyce.
Smith *v.* Carter, fur. dirs. and costs.
Hatfield *v.* Prime, Same *v.* Sheddon } Fur. dirs. and costs.
George *v.* George.

COURT OF QUEEN'S BENCH.

CROWN PAPER.

Easter Term, 1845.—*For Saturday*, April 19.

Wilts—Reg. *v.* the Inhabitants of New Sarum.
Lancashire—Reg. *v.* the Inhabitants of Orton, in Westmoreland.
Derbyshire—Reg. *v.* the Inhabitants of Bakewell.
Kent—Reg. *v.* the Inhabitants of Sevenoaks.
Leicestershire—Reg. *v.* the Inhabitants of Appleby.
Shropshire—Reg. *v.* the Inhabitants of Lilleshall.
Warwickshire—Reg. *v.* John Gardiner.
Staffordshire—Reg. *v.* the Inhabitants of Wolverhampton.
Worcestershire—Reg. *v.* John Perkins.
England—C. K. K. Tynte *v.* the Queen, in error.
Middlesex—Reg. *v.* the Inhabitants of St. Anne, Westminster.
Cornwall—Reg. *v.* John Randall and John Taylor.
Somerset—Reg. *v.* Edward Coles.
Bolton—Reg. *v.* the Inhabitants of Great Bolton.
Durham—Reg. *v.* the Newcastle and Darlington Junction Railway Company.
Leeds—Reg. *v.* the Inhabitants of Ripon.
Yorkshire—Reg. *v.* the York and North Midland Railway Company.
Kent—Reg. *v.* the Mayor of Sandwich.
Middlesex—Reg. *v.* the Inhabitants of St. Paul, Covent Garden.
Sussex—Reg. *v.* the Inhabitants of Brighton.
Lancashire—Reg. *v.* the Inhabitants of Manchester.
Cheshire—Reg. *v.* the Overseers of Cuddington.
Staffordshire—Reg. *v.* the Inhabitants of Worthenbury.
Cheshire—Reg. *v.* the Inhabitants of Altrincham.
Hull—Reg. *v.* the Inhabitants of Stockton in Durham.
England—John Williams *v.* the Queen, in error.
Oxon—Reg. *v.* John Haines and Another.
Notts—Reg. *v.* the Midland Railway Company.
Middlesex—Reg. *v.* the Inhabitants of St. Margaret's, Westminster.
Berks—Reg. *v.* the Mayor, &c. of New Windsor.
Durham—Reg. *v.* the Inhabitants of Killerby, Yorkshire.
Warwickshire—Reg. *v.* the Churchwardens, &c. of Toleshill.
Cheshire—Reg. *v.* The Pate.
Surrey—Reg. *v.* the Guardians of the Poor of St. Mary, Lambeth.

ATTORNEYS TO BE ADMITTED,

On the last day of Easter Term, pursuant to Judges' Orders.

QUEEN'S BENCH.

Clerks' Names and Residence.	*To whom articled, assigned, &c.*
Hayward, Charles Francis, 2, Adelaide-place, City; and Dartford	John Hayward, Dartford.
Hawkins, Christopher Stuart, 80, Lombard-street; and Modbury	Servington Savery and John Thomas Savery, Modbury.
Myers, Richard, Leeds	Ayrton Gatliff, Leeds.

RENEWAL OF ATTORNEYS' CERTIFICATES.

On the last day of Easter Term, 1845.

QUEEN'S BENCH.

Barnes, Henry Eugene, Mercers' Hall, Tokenhouse-yard.
Bassett, Thomas Prichard, formerly Thomas Prichard Popkin, 50, Nelson-square; Brussels.
Capreol, Harry Pater, Aberayron, Canada; Bedford-street.
Coates, Richard, Manchester.
Dudman, William, 6, Upper Grafton-street; Shoreditch.
Eliot, James, 12, South-street, New North Road; Dulwich; Red Lion-passage; Hoxton Old Town.
Florance, James, 8, Charing-cross; Paris.
Harris, Joseph, 70, Westmoreland-place, City-road.
Harris, Horatio, Birmingham; Stourbridge.
Jackson, Richard, Lancaster.
Jones, Daniel Price, Newcastle; Emlyn.
Jones, David Edward, 6, Montanna-place, Lark-hall-place, Stockwell.
Kay, Daniel, Chorley.
Mather, John, Manchester, and Newton-heath, near Manchester.
Mayer, John Parker, Newcastle-under-line, and Stoke-upon-Trent.
Parker, Richard, Oxford-terrace, Hyde-park; Dover; Montreuil, France.
Parsons, Frederick John, Newbury; Burton Crescent.
Upton, George, Keighley.
Woods, Edward, Claremont-house, Upper Rosomon-street, Clerkenwell; John-street, Pentonville; Gerrard-street, Lower Islington.
Warren, Daniel, St. Helier, Island of Jersey.

PROMOTIONS, APPOINTMENTS, ETC.

[Clerks of the Peace for Counties, Cities, and Boroughs, will oblige by regularly forwarding the names and addresses of all new Magistrates who may qualify.]

FOREIGN-OFFICE, April 18.—The Queen has been pleased to approve of Mr. Robert Armstrong as consul at Liverpool for the United States of America.

DOWNING-STREET, April 18.—The Queen has been pleased to appoint John C. Millward, esq. to be assistant civil architect for the island of Mauritius.

FOREIGN OFFICE, April 21.—The Queen has been pleased to approve of Mr. John Arthur as Consul at Turk's Island for the United States of America.

ST. JAMES'S PALACE, April 23.—The Queen was this day pleased to confer the honour of Knighthood upon William Erle, esq. one of the Judges of her Majesty's Court of Common Pleas.

ST. JAMES'S PALACE, April 23.—The Queen was this day pleased to confer the honour of Knighthood upon Thomas Joshua Platt, esq. one of the Barons of her Majesty's Court of Exchequer.

Magistrates

WHITEHALL, April 21.—The Lord Chancellor has appointed Joseph Coltman Smith, of Kingston-upon-Hull, gent. to be a Master Extraordinary in the High Court of Chancery.

CHIEF-JUSTICE OF NEW SOUTH WALES.—We understand, on good authority, that the office of chief justice of New South Wales, vacant by the recent death of Sir James Dowling, is to be filled up by one of the learned gentlemen already in the colony, and not by any member of the English Bar.

GRAY'S-INN, April 23.—Mr. Henry Manisty was this day called to the degree of Barrister-at-law by the Hon. Society of Gray's-inn.

MIDDLE TEMPLE.—The following mentioned gentlemen were called to the degree of the utter bar on Friday, and published in the Dining-hall on Saturday:—Mr. Patrick James Nagle, B.A.; Mr. Charles Lavington Pannel, Mr. Henry Beeston, Mr. Henry Leigh, Mr. Alexander Shea, Mr. William Holmes Edwards.

LEGAL INTELLIGENCE.

BARRISTERS AND ATTORNEYS AT QUARTER SESSIONS.

(*From the Chester Chronicle, April* 18.)

FLINTSHIRE QUARTER SESSIONS.

These sessions were held at Mold on Thursday, the 10th of April.

The following counsel took their seats in the court: Mr. Gaunt, Mr. H. Denton, Mr. Jones Parry, Mr. Foulkes, and Mr. Beavan; and as this was the first attendance of a Bar at the Quarter Sessions in this county, it gave rise to an interesting and important discussion.

Northop, Appellants, and Hawarden, Respondents.

Mr. *Eyton*, solicitor, rose and addressed the Court in this appeal, and was proceeding in the opening of this case, when—

Mr. *Gaunt*, senior counsel present, got up, and applied to the Court on behalf of the Bar for exclusive audience, which he said was usually granted in all similar circumstances. Indeed, he was not aware of a single instance of a request of that sort being refused. In support of his application he quoted the following passage from Serjt. Talfourd's book of the Practice of Quarter Sessions:—"At sessions, where a sufficient number of barristers attend, it is usual to give them sole audience, and the attorneys are in consequence not heard in person. In cases where the Bar has not been accustomed to attend, it is usual for them to intimate their desire to the chairman, and to request that they may have pre-audience, and if this request be granted, the attorneys cannot afterwards be heard in their presence, unless they should be all retained on one side." He also read to the Court a case decided by Sir Gregory Lewin, Recorder of Doncaster, and reported at length in the LAW TIMES of the 18th January last. In that case Sir Gregory Lewin, after having had under his notice what transpired previously at the Lichfield Sessions, decided "that he should not allow attorneys to practise in his court when four barristers were present."

Mr. *Eyton* said that he appeared there for himself, and as representing the attorneys of the counties of Denbigh and Flint, of whose Law Association he had the honour to be president, and protested against the claim of exclusive audience made by the barristers. He entertained the utmost respect for the Bar as a body, but that should not prevent him from doing his utmost to oppose this attempted aggression upon his branch of the Profession. The attorneys had pleaded in that court, and in Denbighshire, from the earliest times with credit to themselves, and he trusted with satisfaction to the magistrates and the public, and it was rather too bad for the Bar to desire to oust the attorneys of their ancient privileges. He did not claim an exclusive right for the attorneys. Let there be fair and honourable competition between them and

the Bar, and the public would award their support and patronage to that branch of the Profession which they found by experience did their business best. If the Bench so ordered, he did not fear the result. He cited, in opposition to the decision of Sir Gregory Lewin, the decision of the chairman of the Lichfield Sessions, given under the express sanction of Lord Denman, that barristers should have *pre-audience*, but not *exclusive* audience. As to Serjt. Talfourd, his fame was greater as a poet than as a lawyer. He (Mr. Eyton) had also been given to understand that the Denbighshire magistrates, in answer to a similar application by the Bar last year, had given them no encouragement.

Mr. *Horne* confirmed the latter part of Mr. Eyton's statement.

Mr. *H. Denton*, barrister, begged leave of his lordship to offer a few words in answer to the gentleman who spoke last, and who claimed the right on the part of the attorneys to have audience in this court, whatever barristers, and whatever number of barristers might be present; and who denied that his lordship and the Bench had the power to exclude the attorneys from being heard. Mr. Eyton had rested their right on a case which had occurred not long ago in the Recorder's Court at Lichfield. He (Mr. Denton) asked his lordship to treat that case in the same way in which it had been treated by Sir Gregory Lewin, a lawyer of high character, station, and great learning. Mr. Eyton had said, that his friend Mr. Horne had told him, that an application similar to the one now made had been made by the Bar to the magistrates of Denbighshire, and that they had rejected it. That statement of Mr. Horne was not correct. They (the Bar) had made no application at *all* to the magistrates of Denbighshire. They had merely intimated to the clerk of the peace of that county, their intention of attending at the next sessions there, in the same form in which they had made known their intention to the clerk of the peace of the county of Flint, and at the same time, which was only a few days ago. He hoped, therefore, that his lordship would not listen to any statement of that sort which Mr. Horne might make, who was interested in that matter. He (Mr. Denton) was told, that in the county of Carnarvon, the present chairman of the Quarter Sessions, Lord Newborough, owing to the great dissatisfaction he felt, in common with others of the magistrates of that county, at the very irregular and disorderly manner in which business had been theretofore conducted in their Court of Quarter Sessions, was so desirous of the attendance of a Bar in that county, that an overture had been made to his friend, Mr. Jones Parry, who sat by him, for the purpose of inducing a Bar to attend there.

Mr. Horne, solicitor, then rose and said that Mr. Denton's remark respecting him was made in consequence of a quarrel between him, Mr. Horne, and Mr. Denton's father, many years ago. Mr. Horne was continuing his observations when he was interrupted by

The Chairman, who asked him, Whom are you addressing?

Mr. *Horne* answered that he was addressing Mr. Denton.

The Chairman then desired Mr. Horne to address himself to the Bench.

Mr. *Horne* said that the business being conducted by attorneys was a saving to the county; and in the event of the Bench deciding to exclude the attorneys, that they would bring no cases into court, but would refer them all; and that they would do every thing they could to annoy the counsel. They did not know the Welsh language; and they (the attorneys) would tender a *mandamus*. Such a decision would be most unjust to them, who had been labouring in this business for years, and would be a taking of the bread out of their mouths.

Peter Parry, esq. suggested whether a question of so much importance to the Profession and the public, should be hastily decided by the Bench without due notice to the body of the county magistracy. For his part he could see no wisdom in a wig (a titter among the attorneys), and it was a grave question whether the expert and able advocacy of clever attorneys, whom they all knew and had confidence in, was not preferable to falling back upon briefless barristers. (This caustic sally produced a sufficiently perceptible twinge on the countenances of the Bar, when Mr. Parry made the *amende.*) "Of course I wish it to be understood that I except those gentlemen of the Bar now in court." (Laughter.) The question of increased expense should have no weight, as the Court had power to regulate the fees.

Mr. *H. Denton* hoped that his lordship would excuse him for troubling the Court with two or three words, more in regard to what had fallen from the Bench as to the increased expense to the county, which would be caused by the attendance of a Bar. They (the Bar) would be content if the weight of that objection to them should be determined by the magistrates, on a comparison being made between the expenses of business at sessions in this county, where no Bar had attended, and the expenses of the same sort of business in Cheshire, where a Bar regularly attended. For in the county of Denbigh, where the business is conducted solely by attorneys, Mr. Peers, the clerk of the peace of that county, stated in the witness-box, at the last assizes, that the expenses of prosecutions at sessions there ranged from 10*l.* to 30*l.* That, therefore, might be taken to give an average of 20*l.* They (the Bar) would rather that the Bench would now decide the question before the Court; but it was not their wish to press for a decision, as it had been already mentioned by one of the magistrates on the bench, that he thought as there were so few magistrates present that they should defer their judgment. But that the matter was in the discretion of his lordship and the Bench, and that they had the power to give the Bar exclusive audience, and to shut the mouths of the attorneys in that court, there could not be the least doubt.

While the magistrates were deliberating,

Mr. *Eyton* stated, that the attorneys in the appeal case had come to terms, and should refer it. He therefore moved that the further hearing of this appeal be respited by consent till next sessions.

The Chairman said, that he very much wished it was in his power to decide the point before the Court. It was his wish to act justly to all parties. The question, however, was novel in that court, and, as but short notice had been given of the intention of barristers to attend, and as there was so small an assembly of magistrates present, he felt himself in a situation of some difficulty. Individually, however, he entertained a strong opinion, which he would not hesitate to express, and which was founded on established usage, common sense, and the precedence of the Profession. It was the part and duty of barristers, in matters proceeding in open court, to act as advocates, and to expose the merits of every case. He thought what passed at Lichfield was no decision at all upon the point; for himself, he would follow the decision of Sir Gregory Lewin, recorder of Doncaster, a barrister of great eminence, with whom he was personally acquainted, and which had been recently given in a case which had been argued at considerable length and appeared to have been well considered. He (Lord Dungannon) was decidedly of opinion that barristers ought to have the preference, and that attorneys ought not to be heard when a sufficient number of barristers were in attendance. However, his brother magistrates who were then present thought it right to defer their final opinion until the other magistrates should have had an opportunity of considering the subject. He thought the whole thing was in the discretion of the Bench, as laid down in Mr. Serjt. Talfourd's book of Quarter Sessions Practice; and it was therefore certainly desirable that time should be afforded for all the magistrates of the county to express their views, and especially his honourable friend Mr. Kenyon, who was unavoidably absent, owing to a domestic calamity, which he (Lord Dungannon) much lamented. Mr. Kenyon would probably be present at the next sessions, but if that should not be convenient for him, at any rate the Bench could be in possession of his views at that time. They (the magistrates present) thought it would be more satisfactory to all parties that there should be a larger assembly of magistrates before they came to a decision in the matter; and it would be better to adjourn it, particularly as the Hon. Lloyd Kenyon (chairman) was absent.

The Judges, &c. at St. Paul's Cathedral.—Yesterday, the first Sunday in Easter Term, the judges, and several corporation functionaries, attended divine service at St. Paul's Cathedral, and the scene was certainly one of the most impressive witnessed for some years. Divine service was announced to commence at three o'clock, but long before that time every available seat in that portion of the cathedral set apart for divine service was crowded to excess, and the avenues leading to St. Paul's Churchyard were besieged with carriages and other vehicles. The Lord Mayor arrived in the state carriage, and was accompanied by the sheriffs and City officers. The judges arrived in their private carriages. Barriers were placed in the interior halls, and a body of the city police were in attendance, under the command of Superintendent Shaw, for the preservation of order. It may be added that the latter regulation gave considerable dissatisfaction to many present, who very properly considered that the entrance to a place of worship should not be barricaded with iron spikes and garrisoned with policemen on such an occasion, and during the hours of divine service. Persons were admitted into the edifice solely at the option of these preservers of the peace, the language and general conduct of whom were more suitable for an execution than the purpose to which they were devoted. Shortly after three o'clock there entered the Cathedral, the Right Hon. the Lord Mayor, Aldermen and Sheriffs Hunter and Sidney; the Recorder, the Common Serjeant, Commissioner Bullock; Aldermen Farncomb, Hughes Hughes, Johnson; the Chamberlain of London, Anthony Brown, Esq.; with their attendants. The aldermen wore their scarlet gowns and gold chains. The Common Councillors next followed. The judges who entered (wearing their state dresses) were, Chief Justice Tindal, Mr. Justice Patteson, Mr. Justice Erle, Mr. Justice Cresswell, Mr. Justice Coltman, Mr. Baron Platt, &c. Serjeants Dowling, Chadwick, Jones, and some others, wearing scarlet cloaks and coifs, next entered, followed by some members of the outer bar. The colours of the dresses of the judges, aldermen, and other functionaries present, with those of the ladies who crowded the building, rendered the scene a very imposing one indeed. Full cathedral service was performed, and the organ played most effectively. The Lord Bishop of London, with that eloquence so peculiar to him, preached, and selected his text from the 1st of Philippians, 21st verse. At the conclusion of the service, the judges and aldermen retired in the same order as upon entry, and the interesting scene closed.

The Hon. Sir James Parke, one of the judges at our late assizes, has made an order upon the Lords of the Treasury for the payment of twenty-five guineas, as a reward to Mr. Stephen English, for his services in detecting the perpetrators of the fires in this county.—*Ipswich Journal.*

The Rank of Serjeant-at-Law.—(From a Correspondent of the *Morning Herald.*)—The tables of precedence given in modern books, and in the Court list of her Majesty's levees, convey a very inaccurate idea of the rank due to this ancient dignity. By some of these authorities the serjeant is placed after a knight-bachelor, by others after a reverend messieur, whilst others place him even after the younger son of a knight! Many of these mistakes probably arise from the anomalous position of the serjeants in the superior courts at Westminster, in which places her Majesty's counsel and some few barristers who have obtained patents of precedence enjoy a right of audience before them. But "the pre-audience acquired in comparatively modern times by the Attorney and Solicitor-General, and the other Queen's counsel, over the serjeants in the courts of Westminster Hall, has not otherwise affected the rank or position of the latter. At the coronation of Queen Elizabeth, it appears to have been finally settled, that in the Royal procession (in which those of inferior rank walk first), the Attorney and Solicitor-General walk immediately before the barons of the Exchequer, and immediately after the serjeants-at-law, who follow the knights bannerets, bachelor knights, masters of the Chancery, clerks of the court," &c. (Egerton Papers, 60. Penny Cyclopædia, art. "Serjeant-at-Law.") From this it is evident that the lay rank of a serjeant is somewhere between that of a baronet and knight banneret. His heraldic vizor is open, and the same as that proper to baronets and orders of knighthood. As regards the rank enjoyed by the serjeants amongst themselves in Westminster Hall, they have audience, in general, according to the date of their respective calls to the degree, but many of them have patents of precedence which confer either a right of audience before the others of their brethren, or next after all Queen's counsel created subsequently to the date of such patents. Elsewhere seniority alone governs their relative precedence.

The Improvements in Lincoln's Inn.—The works in connection with the improvements in Lincoln's Inn New-square, which were so suddenly suspended, have been resumed, and are rapidly progressing. Several hundred loads of mould have been laid on the inclosure in the middle of the square, to the depth of about two feet six inches, so as to form it into garden-ground. It is intended to be covered with a grass-plot, ornamented with shrubs and evergreens; and paths are in formation from each of the four sides of the square to the centre, meeting where the fountain is to be placed. The kerbs for the new road are laid down; it is to be macadamized, and will run from Lincoln's-inn-fields to the Vice-Chancellor of England's Court.

An Album of Crime.—In the possession of a man named Harrison, convicted of a highway robbery near Leeds, and sentenced to transportation, a diary has been found, consisting of a record of all his robberies! The book is small and neat, is gilt-edged, and forms, in fact, a sort of robber's album. It would appear, from one of the entries, that a man named White, convicted of highway robbery at the same assizes, was in reality (as he himself solemnly protested) innocent of the crime, and that Harrison was the robber.—*Lancashire paper.*

Probate of the will of Edward Tewart, esq. of Coupland Castle, in the county of Northumberland, has just been granted to the sons and executors, Edward Tewart, esq., John Preston Tewart, esq., and Robert Tewart, esq. to whom is left the whole of the property, freehold and leasehold, equally amongst them. The will is dated May 18, 1843. Personal estate sworn under 120,000*l.*

PROCEEDINGS OF LAW SOCIETIES.

METROPOLITAN AND PROVINCIAL LEGAL ASSOCIATION.

On Saturday evening last, at the rising of the Court, a deputation from the Metropolitan and Provincial Legal Association, consisting of Sir George

Stephen, the president, James Burchell, esq. the vice-president, Godfrey Goddard, W. H. Turner, and James Kinder, esquires, and the secretary, were honoured by Lord Denman with an interview, on the subject of the better education of attorneys.

The deputation stated the views of the council of the association to be, that while every other profession exacts from its members a preliminary examination on some or other of the subjects of a school education, it is indispensable to the character and station of the legal profession that a similar examination should be imposed upon those seeking to become attorneys. They submitted to his lordship a programme of examination on the following topics:—Latin, to the proficiency of accurately translating Virgil, Cicero, and Ovid; and Greek, as far as the Greek Testament, although we understand on this subject some difference of opinion among the council exists; a competent knowledge of French, logic, and history; English composition; mathematics, to the extent of the first four or six books of Euclid, and algebraical signs. This examination is intended, of course, in addition to one on the practice and principles of law. The deputation was very kindly received by his lordship, who made notes of the several suggestions of the deputation, and promised to confer with the other judges on the subject.

It was also proposed to reserve to the judges a power of dispensing with any topic of examination they might deem expedient, except, of course, that on the principles and practice of the law, to meet the case of clerks, who by a long course of industry and integrity in the offices of attorneys have earned a title to admission.

INCORPORATED LAW SOCIETY.

REMOVAL OF THE COURTS FROM WESTMINSTER.

The following is the form of a petition, which it is recommended should be signed by country solicitors, to promote the important object of removing the courts to the neighbourhood of Lincoln's Inn.

To the Honourable the Commons of the United Kingdom of Great Britain and Ireland in Parliament assembled.

The humble petition of the undersigned attorneys and solicitors practising in , Sheweth,

That as the business of the suitors of the superior courts of law and equity is necessarily in great measure conducted by the attorneys and solicitors resident in London, it is essential to the interests of the clients of your petitioners, and of the provincial solicitors generally, that the practitioners in London should be afforded every possible facility for transacting the suitors' business with economy and despatch.

That the offices of the great majority of the London solicitors, the chambers of the Bar, of the Masters in Chancery, and of the judges, as well as all the law and equity offices, being situate in or near the inns of court, that neighbourhood has become the centre of law business; and as the courts of Westminster Hall are distant thence a mile and a half, a journey of three miles is rendered necessary on every occasion of attendance on the courts of Westminster, and thereby, and through other inconveniences resulting from the remoteness of Westminster Hall from the district of law business, a great waste of professional time is occasioned, and the efficiency of professional services is materially lessened.

That these evils would be remedied, and great public advantage be gained, by transferring the courts of all the law and equity judges to the neighbourhood of the inns of court, and uniting them in a suitable structure under one roof.

That the present insufficiency of the courts of Westminster Hall, the large outlay which will be requisite to alter their exterior in conformity with the design of the new Houses of Parliament, and the present want of subsidiary courts, both of law and equity, appear to your petitioners to make the present a very fit time for carrying the proposed object into effect.

Your petitioners therefore humbly pray your honourable House to take the subject into your consideration, and adopt such measures for the correction of the existing evils as to your honourable House may seem meet.

And your petitioners will ever pray, &c.

A petition from the *London solicitors* lies for signature at the Hall of the Incorporated Law Society.

CORRESPONDENCE.

TO THE EDITOR OF THE LAW TIMES.

SIR,—There is something going on with reference to the position of the Bar and the press respectively, which is worth your inquiring into.

The object of this note is not to lay before you a statement of facts, but merely to put you on inquiry. With the means at your disposal, I do not doubt you will soon ascertain what the real facts are.

It is said that, in consequence of something that transpired at the bar table of the Oxford Circuit, the leader (Serjt. Talfourd) and others having expressed some opinion on the conduct of a barrister who reports for the *Times*, the *Leviathan* sent down orders not to report any cases in which the leader and certain others by name might be engaged! In pursuance of these orders, throughout the circuit the names of several counsel have been suppressed. *It is also said*, that the same course has been directed to be followed in London, and from what I have seen—watching the papers, and seeing the business done—it certainly appears to me to be the case. But inquire and judge for yourself. If it be true, expose the malicious tyranny.

Yours obediently,

A SUBSCRIBER.

Craven-street, 25th April, 1845.

[This letter was received at the latest moment—as we were going to press. The subject is of too great importance to be hastily treated. We have reason to believe that the statement is substantially correct, but we invite information from correspondents. Comment must be reserved for another week.—ED. LAW TIMES.]

MORRAL *v.* SUTTON.

(LAW TIMES, April 5.)

TO THE EDITOR OF THE LAW TIMES.

SIR,—"Who shall decide when doctors disagree?" So far as I recollect, I have not ever heard, or seen, an answer to this question; but as doctors clearly disagree in this case, I venture to assert that either your extract, by way of text, from the will disputed in this case is erroneous, or the amazing simplicity of the point in issue has rendered the learning of the doctors referred to useless; and that, in fact, the testator meant what his words express, that the annuities should only remain a charge so long as Sarah Calcot lived.

Twist the words as you please, this, I most humbly submit, is their true import.

The gift to Sarah, her executors, administrators, and assigns, of a leasehold estate, is an absolute gift, if words have any meaning; the words following burthen that gift, so long as she shall live, but no longer. Besides, this reading avoids a repugnancy, and proves that there are not any incongruous words.

I am yours, &c.

A. T. STEAVENSON.

Darlington, April 7, 1845.

SELECTIONS FROM CORRESPONDENCE.

X" writes thus on

THE LAW OF CREDITS.

An insolvent, on applying at the Court of Bankruptcy for his interim order, was opposed by a creditor, on the ground that when the debt was contracted he was in a state of insolvency. The insolvent on being examined, said, "his (the creditor's) traveller called upon me, and wished me to take some goods, and I ordered him to send me boots and shoes to the amount of 9*l.* or 10*l.* but I afterwards received a letter from Mr. B. (the creditor), who said that in consequence of the *lean* state of the law and the difficulty since the passing of Lord Brougham's Act, of recovering debts under 20*l.* he would rather trust me above that amount; and that is how the debt exceeds 20*l.*" The Commissioner (Goulburn) said "That is a very good commentary on the law." The report adds, that there was "laughter" at all this—doubtless! Every bankruptcy court now laughs and mocks at the complaints of the creditor, and there are abundance of commentaries occurring "good" enough to shew the "bad state of the law." The above, however, is pre-eminently "good." This belief induces me to put the case before you, to enable you to make any use you please of it.

NOTICE TO SUBSCRIBERS.

The Publisher begs to inform the Subscribers to the LAW TIMES *that the subscription for the current half-year should be transmitted in the course of the ensuing week, by those who wish to avail themselves of the advantages of pre-payment.*

Members of the Verulam Society are requested at the same time to forward their subscriptions for the current year.

The pre-paid subscription for the current half-year of THE CRITIC, *henceforth to be published weekly, will be* 8s. 6d. *only.*

The Indices to the fourth volume being now completed, the numbers for binding may be sent, through the post, in parcels open at the ends, with a mark by which they may be known, and of which the Publisher should be advised by letter, as also how, when bound, it is to be returned. If sent by parcel, advantage may be taken of the opportunity to inclose other books for the binder.

To Readers and Correspondents.

TO READERS.

In the notice of the second volume of Archbold's Nisi Prius, *last week, it was stated that we had not seen the first volume. This was an error. It was reviewed in the* LAW TIMES *on its appearance, but by another hand. Hence the error.*

O. P. Q.—*The subject has been so often before discussed in our columns, that at this busy season we are compelled to omit his letter.*

H.—*Probably an article on this subject may be obtained after the Term.*

J. B. (Bideford).—*Our charges for Forms are regulated by the scale adopted by all the respectable houses in London.*

J. O. G.'s *letter on* Peel's Acts, *though able, is much too long for present publication.*

A. B. C. D.'s *letter is, as he anticipates, much too long for insertion at this busy time, which we regret, as it is truthful. Correspondents should remember that brevity is the soul of more things than wit. To us it is a chief recommendation.*

A SUBSCRIBER (Gloucester).—*Each volume of Verulam Reports will consist of five parts; each set of Reports will form a distinct volume, a digest of the cases in each volume will be given in the Index. The general digest was proposed to the Society, but did not receive orders sufficient to justify publication.*

J. A. GRIFFITHS, *on* Peel's Acts *as soon as we can find room for him.*

R. H. (Winchester).—*We know not what is the last edition of "Bythewood." We are not aware that a new one is contemplated. The forms of the Verulam Society can only be obtained at the Members' prices direct from the Office.*

MESSRS. F.—*We shall endeavour to give a list of contents, but from the very multitude of our reports it would be impossible to index them in each Number. It would fill two pages at least.*

A. A.—*Undoubtedly Stephens's.*

A SOLICITOR (City).—*It is of course proposed only to lithograph the common covenants, to save time and trouble of copying.*

H. P. (Warminster).—*The advertisement is not quite un professional enough for notice.*

R. W.—*The subject is exhausted.*

J. F. (Dursley).—*We have some doubts whether the letter transmitted is fairly within our ken. We will consider it.*

A. D. (St. Asaph).—*We cannot make the* LAW TIMES *a Court of Appeal for persons dissatisfied with the decision of the Courts in their own cases.*

THE LAW TIMES.

SATURDAY, APRIL 26, 1845.

EDUCATION OF ATTORNEYS.

UNWEARIED in its efforts to fulfil the purposes for which it was called into existence, the METROPOLITAN AND PROVINCIAL LEGAL ASSOCIATION has, among a multitude of matters interesting to the Profession, directed its attention to the important subject of Legal Education. Desirous of exalting the character of the Profession, and purifying it from the too frequent blots that now shadow its fair fame, the Council have taken into their consideration the best means for the accomplishment of this object. The conclusion at which they arrived was precisely that which we have endeavoured so often and urgently to impress upon the readers of the LAW TIMES. It was this: that education was the only *practicable* security for character that could be suggested, a security certainly not perfect, but yet, under all circumstances, *the best* that offers.

With the business-like energy that has distinguished all the proceedings of this youthful society, the resolution was no sooner formed than it was determined to communicate it to the authorities, and ask their aid to carry it into practical operation. An interview was requested with the Lord Chief Justice of the Queen's Bench. It was readily accorded. A deputation from the Society accordingly waited upon his lordship, who received them with his wonted urbanity, listened to their propositions and the reasons by which they were supported, took notes of all, and promised to communicate with the other Judges upon the important subject thus brought under his notice.

The particulars of this interview will be found in their proper place in the *Proceedings of the Law Societies*, and thither we must refer the reader for further details, especially as to

the course of education for Attorneys suggested by the deputation. Our present purpose is to state the reasons why we cordially approve those propositions.

The Profession of an Attorney has this peculiarity, in which it differs from all others, that *personal character* is the primary requisite in its practitioners—that in which the public is most directly interested, and for which it is the most important that some security should be given. In all other professions, personal character is secondary only; at least it is not the object primarily sought by the employer. He who seeks the aid of a barrister looks for his forensic ability, not his morals: so that he conduct the cause well, the purpose of his retainer is answered. So with a physician or surgeon, we pay for his knowledge of medicine, not for his virtue; and, provided he perform skilfully the single duty for which he was employed, it is no concern of ours in what manner he observes the Decalogue. But with an attorney, and with an attorney only, we for the most part employ his character even more than his law: we fee his integrity; retain his virtue. Hence the rule, applicable enough to other professions, that the public are concerned only in seeing that those who practise understand their business, is insufficient in the case of the attorney. Inasmuch as in him the character is retained at least as often as the law, the public is in self-protection bound to see that all practicable means are adopted to insure the possession by the practitioner of character as well as legal knowledge. Surely, if it be deemed necessary to institute a public test of a man's fitness to cure the diseases of the body, before he is permitted to hold himself out to the world as a professor of medicine, much more should some assurance be afforded of the moral fitness of a man to whom his fellow-men must confide their dearest interests, their fortunes, their families, their reputations, the inmost secrets of their souls, who is called upon to be their adviser and their agent in almost all the important concerns of life, and who, being thus unavoidably exposed to huge temptations, and having unequalled opportunities for abusing the trusts reposed in him, requires more than a common amount of those safeguards and securities which the law has prudently thrown round other professions, for the protection of a public not always competent to form a judgment of the fitness of professors for the duties they offer themselves to perform.

We have thus, we hope, satisfactorily shewn why *some* test of character ought to be *especially* applied to those who seek admission into the responsible profession of an attorney. In a subsequent article we shall proceed to shew why, with the Legal Association, we deem a certain standard of education to be the surest, indeed, the only *practicable* test that can be devised.

ATTORNEYS AT QUARTER SESSIONS.

Among the Legal Intelligence of the week will be found a very interesting report of scene at the Denbighshire Quarter Sessions, on the occasion of the appearance there of a Bar for the first time. Exclusive audience was demanded, but the question was adjourned for consideration. The Chairman will probably consult the judges, and the decision will be given at the next sessions.

We have heard that the subject was subsequently mooted at a meeting of the attorneys of the county, and that a majority of those present were decidedly in favour of the attendance of a Bar. The arguments upon this topic which we ventured to urge, when it was first agitating the Profession a few months since, seem to have weighed much with the parties at the meeting; but as we have received no official report of the proceedings, and write only from hearsay, it will, perhaps, be better to make no further allusion to it just now.

As to the main question at issue, discussion and reflection have rather served to strengthen the views we have already submitted to our readers. We are satisfied that the presence of a Bar is really beneficial to the attorneys. It gives at least an air of formality to the courts; the mere presence of strangers is an advantage in the dispensation of justice. It serves as a check upon irregularities, so apt to arise where local feelings and interests alone prevail. The interposition of an advocate between the attorney and the judge or jury tends to relieve litigation of much of that personality from which the attorneys who have got up the case can scarce wholly emancipate themselves. Since last we touched upon the topic in these columns, we have conversed about it with many of the most respectable attorneys from various parts of the kingdom. They were almost unanimously in favour of a Bar at Quarter Sessions. They argued that, but a few of the whole body of attorneys in any county would be competent to the duties of advocates. *Every* attorney could not conduct his own case; he must employ some other, and it was not always convenient or agreeable to put himself under an obligation, and disclose his client's affairs, to another attorney practising in the neighbourhood, and perhaps a rival. They assured us that the great body of the Profession would, on this account, as well as for other reasons we have not now space to enumerate, much prefer a Bar at Sessions.

And, indeed, there is something in the fact that all countries in all ages have separated the functions of Attorney and Advocate, and a practice so universal could only be the result of actual experience of its advantage

It is therefore because we believe it to be in the end advantageous to the Attorneys, that we do not object to the presence of a Bar at Quarter Sessions. If any question our argument, we should be glad to hear and discuss the objections.

VERULAM SOCIETY'S FORMS FOR OFFICES.

The Conditions of Sale are now ready. They consist of the following:—

No. General Conditions for a sale in one lot, with agreement.
No. 2. Ditto in several lots, with ditto.
No. 3. Special Conditions as to Commencement and Evidence of Title.
No. 4. Ditto, as to Identity of Parcels.
No. 5. Ditto, as to commencement of Evidence of Title.
No. 6. Ditto, as to Assignment of Terms.
No. 7. Ditto, as to Titles, Moduses, &c.
No. 8. Ditto, as to a Sale by Trustees, or others, in a fiduciary capacity.
No. 9. Ditto, as to Custody of Title-deeds.
No. 10. Ditto, as to Leaseholds.

The Special Conditions are printed on single pages, so that such as may be required for the specific sale may be annexed to the general conditions.

Should any amendments suggest themselves to any of our readers, we shall be obliged by their communications.

The following Forms have been added to the list, and may now be had.

No. 16. Notice. Execution, Writ of Inquiry.
No. 17. Notice to produce Documents.
No. 18. Notice to Inspect and Admit. Quarto, for the country.
No. 19 Notice of Declaration.

The common covenants in a conveyance are now being lithographed, for the purpose of enabling the conveyancer to prepare his drafts with rapidity.

A series of Registration Forms is in the press. These may be had through the Booksellers, or direct by parcel, at prices much less than they could be printed for in the country.

The publisher requests us to inform the members of the Society, and indeed the Profession generally, that if an order for Forms exceed 1*l.* he will undertake to pay the carriage of the parcel. By this arrangement, the great obstacle to their universal use, the cost of carriage into the country, will be removed. The number of the Forms now completed will enable the attorney to make up an order to this amount at once, and thus receive, with speed and without expense, the necessary supplies for his office. He can also take advantage of the same parcels to have his volumes of Law Times or other books bound, and any publications he may require procured for him.

ADVERTISING ATTORNEYS.

We strongly suspect that the following handbill, posted about Bradford, emanates from an attorney, who thus seeks to escape exposure in the Law Times under shelter of the anonymous. Could not some of our friends in the neighbourhood trace the identity of A. B.?

Persons whose affairs may be in an embarrassed state, may obtain advice how to act, gratis, on application to A. B., at the Prince of Wales Inn, Bradford. N.B.—Attendance from 11 to 4 o'clock, on Thursdays only.

Here is one of more unblushing front. It appears in the *Bristol Mercury* of April 12th.

Mr. William Gover Gray, Solicitor. Offices removed from No. 6, Exchange-buildings, to No. 2, Nicholas-street, Bristol. Solicitor of the Bankruptcy Court, and practising in the Bristol District Court of Bankruptcy for the protection of persons from imprisonment for debt. Residence No. 1, Manver's-place, Pierrepont-street, Bath. Bath offices, Commercial-rooms, Upper Borough Walls.

VERULAM REPORTS.

The 9th and 10th numbers of the *Real Property and Conveyancing Cases* are now published. The *Sixth* number of *Practice Cases* will be ready on Tuesday.

The 5th number of *Criminal Law Cases* and the 11th number of *Real Property Cases* are in the press.

It has been determined to make the *Practice Cases* complete by the addition of those in the Equity Courts. This will be the first and only series of Equity Practice Cases ever published, and will, we hope, make the series the most perfect of its kind yet submitted to the Profession, and invaluable to the practitioner, whether Counsel or Attorney.

SIR GEORGE STEPHEN.

An advertisement appears in our journal to-day on which we conceive ourselves bound to make some remarks. The case has attracted much notice in the Profession, and certainly appears to be one of intolerable harshness, to use no stronger term. The facts, as we collect from inquiry, are simply these. Sir George Stephen, the President of the Legal Association, is well known to be the solicitor of a society which he himself projected twenty-two years ago, known as the Reversionary Interest Society. He was appointed "Solicitor to the Society" by the deed of settlement, and of course under the hand and seal of each shareholder; this constituted his *retainer*, and, as we apprehend, constituted the shareholders his clients; such, too, is the opinion of the Chief Baron, expressed in a letter to Sir George in the following terms:—

The solicitor to the society is, I think, bound to consider the interests of all the members *as a body*. He is not the servant or slave of the directors merely, but the adviser of the whole association; and in your case, being (as you were) the founder of the scheme, you had your own honour and character to protect, as well as a duty to discharge towards the governing body.

In soliciting a Bill to extend the capital of the society last year, the directors made some important alterations, *suo motu*, contrary to the advice of counsel, and, in the opinion of Sir George, most detrimental to the interests of the shareholders; he therefore thought himself bound in honour to mention these alterations to three of the shareholders, two of whom are gentlemen of acknowledged eminence in the Profession—in fact, one of them holds

a high judicial station; all the three had previously and spontaneously applied to Sir George, as the solicitor of the society, for information on the subject of the Bill, no meeting of the shareholders having been called by the directors to consider it.

This summary contains all that is essential to understand the case. We concur with the Legal Association, that in this conduct Sir George was perfectly justified, and acted as every honest solicitor ought to act; yet for so doing the directors publicly charged him with a breach of professional confidence, refused to state their charge in writing, or to allow him a hearing, though required by the shareholders to do so, and finally removed him from his office, both unaccused and unheard, and this within two months of his having received the public commendation of a committee of inquiry into the affairs of the company, for the skill and attention with which he had conducted its legal business for nearly a quarter of a century.

But more remains to be told. These very directors, only seven days before they removed him, made a proposal to him that if he would resign the retainer of the shareholders they (the directors) would be "reconciled to him;" that is, would continue him in office upon their own retainer! and one of the men who made this proposal, which any honourable attorney could only regard as an insult, was the very man who had applied to Sir George privately for information about the Bill, and who had, unknown to Sir George, privately conveyed to the directors the information thus obtained. This man is a barrister; but, as he is happily unknown in this country, we shall withhold his name. The directors rewarded him for his communication by securing his election among their body before the facts were published. It is fair to state that three of the directors are believed to be opposed to these arbitrary proceedings, and indeed one of them has resigned his seat in avowed disgust. We need hardly add that Sir George Stephen instantly and firmly rejected this proposal: for so doing he has been mulcted in a penalty of forfeiture, to the extent of half his professional income. We scarcely know whether most to admire his integrity or to condemn the tyranny of his oppressors. Of course, the shareholders will not allow the matter to rest here. We have taken it up, that we may put upon record our indignant protest against proceedings that menace such injury to the profession. It has always hitherto been considered the highest point of professional honour that an attorney should be faithful to his client. And who is his client? Can there be a doubt about it, that it is the man who retains and pays him? In these days, when there is hardly an attorney of eminence who has not one or more companies among his clients, it is indeed a most dangerous doctrine to hold, that the directors, who are as much the officers and servants of the company as the solicitor, or even the secretary, should require an attorney to act with them against what he conceives to be the interest of the shareholders, or should dare to remove him for preferring his duty to his real client to the commands of his client's agents.

Sir George has construed his course of duty rightly, and he has pursued it manfully. We are persuaded that there are many, very many attorneys who would have acted with equal honour and independence; but it is not the less our duty to protect them from similar injury and insult, so far as our reprobation of the whole proceedings may draw upon it the indignation of the public.

We shall take an early opportunity to enter upon the question of professional duty involved in this affair.

BIRTHS, MARRIAGES, AND DEATHS.

[The charge for the insertion of the above is 5s.]

BIRTHS.

Tyssen.—At Sandgate, Kent, the lady of F. Daniel Tyssen, esq. of a son.

MARRIAGES.

Buckland, C. E. esq. solicitor, of Shaftesbury, Dorset, to Harriet Melling, third daughter of the late Richard Wenham, esq. of Sompting, Sussex, lately.

Goldsmid, N. esq. of the Inner Temple, barrister-at-law, eldest son of Edward Goldsmid, esq. of Upper Harley-street, London, to Margaret Anne, youngest daughter of the late John Young, esq. of Westridge, Isle of Wight, on Saturday, the 19th inst. at St. Helen's, Isle of Wight.

DEATHS.

Brooke, Edward, esq. of the Inner Temple, at Margate, on the 18th inst. aged 38.

Charlton, Edward Lechmere, esq. at his seat, Ludford-park, Ludlow, on Thursday, the 17th inst. aged 56.

Enfield, Henry, esq. Town-Clerk of Nottingham, at Bramcote, Notts, on Wednesday, the 16th inst. aged 70.

JOURNAL OF PROPERTY.

THE SOLICITOR AND THE AUCTIONEER.

It has given us great pleasure to find so cordial a response from *both* of these parties to the appeal which we last week ventured to make to them. The Solicitors who have addressed us on the subject have expressed the kindliest feelings towards the Auctioneers, and from many of the latter we have received earnest assurances of their anxiety to co-operate for the purpose of raising their profession to the position which properly belongs to those to whom will henceforth be confided the responsible duty of conducting the sales of the greater portion of the property of this rich country.

The letter of an esteemed correspondent, which appears below, exhibits a faint outline of the various, important, and complicated duties that devolve upon the Auctioneer. A glance at these will satisfy the reader that we have not erred in exhorting the Solicitors to lend their all-powerful aid in advancing that which we believe to be of serious moment to themselves and their clients, namely, the respectability of the body of Auctioneers, by encouraging such of them only as have either proved themselves to be possessed of the necessary qualifications, or, if untried, who can exhibit those best guarantees for character,—education and connection. Above all, do we recommend the Solicitors to be cautious how they offer encouragement to new aspirants for their favours, however tempted by promises of "working cheap." A fair price for his services is all that the established Auctioneer would require; less than that no right-minded Solicitor would desire to give; and he may be assured that he will best consult the interests of his clients by rejecting the offers of inexperienced competitors and securing the aid of an able, influential, and respectable Auctioneer on all occasions, thus applying to the Profession he employs the same rules he would desire to be applied to his own.

SALES BY AUCTION.

TO THE EDITOR OF THE LAW TIMES.

Sir,—I so highly approve of the plan you have announced in respect to communicating information on the Law regarding Sales by Auction, that I cordially volunteer such slight aid as I may be enabled to afford as auxiliary to your purpose.

Although, no doubt, the *profession* of an auctioneer must have arisen amidst the immense extensions of commerce and trade which have characterized the last century or so, and we have few traces of the existence of such a functionary in any other than comparatively modern authorities, there is something in the nature of an auction so appropriate to the circumstances of earlier times, that we can hardly fail to conclude the practice to be an ancient one of endeavouring to secure the highest price for an article by offering it, in something like a public manner, for sale. It may be, indeed, from its very simplicity, that its appropriation to a peculiar profession is a recent arrangement; for what can be imagined more natural than that, in the very earliest and most simple age, an individual wishing to get the best offer for what he had to dispose of, should gather his neighbours around him, and so obtain the benefit of competition?

The auction duties, eagerly attached to what was soon seen to be a very fertile source of business (and therefore appeared likely to be *as* productive in revenue), repressed and discouraged this mode of sale in just the cases where it is desirable it should be resorted to, viz. where the sale is the result of necessity, and where, therefore, that fair *competition*, which is the soul and security of a good *sale*, is most essential. The wise measure of the present session will restore to the mass of the community a mode of sale we believe the most beneficial, and we *think* among the most ancient, of any.

At the very outset, in viewing the law on this subject, it is necessary to bear in mind that which must be the leading principle and object of the law, as applied to this mode of sale, its being *bonâ fide* what it professes to be—the exposure to free, fair, and public competition of the property to be sold. It is the object of all sales to get the best price. It is *the* object of auctions to sell *for* the best price. And the main point must ever be, to secure *this*; that the best *price* and the best *bidding* shall be synonymous. As "the value of a thing is just as much as it will bring" (the motto of auctioneers), this must necessarily be the case (supposing the sale fair and *bonâ fide*) with reference to the parties assembled at an auction. That is only *one half*, however, of the design. The great advantage of the auction is its affording *the largest range of biddings*; it is obvious that the larger the better. The auction rests, in short, on the first principle of commerce, that the more numerous the buyers, the better must be the price; that the greater the market, the greater must be the sale. This being the object of the auction, then, how can it be better attained than by engaging first-rate men, whose names are attractions, whose characters afford the best securities to the public? Next to character comes connection; he who has a good connection, a large circle of respectable *clients* (so to speak), must have the best means of securing a large field of bidding. Then come energy and penetration, skill and sagacity in the discovery, selection, and availing himself of all those innumerable means and modes open to him for securing bidders. Taking all these things into consideration, it seems to me apparent that, apart even from the great knowledge of trade and business which the most ordinary cases require (not to say, perhaps, a little of law), the auctioneer requires a combination of qualifications quite as important as those which are required in the profession of an attorney.

To aid such a body of men, and those who are most intimately associated with them in business, viz. the attorneys, in understanding the bearings of legal principles on these transactions, is no unimportant object, nor is it altogether an easy one. For the peculiar nature of the functions and relations of the auctioneer calls into combination and operation, often into apparent opposition, and frequently with a great extent of complication, almost all the principles of law which are at all of common application. In fact it is almost impossible to give a legal definition of the auctioneer; not only because his duties are so *various*, but because they are so *shifting*; so dependent on his particular positions towards and relations with different parties. In his primary and principal character he is the agent of the seller, but an agent of a peculiar kind, whose authority, duty, and liabilities, embrace what attaches in some degree to the offices of an *ordinary agent for a specific purpose*, and of a *factor*, intrusted with the possession of goods under what approaches nearest, perhaps, to a *del credere* commission. Even in this, his original character, infinite varieties of relations and of rights arise, in which the nicest questions might readily occur. The moment, however, he comes in contact with a proposed purchaser, his character becomes more that of a broker; and when he has received the deposit, the responsibilities attaching to the position of *stakeholder* arise and are blended often in an intricate manner with questions springing out of many other branches of law. It is in the *double* capacity assumed by him when he has received a final offer, a binding "bid," and in the nice doubts which arise as to the exact extent of his agency for the party bidding, in relation to the party selling, that difficulties most frequently occur; and it is sufficient to shew this, to state that he is not *ex vi termini* the agent for both parties; he *may* be, but this depends on the facts of each particular case. When it is recollected that, in the sales of personal property, the innumerable distinct purchases that are made must open the widest field of dispute or of dissatisfaction; and that in the sales of realty the importance of the interests at stake must provoke the keenest scrutiny, and render parties alive to every thing capable of objection—it is wonderful and creditable to the body of auctioneers that so few questions do in practice arise leading to litigation, amidst the myriads of "lots" annually knocked down, and the vast amount of property thus year by year transferred. In the course of every auction, from the issuing of the first advertisement or notice to the final completion of each purchase, numerous openings must present themselves, in which even carelessness or oversight would suffice to raise legal doubts.

Much, no doubt, of this is owing to the very nature of this mode of sale, the safest and surest, perhaps, that could be devised; on the one hand, the purchase of each lot being of a thing presented for inspection (in personalty), the maxim *caveat emptor* is almost always applicable; while, on the other hand, any representations on which the articles are offered being embodied beforehand in a written form, and a deposit required in each case, the operation of the Statute of Frauds, with its invaluable enactments (if, indeed, they are not confirmatory or affirmatory of the true principles of the common law), protects the transaction. Still there is ample "scope and verge" enough for the exercise of no ordinary amount of sagacity, skill, care in the appraising, cataloguing, classifying, advertising, and, finally, in the exposing to public competition of large amounts of property.

No two offices are more closely connected than those of the auctioneer and of the attorney. They are sometimes seen united. The union may have its advantages. But it is so certain that duties apper-

taining to each demand such a combination of valuable qualifications, that it may fairly be questioned how often it is likely those advantages would actually be realized. Though not exercised by the same individual, these duties are in practice scarcely separable—never so in cases of realty, where questions of title of course must constantly occur.

From this cursory review of the field of the auctioneer's operations an idea may be formed of its extent in relation to *law*, as to which it may with safety be affirmed that not one legal question could be suggested which might not, or which *has* not actually arisen in association with sales by auction.

So much by way of preface. I shall be happy to pursue the subject. W. F.

5, Essex-court, Temple.

The following scale of charges, *reduced more than one-third*, has been adopted for Advertisements of Estates for Sale, &c., exceeding 10 lines in length:

For the first 70 words . . . . . 5s.

For every succeeding 30 words . 1s.

Considerable doubts having prevailed as to the period at which the auction duties are to cease, we are authorized to state, that the Lords of the Treasury have addressed a letter to the Commissioners of Excise, authorizing them to forbear to charge the duties on auctions after the 8th of April, on the usual condition of the parties consenting to abide the ultimate decision of Parliament.

THE MONEY MARKET.

	Sat.	Mon.		Wed.	Thur.	
Three per Cents. Consols	99¼	99¼	99	98¾	98⅞	98⅞
Three per Cents. Reduced	98	98	98½	99	97¼	97¾
New Three-&-a-quarter per Cts	100	100¾	100¼	101	101	101
Long Annuities	11⅛	11¼	11⅓	11½	11⅓	11⅓
Bank Stock	209¼	209¼	209½	209½	209¼	219½
India Stock	276	277	276	277	277¼	277¼
India Bonds, prem.	73			74	73	
Exchequer Bills, prem.	58	59	60	60	61	60
FOREIGN.						
Spanish Five per Cents.	30⅛		30¾	30⅝	30¼	30⅜
Spanish Three per Cents.	41		40¼	40¾	40¾	40¼
Russian	117¾	117½	117¾	117¼	117	117¼
Peruvian	30	31	31¼	31½	32	32
Portuguese	66	65½	66	66	66¼	66½
Mexican	37¼	37½	37⅛	37½	37½	37½
Deferred	18½	18¾	18¼	18½	18¾	18½
Dutch Two-and-a-Half per Cents.	63¼	63⅝	63½	61¼	63⅜	63⅛
Four per Cents.	97¼	97½	97¾	97⅛	97¾	97⅛
Danish	81	89½	89	89	90	90
Colombian	15¾	15½	15¼	15¼	15½	15¾
Chilian	100	100	100	101	100	100
Buenos Ayres	44	44	41	44½	46	45
Brazilian	88	88	89	89	89	89
Belgian	101½	101¼	101⅛	101¼	101⅜	101⅛

Public Sales.

[In future the results of such sales only as are advertised in the Law Times will be published in this list, and reference will be given to the advertisements, it being found that, without the particulars, the results of sales are of no practical value. As sale by auction will in future be generally resorted to, auctioneers in town and country advertising in the Law Times are requested regularly to forward the results of the sales so advertised.]

By Mr. GEORGE ROBINSON, at the Mart.

A house, with premises, situate and being No. 45, Upper Baker-street, and two shops and premises adjoining, Nos. 34 and 35, New-street, near the Regent's-park; held for 56 years at a ground-rent of 6*l*. per annum; let at 112*l*. per annum—1,585*l*. 10s.

Three houses and shops, being Nos. 31, 32, and 33, New-street; let for 21 years at 21*l*. per annum each; held for 56 years at a ground rent of 6*l*. per annum—800*l*.

A house, No. 43, Upper Baker-street, let at 70*l*. per annum; held for 56 years at a ground-rent of two guineas—900*l*.

A ditto, No. 44, ditto—900*l*.

A house, with garden, stable, and cottage, No. 40, Upper Baker-street, let at 101*l*. 8s.; held for 94½ years from Midsummer, 1806, at a ground-rent of 8*l*. per annum—1,090*l*.

A house with coach-house and stable, No. 74, Gloucester-place, Portman-square; held for 94 years from Lady-day, 1810, at 42*l*. per annum—960*l*.

A residence, with garden, being No. 2, Park-cottages, Park-village East, Regent's Park, let at 60*l*. per annum, held for 96 years from March, 1826, at a ground-rent of 9*l*. per annum—682*l*. 10s.

A ditto, No. 3, let at 68*l*. 10s.—652*l*. 10s.

A ditto, No. 5, let at 65*l*.—690*l*.

A ditto, No. 6, let at 60*l*.—690*l*.

Two houses, being Nos. 3 and 4, Pond-place, Fulham-road, Chelsea, let at 36*l*. 10s.; held for 99 years from Christmas, 1787, at a ground-rent of 2*l*. 10s. per annum—320*l*.

Three houses, being Nos. 23 and 24, Queen-street, and No. 17, Chapel-street, Hackney-road, let at 51*l*. 2s.; held for 60 years from September, 1823, at a ground-rent of 5*l*. per annum—270*l*.

Seven houses, being Nos. 16 to 22, Queen-street, Hackney-road, let at 135*l*.; held for 60 years from September, 1823, at 17*l*. per annum, taxes, &c. 27*l*. 10s.—620*l*.

A house, No. 22, Newman-street, Oxford-street, let at 163*l*.; held for 99 years from Christmas, 1795, at 12*l*. 10s. taxes, &c. 35*l*. 10s.—610*l*.

THE GAZETTES.

AMOUNT OF DIVIDENDS.

The sum stated as the Dividend, means so much declared in the Pound. The Assignees, when chosen, follow this statement.

Tuesday, April 15.

Ebrey, W. silk dresser, last exam. May 13.—*Francis* and *Co.* corn merchants, final joint div. next week. Graham, London.—*Gordon* and *Co.* coopers, last exam. May 13.—*Hardwick*, W. draper, annulled.—*Hart*, J. builder, last exam. passed.—*Metcher*, T. plumber, last exam. passed.—*Nicolay*, L. J. draper, last exam. *sine die*.—*Simpson*, A. H. engineer, assignees, May 21.—*Wilson*, J. boot maker, last exam. passed.

Wednesday, April 16.

Clark, R. jun. wharfinger, last exam. May 28.—*Day*, E. chemist, assignees, May 16.—*Day*, J. R. victualler, last exam. May. 16.—*Green* and *Co.* corn dealers, last exam passed.

Friday, April 18.

Ayling, J. cabinet maker, div. next week. Turner, London.—*Beard*, N. leather seller, further div. next week. Follett, London.—*Cawthorn*, W. jun. wine merchant, last exam. May 2.—*Dolesio*, C. hotel keeper, div. next week. Follett, London.—*Gorbell*, T. K. bookseller, last exam. April 25.—*Hardy* and *Hardy*, grocers, last exam. passed.—*Isaac*, J. J. B. ship owner, final div. next week. Johnson, London—*Jacobs*, C. fruit salesman, last exam. June 12.—*Rowe*, H. merchant, last exam. passed.—*Shuttleworth*, H. pin manufacturer, div. next week. Johnson, London.—*Smith* and *Smith*, warehousemen, joint and sep. divs next week. Pennell, London.

Saturday, April 19.

Welch, J. victualler, last exam. passed.

DIVIDENDS.

Bankrupts' Estates.

Official Assignees are given, to whom apply for the Dividends.

Billingsley, S. jun. ship-owner, first, 1s. 3d. Turquand, London.—*Camp*, M. alias *Kempe*, first, 1s. 3d. Turquand, London.—*Carter* and *Co.* merchants, third, 8¾d. Bird, Liverpool.—*Cork* and *Co.* coach builders, first, 6s. Turquand, London.—*Hayward*, W. bonnet-shape maker and milliner, first, 6s. Turquand. London.—*Jackson* and *Co.* engineers, separate, Jackson, 1s. 11¼d. Young, Leeds.—*Kearsley* and *Co.* bone merchants, joint, 8½d.; K. 6s. 8d.; and W. 2s. 5½d. Fraser, Manchester.—*Matthews*, W. stamper, first, 2s. Turquand, London.—*Maund*, J. T. laceman, first, 2s. 6d. Edwards, London.—*Moss*, W. G. clerk, first, 1s. 10d. Turquand, London.—*Nutter*, T. brewer, second, 1d. Turquand, London.—*Oliver* and *York*, bankers, third, 1s. 3d. Whitmore, London.—*Parker*, F. seed crusher, 8s. 5½d. and final 6½d. to new proofs. Fearne, Leeds.—*Perkins* and *Co.* drapers, first, 6s. 2d. Turquand, London.—*Roberts*, W. jun. merchant, first and final, 9¾d. Young, Leeds.—*Schram*, E. C. schoolmistress, first, 5d. Turquand, London.—*Shapcott*, T. L. vicar, first, 1s. 4d. Turquand, London.—*Smith* and *Co.* crape manufacturers, separate, L. D. Smith, 3s.; G. F. Smith, 2s. 6d. Turquand, London.—*Stringer*, J. R. clothier, final, 6½d. Turquand, London.—*Tempest*, T. grocer, first and final, 5s. Fearne, Leeds.—*Thomas*, J. W. corn merchant, first and final, 1s. 3d. Greene, London.—*Tristram*, J. beer housekeeper, final, 2s. Young, Leeds.—*Vardy*, J. E. draper, first, 2s. Turquand, London.—*Wathen*, O. P. clothier, first and final, 9½d. Kynaston, Bristol.—*Watson* and *Co.* woollen warehousemen, first, 2s. Turquand, London.

ASSIGNMENTS

To Trustees for the benefit of Creditors.

Gazette, April 18.

Baines, T. grocer and baker. Leicester, April 14. Trusts. H. Hitchcock, miller, and T. Almond, grocer's assistant, both of Leicester. Sols. Messrs. Toller, Leicester.—*Rolfe*, S. innkeeper, Bury St. Edmund's, April 11. Trusts. J. W. Lockwood, liquor merchant, and S. Mower, innkeeper, both of Bury St. Edmund's. Sol. Cambridge, Bury St. Edmund's.

ASSIGNMENT MEETING.

Kilham, W. miller, Epworth, Feb. 15, 1844, May 7, at eleven, Dawson, Epworth. First and final div.

Gazette, April 22.

Waller, W. J. linen draper, Bristol, April 3. Trusts. J. Withy, woollen draper, and I. Stephens, flax manufacturer, both of Bristol. Sols. Messrs. Livett, Bristol.

Bankrupts.

DATE OF FIAT AND PETITIONING CREDITORS' NAMES.

Gazette, April 18.

Bant, Job, saddle-tree maker, 3, Hollen-st. Wardour-st. Soho, April 25, at two, May 30, at one, Basinghall-st. Com. Fonblanque; Belcher, off. ass.; A'Beckett and Co. Golden-sq. sols. Date of fiat, April 13. Bankrupt's own petition.

Cook, Henry Polley, licensed victualler and brewer, Coggeshall, Essex, April 25, at two, June 3, at eleven, Basinghall st. Com. Holroyd; Edwards, off. ass.; M'Leod and Stenning, London-st. sols. Date of fiat, April 9. H. and E. Muggeridge, corn factors, St. Andrew's-hill, pet. crs.

Coyle, Thomas Holbrook, wine and spirit merchant, Liverpool and Argyle-st. Middlesex, May 2, at eleven, June 6, at twelve, Basinghall-st. Com. Goulburn; Follett, off. ass.; Cross, Surrey-st. sol. Date of fiat, April 15. Bankrupt's own petition.

Firth, Charles Mousley, lithographic printer, 8, St. Michael's-alley, Cornhill, City, and 14, Chryssell-rd. North Brixton, Surrey, April 29 and May 28, at two, Basinghall-st. Com. Evans; Johnson, off. ass.; Brown, Bedford-row, sol. Date of fiat, April 14. J. Lucas, J. Sharples, and W. Exter, bankers, Hitchin, pet. crs.

Hall, Joseph, hatter, Stroud, Gloucestershire, May 1 and June 3, at twelve, Bristol, Com. Stevenson; Miller, off. ass.; Kearsey, Stroud, sol. Date of fiat, April 5. A. Davis, innholder, Stroud, pet. cr.

Isherwood, George Frederick Stanley, engraver to calico printers, Hulme, Manchester, May 1 and 22, at eleven, Manchester; Pott, off. ass.; Makinson and Sanders, Temple, and Barlow, Manchester, sols. Date of fiat, April 12. J. Webster, supervisor, Hulme, pet. cr.

Jones, Thomas, coal dealer, Liverpool, April 25 and May 20, at twelve, Liverpool, Com. Ludlow; Bird, off. ass.; Parker and Co. Bedford-row, and Greatley, Liverpool, sols. Date of fiat, April 9. Bankrupt's own petition.

Long, Joseph, linen and woollen draper, Tavistock, Devonshire, April 29 and May 22, at eleven, Exeter, Com. Bere; Hirtzel, off. ass.; Turner, Exeter, and Spyer, Broad-st.-bldgs. sols. Date of fiat, April 8. Bankrupt's own petition.

Parsons, William, brewer, Temple-st. Bristol, May 1 and June 3, at eleven, Bristol, Com. Stevenson; Acraman, off. ass.; Leman, Bristol, sol. Date of fiat, April 11. W. Hole, gun manufacturer, Bristol, pet. cr.

Pickering, John, 6, Cornbury-pl. Old Kent-rd. Surrey, April 29, at half-past one, May 28, at one, Basinghall-st. Com. Evans; Bell, off. ass.; Desborough and Young, Sise-lane, sols. Date of fiat, April 15. Bankrupt's own petition.

Rees, Thomas Popkins, iron merchant and commission agent, Crooked-lane-chambers, King William-st. City, April 29, at half-past eleven, May 30, at twelve, Basinghall-st. Com. Fane; Alsager, off. ass.; Lawrance and Plews, Bucklersbury, sols.

Sprague, John Warden, grocer, Poole, Dorset, April 25 and May 29, at half-past twelve, Basinghall-st. Com. Shepherd; Turquand, off. ass.; Wilkins, Furnival's-inn, sol. Date of fiat, April 15. Bankrupt's own petition.

Sterry, William Bristow, sail-maker, Jamaica-row and Bermondsey-wall, Bermondsey, Surrey, April 29, at twelve, May 30, at one, Basinghall-st. Com. Fane; Whitmore, off. ass.; Brown, Walbrook, sol. Date of fiat, April 11. H. Cubitt, victualler, East-lane, Bermondsey, pet. cr.

Underwood, William, grocer and tea dealer, late of No. 213, High-st. Southwark, April 25, at half-past twelve, May 30, at eleven, Basinghall-st. Com. Fane; Alsager, off. ass.; Turner, Mount-pl. Whitechapel, sol. Date of fiat, April 9. T. Bennett, tea dealer, Little Pulteney-st. pet. cr.

Williams, John, carpenter, Abergavenny, Monmouth, May 1, at one, May 30, at eleven, Bristol, Com. Stephen; Hutton, off. ass.; Nash, Bristol, sol. Date of fiat, March 18. I. Rouch, timber merchant, Bristol, pet. cr.

Tuesday, April 22.

Arnold, Thomas, veterinary surgeon, Castle-st. Shrewsbury, Salop, April 30 and June 2, at eleven, Birmingham, Com. Daniell; Whitmore, off. ass.; Jones, Shrewsbury, and Motteram and Co. Birmingham, sols. Date of fiat, April 18. Bankrupt's own petition.

Homewood, Thomas, licensed victualler, Hillingdon, Middlesex, May 2, at eleven, June 6, at half-past-twelve, Basinghall-st. Com. Goulburn; Green, off. ass.; Patterson, Bouverie-st. and Wools, Uxbridge, sols, Date of fiat, April 18. S. Homewood, miller, Uxbridge, pet. cr.

Lamb, J. and T. engineers and machinists, Kidderminster, Worcester, May 5, and June 2, at eleven, Birmingham, Com. Daniell; Bittleston, off. ass.; Watson, Stourport, and Hodgson, Birmingham, sols. Date of fiat, April 14. E. Lewty, iron merchant, Stourport, pet. cr.

Morris, Thomas, and William Woodward, drapers, Burslem, Staffordshire, May 5 and June 9, at one, Birmingham, Com. Daniell; Bittleston, off. ass.; Lawrance and Plews, Bucklersbury, Dews, Ashby de la Zouch, and Reece, Birmingham, sols. Date of fiat, April 17. C. Woodward, miller and farmer, Calke, Derbyshire, pet. cr.

Phillips, Joseph, and Thomas Pearson, silk dressers and hotpressers, Finsbury-house, South-place, Finsbury, Middlesex, May 13, at half-past eleven, June 3, at twelve, Basinghall-st. Com. Holroyd; Edwards, off. ass.; Lawrance and Plews, Bucklersbury, sols. Date of fiat, April 19. J. Bassett and W. Conniston, millwrights, 57, Bunhill-row, pet. crs.

Prebble, Henry Thomas, wine merchant and victualler, the Crown, Thanet-st. Burton-crescent, Middlesex, April 29, at two, June 3, at half-past eleven, Basinghall-st. Com. Holroyd; Groom, off. ass.; Harpur, Kennington-cross, sol. Date of fiat, April 14. J. R. F., C. F., and J. F. Burnett, and R. B. Brander, distillers, Vauxhall, pet. crs.

Shaw, George, cotton spinner, Oldham, Lancashire, May 6 and 27, at twelve, Manchester; Stanway, off. ass.; Lord, Rochdale, and Johnson and Co. Temple, sols. Date of fiat, April 15. E. Shepherd, machine broker, Rochdale, pet. cr.

Wilcock, Sarah, innkeeper, Bridge-st. Warrington, Lancashire, May 8 and June 9, at twelve, Manchester, Com. Jemmett; Stanway, off. ass.; Norris and Co. Bartlett's-bldgs. and Bayley, Warrington, sols. Date of fiat, March 25. J. and G. Forrest, corn dealers, Warrington, pet. crs.

Williams, Thomas Holyland and William Clachar Stanes, auctioneers and wine and spirit merchants, Chelmsford, Essex, May 2, at half-past two, June 3, at twelve, Basinghall-st. Com. Holroyd; Edwards, off. ass.; Brisley, Verulam-bldgs. Gray's-inn, sol. Date of fiat, April 21. J. Boord and E. Swaine, distillers, Bartholomew-close, pet. crs.

PARTNERSHIPS DISSOLVED.

Gazette, April 15.

Ainsworth, J., *Nutter*, R. and *Byrom*, J. coal proprietors, Oldham, April 14.—*Baron*, D., *Bridge*, R., *Maden*, J. and *Ackroyd*, H. cotton spinners and manufacturers, Throstle-mill, near Bacup, and at Oak-mill, near Rawtenstall, Lancashire, April 11.—*Brown*, J. and W. ship brokers, Cardiff, March 26. Debts paid by J. Brown.—*Ferguson*, J. and *Pooley*, H. R. woollen drapers, St. Martin's-lane, April 7.—*Fleming*, W. H. and *Drane*, W. C. school proprietors, James-place, Hoxton Old Town, Sept. 29.—*Freer*, W. and J. M. attorneys, Dec. 31.—*Gibson*, J. and *Muir*, T. silk and woollen printers, Port Dundas, Cheapside, and Merton Print-works, Surrey, April 10.—*Gower*, J. and *Pallett*, W. drapers, High-street, Newington Butts, Jan. 1.—*Herbert* H. and *Robinson*, E. victuallers, St. George's-ter. Bayswater-road,

April 11. Debts paid by Robinson.—*Holmes*, R. and *Moore*, E. joiners, Manchester, April 11. Debts paid by Holmes.—*Little*, W. J. and *Hearle*, T. R. attorneys, Devonport and East Looe, April 14.—*Manley*, E. and E. grocers and tea dealers, Burnley, March 26. Debts paid by Eleaser Manley.—*Matthews*, R. H. and *Strickland*, J. H. surgeons, Seymour-st. April 14.—*Parkinson*, J. jun. *Brown*, J. and *Peck*, H. ship smiths, Kingston-on-Hull, April 10.—*Phillips*, T., T. E. and J. E. woolstaplers, Uttoxeter, April 10.—*Prentice*, T., W., *Stevens*, J. W. and G. brewers, Stowmarket, so far as regards T. and W. Prentice, April 11.—*Ratnett*, T. and *Beales*, B. tailors and robe makers, Cambridge, April 9.—*Robins*, R. J. S., *Carpenter*, S. E. S. and *Robins*, T. attorneys, Tavistock, Feb. 15.—*Ryland*, T. and *Medhurst*, G. music smiths, Tudor-pl. Tottenham-court-road, March 13. *Shenton*, T. and *Bills*, S. St. Stephen's-st. and Strangeways, April 8.—*Shirley*, T. and *Shirley*, W. T. grocers and mail-cart contractors, Bedford, April 5.—*Stiebel*, S. and S. and *Schloss*, S. and S. merchants, Jamaica, so far as regards Sigismund Schloss, Jan. 1.—*Turner*, J. and *Greenwood*, T. L. placard exhibitors, Cross-st. Hatton-garden, and Vineyard-gardens, Clerkenwell, April 8.—*Weikersheim*, B., *Brandeis*, J., *Webb*, W. and *Barker*, S. manufacturing chymists, Birmingham, so far as regards Barker. April 9. Debts paid by the remaining partners.—*Woodhave*, G. and *Sundas*, A. T. tailors, Leeds, April 14.

Gazette, April 18.

Brown, A. E. and *Harsant*, J. A. cane dealers, Southwark, Jan. 1.—*Collins*, J. and *Weller*, W. farmers, Ebony & High Alden, April 6.—*Gunner*, W., T., and C. J., bankers, Bishop's Waltham, so far as regards T. Gunner, April 5.—*Hansard*, J. and L. J. printers, Great Turnstile, Titchbourne-court, Whetston-park, East and West Parker-st. and Cross-lane, so far as regards J. Hansard, Dec. 31.—*Hirst*, W. and C. clothiers, Kirkburton, Aug. 21, 1843.—*Knight*, J. E. and *Edwards*, T. stone masons, Ruabon, March 25.—*Leigh*, J. and L. cotton spinners, Bollington, April 15. Debts paid by Leigh.—*Leonard*, J. and *Moran*, M. hosiers, Regent-st. April 16.—*Miller*, G. *Mitchell*, A. *Brown*, J. and *Colley*, B. calico dealers, Manchester, so far as regards Colley, April 15. Debts paid by the remaining partners.—*Nichols*, J. and *Davies*, R. calico manufacturers, Manchester, April 15.—*Richardson*, J., P., W., and *Townsley*, B., brickmakers, Kelfield, April 14.—*Richardson*, J. linen draper, of Selby, and *Townsley*, B. brickmaker, Kelfield, April 14.—*Rucastle*, C. *Jackson*, C. S. and *Atkinson*, J. wine dealers, Penrith, Nov. 2.—*Smith*, D. B. and J. W. paper manufacturers, Alton and Liverpool, April 14. Debts paid by J. W. Smith.—*Tulloch*, J. and *Johnson*, F. surveyors, Poole and South Audley-st. Jan. 31. Debts paid by Tulloch.—*Vibert*, P. and *Bauly*, T. T. shipbrokers, London-st April 17.—*Watson*, J. T. and *Fabian*, B. manufacturing chymists, Mark-lane, Feb. 27.—*Westwood*, J. and M. and *Hudson*, E. metallic pen manufacturers, March 27. Debts paid by Hudson.—*Wilkins*, E. *Curling*, G. and *Raynard*, W. jun. tanners, Blue Anchor-rd Jan. 28.—*Wilkins*, E. and *Raynard*, W, jun. tanners, Blue Anchor-rd. Jan. 28.—*Wilson*, W. and *Brodie*, T. linen drapers, Berwick upon Tweed. April 12.

Insolvents

Petitioning the Courts of Bankruptcy.

PETITIONS TO BE HEARD AT BASINGHALL-STREET.

Gazette, April 15.

Adams, W. cheesemonger, Bermondsey-street, April 30, at twelve.—*Beaumont*, W. civil engineer, Bath-place, New North-road, St. Pancras, April 18, at half-past one.—*Emery*, J. boot maker, Duke-steet, Chelmsford, April 29, at half-past eleven precisely.—*Errington*, F. watch-maker, Clapham road, April 18, at one.—*Hartley*, E. tobacconist, Down-street, Piccadilly, April 30, at twelve.—*Higgins*, W. farm bailiff, East Malling, April 29, at eleven.—*Meudus*, C. M. baker, King-street, Lower-road, Islington, April 18, at half-past one.—*Minikin*, C. J. H. gent., Canterbury-street, Lambeth, April 18, at half-past one.—*Smith*, S. farmer, St. Alban's, April 24, at twelve.

IN THE COUNTRY.

Bree, W. farmer, Crowan, April 24, at eleven, Exeter.—*Brook*, J. joiner, Halifax, April 22, at eleven, Leeds.—*Chandler*, E. B. plumber, Hinckley, April 21, at twelve, Birmingham.—*Cowen*, G. cabinet maker, Manchester, April 29, at twelve, Manchester.—*Dewick*, J. shoemaker, Leicester, April 29, at twelve, Birmingham.—*Ingamells*, J. farmer, Fishtoft, near Boston, April 22, at eleven, Leeds.—*Morris*, G. out of business, Tranmere, April 25, at half-past eleven, Liverpool.—*Stephenson*, T. clothier, Batley, April 22, at eleven, Leeds.

PETITIONS TO BE HEARD AT BASINGHALL-STREET.

Gazette, April 18.

Brathwaite, W. H. carver and gilder, Oxford, May 1, at one.—*Brown*, G. sawyer, Southampton, May 7, at eleven.—*Enscoe*, D. ironmonger, Dowgate-hill, May 6, at twelve.—*Hercock*, W. farmer, Tansor, May 1, at two.—*Hilder*, J. plumber, Mount-row, Liverpool-road, May 1, at one.—*Weston*, J. accountant, King's-road, Chelsea, April 23, at twelve.

IN THE COUNTRY.

Anderson, G. warp dresser, Bradford, April 29, at eleven, Leeds.—*Armistead*, H. butcher, Bradford, April 29, at eleven, Leeds.—*Audsley*, T. blanket manufacturer, Dewsbury, April 29, at eleven, Leeds.—*Baker*, J. pork butcher, Sheffield, April 30, at eleven, Leeds.—*Beavers*, C. farmer, Wakefield, April 29, at eleven, Leeds.—*Broscomb*, J. innkeeper, Birstal, April 29, at eleven, Leeds.—*Brown*, J. cloth maker, Calverley, April 29, at eleven, Leeds.—*Curry*, R. victualler, North Shields, April 29, at half-past twelve, Newcastle.—*Gardner*, J. L. secretary to the Manchester Railway Company, Manchester, May 1, at twelve, Manchester.—*Hull*, A. widow, Leamington Priors, May 9, at twelve, Birmingham.—*Harrison*, J. pen-knife cutler, Sheffield, April 30, at eleven, Leeds.—*Hartley*, T. slater, Bradford, April 29, at eleven, Leeds.—*Higson*, J. hosier, Leeds, April 29, at eleven, Leeds.—*Ody*, R. butcher, Cirencester, May 8, at twelve, Bristol.—*Purchon*, T. butcher, Leeds, April 29, at eleven, Leeds.—*Robinson*, W. coach-spring maker, Derby, April 25, at half-past ten, Birmingham.—*Rhodes*, J. clogger, Holbeck, April 30, at eleven, Leeds.—*Ronksley*, W. beer-house keeper, Sheffield, April 30, at eleven, Leeds.—*Taylor*, T. agent, North Shields, April 29, at half-past twelve, Newcastle.

MEETINGS AT BASINGHALL-STREET.

Clark, J. farmer, Orsett, May 9, at half-past twelve, aud.

MEETINGS IN THE COUNTRY.

Jones, J. D. tobacconist, West Bromwich, May 14, at eleven, Birmingham, aud.—*Moreton*, T. draper's assistant, Shrewsbury, May 14, at eleven, Birmingham, aud.—*Rogers*, J. rope maker, Leek, May 14, at eleven, Birmingham, aud.—*Rushton*, H. hair dresser, Nottingham, May 14, at eleven, Birmingham, aud.—*Sharp*, G. grocer, Liverpool, May 1, at eleven, Liverpool, div.—*Williams*, H. shopkeeper, Newborough, May 1, at eleven, Liverpool, div.

Bankrupts.

From the Gazette of Friday, April 25.

Plowman, J. ironmonger, Oxford.—*Page*, F. builder, Northam, Southampton.—*Peacock*, G. corn-dealer, St. George's-road, Southwark.—*Warren*, J. U. hotel keeper, Ramsgate.—*Tottem*, G. G. jeweller, Crescent-place, Fulham-road.—*Newnes*, E. brewer, Middlewich, Cheshire.—*Johnson*, J. druggist, Chester.—*Walker*, W. miller, Bottleslow, Staffordshire.—*Lowthin*, J. and *Brinley*, R. J. printers, Newcastle-upon-Tyne.—*Nicholson*, J. linendraper, Blackburn, Lancashire.

ADVERTISEMENTS.

Insurance Companies.

Improved Rent of 280l. per annum for 29½ years, arising from capital Premises in Fenchurch-street, near Mincing-lane.

MESSRS. ELLIS and SON are directed by the Executors of a gentleman, deceased, to SELL by AUCTION, at Garraway's, on Thursday, May 15, at twelve, free of auction-duty, an IMPROVED RENT of upwards of 280l. per annum, arising from capital premises, most desirably situate between Mincing-lane and Rood-lane, being 32, Fenchurch-street, forming a mercantile establishment of the first importance, in the occupation of, and partly on lease to, highly respectable tenants. Held on lease for 29½ years from Midsummer next. To be viewed with tickets only. Printed particulars may be had, 14 days prior to the sale, of Messrs. ELLIS and SON, auctioneers, 36, Fenchurch-street; also of Messrs. W. and R. Wren, solicitors, 32, Fenchurch-street, and at Garraway's.

Freehold, City, eligible for investment or occupation.

MESSRS. ELLIS and SON are directed to SELL by AUCTION, at Garraway's, on Thursday, the 15th of May, at 12, free of auction-duty, a capital FREEHOLD RESIDENCE, in a complete state of repair, most desirably situate, and being No. 28, Laurence Pountney-lane, near King William-street, and a short distance from the Royal Exchange, possessing every accommodation for a merchant, professional man, or wholesale trader of the first class, having excellent offices on the ground floor, with light sample-room, extensive cellarage, and also every requisite convenience for a large family. To be viewed with tickets only. Printed particulars may be had of Mr. John Philpot, solicitor, Southampton-street, Bloomsbury; of Messrs. ELLIS and SON, auctioneers and estate agents, 36, Fenchurch-street; and at Garraway's.

Valuable Freehold Estates, in the city of London, land-tax redeemed.

MESSRS. ELLIS and SON are directed to SELL by AUCTION, at Garraway's, on Thursday, May 15, at 12, in two lots, free of auction-duty, valuable FREEHOLD ESTATES, most desirably situate in Crutched-friars and Savage-gardens. Lot 1 comprises a capital residence, No. 24, Crutched-friars, with stack of brick-built warehouses in the rear, containing three upper floors, and spacious warehouse on the ground floor, two excellent arched vaults of considerable extent and good temperature, and a large paved yard, with entrance from Crutched-friars, inclosed by folding-gates. Lot 2. A stack of substantial brick-built freehold warehouses, in Savage-gardens, containing three floors, counting-house, and capacious arched vaults, with frontage to Savage-gardens of 30 feet by 70 feet in depth. May be viewed 14 days prior to the sale, and printed particulars had on the premises; of Mr. John S. Taylor, solicitor, Guy's Hospital; at Garraway's; and of Messrs. ELLIS and SON, auctioneers, &c. 36, Fenchurch-street.

MANGOTSFIELD, GLOUCESTERSHIRE.—Land, Country Residence, and Brewery. To be SOLD by AUCTION, with immediate possession, at the Full Moon Inn, Bristol, on Thursday, the 22nd day of May, 1845, at Five for Six in the evening, by Mr. JOHN TAYLOR, The under-mentioned commodious COUNTRY RESIDENCE, containing entrance-hall, parlour, and dining-room, six chambers, and two large attics, with suitable kitchens, and offices, gardens and orchards, lands and brewery, most desirably situate at Moorend, in the parish of Mangotsfield, in the county of Gloucester, five miles from the city of Bristol, in the following lots, or such others as shall be agreed upon at the time of sale, and subject to such conditions as shall be then and there produced and read.

Late the property of Mr. Samuel Rutter, deceased.

Lot 1. All that convenient and well-built DWELLING-HOUSE, with yard, stables, coach-house, and offices adjoining and belonging, with the flower-garden and large walled-in kitchen garden, well stocked with choice fruit trees now in full bearing, together with all that compact seven-quarter brewery, substantial and newly-erected malt-house, calculated for wetting twelve quarters, and excellent cellerage for 1,500 barrels, with suitable stabling, and every other requisite convenience, containing altogether by admeasurement 1a. 2r. 3p. and numbered 718 on the Tithe Commutation Map of the said parish.

Also all that piece or parcel of rich Meadow Land adjoining the dwelling-house, with a shrubbery, containing by admeasurement 3a. 1r. 11p. and numbered 717 on the said map; also all those two Orchards adjoining the last-mentioned piece or parcel of meadow land, well stocked with choice trees in full bearing, with two fish ponds, having a never-failing supply of pure soft water, containing together by admeasurement 1a. 3r. 17p. and numbered 733 and 734 respectively on the said map.

The premises comprised in the above lot are within a ring fence, and present an unusually eligible opportunity for advantageously investing a moderate capital either in a country residence or in a lucrative business. As a brewery, the property offers unusual attractions, there being no other brewery in the district. It was established about thirteen years since by the present occupier, who has carried on an extensive business, and is now desirous of retiring. He will be willing to dispose of the plant and utensils to a purchaser at a fair valuation.

The dwelling-house and lands would form a delightful residence for a private family, being detached from the brewery, which in no way interferes either with the land or prospect.

Lot 2. All that piece or parcel of ARABLE LAND called the Ridings, containing by admeasurement 7a. 1r. 2p. and numbered 701 on the said map, and also all that productive Quarry adjoining the above, the stone from which is well adapted either for building or paving; and also all that piece of Copse-wood well covered with timber, containing together by admeasurement 1a. 1r. 7p. and numbered 700 a on the said map.

The whole of the above premises are tithe free, and are now in the occupation of Alfred Tuckett, esq. by whose permission they may be viewed.

A map of the premises may be inspected, and full particulars obtained of Messrs. J. P. W. & J. Y. Sturge, surveyors, Bristol; Messrs. Riddle and Dew, of the same city; Richard Ball, esq. Taunton; or at the office of

JOHN RUTTER, Solicitor, Shaftesbury.

Dated Shaftesbury, April 23, 1845.

N.B. Two-thirds of the purchase-money may remain on mortgage of the same premises.

Valuable Church Preferment in Cheshire.

To be sold by auction, by Mr. T. M. FISHER, at the Law Society's Rooms, in Norfolk-street, Manchester, on Thursday, the 1st day of May, 1845, at three o'clock in the afternoon (if not previously disposed of by private contract, of which due notice will be given in the *Manchester Guardian* newspaper), subject to such conditions of sale as then and there will be produced,

THE FIRST and NEXT PRESENTATION to the Rectory and Parish Church of Wilmslow, in Cheshire. The gross annual income of the living is estimated at 1,300l. 4s. 1d.; and the outgoings, consisting of collector's poundage, poor and highway rates, curate's stipend, tenths, synodals, and repairs of chancel and glebe buildings, are estimated at 339l. 10s. 4d. per annum. There is an excellent parsonage house, with extensive gardens and pleasure-grounds, situate within two miles of Alderley Edge, and near to the W— ow station on the Manchester and Birmingham Railway. The glebe contains upwards of 75 statute acres of fine farming land. The age of the present incumbent, on the day of sale, will be rather more than 44 years. For further particulars apply to Messrs. Lowe, Sweeting, and Byrne, 22, Southampton-buildings, London; or Messrs. BEEVER and DARWELL, Solicitors, Salford, Manchester; and to treat by private contract, apply to the said Messrs. Beever and Darwell.

AT a MEETING of the COUNCIL of the METROPOLITAN and PROVINCIAL LEGAL ASSOCIATION held at the Offices of the Association on Thursday, the 24th day of April, 1845,

The Committee appointed on the 27th March last to inquire into the circumstances under which the conduct of the President, Sir George Stephen, had been impugned, made their Report to this Council in the following words:—

"We, the undersigned, being your Committee, appointed by a minute of the Council, dated 25th March, 1845, to inquire into the circumstances under which the professional conduct of our President, Sir George Stephen, had been impugned by the Directors of the Reversionary Interest Society, directed the Secretary to apply by letter to the Directors of that Society for the particulars of any charge they might have to make against the character and conduct of Sir George Stephen as their solicitor, and accordingly the Secretary, on the 3rd day of April instant, addressed such a letter to the said Directors, and no reply having been received thereto beyond an acknowledgment of its receipt, on the 12th of the same month he made another application to the like effect to such Directors, to which no reply has been returned.

"Your Committee, therefore, feeling it due to the character of Sir George Stephen not longer to delay the investigation of the charges reported to have been made against him by the said Directors, have proceeded to inquire into the circumstances so referred to them as aforesaid, and having read a statement of the facts, supported by letters and other documentary evidence, including an extract from the deed of settlement, signed by all the shareholders of the said society, by which he was appointed their solicitor, and deeply feeling a strict inquiry into the allegations made against the professional character and conduct of Sir George Stephen to be of vital importance to this institution, have, with great anxiety, carefully and fully considered such statement, and other documents so laid before them as aforesaid, and having heard from Sir George Stephen a full explanation of his misunderstanding with the said Directors,

"Your Committee is unanimously of opinion that the conduct of Sir George Stephen in the matters so referred to them has been in every respect marked by a high sense of honour as a Professional man, and in strict accordance with his duty to the shareholders, whose solicitor he was. And your Committee is also of opinion that had Sir George pursued any other course, he would have betrayed the responsible and important trust reposed in him by the general body of shareholders.

(Signed) GODFREY GODDARD.
GEO. WELLER.
S. E. DONNE.
W. H. TURNER."

Upon which it was resolved, on the motion of Mr. Watson, seconded by Mr. Bristow,

"That the above report be adopted and confirmed."

Resolved, on the motion of Mr Bristow, seconded by Mr. Weller,

"That this Council deeply sympathize with Sir George Stephen as to the attack which has been made upon his character, and which they consider to have been vindictive and altogether unprovoked.

The following Works of J. F. ARCHBOLD, esq. Barrister-at-law, are recently published:

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THE REPORTS.

[These are usually brought down to the Wednesday preceding publication. Where Cur. adv. vult. the case is not reported till judgment given. All written judgments are taken in shorthand, and reported verbatim. Rules nisi are reported.]

The following are the names of gentlemen who favour the Law Times with the Reports:—

PRIVY COUNCIL, by THOMAS CAMPBELL FOSTER, of the Middle Temple, Esq. Special Pleader.

EQUITY COURTS.

LORD CHANCELLOR'S COURT, by RICHARD GRIFFITHS WELFORD, Esq. of the Inner Temple, Barrister-at-Law.

VICE-CHANCELLOR of ENGLAND'S COURT, by GEORGE GOLDSMITH, Esq. of the Middle Temple, Barrister-at-Law.

ROLLS COURT, by J. MACAULAY, Esq. of the Inner Temple, Barrister-at-Law.

VICE-CHANCELLOR KNIGHT BRUCE'S COURT by GEO. S. ALLNUTT, Esq. of the Middle Temple, Barrister-at-Law.

VICE-CHANCELLOR WIGRAM'S COURT, by J. VESEY DAWSON, Esq. of the Middle Temple, Barrister-at-Law.

COMMON LAW COURTS.

The QUEEN'S BENCH, by J. C. SYMONS, Esq. of the Middle Temple, Barrister-at-Law, and EDWARD WISE, Esq. of the Middle Temple, Barrister-at-Law.

The COURT of COMMON PLEAS, by W. PATERSON, Esq. of Gray's-inn, Barrister-at-law.

The COURT of EXCHEQUER by JOHN BRIDGE ASPINALL, Esq. of the Middle Temple, Barrister-at-Law, and H. T. COLE, Esq. of the Middle Temple, Barrister-at-Law.

The BAIL COURT by T. W. SAUNDERS, Esq. of the Middle Temple, Barrister-at-Law.

The EXCHEQUER CHAMBER by A. A. FRY, Esq. of Lincoln's-inn, Barrister-at-Law.

BANKRUPT AND INSOLVENT COURTS.

The COURT of REVIEW by GEO. S. ALLNUTT, Esq. of the Middle Temple, Barrister-at-Law.

LONDON COMMISSIONERS' COURTS and the INSOLVENT COURT, by B. TALBOT, Esq. of the Middle Temple, Barrister-at-Law.

BRISTOL DISTRICT COURT, by J. ANGUS HOME, Esq. Barrister-at-Law.

NISI PRIUS, CIRCUITS, AND CROWN CASES.

CENTRAL CRIMINAL COURT, by B. C. ROBINSON, Esq. of the Middle Temple, Barrister-at-Law.

CROWN CASES (before all the Judges) by A. BITTLESTONE, Esq. of the Middle Temple, Barrister-at-Law.

NORTHERN CIRCUIT, York and Liverpool, by J. B. ASPINALL, Esq. Barrister-at-Law. The other parts of the Circuit, by G. F. H. OLEPHANT, Esq. Barrister-at-Law.

WESTERN CIRCUIT, by EDWARD W. COX, Esq. of the Middle Temple, Barrister-at-Law.

OXFORD CIRCUIT, by JOHN LANE, Esq. D.C.L. of the Inner Temple, Barrister-at-Law.

NORFOLK CIRCUIT by JNO. B. DASENT, Esq. Barrister-at-Law.

SITTINGS AT NISI PRIUS AFTER TERM, by JOHN LANE, Esq. D.C.L. of the Inner Temple, Barrister-at-Law, E. WISE, Esq. Barrister-at-Law, and others.

ELECTION LAW.

REGISTRATION APPEALS in the COMMON PLEAS by EDWARD W. COX, Esq. of the Middle Temple, Barrister-at-Law; and HENRY TINDAL ATKINSON, Esq. of the Middle Temple, Barrister-at-Law.

ELECTION COMMITTEES by EDWARD W. COX, Esq. of the Middle Temple, Barrister-at-Law.

REGISTRATION COURTS, collected and edited by EDW. W. COX, Esq. of the Middle Temple, Barrister-at-Law.

IRISH REPORTS.

The LORD CHANCELLOR'S COURT by WILLIAM DUGGAN, Esq. Barrister-at-Law.

QUEEN'S BENCH and CRIMINAL COURTS by WM. ST. LEGER BASINGTON, LL.D. Barrister-at-Law.

N. B.—The names of the reporters of such important points as may arise upon Circuit will be announced as the arrangements for each are completed.

The Written Judgments are reported verbatim in Shorthand by Mr. H. GREGORY, Short-hand Writer.

Equity Courts.

LORD CHANCELLOR'S COURT.

Friday, April 11.

Re NEWARK CHARITIES.

Appointment of new trustees under the Municipal Corporations Act—Reference.

James Parker and *Blunt* supported a petition for a reference to the Master to approve of proper persons as new trustees under the Municipal Corporations Act. The trustees originally appointed had consisted of two classes; first, those for charities in connection with the Church of England, for which nine trustees were appointed; and, secondly, for general charities, for which twenty-one persons were appointed trustees. Of the nine Church charity trustees, two had died, three had removed, and one at present takes no part in the management of the charities. The petition asked that five new trustees might be appointed. Of the twenty-one general charity trustees, four were dead, three had removed, one was abroad and supposed to be dead, two are ill and unable to act, and one declined to act.

Romilly, Shee, and *Whitmarsh,* jun. for different parties, consented.

Reference to the Master ordered.

Re RICHARDSON, a Lunatic.

No party can be heard to oppose the confirmation of the Commissioner's report of the appointment of committee, without presenting a cross-petition. Reference to affidavits in report.

Bayley supported a petition to confirm the Commissioner's report approving of the appointment of Thomas Lloyd as committee of the estate, and Lloyd and his wife committees of the person of the lunatic. The late committee had died in December last. The estate of the lunatic consisted of the sum of 20,000*l.* stock. Lloyd and his wife were the petitioners.

Cooke, for Miss Afron, the aunt of the lunatic, proposed herself as committee of the person. She had presented no counter-petition, nor taken any exception to the report, because all the circumstances appear upon the report, or in affidavits to which the report refers. By that reference the affidavits are in effect embodied in the report, and any party is entitled to read those affidavits as if they had been set out in the report. (*Adams* v. *Claxton,* 6 Ves. 226; *Brodie* v. *Bury,* 1 Jacob & Walk. 470; 2 Smith's Chancery Practice, last edition.)

Bayley objected that the affidavits could not be read; under the 48th order of August 1841, it is provided that affidavits, &c. used before the Master shall not be stated or recited, but shall be identified, specified, and referred to, so as to inform the Court what affidavits, &c. were used. And in *Hodge* v. *Rexworthy* (Law Jour. for 1843, p. 271) it was expressly decided by his lordship, that such affidavits as are referred to in the report cannot be read. If the practice contended for was established, exceptions would in no case be necessary.

Cooke, in reply.

The LORD CHANCELLOR.—It appears to me that it would be productive of great inconvenience to hear objections to the confirmation of a report without a counter-petition. A conclusion has been drawn by the Commissioner from a great mass of affidavits which has induced him to make the report now sought to be confirmed. It is necessary that the party objecting to the confirmation of the report should raise the question by a petition. The secretary of lunatics says he never knew a case in lunacy in which a party was allowed to object to the confirmation of a report without a cross-petition. I shall adhere to the last decision. The costs must come out of the estate.

Cooke would not ask leave to present a petition, because the facts offered by both sides were very close.

The LORD CHANCELLOR.—I should not reverse the Commissioner's decision unless the case was very clear.

Re CHISHOLD, a Lunatic.

Carriage of commission.

Commission of lunacy against a married woman.

Forster supported a petition by the next of kin of the lunatic, who is a married woman.

Shapter, for the husband, asked that the petition might stand over, in order that he might file affidavits to induce the Court to permit him to have the carriage of the commission. The husband had contemplated a petition for a commission, but it had been snapped out of his hands by the present petitioner. She was admitted to be a confirmed lunatic, and was resident in a lunatic asylum.

The LORD CHANCELLOR.—Why was not the petition presented earlier? She is, however, in an asylum, and taken care of, so that the delay will not be material. The husband says he ought to have the carriage of the commission, and it is not necessary that he should present another petition. He asks that the petition should stand over, to give him time to file affidavits. *Ordered to stand over for a week.*

Re LIVESEY, a Lunatic.

Two committees of the estate—Conflicting interests—Costs.

Anderdon supported the petition of Harding Livesey, the lunatic's brother, praying the confirmation of a report approving of him as sole committee. There had originally been two committees, but Hopkins, the other, had died.

Speed, for parties interested, suggested that there were conflicting questions which might arise in respect of the lunatic's estate. The prayer of the petition, too, was not confined to the costs, charges, and expenses of this petition; but also to the costs, charges, and expenses in the causes.

The LORD CHANCELLOR.—In drawing up the order, care must be taken that only the costs ordered to be paid out of the lunatic's estate be included in the present order. How are the claims conflicting? The whole matter has been before the Commissioner, and he has decided it. Some ground must be shewn to me for not confirming the report.

Report confirmed.

EASTER TERM.

Tuesday, April 15.

The Lord Chancellor, accompanied by the Master of the Rolls, the Vice-Chancellors in ceremonial costume, and two Masters in Chancery, opened the court to-day at one o'clock.

Re CHAMBERS.

Practice in bankruptcy—Substituted service on a solicitor acting in person.

Crisp moved for an order for substituted service of a notice in the matter of a petition presented by Mr. Henry Wilton, who described himself in the petition as of Kew Green, Surrey. The petition was entitled "In the Matter of Chambers, a Bankrupt," and "In the Matter of Henry Wilton," and also in a cause in which costs had been incurred. The matter was an original application to the Lord Chancellor in bankruptcy, and was conducted by Mr. Wilton in person, he being an attorney of the Court of Bankruptcy.

By a General Order of the Court of Bankruptcy dated 12th January, 1832, it is ordered "that every attorney or solicitor admitted in the Court of Bankruptcy, and residing in London, or within ten miles thereof, shall, upon his admission, enter in a book in the Registrar's office his name and place of abode, or some other proper place in London, Westminster, or Southwark, within one mile of the said office, where he may be served with notices, summonses, orders, and rules in matters depending in the said court; and as often as any attorney or solicitor shall change his place of abode, or place where he may be served as aforesaid, he shall make the like entry thereof in the same book; and all notices, &c. which do not require personal service shall be deemed sufficiently served on such attorney or solicitor if a copy thereof be left at the place lastly entered in the said book with any person resident at or belonging to such place; and if any such attorney or solicitor shall neglect to make such entry, then the fixing up of any notice, or the copy of a summons, order, or rule for such attorney or solicitor in the office of the Chief Registrar shall be deemed as effectual and sufficient as if the same had been served at such place of residence as aforesaid." The address for service entered by Mr. Wilton was Bank Chambers, No. 3, Lothbury, but it was ascertained that he had long since left that place, and his abode at Kew Green was eight miles from the court. It was proposed to serve him with a notice of the respondent's intention to read affidavits used on a former application, by leaving a notice at Bank Chambers in the Lothbury, and by sticking up a notice in the Chief Registrar's office. It was asked that an order should be made that such service be deemed good service.

The LORD CHANCELLOR.—Let the notice be served in the way you state; and, by way of precaution, let a letter be written to him addressed to his place of abode at Kew Green, informing him of the order which has been made, and inclosing a copy of the order.

VICE-CHANCELLOR OF ENGLAND'S COURT.

Saturday, April 12.

GARCIAS *v.* RICARDO.

Practice—Plea of foreign jurisdiction—Stay of proceedings pending an appeal.

Where a plea of res judicata has, under the circumstances, been overruled by reason of its being too general, and an application is made to the Court to stay proceedings for compelling the defendant to put in his answer until the order overruling the plea has been disposed of, such application refused with costs, by reason of the injustice which would befal the plaintiff in either event, i. e. whether the appeal would be decided for or against the defendant.

This was a motion to stay all further proceedings in the cause for compelling the defendant to put in a further answer until a petition of appeal, which the defendant intended to present to the House of Lords against the Vice-Chancellor's order overruling the plea, had been disposed of. The facts of the case have been already reported in vol. 4, pp. 130 and 229, from which it will appear that, about eleven years ago, Messrs. Ricardo & Co. through their bankers at Paris, contracted for a loan of four millions of pounds to the Government of Spain. After the first advance, the plaintiff Garcias became a participator in the undertaking to the amount of 25,000*l.* but being dissatisfied with Ricardo in reference to the amount which he had received in the enterprise, instituted proceedings against him in the French courts, the result of which was a decision in favour of the defendant Ricardo. Garcias not being, however, satisfied with the judgment of the French tribunals, instituted proceedings in this court for an account against Ricardo. This was met with a plea of *res judicata* in a Court of competent jurisdiction, and it was held by his Honour, that, although that might operate as a bar to a suit in equity, yet if the plea be so general as to leave the Court in doubt as to what the matters before the foreign tribunal between the parties really were, the Court would not refuse the plaintiff his right to file a bill for an account of the transactions between him and the defendant. This decision of his Honour was given on 5th of November last. Two other pleas had failed by reason of the defendant not being able to identify the subject-

matter of the suits, and the defendant now signified his intention to appeal to the House of Lords.

Stuart and *Heathfield*, in support of the motion, said that although the petition of appeal had not yet been presented, it was nevertheless settled and signed, and the defendant intended to apply to the Lords to advance the appeal, so that it might be heard as speedily as possible; but that if the Court should refuse the present motion, such appeal would be useless, for the defendant might be compelled to answer, which at present he sought to avoid.

Bethel and *Lewis*, in opposing the motion, urged the want of sincerity on the defendant's part, in his intention to bring his case before the House of Lords; that if the Court granted this application, it would be tantamount to saying, "I will not pronounce any order, but your plea shall remain in force until the House of Lords should declare whether or no this Court is right upon the merits," which would have the effect, to use Lord Eldon's expression, of palsying the arm of justice; and that, independently of the hardship and injustice which the plaintiff would suffer if he were thus delayed in the prosecution of his suit (which seemed to form the principal object of the intended appeal) for a year or two, the course which the defendant sought to pursue was altogether contrary to the practice of the Court.

Cases cited for the defendant: *The King of Spain* v. *Machado* (4 Russ. 560), and *Wood* v. *Milner* (1 Jac. & W. 636). For the plaintiff, Garcias, *Huguenim* v. *Baseley* (15 Ves. 180); *Walburn* v. *Ingleby* (1 My. & K. 79), and *Drake* v. *Drake* (3 Hare, 528).

His Honour the VICE-CHANCELLOR said he did not doubt the *bona fides* of the defendant's intention, nor did he place much stress upon the circumstance that the appeal had not yet been presented to their lordships in the Upper House. The facts of the case were these: The suit was commenced about a twelvemonth ago (vol. 3, p. 33). To this bill the defendant put in his plea, which the Court thought fit to overrule, at which time leave was given to both plaintiff and defendant to amend their respective pleading. The defendant filed another plea, which was also overruled. Against this order it was the intention of the defendant to appeal, which order the House of Lords might think fit to reverse. But even should this be the case, his Honour did not, on the whole, consider the balance of justice was in favour of the present application; for should he grant the order, and the House of Lords determined against the appellant, there was no means of giving the plaintiff an equivalent for the delay and loss of time; but if the appeal were decided in favour of the appellant, the only result would be that the costs of the answer which the plaintiff might compel him to put in would be borne by the plaintiff. *Motion overruled with costs.*

ROLLS COURT.

Monday, Feb. 24.

DICK *v.* LACEY.

Will—Construction—Descendants per stirpes.

A testator gave "all, &c. to A B for life, and after her decease he gave the same to her nieces, the daughters of C D, and their descendants per stirpes, to hold to them, their heirs and assigns for ever, A B and the descendants of C D paying an annuity for life to E F."

Held, that the two nieces who survived the life tenant took the entirety, to the exclusion of a third who died without issue, after the testator, but before the life tenant.

James Hammond by his will of the 27th January, 1824, gave all the residue of his estate to Ann, the wife of Sir T. Mantell, for life, and "after her decease he gave the same unto her nieces, the daughters of Captain Boyce, *and their descendants per stirpes*, to hold to them, their heirs and assigns for ever; Lady Mantell and the descendants of Captain Boyce paying unto his relation, Mrs. Le Plastrier, the sum of 50*l.* a year for life." Captain Boyce died in November 1835, having had six daughters, of whom three were living at the date of the will, and at the death of the testator. One of these married Mr. Lacey, one of the defendants, and died without issue in the lifetime of Lady Mantell; the second married Mr. Dick, the plaintiff, and has ten children; and the third married Mr. Fielding, a defendant, and has also ten children. Lady Mantell, the tenant for life, having died on the 21st Sept. 1843, this suit was instituted to ascertain the rights of the several claimants.

Turner and *Beavan*, for the plaintiff.—First, the words "their descendants," &c. do not give to the children of the nieces a legal interest co-existent with their interest, but only an interest substituted for theirs in case of their death. When it is said that these parties take *per stirpes*, it must mean that they take by representing the *stirps*; what is intended is, substituted, not co-existent interests. (*Rowland* v. *Gorsuch*, 2 Cox, 187; *Pearson* v. *Stephen*, 2 Dow. & Clark, 328; 5 Bligh, 203.) In *Butler* v. *Ommaney* (4 Russ. 70), it was decided that issue could not take with the parents, and descendants here is equivalent to issue there. The cases of *Gibbs* v. *Tait* (8 Sim. 132), *Crossly* v. *Clare* (1 Ambler, 397), and *Butler* v. *Stratton* (3 B. C.C. 367), are to the same effect. Then, secondly, the gift to the daughters of Captain Boyce, by the general rule, creates a joint tenancy in them, which was not severed during the life of Mrs. Lacey; and, besides, they take as a class, which strengthens that view. It may be said that the words *per stirpes* prevent a joint tenancy; but there may be a joint tenancy among the nieces, as among next of kin (*Withy* v. *Mangles*, 4 Beav. 358), and a tenancy in common among their descendants. There is a gift also to an annuitant; and to pay that the Court will give a continued interest. (2 Jarm. on Wills, 171.) There is, therefore, a bequest to three persons, which makes them joint tenants, with a bequest to her children, if one die leaving issue, an event which does not happen. Therefore the whole fund rests in the survivors of the joint tenants.

Kindersley and *C. Bayley*, for Mr. and Mrs. Fielding.—There are two branches of the question: one between the three nieces and their descendants, and the other between the two surviving nieces and the deceased niece. On the first the plaintiff goes with us, but diverges on the second. In the first place, I observe that "and" is to be changed into "or," before "descendants;" and, if so, the case is clear. .... gift is to the nieces of the survivor, Lady Mantell; and if not, to their descendants *per stirpes*, and whoever takes is to take absolutely. That makes the whole rational. And though the words are not the same in *Pearson* v. *Stephen*, yet the same principle is laid down in sufficiently clear language to act upon. But, secondly, the descendants do not take concurrently with their parents, nor by way of remainder after their life estate, but as representing their *stirps*. There was no severance of the joint tenancy of the three nieces which existed during Mrs. Lacey's life; and if there had only been the gift to them, it would have been a joint tenancy; but the testator meant that, if any should die during the life tenancy, it should then be severed to let in the issue, and if all should so die, then the issue of each was to take by the *stirps*. He has given to the three nieces an absolute interest in the first instance as joint tenants; but if any should die, he has directed the descendants to take *per stirpes*, in a representative and substitutionary character.

Purvis and *Lloyd*, for Mr. Lacey, the personal representative of the deceased Mrs. Lacey.—The necessary effect of the words in the will is a gift to the nieces as tenants in common. It is to them and their descendants, &c. It is therefore intended that their issue should take, descendants and issue being convertible terms. (*Bernal* v. *Bernal*, 3 Myl. & Cr. 559.) What does *per stirpes* mean, but that each niece and her descendants should take separately from the other two? It is therefore a gift to the nieces and their descendants in equal shares; and therefore, being a gift in tail, if the property was realty, is an absolute gift of the personalty. The only thing is the word "heirs," which points to limitation, not purchase; but it is not used technically by the testator, as he applies it to personalty. In *Evans* v. *Salt* (6 Beav. 266), the word so applied meant next of kin; and if that meaning of it here be inconsistent, it may be rejected altogether. (*Hinch* v. *Ward*, 2 Sim. & St. 409; *King* v. *Burchell*, 1 Eden, 421.) If the nieces, therefore, take as tenants in common in tail, and therefore absolutely, Mr. Lacey, as the personal representative of Mrs. Lacey, will take one third. But if it should not be in tail, the idea of joint tenancy is excluded. It is said "and" is to be construed "or;" but that is never done but to give effect to some other intention found in some other part of the will. (*Montague* v. *Nucella*, 1 Russ. 165.) And whether the children take concurrently with, or in succession to, the parents, it is a tenancy in common to the persons claiming. (*Woodgate* v. *Unwin*, 4 Sim. 129.)

Wood, for the children of the plaintiff.—The construction which will give effect to all the words is, that the testator gives equally to each niece as a *stirps*, her heirs and assigns; and directs that the descendants of Capt. Boyce, including the nieces, should pay 50*l.* to, &c. In that way he prevents one family from getting more than another, but having done so, the members of each family will take concurrently. [The MASTER of the ROLLS.—In that way you let in the representative of Mrs. Lacey, if you allow the children to take concurrently with the parents.] Yes, but then it is to be remembered that the gift is to a class, and the class not being determined at Mrs. Lacey's death, she is excluded. If each daughter is a *stirps*, and the gift be to her and her descendants to hold to them and their heirs for ever, they take jointly. (*Wyld's* case, 6 Rep. 16; Co. Litt. 9 b.; *De Witte* v. *De Witte*, 11 Sim. 41; *Oates* v. *Johnson*, Strange, 1172; *Heron* v. *Stokes*, 2 Dr. & W. 89.) The only remaining observation I have to make is that there are authorities in which very similar words have given a life estate to the parent, and a remainder to the children. (*Jeffery* v. *Honeywood*, 4 Mad. 398; *Crawford* v. *Trotter*, Id. 361.) There is, however, a distinction.

Teed and *Young*, for the children of Mrs. Fielding.—As to the effect of the words *per stirpes* we may refer to *Crockett* v. *Crockett* (1 Hare, 451); *Morse* v. *Morse* (2 Sim. 485); *French* v. *French* (11 Sim. 257). As to "and" being used for "or," see *Newman* v. *Nightingale* (1 Cox, 341); *Crossley* v. *Kerr* (Ambler, 397).

Kindersley, in reply.

The MASTER of the ROLLS.—It must be allowed this case is attended with very considerable difficulty; but as I cannot, by giving it further consideration, acquire any better assurance, I shall now state my opinion. Whatever was intended by this testator, his words are:—[His Lordship read them.] Who, then, are the persons in contemplation, and what is the time of distribution? There is no doubt as to the latter; it was not to be before the death of Lady Mantell. Who, then, are the persons to take? The daughters of Captain Boyce and their descendants *per stirpes*. And what is intended for them? The gift is to them, their heirs and assigns for ever; so that it would appear they are to take an absolute and entire interest at the time—an estate of equal value and extent. The first question then is, what is the effect of the gift to the daughters and their descendants *per stirpes?* and it is contended that the word "descendants" is to have the same effect as the word "issue," and that, coupled with the words "*per stirpes*," it would be a gift to tenants in common in tail of real estate, and is therefore an absolute gift of the personalty. Now, whatever may be the meaning of the words "*per stirpes*," it must be admitted that they mean a distribution of one sort or other, not an estate tail, which is excluded both by those words and the absolute words to the parents. I am of opinion, therefore, that the word "descendants" is not a word of limitation, but purchase. Then what is the interest of the children under the will, when it appears they are to have an absolute estate? The question is, first, do they take concurrently with their parents? or, secondly, if not, but they are to take in some species of succession, are they to take in succession by way of substitution for their several parents before the time of distribution? or by way of remainder expectant on their decease? First, it is said that descendants *per stirpes* must mean a class of children; on the other hand, it is said that the children and parents form one class. There is considerable difficulty either way, and no authority directly bearing on the point to assist us. I consider that the words "descendants *per stirpes*" import not distribution but succession, and if so, and that, therefore, a concurrent gift is excluded, what succession is it? Now, observe, whatever it is, it is absolute, and the time of distribution is the death of the tenant for life. Independently of the authority of *Pearson* v. *Stephen*, I should in this case have come to the same conclusion, the case being nearly similar. There is no material and substantial difference between it and *Pearson* v. *Stephen*, and the gift must go in conformity with it, that is, the residuary estate belongs to the two surviving nieces

VICE-CHANCELLOR KNIGHT BRUCE'S COURT.

Wednesday, April 16.

EDWARDS *v.* BROWN.

Suppressing deposition—Mistake.

Upon a motion by the plaintiff to suppress a deposition, on the ground of a mistake of the witness in making it, the Court gave the plaintiff leave, without prejudice to the deposition, to examine the witness again upon the same interrogatory, the defendant having liberty to cross-examine the witness at large.

Wigram and *Prior*, on behalf of the plaintiff in this case, moved for leave to suppress a deposition, on the ground of the witness's being mistaken as to the extent of the subject-matter to which the interrogatory referred. The witness had given his answer stating the value of part of the property in dispute, erroneously believing that he was required to fix the value of the house alone, while the interrogatory required the value of the house, fixtures, and land. They cited *Kirk* v. *Kirk* (13 Ves. 281 & 285).

Russell, for the defendant, opposed the application.

The VICE-CHANCELLOR said, he certainly should not suppress the deposition. In *Lord Abergavenny* v. *Powell* (1 Mer. 130) Lord Eldon said, "Do you recollect any instance of such an application as the present being granted? The cases in which a witness has been allowed to explain an examination are where publication has already passed in a cause." That was Lord Eldon's notion in that matter. The defendant had a right to choose whether this motion should stand over and come on with the cause, or whether the plaintiff should be at liberty, without prejudice to the deposition, to examine the witness again upon the same interrogatory, with liberty for the defendant to cross-examine him at large if he wished it.

Russell said that he would accept the latter alternative, and accordingly the order was so made, with the costs of the motion and of the additional examination to be paid by the plaintiff.

Friday, April 18.

GRACE *v.* TERRINGTON.

Practice—Further directions—Appearance of persons not parties to the suit.

Persons not parties to the suit have not a right to appear on further directions without leave, their appearance being opposed.

In this cause, which was set down on further directions, *Cooke* appeared to ask for the payment of costs under the following circumstances. A lady, having a power of appointment of a fund among her "blood relations," executed the power, and appointed certain specific sums to persons for whom *Cooke* appeared, and the residue among other persons. The persons to whom the specific sums had been appointed not being parties of the suit, appeared in the Master's office, and established their claim, and thereby incurred the costs now applied for.

Counsel for all the parties in the suit objected to Cooke's being heard without special leave.

Cooke cited *Bennet* v. *Wood* (7 Sim. 522); *White* v. *White* (6 Mad. 110); *Hutchinson* v. *Freeman* (4 Myl. & Cr. 490); and *Shuttleworth* v. *Howarth* (4 Myl. & Cr. 492).

The VICE-CHANCELLOR said, that of the cases in Simons & Maddock, one was on motion, and the other on petition; but the case of *Hutchinson* v. *Freeman* was nearer the point. He would assume, for the purpose of his remarks, that the cases referred to were similar to that now before the Court, and if he thought that Lord Cottenham had intended to decide substantially that parties so situated had a right to appear on further directions, he would undoubtedly follow that case. But he considered his lordship had not so intended. The question was, whether parties not parties to the suit had a right to appear on further directions without leave, and their appearance being opposed. His Honour thought they could not; but without deciding anything against what Lord Cottenham was supposed to have decided, he would let this matter stand over, the parties to be at liberty to present a petition for these costs.

Tuesday, April 22.

CARMICHAEL v. CARMICHAEL.

Practice—Witness.

Where a witness has been examined for a defendant saving just exceptions, and the defendant reads no portion of the evidence, the witness is the witness of the party producing the evidence.

General Carmichael by his will bequeathed all his property to John and Catherine, his children. Mrs. Carmichael, the widow, took out letters of administration of her husband's estate, with the will annexed. The testator's son John also received a considerable portion of the testator's property. This bill was filed by Catherine, the daughter, against her brother John, and her mother, the widow. A decree was made to take an account of the personal estate received by John and the widow, or any person in their behalf. In the Master's office John obtained the usual order for the examination of his co-defendant, the widow. Her depositions having been taken and published, John refused to read them, and accordingly the deposition was tendered by the plaintiff, but refused by the Master. The Master's report was afterwards excepted to, one of the exceptions being on account of his refusal to receive this evidence.

Russell and *Chapman*, for the exception, said that in the order the defendant John Carmichael alleged that his co defendant had no interest, and he could not now be heard to contradict that allegation. The Master ought to have received the deposition.

Burge and *Campbell*, for the report, said that Mrs. Carmichael was an interested witness, and that John Carmichael had a right to take the objection. They cited *Lee* v. *Atkinson* (2 Cox, 413).

The VICE-CHANCELLOR said that he was of opinion, that although this witness was examined for the defendant saving just exceptions, the defendant reading no portion of the evidence, the witness was the witness of the party producing the evidence. Then arose the question of interest, and his Honour thought that there was an interest. A question might be put—Did John Carmichael pay the witness a sum of money or not? If he paid her, she would be chargeable. His Honour said that he was afraid she had an interest, and that the evidence was not receivable if objected to. He would, however, delay his decision, if any authorities to the contrary could be produced.

Note.—The case was not mentioned again.

Thursday, April 24.

GRAVENOR v. MILES.

Practice—Opening biddings—Costs—Interest.

Where a person had obtained an order to open the biddings, and at the second sale was outbid, he was, under the circumstances, allowed his costs and interest at 4l. per cent. on his deposit.

An estate and premises being put up for sale by public auction in two lots, were sold at the sums of 300l. and 80l. respectively. Mr. Griffiths having obtained an order for opening the biddings upon an advance of 200l. on the first lot, and 50l. on the second lot, paid the sum of 250l. into the bank to the credit of the cause. At the second sale, on the 4th of February, 1845, the estate was sold for 1,170l. which sale was confirmed.

Cameron now moved on behalf of Mr. Griffiths, for the repayment to him of the sum of 250l. with costs, and interest on the sum of 250l. after the rate of 4l. per cent. Upon the motion for the opening of the biddings, Messrs. Jones and Sons, the plaintiff's solicitors, addressed to Messrs. White, Eyre, and White the following letter:—

"We think it very desirable to open the biddings; and assuming that the application, though not in the name of the plaintiffs, is in truth for the plaintiffs, and that they will submit to a reserved bidding at a resale, or to a sale by private contract, we will consent to the costs of the application being costs in the cause.—July 13, 1844."

He cited *Filder* v. *Bellingham* (9 Jurist, 8, and Law T. 153).

The VICE-CHANCELLOR.—It seems to me a very reasonable application; and if there has been a similar case I will make the order. As it has been a fair case, and the estate has been benefited, and it was done at the request of the parties, I will allow the costs, and interest at four per cent. on the deposit.

Common Law Courts.

COURT OF QUEEN'S BENCH.

Wednesday, April 23.

REG. v. INHABITANTS OF APPLEBY, in the County of Leicester.

Where a material variance between the writ of certiorari and the return becomes known to the Court incidentally, prior to the argument upon a rule to quash the certiorari and return, they will take notice of it, and make the rule absolute.

This was a cross-rule obtained by *Hildyard*, to quash the *certiorari* which had issued to bring up all and singular orders made between the inhabitants of the parish of Appleby, in the county of Leicester, touching the settlement of Thomas Rowell, Elizabeth his wife," &c.; against which *K. Macaulay* and *Simpson* shewed cause.

It appeared that the parish of Appleby is situated partly in Leicestershire and partly in Derbyshire, and was sometimes called Appleby in Leicestershire, and sometimes Appleby in Derbyshire. An order of sessions had been made in an appeal between the churchwardens and overseers of the part of the parish of Appleby in Derbyshire, and the inhabitants of Snarestone, in Leicestershire, as to the settlement of Thomas Rowell, his wife, and children, confirming an order of removal from the respondent parish to the appellant parish, subject to a case. A *certiorari* had been obtained, addressed to the justices of Leicestershire, to bring up all and singular orders made by them or some of them, between the inhabitants of the parish of Appleby, in the county of *Leicester*, appellants, and the inhabitants of the parish of Snarestone, in the county of Leicester, touching the settlement of T. Rowell, his wife, and children, naming them. The notice upon which this writ was obtained described Appleby to be in Leicestershire, and so also the recognizances entered into to prosecute the suit. The return was of the actual order between the parish of Appleby, in *Derbyshire*, and the parish of Snarestone. The affidavits upon which the motion to quash had been obtained followed the *certiorari* in describing the defendants as the inhabitants of Appleby in Leicestershire.

In the course of some preliminary objections, these variances between the *certiorari*, the original order, and the return, were stated to the Court; and thereupon *Whitehurst*, Q.C. objected that the writ must be quashed without inquiring further.

K. Macaulay contended that might be good ground for substantive motion to quash the return, but that did not affect the writ. (*Reg.* v. *Fordham*, 11 A. & E. 80.)

Lord DENMAN, C. J.—All that we intended to say in *Reg.* v. *Fordham* was, that when the argument had proceeded to some length, we could not entertain an objection of variance; but it is a very different thing where it has come to the knowledge of the Court by some accident. The rule must be made absolute.

Rule absolute.

Thursday, April 24.

Ex parte IVIMEY.

Orders of the Lord Chancellor may be lithographed.

Crowder, Q. C. applied for a *mandamus* to compel the Registrar to register an order which was lithographed.

Hill, Q. C. shewed cause.—It was expressly required that these orders should be in writing.

By the COURT.—We think that there was doubt that the Registrar might safely register this document.

Rule absolute.

Saturday, April 26.

REG. v. THE INHABITANTS OF LILLSHALL.

Poor—Appeal—Emancipation, presumption of.

On an appeal against an order for the removal of a pauper, the sessions had quashed the order, subject to a case, which in substance submitted for the opinion of the Court the question, whether, to entitle a pauper to a settlement *ex parte paternâ*, the evidence of which was acknowledgment by relief to the father after the pauper had attained the age of twenty-one years, it was necessary to negative a presumption in law, founded on the mere fact of his having attained the age of twenty-one years, that the pauper had been emancipated, and did not form part of his father's family at the time when the circumstances that constituted the acknowledgment took place.

Phillimore, in support of the order of sessions.—The fact that a male child has attained the age of twenty-one years makes it probable that he has been emancipated (*Rex.* v. *Oulton*, 5 B. & Ad. 962); and therefore a presumption of law arises which, to establish his right to a derivative settlement, must be negatived. (*Rex* v. *North Bovey*, 2 Q. B. R. 500; *Reg.* v. *Wymondham*, 2 Q. B. R. 541; *Reg.* v. *Pontefract*, 2 Q. B. R. 548; *Reg.* v. *Pilkington*, 1 M. S. C. 90; *Reg.* v. *St. Sepulchre*, 14 Q. S. M. 8.) The cases of *Reg.* v. *Grosley* (8 Ad. & E. 806) and of *Reg.* v. *Staple Fitzpaine* (2 Q. B. R. 138), are distinguishable.

Whately, Q. C. contrà, was not called on.

By the COURT.—When a clear and perfect *primâ facie* settlement is made out by intelligible facts, it is not necessary to negative an exception, which can only be made to appear by matters which the examinations do not disclose. There is not any ground for the supposed presumption that a person of full age must have been emancipated; it is not necessary, therefore, that such a presumption should be negatived. If there were any evidence of emancipation, then of course the fact of emancipation must have been negatived, or the claim to a derivative settlement would have fallen to the ground. Even in a case where a settlement had been gained by the father after the full age of the son, the presumption of emancipation would not necessarily arise. The present case is stronger, for the settlement is made out by acknowledgment, and may, therefore, have been gained many years before. The case of *Rex* v. *Oulton* is not an authority for the position that full age raises the presumption of emancipation.

Rule absolute.

REG. v. JOHN PERKINS.

Coroners are deemed absent within the meaning of the 6 & 7 Vict. c. 83, though accidentally present during a part only of the inquest held by their deputy, who ought to sign the inquisition quâ deputy.

This was a motion to quash the inquisition of a coroner on the body of Elizabeth Hassell, for defects on the face of it, inasmuch as it appeared that the inquest was held before the deputy coroner, without stating the absence of the coroner, and that it was signed by "— Moore, duly appointed deputy coroner." It also appeared that the coroner was present in the first instance; that he was obliged to go elsewhere; but that he returned, and was present when his deputy signed the inquisition. The 6 & 7 Vict. c. 83, s. 1, gives coroners power to appoint a deputy only for illness, and during absence for reasonable cause.

Godson, Q. C. now shewed cause.—The coroner was absent, and the mere fact of his returns does not remove his right to have a deputy. The statement that the deputy was duly appointed such, was mere surplusage.

Jervis, Q.C. contrà.—It appears that Docker, the coroner, viewed the body, and Moore signed for him. The oath must be *super visum corporis*. If one coroner begins the inquest and another intervenes, he must begin again. The inquiry must be made under the original oath, and the whole by one officer. The coroner returned; this was not absence.

Lord DENMAN, C.J.—We are of opinion that the coroner was absent within the meaning of the Act. His accidental presence during part of the time was quite immaterial, and the inquest here was quite correct.

PATTESON, J.—The coroner was sufficiently absent in this case, and the only objection seems to be that the deputy signed with the addition that he was duly appointed; if not requisite, that would be mere surplusage; but I think it would be wrong were it otherwise signed.

WILLIAMS, J.—I not only think that the deputy coroner signed this, but that it would have been wrong had he signed it in any other manner. It is laid down in Comyn's Digest, title Attorney, p. 645, that "if a man who acts by the authority of another and as his attorney, does it in his own name and as his own proper act, it will be void, for he represents his master, and ought to do it in his own name, or at least ought to express that he does it as attorney for such an one." I therefore think that the deputy coroner has acted very properly.

WIGHTMAN, J.—The coroner on his return having remained silent, and taken no part in the inquest, cannot have annulled the authority delegated to his deputy, according to the provisions of the Act, by his accidental presence.

Rule discharged.

REG. v. THE INHABITANTS OF ST. ANNE'S, WESTMINSTER.

Estate settlement — Evidence of the production of letters of administration before the justices need not be proved, if they are sent to the appellant parish.

On appeal against an order for the removal of a pauper, the order was confirmed, subject to a case whether it was sufficient in the proof of an estate

settlement to send certain letters of administration to the receiving parish, together with an examination which referred to them and specified them by date, or whether it was necessary that it should be specially stated that they were produced before the magistrates.

Prendergast, in support of the order, was stopped by the Court.

Pashley, contrà, contended that the letters of administration were not sufficiently identified or shewn to be before the justices. He cited *Reg.* v. *Mildenhall* (2 Q. B. 517); *Reg.* v. *Flockton* (2 Q. B. 535); *Reg.* v. *Rushworth* (2 Q. B. 476, per Patteson, J.); *Reg.* v. *Leeds* (13 Law Jour. M. C. 88; 1 Bit. & Sym. M. C. 23); *Reg.* v. *Outwell* (9 Ad. & Ell. 836). It is absolutely necessary to connect the evidence with the parties. [PATTESON, J.—Suppose you strike out all mention of the letters of administration from the examinations, would that vitiate the order?] But there must be something to connect them with their production before the justices. [PATTESON, J.—I do not see that at all. WILLIAMS, J.—Do you think, then, that the woman ought to have said in her examination that administration was taken out by her by the letters of administration now produced and presented, as by reference to the same will more fully and at large appear? Is that what you think necessary?] That would not do; for if she said only that, they might have been produced elsewhere. But the order itself is fatally bad for another reason on the face of it. [*Prendergast*.—You cannot go into any other defect. The Court will not travel out of the case.] The case does not exclude the common law jurisdiction. Here is no jurisdiction shewn. It is not stated that the parish is within the district for which the police magistrate acts. [*Prendergast*.—*Re Guildford* (2 Chit. 284) decides that the Court cannot travel out of the case; besides, the parish is within the district, according to the Metropolitan Police Act. [PATTESON, J.—Do you say, Mr. Pashley, that the production of these letters is not shewn by this woman's examination?] Yes. [PATTESON, J.—Then it may still have been shewn by some other witness.] That would be throwing the onus of the proof on us: they are to prove their own case to us. [PATTESON, J.—But they did send the letters to you in this case.] That has nothing to do with it. [PATTESON, J.—But I say it has to do with it.] I submit, on the other point, that the Court may look *dehors* the case, when there is a defect at the root of the order; the Court cannot affirm an act which is wholly void. The magistrate is not shewn to have had jurisdiction. [*Prendergast*.—The very parish, St. Leonard's, Shoreditch, is named in the Act. Here it is. WIGHTMAN, J.—That will do. I think, Mr. Pashley.] There may be many other parishes called St. Leonard's: is it to be presumed on one side?

Lord DENMAN, C. J.—There is a great deal of presumption on the other side. The order must be confirmed. *Order confirmed.*

COCKER *v.* MUSGROVE and MOON.

Duty of sheriff when notice of rent being due is given to him, and the execution creditor will not pay out the landlord.

This was an action against the defendants, sheriff of Middlesex, for a false return, tried before Mr. Justice Wightman, at the sittings after Hilary Term, under the following circumstances:—Five writs of *fi. fa.* were in the hands of the sheriff against one Steinitz, under which possession had been held for some weeks. Notice of rent being due had been given by the landlord, and afterwards another *fi. fa.* at the suit of the plaintiff was delivered to the sheriff for the sum of 16*l.* 3*s.* 8*d.* and shortly afterwards the plaintiff ruled the sheriff to return. The return set out the five writs, and averred a seizure under them of goods to the value of 200*l.* (which was less than the amount of the writs); that they remained on his hands for want of buyers; that notice of 295*l.* for rent was given; that none of the execution-creditors would pay the rent, and that Steinitz had no other goods whereof the sheriff could cause to be made the debt and damages of the plaintiff. This action for a false return was then brought, and the existence of the writs and the rent was admitted in the declaration; but it was alleged that there were goods besides, "whereof the defendants, as sheriff, could and might to have levied the moneys" indorsed upon the plaintiff's writ. A distinct issue was taken upon this allegation, and at the trial, no goods having been proved but those liable to the rent, it was objected that the plaintiff had shewn no cause of action, as the sheriff was not bound to levy whilst the rent remained unpaid. Mr. Justice Wightman thought the sheriff might sell, though he could not remove, and the case went to the jury. On the fourth day of Term,

Bovill (with whom was *Wise*) moved for a new trial, on the ground of misdirection. As long as rent is due, the sheriff is not *bound* to sell, although in practice he often does so. Here the charge is, that he did not levy the moneys indorsed upon the writ. This is more than seizure. (*Drewe* v. *Lainson* 11 A. & E. 529; *Stubbs* v. *Lainson*, 1 M. & W. 728.) The execution-creditor might pay out the landlord; and until that is done the sheriff is precluded by the statute from proceeding with the execution. (8 Anne, c. 14, s. 1; *Risely* v. *Ryle*, 11 M. & W. 16; *Wintle* v. *Freeman*, 11 A. & E. 539.) He would be liable to an action at the suit of the landlord if a sale of the goods should not produce sufficient to pay him, although the actual proceeds were paid to him. (*Calvert* v. *Jolliffe*, 2 B. & Ad. 418.)

The COURT said they would see Mr. Justice Wightman, and on Saturday, April 26, granted the rule. *Rule nisi.*

REG. *v.* INHABITANTS OF SEVENOAKS.

The service of notice of certiorari upon two of the justices mentioned in the caption of the order of sessions is primâ facie sufficient, it not being shewn that they were not present when the order was made.

This was a cross-rule obtained by *Pashley* to quash a *certiorari* obtained from Williams, J.; against which

Deedes now (April 23) shewed cause.—The material facts were these. On July 29, 1843, an order of removal had been made from the parish of Sevenoaks to the parish of St. Luke's, which was duly served August 7th. The next practicable sessions were held on October 17th. No appeal had been made, but on October 16th notice and grounds of appeal dated Sept. 7th were served upon the parish of Sevenoaks for the then next sessions. The parish of Sevenoaks did not attend, as due notice had not been given, and there was no entry or respite of the appeal. At the sessions in January the order was made, the parish of Sevenoaks not appearing, and the order had been brought up by *certiorari*. The objections upon which the rule *nisi* to quash the *certiorari* had been granted were—1st, that no notice thereof had been served upon two justices present the 4th of January; 2nd, that the notice had been given by a party not authorized to act for the inhabitants of Sevenoaks. The rule *nisi* was served upon the parish of St. Luke's, and as they allowed it to be made absolute, this is an indulgence which the Court will not now grant. The Court no doubt has the power to interfere, but it is not bound to do so. (*Rex* v. *Wakefield*, 1 Burr. 488; *Rex* v. *Nicholls*, T. R. 281; *Rex* v. *Ratislaw*, 5 D. P. C. 539.) If, however, the Court will entertain the objections, they cannot be maintained. 1st. The authority of the attorney is clear. He was retained on behalf of the inhabitants to conduct the appeal. This is still the appeal. It is distinguishable from *Reg.* v. *Justices of Lancashire* (4 B. & Ald. 289), as there it did not appear for whom the attorneys acted. (See *Reg.* v. *Solly*, 9 D. P. C. 115; *Reg.* v. *Justices of Lancashire*, 11 A. & E. 144.) Then the notice was served upon two justices, by and before whom the order was made. It was made in our absence, and the caption of the order contained the names of the two justices whom we served. The order states that at the sessions held before the parties named, it was ordered by "*this Court, &c. &c.*" It is not like an order signed by two magistrates. There is no affidavit they were not present.

Pashley, in support of the rule.—The caption proves nothing beyond the facts there stated, and it is not stated that these justices heard the case. The statute requires it shall be duly proved on oath. There is no oath here that they were the parties. [Lord DENMAN, C. J.—Does not the caption afford a strong presumption that they were present?] Then the authority is only to prosecute the appeal, and, by analogy to the proceedings in an action where the authority ends with the judgment, the authority must here end with the order. (*Unwin* v. *St. Quintin*, 11 M. & W. 277.) It is not an indulgence to be allowed to make the objection now. *Cur. adv. vult.*

On Saturday, April 26, the Court gave judgment to the effect that the notice was good.

REG. *v.* JUSTICES OF HUNTINGDON.

Where upon articles of peace being exhibited, the sessions order the defendant to find sureties in a certain amount, and do not order that, in case of default, he shall be imprisoned, magistrates out of sessions have no power to commit upon refusal to find such sureties.

Biggs Andrews, Q. C. (with whom was *Worlledge*) shewed cause against a rule obtained by *Gunning* for a *habeas corpus* to bring up two persons of the name of Ashton, now in the gaol at Huntingdon, and for a *certiorari* to bring up the order under which they were in custody. Numerous points were raised in the course of the argument, but only that upon which the decision was founded is now reported. It appeared that articles of the peace had been exhibited at the Huntingdon Sessions by Mr. Swallow, and the sessions had thereupon ordered them severally to enter into recognizances, themselves in 100*l.* and two sureties in 50*l.* each to keep the peace for six months. They were upon this order brought before two magistrates, and upon proof of the order, of their identity, and their refusal to find sureties, the magistrates committed them for the residue and yet unexpired term of six months, from the 8th of April, the date of the order of sessions, unless in the meantime they found the required sureties.

Gunning (with whom was *O'Malley*), contrà.—The alternative of imprisonment having been omitted, they could only be indicted for disobedience.

Lord DENMAN, C. J.—The magistrates only had power to enforce the order of sessions, and that directed no imprisonment. The magistrates have in effect convicted summarily upon an indictment for disobedience to the order of sessions. I am at a loss to know what jurisdiction they had.

The rest of the COURT concurred.

Prisoners to be discharged.

Tuesday, April 29.

GREEN *v.* WOOD.

Warrants of attorney—Construction of 3 Geo. 4, c. 39, s. 2.

This was a special case, which turned on the 3 Geo. 4, c. 39, s. 2, which provides that if, after the expiration of twenty-one days after the execution of a warrant of attorney, a commission of bankrupt shall be issued against the person who shall have given such warrant of attorney, then, "unless such warrant of attorney, or a copy thereof, shall have been filed as aforesaid within the space of twenty-one days from the execution thereof, or unless judgment shall have been signed *or* execution issued on such warrant," such warrant, and the judgment and execution thereon, shall be deemed fraudulent and void against the assignees, &c. In this case, which was an action of *detinue*, judgment had been entered up, but there had been no execution of the warrant of attorney, which was not filed according to the statute; and bankruptcy having ensued, the question arose whether the warrant was void under the statute.

Hayward, Q. C. shewed cause.—The words of the statute are clearly erroneous. In the words "judgment signed *or* execution issued," the *or* ought to be *and*: for it was clearly the meaning of the statute that both the judgment should be filed *and* the execution issued. The statute requires the warrant to be filed, or judgment to be signed. (*Everett* v. *Wells*, 2 Scott, N. R. 525.) If this alteration be not made, the words are utterly inoperative; to do so is to give effect to the obvious meaning of the legislature. This is allowable. (*Fowler* v. *Padget*, 7 T. R. 509; *Waterhouse* v. *Keen*, 4 B. & Cres. 200; *Whitmore* v. *Robertson*, 8 M. & W. 476; *Brook* v. *Mitchell*, 6 B. N. C. 349.)

Willes, contrà.—The word *or* does not mean *and*; and no such alteration of the plain words of the statute is permissible. As it is, the final words are merely surplusage; to make the alteration is to render them operative. (*Hurst* v. *Jennings*, 5 B. & Cres. 650.) Unless the plain meaning of the words used lead to obvious inconvenience, they must be construed in their plain sense.

Hayward, Q. C. in reply.—*Pewtress* v. *Annan* (9 Dowl. 828). The words are inadvertently used. There is no alternative in reality given by the word *or*.

Lord DENMAN, C. J.—We are undoubtedly bound to give to Acts of Parliament a construction in accordance with the plain intention of the legislature; but if Acts of Parliament do not use the words which are necessary to convey their meaning, and the words used are wholly inoperative, as appears to be the case in this instance, we do not feel justified in going the length of altering those words and of supplying others which shall give effect to what was perhaps the intent. In this case we must not only read *and* for *or*, but must transfer the words "execution issued" and supply the word "levy" in its place; but we think it is incompetent to us to introduce these words. It is the duty of Courts to find out and give effect to the meaning of statutes, but beyond this we cannot go.

PATTESON, J.—This statute is badly drawn. In one place cognovits and warrants of attorney are treated as distinct things; in another they are placed on the same footing. It is quite clear that there is some mistake in this statute. If we read the word *or* in its place, no meaning whatever is given to the clause; but we cannot give the meaning intended unless we supply the word levied, which we think we cannot do.

WILLIAMS J. and WIGHTMAN, J. concurred.

Judgment accordingly.

REG. *v.* RANDALL and TAYLOR.

Rateability of tin toll.

This was an appeal against a rate confirmed by the sessions, subject to a case. The question was as to certain toll tin.

Crowder, Q. C. in support of the order of sessions, submitted that it was the old point decided in *Crease* v. *Sawle* (2 Q. B. 862), and the Court called upon

Butt, Q.C. to distinguish it.—They are adventurers actually working the mine. (—— *v.* ——, Nolan, P. L. 148; 3 Burr. 1341; *Rex* v. *Tremaine*, 4 B. & Ad. 162; *R.* v. *Bishop of Rochester*, 12 Ad. & E. 355.)

Greenwood on the same side.—We say that we are the instruments of parties who granted us, not the right to tolls, but to take the minerals. They say, you hold under a demise from parties, one of whom had only a right to tolls. We answer, that that cannot affect the question as between the appellants and the parish. If there is a lease, no rate can be levied. Lord Denman has stated in *R.* v. *Preece* that a man who takes minerals is an occupier of land. It is perfectly admitted that tin toll is rateable; it would be idle to deny it.

Greenwood, Q. C. in reply.—The ratenble tia is that which is rendered to the lord of the manor as toll tia.

Lord DENMAN, C. J.—It is really only a question of words. *Order confirmed.*

Wednesday, April 30.

REG. *v.* INHABITANTS OF SEVENOAKS.

An order of removal was made July 29, served August 7; on Oct. 14, the sessions being Oct. 17, notices of grounds of appeal were served, but dated September 7. The respondents did not appear at the October sessions, nor was there then any entry or respite of the appeal. At the next Epiphany sessions, without any further notice, the appellants obtained, in the absence of the respondents, an order to quash, with costs. Held, that the sessions had no jurisdiction.

"Information and belief," in an affidavit.

Peers may be bound over to keep the peace by justices.

A *certiorari* having been obtained to bring up an order of sessions, by which an order of removal was quashed, the objections to the writ on the alleged insufficient notice to the justices having been disposed of, the case was now heard upon the merits. The order of removal of the pauper from the parish of Sevenoaks to the parish of St. Luke's was made upon July 29, 1844, and served August 7. On Oct. 14 notice of appeal and grounds of appeal were served upon the parish of Sevenoaks, but dated Sept. 7, and contained the usual notice of intention to enter, try, and prosecute at the then next sessions. The next actual sessions were held Oct. 17. The respondents did not then appear, nor was any entry or respite of the appeal made at that sessions. Without any further notice being given, the parish of St. Luke's appeared at the January Sessions, and obtained, in the absence of the respondents, an order to quash the order of removal, and payment of 5*l.* costs, notice of which was given to the respondents after the expiration of the sessions, but no actual service seemed to have been made. The *certiorari* was obtained upon affidavits shewing the above facts, and cause against the quashing of this order was now shewn by

Pashley.—The order of removal was suspended, and still continues so, and the order quashing it, even if made without jurisdiction, is no grievance; for when the suspension is taken off, the order may be enforced, and the costs distrained for; and an action could not be supported because it was quashed without jurisdiction. This case differs therefore from *Rex* v. *West Riding* (7 A. & E. 590), as there the party was liable to an immediate levy. The Court will refuse to interfere where there is no grievance. (*Reg.* v. *South Holland*, 8 A. & E. 429; *Lord Gifford's* case, 1 New Sess. Cas. 490. See 4 LAW T. 340.) But the want of jurisdiction is not shewn. The affidavit does not shew that the appeal was not duly entered and respited at the October sessions. It states merely that he, the attorney, is informed and believes that there was no such entry. Belief and information is insufficient in an affidavit. (*Symes* v. *Amor*, 8 D. D. C. 773; *Sandys* v. *Hobler*, 6 D. P. C. 274; *Joynes* v. *Collinson*, 2 D. & L. 449.) The proceeding of the sessions was an erroneous proceeding, not a nullity, and the distinction is material to observe when the Court is asked to interfere. Upon this part of the case the following authorities were referred to: *Marshalsea* case (10 Rep. 68); *Bagg's* case (11 Rep. 98 *n.*); *Rex* v. *Hewes* (3 A. & E. 730); *Rex* v. *Justices of Bucks* (3 Q. B. 80); *Rex* v. *Bristol and Exeter Railway* (11 A. & E. 202); *Re Baines* (1 C. & Phil. 31).

Baines, Q.C. (with him was *Deedes*), contrà.—This was made entirely without jurisdiction, and is clearly a grievance. We are ordered to pay 5*l.* costs. [Lord DENMAN, C.J.—We have no doubt that it is a grievance, and only doubt as to the jurisdiction.] Notice of appeal is by 13 Car. 2, c. 12, and 9 Geo. 1, c. 7, a condition precedent to the jurisdiction of the sessions. The appeal must be to the next practicable sessions, and the October sessions were alone entitled to entertain this appeal. There is no affidavit on the other side that there was any entry and respite at that sessions, and "information and belief" is enough for us to assert to call upon them for an answer. They had no right to omit the October sessions, and only the appellants can enter it. There was no notice. [PATTESON, J.—My doubt is, that as you knew they could not try at the October sessions, from the shortness of the notice, whether it might not come as a notice for Epiphany sessions.] We were not present then, or properly brought before the sessions, and no notice appears to have been proved. [PATTESON, J.—They rely upon the presumption that the sessions acted rightly, and that such notice was proved. Are your affidavits sufficient? Should you not have shewn that there was in fact no entry or respite in October?] It is submitted that as they knew this fact best, and swore last, if there had been any, they would have stated it.

Lord DENMAN, C. J.—I have no doubt this is a grievance, and that the Court is bound to interfere; and as to the case of *Ex parte Gifford*, which has been cited, I must observe upon the value of some of the authorities cited. In *Gifford's* case, 4 Bl. Comm. 258 is given as the authority that justices cannot bind a peer to keep the peace. Upon reference, I find 1 Hawkins cited; but in Hawkins, or the notes, no reference is made to 21 Jac. 1, c. 8, which expressly renders all persons liable, but there is in the note a reference back to Blackstone. Dalton, indeed (p.), says something about the confidence in the peaceable nature of peers. But in fact there is no authority for the position that peers are exempt. I have thought it right to state this, lest it should be supposed that the Court adopted the views put forward in that case. Then have the sessions done right here? What is the meaning of the next practicable sessions? I think what was practicable at the time of the service of the order cannot be made impracticable by delay in delivering notice of appeal. The parties here ought to have communicated with each other; and attorneys who are engaged in parish business should be careful not to plunge the parishes into litigation for want of a little openness in their proceedings. Here the sessions never had jurisdiction at all. The appeal was not entered and reported in October; at least, if it had been so, the appellants would have shewn in their affidavits. The attorney of the respondents swears that he is "informed and believes" that there was none, and the appellants ought to have answered his affidavit.

The rest of the Court concurred, PATTESON, J. expressing a doubt whether "information and belief" was sufficiently explicit for an affidavit.

Order of Sessions quashed.

BUSINESS OF THE WEEK.

Thursday.

HOPKINS *v.* RICHARDSON. *Rule nisi.*

DUKE OF BRUNSWICK *v.* GREGORY. *Cur. adv. vult.*

REG. *v.* JUSTICES OF WEST RIDING.—*Mandamus. Tomlinson* shewed cause. *Rule enlarged.*

JOHNSTON *v.* HILL.—*Gale* shewed cause against a rule for a new trial. The case turned on the particulars of demand, the action being brought only to recover the balance of a bill. *James* contended that the particulars of demand were not calculated to mislead. (*Melwood* v. *Walter*, 2 Taunt. 225.) *Rule discharged.*

MURRAY *v.* REG. in error.—*White* moved for oyer of the record to assign error. The trial took place in 1815, at the Old Bailey, for bigamy. *Rule nisi.*

Re ASHTON and BROTHERS.—*Gunning* moved for a writ of *certiorari* and *habeas corpus*. *Rule nisi.*

ALLEN *v.* HAYWARD. *Cur. adv. vult.*

Friday.

PARGETER *v.* HARRIS.—This was a demurrer to the replication, and was argued for the defendant by *Alexander*, Q. C. and by *Tomlinson* for the plaintiff. *Cur. adv. vult.*

BURY *v.* FITZHORNE.—*Demurrer to replication. Gunning*, for the defendant; *O'Malley*, for the plaintiff. *Argument adjourned.*

LOMAX *v.* TUSHWELL.

Rule nisi for a month's further time to plead, that a special case upon a prior action may be decided.

Saturday.

REG. *v.* INHABITANTS OF WOLVERHAMPTON.—This case turned entirely on the wording of a local Act to assess for rates. *Rule refused.*

Monday.

MERCER *v.* WALL.—*M. D. Hill*, Q. C. and *Humfrey*, Q. C. opposed a rule for a new trial, obtained on the ground of misdirection as to the right to begin, and other points. *Whitehurst*, Q. C., *Waddington*, and *Mellor*, in support of the rule. *Cur. adv. vult.*

Re COBBETT.—Mrs. Cobbett applied to the Court for a *habeas corpus* to bring up her husband, now in custody under a writ of rebellion. *Cur. adv. vult.*

Tuesday.

PERRY *v.* FITZHOW. *Cur. adv. vult.*

LOWDEN *v.* KING. *No rule.*

WATERMORE *v.* MOOR. *Cur. adv. vult.*

Re KING, one, &c.—This case stands over until after judgment on a writ of error brought by the defendant.

REG. *v.* GREAT BOLTON. *Cur. adv. vult.*

COURT OF COMMON PLEAS.

Monday, April 28.

BANNISTER *v.* BACHELOR and ANOTHER.

A plea in abatement of non-joinder of a co-defendant is sufficient, if it state where such person is resident at the time of plea pleaded, without saying that he was within the jurisdiction of the Court at the time of bringing the action.

Manning, Serjt. moved for a rule to shew cause why the defendant's plea in abatement should not be set aside. The action was brought by the indorsee of a bill of exchange against the two defendants as drawers and indorsers. The defendants have pleaded in abatement the nonjoinder of one Joseph Hedge as a co-defendant. The plea states that Joseph Hedge is still living, and resides within the jurisdiction of this Court, to wit, at, &c. (stating the residence); the objection is, that the plea does not allege that he so resided within the jurisdiction at the time of the commencement of the suit.

TINDAL, C. J.—Is that necessary? The 3 & 4 Wm. 4, c. 42, s. 8, says, "unless it shall be stated in such plea that such person is resident within the jurisdiction of the Court."

Manning, Serjt.—That refers to the time when the action is brought.

TINDAL, C. J.—No, I don't think it does.

The COURT refused the rule on this point, but granted a rule to shew cause upon another ground of objection to the plea. *Rule nisi accordingly.*

COE *v.* CLARKE.

Landlord and tenant—Holding—Parol evidence.

Byles, Serjt. moved for a rule to shew cause why the verdict, which had been found for the defendant, should not be set aside and entered instead for the plaintiff, on a point reserved by the under-sheriff, before whom the cause had been tried. The action was for use and occupation, and brought to recover a quarter's rent. The defence was, that the tenancy was a yearly one, and the action therefore premature. The premises, it appeared, were let by a written document for a year; but there was evidence to shew that the rent had been paid quarterly, and it was therefore submitted that this might be taken as evidence of a new contract come to by the parties.

The COURT said that such evidence would have the effect of varying a written contract by parol evidence, and ought not therefore to be allowed. *Rule refused.*

Tuesday, April 29.

SOANE *v.* MADDOX.

An order that the plaintiff's attorney may inspect and take a copy of a certain agreement made between the plaintiff and the defendant, and stated to be then in the custody of the defendant, is not sufficiently specific to ground an attachment for disobedience.

This was a rule calling upon the defendant to shew cause why an attachment should not issue against him for contempt of Court, in refusing to obey an order of Mr. Justice Cresswell, dated 10th February last, and which was as follows:—"I do order that the plaintiff's attorney or agent may be at liberty to inspect and take a copy of a certain agreement made between the plaintiff and the defendant, and now in the custody of the defendant." A demand was made on the defendant, on the 7th April, to inspect and take a copy of the agreement, pursuant to the order, with which the defendant did not comply.

Talfourd, Serjt. now shewed cause.

Gaselee, Serjt. in support of the rule.

The COURT said, that they did not see that there had been any contempt. There might be twenty agreements; and it was requisite, therefore, that what was required should be more specifically mentioned. *Rule discharged.*

BENTLEY *v.* FLEMING.

Where the judge at trial delegated his authority to the associate to take the finding of the jury, and directed him to do so upon several specific issues, and in the absence of the judge the associate asked the jury to give a general verdict for the plaintiff or defendant, and omitted to put to them the issues specifically, the Court granted a new trial, on the ground of miscarriage arising from default of the associate.

Case for the infringement of a patent granted to one William Carr Thornton, for "certain improvements in machinery or apparatus for making cards for carding cotton and other fibrous substances," and which patent had been assigned by Thornton to one Joseph Williamson, and by him assigned to the plaintiff. The defendant pleaded, amongst other pleas, Not guilty; a traverse that Thornton was the first inventor, and that the invention was not new.

At the trial, before Cresswell, J. at the last Summer Liverpool Assizes, the learned judge told the jury that there were three points for their consideration. On the second issue he left it to them to say whether Thornton was the first inventor; on the third issue he told them that if the invention had been used before in public, or was known to the patentee and sold by him before the patent had been granted, it was not a new invention; and the learned judge, considering that the travelling headwork of the machine was an essential ingredient of the invention, left it to the jury to say whether the travelling headwork in the machine which was sold to Broadwood was substantially the same as that contained in the plaintiff's patent. The jury retired to consider their verdict, and, it being a late hour at night, the learned judge left the court, giving to the associate a written abstract of the issues on which he was directed to take specifically the findings of the jury. It appeared, however, that when the jury came into court with their verdict, the foreman held a paper in his hand, but the associate asked them generally whether they found their verdict for the plaintiff or the defendant. The jury said, for the plaintiff; upon which the counsel for the plaintiff said, "That is all." The counsel for the defendant desired that the associate would put the questions to the jury; upon which the associate replied, "His lordship desired me to ask the jury whether they found their verdict for the plaintiff or

defendant on these issues." One of the jurymen said, "I think his lordship left three questions." The associate then said, "I think you had better not; what damages do you find for the plaintiff?" There was, in fact, a considerable discussion between the counsel for each party and the associate respecting the matter, which ended in a general verdict being taken for the plaintiff, with 40s. damages.

A rule for a new trial having been obtained by Sir *Thomas Wilde*, in behalf of the defendant, on the ground of miscarriage in the trial of the cause, in consequence of what occurred at the time the jury came into court,

Channell and *Byles*, Serjts. (*Webster* with them), shewed cause.

Sir *Thomas Wilde* (*Cowling* and *Addison* with him) was not called on to support the rule.

TINDAL, C. J.—It appears to me that there has been a miscarriage in this cause. If the officer at the trial had followed the directions of the learned judge, and done what the judge had directed him, there would have been such a finding as to preclude any doubt. I think in this cause there were doubts which ought to have been cleared up at the time. It is a different thing whether a jury shall be asked to give a finding in the lump on several issues, or whether they shall be required to find specifically on each issue. If they had been asked, on the third issue, whether the invention was a new one, possibly some might have said, that as to that we do not agree in finding for the plaintiff. As it now stands, it appears that one of the jurymen expressed an opinion that there were three questions left to them by the judge; this ought to have directed the attention of the associate—at all events, the officer should have put the three questions to the jury; it may be possible that one of the counsel prevented him from so doing, or his attention may have been called away by the opposite counsel to a different question. It therefore seems that there has been a miscarriage of the cause by the officer at the trial, and as this must be considered the same as that of the judge himself, the cause must go down for a new trial, without payment of costs by either party.

Rule absolute.

Wednesday, April 30.

STEAD *v.* CAREY.

Letters patent were granted to the plaintiff, with a proviso that they should be void if the specification should not be enrolled within four months. The plaintiff enrolled the specification within six months, but omitted to do so within the four months. An Act of Parliament was afterwards passed for establishing a joint stock company for the working of the invention, and with power to purchase and take an assignment of plaintiff's patent, and by a clause in that Act it was enacted that the letters patent should be as valid as if the specification had been enrolled within the four months.

Held, that the letters patent were thereby absolutely confirmed and rendered valid, though no company was ever formed.

Held, also, that it was no answer to an action for an infringement of the plaintiff's patent, that before the Act of Parliament, and after the four months for the enrolment of the plaintiff's specification, the defendant had obtained letters patent for an invention which was an improvement upon the plaintiff's, but which could not be used without putting in practice the plaintiff's invention.

The defendant pleaded that the invention in respect of which the plaintiff's patent was granted was an invention entitled "the invention" of, &c. and the letters patent were granted under the title of "the invention" of, &c. and that the said title was too large and inconsistent with the specification enrolled by the plaintiff.

Replication, that the letters patent were granted for an invention entitled "an invention" of, &c. and not for "the invention" of, &c. in manner and form, &c.

Held, that the replication was a good traverse.

Case for the infringement of a patent.

The declaration, after alleging that the plaintiff, before and at the time, &c. was the true and first inventor of the working or making of a certain manner of new manufacture within this realm, to wit, a certain invention for making or paving public streets and highways, and public and private roads, courts, and bridges with timber or wooden blocks, set out a grant to the plaintiff by letters patent, dated 19th of May, 1838, of the sole privilege of using the said invention for the term of fourteen years, with a proviso that the letters patent should be void if the plaintiff should not cause to be enrolled a specification of the said invention within four calendar months after the date of the said letters patent. The declaration then stated an enrolment of the specification within six calendar months after the date of the letters patent, but that the same was not enrolled within four calendar months, in pursuance of the aforesaid proviso; and then averred that by an Act of Parliament of the 4 & 5 Vict. entitled, "An Act for forming and establishing Stead's Patent Wooden Paving Company," it was enacted that the said letters patent should, during the remainder of the term of fourteen years, be considered as valid and effectual to all intents and purposes as if the said specification so enrolled six months after the date of the said letters patent had been enrolled within four months after the date thereof. The declaration then assigned for breaches several infringements of the patent.

The defendant pleaded several pleas, of which it is only necessary to notice the seventh, eighth, and ninth.

The seventh plea was, that the said invention, in respect whereof the said letters patent in the declaration mentioned were granted to and obtained by the plaintiff, was an invention stated and represented by the plaintiff, in applying and petitioning for the said letters patent, as called and entitled "the invention of making or paving public streets and highways, and public and private roads, courts, and bridges, with timber or wooden blocks;" and the said letters patent were granted and obtained for and in respect of the said invention, by and under the name, style, and title of "the invention of making or paving public streets and highways, and public and private roads, courts, and bridges, with timber or wooden blocks," and by and under no other name, style, or title. The plea then stated that the said title was too large, and inconsistent with the specification enrolled by the plaintiff; concluding with a verification.

The eighth plea in effect stated, that by the Act of Parliament in the declaration mentioned, of the 4 & 5 Vict. it was enacted that the said Act should extend and be construed to extend to the said company, called Stead's Patent Wooden Paving Company, at all times during the continuance of the same; and the plea then stated that the persons in the said Act mentioned, and thereby established into a joint stock company by the name of Stead's Patent Wooden Paving Company, had not purchased the said letters patent, or carried on any trade connected therewith; and that no such company as in and by the said Act was contemplated, and no company whatever under the name of Stead's Patent Wooden Paving Company, had been formed, or had had any existence, save as far as the said persons were established into such company by the said Act, by reason whereof Stead's Patent Wooden Paving Company had not at the said times when, &c. any existence, and the said Act and the provisions thereof, had become wholly inoperative, and the letters patent void. Verification.

The ninth plea was that, before the passing of the Act mentioned in the declaration of the 4 & 5 Vict. and after the expiration of four calendar months after the date of the letters patent in the declaration mentioned, letters patent bearing date the 29th Jan. in the second year of the reign of her present Majesty, were granted to the defendant, granting to him the sole privilege of using and vending an invention, of which the defendant was stated to be the inventor, certain improvements in paving or covering street roads, and other ways. The plea then set out such letters patent to the defendant and enrolment thereof in the usual manner, and then stated that the said invention of the defendant consisted of the application and combination of certain forms of blocks of stone, wood or other material in the paving or covering of roads streets, and other ways, and that the said invention of the defendant, when applied to blocks of wood was a material and substantial and *bonâ fide* improvement of and upon the said invention of the plaintiff but that the same could not be made, used, or exercised without at the same time making, using, and putting in practice the said invention of the plaintiff, and then justified the infringement of the plaintiff's patent in the using and exercising the invention of the defendant under the letters patent so granted to him. Verification.

To the seventh plea the plaintiff replied that the said letters patent in the declaration mentioned were granted for and in respect of a certain invention called and entitled "*An* invention of making or paving public streets and highways, *and* public and private roads, courts, and bridges, with timber and wooden blocks," and not *for* "*The* invention of making or paving public streets and highways, *or* public and private roads, courts, and bridges, with timber or wooden blocks," in manner and form as the defendant has above thereof in that behalf alleged. Conclusion to the country.

The plaintiff demurred generally to the eighth plea, and specially to the ninth plea, assigning, amongst other causes, that the ninth plea amounted to the general issue, and also that it sought to avoid the declaration by setting up matter which was no answer to the action.

The defendant demurred specially to the replication of the plaintiff to the seventh plea.

Shee, Serjt. for the plaintiff.—The eighth plea is bad on general demurrer. The question is, whether the omission of the plaintiff to enrol the specification within the time limited by his patent has not been completely cured by the Act set out in the declaration of 4 & 5 Vict. c. 91. One of the main objects of that Act was to confirm the letters patent; as it would have been useless to have established a company for working the invention, if the letters patent were void. It is submitted that the 31st section of that Act restores the plaintiff's right under the patent absolutely, without reference to the company being formed or not. The 31st section is as "And whereas the specification under the said first-recited letters patent, was enrolled six months after the date thereof, instead of four months after the date thereof, as provided by the said letters patent; and the non-enrolment in due time of such specification arose from inadvertence and wrong information given to the said David Stead, the grantee of the said letters patent, who was absent in foreign parts at the period of the expiration of four months after the date of the said letters patent, and it is expedient that such letters patent should notwithstanding be rendered valid to the extent and in in manner hereinafter mentioned; be it therefore enacted, that the said letters patent shall, during the remainder of the term of fourteen years, therein mentioned, be considered, deemed, and taken to be as valid and effectual to all intents and purposes as if the specification thereunder so enrolled by the said David Stead six months after the date thereof, had been enrolled within four months after the date thereof." If this clause had been the only one, it could not be contended for a moment that the letters patent were made valid and subsisting, and there is nothing in the rest of the Act which has relation to the establishing of the company which can or ought to prevent this clause from so operating. The first section establishes into a joint-stock company, by the name of "Stead's Patent Wooden Paving Company," certain persons who are recited to have agreed to form themselves into a company, for the purpose of making or paving public streets and highways, and public and private roads, courts, and bridges, with timber or wooden blocks. The second section enacts, that the company shall be established for the purpose of purchasing the said letters patent, and the third section enables the plaintiff to assign the letters patent to the company; but there is nothing in the Act to make the confirmation of the letters patent depend on the formation of the company, or to control the thirty-first section, which, it is submitted, is an independent enactment. As to the ninth plea, that is open to the objections pointed out in the special demurrer. It is not clear whether the invention of the defendant is or not the same as the plaintiff's; if the plea means to assert that it is different, then it is bad, as amounting to the general issue.—[CRESSWELL, J.—The defendant is in this dilemma, if his patent does not include the invention of the plaintiff, he has no right to use the plaintiff's invention without his license; and if it does include the plaintiff's invention, then it is void, as being claimed for too much; but besides, it is not so pleaded.] As to the replication to the seventh plea, it is submitted that the replication is a good traverse of what is alleged in the plea. The plea in substance alleges that the patent was granted for an invention entitled "*The* invention of making," &c. and the plaintiff distinctly traverses this by saying, it was "*An* invention of making," &c. The plea, moreover, is, it is submitted, bad, in not shewing that the description in the patent of the invention is at variance with that in the specification. The specification should have been set out in the plea.

Manning, Serjt. (with him *Rew*), for the defendant.—First, as to the objection to the seventh plea, that is ground only of special demurrer. With regard to the objection to the replication, there is no coherence between the inducement and the traverse, and the inducement is a departure from the declaration. In the declaration the invention is said to be for paving, &c. "with timber *or* wooden blocks;" but in the replication it is said to be "with timber *and* wooden blocks," which is a departure. [CRESSWELL, J.—The title is not professed in the declaration to be set out.] The replication takes no sufficient traverse, it leaves unanswered the allegation in the plea that the title is too large. [CRESSWELL, J.—If you strike out the title which it traverses, nothing remains in the plea; you state in the plea what the title is, and then say that the said title is too large; that means the title so set out by you in the plea, and which the plaintiff has traversed: if you strike that out, then there remains nothing in the plea to which the word title can refer.] On an issue joined on this traverse, it would be sufficient for the plaintiff to shew that the invention was for the purpose described of paving, &c. and it would not be necessary to shew that the title of the invention was as described. The traverse is, that the letters patent were granted "not for" the invention, &c.; it does not say that the invention is not entitled so and so. [COLTMAN, J.—Your objection then is to the word "for" in the replication?] Yes.

TINDAL, C. J.—Perhaps if the strict grammatical sense is given to the word "for," some difficulty upon the replication may arise; but that is, I think, got rid of by the allegation "in manner and form as the defendant has above thereof in that behalf alleged;" because when we then look to the plea, we see how the defendant has alleged it, which is, that the invention was entitled in a particular manner. This forms the basis of the defendant's answer in that plea, and the plaintiff has well traversed it when he says that he did not take out the letters patent by that description.

Manning, Serjt. then, as to the objections to the eighth plea, contended that it was a bargain between

the plaintiff and the public, through the legislature, that certain privileges should be conveyed to an intended joint stock company; that the whole object of the Act was to enable the invention to be worked by a company; that nothing in the thirty-first section pointed to the exercise of the patent by the plaintiff himself, and that as no company ever existed, the Act became nugatory.

TINDAL, C. J.—I think it is impossible to the thirty-first section and not see that the letters patent to Stead were confirmed absolutely, without imposing any condition. The thirty-first section has a preamble, which states a fact peculiar to these letters patent, namely, that the non-enrolment in due time of the specification arose from inadvertence and wrong information given to Stead, and then states that it is expedient that such letters patent should notwithstanding be rendered valid. It then does in express terms make them as valid as if the specification so enrolled by Stead six months had been enrolled within four months after date. There is no condition thereto annexed of the company being formed, or of the letters patent being sold to or purchased by the company. It seems that the defendant is endeavouring to turn into a condition what is merely collateral. If the validity of the letters patent were made to depend upon such collateral circumstances being carried into effect, there would be this injustice, which has been pointed out by my brother Coltman, you would make the letters patent liable to be defeated by other persons over whom Stead would have no control.

Manning, Serjt. as to the ninth plea, contended that the Act of 4 & 5 Vict. must have been obtained on a *suggestio falsi* or *suppressio veri*; that great injustice would be done by the legislature if, after the defendant had acquired a vested interest in a patent to him, for an invention involving as a groundwork what was the subject of another patent which had ended, such last patent should be revived and destroy the rights of the defendant under his patent; and it was submitted that the defendant's patent was good, unless the Court would say that, had it been brought before the notice of the legislature, the legislature would have sacrificed the rights of the defendant under it for the sake of Stead's patent.

The following authorities were cited as to the reasonable construction to be put on an Act of Parliament: Plowden, 398; Co. Litt. 381, b; the case of *Alton Woods* (1 Rep. 48, b), and *Perry* v. *Skinner* (' M. & W. 471 & 476).

TINDAL, C. J.—There is this difficulty of acceding to the argument of my brother *Manning*, that unless we give to the Act the operation of confirming the letters patent, we should give no force at all to the Act. The objection is, that this would occasion hardship to the defendant. I admit that there may be some hardship, but the same extends equally to the rest of the world; because, from the date of Stead's patent to the time they were reinstated by the Act, every subject in the country had a right to put the invention in practice; and several persons may have invested large sums of money on the faith of Stead's patent being gone. By the Act, Stead's patent was afterwards confirmed in substance as well as in words, and, for aught I know, the rights of the defendant may have been compensated by private agreement; there is no allegation of fraud, or that the matter was kept from him, and no *suppressio veri* can therefore be presumed. We should be speculating if we were to say that there had been either a *suppressio veri* or a *suggestio falsi*. As Stead's patent was confirmed to all intents and purposes, there is an answer to the defence set up in this plea.

COLTMAN, CRESSWELL, and ERLE, JJ. delivered similar judgments.

Manning, Serjt. then asked leave to amend, but the same was refused. *Judgment for the plaintiff.*

Thursday, May 1.

TOMLINSON, Clerk, *v.* SIR FLETCHER BOUGHEY.
Tithe Commutation Act, 6 & 7 Wm. 4, c. 71, s. 46—Issues.

Channell, Serjt. moved for a rule to shew cause why the defendant should not accept an issue under 6 & 7 Wm. 4, c. 71, s. 46. The plaintiff was the rector of the parish of Stoke-upon-Trent, and the defendant was the devisee, under a will of certain lands within the parish. It appeared that a claim of exemption from tithes was made before the Tithe Commissioner in respect of fourteen different kinds of modus, of which five were decided in favour of the rector, and the remaining nine for the defendant. Of these nine, one was a parochial modus, and the rest were farm moduses. The yearly value of the tithes, in respect of all the lands covered by all the moduses, exceeded the sum of 20*l.*, but the yearly tithe in respect of each farm was under 20*l.*; and the question was, therefore, whether the rector was, under the 46th section, entitled to have an issue. *Rule nisi.*

BUSINESS OF THE WEEK.
Friday.

PYM *v.* GRAZEBROOKE.—*Manning*, Serjt. in support of demurrer. *Channell*, Serjt. contrà.
Cur. adv. vult.

SALKELD *v.* JOHNSTON.—*Channell*, Serjt. for plaintiff, and *Byles*, Serjt. for defendant, argued this case, sent by the Lord Chancellor for the opinion of the Court. *Cur. adv. vult.*

Saturday.

COXHEAD *v.* RICHARDS.—*Talfourd* and *Channell*, Serjts. shewed cause against the rule for a new trial.
Adjourned to Monday.

Monday.

—— *v.* BIRD.—*Chadwick Jones*, Serjt. moved for leave to enter up judgment on a warrant of attorney.
Rule nisi.

COXHEAD *v.* RICHARDS.—Sir *Thomas Wilde* and *Bramwell* were heard in support of the rule.
Cur. adv. vult.

WALL *v.* SQUIRES.—*Byles*, Serjt. moved for a rule to set aside the sheriff's return to writ of *ca. sa.* on the ground of the return not disclosing a final order made in accordance with 5 & 6 Vict. c. 116.
Rule nisi.

Tuesday.

DOORMAN *v.* PRATT.—Sir *T. Wilde* moved for a rule to shew cause why the sum of 872*l.* which had been awarded by an arbitrator to a Mr. Alleyn, should not be paid to him out of certain money in court abiding the event of such award. *Rule nisi.*

DOE *dem.* WYATT *v.* BYRON and ANOTHER.—*Byles*, Serjt. moved for a rule to rescind the order of Maule, J. by which it was ordered that the proceedings in this action should be stayed on payment of the rent due in respect of the premises for which the action was brought. *Rule nisi.*

Wednesday.

GLYNES *v.* LAWRENCE.—*Channell*, Serjt. for defendant in support of demurrer. *Byles*, Serjt. applied for leave to amend.
Leave to amend on payment of costs.

HOMES *v.* LOCK.—*Channell*, Serjt. for plaintiff in support of demurrer. *Murphy*, Serjt. for defendant, applied for leave to amend.
Leave to amend within ten days.

DAWSON *v.* CROPP.—*Talfourd*, Serjt. for defendant. *Gaselee*, Serjt. for plaintiff. *Part argued.*

DEACON *v.* WILLIAMSON.—*Channell*, Serjt. moved for rule to make costs of previous award, which had been abandoned, abide the event of the new reference.
Rule nisi.

Thursday.

MADDOX *v.* SCHIRA.—*Byles*, Serjt. moved in behalf of the defendant for a new trial, on the ground of the damages being excessive.—The COURT said they would consult Maule, J. who tried the cause.

BENTLEY *v.* CARVER.—*Channell*, Serjt. (*Webster* with him) shewed cause against a rule for a new trial, on the ground of the verdict being against evidence. Sir *T. Wilde* (*Cowling* and *Pigott* with him), in support of the rule. *New trial on payment of costs.*

BLACKHAM *v.* PUGH.—Sir *T. Wilde* and *Channell*, Serjt. shewed cause against a rule for a new trial, and *Shee*, Serjt. in support thereof.
Cur. adv. vult.

PILBROW *v.* WYMAN.—Sir *T. Wilde* moved for a new trial. *Refused.*

COURT OF EXCHEQUER.

Thursday, April 24.

CRELLIN *v.* CALVERT.
CRELLIN *v.* BROOKE.

The defendant, in an action of indebitatus assumpsit, pleads in abatement the nonjoinder of thirteen persons, upon which plea issue is joined, and the plaintiff begins at the trial, and proves that a certain bank consists of the thirteen persons mentioned in the plea and two others, and that the bank is indebted to plaintiff, but does not shew the defendant to have been a partner in the bank. The defendant cross-examines as to the amount due from the bank, and also as to the partners. Upon this evidence, none being offered by the defendant, the jury found a verdict for the plaintiff.

Held, Rolfe, B. dissentiente, that it was not necessary for the plaintiff to prove the amount of his debt from the defendant, or to give other evidence of the defendant's being a partner in the bank, in order to entitle him to recover the amount due from the bank.

Where a person was a shareholder in a bank at A, the directors of which had, while he was a shareholder, established a branch bank at B, and there was a clause in the settlement empowering the directors to do so upon obtaining the assent of the shareholders,—Held, that the defendant, who continued to be a shareholder, was liable for a debt incurred by the branch bank some time after its establishment; and that it might either be presumed against him that the terms of the deed had been complied with, or that he had assented to the establishment of the branch bank on different terms.

In the case of *Crellin* v. *Calvert*, which was an action of *assumpsit* tried at the last summer assizes at Liverpool, the defendant pleaded in abatement the nonjoinder of thirteen other persons, joint contractors, as co-defendants. At the trial, the plaintiff began, and gave evidence to contradict, by anticipation, the defendant's plea in abatement. He proved that a certain bank, called the Isle of Man Ban[illegible] in the plea, and two other[illegible] in all; but it did not appear whether the defendant was a shareholder or not. He also proved the amount due from the bank to the plaintiff. The defendant gave no evidence in support of his plea. The jury found a verdict for the plaintiff for the full amount of his claim.

In the case of *Crellin* v. *Brooke*, it appeared that the defendant became a shareholder in the Isle of Man Bank at its original constitution; that the business of the main bank was carried on at Douglas; that he signed the deed of settlement, which contained a clause empowering the directors, upon obtaining the consent of the shareholders, to be signified in a particular manner, to establish a branch bank at Castletown. It also appeared that a branch bank had been established at Castletown, but there was no evidence whether the preliminary consent had been obtained or not. While the defendant continued to be a shareholder, the branch bank became indebted to the plaintiff in the amount now sought to be recovered.

Watson, Q.C. having obtained a rule to set aside the verdicts for the plaintiffs, and for a new trial in each case, in the first upon the ground that the plaintiff ought to have gone on to prove the amount of his debt, and not having done so, was entitled only to nominal damages, and in the second upon the ground that there was no evidence to connect the defendant with the branch bank at Castletown,—

Martin, Q. C. and *Cowling* now shewed cause against both rules at once.

Watson, Q. C. and *Cleasby*, contrà, citing *Russell* v. *Bell* (10 M. & W. 389); *Pitchford* v. *Davies* (5 M. & W. 2); *Bourne* v. *Frink* (9 B. & C. 632); *Dickinson* v. *Valpy* (10 B. & C. 138).

POLLOCK, C. B.—I am of opinion that the rule in each of these cases must be discharged. In the first case, I consider the simple question to be, whether there was evidence to go to the jury that the defendant was a partner in the Isle of Man Joint Stock Bank, and was therefore liable for the amount proved to be due from the bank to the plaintiff. It is admitted that if the defendant had begun and called a witness to prove that the thirteen persons named in the plea of abatement were partners in the bank, and the plaintiff in cross-examination had shewn that there were two others, it must then have been taken, the defendant having relied upon that partnership to prove his plea in abatement, that he himself was one of the partners; and when it appeared that, by reason of there being two other partners not named in the plea, the plaintiff must have a verdict, it would have been sufficient for him to have shewn the amount due from that partnership to him in order to fix the defendant. In the present case the plaintiff began, and he began by negativing the plea in abatement, by shewing that there were two other partners. The reason for his having begun is now intelligible, which it was not at first. The other case of *Crellin* v. *Brooke* had been tried first, and both parties knew very well what they were to prove. If the defendant's counsel had been so cautious as to ask no question at all, the case might have been different; but he cross-examined that witness called by the plaintiff as to the account itself, thus adopting that as the account between the parties, and he also cross-examined as to the existence of the persons named in the plea as partners in the Isle of Man Banking Company; and it appears to me that that produces precisely the same effect as if the defendant had himself called the witness. It was admitted at the bar that the latter course would have concluded the defendant. I think, therefore, that there was evidence to go to the jury that the defendant was a partner in the bank. In *Crellin* v. *Brooke* it appeared that the defendant became a shareholder in the Isle of Man Joint Stock Bank, the business of which was carried on at Douglas; that there was a clause in the deed empowering the directors to establish a branch bank at Castletown, as well as the principal one at Douglas, upon obtaining the consent of the shareholders as therein mentioned. A branch bank had been established at Castletown, but whether according to the terms of the deed or not, does not appear; and it was the branch bank which, while the defendant continued to be a shareholder, became indebted to the plaintiff. It is contended that there is no evidence that the directors had any power to establish the branch bank, and that the defendant was not shewn to be answerable for its liabilities. I am not at all prepared to say that without any clause at all in the deed the directors would not have had the power to establish the branch so as to bind the defendant; but it is contended that as the plaintiff has put the deed in evidence, it shews that they had no power to set up a branch bank, except upon certain conditions, which are not proved to have been complied with. Against the defendant, however, I think the verdict may be sustained in either of two ways. I think, if the defendant knew of the existence of the branch bank and did not shew that he had objected to it, the jury were warranted in concluding either the conditions were complied with, or if the concern were carried on without complaint, that the defendant had assented

e it. I think, therefore, that this rule must also be discharged.

ROLFE, B.—In the first of these cases, *Crellin* v. *Calvert*, I have the misfortune to differ from my lord, and from my brother Platt. It was an action of *indebitatus assumpsit*, to which the defendant pleaded in abatement the nonjoinder of thirteen persons, who were joint contractors. Upon this issue was joined. I take it, the course at the trial was clear. The issue was upon the defendant to prove that the contract was made between the plaintiff on the one hand, and on the other the defendant and the thirteen other persons jointly. It was proved that the thirteen, and also certain others, were partners in the bank, and the plea in abatement was consequently not proved. It seems to me that the result was that the plea in abatement was removed, and that the position of the parties was the same as if there had been no plea at all. But then there was evidence of a debt against the persons who were shareholders in the bank. That does not seem to me to affect the defendant. The defendant says, My contract was made jointly with thirteen other persons. It appears that a contract was made with fifteen persons, who are shareholders in the Isle of Man Bank, but of whom the defendant is not shewn to be one. Suppose the case had been that defendant had pleaded that he made the promise jointly with A, and all the evidence given was, that A and 150 other persons were partners in the Isle of Man Bank, but there was no evidence that the defendant was one of them, would that fix the defendant with any debt that was proved to be due from the bank? However, as I have a strong idea that substantial justice will be done by the judgment given by my brethren, I feel the less regret that my own view is wrong on this occasion, and will be deprived of its effect. With respect to the other case, I must confess that in that also I have had the very greatest doubts; but I think I now see my way to the same conclusion with the rest of the Court. Now, how does the plaintiff prove the liability of this defendant? He shews, what he did not shew in the other case, the execution of a deed by which defendant became a partner in the Isle of Man Bank. The defence in this case is quite of a different nature to the other. It is said here, the plaintiff deposited not with the original bank, but with a branch afterwards established at Castletown. The defendant says, "I was a partner to the deed, and became a partner in the Isle of Man Bank. I did not become a partner in the branch at Castletown, nor did I authorize its establishment. By becoming a partner in a bank at London, I should not give my consent to a branch at Newcastle." It is necessary to shew either that the branch at Castletown was established pursuant to his authority, or that he afterwards consented to and ratified its establishment. I cannot accede to the notion that you can presume any thing on the subject. The doubt I had was, whether there was evidence to warrant the jury in finding that, whether this was done in pursuance of the provisions of the deed or not, it was done in fact, and that the defendant ratified it. I doubted whether there was any evidence at all on the subject. These doubts are now so far removed that it would be idle, under the circumstances, to press them, and the leaning of my mind is now the other way. My Lord asked me what I would have said if the man had lived next door to the bank at Castletown. He does not live so near; but that makes it only a question of degree, and the question is, whether all the world did not know that this bank was being carried on.

PLATT, B.—In the first case, Mr. Watson maintained that the defendant was in the same position precisely as if he had suffered judgment by default. That is not precisely so. There was evidence at the trial of a debt of this amount due from the joint-stock company. That is the only evidence of any debt; surely it is for the jury, when it turns out that thirteen out of the fifteen shareholders are the very persons mentioned in the plea. In the other case, I agree with the rest of the Court. *Rules discharged.*

SITTINGS IN BANCO.

(Before Mr. Baron ALDERSON.)

Friday, April 25.

M'INTYRE *v.* SEWERS.

Where a cause is made a remanet by consent at the sittings after Term, and the plaintiff subsequently withdraws the record, and does not proceed to trial at the next sittings after Term: Held, that the defendant is not entitled to move for judgment as in case of a nonsuit, but must proceed by proviso if he wish to force the plaintiff to try.

In this case *Butt*, Q. C. shewed cause against a rule of *Barstow*, for judgment as in case of a nonsuit.

It appeared that the cause had been entered for trial at the sittings after Term, and had been made a *remanet* by consent; after which, at the subsequent sittings, the record was withdrawn by the plaintiff; upon which the defendant obtained a rule *nisi* for judgment as in case of a nonsuit.

The Court called on *Barstow* to support his rule.

Barstow.—We are clearly entitled to judgment, as the plaintiff ought to have proceeded to try at the ensuing sittings after the cause was made a *remanet*, instead of which he has withdrawn the record.

ALDERSON, B.—Surely, if the party has gone down to try, he has complied with the requirements of the 14 Geo. 2, c. 17, and you cannot have your rule for a nonsuit.

Barstow.—But here the plaintiff has withdrawn the record, which puts him in default. *Gadd* v. *Burnett* (2 B. & Al. 709) is a case in point in favour of the defendant. There the cause had been set down for the sittings in Term, and made a *remanet* by consent to the sittings after Term; after which the plaintiff withdrew the record. Now, in that case it was insisted, on behalf of the plaintiff, that the cause having been once carried down to trial by the plaintiff, he had complied with the terms of 14 Geo. 2, c. 17; and *King* v. *Peppett* (1 Term R. 429), and *Newham* v. *Langley* (3 Term R. 1), were cited. But there the Court held that the cause having been made a *remanet* at the sittings in London or Westminster, differed from the case of a cause made a *remanet* at an assize, which was the distinction between that case and those cited on behalf of the plaintiff from the Term Reports; and that in that case, the Court held that the cause having been made a *remanet* by consent, did not prevent the defendant from moving for a *nonsuit*. It is mere illusion to take down a cause for trial, and after it is made a *remanet* to withdraw the record, for the defendant has no opportunity to try.

Butt, Q. C. contrà.

ALDERSON, B.—I do not see the distinction between a cause made a *remanet* by consent at the sittings after Term, and one made a *remanet* at the assizes; and there is no case in the books that I know of, which shews that the defendant is entitled to judgment as in case of a *nonsuit*, if the plaintiff does not proceed to try at the next assize after the cause has been entered for trial at the previous assize, and made a *remanet* by consent. Now, in the case cited by Mr. Barstow, the cause was entered for trial at the sittings *in* Term, and there, if the record had not been withdrawn by the plaintiff, it would have come on as the first cause in the sittings *after* Term, without fresh notice of trial. Now in the present case, the cause was entered and made a *remanet* in the sittings after Term, which are in the nature of an assize; and I believe that even a fresh notice of trial is necessary. If the defendant wishes to try, he should have entered the cause by *proviso*.

Rule discharged.

NESBIT *v.* BUCANNON.

Security for costs.

Dowdeswell moved for a rule calling on the plaintiff's attorney to shew cause why he should not give security for costs in this action, on the ground that the plaintiff was not to be found in this country, and that he had been insolvent very lately; or why he should not give the name of the place of abode of the plaintiff. *Rule nisi in the alternative.*

Tuesday, April 29.

ANONYMOUS.

Attachment—Subpœna—Excuse for not obeying.

Payne moved for an attachment against a gentleman, who, he stated, was a clergyman residing at Lincoln, for not obeying a *subpœna* issued in the cause of *Goodwin* v. *Raynes*. It appeared that the cause had been entered for trial at the last assize for York and that the *subpœna* was personally served on the clergyman at Lincoln on Monday, the 17th of March, and the *subpœna* required him to be at York to give evidence on the 21st, which happened to be Good Friday. At the time of the service of the *subpœna*, 2*l.* 10s. was given him, to the amount of which he objected, as being too little; upon which a letter was sent to him by a special messenger with 2*l.* 10s. more, and informing him that the cause would be tried on the Good Friday, soon after morning divine service. This was given to his wife, as he was not at home; his wife stating that he would be home in an hour, and that she would give the letter to him (the contents being explained to her). The cause was not tried until the Saturday, when the party who subpœnaed the witness lost his verdict, owing (it was sworn) to the witness being a material one, and not being there to give evidence.

ALDERSON, B.—I do not think the attachment can go; you do not shew conclusively that he could have obeyed the *subpœna*. The clergyman is summoned to attend on Good Friday, when he has his parochial duties to attend to; and it may be he could not get any other clergyman to do his duty for him. Surely this would be a good excuse for not obeying the *subpœna*, and if you do not shew that this was not so, I cannot say that there may not be good reason for his non-attendance. *Rule refused.*

GOSLIN *v.* COTTERELL.

Where a larger sum than 20l. is indorsed on the back of a writ of summons, the Court will set aside a writ of trial before the sheriff issued in the cause, and will not allow an amendment of the writ, although the particulars only claim 17l.

In this case *Pearson* had obtained a rule calling on the plaintiff to shew cause why the writ of trial in this cause, and all other proceedings thereon, should not be set aside with costs, on the ground that the sum claimed by the indorsement on the back of the writ of summons was for more than 20*l.*

Arnold now shewed cause, and prayed time to amend the indorsement, stating that the sum claimed in the particulars of demand was only 17*l.*

ALDERSON, B.—I have no power to allow that amendment; all the judges have agreed not to allow any amendment.

Arnold.—My lord, there is a case in Dowling's Practice Cases where such an amendment has been allowed.

ALDERSON, B.—I have no doubt there is. You may find a case there for any thing. I have no power to allow the amendment. I dare say, if the defendant had allowed judgment to go by default, you would have been glad enough to have had the costs taxed on the highest scale. *Rule absolute.*

BACANNAN *v.* WRIGHT.

Motion to set aside a distringas and subsequent proceedings, on the ground of want of notice.

Lush moved to set aside the *distringas* and all subsequent proceedings in this case, on affidavits shewing that the defendant had never had any notice of any action having been brought against her until after the judgment was signed. *Rule nisi.*

Wednesday, April 30.

LAMPART *v.* NEWTON.

Practice.

Amending plea—Stay of proceedings after—When it expires—Rule to reply.

In this case *Cobbett* moved to set aside a rule to reply which had been obtained by the plaintiff, and it appeared that the defendant, after replication pleaded, had obtained leave to amend his third plea, the proceedings to be stayed in the meantime, and the plaintiff to have liberty to reply *de novo* if he thought fit. The defendant having amended his plea, ruled the plaintiff to reply, and the defendant now sought to set aside that rule, on the ground that the stay of proceedings applied to both plaintiff and defendant, and, therefore, that the plaintiff had as long as he liked to reply in.

ALDERSON, B.—The moment the amended plea is delivered, the stay of proceedings is over, therefore their ruling you to reply is perfectly regular. The stay of proceedings is entirely for the defendant, to give him time to amend his plea. The moment that is done you are in the same position as when the plea was first pleaded, and you have the same time to reply. If you want additional time to reply, you should apply for it in the usual way.

Cobbett then prayed time to reply.

ALDERSON, B.—Take a week.

Rule accordingly.

BUSINESS OF THE WEEK.

Thursday.

DOE *dem.* LLOYD *v.* INGLEBY.—*Welsby* and *Townsend* shewed cause against a rule obtained by *Jervis* to set aside the verdict for plaintiff, and for a new trial. *Jervis*, contrà. *Cur. adv. vult.*

Friday.

REG. *v.* SMITH and ANOTHER.—Resumed in the full court. *Adjourned.*

BARRETT *v.* LIFTON.—*Peacock* moved for a *distringas.* *Rule granted.*

CALLAN *v.* JUKES. *Rule refused.*

Saturday.

Re CORBETT.—This defendant was brought up upon a *habeas corpus* obtained by his wife. The Court thought the return sufficient. *Remanded.*

DOE *dem.* MANSELL *v.* CHAMBERLAIN.—*W. A. Hill* shewed cause against a rule obtained by *Flood* for judgment as in case of a nonsuit. The issue, after it was joined, had been set aside by order of Rolfe, B. He cited *Crowther* v. *Duke* (7 Dowl. 409). *Flood*, contrà. *Rule discharged with costs.*

WALMSLEY *v.* LOWE.—*Prentice*, for a rule to shew cause why the *postea* should not be delivered up to defendant, and why plaintiff should not pay the costs of the application. *Rule nisi.*

The Court rose at one o'clock to hear Crown cases before all the judges.

The Court has been occupied almost the whole of this week by the trial at bar of the case of the *Attorney-General* v. *George Smith*, which has greatly interfered with the ordinary business.

Tuesday.

OFFER *v.* WINDSOR.—*Lush* moved for a rule calling on the defendant to shew cause why the order to stay proceedings in this cause should not be set aside, on the ground that he had not paid the debt and costs as he had undertaken to do. *Rule nisi.*

REG. *v.* SMITH and ANOTHER.—Resumed in the full Court. *Adjourned.*

Wednesday.

REG. *v.* SMITH and ANOTHER.—Resumed. *Adjourned.*

EXCHEQUER CHAMBER.

ON ERRORS FROM THE COURT OF QUEEN'S BENCH.

(Argued November 27, 1844, and February 3, 1845
Determined April 22, 1845.)

(Before TINDAL, C. J., PARKE and ALDERSON, ROLFE and PLATT, BB. and COLTMAN, MAULE, CRESSWELL, and ERLE, JJ.)

DOWNMAN *v.* JONES.

1. *If a person enter into a contract in writing, and describe himself as agent, and name his principal, the principal is bound, if the agent had authority to contract on behalf of his principal.*
2. *An undertaking in these terms,—" Your bill of charges in this matter, amounting to 527l. 5s. I also undertake on behalf of Messrs. Esdaile and Co. to pay," signed H. R. D. held, on the face of it to be an undertaking by D. as agent.*
3. *Where, on the face of an undertaking, it purports to be entered into by a person as agent, it lies on the party seeking to charge him thereon to shew either that there was no such agency or authority, or that the authority, such as it was, has been exceeded.*

This was a writ of error from the judgment of the Court of Queen's Bench on a special verdict (4 Q. B. Rep. 235, n), that Court having ordered judgment to be entered for the plaintiff. The declaration stated that a commission of bankruptcy had issued against John Waters, Arthur Jones, and David Jones; that before and at the time of issuing the fiat, Waters was indebted to the plaintiff in 53*l*. 7s. 2d.; that 40*l*. 6s. 6d. was due to the plaintiff below for work, &c. in preparing a marriage settlement, and that Waters and D. Jones were indebted to the plaintiff in 527*l*. 5s. for work, &c. by the plaintiff, as their attorney. That plaintiff had proved the first debt against Waters's estate, the second against D. Jones's, and the third against the separate estate of Waters and D. Jones, but had received no dividend, of which the defendant had notice. That in consideration of the premises, and that plaintiff, at defendant's request, would expunge the said three proofs, and would agree to look to the trustees of the said marriage settlement for payment of the second debt, defendant promised to pay him the first and third debts. The declaration then averred that the plaintiff authorized such proofs to be expunged, and agreed to look to the trustees as before mentioned, and that the proofs were accordingly expunged; and that although the two first-mentioned debts had been duly paid according to the agreement above mentioned, yet the defendant had not paid, or arranged any mode of paying, the third debt. There was a second count on an account stated.

Pleas.—1. *Non assumpsit.* 2. As to the first count, that the contract was duly rescinded. 3. Also as to the first count, that the promise was special to answer for the debts of other persons, and that no agreement or memorandum was made in writing, or signed by the defendant or his agent, according to the Statute of Frauds.

On these pleas issues were taken. The cause was tried before Mr. Justice Coleridge in the Spring Assizes, 1839, but subsequently a special verdict was found, with leave of the Court, and the verdict was to be entered for the plaintiff for 527*l*. 5s. and interest as the Court might direct. The Court of Queen's Bench delivered a long and elaborate judgment, founded on their view of the facts of the case, in which they gave judgment for the plaintiff, on the ground that it was impossible to ascertain with certainty whether the letter set forth in the verdict, and which was alleged to constitute the undertaking of the defendant, did create a personal liability in him or not, and that the special verdict disclosed evidence from which inferences might fairly be drawn in favour of either conclusion. The inference which the Court, however, actually drew from the facts, was that the defendant below had only a special authority, clearly limited in extent by the principals, and falling short of sanctioning the particular undertaking; that no action would therefore lie on the undertaking against the principal, and, consequently, that the defendant below must be held to have made himself personally liable. We think it unnecessary to set out the long detail of circumstances in this case. The principle of law relied on by the Court of Exchequer Chamber may be sufficiently understood by a perusal of the judgment, with the following letter:—

"Church-street, 26th November, 1844.

"My dear Sir,—Your bill of costs against *Mr. John Waters*, for business connected with the marriage settlement, amounting to 53*l*. 7s. 2d. I undertake to have paid to you. Perhaps I may be enabled to hand you the money to-morrow. The lease or leases of *Treventy*, &c. you will have the goodness to hold for Messrs. *Sir James Esdaile* and Co. who claim to be entitled to the benefit resulting therefrom."

"Pembrey Works.

"Your bill of charges in this matter, amounting to 527*l*. 5s. *I also undertake* (*on behalf of Messrs. Esdaile and Co.*) to pay, and will arrange with you the time and mode immediately after the dividend meetings; in the meantime, and until this be completed, the documents you hold will be sufficient security. For the amounts thus secured (including Mr. D. *Jones's*, which you have agreed to look to the trustees under the marriage settlement for), I beg to inclose an authority to the commissioners under the bankruptcy of *Waters, Jones*, and Co. to expunge from your proofs. I forwarded the draft agreement with Messrs. Esdaile and Co. on *Thursday*, the 13th instant, and have not yet received it back. I, however, consider the principle as agreed on, and will lose no time in having it forwarded so as to act on it with respect to the appropriation of the dividends. With respect, I remain, &c.

"H. R. DOWNMAN."

Chilton, Q.C. (*E. V. Williams* with him), appeared for the plaintiff in error.

J. Evans, Q.C. (*Henderson* with him), for the defendant in error.

Chilton.—The question is, whether the defendant below is personally liable or merely agent of Messrs. Esdaile under circumstances which made *them only* liable to the plaintiff? When the defendant is only contracting nominally as agent, the burden of proof that he has no authority to bind his principal lies on the plaintiff. In Mr. J. Storey's Commentaries on the Law of Agency, p. 225, s. 263, the rule is thus laid down:—"When an agent makes an oral or verbal contract *as* agent for another, and at the same time names his principal, *he is not personally* bound thereby;" and so also in Paley's Treatise on Principal and Agent (last ed. p. 368). In *Ex parte Hartop* (12 Vesey, 352), Lord Erskine limited the rule very sensibly, and the defendant below admits and adopts the distinction. "No rule of law is better ascertained or stands upon a stronger foundation than this; that where an agent *names his principal*, the principal is responsible, *not the agent*. But for the application of that rule, *the agent must name his principal as the person to be responsible*." Here Downman named his principals, and named them as responsible, and Jones relied on their responsibility. He held himself out to Jones as having full authority to bind Esdaile. The cases cited below are clearly distinguishable. *Macheath* v. *Haldimand* (1 T. R. 172), cited for the dictum of Buller, J. about letters, merely shews that when the letter is dubious, the plaintiff must clear up the doubt. *Haines* v. *Finch* (Alleyn, 6) is a doubtful authority. In *Meriel* v. *Wynandale* (Hard. 205) the undertakers are held not to have given a sufficient undertaking to bind the principal. In *Harley* v. *Bell* (Ambl. 778), if the commissioners who gave the undertaking are not liable, no one else was; and *Eaton* v. *Bell* (5 B. & Ald. 34) is to the same effect. *Appleton* v. *Binks* (5 East, 148) was strongly relied on by the plaintiff below. That was a case of agreement *under seal*. The express covenant by the defendant for himself and his heirs, on behalf of Lord Rokeby, would not bind Lord Rokeby without a power of attorney, and ought even then to have expressly bound him. In *Burrell* v. *Jones* (3 B. & Ald. 47) there was an *express undertaking* by the attorneys to pay, and they had no power to bind their principals. Holroyd, J. expressly put his judgment on that footing. *Hall* v. *Ashurst* (1 C. & M. 714) was another case strongly relied on by the plaintiff below. But Lord Lyndhurst, in his judgment, relied on three grounds: 1st, that the defendant was an attorney, without any power to bind the principal; 2nd, that the letter was in express terms of personal obligation—"*I* undertake to pay, &c.;" and 3rd, that the person in the country to whom the letter was addressed, could not know who the London creditors were for whom the defendant undertook to pay. Now, suppose, instead of unknown London creditors, the house of Esdaile had been *expressly named* by Mr. Ashurst. But *Johnson* v. *Ogilby* (3 P. Wms. 277), also the case of an undertaking by an attorney, is expressly in point for the defendant below. There it was held, that when an attorney for and on behalf of his client, promised to pay 500*l*. to the plaintiff, being done *by the authority of the client*, the attorney is not liable, but only the client; *secus*, if the attorney had no authority from his client to make the engagement. [CRESSWELL, J.—That shews the distinction between *Hall* v. *Ashurst* and this case.] *Spittle* v. *Lavender* (2 B. & B. 455), per Dallas, C.J. shews the intention must be gathered by a reasonable exposition of the instrument. Here it must be assumed that the defendant was authorized to act as agent. The *onus probandi* that defendant had *not* authority, lies on the plaintiff. (*Wilson* v. *Barthrop*, 2 M. & W. 863.)

J. Evans, contrà.—The Court of Queen's Bench has decided, first, that the defendant had no authority to bind Messrs. Esdaile; and second, that he might render himself liable, *although* contracting as *agent*. No case has been cited to shake the last position. In *Jones* v. *Littledale* (6 Ad. & Ell. 486), Lord Denman says:—"If the agent contracts *in such a form* as to make himself *personally* responsible, he cannot afterwards, whether his principal were or were not known at the time of the contract, *relieve himself* from that responsibility." And this dictum is adopted by the Court in *Higgins* v. *Senior* (8 M. & W. 845). The distinction is, that the party may sign *as agent*, but if he makes the contract *in his own name*, he is personally bound. That is the ground of Mr. J. Bayley's judgment in *Burrell* v. *Jones* (3 B. & Ald. 50): "The language of an instrument is to be taken most strongly against the party using it. Now, when the defendants used these words, 'We undertake to pay,' they in effect say that they are the persons to whom the other party is to look for payment." The same distinction is drawn by Lord Lyndhurst, in *Hall* v. *Ashurst*: "The ground of my judgment is, that the letter shews *precisely* that the defendant contracted *personally* with the plaintiff. It is a contract *that he would bear and pay for other persons*, not a contract on behalf of other persons to bear and pay." [CRESSWELL, J.—The defendant here *makes a contract* for Messrs. Esdaile, but does not undertake to pay.] The undertaking is here by him to do something. *Appleton* v. *Binks* is on all fours with the present case. There is no distinction in its being by *deed*. That distinction was raised in *Norton* v. *Herron* (Ry. & Moo. 229), and expressly overruled by Best, C. J. That was an agreement expressed to be made by the defendant on behalf of A. B. on the one part, and the plaintiff of the other part, and he stipulated to execute a lease of certain premises to the plaintiff. The premises were proved to belong to A.B. and it was held that the defendant was personally liable. The plaintiff relied on *Appleton* v. *Binks*, and *Burrell* v. *Jones*; but the defendant answered that there was a distinction between deeds and parol agreements. Best, C.J. however said—"The defendant has clearly and in terms made himself responsible, although he commences by describing himself as agent. No such distinction as that contended for exists." When the contract is made in his own name, the agent is liable, although the principal may be liable also. Mr. J. Story, in pl. 269 (Comment. on Agency) lays down: "A person contracting as agent will be *personally* liable, whether he is known to be an agent or not, in all cases where he makes the contract in his own name, or voluntarily incurs a personal responsibility, either express or implied." And (Paley, 381) "when an agent contracts in *his own name*, though on behalf of the principal, he is bound, whether he has authority or not. (1 Sugden, Vend. and Pur. 83, 10th ed. citing *Appleton* v. *Binks*, &c.) In Story (pl. 147), the rule is distinctly laid down, that to bind a principal, the contract must purport on its face to be his contract, and his name must appear on it; and although to this rule there are exceptions (pl. 161), they do not apply to this case. In Story (pl. 269), where the rule and the cases of personal liability by an agent are enumerated, the commentator gives the reason as follows: "That from the form of the transaction, the agent has become a *direct personal party* to the contract, and his promise and liability are precisely the same as those of any other person drawing or indorsing, or accepting a bill, or signing a note." Now here the agent has clearly made himself a "*direct personal party*." He says, "I undertake on behalf of Messrs. Esdaile." No case can be found where the personal pronoun "I" has been used, though coupled with a statement of being "on behalf" of another, where the person using it has not been held responsible. All the cases cited contrà are different. In *Burrell* v. *Jones* (3 B. & Ald. 51), where the expression was, "We, as solicitors, undertake," Holroyd, J. says, "If the solicitors are not bound personally, nobody is; for the assignees are not. The import of the instrument is, not that the assignees undertake, through the medium of their solicitors, but that they, the solicitors themselves, undertake." So here, there is no contract with Messrs. Esdaile. They cannot be sued. The letter does *not profess* to bind them. [TINDAL, C. J.—The undertaking, "I, as solicitor," is very different from "on behalf of." PARKE, B. The *question* is, whether it purports to bind Messrs. Esdaile. TINDAL, C. J.—*Appleton* v. *Binks* turned on the mode of executing the *deed*.] The distinction was repudiated in *Norton* v. *Herron* (Ry. & M.). [PARKE, B.—That was a *nisi prius* case.] There may be a distinction between parol and writing, but there is none between a written agreement and a deed. *Appleton* v. *Binks* is stronger than this case. It was a covenant that *Lord Rokeby* should do certain acts. In the case of solicitors, the confidence reposed in the solicitor has *not* been the ground of the decision. The courts of Queen's Bench and Exchequer have *not* decided *this* question. The court of Queen's Bench have decided that Downman had *no authority* to bind Esdailes. But it is not necessary to decide the question whether he had authority; and he has adopted a form of undertaking which creates a *personal* liability in him. Any doubt on the terms of the instrument must be construed against the party using the words. It has been asked, on whom is the *onus*? The question arises from a misconception. It is not an action for deceit, for pretending to act without authority, but *assumpsit* on the contract. The rules cited on the other side from Story, pl. 263-4, are not applicable. They only refer to cases where the *principal* is supposed to contract. The agent is not discharged, though Esdailes are liable. [PARKE, B.—The question is, whether he purports to contract as agent? If he *did* so mean, and he had authority,

Esdailes are liable.] No doubt in *Appleton* v. *Binks* and *Norton* v. *Herron*, the agent intended to contract as agent. When the principal purports to contract, and the agent signs for him, no action can be brought against the agent. But if *the agent* make a *personal* engagement, it is immaterial to his liability whether he had authority or not. As to the cases cited by the plaintiff in error. In *Johnson* v. *Ogilby* (3 P. Wms.) the contract was in the *name* of the principal, and the agent might be liable in an action on the *case*. In *Ex parte Heslop* (12 Vesey) it is laid down that the agent must name the *principal as responsible*. Here he names *himself*. In *Spittle* v. *Lavender* (2 Brod. & Bing. 452) the adoption by the principal was part of the same transaction. Richardson, J. distinguishes the case expressly from *Appleton* v. *Binks*: "By the head of the agreement, it is clearly expressed that Lavender acted only as agent; and further, that he *agreed for Randall*, his heirs and executors, which distinguishes this case from *Appleton* v. *Binks*." *Ledbetter* v. *Farren* was an action on a bill.

Cur adv. vult.

TINDAL, C. J. now delivered the judgment of the Court.—The only question for the determination of the court of error arises on the first issue joined between the parties; namely, whether, upon the facts found by the jury in their special verdict as to the issue on the plea of *non-assumpsit*, the jury ought to find that the defendant below, the now plaintiff in error, did promise in the manner and form the plaintiff below has alleged? But as to the second and last issue, in which the Court of Queen's Bench have directed the verdict to be entered for the plaintiff below, and have given judgment accordingly, there was no real question made in the course of the argument before us that the verdict as to those pleas or the judgment thereon ought to be disturbed; nor, indeed is there any valid ground of objection against either. As to the first issue, the Court of Queen's Bench, when the matter was argued before them in the form of a special case, came to the conclusion that the letter written by the defendant on the 25th of November, 1834, on which the action is grounded, was framed in such terms as to make it impossible to ascertain with certainty, merely from the language in the letter, whether it created a personal liability by the defendant or not, and that the special case disclosed evidence from which the inferences might fairly be drawn in favour of either conclusion. But that Court, at the same time, reasoning on the facts which were placed before them in the special case, and availing themselves of the power of drawing inferences from the facts stated, arrived at the conclusion that Downman had only a special authority, clearly limited in extent by the principals, and falling short of sanctioning the particular undertaking: that no action would therefore lie on the undertaking against the principal; and, consequently, that the defendant below must be held to have made himself personally liable. And looking at the terms of the letter itself, and, still more, calling in aid of its construction the correspondence in the special verdict, which preceded and gave rise to that letter, and which may be considered as part of the same transaction, we think it imports upon the face of it an undertaking made by Downman as agent for the Esdailes; and that the special verdict does not state, either directly or by necessary implication from the facts found, the want of authority on his part to make such undertaking, or any excess of his authority in making it. As to the first part, the very terms of the letter itself, "I undertake, on behalf of Messrs. Esdaile and Company, to pay," would seem to us, in their natural meaning, to point rather to a promise made by one person as agent for another, than as intended to bind the parties speaking in the character of principals; for on the latter supposition there would appear to be no reason whatever for mentioning the names of the principals. To say the least, however, the expression is capable of bearing misconstruction; and when contrasted with the expression used by the defendant in the part of the same letter immediately preceding, namely, "Your bill of costs, amounting to 53*l.* 7*s.* 2*d.* I undertake to have paid to you," the distinction taken between the two modes of expression strongly confirms the interpretation we think it demanded for itself. But the letter written by the defendant to the plaintiff below, and date the 11th of November, 1834, informs him "that Messrs. Esdaile cannot have the deeds of the Pembrey estates without the payment of the plaintiff's bill," and the sum of 527*l.* 5*s.* mentioned in the declaration, which the defendant states he has told the plaintiff below the Messrs. Esdaile would do; and he then continues, "I am now ready to enter into any agreement to that effect." The plaintiff, by his answer to that letter, written on the 17th November, with respect to the above-mentioned debt of 527*l.* 5*s.* states himself ready to enter into such agreement as the defendant had produced, and to sign a written authority to enable him to expunge the proof of the debt, leaving it to be settled and paid by Messrs. Esdaile and Company, according to such agreement. And that letter then further states that, as to the bills, amounting to 53*l.* 7*s.* 2*d.* he will deliver up some pieces, on which he claims a lien, with many thanks for the promise to have it paid him. Upon comparing together the language of the letter of the 26th of November with the language of that to which we have just adverted, we think the necessary result of the undertaking on which the action was brought was, as we have before stated, an undertaking given by the defendant, *as agent of Messrs. Esdaile*, and not given in his own individual capacity, and that it was so understood to be given by the parties themselves. On the part of the defendant in error, however, it was contended by *Evans*, that in point of law, the letter of the 26th of November must necessarily import an undertaking by Downman, the defendant, in his own individual capacity, and that it could not be construed as an undertaking which should bind the principal. If such should be the necessary construction in point of law, there would be an end of all further doubt; but we think none of the cases referred to establish that position. In *Appleton* v. *Binks*, on which the most reliance was placed, the only point decided was that a man who covenanted for himself and his heirs under his own hand and seal for the act of another, should be personally liable, though he described himself as agent in the deed; a very different proposition from that now before us; for the question before us is, that if a person enter into a contract in writing, and describes himself as agent, and naming his principal, whether the principal shall be bound, provided the agent had authority to enter into the contract on his behalf; a point which we consider too clear to admit of doubt or argument. If, then, this contract, upon its legal construction, be, as it appears to us, it is a contract entered into by the agent on behalf of his principal, the only ground on which the agent could become personally liable on his contract is that laid down by Justice Story, in his Commentaries on the Law of Agency, so often referred to in the course of the argument. But even if the law be as is there laid down, in order to create or let in such personal liability, the want of authority on the part of the agent must be found by the jury; and as the letter of the 26th of November is the plaintiff's evidence, and the only evidence by which he affects the defendant, whether as agent or principal, and as such liability is on the face of the letter the liability of agent, we think the burden is imposed on the plaintiff below of shewing by clear proof that there was no such agency or authority as is stated in such letter, or that his authority, such as it was, has been exceeded. But we all agree in thinking that on the facts stated in this special verdict, such defect of authority is neither found by the jury directly, nor is it to be inferred by necessary implication from the facts found. We therefore think the judgment of the Court below, so far as relates to the first issue, is to be reversed, and the judgment thereon entered for the plaintiff in error; and as to the residue, the judgment is to be affirmed. *Reversed as to the first issue; affirmed as to the rest.*

BAIL COURT.

Saturday, April 26.
(Before Mr. Justice COLERIDGE.)

REG. v. HODGES.

When an application is made to remove into this court an indictment found at an inferior court, upon a suggestion that difficult points of law will most likely arise, such points should be specifically stated.

On a former day (April 25), *F. V. Lee* applied for a *certiorari* to remove into this court an indictment found at the Central Criminal Court against the defendant, for perjury committed before one of the commissioners of bankruptcy, under a proceeding taken by virtue of the 5 & 6 Vict. c. 122, s. 12, in swearing that "he verily believed he had a good defence to the demand;" and, in support of the application, it was sworn that difficult questions of law would be likely to arise, particularly as to the construction of the said Act of Parliament, and as to what constituted a good defence to an action.

COLERIDGE, J. having taken time to consider, now delivered his judgment as follows.—This was an application for a *certiorari* to remove an indictment for perjury into this court, on the suggestion that difficulties in points of law would arise, first, as to the construction of the Bankrupt Act, the 5 & 6 Vict.; and, secondly, that it would be a question as to what amounts to a good defence to an action at law. Now, although there are some cases in which, from their very nature, this general allegation would be sufficient, this is one in which the rule that requires that the specific objections should be pointed out to the Court applies. I am in general not disposed to place much confidence in this general statement, and I think that this is just one of those cases in which it ought to be shewn what are the points of law expected to arise. It is quite impossible, from this affidavit, to see how any difficulties are to arise in the case, and that being so, I think I ought to refuse the writ. *Certiorari refused.*

Monday, April 28.

JONES v. BUTLER.

Quære, whether the sheriff has jurisdiction, under the 3 & 4 Wm. 4, c. 42, to try an issue joined in an action of debt and detinue?

It is a good objection to a cause being tried before the sheriff that the amount recovered will be under 40s. and that the sheriff has no power to certify to deprive plaintiff of his costs.

Sir *John Bayley* moved for a rule calling upon the defendant to shew cause why this cause should not be tried before the sheriff of Cardiganshire, and why the indorsement on the writ of summons should not be amended. This was an action of *debt and detinue*, brought to recover the price of a saddle and bridle, which had been originally lent by the plaintiff to the defendant upon the terms that if he did not return them within a month he should pay 30*s.* for them. The defendant pleaded, "Never indebted," and that "he does not detain them." Application had been made to Mr. Baron Rolfe, at chambers, for an order to try the cause before the sheriff, but in consequence, as it was suggested, of there being no amount indorsed on the back of the writ, and of doubts existing whether an action of *debt and detinue* could be tried by the sheriff, his lordship refused the order. It was now argued that as, according to the decision of the Common Pleas in *Walker* v. *Lee* (1 Dowl. N.S. 220), *detinue* alone is triable before the sheriff, an action of *debt and detinue* combined is surely so. As regards the non-indorsement on the writ, it was sought to have it amended on the authority of *Eccles* v. *Cole* (8 M. & W. 537).

COLERIDGE, J.—Won't you be met with this objection,—that as you only seek to recover thirty shillings, the case ought not to be sent to the sheriff, who has no power to certify to deprive you of costs?

Bayley.—There may be no court of requests in which to bring the action.

COLERIDGE, J.—You could sue in the county court. *Rule refused.*

REG. v. THE JUSTICES OF HERTFORDSHIRE.

Quære, whether the six months within which a certiorari must be moved for to remove an order of sessions runs from the time of the making the order, when it is the subject of an appeal, or from the period when the appeal is determined?

Under the 2 & 3 Vict. c. 81, s. 1, continued by 4 & 5 Vict. c. 59, it is proper for the justices to direct a fixed sum to be paid over out of the highway rate, for the repair of a turnpike road, and not a proportion of the rate.

An order directing that the sum of 9l. 5s. "being a portion of the rate or assessment levied, or to be levied, by virtue of the statute passed in the sixth year of the reign, &c. intituled, &c. shall be paid by the surveyor," &c. sufficiently describes what rate is intended.

Wordsworth shewed cause against a rule *nisi* obtained by *Hawkins* for a *certiorari* to bring into this court an order made by two justices at a petty sessions in Hertfordshire, whereby it was ordered that "the sum of 9*l.* 5*s.* being a portion of the rate levied by virtue of the 5 & 6 Wm. 4, c. 50 (the General Highway Act) should be paid by the surveyor of the highways of the parish of Bygrave to the commissioners of the Baldock and Bournbridge turnpike roads."

From the facts of the case it appeared that an information having been exhibited by the clerk of the turnpike trust called the Baldock and Bournbridge Trust, to two justices, "at a special sessions of the highways, holden at the Bull Inn at Royston, in and for the division of the hundred of Odsey, in the county of Hertford, on the 21st day of June, 1843," that the funds of the said trust were wholly insufficient for the repair of the turnpike road called the Baldock and Bournbridge Trust, situate in the parish of Bygrave, in the said county, and praying the justices to make an order in the premises, the justices heard the parties, and having examined the revenues and debts of the trust, and the state and condition, and the repairs of the said road within the parish, they adjudged and ordered "that the sum of 9*l.* 5*s.* being a portion of the rate or assessment levied or to be levied by virtue of the statute passed in the 6th year of the reign of his late Majesty King William the Fourth, entitled," &c. should be paid by the surveyor or surveyors of the highways of the said parish of Bygrave, on or before the 1st day of August, 1843, to the commissioners of the said turnpike trust, &c. Against this order an appeal was entered at the quarter sessions for the county, which, after several adjournments, was finally heard in April, 1844, when the order of petty sessions was confirmed with costs. Subsequently, a rule for a *certiorari* was obtained to bring up the order of quarter sessions, and pending that rule, the present rule was obtained to bring up the order of petty sessions. On the argument, the former rule was made absolute, on the ground that several magistrates who were interested in the result took part in the trial of the appeal. Upon this at the same time application was made to discharge the present rule as altogether unnecessary, since the justices, in returning the order of quarter sessions, would of course also return the order of petty sessions upon which it was founded. It was, however, arranged that this rule should stand over until it should be seen whether or not the order of petty sessions would in fact be returned. The return to the *certiorari* having been made, and the order of quarter sessions having been returned without the order of petty sessions, this rule came on for argu-

ment. (*Reg.* v. *The Justices of Herefordshire*, 4 L. T. 291.)

Wordsworth took two preliminary objections: 1st, that this *certiorari* had become unnecessary by the former proceedings, and that the justices ought not to be harassed by two motions, when the original application could well have included both orders; 2nd, that this motion is out of time, more than six months having elapsed since the making of the order and the application for the writ.

Hawkins, contrà.—As regards the first objection, this application has been rendered necessary by the omission of the justices to return the order of petty sessions; and as regards the second objection, we could not, pending the appeal, have applied for this writ; we came to the Court within six months of the decision of the court of quarter sessions, which was in good time. (Rule 1 Anne, cited in 1 Salkeld, 147; *Rex* v. *Sparrow*, 2 T. R. 196.)

Wordsworth then shewed cause on the merits.—It is said that this order is bad on three grounds: 1st, because it does not shew that it was made by justices acting for the division in which the parish is situate; 2nd, that the order does not state what proportion of the rate is to be handed over to the commissioners; and, 3rd, that it is uncertain as to what rate the amount is to be taken from. As regards the first objection, the act of the 2 & 3 Vict. c. 81, s. 1, which is continued by the 4 & 5 Vict. c. 59, and which is the statute under which this order made; unlike the 4 & 5 Wm. 4 c. 50, contains no provision that the petty sessions shall be held within the division in which the highway is situate; but merely enacts that "it shall be lawful for the justices at any special sessions for the highways, upon information," &c. That as to the second objection, there is a distinct direction as to the amount to be paid over; and as the word of the Act is "portion," and not "proportion," the order is sufficiently clear and explicit upon this point. As to the third objection, the order clearly means the rate to be levied for the repair of the roads by virtue of the 5 & 6 Wm. 4, c. 50.

Hawkins, contrà.—1st. It was clearly the intention of the legislature that the petty sessions should be holden in the division where the road is situate, otherwise parties might hold a sessions at one end of the county for a highway at another. (*Reg.* v. *Martin*, 2 Q. B. 1037; *Re Peerless*, 1 Q.B. 143.) No other justices have jurisdiction, but those acting for the division; and here it in no way appears that the parish in question was within the division where the sessions were held. 2nd. The justices should have specified the proportion of the rate, and not have named a precise sum, since as no rate can exceed 10d. in the pound, nor can more than 2s. 6d. in the pound, being the amount of three rates, be collected in one year; the amount awarded may, according to this method of directing payment, exceed the legal amount to be levied. 3rd. The order directs "that the sum of 9*l.* 5s. being a portion of the rate or assessment levied," &c. and does not point out what rate is meant, or whether the amount is to come from one or more rates, and is therefore uncertain and bad on its face.

COLERIDGE, J.—As regards the first of these objections, and the preliminary point as to time, I will look at the affidavits. As to the two last objections, I have no doubt whatever that there is nothing in them. The Act of Parliament makes use of the word "portion;" but it is said that this word must be read as though it were "proportion;" but as the Act does not require this in terms, there must be some strong implication to make this necessary; this argument is founded on the duty of the magistrates to examine the state of the revenues and the repairs and the length of the road, and to find how much is turnpike road. But see how uncertain would be any such proceeding as that contended for; one mile of the road might require a great deal of repair, whilst another very little or none at all. If the justices have given an improper sum, that would be merits, and might be the subject of an appeal, but is certainly not an objection upon the face of the order. We cannot infer that if one-third of the road requires repair, that one-third of the rate would be the proper amount to direct to be paid over. Then it is said that it is not mentioned out of what rate the amount is to be paid, and this objection is chiefly founded upon the fact that the Act permits three rates to be levied; but they have no right to levy a second rate till the first is found to be insufficient; the order speaks of a rate sufficiently certain.

Cur. adv. vult on the other points.

On Friday his lordship gave judgment on the other points.

COLERIDGE, J. said that this was an application for a *certiorari* directing the justices to return an order of petty sessions, in order that it might be quashed. It was objected that as a rule had already been obtained to return the order of quarter sessions by which this order was confirmed, and as it must be presumed that the original order of petty sessions was at the quarter sessions, that this rule was unnecessary and vexatious. Now this would be perfectly true if the magistrates had returned the original order with the order of quarter sessions; but if they had not done so, as appears to have been really the case, this rule has become necessary and proper. There was another preliminary objection, that this motion was out of time in having been made more than six months from the making of the order; but it is well settled that in a case like this the six months run from the time when the order is confirmed. This brings me to the objections on the face of the order, and it is said that the justices who made it had no jurisdiction. The order is made by two justices of the county of Hereford, holding a special sessions of the highways at Royston, in and for the division of the hundred of Odsey, in the said county, but it nowhere states that the road in question was within the division for which they were acting. The order is made under the provisions of the 4 & 5 Vict. c. 59, which says "that it shall be lawful for the justices at any special sessions for the highways," &c. Now these words manifestly apply not to any two justices of the county, but to the justices acting for the particular petty sessions pointed out in the 5 & 6 Wm. 4, c. 50, s. 94; namely, "to the justices at some special sessions for the highways to be held within the division in which the said highway may be situate;" and it is consistent with the policy of the Act that these meetings should be of the magistrates acting within the respective divisions, for by the 45th section of the Act the justices of the peace, within their respective divisions, are to hold not less than eight nor more than twelve special sessions in every year for executing the purposes of the Act; the days of the holding thereof to be held within fourteen days after the twentieth day of March in every year; and there is then this proviso, that it shall not be necessary to cause any notice to be given or sent to any justice, acting and residing within such limits, of the day or time of the holding thereof. The proceedings, therefore, all point to a local limitation and it seems to me that the fact of the parish being within the division for which the petty sessions were held, should have been stated. Here, there is no statement of the kind, and the rule therefore on this ground must be made absolute. *Rule absolute.*

Tuesday, April 29.

Ex parte CHRISTOPHER PEMBERTON.

Quære whether a practising attorney is exempt from being chosen for and serving the office of overseer?

W. R. Cole moved on behalf of Mr. C. Pemberton, who is an attorney practising at Cambridge, for a *certiorari* to remove into this court an order of justices appointing him overseer of the poor, or for a *writ of privilege*. It appeared that on the 29th of March last the justices acting for the division of Cambridge, in the county of Cambridge, appointed Mr. Pemberton, together with a Mr. Parsley, overseers of the poor for the parish of Trumpington; Mr. Pemberton being at the time a certificated and practising attorney, and there being many other persons in the parish eligible for the office. It was now contended, on the authority of *Prowse's* case (Cro. Car. 389; 1 Bott's P. L. 7; 1 Nolan, 51; Chitty's Archbold, p. 47), and *Jerrard's* case (2 W. Bla. 1126), that an attorney is privileged from serving this office. It was further objected, that on the face of the order the Christian names of the justices were not set out in full. (*Rex* v. *Bowen*, 3 C. & P. 602; *Rex* v. *Evett*, 6 B. & C. 247.) It was further submitted that, to avoid the inconvenience and expense to the justices of compelling them by *mandamus* to proceed to the election of another overseer, should the order be quashed on the return of the *certiorari*; the better course will be to issue a writ of privilege, which contains at once a direction to the justices to appoint another person. (See Tidd's Appendix, tit. Privilege.)

Rule nisi.

EVANS and ANOTHER *v.* COLLINS and ANOTHER.

Where upon argument in the court below on an opposed rule, the Court gives judgment which is reversed by a court of error, the plaintiff in error is entitled to his costs of the motion in the court below.

Humfrey, Q.C. shewed cause against a rule obtained by *Peacock* for a review of the Master's taxation herein.

The facts of the case were as follow:—This was an action on the case by the sheriff of Middlesex against the two defendants, who had been plaintiffs in an action against one Wright, for falsely representing in that action that a person of the name of Wright was the defendant in the said action, and named in a certain writ of *ca. sa.* whereupon the sheriff arrested him, when in point of fact he was not the said Wright mentioned in the writ, and for which false arrest he (Wright) had brought an action against the sheriff. The present defendants had pleaded in the present action—1st, Not guilty; 2nd, a denial of any damage; 3rd, that they had reason to believe and did believe that the two Wrights were the same; and, 4th, that they stated circumstances to the plaintiffs which made it probable that the two Wrights were the same. On these pleas issues were joined, and on the trial of the cause the first, second, and fourth issues were found for the plaintiffs, and the third for the defendants, liberty being reserved to the plaintiffs to move to increase the damages from 1s. to 10*l.* and to enter a judgment on the third issue *non obstante veredicto*; at the same time the defendants had liberty to move to enter a nonsuit if the third plea was an answer to the action. Rules *nisi* having been granted to both parties, the plaintiffs' rule was made absolute, and the defendants' discharged. Upon this the defendants brought a writ of error, and the Court of error reversed the decision of the Court below upon their rule. On taxation before the Master, the defendants, in addition to the general costs of the cause, claimed the costs of opposing the plaintiffs' rule in the court below. For the plaintiffs in the action it was now contended that the defendants were not entitled to these costs, the Court of error having said nothing about costs, and it being a general rule, that where proceedings fall from an error of the Court, neither party is entitled to costs. (*Rutzen* v. *Lloyd*, 5 Ad. & Ell. 456; *Bower* v. *Hill*, 5 Dowl. 183.)

Peacock, contrà, contended that, inasmuch as, by the judgment of the Court of error, the defendants had succeeded in their opposition to the plaintiffs' rule, they ought to be placed in precisely the same situation as though they had succeeded in the first instance in the Court below. (*Gillard* v. ——, 12 East, 668; *Adams* v. *Meredue*, 3 Yo. & Jer. 419.)

COLERIDGE, J. thought the case of *Adams* v. *Meredue* precisely in point, and directed the rule to be made absolute. *Rule absolute.*

Wednesday, April 30.

RENNIE *v.* BRUCE.

JUDGMENT.

(*See* 5 *Law T.* 58, *April* 22.)

His lordship gave judgment in this case, which was a motion to discharge a defendant out of custody, on the ground of defects both in the original writ of summons and the copy of the *capias*, holding that, notwithstanding the arrest under the 1 & 2 Vict. c. 110 is for many purposes a collateral matter, the application for the writ must be founded on an action properly commenced, which in this case it was not, as the writ of summons bore date in the year 1840, and was therefore mere waste parchment, and that he had no power to amend the writ, inasmuch as the affidavits shewed nothing by which it could be amended, nor would an amendment obviate the objection.

Rule absolute, with costs.

THE QUEEN *v.* JEFFS and LANG.

It is no sufficient ground for granting a certiorari to remove an indictment from the Central Criminal Court that the defendant is a reputable tradesman, and that he believes the prosecution has been instituted from malicious motives by one of the witnesses.

It is a sufficient ground, however, for the writ, that the prosecution is an unusual one, and is instituted at the immediate instance of the Crown, and upon which the high Crown officers will attend to prosecute, and that the defendant therefore desires a special jury and the assistance of Queen's counsel.

Prideaux moved for a *certiorari* to remove into this court from the Central Criminal Court an indictment found against the two defendants for a conspiracy to defraud the revenue. The first count charged a conspiracy to convey certain foreign merchandize from the port of London to the house of the defendant Jeffs, without payment of the duties. The second was somewhat similar to the first; and the third count charged a general conspiracy to defraud the revenue. The grounds of the application were—1st, that the case is a proper one to be tried by a special jury; 2nd, that the defendant Jeffs, who is a bookseller in the Burlington Arcade, is desirous of having the assistance of Queen's counsel, particularly as this being a prosecution instituted directly at the instance of the Crown, it would be prosecuted by the highest Crown lawyers. 3rd. That the defendant Jeffs is a person who for twelve years past has carried on with respectability his business in the same place, and that it would be highly derogatory to him to be compelled to take his place in the Central Criminal Court, and that it was sworn that it was believed the prosecution had been instituted from malicious motives on the part of one of the witnesses. (Strange 549; *Rex* v. *Chipping Norton*, 1 Barnardiston.) 4th. That the facts charged having taken place four years ago, and from the very nature of the case it is desirable that it shall be tried before one of the judges of this court.

Pollock, on behalf of the Crown, contended that the reasons assigned were not sufficient, and that far from the case not being tried at the Central Criminal Court by one of the superior judges, it would be tried by two of them, as it is always the practice for indictments in which the superior law-officers prosecute, to be tried by the judges themselves.

COLERIDGE, J. thought that none of the special grounds alleged sufficient to justify the granting of the writ; but conceived that inasmuch as this is far from being an ordinary prosecution, and of sufficient importance to justify the attendance of the Crown officers, that it is a case in which the defendants ought to be permitted to have a special jury and the advantage of the assistance of Queen's counsel.

Certiorari granted.

Thursday, May 1.
(Before Mr. Justice COLERIDGE.)
Ex parte REV. DR. MOLESWORTH.
Criminal information.

Knowles, Q. C. moved on behalf the Rev. Dr. Molesworth, vicar of Rochdale, in Lancashire, for a rule *nisi* calling upon a Mr. Jesse Hall, of the same place, to shew cause why a criminal information should not be filed against him for certain libellous matter contained in a pamphlet entitled "A Letter to Dr. Molesworth, in reply to his Attack on Clement Royds, esq." *Rule nisi.*

DOE *dem.* ANSON *v.* ROE.

Where proceedings are taken by ejectment under the 1 Geo. 4, c. 87, by a landlord against his tenant, the notice at the foot of the declaration should be to appear on the first day of the Term next following; and a notice, therefore, to appear generally "in next Easter Term" is bad, and cannot be made the groundwork for a motion under the statute for security for costs, &c.

J. W. Smith shewed cause against a rule obtained by *Keyser*, calling upon the tenant in possession "to shew cause why, upon being admitted defendant, he should not, besides entering into the common consent rule and giving the common undertaking, undertake, in case of a verdict for the plaintiff, to give him a judgment to be entered against the real defendant of the term next preceding the time of trial; and also why he should not enter into a recognizance by himself and two sufficient sureties in a reasonable sum to be fixed by the Court, and within any time the Court should fix conditioned to pay the costs and damages which should be recovered by the plaintiff in the action; or why, in default thereof, judgment should not be entered for the plaintiff." This was an ejectment brought by a landlord against his tenant, under the provisions of 1 Geo. 4, c. 87, the first section of which provides for this application, and enacts "that it shall be lawful for the landlord at the foot of the declaration to address a notice to such tenant requiring him to appear in the court in which the action shall have been commenced on the first day of the Term then next following," &c. The notice in the present action (being a country cause) directed the tenant to appear in *next Easter Term;* and it was now contended that, inasmuch as the Act directed that the notice should be for the *first* day of the Term, the provision of the Act of Parliament had not been complied with, and so the motion could not be supported. (*Doe dem. Holder v. Rushworth*, 6 Dowl. 712, 4 M. & W. 74, s. c.)

Keyser, in support of the rule, argued that the statute should be construed liberally, and that it made no difference whether the tenant were directed to appear on the first day of the Term, or during the Term generally.

COLERIDGE, J.—According to your notice, you have made this application too soon, as the tenant has all the Term to appear in; but I quite agree with the point taken on the other side, that the statute has not been complied with.

Rule discharged with costs.

BUSINESS OF THE WEEK.

Re O'BRIEN.—*Watson*, Q.C. moved on behalf of the committee of a lady of the name of O'Brien, who had been found to be a lunatic by competent authority in the United States of America, where she has been residing, for a rule for the payment out of court to the American Consul at Liverpool, who is duly authorized to receive it, the sum of 146*l.* 6*s.* 9*d.* deposited there for the claimant. *Rule nisi.*

REG. *v.* THE LORDS OF THE TREASURY.—*Petersdorff* moved for a *mandamus* commanding the Lords of the Treasury to pay a sum of money to the party in whose behalf he moved. *Rule nisi.*

ATKINSON *v.* SUMMERS.—*Lush* moved for a rule calling upon the defendant to shew cause why he should not pay the costs of this action, which was brought upon a judgment recovered in another action. *Rule nisi.*

REG. *v.* NEWTON.—*Newton* applied for a rule for a review of the Master's taxation of costs. *Rule nisi.*

Monday.

REG. *v.* KNOWLES. — *Crompton* shewed cause against the rule obtained herein by *Cowling*, and admitted that the rule must be made absolute. (See 4 Law T. 297.) *Rule absolute.*

DOE *dem.* HOUSE *v.* HOUSE.—*Petersdorff* moved for a rule to stay the proceedings in the ejectment until the costs of a former ejectment be paid by the plaintiff. *Rule nisi.*

LUGG *v.* LUGG.—*Couch* shewed cause against a rule obtained herein by *Willes*, for a new trial. *Cur. adv. vult.*

Tuesday.

REG. *v.* THE JUSTICES OF NOTTINGHAMSHIRE. —*Wildman* moved for a *certiorari* to bring up an order of bastardy made at special sessions, and an order of quarter sessions confirming same, in order to be quashed, the evidence not being stated to have been taken upon oath. *Rule granted.*

REG. *v.* TALBOT.—*J. W. Smith* moved in this case for a rule calling upon Mr. Talbot to shew cause why he should not pay the costs of the issue directed herein under the 2 & 3 Vict. c. 62. *Rule nisi.*

Wednesday.

DOE *dem.* CLARK *v.* ROE.—*Humfrey*, Q.C. moved for a rule to set aside the judgment and *sci. fa.* and judgment thereon, and that the landlord may be permitted to defend, on the peculiar facts stated in the affidavits. *Rule nisi.*

REG. *v.* THE JUSTICES OF LANCASHIRE.—(See Report, April 24.) *Rule nisi.*

REG. *v.* THE JUSTICES OF CUMBERLAND.—*Cowling* moved for a *certiorari* to remove into this court an order of bastardy made at petty sessions, and an order of quarter sessions confirming the same, with the view to their being quashed, on the ground that the corroborative evidence does not appear to have been taken upon oath. *Rule nisi.*

REG. *v.* THE JUSTICES OF MIDDLESEX.—*Bodkin* made a similar motion. *Rule nisi.*

IN THE MATTER OF THE ARBITRATION OF ANDREWS and OTHERS.—*Stock* moved for an attachment against one of these parties for the non performance of an award. *Rule granted.*

THE DUKE OF BRUNSWICK *v.* PEPPER.—*Fortescue* moved that the service of the writ of summons herein, and all subsequent proceedings, should be set aside, the copy having been served on the wrong party. *Rule nisi.*

REG. *v.* WRIGHT and GALE. — *Pearson* moved that this indictment, which had been found against the defendants for keeping a brothel in the parish of St. George, Hanover-square, should be quashed, on the ground that it did not appear on the indorsement who was the prosecutor. *Rule refused.*

GRESLEY *v.* GRESLEY. — *Hance* shewed cause against a rule obtained by *Flowers* for an attachment for the non-performance of an award. It was objected, in answer to the rule, that the arbitrator had not determined on a material question.

Rule discharged, with costs.

IN THE MATTER OF THE ARBITRATION OF WELLFORD and BATTY. — *Udall* shewed cause against a rule obtained by *Temple*, calling upon Mr. Wellford to shew cause why he should not pay 7*l.* 10*s.* 7*d.* awarded by the arbitrator, and 31*l.* 4*s.* pursuant to the Master's *allocatur.*

Rule discharged.

EDGE *v.* ELGIE.—In this case his lordship granted a *rule nisi* (*see Law T. Wednesday, April* 16).

Thursday.

DOE *dem.* THE EARL OF EGREMONT *v.* STEPHENS.—*Cowling* moved to stay the proceedings in this ejectment, on the ground of the death of the plaintiff. *Rule nisi.*

Re THOMAS AUSTELL, deceased.—*Addison* moved for a rule *nisi* for a *mandamus* to the Commissioners of Stamps, commanding them to return to the administrator the sum of 120*l.* overpaid in respect of the letters of administration. *Rule nisi.*

WATSON *v.* ORME.—In this case, which was a motion for a *distringas*, Mr. Justice Coleridge's suggestion having been complied with, the writ was granted. (See Law T. Bail Court, April 19.)

Distringas granted.

TRENT *v.* HARRISON. — *Humfrey*, Q.C. shewed cause against a rule calling upon the plaintiff to shew cause why it should not be referred to the Master to ascertain whether certain sums stated, on the taxation of costs, to have been paid, had in fact been paid before taxation, and if any had not been so paid, why the amount should not be refunded to the defendant, and the Master's *allocatur*, and the judgment, be reduced accordingly. *Grove*, contrà. (See 5 Law T. 59.) *Cur. adv. vult.*

Ex parte JOHN GEORGE MAYER. — *Clarkson* moved for a *habeas corpus* to bring up the above party, in order that he may be admitted to bail, and for a *certiorari* to remove the depositions.

Writs granted.

BOOTH *v.* STEVENS.—*Crompton* shewed cause against a rule obtained by *Simons* for the discharge of the defendant out of custody *Simons*, contrà.

Rule discharged.

Ex parte WILLIAM CAPP.—*Gurney*, Q. C. shewed cause against a rule obtained by *Charnock* for a *prohibition* to the Southwark Court of Requests, prohibiting them from enforcing a judgment against the applicant, awarding the payment by him of a certain sum of money to the mother of a bastard child, of which he was said to be the father. It appeared from the affidavits in opposition, that the applicant had made an express promise in the case. *Charnock*, contrà. *Rule discharged.*

Friday.

J. M. Cobbett moved for a rule *nisi* for an attachment against a person of the name of George Carey, who was overseer of the parish of Waldron, in Sussex, for refusing to be sworn, and not producing a rate-book when before the justices on a matter touching the removal of a pauper family from the parish of All Saints, in Lewis. *Rule nisi.*

SCARTH *v.* SIR A. L. HAY, Bart.- *Collier* moved for leave to stick up notice of the writ of inquiry herein in the Queen's Bench office, and also to serve it at the last known place of residence of the defendant. *Application granted.*

THOMAS BLAND *v.* THE QUEEN (*in error*).—*Deedes* applied for the discharge of the defendant out of custody for the want of a joinder in error. The defendant had been convicted at the Kent Sessions of a misdemeanor, and, having brought a writ of error, *Ordered to be discharged.*

BEECHY *v.* HAMMAN.—*Piggott* shewed cause against the rule obtained herein by *Carrington* for further and better particulars. *Carrington*, contrà.

Rule discharged with costs.

Bankrupt and Insolvent Courts.

COURT OF REVIEW.

Wednesday, April 30.
Ex parte HARRIS, *re* CLARKE.

Friendly society, officer of—4 & 5 *Wm.* 4, *c.* 40, *s.* 12.

The bankers of a friendly society which by its rules required the treasurer not to retain any sums which might be in his hands beyond a certain amount, are not to be considered officers of the society within the 4 & 5 Wm. 4, c. 40, s. 12.

The bankrupts in this case were bankers, with whom had been deposited by the treasurer of the "Widows and Orphans' Friends Society" moneys belonging to that society. The society being established under the provisions of the 4 & 5 Wm. 4, c. 40, and requiring by its rules that the treasurer should not retain in his hands money received above a certain sum, or beyond a certain time, the petition in this case was presented seeking to have their claim paid in full, the bankers being alleged to have been "officers" of the society.

Russell and *Rolt*, for the petitioners, endeavoured to distinguish between this case and that of *Ex parte Whipham, re Wise* (3 Mont. Dea. & De Gex, 564). See *ante*, vol. ii. p. 426.)

Swanston and *B. L. Chapman*, for the assignees, were not heard.

The CHIEF JUDGE.—I am of opinion that this employment of banker is not an office within the meaning of the clause. I think the enactment is one against common right, and of which the construction ought not to be extended.

COUNTRY COMMISSIONERS' COURTS.

BRISTOL DISTRICT BANKRUPTCY COURT.

(Before Mr. Commissioner STEVENSON.)
Friday, April 25.
Re WILLIAMS.

An attorney not admitted in bankruptcy is not entitled to practise in bankruptcy through an agent duly admitted.

In this case *Homes* having appeared, and for some time opposed the insolvent, an objection was taken that Mr. Davies, of Merthyr, the attorney whose name appeared indorsed on the brief, had not been admitted in bankruptcy.

Homes said he had received his brief from Mr. Perkins, a gentleman duly admitted in the court, and who was then present acting as agent for Mr. Davies, of Merthyr, whose name was indorsed on the brief.

His HONOUR (after consultation with Mr. Commissioner Serjt. Stephen).—I considered this point of sufficient importance to consult my learned colleague upon it before giving my decision. He quite agrees with me in thinking that the attorney for the opposing creditor cannot act as a solicitor in this court either in person or by agent. The 6 & 7 Vict. c. 73 clearly states the law; the second section prohibits any person from acting as a solicitor without being admitted and duly qualified pursuant to the regulations of that Act. By the 27th section persons duly admitted in one court are made capable of practising in other courts (and the Court of Bankruptcy is specifically mentioned) upon signing the roll of such other courts, *but not otherwise*. Coupling these sections with the 32nd, which prohibits attorneys from acting as agents for parties not duly qualified, it is clear that Mr. Davies, not being an attorney duly qualified to practise in bankruptcy, cannot appear here himself or appoint an agent. He is not entitled to employ an agent.

King, attorney for the insolvent, offered to waive the objection, but

His HONOUR said he could not permit such an objection to be waived; the Court, having had the fact brought before its notice that Mr. Davies was not yet admitted in bankruptcy, could not permit him to practise until he had duly qualified himself. This could be done, and Mr. Davies's client may still bring forward his opposition on the day for the final order.

THE LEGISLATOR.

Summary.

IT will be observed that a Committee of the Lords has been appointed to inquire into the practical working of the Insolvent Act of last session. There will be no difficulty in making

out against it an overwhelming case; but we hope the old system will not be restored. If any of our readers should be examined, may we ask them to urge upon their lordships, not a return to imprisonment for debt, but the enactment of the provisions of Lord COTTENHAM's rejected Bill of last session, that gave such ample powers against the property, and inflicted such needful punishment for the fraud of the debtor. When will the Bill for repealing or amending the Transfer of Property Act be produced?

Imperial Parliament.

PUBLIC BUSINESS TRANSACTED.

BILLS READ A FIRST TIME.

Friday, April 25.

Canal Companies Tolls Bill—"to empower Canal Companies and the Commissioners of Navigable Rivers to vary their tolls, rates, and charges on different parts of their Navigations."

Canal Companies Carriers Bill—"to enable Canal Companies to become Carriers of Goods upon their Canals."

Monday, April 28.

Banking (Scotland) Bill—"to regulate the issue of Bank Notes in Scotland."

Wednesday, April 30.

Exchequer Bills.
Courts of Common Law Process.
Ditto, Ireland.
Court of Session Process, Scotland.

Thursday, May 1.

Salmon Fisheries—"for the preservation of Salmon Fisheries in England and Wales."

Merchant Seamen—"to amend the Laws relating to the relief and support, in certain cases, of Merchant Seamen, their Widows and Children."

Railway Clauses Consolidation, Scotland, No. 2—"for consolidating in one Act certain provisions usually inserted in Acts authorising the making of Railways in Scotland."

BILLS READ A SECOND TIME.

Friday, April 25.

Physic and Surgery.
Colleges of Physicians and Surgeons.
Sheriffs, Wales.

Wednesday, April 30.

Canal Companies Tolls.
Canal Companies Carriers.

Thursday, May 1.

Exchequer Bills.

BILLS READ A THIRD TIME AND PASSED.

Friday, April 25.

Infeftment, Scotland.
Heritable Securities, Scotland.
Colonial Passengers.

Monday, April 28.

Museums of Art.

Wednesday, April 30.

Sheriffs, Wales.
Calico Print Works.

PRIVATE BUSINESS TRANSACTED.

BILLS READ A FIRST TIME.

Friday, April 25.

Glasgow, Barrhead, and Neilston Direct Railway.
Manchester Court of Record.

Monday, April 28.

London, Chatham, and North Kent Railway.
South Eastern Railway, Ashford to Hastings.
Ditto, Tunbridge to Tunbridge Wells.
London and Norwich Direct Railway.
North Wales Mineral Railway.

Thursday, May 1.

London and Brighton Railway, Horsham Branch.
Liverpool and Manchester Railway.
Guildford Junction Railway.

BILLS READ A SECOND TIME.

Friday, April 25.

Dublin and Belfast Junction Railway.
Cork and Bandon Railway.
Dublin Pipe Water.
Agricultural and Commercial Bank of Ireland.
Newry and Inniskillen Railway.
Wexford, Carlow, and Dublin Junction Railway.
Calvert's Estate.

Monday, April 28.

Totnes Market and Waterworks, No. 2.
Grand Junction Railway.
Sheffield and Rotherham Railway.
Runcorn and Preston Brook Railway and Docks.
North Wales Railway.

Wednesday, April 30.

Epsom and Dorking Railway.
Erewash Valley Railway, No. 2.
Reversionary Interest Society, No. 2.
South Eastern Railway, Branch to Deal.
Ditto, Maidstone to Rochester.
Boileau's Divorce.
Waterford and Limerick Railway.

BILLS READ A THIRD TIME AND PASSED.

Friday, April 25.

Paisley Gas.
Foulmire Inclosure.

Monday, April 28.

Clerkenwell Improvement.

Thursday, May 1.

Glasgow and Shott's Road.

SESSIONAL PRINTED PAPERS.

Par. Num.
253. Bills—Canal Companies Tolls.
254. — Canal Companies Carriers.
224. — Justices' Clerks and Clerks of the Peace, amended.
256. — Banking, Scotland.
118. (2) Corn—Accounts.
221. Earl of Lucan—Copy of Correspondence.
234. Constabulary Force, Ireland—Paper.
230. Corn and Flour, Grain—Accounts.
241. Cheese—Accounts.
245. New Zealand—Copies of Correspondence.
246. New Zealand—Returns of Claims for Land.
247. New Zealand—Copies or Extracts of Despatches.
252. Atmospheric Railways—Report of Committee.
153. Railways, London and York Division—Map.
162. Civil Contingencies—Account and Estimate.
161. Commissariat—Estimate.
238. Geological Survey, Ireland—Copy of Correspondence.
147. Finance Accounts—Classes 1 to 8.
Frame-work Knitters—Appendix, Part I. Leicestershire.
Metropolis Improvement—Third Report of Commissioners.

PARLIAMENTARY PAPERS.

EXCHEQUER-BILLS.—The public are indebted to the exertions of Colonel Sibthorp, M.P. for the city of Lincoln, for a return (recently printed) of the number and amount of public bills that have been issued under the head of "Exchequer Bills," under the authority of her Majesty's Controller-General, Lord Monteagle, since the 5th day of March, 1844. It is found, on an examination of one branch of this return, that from the 1st of January, 1844, to the 17th of March, 1845, the total number of Exchequer-bills signed by the noble lord the Controller-General of the Exchequer, amounted to 23,916, representing a value of 38,404,383*l.* and that the total number of Exchequer-bills signed by the Assistant-Controller during the same period amounted to 21,378, representing a value of 7,759,080*l.* The total number of bills signed, from the 1st of January, 1842, up to the 17th of March, 1845, both by the Controller-General and by the Assistant-Controller, amounted to 110,062, representing a grand total value of 138,722,596*l.* In order that the public may form an idea of the industry and application to business manifested by the Controller-General, who receives a large salary for his onerous services, it is stated that during the past year, 1844, Lord Monteagle attended at his office for 189 days (out of the 365), and was absent during the same year 123 days. Since the 1st of January, 1845, he has attended sixty-one days, and has been absent four days.

GLASS.—Mr. Ord, M.P. has obtained, by order of the House of Commons, returns of the amount of duties charged, and drawbacks paid, on glass, and of the quantities imported and exported, retained for home consumption, and remaining in bond, for the year ending the 5th of January, 1845 (in continuation of the sessional paper No. 200 of the year 1844). It appears from this paper that the following were the quantities of glass charged and the amount of duty respectively imposed on the different descriptions of glass in England during the year 1844-45, viz.:—Flint glass, 9,529,291lb. and 55,271*l.*; plate glass, 29,765cwt. and 93,759*l.*; crown glass, 99,180cwt. and 382,710*l.*; German sheet glass, 31,560cwt. and 21,783*l.*; common bottle glass, 345,810cwt. and 27,081*l.* The quantities exported upon which drawback was allowed were of flint glass, 11,277cwt.; of plate glass, 116,955 feet; of crown glass in tables, 1,527cwt.; of crown glass in panes, 6,661cwt.; of German sheet glass, 7,656cwt.; and of common bottle glass, 213,056cwt. It further appears that the quantities of glass retained for home consumption in the United Kingdom for the year 1844-45 were, of flint glass, 83,712cwt.; of plate glass, 24,405cwt.; of crown glass, 93,347cwt.; of German sheet glass, 23,175cwt.; and of common bottle glass, 193,108cwt. The net amount of duty received thereon amounted to the sum of 645,715*l.* The amount of drawback or allowance on glass for the use of churches during the year 1844-45 was 1,343*l.* The quantities imported into the United Kingdom during the same period, from various countries of Europe, &c. were,—of crown or any window glass not exceeding one-ninth of an inch in thickness, 6,680cwt.; of German sheet glass, white or coloured, 1,280cwt.; of all glass one-ninth of an inch in thickness—all silvered or polished glass, of whatever thickness—and plate glass, however small each pane, plate, or sheet, 18,915 square feet (superficial measure); and of flint and cut glass, 2,883cwt. The quantities exported from the United Kingdom of the same description of glass as those which we have already enumerated above were respectively, 6,241cwt.; 906cwt.; 16,971 square feet; and 1,448cwt. The quantities of British glass exported from England in 1844-45 were,—of flint, 11,277cwt.; of plate, 116,955 feet; of crown, in tables, 1,526cwt.; of crown, in panes, 6,661cwt.; of German sheet glass, 17,695cwt.; and of common bottle glass, 213,056cwt.

HOUSE OF LORDS.

ECCLESIASTICAL COURTS.

FRIDAY, April 25. Lord COTTENHAM brought in a Bill entitled "An Act to consolidate the Jurisdiction of the several Ecclesiastical Courts in England and Wales." The Bill was precisely the same as that which was passed in pursuance of the report of a select committee of that House in 1836. The Bill was read a first time.

INSOLVENT DEBTORS ACT.

Lord BROUGHAM presented a petition from traders and retail dealers in London, praying for a revision of the Insolvent Act. They complained chiefly of the 20*l.* clause, and prayed that some remedial measure might be passed in the present session of Parliament. He should himself, if nobody else did, endeavour to apply a remedy, but he would rather that the subject was left in the hands of the Government.—Lord COTTENHAM was glad to hear that his noble and learned friend intended to bring in a measure upon the subject if the Government declined to do so, because the merits of the 20*l.* clause in the Act had been sufficiently tested. There was no adequate remedy for debts under 20*l.* either against the property or the person of the debtor, and that state of the law ought not to be allowed to remain.—Lord CAMPBELL said that if the Government were now prepared to state its intention with regard to this subject, it would give great satisfaction to hundreds and thousands of shopkeepers. It would be much better that the Government, which had originally introduced the measure, should take the matter into its own hands; although he had every confidence in his noble and learned friend's qualifications to apply a proper remedy.—The LORD CHANCELLOR regretted that his noble and learned friend had not given notice of his intention of putting a question in a matter of such great importance. But he begged to remind their lordships that the original measure did not proceed from the Government, but from a committee of that house, which had sat for a considerable time and investigated the question. He (the Lord Chancellor) was a member of that committee, and in the course of discussion suggested a clause of this description which was accepted. If the clause was stated to be inconvenient, he had no objection to the committee being appointed to consider the subject. He was not acting for the Government when he made the suggestion.—Lord BROUGHAM moved that the petition be printed.—The LORD CHANCELLOR would also move that the committee be re-appointed.—Lord COTTENHAM doubted whether that could be done.—The LORD CHANCELLOR would state what motion he should bring forward on the subject on Monday next.—Lord ASHBURTON said that the complaints of the petitioners whose petition he had presented to the house on this matter were not confined to the particular question, but applied generally to the system of legislation adopted by Parliament, which had shewn an extreme feeling for debtors and a reckless want of consideration for the unfortunate creditors. He thought the House would much neglect its duty if it allowed the session to pass over without providing some remedy for those evils.—Lord BROUGHAM suggested to his noble and learned friend on the woolsack that it would be better to appoint a committee to inquire into and consider the operations of the Act passed last session.—The LORD CHANCELLOR said the question was whether they had not gone too far to retrace their steps.

DEBTOR AND CREDITOR ACT.

MONDAY, April 28.—Lord BROUGHAM presented a petition from the committee of commissioners of the Court of Requests against the 20*l.* clause in the Debtor and Creditor Act.—The LORD CHANCELLOR said it was his intention to move for the appointment of a select committee to inquire into that Act. (Hear, hear.)—Lord BROUGHAM presented a petition from Bristol also against the clause.—Lord CAMPBELL said he fully agreed with the noble and learned lord on the woolsack as to the propriety of appointing a select committee to inquire into the objections which were urged against the Bill. (Hear.)—The LORD CHANCELLOR said that it was his intention also to move that all petitions against any portion of the Bill should be referred to the select committee. (Hear.)—The Duke of RICHMOND presented petitions against the 20*l.* clause of the Bill from Sherborne, Shaftesbury, Sturminster, Wareham, Cowes, Gosport, Lymington, Southampton, Portsea, Penzance, Bradford, Trowbridge, Warminster, and Andover.

ECCLESIASTICAL COMMISSIONERS' PROPERTY.

The following resolutions respecting the leasehold property belonging to the Ecclesiastical Commissioners for England, passed at a meeting held 15th April, 1845, have been issued by order of the House of Lords:—

1. That no lease for lives be renewed by the addition of a new life, nor any lease whatever upon consideration of a fine.

2. That no estate which is subject to a lease when it becomes vested in the Commissioners, shall at any time be sold to any other than the person beneficially interested under the existing lease, until he shall have had the option of becoming the purchaser.

3. That every estate, already and hereafter vested in the Commissioners, shall at the first convenient opportunity be surveyed, and a full report made of its value, and of its circumstances with reference to the relative advantage of retaining or parting with it.

4. That the Commissioners, having taken such report into consideration, shall, unless they find special reasons for not parting with the property, hold them-

selves prepared to entertain an offer for the purchase of the reversion from the person beneficially interested in the lease.

5. That in all cases of the Commissioners declining to sell, an entry shall be made upon their minutes of the special reasons for their so declining.

6. That the price of the reversions shall be, as a general rule, the amount of difference between the value of the whole fee, calculated as if the estate were actually in possession, and the value of the leasehold interest.

7. That whether the Commissioners for any special reasons decline to sell, or the lessee decline to purchase the reversion, the Commissioners shall hold themselves prepared, in any case, to purchase the leasehold interest at its market price, if the lessee be willing to sell the same.

8. That in any case in which the lessee shall have declined either to purchase the reversion, or to sell his leasehold interest, the Commissioners shall consider themselves free from any restraint respecting the sale or letting of the property.

9. That tithes, and lands or other hereditaments allotted or assigned in lieu of tithes, vested in the Commissioners, shall not in any case be sold, until due consideration shall have been had of the wants and circumstances of the places in which such tithes arise or have heretofore arisen.

C. K. Murray, Treasurer and Secretary.

Whitehall-place, April 25, 1845.

ALTERATION OF THE CIRCUITS AND TERMS.

The following is a copy of the commission for inquiring into the expediency of *altering the circuits* of the judges in England and Wales, and (as we intimated last December) inquiring also whether there should be any change in the *law terms*:—

"Victoria, by the grace of God of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith: To our right trusty and well-beloved councillor Sir James Parke, knight, one of the Barons of our Court of Exchequer; and our trusty and well-beloved Sir Edward Hall Alderson, knight, one other of the barons of our Court of Exchequer; Sir John Taylor Coleridge, knight, one of the justices of our Court of Queen's Bench; and James Stuart Wortley, Fizroy Kelly, William Whateley, and John Greenwood, esquires; and Sir William Heathcote, baronet; and Edmund Denison and Thomas Grimston Bucknall Estcourt, esquires; greeting:

Whereas it has been humbly represented unto us that the circuits of the judges in England and Wales are very unequal, as well in extent as with respect to the number of causes tried upon such circuits respectively, and that the intervals between the periods of holding the same in each year are also very unequal, and that it has been considered that some alteration in these particulars might be conducive to the public good.

"Now know ye, that we, being satisfied of your knowledge and ability, have appointed and do by these presents appoint you the said Sir James Parke, Sir Edward Hall Alderson, Sir John Taylor Coleridge, James Stuart Wortley, Fitzroy Kelley, William Whateley, John Greenwood, Sir William Heathcote, Edmund Denison, and Thomas Grimston Bucknall Estcourt, or any five or more of you, to be our commissioners for inquiring and considering whether it would be expedient, with a view to the more convenient and better administration of justice, that any and what alterations should be made in the division of England and Wales into circuits for judicial business, and in the periods for holding such circuits, and whether it would be necessary or proper that any change should be made in the law terms for the purpose of such alterations, and also for considering in what manner such alterations may be best effected.

"And for the better effecting the purposes of this our commission, we do by these presents give and grant to you, or any five or more of you, full power and authority to call before you, or any five or more of you, such persons as you shall judge necessary, by whom you may be the better informed on the subject of this our commission, and every matter connected therewith; and also to call for, have access to, and examine all such official books, documents, papers, and records as may afford the fullest information on the subject, and to inquire of and concerning the premises by all other lawful ways and means whatsoever.

"And it is our further will and pleasure, that you, or any five or more of you, do report to us in writing, under your hands and seals, your several proceedings by virtue of this our commission, together with your opinions touching the several matters hereby referred for your consideration.

"And we will and command, and by these presents ordain, that this our commission shall continue in full force and virtue, and that you our said commissioners, or any five or more of you, may from time to time proceed in the execution thereof, and of every matter and thing therein contained, although the same be not continued from time to time by adjournment.

"Given at our court at St. James's, the fourteenth day of February, one thousand eight hundred and forty-five, in the eighth year of our reign.

"By her Majesty's command,

"(Signed) J. R. G. Graham."

Debtor and Creditor Law.—The Select Committee appointed by the House of Lords, on Monday evening, "to consider the petitions on the subject of the Law of Debtor and Creditor, and to report thereon to the House," consists of the following lords, who were nominated thereon, and who are to meet for the first time on Monday next, at 4 o'clock. All petitions, presented to their lordships' house this session on the subject are to be referred to the said committee.—The Lord Chancellor, the Lord President, the Lord Privy Seal, the Duke of Wellington, the Earl of Winchilsea and Nottingham, Earl of Howe, Earl of Bandon, Earl of Rosslyn, Viscount Hawarden, Viscount Canterbury, Lord Stanley, Lord Kenyon, Lord Steward of Garlies, Lord Redesdale, Lord Colchester, Lord Forester, Lord Brougham and Vaux, Lord Denman, Lord Ashburton, Lord Cottenham, Lord Langdale, and Lord Campbell.

THE MAGISTRATE.

Summary.

We have taken from the daily papers a variety of statements as to the real or supposed recommendations of the Commissioners appointed to revise the Circuit and Term arrangements. We can trace only some of these to any authority; and we believe, in fact, that no decision of any kind has yet been come to. We give the reports as they are circulated, but our readers must place no reliance upon them.

The Bill for legalizing Mr. Lumley's forms appears to be shelved. In the meanwhile the courts have been crowded with motions to set aside orders founded on them. Undoubtedly the consequences are serious, and the Legislature should interfere to legalize *past* errors; but it *is* a stretch of courtesy to make forms, pronounced bad, good for the *future* as well as for the past. It is unjust towards those who have incurred expense to remedy errors. As it is impossible to say when the Bill will be passed, if ever, a fresh supply has been printed of Mr. Symons's forms, any quantity of which may now be had.

IDENTIFICATION OF PAUPER WITH CERTIFICATE OF HIS CHARGEABILITY.

Considerable doubts prevail whether it be essential to identify the pauper with the certificate of his chargeability, under the 7 & 8 Vict. c. 101, s. 69. That section says that the certificate "shall be received in evidence accordingly by and before all courts of justice, and all justices, without any proof of the signatures or of the official characters of the persons signing the same, or of such seal, or of such meeting; and that, for the purpose of making any order of removal or other order, *no* further or other evidence of chargeability than such certificate shall be required."

But all this, it has been objected, may very well be, and yet the proof is wanting that the A B named in the document is the A B before the magistrates. We know that this objection has been taken very frequently at the last sessions; and though we hold the same opinion we previously expressed on this point (namely, that evidence of identity *is* requisite), we at once direct the attention of those who are interested in the opposite view to a case just decided in the Court of Queen's Bench, and reported, we believe, in this number of the Law Times, which, by analogy of reasoning, strongly supports the argument that no such evidence is needed. We mean the case of *Reg.* v. *The Inhabitants of St. Anne, Westminster.* It appeared that in that case letters of administration were essential to substantiate an estate settlement. These letters were sent to the receiving parish precisely in the same way in which the certificate of chargeability is sent, but there was nothing on the face of the evidence to shew that these letters were produced before the magistrates—nothing, in short, to link them on to the proofs of the case.

Mr. Pashley argued long and learnedly that it was essential to connect the document with the evidence in the case, but the Court listened with marked impatience, and Mr. Justice Williams ironically asked if Mr. Pashley wished the woman who alone gave evidence to say, "By these letters of administration here produced, as by reference to the same being had, will more fully and at large appear?" Sending the document, argued Mr. Pashley, has nothing to do with it,—"But I say it has to do with it," rejoined Mr. Justice Patteson, with no slight emphasis. The order was confirmed without deliberation. Now, the cases are exceedingly similar, for there was nothing in the letters of administration to identify the parties more than there is in a certificate: probably much less; for, when a certificate sets forth that Ebenezer Timothy Tupman, and his wife Rebecca Elizabeth, and their son Jeremiah, aged six, and their daughter Caroline, aged five, are chargeable, it is strange indeed if persons similarly named are not the same. We think, therefore, that, as far as authority goes, this case of St. Anne's, Westminster, is a strong authority in favour of parishes who have omitted to identify their paupers.

On principle we still hold to our old opinion that there ought to be identification, for otherwise *that is left to inference which is capable of proof.* However probable be the presumption, and however natural the inference, the Court of Queen's Bench has laid it down, times out of number, that *nothing must be left to inference.* It is idle to say that proof of the inference is supplied here by the Act; it is not so: the Act makes the certificate evidence of all it states, but it does not and cannot make it evidence of something that it does not state, and which happens after the certificate is made namely, the appearance of the same person it names before the justices.

The strongest analogy we are aware of, is that of the certificate of a prior conviction, which invariably requires the evidence of the gaoler or other person present at the trial to which the certificate relates, to prove that the prisoner is the same person who is convicted at the second trial. We really cannot see why this should be less requisite in the case of a pauper's chargeability; at any rate we think it prudent to supply this evidence of identity. We offer the following as a form in which it may be conveniently given:—

I, A B, am relieving officer of the Union. I produce a certificate of the chargeability of D C, &c. [specifying the names of all the paupers], dated &c. and signed by, &c. It relates to the pauper D C, &c. now here before the said justices, &c. and who are the same persons to whom the certificate relates, and who are named therein. J. C. S.

Assessment of Railways.—A most important decision has been come to by a full bench of magistrates at Bishop Stortford, in respect to the assessment of railway property, an appeal being made against the amount claimed by the parish of Sawbridgeworth, from the northern and eastern branch of the Eastern Counties Railway. Mr. E. James appeared for the appellants, and Mr. Ryland for the parish. Mr. James stated the cause of the complaint to consist in that his clients were assessed at the rate of 800*l.* per mile, or 1,600*l.* for the two miles through which the company's line passed in the assessors' parish, being double the amount his clients had been originally assessed at. Mr. Ryland, for the parish, called a Mr. Hill, and also a Mr. Cooke, both surveyors, the former of whom declared the gross returns of the company amounted to 9,000*l.* a year, deducting every expense, and at that valuation the assessment was correct. The bench decided the rate was excessive. It was finally arranged that the assessment should be taken at 300*l.* per mile, a reduction of 1,000*l.* being thus gained to the company through the appeal.

Mr. John Charles Ridgway, who was convicted in the October sessions of the Central Criminal Court, in 1843, in opposition to the charge of the learned judge (Baron Maule) who tried the cause, received her Majesty's *free pardon*, and was discharged out of custody on Tuesday last, after a full investigation of the merits of his case by the Secretary of State.

THE LAWYER.

Summary.

As the reports are extremely heavy, brevity in other matters is necessary. We can only refer the reader to the various subjects of interest to the Profession that will be found among the leading articles and elsewhere, and many others that were in type are unavoidably postponed. A Supplement next week will enable us to bring up a portion of the arrears.

COURT PAPERS.

EXCHEQUER OF PLEAS.

Sittings at Nisi Prius in Middlesex and London, before the Right Hon. Sir FREDERICK POLLOCK, Knt. Lord Chief Baron of Her Majesty's Court of Exchequer, after Easter Term, 1845.

MIDDLESEX.

Friday........May 9 } Common Juries.
Saturday ....10 }
Monday..........12 } Revenue and Common Juries.
Tuesday..........13 }

LONDON.

Saturday ....May 10—To adjourn only.
Wednesday ......14—Adj.-day, Common Juries.
Thursday ....15—Common Juries.

PROMOTIONS, APPOINTMENTS, ETC.

[Clerks of the Peace for Counties, Cities, and Boroughs, will oblige by regularly forwarding the names and addresses of all new Magistrates who may qualify.]

GRAY'S-INN, APRIL 30.—Mr. Giles Hall was this day called to the degree of Barrister-at-Law, by the Hon. Society of Gray's-inn.

MASTERSHIP OF THE TEMPLE CHURCH.—The Mastership of the Temple Church, void by the resignation of the Rev. Mr. Benson, has, we are informed, been filled up by the appointment of the Rev. Dr. Robinson, Morning Preacher at the Foundling, and formerly Archdeacon of Madras.

The following gentlemen qualified to act as justices for the East Riding of Yorkshire at the last General Quarter Sessions:—John Conyers Hudson, esq. of Beverley; Henry Boynton, esq. of Burton Agnes; Henry Brewster Darley, esq. of Huttons Ambo; George Pelsant Dawson, esq. of Osgodby Hall; the Rev. Robert Ellis, of North Grimston.

CROWN OFFICE, APRIL 28.—MEMBERS RETURNED TO SERVE IN THIS PRESENT PARLIAMENT.—County of Kent—Western Division: Thomas Austen, of Kippington, in the county of Kent, esq. in the room of the Hon. Charles Marsham, commonly called Viscount Marsham, now Earl of Romney, called up to the House of Peers.

Borough of Leominster: Henry Barkly, of No. 50, Eaton-place, in the city of Westminster, esq. in the room of Charles Greenaway, esq. who has accepted the office of Steward of her Majesty's Chiltern Hundreds.

LEGAL INTELLIGENCE.

THE CIRCUITS.—The commissioners have decided that in future the spring circuits shall commence invariably on the 1st of February, and that on that day six weeks the sittings in London and Middlesex shall take place. By this arrangement it is believed the terms will not be disturbed, and the winter circuits may be dispensed with.—*Times.*

SWEARING AND ADMISSION OF SOLICITORS.—The Master of the Rolls has appointed Monday, the 5th of May, at the Rolls Court, Chancery-lane, at half-past three in the afternoon, for swearing solicitors.

GENERAL TOM THUMB.—The Tribunal of Commerce was occupied on Thursday with a trial in which Mr. Edward Sherwood Stratton, father of the far-famed General Tom Thumb, was plaintiff, and M. Nestor Roqueplan, the manager of the Théâtre des Variétés, defendant. The plaintiff applied to the Court to prevent the defendant from placarding a piece which was to be played last evening under the title of "Tom Pouce," and demanded damages to the amount of 2,000*f.* for each offence. For the defendant it was argued that the plaintiff, being a foreigner, could not plead; that the name of Tom Pouce, like that of Petit Poucet, belonged to any one that chose to take it; that it could be made the subject of a vaudeville; and that no confusion could arise between the piece at the Variétés and the miniature man at the Concerts Vivienne, since the bills announced that the part of Tom Pouce was to be filled by the little Duhamel. The tribunal rejected these arguments, and declared that, as the young Stratton was known by the name of Tom Pouce, as it was that under which he exhibited at the Concerts Vivienne, and which had become his property, the defendant must remove from the bills the name of "Tom Pouce," and pay all the costs of the suit. The piece at the Variétés has since been advertised under the name of "Tom Pouff."—*Galignani's Messenger.*

THE NEW LAW COMMISSIONS.—The Lord Chancellor has given notice of his intention to move for a commission to inquire into the law of insolvency and imprisonment for debt. In the year 1839 a commission was issued on bankruptcy and insolvency, from which resulted the present Bankrupt Act, and the new Insolvent Debtors Act, as administered by the Court of Bankruptcy. A very great improvement has been effected in the bankrupt law by placing the allowance of the certificate in the hands of the commissioners; and one of the principles of the new Insolvent Debtors Act was the power given of hearing parties without going to prison, and, notwithstanding the abuse of the privilege, the provision has had a beneficial effect. But last session a sudden alteration was made in the same Act, which has produced a great change in the law of debtor and creditor—namely, the abolition of imprisonment on executions for debts not exceeding 20*l.* It is complained that no remedy has been provided for the boon granted; and it is understood that one of the objects of the commission will be to inquire whether a remedy can be suggested, so as to supersede the repeal of the clause in question. Prisons have been emptied, and debtors have defied their creditors to take proceedings against them, as they cannot touch their persons. diminution of about one-fourth in the number of writs issued by the law courts, since the operation of the last Act, has taken place. There are two laws (besides the Debtor and Creditor Act) relating to insolvent debtors, and the commissioners will have to consider their assimilation, and they will also have to consider, before they recommended the *full* repeal of the 20*l.* clause, the instances of oppression by creditors, as recorded in the last report of Captain Williams, the prison inspector.—*Morning Herald.*

COINING IN GAOL.—During the last few days an extraordinary *éclaircissement* has taken place, from which it has been discovered that an illegal mint was for some time actually established and regularly worked within the heart of our city prison. It will be in the recollection of most of our readers that at the January quarter sessions a man named Patrick Ronan was tried for having base coin in his possession, and sentenced to twelve months' imprisonment in our city gaol. A prisoner gave information that he had seen Ronan, with another prisoner named Russell, a private of the 4th Dragoons, undergoing sentence of confinement for a robbery, engaged in coining. On the 10th instant an examination was made of the prison, and in the apartment termed the men's day-room, the entire coining apparatus was discovered concealed, apparently in so hurried a manner, that it was evident it had been in use but a few moments before the appearance of the constabulary upon the scene of action. A quantity of counterfeit silver coin was also found upon the person of the prisoner Ronan.—*Kilkenny Moderator.*

PROCLAMATIONS OF OUTLAWRY.—A few days ago, in the Sheriffs' Court, Red Lion-square, it being county court day, proclamation was made in the usual manner, by Mr. Hemp, the sheriffs' officer, before Mr. Under-sheriff Burchell, and the following were declared outlaws, at the suit of their several creditors:—Robert Montgomery Martin, Alexander Farquhar Mortimer, Percy Drummond, at four several suits, Charles Coghlan, Crewe Read, Thomas Elisha Bramell, James Duthie, Sir Charles Edward Gray, bart. Patrick Leonard O'Reilly, Richard Gray, Charles White, Henry Whittaker, and the Rev. George Bridges Lee Warner (clerk).

THE WILL OF THE LATE REV. SYDNEY SMITH.—Probate of the will and three codicils of the Rev. Sydney Smith, late of Combe Florey, in the county of Somerset, and of 56, Green-street, Grosvenor-square, clerk, canon residentiary of St. Paul's Cathedral, has just been granted to his relict, Catherine Amelia Smith, the sole executrix. The personal estate sworn under 80,000*l.* The will is of great length, and professionally drawn and fairly copied, except the conclusion, which is in the testator's handwriting; it is dated June 6, 1843. He directs the trustees to pay over to his wife 10,000*l.* immediately after his decease, for her own absolute use, and bequeaths to her for life the rents arising from the Guildhall coffee-house, and the house in Charles-street, Berkeley-square, and all interest and dividends payable from securities in America and France; he also leaves to her the house in Green-street, and the furniture and effects in and about the same, and expresses a wish that she should continue to reside therein, and after her decease he directs that a moiety of the rents should remain as settled by himself and wife under a deed; the other moiety he bequeaths to his son, Wyndham Smith, and appoints him reversionary residuary legatee. Bequeaths legacies to his servants; and on the death of his wife he leaves to his servant, Anne Kaye, a legacy of 100*l.* and an annuity of 30*l.* The testator concludes his will by the following bequests and directions in his own hand:—"I appoint my wife sole executrix. I leave to Sarah Westwood, and to Massey, the housemaid at Combe Florey, 10*l.* each; to Christopher Hodgson, ——, to buy a flat silver candlestick, on which shall be engraven, 'To commemorate the confidence and good nature of many years;' I will also that not only the dilapidations of Combe Florey, but those also of all my ecclesiastical preferments, shall be paid for out of my estate by my trustees, and not out of the property bequeathed to my wife; and I will also that Wyndham Smith do settle himself apart from his mother, and that he receive the annuity which she is directed to pay him only upon the express condition of establishing a domicile for himself apart from his mother, and the annuity to be paid by the trustees on the same condition.—SYDNEY SMITH." The codicils are entirely in the testator's handwriting. By the first, dated January 3, 1844, he bequeaths to his son, Wyndham Smith, an annuity of 300*l.* on the conditions named in the will. By the second codicil, dated October 18, 1844, he appoints Nathaniel Hibert and Dr. Holland to be his trustees in the room of those appointed by his will, and leaves 10*l.* to Mary Chitty. The third codicil is in these words,—"I revoke that part of my will which relates to the property which is to be conveyed to Wyndham Smith by my trustees after my death, and that of his mother, and I direct that there shall be conveyed to him after that period the sum of 30,000*l.* of Three per Cent. Reduced Government Stock, as also the fortune he is to receive from me; and I leave to my wife my houses in Green-street and Charles-street, the Guildhall coffee-house, my New-York and French Stock, in addition to whatever I may have left her in the preceding will." "This codicil was signed by the testator in our presence, and by us in the presence of the testator and of each other.—December 14, 1844."

THE LATE EARL OF EFFINGHAM.—Probate of the will and codicil of the Right Hon. Kenneth Alexander Earl of Effingham, late of the Grange, in the county of York, was granted on the 16th instant to the executors, the Right Hon. Henry Earl of Effingham (late Lord Howard, the son of the testator), the Right Hon. the Earl of Rosebery, the Right Hon. Lord Dalmeny, and Mr. Hervey. The personal estate within the province of Canterbury sworn under 120,000*l.* His lordship died on the 13th of February last. Bequeaths to his wife, Lady Effingham, 1,000*l.* for her immediate use; also leaves her 1,200*l.* a year, 400*l.* a year by power of appointment under the will of the late Duke of Norfolk, and 800*l.* a year by a like power under the will of the former Earl of Effingham. Directs that the sum of 4,000*l.* which his lordship received with her on marriage, should be distributed by the trustees among his younger children equally. By the will he bequeaths to his three younger children 12,000*l.* each, and a legacy of 100*l.* each to be paid within one month. By the codicil he bequeaths to his daughter, Lady Baring, the sum of 4,000*l.*, and to his daughter, Lady Charlotte, an annuity of 150*l.*, and to his younger children a further legacy of 2,000*l.* to each. Directs that his plate, jewels, and books shall descend as heir looms. The residue of his estates, real and personal, he leaves to his son, the present Earl, and to his heirs and assigns. The will is dated July 28, 1837, and the codicil July 31, 1844; signed, "Effingham."

WILL OF SERJEANT TADDY.—Probate of the will and codicil of the late William Taddy, esq. of Old Palace-yard, Westminster, her Majesty's most ancient Serjeant-at-Law, and Attorney-General to her Majesty the Queen Dowager, was granted on the 15th instant, to the Rev. John Taddy, clerk, the brother, the sole executor. The personal effects were sworn under 35,000*l.* He died on the 14th of March last. The will was made on the 7th of September, 1839, though not dated, and the codicil on the 7th of March, a week before his death: both are very short, and in his own handwriting. He directs that 2,000*l.* shall be paid to his wife immediately after his decease, and leaves to her all the plate, jewellery, and furniture. Bequeaths to his brother Charles an annuity of 400*l.* and appoints his brother John his residuary legatee.

WILL OF THE LATE LORD CHURCHILL.—Probate of the will of the Right Hon. Francis Almeric Lord Churchill, late of Cornbury-park, Witney, in the county of Oxford, and of Upper Wimpole-street, Middlesex, who died at Brighton on the 7th of March last, was proved on the 26th of April, by his son, the Right Hon. Francis George Lord Churchill, the sole executor. The personal estate sworn under 12,000*l.* His lordship's will commences by reciting that his father, the late Duke of Marlborough, by his will, devised certain of his estates in Oxford, Wilts, and other places, to trustees, as a provision for his lordship's family, and charged the same with the payment of an annuity of 2,000*l.* for the life of Lady Churchill, and with a further sum of 30,000*l.* for younger children, and, subject to such charges, devised the estates to the eldest son. It is further recited, that the late Duke of Grafton, the father of Lady Churchill, by his will, left her ladyship a sum of 13,000*l.* as a provision for her children. His lordship names his 12 children, being eight sons and four daughters, and bequeaths to them, in addition to the above provisions, the following legacies:—To his second son, a sum of 1,500*l.*; to his third son, 1,400*l.*; to each of his younger sons, 1,000*l.*; and to each of his daughters, 2,600*l.*; and bequeaths to his wife, Francis Lady Churchill, 100*l.* for her immediate use. The jewellery left to his lordship under the residuary clause of the will of his mother, the late Duchess of Marlborough, he leaves to her ladyship for her life; then to his eldest son, now Lord Churchill; and appoints his lordship residuary legatee. Leaves to his godson, Francis T. Browne, a legacy of 500*l.*, and bequests to his servants. The will is of moderate length, dated December 20, 1844, signed 'Churchill;' witnessed by N. S. Greene, solicitor, Brighton, and his clerk.

PROCEEDINGS OF LAW SOCIETIES.

METROPOLITAN AND PROVINCIAL LEGAL ASSOCIATION.

Richard Frederick Thompson, of Chelsea New Town, near Leighton Buzzard, has been fined 5*l.* by the Commissioners of Stamp Duties, on the information of the Metropolitan and Provincial Legal Association, for having issued precepts from one of the superior courts of common law, he at the time not being a certificated attorney.

ATTORNEYS' CERTIFICATE DUTY.

Sir Thomas Wilde has undertaken to present the petition for a repeal of this duty procured by the Metropolitan and Provincial Legal Association, and has kindly tendered his assistance in support of the prayer of it, in which he entirely concurs. It is signed by 4,500 attorneys. At the same time he will present a similar petition from the attorneys and solicitors of Ireland, signed by about one thousand attorneys of Ireland.

We shall be able next week to announce the day on which it will be presented, and meanwhile we exhort our friends to obtain every 'vantage ground within their power in aid of the attack thus made on this unfair impost.

Other petitions to the same effect have been presented this session, but as they proceeded from some minute section of attorneys, and were signed but by units or tens, they have not been heeded. We expect that this united effort, the conjoint solicitation of 5,500 men, and those men attorneys of both kingdoms, will meet with a different fate.

The voice of 5,500 will surely roll audibly enough to strike the dull tympanum of the financial ear.

DENBIGHSHIRE AND FLINTSHIRE LAW ASSOCIATION.

At an adjourned special meeting of the Denbighshire and Flintshire Association, held at the Lion Inn, Mold, on Thursday, the 1st of May, 1845

It was unanimously resolved, that the attorneys who attend the Denbighshire and Flintshire Quarter Sessions do at the next and subsequent sessions, as an especial mark of respect to the magistrates, and for the purpose of adding greater formality and forensic dignity to the court, appear in gowns, which are of right their ancient costume whilst attending the courts; and that a copy of this resolution be forwarded to every member of the Association.

J. Vaughan Horne, Chairman.

CORRESPONDENCE.

MAGISTRATES' CLERKS BILL.

TO THE EDITOR OF THE LAW TIMES.

Wigton, April 21, 1845.

Sir,—I observe with regret in your last week's Law Times that the Magistrates' Clerks Bill has been withdrawn, for the purpose of making some alterations, most probably in the 12th section. I have consulted several of the Profession, and it is their opinion that the section is a very just one, and that clerks should not be engaged either for the prosecutor or prisoner in any prosecutions whatever, and they ought not to be concerned in any matter brought before the magistrates, where they act as clerk and legal advisers of the magistrates in petty sessions. I shall feel obliged if you will call the attention of the Profession and Law Societies to this clause, for the purpose of getting it retained.—I am, Sir, yours, &c.

W. Lazenby.

SELECTIONS FROM CORRESPONDENCE.

"A Practising Attorney" thus notices a recent case:—

A case appears in the Law Journal of this month to which I think the attention of the Profession should be directed, as it points out a grievance to which all attorneys, with one exception in each county, are subject. The case is that of *Cox* v. *Balne* (14 Law J. N.S. Q.B. 95), and I need do little more than quote those parts of the case stated, and the observations of counsel and judge, which shew that there is an evil without a remedy.

The case is an application on behalf of the sheriff for a rule under the Interpleader Act.

It was "opposed by the plaintiff's attorney, on an affidavit, stating that, at the time of the issuing of the *fi. fa.* the under-sheriff *was the agent of the petitioning creditor;* and that, after the writ had been delivered to him, and *before* the fiat had issued, he had *made a communication to the parties prosecuting the fiat,* which had the effect of accelerating the issuing of the fiat. It also stated that, when the writ was delivered to the under-sheriff on the 8th, he looked at the amount which was indorsed on it, and said that it would be no use executing it, as a docket would be struck immediately. That deponent then requested the under-sheriff to execute a bill of sale to the execution creditor, *which he refused to do;* that there was ample time for him to have executed a bill of sale, and that deponent verily believed that the issuing the fiat had been accelerated by the communication made by the under-sheriff."

Barstow, on behalf of the sheriff, moved upon an affidavit of the under-sheriff, denying collusion, and stating that, before the time of the issuing of the *fi. fa.* he had been concerned for the creditors of the defendant, but *not denying that he had made the alleged communication* to the parties prosecuting the fiat. The under-sheriff was perfectly justified in taking the course which he did since the stat. 6 & 7 Vict. c. 73, which has repealed the statutes of 1 Hen. 5, c. 4, and 22 Geo. 2, c. 46, prohibiting an under-sheriff from practising as an attorney while in office. As an attorney, then, he was bound (!!!) to make a communication which affected the interests of his clients, the general body of creditors." * * * * "At all events, under the present state of the law, his conduct was quite justifiable."

Williams, J. refused the rule, observing, "Undoubtedly an under-sheriff may now act as an attorney during the time that he is in office, still he has no right to act in such a manner as to delay or defeat a writ of *fi. fa.* which is intrusted to him to be executed." "He ought to have held his hand, and abstained from acting professionally for either party." "While the execution is pending, the under-sheriff's mouth ought to be closed, which has not been the case here." *Rule refused.*

The result of the case is, that the under-sheriff loses his protection under the Interpleader Act; but it does not appear how far the means he took to accelerate the fiat have deprived the execution creditor of the proceeds of the levy.

The judge clearly lays down the duty of an under-sheriff, but, with the best intention, can a practising attorney keep within such limits? An execution is put into his hands, and at the same time another creditor of the defendant consults him. The knowledge he has professionally obtained renders it impossible to advise him without referring to the facts in his own mind, and if he "holds his hand and abstains from acting professionally," his client must immediately conjecture the reason, and act through another attorney, as if the under-sheriff had told him in direct terms.

The office of an under-sheriff is now a most important office, comprising that of a judge as well as that of an executive officer, and is sufficient in itself for any party without joining the emoluments of the Profession. It is desirable that it should be permanent, as its duties require experience in a particular department of legal knowledge.

For what reason the wholesome statutes which prohibited an under-sheriff from practising as an attorney while in office is repealed I know not, but I think the case of *Cox* v. *Balne* will convince every member of the Profession that the prohibition should be renewed, and in so strict a manner that it may not be evaded.

A Country Attorney asks, how are disputes to be compromised before action?

I am engaged at present in a case similar to others which have often occurred to me previously, and which must be every day happening in professional practice, [illegible] to compromise a claim before action. [illegible] to be due to him from B. B said nothing was ever due. The matter has been compromised by letters between the parties, wherein A agrees to accept, and B to pay 25*l.* in full. The money is not paid; and probably the arrangement cannot be further enforced by either party. Indeed it seems that agreements to compromise can scarcely be made at all without an instrument under seal, unless after writ issued. And yet what difference in principle does the writ make? If in this case A should try to recover the 25*l.* on the agreement, it will be requisite he should aver and prove that he had a good demand in respect of at least one-half of the 50*l.* which he may not have had, the 25*l.* being offered and accepted, on the ground that it was uncertain whether A was entitled to the 50*l.* or to nothing.

It seems to me the late cases upon accord and satisfaction in pleading have carried this point to an inconvenient degree of stringency. What becomes of the thousand and one animadversions of the Bench upon parties not compromising their claims before litigation, if in law such compromises are invalid? How is the attorney to act in such cases; must he require releases under seal upon every amicable arrangement? (See *Longridge* v. *Dorville*, 5 B. & Ald. 117; *Allies* v. *Probyn*, 2 C. M. & R. 408; *Edwards* v. *Baugh*, 12 Law J. 426, Exch.; *Reeves* v. *Hearne*, 1 M. & W. 325.) There appears to be no remedy in equity to restrain either party from availing himself of the legal inefficacy of these compromises.

To Readers and Correspondents.

An Articled Clerk.—*There are lectures at the London University, at King's College, and at the Law Institution, but we do not know the subjects or the terms.*

Another Articled Clerk.—*We do not undertake to give opinions gratis.*

An Attorney.—*Of course, such a question cannot be answered.*

A Friend.—*There is an obvious motive for this sarcasm. The editor happens to be a professional rival of the learned gentleman. It is not worth notice.*

R. S.—*The publisher of the* Law Times *can procure any forms at the regular prices. What is the cost of the set inquired for he cannot ascertain.*

E. O. (Stockport).—*The letter is much too long for insertion at this busy time. When the business of the courts slackens it shall have a place.*

A great mass of correspondence is unavoidably postponed to make way for the flood of reports, to which precedence is always given as being of most immediate importance. The monster printing machine will be ready in about three weeks, and then we shall be enabled to meet occasional pressure of materials by frequent double numbers. Till then, we must pray the indulgence of our readers.

Subscriber.—*The publisher of the* Law Times *will pay the carriage of any parcel of forms the price of which exceeds 1l.; and books for binding and any other works wanted by the subscriber will be inclosed in the same parcel.*

NOTICE TO SUBSCRIBERS.

The Publisher begs to inform the Subscribers to the Law Times *that the subscription for the current half-year should be transmitted in the course of the ensuing week, by those who wish to avail themselves of the advantages of pre-payment.*

Members of the Verulam Society are requested at the same time to forward their subscriptions for the current year.

The pre-paid subscription for the current half-year of The Critic, *henceforth to be published weekly, will be 8s. 6d. only.*

The Indices to the fourth volume being now completed, the numbers for binding may be sent, through the post, in parcels open at the ends, with a mark by which they may be known, and of which the Publisher should be advised by letter, as also how, when bound, it is to be returned. If sent by parcel, advantage may be taken of the opportunity to inclose other books for the binder.

THE LAW TIMES.

SATURDAY, MAY 3, 1845.

TO READERS.

An accidental delay in the completion of the monster printing machine, now in course of erection for printing the Law Times, will prevent the adoption, for three weeks, of the multiplied pages to meet occasional pressure of material.

In the meanwhile we shall endeavour to bring up some of the heavy arrears by a Supplement next week.

THE ROGUE'S INDEMNITY ACT.

So Lord Brougham is *at last* convinced that his famous Bill was a great blunder.

Strange to say, the Law Times was the only journal in the United Kingdom that represented the wrongs inflicted upon creditors by that most cruel enactment.

But though it was our lot to fight the battle single-handed, it was done effectually. The speech of the noble and learned lord (*vide* report) betrays the process by which his conversion was brought about. That process was recommended by the Law Times.

Our advice was, that each case of wrong inflicted by the 20*l.* clause should be forthwith stated in a letter, and addressed to the noble lord, as the author of the wrong, through the medium of the penny post.

The advice was adopted by the Profession, and behold the result! Lord Brougham's breakfast-table was flooded with epistles, each one detailing some grievous injustice which his

lordship had been the means of inflicting. Such evidence was overwhelming and irresistible; so down comes the author of the iniquity to the House of Lords, declares that he can no longer endure the clamorous complainants, and impatiently demands the repeal of a law which threatens to stifle him with penny-post letters!

But the proposed manner of redressing the evil is as unstatesmanlike as was the production of the mischief.

The country asks not the repeal of the law, but the amendment of the law. There is no desire to restore imprisonment for debt; all that is required is an efficient remedy in lieu of it.

Nothing can be more simple and certain than the plan we have proposed, and which has received, we believe, the unanimous approval of the Legal Profession and of the mercantile classes.

We repeat it, that it may be urged again and again upon the attention of those who are about to apply some remedy to the existing grievance. It is contained in few words.

The creditor demands that the debtor shall pay his debt; or if he do not pay, that he shall shew why he does not pay; if he *can* pay, that he should be made to pay; if he *cannot* pay, that he should prove that his inability proceeds from no dishonesty, ere he shall be entitled to relief and protection; and if guilty of fraud, that he shall be punished for that fraud.

These are the obvious principles upon which any law of insolvency should be framed; and in accordance with these principles, we propose—

That upon the return by the sheriff of *nulla bona* to a *fi. fa.* the judgment creditor shall be empowered to summon the debtor before the nearest Commissioner of Bankrupts; that thenceforth he shall be in the custody of the Court, until he shall have proved his title to protection by disclosing all property in possession and reversion, and accounting for his non-payment. If guilty of fraud in the contracting of the debt without reasonable prospect of payment, or in the disposal of his effects, the debtor to be subjected to a limited term of imprisonment as a punishment for such *fraud*, and not by way of *imprisonment for debt*.

Such is the outline of a provision which would answer all the ends of justice, secure the creditor, relieve the honest debtor, and punish the dishonest as he deserves, without resorting again to imprisonment for debt, the total abolition of which might with such safeguards be adopted advantageously.

FLINTSHIRE QUARTER SESSIONS.

WE were, it seems, wrongly informed as to the decision of the Flintshire and Denbighshire Law Society in relation to the endeavour to establish a Bar at the sessions of the former county. It has been stated to us officially, and we hasten to correct the error into which we had been misled, that so far from their approving the projected innovation, the members present at the meeting were *unanimous* in their conclusion that the claim of exclusive audience preferred by the Bar could not and ought not to be sanctioned, and loud, and we must say, not uncalled for, complaints were made of the letter of Mr. DENTON to the Chairman of the Sessions, in which some needless and very unjust aspersions were cast upon the attorneys.

But the following letter addressed by the Secretary of the Society, on behalf of the Profession practising in those counties, to the Chairman of the Quarter Sessions, so well sets forth all the arguments by which the attorneys claim a continuance of the privilege they have there immemorially enjoyed, that we cannot do better than lay it before our readers:—

ATTORNEYS AT QUARTER SESSIONS.

TO THE EDITOR OF THE LAW TIMES.

SIR,—My attention has been directed to a leading article, headed as above, which appeared in the LAW TIMES of last Saturday, in relation to the claim made by certain barristers to exclusive audience at the late Flintshire Quarter Sessions (erroneously stated by you as the "Denbighshire" Sessions), wherein you state, "We have been informed that the subject [of such claim] was subsequently mooted at a meeting of the attorneys of the county, and that a majority of those present were decidedly in favour of the attendance of a Bar."

The meeting alluded to was that of the "Denbighshire and Flintshire Law Association," held at the Leeswood Arms Hotel, in Mold, on Saturday, the 19th inst. when I presided, and resolutions disapproving of the intrusion of a Bar at the Denbighshire and Flintshire Quarter Ses- were *unanimously* adopted, for the rea- given in the inclosed document addressed to the Honourable Lloyd Kenyon, the Chairman of the Flintshire Quarter Sessions, which has been signed by nearly every attorney in the two counties, and which you may oblige me by inserting at the foot of this letter. You may therefore judge of my astonishment at seeing the erroneous statement alluded to.

I have since ascertained, *on the very best authority*, that the false information was furnished to you by a barrister! and one word of comment from me upon so flagrant a breach of the truth would be superfluous. I leave him to be dealt with by you, whom he has so grossly misled, and by his brethren of the Bar, whose province and interest it is to maintain untarnished the honour of their branch of the Profession.

I am, Sir, your most obedient servant,
JAMES EYTON,
President of the Denbighshire and Flintshire Law Association.

Mold, April 30, 1845.

TO THE HONOURABLE LLOYD KENYON, CHAIRMAN OF THE FLINTSHIRE QUARTER SESSIONS.

SIR,—We have been furnished by Mr. Horne with an extract from your letter to Mr. Roberts, the clerk of the peace, requesting that the attorneys would furnish you in your official capacity with their reasons, in writing, against the barristers having exclusive audience in your court, and we beg respectfully to submit the following.

1st. That Mr. Serjeant Manning, the Recorder of Oxford, and Mr. Waddington, the Recorder of Lichfield, both counsel of considerable eminence and long standing, have judicially decided, and mentioned the name of the Lord Chief Justice of England as their authority for such decisions, that attorneys have a right to act as advocates at sessions, although a sufficient number of barristers are present (LAW TIMES, Jan. 1845, pages 303-4; and we hold a letter from the town clerk of Oxford confirming the fact of Mr. Serjeant Manning's decision), whilst the only decision in favour of barristers being allowed exclusive audience is that of Sir Gregory Lewin, the Recorder of Doncaster, which appears to have been founded upon his individual opinion only, without adducing any authority in support of such opinion.

2nd. That as attorneys have from the earliest times practised as advocates at the Flintshire Quarter Sessions with satisfaction to their clients and the public, we consider the attempt now made by the barristers to obtain exclusive audience as an unfair invasion of our rights.

3rd. That the attorneys who have heretofore practised as advocates at the Flintshire and Denbighshire Sessions have made the Poor and Criminal Law their peculiar study, and we consider that the amount of business will not support a Bar of experience and eminence. The local knowledge of attorneys and their intimate acquaintance with the language and habits of the people also give them advantages in advocacy that barristers cannot hope to attain.

4th. That the barristers who attended and claimed exclusive audience at the last Flintshire Sessions may, without invidiousness, be designated as of small standing at the bar, as not one of them to our knowledge has ever been engaged in a parish appeal, by far the most important and intricate branch of sessions practice, or ever drawn or settled the grounds of an appeal, which latter demand more practical than theoretical knowledge of the Law of Settlement; and it is not known that any one of them has ever led in a prosecution, or been intrusted with the defence of a prisoner. We therefore respectfully submit that our clients ought not to suffer whilst these gentlemen are being initiated and trained in the business of advocacy.

5th. That the attorneys are responsible to their clients for the conduct and management of their cases, and should the barristers have exclusive audience, the suitors will be burdened with the heavy additional expense of bringing over from distant counties, by special retainers, such barristers of tried and known ability as the attorneys and their clients can confide in.

6th. That the promised saving of expense to the county purse from decreased litigation, held out by Mr. Denton as a bait for the admission of barristers to exclusive audience, is, we humbly submit, unfounded and illusory. To justify a charge so grave, so unfounded, and so offensive to the attorneys as a body, we Mr. Denton should have adduced incontrovertible facts, and not contented himself with mere declamatory assertions.

7th. That the practice of advocacy tends to elevate the standard of intelligence, professional fitness, and respectability among the attorneys, which we respectfully submit it is the peculiar interest and duty of the magistracy by all means to promote, not only as their best safeguard and bulwark in the exercise of their difficult and onerous public functions, but as tending to the general welfare of society.

We have the honour to remain, Sir, your most obedient servants,

(Signed) JAMES EYTON,
President of the Denbighshire and Flintshire Law Association;
J. LEWIS, Secretary;

and by thirty-five other attorneys.

To this we have only to add, on our own parts, that in the remarks we have made upon the question at issue, we did not contemplate an exclusive audience for a Bar, or the exclusion of the attorneys from any privilege they had previously enjoyed. The utmost the new comers can ask is that which Lord DENMAN has sanctioned, and which is we think all that they can claim, *pre*-audience. It will then be at the option of the attorneys of the county whether they will have them or not. Certainly to compel their employment to the exclusion of those whose lives have been devoted to practice in these courts, would be an arbitrary interference which is not likely to be sanctioned by magistrates or judges, and which the Bar would do wisely not to attempt.

Since the above was written, we have received the resolution of the Quarter Sessions; it is as follows:—

At the General Quarter Sessions of the Peace, held by adjournment at the County Hall, in Mold, in and for the county of Flint, on Thursday, the 1st day of May, 1845: present,

The Hon. Lloyd Kenyon, Chairman.	Thomas Mather, esq.
The Right Hon. Lord Mostyn.	Edw. Pemberton, esq.
The Hon. E. M. L. Mostyn.	C. J. W. D. Dundas, esq.
The Hon. T. P. Lloyd.	Edw. Lloyd, esq.
Wilson Jones, esq.	H. Lleigh Thomas, esq.
F. C. Philips, esq.	J. Prys Eyton, esq.
R. J. Mostyn, esq.	Peter Parry, esq.
Ll. F. Lloyd, esq.	H. M. A. Jones, esq.
	The Rev. Thomas Pennant.
	W. T. Ellis, esq.

The question of the application of the five members of the Bar for audience at Quarter Sessions, to the exclusion of the Attorneys, who have been heretofore accustomed to practise as advocates in this court, having been discussed, the magistrates declined to grant such application.

THE PRESS AND THE BAR.

THE letter of a correspondent, published last week, directed our attention to a proceeding on the part of one of the daily papers, the particulars of which are detailed in the number, just issued, of the *Law Magazine*, from whose pages we extract a narrative of one of the most tyrannous attempts to wield the power of the press against an individual which has ever been exhibited in this country, where that power has hitherto been exercised with a most commendable regard for justice.

The propriety of permitting barristers on circuit to perform the office of reporters for the newspapers has been greatly discussed during the last quarter. One circuit, the Oxford, has passed a resolution prohibiting all barristers on it from reporting for any newspapers: others contemplate doing so. The circumstances which gave rise to this resolution on the Oxford Circuit are of sufficient importance to interest, as they unquestionably affect, the Profession at large; nor will this case recommend itself less to the attention of the Profession because it discloses a personal grievance. Our readers will learn with surprise that Mr. Serjeant Talfourd has become the object of a system of cowardly malignity of which it is almost as difficult to discover the cause as to appreciate the baseness. They who are aware of the tenure by which a professional position is ever held at the bar,—how contingent is its permanence on the various and secret influences on opinion not always well informed or wisely guided, will well understand the effect alike on the prosperity and fame of an advocate, liable to be produced by the suppression of the usual modes of publicity to his progress and successes. It is, perhaps, to be lamented that honour and reputation are dependent on appliances which have no relation to merit; but so it is; and it is just as impossible to deny taht notoriety is a road to forensic fortune, as to doubt that it is an essential element to fame. The injury done to Serjeant Talfourd is the utter exclusion of his name from the reports of the leading journal

of this country, in which publicity is always first sought, and from which exclusion is the most significant and injurious. Not only does the *Times* never report Serjeant Talfourd's name in any cause in which he is engaged, but his name is struck out of the reports sent to the office by the gentlemen who report for it. The last time [illegible] name appeared in the *Times* was in a special jury cause tried at Stafford, which Serjeant Talfourd and Mr. Whitmore are reported in the *Times* of the 21st of March to have appeared for the plaintiff, and Mr. Alexander, Q.C. Mr. Lee, and Mr. Symons, for the defendant. Just previously a discussion took place at the Bar mess on the propriety of the resolution we have already named. Serjeant Talfourd, however, himself moved the previous question, which was carried; and spoke against the exclusion. It is therefore impossible that by his conduct on that occasion he could have given umbrage to any one connected with the *Times* newspaper. In the three causes tried at Shrewsbury (the next town on the Oxford circuit) which the *Times* alone reported, Serjeant Talfourd led. In that of *Jobson* v. *Loxdale*, in the *Times* of the 26th March, the names of the counsel for the plaintiff (Talfourd and F. V. Lee) were omitted, and those for the defendant inserted; so that the report records alone that Mr. Whateley, Q. C. and Mr. Godson, Q. C. appeared for the defendant. In the case of *France* v. *Dawson*, in which the names of the counsel for the plaintiff (Mr. Godson, Q. C. and Mr. Keating) are inserted, Mr. Whateley, Q. C. is stated to have appeared for the defendant, omitting the name of Serjeant Talfourd, *who led* for the defendant. The judge paid a compliment to the "speech of the counsel for the defendant," which was thus made to apply to Mr. Whateley, though actually addressed to Serjeant Talfourd! A third falsification occurs in the *Times* of March 27, in the report of *Stokes* v. *Boycott*, in which Mr. Lee, Mr. Keating, and Mr. Whitmore were counsel for the plaintiff, and Serjeant Talfourd, Mr. Alexander, Q.C. and Mr. Yardley, for the defendant. The *Times*, however, omitted the names of Serjeant Talfourd and Mr. Yardley. Serjeant Talfourd, who happened to be in every cause at Shrewsbury, is reported in none. At Gloucester, where he was retained in a majority of the thirty-two causes in the list, his name is studiously excluded. In one case the words "the learned serjeant" have been left in the body of the report, thus plainly proving the mutilation.

Mr. W. H. Cooke, being the avowed reporter of the *Times*, was called upon for an explanation by the circuit of this conduct; his reply was, that he had fairly and properly reported Serjeant Talfourd's name, and that the erasure of it must have occurred at the *Times* office. At Gloucester, where the matter was finally discussed, Mr. Cooke read to the circuit a letter addressed by him to the person at the *Times* office, to whom his reports were also directed; in this letter he complained of the omission, and sought the means of vindicating his own conduct from the imputation cast upon him. He also read a reply to it from the *Times* office, couched in terms of coarse and vulgar insolence, containing a refusal to give any explanation for the satisfaction of the circuit, or to gratify the "vanity" of any of its members! The circuit then passed the resolution already named, and appended to it a vote, of which the object was to express the satisfaction of the circuit with Mr. Cooke's conduct in the whole affair.

The attack did not end with the assizes. Though Serjeant Talfourd has appeared in several causes and arguments during this Term, his name has been rigorously excluded from the reports in the *Times*. We must name a recent and signal instance; that of *Reg.* v. *Gregory*, reported in the *Times* of April 24th, in which Mr. Serjeant Talfourd appeared for the Crown. We happen to know that the learned gentleman, who reports both ably and fairly for the *Times* in the Queen's Bench, sent Serjeant Talfourd's name in his report to the office of the paper; *it was struck out*, and the case appears without any counsel's name, although in the next case (*Ex parte Kinney*) the counsel's name engaged are allowed to appear. There are other instances equally flagrant; and Mr. F. V. Lee appears to share in the same exclusion.

"An injury to an individual is ever interesting to society;" but much is that interest strengthened when it relates to one whose urbanity and genius, whose qualities of head and heart have wrought a double victory, disarming envy whilst achieving eminence,—one who has raised the eloquence of the Bar and enriched the literature of England,—but whose worthiest trophy is the cordial esteem his virtues have commanded, in the very arena of his conquests, from the rivals of his success: a man of the most lively and generous sympathies, gifted by nature with all the highest attributes of popularity,—

> From the charmed council to the festive board,
> Of human feelings the unbounded lord.

We believe that of all those engaged in the conflict of passions and interests which beset the Bar, none have risen more honourably exempt from the malice of jealousy, or the qualities which provoke dislike.

The injury attempted to be thus inflicted on such a man and by such means, from whatever quarter it spring, is a pitiful, wanton, dastardly outrage; and is so characterized not only by all persons acquainted with the fact, but nowhere more cordially than in Westminster Hall. We never remember a more unanimous feeling of disgust. Of the *Times* newspaper, as a journal, of its leading proprietor, and of those who control its political conduct, we speak not; for it is utterly impossible that any men of ordinary sagacity could have recourse to a system of attack so certain to entail contempt on its perpetrators. The nature of the injury sufficiently points to the grade of persons from whom it springs. Mr. Walter, as a man of sense and a gentleman, who has a character and a status in society to maintain, must either be unaware of the scandal cast on the journal, or he is less connected with it than the world imagines.

One word as to the conduct of the Bar: the Oxford circuit has, we think, done rightly. If its members are liable, through the arrangements of newspapers, and the class of persons into whose hands reports fall, to be thus subjected to imputation or suspicion of base conduct, then the office of reporter is incompatible with the dignity of their position alike as barristers and gentlemen. There are other reasons why it is inconvenient, if not incorrect, that barristers should on circuit report for any newspaper, though honourably conducted, as we believe the *Chronicle*, *Herald*, and *Post* always are in respect to these reports. What is it that these barristers are required to report? *Not* law points, like those alone reported in the standard Reports, and in the *Law Journal*, *Jurist*, *Justice of the Peace*, *Law Times*, &c. but facts only: facts consisting mostly of the raciest food for the least refined tastes—details of murders, robberies, and the pungencies of the criminal courts. This is not proper occupation for a barrister; neither is it the province of first-class reporters on a morning newspaper—a body of gentlemen no less distinguished for the great men who have sprung from them, than for the abilities and fairness which have of late years so signally enhanced the importance and rank of their functions. Reporting for newspapers on circuit much more nearly partakes of the office of the penny-a-line dreadful accident and horrid murder mongers, than that of parliamentary reporters. The Bar is more in need of moral elevation than of further license: its tone requires that we restrict its downward tendencies, and remove, rather than sanction, resources tending to laxity and liable to discredit.

In this language of indignant rebuke we entirely concur. Whatever be the motive that has influenced the conductors of "the leading journal" to this shabby, pitiful, and cowardly abuse, for the gratification of some petty personal spite against an individual, of the power which the confidence of the public has reposed in them, in full reliance upon its generous and truthful exercise, we trust that so glaring an offence against all rules of justice and fair dealing will not be permitted to pass without an emphatic protest from the other journals against the introduction of a practice whose tendency must be to degrade the character of the press, and to overthrow its influence with the public, by destroying all confidence in its veracity. Hitherto it has been the boast of our journals that no party or personal feelings were permitted to colour their reports. Facts were fairly and truly stated, without reference to their bearing upon the men concerned in them. But this wise and prudent policy is, it seems, so utterly abandoned by the foremost of our journals, in a spiteful endeavour to injure a gentleman in many ways an honour to his country and an ornament to his profession, that it condescends to the exceeding shabbiness of garbling and falsifying its reports to avoid the mention of his name.

That such an attempt must utterly fail to accomplish its malicious design, that it will re-act upon those who have resorted to it, in no manner diminishes its iniquity, or renders an emphatic condemnation of it by all other journals who value the character of the press, a duty which they should promptly and unequivocally perform.

The Profession, whose independence and integrity are thus indirectly assailed, will deem it an insult offered to all its members. The *Times* is famous for a keen sense of its own interest. If its managers could hear, as we do, with what feelings their dirty doings in this matter are received by the Profession to whose support it is so largely indebted, they would yield to expediency what they deny to justice. Though the spirit of the gentleman does not appear to influence them, the spirit of the trades-[illegible] tell them that such a proceeding as we have here described and denounced will be as *unprofitable* as it is *dishonourable*.

The professional question mooted by our contemporary must be reserved for future consideration. It is a very grave one.

VERULAM FORMS.

It has been found necessary, in order to prevent confusion in orders, to adopt a different system in numbering the forms. In future each form will have a distinct number, without regard to classification, although in the lists and advertisements they will be classified, with their numbers appended, and by those numbers they should be carefully indicated in the order. The list in the advertisement of to-day presents the numbers by which they are now and will in future be known.

The following are in preparation:—

- Notice of Declaration in Ejectment.
- Cognovit.
- Warrant of Distress for recovery of Tithe Rent-charge.
- Notice of Claim (Counties)
- Ditto (Boroughs)
- Notice of Objection, ditto.
- Common Covenants in Conveyances.

We shall be obliged by suggestions of useful forms by experienced practitioners.

The Conditions of Sale were exhausted in three days: hence the disappointment of so many applicants. A fresh supply is now procured, and it is hoped that, in future, abundance of them will be kept on hand. The number was purposely curtailed at first, lest any improvements should be suggested by the Profession. But we are glad to find that they are everywhere much approved. They were indeed prepared by a very able hand and with extreme care. There will be no difficulty in adapting them to almost every variety of circumstances.

It should be added, that the publisher has agreed to pay the carriage of the parcel wherever the order for forms exceeds 1*l*. This will remove the only obstacle to their general use.

VERULAM SOCIETY.

The sixth number of *Practice Cases* is issued. The eleventh number of *Real Property and Conveyancing Cases* will be ready on Wednesday. The fifth number of *Criminal Law Cases*, the twelfth *of Real Property*, and the seventh of *Practice Cases* are in the press.

The following new members have been added since our last report:—

- Whittaker, G. W., Bampton, Oxon.
- Weston, M. C., Dorchester.
- Scriven and Young, Hastings.
- Wakefield, John Charles, 1, South-square, Gray's-inn.
- Wake, G. A., Southampton.
- Fardell, Rev. H., Vicarage, Wisbeach.
- Dransfield, John, Penistone, Barnsley.
- Bretherton, Edward, Liverpool.
- Coombs and Son, Dorchester.
- Castleman, Edward, Wimborne.
- Finlason, W., 5, Essex-court, Temple.
- Windeyer, E., 6, Old-square, Lincoln's-inn.
- Rawstone and Wilson, Preston.

THE CRITIC.

New Books.

A Practical Treatise on the Laws relating to the Church and the Clergy. By Henry William Cripps, M.A. of Lincoln's-Inn and the Middle Temple, Barrister-at-Law, and Fellow of New College, Oxford. London, 1845. Sweet.

Mr. Cripps proposed to himself a twofold object in the authorship of this portly volume: that it should be at once "of easy reference to the lawyer and of practical utility to the Churchman." This has unavoidably increased its bulk, for it is impossible to make legal topics intelligible to the non-legal world without circumlocutory explanations both of technical terms, whose employment is often unavoidable, and of the subject-matter, which must continually be but imperfectly comprehended by those whose studies have not been turned to jurisprudence.

Mr. Cripps has been more successful in his somewhat perilous design than we could have anticipated from its first aspect. It usually happens that endeavours to make a book at once popular and professional fail in effecting either purpose, inasmuch as the very modifications calculated to please the one party are pretty sure to be distasteful to the other. The lawyer would be like to deem

ly of a book which avoids legal language, to more intelligible than any periphrasis; and the layman would close with disappointment a volume that discoursed to him after a professional fashion, which to his ears conveys little more meaning than so much Hindoostanee. Nor can we say that Mr. CRIPPS has altogether escaped this dilemma. But in judging the results of his toil, it must be remembered that no other course was open to him, and that the evil was unavoidable. The lawyers interested in clerical law are not numerous enough of themselves to reward the toil and cost of getting up so heavy a publication; it was practicable only with the combined patronage of both Professions, and therefore each must be content to excuse concessions made to the other, for the sake of the possession of a work which has long been wanting to both.

The subject of this huge volume of 790 pages is divided into eight books, some of which are again subdivided into chapters. As the most useful form in which we can make known to our readers the progress of professional authorship is by a summary of the form into which the author has thrown his treatise, we will describe the order of the contents of Mr. CRIPPS's essay.

The *First* Book treats of persons ecclesiastical. This is subdivided into chapters, which discourse successively of the Church of England; the church establishment, and the Queen's supremacy; of ordination; the convocation; the government and discipline of the ecclesiastical body; the ecclesiastical commission; the powers, privileges, and restrictions of ecclesiastical persons generally; the rights, privileges, and duties of ecclesiastical persons separately, from the archbishop to the curate; and, lastly, of ecclesiastical officers, servants, &c.

The *Second* Book treats of the property of *persons* ecclesiastical, and of the provisions recognized by law for their support. It comprises four chapters, relating successively to the lands of ecclesiastical corporations, tithes and tithe rent-charge, offerings and obventions, first-fruits and tenths, and their application.

The *Third* Book is devoted to *things* ecclesiastical; and its five chapters treat of ecclesiastical parishes and districts; churches, seats, and pews; the goods, utensils, and ornaments of churches and churchyards.

The *Fourth* Book is solely occupied with the important subject of church-rates; and the *Fifth* with that of benefices, dealing in three chapters with "things essential to the obtaining complete possession of a benefice;" such as advowsons, presentations, induction, lapse, &c.; then of "things incident to the possession of a benefice;" as residence, pluralities, &c.; and then of "the manner in which a benefice or the profits thereof may be lost;" as sequestration, resignation, and so forth.

The *Sixth* Book sets forth "the duties of a clergyman in discharge of his holy office," classified under the following heads: public worship, baptism, marriage, burial, administration of the Lord's Supper.

The *Seventh* Book describes the duties of a clergyman in his intercourse with his parishioners; wherein the author in three chapters sets forth the law of parish vestries; the duties of the clergyman in respect of the union workhouses, and treats of dissenters from the Established Church, and of the laws affecting them.

The *Eighth* and last book is devoted to the subject of "offences against religion."

It will be apparent from this outline of the author's scheme, that his treatise is very comprehensive, and comprises all that might fairly come within the title of his book. Such a work affords abundant material for instructive and interesting extract; but at this season, with so many yet more urgent claims upon our space, we must, though with reluctance, resist the temptation, and commit Mr. CRIPPS's *Laws of the Church and Clergy* to those of the Profession to whom any of the various topics above named may be wanting, assuring them that they are treated with research and acumen, and rendered readily accessible by a copious index.

NOTE.—We give place to the above review of an able work, in justice to the author, by whom, and *not* by the publisher, the volume was transmitted; and we take this opportunity of answering to the readers of the LAW TIMES a question which has been frequently put to us, namely, why it is that the publications of Mr. SWEET are not noticed in its columns, in common with those of other booksellers. We can assure them that it proceeds from no wrong feeling on the part of the conductors of the LAW TIMES. Books are here noticed with strict impartiality, careless of the name of publisher or author. Mr. SWEET's publications alone have not been named here because, for some motives best known to himself, he chooses not to reciprocate the kindliness with which the JURIST, which is his property, has ever been treated by the LAW TIMES.

It is scarcely necessary to repeat our assurance that the uncourteousness of the publisher will never tempt us to treat his books and authors with neglect or unfairness. If he does not choose to avail himself of the medium of a Journal which circulates more extensively among the Profession than all the other legal periodicals put together, his is the loss, and his rivals reap the gain. But we *are* anxious that it should not be supposed that we are actuated by any such unworthy jealousies, and that the non-appearance of notices of Mr. SWEET's publications is wholly the result of his own choice, and proceeds from no ill-will on the part of the LAW TIMES.

This explanation will, we trust, be deemed satisfactory by those who have asked it.

BIRTHS, MARRIAGES, AND DEATHS.

[The charge for the insertion of the above is 5s.]

BIRTHS.

FRESHFIELD.—On the 28th ult. at Devonshire-street, Portland-place, the lady of Henry R. Freshfield, esq. of a son.

NEVE.—On the 27th ult. the wife of Mr. W. T. Neve, of Cranbrook, Kent, solicitor, of a daughter.

SIMON.—On the 27th ult. at No. 11, Wells-street, Guildford-street, the lady of Henry A. Simon, esq. barrister-at-law, of a daughter.

MARRIAGES.

BURRIDGE, William, esq. of Wellington, Somerset, to Annabella, youngest daughter of the late Robert Gardiner, esq. of Wellisford-house, Somerset, on the 23rd inst. at Langford Budville.

GAY, William, esq. of Wisbeach, solicitor, second son of John Johnson Gay, esq. of Alborough-hall, Norfolk, to Rebecca, only child of the late Henry Rogby, esq. of Tyd St. Mary's, in the county of Lincoln, on Wednesday, April 30, at St. Peter's, Wisbeach.

WALLIS, William George D. esq. of St. Mary-axe, to Esther, youngest daughter of the late Thomas Woolley, esq. solicitor, Stroud, Gloucestershire, on the 26th ult. at St. James's, Paddington.

DEATHS.

ABBOTT, John Henry, the eldest son of Thomas Abbott, of Bexley-heath, in the county of Kent, solicitor, by drowning off the island of Ichaboe, by the upsetting of a boat, on the 26th of January last.

GILBERT, Mary Ann, widow of the late Davies Gilbert, esq. at Eastbourne, on the 26th ult. aged 69.

PEPLOE, Samuel, esq. of Garnston, in the county of Hereford, at the Clarendon Hotel, Leamington, on the 24th ult. aged 72.

STAMFORD and WARRINGTON, the Earl of, at his seat, Enville-hall, Staffordshire, on Saturday, the 26th ult. aged 80.

JOURNAL OF PROPERTY.

ON OPENING BIDDINGS.

THE case of *Gravenor* v. *Miles*, reported in this number of the LAW TIMES, induces us to offer some remarks upon the law applicable to opening biddings in general.

The chief aim, as Sir E. Sugden expresses it, of courts of equity in sales made under its direction is to obtain as great a price for the estate as can possibly be got; and accordingly the Court is in the habit of opening the biddings after the estate is sold. This, however, must be done upon the motion of some person who is willing to make an advance upon the price at which the estate has been sold. There appears to be no fixed rule as to the amount of advance at which the Court will open the biddings, it having varied from ten to five per cent. and even less than that amount, where the report of the first purchase has not been absolutely confirmed.

Where, however, the report of the purchase has been absolutely confirmed, the Court will not open the biddings "unless some particular principle arises out of the purchaser's character, as connected with the ownership of the estate, or some trust or confidence, or his own conduct in obtaining his report." This was Lord Eldon's judgment in the case of *Morice* v. *The Bishop of Durham* (11 Ves. 57), and it has since been followed in many cases, so that now it is necessary, after the report of the purchase has been confirmed, to shew some fraud or improper conduct, as well as a willingness to advance the price, in order to induce the Court to open the biddings.

The advance which is to be made upon the biddings is to be deposited to the credit of the cause by the person who moves to open them, and the costs of the previous purchaser are to be paid by the same person. The biddings are considered as opened for the benefit of the suitor, and not of the person who proposes to make an advance, and therefore no case of hardship upon the person proposing to be a purchaser in the former sale, will induce the Court to open the biddings, unless there are other circumstances which render it beneficial for the parties in the cause that the applicant's motion should be granted.

When a person is desirous of opening the sale as to some lots, he must submit to take the other lots at the price paid for them, if the first purchasers desire it.

The biddings having been opened, and the person at whose application they were opened having been outbid, he will be entitled to have his deposit returned, with interest at four per cent. and his expenses, where it appears that the opening has been *bonâ fide*, and the estate has been benefited by the proceeding. This appears to be perfectly fair and reasonable, and we call particular attention to it, because the case of *Filder* v. *Bellingham*, upon which the later case of *Gravenor* v. *Miles* was founded, is, we believe, the first case which has gone so far as to allow interest and the *costs* of the party who opened the biddings to be paid to him. The terms, too, in which the solicitor's letter in *Gravenor* v. *Miles* is worded, though not consenting to the costs being paid to the party himself, but assenting only to their being costs in the cause, were construed by the Court to be an assent to the party's having his costs, although, from his not being a party to the cause, the strict terms of the letter could not be complied with. None of the parties to the cause appearing upon the action, it was considered by the Court to be reasonably concluded from that letter that the party was to be allowed to take his costs, though not in the way the solicitors were willing to allow them.

There appears to be much equity and good sense in such an allowance, as otherwise persons would be deterred from opening biddings, lest upon their being outbid, beneficial as such outbidding might be to the estate, they should lose the interest on their deposit, as well as incur considerable expense in the attempt which has proved a benefit to the suitors in the case. It is not to be expected that parties should enter into a speculation of this kind without having such a security afforded to them, and we trust that the decision in this case will have a beneficial effect in inducing parties who are willing to act *bonâ fide*, to open biddings, where they are assured of obtaining their deposit, interest, and expenses, in case the estate should be so benefited by their proceeding as to have their advance outbid.

A.

VALUE OF RAILWAY PROPERTY.—From a recent return of the annual value of railway property, made to the Income-tax Commissioners to April, 1843, for each county in England and Wales, it appears that Middlesex, the smallest county but one in England, is richest in railways, having an annual income of 960,443*l*. Lancashire comes next, with a clear annual value of 593,515*l*. Surrey is next, with 191,018*l*.; then Durham, with 171,089*l*.; Derbyshire, with 104,204*l*.; and Yorkshire, with 95,510*l*. There are still twenty counties in England and five in Wales altogether without the benefit of railways.

We understand the beautiful estate of Blair, in the parish of Carnock, near Dunfermline, was on Wednesday sold by public auction, within Messrs. Stevenson's sale-rooms, George-street, at 12,000*l*., to Mr. Allison, proprietor of the estate of Oakley, in the same parish.—*Edinburgh Evening Post.*

SALE OF THE HANOVER-SQUARE ROOMS.—On Thursday a sale took place, at the Auction Mart, of the Queen's Concert Rooms, celebrated as the Hanover-square Rooms, on which occasion many of the *élite* of the musical and theatrical world were present. These premises were built, about sixty years ago, by Sir T. Gallini, who bequeathed them to his daughter, the late Miss Gallini, by the direction of whose devisees in trust they were disposed of. At these rooms the Queen's Ancient Concerts, the Philharmonic, and other celebrated music meetings, have been held. When the Duke of Cumberland rented the rooms, at which time he was one of the active members of the Ancient Concerts, they were let for 1,100*l*. per annum. The clear rent of the rooms, which comprise the great concert-room (in which her Majesty's box forms the centre of the east end of the hall), capable of containing an audience of about 800 persons, and a supper-room, in which 400 persons can be accommodated, &c. is now 600*l*. per annum. The first offer

for the property was 6,000*l.*; the second, 8,000*l.*; and it was knocked down, after great competition, for 12,250*l.*

The following scale of charges, *reduced more than one-third*, has been adopted for Advertisements of Estates for Sale, &c., exceeding 10 lines in length:

For the first 70 words . . . . . 5s.

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THE MONEY MARKET.

	Sat.	Mon.	Tues.	Wed.	Thurs.	Frid.
Three per Cents. Consols	98¾	98½	98⅞	98½	98⅞	98⅞
Three per Cents. Reduced	97⅞	97½	98	97⅞	97⅛	97½
New Three-&-a-quarter per Cts	100	100⅜	100½	101	101	100⅜
Long Annuities..............	11⅛	11⅛	11⅛	11⅛	11¼	11¼
Bank Stock	209½	209½	209⅛	209½	209¼	209⅛
India Stock	277	277½	277½	277½	277¼	277½
India Bonds, prem...........	73	75	73	74	74	74
Exchequer Bills, prem.	61	60	61	61	61	61
FOREIGN.						
Spanish Five per Cents.......	30½	31	30¾	30⅛	30⅛	30⅛
Spanish Three per Cents.	41¼	40⅞	40⅝	40¾	40¾	40⅞
Russian	117⅞	117½	117⅝	117¾	117	117⅞
Peruvian.....................	32	31⅞	31½	31½	32	32½
Portuguese	66½	66½	66	66	66¼	66½
Mexican......................	37½	37½	37½	37⅛	37½	37¼
——— Deferred	18½	18⅞	18¼	18½	18⅞	18½
Dutch Two-and-a-Half per Cents........................	63¼	63⅞	63½	61¼	63½	63½
——— Four per Cents.	97¼	97½	97⅞	97½	97¼	97½
Danish	90	89½	89	89	90	90
Colombian	15¼	15½	15¼	15½	15½	15⅝
Chilian	101	101	101	101	100⅞	101
Buenos Ayres	45	45½	45	45¼	45⅛	45½
Brazilian....................	88	88	89	89	89	89½
Belgian	101½	101¼	101⅛	101½	101½	101½

THE GAZETTES.

AMOUNT OF DIVIDENDS.

The sum stated as the Dividend, means so much declared in the Pound. The Assignees, when chosen, follow this statement.

Tuesday, April 22.

Bellenger, H. F. victualler, div. next week. Belcher, London.—*Bundy*, H. builder, div. next week. Johnson, London.—Debney, W. victualler, last exam. *sine die*.—*Green*, A. apothecary, last exam. passed.—*Knott*, A. miller, last exam. passed.—*Muller*, F. J. H. furrier, div. next week Groom, London.—*Pearce*, T. tripeman, div. next week Groom, London.—*Spencer*, W. brewer, last exam. passed. —*West*, F. bootmaker, last exam. June 6.

Wednesday, April 23.

Cornish, T. wine merchant, fin. div. next week. Johnson, London.—*Ground*, P. tallow chandler, outlawed.—*Holdforth*, D. grocer, last exam. May 21.—*Rule* and *Rule*, ship-owners, divs. next week.

Thursday, April 24.

Sherwood, T. brickmaker, fur. div. next week. Pen. London.

Friday, April 25.

Bohn, J. bookseller, fur. div. next week. Groom, London. —*Cogger*, H. D. warehouseman, assignees May 21.—*Cole*, F. L. wine merchant, last exam. June 16.—*Green*, J. wine merchant, outlawed.—*Howard*, T. N. D. glover, last exam. Jan. 9, 1846.—*Jones*, W. commission agent, assignees May 2. —*Mills*, W. H. wine merchant, last exam. passed.—*Painter*, M. E. grocer, last exam. passed. — *Sprague*, J. W. grocer, assignees May 29.—*Stacy* and *Stacy*, warehousemen, div. next week. Edwards, London.—*Wagner*, G. draper, last exam. May 16.

DIVIDENDS.

Bankrupts' Estates.

Official Assignees are given, to whom apply for the Dividends.

Atkinson, M. banker, third and final, 7*d.* and 24-100ths of 1*d.* Baker, Newcastle. — *Batson* and *Co.* bankers, fourth, 6*d.* Baker, Newcastle.—*Christophers*, J. S. merchant, first, 2*s.* 6*d.* Belcher, London.—*Daniell*, T. copper smelter, further, 1*s.* 6*d.* Hernaman, Exeter. - *Davies*, J. P. surgeon, first, 20*s.* Groom, London.—*Hall*, T. B. grocer, first, 2*s.* 9*d.* Graham, London.—*Hardie*, H. merchant, final, 7½*d.* Pott, Manchester.—*Heron* and *Co.* cotton spinners, final, 0½*d.* Pott, Manchester. - *Norbury*, J. innkeeper, final, 11½*d.* Stanway, Manchester.—*Peach*, S. grocer, first and final, 1*s.* 9*d.* Chris. Birmingham.—*Sedman*, J. colour merchant, first, 4*s.* Groom, London.—*Slater*, T. pawnbroker, first, 18*s.* Stanway, Manchester.—*Tabberner* and *Co.* corn factors, first joint, 7*s.* sep. J. L. T. 4*d.* Whitmore, Birmingham.—*Walker*, T. second and final, 2*s.* 2½*d.* and first and final, 14*s.* 2½*d.* to new proofs. Fearne, Leeds.—*Watkins* and *Co.* lead merchants, first, 2*s.* 2*d.* sep. Innes, 2*s.* 11½*d.* W. 5*s.* 4*d.* Stanway, Manchester.—*Watson*, J. grocer, first, 7*s.* Wakley, Newcastle.— *Williams*, L. woollen draper, first, 5*s.* 6*d.* Groom, London.

ASSIGNMENTS

To Trustees for the benefit of Creditors.

Gazette, April 25.

Best, J. linen draper, South Shields, April 8. Trusts. C. Swallow, merchant, Manchester, H. Groucock, lace manufacturer, Bow Church-yard, and J. Clay, bank agent, South Shields. Sol. Wilson, Manchester.—*Hamilton*, W. B. butcher, Ickham, April 23. Trusts. J. Bing and C. Collard, farmers, Wickhambreux. Sol. Walker, Canterbury.—*Haland*, W. innkeeper, Maidenhead April 23. Trust. W. B. Cooper, gent. Old Windsor. Sol. Barton, New Windsor. —*Wadsworth*, J. jun. cabinet maker, Daventry, April 22. Trust. T. Sanders, gent. Daventry. Sols. Wardle and Wilson, Daventry.

Gazette, April 29.

Hopping, G. F. and *Bennett*, J. B. wholesale ironmongers, Plymouth, March 8. Trusts. S. Tonks, brass founder, Birmingham, and J. Gibbons, general factor, Wolverhampton. Sol. Rowse, Plymouth.—*Senior*, T. cabinet maker, Northwich, April 5. Trusts. C. Reynolds, surgeon, and J. Fowls, timber merchant, Witton. Sols. Barker and Cheshire, Northwich.

Bankrupts.

DATE OF FIAT AND PETITIONING CREDITORS' NAMES.

Gazette, April 25.

Johnson, John, druggist and tea-dealer, Nantwich, Cheshire, May 9 and June 6, at eleven, Liverpool, Com. Phillips; Cazenove, off. ass.; Vincent and Co. Temple, and Curry and Co. Liverpool, sols. Date of fiat, April 18. Bankrupt's own petition.

Lowthin, John, and Brinkley, Richard Jackson, printers, Newcastle-upon-Tyne, May 6, at eleven, and June 4, at two, Newcastle, Com. Ellison; Wakley, off. ass.; Gibson, Newcastle, sol. Date of fiat, April 7. W. Nesham, surgeon, Newcastle-upon-Tyne, pet. cr.

Newnes, Edward, brewer, Newton by Middlewich, Cheshire, May 9 and June 6, at twelve, Liverpool, Com. Phillips; Morgan, off. ass.; Walmsley. Chancery-lane, and Hetherington and Woodburn, Liverpool, sols. Date of fiat, March 31. E. Jones, spinster, Liverpool, pet. cr.

Nicholson, John, linen and woollen draper and tea dealer, Blackburn, Lancashire, May 8 and 29, at twelve, Manchester; Fraser, off. ass.; Milne and Co. Temple, and Wilding and Fisher, Blackburn, sols. Date of fiat, April 22. G. Johnson, draper, Blackburn, pet. cr.

Page, Frederick, builder and plasterer, Northam, Southampton, May 6, at one, and June 4, at twelve, Basinghall-st. Com. Evans; Bell, off. ass.; Smith and Atkins, Serjeant's-inn, and Mackay and Girdlestone, Southampton, sols. Date of fiat, April 19. C. M. Wheeler, merchant, Redbridge, Southampton, pet. cr.

Peacock, George, corn dealer and shopkeeper, No. 90, St. George's-rd. Southwark, May 6, at half-past twelve, June 4, at one, Basinghall-st. Com. Evans; Johnson, off. ass.; Bickley, Mitre-court, Ely-place, sol. Date of fiat, April 24. W. Francis, corn merchant, Whitechapel, pet. cr.

Plowman, Joseph, ironmonger, Oxford, May 8 and June 6, at twelve, Basinghall-st. Com. Fonblanque; Belcher, off. ass.; Gauntlett, Grays-inn-place, sol. Date of fiat, April 15. R. Wootton, sen. banker, Oxford, and T. Tubb, his copartner, pet. crs.

Tottem, George Grafton, jeweller and watch maker, Crescent-place, Fulham-road, Middlesex, May 6 and June 5, at eleven, Basinghall-st. Com. Shepherd; Graham, off. ass.; Spyer, Broad-st.-bldgs, sol. Date of fiat, April 22. P. Nathan, jeweller, Caroline-mews, Bedford-square, pet. cr.

Walker, William, dealer in potters' materials, Eastwood, Stafford, May 1 and June 5, at eleven, Birmingham, Com. Daniell; Whitmore, off. ass.; Chaloner, Hanley, and Harrison and Smith, Birmingham, sols. Date of fiat, March 5. Bankrupt's own petition.

Warren, James Urmston, hotel keeper and boarding and lodging-housekeeper, Wellington-crescent, Ramsgate, May 2 and June 6, at one, Basinghall-st. Com. Goulburn; Follett, off. ass.; Lawrence and Plews, Bucklersbury, sols. Date of fiat, April 24. Bankrupt's own petition.

Gazette, April 29.

Brideson, Robert, provision dealer, Preston, Lancashire, May 13 and June 10, at twelve, Liverpool, Com. Ludlow; Bird, off. ass.; Cornthwaite and Co. Old Jewry, and Pemberton, Liverpool, sols. Date of fiat, April 4. J. and S. Rea, provision merchants, Liverpool, pet. crs.

Cheetham, Martha and William, piece dyers, Smedley, Lancashire, May 9 and 29, at twelve, Manchester; Hobson, off. ass.; Gregory and Co. Bedford-row, and Chew, Manchester, sols. Date of fiat, April 23. Bankrupt's own petition.

Cooke, Joseph, brewer and maltster, Wem, Salop, May 5 and June 6, at eleven, Birmingham, Com. Daniell; Whitmore, off. ass.; Jones, Birmingham, sol. Date of fiat, April 16. Bankrupt's own petition.

Gregory, John, innkeeper, quarrymaster, contractor, and horse dealer, Windsor Castle Inn, Weston, Somersetshire, May 15, at twelve, June 10, at eleven, Bristol, Com. Stephen; Kynaston, off. ass.; Gray, Bristol and Bath, sol. Date of fiat, April 19. Bankrupt's own petition.

Johnson, Anna Maria, innkeeper, West Smithfield, May 6, at half past one, June 10, at twelve, Basinghall-st. Com. Holroyd; Groom, off. ass.; Smith, Barnard's-inn, sol. Date of fiat, April 25. Bankrupt's own petition.

Johnson, William, wine merchant, 36 West Smithfield, May 6, at twelve, June 6, at eleven, Basinghall-st. Com. Shepherd; Turquand, off. ass.; Turner and Hensman, Basing-lane, sols. Date of fiat, April 24. Bankrupt's own petition.

O'Rorke, Thomas, and Birks, William, commission agents, 3, Print-st. Manchester, May 10 and June 9, at twelve, Manchester; Stanway, off. ass.; Chilton and Acland, Chancery-lane, Slaney, Birmingham, and Foster, Manchester, sols. Date of fiat, April 18. R. Peyton, hook and eye manufacturer, Birmingham, pet. cr.

PARTNERSHIPS DISSOLVED.

Gazette, April 22.

Bennett, T. and *Brain*, C. and T. coal masters, Forest of Dean, April 9. Debts paid by Bennett.—*Brooke*, C., S., and J. merchants, Robert-town, Quebec and Montreal, so far as regards C. and S. Brooke, August 4, 1842, and so far as regards J. Brooke, April 15, 1845.—*Carpenter*, T. and J. farmers, Tasburgh, April 18.—*Clifford*, L. A. and *Shorthouse*, G. commission agents, Liverpool, April 15.—*Carter*, J. and S. tailors and drapers, Holmes Chapel, April 16. Debts paid by Carter.—*Connery*, R. and *Hughes*, W. and H. N. distillers, Chester, April 11.—*Cookes*, G. and *Darvell*, E. S. colonial brokers, Great Tower-st. April 16.—*Cort*, J. and *Paul*, T. D. iron founders, Leicester, April 3.—*Crowther*, J. and *Walker*, T. scribbling millers, Leeds, Jan. 1. Debts paid by Crowther.—*Davis*, J. and *Pitcher*, J. surgeons, Ipswich, Jan. 1.—*Deane*, C. H. and *D'Ueager*, H. professors of languages, Regent-st. or elsewhere, April 19.—*Foster*, H. and *Heritage*, H. warehousemen, Bread-st. April 21. Debts paid by Foster.—*Garton*, R. and *Davison*, J. W. proprietors of a weekly periodical known as the *Musical World*, Dean-st. Soho, April 14.—*Hubbert*, S. and *Andrews*, A. mattress manufacturers, Old-st. St. Luke's, April 15. Debts paid by Hubbert.—*Medhust*, F. and T. weighing machine makers, iron founders, and music smiths, Denmark-st. Soho, April 22. Debts paid by T. Medhurst.—*Morris*, T. and *Ogden*, J. letter-press printers, Bolton-le-Moors, April 17. Debts paid by Morris.—*Nicolay*, C. W. and *Brown*, J. agricultural commission agents, Fenchurch-st. April 1.—*Pickworth*, J. and W. D. ironmongers, Wainfleet, Lincolnshire, April 17.—*Poulton*, J. and *Hills*, T. cabinet makers, Chelmsford, April 15. Debts paid by Hills.—*Shaw*, R. and *Kimberley*, E. N. B. cut glass manufacturers, Birmingham, Dec. 31.—*Simmonds*, G. jun. *Passingham*, F. and *Simmonds*, G. N. attorneys, Truro, so far as regards Simmonds, jun. April 15.—*Stubbs*, J. *Absolom*, E. and *Stubbs*, W. A. so far as regards W. A. Stubbs, April 19.—*Trainer*, T. and *M'Lean*, T. drapers, Wiveliscombe, April 18.—*Whichello*, R. and *Freshwater*, F. grocers and cheesemongers, Castle-st. Leicester-square and Twickenham-common, April 15.—*Wise*, W. and *Marter*, R. umbrella stick turners, North-court, Cowper-st. City-road, April 14.

Gazette, April 25.

Aldred, M., A., and J. and *Gee*, S. A. small-ware dealers, Manchester, April 21. Debts paid by M., A., and J. Aldred. —*Bull*, M. M. *Coates*, L. and *Bull*, S. milliners, Kensington, so far as regards Coates, March 25.—*Hurt*, F. *Walker*, J. and *Hurt*, J. ribbon-manufacturers, Coventry, April 14.— *Jarvis*, E. and J. rag-merchants, Etham-place and Little Hunter-st. Southwark, April 12.—*Jones*, W. and *Foster*, J. bankers, Bilston, April 24. Debts paid by Jones.—*Kemp*, M. and C. carpenters, Goodhurst, April 19.—*Lucas*, L. *Dewhurst*, W. and *Hindle*, J. manufacturing chemists, Blackburn, November 12. Debts paid by Lucas.—*Millward*, E. and *Perks*, W. gun barrel manufacturers, Aston Junction, December 31. Debts paid by Millward.—*Nadlin*, J. and *Creswick*, G. quarrymen, Sheffield, April 22. Debts paid by Nadlin, J. of the Lidgate and Cloughfield-quarries, and Creswick, G. of Bale-hill-quarry.—*Nightingale*, J. E. and *Mackrell*, H. wine-merchants, Devizes, June 22. Debts paid by Mackrell.—*Rhodes*, J., *Powell*, I., *Clark*, J. and *Sugden*, W. stone merchants, Manningham, April 21. Debts paid by Rhodes, Powell, and Clark.—*Sorrell*, J. and *Springall*, J. engineers, Bow, April 21.—*Swann*, H. E. and *Pye*, J. jun. engravers, Liverpool, April 22. Debts paid by Swann.—*Tate*, J. and *Burringer*, E. cheesemongers, Oxford-st. April 21.

Insolvents

Petitioning the Courts of Bankruptcy.

Gazette, April 22.

PETITIONS TO BE HEARD AT BASINGHALL-STREET.

Andrews, T. W. carpenter, Canterbury, May 22, at eleven. —*Aston*, C. P. gun barrel maker, Pembroke-place, Vauxhall-bridge-rd. May 14, at eleven.—*Austin*, E. mariner, Shepperton-st. Islington, and Barge-yard, Bucklersbury, May 6, at eleven.—*Baker*, C. grocer and bookseller, Bunhill-row, St. Luke's, May 5, at twelve.—*Birch*, W. jun. tobacco-pipe maker, Weymouth-st. New North-road, Newington, April 26, at half-past twelve.—*Borall*, J. labourer, Ewhurst, May 5, at half-past twelve.—*Clues*, E. stay maker, Shoreditch, May 22, at eleven.—*Hugall*, C. eating-house keeper, Leather-lane, April 26, at twelve.—*Jackson*, E. grocer, Bermondsey-st. May 10, at eleven.—*Liddle*, J. C. bookbinder, Cross-st. Golden-sq. May 5, at eleven.—*Pollard*, J. farmer, Horsham, May 13, at eleven.—*Tapley*, W. dealer in straw plait, Leighton Buzzard, April 30, at one.— *Tricker*, M. grocer, Bury St. Edmunds, May 13, at half-past eleven.—*Wilson*, F. stone mason, Spitalfields, May 5, at half-past eleven.

MEETINGS IN THE COUNTRY.

Ford, O. beer seller, Keynsham, May 7, at eleven, Bristol.—*Howarth*, B. stone dealer, Rochdale, May 5, at twelve, Manchester.—*Monaghan*, J. cabinet maker, Manchester, May 5, at twelve, Manchester.—*Pursall*, W. tailor, Birmingham, May 1, at eleven, Birmingham.

PETITION TO BE HEARD AT BASINGHALL-STREET.

Gazette, April 25.

Coles, J. shopman to a corn dealer, Brewer-st. Somer's-town, April 30, at one.

IN THE COUNTRY.

Alford, J. labourer, Pebworth, Gloucestershire, May 1, at half-past ten, Birmingham.—*Barnsdall*, J. boat builder, Sneinton, May 6, at twelve, Birmingham.—*Brown*, J. stationer, Settle, May 7, at eleven, Leeds.—*Emmett*, A. secretary, Blackburn, May 8, at twelve, Manchester.—*Hamer*, J. hatter, Mellor, May 8, at twelve, Manchester.—*Jones*, W. sprig presser, Tipton, May 1, at half-past ten, Birmingham. —*Stanley*, T. out of business, Leeds, May 7, at eleven, Leeds—*Wellock*, R. butcher, Bebbington and Birkenhead-market, Cheshire, May 5, at eleven, Liverpool.—*Worsley*, W. victualler, Clayton-le-Woods, May 8, at twelve, Manchester.

Bankrupts.

From the Gazette of Friday, May 2.

Hensman, J. H. and F. coal merchants, Adelphi-wharf, Strand.—*Slater*, E. cabinet maker, Queen's-buildings, Brompton.—*Tupper*, W. C. grocer, Catherington, Hants.— *Leplastrier*, L. clock maker, Alfred-street, Islington.— *Smirk*, J. E. licensed victualler, Broad-court, Bow-street.—*Chandler*, B. ironmonger, Stanmore, Middlesex.— *Olliver*, T. livery-stable keeper, Prestbury, Gloucestershire.— *Nichols*, H. auctioneer, Coleford, Gloucestershire.—*Lee*, J. porter merchant, Tadcaster, Yorkshire.—*Knott*, T. R. druggist, Bolton-le-Moors, Lancashire.—*Cooke*, J. brewer, Wem, Salop.—*Capas*, T. builder, Aston-juxta-Birmingham.— *Pares*, H. plumber, Loughborough, Leicestershire.—*Heaton*, J. stationer, Ludlow, Shropshire.—*Hedghkiss*, T. licensed victualler, Wellington, Shropshire. — *Warr*, H. currier, Bridport, Dorsetshire.

THE REPORTS.

[These are usually brought down to the Wednesday preceding publication. Where *Cur. adv. vult.* the case is not reported till judgment given. All written judgments are taken in shorthand, and reported *verbatim*. Rules *nisi* are reported.]

The following are the names of gentlemen who favour the LAW TIMES with the Reports:—

PRIVY COUNCIL by THOMAS CAMPBELL FOSTER, of the Middle Temple, Esq. Special Pleader.

EQUITY COURTS.

LORD CHANCELLOR'S COURT by RICHARD GRIFFITHS WELFORD, Esq. of the Inner Temple, Barrister-at-Law.

VICE-CHANCELLOR of ENGLAND'S COURT, by GEORGE GOLDSMITH, Esq. of the Middle Temple, Barrister-at-Law.

ROLLS COURT, by J. MACAULAY, Esq. of the Inner Temple, Barrister-at-Law.

VICE-CHANCELLOR KNIGHT BRUCE'S COURT by GEO. S. ALLNUTT, Esq. of the Middle Temple, Barrister-at-Law.

VICE-CHANCELLOR WIGRAM'S COURT, by J. VESEY DAWSON, Esq. of the Middle Temple, Barrister-at-Law.

COMMON LAW COURTS.

The QUEEN'S BENCH, by J. C. SYMONS, Esq. of the Middle Temple, Barrister-at-Law, and EDWARD WISE, Esq. of the Middle Temple, Barrister-at-Law.

The COURT of COMMON PLEAS, by W. PATERSON, Esq. of Gray's-inn, Barrister-at-law.

The COURT of EXCHEQUER by JOHN BRIDGE ASPINALL, Esq. of the Middle Temple, Barrister-at-Law, and H. T. COLE, Esq. of the Middle Temple, Barrister-at-Law.

The BAIL COURT by T. W. SAUNDERS, Esq. of the Middle Temple, Barrister-at-Law.

The EXCHEQUER CHAMBER by A. A. FRY, Esq. of Lincoln's-inn, Barrister-at-Law.

BANKRUPT AND INSOLVENT COURTS.

The COURT of REVIEW by GEO. S. ALLNUTT, Esq. of the Middle Temple. Barrister-at-Law.

LONDON COMMISSIONERS' COURTS and the INSOLVENT COURT, by B. TALBOT, Esq. of the Middle Temple, Barrister-at-Law.

BRISTOL DISTRICT COURT, by J. ANGUS HOMES, Esq. Barrister-at-Law.

NISI PRIUS, CIRCUITS, AND CROWN CASES.

CENTRAL CRIMINAL COURT, by B. C. ROBINSON, Esq. of the Middle Temple, Barrister-at-Law.

CROWN CASES (before all the Judges) by A. BITTLESTONE, Esq. of the Inner Temple, Barrister-at-Law.

NORTHERN CIRCUIT, York and Liverpool, by J. B. ASPINALL, Esq. Barrister-at-Law. The other parts of the Circuit, by G. F. H. OLEPHANT, Esq. Barrister-at-Law.

WESTERN CIRCUIT, by EDWARD W. COX, Esq. of the Middle Temple, Barrister-at-Law.

OXFORD CIRCUIT, by JOHN LANE, Esq. D.C.L. of the Inner Temple, Barrister-at-Law.

NORFOLK CIRCUIT by JNO. B. DASENT, Esq. Barrister-at-Law.

SITTINGS AT NISI PRIUS AFTER TERM, by JOHN LANE, Esq. D.C.L. of the Inner Temple, Barrister-at-Law; E. WISE, Esq. Barrister-at-Law; and others.

ELECTION LAW.

REGISTRATION APPEALS in the COMMON PLEAS by EDWARD W. COX, Esq. of the Middle Temple, Barrister-at-Law; and HENRY TINDAL ATKINSON, Esq. of the Middle Temple, Barrister-at-Law.

ELECTION COMMITTEES by EDWARD W. COX, Esq. of the Middle Temple, Barrister-at-Law.

REGISTRATION COURTS, collected and edited by EDW. W. COX, Esq. of the Middle Temple, Barrister-at-Law.

IRISH REPORTS.

The LORD CHANCELLOR'S COURT by WILLIAM DUGGAN, Esq. Barrister-at-Law.

QUEEN'S BENCH and CRIMINAL COURTS by WM. ST. LEGER BABINGTON, LL.D. Barrister-at-Law.

N.B.—The names of the reporters of such important points as may arise upon Circuit will be announced as the arrangements for each are completed.

The Written Judgments are reported verbatim in Short-hand by MR. H. GREGORY, Short-hand Writer.

Equity Courts.

VICE-CHANCELLOR WIGRAM'S COURT.

EASTER TERM.

PLAYFORD *v.* PLAYFORD.

Expectant heir—Consideration—Agreement—Implied abandonment.

An agreement with an expectant heir, however advanced in life, in respect to the disposal of his reversion, will not be enforced against him where a sufficient consideration is not secured to him under it.

Where there is an obscurity in the terms of an agreement, and laches have been committed on both sides in performance of the conditions contained in it, the Court will not decree a specific performance.

The plaintiff in this case being forty years of age, and heir in tail, subject to the life estate of his father and mother in certain lands, at Northrepp, in the county of Norfolk, applied to his father and mother to join him in barring the entail, and conveying their life estates and the fee upon mortgage for the sum of 1,200*l*. and interest, to which they consented upon his entering into an agreement for the settlement of the estate upon terms; whereupon an agreement was executed between the father and the plaintiff, in the words following:—"That subject to the mortgage the uses of the fine and recovery should be limited to the father for life, remainder to his mother for life, remainder in case the father should at any time be obliged to pay the interest due upon the said mortgage, or any part thereof, or the plaintiff should not, by August 1836, pay off and satisfy the said mortgage, and the father should then pay off the said mortgage and release the plaintiff therefrom, and from such mortgage debt, then the said trustees should stand seized of the estate to the use of the father in fee, and the father covenanted that in the event of his taking the estate he would by deed or will give and devise to the plaintiff, or his issue, not less than one-seventh part in value of the estate; and as to the remainder or reversion after the decease of the father and mother of the plaintiff, in case the plaintiff should by 1836 pay off and satisfy the said mortgage, then, that the said trustees should stand seized of the estate to the use of the plaintiff and the heirs of his body in tail, subject to and charged with 500*l*. to be raised within two years of plaintiff obtaining possession of the estate, and paid in such manner as the father should appoint." The estate tail was barred, and the estate conveyed to Wilkinson upon mortgage, to secure 1,200*l*. and interest; and plaintiff alone covenanted with Wilkinson to pay the mortgage debt; no resettlement of the estate was ever executed; the father continued in possession of the lands, and paid the interest due on the mortgage up to his death; the plaintiff did not pay off the mortgage in 1836 or afterwards; the father never paid off the mortgage. The father by his will devised all his estates generally to his three sons, the defendants, and did not name the plaintiff therein or take any notice of the agreement or of his having paid the interest on the mortgage. Upon the death of the father his widow entered and executed a lease for 21 years to the defendants, and continues to pay the interest on the mortgage; at her death the defendants, who were previously in possession, continued to occupy the lands. The plaintiff files a bill praying that he may be declared entitled to redeem the mortgage; that the agreement may be declared inoperative, and offering to pay whatever shall be found due on account of the payments made by the father or mother on account of the mortgage debt and interest, and that the lease to the defendants might be declared void. After this bill was on the file the defendants paid off the mortgage and took a conveyance of the fee, whereupon the plaintiff filed a supplemental bill to redeem the mortgage, and have the usual and all other account taken, and on payment of what should be found due to have the lands conveyed to him by the defendants. The defendants then filed a cross bill to have the articles of agreement confirmed and carried into effect, and the original and supplemental bills dismissed.

Walker and *Bagshawe* contended that the agreement ought to be declared void, from its being a dealing with an expectant heir for his reversion, and inadequacy of consideration.

Romily and *Shadwell*, for defendants, contended that it was a family transaction, that all the parties to the agreement were of sufficient age to judge of what they were doing, and that the courts of equity were very scrupulous in interfering in such arrangements.

The VICE-CHANCELLOR.—This case turns altogether upon the effect of this agreement in respect to the re-settlement of the estate. No question arises in respect to the mortgage, the mortgagee was no party to the agreement: the fact of there being a mortgage does not come under consideration. The agreement is very obscure in shewing the intention of the parties at the time; they could not have understood the meaning of the arrangement made: it cannot be supposed that it was meant that the father, by payment of a comparately trifling amount, such as five or ten shillings, on account of the interest, should thereby become entitled to the estate, on default of the son paying the mortgage off in 1836, and the son was then only to have one-seventh of the estate, and the amount of the mortgage for an estate of such value, which, by consent, appears to be worth about 7,000*l*. It is therefore clear that, under this agreement, a sufficient consideration was not secured to the plaintiff for the property he might lose if a literal construction was put upon the words used. The father, by the payment of the smallest sum on account of interest, might entitle himself to take advantage of plaintiff's difficulties, and deprive the plaintiff of all but one-seventh of the estate; and if he was prevented doing so, he was to have 500*l*. out of the estate; in fact the agreement bore everywhere in favour of the father, and nowhere in favour of the son. The true effect to be given to this agreement may be more clearly arrived at by considering the acts of the parties which have taken place, and the manner they treated those acts, as affecting the rights of the plaintiff. The father paid the interest on the mortgage up to the time of his death, having previously made a will, by which he bequeaths all his property generally to his three younger sons, the defendants. He takes no notice of the agreement. He does not bequeath the estate as forfeited to him by having paid the interest on the mortgage; he does not appoint the 500*l*. he was entitled to in case the estate was not forfeited; he does not mention the name of the plaintiff in the will; it is quite clear, therefore, he did not consider he had acquired any right under the agreement. But did his acts, or those of the plaintiff, entitle him to any thing beyond a life estate in the lands? He paid the interest; the son failed to pay off the mortgage by 1836; he did not then pay off the mortgage, nor did he devise to the son one-seventh of the value of the lands. It therefore appears neither party carried out the conditions of the agreement, or acted in contemplation of them. Mutual *laches* would prevent this agreement being carried out in favour of either party, independent of the want of consideration secured to the plaintiff under it. I must, therefore, consider it as abandoned by the parties and inoperative, and dismiss the cross bill with costs; and in the original and supplemental bills decree a redemption in favour of the plaintiff against the defendants, who submit to be charged as mortgagees in possession from the death of their mother, and to be charged with an occupation rent to be fixed by the Master, except so far as the rent was settled by the lease, reserving the consideration as to whether under the form of the pleadings any inquiry can be made as to the validity of the lease; plaintiff to be charged in the account with the amount paid by his father as interest on the mortgage, and interest thereon at 5 per cent. and to have no costs in the original suit. Costs in the supplemental bill as in a suit for redemption, and to be dealt with accordingly, with the usual directions for the delivering up of deeds and papers belonging to the estate on payment of mortgage debt and costs, with liberty to apply as in a suit to redeem.

BIGGS and OTHERS *v.* PENN.

Parties—Administration—32nd Order of 31st August.

The 32nd order of the 26th Aug. 1841, which enables a plaintiff who has a joint and several demand against several persons, either as principals or sureties, to proceed in equity against any one or more of such persons without joining the other parties to the suit, does not apply in suits for an account of an administration.

The defendant, Penn and Bromley, deceased, were executors and trustees, and acted together in the administration until Bromley died insolvent and intestate; the plaintiffs, the residuary legatees, finding the estate deficient, filed the bill against Penn alone, stating a breach of trust in the administration, and prayed a general account of the administration, and that Penn should be decreed to make good the loss sustained by the breach of trust. The defendant, by his answer, submitted generally whether all proper parties were before the Court, and claimed the same advantage of the objection as if he had demurred. The plaintiffs, under the 39th of the orders above mentioned, set down the cause to be argued on that objection only.

K. Parker and *Stinton*, for the plaintiff, submitted that the defendant should open, but

Wray, for the defendant, contended that as the plaintiffs had come before the Court it was their duty to begin, and *K. Parker* was directed to open.

The VICE-CHANCELLOR.—Where a general account is prayed of assets, and a charge of breach of trust in administration is made, the 32nd order of the 31st Aug. does not apply, that order only applies where a distinct claim is made against a defendant, and complete relief can be had against him; in such cases others equally liable may not be parties, but in administration suits the order does not apply.

Declare the objection for want of parties valid, and the plaintiffs to pay the costs of the hearing.

Common Law Courts.

COURT OF QUEEN'S BENCH.

Thursday, May 1.

WALTER *v.* LESS.

If the judge refuses to certify that an action might have been tried before the sheriff, taxation must be on the higher scale, though the damages are not above 20l.

Covenant, for improper dismissal of a servant. The verdict was for the plaintiff, 20*l*. damages, but the Master taxed as above 20*l*. allowing the rate of fees &c. on the higher scale. Patteson, J. refused to make any order, and referred the matter to the Lord Chief Justice, who refused to certify that the cause might have been tried before the sheriff. Nevertheless the Master taxed on the higher scale.

Dasent shewed cause.—The rule of H. T. 4 Wm. 4, requires the taxation to proceed on the lower scale. (*Wallen* v. *Smith*, 3 M. & W. 138; so also according to 3 & 4 Wm. 4, c. 42; *Eliman* v. *Williams*. 13 Law J. Q. B. 219.)

Bovill, contrà.—This rule must be made absolute. It is an action for unliquidated damages, and therefore does not fall within the Act. (*Lismore* v. *Beadle*, 1 Dowl. N. S. 566.) Equally so if the demand was limited to less than 20*l*. if it were an action not triable before the sheriff. (*Jacquot* v. *Bouro*, 5 M. & W. 165; *Croft* v. *Miller*, 3 B. N. C. 975; *Roffey* v. *Shoobridge*, 9 Dowl. 957.) *Rule absolute.*

REG. v. GEORGE HEWDALL.

Quo warranto.

The affidavits must set forth all the facts.

Counsel will not be permitted to interrupt each other in the statement of facts.

Quo warranto to try the right of George Hewdall to be a burgess of Ilchester; he became a capital burgess on the 3rd of October, 1812, and was elected bailiff in September 1843; he was not resident in the town. The charter did not state that a burgess must be an inhabitant. The affidavit in support of the writ averred that it did.

Watson, Q.C. (with whom was *Fitzherbert*) shewed cause.—Mr. Hewdall is a bailiff, to whom burgesses are assistant; therefore a bailiff cannot be a burgess of Ilchester, and the writ cannot go. (*Rex* v. *Morris*, 4 East, 17, per Lord Ellenborough; *Rex* v. *Hughes*, 5 B & Cr. 886.) [PATTESON, J.—Then he must be re-elected a burgess after he ceases to be bailiff, and does not remain a burgess as a mayor remains an alderman? Lord DENMAN, C. J.—We entertain no doubt whatever as to that; you are clearly wrong.] The application is too late under the terms of 7 Wm. 4 & 1 Vict. c. 78, ss. 21, 23. [Lord DENMAN, C. J. severely reprimanded one counsel for interrupting another, "like attorneys at petty sessions."] There is collusion in this case. The charter is falsely misquoted in the affidavit; it is nowhere said that inhabitants can alone be burgesses. Inhabitant is a term of doubtful legal meaning (*Rex* v. *Mosshiter*, 6 Ad. & El. 153), and may mean having land in a place, and need not mean residence: neither does the word "burgess" incorporate that of "inhabitant." (*Rex* v. *Salway*, 9 B. & Cr. 424; *R.* v. *Greet*, 8 B. & Cr. 363.)

Crowder, Q. C. (with whom was *Moody*).—The words of the charter clearly mean burgesses inhabiting. (*Rex* v. *Salway*, *suprà*, *Rex* v. *Auden*, 4 B. & Cr. 772.) The burgess has a local function, and must reside. (*Doune* v. *Mostyr*, 8 B. & Cr. 62.)

Lord DENMAN, C. J.—It may be that Mr. Hewdall was improperly elected; but the Court has a right to expect and will insist on facts essential to its decision being correctly and distinctly stated on the affidavits. This will obviate that most objectionable system we have experienced to-day, of interruptions of counsel by each other in their statement of facts, a practice which perhaps I somewhat too severely rebuked in this instance, but which we much wish discontinued, as being most disagreeable and improper. I find no such words in the charter as those cited. I do not say that collusion has been practised, but gross negligence has been committed, and there has also been great loss of time in coming to the court, of which we must make an example. The rule therefore is discharged without costs.

PATTESON, WILLIAMS, and WIGHTMAN, JJ. concurred.

REG. v. INHABITANTS OF SOUTH FERRIBY.

Costs of bringing up a case from the sessions, which is not heard in consequence of technical objec[tion].

This was a rule obtained by *Archbold* (*suprà*, 3, 390), calling upon the inhabitants of South Ferriby to shew cause why they should not pay the costs of a special case which had been sent up from the sessions, but not heard, because there was nothing for the decision of the Court of Queen's Bench.

Bain now shewed cause. This was a special case granted by the Court of Quarter Sessions, but not argued here from a preliminary objection taken to the form. The statute 8 & 9 Wm. 3, c. 30, does not therefore apply. The word "such," in the second section, refers not to orders confirmed. "Such" limits preceding general words. (Plowd. 201.) [Lord DENMAN, C. J.—There can be no general rule as to the construction of the word "such;" it depends upon the subject matter. PATTESON, C. J.—According to your argument the recital of the 3rd section would be untrue; for it would refer only to delays after amendments made, and there was no power to make amendment until this statute.] Then it is an application to the discretion of the Court whether costs ought to be granted. [Lord DENMAN, C. J.—The practice seems to be when the case is heard upon the merits and the order confirmed, it is so entered; but where it is decided only upon a technical point it is not so entered, although the effect is that the order is confirmed, and therefore the recognizance will not apply here.] Costs ought not to be inflicted upon the appellants here. They acted in good faith, and the case was drawn in accordance with *Reg.* v. *Carnarvon* (2 Q. B. 325), and *Reg.* v. *West Riding* (2 Q. B. 331); but before it was heard, *Reg.* v. *Kesteven* (3 Q. B. 810) was decided, and the objection being taken, the case was not heard.

Archbold, contrà.—There were several cases decided before *Reg.* v. *Kesteven*, which ought to have pre[vented] this case being drawn in this way.

Lord DENMAN, C. J.—We think it is not a case where costs should be granted. *Rule discharged.*

Re THOMAS.

Mandamus—Notice of appeal against rates in the parish of St. Leonard, Shoreditch.

Pashley, moved for a rule *nisi* for a *mandamus* to the justices of Middlesex to hear an appeal against a poor-rate. The appeal was to be made to the January Sessions. These commenced January 7, at ten o'clock, but according to a printed list issued in October, appeals were fixed to be heard on January 31. The local Act, 53 Geo. 3, c. 1112, s. 121, required seven days notice at least. Notice was duly served upon all but one party on December 30, and after an unsuccessful attempt to serve him on the evening of December 30, he was served at half-past nine on December 31. At the sessions the Court refused to hear the appeal on the ground that the notice was too late.

Pashley now moved for a rule *nisi* for a *mandamus*. 1. The notice was in time according to rule of calculation, one day being inclusive and one exclusive or by looking to the fraction of a day. 2. The time for trial of appeals having been fixed for January 31, the notice was in ample time. The following cases were referred to: *Clayton's case* (5 Rep. 1); *Lester* v *Garland* 15 Ves. 248); *Webb* v. *Fairmaner* (3 M. & W. 473); *Ex parte Farquhar* (1 Mont. & Mac 7) *Godson* v. *Sanctuary* (4 B. & Ad. 255); *Hardy* v *Ryle* (9 B. & C. 603; 4 M. & Ry. 295); *Gould* v *White* (ibid, n.); *Rex.* v. *Goodenough* (2 A. & E 463); *Reg* v. *Justices of Shropshire* (8 A. & E. 173.) *Rule nisi.*

SMYTHE v. BINSTEAD.

Duncan moved for a rule *nisi* to amend a judge' order for judgment which had been drawn up con trary to the agreement between the parties for 20*l.* 5s instead of for 20*l.* and interest. The defendant had been taken under a *ca. sa.* *Rule nisi.*

Friday, May 2.

GREGORY v. EAST-INDIA COMPANY.

No action will lie against a company for refusing to transfer shares or stock in their books, unless the name of the transferee is given to them; and an absolute refusal in general terms will not dispense with the nomination of the transferee, although that refusal be given to the transferor after his having informed the company that he has a person ready to accept the shares.

This was an action against the East-India Company for an alleged breach of duty, in refusing to transfer stock. The declaration stated that the plaintiff was possessed of the stock, and the duty of East-India Company to make transfers; and alleged that the plaintiff was desirous of transferring the stock to a person then ready to receive it, and being a proper person to receive it, and about to be named by him, the plaintiff, of all which the defendants had notice; whereupon they refused to make any transfer or transfers whatsoever.

Plea—That the plaintiff did not name the party to whom the stock was to be transferred.

Demurrer thereto; and the objection being taken to the declaration, that no name was given to the Company.

Bovill argued in support of the declaration. The breach of duty is the refusal. [PATTESON, J.—How could there be a transfer to an unknown person?] There could not, but the breach is not that they did not transfer, but that they refused to transfer. An absolute refusal dispenses with what would otherwise have been necessary. Thus an absolute refusal to pay notes dispenses with any presentation for payment of a note payable at a particular place. (*Howe* v. *Bowes*, 16 East, 112.) Other similar cases are *Jones* v. *Barclay* (2 Dougl. 684); *Laird* v. *Pim* (7 M. & W. 474). [WIGHTMAN, J.—If you had him ready to name, why did name him? PATTESON, J.—That which [esse]ntial part of the act to be done cannot be dispensed with. There can be no transfer without the name of the transferee.] The refusal gives the right of action. It cannot be requisite for the plaintiff to perform a nugatory act. (*Waterhouse* v. *Skinner*, 2 B. & P. 447; *Reay* v. *White*, 1 C. & M. 748; *Rawson* v. *Johnson*, 1 East, 203.)

Peacock, for the defendant, was not called upon.

Lord DENMAN, C. J.—I have no doubt this declaration is bad upon general demurrer. The averment of refusal to make the transfer must be taken with reference to the subject-matter, and there can be no transfer without the person to whom it is to be made is named. The defendants are bound to transfer by the statute, but only bound when required to transfer, and they are not required if there is no transferee named.

PATTESON, J.—No fresh duty arose from the defendants' having notice, as stated in the declaration, but only the duty under the statute, and that is to transfer upon proper materials being placed before them, and that is the name of the transferee.

WILLIAMS and WIGHTMAN, JJ. concurred.

Judgment for defendant.

Saturday, May 3.

WILLIAMS v. THE QUEEN.

(In error.)

Upon an indictment for horse-stealing, not concluding contra formam statuti, the statutory sentence of transportation may be passed.

The prisoner was convicted upon an indictment for stealing a horse, a saddle, and a bridle; which concluded *contra pacem*, but not *contra formam statuti*, and was sentenced to fifteen years' transportation under the 7 Wm. 4 & 1 Vict. c. 90, s. 1. Upon this record the prisoner brought error, assigning for cause that the sentence was not warranted by law.

F. Edwards, for the prisoner.—Horse-stealing is at common law precisely the same offence as the stealing of any other article; but by stat. 7 & 8 Geo. 4, c. 29, s. 25, a particular character was given to it, and it was made a capital felony. By subsequent statutes that maximum of punishment has been reduced to transportation for fifteen years. The common law offence, however, still remains, and is quite distinct from the statutory offence. This indictment charges the common law offence only, and the statutory punishment cannot be inflicted. It would be quite enough to sustain this indictment if it were proved that the saddle or bridle alone had been stolen; and yet if this sentence be right, a prisoner might at one time have been condemned to death upon a similar indictment. It is quite true that when a statute only regulates the punishment to be inflicted upon a well-known and well-defined offence, it is unnecessary that the indictment should conclude *contra formam statuti*; but that is not so where the statute defines the offence. It cannot be said that it makes no difference to the prisoner whether he is tried for the common law or statutory offence; for in the latter case a misdescription of the animal stolen is fatal; but in the former wholly immaterial. In 2 Hale's P. C. 191, it is said, "If an offence be at common law, and also prohibited by statute, with a corporal or other penalty, yet it seems the party may be indicted at common law; and then, though it conclude not *contra formam statuti*, it stands as an indictment at common law, and can *receive only the penalty that the common law* inflicts in that case." The rule, that where the statute defines or creates the offence, the conclusion *contra formam* is necessary, is expressly recognized by Erskine, J. in *R.* v. *Polly* (1 Car. & K. 77), and Parke, B. in *R.* v. *Berry* (1 Mood. & Rob. 463), referring to *R.* v. *Chalburn* (1 Mood. C. C. 403); and the precedents in Archbold on this statute conclude *contra formam*.

M. D. Hill, Q. C. contrà, was not called upon.

Lord DENMAN, C. J.—The question is, whether an indictment for a common law offence, which is so prohibited by statute, is good, though it does not conclude *contra formam statuti*; and I am astonished [t]o hear the objection, because I have always under[s]tood that a common law offence was properly de[s]cribed as such in an indictment, though a particular [p]unishment might have been imposed by statute. The doctrine laid down by Lord Hale in the passage [c]ited can hardly be supported after *R.* v. *Matthews* (5 T. R. 162), where it was held that the words [c]ontra formam statuti might be rejected as surplusage.

PATTESON, J.—If I understand Mr. Edwards's [a]rgument, he contends, upon the particular words of [t]he stat. 7 & 8 Geo. 4, c. 29, s. 25, that there is a [c]reation of a new offence by that statute; and I ad[m]it that if that were so the statutory punishment [co]uld not be inflicted upon an indictment not con[c]luding *contra formam statuti*; but I do not agree [w]ith him that that statute creates a new offence of [h]orse-stealing; it first enumerates several offences, [w]hich are offences at common law—"if any person [s]hall steal any horse, mare," &c.—and then it proceeds to a class of offences that are not offences at [c]ommon law; as, "or shall wilfully kill any such [c]attle with intent to steal the carcase, &c. every such [o]ffender shall be guilty of felony," &c. Therefore if any person steals a horse, he is guilty of felony under that statute, though horse-stealing was also a felony at common law; but as to the offence of killing with intent to steal the carcase, I am not prepared to say that an indictment for that offence ought not to conclude *contra formam statuti*.

WILLIAMS and WIGHTMAN, J J. concurred.

REG. v. THE INHABITANTS OF RIPON.

A ground of appeal, setting up a settlement by payment of rates under 6 Geo. 4, c. 57, s. 2, is bad if it omits to state that the tenement consisted of "a separate and distinct" dwelling-house or building.

Upon appeal against an order of removal from Leeds to Ripon, the Court of Quarter Sessions for the borough of Leeds confirmed the order subject to a case, from which it appeared that the respondents relied upon a settlement by apprenticeship in the appellant parish, and to establish that settlement produced an indenture of apprenticeship bearing a 15s. stamp; to the admissibility of which, it was objected that the stamp was too high by 5s., the date of the instrument being 30th June, 1803. On the other hand, it was contended that statutes 43 Geo. 3, c. 127, s. 6, and 55 Geo. 3, c. 184, s. 10, had a retrospective effect, and therefore cured that defect, and the Recorder overruled the objection. The respondents then proved their settlement subject to that objection, and the appellants proceeded with their case. They offered to give evidence of a subsequent settlement by payment of rates, under the sixth ground of appeal, which stated that W. R. rented "a tenement consisting of two dwelling-houses, at &c. for the term, &c. and during the whole of the said year, and for

forty days after the payment of the said rates, resided in the said tenement." To this ground of appeal the respondents objected that it was insufficient on two grounds: 1st, that it omitted to state that the dwelling-houses of which the tenement consisted were separate and distinct; and, 2nd, that it did not shew a sufficient residence of forty days. The Court of Quarter Sessions overruled the first, and allowed the second objection, but granted a case for the opinion of this Court upon all the points.

Hall and *Pashley*, in support of the order of sessions.—First, the stamp was right. By 41 Geo. 3, c. 10, s. 1, an additional stamp-duty of 3s. was imposed; and by 41 Geo. 3, c. 86, s. 1, a further additional duty of 2s. was imposed; raising the amount to 15s. Secondly, the ground of appeal, setting up a settlement by payment of rates, is insufficient in omitting to allege that the tenement consisted of "a separate and distinct" dwelling-house. Those are the words in the enacting clause of 6 Geo. 4, c. 57, and ought to be followed in the ground of appeal. Nothing must be left to inference (*R.* v. *Wymondham*, 2 Q. B. 541; *R.* v. *West Riding*, 2 Q. B. 505); and the word "dwelling-house" does not necessarily mean a "separate and distinct" dwelling-house. A single room may be a dwelling-house or even a mansion-house. (3 Inst. 65; 1 Hawk. c. 38, ss. 11—16; *R.* v. *St. George's, Hanover-square*, Burr. S. C. 692; *R.* v. *Whitechapel*, 2 Bott. 100; *R.* v. *The Mayor of Eye*, 9 Ad. & E. 670; *R.* v. *Great Wakering*, 5 B. & Ad. 971; *R.* v. *Henley*, 6 Ad. & E. 294; *R.* v. *Usworth*, 5 Ad. & E. 261; *Wallis* v. *Harrison*, 5 M. & W. 142.) The last objection is, that it does not appear that the residence of forty days after the payment of the rates was a residence in any way connected with the tenancy. It is consistent with the statement in the ground of appeal that there may have been an interval of ten years between the residence and the tenancy; and if so, the residence would give no settlement. *R.* v. *Kingstead* (7 B. & C. 617) shews that the residence must be after payment of the rate; and since 6 Geo. 4, both the payment of rates and residence must be connected with the tenancy. The rule is, that if, consistently with the examination or grounds of appeal, there may be no settlement, they are insufficient (*R.* v. *St. Margaret, Rochester*, 2 Q. B. 533, and the recent case of *R.* v. *St. Sepulchre, Norhampton*, 1 Bit. & Sym. 140); and here it is quite consistent with the ground of appeal, either that the dwelling-houses were not separate and distinct, or that the residence of forty days was not connected with the tenancy.

Pickering, contrà.—The stamp is certainly right; but the objections to the grounds of appeal cannot prevail. The case cited on the other side as to renting a tenement for a year, occupation—or the averment of a party being single and unmarried had no bearing upon the present case; and so the case of *R.* v. *Henley*, and the other cases as to what constitutes a separate and distinct tenement, depended upon the facts appearing in each. The question here is whether when a party says he rented a house, he must be taken to mean that he rented part of a house only; and the Court will make no such intendment. (*R.* v. *Pontefract*, 2 Q. B. 548; *R.* v. *Buckinghamshire Justices*, 3 Q. B. 800.) Upon the third point, forty days' residence after the payment of the rate is shewn on the face of this ground of appeal. It is enough if the party has been assessed to and paid poor-rates for part of the year only (*R.* v. *St. Mary Kalendar*, 9 Ad. & E. 626); the days of residence need not be consecutive (*R.* v. *Gainsborough*, Burr. S. C. 586); nor is it clear that the residence need be after the payment of rates since the 6 Geo. 4, *R.* v. *Kingstead* having been decided previously to the passing of that Act. It is immaterial when the residence is, provided it be during the year of occupation. (*R.* v. *Willoughby*, 4 Ad. & E. 143.)

By the COURT.—The words of the statute, 6 Geo. 4, are, "unless such tenement shall consist of a separate and distinct dwelling-house or building, or of land, or of both," &c. no settlement shall be gained; and those words, or equivalent words, ought to appear in the ground of appeal; but this ground of appeal does not state that the tenement consisted of a separate and distinct dwelling-house, and is therefore insufficient.

Rule to quash the orde orf sessions discharged.

REG. *v.* PAINTER.

Rateability of Putney bridge—Shareholders are assessable, and a mandamus will go to compel the justices to issue a warrant of distress.

A rule *nisi* had been obtained to shew cause why a *mandamus* should not issue, directing the justices of Surrey to issue their warrant to levy a distress on a Mr. Chacemore, for the payment of 46*l.* due from him as a shareholder of the Putney bridge, in respect thereof.

Montague Chambers (with whom was *C. Clark*) shewed cause. The parties assessed are shareholders, and not trustees; but all the property is conveyed to trustees, the shareholders having merely the receipt of the tolls. The whole of the bridge was conveyed to Sir —— Onslow and other trustees, to have occupation and receive the money. The trustees gave the property into the hands of the shareholders, who were to receive the tolls, and to pay for the repairs; therefore they were the occupiers, and the occupiers must be rated. No further occupation can be wanted than possession and receipt of tolls, and liability to repair. If there were any objection to the mode of rating, it should have been taken at the Sessions. Neither can the whole rate be levied on one shareholder. (*Hurrell* v. *Wink*, 8 Taunt. 369.) The magistrates here had no original jurisdiction, and no indemnity could save them from the consequence of their acts. (2 & 3 Vict. c. 71, s. 314; 3 & 4 Vict. c. 84, s. 6; 6 & 7 Vict. c. 57.) No exact sum could be demanded as due, and therefore the warrant could not be issued, for they may not levy an average computation on the several shareholders. (*Rex* v. *Houldgrave*, 1 B. & Ald. 312.) The Court will not interfere with the discretion of the magistrates. (*Ex parte Ackworth*, 3 Q. B. 397, a) [Lord DENMAN, C. J.—If we clearly see that the magistrate has acted wrongly and mistaken his jurisdiction, we shall certainly interfere.] The granting of the warrant is a judicial not a ministerial act. (*Harper* v. *Carr*, 7 T. R. 27, per Lord Kenyon.) It is not stated that the magistrate was a magistrate acting for the metropolitan division.

Crompton (with whom was *Moody*).—The jurisdiction of the justice need not appear at all. (*Bennett* v. *Edwards*, 7 B. & Cres. 586.) We need not go into the question of title. If the shareholders had any interest at all they were rateable, and the magistrate had jurisdiction. They received the profits and repaired the bridge, and Mr. Chacemore was one of them. The warrant ought to follow the summons.

Lord DENMAN, C. J.—This rule must be made absolute. The trustees had the property vested in them, but only for the immediate benefit of the shareholders, who must be taken to be the real occupiers and the receivers of the profits; they therefore ought to be assessed. One of these must be rated, and he must get contributors from the others as best he can. If the magistrate fears responsibility, he has power to which he may have recourse to throw that responsibility on those who are the real parties at issue.

PATTESON, J.—By the Act it appears that the shareholders hold as tenants in common. The conveyance to the thirteen persons is merely to hold in trust for the shareholders, who are to be permitted to have the sole management and to receive tolls to repair the bridge. It is sworn that Mr. Chacemore is residing on one side, therefore it is an occupation. These subscribers are the persons who are privately occupying, and are very properly jointly assessed.

WILLIAMS, J.—The bridge is rateable property. The trustees are out of the case, for they are not occupiers. The only doubt is, whether Mr. Chacemore is the only person on whom the rate should be levied; on this point I do not speak with confidence; but the shareholders being occupiers, are the parties assessable, and that suffices for the present question.

WIGHTMAN, J. concurred.

Rule absolute.

Saturday, May 3.

REG. *v.* ST. PAUL'S, COVENT GARDEN.

Sufficiency of examination—"In or about" the year 1833 is an insufficient statement of the period of birth in the case of a bastard.

In this case the sessions had, on appeal, confirmed an order for the removal of a pauper, subject to the opinion of this Court on a case, which submitted for the opinion of this Court the question, along with others, whether, to found a birth-settlement for a pauper born out of wedlock, it is sufficient that the examination of his mother state that he "was born out of wedlock, in or about the year 1833, at or in," &c. (the appellant parish). The objection taken to the sufficiency of this statement was, that if the pauper was born after the 14th of August, 1834, he would, by the 71st sec. of the 4 & 5 Wm. 4, c. 76, follow the settlement of his mother.

Wortley, Q.C. and *Bodkin*, in support of the order of sessions.—(*R.* v. *The Justices of Sussex*, 10 A. & E. 682; *R.* v. *The Justices of the West Riding*, 2 Q.B. 505; *R.* v. *The Justices of Derbyshire*, 1 Wool. & Hodges, 323.)

Pashley, contrà.

By the COURT.—The fact that the pauper was born "about" a particular time, which the express language of the 4 & 5 Wm. 4, c. 76, makes so critical, imposed on the removing parish the duty of inquiring whether or not the pauper was born before the 14th of August, 1834, and, if he was born on or after that day, of inquiring into the mother's settlement. As then the actual date was material, we cannot hold that the words "in or about the year 1833" were sufficient to fix it.

Rule absolute.

Monday, May 5.

REG. *v.* DOUGLAS.

Construction of 13 Geo. 3, c. 63, s. 40.

The defendant in this case is a captain in the East-India Company's service, who for some time filled the office of Resident for the company at the court of the Rajah of Tanjore, where he was charged with having received several bribes from several persons, contrary to his duty and to the express provisions of the statutes relating to the subject. These charges were embodied into an information, containing about sixty counts, charging the receipt of so many separate bribes from the several individuals named therein. The evidence adduced at the trial consisted almost exclusively of answers given to written interrogatories which had been sent out under a *mandamus* to the Chief Justice and the other judges of the court at Madras, and which were exhibited in the Supreme Court of the Presidency to the witnesses, who all resided in that part of the world. The jury found the defendant guilty on fourteen counts.

The *Solicitor-General* (with whom were *Pollock* and *Forsyth*) moved for judgment, when

Kelly, Q. C. (with whom was *Peacock*), now moved, pursuant to leave reserved, to set aside the verdict and enter it for the defendant, on the ground that the above evidence was inadmissible: 1st. Because the Court of Queen's Bench had no power under the statute under which the *mandamus* had been issued (13 Geo. 3, c. 63, s. 40), to issue any *mandamus* to the present Supreme Court of Madras, commanding or authorizing that Court to proceed to the examination of witnesses upon written interrogatories, as the statute only authorized the issue of a writ to the Mayor's Court, which was the tribunal which existed at the time when the statute was passed, and not to the Supreme Court, which had been constituted since that time. 2nd. That the *mandamus* was directed to "the Chief Justice and the other judges" of the court at Madras, whereas the writ had been acted upon by "the Chief Justice and one of the other judges" only. 3rd. That the document which had been transmitted in supposed compliance with the exigency of the writ, was not the original examination, as required by the statute, but a copy of it; there being, moreover, no evidence to shew that the copy was a true one. He also moved for a new trial, because the charge against Captain Douglas was that of having received actual money in the form of rupees, and the evidence proved that all the gifts had been received in the form of bills of exchange drawn by one man upon another, and all payable at some interval after the date, and also, because the persons named as the parties giving the bribes were but agents or messengers.

Rule nisi.

DOE *dem.* WOOD *v.* CLARKE.

Lease or agreement.

A letter to an agent, after alluding to the prior leases, stated that in the terms he was to be guided by the character and circumstances of the tenant, and was to act as he would do for himself. Held, sufficient authority to grant a lease under the Statute of Frauds.

This was an action of ejectment in which the lessor of the plaintiff had obtained a verdict, subject to a case for the opinion of the Court, whether the defendant was tenant under a lease or not. The points were,—1. Whether the person who had entered into the supposed lease had authority to do so. 2. If he had authority, whether the document was a lease or an agreement.

Gunning, for the defendant.—The person who entered into this agreement had no authority in writing, as required by the Statute of Frauds. The only material letter is that of August 6, 1834, in which the lessor of the plaintiff, after speaking of other matters, writes to Isaacson:—"As to a future lease, you must be guided as to the term by the tenant, and act as you would do for yourself." In pursuance of this supposed authority, this document was signed. There is no mention of the rent, or the period, or any of the precise terms of the lease. It was written in August 1834, and this document was not executed until June 1835. 2. It is no lease. It is headed "Proposals for letting." The quantity of the land and the rent are stated, and then it says, "To be leased for twelve years, determinable at eight years, provided notice given at the end of the fourth year; the cultivation to be according to the four-course system;" and it is then signed by the supposed tenant, June 8,—"Agreed to the above rent, provided the farm is put into tenantable repair, according to a plan to be settled within a month." Here are no words of present demise. The criterion is certainty of commencement, and here there is no commencement. It is agreed as to the rent only, not as to the other terms. The following cases were referred to: *Clayton* v. *Burtenshaw* (5 B. & C. 41); *Chapman* v. *Turner* (6 M. & W. 100); *Gore* v. *Lloyd* (12 M. & W. 463); *Jones* v. *Reynolds* (1 Q. B. 506); *Johns* v. *Jenkins* (1 Cr. & M. 227).

O'Malley, contrà, was directed by the Court to confine himself to the second point. The cases do not lay down any strict precedents, but each case must be judged of by itself, to discover the intention of the parties. This then was a lease. [WIGHTMAN, J.—When did the term begin?] When it was executed, that is June 3rd. There are cases which shew that there may be a lease without the commencement of the term being specified. (*Staniforth* v. *Cox*, 7 B. 590; *Chapman* v. *Black*, 4 B. N. C. 187).

Lord DENMAN, C. J.—We are not fettered by previous cases in determining questions of this kind, for each must depend upon its own particular expressions, whether they amount to a present demise,

not whether they constitute the relationship of landlord and tennant. Now here it is only proposal for a lease, and it is accepted provisionally, and therefore it is not a lease from June 3rd, the day upon which it was executed.

PATTESON, J.—I have always understood that the question is, whether, from the instrument itself, it can be collected when the lease is to commence. If it is impossible to do this, then it is no lease. In *Staniforth* v. *Cox* (7 B. 590), and *Chapman* v. *Bluck* (4 B. N. C. 187), the words were, "agree to let," and "agree to accept," and other words which, taken with the date of the instrument and there being nothing to shew that the party was not to enter, the Courts considered the documents to be leases. If, then, the date was there held to be the commencement of the term, and it is clearly not the intention of the parties here that the tenant should enter on that day, then there are no words of present demise, and this is no lease. But besides, it is only accepted provisionally. The words "agreed to the above rent" mean rent with the above accompaniments; that is, provided the repairs are done according to the plan to be decided upon. If there is no plan decided upon, there would be no repairs, and consequently no lease, and the term, therefore, cannot begin on June 3rd.

WILLIAMS and WIGHTMAN, JJ. concurred.

Judgment for defendant.

Monday, May 5.

BURDER v. HODGSON.

Articles exhibited in the Ecclesiastical Court for deprivation of a clergyman, and stating the offence in the same form as in Reg. v. Rowed (3 Q. B. 180), do not shew an indictable offence:—Quære, can the Ecclesiastical Courts proceed pro deprivatione for an indictable offence before conviction?

Kelly, Q.C. (with whom were Dr. *Phillimore*, *M. Smith*, and *Baddeley*) shewed cause against a writ of prohibition in this case. The articles were expressly for deprivation only, and the causes of complaint were certain lewd, disgusting, sodomitical, and beastly practices, which were stated in general terms, like the indictment in *Reg.* v. *Rowed* (3 Q. B. 180). It was contended that in these articles no indictable offence was shewn, but only matters disgraceful and scandalous in the highest degree. It was further contended, that if some of the facts charged did amount to an indictable offence, and others did not, the Court would presume that the court below would act upon those which did not shew an indictable offence, and that the suit being for deprivation only, and not for punishment *pro salute animæ*, the Ecclesiastical Court had power, although the party had not been indicted and convicted. The judgment of the Court turned only upon the first point.

Watson, Q.C., Dr. *Addams*, and *Peacock* were heard in support of the rule.

The following were the principal authorities cited in the course of the very learned arguments as to the jurisdiction for deprivation: *Free* v. *Bourgoyne* (2 Add. 414, 5 B. & C. 400, 2 Bl. N. & S. 65); *Slater* v. *Smalebrook* (1 Lev. 138, 1 Sid. 217); *Townsend* v. *Thorpe* (2 Lord Raym. 1507); *Serle's* case (Hob. 12, 1 Cro. Jac. 130); *Royal Court of Jersey* case (3 Moo. P. C. 229); *Burder* v. *Hodgson* (3 Curt.); Lyndewood, Provinc. pp. 96, 260, 316, 268, 313; *Bishop of St. David's* case (1 Lord Raym. 420); *Paulet* v. *Head* (2 Lee Eccles Cases, App. 568, Fitzgib. 189); *Bishop of Clogher's* case (not reported); Jenk. 184; *R.* v. *Richardson* (1 Burr.); Jeremy Taylor's Treatise on Episcopacy; 1 Berard. Comment. 147; *Boyle* v. *Boyle* (Comberb.); *Galizard* v. *Rigault* (Salk. 552); *Caudry's* case (5 Rep. 1); *Hart* v. *Marsh* (5 A. & E. 591); *Stephen* v. *Hall* (1 D. N. S.); *Ricketts* v. *Bodenham* (4 A. & E. 433); 3 & 4 Vict. c. 86; *Nash* v. *Nash* (1 Hagg. Consist.); *Bromley* v. *Bromley* (ibid.); *Mogg* v. *Mogg* (2 Add. 292); *Campbell* v. *Aldrich* (2 Wils. 79); *Bagg's* case (11 Rep. 93).

Cur. adv. vult.

On the next day judgment was delivered by

Lord DENMAN, C. J.—We abstain from mentioning more than is absolutely necessary, but we are satisfied that the allegations in the articles do not import an indictable offence.

Wednesday, May 7.

BROWN v. STURT.

Validity of bye-laws of the corporation of London.

This is an action brought by the Chamberlain of London, in the Court of the Lord Mayor, to recover penalties from the defendant for having followed the occupation of a warehouseman in the city of London. A writ of *habeas corpus cum causâ* had been obtained, and subsequently a rule had been obtained, calling upon the defendant to shew cause why a *procedendo* should not be awarded.

Kelly, Q. C. (with whom were *Butt*, Q. C. and *O'Thank*) now shewed cause.—The return to the writ sets forth the custom of the city as to non-freemen being forbidden to trade, and the further custom giving the lord mayor and aldermen of the city with the consent of the commonalty, to amend defects in customs, similar to the return in *Clarke* v. *Denton* (1 B. & Ad. 92), and since that case the *procedendo* cannot be opposed upon the same grounds as then failed: but the objection now offered is, that the byelaw of Jas. 1 inflicts a pecuniary penalty, to be recovered by the Chamberlain in the Lord Mayor's Court, thereby, in fact, constituting the same parties at once plaintiffs and judges.

Sir *T. Wilde*, Serjt. (with whom were *Gurney*, Q. C., *Ryland*, and *Laurie*) here stated that this very objection had been taken by *Holroyd*, argued and overruled in an unreported case of *Clarke* v. *Stevens*, and that he was in possession of the shorthand writer's notes of the argument and the judgment.

Kelly, Q.C. expressed his extreme surprise, and stated that he had never before heard of the case, and craved time to consider what course to pursue.

Lord DENMAN, C. J.—I have no doubt, brother Wilde, your statement is correct; but were I counsel for the other side, I should think it my duty to ask for time to satisfy myself.

It was then arranged that the rule should be enlarged, and a copy of the case furnished to *Kelly* for the defendants.

Rule enlarged.

REG. v. THE CHANCELLOR, MASTERS, AND SCHOLARS OF THE UNIVERSITY OF OXFORD.

Mandamus to restore a member of the University degraded by the Convocation for publication of a book alleged to be inconsistent with the Thirty-nine Articles.

Kelly, Q.C. (with whom was *Baddeley*) applied to the Court, upon the part of the Rev. William George Ward, for a rule calling upon the defendants to shew cause why a *mandamus* should not issue, commanding them to restore Mr. Ward to the degrees of Bachelor of Arts and Master of Arts, of both which degrees he had been deprived by two resolutions of the Convocation of the University, on the 13th of February in the present year. In 1830 Mr. Ward entered the University, took his degree of B. A. in 1834, and that of M. A. in 1837, and upon each of these occasions he signed, in the usual manner, the Thirty-nine Articles contained in the Book of Common Prayer, and also the three other articles included in the 36th canon. In the year 1844 he published a work, called *The Ideal of a Christian Church*, containing certain descriptions and statements respecting the character and doctrines of the Church of Rome, as well as respecting the English Reformation and the Church of England. He was, upon February 13, degraded by resolutions of the Convocation, on the ground that the said book was inconsistent with the meaning of the articles, and with the good faith of Mr. Ward. These resolutions were void. 1. Because the publication of the book in question was no offence at all against the laws of England, or against any of the particular statutes of the University of Oxford. 2. That supposing it to be an offence, the Convocation had no original jurisdiction to entertain any charge upon the subject. 3. That supposing the publication to be an offence, and the Convocation to have the power to try and to punish, they possessed no power to inflict the punishment of degradation. 4. Supposing the Convocation to possess the jurisdiction to try and to inflict that particular punishment, they had, in fact, proceeded in such a manner as to render their adjudication upon the subject altogether a nullity. He referred to and read several portions of the statutes, in which the present offence might be expected to be found, if such an offence were to be found in the statutes at all, and where no mention of it was made. At any rate, the punishment of degradation could not be inflicted in respect of it, as the statutes defined but four offences for which that punishment could be awarded. These offences were:—first, if, being appointed an examiner, he refuses to serve, or misconducts himself therein, and is contumacious in his offence; secondly, if, having taken the oath as an inceptor, he omits, without a dispensation, to perform the proper exercise within a year; thirdly, if he refuse to surrender to an officer producing the Vice-Chancellor's warrant for his arrest, or, being arrested, endeavours to escape; fourthly, if in any suit within the university, in which there is a right of appeal, he does not observe the order of appeal directed by the statutes. In the whole collection of the laws by which the university was governed there was no single statute which makes any graduate liable to degradation for any deviation in his private sentiments or public writings from the doctrines or formularies of the Church of England, or for any other theological cause; nor any which provides that the subscription to the articles is regarded or intended as a promise or prospective engagement on the part of the graduate to continue while he shall hold his degree in the belief or opinions which the university may understand or interpret to be signified by such subscription, or that such degree is conferred upon any such condition as that any subsequent departure from them shall be a forfeiture of the degree, but that, on the contrary, the statutes shew by necessary implication that such subscription is not so intended or regarded, inasmuch as power is given by the statutes to the Vice-Chancellor to banish beyond the precincts of the university all heretics, schismatics, and persons "who think otherwise than right" concerning the doctrine and discipline of the Church of England, and all persons in holy orders who shall refuse to sign the articles aforesaid; but do not provide that for any fault or omission in respect to either of these subjects any party shall be deprived of any degree. It was competent to the authorities to call upon Mr. Ward to subscribe the articles, and, upon his refusing three times, to punish him by exile beyond the bounds of the university. This course, however, had not been adopted. But if it was an offence, the House of Convocation was not the tribunal to try him; but the court called sometimes the Chancellor's Court, and sometimes the Court of the Vice-Chancellor, and which always had exclusive cognizance to hear and determine all causes within the university, both criminal and civil, except felony, mayhem, and cases involving the right to a freehold. Before that Court Mr. Ward ought to have been brought in the first instance, whence he could have appealed to the Court of Congregation, and from the latter body to the Convocation, and perhaps from the Convocation itself to the Queen in Council. At least the Convocation was only an appellate jurisdiction. They might make new laws or correct old ones, but not inflict degradation for no legal offence, and without trial. Then the refusal of Dr. Grant's amendment was improper and illegal. Mr. Ward had been degraded without having any opportunity of being heard in his own defence, a course of proceeding which, under any circumstances, must be void, as being at all times essentially contrary to the first principles of natural justice. If Mr. Ward had been regularly cited to the Chancellor's Court, articles would there have been exhibited against him; he could make a regular defence, and could have carried the case to the various courts of appeal. That the rights of which Mr. Ward had been deprived were such as to entitle him to the interference of the Court. (*Dr. Bentley's* case, 2 Lord Raym. 1334; and *Frend's* case, 6 T.R. 89.) [Lord DENMAN, C. J.—Is there any thing said of a visitatorial power?] It is expressly denied in the affidavits.

Rule nisi.

Wednesday, May 7.

REG. v. JUSTICES OF LANCASHIRE.

The coroner of Lancashire had, prior to 6 Vict. c. 12, power to take inquests within the borough of Manchester, when the death took place within the borough, but the cause of death arose without the borough, but in the county.

Watson, Q. C. (with whom was *Whigham*), shewed cause against a rule to quash an order of sessions, by which the county treasurer had been ordered to pay a sum of money to Mr. Rutter for inquests taken within the borough of Manchester and Bolton on persons who had died within the borough, but the cause of whose death had occurred without the borough, but within the county. If this order is not supported, it will be a decision that in such case no inquest could be held. *Reg.* v. *Great Western Railway Company* (3 Q. B. 333) shews that the borough coroner could not have taken an inquest there, and if the county coroner could not, no one could.

Starkie, contrà.

Lord DENMAN, C.J.—The coroner has here done the duty which he alone could do, and we therefore think him entitled to be paid for his services.

Rule discharged.

REG. v. INHABITANTS OF BURNHAM.

An auditor who has continued to act without reappointment by the Poor Law Commissioners under 7 & 8 Vict. c. 101, s. 37, is a district auditor within the meaning of the Act, and a certiorari will lie to remove the accounts.

Crowder, Q.C. (with whom was *Archbold*) shewed cause against a rule for a *certiorari* to remove certain parish accounts which had been audited by the auditor of Eton Union, who was himself the solicitor to whom a portion of the moneys was payable, and who had allowed them. Having only continued to act as auditor, and not having been appointed or confirmed by the commissioners under 7 & 8 Vict. c. 101, the *certiorari* will not lie, as sec. 35 does not apply. It is quite clear upon the affidavits that he has not been appointed or acted under the statute. The commissioners have done nothing.

M. Chambers (with him *Wisser*), for Mr. Charsley, the auditor. Mr. Charsley is personally most desirous that your lordships should see these accounts. He has been many years a solicitor, and acted for the parish of Burnham, and was subsequently appointed auditor for the Eton and Hareerston unions. He was necessarily concerned in the appeals to which these costs refer. They were not taxed by himself, but by the clerk of the peace, and then brought to him to audit. He wrote to the Poor Law Commissioners to know whether another person could not audit them. They answered he had no power to delegate his authority. He was then obliged to audit them, but he did it in the presence and with the assistance of another person.

Lord DENMAN, C. J.—We consider that, having continued since the Act to act as auditor for the two unions, he is a district auditor within the Act.

Certiorari granted.

REG. v. CHURCHWARDENS AND OVERSEERS OF BANGOR.

Who is the party compellable to pay the expense of a survey for the purposes of rating ordered by the Poor Law Commissioners?

Kelly, Q. C. (with him *Archbold*), shewed cause against a rule for a *mandamus* to the parish officers of Bangor to pay certain sums of money. The question is, whether the guardians of the union or the officers of the particular parish surveyed are to provide for the expense of a survey ordered by the Poor Law Commissioners.

Jervis, Q. C. contrà.—This never has been decided, and the Act of Parliament has not received a judicial interpretation. Mr. Phillips, the surveyor employed, suedthe guardians of the union, and has a *cognovit* under their hand and seal; and if this rule is not made absolute, will issue execution upon the property of the parish.

Lord DENMAN, C. J.—There ought to be a return to this *mandamus*, as there seem to be some nice questions upon the Act. *Rule absolute.*

Friday, May 9.

ORGAR *v.* HORNE.

The adjudication of a complaint against the driver of a Metropolitan stage carriage under 6 & 7 *Vict. c.* 86, *for damage done to the carriage of the complainant, is no answer to an action against the owner of the carriage for the negligence of his servant, and the damage done to the carriage and to the plaintiff who was injured by the concussion.*

Demurrer to plea.

This was an action for negligent driving of the omnibus of the defendant by his servant, whereby the plaintiff's carriage was damaged, and he himself thrown out and injured.

Damages, verdict 50*l*.

Plea. That the defendant's omnibus was a metropolitan stage carriage within the 6 & 7 Vict. c. 86, that the plaintiff complained under that Act to a magistrate, who in pursuance of the statute heard and dismissed the case; and that the grievance complained of were the same as those adjudicated then upon.

Bovill in support of the demurrer. The declaration contains allegations of damage to the person. The plea merely amounts to an allegation that the defendant's servant was not liable criminally. That can be no answer to the declaration. The magistrates can only award compensation to 10*l*.

The COURT then called on

Peacock to support the plea. It depends upon the construction of 6 & 7 Vict. c. 86. If the plaintiff is barred of his action for damage to the carriage, he is barred from any action for consequential damages, which the damages to the person here were. Sec. 33 gives the penalty, and the order of the magistrate is conclusive. It is like the case of an assault which the magistrate has summarily decided. Then he is barred as to the damages to the person.

By the COURT.—We do not see the consequence.

Judgment for the plaintiff.

BUSINESS OF THE WEEK.

Re ELEANOR PELHAM. *Stands over.*

REG. *v.* ROYDS. *No rule.*

COLE *v.* HARDING. *Rule absolute for new trial.*

FANNIN *v.* ANDERSON. *Cur. adv. vult.*

REG. *v.* BLAKE.

Sentence, two terms of imprisonment of seven months each.

REG. *v.* DILLEY.

Sentence, two terms of imprisonment of six months each.

REG. *v.* THE NEWCASTLE AND DARLINGTON RAILWAY.—This case was called on, but not argued; *M. D. Hill*, Q. C. succesfully objecting to the right of *Wortley*, Q. C. to be heard.

HALL *v.* LAKE AND ANOTHER. *Cur. adv. vult.*

SCARPELLINI *v.* ATCHESON, and ST. KATHERINE DOCK COMPANY, *v.* HIGGS, *stand over.*

REG. *v.* TITHE COMMISSIONERS OF ENGLAND AND WALES.—In the matter of the Dent boundaries. *Cur. adv. vult.*

Re DOWNEY.—*Peacock* shewed cause against a rule obtained by *Jervis*, Q. C. for the discharge of the prisoners in prison under a Bench warrant. *Rule absolute.*

REG. *v.* JUSTICES OF DERBYSHIRE. *Cur. adv. vult.*

DOE *dem.* EGREMONT *v.* COURTNEY.

Facts to be turned into a special case.

M'INTOSH *v.* HAMILTON. *Rule absolute.*

HAWKINS *v.* RICHARDSON. *Rule refused.*

HARRIS *v.* PHILIPS. *Rule refused.*

COLLINS *v.* GAUDY. *Rule.*

MILES *v.* BOUGH.

Judgment for plaintiff, as of Trinity Term, 1844.

COURT OF COMMON PLEAS.

Friday, May 2.

ROAKES *v.* MANSER and ANOTHER, Executors, &c.

Debt on bond conditioned to pay a sum of money on a day certain, and to perform the covenants comprised in an indenture there referred to.

Plea of general performance of all things mentioned in the condition to the bond.

Held, that a replication thereto traversing the payment of the money according to the condition, properly concluded to the country, as the plea must be taken to contain an allegation of such payment.

Semble, that the plea was bad as a plea of performance, for want of a distinct allegation of such payment.

Debt on bond for 2,000*l*. by the testator, William Manser, deceased.

The defendants set out on *oyer* the bond and condition. The condition was as follows:—"The condition of this obligation is such, that if the above bounden Frederick Barry, James Barry, and William Manser, their heirs, executors, administrators, or assigns, do and shall well and truly pay, or cause to be paid, unto the above-named Edward Roakes, his executors, administrators, or assigns, the sum of 1,000*l*. of lawful money of Great Britain, on or upon the 30th day of September now next ensuing, together with interest for the same, after the rate of 4*l*. 10*s*. per cent. per annum, without any deduction, defalcation, or abatement whatsoever, according to and in full performance and discharge of the proviso or condition mentioned in a certain indenture of assignment, bearing even date with these presents made or mentioned to be made between the above bounden Frederick Barry of the one part, and the said Edward Roakes of the other part, and do also well and truly observe, perform, fulfil, and keep all and singular the covenants, grants, articles, conditions, and agreements whatsoever which on his and their parts and behalf are or ought to be observed, performed, fulfilled, and kept, comprised and mentioned in the said recited indenture, and that in all things according to the true intent and meaning thereof, and of the parties to the same,—then the obligation to be void or else to remain in full force."

The defendants then pleaded—1st, *Non est factum*: 2nd, that the said Frederick Barry and James Barry, and the said William Manser in his lifetime, and the defendants as executors aforesaid, after the death of the said William Manser, did, from time to time and at all times after the making of the said writing obligatory, and the said condition thereof, well and truly observe, perform, fulfil, and keep all and singular the articles, clauses, conditions, agreements, matters, and things in the said condition of the said writing obligatory comprised and mentioned in all things therein contained on their parts and behalf, and on the part and behalf of each and every of them to be observed, performed, fulfilled, and kept, according to the tenor and effect, true intent and meaning, of the said condition of the said writing obligatory.—Verification. Lastly, *Plene administravit*.

Replication to the second plea, that the said Frederick Barry, James Barry, and William Manser in his lifetime, and the said Frederick Barry, James Barry, and the defendants since the death of the said William Manser, did not pay the said sum of 1,000*l*. in the said condition mentioned, in manner and form as in the said second plea mentioned; and this the plaintiff prays may be inquired of by the country, &c.

Demurrer to such replication, alleging, amongst other causes, that the replication concludes to the country, and not, as it ought to have done, with a verification, inasmuch as the replication is not a mere traverse or denial of any fact or matter alleged or contained in the last-mentioned plea, but contains and alleges new and fresh matter, and therefore ought to have concluded with a verification, and not to the country; and also, that, although the replication concludes to the country, yet the plaintiff, in or by that replication, hath not traversed, or denied, or taken, or tendered any fit or proper issue upon any fact, matter, or allegation alleged or contained in the plea, but hath improperly and informally taken and tendered an issue upon a matter not alleged or contained in the plea.

Byles Serjt. for the defendants, in support of the demurrer.—It is submitted that the plea is a plea of general performance of the condition of the bond, and therefore that the plaintiff should not have tendered an issue thereon, but should have assigned breaches of the condition under the statute 8 & 9 Wm. 3, c. 11. (*Sayre* v. *Minns*, Cowp. 575.) [CRESSWELL, J.—Is there any form of a plea of general performance where there is a sum of money to be paid on a day certain?] Perhaps not. Com. Dig. Pleader, 2, V. 13, shews that the defendant may plead performance generally, unless some of the covenants are negative or disjunctive. *Hayman* v. *Gerrard* (1 Saund. 101) shews that the replication is bad for not assigning a breach. There it is said also, that "Twysden cited a case where a man was bound to pay to the obligee 10*l*. upon the day of his marriage, and in an action upon the bond, the defendant pleaded that the obligee was not married, and the plaintiff replied that he was married on such a day; and upon issue joined and verdict given thereon, it was adjudged to be aided after verdict, but if the defendant had demurred as here, it had been bad, as he said the opinion of the Court then was." And Holt, C.J. in *Meredith* v. *Alleyn* (1 Salk. 138) says, "If the defendant pleads a performance of the condition, though it be not well pleaded, the plaintiff in his replication must shew a breach, for then he has not a cause of action unless he shews one." It is submitted, therefore, that at common law, and independently of the statute, the replication is bad for not assigning a breach. (*Plomer* v. *Ross*, 5 Taunt. 387.)

The following authorities were also cited: *Bush* v. *Leake* (3 Dougl. 255); and *Darbishire* v. *Butler* (5 Moore, 198).

Channell, Serjt. for the plaintiff, contrà.—The plea is bad, or else the replication is good. The plea is bad unless it directly or impliedly alleges a payment by the testator or the two other obligors of the sum of money according to the condition. It is a general rule that the plaintiff has a right to traverse any material matter alleged in the plea or therein necessarily implied. The payment here traversed is necessarily implied; how then does the statute 8 & 9 Wm. 3, c. 11, affect this? The plaintiff does not tender an issue on a general performance, but an issue taken upon a particular breach, namely, the non-payment of a particular sum of money, and this, it is submitted, properly concludes to the country. The case of *Darbishire* v. *Butler* (5 Moore, 198) is in point, and in favour of the plaintiff, and so also is *Smith* v. *Bond* (3 M. & Scott, 528, and 10 Bing. 125).

Byles, Serjt. in reply.—If the indenture referred to in the condition contained covenants negative or disjunctive by which a plea of general performance would be bad, the plaintiff should have shewn this by setting out the indenture in his replication, and then may have demurred. (*Plomer* v. *Raine*, MS. note of Buller, J. cited in 4 East, 344, note f.)

TINDAL, C. J.—It appears to me that this replication is well enough. The action is on a bond, the condition to which, when set out on *oyer*, appears to be to perform several matters: one is, that the testator, William Manser, and the two other obligors shall pay to the plaintiff the sum of 1,000*l*. on or upon the 30th day of September then next, with interest according to the proviso in a certain indenture there referred to. That is one act which the defendant's testator is bound to perform. There is also another; that is, that he shall perform, fulfil, and keep all the covenants and agreements to be by him performed in the said indenture. That is the second act to be performed, and it is entirely separate and distinct from the other. The ordinary and proper way for the defendants to have pleaded the performance would have been to have taken up the words in the condition to the bond, and to have stated that the testator did pay unto the plaintiffs the sum of 1,000*l*. according to the proviso in the indenture, and then to have alleged that the testator did perform, fulfil, and keep all and singular the covenants, grants, articles, conditions, and agreements whatsoever in the said indenture on his part to be performed, according to the true intent and meaning thereof. Instead of doing so, however, the defendants have pleaded a plea which, in strictness, they should not have been allowed to have pleaded. It is said in Comyn's Digest, when speaking of pleas of conditions performed, "If the condition of the bond be to do several things, the defendant cannot plead performance generally, though all are in the affirmative, but shall answer specially to every particular," and for this is cited 1 Lev. 303, and Kel. 95 (b). It therefore follows, that if this had been a proper plea of performance of the conditions to the bond, it would have had a distinct allegation of payment of the money to the plaintiff on the day required by the condition. I allow that it is too late now to take advantage of this objection to the plea; but the defendants ought not to be in a better situation than they would have been if the plea had been properly pleaded. The defendants are to be taken in their plea to have alleged that the testator did pay the money on the day on which it was conditioned to be paid, which brings it, therefore, within the cases of *Bush* v. *Leake*, *Darbishire* v. *Butler*, and *Smith* v. *Bond*. In the case of a mere money bond, no breach need be assigned under the statute, and if here the plaintiff is content to rest on the issue of the money not being paid according to the condition, there is no necessity for him, under the statute, to assign breaches. I do not see how this present case is different from those already referred to. There is an affirmation by one party, and a distinct denial of the same by the other party, and it is impossible for any traverse in the end to be taken except on that same single point. The plea is therefore insufficient, and the judgment must be for the plaintiff.

COLTMAN, CRESSWELL, and ERLE, JJ. concurred. *Judgment for the plaintiff.*

GOULD *v.* COOMBS.

Plaintiff declared against the defendant as maker of a promissory note and on an account stated. At the trial the note, when produced, bore on it the name of

another maker, which, with the consent of all parties, had been added subsequently. Upon the plaintiff delivering up the note in order to have such additional name placed on the note, he received an I O U signed by the defendant for the amount of the note.
Quære, if the note was void for want of a fresh stamp, and might be objected to under a plea non acceptavit. Held, that if the note was void, yet it was admissible in evidence to shew in respect of what the I O U was given.

Declaration by the payee against the maker of a promissory note for 200*l.* with a count on an account stated.

Pleas.—Traverse of the making the note, and *non assumpsit* to the last count.

At the trial before Coltman, J. at the Middlesex sittings, it appeared from the evidence that the promissory note was originally given in the following form :—

"200*l.*—We jointly and severally promise to pay Mr. John Gould or order, 200*l.* with lawful interest, for value received.

"JAMES WHITE.
"JAMES COOMBS.
"JOSEPH WHITE.
"ROBERT WHITE."

When, however, the note was produced at the trial there was on it the additional name of Mary White. As to this, the evidence was that Robert White had died after the note had been given, and the plaintiffs had thereupon desired that there should be another name added to the note; and for this purpose the note was given up to James White, he giving to the plaintiff at the time an I O U in the following form :

"I owe Mr. John Gould the sum of 200*l.* for value received. "JAMES WHITE.
"JAMES COOMBS."

This I O U was to be returned by the plaintiff upon his receiving the note with the additional name. The name of Mary White was procured to the promissory note, with the assent of the other parties, and the note, with her name added thereto, was delivered back to the plaintiff, but the I O U was retained. At the trial it was objected on behalf of the defendant, that there had been a material alteration of the note, and that the same therefore was not admissible without a fresh stamp; and it was also objected that the defendant was not liable under the I O U upon the account stated, as the original debt was that of James White, and not of the defendant; that it was only given as a guarantee, and was void for want of any consideration appearing on it. A verdict having been found for the plaintiff, with 209*l.* damages, *Byles*, Serjt. obtained last Term a rule to shew cause why there should not be a nonsuit entered or a verdict for the defendant, pursuant to leave reserved at the trial.

Kinglake, Serjt. now shewed cause.—The alteration in the note, by the adding of the name of Mary White, was an immaterial one; no action could have been brought thereon against her, it had, therefore, no operation or effect. As to this, *Catton* v. *Simpson* (8 A. & E. 136) is an express decision in point. If it was a material alteration, it should have then been pleaded, because it would have operated as a new agreement come to between the parties in substitution of the other, and therefore within the new rules requiring it to be pleaded specially. Here the note as set out in the declaration would correspond with that originally drawn, so that the objection could not be raised under a traverse of the making. The effect of the alteration would be, if any, to make a new agreement, but not to destroy the original note; it would therefore be requisite for the party setting up such new agreement to plead it. [ERLE, J. referred to *Calvert* v. *Baker* (4 M. & W. 417).] In *Mason* v. *Bradley* (11 M. & W. 594), Parke, B. says: "As to the case of *Calvert* v. *Baker*, the Court do not appear to have adverted to the circumstance that the alteration in the bill sued on was not such as to require a new stamp, and I am under an impression that this Court pointed out that distinction a few terms ago, and expressed a doubt as to the authority of that case to that extent. I do not think that case can be supported where the alteration is not such as to cause a variance between the statement in the declaration and the instrument when produced, or to raise an objection to the stamp on the document; it is only applicable where the alteration is such as to put an end to existing liabilities. This is a defence of a different nature, which, since the new rules, ought to be specially pleaded."

Hemming v. *Trenery* (9 A. & E. 926); *Davidson* v. *Cooper* (11 M. & W. 778); and *Sweeting* v. *Halse* (9 B. & C. 365) were also cited.

As to the admissibility of the I O U as evidence under the account stated, *Teale* v. *Auty* (2 B. & B. 99) was referred to.

Byles, Serjt. (*Prideaux* with him) in support of the rule.—It is submitted that the addition made to this note was a material alteration thereto, which, if it had been done without the consent of the other parties, would have avoided the note at common law, and which, even with such consent, makes it invalid by reason of the Stamp Acts. The effect of it was to change the meaning of the word "we" in the commencement of the note. That word originally meant James White, James Coombs, Joseph White, and Robert White; now it means the above persons and Mary White. It is therefore an alteration in the body of the note, and a material alteration which prejudices the other parties, as in the case of the Statute of Limitations having run out, and a payment afterwards made by Mary White. Less alterations have been held sufficient to invalidate the note. (*Calvert* v. *Baker*, 4 M. & W. 417; *Clerk* v. *Blackstock*, Holt's N. P. C. 474.) As to the defendant being required to specially plead this, how could he do so? The objection to the note is that there is no stamp to it, not that there is a new agreement. The effect of it is not, it is submitted, the destruction of the original note, but only to prevent its being proved in evidence. *Hemming* v. *Trenery* does not apply, because there no stamp was necessary, so that no such question could arise there. *Calvert* v. *Baker* is an authority that it need not be pleaded. As to the I O U, it is submitted that this was substantially a promissory note, and should have been stamped as such, on account of the words "value received," which might import a consideration. [CRESSWELL, J.—That might equally be said of every other I O U.] Then as to its not being any evidence of an account stated. This was not given for the debt of the defendant; the evidence was, that the money was originally advanced to James White, and that he alone had any portion of it, and the Court cannot now look at the promissory note, on account of its defective stamp, to see who were the parties thereto, and that the I O U was given in respect of a debt for which the defendant was liable. It stands, therefore, as a guarantee given for the debt of another, and requires a stamp as such.

TINDAL, C. J. was absent.

COLTMAN, J.—Assuming the promissory note to be void, yet it may be necessary to refer to the time when it was valid, and in estimating whether there is any debt due on the account stated, I think it may be used to see the state of things when the memorandum was signed. At that time the promissory note was valid and free from the objection which has been made to it (but which we do not now determine); and although it has been contended that it would not support the first count, yet this would not prevent the party from giving it in evidence under the second count, to shew the state of things at the time the account was stated. As to the first count, if the plaintiff is willing to relieve the Court from giving their judgments respecting the evidence thereunder, and consent to a verdict being thereon for the defendant, the plaintiff may retain the verdict on the second count. I do not wish to express any opinion on the question as to the first count. Considering as I do the decision in the Court of Queen's Bench to be in favour of the defendant, I should wish to take time before I decided against that decision.

CRESSWELL, J.—It is unnecessary to give any opinion as to the question on the first count, as we have been relieved from this. Then as to the second count, it is requisite to see for what the memorandum was given. The plaintiff declares on a promissory note, and on an account stated, and at the trial produces a promissory note, which, *primâ facie*, supports his case. My brother Byles then meets this by shewing the note produced is not in its original state. Now taking the note to be in such a state as my brother Byles would have it appear, still it was in such a form as to shew that the defendant was debtor to the plaintiff, and it is clear that the I O U was given for that debt. This, therefore, sustains the count on the account stated.

ERLE, J.—I am of the same opinion. I am inclined to believe, with my brother Byles, that the memorandum was given as a guarantee; but the plaintiff has a right to say that it was not given as a collateral security, but in respect of the promissory note on which the defendant was liable; and although the note is not available to sue on, yet it may be given in evidence for this purpose. I am, however, of opinion that there was sufficient evidence, independent of the note, of the defendant's liability of a debt in respect of the note. Then the evidence stands thus: there is proof of an account stated, and an imperfect proof of debt, and that is sufficient to support the count on the account stated. Indeed the account stated is only ever resorted to when direct proof has failed in respect of the original cause of action. The verdict, therefore, must stand on the account stated, and we give no opinion as to the first count.

Verdict for the defendant on the first count, and for the plaintiff on the second count, with damages reduced by consent to 100l.

Tuesday, May 6.

VALPY and OTHERS, Assignees, &c. *v.* MANLEY, Esq.

Where money is paid in order to redeem goods from a party who has them in his possession, and the party paying has reason to suppose that if he does not make the payment the goods will be sold, this is not a voluntary payment which will prevent the party paying from bringing his action to recover it back. Therefore, where a sheriff entered, under a writ of execution, before, but did not seize the goods of the debtor under the writ until after, a fiat in bankruptcy had issued against him, and the assignees paid, under protest, the amount of the execution debt and expenses, in order to prevent a sale of the goods which was threatened: Held, that they were entitled to recover the same back in an action for money had and received.

Assumpsit, for money had and received by the defendant, to the use of the plaintiffs, as assignees of Thomas Bate, William Smith Bate, and James Hellings, bankrupts. At the trial, before Erle, J. at the London sittings after Michaelmas Term last, the following facts appeared in evidence:

On the 11th of July, 1843, an officer of the defendant, who was sheriff for the county of Stafford, entered on the premises of the bankrupts, for the purpose of levying, under a writ of *fieri facias*, the amount of an execution debt due on a judgment obtained against the bankrupts. The officer found there a man in possession of the property, and who had been placed there under a deed of assignment executed for the benefit of the creditors of the bankrupts, and dated the same 11th of July, 1843. The officer upon being informed of this said, "I shall consider myself in possession, and shall come from day to day, until I know whether the sheriff will interplead;" he made then, however, no inventory of the property, and it was admitted by both parties that there had been no valid seizure under the execution before the issuing of the fiat against the bankrupts. The fiat in bankruptcy was dated 14th of July, 1843, and on the 29th of that month the messenger thereunder arrived to take possession. The man in possession under the assignment for the benefit of creditors continued on the premises until the arrival of the messenger under the fiat, on the 29th of July. The messenger remained in possession until the 29th of October following. On the 15th of August, the sheriff's officer made a forcible entry on the premises by breaking open the doors, which he found locked against him, and claimed the goods as having been seized by him for the execution debt under the prior entry. He then, for the first time, made an inventory, and on being questioned as to whether he meant to sell, replied he did. Accordingly, and in order to prevent such sale, the assignees, under protest, paid the sheriff on the 2nd of September, the sum of 373*l.* 6s. 9d. being the amount of the execution debt and expenses. The present action was brought to recover back this money, as paid under compulsion, and without consideration. The learned judge entertained an opinion that the action would not lie, but reserved the question for the opinion of the Court, and directed the jury to find a verdict for the plaintiffs for the sum of 373*l.* 6s. 9d. which they accordingly did. A rule *nisi* having, pursuant to leave reserved, been obtained for entering a nonsuit—

Sir *T. Wilde* now shewed cause.—The question is, whether this payment was voluntary or not, and in order to ascertain that, it is requisite to see the conduct of the sheriff's officer upon the occasion; and it is submitted that this was such as to induce the assignees to suppose that he might have a right to sell the goods, and that, if the money was not paid, they might lose the same. The case of *Lindon* v. *Hooper* (Cowp. 414), so often cited on these matters, has nothing to do with the present case. There it was decided that the action would not lie to recover back the money paid for the release of cattle, on the ground that it was an attempt to try a right of distress under an improper form of action. One class of cases in which this action has been held to lie is when a party refuses to perform a duty which the public has a right to require him to perform, and a sum of money is in consequence paid under protest; of this class *Parker* v. *Great Western Railway Company* (13 Law J., N.S., C. P. 105) and *Ashmole* v. *Wainwright* (2 Q.B. 837) are examples. Another class, and to which the present case more properly belongs, is where the party making the demand has got possession of, or in some way connected in interest with, goods which, if not redeemed, the other party has good ground to believe he will be put to inconvenience. As to this *Hills* v. *Street* (5 Bing. 37) is an authority. If one person exacts of another a sum of money under a threat, and the other pays in consequence of such threat, that cannot be a voluntary payment. It is immaterial whether there was or not a good and valid seizure before the fiat, if, as it appears from the evidence, the sheriff acted afterwards in a manner which shewed he was relying on a prior good seizure; and however a person who, knowing all the circumstances at the time, makes a payment, intending to submit, may not be able to recover it back, it is very different when the person making the payment disputes at the time the right of the other to receive it, and believes that the person insisting on the payment has a right to do so.

The following authorities were also cited: *Close* v. *Phipps* (8 Scott, N. S. 381); *M'Combie* v. *Davies* (7 East, 5); *Snowden* v. *Davis* (1 Taunt. 359); *Knibbs* v. *Hall* (1 Esp. 84); *Brown* v. *M'Kinally* (1 Esp. 279); *Shaw* v. *Woodcock* (7 B. & C. 73); and *Dew* v. *Parsons* (2 B. & A. 562).

Talfourd, Serjt. (*V. Lee* with him), in support of the rule.—It would be carrying the case beyond all

prior authorities if this action should be held to be maintainable. It was maintained at the time of the payment that there was no valid seizure; the money was paid under protest, and it cannot therefore be disputed but that the same was paid with a full knowledge of all the facts. In all the cases which have been cited in which this kind of action has been allowed, there was some power to enforce the payment, or something more existing than here. In *Hill* v. *Street* there was an actual duress of the goods, and the party was obliged to pay an exorbitant sum in order to recover them; so, too, in *Close* v. *Phipps*. Here there has been no dealing with the goods by the sheriff, neither had he any power to sell them; there was, therefore, no legal compulsion on the plaintiffs to pay this money, and it does not in consequence fall within the cases in which money has been allowed to be recovered back after payment. (*Lackington* v. *Elliott*, 8 Scott, N. S. 275.)

TINDAL, C. J.—I am of opinion that the verdict in this cause is right, and ought not to be disturbed. The question is, whether the payment which was made by the assignees on the 2nd of September, 1843, was a voluntary one on their part, or such as the law will say was not voluntary. Now, viewing all the circumstances of the present case, I should say that when this payment was made by the assignees, they had some reason to suppose that if the money was not paid, the sheriff would have proceeded to sell the goods; so that the payment was not made voluntarily on their part. In the first place, the sheriff's officer comes armed with a warrant under a writ of execution; and secondly, he actually makes an entry thereunder before the fiat; and though he did not then make an actual seizure and went out of possession, yet he afterwards, on the 15th of August, enters by force, and makes an inventory of the property; all those shew acts on the part of the sheriff which, as against him, at least, must be taken to prove that he was in possession of the goods; and all the cases determine that if the party is in possession of the property, claiming a right thereto, and another is thereby induced to offer a sum of money in order to redeem such property, this payment is not voluntary. It falls within the principle laid down in *Fulham* v. *Down* (6 Esp. 26), where Lord Kenyon said, "that where a voluntary payment was made of an illegal demand, the party knowing the demand to be illegal, without an immediate and urgent necessity (or as expressed by Mr. Bearcroft, unless to redeem or preserve your person or goods), it is not the subject of an action for money had and received;" which clearly admits that if there is an urgent necessity to make the payment for the purpose of redeeming the person or the goods, the person so paying has a right to bring his action to recover it back; and I cannot distinguish this from the present case.

COLTMAN, J.—*Snowden* v. *Davis* is fully an authority for the present action. That case was a remarkable one. It was a case in which a *distringas* had issued from the Exchequer requiring the sheriff to levy issues on the inhabitants of New Windsor. The bailiff, to whom the sheriff directed the warrant, seems to have misunderstood the effect of the writ; he thought it authorized him to levy the whole of the debt on the plaintiff, one of the inhabitants, whereas he was only authorized to levy the issues of one shilling in the pound on the lands. The bailiff threatened to distrain for a part, namely, for the issues he had—for the residue he had not a right to distrain. Under this distress the party paid the amount, and afterwards brought an action to recover it back. Now, the first of these payments was similar to the present, and the Court there held that the party was entitled to recover it back, as it was made to an officer clothed with an authority to demand it, and there had been an actual distress. I do not, however, consider that there is any difference in this respect between an actual distress and a payment to one standing in the situation of a sheriff, with the power of the county to back him in seizing the goods. The payment in such a case is not a voluntary one, and may therefore be recovered back.

CRESSWELL and ERLE, JJ. concurred.

—— *Rule discharged.*

Wednesday, May 7.

WADE *v.* SIMEON.

The plaintiff sued the defendant in the Court of Exchequer on two cheques, in which action an order was made, by consent, for stay of proceedings, on payment of the debt on a day certain. The Court of Exchequer afterwards, at the instance of the defendant, set aside this order, on terms, ordering the cause to proceed to trial. The plaintiff thereupon sued the defendant in this court, declaring on an agreement to stay the proceedings in the action in the Court of Exchequer, on the defendant promising to pay the debt in that action on a day certain, and that a judge's order should accordingly be obtained for stay of proceedings in that action, to give effect to such agreement.

Held, that this Court would not summarily interfere to prevent t[illegible]laintiff from suing on such agreement, notwithst[illegible] the proceedings which had occurred in the Court of Exchequer.

This was a rule calling on the plaintiff to shew cause why all proceedings in this cause should not be stayed, or why the defendant should not have a month's further time to plead.

The declaration in this cause recited an action brought by the now plaintiff against the now defendant in the Court of Exchequer, for the recovery of the two several sums of 1,300*l.* and 700*l.* and interest, to which action the defendant had pleaded,—that notice for the trial of the same had been given, and that the same was about to be tried at the sittings of *Nisi Prius*, to be holden at Westminster after Michaelmas Term, 1844, and that the same would have taken place, had it not been for the promise of the defendant, as thereinafter mentioned, and that the plaintiff had incurred costs in the said action. The declaration then recited the service on the plaintiff of a notice of an application to the Court of Chancery for an injunction to restrain the plaintiff from issuing execution in the said action on any judgment obtained by him therein, in case plaintiff should obtain such judgment.

The declaration then stated that thereupon, to wit, &c. being the day next before the day when the said trial was so appointed and fixed to take place as aforesaid, in consideration that the plaintiff, at request of the defendant, would forbear prosecuting and stay all further proceedings in the said action until and upon the 14th day of December, 1844, save and except the taxation of the said costs and charges, and the obtaining and drawing up an order therein, as hereafter mentioned, he the defendant then promised the plaintiff, that he the defendant would on that day pay him the said sums of 1,300*l.* and 700*l.* and interest thereon respectively, as aforesaid, together with the said costs and charges, such costs and charges to be taxed; and that in the event of the defendants not paying the same, the defendant would suffer, and the plaintiff should be at liberty to sign, judgment in the said action; and that a judge's order should and might be obtained and drawn up in the said action to secure such payment; and that the said notice, and the said application and motion to the said Court of Chancery, should be abandoned. And that the plaintiff, confiding in the said promise of the defendant, did then, to wit, on, &c. withdraw the said record, and forbore prosecuting, and stayed all further proceedings in the said action until and upon the said 14th day of December, 1844, save and except the taxation of the said costs and charges, and the obtaining and drawing up the said order to be so obtained as aforesaid; and that, save and except as aforesaid, the plaintiff had from thence thitherto forborne to prosecute, and had stayed all further proceedings in the said action. The declaration then averred a taxation of the said costs of the plaintiff incurred in the said action, and that the amount thereof on such taxation came to 80*l.* 1*s.* 10*d.*

Breaches.—Non-payment to the plaintiff of the said sums of 1,300*l.* and 700*l.* and the said interest, amounting to 451*l.* 13*s.* 3*d.* and the said costs and charges, amounting to and so taxed at the said sum of 80*l.* 1*s.* 10*d.* as aforesaid, or any or either of them, or any part thereof; and further, hindering and preventing the plaintiff from signing judgment in the said action. And further, that the defendant obtained a rule and order of the said Court for setting aside, and did thereby procure to be set aside, a certain order before that, to wit, on the 6th day of December, 1844, made by Sir Edward Hall Alderson, Knt. one of the barons of the said court, and drawn up in pursuance of the said promise and according to the same.

It appeared upon affidavit, that an action had been brought in the Court of Exchequer of Pleas against the defendant, at the suit of the present plaintiff, upon two cheques drawn by the defendant on Messrs. Child and Co. bankers, one for 1,300*l.* and the other for 700*l.* The defendant had, among other pleas, pleaded to such action that the cheques had been given for moneys lost by gaming at hazard, and that the plaintiff at the time he became the bearer of the cheques had notice of the same. The cause being at issue, was fixed for trial on 7th December last. On the 6th December an order was made by Alderson, B. by consent, that upon payment of 2,000*l.* and interest on the two cheques from the date thereof until payment, together with costs, to be taxed and paid on or before the 14th day of December then instant, all further proceedings in that cause should be stayed; and further, that in case default be made in payment as aforesaid, the plaintiff should be at liberty to sign judgment and issue execution for the whole amount remaining unpaid. Subsequently such new facts were communicated to the defendants as would, as the defendant believed, have established the defendant's plea above stated. The defendant thereupon applied by summons before a judge to set aside the above order, and on the same being heard at chambers, Rolfe, B. refused to set aside the order, but directed the money to be brought into court, and the proceedings to be stayed until the fourth day of last Hilary Term. In pursuance of such last-mentioned order, the defendant paid into the Court of Exchequer in that action the sum of 2,500*l.* and in Hilary Term last, and before the commencement of the action in this court, the Court of Exchequer granted a rule ordering that the order of Mr. Baron Alderson of the 6th December last be set aside, and that the plaintiff do proceed to the trial of that cause; and further, that the money paid into court by the defendant should remain therein to abide the event of the said trial, and of that cause; and further, that the defendant do pay to the plaintiff the costs to be taxed by the Master of that rule, and of the said order, and of and incidental to restoring the said cause to the position in which it stood at the time of the date thereof. The plaintiff, up to the 8th March last, refused to recognize such rule, and though served with appointments to tax, never attended the taxation of the costs therein mentioned, and the same were therefore taxed at a nominal sum. Subsequently, however, the plaintiff obtained an order for the Master to review his taxation, under which order the costs were retaxed and paid. On the day the rule was granted, the plaintiff commenced the present action in this cause against the defendant. The plaintiff declared as above on the 18th of March last, and on the 20th of that month a summons was taken out before Rolfe, B. the vacation judge at chambers, to shew cause why the writ of summons in this action and all subsequent proceedings thereon should not be set aside, on the ground that the promise on which the action was founded was the subject of the order of Alderson, B. which had been set aside. The learned judge, however, dismissed the application with costs, observing that any defence on that ground might be set up by plea.

Channell and *Byles*, Serjts. now shewed cause, and contended that the case was not one in which the Court ought summarily to interfere; that there had been no breach of good faith in which the Court would interpose to stay proceedings, as in *Moscati* v. *Lawson* (4 A. & E. 331); that the plaintiff here had done all he had by the terms of the agreement to perform, viz. he had withdrawn the record, and delayed going to trial. The declaration shewed a good and distinct cause of action, and that the plaintiff ought not to be prevented from suing in this court by a proceeding which would deprive him of a writ of error; that he was not proceeding in the Court of Exchequer, and was willing to a judgment of *non pros.* being entered against him in the action in that court.

The following cases were cited: *Dicas* v. *Jay* (6 Bing. 519), and *Cocker* v. *Tempest* (7 M. & W. 502).

Kinglake, Serjt. (*Barstow* with him), in support of the rule, relied upon the whole subject-matter of the present action having been heard in the Court of Exchequer, and that that Court had made that which it considered a proper order for disposing of it; that the money, the subject of the present action, had been paid into that court; and that the plaintiff had, by receiving the taxed costs of the rule, adopted its terms. It was an abuse of the process of the court to sue out the writ in this action after the order made by the Court of Exchequer, and the present application falls within the principle laid down by Pollock, C.B. in this cause (14 L. J., N. S. Ex. 118):—"We think there can be no doubt that in any stage of the proceedings, as long as there remains any necessity for an appeal to the authority of the Court, or any occasion to call on the Court to exercise its jurisdiction, the Court has an undoubted right to interfere; and it is its duty to interfere if it perceives that the process or jurisdiction of the Court is about to be used for purposes which are not consistent with justice." *Doe dem. Carthew and Others* v. *Brenton* (6 Bing. 469), and *Parkyn* v. *Scott* (1 Taunt. 565), were cited.

TINDAL, C. J.—It appears to me that the plaintiff has a *primâ facie* cause of action against the defendant, and has a right, by the law of the land, to have the judgment of this Court on it, and in case of being dissatisfied therewith, to bring his writ of error thereon, or otherwise, to have the opinion of the Court above, according to the usual course of a cause. We ought to be careful to see that there has been such conduct of the plaintiff as to deprive him of this right, and I cannot see that the Court of Exchequer meant, by the rule they made, to prevent the plaintiff from suing on this agreement; all they did was to refuse giving a summary effect to part of its terms; but that left untouched the rest of the agreement. The plaintiff here insists that it was agreed between him and the defendant, in consideration of his forbearing to prosecute an action against the defendant, that the defendant should pay to the plaintiff two sums of money on a day certain, and that it was one of the terms of such agreement that a judge's order should be drawn up, in order the better to carry such agreement into effect. The Court of Exchequer thought that they had authority to set aside that order, and that Court no doubt had a right, if it thought proper, to do so; but that seems to me to leave standing the agreement between the parties, which was the foundation of that order, and quite separate and distinct therefrom. The defendant may, in this action, if he chooses, put that agreement in issue, and then at the trial, if the plaintiff cannot produce or prove such an agreement, he must fail; if he can establish it, then he would and ought to succeed in the action. The present case does not shape itself under those cases where there

has been any breach of good faith. If it had, this Court would certainly have interfered. I think, therefore, this rule ought to be discharged.

COLTMAN, CRESSWELL, and ERLE, JJ. delivered similar judgments.

Rule discharged, without costs: the defendant to have time to plead.

BUSINESS OF THE WEEK.

Friday.

DAWSON *v.* CROFF.—*Talfourd,* Serjt. for the defendant, and *Gaselee,* Serjt. for the plaintiff, argued this demurrer. *Cur. adv. vult.*

ALLPORT *v.* NUTT.—*Byles,* Serjt. for the plaintiff, and *Channell,* Serjt. for the defendant, argued this demurrer. *Cur. adv. vult.*

BOND *v.* EASTERN RAILWAY COMPANY.—*Manning,* Serjt. for defendant, in support of demurrer. *Channell,* Serjt. contrà, not called on. *Judgment for plaintiff.*

Saturday.

RAWSON *v.* ALLEN.—The Court refused a rule in this cause on the misdirection, but granted it on the point as to the claim of the patentee. *Rule nisi accordingly.*

SMITH *v.* BARRETTO.—*Talfourd,* Serjt. shewed cause. *Byles,* Serjt. in support of rule for new trial. *Rule absolute.*

SMITH *v.* GIBBONS and OTHERS. — *Talfourd,* Serjt. shewed cause against a rule for a new inquisition before the sheriff, on account of excessive damages. *Byles,* Serjt. in support. *Rule discharged.*

Monday.

Re CHARLES WILSON.—*Shee,* Serjt. shewed cause. *Byles,* Serjt in support of rule for review of taxation of costs. *Rule discharged with costs.*

CAMERON *v.* JOHNSON and ANOTHER.—*Gaselee,* Serjt. moved for a new trial, against evidence and for misdirection. *Rule nisi.*

MADDOX *v.* SCHIRA.—The Court said that they had consulted Maule, J. who was of opinion that the damages were not excessive; there would, therefore be *No rule.*

BURGESS *v.* GRAY.—*Talfourd,* Serjt. (*Bramwell* with him) shewed cause, and *Byles,* Serjt. in support of rule for new trial. *Rule discharged.*

MARTINGALE *v.* FALCONER and OTHERS.—*Channell,* Serjt. moved to set aside a judgment, for irregularity. *Rule nisi.*

Tuesday.

CHADWICK *v.* CLERK. —*Shee,* Serjt. moved to set aside the nonsuit, and enter verdict for plaintiff for 52*l.* pursuant to leave reserved. *Rule nisi.*

HARLOW *v.* REED.—*Talfourd,* Serjt. moved to set aside an award. *Rule nisi.*

BULL *v.* WESTON.—*Dowling,* Serjt. shewed cause why an attachment should not be set aside. *Byles,* Serjt. contrà. *Rule absolute.*

MOORE *v.* TUCKWELL.—*Byles,* Serjt. shewed cause. *Shee,* Serjt. in support of rule for new trial. *Cur. adv. vult.*

Wednesday.

STEWART *v.* PATCH.—*Byles,* Serjt. shewed cause. *Channell,* Serjt. in support of rule to enlarge rule for peremptory undertaking. *Rule absolute.*

MOSSENTON *v.* WEATHERLY.—*Shee,* Serjt. moved for a rule to have verdict for plaintiff set aside, and entered for defendant. *Rule nisi.*

HOPKINS *v.* WRIGHT.—*Byles,* Serjt. moved to set aside verdict for plaintiff, on ground of cause having been improperly tried out of its turn as undefended. *Rule nisi.*

COURT OF EXCHEQUER.

Saturday, May 3.

WASSALL *v.* SCARISBROOK.

Service of notice of declaration—Time for signing judgment.

Where a notice of declaration has been put under the door, and the defendant admits having received it, judgment is regularly signed eight days after such service, unless the defendant swears to some delay in his receiving it.

Crouch shewed cause against a rule which had been obtained by *James* to set aside the judgment signed by the plaintiff in this action. The affidavit upon which the rule was obtained stated that the defendant had never been served with any writ, and that he had no notice of the proceedings until he received a notice of declaration from his landlord, who had found it under the door. He did not state when he received the notice of declaration

The affidavit in answer positively swore that the defendant was served with a writ, and it also stated that the notice of declaration was served on the 28th March last, by being put under the door, and that on the 31st March the defendant admitted having received it from his landlord. Judgment was signed at the proper time, assuming the notice of declaration to have been received on the 28th March.

Crouch contended that, as the notice of declaration might, for any thing that appeared to the cont ary, have been received by the defendant in proper time, and as the *onus* lay upon the defendant to shew irregularity in the proceedings, the rule ought to be discharged.

James, contrà.

POLLOCK, C. B.—The ground on which I have come to the conclusion that the rule should be discharged is this: the party originally applying for the rule swears that he received the notice of declaration from his landlord. I think we must take that to have been on the day when it was put under the door. It is quite consistent with every thing that appears that he may have received it in time to make the judgment regular. He has chosen to conceal the time when he really did get it. The rule must be discharged, unless the defendant chooses to have the proceedings set aside on payment of costs.

The rest of the Court concurred.

Rule accordingly.

HOLLAND *v.* WRIGHT.

Rule nisi—Affidavit of service.

An affidavit of service of a rule stating that the rule was served "on the sister of the defendant's wife, at his dwelling-house," is not sufficient without stating that she resided there, or was a member of the family.

Pearson moved to make a rule to compute absolute on affidavit of service. The affidavit stated that the rule was served by leaving a copy of the same "with the sister of the defendant's wife, at his dwelling-house."

ALDERSON, B.—The officers certify that it is not sufficient unless you go on to state that the sister was one of the family, or that she resided there. It is different from the wife or the servant of the party, who may be taken *primâ facie* to live in the house; but the wife's sister is a mere stranger, unless the contrary be shewn. You had better amend your affidavit. *Rule accordingly.*

DOE *dem.* LLOYD *v.* INGLEBY.

Tenant—Notice to quit—Expiration of term.

In this case *Jerris* obtained a rule to set aside the verdict for the plaintiff, and to enter a nonsuit or verdict for the defendant. The point was reserved by Coleridge, J. before whom the cause was tried, with liberty to the Court to draw the same conclusions from the evidence as a jury might have done.

Welsby and *Townsend* shewed cause on a previous day in the present Term.

Jerris, contrà. *Cur. adv. vult.*

POLLOCK, C. B. now said.—In this case it appears that the notice to quit was given on the 2nd April, 1843. The ejectment was brought on a demise of May 4, 1844. The question is, whether the tenancy began so as to admit of that demise being resorted to. The point was reserved by Coleridge, J. and the Court was to be permitted to draw the same conclusions as a jury. On the facts, certainly, I should draw the conclusion that the tenancy commenced on the 12th May, and therefore that the demise was too soon. *Rule absolute.*

MILLS *v.* GOFF.

Tenant—Notice to quit—Expiration of term.

A notice to quit was given to a tenant from year to year "on the 11th October now next ensuing, or such other day or time as your said tenancy may expire on." The notice being insufficient for the next 11th October, Held, that the subsequent words did not make it a good notice for the next year.

Trespass for breaking and entering the plaintiff's dwelling-house and premises, and expelling him therefrom.

Pleas—1st, Not guilty. 2nd. A plea under 1 & 2 Vict. c. 71, alleging that the plaintiff held the premises under the defendant as tenant from year to year, at a certain rent not exceeding 20*l.* a year, &c.; and that before the trespasses, the interest of the plaintiff ended and became duly determined *by a legal notice to quit,* and that, the plaintiff neglecting and refusing to deliver up possession, the defendant caused the plaintiff to be served with a notice of his intention to apply to the justices of the county in petty sessions for their warrant to certain constables to enter and take possession; that the plaintiff not appearing, the defendant proved the holding and determination of the tenancy, and the neglect and refusal of the plaintiff to deliver up the premises; that the justices issued their warrant, and that the constables entered, which were the same trespasses, &c. *Verification.* 3rd. *Liberum tenementum.*

Replication, *similiter* to the first plea.

To the second plea, That all the term and interest of the plaintiff had not before the said time when, &c. ended, nor become duly determined *modo et formâ,* &c.

To the third plea, That the defendant has nothing in the said premises, except under one Abraham Turrell, and that before the said time when, &c. the said Abraham Turrell demised the premises to the plaintiff from year to year, and that the defendant, during the continuance of the demise, committed the trespasses. *Verification.*

Rejoinder—That Abraham Turrell conveyed the remainder immediately expectant on the determination of the demise to the defendant; that the plaintiff thereby, and by force of the statute, became tenant to the defendant, and that before the trespasses the interest of the plaintiff was determined by a legal notice to quit.—*Verification.*

Surrejoinder—That the interest of the plaintiff was not duly determined by a legal notice to quit *modo et formâ.*

Upon this issue was joined.

The defendant, at the trial before Williams, J. at the last Suffolk assizes, proved the following notice to quit, which was served on the day after its date:—

"To Mr. ROBERT MILLS,—I do hereby give you notice and require you to quit and deliver up the peaceable and quiet possession of the dwelling-house and premises which you now hold of me, situate at Wrentham, in the county of Suffolk *on the eleventh day of October now next ensuing, or such other day or time as your said tenancy may expire on.*

"And I do hereby give you further notice, that unless you quit and deliver up possession of the said premises at the time and in manner aforesaid, double rent will be charged for the said premises for so long as you shall hold over the said tenancy.

"Dated this seventeenth day of June, 1840.

"JOHNSON GOFF.

(Witness) "WM. R. SEAGO."

It was admitted that it was a bad notice for the 11th October next, but the question at the trial was, whether the words "such other day or time as your said tenancy may expire on," made it a good notice for the following year.

The learned judge thought it sufficient, and the jury found for the defendant.

Prendergast having obtained a rule for a new trial, on the ground of the insufficiency of the notice,

Byles, Serjt. shewed cause.—The words in the notice must be taken to mean at the earliest time for which a notice would properly be given. For some purposes a tenancy from year to year may be said to expire every year. He cited *Doe* dem. *Lord Huntingtower* v. *Culliford* (4 Dowl. & R. 249).

Prendergast, contrà.

ALDERSON, B.—This notice is upon the face of it a three months' notice for the 11th October, 1840, and if it was intended to make it applicable to the next year, care should have been taken to make it more distinct in its terms. The landlord here seems not to have been quite certain himself of the time at which the tenancy would expire, and he has tried to throw the burden of discovering that upon his tenant.

The rest of the Court concurred.

Rule absolute.

Tuesday, May 6.

ASTON *v.* BREDIN.

Special demurrer—Strict interpretation of the words "last mentioned."

This was an action of trover against the defendant for seizing and converting to his own use certain chattels of the plaintiff—to wit, twenty tons of hay, two tons of barley, and a certain quantity of turnips. The defendant in his plea justified the taking, as servant to one William Brevit, he being possessed of three undivided fourth parts or shares in the said chattels, as tenant in common thereof, giving colour to the plaintiff. To this the plaintiff replied, that as to part of the said chattels, the said W. Brevit was not possessed thereof in manner and form; and as to the rest of the said chattels, portion of the said chattels in the declaration mentioned, that the defendant of his own wrong took and seized the said *last-mentioned* chattels, without the matter of excuse in the plea alleged. To this there was a special demurrer, on the ground that the words *last-mentioned* chattels must be held to refer to the whole of the chattels mentioned in the declaration, the last antecedent being "the said chattels in the declaration mentioned;" therefore, the replication was bad, as answering more than it professed to do.

Unthank, in support of the demurrer, was stopped by the Court, who called on *H. Hill* to support the replication.

H. Hill.—The simple question is, whether a common sense interpretation is not to be given to this replication; if so, the judgment must be for the plaintiff.

POLLOCK, C. B.—If you put in the words "portion of the said goods in the declaration mentioned" in a parenthesis, then the matter is perfectly plain; but as this is a special demurrer, the objection must prevail.

Hill.—Then the plea is bad, as it does not sufficiently justify any conversion. The defendant merely says he took and seized for a third person, which would not justify a conversion to his own use.

Cases cited: *Ascue* v. *Sanderson* (Cro. Eliz. 104); *Whitmore* v. *Cotton* (13 M & W. 104).

POLLOCK, C. B.—I think the plea is a good plea, and that the replication is bad. It is very clear what the plaintiff meant by it, but as the objection is taken on special demurrer, it must prevail.

ALDERSON, B.—I am of the same opinion; there is such an ambiguity here, that as the replication is specially demurred to, the objection cannot be got over: it may be, that the plea also would have been bad if specially demurred to, but as that was not done, we must take it as on general demurrer, and it is well enough.

The rest of the court concurring,

Judgment for the defendant.

TURNER v. MASON.

Where a female servant has been dismissed by her master for leaving his house for a day and a night against his orders, it is no excuse for her to say that she went to see her sick mother, having first been refused permission by the master. Semble, That the Court cannot enter into questions of moral excuses for such disobedience of the master's orders.

This was an action brought by the plaintiff against the defendant to recover a month's wages, on the ground that the defendant had wrongfully discharged the plaintiff from his service.

The defendant pleaded that the plaintiff, being a housemaid in the service of the defendant, had wrongfully and against his orders left his, the defendant's, service, and stayed away for the space of one day and night, whereupon he dismissed her.

Replication.—That the mother of the plaintiff being dangerously ill, the plaintiff requested the defendant to allow her to go and see her said mother, which the defendant then refused to allow her to do, whereupon she, the plaintiff, went to see her said mother, as she lawfully might for the cause aforesaid, her services not being required during that time by the defendant.

Demurrer.

Gray appeared to support the demurrer, but the Court called on *Baddeley* to support his replication.

Baddely.—Even admitting the replication to be bad, still the plea is bad also, as it does not disclose any just cause for dismissing the plaintiff. It is not at all alleged in the plea that the defendant required the plaintiff's services during the time she was absent, and it surely cannot be a sufficient reason to a master to dismiss his servant, that the servant went away for a short time, unless it is shewn that the master was damnified thereby. Suppose the servant wanted medical advice, and the master would not give her leave to go out and get it, surely she would be justified in so doing, and the master could not discharge her. Now here she was in the performance of a high moral duty, and it is contended that no cause for the dismissal is shewn. [PARKE, B.—This is a wilful disobedience of orders.] *Baddely.*—But every disobedience of orders will not justify a dismissal. [PARKE, B.—But a wilful disobedience of lawful orders will, and surely an order not to leave the master's service is a lawful order? and here she goes out, and stays all night.] [ALDERSON, B.—Suppose your cook refuses to cook your dinner on a Sunday, may you not discharge her?] Am I to infer that a servant is not to absent herself to attend the death-bed of her mother? [ALDERSON, B.—This is a question of contract, not morality; for it would be equally moral for the servant to work for her mother if she was starving, yet it could not be contended that she could do that. PARKE, B.—Then you do not sufficiently aver that the master had notice of the illness of the mother.] That is sufficiently shown by the application to the master for leave to go and see her.

Cases cited, *Levison* v. *Kirk* (Lane's Rep. p. 5); *Callo* v. *Brounker* (4 C. & P. 518); *Fillieuld* v. *Armstrong* (7 A. & E. 507); *Jackpo* v. *Butler* (7 Dowl. 748).

Gray, in support of the demurrer, was not called on by the Court.

POLLOCK, C. B.—The plea is a perfectly good plea, as it discloses an order of the master, which has been wilfully disobeyed by the servant. Then the replication does not shew any good cause for the disobedience of tha torder; it does not even appear that the master had any sufficient notice of the illness of her mother, or even if he had, that any advantage was to be gained by the servant's going to see her. No doubt it might be very proper for the daughter to go, but that is not the question we have to decide, which is a mere one of contract.

PARKE, B.—I am of the same opinion; in contracts by servants the rule is that the servant is to obey all the lawful orders of the master, and that he may discharge his servant for any wilful disobedience of such orders; now here there is that wilful disobedience. Then does the replication shew any good excuse for the disobedience? I think it does not. The master is the proper person to determine whether his female servant shall absent herself from his house for a day and a night. Even if the mother was like to die, still there is no imperative duty cast on the daughter to go to see her, which can override the master's authority; and if she goes, she must do so at the peril of being discharged.

ALDERSON, B.—I am of the same opinion. There may be a very good moral right for the servant to leave, but not a good legal one. It may be wrong of the master to refuse the servant permission to go to see her sick mother, but we have only to do with the pure legal question, and cannot enter questions of excuse by moral rights. It may be that the servant may be excused leaving the master's house in the case of infectious fevers, or apprehension of personal violence, but it is for the servant to make out the legal necessity, which she has not done here.

ROLFE, B. concurred.

Judgment for the defendant.

JONES v. CHAPMAN and OTHERS.

Where a constable justifies a trespass under a warrant of justices to give possession of a tenement under 1 & 2 Vict. c. 74, he must shew that he was a constable of the division or district in which the premises or part of them was situate.

This was an action against the defendants for breaking into the dwelling-house of the plaintiff, and removing his goods.

To this the defendants pleaded several pleas, justifying the trespass under the authority of a warrant of justices to them, as constables, to give possession of the said dwelling-house to one William Chapman, under the Small Tenements Act (1 & 2 Vict. c. 74).

Demurrer—on the ground, amongst others, that the plea did not shew that the justices had jurisdiction to issue their warrant, and that it was not alleged that the defendants were constables of "the district, division, or place within which the said premises, or any part thereof, was situate," as required by the Act.

Welsby, in support of the demurrer.—Where a justification is made under an order of justices, it must be shewn distinctly that the magistrates had jurisdiction, and that every proper proceeding has been taken. Now here, although it is stated in the pleas that the justices duly issued their order to the defendants and all other constables of the district of A, it is nowhere shewn that the house in question was within that district, as required by the Act. (Stopped by the Court.)

Peacock, in support of the plea.—This is an action against the constables, and not against the justices; the question is, therefore, whether the constable is bound to inquire whether the justices have authority to make their order. Now it is contended, that even if the constable is not an officer of the district, still the justice may make him his officer by merely directing his warrant to him; and if so, he is not bound to inquire whether or no the magistrate has jurisdiction to make the order.

PARKE, B.—You are all wrong. The statute says that no person shall serve the order to give possession under that statute, except the constable for the division in which the premises are situate. Now here the defendants do not shew in their pleas that they were constables of the district in which the house in question was situate, therefore the plea is bad.

POLLOCK, C. B., ALDERSON, B. and ROLFE, B. concurred. *Judgment for the plaintiff.*

Wednesday, May 7.

EVANS v. THE DROGHEDA RAILWAY COMPANY (5 Law T. 57).

Semble, where there has been a service of a writ of summons upon a wrong party under a Railway Act, the objection to such service is not waived by the party not moving to set it aside immediately, and a rule to set aside all subsequent proceedings will be granted, although he has had notice of every different step.

In this case *Crompton* shewed cause against a rule obtained by *Peacock* to set aside the judgment on the ground that the company had been improperly served.

It appeared that the service had been made in London, on one of the directors of the company who happened to be there; but by a clause of the Railway Act it was provided that, before any service could be made upon a director in an action against the company, inquiries must be made at the office of the company, if known, for the secretary or clerk of the company, who was to be the person served. Now the rule was moved on affidavits shewing that the office of the company was at Dublin, and that the secretary and clerk of the company were at all times to be found there.

Crompton.—Even allowing the service to be bad, still the defendants have no right to lay by until judgment has been signed before they take any step: and as they had notice of every step which has been taken in the case, the Court will treat this as a case of irregular service which has been waived by the defendants, who ought to have moved to set aside the service in the first instance. They had notice of declaration given them; they should then have objected.

PARKE, B.—Suppose you had a letter informing you that there was a notice of declaration stuck up in the Four Courts, Dublin, against you, would you take any notice of it?

POLLOCK, C. B.—There was never any service at all here, as the corporation were never within the jurisdiction.

Crompton.—The cause of action arose in England, and the defendants are a corporation of the United Kingdom.

PARKE, B.—Yes; but you have no right to serve a director anywhere, unless you have made every effort to serve the secretary or clerk at the office in Dublin.

POLLOCK, C. B.—Is there any case which shews that when there has been an irregular service, and the party says, If you go on I shall hold you responsible, is there any case to shew that if you do go on, he cannot apply to set all the proceedings aside?

Crompton.—Here the fact of the defendants having notice of every step which has been taken is a very important feature in the case.

ALDERSON, B.—You are arguing the case on the assumption that there has merely been an irregular service, but this service would have been bad even in Ireland.

Peacock appeared to support his rule, but was not called on by the Court.

Judgment for the defendant.

BEARUP and ANOTHER v. PEACOCK.

In this case *M. Chambers* had obtained a rule *nisi* for an attachment for the non-performance of the award.

Knowles now shewed cause, and asked the Court to stay the proceedings in that case, as he was instructed to move to set aside the award itself. This he found he could not do without joint and separate motion, as the objections to the award did not appear upon the face of the affidavits on which the attachment had been moved for.

The COURT said the rule would be made absolute simply; but if a rule *nisi* was obtained to set aside the award, of course the proceedings on the present rule would be stayed. *Rule absolute.*

At a subsequent period of the day *Knowles* obtained a rule *nisi* to set aside the award, on the ground of misconduct of the arbitrator, on the authority of *Dobson and Another* v. *Groves and Others* (14 Law Jour. N. S.; 1 Ver. Prac. Cases, 101).

BEVINS v. HULME.

Pleading several counts, allowance of.

The first count alleged that defendant was retained by plaintiff to prosecute an action, at the suit of A B, for damages sustained by A B by reason of his having been run over by a gig, and that he did prosecute the action, and recover the damages and costs. Breach—That he had not paid the same to the plaintiff, or to the said A B, or any other person. The second count was for money had and received. Held, that these counts were not in apparent violation of the 5th rule of 4 Wm. 4.

Crompton shewed cause against a rule obtained by *Prideaux* for rescinding an order of Rolfe, B. for striking out one of the counts of the declaration herein, as having been inserted in contravention of the 5th rule of H. T. 4 Wm. 4. The action was against an attorney. The first count alleged that the defendant and one Andrew, his partner, were retained by the plaintiff to prosecute an action for the father of the plaintiff, to recover damages for an injury sustained by the father by reason of his having been run over by a gig; that they did accordingly, as such attorneys, prosecute the action and recover damages; that they recovered a small portion of the debt and damages under a *fi. fa.* and arrested the defendant under a *ca. sa.* for the balance, who thereupon paid such balance to the jailer, who paid it to the defendant and his said partner; with a breach, that the defendant had not, nor had the said Andrew, paid the said balance to the plaintiff or to his father, or to any other person. The second count was a common count for money had and received. Mr. Baron Rolfe had ordered one of the counts to be struck out, as it was submitted correctly, for the plaintiff was the party who retained the defendant, and the terms of the breach shewed that the money was to be paid to him, and if so, the action was substantially one for money had and received. The particulars proved that the two counts were in respect of the same transaction.

Prideaux, contra, was not called upon.

PARKE, B.—This rule must be made absolute. The question is, not whether the two counts relate to the same transaction, but whether they are in *apparent* violation of the rule. Can you say that this special count disclose [illegible] f money had and received to the use of the plaintiff? The mere fact of the breach charging a non-payment to the plaintiff makes no difference. We must look to the nature of the count itself.

ROLFE, B.—When Mr. Prideaux moved this rule, he mentioned a circumstance which I was not previously aware of—namely, that the plaintiff in this action is not the same person as the plaintiff in the original action. *Rule absolute.*

BUSINESS OF THE WEEK.

Saturday.

GEACH v. INGALL.—Motion for a new trial. *Rule absolute.*

Tuesday.

THOMAS v. HUDSON.—*Martin*, Q. C. was heard in reply. *Cur. adv. vult.*

THE PLUMBERS' COMPANY v. CHAPPLE.—*Bovill* was heard against the demurrer. *Lush*, in support. *Cur. adv. vult.*

BAIL COURT.

Saturday, May 3.

(Before Mr. Justice COLERIDGE.)

Ex parte THE COMMISSIONERS OF STAMPS AND TAXES.

Quære, whether, on an attorney of the Court of Common Pleas of Lancaster being admitted an attorney of the courts at Westminster under the provisions of the 9 Geo. 4, c. 49, s. 4, he is chargeable with an additional duty of 60l. or 120l.

Crompton moved, on behalf of the Commissioners

of Stamps and Taxes, for a rule calling upon an attorney of this Court to shew cause why he should not be struck off the roll.

The rule was moved for, not on the ground of any misconduct on the part of the attorney, but for the purpose of trying the question whether or not an attorney of the Court of Common Pleas of Lancaster, on being admitted an attorney of this court, is chargeable with an additional stamp-duty of 60*l.* or 120*l.* It was said that a great many cases will depend upon the decision.

It appeared that the gentleman against whom this rule was moved had paid on his articles of clerkship, which were entered into in order to his admission as an attorney in the county palatine of Lancaster, the sum of 60*l.* pursuant to the schedule of the 55 Geo. 3, c. 184, and that he was accordingly admitted an attorney of that court in 1830; that on the 4th of May, 1844, he was admitted an attorney of this court, pursuant to the provisions of the 9 Geo. 4, c. 49, s. 4, which enacts "that upon payment of the sum of 120*l.* being the amount of duty imposed by law on articles of clerkship entered into by any person in order to his admission in any of his Majesty's courts at Westminster, it shall be lawful for the Commissioners of Stamps, &c. to stamp any articles of clerkship, &c. under which any person may have served or become bound to serve as clerk in order to his admission in any of the courts of great sessions in Wales, or of the counties palatine of Chester, *Lancaster*, &c.; and thereupon the person having so served shall be capable of being admitted an attorney, &c. in one of his Majesty's said courts at Westminster: provided always, that at the time when such articles of clerkship shall be required to be stamped with the said stamp denoting the payment of the said sum of 120*l.* such articles shall have been previously stamped with a stamp denoting the payment of the duty payable in respect of the same at the date of such articles of clerkship." Upon such his admission, the additional sum of 60*l.* was paid, making, together with the sum originally paid on his articles of clerkship, the sum of 120*l.* On the part of the Commissioners of Stamps, it was now contended that this sum was too little, and that the entire sum of 120*l.* should have been paid under the provisions of the last-mentioned Act, in addition to the original sum of 60*l.*

This gentleman having been admitted on the 4th of May, 1844, this was the last day on which, by the provisions of the 6 & 7 Vict. c. 73, s. 29, this application could be made.

Rule nisi.

TRENT *v.* HARRISON.

No expenses of witnesses should be allowed on taxation of costs which have not actually been paid.

His lordship gave judgment in this case, which was an application for the Master to ascertain whether certain sums stated in the affidavit of increase to have been paid to various witnesses, had in *fact* been paid before the taxation of costs; and if any had not so been paid, that the amount should be repaid by the plaintiff to the defendant, out of the money levied on the execution; and that the Master's *allocatur* and the judgment should be reduced accordingly; and that the plaintiff should pay the costs of the application. By the affidavit of increase it was sworn that several sums of 4*l.* 4s. and 3*l.* &c. had been paid to certain witnesses in the cause, whereupon these sums (slight deductions having been made) were allowed by the Master. By the affidavits used in moving for this rule, it appeared that these sums had not in fact been paid, but that one witness having goods of the plaintiff in his hands, was allowed to deduct the amount therefrom, and that another witness had an I O U given him.

His lordship, in making the rule absolute, said, that although he did not feel himself called upon to impute fraud to the parties, yet that the affidavit of increase was decidedly untrue; and that, according to the practice of the court, which was a very wholesome one, and requires that all payments should in fact be made before they are allowed on taxation, the Master would not have allowed these items if he had been properly made aware of the real facts; and such being the case, notwithstanding the amounts may since have been paid, the rule must be made absolute.

Rule absolute.

Monday, April 5.

DOWNES *v.* GARBETT.

A writ of summons described the defendant as "Edmund Garbett, of Wellington, in the county of Salop, but now of Middlesex:" Held bad, for the want of the addition of the place of residence or supposed residence in Middlesex.

Miller shewed cause against a rule obtained herein by *Lush* to set aside the writ of summons, or the copy and service thereof, for irregularity, with costs. The irregularity complained of was in the description of the defendant, which was as follows:—"To Edmund Garbett, of Wellington, in the county of Salop, but now of Middlesex;" and it was contended that this was a sufficient compliance with the 2 Wm. 4, c. 39, the first section of which Act requires that in every writ of summons and copy thereof "the place and county of the residence or supposed residence of the party defendant, or wherein the party shall be or shall be supposed to be, shall be mentioned;" for that the actual residence of the defendant was given as at Wellington, and for the purpose of giving jurisdiction, the county also where he happened to be at the time of service. That inasmuch as the defendant was at the time of service in London, though at no fixed place there (his regular residence being at Wellington), he was properly described in the writ—the object of the description being to satisfy the defendant that he is the person intended. (*Border* v. *Levi*, 3 Dowl. 150; *Hill* v. *Harvey*, 4 Dowl. 163; *Ward* v. ——— 5 Dowl. 94; *Cotton* v. *Soyer*, 2 Dowl. N. S. 310; *Simpson* v. *Ramsden*, 13 L. J. Q. B. 91; *Stevenson* v. *Thorn*, 2 Dowl. & Low. 230; *Norman* v. *Winter*, 7 Dowl. 304.)

Lush, contrà, was not called upon.

COLERIDGE, J.—Although I am not willing to construe these errors with unnecessary strictness, I think that this rule must be made absolute. It has been contended that if the party's late residence is stated, it is sufficient, according to one of the decided cases; but the writ here does not say *late* of Wellington, but "of Wellington, in the county of Salop, but now of Middlesex." We must see whether this description is a compliance with the Act. Now, the Act contains certain requisites; it is not enough to state the county in which the defendant resides, but his *place* of residence, or the place and county of his supposed residence must be given. The Act of Parliament evidently contemplated two different states of facts; one, where the defendant has a known, ascertained residence, and the other, where his residence is uncertain. Now, in this writ they have given both; but the residence as stated, is in a county into which the writ does not run. It is said that here is a minute description given, which cannot mislead the defendant; but it is not a minute description only, that is a compliance with the terms of the Act. It is admitted that, if the words "of Wellington, in the county of Salop," had been struck out, it would not have done; but as the plaintiff has chosen to describe the defendant as "now of Middlesex," it is the same thing as though those words were not inserted. Here is, therefore, no mention of the place of the defendant's residence in Middlesex, and the rule must be made absolute.

Rule absolute, without costs.

Tuesday, May 6.

REG. *v.* NEWTON.

When on an indictment found at the assizes the venue is changed at the instance of the defendant to another county, and he enters with a surety into the usual bond to pay all additional costs incurred in consequence of such change, and where the commission-day in the latter county is on a Saturday, and in the former county in the middle of the week, he is properly chargeable with the costs of the witnesses in staying at the assize town on the Sunday, as they were all bound to have been there on the commission-day, and this, notwithstanding the case is tried on the first day of business. The Master is justified in allowing what he conceives to have been the real extra costs, notwithstanding in so doing he may allow, in fact, all the money which has been really paid to the witnesses.

Godson, Q.C. shewed cause against a rule obtained herein by *Newton*, calling upon the prosecutor to shew cause why the Master of the Crown-office should not review his taxation of the extra costs incurred herein by the prosecutor by reason of the trial of this cause having taken place at Worcester instead of Gloucester.

It appeared that an indictment for perjury having been preferred against the defendant at the Gloucester assizes, a motion was made that the trial thereof should be had in the adjoining county of Worcester, it being suggested that from peculiar circumstances a fair trial would not be had in the former county. On the argument the rule was made absolute, upon the usual undertaking of the defendant to pay the extra costs occasioned by the change of *venue*. This undertaking was the subject of a bond into which the defendant and a surety entered for the security of the costs. The commission-day at Gloucester was on a Wednesday, and the assizes there occupied ten days. The commission-day at Worcester was on a Saturday, and the assizes lasted a week. The indictment, which, according to the usual practice, was set down for trial by the defendant, stood about five in the list of causes, and in consequence of the four prior cases going off, it was called on at about ten o'clock on the Monday, when, at the instance of the judge, it was postponed until the following morning, when it was tried, and the defendant was acquitted. On the taxation of the extra costs, the Master allowed the following items, which were the subject of objection in this motion, namely, 4*l.* 4s. for one day's extra attendance of two professional gentlemen from London; 11*l.* 1s. 6d. in respect of the additional expenses of twelve witnesses, and 2*l.* 2s. as the additional cost of attendance of the attorney. These additional costs were allowed by the Master, on the ground that as the commission day at Worcester was on a Saturday, when at Gloucester it was on a Wednesday, one day's additional expense, namely that of Sunday, had been incurred in consequence of the change of *venue*. It appeared also that the sum of 11*l.* 1s. 6d. was made up of the conduct-money paid to the witnesses, who had to go to Worcester instead of to Gloucester, nine of whom, coming from Cheltenham, two from Gloucester, and one from Swindon, the whole of whose conduct-money had been allowed as increased costs.

In support of the Master's taxation it was contended that he had taken a fair and proper view of the case; that he had exercised a sound discretion, and that all the additional costs which he had allowed, making, with all the other items, the gross sum of 29*l.* 18s. were fairly and necessarily incurred in consequence of the change of *venue*.

Newton, contrà, contended that the fact of the Sunday intervening ought not to be considered as necessarily increasing the costs, since, as the assizes at Gloucester lasted ten days, it could not be assumed that, if the indictment had been tried there, a Sunday would not equally have intervened in that case also; that as the defendant had the option of entering the indictment either early or late as he chose, he had, in entering in it so that it came on for trial on the first day of business of the assizes, done more to avoid expense than the prosecutor had any right to expect; that as to the conduct-money of the twelve witnesses, the Master, in allowing *the whole* of what had been sworn to have been paid, had acted upon a wrong principle, and that at most he should only have allowed a part of this sum, since some conduct-money *must* have been given to the witnesses if the trial had taken place at Gloucester.

COLERIDGE, J.—I am of opinion that this rule should be discharged. The question here is one of principle, and unless it be shewn that the Master has misconceived the principle upon which he should have taxed, I must act upon the rule, which is uniformly adhered to, of not disturbing the taxation on the mere question of amount. It is impossible, upon a matter of amount, that the Court can form any thing like so good an opinion as the Master himself can, who has the parties before him, examines the items, and investigates the various circumstances as stated on either side. Now the three heads of charges in this case reduce themselves in fact to only two, and indeed in the end to only one. Mr. Newton says that it is not shewn that the two London witnesses were delayed longer in consequence of the cause being tried at Worcester than they would have been at Gloucester, as peradventure the cause may have been entered late at Gloucester, whereas it was entered early at Worcester; and that the judge may have directed it to have been tried on any day which he may have thought most convenient. The *rebus sic stantibus*, all things being the same excepting the place of trial, is that which should be looked at in the taxation. Supposing all things to have happened as they would have happened at Gloucester, has there been an increased expenditure? It certainly became the duty of the attorney and the witnesses to be at the place of trial on the Saturday, the commission-day; the cause may have been entered the very first thing; they were in fact bound to have been there. As to the second item of 11*l.* 1s. 6d. but for the explanation of the Master, I should have thought that the rule ought to be absolute on that point. Now, take the first item in this sum, which is a guinea to Whately, a professional gentleman; it is said, that if the trial had been at Gloucester he could not have had less than this sum; but it may have been that, for particular reasons, such as going there on his own business, he may not have charged any thing, but would have charged it at Worcester. It was stated to the Master that, although not more than the sums actually sworn to as paid were in fact paid, yet that the prosecutor was liable to the witnesses for more; and the Master seeing that in fact the amounts thus paid were such as would have been incurred as extra costs, he allowed them accordingly. The rule, therefore, must be discharged, but without costs.

Rule discharged without costs.

Wednesday, May 7.

REG. *v.* THE JUSTICES OF THE NORTH RIDING OF YORKSHIRE.

In the matter of the Appeal between the Township of BILLSDALE-WEST-SIDE, Appellants, and SUTTON-UNDER-WHITESTONE-CLIFF, Respondents.

Rule for a mandamus to justices, commanding them to enter continuances and hear an appeal against an order of removal which they had refused to entertain, as the notice of appeal was not signed by a majority of the overseers.

Bliss moved for a rule *nisi* for a *mandamus* commanding the above justices to enter continuances and hear an appeal between the above townships.

It appeared that, on the 29th of July, 1844, an order of removal was made, against which notice of appeal was given in the following September. At the following October sessions the appeal was entered and respited, and at the Christmas sessions it

came on for trial, when it was objected on the part of the respondents that the notice of appeal not having been signed by a majority of the overseers, it being signed only by one, when in fact there were two overseers and two churchwardens, that no legal notice had been given, and so the appellants were not entitled to have the appeal heard. For the appellants it was argued that notice of appeal need not be under the hands of the overseers at all; neither the 9 Geo. 1, c. 7, s. 8, nor the 4 & 5 W. 4, c. 76, s. 79, requiring that it should be. The justices held the objection to be good, and refused to hear the appeal. On the following 8th of January, 1845, the pauper was removed, and another notice of appeal, (together with the grounds of appeal,) was served on the 24th. At the ensuing Easter Sessions the appeal came on, when, on behalf of the respondents, it was objected that as the same appeal had been disposed of at the previous Christmas Sessions, the sessions ought not to entertain it. To this it was answered that, as the former appeal had not been heard, the justices ought to proceed with the one then before them. The sessions, however, held that, as the former appeal had been heard, they ought not to entertain the present one, and they accordingly dismissed it. The present application was therefor to direct the justices to hear the former appeal.

Rule nisi.

Ex parte CHRISTOPHER PEMBERTON.

Rule absolute (no cause being shewn) for a writ of privilege to discharge an attorney from the office of overseer of the poor.

W. R. Cole moved to make the rule absolute herein for a *writ of privilege*, no cause being shewn, and a copy of the rule *nisi* having been served on the two justices, the churchwardens, and Mr. Pemberton's co-overseer. (See report 5 Law T. 79, Tuesday, April 28.)

Rule absolute.

(Before Mr. Justice WIGHTMAN.)

ALEXANDER *v.* ANDY and ANOTHER.

Judgment as in case of a nonsuit—Defective affidavit.

Flood shewed cause against a rule obtained herein by *Gray*, for judgment as in case of a nonsuit, for not proceeding to trial pursuant to notice, and he took an objection to the sufficiency of the affidavit upon which the rule was obtained, which was sworn on the 24th of April, 1845, and stated "that issue was joined in this cause on the 28th of December, and that notice of trial was given for the first sitting in the said Term, which said notice of trial was continued to the second sitting in the said Term; and that the said plaintiff did not proceed to the trial of this cause in pursuance of the said notice." He contended that no default was shewn, as it was not stated in what Term the sittings were, in respect of which the notice was given, no Term having been mentioned in the affidavit, and the 28th December being in Michaelmas vacation.

Gray, contrà, admitted that if such were the defect in the original affidavit, he could not support his rule, and he requested that the original affidavit now filed might be inspected.

Rule discharged, if the original affidavit similarly defective—discharged on peremptory undertaking, if correct.

Thursday, May 8.

MALINS *v.* LORD DUNRAVEN.

The Court has no power to order a sheriff of one county to have a view in another, neither can it compel a jury for such a purpose to go out of the county; where, therefore, in an action of covenant involving a question of mining, it was admitted by both parties that a view would be proper, the Court directed the venue to be changed from Middlesex to Glamorganshire in which the cause of action arose.

E. V. Williams on a former day applied in this cause, on behalf of the defendant, for a rule to change the venue from Middlesex to Glamorganshire. This was an action brought by the lessee of some mining property in Glamorganshire, against the lessor, for alleged breaches of covenant; an action is also pending by the lessor against the lessee, and the same lessee has also sued another party in an action on the case, in both of which latter the venue is in Glamorganshire, and each of which actions involves matters arising out of mining transactions in the latter county. This motion was made on the ground that, as most of the witnesses were resident in Glamorganshire, it would be more convenient for them that the cause should be tried there; that the cause of action arose there, and not elsewhere; and that a view would be necessary, which could not be had if the venue remained in Middlesex.

Butt, Q. C. and *Phinn* shewed cause in the first instance, and contended that, under all the circumstances, it would be much more convenient to have the cause tried in Middlesex, where it could be fixed for a day certain, than at the Glamorganshire assizes, that a case of *Malins* v. *Price*, involving the same questions relative to similar property in Glamorganshire, had been tried (on an issue out of Chancery) at the last assizes for Bristol, and had then occupied seven days; that so long a cause would be exceedingly inconvenient on the Welsh circuit, where one judge has to dispose of the whole civil and criminal business; that from the great influence of the defendant, it is probable that the plaintiff will not have an impartial trial; and that if the venue is retained, the plaintiff would consent to a Middlesex jury having the view in the same way as, on the former occasion, a view was had by the Bristol jury.

Williams, in reply, assured the Court that if the venue should be changed to Glamorganshire, the cause should not be tried *Western Circuit fashion!* and he would undertake that, far from its occupying *seven* days, it should not exceed *two* days in trying.

Cur. adv. vult.

COLERIDGE, J. now gave judgment as follows:—This was an action by a lessee of some mining property in Glamorganshire against his lessor, for breaches of covenant, and it appears that there are two other actions pending, one by the lessor against the lessee, and another by the present plaintiff against a third party, who has an interest under the same property, the last action being on the case, and in both of which the venue is in Glamorganshire. Now it seems to be admitted by both parties that it is desirable that all the three actions should be tried together, and it is admitted also, that in each of the three cases a view is necessary. It is sought, however, to retain the venue in this case in Middlesex, and it is said that the plaintiff would consent to a view by a Middlesex jury. But I am quite satisfied that I have no power to direct a view in such a case; I could not compel the Sheriff of Middlesex to go with the jury and have a view in Glamorganshire; nor could the jury be required to go out of the county. On this ground, therefore, I think the rule ought to be made absolute for changing the venue.

Rule absolute.

WALKER & CO. *v.* PARKINS.

A writ of summons described the plaintiff as "Walker and Co." and a judge at chambers having set the writ aside with costs as irregular, for not setting out the names of all the plaintiffs, the Court on motion rescinded this order, holding that it could not per se be intended that "Walker and Co." meant more than one person.

Lush on a former day in this Term (April 23rd) obtained a rule calling upon the defendant to shew cause why the order of Mr. Baron Rolfe setting aside the writ of summons in this action with costs should not be rescinded, and why the rule of court thereon should not be set aside.

Pigott (on the 3rd May) shewed cause, and contended that the order should be supported, inasmuch as it set aside a writ which was bad on its face for not properly describing the plaintiffs in the action, the writ stating them as "*Henry Walker and Co.*" To this motion the preliminary objection was taken that it was not made in time. The order in question was made on the 11th of April last, which was made a rule of court on the following 15th (the 1st day of term), on which day (but afterwards) a notice was served that the Court would be applied to for a rule to rescind that order. Upon this nothing more was done until the 18th, when the defendant taxed his costs. Upon that day another notice was served that the case had been mentioned to the Court and that it was directed to stand over. On the 23rd execution issued, and the plaintiff was then informed that the rule had been obtained. Upon these facts, on the authority of *Clement* v. *Warren* (1 Dowl. N.S. 196), it was contended that the motion was too late. As regarded the objection to the writ itself, it was contended that the words "and Co." necessarily importing that there were other plaintiffs, their names ought to have been set out; that notwithstanding this is an action on a bill of exchange, and the partys' names were thus set out on the bill, that the 3 & 4 W. 4, c. 42, s. 12, enacting, "that in such actions, where any of the parties to such bill are designated by the initial letter or letters, or some contraction of the Christian or first name or names, it shall be sufficient in the process to designate such persons by the same initial letter or letters or contractions of the Christian or first name or names," does not apply, inasmuch as that enactment had reference only to the names of *defendants*, and not to plaintiffs; and moreover, that it could in no way apply to this case, inasmuch as this is not the use of initial letters, or the contraction of a Christian or first name, but a substitution of words which are commonly understood to stand for other persons. (*Smith* v. *Crump*, 1 Dowl. 519; 2 Dow. & Low. 232.)

Lush, contrà, endeavoured, on the first point, to distinguish this case from *Clement* v. *Warren*, and in support of the rule generally, argued, 1st, that there was no apparent irregularity on the face of the writ, for that the Court could not infer that the words "and Co." meant "other persons," and that, in point of fact, they *did* mean but one person; that the plaintiff carrying on his business and styling himself "Henry Walker & Co.," and that the indorsement on the writ which was to pay the amount "to the plaintiff," clearly shewed that the words "Henry Walker & Co." meant only one person. 2nd. That supposing this an irregularity at all, it is merely a *misnomer*, and can only be taken advantage of after declaration, pursuant to the 3 & 4 Wm. 4, c. 42, s. 11. (*Scott* v. *Soans*, 3 East, 111; *Sargent* v. *Gordon*, 7 Dow. & Ry. 258; 2 Bro. & Bin. 34; 6 M. & S.; 11 Moore, 39.)

Cur. adv. vult.

COLERIDGE, J. now gave the following judgment:—This was a rule obtained on the behalf of the plaintiff, to rescind an order of Mr. Baron Rolfe, setting aside a writ of summons. It appears to me, on the preliminary objection which was taken to this motion, that the application, under the circumstances, was made in sufficient time. Now the objection to the writ itself, upon which the judge at chambers made his order setting it aside, is, that upon its face it purports to be at the suit of more plaintiffs than one, and that their names are not set out; the writ runs in the words "Henry Walker & Co." but the indorsement on the back is in the singular only. The principle applicable to the case appears to be this; if this be merely a *misnomer*, the proper course is to apply, after declaration, to a judge at chambers to amend; but if the name is *nought*, or *uncertain*, it is altogether bad. If in this case there had been an indorsement shewing that there were others who were suing as plaintiffs, the case would have been different to what it is; but judicially I cannot at present assume that "Walker and Co." is not the name of one person. There was the case of *Scott* v. *Soans* (3 East, 111) referred to, in which there was an objection taken on demurrer that the defendant was described as "Jonathan, otherwise John Soans," and it was argued that the declaration was for this cause bad, as the defendant was described as having the two Christian names of *Jonathan* and *John*, whereas, in law, no person can have two Christian names; and also that it was uncertain by the declaration which was the defendant's real Christian name; but Lord Ellenborough said, "This comes on upon a demurrer to the declaration assuming a fact which does not appear, for *non constat* but that 'Jonathan otherwise John' is all one Christian name. Names as fanciful as 'otherwise' frequently occur. We cannot intend either way, and if the fact really were so, we should be deciding against the fact if we gave judgment for the defendant upon this demurrer." I think we ought to decide this objection as though it had been taken upon demurrer, and I cannot intend, therefore, that the words "Walker and Co." do not mean the plaintiff alone, and therefore the rule ought to be made absolute.

Rule absolute.

GEDYE *v.* ELGIE.

An agent's bill is not taxable under the 6 & 7 Vict. c. 73 (the Attorneys and Solicitors Act).

Gray and *Collier* shewed cause against a rule obtained herein by *Lush*, to refer the bill of costs of the plaintiff, who was the London agent of the defendant, to the Master, to be taxed. It appeared that Mr. Elgie was an attorney practising at Worcester, and that Mr. Gedye, at the time of the incurring of the bill of costs for which this action was brought, was his London agent; the bill of costs in question was in respect of agency charges in various suits, &c. and it was argued in opposition to this rule that the 37th section of the 6 & 7 Vict. c. 73, under the provisions of which this bill was sought to be taxed, does not apply to "agents," who, if they had been intended by the legislature to have been subject to the provisions of the clause, would (since the old law of the 12 Geo. 2, c. 13, s. 6, exempting their bills from taxation, was well known) have been specifically referred to, that the Act was obviously only intended to apply to bills between solicitor and client; that the Act has reference to parties acting as solicitors or attorneys for their clients, and that the "agent," which is a term well known and recognized in Acts of Parliament, is never understood as acting in such capacities.

Lush, contrà, contended that the words of the 37th section of the 6 & 7 Vict. c. 73, were sufficiently comprehensive to, and did, in fact, include the bills of agents; that the policy of the new Act was to bring within the jurisdiction of the taxing officer every variety of legal charge; that the inability of the Court to tax an agent's bill arose out of the 12 Geo. 2, c. 13, s. 6, which provided that the provisions of the 2 Geo. 2, c. 23, enabling the judges to refer attorneys' and solicitors' bills to taxation should not apply to the bills of costs due from one attorney or solicitor to another; and that the said Act of the 12 Geo. 2, and so much of the 2 Geo. 2, c. 23, as relates to attorneys, being repealed by the 6 & 7 Vict. c. 73, there is no restriction to the power to tax. That if the Court has no power to order an agent's bill to be taxed, it has none to direct him to deliver his bill, since both powers are derived from the same source. That there is the same reason for a power to tax the bill of an agent as that of any other professional person, and therefore it must (as the words of the enactment are general) be taken that the legislature intended no exception in favour of the bills of agents.

COLERIDGE, J.—I think, upon consideration, that this rule ought to be discharged; for on looking at the Act of Parliament I am satisfied that it was not intended to include an agent's bill. Before coming to a conclusion upon this point, we ought to look at the state of the law before the Act passed; and if we do so, w shall find that the courts of common law had no power to order such a bill to be taxed. It is true, as it

has been argued, that the courts of equity constantly refer these bills to taxation by virtue of the inherent power which they possess over the practitioners of those courts; but the courts of common law it has been held have no such inherent power, and that the 12 Geo. 2, c. 13, expressly precludes them from taxing them. But it is argued that, under the 2 Geo. 2, c. 23, these bills would have been taxable, and that the Act of the 6 & 7 Vict. c. 73, which repeals all the other Acts, and is equally as comprehensive in its terms as the 2 Geo. 2, includes them. Now it is quite clear that before the time of the passing of the 6 & 7 Vict. c. 73, agents' bills were not taxable; that being so, the Act comes into operation. Then what was the state of the law at that time? By the old law, if the attorney became insolvent or died, his assignees or executors were not bound to deliver a bill; neither were bills for conveyancing or some other matters taxable. Now, if in the 6 & 7 Vict. we see alterations in all these matters, but find no reference to the case of agents' bills, the inference is irresistible that it was not intended that the Act should apply to them. The Act makes express alterations in other matters, but makes none whatever in reference to the bills of agents. But it is said that the words of the Act are large enough to include these bills, and therefore that they must be *held* to include them; it is clear, however, that the word "agent" was present to the mind of the legislature, for mention is frequently made of agents in different sections of the Act, and it must be taken that they knew the state of the law at the time of the passing of the statute; and since it appears that provision is made for the defective state of the old law, and nothing is said about the bills of agents, it must be taken that, as regards them, it was intended they should be left as they were before the passing of the Act. The rule, therefore, must be discharged.

Rule discharged.

Reg. v. The Recorder of Bristol.

The Court will not grant a certiorari to remove an order of quarter sessions confirming an order of removal, upon the suggestion that the removing parish had fraudulently concealed the fact that the pauper's settlement had been adjudicated on an appeal in another court, on a settlement acquired since that upon which they last removed, to be in their parish.

Skinner moved for a *certiorari* to be directed to the Recorder of Bristol, directing him to return an order of quarter sessions confirming an order of removal. It appeared that, in 1844, an order of removal of a pauper had been made from St. Luke's, Middlesex, to a parish in Bristol, on a settlement gained shortly before; against this the Bristol Incorporation of the Poor appealed, and the order was confirmed. Subsequently, the guardians of the Incorporation of Bristol Poor obtained an order to remove the pauper from their locality to West Ham, in Surrey, on a settlement acquired by the pauper in or about 1823 (long prior to the settlement adjudicated upon on the order from St. Luke's), no notice being taken of the prior appeal and adjudication of settlement. Against this order an appeal was entered at the Bristol Sessions, and no information having been given by the respondents of the prior order (though within their knowledge), and the fact not being known to the appellants, the order of removal was confirmed. It was now sought to bring up this last order, in order that it might be quashed, the respondents having fraudulently kept back a fact which would have shewn that they had no right to remove to West Ham.

The Court, however, thought that it could not, under such a state of facts, interfere, as it had no power to review the decision of the Court below.

Rule refused.

BUSINESS OF THE WEEK.

Saturday.

Doe *dem.* Sandys v. Roe.—*Symons* moved for judgment as in case of a nonsuit, for not proceeding to trial; and he called the attention of the Court to the sufficiency of the affidavit on which he moved, which stated "that the *plaintiff* had not since proceeded to trial." Coleridge, J.—That is quite sufficient; it is the *plaintiff* still who has to go trial.

Rule ni

Ex parte John George Mayer.—In this case which was an application for a *habeas corpus* and a *certiorari* to bring up the applicant in order to be bailed, together with the depositions; a return having been made, *Ballantine*, on behalf of the prosecutor, stated that as he was perfectly satisfied with the bail tendered, he should not oppose the application to bail. (See 5 Law T. 80.) *Prisoner bailed*

Reg. v. One of the Overseers of East Bergholt, in Suffolk.—*Lush* moved for a rule *nisi* for a *mandamus*, commanding the above party to give a certificate pursuant to the 4 & 5 Wm. 4, c. 85, and 3 & 4 Vict. c. 61 (the Beer Acts), in order that the applicant might obtain an excise license to sell beer.

Rule nisi.

Warren v. Swinburn.—*Pigott* moved to make a rule absolute for judgment on an old warrant of attorney (the defendant residing at New York), on an affidavit of service sworn before the Mayor of New York, who, it was sworn by the American consul in England, was a competent person to take such an affidavit. *Rule nisi.*

Wilford v. Batty.—(See 5 Law T. 80.)

Rule absolute.

Re the Award of Morphet and Others.—*Bramwell* shewed cause against a rule obtained herein by *Watson*, Q. C. *Cur. adv. vult.*

Walker and Co. v. Parkins.—*Pigott* shewed cause against this rule. *Lush*, contrà. (See report, April 23.) *Cur. adv. vult.*

Monday.

Reg. v. The Ashtonfield Union.—*Whately*, Q. C. moved for a *certiorari* to remove an order of the Poor Law Commissioners dated the 25th Feb. 1845, with the view to quashing same. *Rule nisi.*

Clarke v. Ellis.—*Petersdorff* moved to discharge the defendant from the custody of the sheriff of Middlesex. *Rule nisi.*

Elderton v. Taylor.—*Bovill* moved to set aside the award herein. *Rule nisi.*

Paul v. Haynes.—*Lush* moved to set aside an order of Mr. Justice Coleridge, made at chambers, permitting an amendment of an issue, in respect to the defects in which a rule *nisi* is pending.

Cur. adv. vult.

Waite, Executor, v. Gaile.—*Butt*, Q. C. shewed cause against the rule obtained herein by *Whitehurst*, Q. C. to set aside the verdict obtained herein by the plaintiff before the sheriff of Wilts, and for a nonsuit. *Whitehurst*, Q. C. contrà. *Cur. adv. vult.*

Thoroughgood v. Robinson.—*Hoggins* shewed cause against the rule obtained herein by *Pearson*, that the costs herein of the defendant should be retaxed; that if any are taxed off, the defendant should pay the costs; that the judgment should be set aside and the plaintiff be discharged out of custody.

Rule absolute; the defendant to be discharged on terms agreed upon.

Ashbury v. Grosvenor.—*Hill* shewed cause against a rule obtained by *Pulling*, for judgment as in case of a nonsuit.

Discharged on a peremptory undertaking.

Holmes v. Croom.—*Gray* shewed cause against a rule obtained by *J. W. Smith* for judgment as in case of a nonsuit for not proceeding to trial. The defendant had on his plea paid 10*l.* into court. The excuse for not going to trial not being sufficient, the rule was made

Absolute; the plaintiff to have his costs up to the time of the payment into court, and the defendant the remainder.

Tuesday.

Malins v. Lord Dunraven.—*V. Williams* applied on behalf of the defendant for a rule to change the venue herein from Middlesex to Glamorganshire. *Butt*, Q. C. and *Phinn*, contrà. *Cur. adv. vult.*

Chambers v. Carleton.—*Whitehurst*, Q. C. moved in this case, which was tried before the Under-sheriff of Warwickshire, when a verdict was returned for the plaintiff for 9*l.* 17s. 2d. for a new trial, on the ground of the improper reception of evidence

Rule nisi.

Hawkyard v. Greenwood.—*Addison* shewed cause against a rule obtained by *Cowling* to set aside the award herein. *Rule absolute.*

Wednesday.

Re Mrs. O'Brien.—*Martin* moved to enlarge this rule to Michaelmas Term.

Rule enlarged.

Paul v. Haines.—His lordship granted herein a

Rule nisi.

Maile v. Bays.—*Humfrey*, Q. C. and *Tozer* shewed cause against the rule obtained herein by *O'Malley*, to set aside the verdict, and for a new trial. *Rule absolute.*

Baldwin v. Wolesley and Others.—*Keating* shewed cause against the rule obtained herein by *Gray*, to set aside the issue with costs, for irregularity. Held, that the application was made too late. *Rule discharged, without costs.*

Dowling v. Perez.—*Collier* shewed cause against the rule obtained herein by *Bramwell* to arrest the judgment, or set aside the verdict, and for a new trial. *Rule absolute for a new trial.*

Reg. v. The Justices of Surrey.—*Humfrey*, Q. C. moved for a c… rari to bring up a bastardy order, in order that the same may be quashed, it not appearing that the …roborative evidence was taken upon oath. *Rule ni*

Thursday.

Waite, Executor v. Gaile. *Rule discharged.*

Exparte Richard Jackson.—*Godson*, Q. C. moved for the readmission of this gentleman. It appeared he had been in practise from 1811 till 1836, when he ceased to practice, and has since been in no kind of business, but had, by the perusal of legal works, kept up his knowledge of the law.—Coleridge, J. thought that the time was not so long nor the circumstances such as to render a re-examination necessary. *Readmitted.*

Smallridge v. Smith.—*Pashley* shewed cause against this rule, which was to set aside a judgment as in a case of nonsuit, the same having been signed against good faith.—*Bramwell*, contrà.

Rule absolute, without costs.

Lugg v. Lugg. *Rule discharged.*

Paul v. Haines.—*Bramwell* shewed cause against the two rules herein.—*Lush*, contrà.

Cur. adv. vult.

Doe *dem.* Garner v. Scarrett.—*Miller* applied that this rule might be enlarged to chambers.—*T. W. Saunders*, contrà.

Rule enlarged to shew cause at chambers.

Doe *dem.* The Earl of Egremont v. Stevens.—*M. Smith* shewed cause against the rule obtained herein by *Cowling*, for a rule to stay the proceedings, on the ground of the death of the lessor of the plaintiff.

Rule discharged, on security being given for the costs of the action.

Billing v. Railton.—*Hoggins* shewed cause against a rule obtained herein for a new trial.

Rule absolute, on payment of costs.

Doe *dem.* Unwin v. Roe.—*Flood* shewed cause against this rule. *Chambers*, contrà. (See report Law T., April 19, p. 40.) *Rule absolute.*

Reg. v. Onslow and Another. — *Newton* moved for a rule for the costs of the *mandamus* herein. *Rule nisi.*

Willcox v. Wenham.—*Robinson* shewed cause against the rule obtained herein. *Peacock*, contrà.

Rule absolute.

Davis v. Crockford.—*Welsby* moved for a rule to discharge the rule obtained herein for removing the venue from Cheshire to Flintshire.

Rule nisi.

Ex parte Sir John Woodford.—*Stephens* moved for a *mandamus* to the Tithe Commissioners for England and Wales to prohibit them from proceeding with an award made under the Tithe Commutation Act.

Rule refused.

Hobbs v. Harvey.—*Peacock* moved in this case, which was a *qui tam* action against the proprietor of a newspaper for penalties under the Foreign Lotteries Act, to give security for costs. *Rule nisi.*

Doe *dem.* Archer v. Farley.—*Newton* moved for a rule to compel the defendant to give up the record to the defendant, that possession of the premises might be given back to the defendant, and that the writ of possession under which the plaintiff was let into the premises might be set aside. This action had been tried at Gloucester, when a verdict was returned for the plaintiff, subject to a motion for a nonsuit. The judge, however, granted a certificate for speedy execution, upon which the plaintiff took possession. The rule for a nonsuit was ultimately made absolute, whereupon this motion was made for restitution. *Keating*, who shewed cause in the first instance, admitted the rule must be made absolute, but hoped upon terms.

Rule absolute; no action to be brought; premises to be restored within a week.

Strachan v. Grove.—*Allen* shewed cause against a rule obtained by *Smirke* for a commission to examine a witness in India. *Smirke*, contrà.

Rule absolute; cause to be tried sittings after Michaelmas Term.

Bankrupt and Insolvent Courts.

COMMISSIONERS' COURTS.

(Before Mr. Commissioner Fane.)

Tuesday, May 6.

Re Dyer.

Where an insolvent has strictly no right to the protection of the Court, the Court will nevertheless, where any benefit is likely to accrue to the creditors thereby, adjourn the hearing of the petition, and grant the insolvent a protection for a limited time.

In this case the granting of the interim order was opposed by several creditors, on the ground that the insolvent had contracted debts without probable means of being able to pay. The insolvent had taken the benefit of the Insolvent Act four years ago, at which time his debts amounted to 2,636*l.* and no dividend had been paid, since which time he had filed two petitions in this Court exclusive of the present petition. Previous to contracting the debts in the present schedule, the insolvent had taken a house in Southwark-street, which he stated he had taken to let out in lodgings. Several of the creditors had been induced to give credit to the insolvent in consequence of the appearance of respectability the occupation of the house had enabled him to keep up. The insolvent had never been in trade, and had no means of his own, but his wife had a considerable income, which she derived under the will of a relation, who had bequeathed it to certain trustees for her sole use and benefit, and over which the insolvent had no control.

Hughes, on behalf of the insolvent, admitted that he could not claim the protection of the Court, but proposed that the petition be adjourned for a month, instead of *sine die*, to enable the insolvent to make some arrangement with his wife's trustees, with a view to a proposal for the payment of his debts.

His Honour.—There is no ground or pretence for the insolvent coming here. He has no right to any protection from this Court, but if the creditors

present consent, and there is any probability of an advantage accruing to the estate by a short adjournment, I will adjourn the consideration of the petition for three weeks, the insolvent, on or before the 27th instant, to file, with the proceedings in this court, a proposal, and also a copy of the probate of the will under which it is alleged that the insolvent's wife is entitled to certain property for her sole use and benefit. *Petition adjourned accordingly.*

Re POOK, an Insolvent.

The Court will not dismiss a petition on the ground that the blanks left in the form of petition given by the Act are not filled up.

Insolvent was opposed by a creditor of the name of Anderson, who took an objection to the petition, that the blank left in the form of petition, as given in the schedule of the Act of Parliament for the amount of the insolvent's estate, had not been filled up as directed by the rules and orders of the court. In this case the insolvent had not any estate. In support of the objection this decision by Mr. Serjeant Stephen, one of the commissioners of the Bristol district, in the matter of John Jones, reported in the Law Times of the 8th March last, was cited :—"It is a mistaken notion that when an estate is of no value the blank left in the form of the petition presented under the 7 & 8 Vict. need not be filled up. When an estate is worth nothing, it should be stated in the petition as worth nothing."

Mr. Commissioner FANE could see no difference between leaving the blank or inserting the word "nothing;" he should not decide the case upon so trivial an objection.

Wednesday, May 7.

(Before Mr. Commissioner GOULBURN.)

Re JAMES PELL YALLOP, a Bankrupt.

Where a bankrupt's certificate is adjourned for his conduct, the Court will not grant him protection.

The bankrupt, who had carried on business as a builder in Hackney for fourteen months, now applied for his certificate. It appeared he had contracted debts to a very large amount, and there was scarcely any thing for the creditors.

He was opposed by *Sturgeon*, on the ground that he had obtained credit under false pretences, and had otherwise misconducted himself as a trader.

His HONOUR having adjourned the granting of his certificate for two years on the above grounds,

Petersdorff, on the part of the bankrupt, now applied for protection.

His HONOUR said,—I wish it to be generally understood, when I adjourn the granting of a bankrupt's certificate, it is intended as a punishment, and that the bankrupt should be left to the mercy of his creditors during such adjournment; and it will be my invariable practice never to grant a protection to a bankrupt during the adjournment.

Thursday, May 1.

(Before Mr. Commissioner HOLROYD.)

Re HAYWARD.

Where an insolvent had previously been bankrupt, and had not obtained his certificate, the debts proved under the bankruptcy must be inserted in his schedule.

Insolvent came up for his final order for protection. His petition stated that he was a trader, but owing debts amounting in the whole to less than 300*l.*

The debts set out in the schedule did not amount to 300*l.*; but the insolvent had been a bankrupt three years before, and his debts under the bankruptcy amounted to nearly 1,000*l.*; his estate had not paid more than two shillings in the pound. All his then creditors had proved under the commission. The insolvent had not obtained his certificate, never having applied for it, and none of the debts proved under the bankruptcy were inserted in the schedule.

The final order was opposed on behalf of a creditor, on the ground that the insolvent, not having obtained his certificate, was not discharged from the debts due previous to and proved under his bankruptcy; that those debts ought therefore to have been inserted in the schedule, and, if inserted, would, after allowing for the two shillings in the pound, paid under the bankruptcy, amount to more than 300*l.*

Cooke, on behalf of the insolvent, contended, that as all the creditors previous to the bankruptcy had proved their debts under the commission, the insolvent was not under any legal liability on account of those debts; the creditors having elected to come in under the commission, could not now bring actions for those debts, and therefore the insolvent was not obliged to enter them in his schedule.

Mr. Commissioner HOLROYD.—The debts still exist, and I do not see how you can get over the objection.

Cooke then applied for an adjournment of the examination, to give the insolvent an opportunity in the meantime to apply for his certificate under the bankruptcy, and to save the expense of filing a fresh petition, *in the event of his obtaining* his certificate.

His HONOUR.—It was the insolvent's duty to have placed himself in a position to avail himself of the benefit of the Act before he presented his petition to the Court. *Petition dismissed.*

THE LEGISLATOR.

Summary.

THE proceedings have been altogether without interest for Lawyers.

Imperial Parliament.

PUBLIC BUSINESS TRANSACTED.

BILLS READ A FIRST TIME.

Monday, May 5.

Commons Inclosure Bill—"to facilitate the Inclosure and Improvement of Commons and Lands held in common, the exchange of Lands, and the division of intermixed Lands; to provide remedies for defective or incomplete executions, and for the non-execution of the powers of General and Local Inclosure Acts, and to provide for the revival of such powers in certain cases."

Drainage of Lands Bill—"to facilitate the Drainage of Lands in England and Wales."

Universities of Scotland Bill—"to regulate admission to the Lay or Secular Chairs of the Universities of Scotland."

Wednesday, May 7.

Banking Bill, Ireland—"to regulate the Issue of Bank Notes in Ireland, and to regulate the repayment of certain sums advanced by the Governor and Company of the Bank of Ireland for the Public Service."

Thursday, May 8.

Scientific and Literary Societies Bill—"to explain and amend an Act of the 6 & 7 Vict. to exempt from county, borough, parochial, and other rates, land and buildings occupied by Scientific and Literary Societies."

Indemnity Bill—"to indemnify such persons in the United Kingdom, as have omitted to qualify themselves for offices and employments, and to extend the time limited for those purposes respectively."

Military Savings Banks Bill—"to amend the Act to establish Military Savings Banks."

BILLS READ A SECOND TIME.

Monday, May 5.

Banking, Scotland.
Railway Clauses Consolidation, Scotland.

Wednesday, May 7.

Courts of Common Law Process.
Ditto, Ireland.
Court of Session Process, Scotland.

PRIVATE BUSINESS TRANSACTED.

BILLS READ A FIRST TIME.

Monday, May 5.

London and Croydon Railway Enlargement, Five Bills.

Wednesday, May 7.

Londonderry and Coleraine Railway.

Thursday, May 8.

Irish Great Western Railway.

BILLS READ A SECOND TIME.

Monday, May 5.

Westminster Improvement, No. 2.
South Eastern Railway, Three Bills.
London and Norwich Direct Railway.
North Wales Mineral Railway.

Wednesday, May 7.

Manchester Court of Record.

BILLS READ A THIRD TIME AND PASSED.

Monday, May 5.

Newcastle-on-Tyne Port.
Southwark and Vauxhall Waterworks.
Royal Naval School.
Winwick Rectory.
Crediton Small Debts.
Middlesex County Rate.

Wednesday, May 7.

Huddersfield Waterworks.
Nottingham Inclosure.
Hungerford and Lambeth Suspension Bridge.

Thursday, May 8.

Clifton Bridge.

ROYAL ASSENT.

Sugar Excise Duties—Customs Duties—Auction Duties—Bastardy Bill—Sheriffs, Wales—Colonial Passengers—Companies Clauses Consolidation—Companies Clauses Consolidation, Scotland—Lands Clauses Consolidation—Lands Clauses Consolidation, Scotland—Railways Clauses Consolidation—Fisher Lane (Greenwich) Improvement—Manchester Division Stipendiary Magistrate—Forth and Clyde Navigation—Ellesmere and Chester and Birmingham and Liverpool Junction Canals Union—Wallasey Improvement—Kingston-upon-Hull Docks—Birkenhead (Commissioners') Dock—London Orphan Asylum—Amicable Society Assurance—Sparrow's Herne Road—Shelsley Road.

SESSIONAL PRINTED PAPERS.

Par. Num.
262. Bills—Courts of Common Law Process.
263. — Courts of Common Law Process, Ireland.
264. — Court of Session Process, Scotland.
268. — Railway Clauses Consolidation, Scotland, No. 2.
274. — Drainage of Lands.
275. — Commons Inclosure.
276. — Universities of Scotland.
191. Tea—Returns.
240. Loan Societies—Abstract of Accounts.
242. Fire Insurance—Accounts.
243. Barley—Account.
251. Exchequer—Account.
257. Miscellaneous Services—General Abstract of the Grants.
257. Miscellaneous Estimates—Classes 1 to 7.
258. County Treasurers, Ireland—Account.
261. Church Leases, Ecclesiastical Commissioners—Report of Estates Committee.
252. Atmospheric Railway—Index to Report of Committee.
259. Property Tax and Windows—Return.
225. Railways, Lancashire South Division—Map.
Prisons, Ireland—Twenty-third Report of Inspectors General.
265. Agricultural Statistics—Copy of Correspondence.
250. Army Halfpay—Return.
255. East India Sea and Inland Customs Duties—Papers.
273. Cured Provisions—Account.
154. Railways, South of Ireland—Map.
267 (2). New South Wales, Operation of Imperial Land Sales Act—Copies of Correspondence, Part 2.
267 (3). New South Wales, Licensed Occupation of Crown Lands)—Copies of Correspondence, Part 3.
173. Railways (Leeds and Thirsk Division)—Map.
279. Railways (Proposed Amalgamations)—Report of the Board of Trade.

PARLIAMENTARY PAPERS.

PROPERTY-TAX AND WINDOWS.—Lord Duncan, the member for the city of Bath, has procured, by order of the House of Commons, a return shewing the total number of houses assessed to the property-tax in the year 1844, in respect of certain streets, squares, and courts in Westminster and Marylebone; also a similar return of the amount of window duty paid by the several houses assessed, in each of the above classes, distinguishing the amount paid for each class, &c. It is hence ascertained that the total number of houses assessed in 1844 amounted in Regent-street to 302—of which 21 were under 150*l.*, 65 under 200*l.*, 115 under 250*l.*, 49 under 300*l.*, 26 under 400*l.*, 8 under 500*l.*, 5 under 1,000*l.*, and 3 under 2,000*l.*; in St. James's-square, 28—of which 4 were under 150*l.*, 1 under 200*l.*, 3 under 750*l.*, 12 under 1,000*l.*, and 8 under 2,000*l.*; in Berkeley-square, 45—of which 1 was under 100*l.*, 3 under 150*l.*, 3 under 200*l.*, 7 under 250*l.*, 6 under 300*l.*, 5 under 400*l.*, 7 under 500*l.*, 11 under 750*l.*, 1 under 1,000*l.*, and 1 under 2,000*l.*; in Oxford-street, 503—of which 160 were under 150*l.*, 117 under 200*l.*, and 2 under 2,000*l.*; in Grosvenor-square, 45—none of which were under 300*l.*; in Piccadilly, 174—of which 8 were between 750*l.* and 1,000*l.*, 6 under 2,000*l.*, and 3 above 2,000*l.*; in Peter-street, Westminster, to 89; in Berwick-street, Soho, to 98; in Chapel-street, Westminster, to 1; in Little Stanhope-street, to 13; in Dufour's-place, St. James's, to 10; in Cross-street, St. James's, to 14; in Broad-street to 49; in Poland-street, to 63; and in Lancashire-court, Westminster, to 14; all the houses in the above nine localities being lowly assessed in comparison with the others. The amount of window duty paid by the several houses was—in Regent-street, 2,060*l.*; in St. James's-square, 669*l.*; in Berkeley-square, 712*l.*; in Oxford-street, 2,310*l.*; in Grosvenor-square, 983*l.*; in Piccadilly, 1,791*l.*; in Peter-street, 114*l.*; in Berwick-street, Soho, 483*l.*; in Chapel-court, Westminster, 3*s.* 6*d.*; in Little Stanhope-street, St. George's, 62*l.* 13*s.*; in Dufour's-place, 78*l.* 7*s.* 6*d.*; in Cross-street, 77*l.* 13*s.* 6*d.*; in Broad-street, 332*l.*; in Poland-street, 415*l.*; and in Lancashire-court, 22*l.*

FIRE INSURANCES.—From a return obtained by Colonel Sibthorp, M.P. relative to fire insurances, it appears that during the year 1844, the gross total amount of the sums insured by all the fire-offices, in town and country, on farming stock, exempt from duty, was 54,927,572*l.*; namely, 16,375,817*l.* in the quarter ending the 25th of March, 1844; 5,080,772*l.* the quarter ending the 24th of June, 1844; 8,199,208*l.* in the quarter ending the 29th of September, 1844; and 25,271,775*l.* in the quarter ending Christmas-day, 1844.

BARLEY.—An account "of the quantity of barley imported from the 29th of April, 1842, viz. an account specifying the annual amount made up to the 5th of January in each year, and also the quantity in each month, and the rates of duty paid in each month; with the names of the different ports into which the importations have taken place; together with the annual and monthly quantities imported into such ports," has been procured and printed, on the motion of Mr. Wodehouse, M.P. for the county of Norfolk. From a summary of these varied and voluminous accounts, it appears that the total quantities of barley imported from the 5th of May, 1842, to the 5th of January, 1843, amounted to 50,318 quarters, —50,253 quarters of foreign, and 64 quarters of colonial produce; from the 5th of January, 1843, to the 5th of January, 1844, to 179,280 quarters, of which 178,445 quarters were of foreign, and 835 quarters of colonial produce; and in the year ended the 5th day of January, 1845, to 1,022,076 quarters, of which 1,013,846 quarters were of foreign, and 8,230 of colonial produce. Thus the gross total importations since May 1842, have amounted to 1,251,675 quarters, of which 1,242,545 quarters were foreign produce. The total produce of the duty thereon is not given in this return, but it will appear elsewhere, if it has not done so already.

THE CUSTOM-HOUSE ESTABLISHMENT.—A somewhat voluminous return of the names and ages of the Commissioners of Customs, the list of superior officers in London, and the number of officers of inferior rank, &c. was printed a short time since by order of the House of Commons, on the motion of Mr. R. Wallace, M.P. for Greenock. From a summary of the particulars contained in this Parliamentary paper, it appears that in the year ending on the 5th of January, 1844, the total number of persons employed in the Customs Department establishment of the port

of London amounted to 1,881, and the total expenses thereof (including salaries, pay, &c.) to 259,632*l.* comprising a sum of 11,281*l.* additional for extra clerks and extra day-pay officers, whose services are occasional. During the year ending the 5th of January, 1845, the number of persons employed amounted to 1,858, and the expenses of the establishment in the port of London to 265,649*l.* inclusive of 13,841*l.* for extra clerks and extra-day pay officers, whose services are occasional. Thus an increase took place in the expenditure last year amounting to 6,017*l.* There are nine Commissioners of Customs, three of whom are upwards of 70 years of age, and one 62; two only 26 and 30 years of age, one 46, one 58, and one 53 years of age. Six of the Commissioners, Messrs. S. G. Lushington, W. Cust, C. C. Smith, S. Spring Rice (formerly private secretary to the Chancellor of the Exchequer), G. R. Dawson (ex-Secretary to the Admiralty), and F. Goulburn (a near relative of the present Chancellor of the Exchequer), receive salaries of 1,200*l.* per annum each; Mr. Dean receives, besides his regular salary, 800*l.* more for his services as chairman of the board; the Hon. E. Stewart receives 500*l.* more as deputy chairman; and Mr. H. Richmond receives an additional 800*l.* as a compensation for the loss of his fees as Secretary to the Board of Customs. Thus the services, arduous as they are, of these nine gentlemen, entail an annual expense upon the country of no less than 12,900*l.* Their (nominal) hours of attendance to business, daily, are from 10 o'clock in the morning until 4 o'clock in the afternoon. The secretary, Mr. C. A. Scovell, is 60 years of age, and receives a salary of 1,200*l.* a year, and 300*l.* more to the present possessor. The solicitor, Mr. J. Walford, is remunerated with the sum of 2,000*l.* a year, in addition to sundry allowances for drawing briefs, &c. Mr. Maclean, the sub-secretary, receives 900*l.* per annum. Sir W. Boothby, the receiver-general, receives 1,500*l.*; Mr. Irving, the inspector-general, 1,000*l.* and an incidental allowance of 180*l.*; Mr. J. Braysher, the collector, 1,350*l.*; Mr. W. Willimott, the controller, 1,000*l.*; and Captain Phipps Hornby, R.N., Controller-General of the Coast Guard, 1,000*l.* per annum. The subordinate officers and their salaries we have not space to enumerate.

PETITIONS TO PARLIAMENT.—There was lately issued the 21st report of the Select Committee of the House of Commons on Public Petitions, from which it appears that there are now lying on the table of the legislature (amongst others of less importance) 322 petitions for encouragement to schools in connection with the Irish Church Education Society, signed by 44,156 persons; 112 petitions in favour of a stricter observance of the Sabbath-day, signed by 10,317 persons; 46 petitions in favour of the grant to Maynooth College, signed by 15,483 persons only, whilst there are no less than 7,629 petitions against the proposed endowment of that Popish seminary, signed by the enormous number of 982,862 persons; 197 petitions against the contemplated union of the dioceses of Bangor and St. Asaph (the bill to prevent which design has just been thrown out by the House of Lords), signed by 12,125 persons. The object of these petitioners is to pray the hon. house to adopt such measures as will prevent the union of those sees, and at the same time to provide for the immediate appointment of a bishop to the newly-erected see of Manchester. There are also 261 petitions for agricultural relief, signed by 26,429 persons; 170 petitions for the repeal of the tax upon malt, signed by 22,246 persons; 48 petitions for a repeal or alteration of the Insolvent Debtors Act, signed by 14,972 persons; 200 petitions against the Justices' Clerks and Clerks of the Peace Bills, signed by 1,046 persons; 119 petitions against the Parochial Settlement Bill, signed by 748 persons; 5 petitions for an alteration of the Irish Poor Law Act, signed by 362 persons; 722 petitions for diminishing the nuisance of public-houses and gin palaces, signed by 165,147 persons, whose object is to pray the legislature to adopt measures for preventing the increase of houses licensed for the sale of intoxicating beverages, and for diminishing to a very great extent the number already existing, and to pass a law for entirely abolishing the sale of intoxicating liquor on the Lord's-day; and lastly, 93 petitions for ameliorating the condition of schoolmasters in burghs and parishes of Scotland, signed by 1,061 persons.

CURED PROVISIONS.—A parliamentary paper has been printed, giving an account of the quantities of cured provisions of all kinds imported into the United Kingdom from foreign countries and from the colonies, from the 5th of Jan. 1343, to the 5th of Jan. 1845. It appears that in 1843 the importation of salted beef was 60,633 cwt., and in 1844, 106,766 cwt. The salted pork was in 1843, 27,118 cwt.; and in 1844, 30,780 cwt. Hams, 6,919 cwt. in 1843, and 6,732 cwt. in 1844. Of bacon, 448 cwt. were imported in 1843; and only 35 cwt. in 1844. The quantities retained for home consumption were respectively,—of salted beef, in 1844, 5,204 cwt., on which the duty received was 766*l.*; of salted pork, in 1844, 1,311 cwt., duty, 394*l.*; of hams, in 1844, 3,495 cwt., duty, 2,391*l.*; and of bacon, in 1844, 36 cwt., duty, 23*l.* The quantities re-exported from the United Kingdom as merchandize are given in the return.

HOUSE OF LORDS.

ROYAL COMMISSION.

THURSDAY, May 8. A royal commission was appointed for the purpose of giving the Royal assent to several bills. The Lords Commissioners (the LORD CHANCELLOR, Lord WHARNCLIFFE, and the Duke of BUCCLEUGH) having taken their seats on the woolsack, and the members of the House of Commons been summoned to the bar of the House, the Royal assent was given to the following bills:—The Sugar Excise Duties Bill, the Customs Duties Bill, the Auction Duties Bill, the Bastardy Bill, the Sheriffs (Wales) Bill, the Colonial Passengers Bill, the Companies Clauses Consolidation Bills (England and Scotland), the Land Clauses Consolidation Bills (England and Scotland), the Railway Clauses Consolidation Bill, the Fisher-lane Improvement (Greenwich) Bill, the Birmingham and Liverpool Junction Canal Navigation Company, the Wallasey Lighting (Improvement) Bill, the Kingston-upon-Hull Docks Bill, the Birkenhead Docks Bill, the London Orphans Asylum Bill, and two or three private bills. Their lordships then adjourned.

HOUSE OF COMMONS.

COMMON LAW PROCESS BILL.

WEDNESDAY, May 7. On the motion of the LORD ADVOCATE of SCOTLAND, the Courts of Common Law Process Bill was read a second time, and ordered to be committed on a future day. The Courts of Common Law Process (Ireland) Bill was read a second time and ordered to be committed

BAIL IN ERROR BILL.

THURSDAY, May 8. This bill went through committee.

PRIVY COUNCIL APPELLATE JURISDICTION BILL.

A clause having been introduced, postponing its operation until the 1st of January, 1846, the bill was read a third time and passed.

CHURCH LEASES.

Report of the Estates Committee respecting Leasehold Property vested in the Ecclesiastical Commissioners for England, confirmed by the Board, at a meeting held 15th April, 1845.

The committee, on the 12th April, 1845, resumed their deliberations upon the general question, "as to the mode of dealing with estates under lease," which was submitted to them by the Board on the 18th July, 1843; the further consideration of which was adjourned at their sitting on the 2nd August following.

The committee find that in several cases the leasehold interest has already been purchased by the commissioners, and that a few reversions have been sold; that several other negotiations are pending of both kinds, and some also for arrangements in the nature of exchange by the lessees, namely, for the sale of their leasehold interest in a part of the property, and for the purchase of the reversion in the remaining part; and further, that some few offers for the purchase of the reversion by the lessee have been declined, for special reasons shewn upon the report of the surveyor.

The Committee also find that the only fixed rules respecting the leasehold estates vested in the commissioners, are those which, on the one hand, preclude the renewal of leases upon fines, and, on the other, protect the lessees from any sale or letting without first giving them an option.

No definite principle has, however, yet been laid down respecting the general mode of dealing with the lessees; and it is still an open question, whether a compliance with the wishes of lessees to become the owners of the fee is to be the general rule, subject to exceptions for especial reasons; or whether, as a general rule, the sale is only to be conceded if there are special reasons in its favour.

It is still also a point not clearly settled, whether the price required for a reversion is, as a general rule, to be regulated by some fixed principle of calculation.

The committee are of opinion that it is highly important that the commissioners should lay down such general rules for their own guidance upon these several points as may be consistent with a free exercise of discretion in special cases; and they accordingly recommend the resolutions which appeared in the LAW TIMES of last Saturday.

THE MAGISTRATE.

Summary.

No topic of special interest calls for comment this week.

JUSTICES' CLERKS BILL.

TO THE EDITOR OF THE LAW TIMES.

SIR,—In your last number, a Mr. Lazonby, whom I suppose to be a solicitor, seems to regret the alteration made in the 12th sec. of the Justices' Clerks Bill, and wishes you to call the attention of the profession and law societies to the clause as altered. If Mr. Lazonby, and those of the Profession whom he says he has consulted, had been awake, they might have learned that most of the Profession, and particularly the law societies, saw the injustice of the restrictions which were contained in the clause before its alteration and petitioned against it. The Justices' Clerks Society have manfully resisted the clause, and it is partly owing to their useful exertions that the obnoxious part has been struck out.

The following are some of their reasons against the clause:—

It is based upon the unfounded assumption that clerks are disposed to abuse their trust.

No general grievance can be adduced to justify this stigma upon a respectable class of public functionaries.

As the clerk can *only advise*, and the magistrates can dismiss him at any moment without cause assigned, it conveys an imputation upon the magistrates that they will connive at their clerks' misconduct.

It will prohibit the *public* from employing as an attorney, in many cases, the nearest and perhaps most *efficient* legal practitioner.

Or it will deprive the magistrates and the public of the services, in the office of Justices' *Clerk*, of persons of high standing in the Profession, and best qualified for the situation.

The restriction as to being concerned in proceedings before magistrates would nearly put an end to a professional man's business altogether, there being scarcely any business not liable in some stage to be brought before local magistrates.

It would prohibit any preliminary interference with respect to proceedings for recovery of tithes, church and poor rates, examinations as to settlements, highways, &c. &c. and disqualify for the justices' clerkship clerks to boards of guardians.

It would prevent Justices' Clerks from acting as solicitors for associations for the prosecution of felons.

The restriction as to any prosecution at sessions or assizes is still more objectionable.

Justices' Clerks are best qualified to conduct prosecutions in matters in which they have as clerks conducted the *preliminary inquiries*, not only from their experience in criminal law *and general local knowledge*, but from having *sifted the evidence*, and observed the *demeanour* of the witnesses.

The Justices' Clerk may be the regular and confidential adviser of the neighbouring nobility, gentry, and farmers, who would be deprived of his services in prosecutions.

He can conduct prosecutions *at less cost*, from having usually many cases to conduct.

The prohibition would also *prevent* Justices' Clerks from supporting and defending *orders of removal*, indictments as to highways, convictions, and other proceedings of their justices, although the licensing and other statutes provide for payment of costs to magistrates in supporting their convictions.

It will prevent the clerk acquiring that practical acquaintance with the rules and practices of the higher criminal courts and of quarter sessions, which the complicated and ever varying state of the law renders necessary to enable him to advise magistrates aright and protect them from actions for technical irregularities.

The 12th clause, as it has been altered in committee, now prevents the clerk from being concerned in defences, viz. in any matter brought before the justices whose clerk he is, or in defending any person committed for trial by the justices whose clerk he is, or for any appellant from the judgment of any of the justices in the matter of such appeal, or in assisting in any proceeding for quashing or avoiding any order or judgment of any of the said justices. To these prohibitions there cannot be a reasonable objection. Yours, &c.

May 6, 1845. Q.

TO THE EDITOR OF THE LAW TIMES.

SIR,—Your reference to the 7 & 8 Vict. c. 101, s. 70, in a note to the case of *Reg.* v. *Inhabitants of Orton*, seems to imply that justices may under that section summon witnesses on inquiries as to the settlement and removal of paupers. Such is, however, *not the* case, as that clause only applies to that particular statute and *certain others* referred to therein, and not to proceedings under the laws relating to the settlement and removal of the poor.—I am, Sir, yours,

CHAS. AUG. SMITH.

Greenwich, May 3, 1845.

THE LAWYER.

Summary.

WE beg to draw the attention of the Profession to the highly important case of *Gedye* v. *Elgie*, decided by Mr. Justice COLERIDGE in the Bail Court on Thursday last, in which it was determined, after a very full and able argument, that the bills of costs of Attorneys' agents are not subject to taxation under the late Attorneys and Solicitors Act (the 6 & 7 Vict. c. 73).

Another rule of considerable practical importance to a very large branch of the Profession is now pending in the Queen's Bench, namely, to the Attorneys admitted to practise in the county palatine of Lancaster, and upon whose articles of clerkship the duty of 60*l.* only has been paid, namely, whether upon their admission to practise in the courts at Westminster under the provisions of the 9 Geo. 4, c. 49, s. 4, they are liable to pay the additional duty of 60*l.* only or the full duty of 120*l.* in addition to the 60*l.* originally paid. The report of the rule *nisi* will be found amongst the reports of the Bail Court of Saturday, the 3rd inst.

The addition of a supplement to this number enables us to bring up a long arrear of legal intelligence, and also to present an unprecedented mass of reports. Some idea of their quantity may be formed from this,—that the reports contained in this single number of the *Law Times* would occupy at least an entire 12s. part of the Queen's Bench Reports.

COURT PAPERS.

EXCHEQUER OF PLEAS.

Sittings at Nisi Prius in Middlesex and London, before the Right Hon. Sir FREDERICK POLLOCK, Knt. Lord Chief Baron of her Majesty's Court of Exchequer, in and after Trinity Term, 1845.

IN TERM.—MIDDLESEX.
1st sitting, Friday, May 23.
2nd sitting, Friday, May 30.
3rd sitting, Friday, June 6.

LONDON.
1st sitting, Wednesday, May 28.
2nd sitting, Wednesday, June 4.
And by adjournment, Thursday, June 5.

AFTER TERM.—MIDDLESEX.
Friday, June 13.

LONDON.
Saturday, June 14, to adjourn only.

The Court will sit in Middlesex, at Nisi Prius in Term, by adjournment, from day to day, until the causes entered for the respective Middlesex sittings are disposed of.

The Court will sit, during Term, at ten o'clock.

COURT OF QUEEN'S BENCH.

Easter Term—1845.

MAY 6.—This Court will sit on Tuesday, the 15th day of May inst. and will proceed in disposing of the business in the special paper, and give judgment in cases previously argued. BY THE COURT.

COURT OF EXCHEQUER.

This Court will, on Thursday, the 13th day of May inst. hold sittings, and will proceed in disposing of the business now pending in the special paper, on the said 13th day of the said month, and on the two following days, namely, Wednesday the 14th and Thursday the 15th days of May inst.; and on the same three days of the same month will proceed in disposing of the business now pending in the paper of new trials.

Dated this 3rd day of May, 1845.

BY THE COURT.

Read in open Court, E. BENNETT.

PROMOTIONS, APPOINTMENTS, ETC.

[Clerks of the Peace for Counties, Cities, and Boroughs, will oblige by regularly forwarding the names and addresses of all new Magistrates who may qualify.]

DOWNING-STREET, May 3.—The Queen has been pleased to appoint William Ferguson, esq. to be Captain-General and Governor-in-Chief in and over the colony of Sierra Leone and its dependencies.

FOREIGN-OFFICE, May 3.—The Queen has been pleased to appoint Abraham Carlton Cumberbatch, esq. now British Vice-Consul at Constantinople, to be her Majesty's Consul-General at Constantinople.

The Queen has also been pleased to appoint Charles Duncan Wake, esq. now British Vice-Consul at Copenhagen, to be her Majesty's Consul at Charleston.

WHITEHALL, May 3.—The Queen has been pleased to constitute and appoint the most Hon. John Marquis of Bute, K.T. to be her Majesty's High Commissioner to the General Assembly of the Church of Scotland.

The Lord Chancellor has appointed Henry Tucker, the younger, of Plymouth, in the county of Devon, gent.; Thomas Mitchell Charlesworth, gent. of Horbury, near Wakefield, in the county of York; John Dendy Sadler, of Dorking, in the county of Surrey, gent.; and Simon Peter, of Liskeard, in the county of Cornwall, gent. to be Masters Extraordinary in the High Court of Chancery.

CROWN OFFICE, May 6.—MEMBER RETURNED TO SERVE IN THIS PRESENT PARLIAMENT—Borough of Woodstock.—John Henry Loftus, esq. commonly called Viscount Loftus, in the room of John Winston Spencer Churchill, commonly called Marquis of Blandford, who has accepted the office of Steward of her Majesty's Chiltern Hundreds.

CROWN OFFICE, May 8. — MEMBERS RETURNED TO SERVE IN THIS PRESENT PARLIAMENT.—County of Peebles—William Forbes Mackenzie, esq. of Portmore, one of the Lords Commissioners of her Majesty's Treasury.

May 9.—County of Denbigh — Sir Watkin Williams Wynn, of Wynnstay, in the county of Denbigh, bart.

MIDDLE TEMPLE, May 3.—The remainder of the calls to the bar during Easter Term by this hon. society were published in the dining-hall this evening, and they are as follows:—Mr. Roger Horman Fisher, Mr. Edward Bristowe Phillips Wynne, Mr. John Dakin Gaskell, Mr. John Robert Watts Williams, Mr. John Barnett Kington, Mr. Edward Bury, Mr. Ferdinand Francis Ivers, Mr. James Peard Ley, Mr. George Borman Skipworth, and Mr. John Epworth Vance.

LINCOLN'S-INN, May 6.—The undermentioned gentlemen were called to the degree of barrister-at-law this evening by the Hon. Society of Lincoln's-inn:—Mr. Nathaniel Brindley Acworth, of the Albany; Mr. Henry Charles Eliott, of Upper Southwick-street; Mr. Thomas Ivory, of Balliol College, Oxford; Mr. Henry Fenwick, of St. John's College, Cambridge; Mr. Freeman Oliver Haynes, of Caius College, Cambridge; Mr. Effingham John Lawrence, of Trinity College, Cambridge; Mr. Arthur Hobhouse, of Balliol College, Oxford; and Mr. William Dyke Poore, of Exeter College, Oxford.

LEGAL INTELLIGENCE.

LEGAL RUMOURS.—It has been mentioned in Westminster-hall by some of its learned members, that a matter of considerable interest in respect of admissions to the Inns of Court and keeping terms for the bar, is about to engage the attention of the heads of these places, and that important changes will most likely be effected by the benchers in respect of persons applying to be admitted, as also of assimilating the practice of keeping terms in all of them. At the present time the bye-laws of these places materially differ in the terms of regulations to be complied with to constitute qualification for admission, and for being called to the Bar; as, for instance, fees on entry and admission, University degrees, examination, terms to be kept, &c. It is stated that a desire exists amongst several of the learned benchers of the Hon. Societies of Lincoln's-inn, the Inner and Middle Temple, and Gray's-inn, for carrying into effect a consolidation of their present rules and regulations on the subject.—*Times.*

COLCHESTER.—ATTORNEYS' GOWNS.—The new Town Hall, Colchester, was opened on Thursday, 1st May, with much ceremony and *eclât*, and on the following Monday the first petty session was holden in the magistrates' room there, which room is most commodiously fitted up. It will be seen on reference to the LAW TIMES of the 9th November last, that fourteen of the attorneys practising in that borough declared in favour of wearing their official gowns when in the public discharge of their professional duties, and, accordingly, several of the attorneys having business there attended at such petty session in their forensic costume. We understand this practice is likely to be followed up at Colchester, and become universal.

NORTHERN CIRCUIT.—We understand that 78 members of this circuit have signed a memorial, praying that the circuit in its present state may be divided into two parts, the proposal to attach York to the Midland Circuit being decidedly objectionable in every respect. If the circuit is divided in the manner proposed, it will probably require two new judges, and by their assistance a new court could be formed at Westminster subsidiary to the Court of Queen's Bench.—*Times.*

CORRESPONDENCE.

SELECTIONS FROM CORRESPONDENCE.

"R. B." thus writes on a point in "CORONERS' PRACTICE"—

I beg to refer you to the stat. 4 Geo. 4, c. 64 (the Act for consolidating and amending the laws relating to gaols in England and Wales), sec. 11 of which enacts "that in case the coroner shall hold an inquest on the body of any prisoner who shall have died within the prison, *none of the prisoners confined therein shall be a juror.*" Both Mr. Jervis and Mr. Sewell, in their works on the Law of Coroners, appear to have overlooked this statute, as it is laid down in both treatises "that when the inquest is taken upon a prisoner dying in gaol, there should be a party jury, composed of six of the prisoners and six of the next vill or parish." And as both authorities contain a form of warrant to the gaoler to summon prisoners to serve as jurors on the inquest, it will be seen there is great danger of the practitioner being misled, each work having been published since the passing of the statute referred to.

To Readers and Correspondents.

"A CONSTANT READER," *is informed, that it is the rule of the* LAW TIMES *not to give advice gratis.*

NOTICE TO SUBSCRIBERS.

The Publisher begs to inform the Subscribers to the LAW TIMES *that the subscription for the current half-year should be transmitted in the course of the ensuing week, by those who wish to avail themselves of the advantages of pre-payment.*

Members of the Verulam Society are requested at the same time to forward their subscriptions for the current year.

The pre-paid subscription for the current half-year of THE CRITIC, *henceforth to be published weekly, will be 8s. 6d. only.*

The Indices to the fourth volume being now completed, the numbers for binding may be sent, through the post, in parcels open at the ends, with a mark by which they may be known, and of which the Publisher should be advised by letter, as also how, when bound, it is to be returned. If sent by parcel, advantage may be taken of the opportunity to inclose other books for the binder.

The Volumes of the LAW TIMES, *handsomely and uniformly bound, at 5s. 6d. each, if forwarded to the Office; with the Solicitor's name and abode lettered on the cover, 1s. extra.*

THE PUBLISHER *begs to state, in reply to repeated applications, that he will readily accommodate the Subscribers to the* LAW TIMES *by procuring for them and inclosing in the parcels he may have occasion to transmit to them, any Books, Law Forms, or other Publications they may desire to receive from London. They may also, if they please, avail themselves of the transmission of their Volumes of the* LAW TIMES *for binding, to inclose any other books for the binder.*

An Alphabetical Index to the Cases in the current Volume of the LAW TIMES *always lies at the Office for the purpose of reference.*

THE LAW TIMES.

SATURDAY, MAY 10, 1845.

THE BAR AND THE PRESS.

It is pleasant to see the indignant language in which two of the daily papers, the *Herald* and the *Advertiser*, have protested against the conduct pursued by the *Times* towards Mr. Serjeant Talfourd, of which full particulars were given in our last. Such protests will help to relieve the press from a portion of the suspicion that proceeding had thrown over its honesty—to restore something of the public confidence in its veracity, which has been shaken by the discovery that the journal which boasts itself the leader of opinion could stoop to the infinite meanness of garbling its reports suppressing the truth, and misrepresenting facts, for the paltry purpose of harming, as it supposes, a gentleman against whom, for some cause unknown, its conductors harbour spite.

If the *Times* could thus deceive its readers, out of revenge against Mr. Serjeant Talfourd, it would as readily do so in any other case in which its managers please to take offence; and as a newspaper is continually exposed to quarrel with individuals, it is impossible to calculate the extent to which the *Times* must be in the habit of misleading and misreporting. Doubtless it seeks to punish the many others against whom it has enmity after the same fashion as it wreaks its vengeance on Mr. Serjeant Talfourd, and all confidence in its reports must be destroyed, now that its practice is proclaimed and proved. We remember no event connected with the press which has brought upon it so great reproach, and so tended to lower its position in public esteem. The earnest repudiation of the practices of the *Times* by its contemporaries will, however, serve to satisfy the country that the moral taint does not prevail universally; that as yet it is limited to one journal; and that, because no trust can be placed in the reports of the *Times*, it does not follow that its contemporaries are equally untrustworthy.

The golden rule of the newspaper should be, unswerving adherence to truth, without reference to persons. In its commentaries let it be as severe, as one-sided, as it pleases; but in its reports of facts, it should know neither party nor individual. When it records a public meeting, it should state with equal fairness what is said by the speakers on all sides: not to do so is to publish a deliberate deception. When it reports the proceedings of courts of justice, to give the names of some of the counsel engaged, and to suppress others, is not merely a *suppressio veri*, but actual falsehood, for the arguments used by A, B, and C are thus attributed to B and C only.

But out of this proceeding of the *Times* arises a professional question which more immediately concerns our readers. It is this: with knowledge of its practices, can any barrister who regards his character continue his connection with it as a reporter in the law courts, whether at Westminster or on circuit?

We are of opinion that he cannot. Waiving for the present the still larger question that has been raised, as to the propriety of barristers reporting for the mere newspapers, and which must hereafter be the subject of anxious discussion, we unhesitatingly assert that they cannot, consistently with professional honour, continue to report for a journal which deliberately falsifies their reports, and subjects them to the charge of being the authors of insult and wrong towards their professional brethren. No man can be secure of his position among his fellows for a single day who is thus liable to have his honour questioned by the acts of persons over whom he has no control, and to be made responsible for falsehoods and personalities contrived for him by others.

Nor are we quite sure that even the proclamation of the fact that the falsification complained of was not that of the reporter, but of the office, will altogether discharge the former from responsibility. By continuing to report, after his reports have been subjected to such foul play, sanctions the proceeding. Honour demands that a gentleman into whose mouth a falsehood has been placed should instantly repudiate the wrong, indignantly denounce the wrongdoer, and by publicly withdrawing from any further connection with him, prove to the world that he had no part in the transaction. Less than this will not, we fear, altogether relieve the *Reporters* of the *Times* from the very serious charge that at present attaches to their *Reports*.

EDUCATION OF ATTORNEYS.

The propositions for the better education of attorneys submitted to Lord Denman by the Metropolitan and Provincial Legal Association, have produced a flood of correspondence, some in reprobation, others in approval, for a tithe of which a place could not be found at *any* season, but especially at this time, when it is difficult to compress into the columns of the Law Times even the matters of most urgent importance. But it serves to shew how deep an interest is taken by the Profession in the subject thus mooted, and therefore we continue the comments upon it commenced a short time since.

The objectors, for the most part, adopt the same line of argument. Of what *use*, they ask, is a knowledge of the classics to an attorney, as such? All that is required of him is a knowledge of *law*, and to this Latin and Greek will not help him.

Now we wish not to disguise the object of the proposition. It is propounded as a means to raise the respectability of the Profession—as the most practical test that the attorney holds that position, in society has received such a training, and is subjected to those restraints, for which the fact of a liberal education, if not always a guarantee, at least affords a strong presumption. It is no answer to say, that *some* men of good breeding have proved great rascals, and that *some* uneducated men have proved not only excellent lawyers, but characters of the loftiest integrity and the lights and ornaments of their Profession. We must calculate by a great number of instances, not by a few exceptions. What, in fact, is the usual course of affairs? We appeal to the experience of our readers if, as a general rule, the most liberally educated gentleman be not the most respectable practitioner, and if the great majority of the men who disgrace and dishonour the Profession, and become the pests instead of the benefactors of society, do not consist of uneducated persons, who have made their way into it by indirect means? Sure we are that such is *the fact*, however unpleasing may be its admission.

We have already shewn why it is of greater importance to society that the attorney should be a *gentleman* than that he should be a *lawyer*. We do not pretend to assert that both are not needful qualifications; but if ever there should be a necessity for a choice, we should not hesitate to prefer to commit our affairs to the gentleman by education rather than to a man having more law, but less breeding. Thus should we reason: "We are about to intrust our fortunes to the good faith of a stranger. Whom shall we choose? Here are Smith and Jones. Smith is a gentleman; he has been well educated; holds a position in society; has a character to lose; is bound to uprightness by ties of family, and has breathed from his childhood the atmosphere of honour. But Jones, they say, is a keener lawyer, is more up to points, is not so scrupulous in the conduct of his cases, and will not hesitate to take an advantage for his client. But he can give us no guarantee that he will not take advantage of the power we must confide to him; he has no place in society the loss of which he will dread; in the circle which constitutes *his* public opinion, the fine laws of a scrupulous honour are not recognized; there is no one link to bind him in resistance to the huge temptation to which we must expose him; we want to retain in our attorney his *character* still more than his law. The latter, if needful, he can always procure from counsel, but for the former we are dependant upon himself alone; Smith must be our man."

Such are or ought to be the reflections of every client about to employ an attorney; and upon the same principle that has led all civilized people to establish, for public security, tests of competency in professional men, because individuals are not able to judge for themselves, do we contend with the Legal Association that a test should be established for the *character* as well as the *legal knowledge* of attorneys, because the public have to employ their characters even more than their law. But we must pause for the present.

FORMS FOR OFFICES.

An improvement in the Forms of Conditions of Sale has been suggested, which will immediately be adopted.

At present, notes in the margin direct the matters to be inserted in the blanks, or erased, according to the exigencies of the various circumstances of each sale. These are essential to the correct use of the forms, but they are unsightly.

A subscriber has proposed this excellent alteration: that only one form in each dozen should have these notes; that the rest should be printed without them. The form with the notes might then be used as a sort of draft, from which the others may be filled up. Thus the object of a guide would be accomplished, without the inconvenience of its appearance upon every sheet.

A plan so obviously convenient will of course be at once adopted.

The following lithographed forms have been added to the list, and may now be had in any quantity.

CONVEYANCING.

COVENANTS FOR TITLE.

No. 61. Freehold, good right to convey, 1s. 6d. per doz.
No. 62. Do. for quiet enjoyment, 1s. 6d. per doz.
No. 63. Do. free from incumbrances, 1s. 6d. per doz.
No. 64. Do. for further assurance, 2 sheets, 3s. per doz.
No. 65. Leasehold, that lease is good, 1s. 6d. per doz.
No. 66. Do. that assignee has good right to assign, 1s. 6d. per doz.
No. 67. Do. for quiet enjoyment, 1s. 6d. per doz.
No. 68. Do. free from incumbrances, 1s. 6d. per doz.
No. 69. Do. for further assurance, 2 sheets, 3s. per doz.

These common covenants have been settled by counsel.

Inasmuch as forms of this kind are used for the most part in conveyances of small amount, the larger ones being usually sent to counsel, these covenants have been drawn in the fewest words, consistent with security, experience having taught us the great value in an attorney's office of conveyancing forms which will bring the deed within a single skin. By help of these useful forms the solicitor will be enabled to prepare small conveyances with ease and rapidity. Other conveyancing forms are in preparation, but as experience is the best teacher, we shall be obliged for hints. Would the trustee clauses and the common covenants for lease of houses be useful?

It may be as well to repeat that, to encourage the general use of the Society's forms, the publisher will undertake to transmit them, carriage free, wherever 2*l.* (not 1*l.* as misprinted last week) worth are ordered.

VERULAM SOCIETY.

The 11th number of *Real Property and Conveyancing Cases* is issued, and the 12th, completing Part III. is in the press.

No. 5 of *Cox's Criminal Law Cases* will be published on Wednesday, and No. 7 of *Practice Cases* will follow. The Equity and Common Law Cases will be distinctly paged, for convenience of reference, but comprised in the same volume.

In a short time it is intended to make another endeavour to enlist the orders of a sufficient number of the members to justify the publication of two or three of the proposed text-books on the Practice of the Law.

It is also purposed to make the series of useful editions of Important Statutes, hitherto published by the Law Times, a portion of the works of the society, whose members will, consequently, be entitled to them at the society's prices. The advantage will be extended to the three volumes that have already appeared, namely, *Paterson's Joint Stock Companies Acts, Homes's Insolvent Debtors Acts,* and *Cox's Registration Acts,* all of which any member may now have at the reduced prices.

Should they pass, the following will be added: the *Settlement Bill*, the *Medical Bill*, the *Justices' Clerks, &c. Bills.*

BIRTHS, MARRIAGES, AND DEATHS.

[The charge for the insertion of the above is 5s.]

BIRTHS.

Dawson.—On the 4th inst. in Hereford-street, Park-lane, the wife of Vesey Thomas Dawson, esq. barrister-at-law, of a daughter.

MARRIAGES.

Brettell, J. J. esq. of Staple-inn, to Fanny, eldest daughter of J. J. Champante, esq. of the Royal-crescent, Ramsgate, late of Belmont, Taunton, Somerset, on Wednesday, the 7th inst.

Chichester, Captain, 16th Regiment, eldest son of A. Chichester, esq. of Stokelake, Devon, to Anna Maria Frances, relict of the late J. Crooke Freeman, esq. of Crooke-hall, Lancashire, and daughter of John Hawksey Ackerly, esq. barrister-at-law, Bath, on the 5th inst. at Clifton.

Gibbons, Robert, esq. solicitor, Wisbeach, to Eliza, only daughter of John Taylor, esq. of Camberwell New-road, Kennington, on Saturday, the 3rd inst.

Harrison, William H. esq. of the Inner Temple and Lincoln's-inn, to Harriett Mary, second daughter of the late Henry Hurle, esq. of Bedford-row and Ramsbury, on the 6th inst.

Rashleigh, Colman, esq. only son of Sir John Colman Rashleigh, bart. of Prideaux, in the county of Cornwall, to Mary Anne Kendall, only daughter of Nicholas Kendall, esq. of Pelyn, in the same county, on Thursday, May 1.

Whatman, William Godfrey, youngest son of the late James Whatman, esq. of Vinters, in the county of Kent, to Emma Jane, youngest daughter of Mr. Serjeant Heath, on Tuesday, the 6th inst.

DEATHS.

Hart, Caroline, third surviving daughter of Mr. Hart, solicitor, at Reigate, on the 4th inst. aged 15.

Lyall, John Edwardes, esq. Advocate-General of Bengal, eldest son of George Lyall, esq. M.P. at the Government House, Barrackpore, near Calcutta, of cholera, on the 9th of March.

JOURNAL OF PROPERTY.

SALES BY AUCTION.

From all parts of the country we learn that advantage is being taken of the repeal of the auction duties to submit estates to public competition, instead of seeking, as heretofore, to dispose of them by private contract. Already the benefits are perceptible. Sales are now *bonâ fide*, and the prices realized are considerably greater. Many striking instances of this have come to our knowledge. Last week an estate of 1,800 acres in Shropshire was sold under the hammer by Messrs. Winstanley at a bidding of 81,500*l.* From the list subjoined it will be seen that Mr. W. W. Simpson has sold in like manner many extensive properties, the prices named being no longer colourable, as they used to be, but real. From the provinces we learn that the same good results are proceeding from the abolition of the duties, and there can be little doubt that in six months the sale by auction will be universally adopted in preference to that by private contracts. The solicitor who consults his client's interest certainly cannot hesitate which to choose. A year's value is the estimated increase of price in auctions by the repeal of the duty.

Mr. John Round's (M.P.) seat, Danbury-place, Essex, has been purchased, it is said, for the residence of the Bishop of Rochester. The purchase-money is stated to be 26,000*l.*; the timber, furniture, and fixtures to be taken at a valuation.

The following scale of charges, *reduced more than one-third*, has been adopted for Advertisements of Estates for Sale, &c., exceeding 10 lines in length:

For the first 70 words . . . . . 5s.
For every succeeding 30 words . 1s.

THE MONEY MARKET.

	Sat.	Mon.	Tues.	Wed.	Thurs.	Frid.
Three per Cents. Consols	98¾	98⅞	98½	98¼	98⅞	98½
Three per Cents. Reduced	97¼	97½	97¼	97½	97¼	97¼
New Three-&-a-quarter per Cts	100½	100½	100½	100½	100½	100½
Long Annuities..............	11⅛	11⅛	11⅛	11⅛	11¼	11¼
Bank Stock	209½	209½	209¾	209¾	209½	209½
India Stock	276	276½	276½	276½	276½	276½
India Bonds, prem.........	72	75	73	74	74	74
Exchequer Bills, prem.	55	56	54	55	56	56
FOREIGN.						
Spanish Five per Cents.......	30¼	30⅛	30¼	30⅛	30¼	30¼
Spanish Three per Cents.	41¼	40¾	41¼	41¼	41	41⅝
Russian	117¾	117½	117¾	117¾	117	117¾
Peruvian............	30	29¾	29½	30	30	29½
Portuguese	66½	66½	66	66¼	66¼	66½
Mexican..........	36¼	36⅛	36⅛	36½	36¼	36¼
Deferred	17¼	17¾	17¼	17½	17¾	17¼
Dutch Two-and-a-Half per Cents..........	63½	63⅝	63½	61¼	63½	63½
—— Four per Cents.	97½	97½	97¾	97½	97¼	97¼
Danish	90	89¼	89	89	90	90
Colombian..........	15¾	15½	15¼	15¾	15⅛	15⅝
Chilian	100	100	99	99	98¾	98¼
Buenos Ayres	43	44¼	43	42¾	42½	40½
Brazilian..........	89	88½	89	89	89	89¼
Belgian	100½	100¼	99½	99	98¼	99

Public Sales.

[In future the results of such sales only as are advertised in the Law Times will be published in this list, and reference will be given to the advertisements, it being found that, without the particulars, the results of sales are of no practical value. As sale by auction will in future be generally resorted to, auctioneers in town and country advertising in the Law Times are requested regularly to forward the results of the sales so advertised.]

By Mr. W. W. SIMPSON, at the Mart.

A residence, No. 32, Hyde Park-square, Hyde Park, with coach-house, stabling, &c. in Hyde Park-gardens, let on lease at 280*l.* per annum; held from the Lord Bishop of London and others, from Midsummer, 1842, for 91½ years, at rents amounting to 24*l.* 3s. per annum.—Sold to Mr. Pratt, the tenant, for 4,300*l.*

A freehold residence and spacious shop, No. 16, High-street, Colchester, Essex, let on lease at 80*l.* per annum; the land-tax on this and the following lot amounts to 1*l.* 16s. per annum, and is paid by the tenant of the following lot, during his lease.—Sold to Mark Farrell, esq. of Colchester, for 1,520*l.*

A freehold residence with shop, No. 15, let on lease for an unexpired term of five years, at 100*l.* per annum—Sold to Edward Smith, esq. of Colchester, for 1,940*l.*

A freehold and part copyhold property, situate in the village of Lexden, within two miles of Colchester, comprising a residence, with pleasure-grounds, &c. containing in the whole 3a. 21p.; quit rent, 6*l.*; land-tax redeemed—Sold to Samuel Fillett, esq. of Colchester, for 1,800*l.*

A freehold cottage residence, land-tax redeemed, situate adjoining the preceding lot, let at 50*l.* per annum—Bought in at 700*l.*

A freehold estate, called Corringham Marsh Farm, situate in the parish of Corringham, Essex; it comprises a small farm-house and agricultural buildings, together with 308a. 1r. 35p. of productive land; in the occupation of Henry Anthony Long, esq. under a lease for seven years, from Michaelmas 1844, at a rent of 450*l.* per annum—sold to the tenant for 11,600*l.*

By Messrs. SHUTTLEWORTH and SONS.

A government annuity of 276*l.* 10s. 10d. being a moiety of 593*l.* 1s. 8d. payable for the life of the annuitant, who was 40 on the 24th March, 1815—2,710*l.*

A policy for 700*l.* with the additions thereto, amounting to ,225*l.* effected with the Equitable Company the 6th of April, 1810, on the life of a gentleman now in the 67th year of his age; annual premium 19*l.* 10s. 6d.—1,420*l.*

The absolute reversion to one-third part of 3,124*l.* 6s. 11d. New Three-and-a-Quarter per Cent. Bank Annuities; and 2,082*l.* 16s. like stock, upon the decease of a lady now in the 60th year of her age—800*l.*

The reversion to one-ninth part of and in one moiety of the following sums, contingent upon the reversioner, aged 38, surviving his mother, now in the 80th year of her age; 700*l.* Three per Cent. Reduced Annuities; 3,400*l.* Three per Cent. Consolidated Annuities, and the reversion to the like proportion in the same sums, expectant on the decease, without issue, of a person now in the 78th year of her age; and also of the reversioner's said mother, in the lifetime of the reversioner; also, the absolute reversion to the like proportion of 750*l.* Three and a Quarter per Cent. Annuities.

A judgment debt of 264*l.* 16s. 3d. carrying interest at four per cent. due upon a judgment entered up on the 1st June, 1839, against H. Courtenay Daniel, esq. late of Cheltenham, at the suit of the Cheltenham and Great Western Union Railway Company—70*l.*

The absolute reversion to one-fourth part of 10,696*l.* 8s. 3d. Three per Cent. Consolidated Bank Annuities, 1,111*l.* 2s. 6d. Three per Cent. Consolidated Bank Annuities, 2,433*l.* 18s. 6d. ditto, and 3,200*l.* New Three-and-a-Quarter per Cent. Bank Annuities, upon the decease of a gentleman now in the 66th year of his age, and of a lady now in the 61st year of her age, or on her second marriage—1,770*l.*

The present and reversionary interest in 1,298*l.* 11s. 4d. sterling, being one-seventh of a sum of 9,089*l.* 19s. 8d.; part of a larger sum on mortgage of a colliery or coal-mine, situated in her Majesty's Forest of Dean, in the Hundred of St. Briavel, in the county of Gloucester—840*l.*

The absolute reversion to one-seventh part of 5,000*l.* East India Stock, on the decease of a lady in the 67th year of her age—1,040*l.*

The life interest of a lady, aged 54, in the dividends arising from 500*l.* Three per Cent. Consolidated Bank Annuities; 400*l.* Three and a Quarter per Cent. Annuities; and 24*l.* per annum Long Annuities, together with a policy on the life of the said lady for 330*l.* effected the 26th February, 1844, with the Clerical, Medical, and General Society; annual premium, 23*l.* 3s. 2d.—370*l.*

THE GAZETTES.

AMOUNT OF DIVIDENDS.

The sum stated as the Dividend, means so much declared in the Pound. The Assignees, when chosen, follow this statement.

Tuesday, April 29.

Davies and *Co.* drapers, div. next week. Bell, London.—*Donald*, A. bookseller, last exam. May 20.—*Fielding*, G. ironmonger, div. next week. Groom, London.—*Gould*, W. E. carver, div. next week. Bell, London.—*Herridge*, T. builder, div. next week. Bell, London.—*Meek*, W. ironmonger, last exam. passed.—*Reynolds*, B. silk printer, div. next week. Groom, London.—*Sharman*, F. bootmaker, last exam. June 10.—*Thompson*, J. cheesemonger, last exam. *sine die*.—*Watson*, L. smith, div. next week. Bell, London.

Wednesday, April 30.

Gibbs, J. scrivener, last exam. passed.—*Loriere*, B. de'B. soap manufacturer, last exam. June 11.—*Stocks*, G. W. linen draper, last exam. May 23.—*Turner*, H. cowkeeper, last exam. passed.

Thursday, May 1.

Hook, J. contractor, div. next week. Whitmore, London.—*Palmer*, J. draper, fur. div. next week. Pennell, London.

Friday, May 2.

Barwick, J. stable keeper, last exam. June 5.—*Brand*, H. W. cook, fur. div. next week. Pennell, London.—*Carter*, G. J. carpenter, last exam. May 30.—*Dettmer*, W. pianoforte manufacturer, div. next week. Pennell, London.—*Hemsworth*, H. W. wine merchant, last exam. May 27.—*Hodges*, W. hide dealer, last exam. June 12.—*Hone*, W. coach proprietor, last exam. passed.—*Holmes*, E. warehouseman, fur. div. next week. Pennell, London.—*Homewood*, T. victualler, assignees, June 6.—*Machu*, J. L. silk trimming manufacturer, last exam. July 1.—*Robinson* and *Co.* grocers, joint div. next week. Graham, London.—*Thompson*, H. timber merchant, div. next week. Groom, London.

Saturday, May 3.

Herring, J. S. builder, last exam. May 31.—*Palmer*, B. W. innkeeper, div. next week. Follett, London.—*Salmon*, G. timber merchant, last exam. June 5.—*Struckett*, J. grocer, last exam. passed.

DIVIDENDS.

Bankrupts' Estates.

Official Assignees are given, to whom apply for the Dividends.

Arthur, D. iron merchant, first, 1s. 5d. Acraman, Bristol.—*Brown*, J. grocer, 20s. Whitmore, London.—*Cross*, W. lead merchant, first, 1s. Casenove, Liverpool.—*Halford* and *Co.* bankers, first sep. Snoulten, 20s. to new proofs. Edwards, London.—*Hodgson*, T. calico printer, first, 3s. 6½d. Hobson, Manchester.—*Johnsons* and *Mann*, bankers, second, 2s. 6d. Follett, London.—*Law*, W. draper, second, 6d. Pennell, London.—*Lewis*, W. pilot, first, 1s. Casenove, Liverpool.—*Marshall*, R. mason, first, 3s. 9d. Groom, London.—*Oliver*, W. printer, first, 4s. 6d. Wakley, Newcastle.—*Thompson*, R. draper, first, 9s. 4d. Edwards, London.—*Warman*, C. F. china dealer, first, 2s. 6d. Pennell, London.

Insolvents' Estates.

Cannon, J. lieutenant in the army, on half pay, 13s. 6d.—*Hambrook*, O. jun. chemist, Broadstairs, 10s.—*Lloyd*, R. clerk, Welshpool, 5s. 1d.—*Taylor*, J. coal merchant, Derby, 4s. 8d.

ASSIGNMENTS

To Trustees for the benefit of Creditors.

Gazette, May 2.

Cheney, J. builder, Acton-st. Gray's-inn-rd. March 18. Trusts. J. Rhodes, brick maker, Islington, and W. Weaver, lime merchant, Battle Bridge-wharf. Sol. Futvoye, John-st. Bedford-row. — *Gibb*, G. muslin manufacturer, Wood-st. April 18. Trusts. G. Johnson, warehouseman, Bow-lane, J. Shaw, agent, Cheapside, and A. Watson, agent, Ironmonger-lane. Sol. Jones, Sise-lane.—*Major*, J. merchant, Hull, March 7. Trusts. G. G. Kemp, merchant, W. Farthing, merchant, and J. Staniland, commission agent, all of Hull. Sols. Galloway and Bell, Hull.—*Hodwell*, J. innkeeper, Fressingfield, March 26. Trusts. R. A. Sexton, wine merchant,

Bungay, J. Howlett, auctioneer, Wissett, and R. Church yard, grocer, Fressingfield. Sol. Hazard, Redenhall within Harleston.—*Towler*, F. draper, Norwich, May 1. Trust. B Smith, warehouseman, St. Martin's-le-Grand. Sol. Mardon Christchurch-chambers. — *Williamson*, T. R. tea dealer, Whitehaven, March 28. Trusts. J. M'Harg, grocer, and J Gibson, tea dealer, both of Whitehaven. Sol. Musgrave, Whitehaven.

Gazette, May 6.

Batman, H. chymist, Rochester, May 2. Trusts. T. Kybett, tailor, and J. Dungey, grocer, both of Chatham Sol. Comport, Strood.- *Blackburn*, J. ironmonger, Hull, April 17. Trusts. H. King and W. W. Wimble, ironmonger, Hull. Sol. Sudebottom, Hull.—*Butcher*, J. C. pawnbroker, Wandsworth, March 12. Trusts. J. Martin, wholesale clothier, Houndsditch, and R M. Hackett, wholesale clothier, Minories. Sol. King, North-buildings, Finsbury-circus.—*Garrod*, G. innkeeper, Ipswich, March 15. Trusts. W. H. Alexander, banker, and R. Garrod, auctioneer, both of Ipswich. Sol. Notcutt, jun. Ipswich.

Bankrupts.

DATE OF FIAT AND PETITIONING CREDITORS' NAMES.

Gazette, May 2.

Capas, Thomas, builder, Bordesley, Aston juxta Birmingham, May 8 and June 13, at twelve, Birmingham; Valpy, off. ass.; Parkes and Co. Bedford-row, and Motteram and Knowles, Birmingham, sols. Date of fiat, April 28. M. Jenkins and H. Ashford, general factors, J. Wareham, plumb, T., J., and C. Avins, timber dealers, and S Wilke, stone mason, all of Birmingham, J. and E. Lewis, brick makers, King's Norton, and R. N. Orton, attorney, Birmingham, pet. crs.

Chandler, Benjamin, ironmonger, Stanmore, Middlesex, May 9, at half-past eleven, June 12, at eleven, Basinghall-st. Com. Shepherd; Graham, off. ass.; Ashley, Shoreditch, sol. Date of fiat, April 28. Bankrupt's own petition.

Cooke, Joseph, brewer and maltster, Wem, Salop, May 5 and June 6, at eleven, Basinghall-st. Com. Daniell Whitmore, off. ass.; Walmsley, Wem, and James, Birmingham, sols. Date of fiat, April 16. Bankrupt's own petition.

Heaton, James, stationer, Ludlow, Salop, May 8 and June 13, at twelve, Birmingham; Valpy, off. ass.; Wootton, Tokenhouse-yard, and Anderson and Co. Ludlow, sols. Date of fiat, April 17. G., F., and A. Ackermann and H. Walton, printsellers, Strand.

Hensman, John Henry, and Frederick, coal merchants, Adelphi-wharf, Strand, May 8 and June 6, at one Basinghall-st. Com. Fonblanque; Pennell, off. ass. Turner and Hensman, Basing-lane, sols. Date of fiat April 23. S. M. Hensman, spinster, Notting-hill-terrace pet. cr.

Hodgkiss, Thomas, licensed victualler and collector of the property and income-tax, Watling-st. Wellington Salop, May 15 and June 9. at eleven, Birmingham Com Daniell; Bittleston, off. ass.; Jennings, Chancery-lane and Palmer, Birmingham, sols. Date of fiat, April 29 Bankrupt's own petition.

Knott, Thomas Rushforth, druggist and grocer, Bolton-le-Moors, Lancaster, May 21 and June 11, at twelve, Manchester; Stanway, off. ass.; Hulton, Bolton, and Sutton, Manchester, sols. Date of fiat, April 25. Bankrupt's own petition.

Lee, James, porter merchant, Tadcaster, York, May 15 and June 2, at eleven, Leeds, Com. Boteler; Hope, off. ass.; Parkinson and Co. Gray's-inn, Thompson, Tadcaster, and Dickinson, Leeds, sols. Date of fiat, April 14. M. Powell, brewer, Dublin, pet. cr.

Leplastrier, Louis, clock and watch maker, 50, Alfred-st River-ter. St. Mary, Islington, May 13, at half-past one, June 6, at twelve, Basinghall-st. Com. Evans; Johnson, off. ass.; Hussey, Basinghall-st sols. Date of fiat, April 28. Bankrupt's own petition.

Nichols, Henry, auctioneer, master collier, and quarryman, Coleford, Gloucester, May 16, at twelve, June 13, at eleven, Bristol, Com. Stevenson; Miller, off ass.; Walkes, Gloucester, sol. Date of fiat, April 24. Bankrupt's own petition.

Olliver, Thomas, livery stable keeper, Prestbury, near Cheltenham, Gloucester, May 15, at one, June 12 at eleven, Bristol, Com. Stephen; Hutton, off. ass.; Manning, Craven-st. Strand, and Bridges, Bristol, sols. Date of fiat April 23. Bankrupt's own petition.

Parks, Henry, plumber, glazier, and painter, Loughborough, Leicester, May 8 and June 13, at half past twelve, Birmingham; Christie, off. ass., Brown, Nottingham, and Messrs. Harrison and Smith, Birmingham, sols. Date of fiat, April 14. Bankrupt's own petition.

Smirk, James Edward, licensed victualler, Wrekin tavern, Broad-court, Bow-st. May 13, at half-past two, June 13, at eleven, Basinghall-st. Com. Holroyd; Groom, off ass.; Spiller, Camomile-st. sol. Date of fiat, April 13. Bankrupt's own petition.

Slater, Edward, cabinet maker and upholsterer, Montpelier-sq. Brompton, Middlesex, May 9 and June 13, at eleven, Basinghall-st. Com. Fonblanque; Belcher, off. ass.; Foord, Pinner's-hall, sol. Date of fiat, April 29. Bankrupt's own petition.

Tupper, William Chalcroft, grocer, baker, and draper, Catherington, Hants, May 9, at eleven, June 6, at two, Basinghall-st. Com. Goulburn; Green, off. ass.; Ivimey, Chancery-lane, and Puffard, Portsea, sols. Date of fiat, April 26. J. Penny, jun. draper, Portsea, Hants, pet. cr.

Ware, Harry, currier, Bridport, Dorset, May 11 and June 12, at one, Exeter, Com. Bere; Hernaman, off. ass; Templer and Son, Bridport, Clowes and Co. Temple, and Terrell, Exeter, sols. Date of fiat April 22. W. E. Gundry and S. Gundry, bankers, Bridport, pet. crs.

Gazette, May 6.

Batt, John, and Batt, Thomas, silkmen, Old Broad-st. City, May 15 and June 17, at eleven, Basinghall-st. Com. Fonblanque; Pennell, off. ass.; Crowder and Maynard, Coleman-st. sols. Date of fiat, April 29. T. O. Springfield, O. Springfield, and C. M. Robertson, merchants Coleman-st. pet. crs.

Bent, Henry, chain maker, Brierley-hill, Stafford, May 14 and June 11, at eleven, Birmingham, Com. Daniell; Whitmore, off. ass.; Messrs. Ryland, Birmingham, and Messrs. Sharpe and Co. Bedford-row, sols. Date of fiat, April 28. J. and T. Moilliett, bankers, Birmingham, pet crs.

Brown, John, and Alexander Urquhart, carpet warehousemen, and stuff dealers, May 20 and June 6, at twelve, Manchester; Pott, off. ass.; Johnsons and Co. Temple, and Hitchcock and Co. Manchester, sols. Date of fiat, April 30. J., W. I., and G. Holdsworth, stuff merchants, Halifax, pet. crs.

Craser, David, victualler, St. Mary-st. Woolwich, May 20 and June 17, at twelve, Basinghall-st. Com. Holroyd; Edwards, off. ass.; C. B. Teague, Crown-court, Cheapside, sol. Date of fiat, April 29. G. Wheelhouse, distiller, Deptford, pet. cr.

Cox, Michael, ironmonger, Weymouth and Melcombe Regis, May 15, at eleven, June 12, at one, Exeter, Com Bere; Hirtzell, off. ass., Phillips, Weymouth, Combe, Staple Inn, and Terrell, Exeter, sols. Date of fiat, May 1. Bankrupt's own petition

Cross, Robert, corn merchant, Hythe, Colchester, May 11, at one, June 13, at eleven, Basinghall-st. Com. Shepherd; Turquand, off. ass., Milne and Co. Temple, and Walsh, Sudbury, sols. Date of fiat, May 2. J. Burkett, corn merchant, Luxdon, near Colchester, pet. crs.

Darvell, Edward Stone, colonial broker, 2, Great Tower-st. May 15, at one, June 17, at twelve, Basinghall-st. Com. Fonblanque; Pennell, off. ass; Lawrance and Plews, Bucklersbury, sols. Date of fiat, May 3. Bankrupt's own petition.

Forsyth, Thomas, hotel keeper and farmer, Dinsdale Spa Hotel Durham, May 15, at half-past two, June 26, at two, Newcastle, Com. Ellison, Baker, off ass; Griffin, Raymond-bldgs. Gray's-inn, Trotter and Hodgson, Bishop Auckland, and Hoyle, Newcastle. Date of fiat, April 24. J. Barnes, brewer and maltster, West Auckland Brewery, Durham. M. Stobart, J. C. Hopkins, D. O'Brien, J. Robinson R. Condell, J. Olver, C. Ewbank, and J. Shields, the said G. Ewbank and J. Robinson, as trustees and executors of T. Hoult (deceased) and J. Middleton, his copartners in trade, pet. crs.

Haigh, James, clothier, Hogley, parish of Aldmondbury, Yorkshire, May 17 and June 12, at eleven, Leeds, Com. West; Freeman, off. ass.; Cumming, King-st. Cheapside, and Brook and Freeman, Huddersfield, sols. Date of fiat, May 1. J., R., and G. H. Brook, and T. B. Golden, woolstaplers, Huddersfield, pet. crs.

Hall, Christopher, grocer and tea dealer, Sheffield, May 21 and June 9, at eleven, Leeds. Com. Boteler; Fearne, off. ass. Date of fiat, May 1. M. Hall, spinster, Sheffield, pet. cr.

Humphries, Moses, joiner and builder, Hulme, Manchester, May 20, at twelve, June 6, at eleven, Manchester, Hobson, off. ass.; Gregory and Co. Bedford-row, and Bell, Manchester, sols. Date of fiat, May 1. Bankrupt's own petition

[illegible]ie, George, chemist and druggist, Fleetwood-upon-Wyre, Lancashire, May 15 and June 13, at eleven, Liverpool, Com. Ludlow; Turner, off ass; Sudlow and Co. sols. Date of fiat, April 21. W. Forbes, surgeon, Denmark-hill, Camberwell, pet. cr.

[illegible]erson, William, innkeeper and coach proprietor, Aston, near Stone, Staffordshire, and late of Stone, May 15 and June 12, at eleven, Birmingham; Whitmore, off. ass. Bowen, Stafford, and Harrison and Smith, Birmingham sols. Date of fiat, April 30. R K. Hunt, postmaster, Stafford, pet. cr.

Newton, John Ward, and Francis Jacob, spirit and porter merchants and druggists, Rotherham, May 17 and June 12, at eleven, Leeds, Com. West; Young, off. ass. Badger, Rotherham, and Blackburn, Leeds, sols. Date of fiat, May 1. J. Ward, coal merchant, Doncaster, pet. cr.

Robinson, Richard, wholesale spirit and bottle beer merchant, No. 11, King W[illegible] street, Strand, May 20, at half-past twelve, June 20, at one, Basinghall-st. Com Fane; Whitmore, off. ass.; Shirreff, Lincoln's inn-fields sol. Date of fiat, May 2. H. Robinson, perfumer, 131 Oxford-st. pet. cr.

Start, William, lace maker, Sneinton, Nottinghamshire May 16 and June 9, at el[illegible], Birmingham, Com. Daniell; Bittleston, off. ass.; Cowl[e]y, Nottingham, and Messrs Motteram and Knowle, Birmingham, sols. Date of fiat April 23. Bankrupt's own petition.

Taylor, William James, grocer and oilman, No. 82, High-st. Camden-town, May 11, at half-past one, June 18, at twelve, Basinghall-st. Com. Evans; Bell, off. [illegible] Burton, Powis-place, Great Ormond-st. sol. Date of fiat, May 1 Bankrupt's own petition.

Thurnell, William, upholsterer, Leadenhall-st. and Great Windmill-st. Piccadilly, May 20, at eleven, June 20, at two, Basinghall-st. Com. Fane; Alsager, off. ass.; Pain and Hatherley, Basinghall-st. and Gt. Marlborough-st. sols. Date of fiat, April 29. E. Holmes, agent, King-st. Cheapside, pet. cr.

Warriner, George, tavern keeper and victualler, formerly of the George and Vulture, George-yard, Lombard-st. but now of Lloyd's coffee-house, Royal Exchange, also of Erith, Kent, and of Little Tower-st. May 16, at half-past twelve, June 20, at twelve, Basinghall-st. Com. Fane; Alsager, off. ass.; Messrs. Kiss and Son, Fenchurch-st. sols. Date of fiat, April 23. W. Hunter, poulterer, Ship Tavern-passage, Leadenhall market, pet. cr.

PARTNERSHIPS DISSOLVED.

Gazette, April 29.

Reed, T and *Harrison*, R. P. curriers, Honiton, April 23. Debts paid by Harrison - *Blake*, G H., C., and J. cabinet-makers, Stephens st. Tottenham-court-road, and Mount-st. Berkeley square, April 21.—*Campbell*, J. G., *Woods*, A. and *Alston*, G. merchants, Liverpool, so far as regards Woods and Alston, April 17. Debts paid by J. Campbell and Macfie.—*Cartwright*, W. and *Burland*, J. brewers, Ashton in Mackerfield, April 23. Debts paid by Burland.—*Denniston*, J. and *Candlish*, J. ship brokers, Sunderland, March 1. Debts paid by Denniston.—*Kilison*, J. and *Sibley*, W. T. tailors, Selby, April 28. Debts paid by Sibley.—*Humber*, W. jun. and *Sanders*, J. auctioneers, King's-place, Commercial-road. April 19.—*Hunt*, E. W. and S. lace-dealers, Liverpool, April 24.—*Jones*, H. and *Taunton*, C. bottle merchants, Hatton-garden, April 25. Debts paid by Taunton.—*Kelsey*, E. *Thornton*, W. and A. school conductors, Reigate, Dec. 25. Debts paid by Kelsey.—*Maddock*, R. and *Stredder*, W. S. builders, Birkenhead, April 22.—*Mead*, M. and *Lawrence*, A. milliners, Shrewsbury, Jan. 1.—*Millard*, G. L. and *Summers*, R. surgeons, Haverfordwest, April 24. —*Mills*, J. jun., W., and G. coopers, Poplar and Limehouse, so far as regards W. Mills, April 26. Debts paid by remaining partners.—*Monk*, T. and *Hodges*, W. butchers, Stockwell-green, April 24. Debts paid by Hodges.—*Noyes*, C. and *Whittem*, J. S. ironmongers, Coventry, April 17.—*Parsons*, C. and *Collins*, F. S. solicitors, Presteign, April 25. Debts paid by Collins. *Piper*, T. and *Riddle*, G. patent iron wheel manufacturers, Lamb-st. Spitalfields, Dec. 25, 1843. Debts paid by Piper.—*Rowe*, J. and *Piggott*, G. woollen-drapers, Chester, April 23. Debts paid by Rowe.— *Robertson*, G. and *Alexander*, J. commission merchants, Liverpool, April 23.—*Walmsley*, J. and *Tayleur*, J. coal merchants and coal owners, Liverpool and Shevington, April 26.

Gazette, May 2.

Adams, E. M. and *Barber*, H. Highworth, April 28.—*Burton*, E. H. and *Heard*, J. R. boot makers, Red Lion-passage, April 26.—*Finlayson*, D. and *Jenkins*, E. W. wine merchants, Angel-court, Throgmorton-street, April 28.—*Gibbons*, J. and *Read*, W. tailors, Clifford-street, March 29.—*Hanson*, G. sen. *Hanson*, T. A. and *Hanson*, J. and G. stuff merchants, Bradford, April 26. Debts paid by T. A. Hanson.—*Heywood*, J. of Kendal, and *Hope*, W. of Docker-garths, railway contractors, April 24.—*Holmes*, W. *Sansom*, T. and *Holmes*, J. grocers, Preston, April 30.—*Hawcroft*, W. and *Pearson*, S. razor manufacturers, Sheffield, April 9. Debts paid by Pearson.- *Iron*, J. and *Bateman*, W. printers, Leadenhall-street, March 25. Debts paid by Bateman.—*Kirkpatrick*, J. and *Burgin*, J. H. linen drapers, Huddersfield, April 24. Debts paid by Kirkpatrick.—*Mortimer*, E. *Small*, W. *Mortimer*, R. and *Mortimer*, W. stock brokers, Shorter's-court, Throgmorton-street, as far as regards Roger Mortimer, April 30.—*Parks*, R. *Parks*, J. and *Parks*, J. [illegible]ms, Bury, as far as regards R. Parks, February 1.—*Robson*, W. E. and *M'Gregor*, T. warehousemen, Cheapside, May 2. Debts paid by Robson.—*Robson*, B. H. and *Robson*, M. A. M. paper hangers, Piccadilly, May 1.—*Slipper*, B. S. and E. millers, Bermondsey, May 1. Debts paid by B. S. Slipper.—*Ward*, A. and *Lyon*, J. auctioneers, St. Helen's, April 24. Debts paid by Lyon.

Insolvents

Petitioning the Courts of Bankruptcy.
Gazette, April 29.

PETITIONS TO BE HEARD AT BASINGHALL-STREET.

Beesley, R. wine cooper, Wells-street, Oxford-street, May 16, at eleven.—*Broad*, J. C. boot maker, Brighton, May 22, at eleven.—*Clapson*, J. plumber, East Grinstead, May 7, at eleven — *Clarkson*, J. cheesemonger, Hereford-terrace, Chelsea, May 26, at eleven.—*Cornish*, J. butcher, Tottenham-court-road, May 12, at eleven.—*Cox*, G. stonemason, [illegible]low, May 22, at eleven.- *Field*, W. collar maker, Claydon and Crowfield, May 12, at half past eleven.—*Garlic*, J. S. patten maker, Ipswich, May 13, at eleven.—*Hames*, W. out of business, Blackman-street, May 22, at eleven.—*Milburn*, G. W. A., Queen's Prison, May 9, at one.—*Newman*, R miller, Braughing, May 12, at twelve.—*Portlock*, H. assistant butcher, Park-street, Camden-town, May 7, at eleven.—*Smith*, T. butcher, Northampton, May 7, at twelve. —*Snodie*, J. B. boot maker, Windsor-street, Bishopsgate-street, May 14, at half-past eleven.—*Tharp*, D. labourer, Well-street, Oxford-street, May 7, at twelve.—*Wilton*, J. Queen's Prison, May 7, at two.

IN THE COUNTRY.

Gazette, April 29.

Barratt, J. fulling miller, Pot Oven, May 6, at twelve, Manchester.—*Downs*, D. factory overlooker, Glossop, May 8, at twelve, Manchester.—*Driver*, A. L. cordwainer, Batley, May 6, at eleven, Leeds.—*Forrester*, J. warehouseman, Rochdale, May 9, at eleven, Manchester.—*Hinman*, H. woolcomber, Bolton, May 6, at eleven, Leeds.—*Jackson*, W. dyer, Louth, May 6, at eleven, Leeds.—*Rees*, W. victualler, Merthyr Tydfil, May 20, at eleven, Bristol.—*Robinson*, R. innkeeper, Pontefract, May 6, at eleven, Leeds.—*Rockett*, W. innkeeper, Newcastle, May 6, at eleven, Leeds.—*Rowntree*, J. publican, Middleton, May 6, at twelve, Newcastle. —*Ruddock*, M. innkeeper, Scarborough, May 6, at eleven, Leeds.—*Spark*, J. out of business, Bishop Wearmouth, May 6, at half-past one, Newcastle.—*Thurlow*, V. J. victualler, Birmingham, May 19, at eleven, Birmingham.— *Marsden*, T. joiner, Sheffield, April 30, at eleven, Leeds.— *North*, J. H. milkman, Littleover, April 29, at twelve, Birmingham.—*Vernon*, J. R. lieutenant in the army, Bristol, May 2, at twelve, Bristol.—*Wright*, W. woollen draper, Halifax, April 30, at eleven, Leeds.

MEETINGS AT BASINGHALL-STREET.

Gazette, April 29.

Clark, J. farmer, Orsett, May 9, at half-past twelve.

MEETINGS IN THE COUNTRY.

Jones, J. D. tobacconist, West Bromwich, May 14, at eleven, Birmingham. — *Moreton*, T. draper's assistant, Shrewsbury, May 14, at eleven, Birmingham.—*Rogers*, J. rope maker, Leek, May 14, at eleven, Birmingham.—*Rushton*, H. hair dresser, Nottingham, May 14, at eleven, Birmingham.—*Sharp*, G. grocer, Liverpool, May 1, at eleven, Liverpool.—*Williams*, H. shopkeeper, Newborough, May 1, at eleven, Liverpool.

PETITIONS TO BE HEARD AT BASINGHALL-STREET.

Gazette, May 2.

Bailey, S. tobacconist, Church-lane, Whitechapel, May 14, at twelve.—*Callan*, F. R. clerk, Northampton-street, Islington, May 14, at twelve.—*Goff*, W. tailor, Fulham-market, near Harlestone, May 16, at half-past eleven.—*Moore*, I. coach maker, Marylebone-lane, May 26, at half-past eleven. —*Gillibank*, E.C. comedian, Edwardes-square, Kensington, May 23, at eleven.—*Turner*, W. bricklayer, Westbourne-grove, Bayswater, May 14, at twelve.—*Wetmore*, T. H. out of business, Worcester, May 7, at half-past ten, Birmingham.

COUNTRY.

Gazette, May 2.

Elliott, F. printer, Liverpool, May 13, at Liverpool.— *Gilmore*, P. tailor, Liverpool, May 9, at eleven, Liverpool.— *Guy*, E. pork butcher, Dawley, Salop, May 8, at eleven, Birmingham.—*Ostley*, D. hatter, Derby, May 14, at eleven, Birmingham.—*Shipp*, C. farmer, Almondsbury, May 23, at eleven, Bristol.

From the Gazette of Friday, May 9.

Bankrupts.

Piper, T. F. stay manufacturer, Cheapside.—*Baldwin*, E. and *Garrett*, R. grocers, Henfield, Sussex.—*Harrison*, W. pattern dyer, Woodhouse Carr, Leeds.—*Gee*, G. W. and J. F. drapers, Leeds.—*Jones*, J. innkeeper, Aberystwith, Cardiganshire.—*Rudman*, G. mason, Bristol.—*Cooke*, T. glove manufacturer, Leicester.—*M'Dougal*, J. draper, Leicester.—*Pares*, H. plumber, Loughborough.—*Mears*, J. grocer, Leeds.—*Newton*, J., J. W. and F. J. spirit and porter merchants, Rotherham, Yorkshire.

IRELAND.

[illegible]lished, second edition, price 1s.

A DEFENCE of the LANDLORDS of IRELAND, with Remarks on the Relation between Landlord and Tenant, and a Postscript, containing an Extract from a Speech of the Right Hon. the Earl of Devon, referring to the Condition of Ireland.

By W. W. SIMPSON,

Member of the Royal Dublin Society.

JOHN OLLIVIER, 59, Pall-mall; MACHEN and Co. Westmoreland-street, Dublin; and to be had of all Booksellers.

Extract from the *Times* of the 9th November, 1844:—"Mr. W. W. Simpson, the well-known and deservedly respected auctioneer and land valuator, has recently published a pamphlet entitled 'A Defence of the Landlords of Ireland, with Remarks on the Relation between Landlord and Tenant.' The *Dublin Evening Packet*, in reviewing this work, gives the following character of its author—'Mr. Simpson, we scarcely need remind our readers, is an Englishman of vast experience in matters relating to the improvement and value of land in his own country. He is, moreover, a gentleman of most comprehensive views, and possesses an understanding naturally strong, and a stock of practical knowledge and sterling sense which falls to the lot of very few persons in his own or any other rank of life. With the social condition of Ireland he has made it his business, almost as a matter of necessity, to make himself thoroughly acquainted. He feels for her wants, and has contributed as much perhaps as any man in his time to improve her resources, by encouraging the investment of British capital in every department of Irish industry. Such a witness as this we therefore hold to be beyond the reach of suspicion, on the score either of interest or partiality. His testimony must be regarded as invaluable, as it is unquestionably unimpeachable.'"

MALDON, ESSEX.—Valuable Freehold Property.

MR. W. W. SIMPSON has received instructions from the Trustees under the Will of the late Henry Coape, esq. to offer for SALE by AUCTION, in lots, at the Mart, London, in the ensuing month, a highly valuable FREEHOLD PROPERTY, consisting of several inclosures of exceedingly fertile pasture and arable land, called Great and Little Portlands, Great and Little Winterslade, Friars, and Tainter Fields, containing in the whole 34 acres, the larger portion of which immediately joins the flourishing, agreeably situate, and ancient borough town and port of Maldon, 10 miles from the county town of Chelmsford and the Eastern Counties Railway, added to which a branch line is contemplated (and no doubt will be very shortly carried out) to Maldon, the effect of which must be greatly to enhance the value of property in Maldon and Dengie Hundred, of which Maldon may truly be designated the capital town. The lands are at present let to Mr Wm. Dawson, Mr. Wm. Hockford, and Mr. Alfred May, highly respectable and opulent tenants, as accommodation fields, at rents amounting to 129*l*. per annum (exclusive of three acres which are in hand), and from their locality they must always command remunerative accommodation rents of great stability. This property is not only valuable viewed as accommodation surface, but a large portion of it possesses frontages and building sites of a most eligible description, and will be sold in such divisions as may be considered desirable for purchasers. A more detailed description will be given in future advertisements, and particulars in due time may be had of William Lawrence, esq. solicitor, Maldon; Messrs. Symes, Teesdale, and Weston, solicitors, 31, Fenchurch-street; at the Mart; and of Mr. W. W. SIMPSON, 18, Bucklersbury.

ESSEX, near MALDON.—Valuable and most desirable Freehold and part Copyhold Estate, consisting of about 252 Acres of superior Arable and Pasture Land, &c.

MR. W. W. SIMPSON has been directed by the trustees under the will of the late Henry Coape, esq. to OFFER by AUCTION, at the Mart, London, in the ensuing month, that well-tenanted, deep-stapled, and highly-cultivated ESTATE, exonerated from land-tax, designated Purleigh Barns and Tobyes Farm. It comprises an excellent Farm-house and suitable agricultural buildings, all in a superior state of repair, together with 252 Acres of Land, in a ring fence, and bounded by the high road from Maldon, through Dengie Hundred. It is in the occupation of Mr. Thomas Davy, under an agreement for a lease for 21 years from Michaelmas 1844, at a rent of 300*l*. per annum. The Maldon coach passes the farm daily to the port of Burnham, in Dengie Hundred. The estate possesses great advantages as to roads and markets, and is conveniently situate as to water-carriage. Detailed descriptions will be given in future advertisements, and in due time particulars may be obtained on application to William Lawrence, esq. solicitor, Maldon; Messrs. Symes, Teesdale, and Weston, solicitors, 31, Fenchurch-street; at the Mart; and of Mr. W. W. SIMPSON, 18, Bucklersbury.

ESSEX, near MALDON. — An important and valuable Estate, containing 436 acres of deep-surfaced fertile Arable and superior Grazing Land.

MR. W. W. SIMPSON has the pleasure to announce that he has received instructions from the trustees under the will of the late Henry Coape, esq. to offer for SALE by AUCTION, at the Mart, London, in the month of May, that valuable FREEHOLD ESTATE, exonerated from land-tax, and called Bridge Marsh Farm, situate in the parishes of Latchingdon and Althorne. It comprises a convenient bailiff's house, with appropriate agricultural buildings, and 436 acres of highly-productive arable and grasing land. On this estate the late Mr. Coape several years since bored to a vast depth, and after a great outlay he succeeded in obtaining in two instances a constant supply of fine fresh water, which rises on the surface, and has never failed to give that abundant quantity which is so essential to the stock, and without which they cannot thrive. This farm is in the occupation of Mr. James Purkis, a highly respectable tenant, under an agreement for a lease for 14 years from Michaelmas 1844, at a rent of 315*l*. per annum. More descriptive advertisements will shortly appear, and particulars may in due time be obtained of Wm. Lawrence, esq. solicitor, Maldon; of Messrs. Symes, Teesdale, and Weston, solicitors, 31, Fenchurch-street; at the Mart; and of Mr. W. W. SIMPSON, 18, Bucklersbury.

ESSEX, seven miles from Maldon; and about the same distance from Chelmsford.—A very desirable Farm, freehold, and exonerated from land-tax, containing 172 acres of superior land.

MR. W. W. SIMPSON is instructed by the trustees under the will of the late Henry Coape, esq. to OFFER by public AUCTION, at the Mart, London, in the ensuing month, an exceedingly desirable FREEHOLD FARM (a small part only being copyhold), exonerated from land-tax, called Humes and West Wicks, in the parish of North Fambridge. It includes a convenient farm-house, with adequate agricultural buildings, and 172 acres of very productive arable and pasture land, lying in a ring fence, and is in the occupation of Mr. Isaac Foster, a first-class tenant, and is therefore in a high state of cultivation. It is let on lease for an unexpired term of two years from Michaelmas, 1844, at a rent of 150*l*. per annum. The farm is contiguous to a wharf, which affords every facility for the shipment of corn and landing manure. A more detailed description will appear in future advertisements, and particulars in due time may be obtained of Wm. Lawrence, esq. solicitor, Maldon; Messrs. Symes, Teesdale, and Weston, solicitors, 31, Fenchurch-street; at the Mart; and of Mr. W. W. SIMPSON, 18, Bucklersbury.

SUFFOLK.—Freehold Estate, between Beccles and Lowestoft, consisting of a capital Family Residence, excellent Farm-houses and Agricultural buildings, and about 1,000 acres of rich Arable, Pasture, and productive Wood and Plantation Land, lying within a ring fence, abundantly stocked with game.

MR. W. W. SIMPSON has received instructions from the executors of the late — Cooper, esq. to offer for SALE by AUCTION, at the Mart, in the month of June next, the following valuable PROPERTY; comprising the North Cove Hall Estate, delightfully situate in the parishes of North Cove, Mutford, and Worlingham, on the high road from Beccles to Lowestoft, comprising an excellent residence, standing in an extensive lawn pleasantly [illegible]ed with pleasure-grounds and plantations, containing complete domestic offices and ample accommodations for a family of the highest respectability, with coach-house, stabling, garden, and about 1,000 acres of remarkably powerful and productive arable, pasture, and marsh land, including also about 50 acres of wood and cars, forming excellent preserves for the game, which abounds on the estate in great variety. The navigable river Waveney, from Beccles to the sea, bounds the estate for nearly a mile, and affords excellent fishing. The estate, with the exception of the mansion, &c. which is in hand, is divided into farms of convenient sizes, with excellent farm-houses, and let to a most respectable and improving tenantry. The above property is equally eligible either for occupation or investment, the neighbourhood being of first-rate character, and the lands of that superior quality which in any times will command superior tenants. The parochial rates are very l[illegible]. It is distant three miles from Beccles, one from Lowestoft, and twenty from Norwich, which is within about half an hour's ride from Yarmouth by the railway. More descriptive advertisements will shortly appear, and particulars in due time may be obtained on application to Messrs. Margitson and Hurteup, solicitors, Bungay; Messrs. Stevens, Wilkinson, and Satchell, solicitors, 6, Queen-street, Cheapside; at the Mart; and of Mr. W. W. SIMPSON, 18, Bucklersbury, London.

IRELAND.—In the counties of Galway and Mayo.—Valuable Fee-simple Estates, comprising 2,170 statute acres, in the occupation of a respectable tenantry, at a ve[illegible]y l[illegible] rental.

MR. W. W. SIMPSON has received directions to SELL by AUCTION, at the Commercial-buildings, Dublin, in lots, the following exceedingly desirable FEE-SIMPLE ESTATES:—The Lands of Gerbally Blaney, eligibly situate midway between the excellent market-towns of Galway and Tuam, about eight miles distant from each town, containing 679 statute acres of productive arable and pasture land, including a considerable tract of turlough or bottom, yielding excellent herbage for black cattle and sheep. There are only seven tenants on the estate, who hold chiefly on leases. The Lands of Cahernahoon, situate near the last, but a mile nearer to the town of Galway, comprising 175 statute acres of equally productive land, let on leases to good tenants. The Lands of Barneville, advantageously situate within a mile of Kilconnell, only five from the great town of Ballinasloe (where the largest cattle fair in the kingdom is held), and twenty-six from Galway. They consist of 345 statute acres of excellent tillage and grazing land, chiefly in the occupation of one tenant, who has a lease, and farms the land remarkably well. Also the Lands of Crimlin Boulaboy and Course-park, situate four miles from Claremorris, three from Ballidangan, and six from Dunmore, comprising 970 statute acres of excellent arable and pasture land, including about 100 acres of bog, in the occupation of good tenants, who hold chiefly on leases. The soil of the above estates is of a kindly description, being on limestone substratum, and produces excellent corn and green crops. The lands are surrounded by good roads and markets, and occupied by an unexceptionable tenantry, who pay their rents with great punctuality.

The estates may be viewed, and particulars, with plans annexed, may shortly be had of Thomas Bermingham, esq. Caramana, near Kilconnell; of Frederick Sutton, esq. solicitor, 19, Kildare-street, Dublin; at the place of sale; and of Mr. W. W. SIMPSON, Bucklersbury.

BRIXTON. Stafford-terrace, Loughborough-road.—Neat Cottage Residence, with garden, producing a rental of 34*l*. per annum; land-tax redeemed.

MR. W. W. SIMPSON will SELL by AUCTION, at the Mart, in the present month, a substantial brick-built COTTAGE RESIDENCE, with a garden, pleasantly situate, No. 5, Stafford-terrace, Loughborough-road, Brixton, within three miles of the city, and containing two parlours, two bed-rooms, kitchen, store closet, &c. It is let to John Johnson Bartlett, a most respectable tenant, for a term of three years, from Lady-day 1845, at a rent of 34*l*. per annum; held under an agreement for a term of 80 years from Christmas 1842, at a ground-rent of 7*l*. per annum. The property may be viewed, and particulars may shortly be obtained on application to Messrs. Barker, Rose, and Norton, solicitors, 50, Mark-lane; at the Mart; and of Mr. W. W. SIMPSON, 18, Bucklersbury.

NORFOLK.—Dunham Lodge, together with about 300 Acres of superior Arable, Pasture, and Wood Land, and the manor of Little Dunham, extending over 1,800 acres.

MR. W. W. SIMPSON has received directions from Sir Chas. M. Clarke, bart. to offer for SALE by AUCTION, at the Mart, in the ensuing month, a very valuable FREEHOLD ESTATE, exonerated from land-tax, situate at Little Dunham, five miles from Swaffham, and eight from East Dereham, in the county of Norfolk, within two hours' drive of the Brandon Station on the Eastern Counties Railway. It comprehends a capital mansion, called Dunham Lodge, containing accommodation for a family of the highest respectability, seated in the centre of a small park, beautifully studded with timber, and all the requisite agricultural buildings, together with about 300 acres of very superior land, in the highest state of cultivation, lying in a ring fence, 180 acres of which are arable, 70 pasture, and the remainder wood, abounding with game. Also the Manor of Little Dunham, extending over 1,800 acres, with the fines and quit-rents thereto belonging. Par[illegible] with plans annexed, in due time, may be obtained of Messrs. Goodwin, Partridge, and Williams, solicitors, Lynn; at the Mart; and of Mr. W. W. SIMPSON, 18, Bucklersbury.

NOTTINGHAMSHIRE.—East Bridgford.—Desirable Freehold Estate, comprising 67 acres of land, including an excellent mansion.

MR. W. W. SIMPSON has received directions from James M'Dowell, esq. to offer for SALE by AUCTION, at the Mart, in the ensuing month, a desirable FREEHOLD and TITHE-FREE ESTATE, situate at East Bridgford, 10 miles from the towns of Nottingham and Newark, commanding most extensive and splendid views of the vale of Trent. It comprises an excellent family residence, containing dining and drawing rooms, study, kitchens, and domestic offices, several convenient bed-rooms, with dressing-rooms, nursery, and servants' rooms; pleasure grounds tastefully laid out with delightful walks, extending two miles through the plantations and cliff overhanging the Trent, summer and boat houses, large walled-in and well-stocked garden, cottage, stabling, barn, and other requisite farm-buildings, together with 67 acres of superior meadow, pasture, arable, and wood land, lying within a ring fence, and extending from the road in Bridgford town to the Trent. The property may be viewed, and particulars are in preparation, which may be had in due time of John Hassall, esq. Shelford-lodge; Messrs. Percy, Smith, and Percy, solicitors, Nottingham; at the Mart; and of Mr. W. W. SIMPSON, 18, Bucklersbury.

IRELAND.—County of Antrim.—One of the most improving and extensive Fee-simple Estates in the United Kingdom, containing 50,000 acres, the greater part situate in the manufacturing district of the county.

MR. W. W. SIMPSON has received instructions from the Right Hon. the Earl of Mountcashell to submit to public COMPETITION, at Belfast, several extensive and exceedingly valuable FEE-SIMPLE ESTATES, containing in the whole a surface of 50,000 acres, a large portion of which consists of productive meadow, pasture, and arable land, and the remainder fuel and reclaimable bog, mountain, &c. The greater part is situate in the manufacturing district of the county of Antrim, and in the occupation of an opulent, respectable, and chiefly Protestant tenantry, many of whom hold under old leases at head-rents, on the falling in of which a very large increase of rental will accrue. The rents at present amount to between 11,000*l*. and 12,000*l*. per annum, exclusive of the Castle and demesne, which is in hand. Descriptive particulars will, after a survey has been made by Mr. Simpson, be published, and may then be obtained of Messrs. Reeves and Sons, solicitors, Merrion-square, Dublin; and of Mr. W. W. SIMPSON, 18, Bucklersbury.

In the Loughborough-road, Brixton, and Denmark-street, Camberwell.—Two Plots of Building Ground, adapted for the erection of six genteel residences, exonerated from land-tax.

MR. W. W. SIMPSON has received directions from the Assignee of Mr. Elijah Brentnall, bankrupt, to SELL by AUCTION, at the Mart, in the present month, a valuable PLOT of BUILDING GROUND, situate nearly opposite the intended new church, in the Barrington-road, Loughborough-road, Brixton, containing a frontage of about 200 feet on the east side, by a depth of 200 feet; also a Plot of Building Ground, situate fronting a new road in Denmark-street, Camberwell, possessing a frontage of 31 feet by a depth of 119 feet. The property is in the occupation of Mr. Elijah Brentnall, held under an agreement for the respective terms of 80 years from Christmas, 1842, at a ground-rent of 15*l*. 8s. per annum, and 67 years from Lady-day, 1842, at a ground-rent of 1*l*. 7s. 6d. per annum. The situation is very pleasant, and is adapted for the erection six genteel residences. The property may be viewed, and particulars may shortly be obtained, at the Mart, and of Mr. W. W. SIMPSON, 18, Bucklersbury.

STOCKWELL.—Two genteel Cottages, 24 and 25, Park-crescent, let at rents amounting to 64*l*. per annum, exonerated from land-tax.

MR. [illegible] L by AUCTION, at the Mart, in the present month, in two lots—Lot 1. A desirable COTTAGE RESIDENCE, containing two parlours, two kitchens, and four bed-rooms, with a large garden in the rear, pleasantly situate, 24, Park-crescent, Stockwell, within three miles of the city, and let to Mr. Hopper, yearly tenant, at 32*l*. per annum. This house is held under an agreement direct from the freeholder for a term of 83 years from Lady-day 1843, at a ground-rent of 5*l*. 5s. per annum. Lot 2. A desirable Cottage Residence, situate 25, adjoining the last, and of a similar description, in the occupation of Mr. Key, for three years, from Michaelmas 1844, at a rent of 32*l*. per annum, held on the same terms as 24. The property may be viewed by leave of the tenants, and particulars may be shortly obtained on application to Messrs. Collier, Hedges, and Steele, solicitors, Carey-street, Lincoln's-inn; at the Mart; and of Mr. W. W. SIMPSON, 18, Bucklersbury.

THE LEGISLATOR.

Bills in Progress.

MUSEUMS OF ART.

Intituled, "A Bill to enable Town Councils to establish Museums of Art in Corporate Towns." (Brought in by Mr. Ewart, Mr. Brotherton, and Mr. Wise.)

1. That it shall be lawful for the council of any municipal borough to purchase lands, and to erect thereon buildings suitable for museums of art, and to maintain and keep the same in good repair; and to accept any gifts, grants, or devises of lands, tenements or hereditaments (any statute of mortmain to the contrary notwithstanding), for the purposes of establishing, improving, or maintaining such museums of art; and that the costs and charges of such lands and buildings, and the keeping of the same in good repair, shall be chargeable upon, and paid for out of, the borough fund of such municipal boroughs: provided always, that for the purposes of this Act no rate greater than a rate of one halfpenny in the pound of the annual value of the rateable property assessed to the borough rate shall be levied in any one year.

2. For the purchase of such lands, and for defraying the costs of such buildings as may be erected thereon, or keeping them in repair, it shall be lawful for the council of any such municipal borough as aforesaid, to borrow at interest the amount of money which may be required for the same, on the security of the said rate to be levied as aforesaid.

3. In the event of the said moneys so borrowed as aforesaid being repaid, and of funds being again required for carrying out the purposes of this Act, the said council for the time being may again borrow such sum or sums of money as may be so required, and again charge the said rate with the repayment thereof, in manner as aforesaid.

4. Where municipal boroughs shall be adjacent to each other, the councils of such municipal boroughs may unite for the purposes of this Act, and contribute in proportion to their respective assessments, or on such terms and conditions as may be mutually agreed upon by the said councils.

5. The lands and buildings so purchased or erected as aforesaid, and also all specimens of art or science, and articles of every description which may be purchased for or presented to such museums, and accepted by such councils as aforesaid, shall be vested in, and held upon trust for ever, by the corporations of the said municipal boroughs in which such museums shall be situated, and shall be kept in fit and proper order for the benefit of the public.

6. The council, or united councils, of any such municipal borough or boroughs, may, from time to time, fix such rates of payment for admission to the said museums, as they may think necessary for meeting the cost of their support; provided that such rates of payment shall not exceed the sum of one penny for each person admitted; and that they may also make such regulations for the preservation of the contents of such museums, and for the maintenance of order and decorum within them, as may to themselves seem expedient.

ROMAN CATHOLICS' RELIEF.

Intituled, "A Bill for the further repeal of Enactments imposing Pains and Penalties upon her Majesty's Roman Catholic subjects on account of their Religion." (Brought in by Mr. Watson and Lord John Manners.)

Recites the 7 and 8 Vict. c. 102, and that, notwithstanding the provisions of the said Act, her Majesty's Roman Catholic subjects do still continue to be liable, for or on account of their religious belief or profession, to sundry punishments, pains, penalties, and disabilities, ordained and enacted by certain Acts passed by the Parliament of England, the Parliament of Great Britain, and the Parliament of Great Britain and Ireland respectively, and to which punishments, pains, penalties, and disabilities none other of her Majesty's subjects are liable:

And that it is expedient that all such punishments, pains, and penalties as aforesaid shall be for ever repealed and taken away:

And that it is likewise expedient that all such and so many of the aforesaid disabilities shall be in like manner repealed and taken away, as do not in anywise relate to the holding of offices, judicial, civil, collegiate or ecclesiastical, or to the presenting to ecclesiastical benefices, or as do not in any other manner tend to the better securing and strengthening the present church establishment, and the present civil government, and the settlement of property within this realm; and proposes to enact:

Sect. 1. That from and after the *passing of this Act*, the several Acts hereinafter mentioned, or so much and such parts of any of them as are hereinafter specified, shall be repealed; (that is to say,) so much of 1 Eliz. c. 1, as relates to the by writing, printing, teaching, preaching, express words, deed or act, advisedly maliciously and directly affirming, holding, standing with, setting forth, maintaining or defending the authority, pre-eminence, power or jurisdiction, spiritual or ecclesiastical, of any foreign prince, prelate, person, state or potentate whatsoever, heretofore claimed, used or usurped within this realm, or any dominion or country being within or under the power, dominion, or obeysance of your Highness, or advisedly, maliciously, and directly putting in, using, or executing anything for the extolling, advancement, setting forth, maintenance or defence of any such pretended or usurped jurisdiction, power, pre-eminence and authority, or any part thereof, and as imposes penalties for the same; the whole of 5 Eliz. c. 1, except so much and such parts of the said Act as do in anywise relate to the taking and pronouncing the oath therein mentioned by any spiritual or ecclesiastical persons of the Church of England by law established, or by any persons taking orders, commonly called "ordines sacros," or ecclesiastical orders, in the said church, or by any persons to be promoted, preferred or admitted to any degree of learning in any university then within this realm or dominions to the same belonging, or by all or any such of the other officers, ministers or other persons in the said Act mentioned, described or referred to as are not Roman Catholics; the whole of 13 Eliz. c. 2, intituled, "An Act against the bringing in and putting in execution of Bulls, Writings, or Instruments, and other Superstitious Things from the See of Rome;" the whole of 1 Jac. 1, c. 4, intituled, "An Act for the due Execution of the Statutes against Jesuits, Seminary Priests, Recusants," &c.; the whole of 3 Jac. 1, c. 4, intituled, "An Act for the better discovering and repressing of Popish Recusants;" so much of 13 & 14 Car. 2, c. 4, intituled, "An Act for the Uniformity of Public Prayers and Administration of Sacraments and other Rites and Ceremonies, and for establishing the form of making, ordaining, and consecrating Bishops, Priests, and Deacons in the Church of England," forbidding any schoolmaster or other person instructing or teaching youth in any private house or family as a tutor or schoolmaster, to instruct or teach any youth as a tutor or schoolmaster before licence obtained from his respective archbishop, bishop, or ordinary of the diocese, according to the laws and statutes of the realm, and before such subscription and acknowledgment as therein aforesaid, so far as the same doth in anywise relate to Roman Catholics; the whole of 25 Car. 2, c. 2, intituled, "An Act for preventing Dangers which may happen from Popish Recusants;" the whole of 30 Car. 2, s. 2, c. 1, intituled, "An Act for the more effectual preserving the King's Person and Government, by disabling Papists from sitting in either House of Parliament;" the whole of 11 & 12 Wm. 3, c. 4, intituled, "An Act for the further preventing the Growth of Popery;" so much of 18 Geo. 3, c. 60, intituled, "An Act for relieving his Majesty's Subjects professing the Popish Religion from certain Penalties and Disabilities imposed on them by an Act made in the eleventh and twelfth Years of the Reign of King William the Third, intituled, 'An Act for the further preventing the Growth of Popery,'" whereby it is enacted, "that nothing in this Act contained shall extend or be construed to extend to any popish bishop, priest, jesuit, or schoolmaster, who shall not have taken and subscribed the above oath in the above words, before he shall have been apprehended, or any prosecution commenced against him;" so much of 31 Geo. 3, c. 32, as makes it a condition precedent to any relief or benefit being had or taken under or by virtue of the said last-mentioned Act, that the oath thereby appointed shall have been previously taken and subscribed by the party desiring such relief or benefit, &c. and as enacts, "that nothing herein contained shall be construed to give any ease, benefit, or advantage to any person who shall by preaching, teaching, or writing, deny or gainsay the oath of allegiance, abjuration, and declaration hereinbefore mentioned and appointed to be taken as aforesaid, or the declarations or doctrines therein contained, or any of them;" and whereby persons bound by monastic or religious vows are declared to be liable to the laws at any time theretofore enacted against such persons, or for or in respect of the same; and as enacts, that nothing therein contained should make it lawful for Roman Catholics to found, endow, or establish any school, academy, or college within the realm or its actual dominions; and as enacts, "that no schoolmaster professing the Roman Catholic religion shall receive into his school for education the child of any Protestant father;" and "that all uses, trusts, and dispositions, whether of real or personal property, which immediately before the twenty-fourth day of June, one thousand seven hundred and ninety-one, shall be deemed to be superstitious or unlawful, shall continue to be so deemed and taken, any thing in this Act contained notwithstanding;" and whereby it is provided and enacted, "that no benefit in this Act contained shall extend or be construed to extend to any Roman Catholic ecclesiastic permitted by this Act, who shall officiate in any place of congregation or assembly for religious worship permitted by this Act, with a steeple and bell, or at any funeral in any church or churchyard, or who shall exercise any of the rites or ceremonies of his religion, or wear the habits of his order, save within some place of congregation or assembly for religious worship permitted by this Act, or in a private house where there shall be no more than five persons assembled, besides those of the household; [illegible] of the 10 Geo. 4, c. 7, [illegible] if any person, after the commencement of this Act, other than the person thereunto authorized by law, shall assume or use the name, style or title of archbishop of any province, bishop of any bishopric, or dean of any deanery in England or Ireland, he shall for every such offence forfeit and pay the sum of one hundred pounds;" and, "that if any Roman Catholic ecclesiastic, or any member of any of the orders, communities or societies hereinafter mentioned, shall, after the commencement of this Act, exercise any of the rites or ceremonies of the Roman Catholic religion, or wear the habits of his order, save within the usual places of worship of the Roman Catholic religion or in private houses, such ecclesiastic or other person shall, being thereof convicted by the due course of law, forfeit for every such offence the sum of fifty pounds;" and as imposes penalties upon any person holding any judicial, civil or corporate office, who shall resort to or be present at any place of worship in England or Ireland other than that of the united Church of England and Ireland, or in Scotland, other than that of the Church of Scotland as by law established, in the robe, gown, or other peculiar habit of office, or attend with the ensign or insignia, or any part thereof, of or belonging to such his office; and also so much of the said last-mentioned Act as relates to the gradual suppression and final prohibition of Jesuits and members of other religious orders, communities or societies of the Church of Rome bound by monastic or religious vows, and resident within the kingdom, and the pains, penalties, forfeitures and punishments thereby enacted against, for or in respect of the same.

CHATTEL INTERESTS (REAL PROPERTY).

A Bill to declare to be valid assignments, surrenders, and releases of chattel interests in real property, made in certain cases.

Reciting that it is the practice in dealings with real estate to assign and surrender terms of years and other chattel interests, and to assign, surrender, or release charges affecting such real estate, and the title to such assignment, surrender, or release is frequently considered defective or doubtful, on the ground that some probate or administration evidencing the title to such assignment, surrender, or release has not been obtained in the proper court.

That every such assignment, surrender, or release as aforesaid as shall have been executed before, or shall be executed after, this Act comes into operation, shall be deemed valid to all intents and purposes whatsoever, notwithstanding any party who shall have made or concurred in making any such assignment, surrender, or release, shall have derived title under a probate or administration (whether general or limited) which shall not have been obtained in the proper court, provided such probate or administration shall have been granted before the first day of January, 1815.

ACTIONS OF DEBT LIMITATION.

A Bill for further limiting the time within which actions of debt, grounded on any lending or contract without specialty, may be commenced.

Reciting that, by an Act passed in the twenty-first year of his late Majesty King James the First, it was among other things enacted, that all actions of debt grounded upon any lending or contract without specialty shall be commenced and sued within six years after the cause of such action or suit, and not after: and that it is expedient that the time for commencing such actions or suits should be further limited; it is to be enacted

That all actions of debt grounded upon any lending or contract without specialty made after the thirty-first day of December next shall be commenced and sued for within four years after the cause of such action or suit, and not after.

SHERIFFS (WALES).

A Bill for assigning sheriffs in Wales.

Reciting that it is convenient that the sheriffs in each of the shires in Wales be nominated and appointed in like manner as is used in other parts of England: it is to be enacted

That after the passing of this Act the sheriffs in each shire in Wales shall be assigned, ordained, nominated, and appointed at the same time and place and in like manner and form as is used according to law for sheriffs in the shires of England.

OATHS DISPENSATION.

This is a bill to authorize commissioners of bankrupt to examine certain persons, and receive their statements, though not upon oath, under certain circumstances.

It recites, that by an Act passed in the 6 Geo. 4, c. 16, ss. 36, 37, intituled, "An Act to amend the Laws relating to Bankrupts," it is amongst other things enacted, that it shall be lawful for commissioners of bankrupt to examine the bankrupt upon oath, either by word of mouth or upon interrogatories in writing, touching all matters relating either to his trade, dealings, or estate, or which may tend to disclose any such grant, conveyance, or concealment of his lands, tenements, goods, moneys, or debts, and to reduce his answers into writing, which examination

so reduced into writing the said bankrupt shall sign and subscribe; and if such bankrupt shall refuse to be sworn, or shall refuse to answer any questions put to him by the said commissioners touching any of the matters aforesaid, or shall not fully answer to the satisfaction of the said commissioners any such questions, or shall refuse to sign or subscribe his examination so reduced into writing as aforesaid (not having any lawful objection allowed by the said commissioners), it shall be lawful for the said commissioners by warrant under their hands and seals to commit him to such prison as they may think fit, there to remain until he shall submit himself to such commissioners to be sworn: And that it may happen that persons against whom a fiat in bankruptcy may be awarded may be perfectly willing to make a full disclosure of all their affairs, and give true answer to all questions touching the same, but may refuse to take an oath, from conscientiously believing oaths to be unlawful, and yet may not fall within any description of persons whose affirmation is now by law permitted to be received in lieu of an oath, and the commissioners may nevertheless hold themselves bound, not only to refuse such disclosure without oath, but also to commit such person to prison by reason of such refusal, whereby important facts may remain unknown, to the prejudice of the creditors, and the party may be imprisoned for an indefinite time, possibly for his whole life, without any moral delinquency; it is therefore proposed to enact,—

That in case any person who now is or may hereafter duly be declared a bankrupt, or the wife of any such bankrupt, shall, when attending such commissioners at their meeting, state that he or she cannot conscientiously take an oath, but is willing to make solemn affirmation to the truth of his or her answers to any questions that shall be put to him or her by such commissioners, and to sign and subscribe his or her examination when reduced to writing, it shall be lawful for such commissioner to receive of such person his solemn affirmation in the form set forth in the schedule hereto annexed, and then to examine and to deal with such bankrupt in the same manner in all respects as he is now authorized to do in case he or she had been examined upon oath; provided that nothing herein shall in any wise affect the right of commissioners of bankrupt to judge how far the answers to be made are satisfactory, or to commit to prison in case they shall hold such answers to be unsatisfactory, nor the right of any creditor to withhold his signature from the certificate of conformity.

SCHEDULE.

I A B, the bankrupt [*or* C D, the wife of A B, the bankrupt] under a fiat of bankruptcy issued against him on the day of believing in my conscience that it is unlawful to take an oath, but being desirous of disclosing all that I know respecting the affairs of [*me*] the said A B, do solemnly and sincerely promise to make true answer to all such questions as shall be demanded of me by the commissioners under such fiat, touching all matters relating to the same.

THE MAGISTRATE.

POOR LAW CIRCULAR.

(*Continued from page* 498, *vol.* 4.)

POOR-RATE.

COSTS OF ENFORCING THE PAYMENT OF THE POOR-RATE, BY WHOM TO BE PAID.

June 11, 1844.

Clerk of Westbury-on-Severn Union—Inquired whether in the case of parties summoned for the non-payment of the poor-rate, the expenses of the applications as well as the rate were recoverable against the defaulters; or whether such expenses must be borne by the overseers.

Ans.—The cost of a summons for non-payment of poor-rate is, in the first place, demandable of the person at whose instance or on whose application such summons is obtained, and it is recoverable or not against the party summoned, according to the nature of the case and the discretion of the justices. Where the justices, upon the hearing of the case, may not see fit to order payment of the costs of the summons by the party in arrear, the overseers will be answerable for it.

RATING.—1. COAL-MINES.

June 15, 1844.

Assistant Overseer, Kirkburton—Inquired as to which township a coal-mine should be rated, the pit being sunk and the coals wound up in Kirkburton, though the coals were obtained in the adjoining township, fifty yards being the distance of the mouth of the pit from the boundary line of the two townships.

Ans.—The Commissioners direct your attention to the case of *R.* v. *Foleshill* (2 Adol. & Ellis, 593), in which a coal-mine extended under the surface into the parishes of Exhall and Foleshill, but the pits, engines, and fixed machinery for working the mine were all situated in Foleshill alone; and it was held the proprietor of the mine could not be rated in Foleshill for that part of the mine which lay in Exhall. *Lord Denman* observes—"It is too great a refinement to say that there was no mine there (*i.e.* in Exhall), because all the works for raising the coal were not within that parish. According to that argument, if a coal-mine extended into twenty parishes, and all the coal was brought to the surface in one, the proprietor must be rated in that only. The difficulty of ascertaining what is raised in each parish may be great, but here the sessions have ascertained it." According to this decision, the Commissioners apprehend that the proprietor of the coal-mine to which you allude is rateable in Kirkburton for so much of the property, whether mine or works, as is situated in that parish, and that he is rateable in Stockton for so much of the property as lies therein. The distribution of the property between the two parishes is a question of fact, to be ascertained according to the circumstances of the individual case.

2. COURSE TO BE PURSUED IN LEVYING A RATE WHERE THE EXISTING ASSESSMENT IS UNFAIR.

June 17, 1844.

Overseer of Kingswalden, Hitchin Union—Stated that a rate, made in February last, was quashed by the justices on appeal, for unfairness in the assessment; in consequence of which there was a balance due to the preceding overseer, and the calls of the guardians for contributions to the union funds could not be met: the parish officers could not make a rate to the best of their judgment and ability, as the two churchwardens were opposed to the two overseers. Requested to have Commissioners' instructions how to proceed under the circumstances; and also inquired whether the money which had been collected under the rate that had been quashed, should be considered as payments on account.

Ans.—If the overseers of Kingswalden are in want of funds for the purposes of their office, it is their duty to levy a rate upon as fair and equal an assessment of the rateable property in the parish as they can make, according to the best of their judgment. If the churchwardens and overseers cannot agree amongst themselves with regard to such an assessment, they must abide the consequences, for the guardians of Hitchin Union must not be kept out of the requisite funds for the relief of the poor, by such disagreements. The Commissioners desire to point out that, under the 1st section of the 41 Geo. 3, c. 23, the sums paid under the rate, which you describe as having been quashed on appeal, are to be taken as payments on account of the next effective rate.

REGISTRATION.

EXPENSES OF REGISTRATION OF PARLIAMENTARY VOTERS.

April 3, 1844.

Auditor of Malmesbury Union, &c.—Stated, that by virtue of the Acts, 2 Wm. 4, c. 45, s. 34 and 6 Vict. c. 18, s. 21, persons whose rights were reserved to vote for members of Parliament for the borough of Cricklade, in respect of freeholds situated in the parishes of Malmesbury, St. Paul, the Abbey, and St. Mary Westport, within the new borough of Malmesbury, were registered at Norton, the next adjoining parish in the borough of Cricklade. By the first-mentioned statute, sec. 56, each borough elector had to pay 1s. annually for registering his vote, and the overseers of Norton collected the shillings from the electors, claiming in respect of freeholds in the other three parishes above mentioned; but by the latter statute, sec. 58, the annual payment of 1s. by each elector was abolished, and the parish of Norton deprived of its former claim on the individual electors for contributions towards the expenses of registration. By the same statute, sec. 55, the expenses incurred by the town clerk, or returning officer, of any city or borough, in carrying into effect the provisions of the Act, were to be defrayed out of the moneys to be collected for the relief of the poor in the several parishes and townships *within the same city or borough*; and he, the auditor, could not discover any provision in the Act to enable the overseers of Norton to compel contributions from the overseers of the other parishes above named towards the expenses of the register. Requested the opinion of the Commissioners for his guidance.

Ans.—As the recent statute, 6 & 7 Vict. c. 18, provides (sec. 57) that the expenses incurred in this matter by the overseers of every parish or township shall be paid from the poor-rates of the *same* parish or township, and (sec. 55) that the expenses incurred by the town-clerk of any city or borough shall be paid according to a certain rule of proportion from the poor-rates of the several parishes and townships within the *same* city or borough, the Commissioners apprehend that the expenses incurred, whether by the overseers or by the town-clerk, in respect of the registration of voters for the parish of Norton, in the borough of Cricklade, whether such voters derive their qualification within that borough or from freeholds situate in the borough of Malmesbury, must be paid from the poor-rates of the said parish, and cannot be levied or recovered from any parish within the last-named borough. With regard to the propriety of this state of the law, it is beyond the province of the Commissioners to express any opinion.

RELATIVES.

NON-LIABILITY OF A WIFE TO MAINTAIN HUSBAND AND CHILD.

June 20, 1844.

Clerk of the Cuckfield Union—Stated, that a man and his wife and child had been removed, under an order, to a parish in the union; they were inmates of the workhouse for a time, when the wife escaped, leaving her husband and child behind; the husband was partially a lunatic, and wholly unable to support himself and family, whilst the wife was capable of maintaining herself and child, and offered to do so if she had been permitted to leave the house with her child. Inquired whether the wife was liable to a conviction under the Vagrant Act for deserting her husband and child.

Ans.—A wife is not liable to be proceeded against under the Vagrant Act for refusing or neglecting to maintain her husband, inasmuch as she is not under any legal obligation to support him. So also as regards the child, the legal obligation to maintain it attaches to the husband as the head of the family, and the wife cannot therefore be proceeded against for the desertion.

REMOVAL.

1. COSTS OF APPEAL AGAINST AN ORDER OF.

March 29, 1844.

The Overseers of St. James, Dover—Stated, that John Betts and his wife became chargeable to the parish of St. Sepulchre, in the city of London; an examination of the pauper was taken, wherein he stated he had been a yearly servant to Mr. Richard Marsh, of Farthingoe, in the parish of St. James, Dover, and an order was made for his removal to that parish. Farthingloe, however, is in the parish of Hougham, and the parish of St. James therefore appealed against the order, and although information was given to St. Sepulchre of the above fact, they had the appeal tried at the City of London Quarter Sessions, on the 30th of June last, and of course were defeated. A bill of charges in the matter had been delivered to the overseers by the vestry-clerk, the Lord Mayor and Recorder of the city of London having, as it was alleged, refused to allow any expenses to the parish of St. James. Inquired whether there was any appeal from the decision of the Lord Mayor and Recorder.

Ans.—The ordering of costs in cases of appeals against orders of removal appears to be a matter within the discretion of the justices. In a case which occurred apparently under the 8 & 9 Wm. 3, c. 30, s. 3, a writ of *mandamus* requiring the justices of Nottingham to allow costs, was quashed upon the ground that the Court held it reasonable for the justices to have the power of judging whether costs should be allowed or not. (*R.* v. *Justices of Nottingham*, 2 Bott.) The terms of the eighty-second section of the Poor Law Amendment Act are more extended even than those of the third section of the above-named statute,—it provides that the justices "*shall* award and order the party for whom, and in whose behalf such appeal shall be determined, such costs and charges in the law as by the said justices in their discretion shall be thought most reasonable and just;" the former enacts, that the justices shall and may, if they think fit, order and direct," &c. The Commissioners therefore think that, as the magistrates in the present case have refused to award costs, the parish of St. James has no remedy in the matter as against the parish of St. Sepulchre.

2. COST OF SERVING NOTICE OF A SUSPENDED ORDER OF REMOVAL, BY WHOM TO BE PAID.

June 8, 1844.

Clerk of the Stow-on-the-Wold Union—Stated, that the guardians of the Stow-on-the-Wold Union had received from the parish officers of St. Margaret Leicester, a demand for 10*l.* 9s. 10d. the cost of "relief given to John Johns, of Stow parish, under orders of removal suspended from October last;" and for 2*l.* 11s. 6d. the cost of "serving notice of the same." The guardians admitted the pauper's settlement, and did not object to repay the cost of the relief; but they considered that they were not legally bound to pay the cost of serving the notice, and requested the Commissioners' opinion on the point.

Ans.—The expense attendant on a personal service of a suspended order of removal, is recoverable under the 2nd section of the 35 Geo. 3, c. 101, as one of the charges incurred in consequence of the suspension of the order. The 84th section of the Poor Law Amendment Act requires the notice of a suspended order to be "given" to the overseers; whereas, the 79th section expressly allows a common order to be "sent by post." This difference in the phraseology of the two sections renders it advisable that notice of a suspended order should be served personally; and the expenses incurred therein appear to the Commissioners to be recoverable accordingly. But the Commissioners do not consider the expense of removing the pauper to be recoverable from the receiving parish. It is clear, that the removal does not take place in consequence of the suspension of the order, and that therefore the expense of the removal is not a charge incurred by reason of the suspension.

3. BY WHOM THE REMOVAL OF PAUPERS TO THEIR PLACES OF SETTLEMENT IS TO BE UNDERTAKEN. June 14, 1844.

Clerk of the Guardians of St. Mary, Rotherhithe—Inquired, whether the guardians could authorize any other persons than their paid officers to take the charge of the removal of paupers to their place of settlement; lately the assistant relieving officer had done this duty, but much inconvenience had arisen by his absence whilst so engaged. A pauper was about to be removed to Berwick-upon-Tweed, which would take four or five days to effect: the master of the vessel might be induced to take the charge and delivery of the pauper to the overseers at Berwick, provided the guardians could sanction such a proceeding of the legality of which they were doubtful.

Ans.—The removal of paupers is a matter within the province of the overseers, and one in which the law does not impose any duty upon the guardians. The overseers, however, may, under the 10th section of the 54 Geo. 3, c. 170, employ any proper person or persons whomsoever to carry, remove, and deliver any pauper or paupers ordered to be removed by any justices; and the removal of the pauper by such person or persons shall be as effectual as if made by the overseers themselves.

4. WHETHER ONE MEMBER OF A FAMILY, WHO HAS BECOME CHARGEABLE, CAN BE REMOVED WITHOUT THE HEAD OF THE FAMILY. June 21, 1844.

Clerk of the Cirencester Union—Stated, that an order had been obtained for the removal of H. his wife, and five children, and that the order had been suspended on account of the sickness of the eldest daughter, aged twenty years. The removal was to take place in consequence of relief to this daughter, as neither the father nor any other part of his family had received or required relief. Inquired whether by reason of her age the daughter is not emancipated, and whether the order of removal should not be confined to her alone; and if there are good grounds of appeal against the order.

Ans.—If the daughter in question is unmarried, and has resided with her father from infancy, and has not acquired any settlement in her own right, she is not emancipated by reason of her age. The Commissioners are not aware of any judicial determination of the question, whether the relief of an unemancipated child, above the age of sixteen years, renders the father liable to be removed. The decisions with regard to certificated persons seem, however, to involve the principle upon which such a question must be decided. In the case of *R.* v. *Framlingham* (Burr. T. C. 748) Ashton, J. gave it as his opinion, "That if several persons resided in a parish under the same certificate, the asking relief by a single one of them would not render the rest removeable." This conclusion would no longer be tenable with respect to children under sixteen years of age, since the passing of the Poor Law Amendment Act (see section 56); but it appears to be still applicable to all children above that age receiving relief without their parents. The Commissioners, therefore, think it probable that the young woman you refer to might be legally separated from her father, and removed alone. The Commissioners will add, that this question was suggested in the case of *R.* v. *Mile End Old Town* (5 Nev. & Man. 581), though no decision was given upon it. In that case the immediate question at issue was of a similar character, but it was raised with reference to the removal of a pauper to Ireland, under 3 & 4 Wm. 4, c. 40. In delivering judgment, Patteson, J. observed—"We are of opinion that the provision in the 55th section of 4 & 5 Wm. 4, c. 76, as to the age up to which the parent is to be deemed answerable for relief given to a child, viz. sixteen (whatever might have been its effect upon relief given to a child above that age, as to the chargeability of the parent, if the parties had been English, on which we give no opinion), does not apply to the present case, depending, as it has already been stated it does, on the 3 & 4 Wm. 4, c. 40, s. 2."

(*To be continued.*)

CRIMINAL JURISDICTION IN FRANCE.

The *Moniteur* publishes a report on the administration of criminal justice in France in 1843, addressed to the King by the Minister of Justice. It results from this document that the number of cases tried by the Courts of Assize amounted to 5,394, comprising 7,226 individuals, 2,233 of whom were charged with crimes against persons, and 4,993 with crimes against property. As compared with the returns of 1842, there was an increase in the number of the latter of 276, and a diminution of 3 in that of the accused of crimes against persons. The proportion of the accused to the population was 1 to 4,737 inhabitants. Of the 7,226 tried in 1843, 6,022 were males, and 1,204 females. 66 were under 16 years of age; 1,170 between 16 and 21; 1,122 between 21 and 25; 1,171 between 25 and 30; 1,048 between 30 and 35; 819 between 35 and 40; 1,165 between 40 and 50; 433 between 50 and 60; 186 between 60 and 70; 44 were upwards of 70; and 2 were octogenarians. 4,049 were unmarried; 1,5[illegible] were married; and 364 widowers; 4-6ths of the accused who were married had children. The number of foreigners tried in [illegible] was 337. Upwards of 5-6ths of the accused, or 6,102, exercised professions or trades, or lived on their incomes, and 1,124 led an idle life, without any means of existence. Of the 6,957 who had a domicile, 4,201 inhabited rural districts, and 2,756 the towns. 3,719 were completely illiterate; 2,316 could read and write imperfectly; 955 had received some instruction, and 236 had been educated in the universities. Of the 5,394 cases submitted to juries in 1843, 2,811 were fully admitted; 1,173 partly, and 1,410 were rejected. 2,224 accused were acquitted, and 4,858 convicted and sentenced; 50 to the penalty of death, 196 to hard labour for life, 929 to hard labour for a certain period, 3,682 to imprisonment; 1 to civil degradation, and 20 children under 16 years of age to correctional imprisonment. 33 of the 50 capitally convicted were executed; 1 committed suicide, and the penalty of the 16 others was commuted. The juries returned verdicts with extenuating circumstances in favour of 2,865 of the 4,120 found guilty. The Courts of Assize likewise pronounced on the cases of 805 contumacious persons, of whom 50 were women; 3 only were acquitted, 43 were condemned to death, 30 to hard labour for life, 261 for different periods, and 166 to imprisonment. The number of crimes varied according to the seasons; the winter and autumn months presented a greater proportion of crimes against property than those of spring and summer, and, during the latter seasons, more crimes against persons were committed than during autumn and winter. The prosecutions for political offences did not exceed 29, and were directed against 46 persons, 36 of whom were acquitted, and 10 condemned—namely, 1 to fine; 1 to one year's imprisonment, and 8 to less than one year. The tribunals of Correctional Police decided, in 1843, in 152,029 cases, including 199,216 individuals, shewing an increase, as compared with 1842, of 6,141 cases and 6,687 individuals. 157,438 of the accused tried before those courts were males, and 41,778 females; 22,267 were acquitted, and 175,151 convicted and condemned, 7,312 to more than one year's imprisonment, 44,768 to less than one year, 23,071 merely to a fine; and 1,798 children, under 16 years of age, were acquitted as having acted without discernment; 1,012 of the latter, however, were ordered to be detained in penitentiaries, and 786 were given up to their families or friends. The Royal courts and tribunals of appeal pronounced, in 1843, on 7,443 appeals in correctional matters; they confirmed 3-5ths of the judgments and annulled the two other. [illegible],814 of the accused tried in that year by the Courts of Assize had already been condemned; 1,015 had undergone 1 condemnation; 408, 2; 185, 3; 97, 4; 42, 5; and 67, from 6 to 10. Among them were only 138 women. The culprits of the same class tried by the Courts of Correctional Police amounted to 15,471, of whom 2,466 were females. The tribunals of simple police delivered 192,282 judgments in the course of the same year. The number of the justices of the peace in France, in 1843, was 2,846; of mayors, 37,040; of commissaries of police, 993; of police agents, 2,359; of gendarmes; 14,082, divided into [illegible],099 brigades; and of *gardes champêtres*, 33,926. Proceedings were instituted in 1843 against 94 functionaries or agents of the Government for offences committed in the discharge of their duties; namely, 1 prefect, 3 engineers, 33 mayors, and 2 deputy-mayors, [illegible] tax-collector, 3 postmen, 28 forest-keepers, 22 custom-house-officers, and 1 maritime syndic. The Council of State authorized the prosecution of 39, and refused it for 55. Of the 39 tried, 21 were acquitted, and 18 condemned, 8 to more than one year's imprisonment, 5 to less than one year, and 5 to fines. There were 722 appeals against the 5,423 judgments of the Courts of Assize submitted to the Court of Cassation, which only admitted 71. The suicides in [illegible]843 amounted to 3,020, or 154 more than in 1842, [illegible] 5th of which, 551, took place in the department of the Seine. Women figured in the number for 729, or [illegible]4 per cent. 15 children under 16 years of age, 20 octogenarians, 170 septuagenarians, and 384 sexagenarians, had put an end to their existence. The suicides, less numerous in winter and in autumn, were particularly frequent in May, June, and July. [illegible],096 had recourse to drowning; 954 hung themselves; [illegible]50 used firearms; and 206 asphyxied themselves by the fumes of charcoal. 151 employed this last mode of destruction in the department of the Seine alone; [illegible]-4th of the individuals who committed suicide in 1843 were not in the enjoyment of their faculties. The number of culprits pardoned by the King, or whose penalties were commuted, in 1843, was 668, or 143 more than in 1842.

THE LAWYER.

ON THE GENERAL ISSUE.

ACTION ON THE CASE,—*continued.*

DECLARATIONS for defamation are founded upon malicious publication of defamatory matter. Malice is here a matter of fact, but it is presumed when the publication appears in evidence to have been intentional and upon no lawful occasion. (*Bromage* v. *Prosser*, 4 B. & C. 247; *Haire* v. *Wilson*, 9 B. & C. 643.) That inference fails if such an occasion be shown, and it is on this ground that those defences which are usually classed under the head of "privileged statements" are admissible under not guilty. (*Fairman* v. *Ives*, 5 B. & A. 642; *Lilly* v. *Price*, 5 A. & E. 645.) It is said in books of authority that the facts may be specially pleaded. (*Cromwell's case*, 4 Rep. 12 b; 1 Saund. 130 n. 1; see *Delegal* v. *Highley*, 3 N. C. 950.) But the truth of the defamatory matter has never been admitted under not guilty either in bar of the action or in mitigation of damages; for that defence does not deny the malice, but shews that the plaintiff is not entitled to complain of it, on the ground that the law will not permit a man to profit by his own bad conduct. (*Smith* v. *Richardson*, Willes, 20; *Fairman* v. *Ives*, 5 B. & A. 642.)

There is a class of actions for defamation in which actual injury to the plaintiff, or special damage as it is called, is a constituent of his right of action. It is perhaps unfortunate that the same term is also used to denote particular injuries consequent upon a legal wrong. The difference is in all respects important; it is even possible that the law of connection between the act and its consequences may not be precisely the same for both cases. (See *Duffield* v. *Scott*, 3 T. R. 374; and *Tindall* v. *Bell*, 11 M. & W. 228.) Damage in the latter sense, whether general or special, is no part of the cause of action, but merely the measure of compensation (*Fetter* v. *Beale*, 1 Salk. 11), and therefore it cannot be separately pleaded to (*Smith* v. *Thomas*, 2 N. C. 372), and is not, strictly speaking, an issue under not guilty. If the plaintiff prove a legal wrong, he is universally entitled to some compensation (*Marzetti* v. *Williams*, 1 B. & Ad. 415; *Blofield* v. *Payne*, 4 B. & Ad. 410); though to obtain more than a nominal amount he must in some cases allege and prove a special injury resulting from the defendant's act. It is therefore easy to distinguish between such damage, and a constitution of the legal wrong itself. Take, for instance, a declaration of slander for calling the plaintiff a thief, alleging particular injury as resulting; the words are the legal wrong and the consequences the measure of compensation. But substitute the word villain, which is not actionable *per se*, and the same consequences are then a part of the legal wrong, and at the same time the measure of compensation. The latter case is similar to a large class of actions on the case, founded upon acts which, though not innocent, are actionable only in respect of their results; as negligent driving, &c., keeping dangerous animals, public nuisances, escape on mesne process, and false returns to process, and some other dereliction of duty by the sheriff. All such actions fail altogether, if it appear that the plaintiff has suffered no actual injury; and it would seem that the mode of putting that in issue must be common to all. Taking as an example the action of slander in the case of words not *per se* actionable, it is submitted that not guilty denies the act, and the consequences which alone make it wrongful for the purposes of an action. We have already seen that upon the same principle it denies the qualities of an act when they are material. In *Norton* v. *Scholefield* (9 M. & W. 665) the declaration alleged that the plaintiff and his tenants were entitled to the use of a well and pump, and that the defendant had constructed a cess-pool so near that the water was contaminated. The defendant applied to the Court, after refusal by a judge, for leave to plead, together with the general issue, a special plea denying that the water had been contaminated by reason of the erection of the cess-pool, and the application was rejected, Parke, B. saying, "Not guilty puts in issue both the act complained of and its consequences; in actions for negligence a defendant is never allowed to plead that the injury was caused by the plaintiff's own negligence. The very plea alluded to by the learned judge appears by the case of *Bridge* v. *the Grand Junction Railway Company* (3 M. & W. 244) to amount to the general issue. That was an action for negligently driving the defendant's train against that in which the plaintiff was riding. It will be remembered that such actions are supported on the ground that the injury, though direct, may be considered as consequent upon an abstract act of negligence. (*Williams* v. *Holland*, 10 Bing. 112.) *Brown* v. *Jarvis* (1 M. & W. 704) was an action against a sheriff for

neglecting to arrest upon mesne process, and the Court of Exchequer, erroneously assuming that not guilty had been pleaded, entered into the discussion of the question whether actual damage was essential to the plaintiff's right of action. In the subsequent case of *Williams* v. *Mostyn* (4 M. & W. 145), the same Court decided that a sheriff might defend himself under the general issue in an action for a voluntary escape upon a mesne process, by shewing that it had caused no injury to the plaintiff. These decisions are authorities for including in the issue taken by not guilty both "the act complained of and its consequences," whether it be wholly innocent *per se*, as in the case of the cess-pool, or wrong in some points of view, as in the others. But there is a recent case in the Queen's Bench (*Wylie* v. *Birch*, 4 Q. B. 566), which may be thought to lead to the contrary conclusion. The declaration there, after stating in substance a judgment recovered against one Pearson, and a writ of *fi. fa.* issued thereupon, and delivered to the defendant as sheriff, averred that he seized and sold goods of Pearson by virtue of the writ, but disregarding his duty, had not the proceeds ready to be rendered to the plaintiff, and had not paid them over to him, and afterwards falsely returned that the goods seized remained in his hands for want of buyers; by means of which premises the plaintiff had been injured, and deprived of the means of obtaining the money directed to be levied, and was likely to lose the same. The defendant pleaded three pleas, stating that a fiat in bankruptcy against Pearson issued before the sale, and shewing a title by relation in the assignees to the goods. The pleas were specially demurred to as amounting to the general issue, but it was not assigned as a ground of demurrer that they amounted to an argumentative traverse of the allegation that the defendant had sold the goods of Pearson. Judgment for the defendant. The decision may, it would seem, be rested upon the ground that, no particular injury being attached to the false return taken *per se*, the gist of the action was the not passing over the money, and that therefore the pleas were good on general demurrer as amounting to a traverse of one of the facts entitling the plaintiff to it, viz. Pearson's property at the time of the sale, which, as may be proved from *Wright* v. *Gainson* (2 M. & W. 739) and *Rowe* v. *Ames* (6 M. & W. 747) would not have been in issue under not guilty. And such, it is apprehended, is the real meaning of the judgment. The Court, after noticing that none of the examples subjoined to the rule illustrate its effect upon the allegation of consequential injury, say, "We think that the declaration is perfect in stating such damages as *primâ facie* must be taken to arise from the default, and that the defendant in his plea (one of the three substantially similar) "correctly negatives that presumption by alleging the contrary fact" (*i. e.* by traversing the inducement "which constitutes his defence." The case of *Perring* v. *Harris* (2 Moo. & Rob. 5) is also sometimes cited as bearing upon this subject; but it may easily be disposed of by observing that there the general issue was not pleaded, the only plea being a traverse of the plaintiff's title. In *Rose* v. *Groves* (5 M. & Gr. 613) the declaration stated the plaintiff kept an inn abutting on a navigable river, to wit, the Thames, and of right accessible from that river to persons navigating thereon in boats and other craft; yet the defendants maliciously placed in the said river, near the plaintiff's house, beams and spars in order that they might, and the same did, at certain states of the tide, drift opposite to the plaintiff's house, and thereby obstructed the way from the river thereto, and divers persons were prevented from coming and taking refreshment at plaintiff's house. Plea, not guilty. At the trial it was shewn that the plaintiff's business had fallen off since the alleged obstruction. The question submitted to the jury was, whether the access to the plaintiff's house was obstructed in fact, and, if so, whether the obstruction had been caused by the accidental floating of the timber across the plaintiff's landing-place, in which case they were directed to find a verdict for the defendants, the plaintiff's counsel having disclaimed damages if the jury should think that the obstruction was accidental. Verdict for the plaintiff, damages 20*l*. A motion was made for a new trial or in arrest of judgment; the former on the ground of misdirection, in that the question whether the plaintiff had sustained any special damage had not been left to the jury, the latter because no special damage was alleged in the declaration. It was doubted whether this was an action for a public nuisance; and it may be noticed that the declaration did not distinctly shew that the river obstructed was public. On the assumption that a common nuisance was charged, it would have been an easy answer to the motion as to the new trial, that the allegation of damage was not in issue under not guilty. And accordingly, Maule, J. says, "the defendants, by pleading not guilty, have merely denied that they stopped the way in question." But that learned judge thought that no public injury was alleged; and the effect of the plea was never distinctly presented to the Court. Actual damage peculiar to the plaintiff had been proved.

(*To be continued.*)

LEGAL INTELLIGENCE.

QUESTIONS AT THE EXAMINATION.

Easter Term, 1845.

I.—PRELIMINARY.

1. Where, and with whom, did you serve your clerkship?

2. State the particular branch or branches of the law to which you have principally applied yourself during your clerkship.

3. Mention some of the principal law books which you have read and studied.

4. Have you attended any and what law lectures?

II.—COMMON AND STATUTE LAW, AND PRACTICE OF THE COURTS.

5. In what cases may the judge certify to deprive the plaintiff of costs, and when and how must his certificate be obtained?

6. If one of several defendants who defended jointly be acquitted, what costs will he be entitled to?

7. Can a person interested in the result of an action be examined as a witness, and how can either of the parties obtain the admission of his testimony?

8. If some issues are found for the plaintiff, and others for the defendant, how does it affect the costs, and how does the affidavit of increase differ to get the expense of witnesses allowed to the respective parties?

9. What explanations would you give, and what would you require, if you were called upon under the statute to attest the execution of a warrant of attorney or cognovit.

10. Against a wilful trespasser, where the damages are under 5*l*. how should a person proceed?

11. Is it necessary to serve a *subpœna ad test.* personally, or will leaving it at the dwelling-house be sufficient? and what are the consequences of non-attendance?

12. When a tenant cannot be met with, what will be good service of an ejectment, and how and where?

13. Must a notice to quit be in all cases in writing? and at what period should it be given and expire?

14. How must you proceed when a *feme sole* obtains judgment, and marries before execution?

15. If a tenant hold over after notice to quit, what liability does he incur?

16. What steps must an attorney take before he can bring an action for his bill?

17. How is a contract by matter of record to be enforced? and by what evidence must you support it?

18. In what cases is a husband liable to debts contracted by his wife, and in what not?

19. If you have written documents to produce in evidence in a cause, what must you do to be entitled to costs of proof?

III.—CONVEYANCING.

20. A in writing agrees to let land to B for a term of years at a certain rent; B enters into possession and pays the rent to A; what is B's tenancy, and what right has he against A?

21. A is mortgagee in fee and dies without devising the security, and the mortgage debt is applicable by his executor to the payment of the testator's debts; suppose the heir-at-law of the mortgagee to be unwilling or incapable to re-convey the premises, to whom is the mortgagor to pay the principal money and interest, and how is he to obtain an effectual re-conveyance of those premises?

22. A and B (not partners) are to give their bond to C for the payment of a certain sum of money: how is the obligation to be made, so that in case B should die and leave A surviving, C may have a legal claim upon B's personal representative?

23. Suppose there are two partners, and they give their joint bond for payment of money, and one of such partners dies, what extent of remedy has the obligee against the surviving partner, and against the representative of the deceased partner?

24. State the general outline of a lease of a house, as to such covenants and conditions as would be proper between landlord and tenant in respect to repairs, and payment of rent in case of the premises being destroyed by fire.

25. In examining an abstract of title with the title-deeds, what should be carefully attended to?

26. The title-deeds required to be examined with the abstract are found not to be in the possession of the vendor, but in the hands of a third person in the country: what is the course to be pursued for the examination of the deeds, and at whose expense?

27. In the absence of conditions of sale to the contrary, how is a purchaser to obtain copies of abstracted deeds, or instruments on record, at the vendor's expense?

28. What should be done to postpone searches for incumbrances until immediately before the completion of the purchase?

29. As judgments do not bind leasehold estates until writs of execution are taken out, when and where should searches be made as to incumbrances on behalf of a purchaser of such estates?

30. What covenants are to be given to a purchaser of a freehold estate by the vendor who is seised in fee?

31. Suppose a purchaser cannot be required to take his conveyance executed by the attorney duly appointed by the vendor; and yet such purchaser should agree to take the conveyance so executed, and seeing that the vendor may be dead at the time the power is exercised;—what would be the consequence if he were so? and what should be required on behalf of the purchaser at the time of taking the conveyance?

32. State when deeds relating to estates in a register county should be registered; and what may be the consequence from delay in doing so?

33. Where terms of years are created by settlements, what are the events usually expressed in the proviso for cessor of such terms?

34. A term of years appears upon the abstract of title to be outstanding, and not to have been assigned to attend the inheritance: what should be required on the part of a purchaser? and at whose expense?

IV. EQUITY, AND PRACTICE OF THE COURTS.

35. Can a foreigner resident abroad file a bill for relief in the Court of Chancery here? If so, what protection has the defendant in such case against the plaintiff for costs?

36. What is the mode of proceeding to enforce the appearance of a peer of the realm to a bill?

37. What effect has the filing of a replication on the answer of a defendant?

38. Can the answer of one defendant be read against a co-defendant? If so, state in what case?

39. In what case is a plaintiff or a defendant in a suit entitled to an order to examine witnesses *de bene esse?*

40. What is the nature of a writ of assistance, and in what case is it issued?

41. If a party having the conduct of a suit does not proceed with due diligence in the prosecution of a decree or order before the Master, what remedy has any other party interested to prevent further delay?

42. Where a person is entitled in expectancy or otherwise to a share of funds in court, and assigns his interest therein, what remedy has the assignee to protect himself against the transfer or payment out of court to the assignor of the share so assigned by him?

43. A party being dissatisfied with the Master's report, and desirous of taking the opinion of the Court thereon; what is the course of proceeding under such circumstances?

44. In a suit for specific performance of an agreement, is the plaintiff bound by the title as shewn by him at the time of filing his bill? If not, state the reason why.

45. In the case of a legacy, where no time of payment is mentioned in the will, from what time does it carry interest, and at what rate?

46. In the administration of assets, what creditors rank the highest in priority, and become entitled to be paid their debts in preference to other creditors?

47. Where a mortgagee is in possession, what is the time limited within which a mortgagor may file a bill to redeem?

48. Where a deposit is paid to an auctioneer at a sale, and there should arise a dispute between the vendor and purchaser, and an action is threatened or commenced against him by either for the deposit: what is the course to be pursued by the auctioneer to protect himself against their adverse claims?

49. In the distribution of assets, where there is not sufficient for the payment of all the legacies and annuities, how is an annuity in this respect treated?

V.—BANKRUPTCY, AND PRACTICE OF THE COURTS.

50. What description of persons are subject to the bankrupt laws?

51. Describe the mode of proceeding to procure a fiat in bankruptcy?

52. What are the limits of the jurisdiction of the London commissioners?

53. In what manner, and at what period, and by whom, are the creditors' assignees, and the official assignees respectively appointed under a fiat in bankruptcy?

54. What is the duty of the creditors' assignees, and what is the duty of the official assignee?

55. In whom is the power of granting or withholding a bankrupt's certificate vested?

56. What are the advantages to a bankrupt in obtaining his certificate, and what are the disadvantages to his not obtaining it?

57. What courts have jurisdiction in matters in bankruptcy, and what is the court of final appeal?

58. Is the wife of a bankrupt entitled to dower out of an estate of which he was seised in fee at the time of his bankruptcy?

59. What is the proper course of proceeding for a mortgagee of a bankrupt's property to take after a fiat has been issued?

60. Does the property of a bankrupt situated in the British colonies pass to the assignees under a fiat issued in England?

61. If a bankrupt has granted an annuity for his own life to another person for a valuable consideration, how are the rights of the annuity creditor affected by the issuing of the fiat with reference to the future payments of the annuity?

62. If a bankrupt holds a lease on terms disadvantageous to the lessee, are the assignees obliged to continue to hold it for the remainder of the term or not?

63. If a bankrupt carrying on business alone has trade debts and trade assets, and private debts and private assets, are separate accounts to be kept, and separate dividends paid to each class of creditors, or is no distinction to be observed?

64. At what period was the last statute passed making any material alteration in the laws relating to bankrupts?

VI.—CRIMINAL LAW, AND PROCEEDINGS BEFORE JUSTICES OF THE PEACE.

65. If a prisoner indicted for a felony or misdemeanor, refuse to plead, what course is to be pursued?

66. What ownership is requisite to be proved in the thing stolen?

67. What amounts to a taking, to constitute the act of larceny?

68. Can a prisoner be indicted a second time, under any, and what, circumstances for the same offence?

69. If money is lodged with an attorney for a special purpose, and he converts the same to his own use, is it a misdemeanor, or only actionable?

70. If a factor or agent intrusted with goods or merchandize for sale, deposit or pledge the same for his own benefit, is it a misdemeanor, or only actionable?

71. When can, and when cannot, a new trial be granted in criminal cases?

72. On a motion for a new trial, are affidavits of new facts admissible under any, and what, circumstances?

73. Are any, and what, costs allowed to a prosecutor in felonies and misdemeanors?

74. What is the rule as to payment of costs in a motion for a new trial in criminal cases?

75. Are persons stealing dogs, or in the possession of dogs, knowing the same to have been stolen, liable to any, and what, penalty or punishment?

76. Under what circumstances may persons playing musical instruments in the streets be required to desist? and if they refuse to do so, what is the mode of proceeding to compel them?

77. Is the evidence of the mother of an illegitimate child of itself sufficient to obtain an order of filiation on the putative father, or is any other, and what evidence necessary?

78. In what manner is the validity of an order of removal of a pauper tried? and can the legality of the decision be appealed before any other, and what, tribunal, and in what manner?

79. Magistrates having dismissed a complaint for an assault, can the accused in any, and what, way avail himself of such decision in an action against him for the same assault?

COUNSEL AND ATTORNEYS.—According to the lists lately printed and made up from the Stamp-office returns, it appears there are nearly 13,000 barristers and certificated conveyancers and attorneys practising in England and Wales; the number of barristers being 2,625, of whom 76 are Queen's counsel, 27 serjeants-at-law, the remaining 2,522 being junior barristers or gentlemen behind the bar, practising in the various common law and equity courts, and attending the several sessions throughout the country; there are also 136 certificated special pleaders and conveyancers not at the bar. The number of certificated attorneys residing in London and Westminster, and borough of Southwark, amounts to 2,960, and the certificated attorneys and conveyancers residing in the cities, boroughs, market towns, and principal villages in England and Wales, to 6,821; these numbers are those who have actually taken out and paid the duty on their certificates within the prescribed time; there are many attorneys who have not done so, and yet are on the roll and practise, in addition to upwards of 400 admitted last Hilary and about to be admitted during the present Term.

CORRESPONDENCE.

A BAR AT SESSIONS.

TO THE EDITOR OF THE LAW TIMES.

SIR,—In your number of last week an invitation is thrown out to your readers to discuss the question of the propriety and expediency of barristers attending sessions at which the duties of advocacy have heretofore been performed by the attorneys of the neighbourhood, and it is unquestionably of great importance to the members of either branch of the Profession that their respective rights, privileges, and duties should be clearly ascertained and defined, and this inquiry should be entered upon in a spirit of mutual respect and forbearance, as it is essential to the comfort and well-being of both branches that a cordial understanding should prevail between their members. It would be mere pedantry to enter into an antiquarian discussion of the origin and history of these two branches of the legal Profession. For the purpose of the present inquiry it is sufficient that for upwards of six centuries they have existed as two distinct and separate bodies in this country, there are very few instances in which any doubt or dispute has arisen as to their respective functions. I has happened, however, that owing either to the small amount of business, to the distance from London of the places at which the sessions are held, or to the smallness of the number of barristers belonging to the Welch Circuits, or to a combination of all these causes, that up to the present time no barristers have practised at the Quarter Sessions for any of the counties of North Wales, and the business in court has, consequently, of necessity been transacted by the attorneys. At the last Quarter Sessions for Flintshire, five gentlemen belonging to the North Wales and Chester Circuit appeared in court and applied to the bench of magistrates for the privilege of exclusive audience, and after some discussion, in the course of which it appeared that the majority of the magistrates present were disposed to accede to the application, the final determination of it was postponed in order to give an opportunity for the attendance of a greater number of the magistracy. A similar application has been made to the bench of magistrates for the adjoining county of Denbigh, and will, it is presumed, be shortly taken into consideration by them. In the meantime this movement of the barristers has occasioned considerable excitement amongst some of the attorneys who have been in the habit of practising as advocates at those sessions, and a meeting has been held for the purpose of taking measures for the protection of their interests in this matter.

It would appear that the principal ground upon which the attorneys resist the application of the barristers for exclusive audience is, that it would be a hardship to deprive men of a privilege which they have long exercised, and they do not dispute that barristers have a right to practise their profession in any court of quarter sessions in the kingdom, but deny their right to oust those who were before in possession of the practice. It is true also that something was said about the superior experience of men who had for years conducted the business at the sessions as compared with that of barristers of short standing at the bar; but this is a topic upon which I shall decline to enter, and I have only to hope that it was introduced during the heat of discussion, and that upon reflection every one would at once feel that comparisons of this description are injudicious, and the institution of them unseemly and indecorous in a question of this nature. Assuming that the determination of this disputed right properly belongs to the bench of magistrates, it behoves them neither to consider the interests of the barristers nor of the attorneys, but those of the suitors of the court and of the public generally, in arriving at their conclusion; and after having given the case a candid and mature consideration, it appears to me, first, that it is most desirable for the due administration of justice that in every court where trials take place, there should exist, distinct and separate from those whose peculiar business it is to prepare a case for trial, and to ascertain and marshal the evidence by which it is to be supported, a body of men whose peculiar province it is to conduct that case when it comes on to be tried; and I cannot help thinking that the very fact of attorneys communicating with the parties, examining the witnesses beforehand, and preparing the proofs, renders it extremely inexpedient that they should examine those witnesses upon their oath in court, and state the facts by which the questions in dispute are to be determined. It is well known to be a rule most rigidly adhered to by members of the bar that no witnesses in a cause are allowed to be present at a consultation except those whose evidence is of a purely scientific character; and the reason for their exclusion is, that if they were allowed to be present they would hear suggestions of facts and circumstances which it would be necessary or expedient to prove in the cause, and might thus be led by the partisan feeling, from which very few persons when embarked, even as witnesses, in a cause are entirely exempt, and without any intention of tampering with their oaths, to adopt the spirit of those suggestions, and to allow their testimony to be coloured, if not perverted, thereby. How much more strongly does the principle of this objection apply to the instance of an attorney who, before a case comes on to be tried in court, must communicate with the witnesses, make inquiries of them into the circumstances of the case, and in making those inquiries necessarily, in some measure, however guarded he may be, suggest the proof, which is required to support it. Then, how could the most cautious and scrupulous man, when he came to examine those witnesses on oath avoid, even by look, gesture, or tone of voice, repeating the suggestions so made in the preliminary investigation by him of the facts; or how, in addressing the Court or jury, could he avoid mixing up that which his hopes or wishes suggest, and confounding it with the matter established by strict proof?

Secondly. It ought to be borne in mind that the attorneys practising in the rural districts are the neighbours, legal advisers, personal friends, or, it may be, enemies of those who serve upon the juries, and even of the magistrates upon the bench; and no one at all, sensible of the infirmities of human nature, would deny that the advocacy of men between whom and the Court and jury such intimacy or hostility existed, would be much more likely unduly to influence, either favourably or adversely, the verdicts of the juries; and even, perhaps, in some instances the judgment of the Court, than that of men who, residing at a distance, and only visiting the county at certain periods, would be, in these respects, upon a perfect equality with one another, and who would themselves be free from all the well-known animosities, predilections, and prejudices which prevail in a limited neighbourhood, and from the exhibition of which even the sacred precincts of a court of justice are not always exempt, and by whose presence the proper etiquette and decent ceremony of such a court would be more duly observed and maintained.

Thirdly. It surely must be of great advantage to the administration of justice at sessions, that the advocates whose duty it is, and whose disposition it ought to be, to give assistance to the bench in the performance of its arduous and important functions, should have an opportunity of imbibing legal principles at the fountain-head, and by their attendance at Westminster, and by constant communication with hundreds of their professional brethren, should be familiar with the judgment of the Courts, and, which is of little less importance, with the opinions of the more eminent members of the profession, on difficult points of law and practice, and should thus be able with facility to resolve difficulties and disentangle embarrassments which would otherwise appear insurmountable.

I have hitherto only considered this question as it affects the due administration of justice, and that in an incomplete and imperfect manner; but I find I am trespassing at too great length upon your space, and shall therefore, for the present, conclude my remarks upon this branch of the subject, however crude and unfinished they may appear. I think it would not be difficult to shew that it is for the interest of the attorneys themselves, that at sessions, as elsewhere, the duties of counsel and attorney should be kept separate and distinct. But this must be reserved for a future occasion.

I am, Sir, your obedient servant,

AN INDIFFERENT SPECTATOR.

1st May, 1841.

SUPPRESSIO VERI OF "THE TIMES."

TO THE EDITOR OF THE LAW TIMES.

SIR,—The publication of my note of the 25th ult. in your valuable journal, was the first public notice respecting Serjeant Talfourd and the *Times*. Although aware of many of the facts, I was, nevertheless, desirous that, instead of my stating them, you should use your own means of inquiry. The "press" will, I trust, universally stigmatize the unworthy conduct of the "leading journal." The strong, but just, language of indignation in your observations in Saturday's paper, will command the respect and admiration of your readers, and be responded to throughout the literary and professional world. Will the "Leviathan" condescend to answer? Will there be a denial of the facts, as far as regards what was done upon the Oxford Circuit? And will it be denied that the same course is being pursued in London?

Motives for the course pursued will be suggested if the *Times* do not explain or deny, or give some reason for their conduct. It is accordingly said that other facts exist in connection with that paper and the Oxford Circuit.

The treasurer of the *Times* was formerly a barrister belonging to the Oxford Circuit. His son is one of the editors of that newspaper. His intimate friend is a leader on the Oxford Circuit. Whilst the names of Serjeant Talfourd and other counsel are omitted, is that ever the case with him?

This gentleman is he who makes a "most able speech," a "most powerful address to the jury," and is reported to be the person most likely to be the next new judge,—according to the *Times*!! I refer to what has been continually seen in the columns of the *Times*. Surely it is *unfortunate*, to say the least, for that paper to have suppressed Serjeant Talfourd's name in the reports of cases from the Oxford Circuit, if the *Times'* especial friend be a leader upon the same circuit? I call it *unfortunate*, for there are persons who will suggest motives if these facts be true. Tl why not deny the statement? Will the *Times* do ?

But this system of *favou* reporting is carried on extensively elsewhere than pon the Oxford Circuit. With a little more leisure at my command, I may possibly communicate some curious facts, which are already known in Westminster Hall, and are exposing both silk and stuff gownsmen to severe animadversion.

It is *said*, the *Times* boasts that it made Baron Platt a judge! Was it because his father, as well as himself, was a shareholder in that paper?

Your obedient servant,

A Subscriber.

Craven-street, 5th May, 1845.

SHAM LAWYERS.

TO THE EDITOR OF THE LAW

Sir,—Should you agree with me in thinking the following worth your insertion, I shall be much obliged:—

Letter No. 1.

(Copy.)

"16, Norfolk-row, Sheffield, April 16, 1845.

"Sir,—We are directed by the assignees of James Seaton, grocer, to apply to you for the sum of 1*l*. 15s. due from you to the estate of the aforesaid James Seaton. We request your attention to the same at our offi Norfolk-row, Sheffield, to prevent any unpl ntness in the matt

'We are yours respectfully,

"Joseph Beckett and Sons.

"To Mr. Harrison, Handley."

To this I sent the following:—

No. 2. (Copy.)

"Chesterfield, April 23, 1845.

"Gentlemen,—Your letter to Mr. Harrison, demanding payment of the sum of 1*l*. 15s. has been handed to me. I have looked carefully through the 'Law List,' but do not find your names therein. This being the case, I should much like to know by what authority you make this demand.

"Should I not be correct in my surmise—namely, that you are not members of the legal profession—a note from you to that effect will prevent my forwarding a copy of your communication to the editor of the Law Times for insertion next week.

"I am, Gentlemen, your obedient servant,

"Edward L. Darwin.

"Messrs. Beckett and Sons, 16, Norfolk-row, Sheffield."

This morning brought the following:—

(Copy.)

"16, Norfolk-row, Sheffield, April 24, 1845.

"Sir,—In reply to your letter of the 23rd, I beg to state that we were directed by Mr. Thomas Whittaker (trading assignee of James Seaton, an insolvent) to apply to Mr. Harrison.

"We are not *solicitors*, but *agents*, or *collectors*, and if our letters do not take effect, we then sue in the *law courts*. The reason for our writing is, to save the party owing the money to any estate (we have to collect for) unnecessary expense. We might have entered Mr. Harrison in the law court at Eckington at once, but thought it better to apply.

"I am, Sir, your obedient servant,

"George Ince,

"For J. Beckett and Sons, Agents.

"To Mr. E. L. Darwin, Chesterfield."

Apologising for the length of this letter,

I remain, Sir, yours most obediently,

Edward L. Darwin.

Chesterfield, April 25, 1845.

FLINTSHIRE SESSIONS.

TO THE EDITOR OF THE LAW TIMES.

Sir,—In your paper of Saturday last, in an article headed "Flintshire Quarter Sessions," you say that "not uncalled for complaints were made of the letter of Mr. Denton to the Chairman of the Sessions in which some needless and very unjust aspersion were cast upon the attorneys." I beg, therefo , that you will, in fairness to myself and the Profession to which I have the honour to belong, insert that letter in your next paper. The part of my letter which I apprehend your comments are upon, was intended to apply, and appears on the face of the letter to be applicable, *only* to those attorneys who entertain feelings in common with those pub ly expressed by Mr. Horne, viz. that the attorneys would offer every annoyance in their power to the counsel, and that they would not bring cases into court, but would refer every thing. The latter part of the letter is as follows:—"In each of the counties of England, as they from time to time, in the progress of events, gave the preference to barristers in their courts, the major part of the attorneys, and those the most respectable, approved of the change, which was opposed by the minority, more particularly the very small number who had been usually employed as advocates by their brother attorneys; so that the majority of their own branch of the Profession even, were not satisfied with their mode of transacting the business. This also will probably be found to be the case in the county of Denbigh." The part of my letter complained of is therefore plainly not applicable to the majority of the attorneys, and those the most respectable.

I am, Sir, &c.

Middle Temple, 3, Garden-court, H. R. Denton.
May 6, 1845.

LITHOGRAPHING FORMS.

TO THE EDITOR OF THE LAW TIMES.

Sir,—In the Law Times of the 3rd instant you ote a case, *Ex parte Ivimey*, and say thereunder, "Orders of the Lord Chancellor may be lithographed."

This is not a correct report I had presented a lithographed memorial of a deed to be registered at the Middlesex Register Office for Deeds, &c. The registrar refused to receive it, on the ground that the ...morial, by 7 Anne, c. 20, should be *in writing*. I applied for a *mandamus*, and the opinion of the Court was, that the registrar ought to have received it.

As the decision may be of importance to practitioners, I have thought it right to state it plainly.

I am, &c.

Joseph Ivimey.

26, Chancery-lane, May 5, 1845.

SELECTIONS FROM CORRESPONDENCE.

"J. R." (Bideford) thus writes on the Transfer of Property Act.

The Transfer of Property Act having put an end to the practice of taking agreements for the occupation of land operating as actual demises on unstamped paper, by *declaring them to be agreements for leases only*, without *providing a substitute*, by reducing the stamps on leases in small cases, considerable inconvenience is felt in those cases for want of the power of distress. To remedy this it has been suggested that agreements for leases only may be taken on 2s. 6d. stamps, under which the tenant may be permitted to enter, and that a special power may be given to distrain for the rent. The opinion of your readers is requested on the point, and an approved form of such an agreement.

Another plan, which is applicable to terms of three years only, is to reduce the terms of the holding into writing, and to read them over to the tenant in the presence of a competent witness, who should subscribe a memorandum of the fact and of the tenant's expression of his satisfaction, as in the case of a recognizance; and a memorandum may be given him of what he has agreed to. This, of course, would be a parol demise, the terms being proved by the witness using the memorandum to refresh his memory, or as containing a record of what the tenant had verbally assented to.

After all, the best plan would be to insert a clause in the amended Transfer of Property Act which Lord Lyndhurst promised, reducing the stamp duty on leases under 20*l*. a year to 2s. 6d. In the new Stamp Duties Bill, brought in by Spring Rice when Chancellor of the Exchequer, this, if I remember rightly, was the amount there fixed. Will you, Mr. Editor, attend to this?

TAWELL'S CASE.

SOME REMARKS ON THE SOURCES OF ERROR IN THE MEDICAL EVIDENCE AT THE LATE TRIAL.

By H. LETHEBY, M.B.

Lecturer on Chemistry at the London Hospital.

(*For the* Law Times.)

It happens too frequently, when medical men are called upon to give evidence in criminal cases, that they place the most implicit reliance upon the reports and opinions which are contained in our works on legal medicine, never considering that it is their duty to confine themselves entirely to such facts as may have come within their own experience; or that if it is necessary to seek for any further information, that they should *always* refer to original authorities. This system of things, to say nothing of its irregularity, is open to every source of error; for, in the first place, there is scarcely any medical witness who does not from the very beginning form his own opinion of the case—he is anxious to maintain this opinion; and if he is permitted to ransack every second-hand author who may happen to come in his way, he *will* maintain this opinion, for he will take care to collect every little point which tells upon his side, while he becomes regardless of a whole volume of evidence that may be considered against him. And again, every one who is accustomed to glean from documentary testimony knows the facility with which a fact may be distorted. In the next place, the very authors whom they have consulted, and upon whom they place so much reliance, might have been partisans on the side of some particular theory, in support of which they have not hesitated to modify the facts of the case; or the reports themselves might have been wrongly quoted or they might be put together in such a slovenly manner that any meaning could be attached to them. And these are not imaginary difficulties; some of our medico-legal works are full of them, while they contain reports derived *from* reports, in which the originals have never been consulted or perhaps even seen; errors, therefore, have been multiplied upon errors, until the confusion has become endless. Add to this the quibbles which they give rise to, the loopholes for villany, the botheration of judge and jury, the perversion of justice, and the disgrace which the medical witnesses bring upon themselves and their profession; and then, let me ask, is any criticism too severe upon the system, or upon the authors who have given rise to it? I question if there was ever a case upon record in which these difficulties have been more completely illustrated than in the recent one of Tawell. Here were three medical witnesses, who undertook to swear that the woman Hart died from the effects of prussic acid; and yet, when they were cross-examined, they declared that, as far as their experience went, they were totally ignorant of the action of this poison; and, when questioned as to the source of their knowledge, they admitted that it was derived *entirely* from the reports of certain cases which they had read in Christison and Taylor—nay, more, that they had founded their opinions upon *two* of these cases, and there would be no difficulty in shewing why they had chosen these. Could any thing, therefore, be more justifiable than a search into the accuracy of these two cases, knowing that not only the witnesses, but the judge and advocates, and probably the jury also, would be guided by them? Now the result of that inquiry is very well known, for it was the occasion of a most severe, but at the same time deserved, criticism on the part of the defence. Mr. Taylor, however, does not entertain the same opinion of its fairness, and he has written in the Guy's Hospital Reports, as well as in the Law Times for March 29, some subtle remarks for the purpose of shewing that *his* quotations were correct; and, in order to give them a colouring of truth, and, perhaps, importance, he has favoured us with some little bits of German, snatched from the middle of sentences, and cunningly and carefully preserved from all context. He should know that this is neither fair nor creditable, and, in reference to a subject of so much importance, upon which a question of life or death may hereafter turn, it is also most dishonest; it would have been much wiser to correct the errors in his *Manual* himself than to leave the business open to another, who may, perhaps, undertake it with a little asperity. To shew, however, that Mr. Taylor has no reason to complain of Mr. Kelly's criticism, I will refer to the questions as t appeared at the trial.

Two questi ns of very great importance arose. The first was with regard to the odour of prussic acid, and whether it was not by far the most delicate test of its presence. This the medical witnesses denied, contrary to the opinion of Orfila and other great toxicologists, contrary to a host of other cases reported in their own authors, and shewing that the odour was present in bodies some time after death. These three medical witnesses pick out two cases from Taylor and Christison, and without seeing that their authorities contradict themselves, they come to the opinion that the odour is not a delicate test, and that it may be altogether wanting. Here, however, are the reports and the originals:—

"Neither was there any odour in the blood in Mertzdorff's case, although it was strong in the stomach."—*Christison*, 4th ed. p. 773.

With reference to the same case Mr. Taylor says:—

"The odour was not perceptible in the body of a youth who had been killed by three and a half drachms of the acid, and whose body was inspected thirty hours after death."—*Manual*, p. 252.

While in the original of Mertzdorff it runs thus:—

"Im Magen und dem oberen Theile des Dünndarmes war ein grau gefärbter, säuerliche riechender und den, eigenthümlichen stechenden Geruch der Ittnerschen Blausäure, nicht aber den dir bitteren Mandeln, verratheuder speisebrei von dickflussiger Consistenz zu finden."—*Archiv für Medizinische Erfahrung*, ii. 1823, p. 57.

Here are contradictions enough in all conscience, and yet Mr. Taylor remarks that his account is substantially correct, and that it is plain that Mr. Kelly was misled by trusting to a French or an English version. (Law Times, March 29, 503.) Now, how Mr. Taylor can perceive so much I am at a loss to imagine; for supposing that we had referred to a French version, we should have found this literal translation of the sentence:—"L'estomac et la partie supérieure de l'intestine contenaient une épaisse bouillie chymeuse, grise, acide, et qui répandait l'odeur de l'acide prussique d'Ittner, mais non celle des amandes amères" (*Journal Complementaire*, tom. xvii.

p. 369); and if Mr. Kelly had been referred to Christison, who is a much higher authority than Mr. Taylor, he would have had another report almost as near the truth; and I do think that the charge of misquotation comes with a very bad grace from one who, to judge from his book, had never seen the original at all before this criticism was passed upon him; and even now, after having journeyed to the College of Surgeons, and consulted the archive, he says that "he doubts whether the alleged odour in the stomach would have been perceived by one person out of twenty." This does not sound very much like the arguments of a medical jurist; he has no reason to doubt the matter at all. Mertzdorff says there *was* an odour of prussic acid, and Mr. Taylor should take this as the truth. I must explain here what Mertzdorff means by saying there was no odour of bitter almonds. He is reporting two cases of poisoning, one by bitter almonds (A), and a second (B) by prussic acid, and he is shewing the peculiarities of each; hence it is that he frequently draws a distinction between the effects of the one and the other, and I am surprised that Mr. Taylor should take advantage of this to aid his subtleties and mock reasoning upon the question.

With respect to the second case, that of the seven Parisian epileptics, to which the medical witness alluded, Christison says, in speaking of the odour, that it was not present "in the blood or any other part of the body in the Parisian epileptics" (p. 773); and again: "the contents of the stomach have, in every instance, had a strong hydrocyanic odour, except in the cases of the Parisian epileptics" (p. 774). Orfila, however, who was one of the physicians appointed by government to inquire into this case, says: "Nulle partie n'exhalait l'odeur d'amandes amères et n'offrait des signes de putréfaction, et dans tous les cadavres existait une roideur cadavérique prononcée." And to this he adds a note: "Nous constatâmes pourtant cette odeur huit jours après la mort, M. Gay Lussac et moi, dans les liquides trouvés dans l'estomac." *Traité de Toxicologie*, p. 285.) This is confirmed by Devergie, who says, "Aucun organe ne développa l'odeur d'amandes amères: cette odeur ne fut pas sensible pour MM. Adelon, Marc, et Marjolin, dans les matières contenues dans l'estomac. Cependant MM. Gay Lussac et Orfila l'ont constatée dans ces substances huit jours après l'ouverture du corps; ce qui prouve que, dans un grand nombre de circonstances, il faut une très grande habitude pour l'apprécier." And that this may be regarded as authentic, he just before says, "Ces faits sont extraits d'une note manuscrite donnée à M. Adelon, l'un des médecins experts dans cette affaire, par l'élève qui a soigné ces malades au moment des accidents. M. Adelon a bien voulu me la communiquer." (*Devergie, Médecine Légale*, iii. p. 686.) Mr. Taylor, however, was not alluded to in the trial upon this point, for he had *wisely* omitted all mention of it in his book; but since then he has committed himself by saying, "Most medical jurists agree with the statement made by Dr. Christison and myself, that there was no odour of prussic acid in the contents of the stomach." He is referring to the Parisian epileptics (*Guy's Hospital Reports*, No. 5, p. 73); so that it becomes evident he had somewhere stated that there was no odour.

And now, with reference to the second question which arose at the trial, namely, what was the smallest quantity of the poison which would kill? Going upon one of these cases, the medical witnesses declared, "that ·7 of a grain was sufficient to destroy life, for it killed the seven epileptics;" so, indeed, Christison and Taylor led them to believe, and yet, when the originals were referred to, it turns out to be more than one grain, at the very lowest computation, and the probability is that it was more even than this, for Orfila says, in speaking of the dose, that it was "exorbitante et que l'homme le plus robuste ne saurait supporter sans périr presque immédiatement" (p. 285); so that here again they were in error, and who would imagine from Taylor's report of Mertzdorff's case, when he says that he took three and a half drachms of acid, that it was really a quantity exceeding two ounces of our pharmacopœial prussic acid? These are, however, the errors of only two of Mr. Taylor's cases; what they would amount to in the whole book God only knows; and I am sorry that it should have fallen to my lot to have pointed even these errors out; but the credit of our profession, as well as the confidence of the law, demands that they should be corrected, and I hope that, without further quibble or discussion, Mr. Taylor will undertake the task, or I shall consider it my duty to wade through his book, and point out all the errors myself. At the present time it is not worthy of the confidence of the law, and with respect to the good or harm it may do our own profession, I will but quote the editorial remarks upon this very case, which appeared in the *Lancet*, for April 5. "A more perfect demonstration cannot be desired of the evil of trusting for information to compilations and manuals, those short and easy roads to knowledge, which is at present, we fear, greatly prevalent amongst practitioners, and we trust it will excite many to a more extensive course of reading, and the addition to their bookshelves of higher and better authorities."

THE LAWS OF FRANCE.

No. VII.

CIVIL DISTRICT COURTS.

1. These courts form a jurisdiction established in each district, to take cognizance of *all* civil cases, with the exception of those which, according to special laws, come under the jurisdiction of other courts, as, for instance, those reserved for the Juges de Paix, of which we have already spoken, and others of which we shall treat hereafter.

All kinds of contests are submitted to these courts, —they take cognizance of all personal suits, moveable or immoveable, with appeal, whatever may be the amount of the litigation.

But they pronounce without appeal only up to the sum of 1,500f. in a moveable personal case, or up to 60f. of rent, or amount of lease, in immoveable suits. And this competency has only existed for a few years;(a) formerly it was only up to 1,000f. and 50f. of rent;(b) it has been augmented in consequence of the increase of value in all things.

All these cases are judged summarily, and with little cost; but it is impossible to enumerate all the suits which have been or may be submitted to this jurisdiction, for one must include all causes arising from men's passions or interests, from the questions of family paternity and inheritance to the most humble demands, provided they are beyond the jurisdiction of the justices of peace.

These courts, as we have already observed in the commencement of this series, take cognizance of the appeals of the justices of peace; also of commercial affairs, in places where there are no special courts of commerce, of which we shall speak presently; and we may add, that when a reciprocated claim(c) or a compensatory demand, is made within the limits of the jurisdiction of these courts without appeal, the whole case is judged without appeal; but if one of the claims exceeds the above-mentioned limits, the Court pronounces on all with appeal.

Finally, litigants cannot take proceedings before these courts without the agency of attorneys.

Such is the jurisdiction of the civil district courts, —their formation is as follows:—

The legal constitution of these courts requires the presence of a recorder and a member of the public ministry. The number of judges varies from three to twelve, divided into several *sections* or *chambers*, according to the number of cases. Certain courts only have one chamber, others three, and the Court of Paris reckons ten.

The judgments of all Courts of First Instance cannot be given by less than three judges, under penalty of being annulled;(d) but they can be given by more. There are, moreover, a certain number of supplementary judges (*juges suppléans*), selected from the bar and named by the King, who supply the place of the official judges when these are absent. When a court cannot be formed either with official or supplementary judges, as in cases of rejection, the law allows the president of the Court to appoint assistant-judges from the bar, beginning with the senior barrister, until one accepts the office. As soon as a sentence is given, and it must be rendered publicly, the judges are immediately disseized of the affair, and even in case of error they are unable to rectify it. It then comes under the jurisdiction of the judges of appeal, and in case the judgment has been given without appeal, a special proceeding, indicated in the Code of Civil Proceedings, must be pursued. This code contains the formalities to be fulfilled in all sorts of cases, the observance of delays, &c.; and if it is too complicated, at least it is complete.

Secondly.—Similar to the Civil District Courts are the Tribunals of Commerce, which are also courts of first instance; they form a special jurisdiction for tradespeople only, that is to say, for those who have commercial dealings.

The principal rules of their jurisdiction, to be found in our Commercial Code, are as follow:—

Art. 631. The Tribunals of Commerce take cognizance of:

All contests relating to engagements and transactions between merchants, tradespeople, and bankers.

Of all contests relating to commercial deeds between all persons.

The law considers as commercial dealings:

All purchases of goods and merchandize to be sold again either as they were bought or manufactured and worked, or even to let them out for use.

All undertakings of manufactories, of commission, or of conveyance by land or by water.

All undertakings of contracts, agencies, offices, public sale-rooms, and public theatres.

All transactions of exchange, bank and brokerage.

All transactions of public banks.

All obligations between merchants, tradespeople, and bankers.

And all bills and remittances sent from place to place between all persons.

The law considers also as commercial dealings:

All contracts for building, and all purchases, sales, and resales of vessels for inland or outward navigation.

All naval expeditions.

All purchase or sale of rigging, appurtenances, and stores.

All freightage or hire; all loans; all assurances and other contracts concerning maritime commerce.

All treaties and agreements for the wages or hire of crews.

All engagements with seafaring men for the use of trading vessels.

The Tribunals of Commerce shall also take cognizance of:

Suits against factors, merchants' clerks, or their attendants in cases only concerning the trade of the merchant to whom they are attached.

Of bills made by receivers, pay-masters, tax-gatherers, and other functionaries accountable for the public funds.

Finally, they shall take cognizance of:

Every thing concerning failures, &c.

They judge without appeal to the amount of 1,500f. like the Civil District Courts.

For judgments, the litigation of which exceeds this amount, the appeal is lodged before the Cour Royale belonging to the jurisdiction in which the court is situated.

The appeal must be lodged within three months after the judgment has been signified.

The intention of the legislature in instituting the Courts of Commerce was to create a jurisdiction to be promptly, one may say, paternally administered, judging in equity as much as in right, and accordingly the simplest forms of procedure are prescribed.

The ministry of attorneys is not required before these Courts; the parties appear themselves, or by delegate. Foreigners are not subjected to bail, *judicatum solvi*, as before the District Courts.

In cases which may require speed, the president of the Court can authorize an adjournment from one day to another, or from one hour to the other, and a seizure of moveable goods; he can, according to the urgency of the case, subject the plaintiff to find bail or to prove a sufficient solvency.

The ordinances of the president shall be executory, independent of opposition or appeal.

In naval affairs, where the parties are non-domiciled, and in cases relating to rigging, victualling crews, and refitting of vessels ready to sail, and in all other matters which are urgent and temporary, the appointment of a day or of an hour may be given without a warrant, and the default may be judged immediately.

All summonses given on board to the person assigned are valid.

The plaintiff can summon, at his option—

Before the Court belonging to the domicile of the defendant;

Before that in the district of which the promise was made and the merchandize delivered;

Before that in the district of which the payment was to have been effectuated; whereas, in all other than commercial cases, it is always before the Court belonging to the domicile of the defendant, or to the spot on which is situated the property, if it is a case of immoveables, that the parties are summoned.

The Courts of Commerce can decree the provisional execution of their judgments, independent of the appeal, and without bail, where the right is not attacked, or a previous condemnation not appealed against; in other cases, the provisional execution shall only be performed after the plaintiff has been subjected to find bail or prove a sufficient solvency.

The Courts of Commerce do not take cognizance of the execution of their judgments; immediately their decision is pronounced, they are disseized of the case; and if any difficulty arises in the execution of the judgment—as, for instance, in the seizure of furniture, or in an imprisonment—it

(a) The law of the 11th April, 1838.
(b) The law of the 24th August, 1790.
(c) Demande reconventionnelle.
(d) Law of the 27th Ventose, year 8, Art. 16; and law of the 20th April, 1810, Art. 7.

comes under the jurisprudence of the Civil Court, for it is no longer an act of commerce.

Such are the principal tenets of our laws on commercial procedure.

The judges of the Courts of Commerce are merchants, elected from amongst the most eminent tradespeople, a list of whom is annually made out by government agents, and composed of the heads of the longest established and most respectable houses domiciled in the district to which the court belongs.

The number and situation of these courts are not determined by the law. The appointment of them belongs to the king, who, according to the situation of each town, and to the extent and importance of its commerce, decides upon the establishment of a court. In towns where there are no courts of commerce, their office is fulfilled by the Civil District Court, which exactly follows the forms of the commercial procedure.

The district of each Tribunal of Commerce is the same as that of the Civil Court in the jurisdiction of which it is placed; and if there are several tribunals of commerce in the jurisdiction of a single civil court, a special district is assigned to each.

Each Tribunal of Commerce is composed of a president, judges, and supplementary judges; the number of judges cannot be under two, or above fourteen, not including the president. The number of supernumeraries is proportioned to the functions of the office.

A regulation from the public administration fixes for each court the number of judges and supernumeraries.

Any merchant can be named judge or supplementary judge, if he is thirty years of age, and has been in trade and honourably fulfilled his calling for five years. The president must be forty years of age, and can only be selected from amongst retired judges, including those who have belonged to the existing courts, and even the consular judges(e) of tradespeople.

The election is made by individual ballot, (f) by the absolute majority of votes; and at the election of the president, the person is announced before going to the scrutiny.

The president is renewed every two years, also the Court by moiety.

The office of commercial judges is merely honorary, and before entering upon their functions, they take the oath before the Cour Royale.

The Courts of Commerce come under the authority and inspection of the Minister of Justice.

Thirdly and lastly, Independent of all courts and judges, litigants have the right of referring their contests to one or several umpires, as they may choose; the sentence rendered executory by a decree from the President of the Court of Commerce, if it is a commercial affair; or from the President of the Civil Court, if it is not a commercial affair, has the same force as a judgment issued in the usual course of justice. But there is a species of contests *necessarily submitted* to arbitrators, and these are disagreements in commercial partnerships. This is called a forced arbitration. The legislature considered that the nature of contests between partners was such as to dread the publicity of courts, and that the verification of books and papers relating to trade required a special tribunal.

The arbitrators are named by the parties, and if they cannot agree, they are appointed by the Tribunal of Commerce. They meet at the house of one of them, draw up the action, in which they are compelled to describe the articles in litigation, under penalty of invalidity; they take note of the sayings and of the writings produced by the parties, and then give their judgment. The sentence can only be executed after having been invested with the authority *d'exsequatur* of the President of the Court of Commerce, and then becomes a positive judgment, and liable to appeal as all other judgments.

The office of arbitrators only lasts three months, unless the parties consent to prolong it. The arbitration is also broken up by the death of one of the umpires, or an impediment to his attendance, or by a difference of opinion where they are not empowered to take a third arbitrator.

Once having undertaken and commenced the case, the umpires cannot retire or be rejected; they are compelled, under penalty of damages, to fulfil their mission. *Voluntatis est enim suscipere mandatum, necessitatis consumere.*

(e) Juges-consuls. (f) Scrutin individuel.

In case of a divided opinion, each of the arbitrators draws up his sentence, and the third arbitrator is obliged to adopt one or other of the opinions.

Arbitrators judge according to the rules of *strict* right, unless the parties have given them the power to judge as *friendly compromisers* (*amiables compositeurs*), when they decide in *equity*.

Contests between partners are so frequent, that arbitrations are very numerous, and umpires are chosen from all classes of society, but especially among barristers.

It is admitted jurisprudence that arbitrators are entitled to fees, which they fix themselves, and in case of exaggerated demands the parties can refer to the Court of Commerce.

Our next article on French Judicature will treat of the Cours Royales.—I remain, Sir, &c.

N. TREITT,

Paris, March 29. Avocat à la Cour Royale.

No. VIII.

Mr. Beaumont, formerly a Member of Parliament, v. Miss Burgess, ex-Governess of his children. Forgery of 300,000f.—Drafts seized in court upon the demand of the public ministry.

Mr. Beaumont, formerly member of the House of Commons, is a man of large property even for England, and his immense wealth permits him to hold an elevated station in society.

He has often been exposed to impositions of all kinds; this case is an instance of the frauds that have frequently been practised upon him.

A Miss Burgess had obtained the situation of governess in his family; she was well-informed, but not being perfect in languages and music, she was left in Paris to study while Mr. Beaumont travelled in Italy with his family. Miss Burgess had no notion of living like a school-girl; her apartment, Rue Miromenil, was sumptuously furnished; her establishment was worthy of a dependant of Mr. Beaumont.

To keep up these splendid appearances, Mr. Beaumont was in the habit of sending her drafts worded thus: "Messrs. Glyn, Halifax, Mills, and Co. Please to pay to the bearer 500*l.* sterling.

"Beaumont."

With these bills payable at sight, Miss Burgess had only to present herself at any bankers, and as the signature of Mr. Beaumont was well known everywhere as being highly respectable, she discounted them at Messrs. Malachy Daly's, Kef de Rothschild, Charles Lafitte's, and others.

The temptation became too great, and Miss Burgess took it into her head to counterfeit a signature so well honoured everywhere.

She thought, said Mr. Beaumont's counsel, that she should never have a better opportunity of securing herself a dowry, and accordingly she realized 300,000f. by forged bills to that amount, which she negotiated upon different bankers in Paris.

Unfortunately for her, she proceeded too rapidly. Had she been content to follow the homœopathic system, and rob by small doses, she might have gone on for a length of time; it was well known that she was governess in Mr. Beaumont's family; it was impossible to suppose fraud; and as Mr. Beaumont's excessive generosity was also well known, no one would have been astonished at seeing a number of his checks.

But the facility with which she succeeded, and probably her covetous propensities, induced her to operate in the wholesale way, and this proceeding opened the eyes of the bankers and of Mr. Beaumont himself. He began by writing to all the Paris bankers, stating he did not intend they should be answerable, and with regard to Miss Burgess, he acted still more generously and nobly. He wrote thus to one of his friends:—

We have discovered several drafts on my bankers. Messrs. Glyn, Halifax, Mills, and Co. immediately sent to Mr. Daly, banker, Paris, and Mr. Daly recognized the drafts as coming from the governess. When he informed Miss Burgess that the bill was forged, she denied, at the same time she wrote to me acknowledging the fact, begging me not to punish her, but to say that I had made the mistake.

I conclude she may have forged to the amount of eight or ten thousand pounds; but I shall not punish, only let her confess, and say what she has done with the money. How infamous!

And in another letter:—

I had provided for her, and on that account I had considered it impossible for her to forge my name for money she could not want. But we now see the result of covetousness!

She has written to Daly a letter, of which she has sent me a copy, full of poetry, nonsense, threats of suicide, and praises of me.

The friends and admirers of Mr. Beaumont acted according to his wishes, and did not denounce the guilty one to the Procureur General.

But impunity increased her boldness, and notwithstanding her confession, which is in our hands, she has so far relied on Mr. Beaumont's unequalled generosity as to proceed against him in England for a breach of agreement.(a)

Mr. Beaumont was absent from London, his counsel simply stated that the immoral conduct of the plaintiff had authorized the breach.

Serjeant Talfourd replied that the immorality required to be defined, since, according to some, balls and theatres were immoral, the polka according to others. In short, Miss Burgess's demand was admitted, by reason of the immorality not being proved, and a jury will soon have to award damages to the plaintiff.

Under these circumstances, Mr. Beaumont's French advisers have urged him not to suffer Miss Burgess to triumph any longer over his generous forbearance. They have discovered that the sum of 2,799f. deposited by Miss Burgess, is still in the hands of M. Daly, banker.

They have made opposition to this sum, and have summoned M. Malachy Daly and Miss Burgess to surrender it into their hands.

"I regret," added Mr. Beaumont's advocate, "to justify our claim and enlighten foreign justice as to the morality of Miss Burgess, to be obliged to say that we require also to have possession of the *forged drafts* which are in the hands of Mr. Daly's counsel."

M. Malachy Daly's advocate said, "You see, gentlemen, Mr. Daly's situation. H[e w]ould have wished to return to Mr. Beaumont the funds in his possession. His objection does not arise from any denial on his part as to the right of his claim. Far from it, he knows his generous conduct and Miss Burgess's guilt. The latter had entreated forgiveness, she had endeavoured, by feigning repentance, to disarm Mr. Beaumont's just severity. Since which she has been audacious enough to sue him for breach of engagement. Evidently she would not have dared to take such proceeding, had she not hoped, from his past forbearance, that he would rather allow himself to be condemned than reveal her immoral conduct.

However this may be, we demand the acknowledgment of the Court of our offer, as our release, to remit to Mr. Beaumont the sum deposited by Miss Burgess.

"We are entirely of the opinion of the plaintiff," said the Procureur du Roi, "but another object induces us to say a few words. It results from the explanations from the different parties, that Miss Burgess has been guilty of several forgeries.

"Mr. Beaumont's forbearance must not influence the vigilance of the public ministry. We require the forged drafts to be deposited at the Register Office, and we hope Mr. Beaumont will act as he ought."

The Court admitted the demand, and ordered the deposit of the forged bills.

NESTOR TREITT,

Paris, May 3. Avocat à la Cour Royale.

A COURSE OF LECTURES ON THE LAW OF CONTRACTS,

By PROFESSOR CAREY.

Delivered at the University College.

LECTURE III.

Simple contracts—Express and implied contracts—Considerations—Executed and executory contracts.

CONTRACTS of that class denominated simple contracts, may, in most cases, be created without writing. In some cases a writing is necessary; but whenever a contract is in writing, whether the writing be required by the Statute of Frauds, or not, the written instrument alone must be looked to in order to ascertain the agreement between the parties. What was said by Sir Edward Coke in the *Countess of Rutland's* case with respect to deeds, is thus applicable to all written agreements whatever. It would be inconvenient if matters of writing, made

(a) See *Burgess* v. *Beaumont*, 4 Law T. 135.—ED. LAW T.

without previous consideration, should give rise to an agreement between parties, and should be controlled by the averment of parties, to be proved by uncertain testimony. (*Gordon* v. *Lord Nugent*, 5 B. & A. 64.) The point ultimately decided in that case was rather more remote from the general principle. By the general rules of the common law, if there be a contract which is reduced into writing, verbal evidence is not allowed to be given of what passed before the written instrument was made, and during the time it was in a state of preparation, so as to vitiate or subtract from, or in any manner vary or qualify the written contract. There are two cases in which verbal evidence may be given to explain the meaning of a written contract; first, in the case of mercantile contracts, where the evidence of mercantile men is admitted to inform the Court what, according to mercantile usage, is understood by the terms employed in the contract. Thus where the word *hundred* is used, as applied to certain goods, verbal evidence is admissible to shew that, by the usage of that trade, 120 was meant. Secondly, where there is a latent ambiguity; if the ambiguity be patent; if a doubt arises from the instrument itself, the Court must construe it as well as it can; but if it is latent, evidence may be given to clear it up. A latent ambiguity is one which the words themselves do not raise; it is raised by something else. If in any will a bequest is made to John So-and-so, and there are two persons of that name, that is a latent ambiguity; and evidence may be given to shew which of those two Johns was the one intended by the testator; but if the ambiguity be patent—if there is a doubt on the instrument respecting the construction of it, it is for the Court to take the instrument itself and to ascertain, in the best way it can, what is the construction in point of law to be put upon the instrument as it stands. It frequently happens that the assent of a party is not expressly given, either by words or signs, or written instruments; but the circumstances are such that his assent is implied. (3 Blackst. 162.) "A second class of implied contracts are such as do not arise from the express determination of any court, or the positive direction of any statute; but from natural reason and the just construction of law, which class extends to all presumptive undertakings or *assumpsits*; which, though never perhaps actually made, yet constantly arise from this general implication and intendment of the courts of judicature, that every man hath engaged to perform what his duty or justice requires."

To take the instances given by Blackstone; "If I employ a person to do any business for me, or to perform any work; or if I take out wares from a tradesman, without any agreement of price; in all these cases there is an implied promise on my part. In the last case, the tradesman is a person whose business it is to sell the goods. In the two former instances, it must be understood that the persons I employ are those who, under the circumstances, would not undertake the business or work without being paid for the employment. If I ask a friend to carry a parcel, there is no claim for remuneration. If I ask a porter or errand-boy to do it, the case is different. Again, it is clear, in going to a tradesman for his wares, I have no intention to request a favour of him, but to deal with him in the way of his business. It is thus that he understands me. If I go into a shop and order goods, I as much enter into a contract to pay, as if I had promised to do so in the most express terms." The reason given by Blackstone for this liability does not appear to me to be the real reason in this instance. It is not simply because the obligation is such as reason and justice would expect, but because it was the intention and understanding of both parties at the time of the transaction. It was the intention of both parties, so well understood by ordinary practice, that it did not require to be expressed. The deduction drawn by Blackstone is equally incorrect. The obligation I incur is not one which the law presumes; it is one which I have incurred by my own consent, and differs in no respect from the obligation I incur by any the most express form of contract. My liability is exactly the same, if I say to a tradesman, "Send that to my house;" as if I say, "How much does it cost?" and when he says "So much," I say, "I will pay it you." In the one case I pay a price fixed at the time; in the other case I pay the demand that is made on me, provided it is not unreasonable in its amount. The views that I have here explained are illustrated in *Daires* v. *Davies* (9 Car. & P. 87). A. and his wife lodged with his brother, and A. assisted the brother in his business. After a time, A. brought an action against the brother to obtain remuneration for the services rendered to him. The brother answers the claim by charging for board and lodging as a set-off. It was held that there could be no claim in respect of the services on the one hand, or for the board and lodging on the other, unless the parties originally came together on the terms that they should pay and be paid. The intention originally was, no doubt, there, that no charge should be made for the board and lodging on the one hand, and that the party receiving the accommodation should assist the other in his business; there being *no intention* to create a contract at the time, none was, in fact, created, and none could be implied from the circumstances.

In general, the difference between an express and an implied contract is in the mode of substantiating it. An express contract is proved by an actual agreement; an implied contract by circumstances only; as by the general course of dealing between the parties. But wherever a contract is once proved, the consequences resulting from the breach of it must be the same whether it be proved by direct or circumstantial evidence. (*Marzetti* v. *Williams*, 1 B. & A. 423.) The distinction between the two species of contracts is as to the mode of proof. The one is proved by the express words used between the parties, the other by circumstances shewing that the parties intended to contract. When I take his goods from a tradesman, an undertaking on my part to pay the price is inferred from the circumstance itself. Where there has been a long course of dealing between me and another person, on certain terms, if I continue the dealing, my assent to the usual terms would be inferred. If by the custom of trade there is a particular usage, and I engage in these transactions, knowing the usage, it would be inferred that I had consented to be bound by it. In the time of Blackstone, when a sale or other contract was implicitly contracted, that is to say, without the price being specifically named, it was usual to sue on a *quantum meruit*, or a *quantum valebat*. Where, in consideration, &c. the party promised to pay, &c. it was usual to have two counts, one stating the promise to pay a certain price, the other stating the promise to pay as much as the subject-matter was worth. This second count is now thrown out of use by the rules of pleading, which forbid more counts than one for one cause of action. There is another class of cases where a contract is said to be inferred or implied in law. The effect of a contract is thus created; but not only was there no consent expressly given, but the circumstances were such that any consent could not be supposed to be given; the legal relation not being created by the mutual understanding of the parties, but simply by force of law. For instance, where one man has had and received money belonging to another without giving any valuable consideration for it; where the law construes this to be money had and received to the use of the owner only, it implies that the person so receiving it promised and undertook to account for it to the proprietor, and if he unjustly retains it, an action of *assumpsit* lies for the breach of such implied promise, and he would be made to repay it, in damages equivalent to what he has detained. This is a very extensive and beneficial remedy applicable to almost every case where one party receives money which, *ex æquo et bono*, he ought to refund to another. So, money obtained, whether by imposition, extortion, or oppression, I may consider as money obtained by another to my use; or where the consideration on which it was given has totally failed. I have given him money for a certain object; for instance, to make a certain purchase; if the purchase is not made, the money in his hands is money that he has received for my use; and I claim it in an action for money had and received to my use. Or where any undue advantage is taken of the situation of the person paying money. This form of action received great sanction from Lord Mansfield, and was adopted in imitation of an action existing in the Roman law, called *indebiti condictio*. A certain form of action was called *condictio*, to which this belonged. *Indebiti*, that which is not due; *indebiti condictio*, the seeking to recover that which has been paid without being due. "Competit ei qui indebitum solvit, vel cujus nomine solutum est, in eum qui sive sciens sive ignorans non debitam solutionem recepit." The principle on which this rests is one frequently brought forward in the Roman law—"ne is qui indebitum accepit:" the man who has received money not due to him; "alieno damno locupletur fiat." This was a great maxim of the Roman law, that one man should not derive advantage to the loss of another. It was an *obligatio quasi ex contractu*, or, as Henecius terms it, "ex consensu a legislatore ob æquitatem ficto."

The party who had received the money never entered into a contract to pay it, and probably never intended any thing of the sort; but the law imposed on him a liability similar to that which he would have incurred if he had so contracted. This is very distinguishable from that class of cases cited by Blackstone, for he goes on beyond what I have read,—"The third species of implied assumpsit is where one has had and received money belonging to another without any valuable consideration given on the receiver's part; for the law construes this to be money had and received for the use of the owner only, and implies that the person so receiving promised and undertook to account for it to the true proprietor; and, if he unjustly detains it, an action on the case lies against him for the breach of such implied promise and undertaking; and he will be made to repair the owner in damages, equivalent to what he has detained in violation of such implied promise." A man is not liable for money laid out for his use unless he has sanctioned it: unless, in the language of pleading, it was done at his request; that is to say, his liability is the result of a contract, in point of fact, whether express or implied. That is not so in the case of money had and received for the use of another.

A man says,—"I have paid to another fifty pounds for you; pay me back." My answer is—"I did not authorize you to do it; you have done it of your own wrong." Unless I have authorized him, or unless, after it has been done, I sanction it, from which an authority will be implied, I am not bound to repay him the fifty pounds. Suppose he has paid money of his own wrong, and was not authorized to pay it, he will have an action for money had and received against the person to whom it was paid, provided I disapprove the payment. The same observation applies to a contract arising from a statement of account between two persons: when a balance has been struck, it constitutes a debt, the result of the previous dealings.

There is a sense in which, in all contracts not expressly made, the undertaking or promise is said to be implied. Originally, when money became due under a contract, the proper form of action was debt. That form of action was attended with this inconvenience, that the defendant could defeat it by waging his law. The action on the case had gradually been applied to that branch of executory contracts wherein one party claimed damages of another for his fraud and misconduct in not keeping his promise. This was done by an action on the case in *assumpsit*. The action on the case (founded on a trespass or tort originally) was relieved from the inconvenience resulting from the wager of law; and after a time it was applied not to executory contracts only, but even when a debt was created. Instead of suing in an action of debt, the creditor was allowed to sue the debtor in an action on the case in *assumpsit*, for the breach of the promise; and even if no promise had been made, he was allowed to allege a promise; which allegation could not be disputed. (*Slade's* case, 4 Rep. 505.) In the language of pleading, every debt implies a promise, so as to enable the creditor, in an action of *assumpsit*, to sue as for a breach of promise. If a tradesman has sold and delivered goods to another, he may sue in debt or *assumpsit*. The declaration in debt sets forth the claim as it exists; that the defendant was indebted in twenty pounds for goods sold and delivered, and by reason of the non-payment, the action ensues. If he sues in *assumpsit*, a promise must be averred; and then the declaration states that the defendant was indebted in twenty pounds for the goods, and, being so indebted, he promised to pay on request, but disregarded the promise. It is from following the language of pleading, rather than the nature of the transactions themselves, and from giving a general application to expressions which in the proper sense are confined to fictitious averments in actions of *assumpsit*, that Blackstone has been led to class together liabilities so different in their origin and character. In these cases it is not correct to say that a *contract* is implied. There is a *debt* created by the act of the parties: from the debt there is a *promise to pay* inferred in law. The *promise* is a mere fiction of law, and is only necessary with re-

ference to actions of *assumpsit*. The *debt itself* is created independently of that fiction, and an action of debt will lie upon it. When he says, "The second class of contracts are such as do not arise from the express determination of any court, or the positive direction of any statute; but from natural reason, and the just construction of law"—the law implies no such thing; because, if that was not the understanding on which they came together, it will not be the result. It is not so with respect to money had and received, because the debt is not created by the consent of the parties, but merely by the operation of law. There is another species of implied contracts, which Blackstone has created, probably from the same mode of reasoning (2 Blackstone, 443). "There is one species of implied contracts which runs through, and is annexed to, all other contracts, conditions, and covenants, viz. that if I fail in my part of the agreement, I shall pay the other party such damages as he has sustained by such neglect or refusal." That which is here termed an implied contract is a legal liability, resulting on the breach of the contract, which has no more right to be denominated an implied contract than is a legal liability incurred by committing a tort. The two kinds of liabilities are precisely of the same nature. I enter into an engagement to pay a given sum of money on a certain consideration; I fail to do it; I am liable to an action; th man to whom I made the promise sues me, and recovers damages for my breach of contract. Blackstone says there is an implied contract to pay him those damages. The law, in the case of a breach of contract, compels the payment of damages, not as *a matter of contract, but as a legal consequence*, which has no more right to be denominated an implied contract than is the legal liability I incur by committing a tort. Supposing I assault a man, I am bound by law to make him reparation. I can be compelled to do so. But there is no consent on my part, or any thing like a consent on my part, to pay him any thing. There is no necessity for the legal fiction. It is quite clear that it is nothing more than a fiction. We all know that when a man has assaulted another he has no intention to pay him damages; it is the last thing he thinks of, and the last thing he consents to. ... the one is a contract, so is the other ... If, however, ... and if so, we are brought back again to the voluntary and involuntary contracts in the *Treatise on Equity*, the *συναλλαγματα εκουσα* and *ακουσα* of Aristotle.

We now proceed to treat of the consideration. In every contract, says Sir Edward Coke, there must be a *quid pro quo*; some *motive* on the one hand, for the thing to be done or forborne on the other—some *consideration for the promise*. Thus, in an ordinary contract for sale, if you sell me a horse for fifty pounds, the horse which I am to receive is the consideration for the price I am to pay. If one party makes a promise to another, without any consideration whatever, the promise is not binding. "A bargain contracted without consideration," says Lord Loughborough, "is a contradiction in terms, and cannot be enforced." Where a promise is made without any consideration, it is called a *nudum pactum*, and the doctrine of our law is often represented as being the same as the Roman law; but this is far from being the case. According to the Roman law, a *pactum* was a general term, including every kind of agreement or convention, whether capable of being legally enforced or not. *Pacts* were divided into two classes; the one those on which an action could be brought, the other those on which an action could not be brought. The pacts on which an action could be brought were of two kinds, the first, which from frequent use had acquired a specific name, and which had a specific form of action belonging to them; such was *emptio venditio*, a contract of sale, to which belonged the two forms of action, *actio empti*, and *actio venditi*. The other kind of pacts comprehended all agreements in which, though they had not acquired any specific name, nor had any form of action appropriated to them, yet there was a liability intended on the one hand, in consequence of something *actually done* on the other; any pact or agreement on which, in accordance with these rules, an action might be brought, was denominated *a contract*. Pacts of the first kind were called *contractus nominati*, pacts of the latter *contractus innominati*; any *pactum* which did not fall within one or of these two descriptions (and on which con... ...y an action could not be brought), not being ...nded in the definition of a contract, was left a mere *pact*, an agreement on which no action could be brought—*nudum pactum*.

In classifying the different kind of considerations, Sir William Blackstone has referred to the Roman law:—

1. *Do ut des*.—As where I give money on goods, or a contract that I shall be paid money on goods.

2. *Facio ut facias*.—Where I perform work for another man, and he, on that consideration, promises to perform work for me.

3. *Facio ut des*.—Where I perform work for another man, and the consideration is that he shall give me something in return.

4. *Do ut facias*.—Where I give or pay something to another, with a consideration on his part to perform something in return.

Thus valuable considerations are divided into the four species that I have enumerated. These four formularies appeared to have been considered by Blackstone and others as a *classification of contracts*, comprising (to use the words of Kent) "all those engagements that relate to the interchange of commodities, money, or labour;" but this is not the sense in which these terms are used in the Roman law. Contracts, in the Roman law, are distributed into two classes; the first, the *nominati*, such as have a specific name, as sale, hiring; and the second class, termed *innominati*, comprehending all those which have no specific name. Innominate contracts were distributed under the above heads. In all innominate contracts that which we term the consideration, was, in the doctrine of the early Roman law, of singular importance. It was only upon the consideration being performed that the contract was created. If it was agreed between me and my neighbour that I should mow his field of hay in the summer, and that in return he should reap my field of corn in the autumn; on my mowing his field of hay, this agreement became binding, and then it became a contract called *facio ut facias*. Until I did that, it was a mere pact—*nudum pactum*—giving to my neighbour no right of action, in case of my not fulfilling my part of the agreement. "In contractibus innominatis is qui nondum dederat vel fecerat alterum *ex nudo pacto* obligatum habebat. (Heinec. Elemens. Pandect. Pars 3 et 47.) Duo autem necessario sunt in hujus modi conventionibus, alte... ...mud unde vis pendet innominati contractûs; ab uno jam esse *datani* obligationis causam præstitamque: nude dici quodam modo potest re cœpisse hujusmodi obligationes. (Mühecnbruck.) Conventiones quæ pariunt actiones—in suo nomine non stant sed transeunt in proprium nomen contractûs (ut Emptio Venditio)—sed etsi in alium contractum res non transeat, *subsit tamen causa* obligatio ex contractu est. Veluti si quis *dedit* ut alter daret vel faceret quod pacto convenit. Item si in stipulationem deducitur *ex contractu* obligatio esse incipit.—Sed cum nulla *subest causa præter* conventionem" (in the case of mutual promises), "constat non posse constitui obligationem: igitur *nuda pactio* obligationem non parit." (Warnkoenig, Institutiones.) An agreement which gives a right of action no longer retains the name of an agreement, but the name of a contract is appropriated to it (such as contract of sale). Yet, if there be a consideration to support it, there is created a liability *ex contractu*; but if there is no consideration beyond an executory promise, no liability can be created, and therefore a mere agreement creates no liability. An agreement of this nature, if concluded with the form of *stipulatio*, became a contract in law; if not, it was a mere pact, until the consideration was executed by one of the parties. These rules, which the ancient law of Rome created, were relaxed by the edicts of the prætors and the constitutions of the emperors, until the pact was put more and more on the footing of a contract. The language of the law of Rome, as far as innominate contracts are concerned, has been followed by our own writers, without being understood.

In our law, a consideration of some sort or other is absolutely necessary to the validity of a contract; and a mere agreement or promise, however expressly made, to do or pay any thing on one side, without any consideration on the other, is utterly without operation or effect: as, if one person promises to give another 100*l*. Here there is nothing contracted for on the one side, and therefore there is nothing binding on the other. In the Roman law this was binding; that is, in the Roman law as contained in the compilations of Justinian. By the *common law* of Rome it was a mere pact, *nudum pactum*. Thus, when a thing given was delivered to the donee, it became his property. If it was not delivered, he could not claim it at law from the donor; he had not an action to compel the delivery of it. But even then, if the forms of a stipulation were gone through, it became a legal contract. Subsequently, a *promise to give* became binding, and an action could be brought against the donor for the thing promised. "Perficiuntur autem (donationes inter vivis) cum donator suam voluntatem scriptio aut sine scriptione manifestaverit: et ad ex emptium Venditionis, nostra constituitur eas etiam in se habere necessitatem traditiones voluit, ut etiam si non tradantur habeant plenissimum robur et perfectum, et traditiones necessitas incumbat donatore."

A contract is either *executed* or *executory*. An executed contract is one in which the consideration has been performed, as where goods have been sold and delivered. As long as the order for the goods remained uncompleted, the contract was executory. In that case the seller was bound to deliver, and the purchaser was bound to accept; and if either failed in his part of the agreement, he was liable in damages to the other. When goods have been delivered, the agreement on the part of the seller is performed, it only remains for the purchaser to pay the price. In this instance, as in a great many others, the performance of the consideration on the one side has created a debt upon the other. Where a contract is executory, an action of *assumpsit* lies, or covenant, if under seal; but in the case of a parol contract, an action of *assumpsit* lies to recover damages for the breach of the contract. The difference between the two was alluded to in the case of *Baxter* v. *The Earl of Portsmouth*. The defence set up on behalf of Lord Portsmouth was, that a lunatic was incapable to contract, and the Court held that the things were suitable to the state and degree of the defendant; and that the plaintiff was entitled to recover. A distinction was drawn by Abbott, C. J. between this case and one in which it was attempted to force a contract not executed. Where a consideration has been actually performed on the one side, that is to say, where the goods have been supplied, it is but reasonable (if no fraud has taken place) that the promise should be enforced on the other; but where a contract remains altogether executory, where the plaintiff has no claim in respect of any thing done on his part, the only foundation of the demand is the agreement itself, the Court will inquire narrowly into the circumstances under which the agreement was made. In an executory contract, while it remains open, it may be considered to be an agreement on each side; each agreement the consideration of the other.—"I agree to supply you with certain goods a month hence,—you agree to pay me for them." There is an agreement on each side, and each agreement is the consideration of the other. These two agreements may be either concurrent or independent; or the one the condition precedent to the other. Where goods are ordered for a future time, and are to be paid for on delivery, there the contract is concurrent: the goods are to be delivered, and the payment is to take place. The two acts concur. In the case of a promise of marriage, the agreement, of course, is concurrent. It must be performed by both parties at the same time, or not at all:—or, the two agreements may be independent of one another: or, the one may be a condition precedent to the other.—"If you will do so and so to-day, I will do so and so to-morrow." For instance, where credit is given, the delivery of the goods is the condition precedent to the liability to pay for them. In concurrent agreements, or conditions precedent, where the one does, or tenders, or is ready to do his part, he may complain of the non-performance of the other. For instance, in the case of a sale of goods to be paid for on delivery, if the one party fails to deliver the goods, the other party may bring an action; but then he must aver that he was ready to pay for them. If the one party will not take the goods and pay for them, the other has a right of action against him for not taking them; but he must have been ready to deliver, and have tendered the delivery of them. So it is where the one is a condition precedent. If the thing to be done on one side is a condition precedent to the right of action, performance of the condition precedent must be averred. But there are several cases in which the liability on each side is independent: where, for instance, one party engages to do a certain act a year hence perhaps; and that is to be paid for by 500*l*. payable three months hence. There he may complain if the 500*l*.

is not paid, without having performed that in respect of which it was to be paid. The law on this subject is in *Jones* v. *Barclay* (1 Saunders, 319). (*Kingston* v. *Preston*, 2 Douglas, 69; *Morton* v. *Launch*, 7 T. R. 125; *Rawson* v. *Johnson*, 1 East, 203; *Pickford* v. *Grand Junction Railway*, 8 M. & W. (Easter Vac. 1841); *Mattock* v. *Kinglake*, 10 A. & E. 50.)

LECTURES ON MEDICAL JURISPRUDENCE.

By Alfred S. Taylor,

Delivered at Guy's Hospital, 1844.

Lecture XII.

Corrosive sublimate—Mode of analysing the contents of the stomach—Red oxide of mercury—Persulphuret of mercury.

I yesterday described the method of detecting corrosive sublimate in the liquid or the solid state, and I purpose this morning to describe the method of analysing the contents of the stomach, or matters vomited, or the different articles of food, for the purpose of discovering corrosive sublimate where it has been supposed to have been swallowed. Corrosive sublimate, it is to be observed, is precipitated in an insoluble form by almost all organic substances; even the mucous membrane of the stomach will precipitate it, so that we do not find it dissolved in the liquid contents of the stomach, but it is incorporated with the substance. Corrosive sublimate is a heavy body, and subsides instantly, while the light organic particles are suspended in the water in which the contents of the stomach may be immersed for the purpose of analysis; we should, therefore, collect a little of the matter precipitated, and having put it on a piece of filtering-paper, let it dry spontaneously. The extraneous matters are evaporated, and the poison will subside and dry on the paper. It may happen that the corrosive sublimate will be dissolved in the liquid contents of the stomach, and in this state it may be deposited in copper by the action of galvanism, in the form of a bright silvery stain on the surface of the copper. Should, however, the quantity of corrosive sublimate be so small that no precipitation of mercury takes place by this process, you are not to infer, necessarily, that it is absent, because there are more delicate ways of testing it. There are two methods by which we detect corrosive sublimate, even in the smallest quantity. One is by common chemical affinity, and the other is by the action of galvanism. In the application of the test for detecting corrosive sublimate by chemical affinity, we take a small quantity of the suspected liquid, and having placed a slip of copper in it, we apply heat; in a short time the copper will become coated with a grey coat, which is a mixture of metallic mercury, corrosive sublimate, and organic matter. The organic matter may be washed off in water, and in order to get rid of the corrosive sublimate, we must wash the layer of copper in ether, which dissolves the corrosive sublimate, and removes it, leaving nothing but the metallic mercury behind. Then, by introducing the copper, coated as it is with mercury, into a glass tube, and holding it over the flame of a spirit-lamp, the mercury comes over and forms a brilliant metallic ring. If you fail in detecting the poison in a small quantity, you must take the whole of the contents of the stomach and submit them to analysis. Mercury is a very heavy metal, and in a large quantity of corrosive sublimate we may get but a very small quantity of the metal, so great is its specific gravity. The next method of detecting it is by galvanism. Take a piece of gold foil, and coil it round a plate of zinc, and place it in the liquid, and in a few minutes, owing to the powerful affinity which gold has for mercury, the gold will be covered over, and not a trace of its colour left. If you then wash it and place it in a reduction tube, and apply heat to it, you will get the globules of mercury. This is an unfailing method of doing it, and it will detect the 150th part of a grain of corrosive sublimate contained in a considerable quantity of water. It is true, when we compare the tests for arsenic with the tests for corrosive sublimate, we have no such delicate tests for the latter as for arsenic. We are yet in want of some delicate test for mercury; and this is, perhaps, the reason why in many cases it has not been discovered. Well, then, you observe that by these experiments we only get a small quantity of mercury; and the next question is, how are we to infer that corrosive sublimate is there present? In point of fact, we are not in a condition to say whether corrosive sublimate is there or not; all we can say is, that in this liquid some soluble form of mercury is present. We must here look for some marks of corrosion or inflammation about the mouth and the fauces, and the œsophagus; and if we find any such evidence here, any objection as to the contents of the stomach will go for nothing. There is another point to be considered. Barristers, in cross-examining medical witnesses, often say, Did you extract the whole of the mercury? Why, certainly not, because it is not necessary to extract the whole of the metal to be aware of its presence. If we only get the one hundred and fiftieth part of a grain, it is sufficient to say that the metal is present; and that is all that we require. Supposing we find none of the poison in the stomach, as happened in a case that proved fatal last year, then it will be necessary to cut up the substance of the stomach, and proceed with the mode adopted for detecting mercury in organic solids; that is, dry the solid, and digest it in nitro-muriatic acid, which will restore any corrosive sublimate that may have been decomposed by the organic principles. So that you see, if you have lost the poison by chemical change, you again bring it into a soluble form. Having digested the substance in the mode described, evaporate it to perfect dryness in a moderate temperature, and digest it in water. You may then operate on the liquid extracted by the galvanic test.

The last point to be noticed is with regard to the determination of the quantity of the poison. Supposing we are required to say how much of the poison is present in the liquid, we cannot go on extracting the whole of it, and, therefore, if we get from the contents of the stomach two drachms, and the whole contents of the stomach are five ounces, f we find two grains of mercury in two drachms, we may multiply that by twenty, and thus get the whole quantity of mercury in the contents of the stomach.

Calomel is a substance that has given rise to serious accidents occasionally, though it seldom has been known to cause death. We know that in some cases it has caused death, and in one instance a boy aged fourteen was killed by taking six grains, and an adult, by twenty grains of calomel. Large doses may be taken without producing mischief, but it is a fact that it has caused death. It is said hat calomel contains corrosive sublimate, and Dr. Christison says that he has detected in most of the specimens of calomel he has examined the 166th part of corrosive sublimate. This is a small proportion, but it is capable of doing mischief when it is given in a large quantity. You are aware that calomel is produced by subliming corrosive sublimate. There are various methods for detecting t, and perhaps the best mode is to boil the substance in water or alcohol; the corrosive sublimate is soluble in both, while calomel is insoluble. If you drop calomel slowly into iodide of potassium, there will be a greenish-grey deposit, almost black; and in proportion to the quantity we have a greenish-grey or a greenish-black colour. The best way is to boil the calomel in water and test it by gold and zinc. It has been said that calomel, when taken into the stomach, is converted into corrosive sublimate, because it there meets with common salt and muriatic acid. Of that there is no doubt, for when calomel is mixed with common salt, corrosive sublimate is formed. In fact, some corrosive sublimate is formed whenever calomel is taken, but it is in very minute quantity. If it even touches the tongue, the chloride of sodium contained in the saliva would form corrosive sublimate. Now calomel is characterized by its insolubility in water, alcohol, and ether; it is soluble at a high temperature, but not so much so as corrosive sublimate. It is precipitated black by caustic alkalies, while corrosive sublimate is differently affected; it is also turned black by a solution of hydro-sulphuret of ammonia, and, when heated with carbonate of soda, t gives metallic mercury and common salt. To distinguish calomel from corrosive sublimate, the best test is ammonia; with calomel, ammonia gives a deep black precipitate, while corrosive sublimate gives a white precipitate.

The *red oxide of mercury* is a poison, though not commonly taken. A case occurred in Guy's Hospital, in October 1833. A woman, aged 22, who had swallowed a quantity of red precipitate, was brought in labouring under the following symptoms. The surface was cold and clammy; there was stupor approaching to narcotism; frothy discharge from the mouth, and occasional vomiting, the vomited matter containing some red powder, which was proved to be red precipitate. There was considerable pain in the abdomen, increased by pressure; and there were cramps in the lower extremities. On the following day the fauces and mouth became painful, and the woman complained of a coppery taste.

Vermilion, which is a persulphuret of mercury, is characterized by its deep crimson-red colour, and its insolubility in water and muriatic acid. It gives the red colour of the wafers and sealing wax, and salivation has proceeded from it under the following circumstances:—The secretary of an insurance office was in the habit of putting wafers in his mouth, and he experienced in the course of a day or two after a violent salivation, which was supposed to have been produced by the wafers. It is possible that, under these circumstances, the poison may find its way into the body. Vermilion is known from all other bodies by one simple experiment. The hydro-sulphuret of ammonia is a good test; vermilion is not affected by it, while all other powders resembling it in colour are turned black. The reason of this is, that it is a sulphuret, and the others are oxides. There is one general rule with all the salts of mercury in the analysis, which is this: that all the volatile salts give metallic mercury in carbonate of soda. The subsulphate of the peroxide will give mercury by heating it.

THE CRITIC.

New Books.

Law Review. No. III. Richards.

Law Magazine. No. III. New Series. Saunders and Benning.

We have received the new numbers of these periodicals, which abound in interesting and instructive matter. Time will not admit a specific notice this week, but we present our readers with a foretaste of the treat prepared for them in the following, taken from the *Law Review*, which has no less than three biographies:—

A MEMOIR OF ALLAN LORD MEADOWBANK.

There have been few more eminent lawyers on the Bench of either country, perhaps of any country, than the late Lord Meadowbank; nor was his learning confined to the studies of his profession; he was a man of universal information; his reading was, during his whole life, extensive; his knowledge accurate; nor did his ardour in the pursuit of it terminate but with his life.

Allan Maconochie was the eldest son of a country gentleman, whose family had been driven from Argyleshire, their original habitation, during the Covenanting troubles of the seventeenth century, and settled in Mid-Lothian, where they acquired the estate of Meadowbank, near Kirk Newton. The great grandfather is mentioned in Baillie (Letters, iii. 365) as one of Argyle's friends, who had instigated his proceedings, and "was forfaulted," at the time of the murder of that chief, so beautifully described by Mr. Fox in his Historical Fragment, as having "expiated his virtues on the scaffold." The son, grandfather of the judge, received some indemnity at the Revolution, with which he purchased the estate of Mid-Lothian, with other property, which the possessor sold in 1709, under the alarm then prevalent, that Scotland was ruined by the union. The part of the purchase which was retained proved then to be unsaleable, in consequence of that unaccountable popular opinion.

Allan, the judge, was born 26th May, 1748, and his father being himself in the profession, took care that his education should be carefully attended to. With this view he obtained for him the assistance of Dr. Adam, afterwards so celebrated as a teacher, and as a writer upon the antiquities and geography of ancient Italy. The young man was the only pupil to whom this eminent and excellent person ever acted as private tutor; and the result of his care was, that the scholar obtained a familiar acquaintance with the ancient languages and the classical writers, very unusual in those days and in that country. Being destined for the bar, under the advice of his kinsman Principal Robertson, who was left one of his guardians upon his father's death, he studied for some time the civil and the Scottish law, at the University of Edinburgh; and, in order to complete his education, he entered himself apprentice at the age of fifteen with an eminent writer to the signet (conveyancer), Mr. Thomas Tod, and actually served out his time. But that his studies were never confined to the drudgery of the profession, appears very clearly, for he attended both the class of divinity and that of church history; and also the medical classes: nay, so well was he versed in this branch of science, that Dr. Gregory, his intimate friend, used to relate, that a part of his celebrated thesis on taking his degree was the work of

Mr. Maconochie. It may safely be asserted that so liberal an education has fallen to the lot of very few men, and of no other lawyer; but he was also improved by foreign travel; and was sent abroad, when he resided for some time in Paris. On his return, in 1769, he entered at Lincoln's Inn, and kept his terms with the intention of being called to our Bar. Lord Thurlow had taken a liking to him, which continued through life, and strongly urged him to this pursuit; but his subsequent marriage with Miss Wellwood, a lady of that well-known Scottish family, induced him to settle in Edinburgh. While he resided in London, however, he very diligently studied the English law, and was a regular attendant upon the court in which Lord Mansfield presided. The decisions, and the whole judicial conduct of that great magistrate, made a deep impression upon his mind, the rather, as the enlarged views and truly liberal spirit in which he administered our technical system of jurisprudence fell in with his own learned and enlightened views of the science.

He was now called to the bar, or, as it is said in Scotland, admitted a member of the Faculty of Advocates; but as practice to young men in the Scottish branch of the profession comes slowly, from there being none of the helps and introductions known among us, of Pleading below the Bar, Sessions, and Circuits, he again went abroad, before his marriage and fixing his residence in Edinburgh, and remained for between one and two years, diligently attending the proceedings of the Parliament of Paris; and he also spent a considerable time at Rheims, where, and in other provinces, he attended the parliaments or high courts of justice. The copious notes which he wrote both in these countries and during his studies in London, and during his attendance on Lord Mansfield's court, remain a monument of his extraordinary industry; and a proof that his own great legal learning had been obtained from every source.

On his return to Edinburgh, the first causes that brought him into notice were the great question of literary property in which he was engaged, and the celebrated case of the negro, *Knight* v. *Wedderburn*, which excited the greatest interest, and called forth all the abilities of the bar. No question could be more congenial to his feelings and his tastes, to his principles, above all, for these were eminently liberal and enlarged. He was, with his family, a steady friend of the rights and liberties of the people, as established at the Revolution; and only became, with Mr. Burke and Mr. Windham, averse to popular courses when these became in this country wedded to sedition, and in France to massacre and anarchy. He not only distinguished himself at the bar in those celebrated cases which we have mentioned, but on the bench in all the questions touching the rights of dissenters, as in the Craugdallie case and others, his ardent love of religious as well as civil liberty shone forth; and his able judgments received ultimately the sanction both of the Court of Session and the supreme tribunal, the House of Lords.

In 1779 he was appointed professor of Public Law; and finding that the duties of this chair had fallen into neglect, he resolved to revive its activity and usefulness. He set himself to prepare, elaborately, a course of lectures; and it must be confessed that few men ever attempted the difficult task with greater resources of learning for executing it satisfactorily, for of few men was the previous reading so extensive and so various, and none could be more possessed by the wholesome spirit of free inquiry, and the strong desire of investigating the truth. These lectures remain, written for the most part in his own hand, and it is exceedingly to be wished that they may, in whole or in part, be given to the world. For the plan upon which they are framed is most comprehensive they are written with an extraordinary knowledge of the subject; they abound in proofs of the most extensive reading; and they are throughout guided by a philosophic spirit.

They are arranged under two great divisions—the State of Nature, and the Political State. Under the first, by which is meant the earlier state, are treated, the savage state; the origin of the political union; the first structure of government; language, and the origin of its grammatical structure; the agricultural and pastoral state; the rise of religion and mythology; women and their domestic relations in uncultivated society. The other and principal branch begins with the gradual changes and transitions from the rude to the polished state. It then treats of the pastoral nations with moveable habitations; the Nomadic tribes; the origin and nature of the Tartar and Arabic governments; the Nomadic conquests, and the governments thus formed—those of the Israelites, of Persia, of Hindostan, of Turkey. He then treats of pastoral nations with fixed habitations. This leads to a consideration of the rise and progress of European society, the Celto-German governments, and the Gothic governments on the conquered provinces of the Roman empire. Then ... the progress of government, where the ancient confederacies of pastoral nations have been dissolved. Under this head we have the governments of Greece, especially of Lacedæmon and Athens, and of Italy. Next we have the progress of government where those pastoral confederacies have been consolidated. Those that have been consolidated by the neighbourhood of Nomadic tribes are, Egypt, Assyria, China, Russia, all of which are fully treated. Those which have been consolidated by other causes, as form of the country, superstition, wants of cultivated nations, are Macedon, the monarchies of Western Asia, Thibet, India. The head follows of nations not fully within any of the foregoing descriptions—and, first, nations that never have been pastoral, yet have made progress in civilization; Mexico, Peru, Japan, and all nations that have made no such progress, and yet have formed a political union; the African tribes, those nations which have acquired knowledge of property, with little or no political union; the Laplanders and Siberians. Next comes a general view of the revolutions in political society; and out of this arises a treatise on the principles of the different forms of government. We are thus, by slow degrees, but from a most comprehensive view of the world and its history, led to the origin, predominancy, and decline of the feudal institutions, and then comes the present state of the European governments.

It would not be easy to imagine a more comprehensive plan of this vast subject. We have had access to some of its more interesting portions; as the general disquisitions on the origin of society and of government, and the chapters on the governments of Greece and Rome. The learning of these is profound; the inquiries are conducted with judgment and with uniform acuteness; nor is it to be passed over in silence that the scepticism, or rather the disbelief in the previous opinions respecting the early history both of Greece and Rome, which has formed the creed of the present day ever since the researches of Niebuhr and his followers, appears to have been familiar to Professor Maconochie as far back as 1779; for we find him representing Romulus as standing in the same relation to the Romans, in which Medus did to the Medians, and Perseus to the Persians. Professor Stewart had read the chapters on China and Japan, and he described them as both learned and profound; abounding at once with curious information and original disquisition.

After having long been in the possession of extensive practice at the bar, the professor was raised to the bench in 1796, upon the death of Lord Abercromby; and the choice was amply justified by the result, for his judicial reputation stands among the very first in the Scottish courts. A profound lawyer; thoroughly versed in every branch of the Scotch law; an acute and discriminating observer of the authorities, whether of text-writers or of decided cases, and skilful to weigh their relative value, never for a moment losing sight of legal principles, in which he was deeply grounded; exhibiting in his judgments a rare union of speculative knowledge with practical experience and readiness; his mind, too, enlarged by an acquaintance with the legal systems of other countries, and a familiarity with the general principles of jurisprudence; possessing, indeed, such a knowledge of other subjects as hardly any lawyer but himself ever had—a knowledge which he oftentimes brought to bear both happily and usefully upon the legal matter in hand—such were the important qualities by which this great Judge was so admirably fitted for his high office. But he likewise shared, in an eminent degree, the other judicial virtues—of patient inquiry, wakeful attention, undeviating integrity, strict impartiality, confidence in his own opinion, without the obstinate adherence to his first impression, which would shut out further light, and preclude a correction of the sentiments originally entertained. The careful attention to every particular of the case before him, led to a practice of which he set the example, which has been since followed by all his successors, and which is pregnant with the greatest advantages to the due administration of justice—we allude to the delivering Notes of the grounds of his decisions with the judgments pronounced. To this we owe the invaluable lights shed on each case by the present Lords-Ordinary; the stores of legal learning, and of judicial reasoning, wherewithal our reports have been constantly enriched by the Moncrieffs, the Jeffreys, the Fullertons, and the Cuninghams of the day.

It is needless to add, that the weight of this eminent person's authority is very great in the law upon every question with which he had occasion to deal. In the House of Lords none stands higher; and we cite the following just eulogy pronounced upon him in that court of last resort, the rather because Lord Meadowbank's opinion was the ground upon which the Lords overruled a case often cited in the courts below; a case, however, which Lord Meadowbank, with the freedom and the discrimination in weighing authorities already alluded to, had not hesitated to declare bad law. In the important case of *Inglis* v. *Mansfield*, April 1835, Lord Brougham gave the judgment of the House connected with that case, and said, "We have the admitted sense of professional men, but above all, we have what is to me the highest authority, and of the greatest weight, that of the late Lord Meadowbank; he having been one of the very best of lawyers, one of the most acute of men, a man of a philosophical mind, a man of great reach of thought, of large general capacity, of great experience, and without exception the most diligent and attentive judge I ever remember in the practice of the Scotch law." His lordship then proceeds to state, his having introduced the most useful practice of appending notes to interlocutors, in one of which is found Lord Meadowbank's unhesitating opinion against the authority of *Houston* v. *Stuart*.

Lord Meadowbank never gave any work to the world, except his able and profound dissertation, in the *Transactions of the Royal Society of Edinburgh*, upon the Origin and Formation of the Feudal System; and a tract of great merit, and much practical use, upon the Application of Jury Trial to Scotch Civil Proceedings, in 1814. Of the latter work, Lord Eldon formed a very high opinion and expressed himself to this effect in a letter which is now before us. He particularly mentions "his surprise at the accurate knowledge of English jury proceedings." But he was probably not aware of the English law education which the author had received, as we have already stated. In 1815, he was appointed one of the judges of the new Jury Court, then established; and in this as in all other departments of his judicial duty he gave unbounded satisfaction both to his colleagues, to the profession, and to the suitors.

For many years of his life, Lord Meadowbank, always fond of mechanics and other experimental researches, had devoted much of his spare time to agricultural pursuits, in which he was knowing and skilful. His health was, generally speaking, good, and he passed on his farm, and among his books, all the hours which he could take from his professional occupations. But about the year 1814, it began to fail, and for the last few months of the two years that he still lived, he was confined to the house, and only could take an airing in the carriage. It is, however, singular, that not only his cheerful temper and lively disposition remained unaltered, but it was seen how eager and how active his mind continued to the last. His faculties were wholly unimpaired; and the ardent desire of knowledge and fondness for argument and discussion abode by him to the end. Within a few days of his decease, he desired strict inquiry to be made after two works which he had seen advertised in the newspapers; and aware how nearly he approached his end, he expressed some disappointment at finding that they were not yet published. One of the last incidents of his life, and which gave him extreme satisfaction, was the elevation of his eldest son, then Solicitor-General, to the head of his profession, as Lord Advocate. He died 14th June, 1816, in the 69th year of his age, leaving, with the Lord Advocate (since a judge by the same title with his father), Robert, in the East-India Company's service, both still living, and James, a Scotch barrister, and a man of much curious and accurate learning, who died early in the present year. Thomas, in the profession of the law, died in the year 1816.

It remains to add, that, in private life, no man could be more amiable in all respects. His strict and undeviating integrity, his high sense of honour, the kindness of his nature, and the strength of his attachments in all the relations of society, both towards his family and his friends, were without an exception or a blot. He delighted to assist the young and inexperienced with his counsels, and opened to them freely the stores of his great knowledge. He was fond of discussion, and though unyielding in argument, he was a fair and well-natured disputant. The difference which he had with his old and intimate friend, Dr. Gregory, lasted a few years, and was succeeded by a renewal of all their ancient intimacy: but it was only one of the many estrangements which were incident to the social intercourse of that eminent and gifted, though somewhat eccentric individual. Lord Meadowbank's kindness, however, was not, within the circle of his connections, confined to his disposition, his temper, or his advice. He was, to the extent of his means, and even beyond it, helpful to the relatives who stood in need of his assistance, as appears by the correspondence which remains, and as never was otherwise known.

We have deemed that we discharged a duty to the legal profession in bringing before our readers the studies and the axioms of this distinguished judge, the rather because they illustrate the position often lost sight of by busy men, and not comprehended by men of narrow minds, that all the liberal arts are mysteriously related, having what Tully calls "*quoddam commune vinculum*;" that no man can justly be regarded as an accomplished lawyer whose knowledge is closely confined to the lore of his own profession; and that the student, the practitioner, the administrator of the law, may most usefully enlarge their understanding, from branches of general learning, without any risk whatever of becoming less skilful in their own art, or less successful in its practice.

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THE REPORTS.

[These are usually brought down to the Wednesday preceding publication. Where *Cur. adv. vult.* the case is not reported till judgment given. All written judgments are taken in shorthand, and reported *verbatim*. Rules *nisi* are reported.]

The following are the names of gentlemen who favour the LAW TIMES with the Reports:—

PRIVY COUNCIL by THOMAS CAMPBELL FOSTER, of the Middle Temple, Esq. Special Pleader.

EQUITY COURTS.

LORD CHANCELLOR'S COURT by RICHARD GRIFFITHS WELFORD, Esq. of the Inner Temple, Barrister-at-Law.

VICE-CHANCELLOR of ENGLAND'S COURT, by GEORGE GOLDSMITH, Esq. of the Middle Temple, Barrister-at-Law.

ROLLS COURT, by J. MACAULAY, Esq. of the Inner Temple, Barrister-at-Law.

VICE-CHANCELLOR KNIGHT BRUCE'S COURT by GEO. S. ALLNUTT, Esq. of the Middle Temple, Barrister-at-Law.

VICE-CHANCELLOR WIGRAM'S COURT, by J. VESEY DAWSON, Esq. of the Middle Temple, Barrister-at-Law.

COMMON LAW COURTS.

The QUEEN'S BENCH, by J. C. SYMONS, E[illegible] of the [illegible]

Esq. of the Middle Temple, Barrister-at-La[w]

The COURT of COMMON PLEAS, by W. PATERSON, Esq. of Gray's-inn, Barrister-at-law.

The COURT of EXCHEQUER by JOHN BRIDGE ASPINALL, Esq. of the Middle Temple, Barrister-at-Law, and H. T. COLE, Esq. of the Middle Temple, Barrister-at-Law.

The BAIL COURT by T. W. SAUNDERS, Esq. of the Middle Temple, Barrister-at-Law.

The EXCHEQUER CHAMBER by A. A. FRY, Esq. of Lincoln's-inn, Barrister-at-Law.

BANKRUPT AND INSOLVENT COURTS.

The COURT of REVIEW by GEO. S. ALLNUTT, Esq. of the Middle Temple, Barrister-at-Law.

LONDON COMMISSIONERS' COURTS and the INSOLVENT COURT, by B. TALBOT, Esq. of the Middle Temple, Barrister-at-Law.

BRISTOL DISTRICT COURT, by J. ANGUS HOMES, Esq. Barrister-at-Law.

NISI PRIUS, CIRCUITS, AND CROWN CASES.

CENTRAL CRIMINAL COURT, by B. C. ROBINSON, Esq. of the Middle Temple, Barrister-at-Law.

CROWN CASES (before all the Judges) by A. BITTLESTONE, Esq. of the Inner Temple, Barrister-at-Law.

NORTHERN CIRCUIT, York and Liverpool, by J. B. ASPINALL, Esq. Barrister-at-Law. The other parts of the Circuit, by G. F. H. OLEPHANT, Esq. Barrister-at-Law.

WESTERN CIRCUIT, by EDWARD W. COX, Esq. of the Middle Temple, Barrister-at-Law.

OXFORD CIRCUIT, by JOHN LANE, Esq. D.C.L. of the Inner Temple, Barrister-at-Law.

NORFOLK CIRCUIT by JNO. B. DASENT, Esq. Barrister-at-Law.

SITTINGS AT NISI PRIUS AFTER TERM, by JOHN LANE, Esq. D.C.L. of the Inner Temple, Barrister-at-Law; E. WISE, Esq. Barrister-at-Law; and others.

ELECTION LAW.

REGISTRATION APPEALS in the COMMON PLEAS by EDWARD W. COX, Esq. of the Middle Temple, Barrister-at-Law; and HENRY TINDAL ATKINSON, Esq. of the Middle Temple, Barrister-at-Law.

ELECTION COMMITTEES by EDWARD W. COX, Esq. of the Middle Temple, Barrister-at-Law.

REGISTRATION COURTS, collected and edited by EDW. W. COX, Esq. of the Middle Temple, Barrister-at-Law.

IRISH REPORTS.

The LORD CHANCELLOR'S COURT by WILLIAM DUGGAN, Esq. Barrister-at-Law.

QUEEN'S BENCH and CRIMINAL COURTS by WM. ST. LEGER BABINGTON, LL.D. Barrister-at-Law.

N.B.—The names of the reporters of such important points as may arise upon Circuit will be announced as the arrangements for each are completed.

The Written Judgments are reported verbatim in Short-hand by Mr. H. GREGORY, Short-hand Writer.

Equity Courts.

LORD CHANCELLOR'S COURT.

Nov. 18, 1843, and April 16, 1845.

BAMPTON *v.* BURCHALL.

Special and general demurrer—Pleading—Bill of revivor—Statute of Limitations.

Where, pending a demurrer to a bill for want of equity, the suit abates by the deaths of parties, the suit may be revived by means of bill of revivor and supplement, for the purpose of disposing of the demurrer, but it must not mix up with the matter of the original bill new supplemental matter.

If the bill filed to revive such a suit contains more than is required to dispose of the demurrer, it is open to a general demurrer, and the defendant is not obliged to demur specially to the new matter.

The original bill in this cause was filed in May 1832 by Blackburn, as the assignee, under the Insolvent Debtors Act, of Thos. Standish or Stanley, and by Stanley himself; and the case made by the bill was this: that Sir Frank Standish died in May 1812 seised of considerable real estates, intestate and without issue, leaving the plaintiff Stanley his heir-at-law. That the defendant in the suit, Frank Hall Standish, had entered into possession of the estates of Sir Frank Standish, and that the plaintiff had commenced an action of ejectment to recover possession, but there were outstanding terms which Frank Hall Standish intended to set up, and which would at law defeat the plaintiff's claim. The bill prayed that the defendant might be restrained from so doing, and that all impediments to the trial of the action at law might be removed. To that bill a general demurrer for want of equity was put in, but was never brought to a hearing or disposed of. In 1836 Thomas Stanley died, leaving James Stanley his son and heir-at-law. In 1840 Frank Hall Standish, the tenant in possession, died, having devised the estates to two of the defendants in the present suit. Blackburn, the assignee, died in 1841, and Bampton, the present plaintiff, was duly appointed assignee in his stead. The present plaintiff, who had all the interest of the plaintiff in the original suit, then filed the present bill, which was not merely to revive the suit but stated much other and supplemental matter. It stated, also, that a new action at law had been brought by the present plaintiff against the present defendants, who intended to set up terms. All the interest of the plaintiffs in the original bill had devolved upon the present plaintiff, and all the interest of Frank Hall Standish had devolved upon the defendant[illegible] To this bill the def[illegible] de[illegible] gen[illegible] the Rolls allowed the demurrer. In giving judgment his lordship, the Master of the Rolls, said, "This is a prop[er] state [o]f things for a bill of revivor and supplement; a revivor is necessary in consequence of the deaths of parties. The facts which shew a devolution of the title are proper to be stated by way of supplement; and I think the circumstance of a demurrer being pending does not of itself make any difference, as either party might have set down the demurrer to be argued; neither could, under the old rule of the court, complain of a delay in which he had acquiesced; and if the abatement took place while the demurrer was pending, there seems no reason why the plaintiff, by a bill of revivor and supplement, might not revive for the purpose of having the demurrer disposed of." That the new orders were not applicable to such a case as this. But his lordship said, "The present bill proceeds further than merely for the purpose of revivor. It alleges the existence of outstanding terms of years; that certain mortgages and leases are subsisting; that terms and mortgages were vested in Frank Hall Standish at the time of his death, and that an action against him by the original plaintiff had become abated; and it prays that the original suit may be revived, and for a declaration that the present plaintiff is entitled to the benefit of the proceedings in the original suit, and in the supplemental suit against the defendants; and if necessary, that the demurrer may be set down to be argued; and it prays relief not inconsistent with the relief asked by the original bill, but of a more extended character, and founded upon supplemental matter. While the equity of the original bill is challenged by a demurrer not disposed of, a party claiming the same right as the original plaintiff, supposing him to be at liberty to file a bill of revivor and supplement alleging such supplemental matter only as may be necessary to shew by and against whom the order to revive may be properly obtained, is not at liberty to claim the same or additional relief, by adding supplemental matter corroborative of the original claim, and not required for the purpose of shewing by and against whom the order to revive may be properly obtained. This is what the present bill attempts to do, a[n]d on that ground I am of opinion that the demur[re]r must be allowed;" and the Master of the R[o]lls allowed the demurrer without giving leave to amend.

Wakefield and *Bilto[n]* [fo]r the appeal.

Turner and *Elmsley*, [co]ntrà, supported the decree of the Master of the Rolls. The title of Stanley accrued, if at all, in 1812; consequently this second action by the present plaintiff was barred by the Statute of Limitations. The bill shews an adverse possession for thirty years. The present was an attempt to connect the new with the original proceedings, so as to avoid the Statute of Limitations. The cases of *Cholmondeley* v. *Clinton*; *Cuthbert* v. *Creas[y]* (4 Bligh, Old Series); Mitford on Pleading, 3rd ed. 64, 68, 69; *Underhill* v. *Devereux* (2 Saunders).

Wakefield, in reply.—*Hodson* [v.] *Ball*. The bill charged that the defendants had "verbally and [in] writing admitted the plaintiff's title."

Wednesday, April 16.

JUDGMENT.

The LORD CHANCELLOR.—This is a question whether the decision of the Master of the Rolls, allowing the demurrer, is right. The facts are these. Sir Frank Standish died in 1812, seised of certain estates which came into the possession of Frank Hall Standish. Thomas Stanley, who claimed to be heir-at-law of Sir Frank Standish had been discharged under the Insolvent Debtors Act, and Blackburn had been appointed the assignee of his estate. Blackburn commenced an action of ejectment against Frank Hall Standish to recover possession of the estates, and afterwards filed a bill in this court stating the action of ejectment, that there were terms and mortgages outstanding, and that Frank Hall Standish intended to set up the terms as a defence to the action. The bill also set out the pedigree of Thomas Stanley. To this bill the defendant put in a general demurrer for want of equity; but nothing was done upon it, and the suit remained suspended until the parties died. The demurrer was not set down; but remained suspended for eight years, and in the meantime the parties, plaintiff and defendant, died. Frank Hall Standish by his will devised the estates in question to the defendants in the present suit. Thomas Stanley left James Stanley his heir-at-law. Blackburn having died, the present plaintiff was appointed assignee by the Insolvent Debtors Court. Things subsisted thus in 1840. The demurrer was pending, but had not been heard, and nothing could be done but what was necessary to dispose of the demurrer. For that purpose a bill of revivor might have been filed. That [was] the state of things when the present bill was filed. That bill, however, was not a bill of revivor only. There were various allegations, of this description: that the action at law was abated (not abated in the sense used in this court, but absolutely abated at law)—the foundation of the suit in this court was therefore gone; that another action of ejectment had been commenced by the present plaintiff, and that the defendants intended to set up outstanding terms and leases, and it prayed that such impediments to a trial of the ejectment might be removed. But this is matter for an original bill: it was a new suit upon new matter, which was mixed up with the original matter of the previous bill. It is stated that there is no precedent for such a bill. On the other side it was said that the defendants should not have demurred generally to the bill, but should have picked out only such parts of it as were open to demurrer. But that is not necessary, and is contrary to the course of the court. The bill is vicious in its frame, and cannot be sustained. Try it thus: if the original bill only had failed, then the bill might have been sustained upon the new matter alone. I am of opinion that this is an improper bill, and that the demurrer must be allowed. The decision of the Master of the Rolls is right. The apparent object was to connect the two proceedings, so as to avoid the effect of the Statute of Limitations, but that cannot be done in this irregular way.

General demurrer allowed.

Thursday, April 17.

Re SHEIGHT, a Lunatic.

Carriage of commission—Date of the lunacy—Heir-at law's attendance—Practice in lunacy.

Walker supported a petition by two persons who would be co-heirs of the lunatic if he were now dead, praying for leave to attend the commission, and examine witnesses as to the time when he became a lunatic. The petitioners were about to apply for a commission when the wife of the lunatic sued out a commission. In her petition, she says that he has been a lunatic for two years, whereas he has notoriously been insane for six years and upwards. There might be an intention to set up some will.

The LORD CHANCELLOR.—What reason have you to suppose the wife means to confine her evidence of insanity to the period of two years? Is there any affidavit to that effect?

James Parker, for the [w]ife, complained that there had been sixteen affidavit[s] filed in support of this petition, not one of them going to the point of the time of the lunacy, nor was there any suggestion in any of the affidavits that any will had ever been made by the lunatic.

The LORD CHANCELLOR.—A precedent of such an order has been handed up to me, made by Lord Eldon, in 1825, in *Re Franks*. All the facts which were the foundation of that matter were recited in the order. I am told by the secretary, that it is usual to make such an order; it is in furtherance of the commission.

Jas. Parker.—In *Re Gordon*, in 1838, the heir-at-law was allowed to attend the execution of the commission, but at his own expense.

The LORD CHANCELLOR.—I shall reserve the costs, and, if any improper use is made of the leave given, I shall deal with it accordingly. The order will be that the co-heirs shall have leave to attend by counsel at the inquiry, and tender witnesses as to the period of the lunatic's insanity; such witnesses to be examined by the party upon whose petition the commission has issued; and if such party shall not examine those witnesses, the present petitioners, the co-heirs, may do so. All these matters will be considered in the question of costs, when it shall appear in what way the inquiry has been conducted.

Re LORD WILLIAM PAULET.

Act for authorizing trust[ees] to lend money [o]n Irish securities,—4 & 5 Wm. 4, c. 29.

James Parker moved for a reference to the Master to inquire whether it would not be beneficial for infants interested in a sum of 52,000*l.* under the will of the Duke of Bolton, that the money should be invested upon mortgages of estates in Ireland. The change of investment would increase the income. The Act (4 & 5 Wm. 4, c. 29) authorized trustees, who were empowered by the settlement or will under which they acted to lend trust funds on real securities in England and Wales, to lay out such

funds upon real securities in Ireland. The Master of the Rolls, in *Stuart* v. *Stuart* (3 Beavan, 436), had refused to make such an order of reference where infants were concerned.

The LORD CHANCELLOR held that if money is laid out in Ireland at a larger interest than could be obtained in England, it might be not only for the benefit of the tenant for life, but the security might remain until the remainder fell in. That if there were no infants interested, the trustees had an absolute discretion to invest in Irish securities; but where infants or other incapacitated persons were interested, the Court would always grant a reference to inquire whether such an investment would be beneficial.

—— *v.* ——

Practice—Supplemental suit—Transfer of causes.

Terrell asked that a supplemental suit in this cause, which was before the Master of the Rolls, might be transferred to the paper of Vice-Chancellor Wigram. The original suit had been heard by the Vice-Chancellor, and a decree made by him, and it afterwards became necessary to bring before the Court the representatives of some of the parties. Upon drawing up the final decree, it was found that the decree in the supplemental suit had been made by the Master of the Rolls; and it was proposed that both causes, original and supplemental, should be set down before Vice-Chancellor Wigram, and the formal decree taken in both.

It was suggested by the registrar that that would in effect be an appeal, in the supplemental suit, from the Master of the Rolls to the Vice-Chancellor, which would be irregular, and that the better mode would be to have both causes set down before the Lord Chancellor, and the decree made by the Vice-Chancellor formally adopted.

All parties consented.

The LORD CHANCELLOR.—Let it be so. There can be no difficulty in doing so by consent.

Friday, April 25.

Re BAKER, a Lunatic.

Costs of opposition by heir-at-law—Practice in lunacy—Cross-petition.

Lloyd supported a petition by the committee of the lunatic, who had lately died, for the taxation of costs, and for the transfer of funds in court and confirmation of the Commissioner's report.

May, for the heir-at-law, objected that the report made no provision for the heir-at-law's costs.

Lloyd.—Great expense had been incurred by reason of the opposition to the commission made by the heir-at-law, although he admitted at the same time that the deceased was of unsound mind. The estate was in fact insolvent, and if the heir-at-law now obtained payment of his costs, it would be to the prejudice of creditors.

Jenkins, for the executors, also opposed the heir-at-law's claim to his costs.

The LORD CHANCELLOR.—I cannot decide on this petition whether the heir-at-law is entitled to the costs claimed or not; that must be determined on a petition presented by the heir-at-law. The question would be whether the opposition made by the heir-at-law to the commission was reasonable; if made without reason, his costs will be disallowed. This petition may stand until the hearing of the heir-at-law's petition, that one order may be made on both petitions.

Re OTTE, a Lunatic.

Taxation of costs—Practice.

Petition by Mary Ann Golding, the committee of the person, that so much of the stock standing to the account of the lunacy may be sold as will raise 500*l.* for the purchase of furniture for the lunatic' use. It also asked that the costs should be taxed. By an order made in this matter in July 1844, upon the petition of Gray and others for a commission, it was ordered that a sum of 345*l.* should be paid to the solicitor of the petitioners on account of the costs and expenses of the commission. It was also ordered that such costs should be taxed. That has never been done, and the present petitioner cannot ascertain whether there is any balance in the hands of the solicitor. No balance was asked for by the petitioner.

Lloyd supported the petition.

The LORD CHANCELLOR.—If the co[illegible] are not carried in to be taxed in a reasonable time, [illegible] an application is made to me, I will order the solicitors to repay the sum of 345*l.* they have received.

Re STONE, a Lunatic.

Dispensing with [illegible]—Practice.

Roupell, for the new committee of the estate, prayed the confirmation of the Commissioner's report, and that a fund standing in the name of the late committee might be transferred into that of the petitioner. He also prayed that the committee should not be required to give security, as the whole property consisted of the fund in court. Th[illegible] debt due to the late committee.

The LORD CHANCELLOR.—The committee must give security to be approved by the Attorney-General. You may take an order for the payment of costs, if any, since the commission, which may be found due to the late committee

Re ·

Irish decree—Enrolling exemplification of order of Court in Ireland.

Blunt moved, under the provisions of the Act 41 Geo. 3, c. 90, to enrol an exemplification of an order of the Court of Chancery in Ireland for payment of money, that the party against whom such order was made might be proceeded against by an attachment. By that Act it was enacted that where an order or decree for payment of money shall have been made by the Court of Chancery in Ireland, that Court shall cause, upon application, a copy of the order or decree to be exemplified and certified to the Court of Chancery in England, under the great seal of Ireland, and that the Lord Chancellor of England shall forthwith cause such order or decree, when it shall be presented to h[illegible] so exemplified, to be enrolled in the Court of Chancery in England, and shall cause process of attachment and commitment to issue against the person of the party against whom the order or decree shall have been made, in order to enforce obedience [illegible] performance of the same as fully and effectually to all intents and purposes as if the same had been made in the Court of Chancery in England.

Ordered.

VICE-CHANCELLOR OF ENGLAND'S COURT.

Wednesday, Feb. 26.

LOCKWOOD *v.* ABDY.

Practice—Misjoinder—Principal—Agent, and sub-agent—Account.

L. being in embarrassed circumstances, and obliged to leave the country, constituted A. his agent, by a power of attorney, to manage his estates for him during his absence. This power of attorney contained an express authority for A. to appoint a fit person to act as agent under him. A. retained G. B. A. as his solicitor in the business, and employed him to [illegible] L.'s rents, and in the general management of the estates. In G. B. A.'s books items were entered and charged as against L. The accounts between L. and A. had never been settled. A. was a gratuitous agent, and an account was opened with the bankers in the joint names of A. and G. B. A. into which L.'s rents were paid. A long correspondence afterwards took place between the solicitor of L. and G. B. A. wherein the latter stated that if there were errors in the accounts they must be corrected. This correspondence terminated in a bill filed by L. against both A. and G. B. A. containing various allegations of mismanagement, especially against G. B. A. and prayed an account against them both. Held, that as there was no case of fraud proved against A. and G. B. A. the bill could not hold against them both as agent and sub-agent, notwithstanding the latter had, during the before-mentioned correspondence, submitted to correct any errors in his accounts.

The plaintiff, Mr. Lockwood, was entitled to considerable estates in the county of Essex; but in the year 1833 his embarrassed circumstances compelled him to go abroad. The defendant Abdy, a clergyman, was an old and intimate friend of the plaintiff. The latter appointed his friend Abdy, by a power of attorney, to act as his agent, with full authority to manage his estates, receive the rents, make proper allowances to the tenants, and expressly empowering him to appoint proper persons to act as agents under him. Abdy retained one Mr. G. B. Andrews, a gentleman practising as an attorney [illegible] solicitor in Essex (the other defendant to the bill), whom he employed to receive the plaintiff's rents and to manage the estates. The bill was filed against Abdy and Andrews, and prayed that an account might be taken against both; also that Andrews's bill might be taxed and moderated, and that the sum of 208*l.* which had been charged by Andrews as a poundage of 5*l.* per cent. on the rents collected, might be disallowed. The bill contained several charges relating to the misconduct i[illegible] managing the estates, particularly the pulling down a mansion-house called Dewes Hall and selling the materials. It appeared from the statements contained in both the answers, that Abdy had retained Andrews as his attorney. Various items were entered and charged [illegible] Andrews's books as against the plaintiff; and the evidence, which was drawn chiefly from the letters which passed between the plaintiff and defendants during the agency, shewed that Andrews had prepared the power of attorney, and had various interviews with the plaintiff, and given him advice relating to the management of his affairs. There had never been any regular settlement of the accounts between the plaintiff and Mr. Abdy, but they had been made out and rendered by his solicitor Andrews, and were entitled "The accounts between Andrews and Abdy, as the agent constituted by power of attorney from the plaintiff." It appeared that in all these transactions the defendant Abdy acted as a gratuitous agent, without claiming any remuneration. A banking account was opened with Messrs. Gosling and Co. in the joint names of Abdy and Andrews, into which the plaintiff's rents were paid; but the answers stated that the account was that of Abdy only, and that he alone had the control over it.

Bethel and *Wright*, for the plaintiff, contended that the accounts were kept in the joint names of Abdy and Andrews, and that both the correspondence and entries proved them to have acted as joint agents of the plaintiff.

Stuart and *Prior*, for the defendant Abdy, insisted that a bill for an account cannot be sustained against an agent and sub-agent employed by him, unless there were fraud and collusion proved between them. That in the present case Abdy was alone the constituted agent of the plaintiff, and that Abdy was alone responsible for the misconduct of Andrews—for between Andrews and the plaintiff there existed no such privity as gave him a right to file a bill for an account against both the defendants. That the mischief of allowing such a bill would be to extend the principle not only to solicitors employed by a trustee, but even to a banker into whose name the trust property might be paid. That the principle would, if allowed, deprive the agent or trustee of part of his most valuable evidence, namely, the persons acting under him, if the latter could be made co-defendants in a suit for an account.

James Parker and *Goodeve*, for the defendant Andrews, contended that the answers of both defendants expressly stated that Andrews was retained by Abdy as his attorney and agent, and there appeared nothing to shew that Andrews had been retained for the plaintiff. That the entries in Andrews's books, and those parts of the correspondence relied upon, had all been explained by the circumstance that although Andrews acted under Abdy and was responsible to him alone, yet the transactions related to the plaintiff's affairs, but that there was no privity between him and Andrews.

Bethel, in reply.

Cases cited: *Beaumont* v. *Boultbee* (11 Ves. 358); *Atwood* v. *Small* (6 Clark & Fin. 232); *Stephens* v. *Badcock* (3 Bar. & Adol. 354).

The VICE-CHANCELLOR.—With regard to the general question which this case involves, it seems to me a very important one. The suit is commenced by Mr. Lockwood against Mr. Abdy, who was appointed by the former gentleman his agent, under a power of attorney, which contained an express authority to appoint some agent to assist him, of which authority the plaintiff was made acquainted by means of certain letters that had passed between them prior to the execution of the power of attorney. The general question upon which the Court has to decide is, whether a party appointing another to act for him, and who was empowered by him to appoint an assistant agent, has a right to file a bill against them both in relation to that which, strictly speaking, is only the agency of one. But this question is of itself capable of branching out into a variety of ways, since, in those cases wherein gentlemen are appointed as trustees, they must of necessity employ attorneys, agents, receivers, &c. in their various capacities; but is it to be inferred that, because the trustee is answerable to his *cestui que* trust, that the latter shall have a right to file a bill jointly against not only the trustee, but against every other individual who is necessarily employed by the trustee to assist him in the discharge of his fiduciary duties, upon the ground that the subordinate agent in that capacity has received money (undoubtedly of the principal) and has applied it according to the direction of the chief agent? To insist upon such a proposition in the abstract would be to involve consequences the most fearful. I admit that where a case is brought before the court in which it is distinctly proved that the trustee and his agent have acted corruptly and abused the power which the employer vested in the trustee or his agent, this Court will interfere; but in the present case there does not exist the slightest evidence that Mr. Abdy has either acted corruptly or that he has ever sanctioned any corrupt proceeding on the part of his own agent or any other person. And indeed I cannot but lament, having regard to the letters of Mr. Lockwood, that this suit has proceeded to such a stage as it has done; since the letters in question are replete with the most forcible language that can well be expressed to shew his early attachment, his continued affection, and his gratitude to Mr. Abdy for the manner in which the latter had all along administered his affairs, and in one of his letters regrets that the suit had ever been instituted. He ought not in fact to have suffered himself to remain so long in ignorance with respect to his own affairs as to have suffered matters to proceed to the present state of the suit. This, however, is nothing to the general question which alone I have to consider. It is quite clear, from the evidence itself, that the defendant Abdy was appointed the plaintiff's general agent, and had an express authority to appoint a subordinate one. It is quite evident also, that not only was Mr. Andrews proposed to act as the attorney, but that he was so in reality, and was retained to act as the solicitor of Mr. Abdy, and all the circumstances shew that (in the absence of the slightest proof of corruption) Andrews is alone responsible to Mr. Abdy. Now it must be admitted

that the plaintiff's case has been argued with great ingenuity and ability, and the first exclamation made by any person upon a *primâ facie* perusal of the letters, without knowing what the real state of the case was, would doubtless be the following—" Why, how can Mr. Andrews refuse to account?" My opinion, however, is this, that notwithstanding an individual may have said in a letter, " I will submit my accounts," this places him under no legal obligation to do so, unless you can prove him to be in a position at law to compel him to submit his accounts. Now, my experience has often led me to see the upshot of a lengthened correspondence, and my idea is, that a person's mind may be as effectually mesmerised by a long correspondence as by the actual process itself; for the course of such correspondence is capable of being conducted in such a dexterous manner, and accompanied with such obscure and puzzling questions, that rather than continue this course of communication a man may be brought to admit almost any thing against himself, and consent to do any thing. It is literally the fact; for if you look at the correspondence, it is quite clear that Messrs. Marris and Hicks, who were represented to be the agents of the Lockwood family, state that they should like to become acquainted with all the business. [His Honour here read and commented upon the correspondence between Messrs. Marris and Hicks and Mr. Andrews, in which that firm endeavoured to fix him as agent for Lockwood, and his liability to account, until, as his Honour expressed it, Mr. Andrews, finding himself in a measure entangled in the meshes of this tedious correspondence, writes thus in his letter of the 19th September :—" It appears quite clear we cannot understand each other, or that it is determined not to understand me."] Then follows the usual consequence of a long correspondence, an immense Chancery bill, containing in it all kinds of accusations against parties, but more particularly against Mr. Andrews, not one particle of which has been proved; neither is there the slightest evidence whatever, although, if the facts would have warranted it, there might have been the clearest proof that Abdy and Andrews had so acted as to raise a case of joint liability. I cannot, sitting here, enter into the abstract question whether the accounts are fair and proper, and whether, had they been proposed in a proper shape, as between Lockwood himself and Andrews, the Court would not at once have said such an item ought to be disallowed. I must here decide the preliminary question: Must I enter into the accounts at all in this suit? Upon the broad grounds to which I have before alluded, my notion is that this suit cannot be sustained, and the bill must therefore be dismissed against both defendants, with costs.

ROLLS COURT.

Wednesday, March 5.

ATTORNEY-GENERAL *v.* POTTER.

Power of sale by executor—Title—Costs.

Certain leaseholds being sold by an executor, and the title being disputed, it was agreed to refer the matter to a conveyancer, who decided against the title and in favour of the purchaser. The Attorney-General having brought the parties before the Court to have payment of duty to the Crown, the purchaser was held entitled to his costs.

The whole question in this case was one of costs. In 1823, Potter, the surviving executor, and husband of one of the residuary legatees under the will of Admiral Phillips, put up for sale certain leasehold premises, which were purchased by Dr. Bowie, who immediately entered into possession. Difficulties arose as to the title, it being doubtful whether Potter alone could make a title, or whether it required the parties beneficially interested to join. Mr. Walters, in 1833, pronounced against the title as made by Potter, while Mr. Preston, on the other hand, for the executor, said it was good. They then agreed to take the opinion of Mr. Harrison, at their joint expense, which confirmed Mr. Walters's. So the matter rested till the Attorney-General, in 1836, brought the parties into court to obtain payment of the duty to the Crown. In 1838 there was a decree, referring the title to the Master, who reported against it, in 1842, by a separate report, which was excepted to, and the exceptions allowed, and that allowance confirmed, on appeal, in 1844. The title being thus established, the question now was as to costs between the estate and Dr. Bowie.

Turner, Lloyd, Cole, Roupell, Twiss, and *Maule*, for the several parties.

The MASTER of the ROLLS.—The justice of the case requires that costs should be given to Dr. Bowie. He entered into possession, and so remained without complaint till the information was filed. In 1833, Mr. Walters gave an opinion upon the title unfavourable to Mr. Potter's power to make a good title, of which it is enough to say that it has turned out to be an erroneous opinion, and that Mr. Preston's is the correct opinion. On the 16th November, 1833, Dr. Bowie's solicitor proposed to Potter to take Mr. Harrison's opinion at their joint expense, which he agreed to do. On the 27th November a statement is laid before Mr. Harrison, who said a title could not be made without the concurrence of other persons. Here is nothing to shew that that concurrence could not have been obtained; on the contrary, the parties thought to overcome the difficulty, if any. Dr. Bowie wished to have the contract carried out; so did Potter. What passed after the opinion of Mr. Harrison was taken is only to be ascertained from presumption. It is a strong circumstance, however, as to their minds, that from the time Mr. Harrison's opinion was obtained, the parties took no step to put an end to the contract; they lived on in hope. The demand of the Attorney-General on the estate not being satisfied, a bill is filed for the duties, making both Potter and Bowie parties. The Crown would not wait, and the parties must settle their disputes among themselves. Bowie, by his answer, consents to complete his purchase if a good title can be made, but does not state the circumstances between him and Potter; neither does Potter; and so it remained between the parties till the hearing. The decree declares the property liable to the Attorney-General, and refers the title to the Master. No account is given of the arrangement as to taking Mr. Harrison's opinion, but the Master finds in accordance with that opinion. That finding was reversed, and the title held good. According to the arrangement in regard to taking Mr. Harrison's opinion, Bowie had a right to the title thereby stated to be good, or to be released from the contract. They both came here; Potter to get rid of a duty and a contract which he was obliged by Harrison's view to make good; and Bowie was forced to come here and take a title different from that pointed out by Harrison. Dr. Bowie is therefore entitled to his costs.

Ex parte BURR, *Re* GAITSKELL.

Taxation—Stat. 6 & 7 Vict. c. 73, s. 37—Delivery of bill of costs.

Sending a packet containing a bill of costs by coach, which is afterwards sworn to as being received, a sufficient delivery within the Act, especially wh referred to by the solicitor in a letter afterwards his bill of costs. The old practice as to signing not done away with.

The common order to tax is sufficient, even though obtained two months after the bill has been delivered.

Special applications for orders to tax are not required by the Act; all that is required is the with special directions.

These special directions need not be applied for; they are given generally for all such cases to the Secretary at the Rolls.

The directions thus generally given in the order are, that the Master may report in a month, or the order shall be void.

This was an application to discharge an order as of course for taxation of a bill of costs. The petitioner, William Senhouse Gaitskell, was employed by his relative, Mr. Burr, to dispose of certain property in various parts of the country. Mr. Gaitskell put up the property accordingly for sale in 72 lots, and it was sold for upwards of 30,000*l.* Mr. Burr at the time expressed himself satisfied with the care and attention of Mr. Gaitskell. A packet containing a bill of costs was sent to Mr. Burr by coach, which h swore he received, and afterwards another packet, in which there was a letter which alluded to " my bill of costs." The bill of costs amounted to 1,957*l.* 12*s.* 10*d.*, which Mr. Gaitskell swore contained several omissions, and had been made out small, without a view to taxation, and that he should be at great [illegible] if it were taxed. He objected to taxation; first, because the bill was not proved to have been delivered, and secondly, as the order was obtained two months after the delivery, it was not of course, but should have been on special application; and he therefore sought to have the order discharged.

Millar, for Mr. Gaitskell.—There is an affidavit by Mr. Burr, that he received the packet, but the bill of costs should be signed to satisfy the requisitions of the statute, either itself, or by a letter accompanying it. What is now wanted is to add the omitted items. [The MASTER of the ROLLS.—Why not make a special application?] We could not till this order was disposed of. [The MASTER of the ROLLS. No doubt if you made out a case for it you might.] Mr. Gaitskell says in his letter, " my bills amount to 1,957*l.* 12*s.* 10*d.*" and the question is, could he maintain an action for a bill so sent? [The MASTER of the ROLLS.—Delivering bills is to be a tentative process; you will try how much you can get, without binding yourself. How was it under the old law? Did it require signing?] No; but the case here is—I have made out my bill favourably to you because of our relationship to me, and it is fair you should pay, therefore, without taxation. [The MASTER of the ROLLS.—That is, if you pay the charge of 2,000*l.*, well; if not, I'll see if I cannot charge you another 1,000*l.*] The bill was not made out formally with a view to taxation. Again, the Act says the reference, in such a case, is to be made with special directions from the Court, made on special application. [The MASTER of the ROLLS.—You are not aware that the case is decided already; it is not necessary to come here on a special application.] In *re Beck* and *Flower* there were special directions. [The MASTER of the ROLLS.—The common order contains special directions; there is no use for a special application; you only apply for special directions, and they are already given. There are no such words as " special application " in the Act; you have misread it, it is only special directions.] Well, I fall back on the first point, as to non-delivery.

The MASTER of the ROLLS.—The bill of costs was clearly delivered so as to satisfy the Act; and I do not accede to the proposition that the letter was necessary. The order is not irregular, for the letter says clearly, " that is my bill." If Mr. Gaitskell wishes, he can apply on a special case for special directions; but I cannot allow a solicitor, who may notwithstanding be a very honourable man, to send a bill, and then, if not paid, to get out of taxation by a plea of non-delivery. I dismiss the petition with costs, but without prejudice to his presenting a petition, making such special application to the Court as he may be advised. The bill may be taxed after a month from the delivery, without coming here for special directions,(a) as they are given generally for such cases to the secretary without asking the Court.

Friday, March 14 *and Monday, March* 17.

DUKE OF ST. ALBANS *v.* SKIPWORTH.

Ancient pasture—Patron and rector—Conversion into tillage—Amelioration of the glebe.

A rector has a right to plough up ancient meadow or pasture land for the purpose of cleansing it from moss and weeds, and otherwise ameliorating it; and the patron cannot restrain him by injunction.

The plaintiff in this case is the patron of the living of Skipworth in Lincolnshire, of which the defendant is the rector. The glebe consists, among others, of three closes of ancient pasture land, which no person could be found able to say had been ploughed up within the last seventy years, though the defendant alleged that the marks of the plough were visible in two of them, and he believed they had been ploughed within seventy years. The defendant, with a view of removing the moss and weeds with which the grass of two of the closes was intermixed, and of improving the soil, determined, on the advice of experienced agriculturists, to plough them up, and the plaintiff filed his bill to prevent him, and obtained an injunction. The defendant now moved to dissolve the injunction.

Kindersley and *Glasse*, for the motion.—The rector represents the fee for many purposes, and the patron has only the right of presentation. The case, as put by the plaintiff, would effectually prevent any alteration of the land ever being made if kept in a particular way for a given time. There is no case of restraining the incumbent, however, from ploughing up for the purpose of improvement. The cases of tenant for life and remainderman do not apply. They cited *Countess of Rutland's* case (1 Lev. 107); *Goring* v. *Goring* (3 Swanst. 661).

Turner and *Amphlett*, contrà.—If there be a question whether it is ancient pasture the Court will not entertain it on motion; and the onus rests on the other side to shew it is not ancient pasture. The case of *Knight* v. *Moseley* (Ambler, 176) shews they can only dig the land for repairs. The case of *Martin* v. *Coggan* (1 Hog. Rep. 120) is also in point. There can be no alteration but in the character of repairs.

Kindersley, in reply, cited *Bird* v. *Relph* (4 B. & Ad. 826), and the statute 35 Edw. 1, s. 2.

The MASTER of the ROLLS.—It would be going very far to decide as the plaintiff contends, for by so doing the incumbent would be prevented from making a garden, orchard, &c. on any ground not shewn to have been so applied before. I am struck with a proposition leading to such consequences, but if such be the law, of course it must be so decided.

March 17.—The MASTER of the ROLLS, after stating the case, and having cited and commented on *Simmons* v. *Norton* (7 Bing. 640; 5 M. & P. 645); *Hoskins* v. *Featherstone* (2 Bro. C.C. 552); and Co. Litt. 664, said that, considering the position as to the ploughing up the ground, and that there were no authorities on the subject, and also considering that the cases of tenant for life and remainderman did not apply, and that it would be injurious to the rectory to prevent the intended course of husbandry, he would dissolve the injunction.

Monday, March 17.

Re BRACEY.

Bill of costs—Taxation—Application to refer specially.

William Merrick was the executor of a Mrs. Lewis, and a bill for the administration of her estate was filed against him as such executor by infants called Smith. In this suit he employed Mr. Bracey as his solicitor. After Mr. Merrick's death, Mr. Bracey, on the 3rd December, 1844, delivered four bills of costs to his executors amounting to 393*l.* 7*s.* 9*d.*; one of these was a general bill of costs; another against the plaintiffs in the suit; a third against the defendant, Mr. Merrick; and a fourth against a Mr. Otway,

(a) These special directions are that the Master may report in a month, or the order to be void.

the heir-at-law of Mrs. Smith. The bills were all headed "The executors of William Merrick." The executors, the petitioners, did not object to pay the general bill, nor the bill against their testator, but they did object to the other two, to which they considered their testator's estate not liable. Mr. Bracey, in his affidavit, stated that the retainer for all parties was given by Merrick, and that he acted for him and the plaintiffs and Otway. After delivery of the bill no step was taken till the 18th of January, when Mr. Bracey brought an action to recover the amount of them. The petitioners now sought to distinguish the costs to which the testator's estate was liable; and it was argued that the taxing master could only tax and moderate the items (*Williams* v. *Nichols*, 1 Dowl. C. P. N. S. 924), but had no right to adjudicate as to the liability.

Kindersley and *Wright*, for the petitioners.

Turner, contrà.

The MASTER of the ROLLS made an order for taxation of the bills in the usual form.

VICE-CHANCELLOR KNIGHT BRUCE'S COURT.

April 18, 19, 21, *and* 22.

ATTORNEY-GENERAL *v.* MONRO and OTHERS.

Mortmain Act—Construction of deed.

Where two persons in whom there was a joint power of appointment, with a power of appointment in the survivor, executed their power in favour of a charity, and one of them died within a twelvemonth, the Court refused, under the circumstances, to treat the deed as void in the absence of the survivor of the appointors.

Whether a clergyman of the Established Church of Scotland, who has been deprived of his license by the Presbytery of Edinburgh, is still a minister in connection and full communion with the Established Church of Scotland, quære?

By an indenture, dated the 4th of April, 1832, a certain piece of land situate in St. Peter's-square, Manchester, was conveyed to Daniel Grant and others, for the purpose of erecting, preserving, and maintaining in all time coming suitable and convenient buildings in that town "for the worship and service of Almighty God in connection with and according to the forms and usages of the Established Church of Scotland." By the same indenture the trusts were declared to be out of certain voluntary subscriptions to be raised as thereinafter mentioned to build a church or place of worship, with a session-house and other requisite buildings, "for the suitable and convenient observance of the worship and service of God according to the rites and usages of the Established Church of Scotland," and after its erection to use or permit the same to be used "for the purposes of divine worship and service in connection with and according to the rites, forms, and usages of the Established Church of Scotland, and in no other religious connection, and according to no other rites, forms, or usages whatsoever, and for the preaching and expounding of God's most holy word according to the doctrine and tenets of the same Church of Scotland," as set forth and contained in the Confession of Faith agreed on at Westminster in 1647, and ratified by the Act of Parliament in 1690; "the said divine worship and service to be conducted by a minister or ministers belonging to and in full communion with the said Established Church of Scotland." The indenture then provided for the election and choosing of the minister, and it declared "that if a licentiate or probationer of the said Church of Scotland shall at any of the said elections be chosen as and for the minister of the said church, he shall procure himself to be regularly ordained, or set apart, to the office of the holy ministry by the Presbytery of Edinburgh before entering on the discharge of his clerical functions as the minister of the said church; and if an ordained minister shall be chosen, then he shall be admitted by and with the consent of his Presbytery." The indenture then provided that all disputes, &c. as to the conduct, &c. of the minister, should be referred by both parties to the arbitration of the Moderator of the Presbytery of Edinburgh, the senior Professor of Divinity in that university, the Procurator of the Church of Scotland, and the principal Clerk of the General Assembly of the said Church, whose decision, or the decision of such of them as would consent to arbitrate, was to be final, and whether or not the party complained of should concur in the application; and the reference was to be made a rule of the Court of King's Bench, and it was provided, "that in the event of the incumbent minister of the said church incurring such sentence, decision, or enactment, of or by any ecclesiastical court in Scotland, having authority or jurisdiction in that behalf, as in the case of his being resident in Scotland would be equivalent to deposition or deprivation, such minister should cease to be the incumbent of the said church, and should thenceforward be deprived of all power, right, or title to officiate therein, or to receive any benefit or emolument as the minister thereof." The indenture then, after other provisoes, directed that each minister should sign a copy of the deed, to signify his assent thereto, "and particularly his consent and submission to the reference hereinbefore provided and agreed to be made in the event of a misunderstanding or cause of offence occurring between minister and the congregation as aforesaid." The indenture then concluded with a proviso, that it should not be competent for the said managers, or any of them, or any future trustees or managers, or any of them, either with or without the concurrence of the communicants, or any number of them, to alter, disannul, vary, or make void any of the provisoes, stipulations, agreements, or declarations thereinbefore contained, whereby the aforesaid building and premises were connected with, and solely appropriated to the use of, the congregation belonging to the aforesaid Established Church of Scotland, or whereby the worship therein was appointed to be observed and performed according to the rites and usages, and conformably to the doctrines and tenets of the said Church of Scotland, and by a minister belonging to and in full communion with the aforesaid Church of Scotland; such last-mentioned provisoes, stipulations, and declarations being thereby declared to be for ever unalterable. Mr. Monro and the greater part of his congregation having by several overt acts declared their sympathy with, and concurrence in the views, of the Free Church of Scotland, Mr. Monro was deprived of his license by the Presbytery of Edinburgh; and this information was filed at the instance of some of his congregation, who did not concur in the views which he had adopted. The original indenture not having been enrolled within a proper time, the grantors, who had a joint power of appointment during their lives, and a power of appointment in the survivor, executed another indenture at the instance of some of the defendants, which was duly enrolled; but one of the appointors died within a twelvemonth after the execution of the appointment.

Russell and *Little* now moved for an injunction to restrain the defendants from the use of the church, &c. except according to the provisions of the indenture of 1832, alleging that Mr. Monro had forfeited his right to officiate as a minister of the church.

Rolt, *Wigram*, and *Selwyn*, for the defendants.

The VICE-CHANCELLOR said, that as some of the defendants had exercised their undoubted right in setting up the statute of Geo. 2, it became necessary to dispose of that point. It had been said that a deed, material to the title, had not been enrolled, none having been enrolled prior to that of the 4th of April, 1832, which deed directed the purposes to which the property purchased was to be devoted. It had been argued, that because some earlier deeds, executed with a view to this deed, had not been enrolled, therefore this deed, though duly enrolled, must fail of effect by reason of the non-enrolment of the others. That was a proposition to which he could not accede. Assuming that the earlier deeds were void, were they so for the reasons alleged? If so, it would have the effect of preventing any legal estate being, at the date of the deed of the 4th of April, in any of the parties to that deed, so far at least as the greater part of the property was concerned, namely, that bought of Mr. and Mrs. Brown. He must, however, view this deed standing by itself, and on the assumption of the invalidity of the former ones, as a contract for valuable consideration between the parties to it, and that the property conveyed by it should be dedicated to certain particular specified purposes. There might have been some outstanding legal interest capable of being enforced against them; but he did not for a moment hesitate to say that all the parties to that deed were among themselves, and, as to their several interests in the property, bound by it. To that deed the subscribers who contributed the money were not parties. It was assumed by the argument that they had not merely a right to receive back their money, but that they had a lien on the land itself for the proportionate amount of their several subscriptions. On either of those points he declined to give any opinion whatsoever. They had, he would assume, an equitable interest in respect of their shares. What, however, was done? For many years large sums of money had been expended on the land, on the faith of the deed; liabilities had been incurred by parties connected with the institution; and their interests were in various ways affected by what had been transacted on the faith of that deed. On the materials, therefore, before the Court, it was its duty to hold that the subscribers so witnessing, sanctioning, and encouraging these acts, having full and entire knowledge of the acts, and of the objects and intentions with which those acts were done, could not be heard on any principle of justice to raise an adverse title. The question of enrolment had nothing whatever to do with a case like this. An outstanding interest had been alleged to be in Mrs. Brown, which had been conveyed to two of the defendants, and it had been said that they had a right to set it up and avail themselves of it in the same way as that lady could do if she were here. Fortunately for the interests of justice and for the cause of honesty and truth, that doctrine *could not for one moment be allowed to prevail here.* The recitals in the deed by which Mr. and Mrs. Brown made the conveyance shewed that those parties expressly apprehended the defect, and as plainly and expressly stated their intention not to take any advantage of it; and by that deed they fully released and gave up all their rights in the land. With such circumstances before it, it was scarcely possible for the Court to view the point with that calmness becoming the judicial bench. It was amply proved that the deed was obtained with the full concurrence of all necessary parties, and the persons to whom the interest was conveyed were trustees for the vendors if the purposes had failed; and as they had not failed, they were equally trustees for the purchasers. No such defence could be allowed to prevail. That such transactions should arise on a question even in a case merely civil, would excite surprise and regret; but that they should have taken place upon a question of advancement of religion, must cause much stronger observation. His opinion was, that this ground of defence had entirely and signally failed; still the Court ought to be careful not to allow such a line of defence to unduly prejudice any other which might be fairly and honestly taken. Then followed the question as to the construction of the deed of the 4th of April, 1832. In this case the Established Church of Scotland and the Church of Scotland must be taken to mean the same thing; they both meant that system of religious doctrine, of ecclesiastical discipline, and ecclesiastical jurisdiction, which in a particular state was not only tolerated, not merely protected, but was recognized, sanctioned, and maintained by the legislative and executive power of the state, and embraced by it as a part of the national institution. There could be no doubt, also, and it was admitted, that in this instrument the words "in connection with" must be read as if the words "the Established Church of Scotland" immediately followed; thus,—"for the purposes of divine worship and service in connection with the Established Church of Scotland, and according to the rites, forms, and usages of the Established Church of Scotland." The minister was required to be a minister to and in full communion with the Established Church of Scotland. The dispute which had arisen between the parties rendered it necessary, or would do so, to come to some conclusion on the meaning of these words. Some help towards an explanation was afforded by that clause of the deed relating to the deposition of ministers. That clause seemed to infer that there might be some ecclesiastical court in Scotland which would have authority, spiritual at least, over the incumbent minister of this church; but what ecclesiastical court, what jurisdiction, and how exercised, was not explained. Persons learned in this particular subject did not appear to agree as to the exposition of the words "connection," "communion," or "belonging to." What was being in connection with the Established Church of Scotland? What was being in full communion with that church? What was belonging to that church? It was much easier to say what was not, than to define what they meant. But this motion did not call on the Court to define the precise meaning of these phrases, except that there was the sentence of deprivation pronounced on the 30th of January, 1844, by the Presbytery of Edinburgh; and were he satisfied that that body was competent, and being so competent, had regularly and duly exercised that competent jurisdiction, he probably should be able to say that that did shew a case of connection ceasing, and of communion being at an end. But two persons, both learned on the subject, differed on the grounds to which he had referred, and before he acted at this stage of the cause upon the notion that the sentence did have the effect of severing the bond between Mr. Monro and the Church of Scotland, and which ought to have the effect of excommunication, he ought to be clearly satisfied that it did have that effect. He was not clearly satisfied it did. It would be premature now to give any opinion on the subject; it was sufficient to reserve the point for subsequent decision. He was therefore of opinion, on the materials before him, that it was a matter of reasonable doubt whether this particular jurisdiction in Scotland was competent, and also of reasonable doubt whether, if competent for the purpose, it had duly and validly exercised its competent jurisdiction. He did not decide either point, and he repeated that he was not satisfied on the evidence on either of those points. He was bound, therefore, for the present purpose, and on the present occasion, to lay that sentence aside. Yet he was still called on to say that the connection, the communion, had ceased. Connection was a very general expression: what did it mean? It might infer identity of doctrine, of rites, of external forms, or similarity of discipline: but in none of these respects had there been any infringements. What did it infer beyond? did it infer spiritual jurisdiction? If so, then of what nature, by whom to be exercised, and subject to what appeal? If he were not to regulate himself by the sentence of the Edinburgh Presbytery, he ought to be able to define what jurisdiction was meant. He was not able to do so; he was obliged to come to the same conclusion as to the other words, namely, "communion with," and "belonging to," looking at the language of the other document, called the Overture, and at its time, 1844, to which Mr. Monro was an actively consenting

party. If he were asked in a general and popular sense, and not as a judge or a lawyer, he should say that the connection between Mr. Monro and the Established Church of Scotland had ceased. But he was not at liberty at the present stage to decide a question of such nicety and importance. Considering that the morality of Mr. Monro was unquestioned; that the correctness of his theology, according to the views of the Church of Scotland, was undisputed; that his mode of administering the rites and forms of that religion was unimpeached; it would not be safe on the present occasion, especially as in addition to these reasons there existed a reasonable expectation that the suit might be prosecuted and brought to a hearing on evidence regularly taken within a very short period, he therefore thought that he ought not now to make any order to the full extent of the notice of motion. The order would be, that James Burt the elder, &c. be restrained from permitting or allowing the buildings to be used for any other purpose but for divine worship, according to the rites, forms, and usages of the Established Church of Scotland, by a minister or licentiate who had been ordained or licensed according to the doctrines and rules, and under the authority of the Established Church of Scotland, and from doing or procuring any act by which the same might become liable to be used for any other purpose than those of the deed of 1832; and that the defendants Burt and Stewart be restrained from conveying any interest they took under the deed of 1844, in any other manner than to give effect to the trusts of the deed of 1832.

VICE-CHANCELLOR WIGRAM'S COURT.

LUND v. BLANCHARD.
Tuesday, May 6.
Company—Injunction—Contempt.

Plaintiffs suing on behalf of themselves and the other shareholders of a company, obtained an injunction restraining the defendants from taking proceedings at law. The defendants issued execution against some of the shareholders not named as plaintiffs.

Held, that this was not a contempt, or breach of the injunction, but that, on the plaintiff's shewing that the parties proceeded against stood in the same situation as themselves, the Court will extend the benefit of the injunction to them.

JUDGMENT.

The bill in this cause had been filed by the plaintiff and two others, on behalf of themselves and all other the shareholders of the Yorkshire Agricultural and Commercial Banking Company, against the London and Westminster Bank. The answers had not been put in, but an injunction had been granted, in pursuance of the prayer of the bill, against the defendants, restraining them from proceeding at law against the plaintiffs. Notwithstanding the injunction, the London and Westminster Bank took out execution, upon a judgment obtained by them, against certain shareholders of the Yorkshire Banking Company not named as plaintiffs in the bill, upon the ground that the injunction affected those *only* who were named upon the record as plaintiffs. The plaintiffs, therefore, moved that the defendants should be committed for contempt of court, or that a special injunction should be granted restraining the legal proceedings against such of the shareholders as were not named as plaintiffs, and it was upon this motion that his Honour now gave judgment. In these cases his Honour said, the Court permitted some of the shareholders to sue on behalf of themselves and all the other shareholders, or in other words, a company might sue by a few of its members, as representing the whole; and in this instance there appeared to be two considerations, first, whether the injunction had been broken, and if not, whether, secondly, there was any mode of protecting those shareholders who were represented by the plaintiffs? If there was not, there would be a denial of justice. Companies were allowed to sue in this form for their own benefit, but not to the prejudice of the defendants. Now the defendants urged, first, that there had been no breach of the injunction; secondly, that a separate bill must be filed by each party, not upon the record, who was proceeded against at law; thirdly, in the event of the last proposition failing, that a special application by the plaintiffs was the proper mode of proceeding; and fourthly, that such special application must be considered upon the evidence of its merits. As to the first proposition, he must decide that there had been no breach of the injunction, which was against suing those three plaintiffs alone; but as the Court allowed them to represent the company, he must assume that they could do all that was necessary to protect those they represented. The second proposition he could not accede to, as that would deprive a company of the benefit of the rule allowed them by the Court.

As to the third proposition, he thought that inasmuch as by holding that the injunction did not extend to restrain proceedings against any except the three shareholders named as plaintiffs, he did, in effect, decide that the onus of shewing that the proceedings against other shareholders ought to be restrained, was thrown upon the plaintiffs. The fourth question was, what case must be shewn by the plaintiffs in order to induce the Court to restrain proceedings against those parties represented and not named as plaintiffs? He held, that there must be a special application, and that the onus of it must rest upon the plaintiffs, but upon what evidence must it be founded? He thought the practice of the Court must stand thus: the Court granted the injunction upon the application of those named as plaintiffs, and it was no breach of such injunction to sue those shareholders who were not named; and it appeared to him to be a question of form in what mode the plaintiffs might have the benefit of that application. Upon the present frame of the bill he thought it was sufficient for the plaintiffs to shew that the parties they represented stood in exactly the same situation as themselves; and therefore the defendants must shew such a case as in the opinion of the Court might be thought sufficient to induce the Court not to extend the benefit of the injunction to such parties. But it would not be necessary that the merits of the case should be gone into as they were gone into in the answer, the answer not having come in, and the company who were allowed to sue in this form had not the benefit of the answer by which to try whether the injunction ought to be continued till the hearing. He was of opinion, upon the whole, that the plaintiffs had shewn that the parties proceeded against stood in the same situation as themselves; and therefore that upon this motion the defendants ought to be restrained.

Common Law Courts.

COURT OF QUEEN'S BENCH.

Re DOWNEY.
Wednesday, May 7.

A bench warrant under 43 Geo. 3, c. 56, s. 1, must state the amount of bail and before whom the prisoner is to be brought to be bound over.

Peacock shewed cause against a rule obtained by *Jerris*, Q. C. (suprà, p. 37), why Thomas Downey, now in the gaol of Liverpool, should not be discharged out of custody upon a bench warrant. A true bill for conspiracy had been found against him and one Jones, at the sessions, and before any certificate of indictment filed, a bench warrant had been issued under 43 Geo. 3, c. 56; and therefore that Act does not apply; and it is that Act alone which requires the amount of bail.

WIGHTMAN, J.—The objections are, that it does not state before whom he was to be brought, or the amount of bail. *Rule absolute.*

Thursday, May 8.
BUSINESS OF THE COURTS.

Lord DENMAN, C.J.—As there are a considerable number of enlarged rules, which have been standing over a long time, we propose to make a peremptory paper of such rules for the Bail Court for the ensuing Term. Two of the pending rules will be placed in the paper, to be taken after motions upon the first day of Term; and two, or some other small number, will be called on every other day before motions. Particular cases will be named beforehand for particular days, in order that the gentlemen engaged in those rules may have notice that they are to be taken. In this (the full Court), all the time, except the first and last four days and the regular paper days, will be given to the new trial paper, to which the Court always has recourse upon the failure of other business. As the new trial paper is, in effect, the peremptory paper of this Court, no other peremptory paper will be made here.

LLOYDS v. ROBINSON.

Attorneys cannot attest warrants of attorney who act for both parties.

This was a rule to shew cause why a warrant of attorney and execution should not be set aside, the attorney having subscribed himself thus: "I subscribe myself to be attorney."

Watson, Q.C. shewed cause, and held this to be sufficient, though the attorney might have been employed by both parties. (*Jarvis* v. *Smith*, 1 D. & L. 962.)

Crompton, contrà, was stopped by the Court.

PATTESON, J. (Lord Denman, C.J. having left the court).—It is quite clear that the party signing was attorney for both parties, and that, therefore, the transaction was not regular. *Rule absolute.*

LEVI v. LEVI and ANOTHER.

The Reg. Gen. H. T. 2 W. 4, r. 79, applies to all writs of sci. fa. when the judgment is more than ten years old, and an appearance entered without authority is no waiver of the objection that that rule has not been complied with.

Humfrey, Q.C. and *Archbold* shewed cause against a rule calling on the executrix of the plaintiff to shew cause why the writ of *sci. fa.* issued in this action should not be set aside, and why she, or her attorney, should not pay the costs of the *sci. fa.* and of the present application. In October 1832, judgment was signed by the plaintiff upon a warrant of attorney; and execution issued within the year. In 1843, the plaintiff died, and the writ of *sci. fa.* was sued out for the purpose of making his executrix a party to the record. The defeazance of the warrant of attorney contained a proviso that, notwithstanding the death of the defendants, or that execution should not be issued within a year and a day, the defendants would take no means to defeat or impeach the judgment, or delay or impede execution. Upon the issuing of the *sci. fa.* Messrs. Pontifex and Moginie entered an appearance for both the defendants; but the affidavits upon which the rule was obtained denied that they had any authority to do so for one of the defendants, and charged collusion with the plaintiff; that charge, however, was most distinctly denied in the affidavits on the other side. The principal objection was, that the *sci. fa.* had been issued without any rule; but the answer was, that in this case a rule was not necessary; the Reg. Gen. H. T. 2 Wm. 4, r. 79, applying only to writs of *sci. fa.* to revive a judgment, and not to writs of *sci. fa.* for the purpose of introducing new parties into the record. Besides, all objections were waived; 1st, by the defeazance, which rendered a *sci. fa.* altogether unnecessary (*Morris* v. *King*, 9 L. Jour. Q. B. 320; *Morgan* v. *Burgess*, 1 Dowl. N. S. 850; *Hiscocks* v. *Kemp*, 3 Ad. & E. 676); and, 2ndly, by appearing to the *sci. fa.*; for both parties were bound by the appearance entered for them. (*Anon.* Salk. 88.)

Watson, Q. C. in support of the rule.—Every writ of *sci. fa.* is a writ to revive the judgment; and the rule of Hilary Term, 2 Wm. 4, applies; the writ is in all cases couched in the same form. [WIGHTMAN, J.—The effect of it is to revive the judgment.] Then the *fi. fa.* ought to have been returned, and is not; where there has been a part levy, a plaintiff cannot have a *sci. fa.* without returning the writ of execution (*Wilson* v. *Kingston*, 2 Chitt. Rep. 203); and, thirdly, the judgment-roll ought to be carried in, in order to enable the plaintiff to bring debt or *sci. fa.* on the judgment. (1 Chit. Archb. Pract. 337.) Neither is there any waiver. The defeazance does not apply to this case, and the appearance was entered without authority from the party making the present application, and he therefore is not bound by it; and in fact, that appearance was afterwards withdrawn, and notice of that withdrawal given to the plaintiff.

Lord DENMAN, C. J.—It is quite clear that Messrs. Pontifex had no authority to appear for this party. The question is, has he by agreement waived the necessity for a motion according to the R. G. 2 Wm. 4? Now the defeazance applies to a case which has not occurred, viz. the death of the defendant, and not to the death of the plaintiff, which has rendered this *sci. fa.* necessary.

The rest of the Court concurring,

Rule absolute.

CROFTS v. BROWN.

The affidavit in support of a rule for a distringas must state not only that the calls were made at the defendant's house, but where that house is situate; and a statement made by the defendant that he should upset the distringas, because the summons was served on his brother, and not on himself, is not a sufficient admission that the writ of summons had come to his knowledge to dispense with that necessity.

A rule *nisi* had been obtained to rescind an order of Rolfe, B. granting a *distringas*, on the ground of defects in the affidavit. That affidavit stated, that on the 12th of March last "the deponent called at the residence of the defendant," and that a person came into the passage and stated that he was the defendant's brother; it then proceeded to specify the several appointments and calls, and concluded with a declaration of the deponent's belief that the defendant was keeping out of the way to avoid service of the said writ of summons. The affidavit in support of the present rule described the defendant as of 6, Kennington-green, in the county of Surrey; and the affidavits in opposition stated that that was the place at which the calls had been made and the summons left; and further, that the defendant had said that he would upset the *distringas*, because the writ had been left with his brother, and not himself.

Petersdorff now shewed cause.—First, it is objected that the affidavit is insufficient in not stating where the

knowledge. At all events, the facts are now supplied by the fresh affidavits, and that is sufficient to support a judge's order. Lastly, the application is too late; this rule not being obtained till the 18th, and the execution of the *distringas* having been on the 8th.

Watson, Q. C. in support of the rule.—The affidavit must state the locality of the residence. (*Halton* v. *White*, 2 M. & G. 295.) [Lord DENMAN, C. J.—We have no doubt of that, but what do you say as to the admission?] It is not sufficient; only part of a conversation is given, and the supposed admission was probably made in answer to a statement that the *distringas* had been obtained, and that the writ had

been served upon the brother. He was then stopped by the Court.

Lord DENMAN, C. J.—It is certainly very likely that the defendant was told of what had taken place, and I do not think that his declaration amounts to an admission of the receipt of the writ. The rule must therefore be absolute, with costs.

Rule absolute accordingly.

REG. v. HULL DOCK COMPANY.

Hilary Term, Jan. 22, 30.

The Hull Dock Company are entitled, under their several Acts of Parliament, to take certain tolls or dues from all vessels lading or unlading within the port of Kingston-upon-Hull, whether they enter the docks or basin of the company or not. These tolls are collected at the Queen's Custom House, at a distance from the docks. The company have no property in the harbour or haven. Held, on appeal from the sessions, that the company were not rateable in respect of the dues paid by vessels discharging their cargoes in the river Humber, without entering the harbour-entrance, basin, or docks; or in respect of the dues paid by vessels discharging their cargoes in the Old Harbour, without entering the docks or basin; but that they were rateable in respect of the other dues.

This was an appeal, by the Hull Dock Company against an order made at the Hull Borough Sessions, confirming certain rates upon the company, subject to a case for the opinion of the Court of Queen's Bench. The material facts stated in the case were these:—

That the docks of the company had been made under 14 Geo. 3, c. 56; 42 Geo. 3, c. 91; 45 Geo. 3, c. 42; 5 Geo. 4, c. 13. That by 14 Geo. 3, c. 56, s. 42, tolls were granted to the company for ships coming into or going out of the said harbour, basin, or docks within the port of Kingston-upon-Hull, or unlading or putting on shore, or lading or taking on board, any of their cargo, or any goods, wares, or merchandize, within the said port. After this Act, the Old Dock was built by the appellants, and also the Humber Dock, with the lockpit and entrance-basin; and after the 42 Geo. 3, the Junction Dock was built. The three docks communicate, and there is an entrance into the Humber Dock from the Humber. The Old Dock has an entrance from the harbour or river Hull, which falls into and is entered from the Humber, and the Old Dock communicates with the Humber Dock by means of the Junction Dock. The company have no right of property in this harbour or haven, or in the Humber, and only occupy the entrance-basin of the Humber Dock. The port of Hull, in its more confined sense, includes the river Humber, to the midstream; and all vessels frequenting the docks or harbour pass through that portion of the stream within the port. Some load and discharge in the Humber without entering the harbour, entrance-basin, or docks; others load and unload in the entrance-basin, without entering the docks or the harbour; others load and unload in the Old Harbour, and discharge and load some on the east and some on the west side thereof, but without entering any of the docks or basins of the company; others enter the harbour and discharge their cargoes either in the Old Dock, or in the Junction or Humber Dock; and others enter by the entrance-basin of the Humber Dock, and proceed through it to the Humber Dock, or the Old Dock, or the Junction Dock. All of these classes pay tonnage due to the company, which, however, are collected at the Queen's Custom House, without reference to the position or destination of the the vessels.

The company was rated for all these several tonnage dues. The Court of Quarter Sessions held the company liable in respect of dues. 1st, for those ships using the entrance-basin, without going into the docks; 2nd, for those passing through the Old Harbour to the Old Dock, and using that or the other docks; 3rd, for those passing the entrance-basin into the Humber Dock and using that or the other docks; but not liable for the dues paid by those discharging their cargoes in the river Humber without entering the harbour, entrance-basin, or docks, or by those which discharge their cargoes in the Old Harbour, either on the west or east side thereof, without entering the docks or basin.

The question for the Court was, whether the company were liable for all or any of the above dues. There was no dispute as to the amount of deductions.

The case was argued in Hilary Term, Jan. [illegible] and Jan. 30.

M. D. Hill, Q.C. *Archbold*, and *Raines*, for the rate.—It is for the first time contended, after numerous decisions in the mode of rating the company, that they are not rateable at all. A uniform course of proceeding ought not to be lightly altered. (*Rex* v. *Coke*, 5 B. & C. 805.) These decisions are, *R.* v. *Hull Dock Company* (1 T. R. 219, 3 B. & C. 516; 5 M. & S. 394); *Hull Dock Company* v. *Browne* (2 B. & Ad. 43). The appellants rely on *Reg.* v. *Bristol Dock Company* ([illegible] B. 535). But [illegible] very distinguishable. Here there is no provision at all in the statutes as to rating the company, and the general law therefore applies. The profits are here earned by the docks, and are within the principle of *R.* v. *Aire and Calder Navigation Company* (3 B. & Ad. 533). There is benefit even to ships not entering the dock. The question is, what earned the dues, and they are given in respect of and for the docks. (*R.* v. *Barnes*, 9 B. & C. 810; *R.* v. *New River Company*, 1 M. & S. 503.) It is different from the case of a lighthouse, for there the privilege of putting up a lighthouse is a personal privilege, and the profits made are not in respect of the house or land where the lighthouse is. (*R.* v. *Coke*, 5 B. & C. 797.) All the dues are here received in respect of the land where the docks are. (*R.* v. *M'Donald*, 12 East, 324; *R.* v. *Marquis of* [illegible]*idge* [illegible]

Martin, Q.C. and *Bain*).—What is rateable or not must be determined by the statute. These tolls are not payments in respect of land, but payments in gross in respect of certain benefits arising from expenditure by the company. In canals and other similar cases, it is the actual use of the land that produces the profits. Tolls *per se* are not rateable. (*R.* v. *Tynemouth*, 12 East, 47; *R.* v. *Coke*, 5 B. & C. 797.) As to the ships which discharge in the Humber, they never use the docks at all. The recitals in the statute shew that the company ought not to have been rated at all. The dues would be payable although the docks became useless by the act of God. The docks might be let to a tenant, and the company retain the dues. Dues are by the 42nd section of the Act a duty in gross. (*Reg.* v. *South Western Railway Company*, 1 Q. B. 515; *R.* v. *Thomas*, 9 B. & C. 114; *Hull Dock Company* v. *Lamonte*, 8 B. & C. 42, were also cited.)

JUDGMENT.

DENMAN, C. J.—This case was argued in the last Term, and arose out of a decision in *Reg.* v. *The Bristol Dock Company* (1 Q. B. 535). Many cases have been decided and reported as to the mode of rating the Hull Dock Company, but it is now for the first time contended that they are not rateable. We do not mention this as in itself an objection, but in order to shew what the real question is, that if the company are within the principle of that case, they are not rateable at all; or if they be within the principle as to parcel of their tolls, they are not rateable as to that parcel. The *Bristol Dock Company's* case was a very peculiar one: the company there were empowered to convert a large portion of the river Avon into a floating harbour, and to construct a new channel for the river itself; the great point of resemblance in which is, that certain dues were granted to them on every ship entering the port of Bristol. That port extended to a great distance, and many ships would enter it, but they would have no occasion to use the floating harbour, and yet would be liable to pay the dues under the Act of Parliament. In that respect the present case is very similar, for there are many vessels liable to pay dues to the company which never used their docks at all. But in the *Bristol* case the floating harbour was not the property of the company before it was converted into a floating harbour; it was part of the river Avon and the port of Bristol, the property in which was vested in the corporation; and there are no words in the Act of Parliament vesting the property in the company. But it was sought to rate them in respect of entering the floating harbour, called Cumberland Basin, because that, or at least part of it, was the property of the company. That basin consisted of a portion of the old river and the additions which were made to it by excavating several acres of land; those additions appear to have been the property of the company. But the Act of Parliament provided that the company, in respect of those additions, should be rated in a particular manner; and the Court thought that the company should be rated only in the manner provided by the Act, and that the dues or tolls could not be said to be profits arising from the basin in the parish in which it was situated. Here the docks are the property of the company, and were excavated from land granted to the company, and made entirely *de novo* by them. The occupiers of the land from which the docks were constructed were rateable for them; and if the docks yielded any profits out of the land to those who constructed them, the company surely must, in the absence of any enactment to the contrary, be liable to be rated in respect of such profits. In the *Bristol* case, inasmuch as the company could not be rated in respect of the principal subject-matter of the floating harbour for which the dues were granted and received, the Court held that they could not be rated for the mere entrance-basin. In the present case, the company can be rated in respect of the principal subject-matter; that is, the docks themselves. It is said, that tolls in this are not given to them for the use of the docks, because ships must pay, whether they use them or not; and so, because the ships that do not enter the docks cannot be said to pay for the use of them, it is argued that those which do enter the docks and use them, cannot be said to pay for the use of them. This argument is ingenious, but we do not think it conclusive, nor did it prevail in the *Bristol* case. The Court did not there say the tolls were not granted for the use of the floating harbour, but that the company could not be rated in respect of those tolls, because they were not the owners of the floating harbour. But it is said further, these tolls are due on a ship the moment it enters the port of Kingston-upon-Hull, whether it proceeds into the dock or not; therefore, as the dues are attached before their arrival in the docks, they cannot be said to be earned by the company in the dock. The lan-[illegible] liament, [illegible]

loading goods in such port." The harbour there may probably mean harbour or basin; but, whatever it means, the distinction is between coming into the docks, and loading or unloading, or coming within the port. It is sufficient to shew that the tolls do not attach on ships on the moment of coming into port. The fact, therefore, on which this argument rests, is not as stated, and, it appears to us, is not convincing. A ship that comes into and uses the dock is not the less benefited by it because the tolls must have been paid even if it had not come in, and the benefit conferred by the use of the docks is not alone meritorious cause of the toll, because other ships pay it where the meritorious cause does not apply. To those that come into the docks, benefit is conferred by the docks, and therefore the tolls paid for that benefit must be held to be earned there in the docks, and to be profits arising there: and as to those ships that do not come into the docks, which never are the property of the company at all, the case is very different. The toll given to the company, and which such ships are subject to pay, is doubtless given in respect of the company having made the docks; but still it does not arise from the use of the docks. It is a naked toll, as much as tolls paid by vessels passing lighthouses, and similar cases. On the whole, we are of opinion that the learned Recorder was right in the view which he took of this case, and that the order of sessions must be confirmed.

BUSINESS OF THE WEEK.

Thursday.

Ex parte COLLERTON.—This rule was referred to the Master, by consent, upon the affidavits as they then stood, unless the Master himself should require any additional affidavits. *Knowles*, Q.C. to shew cause. *Watson*, Q.C. in support of the rule.

DOE *dem.* ABRAHAM *v.* WARD.—Rule for judgment as in case of a nonsuit discharged, on a peremptory undertaking to try at the Spring Assizes, 1846. *Watson*, Q.C. shewed cause. *Pashley*, in support of the rule.

DAVIS *v.* BURDETT.—*Kelly*, Q.C. moved for a rule to shew cause why a rule of this Court directing a previous rule for a stay of execution until a sum of 300*l.* had been paid, to be referred to the Master, should not be rescinded, and the Master be directed to deliver the *allocatur* to the plaintiff.

Rule nisi granted.

COURT OF COMMON PLEAS.

Thursday, May 8.

WALKER *v.* PETCHELL.

Devise to S. W. for her life, and after her decease to such one or more of her child or children, for such estates and interests as she should by deed or will appoint, and in default of appointment unto her children, if more than one, equally, and to their several and respective heirs. But in case the said S. W. should happen to depart this life without leaving lawful issue, as aforesaid, then unto and to the use of the heirs of the said S. W. for ever. Held, that the word "issue" meant "children," and that therefore the limitation over to S. W. in fee was not void on the ground of remoteness.

Feigned issue.—In pursuance of an order of the Honourable Mr. Justice Erskine, made on the 16th of May, 1844, by consent, the parties stated for the opinion of the Court the following

SPECIAL CASE.

The plaintiff is the widow of the above-mentioned J. S. Walker, deceased, who before and at the time of his decease, and also at the time of the making and publishing of his last will and testament hereinafter mentioned, was seized in his demesne as of fee, of, in, and among other premises, the premises mentioned in the declaration in this cause, being a certain estate situate in the parish of Matlock, in the county of Derby aforesaid, called the Cuckoo-stone Dale estate, and also a close, piece, or parcel of land called the Short Butts, situate in the same parish and county. The said J. S. Walker being seized as aforesaid, on the 14th day of October, A.D. 1833, duly made and published his last will and testament in writing, duly executed and attested, so as to pass real estates by devise, and thereby gave and devised the premises mentioned in the said declaration (together with other

real and also personal property), as follows; and by the following description; that is to say,—

"I give, devise, and bequeath unto my friend Charles Else, of Matlock aforesaid, publican, and my wife's father, Richard Lill, of Doncaster, in the county of York, flax-dresser, their heirs, executors, administrators, and assigns, all and every my messuages, cottages, farm, closes, lands, tenements, hereditaments, and real and leasehold estates whatsoever, ate, lying, and being in the several counties of by, York, and Lincoln, or elsewhere in the kingdom of Great Britain, with their rights, members, and appurtenances, and also all my money and securities for money, and all other my personal estate and effects whatsoever and wheresoever, and of what nature or kind soever, not hereinbefore specifically bequeathed to my said wife (meaning the said Sarah Walker, the plaintiff), to hold the same unto and to the use of the said Charles Else and Richard Lill, their heirs, executors, administrators, and assigns, upon the trusts and for the ends, intents, and purposes, and with, under, and subject to the powers, provisoes, and declarations hereinafter expressed concerning the same (that is to say)."

And the said J. S. Walker then, by his said will, and in the subsequent part thereof, after creating certain trusts not material to the present question, declared and directed as follows; that is to say,—

"And as to all the real residue and remainder of my said real estates (which residue included and comprised the said premises mentioned in the said declaration), and also as to my said leasehold and personal estates, I direct that they, my said trustees (meaning the said Charles Else and Richard Lill), or the survivor of them, or the heirs, executors, administrators, or assigns of such survivor, shall and do stand possessed thereof and interested therein, in trust, from and immediately after my said daughter (meaning one Betsy Walker, in the said will mentioned) shall attain her said age of twenty-one years as aforesaid; or in case of her death before that age, then from and immediately after that event to pay unto or permit and suffer my said wife, Sarah Walker, or her assigns, to receive and take the rents, issues, profits, interest, and proceeds thereof, as the same shall from time to time become payable, for her own use and benefit during the term of her natural life; and from and immediately after her decease, then that my said trustees (meaning the said Charles Else and Richard Lill), or the survivor of them, or the heirs, executors, administrators, or assigns of such survivor, shall and do stand possessed of the same real, leasehold, and personal estates, in trust for all and every or such one or more of the child or children, whether male or female, of her, my said wife, lawfully begotten, for such estate and estates, interest and interests, and in such parts, shares, and proportions, manner and form, and subject to such charges and payments to any one or more of such child or children, and with and under such restrictions, limitations, and powers, with or without power of revocation, as she, my said wife, whether sole or covert, and notwithstanding her coverture, at any time or times during her life, by any deed or deeds, writing or writings, to be by her sealed and delivered in the presence of, and attested by, two or more credible witnesses, or by her last will and testament, or any codicil or codicils thereto, or any writing or writings purporting to be, or in the nature of, her last will and testament, or codicil or codicils, to be by her signed and published in the presence of, and attested by, three or more credible witnesses, shall direct, limit, or appoint, or give, devise, or bequeath the same; and in default of such direction, limitation, or appointment, gift, devise, bequest, then in trust for all and every the child and children of her my said wife; if more than one, in equal shares, as tenants in common, and to their several and respective heirs, executors, administrators, and assigns for ever. But in case my said wife, Sarah Walker, shall happen to depart this life *without leaving lawful issue as aforesaid*, then I give, devise, and bequeath the said residue of my said real estates (which residue included and comprised the said premises mentioned in the said declaration), and also my said leasehold and personal estates, unto and to the use of the heirs, executors, administrators, and assigns of my said wife (meaning of the said Sarah Walker, the plaintiff) for ever."

The said J. S. Walker, after making his said will, died, seized as aforesaid, on the 8th day of Nov. A.D. 1833, without having altered or revoked his said will.

The said Betsy Walker, the said testator's daughter, attained the age of sixteen years on the 19th day of February, 1844.

The said plaintiff, Sarah Walker, is the same Sarah Walker as is mentioned in the said will as the wife of the said testator.

The premises mentioned in the said declaration were and are comprised in and part of the said residue of the said real estates of the said testator.

The appendix to this case contains a copy of the whole of the said will; and it is hereby provided and agreed, that such copy shall be considered as incorporated in, and constituting a part of, this case, and shall and may, by the Court, counsel, and all parties, be referred to, used, and treated accordingly.

The question for the opinion of the Court is, whether the said Sarah Walker, the plaintiff, on the 23rd day of April, 1844, was entitled, under and by virtue of the said will of the said J. S. Walker, to an estate in fee-simple, subjected to be defeated only in the event of having a legitimate child, of and in the premises mentioned in the said declaration, and called respectively the Cuckoo-stone Dale Estate, and the the Short Butts.

If the Court shall be of opinion in the affirmative, then the defendant agrees that a judgment by confession of 10*l.* damages, or otherwise as the Court may think fit, shall and may be entered for the plaintiff immediately after the decision of this Court; but if the Court shall be of a contrary opinion, then the plaintiff agrees that a judgment of *nolle prosequi*, or otherwise as the Court may think fit, shall and may be entered against her immediately after the decision of this case, and in either event, judgment shall be entered up accordingly.

The case was argued in Michaelmas Term last, by *Kinglake*, Serjt. (with him *Fitzgerald*), for the plaintiff, and by *Channell*, Serjt. (with him *Willes*), for the defendant; when the following authorities were cited: For the plaintiff, *Crump* v. *Norwood* (7 Taunt. 362); *Rex* v. *Marquis of Stafford* (7 East, 521), *Doe* v. *Perryn* (3 T. R. 484); *Doe dem. Herbert* v. *Selby* (2 B. & C. 926); Fearne, Conting. Rem. 8th edit. 373. For the defendant, *Doe dem. Todd* v. *Duesbury* (8 M. & W. 514). *Cur. adv. vult.*

JUDGMENT.

TINDAL, C. J. now delivered the judgment of the Court.—The question before us in this case arises upon the will of John Sybray Walker, whereby he devised all his real estate to trustees and their heirs, to the use of them and their heirs, upon trust, as to the purposes mentioned in the special case, after a particular devise, on which no question arises, to permit and suffer his wife Sarah, the plaintiff, to receive the rents and profits for her own use, for the term of her natural life, and after her decease, in trust for all and every such one or more of her child or children, for such estates and interests as she should by deed or will appoint. And in default of appointment, in trust for the children of his wife, if more than one, equally, and to their several and respective heirs; and in case his said wife should die without leaving lawful issue as aforesaid, then he devised the said real estates unto and to the use of the heirs of his said wife for ever. As the trustees took a legal estate under this devise we are placed under some difficulty by reason of the established rule of the Courts of Westminster Hall, as to giving our opinion on a question which relates to the equitable estate; and it is only in consequence of the urgency of the counsel on both sides, and their consent that the case should be considered as if actually amended by stating a devise of the legal estate unto the devisees of the same quantity as those given to them in equity, that we proceed to give our judgment herein. The question stated in this special case for our consideration is, whether Sarah Walker, the plaintiff, is entitled to an estate in fee-simple, subject to be defeated only in the event of her having a child; and the whole argument before us has proceeded upon the question whether the event on which the limitation of the remainder in fee to Sarah Walker depends is or is not too remote; it being con[illegible]ded on both sides, that if that limitation depends on an indefinite failure of issue in Sarah Walker, the plaintiff, it would be considered as being too remote, whereas if it depends on her dying without leaving issue at the time of her death, it would be a good limitation. The general rule of construction of wills, as established by a long course of decided cases, is, that the words "dying without leaving issue," unless they are qualified or controlled by other words, must be taken to refer to an indefinite failure of issue. So in an executory devise over, which is made to depend on general failure of issue, it would be on the ground of being too remote. The point to be considered, therefore, is, whether the testator has shewn on the face of the will an intention that those words should receive a more qualified construction. The testator gives by his will an estate for life to his widow, with a contingent remainder in fee to her children, in case she has any, and immediately afterwards proceeds to make the provision in question, in case she should die without leaving lawful issue, "as aforesaid." And we think those words of reference, "as aforesaid," do manifestly shew an intention of the testator that the general word "issue" should be construed to mean children; for the words aforesaid," must necessarily refer to some description of issue which has been already mentioned in the will; and as the only mention in the will of any issue of the wife has been the mention of the children of the wife, we think that the necessary inference is, that the testator, by the word "issue," meant children. If the limitation over depends on the wife dying without leaving children, then, consequently, there can be no objection to it on the ground of remoteness. It may not, perhaps, be altogether correct to state the question in the precise form in which it has been stated in this case, namely, whether the wife took an estate in fee-simple, subject to be limited only in the event of her leaving a child; for, provided the wife had any children, the remainder would go to the children, and the remainder over to the wife in fee would seem to be a contingent remainder, and consequently the estate of the wife would not only be liable to be defeated by the vesting of the remainder in the children, but also by any act of the tenant of a particular estate, which would defeat the contingent remainder; and after a child is born, the devise over to the wife would be an executory devise, according to the doctrine laid down in *Doe dem. Herbert* v. *Selby* (2 B. & C. 926), which in its facts very much resembles the present. This consideration, however, does not affect the determination of this case. Upon the grounds we have stated, we give judgment for the plaintiff for 10*l.* according to what we were given to understand in the course of the argument was intended to be the agreement between the parties.

Judgment for the plaintiff.

Thursday, May 8.

CONWAY and OTHERS v. NALL.

The "notice of a prior act of bankruptcy," required by the 2 & 3 Vict. c. 29, is not of an act which is likely to be committed, but of one which has been committed. A notice, therefore, of a declaration of insolvency having been signed is not sufficient.

Quære, if a general notice of an act of bankruptcy having been committed will satisfy the statute?

In this cause a feigned issue was directed under the Interpleader Act, to be tried, in which issue Mason and others, assignees of the defendant John Nall, a bankrupt, were made plaintiffs, and Conway and others, the above-named plaintiffs, were made defendants, and in which the question was, whether the defendants in such issue were or not entitled to the proceeds, or any part thereof, of the sale of certain goods and chattels which were formerly the goods, chattels, and property of the said John Nall, and which were theretofore taken in execution at the suit of the defendants in such issue, under a judgment against the said John Nall.

At the trial of such issue before Tindal, C. J. at the London sittings after Michaelmas Term last, the following facts appeared:—

The plaintiffs, being defendants in such issue, had commenced an action against Nall for the recovery of a debt due to them of 135*l.* 12s. 1d. in which action a judge's order had been made, by consent, for payment of the debt, interest, and costs within a certain time, and in case of default, the plaintiffs were to be at liberty to sign final judgment. On the 28th March, 1844, final judgment was signed on this order for 146*l.* 2s. (being the amount of debt, interest, and costs), default having been made in payment thereof according to the terms of the order. On the 2nd April following, a writ of *fi. fa.* was received by the undersheriff at Derby, and in the afternoon about one o'clock of the 3rd April, the officer at Chesterfield entered and levied thereunder on the goods of Nall. It appeared also, that Nall, the bankrupt, being pressed for money by Messrs. Robertson, of Chesterfield, his bankers, signed on the 1st April a declaration of insolvency, which was filed in the office of the Lord Chancellor's secretary, at eleven o'clock in the morning of the 3rd April (being at the opening of the office), on which day a docket was struck, and a fiat in bankruptcy issued thereon against Nall on the following day.

On the 2nd April, Mr. Gillet, the solicitor of Messrs. Robertson, wrote to the plaintiffs the following letter:—

"Chesterfield, April 2, 1844.

Gentlemen,—To save you expense, I think it right to inform you that Mr. John Nall, of this place, grocer, has committed an act of bankruptcy. He signed a declaration of insolvency yesterday; my clients, Messrs. Robinson and Brodhurst, bankers, here, are the principal creditors, and are in possession of all his property, for the equal benefit of creditors. Nall will be declared bankrupt immediately; I have sent for a fiat. I am afraid he is deeply in debt, and that his estate will produce but a small dividend. He, however, states otherwise. I am, Gentlemen, your obedient servant, "JOHN GILLET."

"To Messrs. Conway and Co."

The letter reached town on the 3rd April, early in the morning, at nine o'clock, but there was no distinct evidence at what time the plaintiffs received it. The sheriff having sold under the execution, the question at the trial of the issue was, whether the above letter was sufficient notice of an act of bankruptcy, within the meaning of 2 & 3 Vict. c. 29. A verdict was found for the plaintiffs, the assignees, with 1s. damages, leave being reserved to the defendants in such issue to move to enter a verdict for themselves.

Sir *Tho*[illegible] *Wilde* having in Hilary Term last obtained a rule *nisi* accordingly,

Talfourd, Serjt. now shewed cause.—1st. As to whether the execution had been effectually executed, or levied before the fiat, the s[illegible]t having taken place till afterwards. *Whitmore* v. *Robertson* (8 M. & W. 463) shews that the 2 & 3 Vict. c. 29 has not repealed the 6 Geo. 4, c. 16, sec. 108. [CRESSWELL, J.—You must have to contend that a judg-

ment founded on a judge's order, is in the same position as a judgment obtained by *nil dicit*, which you will find rather difficult.] Then, secondly, as to the sufficiency of the notice. It may be doubtful whether the letter means to give notice of a specific act of bankruptcy which is in progress, and has not been completed, or whether it does not give a general notice of an act of bankruptcy having been committed, and which may therefore be satisfied by proof of any prior act of bankruptcy. It is however admitted that the letter conveyed sufficient information to put the plaintiffs on their guard. *Spratt* v. *Hobhouse* (4 Bing. 173 & 182), where Gaselee, J. says:—"If they had good reason to believe that he was a bankrupt, they ought to have acted on it; it was not necessary that they should be absolutely certain of the fact, for notice does not mean knowledge. The point has been raised, but never expressly determined, whether a general notice of an act of bankruptcy is sufficient. It came before the Court of Exchequer in *Rounsey* v. *Elton* (10 M. & W. 22) and *Hocking* v. *Acraman* (12 M. & W. 170), in the last of which Parke, B. says—"I do not think we are called on to decide whether notice should be given of some specific act of bankruptcy. It might happen that the party was aware of some act of bankruptcy, and if he knew that an act of bankruptcy had been committed, I am not prepared to say that would not be deemed sufficient." Here, if the notice referred to a specific act of bankruptcy then already in progress, it was at least complete at the time, as far as the bankrupt himself was concerned, and it was in fact completed before the sheriff entered.

Sir *Thomas Wilde* (*Bovill* with him), in support of the rule.—The course of the law and the intention of the legislature of late years have been to relax the rule which formerly prevailed in favour of acts of bankruptcy, to the destruction of the securities of particular creditors. The 2 & 3 Vict. c. 29 is to make valid all executions *bona fide* executed or levied before the date of the fiat, unless the person at whose suit such execution issued had at the time notice of any prior act of bankruptcy by him committed. It is submitted that the word "any" cannot be satisfied by a general notice of bankruptcy. The notice should be such as to enable the creditor at the moment to decide whether he is to act on it or not. It ought to be something more than what would set a person upon a course of inquiry. But the question does not arise here, for the notice in this letter points to a specific act of bankruptcy. [Tindal, C. J.—Yes, you may take it as conceded that this notice applies to that particular act of bankruptcy which was then in progress. The question will therefore only be, what is the effect of such notice?] It was inoperative, because the declaration of insolvency had not then been filed, and there was therefore at that time no act of bankruptcy at all. It can never be said that a person had notice of an act of bankruptcy because he had notice of a paper having been signed which might or not become an act of bankruptcy.

Tindal, C. J.—The question in the present case turns upon the proper construction to be put on the statute 2 & 3 Vict. c. 29, s. 1, the proviso in which is that the persons so dealing with such bankrupt, or at whose suit such execution shall have issued, had not at the time of such dealing, or at the time of executing or levying such execution, notice of any prior act of bankruptcy by him committed. The meaning of this appears to me to be that the party is to have notice of an act of bankruptcy complete in itself. Let us now see whether any act of bankruptcy, as described in the present notice, comes within such meaning of a prior act of bankruptcy. The 6 Geo. 4, c. 16, s. 6, enacts that "if any such trader shall file in the office of the Lord Chancellor's secretary of bankrupts a declaration in writing signed by such trader, and attested by an attorney or solicitor, that he is insolvent or unable to meet his engagements, the said secretary of bankrupts or his deputy shall sign a memorandum that such declaration hath been filed, which memorandum shall be authority for the printer of the *London Gazette* to insert an advertisement of such declaration therein." There are, therefore, two steps to be taken before the declaration of insolvency is an act of bankruptcy; first, it is to be filed; when filed, it is no doubt a complete act of bankruptcy as far as the bankrupt is himself concerned; but next the Lord Chancellor's secretary of bankrupts, or his deputy is to sign the memorandum as an authority for its being gazetted, before the act of bankruptcy can be complete. Here the notice is only that Nall had signed a declaration of insolvency. It is, therefore, only something *in fieri*, which might or might not afterwards become an act of bankruptcy, according to the steps which might be taken. The utmost is, that a party receiving such notice might infer that an act of bankruptcy was about being committed. Now I do not find that the words of the Act are that an act of bankruptcy is likely to be committed; but they are, "notice of any prior act of bankruptcy by him committed." The notice in this case ought therefore to be made absolute.

Coltman, J.—I am of the same opinion. It seems that there was an act of bankruptcy committed before the execution was levied, but that is not sufficient to vest the property in the assignees, unless the creditor had at the time of execution notice of an act of bankruptcy. Now it appears here, all that the creditor had was notice of its being likely that an act of bankruptcy would be committed; and it does not appear that he had any knowledge of any act of bankruptcy which had been completed; the clause in the statute is not, therefore, satisfied.

Cresswell, J.—There were two points raised in behalf of the assignees. The first one, which was as to the fiat being before the sale, is, I think, settled, the execution creditor being entitled to the proceeds if the levy is before the fiat, unless the creditor had at the time such notice as is required by the statute. Then it was said that the notice was sufficient, and that a general notice of an act of bankruptcy would satisfy the statute. The words of the statute are, "any prior act of bankruptcy," not, notice that he has become a bankrupt. If the words had been so, then indeed the argument in favour of a general notice of bankruptcy being sufficient would have been stronger than it is. However, it is not necessary to determine now that point, as the letter here points to something which is specific. I agree with the rest of the Court in thinking that that notice is not sufficient; it may be only requisite that the party should have such notice as that it may be inferred he necessarily knew that an act of bankruptcy must be committed when certain acts were done; but this is by no means the effect of this letter.

Erle, J. concurred. *Rule absolute.*

Wednesday, May 7.

Doe dem. Wyatt v. Byron.

A sub-lessee may stay proceedings in ejectment, upon payment of rent, &c. under the statute 4 Geo. 2, c. 28, s. 4.

This was a rule obtained this Term by *Byles*, Serjt. calling on the defendant to shew cause why the order made by Maule, J. of the 24th April, 1845, should not be rescinded. That order was, that on payment to the lessor of the plaintiff of the rent of the premises in respect of which the action in ejectment was brought, together with the costs, the proceedings therein should be stayed, with liberty for the lessor of the plaintiff to proceed on any other title.

The premises in respect of which the action was brought were held by Wyatt, the lessor of the plaintiff, under a lease from the Bishop of London. Wyatt had subdemised the property to a person of the name of Steel, and Steel had again subdemised the same to the defendant and other persons, as trustees, for the benefit of themselves and the rest of the creditors of Steel. The ejectment was brought for a breach of covenant in the non-payment of rent, and the question was, whether the stat. 4 Geo. 2, c. 28, s. 4 extended to cases where the rent and costs were tendered by a sub-lessee.

Talfourd, Serjt. (*Addison* with him) now shewed cause.—*Downes* v. *Turner* (Salk. 597) is an authority that, before the statute 4 Geo. 2, the Court would stay proceedings upon payment of rent: so also is *Smith* v. *Parkes* (10 Mod. 383). Since the statute, the Court will not, *after* a trial, grant the application, as by the statute it is expressly required that the payment or tender should be *before* the trial. (*Roe d. West* v. *Davis*, 7 East, 363; *Doe dem. Harris* v. *Masters*, 2 B. & C. 490.) But it is submitted that there is nothing in the statute to otherwise deprive the Court of the discretionary power it before possessed of staying proceedings in the action on payment of the rent in arrear. The 4th section must apply to under-lessee as well as to assignee. The word "tenant" is a word of signification large enough for that purpose.

Byles, Serjt. in support of the rule.—There is no case or precedent where the Courts have interfered at law to stay the proceedings, except where the application has been made by a party liable on the covenants in the lease. The word "tenant" is not to be read as the tenant in possession, but the lessee, as appears from the language of the second section, where it says "in all cases between landlord and tenant," and afterwards goes on to say, "landlord or lessor." In that second section, where the legislature intended to provide for the case of sub-lessees, the language is very different from the language in the fourth section, where it may therefore be presumed the legislature did not intend it should so extend. In the second section it is, "in case the lessee or lessees, his, her, or their assignee or assignees, or other person or persons claiming or deriving under the said leases;" but in the fourth section it is only provided "the tenant or tenants, his, her, or their assignee or assignees, do or shall at any time before the trial," &c. The latter part too of the fourth section enacts, "if *such* lessee or lessees, his, her, or their executors, administrators, or assigns," &c. This would seem to confine the meaning of the word "tenant" to that of lessee.

Tindal, C. J.—I do not decide this on any of the particular circumstances of the case under which it would appear that the original lessor has got himself in some difficulty on account of the peculiar construction of the lease by which there is no right of entry except for breach of covenant to pay rent;—that was the fault of the landlord himself, which he might have prevented, either by providing that the right of entry should be extended to the breach of all the covenants, or by preventing the power to underlet except upon terms. The question turns upon the construction to be put on the 4th section of this Act; and, in construing it, one must not be confined to that 4th section, but must see whether any other part of the Act will give effect to it. If we compare the 4th with the 3rd section, the result ought to be that the former comprehends an underlessee. The word "tenant" is sufficient to include a person who may be an underlessee. The 2nd clause of the Act is clearly in favour of landlords, and bars and forecloses all relief in law or equity where judgment has been recovered in ejectment without paying the rent in arrear within a certain time. The words there used are, "in case the lessee or lessees, his, her, or their assignee or assignees, or other person or persons claiming or deriving under the said leases;" it is therefore clear that the persons there contemplated are persons in possession of the land, either as lessees, assignees, or sub-lessees. Now the 4th section is to give benefit to tenants, and one would expect that it has reference to a class of persons who, by the Act would otherwise be barred from claiming such remedy; the words there are "if the tenant or tenants, his, her, or their assignee or assignees, do or shall at any time before the trial in such ejectment, pay or tender to the lessor or landlord," &c. "or pay into court," &c. "all the rent and arrears, together with the costs, then and in such case all further proceedings on the said ejectment shall cease and be discontinued." It would be singular if the Court should give a stricter meaning to the word "tenant," in this 4th section than is given to it in the 2nd section, where it bars the person answering the description of tenant from his claim, and where it is shewn to extend not only to lessee but under-lessee. The 4th section there says that nevertheless, if the rent be paid, the proceedings shall be stayed; therefore I think that means if the payment is made by one who derives a title to the property. The 4th section is a remedial one, and should not be narrowed in its construction.

Coltman, Cresswell, and Erle, JJ. delivered similar judgments. *Rule discharged.*

Brooks v. Roberts.

Where an appearance has been irregularly entered by the plaintiff for the defendant, the motion by the defendant should be to set the same aside, and not only to set aside the declaration and subsequent proceedings.

Channell, Serjt. shewed cause against a rule calling upon the plaintiff to shew cause why the declaration which had been filed in this cause, and all subsequent proceedings, should not be set aside for irregularity, and why the plaintiff should not pay to the defendant his costs occasioned by the same. The objection on the part of the defendant to the proceedings, was that he had never been served with a copy of the writ of summons, nor had had any notice of the same until after an appearance had been entered for him by the plaintiff under the statute. It was now urged that the present rule was informal; it should have been to have set aside the appearance, if the same had been improperly entered, for if the appearance remained unimpeached, the filing of the declaration and other subsequent proceedings were regular.

Shee, Serjt. contrà.—The appearance was a nullity, unless done in conformity with the requisites of the Act, which requires that there should be an affidavit of personal service. The declaration cannot be regularly filed unless the appearance has been properly entered, which cannot be, for want of personal service.

Tindal, C.J.—I think that this rule should be discharged, on the ground of the informal manner in which it has been moved. It seeks to set aside the declaration which has been filed, for irregularity; but, in fact, there appears no objection to that. The rule should have been to have set aside the appearance to the process on which the subsequent proceedings have been founded. In *Hasker* v. *Jermaine* (1 C. & M. 408), where the writ was irregular, but the service was regular, and the defendant moved to set aside the service for irregularity, the Court discharged the rule, Bayley, B. saying, "You might have moved to set aside the writ and the service. We cannot say that the proceedings are more irregular than you state them to be. We cannot get at the writ to say whether it is regular or irregular." And in *Edwards* v. *Danks* (4 Dowl. 357), where proceedings were taken on a bail bond before default in the original action, it was held, that the mode of taking the objection was by moving to set aside the writ itself, and not the service of it. Lord Abinger there said, "The motion should have been to set aside the writ itself. This motion supposes a defect in the service which does not exist." So here, this motion supposes a defect in the declaration which does not exist, and therefore we cannot set it aside,—the motion should have gone higher.

Rule discharged.

MURRAY v. SILVER.

A rule for a discontinuance is a violation of a rule which is drawn up with a stay of proceedings.

Channell, Serjt. shewed cause against a rule calling on the plaintiff to shew cause why the rule obtained by the plaintiff should not be set aside. The rule by the plaintiff was to discontinue the action, and the same had been obtained on the 23rd April last. On the 19th of that month the defendant had obtained a rule for a judgment in case of a nonsuit, which had been drawn up with a stay of proceedings. The 23rd April, the day on which the plaintiff obtained his rule to discontinue, was the day on which the defendant's rule was drawn up for, but the defendant was not entitled to have made his rule absolute until the following day, the 24th. The question was, whether the rule to discontinue was a proceeding in the cause within the meaning of the rule staying proceedings. It was submitted on the part of the plaintiff, that it was not, as the rule meant only something done in furtherance of the cause.

Dowling, Serjt. contrà, relied on *Lowe* v. *Peacock* (Barnes, 316). [CRESSWELL, J.—That was calling upon the other party to shew cause in that cause, and was therefore requiring them to do something in the cause. Here all the plaintiff does is to discontinue.] The plaintiff has no right to discontinue without the leave of the Court.

TINDAL, C. J.—It is very difficult to say that a discontinuance is not a step in the cause, because in order to perfect it the plaintiff must go on to get the defendant's costs taxed, which would manifestly be a step in the cause. I, therefore, should rather have been inclined to have considered it a step in the cause, and as there is a case for saying so, that of *Lowe* v. *Peacock*, and I do not see any thing to dispute the authority of that case.

The rule must be absolute.

BUSINESS OF THE WEEK.

Thursday.

WALL v. SQUIRES.—*Channell*, Serjt. shewed cause against a rule for setting aside the sheriff's return to a *ca. sa.* *Byles*, Serjt. in support of rule, not called on. *Rule absolute.*

CHAPLIN v. ACTON.—*Byles*, Serjt. shewed cause against a rule for judgment in case of a nonsuit. *C. Jones*, Serjt. contrà. *Rule discharged.*

Re THOMAS WHITE.—*Murphy*, Serjt. moved for a rule to enter up judgment for amount of master's *allocatur*. *Rule nisi.*

GIBB v. KING.—*Byles*, Serjt. applied for the costs the defendant had been put to in being brought up to be charged in execution. *Granted.*

MARTINGALE v. FALCONER.—*Dowling*, Serjt. shewed cause. *Channell*, Serjt. in support. *Rule discharged.*

BARNES v. PRICE.—The Court said that the plea being not matter of excuse, but of discharge, the replication of *de injuriâ* was bad.

Judgment for defendant.

REGISTRATION APPEALS.

Wednesday, April 30.

WEST RIDING OF YORKSHIRE.

BAXTER, Appellant—NEWMAN, Respondent.

County voter—Shares conferring interest in realty.

Freehold land and premises purchased out of partnership funds, subscribed by various shareholders for the carrying on of a partnership trade, were 'ed in trustees for the benefit of the shareholders, . part of the partnership stock in trade, with a declaration of trust that the land and premises should be considered in the nature of personal and not real estate.

Held, that inasmuch as the trusts were only regulations for the better carrying on of the joint trade by means of such land and premises, and were not inconsistent with an equitable seizin of the freehold in the copartnership, each of the shareholders had a vote for the county, provided the amount of shares of each was sufficient in value to confer one.

The material facts set forth in this case were the following:—The qualification in respect of which Jonas Bateman and several other persons claimed to vote for the West Riding, consisted of freehold shares in a mill, houses, and land situate in the township of Pudsey, in the polling district of Bradford. The claimants, together with other persons, subscribed several sums of money, for the purpose of carrying on a partnership trade in a fulling-mill, out of which money freehold lands were bought and conveyed to certain trustees in fee, and a mill and premises were built on these lands. A deed of partnership was executed between the parties, by which deed the trusts of the land and of the mill, premises, and machinery were declared to be, among others, that the joint concern, trade, and business should be carried on in the names of the trustees; that the estates and property of the partnership should be vested in the trustees, who should at all times stand seized and possessed thereof, upon trust, for the benefit of themselves and their partners, as part of the partnership joint stock in trade; and that the lands so purchased, and the mill and premises then intended to be built thereon, should be considered as or in the nature of personal estate, and not real estate. The mill was built according to the terms of the deed of partnership, and the concern was managed by a committee of the shareholders, the committee being in the occupation of the mill and premises, and employing servants to work it. The shareholders did not carry on the trade jointly, but each shareholder brought his own cloth to be fulled at the mill. If any other person who was not a shareholder brought cloth to be fulled he was charged a certain sum for the use of the mill, which was paid to the committee, and every shareholder who brought cloth to the mill to be fulled was debited with the same sum so charged for what was fulled, and the amount was carried to his debit in the general account made up at the annual settlement of the profits arising from the use of the mills. The trustees had borrowed money on their bonds, for the purposes of the partnership, but the trust property was not pledged as a security for its repayment. The amount of shares possessed by each of the claimants was sufficient to confer a vote, provided the interest acquired by such shares could be considered as an interest in real property. The revising barrister allowed the votes. The questions for the opinion of the Court were, whether the shares could be considered as a legal or equitable interest in real property, and also whether the money borrowed was to be considered as a mortgage of the shares. If the Court should be of opinion that the shares under the deed of partnership could not be considered either as a legal or equitable interest in real property, or that the money so borrowed ought to be a charge on the shares, then the votes were to be disallowed; otherwise to remain.

The case was argued last Hilary Term by *Hildyard*, Q.C. for the appellant, and by *Martin*, Q. C. for the respondent, when the following authorities were cited: *Bligh* v. *Brent* (2 Y. & C. 268); *Bradley* v. *Holdsworth* (3 M. & W. 422); *Barker* v. *May* (9 B. & C. 194); *Ex parte Lancashire Canal Company* (1 Mont. & Bli. 94); and *Attorney-General* v. *Mangles* (5 M. & W. 120). *Cur. adv. vult.*

JUDGMENT.

TINDAL, C. J. now delivered the judgment of the Court.—In this case there were thirty-seven persons who claimed the right of voting for the West Riding of York, in respect of the qualification described in a list of freehold shares in a mill, houses, and lands. The revising barrister found that the amount of the share possessed by each of the claimants in the real property in the company was sufficient to confer a vote, provided the interest acquired by such share could be considered as an interest in the real property. The objection taken before him was, that the interest acquired by the several claimants as the owners of such shares, was an interest in personalty only, and not in land; but the revising barrister overruled this objection, as well as another which applied solely to the cases of two of the claimants, Bateman and Brookbank, to which objection we shall afterwards advert, and he allowed the votes of all the other claimants. We are of opinion the revising barrister was right in his decision, and that the votes of the several claimants ought to be allowed. That the claimants took no legal interest in the real property is placed beyond doubt. The freehold land was purchased with the money contributed by the several claimants and by other shareholders, and conveyed to trustees, unto and to the use of the their heirs and assigns, absolutely, the trusts subject to which the trustees were seized being declared by the copartnership deed subsequently executed by the trustees, and the several members of the copartnership thereby created. The only question therefore is, whether these claimants state such equitable interest in the realty as will by law give them a right to vote; for under the provisions of the 7 & 8 Wm. 3, c. 25, 18 Geo. 2, c. 18, 2 Wm. 4, c. 45, and the 6 & 7 Vict. c. 18, a person seized in equity shall have the same right to vote as if he had a seizin in law of a freehold estate of the value of 40s. by the year, according to the provisions of the statute 5 Hen. 6. And the ground on which we consider these claimants ought to have such right is this, that the property of which the trustees are seized in trust for the benefit of the shareholders, who form the copartnership, is freehold land, and that the copartnership by the committee are in possession thereof: that the trusts declared by the deed are no more than agreements or regulations entered into between the copartners for the better carrying on their joint trade by the means of such land and the mill erected thereon, and are not trusts which are inconsistent with an equitable seizin of the freehold in the copartnership; and, lastly, that it is found by the revising barrister that the amount of the shares of each of the claimants in the real property in the company is sufficient in value to confer a vote. It is undoubtedly true, as was urged at the bar, that the trusts declared by the copartnership deed are such, that a court of equity would deal with the real property as personalty, so far as it was necessary to carry the intention of this trading copartnership into execution. In general there can be no question that, for all purposes necessary to effectuate the intention of the parties, personal estate may be considered as real, and real estate as personal, by a court of equity, as in the ordinary instance of money agreed or directed to be laid out in land; so, in the instance of a real estate under an absolute trust and direction to sell; and against this general rule our decision in the present case will not in any manner militate; but, notwithstanding this acknowledged doctrine of the Court of Equity, no one can deny that the land still remains land, and nothing else, and there is no authority or decision that, for the collateral purpose of giving a vote, which has no bearing on, or reference whatever to, the subject, the legal deed of copartnership, or the right of the *cestui que* trust, should not remain just as they would have been without such declaration of trusts. For as to the declaration by the copartners in the deed, that the lands and buildings should be deemed and considered as of the nature of personal estate, and not real estate, we think the generality of these words must necessarily be limited by the subject-matter of the trusts declared by the deed, and that they can extend no further than the object and purposes that the deed required. And further, we think it may be considered to be a very doubtful question, whether the private agreement of parties, or any authority short of an Act of Parliament, can deprive the owner of a freehold of the right of voting for a member of Parliament, which is a right inherent in the owner of the freehold, not for his own benefit, but for the community of which he forms a part. But however that may be, it appears to us such right is left altogether untouched by the objects and purposes for which the trusts of the deed now under consideration are created and declared. This deed declares no trust whatever of the freehold. If, as it at the same time appears by the statement of the case, the land was purchased with the money of the shareholders, it follows that, under the present deed, there was a resulting trust as to the fee-simple of inheritance for their profit, so that each of them would be entitled to a share in the beneficial interest therein, proportioned to his share of the purchase-money. The copartnership deed does not alter the proportions in which the partners are interested, nor does it confer upon a stranger any portion of the interest in the land; it only regulates the mode in which the property shall be managed and enjoyed, according to the quantity of interest that each shareholder has therein of the estate. To use the language of Lord Eldon, in *Crawshay* v. *Maule* (1 Swanston, 521), when speaking of a freehold estate purchased by a partnership for trading purposes, "the estate, though personal in enjoyment, is freehold in nature and quality;" and it is to the nature and quality of the estate we are to look, and not to the mode of enjoyment, when we have to decide whether it confers a vote. It was objected on the part of the appellant, that the case of *Bligh* v. *Brent* (2 Y. & Col.) was an authority against the claimants, inasmuch as it proved that the shares of a company, the profits whereof were derivable from land, would be personal property, not real. But we think it sufficient to advert to the broad ground of distinction between that case and the present. In the case referred to, the company (that of the Chelsea Water Works) was a corporation created by an Act of Parliament, and chartered by the Crown, of which the individual shareholders were coproprietors; the whole of the real property was vested in the corporation aggregate, which had the sole management and control thereof, having the power to convert it into personalty, and back again into realty, at their pleasure, the individual corporators having, as individuals, no more interest the freehold than a perfect stranger, and no interest in the surplus profits of the concern until they were actually earned. In the present case, the freehold is tate for the benefit of the individual copartners, ... trade managed and conducted by a committee appointed by themselves. In many other cases of shareholders in joint-stock companies, where the company has been incorporated by Act of Parliament, the legislature has expressly declared that the shares shall be deemed personal estate, and transmissible as such, and not of the nature of real property. Such was the case of *The Vauxhall Bridge Company*, *The Lancaster Canal Company*, and others, in which cases it may be well conceded there could be no freehold interest in the several shareholders so as to entitle them to vote; whereas in the case before us there is no other than a voluntary declaration by the parties themselves that the real estate shall be considered as personal. Upon the principle, therefore, that lands and mills built thereon are the basis and subject-matter of the declaration out of which the profits arise which are to be distributed amongst the shareholders; that the trusts related only to the management and conduct of the land and mill, and the trade carried on by means of the same; that there is no trust declared which is inconsistent with an equitable interest in the respective copartners; that the copartners are, by their committee, in possession; and, lastly, that the amount of each man's shares is sufficient to enable him to vote, we think the shareholders had an equitable seizin in a sufficient estate to enable them to vote for the county. As to the objection raised against the right of the two claimants, Bateman and Brookbank, we see no ground whatever for considering the money borrowed by the trustees on bonds and notes as having the

effect of a mortgage upon their shares, and indeed such objection was little relied upon in argument. On the whole, we think the decision is right, and ought to be affirmed. *Decision affirmed.*

COURT OF EXCHEQUER.

Wednesday, May 7.

MARRIOTT v. THE DUKE OF NORTHUMBERLAND.

Notice to set aside an award.

In this case, *Wortley*, Q.C. moved to set aside the award, on the ground that the refusal of evidence by the arbitrators, and that two of them (there being three) had proceeded with the award in the absence of the third. *Rule nisi.*

STEEL v. BENHAM and ANOTHER.

Semble, in order to render a plea an issuable one, it is not necessary that it should constitute an absolute defence if proved, but it is sufficient if it raises a fair and arguable question.

This was an action brought by the indorsee of a bill of exchange against two of three acceptors thereof. The defendants pleaded, amongst other pleas, that the drawer of the said bill had waived his remedy against one of the acceptors of the bill, by certain circumstances set out in the plea, of all of which it was alleged the plaintiff had notice, and that thereby the other acceptors were discharged. The plaintiff signed judgment, on the ground that the plea was not issuable.

A rule having been obtained by *Jervis*, Q.C. to set aside the judgment,

Martin, Q.C. now shewed cause.—The parties were under terms to plead issuably. Now it cannot be contended that this is an issuable plea, for even if true, it is no answer to the action.

Jervis, Q.C. in support of the rule.—Waiver of acceptance is a good plea. The real question that will arise on this plea is whether one of three acceptors can, after the bill has been returned to his hands for a valuable consideration, pass it to another person, who may sue the other two acceptors. Now, it is contended that he cannot.

POLLOCK, C.B.—Surely, if a bill gets into the hands of a firm, one of whom may be one of the acceptors of a bill, the firm may pass that bill away.

Jervis.—Even that may be very doubtful; but if so, that is not the case here. The facts are, that a bill is drawn by one Wood, who is also the payee, on Harmer, Benham, and Leyton. Harmer takes the bill from Wood before maturity, giving a valuable consideration for it, and then hands it over to Steel, the present plaintiff. These facts are set out in the plea, and are, it is contended, a good defence, it being alleged that the plaintiff had notice; at all events, the plea raises a fair question, and is not so bad as to justify the plaintiff in signing judgment.

Cases cited: *Watley* v. *Tricker* (1 Camp. 36); *Foster* v. *Barker* (Peak. 249); *Richards* v. *Richards* (2 B. & Ad. 447); *Freakly* v. *Fox* (9 B. & C. 130).

ALDERSON, B.—I think the plea is an issuable one, although perhaps it does not raise a good defence; still it is a fair arguable question. The rest of the Court concurring,

Rule absolute to set aside the judgment.

HARRISON v. LAKE.

Where there has been an agreement between parties to deal as by way of barter, the party in whose favour there is a balance cannot maintain his action for such balance unless there has been an agreement that the balance shall be paid in money. Semble, that no lapse of time will alter the nature of this contract.

This was a rule obtained by *Bain*, calling on the plaintiff to shew cause why the verdict in this case should not be set aside, and a nonsuit should not be entered.

The action was in debt, for goods sold and delivered, and was brought to recover the sum of 21*l.* 11*s.*, being the price of certain ochre, credit being given for 10*l.*

The defence was, that the agreement between the parties was to barter; and it appeared, that in 1841 a letter had been written by the plaintiff to the defendant, in which he said, "I have no objection to take 10 tons of ochre, if you will take paint, or other articles, from my shop in exchange." This was accepted by the defendant, who was thereupon supplied with goods by the plaintiff to the amount of about 21*l.* and about 10*l.* worth of ochre was sent to the plaintiff by the defendant. Soon after this, a letter was written by the plaintiff to the defendant, wherein he said, "When am I to expect some ochre to *balance our account?*" Soon after which ochre was sent to the plaintiff by the defendant to the value of 30*l.* This the plaintiff refused to accept, as being more than he wanted, and did not receive it, and the present action was brought for the balance remaining due for the paint, &c. after giving credit for the 10*l.* for the ochre first supplied. At the trial, after these facts had been proved for the defence, the jury, by the direction of the judge, found a verdict for the plaintiff, and leave was given to the defendant to move for a nonsuit, on the ground that the agreement between the parties was one of barter.

Archbold now shewed cause, and contended that there having been a statement of account between the parties, the plaintiff had a right to resort to the original consideration for the goods sold and delivered (*Ingram* v. *Shirley*, 1 Star. 185), particularly as he had waited from 1841 to 1845. [ALDERSON, B.—I do not see how time can alter the nature of the original contract. PARKE, B.—There is a contract here for barter, which has not been altered by any agreement to pay by money; that is the distinction between this case and *Ingram* v. *Shirley*. You should have paid yourself out of the ochre sent, and returned the rest.] Then there is no contract for barter at all. There is merely a proposition on one side, not expressly accepted by the other. [ALDERSON, B.—What do you say to the letter requesting the *balance in ochre*?]

Bain, contrà, was not called on by the Court.

By the COURT.—

Rule absolute to enter a nonsuit.

Re W. COBBETT.

Rescind motion to an order of this Court where the party against whom it is made has not been heard by counsel—Practice where it is on a habeas corpus—Costs.

Pashley moved in this case to rescind the order made herein, on the ground that it had issued improvidently. It appeared that the petitioner, who had been brought up by *habeas corpus*, had been remanded, and adjudged to pay costs. [PARKE, B.—You have been heard once; we cannot enter into this matter again.] No counsel was instructed in the matter when brought before the Court, and I wish to refer the Court to some authorities on the point which the petitioner was not acquainted with.

PARKE, B.—You can go to another court in which you have not been heard. I believe this matter has been heard in the Queen's Bench as well as here, but as it is an application for a *habeas corpus*, you are entitled to the judgment of each Court and of each judge; and therefore you may go to the Court of Common Pleas. If this was the only court in which you could be heard we might then, perhaps, under the circumstances, rehear the case.] Then the order is too large; it gives costs, which the Court has no power to do. *Rule nisi on the latter point only.*

Thursday, May 8.

CORNISH v. DAYKIN.

The affidavits of jurymen are not in general receivable to impugn or support a verdict, or even to explain the circumstances under which it was given; but when a rule has been obtained for a new trial, upon affidavits imputing misconduct to the jury, their affidavits may be received so far as they go to exculpate them and explain or deny the charges.

Crowder, Q.C. shewed cause against a rule which had been obtained by *Hayward*, Q.C. for a new trial, on the ground that the jury had tossed up for their verdict. The affidavits in support of the rule were made by persons who swore that they had seen one of the jury toss up a piece of coin; that several others of the jury were looking on, and that they then immediately turned round and delivered their verdict.

In answer to this were produced the affidavits of ten of the jurymen, which, among other matter, absolutely denied the charge made against themselves.

Hayward (*Greenwood* with him) objected to their reception, upon the ground that the affidavits of jurymen are in no case to be received to shew the circumstances under which their verdict was given. They cited *Straker* v. *Graham* (4 M. & W. 721); *Bryan* v. *Parker* (1 Keble, 811); and *Owen* v. *Warburton* (1 New Rep.).

Crowder and *Barstow*, contrà, admitted that generally the affidavits of jurymen were not receivable; but contended that they might be read for the purpose of contradicting imputations made upon the conduct or character of the jurymen themselves. They cited *Standwicke* v. *Hopkins* (14 L. J. Q. B. 16).

After hearing the case upon the facts, the Court delivered judgment as follows upon the question of the admissibility of the affidavits:—

POLLOCK, C.B.—It appears to me that this rule ought to be discharged. When a charge of this nature is made against the jury themselves, they ought to be permitted to answer it. None of us has any doubt at all about this, and we find our view confirmed by my brother Patteson on a very recent occasion in the case cited at the bar of *Standiwicke* v. *Hopkins*. There is also a case of *Bays* v. *Delaval*, in the first Term Reports, which is to the same effect. The rule will be discharged. *Rule discharged.*

EARL OF STAMFORD AND WARRINGTON v. DUNBAR and OTHERS.

As a general rule, the Court will always give costs to the successful party in an issue under the Tithe Act, unless he has disentitled himself by some misconduct of his own.

Whatelmest, Q. C. shewed cause against a rule obtained by *Cowling* to shew cause why the defendant, who had been the unsuccessful party in an issue under the Tithe Act, should not pay the costs to the plaintiff. The issue had been taken upon the award of the commissioner, which was in favour of the defendant, and the opinion of the commissioner was overruled by the Court. It was contended that, by analogy to the cases of new trials and writs of error, where costs are never granted where the opinion of the Court or judge below has been wrong, the Court in its discretion would not grant them in this case.

POLLOCK, C. B.—The rule we are disposed to lay down is, that in all cases the successful party shall have the costs, unless he is disentitled to them by some misconduct or some other act of his own. In all other cases we should give costs.

Rule absolute.

Tuesday, May 13.

WILLIAMS and WIFE v. WATERS.

Demurrer.

Construction of words in a marriage settlement under the Statute of Uses.

This was a demurrer to a plea, and the question for the Court was the construction that was to be put upon certain words contained in a marriage settlement which were set out in the plea; the words were as follow: "To have and to hold the said messuages, &c. &c. unto the said W. R. Howell and John Williams, and their heirs, to the only proper use and behoof of the said W. R. Howell and John Williams, for the use of the said Ann Jones, her heirs and assigns, until the said intended marriage, and after the solemnization thereof, in trust for the said Ann Jones, for the term of her natural life, for her own sole use, independent of the said Hugh Williams, her intended husband, his debts, control, or engagements; and from and immediately after her decease, to the use of the said Hugh Williams, his heirs and assigns, for ever."

The question for the Court was whether these words created a use, and thereby the legal estate passed under the Statute of Uses to the wife, or whether it was a special trust, and the legal estate was in the trustees.

T. W. Smith, in support of the plea.—It is clear that it was the intention of the parties to create a special trust, and if the Court can ascertain what the intention of the parties was, they will give effect to that intention. Now it was clear here that the parties did not intend the statute to take effect. The wife's receipt is mentioned as to be the discharge of the trustees, which would go to shew that the manifest intention of the parties was that the trustees should have the legal estate.

Cases cited: *Neville* v. *Saunders* (1 Ver. 415); *Jones* v. *Saye and Seal* (2 W. Saun. 11 B; 1 Equity Cas. 303); *Harton* v. *Harton* (7 Term. R. 652); *Barker* v. *Greenwood* (4 M. & W. 421); *Biscoe* v. *Parkes* (Ves. & Bea. 585); *Keene* v. *Deardon* (8 East, 248).

E. W. Williams, contrà.—My friend's argument is, that it was the intention of the parties that the Statute of Uses should not take effect. Now this cannot be so held; for it is submitted that the parties cannot prevent the operation of the statute even directly. [PARKE, B.—The only question is, whether you can construe this to be an active trust.] There are no functions here for the trustees. Perhaps it might be held that these words would be sufficient in the case of a will; but even that, it is contended, is very doubtful; but certainly not so in a deed. Now here is a trust for A and his heirs, for the use of B, and there is nothing to be done by the trustees, who have no functions, so as to turn this into an active trust.

Cases cited: *Doe* v. *Woodruffe* (1 M. & W.; Burton's Comp. 123); *Doe* v. *Bartop* (5 Taun. 382); *Brunton* v. *Langley* (2 Ld. Raym. 873; 2 Sal. 679); *Polemore* v. *Tindal* (2 Young. & Jer. 605).

PARKE, B.—It really comes to this; what is the meaning of the words "to have and to hold to the use of A and her heirs, independent of the debts, control, or engagements of her husband?" Now, do these words intend to convey an active trust? I think they are not sufficient to do so, or to give to the trustees the legal estate, I think that the legal estate is in Mrs. Williams.

ALDERSON, B.—This case seems to me to come within the very words of the Statute of Uses.

ROLFE, B.—There is nothing in these words to stay the operation of the statute. Now, it is perfectly clear here, that even in equity the wife would take the legal estate at the death of her husband; if, therefore, we were to hold that the legal estate is in the trustees, the wife, after the death of her husband, would have to take a conveyance from the trustees.

Judgment for the plaintiff.

DAVIS v. THOMPSON.

In a plea of abatement, it is not sufficient to pray "that the declaration be quashed." The plea must pray that the declaration and also the writ be quashed. Semble, if a writ be against several defendants, and the plaintiff elect to declare against one only, this abates the writ against the others who are not declared against.

This was a demurrer to a plea in abatement for the nonjoinder of a partner. The ground of demurrer was, that the plea concluded wrongly, by praying judgment of the declaration only, and not of the writ.

Peacock, in support of the demurrer.—The plea is ill; it should have prayed that the writ be quashed. [PARKE, B.—But this is the form of plea given by my brother Stephen, in his valuable book on pleading.] The foundation of a plea in abatement is, that it gives the plaintiff a better writ; now here, if the declaration only be quashed, the writ remains. (*Duppa* v. *Mayo*, 1 Saun. 284, note 4.) [PARKE, B.—Yes, but since the new rules my brother Stephen seems to think it is always proper to plead to the declaration; besides, you may have a writ against four, and declare against one. Now the writ may be right here, as it may be against both the partners.] But what then would be the judgment? [PARKE, B.—That the declaration be quashed.] The usual judgment has been *Capeter Billa*. [PARKE, B.—Yes, but this is since the Uniformity of Process Act, and I doubt if we can quash the writ, as we have no means of knowing whether it is right or not.] The plea ought to shew that. [PARKE, B.—The defendant has no means of doing that, as he cannot have oyer of the writ.] Then the Court will assume that the declaration follows the writ. All the old judgments in Com. Dig. pray judgment of the writ. [PARKE, B.—But there the proceedings were commenced by original writ; now this is a kind of anomalous proceeding under the statute.] Suppose the writ remains, and is only against one, we cannot issue another writ and declare against both; for if we do, one will plead the pendency of the writ against him. Now it is contended that the defendant must pray that the writ, as well as the declaration, be quashed; for as to the point put by the Court, that the writ may be against both, it is submitted, that even if it be so, the plaintiff, by electing to declare against one, has, in fact, abated it against the other; and that is really the way to solve the apparent difficulty. (Stopped by the Court, who called on *Jervis*, Q.C. to support the plea.)

Jervis, Q.C. (*Hurrell* with him).—The plea is good; if we were to pray judgment of the writ, they would reply that the writ was good; now we cannot pray *oyer* of the writ, and it may be that it is against both; and so we are in this difficulty, and could not plead in any other way. [PARKE, B.—The argument of Mr. Peacock has got rid of the difficulty I felt at first; if you explain the writ by the declaration, the point is made clear, and it must be, that if the writ be against several, by electing to declare against one, you, in fact, abate the writ against the others; if so, then, of course, you must pray judgment of both declaration and writ. You had better amend. ALDERSON, B.—You certainly ought to get rid of the whole suit, which can only be done by praying judgment of the writ as well as the declaration.]

Jerris elected to amend, on which the other party consented to declare against the other parties; the attorney for the defendant undertaking to apppear for him. *Rule accordingly.*

Tuesday.

MIDGELY *v.* RICHARDSON. *Cur. adv. vult.*

BURGES *v.* ASH.—*Petersdorf* appeared for the plaintiff; no one appearing for the defendant.

Judgment for the plaintiff.

BLACKSTONE *v.* WETHERAL.—*Peacock* appeared for the plaintiff; no one appeared for the defendant.

Judgment for the plaintiff.

Thursday.

HEATH *v.* UNWIN.—*Martin*, Q.C. shewed cause against a rule obtained by *Jervis*, Q.C. to review the Master's taxation. As to part, *Rule absolute.*

—— *v.* WATSON.—*Re* THOMAS MEWBURN, an Attorney.—*Martin*, Q.C. for a rule calling on Mr. Mewburn to shew cause why he should not refund certain money received by him in this action.

Rule nisi.

VIZETELLY *v.* WICKTOFF.—*Cornie* shewed cause against a rule obtained by *Petersdorff*, calling on the defendant's attorney to shew cause why an appearance should not be entered for the defendant pursuant to the statute. *Rule discharged with costs.*

EXCHEQUER CHAMBER.

ON ERRORS FROM THE COURT OF QUEEN'S BENCH.

(Argued February 1, 1845; Determined May 9, 1845.)
(Before TINDAL, C.J., PARKE, ALDERSON, ROLFE, and PLATT, BB. and CRESSWELL and COLTMAN, JJ.)

KING *v.* SIMMONS.

1. ***A writ of error does not lie on a feigned issue under the Interpleader Act, 1 & 2 Wm. 4, c. 58.***
2. ***Such a writ was quashed, on motion, by the Court of Exchequer Chamber.***

In this case *Pashley*, on behalf of the plaintiff in error, had obtained a rule on the 26th November to shew cause why an order of Mr. Baron Gurney, directing the case to be put down in the paper, should not be set aside, and why defendant's second joinder in error should not be set aside for irregularity, with costs, and why defendant in error should not pay the costs of this application. It appeared from the affi-davit upon which he moved, that the joinder in error by the defendant was delivered on the 19th of November, and on the 20th he obtained an order of Mr. Baron Gurney to set down the case for argument. On the 21st the defendant delivered an *amended* joinder in error. *Pashley* now submitted that the judge had no power to make any such order, and that the defendant in error could not amend the joinder in error without the leave of the Court. At the same time, *Watson*, for the defendant in error, obtained a cross-rule to quash the whole proceedings, on the ground that no writ of error lies on a feigned issue, and the writ had only been brought by collusion and by delay to keep the plaintiff out of his money, of which he had been defrauded by the defendant through a gross conspiracy. It was arranged that both rules should stand over for argument together, and accordingly on the 1st of February *Pashley* appeared to shew cause against *Watson's* motion, and *Watson* and *Cleasby* in support of it.

Pashley.—In this case an issue was directed under the 1 & 2 Wm. 4, c. 58. The defendant was an execution creditor and the plaintiffs were assignees of a bankrupt. A bill of exceptions was tendered to the direction of the judge. The Court below have given a formal judgment. Whenever a Court below has given a formal judgment, there may be ground for a writ of error, but it cannot be quashed on motion. The question raised is, whether a writ of error lies at all in such a case? The 1 & 2 Wm. 4 was passed to protect sheriffs; the sixth sec. reciting that "difficulties arise in the execution of process against goods and chattels by reason of claims made to such goods, &c. by assignees of bankrupts and other persons not being the parties against whom such process has issued; whereby sheriffs and other officers are exposed to the hazard and expense of action, and it is reasonable to afford relief and protection in such cases to such sheriffs and officers." And the Act (sec. 1) provides two courses, one of a summary proceeding, by consent of the parties, and the other a proceeding *in invitum* before a jury. The Act (sec. 1) empowers "the Court or any judge to order the third party claiming the goods to make himself defendant in the same or some other action, or to proceed to trial on one or more feigned issue or issues, and to direct which of the parties shall be plaintiff or defendant at such trial;" but it never can have intended to authorize a judge to deprive the party of his writ of error. [TINDAL, C.J.—Could there be a writ of error when the court of equity directs an issue?] No. [ALDERSON, B.—But what is the difference? You might, in this case, get a new trial.] The writ of error is matter of legal right and not of discretion. A new trial is merely within the discretion of the Court, without any power of review. But the distinction between this issue and one directed by a court of equity is, that in that court there would be no judgment, and that *here* there *must* be a judgment signed. In *O'Connor* v. *Malone* (6 Clark & Finn. 597) Lord Cottenham said, "There can be *no judgment* obtained on a verdict given on an issue directed by the Court of Chancery." But here a judgment *must* be entered up. *Cooper* v. *Lead Smelting Company* (9 Bing. 634), where it was held that the successful party on an interpleader issue is not entitled to take out the money paid into court to abide the event till *judgment has been signed*. The power of compelling parties to interplead existed at common law, but only within certain narrow limits. It was confined to cases of *detinue* for the finding of a chattel. (Story on Bailments, ss. 110 to 112, and Equity Jurisp. s. 801.) The object of the 1 & 2 Wm. 4, was to extend the common law power to *all legal rights*. *It treats an action* and an *issue* as identical. The second section enacts that "the judgment in any such *action* or *issue* as may be directed, and the decision, in a summary manner, shall *be final* and *conclusive* against the parties." No distinction is made between the action and the issue. But it may be argued on the other side that the words "final and conclusive" shew that the Legislature intended that there should be no power of *reviewing* the judgment. That clause, however, must be construed to mean that it shall be conclusive, subject to the legal remedies at common law. Thus in *Rex* v. *Allen* (15 East, 333) it was held that a writ of *certiorari* to review the decisions of the Quarter Sessions is not taken away merely by an enactment that such decisions shall be conclusive;" and in *R.* v. *Jukes* (8 T. R. 542) the same principle is held where the statute had authorized the Sessions to hear and *finally determine* the matter. *Hartley* v. *Hooker* (Cowp. 523) and *Rex* v. *Wadley* (4 M. & S. 514) are both to the same effect. The common law privileges of the subject can only be taken away by *express words*. The stat. West. 2, c. 31, which gives the bill of exceptions, directs it to be allowed in every case where a party is *impleaded*. All the cases on this statute have gone on the principle that it must receive a most liberal construction. Sir Edward Coke (2nd Inst. 427) says, "It is an excellent law, made for advancement of justice and right;" and in commenting on the words of the Act, *cum aliquis implacitatur*, he says, that "regularly it extendeth not to a stranger to the record, which is not to come in lieu of the tenant, *yet* one that offereth to be received and is denied, albeit he be none of the parties to the suit, because *he is privy in estate, and to be in loco tenentis*, he shall have the benefit of this Act." In *Strother* v. *Hutchinson* (4 Bing. N. C. 83) the Act was held to extend to cases of nonsuit, and to the judge of a county court; Tindal, C. J. deciding the case on the commentary of Lord Coke, extending the words of the statute; and though in *Rex* v. *Preston* (Cas. t. Hardw. 249) it was held that the bill of exceptions did not lie on summary proceedings there, there was *no judgment* entered. Magna Charta gives the writ of error, and it cannot be taken away unless by express words, like the writ of *habeas corpus* or *certiorari*. (*R.* v. *Hanson*, 4 B. & Ald. 521, per Patteson, J.; *Reg.* v. *Stock*, 8 Ad. & Ell. 412.) Error lies from every court of record. (Com. Dig. Plead. 3 B. 7; Co. Litt. 117б.) Here there is a formal judgment. In Roll Ab. Error F. pl. 2, it is laid down that "if a man bring a writ of false judgment in banco on a judgment given in ancient demesne, and reverse the judgment, then a writ of error lies on that judgment, for it is *matter of record*." (*Pashley* also referred to 4 Inst. 105.) Error would lie in Parliament as a matter of right at common law. (4 Ins. 21.) *Lord Canterbury* v. *Attorney General* (1 Phil. 306-7), Com. Dig. Parl. L. 1. The 27 Eliz. c. 8, which first constituted the Exchequer Chamber, made it optional in the parties in certain cases to come to this court before appealing to Parliament. The Court, as at present constituted, derives its power from the 11 Geo. 4 & 1 Wm. 4, c. 70, s. 8, by which it is directed to hear writs of error *upon any judgment* of the superior courts. [ALDERSON, B.—Suppose an action brought in the Court of Queen's Bench by A against B, and B wishes to interplead, on the ground that C claims; the Queen's Bench stay the proceedings, and direct an issue to be tried between A and C. A bill of exceptions is tendered, and goes at once to the Court of Error and the House of Lords. Suppose C succeeds, it must go back to the Queen's Bench; but what is to prevent the Queen's Bench from giving A a new trial? Is not that an absurdity? The Act says "the decision shall be *final and conclusive*," and you say it is not. The case must end somewhere.] The House of Lords is the last tribunal. The words "final and conclusive" are not to be construed in one way when applied to one court and in another when applied to a different court. The same argument, if good at all, would have been applicable to the sessions cases. [ALDERSON, B.—The Act makes the decision as to the direction of the issue final. Why should the decision be final for some purposes and not all?] It might have been reasonable for the Legislature to take away the remedy of reviewing the opinions of the judges; but unless it clearly appears, by express words, that such *was* their intention, the common law right of appeal remains. Patteson, J. in this very cause, in the court below, said it was *a parliamentary issue, in invitum*, and the parties might wish to go to the House of Lords. The authority relied on by the other side would be *Snook* v. *Mattocks*, 5 Ad. & Ell. 239, where on a feigned issue to try the existence of certain customs in a manor, the Court of Exchequer Chamber quashed the writ of error, as it did not lie on such an issue. But that was a case of *mandamus*, where the Court has no power to direct an issue, except by the consent of the parties. It is an equitable jurisdiction, like that exercised under the stat. of W. 3 upon awards. The writ of error in *Snook* v. *Mattocks* was on the *form* of the issue, which could not be allowed after an agreement by the parties. But PARKE, B. said (p. 212), "We have entertained a *bill of exceptions* on such an issue. [*Watson* said that Parke, B. then referred to *Lewis* v. *Armstrong*, which was an issue out of Chancery, and was *by consent*. 3 Mylne & K. 45.] Consent cannot give jurisdiction, *Lawrence* v. *Willcock* (11 Ad. & Ell. 941); where it was held that the consent of the parties could not permit a case to be tried before the sheriff, which was not within the 3 & 4 W. 4, c. 42, s. 17. So in cases of arbitration. Lord Eldon said (14 Vesey, 267) that "before the statute, when persons were out of court, they could not, by any agreement, bring themselves into court, and create a jurisdiction to issue process of contempt." In *Snook* v. *Mattock*, Littledale, J. said it was unnecessary to decide the question, and Patteson, J. that it was doubtful. But secondly, this Court has no jurisdiction to quash the writ *on motion*. Its powers are conferred by the statute before referred to, the 11 G. 4 & 1 W. 4, c. 70. s. 8, and are limited to a *review* of the proceedings. In Cro. Cas. 142 (*Lord Say and Seal* v. *Stephens*) where it was held that a writ of error could not lie on an action of *scan. mag.* Croke, J. says, "I conceived it more proper to have the question disputed in the Exchequer Chamber, *when the writ of error shall be returned*, as it hath been in other cases where a writ of error hath been brought on a *scire facias*, and been adjudged that it lies not, than for us to dispute it being a matter of our own judging." The proper course is to apply to the House of Lords or the Lord Chancellor to grant the writ, *quia improvidè emanavit*. In *Davis* v. *Lowndes* (1 Philips, 328), the Lord Chancellor refused to interfere to quash the writ on motion, as it would thereby deprive the party of his appeal. And in *Jones* v. *De Lisle* (3 Bing. 125), the Court of Common Pleas adopted a similar course.

So here, the Court ought not on summary application to dispose of the very important point of their own jurisdiction.

Watson, contra.—To begin with the last point. All the cases shew that when the writ of error does not lie, the proper course is for the Court at once to quash it. The Court can only determine errors properly assigned. Mr. Tidd (vol. 2, p. 1162) lays down the rule. "The general ground of *quashing* a writ of error is, some fault *or defect* therein, not amendable by the statute; and the application to quash it ought to be made either to the Court of Chancery from whence it issues, *or to the court wherein it is returnable.*" The 4 Anne, c. s. 25, "For the preventing great vexation from ... ing out defective writs of error," enacts that, up ... the *quashing* any writ of error to be sued out for variance from the original record, *or other defect*, the defendant shall recover, against the plaintiff issuing out such writ, his costs." In *Lloyd* v. *Skutt* (1 Doug. 336), it was objected that a writ of error did not lie on an action of debt on the statute of usury, from whose judgment there had been error into the Court of Queen's Bench; the Exchequer Chamber held they were not the proper tribunal to be appealed to, but that the application to quash the writ ought to be made either to Chancery *or the Exchequer Chamber. Snook* v. *Mattock* (5 Ad. & Ell.) has settled the question. Besides, the Court is bound to award costs. Now, suppose costs were given on the affirmance or reversal of the judgment, and no writ of error lay, how could they be enforced? All parties acting on such a judgment of costs would be trespassers. Secondly, does the writ lie? The 27 Eliz. c. 8, gives the party wronged a writ "on any judgment in any *action or suit.*" Both lord Coke and Rolle expressly say there must be *an action.* "Issue" and "feigned issue" are terms well known to the courts. The court has a power to inform its conscience. In *Reg.* v. *Marriott* (12 Ad. & Ell. 35), the Court of Queen's Bench adopted this course. Under the Interpleader Act, two courses may be followed: either *the action* may be continued or another *action* brought, or secondly, an issue may be directed. In *Whitmore* v. *Robinson*, an action was directed instead of an issue, to give the parties all the benefit of it. [ALDERSON, B.—When the judge directs an issue, as he is authorized to do, he takes away all the right of demurring. ROLFE, B.—The judge is to decide "*finally*" whether or not it is a case of interpleader. Lord Cottenham has adverted to that as a great extension of power, as the judge is substituted for the Court of Chancery without appeal. In Chancery it would be a matter of decree, and might be taken to the House of Lords. CRESSWELL, J.—What is to prevent the Court of Queen's Bench from ordering that the money may be paid out either before or after judgment? ALDERSON, B.—What power of restitution is there, if they do so order?] Suppose a feigned issue, drawn up without any breach assigned, could the Court go into that question of irregularity? [ALDERSON, B.—Do not these absurdities and inconsistencies shew that the decision must be for all purposes "*final and conclusive?*" TINDAL, C. J.—The machinery that governs the writ of error is not applicable to this proceeding.] In *Clayton* v. *Lord Nugent* (8 Jur. 870), in reference to the case of *Lewis* v. *Armstrong*, which was cited to shew that a bill of exceptions had been carried to a court of error, in such a case as this, the Vice-Chancellor Bruce said, "Was that an action or an issue?" It makes all the difference. The motion for the new trial is made on one side of Westminister Hall in the one case, and on the other in the other case. The bill of exceptions, without a suit of error, is a nullity. It only lies when the parties have been *impleaded.* Here they have not. The writ of error is therefore a nullity, and the bill of exceptions and the writ must be quashed.

Cleasby (on the same side).—First, the writ of error is brought to review a judgment, and rectify error in it; and the question, whether it ought to be brought, is necessarily a preliminary one, before the Court can proceed to look at the judgment. They cannot affirm or reverse the judgment till it is decided whether the proceedings are properly before them. The ... course is to quash the writ if it is improperly brought. It is no answer that the objection appears on the face of the record. The com... case put by the statute of Anne is of a variance, and which appears by comparison between the writ and the record. There is a variance *here.* The writ of error alleges an *action* which is not on the record. [ALDERSON, B.—When the Court has no jurisdiction, what is to be done but quash the writ?] ... *Ricketts* v. *Lewis* (2 C. & J. ...) the Court ordered ... to be struck out of the papers in such a case. Then, secondly, the writ of error does not lie. It is nugatory, and ends in nothing. The issue is not brought to *recover* any thing, but merely to ascertain a fact. The judgment is entered up, in pursuance of the directions of the statute; but all is a fiction. [ALDERSON, B.—It would be quite sufficient to find the issue, without any damages or costs.] The 7th sec. of the Interpleader Act, directs the rules to have the force of a judgment. Surely all of them could not be subject to a writ of error. The case of *Cooper* v. *Lead Smelting Company* was the case of a *stakeholder.* This is a sheriff's case, and the judgment could not be entered as in an action. If so, it would be irregular, and might be set aside. (*Dickens* v. *Eyre*, 7 Dowl. P. C. 721.) There is *no cause* here. The defendant in error has all protection; there is no writ in error, and no costs for delay of execution. It would be, therefore, a great injustice to hold that the writ lies in such a case.

Cur. adv. vult.

May 9.

JUDGMENT.

TINDAL, C. J. now delivered the judgment of the Court of Error. On the motion of Mr. Watson to quash the writ of error in this case, two questions arise, both of them deserving of consideration: the first, whether any writ of error lies on a judgment of the Court of Queen's Bench on a feigned issue directed under the Interpleader Act (1 & 2 Wm. 4, c. ...); the second, whether this Court, if the writ of error does not lie, has the power to quash it. The first question is of considerable importance and some difficulty, and depends upon the construction of the Act. It was argued, and with great appearance of reason, by Mr. Pashley, that it could not be supposed to be the intention of the legislature to deprive either of the litigant parties of the rights to which they would respectively have been entitled if it had been an action; in which case they would have been enabled to tender bills of exception and sue out writs of error; consequently, it must be supposed the Act intended that both rights should be retained where the proceeding was by an action on a feigned issue, and that the judgment on a feigned issue may have been conjectured to have been required by the 71st section, for this very purpose, it not being usual to enter up any judgment on an ordinary feigned issue directed by the Court of Chancery or a court of common law. It is impossible to deny that there is a great deal of weight in this argument; but, on the other hand, it is clear the statute does not proceed upon the principle that the rights of the litigant parties should remain unimpaired, for it unquestionably does deprive them of some which they would have had if there had been no Interpleader Act. For instance, they cannot, on a judgment of that description, have such costs as otherwise the parties would have been entitled to according to the event. The rules and orders may undoubtedly be made both with regard to an action or an issue joined and conducted in a different way from that which these parties would have been entitled to insist on at common law, and issues which under compulsory prov... may be required, and where matters which are inadmissible in these actions ought to be received in evidence if the justice of the case should appear to require such a course. All these are *pro tanto* infringements on the strict rights of the parties which the legislature sanctions for the sake of giving a speedy and less costly remedy than by a bill in equity, and which it recites in the preamble is attended with expense and delay, and therefore to require a remedy. With this view the decision of a judge in a court of common law often becomes of considerable ...ety, where the case is one in which the interpleader ought to be allowed as final; whereas, in a similar case, before the statute cited, the parties would have had the right of appeal to the House of Lords. These considerations lead us to think that it was not the intention of the legislature, in requiring the judgment to be entered on a feigned issue, to give the litigant parties the power of bringing a writ of error. Had it been meant that the judgment should be capable of being removed by a court of error, it would have been provided that it should resemble an ordinary judgment in an action. A judgment without that right would have been an anomaly, if it had been meant to be subject to a writ of error. The probability of this was averted by the second section to avoid the doubt which would have arisen if the statute had provided that the verdict should be final, and then it would have been questionable if the Court had any power to remove it or set it aside; but had the Court given judgment, the verdict would be satisfactory, and the case finally disposed of. In effect, a feigned issue and the judgment thereon, is no more than an interlocutory proceeding in another suit in the nature of an interlocutory judgment, wherein the Court have power subsequently to act in disposition of the rights of the parties, and it has been already decided that the judgment mentioned in the second section is not a judgment to be entered on record in the ordinary way, but in the particular manner pointed out in the 7th section. We cannot, therefore, conclude that the legislature intended that a feigned issue under the Act should have been other than the ordinary feigned issue directed by a court of equity or law, on which issue it is provided there can be no writ of error, and consequently no bill of exceptions. The object of the Act was to save trouble and expense in cases in which an interpleader is usually allowed; for the purpose of a more speedy and less costly decision of disputed rights, an equitable jurisdiction is given to some one judge, and a large discretion is vested in him, which is necessarily attended with some sacrifice of the strict rights of litigant parties. We think, for these reasons no writ of error will lie on the judgment signed in this cause which does not resemble a judgment in an ordinary action. The only precedent that has been cited to the contrary is *Lewis* v. *Armstrong*, being a proceeding by consent of the parties. The other question is, whether this Court has power to quash a writ in error? The argument for the plaintiff in error is, that the Court of Chancery has the power to quash a writ of error for any defect on the face of it; in fact, if it improperly issued, to remove the record which ought not to have been received. The court of error has no power to quash a writ of error except for some fault on the face of the writ itself; as where it appears that the name of one of several defendants appears where all ought to have joined, as in the case in Carthew on *Lord Raymond*, one where it is to remove it to a court of limited jurisdiction, as to the Exchequer Chamber, under the 27th Elizabeth, the action appearing on the face of the writ not to be that on which it is brought, being against an agent to recover wrongful ejectment against the principal. On the other hand, it is contended that the writ may be quashed, not only for the want of authority as looking at the writ only, but also for some defect whereby it appears on a comparison of the writ and the record sent up in pursuance of it, as, for instance, where it appears there is no judgment corresponding with that stated in the writ, which the court of error has the right first to examine; and we are of opinion that this position is well defended. The Act 4 Anne, c. 16, recognizes the power to quash for a variance from the original record, and gives costs to the defendant in error. This shews that the original record may be compared with that specified in the writ, for which *Hartup* v. *Holt* (5 Mod. 229) is a precedent, of such a judgment where the record sent up differed from that mentioned in the writ in the names of the justices of the Common Pleas, before whom the plea was heard. The principle appears, that a power is given to quash the writ as useless where they find the record sent up is not one which, with the commission conferred in the court of error, they have the power to examine; and this applies as much to the case where the record sent up is not a judgment which is to be examined at all; and such is the present case. It does appear the record is one which varies in the names of the parties or in ordinary particulars: besides, there is a variance in these particular names in this particular instance. Here the writ of error is to examine an error in an alleged judgment on an action between the parties, and the judgment produced is not a judgment in an action; and, consequently, as the Court has no power without this commission to decide whether there is any error or not, the proper course is to apply to quash the writ, as giving nothing to operate upon, and being idle and useless. This principle is acted upon in *Tolson* v. *Kay* (7 Scott, N.P. 222), in which the writ of error was quashed where there was no final judgment on the original record returned, and so nothing for the writ to operate upon. In *Snook* v. *Mattock* (5 A. & E. 239) there was a similar judgment, but it appeared the judgment was one in which no writ of error lay. It is true that in that case the Court of Queen's Bench have expressed a doubt as to the propriety of the decision; but it was probably on the ground that on the face of the record it did not appear that the issue was feigned. In this record as amended it does so appear, and the objection that has been so strongly urged against deciding this question on summary application, and thereby depriving the party of his appeal to a higher Court, is not well founded; for there can be no doubt but that a writ of error will lie on the judgment pronounced by this Court, which will be that the writ of error be quashed; therefore the rule is absolute, and the judgment must be that the writ of error be quashed.

Pashley then referred the Court to his own rule, which was discharged; but, like the other rule, without costs.

REG. *v.* ROWLEY.

On judgment for the relator in a writ of error on an information quo warranto, he is not entitled to costs.

In this case judgment had been given for the relator in an information *quo warranto*, for usurping the office of town councillor (*a*), and the master had proceeded to tax the costs as due to the relator. Whereupon *Gray* obtained (1st February) a rule to shew cause why the taxation should not be set aside, and the judgment amended by striking out the judgment for costs. He contended that no statute, by which alone the relator could be entitled to them, conferred any right upon him. The first statute on the subject is the 3 Hen. 7, c. 10, which, reciting that ofttime the *plaintiff or demandant* be delayed of execution, for that the defendant or tenant against whom judgment has been given, or *other that has been bound* by the said judgment, such a writ of error, &c. enacts that *the said person* or persons against whom the writ is sued shall recover his costs by direction of the justice before whom, &c. This statute only applies to real action and civil cases; and the expression "*other bound,*" means merely the

(*a*) See Report in Law Times, vol. iv, p. 177.

representative of the party suing in error. The next statute, 3 Jac. 1, c. 8, applies only to actions *for rent* or on *contract*. The 13 Car. 2, st. 2, c. 2, s. 9, extends the powers of the 3 Jac. 1, c. 8 to actions fo. not setting out tithes, or on promises, or on trover, covenant, detinue, or trespass. The 8 & 9 Wm. 3 c. 11, s. 2, gives costs to the defendant or tenan against the plaintiff or demandant in any act, plaint or suit. The 4 Anne, c. 16, s. 25, provides that on the quashing of any writ of error for variance from the record, costs shall be given to the *defendant i. error* as he would have had *in affirmance of the judg ment*. The provision is not applicable here. The 9 Anne, c. 20, which introduced the present mode o proceeding by information in the nature of *quo war ranto*, gives the costs of *prosecuting* the same. Bu that only applies to the *original* information, and no to any ulterior proceeding by error. The recen statute 6 & 7 Vict. c. 67, s. 2, gives costs in case of *mandamus* as in *personal actions*, but no provision exists for informations of *quo warranto*. A rule to shew cause was granted, which came on for argument on the 9th May, when

J. W. Smith shewed cause against the rule. It ha been the invariable practice of the Crown office to allow costs to the petition, and is so stated in the recent work of *Mr. Corner* on the *Crown-office Prac tice*, p. 107. The 13 Car. 2, st. 2, c. 2, s. 7, expressly provides that the *double* costs given by the act shall *not* extend to *informations*, which seems to shew that the legislature contemplated that the language of th statute would otherwise have clearly extended to *informations*. By the 9 Anne, c. 20, a private party was, for the first time, made a party to the pro ceeding by *quo warranto*. The question is whether the relator is in the position of a private plaintiff, so that the statute of Henry VII. may be applied to him? No express authority on the subject can be found, and the question must therefore be determined by the words of the statute. The officers of the Court have acted on this supposition: that by the 1 Wm. 4, c. 70, sec. 8 (Sir James Scarlett's Act), which remodels this Court, the judgment of the Court is a *new* judgment, substituted for the judgment below and that the same costs ought to be given as the relator would have been entitled to, if the origina judgment had been in his favour. In *The Queen* v. *Humphrey*, and *The Queen* v. *Langham* (not reported), the costs have been allowed by the Crown-office.

Alderson, B.—The statute of Anne empowers the Court of *Queen's Bench* to give costs.

Tindal, C. J.—You must make out your title expressly, which you cannot do by the statutes. These costs must be disallowed: and accordingly the Court, without hearing *Gray* in support of the rule, at once made it absolute.

Bankrupt and Insolvent Courts.

COMMISSIONERS' COURTS.

Monday, May 12.
(Before Mr. Commissioner SHEPHERD.)
Ex parte GOODE, *re* STROUSBERG.

In an affidavit of debt (under the 11th section of the 5 & 6 Vict. c. 122) by the indorsee against the maker of a promissory note, it must be stated that the note was made payable to order.

Where a summons under the above section is dismissed on a technical ground, it is in the discretion of the Court to allow to or refuse the defendant the costs of attending the summons.

This was a summons under the 11th section of the 5 & 6 Vict. c. 122, requiring Bethel Henry Strousberg, a trader, to appear before the Court of Bankruptcy in Basinghall-street, for the purpose of ascertaining whether he admitted the demand of Thomas Smith Goode, who claimed of him the sum of 80*l*. 10s. for a debt.

The affidavit on which the summons was founded stated, that Bethel Henry Strousberg "was indebted to Thos. Smith Goode, in the sum of 80*l*. 10s. upon and by virtue of a promissory note made by the said Bethel Henry Strousberg *in favour of Edward Bowyer*, dated Jan. 15, 1845, payable three months after date, for the sum of 80*l*. 10s. and indorsed by the said Edward Bowyer, to one George Greenwell, and by the said George Greenwell to the deponent, Thos. Smith Goode."

Sturgeon, on behalf of Strousberg, applied under the 33rd of the Rules and Orders in Bankruptcy, of the 12th November, 1842, to have the summons dismissed, on the ground that the affidavit on which it was founded was not in compliance with the 25th rule. The 25th rule directs that "every affidavit for summoning a trader, under the 5 & 6 Vict. c. 122, s. 11, shall state the nature of the debt with the same degree of certainty and precision as is now required in an affidavit to hold to bail by order of a judge in the superior courts at Westminster." This affidavit would not be sufficient for such purpose. It does not shew on the face of it that Strousberg was under any legal liability to Goode on the note. The affidavit states that the note was made "in favour of Bowyer," and indorsed by him; even if that is a sufficient description of Bowyer as payee of the note, the affidavit does not go far enough, it does not shew that Bowyer had power to indorse the note, or that the note was a negotiable instrument. To make the note negotiable it should have been made payable to Bowyer or order; and if so made, it should have been so set out in the affidavit. In the affidavit given in Mr. Tidd's forms, it is so set out. In the case of *Hodson* v. *Daniels*, before Lord Lyndhurst, C. B. at chambers, in Trinity vacation, 1833, an affidavit which stated that Daniels was indebted to Hodson, upon a bill payable to Sylvester, and by him indorsed to Hodson, was held insufficient, for want of the allegation that the bill was payable to Sylvester or order.

The cases of *Lewis* v. *Gompertz* (C. & J. 352, and 1 Dow. 319); *Woolley* v. *Escudier* (2 M. & Scott, 392), and *McTaggart* v. *Ellice* (1 Bing. 114), are authorities to .... that it must appear with certainty on the face of the affidavit, how the liability of the defendant arises.

Mr. Commissioner SHEPHERD.—The affidavit is not correct in form, it should certainly be stated that the note was payable to Bowyer or order.

Sturgeon now applied, under the 18th section of the Act, for the cost of attending the summons. That section left the Court no discretion as to the allowance of costs, but only as to the amount of costs to be allowed.

Mr. Commissioner SHEPHERD.—By the 33rd of the General Rules and Orders, any want of compliance on the part of the plaintiff (in the affidavit) with the rules and orders, may be waived by the defendant. I think the Court has the power of awarding costs or not in its discretion, and I think, as the defendant stands on a technical objection, he is not entitled to any costs, unless the technical objection be waived. I cannot give any costs.

Summons dismissed without costs.

(Before Mr. Commissioner FONBLANQUE.)
Wednesday, May 14.
Re HOCKER.

Where an insolvent had omitted to insert in his schedule several debts because he considered them to be illegal, the Court adjourned his examination for fourteen days, for him to ascertain if any of such debts were legal, and to file an account of such of them as should turn out to be legal debts.

Insolvent was opposed by a solicitor for Mr. Sibley, a creditor for 118*l*.

Insolvent had been in the habit of attending race-courses and betting, but had never kept any account of his winnings or losses. He had made a bet about thirteen weeks ago, which, if he lost, he should have no means of paying except out of the proceeds of any other bet he might by chance win in the meantime. The insolvent had some time since a bill of Mr. Hogard's for 26*l*., which he had not inserted in his schedule, because the consideration for the bill was illegal, being for money won on a race in 1840. There were also several sums which the insolvent owed to different persons for bets he had lost to them races, which he had not inserted in his schedule, as he considered them to be illegal.

His HONOUR, under these circumstances, adjourned the examination for fourteen days; insolvent the meantime to ascertain if any of the above debts were legal debts, and to amend his schedule by filing therewith a fresh sheet containing an account of such of the said debts as might turn out to be legal debts.

THE LEGISLATOR.

Summary.

THIS has been a week of holiday, and consequently barren of legislative news. Abstracts of the statutes that have just received the royal assent will be found below.

Imperial Parliament.

PRIVATE BUSINESS TRANSACTED.

BILLS READ A FIRST TIME.

Thursday, May 15.

Duke of Argyle's Estate.

BILLS READ A SECOND TIME.

Thursday, May 15.

Whitehaven and Furness Railway.
London and Croydon Railway, Four Bills.

BILLS READ A THIRD TIME AND PASSED.

Thursday, May 15.

Southampton Docks.

SESSIONAL PRINTED PAPERS.

Par. Num.
277. Convicts—Report of John Henry Capper, esquire.
271. Royal College of Surgeons—Copy of a Letter, &c.
292. Railways (Extension of Communication in various Districts)—Report of the Board of Trade.
278. Medical Bill—Memorial of the Senate of the University of London.
290. Navy (Ships Launched since 1800, &c.)—Return.
235. Railways (North Lancashire)—Map.
Education—Minutes of the Committee of Council, &c.
281. Bills—Banking (Ireland).
289. — Merchant Seamen's Fund.
282. — Field Gardens (amended).
293. — Scientific and Literary Societies.
291. — Military Savings Banks.
299. — Colleges (Ireland).
Revenue, Population, Commerce, &c.—Tables, Part 13 (Section A).
Population Returns (England and Wales, and Islands of the British Seas)—Parish Register Abstract, 1841.

THE MAGISTRATE.

Summary.

THE amended Bastardy Bill has become law at last; a copy of it will appear among the New Statutes in our next number. The forms have been subjected to considerable alterations; but it will be observed that the Act legalizes all *to the like effect*, and therefore those of Mr. SYMONS will be equally serviceable and equally safe. Those who possess them need not waste them. The forms prescribed by the Act are in the press, and will be ready in three or four days.

Will any members of the Verulam Society inform us what magistrates' forms would be the most useful and most in request, that we may first proceed with them?

CONFESSIONS OF PRISONERS.

MUCH doubt and conflicting opinion prevail as to the sort of caution which ought to be given to prisoners who, on their arrest or afterwards, make statements. It is well understood that if any thing be said which, partaking either of the nature of threat or bribe, has a tendency to induce the prisoner to make a confession, such confession is inadmissible. The principle of this rule was well stated by LITTLEDALE, J. in the case of *Reg.* v. *Court* (7 Car. & Pay. 486):—"The object of the rule is to exclude all confessions which may have been procured by the prisoner being led to suppose that it will be better for him to admit himself to be guilty of an offence which he really never committed." And Mr. Justice COLERIDGE, adopting this rule, has justly said that "the only proper question is, whether the inducement held out to the prisoner is calculated to make his confession an untrue one." This is a golden rule, and the best test of what does or does not exclude.

In order that a statement may be an inducement, it must hold forth a prospect of benefit to the prisoner from confession. Thus to say, "You knave, I will have you taken to prison," or words conveying a *mere threat*, do *not* exclude; for here there is no alternative held out—nothing to invite confession, but rather to induce denial. But where the words were, "*Unless* you give me a more satisfactory account I will take you before a magistrate," there clearly an alternative was held forth, and there was an inducement to confession, and the confession then made was inadmissible. (1 Leach, 291.) A mere exhortation to tell the truth will not exclude the confession; as where the words used were "Be sure you say nothing but the truth, as it will be taken against you," this did not exclude (*Reg.* v. *Holmes*, 1 Car. & Kir. 268, per Rolfe, B.), for there no prospect of benefit was held out to say one thing more than another. But wherever what is said implies that what a prisoner says may be used in his favour at his trial, the confession thereupon made is clearly inadmissible, although the prospect of benefit be only hypothetically stated: for there must be no prospect of benefit, or there will be inducement. It matters not whether the words be "may, would, might, shall, or will be used in your favour"; the very word favour is an inducement, and ought never to be used at all.

But the error is generally on the other side, and prisoners are most unnecessarily deterred from making statements which would often, if made, tend to the objects of justice. It is to this silly practice that we wish to direct attention. We venture to lay down a short, strong, and simple rule as to cautions—SAY NOTHING! Why caution the prisoner at all? Where no inducement is held out, there is no need to give a caution. No man will criminate himself of his own accord if he be innocent: if he be guilty, the sooner he confesses, the better for the ends of justice; the law is complied with, so long as there is an absence of inducement. Silence is amply sufficient.

J. C. S.

The following buildings are certified as places duly registered for solemnizing marriages, pursuant to an Act of 6 & 7 Wm. 4, c. 85:—The Independent and the Baptist Chapels, Newtown, Montgomeryshire; David Smith, superintendent registrar. Baptist Chapel, Sible Hedingham, Essex; O. Hustler, superintendent registrar. Norfolk-street Chapel, Sheffield, Yorkshire; John Watkinson, superintendent registrar. Pencae Chapel, Llanarth, Cardiganshire; George James Wigley, superintendent registrar.

THE LAWYER.

Summary.

SOME of the written judgments of the Term appear in this number; but next week will place in the hands of the Profession some very important ones delivered on Thursday, among which will be that in the great case of *Howard* v. *Gossett*, in which the judges have ruled unanimously against the privilege claimed by the House of Commons. Each of the judges read a written judgment, and the whole will occupy a very large space in our columns, for which we shall endeavour to provide by a double number; but its great value and interest will make excuses unnecessary, for it will be given *verbatim*, and probably will be the only authentic report of the case which will be placed in the hands of the Profession for many months. But the crowded state of our columns forbids comment on the many matters of professional interest which will be found in them.

COURT PAPERS.

CIRCUIT OF THE COMMISSIONERS FOR THE RELIEF OF INSOLVENT DEBTORS.

HOME SUMMER CIRCUIT, 1845, AS ALTERED.

John Greathed Harris, esq. commissioner, will hold his court for Sussex, at Lewes, on Friday, July 25, and not at Horsham.

PROMOTIONS, APPOINTMENTS, ETC.

[Clerks of the Peace for Counties, Cities, and Boroughs, will oblige by regularly forwarding the names and addresses of all new Magistrates who may qualify.]

The Queen has been pleased to confer the honour of Knighthood upon John Macpherson Brakenbury, esq. late her Majesty's Consul at Cadiz, Knight of the Royal Hanoverian Guelphic Order.

The Queen has been also pleased to confer the honour of Knighthood upon Charles Fellowes, esq. of Russell-square.

The Queen has been pleased to appoint William Arrindell, esq. to be her Majesty's Attorney-General for the colony of British Guiana.

Her Majesty has also been pleased to appoint E. F. Wylde, esq. to be Clerk of the Peace at Worcester, in the settlement of the Cape of Good Hope.

The Lord Chancellor has appointed the following gentlemen to be Masters Extraordinary in the High Court of Chancery:—Benjamin Thomas, of Birmingham, in the county of Warwick; Stephen Pilgrim, of Hinckley, in the county of Leicester; Alfred Fairfax Morgan, of Hockley, in the county of Warwick; Frederick Potts, of the city of Chester; and Edward Corser, of Birmingham, in the county of Warwick.

MEMBERS RETURNED TO SERVE IN THIS PRESENT PARLIAMENT.—County of Peebles—William Forbes Mackenzie, Esq., of Portmore, one of the Lords Commissioners of her Majesty's Treasury.

County of Denbigh—Sir Watkin Williams Wynn, of Wynnstay, in the county of Denbigh, bart.

THE NEW CORONER FOR WESTMINSTER.—Mr. Gell, after a very long period of service, has resigned the lucrative office of coroner for Westminster; and Mr. Bedford, the recently-appointed deputy-coroner, has been sworn in in his place.

LEGAL INTELLIGENCE.

JUDICIAL BUSINESS OF THE HOUSE OF LORDS.—Notwithstanding the very large number of appeal causes disposed of during the present session of Parliament—a number unprecedented in extent—the appeal list contains a great many cases yet to be heard; and petitions for appeals before the committee appointed every session to decide whether the standing orders have been complied with, or whether there is sufficient ground for appealing, are numerous. One day fixed for hearing causes of appeal has been lost, on account of "the parties not being ready," as the phrase runs, or, in other words, counsel not being instructed in time to make themselves masters of the merits of the case. When the House again assembles at the termination of the Whitsuntide holidays, viz. on Friday, their lordships will hear the arguments of counsel in *Camberwell* v. *Sir Colin Campbell*, which is appointed for that day, as well as *Reddie* v. *Higginbottom*, both Scotch causes. On the 19th of May judgment will be given in *Viscount Dungannon* v. *Smith*. The judges will be in attendance in the course of the month to hear the case re-argued by one counsel on a side of *Darley* v. *The Queen* (a writ of error from the Exchequer Chamber of Ireland). The appeal case, *The Mayor of Newcastle-upon-Tyne* v. *The Attorney-General*, will likewise be heard shortly after the recess. The petition of the appellants, *Lady E. R. Hastings and another* v. *the Marquis of Hastings*, has been received by the house, and referred to the Appeal Committee. With respect to divorce bills, which rather belong to the legislative business of Parliament than judicial proceedings, the number is unusually scanty; there having been but two only since Parliament assembled, and at present no more bills of that nature have been introduced. It is thought that Lord Brougham's Divorce (Privy Council) Bill has had some influence in limiting the number, as the parties are waiting to see whether it is likely to pass in sufficient time to afford them a cheaper mode of proceeding, the present being, as many people know, a very expensive one. It may be as well to mention that no day has yet been appointed for the second reading of that bill. As regards peerage cases, the applications for hearing the claims of parties to such titles and honours are likewise few—a smaller number, indeed, than usual. No days have at present been fixed for committees of privileges, but shortly after the holidays arrangements will be made to entertain them.—*Times*.

NEW VICE-CHANCELLOR.—We understand there is every probability of the government immediately appointing a vice-chancellor for this island, who will, of course, be an English barrister of some standing, in order that the public business of the island may suffer no interruption. The appointment, we learn, will be at the earnest solicitation of the lieutenant-governor himself.—*Isle of Man Paper*.

TRANSFER OF PROPERTY ACT.—We have ascertained, and have much pleasure in informing our readers, that a Bill is in course of active preparation, under the sanction of the Lord Chancellor, and will speedily be introduced, for repealing the whole, or at all events, the obnoxious clauses of this singularly ill-advised measure.

WILL OF THE RIGHT HONOURABLE CHARLOTTE DOWAGER-VISCOUNTESS CHETWYND.—The will of the Right Honourable Charlotte Dowager-Viscountess Chetwynd, late of Upper Brook-street, Grosvenor-square, who died on the 7th of April last, aged 73, was proved, on the 5th instant, by her daughter, the Hon. Charlotte Chetwynd, and the Hon. Mary Ann Chetwynd, the joint executrices, to whom the whole of her property is bequeathed, to be equally divided between them. The will is very short, dated the 12th of February, 1840, and signed "Charlotte Chetwynd." The personal estate sworn under 6,000*l*.

WILL OF THE LATE GEN. FREMANTLE.—Probate of the will and codicil of John Fremantle, of Tilney-street, Park-lane, St. George's, Hanover-square, esq. a Major-General in her Majesty's service, who died on the 6th of April last, has just been granted to his widow, Agnes Fremantle, the executrix. A power is reserved to Sir Thomas Fremantle, the executor, to prove hereafter. The personal estate in England sworn under 14,000*l*. He leaves the whole of his property in England and Ireland to be equally divided among his children, the share to each to be paid to them as they respectively attain the age of 21 years. The will is dated March 21, 1843, and the codicil on the day following, appointing his wife and Captain Charles Fremantle, R.N. to be the guardians of the minors.

WILL OF THE BISHOP OF ELY.—Probate of the will of the Right Rev. Joseph Allen, D.D. late Lord Bishop of Ely, who died at Ely, in the county of Cambridge, on the 20th of March last, aged 76, was granted on the 9th inst. to his daughter Ellen Allen, and to his two sons, George J. Allen and William Joseph Allen, esqrs. the executors and trustees, a power being reserved to his widow, Margaret Allen, to prove hereafter. Personal estates sworn under 40,000*l*. Bequeaths to his wife a life interest both in the funded property and landed estates, and directs that she may receive the sum of 500*l*. for immediate use, and leaves to her for her absolute use such furniture, &c., as she may select, the remainder he bequeaths to his children; but such articles as they may not require are to be offered to his successor to the bishopric, at a fair valuation. His books on divinity to be given, with the consent of his wife, to the dean and chapter of the cathedral church of Ely for the library. The property, after the decease of his wife, he bequeaths in the following manner:—His estates at Manchester he gives, devises, and bequeaths to his son, George J. Allen, and to his heirs for ever. Those in or near the county of Chester he bequeaths to his son, Wm. Joseph Allen, and his heirs. The East-India Stock he leaves to his daughter; and the residue of his property to be divided among his children. The will is dated September 23, 1844, signed "J. Ely." Witnessed by his butler and gardener.

WILL OF THE RIGHT HONOURABLE LUCY ELIZABETH COUNTESS DOWAGER OF BRADFORD—late of Park-lane, Middlesex, who died on the 20th of September last, has just been proved by her son, the Right Hon. George Augustus Frederick Henry Earl of Bradford, the sole executor. Bequeaths her money to her sons and daughter, and appoints the earl residuary legatee. The will is very short, and in her ladyship's handwriting, dated January 6, 1836, signed "Lucy Elizabeth Bradford," but not witnessed.

PROCEEDINGS OF LAW SOCIETIES.

SOCIETY FOR PROMOTING THE AMENDMENT OF THE LAW.

General Meeting, April 9, 1845.

Mr. Commissioner FONBLANQUE in the chair.

The minutes of the last meeting (the 12th of March last) were read and confirmed.

The report of the committee on the Law of Property on the following references—

To consider whether it may not be possible to obtain the benefit of some of the common forms used in conveyancing, by reference to Acts passed for that purpose.

To consider the practicability, by means of a legislative enactment, of incorporating the common forms used in ordinary deeds into legal instruments by way of reference.

Was further considered, and was confirmed.

The report of the committee on Common Law on the following proposition,

That all public or official documents purporting to be sealed by the authorized seal, or purporting to be certified by the authorized officer, shall be receivable in evidence without proof respectively of the seal, signature, or official character. That to this Act a proviso should be added, rendering it felony to forge or utter a false seal or signature. See 7 & 8 Geo. 4. c. 28, s. 11; 2 W. 4, c. 34, s. 9; art. 362, 363, 364, Criminal Consolidation Bill.

Was read, and the further consideration adjourned to the next general meeting.

It was referred to the Committee on the Law of Debtor and Creditor,

To consider the present state of the laws relating to imprisonment for debt, and the means of giving more efficient and complete powers over the property of, and of punishing, fraudulent debtors.

It was referred to the Committee on Equity,

To consider the expediency of establishing a court of trusts in Chancery, with a view to creating a system of public trust; so that any person making a will, or executing a deed for the settlement of property, may not be drawn to the necessity now existing of appointing some private persons executors of the one, or trustees of the other.

It was referred to the Committee on Criminal Law,

To consider the propriety of recommending the entire abolition of the punishment of death.

To consider the propriety of recommending the adoption of the plans of Captain Maconochie, for the management of transported criminals, as detailed in the accompanying papers, A, B, and C.

It was referred to the Committee on the Law of Property,

To consider the propriety of a declaratory or other enactment, relieving settlements and other dispositions of property from all doubt respecting the validity of springing and shifting uses, in surrenders of copyhold estates, the operation of the Statute of Uses upon testamentary limitations of uses, the force of the doctrine respecting limitations depending upon a possibility on a possibility, the distinction between gifts *per verba de præsenti* and *per verba de futuro*, and the doctrine of *scintilla juris*.

CORRESPONDENCE.

THE BAR AND THE PRESS.

TO THE EDITOR OF THE LAW TIMES.

SIR,—I cannot refrain from troubling you with a few lines with respect to the "wanton, pitiful, and dastardly outrage" committed by the *Times* newspaper, as the *Law Magazine* very properly styles it. I fear much that, if the whole Profession, of which some of the members have been and are thus grievously outraged, does not act in union and energetically, this shameful affair will blow over. The *Law Magazine* speaks of "the unanimous feeling of disgust." Now, what I want is, to bring this unanimous feeling of disgust to bear in reality against the object

of that disgust; and this, I doubt, will not be effected by the members of the Profession merely expressing their disgust at Westminster. A meeting should be called at once of all the members resident in or near London; and by leading members, if they will take the trouble. A resolution, condemnatory of the conduct of the *Times*, couched in the plainest and strongest terms, should be submitted to the meeting. This should be followed by a resolution, that no member of the Profession should or would thenceforth patronize that paper in any way. Each and every member of the Profession should be required to give a written assent or dissent to the resolution, with his signature attached to it; and it should be incumbent upon every member unable to attend the meeting to send his written vote by a friend or post. The resolutions should, therefore, be printed in the circulars calling the meeting. We should thus get to the bottom of the matter, and make out whether any member or members of the Profession itself is or are in league with the *Times*. The case is so very clear, that there is no room for quibbling. Each person must say, either "I am a gentleman, and independent of the *Times*, and will express my sense of this dastardly outrage;" or, "I have some little connection with the matter, and dare not vote for fear of being shewn up by the *Times* out of spite." Some members of the Bar to whom I have spoken are impressed with the idea, I regret to say, that it is impossible to affect the pecuniary interests of the paper. I differ from them most emphatically. If every member of the Profession as he ought, forbad its being read in his house, his chambers, or his club, that alone would be a heavy blow to it; but, besides this, let the advertisements inserted by the members of the Legal Profession be totally withdrawn, and what becomes of the daily supplement now published? The *Times* may date its gradual ruin from that day. I do not propose this out of a spirit of revenge, but of justice. It has not condescended to apologize even, or offer the least explanation. If the powerful support of the Legal Profession were withdrawn from the *Times*, and bestowed unanimously upon some other paper, it would put funds at the disposal of that paper quite sufficient to enable it to compete with the *Times* in acquiring early and the best intelligence, which constitutes, I believe, the pre-eminent excellence of that paper at present. I have read the *Times* constantly for some years, till I heard of this gross outrage from a member of the Oxford circuit. Your correspondent of Craven-street says, "He trusts the press will universally stigmatize," &c. I would not leave it to the press. The Profession is, in my humble opinion, imperatively called upon to come forward, defend itself, and display its own strength.

Your very obedient servant,

A BARRISTER.

May 15, 1845, Temple.

SALFORD CHARTER.

SIR,—I send you a copy of a letter and a paragraph inserted in the *Manchester Courier* of the 19th of April last, which will shew the source and explanation of the error in reference to this charter, which the *Liverpool Standard* and the *Law Times* have published, as well as the *Courier*.

I am, Sir, yours, &c.

JAMES H. HULME.

1, Bexley-street, Salford, May 8, 1845.

THE SALFORD CHARTER.

To the Editor of the Manchester Courier.

SIR,—A letter, headed as above, signed J. R. Y. having appeared in your paper of last Saturday, the writer requesting to be informed "by what new blunder, and by whom made, it is, that the Mayor of Salford cannot either issue or hear warrants or summonses, some of the county magistrates being in regular attendance each day for that purpose," and such inquiry being thus answered by you, "It is owing to a defect in the charter of incorporation, which does not empower him to do either," permit me, as the solicitor employed in procuring the charter, and as the clerk of the petty sessions held at the Salford town-hall, to endeavour to remove those erroneous impressions under which both of you seem to be labouring.

The Mayor of Salford, by virtue of his office is a justice of the peace during his mayoralty and the year following, and the present mayor does issue warrants and summonses, and adjudicates thereon in all cases arising with the municipal borough; within such limits he has equal powers with county justices; and it is for the transaction of business requiring more than one magistrate, and extending beyond the limits of the borough, that county justices sit with him every Wednesday, and on other days, when necessary. What your correspondent means by a "new blunder," and what you mean by a defect in the charter," it is difficult to conceive. The form used by her Majesty's Privy Council, in the charter granted to Salford, is precisely similar (except as to boundaries, &c.) to that used in the charter granted to Manchester, Birmingham, Sheffield, &c. and contains like powers, immunities, &c.; but allow me to remind you, that it is the 5 & 6 Wm. 4, c. 76, s. 57, and not the charter, which constitutes the mayor a justice of the peace; the blundering evidently rests with your correspondent and yourself, and for the purpose of remedying it, oblige me by inserting this explanation in your paper of to-morrow.

I am, Sir, yours, &c.

J. H. HULME.

1, Bexley-street, Salford, April 18, 1845.

[Mr. Hulme has pointed out where the error has arisen, into which, in the hurry of the moment, we were betrayed.—Ed. of the *Courier*.]

To Readers and Correspondents.

W. T. R.—*We have not heard of a projected new edition of* "Sugden on Powers."

AN ARTICLED CLERK.—*The letter on legal education is declined for want of room.*

Many communications relative to Advertising Attorneys and Sham Lawyers are unavoidably postponed.

E. C. (Stockport)—*The letter is much too long for insertion at this season; but he may be assured that it is not contemplated to apply any new scheme of education to Clerks already articled.*

J. L. W.—*The* LAW TIMES *does not give gratis opinions.*

T. C. A.—*There is such a useful book as he inquires about, entitled,* "The Lawyer's Common Place Book," *published by Spettigue.*

P. R. A. *must accept the same answer as we have given above to other correspondents on the same subject.*

NOTICE TO SUBSCRIBERS.

The Publisher begs to inform the Subscribers to the LAW TIMES *that the subscription for the current half-year should be transmitted in the course of the ensuing week, by those who wish to avail themselves of the advantages of prepayment.*

Members of the Verulam Society are requested at the same time to forward their subscriptions for the current year.

The pre-paid subscription for the current half-year of THE CRITIC, *henceforth to be published weekly, will be 8s. 6d. only.*

The Indices to the fourth volume being now completed, the numbers for binding may be sent, through the post, in parcels open at the ends, with a mark by which they may be known, and of which the Publisher should be advised by letter, as also how, when bound, it is to be returned. If sent by parcel, advantage may be taken of the opportunity to inclose other books for the binder.

The Volumes of the LAW TIMES, *handsomely and uniformly bound, at 5s. 6d. each, if forwarded to the Office; with the Solicitor's name and abode lettered on the cover, 1s. extra.*

An Alphabetical Index to the Cases in the current Volume of the LAW TIMES *always lies at the Office for the purpose of reference.*

THE LAW TIMES.

SATURDAY, MAY 17, 1845.

TO SUBSCRIBERS.

THE number of heavy judgments recently delivered, and the long arrear of reports and other legal intelligence which has accumulated, notwithstanding the supplement of last week, will compel us on Saturday next to adopt the enlarged sheet, and which the completion of the new printing machine will now permit. The next will, therefore, be a double number of the LAW TIMES.

THE NEW ORDERS IN CHANCERY.

THESE voluminous Orders are at length published. They would fill two or three LAW TIMES, and therefore in its columns they can only be published in parts. But inasmuch as, when in operation, they will be indispensable in the office, we have made arrangements with a Chancery barrister to edit a convenient pocket edition of them, with notes pointing out the changes they effect in practice, and a copious index by which ready reference may be made to any topic of which they treat.

This will form one of the publications of the Verulam Society, and it will be brought out with all speed compatible with completeness.

As the new Orders *do not come into operation until October*, the members and others may wait the appearance of this practical edition of them.

THE BAR AND THE PRESS.

THIS question continues to engage the attention of the Profession and the press. The *Times* has given no heed to the censures that have been so freely passed upon it in public and in private, nor does it make any sign of repentance or of alteration in its infamous course. So long as the misconduct is continued must rebuke and exposure keep pace with it.

It is fortunate that in the instance it has selected for the display of its malignancy its efforts can be so easily and effectually counteracted. Mr. Serjeant TALFOURD's reputation is already beyond the reach of the *Times*: to the public his name is familiar and his fame is known. The suppression of that name in law reports cannot harm him with the public. Nor, indeed, was that the design of the managers of the *Times*. Their aim was and is to injure him in his profession, by leading the attorneys to believe that he has no business, and consequently to induce them to give their briefs elsewhere. But this calculation will be utterly defeated now that the deception is known. The *Law Magazine* and the LAW TIMES have effectually informed, and will continue to inform, the Profession, why it is that Mr. Serjeant TALFOURD's name does not appear in the newspapers so often as it used to do. The attorneys, therefore, cannot and will not be imposed upon by the falsehoods of the *Times*. Happily there are few (certainly not one in ten) of all the attorneys in England and Wales who do not see the LAW TIMES, who do not look to it for reports of the *legal* proceedings of the courts, rather than to the *Times*, which caters more for the general reader than for the lawyer. Here they will see what the learned Serjeant is really doing; here his name will appear in its proper place; and, knowing that it is the practice of the *Times* to suppress it, the Profession will not be led by the *Times* in any of its reports, upon which it is now proved that not the slightest reliance can be placed, but will turn to some less tainted source for their information.

The *Morning Chronicle* has treated the subject in an article of great power, some parts of which we must lay before our readers:

This grave accusation has now been twelve days before the public. It has been, if we are rightly informed, the subject of indignant comment in the *Morning Advertiser, Morning Herald*, and *Law Times*—it has been the subject of daily conversation in Westminster Hall and in the Inns of Court; it has been the theme of alternate wonder and reproach among attorneys and clients; it has puzzled and disgusted the general public, lay as well as professional; and yet the *Times*, thus publicly charged, thus branded with malignant forgery and fraud, has come forth with no "confession and avoidance," still less with any indignant solemn denial. Although we had ourselves received many communications on the subject, yet we refrained from interfering in the matter so long as there was the slightest ground for hope that the *Times* might be able to give some explanation of so serious a charge. But our contemporary is still silent. To bully and bluster would not do in such a case, to brazenly back out of the scrape is manifestly impossible, and therefore the *Times* holds its peace, and suffers judgment to be recorded against it, pretty

much in the manner of the sailor, who, when tried and convicted before the late Sir John Silvester of stealing a quadrant, and asked what he had to say why sentence should not be passed on him, exclaimed, "It's a d—d bad business, and the less that's said about it the better."

But though this may be the silent *tactique* of the *Times*, all branches of the profession, and all branches of the press, have a common interest in having this scandalous breach of trust—this *fraud and deceit—this giving false and mutilated evidence of what occurs in a court of justice*—punished, exposed, and held up to the indignant reprobation of every honest man. The consideration of the paltry, mean-minded malice of which an individual is the victim, is but a trifle in comparison with the great public question involved. Though commiseration for the victim of such cowardly and vindictive malice may be enhanced in considering that he is not only a skilful, diligent, faithful, honourable, and highly-gifted advocate—yet, were the individual thus sought to be trampled on as coarse, and unscrupulous, and mean-minded as the most obtrusive, unblushing self-puffer and self-reporter of the day, we should feel it our duty to protest as strongly against this fraudulent system of reporting, were it exercised against the Bettesworth of the bar,(*a*) as we do now in the case of Mr. Sergeant Talfourd—an amiable man, of genius, eloquence, and professional learning. No mean issue is here at stake. The existence of the public press and the freedom of discussion are alike involved in this question. If it be for a moment tolerated that an irresponsible individual, of whom, perhaps, no human being in any learned profession ever heard—is to have the right, by a mere stroke of his pen, of falsifying the reports of courts of justice, there is an end to the usefulness of the press as an engine of intercommunication, intelligence, and improvement.

The privilege of publishing judicial proceedings is sanctioned by law solely on grounds of public policy and convenience; but it is an indispensable condition to such a privilege that the proceeding shall be *fairly, impartially, and truly reported*. This condition applies not merely to a misstatement of facts, but to a misstatement of names—not merely to errors of commission, but to errors of omission. This is not merely good sense and good feeling, but good law.

It has been held that the protection afforded by law to the publication of judicial proceedings did not warrant "*the least misrepresentation of facts.*" If any other doctrine were acted on judicially, there is nothing to prevent

"The huckster of printed wares, who barters still
The oil or venom of his hireling quill,"

under the pretence and colour of giving to the public legal reports, from misrepresenting and misstating proceedings, from unduly exalting the reputation of one professional individual who basks in his favour, or from unduly depreciating the talents of another who has the good fortune to incur his dislike. Were such a system submitted to, the deceitful commendation of one man, and the unmerited censure of another, would create for a time a double and intolerable mischief, and the calumny and slander would to many appear the authentic record of what passed in a court of justice. Thus would history be worse than an old almanac, and fact become the most extravagant of fictions.

This is a merely general ground of objection; but when the system is viewed in reference to the character and fortune of individuals, it is a system of irresponsible tyranny, of fraud and oppression and slander, for which we verily believe a legal remedy exists, and for which we are certain a legal remedy ought to exist.

The journalist who seeks to degrade an individual from his place and condition in his profession, by wilful misrepresentation or suppression of his name, is guilty of as great wrong and offence to that individual as he is guilty of an offence against society by attempting to raise, by preposterous praise or commendation, a friend of his own to advantages and honours which he does not deserve. It is obvious, says Mr. Starkie, in his admirable treatise "On the Law of Slander"—

"That where individuals have an interest in being truly represented, in order to enjoy a degree of confidence and esteem proportioned to their merits, the public have a mutual and correlative interest in truly knowing where trust may be safely and beneficially reposed. *The right, then, of every man to the character and reputation which his conduct deserves, stands on the same footing with his right to the enjoyment of his life, liberty, health, prosperity, and all the comforts and advantages which pertain to a state of civil society.*"

The *Times*, in seeking to exalt one professional man, and to open to him the avenues of prosperity and honour, and to degrade and to disgrace another, is guilty, to use the language of the old common law, "of writing false news," a crime indictable and punishable under the old law, if not under the existing law.

(*a*) "Thus at the bar the booby Bettesworth." —*Swift.*

The great professional question is, as we have already indicated, whether, consistently with professional etiquette, aye, and with his personal honour, any Barrister can continue to report for a newspaper which avowedly falsifies his reports for the purpose of injuring his brother Barristers; whether, by permitting himself to be made a tool for such a purpose, he does not in fact become a party to the wrong, and thereby exclude himself from the position of a gentleman and the society of his fellows. This is the grave question which all Barristers reporting for the *Times* will have to put to themselves; it is one which must be put to them by their fellows in town, by their mess on the circuits. Thus is the affair of Mr. Serjeant Talfourd and the *Times* one of a very wide professional interest; one upon which every man at the Bar may be called upon to pass judgment; one which every lawyer in the kingdom is bound to treat as an insult and indignity offered to his Profession, and thereby to himself.

And, being thus important, we must return to it.

PATERSON'S JOINT STOCK COMPANIES ACTS.

The second edition of this work, comprising the *Companies Clauses Consolidation Acts*, just passed, is in the press, and will be published in a few days. This work also will form one of the publications of the Verulam Society.

VERULAM SOCIETY.

The 5th number of *Criminal Law Cases* is published, and the 6th is in the press: they contain full reports of the very important cases reserved on circuit.

The 12th number of *Real Property and Conveyancing Cases* will be ready on Saturday next, and immediately thereafter the *seventh* number of *Practice Cases*, which will commence those in Equity, and the cases in the Common Law Courts during Easter Term.

Two more *Practical Forms* are now in the press, namely—

No. 70. Notice of Tithe Rent Charge in Arrear, price 1s. 6d. per dozen.
No. 71. Warrant of Distress for Debts, price 1s. 6d. per doz.

Very shortly another attempt will be made to procure the support of the society for some text-books, which every member wants, but in the choice of which they so differ, that a sufficient number to justify publication cannot be obtained to agree upon any one. We propose two Text-books, namely, *the Practice of Wills* and the *Law of Stamps*. As each of these works is far advanced, and the subject of each is interesting to every practitioner, it is resolved to submit them to the members, with the hope that where the choice is not diffused among many proposals, they will make an effort to secure a beginning.

It will be seen by the preceding notifications that the new edition of *Paterson's Joint Stock Companies Acts*, and the *practical edition* of the *New Orders in Chancery*, are to be added to the publications of the society, whereby the members will be entitled to them at the society's prices.

SHAM LAWYERS.

The Law Times of April 12, p. 28, contained an advertisement of one William Turner, of Southwold, who announced himself as *Law Agent* and Auctioneer.

The following letter, signed apparently by the said William Turner, has been forwarded to us, and we commend it and the writer to the vigilant scrutiny of the nearest Law Association.

Sir,—Mr. Rudland, Surgeon, of Southwold, has requested me to make application to you for the payment of the sum of 4*l.* 3s. 11d. due from you to him. Also to inform you that unless the same be paid to me within five days from this date, I am fully authorized to proceed for the recovery thereof. I therefore request you will attend to this application; and, I am, Sir, yours, &c.,

Wangford, 25th April, 1845. Wm. Turner.

To Mr. Saunders.

CHANCERY COMPENSATION JOB.

(FROM A CORRESPONDENT.)

The Law Times of the 22nd February last directed the attention of its readers to a pamphlet professing to be a statement in support of Mr. Watson's motion for a committee of the Commons to inquire into this most shameless and mysterious affair.

It now appears, from the Accountant-General's annual account, laid on the table of the House of Commons, and printed, that the cost, so far from having decreased, as is intended to be implied, from the fact of the new-fangled functionaries created under the Act having lowered the outrageous and, as it now turns out, wholly unnecessary fees imposed on the suitors to pay the compensations and salaries, has actually increased during the last year; the sums paid for salaries and expenses by the Accountant-General, according to that account, having amounted to 34,037*l.* 9s. 8d.; the compensations to 45,661*l.* 5s. 8d.; together, 79,698*l.* 15s. 4d.

It has been observed by a person whose opinions, from his practice and the situation he afterwards filled in the court, are entitled to weight, that nothing can be more absurd than permitting persons with an income averaging 7,000*l.* a year, in compensation and salary, to be taxing costs. Surely a compensation of 5,000*l.* a year might have enabled them, if their ideas had been moderate, to have retired comfortably. It having been avowed by the Solicitor-General that one of these gentlemen concocted these compensations and the Bill, there is something very insulting to the public, and to the unhappy suitors and practitioners, in having those persons placed immediately under their noses, as a *nova progenies* of Master, with a salary very nearly double that of a Master in the common law courts.

It is not necessary to adopt the precise description given by Mr. Pemberton Leigh (who was whimsically enough charged by Sir James Graham with being one of the authorities answerable for these compensations) of the duties and services in respect of which they have been awarded; the striking out in the Commons of the names of the Lords of the Treasury, originally inserted as commissioners to award the compensation, is the best measure of the honesty of the transaction, and of the power of the Necromancer "who drew the Bill."

In the last session of Parliament very strong petitions, praying inquiry, were presented in the Commons from the solicitors of Bristol, Brighton, Preston, York, Hull, and Newcastle, where there are Law Associations, and from those places petitions have again already arrived, or will shortly be presented; but neither from Devonshire, Gloucestershire, Lincolnshire, Norfolk, Somersetshire, nor Wiltshire, where there are Law Associations, have petitions as yet come in. But their members should bestir themselves while there is yet time. The vote of an Association is not necessary in order to petition Parliament for this inquiry; any number of solicitors, who condemn the job, might pray inquiry, and by forwarding the petition to their friends in the House, and asking their support of it, may render essential service to the public, the suitors, and the Profession. It is only necessary to write the petition upon paper, sign, and forward it in time for Mr. Watson's motion, appointed for Thursday next.

THE CRITIC.

New Books.

The Law of Nisi Prius, Evidence in Civil Actions, and Arbitration and Awards: with an Appendix of the New Rules, the Statutes of Set-off, Interpleader, and Limitation, and the Decisions thereon. By Archibald John Stephens, Barrister-at-Law. In 3 vols. London, Longman and Co.

Our attention was first directed to this elaborate work by the following letter, received from one of the subscribers to the Law Times.

TO THE EDITOR OF THE LAW TIMES.

Sir,—Your notice of the last edition of *Selwyn's Nisi Prius*, in the Law Times, 102, containing a

calculation of the number of cases abstracted and arranged in the former, led me to estimate the total number digested in that Compendium of Common Law, *The Law of Nisi Prius, Evidence, Arbitration, and Awards*, by Archibald John Stephens, esq. which I purchased a few months ago.

The table of "Names of Cases cited" occupies about 96 pages royal octavo, severally divided into three columns. Each page contains, on an average, 184 cases; the whole number, on a fair calculation, amounts to 17,664. You will perceive a great disparity (nearly 10,000 cases) in favour of Stephens.

Stephens's *Nisi Prius*, unfortunately, did not come out under the *patronage* of the Law booksellers, having been published by Longman and Co. The table of contents, indices, and arrangement of the *mass* of information presented are each admirable, and the type excellent. In practice it is a most ready and sure reference.

I am, Sir, your very obedient servant,

NUMERICUS.

Shrewsbury, April 7, 1845.

We immediately procured the publication, and, as in duty bound to the learned and laborious author, proceed to give to our readers a description of it, similar to that which has been lately presented of *Selwyn* and *Archbold*. Thus will they have such a knowledge of the three most recent treatises on the *Law of Nisi Prius*, from the strictly impartial account of each we have endeavoured to convey, as will enable a choice to be made between them.

Mr. STEPHENS's *Nisi Prius* is by far the most voluminous of the three. *Archbold* is compressed into two small volumes of convenient size for circuit. *Selwyn* extends to two large octavo volumes. But *Stephens* is expanded into three still more bulky tomes, and each page contains a great deal more type. Hence the fact, discovered by our ingenious correspondent, and which, at first, seems almost impossible, that *Stephens* should contain nearly ten thousand cases more than *Selwyn*, while probably *Selwyn* contains more than *Archbold*. As a mere compilation of cases, therefore,—a sort of digested index, *Stephens* would appear to be the most useful for the book-shelf, while his contemporaries, and especially *Archbold*, are, from their very condensation and compactness, more convenient for carriage.

But it must be admitted that it is not bulk alone, or number of cases collected, that is to test the worth of a law-book. It is not with that as with the brain from which it proceeds, that, *cæteris paribus*, size is the measure of power. On the contrary, expansion is more easy in legal composition than contraction. The best writer is he who can, when he cites a case, present only the very point decided, and then, from a stream of cases, can deduce, in distinct definition, the principles they establish. Two copies of *Harrison* and a pair of scissors would enable any man to make up a great book on any given subject, if nothing more were wanting than a gathering of all the cases, good, bad, and indifferent, that bear upon it ever so remotely.

But, on the other hand, it must be borne in mind, that dangers attend the condensing system, unless it be most skilfully conducted. We are then altogether at the mercy of the author; we must take his word for it that such was the purport of the decision, such the gist of the case, such the principle evolved. He does not give us the materials for forming our own judgment or testing his accuracy. If he err, he may lead us into mischiefs we cannot by any sagacity avoid.

Mr. STEPHENS appears to have felt the difficulties that beset him on either side, and to have steered between them with considerable skill. The law of *Nisi Prius* has received from him the most elaborate treatment to which it has yet been subjected; not only has he collected a greater number of cases bearing upon it, in the proportion, as it seems, calculated by our correspondent, but he has cited those cases at more length; and when he has occasion to set forth statute law, he copies the very words of the legislature. Furthermore, in addition to the usual subjects treated of in all works on *Nisi Prius*, he has introduced the subjects of evidence in civil actions, and arbitration and awards. There is a copious appendix of the new rules, and the statutes of set-off, interpleader, and limitation, with notes of the cases that have arisen upon them.

Some idea of the vast array of legal lore gathered and classified in this laborious publication may be formed from this; that it consists of three volumes large octavo, closely but clearly printed, with no waste of margin; each volume contains upwards of a thousand such pages; the index fills no less than *two hundred and eight pages*, and this alone will entitle it to the attention of all who know the incalculable value of a copious and well-digested index to a law-book. The names of the cases cited fill *one hundred pages*, having three columns in each; and the list of text-authors cited occupies eight columns.

Of course we say nothing, because we know nothing, of the accuracy of the citations, for we do not undertake to follow the author through his law library. But we have heard no complaints on this score from those who have had occasion to resort to the work in the course of their practice. We presume, moreover, that the author has employed the usual precautions to secure accuracy in this respect.

We have been induced to enter upon a more minute description of this work than is our wont, or than, under ordinary circumstances, we should have attempted, because it has been subjected to some very unfair treatment. It was brought out when the Profession did not possess an independent journal; when the only media through which legal intelligence or legal authorship could be conveyed to them were in the hands of interested parties, who used them wholly for their own purposes. Mr. STEPHENS's *Nisi Prius* was *not* published by either of those parties; hence it was burked by their organs, or, if noticed at all, only with abuse; the Profession were either kept in ignorance of its existence, or prejudiced against its pretensions. Glad we are to be enabled, however slightly, to remedy the wrong.

BIRTHS, MARRIAGES, AND DEATHS.

[The charge for the insertion of the above is 5s.]

BIRTHS.

ROBSON.—On the 14th inst. in Cambridge-street, Hyde-park, the wife of George Young Robson, esq. barrister-at-law, of a son.

MARRIAGES.

FALLOWDOWN, Charles Selby, esq. of the Inner Temple, London, to Jane, daughter of the late James Smetzer, esq. of St. Mary's, Islington, on the 8th inst.

MANN, Rev. Robert, of Saxmundham, to Harriet, the fifth daughter of the Right Hon. Sir Edward Sugden, on Saturday, May 10.

SHEPPARD, Alfred Byard, esq. of Lincoln's-Inn-fields, to Maria, youngest daughter of William James Thompson, esq. of Brunswick-square, London, on the 14th inst.

DEATHS.

EVANS, John Clarke, esq. surgeon, at Taunton, of the rupture of a blood-vessel, on the 4th inst. aged 23.

GUERIVIERE, Viscount Edmund De La, Hereditary Knight of the most noble Order of Malta, sole nephew of Madame the Duchess Marshal of Reggio, born De Coucy, and son-in-law of Mr. Charles Purton Cooper, Queen's Counsel in the English Court of Chancery, at Paris, on Saturday last.

HIGHMORE, Elizabeth, widow of the late Anthony Highmore, esq. of Gray's-inn, and of Dulwich, in the county of Surrey, on the 10th inst. at St. John's Wood, aged 83.

LINSKILL, William, esq. of Tynemouth Lodge, Northumberland, a Deputy-Lieutenant of Northumberland, and served the office of High Sheriff in 1808, at Humberstone, Leicestershire, on the 13th inst. aged 79.

STEELE, Lady Emily, relict of the late Colonel Sir Robert Steele, knight, and K.C.S. many years a magistrate and deputy-lieutenant of the county of Dorset, at Beaminster, on the 8th inst.

STUCKEY, Vincent, esq. deputy-lieutenant for the county of Somerset, at his residence, Hill-house, Langport, on the 8th inst. aged 75.

TINDALL, John, esq. banker, one of her Majesty's deputy-lieutenants and a justice of the peace for the North Riding of Yorkshire, at his residence on the Cliff, Scarborough, on the 6th inst. aged 57.

TUCKER, Rev. Marwood, vicar of Harpford, Devon, and second son of the late Benedictus Marwood Tucker, formerly of Coryton Park, in that county, at the Vicarage House, Harpford, aged 81.

JOURNAL OF PROPERTY.

SALES BY AUCTION.

THE vast increase of Sales by Auction, consequent upon the repeal of the auction duty, will be apparent from the pages of the LAW TIMES. From all parts of the country announcements of land sales come crowding into its columns, as the medium adopted for circulating such information among those who are peculiarly the buyers of property, and private communications assure us that the advantages of public competition are already being generally recognized among the Solicitors and others engaged in the selling of estates. Sale by private contract is always a troublesome affair. Each party desires to make the best bargain he can; if a price be named by the vendor, it is seldom the real one, nor is it so deemed by the buyer. Then begins a system of bidding on both sides; each is afraid of the other; each hopes that by standing out he may obtain somewhat better terms; delay often brings with it difficulty, always harass and vexation; and when at last the bargain is struck, it is usually at a sacrifice, which might have been avoided by the more prompt and satisfactory form of public sale. In this latter there can be no disagreement, no complaint, no after-regrets on either side. The property obtains its utmost value, and often more than its value, for the buyer must make up his mind on the instant and bid, or lose for ever the object of his desire. By private contract a seller never can obtain more, and usually he will procure less, than by public auction; and for this reason: a purchaser will of course offer as much at the auction as he would be inclined to do in private; but inasmuch as the limits he has assigned to himself can rarely be known to the other party, the property will usually be parted with at less than the point to which the buyer would have advanced, if compelled to the extent of his intentions by public competition. For these reasons we conceive that it will be the duty of Solicitors henceforth, on *all* occasions, to sell the property confided to their disposal by public auction. And to aid them in the performance of this duty we are promised a series of articles on the Law of Auctions.

CONDITIONS OF SALE.

[From the lately published number of the *Law Review* we extract the following able essay on the *Law relating to Conditions of Sale*.]

ART. VI.—ON THE LAW RELATING TO CONDITIONS OF SALE.

NO persons experience more surprise than the owners of landed estates, when they are informed that the property which they have enjoyed for a long course of years, either by descent from an ancestor, or by undisturbed transfer from a former owner, is in point of law totally unmarketable. The general ignorance respecting the nature of titles and the principles of tenure leads such parties to imagine, that estates, of which they are the lawful owners by every moral right, are therefore accompanied by an equally unquestionable legal title. But a long series of decisions in Courts of Equity upon suits for the specific performance of contracts, whether for the sale or for the purchase of lands, has established a contrary conclusion, and rendered it an imperative precaution on the part of every vendor, that his title should undergo a strict technical investigation before he offers his estate for sale. By such means a well-advised vendor is saved from entering into fruitless contracts; while he avoids the still greater disadvantage and probable loss arising from the condemnation of his title by a court of justice, and from the inducements or opportunities thus afforded for the preferment of adverse claims resting upon flaws unadvisedly exposed. He is thus enabled beforehand to impose such restrictions on a purchaser, and to reserve such rights to himself, as shall effectually obviate the difficulties and perils to which we have alluded: or otherwise to refrain from offering his estate for sale with a doubtful or unmarketable title.

Special conditions of sale have hence derived their origin: and when the language in which they are clothed, and the points to which they relate, are carefully digested and selected, the result is of great value to the vendor. Such conditions, however, are often inartificially and illogically drawn; they frequently proceed upon an insufficient knowledge of the title to which they relate, and not seldom exhibit a very limited apprehension of the effects or consequences which will result from the conditions themselves. In point of form they fluctuate as widely as last wills and testaments; and on many occasions they have been productive of so much litigation and mischief, that an unreserved or unconditional sale would probably have been less detrimental to the parties concerned. It appears also, from Sir Edward Sugden's denunciation of the practice, that auctioneers were formerly employed or allowed to prepare the conditions of sale; but that learned writer advises that a vendor should never permit such a course of proceeding, as continual disputes had arisen from the misstatements consequent upon their ignorance of the title. This practice has probably now ceased; but in consequence of the want of fixed precedents applicable with the same facility as common forms in

conveyances, great uncertainty has prevailed as to the interpretation of the conditions most frequently used, and the best mode of rectifying the errors which they contain.

Such conditions, however, are not, in our apprehension, necessarily accompanied by all their present dangers and imperfections. The preparation of such conditions in an effectual form is doubtless an exercise of the utmost skill and knowledge of the conveyancer. But the subject will probably be matured by the various decisions of the courts into something like a systematic shape, in the same way as the established forms of conveyancing have acquired their present accuracy and precision; and in the meantime the construction of a well-digested code of conditions applicable to all the ordinary emergencies of vendors and purchasers, and expressed in language of definite legal import, would be a task worthy of the highest learning and attainments in the doctrines of real property.

In *Hyde* v. *Dallaway* (4 Beav. 606), Lord Langdale, M.R. observed on the difficulty which the Court sometimes had in dealing with special conditions of sale. "On the one hand it was hard to say that parties should not enter into contracts suited to their convenience and to the exigency of their titles; but, on the other hand, conditions of sale were sometimes of such a nature, that it was scarcely practicable to carry them into execution, consistently with the settled principles of Courts of Equity."

In cases, therefore, of this sort, the leaning of the Courts of Equity is most strongly against the vendor, and every opportunity is taken of remitting a purchaser to his original or ordinary rights as derived from an unconditional contract. "If a vendor," says Vice-Chancellor Knight Bruce, "means to exclude a purchaser from that which is matter of common right, he is bound to express himself in terms the most clear and unambiguous; and if there be any chance of reasonable doubt, or reasonable misapprehension of his meaning, I think that the construction must be that which is rather favourable to the purchaser than to the vendor." (1 Yo. & Coll. C. C. 490.) Vice-Chancellor Wigram has likewise made the following observations on the same subject. "I have no hesitation in saying that I think conditions of sale, like those before me (the meaning of which no purchaser knows, until *ex post facto* decisions of a court of justice inform him of it), ought to be discouraged, and that I am but offering such discouragement by putting a strict construction upon them in favour of a purchaser, and by holding that they are not to have a construction which might subject purchasers to a great expense and inconvenience at the mere will of a vendor." (2 Hare, 115.)

In some cases the vendors have secured to themselves the most unlimited protection, by expressly selling their estates with such title only as they actually possess; and this condition will be upheld against the purchaser, unless he can shew that the language is ambiguous or otherwise insufficient. Thus in *Freme* v. *Wright* (4 Madd. 364), the assignees of a bankrupt contracted to assign his interest in certain property, *under such title as he lately held the same*, and although the title was defective, the Vice-Chancellor, Sir J. Leach, decreed a specific performance against the purchaser. His Honour said, that "although a party proposing to sell an estate without qualificatio[n] asserts in fact that it is his to sell, and that he has a good title, yet he may, if he thinks fit, contract to sell such title as he has; and the question is whether he did make such a contract."

With vendors who are *sui juris*, and selling on their own account, it is of course always optional whether they will annex special conditions to their contracts or make an unqualified sale at all hazards. But with some parties, as, for instance, assignees of bankrupts, it is absolutely necessary that they should sell under special conditions; for though Lord Rosslyn in *Pope* v. *Simpson* (5 Ves. 145) thought that assignees saying nothing about their title were to be considered as selling only the interest which the bankrupt had; yet Lord Eldon in *Dererell* v. *Bolton* (18 Ves. 505, 512), said, "my clear opinion is that advertising to sell a freehold estate, they undertake, whether they say so or not, to *make a title*."

Again, with respect to lessees selling their leases, it is often highly prudent or expedient to deprive the purchaser of his ordinary right to call for the lessor's title. Sales of leasehold property may be defeated by the vendor's inability to produce the lessor's title: and the only remedy for this difficulty is to annex to the sale a special condition that the vendor shall not be obliged to produce such title, or that the purchaser shall take the lessee's title, notwithstanding the non-production of the lessor's title.

In *Ord* v. *Noel* (5 Madd. 438), it was laid down by Sir J. Leach, Vice-Chancellor, that a trustee selling an estate by auction is bound to exercise the same degree of caution as a provident vendor would have used in the sale of his own property. It may therefore be presumed that where a title is in such a state, that if the property were put up to sale without restrictive conditions, the contract could not be carried into effect, unless at the risk of litigation or under the probability of great expense to be occasioned by the requisitions of the purchaser, trustees would not only be justified in imposing special conditions, but would be in danger of being held liable as for a breach of trust, if they abstained from taking such precautions. Such a liability may be obviously prevented by timely investigation of the title previously to the sale.

(*To be continued.*)

Public Sales.

By Messrs. FAREBROTHER, CLARK, and LYE, at Garraway's.

A ground-rent of 72*l.* per annum, arising from nine residences, Nos. 3 to 6, in Minera-street, and Nos. 30 to 34, Burton-street, corner of Minera-street, Pimlico; held for 87 years from Christmas, 1836, at a ground-rent of 2*l.* per annum, land tax redeemed, together with the reversion for the above 5½ years—1,520*l.*

A residence No. 89, in Ebury-street, Pimlico; let at 150*l.* held for 85 years from Lady-day, 1838, at a ground-rent of 10*l.* per annum—1,800*l.*

A leasehold estate, situate in Elizabeth-street, Pimlico, inclosed from the road by a spacious garden; let for the whole term at 140*l.* Also four houses adjoining the above; let at 80*l.* per annum; held for 12 years, at 150*l.* per annum —185*l.*

A ground-rent of 5*l.* per annum, issuing out of a residence No. 53, in Chester-square, Pimlico; held for 82¾ years from Lady-day, 1841, at 2*l.* per annum—75*l.*

A ditto, out of No. 52 ditto—70*l.*

A ground-rent of 32*l.* issuing out of No. 51, Chester-square, held for 82½ years, at 2*l.* per annum—670*l.*

A ditto of 32*l.* out of No. 50—675*l.*

A ground-rent of 35*l.* per annum, issuing out of No. 49, Chester-square, let for the whole term; held for 81¾ years, at 2*l.* per annum 720*l.*

The lease for 81¾ years from Lady-day, 1842, of the carcase of a residence, No. 49, in Chester-square, planned for the accommodation of a family, with garden at back and entrance from Ebury-mews, which building is to be completed by the purchaser, at a ground-rent of 35*l.* per annum—500*l.*

A ground-rent of 30*l.* per annum, issuing out of No. 18, Chester-square; let for the whole term, and held for 81¼ years at 2*l.* per annum—635*l.*

A stuccoed residence, No. 76, Chester-square, with garden, conservatory, &c.; the walls are finished ready for papering; there are no locks, bells, or fixtures—3,300*l.*

A fee farm-rent of 2*l.* 1s. 10d. being the redeemed land-tax, charged upon eight closes of land, containing about 57 acres, situate in the parish of Thistleton, in Rutland —40*l.*

By Mr. MOORE, at the Auction Mart.

Seventeen freehold houses, Nos. 1 to 17, Bath-place, North-street, Whitechapel, let to weekly tenants at rents amounting to 162*l.* 12s. per annum, held for a term of which 55 years are unexpired, at a ground-rent of 51*l.* 2s. 4d.—400*l.*

Freehold house, No. 2, Lower Grosvenor-place, Margate, let at 35*l.* per annum, tenant paying rates and taxes—450*l.*

Three leasehold houses, with shops, in Charles-street, St G[illegible]'s East; two hou[illegible] [illegible]ining, Nos. 3 and 15, Upp[er] Cornwall street; four houses in the [illegible] forming the whole of Coburg-court; a beer house, No. 15, Sun Tavern-fields; and a six-roomed private [hou]se, No. 11, adjoining, let for 159*l.* 2s. per annum, held for a term of which 45 years are unexp[ired] at a ground-rent of 92*l.*—300*l.*

The repeal of the auction duties is producing a sensible effect upon the trade of auctioneering. Respectable auctioneers are now arranging periodical sales in different places (as may be seen in our advertising columns), and offering their services to dispose of stock at any of the markets and fairs within their range. The plan of disposing of agricultural produce is certain to afford the advantage of competition, and on that account will, no doubt, be extensively adopted. —*Worcester Journal.*

AUCTION DUTIES.—On Saturday, the Act "to Repeal the Duties of Excise on Sales by Auction, and to impose a New Duty on the License to be taken out by all Auctioneers in the United Kingdom" was printed. The Act received the Royal Assent on Thursday last, when it took effect, but no duty [is] to be charged on sales from the 8th ult. There are nine clauses in the Act. The new duty on auctioneers' licenses is now 10*l.* a year, instead of five guineas. Among the new regulations is the following one in respect to the names and addresses of auctioneers:—"And be it enacted, that every auctioneer, before beginning any auction, shall affix or suspend, or cause to be affixed or suspended, a ticket or board containing his true and full Christian and surname and residence, painted, printed, or written in large letters, publicly visible and legible, in some conspicuous part of the room or place where the [auction is] held, so that all persons may easily read [the s]ame, and shall also keep such ticket or board so affixed or suspended during the whole time of such auction being held; and if any auctioneer begins at any auction, or acts as auctioneer at any auction in any room or place where his name and residence is not so painted or written on a ticket or board so affixed or suspended, and kept affixed or suspended as aforesaid, he shall forfeit for every such offence the sum of 20*l.*"

THE STEWARTFIELD ESTATE.—We understand that Lord Campbell has purchased the estate of Stewartfield, which lies in the immediate vicinity of Jedburgh. The exact price which his lordship has paid for it we have not learned, but we believe it to have been between 45,000*l.* and 50,000*l.*—*Kelso Paper.*

THE MONEY MARKET.

	Sat.				Thurs.	
Three per Cents. Consols ...	98¾	98⅞	99	99¼	99¼	
Three per Cents. Reduced ...	98	98	98¼	98¼	98¼	
New Three-&-a-quarter per Cts	100⅞	100⅞	101	101	101	101
Long Annuities............	11¼	11⅛	11⅛	11⅛	11¼	11¼
Bank Stock	209½	209½	209¾	210	210¼	210¼
India Stock	277	277½	278½	278½	278½	279
India Bonds, prem......		75	74			
Exchequer Bills, prem. .		55	54			
FOREIGN.						
Spanish Five per Cents..	30¼	30⅛		30½	30¼	30¼
Spanish Three per Cent	41¼	41⅞		41½	42	42
Russian	117¾	117½	117¾	117¾	117	117¾
Peruvian..................	30	29½	29½	30	30	29¾
Portuguese	66¼	66½	67	67¼	67¼	67¾
Mexican	36¼	36½	36¾	36¾		36½
Deferred	17	17¼	17½	17½		17⅛
Dutch Two-and-a-Half per Cents..............	63¼	63⅞	63½	61¼	63½	63¾
——— Four per Cents.	97¼	97½	97¾	97¾	97¾	97¾
Danish	88	89	89¼	88	89	89
Colombian	15¾	15½	15¼	15¾	15½	15¾
Chilian	99	99	99	99	100	00
Buenos Ayres	43½	44	44½	44	44½	44½
Brazilian.................	89	88½	89	89½	89½	8[illegible]
Belgian	98½	99½	99½	99½	98½	99[illegible]

THE GAZETTES.

AMOUNT OF DIVIDENDS.

The sum stated as the Dividend means so much declared in the Pound. The Assignees, when chosen, follow this statement.

Monday, May 5.

Hester, H. tallow chandler, outlawed.—*Hurd*, S. china dealer, last exam. passed.—*Sweeney*, C. S. apothecary, last exam. passed.—*Taylor*, J. draper, annulled.—*Williams*, W. victualler, last exam. June 7.

Tuesday, May 6.

Clegg, T. coal merchant, last exam. passed.—*Halford* and *Co.* bankers, joint div. next week. Edwards, London.—*May*, S. watch manufacturer, last exam. June 3.—*Morris*, W. leather dresser, div. next week. Johnson, London.

Wednesday, May 7.

Colt, W. H. grocer, div next week. Follett, London.—*King*, J. B. merchant, last exam. June 25.—*May*, E. draper, last exam. May 21.—*Overend*, T. maltster, last exam. June 3. —*Speyer* and *Co.* tailors, fin. div. S. next week. Follett, London.

Thursday, May 8.

Banister, C. J. draper, div. next week. Green, London. —*Sturtevant*, R. L. soup manufacturer, div. next week. Alsager, London.

Friday, May 9.

Cann, R. boot maker, last exam. passed.—*Chrisp*, J. wine broker, last exam. passed.—*Curwen*, J. cheesemonger, div. next week. Alsager, London.—*Flintoft*, G. bookseller, div. next week. Bell, London.—*Gorton*, T. jun. bookseller, fur. div. next week. Belcher, London.—*Jackson*, G. jun. upholsterer, div. next week. Alsager, London.—*Johnston*, L. wine merchant, last exam. May 23.—*Morrison*, P. R. merchant, div. next week. Johnson, London.—*Morton*, D. fishmonger, last exam. passed.—*Overton*, J. coach plater, div. next week. Belcher, London.—*Phillips*, J. tailor, last exam. June 11.—*Radcliffe* and *Co.* glaziers, last exam. passed.—*Underhill* and *Co.* linen drapers, fur. joint div. next week. Pennell, London.

Saturday, May 10.

Johnsons and *Mann*, bankers, last exam. of Johnsons passed; final div. T. J. sen. next week. Follett, London.

DIVIDENDS.

Bankrupts' Estates.

Official Assignees are given, to whom apply for the Dividends.

Aarons, E. L. oilman, first, 1s. 10d. to new proofs. Edwards, London.—*Bateman*, S. factor, second, 1s. 8½d. Christie, Birmingham.—*Beard*, N. leather seller, 1¾d. Follett, London.—*Berridge*, T. tobacconist, second, 8½d. Pott, Manchester.—*Bradbury*, C. A. draper, final, 1s. 2¾d. Pott, Manchester.—*Braughton* and *Co.* bankers, fifth, 3d. Turner, Liverpool.—*Burton*, T. shoemaker, first and final, 2s. 5d. Hope, Leeds.—*Crisp*, J. auctioneer, 6d. Morgan, Liverpool.—*Dotesio*, C. hotel keeper, 4s. Follett, London.—*Evans*, C. banker, second and final, 6d. and 1-20th of 1d. Fraser, Manchester.—*Hadley*, M. druggist, second, 6½d. Christie, Birmingham.—*Nicks*, J. carpenter, final, 1s. 5½d; and first to new proofs, 2s. 6d. Whitmore, Birmingham.—*Pretty*, T. grocer, first, 4s. Whitmore, Birmingham.—*Rinder*, F. butcher, second div. to first-class creditors, 3s. 1½d.; to second and third ditto, 2s. 6d.; and fourth ditto, 1s. 8d. Hope, Leeds.—*Roderick*, D. victualler, second, 2d. Edwards, London.—*Sale* and *Co.* iron masters, first, 7s. 6d. to new proofs; second, 2s. 6d. Fearne, Leeds.—*Sheppard* and *Co.* clothiers, final of Sheppard, sen. 0⅝d. Miller, Bristol.—*Skinner*, S. brewer, 0½d. Follett, London.—*Thompson*, W. C. merchant, second, 15-16ths of 1d. Turner, Liverpool.—*Turmaine*, E. porter merchant, 1¾d. Follett, London.—*Whitlow*, J. laceman, first, 1s. 6d. Pott, Manchester.

Insolvents' Estates.

Denman, G. F. ship coal meter, Mile-end-rd. 5s. (in addition to a former div. of 15s.).—*Tucker*, retired captain in the marines, 4s. 4d., (in addition to 13s.).—*Wilkins*, J. bricklayer, Botley, 9s. 10½d.

ASSIGNMENTS

To Trustees for the benefit of Creditors.

Gazette, May 9.

Acton, J. farmer, Lichfield, May 3. Trusts. N. Wilday, Lichfield, and W. T. Higgins, same city, maltsters. Sols. Messrs. Bond, Lichfield.—*Hill*, J. printer, Brixton, May 5. Trust. H. Caslon, sen. typefounder, Chiswell-street. Sol. Conquest, Moorgate-street.—*Rayner*, H. and *Chaplin*, A. drapers, Cork, Ireland, March 5. Trust. T. W. Elstob, wholesale hosier, Wood-street, Cheapside. Sols. Messrs. Hardwick and Davidson, Weavers'-hall, Basinghall-street.—*Moore*, G. B. upholsterer, Reading, April 22. Trusts. J. Brown, coach plater, Charles-street, Long-acre, and S. Chatterton, clerk, Finsbury-pavement. Sols. Soles and Turner, Aldermanbury.—*Waite*, R. grocer and tallow chandler, Barnard Castle, April 25. Trusts. W. Bennington, merchant, Stockton, J. Crosby, merchant, of the same place, and W. Perkin, farmer, Boldron.—*Wilson*, S. M. draper, Whitechapel-road, April 11. Trusts. W. Hitchcock, Wood-street, and W. Wreford, Aldermanbury, warehousemen. Sols. Soles and Turner, Aldermanbury.

Gazette, May 13.

Bottomley, J. clothier, Saddleworth, March 29. Trusts. E. H. Thompson, wool merchant, Leeds, and W. Robinson, dyer, Saddleworth. Sol. Ainley, Saddleworth.—*Gardner*, J. chemist and druggist, Stony Stratford, April 22. Trusts. H. Hodge and H. F. Hone, wholesale druggists, Blackman-street. Sols. Husband and Wyatt, Gray's-inn-square.—*Sabine*, H. R. card manufacturer and stationer, Lovell's-court, Paternoster-row, October 7. Trusts. J. Reeves, stationer, Cheapside, and J. Barry, stationer, Queenhithe. Sol. Boydell, Queen-square, Bloomsbury.

Bankrupts.

DATE OF FIAT AND PETITIONING CREDITORS' NAMES.

Gazette, May 9.

BALDWIN, EDMUND, and GARRETT, RICHARD, linen drapers, grocers, and tea dealers, Henfield, Sussex, May 16, at half-past-one, June 11, at one, Basinghall-st. Com. Evans; Bell, off. ass.; Hill and Mathews, St. Mary-axe, sols. Date of fiat, May 6. E. Absolom, J. and W. A. Stubbs, grocers, Rood-lane, pet. crs.

COOKE, THOMAS, glove manufacturer, Leicester, May 20 and June 13, at twelve, Birmingham; Christie, off. ass.; Messrs. Toller, Leicester, and James, Birmingham, sols. Date of fiat, April 17. G. Foster, worsted spinner, Horbury, Yorkshire, pet. cr.

GEE, GEORGE WALKER, and GEE, JOHN FEARNE, drapers, Leeds and Horsforth, June 2 and 30, at twelve, Manchester; Fraser, off. ass.; Sale and Worthington, Manchester, and Reed and Shaw, Friday-st. sols. Date of fiat, April 30. J. and T. B. Potter, and S. H. Norris, merchants, Manchester, pet. crs.

HARRISON, WILLIAM, pattern dyer, Woodhouse Carr, Leeds, May 21 and June 9, at eleven, Leeds, Com. Boteler; Hope, off. ass.; Sudlow and Co. Chancery-lane, Naylor, Leeds, and Tempest, Leeds, sols. Date of fiat, May 6. J. Tempest, drysalter, Leeds, pet. cr.

JONES, JOHN, innkeeper, Aberystwith, May 23 and June 20, at eleven, Bristol, Com. Stevenson; Acraman, off. ass. Heaven, Bristol, sol. Date of fiat, May 3. Bankrupt's own petition.

M'DOUGAL, JAMES, draper, Leicester, May 23, at half-past twelve, June 24, at twelve, Birmingham; Christie, off. ass.; Hoskins, Loughborough, and James, Birmingham, sols. Date of fiat, April 29. Bankrupt's own petition.

MEARS, JOHN, grocer and tea dealer, Leeds, May 21 and June 9, at eleven, Leeds, Com. Boteler; Hope, off. ass.; Rushworth, Staple-inn, and Sanderson, Leeds, sols. Date of fiat, May 6. Bankrupt's own petition.

NEWTON, JACOB, NEWTON, JOHN WARD, and NEWTON, FRANCIS JACOB, spirit and porter merchants and druggists, Rotherham, May 20 and June 12, at eleven, Leeds, Com. West; Young, off. ass.; Badger, Rotherham, and Blackburn, Leeds, sols. Date of fiat, May 1. J. Ward, coal merchant and farmer, Doncaster, pet. cr.

PIPER, THOMAS FOOT, wholesale stay manufacturer, 94, Cheapside, 4, Bishopsgate-st. Without, 2, Thomas-place, North-st. Whitechapel, and Union-road, Landport, Hants, May 20 and June 18, at one, Basinghall-st. Com. Evans; Bell, off. ass.; Cox, Pinners'-hall, sol. Date of fiat, May 2. W. Eugler, warehouseman, Lawrence-lane, pet. cr.

PARKS, HENRY, plumber, glazier, and gas fitter, Loughborough, Leicestershire, May 27, at twelve, June 13, at half-past twelve, Birmingham; Christie, off. ass.; Brown, Nottingham, and Harrison and Smith, Birmingham, sols. Date of fiat, April 14. Bankrupt's own petition.

RUDMAN, GEORGE, mason, builder, and licensed retailer of beer, Bristol, May 23 and June 23, at eleven, Bristol, Com. Stephen; Kynaston, off. ass.; White and Co. Bedford-row, and Short, Bristol, sols. Date of fiat, May 5. Bankrupt's own petition.

Gazette, May 13.

BETTS, JOSEPH YOUNG, grocer, Duke-street, St. John, Cardiff, Glamorganshire, May 27, at one, June 24, at eleven, Bristol, Com. Stevenson; Miller, off. ass.; Leonard, Bristol, sol. Date of fiat, May 8. Bankrupt's own petition.

BRAIN, JOHN, copper plate dealer and engraver, No. 16, Winchester-place, Pentonville, May 20, at half-past two, June 18, at two, Basinghall-street, Com. Evans, Johnson, off. ass.; Lawrence and Co. Bucklersbury, sols. Date of fiat, May 8. Bankrupt's own petition.

BUCKLEE, JOHN BROOKES, mercer and draper, Kidderminster, Worcestershire, May 23, at half-past-eleven, June 24, at twelve, Birmingham, Valpy, off. ass.; Boycott and Lucy, Kidderminster, and Rees, Birmingham, sols. Date of fiat, May 3. C. L. Lucy, of Kidderminster, wine and spirit merchant, pet. cr.

DAVIES, WILLIAM, milk seller, Liverpool, Lancaster, May 20 and June 17, at eleven, Liverpool, Com. Phillips; Morgan, off. ass.; Milne and Co. Temple, Slater and Heelis, Manchester, and Hore, Liverpool, sols. Date of fiat, April 26, Sir A. I, Aston, of Aston, Cheshire, knight, pet. cr.

ELLIS, JOHN WALKER, cloth merchant and warehouseman, No. 15, Lawrence-lane, Cheapside, May 22, at twelve, June 24, at eleven, Basinghall-street, Com. Shepherd; Graham, off. ass.; Jacques and Co. Ely-place, and Battye and Co. Huddersfield, sols. Date of fiat, May 5. W. H. Kaye, of Huddersfield, merchant, pet. cr.

FURNIVAL, JOHN, corn dealer and baker, Kettering, Northamptonshire, May 23, at eleven, June 21, at twelve, Basinghall-st. Com. Goulburn; Follett, off. ass.; Cardales and Iliffe, Bedford-row, and Garrard, Kettering, sols. Date of fiat, April 30. J. Baker, farmer, Denford, Northamptonshire, and F. Draper, farmer, Barton Seagrave, Northamptonshire, pet. crs.

MALPAS, HENRY, victualler and builder, Monmouth-st. Bath, May 30, at twelve, June 23, at half-past eleven, Bristol, Com. Stephen; Hutton, off. ass.; Raven, Temple, and Drewe, Bath, sols. Date of fiat, May 8. J. Lester, timber merchant, Walcot, pet. cr.

SEAGER, THOMAS, leather cutter, Hammersmith, Middlesex, May 23, at eleven, June 26, at half-past eleven, Basinghall-st. Com. Fane; Whitmore, off. ass.; Hepburn, Copthall-court, Throgmorton st. sol. Date of fiat, May 7. W. and J. R. Fisher, leather dealers, Maze-pond, Southwark, pet. crs.

SIMPSON, JOHN, common brewer, Maryport, Cumberland, ship owner, Talentirt, Cumberland, May 27, at twelve, June 2, at two, Newcastle, Com. Ellison; Wakley, off. ass.; Taylor and Collison, Great James-st. and Crain, Newcastle, sols. Date of fiat, April 26. H. O. Huthwaite, solicitor, Maryport, pet. cr.

STURLEY, MARK, organ builder, turner, and brickmaker, Southam, Warwickshire, June 2 and July 2, at eleven, Birmingham, Com. Daniell; Bittleston, off. ass.; Weller, King's-road, London, Pell, Northampton, and Hodgson, Birmingham, sols. Date of fiat, May 7. Bankrupt's own petition.

WEBB, WILLIAM HENRY, dealer in guano and other manures, Stratford upon Avon, Warwickshire, May 27, at twelve, June 24, at half-past twelve, Birmingham; Christie, off. ass.; Hobbes and Slatter, Stratford upon Avon, and Harrison and Smith, Birmingham, sols. Date of fiat, April 26. T. Johnson, merchant, Liverpool, pet. cr.

PARTNERSHIPS DISSOLVED.

Gazette, May 6.

Bertolini, J. D. and *Christie*, A. coffee-house keepers, Newton's hotel, St. Martin's-street, May 6. Debts paid by Bertolini.—*Blossome*, J. and *Carr*, J. S. linendrapers, Wobridge, May 2.—*Cameron*, R. and *Dow*, J. surgeons, Almondbury, April 30. Debts paid by J. Dow.—*Charlton*, E. and *Green*, J. bone size manufacturers, Ardwick, April 19.—*Cunningham*, J. and *Robley*, H. West India merchants, Bristol, May 3. Debts paid by Cunningham.—*Fischer*, H. P and *Lous*, F. merchants, Newcastle, April 23. Debts paid by Fischer. *Funge*, J. and *Bland*, G. wine merchants, Change-alley, May 1.—*Gostling*, W. F. and *Poke*, P. C. proctors, Godliman-st. May 2. Debts paid by Gostling.—*Heyman*, L. and A. tailors, Liverpool, April 30 -*Jones*, J. and *Mash*, R. S. surgeons, Liverpool, Dec. 31.—*Lugg*, J. and *Shaw*, B. surgeons, Upper Queen's-row, Cambridge-road, Mile-end, April 30.—*Reed*, S. and *Walton*, T. goldsmiths, Fetter-lane, May 2.—*Simpson*, E. and *Kendal*, J. cabinet makers, Lancaster, May 2. Debts paid by Simpson.—*Toplis*, H. J. F. and *Butterfield*, H. foreign merchants, St. Paul's Church-yard, and Rue du Faubourg Saint Denis, Paris, Dec. 10.—*Williamson*, J., *Anderton*, H. and *Harrison*, P. dyers, Pendleton, May 3. Debts paid by Harrison.—*Wilson*, J. and R. S. builders, Handsworth and Birmingham, May 1.—*Winman*, W. G. and *George*, R. woolstaplers, Penzance, April 25. Debts paid by Winman.

Gazette, May 9.

Barnes, W. *Chamberlain*, J. and *Hall*, J. and F. wine merchants, Worcester, and elsewhere, May 2.—*Chapman*, W. C. and G. C. tea dealers, South-st. Manchester-sq. May 7.—*Duncan*, J. and *Malcolm*, F. booksellers, Paternoster-row, March 30. Debts paid by Duncan.—*Falkner*, J. P., R. and W. drapers, Manchester, May 1. Debts paid by J. P and R. Falkner.—*Hall*, H. and *Rawlison*, G. farmers, Tarring Neville, Sussex, March 25. Debts paid by Rawlison.—*Handley*, W. and *Garner*, J. coal merchants, Warwick, April 21.—*Hutty*, J. and *Key*, F. drapers, Beverley, May 8.—*Hollinshead*, E. and *Roebuck*, L. straw bonnet makers, Huddersfield, May 2.—*Jones*, B. and *Brown*, W. bonding merchants, Cardiff, April 30.—*Lash*, N. B. and *Addison*, W. provision agents, Upper Thames-st. Dec. 31.—*Lord*, J. and J. drapers, Colne, May 5. Debts paid by Joshua Lord.—*Mitchell*, J. sen. and jun. and G. gingham manufacturers, Heaton Norris and Manchester, April 24. Debts paid by J. Mitchell, sen. and G. Mitchell.—*Mortimer*, J. *Garforth*, T. and *Fletcher*, P. coal proprietors, Birstal, so far as regards Fletcher, April 29. Debts paid by the remaining partners.—*Porter*, W. sen. and jun. ironmongers, Northampton, April 24.—*Redden*, J. and *Brooke*, J. M. coach builders, Cambridge, April 29. Debts paid by Redden.—*Roberts*, W. and *Bryan*, J. B. surgeons, Burham and Slough, April 25.—*Sockett*, R. and *Pryce*, J. dairymen, Mitre-sq. and Watling-st. May 3.—*Vertegans*, E. and *Murch*, H. V. wine merchants, Cannon-st. May 7.—*Widenham*, L. and *Adams*, T. watchmakers, Lombard-st. May 9. Debts paid by Widenham.

Insolvents

Petitioning the Courts of Bankruptcy.

PETITIONS TO BE HEARD AT BASINGHALL-STREET.

Gazette, May 6.

Anquetil, R. F. out of business, Archway-cottage, Highgate, May 26, at twelve.—*Bilton*, W. beer retailer, Greenwich, May 26, at one.—*Field*, T. H. corn dealer, Chesham, May 29, at twelve.—*Garrett*, C. farmer, Milton, Northamptonshire, May 9, at half-past twelve.—*Godden*, E. collector of rents, Canterbury, May 29, at one.—*Hannell*, W. carpenter, Woburn, May 29, at twelve.—*Ingram*, J. T. steam vessel propeller, running between London and Gravesend, May 9, at twelve.—*Jackson*, A. bricklayer, Bury-st. Chelsea, May 10, at eleven.—*Jones*, H. F. painter, Cambridge, May 10, at eleven.—*Mandy*, F. clerk, Elizabeth-place, Asylum-rd. Old Kent-rd. May 29, at one.—*Peckwood*, A. veterinary surgeon, Doddington-grove, Newington, and Cousin-lane, Upper Thames-st. May 26, at half-past twelve.—*Peacock*, C. T. cheesemonger, Corrie-place, Old Kent-road, May 21, at eleven.—*Royle*, H. H. dealer in furs, Ropers's-bldgs. White-st. Houndsditch, May 29, at eleven.—*Sier*, W. clerk, Bishop's-ct. Aylesbury-st. Clerkenwell, May 20, at eleven.—*Walker*, G. commission agent, York-st. Kingsland-rd. May 20, at eleven.—*Wetherall*, D. out of business, Seymour-st. Euston-sq. May 29, at twelve.

COUNTRY.

Cottam, M. grocer and provision dealer, Liverpool, May 16, at eleven, Liverpool.—*Dougherty*, J. butcher, Liverpool, May 15, at eleven, Liverpool.—*Early*, W. tailor and draper, Cheltenham, May 27, at twelve, Bristol.—*Harvey*, T. M. mercer and tailor, Nottingham, May 19, at half-past ten, Birmingham.—*Hopkinson*, J. woollen cord manufacturer, Huddersfield, May 21, at eleven, Leeds.—*Hopson*, W. butcher and tobacconist, West Derby, May 14, at eleven, Liverpool.—*Lediard*, P. turnpike-gate keeper, Dowdeswell, May 27, at eleven, Bristol.—*Lindley*, J. cotton cord manufacturer, Huddersfield, May 21, at eleven, Leeds.—*Miles*, C. baker, Westbury, May 26, at eleven, Bristol.—*Saville*, M. hosier, Hyde, May 20, at twelve, Manchester.—*Short*, W. sen. poulterer, Hull, May 21, at eleven, Leeds.—*Thompson*, W. attorney, Newcastle, May 14, at two, Newcastle.—*Young*, J. provision dealer, Newcastle, May 14, at two, Newcastle.

PETITIONS TO BE HEARD AT BASINGHALL-STREET.

Gazette, May 9.

Bartley, N. gent. Martin's-lane, Cannon-st. May 23, at two.—*Clarke*, J. shoemaker, Ipswich, May 17, at half-past eleven.—*Davey*, T. porter, Bury St. Edmunds, May 21, at one.—*Folbear*, T. coach maker, Cambridge-mews, Edgeware-road, May 21, at one.—*Gower*, J. assistant to a victualler, Long-alley, Finsbury, May 21, at twelve.—*Hands*, W. watchmaker, Featherstone-st. June 12, at eleven.—*Heath*, R. J. cabinet maker, Woolwich, May 26, at two.—*Kelly*, M. bookseller, New Windsor, May 21, at one.—*Maltwood*, W. trunk maker, Strand, May 23, at twelve.—*Osler*, J. bone merchant, King's-Lynn, June 12, at eleven.—*Perry*, J. bootmaker, Cherry-garden-st. and Mill-pond-st. Bermondsey, May 26, at half-past one.—*Peters*, E. commission agent, Godstone, May 17, at half-past eleven.—*Reid*, E. J. bookbinder, Fetter-lane and Northampton-st. Islington, June 12, at eleven.—*Savin*, C. out of business, South Audley-st. May 17, at eleven.—*Sawyer*, J. attorney, Goulden-terrace, Barnsbury-road, and Bow-lane, May 20, at half-past one.—*Spurgeon*, W. wheelwright, Cross-st. Hatton-garden and Hatton-yard, June 12, at eleven.—*Woodhams*, C. clothier, Lambeth-walk, May 23, at eleven.

COUNTRY.

Abell, J. lace manufacturer, Nottingham, May 17, at twelve, Birmingham.—*Andrews*, O. lime burner, Bath, May 30, at half-past eleven, Bristol.—*Hill*, J. P. joiner, Nottingham, May 21, at half-past ten, Birmingham.—*Hopwood*, J. grocer, Scarborough, May 20, at eleven, Leeds.—*Hughes*, J. grocer, Manchester, May 20, at twelve, Manchester.—*Knight*, J. brush maker, Cheltenham, May 27, at half-past twelve, Bristol.—*Lennon*, P. joiner, Great Bolton, May 21, at twelve, Manchester.—*Moore*, J. coal leader, Lockwood, May 21, at eleven, Leeds.—*Noble*, M. currier, Bramham, May 20, at eleven, Leeds.—*Pearson*, J. innkeeper, Shelf, May 20, at eleven, Leeds.—*Poole*, W. G. accountant, Toxteth-park, May 16, at eleven, Liverpool.—*Saunders*, J. out of business, Carlisle, May 14, at half-past two, Newcastle.—*Stone*, J. dealer in cheese, Derby, May 17, at eleven, Birmingham.—*Turner*, T. blacksmith, Bradford, May 20, at eleven, Leeds.—*Walsh*, M. egg dealer, Bath, May 28, at twelve, Bristol.

MEETINGS AT BASINGHALL-STREET.

Gazette, May 9.

Hutton, W. K. L. grocer, Francis-ter. Hampstead-rd. May 27, at one, to audit, and May 30, at eleven, div.—*Hamblen*, W. clerk to a corn factor, Queen's-rd. Bayswater, May 27, at one, to audit, and May 30, at half-past eleven, div.—*Wilton*, A. sack maker, Wilson-st. Finsbury, May 27, at one, Manchester, to audit, and May 30, at twelve, div.

MEETINGS IN THE COUNTRY.

Barrowclough, J. carpenter, Kirkburton, May 28, at eleven, Leeds.—*Carbutt*, J. publican, Liverpool, May 15, at twelve, Liverpool.—*Griffiths*, E. May 29, at eleven, Liverpool.—*Lee*, J. C. locker in the Customs, Toxteth park, May 15, at twelve, Liverpool.

IN THE COUNTRY.

Busham, H. G. road repairer, Stroud, June 3, at eleven, div. Bristol.

From the Gazette of Friday, May 16.

Bankrupts.

Richards, J. plumber, Deptford-bridge.—*Cole*, F. L. wine merchant, Fenchurch-st.—*Lampray*, J. money scrivener, Warwick.—*Livingston*, J. and *Brittain*, T. plumbers, Manchester.—*Summers*, W. and *Rae*, N. ropemakers, Strangeways.—*Lawton*, E. and *Kay*, T. iron founders, Rochdale, Lancashire.—*Russell*, W., *Knowles*, J. and *Simister*, H. perchers, Salford.

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LORD CHANCELLOR'S COURT.

Wednesday, April 23.

GARCIAS *v.* RICARDO.

Staying proceedings pending an appeal—Plea—Practice.

Where a plea had been overruled, and the defendants had appealed to the House of Lords, a motion to stay the plaintiff from enforcing an answer pending the appeal was refused, upon the ground that the delay which must occur to the plaintiff in the event of the appeal proving unsuccessful was such an injury to him as could not be repaired, whereas if the appeal was successful, the defendants would have only incurred the costs of putting in their answer: and although the bill sought accounts of pecuniary transactions of considerable extent, and which the defendants alleged involved the production of the whole business accounts of a great mercantile firm, the Court held that the balance of inconvenience was so clearly on the side of the plaintiff, that on appeal the refusal to suspend proceedings was affirmed.

The plaintiff Garcias, resident in France, had agreed through Ardoin, banker of Paris, to take a twentieth part of a loan which, in 1834, Messrs. Ricardo, of London, had contracted with the Spanish government. As the plaintiff alleged, the terms of the contract were that he should have a share of all commissions and profits resulting from the loan transaction; but the defendants had refused to account with him on that footing, contending that he merely became a sub-purchaser of a certain share of the loan, and did not become a co-contractor or partner in the speculation. The difference between the sum accounted for by the defendants and that claimed by the plaintiff amounted to 15,000*l*. In 1838, the plaintiff had instituted proceedings in the courts of law in France against Ardoin, the defendants' agent in that country, to enforce his claims to a share of the profits and commissions, and the suit had been carried through the Court of Commerce, and the Court Royal, and was finally referred to judicial arbitrators, who decided that the defendants had accounted to the plaintiff; that he was not entitled to a general account; and that he had been settled upon the footing to which he was entitled to an account. This decision was made in Dec. 1840, and except upon questions of law there was no higher court of appeal in the French judicature. The bill was filed in April 1844, and prayed a general account of the loan transactions, of the commissions received by the defendants in respect thereof, and of their profits thereupon, as well as the profits they had made by using the plaintiff's share of the profits and commissions on the loan. To this bill the defendants put in a plea, which was in substance that they had fully accounted to the plaintiff, and had been discharged by competent judicial authority in France. The Vice-Chancellor of England had overruled the plea, holding that it did not shew that the matters decided by the French courts were the same as those in respect of which the plaintiff claimed by the present bill. From that decision the defendants appealed to the House of Lords. A motion was then made before the Vice-Chancellor to stay the proceedings pending the appeal, alleging that the accounts required by the bill were voluminous and involved the whole of the defendants' financial transactions since the period of the loan, as the profits to which the plaintiff asserted, though defendants denied his right, formed part of their general business capital. That if they answered at all, they must answer fully, and so give the whole of the trading accounts of their great establishment. It was held, however, that in the event of the appeal failing, the delay which the plaintiff would sustain from suspending the answer during the two years the appeal would probably be pending, would be an injury incapable of reparation, whereas, if the appeal succeeded, the costs of the answer would be the only inconvenience the defendants would sustain. The balance of inconvenience from suspending proceedings would therefore fall upon the plaintiff. The application was refused, and was now made, by way of appeal, to the Lord Chancellor.

Wakefield and *Heathfield*, for the appeal, contended that all the authorities, except *Walburn* v. *Ingilby* (1 Myl. & Keen, 79) were in favour of suspending proceedings in such a case as this, and they cited *Wood* v. *Milner* (1 Jacob & Walker, 636); *King of Spain* v. *Machado* (4 Russ. 560); *Gwynn* v. *Lethbridge* (14 Vesey, 585); *Huguenin* v. *Basely* (15 Ves. 180).

Bethell and *Lewis*, for the plaintiff, opposed the appeal motion, and contended that, under the circumstances of this case, the plaintiff was entitled to an answer, notwithstanding the appeal. The defendants had partially accounted to the plaintiff, and what was sought was a full account. They cited, The *Warden and Canons of St. Paul's* v. *Morris* (9 Ves. 318); *Suisse* v. *Lord Lowther* (Lord Chancellor, 1843); *Waldo* v. *Caley* (16 Ves. 213); *Willan* v. *Willan* (16 Ves. 216); *Gwynn* v. *Lethbridge* (14 Ves. 585); *Nerot* v. *Burnand* (2 Russ. 56); *Taylor* v. *Rundell*, *Bute* v. *Stuart*.

The LORD CHANCELLOR.—Irremediable mischief seems to be the issue on these occasions. The plea would not be rendered useless by giving the account, and I think it comes to the mere inconvenience of giving the account. Now there is nothing to satisfy me of the great inconvenience the defendants suggest. The account may consist of money expended in the purchase of bonds, of the sale of the bonds, the sums paid to Garcias, and the balance due to Garcias. That would be the whole account. If there should be a balance due to Garcias, then there must be an account of the employment of that balance by Messrs. Ricardo. There would have been no inconvenience in respect of the account, if the balance had been handed over to Garcias.

Wakefield.—Though the defendants deny that the plaintiff is entitled to any profits, yet, if they are compelled to answer, they must set out their profits.

The LORD CHANCELLOR.—The account is in consequence of the defendants not denying the plaintiff's interest. They are put to a collateral inconvenience; but that does not affect the cause. The defendants have appealed to the House of Lords on the main question, and on this motion you come to another tribunal. If you had gone to the House of Lords on this motion also, you might have applied to advance the appeal, or the House might have made some other arrangement. Such separate appeals are very inconvenient. If both appeals had been before me, I should have known the merits of the question at issue. But I have heard nothing to satisfy me that the defendants will suffer any material inconvenience by answering; naturally, the account is very simple; the account already delivered to the plaintiff was a simple one, and the further account required is of the same nature. I shall affirm the Vice-Chancellor's order, unless on an application to the Appeal Committee of the House of Lords, the appeal should be advanced, so as to come on for hearing in a few weeks; and then I will stay the proceedings for a short time. Otherwise, the Vice-Chancellor's order must be affirmed.

Re GRIFFITH'S Patent.

Re SAMUDA'S Patent.

Petition against sealing a patent—Two patents for the same object in favour of which the Solicitor-General has reported—Reference back to the Solicitor-General—Practice.

There were cross-petitions in these matters, Griffith having petitioned the Lord Chancellor not to affix the great seal to Samuda's patent, and Samuda praying the same thing as to Griffith's patent. Griffith's patent is for improvements in the method of using atmospheric pressure as applicable to railways and canals. The difficulty had been to communicate motion to the carriages and at the same time to keep the tube perfectly air-tight. This patent avoided the difficulty in this way: a narrow opening at the top of the tube is covered with leather or some other flexible air-tight substance, and a cog-wheel on the inside of the tube communicates motion through the leather to a cog-wheel outside of the leather, and to which the carriage is connected. Samuda's patent is for exactly the same thing, in combination with several other things. The Solicitor-General had allowed both patents, though he said at the same time that the two inventions clash with each other.

J. Russell, for Griffith's patent.

J. Parker, for Samuda's patent.

The LORD CHANCELLOR.—If Samuda's patent includes this, the Solicitor-General should not and would not have allowed it. It is a matter of course in such cases to refer back to the Solicitor-General to ascertain which patent has priority. I can put any date into the patent which the justice of the case requires. The issue into which the Solicitor-General has to inquire is, whether the patents do clash, and, if they clash, who first invented, not who presented the first petition. Then the matter may be brought before me. It is the business of the Attorney or Solicitor General to investigate and decide in the first instance whether the two inventions interfere with each other, or which of the applicants was the first and true inventor. I shall reserve further directions and costs until the Solicitor-General has made his report. The order of reference will be in the usual form.

Friday, April 25.

Re BROOME, a Lunatic.

West India estates—Consignees—Securities—Allowance—Income Tax—Practice in lunacy.

A petition was presented to confirm the report of the Commissioner. The lunatic's property consisted entirely of estates in Barbadoes, and the consignees to whom the produce had been sent were Messrs. Daniels of Bristol, and Messrs. Barton and Co. of Liverpool. It was proposed that the money should be paid into court by the consignees, and that the committee of the estate should not be required to give security.

Blunt, for the petition.—The Commissioner had reported that 500*l*. a year was a proper sum to be allowed for maintenance, and it was asked that it should be paid exclusive of the income-tax.

Lewin, for the co-heiresses of the lunatic, asked that they should be allowed their costs, charges, and expenses, and that they should be at liberty to attend the passing of the accounts.

Messrs. Barton and Co. to whom a small portion only of the produce has been consigned, declined to enter into any security.

The LORD CHANCELLOR.—The Commissioner must settle the security. The consignees are, in fact, receivers. The allowance must be a clear income of 500*l*. a year free of the income-tax.

Re WARD, a Lunatic.

Sale—Lunatic's estate—Private Act of Parliament.

Walker supported a petition praying the confirmation of the Commissioner's report authorizing a contract for the sale of the lunatic's real estate, which had been entered into, and also authorizing an application for a private Act of Parliament to carry such contract into effect. The estate had been devised to Ann Ward, the lunatic's mother, for life, with remainder to her children, as tenants in common. The lunatic is one of ten such children. The Commissioner found that it was beneficial to the lunatic's estate that the contract for sale should be carried into execution.

The LORD CHANCELLOR.—What is the expense of an application to Parliament? However, it seems proper that the order should be made. It should be seen that the draft bill is in the usual form, that is, that it contains a clause requiring my sanction on the behalf of the lunatic to the sale of the estate.

Re WALKER, a Lunatic.

Contract for purchase of real estate—Reservation of questions between next of kin and heir-at-law—Form of conveyance.

In this matter the petition prayed that the committee of the estate should complete the purchase of certain real estates; that he should be at liberty not to defend a suit for specific performance of the contract which had been instituted by the vendor, and that the purchase-money, 3,600*l*. might be paid out of money now in the hands of the committee, so far as it would extend, and the deficiency made up out of the surplus rents of the real estates of the lunatic. The contract, which was for the purchase of a contingent reversionary estate, had been made by the agent of Miss Walker, the lunatic, in October 1842, and the suit to enforce it had been commenced subsequently. The jury had, however, since found that Miss Walker had been insane from the year 1841, prior to the contract. The vendor had now filed a supplemental bill against Mr. Sutherland and his wife, the committees of the lunatic's person and estate, to enforce the contract against the lunatic. It was desirable not to defend the suit, and that the contract should be completed.

The LORD CHANCELLOR.—The contract having been entered into after the lunacy, was clearly voidable; but the commissioner having found that the contract is for the benefit of the lunatic's estate, and that the suit ought not to be defended, the purchase-money must be paid out of the personal estate. But then it becomes a consideration who is to have the benefit of the purchase, after the lunatic's death, should she not recover. That question must be left open. I under-

stand only one solicitor is engaged for all parties; the conveyance must be settled by the Commissioner, and it must be in such a form as will not preclude the question as to whether the estate purchased will go to the real or personal representative. It must be conveyed upon the trusts of the lunatic's will, in case she should recover and make a valid will, then upon trust for such person as under the circumstances might be entitled to the estate. The conveyance must not be in such a form as will preclude the claim of the next of kin.

Re LEE, a Lunatic.

Allowance—Inquiry as to carrying on the trade—Sale of estate.

Glasse supported the petition of the committee of the person and estate to confirm the Commissioner's report approving of the application of the whole income, 179*l.* to the support of the lunatic. He had been kept at an asylum at an expense of 200*l.* and the difference had been paid by his son. It was asked also that an inquiry might be made whether it would be beneficial that the lunatic's trade of a farmer should be carried on, and that a contract for the sale of part of the estate might be sanctioned.

The LORD CHANCELLOR.—The contract has been entered into by the son, after the lunacy, and without any order of the Court. There is no power to order the sale of a lunatic's estate, except for the purpose of paying debts. The report may be confirmed, and there may be an order for inquiry upon the other parts of the petition.

VICE-CHANCELLOR OF ENGLAND'S COURT.

Tuesday, April 8.

BURDETT *v.* RAWSON.

Practice—Creditor's bill dismissed before decree, under what circumstances.

The plaintiffs, in a creditor's suit, applied by petition, before a decree, to the Court that the bill which had been filed against the personal representative of an intestate, and which had, after some time, been revived against the present defendant, might be dismissed, and the money in court ordered to be paid out to the personal representative. Petition granted without costs.

The original bill in this suit was filed so far back as the year 1817, against the personal representative of Mr. Beckwith Smith, who had died intestate. The bill was a common creditor's bill on behalf of themselves and all other the creditors of B. Smith, and prayed that the usual accounts of the intestate's property might be taken; also for an injunction and a receiver. A receiver was accordingly appointed by an order of the Court, 25th June, 1817, and an injunction issued against Ann Smith, the personal representative of the intestate, to restrain her from receiving any part of the intestate's estate. The receiver had got in various sums of money, and paid them into court, and the same were then standing in the name of the Accountant-General, in trust in the cause. Several abatements had happened during the progress of the suit, which was ultimately revived in March last, against the present defendant, T. S. Rawson, as the administrator *de bonis non* of the intestate

The plaintiffs now presented their petition, setting forth the various proceedings therein, and that no decree had hitherto been made. It stated that the said T. S. Rawson had come to an arrangement with the petitioners for satisfying the debts of the intestate, which the petitioners were themselves desirous of carrying into effect, and of not proceeding any further with the suit, and that the Bank Annuities and cash standing to the credit of the cause should be transferred and paid to the said T. S. Rawson, and prayed that the same annuities and cash, together with all dividends to accrue due thereon, should be forthwith transferred and paid out of court to the said T. S. Rawson, and that the suit might thenceforth stand dismissed.

J. Parker and *Robson*, in support of the petition relied upon the following cases.—*Handford* v. *Storie* (2 Sim. & Stu. 196); *Wood* v. *Westall* (1 You. 305) *Ley* v. *Duckett* (6 Cr. & Ph. 505).

Elmsley, for the administrator, offered no objection.

The VICE-CHANCELLOR, upon the petitioner submitting to dismiss the bill without costs, granted the order as prayed.

Friday, April 11.

RICHARDSON *v.* RICHARDSON.

Will, construction of—Statute of Distributions.

A testator gave all his copyhold hereditaments and premises, and all his leasehold premises not before bequeathed, unto trustees and their heirs (subject as therein mentioned), upon trust for his son W. B. R. for life, and after his decease upon trust, as to a moiety thereof, as he should appoint, and in default of such appointment, "unto and among the person or persons who at the time of his death would, under the statute for the distribution of intestate estates and effects, be entitled to his personal estate [illegible] died intestate." The son, W. B. R. died [illegible] executed the power of appointment, [illegible] ing A. H. R. his widow, and four children (the plaintiffs) surviving him: Held, that the statute had reference to the persons only, and not to the shares, and that A. H. R. and her four children took equally as tenants in common.

William Richardson, the testator, by his will, bearing date the 18th December, 1839, after making certain bequests, gave and bequeathed all his copyhold hereditaments and premises, and all his leasehold premises not before bequeathed, unto certain trustees, the survivors and survivor of them, and the heirs, executors, and administrators of such survivor, for all his estate, term, and interest therein, upon trust to receive the rents, issues, and profits, and pay all fines, &c. and should pay and apply one moiety or half part of the clear rent, issues, and profits arising out of his said copyhold and leasehold premises (after and subject to the payment aforesaid) unto his son Richard Beecham Richardson during the term of his natural life, and from time to time as the same should be received, but not by way of anticipation, and for his own use and benefit.

The testator then directed as follows: "And from and after the decease of my said son, William Beecham Richardson, then upon trust, that they, my said trustees, the survivors and survivor of them, &c. do and shall assign, convey, and surrender one moiety or half part of and in the said copyhold and leasehold premises, unto such person or persons, and in such parts, shares, and proportions, and to and for such ends, interests, and purposes, as he, the said William Beecham Richardson, shall in and by his last will and testament, or any writing purporting to be his last will and testament, to be by him duly signed and attested, direct, limit, appoint, give, or bequeath the same; and in default of any such direction, limitation, or appointment, gift or bequest, and as to such part or parts of the said moiety of the said copyhold and leasehold premises of which no direction, limitation, or appointment, gift, or bequest, shall be made, or shall take effect, then upon further trust to assign, convey, or surrender the same moiety, and every part thereof, unto and among *the person or persons* who at the time of his death would, *under the statute for the distribution of intestate estates and effects, be entitled to his personal estate in case he had died intestate.*"

The testator appointed his wife Sarah Richardson, William Hodges, and Charles Field, executrix and executors of his will, and died on the 3rd of March, 1840, leaving his wife and son, also a daughter, him surviving. Sarah Richardson, the widow, alone proved the will, and acted in the trusts thereof, her co-trustees having declined to act. The widow received the rents and profits of the premises, and paid a moiety thereof to her son William B. Richardson, according to the terms of the will, up to the time of his death. William Beecham Richardson, the son, died in March 1844, without having executed the power of appointment given to him by his father's will as before mentioned, leaving the defendant Ann Harriet Richardson, his widow, and his four children, the plaintiffs, him surviving. William B. Richardson, the son, was neither a freeman of London nor an inhabitant of the province of York, and therefore was not within the exception of the Statute of Distributions (22 & 23 Car. 2, c. 10, and 29 Car. 2, c. 30).

The bill was filed by the four children of W. B. Richardson [illegible] st Sarah Richardson and Ann Harriet Richardson, submitting that they and their mother, the defendant, Ann Harriet Richardson, being the only persons who at the death of the said W. B. Richardson were, under the statute for the distribution of intestates' estates and effects, entitled to the personal estate of the said Wm. B. Richardson, were entitled as tenants in common to four-fifths of the said moiety of the said copyhold and leasehold premises, praying, among other things, that it might be declared that they were [illegible] titled. The defendant Ann H. Richardson put in her answer to the said bill, insisting that she was entitled to one equal third-part of the said moiety of the copyhold and leasehold premises.

Bacon, for the plaintiffs, contended that the testator meant nothing more in referring to the Statute of Distributions than to designate the *persons* who were to take, not the *shares* in which they were to take. The words "unto and among" were sufficient to enable the parties to take as tenants in common in equal shares. (*Lashbrook* v. *Cock*, 2 Mer. 70; *Casterton* v. *Sutherland*, 9 Ves. 445.)

Rogers, for the defendant Ann H. Richardson, submitted that the true construction of the testator's will was, that recourse [illegible] had to the Statute of Distributions, not merely for the intent of pointing out the individuals who were to take, but also to ascertain the shares which they were to take. That a number of authorities concurred in this principle, that where the Statute of Distributions is made the criterion as to the parties who [illegible] take, it is not only to be applicable to [illegible] ho shall take, but also to the portions or sha[illegible] (*Thomas* v. *Hole*, Forrest. 251; *Walrogs* v. *Hardy* [illegible] Bea. 358.)

[illegible] for the trustees.

The VICE-CHANCELLOR conceived that the words of the will [illegible] indicated that the persons whom the testator intended to take should take as tenants in common, and that both the plaintiffs and the defendant Ann H. Richardson must be deemed to take equally as tenants in common.

ROLLS COURT.

Tuesday, April 8.

* WALROND *v.* WALROND.

Sale set aside—Opening biddings on an advance of price—Tenure of property.

The bidding on a sale by the Court will not be opened as of course upon a sufficient advance in price being offered, if the tenure of the property be precarious, as upon life, &c.

Mylne applied to open the bidding upon the sale of property held under the church for two lives. The sale had been under the direction of the Court, and the property had been purchased by Mr. Parkes for 4,700*l.* but by order of the 14th November, 1844, the sale was set aside because the purchaser was connected with the solicitor in the cause. It was then sold to Mr. Evans for 5,500*l.* and the present application was made on an advance of 350*l.* He cited *Cochrane* v. *Cochrane* (2 Russ. & M. 684), *Lawrence* v. *Halliday* (6 Sim. 296), *Domville* v. *Barrington* (2 Y. & C. 723), to shew that the offer was sufficient to have the biddings opened.

Turner, contrà.—The person applying is an agent of Mr. Parkes, and the property being only held for two lives, loss might accrue if the biddings were opened. The nature of the property is to be looked to (*Williams* v. *Attenborough*, 1 Turn. & Russ. 7) as well as the amount of advance.

Chapman, for a mortgagee.

Mylne, in reply.—As to the objection in reference to the possible loss at the sale. [The MASTER of the ROLLS.—Suppose your client won't consent to secure the estate against loss?] He is liable for the loss, if any. [The MASTER of the ROLLS.—Suppose some one outbids him, would he be liable?] No; there would be that risk.

The MASTER of the ROLLS.—I cannot grant the application without a security against loss to the estate at all events. There is no objection but that. The sum offered is sufficient.

Re CAREW.

Application to tax the costs of taxation of a bill of costs of which more than one-sixth had been taxed off.

In this case, which is reported 4 Law T. 231, & 310, application was now made for taxation of the costs of taxation of the bill of costs of Mr. Carew, of which more than one-sixth had been taxed off, on reference to the taxing Master.

Kindersley and *Hallett* for the petition.—The costs of the former petition were reserved till after the Master's report. He struck off more than one-sixth; we are therefore entitled to costs of all.

Turner opposed the application.

The MASTER of the ROLLS.—There is no doubt about the case, and Mr. Carew must therefore pay the costs.

Wednesday, April 9.

CARLON *v.* FARLAR.

A judgment is made a charge on lands by the 1 & 2 Vict. c. 110, but to obtain the benefit of it, there must be an order for payment within a given time; and if not, then a sale, a foreclosure is not the course.

Chandless applied for an order for foreclosure or for a sale. A judgment was obtained on the 11th June, 1840, which being made a charge by the 1 & 2 Vict. c. 110, it was now sought to obtain the benefit of it. The property charged consisted of an equity of redemption of freehold and copyhold lands.

White, for another judgment creditor.—He cited *Page* v. *Smith* (2 M. & K. 417.

The MASTER of the ROLLS.—It comes to a question of time. We must first ascertain the debt, then appoint a time for payment. I take it the remedy is not by foreclosure, but by an order to pay at a given time; and if not, then a sale.

Friday, April 11.

STOPFORD *v.* CHAWORTH.

Will, construction of—Whether the children of a second marriage take under the terms of the will as well as those of the first.

Lewis Montague by his will, bearing date 9th February, 1817, bequeathed certain sums of stock to trustees upon trust, as to one moiety, for his daughter Georgiana absolutely, and as to the other moiety upon trust to pay the dividends thereof to his other daughter, Julia Fanny, for her separate use for life, and should she survive her husband and children, when that took place, they were to transfer the principal sum to her, her heirs and assigns; but should she die leaving her children and husband surviving, then to pay the dividends to her husband, Captain Wilbraham, for life, and upon his decease to her child or children, as she should appoint; to sons, upon attaining twenty-one, and to daughters upon attaining that age or upon marriage, and in default of appointment to her children equally; but should his daughter Julia Fanny die without having children,

then he bequeathed that moiety of the stock to his daughter Georgiana. The testator died in May 1827 his daughter Julia Fanny having then no children but subsequently having two by Captain Wilbraham who died in September 1824. On the 8th July 1826, Mrs. Wilbraham married Sir Henry Bouverie, and died in June 1836, leaving two children by her second husband, as well as the two by her first. The question was whether the latter alone, or they with the former, took under the will.

Tinney, Turner, and *Prior*, for the children of the first marriage, argued that the testator had the first husband and the children of the then marriage alone in contemplation. If she was to have a transfer as directed by the will, it must mean after the death of her first husband and the children by him; for she could not ever have a transfer, if she was to have it only after outliving all her children. They cited *Batsford* v. *Kebbell* (3 Ves. 363); *Wilkinson* v. *Adam* (1 V. & B. 422).

Rolt, for Wilbraham Stopford, a son of a child of the first marriage.

Lloyd, for the children of the second marriage.—There were four contingencies: first, the daughter's surviving both husband and children; second, the daughter's death, leaving a husband and no children; third, the daughter's death, leaving both; and, fourth, her death, leaving children and no husband. In the second only is it to be maintained that the husband intended by the testator is Captain Wilbraham only; therefore there is enough in all the other cases to justify the construction that all the children are to take. He cited *Barrington* v. *Tristram* (6 Ves. 345).

Stinton, for the trustees.

The MASTER of the ROLLS.—If I were at liberty to act upon conjecture as to what the testator would do were he now to dispose of the property, I might be disposed to decide in favour of the children; but I cannot so act. Unfortunately, there is no general description or statement to give effect to the intention. The question is, whether the testator has used words which comprise children of the second marriage. It is said that Captain Wilbraham being introduced in only one clause, that clause only is limited to him, and therefore the other clauses are not so limited. If there was any general expression, without reference to the husband, which the daughter had at the date of the will, I should have been glad to lay hold of it; but there is none, and therefore the children of the first marriage alone take.

Friday and Saturday, April 11 *and* 12.

SIVELL *v.* ABRAHAM.

A B purchases from C D certain lands devised to him for sale, and C D agrees to obtain the execution of the conveyance by the heir-at-law, which was supposed necessary, or at least desirable. The purchase money is invested, and A B is let into possession. C D having failed to procure the execution by the heir-at-law, a bill is filed to compel him; and after putting in his answer, he obtains the execution, but does not give notice thereof till A B has taken the depositions of witnesses. Upon C D's refusal to pay the costs, A B passes publication and sets down the cause for hearing.

Held that, as it was only a question of costs, it was an improper course to proceed to a hearing. The plaintiff should have made a motion to dismiss with costs against the defendant.

In April 1835, Benjamin Leys devised certain freeholds to the defendant Abraham, to sell for certain purposes. They were accordingly sold to one Bennett, who sold the benefit of his contract to the plaintiff Sivell, of which due notice was given to the vendor. The plaintiff having required the deed of conveyance to be executed by the testator's daughter and heir-at-law, Mrs. Willis, the defendant agreed to procure or acquiesced in the propriety of procuring it; but there being some difficulty in obtaining it, the purchase-money was invested in stock, and a *distringas* put upon it, and the purchaser was let into possession. The dividends were regularly paid to Mrs. Leys, under the will, till 1840, when she died. The money being now distributable, the solicitor of Abraham wrote to the plaintiff that he *intended* to apply for a transfer of the stock, and on the very same day the plaintiff obtained a notice from the bank that the transfer had been applied for, and would be made in the usual time, unless steps were taken to prevent it. Accordingly the plaintiff filed his bill on the 11th October, 1841, for the specific performance of the agreement and for an injunction, which was granted. The defendant put in his answer, and various proceedings were afterwards taken. The defendant, however, in March 1844, for 30*l.* obtained from Mrs. Willis and her husband the execution of the deed, but did not give notice of it to the plaintiff till the 4th of June following. In the meantime the plaintiff had proceeded to take depositions in the cause. Upon giving notice, the defendant stated that though he was not bound, yet he consented to get the execution, and asked the plaintiff to dismiss the bill without costs on either side, or if he did not, he would apply to have it dismissed, and for the plaintiff to pay the costs. The plaintiff refused, and having by his bill prayed for costs, he passed publication, and set down the cause for hearing, and it now came on.

Kindersley, Wood, and *Whitbread*, for the plaintiff, contended that the transaction having from the first proceeded upon the footing that the defendant was to procure the execution of the deed by the heir-at-law, he was bound to do so, and not having done so, he ought to pay the costs of the suit. [His LORDSHIP here intimated an opinion that the plaintiff should not have gone on to a hearing, but should have brought the matter on upon motion.] There being no precedent for proceeding upon motion in such a case by the plaintiff, it was thought too great a risk to do so, and it was conceived no other course was open to him but that which has been taken, especially as the bill prayed for costs. However, the defendant ought to pay the costs up to the 4th of June, and if not those after, at least let there be none on either side.

They cited *Bentham* v. *Wiltshire* (4 Mad. 44).

Turner and *Kinglake*, contrà, cited *Tylden* v. *Hyde* (2 S. & St. 133); *Forbes* v. *Peacock* (11 Sim. 152); *Breedon* v. *Breedon* (1 R. & Myl. 413); *Sowersby* v. *Lacy* (4 Mad. 142).

The MASTER of the ROLLS.—This is a case in which the demand of the plaintiff being acceded to, the question is, who is to pay the costs. The only question was as to the conveyance by the heir-at-law, a question amicably discussed and acquiesced in by the vendor, that the concurrence was at least proper, if not necessary. It was not material at the time of the sale to have this concurrence, and it only became so on the death of the tenant for life, when the fund was to be distributed. The application then at the bank for a transfer rendered it necessary to file the bill, and after various proceedings the defendant obtained the execution required, and gave notice thereof to the plaintiff on the 4th of June, 1844. The more I consider the case, the more I am satisfied the application could have been made as to the costs upon motion. I cannot therefore allow the costs subsequent to the notice; but considering the situation of the parties by the correspondence, and that the heir-at-law was therefore a necessary party to the conveyance, and that the defendant threw the risk on the other side, and countenanced the proceedings, I give the costs up to the date of the notice.

VICE-CHANCELLOR KNIGHT BRUCE'S COURT.

Saturday, April 19.

DAY *v.* DAY.

Infants' contingent interest.

Where an arrangement had been entered into as to a contingent interest which was subject to the trusts of a settlement in which infants were concerned, the Court refused to carry it out, though the arrangement was clearly beneficial for the infants.

In this case a settlement was executed by Mr. and Mrs. Day upon their marriage, and by it certain trusts were declared of personal property. The trusts were, for the husband for life, then for the wife for life, and after the decease of the husband and wife, amongst the children of the marriage, as the husband and wife should jointly appoint, and in default of appointment, among the children equally. By the same settlement, the husband covenanted that if any property should devolve upon himself or his wife, of the value at any one time of 300*l.*, the same should be settled upon similar trusts. By a will the residue of certain personal property was given to a person for life, and after his decease the same was directed to be divided among all the children of the tenant for life who should be living at his death. Mrs. Day was one of nine children of the person at whose death this property was divisible. This suit was instituted for the purpose of carrying into effect an arrangement by which the fund was agreed to be divided into nine parts, though the payment would be postponed until the death of the tenant for life. The effect of this arrangement as to Mrs. Day's share would of course be that her children would have an absolute interest in the ninth instead of a contingent interest dependent upon Mrs. Day's surviving the tenant for life.

Bacon, for the plaintiff.

The VICE-CHANCELLOR mentioned *Peto* v. *Gardner* (2 Y. & C. C. C. 312), and desired that it might be looked into with reference to this case.

Bacon afterwards cited several cases, but

The VICE-CHANCELLOR said that he had no hesitation in saying that it would be for the benefit of the infants that the proposed arrangements should be made, but he must come to the same conclusion that he did in *Peto* v. *Gardner*, that the Court had no jurisdiction.

Friday, April 25.

MALINS *v.* PRICE.

Costs—Shorthand-writer's notes.

Upon the taxation of costs of a motion for a new trial of an issue, the Court would not allow the expenses of shorthand-writer's notes of the judge's charge and evidence: the judge's notes and counsel's notes being considered the legitimate sources of information.

This was an application with regard to the taxation of costs consequent upon a motion for a new trial of issues sent by the Court of Chancery to be tried before a jury. The principal subject of dispute was as to the shorthand-writer's notes of the judge's charge and of the evidence, which notes had been furnished to the counsel upon their motion in this Court for a new trial.

K. Parker, Russell, and *J. H. Palmer*, for the plaintiffs.

Temple and *Heathfield*, for the defendants.

The VICE-CHANCELLOR.—Reserving myself as to an observation made by Mr. Russell, I consider that it is the general rule that, upon applications for new trial, the short-hand writer's notes of the judge's charge or of the evidence cannot be allowed. The legitimate sources of information are the judge's notes and the counsel's notes. There may be particular circumstances to take a case out of that general rule. The question is, whether there is here sufficient to take the case out of the general rule. I think that there is not; and I consider that the counsel's notes are sufficient. I am of opinion that the notes of Mr. Stutchbury's evidence, which, by consent given during the hearing of the motion, were used upon that motion, cannot be allowed. I am of opinion that the circumstance of the consent being given makes no difference. Mr. Russell made a remark which is entitled to considerable attention. Upon a motion for a new trial in this court, it is not exactly the same thing as a motion for a new trial at common law. Generally it is not. The counsel can have no notes of the evidence taken at the trial, though it may happen that there may be a stray brief of one of the counsel engaged on the trial. As each counsel, however, takes his witness in turn, there cannot be complete notes of the evidence on any one brief. For that reason I think that counsel should be furnished with a copy of the evidence; and I think, therefore, that one copy of Mr. Justice Patteson's notes should be allowed.

SERVICE *v.* CASTANEDA.

Jurisdiction—Agent of foreign government—7 Anne, c. 12.

A person sent by the Spanish government to pay certain claims of the British Auxiliary Legion of Spain, and entirely bound by the directions of the Spanish ambassador here, is not subject to the jurisdiction of the Court.

The plaintiff in this case had been an officer in the British Auxiliary Legion of Spain; his claim upon the Spanish government for his services having been settled by the commissioners appointed by the British and Spanish governments, he received a certificate that his claim amounted to 598*l.* 13*s.* 4*d.* which certificate was therein stated to be transferable by indorsement. One half of this sum having been paid in several instalments, the plaintiff, in October 1841, sold his certificate to the defendant, George Field, for 180*l.* and an indorsement to that effect was made by the plaintiff upon the certificate. Field received the whole of the sum remaining due upon the certificate, and upon the payment of the last instalment a memorandum was given to him stating that the certificate was cancelled, &c. and the certificate itself was given up by Field. The Spanish government having determined to grant a compensation of 5 per cent. upon the claims, on account of the delay which had occurred in their payment, advertisements were issued by the defendant Senor Castaneda, stating that on particular days he would pay the compensation upon the production of the memorandum given upon the payment of the last instalment of the claim. The plaintiff's solicitor accordingly demanded of the defendant Field the delivery of the memorandum, alleging that the compensation had not been sold to him; Field, however, insisting upon his title to the compensation, this suit was instituted against Field and Castaneda, and an *ex parte* injunction was obtained to restrain Castaneda from paying, and Field from receiving the amount of the compensation.

Wigram and *H. Stevens*, on behalf of the defendant Castaneda, moved to dissolve the injunction as it regarded him, insisting that the Court had no jurisdiction over him.

Heathfield, for the defendant Field, applied for his costs.

Russell and *L. Mackeson*, for the plaintiff, argued that the defendant Castaneda was not within the terms of the statute of 7 Anne, c. 12.

The VICE-CHANCELLOR.—The simple question at present before me is whether, without reference to the merits of the plaintiff's claim, this injunction ought to stand against a gentleman who, in an affidavit not replied to, states that he is the "agent of her Catholic Majesty the Queen of Spain's Government"—and the Government here must be taken to mean the Queen of Spain—"for the discharge of certain claims, &c. and that he is engaged in no other profession, business, or capacity in this country whatever;—that as such agent he is attached to the Spanish Embassy, and is under the control and direction of her Catholic Majesty's ambassador from the Court of Spain to this country, and that he has no power, authority, or discretion of his own in regard to the payment or

application of the said compensation, but is bound to act therein entirely in obedience to the directions he may from time to time receive from such ambassador." It is therefore very much the case of an inferior servant bound to obey the orders of an upper servant, both being servants of the same ʻtress' The affidavit then proceeds; that he has been informed and believes that he is a public minister of her Catholic Majesty in this country within the intent and meaning of an Act of Parliament made and passed in the seventh year of the reign of her Majesty Queen Anne, &c." There is no doubt that these claims have been a subject of public discussion between the two governments. But that at the same time might be perfectly consistent with some private right which a party might have against an ambassador. The question is as to the mode of enforcing it. In such a case the mode to be adopted is, for the party to apply to his own sovereign, and ask that sovereign to do him justice by making representations to the sovereign of the ambassador who is in this country. It is to be assumed that all sovereigns will do justice; but if one sovereign refuse it, there are proper modes of settling the dispute. The question here is only whether the ordinary courts are to interfere in a particular way. The statute of Anne, which has been referred to, is only declaratory of the law of the country. By the third section of that Act it is enacted, that "all writs and processes that shall at any time hereafter be sued forth or prosecuted, whereby the person of any ambassador or other public minister of any foreign prince or state authorized and received as such by her Majesty, her heirs or successors, or the domestic or domestic servant of any such ambassador or other public minister, may be arrested or imprisoned, or his or their goods or chattels may be distrained, seized, or attached, shall be deemed or adjudged to be utterly null and void to all intents, constructions, and purposes whatsoever." This injunction is wholly fruitless, unless obedience to it can be compelled by the arrest of the defendant or the seizure of his property. Can it be so against the defendant Senor Castaneda? If he cannot bring himself within the terms of the statute of Anne, as to which I give no opinion, he brings himself within the common law, part of which is the law of nations, which exists equally with the statute law, and which protects him from that proceeding which he now seeks to dissolve. I shall therefore dissolve this injunction, without giving any opinion upon the merits of the case. There is no application before me to dismiss the bill as against this defendant, and therefore I can do no more than dissolve the injunction against him. The injunction as to Mr. Field will of course remain.

Tuesday, April 29.

POTT *v.* TODHUNTER.

Voluntary assignment—Bankrupt.

A deed which professed to be a voluntary assignment of part of a bankrupt's property in favour of his wife and children, and which was made a short time before the bankruptcy, was sustained, under the circumstances which were proved, dehors the deed.

This suit was instituted by the assignees of a bankrupt named Holyland, for the purpose of setting aside a deed dated the 8th of June, 1841, by which a sum of 3,310*l.* stock was assigned to trustees for the benefit of the bankrupt's wife and children. The circumstances of the case, as they appeared from the defendant's answers and the evidence entered into on both sides, are sufficiently stated in the Vice-Chancellor's judgment.

Wigram and *Elmsley*, for the plaintiffs.

The VICE-CHANCELLOR (without hearing the counsel for the defendants).—That the transaction in question was fairly and honestly designed, cannot, I think, be disputed. Still, as Holyland, who is represented as the author of it, has become bankrupt, the fairness and honesty of intention may be insufficient to support it. It is said that the settlement was a mere voluntary appropriation by him of his own property. To bring this case within the rule by which the settlement would be void, it must be an appropriation of *his own* property, and it must be *voluntary*: and plainly, *ex facie* the instrument, it was his own property, and it was a voluntary conveyance. If there were nothing more than the deed, the assignees would be entitled to set aside the settlement. Supposing them so entitled, I should upon the question of insolvency have no doubt. It is not necessary for me to decide whether the insolvency is proved or not. I come to the conclusion that at any period in 1840 or 1841 was solvency or insolvency material. It appears that Sam, a bachelor, who had many brothers and nephews and nieces, had brought up a young lady as his child, but who had no legal claim upon him. Upon his death, an unattested instrument was found, clearly not affecting real estate, but which, as the law was then constituted, it was supposed might affect personal estate. One of his brothers was his heir-at-law, and, upon the assumption and belief that the will was valid as to personal estate, this gentleman, with great generosity, and acting in a manner highly creditable to himself, devotes a certain portion of the real estate to the purpose declared by this will, and conveys some part of the real estate to secure an annuity of 100*l.* a year in favour of the young lady. All this was done upon the presumption that the will affected personal estate, and with a view to its taking full effect on the personal estate. They were afterwards advised by most competent authority, and, if I may say so, most properly advised, that the will was ineffectual even as to the personal estate From the moment of that discovery the heir-at-law acquired a right to be delivered from the appropriation of his property except upon the condition of having the will completed. It appears he did not insist upon this. Mr. Todhunter, one of the gentlemen who were to have acted as executors, appears to have been a friend of the family, an active and good-natured man, and he appears to have desired to secure the performance of the will. Under circumstances of some difficulty, he effects an arrangement with all the persons entitled to the distribution of the personal estate, of whom the heir-at-law was one, in such a way as, with the assistance of the heir-at-law, to leave this property clear for the young lady, allowing her husband, who was entitled to one-forty-eighth share, to become administrator, but not to retain to his own use what the family had agreed to confer upon the adopted child of the testator. The evidence proves to my mind that Todhunter executed the task he had imposed upon himself; and it was understood, with regard to so much of the personal estate as should be preserved after the arrangement with the next of kin, he should have the control of the application of it, with a view, no doubt, to enable him to make a settlement in favour of this young lady and her children. That, under these circumstances, this agreement was for valuable consideration, no reasonable man can doubt. A reversionary interest mentioned in the will falls into possession. The money is received by Todhunter's solicitor, and as early as August 1840, 3,000*l.* was invested. The settlement was not then executed; but in the month of June 1841, it was executed, the bankruptcy not taking place until 1842. If Mr. Todhunter had not before the bankruptcy concurred in the settlement, there might have been difficulty—difficulty, however, rather in the mode of proceeding, though the difficulty would not, perhaps, have been substantial. Though Todhunter did not execute the settlement, he, no doubt, was a party to the arrangement. This does not resemble a transaction not for valuable consideration. The mere circumstance that the deed represents it to be voluntary, is not of importance. The valuable consideration may be shewn by matter *dehors* the deed. As to the costs after the answer was put in, bearing in mind that assignees have more facility than other persons to examine into such matters, they have the less excuse for instituting a suit than others. If the assignees had doubted after the answer had been put in, they might have had a summons, or some process, to examine witnesses before the Commissioner. They must, therefore, pay their costs after the answer; but as to the costs up to and inclusive of the answer, the defendants must pay them.

J. Russell and *G. L. Russell*, for the principal defendants.

Swanston, for the trustees.

Common Law Courts.

COURT OF QUEEN'S BENCH.

HOWARD *v.* GOSSETT.

House of Commons—Privilege.

This Court will look into a warrant of arrest issued by the Speaker of the House of Commons against a party on a charge of contempt, for the purpose of ascertaining its legality in form and substance.

A warrant of arrest issued by the Speaker of the House of Commons is bad, if it does not distinctly specify the offence with which the party to be arrested is charged, and for which such warrant is issued.

This was an action for an assault and false imprisonment. The declaration was in the common form, for assaulting and laying hold of the plaintiff, and forcing and compelling him to go along a certain passage to a certain room, &c. &c., and then and there imprisoning him for a long space of time, without reasonable and probable cause, contrary to law, and against the will of the plaintiff, whereby he was much injured in his credit and circumstances. To this the defendant pleaded four pleas in justification. First, that before the time when, &c. there was a Parliament sitting at Westminster and that just before the time when, &c. to wit, on the 27th of Jan. 1840, certain matters were under discussion in the House of Commons, in respect of which it was considered to be necessary by the said House of Commons that the plaintiff should be questioned and examined by the said House of Commons, to wit, at the Bar thereof, in consequence whereof and in order to procure the attendance of the plaintiff at the Bar of the said House, to be examined as aforesaid, it was ordered by the House in pursuance of and in conformity with the ancient usages and privileges of the said House, and the law and custom of Parliament, that the plaintiff should attend the bar of the said House forthwith, of which said order the plaintiff then had notice; but that the plaintiff did not nor would attend at the bar of the said House, in obedience to the said order so made as aforesaid; but, on the contrary thereof, wilfully and contemptuously, and without reasonable cause or excuse, wholly neglected and refused so to do. Whereupon, it was ordered and resolved by the said House, in pursuance of and according to the ancient usages and privileges of the said House, and the law and custom of Parliament, that the plaintiff should be sent for and brought before the said House in the custody of the Sergeant-at-Arms of the said House; and that the Speaker should issue his warrant accordingly.

Averment.—That the Speaker did issue his said warrant in pursuance of and according to the said order of the House, and in pursuance of and according to the ancient usage and privileges of the House, and the law and custom of Parliament; and thereby required and authorized the Sergeant-at-Arms of the said House to take into his custody the said plaintiff, and bring him before the House; which said warrant was delivered by the said Speaker to the defendant, as such Sergeant-at-Arms, to be executed in due form of law; whereupon the defendant, as such Sergeant, and in pursuance and execution of the said warrant, did arrest the plaintiff, and did necessarily compel him to go in and along the said passages, and into the said rooms, &c. &c. in the declaration mentioned, using no unnecessary violence, and did imprison him for a short time, which was the assault and imprisonment complained of by the plaintiff in his declaration. The second plea was a similar one in substance, but alleged the arrest to have taken place in a lobby of the said House of Commons. The third and fourth were also similar, merely varying the statement of the order of the House for the attendance of the plaintiff; one plea stating that the order was to attend to answer a charge of having committed a breach of privilege, but both justified under the warrant. To these pleas there were special demurrers, alleging that it nowhere appeared in the said pleas that the defendant, in making the said arrest, was acting under any authority or process recognized by law; that the pleas did not shew why it was necessary for the plaintiff to attend the House, or what was the nature of the things for which he was to be examined, so as to enable this Court to judge of the necessity thereof; nor did they shew that the plaintiff had done any thing which rendered it compulsory on him to attend the House, or which gave the House any power to compel him to do so; nor did they shew that the warrant contained any charge of any offence committed by him, or shew why he was to be apprehended, nor how, under such circumstances, the House possessed any legal power to make the order in the pleas mentioned; further, that it was nowhere shewn for how long a time the plaintiff was to be kept in custody.

Kelly, Q.C. (*S. W. Smith* and *Petersdorf* with him) appeared to support the demurrer; and contended that the plea was ill on many grounds: First, the defendant must stand or fall by the warrant, which cannot be aided by any averment in the plea. Now the warrant is bad, as it does not set forth any offence alleged to be committed by the plaintiff, or any object for his arrest; further, it does not state for how long he was to be imprisoned; in one of the pleas mention is made of a supposed contempt—but it is nowhere shewn that the plaintiff was ever adjudged guilty of a contempt;—and it is submitted that the House have no power to commit a person on a *charge* of contempt, but only on a contempt found and adjudged; and further, that they have no power whatever to arrest a party to bring him before the House to answer a contempt; but only on a contempt found. Then as to the warrant; the defendant, it is contended, must stand or fall by it, as it is pleaded, and cannot take advantage of any other fact, although set forth in the plea; now, suppose, for instance, the warrant contained a false charge, the plaintiff, it is submitted, would be justified in resisting the officer, and might have killed him in so doing: then the question would be, was the warrant legal? and on that would depend the question, whether or not it was murder; for it is clear the House have only power to issue their warrant in certain cases; and it would be to answer to an action against their officer, for him to say that the House had issued their warrant for an offence over which they have no jurisdiction, as murder, for instance; now here no cause is shewn for the arrest; the warrant merely desires the Sergeant "to take into custody the body of the plaintiff, and bring him before the House," and this is the same in all the pleas. Now, it is contended, that even this Court has no power to arrest without specifying the cause for which the party is arrested. Then take the case of a conviction: the warrant must state the conviction and the cause thereof; the present warrant, however it is submited, is destitute of every requisite which a warrant should have; no offence is stated; it is not even stated that he is charged, or even suspected of any contempt, or any other offence whatever. How then is the party to know, from

this warrant, whether he was right or no to resist it? If the House had an absolute power to arrest under all circumstances, this might be well enough as their simple mandate to arrest; but that cannot be contended for by the other side. Again, it is submitted, that if the House chose to commit a party under a warrant of this kind, and he brought himself up upon *habeas corpus*, if this warrant is to be held good he might be imprisoned for life. Then, can the defendant fall back on the other averments? On these pleadings it is submitted, that, as he has alleged that he arrested the plaintiff by virtue of a "certain warrant," he cannot, after that, rely on any other distinct alleged causes set out in the pleas. Suppose the case of a sheriff who justifies arresting a party under a writ of *capias*. He must stand by the writ, and, if that is bad, he cannot fall back on the judgment and justify under that. [COLERIDGE, J.—Suppose the case of an action against a magistrate, and the plea to be the general issue, and it turned out that he had issued a bad warrant, would not a good conviction be an answer?] Here we sue the officer, not the magistrate, and it is contended, that if this warrant is bad, the defendant cannot fall back on the proceedings of the House of Commons; but even if he can, still there is nothing shewn on the face of these pleas authorizing the House to arrest the plaintiff. They have no right to arrest by a writ of *mesne* process. They should have proceeded to adjudge him guilty of a contempt for not attending, and then issued their warrant to arrest and punish. This Court has never recognized the power of the House of Commons, or any other tribunal, to arrest on a *mesne* process to bring before the Court. Then, again, it is nowhere alleged that the House has any right to arrest, but merely that it is done by custom and usage; but it is submitted that the right ought to have been distinctly averred.

(*R.* v. *Jones*, 1 Saun. 197, n. 1; Coke Lit. 233, a; 3 Mod. 137; Steph. on Plea. 365, 5th edit.; *Candle* v. *Seymour*, 1 Q. B. 889; Coke, 2nd Ins. 52; 1 Black. Com. 135, 3rd edit.: 2 Lambard Book, 87; *Grome* v. *Forester*, 5 M. & S. 314; 1 Black. Com. 400, 3rd edit.; *R.* v. *Tate*, 2 Ld. Ray. 1130; *Stockdale* v. *Hansard*, 9 A. & C. 1; *R.* v. *Arnold*, Wilmot's Opinions, 253; *Miller* v. *Knox*, 4 Bing. 587; *Burdett* v. *Abbott*, 14 East, 136.)

The *Solicitor-General* (*Waddington* with him), contra.—By the demurrer there is a distinct admission that all that was done was done in conformity with the usual customs and usages of the House, as it is distinctly averred by the plea, and not traversed. This averment was wanting in the case of *Stockdale* v. *Hansard*, and distinguishes that case from the present. Then it is contended that the House has power to compel the attendance of witnesses; it is a court of original inquiry, which distinguishes it from other courts—such as the Queen's Bench, for instance: as that court can only proceed when set in motion by the complaint of some party by motion, information, or writ. Now, it is contended that the very power claimed by the House here was admitted by all the judges in the case of *Stockdale* v. *Hansard*. In early times the House never issued its warrant at all, but merely sent the officer of the House with the Speaker's mace, and brought any one before the House whom they required to attend there. Now, the Court, it is contended, is bound to make any favourable presumption in favour of the House; and if it is called on to make any presumption at all as to the warrant, it must presume that it is good. [COLERIDGE, J.—You read the plea as if it stated that *this* warrant was issued according to the privileges and customs of the House, which is not so.] It is not alleged on the other side that it is not in conformity with those privileges, and it is submitted that this Court has no right to question the validity of the warrant at all. The House of Commons is a court of judicature of equal power to the superior courts at Westminster, and no one of the superior courts can, it is submitted, inquire into the validity of a warrant issued by the other, but would suppose every thing to be done correctly. Then, it is submitted, this Court has no power to inquire into the formal mode by which the House exercises the privileges claimed by it, and have no right to look at the warrant; but even if you hold that you have, still the warrant is sufficient, as it is much more certain than the old modes by which the House exercised its privileges.

Cases cited: *Rex* v. *Wright* (8 Term. R. 295); *Burdett* v. *Abbott* (14 East, 136); *Brass Crosby's* case (3 Wils, 198); *R.* v. *Daman* (2 B. & A. 379); *Hansell*, 29th Feb. 1575; Journals of the House, 189, 199, 203; *Evans* v. *Rees* (12 A. & E. 59; Com. Dig. tit. Court, 2; 2 Hawkins, P. C. 165, sec. 73; *R.* v. *Patey* (2 Lord Ray. 115); *Hobhouse's* case (2 C. Litt. 209); *Lord Shaftesbury's* case (6 State Trials, 1276); *Ex parte Smythe* (3 A. & E. 754; 2 Crom. M. & R. 754).

Kelly, in reply. *Cur. adv. vult.*

JUDGMENT.

The Court now delivered judgment as follows:—

WIGHTMAN, J.—I am of opinion that the plaintiff is entitled to judgment upon this demurrer to the pleas; and I come to this conclusion for reasons which involve no question as to the privileges of the House of Commons, but depend entirely upon the form of the warrant and the mode in which it is pleaded as a justification. The declaration charges the defendant with seizing the plaintiff and compelling him to go along a passage to a room, and afterwards along another passage to another room, and then imprisoning the plaintiff, and then compelling him to return to the first-mentioned room, and there keeping him in prison. To this *primâ facie* trespass the defendant pleaded four pleas, each setting up in substance the same justification—that the House of Commons, in order to compel the attendance of the plaintiff before them, made an order that the plaintiff should be sent for, and brought before them in the custody of the Sergeant-at-Arms, and that the Speaker should issue his warrant accordingly, and that the Speaker did, in pursuance of such order, and according to the usage and privileges of the House of Commons, order that the plaintiff might be brought into custody before the House by his warrant, reciting that the House had ordered that he should be sent up in the custody of the Serjeant-at-Arms, requiring and authorizing the defendant, being such Serjeant-at-Arms, to take into custody the body of the plaintiff, and that by virtue of this warrant the defendant did arrest the plaintiff, and did, in order to bring him before the House in obedience to the warrant, force the plaintiff to go along the passages and into the rooms and imprison him there, as mentioned in the declaration. To each of these pleas there is a demurrer, stating, among other causes, that the warrant does not shew why or wherefore the plaintiff was to be apprehended. It is to be observed, that the defendant justifies under the warrant of the Speaker, and under nothing else. He does not justify under the order of the House, nor under the order and the warrant taken together, but under the warrant solely. What he did he says was in execution of and in obedience to the warrant. Admitting then the privileges of the House and the validity of their order to the fullest extent, will the warrant, as stated in the plea, justify the defendant in doing that which, upon the face of the plea, he admits that he did? The warrant, reciting an order of the House of Commons that the plaintiff should be brought before them in the custody of the Sergeant-at-Arms, directs the defendant to take the plaintiff into custody, and there it stops; it does not direct the defendant to bring him before the House, or to take him into custody in pursuance of the order, or that he may be dealt with according to the order, but simply directs the defendant to take the plaintiff into custody. Under this warrant the defendant justified not only the taking the plaintiff into custody, but the taking him first to one place and then to another place, and keeping him there in order to take him before the House of Commons, which he was not directed by the warrant to do. The plea states the order of the House to have been made according to the usages and privileges of Parliament, and that the Speaker was, according to such usage and privilege, directed to issue his warrant accordingly; and that the Speaker did, according to such usage and privilege, in order that the plaintiff might be brought before the House, direct by his warrant that the defendant should take him into custody; but the plea does not state that, by the usage or privilege of Parliament, a warrant to take the plaintiff into custody merely was a warrant not only to take him into custody, but to bring him before the House and to do all that was necessary for that purpose. Was the defendant then at liberty to do more than he was expressly directed by the warrant to do, because he would see by the recital of the order that it would require more to be done to fulfil it than was authorized or required by the warrant itself? or is the warrant to be construed as directing the defendant, not merely to take the plaintiff into custody, but to bring him before the House, and to do all that might be necessary for that purpose? The terms of the warrant are precise as to the duty of the defendant; and, independently of some usage or privilege, the existence of which is not shewn, there is no authority of which I am aware to warrant the addition, by implication or intendment, of a much greater power of disposing of the person of the plaintiff than is contained in the directions given in unambiguous terms to the defendant. Several cases were cited, in which the warrant of the Speaker, issued in pursuance of the order of the House of Commons, was set out at length; and, in all of them, the warrant was in terms fulfilling the order of the House. In Sir Francis Burdett's case (14 East, 11) the warrant of the Speaker recited the order of the House,—that Sir Francis Burdett should be committed to the Tower of London; and required the Serjeant-at-Arms to take into custody the body of the said Sir Francis Burdett, and forthwith deliver him into the custody of the Lieutenant of the Tower of London. These latter words would have been quite superfluous, if a direction and authority to the Serjeant-at-Arms to take Sir Francis into custody, without more, would have warranted him, not only in taking him into custody, but carrying him to the Tower of London. In the case of the *Sheriff of Middlesex*, which arose out of that of *Stockdale* v. *Hansard* (11 A. & E. 273), the warrant of the Speaker, after reciting the order of the House of Commons, required the Serjeant-at-Arms "to take the sheriff into his custody, and to keep them during the pleasure of the house." In both these cases, as well as in all others of which I am aware, the warrant of the Speaker gave to the Sergeant-at-Arms express authority to do all that he did in obedience to it. Golb's case (3 M. & S. 203) was cited for the defendant, to shew that the express authority given by the warrant might be extended by the recital of the order; but that case is very distinguishable from the present. That was a commitment to the gaoler to keep the prisoner "until he should be discharged by due cause of law;" and it was objected that as the commitment was not for a crime, some period for which he was to be detained should have been inserted. The commitment recited an adjudication that he should be committed "until he had rendered an account," and it was held that, coupling the conclusion of the warrant with the recital, the *time for* which he was to be kept sufficiently appeared; and the conclusion, "until discharged by due course of law," was explained by the recital. It is besides to be observed, that the express terms of the warrant authorized the gaoler to do all that he actually did, namely, to keep the prisoner in his custody; but here the express terms of the warrant do not authorize the defendant to take the plaintiff before the House, or to any particular place; and it is proposed to use the recital not to explain, but to give an additional authority to the defendant beyond that which is given in express and definite terms by the direction of the warrant. It was also contended for the defendant, that any defect in the warrant was supplied by the averment in the plea that the warrant was made in pursuance of, and according to, the usages and privileges of the House of Commons. This may be so, and the warrant, as far as it goes, may be in accordance with the usages and privileges of the House of Commons, and may warrant the taking of the plaintiff into custody; but the averment does not include that which the defendant did beyond the authority given by the warrant expressly, and will not remove the objection taken to the justification. It is quite unnecessary to consider whether the defendant could or could not have justified under the order and warrant together, by the introduction of other averments in his plea; for he has justified under the warrant only—whether it was by mistake or intentionally that the warrant was drawn in the form in which it is, it is not now very material to inquire. The form is unusual, and, as it seems to me, imperfect, and, without at all questioning the privileges of the House of Commons, I am of opinion the warrant will not support the justification; and although the objection upon which I form my opinion may perhaps appear technical and formal, it is in truth important, as it is founded upon the principle that an authority giving the right to seize or restrain the person of another must be strictly pursued, and the defect in the express authority given to the ministerial officer to arrest cannot, where the terms are clear and precise, be supplied by intendment. I therefore think the plaintiff is entitled to judgment.

COLERIDGE, J.—It is unnecessary for me, after the judgment of my brother Wightman, to repeat the whole of the record. It appears to me that the questions which arise on this demurrer are five:—First, is the warrant stated in the pleas sufficient, if examined on ordinary principles and without reference to its having been issued by the Speaker in obedience to the order of the House of Commons? Secondly, if not, does that circumstance vary the principles on which it is to be tried, so as to make it sufficient? Thirdly, if not, are its defects such as to prevent it from being a justification to the defendant as an officer of the House, bound, it may be said, to obey? Fourthly, if so, may these defects be helped by facts stated in the pleas, showing under what circumstances the warrant issued? And fifthly, if so, are those facts, as stated in any one of the pleas, sufficient for the purpose? The statement of the warrant, which is the same in all the pleas, is this:—After reciting that the said House of Commons required the attendance of the plaintiff, it ordered that the plaintiff should be sent for and brought before the said House in the custody of the Sergeant-at-Arms, and that the Speaker should issue his warrant accordingly; whereupon the Speaker, in pursuance of the order and resolution, and in pursuance of and according to the ancient usages and privileges of the House, and the law and custom of Parliament, by his warrant in that behalf duly made (which warrant recited the order of the House), did require and authorize the Sergeant-at-Arms to take into custody the body of the plaintiff." The warrant, therefore, discloses that the Speaker issued the warrant in pursuance of an order of the House to send for the plaintiff in custody, and commanded the defendant to take him into custody, but it does not shew that the party was charged with any offence or had been convicted of any: still less does it shew the nature of the offence; neither does it expressly direct the Sergeant-at-Arms where to take the body of his prisoner, nor how long to detain him. If for the House of Commons in this warrant you substitute any other authority known to the constitution, it is quite clear that the warrant would

be bad; the party sought to be arrested under it might resist lawfully, and if arrested would be discharged upon the return of such a warrant to a writ of *habeas corpus*. It would be a waste of time to enlarge upon this point. I would only refer to the Petition of Right, 3 Chas. 1, sec. 5; and 10 Lord Coke's Commentaries on Magna Charta, chap. 29, pp. 52, 53; and 2 Lord Hale's Pleas of the Crown; this last the rather because, although he is inclined in some measure to qualify the strong language of Lord Coke, yet the utmost latitude that he will allow is, that there must be a tolerable certainty in the body of the warrant for what it is, as for felony generally, although the particulars are best to be expressed. But, secondly, as this warrant is issued by the authority of the House of Commons, it may be answered, first, that the cause of arrest is sufficiently stated in the order of the house, and the order of the House is sufficient cause; secondly, that if that were not so, still the warrants of the House are not to be dealt with as the warrants of ordinary magistrates, and that the form here adopted is sufficient; thirdly, that the plea avers and the demurrer admits this warrant to be issued in the form authorized by the law and usage of Parliament, which would conclude against all objections. The [illegible] of these answers, which applies only to the omission of the statement of the cause of arrest, is founded upon the supposed authority of the House, and involves this proposition, —that the House may order its officers to arrest any man and bring him in custody before them at its mere will and pleasure, without previous summons; without any offence charged, or adjudication of guilt; without any purpose to be answered; in a word, without any cause but their mere will and pleasure. If this proposition be true, the cause of arrest is undoubtedly stated, and that objection to the form of the warrant fails. But is the proposition true? It is, I believe, the first time that it ever was asserted, and, as it distinctly places the personal liberty of every commoner in the land within the irresponsible power of the House—as it asserts that, whether charged or uncharged, guilty or innocent, contemptuous and disobedient, or submissive and obedient, the House may imprison any one, it should surely have been shewn by those who maintain it on what foundation it rests, what authority can be cited for it, whether it has been uniformly claimed, or whether it grows as a necessary consequence from the great duties which the House has to perform, or the general acknowledged authority with which it is armed by the constitution. Nothing of this kind was attempted in this argument: it was not necessary for the argument in *Stockdale* v. *Hansard* (9 A. & E.), but neither does it follow from any thing there maintained. That the Commons are, in the words of Lord Coke, "the general inquisitors of the realm," I fully admit. It would be difficult to define any limit by which the subject-matter of their inquiries can be bounded: it is unnecessary to attempt to do so now; and I may be content to state that they may inquire into everything which it concerns the public weal for them to know; and they themselves, I think, are intrusted with determining what falls within that category. Coextensive with the jurisdiction to inquire must be their authority to call for the attendance of witnesses —to enforce it by arrest when disobedience makes that necessary, and when attendance is required and refused. There may be a cause of arrest though there may be no specific disclosure of the subject-matter of inquiry, because that might often defeat the purpose of the examination. All this, however, which I will not merely admit, but maintain, falls immensely short of the proposition now in hand. It is to be observed that the pleas themselves, so far from resting on this contain a full statement of circumstances, shewing that in the particular instance the Commons were fully justified in requiring a warrant to be issued Had the Solicitor-General conceived that there was by the constitution of Parliament such an authority as is now contended for, it is inconceivable that much shorter and more proveable plea would not have been put upon the record, as the mere issuing of a warrant by the order of the House of Commons would be sufficient. In truth, common learning in the constitution, common justice, and common sense, equally revolt against it. If such a limitation on the birthright of Englishmen existed, so important, so remarkable in its cause and consequences, it must have been stated, although it would have been recorded with regret, and I must think with something like shame, in some one of those many definitions of our most valuable right—the right of personal liberty, with which our text writers abound. I pass on to the second answer—that, with regard to the transcendent power of the House, and its identity with the people at large, and with respect to its great dignity, the warrants which it issues are not to be dealt with as those which proceed from tribunals co-ordinate with ourselves or inferior. I cannot admit that the degree of strictness in which formal accuracy is to be required in warrants is to be measured, or ought to be, by the dignity of the courts from which they issue. Experience has shewn that the liberty of the subject, with which we are intrusted, is involved in the accuracy, in point of form, of legal proceedings. For that reason accuracy is required, and, in that view of it, it is not a paradox to say, that form becomes substance, and the higher and more important the authority, the more strict ought its proceedings to be; and more accuracy may reasonably be expected from a wider extent of jurisdiction in one case than is expected in the other. There is a difference in the method of procedure, but with this qualification the rule is as I have stated; and as it is no breach of respect to suppose that the highest functionary of the most exalted court may improvidently err in point of form, however honest his intention—as the most mischievous results might follow to individuals or to posterity if the inaccuracy were allowed to pass into a precedent, and the more mischievous in proportion to the greater power of the Court,—it is no breach of respect, but the bounden duty of the Court, respectfully to set such erroneous proceedings aside. It is trifling with language to speak of the present warrant as defective in form only. If the House cannot arrest at its own mere pleasure and without cause, to omit to state any cause, and to rely on its mere pleasure, is to proceed with one essential of the jurisdiction absent. If the only objection to the warrant had been, that it omitted to state expressly for what time the plaintiff was to be in custody, in whose custody to be kept, or where to be carried by the Sergeant, I think it might be answered, that all this might be collected with reasonable certainty enough from the recital, at least sufficiently so for the purpose of protecting the officer in his obedience; but there is nothing from which the cause for issuing the warrant can in the most remote degree be gathered. Lastly, it is said, from the language of the pleas, we are bound to take it that the form of the warrant is according to the ancient usages and privileges of the House, and the law and custom of Parliament. If the effect of the language of the record is that the plaintiff has admitted this, then I also distinctly admit that he is answered; as against him the law of Parliament must be taken to be as he admits it;—and whenever a court of law finds the law of Parliament applicable to the case before it, it is as much bound to govern its decisions by it as in another case by the common or statute law of the realm. The law of Parliament is parcel of the law of England, of the same authority as any other parcel. This, therefore, is merely a question of construction. The first plea states an order by the House in pursuance of, and according to, its ancient usages and privileges, and also the custom of Parliament as follows, that is to say, that the plaintiff should be sent for and brought before the said House in custody of the Sergeant, and that the Speaker should issue his warrant accordingly. There can be no doubt that these last words import merely that the Speaker should issue the warrant in such legal and accustomed form as would legally effectuate the order of the House; but nothing can be collected from them as to what is the legal and accustomed form, and they will not give validity to a warrant in any but the legal and accustomed forms. The plea recites that the Right Honourable George Shaw Lefevre, Speaker of the House of Commons, in pursuance of and according to the ancient usages and privileges of the House of Commons, did order that the plaintiff should be sent for, and brought before the said House, in the custody of the Sergeant-at-Arms, and that the Speaker, in pursuance of the order and resolution last-mentioned, by his warrant in that behalf duly made, after reciting that the House ordered the plaintiff should be taken into the custody of the Sergeant-at-Arms attending the said House; did require and authorize the Sergeant-at-Arms to take into custody the body of the plaintiff. It is a maxim in the construction of pleading, that every thing shall be taken most strongly against the pleader; but I prefer to consider it without reference to any such principle. It appears to me clear, that, construed candidly and by the light of common sense, all that relates to the usages of the House and the law of Parliament relates only to the jurisdiction of the Speaker and his act in issuing the warrant to effectuate the resolution of the House. All that relates to the quality of the warrant itself is summed up in the words, "in that behalf duly made." But it is now settled law that the word "duly" will not supply the place of a specific allegation of any material requisite in the validity of the act. If it were necessary that this warrant should be under the seal of the Speaker, to allege that it was duly made would not cure the want of an averment that it was under his seal (*Everard* v. *Paterson*, 6 Taunt. 62, 65); *à fortiori* it will not cure the want of an averment that it was made according to the form and with all the incidents required by the usages of the House and the law of Parliament. It was said that we must presume the warrant to be in form and according to the usages of the House; but if upon that its validity will depend, and that would have been a traversable fact, how upon demurrer, can we presume it? We might thereby bar the plaintiff, when he might be in a condition to dispute the fact, upon a false assumption. Surely this would not be equal justice. I conclude, therefore, thirdly, that the warrant, as it appears upon these pleas, is defective. But it may reasonably be contended, [illegible] its defects, it is [illegible] in a warrant that ought to deprive him of protection for obedience to it. I think the law justifies the argument thus stated, and common sense and justice entirely sanction it; but it was also carried in the defendant's "points," and by the Solicitor-General in argument, to an extreme which one reads or hears with regret, and which ought never to be heard in a court of justice without provoking a direct denial. The defendant's first point states that he, being an officer of the House, is protected by an order of the House, directing him to do to the plaintiff the identical act complained of, and such an order is of itself, and without more, an answer to the action. In argument this point (although stated to be unnecessary for the defence) was insisted upon; no exception was admitted to its truth—no limit imposed upon the generality of the proposition. "What the quality of the act commanded may be is not to be inquired into; it is enough that the House has ordered it, and, as the House is irresponsible, so must its officer be." I do not wish to misrepresent the language used; but I think I am bound so to understand it as resting the defence of the officer, not on the quality of the thing commanded, but on the unlimited extent of the authority from which the command proceeds. If this were not so, language the most alarming has been wantonly or carelessly used by those whom I, with reason, respect too much to believe them capable to be wanton or careless in any matter, least of all in such a matter as this; but, so understood, I venture to say, the proposition is not only untenable, but monstrous. Extreme as it is, it might not be unreasonably met by extreme suppositions; a proposition universally affirmative cannot be true if the negative of it be true in any one particular; and it is no answer to say that such extreme exercise of power in our representative body cannot be respectfully, or even decently presumed. I presume nothing. We ought to have, I admit, the fullest confidence in the humanity, justice, honour, and integrity of the House, as it is entitled to our most sincere veneration; but we have a right to consider our liberties as independent of any such qualities in those who are in authority, and resting upon the law, as a thing not precarious, but which we hold by right. When Lord Camden delivered his memorable judgment in the case best reported in the *State Trials*, under the title of "Seizure of Papers," he thought it a legitimate mode of proving the illegality of the warrant to shew the consequences of its being legal—that it would place at the discretion of the Crown the secret papers, cabinets, and bureaus, of every Englishman in the land, however innocent. If time allowed, and I were so disposed, how much more strong a picture, without the slightest exaggeration, might be drawn of the state we should be in by law as to the security of property, liberty of person, safety of character, or life itself, if the proposition contended for on the part of the defendant were really sanctioned by that law! But it is needless, and I gladly forbear— it is enough to say that the law is supreme over the House of Commons, as over the Crown itself. If the limits of the law be passed by either (though for the most satisfactory reasons they are themselves irresponsible) the law requires a strict account of their acts in the persons of their agents, and these acts, according to the nature of their illegality, will be to be answered for civilly or criminally. The question, however, recurs, whether those defects in the warrant are of such a nature that it is not a protection to the officer; and this must be considered as at common law. At common law I take the test to be, whether the defect in the warrant goes to the jurisdiction of the authority issuing it. If the magistrates had no jurisdiction, or if a want of jurisdiction appears on the face of the warrant, the officer is not bound to obey it, and it is void. That principle I find thus stated, or illustrated, by Willes, Chief Justice, in delivering the judgment of the Court in *Morse* v. *James* (Willes, 122). "It has always been held (says he) that a constable may justify under a justice's warrant in a matter wherein the justice had a jurisdiction, although the warrant be never so faulty; but that if a justice of the peace make a warrant to a constable to arrest a man upon an action of debt, such warrant will not justify the constable, because he was not obliged to obey, and must take any step at his peril, as it was in a matter concerning which the justice had no jurisdiction." The expression, "though the warrant be never so faulty," is too strong and general to be quite accurate. A justice of the peace has jurisdiction to cause the apprehension of a party charged on oath with the commission of a misdemeanour; yet, if either the Christian name of the party be left a blank, and no reason stated for the omission, or only an imperfect description of the individual, as "—— Hedge, son of George Hedge," it has been decided by all the judges that resistance would be lawful, and the killing of the constable no murder. Now it could not be contended that the constable was bound to execute what the party might lawfully resist even to the death, and the ground on which the constable's justification can alone

be put, the act itself being *primâ facie* illegal, is, that a lawful authority commanded him, and therefore made it his duty to obey. I have examined many parts of Lord Coke and Lord Hale upon this point, but it is not easy to extract a certain rule from them, nor to reconcile them with each other. The law, with regard both to the form of warrants and the authority of magistrates to issue them was not so accurately settled when they wrote as it has since been. Even Hawkins, at a later date, leans to this opinion. He says "The constable may and ought to execute a general warrant to bring a person before the justice of the peace, to answer such matters as shall be objected against him on the part of the king, for that the officer ought to presume the justice has jurisdiction, unless the contrary appear and it may often endanger the escape of the party to make known the crime which he is accused of." Neither this opinion nor the reasons could be maintained at this day. In 2nd Instit. Lord Coke considers this matter of the requisites to a good warrant in two places—the commentary on Magna Charta, and that of the statute *De frangentibus prisonam*. What he says in the latter case would be more unfavourable to the defendant, but ought not to be relied upon, because it is said with particular reference to the statute. In the former he is treating expressly of imprisonment, lawful or unlawful, as that will depend on the goodness or badness of the warrant. One of the requisites to make it good, as he asserts, is the statement of the cause on its face. Among his reasons is the impossibility of the Court dealing with the case on the return to the *habeas corpus*, unless the cause of the imprisonment appears as he states. "The petition of right has now made an end of the question." That statute, it will be remembered, recites the grievance that "divers subjects had been lately imprisoned without cause shewn," and provided against it for the future. Having shewn what is unlawful imprisonment in this, as in other respects, he comes to the remedies, and among them enumerates this action of false imprisonment, not making any distinction, it should seem, between the magistrate who issues and the officer who executes the warrant. Lord Hale, in the Pleas of the Crown, 111 and 573, states his opinion, "that a warrant not containing the cause especially, but being only general, to answer such matters as shall be objected, is not void, but only erroneous, and will be a justification for the officer acting under it." At 460, he says, "Although the warrant of a justice be not in strictness lawful, as if it express not the cause particularly enough, yet if the matter be within his jurisdiction as justice of the peace, the killing of such officer in execution of his warrant is murder, for in such case the officer cannot dispute the validity of the warrant if it be under seal of the justice." For this he cites the year-book of the 14th of Henry VIII., page 16, which is not a satisfactory authority in reference to it. All the judges seemed to think that a justice could not arrest for felony, but the majority thought, as he was a judge of record, and had a seal of office, a warrant under his seal would protect the officer, although the matter was out of his jurisdiction. Again, Lord Hale (page 518) states, that a general warrant, upon a complaint of robbery, to apprehend all persons suspected, and to bring them before, &c. (leaving it with, &c.), was ruled void, and false imprisonment lie against the officer. Understood in one, and that the most reasonable sense, the test of jurisdiction is the safest and most generally applicable that can be suggested—the jurisdiction, namely, to arrest upon the fact stated in the warrant. If the warrant in the shape in which it is given to the officer is such that the party may lawfully resist it; or, if taken upon it, may be released on *habeas corpus*, it is a warrant which in that shape the magistrate has no jurisdiction to issue, which therefore the officer need not have obeyed, and which at common law, on the principle laid down, will not protect him against the action of the party injured. Where the cause is expressed but imperfectly, the officer may not be expected to judge as to the sufficiency of the statement, and therefore, if the subject-matter be within the jurisdiction of the magistrate, he may be bound to execute it, and, as a consequence, be entitled to protection: when no cause is expressed, there is no question as to the want of jurisdiction. That is this case, and I am therefore of opinion that the obedience of the defendant was voluntary, and not protected by the warrant. I come, therefore, to the fourth question, whether we may look to the facts alleged in the pleas to supply that which is wanting in the warrant itself? and I have necessarily anticipated much of what I should have said on this point in considering the last preceding question. Upon principle, this seems a question very easy of answer. Why is it necessary to state at all the cause on the face of the warrant? Several reasons are given in the text-books; not the least important is, that the party called upon to submit to the process of law may know what it is that is charged against him, and for what it is that he is called upon to deliver himself up a prisoner. If no cause, or an insufficient cause appear, he takes his measures accordingly; should he resist and kill or injure the officer in resistance, and be brought to trial, it could not be contended that any fact could be added to the statement in the warrant to his prejudice. The act with which he is charged must take its character from the circumstances as they then stood; he was resisting a wrongful imprisonment—wrongful because the officer was not armed with a legal authority for arresting him, and that is the act for which he is to answer. This reasoning equally applies if he submits and brings his action for damages. Whatever cause for imprisoning he may have, the action lies, because the imprisonment of which he complained as unauthorized and wrongful. As well might a new warrant be subsequently granted to the officer and relied upon by him as a defence, as facts he added in a plea to help out a defective. These facts only shew that he might have been well arrested, not that he was, which is the question at issue. We may come nearer to the point, and suppose not only a good cause, but a good warrant; and supposing the constable has left it at home and arrests him without any, the imprisonment would be clearly illegal; it could not have been said to be effected under and by virtue of the warrant. Surely no averment in pleading could be allowed to cure the defect. Nor is this a mere form. We are bound to look, beyond the mere instance, to evils which the precedent would let in if any laxity were allowed in these proceedings, by which our property, or our liberty, or lives are to be affected. The case thus standing upon principle, I do not find any authority cited which looks the other way. The cases most nearly in analogy are those of commitments by magistrates after conviction, and these all maintain the argument for the plaintiff. The conviction will not defend the magistrates unless the commitment agree with it and the execution be regular. The legislature has interposed by the 7 & 8 Geo 4, c. 30, s. 39, to protect defective commitments, if they allege conviction, and there be a good and valid conviction to sustain it. Our own practice on returns to *habeas corpus*, with a *certiorari* bringing up the depositions in felony, proceeds upon the same principle. I think, therefore, that we are not at liberty to look to the facts stated in the plea for the purpose of curing the defects in the warrant. It is unnecessary, therefore, for me to consider their effect; they are very properly pleaded, for they shew that the Speaker had jurisdiction to issue a warrant, but they do not shew that the warrant he did issue was a lawful one. *Rogers* v. *Jones* (3 B. & C. 409), *Wilkes* v. *Clutterbuck* (2 Bing. 483), are in accordance with this. I come to this conclusion with the most sincere regret, as I cannot but see, on the admitted facts, that the House was pursuing an inquiry strictly within its province; and it is to be lamented that its course should be obstructed by inadvertence in the language used in the proceedings necessary to enforce due obedience to its commands, or that this Court, or any member of it, should even appear to be in conflict with it. It is a consolation that the difference is only apparent; no question of privilege or jurisdiction is really at issue: one or two propositions undoubtedly have been put forward, which I have been compelled to notice and dissent from, but this has not been with reference to any privilege of the House. We were indeed told, to the journals of the House we must refer for the law of Parliament. I agree with the remark, that the of Parliament must govern us in this case. The usage of Parliament, meaning thereby the clear, ancient, and uniform usage, is the law of Parliament; but on reference to the journals, no warrant was produced in this form, or open to these objections. It was said, in earlier times the House arrested without written warrant, and no doubt that appears to be so, but this avails nothing in the argument unless it can be shewn that the Sergeant did not orally communicate to the party the cause for which he was summoned or arrested. It is perfectly consistent with what appears that he did so, and we ought to conclude that he did; for we must presume that the House of Commons would proceed in the manner most consistent to reason and justice, and in analogy to the common law. The conclusion, on the whole, to which I have come is, that our judgment ought to be for the plaintiff.

WILLIAMS, J.—I have the misfortune to differ from the rest of the Court in this case. It is some satisfaction, however, to think that this difference does not take place on any question affecting the existence or extent of the privileges of the House of Commons. No doubt was attempted to be raised on this point in the argument of the learned counsel for the plaintiff; the objection made to the plea, and the right of the plaintiff to the judgment of the Court, were made to rest exclusively on the form of the Speaker's warrant, as set forth in those pleadings. A few additional words, as I understand that argument, would have removed all doubt and difficulty from the case. If in the warrant of the Speaker the direction to the defendant had been, not merely to take the plaintiff into custody, but him safely to keep during the pleasure of the House—and I do not understand what validity the warrant could receive from that addition—then I should have been unable to distinguish this case from that of the *Sheriff of Middlesex* (11 A. & E.); because, although in the present there is not, as in that case there was, a direct resolution or adjudication of a contempt, yet a contempt of the House of Commons and of its undoubted privileges plainly appears from the undisputed facts of this case. It may be convenient, therefore, thus early in the course of the remarks I am about to offer, to deal at once with that question, and to consider what were the circumstances and what the occasion upon which the plaintiff was taken into custody by the defendant, the Sergeant-at-Arms of the House of Commons, and in so doing I shall not deem it needful to travel out of the first plea, and the allegations therein contained. It appears then from that plea that certain matters were under discussion in the House of Commons in respect of which it was considered by the House to be necessary that the plaintiff should be questioned and examined at the bar of the House, and it was thereupon ordered by the House that the plaintiff should attend the said House forthwith; of which order the plaintiff had notice; that the plaintiff, however, did not nor would attend in obedience to the said order, but wilfully and contemptuously, without any reasonable or probable cause or excuse, wholly neglected and refused to do so, and concealed and absented himself for the purpose of avoiding attending the House; that thereupon it was ordered and resolved by the House that the plaintiff should be sent for, and brought before the said House in the custody of the Sergeant-at-Arms, and that the Speaker should issue his warrant accordingly. Then follows the warrant, which it is unnecessary to notice more particularly as at present. I am only considering whether a contempt was in fact committed; and upon this part of the case no doubt, as I believe, has been, or, as I think, can be raised. In the consideration of it I perfectly agree to what was said by Lord Denman in the case of the *Sheriff of Middlesex*. "It is unnecessary," said his lordship, "to discuss the question (the strong opinion of Lord Coke, however, is well known) whether each house of Parliament be or be not a court; it is clear that they cannot exercise their proper functions without the power of protecting themselves against interference." Equally clear is it, in my opinion, that in the exercise of their inquisitorial functions they must have the power of enforcing the attendance of witnesses, or their authority would be nothing, as a House of Commons, but the shadow of a name. The House, therefore, had an undoubted right, in my opinion, to order the attendance of the plaintiff, and upon his contemptuous refusal to commit him for the contempt, or, as I think, to order him to be brought in custody before them, to shew cause, if he had any, why he refused to attend or give evidence if required. Up to this point, therefore, there is, I apprehend, no doubt about the matter in dispute. The question is, as already stated, upon the form and manner in which the authority of the House of Commons has been vindicated on the present occasion. The plea states the Speaker's warrant, issued in pursuance of the said last-mentioned order, and according to the ancient usages and privilege of the House and the law and custom of Parliament, by his warrant in that behalf duly made (which warrant recited the order of the House), did require and authorize the Sergeant-at-Arms to take into custody the body of the plaintiff; then follows the justification of the defendant, that he took the plaintiff, by virtue of the warrant, in order to bring him before the House; and the question is, whether the said warrant be or be not a justification to the defendant in the execution of his duty. And before I proceed to examine that more minutely, I think it right to premise, that all cases of warrants of commitment by inferior jurisdictions are, in my opinion, wholly inapplicable to the present. It seems to me clear, that the warrant of the Speaker of the House of Commons, if brought before this Court, is judged of upon principles entirely different from those which govern the decision of the cases last referred to. The warrant in the case of the *Sheriff of Middlesex* was in the following form:—"Whereas the House of Commons has this day resolved, that William Evans, Esq., and John Wheelton, Esq., Sheriff of Middlesex, having been guilty of contempt and breach of privileges of this House, be committed to the custody of the Serjeant-at-Arms attending this House. These are, therefore, to require you to take into your custody the bodies of the said William Evans and John Wheelton, and them safely to keep during the pleasure of this House; for which this shall be your sufficient warrant."—Signed by the Speaker. Now this, if examined according to the rules which prevail in the cases above mentioned, is, I apprehend, manifestly defective. If a person be convicted of being a rogue and vagabond, and be committed accordingly, and on the conviction facts are stated not sufficient to justify the legal detention, he is entitled to his discharge. The *King* v. *Brown* (8 T. R. 76) is an authority upon that point. Equally defective, I presume, would it have been if the warrant had stated a conviction of the party as being a rogue and vagabond without more. If a commissioner commit a bankrupt for contempt in not answering questions, this Court would discharge him, if the questions were not specified, so that the Court might judge of their legality. (*Ex parte Leake*, 9 B. & C. 239.) In *Goff's* case (3 M. & S. 203), hereafter more fully noticed, a warrant of commitment for not accounting and paying over

money, directing the party to be kept until discharged by due course of law, would, it seems, have been held bad, if it had not been supported by a previous part of the warrant. If, as contended for in the argument of the plaintiff, convenient certainty as to the place where, and time during which the custody is to take place are required, in order to make a warrant legal, that object seems to be imperfectly fulfilled by the statement that the party shall be kept during the pleasure of the House. What would be thought of a magistrate's warrant however in all other respects unexceptionable, which should direct the commitment during the pleasure of any man or set of men whatever? Yet the Speaker's warrant, in the form above set forth, was sustained by this Court, and the party applying for liberation remanded; and that, too, under circumstances which, if any case ever could exist, would have led to an examination with the greatest anxiety and jealousy; and not only was such the decision of this Court, but all doubt would be at an end by the questions proposed and answers given to the House of Lords in *Burdett* v. *Abbott*. I come now to the allegation of the plea above set forth, and I believe it was contended that the words "The Speaker, in pursuance of the said last-mentioned order, and according to the ancient usages and privileges of the said House of Commons and the law and custom of Parliament, by his warrant, duly made, did require and authorize the sergeant to take into custody the body of the plaintiff," simply meant that the Speaker did, in fact, make his warrant. I confess, however, I entertain some doubt whether the allegation ought to be so restricted, or whether it is not also descriptive of the nature and quality of that warrant—that is, whether it is not to be understood from the allegation that the warrant was in such form as, according to the usage of the House and the law of Parliament, had been, in like cases, issued by the Speaker to bring a party in custody before the House. And, if so, I should also doubt whether such an allegation, so understood, would not at once have closed the question, upon the ground that the House of Commons is competent to regulate the forms of its own proceedings, and be the sole judge of them. In the case of *Ex parte Smith* (3 A. & E. 719; and 2 C. M. & R. 748), it appeared that the Judicial Committee of the Privy Council had made an order which Smith complained of, and this Court, as well as the Court of Exchequer, refused to interfere. It is unnecessary, however, to pursue this part of the subject further, or to pronounce any decisive opinion upon it; because, in another view, the warrant may, in my opinion, be sustained, and that, even if it ought to be examined in the manner contended for by the plaintiff, it is good and sufficient in law. Upon this part of the case two questions, as it seems to me, arise; first, whether the recital in the warrant may be resorted to in order to explain and support the mandatory part; and secondly, if it may, whether such recital be sufficient for that purpose. Now, upon the first question, *Goff's* case, above referred to, generally has a strong bearing. It is, indeed, decisive to shew that previous matter may have the effect of explaining or rectifying in a warrant what would otherwise be imperfect and erroneous. Goff was committed by a warrant of two justices, for that he, being collector of the rates for the parish of W——, under the 23rd of George 3, c. 41, refused to pay over moneys collected by virtue of the Act to one W. S.; the justices adjudged that he should be committed to gaol, there to remain until he should account and pay over the moneys to the said W. S.; they then required the keeper of the gaol to receive and keep him until he should be discharged by due course of law. For this form, and the uncertainty of the latter part of it, the warrant was objected to, and the cases of commitments by Commissioners of Bankrupt, which have therefore been held ill, were cited. And those cases were not questioned in the argument, but reliance was placed on the previous part of the warrant, and the special adjudication that Goff should be committed until he accounted and paid; and it was contended that the conclusion ought to be construed with reference to that which precedes it, and so was sustained; and Lord Ellenborough said, "By coupling the premises with the conclusion, is it not in effect the same as if the warrant had directed the gaoler to detain the party until he had accounted? We must read the warrant as if the magistrates had, in the conclusion, recited over again the adjudication." The prisoner was remanded. The principle of this case has since been recognised by the Court of Exchequer. It cannot, indeed, be said the previous matter in *Goff's* case is entirely the same as that which I am about to notice in the present; but the principle of reference for the purpose of sustaining the warrant is, I think, thereby established. Upon the second question proposed, a few remarks will suffice. The warrant recites an order that the plaintiff shall be sent for in the custody of the Sergeant-at-Arms. Now, what is the meaning of "sent for in custody," or rather what else can it mean than that the plaintiff was to be brought before the House in the custody of the Sergeant-at-Arms? And if so, coupling the premises with the conclusion, acording to Lord Ellenborough, what can be a more reasonable intendment than that the warrant being to take the plaintiff into custody, it ought to be understood by the aid of the recited order in that warrant, as directing to take him into custody for the purpose of bringing him before the House? and if so, the warrant, in my opinion, is perfectly legal. In the case of a warrant of commitment by the Speaker of the House of Commons, a resolution that the party had been guilty of contempt was requisite, but not any specification of the nature of that contempt; and, as we have already seen, neither the time during which, nor the place where, the imprisonment is to be need be stated. Moreover, a contempt in fact may have been committed or it may not—nothing appears; but credit is given, which in the case of an inferior jurisdiction would not be, to the House of Commons, that they would not commit without sufficient cause. At all events, this Court cannot inquire in such a case, and why should not the intendment also be made in the present instance, that the House of Commons ordered that the plaintiff should be sent for in custody of the Sergeant-at-Arms, or, as I think, it must be understood, brought before the House in that custody, for some good and sufficient cause, for surely there may be many such? That seems to me scarcely a more forced supposition than that the contempt had been in fact committed, although none appears. It remains that I should add a few words upon a point connected with this part of the case briefly touched upon already, but requiring perhaps some further notice. It was contended in argument that the only unobjectionable course for the House of Commons to pursue was to adjudge the party guilty of tempt, and to commit him accordingly. I cannot accede to this argument. I think that, having ordered the attendance of the plaintiff as a witness, of the fitness of which the House of Commons alone had the competency to judge, they might upon his wilful default compel his attendance to answer for that default, and upon that attendance make such order respecting him as to the House might seem meet. If a witness having notice that the House has ordered his attendance disobeys, no further order in the shape of a second notice is necessary. Even in the case of a Commissioner of Bankrupt, if the bankrupt refuses to attend, no second summons is necessary before the warrant of commitment issues; but such warrant may go at once. (*Ex parte Linkwaith*, 16 Ves. 235; *Battye* v. *Gresley*, 8 East, 319.) Then what is the difference, so far as the party affected is concerned, between the two modes of proceeding? If the party be committed for contempt during the pleasure of the House, his chance of liberation depends upon his appearing and submitting to do what is required. If the course be pursued, as here, of ordering him to be brought in custody before the House his opportunity of making such amends as may lead to his deliverance is more immediate, and so far this mode may be more beneficial to him. If, upon any given state of facts, a person may be sent to prison for contempt, surely he may be brought before the House, whereby he may avoid being sent to prison at all. The power in such cases seems to me to be precisely similar, and to depend upon the same principle,—the necessity of vesting such power in the House of Commons for the sake of the public interests. Upon the whole, my opinion is, that judgment should be for the defendant.

Lord DENMAN, C. J.—This case, notwithstanding the length of argument and the weight of matters discussed, appears to me to lie in a very narrow compass. The defendant justified the imprisonment of the plaintiff under the warrant of the Speaker of the House of Commons, which directed the defendant to take the plaintiff into custody, after reciting that his presence had been required in the house by an order of the House, of which order the plaintiff had notice, and to avoid obedience to which he contemptuously concealed himself. There was no necessity for authority to shew the power of either House of Parliament to commit for contempt—that power, which they possess in common with all superior courts, is fully recognised in *Stockdale* v. *Hansard*, and was acted upon in a proceeding which grew out of that case (*Sheriff of Middlesex's* case, 11 A. & E. 273). That power undoubtedly was neither directly nor indirectly questioned by the learned counsel for the plaintiff upon the present occasion. The privilege of Parliament to prosecute all inquiries which they may deem necessary for the discharge of their high duty is also admitted without dispute, and the power consequently which they have to compel the attendance of all persons whom they may require for such purpose. Some doubt has been strongly and eloquently stated on the power to order a person to be brought in custody before the House in the first instance without any adjudication, or at least without apprising him of the reason for requiring his attendance. But I confess it would rather appear to me, although sensible of the weight of these considerations, that as the exercise of their privileges of inquiry may obviously be wholly defeated by notice to the party, it must be necessary to have the power to secure such attendance by coercive measures and without explanation, and of that necessity the House alone can judge. But the defendant rests his justification upon higher grounds, and puts foremost in the points to be argued a much more extensive privilege. The defendant, he says, being an officer of the House of Commons, is protected by the order of the House directing him to do to the plaintiff the identical act complained of. Such an order of itself, and without more, is an answer to the action. Now this is the leading proposition maintained by the defendant in the case of *Stockdale* v. *Hansard*, and it was upon examination deliberately denied by the unanimous judgment of this Court. To the doctrine established by that judgment I fully adhere, unquestioned as it has been in any court of error; strictly conformable, as I am firmly convinced, to the principles of our law, and essential to the existence of a free constitution. Holding, therefore, that the mere order of the House of Commons does not of itself legalize whatever it may require, whether executed by its own officer or by any other person, I must reject this ground of defence. On the contrary, I hold that this Court is not at liberty to decline the jurisdiction of examining the grounds upon which the imprisonment of any one of our fellow-subjects may be justified, whatever the dignity or power of those who may have caused his imprisonment—whether it be a question in an action for damages, or on a return to a *habeas corpus*, or in the more solemn inquest that may be conducted in a criminal court, or in a case of life and death, where homicide may have resulted from enforcing or opposing an order, and the judge may be compelled to decide upon its legality. If, in the performance of this duty, I find the defendant justified by an order of the House of Commons, either convicting or punishing for a contempt, or made for the purpose of bringing the plaintiff before them for the necessary exercise of their privilege, the defendant will be of course entitled to our judgment. Here, however, it is unfortunate that serious objections are urged against the warrant set forth in the plea. It recites that the plaintiff's presence had been required in the House of Commons, and that he had notice of their resolution to that effect, and the order thereupon made, but that he contemptuously concealed himself to avoid obedience to it; and then the resolution that he should be sent for and brought before the House of Commons, and that Mr. Speaker do issue his warrant accordingly; whereupon the Speaker did order that he might be brought before the House in custody of the Sergeant-at-Arms, according to the order and resolution aforesaid, by his warrant, reciting that the House had ordered the plaintiff to be sent for in the custody of the Sergeant-at-Arms, did require and authorize the officer to take into custody the body of the plaintiff. Here the warrant ends, and under it the arrest and detention of the plaintiff, and the carrying him to certain places, are justified. This instrument must be considered as a committal for contempt, or as a means of compelling the plaintiff's attendance in the House of Commons, or perhaps for both. In both points of view it is said to be essentially defective, for omitting to state the object and end for which it was issued. If it was to enforce the sentence of contempt, the plaintiff's learned counsel insisted that some limit to that imprisonment ought to appear in it; if the intention were only to bring him before the House, that intention, it was said, ought to be disclosed. The officer, it was contended, is bound to look no further than the directions in the warrant, and that places him in the officer's custody, without any intimation how long or for what purpose the prisoner is to be detained. The prisoner, it was also contended, has the right to see the warrant, that he may submit to it if lawful; but, however sensible of the obligation to submit to the authority of the House, he would not be bound to undergo an imprisonment at the discretion of the officer to whom the House had not delegated such discretion; for the Speaker's warrant was likewise impeached, as not pursuing the resolution on which it professes to be founded, but which only directed that the plaintiff should be brought before the House of Commons. The objections were met in various ways: first, it was said that the resolution set forth in the plea, that the plaintiff should be brought before the House of Commons, may be incorporated into the warrant which requires the sergeant to take him into custody; but at common law every warrant must speak for itself, and must shew two things,—a good cause for depriving the party named of his liberty, and some lawful period for his confinement. "The warrant," says Lord Coke, "containing a lawful course, ought to have a lawful conclusion." This is repeated by Lord Hale and all the text writers, and it is well established by numerous authorities. Lord Chief Justice Holt asserted this principle in *Brace's* case; so did Lord Ellenborough in *Goff's* case; and the whole Court in Lord Tenterden's time in *Groom* v. *Forrester*; and the Court of Exchequer recently in the case of *Daniel* v. *Phillips* (5 M. & S. 314); in the last-mentioned case, Baron Parke expressed himself in the words of Chief Justice Holt:—"The cause of commitment ought to be certain, to the end that the party may know for what he suffers, and how he may reclaim his liberty." The learned Baron proceeds:—'And if it be not, it is not only a ground for discharging the party, but the warrant is void, and no

justification in an action of false imprisonment." He adds the following sentence, after citing *Groom* v. *Forrester*, contrary to the dictum of Lord Holt in *Brace's* case:—"I must, however, here remark, that *Groom* v. *Forrester*, far from professing to overrule the dictum of Holt, proceeds on the authority of his decision in *Brace's* case, taking no notice of the supposed dictum, or of the inaccurate reporter upon whose single statement it rests—a dictum unnecessary to the decision, and plainly repugnant to it in principle, as well as to Holt's known opinion. It is mentioned by Comberbach, that an action had been talked of, and we may well suppose that Holt would be desirous of discouraging so vexatious a proceeding for a mere slip in the officer, and that his judgment was misconstrued by that reporter, into the opinion that no action could be maintained; and from this ancient and indisputable principle it follows that a bad warrant cannot be eked out by the most regular and formal conviction, or rather, indeed, it is the same principle; it required no authority, but there is a decision on that very point (*Wickes* v. *Clutterbuck*, 2 Bing. 483). *Goff's* case does not appear to me inconsistent; for there Lord Ellenborough distinctly lays it down,—'If there had been any uncertainty on the face of the warrant, I should have agreed with the argument; but coupling the premises with the conclusion, is it not in effect the same as if the warrant had directed the gaoler to detain the party until he had accounted?'" We must read the warrant, he says, as if the magistrate had in the conclusion recited again the adjudication. Le Blanc, Justice, observes,—"When the party has paid over the money, he will be entitled to be discharged in due course of law; that is, the warrant itself both indicates a conclusion of the imprisonment, and the party's discharge by due course of law, which, although vicious and too general if it stood alone, receives an explanation from the other words in the same warrant, shewing that his accounting, in conformity to his duty, is the means of such discharge." But the warrant before us has no conclusion whatever; and even if it justified the arrest, which is questionable on another ground, it could not justify any of the ulterior proceedings against the plaintiff. I apprehend that the goodness of the warrant in respect of its contents is wholly independent of the authority from which it proceeds. However dignified and powerful the body which sends forth a process, that process must be consistent with itself and with the law, in order to defend the officer who acts upon it. There is no disrespect to the high assembly with which this matter originated in applying the same rules of construction to instruments by which it acts as to those that may be issued by an ordinary justice of the peace. It is impossible to make the distinction—the magistrate is as absolute while exercising his jurisdiction as the Act of Parliament can make him. A recent Act has in certain cases permitted him to avail himself of a good conviction when a committal would otherwise have been imperfect; but this proves what the common law was, and has no application to the present case. There is a general averment in the plea that the acts complained of were done in accordance with the ancient usages and privileges of the House and the law and custom of Parliament, and the plaintiff is said to have admitted this as a fact by demurring to it; but I am of opinion that this would give too extensive an effect to admissions by demurrer, which ought to be rigidly confined to what the rules of construction require, especially when the averment is ambiguous, and the fact is not peculiarly within the knowledge of the party. The averment here may be satisfied by being interpreted with reference to the mere issuing of the warrant. We cannot suppose, either that the defendant claims for the House of Commons the privilege of issuing a bad warrant, or that the party questioning the conduct of its officer admits such privilege. The point lastly stated for argument on behalf of the defendant is, that the Speaker's warrant issuing in cases where the House of Commons had jurisdiction, the courts of common law have no right or power to inquire into the form and mode in which the House has proceeded: but the answer is, that we are not inquiring merely how the House of Commons has proceeded, but how the officer has acted. The view that I take steers clear of all collision with any privilege of the House except that large and general one to which I first adverted, and renders it unnecessary to consider the other objections to the plea; and, although the objections to this warrant may at first sight appear to be technical in their nature, they will be found on consideration to involve principles of vital importance to the liberty of the subject. For the reasons that I have given, I think the plaintiff is entitled to our judgment.

REG. *v.* GREGORY.

Recognizances to prosecute may be entered into after the session has commenced at the Central Criminal Court; and the indictment is good, though it does not shew that this has been done.

Central Criminal Court in the venue sufficiently shews the jurisdiction, if the place stated in the body of the indictment be within it.

Indictment.—At the sessions of the Central Criminal Court, which commenced November 28, 1842, an indictment was preferred by the Duke of Brunswick against Mr. Gregory for a libel, which was afterwards removed by *certiorari* to the Queen's Bench. The 13th section of the Central Criminal Court Act, 4 & 5 Wm. 4, c. 36, enacts, "that no bill of indictment for any misdemeanor (other than perjury and subornation of perjury), which can or may be presented to the grand jury at any session of the peace for the said city of Westminster, and borough of Southwark, and counties of Middlesex, &c. respectively, in which such misdemeanor was committed or alleged to have been committed, shall be presented to the grand jury to be summoned under the authority of this Act, unless the prosecutor, or other person presenting such indictment, shall have been bound by recognizance to prosecute, or give evidence at the sessions to be held under the authority of this Act, against the person or persons accused of such misdemeanor, or unless such person or persons accused shall have been committed to or detained in custody, or shall be bound by recognizance to appear at the said sessions to be held under the authority of this Act."

The indictment contained no statement that the recognizance had been entered into. In point of fact, the recognizance had been entered into on the 2nd of December, and the sessions commenced on the 28th November, 1842. The indictment was preferred after the recognizance was entered into. The venue was Central Criminal Court, the offence being stated in the body of the indictment, in the parish of St. Mary in the Strand. On these grounds a rule *nisi* had been obtained to arrest judgment.

Talfourd, Serjt. (with whom was *Wordsworth*) now shewed cause.—The indictment is good; there is a good common law venue in the body. (*Rex* v. *Connop*, 4 Ad. & Ell. 942; *Rex* v. *Minter Hart*, 6 Ca. & Pay. 123; *Reg.* v. *Stowell*, 12 Law Jour. M.C. 111.) The caption is immaterial. (*Rex* v. *Marsh*, 6 Ad. & Ell. 236.) The recognizance may be entered into any time during the session. (*Rex* v. *Carlton*, 6 Car. & Pay. 651.)

Crowder, Q.C. (with whom was *Peacock*, contrà). —The caption sets forth that the indictment was found on the 28th of November: this was not so. No recognizance whatever appears on the face of the indictment, which is essential according to the terms of the Act. (Hawk. P.C. c. 25, book 2.)

JUDGMENT.

Lord DENMAN, C. J.—In this case a doubt was raised whether the action could not be arrested, in consequence of the indictment not stating that the party had been bound over by recognizances to prosecute before the sessions at which the bill of indictment was found; but the Court is clearly of opinion that it is not necessary that should appear in the caption, and therefore there is no ground for arresting the judgment. That is our opinion on the point; and if there is error, of course it will be subject to another tribunal. With regard to the other matter, upon the affidavit that there had been no such previous recognizances, we are required to quash the indictment. We have considered that matter, and we think we ought not to take that step. A power is given to the grand jury of the Central Criminal Court in the largest terms possible, and then one of the succeeding clauses of the Act says that no bill shall be presented before the grand jury at the Central Criminal Court unless the party shall have been bound over by recognizances to appear at the sessions. There is some future sessions no doubt intended, and on one occasion the Lord Chief Justice was applied to to permit a party to be examined at the session in order to comply with that clause. We think he was perfectly right in refusing to permit it, because it would clearly have been too late for the purpose of removing the objection; and we consider that all he was bound to do was to decline to act, and that he was not bound to give any opinion at all on the due construction of the statute. But finding a general power given to the grand jury, and finding that it is directed by the statute that no bills shall be presented before the grand jury, yet no consequences attached to its being so presented without recognizances being entered into, we think those general words must have that effect, and the particular words without the bill, whatever may have been the object for introducing them, do not remove the power of the grand jury to find a bill on the matter before them, or of the petit jury from proceeding upon it, or of the Court in pronouncing judgment. Therefore we are bound to discharge the rule. Of course, the question about whether one libel or more libels make a variance, does not arise. The point we decide upon make it quite immaterial to inquire into that, because we consider no recognizances are previously required. *Rule discharged.*

Thursday, May 15.

TEECK *v.* BROWN.

Replevin—Copyhold—Rent-charge.

Declaration in replevin.

Avowry—That defendant distrained for arrears of a rent-charge, charged by will upon certain copyhold tenements, but omitting to state that the testator died six months before, when, &c.

Demurrer, on the ground of that objection, as well as that an annuity or rent-charge could not issue out of a copyhold tenement, and that the power of distress could not be given by will.

Peacock, for the defendant, at the suggestion of the Court, elected to amend, as to the first objection, upon payment of costs.

Butt, Q.C. for the plaintiff.

Defendant to amend.

SIMONS *v.* LOYD.

In an action upon an attorney's bill, de injuriâ is a bad replication to a plea of the non-delivery of a signed bill.

Assumpsit for work and labour.

Pleas—That the plaintiff was an attorney; that the action was brought for work done as an attorney; and that no signed bill had been delivered.

Replication—*De injuriâ.*

Special demurrer.

E. V. Williams, in support of the demurrer.—*De injuriâ* is wholly inapplicable to this plea, which shews no cause for the breach of the promise mentioned in the declaration. The plea admits the right of action and the breach; but sets up some facts posterior to the breach, which shew that the plaintiff has not taken certain steps necessary to enable him to enforce his remedy. In trespass and false imprisonment against magistrates, and no notice of action pleaded, or to a plea of the Statute of Limitations, *de injuriâ* would be improper, and they are analogous cases.

G. Pollock.—This is a plea in excuse; it shews that the plaintiff is under a present statutable disability; and that affords the defendant an excuse for the non-performance of his contract. The breach complained of in the declaration is the non-payment on demand, and that is excused. Of course it admits the contract and the breach, otherwise there could be no excuse. The replication *de injuriâ* is therefore applicable.

E. V. Williams, in reply.

Cases cited: *Salter* v. *Purchell* (1 Q. B. 209); *Basan* v. *Arnold* (6 M. & W. 559).

By the COURT.—The defendant is right; the plea shews no cause for breaking the promise mentioned in the declaration; it merely raises a question as to the right to sue. Then the replication says that the defendant had not the cause for breaking his promise which he alleges in his plea; though the plea alleges no cause. Good sense requires that the party should take issue on such a plea and say that the bill was delivered. *Judgment for the defendant.*

LAWRIE *v.* BOAST.

Assumpsit on bills of exchange.

Plea—Defendant's discharge under Lord Brougham's Act.

Replication—That the defendant's debts exceed 300*l*.

Demurrer.

Bovill admitted that he could not support the demurrer, and applied for leave to amend his plea. The plaintiff had amended his replication under a judge's order, which also gave the defendant liberty to amend his plea, which, however, he had not as yet done.

Peacock, contrà.

By the COURT.—You may amend your plea within a week on payment of costs.

Defendant to amend his plea on payment of costs.

Thursday, May 22.

REG. *v.* MORTLOCK and OTHERS.

An order of sessions ordered the appellants to pay a certain sum of money as costs, on service of the order, or a true copy thereof.

Held, that the service of the copy sufficed, and that it was not necessary that the costs should have been named by the justices, but that it is to be understood that the clerk of the peace should settle them.

An adjourned sessions may make an order when a previous sessions have heard the case—Coleridge, J. *dubitante.*

It is not necessary to give notice to the defendants to produce an order of sessions or notice thereof on the trial of an indictment against them for disobeying the order.

Indictment against the defendants as occupiers of land in the county of Cambridge, for disobeying the following order of the Court of Quarter Sessions, made on the 6th of January, 1843.

This day an appeal was entered by Robert Mortlock, Luke Staples, James Wing Dennis, and John Dennis, against a rate or assessment made for the relief of the poor of the parish of Wicken, in the county of Cambridge, and bearing date the thirty-first day of October last. And now, upon hearing counsel and allegations on both sides, and the evidence produced, this Court *doth dismiss the said appeal and doth confirm the said rate* or assessment so made as aforesaid, and doth order that the said Robert Mortlock, Luke Staples, James Wing Dennis, and John Dennis, *immediately upon service of this order or a true copy thereof*, do pay unto the said churchwardens and

overseers of the poor of the said parish of Wicken, the sum of 91*l.* 9s. 10d. *for their costs and charges* by reason of the said appeal.

By the Court,

CHRISTOPHER PEMBERTON,
Clerk of the Peace.

The indictment stated, "That a true copy of the said order was afterwards (to wit) on the 29th of May, 1843, personally served upon each of the said defendants, and they had notice of the contents thereof, and were requested to pay the costs, which they refused to do (the same being a reasonable sum)." The appeal having been dismissed, the costs were not taxed by the clerk of the peace during the sessions. In February 1843, a bill of costs was sent to the defendants' solicitor, and on the 29th of May, 1843, the order was served, and again, on the 26th of June, 1843, a personal demand was made on the defendants. The appeal had been previously entered and respited; it was subsequently dismissed, on the ground that no sufficient notice had been given to the churchwardens and overseers. At the trial, a verdict of guilty was found against the defendants, with leave to move.

Byles, Serjt. now shewed cause.—The first objection made is, that the Sessions ought to have ordered the money to have been paid upon service of the order itself, and that a copy is not service of the order. But the original order is entered in the minute-book of the sessions. No record is kept, and the original order cannot be served. In *Reg.* v. *Yeoveley* (8 Ad. & Ell. 806) the minute-book of the sessions was held to be itself the order, and to be proper eviden f the order. It is also objected that there should hav been proof of notice to the defendants to produce th original order to let in secondary evidence of it. Thi is clearly unnecessary. A copy of an attorney's bil' is admissible in evidence the original of which ha been delivered to the defendant, without notice to produce the original. (*Collins* v. *Treweek*, 6 B. & Cr. 394; *Anderson* v. *May*, 2 B. & Pul. 237.) Parol evidence is also admissible to support a general de scription of an instrument, in the declaration in an action of trover, without giving previous notice to produce, and this on the ground that the nature of the action prevents the defendant from being taken by surprise. (*How and Another, executors*, v. *Hall*, 14 East, 274.) The order itself is a notice, and it is not necessary to give notice to produce a notice. This case is similar to where an indictment is preferred for stealing a bill of exchange, which it is not requisite to give notice to the prisoner to produce in order to let in parol evidence. (*Aickle's* case, 1 Leach, Cro. Cas. 330.) Evidence may clearly be given, as here, of the contents of written instruments, or entries, or orders, which have been already shewn to be in the possession of the defendant. (*Jolley* v. *Taylor*, 1 Camp. 143.) This indictment distinctly charges the defendants with having received a copy of the order.

Worlledge, on the same side.—A paper was delivered by the clerk of the peace to the solicitor for the prosecution. Either that paper was the original or the book was. The case of *R.* v. *Yeoveley* shews that an order of sessions may be on paper, and that parchment is not necessary. The solicitor for the prosecution could not compel the clerk of the peace to give him what he liked. If the paper is not original, the book of the sessions is; but the Quarter Sessions is a court of record, and records do not travel (*Ahbez* v. *Farnerall*, 1 C. M. & R. 277), and an order for costs is part of the judgment, and therefore matter of record. (*R.* v. *Stoke Bliss*, 1 New Sess. C. 287) It cannot, then, be contended that a copy of the paper delivered by the clerk of the peace, and which, it is not denied, does not vary from the minute-book, will not satisfy every object for which an order should be shewn to those whose duty it is to obey it. Then, it is said that we should have alleged in the indictment that the original was shewn; but there is not in any of the reported cases a precedent for such an allegation. (*R.* v. *Wade*, 1 B. & Ad. 861; *R.* v. *Gilkes*, 8 B. & C. 439; *R.* v. *Gash*, Stark. N. P. 441; *R.* v. *Soper*, 3 B. & C. 357.) The objection to the form of the order of sessions is not to be sustained. It is true that the original rules of this court must be shewn, but the reason is, that the original rule is always delivered out to the party at whose instance it is obtained; and this meets the objection that will be founded on *R.* v. *Smythies* (3 T.R. 351); *R.* v. *Alnwick* (5 B. & A.)· *Garden* v. *Cresswell* (2 M. & W. 319); *R.* v. *Kingston and Others* (8 East, 41). Then as to the notice to produce, none was necessary. (*Hammond* v. *Plank*, Peake, N. P. 166, n.) It is contended that at the adjourned sessions, when the order was made, there were four or five justices who were not at the first sessions when the appeal was heard. [Lord DENMAN, C. J.—We cannot look to that if it was the same sessions adjourned.] No objection can be taken which is not apparent on the face of the order; here it appears to be made by the same justices. Lord Mansfield has said that the foundation of an indictment such as this is the order of sessions; and that where "nothing appears to shew that they had no jurisdiction, and till the order is reversed, it ought to be obeyed. We cannot hear objections to the order which do not appear on the face of it." (*Rex* v. *Milton*, 3 Esp. 200, n.) Here the order is good on the face of it, and the order itself was notice of the taxation by the clerk. It is no objection that the amount was specified in the order. The 17 Geo. 3, c. 38, enables the justices generally to award costs when the appeal has been determined. The original order gives costs, and the clerk of the peace then ascertains what shall be the amount; the justices then confirm the order. (*Ex parte Holloway*, 1 Dowl. 26.) *Selwood* v. *Mount* (1 Q. B. 726) shews that the amount must be specified in the order, and cannot be enforced without; it is the act of the Court, through its officer.

Prendergast, contrà.—There was nothing like notice given; but this Court will not interfere. If magistrates thought they did right, this Court will not interfere; it being a matter within their jurisdiction. Here the right given to the magistrates was properly exercised. The magistrates are the fit persons to determine what costs are properly incurred. It is a fleeting jurisdiction, and they only who hear the appeal can duly decide the amount. The Court here has only a particular jurisdiction delegated to it. [Lord DENMAN, C.J.—It is well known that the Court always awards that the order be confirmed with costs; and it is perfectly understood that these costs are to be ascertained by some officer of the Court, and the adjourned Court or the other Court has only to confirm that which has been so ascertained.] The 17 Geo. 3, c. 38, only gives power to give costs where the appeal has been determined, but here the Court *dismissed* the appeal for insufficient notice. Every count in the indictment says that a copy of the order was served on the defendants; but there is no statement of a valid service of the order itself. [PATTESON, J.—Pray, *what is the order?*] There was the greatest difficulty in ascertaining what the order was. In order to be bound by a subpœna, the person must have the order shewn to him. [PATTESON, J.—Suppose it necessary to serve a judgment on a person, can he serve the original judgment? How is it to be done?] A man would not be liable to a contempt who had only a copy shewn to him. [PATTESON, J.—What is the order? I really cannot understand.] One of them is the parchment order. [Lord DENMAN, C. J.—It is stated that the copy was served, and the original was read over to him.

Gunning, on the same side.—It is only upon service of the order that the defendants became liable to pay the costs. In all the cases cited (except that in Leach) it was not necessary to give notice to produce the document to support the general description in the declaration; but a notice to produce was necessary here. (*R.* v. *Hayworth*, 4 Car. & Pay. 451; *R.* v. *Ellicombe*, 5 C. & P. 522; *Rex* v. *Allen*, 5 B. & Ad. 984.) The case of *Reg.* v. *Yeoveley* is against the prosecutors, for there the original order was produced. (*R.* v. *Hughes*, 3 A. & Ell. 425; *Reg.* v. *Painter*, 3 A. & Ell. 433.)

LORD DENMAN, C. J.—The question for our decision is, ought the judgment to be arrested? The allegation on the record is, that the payment "is to be made immediately upon service of the notice or a true copy thereof." It is therefore clear that service of either would be sufficient, and that the service of the notice, which is distinctly stated to have been made, was all that was requisite whether that notice was given by means of the parchment order or by shewing the book itself in which the order was entered. As to the notice to produce to let in secondary evidence of the order at the trial, we think that there was no occasion for it. The service of the copy or of the order sufficiently brought the facts to the knowledge of the defendants, and was itself a notice: therefore calling for a notice to produce such order or copy, would be calling for notice of production of notice. We are of opinion that the order of sessions is good. It was made in the presence of the parties and the attorney, and they had sufficient notice to tax costs. If the officer had done this behind their backs, it would be bad, but many things pass in court without objection, and unless objections be made and noted at the time, it is scarcely competent to the parties to take exception to them after the time when they had notice and opportunity of making it. How natural it would have been for Mr. Pemberton to say, "I recollect giving the notice;" and unless the matter is noted at the time, these objections made afterwards must go for nothing. There was no objection taken to the jurisdiction. Neither does the objection prevail with us, that the appeal is said to have been dismissed with costs generally; the real effect is, your appeal is dismissed with such costs as shall be settled by the clerk of the peace or other officer. If, indeed, any assertion of impure or improper conduct had been made, it would have been bad; but without some imputation on the conduct of the officer, the amount found by him to be due must be taken to be the amount found by the Sessions.

PATTESON, J.—I am quite of the same opinion on the first point. The indictment states that the order was shewn to the defendants. I think it is clearly sufficient to say that a party shall pay on service of the order, or a true copy thereof. I do not know what the order is; but certainly there is nothing to shew that the minute-book is not the order. No notice to produce could be required. The copy served is nothing but a notice after all. It is not a case of secondary evidence; and it is new to me that you must give a notice of every thing. This is nothing but a notice to produce a notice, and is not needed.

WILLIAMS, J.—In any case it is quite clear that the notice they say ought to have been given was quite unnecessary. They could not carry about the minute-book of the sessions, and therefore the copy was the order. It is contrary to all principle that a notice is necessary to produce a notice, and to that it comes. Upon service of order, or a true copy thereof, was the condition on which the money was to be paid; and that condition was complied with.

COLERIDGE, J.—I entirely concur as to the service of the notice. You are not bound to carry about the book itself, and the copy clearly suffices. I have had most doubt as to the jurisdiction of the justices to make the order at the adjourned sessions. We must take the order strictly to be made at the adjourned session, and I think that at an adjourned session they cannot properly make an order for costs on what passed at prior sessions, but that this Court should inquire whether there were the same justice composing it. But looking to the notes of the trial, we must, I think, suppose that all was done without any objection; and after a sufficient notice had been given. All that was done at the adjourned sessions must be taken to have been a confirmation of what was done at the preceding sessions.

Rule discharged.

BUSINESS OF THE WEEK.

Thursday.

ROBINSON *v.* MARCHANT.—*Declaration* for words spoken, imputing insolvency to the plaintiff, who carried on business as a banker in partnership with two others. *Plea in abatement*, the nonjoinder of those two. *Demurrer. Peacock*, in support of the demurrer. *Petersdorff*, contrà. *Cur. adv. vult.*

VYNE *v.* BIRD.—*Assumpsit* on a promissory note. *Demurrer* to the replication. *Swann*, in support of the replication, prayed judgment, and nobody appearing in support of the demurrer,

Judgment for the plaintiff.

BENTON *v.* BUTLER, YOUNG *v.* SMITH.—These cases were postponed by consent, *Crompton* having gone to hold his court at Liverpool.

BUCHANAN *v.* HUNT.—*Bovill* for the plaintiff, *H. Hill* for the defendant. *Plaintiff to amend.*

BLAKESLEY *v.* SMALLWOOD.—Postponed by consent, in consequence of the absence of *Aspinall* at sessions.

BRENDUCK *v.* HOWE.—*R. Allen* prayed judgment for the defendant, and nobody appearing on the other side, *Judgment accordingly.*

CROWN CASES RESERVED.

Saturday, April 26.

(Before all the Judges, except PARKE, B. and MAULE, J.)

REG. *v.* PERRY.

On an indictment for stealing a banker's cheque, described in another count as "a piece of paper, value [illegible] *may be* [illegible] *latter count, although, as a cheque, the instrument could not be received in evidence, for want of a stamp.*

The prisoner was tried before Mr. Justice Coleridge, and convicted, at the last Taunton Assizes, on an indictment which charged him, as servant of the Great Western Railway Company, with stealing a cheque for 13*l.* 9s. 7d. and a piece of paper, value one penny; in other counts the instrument was described as a warrant and order for the payment of the sum above mentioned, and the property was laid in several different ways.

The Great Western Railway Company being indebted for the rates to the overseers of the parish of Taunton St. James, in the sum of 13*l.* 9s. 7d. a cheque for that amount was by the proper authority drawn at Paddington, on their London bankers, and then transmitted through the hands of various officers of the company, to the superintendent at the Taunton station; he received it on Saturday, the 1st of March, and at the hour when the prisoner, the chief clerk there, was going into the town to his dinner, placed it in his hands, ordering him to pay it to the overseer, and to bring him a stamped receipt upon his return.

On his return, the superintendent asked prisoner if he had paid the overseer; he answered "Yes," and being asked for the receipt, said that the overseer, not having one by him, had promised to send it to a certain inn in the town for him. In truth, the prisoner had not paid it, and on Monday morning got it cashed by a tradesman in the town, and applied the proceeds to his own use. It was objected at the trial, that the cheque being issued at Taunton, though made within fifteen miles of the banking-house, could not be read for want of a stamp, and was not a valuable security.

It appeared to the learned judge, that the cheque was either issued at Paddington when put in a course of transmission to the party who was to receive the

money named in it, or not until the cashing of it on the Monday morning, at Taunton. In the first case, it was clearly within the exemption of the Stamp Act, in the second, it was stolen before the issuing, and he thought an unstamped cheque, made within distance, but not issued, was a valuable security within the statute. He thought the cheque might be considered as stolen when the prisoner, instead of applying it as he was ordered, in payment to the overseer, had appropriated it to himself, of which the false statement to the superintendent was evidence, and that the cashing it on Monday was only further evidence of an appropriation complete on the Saturday.

He therefore directed the cheque to be read, and the prisoner was convicted.

The prisoner's counsel referred to section 13 of the 55 Geo. 3, c. 184, and *Ex parte Bignold* (1 Deacon's Reports, 735), for the distinction between making and issuing a banker's cheque.

Assuming this distinction to be sound, and to apply to the present case, the learned judge entertained doubts whether the view he took of the case was correct, considering that the cheque was never intended to be issued within the distance of fifteen miles from the banking-house, and so an evasion of the Stamp Act contemplated from the beginning; and he therefore desired the opinion of the judges upon the case.

Rowe, for the prisoner.—The cheque was inadmissible for want of a stamp. [Lord DENMAN, C. J.—But what do you say to the charge of stealing a piece of paper of the value of 1d.?] That piece of paper derived its whole value from what was written on it; after being converted into a security for money, it was valueless altogether, except for the purpose to which it had been devoted. As a piece of blank paper, it might be the subject of larceny; but the writing upon it has entirely altered its character, and destroyed its value as a piece of paper. If it could have been made valuable as a security by the imposition of a stamp and the payment of the penalty, then it might have fallen within *Clark's* case (R. &. R. 181); but that is not so, and its value is altogether gone.

Authorities cited: *R.* v. *Clark* (R. & R. 181, : Leach, 1036); *R.* v. *Bingley* (5 Car. & P. 602); *R* v. *Phipoe* (2 Leach, 673); 1 Hawk. c. 33, s. 22.

Phinn, contrà, was not called upon.

The judges, upon consideration, held the conviction right.

COURT OF COMMON PLEAS.

Wednesday, April 30.

ABBOT *v.* DOUGLAS.

Where part of the consideration for an annuity consisted of money by a draft on a banker, the statement in the memorial of the annuity-deed that it was "by a draft of even date with the aforesaid recited indenture of assignment, drawn by the said W. A. on Messrs. B. & Co." was held not to be a compliance with the stat. 53 Geo. 3, c. 141, inasmuch as it did not state when the draft was payable.

This was a rule calling on the executor of the plaintiff to shew cause why the warrant of attorney in this case, and the judgment signed thereon, and an annuity-deed, and a memorial, mentioned in the defendant's affidavit, should not be respectively set aside, on several grounds, of which the following need only be now noticed; viz. that the consideration was not properly stated in the memorial, as to the time of payment of the draft therein mentioned.

The memorial stated the consideration for the annuity, under the heading "Consideration, and how paid," in these words:—"450*l.* paid by the said William Abbot to the said James Moreton Douglas, in his own proper person in manner following; that is to say, 23*l.* by a draft of even date with the aforesaid recited indenture of assignment, drawn by the said William Abbot on Messrs. Barnett, Hoare, & Co.; 17*l.* in sovereigns, and the residue of the aforesaid sum of 450*l.* being 410*l.* in notes of the Governor and Company of the Bank of England, payable to the bearer on demand, and which said three several sums make the aforesaid consideration of 450*l.*" The deed had been given in July 1828, for securing an annuity of 50*l.* a year for the life of Douglas, secured by a judgment on a warrant of attorney, together with an assignment of the fees of the office held by Douglas, of registrar and actuary of the Archdeacon of Norfolk. As the judgment of the Court was given only on the above-mentioned objection, the argument on the others is here omitted.

Manning, Serjt. in Hilary Term last, shewed cause against the rule.—The Act of 53 Geo. 3, c. 141, does not require the same particularity in the statement of the consideration as that of 17 Geo. 3, c. 26. *Drake* v. *Rogers* (2 Brod. & B. 19), and the other cases which may be cited in support of the rule, were decided under the statute 17 Geo. 3, c. 26. In *Crowther* v. *Wentworth* (6 B. & C. 371), Bayley, J. referring to 53 Geo. 3, says, "That statute was passed to remedy the inconveniences resulting from several decisions which had taken place on the construction of the former Annuity Act." The following cases were also cited: *Faircloth* v. *Gurney* (9 Bing. 622), and *Case* v. *Lovelace* (2 B. & Ad. 767), and it was contended that a draft, in its popular sense, meant payable on demand, and was a sufficient statement to convey the information required by the Act.

Talfourd and *Byles*, Serjts. contrà.—Supposing the statute the same as that of 17 Geo. 3, c. 26, there could be no doubt but that the present description would be insufficient. (*Berry* v. *Bentley*, 6 T. R. 690; *Poole* v. *Cabanes*, 8 T. R. 328; and *Drake* v. *Rogers*, 2 Brod. & B. 19.) It is submitted that the decisions on the 17 Geo. 3, c. 26, are authorities for determining the construction to be put on the 53 Geo. 3, c. 141, the schedule to which, giving the form of the memorial, requires to be stated "consideration, and how paid;" the manner therefore in which the consideration is paid must be stated, if consisting of notes or drafts, with the time of payment, as was formerly required under the 17 Geo. 3, c. 26. The object of both Acts was the same, namely, to have a true statement of the payment of the consideration for the annuity. *Cur. adv. vult.*

JUDGMENT.

TINDAL, C. J. now delivered judgment.—This was a rule calling on the executor of William Abbot to shew cause why the warrant of attorney in this case, and the judgment signed thereon, and an annuity-deed and a memorial in the defendant's affidavit mentioned, should not be respectively set aside on the following grounds:—First, that the consideration is not properly stated in the memorial of the said deed as to the time of payment of the draft therein mentioned; secondly, that the consideration for the said annuity was an illegal assignment of an office; thirdly, that a part of the consideration money was retained; fourthly, that the deed contained a covenant to pay an additional premium of insurance in a certain event; fifthly, that it contained a covenant to allow the grantee to take one shilling in the pound out of what he should collect from the fees of the said office. The affidavit on which the rule was obtained stated that the consideration money for the deed of annuity was 450*l.* and was paid in manner following: 410*l.* in Bank of England notes; 17*l.* in gold coin; 23*l.* by a draft of even date with the annuity-deed, drawn by the said William Abbot on Barnett, Hoare, and Company, bankers, in London. A copy of the memorial was annexed to the affidavit; and such memorial, under the heading "Consideration, how paid," was in these words: "The sum of 450*l.* paid by the said William Abbot to the said James Moreton Douglas, in his own proper person, in manner following; that is to say, 23*l.* by a draft of even date with the aforesaid recited indenture of assignment, drawn by the said William Abbot on Barnett, Hoare, and Co.; 17*l.* in sovereigns; and the residue of the aforesaid sum of 450*l.*, being 410*l.*, in notes of the Governor and Company of the Bank of England, payable to the bearer on demand; and which said three several sums make the aforesaid consideration of 450*l.*" In answer to the rule, an affidavit was used, to which the said draft for 23*l.* was annexed, and that appeared to be a draft payable on demand. It will be unnecessary to express any opinion on the other objection stated, because it appears to us that the first must prevail, the memorial not being such as the statute 53 Geo. 3, c. 141, requires to be enrolled. In order to determine this question, it is necessary to look at the statute 17 Geo. 3, sec. 1, and the decisions which took place under it. By that section it was enacted that a memorial of every deed, &c. whereby any annuity or rent-charge shall from and after the passing of this Act be granted for one or more life or lives, &c. shall within twenty days of the execution of such deed be enrolled in the High Court of Chancery; and that every such memorial shall contain the date, &c., and shall set forth the annual sum or sums to be paid, and the name or names of the person or persons on whose life or lives the annuity is granted, and the consideration or considerations for granting the same. Under this section it was held that all considerations, whether pecuniary or otherwise, must be stated, and that where the pecuniary consideration, or part of it, is paid by drafts on bankers or promissory notes, it was necessary to set them out, and mention the time when they were payable. The cases of *Rumbull* v. *Murray*, *Berry* v. *Bentley*, and *Poole* v. *Cabanes* may be referred to, in which last case the memorial stated part of the consideration money, 199*l.* 10*s.* was paid by a draft of J. Harvey on Messrs. Lockhart, bankers in Pall-mall, which said draft was duly honoured; and though it was urged by Gibbs that a banker's cheque is always considered as money, the Court held the memorial to be insufficient. In *Morris* v. *Wall* (1 Bos. & P.) the memorial stated that the consideration money was paid in Bank of England and country bank-notes, without specifying the dates or times of payment of the latter; and on the ground that it was necessary to state the time of payment, the Court reluctantly made absolute the rule for setting aside the judgment, considering themselves bound by the former decision respecting bankers' cheques; and this decision was confirmed by this Court in *Drake* v. *Rogers* (2 Brod. & B. 19). By the 53 Geo. 3, c. 141, the former Act was repealed, except as to annuities and rent-charges theretofore granted; and by the second section it was enacted that within thirty days after the execution of every deed, &c. whereby any annuity or rent-charge shall, from and after the framing of this Act, be granted for one or more life or lives, &c. a memorial of the date of every such deed, the pecuniary consideration or considerations of granting the same, and the annual sum or sums to be paid, shall be enrolled in the High Court of Chancery, in the form or to the effect following, with such alterations therein as the nature and circumstances of any particular case may require. By this enactment it is not made necessary to mention in the memorial any but pecuniary considerations; but they must be stated in the form prescribed by the Act, which contains a column, headed "Consideration, and how paid;" and under these words, "100*l.* paid in money," "300*l.* paid in notes of the Governor and Company of the Bank of England, or other notes or bills of exchange, as the case may be." If in the present case part of the consideration had been paid by a bill of exchange, it could not have been contended that the time when it would become payable need not have been stated, it being necessary to shew the real nature and value of the consideration. The same necessity exists for stating the time when a draft is payable; and the only question is, whether the memorial now under consideration states the time when the draft on Barnett, Hoare, and Company was payable. It does not do so unless the word "draft" means "draft payable on demand." In several of the cases cited, the Courts have refused so to construe it, and those decisions are equally applicable to memorials enrolled in pursuance of the 53 Geo. 3, as to those under the 17 Geo. 3. We feel we are bound by them, and we must say that the memorial in question is insufficient. The consequence is, that the deed, bond, instrument, or other assignment by which the annuity was granted, is null and void. The rule asks that it may be set aside. The Court will only interfere so far as to set aside the judgment which has been signed on the warrant of attorney; to that extent the rule must be made absolute. *Rule absolute accordingly.*

COURT OF EXCHEQUER.

Wednesday, May 7.

WALMSLEY *v.* LOWE.

Where there are cross rules for a new trial before the sheriff, the Court will hear both rules, if the sheriff's notes have been verified in moving for one of them. The Court will examine the record, if produced before them, though not verified by affidavit.

Quære, who entitled to the record, where defendant pleads a plea of tender, and also other pleas to the whole cause of action, and fails on the plea of tender, but succeeds on the others?

Quære, meaning of the term "and for a further plea as to the said sum of, &c."

In this case, which was an action of debt, the declaration contained common counts for 8*l.* 4s. 6d. for work, labour, and materials; for a similar sum for goods sold; and for a like sum upon an account stated. The sum demanded was 24*l.* 13s. 6d. The defendant pleaded, first, "except as to the sum of 18s. parcel of the said sum above demanded," never indebted; secondly, as to 7*l.* 6s. 6d. a set-off. This plea commenced thus: "And for a *further* plea *in this behalf* as to the sum of 7*l.* 6s. 6d. parcel of the sum above demanded, and the damages sustained by the plaintiff by reason of the detention thereof." Thirdly, as to 2*l.* 1s. payment before action brought. This plea commenced by stating, "And for a *further* plea as to the said debts and causes of action, so far as the same relate to the sum of 2*l.* 1s. parcel of the sum above demanded." Fourthly, as to the said sum of 18s. a tender. This plea commenced, "And as to the said sum of 18s. parcel of the said sum above demanded." Upon the first plea issue was joined. *Nil debet* was replied to the second plea. A *nolle prosequi* was entered to the premises to which the third plea was pleaded. To the fourth plea the plaintiff replied denying the tender, upon which issue was joined.

The action was tried before the sheriff of Middlesex, when a verdict was found for the defendant on the issues raised upon the pleas of never indebted and of set-off. The defendant only proved that about 2*l.* was due to him on account of the set-off. Upon the issue raised upon the plea of tender, the jury found for the plaintiff, but did not expressly find any damages for him. Upon the production of the postea, however, it appeared that the under-sheriff had indorsed nominal damages. The plaintiff's attorneys obtained the writ of trial and return from the under-sheriff's office.

Prentice, in the beginning of the present Term, obtained a rule upon the part of the defendant calling upon the plaintiff and his attorneys to shew cause why the writ of trial and sheriff's return thereto should not be delivered to the defendant or his attorney, upon the ground that the defendant was entitled to the same, and the general costs of the cause. Upon the above rule being moved for, *Thomas* obtained a cross-rule calling upon the defendant to shew cause why the verdict found for the defendant upon

the first and second issues should not be set aside, and a verdict entered for the plaintiff on the same.

These rules came on to be argued together, *Prentice* in the first instance was heard, and took a preliminary objection to the rule obtained by *Thomas*, on the ground that the rule was not drawn up upon any affidavit verifying the sheriff's notes. The Court however, overruled this objection, upon the ground that the sheriff's notes were before the Court on the other rule. It was then contended that *Thomas's* rule must be discharged, as there was nothing upon the sheriff's notes to enable the Court to alter the verdict. [The Court expressed themselves of this opinion as to the first issue.] Then the verdict was correctly found and entered for the defendant on the second issue, although as large a sum as the sum to which the plea of set-off was pleaded, was not proved to be due to the defendant, the defendant having proved a sufficient sum to cover any cause of action established against him by the plaintiff. (*Tuck* v. *Tuck*, 5 M. & W.; and *Kilver* v. *Bailey*, ib.)

The first question as to the first-mentioned rule was, whether there was any plea to the sum of 18s excluded from the first plea, but the plea of tender. It was contended on the part of the defendant, that the second and third pleas were pleaded to this sum of 18s. as well as to any other sum in the declaration; that the word *further* at the commencement of the second and third pleas did not confine such pleas to the moneys to which the first plea was pleaded (Com. Dig. Pleader, E. 27, F. 4; *Hughes* v. *Poole*, 6 Scott's N. R. 959; *Verre* v. *Goldsborough*, 1 Scott 265, 1 B. N. C. 353; *Putney* v. *Swann*, 2 M. & W. 72; *Grills* v. *Manuel*, Willes, 380, and cases cited in Chit. on Pl. 578, 589.) [POLLOCK, C. B.- If the pleas are to be read as you would read a letter, the second and third pleas are only pleaded to the moneys to which the first plea is pleaded.] It was submitted that they could not be so read, but that they must be construed according to the known rules of pleading, and that the one plea could not be made use of to put a construction on another. Assuming that the second and third pleas apply to the sum of 18s. it was argued that though the plaintiff succeeded on the plea of tender, the defendant was entitled to the record and the general costs of the cause, as the defendant had succeeded on the plea of set-off, and as a *nolle prosequi* had been entered on the plea of payment, and therefore the defendant had establishe a defence to any cause of action that the plaintiff had proved. (*Fischer* v. *Aide*, 3 M. & W. 486; *Turmlow* v. *Askey*, 3 M. & W. 495; *Amor* v. *Cuthbert*, 3 Scott's N. R. 325, 3 McG. 1; 2 Dowl. N. S. 160.) It was also urged, that as no damages were found for the plaintiff, and as he was only entitled to costs, if he recovered damages, he could not be entitled to retain the *postea*. (*Grout* v. *Glazier*, 1 Dowl. N. S. 58.) [PARKE, B.—By the return to the writ of trial, it appears that the jury have assessed 1s. damages.] It was submitted, that as the return was not verified by affidavit, the Court could not notice it. [PARKE, B.—The Court will take notice of the return; if that is incorrect, the undersheriff should be applied to to amend it.]

Thomas was stopped shortly after he had commenced his argument by a suggestion from the Court, that there would be some difficulty in entering up judgment upon the record as it stood.

Prentice suggested that the jury had found that the tender was not made, and submitted that a judgment might be given, though he admitted the pleadings were very informal.

By reason of the difficulties in the case, the Court directed the rule to be enlarged till next Term, in the hope that in the interim the parties might enter into some compromise.

Wednesday, May 14.

NEW TRIAL PAPER.

HAYWARD v. HAYWARD.

New Trial.

Kinglake, Serjt. shewed cause against a rule of *M. Smith's* for a new trial in this case. The rule was obtained on the ground that the verdict was against the evidence, and no other question arose.

M. Smith, in support of his rule, was stopped by the Court, who said that, as the learned judge who had tried the cause was dissatisfied with the verdict, the rule for a new trial would be made absolute.

Rule absolute accordingly.

SUTCLIFFE v. BROOK.

Action on an award.

This was an action on an award, and there demurrer to the declaration, on the ground that the declaration did not state a good mutual submission to arbitration by the parties, or their attorneys, on the face of it.

Atherson, in support of the demurrer, was stopped by the Court.

Bramwell proceeded to argue in support of the declaration, but the Court intimating a very strong opinion that he had better amend, he consented to do so.

Leave to amend, otherwise judgment for the defendant.

JAMES v. BOSTON.

Where a clergyman had been accused by letter to the bishop of being party to a DISGRACEFUL *scene, by which means he had brought scandal on religion in the parish:*

Held, on an action for libel, that a plea of justification should justify the assertion that the act was a DISGRACEFUL *one.*

Held also, that it was not necessary to lay special damage; such an accusation would be quite sufficient to maintain an action of libel whether the plaintiff was a clergyman or not.

This was an action brought by the plaintiff (who is a clergyman) against the defendant for a libel. The libel complained of was contained in a letter written by the defendant to the Bishop of London, wherein he stated "That a report was current in Bethnal-green that a disgraceful scene had taken place in the school-room there some short time before; for that, upon the schoolmaster asking the Rev. Mr. James (the plaintiff) in the school-room, for his wages, the rev. gentleman had collared the schoolmaster, and a regular stand-up fight had taken place, and persons who were passing at the time, hearing a cry of murder, came in and parted the combatants, whereby great scandal was brought on religion in that parish by the bad example of the clergyman." The defendant pleaded first, the general issue; and, secondly, a plea of justification, on the ground that there was a report current in the said parish that an assault had been committed by the plaintiff on the schoolmaster; but the words "disgraceful" and "stand-up fight" were left out in the plea, which was demurred to on the ground that it did not sufficiently justify the libel.

Baddeley, in support of the demurrer, was stopped by the Court.

Stammers, in support of the plea, contended that there was a sufficient justification set out in the plea. [PARKE, B.—It is perfectly clear that the libel imputes disgraceful conduct to the clergyman by the alleged assault. Now, the plea only justifies the libel, on the ground that there is a report current of an assault having been committed by the plaintiff, but not that there had been a *disgraceful* one; and the plea may be true, and yet no justification of the libel; for it may be that the clergyman committed the assault in self-defence, which of course would not be disgraceful in him.] Then the declaration is bad, as it should have laid special damage, and the libel should have been alleged to be of and concerning the office of the plaintiff *as a clergyman*. (*Lumby* v. *Aldy*, 1 Cro. Jac. 301; *Craven* v. *Ayre*, 2 A. & E. 2.)

PARKE, B.—Those were cases on actions for words, but this is for a libel. It is not necessary to lay special damage, if the libel imputes disgraceful conduct to the plaintiff; such an accusation would be quite enough to maintain this action, whether the plaintiff was a clergyman or not.

Judgment for the plaintiff.

BUSINESS OF THE WEEK.

Wednesday.

KYNASTON v. CROUCH.—*Cockburn*, Q.C. and *Greenwood* shewed cause.—*Crowder*, Q.C. in support of his rule. *Cur. adv. vult.*

DORMER v. HOWARD.

Judgment for the plaintiff.

EARL OF ROSSE v. WARRIMAN.—No one appearing for the plaintiff,

Judgment for the defendant.

MCCLAY v. BERKELY. *Rule enlarged.*

BAIL COURT.

TRINITY TERM, 1845.

(Before Mr. Justice WIGHTMAN.)

Thursday, May 22.

HALL v. BAINBRIDGE and OTHERS.

Where the defendants were alleged to have been in possession of a letter sent to them by another party, which letter the plaintiff suggested operated as an agreement, which it would be necessary for him to prove as a part of his case at the trial, though no party to it himself, the Court made absolute a rule calling upon the defendants to produce it at the Stamp Office, in order that it might be stamped as an agreement, at the expense of the plaintiff.

Martin, Q.C. shewed cause against a rule obtained by *Cowling*, calling on the defendants to shew cause why they should not, within four days, produce a certain letter, dated the 28th of May, 1838, addressed by Messrs. Fawcett and Co. of Liverpool, to Mr. MacGregor Laird, as secretary to the British and American Steam Navigation Company, of which the said defendants were directors, at the Stamp Office, at Somerset House, Middlesex, for the purpose of being stamped as an agreement, at the expense of the plaintiff. It appeared that the plaintiff, being the patentee of several improvements in steam navigation, the defendants, who were the directors of the above-mentioned company, agreed with him to use his patents upon certain terms; and it was stipulated, that for any other vessels which they might afterwards have constructed upon his principles, they should pay a certain sum per horse-power, the money to be paid on the making of the engines. In 1838, a correspondence took place between the company and Messrs. Fawcett and Co. engineers, relative to some engines to be made, as it was suggested, on Mr. Hall's principle; and a letter was sent by Messrs. Fawcett and Co. to Mr. Laird, the secretary of the company, upon the subject. This action had been brought upon the original deed, to recover a sum of money due, as it was alleged, in respect of the horse-power manufactured; and this rule was obtained to compel the production of the letter from Messrs. Fawcett and Co. to the company's secretary, in order that it might be stamped with an agreement stamp, with the view of being used on the trial by the plaintiff, or of enabling him to give secondary evidence of its contents. Against this rule it was contended, that the Court had no power to make such a rule as that asked for; that the Court only interferes in such cases where the party in possession of a document holds it in the character of trustee for the party claiming under it. (*Lawrence* v. *Hooper*, 5 Bing. 6, 2 Moore & P. 9; *Neale* v. *Swind*, 1 Dowl. 314, 2 Cro. & Jer. 278; *Bateman* v. *Phillips*, 4 Taunt. 157.)

Cowling, contrà, argued that the cases upon the subject supported the application; that he was only seeking to have the document stamped, and was not asking for a copy. That although the plaintiff was not actually a party to the letter, he had a sufficient interest in it to support this motion.

WIGHTMAN, J.—I am of opinion that this rule should be made absolute. It is suggested that the defendants are in possession of a document to which they are parties, and which, it is alleged, is evidence for the plaintiff, and which, for the purposes of the present motion, must be assumed to be evidence, but for the want of a stamp. It is not proposed by this motion to obtain a copy of the document, but merely that it may be produced, in order that it may have a stamp put upon it, to make it receivable in evidence. The plaintiff, who wants this instrument, may fairly be said to have an interest in it. The case of *Lawrence* v. *Hooper* seems to have been decided on the ground that the rights of third parties were involved, and that therefore the application ought to have been made to the Court of Chancery; but it is not suggested here that any such objection can arise; besides, the application is merely *to stamp*, and is very different from that of taking copies. This distinction does not occur in *Neale* v. *Swind* and *Bateman* v. *Phillips*, both of which were subsequent to that of *Lawrence* v. *Hooper*, and I think, therefore, that, in accordance with the rules of practice, I ought to make the rule absolute. *Rule absolute.*

Friday, May 23.

REG. v. THE JUSTICES OF THE WEST RIDING OF YORKSHIRE, in the matter of the appeal between ST. PANCRAS, MIDDLESEX, appellants, and BRADFORD, YORKSHIRE, respondents.

Where an application is made for a mandamus to justices to hear an appeal, all the material facts should be stated in the affidavits on which the motion is made.

A notice of appeal given by a majority of the churchwardens and overseers is good; and notwithstanding the act of appealing is legally the act of all the parish officers, a statement that the notice is by "a majority" is sufficient, and it is for the other side to shew that the majority had no authority to act for the whole.

This was a rule obtained in Michaelmas Term last, calling upon the justices of the West Riding of Yorkshire to shew cause why a *mandamus* should not issue commanding them to enter continuances and hear an appeal between the above parishes. It appeared that an order of removal had been made for the removal of a pauper from Bradford, Yorkshire, to St. Pancras, Middlesex; that no notice of appeal was given within the 21 days; but before the pauper was actually removed, notice of appeal, together with the grounds, were served, the commencement of which was as follows:—"Take notice that we, the undersigned, being a majority of the churchwardens and overseers of the poor of the parish of St. Pancras, in the county of Middlesex, do intend," &c. This was signed by five persons, one as churchwarden, and the four others as overseers. On the case coming on at the last October sessions, the appellants were required to prove their notice of appeal; and on cross-examination it appeared that there were six churchwardens and overseers of the appellant parish; and it was then objected on the part of the respondents, first, that as the appellants had given no notice of appeal within the twenty-one days, they had no power to give it until the pauper was actually removed; secondly, that a notice of appeal purporting to be given by *a majority* only, and there being nothing to shew how, where, or when the signatures took place, was bad, for that a notice of appeal, in contemplation of law, is the act of the whole body of churchwardens and overseers, and a majority have no right to appeal merely *as a majority*. The sessions being of this opinion on both points, refused to hear the appeal. On obtaining this rule the first of these objections only was mentioned as the ground for the application.

R. Hall and *Pashley* now shewed cause, and con-

tended, 1st, that in moving for this rule, upon the first ground only, which, after the decision in *Reg.* v. *The Justices of the West Riding* (reported in 4 Law T. 160), was a perfectly obvious objection, and in omitting to inform the Court of the second objection, which was the substantial one, and which justified the justices in the decision they had come to, a material fact had been kept from the Court, which would justify its dismissing this application. 2nd. That the objection upon which the justices acted—that the notice of appeal was bad, in having been upon the face of it given by a *majority, as a majority*, and not for the whole body, was a perfectly good one; for that, although a majority is competent to act in such a matter, it can only be as and for the whole body, who ought to have an opportunity of exercising a judgment on the subject of appealing; that the document should purport to be the act of the whole, and not of a part, notwithstanding the notice may be given by a majority only. (*Reg.* v. *The Justices of the West Riding of Yorkshire*, 2 Q. B. 705; 3 B. & Ald. 382; 1 B. & P. 136; 7 B. & C. 314; 9 B. & C. 648; *Ex parte Harnley*, 13 L. J. 39.)

Pickering, contrà, was not called on.

WILLIAMS, J.—This rule must be made absolute. I perfectly agree that if the Court is applied to for a *mandamus* on an affidavit which imperfectly states what occurred at the sessions, and it is shewn that what is omitted is material, the Court, considering it as a delusion which is attempted to be practised upon it, will discharge the rule with costs; but in order to make this rule applicable, such points ought not to be impalpable and mathematical points, but real and substantial ones. Now it appears to me that the objections taken at the sessions were purely ideal, and the counsel for the respondents has given up the first. Then as to the second, it is said that it ought to appear that the act of appealing was the act of the whole, and not merely of a majority of the parish officers, and that the notice upon its face is the act of a part of that body only. But it appears to me that the presumption is the other way, and that it lies on the other side to shew that the majority had no authority to act, and were not acting for the whole. Except you introduce a presumption and a supposition for which there is really no foundation, this statement must be taken to be sufficient.

Rule absolute without costs.

BUSINESS OF THE WEEK.

Thursday.

REG. v. THE TOWN COUNCIL OF LICHFIELD.—*J. W. Smith* applied for further time to make a return to the *mandamus* herein. *W. R. Cole*, contrà.

Ten days' time on terms.

BURROUGHS v. WRIGHT.—*White* moved for judgment on a plea of *nul tiel record.*

Judgment accordingly.

Re FENTON and ANOTHER.—*Gray* applied to enlarge this rule till the last day of term. *H. Hill*, contrà, consented. *Rule enlarged.*

DOE *dem.* ANSON and ANOTHER v. ROE.—SAME v. SAME.—*J. W. Smith* applied for a rule calling on the lessor of the plaintiff to shew cause why he should not elect to proceed on one only of these ejectments.

Rule nisi.

KING v. BIRCH.—*Watson*, Q. C. moved that two sums of money paid into court under the interpleader rule in this case may be paid out to the assignees of the defendant. *Rule nisi.*

Bankrupt and Insolvent Courts.

COMMISSIONERS' COURTS.

(Before Mr. Commissioner FONBLANQUE.)

Wednesday, May 14.

Re TURNER.

Where an insolvent had defended an action and thereby caused the plaintiff to incur costs in obtaining judgment, such costs must be added to the plaintiff's debt in the schedule.

Cooke opposed the insolvent, who was a builder, on behalf of a creditor for 59*l.* for money lent. An action had been commenced against the insolvent for the amount of some checks, to which he had pleaded the general issue. Plaintiff obtained judgment, and his costs were taxed at 27*l.* These costs were not inserted in the schedule of the insolvent. The debts set out in the schedule amounted to 293*l.* 6s. 3d. and if these costs were to be added, the whole amount of the insolvent's debts would exceed 300*l.*, and being a trader, his petition was consequently dismissed.

Petition dismissed accordingly.

(Before Mr. Commissioner EVANS.)

Wednesday, May 14.

Ex parte REA, *re* RANGECROFT.

Where a trader is summoned under sect. 11 *of the* 5 & 6 *Vict. c.* 122, *and makes a deposition that he has a good defence to a part only of the demand, he must admit the remainder of the demand.*

John Rangecroft, a trader, appeared to a summons under the 5 & 6 Vict. c. 122, s. 11, granted on an affidavit by Rea, that he was indebted to him in 70*l.* and requiring Rangecroft to appear and make a deposition as to whether he owed the said debt, or any part thereof. Rangecroft having appeared, and filed a deposition in the form given in Schedule B. 2, which alleged that he had a good defence to a part of the demand, application was made to the Court to dismiss the summons under the 32nd of the General Rules and Orders, and in pursuance of the notice endorsed on the summons under that rule. The 32nd rule directs that if the defendant shall appear at the time appointed, and shall refuse to admit such demand, but "shall, as to the whole of the said demand, or a part of it, make a deposition on oath that he believes he has a good defence to the same, he shall be entitled to his discharge from the summons."

The solicitor for Mr. Rea objected that the deposition was not sufficient to discharge Rangecroft from the summons, for that under the 12th section of the Act he was bound to admit, in his deposition, that portion of the demand to which he had not deposed that he had a good defence.

Mr. Commissioner EVANS.—He must make the admission. The object of the Act is to afford the plaintiff conclusive evidence of his debt.

(Before Mr. Commissioner FANE.)

Friday, May 16.

Re CLOVER.

Where the last examination of a bankrupt has been adjourned sine die, and a considerable time has since elapsed, the Court will take the last-mentioned fact into its consideration, and not withhold the bankrupt's certificate for life.

Where the bankrupt's accounts have been passed under the above circumstances, the Court will direct the expense of the meeting for passing the accounts to be paid out of the bankrupt's estate.

This was a meeting called at the expense of the bankrupt, to pass his last examination. The fiat was issued in the early part of the year 1832. In the month of November of the same year, the meeting for the last examination of the bankrupt was held, when the Commissioner adjourned the examination *sine die*, not considering the accounts of the bankrupt satisfactory. A dividend of sixpence in the pound was paid shortly after out of the bankrupt's estate, and a reversion in some property of the value of 300*l.* to which the bankrupt was entitled, had just now fallen in, and a further dividend had been declared thereout. The bankrupt had not made out any fresh accounts since the adjournment *sine die.*

Duncan appeared for the bankrupt.

The bankrupt was opposed by a solicitor on behalf Mr. Hadland, one of the assignees, on the ground that the accounts upon which the bankrupt now sought to pass were the same accounts which the Commissioner in 1832 considered unsatisfactory. He was not prepared at the present time to go into any specific objection to the accounts, but rested his opposition on the opinion of the Commissioner respecting the accounts in 1832.

Mr. Commissioner FANE.—The question is whether the postponement of the certificate for twelve years is not sufficient. I think the bankrupt ought not to be punished for life. I shall pass the bankrupt's accounts, and name a day for granting the bankrupt's certificate.

His Honour then directed, on the motion of the counsel for the bankrupt, that the costs of this meeting should be paid out of the bankrupt's estate, and that the money paid into court by the bankrupt for this meeting should be applied for the costs of the the meeting for the bankrupt's certificate.

Ex parte JEREMIAH CLARK.

An affidavit of debt, under the 1 & 2 *Vict. c.* 110, *s.* 8, *must be made by the creditor himself, and cannot be filed if made by any other person.*

An affidavit of debt against a trader, under the 1 & 2 Vict. c. 110, s. 8, was tendered on behalf of Clark, the creditor, to the Registrar of the Court, to be filed. That officer refused, on the ground that it was not made by the creditor, but by his clerk. An appeal was now made to the Commissioner, and it was contended that the Act of Parliament said nothing about the affidavit of debt *being made* by the creditor himself. The words of the Act being, "If any creditor, whose debts shall amount to 100*l.* or upwards, *shall file an affidavit*, that such debt is justly due," &c. The Act only requires the affidavit to be filed by a creditor. In the case of *Ex parte Hall* (Mont. & Chitty, 365), in the Court of Review, it was held, that an affidavit of debt under the above Act of Parliament might be properly made by the registering officer of a public company. In the course of the argument in that case, it was stated by one of the judges, "that an affidavit of debt under the said Act was to be looked upon as strictly analogous to an affidavit to hold to bail, and as a substitute for it, and not as a process tending to a fiat."

Mr. Commissioner FANE.—I think the Act requires that the creditor himself should make the affidavit. This affidavit cannot, therefore, be filed.

Ex parte SERLE.

The particulars of demand required to be delivered to a trader previous to his being summoned under the 11th sect. of the 5 & 6 *Vict. c.* 122, *need not set out all the items of the account separately, with dates to each item.*

A trader appeared by his attorney upon a summons taken out by Serle, under the 5 & 6 Vict. c. 122, sec. 11, and prayed that it be dismissed, on the ground that the particulars of demand delivered were not expressed with reasonable and convenient certainty as to dates, &c. as is required by the 22nd of the General Rules and Orders in Bankruptcy. The particulars of demand were in the following form:

April. To goods delivered as per monthly account . . . . .
May. To goods . . . . .
June. To goods . . . . .

Such particulars of demand would not be sufficient in an action at law. The judges at chambers invariably order the particulars of demand to be delivered with dates and items. The particulars delivered under this Act ought to be at least as precise as would be required in an action at law.

His HONOUR, after consulting with one of the other commissioners, said,—These particulars are sufficient. The account states, "To goods delivered as per monthly account." You have had that account, and must know what the goods were.

COUNTRY COMMISSIONERS' COURTS.

BRISTOL DISTRICT BANKRUPTCY COURT.

(Before Mr. Serjeant STEPHEN.)

Thursday, May 22.

Re FORD.

A mortgagee, with ample security for his mortgage, must nevertheless be inserted in an insolvent's schedule, and the insertion of such a debt will cause the dismissal of the petition, where the mortgage debt exceeds 300*l. and the insolvent mortgagor is a trader.*

This was the day named for the final order, when *Stone* appeared to shew cause. He stated that a mortgage debt, which, when added to insolvent's other debts, increased them to an amount exceeding 300*l.* had been omitted from his schedule. Under 7 & 8 Vict. c. 96, s. 6, no trader was entitled to petition whose debts amounted to more than 300*l.*

Gray, attorney for the insolvent, suggested that trade debts only were intended to be included in the 300*l.* and that mortgage debts, where the mortgage creditor had full security, were not required to be entered in the list of debts in the schedule.

His HONOUR.—The insolvent's schedule must include *all* his debts. A mortgage debt is as much a debt as any other. It appears that the insolvent is a trader owing more than 300*l.*; his petition, therefore, must be dismissed.

Petition dismissed, and insolvent remanded.

Re EVERSLEY.

Where insolvent has contracted debts, relying only on his wife paying them out of her settlement, the Court will not grant an unconditional final order, but will compel insolvent to gradually satisfy the debts as his wife receives her settled income.

In this case the insolvent, on his coming up for his final order, was opposed by a creditor, on the ground that he had contracted his debts without reasonable assurance of ability to pay them.

Homes, for insolvent, said that insolvent's wife was entitled under her marriage settlement (a copy of which had been filed) to an income of about 400*l.* per annum, and he relied on his wife's paying all his debts out of this income.

His HONOUR.—I shall not in this case grant the final order at once. The insolvent must set apart 100*l.* every six months for the payment of his debts, until the whole are paid or satisfied. I shall adjourn this hearing for six months, when, if any creditor satisfies me that he has not been paid a rateable proportion of the sum of 100*l.* the protection shall be refused. If no creditor appears at the hearing six months hence, or any future hearing, the insolvent will have his protection renewed from six months to six months, until the whole of his debts are satisfied.

Order accordingly.

Ecclesiastical Courts.

ARCHES COURT.

Tuesday, April 15.

CLOWES v. CLOWES.

Divorce.

Circumstances under which a divorce will be allowed.
Misrepresentation by the wife of her name and circumstances is no ground for annulling a marriage.
Malicious desertion does not of itself bar the husband's suit for a divorce by reason of the adultery of his wife.

The facts of this case, which was argued some time

since, sufficiently appear in the judgment which was pronounced by

Sir H. JENNER FUST.—This was originally a suit of nullity of marriage by reason of fraud in obtaining the license, promoted by Mr. Edward Clowes against Harriet Jones, falsely calling herself Clowes, who had been married in the name of Emily Harriet Geraldine Terry, and represented herself as the daughter of Admiral Terry. Mr. Clowes, a young man, had become acquainted with this person in Nov. 1840, when she was only 16 years of age, at a certain house in George-street, Adelphi, where she went by the name of Harwood, and she agreed to reside with him as his mistress. On the 11th of December, 1841, they were married, she having previously imposed upon Mr. Clowes, in June, 1841, a child, of which she alleged she had been prematurely delivered, during his temporary absence, as their own. After their marriage, Mr. Clowes disclosed the fact to his father, and, in order to make him believe that the child was born in wedlock, by postdating, concurred in altering the certificate of its birth. The deceptions which had been practised by Mrs. Clowes having been discovered by the father of Mr. Clowes, a suit was commenced to avoid the marriage, on the ground of fraud and deception; but the Court held that there was no *error de personâ*, and that the misrepresentation of name and circumstances was no ground for annulling the marriage. The wife engrafted upon the suit a prayer for restitution of conjugal rights, which was met on the part of the husband by a plea of adultery, and this plea was in its turn met on the part of the wife by a charge of malicious desertion by the husband (who had gone to reside abroad) and of persecution on his part and that of his family and agents, which had left her in penury and destitution, and driven her, or rather entrapped her, into the commission of adultery with a person who went by the names of Cooper, Pardy, and Godfrey, and who kept, or was connected with, a place for the sale of dogs, called the Canine Repository, in Bury-street, Bloomsbury-square. The learned judge was of opinion, the fact of adultery being thus admitted, that the articles in the wife's allegation, which pleaded circumstances whence malicious desertion and persecution were sought to be inferred, were left without proof, or were disproved. These Courts had never decided that malicious desertion *per se* was a bar to a husband's suit for a divorce by reason of the adultery of his wife; the *dicta* went the other way; but in this case the point was not raised, as there had been no malicious desertion, the husband having been rather desirous (as appeared from his concurrence in the fraud practised upon his father and by his letters) of sustaining the connection with his wife. It was certainly, the learned judge observed, a strange and inexplicable thing that Mr. Edward Clowes, the husband, should have been imposed upon by the improbable representations of Mrs. Clowes respecting the child—which it was clearly proved had been procured by her from Wales, she having never been delivered of a child—and that he should not have made inquiries into the matter. But this had no effect as a bar to his remedy. With regard to Mr. Clowes, senior, and his family, no imputation whatever rested upon them; they had had recourse to no other measures than were perfectly justifiable, though the Court might regret that the allowance made by Mr. Clowes, senior, to the wife, of 30s. a week, had been withdrawn, since its continuance might have prevented this suit. But it had been withdrawn for very sufficient reasons, namely, the suspicious conduct of Mrs. Clowes, in receiving the visits of an elderly gentleman, who made her presents, and was once admitted into her bedroom. There was no evidence to shew that Mrs. Clowes had ever suffered from penury or distress; on the contrary, she seemed to have had the command of money from some source. Upon the whole, he had no doubt in pronouncing that the wife had entirely failed in the proof of her allegation, and that Mr. Clowes was entitled to the sentence of divorce he prayed.

BLOUNT v. FIFE.

Church rate—Costs.

A parish permitting a long accumulation of arrears of church-rates and then suing, will for such neglect be left to payment of its own costs.

Sir H. JENNER FUST gave sentence in this case, which was a suit for subtraction of church-rate by the churchwardens of Streatham against Mr. Henry Fife, an inhabitant of the parish. The rates sued for were due for four years, 1838, 1839, 1840, and 1841, and amounted to 26*l.* 17s. 4d. no proceedings having been instituted for their recovery, either by summoning the party before a magistrate, or by proceeding, in an ecclesiastical court, till March, 1843, when this suit commenced, and no reason was assigned for not enforcing these rates at the time. The party proceeded against appeared and defended himself in person, but, having brought in his responsive allegation, he abandoned the conduct of the case, having examined no witnesses, nor appeared at the later stage of the suit. The learned judge was of opinion that the churchwardens had sufficiently proved their libel, and that the party proceeded against had failed to shew any tenable ground of objection to the rates. He, however, censured the delay which had taken place in enforcing the rates, and then proceeding for four rates at once, which was an improper practice and productive of unnecessary expense, as well as unjust to the party and to the other parishioners. In condemning Mr. Fife in the rates sued for, he should not, as in ordinary cases, saddle him with all the costs, but condemn him in only a moiety of the costs, leaving the parish to pay the remainder, and he hoped it would be a lesson to the parishioners, not to allow rates to accumulate in this manner.

THE LEGISLATOR.

Summary.

IT will be seen that Lord BROUGHAM has laid upon the table of the House of Lords a pile of Bills introducing a variety of law reforms, the greater portion of which emanate, we believe, from the Society for the Amendment of the Law. Some of them are undoubted improvements; others are of questionable character; all will require careful examination by the practical men of the Profession before they can be adopted by the Legislature. It is not intended to press them during the present session. They are brought in that they may be discussed during the recess; and to that more leisurable period shall we postpone the consideration of them.

The retrospective sketch of the progress of law reform with which the noble lord prefaced his budget of Bills, was interesting, but much too long to be transferred to our columns.

Imperial Parliament.

PUBLIC BUSINESS TRANSACTED.

Monday, May 19.
Criminal Lunatics (Ireland).
Tuesday, May 20.
Fresh Water Fishing.
Wednesday, May 21.
Coal Trade (Port of London).

BILLS READ A SECOND TIME.
Monday, May 19.
Military Savings' Banks.
Wednesday, May 20.
Salmon Fisheries.

BILLS READ A THIRD TIME AND PASSED.
Tuesday, May 20.
Indemnity Bill.
Wednesday, May 21.
Maynooth College Bill.

PRIVATE BUSINESS TRANSACTED.

BILLS READ A FIRST TIME.
Friday, May 16.
Skerries Harbour.
Monday, May 19.
Molyneux's Estate.

BILLS READ A SECOND TIME.
Friday, May 16.
Tottenham Extension Railway.
Aberdare Railway.
Liverpool and Manchester Railway.
Monday, May 19.
Londonderry and Coleraine Railway.
Bristol and Gloucester Railway (2 bills).

BILLS READ A THIRD TIME AND PASSED.
Friday, May 16.
Scarborough Water.
Monday, May 19.
Culvert's Estate.
Hemel Hempstead small Tenements.

Par. Num.
285. Scientific and Charitable Institutions—Reports, &c.
291. Scottish Central Rail— Bill—Report from Committee.
77. Gaols—Reports and Schedules.
295. Bills—Coroners (Ireland).
283. — Physic and Surgery (amended).
297. Woollen Manufactures and Wool Accounts.
232. Haswell Collieries—Report of Messrs. Lyell and Faraday &c.
165—Real Property—Return
219. Probates of Wills—Returns.
298 Post Office (Edinburgh) Return.
284. Bill—Colleges of Physicians and Surgeons (amended).
233. Clerks of Petty Sessions (Ireland)—Abstract of a Return.
288. Court of Common Pleas (Lancaster and Durham); Court of Chancery; and Court of Queen's Bench—Returns.
303. Bank of England—Return.
203. Ecclesiastical Commission—Copies of Orders in Council.
305. Printed Papers (Howard versus Gosset)—Copy of Shorthand Writers' Notes of the Arguments and Judgment.

HOUSE OF LORDS.

LAW REFORMS.

MONDAY, May 19.—Lord BROUGHAM brought forward his Bills for the amendment of the jurisdiction of the country. In the early part of his speech his lordship paid a high compliment to the members of the two law commissions, which, seventeen years back, had taken the lead in promoting law reform, and to those who had followed in their steps. But though much had been done, he said, much still remained to do, and he proceeded to state a few cases in which the law was still defective. The noble lord began by commenting at great length on the state of the law of real property, and proposed a Bill for facilitating its conveyance, one for facilitating the granting of leases, and one to render the assignment of satisfied terms unnecessary. His lordship next passed to the law of evidence, in which great and salutary reforms might be made; and proposed a Bill to enable parties to be examined on the trial of civil actions, and another to facilitate the admission in evidence of certain official and other documents. The noble lord also proposed a Bill to give a remedy by way of declaratory suits, and one to further the administration of criminal justice. His lordship proceeded to point out that the law of marriage was in a most confused state; that an Act consisting of three lines, passed last session, only rendered this confusion worse confounded; and proposed to bring in a Bill for amending and declaring this part of the law. His lordship concluded by calling the attention of the House to the state of the law of debtor and creditor. Now that imprisonment for debt was abolished, he thought the Houses of Parliament should give up the privilege of not paying their debts. Why should members of Parliament be the only persons in the empire exempted from satisfying the just demands of their creditors. He should bring in a Bill making them liable to pay their debts out of their property, and subjecting them to punishment if they fraudulently made away with it. He should call this bill an Act for securing the real independence of Parliament. He trusted he should see these measures pass, along with the General Registry Act, that for amending the criminal, and that for digesting the civil, code. Could he see all this effected, he should rest happy and contented from his labours.—After a few remarks from Lord CAMPBELL, the following Bills were severally read the first time, and ordered to be printed:—An Act for securing the real Independence of Parliament; An Act for amending and declaring the Law of Marriage; An Act to give a Remedy by way of Declaratory Suits; An Act to facilitate the Granting of Leases; An Act to facilitate the Conveyance of Real Property; An Act to render the Assignment of satisfied Terms unnecessary; An Act to facilitate the Admission in Evidence of certain Official and other Documents; An Act to enable Parties to be examined on the Trial of Civil Actions; and An Act for furthering the Administration of Criminal Justice.

ROYAL COMMISSION.

TUESDAY, May 20.—The royal assent was given by commission to the Exchequer Bills Bill, and six private Bills. The lords commissioners were—Lord Lyndhurst, Lord Wharncliffe, and the Earl of Shaftesbury.

CHARITABLE BEQUESTS.

THURSDAY, May 22.—The LORD CHANCELLOR moved the second reading of the Charitable Bequests Bill. In 1818 a commission had been appointed to inquire into the charitable trusts in England and Wales, which had been renewed at various times till the year 1837. It had discharged its duties with the utmost ability, and its reports contained a digest of all information that could be brought to bear on the subject; but, having only powers of inquiry, no practical result had as yet followed from its labours. The present measure was intended to remedy the abuses which had been detected in the superintendence over charitable trusts. At present the Court of Chancery was the only tribunal which took cognizance of breaches of trust, but, though eminently fitted for fulfilling this office in the case of large endowments, the machinery of the court was inapplicable to small charities. The noble lord then proved the truth of this by several cases taken from the report, and proceeded to state that his measure would consist in the appointment by the Crown of commissioners who should have the power of filling up vacant trusteeships. It might be objected that considerable political influence was attached to these offices, and that the commissioners would use it in favour of the minister for the time being; but every precaution should be taken to make them independent, and to raise them above the temptation of perverting their influence for political purposes. He suggested that the funds for the support of these officers should be raised by 1 per cent. levied on the charities, or, if this were insufficient, the deficiency should be charged on the Consolidated Fund.—Lord BROUGHAM fully concurred in the praise bestowed by the noble lord on the Charitable Commission, and said he would support the second reading of the bill, but thought it had better be referred to a committee upstairs.—After a conversation in which Lords COTTENHAM and CAMPBELL and the LORD CHANCELLOR took part, the bill was read a second time, on the understanding that it should be referred to a select committee, to be nominated by the LORD CHANCELLOR.

HOUSE OF COMMONS.

PRIVILEGE.

MONDAY, May 19.—The SOLICITOR-GENERAL made a report to the House of Commons of the various steps which had been taken in the case of *Howard* v. *Gossett*, and of the decision which the Court of Queen's Bench had given upon the demurrer which had been entered to the plea, which he had filed in answer to the plaintiff's declaration. The judges of that court had one and all expressed an opinion that none of the privileges of that House were involved in their decision, which, they stated, proceeded entirely on the fact that the sergeant had exceeded the authority conferred on him by the warrant of the Speaker. Having stated the effect of that decision, he said that it now became important to consider what course the House ought to take next. At present the House had no materials before it on which to act. He thought that it should have before it a copy of the shorthand writer's notes of the arguments produced before, and of the opinions given by, the judges, and also of the record itself. He conceived that the most expedient course to be adopted would be that pursued in the case of *Stockdale* v. *Hansard*. In that case it was referred to a select committee to inquire into the course which it would be most advisable to follow, and he proposed that a similar committee should be appointed on the present occasion.—Lord HOWICK observed that the difficulty in which the House was now involved was but a realization of the prediction which was made by Sir T. Wilde a few years ago, when a similar case was under their consideration. Indeed it was nothing but the natural result of the pusillanimous course pursued by the House on a former occasion. If they persisted in the course which they had hitherto pursued, they would be dragged on, little by little, and step by step, until all their privileges would be left at the mercy of the courts of law. —Sir R. INGLIS controverted this doctrine. If Lord Howick was determined to plunge into a struggle with the courts of law on this point, he hoped that he would bring, not a sheriff, but the Lord Chief Justice of the Court of Queen's Bench to the bar. The House of Commons had no right to claim a power greater than any now possessed by the Queen herself. The warrant should have stated for what cause, and for what time, the party was to be taken and kept in custody. Now the warrant in this case did not specify either the cause or the time of the imprisonment, but merely specified that Mr. Howard was to be taken and kept in custody; and such a warrant the Court of Queen's Bench held to be illegal.—The proposition of the Solicitor-General was adopted, and the appointment of a select committee of inquiry was in consequence agreed to.

PARLIAMENTARY PAPERS.

PENNY POSTAGE.—The finance accounts just published shew a large increase in the revenue of the Post-office. The gross revenue for the year 1844 was 1,705,067*l.*, giving an increase of more than 84,000*l.* as compared with 1843; the net revenue was 719,957*l.*, giving an increase of nearly 80,000*l.* as compared with 1843. The apparent increase in 1844, taking the Post-office returns for 1843 as the standard of comparison, is, in each case, more than double the amount here given; but as we stated at the time, those returns gave the revenue both gross and net too low by about 85,000*l.* The actual increase of net revenue in 1844 is greater than for any year since the war, except 1825, when it was 92,000*l.*; and 1836, when it was 81,000*l.* From 1840 (the first year of penny postage) to 1844, the increase of net revenue is nearly fifty per cent.

RAILWAY PROJECTS THIS SESSION.—A curious return has just been officially prepared, giving a list of all the railway projects submitted to the consideration of the Board of Trade, shewing the date at which each such project was received, and specifying those upon which the Board of Trade have already reported to Parliament. This return occupies five closely printed folio pages, merely enumerating the names of the railways under which the plans were deposited, between the 21st of November and the 3rd of December last. The 30th of November was the day named at the time as being the last on which they could be received. In this return there were enumerated the names of no fewer than 248 railways which have been projected, and for which plans have been duly prepared. Only 18 of those projects remain to be reported upon by the board.—*Globe.*

NEW STATUTES

Of the Sessions 8 *Victoria.*

[In this record of actual Legislation, we adopt the plan of giving the titles alone of the statutes of no general or professional interest; and analyses of the more important changes in the law, printing at length such statutes or parts of statutes, only as are of particular interest to our readers.]

(*Continued from page* 43.)

CAP. V.

An Act for granting to her Majesty until the Fifth day of July, 1846, *certain Duties on Sugar imported into the United Kingdom.* (April 24, 1845.)

CAP. VI.

An Act to repeal the Duties and Laws of Excise on Glass. (April 24, 1845.)

CAP. VII.

An Act to repeal the Duties of Customs due upon the Exportation of certain Goods from the United Kingdom. (April 24, 1845.)

CAP. VIII.

An Act for punishing Mutiny and Desertion, and for the better Payment of the Army and their Quarters. (April 24, 1845.)
The Annual Mutiny Act.

CAP. IX.

An Act for the Regulation of her Majesty's Royal Marine Forces while on shore. (April 24, 1845.)

CAP. X.

An Act to make certain Provisions for Proceedings in Bastardy. (May 8, 1845.)

1. *Proceedings in bastardy according to the forms in the schedule hereto valid.*—Whereas divers questions have been raised as to the validity of certain orders in bastardy made by justices under the Act of the last session of Parliament, intituled "An Act for the further Amendment of the Laws relating to the Poor in England," which questions are wholly beside the merits of the cases; and it is desirable to remove such questions, and to prevent the recurrence of the same or similar questions in future; be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That where any proceedings have been had or taken before the passing of this Act, or shall hereafter be had or taken in matters of bastardy under the provisions of the said recited Act, and shall have been set forth according to the forms in the schedule hereunto annexed, or to the like tenor or effect, the same shall be taken respectively to have been and to be valid and sufficient in law; provided that nothing herein contained shall prevent any court of general quarter sessions from proceeding to hear and determine the merits of any case brought before them on appeal against any such order, or apply to any order heretofore made or professed to have been made under the said Act, which shall have been quashed on appeal to any general quarter session of the peace, or in respect whereof any writ of certiorari shall have been sued out of the Court of Queen's Bench, and served before the twenty-sixth day of February last, or in place whereof any other order shall have been made.

2. *Mother, when order has been quashed for defect in form, may apply again within six calendar months.*—And be it enacted, That when any order made under the provision of the said Act prior to the passing of this Act shall have been or shall be quashed for any defect therein, and not upon the merits, it shall be lawful for the mother of the bastard child in whose favour such order shall have been made to take proceedings for the obtaining of another order, according to the provisions of the said Act, at any time within the space of six calendar months after the passing of this Act, although the period limited for her application to the justice under the said Act shall have expired.

3. *Form of recognizance to be given by the putative father.*—And whereas power is given by the said Act to the putative father to appeal against an order made upon him by the justices in petty session assembled, giving notice of appeal as therein specified, and also sufficient security, by recognizance or otherwise, for the payment of costs, to the satisfaction of some one justice of the peace; be it enacted, That the condition of any such recognizance shall be for the appearance of the said putative father at such general quarter session of the peace as is required by the said Act, and his trial of the appeal thereat, and the payment of such costs as he shall be then and there ordered to pay; and that in respect of any order to be made after the passing of this Act, the party entering into any such recognizance shall forthwith give or send a notice in writing of his having so entered into such recognizance to the woman in whose favour the said order shall have been made; and unless he shall enter into the recognizance before one of the justices who shall have made the order, to one at least of such justices; and in default of his giving or sending such notice or notices as aforesaid, the appeal shall not be allowed; provided that the sending of such notice or notices by the post shall be taken to be sufficient.

4. *Provision as to the mode of proceeding in cases of applications by women who are pregnant.*—And whereas it is enacted by the said Act, that any single woman who may be with child may apply to a justice of the peace as therein described for a summons to be served upon the man alleged by her to be the father of such child, and that such justice shall thereupon issue his summons to such man to appear at a petty session, as therein also set forth, and power is given to such woman, after the birth of the child, to apply to the justices at such petty session for an order upon the person so alleged by her to be the father of such child; but doubts are entertained as to the time which shall be fixed by such justice for the appearance of the said man so summoned at petty session, and it is desirable to remove the same; be it therefore enacted, That the said justice to whom any application shall be made by any such woman being pregnant, shall summon the man to appear at some petty session at which he usually acts, to be held on a day after the time when the said mother shall expect the child to be born, provided that if on such day the woman shall not have been delivered, or the justices shall be satisfied that she has been so delivered at so short a period before such day that she cannot appear at the said session, it shall be lawful for the justices thereat to adjourn the hearing of the said case until some other day, and so from time to time until the child shall have been born, and the woman shall be able to attend at the said session; and it shall be lawful for the justices at their petty session to make an order in respect of any such application so made by such woman so pregnant to a justice as aforesaid, if she apply at such petty session within the space of two calendar months from the birth of the child, although more than forty days shall have elapsed from the time when the summons was served upon the alleged father, or was left at his last place of abode.

5. *Putative father may abandon his appeal, and his recognizance shall not be estreated.*—And be it enacted, That if at any time before the hearing of the appeal the putative father who shall have entered into any such recognizance shall give notice in writing of his abandonment of the appeal, to the mother of the child in whose favour the order shall have been made, and to the justice or justices before whom the said recognizance shall have been taken, and shall pay or tender to the said mother all sums then due under the said order, and such costs and expenses as she shall have incurred by reason of such notice of appeal, the said recognizance so entered into by the said putative father shall not be estreated, nor in any manner put in force or otherwise proceeded with.

6. *The mother of the bastard child to be examined by the court of quarter sessions, on appeal against the order in bastardy; but no order to be confirmed unless her evidence is corroborated.*—And whereas by the said recited Act it is enacted, that where any woman shall apply to the justices at a petty session for an order upon the person whom she shall allege to be the father of her bastard child, such justices shall hear the evidence of such woman, and such other evidence as she may produce, and shall also hear any evidence tendered by or on behalf of the person alleged to be the father, and if the evidence of the said mother be corroborated in some material particular by other testimony, to the satisfaction of the said justices, they may make such order as is therein set forth: And whereas power is thereby given to the putative father to appeal to the general quarter sessions of the peace against such order, but it is not therein set forth what evidence the said general quarter sessions shall or may hear on the trial of such appeal, and doubts have been raised as to whether the said mother can be heard by the said court of quarter sessions; be it therefore enacted, That on the trial of any such appeal before any court of quarter sessions the justices therein assembled, or the recorder (as the case may be), shall hear the evidence of the said mother, and such other evidence as she may produce, and any evidence tendered on behalf of the appellant, and proceed to hear and determine the said appeal in other respects according to law, but shall not confirm the order so appealed against unless the evidence of the said mother shall have been corroborated in some material particular by other testimony to the satisfaction of the said justices in quarter session assembled, or the said recorder.

7. *Parties may be heard at petty session by counsel or attorney.* 6 & 7 Wm. 4, c. 114.—And be it enacted, That it shall be lawful for any woman who shall apply to the justices at any petty session for any such order as aforesaid, to be assisted in her application by counsel or attorney, and for any person summoned under the said Act to appear at any such petty session as the alleged putative father, to appear and make his answer thereto by counsel or attorney; and it shall be lawful for either of such parties to have all witnesses examined and cross-examined by such counsel or attorney.

8. *Default of sufficient distress within the jurisdiction of the justices to warrant the commitment to prison.* 5 Geo. 4, c. 18.—And whereas it is provided in the said first-recited Act, that if default be made by the putative father in payment of the sums ordered to be paid to the mother of a bastard child, any justice may by warrant cause such putative father to be brought before any two justices; and it is further provided, that such two justices may by warrant direct the sum appearing to be due under any such order, and the costs, to be recovered by distress and sale of the goods and chattels of such putative father; and if upon the return of such warrant, or if, by the admission of such putative father, it appears that no sufficient distress can be had, then any such two justices may cause such putative father to be committed

to prison: And whereas doubts have been entertained whether such power of committal exists where it is shewn that the putative father has goods and chattels whereon a distress might be levied, but the same are not within the jurisdiction of such justices; be it therefore declared and enacted, That the said justices are and shall be empowered to commit any such putative father to prison, according to the provisions of the said Act, if it appear on the return of such distress warrant, or on the admission of the putative father, that no sufficient distress can be had on any goods and chattels within the jurisdiction of the justices before whom he shall have been brought on such warrant of apprehension.

9. *Magistrates of police courts may act alone in cases of bastardy.*—And be it declared and enacted, That any one magistrate of the police courts of the metropolis, sitting at a police court within the metropolitan police district, has and shall have full power to issue summonses for the appearance of parties and witnesses before such police court, and to do alone any other thing in any matter of bastardy arising under the said Act within those parts of the said district for which a police court has been or shall be established, which may be done by any justices at a petty session holden for their several petty sessional divisions in any such matter arising within their divisions respectively, and that the sitting of such magistrate at such police court shall be within all the provisions of the said Act and of this Act concerning a petty session of justices.

10. "*Petty sessional division,*" *what to include.* 9 Geo. 4, c. 43.—And be it enacted, That the term "petty sessional division" in the said Act and this Act shall be taken to include any division of a county, riding, or division having a separate commission of the peace in which one or more petty sessions have been or shall be usually held, or any division for the holding of special sessions formed or to be formed under the provisions of the Act of the ninth year of the reign of his late Majesty King George the Fourth, intituled "An Act for the better Regulation of Divisions in the several Counties of England and Wales," or of the Act of the sixth year of the reign of his late Majesty amending the same; and that where there are two or more petty sessions usually held in any such division, or where any justice acts for two or more of such divisions, he shall require the party whom he shall summon under the authority of the said first-recited Act to appear at the petty session to be held in any such division, as he shall deem fit.

11. *Interpretation of the word "recorder."*—And be it enacted, that in the said first-recited Act and in this Act the word "recorder" shall be taken to apply to any person who shall preside as the judge at any court of general or quarter session held for any city, borough, liberty, or other place of limited jurisdiction.

CAP. XI.

An Act for assigning Sheriffs in Wales.

(May 8, 1845.)

It merely provides, that in future sheriffs shall be appointed in Wales as in England.

CAP. XII.

An Act to alter and amend certain Duties of Customs. (May 8, 1845.)

CAP. XIII.

An Act to repeal the Duties of Excise on Sugar manufactured in the United Kingdom, and to impose other duties in lieu thereof.

(May 8, 1845.)

CAP. XIV.

An Act to exempt ships carrying passengers to North America from the obligation of having on board a physician, surgeon, or apothecary.

(May 8, 1845.)

CAP. XV.

An Act to repeal the Duties of Excise on Sales by Auction, and to impose a new duty on the license to be taken out by all Auctioneers in the United Kingdom. (May 8, 1845.)

Sec. 1 repeals all existing duties. Sec. 2 imposes a new duty of 10*l.* on all auctioneers' licenses throughout the kingdom. Sec. 4 to be renewed annually. Sec. 6 repeals 6 Geo. 4, c. 81, s. 8, and substitutes one uniform license.

7. *Auctioneer, before he shall commence any sale, shall suspend or affix a ticket or board containing his full Christian and surname and place of residence.*—And be it enacted, That every auctioneer, before beginning any auction, shall affix or suspend, or cause to be affixed or suspended, a ticket or board containing his true and full Christian and surname and residence, painted, printed, or written in large letters publicly visible and legible in some conspicuous part of the room or place where the auction is held, so that all persons may easily read the same, and shall also keep such ticket or board so affixed or suspended during the whole time of such auction being held; and if any auctioneer begins any aution, or acts as auctioneer at any auction, in any room or place where his name and residence is not so painted or written on a ticket or board so affixed or suspended, and kept affixed or suspended as aforesaid, he shall forfeit for every such offence the sum of twenty pounds.

Sec. 8. License to be produced on demand, or a deposit of 10*l.* made, on pain of one month's imprisonment.

CAP. XVI.

An Act for consolidating in one Act certain provisions, usually inserted in Acts, with respect for the constitution of companies incorporated for carrying on undertakings of a public nature.

(May 8, 1845.)

This and the three following statutes are for the purpose of abbreviating private Acts of Parliament by substituting for separate enactments in each Act, those general provisions which apply to

They are much too long for insertion in our columns, but the following is an abstract of its provisions.

Sec. 1. That the Act shall apply to all companies incorporated by Acts hereafter to be passed.

Secs. 2, 3. Incorporation clauses.

Sec. 4. The Act to be entitled "The Companies Clauses Consolidation Act, 1845."

Sec. 5 prescribes the form in which portions of this Act may be consolidated with other Acts.

Secs. 6 to 13 regulate the distribution of capital; 14 to 20, the transfer of shares; 21 to 28, the payment of calls; 29 to 35, the non-payment of calls; 36 and 37, the remedies against shareholders; 38 to 55, the power to borrow money; 56 to 60, loans; 61 to 64, consolidation of shares; 65, the application of capital; 66 to 80, general meetings; 81 to 89, the appointment and rotation of directors; 90 to 91, the powers of directors; 92 to 100, the proceedings of directors; 101 to 108, auditors; 109 to 114, the accountability of officers; 115 to 119, the accounts; 120 to 123, the dividends; 124 to 127, the bye-laws; 128 to 134, arbitration; 135 to 141, notices; 142 to 158, recovery of damages and penalties; 159 and 160, appeal; 161, access to special Act.

CAP. XVII.

An Act for consolidating in one Act certain provisions usually inserted in Acts with respect to the constitution of companies incorporated for carrying on undertakings of a public nature in Scotland. (May 8, 1845.)

The same provisions extended to Scotland.

THE MAGISTRATE.

Summary.

THE Terms treading so closely one upon the heels of the other, the usual summary of decisions on the Law of Magistrates will not be given until the close of the present Term, thus treating the two as one.

No event of peculiar interest has occurred to require comment.

We beg to direct attention to the case of *Reg.* v. *Mortlock*, which, owing to its importance, we have given in this LAW TIMES. It was argued and decided on Thursday last.

JUSTICES' CLERKS AND CLERKS OF THE PEACE BILL.

The following are the new clauses introduced by the committee as amendments in this Bill:—

Clause A.—*Attorney for prosecution.* That it shall be lawful for the justices of any division, if they shall think fit, with the approval of the justices of the county in general quarter session assembled, to order that the duties of any clerk to the justices, or clerk of petty sessions of the peace, shall include the transaction of all necessary business as attorney for the prosecution of offenders committed for trial within the district for which he shall be appointed, who shall be prosecuted at the expense of the county, and to fix the salary of such clerk accordingly.

Clause B.—*Remission of fees.* That any justice or justices before whom any proceeding shall be had whereon a fee is lawfully exigible, or before whom any person shall be summoned for non-payment of a fee contained in any lawful table of fees to be taken by clerks to justices, may remit such fee in whole or in part for poverty or other reasonable cause, in his or their discretion; and in every such case the justice or justices by whom any fee or fees shall be so wholly or partly remitted, shall cause an entry to be made, in a book or books to be for that purpose kept by the clerk to the justices, of the nature and amount of the several fees so remitted, and of the reasons for the remission in each case, which entry shall be signed by the justice or two or more of the justices authorizing such remission; and the production of such book shall be a sufficient voucher to discharge the clerk from the receipt of the several amounts so remitted in the account of fees to be by him rendered as herein provided.

Clause C.—*Clerk of Indictments.* That it shall be lawful for the justices of any county in general quarter session assembled, if they shall think fit, to appoint a fit person to be clerk of indictments, whose duty it shall be to prepare, engross, and present the indictments at the courts of general quarter sessions of the peace in all cases which shall be presented at the expense of the county, or which he shall be directed by the justices to prepare, and to pay to such clerk of indictments a reasonable salary out of the county rate, and every such clerk of indictments shall be entitled to hold his office until dismissed by a resolution of the justices in general quarter session assembled, after notice given at the general quarter session then next preceding of the intention to propose such resolution.

TO THE EDITOR OF THE LAW TIMES.

SIR,—There has been a great deal said within the last few months as to informality in orders in bastardy, and the following has just occurred with regard to a client of mine.

In the body of the order it says, "And whereas, it *is now duly proved* upon *oath*, that C. M. was delivered of a male bastard child, on, &c. *and that* the said A. B. had been duly served with the summons hereinbefore referred to," &c. Now, the service of the summons was *not* proved on *oath, or in any other way*, and in my opinion the order is bad; but, perhaps, some of your correspondents may have had a similar case; and I shall be obliged by your inserting this; and perhaps some of them may favour me with an answer. I am, Sir, yours, &c.

J. M.

THE LAWYER.

Summary.

THE business of the Term began on Thursday. It is the longest and heaviest of the year, for in it and the sittings after, it is usual to bring up the arrears of the previous seven months, and to pronounce suspended judgments.

As promised, the LAW TIMES of to-day contains the judgment in the great case of *Howard* v. *Gossett*, on which it was erroneously stated last week that the judges were *unanimous*. It was not so; as will appear by perusal of the very learned and eloquent judgment, of which we give a *verbatim* report. Mr. Justice WILLIAMS dissented from the others.

It is confidently said that a new court will be created previously to Michaelmas Term, and that the commissioners have resolved to recommend many extensive alterations in the arrangements of the Terms, the Assizes, and the Circuits. The much-needed removal of the courts of law from Westminster to a more convenient and central site is also again occupying the attention of the Profession.

We give a portion of the new Orders in Chancery. But a complete edition of them, with practical notes and a very copious index, for office use, is preparing by G. F. ALLNUTT, Esq. Barrister-at-law, and will be ready in a few days. Inasmuch as, when they come into operation at the beginning of Term, every Solicitor will require a carefully-prepared edition of them for daily reference, we have deemed it right to request a gentleman of competent learning to frame such a one for the use of the readers of the LAW TIMES and the members of the Verulam Society.

ON THE GENERAL ISSUE.

ACTION ON THE CASE.

(*Continued from page* 112.)

In actions founded upon *fraud*, the wrongful act is usually a fraudulent misrepresentation. "Not guilty" puts in issue the fact of the representation and the circumstances which make it fraudulent. These are usually the untruth of the representation, and the defendant's knowledge thereof. The case where circumstances which may conduce to the proof of fraud are stated in the indictment by way of explanation falls under a different head, which will be hereafter considered. As actual damage is, as it appears, an ingredient in this action, it is also in issue under not guilty, according to the preceding

observations. By the 9 Geo. 4, c. 14, s. 6, no action shall be maintained for misrepresentation of a certain species unless made in writing, signed by the defendant. A plea of this statute, for reasons which we propose to explain under the head of *assumpsit*, amounts to the general issue. (*Turnley* v. *M'Gregor*, 1 Dow. & L. 506; 6 M. & Gr. 46, S. C.)

The action upon the case on a warranty appears at first to resemble those founded upon fraud. Indeed, in the common form of declaration a fraud is charged; but since the case of *Williamson* v. *Allison* (2 East, 446), it has been considered as settled that fraud is not a constituent in this action. It must not be confounded with the action for fraudulent misrepresentation upon the sale of goods, which strictly belongs to the class last discussed. (*Moens* v. *Hayworth*, 10 M. & W. 147.) In the action now in question, it seems unnecessary even that the plaintiff should have been misled by the warranty; it is apprehended that he might succeed notwithstanding it appeared that he was aware at the time that the goods did not correspond with the warranty. If so, the breach of the contract, and not deceit, in any sense of the word, is the gist of the action, or, in other words, "the breach of duty, or wrongful act alleged," to which the facts of the sale and the warranty are inducement. From this it would follow that they are not in issue under not guilty—a conclusion to be regarded with the greatest suspicion, so far as it applies to the warranty, as being in that respect directly at variance with the opinion of Mr. Baron PARKE in *Spencer* v. *Dawson* (1 Moo. & Rob. 122). The book cited does not report the reasons of the learned judge, or the arguments of counsel.

Supposing the action upon a warranty to proceed upon the breach of a contract, the view above taken may be illustrated by considering here the effect of not guilty in actions against bailees and carriers, in which the charge is usually of a breach of duty by mere non-feasance. That duty arises out of facts which properly constitute a contract, and will support an action of *assumpsit* upon an implied promise. By the last example subjoined to the rule it appears that in the action upon the case against a carrier, not guilty does not operate as a denial of the receipt of the goods by the defendant, as a carrier for hire, or of the purpose for which they were received,—being the facts which make up the contract,—but only of the non-performance of it by their loss or damage. Accordingly in *Webb* v. *Page* (6 M. & Gr. 196), where the declaration, without shewing the defendant to be a common carrier, stated that he had contracted to convey goods of the plaintiff's from Maidstone to London, and had been guilty of negligence in the performance of the resulting duty, it was held that the defendant could not under the general issue shew a misrepresentation by the plaintiff as to the weight of the goods; for that could, under the circumstances of the case, only operate as a defence by avoiding the contract admitted on the face of the record. On the defendant's part it was urged in effect that, admitting the sole question raised by not guilty to be, whether or not the defendant had used proper skill and care in the carriage of the goods, still, in order to ascertain what amount of care was proper, regard should be had to the defendant's belief, founded on the representation of the plaintiff, that the weight of the goods did not exceed [illegible] cwt.; and thus that the representation became an element in the determination of the issue. The case of a bailment of a package may be put as an instance in which the defendant's ignorance of the nature of its contents might affect the degree of care to be used in its custody, and would, therefore, it is apprehended, be admissible under not guilty, with reference to that question. But in *Webb* v. *Page* no question of degree arose, for the van was so much overloaded that it was indisputable that there had been gross negligence; and as the defendant had admitted on the record that he contracted to carry the goods actually received, it became chargeable upon him. It was attempted to shew under the same plea that the plaintiff had himself packed the goods, and that the injury had resulted from the careless packing of them, and not from any negligence imputable to the defendant; but to this it was answered that it was the duty of the defendant to pack the goods, and that he was responsible for the consequences of insufficient packing though he had suffered the plaintiff to interfere. In fact, the defendant was bound by the contract to pack with reasonable precautions, and, if he was prevented from so doing by the act of the plaintiff, that fact might excuse, but could not negative the non-performance of the contract, which was the point in issue under not guilty.

The actions upon a warrantry and against traders and factors above considered, are instances in which an inducement is necessary to constitute the right for the infringement of which the plaintiff proceeds. Such matter of inducement is in most cases easily recognizable. Upon this head, the examples subjoined to the rule are particularly full. And, in the ordinary forms of declaration, facts of this nature are usually stated in their logical order before the charge. But sometimes the inducement is intermixed with the charge; as occurs, for instance, in the common form of declaration on the case for debauching the plaintiff's servant, in which the fact that the person debauched was the servant of the plaintiff is stated between the act and its consequences. The case of *Torrence* v. *Gibbins* (1 Dav. & Mer. 226) decides that the statement in question is not in issue under not guilty. It is otherwise in the action of trespass, for the same cause as we shall hereafter have occasion to shew. So in the action on the case for criminal conversation, not guilty admits the marriage; for the existence of that relation is matter of inducement. But in trespass for the same injury, the general issue puts the plaintiff to the proof of the marriage. Consequently the action upon the case is the preferable remedy for either wrong.

The inducement must be understood to comprise all the facts necessary to found that particular right for the infringement of which the plaintiff proceeds. This appears by the case of *Wright* v. *Lainson* (2 M. & W. 739). The declaration was for a false return of *nulla bona* to a writ of *fi. fa.*, and in other respects similar to that in *Wylie* v. *Birch*, as above stated. It was held the plea of not guilty did not put in issue the seizure of goods belonging to the debtor, or any of the previous proceedings; for all these and the levy of the money were necessary to support the charge of not having it ready to be paid over to the plaintiff, and falsely returning *nulla bona*. It was argued, that as the declaration alleged that the defendant falsely returned *nulla bona*, the falsehood of the return was in issue, and therefore that the defendant was at liberty to shew its truth, by proving that the property in the goods had passed from the execution debtor before the seizure. In the same way it had been unsuccessfully contended in *Frankum* v. *Falmouth* (2 A. & E. 452), an action for wrongfully diverting a watercourse, that the defendant might, under not guilty, contest the plaintiff's right stated in the inducement, in order to shew that the diversion was not wrongful. The fallacy consists in concealing the distinction pointed out at the commencement of these observations between the several uses made in declarations of qualifying words. In the cases now in discussion, it is plain that "wrongfully" and "falsely" merely describe the legal character of the act, resulting from the existence of the facts stated in the inducement. (See 3 M. & W. 170, *Lewis* v. *Alcock*.)

(*To be continued.*)

PRACTICAL NOTES.—No. III.

PAYMENT INTO COURT.

THE frequency of actions in which admitted disputed claims are joined renders it extremely important that the effect of paying money into court should be distinctly understood, and we purpose, therefore, to shew what has been decided, and what principles have regulated the decisions upon it, although they may already be familiar to many. The practice of paying money into court dates from the reign of Charles II., when Serjeant Levinz made the first motion of the kind during the chief justiceship of Kelynge. Up to the 3 & 4 Wm. 4, c. 42, s. 21, it was allowed wherever the sum demanded was a sum certain and capable of being ascertained by mere computation, without leaving any discretion to be exercised by the jury. This should still be borne in mind, as no rule or judge's order is now necessary except in cases under the last-mentioned statute, or 6 & 7 Vict. c. 96, s. 2, or other special statutory provisions. (R. G. H. T. 4 Wm. 4, Pleading, 18.) The decisions prior to that Act are collected in Tidd, 9th edit. p. 619, but it is hardly necessary to repeat them here, as in any doubtful case a rule or judge's order would of course be obtained. One apparent exception, however, may be mentioned. The 4 & 5 Anne, c. 16, ss. 12, 13, by which money is allowed to be paid into court upon bonds conditioned to make void the ___, upon payment of a lesser sum, at a day or place certain, does not authorize this to be done by way of *plea*; for the Court, under the statute, is to ascertain, through its officer, the amount actually due for principal, interest, and costs, and to discharge the defendant from the debt; whereas, in the ordinary method, the defendant, at his own risk, determines the sufficiency of the sum to be paid in. (*England* v. *Watson*, 9 M. & W. 333.) But the practice of paying money into court was altered, as well as extended, by the rules of H. T. 4 Wm. 4. It was formerly usual to plead the general issue to the whole declaration, whether a contract was set out, or the *indebitatus* form only used, and the money paid in was then considered struck out of the declaration; whereas now it must always be pleaded in confession and avoidance, to the further maintenance of the action, after all the other defences have been exhausted, and without any other plea to the same cause of action. (*Sharman* v. *Stevenson*, 3 D. P. C. 709; 2 C. M. & R. 77, 119; *Thompson* v. *Jackson*, 1 M. & Gr. 242; 8 D. P. C. 591.) The form of plea is given by R. T. T. 1 Vict. on which we may hereafter offer some remarks. But while there is no necessity of singling out any particular count or breach upon which to pay the money, the defendant may do so if he pleases, provided the cause of action is clearly separable from the rest; as in *replevin* for goods taken in closes A and B, money was allowed to be paid into court as to the goods taken in A, and as to some of those taken in B, and to avow and make conveyance as to the residue. (*Lambert* v. *Hepworth*, 2 Q. B. 729; 2 G. & D. 112; and see *Marshall* v. *Whiteside*, 1 M. & W. 188; *Hodges* v. *Earl of Lichfield*, 2 D. P. C. 741; and *Smith* v. *King*, ibid. 750.)

Effect of payment into court as an admission.—The general principle to be gathered from both the older and the more recent cases is, that payment into court admits, in every case, all the allegations contained in the declaration or count, to the precise extent to which, if traversed, the plaintiff would have been bound to prove them. (*Dyer* v. *Ashton*, 1 B. & C. 3; *Archer* v. *English*, 1 M. & Gr. 373; *Cooper* v. *Blick*, 2 Q. B. 913.) We will illustrate this, first of all, in the case of payments upon the *indebitatus* counts, and then upon special counts.

On the indebitatus counts.—The general nature of these counts only binds the plaintiff to prove some contract or contracts within the description given, and therefore the defendant admits only that, by virtue of some such contract or contracts, he is liable to the amount paid in, and no further. Before referring to the leading case of *Kingham* v. *Robins* (5 M. & W. 94, 7 D. P. C. 352), it should be observed, that by *Meager* v. *Smith* (4 B. & Ad. 673), and *Booth* v. *Howard* (5 D. P. C. 438), it was decided that the particulars of demand, although annexed to the record, formed no part of it, in order to ascertain upon what ground the payment was made, and to estop the defendant, who had paid money into court generally, from disputing the several items there stated. In *Kingham* v. *Robins*, then, there were counts for use and occupation, for goods, chattels, and *fixtures*, and upon an account stated. The amount paid in exceeded the sum specified in the first count and the particulars for rent, and the plaintiff contended that it was unnecessary for him to prove any precise contract for fixtures; but it was held that the defendant had only admitted his liability upon some contract of that nature, and as upon judgment by default, the plaintiff must have proved an agreement and the value, so he was equally bound to do so after payment into court, to entitle him to recover more than the sum paid in. *Walker* v. *Rawson* (1 M. & Rob. 250) was declared to be bad law, and the dicta of Parke, J. and Littledale, J. in *Meager* v. *Smith*, as to the similarity between payment into court and payment before action brought, were incorrect. *Ravenscroft* v. *Wise* (1 C. M. & R. 203, 2 D. P. C. 676) was also in effect overruled, for it had there been held that the defendants were precluded by payment into court from shewing that one of them was not liable upon the supposed contract. This point, however, again came under the consideration of the Court in *Stapleton* v. *Nowell* (6 M. & W. 9), and it was there expressly decided that

A plea of payment into court by two defendants pleaded to one or more *indebitatus* counts, admits only that the plaintiff has a cause of action on one or more of the contracts declared on, to the amount of the

sum paid in, and does not admit the defendant's joint liability to any greater amount, although the plaintiff gives evidence *aliunde* to fix one of the defendants with liability to a greater amount.(a)

The Court of Common Pleas confirmed this principle in *Archer* v. *English* (1 M. & Gr. 873), and it was again upheld by the Court of Exchequer in *Charles* v. *Branker* (12 M. & W. 713, 1 Dowl. & L. 989). In the note to *Archer* v. *English*, the learned reporters suggest that "it would seem to have been a legitimate subject of inquiry whether the contracts to which the admission on the record applied, were not the same as those shewn to be the only contracts existing between the parties." But this could not well be, consistently with the doctrine that no *particular* contract at all is admitted, and the law is certainly now settled otherwise. *Stevenson* v. *The Corporation of Berwick* (1 Q. B. 154) affords another illustration. There, in an action against a corporation for work done as an attorney, payment into court did not preclude the defendants from shewing that they never had retained the plaintiff as attorney. Similarly, it would seem, that in an action by an apothecary, payment into court would not admit the plaintiff's title to sue as an apothecary; since the statute 55 Geo. 3, c. 194, s. 21, requires proof of his capacity to sue, upon grounds of public policy; and his incapacity need not be specially pleaded. (*Wagstaffe* v. *Sharpe*, 3 M. & W. 521; *Wills* v. *Langridge*, 5 A. & E. 383.) Beyond the sum paid in, every defence is open, if admissible under the rules of pleading (*Reid* v. *Dickens*, 5 B. & Ad. 499), in which case the Statute of Limitations was pleaded to part of a promissory note payable by instalments.

E. W.

(*To be continued.*)

THE PROPERTY LAWYER.

NOTES ON CONVEYANCING CASES.

Trusts for the separate use of a married woman—Clause against anticipation.

THAT most useful series of provisions introduced into modern settlements, by which an income, and an income only, is received for the exclusive use of a married woman during her husband's lifetime, seems to be doomed to encounter peculiar hazards. Scarcely had the law of separate use been put upon a plain and intelligible footing, by the case of *Tullett* v. *Armstrong* (3 Mylne & Craig), when the very existence of that, which Lord Cottenham justly designated the most valuable part of settlements to the separate use, namely, the clause against anticipation, was threatened with annihilation by the decision of the Vice-Chancellor of England, Sir L. Shadwell, in *Brown* v. *Bamford* (11 Simons, 127). We know of no recent decision which had exposed so many family settlements to danger, or which has excited so much disapprobation in the Profession. It is true that the same learned judge had made a somewhat similar decision in a previous case, *Barrymore* v. *Ellis* (8 Simons, 1); there, however, the peculiar form of the limitations gave some colour to the interpretation put upon them, and the same decree must have been made upon other circumstances; but the distinct and decided opinion expressed by the Vice-Chancellor in *Brown* v. *Bamford*, that the *ordinary* form of the clause against anticipation was insufficient for its intended purpose, created universal alarm.

The case of *Brown* v. *Bamford* is this: J. B. by will gave leasehold houses and stock in the funds to trustees, "upon trust from time to time during the natural life of his daughter, *Sophia Bamford*, or until she should be duly declared a bankrupt or take the benefit of any Insolvent Act, to pay the clear rents, interest, dividends, and proceeds of such leaseholds, stocks, funds, and securities unto such person or persons, for such intents and purposes, and in such manner as *Sophia B.* by any writing or writings under her hand, when and as the same should become due, *but not by way of assignment, charge, or other anticipation thereof*, should, notwithstanding her then present or any future coverture, direct or appoint; and in default of any such direction or appointment, or so far as the same, if incomplete, should not extend, into her proper hands, for her sole and separate use, independent of the debts, control, or interference of her then present or any future husband; for which purpose the receipts in writing, under the hand of his said daughter, should, notwithstanding any such coverture as aforesaid, be good and sufficient discharges for the last-mentioned rents, interest, dividends, and proceeds, or so much thereof as should in such receipts respectively be expressed to be received." After the testator's death, Sophia Bamford agreed to guarantee a debt to the Sunderland Banking Company, and the present bill was filed to enforce payment of that debt out of the separate estate bequeathed to her by J. B.'s will. The bill charged that, according to the true construction of the will, Sophia Bamford had both a restricted power of appointment and, in default of appointment, the general uncontrolled dominion over the income bequeathed to her for life. Bamford and wife demurred to the bill for want of equity, and in support of the demurrer, it was argued that this case was distinguishable from *Barrymore* v. *Ellis*.

The Vice-Chancellor, without hearing the other side, said that the words were in substance the same as those in *Barrymore* v. *Ellis*, and that he adhered to his opinion in that case; he then proceeded thus:—

I admit the common form to be in the terms stated, but it always appeared to me to be defective. When I was in the habit of drawing conveyances, and wished to settle on a lady property over which she was to have no power of anticipation, I always used to introduce an express proviso that no receipt should be a discharge to the trustees, except a receipt given by the lady, for the rents or dividends then actually become due. The proviso to which I allude declared, as far as my recollection serves me, that the receipts of the lady, under her own hand, to be given from time to time after the rents or dividends should have actually accrued due, should be, *and that other receipts should be*, sufficient discharges to the trustees for the amount of the monies therein expressed to be received. In this case, however, there are no negative words in the receipt clause, and therefore there is nothing to restrict the power which Mrs Bamford had, to dispose of or charge the rents and dividends of the trust property, under the general direction to pay those rents and dividends to her for her separate use.

Now, the obvious remark on this passage is, that no negative words could make the intention of the testator plainer than the expressions of his will, that the trustees should pay the rents and interest, "when and as the same should become due, but not by way of assignment, &c." as his daughter should appoint; and that the subsequent payment of the rents and interest to her, in default of appointment, is to be governed and qualified by the same condition. What is to be paid to her in default of appointment? Why, clearly the rents and dividends when due, but not by way of charge.

The words of the limitation in *Barrymore* v. *Ellis* were,

To pay the annuity, as the same should become due and payable, to such person or persons, and for such intents and purposes as Lady Barrymore should, *by any writing signed with her name, in her own handwriting, notwithstanding her coverture, direct or appoint, but so as not to deprive herself of the benefit thereof by sale or other anticipation; and for want of such direction or appointment, to pay the same to Lady Barrymore, for her own sole, separate, and peculiar use and benefit*; it being thereby agreed and declared, that the annuity should not be subject to the debts, control, interference, or engagements of Mr. W. (the husband) and that the receipt or receipts of Lady Barrymore, or of any person so to be by her appointed to receive the same, should, notwithstanding her marriage, be sufficient discharges to the persons paying the same.

The Vice-Chancellor held, that this did not differ from a limitation to such uses as A shall in a certain manner appoint, and subject thereto to A generally, and that it was within the spirit of *Cox* v. *Chamberlain* (4 Ves. 631), and other cases of that class. Now *Cox* v. *Chamberlain* was a case in which it was a question whether a person having general power of appointment, with a limitation in default of appointment to himself in fee, had conveyed under his power or his interest, he having used words applicable to both. It would have seemed, but for the two cases of *Barrymore* v. *Ellis* and *Brown* v. *Bamford*, that such a question as the effect of the clause against anticipation could be but remotely affected by the purely technical reasoning applicable to cases on which *Cox* v. *Chamberlain* proceeded.

From the decision of the Vice-Chancellor of England in *Brown* v. *Bamford*, an appeal was made to Lord LYNDHURST, C. who, in April 1843, affirmed the decree below. In giving judgment (reported 3 Law T. 69) his lordship said:—

In the restrictive clause, Sophia Bamford is authorized to make an appointment of the yearly income of the property, which she is restricted from anticipating; by that clause she is to have the power, by writing under her hand, when the rents become due, to dispose of such rents, but not by way of assignment or other anticipation. The question is, whether this restriction extended to the estate which she took in default of appointment; the words of the will being, that the trustees were, in default of appointment, to pay into her proper hands exclusive of her husband.

And his lordship thought the case not to be distinguished from *Barrymore* v. *Ellis*. His lordship, however, upon representations made to him of the serious evils this decision may entail upon families, whose settlements have been framed in reliance upon the validity of the usual clause against anticipation, has consented to have the case re-argued by one counsel of a side. It is not probable that judgment will be given immediately, but in the meantime it is desirable that the attention of practitioners should be directed to the subject. In order to guard against the risk of the ultimate affirmance of the decision in *Brown* v. *Bamford*, the following form may be substituted for the latter branch of the usual clause against anticipation:—

And in default of such direction or appointment into the proper hands of the said S B, for her sole and separate use and benefit independently and exclusively of the said L X, her intended husband, and without being subject to his debts, control, interference, or engagements, or to be aliened, anticipated, or disposed of by the said (wife) in any manner howsoever. And the receipts of the said (wife), notwithstanding her coverture from time to time, and only after the said (rents, interest, dividends) shall have actually become due, and no other receipts, to be sufficient discharges for the same.

Such a clause repeats the restriction upon the power of appointment, which, according to all reasonable construction, is unnecessary; but it complies, at all events, with the extremest requisitions of the decisions in *Barrymore* v. *Ellis* and *Brown* v. *Bamford*.

Other of the equity judges have not regarded *Brown* v. *Bamford* as an authority. The Master of the Rolls, Lord Langdale, in *Harnett* v. *Macdougal* (5 Law T. 18) expressly said that the decision in *Brown* v. *Bamford* had been affirmed "under circumstances which deprive it of all authority."

The limitation to the separate use, and the anticipation clause in *Harnett* v. *Macdougal*, were in the ordinary form; and on the authority of *Brown* v. *Bamford*, the married woman had made an arrangement which was, in effect, an anticipation of the income. On a petition to carry out that arrangement, the Master of the Rolls, after considering the cases, said,—

"The trust funds are settled to the use of such persons as Mrs. A. shall appoint, but so as that she shall not alienate, &c., and, in default, to her separate use. Mrs. A., having become indebted, desires to charge the fund; and this petition is presented to give effect to such charge. To make the order would be in direct opposition to all the authorities; and I must refuse to do so, except so far as the fund in hand is concerned. I have read the cases bearing on the subject, and cannot make the order asked."

The Vice-Chancellor Knight Bruce has also made a decision similar to that of the Master of the Rolls in *Moore* v. *Moore* (1 Collyer, 54). We shall return to this question as soon as the judgment has been given upon the second argument in *Brown* v. *Bamford*, to which the profession is looking with great interest; for, although ill consequences may be guarded against in future settlements, whether the Vice-Chancellor of England's decision be upheld or not, the havoc which will be made in existing settlements by an affirmative judgment will be altogether irreparable, except by legislative enactment.

Since the above was written, *Brown* v. *Bamford* has been re-argued before the Lord Chancellor, and now stands for judgment. From the intimations of assent to the able argument of Mr. Bethell, which his lordship threw out, there is reason to believe that the decision of the Vice-Chancellor of England will not stand.

W.

(a) *Goff* v. *Harris* (5 M. & Gr. 573) was similar to *Kingham* v. *Robins*, with the further fact that fixtures were shewn to have been in the defendant's possession; but in the absence of proof of any contract, the plaintiff failed. *Elgar* v. *Watson* (1 Carr. & M. 494) cannot, therefore, be regarded as any authority against so many decisions to the contrary.

PROMOTIONS, APPOINTMENTS ETC.

[Clerks of the Peace for Counties, Cities, and Boroughs, will oblige by regularly forwarding the names and addresses of all new Magistrates who may qualify.]

The Queen has been pleased to approve of Mr. John King, as Consul at the Cape of Good Hope for his Majesty the King of Prussia.

The Queen has also been pleased to approve of Mr. Charles Maynard, as Consul at Graham's Town Cape of Good Hope, for his Majesty the King of the Belgians.

The Queen has also been pleased to approve of Mr. Saul Salomon, as Consul at St. Helena for the Free Hanseatic City of Hamburg.

The Queen has also been pleased to approve of M de Vaubicourt, as Consul at Dublin for his Majesty the King of the French.

The Queen has also been pleased to appoint William Arrindell, esq. to be her Majesty's Attorney General for the colony of British Guiana.

The Queen has also been pleased to appoint E. F. Wylde, esq. to be Clerk of the Peace at Worcester, in the settlement of the Cape of Good Hope.

The Lord Chancellor has appointed James Boodle of Cheltenham, in the county of Gloucester, gent., to be a Master Extraordinary in the High Court of Chancery.

The Lord Chancellor of Ireland has appointed Edward Knocker, esq. of Dover, an Extraordinary Commissioner of the High Court of Chancery in Ireland, for the Dover district.

COURT PAPERS.

CHANCERY SITTINGS

Before the LORD CHANCELLOR.

Thursday .. May 22—Appeal Motions
Friday .... 23—Petition day
Saturday ..... 24, Monday .... 26, Tuesday .... 27, Wednesday .... 28—Appeals
Thursday .. May 29—Appeal Motions
Friday .... 30—Petition day. Unopposed Petitions only, and Appeals
Saturday ...... 31, Monday .... June 2, Tuesday .... 3, Wednesday .... 4—Appeals
Thursday 5—Petition day. Unopposed Petitions only, and Appeals
Friday... 6—Petition day. Unopposed Petitions only, and Appeals
Saturday 7, Monday... 9, Tuesday... 10, Wednesday 11—Appeals
Thursday ...... 12—Appeal Motions.
Such days as his Lordship is occupied in the House of Lords excepted.

Before the VICE-CHANCELLOR OF ENGLAND.

Thursday .. May 22—Motions
Friday.......... 23—Petition day. Unopposed first, Short Causes, &c.
Saturday ...... 24, Monday .... 26, Tuesday .... 27, Wednesday .... 28—Pleas, Demurrers, Causes, Further Directions, and Exceptions
Thursday ...... 29—Motions
Friday.......... 30—Petition day. Unopposed first, Short Causes, and Causes
Saturday ...... 31, Monday .... June 2, Tuesday ...... 3, Wednesday .... 4—Pleas, Demurrers, Causes, Further Directions, and Exceptions
Thursday ...... 5—Motions
Friday .... 6—Petition day. Unopposed first, Short Causes, and Causes
Saturday ...... 7, Monday ...... 9, Tuesday ...... 10, Wednesday .... 11—Pleas, Demurrers, Causes, Further Directions, and Exceptions
Thursday ...... 12—Motions.

Before VICE-CHANCELLOR KNIGHT BRUCE.

Thursday .. May 22—Motions
Friday .... 23—Petition day. Petitions and Causes
Saturday ...... 24—Short Causes and Causes
Monday .... 26, Tuesday .... 27—Pleas, Demurrers, Causes, Further Directions, and Exceptions
Wednesday .... 28—Bankrupt Petitions and ditto
Thursday ...... 29—Motions and Causes
Friday .... 30—Petition day. Petitions and Causes
Saturday ...... 31—Short Causes and Causes
Monday .. June 2, Tuesday .... 3—Pleas, Demurrers, Causes, Further Directions, and Exceptions
Wednesday .... 4—Bankrupt Petitions and Causes
Thursday ...... 5—Motions and Causes
Friday.......... 6—Petition day. Petitions and Causes
Saturday ...... 7—Short Causes and Causes
Monday.......... 9, Tuesday........ 10—Pleas, Demurrers, Causes, Further Directions, and Exceptions
Wednesday .... 11—Bankrupt Petitions and ditto
Thursday ...... 12—Motions.

Before VICE-CHANCELLOR WIGRAM.

Thursday .. May 22—Motions and Causes
Friday .... 23—Petition day. Pleas, Demurrers, Causes, Further Directions, and Exceptions
Saturday ...... 24—Short Causes, Petitions (unopposed first), and Causes
Monday........ 26, Tuesday........ 27, Wednesday .... 28—Pleas, Demurrers, Causes, Further Directions, and Exceptions
Thursday ..... 29—Motions and ditto
Friday .... 30—Petition day. Pleas, Causes, &c.
Saturday ...... 31—Short Causes, Petitions (unopposed first), and Causes
Monday . June 2, Tuesday........ 3, Wednesday .... 4—Pleas, Demurrers, Causes, Further Directions, and Exceptions
Thursday ...... 5—Motions and ditto
Friday .... 6—Petition day. Pleas, Causes, &c.
Saturday ...... 7—Short Causes, Petitions (unopposed first), and Causes
Monday .... 9, Tuesday........ 10, Wednesday .... 11—Pleas, Demurrers, Causes, Further Directions, and Exceptions
Thursday ...... 12—Motions and ditto.

Before the MASTER OF THE ROLLS.

Thursday .. May 22—Motions
Friday.......... 23, Saturday ...... 24, Monday .... 26—Pleas, Demurrers, Causes, Further Directions, and Exceptions
Tuesday........ 27—Petitions, unopposed first
Wednesday .... 28—Pleas, Demurrers, Causes, Further Directions, and Exceptions
Thursday ...... 29—Motions
Friday .... 30, Saturday ...... 31, Monday .. June 2—Pleas, Demurrers, Causes, Further Directions, and Exceptions
Tuesday..... 3—Petitions, unopposed first
Wednesday . 4—Pleas, Demurrers, Causes, Further Directions, and Exceptions
Thursday 5—Motions
Friday.......... 6, Saturday ...... 7, Monday........ 9—Pleas, Demurrers, Causes, Further Directions, and Exceptions
Tuesday........ 10—Petitions, unopposed first
Wednesday .... 11—Pleas, Demurrers, Causes, Further Directions, and Exceptions
Thursday ...... 12—Motions.
Short Causes, and Consent Causes, every Tuesday at the sitting of the Court.

CAUSE LISTS, TRINITY TERM, 1845.

COURT OF QUEEN'S BENCH.

New Trials remaining undetermined at the end of the Sittings after Easter Term, 1845.

Michaelmas Term, 1842.

Essex—Corporation of Colchester v. Brooke.

Michaelmas Term, 1843.

Middlesex—Roger v. Brenton, part heard.

Hilary Term, 1844

London—Gillett v. Whitmarsh and Others.

Easter Term, 1844.

Cambridge—Reg. v. Mortlock
Chester—Wharton v. Walton
Worthington, admors. &c. v. Grimsditch, M.P.
Stafford—Bromley v. Spurrier
Gloucester—Holford v. Baily
Green v. Pryce and Others
Hants—Doe dem. Edney and Others v. Wise
Devon—Mayor, &c. of Saltash v. Fennimore
Woolcombe v. Sleeman
Somerset Gale v. Bernal
Northampton—Simmons v. Spier
Lincoln—Mayfield v. Robinson
Doe dem. Swinton and Others v. Cook
Notts—Spencer v. Carlin
Derby—Doe dem. Vevers, clerk, and Others v. Ault
Winterbottom v. Ingham
Warwick—Elliott v. Blackwell
Carlisle—Topping v. Hayton
York—Doe dem. Corporation of Richmond v. Morphitt
Gibson v. Call and Others
Adam, a pauper, v. Hartley
Ferrand v. Milligan
Dawson v. Gregory
Lancaster—Weber v. Puller and Another
Liverpool—Hargreaves and Another v. Wood and Another
Pow v. Taunton and Another
Aikin v. Faith and Others.

Tried during Easter Term, 1844.

Middlesex—Littlechild v. Banks
Brooks v. Beckett
Same v. Same
Skilbeck and Another v. Garbett.

Trinity Term, 1844.

Middlesex—Harrison v. Varty and Another
Same v. Same
Gladman v. Plumer.

Tried during Trinity Term, 1844.

Middlesex—Mercer v. Bartlett
Croucher v. Currie and Another
Moses v. Jacobson.

Michaelmas Term, 1844.

Middlesex—Belcher and Others v. Gummo
Macarthy v. Varty and Another
Same v. Same
Bennett v. Duncan
De Medina v. Grove and Others
Same v. Same
Reg. v. Baron de Bode, part heard
Reg. v. Waller
London—De Freis v. Littlewood and Another
Exley v. Tassell
Bodner v. Butterworth
Northampton—Sutton v. Macguire
Notts—Reg. v. Inhabitants of Hickley
Leicester—Wood v. Dixie, bart.
Warwick—Cooper v. Harding and Another
Same v. Same
Hants—Doe dem. Edney and Others v. Benham
Same v. Dillett
Devon—Doe dem. Clarke v. Smarridge
Dovill v. Jeve
Schank v. Beard
Cornwall—Richards v. Symonds
Somerset—Atwood v. Joliffe and Another
Doe dem. Earl of Egremont v. Langdon
Alford v. Ashford
Bristol—Gale v. Lewis
Norfolk—Corporation of Thetford v. Tyler
Denbigh—Oldfield v. Dalrymple
Chester—Collier v. Clarke and Another
Oxford—Exeter College v. Butler and Others
Worcester—Doe dem. Blayney and Others v. Savage and Others
Bate and Another v. Blurton
Stafford—Hilton v. Earl Granville
York—Reg. v. Richard Cleasley
Lockwood v. Wood
Musgrove v. Emerson
Durham—Elliott and Another v. Stobart and Others
Willson v. Anderson
Westmoreland—Webster v. Wilson
Liverpool—Reg. v. The Corporation of Manchester
Wharton v. Wright
Reg. v. Liverpool and Manchester Railway Co.
Essex—Doe dem. Copland and Others v. Burrell
Doe dem. Cozens v. Cozens
Kent—Bracegirdle v. Peacock and Another
Doe dem. Jacobs v. Phillips and Others
Surrey—Queen v. Sewell
Glamorgan—Burgess v. Taff Vale Railway Company
Pembroke—Doe dem. Butler and Others v. Lord Kensington and Others
Radnor—Doe dem. Woodhouse v. Powell

Tried during Michaelmas Term, 1844.

Middlesex—Paine v. Guardians of Strand Union.

Hilary Term, 1845.

Middlesex—Hill v. Stratford
Wood v. Williams and Another
Stinton v. Bloxham and Others
Hope v. Harman and Others
Davis v. Curling.
London—Henzell v. Hocking and Another
Bengley v. Yongo
Hayne v. Rhodes and Others
Daniel and Another v. Pedding
Thompson v. Thorne and Others
Nutts v. Abrahams
Lowe v. Penn.

Tried during Hilary Term, 1845.

Middlesex—Edden v. Brown
Hill and Another v. Kendall
Parnell v. Smith and Another
Same v. Same.

Easter Term, 1845.

Middlesex—Cluck v. Bennett
Same v. Same
May and Wife v. Burdett
Cocker v. Musgrove
Normansel v. Croft
Johnson and Another, assignees, &c. v. Wolsey
Reg. v. H. E. Pelham
London—Ford v. Danford, exors, &c.
De Medina v. Grove
Rooker and Others v. Percy
Bowles v. Milbourn
Alfred v. Farlow
Mears v. Green
Reg. v. Douglas
Herts—Griffiths v. Lewis
Surrey—Soloman v. Lawson
Dobson, knt. and Another v. Blackmore
Barnett v. Graham
Girdlestone v. McGowran
Bucks—Rowles v. Senior and Others
Bryant v. Jennings
Cambridge—Layton v. Hurry
Chester—Doe several dems. Reg. and Another v. Archbishop of York and Others
Stewart v. Wilkinson
Wilts—Lee v. Merrett
Devon—Doe dem. Earl of Egremont v. Courtenay
Doe dem. Dayman v. Moore
Wood v. Hewitt
Barratt v. Olver
Doe several dems. Molesworth, bart. and Others v. Sleeman and Another
Tanner, extrix. &c. v. Moore
Somerset—Lambert v. Lyddon
Lancaster—Reg. v. The Guardians of the Rochdale Union
Northumberland—Bolam v. Shaw
Davidson v. Reed
Durham—Ray v. Thompson
Reg. v. Great North of England Railway Compy.
Hausill v. Hutton
York—Doe dem. Lord Dowrie v. Thompson
Same v. Same
Phillips v. Broadley
Devon—Petch and Wife v. Lyon
Brown v. Ayre
Wilson v. Nightingale
James v. Brook
Liverpool—Cannall, clerk, v. Gaudy
Lincoln—Saffery v. Wray
Notts—Parker v. Dennett
Leicester—Hassall v. Heming
Doe dem. Bowley and Others, Churchwardens, &c. v. Barnes
Warwick—Blakesley v. Smallwood and Another
Oxford—Tollett v. Hon. J. H. D. Astley
Stafford—Inskeep v. Harper and Others
Salop—Stokes v. Boycroft
Monmouth—Prickett v. Gratrex
Williams v. Sliven
Gloucester—Clutterbuck v. Hulls
Glamorgan—Doe dem. Simpson v. John.

Tried during Easter Term, 1845.

Middlesex—Hopkins v. Richardson.

For Judgment.

Michaelmas Term, 1842.

Corporation of Colchester v. Brooke.

Easter Term, 1843.

Pilchard v. Powell and Others.

Michaelmas Term, 1843.

Stamp v. Sweetland

Doe dem. Angell v. Angell
Willoughby v. Willoughby.

Hilary Term, 1844.

Bird v. Jones

Easter Term, 1844.

Allen v. Hayward.

COURT OF EXCHEQUER.

Sittings in Trinity Term, 1845

	Banc.	*Nisi Prius.*
Thursday .. May 22	Peremptory Paper, after Motions	
Friday 23	Do. before Motions	Midd. 1st sitting.
Saturday 24		
Monday 26		
Tuesday 27		......
Wednesday 28	Special Paper .	London 1st Sitting
Thursday 29	Circuits chosen.	......
Friday 30	Revenue Paper.	Midd. 2nd sitting.
Saturday 31	Crown Cases.	
Monday .... June 2	Special Paper	
Tuesday 3	Errors.	......
Wednesday 4	Special Paper	London 2nd sitting.
Thursday 5	......	Ditto by adjournmt.
Friday 6	......	Midd. 3rd Sitting.
Saturday 7		
Monday 9		
Tuesday 10		
Wednesday 11		
Thursday 12		

NEW TRIAL PAPER, for Trinity Term, 1845.

For Judgment.

Moved Easter Term, 1844.

Liverpool—Rodgers and Another v. Maw.

Moved Michaelmas Term, 1844.

Middlesex—Chapple v. Purday
London—Redman v. Wilson
Redman v. Hay
Bristol—Kynaston and Another, assignees, &c. v. Crouch

For Argument.

Moved Hilary Term, 1844.

London—A. J. Acraman v. Cooper and Others.

Moved Michaelmas Term, 1844.

Middlesex—Russell v. Ledsam and Others
Worcester—Benbow v. Jones
Biss v. Arkell
Devizes—Frude and Another v. Powell
Bristol—Doran and Another, assignees, &c. v. Worboys.

Moved after the 4th day of Michaelmas Term, 1844.

Middlesex—Hogarth v. Penny and Another
Birt v. Leigh

Moved Hilary Term, 1845.

Middlesex—Skinner v. Hart
Baildon, exor. &c. v. Walton
Same v. Same
Eglinton v. Ruck and Others
Parnell v. Williams and Another
Belcher and Others, assignees, v. Magnay and Others
Same v. Same
Richards v. Macey
Sherborn v. Ayliff
Whitmore and Others, assignees, &c. v. Hind
Davey v. Warne
Playfair v. Musgrove and Another
Surfling v. Ovenden and Others
London—Newall v. Webster and Others
Hawley v. Gilbert
Brean and Wife v. Messer and Wife
Stapleton v. Baker.

Moved after the 4th day of Hilary Term, 1845.

Middlesex—Curlewis v. Page
Woodbridge v. Cooper.

Moved Easter Term, 1845.

Middlesex—Rawlinson v. Clark
Kesterton and Another v. Ward
Smith v. Roche
Alderton and Another v. Richardson
Laurence v. Clark
London—M'Intosh v. Midland Counties Railway Company
Watson v. Stewart
Debney and Another v. Bergonzi and Another
Reading—Norman v. Phillips
Worcester—Richardson v. Palmer
Gloucester—Udall and Another v. Walton and Others
Heane v. Williams
Yearsley v. Heane and Another
Norwich—Cholmly, bart. and Another v. Darley
Chelmsford—Barrett v. Rolph and Another
Maidstone—Rutley v. South Eastern Railway Company
Kingston—Doe dem. Ohrly v. Bottamley
Phillips v. Warren
Northampton—Ireland v. Harris
Lincoln—Rylatt v. Spafford
Jacklin v. Fytche and Another
Leicester—Phillips v. Smith
Warwick—Breach and Another v. Knight
Bittleston and Another, assignees, &c. v. Cooper and Others
Madeley v. Agett and Another
Winchester—Thompson and Another v. Doming and Anor.
Exeter—Cutcliffe and Another v. Bremidge
Daykin v. Cornish
Taunton—Mayor of Bridgewater v. J. B. Allen and Others
Same v. Jefferys Allen and Others
York—Hale v. Oldroyd
Patchett v. Cutcliffe
Liverpool—Brinsley v. Agett and Another
Chanter v. Johnson and Another
France v. Hindle and Others
Brecon—Doe dem. Harris v. Evans.

Moved after the Fourth Day of Easter Term, 1845.

Middlesex—Moon v. Robinson
Slade v. Hawley, bart.

SPECIAL PAPER, for Trinity Term, 1845.

For Judgment.

Thomas v. Hudson. Demurrer. Heard 6th May, 1845
Piper and Others, the Masters and Wardens, &c. v. Chappell. Demurrer. Heard 6th May, 1845.
Mudgley v. Richardson, ditto. Heard 17th May, 1845.

For Argument.

Offor v. Windsor. Demurrer.
Doe dem. Sams v. Garlick. Special case, by order of Mr. Baron Rolfe.
Surman and Others v. Darley and Others. Special case, by order of Mr. Baron Parke.
Wiggins and Another v. Johnston. Special case, by order of Mr. Baron Alderson.
Gilbert v. Schwenck and ux. Demurrer.
Doe dem. Buckle and Another v. Nicholson. Special case, by order of Nisi Prius.
Rylatt v. Marfleet. Demurrer.
Turner and Others v. Lamb, ditto.
Davis v. Nutt, ditto.
Duncan v. Bonson.

COURT OF COMMON PLEAS.

REMANET PAPER, Trinity Term, 1845.

Enlarged Rules.

To first day—Tolson v. Bishop of Carlisle and Others
Walker v. Browning.
To second day—Tomlinson, clerk, v. Boughey, bart. and Another.
To fourth day—Harlow v. Read.
To fifth day—Doorman v. Pratt and Others
Same v. Same
Same v. Pirie and Another
Same v. Nairne and Another
Allien v. Doorman.

New Trial of Michaelmas Term last.

Davis v. Aston, knt.

New Trial of Hilary Term last.

Enthoven and Another v. Irving and Others.

New Trials of Easter Term last.

Cooper v. Wiliomatt
Pattison and Another v. Holland and Others
Fay v. Prentice and Another
Cameron v. Johnson and Another
Millingen v. Picken
Robertson v. Jackson and Others
Allen and Others v. Rawson
Chadwick v. Clarke
Mosenton v. Wethered
Smith v. London and Birmingham Railway Company
Atkinson and Others v. Foster
Steadman v. Duhamel
Thompson v. Harding, bart. and Others
Needham v. Fraser
Rawlings v. Bell et ux.
Legrelle v. Davis
Gulliver v. Cosens
Osborn and Another v. Newport

Cur. adv. vult.

Wilkes v. Hopkins	Coxhead v. Richards
Cocking v. Ward	Blackman v. Pugh
Pim v. Grazebrook and Anor.	Dawson v. Cropp

Allport v. Nutt.

DEMURRER PAPER.

Wednesday, May 28.

Wright v. Tallis
Marriage v. Marriage
Franklin v. Carter
Davis v. Aston, knight
Bradley and Another v. Copley, bart.
Stead v. Poyer and Another
Hogan v. Bell
Smart and Another v. Jenkins
Howett v. Clements
. ok v. Henson
Hammond the Younger v. Colls.

Sittings at NISI PRIUS in Trinity Term.

IN TERM.

MIDDLESEX.	LONDON.
Wednesday, May 28	Friday, May 30
Wednesday, June 4.	Friday, June 6.

AFTER TERM.

Friday, June 13.	Saturday, June 14, to adjourn only.

The Court will sit at ten during Term, and at half-past one after Term.

The Court will sit from day to day during Term, till the causes in each list are disposed of.

ATTORNEYS TO BE ADMITTED,

Trinity Term, 1845.

Clerks' Names and Residences.	*To whom Articled, Assigned, &c.*
Allen, Beaupre Philip Bell, 5, Adelaide-road, Hampstead; Kenton-street, Wimbotsham . .	F. B. Bell, Downham Market.
Aldham, George, 4, St. George's-terrace, Islington . .	W. Saunders, Worcester.
Ablett, William, 23, Bayham-terrace, Camden-town .	G. Truwhitt, Cook's-ct.; J. Bell, Vine-street; A. Goddard, King-st.
Bradshaw, John, Chesterfield .	J. Charge, Chesterfield.
Bragg, William Nicholas, 23, Lincoln's-inn fields, Exeter; and King's-row, Pentonville .	J. Gidley, Exeter.
Belfour, Edmund, jun. 39, Lincoln's-inn-fields .	E. A. Wild, College-hill.
Branson, Thomas Sands, 33, Store-street, Bedford-sq.; and Sheffield . .	T. Branson, Sheffield.
Brian, Thomas Cadwallader, 7, Wells-street, Gray's inn-road; Tavistock; and Windsor-place, City-road . .	C. V. Bridgman, Tavistock.
Bowyer, George James, 8, Bernard-street, Russell-square .	J. N. Mourilyan, Verulam Buildings.
Brine, Thomas Charles Augustus, Parkstone; and Longfleet, Dorset . .	W. Dean, Guildford-st.
Budd, Frederic, 55, Frederick-st., Gray's-inn-road; and Bedford	T. W. Turnley, Bedford.
Boydell, George, 6, Essex-street, Strand; Featherstone-st.; and Chester . .	F. Boydell, Chester.
Bull, Charles, 48, Swinton-street, Gray's-inn-road; Lewes; and Penton-place .	J. Lewis, Lewes.
Burrell, Peter Charles, Hanger-lane, Stamford-hill .	P. A. Burrell, White-hart-court; S. A. Beck, Ironmongers' Hall.
Burbury, Dan. Winter, St. George's Terrace, Islington; Wootton Grange, Kenilworth; Acton-st., and Wharton-street .	J. Walton, Warnford-ct.
Bailey, Edward, 5, Berners-street, Oxford-street .	E. S. Bailey, Berners-st.
Borton, William Joseph, 11, Bell-yard, Lincoln's-inn; 4, Everett-street, Russell-square; and Deddington . .	W. H. Hitchcock, Deddington.
Burman, Woollaston John, 8, Bolton-place, Chelsea; Worcester; and Whitehead's Grove	H. M. Griffiths, Birmingham.
Chew, Thomas Heath, Manchester . .	W. C. Chew, Manchester.
Calver, Daniel Henry, Kenninghall . .	J. Hotson, Long Stratton.
Charlton, W. Webb Beckett, 14, Michael's-place, Brompton	R. Bloxham, New Boswell-court.
Coote, Frederick John, 36, Essex-street; and Brompton	J. Eaden, jun. Cambridge.
Clough, Charles, Bradford	R. Tolson, Bradford.
Churchill, George Cheetham, 32, University-street; and Nottingham . .	H. Enfield, Nottingham.
Crawford, Samuel, Leeds	T. M. Lee, Leeds.
Crust, Thomas, Beverley	H. J. Shepherd and J. Myers, Beverley.
Diggles, Thomas, jun. 14, Norfolk-street, Strand; and Manchester	T. M. Siddall, and J. B. Vickers, Manchester.
Driver, Samuel Neale, Hanover Park, Peckham	E. H. Edwards, Bedford-row; O. P. Holmes, Liverpool-street.
Davies, John Edmund, Bristol	C. S. Clarke, Bristol.
Dyott, J. Philip, jun. Lichfield	J. P. Dyott, sen. Lichfield.
Dunstan, William Roe, Manchester . .	G. Thorley, Manchester.
Darlington, Ralph, Wigan	H. Gaskell, Wigan.
Elam, William, 13, Endsleigh-st., Tavistock-square; and Leicester-square . .	C. Ford, Bloomsbury-sq.
Eastlake, John, 20, Featherstone-buildings; Plymouth; and Bedford-row . .	G. S. Eastlake, Plymouth.
Fisher, John, 51, Bernard-street; and Cleve-Yatton .	J. Fisher, Cleve-Yatton.
Fisher, Thomas, 30, Basinghall-street; and Wigan .	L. Moore, Staveley; H. Terrell, Basinghall-st.
Gaby, Ralph Bignell, 1, New Millman-street, Bath; and Bedford-row . .	B. Gaby, Bath.
Geary, John Thomas, 14, Denmark-street, Islington; Kingston-upon-Hull; White Conduit Terrace . .	S. Baxter, Atherstone; R. M. Baxter, Lincoln's-inn-fields.
Grayson, James, Newcastle-upon-Tyne . .	R. Walters, Newcastle-upon-Tyne.
Greenwell, Walpole Eyre, 26, Allsop-terrace, New-road	E. G. Randall, Welbeck-street.
Green, Octavius, 33, Devonshire-street; and Great Chesterfield	G. J. Twiss, Cambridge.
Gery, Thomas Lewis, 13, Featherstone-buildings; and Daventry	T. O. Gery, Daventry.
Gaunt, Thomas Foster, 10, Dalby-terrace, City-road .	T. Gaunt, Skinner-street.
Horner, Joseph Race, Wakefield	R. D'Ewes, jun. Knaresborough; Thomas Lees, Wakefield.
Holden, Thos. jun., 5, Ampton-street, Gray's-inn-road; and Kingston-upon-Hull	T. Holden, Kingston-on-Hull.
Holt, James John, 16, Elizabeth-place, Ball's Pond-road; and Robinson-row .	B. Hastie, Northampton-square; J. J. Spiller, Bank-chambers; R. H. Atkinson, Carey-street.
Hood, John Kemp Jacomb, 20, Little St. Thomas Apostle	J. Duncan, and C. Walton, Lothbury.
Harris, Albert Domett, 111, Regent-street, Lambeth .	F. Carritt, Basinghall-st.
Hanmer, Henry Robert, 25, Great Ormond-street .	J. Baker, Great Yarmouth.
Haigh, George, Preston	W. Rawstorne, Preston.
Haynes, Benjamin, West Bromwich; and Grafton-street East	S. Danks, Birmingham; J. B. Brackenbury, Manchester.
Hoyle, Henry A. B., Blackburn	D. Robinson, Clitheroe Castle, and Blackburn.
Harrington, John Joseph, 8, North-street, Westminster .	R. B. Armstrong, Staple-inn; A. Story, Durham.
Hepson, Charles, 41, Carey-street, Lincoln's-inn-fields .	G. T. Taylor, Featherstone-buildings.
Ingleby, Christopher, 35, Sidmouth-st., Kendal; and Wakefield-street .	R. Moser, Kendal.
Kirkpatrick, Edward Bruce, 1, Regent-place, East; and Whitchurch . .	J. Eden, Liverpool.

Killock, Thomas Creaser, Park-place, Loughborough-rd., Brixton; and Totness . C. Michelmore, Totness and F. Benthall, Coleman-street.

King, James Pearce, 8, Sidmouth-street, and Monmouth . J. R. N. Norton, Monmouth.

Langham, S. F. jun. 10, Bartlett's-buildings . . S. F. Langham, sen. Bartlett's-buildings.

Langham, J. G. jun. 10, Bartlett's-buildings, and Hastings . J. G. Langham, sen. Bartlett's - buildings, and Hastings.

Lang, Herman, 32, Bedford-sq. C. N. Wilde, College-hil

Lee, Thomas, 23, Wakefield-st., Regent-square; and Leamington Priors . . W. F. Patterson, Leamington Priors.

Moore, Walter Henry, Ufford, near Woodbridge, Suffolk . E. C. Everitt, and Thos. Churchyard, Woodbridge

Maberly, Thomas Henry, 23, Albert-square, Commercial-road East; 89, Pratt-street, Camden-town; and Colchester . T. Maberly, Colchester.

Morgan, Alfred Fairfax, 24, Northumberland-st.; Hockley, near Birmingham; and Aston . W. Morgan, Birmingham

Mantell, Alexander Houston, Farringdon; and High Wycombe J. W. Wall, Devizes.

Murdock, John, 33, Winchester-street, Pentonville . T. Randall, Castle-street Holborn.

Macnamara, J. R. Shakspere, Grange, North End, Fulham . W. H. Barber, NewBridge-street; C. F. Tagart, Raymond-buildings.

Mackrell, Wm. Thomas, 6, Johnson-street, Westminster . J. L. Bicknell, Abingdon street.

Nettleship, William, 21, Liverpool-street; and Higham . D. Calver, Kenninghall.

Owen, William, 2, Dyer's-buildings; Great Percy-street; and Egryn . . S. Edwardes, Denbigh.

Partington, William Henry, 52, Gloucester-st., Queen-square; and Manchester . T. Wheeler, Manchester.

Porter, Joshua Charles, Mitcham J. Rees, College-hill.

Parrott, Joseph, 3, New Ormond-street; and Aylesbury . J. Rose, Aylesbury.

Paull, John Richards, 36, Sidmouth-st., Regent's-park; 22, Everett-street, Russell-square; and 16, Harpur-st., Red Lion-square. . J. Roberts, Truro; Geo. Faulkner, Bedford-row.

Peter, John, Melton-crescent, Euston-square; and Callington . S. B. Serjeant, Callington.

Pring, John Thomas, Crediton . T. Pring, Crediton.

Reed, Herbert Adolphus, 18, Swinton-st., Gray's-inn-rd.; Bridgewater; and Friday-st., Cheapside . . F. J. Reed, Friday-street; F. Deacon, Bridgewater.

Rowland, John Henry, 39, Queen-square, Bloomsbury . . D. Rowland, Threadneedle-street.

Rowsell, Nicholas Henry, 9, Milford-place, Vassal-road, North Brixton . . J. T. Rowsell, Billiter-st.; W. B. Bishop, and B. Hull, Verulam-bldngs.

Rhodes, Charles H. Rownson, 63, Chancery-lane . . Charles Henry Rhodes, 63, Chancery-lane.

Randall, David, Neath . W. Llewellyn, Neath.

Rees, William Hobart, Greenhithe . . T. W. Flavell, Bedford-row.

Reeve, William Ebenezer, Newport, near Barnstaple; Barbadoes; and New Brunswick, N. America . . T. Menlove, and C. Edwyn Sabine, Oswestry; Wm. Dean, Essex-street; L. T. Bencraft, Barnstaple.

Ratcliff, Thomas Wrake, Lincoln's Inn Chambers; and Canterbury R. Walker, Canterbury.

Rooke, Richard, Ludlam, 31, Arundel-street; and Leeds . R. Barr, Leeds.

Seymour, George William, York G. H. Seymour, York.

Shaw, Charles Bingley, Bath; Devonshire-street, Queen-square; and Halifax . . E. J. Rudd, Halifax.

Schultz, Frederick, 21, Stamford-street, Blackfriars; and Wisbeach St. Peter . . T. S. Watson, Wisbeach.

Stone, William, jun. 17, Great Russell-street, Bloomsbury; and Winsley . . W. Stone, sen. Bradford.

Score, George, jun. Long Melford, and Little Cornard . . G. Score, sen. Lincoln's-inn-fields.

Stapleton, John, 11, Crafton-st. East; and Pembroke-square, Kensington . . E. Williamson, Lincoln's-inn-fields.

Shute, Edward Parkes, 28, Euston-square; and Gloucester . J. A. Whitcombe, Gloucester.

Sole, J. Lavers Liscombe, 4, Everett-street, Brunswick-square; Devonport; and Claremont-terrace, Albion-street . . Edward Sole, Devonport.

Smith, Montague George, Carlisle, and Guernsey . . Wm. Smith, Hemel Hempsted; John Philip Dyott, Lichfield; Anthony Blyth, Burnham.

Spencer, Edward George, 26, Devonshire-street, Queen-square; and Keighley . . George Spencer, Keighley.

Smith, Henry George, Lincoln's-inn-fds. Chambers, and 2, Portsmouth-street . . G. Smith, Southampton-buildings.

Tapley, Edward, Sandwich; and Spring-place, Clerkenwell . R. Paramor Lee, and W. Lee Sandwich.

Tilleard, Thomas, Tooting and Old Jewry . . J. Tilleard, Old Jewry.

Taylor, Thomas, Clapham, Bedford-row, and Lothbury . H. J. N. Chase, Raymond-buildings; W. Watts, Gray's-inn-square; E. M. Elderton, Lothbury.

Webster, Godfrey, 38, Sidmouth-street; Axbridge; and Southampton-street, Bloomsbury . H. Symons, Axbridge.

Whitehouse, Thomas Mott, 3, Southampton-street, Bloomsbury; Stafford, and Wolverhampton . . T. Bolton, Wolverhampton

Whitlow, Thomas, 52, Gloucester-street, Queen-square; and Manchester . . R. Radford, Manchester.

Ward, Granville Leveson Gower, 22, Lincoln's-inn-fields, and Durham . . A. Story, Durham.

Wilson, Edward Shimells, Kingston-on-Hull . . W. Bunney, Kingston-on-Hull.

Wilson, Thos., 11, Alfred-street, Bedford-square; Marchmont-street, and Regent-street . W. Dickson, Alnwick.

Wodehouse, Charles, 41, Carey-street, and New Ormond-street. John Green, Bury St. Edmunds, and H. Goodford, New-square, Lincoln's-inn.

Walter, William, jun. Kingston-on-Thames . . W. Walter, sen. Kingston, and A. Ellis, Conduit-street.

Wilson, Charles, 15, Tavistock-place, Manchester; and Connaught-terrace . . H. Charlewood, Manchester.

Willats, Frederick George, Reading . . T. Lovegrove, Reading.

Ware, Henry John, Clifton, and York . . W. Richardson, York.

Walker, Edward, 2, Dyer's-buildings, and Great Percy-street. R. Williams, Denbigh.

Weller, George Henry, 8, King's-road, Bedford-row . . G. Weller, King's-road.

Whitelock, John William, Putney B. Austen, Gray's-inn.

Added to the List pursuant to Judges' order.

Gillam, John Flight, Worcester . R. Gillam, Worcester

Langford, Henry, Westham, Sussex, and Tonbridge Wells . R. Foreman, Tonbridge Wells.

GENERAL ORDERS AND RULES OF THE HIGH COURT OF CHANCERY,

ISSUED BY THE LORD HIGH CHANCELLOR,

Thursday, May 8, 1845.

The Right Honourable John Singleton, Lord Lyndhurst, Lord High Chancellor of Great Britain, by and with the advice and assistance of the Right Honourable Henry, Lord Langdale, Master of the Rolls, the Right Honourable Sir Lancelot Shadwell, Vice-Chancellor of England, and the Right Honourable the Vice-Chancellor, Sir James Wigram, doth hereby, in pursuance of an Act of Parliament passed in the fourth year of the reign of her present Majesty, intituled "An Act for facilitating the Administration of Justice in the Court of Chancery," and of an Act passed in the fourth and fifth years of the reign of her present Majesty, intituled "An Act to amend an Act of the Fourth Year of the Reign of her present Majesty, intituled 'An Act for facilitating the Administration of Justice in the Court of Chancery,'" and in pursuance and execution of all other powers enabling him in that behalf, order and direct, that all and every the Rules, Orders, and Directions hereinafter set forth shall henceforth be, and for all purposes be deemed and taken to be, General Orders and Rules of the High Court of Chancery, viz.

Introductory.

I. The several orders comprised in the General Order of the 3rd April, 1828, which are respectively numbered, 1, 2, 3, 4, 5, 6, 8, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 22, 31, 37, and 38, and the amendments made by the General Order of the 23rd day of November, 1831, in such of the same orders as are respectively numbered 6, 13, 16, 17, 18, and 19, and also the General Order of the 3rd day of April, 1830, and also the several orders comprised in the General Order of the 21st of December, 1833, which are respectively numbered 1, 7, 8, 10, 12, 13, 14, 18, 21, 22, 26, 34, 35, and 36, and the several orders comprised in the General Order of the 9th of May, 1839, which are respectively numbered 1 and 2, and the several orders comprised in the General Order of the 16th of August, 1841, which are respectively numbered 1, 2, 3, 4, 5, 8, 14, 20, 21, 22, 33, 34, and 35, and the several orders comprised in the General Order of the 11th of April, 1842, which are respectively numbered 1, 2, 4, and 5, and all other orders and parts of orders, so far as such other orders and parts of orders are inconsistent with these orders, but not further or otherwise, are hereby abrogated and discharged.

II. All former orders and parts of orders not specified in Order I. so far as the same are now in force, and consistent with these Orders, are to remain in full force and effect.

When the Orders are to come into operation.

III. These orders are, as to all suits now depending or hereafter to be commenced, to take effect on the 28th day of October, 1845.

Interpretation.

IV. In these orders the following words have the several meanings hereby assigned to them, over and above their several ordinary meanings, unless there be something in the subject or context repugnant to such construction; viz.—

1. Words importing the singular number include the plural number, and words importing the plural number include the singular number.
2. Words importing the masculine gender include females.
3. The word person or party includes a body politic or corporate.
4. The word bill includes information.
5. The word plaintiff includes informant.

Official attendance and vacations.

V. The several offices of the Court, except the offices of the Accountant-General and of the Masters in ordinary and taxing Masters, are to be open on every day of the year, except

Sundays,
Good Friday,
Monday and Tuesday in Easter week,
Christmas day, and
All days appointed by proclamation to be observed as days of general fast or thanksgiving.

VI. The offices of the Accountant-General, and of the Masters in ordinary and taxing Masters, are to be open on every day of the year, except the days specified in Order V. and except during vacations.

VII. The offices of the vacation Master in ordinary, and of the vacation taxing Master, are to be open during the vacations on every day except the days specified in Order V.

VIII. The vacations to be observed in the several offices of the Court, except in the office of the Accountant-General, are to be four in every year, viz. the Easter vacation, the Whitsun vacation, the long vacation, and the Christmas vacation; and

1. The Easter vacation is to commence and terminate on such days as the Lord Chancellor shall every year specially direct.
2. The Whitsun vacation is to commence on the third day after Easter Term, and to terminate on the second day before Trinity Term in every year.
3. The long vacation is to commence on the 10th day of August, and terminate on the 28th day of October in every year.
4. The Christmas vacation is to commence on the 24th day of December in every year, and terminate on the 6th day of the following month of January; and
5. The days of the commencement and termination of each vacation are to be included in and reckoned part of such vacation.

IX. The vacations in the office of the Accountant-General are to be the same as in the other offices, except as to the long vacation, which, in that office, is to commence and terminate on such days as the Lord Chancellor shall every year direct.

X. The Lord Chancellor may from time to time, by special order, direct the offices to be closed on days other than those mentioned in Order V. and direct any of the vacations to commence and terminate on days different from the fixed days mentioned in Order VIII.

Computation of Time.

XI. When any limited time from or after any date or event is appointed or allowed for doing any act or taking any proceeding, the computation of such limited time is not to include the day of such date or of the happening of such event, but is to commence at the beginning of the next following day; and the act or proceeding is to be done or taken at the latest on the last day of such limited time according to such computation.

XII. When the time for doing any act or taking any proceeding is limited by months not expressed to be calendar months, such time is to be computed by lunar months of twenty-eight days each.

XIII. When the time for doing any act or taking any proceeding expires on a Sunday or other day on which the offices are closed, and by reason thereof such act or proceeding cannot be done or taken on that day, such act or proceeding is, so far as regards the time of doing or taking the same, to be held to be duly done or taken if done or taken on the day on which the offices shall next open.

XIV. The times of vacation are not to be reckoned in the computation of the times appointed or allowed for the following purposes:—

1. Amending or obtaining orders for leave to amend bills.
2. Filing or referring exceptions, or obtaining a Master's report on exceptions, in cases where the time is not limited by the order of reference, or by notice given pursuant to Article 21 of Order XVI.

3. Setting down pleas, demurrers, or objections for want of parties.
4. Filing replications, or setting down causes under the directions of Article 41 of Order XVI.

XV. The day on which an order that the plaintiff do give security for costs is served, and the time thenceforward until and including the day on which such security is given, is not to be reckoned in th computation of time allowed a defendant to plead, an swer, or demur.

(To be continued.)

LEGAL INTELLIGENCE.

THE BANK OF ENGLAND.—Mr. Fitzroy Kelly, Queen's Counsel and M.P. has received the appointment of standing counsel to the Directors of the Bank of England, in the room of Mr. Justice Erle, thei late counsel.

THE CIRCUIT-DIVISION COMMISSION.—(*From Correspondent.*)—The nine Commissioners have nearly completed their labours. The Spring Circuit is to commence on the 10th day of January in each year They divided 4 to 4 that the Northern Circuit ough to be diminished. They will recommend that Liverpool be added to the Norfolk Circuit.

ADMISSION OF ATTORNEYS.—The number of persons who have passed their examination before the examiners at the Law Institution, and have given notice of applying during Trinity Term, which commenced on Thursday, to be admitted as attorneys, amount to 116; there are also 21 applications for renewal of certificates, and three for admission, made pursuant to Judge's order of the last day of Easter Term.

BANQUET IN MIDDLE TEMPLE HALL.—On Wednesday evening, a magnificent entertainment was given by the Benchers of the Hon. Society of the Middle Temple to a large number of the Benchers of Lincoln's-Inn, the Inner Temple, and Gray's-inn. This, we understand, was the first occasion on which the representatives of the other Inns of Court participated in the hospitalities of the ancient society of the Middle Temple. The dinner took place at six o'clock in the body of the Hall; covers were laid for between forty and fifty, and the banquet was of the most sumptuous character. Among the company assembled were Sir L. Shadwell, Vice-Chancellor of England; Sir Herbert Jenner, Sir Frederick Thesiger, Solicitor-General; Sir John Dodson, Judge Advocate-General; Sir Charles Wetherell, Sir Robert Comyn, Sir Gregory Lewin, Sir William Owen, Messrs. Tinney, Stuart, Bethell, Simpkinson, Teed, Romilly, Jervis, Whateley, Chilton, Pollock, Alexander, Whitehurst, Temple, Burge, &c. Queen's Counsel, and several other leading members of the bar.

THE IMPROVEMENTS IN LINCOLN'S-INN-SQUARE.—The recently arid inclosure of Lincoln's-Inn now assumes a most verdant appearance. The pebbled pathways and asphaltum crossings of "days gone by" have given place to beds of earth, covered with plots of grass, and ornamented with shrubs in every variety of evergreen. Round the margin of the "garden" is a row of neatly-executed octagonal pillars of stone, which are intended as a protection to the beds. The earth is sustained round the edges by blocks of granite, so embedded that the fronts and upper sides only are visible. Novel means of drainage have been employed, the ground being preserved from saturation by circular wells, bricked round, into which the waste water will be carried. At present it is not publicly known whether it is intended to ornament the garden with a central fountain; such, however, is the general impression. The whole of the alterations are in excellent keeping, and the fact of a garden being planted within the area inclosed by the dingy walls of Lincoln's-Inn cannot but be regarded as indicative of the growth of feelings at once honourable to the "heads" of the "learned profession," and advantageous to the health of the citizens at large.

THE LATE EARL OF ROMNEY.—Probate of the will of the Right Hon. Charles, Earl of Romney, late of Boxley-house, in the county of Kent, who died on the 29th of March last, aged sixty-seven, was granted on the 15th instant to his son, the Right Hon. Charles, Earl of Romney (late Viscount Marsham). The personal estate in England is, sworn under 20,000*l.* He bequeaths to his wife 1,000*l.* for her immediate use, and leaves her the premises in Hertford-street, May-fair, and all the furniture at Boxley-house, and his stock and certificates in the Bank of Pennsylvania, and other foreign stock; he directs 10,000*l.*, under settlement, to be divided between his son, the present earl, and his daughter Charlotte, and bequeaths her an annuity of 300*l.* and a legacy of 500*l.* for her immediate use. The residue he bequeaths to his son the Earl of Romney.

WILL OF A MILLIONAIRE.—The will and codicil of Mr. Phillip John Miles, late of Bristol, banker, has just been proved in Doctors' Commons by Mr. William Miles, Mr. Philip William Skinner Miles, and Mr. John William Miles, the sons and executors, who have sworn the personal property alone to be above the value of a million sterling (the highest amount to which duty is payable). The deceased bequeaths to his sons (eight in number) 100,000*l.* each, and to William Miles an additional sum of 50,000*l.*; to his grandsons 100*l.* each; to several god sons 200*l.* each; to nieces and many other relatives legacies varying from 100*l.* to 3,000*l.*; to his two solicitors 200*l.* each, and legacies to three of his confidential clerks; to each of his banking partners legacies varying from 100*l.* to 300*l.* He observes that he has provided for his three eldest daughters, on their marriage, and bequeaths them 1,000*l.* each, and directs his collection of pictures and best service of plate to go with his mansion, in the nature of heirlooms. He gives to the Herefordshire Infirmary 200*l.*; to the Somersetshire Infirmary, 200*l.*; to the Gloucester Infirmary, 200*l.*; to the Bristol Infirmary, 500*l.*; to the Bristol Dispensary, 50*l.*; to the Lying-in Institution at Bristol, 50*l.*; and to three Dorcas Societies, 50*l.* each. He directs sufficient money to be invested to produce the sum of 70*l.* yearly, which is to be laid out in the purchase of bread and meat, and distributed every 1st of March to the poor of four neighbouring parishes. The residue, after very many legacies, is given to his sons and executors. The will is dated in 1842, and is of great length (79 sheets of paper, or 360 folios). The codicil is dated in 1844. The stamp affixed to the probate is of the value of 15,750*l.*

WILL OF THE LATE EARL OF ST. GERMANS.—Probate of the will of the Right Honourable William, Earl of St. Germans, late of Port Elliot, in the county of Cornwall, who died on the 19th of January last, was granted to the Right Hon. Edward Granville, Earl of St. Germans, heretofore Lord Eliot, the sole executor. The personal estate in England sworn under 30,000*l.* Bequeaths to his daughter, Lady Caroline Georgiana Eliot, an annuity of 400*l.*, and leaves her all the furniture, &c. in the house in New Burlington-street, except pictures. The rest and residue of his property of every description, and wheresoever situate, he bequeaths to the present Earl. The will is very short, dated 9th of May, 1843, signed St. Germans."

WILL OF THE LATE BARON GURNEY.—Probate of the will of Sir John Gurney, Knight, of Lincoln's inn-fields, late one of the Barons of her Majesty's Court of Exchequer, was granted on the 6th instant to his sons, the Rev. John Hampden Gurney, clerk, Russell Gurney, esq. and Sidney Gurney, esq. the executors. Personal estate sworn under 80,000*l.* Sir John died on the 1st of March last, aged 77. He leaves his wife 6,000*l.* and the furniture, &c. also the residue of his property for her life. His library (not law books) to be divided among his children after Lady Gurney has made a selection. Bequeaths to his eldest son, the Rev. John Hampden Gurney, a legacy of 8,000*l.* and the chambers in Paper-buildings. To his second son, Russell Gurney, barrister-at-law, he bequeaths all his freehold estates at Northlands and Abbots Farms, and the property at Cuckfield, in Sussex, and his chambers in King's Bench-walk; also his law library. To his son, Sidney Gurney, a legacy of 2,000*l.* To his three daughters ,000*l.* each. The residue of his property, at the death of Lady Gurney, to be divided among his children in portions, as directed by the will. To each of his nine grandchildren a legacy of 100*l.* and to his faithful clerk, who had been with him many years, a legacy of 400*l.* The will is written in draft, dated November 30, 1844, signed "John Gurney," witnessed by C. Ewens, Basinghall-street, and his clerk. On a separate paper is a list of his children and grand-children, and their ages, places of birth, &c.

WILL OF THE LATE MARQUESS OF WESTMINSTER.—Probate of the will and six codicils of the Most Honourable Robert, Marquess of Westminster, late of Eaton Hall, in the county of Chester, who died on the 17th of February last, was granted on the 15th instant to the most Honourable Richard, Marquess of Westminster, the son, one of the executors, a power being reserved to the Dowager Marchioness, the executrix, to prove hereafter. The personal estate in England, and within the province of Canterbury, sworn under 350,000*l.* Bequeaths to his wife an annuity of 6,500*l.* in addition to her property under settlement; devises and bequeaths his estates at Westminster and the manor of Ebury to his eldest son, the present marquess; to his son Thomas, Earl of Wilton, he devises his estates in the counties of Chester, Flint, and Denbigh, to be freed from any incumbrances, and bequeaths to him the presentation to the rectory of Prestwick, Lancashire. To his son Lord Robert Grosvenor, his Moor-park estate, and a legacy of 170,000*l.* Leaves the pictures, &c. in the gallery and elsewhere, at Grosvenor-house, together with the Nassuck diamond, weighing 357 grains, the magnificent brilliant earrings, weighing 223 grains, and the round brilliant, weighing 125 grains, as heir-looms. Also the pictures at Eaton-hall, as heir-looms with that property. Bequeaths to the present marquess the furniture and other moveables at Eaton Hall, and also the family jewels, and appoints him residuary legatee. The will is of some length, dated September 4, 1840, signed, "Westminster;" witnesses, John Boodle and William Rand. The sixth and last codicil is dated February 3, 1845, confirming the will.

CORRESPONDENCE.

SELECTIONS FROM CORRESPONDENCE.

The following letter, signed "S." treats of that much disputed question, and would have appeared last week but for want of room.

AUDIENCE OF COUNSEL AT SESSIONS.

This is a very important question. It is one which has been prominently mooted in Flintshire, but is nowise settled there. I may as well premise by stating that I take a moderate view of the matter, and am equally disinclined to espouse either extreme; at the same time I feel so fully impressed with the validity of the reasons advanced in a leading article of the LAW TIMES of this day three weeks, that I cannot but condemn the conduct of the Flintshire justices, and lament the course taken by the attorneys who practise at those sessions. They evidently pique themselves much on their unanimity; but, if the feeling of the great body of their brethren is any test of the matter, they are unanimously wrong.

"The President of the Denbighshire and Flintshire Law Association" (Mr. EYTON, and the thirty-five other attorneys who signed the document published a fortnight ago, base their opposition mainly on the opinions pronounced by the Recorders of Oxford and Lichfield on the right of attorneys to practise at sessions. (4 LAW TIMES, 303.) Nobody doubts this right; it is sanctioned by usage and special enactment; but what was the decision given by these Recorders—the echo, be it remembered, of Lord DENMAN's opinion? It was this:—That barristers were *entitled to* PRE-AUDIENCE, *though not to* SOLE *audience*. But is this the course adopted by the bench and the three dozen attorneys of Flintshire? *It is not.* Their decision practically is to exclude counsel. Not only does Lord DENMAN's dictum afford no foundation for their conduct, but it is directly at variance with it. Instead of giving pre-audience to barristers, they are giving it to attorneys. Is there a man among them who denies this to be a fact? So long as counsel sit unemployed whilst attorneys are engaged, the pre-audience is with the latter, by whom the former are excluded. It needs not that I should take upon myself to construe the term pre-audience: it is done ready to hand by a higher authority than your correspondent, and even a higher one than any in Flintshire. Mr. Serjeant TALFOURD, in his last edition of *Dickenson's Quarter Sessions*, p. 135, says:—"In cases where counsel have not been accustomed to attend, but two or more barristers wish to do so, it is usual for them to intimate their desire to the chairman or recorder, and to request that they may have *pre-audience; and if this request is granted, the attorneys cannot afterwards be heard in their presence unless all who attend should be retained on one side.*" Now this is precisely what *pre-audience* means; it means that counsel shall be heard in preference to attorneys, but not in exclusion of them. It may be that but one counsel is in attendance, therefore sole or exclusive audience is an untenable demand; and it may very well be that in an appeal case there may not be four counsel present, and then an attorney would have a right audience. But beyond this Lord DENMAN's opinion does not go; and in giving attorneys a right to be heard in preference to barristers I think the Flintshire bench have directly opposed themselves to the judgment of Lord DENMAN.

The proper mode of bringing the question to an issue is, I incline to think, by applying to the Court of Queen's Bench for a *mandamus* to the justices of Flintshire, or such order as the Court may deem proper under the circumstances of the case. Be this as it may, the barristers who have begun this matter *must not let it drop*. They are bound to have the question decided by competent authority, for it affects both branches of the profession, and involves, or may involve, highly important interests.

On the general policy of the right of counsel to be heard in preference to attorneys I think that (out of Flintshire) little doubt exists. Attorneys have a field of practice quite large enough without adding the distinctive functions of advocates. Their local feelings are apt to arise, and the conduct of business is more impassioned and less decorous. I know nothing of Flintshire attorneys, they may be competent as counsel, and icebergs in temperament,—they may be all they say of themselves, and the barristers who appeared among them may be as briefless as they are described

by Mr. EYTON, and yet is the general policy and expediency of the rule unaltered. Attorneys of eminence and respectability habitually refrain from enacting the advocate unless compelled to do so by the circumstances of the case. This at least is the rule; a rule honoured and sanctioned by the great body of the Profession. I insist on the general principle. I know I am fortified in it by the voice and feeling of the great body of the attorneys of England. Law there may be none on the subject; but there is the opinion of the first and noblest of our judges—that of the best and highest text-book on the subject—and that of the general opinion and all but universal usage of the Profession itself, against the three-dozen gentlemen in Flintshire, whom, therefore, I venture to think wrong. I think them, moreover, wrong in manner as well as in matter. Why do they impute incompetency to Counsel whom they have never tried? They say:—

"That the barristers who attended and claimed exclusive audience at the last Flintshire sessions may, without invidiousness, be designated as of small standing at the bar; as not one of them to our knowledge has ever been engaged in a parish appeal, by far the most important and intricate branch of sessions practice, or ever drawn or settled the grounds of an appeal, which latter demand more practical than theoretical knowledge of the Law of Settlement; and it is not known that any one of them has ever led in a prosecution, or been intrusted with the defence of a prisoner."

How do they know this? I am assured, on very good authority, that this is not the fact. And whether or not, these vague imputations against five or six professional men may be of serious injury to them. The fact that they have little business, if true, is no sort of proof of their incompetency; on the contrary, in the country, it frequently happens that the most competent have very little business, and *vice versâ*. It is said they cannot speak Welsh; neither can the counsel who attend the Assizes.

On the other side, it is alleged, that very improper reflections have been cast on these attorneys. If so, I, for one, strongly condemn them. If courtesy and forbearance, both in act and word, were ever required, it would be clearly on the part of a set of professional men, who, whether rightly or wrongly, are proceeding to take a certain share of business from others. I think any such intemperance of language, or undue reflection, most reprehensible; but that in nowise prevents me from upholding the right and the expediency of pre-audience for counsel at all sessions. I hope the Flintshire justices will review their decision.

NOTICE TO SUBSCRIBERS.

The Publisher begs to inform the Subscribers to the LAW TIMES *that the subscription for the current half-year should be transmitted in the course of the ensuing week, by those who wish to avail themselves of the advantages of pre-payment.*

The pre-paid subscription for the current half-year of THE CRITIC, *henceforth to be published weekly, will be 8s. 6d. only.*

The Indices to the fourth volume being now completed, the numbers for binding may be sent, through the post, in parcels open at the ends, with a mark by which they may be known, and of which the Publisher should be advised by letter, as also how, when bound, it is to be returned. If sent by parcel, advantage may be taken of the opportunity to inclose other books for the binder.

The Volumes of the LAW TIMES, *handsomely and uniformly bound, at 5s. 6d. each, if forwarded to the Office; with the Solicitor's name and abode lettered on the cover,* 1s. *extra.*

An Alphabetical Index to the Cases in the current Volume of the LAW TIMES *always lies at the Office for the purpose of reference.*

THE LAW TIMES.

SATURDAY, MAY 24, 1845.

TO READERS.

THE present is the first of the enlarged numbers of the LAW TIMES, which will in future be substituted for Supplements, whose great cost (each one being attended with *a loss* of no less than 40*l.*) has of course deterred us from resorting to them save in the most urgent necessity. By the present arrangement that loss will be so much reduced that we shall be enabled, whenever required by influx of reports or other matter of immediate interest, to provide for the occasion without serious inconvenience.

The present enlarged number, containing so many judgments and other important matters, will best illustrate the rule that will in future direct a resort to the same method for placing in the hands of the Profession the earliest and amplest information of all kinds; and during this busy period of the year such enlargements must necessarily be very frequent.

Many articles in type have been postponed to afford room for the important judgment in *Howard* v. *Gossett*, which is a *verbatim* report taken expressly for the LAW TIMES by Mr. GREGORY, short-hand writer. We were desirous of bringing up arrears of the one Term before the commencement of the next.

THE BAR AND THE PRESS.

AT last the *Times* has condescended to take some notice of the universal expression of disgust and indignation occasioned by its nefarious conduct in garbling and falsifying its reports, for the purpose of punishing Mr. Sergeant TALFOURD for some offence unknown to any but the conductors of that Journal, or, as some confidently assert, with the still more infamous design of advancing a rival of the learned sergeant, who happens to be connected, by ties of relationship, with some or one of the conductors of the *Times*.

But the form in which the defence appears, as well as its substance, partakes of the base and pettifogging character of the offence. It is unmanly and un-English, and must increase the contempt and loathing which have been already excited, wherever the story has been told. A letter appears, in large type, under the signature of "*The Editor of a Country Newspaper*;" but so palpable a fraud could impose upon no person; and, to give it an air of probability, a postscript states that the writer has sent his name and address, which he begs the Editor to make no secret of, if the authenticity of his communication be called in question. Never was there a more clumsy disguise. What Editor of a country newspaper has such an interest in the matter as to thank the *Times* for the course it has pursued? If it be possible for any to excuse the *Times*, and consider that it has not done wrongly in this matter, certainly there is no sane man who would see in the falsification of reports, to gratify private spleen or personal interests, a subject for congratulation and thanks. The letter is, in truth, a leading article, from the pen of the Editor, and intended to be his defence.

And what a defence! No acknowledgment of error; no apology to the public for the imposition attempted to be practised upon them; no promise of amendment. On the contrary, it is an elaborate attempt to justify the deed. But we must place it on record as a part of the legal history of the year.

TO THE EDITOR OF THE TIMES.

SIR,—As a member of the press, I beg to offer you my hearty thanks for the uniform consistency and jealous care with which you uphold the dignity and privileges of the journalist; and I regret exceedingly that, in vindicating our claims to social rank and position, you cannot rely upon the co-operation of your contemporaries of the daily press. The sordid feeling that they are rival traders, and have a common interest in attempting to write down the *Times*, is so grossly apparent in the columns of the twin journals, that we naturally look to see them take up a position of trading hostility to the leading journal. But that another morning contemporary, whose pathetic exclamations on the degraded social position of English as compared with French journalists you transferred to your columns a few days ago, should join in the hue and cry against the *Times*, in a matter vitally affecting the honour of the press, may well lead one to doubt whether such representatives of our common profession deserve to have their pretensions to social equality with the highest in the land recognized and admitted.

I trust you will not consider it descending from the high ground you have very properly taken in a matter just now occupying attention among the Bar and the press, to allow me to offer a few remarks on the abstract question at issue.

Is a journal, then, bound to publish the name of a counsel engaged in suits which may be reported in its columns?

I maintain the negative of this proposition. If an editor thinks fit to mention a circumstance wholly unconnected with the principle of law at issue in the cause, it is pure matter of grace and favour on his part. If a barrister finds his name in the papers, his praises in every man's mouth, and his briefs in every attorney's blue bag, let him be grateful to the fourth estate, which has pushed him up the ladder of legal promotion, and helped him to professional emolument. But if he chance to find himself addressing only the Court in which he is pleading, and the auditors it may happen to contain, let him envy the happier fortune of his brethren who are permitted to put their lips to the great speaking-trumpet through which they are allowed to address the whole civilized world. If he is a wise man he will bethink himself where and what public insult he offered to the journal whose interests it is the duty of its conductors to protect, or whether some overweening conceit or desire to fill the public eye does not impose upon the journalist a corresponding duty of discouragement.

No man will contend that an editor is bound to contribute towards the public influence of a man who uses that interest to the prejudice of the journal he represents. And again, every newspaper editor knows how often it is necessary to set his face against the attempts of some persons to obtain for themselves incessant notoriety by means of the press. Here, then, are two cases in which the possession of the power of excision, and of saying what shall, and what shall not, be published in his paper, are absolutely necessary for the protection of the editor, and that of the public.

The name of the counsel is an accident in any case reported, which in no degree affects any principle at issue, any fact that may be stated, or any argument that may be employed. It is not necessary, and answers no useful purpose, that even the judge who tries the case should know the name of the advocate, or the circumstances of his eminence. The duty of a journalist is clear. He must not misstate the facts of the case. He must not convert John Doe into the defendant, when he should figure as the plaintiff. Names, dates, and figures connected with the trial we look to have correctly represented. The Bar may even demand that a legal argument shall be reported with strict technical accuracy, if reported at all. And, believing, as I do, in the resources of the *Times*, I have little doubt that you will gratify the public when necessary and convenient, although you may be denied the assistance of any members of the Bar itself. But whether Mr. Bagfull or Mr. Briefless let out their tongues for hire on this side or that, or on neither, is a question very important, no doubt, to Mr. Bagfull and Mr. Briefless, and interesting enough to their half-dozen friends, but which an editor and his readers may be allowed to arrange between themselves in an amicable manner. I think I may venture to say that we seldom omit to publish what any large section of our readers care to know.

There are plenty of authors, actors, orators, and dramatists who reward with a sneer the profession that deals out to them fame, and more substantial benefits, with a liberal hand. These persons are, no doubt, delighted to see the attempt now made to wrest from the hands of the conductors of the press the privilege of deciding what modicum of personal intelligence they shall publish. By-and-by we shall have some one proclaiming himself a martyr, because the *Times* won't review his book; another, because the *Times* permits him to appear on the stage of Drury-lane without chronicling his *debut*. A politician will exclaim on the injury done to his professional prospects by the omission of his name in the list of those present at a fashionable party, and the non-publication in the *Times*, of his speech at a hole-and-corner meeting of his constituents. While the adapter and translator of the last French vaudeville will rend the air with complaints that the *Times* notices the trifle, and does not think it necessary to hand down to immortality the larcenist. To all these

classes of persons it is of at least as much pecuniary importance as to the successful advocate, that their labours should be recited in your diurnal columns, yet they have not as yet raised the wail of persecution because in the exercise of your discretion you occasionally condemn them to obscurity. *It is left to* **the Bar** to put on the air of injured innocence, and to **say** to the press, "You would not do it to one of **your own size!**" The peculiar modesty of the Bar **occasionally,** it must be confessed, stands them in **good stead.**

It is reported that the Bar mess on one circuit have **endeavoured** to brand the press as an inferior profes**sion,** by forbidding its members to report for the **newspapers.** If the daily papers were animated by **the** *esprit de corps* of their French neighbours, now **would** be the opportunity to shew the barristers on **this** circuit how much the Bar owes to the press, and **how** little, on the other hand, we are indebted to the **Bar.** And that is the inferior profession, forsooth, **whose** breath is necessary to the other's success, and **which** slays learned counsel when it ceases to notice **them.**

Your obliged and grateful servant,

THE EDITOR OF A COUNTRY NEWSPAPER.

P.S. I inclose my name and address, which I beg **you** will make no secret of, if the authenticity of my **communication** is called in question.

The *Times* denies that a journal is bound to publish the name of the Counsel engaged in suits reported in its columns. The proposition cannot be disputed. A journal has a right to exercise its discretion whether it will name the Counsel at all. But that is *not* the question now at issue. The offence of the *Times* does not consist in *not* reporting, but in *falsely* reporting. If Mr. Sergeant TALFOURD were engaged alone in any case, the *Times* would have a right to omit his name, and say merely, "The Counsel for the plaintiff," or as the case may be. Of this no complaint could be made, however we might despise the motives that tempted to the exercise of such a form of enmity. But the reports under consideration are of very different character. They publish the names of some of the Counsel, omitting only that of the object of hostility. They give to the world as the arguments of B and C what in fact were the arguments of A, B, and C, or rather what were the arguments of A—for the leader's in almost every case are the lips by which the substance of the argument is stated to the Court. Therefore the real offence of the *Times* is not, as it desires the world to believe, a mere omission of a Counsel's name, but the publication of a deliberate falsehood. Always hateful is that to Englishmen, but peculiarly detestable when it is resorted to with the base motives that have tempted the *Times* into a course as discreditable to English journalism as, happily, it is new—for we doubt if ever before there has been an instance among English newspapers of advantage being taken of his position by the Editor, to use it for the advancement of *private* ends. The practice has been borrowed from the lowest of the American journals, and though to the *leading* English journal belongs the bad eminence of being the first to introduce it here, we trust that the universal burst of indignation with which it has been received, will shew it to be so thoroughly un-English, that all other journals will fear to follow the example. If so, out of evil will come a great good.

We must defer to another week some further remarks in support of the position that a Barrister cannot, consistently with his professional position, or his character as a gentleman, report for the *Times*.

ADVERTISING ATTORNEYS.

THE following is the richest specimen we have yet seen of this disreputable practice. It appeared in the *Cambridge Independent Press* of the 17th inst. The first advertisement was placed in one column and the other in another.

There is some ingenuity in this scheme of advertising oneself under pretence of finding fault with another.

TO THE EMBARRASSED.—IMPORTANT

There are thousands of persons who have struggled long against the force of misfortune, but few are aware that by a very recent Act all small traders owing debts not exceeding 300*l*., farmers, and all others owing to any amount, can be entirely raised from their difficulties, at a small expense, and without imprisonment or bankruptcy. All such Mr. Weston begs will apply to him at Moira Chambers, 17, Ironmonger-lane, Cheapside, by letter or personally.

TO THE EMBARRASSED.—IMPORTANT.

Mr. Editor,—An advertisement, headed as above, appeared in your paper of last Saturday, directing persons in embarrassed circumstances, and desirous of being released from their difficulties without imprisonment or bankruptcy, to apply to a Mr. Weston, Ironmonger-lane, London, who, however, I would observe, does not describe himself as a solicitor, nor does he appear as such in the Law List. I have had considerable practice in the Insolvent Debtors' Court during the last twelve years, both in this and the adjoining counties of Huntingdon and Bedford, and being a solicitor of the Court of Bankruptcy, I beg to inform all such persons as may be desirous of availing themselves of the recent Act, that they need not incur the trouble and expense of a journey to London to consult any party there, but that by applying to me (either personally or by letter), they may, at a moderate cost, obtain their protection. I have had several cases under the recent Act *without advertising* for them, and I may be allowed to express my thorough dislike of that most unprofessional method of obtruding oneself on the notice of persons requiring legal assistance, and that my only object in troubling you and the public with this letter is, to prevent the parties to whom Mr. Weston's advertisement is particularly addressed being impressed with the idea that it is necessary for them to employ some one resident in London, to transact the business for them.

Yours respectfully,

JAMES HUNT.

Cambridge, 16th of May, 1845.

VERULAM SOCIETY.

THE 12th number of *Real Property and Conveyancing Cases*, completing Part III. has been issued.

The 6th number of *Cox's Criminal Law Cases*, and the 6th number of *Practice Cases*, will be ready by Saturday next. The latter will commence the Equity Practice Cases.

Some valuable Precedents of Indictments will be appended to the *Criminal Law Cases*.

Cox and Atkinson's Registration Appeals are in the press.

Many more forms are in progress; among them Bastardy Forms, as set forth in the schedule to the new Act.

The subscriptions for the present year are due, and payment is requested.

As the prices at which the publications of the Verulam Society are supplied to members can only be sustained by the plan of pre-payment; in order to secure this it will be necessary to adopt the same arrangement as with the LAW TIMES, and therefore the members are requested to observe, that unless the subscriptions be regularly paid in advance, all the Reports, books, and Forms supplied will be charged to them at the full prices as to the public.

The very large number of defaulters, who have ordered and received the publications of the Society, but from whom neither entrance-fee nor subscription can be procured, nor even the courtesy of a reply to frequent applications, compels the adoption of the rule above stated, and which will be strictly observed for the future.

As a last resort, when letters have been tried in vain, the names of the defaulters will be notified to the members.

THE CRITIC.

New Books.

The Law of Bankruptcy, Insolvency, and Mercantile Sequestration in Scotland. By JOHN HILL BURTON, Esq. advocate. Part the Second. Edinburgh, 1845. W. Tait.

THIS is a continuation of the work noticed in the LAW TIMES some time since as being the best compendium of the Scottish law of bankruptcy. In its arrangement it is a model of legal writing, and the author's plans might advantageously be adopted in our own law books. **All who have occasion to look into the law of Scotland, as it relates to the subjects named upon the title-page, should refer to the volumes of Mr. BURTON as the best and the most accessible authority.**

The Law Magazine, for May. No. III. New Series. Benning and Co.

THIS new number contains many articles of interest and worth; some on jurisprudence, some on practical law, some biographical, some critical, but all remarkable for ability. The first essay is on the subject of Criminal Law Reform, a few branches only of which are reviewed; but the commentary will, we hope, be continued. The second article is a practical one, "On the sale of Reversionary Terms for raising portions," and it will be read with advantage both by the practitioner and the student. "The Business Arrangements of the Courts" abounds in useful suggestions, which will, we trust, attract the attention of those in whom is vested the power of adopting them. The fourth article handles, with great acumen, the legal question as to the right of the Secretary of State to open letters at the Post-office. The writer doubts whether the power exists in law, but he is satisfied that it ought not to be exercised. "The Game Laws" are next reviewed and defended. A brief memoir of the late Mr. Baron GURNEY follows, and which we shall take an early opportunity of submitting to our readers. The seventh article reviews the new edition of Selwyn's Nisi Prius, and this is followed by an interesting and elaborate notice of the recent edition of Saunders's Reports. A short, but elegantly-written memoir of the late Lord WYNFORD; a powerful, deep-thoughted essay, suggested by the murders that have been so rife for some months past; a learned examination of the "*habeas corpus* in Jersey" question; and a vigorous, severe, but not altogether unmerited stricture on "Lord Eldon, his Biography and its Reviewers," complete the more elaborate papers; this last being the most able, as it certainly will be the most attractive article in the number. The usual notes on leading cases, events of the quarter, &c. follow. We regret that other more urgent claims forbid the insertion, just now, of any one of the many interesting and instructive passages we had marked for extract; but, as opportunity may offer, we will return to them.

Public Sales.

By Mr. F. CHINNOCK.

A plot of buildin[illegible] ound, [illegible] Kensington-park, Notting-hill, presenting sites for the erection of eighteen detached villas, with gardens to each, containing with the road 3a. 3r. at an apportioned ground-rent of 27*l*. bounded on the east by Porto Bello-road, and fronting west to an intended [illegible]

A plot of buil[illegible]ng ground abutting north on the preceding lot, containing 3a. 3r. 10p. at an apportioned ground-rent of 56*l*. 18s.—560*l*.

A plot of ground adjoining on the south side, containing 2a. 3r. 11p. at an apportioned ground-rent of 80*l*.—1,010*l*.

A plot of ground forming that portion of the estate which comprises the centre gardens and frontages of Ladbroke-square, containing, with the roads, 12a. 2r. 6p. at the apportioned ground-rent of 285*l*. per annum—1,860*l*.

A ditto, containing, with the roads, 1a. 2r. 8p. at an apportioned ground-rent of 60*l*.—620*l*.

A semicircular plot of ground, containing 2a. 3r. 20p. at an apportioned ground-rent of 12*l*.—650*l*.

A plot of ground, containing, with the roads, 9a. 2r. 15p. at the apportioned ground-rent of 9*l*. 10s. forming the extreme northern portion of the estate, affording sites for the erection of fifty-three houses, to form part of Somerset-terrace, and for three detached villas, fronting to Westbourne-terrace—310*l*.

A plot of ground, situate on the east side of Ladbroke-square, affording sites for the erection of four first-class houses, the foundations of which are dug; at the ground-rent of 16*l*.—250*l*.

A plot of land situate on the east side of Ladbroke-terrace, presenting sites for the erection of five first-class houses, the carcases of which are partly built.—450*l*.

A ground-rent of 13*l*. per annum, held for ninety-seven years from Michaelmas, 1842, arising out of a residence, No. 23, Ladbroke-square—260*l*.

Five similar lots produced 260*l*. each lot.

By Messrs. FULLER and MARSH.

The public-house called the Cock and Crown, in High-street, Hampstead; held for a term expiring at Christmas, 1856, at 12*l*. per annum. Also a covenant for a renewal of 9 years, at the same rent—700*l*.

By Messrs. ELLIS and SON, at Garraway's.

An improved rent of 200*l*. per annum arising from capital Premises, No. 32, Fenchurch-street, near Mincing-lane, now occupied as commercial chambers, and let to highly respectable tenants. Held for 30 years at 350*l*. per annum. —1,350*l*.

A freehold superior residence, with excellent offices, &c. No. 28, Lawrence Pountney-lane, Cannon-street, near King William-street, City—2,400*l*.

A capital freehold dwelling-house, with counting-houses and extensive arched vaults, No. 23, Crutched-friars, City, and a substantial warehouse in the rear—2,610*l*.

A stack of freehold warehouses, with counting-houses and arched vaults, No. 27, Savage-gardens, Crutched-friar—1,470*l.*

By Messrs. SHUTTLEWORTH and SONS.

Two houses, Nos. 17 and 18, Cambridge-square, Hyd Park, with a stable and coach-house in Oxford-mews; hel for 93 years from Christmas, 1842, free of rent; let for the whole term at 57*l.* 10s. per annum—1,300*l.*

Two ditto, Nos. 20 and 21, ditto; let for the whole term at 64*l.* 10s. per annum—1,455*l.*

Two ditto, Nos. 22 and 23; let for the whole term 71*l.* 12s. per annum—1,610*l.*

Two ditto, Nos. 24 and 25; held for 93 years from Christmas, 1842, subject to the original ground-rents, of 2*l.* payable for the whole of the property; to be borne exclusively by this lot; let for the whole term at 78*l.* 15s. per annum 1,740*l.*

Two houses, Nos. 27 and 28, Cambridge-square, wit stables and coach-house in Oxford-mews, as the precedin lots, and held for the same term, let for the whole term a 63*l.* per annum—1,410*l.*

By Mr. MASON, at Garraway's.

A freehold residence, at the Triangle, Mare-street, Hackney—1,385*l.*

A leasehold residence, No. 7, Lincoln-place, New North road, let at 35*l.* per annum; ground rent 7*l.*; term unexpired 42 years—315*l.*

A dwelling-house, 22, Vaughan-terrace, City-road, let a 30*l.* per annum; ground-rent 5*l.*; held for 48 years unexpired—255*l.*

A house, Princess-street, Clerkenwell, let at 18*l.*; ground rent 3*l.*; term unexpired 36 years—120*l.*

A copyhold house, Turner's-hill, Cheshunt, let at 23*l.* annum—295*l.*

A residence, No. 2, Hill-street, Kensington, of the annual value of 70*l.* held for ninety-two years, at a ground-ren of 16*l.* 16s.—550 guineas.

A ditto, No. 4, in the same street, of the annual value o 55*l.* held for the same period, at a ground-rent of 8*l.* 8s. 415 guineas.

By Messrs. MUSGROVE and GADSDEN, at the Mart.

The lease of the Caledonian tavern and wine-vaults, Stok Newington-road, near West Hackney, held for 66 years, a 42*l.* per annum—1,410*l.*

A leasehold property, comprising ground-rents amounting to 130*l.* per annum, arising from houses contiguous to the above property. Also, four houses in Wellington-road, le at 90*l.*; together with three large plots of building-groun in Wellington-road, and Somerford-grove, Stoke Newington in all about 1,700 feet; held for 66 years, at a ground-ren of 42*l.* per annum—3,670*l.*

A leasehold property, comprising ground-rents amounting to 43*l.* 5s. arising from seven houses in Wellington-road, let at 81*l.* per annum; together with plots of building-ground in Wellington-road, in all about 320 feet; held for 66 years, at a ground-rent of 40*l.* per annum—1,010*l.*

Four houses, Nos. 6 to 9, Hanger-lane, Stamford-hill, let at 59*l.* per annum; held for 99 years, from Lady-day 1842, at a ground-rent of 12*l.* 12s. per annum—435*l.*

By Mr. MELVIN, at the Auction Mart.

A leasehold house, No. 10, Leigh-street, Burton-crescent, held at 17 guineas per annum, for a term of 61 years—305*l.*

Stabling and coach-houses in Keppel-mews North, Russell-square; held for 37 years, at 7*l.* 18s. per annum; let on lease at 28*l.* per annum—165*l.*

THE following scale of charges, *reduced more than one-third*, has been adopted for Advertisements of Estates for Sale, &c. exceeding 10 lines in length:

For the first 70 words . . . . . 5s.
For every succeeding 30 words . 1s.

THE MONEY MARKET.

		M	T			
Three per Cents. Consols	99¼	99¼	99½	99¼	99¼	99½
Three per Cents. Reduced	98¼	98¼	98¼	98⅛	98¼	98¼
New Three-&-a-quarter per Cts	100¾	101	101¼	101¼	101¼	101¼
Long Annuities..............	11¼	11⅛	11⅛	11⅛	11¼	11¼
Bank Stock	209¾	210	210	210¼	210⅛	211
India Stock	278	278¼	279	279½	280	280
India Bonds, prem.........		75	74	74	75	75
Exchequer Bills, prem.		58		58	59	59
FOREIGN.						
Spanish Five per Cents.....	30¼	30⅛	30¼	30⅛	30¼	30¼
Spanish Three per Cents.	42¼	42⅜	42¼	42⅛	42¼	42¼
Russian	117¾	117½	117¾	117¾	117	117¾
Peruvian......................	31	31	31	31¼	31	
Portuguese	67	67¼	67¼	67¼	67[illegible]	
Mexican......................	37	37¼	37¾	37¾	38	
——— Deferred	17	17¼	17⅛	17½	17⅛	
Dutch Two-and-a-Half per Cents.	63¼	63⅜	63¼	61¼	63⅛	
Four per Cents.	97¾		98¾	98¼	98¼	
Danish	88		89¼	88¼	89	
Colombian ...	15¾		15¼	15¾	15⅛	
Chilian	99¼	99¼	99¼	99¾	100	
Buenos Ayres	43	43½	43½	43¼	43½	
Brazilian.....	89⅛	88½	89	89¼	89[illegible]	[illegible]
Belgian	98⅛	99¼	99¼	99⅛	98¼	99

THE GAZETTES.

The sum stated as the Dividend means so much declared in the Pound. The Assignees, when chosen, follow this statement.

Tuesday, May 13.

Breckels, J. bedstead maker, last exam. passed.—*Footner*, R. cabinet maker, div. next week. Johnson, London.—*Gardner*, G. tavern keeper, last exam. passed.—*Kilford*, T. cabinet maker, last exam. passed.—*Lampard*, J. printer, last exam. passed.—*Leplastrier*, L. watch maker, assignees June 6.—*Lorden* and *Hadley*, builders, fin. jt. div. and sep. of Hadley next week. Edwards, London.—*Smirk*, J. E. victualler assignees June 13.—*Williams*, T. H. wine merchant, last exam. June 3.

Wednesday, May 14.

Butler, G. builder, div. next week. Bell, London.—*Schaffer*, J. fringeman, last exam. June 6.

Friday, May 16.

Clover, W. G. linen draper, last exam. passed; div. next week. Whitmore, London.—*Currie* and *Co.* merchants, last exam. June 13.—*Day*, C. chemist, last exam. June 10.—*Dingley*, T. draper, last exam. passed.—*Giles*, W. boarding-house keeper, last exam. June 24.—*Green*, E. tailor, div next week. Alsager, London.—*Hagg*, I. tailor, div. next week. Belcher, London.—*Paulton*, J. mason, last exam. passed.—*Trivett*, F. T. draper, div. next week. Bell, London.—*Wehnert*, H. tailor, fin. div. next week. Whitmore, London.

DIVIDENDS.

Bankrupts' Estates.

Official Assignees are given, to whom apply for the Dividends.

Ayling, J. cabinet maker, first, 8s. Turquand, London—*Barwick*, J. F. wheelwright, first, 4s. 1d. Graham, London.—*Barwise*, J. house decorator, none made. Alsager, London.—*Bates*, J. coachmaker, final, none made. Johnson, London.—*Battye*, J. linen draper, 1s. Alsager, London.—*Bourne*, J. G. carpenter, none made. Green, London *Boyce*, S. C. oil merchant, final, 9d. to new proofs. Johnson London.—*Brooks*, W. lamp manufacturer, fourth, 4¾d. Groom, London. *Bull* and *Co.* drapers, final, joint, none made. Belcher, London.—*Cartwright*, T. banker, first, 6⅛d. Pott, Manchester.—*Caton*, W. ironmonger, first and final, 7s. 8½d. to new proofs, final, 6⅜d. Fraser, Manchester.—*Clay*, J. draper, 1d. Johnson, London.—*Cox*, J. cabinet maker, 6s. Follett, London.—*Creeke*, T. tailor, second, 11d. Graham, London.—*Crosfield*, T. draper, &c. first, 5s. Fraser, Manchester.—*Cross*, R. saddler, 3s. Edwards, London.—*Daly*, C. bookseller, final, adjourned. Belcher, London.—*Dean*, R. builder, sine die. Johnson, London.—*Duncan* and *Co.* merchants, sine die. Johnson, London.—*Eaton*, R. butcher, 1s. 2d. Bell, London.—*Evans* and *Co.* merchants, joint div. and sep. of Evans, sine die. Alsager, London.—*Evans* and *Co*, paper stainers, joint, sine die. Alsager, London.—*Fenner* and *Co.* merchants, final of L. Fenner, 4s. W. Fenner, none made. Follett, London.—*Ginger*, T. innkeeper, none made. Edwards, London.—*Graves*, R. saddler, adjourned. Johnson, London.—*Greenwood*, R. bookseller, first, 4s. Young, Leeds.—*Heron* and *Co.* cotton spinners, final of J. H. Heron, 11-16ths of a 1d. Pott, Manchester.—*Higgins* and *Co.* hosiers, 2s. 6d. Bell, London.—*Hitchcock*, J. R. hosier, 2d. Bell, London.—*Hunt* and *Co.* merchants, final of R. H. Hunt, 8s. 6¼d. H. C. Hunt, 7¾d. Whitmore, London.—*Newton* and *Co.* engineers, 4s. 6d. Edwards, London.—*Oldham*, J. silk-warehouseman, 4s. Follett, London.—*Overington*, J. plumber, 6s. 3d. Belcher, London.—*Owen* and *Owen*, tailors, first, 8s. Turquand, London.—*Pearson*, W. draper, final, 2s. 10d. Green, London.—*Perkins*, W. upholsterer, 5s. Bell, London. *Potter* and *Co.* calico printers, first, 2s. 6d. Pott, Manchester.—*Reynolds*, T. jun. merchant, sine die. Edwards, London.—*Ridley*, G. merchant, 4s. 3d. Bell, London.—*Robinson*, C. tailor, final, 1s. Follett, London.—*Roderick*, D. victualler, 2d. Edwards, London.—*Sharp*, G. grocer, 2s. 6d. Morgan, Liverpool.—*Trivett*, F. T. draper, sine die. Bell, London.—*Trevitt*, J. butcher, first, 5s. 6d. Christie, Birmingham.—*Tucker*, R. farrier, 4s. Follett, London.—*Watson* and *Co* woollen warehousemen, joint, 2s. sep. sine die. Turquand, London.—*West*, F. T. coal merchant, none made. Bell, London.—*Williams*, H. shopkeeper, 8½d. Morgan, Liverpool.—*Williams*, J. B. stationer, 4s. 9d. Pennell, London.—*Younger*, S. chicory manufacturer, 11d. Bell, London.

ASSIGNMENTS

To Trustees for the benefit of Creditors.

Gazette, May 16.

Weeding, R. J. linendraper, Lynn, May 1. Trusts. W. H. Holyland, merchant, and G. Howes, warehouseman, both of St. Paul's-churchyard. Sol. Jones, Size-lane.

Gazette, May 20.

Stewart, A. upholsterer, London-road, May 10. Trust. . Hamilton, wholesale carpet warehouseman, Little Britain. Sol. Watson, Worship-street.—*Strange*, T. draper, Brackley, Northamptonshire, May 13. Trusts. W. Strange, mercer, Banbury, and T. Devas, warehouseman, Lawrence-lane. Sols. Soles and Turner, Aldermanbury.—*Welby*, W. R. grazier, Canterbury, April 26. Trusts. E. Homersham, builder, and G. Homersham, plumber, both of Canterbury. Sol. Walker, Canterbury.

Bankrupts.

DATE OF FIAT AND PETITIONING CREDITORS' NAMES.

Gazette, May 16.

COLE, FREDERIC LINDSAY, wine merchant, 101, Fenchurch-street, City, June 5, at twelve, June 27, at one, Basinghall-st. Com. Fane; Whitmore, off. ass.; Goddard, Wood-st. sol. Date of fiat, May 10; H. Donaldson, wine merchant, Mark-lane, pet. cr

HAMPREY, JOHN, money scrivener, Warwick, May 30 and June 24, at half-past ten, Birmingham; Valpy, off. ass.; Morris and Wallington, Warwick, and Harrison and Smith, Birmingham, sols. Date of fiat, April 29; R. G. Reading, druggist, Warwick, pet. cr.

LAWTON, EDWARD, and KAY, THOMAS, iron founders, Rochdale, Lancashire, June 2 and 30, at twelve, Manchester, Frazer, off. ass.; Mayhew and Son, Carey-st. and Halsall, Middleton, sols. Date of fiat, May 8. C. Tattersall, cotton warper, Rochdale, pet. cr.

LIVINGSTON, JAMES, and BRITTAIN, THOMAS, plumbers glaziers, and brass founders, Manchester, May 30, at eleven, June 20, at twelve, Manchester, Hobson, off. ass.; Kelsall, Chester, Goulden, Manchester, and Milne and Co. Temple, sols. Date of fiat, May 8. Sir E. S. Walker, knt. J. R. Walker, J. Walker, H. Walker, P. A. Walker, S. W. Parker, and S. Parker, jun. lead merchants, Chester, pet. crs.

RICHARDS, JAMES, plumber, painter, and glazier, Deptford-bridge, Kent, May 30, at half-past twelve, June 27, at twelve, Basinghall-st. Com. Fane; Alsager, off. ass.; Burn, Great Carter-lane, sol. Date of fiat, May 13. W. Robertson, W. Lockie, and R. M'Leod, glass merchants, Upper Thames-st. pet. crs.

RUSSELL, WILLIAM, KNOWLES, JAMES, and SIMISTER, HENRY, perchers, stiffeners, and dyers, Salford, Lancashire, May 24 and June 19, at eleven, Manchester, Pott, off. ass.; Vincent and Sherwood, Temple, and Todd, Manchester, sols. Date of fiat, May 6. T. Parkinson, drysalter, Bolton-le-Moors, pet. cr.

SUMMERS, WILLIAM, and RAE, NICHOLAS, rope makers Strangeways, Manchester, June 4 and July 1, at twelve, Manchester, Stanway, off. ass.; Makinson, Manchester, and Gregory and Co. Bedford-row, sols. Date of fiat, May 8. W. H. Winn, and J. Jones, flax merchants, Liverpool, pet. crs.

Gazette, May 20.

CLEMENT, GEORGE, and SAMMONS, HENRY, tea dealers and grocers, Nelson-terrace, Stoke Newington, Middlesex, May 27, at half-past one, July 1, at one, Basinghall-st. Com. Fonblanque; Belcher, off. ass.; Green, Great Carter-lane, sol. Date of fiat, May 19. Bankrupt's own petition.

DAVIS, WILLIAM, butcher, Compton, Tetttenhall, Staffordshire, May 26, June 23, at eleven, Birmingham, Com. Daniell; Whitmore, off. ass.; Motteram and Co. Birmingham, sols. Date of fiat, May 12. C. Callum, gent. Pattingham, Staffordshire, pet. cr.

GUIGUES, VICTOR, hotel and board and lodging house keeper, Leicester-st. Leicester-square, May 27 and July 1, at eleven, Basinghall-st. Com. Fonblanque; Belcher, off. ass.; Dawes, Serjeant's-inn, sol. Date of fiat, May 16. Bankrupt's own petition.

PARKER, JACOB, cabinet-maker and upholsterer, Cheltenham, Gloucestershire, May 30, at one, June 27, at eleven, Bristol, Com. Stevenson; Acraman, off. ass.; Packwood, Cheltenham, sol. Date of fiat, May 12. C. F. G. Harding and W. Harding, plate glass factors, 70, Fore-st. Cripplegate, pet. crs.

PEERS, GEORGE TUPPENNY, plumber, painter, and glazier, Ironmonger-lane, Cheapside, May 28, at eleven, June 25, at one, Basinghall-st. Com. Evans; Bell, off. ass.; Pain and Hatherley, Basinghall-st. and Gt. Marlborough-st. sols. Date of fiat, May 16. Bankrupt's own petition.

STOCKS, WILLIAM, merchant, New House, Huddersfield, Yorkshire, June 5 and July 3, at eleven, Leeds, Com. West; Freeman, off. ass.; Jacques and Co. Ely-place, and Kidd, Holmfirth, and Blackburn, Leeds, sols. Date of fiat, May 12. J. Ramsden, sen. manufacturer, Almondbury, pet. cr.

TERRY, HENRY, licensed victualler, now or late residing at the Old Swan public-house, Battersea, May 29, at two, and July 5, at twelve, Basinghall-st. Com. Goulburn; Green, off. ass.; Fisher and Co. Aldersgate-st. sols. Date of fiat, May 14. T. Gash, distiller, Aldersgate-st. pet. cr.

WATSON, WILLIAM, licensed victualler, Wakefield, Yorkshire, June 9 and 27, at eleven, Leeds, Com. Boteler; Fearne, off. ass.; Clarke, Chancery-lane, and Watson, Wakefield, sols. Date of fiat, May 16. C. Clapham and C. F. Gotthardt, wine and spirit merchants, Wakefield, pet. crs.

PARTNERSHIPS DISSOLVED.

Gazette, May 13.

Binns, W. and *Pilkington*, G. drapers, Salford, April 2.—*Chapman*, T. and *Dean*, J. hoop benders, Liverpool, Nov. 1.—*Hallum*, M. and E. candlewick manufacturers, Stockport, May 7. Debts paid by E. Hallum.—*Hancock*, R. and *Webb*, C. brush makers, Bath, May 9.—*Moens*, J. B. and *Ritchie*, T. and W. W. commission merchants, London, so far as regards Moens, May 1.—*Strawbridge*, G. and G. N. masons, Bristol and elsewhere, May 9.—*Taylor*, J. C. *Humphreys*, H. and *Hurst*, J. linen merchants, Manchester, May 12.—Debts paid by Humphreys.—*Whitworth*, C. and *Lightbown*, J. cheesemongers and provision dealers, Blackburn, May 9.—Debts paid by Whitworth.—*Worthington*, G. S. and *Vince*, G. wine and porter merchants, Lancaster, May 8. Debts paid by Vince.

Gazette, May 16.

Adderley, R. and G. and *Collingwood*, A. maltsters, Long-on, so far as regards G. Adderley, Dec. 4, and so far as regards A. Collingwood and R. Adderley, May 3. Debts paid by R. Adderley.—*Atcheson*, W. B. and *Yellowley*, H. drapers, Newcastle, May 8.—*Barnes*, R. and *Aspinall*, J. brass founders, Wigan, May 12.—*Bond*, W. and *Jones*, J. hosiers, Exeter, May 12.—*Brent*, T. and R. chemists, Red Lion-st. May 14. Debts paid by T. Brent.—*Cooper*, H. and *Butcher*, A. G. March 22.—*Colbatch*, W. and *Astley*, W. P. silk and trimming manufacturers, Aldermanbury, March 31.—*Eccles*, W. R., R., T. H., and A. coal proprietors, Pemberton and Orrell, Lancashire, Nov. 11, 1843.—*Eastwood*, and H., *Floyd*, D. and *Poulson*, E. pot manufacturers, illington-bridge, Yorkshire, April 3. Debts paid by H. Eastwood.—*Furnell*, W. and *Joyce*, J. timber merchants, Poole, May 10.—*Lambert*, J. and *Smith*, H. coach builders, Sheffield, April 30.—*Long*, J. H. and *Tiller*, T. wine merchants, York-st. Portman-sq. April 30.—*Rowell*, G. and *Price*, J. tobacco dealers, Bishopsgate-st. Without, May 14.—*Rumsey*, J. C. and *Atkinson*, W. surgeons, Beaconsfield, Bucks, April 30.—*Smith*, T. Spalding, and *Peatling*, T. Wisbeach, St. Peter's, wine merchants, April 1. Debts paid by Smith, Spalding, and Peatling, Wisbeach.—*Woodcock*, . and T. wine merchants, Liverpool, May 10. Debts paid by J. Woodcock.

Insolvents

Petitioning the Courts of Bankruptcy.

PETITIONS TO BE HEARD AT BASINGHALL-STREET.

Gazette, May 13.

Griffiths, R. coal merchant, Belmont-place, Vauxhall, May 28, at twelve.—*Heaven*, C. publican, Hay's-court, Soho, May 29, at two.—*Jackson*, A. bricklayer, Bury-st. Fulham-road, May 31, at half-past eleven.—*Lee*, S. coach body maker, Alfred-st. Stepney, May 21, at half-past one.—*Lord*, J. coal merchant, Great Cambridge-st. Hackney-road, May 28, twelve.—*Pickrell*, R. W. cabinet maker, King's Lynn, May 26, at half-past two.—*Pulham*, S. cabriolet proprietor, Harper's-mews, Theobald's-rd. May 17, at twelve.—*Sidney* B. tailor, Woollpit, Suffolk, May 26, at three.

IN THE COUNTRY.

Clayton, J. jun. out of business, Sheffield, May 28, at eleven, Leeds.—*Crook*, A. B. grocer, Colne, May 23, at twelve, Manchester.—*Drury*, G. K. brewer, Farmborough June 4, at eleven, Bristol.—*Dixon*, J. out of business, Sheffield, May 28, at eleven, Leeds.—*Furby*, T. joiner and wheelwright, Hanging-heaton, near Dewsbury, May 28, at eleven Leeds.—*Meek*, J. quarry owner, Ruardean, June 3, at one, Bristol.

MEETINGS IN THE COUNTRY.

Gazette, May 13.

Armstrong, J. tailor, Goole, June 4, at eleven, Leeds, aud —*Badger*, T. tailor and woollen draper, Sheffield, June 4, at eleven, Leeds, aud.—*Dallaway*, S. metal caster, Sheffield, June 4, at eleven, Leeds, aud.—*Dawson*, A. clothier, Sheepridge, June 4, at eleven, Leeds, aud.—*Hough*, G. beer retailer, Broad-ing-bottom, Yorkshire, June 4, at eleven, Leeds, aud.—*Milner*, C. shoemaker, Elvington, June 4, at eleven, Leeds, aud.—*Parnaby*, J. farmer, Clumpcliffe, June 4, at eleven, Leeds, aud.—*Oldham*, W. builder, Bulwell, June 4, at eleven, Leeds, aud.—*Smith*, G. corn miller, Azerley, June 4, at eleven, Leeds, aud.—*Thomlinson*, G. plumber, Leeds, June 4, at eleven, Leeds, aud.

PETITIONS TO BE HEARD AT BASINGHALL-STREET.

Gazette, May 16.

Cathery, W. canteen keeper, Portsmouth, May 31, at twelve.—*Dean*, J. cork cutter, New Compton-st. Soho, June 5, at eleven.—*Furbor*, P. H. riding master, Brighton, June 12, at eleven.—*M'Kenzie*, M. A. spinster, Broker's-alley Drury-lane, May 22, at eleven.—*Warren*, G. victualler, St Albans, May 31, at twelve.

IN THE COUNTRY.

Baker, A. chair maker, Bath, June 2, at eleven, Bristol. —*Edwards*, H. ship steward, Liverpool, May 26, at eleven, Liverpool.—*Hirst*, C. farmer and milk dealer, Hanging-heaton, near Dewsbury, May 27, at eleven, Leeds.—*Marsh*, J. bricklayer, Sheffield, May 27, at eleven, Leeds.—*Phillips*, L. T. surgeon, Merthyr-Tydfill, June 5, at eleven, Bristol.—*Sands* and *Blackett*, grocers, Hartlepool, June 3, at half-past-two, Newcastle.—*Thomas*, S. farmer, Fradswell, May 26, at twelve, Birmingham.—*Walker*, J. victualler and coach proprietor, Dewsbury, May 27, at eleven, Leeds.

MEETINGS IN THE COUNTRY.

Jones, R. auctioneer, Dolgelley, May 27, at one, Liverpool.

From the Gazette of Friday, May 23.

Bankrupts.

Kimble, R. bootmaker, Great Marylebone-st.—*Macdonald*, A. merchant, Leadenhall-st.—*White*, J. currier, Warminster, Wiltshire.—*Feariour*, J. hotel keeper, Liverpool —*Sims*, T. licensed victualler, Whitechapel-rd.—*Cann*, J. bricklayer, Woolwich.—*Wood*, T. wine merchant, Little Queen-st. Holborn.—*Harris*, T. currier, Newton, Montgomeryshire. —*Smith*, T. B. merchant, Liverpool.—*Lowe*, W. ivory turner, Bristol.—*Holloway*, R. innkeeper, Evesham, Worcestershire.—*Priddey*, H. upholsterer, Droitwich, Worcestershire.—*Barker*, J. maltster, Gayles, Yorkshire.—*Thackrey*, J. dyer, Leeds.

BIRTHS, MARRIAGES, AND DEATHS.

[The charge for the insertion of the above is 5s.]

BIRTHS.

Gipps.—On Tuesday, the 20th inst. in Montagu-place, Bryanston-square, the lady of H. P. Gipps, esq. of a daughter.

May.—On the 20th inst. at Chelsea, the wife of Thomas Baker May, esq. barrister-at-law, of a daughter.

MARRIAGES.

Dick, Charles George, esq. of the Middle Temple, barrister-at-law, eldest son of Samuel Dick, esq. of Upper Mount Bonchurch, in the Isle of Wight, to Williamena Antonia, youngest daughter of the late Thomas King, esq. of Eltham, Kent, on the 15th inst. at St. Mary Abbott's, Kensington.

Rolls, Joseph, esq. of the Old Kent-road, to Emma, the eldest daughter of the late Richard Bremridge, esq. of the Inner Temple, on Thursday, the 22nd inst. at St. Mary's, Islington.

DEATHS.

Ellis, Henry, third son of Thomas Flower Ellis, esq. barrister-at-law, on the 21st inst. at Bedford-place, aged 19.

Goodeve, Helen Josephine, eldest daughter of Joseph Goodeve, esq. of Lincoln's-inn, barrister, on the 16th inst. at Kensington-square, aged 10.

Mildmay, Paulet St. John, esq. second son of the late Sir H. P. St. John Mildmay, bart. and many years M.P. for Winchester, on the 19th inst. at Dogmersfield-park, Hants, aged 58.

Ogden, Charles John, eldest son of the Attorney-General of the Isle of Man, on the 20th inst. at No. 7, Suffolk-place, aged 19.

THE REPORTS.

[These are usually brought down to the Wednesday preceding publication. Where *Cur. adv. vult.* the case is not reported till judgment given. All written judgments are taken in shorthand, and reported *verbatim*. Rules nisi are reported.]

The following are the names of gentlemen who favour the Law Times with the Reports:—

PRIVY COUNCIL by Thomas Campbell Foster of the Middle Temple, Esq. Special Pleader.

EQUITY COURTS.

LORD CHANCELLOR'S COURT by Richard Griffiths Welford, Esq. of the Inner Temple, Barrister-at-Law.

VICE-CHANCELLOR of ENGLAND'S COURT, by George Goldsmith, Esq. of the Middle Temple, Barrister-at-Law.

ROLLS COURT, by J. Macaulay, Esq. of the Inner Temple, Barrister-at-Law.

VICE-CHANCELLOR KNIGHT BRUCE'S COURT by Geo. S. Allnutt, Esq. of the Middle Temple, Barrister-at-Law.

VICE-CHANCELLOR WIGRAM'S COURT, by J. Vesey Dawson, Esq. of the Middle Temple, Barrister-at-Law.

COMMON LAW COURTS.

The QUEEN'S BENCH, by J. C. Symons, Esq. of the Middle Temple, Barrister-at-Law, and Edward Wise Esq. of the Middle Temple, Barrister-at-Law.

The COURT of COMMON PLEAS, by W. Paterson, Esq. of Gray's-inn, Barrister-at-law.

The COURT of EXCHEQUER by John Bridge Aspinall, Esq. of the Middle Temple, Barrister-at-Law, and H. T. Cole, Esq. of the Middle Temple, Barrister-at-Law.

The BAIL COURT by T. W. Saunders, Esq. of the Middle Temple, Barrister-at-Law.

The EXCHEQUER CHAMBER by A. A. Fry, Esq. of Lincoln's-inn, Barrister-at-Law.

BANKRUPT AND INSOLVENT COURTS.

The COURT of REVIEW by Geo. S. Allnutt, Esq. of the Middle Temple, Barrister-at-Law.

LONDON COMMISSIONERS' COURTS and the INSOLVENT COURT, by B. Talbot, Esq. of the Middle Temple, Barrister-at-Law.

BRISTOL DISTRICT COURT, by J. Angus Homes, Esq. Barrister-at-Law.

NISI PRIUS, CIRCUITS, AND CROWN CASES.

CENTRAL CRIMINAL COURT, by B. C. Robinson, Esq. of the Middle Temple, Barrister-at-Law.

CROWN CASES (before all the Judges) by A. Bittlestone, Esq. of the Inner Temple, Barrister-at-Law.

NORTHERN CIRCUIT, York and Liverpool, by J. B. Aspinall, Esq. Barrister-at-Law. The other parts of the Circuit, by G. F. H. Olephant, Esq. Barrister-at-Law.

WESTERN CIRCUIT, by Edward W. Cox, Esq. of the Middle Temple, Barrister-at-Law.

OXFORD CIRCUIT, by John Lane, Esq. D.C.L. of the Inner Temple, Barrister-at-Law.

NORFOLK CIRCUIT by Jno. B. Dasent, Esq. Barrister-at-Law.

SITTINGS AT NISI PRIUS AFTER TERM, by John Lane, Esq. D.C.L. of the Inner Temple, Barrister-at-Law; E. Wise, Esq. Barrister-at-Law; and others.

ELECTION LAW.

REGISTRATION APPEALS in the COMMON PLEAS by Edward W. Cox, Esq. of the Middle Temple, Barrister-at-Law; and Henry Tindal Atkinson, Esq. of the Middle Temple, Barrister-at-Law.

ELECTION COMMITTEES by Edward W. Cox, Esq. of the Middle Temple, Barrister-at-Law.

REGISTRATION COURTS, collected and edited by Edw. W. Cox, Esq. of the Middle Temple, Barrister-at-Law.

IRISH REPORTS.

The LORD CHANCELLOR'S COURT by William Duggan, Esq. Barrister-at-Law.

QUEEN'S BENCH and CRIMINAL COURTS by Wm. St. Leger Babington, LL.D. Barrister-at-Law.

N.B.—The names of the reporters of such important points as may arise upon Circuit will be announced as the arrangements for each are completed.

The Written Judgments are reported verbatim in Short-hand by Mr. H. Gregory, Short-hand Writer.

ADVERTISEMENTS.

New Publications.

The following Works of J. F. ARCHBOLD, esq. Barrister-at-law, are recently published:

ARCHBOLD on BILLS of EXCHANGE, &c.; on Marine, Fire, and Life Insurances; and on Ejectment upon all Titles. One vol. 12mo. price 18s. Published by Richards, Fleet-street.

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ARCHBOLD'S PRACTICE OF THE CROWN OFFICE, with Forms. 1 vol. 12mo. price 12s. Published by SHAW and SONS.

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To be had at the Society's Offices, 29, Essex-street, or, by order, of any Bookseller in Town or Country.

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REGISTRATION APPEALS and ELECTION CASES, by EDWARD W. COX and H. TINDAL ATKINSON, Esqrs. Barristers-at-Law. No. I. price 1s. 6d. containing all the Appeals of Michaelmas Term last. The Appeals of the last Term will be published as soon as possible after the Judgments are delivered.

PRACTICE CASES, in LAW and EQUITY (together with CASES in EVIDENCE), namely, Queen's Bench, by J. C. SYMONS and EDWARD WISE, Esqrs.; Exchequer, by H. B. ASPINALL and H. MILLS, Esqrs.; Common Pleas, by H. TINDAL ATKINSON and W. PATERSON, Esqrs.; and the Bail Court, by T. W. SAUNDERS, Esq. Barristers-at-law. The Equity Courts by various Barristers, whose names are appended. Part I. price 5s. and No. 5, price 1s. 6d. are now ready, containing the Cases of Trinity, Michaelmas, and Hilary Terms last.

N.B. These reports are published in numbers of 32 pages each, handsomely printed in large octavo, and may be had stamped for transmission by post. Four numbers of each series are stitched into a wrapper, forming a part. They may be had, or by order, of all Booksellers. Each series is complete in itself. The charge to Members of the Verulam Society is only 1s. for each number, and 4s. for each part.

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No. 19. Notice of Particulars of Demand. 9d. per doz.
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NOTICE.

The LAW TIMES EDITION OF IMPORTANT STATUTES, *as below, will be supplied to the members at the members' prices.*

All orders above £2 will be transmitted carriage paid; and in the same parcel books, bound volumes of the LAW TIMES, CRITIC, *&c. may be inclosed.*

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For the list of FORMS FOR OFFICES, See the Advertisement of the "PUBLICATIONS OF THE VERULAM SOCIETY."

SCOTTISH WIDOWS' FUND and LIFE ASSURANCE SOCIETY.—Notice is hereby given, that the INVESTIGATION into the AFFAIRS of this Society, as provided for by the Articles of Constitution, will take place on the 31st of December, 1845, and that all who effect Insurances on their Lives before that day, which closes the current septennial period, will secure a certain greater benefit than will be obtained by those who delay doing so till the commencement of the following year.

Copies of the last Annual Report, and all necessary information, may be had on application at the Head Office, or at any of the Society's Agencies.

HUGH M'KEAN, London Agent.
London Office, 7, Pall-mall.

Valuable Freehold Estate in the City of London.

MESSRS. THORNTON and SON will SELL by AUCTION, at Garraway's Coffee House, Change-alley, Cornhill, on Friday, May 30, at Twelve o'clock, by direction of the Proprietor (unless previously disposed of by private contract), a desirable detached Freehold Mercantile RESIDENCE, No. 3, Gould-square, Crutched-Friars, with paved yard and railway arch, to which there is a side entrance. The house, which is admirably adapted as a residence or offices, from its contiguity to the corn and coal markets, Custom House, and Docks, contains four light attics, four neat chambers, drawing-room, and three sitting-rooms, four rooms or offices on the ground-floor, with entrance-hall and two water-closets; good basement kitchen, wash-house, arched wine, coal, and beer cellars.—May be viewed by application on the premises, where particulars may be obtained ten days prior to sale of Mr. Pryer, solicitor, 17, Pavement, Finsbury; at Garraway's; and of Messrs. THORNTON and SON, or Mr. DAVENPORT, Auctioneers, Brentwood, Stratford, and 58, Fenchurch-street.

Freehold Estate, Brentwood, Essex, let on lease at the low old rent of 28l. per annum.

MESSRS. THORNTON and SON will SELL by AUCTION, at Garraway's, on Friday, May 30, at Twelve, by order of the Proprietor, an excellent brick-built DWELLING-HOUSE, with bow-fronted shop, cutting and reading rooms, numerous sleeping apartments, and the customary domestic offices, a detached workshop, large walled garden, chaise-house and stable, with entrance from the lane in the rear. The premises are advantageously situate on the north side of the above improving town, near the railway station, and within 45 minutes' ride per rail from London. May be viewed till the sale, by permission of the tenant.—Particulars at the inns at Chelmsford, Romford, and Ilford; and of Messrs. THORNTON and SON, or Mr. DAVENPORT, auctioneers, land and estate agents, Brentwood, Stratford, and 58, Fenchurch-street.

Plaistow, Essex.—An excellent detached Freehold Family Residence, with Meadow Land, Gardens, and Outbuildings.

MESSRS. THORNTON and SON respectfully inform the public that they have received peremptory instructions from the Executors to SELL by AUCTION, at Garraway's, on Friday, May 30, at twelve, a substantial brick-built RESIDENCE, land-tax redeemed, lately occupied by Mrs. Lack, deceased, possessing a considerable frontage to the high road, with carriage approach and shrubbery, and portico entrance; containing handsome lofty drawing and dining rooms, breakfast parlour, numerous bed chambers, domestic apartments, and basement offices; four-stall stable, coach-house, out-buildings, gardener's cottage; flower, fruit, and vegetable grounds, extensively laid out, and four and a half acres of sound meadow land: the whole desirable for occupation or investment. The premises may be viewed until the sale by cards only. —Particulars may be had 14 days previous, at the Inns at Plaistow, Barking, and Ilford; Swan, Stratford; of Messrs. Dickson and Overbury, solicitors, 4, Frederick-place, Old Jewry; and of THORNTON and SON, or Mr. DAVENPORT, auctioneers, Brentwood, Stratford, and 58, Fenchurch street.

Brentwood, Essex.—Capital freehold family Residence, and three plots of building ground, land-tax redeemed.

MESSRS. THORNTON and SON will SELL by AUCTION, at the Lion and Lamb Inn, Brentwood, on Monday, June 9, at Four o'clock, by order of the proprietor, in four lots, a substantial FREEHOLD BRICK DWELLING-HOUSE, of handsome elevation, approached by a flight of stone steps, known as Mr. Phipson's academy, now let to a most respectable tenant, at the very moderate rent of 30l. per annum, with a productive garden, large yard or play-ground, with detached school-room and outbuildings, inclosed from the road, with side entrances; also, the neat Cottage adjoining, of the value of 6l. per annum, but is now let off at a peppercorn rent. A considerable outlay has been lately expended on the above premises, which are now in most substantial order. Also, three Plots of FREEHOLD BUILDING GROUND on the north side of the New-road, near the Railway Hotel, offering very eligible spots for building purposes, the neighbourhood rapidly improving, being close to the Birmingham Railway Station. The house may be viewed by cards only, ten days prior to sale, when full particulars, with conditions, may be had of C. C. Lewis, esq. solicitor, Brentwood; at the inns at Chelmsford, Billericay, Ongar, and Romford; and of THORNTON and SON, or Mr. DAVENPORT, auctioneers and land-agents Brentwood, Stratford, and 58, Fenchurch-street.

AUCTION and ESTATE AGENCY.—Offices, 30, Southampton-street, Strand. Periodical Sale of Reversions, Life Interests, Annuities, Mortgages, Landed and House Property, Securities, Public Shares, &c.

MR. HENRY COLLINS solicits the attention of Gentlemen of the Profession to his PERIODICAL SALE of the above description of PROPERTY. An experience of fifteen years devoted to the transfer of Property by Auction, convinces Mr. Collins that competition is always increased in proportion to the variety to be competed for, a larger audience secured, and consequently the vendor has a fair chance of obtaining to the fullest value of his interest. Mr. Collins's charge for submitting any such will be TWO GUINEAS and a HALF, including advertisements, printing, &c. should no sale be effected. Communications fifteen days previous to the day of sale will secure attention. Mr. C.'s NEXT SALE will take place the THIRD WEEK in JUNE.

Delightful Freehold Marine Villa Residence, surrounded by Park-like Grounds.

MR. GEORGE MUNDAY is commissioned to OFFER for SALE, at the Auction Mart, on **Tuesday, June 3, at Twelve**, BELMONT VILLA, **an elegant and commodious modern residence**, containing **ample accommodation for a family, baths**, stabling, coach-house, **and all other requisites, and surrounded** by pleasure grounds **extending to 14 acres, through which** is a carriage approach **of upwards of a quarter of a mile**, most desirably situate at **Parkstone, between Poole** and the favourite watering-place **of Bournemouth**, and placed upon an elevation commanding **magnificent** prospects.

Particulars may be obtained at the inns at Poole, Southampton, &c.; at the Bath Hotel, Bournemouth; of M. Kemp Welch, esq. solicitor, Poole; of H. Knight, esq. solicitor, 17, Basinghall-street; of Mr. GEORGE MUNDAY, Land Agent, 9, St. Mildred's-court, Poultry; and at the Mart, London.

The valuable Freehold Estates of Creekmoor and Norbrook, with elegant Cottage Residence, healthily situate on the coast of Dorset, between Poole and Wareham.

MR. GEORGE MUNDAY is honoured with instructions to SUBMIT to PUBLIC COMPETITION, at the Mart, on Tuesday, June 3, at Twelve (unless previously disposed of by Private Contract), CREEKMOOR COTTAGE, a comfortable and genteel residence, on a moderate scale, with beautifully disposed pleasure ground bailiff's house, and all requisite buildings, and 41 acres of Land (about 20 of which are lifehold, at a nominal rent, the remainder freehold); also the compact Freehold and Tithe free Estate of Norbrook, containing 106 acres of arable, pasture, orchard, and woodland, in a ring fence.

Particulars, with plans, may be obtained at the inns at Poole, Southampton, &c.; of H. Knight, esq. solicitor, Basinghall street; of Messrs. A. and W. Turner, solicitors, 32, Red Lion-square, Holborn; at the Mart; and of Mr GEORGE MUNDAY, Land Agent, 9, St. Mildred's-court.

Desirable Leasehold Estate, Notting-hill.

MR. GEORGE MUNDAY has received instructions to submit for SALE by AUCTION, at Garraway's on Friday, June 6, at Twelve unless previously disposed of by Private Contract, EIGHT substantially-built and well finished DWELLING-HOUSES, in Princes-place, close to Norland-place and Royal-crescent, Notting-hill, a highly advantageous locality; held direct from the freeholder for a term of 99 years, at a very low ground-rent, and all let, producing good and secure improved rentals.

Particulars may be obtained of Hull Terrell, esq. solicitor, 30, Basinghall-street; of Mr. Jessup, 1, Princes-place, Notting-hill, who will shew the property; at Garraway's; and of Mr. GEORGE MUNDAY, Land Agent, 9, St. Mildred's-court, Poultry.

Freehold and Copyhold Investment opposite the Plough Hotel, Blackwall.

MR. GEORGE MUNDAY will submit for SALE by AUCTION, at Garraway's, on Friday, June 6, at Twelve, a desirable small property for investment, consisting of TWO DWELLING-HOUSES, one with shop, eligibly situate, immediately opposite the Plough Hotel, at Blackwall, part copyhold of the manor of Stepney, the remainder Freehold.

To be viewed by application to the tenants; and particulars obtained at the Britannia, Limehouse; Globe, Blackwall; of Mr. H. Knight, solicitor, 17, Basinghall-street; at Garraway's; and of Mr. GEORGE MUNDAY, Land Agent, 9, St. Mildred's-court, Poultry.

To Capitalists. Valuable Redeemed Land-Tax.

MR. GEORGE MUNDAY will submit for SALE by AUCTION, at the Auction Mart, on Tuesday, June 3, at Twelve, the REDEEMED LAND-TAX, amounting to 25*l.* 10*s.* per annum, chargeable upon extensive freehold estates in the parish of Hamworthy, Dorset.

Particulars may be obtained at the inns at Poole, &c.; of Henry Knight, esq. solicitor, 17, Basinghall-street; of Messrs. A. and W. Turner, solicitors, 32, Red Lion-square, Holborn; at the Mart, and of Mr. GEORGE MUNDAY, Land Agent, 9, St. Mildred's-court, London.

Well-secured Rent-charge of 12*l.* per annum.

MR. GEORGE MUNDAY is instructed to SELL by AUCTION, at Garraway's, on Friday June 6, at Twelve, a valuable RENT-CHARGE, or Perpetual Annuity, of 12*l.* per annum, being one-fifth part of 60*l.* per annum, chargeable upon freehold property of ample value, situate near Crewkerne, Somerset.

Particulars may be obtained of Henry Moore, esq. solicitor Wimborne, Dorset; at the George Inn, Crewkerne; of Mr. GEORGE MUNDAY, Land-agent, 9, St. Mildred's-court, London; and at Garraway's.

KINGSLAND-ROAD.—Eligible Freehold and Leasehold Investments

MESSRS. ROBERTS and ROBY are directed to SELL by AUCTION, at the Mart, on Monday, June 2, at 12 o'clock, in nine lots, unless previously disposed of by private contract, a FREEHOLD ESTATE of six neat houses, with fore-courts enclosed by iron railing and walled gardens, situate Nos 44, 45, 46, 73, 54, and 55 Mansfield street, adjoining Kingsland-road, and a Leasehold Estate, comprising a house with baker's shop No 74, Mansfield-street, on lease to the end of the term of 80 years to Mr Gardner, who has expended a considerable sum in improving the premises; two houses, with fore courts and gardens, Nos. 75 and 76, adjoining; also six houses, Nos 6, 7, 8, 12, 13, and 14, York-street, near the Prince Albert Tavern. The whole forming a compact and desirable property, and let to respectable tenants at a rental of [illegible] per annum. The leaseholds are held for 80 years, at very low ground rents, and the land-tax is redeemed. To be viewed [illegible] sale, and particulars had of Mr. Scarborough, Token House-yard, Lothbury; at the Duchess of York and Prince Albert taverns, Kingsland-road; Auction Mart; and at ROBERTS and ROBY'S offices, 24, Moorgate-street, Bank.

Kent, near Dover.—Valuable Freehold Investment.

MESSRS. BROOKS and GREEN have received instructions from the Proprietor to SELL by AUCTION, at Garraway's, in June next, a first-rate and perfect FARM of 200 acres, with superior house, buildings, and every agricultural convenience. It is desirably situate, exempt from land-tax, and held by a responsible tenant at 200*l.* per annum, under lease, of which 12 years have to run.—Full particulars may be had of Messrs. BROOKS and GREEN, estate agents, surveyors, and auctioneers, 28, Old Bond-street.

Buckinghamshire and Middlesex.—Denham-place Estates and Manor Farm, Greenford.

MESSRS. BROOKS and GREEN will SELL by AUCTION, by order of the Proprietor, at their Estate Auction Gallery, 28, Old Bond-street, on Thursday, June 5, 1845, at One, a most Important FREEHOLD DOMAIN, land-tax redeemed, and partly tithe-free, known as the DENHAM PLACE ESTATE, being one of the most desirable for residence and investment in Buckinghamshire. The possessor of this estate may with confidence look forward to become one of the county members. It consists of the noble Mansion, called Denham-place, replete with accommodation for a Family of Distinction, with extensive Lawns, Pleasure Grounds, Wilderness, and Ornamental Water of great beauty; and surrounded by park-like grounds of 28 acres. The property consists of nine most excellent Farms, extensive Beech and Oak Woods, various accommodation Meadows near to, and Wharfs, Public-houses, and premises in Uxbridge town and Denham village; fifty-seven Cottages, Garden Ground, Water-cress Beds, and comprising in the whole between 3,000 and 4,000 acres, of which about 400 acres are remarkably thriving Woods, unequalled for fineness of growth; and the remainder rich arable, dairy, and grazing lands, with capital Farm-houses and Homesteads in most excellent repair, and let to highly respectable tenantry. The Estate possesses an inexhaustible store of the finest brick earth, immediately adjacent to water carriage, has a valuable frontage on the high-road from Uxbridge to Oxford, of upwards of three miles. The MANOR of DENHAM, abounding with game, together with its Royalties, Quit Rents, and all other Rights thereunto belonging. The trout river Colne partly bounds, and the trout river Misbourne runs upwards of three miles through the Estate. Also, the valuable MANOR FARM, GREENFORD, in the county of Middlesex. The whole producing upwards of 6,000*l.* per annum, including the Mansion and Lands held therewith, and the Woods and Plantations in hand.

Printed particulars and maps of the Estate may shortly be obtained at the Red Lion, Wycombe; Red Lion, Slough; White Hart, Windsor; White Horse, Uxbridge; Saracen's Head, Beaconsfield; Midland Counties Herald Office, Birmingham; the George, Aylesbury; of Mr. Walford, Solicitor, Uxbridge; Messrs. Springall, Thompson, and Powell, Solicitors, Raymond-buildings, Gray's-inn; and of Messrs. BROOKS and GREEN, Estate Agents, Surveyors, and Auctioneers, 28, Old Bond-street.

Branches Park Estate, Suffolk.

MESSRS. BROOKS and GREEN have received instructions from the executors of the late Henry Usborne, esq. to SELL by AUCTION, at their Estate Auction Gallery, 28, Old Bond-street, on Thursday, the 5th of June, at One, the highly important and valuable FREEHOLD PROPERTY, principally situate in the preferable part of the county of Suffolk, eight miles from Newmarket, fourteen from Bury, and sixty-five from London, comprising the splendid Mansion called BRANCHES, seated in an extensive and finely timbered Park, together with Thirteen FARMS containing in the whole about 1,594 acres of remarkably productive arable, meadow, pasture, and wood lands, with excellent Farm Houses and Homesteads. Let upon agreements for leases to a most respectable and contented tenantry, at moderate rents. The MANOR of COWLINGE, with quit rents, royalties, and all other rights thereunto belonging containing about 3,000 acres, abounding with game; the whole producing a rent of nearly 2,280*l.* per annum.

Printed particulars and plans will shortly be ready, and may then be had at the Angel Inn, Bury St. Edmunds; Black Lion, Long Melford, Rose and Crown, Sudbury; Suffolk Hotel, Ipswich, of Mr Oliver, Solicitor, 16, New Bridge-street, Blackfriars; and of Messrs. BROOKS and GREEN, Estate Agents, Surveyors, and Auctioneers, 28, Old Bond-street, at whose gallery a cosmoramic view of the mansion may be seen.

Important Investment. Near Stowmarket, Suffolk.—Valuable Rent Charge in lieu of Tithes.

MESSRS. BROOKS and GREEN have received instructions to SELL by AUCTION, at their Estate Auction Gallery, 28, Old Bond-street, on Thursday, June 5, 1845, at 2 o'clock, the PERPETUAL RENT CHARGE, in lieu of the rectorial, or great tithe, commuted at 414*l.* per annum, arising from the parishes and hamlets of Old Newton and Dagworth (except two farms), containing nearly 1,900 acres of excellent land, of which about 1,100 acres are arable, in the occupation of twenty-five respectable tenants.

Printed particulars may be obtained at the King's Head, Stowmarket; the Angel, Bury St. Edmund's, Suffolk Hotel, Ipswich; J. S. Wilkins, esq. solicitor, Chandos-street, Cavendish-square; and of Messrs. BROOKS and GREEN, estate agents and auctioneers, 28, Old Bond-street.

FREEHOLD ESTATE for SALE by PRIVATE CONTRACT.—A valuable FREEHOLD ESTATE of 100 acres, of rich meadow and pasture land, with good farm-house and buildings, producing a rental of 286*l.* per annum, land-tax redeemed, and partly tithe-free. The estate is situate within a mile and a half of the borough of Cricklade, Wilts, and four miles from the Great Western Railway Station, and is bounded by the river Thames.

For particulars apply to Messrs. SEWELL and NEWMARCH, Solicitors, Cirencester.

Periodical Sale of Reversions, Life Interests, Annuities, Life Policies, Advowsons, Next Presentations, and all descriptions of Securities dependent upon human Life, Shares in Railways, Mines, and all other undertakings.

MESSRS. FULLER and MARSH respectfully inform the public, that by their system of periodical sales by Auction they are enabled to offer to persons expectant or otherwise interested in the above description of property the most prompt, economical, and satisfactory mode of disposing thereof, as by classifying these descriptions of interests and properties in the same particular and for the same day, much expense is avoided, and a far greater competition is secured. Their periodical sales of reversions, life interests, annuities, life policies, advowsons, next presentations, and all descriptions of securities dependent upon human life, shares in railways, mines, and all other undertakings, will be continued throughout the present year as follows:—

Thursday, June 5	Thursday, September 4
Thursday, July 3	Thursday, October 2
Thursday, August 7	Thursday, November 6
Thursday, December 4.	

Notice of Sales intended to be effected by the above means should be forwarded to Messrs. Fuller and Marsh a fortnight prior to each date, in order that they may have the full benefit of publicity. Messrs. Fuller and Marsh beg to call the attention of the public to the economy and expedition of this system of business, as they are thereby enabled to include each property for the sum of two guineas and a half, including all expenses, should a sale not be effected. Particulars of the next periodical sale may be obtained ten days previous to the sale, at the Star Hotel, Oxford; University Arms, Cambridge; Hen and Chickens, Birmingham; Plough, Cheltenham; Bush, Bristol; New London Hotel, Exeter; Pearce's Hotel, Truro; Adelphi, Liverpool; Royal Hotel, Manchester; Cuff's Midland Hotel, Derby; Black Swan, York; Tontine Hotel, Sheffield; Royal Hotel, Leeds; Tontine Hotel, Glasgow; M'Gregor's Hotel, Princes-street, Edinburgh; Gresham's Hotel, Dublin; and at the Offices of Messrs. FULLER and MARSH, 2, Charlotte-row, Mansion-house, London.

Freehold Water Corn Mill, and 15 acres of Hop and Meadow Land, Speldhurst, Kent.

MESSRS. FULLER and MARSH have received instructions from the Trustees to offer for unreserved SALE, at the Auction Mart, London (unless previously disposed of by private treaty), on Tuesday, June 10, at Twelve, a very desirable FREEHOLD ESTATE, comprising a water corn mill driving three pair of stones, together with a substantial dwelling-house, cottage, and 15 acres of superior hop and meadow land, situate at Speldhurst, and near to the excellent market-town of Tunbridge, Kent. The property may be viewed on application to Mr. Holland, and particulars obtained, ten days prior to the sale, at the Sussex Hotel, Tunbridge-wells; Crown, Seven-oaks; Star, Maidstone; Crown, Tunbridge; on the premises; at the Mart, of Messrs. Faithfull, solicitors, Ship-street, Brighton; Mr. John Gansford, 4, London-road, Brighton, Sussex; of Mr Robert Ford, Oxted, Surrey; and of Messrs. FULLER and MARSH, Auctioneers and Land Agents, 2, Charlotte-row, Mansion-house, London, and Croydon, Surrey.

Long Leasehold Estates, Stamford Villas, Walham-green, Fulham, Middlesex, presenting to small capitalists eligible investments.

MESSRS. FULLER and MARSH have received instructions to SELL by AUCTION, at the Mart, in lots, on Thursday, June 5, at Twelve, TWO brick-built VILLA RESIDENCES, being Nos. 17 and 18, Stamford Villas, Walham-green, in the rapidly improving vicinity of Brompton-square; one let to a respectable tenant-at-will, and the other fit for immediate occupation, producing an improved rental of 52*l.* per annum. May be viewed by permission of the tenant, and full particulars obtained, a week prior to the sale, on the premises; of Messrs. Few, Hamilton, and Fews, solicitors, Henrietta-street, Covent garden, and of Messrs. FULLER and MARSH, 2, Charlotte-row, Mansion-house.

In the most favourite and picturesque part of the county of Kent.—Important and valuable Freehold Estates, situate near to Maidstone, and a Leasehold Dwelling-house at Tunbridge-wells.

MESSRS. FULLER and MARSH have been honoured with instructions from the Executors of the late John Ranger, esq. to prepare for SALE by AUCTION, at the Mart, on Tuesday, the 10th of June, at twelve o'clock, unless in the meantime acceptable offers be made by private contract, a remarkably compact and valuable FREEHOLD PROPERTY, distinguished as the Cheveney Estate, situate in the parishes of Hunton and Yalding, about four miles from the Marden and Paddock-wood stations on the London and Dover Railway, one and a quarter mile from the Wateringbury and Yalding station on the Maidstone branch, and about five miles from the county town of Maidstone, and nine from Tunbridge, comprising about 113 acres of highly cultivated land, including an excellent hop garden of about 26 acres (protected by a luxuriant quickset hedge, 20 feet in height), scarcely ever known to have sustained injury from blight when the hop crops of the surrounding neighbourhood have failed, together with other valuable hop grounds, arable, meadow, orchard, and pasture land, underwood plantations, a good farm-house, four cottages, and ample agricultural buildings, all of which are in a substantial state of repair; four cottages, and about 2½ acres of freehold land, commanding eligible building sites, near the upper part of the village of Yalding; and a long leasehold estate, comprising a substantial, recently erected, stone-built residence, situate in Clarence-terrace, near to Trinity Church, Tunbridge Wells; held for an unexpired term of 16 years, at a nominal ground rent. Particulars, with lithographed plans, are preparing, and may shortly be obtained of Mr. R. Apsley Ranger, surveyor and valuer, 15, Duke-street, Adelphi; of Mr. H. Ranger, Tovil, near Maidstone; Mr. R. C. S. Ranger, on the Cheveney Estate; Mr. Brooke, Buckington, near Margate; Messrs. Stone and Wall, solicitors, Tunbridge Wells; and of Messrs. FULLER and MARSH, Surveyors and Land-agents, 2, Charlotte-row, Mansion-house. 5,000*l.* of the purchase-money may remain on mortgage.

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THE REPORTS.

Equity Courts.

LORD CHANCELLOR'S COURT.

April 24 and 30.

LIDGETT *v.* WILLIAMS.

Practice—Appeal motion—Charterers and masters of vessels—Pleading—Specific relief—General prayer for relief.

Motions before the Lord Chancellor are not strictly appeal motions, and it is no objection to such motions that the terms of the notice of motion vary from those of the original motion in the court below.

Where the captain of a vessel is sent out by charterers to get a cargo from a particular factor, and such factor is unable or refuses to supply the cargo, the captain is at liberty to return home; and any other goods with which the captain may lade the ship back must pay the freight, though the charterers will not be liable for any loss which may be incurred upon them.

In order to enable a plaintiff to obtain relief other than the specific relief prayed by his bill, under the prayer for general relief, the scope and frame of the bill must be such as would render such other relief proper; and it is not enough for that purpose to have a few facts and isolated charges introduced into the bill for different purposes, which, if picked out and put altogether, might shew a right to some other than the specific relief prayed.

This was a motion made by the plaintiffs, by way of appeal, from the decision of Vice-Chancellor Wigram. The application made to the Vice-Chancellor by the plaintiffs, Messrs. Lidgett and Sheppard, was to restrain the defendant from proceeding with the barque *Magnet* to any other place than Liverpool, and from disposing of her cargo of guano except as the plaintiffs might direct; and his Honour refused to grant the injunction. On the appeal motion, the form of the plaintiffs' notice was varied by asking for an injunction to restrain the defendant from proceeding with the vessel to any other place than such as the plaintiffs might direct; without specifying by name any place to which he should proceed.

Tinney, for the defendant, objected that the notice of motion on the appeal varied from the original notice of motion before the Vice-Chancellor, and that the present motion, therefore, could not be heard.

The LORD CHANCELLOR.—These motions before me are called appeal motions, but they are not strictly so, they are rehearings. The rule is, that this Court won't take motions not previously heard in one of the other branches of the court, and, therefore, motions here are called appeal motions, because they have been heard before.

The case then proceeded. The circumstances, as disclosed by the pleadings and the affidavits of the parties, were these:—The plaintiffs, merchants in London, are owners of thirty-two 64th parts of the vessel the *Magnet*, and the defendant Williams is the owner of the other thirty-two 64th parts. The plaintiffs, with one Lamont, who was at Ichaboe, had chartered the vessel for a voyage to Ichaboe, on the west coast of Africa, for a cargo of guano, and they employed the defendant as her captain. A copy of the charter-party was delivered to the captain, but the charter-party itself was not signed until some time after the delivery of the copy. By that charter-party, the freight was 3*l.* 15*s.* per ton, and fifty days were allowed for obtaining a cargo, and seven days for demurrage. The captain sailed under sealed orders, which gave him very precise directions, and required him to procure the cargo, through Lamont. On his return voyage, while stopping at St. Helena, Williams wrote a letter to the plaintiffs, in which he stated that Lamont had been of but little assistance in procuring a cargo, and that he had no exclusive privileges on the island of Ichaboe, which enabled him to facilitate the shipping a cargo. On the arrival of the vessel in England, in June 1844, the defendant delivered up his papers to the plaintiffs in the usual way of business between captains and charterers of ships. The plaintiffs then proposed to the defendant again to charter the vessel for plaintiffs and Lamont, and an agreement to that effect was made on the 18th of July, 1844. A copy of the charter-party was delivered to Williams, which was in the same terms as that on the previous voyage, except instead of a limited period of fifty days, with demurrage, the defendant was to have "a sufficient time" for procuring his cargo; and the freight was to be 4*l.* 5*s.* per ton. Though what purported to be a copy of the charter-party was then delivered, no such charter-party was ever actually signed. When the defendant arrived at Ichaboe in October, he found that Lamont, having gone to St. Helena on his own business, had lost his previously alleged right to certain pits and stages, and that, under the regulations subsequently made by a committee of the captains and supercargoes frequenting the island, the whole island had been parcelled out amongst the agents and owners then at the place. Lamont was, therefore, unable to procure a cargo for the *Magnet*, and, in fact, only assisted the defendant to obtain forty tons of guano. The defendant made repeated applications to Lamont to furnish the required quantity of guano, which he stated he was unable to do; and he declined to purchase a cargo, lest the plaintiffs should repudiate such a transaction. The defendant then set about procuring a cargo by his own means, and through his own connections, and finally, by December, obtained a further quantity of 390 tons. The defendant, under these circumstances, contended that he had obtained the cargo for the owners of the vessel, and not on account of the charterers; and that, as part owner, he, the defendant, had a right to half the profits of the venture.

Romilly and *Heathfield*, for the plaintiffs, contended that the defendant, having been engaged as captain, was bound to use his best exertions to procure a cargo, and accomplish the object of his voyage; and that he had no right to appropriate the results of such exertions to his own benefit. They cited and referred to Abbott on Shipping, 249, *Thompson* v. *Havilock* (Abbott on Shipping, 168). The expenses of the ship, which amounted to 850*l.* had been paid by the plaintiffs; and even should the Court hold that as charterers they were not entitled to the cargo, still as managing owners they had a right to restrain the defendant from disposing of it at his own pleasure.

During their argument, the LORD CHANCELLOR said:—The plaintiffs send out to a particular factor, who was to supply a cargo; the factor did not supply a cargo, and the defendant, as captain, had then a right to come home without any lading. Instead of that, the captain embarks in an adventure. Supposing it had been a losing one, would he have had a right to have charged the plaintiffs with the loss? Had he a right to purchase a cargo, and charge them with the cost? He was agent to take a cargo on board, not to purchase one. He had no directions what to do if he got no cargo; and it would have been his duty to get freight in diminution of the loss. The plaintiffs are bound to pay according to the charter-party; they are owners of the vessel during the voyage, and they have a right to freight. If a captain takes goods in on freight, that freight belongs to the charterers; and if there is nobody there able or willing to act for the charterers, he exercises a sound discretion to take such freight; and if he likes to purchase goods, he is bound to pay the freight. How can he throw the loss on the charterers? He must stand to the loss, and is entitled to the profits; but he must pay the freight.

The plaintiffs claim as charterers, and then use the facts for another claim: they say that as charterers we have sold the cargo, and then they claim as managing owners to get hold of the cargo to perform that contract.

The defendant had no right to purchase a cargo of guano on their account. It was not that species of charter-party which transferred the possession of the vessel, and made the captain the servant of the charterers. The defendant was himself a part owner, and not getting a cargo on behalf of the charterers, he got one for the owners. The only question at present is, in whom the property of this guano is. It is clearly not the property of the charterers.

Tinney and *Collins*, for the defendant, read the defendant's affidavit shewing the circumstances under which Lamont declined to procure a cargo.

The LORD CHANCELLOR.—I do not consider, after this, that any notice was necessary. Three months had elapsed, when the defendant had been led to expect that he would have been detained three weeks only. Lamont was not in possession of any guano; he could only purchase it. The defendant says, that Lamont, being unable to provide guano, left him to himself to do the best he could. The defendant asked Lamont to purchase a cargo, but he refused; and the reason he gives is natural; namely, that having left the island and lost the pit [illegible] partners, the plaintiffs, [illegible] would have made him liable.

Tinney.—This suit claims the guano for charterers as against the owners.

The LORD CHANCELLOR.—The bill prays that the guano may be declared to be the property of the plaintiffs as charterers, and not as owners thereof; that the defendant may deliver the cargo, the plaintiffs consenting to account as the Court shall direct, having regard to their position as managing owners. The question is, whether the bill under the general prayer will entitle the plaintiffs to the relief they seek as managing owners. They contend that they are entitled to an injunction on the whole bill, notwithstanding the prayer; that the prayer does not signify. But they do not claim the cargo as owners; they claim it throughout as charterers.

Romilly.—There is a charge that the defendant was bound to obey the plaintiffs as managing owners.

The LORD CHANCELLOR.—In that very clause they claim as charterers, even if there was any thing in the claim that the defendant was bound to obey them as managing owners. Lamont saw that Williams was getting guano, and did not object to it. In *Pullen* v. *Stainforth* (in Abbot on Shipping), it was held that the act was not done under the contract. Here the contract is a subsisting one, because part of the cargo (the forty tons) was put on board, and must be dealt with under the contract. The defendant says, I do not exclude the plaintiffs, but I will not let them have the cargo as charterers.

Romilly, in reply.

The LORD CHANCELLOR.—The ownership and possession of the vessel continued in the owners, and not in the charterers. If the plaintiffs had brought an action against the defendant as captain for not bringing back a full load, the question would be what damages had thereby been sustained, and the jury would consider what the defendant had earned in their estimate of damages, and would hold that the plaintiff had not sustained so much damage as if he had not earned any thing. I am against the plaintiffs on all points, unless you can shew me authority that the charterer has the absolute possession of the vessel. The defendant had directions to go to Ichaboe to get a load of guano from Lamont. Lamont said he could not get any; and when told he might buy some, he refused, and went away somewhere. As it appears at present, I think the contract by the charterers has been broken.

Romilly.—If Lamont was absent, it became the duty of the captain to get guano by his own personal exertions.

The LORD CHANCELLOR.—All this guano was in the possession, by right or by wrong, of certain persons, as much as any other property. Lamont had once a right, but lost it. Lamont might have sent him home.

Romilly declined to press that part of the case more, and contended that if the facts raised on the pleadings made a case on which the plaintiffs were entitled to some relief, it would be granted, though the prayer of the bill did not ask for the particular relief.

The LORD CHANCELLOR.—But you must shape your bill for such relief. It is not sufficient that you shew a few unconnected facts inserted for a different purpose. What are the facts you rely on?

Romilly.—That the plaintiffs were the managing owners. A part owner having obtained a cargo cannot exclude the managing owners.

The LORD CHANCELLOR.—The plaintiffs claim as charterers, and directed the defendant to go to Liverpool to deliver the cargo, in performance of a contract made by them as charterers. He was not bound to obey such an order. The plaintiffs were making use of their character of managing owners for an improper purpose. Have the plaintiffs stated in their bill that he threatens to dispose of the cargo, and appropriate the proceeds?

Romilly.—The defendant says the plaintiffs have nothing to do with the cargo. If he would put the cargo in a warehouse in their joint names, the plaintiffs would be satisfied.

Tinney.—The defendant wishes to sell, the plaintiffs to keep the guano.

The LORD CHANCELLOR.—The defendant must not exclude the joint owners from the management.

Romilly.—(*Palk* v. *Clinton*, 12 Ves. 48).

The LORD CHANCELLOR.—As to the scope of your bill, the plaintiffs set out their case as owners of the cargo as charterers only. I think there is evidence that they were the managing owners of the vessel.

Romilly.—They were like tenants in common.

The LORD CHANCELLOR.—But one tenant in common has no power to require the other to deliver to a person who has no right. You can't take out

little facts, here and there, and put them together to make out a case for relief.

Romilly.—There is a charge that if the plaintiffs are not entitled as charterers, they are, as managing owners, entitled to the disposition of the cargo. The raising a claim to the whole, which the Court thinks unfounded, does not disentitle the plaintiffs to have their interests in the cargo protected.

The LORD CHANCELLOR.—I think the defendant's refusal has reference to the plaintiffs' contract to deliver the cargo at Liverpool. If I dispose of this motion, will the defendant allow the plaintiffs to have their share of the management of the cargo?

Tinney.—The plaintiffs have made no case by their bill.

The LORD CHANCELLOR.—So far I am with you. The question, however, is, whether, upon allegations in the bill, the plaintiffs have not a right to control the disposal as managing owners. I cannot, how ever, find any part of the bill which does not arise out of the plaintiffs' claim to have possession of the cargo as charterers. I consider the refusal of the captain to go to Liverpool to be a mere resistance of that claim. They might have had good ground for an application, but all is explained by reference to that claim—that is, upon the frame of the bill. Upon the other point I have no doubt.

Motion refused with costs.

ROLLS COURT.

Wednesday, March 19, and Thursday, April 10

Re PENDER.

Taxation of bill of costs under 6 & 7 Vict. c. 73—Delivering bill—Signing, necessity of—Delivery up of papers—Order for taxation in personal and representative character.

A bill of costs may be referred for taxation under 6 & 7 Vict. c. 73, s. 37, if it has been delivered, though not signed by the solicitor, nor inclosed in a letter signed by him, and referring to such bill.

Where a solicitor transacts business for a client personally, and delivers bills of costs for the business so done, and also other bills for which the client is liable in his representative character, the proper course is to obtain two distinct orders for taxation.

Though it is irregular to obtain the common order to tax a solicitor's bill of costs, if it direct that, on payment of what is due, the solicitor shall deliver up all papers, &c. belonging to his client, if there be other papers of his client in his possession than those relating to the bill, and on which the solicitor has a lien for other costs, and the order so obtained may be discharged for the irregularity; yet, under the circumstances of the case, a motion to discharge was refused.

It appeared in this case, that William Glasson had employed Messrs. Pender and Co. as his solicitors in a suit of *Esdaile* v. *Glasson*, in which he was a defendant, and in a cross suit of *Glasson* v. *Lewis*, in which he was plaintiff, and at the time of his death was indebted to them to a considerable amount for costs in those suits and other matters. In March 1843, William Glasson died, having appointed Elizabeth Glasson, his wife, and two other persons, his executors, who all renounced probate. In the July following, Messrs. P. and Co. delivered to Mrs. Glasson four bills of costs, amounting together to 333*l.* 17*s.* 3*d.* for the business done for her late husband, which she handed over to her daughter, Miss Glasson, after she had, in March 1844, taken out letters of administration, with the will annexed, to her father, William Glasson Miss Glasson employed Messrs. P. and Co. in reviving the suits after her father's death, and continued to employ them therein, and in some other matters, till September 1844, when she appointed Messrs. Willoughby and Jaquet her solicitors; and on the 31st Oct. following an order was made, by which the latter were substituted in the room of the former as solicitors in the above causes. Several applications having been made to Messrs. P. and Co. by Messrs. W. and J. for their bills of costs against Miss Glasson, Messrs. Clayton and Co. their town agents, on the 4th of November, 1844, delivered to Messrs. W. and J. three bills of costs for business done in the above suits, &c. for Miss Glasson personally. These bills were not signed by Messrs. P. and Co. or their agents, nor were they inclosed in, or accompanied by, a letter subscribed in the manner required by the Act, and referring to them. There was an affidavit, also, of Mr. Clayton, to the effect that the instructions of Messrs. P. and Co. were to arrange certain bills of costs for them with Messrs. W. and J.; and that the bills had accordingly been delivered to Messrs. W. and J. unsigned, not for the purposes of, or with a view to, taxation, but that they might be the subject of an amicable discussion and arrangement. Mr. Clayton further deposed that he had offered to deduct certain items objected to by Messrs. W. and J. It also appeared that several meetings had taken place with a view to the arrangement proposed, but after much discussion they were not attended with any satisfactory result. On the 6th of November, 1844, therefore, a common *ex parte* order to tax the four bills was obtained by Messrs. W. and J. as it appeared from information at the Rolls, that the four bills and the three bills ought not to be included in the same order. Subsequently, however, at the suggestion of the Secretary at the Rolls that this order was irregular, it was discharged on notice to the other side. On the 10th of February last Messrs. W. and J. obtained the common order to tax the three bills; and by that order it was, amongst other things, required that Messrs. P. and Co. should, on payment of what was due to them, deliver to Miss Glasson *all deeds, books, papers, and writings in their custody or power belonging to her.* On the 22nd of the same month a petition for a special order for taxation of the four bills was presented by Miss Glasson, and Messrs. C. and Co. were requested to accept service thereof; but on the very same day they issued a writ in an action to recover from Miss Glasson the amount of the four bills, and served it on her on the 24th; and on the 27th they gave notice of a motion to discharge the order of the 10th for irregularity. This motion and the petition now came on to be heard together.

Kindersley and *Goodeve*, for the petition, and in opposition to the motion.

Turner and *James*, for the motion, and against the petition, contended that the three bills were not delivered by Messrs. P. and Co. with a view to taxation, but for the purpose of an amicable arrangement, and that they were not signed, or inclosed in a signed letter according to the requisitions of the Act, and that therefore the solicitors could not maintain an action upon them. The consequence was, they were not taxable under the 37th section of the 6 & 7 Vict. c. 73. The order of the 10th February was also irregular in requiring the delivery up of all deeds, &c. belonging to Miss Glasson, there being in the possession of Messrs. P. and Co. divers papers belonging to her as the administratrix of her father in the above suits, not relating to the then bills of costs. If obliged to give up all those papers, their lien would be lost The order ought to have been limited to the papers relating to the three bills. As to the four bills included in the petition, they objected that they were not properly signed, and that they never were in fact delivered to Miss Glasson, but to Mrs. Glasson, before letters of administration were taken out by the former.

April 10.—The MASTER of the ROLLS.—The principal question raised, is whether a party chargeable with a solicitor's bill of costs, and to whom a bill of costs has been delivered, is entitled to have the bill taxed although it may not have been signed by the solicitor, or inclosed in, or accompanied by, a letter which has been signed by him. The question depends on the true construction of the 37th section of the Act 6 & 7 Vict. c. 73. That clause begins by enacting, &c. [Here his lordship commented at large on the Act.] Taking the whole clause together, I am of opinion that the expression "such bill" means a solicitor's bill of fees, charges, and expenses for business done for his client; and that upon the true construction of the Act an order may be obtained for the taxation of a solicitor's bill of costs, which has been delivered without being signed. In general, I think it is an objection to an order of course of this kind, that it contains a direction to give up more papers than the solicitor is bound to give up, on payment of the bill, which the order itself directs to be taxed; but this is not an ordinary case, and considering the nature of the application, and of the order, I think the words "all papers" must be considered all the papers relating to the business, or all the papers on which a lien was acquired in the transaction of that business. Under these circumstances, I am of opinion that the motion to discharge the order of course must be dismissed with costs, and that, upon the petition, the usual order must be made for the taxation of the four bills for business done for William Glasson.

Thursday, April 24.

LAWSON *v.* PADDON.

An auctioneer, with whom part of the purchase-money of property is deposited, and who was made a party to a suit for specific performance, but whose name afterwards was struck out on amendment, will not be ordered to pay money into court, as a preliminary step to an injunction being issued to restrain an action-at-law for the recovery of it, but, upon his paying it in, the injunction will then be granted.

In this case, which is reported in 4 LAW T. 490, a motion was now made by the auctioneer who held the deposit, for an injunction to stay an action-at-law brought against him by the defendant to recover it, on his paying the money in court. Questions arising as to the title, the purchaser gave notice to the vendor that he rescinded the contract; but, after much correspondence, a bill was filed on the 15th October, 1844, by the vendor, and the auctioneer, Mr. Bromley, was made a party. The defendant Paddon insisted by his answer that he was not a necessary party, and accordingly, in the amended bill, his name was struck out. The defendant, though in his answer he stated he did not threaten or intend any action against the plaintiffs, or either of them, yet, a few days after the bill was so amended, brought his action against Mr. Bromley for the deposit, and notice of motion for an injunction was accordingly given.

Rogers, for the motion.

Southgate, contrà, insisted that it was merely a case of a purchaser bringing an action for a portion of the purchase-money. [The MASTER of the ROLLS.—Have you by your answer insisted that the contract is vacated?] Yes, we have. And as to the action, the writ was sued out on the 25th March, the order for amending the bill being obtained on the 19th of the same month, and the amendment being actually made only on the 31st. He cited *Lucy* v. *Lindo* (3 Meriv. 81).

The MASTER of the ROLLS.—Here is a question of title pending, and in the meantime the defendant brings his action for part of the purchase-money. I will not grant the injunction till the money is paid into court; when it is, I will. But counsel ought to stop this litigation if possible. Take the order that, on payment, &c.

VICE-CHANCELLOR BRUCE'S COURT.

Thursday, April 24.

DEAN AND CHAPTER OF WELLS *v.* DODINGTON.

Statute of Limitations—Dean and Chapter—Evidence of conversion.

In 1820 the right to recover certain court-rolls and other documents accrued; in that year a letter demanding them was written, and in 1822 another letter on the subject was written. No distinct refusal was shewn. A bill to compel their delivery was filed in 1844. Held, that it was too late, the Statute of Limitations being a bar, as the letters, followed by non-compliance, were sufficient evidence of conversion; but leave was given to bring an action.

In 1757, the plaintiffs, who were the lords of the manor of Cheddar, Somerset, granted the manor lands to Samuel Dodington for the lives of himself and two other parties. The last life expired in 1820. Samuel Dodington died in 1813; the defendant was his executor. The bill alleged that the court-rolls of the manor and a variety of other documents, which ought on the expiration of the grant to have been delivered up to the plaintiffs, had come into the defendant's possession in his character of executor, and were retained by him. The defendant, in his answer, relied on the Statute of Limitations. In support of this defence two letters were proved: one written in 1820, requesting that the documents in question might be handed over; and the other in 1822, to the effect that, after what had passed at a particular interview, the plaintiffs' agent was surprised that no time "had been *fixed*" for delivering up the documents.

Russell and *Heberden*, for plaintiffs, cited *Lord Buckhurst's* case (Rep. 7; Jenkins, 254); *Strode* v. *Blackburn* (3 Ves. 221); *Jackson* v. *Butler* (2 Atk. 307).

Lee (*amicus curiæ*) referred to 10 Co. 93.

Chandless and *Surrage*, for defendant, were not called upon (except as to the point of giving the plaintiff leave to bring an action).

The VICE-CHANCELLOR.—If I am to consider, as I suppose I must (the plaintiffs' counsel not having shewn me the contrary), the Dean and Chapter to be without any special parliamentary privilege exempting them from the Statutes of Limitation, I must hold them to be bound by those statutes, and decide that this suit is too late. The letters, followed by non-compliance, appear to me sufficient to establish conversion—very little is sufficient for that purpose. All I can do for the plaintiff is to retain the bill for a twelvemonth, giving him leave to bring an action.

Common Law Courts.

COURT OF QUEEN'S BENCH.

Thursday, May 15.

REG. *v.* WILLCOCK.

Convictions for the unlawful possession of woollen materials under 17 Geo. 3, c. 56, need not set forth that they were found concealed in the house of the offender; neither need the penalties be specifically apportioned; but where the information has been made before one set of justices, and the adjudication before another, it must be so made to appear on the face of the conviction.

On appeal against a conviction under the 17 Geo. 3, c. 56, for the possession and concealment of woollen goods, the sessions quashed the order, subject to a case for the opinion of this Court.

Hall, in support of the order for quashing.—The conviction was clearly bad on several grounds. It does not properly distribute the penalty, but merely awards that the offender pay 20*l.* "to be paid in manner provided by the statute." This is bad. (Paley on Convictions, 213.) The 17 Geo. 3, c. 56, requires the penalties to be apportioned. That Act has not

been repealed by 58 Geo. 3, c. 51, for the statement in the margin of the latter Act refers to an Act passed in "the thirteenth year of the reign," and not the seventeenth. In the margin the figures are 17, but that is a mere suggestion of the editor's, and will not countervail the express reference in the body of the statute to the chapter of another Act which does exist, and may be referred to; and mere loose words of reference will not suffice to repeal statutes. (*Atkinson's case*, 1 Mood. C. C. 273; *Allen v. Vickers*, 10 Ad. & Ell. 640; *Rex* v. *Cartwright*, 4 T. R. 490; *Nixon v. Manning*, 2 Q.B. 749.) This is a conviction under the 10th section of 17 Geo. 3, c. 56, for the 14th section does not create a new offence, and the conviction ought to shew that the materials were found concealed in a dwelling-house. The 10th section of 17 Geo. 3, c. 56, enacts, "that where materials used in the manufactures before mentioned are found, or known to be concealed in the possession of persons who have received the same, knowing them to be purloined, or embezzled, or of persons known not to be entitled to dispose of the same," and that by the 22 Geo. 2, c. 27, s. 4, "justices of the peace, after conviction of any offender for purloining or embezzling the said materials, or for buying or receiving the same, are authorized to grant warrants for searching the houses and other places of the persons so convicted—but no such authority is given before conviction, nor in any other house or place, except such as belongs to a person convicted,—and enacts, that "it shall and may be lawful for any two justices of the peace of any county, riding, &c. upon complaint made to them upon oath, &c. that there is cause to suspect that any such purloined or embezzled materials, &c. are concealed in any dwelling-house, &c. by virtue of a warrant under their hands and seals to cause every such dwelling-house, &c. to be searched in the daytime. And if any such materials, &c. shall be found therein, to cause the same, and the person or persons in whose house, &c. the same shall be found, to be brought before any two justices, &c. And if the said person or persons shall not give an account to the satisfaction of such justices how he, &c. came by the same, then the said person or persons so offending shall be deemed and adjudged guilty of a misdemeanor, and shall be punished in manner hereinafter mentioned, although no proof shall be given to whom such materials belong." Section 14 enacts, "that every person deemed and adjudged guilty of a misdemeanor, in having in his or her possession any materials suspected to be purloined or embezzled, and not producing the party or parties, being only entitled to dispose of the same, of whom he or she bought or received the same, nor giving a satisfactory account how he or she came by the same; or of a misdemeanor in having, carrying, or conveying of the said materials suspected to be purloined or embezzled, and not producing the party or parties, being duly entitled to dispose of the same, of whom he or she bought or received the same, nor any credible witness to testify on oath, &c. the sale or delivery thereof, nor giving a satisfactory account how he or she came by the same (as the case shall be), shall for every *such* misdemeanor, forfeit, &c.; of which forfeiture, one moiety shall be paid to the informer, and the other moiety thereof to and amongst the poor of the parish, town, or place where such conviction shall be, or to such public charity or charities as the justices convicting shall appoint." Such misdemeanor means the being stopped in the night with goods concealed, and not giving "an account to the satisfaction of such justices," &c. The justices derive their jurisdiction from two other justices, and they, by complaint on oath of concealment, and by the fact that in the house searched by virtue of a warrant under their hands and seals, materials suspected to be purloined or embezzled have been found. *Davis v. Nest* (6 C. & P. 167) will be quoted on the other side; but the attention of Tindal, C. J. was never directed to section 13 of the 17 Geo. 3, c. 56.

But the 2nd section of 3 Geo. 4, c. 23, provides that "where the original complaint or information shall be made to any justice or justices, deputy lieutenant or deputy lieutenants, or other person or persons different from him or them before whom the same shall be heard and determined, the form of conviction shall be made conformable and according to the fact." This has not been done in this conviction. The section applies generally, and its bearing is not confined, as by express terms in the first section, to "cases wherein a conviction has taken place, and no particular form has been directed." The conviction ought to have stated that the information was laid before one set of justices and that the adjudication was made by others. It has not done so, and is therefore rightly quashed. (*Jones* v. *Gurdon*, 2 Q. B. 600; *Leeds* v. *Summersgill*, 17 Ves. 408.)

Overend, on the same side.—This conviction is not under the 14th section, but the 10th. The 14th fixes the punishment for every such misdemeanor. There must be some suspicious circumstances to ground the proceeding. The offence is, not giving a proper account to the justices, not, refusing to give any account to an unauthorized person. (*R.* v. *Goodfellow*, 1 C. & M. 560.) Then the facts constituting juris diction must appear. (*Re Peerless*, 1 Q. B. 143; *R.* v. *Sutton*, 13 L. J. M. 58; *R.* v. *Walsh*, 1 A. & E. 481.) The 2nd section of 3 Geo. 4, c. 23, is general, and is not restricted, as is the 1st section, to cases wherein a conviction shall have taken place, and no particular form for the record thereof hath been directed. (*Jones* v. *Gurdon*, 2 Q. B. 600; *Rile and Lane's* case, 1 B. & C. 101; *Re Peerless*, 1 Q. B. 143.)

Pickering and *Hardy*, contrà.—The 14th section creates a new offence, and this conviction is therefore good. But if not, the 10th and 14th sections, taken together, shew that the offence is dishonest possession, and the not satisfactorily accounting for the possession. In the form given by the statute it says, "specify the offence," and the issuing a warrant cannot render the innocent possession a criminal possession. *Cheney* v. *Payne* (1 Q. B. 712), *Nixon* v. *Manning* (ibid. 747), *Davis* v. *Nest* (6 C. & P. 167), were cited. The 17 Geo. 3, c. 56, s. 14, has been repealed by 36 Geo. 3, c. 51. (Bac. Ab. tit. Statute (L. 5); *Sanderson* v. *Piper*, 5 B. N. C.; *Andre* v. *Fletcher*, 2 T. R. 164.) The 2nd section of 3 Geo. 4 does not here apply, as a form is given in the Act. It cannot have been intended that a specific provision of an Act of Parliament of this kind should be interfered with by a subsequent general enactment. (*Leeds* v. *Summersgill*, 17 Ves. 408.) *Cur. adv. vult.*

JUDGMENT.

Lord DENMAN, C. J. now delivered the judgment of the Court.—This case was a conviction, to which three objections were made: first, that the penalty was not properly distributed; secondly, that the conviction was by two different justices than those who received the information; and thirdly, that the goods were not found concealed, nor under a search warrant. If any one of these objections is fatal, the conviction is to be quashed, if not, it is to be affirmed. None of them can be properly considered without an examination of the whole law upon the subject. The conviction is framed on the 17 Geo. 3, c. 56, ss. 10 and 14, and charges in substance that the defendant had in his dwelling-house and in his possession certain materials suspected to have been purloined; that he and the said materials were brought before the convicting magistrates, when he gave no account to the satisfaction of the said magistrates how he came by them, nor produced at any time the person from whom he bought or received them. It then adjudges him guilty of a misdemeanor, and that he has thereby forfeited 20*l*., this being his first offence, to be paid in manner provided by the statute, and imprisonment in default of payment. The conviction is in the very words of the 10th section, with an addition, rendered necessary by the 12th section, and negatives that the appellant produced before the justices the person of whom the goods were bought or received by him. But an argument is founded on the introduction of the word "such," as applied to the materials among the operative words of the 10th section, where it is said to have reference to materials in the manner described in its preamble. The recital is, that materials used in the manufacture before mentioned are frequently found, or are known to be concealed in the possession of persons who have received them, knowing them to be purloined or embezzled, or of persons not entitled to dispose of the same, and the discovery and conviction of such purloiners and embezzlers, buyers and receivers of such materials, is full of difficulty, from the close and clandestine manner in which the offence is committed, and that there is still greater difficulty in proving whose property such materials are, and that it would tend to the discouragement and suppression of such offence if the discovery and conviction were rendered more easy, and reciting, by a former Act, justices, after the conviction of any offender for purloining or embezzling, or for buying and receiving the same, are authorized to grant warrants for searching the house and other places of the person so convicted; but no such authority is given before conviction, nor in any other house or place, except such as belongs to a person before convicted. Then the enactment follows, authorizing two justices, upon complaint on oath, or on affirmation by a Quaker, that there is cause to suspect that any such purloined or embezzled materials are concealed in any dwelling-house, &c. by a warrant under seal, to cause every such dwelling-house, and so on, to be searched in the daytime; then the misdemeanor is created; "and if any such materials suspected to be purloined or embezzled, shall be found therein, to cause the same, and the person or persons" in whose custody they are found, to be brought before two justices; and if the said person shall not give an accurate account to such justices how he came by the same, then he is to be punished. The word *such* is supposed to incorporate in the description of the materials found all the preceding particulars, or at least the fact of their being concealed in the dwelling-house where they are found. That we think is not the true construction. "*Such*" does not appear to be applied to the circumstances, but to the nature of the article. It is not "so found," or "found upon such search," nor found concealed; nor is there any reason why that limitation should be imposed, either by the legislature or by any judicial interpretation of the statute. The preamble recites the mischief, and, moreover, gives some additional powers for preventing it; but the offence meant to be put down is the possession of goods suspected to be purloined, without being able to give satisfactory account of them.

The difficulties that protected suspicious goods from seizure induced the legislature to provide a penalty against all in whose possession they might be found, without explanation how they were come by; and the *primâ facie* case is equally made out, whether they are found in possession in the course of an unexpected visit, or by virtue of a search-warrant. This was the view taken by the chief justice of the Common Pleas, at Gloucester, in the year 1833, and we think it perfectly correct. The concealment is merely evidence, and by no means essential to the definition of the offence. Secondly, whether the penalty is properly distributed by the adjudication is assumed to depend on the question whether the Act first alluded to was in those particulars repealed by the 58 Geo. 3, c. 57, s. 3, which repeals an Act passed in the 13 Geo. 3, intituled an Act with the title of that which I have just referred to; and here is set out the title of the 17 Geo. 3, not that of any Act passed in the 13 Geo. 3, nor, we presume, of any Act whatsoever. A mistake has been committed by the Legislature in the title of this statute; and having referred to the subject-matter, and looking to the mere contents of the Act itself, we cannot find the intention was to repeal the 17 Geo. 3, and we think that the incorrect year must be rejected. The third objection, arising from the information having been before different justices from those who convicted, is certainly not removed by the 3 Geo. 4, because the fact of such difference is not recited in the conviction as recited by that Act. The 3 Geo. 4 must be taken generally. If the latter part of the section—the part on which this turns, were confined in its operation to the case provided for in the former part,—the commencement—that is, of a proceeding by one justice where two are necessary for the hearing and conviction, there is no reason why a voluntary justice should be introduced. It clearly contemplated an information laid before two justices. There we have the words as general as may be, and a provision the application of which is as reasonable where two have received the information and two others have heard the evidence as where one only has commenced the proceeding. Upon this ground we think that the conviction was bad.

Order confirmed.

Thursday, May 22.

KEIR *v.* LEMAN.

Applications for rules to rescind judges' orders respecting taxation of costs are too late after the lapse of a year.

A rule had been obtained to shew cause why so much of a judge's order in this case should not be set aside as respects the costs in this action, which had been brought on a guarantee. The taxation had been in the presence only of an attorney's clerk, it being stated to the Master that an arrangement had been made, and that it was an amicable taxation. It was now sought to set it aside, on the ground that it was fraudulently made, and that the deductions were exorbitant.

Bliss shewed cause.—The application is too late. This order was obtained on the 4th of June, and the whole of Easter and part of Trinity Term has been suffered to go by before coming to the Court. (*Reg.* v. *Austin*, 1 Dowl. N. S. 666; *Reg.* v. *Mayor of Swansea*, 12 L. J. Ex. 281.) And where the judge has jurisdiction, it is for him to give costs, and his order will not be interfered with. (*Doe dem. Muller* v. *Roe*, 11 Ad. & Ell. 333; *Sadler* v. *Palfreyman*, 5 Ad. & Ell. 717.)

Kelly, Q. C. (with whom was *Pashley*), contrà.—This taxation was fraudulently made. The Attorneys Act had not passed when this action was brought, and a year had not elapsed.

Lord DENMAN, C. J.—I think they have not sufficiently explained this delay, and we ought not to interfere with the learned judge's order.

PATTESON, J.—The application is not made till more than a year after action brought.

Rule discharged with costs.

WHARTON *v.* WALTON.

Covenant.

Where to a lease is attached an agreement which imposes penalties, it requires a separate stamp, though connected with and ancillary to the demise.

This was an action upon an agreement contained in a lease, whereby Wharton, a brewer, let a house to the defendant, and undertook to be answerable for his license, on condition that the defendant should buy all his beer of the plaintiff, who was a brewer. The agreement and lease at the head of it did not name the plaintiff, but the plaintiff's son; but it was executed by the plaintiff. The verdict was found for the plaintiff, with leave to move, on the ground that a lease-stamp was not sufficient to cover the agreement without an agreement stamp, there being none; and also that the agreement is bad, be-

cause the plaintiff's name was not properly stated in the commencement of the deed.

Vaughan Williams shewed cause.—The agreement is incidental to the lease, and the sale of the beer is in fact the consideration for the demise, and wherever a lease introduces matter connected with the demise, and not independent of it, the lease stamp suffices. (*Price* v. *Thomas*, 2 B. & Ad. 218.) The one contract was auxiliary to the other, and the lease stamp suffices for both. (*Corder* v. *Drakeford*, 3 Taunt. 382; *Stead* v. *Liddart*, 1 Bing. 196.) The son is named at the beginning of the deed, but at the end J. W., the plaintiff, holds himself bound. The meaning of this agreement is, that the plaintiff had demised to the defendant, and then the father comes and says, I will be responsible for what my son covenanted.

Welsby, same side.—That defendant shall buy the beer is a part of the agreement, for it is the consideration for which the lease is given. If the stamp refers to the beer, it need not be stamped, according to *Stead* v. *Liddart*; but looking at the whole instrument, it means to bind the defendant to the moneys under the agreement, and not otherwise, and therefore there is a sufficient consideration set out on the face of the deed.

Jervis, Q. C. contrà.—This is not a mere lease. (*Clayton* v. *Burtenshaw*, 5 B. & C. 41.) It is no part of the demise to make express terms and set forth specific penalties for the breach of the agreement to buy beer. It is not only a guarantee which requires no stamp; it is more, it is a penalty, and does require a stamp.

Townsend, same side.—The agreement was complete without the guarantee for any amount of money which may become due from Wharton, jun. This was a supplemental agreement, not auxiliary to the other, which does not fall within the exception in the Stamp Act.

Lord DENMAN, C. J.—There is this clear and simple objection to the case put by Mr. Williams, that there is a penalty to be paid on the one part, which is guaranteed on the other part, and it certai requires a separate stamp. *Rule absolute.*

Friday, May 23.

ROBINSON v. ROBINSON.

An error in the amount of a defeazance to a warrant of attorney does not make the warrant void against the assignees—Attesting attorney under 1 & 2 *Vict. c.* 110.

H. Hill moved for a rule *nisi* calling upon the plaintiff to shew cause why the judgment and execution should not be set aside wholly, for an excess in the levy. The warrant was dated April 21, 1844, and contained defeazance for 1,300*l*. Judgment was signed Nov. 1, 1844; *fi. fa.* issued to levy 1,332*l*. 4s. and 1,085*l*. 6s. 6d. was levied. A fiat issued Feb. 20, 1845; the assignees were appointed April 5. The first information they received on the subject was on May 5, and they immediately summoned the plaintiff to appear in the Court of Bankruptcy, and the facts upon which this motion was made were then elicited from him. The grounds were, 1. That the defeazance stated more to be due than was in fact due at the time, which made the warrant void. (3 Geo. 4, c. 39.) 2. That there was no sufficient affidavit of the time of the execution of the warrant of attorney. (*Dillon* v. *Edwards*, 2 M. & P. 550.) 3. That the attesting attorney was not the attorney for the defendant. It appeared that the usual attorney for the defendant had prepared the warrant, and a Mr. Dibben, not the plaintiff's usual attorney, had attested it, and had afterwards been employed by the plaintiff to sue out execution; but there was nothing to shew that he had been before employed by either. 4. That the assignees were entitled to recover the excess. The sum levied was more than what was due upon the warrant, which did not allow the plaintiff to levy for any sums for which he was liable on the defendant's account. (*Duke* v. *Watchorn*, 1 D. N. S. 265.)

By the COURT.—There may be a rule upon the objection as to the date of the affidavit and as to the excess, but there is nothing in the other two points.

Rule accordingly.

Saturday, May 24.

ELLIOT v. BLACKWELL.

It is evidence to go to the jury, in an action for goods sold to the wife, that the husband, though living apart from her, knew of the purchase.

Debt for goods sold to the wife of the defendant.

Verdict for the plaintiff, 30*l*.

The action was brought to recover 60*l*. for several articles of furniture not necessary for the wife.

Hayes.—The plaintiff knew the defendant was a married woman. The husband was a man-servant, and a letter was put in, shewing that he intended to make a settlement; so that it was not a common and ordinary separation, for they could not, under the circumstances, live together. The daughter swore that the goods came in, and she went, with the father's consent, to live with her mother; the father paying compensation for her board. This furniture was for a lodging-house, which the husband knew of, and would have derived benefit from. If he knew the wife had not ready money, and must have known that she had the goods on credit. This implies knowledge by the husband; and this was evidence to go to the jury, though not of the strongest kind.

Lord DENMAN, C. J.—This appears to be an outrageous verdict; but there was evidence to go to a jury: the plaintiff will only have a rule on payment of costs; but perhaps the best course would be a *stet processus*. There must be a new trial, but the costs shall be reserved.

Humfrey, Q. C. contrà, was not in court.

Rule absolute.

Re SLYMAN.

District coroner, election of—Qualification—Stat. 7 & 8 *Vict. c.* 92.

Robinson moved for a rule that should call on a gentleman named Slyman to shew cause why an information in the nature of a *quo warranto* should not issue commanding him to shew by what authority he assumes to exercise the office of coroner for the district of Newton, in the county of Montgomery. An election to the office of coroner for that district, under the 7 & 8 Vict. c. 92, took place in January last, and the returning officer returned Mr. Slyman as duly elected. To the return there were three objections: 1. That several persons, in number exceeding two hundred, had voted for Mr. Slyman, and were not qualified, and that several persons voted twice for Mr. Slyman. 2. That Mr. Slyman had not the necessary freehold qualification for the office. (2 Hawk. P. C. 102; 2 Hale, P. C. 55.) 3. That the town of Montgomery was one of the polling-places fixed by the returning officer, and as that is a borough having a coroner of its own, it was not within the district for which the election was to take place within the meaning of the 7 & 8 Vict. c. 92. To shew that a *quo warranto* would lie, he quoted *R.* v. *Sayer* (5 T. R. 376, n.)

Rule nisi.

REG. v. WILLATTS, Esq. and ANOTHER.

Certiorari—Order of removal—R. G. Pasch. 1 *Anne—Coming to inhabit—Equivalent statement.*

In the course of last Term a rule had been obtained by *Pashley*, that called on two justices of the borough of Reading to shew cause why a writ of *certiorari* should not issue for the removing into this court an order of removal made by them for removing a pauper and his family from Reading to Bickington. Several objections were taken to the order, one of them being that the order alleged that the pauper and his family "had lately intruded and come into the said parish of St. Giles, &c. and have become actually chargeable, &c." Against the rule cause was now shewn by

Carrington.—1. The time for appealing is not out. (R. G. Pasch. 1 Anne; 2 Nol. 587; 1 Salk. 147; *R.* v. *Harman*, Andr. 343; *R.* v. *Houlditch*, 2 Bott. 356.) In this case there will be an opportunity of appealing after removal, if the removal shall be treated as a grievance; and, therefore, if the Court, according to the rule of Anne, could send back the case though the *certiorari* had issued; *à fortiori*, will it send back the case at this stage of the proceedings for obtaining the *certiorari*.

Lord DENMAN, C.J.—That rule of court does not apply; it was made to prevent removal by the party in whose favour the order had been made, and to preserve the appeal to the other party.

Carrington.—The statement in the order is equivalent to the statements that have been used in the old forms. To say that persons have lately intruded themselves and are actually chargeable, is the same thing as saying that they have lately come to inhabit, which satisfies the statute of Charles. (*R.* v. *Rotherham*, 12 L. J.; *R.* v. *Bnegar*, 7 East, 377.)

COLERIDGE, J.—Would the word "intruded" do of itself?

Carrington.—Not without being chargeable.

COLERIDGE, J.—A tramping beggar who asks relief?

Carrington.—If he gets the relief, he is removable.

COLERIDGE, J.—Suppose he were to break his leg and to be tended in the parish?

Lord DENMAN, C.J.—We cannot give to the word "intruded" the meaning for which you contend. The rule must be made absolute. *Rule absolute.*

Monday, May 26.

SEDGWICK v. HAMMOND.

Evidence under plea of no consideration in action by indorsee against acceptor of a bill of exchange.

This was an action on a bill of exchange, by indorsee against acceptor.

Plea.—That it was accepted for the accommodation of the drawer, and without consideration or value; and that it was indorsed without consideration.

The defendant offered in evidence an undertaking by the drawer, that he would pay the bill, and that after the bill was paid, it got into the hands of the plaintiff, and whilst in his possession, the defendant's son went to demand it for the defendant, when plaintiff made no claim upon the bill; but did not give it up, because it was not in his possession at the time.

Lord Denman, C. J. at the trial thought there was no evidence of the acceptance for the accommodation of the drawer, and refused to put it to the jury.

Humfrey, Q. C. now moved for a new trial.—*Easton* v. *Pratchell* (2 C. M. & R. 798), shews that this would have been a good plea upon general demurrer, or after verdict, without the averment that it was accepted for the accommodation of the drawer, and that therefore there was evidence to go to the jury that it was accepted without consideration.

Rule nisi, subject to an objection as to the admissibility of the undertaking.

DAY v. EDWARDS.

Right of pawnbroker to use pawn — Remoteness of damage.

This was an action upon the case to recover damages for injury caused by the plaintiff's drinking nitric acid out of a cruet, which had been put in by the defendant during the period he had it in his possession as a pawnbroker, the plaintiff's father having purchased the ticket and redeemed it from the defendant. The declaration stated the facts, with averments of the knowledge of the defendant, and that he gave the bottle to the plaintiff without informing or warning the plaintiff's father, and that it was received for the use of the family.

Lush now moved, in arrest of judgment, that the damages were too remote. (*Levy* v. *Langridge*, 4 M. & W. 337; *Lynch* v. *Nurdin*, 1 Q. B. 29; *Winterbottom* v. *Wright*, 10 M. & W. 109.) It was not stated that the putting the nitric acid into the bottle was an improper use of the cruet in question; and a pawn may be used. (Story on Bailments.) It does not appear where the plaintiff's father put the bottle. If the rule in arrest of judgment is granted, a rule for a new trial should also be granted, because there was no evidence of the *scienter* offered, and the defendant may be held to be concluded by the averment of the *scienter*. It is true no point as to the *scienter* was made.

Rule nisi on both points, that the defendant may not be estopped by the averment of scienter.

Wednesday, May 28.

REG. v. INHABITANTS OF MANCHESTER.

Statement of chargeability.

Residence in the workhouse and averment of chargeability are sufficient.

This was an appeal from an order of sessions, confirming an order of removal, subject to the opinion of the Court of Queen's Bench upon the sufficiency of the statement of chargeability. The pauper stated that she had been married about five years; that her husband had left her, and that she had removed to Preston; that *she was residing in the workhouse in that town, and was now chargeable thereto.*

Cowling.—The statement is insufficient, for it does not shew any evidence of chargeability, as required, according to *Reg.* v. *High Bickington* (3 Q. B. 790; see 1 Bit. & Sym. 1). There might be residence in the workhouse without any charge or relief. It ought to be more precise, and shew relief.

Lord DENMAN, C. J.—So it does.

COLERIDGE, J.—The statement of chargeability need not shew conclusive evidence.

Order confirmed.

REG. v. INHABITANTS OF CUDDINGTON.

The payment of a uniform rent for land inclosed from the waste is not proof of an estate in the land when the origin of the inclosure is shewn.

It appeared that the sessions had quashed an order of removal, inferring from the facts proved by the appellant parish that the pauper was irremovable. It appeared that the pauper's grandfather had, at some time prior to 1769, built a cottage upon some waste land, which he occupied until his death in 1829. A receipt was put in, dated Sept. 26, 1769: "Received of J. Tomlinson, 2s. 6d. a year's cottage rent, due to W. Grey, esq." Subsequently another piece of land was taken, and 6d. added to his yearly payment, which was continued without any variation. In 1829, the husband of the pauper entered as the heir of the grandfather, and the rent was paid as before. In 1843, the collector of the rents spoke to her, and threatened to raise the rent, and she said she hoped he would not. From these facts the sessions had inferred that the cottage and land were an estate, which prevented the pauper from being removable.

Townsend now argued in support of the order of sessions.—This is a payment of quit-rent for a number of years, and the inference from payment for so long a period is, that it is a mere acknowledgment of tenure, and not a compensation for the land. (Woodfall's Landlord and Tenant, 269; *Doe dem. Whittick* v. *Johnson*, Gow. 173.) [PATTESON, J.—That case has been much doubted, if not overruled. Besides, here there is the additional fact of the origin of the holding—that it was an inclosure from the waste.] After so long a period the Court will be unwilling to remove, and the conversation with the wife of the tenant was of no importance here, as she could not be supposed to know the exact nature of the payment. *Rex* v. *Garway* (Burr. S. C. 682), and *R.* v. *Bitton* (ib. 631), were cases of this kind. The addition of the 6d. made no variance in the payment, as it was in respect of a new piece of land.

Whately, Q.C. contrà.—There was no estate here. It was not a quit-rent; but if so, it is conclusive proof that it was not an estate settlement. It was a mere licence, and this confers no estate for settlement.

R. v. *Hornchurch* (2 B. & A. 189), *R.* v. *Hagworthingham* (1 B. & C. 634), *R.* v. *Garway*, and *R.* v. *Billon*, are distinguishable. In the one case, no rent had been paid for thirty years; in the other, rent had been paid by mistake.

By the COURT.—It is quite clear the sessions had no grounds to draw the inference they did. The origin was proved and the acknowledgment of tenancy; it could not, therefore, be an adverse possession. *Order of sessions quashed.*

REG. v. WORTHINGBURY.

An order of removal, signed by the magistrates with their sui names in full, but only the initials of their Christian names, is sufficient.

An order of removal had been confirmed in this case, subject to the opinion of the Court of Queen's Bench upon the sufficiency of the signatures of the two magistrates, whose Christian names were only set forth by initials. The body of the order did not contain their names at length. In all other respects the order was sufficient. The Court called upon

Corbett (with whom was *Yardley*) to support the objection.—In coroners' inquisitions, the Christian names of the jurors must be set out at length. (*R.* v. *Evett*, 6 B. & C. 247; *R.* v. *Bowen*, 3 C. & P.; *R.* v. *Bennett*; 6 & 7 Vict. c. 83, s. 2; *R.* v. *Steventon.*)

COLERIDGE, J.—Our orders are frequently signed with the initials of the Christian names.

Whitmore, contrà, was not called upon.

Lord DENMAN, C.J.—This order is clearly good. *Order of sessions confirmed.*

REG. v. ALTRINGHAM.

Tenement' settlement.

The occupation of land need not be distinct and separate under 5 & 6 Geo. 4, c. 57.

This case had been granted prior to the decision of *Reg.* v. *St. Laurence, Appleby* (14 Law J.; 4 Law T. 331), and it was only distinguishable from it by the fact, that the distinct values of the land and the house were not stated. The pauper had rented a farm in the appellant parish jointly with A. B. for 50*l*. per year, and they had occupied it as joint tenants and resided in it.

Townsend tried to distinguish this from the above case, and in support of the order of sessions, who, acting upon *Reg.* v. *Caverswall* (10 A. & E. 270) had quashed the order of removal, but admitted that the value of the land must be taken at above 20*l*. a year.

Walson, Q.C. contrà.

By the COURT.—The order of sessions must be quashed. The occupation of the land was quite sufficient without any house, and *Reg.* v. *St. Laurence Appleby* was correctly decided.

Order of sessions quashed.

Friday, May 30.

PEAKE v. SCHERCH.

The points for argument upon demurrer must be distinctly stated. It is not sufficient to refer generally to the body of the demurrer, and the case will be struck out and costs inflicted for the non-observance of this rule.

Demurrer to plea.

Watson, Q.C. was proceeding to state his case, when

LORD DENMAN, C.J. said.—What is the point to be argued here. The points delivered are as follow: The matters in law to be argued are, amongst other things, set out in the body of the demurrer. We have over and over again condemned this practice. Call the next case. The plaintiff must pay the costs.

Bovill, for the defendant, expressed his willingness to waive the objection.

LORD DENMAN, C.J.—This rule is for the protection of the Court.

PATTESON, J.—When we have made some examples, and punished the disregard of our rules by making the parties pay the costs, they will be followed. (*a*)

(*a*) *Selby* v. *Brown* was also struck out for the same reason. To prevent similar misfortunes, we have lost no time in noticing these cases.

BUSINESS OF THE WEEK.

Thursday.

HALL v. LACK.—This was a rule to set aside a warrant of attorney. *Rule nisi.*

BESSELL v. LANSBERG.—The question was whether a landlord may waive his right to a due notice to quit, though it was not a surrender of the term. *Rule nisi.*

WILTON v. CHAMBERS.—*Jervis*, Q.C. moved for rule to shew cause why signatures be not dispensed with, or an interdict be made so as to carry out the personal order. *Rule nisi.*

Saturday.

HOLFORD v. BAILEY.—Trespass. Fishery case. *Cur. adv. vult.*

GALE v. ALLEN. *Cur. adv. vult.*

MAYFIELD v. ROBINSON. *Cur. adv. vult.*

DOE dem. SWINTON v. COOK. *Rule discharged.*

SPENCER v. CARLIN. *Rule absolute.*

Monday.

REG. v. TITHE COMMISSIONERS OF ENGLAND AND WALES, *re* THE DENT BOUNDARIES.—The *Solicitor-General*, *C. Buller*, *Dundas*, Q.C. and *Addison*, were heard in support of the award. *Martin*, Q.C. and *H. Hill*, contrà. With one exception the points are the same as in the case *supra*, p. 93. *Cur. adv. vult.*

Tuesday.

SCARPELLINI v. ATCHESON.

Assumpsit on a promissory note by payee (a married woman) against the maker.

Demurrer to defendant's rejoinder.

Ogle, in support of the demurrer.

Henderson, contrà. *Cur. adv. vult.*

THE ST. KATHERINE'S DOCK COMPANY v. HICKS.

Replevin.

The declaration alleges the seizure and unjust detention of a crane and other property of the plaintiffs of the value of 600*l*.

The defendant justifies, as a commissioner of sewers for the district of the Tower Hamlets, acting under their authority to enforce a rate made upon the plaintiffs for the expenses of sewerage.

Replication—De injuriâ.

On the trial, verdict for the plaintiff.

A special case has since been drawn up by consent, setting forth the facts. The question was whether the rate was or was not a valid rate.

Dundas, Q.C. against the validity of the rate.

F. Kelly, Q.C. in support of it. *Cur. adv. vult.*

Wednesday.

REG. v. MASTER AND TRUSTEES OF ATTWEL CHARITY. *Cur. adv. vult.*

—— v. EVANS.—*Hawkins* moved for leave to add several pleas in an action of trespass for crim. con. to raise the question whether the action would lie after separation. (*Harvey* v. *Walson*, 2 D. & L. 313.) *Rule nisi.*

WORTHINGTON v. GRIMSDITCH. *Cur. adv. vult.*

BROMLEY v. SPURRIER.—*Whately*, Q.C. and *Whitmore* were heard against the rule for a new trial, on affidavits and rejection of evidence. *Godson*, Q.C. and *Greaves*, contrà. No decision was given upon the rejection of evidence; but the rule was made absolute upon the affidavits.

Rule absolute, question of costs reserved.

REG. v. STOCKTON-UPON-TEES.—This will be reported next week. *Order of sessions quashed.*

REG. v. BRIGHTHELMSTONE will be reported next week. *Part heard.*

Friday.

WINTERBOTTOM v. BRIGHTHELMSTONE. *Cur. adv. vult.*

COURT OF COMMON PLEAS.

Friday, May 23.

STEPHENS v. LOWNDES.

Practice—Appearance for an infant Nullity.

Byles, Serjt. moved a rule to shew ... the appearance for the defendant, declaration, and judgment, and execution thereon, should not be set aside.

The action was brought against an infant. An appearance had been entered for the defendant by the plaintiff under the statute. On the 24th of February last judgment had been signed, and on the 12th of April the defendant was taken in arrest on a *ca. sa.* The application, it was admitted, was too late if the appearance which had been so entered was only an irregularity; but it was contended that it was a nullity, and therefore not waived.

The following authorities were cited: Tidd's Practice, 99, 9th ed.; *Roberts* v. *Spurr* (3 Dowl. 551); and *Nunn* v. *Curtis* (4 Dowl. 729). *Rule nisi.*

DOE *dem.* MUSKET v. ROE.

Where the names of all the tenants are not affixed to each of the notices served, judgment in ejectment can only be moved for against the tenant to whom the notice was directed.

Byles, Serjt. moved for judgment against the casual ejector.

A copy of the declaration in ejectment had been served upon each of the tenants in possession, but the notice annexed to each copy was directed only to the tenant on whom the same was served, instead of containing the names of all the other tenants.

The COURT refused to grant it against all the tenants, as otherwise each party might suppose the premises sought to be recovered were those only in his own occupation, but judgment might be had against one. *Rule accordingly.*

TOMLINSON, Clerk v. SIR FLETCHER BOUGHEY and ANOTHER.

Where exemption from tithes is claimed by reason of several moduses, if the yearly value of the tithes in respect of the land covered by each modus does not exceed 20l. the decision of the tithe commissioner thereon is final, although the aggregate value of the tithes in respect of the land covered by all the moduses may exceed 20l.

Talfourd and *Shee*, Serjts. shewed cause against the rule obtained in last term, calling on defendants to shew cause why they should not accept the issue which had been tendered them under the Tithe Commutation Act (6 & 7 Wm. 4, c. 71, s. 46). The plaintiff was the rector of the parish of Stoke-upon-Trent, and the defendants were landowners within the parish, as devisees in trust under a will. A claim of exemption from tithes was made before the tithe commissioner in respect of fourteen different kinds of modus. One of them was a parochial modus, and the rest were separate farm moduses. The tithe commissioner decided in respect of four of the farm moduses in favour of the plaintiff, the rector, and as to the residue he decided in favour of the defendants. The yearly value of the tithes in respect of all the lands covered by the eight moduses so decided in favour of the defendants exceeded the sum of 20*l*., but the yearly value of the tithes in respect of each of the farms was under 20*l*. The question was whether, under the 46th section the decision of the commissioner was to be considered as one decision on all such moduses, or a separate decision on each. It was contended, that if the plaintiff could thus unite the decisions of the commissioner on these various moduses, the effect would be to get rid of the provision of the Act that the decision of the commissioner should be final in cases where the value of the payment withholden should be less than 20*l*. a year; at all events, the plaintiff had no right to appeal only from so much of the decision as was against him, if it was one and not several decisions.

Channell, Serjt. in support of the rule.—In the case of *Mackintosh* v. *New College*, not reported, the Court of Queen's Bench said, the object was to give a remedy by trial by jury to any party whose interest affected may exceed the yearly value of 20*l*. Here it is contended the interest of the rector affected by the decision exceeded 20*l*. a year, and therefore he was a party dissatisfied with such decision, within the meaning of the 46th section. [MAULE, J.—The question will turn upon the meaning of the words "any such decision," in the 46th section.] There is here really only one decision; that is, that the rector is not entitled to these tithes in kind, though several reasons are given for the same in the form of different moduses.

TINDAL, C. J.—It appears to me that this rector is not entitled to have this issue under the 46th section of the Act. The words of that section are, "that any person claiming to be interested in any lands, or the tithes thereof, who shall be dissatisfied with any such decision of the commissioner," &c. "may, if the yearly value of the payment to be made or withholden according to such decision, shall exceed the sum of 20*l*." &c. It therefore restrains any action unless the yearly value to be made or withholden exceed 20*l*. The question is, whether then, when the lands possessed by the landowners, and covered by each modus, do not separately amount to the yearly value of 20*l*. the rector may combine them together, and so make them exceed that value. It seems to me that each of the moduses was a question for the decision of the commissioner, and in case of appeal, for trial at law. It has been stated in behalf of the rector, that if the aggregate amount of the tithes exceed the yearly value of 20*l*. the rector has the power of having an issue under this 46th section; but this is open to the answer, that if so, the rector and the landowner would not be on an equal footing, as the landowner in such case could not come and require an issue, should he be dissatisfied with the decision on any of the moduses. Looking at the 44th, the 45th, and the 46th sections of this Act, we find that in each a modus is the subject-matter of decision for the commissioner, and if either of the parties is dissatisfied therewith, in one case, and one case only, an issue may go for trial; and that is, if the yearly value of the payment withholden according to such decision shall exceed 20*l*. I am therefore of opinion that this rule must be discharged.

COLTMAN, J.—The decision must be looked on as a separate decision as to each modus; and if the tithes in respect of the land covered by each modus do not exceed 20*l*. then such decision is final and decisive.

MAULE and CRESSWELL, JJ. concurred.

Rule discharged.

COOPER v. WILLOMATT.

Where a bailee who has the use of goods for hire wrongfully sells the same to a bonâ fide purchaser not in market overt, the bailor may recover them in trover against such purchaser.

Trover for goods and chattels.

Plea—Not possessed.

The action was brought to recover the value of certain furniture, which had come into the possession of the defendant under the following circumstances. The furniture originally belonged to a person of the name of Parry Savage, who, becoming involved in pecuniary difficulties, assigned the same by bill of sale to the plaintiff as a security for the sum of 100*l*. An agreement, dated 24th April, 1844, was then entered into between the plaintiff and Savage,

which, after reciting such assignment, proceeded as follows: "It is hereby agreed between the said parties, that the said Parry Savage shall have the use of the said household furniture, goods, chattels, utensils, and effects, he, the said Parry Savage, paying unto the said Edward Cooper the rent or sum of 6s. by the week, for the rent or hire of the same. The first weekly payment to become due and be made by the said Parry Savage on the 27th day of April instant. And the said Parry Savage hereby agrees to pay the said rent or sum of 6s. by the week during so long a time as he shall be allowed by the said Edward Cooper to have the use of the said household furniture, goods, chattels, utensils, things, and effects; and the said Parry Savage hereby agrees that he will not alter or dispose of the same or any part thereof without the license or consent of the said Edward Cooper, his executors, administrators, or assigns, for such purpose had and obtained in writing; and that he will pay for or replace such articles or things that may be broken or damaged; and that he will deliver up the said household furniture, goods and chattels, utensils, things, and effects, in as good state and condition as they now are, on demand being made for the same by the said Edward Cooper, his executors, administrators, or assigns." The agreement then gave to the plaintiff a right of entry on the house of Savage to remove the furniture without being subject to any action; and that if any action should be brought for so doing, the agreement might be pleaded in bar thereto. At the time making this agreement, a written authority was given by the plaintiff to the wife of Savage to hold possession of the furniture in behalf of the plaintiff, with a direction not to allow Savage to dispose of the same without the consent in writing of the plaintiff. It appeared that Savage afterwards removed the furniture to the house of his father-in-law, and there sold the same to the defendant, a furniture broker, who bought it *bonâ fide*, believing Savage to be the owner. Demand was made on the defendant by the plaintiff for the property to be delivered up to him, but the defendant refused to comply therewith.

On these facts being proved at the trial, the learned judge nonsuited the plaintiff, but gave him leave to move to enter a verdict for the amount of 27*l.* if the Court should be of opinion that, under the circumstances, he was entitled to recover. A rule *nisi* having accordingly been obtained,

Talfourd, Serjt. now shewed cause.—The question is, whether the conduct of Savage had or not so put an end to the demise as to enable the plaintiff to maintain trover instead of bringing an action on the case for the wrong committed. It is submitted that this agreement constituted a weekly tenancy, which could not be determined without notice, or demand being made for the furniture on Savage; whereas the only demand which had been made was on the defendant. The plaintiff allowing, both by himself as well as by the wife of Savage (whom he chose to make his agent), Savage to remove the goods to his father-in-law's, and generally to treat them as if they were his own, cannot now be permitted to recover them from the defendant, who has been induced in consequence to consider Savage the true owner. (*Gregg* v. *Wells*, 10 A. & E. 90.) On the same principle it has been held, that if the bailee of goods deliver them to a stranger, the bailor cannot bring trover against the stranger. (Bac. ab. Trover, C.) It was next contended that the agreement operated as a demise to Savage, and that Savage had done nothing inconsistent with the same, but that the sale to defendant at all events gave to the defendant the same rights as Savage had under the lease, and that therefore the plaintiff could not recover the property by the present form of action.

Shee, Serjt. (*Bovill* with him) in support of the rule.—The bailee of goods should always be in a condition to return them; if he has put himself out of that condition, the bailment is determined. The wrongful act of Savage, who was a bailee, worked a forfeiture of the bailment, and revested the property in the plaintiff, so as to enable him to maintain trover for them. *Loeschman* v. *Machin* (2 Stark. N.P.C. 311); *Farrant* v. *Thompson* (5 B. & A. 826); *Gordon* v. *Harper* (7 T. R. 9); *Story's Bailment*, 262.

TINDAL, C. J.—This was such a demise of the goods as might be put an end to whenever the plaintiff Cooper might make a demand for the same. It has been said on the part of the defendant that if Savage parted with the possession of the goods to another, intending to give that person a larger power over the goods than he himself possessed, he must at all events have given him the limited one he had; but I think that the demand which was made by the plaintiff on the defendant put an end to the tenancy as much as if the demand had been made on Strange himself. The case of *Loeschman* v. *Machin* is a strong authority in favour of the plaintiff, and I see no reason to dispute the correctness of that decision. It was there said, that where the hirer of a piano had sent it to an auctioneer to be sold, it was a conversion on which trover would lie against the auctioneer if he refused to deliver the piano up except on payment of certain expenses.

COLTMAN, J. concurred.

MAULE, J.—I think we are called upon by authority to hold that the plaintiff is entitled to maintain this action of trover. The case of *Loeschman* v. *Machin* is expressly in point; and even if there was not that case I see no reason for deciding otherwise. I was struck at one time with the difficulty that, in an action against Savage for the rent he might not have any defence thereto, although these goods had been recovered by Cooper already in trover; but that does not shew that Cooper may not rely on the wrongful conversion. That difficulty, therefore, does not here exist. There is no doubt that the sale to the defendant was a *bonâ fide* and honest one; but the law is clear with respect to personal property of this kind, when intrusted to a person who has not the power to sell; and whatever may be said as to the inconvenience of such a law, it is not such but that the trade of a broker may be carried on, and that too with profit; but even if any inconvenience were to result from it, that can afford no answer where the law is clear and not otherwise doubtful.

CRESSWELL, J. delivered a similar judgment.

Rule absolute for entering a verdict for the plaintiff.

Saturday, May 24.

CHADWICK *v.* CLARKE.

The plaintiff entered into a contract with a company of which he was the director, for the letting of a house to the company. A memorandum containing the terms of the letting was prepared, and in which it appeared that the contract was with the plaintiff and the directors exclusive of the plaintiff, and that the letting was to be to the directors exclusive of the plaintiff. This memorandum was never signed, although a resolution of the directors was made, authorizing the agreement with the plaintiff to be signed. Held, that in an action against one of the directors for the use and occupation of the premises, the plaintiff could not give this document in evidence without it had an agreement stamp. Held also, that an agreement does not the less require to be stamped as such because it is not signed by either of the parties.

Debt, for use and occupation; money paid and on an account stated. *Plea*, never indebted.

The action was brought for the rent of certain premises in Adelaide-place, London-bridge, occupied by an intended life assurance company called The Oriental, Colonial, and General Life Assurance Company, and of which company the defendant was a director. At the trial before Maule, J. at the London sittings in last Term, it appeared that the defendant had early become a director of the proposed company, and had attended several of its meetings. On the 20th December, 1842, a resolution was come to by the directors, electing the plaintiff a director of the company; but there was no evidence of his having assented thereto prior to the 12th January, 1843. On the 29th December, 1842, a resolution was come to at a meeting of the directors, at which the defendant was present, for renting the plaintiff's house in Adelaide-place for the use of the company. An agreement was drawn up, but never signed, for letting the premises to the company. This agreement was dated the 5th January, 1843, and was sent to the solicitors of the company for approval. Various alterations were made, and as altered the document purported to be a memorandum of an agreement made the day of January, 1843, between William Chadwick, for himself, of the one part, and John Beard more Wathen and Edward Strick, on behalf of the directors of the Oriental, Colonial, and General Life Assurance Company (save and except the said William Chadwick) of the other part. The agreement, after reciting an agreement to let, proceeded thus:—

"The said William Chadwick doth hereby agree to let unto the said directors, and other the directors for the time being (except the said William Chadwick), and the said John Beardmore Wathen and Edward Strick, as such solicitors for and on behalf of the said directors, except as aforesaid. do hereby agree to take and rent of the said William Chadwick, all that, &c. being the premises in Adelaide-place, "for the term of one year, to be computed from the 25th day of December now last past, at the net clear yearly rent of 210*l.* payable quarterly, on," &c. The other parts of the agreement are not material to the case, and are therefore omitted.

On the 5th January, 1843, the directors passed a resolution authorizing a sub-committee to take steps for the immediate occupation of the house, and for authorizing the solicitors to sign the agreement with the plaintiff. On the 12th January the plaintiff for the first time attended as director at a meeting of the company, and at this meeting the minutes of the last meeting were read and confirmed.

The plaintiff offered the agreement in evidence, in order to shew that he contracted in his individual character, distinct from that of director, in the letting of the premises to the company. The reception of this evidence was objected to by the defendant's counsel for want of a stamp. It was also objected, on the part of the defendant, that the plaintiff could not maintain the action on account of his being a partner in the concern. The learned judge thought the document was inadmissible for want of a stamp, and the plaintiff was nonsuited, with leave to move to enter a verdict for the sum of 52*l.* 10s. being the amount of a quarter's rent. A rule *nisi* for that purpose having been obtained in Easter Term last, cause was now shewn by

Byles, Serjt. (with him *Wordsworth*).—The plaintiff being a partner, could not maintain this action on any implied agreement to be raised by the occupation. It was, therefore, necessary for him to resort to an express one, and the only express one was that of the 5th of January. That document was either an agreement or not. If not an agreement, plaintiff could not recover; if it was an agreement, it required a stamp as such.

The following cases were cited: *Drant* v. *Brown* (3 B. & C. 665); *Rex* v. *The Inhabitants of St. Martin's, Leicester* (2 A. & E. 210); *Williams* v. *Stoughton* (2 Stark. 292).

Shee, Serjt. (*Hoggins* with him), in support of the rule.—This document was not an agreement, nor a memorandum of an agreement. Before a contract becomes binding there is a fact to be ascertained, viz. as to who was the party contracting, and for this purpose the document was admissible. [MAULE, J.—You cannot have so artificial a state as an occupation under an agreement between these parties without being in their character as partners, except it was under a special agreement.] It was competent for the plaintiff verbally so to contract, and the document was admissible to shew this. This document was nothing but a proposal to let the premises until it had been signed, and resembles *Doe dem. Lambourne* v. *Pedgriph* (4 C. & P. 312). [CRESSWELL, J.—That case goes too far. Supposing, instead of the words there used, "we approve of this draft," there were the words "we agree," would that make any difference? If so, then its being an agreement turns on the using of those words.] It is submitted that it is not within the Stamp Act, because it was never signed. The words of the Stamp Act are "under hand only," and therefore would seem to exclude the case when it has not been signed.

The following authorities were cited: *King* v. *The Inhabitants of St. Martin's, Leicester* (2 A. & E. 210); *Ramsbottom* v. *Tunbridge* (4 M. & S. 434); *Ramsbottom* v. *Mortley* (4 M. & S. 445); *Drant* v. *Brown* (3 B. & C. 665); and *Hawkins* v. *Warre* (3 B. & C. 690).

COLTMAN, J.(a)—I am of opinion that this rule must be discharged. The first objection to this memorandum requiring a stamp was, that under the Stamp Act no document requires a stamp which is not signed, the words of the Act being "agreement, or any minute or memorandum of an agreement, under hand *only*." This, however, it seems to me, cannot be the meaning of the Act. I cannot conceive any reason why a binding agreement, but not signed, should not therefore require to be stamped; and this is more apparent when one reads what follows in the Act—"or made in Scotland, without any clause of registration." This shews that the Act has reference to a document which, either according to the Scotch law or according to the English law, may be a mode of forming an agreement as contradistinguished from a more formal mode. The second objection was that this document was not an agreement, but a mere proposal, and therefore according to the authorities it would not be, if a mere proposal, liable to be stamped. But when we come to look at it, this was, it seems to me, *the* agreement between the parties. In the case of *Doe dem. Lamburn* v. *Pedgriph*, Lord Tenterden thought that the document was not the agreement. Here, however, there can be no doubt that this document embodied, and was the real agreement between the parties; it so purports to be; it is drawn up with much formality; it is sent to the attorneys of the other side for approval, and it is treated by the Court of Directors in their minutes of the 5th Jan. as an agreement between the parties. The 29th resolution being that the sub-committee be authorized to take steps for the immediate occupation of the house taken for the company, and the 31st resolution, that the solicitors be authorized to sign the agreement with Mr. Chadwick on behalf of the Directors. The authorizing the signature to be put, shews that it was treated by the parties, not as a mere proposal, but as something already agreed to, and therefore it falls within the Act as an evidence of a contract, and ought to be stamped accordingly.

CRESSWELL, J.—I am of the same opinion. This was an action for use and occupation of premises by the defendant and other persons. Where one person occupies by the permission of another, the law will imply a contract to pay for the same; but when the occupation has been jointly with the person by whose permission it is occupied, so that such last person is jointly liable to pay for the occupation, it comes within *Homes* v. *Higgins* (1 B. & C. 74), and that class of cases. Then, in order to prove an express contract, the plaintiff finds it necessary to produce this document, when an objection is taken to it for want of a stamp. In answer to that objection it is said that the document does not amount to an express contract, but if it does not, then there was no evidence of any express contract, and

(a) TINDAL, C. J. was absent.

the plaintiff is remitted to the situation of difficulty was previously in, and from which he could not get out except by proving an express contract. I think that this document was a complete agreement, and therefore required to be stamped. If it contains terms by which the parties were to be bound, then required to be stamped, although it was not signed. It is evident that it was considered as the agreement by the resolution of the directors. The resolution to sign the agreement—what agreement but this? If this is not the agreement referred to by that resolution, then the plaintiff had no right to put it in evidence.

MAULE, J. delivered a similar judgment.

Rule discharged.

HARLOW *v.* READ.

An erroneous statement in an award, that the arbitrators have considered the decision of a person who has no authority to decide in the matter, does not vitiate the award.

Therefore, when a reference ordered that in case of difference of the arbitrators they should adopt the decision of an umpire, to be nominated by them, and the award stated that they had nominated an umpire, and had considered his decision, but there was no statement that the arbitrators had ever differed, the award was held good, though the arbitrators had not, in fact, consulted the person so nominated by them as umpire.

Glover, Serjt. shewed cause against a rule calling on the defendant to shew cause why an award should not be set aside on, amongst other grounds, that the arbitrators founded their award on the decision of an umpire whom they had not consulted, and who has not investigated the case or made any decision.

The award was made under the following order of reference of Maule, J. dated Dec. 31, 1844:—

"Upon hearing the attorneys on both sides, and by their consent, I do order that all matters in difference between the parties in this cause be referred to the award, certificate, order, arbitrament, final end, and determination of Henry Gibb, of," &c.; "Robert Crickmer, of," &c. "and John Kelsey, of," &c. "so as they, the said arbitrators, or any two of them, shall make and publish their award or certificate in writing of and concerning the matters referred, ready to be delivered to the said parties in difference, or such of them as shall require the same, on or before," &c. After ordering other matter, not material to the present case, the order proceeded thus:—"I further order that the said arbitrators, or any two of them, shall, as to the carpenters', builders', and joiners' work, adopt the opinion or decision of the said John Kelsey, and as to the machinery and other work the opinion or decision of the said Henry Gibb and Robert Crickmer; or in case the said Henry Gibb and Robert Crickmer shall differ in opinion, then that the said arbitrators, or such two of them as shall make an award or certificate, shall adopt the opinion or decision, as to such other work and machinery, of an umpire, to be nominated by the said Henry Gibb and Robert Crickmer, before proceeding with the said reference, by a memorandum in writing, to be indorsed on this order, and shall make their award or certificate accordingly; and by the like consent I further order that the said parties shall in all things abide by, perform, fulfil, and keep such award or certificate to be made as aforesaid," &c. The rest of the order is immaterial to the present question.

The award made under this reference, after reciting the present action, and the above order of reference of Maule, J. proceeded thus:—"And whereas we the said arbitrators, Henry Gibb and Robert Crickmer, did, before proceeding with the said reference, by an indorsement on the said order in writing under our hands, nominate and appoint Joseph Anns, of," &c. "to be an umpire between us, the said Henry Gibb and R. Crickmer, to decide as to the work and machinery, except the carpenters', builders', and joiners' work referred for our opinion or decision by the said order, in case we, the said Henry Gibb and R. Crickmer should differ in our opinion thereon. Now we, the said Henry Gibb, R. Crickmer, and John Kelsey, having taken upon ourselves the burthen of the said arbitration, and having heard and duly considered all the allegations and evidence of the said respective parties of and concerning the matters in difference so referred as aforesaid, *and considered the decision of the said umpire*, do make and publish this our award, in writing, of and concerning the said matters in difference so referred, and do hereby award," &c. The award bore the signature of Gibb, Crickmer, and Kelsey.

The plaintiff caused the order of reference to be made a rule of Court, but omitted to make as part of the rule the indorsement on the order of reference of the appointment of an umpire.

The present rule was moved for on affidavit, by which it was sworn that Joseph Anns had informed the deponent that he had not been consulted or spoken to by any person, or in any way interfered in the matter of the said award.

It was contended in behalf of the defendant, that the statement in the award, that the arbitrators had consulted the umpire, was merely surplusage, as the umpire had no jurisdiction except in case of difference of the arbitrators, which did not appear to have existed.

Talfourd, Serjt. was called upon to support the rule, and contended, that as the award expressed to be founded on the arbitrators having considered the decision of the umpire, it was founded on a false statement, which had not been explained, and which vitiated the award.

TINDAL, C. J.—The ground of objection to this award is, that there is a false allegation of the arbitrators having taken the advice of the umpire, and if this had been so there would have been a good ground for the objection; but the only ground on which it rests, is the allegation in the award,—"We having taken upon ourselves the burthen of the said arbitration," &c. "and considered the decision of the said umpire:" now this is either true or false. The umpire had no authority to decide, because there was no difference in opinion between the arbitrators; he was, therefore, a perfect cipher, without any authority in the matter. It consequently appears sufficiently from the evidence, that the arbitrators have mistakingly said that they considered the decision of a party who could not give any decision in the matter at all; there has, therefore, been only an unfortunate introduction of these words in the award.

Rule discharged without costs.

DOE *dem.* WILLIAMS and PROTHERO *v.* EVANS.

An assignment of leasehold premises by a person not in possession of the premises at the time of the assignment, is void both at common law and by the Statute of Bracery, 32 Hen. 8, c. 9.

This was an action of ejectment brought to recover the possession of certain premises in the parish of Merthyr Tydvil.

At the trial before Cresswell, J. at the last Spring Assizes for the county of Glamorgan, it appeared in evidence, that in August 1802, a lease of, *inter alia*, the premises in dispute was granted to one Evan Richards for a long term of years, and in 1806, Evan Richards assigned to one Wyndham Lewis a portion of the demised premises, for the residue of the term. In Feb. 1807, Wyndham Lewis underlet the same to Evan Richards for a term not yet expired, and it was admitted, on the part of the defendant, the premises sought to be recovered were comprised in the under-lease of 1807. Evan Richards was in possession up to the time of his death in June, 1828. Previously to the death of Evan Richards, his brother, Jenkin Richards, appeared to have been in possession of part of the property, and there was some evidence of his having bought the property and entered into possession in the lifetime of his brother; he died in March, 1829, having bequeathed the same by his will to the defendant, James Evans, who thereupon entered and continued in possession ever since. The reversion of the premises which, on the granting of the under-lease in 1807 to Evan Richards was in Wyndham Lewis, was, in April 1815, assigned to one William Price (whose daughter married Prothero, one of the lessors of the plaintiff), and by a deed of settlement the same was afterwards assigned to Williams, the other lessor of the plaintiff, in trust for Prothero and his wife. In July 1841, letters of administration to the estate of Evan Richards were granted to Thomas Richards his son, who in the same month assigned the premises comprised in the under-lease of February 1807, to the lessor of the plaintiff Prothero. The lessors of the plaintiff abandoned the title of Williams the trustee, and rested their title on the assignment of the under-lease by the administrator of Evan Richards to Prothero. It was objected on behalf of the defendant that the statute 32 Henry 8, c. 9, s. 2, prevented the assignment by the administrator from being valid. A verdict was found for the lessors of the plaintiff, with leave to the defendant to move to have the verdict entered for him. In Easter Term last a rule for that purpose was accordingly obtained by Sir *T. Wilde*.

Channell, Serj. (*R. V. Williams* with him) now shewed cause, and contended that the possession of Jenkin Richards must be taken to be a possession under his brother Evan Richards, and that after the death of Evan Richards it must be taken as a possession under the administrator; that it was not the case of a person who had obtained the possession by a *disseisin* or *ouster* of the rightful owner, but of a person whose first possession was permissive, and had continued such possession with the license of the administrator. That the statute of 32 Henry 8, which forbids the buying of any pretended right in any land unless the seller hath been in possession of the same, or taken the rents and profits one year before, did did not therefore apply, as the administrator had in effect been in possession, the possession of Evans the defendant being the possession of the administrator, as the possession of the tenant is the possession of the landlord. (*Doe dem. Oliver* v. *Powell*, 3 Nev. & M. 616.) The administrator was not in the situation of a person who had a mere right of entry, which applies rather to where there has been some tortuous acts of *ouster*, and not to where the possession has only been withheld. (*Cully* v. *Doe dem. Taylerson*, 11 A. & E. 1008.) It was also contended that the statute of Henry 8 does not avoid the grant, but only imposes a penalty.

The following authorities were also cited: *Goodright* v. *Forrester* (8 East, 552); and *Williams* v. *Protheroe* (5 Bing. 309).

Byles, Serjt. in support of rule, contended that the statute of 32 Henry 8 only enforced what was previously the common law, and that therefore it was not necessary for defendant to depend alone on that statute, as before that Act a right of entry could not be granted; "for the common law before the statute was, that he who so was out of possession might not bargain, grant, or let his right or title; and if he had done it it should have been void." (*Partridge* v. *Strange*, Plowd. 88); and so also in Co. Litt. 214, referring to sec. 347 of Litt.; "and the reason hereof is for avoidance of maintenance, suppression of right, and stirring up of suits, and therefore nothing in action, entry, or re-entry can be granted over." Shep. Touch. 240, was also cited. It was also contended that the statute avoided the grant.

TINDAL, C. J.—I think that this is a case which it was the very object of this statute to prevent. It is the case where one person is in possession, and a third person purchases a right of another, and brings an action thereon to eject the person in possession. The facts of this case are, that Evan Richards died in 1828, in possession of the premises in respect whereof this action is brought; that some time before his death his brother, Jenkin Richards, was in possession of a part of the premises; that he afterwards took possession of the remainder, and bequeathed such right as he had in the same, whatever it was, to the present defendant, who, up to 1841, was in possession without his right thereto being disputed. In that year Thomas Richards takes out letters of administration to the estate of his father Evan, and sells the premises to the lessor of the plaintiff, Prothero. Upon this the question arises. It has been said that the effect of the statute of Henry 8 is not to make void such assignment, but only to prohibit the course there pointed out from being carried into effect: if so, of course we could not now interfere; but it appears to me that such is not the effect of that statute. The common law avoided it before the statute, and the statute superadded a penalty to what was before contrary to the common law. The authority in Plowden is quite decisive on this, where he says, that he who was out of possession might not grant his title, and if he had done it it should have been void. I do not think that the case can be put more clearly than it is in Plowden; also the authority cited of Coke upon Littleton is to the same effect. The assignor was out of possession when he assigned, and therefore, by the statute, the lessor of the plaintiff is prohibited from bringing this ejectment.

The other judges delivered similar judgments.

Rule absolute.

BUSINESS OF THE WEEK.

Friday.

HOPKINS *v.* WRIGHT.—*Halcombe*, Serjt. shewed cause against a rule obtained by defendant for a new trial, on the ground of the cause having, at the trial, been taken out of its turn as an undefended cause.—*C. Jones*, Serjt. in support of rule.

Rule for new trial; costs to abide the event.

WILLIAMS *v.* CURRIE.—*Shee*, Serjt. moved in behalf of defendant for a new trial on ground of damages being excessive. *Rule nisi.*

TURQUAND and ANOTHER *v.* HEENAN.—*Shee*, Serjt. moved for a rule to shew cause why the nonsuit should not be set aside and new trial granted.

Rule nisi.

—— *v.* BIRCH.—*Shee*, Serjt. moved for a rule why, on payment of 330*l*., the sum agreed on to be paid, execution should not be set aside. *Rule nisi.*

Saturday.

CAMERON *v.* JOHNSON.—*C. Jones*, Serjt. (*Huddleston* with him) shewed cause. *Gaselee*, Serjt. in support of rule for new trial. *Rule discharged.*

BENWELL *v.* PIDDING.—*C. Jones* moved for a rule to discharge defendant out of arrest, judgment, exclusive of costs, being for less than 20*l*. *Rule nisi.*

ATKINSON *v.* FORSTER.—*Channel*, Serjt. (*Hugh Hill* with him) shewed cause against a rule for new trial.—*Byles*, Serjt. (*Drinkwater* with him) contra, submitted to the rule being discharged.

Rule discharged.

DUNN *v.* HUMPHREYS.—*Byles*, Serjt. moved to set aside copy and service of writ of summons.

Rule nisi.

Monday.

BROOM *v.* GODSDAL.—*Shee*, Serjt. moved for new trial, verdict being against evidence. *Refused.*

DOE *dem.* EDWARDS and ANOTHER, Assignees, *v.* CLARK. *Byles*, Serjt. moved for new trial, verdict being against evidence. *Rule nisi.*

REDWOOD *v.* BRADWOOD.—*Channell*, Serjt. moved on behalf of the defendant for a new trial, on the ground of verdict being against evidence.

Rule nisi.

MAY *v.* CLARKE.—*C. Jones* moved for a new trial, on the ground that the verdict which had been found for the plaintiff was against evidence. *Rule nisi.*

Tuesday.

SCOTT and ANOTHER *v.* WATSON.—*Byles*, Serjt. moved for a rule to shew cause why the interlocutory

judgment, which had been signed on the ground that the pleas delivered were not issuable, should not be set aside. *Rule nisi.*

ATKINSON *v.* STACEY and ANOTHER.—*Talfourd*, Serjt. shewed cause. *Kinglake*, Serjt. in support of rule for entering the verdict for the defendant on one of the issues. *Rule discharged.*

THOMSON *v.* Sir C. HARDINGE and OTHERS.—*Shee*, Serjt. (*Peacock* with him) shewed cause against a rule for new trial, on ground of misdirection. *Channell*, Serjt. (*Bovill* with him) in support. *Cur. adv. vult.*

NEEDHAM *v.* FRASER.—*Shee*, Serjt. for plaintiff. *Channell*, Serjt. (*Bramwell* with him) for defendant. *Part heard.*

COURT OF EXCHEQUER.

Monday, May 5.

HODGINS *v.* COOK.

Where a demurrer to a plea is set down for argument, and the day fixed for argument by the Court falls upon a Monday, the defendant is in time if he deliver his demurrer books at any time on the previous Wednesday, and the plaintiff is not entitled to deliver them at the expense of the defendant until the Thursday morning.

Demurrer to plea.—The argument upon the demurrer presented no point of importance; but upon *M'Mahon* rising for the defendant,

Huddleston, for the plaintiff objected that he was not entitled to be heard until he should have paid the costs of the demurrer books delivered by the plaintiff, in default of their delivery in sufficient time by the defendant.

It appeared that the day appointed by the Court for the argument fell upon a Monday. The plaintiff delivered his own demurrer books on the Tuesday previous, and went again on Wednesday to see if the defendant had delivered his. He found that he had not, and the plaintiff accordingly delivered the defendant's books for him. At a later hour on Wednesday the defendant appeared with his demurrer books, which were refused on account of their previous delivery by the plaintiff.

It was now contended that the defendant ought to have delivered his books on the Tuesday, as otherwise there would not be four clear days before the argument, pursuant to the rule of Court, H. T. 4 Wm. 4, c. 17, without counting the Sunday, which, being the last day, it was argued, ought not to be counted.

The COURT referred it to the Master to decide what the practice was, and he afterwards reported the defendant was in time.

On the demurrer there was

Judgment for the plaintiff.

WALLER *v.* BLACKLOCK.

Motion for new trial.

This was an action against the defendant for trespass, in breaking down a weir; a verdict was found for the defendant. *Knowles*, Q. C. on the 16th of April moved for a new trial, on the ground of misdirection in the learned judge. The Court having taken time to consider the case and to consult the learned judge who tried the case, now gave

JUDGMENT.

POLLOCK, C. B.—In the [illegible] *Waller* v. *Blacklock*, which was moved by Mr. Knowles, the action was for pulling down a weir, and the third plea claimed a right to the water, by virtue of the possession of the close and the mill, and justified the pulling down of the weir. The only point urged by the plaintiff was that the new weir was not higher than the old weir, and that it did not back up the water in the old dam. At the trial no distinction was attempted to be taken between the effect of damming the water back from the new goit or the old goit. The original dam had been removed. It appeared the new goit was made in 1801, and the defendant's new weir was made in 1822, so that the new goit had been used for 20 years without interruption, and before the erection of the weir complained of. At the trial it was not disputed that the defendant had a right to erect a weir to the height of the old dam, nor was it proved at the trial that the effect of the dam was at all altered by the substitution of the new goit in the place of the old goit. The learned judge reports that if that point had been made, the jury no doubt would have come to the conclusion that the substitution of the one for the other would make no difference, but in point of fact that point was not made; and the learned judge thinks very discreetly and very advisedly. It appears to us, therefore, in this case, that the point left to the jury is correct, and we see no reason to be dissatisfied with the verdict; and therefore there will be no rule.

Rule refused.

BLACKWELL *v.* BADGER and WORRELL.

Motion for new trial.

This was an action for use and occupation. The jury found a verdict for the plaintiff, damages [illegible]*l.* *Dundas*, Q. C. on the 22nd of April moved for a new trial, on the ground of misdirection; and the only question was, upon the evidence, whether there was a tenancy from year to year between the parties. The Court said they would see the learned judge who tried the case. *Cur. adv. vult.*

JUDGMENT.

POLLOCK, C.B.—In the case of *Blacklock* v. *Badger*, which was moved by *Dundas*, Q.C. at the commencement of the Term, we have referred to the learned judge (Coltman) who tried the cause, who reports to us that he left it to the jury to say whether Badger was a party with Worrall in the taking of the premises; and secondly, if both were parties to the taking of the premises, whether they entered as tenants from year to year, or had only entered into a permissive occupation, under the expectation of entering into an agreement from year to year, which had become abortive. In the former case, they would be liable; in the latter case, only for the time they could be considered as actual occupiers. As to the occupation, it was said they had taken the keys away when the plaintiff refused to take them, and in fact kept them until March 1844. This, undoubtedly, was very correctly stated. The facts of the case, and the statement of the law, were most correctly stated, and also the points the jury had to decide. The jury have found that they were jointly liable; and no doubt, for the purpose of form, judgment recording damages for use and occupation against both of them was clearly right; and the jury having found they were both liable, and that the taking was not a mere permissive occupation, subject to its becoming abortive, but a taking from year to year, the verdict is right, and the learned judge is not at all dissatisfied with it, though it may be a doubtful case; and therefore there must be no rule. *Rule refused.*

Thursday, May 22.

STOKES *v.* SAVAGE.

As a general rule, the Court will always give costs to the successful party in an issue under the Tithe Act, whether the ultimate decision be in support of or opposed to the decision of the Commissioner. The only exception to this will be where parties have disentitled themselves by some misconduct of their own (*a*).

This was a rule calling on the defendant to shew cause why he should not pay the costs of an issue under the Tithe Act upon which the Court had given judgment in favour of the plaintiff. The Commissioner had decided in favour of the defendant, and the Court had come to a different conclusion.

Jervis now shewed cause.—This was an appeal by the plaintiff against the decision of the Tithe Commissioner, who decided in favour of the landowners. It came on to be tried before Tindal, C.J. It was then turned into a special case, and the Court gave judgment in favour of the plaintiff, who is now asking for his costs. There was a case of the *Earl of Stamford* v. *Warrington* decided by the Court last Term, and reported in 5 Law T. 130, in which Pollock, C.B. is reported to have said—"The rule we are disposed to lay down is, that in all cases the successful party shall have the costs unless he is disentitled to them by some misconduct or other act of his own. In all other cases we shall give costs." I presume that case is correctly reported.

POLLOCK, C.B.—It is very correct.

Jervis. That case is analogous to the present one, for it appears that there also the unsuccessful party before the Court had been successful before the Commissioner, and yet that the Court held that he must pay the costs of the successful appellant from the Commissioner's decision. Still, I submit that in that case the Court did not arrive at the right conclusion. What is the use of the discretionary power reserved to the Court in the Act of Parliament, if the costs are always to abide the event?

POLLOCK.—That is to give the Court the power to provide against cases where there has been any breach of good faith, or where there is a partial success only.

Jervis.—Where an exception is taken to the Master's report in Chancery, costs are never given to the party who succeeds against the decision of the Master.

POLLOCK, C. B.—There is more analogy between this and cases where an issue is directed out of Chancery.

The other side were not called on.

ROLFE, B. The only rational rule about the costs is, that the party should pay the costs who occasions the costs. Mr. Jervis has put this as if it were in the nature of an appeal from the decision of a judge. Now I do not think that is so. The Act of Parliament means to provide that, as there are very important matters which the parties are litigating about, they should have the right of trying them, unless they choose to take the Commissioner's decision as final. The usual way of trying such questions before the Act would have been by an action at law, when costs would have followed success, as of course, and I do not think the Act was intended to make any difference in that respect. I am glad that this matter has been mentioned again on the first day of Term, because otherwise the decision of the Court, which was well considered on the last day of last Term, might not have received all the weight it deserved.

The rest of the Court concurred.

Rule absolute.

(*a*) See the report of *Stokes* v. *Savage*, 4 Law T. 418.

Ex parte COBBETT.

It is not the practice to grant costs against the party suing out a writ of habeas corpus to a person whose interests compelled him to appear in support of the commitment, and who had notice to do so.

Quære, whether the Court have the power to give costs under such circumstances.

Mr. Cobbett being in the custody of the keeper of the Queen's prison, under an order made in a suit in Chancery of *Oldfield* v. *Cobbett*, was brought up to this court under a writ of *habeas corpus*, of which notice had been given by order of the Court to the plaintiff Oldfield. The Court, after hearing the case, made the following order:—

"In the Exchequer:—Easter Term, A.D. 1845.

"*Re* William Cobbett.

"Saturday, 26th April. England:—The said William Cobbett being brought here into court, in custody of the keeper of the Queen's prison, under and by virtue of a writ of *habeas corpus*, and a rule of this court, and upon reading the said writ of *habeas corpus*, the return of the said keeper thereto, and the affidavit of Edward Weatheral, and the affidavit of Edward Weatheral, the younger, and upon hearing the said William Cobbett in person, and Mr. Martin, of counsel for Jesse Oldfield, the plaintiff in the suit of *Oldfield* v. *Cobbett* mentioned in the said rule, and upon mature deliberation, he, the said William Cobbett, is hereby recommitted into the custody of the said keeper of the Queen's prison, to remain in the same state and condition as he was in at the time of issuing the said writ of *habeas corpus*; and *it is further ordered, that the said William Cobbett pay to the said Jesse Oldfield, his attorney or agent, the said Jesse Oldfield's costs of this application.*"

Pashley having obtained a rule to rescind the latter part of this rule, which ordered Mr. Cobbett to pay costs to Mr. Oldfield,

Martin, Q.C. now shewed cause, and contended that Mr. Oldfield, having been brought here by a notice, and having been obliged to appear to defend his rights, the Court had the same power to give costs to him as to any other person brought here upon a rule of this court.

Pashley, contrà.

POLLOCK, C. B.—We have sent to the officers of the Queen's Bench to inquire what is the practice there as to costs, and whether they are ever given against the party suing out a writ of *habeas corpus*.

The officers of the Queen's Bench having stated that there was no instance of costs being given under such circumstances, the Court said, the order must be rescinded so far as it related to costs.

Rule absolute.

Friday, May 23.

WAKLEY *v.* HENLY and ANOTHER.

Writ of inquiry—execution of before judge—motion for.

This was an action against the defendants (the proprietors of the *Medical Times*) for a libel. The defendants allowed judgment to go by default.

Bramwell now moved on behalf of the plaintiff for a rule calling on the defendants to shew cause why the writ of inquiry in this case should not be executed before one of the barons of this court instead of the sheriff, on the ground that the plaintiff intended putting in evidence of other libels against him by the same parties, and upon the reception of which it was possible important questions of law would arise, upon which it was desirable that the plaintiff should have the advantage of the judgment of one of the learned barons of this court. *Rule nisi.*

BARTLETT *v.* BENSON.

Judgment non obstante veredicto, motion for.

This was an action on a bill of exchange. The defendant pleaded five pleas, three of which were found for the plaintiff, and two for the defendant.

Byles, Serjt. now moved to enter the verdict for the plaintiff on these two pleas, *non obstante veredicto*, on the ground that they constituted no defence to the action, although proved.

Cases cited: *Dunn* v. *O'Keefe* (5 M. & S. 252); *Cush* v. *Davis* (12 M. & W. 159). *Rule nisi.*

Saturday, May 24.

BIRT *v.* LEIGH.

A receipt for 2l. 2s. "being the balance of account up to this day," is within the meaning of the schedule of 55 Geo. 3, c. 184, relating to balances of account, and requires a 10s. stamp.

The declaration contained the common counts for work and labour, and an account stated.

Plea—Payment.

At the trial, the plaintiff having proved a demand for work and labour, the defendant proved a number of weekly payments on account, and then put in the following receipt:—

"1843, July 8.

"Received of Mr. G. C. Leigh the sum of two pounds two shillings, being the balance of account up to this day, for houses in Wellington-street.

£2. 2s. "WILLIAM BIRT."

It was objected that this document required a ten-shilling receipt stamp, and that it came within the meaning of the schedule of 55 Geo. 3, c. 184, by which it is provided as follows:—"And any receipt or dis-

charge, note, memorandum, or writing whatever, given to any person for or upon the payment of money, which shall contain, purport, or signify any general acknowledgment of any debt, account, claim, or demand, debts, accounts, claims, or demands, whereof the amount shall not be therein specified, having been paid, settled, balanced, or otherwise discharged or satisfied, or whereby any sum of money therein mentioned shall be acknowledged to be received in full, or in discharge or satisfaction of any such debt, account, claim, or demand, debts, accounts, claims, or demands, and whether the same shall or shall not be signed with the name of any person, shall be deemed and taken to be a receipt for the sum of 1,000*l.* or upwards, within the intent and meaning of this schedule, and shall be charged with the duty of ten shillings accordingly."

The defendant had a verdict at the trial, and leave was reserved at the trial to the plaintiff to move to enter a verdict for him for such amount as the Court should think fit, provided they thought the document inadmissible for want of a ten-shilling stamp.

Atherton having obtained a rule accordingly,

Crowder, Q. C. and *Rawlinson* now shewed cause.

Case cited: *Dibdin* v. *Morris* (2 C. & P. 44).

By the COURT.—This receipt is clearly within the words of the statute, and therefore the verdict must be entered for the plaintiff; but as the Court have a discretion reserved to them, it will be for a nominal amount only.

Rule absolute to enter a verdict for the plaintiff for a shilling.

Monday, May 26.

BELCHER *v.* MAGNAY, WEEDON, and OTHERS.

New trial—Rule nisi—Notice to parties—Moulding rule.

Where a verdict has been given in an action for a tort against some of the defendants and for the rest, a rule obtained by one of the defendants, calling upon the plaintiffs to shew cause why the verdict for them should not be set aside and a new trial had, is irregular, because it only seeks to set the verdict aside partially, and not as against the defendants, who have succeeded, and a partial new trial cannot be granted. The Court, however, will mould such a rule so as to make it correct.

Trespass.—At the trial a verdict had been found in favour of some of the defendants, and against the defendant Weedon and others.

Jervis subsequently obtained a rule on behalf of defendant Weedon, calling on the plaintiff to shew cause "why the verdict for the plaintiff should not be set aside and a new trial had."

Watson, Q. C. and *Humfrey*, Q. C. shewed cause, and took a preliminary objection to the rule, that it did not seek to set the verdict aside entirely, but only the verdict so far as it was for the plaintiff, which could not be done; and that the defendants, who had succeeded, were not called on to shew cause, though their interests were materially affected, and they were entitled to be heard.

POLLOCK, C. B.—Really, is not this too absurd? How does it lie in your mouth to take an objection of this sort? The only party entitled to complain of it would be the defendants who have succeeded, and they do not object.

Humfrey.—It may be absurd. I am not here to defend the decisions of the Court, but there certainly is a case decided in this court so lately as Hilary Term last, and which is precisely in point. (*Doe dem. Dudgeon* v. *Martin, Chapman, and Others*, 14 L. J. Exch. 128.)

ALDERSON, B.—That decision is scarcely cold yet.

POLLOCK, C.B.—The rule in that case only sought to set aside the verdict against one defendant out of several. The verdict would have stood against the others, and therefore rule was had as only seeking to set the verdict aside partially.

Humfrey.—It is precisely the same here. It only seeks to set aside the verdict for the plaintiffs, though there was a verdict for some of the defendants.

ALDERSON, B.—I am not at all disposed to say that this case can be distinguished from that; and as I think that case was rightly decided, I must come to the conclusion that this rule also is irregular; but in that case there were circumstances to induce the Court not to exercise any discretion which they had as to moulding the rule, but to hold the defendant asking for the new trial strictly to technicalities. As no such circumstances appear in this case, the rule may be amended and set down at the bottom of the list.

The rest of the Court concurred.

Rule accordingly.

Note.—In *Doe dem. Dudgeon* v. *Martin* the verdict was for the plaintiff generally, and the rule called on the plaintiff "to shew cause why the verdict found for the lessors of the plaintiff against the defendant Chapman should not be set aside and a new trial had." In that case the defendant, moving for a new trial, was seeking to avail himself of a point in disobedience to an order of the Master of the Rolls.

Tuesday, May 27.

PLAYFAIR *v.* MUSGROVE and ANOTHER.

Action against sheriff.

To an action against a sheriff for breaking and entering the plaintiff's dwelling-house, he pleaded that he entered the premises in question to seize certain goods and chattels of the plaintiff under a fieri facias, and seized the lease of the said premises, and sold the term thereof, whereby the plaintiff's interest therein determined. To this the plaintiff new assigned, that the action was brought not for the trespasses sought to be justified in the plea, but for the defendant's remaining on the premises for more than reasonable time after such sale. To this the defendant pleaded that the plaintiff was not possessed of the house in question. Held, no answer to the action, and that the sheriff became a trespasser after remaining more than a reasonable time to execute the writ. Held also, that although the term had been sold, the execution debtor remained in possession of the house until after an assignment by the sheriff. Held also, that the word "sale" did not import that an assignment had actually been executed.

This was an action of trespass brought by the plaintiff against the defendants as sheriffs of Middlesex. The declaration was for breaking and entering the plaintiff's dwelling-house, and with force and arms, and with a strong hand, staying and continuing in possession thereof, making a noise and disturbance, against the will of the plaintiff, and against the peace, &c. To this the defendants pleaded, 1st, not guilty; 2nd, that the dwelling-house was not the dwelling-house of the plaintiff; 3rd, a justification, as sheriffs of Middlesex, under a *fieri facias* against the plaintiff, under which they entered the said dwelling-house, and seized and took in execution certain goods and chattels of the plaintiff then being therein; and also a certain lease of the plaintiff of the said dwelling-house, of which a certain part of the term for which the said lease was granted was unexpired, and then and before the said writ of *fieri facias* was returned by the defendants, and before the said time when, &c. &c. the defendants, as such sheriffs, and under the said writ, sold the said term, to wit, to one E. A. Taylor, whereby the interest of the plaintiff in the said dwelling-house was determined. To this the plaintiff replied, joining issue on the first and second pleas; and as to the third, new assigned that he brought his action, not for the trespasses therein attempted to be justified, but for the defendants remaining in possession after the said seizure and sale, and staying and continuing therein. To this new assignment defendants pleaded—1st, not guilty; 2nd, that the said dwelling-house was not at the said time when, &c. the dwelling-house of the plaintiff; 3rd, leave and license; 4th, that the trespasses were committed by the leave and license of the purchaser. Issue being joined on those pleas, the cause was tried before the Lord Chief Baron, at the sittings for Middlesex after Michaelmas Term 1844. The jury found all the issues for the plaintiff, except the second, to the new assignment, with leave reserved for the plaintiff to move to enter a verdict on the issue found against him, with 10*l.* damages.

Humphrey having obtained a rule *nisi* in Hilary Term,

Jervis, Q. C. and *Kennedy* now shewed cause. This is almost a new case, and it is submitted that rule cannot be made absolute. The plaintiff, it is submitted, has no right whatever to bring this action, for his title to the dwelling-house was determined by the seizure of the lease by the sheriff under the *fieri facias* and the sale of the term. These facts are admitted by the plaintiff on these pleadings; nor can a party who, it is submitted, has no right at all to the premises, it having been determined by the seizure and sale, make the sheriff a trespasser for remaining in after the sale of the term. [ALDERSON, B.—Where do you say the original title to the house is?] Not in the execution-debtor—perhaps in the sheriff until the sale has been perfected by assignment. Put the case of goods: there the possession would be in the sheriff until they were handed over to the purchaser. Now here he cannot hand over the title in the term bodily, but holds possession until the purchaser can be put in possession. At all events, the execution debtor's title is determined by the seizure and sale. *Taylor* v. *Cole* (3 Term Rep. 202) is in point, and is an authority for the defendants. [POLLOCK, C.B.—They by their new assignment say in fact that your duty under the writ is spent by the sale, and that by remaining in possession of the premises after that, you have made yourself a trespasser. [ROLFE, B.—The question seems to be, if the sheriff had a right to do any thing else after the seizure than sell the term, execute the assignment to the purchaser, and then leave him to bring his ejectment, if the execution debtor will not give him possession. Another point may arise also, whether the word *sale* of the term, in the plea, can be held to import the execution of the assignment as well as the sale of the term.] At all events, it is submitted that the term is out of the execution debtor; therefore he cannot maintain this action. The sale of the term does not pass the term until after assignment, and we contend that the term is in the sheriff within the period after the sale, and before the assignment. [POLLOCK, C. B.—Those matters which pass by livery of seizin may well be in the sheriff after seizure, but can that be contended to be so in this case?] Where the property once vests in the sheriff, it remains in him until divested by sale, and no action can be maintained by the debtor between the time of seizure and sale. Now here the sheriff was not *functus officio* until after a legal assignment was made; therefore the plaintiff is in this dilemma, if it was not made, the sheriff was justified in remaining in possession; if it was, then he had a right to remain as tenant of the assignee, and with his consent; and so, at all events, we are entitled to the verdict upon the issue of not possessed.

Cases cited: *Brown* v. *Dawson* (12 A. & E.); *Taunton* v. *Corstar* (7 Term R. 431); *Newton* v. *Harland* (1 M. & G. 694); *Butcher* v. *Butcher* (7 B. & C. 399); *Doe dem. Stephens* v. *Donston* (1 B. & Al. 230); Com. Dig. title Execution, C. 6, n. 7; *Whittington* v. *Boxall* (12 L. J. N. S. Q. B. 318); *Hay* v. *Moorhouse* (6 Bing. N. C. 52).

Humphrey, Q. C. and *Peacock* appeared to support the case, but were stopped by the Court.

POLLOCK, C.B.—I am of opinion this rule must be made absolute. The question is, whether the plaintiff or defendant is entitled to the verdict on the second issue on the new assignment. That issue is simply that the house in question is not the house of the plaintiff. Now, for the defendants it is said that the plaintiff is in a dilemma. I think that the defendants also are in a dilemma. It seems to me to make no difference whether the word *sale* in the plea means a perfect transfer by the sheriff or not. If it is to be held to import that there was a perfect transfer by assignment, then the sheriff is *functus officio*, and is a trespasser by remaining; if not, then the house is still the plaintiff's house, for the property remains in the lessee until assignment.

ALDERSON, B.—The question is here, whether the house is the house of the sheriff, as against the plaintiff. I think it is, and that the moment the sheriff had been there more than a reasonable time to execute the writ he became a trespasser. If there had been a perfect transfer to Taylor, he should have shewn that and justified under him; further, I do not think that the word sale imports that there was any assignment.

ROLFE, B.—I am of the same opinion. The word sold only means bargained and sold. Now a chattel real can only pass by deed. I think that the plea of not possessed is not made out; it appears to me that the sheriff had no right in the house at all, except, perhaps, to seize the paper writing of the lease, which might be there in a box. The proper course for the sheriff then was to sell and assign, and leave the party to his ejectment, if he could not get possession.

PLATT, B. was of the same opinion.

By the COURT, *Rule absolute.*

RICHARDSON *v.* PALMER and ANOTHER.

Assumpsit on a special contract, construction of—Breach.

This was an action of *assumpsit* on a special contract; and the contract declared on was, that in consideration that the plaintiff would make certain machines for the defendants for the manufacture of pins, the defendants undertook to pay the plaintiff 20*l.* apiece for the said machines, and to pay him 45s. per week for the space of three years for ten hours' work per day at their manufactory, for making other machines there. The breach assigned was, that the defendants "did not nor would permit and suffer the plaintiff to continue in the service and employment of them, the defendants, for the said space of three years; but, long before the said time, discharged the plaintiff therefrom without any reasonable cause." A verdict having been found for the plaintiff, *Talfourd*, Serjt. in last Term obtained a rule *nisi* to arrest the judgment, on the ground that the breach was ill-assigned, as there was no contract by the defendants to keep the plaintiff in their service for three years, but merely to pay him 45s. per week for such period as the plaintiff should remain in their service.

J. Gray now shewed cause.—This is the only way in which we could have assigned our breach, for this is not simply an agreement by the defendants to pay the plaintiff 45s. per week for three years, but to do so *for his work*; so that the real cause of complaint is, that they will not allow him to earn his money by continuing in their employ. [ALDERSON, B.—How do you distinguish this case from *Apsdin* v. *Austin* (13 L. J. N. S. Q. B. 155)?] Here the contract is not barely and nakedly to pay the plaintiff so much per week, but to do so *for his work*. [ALDERSON, B.—That may be so, but it may still be as in *Apsdin* v. *Austin*, that this was only to pay him *if* they employed him, and that they were not *bound* to employ him.] If there is any little ambiguity in the contract in this respect, that will be helped by another part of it, which prevents the plaintiff from teaching any one else the way to make these machines during the period of three years; which goes to shew that the parties contemplated the employment of the plaintiff during that space of time, and if the Court can see that the

contract relied on in the breach is necessarily to be inferred, after verdict, the Court will so hold.

Talfourd, Serjt. contrà, was not called on.

ALDERSON, B.—It is impossible to distinguish this case from *Apsdin* v. *Austin*, and *Dunn* v. *Sayles* (13 L. J., N. S., Q. B. 155 and 159). I am clearly of opinion that the defendants are liable to pay the plaintiff for three years, at 2*l.* 5*s.* per week; but they certainly are not bound to *employ* him during that time. Therefore the breach is ill-assigned, which should have been for the non-payment of that part of the wages which remained due.

ROLFE, B. and PLATT, B. were of the same opinion. *Judgment arrested.*

WINWOOD *v.* HALL.

The rule nisi for enforcing payment of money under an award must, if possible, be served personally, although there has been personal service of the award itself.

This was a rule calling on the plaintiff in this case to shew cause why he should not pay a certain sum of money pursuant to an award.

Streaton now moved to make it absolute, on an affidavit of service of the rule *nisi* at the house of the plaintiff. He stated that there had been a personal service of the award, but there had been no personal service of the rule *nisi*, but that the affidavits shewed various unsuccessful attempts to serve him.

Cases cited: *Jordon* v. *Berwick* (1 Dowl. N. S.); *Doe dem. Moody* v. *Squire* (2 Dowl. N. S. 326).

ALDERSON, B.—I think you had better serve the rule personally if you can. You had better enlarge your rule for that purpose. *Rule enlarged.*

Wednesday, May 28.

SURMAN and OTHERS *v.* DARLEY.

A theatre is not a house within the meaning of a statute which directs a rate to be levied upon all houses within a parish, to be paid by the occupiers.

The primâ facie meaning of the word house is dwelling-house.

This was a special case arising out of an action of trespass. The plaintiffs were the proprietors of Covent Garden Theatre, the defendants were the churchwardens of St. Paul's, Covent Garden, which ... in the

by distress, upon which the plaintiffs brought an action of trespass.

The question was, whether the plaintiffs were occupiers, and the theatre was a house within the meaning of the Act; the plaintiffs admitting that they were occupiers of the theatre, but denying that they were occupiers within the meaning of the Act, by reason of their not residing on the premises, and contending that the theatre, not being a place of residence, was not a house at all within the meaning of the statute.

Jerris, Q.C. for the plaintiffs.

Cases cited. *Elsmore* v. *St. Briavells* (7 B. & C. 461); Russell on Crimes, 148; 5 Rep. 57, B.; *R.* v. *Adlard* (4 B. & C. 772).

Bodkin, contrà.

By the COURT.—This statute is, I think, confined to dwelling-houses occupied by resident inhabitants. The word "house," *primâ facie*, means dwelling-house, and there is nothing in these statutes to modify the question. A theatre, therefore, is not a house within the meaning of the statute, and the judgment must be for the plaintiffs.

Judgment for the plaintiffs.

BUSINESS OF THE WEEK.

Wednesday.

GLENN *v.* THOMPSON—GLENN *v.* PRICE.—In these two cases, in which *Martin*, Q. C. had moved for a new trial, the Court refused the rules.

Rules refused.

Thursday.

PARKER *v.* HARRISON.—*Humfrey*, Q. C. shewed cause against a rule obtained by *Hill*, Q. C. for eighteen months' time to plead in this action, upon the ground that the person who had intrusted the articles for which the action (*trover*) was brought, was in Australia, and that it was material that the defendant should have the means of communicating with him. *Rule absolute.*

SMITH *v.* BOSWELL.—*Humfrey*, Q. C. shewed cause against a rule obtained by *Hill*, Q. C. for leave to amend the pleadings, and for a new trial, on payment of costs. *Rule absolute on payment of costs.*

LOWE *v.* STEEL.—*Cowling* shewed cause against a rule obtained by *Martin*, Q. C. to set aside a judgment. *Cur. adv. vult.*

DORAN *v.* WARBOYS.—*Cockburn*, Q. C. and *Barstow*, shewed cause against a rule obtained by *Butt*, Q. C. for a new trial. *Rule absolute.*

Friday.

HOGARTH *v.* PENNY.—*R. V. Williams* and *Couch* shewed cause. *Jervis*, Q. C., *Watson*, Q. C. and *Peacock*, in support of the rule. *Cur. adv. vult.*

Saturday.

HINCKLEY *v.* MAYOR OF STAFFORD.—*Smith* shewed cause against a rule obtained by *Barstow*, for judgment, as in case of a nonsuit.

Rule discharged on peremptory undertaking.

BAILDON *v.* WALTON.—An arrangement was entered into for the purpose of taking the opinion of a Court of error.

BARNED *v.* WILLIAMS.—*Watson*, Q. C. shewed cause against a rule obtained by *Jervis* for a new trial on the ground of the verdict being against evidence. *Rule absolute on payment of costs.*

PENNELL and ANOTHER *v.* ASTON and ANOTHER.—*Humfrey*, for a new trial. *Cur. adv. vult.*

Monday.

HINTON *v.* HEATHER.—In this case, in which *Crowder*, Q. C. had moved for a new trial, the Court also, after taking time to consider, refused the rule. *Rule refused.*

BAILEY *v.* ANDERSON.—*Gray*, for a new trial. *Rule refused.*

RICHARDS *v.* MACEY. *Part heard.*

MOUNT *v.* BELL and OTHERS.—*Dowling*, Serjt. for a nonsuit, pursuant to leave reserved at the trial. *Rule refused.*

PIPER *v.* CHAPPELL.—Demurrer to declaration.—*Bovill*, for plaintiff.—*Lush*, for defendant. *Part heard.*

Tuesday.

GILL *v.* BULMER.—*Martin*, Q. C. shewed cause. *Jervis*, Q. C. in support of his rule. *Cur. adv. vult.*

CARTER *v.* RICHARDS.—*Watson*, Q. C. moved for a commission to examine witnesses in this cause. *Rule nisi.*

CURLUIS *v.* PAGE.—This was a rule for a new trial, on the ground of surprise, and the only question ...

cause why the *postea* in this case should not be amended, and why the plaintiff should not pay the costs of such amendment and this application, on the ground of irregularity. *Rule nisi.*

BAIL COURT.

Saturday, May 24.

(Before Mr. Justice WIGHTMAN.)

HITCHINGS *v.* FARROW.

Where a defendant is under terms "to take short notice of trial, if necessary," he is still entitled to full notice if there be time for giving it, and it is no excuse for not giving such full notice that the plaintiff took out a summons to try before the sheriff, which was not disposed of until too late to give the full notice, the order having been refused on the ground that the case was not within the jurisdiction of the sheriff, the amount indorsed on the back of the writ being above 20l.

Byles, Serjt. and *T. Sanders*, shewed cause against a rule obtained by *Andrews*, Q. C. calling upon the plaintiff to shew cause why the trial, verdict, and all subsequent proceedings had on the plaintiff's notice of trial should not be set aside with costs, and why a new trial should not be had between the parties.

It appeared that the writ was indorsed for the sum of 31*l.* The declaration, which was in *assumpsit* for work and labour and goods sold, was delivered on the 24th of February, the venue being Suffolk. On the 5th of March an order was obtained for further time to plead, on the usual terms of "taking short notice of trial, if necessary." On the 6th the pleas were delivered, one being a payment of 12*l.* into court. On the 12th of March the replication was delivered. On the 14th of March the plaintiff took out a summons to try before the sheriff, which was heard on the 17th, when it was dismissed, the case not being within the Writ of Trial Act, the sum indorsed on the writ being above 20*l.* The 17th was the last day for giving full notice of trial (the commission day at Bury St. Edmunds being 27th of March). The next day (the 18th) notice of trial was given; but on the 22nd the plaintiff's attorney was served with a notice that the defendant would not accept the notice. Upon this a summons was taken out by the plaintiff, calling upon the defendant to shew cause why he should not accept the notice. Mr. Baron Rolfe, however, refused to make an order, and on the 26th the plaintiff gave notice that he considered the former notice as good, and should proceed to try the cause. The cause was accordingly entered, called on, and tried, when, the defendant not appearing, the plaintiff had a verdict for 5*l.*

The question involved in this rule was, whether, under the circumstances, the defendant was bound to take any thing less than full notice of trial. For the plaintiffs it was contended that, inasmuch as the summons to try before the sheriff was not disposed of until the afternoon of the 17th of March, they were unable to give the full notice, and that the clause in the order for time to plead, "to take short notice of trial if necessary," came into operation.

Andrews, Q. C. contrà, was not called on.

WIGHTMAN, J. directed the rule to be made absolute, on the ground that, as the pleas were delivered on the 6th of March, and but for the summons to try before the sheriff, there would have been abundant time for giving full notice of trial, it ought to have been given, and that, inasmuch as the plaintiff ought to have known that the case was not one which could have been tried before the sheriff, his applying for an order for that purpose was no answer, for that if it were, a plaintiff could always, where a defendant is under similar terms, give him short notice of trial by taking out summonses which he must know he could not sustain. *Rule absolute.*

Monday, May 26.

ALLEN *v.* FRANCIS.

Where a cause was referred to arbitration, upon an order of reference, directing the witnesses to be sworn before a judge and the arbitrator examined the plaintiff's witnesses not upon oath, which course was protested against by the defendant, who, nevertheless, permitted his own witnesses to be so examined: Held, that by such conduct he had waived the objection, and could not be permitted to impeach the award on that ground.

Bovill moved for a rule *nisi* to set aside the award herein, on the ground that the arbitrator had exceeded his authority, inasmuch as he took the evidence *not* upon oath. It appeared that the order of reference required the witnesses to be sworn before a judge; that on the plaintiff presenting his attorney as a witness to the arbitrator, who was a surveyor, the defendant objected that he was not sworn, and that the arbitrator had no power to administer an oath; that it was thereupon contended for the plaintiff that the witnesses need not be sworn; that the arbitrator coincided with this view, and decided upon receiving the evidence without oath; that thereupon the defendant protested against the decision, and requested the arbitrator to take a note of the objection; that, afterwards, all the witnesses, including those for the defendant, were examined unsworn, and an award was made against the defendant for 2*l.* 15*s.*

WIGHTMAN, J. in refusing the rule, said that, as the defendant had chosen to go on, notwithstanding the testimony of the witnesses had been taken *not* upon oath, and had actually tendered and examined his own witnesses unsworn, thereby taking the chance of the award being in his favour, he must be taken to have waived the objection. *Rule refused.*

Re HOPE, Gent. one, &c.

An attorney, whilst in attendance at the Master's office, taxing costs, and whilst returning therefrom, is privileged from arrest.

Where an attorney of this court had been in attendance at the Master's office of the Common Pleas, of which court he was not an attorney, on an appointment obtained by his client to tax his costs upon an order superseding him as his attorney, and on his returning therefrom he was arrested: Held, that he was entitled to be discharged; and that the fact of his not being an attorney of the Common Pleas, and so not entitled in law to the costs he was taxing, was no answer.

Willes applied for a rule to rescind the order of a judge at chambers ordering Mr. Hope to be discharged out of the custody of the sheriff of Middlesex.

It appeared that Mr. Hope having been the attorney for the plaintiff in a cause in the Common Pleas of *Phelps* v. *Newman*, an order had been obtained by his client to change his attorney, on the usual undertaking to pay what costs should be found on taxation to be due. An appointment by the Master having been subsequently obtained to tax, Mr. Hope attended, and, on returning from the Master's office, he was arrested for certain costs due from him in a cause of *Hope* v. *Baxendale*. Upon this, Mr. Hope applied to a judge at chambers for his discharge out of custody, on the ground that he was privileged whilst returning from the Master's office, where he had been engaged; and the learned judge being of that opinion, made an order for his discharge, whereupon this rule was applied for. It was now contended that Mr. Hope was not entitled to his dis-

charge, on the ground of his not being an attorney of the Common Pleas, he never having been admitted there, and never having signed the roll of Common Pleas attorneys, pursuant to the 6 & 7 Vict. c. 73, s. 27, and so not entitled to any costs, and having no business, therefore, to have attended for the purpose of taxing them.

Carey shewed cause in the first instance, and argued that, notwithstanding, inasmuch as Mr. Hope (who was an attorney of this court) was not an attorney of the Court of Common Pleas, he was possibly not entitled to the costs he was taxing; he was entitled to his discharge on the grounds—1st, that he had been in attendance at the Master's office pursuant to a summons for that purpose, and that his presence, therefore, was necessary for the furtherance of the business before the Master; and, 2nd, that as an attorney (though not of that court) he was generally privileged whilst engaged in the business of his clients in the courts of justice or their branches. (1 Bing. N. C. 66; *Ex parte King*, 7 Ves. 312.)

Willes, contrà, admitted that the Master's office was a place which would privilege a party in attendance there; but contended, that as Mr. Hope was not in fact an attorney of the Common Pleas, he had no right to any costs incurred for business done in that court, and that he was attending the Master's office in his own wrong, and could derive no privilege from being there.

WIGHTMAN, J. however, thought that whether Mr. Hope was or was not entitled to his costs, he was nevertheless justified in his attendance at the Master's office, inasmuch as he was required by the appointment to attend, and may, for aught that the Court could see to the contrary, have had some good reason to have shewn to the Master why *in fact* he *was* entitled to his costs; that it was a question for the Master, whether or not he was so entitled; but that, being called upon to present his bill for taxation, he had properly attended, and so had privilege from arrest *redeundo*. *Rule refused.*

Tuesday, May 27.

REG. *v.* THE SOUTH EASTERN RAILWAY COMPANY.

Motion for a mandamus commanding the directors of a railway company to order their engineer to inspect an engine of another party who proposed to work it on their line, and to give a certificate, if approved of, of its fitness.

Cleasby moved for a *mandamus* on the behalf of the company of proprietors of the Medway Navigation, commanding the directors of the above railway to direct their engineer, or other fit person, to inspect, examine, and report upon a certain locomotive engine of the company on whose behalf he moved, and to give a certificate thereupon. By the South Eastern Railway Act, 6 Wm. 4, it is enacted by sec. 125, that all persons shall have liberty, under the restrictions contained in the Act, to use the line, with engines, &c. The 153rd section provides that the engines, &c. shall be under the control of the company, and shall be subject to their approval; and that, upon any party giving notice of his intention to put an engine upon the line, the company shall direct their engineer, within a certain time, to examine the said engine, and to report thereon, and give a certificate to the owners if approved of, whereupon the said owners may use the engine upon the line. The company of proprietors of the Medway Navigation being desirous of using their own engine upon this railway, had constructed an engine, and had given the prescribed notice to the directors of the railway to have it examined and give their certificate, but no notice had been taken of the application. *Rule nisi.*

BUSINESS OF THE WEEK.

Saturday.

TAYLOR *v.* HODGSON.—*Gunning* shewed cause against a rule herein to enter a nonsuit. The question was, whether on the facts it appeared that the attorney's bill on which the action was brought was properly sent in before action brought.

Crompton, contrà. *Cur. adv. vult.*

Crompton moved for a *certiorari* to remove an indictment for an obstruction to a highway from the Kirkdale Sessions into this court, on the ground that difficult points of law would arise. *Certiorari granted.*

Monday.

THE EXECUTORS OF LORD WALLACE *v.* THE COMMISSIONERS OF STAMPS AND TAXES.—*Watson*, Q. C. moved for a *mandamus* commanding the above commissioners to return a sum of 65*l.* paid as probate duty. *Rule nisi.*

BURROUGH *v.* WRIGHT.—*White* moved for the costs of a suit brought on a judgment. *Rule nisi.*

KEANE *v.* LAWRENCE.—*Corrie* moved to set aside the proceedings herein for irregularity. *Rule nisi.*

Ex parte J. T. JERWOOD, gent. one, &c.—*Horne* moved for a rule calling upon this gentleman to give a judge's order, pursuant to his undertaking. *Rule nisi.*

REG. *v.* THE INHABITANTS OF DOWN HOLLAND, LANCASHIRE.—*Crowder* moved for a rule to rescind the order of Mr. Justice Coltman granting the costs in this indictment, which was for the non-repair of a highway. (*Reg.* v. *Heanor*, New Sess. Ca. 466, 13 L. J. M. C. 144.) *Rule nisi.*

BAKER *v.* WELLS.—*Peacock* shewed cause against the rule obtained herein, calling upon the Sheriff of Berkshire to refund the excess received by his officer over and above the legal fees, with costs; and upon the officer, William Candwell, to shew cause why an attachment should not issue against him. *Watson*, Q. C. contrà.

Referred to the Master to ascertain the amount overpaid, &c.

Tuesday.

BELL *v.* WALDRON.—*Tyrwhitt* moved for the costs of an action brought on a judgment. *Rule nisi.*

REG. *v.* THE CHURCHWARDENS OF LAMBETH.—*Hill*, Q.C. moved for a *mandamus* commanding the above churchwardens to levy a rate to repay a loan made to them by the Commissioners of the Treasury, under the Church Building Act, 3 Geo. 4, c. 73, s. 5. *Rule nisi.*

Francillon moved for a *mandamus* commanding two ladies of the name of Talbot, in Yorkshire, to deposit an award, under an Inclosure Act, with the churchwardens of the parish, pursuant to the 3 & 4 Wm. 4, c. 87, s. 5. *Rule nisi.*

Wednesday.

Ex parte MATTHEW GALE.—*Bramwell* moved for a *habeas corpus* to the gaoler of Durham to bring up the applicant, who had been committed for an offence under the Mutiny Act. The grounds of the motion were, defects in the warrant of commitment. *Cur. adv. vult.*

REG. *v.* THE JUSTICES OF SURREY.—The Court heard the arguments in this case, which will be reported as soon as the judgment is delivered.

Thursday.

DEANE *v.* MOLES.—*Butt*, Q.C. moved for a rule calling upon the defendant, who had pleaded in abatement the non-joinder of a co-defendant, to give the address of such defendant. *Rule refused.*

NORMANBY *v.* JONES.—*Atkinson* moved for a rule to set aside the judgment signed herein by the defendant for irregularity. *Rule nisi.*

REG. *v.* THE JUSTICES OF MONTGOMERYSHIRE.—This case was part heard.

Friday.

MITCHENS *v.* TIMBRELL.—*O'Malley* moved, on the part of the defendant, to set aside the proceedings herein for irregularity, the rule to plead being given on the 26th of May, and judgment being signed for want of a plea on the 27th. *Rule nisi.*

DAYKIN *v.* TRANT.—*Hayward*, Q.C. moved to set aside the proceedings herein, on the ground that the defendant had not been served with any writ. *Rule nisi.*

REG. *v.* THE JUSTICES OF MONTGOMERYSHIRE.—The arguments in this case were resumed. *Cur. adv. vult.*

Bankrupt and Insolvent Courts.

COMMISSIONERS' COURTS.

Tuesday, May 27.

(Before Mr. Commissioner HOLROYD.)

Re LAMPAN.

Costs of a witness.

A person summoned to be examined touching property of a bankrupt supposed to have been concealed by him is not entitled to be paid his expenses before he is sworn or examined.

This party resided in the country, and had been summoned to attend a private meeting of the creditors of the bankrupt, in Basinghall-st. this day, to be examined touching some property of the bankrupt supposed to be in his possession, and to have been concealed by him. He refused to be sworn or examined unless his expenses were first paid. The Commissioner was appealed to.

His HONOUR.—When a party is summoned to be examined, upon the supposition that he has concealed property of the bankrupt, he must not be paid his costs before he is examined. If, after the examination is over, he applies to me, and I am satisfied with his evidence, and that he has not concealed property of the bankrupt, I will order his costs to be paid him.

Tuesday, May 27.

(Before Mr. Commissioner EVANS.)

Re HEMSWORTH, a Bankrupt.

Proof of debt.

The owner of one moiety of a vessel cannot prove against the estate of the owner of the other moiety, who has become bankrupt, for a moiety of the money paid by the solvent owner for stores supplied (previous to the execution of the transfer of the moiety to the bankrupt) for the use of the vessel on a certain voyage about to be undertaken at the joint risk.

A subsequent agreement by the bankrupt to be answerable for a moiety of such stores must be in writing.

Richardson and the bankrupt had each of them agreed to purchase a moiety of a vessel called the *Arundel* of Mr. Molesworth, the owner. But at the suggestion of the bankrupt, Molesworth, instead of conveying a moiety of the vessel to each of the purchasers, conveyed the whole to Richardson, and Richardson conveyed a moiety to the bankrupt; no money passed from the bankrupt to Richardson, but the bankrupt settled with Molesworth for his moiety. The transfer to Richardson was executed on the 6th, and that from Richardson to the bankrupt on the 23rd of December. The vessel was to sail, at the joint risk of Richardson and the bankrupt, on a speculation to China; Richardson was to have the command of the vessel on the voyage. Previous to the execution of the transfers, the vessel arrived in London, and was taken in the East-India Docks on the 27th of November, 1843. Richardson immediately commenced preparing the vessel and taking in stores for the voyage. The vessel sailed from London early in January, 1843, and was lost on her voyage down the Channel. Previous to the sailing of the vessel, Richardson's agent, who was also Molesworth's agent, had a conversation with the bankrupt as to the respective liabilities of Molesworth, Richardson, and the bankrupt respecting the vessel, when the bankrupt said, it was but fair that Molesworth's liability should cease, and his begin, from the time the vessel entered the Docks, and it was so arranged between them; Richardson had since died, the greater part of the stores had been paid for by him, and the administrator to his effects now proposed to prove against the estate of the bankrupt for a moiety of the expenses of the vessel from the time of its arrival in the Docks on the 27th November, 1843.

The bankrupt contended he was not liable for any of the expenses of the vessel, or for any thing supplied to the vessel previous to the day on which the transfer of the moiety to him was registered; and that the agreement alleged to have been made by him with Mr. Richardson's agent, was in the nature of a guarantee for Molesworth, and should have been in writing.

B. Talbot, in support of the proof.—It is quite clear that although the execution both of the bill of sale from Molesworth to Richardson, and of that from Richardson to the bankrupt, was subsequent to the time when much of the work was done for and the stores supplied to the vessel; yet, that in reality Richardson and the bankrupt were considered by all parties owners of the vessel on its arrival in the docks, and upon that understanding Richardson commenced preparing for the voyage to China. It is clear that the bankrupt considered the moiety of the vessel as his, in effect, from the day she entered the docks, or he would not have agreed with Richardson's agent for his liability to commence at that period. The agreement with Mr. Richardson's agent cannot be considered as an original agreement to become liable, or as a guarantee for Molesworth, but merely as an exposition of what was understood by all the parties to be the effect of the transaction between them. The work done, and the stores provided and paid for by Richardson, were all of them such as were necessary for the particular voyage contemplated, and were actually used on the voyage.

Mr. COMMISSIONER EVANS. — My opinion is, that the bankrupt is not liable in respect of the articles supplied to the vessel previous to the execution of the bill of sale to him. The agreement made by the bankrupt was an agreement to be answerable for the debt of another, and should have been in writing.

Wednesday, May 28.

(Before Mr. Commissioner FONBLANQUE.)

Re GARRAT.

Where a proposal is made by an insolvent to pay his debts by instalments, and the opposing creditor assents to the proposition, the Court will adjourn the granting of the final order from time to time until the debts are paid, and in default of payment of any of the instalments will dismiss the petition, the insolvent consenting to an order for payment under the 7 & 8 Vict. c. 111, s. 19.

This was an adjourned meeting for the *interim* order, and for naming a day for the final order.

Cooke, for the insolvent (an attorney in considerable practice), suggested that it would be for the interest of the creditors that the insolvent should be allowed to continue his business, he agreeing to pay to the official assignee for the use of the creditors, on or before the 27th of August next, a dividend of 2*s.* 6*d.* in the pound, and a further dividend of 5*s.* in the pound on or before the first week in December, and after that time such further dividends as the Court should direct.

Phinn, for the opposing creditor, withdrew his opposition for the present, and consented to the proposed arrangement.

The COMMISSIONER.—Let this matter be adjourned until the day named for the first dividend; if the dividend is not then paid, I shall dismiss the petition; if it is paid, I will adjourn the meeting again until the next dividend, and so on from time to time until all the debts are satisfied. The insolvent must further consent to an order being made by the Court under the 7 & 8 Vict. c. 111, s. 19, for payment of the in-

stalments; and if the order is not obeyed, any creditor may proceed against the insolvent by attachment.

Meeting adjourned, and *Order accordingly.*

THE LEGISLATOR.

Summary.

A BILL for amending the Insolvent Debtors Act of last session, by giving more stringent remedies against the property of the debtor, has been brought into the House of Lords with the sanction of the Government. We shall take the earliest opportunity to submit the provisions of this measure to our readers. *The* nine Bills are *in statu quo*, where they are like to remain.

Imperial Parliament.

PRIVATE BUSINESS TRANSACTED.

BILLS READ A FIRST TIME.

Friday, May 23.

Grimsby Dock Bill.

Monday, May 26.

Diss, Beccles, and Yarmouth Railway.
West London Railway.

Wednesday, May 28.

Brighton, Lewes, and Hastings Railway Hastings, Rye, and Ashford Extension.

BILLS READ A SECOND TIME.

Friday, May 23.

Irish Great Western Railway.
Lady Island and Tacumshin Embankment.

Monday, May 25.

Duke of Argyll's Estate.
Coal Trade (Port of London).

Wednesday, May 28.

Bermondsey Improvement.

BILLS READ A THIRD TIME AND PASSED.

Friday, May 23.

Nottingham Waterworks.
Glasgow Bridges.
Standard Life Assurance.

Monday, May 26.

Whittledean Waterworks.
Leeds and Bradford Extension Railway Shipley to Colne).

Wednesday, May 28.

Castle Hill (Wexford) Docks.
Cromer Protection from the Sea.
Manchester and Leeds Railway (Burnley Branch and Heywood and Oldham Branches Extension).
Leeds, Dewsbury, and Manchester Railway.
Chester and Holyhead Railway.
Blackburn Waterworks.

Thursday, May 19.

Wilts, Somerset, and Weymouth Railway.
Eastern Counties Railway.
Exeter and Crediton Railway.
Great Grimsby and Sheffield Junction Railway.

PUBLIC BUSINESS TRANSACTED.

BILLS READ A FIRST TIME.

Friday, May 23.

Privy Council Bill.

Friday, May 23.

Criminal Lunatics (Ireland).

Wednesday, May 28.

Roman Catholic Relief.
Coroners (Ireland).
Scientific and Literary Societies.

SESSIONAL PRINTED PAPERS.

Par. Num.

302. Bill—Criminal Lunatics (Ireland).
Poor Law Commissioners; Eleventh Annual Report.
Public General Acts:—Caps. 1, 2, 3, 4, 5, 6, 7, 8, and 9 (delivered on 22nd May, 1845).
310. Episcopal Clergy (Scotland)—Return.
156. Railways (westward from Dublin)—Map.
296. Spirits—Accounts.
313. Naval Service—Return.
314. Seamen—Return.
318. Bank Notes—Account.
304. Bills—Fresh Water Fishing (Scotland).
312. — Coal Trade—(Port of London).
316. — Privy Council.
Public General Acts—Caps. 10, 11, 12, 13, 14, 15, 16, and 17.
301. Merchant Seamen—Account.
309. Douay College, &c.—Return.
Public General Acts—Caps. 18, 19, and 20.

HOUSE OF LORDS.

THE CIRCUITS.

FRIDAY, May 23.—Lord BROUGHAM wished to ask his noble and learned friend on the woolsack whether the commissioners appointed to arrange the circuits had recommended Liverpool to be added to the Norfolk Circuit?—The LORD CHANCELLOR said that the commissioners had not yet made any report. He would not anticipate what might be the intention of the learned commissioners, but at present they had not made any report.—Lord BROUGHAM wished to ask his noble and learned friend another question—whether, if the commissioners had made such a report, he had ever heard of any thing so absurd in his life?—The LORD CHANCELLOR had heard so many absurd things in his lifetime that nothing would surprise him. (Laughter.)

£20 CLAUSE—SMALL DEBTS BILL.

Lord BROUGHAM presented a report from the select committee appointed to inquire into the operation of the 20*l.* clause. In accordance with their recommendation, he proposed a Bill for the better securing the payment of small debts. The Bill was then read a first time, and the evidence ordered to be printed.

REAL PROPERTY REGISTRATION.

MONDAY, May 26.—Lord CAMPBELL presented a petition from the Governor of St. Bartholomew's Hospital against the Charitable Trusts Bill. The noble and learned lord would take that opportunity of laying on the table a Bill for the registration of all deeds and instruments relating to real property in England and Wales. This Bill was framed on the report of the real property commission, over which he had presided, and was founded upon the plan which had been proposed by Mr. Duval, one of the ablest real property lawyers that had ever adorned the profession. ("Hear, hear," from Lord Brougham.) That plan had been approved of by the real property commission. It had been considered for two sessions by the House of Commons, and had been favourably received in that House. The subject had not been mooted for twelve years, and he hoped the prejudices which had been entertained against it had died away. The Bill was then laid on the table and read a first time.

ECCLESIASTICAL COURTS.

Lord COTTENHAM moved the second reading of the Ecclesiastical Courts' Consolidation Bill. The noble lord, after explaining that this was not a new measure, called the attention of the House to the multitude of these courts, and the anomalous nature of the matters subject to their jurisdiction, and proceeded to give an outline of the changes contemplated in his Bill. With respect to the jurisdiction exercised by these courts over wills, nothing could be more inextricable than the confusion into which the diocesan courts, and the lesser jurisdiction of decanal and vicarial courts had fallen, so that, *de facto*, almost all business found its way to the court of the Archbishop of Canterbury. The proposition he intended to make was, that a central court should be established in London, to which all wills should be sent, and that it should have surrogates acting in the towns where the diocesan courts were now held, who should grant probates when the amount of property was small, but be obliged in every case to send the will to London to be registered; so that in future time every man's testamentary dispositions might be found in the metropolis. In questions of divorce and excommunication this central court would retain the power of the old courts. In the matter of church-rates, over which the jurisdiction of these courts had caused so much ill will, he proposed an appeal to quarter sessions, where the rate had been illegally levied; and in that of tithes, he thought the power of these courts should be abolished altogether, and that pending suits should be transferred to the Court of Chancery. He intended also to do away the criminal jurisdiction of these courts, which now had the power of punishing for defamation, incest, and quarrelling and brawling in churchyards. None of these propositions were his own, for each was founded on some recommendation of the many committees appointed to investigate the subject. He had waited for Government measure, but as none had been brought forward, he hoped the House would sanction the one now before it.—The Bishop of LINCOLN objected strongly that the proposed court would be a lay and yet would have powers of divorce and excommunication. The feelings of members of the Church would be outraged if sentences of divorce were pronounced by a purely lay tribunal.—Lord BROUGHAM thought these objections unsound, because the jurisdiction in question had been exercised by laymen in the cases of Sir J. Nicholl and Sir W. Scott. It was right that such anomalies should cease, and that the Crown should appoint these judges as it appointed all others.—Lord WINCHILSEA doubted whether the new Bill would not give rise to more discontent than the old.—The LORD CHANCELLOR and Lord CAMPBELL expressed their approbation of the measure; and the Bill was then read a second time.—Several other Bills were forwarded a stage, and their lordships adjourned till Friday.

HOUSE OF COMMONS.

THE CIRCUITS.—NEW JUDGES.

WEDNESDAY, May 28.—Mr. WATSON wished put a question to the right honourable baronet opposite, in consequence of a report which had got currency in the newspapers. It had been stated that a division of the northern circuit was about to be made, by taking one half of the business from the circuit, and putting it on the Norfolk circuit. He wished to know if it was true that any such absurd regulation had been recommended by the commission of inquiry, or was about to be adopted? He wished to know whether it was specified in the commission itself, or in the instructions given to the commissioners, that they were not to take into consideration the question of appointing two additional judges in Westminster Hall, and if they had been prevented from doing so? He wished to know, also, whether it had been well considered, with respect to the administration of the law, that the existing state of things should be altered, for he believed that no single client, or any human being representing clients, had ever made any complaint against the existing system?—Sir J. GRAHAM: I really am at a loss how to answer the honourable and learned gentleman's last question. The honourable gentleman said that no complaints had ever been made as to the existing state of things, and wished to know whether there was any intention of changing it. The term "existing system" is so general and vague, that it leaves me in doubt as to what part of it he means to direct his inquiries. With respect to the other two questions, I have no such difficulty. The first refers to the report of the commission to which the question as to the division of the circuits was referred. That report has been drawn up and agreed upon, but it, has not yet been presented. With respect to its subject-matter, I, not having official cognizance of it, must decline discussing the terms of a report which, as far as I am concerned, is unknown. The third question has reference to a restriction in the inquiries of the commission. It is quite true that a letter was addressed to me by that commission, inquiring whether it would be competent for them, in making their report, to contemplate an addition to the existing number of judges. I immediately informed them, as was indeed apparent on the face of the commission, that no such question as that of increasing the number of the judges would be referred by her Majesty to a commission. A measure of that nature would be taken by the executive government, if they judged it necessary, on their own responsibility. The sole question referred to them was, presuming the number of judges to remain unchanged, how in their opinion the existing circuits might be divided with the greatest advantage for the transaction of the public business.—Mr. ROEBUCK said it appeared that the question referred to the commission being how the business of the circuits, with the existing number of judges, might be best distributed, they were not to consider whether the existing circuits might not be better arranged by the addition of two new judges. If that question was altogether cut off from their consideration, then came the inquiry whether another commission should be issued, the real question being whether the judges were not necessary.—Sir J. GRAHAM: That is a question which I cannot contemplate being subjected to the consideration of any commission. I conceive it strictly within the province of the executive government.—Mr. ROEBUCK wished to be informed whether the right honourable baronet intended to submit to the House, or to any other tribunal, a re-distribution of the circuits.—SIR J. GRAHAM: I have had no opportunity of seeing the report of the commissioners, therefore I can only say that I am not prepared to recommend an addition to the number of the existing judges.

PRIVILEGES.

MONDAY, May 29.—The SOLICITOR-GENERAL brought up the report of the select committee to which was referred the consideration of the position in which the privileges of the House were placed by the decision of the judges in the case of Howard against the Sergeant at-Arms. The report recommended writ of error, pending which damages might be allowed to be assessed and levied, according to the regular operation of law.—Mr. HUME, and other members, said that in that case there was an end to the privileges of the House of Commons, as the House of Lords would have the power of deciding in what form and to what extent they could be exercised.—After some further discussion, it was agreed that copies of the record, warrant, and other documents, should be produced, in order to enable the House to come to a decision on the question; and the discussion was postponed until the following day.

LAW OF DEBTOR AND CREDITOR.

Mr. HENRY BERKELEY moved for a select committee to inquire into the effects produced upon debtors and creditors by the operation of the Insolvency Act of last session.—Mr. KEMBLE seconded the motion.—Sir JAMES GRAHAM stated that a bill was now before the House of Lords, with the sanction of the Lord Chancellor, the object of which is to remedy the defects of the act of last session. Immediate legislation was preferable to protracted inquiry; and he thought they should wait till that bill came down from the other House. With all their professions for the welfare of the labouring classes they would badly evince their sincerity if they were to re-enact the old tyrannical power of imprisonment. It might be requisite to afford a more summary mode of procedure against the property of the debtor; and he believed this would be afforded by the measure before the other House.—Mr. PARKER deprecated any return to the old system of imprisonment for debt.—Mr. M. PHILLIPS and Mr. MASTERMAN were

favourable to inquiry, in order to ascertain if means could be taken more effectually to protect the creditor from the fraudulent debtor.—Mr. HAWES was afraid that the appointment of the committee would have the effect of cushioning the bill coming down from the other House.—The SOLICITOR-GENERAL was anxious to increase the security of the creditor, but suggested the postponement of the motion until the Lords' bill reached them.—After some further conversation, Mr. H. BERKELEY consented to withdraw his motion.

THE MAGISTRATE.

Summary.

WE understand that it is now certain that no new Law of Settlement will pass during the present session, and probably not for some years to come.

THE NEW BASTARDY ACT.

IT must be manifest to every one that Mr. LUMLEY is the fittest possible person to edit the new Bastardy Act, of which the object is to legalize Mr. LUMLEY'S forms, and render Messrs. SHAW'S stock saleable. Mr. LUMLEY has accordingly done so; act and forms—hen and chickens—reappear under the parent wing, and a thin tome (also brought forth by Messrs. SHAW) puts the world in possession not only of this new specimen of Parliamentary paternity, but likewise a prologue to the performance, most appropriately penned by Mr. LUMLEY. Nothing can be more pleasant than this prologue. It opens with a reproof of "Mr. Justice WIGHTMAN sitting in the Bail Court" for his decision in *Reg.* v. *Bucks;* with the inconsistency and ignorance of which Mr. LUMLEY is evidently quite shocked. He refers to the case of *Reg.* v. *Lewis* (8 Ad. & Ell. 881), whence, he says, he derived his form of an order in bastardy; and which he triumphantly cites as not containing any statement of the evidence being taken on oath, and which was nevertheless upheld. Unfortunately alike for vindication and triumph, *the point was not taken at all in the argument in that case, nor so much as alluded to in the judgment ! ! !*

Mr. Justice WIGHTMAN'S decision was based on two subsequent cases, in which the point *did* arise, and was determined *against* Mr. LUMLEY'S view! After this, we think Mr. Justice WIGHTMAN may, and probably will, hold up his head again! We venture even to hope that he may outlive the citation of a nameless case by Mr. LUMLEY (p. iv.), reported to him upon anonymous authority, in which Mr. Justice WIGHTMAN is said to have held a contradictory doctrine. Leaving this unfortunate judge to his fate, we hasten to give Mr. LUMLEY'S own account of the merits of his forms. It is delightful to learn that they have been selected by Parliament for adoption *purely on account of their perfection!* "Although of course many other forms (says Mr. LUMLEY) had been used by justices, yet, as those which had appeared under my name had been very extensively circulated, and had been publicly marked as defective, THOUGH EVIDENTLY CONTAINING EVERY ESSENTIAL PARTICULAR, *they have* been adopted by the Legislature, with some slight alterations." The strict meaning of this sentence is, that Parliament adopted the forms because they were marked as defective. But Mr. LUMLEY intended no such reflection, either upon Parliament or himself. The true spirit of the passage is,—The Legislature, impressed by the substantial merits of my forms and the stupidity of their assailants, made them models for legislation! Poor Mr. Justice WIGHTMAN! If it were not for Mr. LUMLEY'S modesty, it would be easy to name the next promotion to the Bench. Why does Mr. LUMLEY say in the next sentence, "It would have been better undoubtedly that some comprehensive measure should have been introduced?" Nothing could be better. Parliament found perfection ready to their hand, and made it law. The only mistake Parliament made was in allowing forms of like effect to be valid: they ought certainly to have made it penal to use any but Mr. LUMLEY'S forms: and we quite enter into the feeling in which Mr. LUMLEY says in his preface, "doubtless, justices will not deem it expedient to depart from the statutory forms where they are applicable." The disinterestedness of this remark is most striking, and it will of course counteract the pernicious liberality of the Act and secure the monopoly.

Why did not the Legislature, which is so alive to Mr. LUMLEY'S talents as a draughtsman, get him to draw the Act? If a gentleman of his distinguished competency had but cast a glance at section 2, would the signal blunder therein have passed into a law? Impossible. It is there enacted, that when any order "shall have been, or shall be, quashed for any defect therein, and NOT UPON THE MERITS, it shall be lawful for the mother, &c. to take proceedings for another order." Is there any greenhorn who has ever accidentally stumbled on a volume of Adolphus & Ellis, or lounged away an hour on a Crown Paper day in the Queen's Bench, who who does not know that of all the sources of doubt, difficulty and litigation in parochial law, the term *merits* is the rifest? Decisions the most conflicting have been given upon it; what is held to be merits in one case, is held to be form in another. Clever, indeed, the youngster doubtless thought himself, who thrust in the words "and not on the merits!" • The ingenuity of the most experienced parochial lawyer, could have devised no surer source of perplexity and strife. How very absurd, again we say, not to have consulted Mr. LUMLEY, and obtained the benefit of his revision of the Act, in order that it might, like his forms, be characterized by "every essential particular." As it is, we fear that where putative fathers choose to be litigious, they will have almost as much facility of escape afforded them by the Act, as by the untoward blindness of the learned judge who could not see the perfections of the Lumley forms, and failed to be guided by a case which did not decide the point before him.

NEW SETTLEMENT BILL.

WE have it on good authority, that this measure will not be proceeded with this session. This is a wise resolution. Until men and measures are better prepared for a wholesome and comprehensive measure, of which the abolition of removals is the principle, it is safest to let the present system alone. The competency displayed in the recent Poor Law performances in the way of legislation, do not invite further experiments by the same hands. S.

THE LAWYER.

Summary.

THE Judges, it will be seen, have appointed their circuits. The lawyers are so busy in railway schemes, that a general dulness prevails in the courts. Whatever will endure postponement is put off till attorneys and counsel are released by the prorogation of Parliament from the immediate pressure of the committees. The Reports of the Term compel us to postpone many papers of interest for another double number.

USEFUL PRACTICAL POINTS.—No. I.

PRACTICE IN EJECTMENT.

A POINT of much interest, and which every practitioner should carefully note in his book of practice, arose in the recent case of *Doe dem. Roberts and Others* v. *Roe* (14 Law Journ. Rep. Exchequer, 102). The declaration was served on the 15th of October, 1844. A rule for judgment against the casual ejector was afterwards obtained, and no appearance was entered on the 29th of November, the day on which it expired. *On that day two summonses were obtained by a party named Royle,* claiming to defend as landlord; the one requiring from the lessors of the plaintiff particulars of the premises sought to be recovered, with a stay of proceedings in the meanwhile; the other for time to appear and plead. On the cases coming on for hearing before ROLFE, B. his lordship made an order on the first summons for a delivery of particulars, and on the second summons, that Mr. Royle should have a week's time to plead, after delivery of particulars, and to appear and defend as landlord for a portion of the premises. On the authority of the above case, the contributor of this point has frequently advised his clients to pursue the same course, and the judges have invariably allowed it on a summons. The practice, stripped of all technicality, is this:—When your client receives a declaration in ejectment, he may, if a tenant, and he desires to defend, obtain by summons a list or particular of the breaches of covenant, or other forfeiture, on account of which the action is brought, which summons should contain a clause staying proceedings until such particular be delivered, otherwise such summons will not operate as a stay of proceedings. Simultaneously with such summons, you may take out another for time to appear and plead. A landlord, also, when a declaration in ejectment is handed to him by his tenant, may pursue the same course. This practice has the great advantage of informing the defendant's attorney the grounds upon which the lessor of the plaintiff rests his right to recover, and also gives the practitioner time to get up his client's case, or to compromise before incurring the expense of appearing or taking out a consent rule. It is advisable to apply for the particulars or time, or both, before the commencement of the term in which the defendant is to appear, in order to prevent the plaintiff obtaining judgment against the casual ejector. T.

COURT PAPERS.

CHANCERY CAUSE LIST.

Before the LORD CHANCELLOR.

Trinity Term, 1845.

APPEALS.

S.O. Clun Hospital v. Earl Powis, appeal and petition
Attorney-general v. Earl Powis, ditto
The Sheffield Canal Company v. The Sheffield and Rotherham Railway Company

Day to be fixed. Strickland v. Strickland, two causes
Ditto v. Boynton
Ditto v. Strickland
Bruin v. Knott, two causes
Millar v. Craig
Davenport v. Bishop

Part heard. Clifford v. Turrell
Forbes v. Peacock
Tyler v. Hinton
Milne v. Walton
Vandeleur v. Blagrave
Cresley v. The Derby Gas Company
Parker v. Bult
Ladbroke v. Smith

S.O. Hitch v. Leworthy
Cooke v. Lowndes
Drake v. Drake
Dalton v. Hayter
Baggett v. Meux
Payne v. Banner
Dobson v. Lyall
Moorat v. Richardson
Millbank v. Collier, appeal, want of parties
Deeks v. Stanhope, three causes
Wiltshire v. Rabbitt
Smith v. Earl of Effingham
Archer v. Hudson
Turner v. Newport
The Attorney-general v. The Master and Wardens of the City of Bristol
Truelock v. Robey
Younghusband v. Gisborne
Courtney v. Williams
Whitworth v. Gangan
Bush v. Shipman
Black v. Chaytor
Mitford v. Reynolds
Johnson v. Ditto
Thwaites v. Foreman
Watts v. Lord Egmonton
Curson v. Belworthy
Watson v. Parker
Dutrichson v. Cabburn
Taylor v. Wyld.

Before the MASTER OF THE ROLLS.

Trinity Term, 1845.

James v. James, stand over
Johnson v. Todd, three causes
Same v. Marshall, fur. dirs. and costs and petition, bill of revivor and supplement
Hilary Term.—Walton v. Potter
Langley v. Fisher
Hope v. Hope, three causes
Till mentioned – Richardson v. Horton, Same v. Taylor, Same v. Derby } Fur. dirs. and costs.
Attorney-gen. v. Bedingfield
Hele v. Bexley, two causes, until suppl. bill
Gibson v. Nicol, Same v. Alsager } Until suppl. bill
Attorney gen. v. The Ironmongers' Company, exons. fur. dirs. and costs

Michaelmas Term.

Earl of Dundonald v. Norris.

Hilary Term, 1845.

Marquis of Hertford v. Lord Lowther, exons. part heard
Davenport v. Charlesworth, part heard
Charlesworth v. Manners, rehearing
Attorney-gen. v. Heytesbury Hospital
Attorney-gen. v. Mayor of Plymouth
S. O. short—Parker v. Parker
Hornby v. Bispham, Same v. Kay, Same v. Brandon, Same v. Ward } Fur. dirs. and costs
Same v. Houghton, part heard
Same v. Yates, ditto
Attorney-gen. v. Governors of Hartlebury School, ditto
Attorney-gen. v. Bishop of Worcester, ditto.

Michaelmas Term.

Campbell v. Brook, exons.
S.O. part heard—Lethbridge v. Chetwoode, and petition
Lord Nelson v. Lord Bridport, exons. fur. dirs. and costs
Augerand v. Parry
After Term—Bennett v. Cooper
Michaelmas Term—Hodgkinson v. Cooper
Davis v. Prout } Fur. dirs. costs, and petition
Same v. Davis
Love v. Gaze
Hodgkinson v. Wyatt
Thornton v. Knight
Fowler v. Durham, two causes, fur. dirs. and costs
Lockhart v. Alder
Same v. Crouch
Gosling v. Townsend
Atkinson v. Bartrum
Bateman v. Hotchkin
Sprott v. Yorke, two causes
Carpenter v. Bignell, two causes and petition
Harrison v. Harrison, two causes } Fur. dirs. and costs
Same v. Skidmore
Same v. Harrison
Grubb v. Perry
Whittaker v. Whittaker
Lane v. Hardwick
Same v. Goodyear
Price v. Price, fur. dirs. and costs
Norris v. Faint
Hanmer v. Hanmer
Cross v. Cross
Thomas v. Davies
Budd v. Flowerdew, fur. dirs. costs, and petition
Bradstock v. Whatley
Pelly v. Wathen
Same v. Lewis, two causes
Stocken v. Dawson, two causes } Exons. fur. dirs. & costs
Same v. Belcher
Same v. Wallace
Macgregor v. Macgregor, two causes, fur. dirs. and costs
Hatfield v. Wells
Barker v. Bailey, fur. dirs. and costs
Butterworth v. Harvey, ditto
Stedman v. Burrell, exons
Weekes v. Dodson, two causes } Fur. dirs. and costs
Grover v. Weekes
Lord Nelson v. Nelson, ditto
Dormay v. Borradaile, exons. and ditto
Routh v. Hutchinson
Harris v. Farwell
Compton v. Bloxham, two causes
Cathcart v. East India Company
Haldenby v. Spofforth, two causes
Same v. Dunn
Clark v. Same
Kightly v. Trimbey, two causes
Horrocks v. Leadman
Bishop v. Cuppel
Hill v. Maurice, fur. dirs. and costs
Smith v. Webster, ditto
Hatfield v. Pryme, ditto
Same v. Shedden, ditto
George v. George
Donovan v. Needham, rehearing
Sparling v. Parker
Jervis v. Brasier } Fur. dirs. and costs
Collett v. Jervis
Wigley v. Brasier
Same v. Dear
Attorney-gen. v. Newman
Kemp v. Wade, fur. dirs. and costs
Salomans v. Stalman
Cheetham v. Sturtevant
Same v. Hopkins
Short.—Attorney-gen. v. Gill, fur. dirs. and costs
Same v. Pole, ditto
Attorney-gen. v. James
S.O. Short.—Westerna v. Gregory, fur. dirs. and costs
Burlton v. Drayson
Bearcliffe v. Dorrington, fur. dirs. and costs
Vickers v. Cowell
Egremont v. Cowell
S.O. Short.—Christopher v. Cleghorn
Same v. Olding
Anderson v. Stather
Moneypenny v. Mascall
Pritchard v. Foulkes } Fur. dirs. and costs
Jones v. Jones
Pritchard v. Hughes
S.O. Short.—Williams v. Good
Halpin v. Bishop, two causes, rehearing
Short.—Lyon v. Lyon
Passingham v. Selby, two causes, fur. dirs. and costs
Leavens v. Limbert
Same v. Renton, two causes
Attorney-gen. v. Corporation of Leicester, fur. dirs. & costs
Dickinson v. Rusbridger, ditto
Attorney-gen. v. Gilbert, two causes.

Before the VICE-CHANCELLOR OF ENGLAND.

Trinity Term, 1845.

Pleas, Demurrers, Causes, and Further Directions.

June 11.—Huxtable, v. State of Illinois, demurrer
Lord v. Wightwick, exons. as to cost [illegible]
Warburton v. Sandys, demurrer
Roberts v. Cardell, exons. as to insufficiency
O.S.—Breeze v. Hawker, part heard
Same v. English, two causes
Grand Junction Canal Company v. Dimes, at request of defendant
Wilson v. Williams
Cloak v. Rolfe, four causes, fur. dirs. and costs
Borrodale v. March, ditto, part heard
Nicholson v. Wilson, four causes, ditto
May 26.—Ashton v. Parker
Tomlinson v. Troughton, part heard
Haydock v. Tomlinson, ditto
Gainard v. Nash, fur. dirs. and petition
Gainard v. Johnson
Butlin v. Allibone, three causes, fur. dirs. and costs
Mackereth v. Dunn, ditto
Newton v. Hazledine, exons.
Grace v. Waldron, two causes
Turquand v. Knight

Yeats v. Yeats
Clarke v. Smith, two causes
Roberts v. Evans
Beale v. Warder
Pearce v. Pearce
Corbett v. Limbrick, exons.
Lane v. Husband
Crighton v. Blink, fur. dirs. and costs
To fix a day.—Davis v. Chanter, four causes
Monkhouse v. Calland, fur. dirs. and costs
Cleaver v. Slown, ditto
Same v. McHallam, ditto
Clowes v. Sharpe
Petre v. Eastern Counties Railway
Ball v. Lewis, fur. dirs. and costs
Lloyd v. Laver, ditto
Anderson v. Wright
Battershall v. Bishop of Winchester, 3 causes
Losack v. Gordon, ditto and petition
Hancock v. Wakefield
Grumble v. Burnell, fur. dirs. and costs
Leakins v. Cross, exceptions
Ditto v. Briant, fur. dirs.
Bryant v. Daniels, ditto and costs
Harvey v. Bailey, exons. and fur. dirs.
Hamilton v. Russell, two causes, fur. dirs. and costs
Bentley v. Hoad, ditto
Same v. Taylor, ditto
Roberts v. Roberts
Howard v. Gask
Atkinson v. Jones
Same v. Manly
Jones v. Morrall
Rooke v. Newcombe
Stevens v. Stevens
Short.—Gould v. Uttermore
Dallimore v. Ogilvie
Slack v. Rylands
Short. Lane v. Lane
Pash v. Bland
Same v. Pash
Walker v. Wright
Webb v. Dowding
Burney v. Mc Donald, fur. dirs.
Same v. Phillips, ditto
Carrington v. Joyce, ditto
Same v. Griffith, suppl. bill
Same v. Attorney gen. ditto
Godwin v. Roberts, fur. dirs. and costs
Wigan v. Fuller, ditto
Marsden v. Yorke, ditto
Nixon v. Taff Vale Railway Company
Same v. Acraman
Campbell v. Foster, fur. dirs. and costs
Same v. Walters, ditto
Ewart v. Williams
Knowles v. Greenhalgh, fur. dirs. and costs
Mainwaring v. Dickinson
Bridge v. Yates, eight causes, ditto
Curtis v. Wilson
Ottley v. Morris, fur. dirs. and costs
Same v. Gerrard, ditto
Same v. Follett, ditto
Creswick v. Autrobus, ditto
Same v. Harrop, ditto
Freswell v. King, ditto
Short.—Fight v. Cox
Box v. Cresswell, fur. dirs.
Robinson v. Smith
Short.—Rooke v. Worrall, fur. dirs.
Davies v. Ashford, exons. two sets
Same v. Same, fur. dirs.
Davies v. Coleman, ditto
Short.—Webster v. Banning, ditto
Cockedge v. Cockedge
Wheeler v. Gough
Pomfret v. Baker.

Before VICE-CHANCELLOR KNIGHT BRUCE.

Trinity Term, 1845.

Causes, Further Directions, and Exceptions.

Mich. Term.—Dodsworth v. Kinnaird, two causes, at request of defendant
Molesworth v. Howard, exons. as to parties
Hobson v. Everett
Same v. Ferraby
S.O. G.—Thomas v. Shirby, fur. dirs. and costs
Edwards v. Browne
Warren v. Postlethwaite
Same v. Taunton
Eaton v. Barker
Short. Meymott v. Morson
Chadwick v. Heatley
Roberts v. Butler
Johnson v. Jeal, four causes, fur. dirs. and costs
Birch v. Birch
Belding v. Brett, exons.
Eyre v. Green
Butler v. Powis
Ostell v. Ostell
Rolfe v. Rolfe
Short.—Musson v. Hand
Belcher v. Vardon
Jones v. Fawcett
Attorney gen. v. Corporation of Boston
Same v. Stevenson
Short. Conway v. Conway
Hodgson v. Shaw, fur. dirs. and costs
Same v. Whaley, ditto
Senior v. Mason, ditto
Ravenscroft v. Frisby, exons.
Ashley v. Chauncey, ditto
Short.—Taylor v. Sampson
Williams v. Edwards.

Before VICE-CHANCELLOR WIGRAM.

Trinity Term, 1845.

Causes, Further Directions, and Exceptions.

Barnett v. Deane
May 22. Bolton v. Ward
23. Forsyth v. Ellice
23. Drew v. Ching, 3 causes, fur. dirs. and pt. hd. petn.
Singleton v. Cox

Rogers v. Tomsey, fur. dirs. and costs
Williams v. Williams
Thorney v. Cocking, fur. dirs. and petn.
Shepherd v. Meals
Sotheby v. Williamson, fur. dirs. and petition
Shipton v. Rawley
Rawlins v. Rawlins
Tucker v. Champney
West v. Johnson
Francis v. Grover

COURT OF REVIEW.

The General List of Petitions for hearing.

Trinity Term, 1845.

Ex parte Price	Bankrupt Kirkpatrick,
Selmes	Eldridge
Montefiore	Montefiore
Samuel	Samuel.

QUEEN'S BENCH.

SITTINGS appointed to be held in MIDDLESEX and LONDON, before the Right Hon. THOMAS Lord DENMAN, Lord Chief Justice of her Majesty's Court of Queen's Bench, in and after Trinity Term, 1845.

MIDDLESEX.—IN TERM.

1st Sitting, Friday, May 26, at 11 o'clock; and every day until the Jury are desired to attend at the

2nd Sitting, Wednesday, May 28, at 11; and every day until the Jury are desired to attend at the

3rd Sitting, Tuesday, June 10, at half-past 9; for undefended causes.

AFTER TERM.

Friday, June 13, at half-past 9.

LONDON.—IN TERM.

Wednesday, June 11, at 12. Sitting for undefended and such defended causes as produce no satisfactory affidavit of merits.

AFTER TERM.

Saturday, June 14; to adjourn only.

Adjournment day, Monday, June 30, at half-past 9.

In Term in Middlesex.—On the first day of each sitting the undefended remanets and new causes with proper notice will be called on first; then six short (completed) causes, and the residue of them and some others will be appointed for fixed days.

CIRCUITS OF THE JUDGES.

Summer Circuit, 1845.

Oxford—Lord Denman and Patteson, J.
Home—Tindal, C. J. and Coleridge, J.
Midland—Pollock, C. B. and Maule, J.
Norfolk—Alderson, B. and Williams, J.
Northern—Rolfe, B. and Cresswell, J.
Western—Erle, J. and Platt, B.
North Wales—Parke, B.
South Wales—Coltman, J.
Wightman, J. remains in town.

GENERAL ORDERS AND RULES OF THE HIGH COURT OF CHANCERY,

ISSUED BY THE LORD HIGH CHANCELLOR,

Thursday, May 8, 1845.

(*Continued from p. 162.*)

Times allowed in procedure.

XVI. The times of procedure are to be the same in town causes and country causes; and in the cases hereinafter mentioned are to be as follow:—

1. The service of any subpœna, except a subpœna for costs, is to be of no validity if not made within twelve weeks after the teste of the writ.
2. The service of a copy of a bill upon a defendant under the 23rd of the orders of the 26th August, 1841, is to be of no validity if not made within twelve weeks from the filing of such bill, unless the Court shall give leave for such service to be made after the expiration of such twelve weeks.
3. If a defendant be served with a subpœna to appear to, or to appear to and answer a bill, he is to appear thereto within eight days after the service of such subpœna.
   If he does not, he becomes subject to the following liabilities:—
   1. An attachment may be issued against him.
   2. An appearance may be entered for him on the application of the plaintiff.
   3. If the bill prays for an injunction to stay proceedings at law, the plaintiff may obtain an order for the common injunction, if no injunction has been previously obtained.
4. In cases where a *subpœna* has been served in the manner specified by Order XXIX. and a defendant is in default for want of appearance, the plaintiff may, within three weeks after such service, cause an appearance to be entered for such defendant by a record and writ clerk, without special order.
5. A defendant, served with a copy of a bill under the 23rd of the Orders of the 26th August, 1841, may, within twelve days after such service, enter a common or special appearance under the 26th or 27th of the same orders.
   If he does not do so, he cannot afterwards enter either a common or special appearance without leave of the Court; and he is bound by the proceedings in the cause, unless the Court otherwise directs.
6. Any person or party having filed exceptions to any pleading or other matter depending before the Court for scandal, and any party having filed exceptions for impertinence, is to obtain an order to refer the same to the Master within six days after the filing thereof.

If he does not, the exceptions are to be considered as abandoned, and the costs are to be paid by the exceptant.

7. Any person or party having obtained an order to refer exceptions to the Master for scandal, and any party having obtained an order to refer exceptions to the Master for impertinence, is to obtain the Master's report thereon within fourteen days after the date of the order, or within such further time as the Master thinks fit to allow.

If he does not, the order is to be considered as abandoned, and the costs are to be paid by the exceptant.

8. Any person or party objecting to the Master's report that any pleading or other matter referred to him is scandalous, and any party objecting to the Master's report that any pleading or other matter referred to him is impertinent, has four days after the filing of the report, within which he may file and set down exceptions thereto and serve the order for setting down the same, before the scandal or impertinence is expunged.

If he does not do so, the scandalous or impertinent matter is to be expunged.

9. Any person or party objecting to the Master's report that any pleading or other matter referred to him is not scandalous, and any party objecting to the Master's report that any pleading or other matter referred to him is not impertinent, has four days after the filing of the report, within which he may file and set down exceptions thereto and serve the order for setting down the same.

10. A defendant may demur alone to any bill within twelve days after his appearance thereto, but not afterwards.

11. A defendant desiring to avoid the common injunction for default of answer has for that purpose only eight days after appearance, within which he is to plead, answer, or demur to a bill praying an injunction to stay proceedings at law.

If he does not plead, answer, or demur within such eight days, the plaintiff is entitled as of course to the common injunction.

12. A defendant who has appeared in person or by his own solicitor, and desires to shew cause against an order to revive being made, has for that purpose only eight days after such appearance, within which he is to plead or demur to a bill of revivor.

If he does not plead or demur within such eight days, the plaintiff is entitled as of course to the common order to revive.

13. A defendant is to plead, answer, or demur, not demurring alone, to any original or supplemental bill, within six weeks after appearance thereto has been entered by or for him.

If he does not, and if he procures no enlargement of the time allowed, he is subject to the following liabilities:—

1. An attachment may be issued against him;
2. He may be committed to prison, and brought to the bar of the Court; and
3. The plaintiff may file a traversing note, or proceed to have the bill taken *pro confesso* against him.

14. If the plaintiff amends his bill under an order for leave to amend obtained and served before answer, a defendant is to plead, answer, or demur, not demurring alone, to such amended bill, within six weeks after he is served with notice of the amendment of such bill.

If he does not, and if he procures no enlargement of the time allowed, he is subject to the following liabilities:—

1. An attachment may be issued against him;
2. He may be committed to prison, and brought to the bar of the Court;
3. The plaintiff may file a traversing note, or proceed to have the bill taken *pro confesso* against him.

(*To be continued.*)

PROMOTIONS, APPOINTMENTS, ETC.

[Clerks of the Peace for Counties, Cities, and Boroughs, will oblige by regularly forwarding the names and addresses of all new Magistrates who may qualify.]

THE TEMPLE, May 26.—The Rev. Dr. Robinson, who was recently appointed by her Majesty to the Mastership of the Temple Church, took his seat this evening as one of the Masters at the bench of the Hon. Society of the Middle Temple.

MIDDLE TEMPLE.—CALLS TO THE BAR.—Mr. J. H. Wilson, Mr. J. Catterall, and Mr. W. Ellis, were called to the degree of the Outer Bar on Friday last, and published in the dining-hall on Saturday.

GLAMORGANSHIRE EASTER QUARTER SESSIONS, 1845.—The following gentlemen qualified as [illegible] esq.; Robt. Boteler, of Landough Castle, esq.; Wm. Llewellyn, of Court Coleman, esq.; Edwd. Turberville Llewellin, of Hendrescythorn, esq.; Rev. Arthur Dene, St. Athan's, clerk. At the adjourned sessions, on 12th May, 1845, Henry Thomas, esq. of Preswylfa, was appointed Deputy Chairman of the Quarter Sessions.

COMMISSIONS SIGNED BY LORDS LIEUTENANT. MIDDLESEX.—The Right Hon. T. H. Jones Viscount Ranelagh, Sir I. L. Goldsmid, bart. and W. H. Bodkin, esq. to be Deputy Lieutenant. LANCASHIRE.—J. W. H [illegible] esq. to be Deputy Lieutenant.

LEGAL INTELLIGENCE.

MR. CARUS WILSON.—We learn from authority that this gentleman is dissatisfied with the judgment of the Court of Queen's Bench, as to his removal [illegible] *habeas corpus*, and intends to [illegible] to a higher tribunal. To enable him [illegible] the definitively the question of [illegible] involved in his case a number of [illegible] formed themselves into a committee [illegible] subscriptions in order to prosecute the [illegible] with spirit; and we understand that [illegible] gentleman [illegible] the first proposition of further [illegible] at the head of the list of [illegible] of *thirty guineas*, [illegible] direct the curious and importa[illegible] We extract the following from the [illegible] of the 25th instant:—

The action against the jailer of [illegible] since [illegible] to [illegible] very speed[illegible] favourable to Mr. Wilson. The declaration [illegible] Mr. Kandich was required to plead, [illegible] forth the claim of 100*l*., and 200*l*. for not delivering to him a copy of the warrant on which he was detained, pursuant to the statue of 31 Charles II. cap. 2. When the day for filing a plea approached, the Jersey authorities went by counsel before Mr. Baron Platt, at chambers, and demurred, in law phrase, to the action; that is, they pleaded that supposing all the facts in the declaration to be true, the defendant Kandich was not liable, inasmuch as what he did was done in his capacity of officer of the Court of Jersey, &c. &c. Mr. Baron Platt took time to consult the other Barons of the Exchequer, and finally gave judgment against the demurrer, thus deciding that the defendant must plead to the action. He did not plead in time, and consequently, Mr. Wilson's solicitor has, as it is technically said, snapped judgment. As soon as the costs can be taxed, he will of course get execution; and then it remains to be seen whether that judgment can be enforced in Jersey. Any property Mr. Kandich may have in England is, of course, at once liable, as well as his person whenever he ventures it there. It is a great pity the viscount was not served. It is a great thing that the authorities of the island will be brought into collision with the Barons of the Exchequer. We are as yet only on the threshold of this great struggle—which must at last prove successful,—

"For Freedom's battle, once begun,
Though baffled oft is ever won."

Sir John de Veulle and his board sitting in secret, no proof of offence offered, no defence permitted, have, in the absence of their victim, pronounced upon him a new sentence. They have condemned him to three days solitary confinement in his cell; have shut him up for three days in an *oubliette*, where he cannot even speak to his wife in the presence of the turnkey, nor be permitted to read his correspondence even after its violation by his gaoler. This infamous judgment was carried into execution on Saturday morning last. Mr. Wilson is this moment undergoing the cowardly sentence.

CORRESPONDENCE.

AUDIENCE OF ATTORNEYS AT QUARTER SESSIONS.

TO THE EDITOR OF THE LAW TIMES.

SIR,—Having opened the discussion on this subject in the LAW TIMES by my letter of the 24th of December, 1844, perhaps you will permit me to say a few more words upon it.

My letter was followed by a leading article from you, remarkable for its good taste, moderation, and candour. With reference to Lord Denman's dictum, it declared that you were unable to satisfy yourself of the meaning of the term *pre-audience*, as employed in the newspaper; that as regards the right of attorneys to practise as advocates where no barristers attend, there could be no doubt; and that on reference to the authorities, it appeared (taking Lord Denman's dictum as ambiguous) to be undecided whether attorneys could be heard at quarter sessions if there were barristers present (citing Talfourd's Dickinson's Quarter Sessions), but suggesting that it might be a question if they had the right, whether it would be advisable to exercise it; and then proceeded to state the reason for your conviction that it would not, and coming to the conclusion that Lord Denman's dictum, if correctly reported, would be of little practical importance to attorneys, unless it were to enable them to make more motions of course, which, you added, "we really see no reason why they should not be allowed so to do; it is, as in the case put by our correspondent last week, a hardship that an application merely formal cannot be made without a fee to counsel."

Relying upon Lord Denman's decision, taken in the sense in which it is clear the recorder of Lichfield understood it, and which, for the reasons aftermentioned, I think no doubt can now exist it was intended to convey, and referring, also, to stat. 6 & 7 Wm. 4, c. 114, entitled "An Act for enabling Persons *indicted for Felony* to make their Defence by *Counsel or Attorney*," I ventured to declare my belief that attorneys have a right to plead at quarter sessions in the presence of barristers; but I purposely abstained from making any remarks as to the expediency of their doing so generally, contending the point merely as to motions of course, in which you agreed with me; and I now see no reason for departing from my former view of the *legal* question of *right*, while on the *jurisprudential* question of *expediency* on which I suspended my judgment, I have certainly, on the best consideration I could give the matter, fallen in with your conclusions.

But in the LAW TIMES of last week there is, under the head "Correspondence" (but having all the prominence of a leading article), a letter signed "S." which undertakes to *condemn* the Flintshire justices and to *lament* over the attorneys; peremptorily to define, with the help of the passage from Dickinson, the meaning of the word pre-audience, which with the same light you declared your inability to explain when employed by Lord Denman, and declaring that pre-audience means "precisely" that when barristers are present, attorneys cannot be heard. Now, with deference, I think the word has no such precise meaning, but that, both in legal and ordinary discourse, its signification is much more limited.

Three terms are employed in this controversy—*audience*, *pre-audience*, and *sole* (or exclusive) *audience*. I think these terms have, as it were, a positive, comparative, and superlative sense. In common conversation, to use pre-audience for sole or exclusive audience would be an obvious solecism. What, then, is the meaning in legal parlance? A queen's counsel is said to have pre-audience of a stuff-gownsman. What does that mean? It means that the Q. C. has a right to be called on first: certainly not, that if the former be Q. C. Briefless, Mr. Stuff-gownsman Bagful must hand his briefs to him, or that while there are enough queen's counsel to hold all the briefs no stuff-gownsman can be heard. That would be *sole audience*, of which we have an example in the case of serjeants in the Common Pleas. What, then, the Flintshire justices, what Mr. Recorder Manning, and what Mr. Recorder Waddington understood Lord Denman to say, and decided accordingly (for it was the very question to be solved), is, that when counsel attend, the Bar must be first "gone through" before the attorneys can be called on, and if counsel have nothing to move, the attorneys must be heard. No one who reads attentively can possibly, unless wilfully, pretend to misunderstand what the difficulty and the solution of it was at Lichfield sessions. See the facts reported in the *Staffordshire Advertiser* of July 11th and Oct. 24th, published, with a letter from Mr. Eggington, in 4 Law T. p. 301, which was subsequent to the time when your leading article was written.

It is a gratuitous insult to suppose, that Mr. Waddington asked a question of Lord Denman unintelligibly, and that the latter gave an unintelligible answer; especially when we find that Mr. Waddington's inquiry was made *for further certainty*, after the decision of Mr. Serjt. Manning had been cited. It is rather travelling out of the record to suppose that Mr. Waddington's inquiry and Lord Denman's answer merely went to establish a fact never disputed, that attorneys might be heard at quarter sessions when barristers *did not attend*—a right which, it seems, extends even to Westminster Hall. "In the superior courts in Westminster Hall, when barristers attend, they only are permitted to act as advocates. Perhaps, if they did not attend, attorneys might be heard as advocates." (Per Littledale, J. in *Collier* v. *Hicks*, 2 B. & Ad. 670.)

"S." in his anxiety to make out a case to justify his "judgment" and "lament," evidently overlooked the plain facts, and confused his language to assimilate with his ideas. After making pre-audience and sole audience synonymous, he says, "So long as counsel sit unemployed, while attorneys are engaged, the pre-audience is with the latter," &c.; but the passage ought simply to read—as clearly results from the above explanations—"so long as counsel sit unemployed, whilst attorneys are engaged, *the want of business* is with the latter."

As "S." so frequently asserts that the decision of the Flintshire justices is "directly at variance" with Lord Denman's judgment, of which, however, he admits the learned recorder's decisions "were the

echo," what, let me ask, were the facts of the Lichfield case?

"Mr. Breynton (barrister) conducted a prosecution, and on Mr. Passman, solicitor, appearing for the defence, both Mr. Breynton and Mr. Keyser protested against attorneys appearing as advocates when there were two barristers present, "who regularly attended the sessions." Is it not clear that the Oxford, Lichfield, and Flintshire cases are parallel? and yet we are told that the recorders w right, and the justices were wrong.

As to a *mandamus* to the Flintshire justices to hear counsel, I should think it would be a good return thereto, that they were and always had been willing to do so, but that they had nothing to move. And I am not inclined to think that the Queen's Bench can make an order on them *not* to hear attorneys; certainly not when appearing for a prisoner wishing to be heard by attorney, in the teeth of the statute 6 & 7 Wm. 4, c. 114, the provisions of which I consider strictly analogous to sec. 7 of the recent Act, 8 Vict. c. 9, which, in bastardy, enables the man or woman to be assisted, to appear and answer "by counsel or attorney." What does the statute of Wm. 4 mean by courts in which attorneys practise as counsel, when referring to courts competent *to try felonies*, if it do not mean courts of Quarter Sessions? And it is impossible to deny that court is one in which attorneys so practise. Laying the Act out of the case, I think that it would be entirely in the discretion of the justices to hear counsel or attorneys, both or either. "In the superior courts, by ancient usage, persons of a particular class are allowed to practise as advocates, and they could not be lawfully prevented; but justices of the peace, *who are not bound by such usage*, may allow any and what persons they please to act as advocates before them." (Per Parke, J., S. C. *ubi sup.*) If that be the common law, I can see no grounds in it for the *mandamus*, and certainly no privilege of exclusive audience can be derived to counsel from the terms of the statute. Of course a *mandamus* would lie under the statute for "counsel and attorney" to be heard for a prisoner; but, as I have shewn, this statutory right and the present claim of *privilege* are distinct things.

It has been said that it is ungenerous not to give motions of course to counsel. But I ask what sanction has an attorney for disbursing his client's money unnecessarily? Then there is the perhaps stronger case, where the client has not the means of feeing counsel, when I submit it becomes an imperative *duty* on the attorney to exercise his *right*.

For these reasons, looking to the legal question, I must still think the best of the argument is with the attorneys; as regards the expediency of insisting on their right, candour compels me to say that, *with the modifications the* LAW TIMES *would admit*, I think the reasons for introducing the advocacy of the Bar prevail. I remain, Sir, yours truly,

GEORGE JOHN DURRANT.

Chelmsford, May 27, 1845.

SELECTIONS FROM CORRESPONDENCE.

Y. O. S. submits the following ingenious but, we think, impracticable suggestions for LAW REFORM:

England (inclusive of Wales) to be divided into five circuits or divisions; North, South, East, West, and Centre, giving as near as possible an equal extent to each circuit; each division or circuit to have a head-quarters or capital, where the judges of that division to reside and sit in *banc*, when not going circuit: central places for such capitals are Leeds, Salisbury, Bury, Newtown, and Leicester. 2. Judges to go circuit every quarter, to chief towns of county in their division. 3. Judge to remain at station for business; present fifteen judges to be removed to those circuit stations, giving three judges to each division or circuit: no alteration required as to this, they being merely drafted off to the country; all process to issue from the circuit stations, and all proceedings of suit there to be recorded and remain, instead of at London, each having a complete machinery; barristers and attorneys to elect at which district to practise, and there to be registered; not to change without leave and payment of fine; terms Queen's Bench, Common Pleas, and Exchequer to cease; terms Hilary, Michaelmas, Trinity, and Easter to cease; circuits gone by judges to be called Spring, Summer, Autumn, and Winter. For the metropolitan district, ten miles round Whitehall; three new judges to be appointed, who are to sit in Westminster-hall until new courts built in Lincoln-square; their courts to be named first, second, and third Chambers of the Civil Courts of the Metropolis; Criminal Courts of Metropolis to continue at Old Bailey; a High Court of Appeal, civil and criminal, to be formed of five judges, to sit in metropolis *de die in diem*: jurisdiction of peers and Privy Council to cease; Queen's Counsel only to practise in Court of Appeal; Courts of Chancery to remain as at present until entire reform of the law, but to sit only in Lincoln's-inn; Chancery and Common law Bar to be separated; dignity of serjeant to cease after present possessors; bankruptcy and insolvency to be assimilated; Courts of Bankruptcy to have jurisdiction in both cases; imprisonment for debt to be entirely abolished, but if fraud, or gross improvidence, then to be punished by determinate punishment criminally; *cessio bonorum* in all cases, whether guilty or not; a Board of Justice to be formed, to have *surveillance* in all law matters, under the orders of the Minister of Justice, to consist of twelve members; a registration of land in every county; use of Latin and French language to cease; one uniform paper to be used in law proceedings, with a stamp parchment not to be used; a civil code to be formed, with appendix of mode of procedure a criminal code also, with appendix of mode of procedure.

L. and C. submit to experienced practitioners the following question relative to MORTGAGOR AND MORTGAGEE—NOTICE:—

If mortgage-money be not repaid at the time mentioned in the proviso for redemption, is the mortgagee entitled to six calendar months' notice of the mortgagor's intention of repaying it, or to six months' interest in advance, presuming that he has done no act to preclude himself from objecting to the want of not

We believe it to be generally understood and acted upon by the Profession, that a mortgagee is so entitled, and it is laid down in Coote on Mortgages, p. 553, but contra to this, see *Brown* v. *Lockhart* (9 Law J. N. S. 167).

The subject is of great importance in practice, and perhaps some of your correspondents may examine the authorities, and clear up the doubts which the V. C.'s judgment in the above case raises.

A Correspondent under the signature of "PROSPECTIVE," submits the following suggestion relative to SHORT CONVEYANCES:—

As there appears but little chance, in the event of Lord Brougham's Bill for the shortening of conveyances passing into a law, that attorneys will be able, out of the profits of their profession, and with the present scale of charges, to maintain that position in society to which by their expensive education they are entitled, I would suggest that, with the sanction of the various Law Associations, fees for the preparation of such documents should be fixed, varying from 5*l.* to 20*l.* according to the amount of the purchase-money.

I do not think there can be any more difficulty in this than in the present arbitrary charge upon abstracts and other documents; nor do I consider there any injustice in compelling the wealthier portion of the community, who are the only parties requiring conveyancing, to pay for the support in respectable circumstances of those whom it is their essential and evident interest to maintain in such respectability.

To Readers and Correspondent

AN ARTICLED CLERK – *Thanks for the information.*

W.—*The new edition of* "Saunders" *is highly approved.*

"A SUBSCRIBER," Leeds.—*Public malpractices only are within our jurisdiction. For private misconduct, complaint must be made to the authorities. The distinction will be obvious on a moment's reflection.*

J. R. Bideford.—*We should like to reprint the Justices' Clerks Bill; but it would occupy at least seven or eight pages, and would necessarily exclude reports and statutes, which are, we presume, more important than* bills. *Is it prudent to do this, especially as the bill may be bought for eightpence by any person wishing to read it? The omission will be inquired into.*

NOTICE TO SUBSCRIBERS.

The Publisher begs to inform the Subscribers to the LAW TIMES *that the subscription for the current half-year should be transmitted in the course of the ensuing week, by those who wish to avail themselves of the advantages of prepayment.*

The pre-paid subscription for the current half-year of THE CRITIC, *henceforth to be published weekly, will be* 8s. 6d. o

The Indices to the fourth volume ing now completed, the numbers for binding may be sent, through the post, in parcels open at the ends, with a mark by which they may be known, and of which the Publisher should be advised by letter, as also how, when bound, it is to be returned. If sent by parcel, advantage may be taken of the opportunity to inclose other books for the binde .

The Volumes of the LAW TIMES, *handsomely and uniformly bound, at 5s. 6d. each, if forwarded to the Office: with the Solicitor's name and abode lettered on the cover, 1s. extra.*

An Alphabetical Index to the Cases in the current Volume of the LAW TIMES *always lies at the Office for the purpose of reference.*

THE LAW TIMES.

SATURDAY, MAY 31, 1845.

LORD BROUGHAM'S NINE BILLS.

WE have applied, but as yet in vain, for copies of these *Projects of Laws.* But there will be time enough for reviewing them, and doing them ample justice. There is no chance of their passing for twenty years at least, and when they are put upon the statute-book, they will yield a fruitful harvest of litigation. The lawyers have no need to fear them.

LAW OF DEBTOR AND CREDITOR.

ALTHOUGH receiving no aid from the press, with the solitary exception of the LAW TIMES, Justice has made herself heard at last. In both houses of Parliament the frightful injuries inflicted upon the industrious and honest by the Rogues' Indemnity Act, has been forced upon the attention of the members. In the Lords, a Bill has been introduced, with the sanction of the LORD CHANCELLOR, to amend the blunder of that memorable piece of patchwork, for which the country is indebted to Lord BROUGHAM'S rivalry of Lord COTTENHAM. In the Commons, although a Committee of Inquiry was refused to the motion of Mr. BERKELEY, Sir JAMES GRAHAM pledged himself that the subject should have the attention of the Government, and that every facility should be afforded to the passing of the Lords' Bill during the present session.

Up to the present time (Thursday night) we have made repeated but unsuccessful endeavours to procure a copy of this Bill, that we might submit its provisions to the consideration of our readers, the greater portion of whom are deeply interested in the question, and whose experience in the practical working of the law of debtor and creditor will give to their suggestions for its improvement a peculiar value. The primary requisites—the foundations, in fact—of such a measure must be, efficient and easy remedies against *property* of every kind belonging to the debtor, and *punishment* for improvidence in contracting the debt, and for fraud in evading its payment. No law that does not fully accomplish both of these objects can or ought to satisfy the mercantile community, for nothing less will give to them the protection to which they are entitled. It is easy for senators with large revenues, whose pockets are always overflowing with money, to talk against the system of credit, and assert that it is the fault of the creditor if he permits himself to be cheated, for he ought to give no trust. In a mercantile country, a great proportion of the business must be transacted upon credit, and there are few, even of the wealthy, so fortunate in the regular receipt of their incomes, that they are not sometimes compelled to ask credit. It is a necessary evil, and the law must meet it as best it can.

A favourite mode of parrying the question with those who seem to have some private unavowed motives of hostility to any thing that makes more stringent the law of debtor and creditor, is a howl against reviving imprisonment for debt. For the twentieth time we repeat, that there is no such project; nobody seeks it; the traders do not demand it; the lawyers do not advise it. All that on the part

of the Profession and of our clients we claim of the Legislature is, that we shall be enabled to prove our debt readily, to seize the property of the debtor, if he have any, and if we can find none, that we shall be permitted to compel him to give an account of himself to an authority empowered alike to punish or protect, as the case may be; to make him shew *why* he does not pay, or *why*, being unable to pay, he contracted the debt. If he can do this satisfactorily, let him have the protection of the law, like other unfortunate insolvents; but if he cannot, let him be punished for his fraud, and let the imprisonment be avowedly inflicted, not for the debt, but for the fraud of contracting it, knowing he could not pay, or of evading payment.

This, in few words, is the demand of the Profession on behalf of their now much-wronged clients. How far the new Bill meets that demand we hope to be enabled to shew next week; and if it should fail to do so in any particular, we trust that we shall have the immediate and energetic aid of the Law Societies in an endeavour to urge upon the Parliament during its progress such amendments as shall make it in truth what it professes to be.

The real cause why so much of our legislation is impracticable and imperfect lies in this, that it is framed by men who are theorists only—who know nothing of the business of life, and therefore are unable to adapt their schemes to the actual circumstances of society. Half-a-dozen attorneys would construct a better law of Debtor and Creditor in six hours than the wisdom of the united Legislature could concoct in six months. What utter ignorance of the subject does every speech display as uttered in either House! How little practical wisdom; what entire misunderstanding of the facts! And, in truth, the meeting of the City merchants on Tuesday seemed to be almost as widely at sea with respect both to the principles involved and the manner of their application. All felt the grievance, but none appeared to have an accurate conception of the remedy.

THE NEW ORDERS IN CHANCERY.

Mr. Allnutt's edition of the New Orders in Chancery, prepared for the Verulam Society, will be ready in the course of next week. It will be very copiously noted and indexed, with a view to the actual wants of the Practitioner.

PROFESSIONAL MAL-PRACTICES.

Among the multitude of these which we have had occasion to bring under the notice of the Profession, there is none more gross than the following:

Mr. John Brindle, the secretary to the society, appears in the Law List as a certificated attorney, practising at Manchester.

According to the circular the *plans* are his. We have not the slightest doubt of it.

What are those *plans*?

Plainly a contrivance to obtain business by underselling. Mr. Brindle engages to write a legal letter for *sixpence*, and if that fails, to write a second for *threepence!*

But the circular will best tell its own tale, and we submit it and its concoctor to the judgment of his Professional brethren.

Address of the committee of the Manchester and Salford Mutual Protection Society, established January 15th, 1845, for the more easy recovery of debts and rents, and for protection against fraud, in Manchester, Salford, and their vicinities.

The recent alterations in the law of debtor and creditor render it necessary to establish the above society, having for its objects the more easy and economical collection of debts, and the security of the trader from being the dupe of designing persons who endeavour to obtain credit under false representations, and in various ways to evade the discharge of their obligations.

In order to effect this, it will be necessary that a considerable number of the trading classes should join the above-named society for mutual protection; and the originators of this society consider it quite possible that in such an extensive and densely-peopled district a very large number of traders and owners of property might be associated together for this purpose.

The other object stated above, namely, that of securing the members of the society from imposition, will be obtained in the following mode:

The secretary of the society will enter, in an alphabetical record-book provided for that purpose, the names, various residences, and other descriptions of all persons from whom he has found it impossible to obtain, by the ordinary methods, the settlement of their engagements; or who, by any dishonourable method, seek to elude so very obvious a duty.

This book will be accessible to members only of the society, at the times stated in the rules for the government of the same, and, by their assistance, will become, in a very short time, of the highest value as a guide in their various transactions in business.

The subscription, as arranged by the committee, is 10s. per annum, and 6d. for rules and member's card.

The committee have arranged the following scale of charges to be paid to the secretary:

1. Legal letter, application for payment of debt, 6d.
2. Legal letter, on a second or any subsequent application, where debtor neglects to pay according to promise, 3d.
3. Agency charge, after application is made, on payment of debt, 5 per cent, whether the amount be paid to the secretary or direct to the creditor.
4. That where the debt will have to be received by an agent in another town, besides the above fees, agent's charge extra.
5. If, after having made legal application without effect, members should find it impossible to obtain their accounts, and are inclined to take further proceedings, the Secretary will, in all unsuccessful cases, charge only the actual expenses paid by him.

The committee take leave to state that they have examined the secretary's plans; and from the peculiar method in which he proposes to keep his books, it will prove a most effectual means of detecting those dishonest persons whose constant study it is to cheat and defraud the honest trader.

As this institution presents features of a novel character, it is desirable that the utmost confidence should prevail, as regards the safety of accounts intrusted to the gentleman who conducts its business; and for this purpose, the secretary proposes to pay the same to the members applying on the first Friday in every month, between the hours of 10 and 1, and 3 and 5.

The following gentlemen formed themselves into a provisional committee, and respectfully and earnestly invite all who approve of the principles and objects of the society to join and co-operate with them.

[Here follow some names.]

Subscriptions will be received, and members admitted, on application to Mr. William Burton, Oldham-street, Treasurer; Mr. John Brindle, 5, St. Ann's-square, Secretary; or to the collectors, who are duly authorized, and will present the address, and are also supplied with members' cards and receipts.

By order of the committee,
John Brindle, *Secretary*.

Feb. 10th, 1845.

SHAM-LAWYERS.

The following is a printed form, assuming all the official aspect of an Attorney's letter, and doubtless intended to frighten the debtor into payment of costs as well as debt. We have little doubt that an indictment might be sustained for money thus procured under the demand of costs by a sham-lawyer. At least, the law societies ought to try the question. Some such demand as this should be complied with and paid, and then a prosecution. Let an eye be kept upon Mr. B. Wood Beech.

Office, Longport, May 23, 1845.

Mr. William Peover,

Sir,—I am instructed by Mr. John Critchlow, of Alsager, farmer, to apply to you for payment of the sum of 12*l*. 10s. 0d. which you stand indebted to him; and I am farther to inform you, that unless the same be paid to me at my office, together with 5s. my charge for this application, on or before Saturday, the 31st instant, legal proceedings will be commenced against you for the recovery thereof; the unpleasantness of such a step I hope you will prevent; otherwise, a writ of summons will be served upon you. I am, Sir, your obedient servant,

B. Wood Beech

	£	s.	d.
Debt......	12	10	0
Application	0	5	0
Total..	£12	15	0

N.B.—Parties to attend with their payments each Monday, between the hours of eight and ten in the forenoon.

B. W. B. attends at the Globe Inn, Leek, every Wednesday.

VERULAM SOCIETY.

The *sixth* number of *Cox's Criminal Law Cases* is issued, and so is the third part of the *Real Property and Conveyancing Cases.* The *seventh* number of *Practice Cases* will be ready on Thursday next. The following are in the press; namely, *Magistrates' Cases,* No. 9; *Registration Cases,* No. 2; *Practice Cases,* No. 8; and *Criminal Law Cases,* Nos. 7 and 8.

Two text-books are also in progress; namely, *The Practice of Wills,* and the *Law of Stamps.*

Mr. Allnutt's office edition of the *New Orders in Chancery* will be ready next week.

The following forms have been added to the list:

No. 70, Notice of distress for arrears of Tithe-rent-charge.

No. 71, Warrant of distress for ditto.

These forms have been prepared in accordance with the request of many members.

The following new members have been added to the Society since our last report:—

Peachey, Edward, Chichester.
Chipperfield, R. G. Canterbury.
Aplin, B. W. Banbury.
Potter, George, 30, Henrietta-street, Brunswick-square.
Chester, Tomlinson, and Co. 11, Staple-inn.
Monck, C. A. H. Just. Peace, Herneshaugh, near Hexham.

BIRTHS, MARRIAGES, AND DEATHS.

[The charge for the insertion of the above is 5s.]

BIRTHS.

Gosset.—On the 27th inst. the wife of Montague Gosset, esq. of No. 36, Old Jewry, and 5, Trinity-terrace, of a daughter.

Fladgate.—At No. 37, Craven-street, Strand, the wife of William Mark Fladgate, esq. of a daughter.

MARRIAGES.

Read, the Rev. Frederick Rudston, to Louisa, second daughter of the Hon. and Rev. Henry David Erskine and of the late Lady Harriet Erskine, on the 20th inst. at Kirby Underdale, Yorkshire.

Wood, George, esq. eldest son of Lord Wood, one of the judges of the Court of Session, in Scotland, to Emma, eldest daughter of Bernard Henry, esq. Philadelphia, on the 17th of April last, at Philadelphia.

DEATHS.

Isaacson, Arthur, the infant son of John F. Isaacson, esq. in Norfolk-street, of hooping-cough, on the 27th inst. aged 3 months.

Jenkins, Sarah Jane, eldest daughter of A. H. Jenkins, esq. solicitor, of Gloucester, on the 23rd inst. in her 19th year.

Suter, Sarah Eliza, wife of Robert Suter, of Greenwich, solicitor, and daughter of Richard Seamark, esq. of Mount St. Alban's, Monmouthshire, on the 23rd inst.

Willard, John Harry, esq. lieutenant-colonel of the Royal Sussex Militia, deputy lieutenant and magistrate of the county, of long standing, on the 27th inst. at his residence, Eastbourne, aged 74.

JOURNAL OF PROPERTY.

CONDITIONS OF SALE.

ON THE LAW RELATING TO CONDITIONS OF SALE.
(*Continued from page* 137.)

In reference to the sale of leasehold property under special conditions, and particularly under a condition restraining the purchaser from requiring production or proof of the lessor's title, "there is no doubt," says Lord Eldon (18 Ves. 512), "that purchasers upon such sales will not bid so readily, and will be very cautious and wary; but the necessity of requiring vendors to advertise what they mean to sell arises from this, that it is quite impossible for a Court of Equity specifically to perform the contract of a vendor, admitting that he did not choose to describe the subject as it was, lest an honest disclosure of its actual state should put it into the hands of the vendee at a lower price. A Court of Equity cannot lend its assistance to such a purpose. The answer, therefore, to all the difficulty said to be imposed on lessees selling their leases is, that there is no difficulty which they do not create themselves, by not advertising the purchasers how they can deal with the subject, when they come to execute the contract."

Trustees, however, and other vendors clothed with fiduciary characters, are embarrassed with another difficulty; for though they are not only at liberty but

under obligation to sell under such special conditions as shall secure the contract from failure on account of gross or irremediable defects in the title, yet if they make a sale accompanied by conditions tending to depreciate the property, or to chill the competition of bidders at the sale, it will be deemed a breach of trust, and the loss thus occasioned to the trust estate will be thrown upon the trustees. "I very much doubt," said Sir William Grant, M. R., in *Wilkins* v. *Fry* (2 Rose, 371, 375), "whether assignees would be justified in clogging the sale with covenants and conditions, reducing the value of the property, which it is their duty to make the most of, for the benefit of the creditors." Every such case must of course be judged by its own special circumstances; and we apprehend that no general definition can be given of conditions which may be termed depreciatory. There has, however, been one recent decision on this subject, in the case of *Hobson* v. *Bell* (2 Beav. 17), where a reversionary interest in stock was put up to sale by the mortgagee; the special conditions were, that all objections should be stated and delivered within a limited time; that the purchaser should not require any other person than the vendor to concur in the assignment, and that all copies of deeds, &c. should be obtained at the expense of the purchaser. The Master of the Rolls was of opinion that those conditions were not of such a depreciating character as to amount to a breach of trust, or constitute an objection to the title.

There is great reason, however, to believe that sale is seldom or never damped by the mere terms of the conditions which accompany it. Few ordinary or unprofessional purchasers trouble themselves so much as to look at the conditions; and those who do are generally so incapable of estimating their effect, that they lay them aside as altogether unintelligible.

Conditions of sale are readily divisible into the following three classes: Conditions *Preliminary*; Conditions *Concurrent*; and Conditions *Posterior*. And we shall proceed to consider each of these three classes of conditions successively:—

I. Conditions *preliminary* usually relate, first, to the biddings, and, secondly, to the execution of the contract.

1. In conditions relating to the biddings, it is usually provided that no person shall bid less than a given sum at one time, or retract any bidding after it has been made; that the highest bidder shall be the purchaser; and that in case of a dispute between two or more bidders, the estate or property shall be immediately put up again for resale. Without a stipulation against the retraction of biddings, a bidder at common auctions has a *locus penitentiæ* until the auctioneer's hammer falls; for a bidding is merely an offer, and is not matured into an obligation until the vendor has accepted it. (*Payne* v. *Cave*, 3 T. R. 148.) In sales, however, of land a purchaser is further protected, and is not concluded by any offer until he has signed a written contract. (*Malins* v. *Freeman*, 2 Keen, 25.)

With reference to the obligation of biddings, it has been decided that where a party bids by mistake for one lot or estate instead of another, he will, upon satisfactory evidence of the mistake, be relieved from the contract. This occurred in *Malins* v. *Freeman* (2 Keen, 25), where the defendant intending to bid for one estate bid by mistake for the plaintiff's property, which was sold by the same auctioneer, on the same day, and at the same time and place: and, independently of a question whether the person by whom the contract had been signed as the agent of the defendant had sufficient authority for so acting, Lord Langdale, M.R. being satisfied with the evidence of the mistake, dismissed the plaintiff's bill for specific performance. "The defendant," said his lordship, "may be answerable for damages at law, without being liable to a specific performance in this court. In cases of specific performance the Court exercises a discretion, and knowing that a party may have such compensation as a jury will award him in the shape of damages for the breach of contract, will not in all cases decree a specific performance; as in cases of intoxication, although the party may not have been drawn into drink by the plaintiff........And the question here is not, as it has been put, whether the alleged mistake, if

'eve,

for the Court is not here called upon to relieve the defendant from his legal liability; but whether, if the mistake be proved, the Court will enforce a specific performance, leaving the defendant to his legal liability. And I think that if such a mistake as is here alleged to have happened be made out, a specific performance ought not to be decreed; and after giving to the evidence the best consideration in my power, I am of opinion that the defendant never did intend to bid for this estate. He was hurried and inconsiderate; and when his error was pointed out to him, he was not so prompt as he ought to have been in declaring it. It is probable that by his conduct he has occasioned some loss to the plaintiff: for that he is answerable, if the contract was valid, and will be left so, notwithstanding the decision to be now

But I think that he never meant to enter into this contract, and that it would not be equitable to compel him to perform it, whatever may be the responsibility to which he is left liable at law."

2. In consequence of the necessity of a written contract for the validity of a sale of lands, conditions of sale usually require the purchaser to sign within a limited time an agreement for the completion of his purchase; and this stipulation has been decided to be fulfilled as against a purchaser, by the entry of a memorandum in the auctioneer's book with the purchaser's name annexed; the auctioneer having been held to be by implication an agent duly authorized to sign a contract on behalf of the highest bidder. (*White* v. *Proctor*, 4 Taunt. 209; *Kemys* v. *Proctor*, 3 Ves. & B. 57).

Public Sales.

By Messrs. DRIVER, at the Mart.

A freehold property, called the Allbury Hall estate, situate in the parishes of Allbury, Furneaux Pelham, and Brent Pelham, Herts, comprising a mansion-house, with its park and gardens, containing, in the whole, above 1,614 acres of arable, pasture, and wood lands, divided into several compact farms, with suitable farm-houses, and agricultural buildings, together with the extensive manors of Allbury Hall, Patmore Hall, and Furneaux Pelham, the whole of the value of 2,000*l.* per annum, divided into three lots, as follows:—Lot 1 comprises the mansion-house, yard, lawn, pleasure grounds, park, and other lands in hand, containing 521a. 0r. 20p at the value of 750*l.* per annum, land-tax 52*l.* 2s. 10d per annum; High Farm, 164a. 3r. 5p. let at 200*l.* land-tax, 23*l.* 10s; Hall Farm, 110a. 0r. 27p. let at 131*l.* land-tax 12*l.* 8s.; Sanfoin [illegible]e, 4a. 0r. 32p. let at 4*l* the late workhouse, 2r 32p. let at 8*l.*; two cottages and gardens, containing 20p. let at 4*l.* proceeds of the Manor of Allbury Hall, on the average 31*l.* 2s. 3d.; total rental or value, 1,143*l.* 2s. 6d. containing in the whole, 831a. 0r. 25p.—31,000*l.*

Lot 2 comprises Patmore Hall Farm, containing 453a. 1r. 34p. let at 400*l.* land tax 41*l.* 8s.; sundry wood lands, 75a. 1r. 26p. let at 37*l.* land tax 4*l.*; lands in Clusley and Seyfield Commons, 3a. 2r. 8p. let at 5*l.* land tax 2*l.*; cottage, orchard, and lands, 6a. 1r. 15p. let at 21*l.* land tax 1*l.* 4s.; sundry lands, 6a. 2r. 17p. let at 11*l.*; Welch's Hill, 7a. 3r. 20p. let at 7*l.* land tax 1*l.*; three cottages and gardens, 1a. 3r. 23p. let at 22*l.* land tax 8*l.* quit rent 11s. 4d.; total quantity 565a. 32p. proceeds of the manor of Patmore Hall, on the average, 3*l.* 14s. 8d.—14,000*l.*

Lot 3 comprises St. John's Farm, containing 251a. 3r. 39p. let at 225*l.* annual proceeds of the manor of Furneaux Pelham, on the average, 81*l.* 2s. 8d.; land tax 17*l.* per annum—9,000*l.*

A freehold estate, comprising the copper-rolling mills and factory, situate on the river Wandle, with dwelling-house, cottages, and 20 acres of land in Garrett-lane, Wimbledon, Surrey—7,450*l.*

By Mr. COX.

Two paid-up shares of 100*l.* each in the Grand Junction Canal, sold at 121*l* per share.

Two similar shares—124*l.* per share.

Three paid-up half-shares in ditto 61*l.* per half-share.

Three similar half-shares 60*l.* 10s. per half-share.

Two other shares of 100*l.* each—124*l.* per share.

Two similar shares, and one half-share—123*l.* per share.

By Mr. ELGOOD, at the Mart.

A new-built house in the Finchley-road, St. John's Wood, held for 75 years at a peppercorn, sold for 1,000*l.*

A similar house, and same tenure—1,000*l.*

A ditto, held for the same term, at 9*l.* ground-rent—805*l.*

A ditto ditto—825*l.*

A house, No. 1, Inverness-road, Westbourne-grove, held for 94 years, at 7*l.* per annum—440*l.*

A ditto ditto, No. 2—440*l.*

A ditto in Monmouth-road, Westbourne-grove, held for 77 years, at 1*l.* 16s per annum—460*l.*

Two houses, 11 and 12, Albert-terrace, Westbourne-grove (unfinished), held for 90 years, at 12*l.* per annum—765*l.*

By Messrs. WINSTANLEY, at the Mart.

A piece of freehold pasture land, comprising about 6a. 10p. situated near Green Gate-street, Plaistow, Essex; held, with the following lot, by Messrs. Curtis and Son, as yearly tenants, at, together, 17*l.* per annum, 2*l.* 10s of which will be apportioned to this lot—570*l.*

A piece of freehold pasture land, near the above, containing 5 acres—160*l.*

A residence, No. 3, Fitzroy-street, Fitzroy-square, let at 58*l.* per annum; held for 29½ years, at a ground-rent of 7*l.* 10s. per annum—525*l.*

A house and shop, No. 21, Lamb's Conduit-street, let upon lease at 100*l.*; held of the trustees of the Rugby Charity for a term, whereof 16 years were unexpired on the 5th January, 1845, at a ground-rent of 26*l.* per annum—500*l.*

By Messrs MUSGROVE and GADSDEN.

Four freehold houses, Nos. 1 to 4, John-street, Greenwich, let at 42*l.* per annum—340*l.*

A family residence with offices and pleasure-grounds, gardens, and meadow land, situated on the west side of Stam-

were unexpired at Lady-day last, at a ground-rent of 38*l.* per annum.—1,900*l.*

A freehold residence, situated in London-fields, Hackney, let on a running lease at a rent of 95*l.* per annum.—1,200*l.*

A detached family house, known as Tottenham-park, situated in White Hart-lane, Tottenham, with 30 acres of pasture land adjoining the house, beautifully timbered, and intersected by a sheet of water, covering about two acres, gardens, pleasure-grounds, double coach-house, stabling for eight horses, farm-yard, and outbuildings; held, under the Dean and Chapter of St. Paul's, on lease for 21 years from the 5th of April last, with the usual custom of renewal every seven years upon payment of a small fine, thereby partaking of the character of freehold property.—2,290*l.*

By Mr. ELGOOD.

A residence, No. 1, Inverness-road, close to the Bishop's-road, Paddington; held for 95½ years from Christmas, 1843, at a ground-rent of 7*l* per annum—440*l.*

A similar residence, No. 2—440*l.*

A semi-detached house in Westbourne-grove, Monmouth-road, adjoining Rugby Villa; held for 80 years from Midsummer, 1842, at a ground-rent of 1*l.* 16s. per annum—460*l.*

A residence, No. 11, Albert-terrace, Bishop's-road; held for 94 years from Midsummer, 1844, at 12*l.* per annum—698*l.*

A residence on the east side of the new Finchley-road, with garden; held for 75 years from Christmas last at a peppercorn-rent—1,800*l.*

The adjoining house, gardens, &c.—1,000*l.*

The residence and garden adjoining; held for 75 years at a ground-rent of 9*l.* per annum—800*l.*

A similar residence adjoining—825*l.*

By Messrs. HOGGART and NORTON, at the Mart.

A freehold estate known as the Lodge Farm, situate at Woodham Walter, Essex, with farm-house, barns, outbuildings, and 303a. 3r. 31p.; held on lease for 14 years from Michaelmas, 1844, at a rent of 370*l.* per annum; there is a land-tax of 24*l.* paid by the landlord; quit-rent 6s. 8d. and a small modus. This lot was sold subject to a charge of 4,000*l.* payable within six months after the death of Sir William Hillary, with the interest during his life at the rate of 4*l.* per cent. and from his death until payment at the rate of [illegible]*l.* per cent. and secured by a term of years—1,970*l.*

By Messrs. RUSHWORTH and JARVIS, at Garraway's.

Two freehold houses, situate Nos. 2 and 3, Star-court, Chancery-lane, let at 72*l.* per annum—790*l.*

A residence, with workshop, situate No. 15, Barnsbury-row, Islington; held for 73 years, at 4*l.* per annum—290*l.*

Five houses, Nos. 2 to 6, on the west side of Lower King-street, held at 70*l.* 4s., taxes and insurance 10*l.* 12s. 6d. per annum; held for 56¼ years, at 28*l.* 17s. 6d.—175*l.*

By Mr. CHINNOCK, at the Mart.

A freehold public-house, known as the Fishmongers' Arms, No. 4, St. James's-place, Aldgate, let until Christmas, 1845, at 63*l.* per annum—1,050*l.*

A residence, No. 12, Pelham-crescent, Brompton, let at 80*l.* per annum: held from the trustees of Mr. Smith's Charity for 77 years from Lady-day, 1836, at the ground-rent of 6*l.* per annum—910*l.*

THE MONEY MARKET.

	Sat.	Mon.	Tues.	Wed.	Thurs.	Frid.
Three per Cents. Consols	99¼	99¼	99¼	99¼	99¼	99⅜
Three per Cents. Reduced	98¼	98¼	98¼	98¼	98¼	98¼
New Three &-a quarter per Cts	101	101½	101¼	101¼	101⅛	101¼
Long Annuities	11¾	11⅛	11⅛	11⅛	11¼	11¼
Bank Stock	209½	210	210	209¾	209¾	209¾
India Stock	278	278½	279	279½	280	280
India Bonds, prem.	74	75	74	74	75	75
Exchequer Bills, prem.	57	58	58	58	59	60
FOREIGN.						
Spanish Five per Cents.	29½	29½	29¾	29½	29⅞	29½
Spanish Three per Cents.	41¼	41⅛	41½	41⅛	41⅛	41⅛
Russian	117¾	117½	117¾	117¾	117	117¾
Peruvian	39½	30¾	31	30¾	30⅛	30⅜
Portuguese	66¼	66¼	66½	66⅞	66¼	66⅞
Mexican	36⅞	37	37¼	37¼	37⅛	37½
—— Deferred	17¼	17¼	17½	17½	17¾	17¼
Dutch Two-and-a-Half per Cents.	63¼	63⅜	63½	63⅞	63⅞	63⅝
— Four per Cents.	98	98	98¼	98¼	98¼	98½
Danish	88	89	9¼	88¾	89	
Colombian	15¼	15½	15¼	15¼	15½	15¾
Chilian	97½	97½	98	99¼	99	99
Buenos Ayres	42	42½	42½	42½	43	43
Brazilian	89½	89½	89½	89¾	89¼	89½
Belgian	98½	99½	99½	99¼	100	100

THE GAZETTES.

The sum stated as the Dividend means so much declared in the Pound. The Assignees, when chosen, follow this statement.

Tuesday, May 20.

Dean, R. builder, div. next week. Johnson, London.—*Forty*, T. hotel keeper, last exam. June 6.—*Hempson*, K. F. A. gas fitter, last exam. passed.—*Hollingsworth*, J. butcher, last exam. passed.—*Lambert*, J. victualler, last exam. passed.—*Weston*, T. plumber, div. next week. Bell, London.—*Wright*, F. builder, last exam. June 3.

Wednesday, May 21.

Caggan, H. D. warehouseman, last exam. June 25.—*Harding*, J. builder div. next week. Johnson, London.—*Robinson*, L. millwright, div. next week. Johnson, London.—*Stockley*, R. cabinet maker, last exam. passed.

Thursday, May 22.

Andrews, J. stock broker, div. next week. Graham, London.—*Chapman*, G. grocer, div. next week. Graham, London, *Lecesne*, L. C. merchant, div. next week. Graham, London.—*M'Knott* and *Glass*, coal merchants, last exam. June 21.

Friday, May 23.

Bartlett, G. plaster ornament manufacturer, div. next week. Johnson, London.—*Bear*, J. draper, final div. next week. Green, London.—*Crook*, C. livery stable keeper, div. next week. Johnson, London.—*Home*, J. veterinary surgeon, last exam. passed.—*Leefe* and *Co.* haberdashers, final jt. div. and sep. Yates next week. Green, London.—*Newstead* and *Co.* lacemen, div. H. next week, Pennell, London.—*Payne*, G. tailor, last exam. June 17.—*Paynter*, W. warehouseman, last exam. June 27.—*Smith*, E. cheesemonger, last exam. June 18.

Saturday, May 24.

Simpson, A. H. engineer, annulled.—*Simpson* and *Co.* engineers, last exam. June 6.—*Ward* and *Co.* meat salesmen, last exam. passed.

DIVIDENDS.

Bankrupts' Estates.

Official Assignees are given, to whom apply for the Dividends.

Cooley, N. tailor, first, 1s. 4d. Valpy, Birmingham.—*Donelly*, J. merchant, first, 2d. Bird, Liverpool.—*Francis* and Co. corn merchants, second, 5d. Graham, London.—*Hardman* and Co. millers, second, 5½d. Bird, Liverpool.—*Higginson*, T. pawnbroker, second, 2s. Cazenove, Liverpool.—*Hinchliff*, W. haberdasher, first, 4s. 8d. Edwards, London.—*Law*, S. upholsterer, final, 1s. 7d. Green, London.—*Lee*, T. tailor, first, 3s. 6d. Turquand, London.—*Muller*, F. J. H. furrier, second, 3d. Groom, London.—*Neal* and Co. mustard manufacturers, first, 7s. 5d. to new proofs, second, 9d. Fearne, Leeds.—*Palmer*, B. W. innkeeper, 4s. Follett, London.—*Pringle*, W. carrier, first and final, 1s. 4d. Baker, Newcastle.—*Rochester*, R. butcher, first, 1s. Baker, Newcastle.—*Stacy* and Co. warehousemen, first, 6½d. Edwards, London.—*Stutchbury*, H. R. bookseller, first, 3s. 6d. Groom, London.—*Swainson* and Co. grocers, second, 2½d. Bird, Liverpool.—*Thornley*, E. scrivener, second, 1s. 2½d. Valpy, Birmingham.—*Walker*, W. hatter, first, 3s. Valpy, Birmingham.—*Watson*, L. smith, 5s. 9d. Belcher, London.

Insolvents' Estates.

Carbuet, J. publican, Liverpool, 3s. 10d. Morgan, Liverpool.—*Higgs*, J. jun. butcher, Wellington-st. Bethnal-green, 18s. 10d.

ASSIGNMENTS

To Trustees for the benefit of Creditors.

Gazette, May 23.

Antrobus, D. salt manufacturer, Northwich, and clerk, Manchester, March 25. Trusts. T. Walton, warehouseman, and T. Paine, accountant, both of Manchester. Sol. Sale, Manchester.—*Pettigrew*, A. and J. merchants, Manchester and Glasgow, April 7. Trusts. J. C. Ridge, agent, and J. Grave, merchant, both of Manchester. Sol. Rowley, Manchester.—*Phipps*, G. B. carpet warehouseman, Leicester, May 17. Trusts. T. Tapling, warehouseman, Wood-st. and J. Walmesley, manufacturer, King-st. Sols. Soles and Co. Aldermanbury.—*Wallis*, J. timber merchant, Manchester, May 19. Trusts. J. Smith, timber merchant, Liverpool, J. Reynolds, gent. Manchester, and W. Gibson, gent. Manchester. Sols. Rowley and Taylor, Manchester.

Gazette, May 27.

Alcock, T. cattle dealer, Kirby-park, Leicestershire, May 20. Trusts. W. Bunney, Little Dalby, and W. Black, Thorpe Satchville, farmers. Sol. Latham, Melton Mowbray.—*Carpenter*, J. C. and *Dunning*, J. H. ironmongers, Canterbury, May 19. Trust. W. Udal, brassfounder, Birmingham. Sol. Walker, Canterbury.—*Smith*, M. cloth manufacturer and merchant, Batley, Nov. 11. Trusts. J. Burnley, cloth manufacturer, Batley, J. Bates, woolstapler, Leeds, and W. Dixon, dyer, Morley. Sols. Battye and Firth, Birstal.

Bankrupts.

DATE OF FIAT AND PETITIONING CREDITORS' NAMES.

Gazette, May 23.

BARKER, JOHN, maltster and farmer, Gayles, June 5 and 26, at eleven, Leeds, Com. West; Fearne, off. ass.; Spiller, Gray's-inn-square, Hutchinson, Barnard Castle, and Courtenay, Leeds, sols. Date of fiat May 14. J. Hind, gent. Gayles, Yorkshire, pet. cr.

CANN, JOHN, bricklayer and builder, Woolwich, June 3 and 30, at half-past eleven, Basinghall-street, Com. Shepherd; Graham, off. ass. Bowers and Co. Chancery-lane, and Colquhoun, Woolwich, sols. Date of fiat, May 19. W. and J. Davis, brick makers, Woolwich, pet. crs.

FRAVIOUR, JOHN, hotel keeper, Liverpool, May 29, at two, June 30, at eleven, Basinghall-street, Com. Shepherd; Turquand, off. ass. English, Old Jewry, sol. Date of fiat, May 9. G. Thacker, messenger, Tower of London, and H. Weaver and R. Audley, executors of J. Weaver, deceased, pet. crs.

HARRIS, THOMAS, currier, Newtown, Montgomeryshire, June 3 and 27, at twelve, Liverpool, Com. Ludlow; Bird, off. ass.; Gregory and Co. Bedford-row, Jones, Newtown, and Rogerson and Radcliffe, Liverpool, sols. Date of fiat, May 12. E. Davies, timber merchant, Welshpool, pet. cr.

HOLLOWAY, RICHARD, innkeeper, Evesham, Worcestershire, June 10, at half-past twelve, July 5, at twelve, Birmingham; Christie, off. ass.; Eades, Evesham, and Motteram and Knowles, Birmingham, sols. Date of fiat, May 12. J. Bowford, wine merchant, J. Cook, maltster, W. S. Kinsey, wine merchant, J. Collins, hop merchant, R. H. Hughes, brewer, W. Barnes, maltster, and Z. Hughes, draper, all of Evesham, and J. C. Kent, spirit merchant, Upton-upon-Severn, pet. crs.

KIMBLE, ROBERT, boot and shoemaker, 27, Great Marylebone-st. May 30, at half-past one, July 4, at twelve, Basinghall-st. Com. Fonblanque; Pennell, off. ass.; Strick, Doughty-st. sol. Date of fiat, May 21. Bankrupt's own petition.

LOWE, WILLIAM, ivory and hard wood turner, St. Augustine's-back, near College-green, and on the Quay, Bristol, June 6, at half-past eleven, July 4, at eleven, Bristol, Com. Stephen; Kynaston, off. ass.; Makinson and Saunders, Temple, and Haberfield, Bristol, sols. Date of fiat, May 16. Bankrupt's own petition.

MACDONALD, ALEXANDER, merchant, 102, Leadenhall-st. June 4 and July 11, at twelve, Basinghall-st. Com. Goulburn; Follett, off. ass.; Keddell and Co. Lime-st. sols. Date of fiat, May 20. F. H. Bourguin, watchmaker, Coleman-st. pet. cr.

PRIDDEY, HENRY, upholsterer and cabinet maker, Droitwich, Worcestershire, June 5 and July 2, at eleven, Birmingham, Com. Daniell; Whitmore, off. ass.; Parkes and Co. Bedford-row, and Motteram and Knowle, Birmingham, sols. Date of fiat, May 19. W. G. Gabb, draper, and J. Trehearne, grocer, both of Droitwich, pet. crs.

SIMS, THOMAS, licensed victualler, Earl of Effingham public house, Whitechapel-rd. Middlesex, June 3 and 30, at twelve, Basinghall-st. Com. Shepherd; Turquand, off. ass.; Wire and Child, St. Swithin's-lane, sols. Date of fiat, May 21. C. Bleaden, gent. Adelaide-pl. pet. cr.

SMITH, DYER, BERRY, merchant, Liverpool, June 4 and July 8, at eleven, Liverpool, Com. Phillips; Cazenove, off. ass.; Parkes and Co. Bedford-row, and Greatley, Liverpool, sols. Date of fiat, May 16. Bankrupt's own petition.

THACKERY, JOHN, dyer, Leeds, June 5 and 26, at eleven, Leeds. Com. West; Freeman, off. ass.; Milton and Nealor, Southampton-bldgs. and Dunning and Co. Leeds, sols. Date of fiat, May 20. Bankrupt's own petition.

WHITE, JOHN, currier and leather-seller, Market-pl. Warminster, Wiltshire, June 3, at two, and June 27, at twelve, Basinghall-st. Com. Evans; Johnson, off. ass.; Galsworthy and Nichols, Cook's-ct. sols. Date of fiat, May 21. Bankrupt's own petition.

WOOD, THOMAS, wine and spirit merchant, Little Queen-st. Holborn, June 17, at half-past twelve, and July 4 at half-past eleven, Basinghall-st. Com. Holroyd; Groom, off. ass.; Collins and Rigley, Crescent-pl. Bridge-st. sols. Date of fiat, May 16. H. A. Rigby and J. Collins, Crescent-pl. Bridge-st. gents. pet. crs.

Gazette, May 27.

BARNES, LEONARD, provision dealer, Redhall, Busy, Lancashire, June 9 and 30, at twelve, Manchester, Fraser, off. ass.; Johnson and Co. Temple, and Higson and Robinson, Manchester, sols. Date of fiat, May 21. T. M. Hesketh, provision dealer, Bolton-le-Moors, pet. cr.

BROWN, JOHN JAMES, grocer, Bury Saint Edmunds, June 6, at eleven, June 30, at twelve, Basinghall-st. Com. Evans; Bell, off. ass.; Taylor, Featherstone-bldgs. sol. Date of fiat, May 23. Bankrupt's own petition.

BURNS, GEORGE CORNELIUS, upholsterer and broker, Devizes, June 10 and July 8, at twelve, Bristol, Com. Stephen; Hutton, off. ass.; Dean and Co. Saint Swithin's-lane, and Cox, Bath, sols. Date of fiat, May 20. Bankrupt's own petition.

DAVIS, WILLIAM, butcher, Compton, Tettenhall, Staffordshire, June 2 and July 2, at eleven, Birmingham, Com. Daniell; Whitmore, off. ass.; Parkes and Co. Bedford-row, and Motteram and Co. Birmingham, sols. Date of fiat, May 12. C. Callum, gent. Pattingham, Staffordshire, pet. cr.

HERNE, THOMAS, draper, Cardiff, June 10, at one, July 4, at twelve, Basinghall-st. Com. Holroyd; Edwards, off. ass.; Parker, St. Paul's Church-yard, sol. Date of fiat, May 20, J. Howell, W. Ellis, and W. Everington, warehousemen, St. Paul's Church-yard, pet. crs.

LEWIS, RICHARD, carman and dealer, Ashford, Kent, June 3 and July 8, at twelve, Basinghall-st. Com. Fane; Whitmore, off. ass.; Anthony, Nicholas-lane, sol. Date of fiat, May 22. J. Coton, cowkeeper, New-st. Brompton, pet. cr.

POOLE, WILLIAM, sen. shopkeeper, Horton Lock, Buckinghamshire, June 4 and July 5, at eleven, Basinghall-st. Com. Goulburn; Green, off. ass.; Hutson, Upper Clifton-st. Finsbury, sol. Date of fiat, May 23. Bankrupt's own petition.

TAYLOR, JAMES, maltster and flour factor, Bromley, Middlesex, June 6, at twelve, July 8, at half-past two, Basinghall-st. Com. Holroyd; Edwards, off. ass.; Marten and Co. Mincing-lane, sols. Date of fiat, May 23. Bankrupt's own petition.

PARTNERSHIPS DISSOLVED.

Gazette, May 20.

Anderson, J. and *Bruce*, M. cabinet makers, North Shields, May 17. Debts paid by Anderson.—*Atkinson*, G. and *Sidebottom*, J. joiners, Hull, April 26. Debts paid by Atkinson.—*Blackburn*, M. and *Burrows*, J. and W. worsted stuff manufacturers, Preston, May 16.—*Bell*, J. and *Harries*, G. and J. tobacco manufacturers, Shrewsbury, so far as regards Bell, May 17. Debts paid by Messrs. Harries.—*Cocker*, John, *Worrall*, J. and *Cocker*, James, cotton spinners, Cowlishaw in Compton, Lancashire, so far as regards Worrall, May 8. Debts paid by the remaining partners.—*Cowgill*, C. *Hopkinson*, J. *Hirst*, H. *Jessop*, B. *Hirst*, J. *Riley*, S. and *Lumb*, T. fancy woollen manufacturers, Huddersfield, May 16.—*Dods*, J. M. and *Linklater*, J. and J. H. attorneys, St. Martin's-lane and Leadenhall-st. May 20.—*Greenwood*, C. *Ebbs*, W. H. and *Greenwood*, W. W. toy merchants, Great St. Thomas Apostle, so far as regards W. W. Greenwood, May 20. Debts paid by the remaining partners.—*Grace*, J. and J. C. and *Carlyle*, G. painters, Liverpool, so far as regards Carlyle, May 17.—*Hickey*, J. and *Agnew*, J. bootmakers, Liverpool, May 7.—*Isaacs*, S. and *Dyer*, J. provision merchants, Brompton, Kent, May 17. Debts paid by Isaac.—*Johnson*, R. and J. F. leather sellers, Langley-place, Commercial-road East, April 26. Debts paid by J. F. Johnson.—*Kingdon*, W. jun. and J. S. attorneys, Exeter, April 30.—*Mallinson*, D. and *Dobson*, G. B. grocers, Halifax, May 9.—*Moore*, T. D. and *Christian*, J. E. merchants, Liverpool, May 17. Debts paid by Moore.—*Nicol*, J. D. *Wright*, J., *Hadden*, A. and *Smith*, J. merchants, Bombay, so far as regards Nicol, July 31, 1844.—*Pickering*, R. and *Shaw*, E. printers, Hull, May 16.—*Sims*, O. and *Shaw*, A. H. chymists, Stockport, May 15. Debts paid by Shaw.—*Smithson*, R. and *Pearson*, W. ale merchants, York, April 28. Debts paid by Pearson.—*Threlkeld*, H. and *Edwards*, W. accountants, King-st. Cheapside, May 4.—*Ulluthorne*, F. and B. silk mercers, Preston, May 16.—*Williams*, W. and R. joiners, Liverpool, May 17.—*Young*, R. and W. drapers, Brede, Sussex, May 20.

Gazette, May 23.

Ash, H. S. and *Parsons*, J. purse manufacturers, Nottingham, May 22. Debts paid by Parsons.—*Campling*, R. and *Creake*, J. haberdashers, Norwich, April 1. Debts paid by Campling.—*Clement*, G. and *Inskipp*, G. drapers, Hastings, Aug. 1. Debts paid by either partner.—*Fieldhouse*, W., *Hawkins*, J. and *Coxon*, C. china and toy manufacturers, Foley and Longton, May 20. Debts owing by the china concern will be paid by Fieldhouse and Hawkins, and by the toy manufactory by Coxon.—*Gomperts*, M. and *Haswell*, H. L. exhibitors of Dioramic and Panoramic pictures, May 21. Debts paid by Haswell.—*Green*, S. and G. innkeepers and farmers, Penistone, May 17. Debts paid by G. Green.—*Hardy*, M. and *Unthank*, H. wine merchants, Manchester, May 15.—*Harrison*, E. and *Houlker*, T. attorneys, Preston, April 30. Debts paid by either partner.—*Heymann*, M. *Webb*, L. and *Mitchell*, M. coach builders, Stoke next Guildford, May 20.—*Holtham*, S. and *Brewer*, M. E. milliners, Brighton, May 22.—*Lowe*, M. and *Morrison*, W. manufacturers, Leicester, May 19.—*Moody*, D. G. and *Jones*, L. jun. fruit merchants, Newcastle-upon-Tyne, May 21.—Debts paid by Moody.—*Poulson*, J. and *Spencely*, J. varnish manufacturers, Church-lane, Whitechapel, and Bow, May 20.—...L and *Dent*, T. joiners, Manchester, May 17.—... W. and T. F. and *Bloor*, J. brewers, Burton-...t, May 19.—*Skinner*, W. and *Robertson*, D. cheesemongers, Bermondsey-street, May 13.—*White*, R. and *Bulston*, A. nursery men, Poole, May 10. Debts paid by Balston.—*Wood*, C. W. and *Cooper*, A. surgeons, Woodhouse Eaves, May 2, 1845.

Insolvents

Petitioning the Courts of Bankruptcy.

PETITIONS TO BE HEARD AT BASINGHALL-STREET.

Gazette, May 20.

Alston, J. J. shipwright, Salisbury-street, Bermondsey, June 2, at half-past eleven.—*Barrett*, J. P. teacher of music, Oxford, June 2, at twelve.—*Biggs*, J. waggon office ... eleven.—*Hudson*, G. artist, President-street East, King-square, June 3, at half-past eleven.—*Kemp*, S. H. baker, King's Lynn, June 5, at twelve.—*Lane*, J. gent. Friern Barnet, June 2, at one.—*Moore*, J. sen. blacksmith, Maidstone, June 5, at eleven.—*Pawle*, J. C. clerk, Exmouth-street, Clerkenwell, June 5, at eleven.—*Rolls*, E. T. boarding house keeper, Fitzroy-place, Kentish-town, May 24, at eleven.—*Tilstone*, J. out of business, No. 19, Leicester-square, June 5, at twelve.—*Tingey*, W. labourer, Pennyfields, Poplar, June 3, at eleven.—*Weston*, G. F. commission agent, Albany-road, Old Kent-road, June 12, at eleven.—*Wilkins*, C. butcher, Wheatley, June 5, at twelve.—*Wright*, J. tailor, Carlton-street, June 12, at eleven.

COUNTRY.

Gazette, May 20.

Baker, J. pork butcher, Sheffield, June 4, at eleven.—*Bertinchamp*, G. J. teacher of languages, Chester, May 27, at eleven.—*Brock*, J. gent. Drewsteinton, May 27, at eleven.—*Clarke*, C. baker, Nottingham, June 6, at half-past ten.—*Davies*, W. joiner, Llanbeblig, May 27, at eleven.—*Furniss*, I. spoon maker Sheffield, June 4, at eleven.—*Goodland*, J. butcher, Chew Magna, June 9, at eleven.—*Gosling*, M. jun. farmer, Eckington, June 2, at one.—*Hughes*, E. attorney, Ellesmere, May 23, at half-past twelve.—*Jarman*, H. livery stable-keeper, Plymouth, May 29, at one.—*Lancaster*, W. labourer, Grasmere, May 29, at two.—*Newport*, J. sen. collector of tolls, Newport, June 6, at half-past ten.—*Partridge*, J. N. innkeeper, Cheltenham, June 10, at two.—*Powell*, J. wheelwright, Merthyr-Tidfil, June 10, at eleven.—*Prujean*, J. jun. land surveyor, Newport, June 4, at twelve.—*Stott*, R. innkeeper, Rochdale, May 29, at twelve.—*White*, H. Exeter, May 29, at one.

MEETINGS AT BASINGHALL-STREET.

Gazette, May 20.

Bate, J. M. commander in the navy, Spa-road, Bermondsey, June 10, at half-past eleven.—*Davies*, J. fellmonger, King Sutton, June 10, at half-past twelve.—*Riley*, T. fruiterer, Clifton-place, Wandsworth-road, June 12, at eleven.—*Tyler*, H. jun. builder, Charlotte-row, Bermondsey, June 10, at twelve.—*White*, C. tailor, Odiham, June 10, at eleven.

MEETINGS IN THE COUNTRY.

Atkinson, G. G. joiner, Stockton-upon-Tees, June 11, at half-past one, Newcastle.

PETITIONS TO BE HEARD AT BASINGHALL-STREET.

Gazette, May 23.

Brown, J. M. greengrocer, Lambeth-walk, June 6, at half-past eleven.—*Cumming*, J. upholsterer, Maidenhead, May 29, at one.—*Gardener*, W. pawnbroker's salesman, City-terrace, City-road, June 4, at twelve.—*Herbert*, A. R. tailor, Mount-pleasant, Gray's-inn-road, June 4, at twelve.—*Squiers*, J. fruiterer, Ipswich, June 6, at eleven.—*Withmott*, W. jun. clerk in the customs, Lower Tulse-hill, Brixton, June 4, at twelve.—*Whitmarsh*, H. shoemaker, Winchester, June 4, at eleven.—*Wood*, F. brewer, Borters June 12, at eleven.

IN THE COUNTRY.

Allwood, M. housekeeper, Pontesbury, May 28, at twelve, Birmingham.—*Colhourne*, J. colliery agent, Kingswinford, May 28, at half-past ten, Birmingham.—*Farmer*, J. farm labourer, Castle Morton, May 30, at eleven, Birmingham.—*Jones*, R. joiner, Liverpool, May 30, at eleven, Liverpool.—*Simpson*, J. assistant to a dealer in flour, Middlesborough, June 18, at eleven, Leeds.—*Slater*, W. mining harter master, Rowley Regis, May 28, at half-past ten, Birmingham.—*Thorne*, G. farmer and tailor, Taunton June, at one, Exeter.

From the Gazette of Friday, May 30.

Bankrupts.

Harris, S. and *Reene*, D. linen-drapers, Minories, London.—*Scarle*, S. W. cheesemonger, Upper Gloucester-place, Chelsea.—*Wenman*, T. merchant, Birmingham.—*M'Alpine*, W. tailor, Liverpool.

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From an article on Mr. A. J. Stephens's *Law of Nisi Prius*, in *The Law Times* of May 17, 1845.

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THE REPORTS.

Equity Courts.

LORD CHANCELLOR'S COURT.

TAYLOR *v.* WYLD.

Advancing appeal—Demurrer—Orders of 1841—*Practice.*

G. L. Russell in this case applied to advance the appeal, so as to be heard as if it had been a demurrer. One of the defendants to the bill had demurred to the bill, and that demurrer had been overruled; and then another defendant in the same interest had put in answer, which answered some immaterial parts of the bill, and then declined to answer all the rest of the interrogatories. This was a literal but not substantial compliance with the 38th order of August 1841, which declares "That a defendant shall be at liberty by answer to decline answering any interrogatory or part of an interrogatory, from answering which he might have protected himself by demurrer." The plaintiff contended that this was in substance a demurrer, and applied to have the appeal set down to be heard accordingly.

The LORD CHANCELLOR.—This is the same in principle as a demurrer, and the hearing ought to be advanced.

DAMER *v.* LORD PORTARLINGTON.

Practice—Time to answer affidavits—Undertaking—Injunction—Appeal—Judicial discretion.

Where the Court permits a motion to stand over to enable one of the parties to answer an affidavit, that is an indulgence which will be granted on such terms as the judge in his discretion may think proper, and the question whether such discretion has been properly exercised or not, is not usually a subject of appeal.

This was a motion to discharge an order of the Vice-Chancellor of England, which direct a sum of 15,000*l.* standing in the London Joint Stock Bank, to the credit of three persons as trustees, Blount, Wright, and Mahony, should be paid into court, pending an application for a receiver, and an injunction to restrain Blount from receiving the rents of certain estates of Lord Portarlington in Ireland. The principal motion was being heard before the Vice-Chancellor of England, when *James Parker* and *Rolt* moved to discharge the Vice-Chancellor's order, on the ground that it was irregular; and they contended that it was an adjudication on a point not fully heard, which would prejudice their client, Mr. Blount, on the principal motion. The notice of motion before the Vice-Chancellor was given for Thursday, the 1st of May, and on the Monday previously the plaintiff filed a very long affidavit, to which Mr. Blount could not properly reply by the motion day. It was therefore asked that the motion should stand over, to enable Mr. Blount to answer the affidavit, which was allowed by the Vice-Chancellor, on his undertaking not to transfer the 15,000*l.* or receive the rents in the meantime. The trust was for securing 345,000*l.* advanced by fourteen different persons upon mortgage of Lord Portarlington's estates. The defendant disputed the plaintiff's title, and there was no statement of hazard to the fund in the banker's hands. When the undertaking had been given, Mr. Stuart, for Lord Portarlington, asked that the 15,000*l.* might be paid into court, and the counsel of the bank stating he did not object, the order was first drawn up as one made by the banker's consent. On that being objected to, and *Green*, for the bank, saying he had not consented, but only submitted, to such order as the Court might direct, the Vice-Chancellor made the order for payment into court as an adverse order against the bank and Blount, and on a subsequent day, on the minutes having been spoken to, the plaintiff's affidavit was entered as read. Mr. Blount's counsel objected that the effect of this order was an adjudication against him. After the undertaking had been given, it was irregular to make an adverse order against him.

Green, for the London Joint Stock Bank, did not consent to any order, but submitted to act as the Court should direct. The bankers were stake-holders, and could not be called upon to exercise any discretion.

Bethell and *R. Palmer*, for the plaintiff, contended that the order of the Vice-Chancellor to pay the money into court, was an exercise of judicial discretion which was not the subject of appeal. Mahony, one of the trustees, had done all he could to divest himself of the trust, and appeared and prayed that the money might be paid into court. Wright, the third trustee, had been a bankrupt, and was abroad. Under that state of things, the Vice-Chancellor held that the money ought to come into court. In fact the money had been paid into court. Most of the *cestuis que trust* assented to its coming into court, as it was obvious that, in the case of an estate so incumbered as that of Lord Portarlington's, some creditor might attempt to attach the funds in the hands of the banker.

Wilcock, for Mahony, the retiring trustee.

Wakefield and *Lowndes*, for Eyre, who had been selected as trustee in the place of Wright.

The LORD CHANCELLOR.—It is not in strictness an irregularity of which the defendant Blount complains; but it is a question whether the Vice-Chancellor exercised a sound discretion. It is a principle of this Court that it will not set aside what has been done by the Court below in the exercise of a discretion, unless it is clear to demonstration that the decision is wrong.

Jas. Parker, in reply.

The LORD CHANCELLOR.—The point is merely this. The defendant, having notice that an affidavit had been filed three days before the day for hearing of the motion, the 1st of May, was bound to be ready. Then he makes an application to postpone the hearing, on the ground that he had not had sufficient time to answer the plaintiff's affidavit. That was an appeal to the indulgence of the Court, which was granted on certain terms; one of those terms being that the money should be paid into court. It is a mere question whether the discretion of the Court below was properly exercised. The Court won't overturn that, unless it is made clear to demonstration that it is wrong.

May 8 *and May* 23.

Re PROSSER'S PATENT.

Re PINKUS'S PATENT.

Practice on applications for patents—Caveat against sealing patents—Cost

These were cross-petitions by two persons claiming rival inventions for atmospheric railways against the sealing of the patents. The Solicitor-General had reported in favour of both patents, and the Lord Chancellor had referred the matter back to the Solicitor-General, that he might report for his lordship's information more fully on the circumstances of the case.

Jas. Parker and *Beales*, for Prosser's petition, stated that the Solicitor-General had reported that both patents ought to be sealed, with a condition as to that of Pinkus's patent, that so much of it as was similar to Prosser's patent, which the report identified by reference to a drawing, should be withdrawn. It was now proposed, that both caveats should be withdrawn, and the patents sealed; but Prosser asked that his opponent should pay the costs which had been occasioned by his entering a caveat. If Pinkus intended to go into the question on the merits, he should have presented a cross-petition.

The LORD CHANCELLOR.—The original petition is in force, is any further petition necessary?

Parker.—It is, if the same practice is adopted as that which prevails in the Master's office. He could not oppose the confirmation of the Master's report without an express petition for that purpose.

The LORD CHANCELLOR.—The course in such cases as the present is this; I refer to the Solicitor-General, and he then reports to me what he has done for my information. The question is, whether I shall affix the great seal to the patents. The report of the Solicitor-General requires no confirmation. I ask what he has done, and he gives me the reasons for what he has done. It is in my discretion whether or not to affix the great seal.

His lordship then read the Solicitor-General's report, which stated in substance, that as he considered the whole of the questions between the parties might be better considered in a court of law, he had recommended that Prosser's patent should pass the great seal; and also that, if Pinkus consented to withdraw a part of his claim, his patent also ought to pass the great seal. This would leave the parties in a situation to litigate the matter in a court of law. And his lordship added, "There must be a strong case made after that report to prevent either patent passing the great seal."

Wakefield, for Pinkus, referred to the merits as shewn in the affidavits.

The LORD CHANCELLOR.—I cannot discuss the matter again. The Solicitor-General says that the patents ought to be sealed, and it is inconsistent with that opinion that it should again be discussed here. Is there any case in which the Chancellor has investigated such disputed questions on patents? It is a question for the jury to decide who was the original inventor.

Wakefield.—Then a caveat against sealing a patent is useless.

The LORD CHANCELLOR.—In consequence of such caveat, the matter has been referred back to the Solicitor-General, who has had the parties before him some times; and he reports that such conflicting evidence was offered to him, that he could come to no safe conclusion on the point. I therefore should be unable to come to any conclusion. It is now only a question of costs. I cannot be expected to undo what has been done by the Solicitor-General. The sealing the patents does not preclude further investigation in a court of law.

Parker then opened the case, in order to shew that Pinkus had surreptitiously obtained a knowledge of part of Prosser's invention. The facts were shortly these. Piati, a Milanese, had completed this invention, and secured it by patent in the Austrian dominions. Carcano, who was an uncle of Piati, came to England to secure the benefit of the invention in this country. On the 26th of Sept. 1844, he went with Count Del Monte, who understood English, to a patent agent named Prince, who said Pinkus had a great deal to do with inventions of this nature, and it was arranged that a meeting should be had with Pinkus. Such meeting afterwards took place at Prince's office, when Carcano shewed Pinkus a drawing explanatory of certain parts of the invention, which he examined and seemed to understand. Pinkus admitted that he had the drawing in his hands, but denied that he had acquired any knowledge of the invention. Carcano afterwards disposed of the invention to Pi[illegible] The case made by Pinkus was, that he was ignorant of the other invention, but he opposed Prosser's patent, because he believed that his own inventions covered every possible mode of applying compressed air to railways, and therefore he opposed the grant of all such patent.

The LORD CHANCELLOR.—If Pinkus has opposed the other patent without any reasonable ground, he must pay the costs of the other petitioner. I think that the reason given that Prosser could not use his invention without using some patent of Pinkus's, is not a reasonable ground of opposition. A particular drawing is referred to by the Solicitor-General: it lies on Pinkus to shew that it is not the same as that of which he obtained an inspection. I will communicate with the Solicitor-General before I determine the question of costs.

May 23. The LORD CHANCELLOR.—I find the interpretation I put upon the report of the Solicitor-General, on reference to him, is the correct one; that Mr. Wakefield's client has been guilty of gross misconduct, and that he had taken advantage of an inspection of Carcano's drawing to claim a part of his invention. It is reasonable that Prosser should have the costs of his caveat. On the other petition there will be no costs.

Friday, May 23.

Re ——, a Lunatic.

Practice in lunacy—Repairs of real estate.

Spence asked for the confirmation of the commissioners' report, which, amongst other things, approved of the outlay of 1,100*l.* in rebuilding a farmhouse and buildings, which had become so dilapidated as to be incapable of reparation. The property was [illegible], and the farm consisted of only fifty-eight acres of land.

The LORD CHANCELLOR, after intimating that the amount required for buildings on so small a farm seemed to be large, made the order.

VICE-CHANCELLOR OF ENGLAND'S COURT.

Friday, May 2.

FLINT *v.* WARREN.

Will—Construction—Conversion—Charitable legacies.

A testatrix by her will gave and bequeathed certain legacies of a charitable nature and certain annuities. She then gave and devised to her executors and their heirs all her real powers and authority to conduct and manage her freehold messuages, lands, &c. in the event of her not otherwise giving and devising the same in any other manner or to any other person, so as the same and every part thereof might, at their or his discre-

tion, be sold and converted into money, to form part of her personal estate

Held, that the testatrix's direction amounted to an absolute conversion of the real estate [illegible] *and that the* [illegible]

estate [illegible] *appointment* [illegible]

Mrs. M. B. [illegible] [illegible] derable property, [illegible] by her will, [illegible] devised as follows: [illegible] there [illegible] goods and effects chattels to [illegible] to be [illegible] upon me, I every [illegible] mentioned; that is to dispose [illegible] say, I [illegible] will and [illegible] be first in the [illegible] or any part [illegible] real estate, or any part [illegible] shall not be [illegible] Mary Decantone, [illegible] of the [illegible] but for [illegible] in [illegible] time, [illegible] in the [illegible] Also I [illegible] the conversion [illegible] bequeath the [illegible] and [illegible] in the schedule marked A [illegible] of this sheet of paper [illegible] give [illegible] the [illegible] being [illegible] yearly [illegible] does [illegible] or [illegible] and [illegible] pay [illegible]

Both [illegible] shall [illegible] and [illegible] shall [illegible] to the [illegible] I direct the said [illegible] the [illegible] instruct [illegible] tions, so that the perpetuated. And, [illegible] schedule A, I appoint Rest [illegible] of [illegible] and James Wa[illegible] of [illegible] silversmith to be my executors. [illegible] then [illegible] all lawful powers and authority to conduct and [illegible] freehold messuages, lands, tenements and hereditaments in the event of any not otherwise [illegible] or devised the same in any other manner, or [illegible] *that the said* *and* [illegible] *sold and converted* [illegible] *part of my* [illegible] And [illegible] every other purpose connected with my property, whether real or personal, I [illegible] them [illegible] with my full authority. And to prevent [illegible] and strife, any [illegible] sum [illegible] of moneys [illegible] be paid, and with every power [illegible] by testatrix [illegible] trustees, [illegible] any future [illegible] as it is my intention so to do."

The testatrix died in April 18[illegible]. The real estate had been sold [illegible] to the institution of the present suit; but the purchase-money had been wasted and misapplied by James Warren, one of the executors and trustees under the will, and the purpose of one of the [illegible] representatives, as he had caused the trust-moneys to be diminished. The personal estate of the testatrix was sufficient for the payment of all her legacies and annuities [illegible] the principal question of any consequence which [illegible] was, whether the testatrix had by her will so blended the proceeds of her real estate with the personalty as to form one common fund for the purposes of her will, that the charity legacies and annuities must fail in the proportion of the proceeds of the real estate to the amount of pure personalty.

James Parker and *Lloyd* appeared for the surviving trustee.

Cooper and *Lewis*, for the next of kin, contended, that the charity legacies ought to fail according to the proportion that the proceeds of the real estate bore to the personal [illegible] the testatrix had made one common fund for the payment of her legacies, there was a conversion [illegible] and the proceeds of the real estate with the personal constituted that common fund for the payment of those charitable bequests, which funds were equally bound to pay the debts and legacies.

The Vice-Chancellor.—Is not the [illegible] of the real estates left to the discretion of the trustees? If so, the word "discretion" may be capable of a two-fold meaning, referring to the time, manner, form, &c.; or it may amount to a discretion whether they shall sell or not.

Cases cited for the next of kin: *Phillips* v. *Phillips* (1 My. & K. 649); *Green* v. *Jackson* (5 Russ. 35); S. C. on appeal (2 Russ. & My. 258).

Bethell, for others in the same interest, contended that the charity legacies, had there been no personalty, would have failed altogether. That the undisposed of surplus was clearly not only personal estate, but the proceeds of the realty also. The charity legacies must therefore fail in proportion that the real estates bear to the personalty.

Wray, for the Attorney General.—I contend that the direction given by the testatrix does not amount to a conversion of the real estate into personalty, for there is a distinct and separate gift of these legacies. Neither are they charged upon the real estate. The power with which she invests her trustees as regards the management of her estates does not imply a conversion, it amounts to nothing more than an interim direction, as it were, to manage those estates. Unless legacies be clearly charged upon the realty, the [illegible] payable [illegible] [illegible] you cannot say that, in the event of the personalty being insufficient to pay those legacies, the real estates are rendered liable, and therefore I submit that the charitable legacies are not subject to apportionment.

The Vice-Chancellor.—It appears to me, looking at the whole scope of the will, that the testatrix virtually directed her real estate to be sold out and out. She nominates her executors, and then gives them and their heirs all lawful powers and authorities to conduct and manage her freehold messuages, &c., so as the sums, and every part thereof, [illegible] the [illegible] direction, be sold and converted into money, &c. Now, the [illegible] direction as to whether the trustees shall sell or not, that relates only to the time, manner, opportunity, &c. The testatrix then proceeds as follows: "And to prevent [illegible] and strife, any undisposed of surplus of money [illegible] be paid as I shall by any future writing or will [illegible] as it is my intention to do." It is evident by her use of the expression "surplus money," the testatrix considered that she was dealing with the whole in the [illegible] She appears to have contemplated [illegible] that the debts and legacies might by [illegible] exhaust the whole; but if not, then, what [illegible] there might [illegible] it should be paid [illegible] direct. [illegible] can be, that [illegible] realty [illegible] converted into personalty, and therefore there must be an apportionment of the charitable legacies.

ROLLS COURT.

Friday, April [illegible].

Re Burt, *ex parte* Nash.

On a reference to the Master to tax a bill of costs, leave to exhibit a special interrogatory to solicitors, "whether they or either of them had or have any and what papers, documents, &c. in their or his custody or possession," will not be granted. If they do not deliver up the papers, the application must be the subject of another kind of proceeding.

In this case there had been an order to tax, and five bills had been carried in in pursuance thereof; but the Master could enter upon only one of them, because the other four were jointly with other persons. The petitioner exhibited a special interrogatory in the Master's office, which he asked the Master to put. It was to this effect: "Whether you, or either of you, had or have any and what papers, documents, &c. in your or either of your custody or possession." The Master, however, disallowed it.

Kindersley now asked leave to exhibit it. It was sworn, and not denied, that there were other papers besides those produced in the joint custody of the solicitors, respecting the bills taxed, and the object was to have an interrogatory respecting them. [The Master of the Rolls.—It is a novel application.] The Master has said he has nothing to do with anything but the one bill referred to. [The Master of the Rolls.—The order is for the delivery of all papers, &c.] Yes, but this would only be for all papers in *their* possession, not in that of *either*. There is reason to believe that one of them has other papers, and the question is whether there may not be an interrogatory to that effect.

Torr.—This is an extraordinary application. [The Master of the Rolls.—Yes; but the affidavit that there are papers in the possession of them, or one of them, is unanswered.] The order is for taxation of all bills, &c. and production of all papers, &c. [The Master of the Rolls.—Yes, all relating to the bill before the Master.] And to be examined on interrogatories. [The Master of the Rolls.—Yes, on the papers so brought in.] And on payment of what is due to deliver all papers, &c.

The Master of the Rolls.—If the papers be in the possession of one of the parties, they are in their possession. I never heard of such an application. I cannot grant it. It is made too soon. It is obligatory on the parties to deliver up all the papers on being paid; if they do not, it must be the subject of another proceeding.

Thursday, May 1.

Barlow *v.* Gains and Others.

A mortgagee has a perfect right to proceed on all his remedies for the recovery of his mortgage-money; but, after a decree in a suit to redeem, and a reference to the Master to inquire as to in what character one of the mortgagees is in possession, whether the mortgagees can proceed in an action which had been commenced at law on the covenants, or can exercise the powers of sale contained in the mortgage-deed—Quære?

Kindersley, for the plaintiff, moved that the defendants, Sarah and Joseph Morris, should be restrained from exercising the powers of sale contained in a mortgage deed in their possession, or from prosecuting an action at law which they had commenced for the recovery of the mortgage-money. The suit by the plaintiff was to redeem various mortgages, and there was a question as to the parties liable to account as mortgagees in possession; and an inquiry was asked as to in what character one of the mortgagees was in possession. An action had been brought by one of the mortgagees, but it was discontinued till after a decree in the suit was obtained directing a reference to the Master, when notice was given to the plaintiff that it was intended to proceed with it, for the purpose of recovering principal, interest, &c. [The Master of the Rolls.—Is the mortgagee who brought the action a second incumbrancer?] No, it is not an ejectment he has brought, but an action to recover the money on the covenants. [The Master of the Rolls.—May not a mortgagee pursue all his remedies?] Yes; but if the Court has once made a decree, he will not be permitted to do so; the party may be entitled to recover possession, for the suit may result in a foreclosure. [The Master of the Rolls.—Has he not a right to proceed on the covenants? Are there any authorities?] The moment the decree is pronounced for an account, both parties are actors in it, and the mortgagee is estopped from proceeding in his action.

The Master of the Rolls.—The mortgagee has a perfect right to proceed on all his remedies. I shall consider what is to be done, and the matter must be postponed for further inquiries.

Tuesday, April 29.

Re Reeves.

A mortgagee take steps to recover his mortgage-money, and the mortgagor, desirous of stopping the action, agrees to pay principal, interest, and costs on a given day, and on the bill of costs, &c. being presented, items are objected to, but the bill after some days is paid, without protest, and a receipt accepted in full, except as to one item objected to, the consideration of which is reserved, there is no special ground for taxation, and a petition under those circumstances was dismissed with costs.

J. F. and Orlando Reeves are solicitors, in partnership with their father, and having with their father become entitled to certain mortgage securities on the property of the Glastonbury Canal Company, they instituted a foreclosure suit in the court of the Vice-Chancellor of England, and on the 4th December, 1841, a notice of motion was given for a reference to the Master, to take the accounts, &c. which was duly made on the 9th of the same month. This motion was successfully resisted, on the ground that a discovery of certain deeds which was required, had not been made. The Messrs. Reeves then gave notice to the tenants, and afterwards took some steps in bringing an ejectment; but on the 24th December, 1844, the solicitors of the company applied to them to accept payment of principal, interest, and costs, on a given day, and the 8th of January, 1845, was agreed on. Messrs. Holme, Loftus, and Young, the town agents for the solicitors of the company, and Messrs. Gregory, Faulkner, and Co. for the Messrs. Reeves, were appointed to make the arrangement. The bill of costs of Messrs. Reeves, amounting to 108*l*. 11s. was sent to Messrs. G. and Co. on the 6th of January, 1845, and by them to Messrs. H. and Co. the next day. Certain items were objected to, and the bill was taken away, but returned and left on the 10th, with an intimation that the expenses of a particular journey would be deducted. Another charge of 30*l*. was also objected to; this arose out of a claim of the assignees of one Platt, who became a bankrupt in 1840, to a debt due to him by the company. This debt the Messrs. Reeves purchased for 30*l*. and added that sum to their bill. But to stop proceedings on the part of Messrs. Reeves, it was agreed to pay all the costs of the mortgages as claimed. But a new difficulty arose, for it was now denied that any more than the professional cost of the expense of the journey, viz. 6*l*. 6s. was agreed to be deducted; and accordingly the bill was, on the 23rd of January, 1843, paid, without protest, with that deduction, and a receipt for the amount given, but reserving the question of the right to deduct 7*l*. 17s., the remaining part of the expenses of the journey. Under these circumstances, a petition for taxation was presented.

Kindersley (with him *Freeling*), for the petition.—There are items not chargeable, and the expenses of the journey have not been deducted as proposed.

[The MASTER of the ROLLS.—The additional costs on the settlement of the suit were to be paid for the sake of peace; all were aware of it.] Yes, the costs of the suit, and of the mortgages. [The MASTER of the ROLLS.—It is more; it is the costs which they claim.] We must either allow the suit and action to go on, or pay the costs asked. It is not an agreement to pay a certain amount, it is only to pay the costs. There was a difference of opinion, and we say, Let the agents settle it, or take any third person; but they would not. We therefore paid under pressure.

Turner (with him *Selwyn*), contrà. -[The MASTER of the ROLLS intimated that he could not make the order, but had doubts as to the costs of the petition.] They agreed to pay all costs demanded, except 7*l.* 17*s.* which was to be the subject of consideration afterwards; and that without making any protest, or saying any thing about taxation. We are therefore entitled to costs of this petition.

Kindersley, in reply, as to costs.

The MASTER of the ROLLS.—This is a petition to tax a bill of costs, which has been paid, not under circumstances which I am in the habit of calling special circumstances—not delivered and paid at the time of paying off the incumbrance, when, if it were not paid, the result would be great inconvenience and delay in closing the transactions. On the contrary, the bill was delivered on the 7th and paid on the 23rd of January, and therefore there was time enough for examination and a knowledge of the charges. There is nothing special in that, for there is no advantage taken; but not only is that so, but there is a suit in prosecution, which the defendant is desirous of putting an end to. I do not wish to make any observation to encourage persons to demand more than they are entitled to, but it was desirable to put an end to the suit. The bill was delivered and examined, and propositions were made to reduce it, which were not acceded to. It was then agreed to pay all the costs, &c. except part of a particular charge, and the receipt is for all the money charges of Messrs. Reeves, on the settlement of the suit. The town agent did not agree to the items, but to pay a sum on the settlement of the suit, being the best terms he could make. I had doubts about the costs; but the sum having been paid, they ask taxation on grounds which have entirely failed, that is, threats of a suit, and the matter being left to the town agents; but if the town agent is pressed, he may refer to his principal to ascertain whether he may make the arrangement. I think there is nothing to induce me to deny the costs of this petition, which I must therefore dismiss with costs.

VICE-CHANCELLOR KNIGHT BRUCE'S COURT.

Thursday, May 1.

ABERDEEN *v.* GIBBS.

Practice—Injunction.

An action commenced in the name of a trustee by his cestui que trust, was restrained by the Court, although the cestui que trust had sufficiently answered the bill.

Whether the injunction, which was obtained against the trustee alone, would prevent the cestui que trust from prosecuting the action, Quære?

The defendant Gibbs was a trustee to whom an annuity was payable by the plaintiff in trust for Mrs. Grimstead, another defendant in this suit. Gibbs having become bankrupt, Mrs. Grimstead, under the authority of the Court of Review, commenced an action in the name of Gibbs against the plaintiff in this suit for the amount of five half-yearly payments of the annuity, which were then due. The plaintiff then filed this bill against Gibbs and Mrs. Grimstead, and obtained the common injunction against Gibbs to restrain him from proceeding in the action.

Renshaw, on behalf of the plaintiff, moved to extend the injunction to stay trial. Gibbs had put in an answer which was altogether insufficient, and to which it was the plaintiff's intention to except. He cited *Montague* v. *Hill* (4 Russ. 128); *Lord Portarlington* v. *Graham* (5 Sim. 416); *Imperial Gas Light Company* v. *Clarke* (1 Young's Exch. Cases, 580), *White* v. *Steinwacks* (19 Ves. 83); *Joseph* v. *Doubleday* (1 V. & B. 497), and *Thorp* v. *Hughes* (3 Myl. & Cr. 742).

Willcock, for the defendant Gibbs, offered no opposition.

Wigram and *Trower*, for the defendant Mrs. Grimstead, cited *Nanny* v. *Vaughan* (8 Sim. 439); *Lord Delvin* v. *Smith* (Moseley, 204); and *Wigsell* v. *Wigsell* (2 Sim. & Stu. 374).

The VICE-CHANCELLOR.—I decline deciding or intimating any opinion whether the injunction against Mr. Gibbs will prevent Mrs. Grimstead from continuing this action, but I think I must extend it to stay trial. I give Mrs. Grimstead the option to have inserted in the order that it is so extended, with liberty for her to come to the Court and move to dissolve the injunction against Gibbs.

Wigram declined to have the insertion made, and

The common order was accordingly made. Costs reserved.

Friday, May 2.

THOMPSON *v.* COOPER.

Practice—Creditors' suit—Costs.

Where a creditors' suit has been properly instituted, and the fund applicable to the payment of the costs is insufficient, the creditors who have proved their debts must contribute according to the amount of their debts.

This was a creditors' suit, instituted by the plaintiff on behalf of himself and all other the creditors of Samuel Porter, deceased, against the defendant, who was the administrator of the effects of the deceased. The usual references to the Master to take the accounts having been made, the Master reported that the plaintiff had proved a debt of 138*l.* 9*s.* 4*d.*; the defendant and his partner Vickers had proved a debt of 271*l.* 6*s.* 3*d.*; and the defendant and Ann Caven and Robert Bell, as executors of James Caven, deceased, had proved a debt of 400*l.* The estate amounting only to 485*l.* 6*s.* 11*d.* the defendant retained the whole on account of the two debts proved by him. Before proving their debts, Ann Caven, R. Bell, and J. Vickers signed an undertaking in the Master's office to contribute to the plaintiff their proportion of the costs of the suit. After the decree on further directions, which provided for the payment of costs, there proved to be no fund applicable to the payment of the plaintiff's costs.

Russell and *Shebbeare*, on his behalf, moved that Caven, Bell, and Vickers should be ordered to pay to the plaintiff their proportions of the costs. They cited *Shortley* v. *Selby* (5 Mad. 147).

Koe and *Prior*, for the respondents, cited 2 Smith's Chancery Practice; *Lechmere* v. *Brasier* (1 Russ. 70), and *Blodt* v. *Jessop* (Jac. 243).

The VICE-CHANCELLOR.—I think the petitioner's claim is not defeated or prejudiced by the circumstance that the Court has not hitherto recognized or noticed it, or has not, before the present time, been asked to recognize or notice it. Nor do I think the question of retainer is material to the present purpose. The retainer has merely decided that, in respect to certain debts which the administrator was interested in, he was entitled to retain them in full, which diminished the fund to be distributed among the general creditors. The Court, however, has decided that the general costs are to be paid out of the fund, that fund being the ultimate surplus of the estate in the hands of the administrator after making all just allowances, which is said to include the sums retained. This, therefore, exhausting the amount applicable, the costs cannot be paid out of the estate, and the other creditors are called on to contribute, from the circumstance of their having been paid their debts in full. In point of fact, they have come in and proved in the ordinary manner, and I am told that otherwise the benefit of the retainer would not have been allowed them. It cannot be just that in a creditors' suit, instituted on behalf of all the creditors, one alone should bear the loss, while others participate in the benefit. Where there is a creditors' suit properly instituted, and the fund is insufficient, those who have come in and proved, and on whose behalf the suit was instituted, must contribute to that loss which has been borne on behalf of all. The division also must be made according to the amounts.

VICE-CHANCELLOR WIGRAM'S COURT.

Thursday, May 1.

HENSON *v.* BLACKWELL.

In this case the plaintiff, being indebted to the defendant in the sum of 300*l.* assigned as a security for the debt the interest in certain personal property, to which he was entitled in right of his wife, but which interest was not capable of being reduced into possession. The defendant, subsequently to the execution of the deed of assignment, effected a policy of insurance upon the wife's life for the sum of 200*l.* but without any arrangement or understanding with the plaintiff for that purpose: in fact, it was alleged that the plaintiff was entirely ignorant of such a policy having been effected, and the policy itself comprised no reference to the deed of assignment. The plaintiff's wife died, and the defendant received the amount insured from the insurance-office, which circumstance coming to the knowledge of the plaintiff, he filed his bill for the purpose of having the money received from the office declared to be a payment *pro tanto* of the debt, and for the redemption of the mortgage upon payment of the difference.

His HONOUR said that two questions arose out of the facts of the case: first, whether the creditor had any insurable interest in the life of the plaintiff's wife, so as to make the policy valid; and secondly, whether the plaintiff could claim the benefit of the money paid by the insurance-office. These were questions for the opinion of a court of law; but as all interested parties were willing to abide by his judgment, he must say that the plaintiff's claim did not appear to him to be sustainable, for he had no doubt that the defendant had an insurable interest, and that the policy was a guarantee only against any loss sustainable by the wife's death.

Friday, May 23.

EARL *v.* HOLT.

Demurrer—Parties—Defendant—Pleading.

The drawer of a bill of exchange which had been indorsed over to third parties for value, held, under the circumstances, not to be a necessary party to a suit to have the bill delivered up to be cancelled.—The authority of Pentold v. Nunn (5 Sim. 405) impugned.

The question in this case is, whether a person of the name of Potts is a necessary party for the purpose of this suit.

The facts of the case are these. In the month of August 1843, the plaintiff being indebted to Potts in the sum of 50*l.* accepted a bill of exchange to that amount, drawn by Potts, who indorsed it over for value to the defendant Zachariah Goodyear. The plaintiff states that he has paid over the whole amount of the bill, by two separate payments of 25*l.* each, to Potts, as the agent of Goodyear, and the object of the present bill is to have the instrument which is so alleged to have been satisfied, delivered up to plaintiff. The bill states that the defendant Goodyear indorsed the bill of exchange without consideration to the defendant Holt, after it was overdue and satisfied, and that Holt was affected with notice of the previous mode in which the instrument had been negotiated and paid. Now, that the plaintiff is entitled to the relief he seeks, if the statement in his bill be true, I have not the least doubt. *Primâ facie*, Potts would be a necessary party, but the bill makes such allegations as render his presence on this record wholly unnecessary. The two defendants who have demurred on account of the absence of Potts, have admitted every equitable ground upon which the plaintiff rests his case; but upon the argument of this demurrer they have contended that, although *they* have admitted the statements of the plaintiff, yet, inasmuch as such admissions are not [illegible] he must be represented in this suit. Now such a doctrine is quite at variance with what I have always conceived to have been the rules of this Court. I shall only instance the case of *Kemp* v. *Prior*, which is reported in 7 Vesey, 237, where Lord Eldon says, "It is not enough, upon the argument of a demurrer, to conjecture that if the cause goes on there may be some ground for a decree; but the Court is bound to say that, upon the facts as stated in the bill, if proved or confessed at the hearing, a decree would be made." Applying this principle to the admission in this answer, I am bound to say that Potts is not a necessary party, by the defendants' own shewing. The defendants have mainly relied on the authority of the case of *Pentold* v. *Nunn* (5 Sim. 405), where it was held, upon demurrer, that the drawer of an accommodation bill was a necessary party to a suit by the acceptor against the holder to have the bill delivered up to be cancelled, the Vice-Chancellor observing, "that the demurrer admits the facts against the demurring party only." Now in that case the facts were different from the present, and even if [illegible] be accurately reported, I think there [illegible] rges and statements detailed in this bill, and admitted by this demurrer, [illegible] render this case [illegible] distinguishable from, and not to be con[illegible] by, the authority of *Pentold* v. *Nunn*. The [illegible] must be overruled, but upon the whole [illegible] opinion that it must be overruled without costs.

Common Law Courts.

COURT OF QUEEN'S BENCH.

Saturday, May 15.

REG. *v.* THE INHABITANTS OF GREAT BOLTON.

If a pauper states that she is "receiving relief from, and is actually chargeable to," parish A. that is sufficient evidence of chargeability.

If an appeal against an order be quashed on a point of form, subject to a case, the respondents may obtain a second order upon the same settlement, and they may waive their right to proceed with the case granted.

On appeal against an order for the removal of Ann Higginson, a pauper, from Great Bolton to Bradshaw, the order was quashed, subject to a case which—as far as it related to the points on which the judgment turns—was as follows:—

An order dated Aug. 17, 1843, had been made for the removal of the pauper, Ann Higginson, from the township of Great Bolton to the township of Bradshaw. An appeal against that order was entered and respited at the next borough sessions at Bolton, and in January 1844 the trial took place, when the Court quashed the order, upon the ground that "no copy or counterpart of the said order of removal has been sent to us (the appellants) by post or otherwise;" it being shewn that the signatures of the two justices had been omitted in transcribing the order in the copy sent. The order was, however, quashed, subject to a case for the opinion of the Court of Queen's Bench. The case states that "the respondents, however, took no steps towards stating such case, nor ever communicated

with the appellants as to proceeding with or abandoning the said case, nor did they make any motion in the said court of quarter sessions relative thereto; but the pauper having since the quashing of the former order become again chargeable to and relieved by Great Bolton, the respondents obtained another order of justices for the removal of the pauper from Great Bolton to Bradshaw, which order was made upon fresh examination, and bears date of the 17th February, 1844, and is the order last appealed against. The settlement stated in the fresh examinations, as that upon which the second order of removal was made, was the same settlement stated in the examinations upon which the former order had been founded. A true copy of the order, dated 17th February, 1844, &c. was sent to the appellants."

An appeal was entered to the second order, and tried at the April sessions. The second ground of appeal was as follows:—"That the said order of removal, bearing date 17th of August last, was set aside as aforesaid, and that no settlement has been gained by the said Ann Higginson, nor has she in any way become entitled to any settlement in the said township since the 17th of August last."

The third ground of appeal was also as follows:—"That on such appeal as aforesaid the said order of removal, dated the 17th day of August last, was by the said Court of Quarter Sessions set aside, subject to a case to be stated for the opinion of the Court of Queen's Bench; and that the said order of the said Court of Quarter Sessions, holden, &c. has not been in any manner reversed or altered, but the same is still in full force and effect; and that it does not appear by the examinations on which the said order of removal of the 17th of February was made, that since the said 17th of August any fresh grounds for the removal of the said Ann Higginson from your said township, &c. have arisen, nor that any settlement since that time has been gained by the said Ann Higginson in our said township since the said 17th day of August last."

The fourth ground of appeal was as follows:—"That on such appeal the said order, &c. was set aside, subject to a case as aforesaid; and that at the time when the order of removal now appealed against was made, the said case had not been submitted to the said Court of Queen's Bench for their opinion, but that the same might have been taken up by your said township before or after the said 17th day of February last, and the judgment of the said Court of Queen's Bench might in due course of law have been obtained thereon; and if on such judgment the decision of the said Court of Quarter Sessions for the said borough of Bolton had been reversed, the said original order of removal, bearing date the 17th day of August last, would have been confirmed, and that the said order of the said 17th of February was illegally and improperly obtained."

The fifth ground of appeal was as follows:—"That the examinations, &c. do not contain the best or any sufficient evidence or proof that the said Ann Higginson was, previous to, or at the time of making, or at the date of the said order of removal now appealed against, actually chargeable to your said township of Great Bolton, no statement being therein made of any relief having been afforded to her, nor of any money or other thing having been given to her by your said township, nor any facts stated to prove her chargeability, the same being stated only by way of inference, and not by allegation of facts."

The statement of chargeability was contained in Ann Higginson's own examination: "I am unable to maintain myself, and am now residing in, and receiving relief from, and am actually chargeable to, the said township of Great Bolton."

The case was argued on April 30th, last Easter Term.

Wortley, Q.C. (with whom was *Pickering*) against the order of sessions.—The second order might have been properly made. The objection to the first order was merely to the effect that a magistrate's name was omitted in the signature of the copy of the first order, which is a mere matter of form, and the discharge of the appeal is decisive only as to the point then at issue. (*Rex* v. *Osgathorpe*, Burr. S.C. 261; 2 Str. 1256.) The sending of an order is merely the condition of removeability, and not the settlement itself; it may or may not be a proof of settlement: it is conclusive only as to the point which it decides, i.e. that, at the time when the order was made, the appellant parish was not bound to receive the pauper. (*Rex* v. *Wick St. Lawrence*, 5 B. & Ad. 526.) The removal may have been premature, as in this case. (*Rex* v. *Wheelock*, 5 B. & Cr. 511; *Reg.* v. *Wye*, 7 Ad. & Ell. 761.) Where the examination is deficient in a material point, the order is quashed conclusively (*Reg.* v. *Charlbury Walcott*, 3 Q.B. [illegible]); but here a new state of thing has arisen, and fresh chargeability has supervened, which entitle the respondents to remove again. (*Reg.* v. *Penungabuloe*, [illegible] 400; *Reg.* v. *St. Pancras*, 3 Q.B. 347.)

Pashley, in support of the order of sessions.—Here the respondents omitted to send a material part of the order, and it was incumbent on them to send the whole. (*Reg.* v. *Outwell*, 9 Ad. & Ell. 836.) The cases cited have nothing to do with the point here; the settlement remains the same; it is nowise changed. The sessions are the judges of what are merits, and of what was a final decision. (*Ex parte Ackworth*, 3 Q.B. 397, note *a*.) Here a case was granted; the whole record was before, or might have been brought before this Court. The first decision was conclusive. (*Rex* v. *Justices of West Riding*, 3 T. R. 776; *Reg.* v. *Middlesex*, 9 Dowl. 163; *Reg.* v. *St. Pancras* is distinguishable; *Reg.* v. *Stamford*, 1 Bit. & Sym. M. C. 163.) [Patteson, J.—This is much like this Court setting aside service of summons. Do you mean to say you could not issue a second summons?] Here the respondents had liberty to state a case, and chose to state none. The Court is confined to the point stated in the case. (*Reg.* v. *Skeffington*, 3 B. & Ald. 385; *Reg.* v. *West Riding*, 2 Q. B. 705.) The party here had the benefit of the judgment of a court of record, and should abide by it. Matter of record can only be got rid of by matter of record. Here there was *lis pendens* to be got rid of before a new litigation can begin. *Pashley* then cited *Knight's* case (2 Ld. Raym; 1 Nol. P.L. 58); *Rex* v. *Warwick* (2 Str. 991); *R.* v. *Sparrow* (2 T. R. 196); *R* v. *West Riding Justices* (1 A. & E. 606); *R.* v. *Suffolk Justices* (6 A. & E. 109); *R.* v. *Northamptonshire JJ.* (6 A. & E. 11); Co. Litt. 131 a; *R.* v. *Oundle* (11 L. J. M. 79); *R.* v. *Brixham* (8 A. & E. 375); *Ex parte Thornton* (11 Law Jour. 40; Co. Litt. 131 a; Sheppard's Touchstone; *Fairbrass* v. *Pettit* (12 M. & W. 453), &c. &c. Chargeability is clearly not sufficiently stated here. (*Reg.* v. *High Bickington*, 3 Q.B. 790, 1 Bit. & Sym. 1; *Reg.* v. *Lydford*, 1 Bit. & Sym. 50.) Relief is far too ambiguous a term; it may be any sort of relief—it may be in the atmosphere. It must be stated in some concrete form, not as a mere abstraction. Supposing the pauper had had relief from a Court of Chancery, would that be relief?

S. Wortley, Q.C. in reply.—All the cases were where the decision was that the same thing could not be twice decided; but there is no analogy whatever in this case. That of *R.* v. *St. Pancras* was a second removal, and there was no appeal, but that is only stronger in our favour, for the Court still held that they might refrain from availing themselves of that order, and obtain another, although the first order was still in force. Can the first order in this case derive greater force because it has been appealed against? But there has been a new state of facts. All that had been decided before, was that the pauper was not proved to be chargeable at *that time*.

Pickering (same side) cited *Rex* v. *Barham* (8 B. & Cr. 99), and *Rex* v. *Willoughby* (4 Ad. & Ell. 143). Suppose, after an order of removal, in point of fact a pauper had not been removed, would the one order prevent another order? On the contrary, the former order would make it only stronger. Whether the first order is quashed or confirmed, there is no sort of reason why there should not be another after abandoning the first. *Cur. adv. vult.*

JUDGMENT.

Lord Denman, C.J. now delivered the judgment of the Court. In this case it appeared that Ann Higginson, a pauper, was duly removed by the order of two justices on the 17th of August, 1843, from the township of Great Bolton, in Lancashire, to the township of Bradshaw, in the county of Lancaster. Bradshaw appealed to the Bolton borough sessions, and the said order of removal was quashed, on the ground that the removing township had sent to Bradshaw no notice of the chargeability; the copy of the order of removal omitting the signatures of the two justices. The Court of Quarter Sessions granted a case for the opinion of this Court upon the validity of this objection. No steps were taken in consequence by the respondents, but on the 17th of February, 1844, the pauper continuing to be chargeable, they procured a fresh order, with the same explanation of the pauper settlement, and thus abandoned their former of August 1843. At the quarter sessions for the borough of Bolton, on the 4th of July last, the last-mentioned order was quashed, subject to a case which raises three questions for our opinion: first, whether the statement of the pauper being chargeable was sufficient; secondly, whether it was competent for the respondents to obtain a fresh order of removal after having abandoned the order of the 17th August, as above stated; and thirdly, whether if the order of removal quashed was conclusive under the circumstances against the respondent township, so as to prevent a fresh order being obtained. The last and most material question we shall consider first. The rule that an order of removal quashed is conclusive between the same parties is always open to the question whether a fresh settlement had been made. This is founded upon a very clear and intelligible principle; the doctrine, however, in many cases that have been decided has been carried farther, at the head of which stands *Reg.* v. *Wick St. Lawrence*, in which the second point decided was, that after a case had been adjudicated, the first order is not conclusive, or, in other words, that the second order may be made, though no subsequent settlement has intervened. The case of *Rex* v. *Wheelock*, without mentioning any more, is a strong authority on the same point in the present case; and our opinion is formed on the particular fact that the first order was quashed on a matter as clearly a matter of form as can well be imagined. The omission in the order of the signatures of the two justices was not calculated, by any possibility, to mislead, or create the slightest doubt or uncertainty as to the case. Whether the objection so taken ought or ought not to have prevailed, it is unnecessary to offer any opinion; but it is obvious, if the appellants had any merits, and were disposed to try them, it would not have been taken. We think, however, there were other grounds to justify a second order of removal after the former one was quashed; how could the justices make an order of removal after the former order was quashed without a new settlement accruing? It is hardly possible to conceive a stronger case than the present to warrant such a proceeding; and resting on that ground, we are of opinion in this case the objection ought not to prevail. On the second point we think there was nothing final and conclusive in the respondent's having applied for and obtained from the Court of Quarter Sessions liberty to state a case, so as to preclude them from having recourse to any other form of proceeding. No attempt has been made to pursue both remedies at once; on the contrary, it is stated that no steps had been taken to bring up the case to this court; and they must be considered as having abandoned it altogether. The appellants, it must be observed, have been in no degree affected by the application to the sessions, and their having granted a case. Upon the last point, that of chargeability, the examination of the pauper is as follows:—"I am unable to maintain myself. I am now residing in, and receiving relief from, and am actually chargeable to, the said township of Great Bolton." We think this statement goes further than a mere allegation that the pauper was actually chargeable to the parish. It has been held that the mere receiving relief, in whatever shape, would make the pauper so receiving it actually chargeable. We think, therefore, the order of sessions must be quashed. *Order quashed.*

Friday, May 2.

The Corporation of Colchester v. Brooke.

The public have a right to pass and repass along a navigable river at all times of the tide, although in the exercise of this right vessels necessarily ground in the course of their passage. If there is a nuisance obstructing the passage, a person in exercise of the right of way is not justified in doing an injury to that which causes the obstruction, if he can exercise his right without such injury.

This case was argued after Michaelmas Term, 1843 (see 2 Law T. 188).

JUDGMENT.

Lord Denman, C.J. now (May 15) delivered the judgment of the Court.—In this case the first count stated the plaintiffs' possession of the fishery in a part of the river Colne, and a great quantity of oysters and oyster-brood lying in the bed of the river there; and it then charged that the defendant, by negligent and unskilful navigation of the ship under his care, at the times and in the states of the tide, unseasonable as he well knew, placed her there in the said part of the river, so that she struck against and settled and sunk upon and into the bed of the said river, made holes in it, and damaged the fishery, and destroyed large quantities of oysters and oyster-brood. The second count stated the plaintiff to be possessed of certain oyster-beds and oyster-grounds in a certain specified part of the said river, and of certain oysters being therein, the oyster-beds and grounds being covered with the water of the river; and that the defendant was possessed of a vessel in the said river, under the direction of his servant; that at certain states of the tide the water covering the oyster-beds was insufficient to float the vessel, as the defendant and his servant well knew; and then it charged that, by unskilful and negligent conduct, the vessel was conducted over the part of the said river, and was wrongfully kept and detained there until the tide was in that state and depth of water insomuch that she grounded on the oyster-beds; and then, for divers days next following, the defendant not only negligently and carelessly neglected and refused to remove her, as with reasonable care and skill he might; but he also so negligently managed her that she moved from one part to another of the oyster-bed, and so much injured and greatly damaged it, that many oysters were destroyed. To this the defendant has pleaded—1st, Not guilty; and, besides some pleas found for the plaintiff, the four following, namely, the 5th, 6th, the 9th, and 10th on the record. The 5th is pleaded to the first count, and the 9th as to the conducting and placing her along and upon the said part of the river, at such unseasonable and improper times in the month, to the conducting, detaining, and mooring the vessel, as in the said second count stated; and then they both allege the said part is open to the sea for a free passage thereunto and therefrom for ships and vessels between the flux and reflux of the tide, as in a public and common navigable river and the Queen's highway, for all the Queen's subjects, with their ships and vessels, to navigate, pass, and repass, upon and over every year, and at all times of the year, and states of the tide, at their free will and

pleasure. The replication traverses this allegation, concluding to the country, and also new assigns, and on which last part of the pleadings no question arises. The sixth plea is pleaded to so much of the first count as relates to the oyster and oyster-brood, the tenth to the whole of the second count; and, after alleging the said part of the oyster-brood to be in all respects of the character stated in the fifth and sixth pleas, it alleges that the oysters, &c. were lying in an unlawful and improper manner, and in an unlawful and improper place and situation, and in unlawful and unreasonably large masses, diminishing the depth of the water in the said places and situations, thereby
ng the navigation of the said part, to
iance of the liege subjects. All these
aversed by the replication, which con-
.ntry. The general issue was found
it as to the first count, and for the
l. damages as to the second, and the
issues on the fifth, sixth, ninth, and tenth pleas, for the defendant; and the plaintiff has applied to have a new trial, on the ground of misdirection in two or three particulars. Application was also made for judgment upon the whole, *non obstante veredicto*, which was properly abandoned on the argument; but it was contended that the plaintiff was entitled to enter a verdict on the pleas specified. The alleged misdirection was, first, that in summing up the evidence on the question of negligence, the learned judge did not give sufficient weight to what was adduced on the part of the plaintiff; but we see no ground for this, and so expressed ourselves on the argument. It was well contended that he had misled the jury as to the nature of the right which the public enjoy in the way of a sea, on a common highway of the description stated in the 5th and 9th pleas, and, under the circumstances, disclosed by the evidence. The pleas state it is the highway of the subjects, to navigate, pass, and repass at all times and states of the tide; the replication denies that. The evidence shews this to be a tidal river, and in the part in question so shallow at certain states of the tide, that vessels cannot float there, but necessarily ground. The plaintiffs contend, that the right to navigate, pass, and repass was merely a right to float along; and the facts shewed that in this part of the river such right could not exist at all times of the tide. The learned judge stated that a navigable river was so at all times; that the subject might go upwards and downwards, although he might not be able to reach the port, in the deepest water, in one tide, and without grounding; and that even if such grounding subjected him to compensate for injury done, it did not affect the nature of the right in respect of the time of enjoyment. We are of opinion that the learned judge was justified in so stating the law. No authority directly in point was cited at the bar, nor have we been able to find any, after considerable research. But upon principle, the matter seems clear. It cannot be disputed, the channel of a public navigable river is properly described as a common highway, although the analogy between it and a highway on land is not complete in all particulars; and there is o one circumstance which more directly fixes on a river the character of being public and navigable than the flow and reflow of the tide. Now if in such river it were to be held that the character did not extend higher up than the water or was suspended during such periods of the tide as left the channel so shallow, the rights of the public, invaluable in numerous rivers, would be abridged, or rendered in many particulars vexatiously uncertain, and in many cases be made nearly, if not entirely, useless. The present case is an illustration of this. On the evidence it appeared vessels of burden which usually had gone to Colchester, could not, except at spring tides, go up to the town in one tide. To say, then, that the river ceased to be navigable and ceased to be a highway at the ebb, and other state of the tide when such vessels could not float, is to have the effect to say that, except for a short portion of every month, they should not use the river at all for the purpose of trading with the town of Colchester. It is more reasonable to hold that the term "navigable" is a relative and comprehensive term, containing within it all such rights upon the water-way as, with relation to the circumstances of each river, are necessary for the full and convenient passage of vessels and boats along the channel; nor is this repugnant to any legal principle applicable to the case; but it does not interfere with the rights of individuals on the bank of the river. (See the case of *Wall* v. *Harper*, 3 T.R.) But the case stands on this broad ground, that the right to the soil in arms of the sea and public navigable rivers is with the Crown, *primâ facie*, and independent of any ownership in the adjoining land, must be considered in all cases as subject to the public rights of passage, however acquired; and every grantee of the Crown must accordingly take subject to that right. Nor is this inconsistent with the permanent loss of such right, as by the accumulation of filth or any other natural cause, the channel became choked up. The case of *Reg.* v. *Montague* (4 B. & C. 598) is in point. The law makes no provision for clearing such highway; and in such case the river ceases to be navigable, at least until such causes are by some means counteracted. In this large sense, and with this large exception, the river is navigable, and is a highway at all times and at all states of the tide. In any other sense, the public right becomes all but valueless. There is, therefore, no ground at all for questioning the accuracy of the learned judge. We now proceed to the consideration of the issues raised on the sixth and tenth pleas. The objection here is, that the learned judge made no distinction between oyster-beds and oysters; meaning by these last, oysters deposited artificially, and not attached to the soil; whereas it was said these last could not have obstructed the navigation, and could not, therefore, have been a nuisance; and for the injury to them the plaintiff was, at all events, entitled to damages, and the plea is not good. If this were undoubtedly true in fact, we should scarcely have thought the plaintiff entitled to a new trial for so unimportant an inaccuracy in a very complicated case, especially in regard to issues and an action manifestly framed and brought to try an important right. But we know not why it is assumed that unreasonably large masses of oysters deposited in a bed of a navigable river may not be a nuisance, and obstruct the navigation; on the contrary, it appears probable they would. We cannot say that the jury have not so considered them; and if they have, and found in the affirmative, we see no reason for disturbing their finding. All the grounds, therefore, on which the new trial was moved fail; but are the plaintiffs entitled to have a verdict entered for them on these four pleas, as not disclosing any answer to the grievances to which they are pleaded? The declaration charges the want of proper skill and care, and no more. In each count there is an allegation of knowledge, but not so distinctly annexed to the existence of the oyster-beds in the part in question, as liable to be injured, or to make the defendant's conduct wilful; nor does the declaration in direct terms charge a wilful injury. The first count complains of unskilful and careless navigation in the conducting and placing the vessel in and upon the said part of the river. The defendant in his fifth plea alleges the said part was a public highway at all times and seasons, and substantially, that he navigated and conducted, and placed her there, in the exercise of a right of a liege subject to use the highway, averring also the navigation, &c. complained of in the declaration. This is in truth a denial argumentatively of doing an act at unseasonable times of the tide, which may have been objectionable on demurrer, but is good after verdict. The sixth plea merely alleges the oysters and oyster-beds were so placed, and in such masses, as unlawfully to diminish the depth of water, and greatly to obstruct the navigation, to the common nuisance of the Queen's subjects; but it does not go on to allege that the vessel could not, with due care and skill, have passed up the river, or grounded without doing the injury complained of. Looking at the count and this plea by themselves, it may well be that there was abundant room of water for the vessels to have passed up without going near the alleged nuisance, and if that were so, however wrongful the act of the plaintiff was, as the defendant sustained no especial inconvenience thereby, he certainly could not have been justified in wilfully infringing upon or destroying the oysters, even for the purpose of abating a nuisance. It is important, for the sake of the public peace and to prevent oppression of wrongdoers at large, not to confound common and private nuisances in this respect. In the case of the latter, the individual may abate (3 Black. 5), "so as he commits no riot in the doing of it;" and a public nuisance becomes a private one to him who is especially, and in some particular way inconvenienced thereby, as in the case of a gate across a highway, which prevents the traveller from passing that way; he may therefore throw it down; but the ordinary remedy for a public nuisance is itself public—that is, by indictment; and each individual who is injured can, as one of the public, proceed to abate, or he can bring an action. If, then, the defendant could not have done this purposely and knowingly, the same principle shews that he was bound to use due care and skill in the navigation of his vessel, so as not to do it unwittingly by want of it. As a general rule of law, every one in the conduct of that which may be harmful to others shall so misconduct himself as not to use due care and skill, the wrong doer is not without the pale of the law. For this purpose, *Davis* v. *Mann* (10 M. & W. 546) is an illustration, if not an authority, for the proposition, although the plea there was held to admit that the plaintiff's donkey was lawfully in the road, because the judge's direction to the jury did not rely on that, but assumed it was neglect in him to have left it there. It was sustained by the Court of Exchequer. Parke, B. is there reported to have said, "Although the ass may have been wrongfully there, still the defendant was bound to go along the road at such a pace as should be likely to prevent mischief. Were this not so, a man might justify driving over goods left on a public highway, or even over men lying asleep, or purposely running against a carriage going on the wrong side of the road." We think on this ground the finding on that issue for the defendant was immaterial. The remarks we here make on the fifth and sixth pleas dispose of the question raised on the ninth and tenth pleas. The ninth shews all the acts complained of in the second count, which it undertook to justify, were done in the lawful exercise of a right of passing, grounding, and moving, as comprehended within the general rights of the public in a public navigable river; and it is therefore an answer. The tenth, for the reason just stated, falls short of that, and is therefore bad. On the whole record, therefore, the defendant has the plea of not guilty to the first count found for him, and the issue on the fifth and ninth. Under these circumstances, the plaintiffs ought not to have judgment on the bad pleas, *non obstante veredicto;* nor can the v
upon those which, although upon
were correct in point of fact. Th
must be discharged. The ninth ple
in terms to the whole, and if, there
that count is covered by the plea, and
tains the substantive cause of action itself, the plaintiff will be entitled to judgment *non obstante veredicto*, and on the tenth to so much, but we cannot find any such part.

REG. v. JUSTICES OF DERBYSHIRE.

Notice of an appeal against an order under the 4 & 5 *Vict. c.* 59, *must be given within six days of the making of the order, although the order has not been served.*

This was a rule calling on the justices of Derbyshire to shew cause why a writ of *mandamus* should not issue commanding them to enter continuances upon, and hear the appeal of, the surveyor of the highways of the parish of Hartshorne, against an order of two justices, dated the 23rd of April, 1844, whereby he was ordered to pay the sum of 100*l.*, a portion of the rate levied or to be levied under the Highway Act, to the treasurer of the trustees of a certain turnpike Act, to be laid out in the actual repair of such part of the turnpike road regulated by the Act as lies in the parish of Hartshorne. The order directed that the first payment should be made upon June 1. It was served upon the appellant on the 6th of July, and notice of appeal was given on the 11th of July. The 4 & 5 Vict. c. 59, s. 3, gives to any person who shall feel himself aggrieved by any order, &c. an appeal to the next quarter sessions for the county wherein the cause of such complaint shall arise, "first giving to such justices ten days' notice in writing of the grounds of such appeal, within six days after such order, judgment, or determination shall be so made or given as aforesaid." All the material averments, and the order itself, when signed, were left in blank; but the only question was, whether the notice in appeal was in time, more than six days having clapsed from the making of the order, but not from the service. On the affidavits it appeared that the appellant had knowledge that the order was made, having been present at the hearing. Cause was shewn (May 1) by

Whitehurst, Q. C. and *Willmore*.—In *Rex* v. *Justices of Lancashire* (8 B. & C. 593), which will be relied on by the other side, the words were, "after cause of complaint;" here, "after such order." *Prosser* v. *Hyde* (1 T. R. 411), *R.* v. *Justices of Pembrokeshire* (2 East, 213), *R.* v. *Justices of Staffordshire* (3 East, 151), were also cited.

Clarke, Serjt. and *Wildman*, contrà, also cited the above cases. *Cur. adv. vult.*

JUDGMENT.

Thursday, May 15.—Lord DENMAN, C. J.—In the case of the *Justices of Derbyshire* a rule has been obtained for a *mandamus* to enter continuances and hear appeal against an order for the payment of money by the surveyor of the parish to the trustees of a turnpike road. The only question on such application is, whether the quarter sessions has done right in refusing to hear the appeal. Their refusal was grounded on the alleged insufficiency of the notice of appeal, which was served on the 11th of July. The order appealed from was recited to be made at a petty sessions holden on the 23rd April, and was dated on that day. In the notice of appeal it is described as an order dated the 23rd of April. The affidavits on which the rule was obtained stated that the order was in fact served on the 5th of July, the notice of appeal on the 11th; and further stated that the appeal was duly entered; but an objection was raised by the counsel for the respondent that the notice of appeal was not given in due time, and that the same ought to have been given within six days after making the order, instead of six days after the service thereof. The Court decided the notice was insufficient, and dismissed the appeal. This statement raises the point whether the order can be said to have been made on the 23rd April, when it was signed, or whether it was made on the day it was served. In the former case, the notice was too late, and the Court was right; in the latter case, it came in due time, and the appeal ought still to be heard. The order was made under the 4 & 5 Vict. c. 59, which gives power to the justices of special sessions to hear an information laid before them by the treasurer of the turnpike road, and after notice of such information to the parish surveyor, to examine the state of the turnpike funds and other matters, and order what portion, if any, of such highway-rate should be paid by the parish

surveyor to such treasurer. The 3rd section gives the power of appealing, giving to the justices six days' notice after such order, judgment, or determination shall be so made or given as aforesaid. The learned counsel who opposed the rule relied on two cases as decisive authority in their favour. *Rex* v. *Pembrokeshire* (2 East), however, went upon no ground inconsistent with an opposite view. The order there was for stopping that was made in April, and appealed against at the Michaelmas Sessions. The three learned judges who held the appeal too late all observed that it was too late, at all events, for affidavits shewed it had been proved at the sessions that the appellant had notice of what was going on in the month of April. In Michaelmas Term following, the Court held, in *Rex* v. *The Justices of Staffordshire*, the time for giving notice of appeal against an order for stopping a highway must be reckoned from the order made, or proceeding had, and not from that of the notice to the party aggrieved. There the words of the statute were held imperative; Le Blanc, J. observed: "In the case of a highway, all the king's subjects may be said to be interested, and that there would be no end to appeals if the right was kept alive until every one who might think himself aggrieved had received personal notice." On the other hand, the case of *Rex* v. *The Justices of Lancashire* was cited, in which the Act gives an appeal against an order exactly similar to the present, only that the words are "cause of complaint," and the time for appeal dates from the cause of complaint, as this Act does from the period of time of the order made or given; and there the Court held that the cause of complaint arose at the time of making the order. The reasons assigned by Bayley, J. are perfectly applicable to the present case. They were agreed to by Holroyd, J. and Littledale, J. and we think them sound in principle. Those two cases before mentioned were referred to in the argument, but were not noticed in the judgment, probably because they are entirely dissimilar; but although we were much inclined to think the present case was ruled by that decision, there is an obvious distinction between the language of the two statutes. The cause of complaint may well be taken to mean something directly affecting the party appealing, or at any rate brought to his knowledge. The period fixed in the present Act is the making or giving of the order, judgment, or determination, which is too distinct and express to admit of being varied by any gloss of construction. We may add, the Act adopts some means for giving notoriety to the proceedings at the petty sessions, and even notice to the parties truly interested in the making of such an order. We are of opinion the Court of Quarter Sessions properly decided the order, so to be made at the petty sessions on the facts disclosed on affidavits, as having appeared before them, and *that the period of the order made* is that to which the Act of Parliament refers, and the time within which the notice is to be given; we think, therefore, the Sessions were right, and the rule must be discharged.

Rule discharged.

Thursday, May 15.

CANNELL *v.* GAUDY.

New Trial.

Kelly, Q. C. moved for a rule to shew cause why the verdict found for the plaintiff in this case should not be set aside, and a new trial had. It was one of many actions by which it had been sought to render the defendant a partner in a joint-stock bank. It was tried at Liverpool, before Wightman, J. and the main facts appeared briefly to be these: There had been originally a private bank in the Isle of Man, carried on by two partners of the name of Wood and Halls. In 1836 this private bank had been converted into a joint-stock bank. An instrument, under seal, had been drawn up, by which the various persons who entered their names agreed to carry on the bank under the name of the Isle of Man Joint Stock Bank. There were to be 10,000 shares of 5*l.* each. The shareholders were to be enabled to sell their shares, and the buyers were to succeed them as partners in the firm. The defendant became a subscriber for 500 or 600 shares, but never interfered in the management of the concern, which was carried on by an acting manager and a body of five directors, except that for a time he was one of two trustees appointed to hold property for the use of the general body of subscribers, which trustees, however, were not necessarily themselves subscribers. The business was carried on until 1843, when the bank stopped payment. Three years before that time, in February 1840, the defendant had parted with all his shares to Forbes, the manager, and from that time, or from a time immediately subsequent, all his interest in the concern was gone. Under these circumstances the question was, whether the defendant was liable as a partner now or at any time after all his interest in the bank had ceased. The plaintiff had opened an account with the bank in 1839, and up to February 1840, he had an undoubted right to look to the defendant as a partner; but, it was submitted, he had no right to do so after that date. Were joint-stock banks to be regarded in the light of ordinary partnerships? and did the rule of law apply to every holder of a share in such a concern that he must give public notice of the termination of the partnership? As far as any authority could be found, the courts of law had recognized a distinction between the two cases. But without reference to authority, common sense required this distinction to be drawn. In an ordinary partnership, no one could leave without the consent of the other partners, and in each change the dissolution and reconstruction of the firm were necessary. This circumstance gave the customers a right to a notice. In ordinary partnerships, again, the individual members were trusted, but in joint-stock banks the individual subscribers were not known; so the knowledge of one partner was held to be the knowledge of the whole; but could such a rule apply to the thousand members of a joint-stock bank? He then referred to *Bramah* v. *Roberts* (3 Bing. N. C. 971); *Fox* v. *Clifton* (9 Bing. 119), and the unreported case of *Chappel* v. *White*. Secondly, it was submitted, if the distinction above taken were not concurred in, that at any rate defendant was only a dormant partner. He also moved on the ground that evidence as to the defendant's liabilities had been improperly received. (*Ponfield* v. *Smith*, 12 Mee. & W. 405.)

Rule nisi.

BERNAY *v.* READ.

A rule of court making an agreement of reference a rule of court, is not evidence of the agreement to refer.

This was an action of trespass, and one of the pleas was, in substance, that the matter in dispute had been settled by a previous arbitration and award between the parties. The replication traversed the reference to arbitration and award. At the trial, the only evidence of the reference was the rule of court making the submission a rule of court. By this it appeared that there were two attesting witnesses, and it was objected at the trial that they ought to have been called. The evidence, however, was admitted, and a verdict found for the defendant. *Watson*, Q. C. had obtained a rule *nisi* for a new trial, against which

Byles, Serjt. and *Gunning* now shewed cause.—The submission was made a rule of court by consent, and therefore the production of the rule is evidence of the submission; and since it has become matter of record, it is the best and only evidence of it. It is either the order itself or an office copy; in either case it suffices. In *Still* v. *Halford* (4 Camp. 17) an office copy of the rule of court, making a judge's order of reference a rule of court, was held by Lord Ellenborough sufficient evidence. *Brazier* v. *Jones* (1 B. & C. 126), which was cited when this rule was obtained, is no authority against the present case; because there it was an action between strangers to the submission. When the submission is made a rule of court, an affidavit of the due execution is necessary.

Watson, Q. C. contrà.—There was no evidence of the submission. The replication having traversed the reference and award, the defendant was bound to prove the submission. In *Compton* v. *Chandless* (4 Esp. 18) a rule of court setting aside a warrant of attorney was held to be no evidence of the warrant. [WIGHTMAN, J.—There the rule did not set out the warrant, and it was necessary to prove its existence. PATTESON, J.—Here the agreement is incorporated in the order.] The allegations in a rule of court do not prove the facts alleged. (*Woodroffe* v. *Williams*, 6 Taunt. 18.) [PATTESON, J.—A rule *nisi* is no evidence of facts contained in it; but it is said that here the rule of court absorbs the agreement.] *Brazier* v. *Jones* shews that it was necessary to prove the execution. You cannot dispense with an attesting witness. (*Call* v. *Dunning*, 4 East, 53; *Abbott* v. *Plumtre*, 1 Dougl. 216; *Fox* v. *Waters*, 12 A. & E. 43.) [Lord DENMAN, C. J.—Have you any authority where the document has been changed into a record?] No; but here this is not so. In *Still* v. *Halford* (4 Camp. 17), all the proceedings were in court: it was a judge's order of reference; here only an *ex parte* affidavit. The policy of the law invariably requires proof by the attesting witness.

Cur. adv. vult.

JUDGMENT.

May 15.—Lord DENMAN, C. J. delivered the judgment of the Court. The question in this case was whether it was necessary for the defendant to prove an agreement of reference. The only evidence of it was a rule of court in which it was recited and incorporated; but the recital shews it to have been attested by two subscribing witnesses, neither of whom was called on at the trial. The evidence was received subject to a motion for entering the verdict for the plaintiff on the issue or for a new trial, and on the argument no authority in favour of such evidence was brought before us but that of *Still* v. *Halford* (4 Camp.), where Lord Ellenborough gave credit to a rule of court, reciting the judge's order whereon it was founded. Now a judge's order is itself a judicial act, and when made a rule of court, its character is not altered; and in a case of arbitration, a submission becomes a submission by rule of court, just as if it had been so without a judge's order, and a rule of court is proper evidence of such submission; but a submission by written agreement is clearly requisite to be proved, like any other contract whose existence is to be made out. It is true that by statute it may be made a rule of court, which is only to enforce the performance in a summary manner. The character of the document is not altered by its being made a rule of court, nor does the rule give to it a binding effect on the two parties. Then as to making it a rule of court, that is entirely an *ex parte* proceeding; and a rule obtained by one party behind the back of another can never be a good contract as against the other. We are of opinion the evidence was wrongly admitted, and the rule must be absolute for a new trial.

REG. *v.* THE INHABITANTS OF BRIGHTHELMSTONE.

The removal of the pauper's father upon an order unappealed against, is evidence of the settlement of the son.

This was an appeal against an order for the removal of a pauper, in which the sessions quashed the order of removal, subject to a case. The examinations set forth an apprenticeship of the father of the pauper in the year 1793, and residence under it; the emancipation of the son in the year 1822; and the removal of the father, in the year 1843, to the parish to which he would have been entitled by reason of the apprenticeship, under an order, not appealed against; and they excluded the acquisition of a settlement by the pauper himself. The question for the opinion of the Court was, whether there was evidence of a derivative settlement *ex parte paternâ*.

Creasy, in support of the order of sessions, contended, first, that there was not sufficient evidence of a derivative settlement *ex parte paternâ*, and cited *R.* v. *Catterall* (6 M. & S. 83); *R.* v. *Yeoveley* (9 A. & E. 806); secondly, that as the sessions had decided on a question of the sufficiency of the evidence, this Court would not review their decision, unless it clearly saw that the decision was wrong. (*R.* v. *Edwinstowe*, 8 B. & C. 671; *R.* v. *Yarwell*, 9 B. & C. 894; *R.* v. *Charlbury*, 3 Q. B. 378.)

Pashley and *Johnson*, contrà, were not called upon.

By the COURT.—There is not any doubt about this case; the evidence is sufficient to shew *primâ facie* the settlement of the son. The order for removal of the father is acquiesced in, and the settlement is thrown back by reference to the time of the apprenticeship. In the interval, the emancipation of the son takes place; and he excludes the acquisition of a settlement by himself. The order of sessions must be quashed.

Rule absolute.

Wednesday, May 28.

REG. *v.* INHABITANTS OF STOCKTON-UPON-TEES.

An order of removal commencing "Upon the complaint, &c. made to us, two justices for the borough," is bad, for not shewing that the complaint was heard within the jurisdiction of the removing magistrates. "Is residing and has become chargeable" is sufficient statement of present chargeability in a notice of chargeability. Semble, an illegitimate child, within the age of nurture, need not be named in an order of removal for the mother.

This was a case for the opinion of the Court, brought up from the Quarter Sessions for Kingston-upon Hull, and submitting three questions to the Court. At the sessions it appeared that the order of removal varied from the usual form in the statement of the complaint, which was as follows: "Upon the complaint of the overseers, &c. to us, two of the justices for the borough of Kingston-upon-Hull," &c. &c.; the rest of the order being in the usual form. The order was to remove Elizabeth Goldie and her illegitimate child (naming her), aged five months; but the notice of chargeability was, as "that Elizabeth Goldie, together with ———, now residing at, &c. &c. has become chargeable," &c. Three objections were made at the sessions. 1. That that the order of removal was bad, for not shewing that the complaint of chargeability was made to justices acting within their jurisdiction. 2. That the notice of chargeability was bad, it not shewing present chargeability, and not naming the child. 3. That therefore the order must be quashed altogether, as the effect of confirming it as to the mother would be, or at least might be, to separate her from her child. The sessions quashed the order as to the child, but confirmed it as to the mother, subject to the opinion of the Court of Queen's Bench.

Pashley, in support of the order.—The notice is good as to the mother. "Has become" is perfect present, and can mean nothing else but existing chargeability. It is bad as to the child, if it be necessary to name the child at all. A bastard under seven years has its mother's settlement, and cannot be removed from her. There was no necessity, therefore, to mention the child; and whether the order is quashed or not as to her, the effect will be the same, for she will be removed with her mother. (*Skeffreth* v. *Walford*, 2 Sess. Cas. 89; *Reg.* v. *Birmingham*, 13 L. J. 1 M. C.) There is therefore no necessary separation, or any separation at all, in consequence of this order. The order of removal also shews the jurisdiction. It is admitted that all except the commencement is in the usual form. It was given then within their jurisdiction, and the statement upon the complaint must mean at the same time. "Upon

reading the affidavits" is a similar expression. (See Johnson's Dictionary.)

Archbold (with whom was the *Solicitor-General*), contrà.—The 79th section of the Poor Law Amendment Act forbids removal of any poor person without a proper notice of chargeability, and here there was none as to the child. [Lord DENMAN, C. J.—That is no removal under any order of removal; but by the common law the child must continue with its mother.] There might be a separation here, as there was no power of removing the child. It can only be by virtue of an order. (*R.* v. *Cuckfield*, Burr. S. C. 290, and *R.* v. *Birmingham*, 13 L. J. M. 1, were cited.) [Lord DENMAN, C. J.—The overseers would incur serious risk in refusing to receive the child, whether named in the order or not.] The order is clearly bad for not shewing the jurisdiction of the justices who heard the complaint. No intendment will be made in favour of the jurisdiction. It must not be shewn by doubtful words. (*Reg.* v. *Toke*, 8 A. & E. 233.) Here "in" is left out. The justices who heard the complaint, even granting that it was on the same day, might as well have been in Devonshire, or certainly out of the borough of Kingston-upon-Hull. "Upon" defines no time or place. It means only after. It cannot be presumed that the justices would only act within their jurisdiction. (*Reg.* v. *Spakeman*, 2 Q. B. 301.) The margin will not aid the statement of the complaint. The notice is also bad for not shewing present chargeability. [Lord DENMAN, C. J.—What else can "has become" mean?] A. B. has come to London, means that he is still there.

Lord DENMAN, C. J.—The order of removal should shew that the complaint was made to the removing justices within their jurisdiction. There is usually no date or place by which this can be shewn, except the word "in" have that effect, and I believe that is invariably used in these orders. I see no reason to depart from the usual practice, especially when that practice has been adopted to shew the jurisdiction. The order, therefore, is defective in that respect.

PATTESON, J.—I can see no ground for inferring that this complaint was made to the justices within their jurisdiction. "This day" is not even inserted. They might well have heard the complaint out of the jurisdiction, and then gone within it to make the order.

WILLIAMS, J.—"In" is correctly used. "For" is descriptive of the authority; and "in" must be surplusage, unless it means the locality.

COLERIDGE, J.—The principle is admitted; but the only question is, whether "upon" imports that the complaint was made upon the same day, and therefore within the same place, as the order. There is nothing in "upon" to point out the time. It means merely sequence. It is adopted from the 13 & 14 Chas. 2, c. 12. *Order of sessions quashed.*

Pashley asked that it might be entered as "quashed upon the insufficiency of the order of removal," but the Court gave no such direction.

Thursday, May 29.

REG. *v.* KILLERBY.

Where applicants rely on a variance in the examination, they must specifically set it out.

The sessions had confirmed an order subject to a case.

The examination set up two classes of settlement; one, hiring and service with Thomas Booth, and service thereunder in the appellant parish for two years, from November 1819 to November 1821; the other, hiring and service with James Booth, the son of the said Thomas Booth, and service thereunder in the said appellant parish, for a year, "after the expiration of the said service with the said Thomas Booth." The examinations also shewed that the pauper had married in March 1822. The grounds of appeal traversed the first class of settlement; they also traversed the second class of settlement in the words of the pauper, that he did not gain a settlement, &c. by hiring and service, &c. "after the expiration of the said service with the said Thomas Booth," &c. At the trial, it appeared that the service with Thomas Booth had been from November 1817 to November 1819, and the first ground of settlement was abandoned. The appellants then contended that the variance vitiated the second ground of settlement as stated in the examination, and that their ground of appeal let in the objection. The sessions thought that the grounds of appeal did not let in the objection, and confirmed the order. The question for the opinion of the Court was, whether the sessions had decided aright.

Grey, in support of the order of sessions.—The statement of the second ground of settlement is not so connected with the statement of the first as that the variance affects both. Then, if the appellants meant that the date of the commencement of the said service ought to have been given, they should have said so; and as they have not done so, there is an end of the matter. (*R.* v. *The West Riding Justices*, 10 A. & E. 685.)

Grainger, contrà. — If the pauper meant by "after," immediately after, then the variance does affect the second settlement; if he did not mean "immediately after," then the date ought to have appeared, because the fact that the marriage took place in March 1822 shews that the year from November 1821 to November 1822 could not have been meant. This must import some averment of time; whatever it may be, it is traversed by a traverse in the words of the pauper.

Lord DENMAN, C. J.—The question is, whether the objection founded on the variance was open to the appellants on their ground of appeal to the second settlement. The issue raised is, whether the pauper did serve, and for a year, under a contract of hiring and service with James Booth, after the expiration of the service with Thomas Booth; and nothing is said about any particular year. That being so, I cannot think that a traverse in the very words of the pauper lets in an objection that is founded on a variance from a year said to have been stated.

PATTESON, J.—Unless we give a very strict interpretation to the word "said" in the phrase "said service," we must hold that the sessions have done right. I think that the word "said," applies to "service" only, and does not include the particular date of the first service set out in the statement of it.

WILLIAMS, J.—I am of the same opinion. If the appellants relied on the variance, they should have pointed it out.

COLERIDGE, J.—Mr. Grainger's argument is not to be supported unless the statement of a specific service included the statement of a specific year. The foundation for that fails altogether, because no date at all is given. *Rule discharged.*

Friday, May 30.

EDWARDS *v.* PINNIGER.

De injuriâ is a good replication to a plea of justification by assistants of a constable, or peace officer acting under a justice's warrant, under 1 & 2 Vict. c. 74, although it alleges that the person who obtained the warrant was seised of the premises in question, which is a traversable fact.

This was an action of trespass. Two of the defendants justified under the 1 & 2 Vict. c. 74 (Small Tenements Act). The plea set out the various facts to bring the case within the statute, and alleged the seisin in fee of the landlord; that the warrant was duly issued, and that one of the defendants was the constable who executed it, and the other aided and assisted him.

The plaintiffs replied *de injuriâ*, to which the defendants demurred.

Willes, in support of the demurrer. *De injuriâ* is inapplicable, according to the second resolution in *Crogate's case* (8 Rep. 67); *Jones* v. *Kitchen* (1 B. & P 76). The defence depends upon the title of the landlord, here stated to be a seisin in fee. It is also bad for multifariousness, if *de injuriâ* can be bad on that ground. One of the defendants, although acting in aid of the peace officer, was bound to shew the jurisdiction of the magistrate, and his allegation of title is therefore traversable. The 5th section of the Act does not protect persons aiding the constable or peace officer. If the plea is bad as to one defendant, it is bad as to both. (*Morse* v. *James*, Willes, 122.)

Bull, Q. C. contrà, cited *Pridden* v. *Cole* (12 Mod. 178); *Selby* v. *Bardons* (3 B. & Ad. 2); *Taylor* v. *Marten* (Yelv. 157), and section 5 of the Act.

Lord DENMAN, C. J. Assuming that the fifth section of the Act does not apply, is the replication good? It is so unless the resolution in *Crogate's* case, about interest, is against it. Admitting that resolution to the fullest extent, the replication does not fall within it, for the defendant does not claim any interest at all. It is stated, and it will be necessary to prove, that the relation of landlord and tenant existed; but no claim of right is set up. To hold that it was bad, we should extend Lord Chief Justice Eyre's language in *Jones* v. *Kitchen* very much, which I am not inclined to do.

PATTESON, J.—The defendants here are not the servants of the party obtaining the warrant, but of the magistrates. They are obliged to set out the circumstances necessary to give jurisdiction, and therefore to shew that the relation of landlord and tenant existed. If then, we hold *de injuriâ* bad, we must say that wherever an interest is alleged in anybody, which is necessary to be proved as part of the justification, then *de injuriâ* cannot be replied; and I cannot consider that the resolutions in *Crogate's* case are to be so extended. It is unnecessary to decide whether the 5th section would apply or not.

WILLIAMS and COLERIDGE, JJ. concurred.

Judgment for the plaintiff.

Saturday, May 31.

REG. *v.* EAST RAINTON.

Hiring and service settlement.

Where a deed is produced before the removing justices, a copy of that deed must be sent to the receiving parish, together with the examination; its omission is fatal to the order, and not cured by sending it afterwards.

On appeal against an order for the removal of J. Spence, a widow, and children, in virtue of a derivative settlement alleged to have been gained by the husband of the pauper, as a pitman in the colliery of the Marquis of Londonderry, the case stated that, at the examination before the justices, a witness produced a pit bond, by which the pauper's husband and other workmen were engaged for one whole year, from the 5th of April, 1829, to the 5th of April, 1830, "to hew, drive, and put coal," at 24s. per fortnight, with a lesser scale of payment when unemployed. No copy of the pit bond was sent with the examination until after notice of appeal. The sessions confirmed the order, subject to the opinion of this Court.

Otter, in support of the order.—The question arises on the 9th to 13th grounds, that the evidence should have set forth a copy, and that the respondents should have sent the copy. It is a general proposition, that all the papers produced before the justices must be sent to the other parish, according to the case of *Reg.* v. *Outwell*. But this does not extend to all documents, and, if so, then only to such documents as the respondents have power over. In case of an estate settlement, there is no power which enables a parish to obtain the title deeds of such estate. If the Court construes the Act strictly, we must send all [illegible]tary evidence. [WILLIAMS, J.—Suppose the deed had not been before the justices at all. Here they had the deed before them, and, therefore why not send a copy?] If examination in the Act means all the evidence, documentary and oral, then all must be sent; and the case of secondary evidence does not arise, and no excuse can be offered if every word be not sent. But now, who knows that we did not send copies? The Court is a competent Court: the examination is attested by their names. It is to be presumed that they did send all that it was material to send. The copy was not served till after the grounds of appeal were served, but previous to the trial of appeal. The sessions, however, have confirmed the order, and by so doing have found it to be sent in time. [By the COURT.—Not so; they *might* have confirmed the order, though no copy had been sent.] But the fact is not found either way. But the evidence of production of bond is a copy of the bond, and there is no evidence the other way. [PATTESON, J.—But the bond contains a great many conditions.] But it is not shewn that that was the same bond. [WILLIAMS, J.—But the examination traces the settlement to a certain service particularized in the bond, with which the date and fact agree. Why are we to presume that it is another bond?] The justices have decided the on sufficiency of the evidence. (*Reg.* v. *Kesteven*, 1 Bit. & Sym. 50.) [COLERIDGE, J.—They in effect say that the copy was not sent, for they say "*afterwards*" a copy of the bond was sent.] If the order of sessions is quashed, the order of removal is good.

Lord DENMAN, C. J.—We think this case free of doubt.

COLERIDGE, J. I think that there is no excuse for not sending a copy of bond. The Court does not wish to go beyond that. *Order quashed.*

REG. *v.* ST. MARGARET, WESTMINSTER.

Where it clearly appears that there is a settlement subsequent to the one relied on, it must be inquired into, otherwise the prior settlement will not support the order.

On appeal against an order for the removal of a pauper, named Henrietta Matthews, from St. Margaret's, Westminster, to St. James's, Bath, the order was quashed. It appeared from the case that a good maiden settlement was made out by the renting of a tenement described as No. 3, Hot-bath-street, in the parish of St. James, Bath; but the evidence went to shew that the pauper's father had subsequently rented another house, described as being "No. 8, in Hot-bath-street *aforesaid*." The first question was, whether the word "aforesaid" applied to the parish, and sufficiently stated that No. 8 was in the parish of St. James, Bath. The second question raised by the case was, whether the first settlement was good in the event of the last renting being held to be insufficiently stated; then, whether the first settlement can take effect, it being shewn by the examination that a subsequent settlement had been gained.

Phin.—I contend that the word "aforesaid" applies to the name of the street, and clearly not to the parish. No. 8 may be in one parish, and No. 3 in another. There is a case where a man slept with his head in one parish and his feet in another. The parish, in the second alleged settlement, is not stated, and no settlement, therefore, is made out at No. 8. [By the COURT.—We think that the word "aforesaid" does not specify the parish.] But the respondents cannot revert to a maiden settlement, where it appears on the face of the examination that a subsequent settlement existed, though it does not appear in what parish. (*Rex* v. *Beverley*, 1 B. & Ad. 201; *Reg.* v. *Yelvertoft*, 1 Dav. & Mer. 310; *Rex* v. *Harberton*, 12 East.) It was the duty of the respondents to go on and make inquiry, and state the last settlement, wherever another settlement appears to have existed by the evidence laid before the removing justices.

Bodkin, contrà.—The ground of appeal on which they rely is, that the settlement of the mother cannot be set up, as a good settlement appears elsewhere, though the examination does not shew in what parish. How can a good settlement be shewn with-

out shewing a parish? It does do so; but the Court is asked to assume a highly improbable fact, that No. 3 and No. 8 are not in the same parish. [Coleridge, J.—Why is that highly improbable; the line must pass somewhere?] But even if the parish be not stated, the respondents have a right to rely on which settlement they choose. *Reg.* v. *Latchford* (1 N. S. C. 387) shews, that if the respondents state more than one settlement, they are at liberty to rely on either. Here there is a good settlement set forth by the residence of the mother in No. 3, Hot-bath-street, which is stated to be in the parish of St. James, and that suffices, and is a good settlement.

Lord Denman, C. J.—We think that in this case the sessions did right. If one settlement only had been stated, they might have rested there; but here another appears, and the respondents were bound to inquire into it, and state it properly. No parish appears to be stated, and all England being parochial, with the smallest possible exceptions, the parish should have been stated; and the sessions were right in saying that the respondents must shew the last settlement, and where it was.

Patteson, J.—Here it clearly appears that there was a settlement of the father somewhere else.

Coleridge, J.—*Reg.* v. *Latchford* merely goes to this length, that a party shall not be stopped at one settlement, but may go on, and prove another, where two or three are stated. Here the objection refers not to what took place before the justices, but to the settlement itself. *Order confirmed.*

Monday, June 2.

Doe dem. Corporation of Richmond v. Morphett.

A notice to quit "on the 13th May, or such other day time in the current year, for which you now hold the same," will not enure as a good notice for the following year of the tenancy.

Doe dem. Cullcford overruled.

This was an action of ejectment with two demises, the first in October 1, 1843, the second in November of the same year. At the trial, the plaintiff was nonsuited, on the ground that there was no notice to quit in fact, and that even if there was, the notice having been given by an agent of the corporation, it was not good without he was authorized under seal, and that a subsequent ratification of his authority was insufficient. The arguments upon the first point are alone reported, as the judgment of the Court was given upon it without noticing the others.

The defendant held under a Martlemas tenancy, and in October 1842 notice to quit was given as follows:—"I hereby give you notice to quit (naming the premises) on the 13th of May next, or on such other day or time as the current year for which you now hold the same" shall expire.

Addison now shewed cause against the rule obtained by *Bliss* to enter a verdict for the plaintiff.—*Doe dem. Huntingtown* v. *Cullcford* (4 D. & R. 248) will be relied upon by the other side, but it is distinguishable, for the words were there ambiguous. Here it is "the current year for which you now hold the same." The notice could not refer to the following year.

Pashley, contrà.—*Doe* v. *Cullcford* is exactly in point, and is supported by *Doe dem. Williams* v. *Smith* (5 A. & E. 350), where the words "present year" were used.

Lord Denman, C.J.—It is unnecessary to notice the other points, as the nonsuit may be supported on the short ground that the notice to quit is insufficient. The notice would have been good for the current year, had it expired six months afterwards; but here it expired in November 1842. Bayley, J. in the case cited, said, that it would not be intended as a notice for that year when only a few days remained of it; but I do not concur with that reasoning. A new notice was necessary.

Patteson, J.—We are asked to read this notice as if it contained the words, "at such other time or times as the present year's holding shall expire *after the expiration of half a year from* this notice." I do not see why we should do this, and I consider *Doe dem. Culleford* to be bad law.

Williams, J. and Coleridge, J. concurred.

Rule discharged.

Gibson v. Caul and Others.

Where it is sought to charge a member of a partnership upon a bill of exchange, and the partnership is not correctly described, it is a question for the jury whether the defendants are bound by such an acceptance through their knowledge that it is the usual or frequent mode of acceptance.

This was an action upon a bill of exchange, drawn upon the Low Light Brewery, North Shields, and accepted by three persons as directors of the Low Light Brewery, North Shields. It was sought to charge the defendants as partners; but it appearing at the trial that the correct designation of the company was the Low Light Joint-Stock Compan[y], Coltman, J. upon the authority of *Kirk* v. *Blurton* (9 M. & W. 234), directed the plaintiff to be nonsuited. A rule for a new trial had been obtained, upon the ground that it [ou]ght to have gone to the jury whether the defe[ndant]s were not liable upon such acceptance, by reason of their knowledge that it was the usual mode of acceptance.

Watson, Q.C. and *Grainger* now shewed cause, citing that case and *Faith* v. *Richmond* (11 A. & E. 339), and *Bult* v. *Morrell* (12 A. & E. 745).

Knowles, Q.C. contrà.

Lord Denman, C.J.—It would have been better to have submitted the question to the jury; but the judge considered the case of *Kirk* v. *Blurton* conclusive, and acted upon it. I think, therefore, there should be a new trial. *Rule absolute.*

Reg. v. Inhabitants of Totley.

A statement that A B is the child of C. D. imports that he is the legitimate child.

The sessions had quashed the order of removal, on the ground that the examination did not shew with sufficient certainty that the paupers, John Booker, Sarah Booker, &c. &c. children of the late George Booker, who were removed to their father's place of settlement, were entitled thereto as his legitimate children. The examination on which the objection arose was as follows:—

"This examinant saith, the said George Booker, deceased, was my brother, and died on the first day of May, 1843, at Totley aforesaid. The said George Booker's wife died the previous day also at Totley, leaving eight children; namely, Mary, John, Elizabeth, Sarah, Anne, James, George, and William; the said children were all residing with their said parents, George Booker and his said wife, until their deaths as aforesaid; and none of the said children has since done any act to acquire a settlement in his or her own right. The said George Booker, deceased, never did any act to gain a settlement, but derived his settlement from his father, John Booker; and his settlement as derived from his said father was in the township of Unston, in the said county."

The ground of appeal objecting to this was as follow:

That the examination of William Booker (of which a copy is annexed to the copy of the order of removal delivered to our said township of Unston), is not sufficient to warrant the said order of removal, as it does not shew that the paupers in the said order named are the legitimate children of the said George Booker, deceased, or that the said George Booker, deceased, was ever married to the mother of the said children; or that he was ever married to her before the birth of the said children.

Clarke, Serjt. (with whom was *Denison*), in support of the order of sessions.—There is no information given here as to when they were married, or where. [Lord Denman, C.J.—Are we to presume the children were born out of marriage?] *Reg.* v. *Bakewell* (see *supra*, 53) governs this case. The sessions have decided that there is not sufficient information, and the Court will not interfere, however wrong they may have been. Bastardy is not to be presumed where the question of legitimacy is in issue, and an injury would be done; but here it is only a collateral question. The children must be settled somewhere. Perjury could not be assigned in this affidavit.

Wilmore, contrà, was not called upon.

Lord Denman, C. J.—It is argued that the case of *Reg.* v. *Bakewell* absolutely rules this. But it is not so. We decided that strictly upon the question of facts as to the means of inquiry, and the quarter sessions can only judge of the fact. But here the question was decided subject to objection. The case is stated for us to determine whether they were wrong. The objection is, that the examination of William Booker is not sufficient to warrant the order of removal, as not shewing that the children were legitimate, and that the said George Booker had ever married the mother, or married her before the birth of the said children. We must say that it is sufficient. A statement that a person is the child of another is the same as saying that he is the legitimate child. The law does not contemplate the relation of an illegitimate child at all. The examination was therefore sufficient, and the order right. *Order of sessions quashed.*

Reg. v. Melksham.

Sufficiency of statement of settlement by estate.

This was a derivative settlement by estate, from the grandfather of the pauper. The statement was nearly as follows:—

"My grandfather lived in the cottage for several years, and on his death, my father inherited it, and lived there eighteen years. Upon his death I took it, as the eldest son, but have never occupied it or resided forty days. My aunt, at my request, has continued to reside there."

It was objected at the sessions, that this was insufficient, for not shewing what estate the grandfather had. They decided against the objection, but granted a case, and also upon an objection for want of certainty in the averment of relief, which it became [un]necessary to consider.

Pashley, in support of the order of sessions.

Hodges (with whom was *Merewether*), contrà.

Lord Denman, C. J.—The sessions were quite right in every thing but in granting a case.

Order confirmed.

SITTINGS AFTER TERM.

Tuesday, June 3.

Lord Denman, C.J. said that, owing to the arrears of business, the Court was anxious to sit as often as possible after the term, but that as their attendance would be much wanted in the House of Lords, they would give notice of the days on which specific cases would be taken.

Wednesday, June 3.

Whitehead v. The Queen.

Upon a conviction for stealing in a dwelling-house above the value of 5l. under 1 Vict. c. 90, s. 1, the prisoner cannot be sentenced for seven years' transportation, or any other punishment not mentioned in the statute.

Semble, per Patteson, J. that the 7 Geo. 4, c. 64, ss. 20, 21, do not apply to an indictment in which the statement that the jurors are good and lawful men of the county is wholly omitted.

This was a writ of error upon a conviction for larceny from a dwelling-house, and judgment awarded of seven years' transportation. The indictment omitted to state that the jurors were lawful men of the county.

The Court called upon

Waddington to support the conviction.—The objections here are—1, that it is not stated that the jury were good and lawful men of the county; 2, that the punishment awarded is not warranted by the statute. 1. The record does shew sufficiently that they were good and lawful men of the county, although not stated in terms. The commission is to inquire by the oaths of good and lawful men within the county of York. Then the venue of the indictment is "Yorkshire to wit;" and it is stated that it was by the oath of A, B, and C, presented, &c. The Court will not presume that they were not lawful men. [Patteson, J.—How can it be collected that they were?] At any rate it is cured by 7 Geo. 4, c. 66, s. 21. This is only a misdescription of the jurors. 2. The punishment is warranted. The statute which now regulates the offence is 6 & 7 Wm. 4 & 1 Vict. c. 90. By the previous statute, 2 & 3 Wm. 4, c. 62, it was enacted, in terms, that the offender "shall be transported for life," which was the only punishment that could be awarded. Here it is only "shall be liable to be transported for any term not exceeding fifteen years, and not less than ten years." The offence is divisible, for it includes simple larceny; and if it appears upon the whole record that an offence has been committed, an offence to justify the judgment, it will be supported. [Patteson, J.—Is there any case of conviction for the whole offence, and judgment for part? Coleridge, J.—He is liable to transportation for not less than ten years, and he is only liable for a term included in this enactment. Lord Denman, C. J.—I recollect an action tried before Gibbs, C. J. because the sentence of whipping had been omitted, and he directed the jury to give plaintiff all the damages he had sustained by not being whipped.] The case of *Rex* v. *Fletcher* (Russ. & Ryl. 58) shews that it is a subject of great doubt whether a sentence may not be given in part only.

Lord Denman, C. J.—There is no doubt that the judge only had power under the statute, and the statute requires that he shall be transported for not less than ten years.

Patteson, J.—It is quite as imperative as the former statute. I would not, however, be supposed to say that the first objection is not good. I doubt very much whether the 7 Geo. 4, c. 64, can apply.

Bliss was to have argued *contrà*.

Judgment reversed.

Reg. v. St. Mary, Lambeth.

An order of examination quashed, because it does not disclose a settlement upon the face of it, is a quashing upon the merits.

The question submitted to the opinion of the Court in this case (besides one not decided) was, whether the sessions had rightly confirmed an order upon an appeal, two prior orders having been quashed upon appeal. The entry as to the first order was, "Quashed because the examination of the pauper disclosed no settlement upon the face of it." The entry as to the second order was, "Quashed because the examination of the pauper disclosed no settlement upon the face of it, and because subsequent to the date of a prior order not previously abandoned."

Godson, Q.C. (with whom were *Prendergast* and *Howarth*).—The appeal was entertained by the sessions, and they have therefore decided that the former orders were quashed not upon the merits. If an order is quashed, and an entry made as quashed upon the merits, it is conclusive; but if no special entry is made, the Court of Quarter Sessions may inquire and decide whether it was quashed upon merits or not. (*Reg.* v. *Justices of Lancashire*, 3 Q. B. 367.) It might here have been a formal mistake. Then as to the second order, it is clear that there need be no actual abandonment. *Reg.* v. *St. Pancras* (14 Law J.), and *R.* v. *Kingsclere* (3 Q.B. 389) were also cited.

Pashley, contrà.—*Ex parte Ackworth* (3 Q.B. 397) is clearly in point, supported by the cases of *Reg.* v. *Charlbury* (ibid. 378), and *R.* v. *Kingsclere* (ibid. 388). The decision was touching the settlement on the point of settlement. In *R.* v. *Kingsclere* the Court did not

interfere, because without materials for inquiring into the propriety of the decision. He was then stopped.

By the Court.—We agree with you; the point of settlement is decided, which, under the circumstances, is upon the merits.

Order of sessions quashed.

Reg. v. Rothwell.

A statement that the pauper was, at the time of his father being settled in a parish, an unemancipated member of his father's family, and that he never acquired any settlement of his own, is an intelligible statement that he was entitled to the derivative settlement of his father.

The only question submitted to the Court in this case was, whether a statement that the pauper was an unemancipated member of his father's family was sufficiently certain.

Pashley contended that the term "unemancipated" was unknown to the English law, citing *Reg.* v. *Cold Ashton* (Burr. S. C. 444).

Hall, contrà.

By the Court.—The term "emancipation" is certainly borrowed from the Roman law; but it is perfectly well understood by the justices, and *was so* by the appellants themselves, and by every one at all acquainted with parish law. *Order of sessions confirmed.*

BUSINESS OF THE WEEK.

Friday.

Reg. v. Haines.—Part argued.

Mitchell v. King.—Motion by *Cleasby* for a new trial. The Court said they would see the learned judge who tried the cause.

Belcher v. Campbell. *Cur. adv. vult.*

Selby v. Brown.—Struck out (see *suprà*, p. 173).

Doe dem. —— v. Thompson.—*Cur. adv. vult.*

Saturday.

Reg. v. Haines.—*Pigott* was heard. *Cur. adv. vult.*

Reg. v. New Windsor. *Cur. adv. vult.*

Monday.

Doe dem. Nevers v. Ault.—*Whitehurst*, Q.C. shewed cause against rule for new trial. *Hayes*, contrà. *Rule discharged.*

Topping v. Hayton.—*Temple* shewed cause against rule for new trial. *Knowles*, Q.C. and *Unthank*, contrà.

Cur. adv. vult; but a stet processus recommended.

Reg. v. Midland Railway Company. *Postponed.*

Reg. v. Pate. *Rule absolute.*

Reg. v. Smith. *Rule absolute.*

Reg. v. Kenilworth. *Postponed.*

Reg. v. Towcester.

Postponed, from some error in delivering the paper books.

Reg. v. P. Dawson.—Demurrer to return to *mandamus*. *Pashley*, for the demurrer. *Cowling*, contrà. *Judgment for the defendant.*

Tuesday.

Kennet and Avon Canal v. The Great Western Railway Company. *Cur. adv. vult.*

Fannin v. Anderson. *Cur. adv. vult.*

Nicholls v. Stretton. *Cur. adv. vult.*

COURT OF COMMON PLEAS.

Friday, April 18.

Gibbs v. Tunaley.

The Court will not grant a new trial to the plaintiff on the ground that the damages are small, even though the Court may conceive they are smaller than what is reasonable, unless the judge at the trial is dissatisfied.

Byles, Serjt. (*Gunning* with him) moved for a rule to shew cause why a new trial should not be had, on the ground of the verdict being against evidence. The action was tried before Parke, B. at the last Norfolk Assizes, and was brought to recover damages from the defendant for unskilful treatment as a surgeon in curing a wound of the plaintiff, caused by an accident on a railway. *Plea*—Not guilty. Damages, one farthing. The rule was moved on several affidavits. *Cur. adv. vult.*

JUDGMENT.

Tindal, C.J. now (May 8), delivered the judgment of the Court.—This case was an action against a surgeon for negligence, in which the plaintiff had a verdict, with one farthing damages. A motion was made by brother Byles for a new trial, on the ground of the inadequacy of the damages, and upon affidavits in contradiction of the evidence given on the defendant's part by his groom. It is not usual for the Courts to grant a new trial on the ground that damages are smaller than the Court may, perhaps, think reasonable. (*Rendall* v. *Hayward*, 7 Scott, 407; and *Hayward* v. *Newton*, 2 Strange, 940.) The Court said it was never done. At any rate, a new trial ought not to be granted on such a ground, unless the judge who tried the cause is dissatisfied with the smallness of the damages,—which, as the learned judge has informed us, is not the case in the present instance. In regard to the second ground on which this application was made, it is to be observed that the evidence given by the witness whose testimony is impeached cannot be looked upon as evidence coming from the surgeon, seeing that this evidence directly impeaches the issue the plaintiff came to try, and being such as he ought to have been prepared to rebut; we ought, therefore, not to grant a new trial, unless it is made out that on the second trial the position would have been materially different from that in which it was at the former trial. On examining the affidavits in support of the application, it appears to us that the only affidavits which state any material facts, or which appear to rest on any solid grounds to impeach the testimony of the defendant's groom, are the affidavits of the plaintiff himself, which cannot be used on a second trial, and that of the plaintiff's mother, who was examined on the plaintiff's behalf on the last trial, and who might on that occasion have given in court the evidence she now tenders on affidavit. We therefore think there is in this case no sufficient ground for granting a rule. *Rule refused.*

Wednesday, May 28.

Joseph Marriage v. Francis Marriage.

The defendant being indebted to the plaintiff in 2,000l. executed a bond conditioned for the payment half-yearly of 100l. during the lives of the plaintiff and his wife, and which payment the plaintiff agreed to accept in satisfaction of the debt; but in case of failure of making the payments for twenty-eight days after the same should be due, the same having been demanded, the bond was to be in full force; and also in case of failure in making the payments, the bond was not to be taken as a discharge of the debt of 2,000l., but the same should forthwith become due.

A plea of payment of one of the half-yearly payments after the twenty-eight days, and before action, alleging that no demand had been made when the payment became due, or within twenty-eight days next after, was held bad, as not sufficiently shewing a payment of all that was due within stat. 4 Anne, c. 16, s. 12.

Held, secondly, that the bond was not an annuity bond within the meaning of 49 Geo. 3, c. 121, s. 17.

Quære, if an antecedent debt is a good consideration for an annuity?

Debt on bond.—Defendant craved oyer of the bond and condition. The following was the condition:—

"Whereas the above-bounden Francis Marriage is indebted to the above-named Joseph Marriage in the sum of 2,000l. of lawful British money: And whereas the said Joseph Marriage has, at the request of the said Francis Marriage, agreed to accept and take from the said Francis Marriage interest for the same at the rate of 5l. per centum per annum, payable during the lives of the said Joseph Marriage and Hannah his wife, at such times and in such manner as hereinafter mentioned, in full satisfaction and discharge of the said debt or sum of 2,000l. provided the same be regularly paid as hereinafter mentioned. Now, the condition of the above-written bond or obligation is such, that if the above-bounden Francis Marriage, his heirs, executors, or administrators, shall well and truly pay or cause to be paid unto the said Joseph Marriage, his executors, administrators, or assigns, during the lives of the said Joseph Marriage and Hannah his wife, and the life of the survivor of them, the sum of 100l. of lawful British money, clear of all deductions, by half-yearly payments, &c. (being on certain days and in manner therein mentioned); then and in such case the above-written bond or obligation shall be null and void; but in case of failure in payment of all or any part of the said interest for the space of twenty-eight days next after each or any half-yearly payment of such interest shall become due, the same having been demanded by note in writing or otherwise, the said bond or obligation shall be and remain in full force and virtue; and the above-bounden Francis Marriage doth hereby expressly declare and agree that, in case of failure in making the said several payments aforesaid, or any of them, within the respective times aforesaid, this bond, or any payment or payments made under the same, shall not be construed or taken as a discharge of the said debt or sum of 2,000l. or any part thereof; but the same shall forthwith and immediately after such default shall happen, become due and payable to the said Joseph Marriage, his executors, administrators, or assigns, and recoverable under and by virtue of the said bond and obligation."

The defendant then pleaded, first, *Non est factum*.

Secondly. That the said writing obligatory was made and entered into by the defendant to the plaintiff after the passing of a certain Act of Parliament, passed in the 53rd year of his late Majesty King George the Third, and that the annual sum in the said condition mentioned was granted upon and for a pecuniary consideration in that behalf, to wit, for the debt of 2,000l. in the recital of the condition of the said writing obligatory mentioned, and that the said writing obligatory was made and entered into by the defendant to the plaintiff for the pecuniary consideration in that behalf as aforesaid, and that no memorial of the said writing obligatory was enrolled in the High Court of Chancery within thirty days after the execution thereof, according to the directions of the said Act, whereby the said writing in the said declaration mentioned was and is null and void.—*Verification.*

Thirdly. That after the making of the writing obligatory, and when the first half-yearly payment of the said annuity or yearly sum of 100l. in the said condition mentioned became due and payable, to wit, on the first day of July next after the making of the said writing obligatory, the defendant then paid to the plaintiff, who then accepted from the defendant, the full amount of the first half-yearly payment, to wit, the sum of 50l. in payment, satisfaction, and discharge of the first half-yearly payment of the said yearly sum of 100l.; and that payment of the second half-yearly payment of the said annuity or yearly sum of 100l. in the said condition mentioned, was not demanded by a note in writing or otherwise by the plaintiff from the defendant on the first day of January A.D. 1844, when the same became due, or at any time within twenty-eight days next after the same became due; but that the defendant, after the expiration of the said twenty-eight days, and before the commencement of this suit, to wit, on the 6th day of February in the year last aforesaid, paid to the plaintiff, who then accepted from him the full amount of the said second payment of the said annuity or yearly sum, and full moneys payable in respect of the same. And the defendant avers that no other instalment of the said annuity or yearly sum of 100l. had become due and payable under or by virtue of the condition of the writing obligatory, at any time before the commencement of this action, and that no sum of money whatever at the time of the commencement of this action was due or owing from the defendant to the plaintiff for or in respect of any part of the said annuity or yearly sum of 100l. or of any interest in respect thereof.—*Verification.*

The plaintiff demurred specially to the second and last pleas.

Manning, Serjt. for the plaintiff, in support of the demurrer, first, as to the last plea, objected that the statute of 4 Anne, c. 16, s. 12, provides only for a plea of payment where the action is brought upon a bond conditioned to be void upon payment of a lesser sum at a day or place certain, and the obligor has, before action, paid to the obligee the *principal* and interest due by the condition. Here it was not pretended that the principal had been paid. The statute, therefore, did not apply to a case like this; it was intended only in cases where the whole debt was discharged. Another objection was made to the plea, on the ground of its setting up two defences, inasmuch as, if the plea was correct in saying that there was no demand within twenty-eight days, then an independent answer was set up; and it was also objected that it was uncertain whether, from the plea or not, the whole 2,000l. had revived.

Byles, Serjt. for the defendant, contended that the first plea was a good plea of payment, by virtue of the statute of 4 Anne, c. 16, s. 12; that that statute applied to cases where sums were to be paid periodically. Secondly, that it applied to an annuity for lives as well as for years; and lastly, that the sum of 2,000l. mentioned in the condition, was in the nature of a penalty as much as if it had occurred in the bond itself, and that the same had not been forfeited. *Bridges* v. *Williamson* (Strange, 814); *Wyllie* v. *Wilkes* (2 Dougl. 519); and *Hodgkinson* v. *Wyatt* (3 Law J., N. S., Q. B. 73), were cited. In the last case, it is said, by Patteson, J. "any payment which, if made at the very day, would be pleadable as a defence at common law, may, if made after the very day, be pleaded under that statute." As to the second plea, it was contended, that this bond required enrolment under the Annuity Act, 53 Geo. 3, c. 141; that the present fell within the definition of an annuity given by Lord Coke, 144 b, where he says, "An annuity is a yearly payment of a certain sum of money granted to another in fee for life, or years, charging the person of the grantor only," and thus the forbearance to sue for the antecedent debt of 2,000l. was a pecuniary consideration within the meaning of the Act.

The following cases were cited: *Shove* v. *Webb* (1 T. R. 732); *Ex parte Fallon and Wife* (5 T. R. 286).

Manning, Serjt. in reply, submitted that the present was not an annuity; and if it was, then that it was not one founded on a pecuniary consideration, within the meaning of the Annuity Act; and he relied on *Blake* v. *Attersoll* (2 B. & C. 875); *Hick* v. *Keats* (4 B. & C. 69); *Cumberland* v. *Kelley* (3 B. & Ad. 602); and *Frost* v. *Frost* (3 B. & Ad. 612, note a).

Tindal, C.J.—I am of opinion that the right construction to be put on this bond is, that it is not a grant of an annuity within the Annuity Act, and that, therefore, no memorial thereof was required to be enrolled, and judgment on the second plea must be given in favour of the plaintiff. In the first place, we have no right to put a different construction than that which appears on the face of the contract itself. If we refer to the recital and agreement as set out on the condition to the bond, it appears that there was a debt to the obligee, who is content, on payment of certain interest, to forego the original debt. Probably there was some relationship between the parties, and therefore the obligee was willing to give up his

demand of the principal debt. This is not an annuity properly so called, nor is it within the object of the Annuity Act, which was meant to prevent the raising of money at an extravagant rate of interest. I always understood, that in an annuity, the money advanced was irrecoverably gone (though there might in some cases be a clause for redemption by the borrower), and the lender had nothing but his annuity. Here, however, it is provided, that if not paid, the original debt is to become due, and the parties to be remitted to their former situation. In *Hunter* v. *Mouseley* (2 B. & A. 802) the principle was laid down, that a mere stipulation for the payment of interest for the forbearance of a certain sum is not an annuity within the meaning of the Act. It certainly would be very difficult to state such a consideration under the Act; and, therefore, for these reasons, it appears to me this is not an annuity, within the Annuity Act. As to the third plea, it is a plea of payment when one half-yearly payment became due; and secondly, of payment, after one became due; but there does not appear to be inserted in it sufficient to bring it within the statute of Anne. It is quite consistent with this plea, that a demand of payment may have been made before the commencement of this action, and therefore the 200*l.* may not be all that was due on the bond; and certainly the statute does not apply, unless there has been a payment of all that was due when the payment was made.

COLTMAN, J.—I have great doubt whether a bygone consideration is within the meaning of the Annuity Act. *Kelfe* v. *Ambrose* (7 T. R. 551) only determined that if the deed required enrolment, the one then before the Court was sufficiently enrolled; and Ashurst, J. there seems to be of opinion that unless there was an advance of money at the time, the annuity was not within the statute. All he says is, that where an annuity is granted for a money consideration, it is not necessary that the money should be paid down at the instant. But here there is nothing to shew on the face of the bond, otherwise than that the party entitled to receive principal and interest is content under certain circumstances to forego the principal. As to the other question, it is not necessary to allude to what my brother Patteson has said; because to have raised the question as to the payment being within the statute of Anne, it should have been so pleaded.

MAULE, J. delivered a similar judgment.

CRESSWELL, J.—I am of the same opinion. There was nothing here but a forbearance of the original debt for the consideration of the payment of the interest. I think this bond was, therefore, neither in its terms nor spirit, within the Act. There are also strong observations, both by Littledale, J. and Parke, J. in *Frost* v. *Frost*, as to a bygone debt not being a sufficient consideration within the meaning of the Annuity Act. Both say that it would not be unless where it was part of the contract under which the annuity was granted. With respect to the other question, to bring it within the statute of Anne, defendant must shew that he paid all that was due, and this he has not done in his plea; therefore the plea is bad. *Judgment for the plaintiff.*

DAVIES *v.* ASTON.

The Court will take judicial notice what are beasts of the plough and implements of husbandry.

Case for excessive distress, with several counts, the sixth being a count in trover for goods and chattels of the same number, quality, description, and value as those in the first count. The goods and chattels in the first count were, *inter alia*, corn, carts, horses, cows, and other cattle; tables, cheese-presses, tubs, hair sieves, carpet chairs, writing-desks, weather-glasses, bedsteads, feather beds, mattresses, bolsters, pillows, &c.

Plea to the sixth count—That the goods in the sixth count mentioned were taken and distrained for two quarters' rent.

Replication thereto—That at the time when, &c. the plaintiff was a husbandman, and carried on and exercised the business and calling of husbandry, and that the said goods and chattels in the said last count mentioned were the cattle and beasts of the plough and the implements of husbandry of the said plaintiff, by him then used in and upon the said last-mentioned lands, tenements, and premises, in and about his said business and calling, and wherewith respectively he gained, tilled, and cultivated the said lands, tenements, and premises in the said last plea mentioned. The replication then went on to allege that there were on the premises other goods sufficient to satisfy the rent and costs of distress which the defendant ought to have taken.

To this replication there was a special demurrer, assigning, amongst other grounds that it was not pleaded to any particular part only of the plea, but professed to be an answer to the whole plea to the sixth count; whereas that complained of a conversion by defendant of many things which could not possibly be either cattle and beasts of the plough or implements of husbandry.

Channell, Serjt. (*Welsby* with him), in support of the demurrer, relied on the grounds stated in the special demurrer.

Talfourd, Serjt. contrà, contended that as they were laid under a *videlicet*, plaintiff was not bound to prove the goods specifically; besides, the Court could not take judicial notice that the goods did not all relate to husbandry.

The COURT however said that the replication was bad for professing to answer the whole, when in fact it was only an answer as to part; and it was impossible for the Court to consider that beds and some of the other articles mentioned had any thing to do with husbandry. *Judgment for defendant.*

FRANKLIN *v.* CARTER.

A plea of payment by a tenant of a sum of money assessed on the premises in respect of the property thereof, was held sufficient on general demurrer, without express mention of the Income Tax Act, where the Court could, from the plea, see that that statute was meant to be referred to.

A plea to the further maintenance of an action for rent, that before the rent became due the plaintiff had broken a covenant in the lease he held of the premises, which created a forfeiture thereof, by reason whereof the lessor brought ejectment before the rent was due, and judgment was given against the plaintiff after the present action, and the now defendant compelled to pay the rent to the lessor of the plaintiff in such ejectment: Held, a substantial answer to the further maintenance.

Declaration in covenant on an indenture of lease, dated February 6, 1839, demising certain premises to the defendant at the rent of 70*l.* a year.

Breach—Non-payment of a year's rent.

Plea, as to the sum of 2*l.* 0s. 10*d.*, parcel, &c.; that, after making the said indenture, and whilst the defendant held the said tenements thereunder, as tenant thereof to the plaintiff, whilst the plaintiff was entitled to the said annual sum of 70*l.* reserved by the said indenture, and before any part of the rent in the declaration mentioned had accrued due; to wit, on, &c. a large sum of money, to wit, 2*l.* 0s. 10*d.* being at and after the rate of 7*d.* for every 20s. of the annual value (to wit, 70*l.*) of the said messuage, tenement, shop, and premises, was duly, and according to the form of the statute in such case, made and assessed on the said messuage, tenement, shop, and premises, in respect of the property thereof, for the year then next ensuing; which said sum of 2*l.* 0s. 10*d.* was payable by four quarterly instalments, that is to say, on the 20th day of June, the 20th day of September, the 20th day of December, and the 20th day of March, then next ensuing; and afterwards, and before the commencement of this suit, to wit, on, &c. the defendant then being the occupier and tenant of the said messuage, tenement, shop, and premises, paid to Thomas Casey, then being the collector of the said tax, the said sum of 2*l.* 0s. 10*d.*; and the said sum of 2*l.* 0s. 10*d.* so paid by the defendant was and is 7*d.* for every 20s. of the said sum of 70*l.* the annual rent payable by the defendant to the plaintiff under and by virtue of the said indenture for the said messuage, tenement, shop, and premises; and the defendant has never made any payment to the plaintiff on account of the rent of the said messuage, tenement, shop, and premises, since the payment of the said sum of 2*l.* 0s. 10*d.* *Verification.*

The second plea was pleaded to the further maintenance of the action as to the sum of 52*l.* 10s. parcel, &c. and was, that before and at the time of making the indenture of demise in the declaration mentioned, Robert John Smith was possessed for a term of years therein mentioned, and then unexpired, of and in the said message and premises in the declaration mentioned. The plea then set out an indenture of lease between Smith and the plaintiff, by which the pr... ... demised to the plaintiff, and the plaintiff covenanted with Smith *inter alia*, to insure the premises against fire; and a power of re-entry was reserved in favour of Smith, in case of non-performance by the plaintiff of the covenants contained therein. The plea then stated, that the plaintiff entered and became possessed of the premises for the term; and that afterwards, and before any part of the rent to which the plea was pleaded accrued due, the plaintiff broke his said covenant to insure. The plea then stated, that by *means of the pre... es aforesaid*, after making the indenture in the declaration mentioned, and before any part of the said sum of 52*l.* 10s. parcel, &c. became due and payable, and before the commencement of this suit, to wit, on, &c. the estate, term, and interest of the plaintiff in the said demised premises became and was ended, forfeited, and determined; and further, that by reason and in consequence of the said forfeiture, John Doe, on the demise of the said Robert John Smith, afterwards, &c. The plea here set out proceedings in an action of ejectment, to which the plaintiff appeared and defended as landlord, and in which, after the commencement of the present suit, judgment was given against the now plaintiff. The plea then stated that R. J. Smith afterwards gave notice of the premises to the no... called upon and required him to attorn tenant to him, the said R. J. Smith, of the said messuage, tenement, shop, and premises, and to pay and satisfy him for the proceeds, issues, and profits of the said messuage, tenement, shop, and premises, from the day of the demise to the said John Doe, in the said declaration mentioned; and that the defendant then attorned tenant to the said R. J. Smith of the said messuage, tenement, shop, and premises, and paid and satisfied him for the said profits, issues, and proceeds of the same, a large sum of money, to wit, 52*l.* 10s. *Verification.*

The plaintiff demurred generally to the first, and specially to the second plea.

Channell, Serjt. (*Petersdorff* with him), in support of the demurrer.—The first plea assumes to set up as a defence the payment of a property-tax, and right to deduct the same from the rent, under 5 & 6 Vict. c. 35, s. 60, rule No. 9; but it is impossible for the Court, by this plea, to take notice of that statute, there being no words in such plea confining the allegation to any particular statute. The statute gives a right to deduct only out of the first payment to be made on account of the rent; but there is here no allegation of payment of any rent subsequently to the plaintiff. (*Tinckler* v. *Prentice*, 4 Taunt. 549.) As to the second plea, if this is a plea of eviction, it not being until after suit, it ought to have been shewn to have been an eviction before the rent became due. [CRESSWELL, J.—The plea shews that before rent became due, the plaintiff had forfeited his lease from Smith, by not insuring unless the same was waived; but so far from there being a waiver, it is shewn that the landlord brought ejectment. The judgment in ejectment is, therefore, founded on a forfeiture alleged to have occurred before the rent became due.] It was necessary to shew more than a forfeiture. It does not appear that the judgment has been ever forfeited by a writ of possession.

Byles, Serjt. contrà.—As to the first plea, the question only is, whether the Court will not see that the plea refers to the property-tax of 5 & 6 Victoria. [TINDAL, C. J.—It cannot be under the repealed Act; it must therefore be under some statute by which 7*d.* for 20s. was assessed on the messuage and premises, in respect of the property thereof. There can scarcely be a doubt then that the statute referred to is the Income-tax Act.] Then as to the second plea, it is a good plea, shewing that the landlord's title has been determined; there is sufficient to shew that the ejectment was in consequence of the forfeiture alleged to have been before the rent was due, namely, it is "that by means of the premises," the plaintiff's interest determined, and that "by reason and in consequence of the said forfeiture," the ejectment took place.

Channell, Serjt. in reply, contended that the words "by means of the premises" referred only to the breach of covenant immediately preceding, and that the words were only an inference of law, and not traversable.

TINDAL, C. J.—The tenant is at liberty to shew that his landlord's title has expired. The second plea, I am of opinion, is no more than an argumentative statement that the original landlord elected to proceed on a forfeiture of the plaintiff's lease. But no objection as to its being argumentative is pointed out by the special demurrer. Looking at the ground of forfeiture for which the original landlord was entitled to proceed, the plea states a declaration in ejectment in the name of John Doe on a demise, lated 1st January, 1844, and that the same was before any part of the three quarters' rent became due. Therefore, in a proceeding to which the plaintiff was a party, and before the rent became payable, another person than the plaintiff, that is to say John Doe, was in possession of the premises; then a judgment is given afterwards that the said John Doe shall recover (that is from the 1st January, 1844) his said term. Judgment not having been signed in the ejectment until after action, it could not be pleaded in bar; but the plea is a substantial answer to the further maintenance.

COLTMAN, J., MAULE, J. and CRESSWELL, J. were of the same opinion.

Judgment for the defendant.

Friday, May 30.

BRADLEY and ANOTHER *v.* COPLEY, Bart.

Where goods were mortgaged to the plaintiffs subject to redemption on payment of the mortgage debt, on demand, and the mortgagor was to retain possession until default, and the goods, whilst in his possession, and before demand had been made, were taken in execution by a creditor of the mortgagor;

Held, that the plaintiffs could not maintain trover against the execution creditor, as they had not the right to the possession.

Action on the *case*, with a count in trover to recover the value of certain furniture and effects taken by the defendant as sheriff of the county of York, under an execution against one John Boulton, at the suit of one Robert Taylor.

Pleas—Not guilty, and Not possessed.

By the order of Mr. Justice Coltman, a case was stated for the opinion of the Court to the following effect:—

The plaintiffs being possessed, for the residue of an unexpired term, of a certain inn at Rotherham, in Yorkshire, called the College Inn, and of the furniture and effects in the same inn, in August 1842 let the inn and sold the furniture and effects to the said John Boulton, and accordingly, on the 10th August, 1842, Boulton was let into possession.

On the 22nd of August, 1842, a bill of sale under seal was stated in the case to have been *bonâ fide* executed by Boulton and the plaintiffs, a copy of which was set out in the case, and was an indenture between the said John Boulton of the one part, and William Bradley and John Newton Mappin of the other part, by which, after reciting that Boulton was indebted to Bradley and Mappin in 196*l.* 6s. 5d Boulton assigned to Bradley and Mappin absolutely, *inter alia*, the furniture, fixtures and effects, crops and tillages, of him the said J. Boulton, subject to a proviso for redemption on payment to Bradley and Mappin of the sum of 196*l.* 6s. 5d. and interest, on demand; and in default of payment thereof on demand a power of sale was given to Bradley and Mappin. The indenture contained a covenant by Boulton with Bradley and Mappin to pay, on demand, the said sum of 196*l.* 6s. 5d. and interest; and also the following viz.:—

"If default be made in payment of the said sum of 196*l.* 6s 5d. and interest, in manner aforesaid, it shall be lawful for the said William Bradley and John Newton Mappin, their executors, administrators, and assigns, immediately thereupon or at any time thereafter, to seize and take possession of all and singular the said furniture, goods, chattels, stock, crops, tillages, and premises, and hold and enjoy the same to and for their own absolute use and benefit, for ever discharged from the aforesaid proviso for redemption thereof and all equity thereupon, without any hindrance from or by the said John Boulton, his executors, administrators, or assigns, or any other person whomsoever, and that freed and discharged from all former and other charges, liens, and incumbrances whatsoever."

Then followed a covenant for further assurance, and the following proviso:—

"Provided always, and it is hereby declared and agreed, that until default shall be made in payment of the said principal sum of 196*l.* 6s. 5d. and interest, contrary to the covenant hereinbefore contained for payment thereof, it shall be lawful for the said John Boulton, his executors and administrators, to hold, make use of, possess, and enjoy all and singular the said furniture, goods, chattels, stock, crops, tillages, and premises, without any hindrance or denial from or by the said William Bradley and John Newton Mappin, their executors, administrators, or assigns."

The case then stated that Boulton, before he entered upon the above-mentioned inn, or executed the aforesaid bill of sale, was indebted to the said Robert Taylor in 90*l.* 3s. 2d.; for which, on the 11th of August, 1842, he *bonâ fide* gave a warrant of attorney to Taylor, payable by instalments. Judgment was signed thereon on the 9th of May, 1843, and a writ of *fieri facias*, under which writ the defendant, as sheriff, seized in execution all the goods and chattels at the College Inn comprised in the said bill of sale given by Boulton to the plaintiffs. At the time of the seizure the case stated that the said goods and chattels were and continued in the possession and under the control of Boulton, under and subject to the said bill of sale and the claims and rights of the plaintiffs under the same, and the debt mentioned in the said bill of sale remained unpaid. The plaintiffs, on the 15th of May, 1843, gave Taylor and the defendant notice that the goods seized were the property of the plaintiffs; but, notwithstanding, the goods were sold, and the proceeds received by the defendant, to recover which the action was brought.

The question for the opinion of the Court (which was to be at liberty to draw all the inferences which a jury might), was whether, under the circumstances above detailed, the plaintiffs, as against the said Robert Taylor, were entitled to the said goods and chattels taken in execution by the defendant.

Manning, Serjt. for the plaintiffs, contended that, as the case expressly found that the bill of sale had been *bonâ fide* given to the plaintiffs, it was good against the execution creditor. The Court then called on

Channell, Serjt. (*Overend* with him) for the defendant, who submitted that the plaintiffs were not entitled to maintain trover, as no demand had been made on Boulton for payment of the said sum of 196*l.* 6s. 5d. and therefore, under the terms of the bill of sale, the plaintiffs were not, at time of the alleged conversion, entitled to the possession.

Manning, Serjt. submitted that the effect of Taylor, the execution creditor, taking possession under the writ of execution was the same as an absolute assignment to him of the goods by Boulton, which put it out of the power of the latter even to restore them to the plaintiffs, which destroyed therefore the bailment, being equivalent to a conversion by Boulton himself. The case of *Gordon* v. *Harper* (7 T. R. 9) was referred to and distinguished; *Sir Anthony Main's* case (5 Rep. 20) was cited.

TINDAL, C. J.—Ever since the case of *Gordon* v. *Harper*, it has been held that the plaintiff must have the right of possession, as well as the right of property, to maintain the action of trover. That case has been followed by several others, and I cannot distinguish that case from this, except that there the right of possession was parted with for a certain time; here it was for an uncertain time. The right of the plaintiffs to the possession is only if default be made in payment of the debt on demand; but no demand appears to have been made, and therefore they were not in a situation to have the possession of the furniture at the time of the conversion, and consequently cannot recover them in trover.

COLTMAN, J.—The case of *Cooper* v. *Willomatt* (*suprà*, p. 173) was decided by us a few days since, and arose under circumstances somewhat analogous to the present. That was where goods were demised to a party who was to deliver them up to the plaintiff on demand, and the party had himself wrongfully disposed of the property by selling it out and out. We held that the plaintiff might maintain trover without having made a demand, but it was expressly on the ground that the bailee had himself determined the bailment. *Sir Anthony Main's* case, though not there cited, would have been an authority which would have expressly distinguished that case from *Gordon* v. *Harper*. Here, as my lord in the course of the argument has pointed out, the plaintiffs' right to the possession on demand was subject to the option of the other party, of paying instead the mortgage-money.

MAULE, J.—The present case cannot be distinguished from *Gordon* v. *Harper*, which has been always acted on, and cannot be overruled by us.

CRESSWELL, J.—I am of the same opinion. The bill of sale did not give the plaintiffs a present right of possession to the goods, and this has not been altered by a sale by the sheriff. In order to entitle the plaintiffs to recover, there must have been a demand and a failure of payment; but here neither has happened. *Judgment for defendant.*

Saturday, May 31.

GULLIVER *v.* COSENS.

Money had and received will not lie to recover a sum of money paid, in order to obtain the release of cattle distrained for damage feasant, though the sum paid greatly exceed in amount the damage done.

Debt for money had and received. *Plea*—Never indebted.

At the trial before Alderson, B. at the last Spring Assizes, at Lewes, it appeared that cattle of the plaintiff having trespassed on certain lands of the defendant, the latter had distrained them. The plaintiff afterwards applied to have his cattle restored, but made no tender of any sum for the injury the cattle had committed. The defendant demanded the sum of 2*l.* 15s. 9d. which the plaintiff paid, under protest, in order to obtain his cattle. The plaintiff contending that the damage done was to an amount far less than the sum so paid, brought the present action to recover the excess. The learned judge at the trial nonsuited the plaintiff, with liberty to move the Court to set the same aside, and enter a verdict for him for 2*l.* 10s. 9d. the jury finding that the damage actually done by the cattle was not more than 5s. A rule *nisi* for that purpose having been obtained,

Channell, Serjt. now shewed cause, and contended that the law had in this case given a specific remedy, namely, *replevin*, where cattle have been improperly distrained, and that this form of action did not lie.

Cases cited: *Sheriff* v. *James* (1 Bing. 341); *Browne* v. *Powell* (4 Bing. 230); *Lindon* v. *Hooper* (Cowp. 414); *Knibbs* v. *Hall* (1 Esp. 84); *Skeate* v. *Beale* (11 A. & E. 983); *Ashmole* v. *Wainwright* (2 Q. B. 846).

Dowling, Serjt. (*Bovill* with him), in support of the rule, submitted that the present differed from *Lindon* v. *Hooper*, as the distress there was wrongful, whereas here it was otherwise, and the plaintiff must have failed in the *replevin* suit. The defendant had done wrong in demanding an exorbitant sum for the damage done, and no tender by the plaintiff was necessary.

Cases cited: *Smith* v. *Sleap* (12 M. & W. 585), *Shaw* v. *Woodcock* (7 B. & C. 73), and *Jones* v. *Carleton* (9 M. & W. 675).

TINDAL, C. J.—I am of opinion that this rule for entering a verdict for the plaintiff ought to be discharged. The question is one which is to receive its decision from the consideration on which of the parties the law has imposed the necessity of making a sufficient tender. The plaintiff was the wrong-doer, it was his sheep which had committed the trespass on the defendant's property; undoubtedly, therefore, the law put on the plaintiff the danger of tendering the right sum by way of amends, and not on the other party the danger of making the right demand. The law cannot be stated clearer than it is in *The Six Carpenters'* case (8 Rep. 290), where it is said, "That if the lord or his bailiff comes to distrain, and before the distress the tenant tenders the arrears upon the land, then the distress taken for it is tortious. The same law of damage-feasant, if before the distress he tenders sufficient amends;"—"that tender upon the land before the distress makes the distress tortious; tender after the distress and before the impounding makes the detainer and not the taking wrongful; tender after the impounding makes neither the one nor the other wrongful." That clearly shews on whom the law imposes the necessity of making the tender. It is impossible to get over the case of *Lindon* v. *Hooper* without saying that that case is not law; but I never heard that it was doubted from the time it was decided down to the present. This case does not fall within those where it has been held that money may be recovered in this form of action, which has been paid under duress of goods; but it is to be governed by that of *Lindon* v. *Hooper*, followed by *Knibbs* v. *Hall*.

The rest of the Court concurring,

The rule was discharged.

Saturday, May 31.

NEEDHAM *v.* FRASER.

In an action against a witness for not obeying a subpœna, the declaration alleged that the plaintiff had a good cause of action in the action in which the defendant was subpœnaed as a witness, and that the testimony of the defendant was material evidence for the plaintiff; neither of which allegations was traversed by the defendant in his pleas. The declaration also averred that the defendant did not appear as witness, and that by reason thereof the plaintiff was obliged to withdraw the record.

Held, that on these pleadings the defendant was estopped from reading at the trial the record in the original action, for the purpose of shewing that the plaintiff had therein no cause of action, and therefore sustained no damage by withdrawing the record.

Case.—The declaration recited an action on the case for slander, brought in this court by the present plaintiff against one Dowling, and a writ of *subpœna ad testificandum* directed to the now defendant to give evidence on the trial of the issue in such action the part of the now plaintiff. The declaration, after alleging service of such writ of *subpœna* on the now defendant, contained the following averment: that the said action came and was called on to be tried at the time, to wit, &c. and at the place, &c. and *that the plaintiff had a good cause of action in the said action*; and although the defendant could and might, in obedience to the said writ of *subpœna*, have appeared at the trial of the issue in the said action when the same was so called and came on to be tried as aforesaid, and could and might, in obedience to the said writ of *subpœna*, have testified the truth according to his knowledge at the time and place aforesaid at the said trial of the said issue; and although his testimony of the truth according to his knowledge *was material evidence for the now plaintiff* at the trial of the said action, whereof the defendant then had notice, yet the defendant, not regarding, &c. did not nor would appear as a witness at the time and place, &c.; by reason whereof, and because the plaintiff could not proceed to the trial of the said issue without the testimony of the now defendant, he, the plaintiff, was then, to wit, on, &c. forced and obliged to withdraw, and did then withdraw, the *nisi prius* record of the said issue. The damages in consequence were stated to be the liability of the plaintiff to pay to the said Dowling the costs incurred by reason of the withdrawing the record, and money which the plaintiff had paid for the trial of the issue and costs of suit.

Pleas—First, Not guilty; second, Leave and license; and third, that the plaintiff could have proceeded to the trial of the said issue without the testimony of the defendant; concluding to the country.

At the trial before Lord Denman at the last Surrey assizes, the plaintiff gave evidence of defendant's absence as a witness, and as part of the proof of the withdrawal of the record in the action of *Needham* v. *Dowling*, put the record itself in evidence. The defendant's counsel thereupon insisted that he had a right to read that record, and certain affidavits referred to and set out in the declaration contained therein, in order to shew that the plaintiff in *Needham* v. *Dowling* had no cause of action, and therefore was a gainer, and not a loser, by withdrawing the record. Lord Denman was of opinion that this could not be done, and that the plaintiff was entitled to costs incurred by any culpable absence of the defendant; but his lordship wished it to be referred to the Court as to the admissibility in evidence of the record and affidavits, to shew that for want of any cause of action no damage had been sustained, and for the Court also to say what class of costs the plaintiff might be entitled to. A verdict was then taken by consent for the plaintiff for the damages in the declaration, subject to a reference to the Court. A rule *nisi* having been obtained last Easter Term for a nonsuit or a new trial,

Shee, Serjt. now shewed cause, and contended that the admission by the defendant upon the pleadings in the now action that the plaintiff had a good cause of action in the action of *Needham* v. *Dowling*, and that the testimony of the defendant was material evidence for the plaintiff at the trial of such action, estopped the defendant from shewing at the trial that no damage had been sustained by the plaintiff in the former action, by reason of his not having therein any cause of action.

Channell, Serjt. (with him *Bramwell*) contra.—

The averment in the declaration that the plaintiff had no good cause of action was an immaterial one, and therefore not admitted. [MAULE, J.—The defendant would then be seeking to be allowed to prove an immaterial matter.] It was submitted that, as in this action, which did not arise out of a breach of contract, the plaintiff could not recover for the tort unless some damage had resulted to him in consequence, the defendant was at liberty to shew that the plaintiff had in fact sustained no damage. [CRESSWELL, J.—If the allegation in the declaration, that the plaintiff had a good cause of action were struck out, would the plaintiff be shewn to have sustained an injury sufficient to sustain the action?] Yes, it is submitted there would; the allegation that the testimony was material evidence has been held to excuse the absence of the words that the plaintiff had a good cause of action. (*Masterman* v. *Judson*, 8 Bing. 224; *Mullett* v. *Hunt*, 1 C. & M. 752; *Amey* v. *Long*, 9 East, 473; and *Davis* v. *Lovell*, 4 M. & W. 678.) It would be difficult to maintain that the action could be supported without either, but it is submitted that one is traversed. The third plea traverses what at least is equivalent to the allegation, that the testimony was material, and the defendant was therefore entitled to use this evidence.

COLTMAN, J. (*a*)—The defendant endeavoured to put in the affidavit for the purpose of shewing that the plaintiff in the original action had no good cause of action; but I am of opinion that such evidence was not admissible, as it would be contradictory to matter alleged on this record. Then it was urged that if this evidence was not admissible, yet, at any rate, the defendant had a right to look at the record in the original action, and that the record, when looked at, shewed on the face of it that a judgment thereon would be liable to be arrested, and, probably, there is little doubt but that the declaration in such action was insufficient, and would have been open to objection in arrest of judgment. Still, a party is not entitled therefore to say that there was not a good cause of action, when there is an admission by him on his plea that there was a good cause of action in that original suit. The plaintiff, therefore, in my opinion, is entitled to recover the amount of the costs he was put to, and also the costs he became liable to in consequence of the defendant's absence.

MAULE, J.—I am of the same opinion; the defendant cannot be allowed to prove what would be inconsistent with his own admission.

CRESSWELL, J.—It has been contended by my brother Channell that the averment that the plaintiff had a good cause of action was not admitted, because it was not a material allegation. It may be true that a declaration may be framed so as to be good without any such averment; various issues may be shewn to have existed, for which the evidence of the witness may have been material, and that the plaintiff sustained damage in consequence of the absence of the witness; but when the matter rests on an averment that the plaintiff had a good cause of action, surely such averment was a material one. Then, respecting receiving in evidence the former record; although the record was evidence for the purpose for which it was received, namely that there was such a record, it was not evidence for the purpose of contradicting what was admitted on this record. The measure of damages the plaintiff will be entitled to are the costs which have been wasted by the defendant's culpable absence.

Rule discharged

STEPHENS *v.* LOWNDES.

An appearance entered by the plaintiff for an infant defendant is not a nullity, but error. The Court however will set aside the same without costs, to save the necessity of bringing error.

Shee, Serjt. shewed cause against a rule calling on the plaintiff to shew cause why the appearance filed for the defendant, declaration and judgment, and execution thereon, should not be set aside for irregularity. The action was brought against an infant of the age of 18, on a bill of exchange accepted by him for 60*l*. The defendant not appearing, the plaintiff, on the 4th February last, entered an appearance for him under the statute. Judgment was signed on the 24th February last, and on the 12th April the defendant was taken on a *ca. sa.* If this was only a mere irregularity, it was admitted that it had been cured by the lapse of time. The cases of *Roberts* v. *Spurr* (3 Dowl. 551) and *Nunn* v. *Curtis* (4 Dowl. 729), cited on moving for the rule, were referred to, and it was contended that they did not shew that such an appearance was a nullity, and that the statute enabling plaintiffs to appear for a defendant applied equally to infant defendants.

Byles, Serjt. in support of the rule, submitted that whether it was a nullity or error or not, it was clear that it was what could not be done. Tidd, 9th ed. 99; Chitty's Arch. 7th ed. 893, shew that a common appearance cannot be entered by the plaintiff for the defendant, but that it is necessary to have a judge's order, which must be served on the infant before it can become absolute, so that the defendant would have two notices of the action.

(*a*) TINDAL, C. J. was absent.

The COURT expressed a strong opinion against the appearance being a mere nullity, and after referring to Comyn's Dig. Plead. 2, C. 2, where he says, "In an action against an infant, he must appear only by guardian, for he has not knowledge of his own affairs, or to choose a man to plead well for him, and may have an action against his guardian if he loses by mispleading," said that it seemed to shew that the law looked upon its being essential that an infant should appear only by guardian, and that if he appeared otherwise, error might be brought, and that therefore the case of *Nunn* v. *Curtis* applied.

Rule absolute without costs.

Monday, June 2.

WILKES *v.* HOPKINS.

An admission under a judge's order, in which a bill of exchange is described as a bill "drawn upon, and directed to, the above-named defendants, as the Newbridge Coal Company," and to be accepted by "one Henry Bishop, for the defendants, as the Newbridge Coal Company, payable at Messrs. Jones, Lloyd, and Co. bankers, London," is evidence that the defendants constitute such company; that the bill is accepted by Bishop for the company, and that it is payable at a London banker's. Where, however, it appears from the defendants' affidavits that they have been taken by surprise by the extent of their admission, and that they have been prevented from entering into their real defence at the trial, the Court, on payment of costs, will give another opportunity of trying the case.

Talfourd, Serjt. and *W. J. Alexander*, Q.C. on a former day, shewed cause.

Byles, Serjt. and *Gray*, contrà.

JUDGMENT.

TINDAL, C. J. now delivered the judgment of the Court.—This was an action upon a bill of exchange drawn by the plaintiff "on the Newbridge Coal Company, Forest Dean, Gloucestershire," and accepted "at Messrs. Jones, Lloyd, and Co. for the Newbridge Coal Company, Henry Bishop." The defendants pleaded, amongst other pleas, that they did not accept; and at the trial before me at the last Summer Assizes for the county of Gloucester, it was objected by the defendants that there was no evidence that Henry Bishop, who had signed the acceptance, had any authority to accept for them. The plaintiff, however, contended, that by the form of the admission entered into by the defendants, they were prevented from taking this objection, which appeared to me to be the case. And the question which has been argued, on a motion for a new trial, has been whether the bill of exchange was properly received in evidence. The admission was given under a judge's order, made in the usual form under the general rule, Hil. Term, 4 Wm. 4; and the argument for the defendants has been, that admissions given under such order do, by the very terms of the order, bind the party to admit no more than that the documents therein mentioned to be originals are written, signed, and executed "as they purport respectively to have been," and that as the bill of exchange, when produced, purports to be drawn by the plaintiff on the Newbridge Coal Company, and to be accepted for the Newbridge Coal Company by Henry Bishop; so, nothing more is admitted than that the acceptance for the Newbridge Coal Company is in the handwriting of Henry Bishop; but there is neither an admission that the defendants are the persons who constitute the Newbridge Coal Company, nor that Henry Bishop had any authority from them to accept bills on their behalf. How far this might have been the case if the bill had been set out in the notice to admit in the precise terms in which it purports to have been drawn, that is, if it had been described as a bill drawn on the Newbridge Coal Company, and it had been accepted for the Newbridge Coal Company by Henry Bishop, we are not called upon to determine. For in this case the bill is described in the notice to admit as a bill "drawn upon and directed to the above-named defendants, as the Newbridge Coal Company," and to be "accepted by one Henry Bishop for the defendants, as the Newbridge Coal Company, payable at Messrs. Jones, Lloyd, and Co. bankers, London;" so that the facts, that the defendants constitute the Newbridge Coal Company—that the bill is accepted by Henry Bishop for the defendants—and that it is payable at a London banker's,—these facts not appearing on the face of the bill, are plainly and unequivocally admitted under this notice. A defendant undoubtedly may, if he thinks proper, bind himself by the form of his admission, more largely than he could be called upon to do under any ordinary notice to admit, and this, we think, the defendants have done upon the present occasion, and that it would be giving them an unfair advantage, after an admission in these terms, which imports, in its natural and ordinary sense, that Bishop had authority to accept for the defendants, if they should be allowed at the trial to set up the want of such authority. As, however, we see reason to believe, from the affidavits, that the defendants were themselves taken by surprise by the extent to which their admission had been carried; and as they allege themselves to have been prevented thereby from entering into their real defence at the trial, we think it reasonable that there should be an opportunity of new-modelling their admission; and that, therefore, a new trial should be had on payment of costs by the defendants.

Rule absolute.

BUSINESS OF THE WEEK.

Thursday.

OSBORN *v.* NEWPORT.—*Shee*, Serjt. (*Petersdorff* with him) shewed cause; *Channell*, Serjt. (*Bovill* with him), in support of rule for new trial.

Rule discharged.

RAWLINGS *v.* BELL and WIFE.—*Talfourd*, Serjt. for defendant. *Channell*, Serjt. (*Petersdorff* with him), for plaintiff, upon a rule to enter a verdict for the plaintiff on one of the issues. *Cur. adv. vult.*

STEAD *v.* DUHAMEL.—*Byles*, Serjt. shewed cause. *Channell*, Serjt. in support of rule.

Cur. adv. vult.

Friday.

SMART *v.* JENKINS.—*Byles*, Serjt. for defendant. *Channell*, Serjt. for plaintiff, argued demurrer to declaration.

Leave to amend in two months; otherwise judgment for defendant.

HOWETT *v.* CLEMENT.—*Demurrer* to declaration.

Judgment for plaintiff.

STEAD *v.* POYER.—*Channell*, Serjt. for plaintiff. *Byles*, Serjt. for defendant, argued demurrer to defendant's plea. *Judgment for plaintiff.*

Saturday.

RAWSON *v.* HON. FRANCIS NEEDHAM.—*Talfourd*, Serjt. moved for a *distringas* to enter an appearance. *Granted.*

RICKETTS *v.* BUDGE and OTHERS.—*Byles*, Serjt. moved for rule to sign judgment against defendants on a *sci. fa.* *Granted.*

Monday.

ENTHOVEN *v.* IRVING. — *Talfourd*, Serjt. and *Byles*, Serjt. (Sir *J. Bayley* with them), for plaintiff. *Channell*, Serjt. (Sir *T. Wilde* and *James* with him) for defendant. *Rule discharged.*

Tuesday.

ALLEN *v.* RAWSON.—Sir *T. Wilde* and *Shee*, Serjt. (*Butt* with them) shewed cause. *Channell* and *Byles*, Serjts. in support of rule for new trial.

Rule discharged.

SMITH *v.* LONDON AND BIRMINGHAM RAILWAY COMPANY.—*Byles*, Serjt. shewed cause. *Channell*, Serjt. in support of rule for new trial.—The Court being equally divided, *Rule fell to the ground.*

COURT OF EXCHEQUER.

Friday, May 30.

RAWLINSON *v.* CLARKE. (*a*)

Action for breach of contract.

A covenant not "to carry on or exercise the practice or profession of a surgeon or apothecary, either by residing or visiting any patient," is not broken by visiting several patients with the knowledge and assent of the party covenanted with, if done to assist him, and not adversely to his interests.

This was an action brought against the defendant, who was a surgeon, for a breach of covenant. At the trial, it appeared that the defendant, having sold his business to the plaintiff, who was also a surgeon, had covenanted, under a penalty of 500*l*. "not directly or indirectly, by himself or in copartnership with any other person or persons, to carry on or exercise the practice or profession of a surgeon and apothecary, or either of them, either by residing or visiting any patient within three miles of the then place of residence of the said T. Clarke, in Park-street, Camden-town." There was also a clause in the deed by which it was covenanted that Clarke should continue to reside in Park-street, and continue to carry on the business to assist Rawlinson, and introduce him to the patients, for the space of one year, receiving one moiety of the profits for that time. This the defendant did; but some short time after the year had expired, he was sent for by a lady whom he had always been in the habit of attending to attend her during her confinement, which he accordingly did; but all the medicine ordered was sent from Rawlinson's, and Rawlinson himself was cognizant of the fact, and attended the lady once himself. There was also one similar case of attendance by the defendant proved; but it was shewn to be at the request of the plaintiff; and in this case it appeared that there was a payment by the patient to Clarke of fourteen guineas.

Three questions were left to the jury: first, whether attending the lady as an accoucheur was acting as a surgeon; secondly, whether the patients were attended to assist Rawlinson; and, thirdly, whether, at all events, they were attended with his knowledge and assent. The jury found all these questions in the affirmative, and assessed the damages at fourteen guineas, as being the sum received from the patient; the learned judge, however, who tried the cause directed the verdict to be entered for 500 gs. giving the defendant's counsel leave to move to enter a verdict for the defendant, if the Court should be of opinion that no breach of covenant had been committed, or to reduce

(*a*) Suprà, p. 38.

the damages to 14 guineas, if they should think the proviso in the deed could be treated as a penalty, and not as liquidated damages.

Crowder, Q. C. having obtained a rule last Term on the first point only,

Watson, Q. C. and *Henderson* now shewed cause, and contended that the attending patients within the prescribed distance was a clear breach of the covenant, and that its having been done with the knowledge of the plaintiff could not alter the question. [ROLFE, B —It seems to me that the words of this covenant clearly import an adverse carrying on of the business, either individually or in copartnership. Now here the jury have found that this was done to assist Rawlinson.] Then leave and license by parol will be no excuse for breaking a covenant by deed. [ALDERSON, B.—Yes, but the only question here is, whether or no this covenant is broken by the defendant helping Rawlinson.] The finding of the jury, it is submitted, is substantially that he did break the contract by visiting a patient; besides, he had the fourteen guineas. [POLLOCK, B.—Yes, but then comes the question of whether he received it adversely to Rawlinson. I may be that he took it for him and held it on some question of account between them. The question is, was this a carrying on the business by Clarke adverse to Rawlinson.]

Crowder, Q. C. and *Charnock* appeared to support their rule, but were not called on by the Court.

POLLOCK, C. B.—The question here is, whether the defendant is guilty of a breach of contract. Now all the facts proved on behalf of the plaintiff at the trial were, that on several occasions the defendant visited sick persons; but not only was such attendance known to the plaintiff, but requested by him and was evidently done to keep the patients together, and the jury have found that he did so to assist Rawlinson, and not with a view of carrying on the business and profession of a surgeon for himself. But then it is said that he received fourteen guineas. I do not think that at all alters the question. It may be that he is liable to account to Rawlinson for it; or it may be, that there are disputed accounts between them. I think, however, it is clear that the defendant was not carrying on business on his own account.

ALDERSON, B.—I am of the same opinion; it seems to me to be a mere question of fact, whether or no there has been a breach of contract. Now I agree that leave and license would be no answer if pleaded; but I think that it is very material evidence to shew, that, in fact, there has been no breach, as the acts constituting the supposed breach were done to assist Rawlinson. The rest of the Court concurring, *Rule absolute.*

BENBOW v. JONES.

Action against a stakeholder.

The decision of a steward at a steeple-chase is final, although made without hearing the parties.

This was an action against a stakeholder for a certain sum of money, being the amount of the stakes to be run for in a steeple-chase of which the plaintiff claimed to be the winner. It appeared that, by one of the rules and regulations under which the race was to be run, no paid riders were to be allowed to ride; another of the rules was, that the steward was to decide all disputes.

At the trial it was proved that, some little time before the race, a dispute arose whether or not a man named Walker, who was to ride the plaintiff's horse, was a paid jockey or not; and the steward told the plaintiff, that if Walker rode his horse, "it would be no horse in the race." Walker, however, did ride the horse, and it came in first. Disputes again arising as to whether the plaintiff was entitled to the stakes, a case was submitted by the consent of both parties to the editor of *Bell's Life in London*, who decided that Walker was not a paid jockey, and that the plaintiff was entitled to the stakes. The steward, however, directed the money to be paid to the owner of the second horse, on which the present action was brought against the stakeholder, two questions were left to the jury: first, whether Walker was a paid jockey; second, whether there had been any proper decision by the steward. Both these questions having been found in the negative, the learned judge directed the verdict to be entered for the plaintiff, giving the defendant leave to move to enter a nonsuit. A rule *nisi* having been obtained by *Talfourd*, Serjt.

Whately, Q.C. and *T. W. Smith* shewed cause, and contended that the steward had never properly decided the point, as it was never properly before him, and he had not heard the parties. Then the fact of there having been no decision was shewn by all the parties agreeing to be bound by the opinion of the editor of *Bell's Life*. Both points having been left to the jury at the trial, and found for the plaintiff, there was no ground for this rule.

Talfourd, Serjt. in support of his rule.—The conditions of the race were that the decision of the steward was to be final; and before the race he decided that if Walker rode the plaintiff's horse, it was to be no horse in the race; and it cannot be contended that it was necessary for him to have all the parties before him before he could make his decision. The very object of his appointment was to have a decision on all disputes at once. Stopped by the Court.

By the COURT.—The question reserved here seems to have been whether this decision of the steward, made without hearing the parties, was good in law, and we are of opinion it was, and that the steward had a right to decide the question at once. Then that he did decide is evident, as he directed the money to be paid over. *Rule absolute to enter a nonsuit.*

Tuesday, June 3.

HEATH v. DURAND and OTHERS.

Pleading—New rules—Several pleas.

Where it is doubtful that a plea sought to be added to those already pleaded raises the same defence as one which is already on the record, or is sought to be added, the Court will make a rule absolute to add it, leaving the other party to come to the Court to strike it out, if he can satisfy them it is essentially the same as the other, and raises the same defence.

This was a rule obtained by *Jervis*, Q.C. calling on the plaintiff to shew cause why the defendant should not be at liberty to add certain pleas. It appeared that this was an action against the underwriters on a policy of insurance on a vessel; and the plaintiff declared for a total loss. The defendants pleaded twenty-six pleas, and subsequently took out a summons before a judge for leave to add three others, but the learned judge only gave them leave to plead two, giving them leave to make their choice. The present rule having been obtained,

Crowder, Q.C. now shewed cause, and contended that the first and third of the three new pleas sought to be pleaded were, in fact, the same, and raised the same defence; and, therefore, under the new rules, could not be pleaded. [POLLOCK, C.B.—The difficulty is this, are the pleas the same in substance or not? For if there is any doubt about it, the Court will allow them.] *Jenkins* v. *Treloar* (1 M. & W. 16) is in point; and there the Court held they had no power to allow two counts claiming the same subject-matter on different contracts. Now, here, it is submitted, that the same defence is sought to be set up, only in a different form.

Jervis, Q.C. (*Greenwood* with him) in support of his rule, was stopped by the Court.

ALDERSON, B.—As it seems to be doubtful whether or not the plea sought to be added does raise the same defence essentially as the other, I think this rule should be made absolute. The plaintiff can then, if he think fit, come here and obtain a rule to strike it out, if he can satisfy the Court that it is essentially the same as the other. *Rule absolute.*

BUSINESS OF THE WEEK.

Friday.

BISS v. ACKEL. *Rule absolute for new trial.*

THE ATTORNEY-GENERAL v. LORD HERTFORD. —*Jervis*, Q. C. and *H. Hill*, same side. *Crompton*, for the Crown. *Cur. adv. vult.*

THE ATTORNEY-GENERAL v. BROWN.

Stands over for the defendant to consider whether he will amend.

STAPLETON v. BROWN.—The COURT recommended *stet processus.*

Stet processus entered accordingly.

WOODBRIDGE v. COOPER. *Stet processus.*

Saturday.

RUSSELL v. LEDSAM.—Argument resumed. *Cur. adv. vult.*

HAWLEY v. GILBERT.—*M. D. Hill*, Q. C. was heard in support of the rule. *Cur. adv. vult.*

RUSSELL v. LEDSAM.—The arguments in this case occupied the whole day, and were not concluded when the Court rose. *Part heard.*

Monday.

DUNCAN v. BENSON.—*Demurrer.* The Court were occupied the whole of to-day with the argument in this case, which was unfinished when the Court rose. *Part heard.*

Tuesday.

RUSSELL v. LEDSAM.—Argument resumed. *Cur. adv. vult.*

HAWLEY v. GILBERT.—*M. D. Hill*, Q. C. was heard in support of his rule. *Cur. adv. vult.*

Thursday.

SWIFLING v. OVENDEN and OTHERS.—*Watson*, Q. C. shewed cause against a rule which had been obtained to enter a verdict for the defendant Ovenden. The other side were not called on. *Rule absolute.*

DAVEY v. WARNE.—This case, which involves a long question upon the construction of some clauses in a metropolitan local Act, will be reported fully next week.

HAWLEY v. GILBERT. *Part heard.*

BAIL COURT.

Saturday, May 31.

(Before Mr. Justice WIGHTMAN.)

REG. v. THE GUARDIANS OF THE TOTNES UNION, Devon.

Mandamus to guardians of a poor-law union, commanding them to give out-door relief, pursuant to an order of justices.

Greenwood moved for a *mandamus* commanding the above guardians to administer out-door relief to one Elizabeth Perrin, a pauper aged 76, pursuant to the order of two justices, made under the 27th section of the 4 & 5 Wm. 4, c. 72 (the Poor-law Amendment Act). *Rule nisi.*

REG. v. THE JUSTICES OF BIRMINGHAM.

Quære, whether a news-room is within the 6 & 7 Vict. c. 36 (an Act to exempt from county, borough, parochial, and other local rates, land and buildings occupied by scientific or literary societies)?

Archbold moved for a rule calling upon the above justices to shew cause why a *mandamus* should not issue, commanding them to issue their warrant to levy a distress for poor-rates due in respect of the Birmingham news-room. It appeared that the news-room in question had been duly assessed, and the proprietors not paying the assessment, they were summoned to shew cause why a warrant should not issue to levy the amount. When before the magistrates they claimed exemption for the premises, under the 6 & 7 Vict. c. 36, s. 1, which enacts, "that from and after the 1st October, 1843, no person or persons shall be assessed or rated, or liable to be assessed or rated, or liable to pay to any county, borough, parochial, or other local rates or cesses, in respect of any land, houses, buildings, or parts of houses or buildings, belonging to any society instituted for purposes of science, literature, or the fine arts exclusively, either as tenant or as owner, and occupied by it for the transaction of its business, and for carrying into effect its purposes, provided that such society shall be supported wholly or in part by annual voluntary contributions, and shall not, and by its laws may not, make any dividend, gift, division, or bonus in money, unto or between any of its members; and provided also, that such society shall obtain the certificate of the barrister-at-law or lord advocate, as hereinafter mentioned." The news-room in question had been duly certified, but the proprietors were in the habit of receiving advertisements, which were posted in the room, and for which a payment was made to the society, the members of which paid an annual subscription of 2*l*. 2*s*., and there being no rule that no dividend, gift, division, or bonus should be made amongst its members. The exemption thus claimed was resisted on the grounds,—1st, that this was not a building instituted for purposes of science, literature, or the fine arts exclusively; and 2nd, that there was no law of the society to forbid the making of any dividend, &c. amongst its members. Upon the hearing, the justices declined to issue their warrant without the authority of this Court. The present application was made upon the two grounds above mentioned. *Rule nisi.*

REG. v. PAYNTER, Esq.

Rule nisi to permit parties interested to amend return to a mandamus.

C. Clark moved for a rule to shew cause why Mr. Chasemore, one of the shareholders of Putney Bridge, should not have liberty to make a return to the *mandamus* herein, or amend the return already made by Mr. Paynter.

A rule *nisi* having formerly been granted calling upon Mr. Paynter, a magistrate of the Police Court at Wandsworth, to shew cause why he should not issue his warrant of distress to levy upon the goods of Mr. Chasemore the sum of 48*l*. 10*s*. being the amount assessed upon him jointly with others in and by a rate made for the relief of the poor of St. Mary, Putney, in respect of Putney Bridge, cause was shewn on the the 7th of May inst. (see 9 Justice of the Peace, 311), when the rule was made absolute.

A return has since been made by Mr. Paynter, stating certain objections as respects himself, but not raising the objections upon which the shareholders were desirous of relying. A similar rule had been granted and made absolute in *Reg.* v. *Ackerley and Another, Justices of Kent* (9 Justice of the Peace, 83). *Rule nisi.*

SIDNEY v. MACGILL.

Affidavit of service of rule, insufficiency thereof.

Cross moved to make absolute a rule to compute on an affidavit of service, which stated that the deponent "did, on the 24th day of May instant, serve the above-named defendant with the rule hereunto annexed, by delivering a true copy thereof to a female of the name of Bates, in her dwelling-house, Mount Pleasant, in Liverpool, aforesaid, and in which said dwelling-house the said defendant now lodges or occupies apartments." This affidavit was sworn on the 27th of May inst.

WIGHTMAN, J.—The affidavit will not do; it does not state that the defendant was residing at the house at the time of the service, nor does it shew that the woman was in any way connected with the defendant.

Monday, June 2.

DOE *dem.* ANSON v. ROE.

The tenant in ejectment may move the Court to stay proceedings before entering into the consent rule.

This was a rule of considerable length, the real ob-

ject of which was to compel the lessor of the plaintiff to elect upon which of two ejectments he would proceed, and to pay the costs of the other ejectment.

Martin, Q. C. shewed cause, and submitted that the tenant, on whose behalf this application was made, was not in condition to make any application to the Court, as he had not appeared or entered into the consent rule, citing *Doe dem. Crocket* v. *Roe* (1 Hall, 351); *Doe dem. Greenacre* v. *Roe* (2 Jurist, 568). He submitted, secondly, that the Court would not interfere in this case, as the ejectments were both brought *bonâ fide*, the first under the statute 1 Geo. 4, the second at common law, in case they should fail to bring themselves within the provision of that statute.

J. W. Smith, contrà, submitted that the Court would interfere. With regard to the objection that the tenant was not in a condition to come before the Court, he submitted that the general practice, and a whole chain of authorities, were at variance with the Bail Court decisions referred to by his learned friend, citing *Doe dem. Fielden* v. *Roe* (8 T. R. 645); *Doe dem. Standish* v. *Roe* (5 B. & A. 878); Adams on Ejectments.

WIGHTMAN, J.—The rule must be absolute without costs. *Rule absolute accordingly.*

In the matter of the Arbitration between THOMAS ANDREWES, WILLIAM ANDREWES, JOHN ANDREWES, and ROBERT ANDREWES.

An award was to be made within one calendar month "next after the reference;" the reference was on the 1st March, and the award on the 1st April: Held, in time.

The affidavit for the attachment alleged a demand of payment directed by the award, and a refusal to pay, but did not sufficiently negative the fact of the money not having been paid: Held, sufficient. And where an award directs a conveyance by A B, a tender of the necessary deed must be made to A B, in order to found an application for an award, although it may be the duty of A B to prepare the conveyance.

Where the rule was for an attachment against A and B jointly for non-performance of an award, and the affidavits shewed a non-payment of one sum by A, and of another sum by B, due from them severally, the Court discharged the rule.

Henderson shewed cause against a rule calling upon John Andrewes and Robert Andrewes to shew cause why an attachment should not issue against them for non-performance of an award. He submitted—first, that the award was not made in time. The award, which was to be made within one calendar month next after the reference, was not made until the 1st of April, the reference being on the 1st of March. It was submitted that the day on which the reference was made was to be included in the month, and that the last day for making the award was, therefore, the 31st of March. He admitted that it would be different if the words had been *next after the day of the reference*. Secondly, he contended that the affidavit was bad for not sufficiently shewing a breach. The affidavit stated a demand of payment and refusal, without alleging that the money was still due at the time of the demand. And, thirdly, he contended that there were substantial grounds upon the merits why this rule should be refused. The award directed two things to be done; it directed a joint execution of a certain deed by both the defendants, and also payment of two sums of money, to be paid by the two defendants severally, the one by John Andrewes and the other by Robert Andrewes. With regard to the execution of the deed, there was no sufficient tender, nor had the arbitrator power to direct an assignment of debts. With regard to the non-payment of the money, the grounds of complaint were several, and could not, therefore, form the subject of a joint attachment.

WIGHTMAN, J. requested *Stock*, who was on the other side, to direct his attention to the third objection. He thought there was nothing in the preliminary objections With regard to that as to the time, it had been decided that *from an act* meant the same as *from the day of an act*. (*Hardy* v. *Ryan*, 9 B. & C.)

Stock then submitted that it was not necessary to tender the deed at all, as the parties were bound to make the assignment. (*Doe dem. Clarke* v. *Stilwell*.) He was therefore entitled to the rule as to the deed. With regard to the non-payment of money, the Court might mould the rule, and grant separate attachments against each. At any rate, he was entitled to the rule as against one.

WIGHTMAN, J.—I think it is quite clear that you cannot have an attachment for not executing a deed without tendering it. *Doe* v. *Stilwell* is not in point: that was a case of surrender of a copyhold. There no conveyance was necessary, and there was a demand of surrender and refusal. With regard to the other part of the award, the rule shewed in which the breach of the award consisted, and alleged it was for non-payment of the money. I might perhaps grant separate attachments against each, but I cannot do so, as the rule is general for breach of the award. *Rule refused.*

Tuesday, June 3.

Ex parte MATTHEW GALE.

Discharge of a prisoner on a habeas corpus for defect in the warrant of commitment.

Bramwell having on a former day obtained a writ of *habeas corpus* to bring up Matthew Gale, who was a prisoner in the Durham gaol, to which he had been committed for an alleged offence against the 25th section of the Mutiny Act, the 8 Vict. c. 8, now, on an affidavit of the due service of notice of the writ on the committing magistrates, on the Secretary-at War, and the general agent for the recruiting service in London, applied for the discharge of the prisoner, who was brought up in custody of the gaoler, no cause being shewn by any other party. The offence with which the defendant was charged was that of assisting one Thomas Watson, a deserter from the Coldstream Guards, to conceal himself; the latter part of the 25th section running in the following words: "And any person who shall assist any deserter, knowing him to be such, in deserting or concealing himself, shall forfeit for every such offence the sum of 20*l*." By a subsequent section all offences for which any penalties or forfeitures are imposed not exceeding 20*l*. may be determined, and the penalties recovered before a justice of the peace, under the provision of 3 Geo. 4, c. 23, and the 5 Geo. 4, c. 18 and it provides that, in all cases where there shall not be sufficient goods whereon any penalty or forfeiture can be levied, the offender may be committed and imprisoned for any time not exceeding six months. The objections to the warrant of commitment were as follow: 1st. That it did not allege that there was not sufficient distress whereon to levy the penalty, but merely recited that the said Matthew Gale had been directed to pay the said penalty of 20*l*. or to be imprisoned for six months, and that he had made default in immediate payment of the said sum not averring that there was no sufficient distress. 2nd. That it was not alleged that the offence had been proved upon oath, the expression being "that it was duly proved." (*R.* v. *Lewis*, 1 D. & L. 822.) 3rd. That it was not alleged that the hearing was in the prisoner's presence nor that he was called upon for his defence, nor that he had notice of the charge. 4th. That there was no express adjudication that any offence had in fact been committed. *Prisoner discharged.*

Wednesday, June 4.

REG. v. THE JUSTICES OF LANCASHIRE.

Under the 7 & 8 Vict. c. 101 (An Act for the further Amendment of the Laws relating to the Poor in England), the justices are bound to hear the application of a woman applying for an order of bastardy; and it is no answer to such application that the guardians of the union had previously, under the 4 & 5 Wm. 4, c. 76, and 2 & 3 Vict. c. 85, made an application for an order on the same party in respect of the same child, which order, on a hearing on the merits, was refused.

Martin, Q.C. and *Gray* shewed cause against a rule obtained by *Archbold*, calling upon three justices of Lancashire, to shew cause why a *mandamus* should not issue, directing them to proceed upon an application made before them by Ann Openshaw for an order upon William Porter Holt, as the putative father of a male bastard child.

It appeared that on the 9th of August last an application was made under the 2 & 3 Vict. c. 85, s. 1, to the justices assembled in petty sessions at Bury, in Lancashire, by the guardians of the Bury union, for an order upon the said W. P. Holt, whom they charged with being the putative father of a male child, then lately born a bastard of the body of the said Ann Openshaw, a single woman, who was then legally settled in a township within the said union, and which child, by reason of the inability of the mother to support it, was chargeable to the said township; that at the said petty sessions the said W. P. Holt declaring that he was desirous that the charge should be heard and determined at the general quarter sessions, entered into the recognizances required by the Act, and the hearing was accordingly referred to the quarter sessions; that at the next quarter sessions, held on the 21st of October following, the application was by consent adjourned to the then next quarter sessions, to be held on the 6th of January 1845, at which sessions the application was heard upon the merits, when the sessions refused to make any order, that on the 18th of January a notice was served on the said W. P. Holt under the 7 & 8 Vict. c. 101, s. 2, summoning him to attend before the justices to answer a charge made by the said Ann Openshaw, who had made complaint that she had been delivered, within six months of the passing of the said Act, of a male bastard child, of which the said W. P. Holt was the father, and who sought for an order to be made upon him for its support; that on the day appointed (the 31st of January) the said W. P. Holt appeared before the justices at petty sessions, and contended, that, as an application for an order had been made by the guardians of the poor of the Bury union under the 2 & 3 Vict. c. 85, which the Court of Quarter Sessions had on the merits refused to grant, such adjudication was final and conclusive, and that the justices in petty sessions had no power to hear an application for an order made by the woman herself; and the justices being of this opinion, refused to hear the application, whereupon this rule was obtained.

It was now contended, in opposition to the rule, that inasmuch as it was not in dispute that the two applications were in respect of the same child, the decision of the quarter sessions upon the application by the guardians was conclusive of the question, and that the mother had no legal right afterwards to apply for an order on her own behalf. (*Rex* v. *Tenant*, 2 Ld. Raym. 1423; 2 Stra. 716; *Pridgeon's* case, Cro. Car. 341, 350; *Rex* v. *Jenkins*, Ca. tem. Hard. 301.) That notwithstanding the proceedings at the quarter sessions were at the instance of the guardians, the application was in substance the same as that afterwards made by the mother; that the legislature never contemplated a double remedy—one by the guardians and one by the mother; and that if this rule were to be made absolute, it could only be made so upon the ground that the mother had a distinct right to apply, independently of the former application by the guardians, so that if the guardians had been successful, she could still on her own behalf have applied, which would be permitting two orders to be made in respect of the same child.

Archbold, contrà.—There has been no adjudication by the quarter sessions on the application by the guardians, the sessions merely refused to make an order, so that it would be impossible to set that decision up as an answer to the application by the woman. Under the 4 & 5 Wm. 4, c. 76, and the 2 & 3 Vict. c. 85, the woman was no party to the application; she was merely a witness, and derived no benefit from the order on the putative father; but under the 7 & 8 Vict. c. 101, she is the party who alone has a right to complain, and she herself receives the amount ordered to be paid. The justices by the latter Act have no discretion upon the subject; they are bound to hear the application of the mother.

WIGHTMAN, J.—This seems to me, according to the words of the Act of the 7 & 8 Vict. c. 101, to be free from doubt, and I think I am bound to make the rule absolute. The Act says, "that any single woman who may be with child, or who may be delivered of a bastard child after the passing of this Act, or who has been delivered of a bastard child" within the period of six calendar months before the birth of such child, or at any time thereafter, upon proof that the man alleged to be the father of such child has, within twelve months next after the birth of such child, paid money for its maintenance, make application to any one justice of the peace acting for the petty sessional division of the county, or for the city, borough, or place in which she may reside, for a summons to be served on the man alleged by her to be the father of such child; and if such application be made before the birth of the child, the woman shall make deposition upon oath stating who is the father of such child." Now that enables the woman undoubtedly to make the application; and then the Act goes on, "and such justice of the peace shall thereupon issue his summons to the person alleged to be the father of such child to appear," &c.; and afterwards the justices are directed to "hear the evidence of such woman and such other evidence as she may produce, and shall also hear any evidence tendered by or on behalf of the person alleged to be the father," &c. Now it seems to me that the Act obliges the justices to hear the case. It is said that there is some difficulty in the matter, as it may be that there has already been an order obtained on the putative father, at the instance of the guardians, and that the defendant may so be liable under two orders; but whether or not such may be the effect it is not material to consider, as I think the justices have no discretion; and I am bound, therefore, to make this rule absolute. *Rule absolute.*

BUSINESS OF THE WEEK.

Saturday.

REG. v. THE CORPORATION OF SANDWICH.—*Whitehurst*, Q.C. moved for leave to withdraw the demurrer herein and to amend. *Rule nisi.*

DOE *dem.* THE EARL OF EGREMONT and ANOTHER v. WILLIAMS.—*Kinglake*, Serjt. moved for a rule calling for the particulars of the objections relied upon by the plaintiffs herein. *Rule nisi.*

DOE *dem.* CLARK v. ROE.—*Tomlinson* shewed cause against the rule obtained by *Humfrey*, Q.C. herein, to set aside all the proceedings in this ejectment subsequent to the judgment against the casual ejector. *Rule absolute.*

REG. v. DAWSON.—*Charnock* moved for a *habeas corpus* to admit the defendant to bail, and for a *certiorari* to bring up the depositions.

Application granted.

WILLIAMS and OTHERS, Executors, v. VINES and ANOTHER.—*Bramwell* moved for a rule to review the Master's taxation herein. *Cur. adv. vult.*

Tuesday.

REG. v. THE JUSTICES OF CHESHIRE.—*Pashley* shewed cause. *Townsend*, contrà. *Cur. adv. vult.*

SWALLOW v. DAY.—*Whitehurst*, Q.C. moved to set aside the writ of summons and all subsequent proceedings herein, for irregularity, the summons not

being indorsed with the amount sought to be recovered. *Rule nisi.*

HARRISON *v.* YEOMANS.—*Robinson* moved to set aside the judgment herein, on the ground that there had been no notice of declaration.

Rule nisi, on production of an affidavit of merits.

GREEN *v.* JONES.—*Bittleston* moved to set aside the judgment and execution herein, on the ground of there having been no notice of declaration. *Rule nisi.*

Monday.

CROFTS *v.* BROWN.—*Pearson* moved for a rule to set aside the declaration herein. It was dated the 28th of May, and not delivered till the 29th. This he submitted was irregular. (*Hodson* v. *Pennell*, 4 M. & W. 373.)

Re HOPE.—*Gray* moved for a rule calling upon one Hope, an attorney of this court, to shew cause why he should not assign the applicant (his articled clerk) to another attorney of the name of Wyatt, and why he should not refund such part of the premium as the Master should certify he ought to return. His grounds were—first, ill-treatment of the applicant by Mrs. Hope; and secondly, that Mr. Hope had not sufficient business. *Rule nisi.*

REG. *v.* JUSTICES OF LINDSEY.—*Wildman* shewed cause. *Wilmore*, contrà. *Cur. adv. vult.*

Wednesday.

REG. *v.* ROYDS and ANOTHER.—*Butt*, Q. C. shewed cause against a rule obtained herein to discharge the Master's taxation. *Knowles*, Q. C. and *Archbold*, contrà. *Cur. adv. vult.*

Thursday.

REG. *v.* THE JUSTICES OF MIDDLESEX.—This case was part heard.

GARROD *v.* ROBERTS.—*Whigham* shewed cause against the rule obtained herein for judgment as in case of a nonsuit.

Discharged on a peremptory undertaking.

Bankrupt and Insolvent Courts.

COMMISSIONERS' COURTS.

Thursday, May 22.

(Before Mr. Commissioner FONBLANQUE.)

Re MARY ANN M'KENZIE.

The Court cannot entertain the petition of an insolvent where a vesting order has previously been made in the Insolvent Court.

The insolvent had filed a petition in this Court, and now came up, according to the practice of the Court, for an order for her discharge from custody. She had been in custody since the early part of 1842, upon an execution for damages and costs in an action of trespass. Afterwards, in the same year, a vesting order was made by the Insolvent Court at the instance of the plaintiff in the action, who was the detaining creditor; but the insolvent had not filed her schedule in that court.

Cooke, for the detaining creditor.—The subject-matter of this petition being now before the Insolvent Court, and a vesting order having been made therein, this Court has not power to discharge the insolvent from custody, but must dismiss her petition.

Hughes, for insolvent.—There is no clause in any of the Acts of Parliament relating to insolvents, which deprives this Court of its jurisdiction in such a case as the present. This Court has a concurrent jurisdiction with the Insolvent Court.

Mr. Commissioner FONBLANQUE.—I have no power in this case to make the order. All the property of the insolvent passed from her under the vesting order in the Insolvent Court. The authority of this Court to entertain the petition of an insolvent, depends upon the first clause of the 5 & 6 Vict. c. 116. That clause presupposes that the insolvent has some estate to be distributed. Here there is not any estate.

Petition dismissed.

Friday, May 23.

(Before Mr. Commissioner GOULBURN.)

Re LACEY and YATES' bankruptcy.

Proof of debt.

Where a bankrupt had agreed to accept a composition from a debtor, and give him a release, and the debtor had subsequently become a creditor of the estate, before such creditor can prove, he must produce the release.

Stodds tendered a proof against the joint estate for a debt of 25*l.* upon an accommodation bill. He produced in evidence a letter from the bankrupts, promising to take up the bill when due, which they neglected to do, and he was obliged in consequence to take it up himself. At the time the bill in question was drawn, the now claimant was a debtor to the bankrupts, but they had agreed to accept 10*s.* in the pound, and, when paid, to give a release for the remainder. The claimant swore that the composition had been paid, but the release had not been executed. He was entered in the bankrupt's balance sheet as a debtor to the estate for 21*l.* 10*s.*, and the debt was there marked as a bad debt. He had proved at a previous meeting a debt of 3*l.* 10*s.* being the difference between the 21*l.* 10*s.*, his debt to the estate, and the 25*l.* the amount of the accommodation bill.

His HONOUR refused to admit the proof, unless the release from the bankrupts was produced.

Monday, May 26.

(Before Mr. Commissioner SHEPHERD.)

Ex parte LAWRENCE & Co.

If a trader who has been summoned under the 5 & 6 Vict. cap. 122, sec. 11, does not file an affidavit, as required by the said Act, he will not be entitled to have the summons dismissed, or to be allowed his costs of appearance.

Messrs. Lawrence & Co., solicitors, had summoned a trader who resided at Liverpool to this Court, under the 5 & 6 Vict. cap. 122, sec. 11. The particulars of demand delivered to the defendant consisted of a bill of costs for business alleged to have been transacted by the plaintiffs as solicitors for the defendant. The defendant did not file an affidavit as required by the Act, but on the day named in the summons appeared in court, and took an objection that the plaintiff's bill of costs had not been taxed.

His HONOUR adjourned the hearing of the summons to a given day, and ordered the bill of costs to be taxed in the meantime. Upon taxation the bill of costs was very considerably reduced in amount, and the defendant immediately paid to the plaintiffs the amount allowed. This being the day to which the summons was adjourned,

Braynton, for the defendant (no person appearing for the plaintiffs), moved that the summons be dismissed with costs.

Mr. Commissioner SHEPHERD.—The defendant has not filed an affidavit, as he is required by the Act to do previous to his having the summons dismissed. I cannot therefore dismiss the summons, or give the defendant costs. And as nobody is here to support the summons it will drop.

COURT OF REVIEW.

Wednesday, May 7.

Ex parte HARRIS, *re* CLOSSON.

Clerk's salary—5 & 6 Vict. c. 122, s. 21.

Where, during the three months previous to the bankruptcy, a clerk had been absent from business, on account of illness, and with the concurrence of the bankrupt, he was held not to be thereby precluded from claiming under the above section.

By an agreement made upon the loan of a sum of money, the borrower engaged the lender as his clerk, at a large salary, the necessary duties of the lender being confined to the cash transactions of the business. There was an actual service in this capacity for a short time previous to the bankruptcy. Held, that the lender was entitled to 30l. under the above section.

This was an application for the reversal of an order made by Mr. Commissioner Fane. The petitioner Harris had, on the 24th of June, 1844, advanced to the bankrupt 550*l.* at 5 per cent. interest. In the agreement made upon that loan being effected, the bankrupt engaged to take Harris as his clerk, at a salary of 222*l.* 10*s.* a year, Harris's duties being confined to the cash department, &c. In the agreement there was a provision for Harris's entering into partnership with the bankrupt, if he thought fit, and there were also various stipulations as to the bankrupt's conduct of the business, which were evidently entered into for securing the repayment of the 550*l.* In November last, Harris being afflicted with asthma, was persuaded by the bankrupt to absent himself from the business, which he did until the bankruptcy, which happened in February last. The petitioner having claimed as a clerk the sum of 30*l.* under the 28th sec. of the 5 & 6 Vict. c. 122, Mr. Commissioner Fane disallowed the claim. This petition was then presented by way of appeal from the Commissioner.

W. M. James, for the petitioner, submitted that there was no necessity that the three months' service should be the last three months previous to the bankruptcy. The ill-health of the petitioner was a sufficient excuse for his absence, and as that absence was with the consent of the bankrupt, the service might be considered as still existing.

Allnutt, for the assignees, argued that the petitioner was not a clerk within the meaning of the section. There was nothing of the character of a servant about his engagement with the bankrupt. He appeared rather as a person embarking his money in the trade, and anxious to avoid the liability of a partnership. His duties were confined to that part of the business which it was important for him to attend to for the security of his money. There being no service also during the last three months, the petitioner was precluded from claiming under this section.

The CHIEF JUDGE said that this was a case in which, considering the cause of absence, he did not think there was that break in the service which would prevent this claim. As to the agreement, he would look into it, and would mention the next day whether he considered there was a sufficient service by the petitioner. If the claim were allowed, it would only be in preference to all other creditors. The costs of the assignees must of course be provided for first.

Note.—The claim was ultimately allowed.

Ex parte MEGAREY, *re* MEGAREY.

Contingent debt—Proof.

Where a business was given by will to A B, upon condition of his admitting an infant as a partner in the business upon his attaining 21, and in default to pay 1,000l. During the minority of the infant, A B became bankrupt, and it was held that the 1,000l. was a debt, which might be proved against the estate.

The particular question raised on this petition will sufficiently appear from the chief judge's judgment.

Swanston and *Chandless*, for the petitioner, cited *Ex parte Myers* (2 Dea. & Ch. 251).

Rogers, for the respondents, was not heard.

The CHIEF JUDGE.—A bankrupt before his bankruptcy took possession of his father's business as a coal merchant, and of the stock belonging to it, upon a certain condition, and by his doing so became personally liable to the fulfilment of that condition. The condition which he thus became personally liable to fulfil was, that in the event of a person then and still a minor attaining his majority, he should admit the minor into the full participation and advantage of one-third of the stock and profits of the business as a partner, and in default thereof should pay 1,000*l.* During the minority, the person under this condition became bankrupt, by which, in my judgment, with all deference to Mr. Swanston's argument, in which, however, I cannot agree, I must consider that for every substantial and practicable purpose it became impossible to fulfil one branch of this condition, viz. to admit him into the full participation and advantage of one-third of the stock and profits of the business. I am not at liberty to look at the possibility, whether probable or improbable, of this subsisting bankruptcy being superseded hereafter; nor to the possibility, whether probable or improbable, of this bankrupt continuing the business or resuming business. Continuing it, it cannot be, for there once having been an effectual bankruptcy, I apprehend it is a new trade, and not a continuance of the old business; my opinion being, that the old business is effectually destroyed by the bankruptcy. Then he becomes liable to pay 1,000*l.* absolutely, subject only to the contingency that the infant should die in its minority. That is a contingency capable of valuation. This point is open to this observation, that the contingency which renders the payment of the debt necessary, subject only to this circumstance, happens, not before the bankruptcy, but *eo instanti* with the bankruptcy. Assuming that to be as a mere personal obligation acquired by the bankrupt, it is generally the rule that a man cannot enter into a contract depending upon the event of his own bankruptcy. But there are some exceptions; one is, where a man upon his marriage receives a certain amount with his wife, either in settlement or otherwise, and contracts in her favour, in the event of his bankruptcy, to the extent of her fortune; that may be maintained, but not beyond, generally speaking. My opinion is, that a similar principle has application here. The obligation under which the bankrupt became liable arose in respect of assets which he obtained from another quarter, and therefore became a valid obligation. If this is to be received as a mere legacy, the claim accrued; but I have considered that this is not to be treated as a mere legacy. Upon the admitted facts, viewing it as a valid obligation, there is a contract for valuable consideration. There is, then, a personal liability on the part of the bankrupt to pay 1,000*l.* when this minor shall attain 21. That is agreed at the bar to be an interest capable of valuation, and so let it be.

THE LEGISLATOR.

Summary.

AN Ecclesiastical Courts Bill is passing through the Lords with the support and approval of every party. How, if at all, it has overcome the difficulties that have beset former projects we are entirely ignorant, not having seen a copy of the fortunate scheme. In the Commons it will doubtless meet with much opposition; for nothing less than a really efficient measure will be permitted to pass that assembly. It is probable, therefore, that whatever pleases the one will not satisfy the other; and thus one of the most monstrous abuses yet lingering unreformed, to the disgrace of the age and the shame of society, will continue for many years untouched by the hand of Reform. The *Small Debts Bill* is being hurried forward by its parent in breathless haste; and yet, only a few weeks ago, he declared in the House of Lords that he could see no defect in the measure this Bill is introduced to amend. Really a little more consideration should be given

the hasty schemes of Lord BROUGHAM. Experience might have taught our legislators the necessity for looking very closely at any of his handyworks. This very Bill, brief as it is, and excellent in principle, not only has many errors, but it is so entirely deficient of all provisions for the carrying out of its principle, that we fear it will prove altogether unmanageable. The term of imprisonment is a great deal too short. Power should be given for its extension to six months at least. Nor is there any limit as to the minimum of debt which is to subject the debtor to the process. As the Bill stands the Court of Bankruptcy may be occupied for half a day in the examination of a pauper who has incurred a debt of nine-pence at the huckster's. Then the Bill is silent as to the consequences of the imprisonment; whether it is to be a release from the debt, or whether the proceedings may be renewed on the reappearance of the debtor. The last clause is a covert attempt to defeat the decision of the Commissioners requiring the presence of an attorney. The principle of the Bill is so excellent, that the country would have great cause to regret were it to be defeated in its progress or rendered impracticable in the working through any defects in its framing: we therefore deprecate the hurrying of it onward, until full deliberation can be given to its contents, and the experience of practitioners brought in aid of its improvement.

Imperial Parliament.

PUBLIC BUSINESS TRANSACTED.

BILLS READ A FIRST TIME.

Friday, May 30.

Dog Stealing—"for the further prevention of the offence of Dog Stealing."

Monday, June 2.

Pious and Charitable Purposes—"to alter and amend the Laws relating to the disposition of property for pious and charitable purposes."

BILLS READ A SECOND TIME.

Friday, May 30.

Privy Council.

Monday, June 2.

Colleges, Ireland.

Thursday, June 5.

Merchant Seamen's Fund
Fresh Water Fishing.

BILLS READ A THIRD TIME AND PASSED.

Thursday, June 5.

Privy Council
Canal Companies' Tolls
Canal Companies' Carriers.

PRIVATE BUSINESS TRANSACTED.

BILLS READ A FIRST TIME.

Friday, May 30.

Birmingham and Gloucester Railway, Worcester Branch and Cheltenham Extension.

Monday, June 2.

London and Brighton Railway, Wandsworth Branch.

Tuesday, June 3.

Bristol Parochial Rates.

BILLS READ A SECOND TIME.

Friday, May 30.

Diss, Beccles, and Yarmouth Railway
Goole and Doncaster Railway.

Monday, June 2

Grimsby Docks
Molyneux's Estate
West London Railway.

BILLS READ A THIRD TIME AND PASSED.

Friday, May 30.

York and North Midland Railway, Bridlington Branch
York and Scarborough Railway Deviation
Ely and Huntingdon Railway
Hull and Selby Railway
Bristol and Exeter Railway Branches
Whitby and Pickering Railway
Lynn and Ely Railway.

Monday, June 2.

Yoker Road
Chester Improvement
Spoad (Clun) Inclosure
Stokenchurch Road
Midland Railways, Nottingham and Lincoln
Berks and Hants Railway
Scottish Central Railway
Southampton and Dorchester Railway
Taunton Gas
Brighton, Lewes, and Hastings Railway (Hastings, Rye, and Ashford Extension).

Tuesday, June 3.

Glasgow Markets.

Thursday, June 5.

Leicester Freemen's Allotments
Kendal and Windermere Railway
Leeds and West Riding Junction Railway
Great Grimsby and Sheffield Junction Railway
Guildford Junction Railway.

SESSIONAL PRINTED PAPERS.

Par. Num.
311. Bill—Smoke Prohibition, amended
344. — Banking, Scotland, amended
345. — Banking, Ireland, amended
300. Copper, Tin, Zinc, Lead, Iron, &c.—Accounts
307. Banks of Issue, Scotland; Joint Stock Banks, Scotland—Returns
308. Corporal Punishments—Returns
323. London University—Return
325. Coal Meters—Return
336. Howard, Thomas Burton—Copy of Speaker's Warrant
337. Printed Papers, Howard and Gossett—Copy of the Record in the Court of Queen's Bench
338. Printed Papers, Howard *v.* Gossett—First Report of Committee
326. Malta Currency—Copies of Proclamation and Correspondence
Portendic—Papers
324. Railway Plans deposited with the Board of Trade—Return
335. Municipal Corporations, Ireland—Return
289. Smoke Prevention—Report
319. Annuities—Return
Public Records—Sixth Report of the Deputy Keeper
Public General Acts—Caps. 21, 22, and 23
Titles, Contents, and Indexes to the Sessional Printed Papers of Session 1844
341. Fisheries—Returns
National Education, Ireland—Eleventh Report of Commissioners
Metropolis Improvement—Fourth Report of Commissioners
327. East India Railway Communication—Copy of a Despatch
334. Banks, Ireland—Return
Oldham Cotton Mill and Northleach Prison—Report of Commissioners
266. Scilly Islands, Post-office Arrangements—Copies of Communications, &c,
352. Bank Notes, Ireland—Accounts.

Bills in Progress.

A Bill intituled "An Act to facilitate the Conveyance of Real Property."

1. *Persons may use forms in first schedule.*—Whereas it is expedient to facilitate the sale and conveyance of freehold lands: Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that it shall be lawful and sufficient for any person seised of or interested in such lands to convey or assure the fee simple of the same lands to any other person by a deed, to be made according to the forms set forth in the first schedule to this Act annexed.

2. *Forms in second schedule may be added, &c.*—That it shall be lawful for any person adopting or employing the deed set forth in the first schedule to this Act to insert in such deed the forms set forth in the second schedule to this Act, or any of them, and also to insert therein any recital or any other clause or provision whatsoever.

3. *Where words of column 1 of second schedule employed, deed to have same effect as if words in column 2 were inserted.*—That whenever any party to any such deed shall employ in any such deed any of the forms of words contained in column 1 of the second schedule hereto annexed, and distinguished by any number therein, such deed shall be taken to have the same effect and be construed as if such party had inserted in such deed the form of words contained in column 2 of the same schedule, and distinguished by the same number as is annexed to the form of words employed by such party.

4. *Instrument to have th. effect of a lease and release.*—That every such deed shall, as between the parties thereto, and as to the lands therein comprised, have such and the same force and effect and be construed as a lease and release by and between the same parties.

5. *Form to be valid without indenting or sealing.*—That every such deed shall be valid and effectual without indenting, and also without sealing, except in the case of a corporation, but shall have the same effect and operation as if the same had been indented and sealed.

6. *Acknowledgment of receipt in deed to be effectual.*—That the acknowledgment of the receipt of the consideration money contained in the body of such deed shall have the same effect in discharging the lands therein comprised, and the parties thereto, as if an express discharge had been inserted in such deed.

7. *Lands comprised in deed to be free from dower, unless otherwise expressed.*—That from and immediately after the execution of any such deed as aforesaid the lands therein comprised shall be held to be well and effectually vested in the grantee thereof, free from the dower of any present or future wife, unless otherwise expressed in such deed.

8. *Deed to include all houses, &c. and the reversion and all the estate.*—That every such deed, unless any exception be specially made therein, shall be held and construed to include all houses, outhouses, edifices, barns, stables, yards, gardens, orchards, commons, trees, woods, underwoods, mounds, fences, hedges, ditches, ways, waters, watercourses, liberties, privileges, easements, profits, commodities, emoluments, hereditaments, and appurtenances whatsoever to the lands, tenements, and hereditaments therein comprised, belonging, or in anywise appertaining, and also the reversion or reversions, remainder and remainders, yearly and other rents, issues, and profits of the same lands, tenements, and hereditaments, and of every part and parcel thereof, and all the estate, right, title, interest, inheritance, use, trust, property, profit, possession, claim, and demand whatsoever, both at law and in equity, of the grantor, in, to, out of, or upon the same lands, tenements, and hereditaments, and every part and parcel thereof, with their and every of their appurtenances.

9. *To whose acts covenants shall extend.*—That where the grantor in any such deed has acquired by descent the lands thereby conveyed or assured the covenants contained in the said second schedule, and so employed by him, shall extend also to the acts, deeds, neglects, and defaults of the person or persons from whom he so acquired the same; and that where the lands thereby granted, conveyed, or assured were devised to such grantor, such covenants shall extend also to the acts, deeds, neglects, and defaults of the testator who devised the said lands to the said grantor.

10. *Remuneration for deed under the act not to be by length only.*—That in taxing any bill for preparing and executing any deed under this Act it shall be lawful for the taxing officer, and he is hereby required, in estimating the proper sum to be charged for such transaction, to consider not only the length of such deed, but the skill and labour employed, and responsibility incurred in the preparation thereof.

11. *Deed failing to take effect by this Act to be as valid as if Act not made.*—That any deed which shall fail to take effect by virtue of this Act shall nevertheless be as valid and effectual, and shall bind the parties thereto, so far as the rules of law and equity will permit, as if this Act had not been made.

12. *Construction clause.*—That in the construction and for the purposes of this Act and the schedules hereto annexed, unless there be something in the subject or context repugnant to such construction, the word "lands" shall extend to all freehold tenements and hereditaments, whether corporeal or incorporeal, or any undivided part or share therein; and every word importing the singular number only shall extend and be applied to several persons or things as well as one person or thing; and every word importing the masculine gender only shall extend and be applied to a female as well as a male.

SCHEDULES TO WHICH THIS ACT REFERS.

THE FIRST SCHEDULE.

This deed, made the —— day of —— one thousand eight hundred and forty—— [*or other year*] in pursuance of an Act made and passed in the —— reign of her Majesty Queen Victoria, intituled [*set forth title of this Act*], between [*here insert names of parties and recitals, if any,*] Witnesseth, that in consideration of —— pounds sterling now paid by the said [*grantee*] to the said [*grantor*] (the receipt whereof is hereby by him acknowledged), he the said [*grantor*] doth grant unto the said [*grantee*], his heirs and assigns for ever, All that, &c. [*the parcels.*] [*Here insert covenants or any other provisions.*] In witness whereof the said [*grantor*] hath hereunto subscribed his name.

[*Grantor.*]

Signed and delivered by the above named [*grantor*] in the presence of *A. B. of &c.*

THE SECOND SCHEDULE.

Column I.—1. The said [*name of covenantor*] covenants with the said [*name of covenantee*] that he has the right to convey the said lands to the said [*covenantee*].

Column II.—1. And the said covenantor doth hereby, for himself, his heirs, executors, administrators, and assigns, covenant, promise, and agree with and to the said covenantee, his heirs and assigns, in manner following; (that is to say,) that for and notwithstanding any act, deed, matter, or thing by him done, executed, committed, or knowingly or wilfully permitted or suffered, to the contrary, he the said covenantor now hath in himself good right, full power, and absolute authority to convey the said lands and other the premises hereby conveyed, or intended so to be, with their and every of their appurtenances, unto and to the use of the said covenantee, in manner aforesaid, and according to the true intent of these presents.

Column I.—2. And that the said [*covenantee*] shall have quiet possession of the said lands.

Column II.—2. And that it shall be lawful for the said covenantee, his heirs and assigns, from time to time and at all times hereafter, peaceably and quietly to enter upon, have, hold, occupy, possess, and enjoy the lands and premises hereinbefore conveyed, or intended so to be, with their and every of their appurtenances, and to have, receive, and take the rents, issues, and profits thereof and of every part thereof to and for his use and benfit, without any let, suit, trouble, denial, eviction, interruption, claim, or demand whatsoever of, from, or by him the said covenantor or his heirs, or any person claiming or to claim by, from, under, or in trust for him.

Column I.—3. Free from all incumbrances.

Column II.—3. And that free and clear, and freely and absolutely acquitted, exonerated, and for

ever discharged, or otherwise by the said covenantor or his heirs well and sufficiently saved, kept harmless, and indemnified of, from, and against any and every former and other gift, grant, bargain, sale, jointure, dower, use, trust, entail, will, statute, recognizance, judgment, execution, extent, rent, annuity, forfeiture, re-entry, and any and every other estate, title, charge, trouble, and incumbrance whatsoever, made, executed, occasioned, or suffered by the said covenantor, or by any person claiming or to claim by, from, under, or in trust for him.

Column I.—4. And the said [*covenantor*] covenants with the said [*covenantee*] that he will execute such further assurances of the said lands as may be requisite.

Column II.—4. And the said covenantor doth hereby covenant and promise and agree with and to said covenantee, his heirs and assigns, that he, his heirs, executors, or administrators, and all and every other person whosoever having or claiming, or who shall or may hereafter have or claim, any estate, right, title, or interest whatsoever, either at law or in equity, in, to, or out of the said lands and premises hereby conveyed or intended so to be, or any of them, or any part thereof, by, from, under, or in trust for him, them, or any of them, shall and will from time to time and at all times hereafter, upon every reasonable request and at the costs and charges of the said covenantee, make, do, execute, or cause to be made, done, or executed, all such further and other lawful acts, deeds, things, devices, conveyances, and assurances in the law whatsoever, for the better, more perfectly, and absolutely conveying and assuring the said lands and premises hereby conveyed or intended so to be, and every part thereof, with their appurtenances, unto the said covenantee, his heirs and assigns, in manner aforesaid, as by the said covenantee, his heirs and assigns, his or their counsel in the law, shall be reasonably devised, advised, or required, so as no such further assurances contain or imply any further or other covenant or warranty than against the acts and deeds of the person who shall be required to make or execute the same, and his heirs, executors, or administrators, only, and so as no person who shall be required to make or execute such assurances shall be compellable for the making or executing thereof to go or travel from his usual place of abode.

Column I.—5. And the said [*covenantor*] covenants with the said [*covenantee*] that he will produce the title deeds enumerated hereunder, and allow copies to be made of them, at the expence of the said [*covenantee*].

Column II.—5. And the said covenantor doth hereby, for himself, his heirs, executors, administrators, and assigns, covenant, promise, and agree with and to the said covenantee, his heirs and assigns, that he or they shall and will, unless prevented by fire or other inevitable accident, from time to time and at all times hereafter, at the request, costs, and charges of the said covenantee, his heirs or assigns, or his attorney, solicitor, agent, or counsel, at any trial or hearing in any action or suit at law or in equity or other judicature, or otherwise, as the occasion shall require, produce all and every or any deed, instrument, or writing hereunder written, for the manifestation, defence, and support of the estate, title, and possession of the said covenantee, his heirs or assigns, to the said lands and premises hereby conveyed, or intended so to be, and, at the like request, costs, and charges, shall and will make and deliver, or cause to be made and delivered, true and attested copies of the same deeds, instruments, and writings respectively, or any of them, and to permit and suffer such copies and abstracts to be examined and compared with the said original deeds by the said covenantee, or such person as he shall for that purpose direct and appoint.

Column I.—6. And the said [*covenantor*] hereby covenants with the said [*covenantee*] that he has done no act to incumber the said lands.

Column II.—6. And the said covenantor, for himself, his heirs, executors, and administrators, doth hereby covenant, promise, and agree with and to the said covenantee, his heirs and assigns, that he hath not at any time heretofore made, done, committed, executed, or wilfully or knowingly suffered, any act, deed, matter, or thing whatsoever whereby or by means whereof the said lands and premises hereby conveyed, or intended so to be, or any part or parcel thereof, are, is, or shall or may be in anywise impeached, charged, affected, or incumbered in title, charge, nature, or otherwise howsoever.

Column I.—7. And the said [*name of releasor*] releases to the said [*name of releasee*] all his claims upon the said lands.

Column II.—7. And the said releasor hath remised, released, and for ever quitted claim, and by these presents doth remise, release, and for ever quit claim, unto the said releasee, his heirs and assigns, all and all manner of right, title, interest, claim, and demand whatsoever, both at law and in equity, into and out of the said lands and premises hereby granted, or intended so to be, and every part and parcel thereof, so as that neither he, nor his heirs, executors, administrators, or assigns, shall, nor may at any time hereafter, have, claim, pretend to, challenge, or demand the said lands and premises, or any part thereof, in any manner howsoever; but the said releasee, his heirs and assigns, and the same lands and premises, shall from henceforth for ever hereafter be exonerated and discharged of and from all claims and demands whatsoever which the said releasor might or could have upon him in respect of the said lands or upon the said lands.

HOUSE OF LORDS.

SMALL DEBTS BILL.

TUESDAY, June 3. — On the motion of Lord BROUGHAM, the above bill passed through committee. The noble and learned lord stated that it contained all the remedies which the petitioners had suggested.

ECCLESIASTICAL COURTS BILL.

THURSDAY, June 5.—Lord COTTENHAM moved, that the House resolve itself into committee upon this bill.—The Bishop of EXETER, after adverting to the circumstances in which the Ecclesiastical Courts Bill of 1843 was introduced, amended, and finally withdrawn, said that in this bill it was attempted to give jurisdiction in spirituals to a lay court, which it was not competent for the State to give; and therefore he moved that the bill be committed that day six months.—The LORD CHANCELLOR said, he gave his support to the bill, because he found that it was very nearly the same as that introduced by the Government last session.—Lord BROUGHAM suggested that the bill be referred to a select committee.—Lord COTTENHAM said, this bill had been sanctioned by all the members of the Government in that house, and had passed the second reading by the unanimous vote of their lordships, and it ought not now to be stopped in its course. The evil was admitted,—ought he to be prevented from applying a remedy?—Lord ABINGER objected to the bill. The ecclesiastical courts had subsisted for 700 years, and he thought the abolition of those ancient jurisdictions was uncalled for. He should support the amendment for referring the bill to a select committee.—The LORD CHANCELLOR put the question that the bill be referred to a select committee, and declared that the "Contents" had it.

HOUSE OF COMMONS.

TITHE SETTLEMENT.

TUESDAY, June 3.—Viscount ERRINGTON said there were a great number of tithe cases which were waiting to be settled by a decision of the law courts in one case which was to rule the other cases, amounting to some hundreds in number. The judges, however, had not yet come to any decision on the point in dispute, and this had occasioned some inconvenience. He wished to ask the right honourable baronet whether he knew when it was likely that a decision would be arrived at on the subject?—Sir J. GRAHAM said he believed there were between 200 and 300 cases to be decided on a nice question of law. The Vice Chancellor had given a decision—an appeal had been made to the Lord Chancellor—the question had been referred to the Court of Common Pleas; but the judges had not yet given their judgment. He had no doubt, however, that the judgment would be received as final, and would be very soon given.

RAILWAY BILLS NOW IN THE HOUSE OF LORDS.—In addition to the four railroad bills, of which notice has been given for the second reading, the following bills have reached the House of Peers from the Commons. They have been read a first time, and the parties promoting and opposing them have attended before the Standing Order Committee of the House of Lords, in order to examine into the preliminary evidence touching the Standing Orders, which, if they have been complied with, and the bills are opposed, then Select Committees, of five Peers each, will be appointed for such as come under that description, and the evidence will be regularly gone into. The Bills in question are—the Wilts, Somerset, and Weymouth, the Bristol and Exeter branches, the York and North Midland (Bridlington branch), the Dunstable, and Birmingham and London, the Bedford and London, the York and Scarborough Deviation, the Hull and Selby (Bridlington branch), the Whitby and Pickering, the Scottish Central, the Eastern Counties (Whittlesea Deviation), the Exeter and Crediton, and the Midland Railway (Nottingham to Lincoln) bills. On Monday next, the Chester and Holyhead Railway Bill will be submitted to the Standing Order Committee, and on Tuesday, the Shrewsbury, Oswestry, and Chester, the Manchester and Leeds line (Burnley, Oldham, and Heywood branches), will be subjected to the same ordeal, as well as the Southampton and Dorchester, the Midland Railways (Syston to Peterborough); and the Berks and Hants Railway Bills. With respect to the Midland Railways (Syston to Peterborough) Bill, a petition has been presented to the house from the Earl of Harborough, praying to be heard by counsel against it; and a petition from the Earl of Wilton, with a similar prayer against the Leeds, Dewsbury, and Manchester Railway Bill, has been also presented and laid on the table.

PROJECTED RAILWAYS BEFORE PARLIAMENT.—A very curious return has just been laid before Parliament, in relation to projected railways now before Parliament. It thence appears that the railways of which plans and sections have been deposited with the Railway Department of the Board of Trade amount in length, for Great Britain and Ireland, to no less than 8,080 miles, being thus nearly 24 times the length of England itself! The following are the proportions of the lines proposed to be made in the different countries of the United Kingdom:—England has, as her share of these projected railways, 6,086 miles and a fraction; Scotland has about 1-10th the quantity—the proposed lines in that country only extending to 595 miles; Ireland, however, is far a-head of Caledonia in this respect; and the sister isle has no fewer than 1,401 miles of railway projected to be laid down therein. These statements have regard only to the projected lines which are this session before Parliament for consideration. They do not include any portion of the numerous lines that have since and are weekly, or rather daily, being brought forward, but merely give the length of the railways, plans for which were deposited with the Board of Trade towards the close of last year, in accordance with the directions issued by the Railway Department of that board.—*Globe.*

THE MAGISTRATE.

Summary.

ALL the sixteen new Bastardy Forms are now printed, and any quantity required may be had on order. The members of the *Verulam Society* will be entitled to them at the usual reduction.

The 9th number of *Bittleston and Symons's Magistrates' Cases*, commencing those of Easter Term, will be ready on Monday, and the following number will be issued in a few days.

Nothing has occurred requiring comment here.

SECOND ORDERS OF REMOVAL.

The case of *Reg.* v. *Bolton*, of which a full report appears in this LAW TIMES, is one of much importance, and clearly defines the principle on which a second order of removal may be made without a final disposal of the first, even where a case is granted. But the point in which this case is of most utility is the sanction it gives to a simple statement of *relief* received by the pauper as sufficient evidence of chargeability without any certificate or other proof whatever. We have always held this to be sufficient, and we consider the decision to be quite in accordance with *Reg.* v. *High Bickington* (1 Bit. & Sym. 1), where Patteson, J. says, if relief was given, it was easy to say so. S.

CAPITAL PUNISHMENTS.

By direction of Sir James Graham, a copy of the following letter and important rule, relative to the treatment of prisoners sentenced to death, has just been issued to the chairmen of the quarter sessions for every county in England and Wales:—

"Whitehall, June 2, 1845.

"Sir—I am directed by Secretary Sir James Graham to transmit to you the inclosed rule relative to the treatment of prisoners condemned to death, and to the proceedings to be observed on the day of an execution, on the occasion of a condemned sermon, or of the performance of divine service after sentence of death has been pronounced. This rule has been drawn up after careful consideration of the subject; and Sir James Graham requests that you will lay it before the magistrates assembled at the next general sessions for the county of , with his recommendation that they should add it to the rules in force for the government of the county prisons, and submit it to him for his certificate of approval, in accordance with the provisions of the 5th and 6th Will. IV., c. 38, s. 2.

"Sir James Graham is desirous that the attention of visiting magistrates should be directed to that part of the rule which provides that no persons, except the authorities and officers of the prison, shall have access to such prisoners.

"I have the honour to be, Sir, your obedient servant, S. M. PHILLIPS.

"The Chairman of the Quarter Sessions for the county of ."

PRISONERS CONDEMNED TO DEATH.

"Every prisoner condemned to death shall be confined in some safe place within the prison, apart from

all other prisoners, and shall be allowed such a dietary as the visiting justices may direct, and exercise in the open air for a reasonable time every day. He may be visited by his relations, friends, and legal advisers, at his own request, by an order in writing from any visiting justice. No other person shall have access to such prisoner, except the governor or other officer of the prison, the chaplain and surgeon; or if such convict shall be of a religious persuasion differing from that of the established church, a minister of that persuasion, attending at his request. If any person, however, shall make it appear to a visiting justice that he has important business to transact with the convict, such visiting justice may grant permission in writing to such person to have a conference with the convict, in the presence of the governor.

"No person except the proper authorities, the prison officers, and the police on duty, shall be admitted into the interior of the prison on the day of an execution, nor on occasion of a condemned sermon, nor during the performance of divine service after sentence of death has been pronounced. Provided that this rule shall not be interpreted to exclude a minister of a religious persuasion differing from that of the established church from attending at his own request a convict of such persuasion."

THE LAWYER.

Summary.

The crowding business of the Term compels another double number, and it will be found to contain many important and interesting Judgments.

The Judges have announced their intention to continue their sittings till the commencement of the Circuits; their object being, if possible, to clear off all arrears! But will not this interfere most inconveniently with the Quarter Sessions?

The Circuit Commissioners will not report until the Spring.

NOTES ON LEADING CASES.

No. I.

Arrest under a writ of ca. sa.—Under what circumstances is the sheriff entitled to enter the house of the defendant and break open the doors, &c.?—Entry into the house of a stranger for the purpose of arresting the defendant.

Morrish v. Murray and Another (13 M. & W. 52).

The present case, in which the Court of Exchequer has confirmed the decision given thirty years ago by the Court of Common Pleas, in *Johnson* v. *Leigh* (6 Taunt. 246), affords the opportunity of briefly explaining the state of the law by which the right of the sheriff under a writ of *ca. sa.* to enter the house of the person sought to be arrested, or in which he is residing or concealed, is regulated. The general principle of the common law of England is well known to be, as laid down in the first resolution of *Semayne's* case (5 Coke, 91), that "the house of every one is to him as his castle and fortress, as well for his defence against injury and violence as well for his repose;" but this principle has from time to time received, as indeed it obviously requires, very material qualifications. The principal exception to it consists of the right which the law gives to its officers to enter into the house of those who have transgressed the law, for the purpose of arresting their persons, or taking possession of their goods. Accordingly, "where a felony hath been committed or a dangerous wound given, or even where a minister of justice comes armed with process, founded upon a breach of the peace, the party's own house is no sanctuary for him; doors may in any of these cases be forced, the officer having first given due notice of his business, and demanded admission and been refused. In these cases, the jealousy with which the law watches over the public tranquillity (a laudable jealousy it is)—the principles of political justice—*ne maleficia remaneant impunita*, conspire to supersede every pretence of private inconvenience, and oblige us to regard the dwellings of malefactors, when shut against the demands of public justice, as no better than the dens of thieves and murderers, and to treat them accordingly." (Sir Michael Foster, Discourse on Homicide, p. 32?.) But even in *criminal* cases, although a felony has been actually committed, no officer is entitled *mero motu* to enter the house of the guilty party. He must first obtain a warrant from a magistrate for the purpose. Upon process in *civil* suits, however, the law is still more indulgent, and in such suits "the officer cannot justify breaking open an outer door or window of the defendant's house in order to execute process. If he do, he is a trespasser (ib. p. 319). But the rule that every man's house (by which is meant his *dwelling-house* alone, *Penson* v. *Browne*, 1 Sid. 186) is his castle, when applied to arrests in legal process, is confined to the breach of windows and outer doors; and, if it be necessary for the purpose of executing the process, the officer, having once entered by an outer door, accidentally left open, or opened from within, may break open inner doors, cupboards, trunks, &c. even without first demanding admission. (*Lee* v. *Gansel*, Cowp. 1; *R.* v. *Bird*, 2 Show. 87; *Hutchinson* v. *Birch*, 4 Taunt. 619.) If the officer having thus entered by an open door and searched *the house of the defendant*, finds that he is not within the house, his entry is still justified, for his own house is the most natural place in which to find either the man or his goods. But if the sheriff suspects that the defendant, whom he seeks to arrest, has secreted himself or his property in the house of a third party, and upon that suspicion breaks open and enters the stranger's house, "he can," according to the words of Mr. Baron Alderson, in the case at the head of these remarks, "only be justified by the event." If it turn out that the defendant is not in the house, or has no goods here, he is a trespasser. (*Johnson* v. *Leigh*, 6 Taunt. 215; *Hutchinson* v. *Birch*, 4 Taunt. 627; and see *Ratcliffe* v. *Burton*, 3 B. & P. 229.) He is no less a trespasser in law, if, even having reasonable grounds for suspicion that the defendant is in the house of a stranger, he enters without breaking any door; the result shewing that the defendant was not actually in the house at the time. Gibbs, C J. in *Cooke* v. *Birt* (5 Taunt. 769), says, "The sheriff, finding the door open, may enter the house of a stranger, and is justified if the defendants' goods are in it, but it is at his own risk;" and Dallas, J. uses nearly the same language. If the party sought to be arrested, or the goods to be seized, are found in the house, the entry, whether with or without force, is justified; for by the 5th resolution in *Semayne's* case, "the house of any one is not a castle or privilege but for himself, and shall not extend to protect any person who flies to his house, or the goods of any other which are brought and conveyed into his house to prevent lawful execution, and to escape the ordinary process of law; for the privilege of his house extends only to him and his family, and to his own proper goods, or to those which are lawfully and without fraud or covin there, and therefore in such cases, after denial on request made, the sheriff may break the house." If the party or goods are not found in the stranger's house, the entry upon the general rule of law is not justifiable, but it has been suggested by Mr. Smith (Leading Cases, 1, p. 45), that "circumstances might exist under which the sheriff would be justified in entering the house of a stranger upon suspicion, though the defendant were not actually there;"—and putting the case of the defendant being *on a visit*, with the stranger, he contends that the dwelling-house of the stranger must in such a case be regarded *pro tempore* as the defendant's dwelling-house, so as to entitle the sheriff to enter, upon th principle of its being the natural place both for him and for his goods to be found in. In support of this view he cites the *dictum* of Lord Loughborough, in *Sheers* v. *Brookes* (2 H. Black. 120), who there says, "I see no difference between a house of which he" [the principal whom his bail had sought to arrest] "is solely possessed, and a house in which he resides by consent of another." But, surely, the distinction between the owner and admitted inmate of a house is frequently most material; as, for instance, in an indictment for stealing in a dwelling-house, where an error as to the allegation of ownership would be fatal (*Rex* v. *White*, 1 Leach, C.C 252; *R.* v. *Woodward*, 1 Leach, C.C. 253); and, even with regard to the arrest or seizure by the sheriff, it would seem to be unjust to expose a stranger, receiving a friend into his house, to the inconvenience of an useless entry whenever the officer should suspect his defendant to be within. In almost every case upon the subject it is distinctly laid down that the entry shall or shall not be justified "by the " and these are the very words used in the recent case, in the Exchequer, by Alderson, B., after the case of *Sheers* v. *Brooks*, and the *dictum* of Lord Loughborough had, in the argument, been called to his attention. "If," said his lordship, in *Morrish* v. *Murray*, "a sheriff enters the house of the defendant himself, for the purpose of arresting him or taking his goods, he is justified if he has reasonable grounds of believing that the party (or his goods) is there; but here the party to be arrested was not *found* in the house of the plaintiff, and *therefore* the defendants were not justified." As to the other case, alluded to by Mr. Smith, in which the sheriff might justify an entry into the house of a stranger upon bare suspicion, viz. where the stranger had fraudulently inveigled the sheriff into a belief that the defendant was in his house, such conduct might probably be regarded as a persuasion, and consequently as a license to enter, and it would not therefore constitute an exception to the general rule of law, as above stated. It seems only necessary to add, that if the defendant, after being arrested, escape, the sheriff may break open either his own house or that of a stranger, for the purpose of retaking him. (Foster on Homicide, 319-20; *Anon.* 6 Mod. 105; Lofft, 390.) But that in this, as in all cases, criminal or civil, before an outer door can be broken open, admission must first be demanded. (*Launock* v. *Brown*, 2 B. & A. 592; Hale, 2 P.C. 117; *Gunner* v. *Sparks*, 1 Salk. 79; *White* v. *Wilsheire*, 2 Roll. R. 138.) In *Morrish* v. *Murray*, it was (secondly) held that where a judge, on the trial, thinking that the defendants are entitled to a verdict on a certain issue, at the same time directs the jury to assess contingent damages, in the event of his being mistaken in a point of law, and does this in the presence of the counsel on both sides, who by their silence agree to the arrangement, the verdict thus found must stand, and a *new trial* cannot be moved for on the ground of misdirection.

This case may be noted at pp. 44, 45 of Smith's Leading Cases, and at p. 405 of Chitty on Pleading, vol. iii. (7th ed.).

COURT PAPERS.

TRANSFER OF CHANCERY CAUSES.

By order of the Lord Chancellor, the under-mentioned causes are this day (June 5) transferred from the List of the Vice-Chancellor of England to that of Vice-Chancellor Wigram:—

Cocksedge v. Cocksedge, 2 ca	Welsford v. Everett
Wheeler v. Gough	Williams v. Ewart
Pomfret v. Bak	Hardy v. Byron
Adie v. Walford	Shafto v. Shafto
Bateman v. Maitland, 2 cau.	Oakes v. Bear
Bartlett v. Bartlett	The Attorney-gen. v. Harrow School
Impey v. Impey	Powell v. Cockerell
Taylor v. Jewitt	Wilmot v. Pike
Bishop v. Wise	Bateman v. Maitland
Walford v. Adie	Harbridge v. Wogan, 2 caus.
Atkinson v. Boyes	
Foster v. Foster	

EXCHEQUER OF PLEAS.

Sittings at Nisi Prius in Middlesex and London, before the Right Hon. Sir Frederick Pollock, Knt. Lord Chief Baron of her Majesty's Court of Exchequer, after Trinity Term, 1845.

MIDDLESEX.

Friday	June 13	Common Juries
Saturday	14	Customs and Common Juries
Monday	16	Customs and Common Juries
Tuesday	17	Excise and Common Juries
Wednesday	18	Common Juries
Thursday	19	Common Juries
Friday	20	Common Juries
Saturday	21	Special Juries.
Monday	23	Special Juries.
Tuesday	24	Special Juries.
Wednesday	25	Special Juries.
Thursday	26	Special Juries.

LONDON.

Saturday	June 14	To adjourn only
Friday	27	Adjournment day. Common Juries
Saturday	28	Common Juries
Monday	30	Common Juries
Tuesday	July 1	Common Juries
Wednesday	2	Common Juries
Thursday	3	Common Juries
Friday	4	Special Juries.
Saturday	5	Special Juries.
Monday	7	Special Juries.
Tuesday	8	Special Juries.
Wednesday	9	Special Juries.
Thursday	10	Special Juries.

The Court will sit at half-past nine o'clock.

COURT OF QUEEN'S BENCH.

TRINITY TERM, 8 VICT. JUNE 3.

This Court will, on Friday the 13th, Saturday the 14th, Thursday the 19th, and on all the other days (except Sundays) of this instant June, and on Tuesday, July the 1st, and the three following days, hold sittings and dispose of business in the Crown Paper, the Special Paper, the New Trial Paper, and will give judgment in cases then pending.

By the Court.

COURT OF EXCHEQUER.

TRINITY TERM, 8 VICT.

This Court will, on Wednesday, the 18th day of June instant, hold sittings, and will proceed in disposing of the business now pending in the Special Paper, on the said 18th day of the said month, and on every following day (Sundays excepted), until and inclusive of Thursday, the 10th day of July next; and on the said 18th day of June instant, and every following day (Sundays excepted), until and inclusive of Thursday, the 10th day of July next, will also proceed in disposing of the business now pending in the Paper of New Trials. BY THE COURT.

Read in open Court, EDW. BENNETT.

SHERIFF'S COURT, RED LION-SQUARE.—PROCLAMATIONS OF OUTLAWRY.—Thursday being county day, Mr. Hemp, the officer to the sheriff, made proclamation in the usual manner, and the following persons not answering when called, were declared outlaws at the suit of their several creditors:—Sir Charles Edward Gray, Knight; Patrick Leonard O'Reilly, Richard Gay, Charles Whyte, Mortmore Percy Drummond, at the suit of four several plaintiffs; Henry Whittaker, the Rev. George Brydges Lee Warner, Lempster Bulkley, Charles Irvine, H. C. S. Irvine, Crew Read, Alexander Farquhar, Thomas Elisha Brummall, M. R. Fitzhenry, James Duthie, and Robert Montgomery Martin.

GENERAL ORDERS AND RULES OF THE HIGH COURT OF CHANCERY.

(*Continued from p.* 183.)

15. If a defendant is ordered to answer amendments and exceptions together, he is to put in his further answer and his answer to the amendments of the bill within four weeks after he is served with notice of the amendment of such bill. If he does not, and if he procures no enlargement of the time allowed, he is subject to the following liabilities:—
    1. An attachment may be issued against him;
    2. He may be committed to prison, and brought to the bar of the court;
    3. The plaintiff may file a traversing note, or proceed to take the bill *pro confesso* against him.
16. If a defendant having already answered is served with a subpœna to appear to and answer an amended bill, he is to plead, answer, or demur, not demurring alone, to such amended bill, within four weeks after an appearance thereto has been entered by or for him. If he does not, and if he procures no enlargement of the time allowed, he is subject to the following liabilities:—
    1. An attachment may be issued against him;
    2. He may be committed to prison, and brought to the bar of the Court; and
    3. The plaintiff may file a traversing note, or proceed to have the bill taken *pro confesso* against him.
17. Within twelve days after the filing of a demurrer to the whole bill, the plaintiff desiring to submit such demurrer to the judgment of the Court is to cause the same to be set down for argument. If he does not, such demurrer is to be held sufficient, and the plaintiff is to be held to have submitted thereto.
18. Within three weeks after the filing of a demurrer to part of a bill, the plaintiff desiring to submit such demurrer to the judgment of the Court is to cause the same to be set down for argument. If he does not, such demurrer is to be held sufficient, and the plaintiff is to be held to have submitted thereto.
19. Within three weeks after the filing of a plea to the whole or part of a bill, the plaintiff desiring to submit such plea to the judgment of the Court is to cause the same to be set down for argument. If he does not, such plea is to be held good to the same extent and for the same purposes as a plea allowed upon argument, and the plaintiff is to be held to have submitted thereto.
20. A defendant whose answer is not excepted to, or referred back on former exceptions, alleging that the plaintiff is prosecuting him in this court and also at law for the same matter, may, upon the expiration of eight days after his answer or further answer is filed, obtain as of course, on motion or petition, the usual order for the plaintiff to make his election in which court he will proceed.
21. A defendant whose answer is excepted to, or referred back on former exceptions, alleging that the plaintiff is prosecuting him in this court and also at law for the same matter, may by notice in writing require the plaintiff to procure the master's report upon the exceptions within four days from the service of the notice. And if the plaintiff does not obtain the master's report within such four days, such defendant is entitled as of course, on motion or petition, to obtain the usual order for the plaintiff to make his election in which court he will proceed.
22. After the filing of a defendant's answer, the plaintiff has six weeks within which he may file exceptions thereto for insufficiency. If he does not file exceptions within six weeks, such answer, on the expiration of the six weeks, is to be deemed sufficient.
23. A defendant desiring to avoid a reference to the master of exceptions to his answer for insufficiency, has for that purpose only eight days after the filing of such exceptions within which he may submit to the same before reference.
24. If a defendant, not being in contempt, submits to exceptions to his answer for insufficiency before the plaintiff has obtained an order to refer the same to the master, he is allowed three weeks from the date of the submission within which he is to put in his further answer to the bill.
25. The plaintiff having filed exceptions for insufficiency to a defendant's answer, is not to procure an order to refer them to the master before the expiration of eight days from the filing of such exceptions, unless in a case of election he is required by notice in writing from such defendant to procure the master's report on such exceptions in four days, pursuant to article 21 of this order.
26. The plaintiff, having filed exceptions for insufficiency to a defendant's answer, is to procure an order to refer them to the master after the expiration of eight days but within fourteen days from the filing of such exceptions. If he does not, the answer, on the expiration of such fourteen days, is to be deemed sufficient.
27. The plaintiff, having obtained an order for referring to the master exceptions to a defendant's answer for insufficiency, or for referring back a defendant's answer on former exceptions for insufficiency, is to obtain the master's report thereon within fourteen days from the date of the order, or within such further time as the master shall allow. If he does not, the answer, on the expiration of such fourteen days or further time, is to be deemed sufficient.
28. The plaintiff, having shewn exceptions to a defendant's answer for insufficiency as cause against dissolving an injunction, is to obtain the master's report thereon within four days after the date of the order to refer them. If he does not, the injunction is dissolved.
29. After the filing of exceptions to a defendant's answer for insufficiency, and any further answer put in, the plaintiff has fourteen days from the filing of such further answer within which he may refer the answer back to the master on the old exceptions. The answer, if not referred back on the old exceptions within fourteen days after such further answer put in, is, on the expiration of such fourteen days, to be deemed sufficient.
30. If, after a reference of exceptions for insufficiency, or a reference back of the answer on the old exceptions, a defendant, not being in contempt, submits to answer, or the master finds the answer insufficient, the master is in such cases to appoint the time within which such defendant is to put in his further answer. If such defendant does not obtain time from the master, or does not answer within the time which the master allows, the plaintiff may sue out process of contempt against such defendant.
31. The answer of a defendant is to be deemed sufficient,—
    1. If no exception for insufficiency be filed thereto within six weeks after the filing of such answer.
    2. If (exceptions being filed) the plaintiff does not within fourteen days after the filing thereof obtain an order to refer them.
    3. If (after obtaining such order) he does not obtain the master's report thereon within fourteen days from the date of the order, or within such further time as the master may allow.
    4. If he does not obtain an order to refer the answer back to the master on the old exceptions within fourteen days after the filing of a further answer.
    5. If (after obtaining such order) he does not obtain the master's report thereon within fourteen days from the date of the order, or within such further time as the master may allow.
32. In cases where there is a sole defendant, or where, there being several defendants, they all join in the same answer, the plaintiff may, after answer and before replication or undertaking to reply, obtain one order of course for leave to amend the bill, at any time within four weeks after the answer is deemed or found to be sufficient.
33. In cases where there are several defendants who do not join in the same answer, the plaintiff (if not precluded from amending, or limited as to the time of amending by some former order) may, after answer and before replication or undertaking to reply, at any time within four weeks after the last answer is deemed or found to be sufficient, obtain one order of course, for leave to amend his bill.
34. The plaintiff, having obtained an order for leave to amend his bill, has, in all cases in which such order is not made without prejudice to an injunction, fourteen days after the date of the order within which he may amend such bill. If such bill be not amended within such fourteen days, the order for leave to amend becomes void, and the cause as to dismissal stands in the same situation as if such order had not been made.
35. The plaintiff, having obtained an order for leave to amend his bill without prejudice to an injunction, must amend such bill within seven days from the date of the order. If such bill be not amended within such seven days, the order for leave to amend becomes void, and the cause as to dismissal stands in the same situation as if such order had not been made.
36. A defendant, being served with subpœna to answer an amended bill praying an injunction to stay proceedings at law, and desiring to avoid a motion for an injunction on affidavit of the truth of the amendments, has for that purpose only eight days after appearance within which he is to plead, answer, or demur to such amended bill.
37. The plaintiff (not obtaining an order for leave to amend his bill) must either file his replication or set down the cause to be heard on bill and answer within four weeks after the last answer is deemed or found to be sufficient. Otherwise any defendant may move to dismiss the bill for want of prosecution.
38. If the plaintiff amends his bill without requiring an answer to the amendments, any defendant desiring to answer the same must put in his answer thereto within eight days after being served with notice of the amendment of the bill, or within such further time as the master may allow.
39. Where the plaintiff amends his bill without requiring an answer to the amendments, and no answer is put in thereto, and no warrant for further time to answer the same is served within eight days after service of the notice of the amendment of such bill, the plaintiff is, after the expiration of such eight days, but within fourteen days from the time of such service, either to file his replication or to set down the cause to be heard upon bill and answer. Otherwise any defendant may move to dismiss the bill for want of prosecution.
40. Where the plaintiff amends his bill without requiring an answer to the amendments, and a defendant within eight days after the service of the notice of the filing of the amended bill serves a warrant for further time to answer the amendments, but the master refuses to grant such further time, the plaintiff is, within fourteen days after such refusal, either to file his replication or to set down the cause to be heard on bill and answer. Otherwise any defendant may move to dismiss the bill for want of prosecution.
41. If a defendant puts in an answer to amendments to which the plaintiff has not required an answer, the plaintiff must, within fourteen days after the filing of such answer, either file his replication or set down the cause to be heard on bill and answer, unless in the meantime he obtains from the Court a special order for leave to except to such answer or to amend the bill. Otherwise any defendant may move to dismiss the bill for want of prosecution.
42. Parties desiring to examine witnesses by commission are not to apply for a warrant to name commissioners to examine witnesses until after the expiration of four days from the filing of the replication.
43. After the replication is filed, parties have two months to examine their witnesses; and if such two months expire in the long vacation, the time within which the parties are to examine their witnesses is extended to the second day of the ensuing Michaelmas term.
44. After the expiration of two months from the filing of the replication, publication is to pass, unless the time for publication has been enlarged, in which case it is to pass on the expiration of the enlarged time; but if the two months or the enlarged time expire in the long vacation, publication is not to pass till the second day of Michaelmas term; and on that day it is to pass, unless the time has been enlarged.
45. Within four weeks after publication has passed, the plaintiff is to set down his cause and obtain and serve a subpœna to hear judgment. Otherwise any defendant may move to dismiss the bill for want of prosecution.
46. A subpœna to hear judgment is not to be returnable at any time less than one month from the teste of the writ; and it is to be served at least ten days before the return thereof.
47. There must, unless the Court gives special leave to the contrary, be at least two clear days between the service of a notice of motion and the

day named in the notice for hearing the motion, and at least two clear days between the service of a petition and the day appointed for hearing the petition: but, in the computation of such two clear days, Sundays and other days on which the offices are closed, except Monday and Tuesday in Easter week, are not to be reckoned.

48. There must be at least six clear days between the service of a notice of motion by the plaintiff for the appointment of a guardian by whom a defendant who is an infant or a person of weak intellect or unsound mind may defend the suit, and the day named in the notice for hearing the motion.

49. At any time within three weeks after the execution of an attachment for want of answer, the plaintiff may serve a defendant so attached with a notice of motion that the bill may be taken *pro confesso* against him, and may move the Court accordingly, as directed by Order LXXVI.

(*To be continued.*)

PROMOTIONS, APPOINTMENTS, ETC.

[Clerks of the Peace for Counties, Cities, and Boroughs, will oblige by regularly forwarding the names and addresses of all new Magistrates who may qualify.]

WHITEHALL, May 29.—The Lord Chancellor has appointed William Nall, of Shipston-on-Stour, in the county of Worcester, Gent.; Samuel Stringer, of Stockport, in the county palatine of Chester, Gent.; and George Kenyon, of Thorne, in the county of York, Gent., to be Masters Extraordinary in the High Court of Chancery.

DOWNING-STREET, June 2.—The Queen has been pleased to appoint Alfred Stephen, Esq., to be Chief Justice of the colony of New South Wales.

Her Majesty has also been pleased to appoint William Montagu Manning, Esq., to be her Majesty's Solicitor General for the colony of New South Wales.

Her Majesty has further been pleased to appoint William Henry M'Coy, Esq., to be Provost Marshal for the island of Dominica.

STIPENDIARY MAGISTRATE FOR THE DIVISION OF MANCHESTER.—We understand that Henry Leigh Trafford, Esq., barrister-at-law, has been appointed by Lord Granville Somerset, chancellor of the Duchy of Lancaster, to the situation of stipendiary magistrate for the Manchester division of the county, including the borough of Salford. The salary, as fixed by the Act recently passed, is 800*l.* per annum. Mr. Trafford is to commence the duties of the situation on the 1st of July.—*Manchester Guardian.*

LEGAL INTELLIGENCE.

DEBTORS AND CREDITORS.—On Tuesday a meeting of traders and others, convened by advertisement, signed by many of the most influential firms in the city, was held at the London Tavern, Bishopsgate street," to consider the propriety of petitioning Parliament for an amendment of the Act abolishing imprisonment for debts under 20*l.* and for other improvements in the laws of bankruptcy and insolvency." The proceedings of this influential meeting were characterized by sound practical wisdom. The pseudo philanthrophy which Lord Brougham exemplifies, fixes its microscopic eye on the exaggerated sufferings of the few, to mitigate which it does not scruple to sacrifice the interests of the many. The merchants and traders of the city of London, who yesterday met to deliberate upon and discuss the Act of Parliament which they find so pregnant with power to injure them, have drawn a just and humane distinction. While they refer to the mischiefs which the law inflicts upon themselves, they do not ask by their petition to the Legislature against the existing laws, to be invested with unmitigated and unrestrained power to incarcerate the unfortunate man whom misfortune has deprived of the means to pay the debt which he *bonâ fide* contracted. Such cases alike claim protection from the Legislature, and commiseration from the community. The trading interests complain that the recent alterations in the law of debtor and creditor, especially the abolition of imprisonment on final process for debts under 20*l.* whereby the facility of committing fraud has been increased, and the risk of punishment lessened, have been enacted " without the substitution of any adequate power to creditors of obtaining possession of the property of their debtors, unjustly withheld." Justice and mercy, reason, religion, common sense, all sanction and approve the abolition of imprisonment for debt. Where fraud constitutes no part of the transaction on the part of the debtor, to deliver up the person of an unfortunate but honest man to the will of a creditor, who may employ the power of arresting the debtor's person, in hope of obtaining payment of his own debt to the exclusion of other creditors', whose claims are equally righteous with his own, or as a vindictive visitation for his individual loss by the debtor, is at once impolitic and cruel. The injustice and inhumanity of such a law are not confined to debts under 20*l*; they extend themselves to debts of whatever amount. But, then, the fraudulent debtor should be punished for his fraud; and the property of debtors, "unjustly withheld," should be rendered available to their creditors without difficulty or delay. By the present law, a man may contract any amount of debts; and if he be careful that each debt be under 20*l.* he may secure his tangible property to his own use by a friendly assignment, and snap his fingers at his creditors. His person is safe from arrest; and his friend will kindly permit him to have the use of the furniture, and will step in and exhibit the legal instrument, duly executed, by which he will effectually prevent any impertinent creditor from interfering with it, to the annoyance of the debtor. In fact, such legal formality as this is needless. In most cases the landlord will accommodate his tenant by putting in a distress for rent, which will effectually oust any other execution. Nay, the Court has, under the law as it now stands, no power to refuse its protection against arrest to any debtor who applies for it, even though a fraudulent transfer of property is proved. The transfer took place before the man placed himself within the jurisdiction of the Court, which has no power to deal with the delinquent! It is gratifying to find that our efforts to rouse the country to the ruinous results of this most iniquitous law have been at length successful. For some time we stood alone. The trading interests waited to see whether the operation of the law would be really so extensively injurious to their property as we predicted it would prove. They have not hastily determined on the course of petition and remonstrance on which they have now entered. Their complaints ought therefore to have the more weight with the Legislature, with which they ought to prevail, to obtain for them the protection to their property against fraud, for which they pray, and which they so much need.—*Globe.*

ARREARS OF BUSINESS IN THE COMMON LAW COURTS.—On the commencement of Trinity Term, the lists of the arrears in the Common Law Courts were respectively as follow:—Queen's Bench, 172 new trials remaining undetermined at the end of the sittings after Easter Term, including five standing for the judgment of the Court. Court of Common Pleas, 56. In that Court there are 9 enlarged rules, 22 new trials, 7 standing for judgment, and 18 causes in the demurrer paper. Court of Exchequer, 100, consisting of 15 matters in the peremptory paper, 14 in the special paper, and 71 rules for new trials. The total arrears number 328, which matters can be heard out of term. The present term ends on the 12th of June.—*Globe.*

TRINITY TERM BANQUETS.—Trinity Term, in accordance with ancient usage, being that in the course of which the benchers of the inns of court assemble in their respective halls to celebrate the long established custom of observing their " Great Grand Day," as it is called, the different inns of court have this week given splendid dinners, which have been attended by the equity and common law judges, and other eminent individuals connected with the profession. The Inner Temple meeting took place on Tuesday, Lincoln's-inn on Wednesday, and the Middle Temple on Thursday. Amongst the guests at the latter there were the Lord Chief Baron, Mr. Justice Coleridge, Mr. Justice Erle, and the Rev. Dr. Robinson, Master of the Temple.

THE PRESS AND THE BAR.—A rumour prevails that at their last meeting the benchers of the Middle and Inner Temples adopted a resolution by which a person having connection with a newspaper will be precluded from entering either of those societies as a student. At present several reporters for the morning papers are students in the Temple, and it is feared that the recent regulation may interfere with their "call" at the conclusion of their terms. If may not be out of place to remark that many of the best lawyers this country ever produced were in their earlier life reporters for the daily press, and that three learned judges who now grace the judicial bench commenced their career in that capacity. It is understood that Lincoln's-inn and Gray's-inn will not adopt the exclusive system recommended by the Inner and Middle Temples.—*Morning Post.*

CHANCERY COMPENSATION JOB.—Since we last called the attention of our readers to the petitions in support of Mr. Watson's motion the following petitions have been presented:—That of the York Law Association, by Sir John Lowther; that of the Bristol Law Association, by Mr. Philip Miles; and that of the Newcastle Law Association, by Mr. Watson. Mr. Wilson Patten has presented the petition of the Preston Law Association; and Mr. Gell has that of the Plymouth Law Association. Mr. Watson's motion stands for Tuesday next. Mr. Ward has a motion for a committee on the burthens affecting the landed interest, which at present stands before it.

Mr. Napier, of the Irish bar (who received the high compliment delivered by Lord Lyndhurst, in the name of himself and the judges in the House of Lords), was a law student of the London University (now University College), at the first opening of the law class under Professor Amos. Mr. Whiteside, whose speech in the sate trial O'Connell and others obtained such general admiration, was a fellow-student in the same class with Mr. Napier.

THE WILL of the late RIGHT HON. JOHN EARL OF ABERGAVENNY was on Saturday proved by the two executors, his friend R. Morgan, esq. of Lincoln's-inn, and his solicitor, A. Elswood, esq. of Bungay. Effects sworn under 60,000*l.* The will bears date the 23rd of October, 1843, and the earl thereby devises to his brother, the Hon. William Nevill (the present earl), in fee, the estate which he (the late earl) held under his father's will, subject to the payment of 7,000*l.* to each of the three daughters of his said brother. His mansion in Berkeley-square, his house at Brighton, and all his personal estate he gives to his executors, in trust for sale, but with a right of pre-emption to the present earl as to the Berkeley-square house and furniture, and the furniture and effects of Eridge, &c. The proceeds, after payment of his debts, funeral and testamentary expenses and legacies (which are confined to his executors and servants, and the largest of which does not exceed 800*l.*) he directs to be divided equally between his nephew and niece, Thomas Myers, esq. and Miss Mary Myers.

THE LATE EARL OF ABERGAVENNY. — The will (dated October 23, 1843) of this nobleman, who died on the 12th of April, in the present year, has been proved by his executors, Mr. R. Morgan, of Lincoln's-inn, and Mr. A. Elswood, of Bungay. The earl devises in fee to his brother, the Hon. William Nevill (the present earl, and who inherits Eridge Castle, and all the other entailed estates), all the estates which he (the late earl) held under his father's will, but subjects them to the payment of 7,000*l.* to each of the three daughters of his said brother. The mansion in Berkeley-square, his favourite house at Brighton, and all his personal estate (sworn under 60,000*l.*), he gives to his executors in trust for sale, but with a right of pre-emption to the present earl as to the Berkeley-square house and furniture, the furniture and effects at Eridge Castle, and the park, &c. And, after payment of his debts, funeral and testamentary expenses, and legacies to his executors and servants, he directs the residue to be equally divided between his nephew and niece. Mr. Thomas Myers and Miss Mary Myers, the issue of the earl's eldest sister, the late Lady Mary Catherine Myers.

PROCEEDINGS OF LAW SOCIETIES.

EAST KENT LAW ASSOCIATION.

The annual meeting was held at the Lion hotel, Canterbury, on Friday, the 16th day of May, 1845; present, Mr. William Sladden, in the chair; Messrs. Shepherd, Knocker, Hulke, Brockman, Pain, Ledger, Watts, Gravener, Tassell, Nutt, Plummer, Wightwick, Sankey, and Wilkinson.

1. Messrs. Shepherd and Knocker (who had been deputed to attend the meeting of the Provincial Law Societies' Association at Manchester, in January last) read their report, and also the rules of such Association.

2. The report was adopted, and, with the rules, ordered to be entered on these minutes.

REPORT.

" East Kent Law Association.—We have to report that, in accordance with the appointment of the last meeting of the Society, we proceeded as a deputation to Manchester, and had the gratification of meeting deputations from all parts of the kingdom assembled to discuss the propriety of the Provincial Union that had been proposed.

" It gives us pleasure to record that an unanimity of feeling and opinion pervaded the members of the profession, and resolutions forming the Society were adopted without a dissentient vote.

" We beg to hand in with our report a copy of the rules of the 'Provincial Law Societies' Association;' and to state it as our conviction that, under judicious management, of which it has the augury, the Association cannot fail to be productive of essential advantage to the interests and character of the legal profession.

3. The treasurer was directed to pay Mr. Knocker the sum of 18*l.* 5*s.* expended by him for the travelling and tavern expenses of the deputation.

4. The thanks of this Meeting were given to the deputation for their services.

5. The secretary read a printed form of agreement used by Messrs. ———, solicitors to ———, on the sales of portions of ——— estates at ———, providing among other things that the *Vendor's* solicitors should prepare the conveyance; and he also read the correspondence which had taken place between those gentlemen and himself on the subject.

6. The secretary also read a letter received by him on the 15th inst. from the secretary of the Incorporated Law Society, inclosing a resolution passed at a meeting of the council of that society, on the 6th inst. having reference to and condemnatory of such a practice.

COPY OF SUCH LETTER.

"The Incorporated Society, U. K.
14th May, 1845.

"DEAR SIR,—I am directed to send you a copy of the resolution of the council of this society, signed by the President, relating to conditions of sale, in which it is stipulated that the vendor's solicitor shall prepare the conveyance; and to beg the attention of your society to the subject.

"I am, dear Sir, yours faithfully,
R. MAUGHAM, Secretary.

"R. T. Brockman, esq."

COPY OF SUCH RESOLUTION.

"At a meeting of the council of the Incorporated Law Society, held the 6th day of May, 1845.

"It having been reported to the Council that practitioners of the law in certain parts of the country stipulate in conditions of sale and in contracts that the vendor's solicitor shall prepare the conveyance to the purchaser, and in some instances that the purchaser shall pay to the vendor's solicitor a stipulated sum (exclusive of stamps) for the conveyance;

"Resolved,—That such custom is contrary to the general usage and practice of the Profession, and is objectionable in principle and dangerous to the safety of purchasers, by rendering them liable to be affected with constructive notice of incumbrances, or defects of title, and to other disadvantages.

"Resolved,—That a copy of this resolution, signed by the President, be sent to every law society throughout the kingdom.

"MICH. CLAYTON, President."

7. It was resolved, that the Secretary do acknowledge, with thanks and expressions of satisfaction, the receipt of such letter and resolution.

8. And that he do forward a copy of the abovementioned agreement, and correspondence, together with minutes 5, 6, 7, 8, and 9, to the Secretary of the Incorporated Law Society, and to the Secretary of the Metropolitan and Provincial Legal Association; and that he also forward a copy of the same minutes to Messrs. ——.

9. The thanks of this meeting were given to the Secretary for the very proper course he had taken with reference to the matter referred to in minute 5.

10. The tenth rule of the Association was altered, so as to extend the power of convening special general meetings to the Secretary.

11. Suggestions relative to points of practice were appended to the rules.

12. The Secretary was ordered to get one hundred copies of the rules and appendix printed.

13. Notice was given by Mr. Hulke that he would propose Mr. Solly, of Sandwich; and by Mr. Nott, that he would propose Mr. Stephen Plummer, of Canterbury, junior, as members of this Association, at the next meeting.

14. The accounts were audited, and the balance in the Treasurer's hands found to amount to 42*l.* 12*s.* 2*d.*

15. It was resolved, that with a view of carrying out the object of the Provincial Law Societies' Association, a copy of the proceedings of this meeting be forwarded to them.

16. Resolved also, that the next meeting be held at the Lion Hotel, Canterbury, and that Mr. Gravener be President, and Mr. Wightwick Vice-President, for the year next ensuing.

That Mr. Brockman continue the offices of Secretary and Treasurer.

To Readers and Correspondents.

We are deluged with letters on the subject of the Small Debts Bill. It would be impossible to insert a tithe of them. We purpose, therefore, to read them with care, to note such objections as they may urge, or any amendments suggested, and state them seriatim *in a leading article next week. Thus the object of the writers will be gained, without the inconvenience of occupying an extended space in our columns at a season when they have so many more important claims upon them. This must be the reply to all the letters received since Wednesday on this subject.*

W. M. ASPINALL (Clithero).—*Early attention will be given to his communication, for which he has our thanks. Both the facts and the suggestions are valuable.*

LEX-JUNIOR.—*The answer would be an article of itself.*

L. T. W.—*We believe that in no case after articles served will the stamp be allowed.*

NOTICE TO SUBSCRIBERS.

The Publisher begs to inform the Subscribers to the LAW TIMES *that the subscription for the current half-year should be transmitted in the course of the ensuing week, by those who wish to avail themselves of the advantages of prepayment.*

The pre-paid subscription for the current half-year of THE CRITIC, *henceforth to be published weekly, will be 8s. 6d. only.*

The Indices to the fourth volume being now completed, the numbers for binding may be sent, through the post, in parcels open at the ends, with a mark by which they may be known, and of which the Publisher should be advised by letter, as also how, when bound, it is to be returned. If sent by parcel, advantage may be taken of the opportunity to inclose other books for the binder.

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THE LAW TIMES.

SATURDAY, JUNE 7; 1845.

LAW OF DEBTOR AND CREDITOR.

LORD BROUGHAM'S Bill "for the better securing the Payment of Small Debts," is now printed, and we hasten to submit it to our readers. The provisions, as it will be seen, are precisely those originally suggested by the LAW TIMES, namely, that upon judgment or order in respect of any debt not exceeding 20*l.* the creditor may summon the debtor before a Commissioner of Bankrupts or Court of Requests, who shall examine such creditor touching the manner of his contracting the debt, the means or prospect of payment he then had, and still has; and if he do not give a satisfactory account of himself, or shall appear to have been guilty of any fraud, or of having wilfully contracted such debt without reasonable prospect of being enabled to pay it, or refuse to obey the orders of the Court, as to payment or otherwise, the Court may commit him to the common gaol for a period not exceeding forty days.

The second section empowers the Court to order payment of the debt out of any salary, wages, pay, or pension amounting to more than 50*l.* per annum.

The third section extends the powers of 7 & 8 Vict. c. 96, to all cases of balances not exceeding 20*l.*; and by the 4th section it is provided, that an application to the Court under this Act, or either of the previous Acts, need not be by Counsel or Attorney.

The *principles* of the Bill appear to be sufficiently ample for their purpose. They punish improvidence and fraud, without inflicting a penalty upon misfortune: they help the creditor to justice more surely than did the old law of imprisonment for debt, and may be safely pronounced the greatest improvement ever yet introduced into the law of debtor and creditor.

It may, however, be worth noting, that the first section, empowering the Court to imprison, limits no period of imprisonment. The second section indeed limits it to forty days; but it may be fairly objected that this might be intended to apply only to the cases specified in that section, namely, disobedience to orders for payment. It would be as well to anticipate such a difficulty, by limiting a term of imprisonment in the first section also.

At the City meeting of the merchants, held last week, the discussion turned more upon the necessity for a measure for the easier proof of small debts, than their recovery after they are proved. The former is altogether a wider and more difficult question, involving principles, and encumbered with obstacles, of which none but the practical lawyer can feel the full force. It will require much consideration, much *elaborate* legislation, and it would be most unwise to postpone the remedy for the great and urgent evil, until means can be found for the redress of the lesser mischief. And indeed, in practice, the difficulty of creditors is not so much in the obtaining of their judgments, as in the enforcement of them when obtained. Very few debts are, in fact, disputed; and by the proposed regulations, any debtor putting his creditor to needless law expenses would be guilty of fraud, and punishable with imprisonment; and it is to be hoped that the Courts will not be slow to exercise the power that is to be confided to them.

We have heard the objection raised that a creditor will not incur the cost and trouble of summoning his debtor, and enforcing the law against him. As to the cost, it need be but the merest trifle; and if a man will not trouble himself to invoke the protection the law has given him, he cannot complain of the injuries he endures. But we would recommend that, immediately on the passing of this excellent measure, there be formed in every town an association for the prosecution of fraudulent debtors, similar to those now existing for the prosecution of felons; and thus, at a trifling cost to each, would all creditors insure the due punishment of those who have wronged them, while the very fact of the existence of such a society would deter from dishonesty many who might otherwise be inclined to practise it.

On re-perusal of the Bill, it has struck us that some provision should be made for the security of the creditor *after* the term of imprisonment, which should not operate as a release from the debt. He should be empowered to renew the proceedings at any time thereafter, when the debtor should be compelled to shew why he does not yet pay; and, if he still be contumacious, again subjected to the penalty for his contumacy.

The following is a copy of the Bill:—

A Bill, intituled, "An Act for the better securing the Payment of Small Debts."

1. *Creditor obtaining judgment or order in respect of debt not exceeding 20l. may summon debtor before a Commissioner of Bankrupts or Court of Requests, &c.*—Whereas it is expedient and just to give creditors a further remedy for the recovery of debts due to them: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That if any person is indebted to any other in a sum not exceeding twenty pounds beside costs of suit, for which sum any judgment shall have been obtained, or any order for the payment thereof, from any Court of competent jurisdiction, it shall be lawful for the creditor so obtaining a judgment or order to obtain a summons from any Commissioner of Bankrupts for the district in which such debtor shall reside or shall have resided for one calendar month before the date of such judgment or order, or from any Court of Requests, Court of Commissioners, or other Court for the recovery of small debts, having a chairman or other presiding officer who shall be either a barrister-at-law or attorney or solicitor, which summons such Commissioner of Bankrupts or such Court are hereby authorized and required to grant upon the application of such creditor by any petition or note in writing; and the debtor, being called before such Commissioner or Court at the time to be named in such summons, shall be examined by the said Commissioner or Court, and shall be interrogated before such Commissioner or Court, by the creditor summoning him, touching the manner and time of his contracting his debt, the means or prospect of payment he then had, the property or means of payment he still hath or may have, the disposal he may have made of any property; and such creditor shall also, if he think fit, be examined by the said Commissioner or Court touching his claim against the said debtor; and it shall be lawful for such Commissioner or Court to make an order on the said debtor for the payment of his debt by instalments or otherwise; and in case such debtor shall refuse to discover-

his property, or his transactions respecting the same, or respecting the contracting of the debt, or shall not make answer thereof to the satisfaction of the Commissioner or Court, or shall appear to such Commissioner or Court to have been guilty of fraud in contracting the debt, or of having wilfully contracted it without reasonable prospect of being able to pay it, or of having concealed or made away with his property in order to defeat his creditors, or if he appears to have the means of paying the same by instalments or otherwise, and shall not pay the same at such times as the Commissioner or Court shall order, then in any of the said cases it shall be lawful for such Commissioner or the Chairman or other presiding officer of such Court to order such debtor to be committed to the common gaol wherein the debtors under judgment and in execution of the superior courts of justice may be confined within the county in which such debtor shall be resident: provided always, that in case a day other than the day of issuing such order for imprisonment shall be appointed for payment of the debt, or of any instalment thereof, no order for imprisonment shall be made by such Commissioner or Chairman or presiding officer until it shall be made to appear to his satisfaction that the debtor has made default, and has disobeyed the order for payment by instalment or otherwise.

2. *Commissioner, &c. may order payment of debt out of salary, pay, or pension, &c.*—And be it enacted, That in making such order for payment as aforesaid it shall be lawful for such Commissioner or Court, and they are hereby authorized and required to order such debtor to make payment of his debt out of any salary or wages, or pay or half-pay or pension which he may have amounting to more than fifty pounds by the year; and the not paying as ordered out of such salary, wages, pay, or pension shall be deemed such disobedience as authorizes the said Commissioner or presiding officer to order the imprisonment of the debtor; provided always, that no such order for imprisonment, nor any order for imprisonment, shall be made for any longer time than forty days.

3. *Powers of 7 & 8 Vict. c. 96, to extend to all cases of balances not exceeding 20l.*—And be it declared and enacted, That all the powers and authorities respecting debts not exceeding twenty pounds given to any Courts or judges by an Act made in the seventh and eighth years of the reign of her present Majesty, intituled *An Act to amend the Law of Insolvency, Bankruptcy, and Execution*, shall and do extend to all cases of any balance not exceeding twenty pounds remaining unpaid of any debt, of whatever amount, which may have been or may be recovered by any judgment or order, exclusive of the costs of such judgment or order, and also to the costs of any verdict in any ejectment, and to all orders as well as judgments whatever for the payment of any sum of money not exceeding twenty pounds exclusive of costs.

4. *Application to Commissioners, &c. need not be made by counsel or attorney. 5 & 6 Vict. c. 116.*—And be it enacted, That in making application to any Commissioner or Court as aforesaid, or taking any proceedings under this Act, or under the Act hereinbefore referred to, or under the Act made in the fifth and sixth years of her Majesty's reign, intituled *An Act for the Relief of Insolvent Debtors*, it shall not be requisite for any party, whether creditor or debtor, to employ either counsel or attorney or solicitor.

Here we have spoken only of the merits of the measure. Next week we propose to examine its defects, which are not few, and suggest divers amendments, that appear to be essential to its efficient working; and in this we pray the aid of the Profession.

It is most important that in its progress through the Legislature the measure should be rendered as perfect as experience can make it.

Since the above was written, we have received the prospectus of an association to be formed in London, for "*the Protection of Trade by the opposition of fraudulent Bankrupts and Insolvents.*" Its plan appears to be very comprehensive, the subscription being fixed at 2l. 2s. per annum;—a sum which the tradesman will save ten times over, in the general effect which the mere knowledge of the existence of such a society cannot fail to produce upon fraudulent and improvident debtors. A like association should be formed in every town in the kingdom, and thus, at a trifling cost to each trader, the contemplated law will be vigorously enforced.

LORD BROUGHAM'S CONVEYANCING BILL.

We have procured a copy of this bill, and it will be found in its proper place. Comment upon its many impracticabilities must be reserved for a season of more leisure. There is, however, no cause for alarm. There is not the slightest probability of its passing beyond its present stage.

SHAM LAWYERS.

It is very difficult to determine the precise boundaries at which the Sham Lawyer invades the province of the Real Lawyer.

In almost every corner of the country is now to be found a class of men calling themselves *Accountants*, the greater portion of them being, in fact, clerks discharged from attorney's offices, who, under that very indefinite title, in fact conduct a considerable portion of the legitimate business of an attorney. They not only make out and collect accounts, but they write the threatening letters of which we have published so many specimens; they draw indentures of apprenticeship, make wills, prepare leases, and, in short, turn their hands to any work wherewithal they can find dupes to intrust to them.

It is true, that by their blunders they continually lead their unlucky clients into scrapes from which the attorney is obliged to be called in to relieve them, and thus make a great deal of work for the lawyers; yet, nevertheless, they are the pests of the Profession, and undoubtedly divert a great deal of business properly belonging to it. If this were attended with an advantage to the public, it might be endured as an evil from which good comes; but, in truth, these lawyer-accountants charge as much to their clients as does the certificated attorney, without giving to them in return the security afforded by the *surveillance* of the judges, and the responsibility of a position in society.

Certainly the existing law does not afford sufficient security to the regular practitioner. The Profession has a right to demand protection on the unanswerable plea, that in consequence of that protection the law imposes upon them heavy pecuniary burdens and a costly education. To these they submit as the conditions upon which they are to receive in return the exclusive right to conduct a certain class of the business of the community. It is unjust to permit men who are freed from these taxes, and want that education, to take away any portion, however small, of that business. But the sham lawyers who infest the country are not few, nor are the profits trifling which they divert from the regular practitioners. The existing law is not large enough to meet the mischiefs so continually recorded in these columns. Exposure alone will not deter men who cannot be shamed. The Law Societies should take the great and growing evil into their most serious consideration, and, having devised a remedy, exert their influence to secure an amendment of the defective law during the next Session of Parliament.

We are informed that the writer of the following letter is a surgeon or an apothecary. Other instances of his mingling law with physic have been named to us, and we would advise the neighbouring Law Society to keep an eye upon him.

Narberth, May 24, 1845.

Sir,—I am requested by Mr. Thomas Harries, jun. carpenter, to apply to you for the payment of twenty shillings, being a balance due from you to him for work done, and unless the same be immediately into my hands, he is determined to bring an action to recover the same forthwith. (*Sic.*)

I am, Sir, yours, &c.

CHARLES WALTER COOK.

Mr. H. Cooper, Windmill-house,
Near Tenby.

VERULAM SOCIETY.

The 9th number of *Bittleston and Symons's Magistrates' Cases* will be published on Monday.

The 7th number of *New Practice Cases* is ready; the *second* number of *Cox v. Atkinson's Registration Appeals* will be out on Wednesday.

The 10th of *Magistrates' Cases*, the 8th of *Practice Cases*, and the 7th and 8th of *Cox's Criminal Law*, are in the press.

All the forms contained in the Schedule to the new Bastardy Act are now ready for delivery.

Copy Subpœnas *ad test.* and *duces tecum* is now ready for delivery for the ensuing Assizes.

A form is also ready for *the transfer of shares in railway and joint-stock companies.*

Suggestions of forms useful in practice will oblige.

Some members have hinted the propriety of publishing in volumes or parts a series of the best old text-books, carefully edited and adapted to the existing state of the law, to appear under the title of the *Verulam Law Library*. They consider that, carefully revised and noted, neatly printed, uniform in size, and moderate in price, it would be acceptable to a sufficient number of the members to justify the adventure. We ask opinions upon it.

THE CRITIC.

New Books.

The Statutes relating to the Ecclesiastical and Eleemosynary Institutions of England, Wales, Ireland, India, and the Colonies; with the decisions thereon. By ARCHIBALD JOHN STEPHENS, Barrister-at-Law. In 2 vols. London, 1845. Parker.

The following is the plan of the compiler of this useful work:—

He has arranged the statutes in chronological order, commencing with 9 Hen. 3, c. 1, and terminating with 7 & 8 Vict. c. 108.

Of repealed statutes the titles only are given, save where they affect existing interests, or illustrate the present law, and the titles of statutes relating to the Church of Scotland have been introduced for convenience of reference.

Mr. STEPHENS has added a large and valuable mass of learned notes, illustrative of the law in the text, and comprising all the cases decided upon the several statutes.

An index, of uncommon completeness, affords a ready access to any topic sought by the inquirer; and a table of cases, extending over many pages, proves the diligence with which Mr. STEPHENS has performed his task of illustration.

The work is handsomely printed, and will doubtless prove to be of very great utility to the clergy, and to those members of the legal profession whose practice may require of them researches into Ecclesiastical and Eleemosynary Law.

JOURNAL OF PROPERTY.

CONDITIONS OF SALE.

ON THE LAW RELATING TO CONDITIONS OF SALE.

(*Continued from page* 161.)

The general law relative to the sufficiency of signature by agents will be found at large in Sir Edward Sugden's well-known treatise on Vendors and Purchasers.

II. Conditions *concurrent* are of two kinds:—
(I.) Restrictive: (II.) Remedial.
(I.) Conditions restrictive:—

Conditions of this class fluctuate very much, according to the vendor's own apprehension of the exigencies of his title. But there are two kinds of restrictive conditions which are in very common use. The one usually provides that all recitals of births, deaths, marriages, heirships, intestacies, successions, and matters of pedigree, and *other facts*, contained in documents anterior to a given date, shall be conclusive evidence of the matters so recited. The other is adopted in order to limit the vendor's liability to the production of deeds and documents.

1. In regard to conditions rendering recitals conclusive evidence, Mr. Jarman has made the following valuable observations: (9 Jarman's Conveyancing, pp. 3, 4)—"Care should be taken, before this is done, to ascertain that the recitals or statements in the title deeds are all unambiguous and consistent with each other, for any inconsistency of statement as to a

particular fact would, of course, amount to a deficiency even of such evidence as by the condition the purchaser is entitled to have, and would give him a right to call for the ordinary evidence of that fact. It may be doubted also, considering the rigour with which restrictive conditions of sale are construed as against the vendor, whether, unless the language of the condition clearly expressed such an intention, it would be extended to bind the purchaser to accept recitals as evidence of *conclusions of law*. Whether, for example, under a condition that all recitals of facts and matters of pedigree, in deeds of twenty years old or upwards, should be sufficient evidence of the facts and matters recited, a purchaser would be bound to accept a mere recital that J. S. was the heir-at-law of E. T. as evidence of that fact, which, it will be observed, is something more than a matter of pedigree, being a conclusion of law, often not of easy determination, from circumstances which alone are strictly matters of pedigree; for, under the same pedigree, J. S. may be the heir-at-law of E. T. as to one estate and not his heir as to another. The proper construction of a condition making recitals evidence of the facts and matters recited, would seem to be, that the recitals must state every fact and matter which, in the absence of such a condition, counsel advising on the title would require to be stated on the abstract, and to be proved, in order to enable him to draw the required conclusion. When it is considered how very seldom a recital of an heirship, unless it be of the simplest character (as that A was the eldest son of B), contains a complete statement of the pedigree and other matters necessary to support such a conclusion the expediency of framing conditions of this nature in a more special manner than is usual will be apparent."

The foregoing remarks are in part confirmed by a decision of Vice-Chancellor Knight Bruce in *Symons* v. *James* (1 Yo. & Coll. C. C. 487), not reported on this point; where the condition being, that all recitals or statements of descents, deaths, payments of money, heirships, intestacies, *and other facts*, in deeds bearing date twenty years prior to the day of sale, shall be deemed conclusive evidence of such facts, His Honor held, that a recital of a seisin was not protected by the condition—a seisin being not itself a fact, but a conclusion of law deducible from ascertained facts.

It should be observed, also, that an abstract is not complete merely by the exhibition of a given number of facts on the face of the deeds or in the recitals. To give those facts their proper legal effect further particulars are often necessary, and special conditions do not usually extend to restrict the purchaser from requiring such additional evidence. The death of a tenant for life, or of a wife or a child, may be a material feature in the title; but the exact time, or place, of such an event, and its relative priority to other events, may be a still more essential element of the purchaser's safety. Therefore, although the purchaser may be precluded from requiring evidence of the simple fact, we presume that he may, unless specially restricted, call for proof of incidental circumstances like those to which we have alluded.

2. In reference to conditions restrictive of the purchaser's right to call for deeds or other documentary evidence, it has been decided that where the conditions are so expressed as merely to restrain a purchaser from requiring the deduction of such a title as he would have had a right to require in the absence of the restrictive stipulations, the purchaser *is not bound to accept a defective title:* and the conditions merely operate to protect the vendor from suits and actions, in case of his failing to make out a marketable title. They relieve the vendor from the obligation of making out the good title, but do not oblige a purchaser to accept a bad one.

This appears by the case of *Hyde* v. *Dallaway* (4 Beav. 606), where the sixth condition of sale was as follows: "All the statements and recitals in any deed or document abstracted or recited in a deed or document abstracted, shall be held conclusive evidence of the facts and circumstances, and of the contents of the documents stated and recited; and the vendors *shall not be required to produce any further evidence* of the same, or to deduce the representation to any trustee in whom a term, or other legal estate, has been vested, or to get in any such legal estate, *or to procure the concurrence in the sale or conveyance of any parties interested in the equity of redemption of the property sold*, or to produce any deed or document not in the vendor's possession: and all certificates of births, burials, and marriages, and all declarations and copies of deeds, &c., surrenders and conveyances of outstanding legal estates, shall be at the expense of the person requiring the same; and the completion of the purchase shall not be delayed till such outstanding estate can be got in." The defendant became the purchaser, and resisted the specific performance of the contract, on the ground that the title was imperfect without the concurrence of the parties interested in the equity of redemption. On the cause coming on to be heard, Lord Langdale, M. R., did not treat the condition as conclusive between the parties, but made the usual reference to the Master to inquire whether a good title could be made according to the conditions. A similar decision was made in *Flower* v. *Hartop* (7 Jur. 613), where, by one of the conditions of sale, the purchaser was *not to require further evidence* of the identity of the parcels than that which was supplied by the abstract and the deeds. The description in the abstract did not correspond with that in the particulars, and Lord Langdale, M. R., held that the variance must be explained before a decree for specific performance could be made.

A decision apparently militating in some degree against the cases just quoted was made by the Court of King's Bench in the case of *Spratt* v. *Jeffrey* (10 B. & C. 249), where it appeared that the contract contained the following clause: "And the said William Spratt doth hereby agree to accept a proper assignment of the said leases and premises as above described, *without requiring the lessor's title*." The Court held that the vendor contracted to sell only a qualified title: but the propriety of this decision seems to have been questioned by the Court of Exchequer in *Shepherd* v. *Keatley* (1 Cro. M. & R. 117).

In like manner, where the conditions provide that the purchaser shall not be at liberty to call for the production of certain specially excepted deeds, it has been decided that he will not be compelled to take a doubtful title exhibited by the deeds actually produced. In *Dick* v. *Donald* (1 Bligh, 655, N. S.), Lord Lyndhurst, C., in reference to this point, said, "As to the condition with respect to the title deeds, I never heard that because the vendor provides by the conditions of sale that he will give to the purchaser only certain specified deeds, the purchaser must take a bad title, or such title as appears upon the deeds." The same principle was followed by Lord Chancellor Cottenham

Southby v. *Hutt* (2 Myl. & Cr. 207), where a question arose upon the conditions of sale, whether the plaintiff, the vendor, was or was not bound to verify the abstract of his title by producing, for the inspection of the defendant or his solicitor, the several documents mentioned in the abstract, or by furnishing other satisfactory evidence. The conditions of sale, so far as they were material to the question between the parties, were the following:—"4th. That the vendor will, at his own expense, deliver an abstract of the title to the purchaser or his solicitor of the first seven lots and lot 33 within twenty-one days from the day of the sale, and *deduce a good title* but as to such parts of the land as were allotted or taken in exchange under the award of the commissioners of the Appleton inclosure, the purchaser shall not be at liberty to require, and the vendor shall not be bound to shew any title thereto prior to the said award, from which period the title to such lands will be deduced. 6th. The vendor . . . shall not be bound, or required to produce any original deeds or other documents than those in his possession and set forth in the abstract, or which relate to other property." The vendor contended that, notwithstanding the terms of the 4th condition, he was relieved by the 6th condition from verifying the abstract, except so far as he was able to do so by the production of deeds and documents in his own possession. But Lord Chancellor Cottenham overruled this construction; and held that the vendor had by the 4th condition expressly contracted to *deduce* a good title, and that if the vendor were not bound to verify any part of the abstract, the deducing and exhibiting a good title on paper would be mere mockery and delusion. His lordship held also that the latter words of the 4th condition put a construction on the word "*deduce*," and proved that it meant not only to exhibit on paper, but to *deduce and shew* a good title; for, as to certain allotments, an exception to the generality of the obligation to deduce a good title was introduced; and that it would be absurd by means of the 6th condition to convert a positive contract for a good title into a contract under which the purchaser might be obliged to take the estate without any title at all, and certainly without any means of proving a title. His lordship therefore directed a reference to the Master to inquire whether the vendor could make a good title.

In *Southby* v. *Hutt* there was this peculiarity, that the vendor had expressly undertaken to deduce a good title. But it may be suggested that such an undertaking, though not expressed in words, is by law implied in every contract of sale, where the contrary intention is not explicitly declared; (*a*) and that the Court will not infer such intention from any ambiguous expressions, so as to enable a vendor to force an imperfect title upon a reluctant purchaser.

(*To be continued.*)

Public Sales.

By Messrs. FULLER and MARSH.

A detached residence, built in the Gothic style, distinguished as the Priory, situate in Bedford-lane, Streatham, with offices of every description, garden, pleasure-grounds, and park-like meadow land, containing altogether 8a. 32p. held for 57 years, at a rental of 90*l*. per annum—620*l*.

A residence, No. 17, Stamford Villas, let at 42*l*.; a lease will be granted for 90 years, at a ground-rent of 21*l*. per annum—100*l*.

A similar residence, of the estimated value of 52*l*. per annum, held as the preceding lot—280*l*.

A house and shop, known as the Southwick Dairy, No. 39, Star-street, Edgeware-road, let at 56*l*. held for 98 years, from Midsummer 1835, at a ground-rent of 7*l*. 10s. per annum—600*l*.

The contingent life interest arising from 1,000*l*. at present lent on mortgage at 4 per cent. on the decease of a lady now in the 46th year of her age, provided her husband, who is now in his 37th year, survives her, and which will be receivable during his life—50*l*.

The absolute reversion to 230*l*. Three per Cent. Consols, on the decease of a lady now in the 77th year of her age—130*l*.

The life interest of the bankrupt, who is in the 70th year of his age, in the annual dividend arising from the one-third part of 5,000*l*. Three-and-a-Quarter per Cent. Consols during the life of the above gentleman; the dividend amounts to 57*l*. 8s. 3d. per annum—300*l*.

The absolute reversionary interest in and to five houses, Nos. 79 to 83, King-street, Woolwich, let at 58*l*.; held for 67½ years, at 10*l*. 4s. per annum, on the death of a lady 68 years of age—410*l*.

The life interest of the bankrupt, aged 45, arising from a freehold messuage and premises, situate in Holly Bush Gardens, Bethnal-green, let at 24*l*. per annum—190*l*.

The absolute reversion to 1,646*l*. 1s. 10d. Three-and-a-Quarter per Cents. on the death of a lady aged 64 years—800*l*.

The absolute reversion to 1,000*l*. Three per Cent. Consolidated Bank Annuities, payable on the death of a lady and gentleman, the former aged 46, and the latter aged 50—200*l*.

Thirty-one shares in the Woolwich Steam-Packet Company—66s. per share.

By Messrs. SHUTTLEWORTH and SONS.
Maida Hill.

A leasehold dwelling-house, let at 100*l*. per annum, and held for 60 years at a ground-rent of 15*l*. 15s.—1,320*l*.

Three improved rents of 4*l*. 4s. each, held for 50 years—210*l*.

Five ground-rents of 28*l*. 6s. and a leasehold dwelling-house let at 16*l*. 10s. and held for 24 years, at a rent of 5*l*. 18s.—700*l*.

Grand Surrey Canal Estates. A freehold ground-rent of 15*l*. amply secured—910*l*. A ditto of 16*l*. 16s.—540*l*. A ditto of 60*l*.—1,500*l*. A ditto of 22*l*. 10s.—560*l*. A plot of freehold land on the borders of the canal, 300 ft. by 52 ft.—315*l*. A ditto, 285 by 61—425*l*. A ditto, 151 by 64—210*l*. A ditto, 154 by 63—130*l*. A ditto, 120 by 63—115*l*. A ditto, 120 by 63—115*l*. A ditto, 197 by 63—185*l*. A ditto, 150 by 64—280*l*. A ditto, 100 by 107—190*l*. A ditto, 100 by 142—220*l*. A ditto, 100 by 168—185*l*. A ditto, 100 by 141—185*l*. A ditto, 100 by 118—185*l*.

By Messrs. HOGGART and NORTON.

A freehold estate, situate a short remove from the parish of Southgate, by a private road, with attached and detached offices, farm-yard, and buildings, gardens, lawns, shrubberies, and meadow land, containing altogether upwards of 15 acres; 10a 2r. 33p. are tithe-free and land tax redeemed; let on lease at 120*l*. per annum—2,340*l*.

A freehold cottage residence near the above, with gardens, let at 25*l*. per annum—355*l*.

A residence near the village of Southgate, with house, gardens, grapery, and several paddocks of meadow land; the whole containing 31a. 1r. 6p.—1,900*l*.

By Messrs. THORNTON and SON, at Garraway's.

A Freehold and Copyhold Estate, with gardens and meadow land, coach-house, stabling, and outbuildings, situated in the village of Plaistow, Essex, subject to a fine certain of 2*l*. 9s., and a quit-rent of 1s. 6d.—1,550*l*.

A Freehold Detached Residence, with paved yard and large railway arch, situate No. 3, Gould-square, Crutched-friars—1,480*l*.

A Freehold Estate, situate on the north side in the High-street, Brentwood—690*l*.

THE MONEY MARKET.

			Tues.			
Three per Cents. Consols	99	99¼	99¼	99⅛	99⅛	99¼
Three per Cents. Reduced	98½	98½	98½	98¾	99	99
New Three-&-a-quarter per Cts	101⅛	101⅛	101¼	101¾	102	102⅛
Long Annuities	11½	11⅛	11⅛	11⅛	11¼	11⅛
Bank Stock	210½	210¼	210½	210¾	210¾	210½
India Stock	279	279½	279	279⅛	279	270
India Bonds, prem.	74			74	75	
Exchequer Bills, prem.	60			61	61	

FOREIGN.

Spanish Five per Cents.	29½	29¼	29¾	29½	29⅜	29½
Spanish Three per Cents.	41¾	41⅝	41½	41⅝	41⅝	41⅝
Russian	117¾	117⅛	117¾	117¾	117	117¾
Peruvian		30⅞	31	30¾	30½	[illegible]
Portuguese		67¼	67⅛	67¾	[illegible]	[illegible]
Mexican		37	37¼	37¼	37¼	37⅝
Deferred	17¾	17¾	17⅝	17⅝	17½	17¾
Dutch Two-and-a-Half per Cents.	63¼	63⅜	63½	63⅜	63¾	63⅝
—— Four per Cents.	98¼	98¼	98¼	98¼	98¼	98¼
Danish	88	89½	88½	89½	89¼	89½
Colombian	15¼	15⅛	15½	15½	15½	15⅝
Chilian	98½	98½	98½	98¾	99	99
Buenos Ayres	42½	42⅝	42⅝	42½	43	
Brasilian	89½	89⅞	89½	89⅞	90	90½
Belgian	98½	99¼	99½	99⅛	100	100

(*a*) See the judgment of Lord Chief Baron Richards in *Purvis* v. *Rayer* (9 Price, 488). See also *Souter* v. *Drake* (5 B. & Adol. 992).

BIRTHS, MARRIAGES, AND DEATHS.

[The charge for the insertion of the above is 5s.]

BIRTHS.

Ford.—On the 31st ult. the lady of William Ford, Esq. of Gray's-inn, at Kentish-town, of a daughter still-born.

Secretan.—On the 1st inst. the wife of William Woodhouse Secretan, at the Willows, near Abergavenny, of a son.

MARRIAGES.

Bradshaw, Thomas, of Hopefield, Lancashire, to Ann Isabel, daughter of Joseph Houson, Esq. solicitor, of Lincoln's-Inn-fields, on the 3rd inst. at Chelsea.

Cartwright, James N. Esq. to Hannah Maria, the daughter of the late Richard Hunter, of Dunstable, Esq. on the 5th inst. at Dunstable, Bedfordshire.

Dunlop, Donald Mackenzie, barrister-at-law, Esq. of the Inner Temple, to Eliza Herculina, eldest daughter of Lieutenant Colonel Swinton, of the H. E. I. C. service, on the 3rd inst. at Bath.

James, Henry, Esq. barrister, of the Middle Temple, to Mary, eldest daughter of William Colville, Esq. of Northbank, Regent's-park, and the Laws, Forfarshire, on the 3rd inst. at London.

Tribe, William Foard, solicitor, of Worthing, Sussex, to Miss Francis Sophia Fearn, of Broadwater-lodge, on the 29th inst. at Broadwater, Sussex.

DEATHS.

Haxby, Helen, wife of J. B. Haxby, Esq. solicitor, of Dewsbury, in the county of York, on the 31st ult. aged 28.

Springall, John, Esq. late of Raymond-buildings, Gray's-inn, on the 30th ult. at Hamilton-terrace, St. John's Wood, aged 67.

Tindal, Elizabeth, the wife of William Tindal, Esq. of Doughty-street, and of the Inner Temple, on the 1st inst.

Wilkinson, John, Esq. of Lincoln's inn, on the 30th inst. at his house, in Tavistock-square, aged 57.

THE GAZETTES.

The sum stated as the Dividend means so much declared in the Pound. The Assignees, when chosen, follow this statement.

Tuesday, May 27.

Bradshaw, J. draper, last exam. July 4.—*Emans*, W. bookseller, last exam. June 30.—*Glyde*, S. grocer, div. next week. Graham, London.—*Hodgkinson*, W. slater, last exam. June 21.—*Jones*, W. agent, last exam. passed.—*Litten*, R. P. grocer, last exam. July 1.

Wednesday, May 28.

Bundey, H. builder, div. next week. Johnson, London.—*Firth*, C. M. printer, last exam. passed.—*Pickering*, J. last exam. June 27.

Thursday, May 29.

Evershed, R. timber merchant, div. next week. Graham, London.—*Gorbell*, T. K. bookseller, div. next week. Turquand, London.—*Jackson* and Co. woolstaplers, fin. jt. div. next week. Green, London.—*Johnson*, J. C. merchant, fur. div. next week. Pennell, London.—*Johnson*, J. builder, fin. div. next week. Green, London.—*Leader*, J. M. coachmaker, last exam. passed.—*Soulby*, A. M. wine-merchant, fin. div. next week. Green, London.—*Sprague*, J. W. grocer, last exam. passed.—*Teesdale* and Co. fur warehousemen, fin. jt. div. next week. Green, London.—*Winning*, G. upholsterer, fin. div. next week. Green, London.—*Woollams*, J. builder, last exam. June 30.

Friday, May 30.

Bant, J. saddle-tree maker, last exam. passed.—*Nash*, W. tea-dealer, div. next week. Alsager, London.—*Reay* and Co. wine-merchants, last exam. July 3.—*Rees*, T. P. iron-merchant, last exam. passed.—*Sterry*, W. B. sailmaker, last exam. sine die. *Underwood*, W. grocer, outlawed.—*Westrup* and Co. biscuit-bakers, divs. next week. Bell, London.

DIVIDENDS.

Bankrupts' Estates.

Official Assignees are given, to whom apply for the Dividends.

Banister, C. J. draper, final, 1s. 4d. Green, London.—*Bohn*, J. bookseller, second, 5½d. Groom, London.—*Brand*, H. W. cook, first, 9d. Pennell, London.—*Croxton*, G. glass dealer, first, 8s. Pott, Manchester.—*Dettmer*, W. pianoforte manufacturer, first, 5s. Pennell, London.—*Fielding*, G. ironmonger, first, 6d. Groom, London.—*Holmes*, E. warehouseman, second, 1½d. Pennell, London.—*Lorden* and *Hadley*, builders, first and final, joint, 20s. and sep. H. 20s. Edwards, London.—*Mann*, R. K. wine merchant, first, 4s. 8d. Hope, Leeds.—*Mathews*, C. J. comedian, first, 1s. 8d. Turquand, London.—*Palmer*, J. draper, second, ½d. Pennell, London.—*Pearce*, T. tripeman, first, 2s. 9d. Groom, London.—*Roskell* and Co. merchants, first, joint, 1s. 6d., first sep. R. 5s. 6d. Cazenove, Liverpool. *Sherwood*, T. brickmaker, second, 5d. Pennell, London.—*Smith* and *Smith*, warehousemen, joint, 2s. 6d. sep. W. S. 10s. sep. R. S. 20s. Pennell, London. *Taylor*, G. stationer, first and fin. 11s. 0d. Green, London.—*Thompson*, H. timber merchant, first, 10d. Groom, London. *Thorp*, J. merchant, first and final, 7-16ths of a penny. Pott, Manchester—*Vale*, J. wine merchant, first, 9s. Kynaston, Bristol.—*Weddell*, T. accountant, first and final, 5s. 6d. Green, London.—*Wyrill*, W. ironmonger, first, 2s. Hope, Leeds.

Insolvents' Estates.

Leak, J. ale dealer, Preston, 1s. 5½d.—*Lee*, J. C. locker in the Customs, Liverpool, first, 1s. 7½d.—*Moore*, H. butcher, Calverton, 1s. 5½d.—*Pook*, J. accountant, Francis-st. Bedford-sq. 20s.—*Pook*, J. accountant, Pall-mall, 20s. -*Poulton*, J. builder, Derby, discharged in 1830, 5s. 8d.—*Robinson*, J. dealer in curiosities, New Bond-st. and Rathbone-place, Oxford-st. 14s.—*Rounsevell*, E. A. gent. Dawlish, 4s.

ASSIGNMENTS

To Trustees for the benefit of Creditors.

Gazette, May 30.

Adcock, T. cattle dealer, Kirby-park, Leicestershire, May 20. Trusts. W. Bunney, farmer, Little Dalby, and W. Black, farmer, Thorpe Satchville. Sol. Latham, Melton Mowbray.—*Bowyfield*, T. ironmonger, Lincoln, May 22. Trusts. J. Inman, gent. and C. Whittow, draper, both of Lincoln. Sol. Moore, Lincoln.—*Hussey*, M. widow, and *Hussey*, J. miller, Abbey Foregate, near Shrewsbury, April 7. Trust. C. Adams, banker, Shrewsbury. Sol. Kough, Shrewsbury.—*Low*, W. draper and grocer, Stanstead Mount Fitchet, Essex, May 12. Trusts. D. Smith, gent. Wood-street, and G. Taylor, grocer, Bishopsgate-street. Sol. Surr, Lombard-street.—*Samuda*, T. W. gent. Dronfield, Apr. 21. Trusts. S. Lucas, gent. and S. Baggaley, farmer, both of Dronfield. Sol. Melland, Chesterfield.—*Wood*, W. and *Holmes*, J. tea dealers, Maidstone, May 24. Trusts. W. Holmes, grazier, Dymchurch, and M. Honey, grocer, Maidstone. Sol. Watts, Hythe.

Gazette, June 3.

Bowyfield, E. L. ironmonger, Newark upon Trent, Apr. 17. Trusts. C. Ridge, stationer, and J. Fiddaman, leather merchant, both of Newark upon Trent. Sols. Falkner and Co. Newark.—*Smith*, S. grocer and draper, Garboldisham, May 26. Trusts. R. Fincham, banker, and E. C. Nunn, schoolmaster, both of Diss. Sol. Muskett, Diss.

Bankrupts.

DATE OF FIAT AND PETITIONING CREDITORS' NAMES.

Gazette, May 30.

M'Alpine, William, tailor and draper, Liverpool, June 13 and July 11, at twelve. Liverpool, Com. Ludlow; Turner, off. ass.; Bridger and Blake, London wall, and Francis and Almond, Liverpool, sols. Date of fiat, May 21. T. Smith, butcher, Liverpool, pet. cr.

Searle, Francis William, cheesemonger, 4, Adelaide-terrace, Chelsea, June 6, at twelve, and July 7, at eleven. Basinghall-st. Com. Goulburn, Follett, off. ass.; Townshend, Hornsby-rd.-st. Fitzroy-sq. sol. Date of fiat, May 27. Bankrupt's own petition.

Wenman, Thomas, merchant, Birmingham, June 10, at eleven, and July 8, at twelve. Birmingham, Valpy, off. ass.; Tyndall and Sons, Birmingham, and Rowland and Co. Threadneedle-st. sols. Date of fiat, May 14. John Yates, spoon manufacturer, Aston, pet. cr.

Gazette, June 3.

Astle, William, plumber, glazier, and painter, Wolverhampton, Staffordshire, June 13 and July 10, at eleven, Birmingham, Com. Daniell; Bittleston, off. ass.; Walker, Wolverhampton, and Capes and Co. Gray's-inn, sols. Date of fiat, May 27. W. and E. Walford, timber merchants, Wolverhampton, pet. crs.

Bradley, John Penn and George James, wine merchants, Great St. Helen's, City, June 13 and July 15, at eleven, Basinghall-st. Com. Fane; Whitmore, off. ass; Messrs. Harrison, Walbrook, sols. Date of fiat, May 29. J. Allnutt, sen. J. Arbouin, and J. Allnutt, jun. wine merchants, Mark-lane, pet. crs.

Clarkson, William, boot and shoe manufacturer, Redcross-st. City, June 17, at two, July 15, at eleven, Basinghall-st. Com. Holroyd; Groom, off. ass.; Llewellin, Noble-st. Cheapside, sol. Date of fiat, May 23. S. Ward, warehouseman, Lillypot-lane, Noble-st. pet. cr.

Church, Francis Harrington, surgeon and apothecary, Southampton, June 10, at half-past one, July 9, at twelve, Basinghall-st. Com. Evans; Johnson, off. ass.; Humphreys, Newgate-st. sol. Date of fiat, May 28. Bankrupt's own petition.

Dempsey, John Church, stationer, artists' colourman, picture dealer, and dealer in lamps and chandeliers, 18, St. Augustine's-parade, Bristol, June 17 and July 15, at eleven, Bristol, Com. Stephen; Kynaston, off. ass.; Galsworthy and Co. Cook's-ct. and Grav, Bristol, sols. Date of fiat, May 27. Bankrupt's own pe

Fawcett, Stephen, linen draper, 68, Chiswell-st. June 17, at one, July 11, at half-past eleven, Basinghall-st. Com. Holroyd; Groom, off. ass.; Fawcett, Jewin-st. and at Hockley, Essex, sol. Date of fiat, May 30. E. Wentworth and T. Davies, floor cloth manufacturers, 160 Whitechapel, pet. crs.

Matthews, William, pianoforte manufacturer, 42, Lisson-grove North, St. Marylebone, June 12, at half-past eleven, July 18, at twelve, Basinghall-st. Com. Fonblanque Pennell, off. ass.; Weightman, Warwick-ct. Gray's-inn sol. Date of fiat, May 24. J. Young, ironmonger, 18, Blandford-st. Manchester-sq. pet. cr.

Mouon, John, and Simons, Richard, wine and spirit merchants, 27, Mincing-lane, City, June 16, at half-past eleven, July 11, at twelve, Basinghall-st. Com. Goulburn; Green, off. ass.; May, Queen-sq. sol. Date of fiat, Jun. 2. D. Hart, wine and spirit merchant, Fenchurch-st. pet. cr.

Pearson, Lazenby, currier and leather dealer, Newcastle-upon-Tyne, June 17, at eleven, July 15, at two, Newcastle, Com. Ellison; Baker, off ass.; Williamson and Hill, Gray's-inn, and Ingledew, Newcastle, sols. Date of fiat, May 27. Bankrupt's own petition.

Pitt, John, grocer and tea dealer, Drake-st. Plymouth, June 12, and July 7, at one, Exeter, Com. Bere Hernaman, off. ass.; Cross, Plymouth, Gregory and Co. Bedford-row, and Terrell, Exeter, Date of fiat, May 22. J. D. Tuckett, merchant, Plymouth, pet. cr.

Yates, John, ship owner, Guernsey, and 22, York-rd. Lambeth, June 13, at half-past twelve, July 7, at twelve, Basinghall-st. Com. Shepherd; Turquand, off. ass.; Wood and Wickham, Corbet-ct. sols. Date of fiat, May 31. Bankrupt's own petition.

PARTNERSHIPS DISSOLVED.

Gazette, May 27.

Alexander, W., *Dundas*, H., *Archbold*, E. C. and *Cockburn*, R. (deceased), wine merchants, New Bond-street, Dec. 31. Debts paid by Archbold.—*Baker*, B. and *Partridge*, W. commission agents, Aldermanbury, May 23.—*Barker*, M. A. and *Frith*, A. grocers, Pond-place, Chelsea, May 21. Debts paid by Frith.—*Copp*, F. C., *Eales*, C. and *Elmslie*, E. W. architects, Langham-place, so far as regards Elmslie, Sept. 10.—*Hall*, S. and *Wager*, J. drapers, Worksworth, May 23. Debts paid by Hall.—*Hughes*, H. and *Ellis*, T. joiners, Wigan, May 12. Debts paid by Ellis.—*Hyams*, M. and *Metz*, L. cigar manufacturers, Mitre-square Aldgate, May 6. Debts paid by Hyams, Albert-place, City-road.—*Limmer*, F. and *Rose*, J. ironmongers, Ipswich, Nov. 24.—*Kerley*, E. J. and *Ware*, S. solicitors, Gray's-inn, May 24. Debts paid by Kerley.—*Kingsbury*, H. R. and M. H. and *Williams*, J. builders, Uxbridge, April 12.—*Newton*, G. H. and W. cement manufacturers, Hull, April 26.—*Raphael*, P. and J. cigar manufacturers, Ratcliff-highway, May 26.—*Robins*, T. C. and *Hobbs*, S. attorneys, Wells, May 18.—*Shelly*, E. and J. W. and *Rix*, J. merchants, Great Yarmouth, so far as regards Rix, March 31. Debts paid by the remaining partners.—*Throssel*, T. and *Prince*, J. machine makers, Dunnington, Yorkshire, April 7. Debts paid by Throssel.—*Wells*, B. and J. machine makers, Bradford, May 24. Debts paid by B. Wells.—*Wheldon*, T. and *Hepworth*, T. attorneys, Barnard Castle, May 16. Debts paid by Wheldon.—*Wilson*, C., *Horner*, W. and *Townrow*, W. straw hat manufacturers, Luton, May 22. Debts paid by Wilson and Townrow.—*Young*, R. and C. G. farmers, Bramley, Surrey, May 5.

Gazette, May 30.

Basford, W. and *Dean*, J. brick makers, Burslem, May 28. Debts paid by Dean.—*Bidwell*, H. and *Maxon*, R. W. surgeons, Wellington, March 25.—*Bradley*, J. and C. ironmongers, Goswell-road and Chapel-st. Clerkenwell, May 27. Debts paid by C. Bradley.—*Braggs*, R. and *Burrows*, H. gun makers, Strand, May 28.—*Burgess*, J. and *M'Allister*, J. glass and china manufacturers, Charlton upon Medlock, May 28. Debts paid by Burgess.—*Clarkson*, J. and *Dale*, T. jun. timber merchants, Barnsley, May 24. Debts paid by Dale.—*Dean*, W. and S. shoe dealers, Oldham, Jan. 1.—*Dean*, T. and *Walker*, T. timber merchants, Carlisle, April 30. Debts paid by Dean.—*Ellis*, J. sen. and jun., E. and C. hotel keepers, Richmond, Jan 28.—*Kirk*, T. and *Hubbart*, H. lace manufacturers, Nottingham, May 27. Debts paid by Hubbart.—*May*, T. and *Howard*, J. curriers, Tenterden, May 16. Debts paid by Howard.—*Mayhew*, W. and *White*, W. hat manufacturers, Union-st. Southwark, and New Bond-st. March 25. Debts paid by Mayhew.—*Morfitt*, J. jun. and *Iles*, G. dyers, Leeds, May 24.—*Payne*, C. and *Wheeler*, A. milliners, Liverpool, Feb. 14. Debts paid by Payne.—*Stannard*, R. and *Womack*, G. tailors, Norwich, May 27.—*Summers*, W. A. *Groves*, J. T. and *Day*, C. A. engineers, Millbrook and Northam, so far as regards Groves, May 27.—*Surrage*, J. and *Prideaux*, F. G. woollen drapers, Bristol, May 6. Debts paid by Prideaux.—*Underwood*, M. and *Cox*, C. coal merchants, Raymill-wharf, May 22.

Insolvents

Petitioning the Courts of Bankruptcy.

PETITIONS TO BE HEARD AT BASINGHALL-STREET.

Gazette, May 27.

Garnham, W. bricklayer, Ipswich, June 9, at half-past eleven.—*Heck*, J. fishmonger, Mare-st. Hackney, June 9, at twelve.—*Jones*, C. T. out of business, Charles-st. Berkeley-sq. June 12, at eleven.—*Steggall*, R. miller, Ipswich, June 12, at twelve.—*Stevens*, J. sen. plumber, Hall-pl. Lower Kennington-lane, June 9, at eleven.—*Tye*, J. draper's assistant, Wentworth-pl. Mile-end-road, June 10, at eleven.

COUNTRY.

Gazette, May 27.

Bayley, R. out of business, Stafford, June 10, at twelve, Birmingham.—*Foley*, J. tailor, Willenhall, June 9, at half-past ten, Birmingham.—*Harding*, T. baker, Frome Selwood, June 16, at eleven, Bristol.—*Jones*, E. butcher, Liverpool, June 3, at eleven, Liverpool.—*Masters*, W. coach maker, Bath, June 19, at twelve, Bristol.—*Quelch*, E. tailor, Cardiff, June 17, at half-past eleven, Bristol.—*Stanley*, C. attorney, Newport, June 13, at half-past ten, Birmingham.—*Sumner*, J. mason, Bath, June 16, at eleven, Bristol.—*Tripp*, C. hay jobber, Yatton, June 10, at eleven, Bristol.—*Whittaker*, T. woollen draper, Bath, June 17, at eleven, Bristol.—*Wynn*, S. farmer, Melverley, June 10, at twelve, Birmingham.

MEETINGS IN THE COUNTRY.

Gazette, May 27.

Armstrong, G. L. June 18, at eleven, Liverpool.—*Brazendale*, J. June 18, at eleven, Liverpool.—*Carr*, G. June 18, at eleven, Liverpool.—*Ericson*, J. G. June 18, at twelve, Liverpool.—*Fairbourn*, J. out of business, Tadcaster, June 18, at eleven, Leeds.—*Fraser*, J. W. schoolmaster, Walcot, June 18, at twelve, Bristol.—*Freeman*, W. June 18, at twelve, Liverpool.—*Hesketh*, R. June 18, at eleven, Liverpool.—*Rason*, J. June 18, at eleven, Liverpool.—*Rimmer*, R. June 18, at eleven, Liverpool.—*Scholefield*, N. June 18, at eleven, Liverpool.—*Shaw*, T. June 18, at eleven, Liverpool.—*Wood*, W. June 18, at twelve, Liverpool.

Gazette, May 30.

PETITIONS TO BE HEARD AT BASINGHALL-STREET.

Adams, J. G. out of business, Gillingham.—*Alderson*, S. St. J. H. widow, Upper Cumming-street, Pentonville, June 5, at half-past eleven.—*Ayres*, J. shoemaker, Putney, June 9, at half-past twelve.—*Billson*, W. butcher, Ratcliffe-highway, June 26, at eleven.—*Bowden*, J. assistant to an attorney, Grafton-street East, Tottenham-court-road, June 12, at twelve.—*Boxall*, G. wheelwright, Buckland, June 9, at one.—*Gatherco'e*, T. farmer, Maltishall Burgh, June 19, at eleven.—*Holledge*, R. sen. labourer, Beckenham, June 4, at half-past eleven.—*Lee*, C. butcher, Quainton, June 26, at eleven.—*Miles*, J. R. tin-plate worker, Turk-street, Bethnal-green, June 19, at eleven.—*Phillips*, L. M. agent, Princes-st. Cavendish-sq. June 26, at eleven.—*Tuck*, J. higler, Harston, June 12, at twelve.

IN THE COUNTRY.

Brighham, C. Roman Catholic clergyman, Dodden, near Kendal, June 10, at twelve, Newcastle.—*Jones*, D. auctioneer, Llanguille, June 19, at eleven, Bristol.—*Lotinga*, A. M. dealer in watches, Bishop Wearmouth, June 11, at half-past two, Newcastle.

MEETINGS AT BASINGHALL-STREET.

Fisher, W. attorney, Hammersmith, June 11, at eleven.

MEETINGS IN THE COUNTRY.

Burge, J. jun. tailor, Weston super Mare, June 23, at one, Bristol.—*Longston* and *M'Knight*, stone masons, Whitfield, June 26, at twelve, Manchester.

From the Gazette of Friday, June 6.

Bankrupts.

Gent, C. and *Millar*, G. commission merchants, Bread-st.—*De Wilde*, F. A. cabinet ironmonger, Wells-st. Oxford-st.—*Smith*, J. ship and insurance broker, St. Dunstan's-hill.—*Smith*, J. grocer, Reading, Berkshire.—*Walters*, W. assistant warehouseman, Harcourt-st. Marylebone.—*Burbury*, J. maltster, Leek Wootton, Warwickshire.—*Crabb*, J. hemp manufacturer, Chardstock, Dorsetshire.—*Davis*, J. chemist and druggist, St. Michael, Bristol.—*Jones*, E. T. and *Croskill*, H. M. booksellers, Rochdale.—*Nelson*, J. M. general broker, Liverpool.—*Carscaden*, W. R. hosier, Leeds.

CONTENTS.

THE REPORTS.

Equity Courts.

VICE-CHANCELLOR OF ENGLAND'S COURT.

BREEZE *v.* ENGLISH.

Thursday, May 8.

Practice—Leave given at hearing, to supply accidental defect in proof—Costs.

After a bill of revivor and supplement, the Court will allow the plaintiff to amend his bill by the statement of a certain fact necessary to perfect the chain of evidence, although the fact itself was in the knowledge of the party at the time he filed his bill of revivor, but he had omitted to state it through inadvertence.

When a party applies to the Court to cure a defect caused by his own negligence or oversight, he must pay the costs of the motion, whether he succeed in his application or not; and it makes no difference even, where the party is in circumstances of poverty, unless he appear upon the record to sue in formâ pauperis.

It will be seen by a reference to 4 Law T. 230, that an application, by motion, was made in a supplemental suit to the cause of *Breeze* v. *Hawker*, when it was urged by the learned counsel in support of the motion, that notwithstanding there might have been some reprehensible omissions in the record, under the circumstances of the case the Court would only be acting in accordance with the authorities in granting the application; but the Vice-Chancellor of England refused to make the order upon the facts as they then appeared, and questioned whether if the Court gave leave to obtain the evidence sought, the evidence might not accomplish the desired object. His Honour, therefore, on that occasion directed the matter to stand over for counsel's further consideration.

The original suits of *Breeze* v. *Hawker* and *Breeze* v. *English* were instituted in respect of the freehold and copyhold property devised by the will of one Mr. John Almes (the grandfather of the female plaintiffs), which bore date 23rd Oct. 1775, the testator himself dying on the same day. The bill was filed as to the copyholds. Under the will it was doubtful whether the children took by survivorship, as joint tenants, or whether it passed to their representatives. The bill was filed 21st Feb. 1833, by Thomas Breeze, and Harriet his wife, formerly Harriet Almes, James Nicholls and Ann his wife, formerly Ann Almes; these two female plaintiffs being the daughters of James Almes, son of the testator, against H. C. Hawker and John Almes, the surviving son of James Almes, then out of the jurisdiction. The defendant Hawker filed his answer 13th Dec. 18[illegible]. At that time, it was supposed that the defendant, John Almes, was abroad, out of the jurisdiction, but he arrived in England sometime in August, 18[illegible]. A further answer was put in by Hawker 27th Sept. 18[illegible], in which he stated nothing respecting the arrival of the other defendant, [illegible] as it was supposed, from his ignorance of the fact. Depositions were taken by the plaintiffs in the cause 1[illegible] Jan. 18[illegible]. John Almes died in the month of Feb. 18[illegible]. The title of these depositions alluded to the last-named defendant as "John Almes, now deceased." The depositions of [illegible], the solicitor, was also entered. It had on the former occasion been objected to the application to amend that, although it was known that J. Almes had died in the year 1837, which caused an abatement, yet that the solicitor proceeded to take evidence in the year 1838, as if he were then living, and out of the jurisdiction; and the bill of revivor and supplement, which was not filed till 17th July, 1839, for the first time mentions his death, but did not state when he died, there having been blanks left for the day of the month and the year of his decease.

Cooper, *Lee*, and *Elderton*, in again applying to the Court for the purpose of allowing the amendment, contended that it was not thought necessary to notice J. Almes' death when the bill of revivor was filed, because it was not supposed but that Mrs. Breeze and Mrs. Nicholls took by survivorship, which would depend upon the construction of the will, so that there was nothing to prevent carrying the suit to a hearing, and ascertaining whether the children took by survivorship or as tenants in common. Hawkins, the purchaser of the property, had died, whereby a bill of revivor against his personal representative, English, became necessary, and in drawing the bill of revivor it was thought desirable, *ex abundanti cautela*, to bring the personal representative of John Almes before the Court. That it was admitted that the chronological order of dates had not been observed, which had caused some severity of remark from the other side, in that having, in the depositions previously taken, stated the death of John Almes, they had omitted to notice the date of his death in the bill of revivor in July, 1839, which omission arose from carelessness, and not with any bad motive. That the only person who could be injured by it was J. Almes' personal representative, Mrs. Nicholls, one of the plaintiffs to the record, who in the bill of revivor stated his death, but left blanks for the date; that, in the other suit of *Breeze* v. *English*, which relates to the freehold, the death of John Almes is mentioned, and the affidavit of Mr. Hume, in 1842, clearly testified the fact of his decease; that, under the cases of *Hood* v. *Pimm* (4 Sim. 101), and *Hughes* v. *Eades* (1 Hare, 486), the Court will allow the defect to be supplied where it is material, and omitted. As it was impossible for the plaintiffs to pay the costs if they were insisted upon, it would put an end to the suit. It was a mere technical objection; and not only the plaintiff's depositions, but the defendant's also, described the death of John Almes, therefore they must have been aware that the letters of administration were forthcoming, and that, therefore, the Court would not extend the practice beyond what it has gone before.

The VICE-CHANCELLOR.—It is quite competent for the Court to allow a party to prove a fact necessary to be proved, but which by mistake has not been proved. Now the present case is one of as gross neglect as can well be; for John Almes died in the year 1837, evidence of it is given in depositions taken in 1838, and upon the face of these depositions John Almes appears to be dead. A bill of revivor and supplement was filed in 1839, in which the death is stated, but omitting to state when that event happened. In 1842 the cause came on to be heard, but was found to be defective; but the Court allowed the parties to amend. The bill was not amended, however, until 1844; still the parties proceeded without proving the death of John Almes; two distinct proofs were required, but the defect was not remedied. It is true, very little disclosure of the real facts of cases are made by paupers in their professional communications, but this was a fact known to the solicitor himself. When a person comes to ask the Court's indulgence to be relieved against his own mistake, the rule is, that he must pay the costs whether his application be granted or not.

Liberty to prove upon payment of costs. Stands over.

This cause came on to be argued on Tuesday, 10th instant, for the Court to relieve the plaintiffs against a sale which they had made to one of the defendants some years ago. It would seem that the plaintiffs were, under the will of Admiral Almes, entitled to a qualified fee simple; but, being ignorant of that fact, under an erroneous impression that they had only a life estate in the property, sold it, and the same was purchased as such by the defendant Hawker at a price far inferior to its real worth. Before, however, the plaintiff's case had been argued fully, an objection was taken by Mr. *Bethell*, that the devolution of the property from the original trustees to the defendants, who appeared as their representatives, had not been fully made out; and the Court being of the same opinion, the bill was dismissed with costs, but without prejudice to filing another bill.

COURT OF QUEEN'S BENCH.

Wednesday, June 4.

REG. *v.* INHABITANTS OF ST. GILES, CRIPPLEGATE.

Appearance at the sessions upon an appeal will not give jurisdiction if the appeal has been entered too late.

An order of removal had been made on the 4th of August, 1844, and the notice of chargeability, with the examinations, were sent in August to the appellant parish. The actual removal took place upon the 1st of October, and the next sessions were upon the 19th of October, but there was no entry or respite of the appeal at that sessions; it was entered at the Christmas sessions. The respondents protested against the jurisdiction of the sessions, but the appeal was heard, and the proceedings were now brought up for the purpose of being quashed.

H. Wilde, in support of the order of sessions.

Pashley, contrà.—No consent can give jurisdiction. (*Laurence* v. *Willcock*, 11 A. & E. 941; *R.* v. *Shaw*, 2 Salk. 482; Carth. 452.) *Rule absolute.*

REG. *v.* P. DAWSON.

To ground an application for mandamus to inspect court-rolls pending an action, it must be shewn distinctly that the issues relate to the lands held of the manor.

This was a demurrer to a return to a mandamus. The writ recited that the manor of Howly was an ancient manor, and that an action at law was pending, in which the defendant, Pudsey Dawson, was plaintiff and one Redmead, the applicant for the writ of *mandamus*, was defendant; and that the defendant Redmead was entitled to, or interested in, certain lands within the manor, that were held of the lord of the manor until 1711, as customary freeholds, when they were enfranchised by Act of Parliament; and certain other lands within the said manor, which were also held as customary freeholds until their enfranchisement in 1774, and that they were still held under the lord of the manor, with certain services; and that it was material and requisite, to enable the defendant Redmead to prepare for the trial of the said issues, to inspect and take copies of the court-rolls, so far as they relate to the issues in the said action. It then set out a demand and refusal, and the mandatory part corresponded with the demand recited in the inducement. To this the defendant had returned, first, a traverse of the demand; and the return further contained objections to the writ in the nature of special demurrer, that it did not appear how the said Redmead was interested in the said lands, or what title he had, or that the action or issues related to the said lands and hereditaments.

Pashley, in support of the demurrer.—It is too late to aver no demand. The writ itself would be a sufficient demand. He cited *R.* v. *Tower* (4 M. & S. 162); *R.* v. *Shelley* (3 T. R. 141); *Crewe* v. *Saunders* (2 Str. 1005). It is shewn that this is equivalent to a copyhold tenancy. [COLERIDGE, J.—Is not this relating to the lord's title? Your writ is framed so wide, that it is difficult to know what is asked for.] The lord is plaintiff in the action, and must therefore know as well as we can tell him. The applicant is within the decisions of *Ex parte Hutt* (7 D. P. C. 690), and *Ex parte Barnes* (2 D. N. S. 20). The statement of being interested suffices, at least, in substance. The only objection that can be taken to the writ now is that it is substantially defective. (*Reg* v. *Powell*, 2 Q. B. 360.)

Cowling, contrà.—The writ is bad. The applicant ought to shew clearly that he is entitled to the inspection, and that does not here appear. He is not a copyholder applying against the lord of the manor, but only a person with some interest, and the issues may be wholly unconnected with these lands. He was then stopped.

Lord DENMAN, C. J.—It does not appear that these issues relate to these lands, or that the entries are in any such way connected with the questions in dispute. *Judgment for the defendant.*

Friday, June 6.

SELBY *v.* BROWN.

Use and occupation—Pleading.

Demurrer to plea.

This was an action of debt for use and occupation. *Plea*, as to 40*l.* parcel of sum in the first count, said to be due and owing for the use and occupation for the space of one year; that before the demise by the plaintiff to defendant, the Brewers' Company were seised of the premises in question, and had leased it to one Staly, subject to provisoes for re-entry upon breaches of certain covenants; that Staly entered and assigned to the plaintiff; that defendant entered as yearly tenant to the plaintiff, and held it as such for the whole year; that breaches of the covenants had been committed by Staly and the plaintiff; that the Brewers' Company, *after the accrual of the said causes of action*, re-entered by virtue of the provisoes, and for the purpose of determining the lease, and "*did elect to determine, and did then determine, the lease from the time of the commencement of the defendant's tenancy.*"

H. Hill, in support of the demurrer.—This plea is bad, as amounting to *nil habuit in tenementis*, or to the general issue; and it is also bad in substance, as shewing an eviction after the rent accrued.

Cases cited: *Prentice* v. *Elliott* (5 M. & W. 606); Bac. Abr. Rent, L.; *Palmer* v. *Ekins* (2 Ld. Raym. 1550); *Atchorn* v. *Gomme* (2 Bing. [illegible]); *Crobham* v. *Thornbury* (Hob. 82).

Fitzherbert, contrà.—*Doe* v. *Seton* (2 C. M. & R.

729); *Doe* v. *Higginbotham* (11 A. & E. 307); *Claridge* v. *M'Kenzie* (4 M. & G. 143); *Balls* v. *Westwood* (2 Campb. 11); *Waddilove* v. *Burnett* (2 B. N. C. 538).

M. Hill, in reply.—The plea shews that the causes of action had accrued at the time of eviction.

Lord DENMAN, C.J.—The defendant admits that the estate was in the plaintiff, as lessee, at the time of his entry as tenant, but says that the Brewers' Company re-entered. We ought, therefore, to know distinctly when this re-entry took place. If after the rent accrued, it is no defence, and the allegation that they elected to determine it as from the commencement, I do not understand.

PATTESON, J.—If the title of the plaintiff ceased before the expiration of the year, then this plea amounts to the general issue, and is bad; if it ceased afterwards, it is no defence to the action, and the plea alleges that it took place after the accruing of the cause of action. The subsequent statement that the Brewers' Company elected to determine it from the beginning, does not, as I am aware, amount to a legal determination of the tenancy from that period, and if it did, that the plaintiff never had any title. In any way, therefore, the plea is bad.

WILLIAMS and COLERIDGE, JJ. concurred.

Judgment for plaintiff.

TAYLOR v. STENDALL.

It is no plea to an action by a reversioner for waste by a stranger, that he was the innocent cause of the mischief, and entered upon the premises to repair it, and did repair it, to the best of his ability, and within a reasonable time.

Demurrer to plea.

This was an action on the case for waste, brought by a reversioner against a stranger for injury done to a wall, and building upon the land. The defendant pleaded that he was the occupier of an adjoining house, and that in the course of some necessary repairs to the said house, some scaffolding and other materials accidentally, and without any negligence or fault of the defendant, fell upon the said wall and building, and knocked it down, and that afterwards, and within a reasonable time, the defendant entered the close and re-erected the wall, &c. &c.

Whitehurst, Q. C. in support of the demurrer. The Court called upon

Atkinson to support the plea.—This is in the nature of the old action for waste in the *tenuit*, and the authorities shew that the repair of the waste done before writ sued was an answer. (Com. Dig. Waste, E. 5; Bro. Abr. Waste; 2 Roll. 682; 2 Inst.; *Young* v. *Spencer*, 10 B. & C. 145; *Bell* v. *Twentyman*, 1 Q.B. 766.)

By the COURT.—In those cases the tenant had the duty of repairing thrown upon him; but this is an action against a stranger, and to make your plea good you must maintain that you had a right to go upon the land and re-erect the wall, which is clearly not the case. *Judgment for plaintiff.*

PEAKE v. SCHREECH.

Pilot Act.

The exemption enjoyed by the owners of ships resident in Dover, Deal, or the Isle of Thanet, under 6 Geo. 4, c. 125, s. 62, is confined to ships sailing from Dover, Deal, or the Isle of Thanet, or into or out of any port or place within the jurisdiction of the Cinque Ports.

Demurrer to plea.

This was an action for penalties under the Pilot Act, 6 Geo. 4, c. 125, s. 19. The plea set up an exemption under the 62nd section, which was demurred to. The Court called upon

Bovill to support the plea.—The question is, whether a shipowner resident in Dover, Deal, or the Isle of Thanet is bound to take a Cinque Port pilot? It turns upon the construction of "places aforesaid." This is not to be confined to Dover, Deal, and the Isle of Thanet. There was an opinion given at Nisi Prius by Lord Tenterden that they were to be so confined; but that was unnecessary in the case, as the jury found that there was no *bonâ fide* residence. The objects of the different Pilot Acts were commented upon at length.

Watson, Q. C. in reply.

Lord DENMAN, C. J.—It is quite clear that Lord Tenterden was right. The words "places aforesaid" refer only to Dover, Deal, and the Isle of Thanet.

The rest of the Court concurred.

Judgment for plaintiff.

Saturday, June 7.

WORTHINGTON v. GRIMSDITCH.

Statute of Limitations.

Sufficiency of payment to defeat the statute is more properly a question for the jury.

This was an action of debt for money lent. Pleas—Never indebted, Payment, and Statute of Limitations.

At the trial, the only question was upon the third plea. It appeared that the plaintiff's testator had, previous to 1822, advanced to the defendant various sums of money. Up to 1822, the interest upon them amounted to 93*l*. 13*s*. The defendant had annually paid certain rents and tithes due from the deceased up to 1822; these amounted to 93*l*. 10*s*. 5*d*. It appeared that he had at first done so without her direction, but that it was recognised in the accounts between them; and in 1823 there was a balance due from the defendant of 60*l*. The rent and tithes were lowered about 1832 to 76*l*. and this sum the defendant continued to pay. It was held by the learned judge at the trial, that there was some evidence to go to the jury of a payment to take the case out of the statute. The jury found a verdict for the plaintiff, and a rule had been obtained by Evans to set aside this verdict and to enter it for the defendant; against which

Welsby (*May* 23) shewed cause.—There was reasonable evidence to infer an understanding that the interest was to be in part kept down by the payment of the rent. The sums were, in the first instance, nearly identical. *Tippets* v. *Heane* (1 C. M. & R 252) was cited.

Evans, in support of the rule.—There was no proof on what account this payment of 76*l*. was made, and that is the material question. (*Holme* v. *Green*, Stark. 488; *Tippets* v. *Heane*, 1 C. M. & R. 252; *Mills* v. *Fowkes*, 5 B. N. C. 455.) The set-off was never connected with a payment. *Cur. adv. vult.*

On *Saturday, June* 6, judgment was delivered by

Lord DENMAN, C.J.—The question here is the effect of certain payments to take a debt out of the Statute of Limitations. The payment was not a part payment of the principal, but a part payment of interest. At first, the payment was not made by the direction of the intestate, but it was for her; and the question is, whether there was any evidence that the subsequent payments were made as such, or as matters of set-off only. Payments may have the effect of taking the case out of the statute in various ways. Where accounts are settled between the parties, and the items on both sides set off, as in *Ashby* v. *James* (11 M. & W. 542), it is a mode of payment by agreement, and such an agreement may be proved by implication from a course of conduct, like any other agreement; and in *Waugh* v. *Cope* (6 M. & W. 824) it was said that it is always more a question of fact than of law. The payment by the defendant here was a payment of rent and tithes for the testator and her sisters, which at first was within a few shillings of the amount of the interest. The rent was subsequently lowered in amount, but it was regularly paid by the defendant. He delivered an account, in which he charges rents and tithes paid for the testator. The defendant was nearly related to the parties who lent the money, and it would be unreasonable to say that there was no evidence whatever that he acted as the agent of the testator in paying the rent, and that he did not pay it as a separate ground of set-off. The question was, therefore, rightly left to the jury. *Rule discharged.*

REG. v. COCK.

Semble, the Court of Queen's Bench has power to grant a habeas corpus to bring up a prisoner committed for trial before a coroner's inquest. But a very clear case of necessity must be shewn.

Kelly, Q. C. applied to the Court for a *habeas corpus* to bring up the defendant from the gaol of Newgate, in order to his being taken before the coroner's inquest, now sitting on the body of Hannah Moore. The affidavit stated that a young man and Hannah Moore, passing as husband and wife, went to a public house, called the Coach and Horses, where they remained for the night, and went out in the morning. Upon the evening of the same day they returned again to the house, and after they had been there for some time, the young man ran down stairs calling for medical assistance, and alleging that his wife was dying, after having taken oxalic acid. Medical attendance was procured by the man himself, but the young woman died. Upon the man was found a paper, from which it appeared that the parties had agreed to commit suicide, and that the name of "Daniel John Cock" was written upon the paper. The man was taken before a magistrate, and committed to Newgate, upon the charge of having been guilty of the death of the woman in question. The coroner having received information of the circumstances, proceeded to hold an inquest upon the body, when it appeared clear to the jury that they could not proceed without having the said Daniel John Cock before them, as none of the witnesses who saw him at the inn ever knew him before, and could only identify him when he was before them. It is necessary to have the name of the party suspected, as the presentment of the coroner's jury is an indictment. Persons in criminal custody have, in several instances, been brought up for the purpose of being identified. (*Daniel* v. *Thompson*, 15 East, 78; *Ex parte Griffiths*, 5 B. & A. 730; case of *Sir R. Price*, 4 East, 587; *Attorney-General* v. *Jeadden*, 1 Price, 403.) [PATTESON, J.—Several Acts have passed to enable persons in custody to be brought up before certain courts—as courts-martial, and do not these imply that we have not the power at common law?] Those were not courts of ancient jurisdiction and importance, like the Coroner's Court, and they might also have been passed to clear up doubts whether a single judge had the power. The Statute of Coroners, 4 Edw. 1, and 31 Car. 2, c. 2, were also cited. A similar application was made before Mr. Baron Rolfe, but it was refused, because the Central Criminal Court was actually sitting. [Lord DENMAN, C. J.—I am quite aware of that. I was in full communication with my brother Rolfe, and he had no doubt as to the power to grant a *habeas* for such a purpose if necessary. PATTESON, J.—Why cannot the witnesses who identified the man before the magistrate go before the coroner?] The coroner cannot ascertain who they are. [PATTESON, J.—Why cannot he ask?]

Lord DENMAN, C. J.—I have the greatest respect for the Court of the coroner, and entertain the highest opinion of the services which it renders in preserving the lives of her Majesty subjects; but the power of which the exercise is requested upon the present occasion, even if it indubitably existed, ought to be exercised with the greatest caution, and with a strong apprehension of the danger of taking a person out of custody to which he has been committed upon the charge of so great an offence as that for which the party is confined upon the present occasion. If, however, it should upon any occasion appear that the coroner's jury could not proceed with their inquiry in a conclusive and satisfactory manner, this Court would consider what it had the power and was under the obligation of doing, for the assistance of the inferior tribunal; but, upon the statements made in support of the present application it does not appear that there was any difficulty in the case. In the present case there is not that absolute necessity which would justify this rule being granted.

PATTESON, J.—Every purpose would be answered if the witnesses who had been before the magistrates would go before the coroner, and after stating all the facts of the case, state in addition, that the person who was in the company of the young woman at the public-house was the same person whom they saw in custody before the magistrate upon the charge.

Rule refused.

REG. v. INHABITANTS OF FOLESHILL.

Rateability of a canal to the poor-rate—Parliamentary mileage.

This was a contest between two parishes as to their relative proportion of rate payable by a canal, part of which passed into both parishes; and whether the parish of Foleshill was entitled to rate the gross toll paid to the Oxford Canal on account of the creation of the Grand Junction Canal Company, these tolls not passing through the parish of Foleshill, but being compensation tolls under a local Act (33 Geo. 3, c. 80), and if so, whether the rate was to be levied according to the ordinary or the parliamentary mileage.

Hill, Q.C.—This case has been often before the courts. (*Rex* v. *Oxford Canal Company*, 4 B. & Cr. 4; same case, 10 B. & Cr. 163.) Are these gross tonnages to be paid on the traffic which never enters Foleshill? This Court has often determined that this shall not be so. (*Hull Dock Company*, 5 Law T.) Here it is clear that there is no advantage to them upon the canal in that part at Foleshill. It might not exist and do no harm to them. (*Reg.* v. *Cook*, B. & Cr. 797; *Rex* v. *Tynemouth*, 12 East, 40; Bott, 142; Cowper, 583.) These cases establish the general principle that the traffic only which comes into a parish is to be rated. The next question is, on what ratio the canal shall be rated. We admit that the parish of Foleshill has boats passing through it. We say the tonnage is rateable only by such parishes as the boat has passed through or into; and that it is rateable as to distance according to the parliamentary length, and not according to the actual measure in ordinary miles. The gross tonnage and the mileage tonnage stand on precisely the same footing. The Court cannot know the actual distances; but the Act has caused certain stones to be set up, defining, according to certain rules, what are miles within its scope. If the actual and parliamentary distances differ, that is an accident with which this Court has nothing to do. The parish of Foleshill is the same as that to which the cases in 9 & 10 B. & C. relate, and there no such claim as this was made except on the traffic which passed through the parish.

Miller, same side.—First, as to right to rate the tolls that did not pass through this parish. It is a fallacy to suppose that the whole profit and the rate thereon are applicable to the entire line of canal, or that this is strengthened by the fact that compensation tolls were given because two new canals were started. The principle of rating is to ascertain what a lease of a canal would be worth. If a party took a mile of the canal at Foleshill, how would he be benefited by tolls on coals which did not pass through it? Neither would he earn more, or be able to take higher tolls. And the value to the tenant is the rateable value; therefore it is not rateable to these compensation tolls. The first Grand Junction Act gave the compensation tolls generally; but the subsequent Act states that such gross tonnages on goods shall be taken for "the distance the same may respectively pass," and in no other way. The other question then arises as to the ratio of distance. The relative value of the tolls in different parishes has been much altered by the new parliamentary standard. One mile is now in one parish as valuable as two miles in

another parish, owing to the increased value of the shortened distance.

Hayes, same side.—This is the first time that a parish has made a claim for tolls which have not come near the parish. In *Rex* v. *Oxford Canal Company* (4 B. & Cr. 74), the question was expressly confined to goods which have passed through the parish or town, and no one thought of claiming for any other. It would be most inconvenient if the rate were to depend on the boats pursuing a course, such as should make the gross tonnage payable instead of the other.

Martin, Q. C. contrà, with whom was —The canal company has nothing at all to do with this question. It is a matter of conflict between the parishes. [Lord DENMAN, C. J.—It is a sort of interpleader.] 10 Geo. 4 is a consolidation of the former Acts as to this canal. 31 Geo. 3 created the Grand Junction Canal. (*Rex* v. *Oxford Canal*, 4 B. & Cr. 74, per Bayley, J.) The gross toll is a compensation to be paid to the Oxford Canal on account of the creation of the Grand Junction Canal. It is quite immaterial through what parishes the tolls pass; it is only a means of making a compensation for the goods which pass into the Grand Junction from the Oxford Canal.

Lord DENMAN, C. J.—There are two questions in the case. The first is, whether the canal company is to be rated, without regard to the entry of the vessels within the parish. This has already been decided in the negative in *R.* v. *Oxford Canal Company* (10 B. & C. 163). It is true that the subsequent Act of Parliament contains enactments respecting the gross tonnages, and the words are not precisely the same as in the former Act, but they are capable of the same meaning. The second question is as to the proportion of the toll in respect of the shortened part of the canal, whether it is to be rated according to its actual length or according to the length it was before it was shortened by Act of Parliament. The 78th and 79th section of the Act specify the length for the purpose of charging the toll, and also the proportion earned in the different parishes. It must, therefore, be the foundation of the calculation of the rate. The rate, therefore, is to be confirmed, but altered from 650*l.* to 698*l.*

REG. v. THE GUARDIANS of ST. MARY, LAMBETH.

Where a union has been framed, and consists of a single parish, the guardians of the union are guardians of the parish, and are consequently entitled to sign a notice of chargeability under the 79th sec. of the 4 & 5 Wm. 4, c. 76.

This was an appeal from an order of sessions, by which it was held that a notice of chargeability signed by the guardians of the union of St. Mary, Lambeth, which parish comprised one entire union, was invalid, and that the signature of the guardians or overseers of the parish was required under the 79th sec. of the 4 & 5 Wm. 4, c. 76 (the Poor Law Amendment Act).

Charnock, in support of the order of sessions, cited ss. 39, 72, and 79 of the above stat.; 13 & 14 Car. 2; 22 Geo. 3, c. 83; 5 & 6 Vict. c. 37; *R.* v. *The Justices of Warwickshire* (6 Ad. & El. 873); *Rex* v. *The Justices of Derbyshire* (ib. 885); *Reg.* v. *The Inhabitants of Westbury* (1 New Sess. Ca. 33); *Reg.* v. *The Justices of Surrey* (1 N. Sess. Ca. 124).

Bovill, contrà.—He relied upon *Reg.* v. *The Justices of Surrey*, and referred to *Reg.* v. *The Inhabitants of Westbury*, and to the 39, 41, 79, 81, and 109 sections of the 4 & 5 Wm. 4.

The Court expressed a desire, before they gave their decision, to hear the argument in

REG. v. THE GUARDIANS OF ST. MARY, SOUTHAMPTON.

Where an union consists of three parishes, the guardians of the union are not guardians of the parish, and cannot consequently sign the notice of chargeability.

This was also an appeal from an order of sessions respecting the validity of a notice of chargeability, and the question turned, as in the last case, upon the point whether the signature should be in the hands of the guardians of the union or of the guardians of the parish. There was, however, a material distinction between the two cases. In the present case the union consisted of three parishes, under a local Act (18 Geo. 3, c. 50), and not of a single parish, as in the instance of St. Mary, Lambeth.

Sanders and *Pashley*, in support of the order of sessions, submitted that the guardians of the union could not be regarded as guardians of the three parishes of which the union consisted. This case, whatever the last might be, was clearly within the principle of *Reg.* v. *The Justices of Surrey*. They referred to the 38, 39, and 79 sections of the Poor Law Amendment Act (7 & 8 Vict. c. 101, s. 64), and to *Arnold* v. *The Corporation of Poole* (4 M. & G. 860).

Watson, Q.C. and *Archbold*, contrà.—This was not the ordinary case of a union of parishes where each contributed separately; but it was such a union of the three as made the guardians of the union guardians of the three parishes; and they acted as parish officers. The union of parishes under the Poor-law Amendment Act was only a union for the management of the poor, not for the purpose of rating, as this was, and this distinction prevented the application of the principle of *Reg.* v. *The Justices of Surrey*. The overseers and churchwardens of one parish alone could not sign the notice of chargeability, because the rate for the relief of the poor was made upon the whole district.

Lord DENMAN, C. J.—In the former case the sessions are wrong. The guardians of the union of St. Mary, Lambeth, are guardians of the parish, and may consequently sign the notice of chargeability under the 79th section of the Act. In the Southampton case, the sessions are right. The guardians of the union are not guardians of the parish.

PATTESON, J.—The Poor-law Amendment Act says that the notice shall be sent by the guardians of the "parish." It is clear that the guardians of the Southampton Union, consisting of three parishes, do not come within that description. There is not the least doubt about the other case, because there the guardians of the union are guardians of the parish.

WILLIAMS and COLERIDGE, JJ. concurred.

In the first case order of sessions quashed.
In the second case, order of sessions confirmed.

GRENVILLE v. EDGCUMBE.

This was an application to set aside an award on two grounds: 1st, that the finding was inconsistent; 2nd, that the arbitrator had not exercised one of the powers conferred upon him by the submission. The declaration in case alleged a seisin for life of certain lands in W. S. and his wife, and the reversion in the plaintiff; it set forth that one T. H. had wrongfully erected a certain mill and other buildings on the lands, and that the defendant, in whom it alleged possession, had continued the mill, &c. and grievance "so wrongfully erected by the said T. H." &c. The first plea was "not guilty;" the fourth plea was that T. H. did not erect the said mill, &c. *modo et formâ*. The case was referred to an arbitrator, and he was to determine what was to be done by way of sale or otherwise respecting the cause of action and the premises in dispute. The arbitrator found for the plaintiff on the first three pleas, and for the defendant on the fourth, and did not determine what was to be done by way of sale or otherwise respecting the premises in dispute. Against the rule cause was now shewn by

Butt, Q. C.—First, if there be inconsistency between the finding on the first plea and that on the fourth, it is error. (*Cooper* v. *Landon*, 9 M. & W.) Second. The plea of "not guilty" only puts in issue the fact of the conti uance of the obstruction, and not the setting up by another person. (*Frankum* v. *The Earl of Falmouth*, 2 A. & E. 452; *Wright* v. *Lawson*, 8 M. & W. 739.) Third. The arbitrator may refuse in terms to exercise a power conferred on him; or may refuse by abstaining from exercising it. (*Angus* v. *Redfearn*, 11 M. & W. 619.)

Crowder, Q. C. contrà.—The charge is the continuing a grievance "so wrongfully erected." That means the grievance erected by T. H. The plea of not guilty has determined that.

PATTESON, J.—The plea of not guilty admits the wrongful erection; it only denies the continuance.

COLERIDGE, J.—And if the issues be inconsistent, why should not the arbitrator determine according to the fact?

Crowder.—As to the second point—

Lord DENMAN, C. J.—Is that arguable?

Tuesday, June 10.

REG. v. THE INHABITANTS OF KENILWORTH.

Poor—Appeal—Indenture of apprenticeship, secondary evidence of.

This was an appeal against an order for the removal of a pauper on which the sessions had quashed the order subject to a case. The order was for the removal of the pauper to the place in which it was alleged that his deceased father had gained a settlement by apprenticeship. The evidence of the apprenticeship was, that an officer of the removing parish had gone, in the year 1840, in which the pauper had first become chargeable, to the workhouse of the Warwick union, where the mother of the pauper then was, the pauper having stated that he had seen the indenture in her possession in the year 1835. The mother said that she had given the indenture to Mr. Squire, a master of the workhouse, who had recently died. Application was made to Mrs. Squire, who instituted a search, but could not find it. The pauper then ceased to be chargeable. In 1843 the pauper became chargeable again, and the search was renewed. Mrs. Squire referred the inquirer to Mr. Salter, a former assistant overseer, who admitted that he had received papers relating to parish business that had been in the possession of Squire, and said that he had never seen the indenture in question. Application was then made to Mr. Hopkins, the actual assistant overseer to whom the paper had been handed by Sutton; a search was made, but the indenture could not be found. A like application to the widow of the former solicitor to the parish, and to the then solicitor, was made without effect. The master of the workhouse was also applied to, and he stated that he had not such an indenture, and that the pauper's mother did not leave any paper behind her. It was objected that this evidence was not sufficient to let in parol proof of the apprenticeship, for that it consisted of mere declaration, not upon oath.

Wallinger and *Otter*, in support of the order of sessions, contended that the search had been sufficient, and that the hearsay evidence was of that kind which must in every case be admitted. They quoted *R.* v. *Morton* (4 M. & S. 48); *R.* v. *Rawdon* (2 A. & E. 156); *R.* v. *Castleton* (6 T. R. 236).

Watson, Q. C. and *Bovill*, contrà, objected, first, that evidence had not been given of a search for the indenture in the proper place; and, second, that the evidence was all hearsay. They cited *R.* v. *Denis* (7 B. & C. 620).

By the COURT.—We should be very unwilling to pronounce a decision that might have the effect of rendering parish officers careless of documents, or of introducing laxity in the admission of secondary evidence. The proper rule, however, was laid down in *R.* v. *Malton*, and, according to that rule, the question is, whether reasonable evidence has been offered, considering all the circumstances of the case, the diligence of the search, and the *bona fides* of the parties. Of the reasonableness of the evidence the Court must judge, as a judge sitting at *nisi prius* would judge. The question is not whether every word of the evidence was receivable, but whether there was sufficient evidence of a preliminary inquiry that failed to justify further inquiry, and the reception of that hearsay evidence, which was a necessary and natural part of the transaction. There was abundance of evidence, for it was shewn that there was not a single person living to whom the document could be traced. The evidence of the search was also sufficient in respect of place, because search must be made in the most likely place, and not necessarily in the fittest place. (*The Bishop of Meath* v. *The Marquis of Winchester*, 9 C. & F.) This case should not have been brought here at all; it seems as if there had been some evasion, and a desire to profit by the rigid rules of evidence. The question is not one for the decision of this Court, but for that of the Court below, acting as a jury. *Rule discharged.*

Wednesday, June 11.

REG. v. BRISTOL and EXETER RAILWAY COMPANY.

An agreement by a corporate body, giving compensation to any parties, must be under seal.

Gurney, Q. C. and *Carrow* shewed cause against a rule, one alternative of which was for a *mandamus* to the above company to issue a warrant to the sheriff to assess damages under the Act, in respect of certain injury done to the property of Messrs. Elworthy. It was objected, that another remedy was open, because there was an agreement by an agent of the company with Messrs. Elworthy to pay a certain compensation in gross, and a further weekly sum, which they had paid for some time. This agreement, however, was not under seal. (*Reg.* v. *Hull and Selby Railway Company*, 8 Jur.; *London and Birmingham Railway Company* v. *Winter*, 1 Cr. & Phil. 57; *Ex parte Robins*, 7 D. P. C. 566; *Mayor of Stafford* v. *Till*, 4 Bing. 75.)

Kelly, Q. C. (with whom were *Crowder*, Q. C. and *M. Smith*), in support of the rule, was stopped by

Lord DENMAN, C. J. who referred to the case of *Reg.* v. *Stamford* (see 3 Law T. 281), as conclusive upon the invalidity of this agreement.

Rule absolute for a mandamus to issue the warrant.

WILTON v. CHAMBERS.

The Court of Queen's Bench will not interfere to carry into effect an order of the Lord Chancellor, at least where the legality of the order is doubtful.

This was a rule obtained by *Jervis*, Q. C. arising out of the proceedings in connection with the bankruptcy of Mr. Chambers, the banker. An order had been obtained in the Court of Chancery to tax Mr. Wilton's bills, and the Master having reported that 111*l.* was due to Mr. Wilton, the Lord Chancellor had ordered Wilton, upon payment of that sum, to enter up satisfaction upon certain judgments obtained upon warrants of attorney. Wilton had refused, and a second order had been obtained. A petition by Wilton had been dismissed, on the ground of his having become insolvent, but he still declined to obey the order, and no steps had been taken to enforce it by commitment, as he had declared his intention of contesting the jurisdiction of the Chancellor to make any original order in bankruptcy. A rule had now been obtained to cause satisfaction to be entered up upon one of these judgments for 3,000*l.* against which

M. D. Hill, Q. C. and *Bagshawe* shewed cause.

Jervis, Q. C. contrà.

The COURT declined to interfere, and the

Rule was discharged.

REG. *ex parte* LANGLEY, v. CLARKE and BARTON.

Application for quo warranto under 6 & 7 Vict. c. 89, sec. 1.

Whalely, Q.C. moved for leave to file an information in the nature of *quo warranto*, and to file an additional affidavit hereafter, if it should be necessary, under the following circumstances. A *mandamus* had already been obtained, directed to Clarke, one of the defendants, mayor of the borough of Dover, to insert forty of the burgesses, whose names had been, as it was alleged, improperly struck out in November 1844, whereby the two defendants had gained their

election, and Clarke had subsequently been elected mayor. The 6 &. 7 Vict. c. 89, s. 1, required that application for a *quo warranto* against an alderman or councillor must be made within twelve months of his election. A rule *nisi* for a *mandamus* to restore had in this case been obtained in Michaelmas Term, 1844, and made absolute in Hilary Term. In Easter Term the return had been filed, which had been traversed, and would be tried at the next assizes for Kent, so that if the *quo warranto* was delayed until after the trial, more than twelve months would have elapsed, and it would be impossible to oust the persons thus wrongly elected.

Lord DENMAN, C.J.—You may have leave to file the information. We can decide as to the additional affidavit hereafter. *Leave granted.*

REG. v. THE COMMISSIONERS OF SOUTHAMPTON WATER-WORKS.

A poll generally signifies a poll who are entitled to vote whilst the poll is kept open, and is not confined to those present at the meeting.

Archbold had obtained a rule calling upon the Commissioners of the Southampton Water-works either to proceed to take a poll of the inhabitant ratepayers, or to proceed to a new election. The affidavits alleged that at a meeting for the election of commissioners, after a show of hands, certain persons had "demanded a poll," and the chairman had refused, saying, he should not take the sense of the parish by a poll.

Kelly, Q.C. with him *Cleasby*, shewed cause, contending that a poll of the persons had never been demanded, or objected to, but only a poll of the parish.

Lord DENMAN, C.J.—A poll must *primâ facie* mean a poll of all entitled to vote, *i.e.* those who are or may be present during the poll.

After some discussion, it was arranged that the *mandamus* for a fresh election should issue.

Mandamus accordingly.

CROFT, Assignee of J. Fothergill, v. Sir W. CLAYTON.

Invalidity of award.

Bliss moved for a rule *nisi* to set aside an award made in this action.

It was an action of debt, and had been referred, with all matters in difference, by order of the judge at *nisi prius*. The pleas were—Never indebted; Set-off, with replication of the Statute of Limitations; Payment, and Statute of Limitations. The arbitrator found all the issues for the defendant, and then he further ordered and awarded that the said J. Fothergill, at the time of his becoming insolvent, was indebted in the sum of 1,190*l*. It was now objected that there was no power to award any debt due from the insolvent to the defendant, and also that the award was not conclusive, as not ordering the debt to be paid. *Rule nisi.*

BUSINESS OF THE WEEK.

Tuesday.

REG. v. THE UNIVERSITY OF OXFORD.—*Mandamus.*—It was agreed that the argument in this case should be taken on the return to the writ.

Rule absolute.

Wednesday.

TURNER v. BATES.—*Starkie*, Q. C. and *Cowling* were heard in support of the claim of conusance by the University of Cambridge. *Cur. adv. vult.*

REG. v. PARISH OFFICERS OF LAMBETH.—*Kelly*, Q. C. submitted to the rule being made absolute for a *mandamus*, that the question whether there was power to impose a rate more than five shillings in the pound, to repay a loan advanced by the Commissioners for Building Churches, might be fully discussed. *Rule absolute.*

FRANCE v. DAWSON.—*Gibson*, Q. C. and *Keating* shewed cause against a new trial in this cause, upon affidavits. *Talfourd*, Serjt. and *Whately*, Q. C. contrà. It was simply a question of the credibility of the witnesses. *Cur. adv. vult.*

REG. v. GREENAWAY. REG. v. CARY.—These were two cases of motions for attachment against parish officers, for not obeying a Crown-office subpœna *duces tecum*, and producing certain rate-books. In the first, *Pushley* (with whom was *Corner*) moved for the rule, and *M. Chambers* and *Sorill* shewed cause. In the second, *Creasy* shewed cause against a rule obtained by *Cobbett*. *Cur. adv. vult.*

REG. v. BLOCK.—*Martin*, Q. C. shewed cause against a rule obtained by *Kelly*, Q. C. for a *mandamus* to the rector of a parish in Norfolk to restore a parish clerk. The affidavits were conflicting as to the fact of his having been a town clerk. *Kelly*, Q. C. contrà. *Rule absolute, unless issue is settled.*

REG. v. BUCHANAN.—The *Solicitor-General* opposed a rule to quash an indictment against a person for practising as an attorney at the quarter sessions. *Horne*, in support. (Will be reported next week.)

Rule discharged.

HULL v. LOTT.—Rule to amend a rule made in Easter Term. (Will be reported next week.)

Rule absolute.

Thursday.

ADAMS v. HARTLEY. *Part heard.*

GRENVILLE v. EDGECUMBE will be reported next week. *Rule discharged.*

CORPORATION OF COLCHESTER v. BROOK.

Cur. adv. vult.

Friday.

NICHOLLS v. STRETTON.—*Cowling* concluded his argument. *Bramwell* replied. *Cur. adv. vult.*

MORRIS v. MANSFIELD.—*Watson*, Q. C. moved to rescind a judge's order under 1 & 2 Vict. c. 110, charging an annuity of the defendant, on the ground that it had been assigned long before to the person on whose behalf he now applied. (*Fowler* v. *Churchill*, 2 D.N.S. 562, 767.) *Rule nisi.*

Monday.

REG. v. TITHE COMMISSIONERS OF ENGLAND AND WALES. *Re* APPLEDORE.—*Apportionment.*—The *Solicitor-General*, *C. Buller*, and *H. Hill* were heard against the writ of prohibition. *Wortley*, Q.C. and *Deedes*, in support.

Cur. adv. vult; but a special case was suggested.

Ex parte HAMMOND.—This rule, moved for by *Watson*, Q.C. involves the right of the public to inspect and take extracts from the book kept under 6 & 7 Vict. c. 73, s. 11. *Cur. adv. vult.*

REG. v. GREGORY.—*Talfourd*, Serjt. and *Wordsworth* were heard in aggravation of punishment. *Crowder*, Q.C. and *Peacock* in mitigation.

Six months' imprisonment in the Queen's Prison, in the 1st division of the 4th class.

REG. v. SLADE.—*Crowder*, Q. C. moved for a rule *nisi* for a *certiorari* to bring up an indictment to be quashed. *Rule absolute for a certiorari to remove.*

Saturday.

REG. v. TOWCESTER.—*Flood* argued in support of the order. *Wing* and *Simpson*, contrà, were not called on. *Order quashed.*

Re EDWARD JONES.—*Pashley* moved for a rule to shew cause why a writ of *habeas corpus* should not issue to bring up the body of this defendant, a prisoner in the borough gaol of Flint, on the ground that he had been committed by two magistrates who had not heard the original complaint against him, contrary to the stat. 15 Rich. 2, c. 2, and 8 Hen. 2, c. 9, ss. 1 & 2. There were other objections to the committal.

Cur. adv. vult.

REG. v. POOR LAW COMMISSIONERS, *Re* ASHBOURN UNION.—This case turned on the power of the Poor Law Commissioners to make a union of parishes, part of which had been long ago formed into a union under Gilbert's Act. The *Solicitor-General*, with whom was *Tomlinson*, for the defendants. *Whately*, Q. C. and *J. W. Smith*, contrà.

Judgment for the defendants, on the ground that there was insufficient evidence to support the case of the assailants.

REG. v. TRUSTEES OF WEYMOUTH ROAD.—This was a rule for a *mandamus*, to stop an old road which ought to have been stopped sixteen years ago. *Barstow* for the applicants. *S. Wortley*, Q.C. contrà.

Lord DENMAN, C. J.—It seems to me that the length of time bars the application. Many other rights have arisen. It would be improper in us to interfere to remedy the very gross negligence of the applicants.

Rule refused.

COURT OF COMMON PLEAS.

Tuesday, June 3.

MILLINGEN v. PICKEN.

A plea traversing an allegation in the declaration that the plaintiff was the inventor and proprietor of a certain design within the meaning of the Copyright of Designs Act, 5 & 6 Vict. c. 65, does not raise the question whether the design of the plaintiff is one to which the Act applies.

Assumpsit on an agreement.

The declaration stated that the plaintiff, after the passing of a certain Act of Parliament, made and passed in the 7th year of the reign of the now Queen, entitled "An Act to amend the Laws relating to the Copyright of Designs," and before and after the time of the registration of the design hereinafter mentioned, was, and from thence hitherto hath been and is, within the meaning and protection of the said Act, the inventor and proprietor of a certain new or original design for an article of manufacture, having reference to a purpose of utility, so far as the said design was and is for the shape or configuration of such article, that is to say, of a new and original design for the shape or configuration of a parasol for the purpose of opening and closing the same with one hand, and which said design had not before, or at the time of the registration thereof, as thereinafter mentioned, been previously published; and whereas also the plaintiff, after, &c. and before the publication of the said design, to wit, on, &c. had duly registered the said design according to the said Act of Parliament, and also the name of the plaintiff as the proprietor of the said design according to the said Act of Parliament, and also the name of the plaintiff as the proprietor of the said design according to the said Act; and by reason of the premises, the plaintiff before and at the time of the making of the agreement thereinafter mentioned was, and thence hitherto hath been and is, the proprietor of the said design, and of the copyright thereof. The declaration afterwards set out an agreement between the plaintiff and the defendant, by which the plaintiff agreed to permit the defendant to manufacture parasols upon the aforesaid principle upon certain terms and conditions, and then assigned various breaches by the defendant of such agreement.

The defendant pleaded amongst other pleas, 1st, *Non assumpsit*; and secondly, that the plaintiff was not before or at the time of the said registration in the declaration mentioned, the inventor or proprietor of a new or original design for the shape or configuration of a parasol not before or at the time of the said registration previously published, in manner and form as the plaintiff hath in the said declaration in that behalf alleged; concluding to the country.

At the trial before Erle, J. at the sittings in London, in Hilary Term last, the plaintiff obtained a verdict for 100*l*. damages, leave being reserved to the defendant to move to enter a verdict for him if the Court should think that the plaintiff's invention was not within the statute 6 & 7 Vict. c. 65. A rule *nisi* having accordingly been obtained in last Term for that purpose, as well as for a new trial on other grounds, which it is not necessary to notice,

Talfourd, Serjt. (*Hoggins* with him) now shewed cause. —It is submitted that it is not now open to the defendant on these pleadings to raise the question sought, viz. that the plaintiff's invention is not the subject of a certificate of registration under the Act. He should have pleaded that the design was not one within the meaning of the Act, and not that the plaintiff was not the inventor, if it was intended to raise such question. The cases of *Walton* v. *Potter* (3 M. & G. 411), and *Walton* v. *Bateman* (3 M. & G. 773) were referred to. The rest of the arguments is here omitted, as nothing turned thereon.

Byles, Serjt. (*Fish* with him), contrà.—It is submitted that this is not a design within 6 & 7 Vict. c. 65. [TINDAL, C.J.—The main difficulty with which you have to contend is, whether it is open to you to raise that question.] The declaration recites that, after the passing of the Act, the plaintiff was, and from thence hitherto hath been, and is, within the meaning and protection of the said Act, the inventor and proprietor of, &c.; and this is the only consideration which the defendant receives from the plaintiff for the agreement he subsequently enters into. The traverse is, that the plaintiff was not the inventor *or* proprietor, and it is submitted that this therefore is a traverse of what goes to the consideration of the defendant's promise, and is in effect a denial that the plaintiff has any property in the design. [MAULE, J.—The effect of the plea is only that you, the plaintiff, did not invent it yourself, nor are you the person who paid the inventor for it. TINDAL, C.J. —Proprietor is only a qualified inventor, as explained by 5 & 6 Vict. c. 100, s. 5, to which the 6 & 7 Vict. c. 65 refers. MAULE, J.—The question raised by this issue is not whether the design is one capable of being the property of any one, but whether the plaintiff is the inventor or proprietor of it.]

The arguments were then directed to the verdict being against evidence, and to the other ground on which the rule had been obtained. *Rule discharged.*

FAY v. PRENTICE and ANOTHER.

Declaration in case stated that the defendant was possessed of a messuage adjoining that of the plaintiff, and that the defendant placed a cornice and projection upon his messuage near to and projecting over the garden of the plaintiff, and that by reason of the premises the plaintiff was greatly annoyed and incommoded in the use, possession, and enjoyment of his messuage, garden-ground, land, and premises. Held, that the declaration did not shew that the injury was necessarily a trespass, and that the declaration disclosed sufficiently a nuisance from which the law might presume a damage.

Action on the case.

The declaration stated that the plaintiff before and at the time of committing, &c. was lawfully possessed of a certain messuage, garden-ground, land, and premises, with the appurtenances, situate and being, &c. in which said messuage the plaintiff and his family have for and during all the time aforesaid resided and dwelt, and still reside and dwell. And that the defendant, Prentice, before and at the time of the committing, &c. was possessed of a certain messuage, with the appurtenances, situate and being in the parish aforesaid, in the county aforesaid, contiguous and adjoining to the said messuage, garden-ground, land, and premises of the plaintiff. Nevertheless the said defendant, well knowing the premises, but contriving, &c. to injure, prejudice, and aggrieve the plaintiff in the possession, use, occupation, and enjoyment of his said messuage, garden-ground, land, and premises, and to render the said garden-ground damp and wet, and to injure and destroy the trees, shrubs, bushes, plants, herbs, and flowers therein, and to prevent the due and proper growth of the said trees, shrubs, bushes, plants, herbs, and flowers, and to render them of little or no use or value to the plaintiff whilst the plaintiff was so possessed of the said messuage, garden-ground, land, and premises, with the appurtenances,

and so resided and dwelt in the said messuage of the plaintiff with his family as aforesaid, and whilst the defendant Prentice, was so possessed of his said messuage as aforesaid, to wit, on, &c. wrongfully and injuriously put, placed, and built, and caused and procured to be put, placed, and built, a certain cornice and projection in and upon the said messuage of the defendant Prentice, near to and projecting over the said garden-ground of the plaintiff, and wrongfully and injuriously kept and continued the same cornice or projection so put, placed, and built, and caused and procured to be put, placed, and built, in and upon the said messuage of the defendant Prentice, for a long space of time, to wit, until the commencement of this suit, by means of which said several premises afterwards, to wit, on the 1st day of May, 1844, and on divers other days and times between that day and the commencement of this suit, divers large quantities of rain-water ran, flowed, and fell from the said cornice or projection on the messuage of the defendant Prentice, down, to, into, upon, and against the said garden-ground of the said plaintiff, and upon the trees, shrubs, bushes, plants, herbs, and flowers growing and being in the said garden-ground, and upon the gravel walks thereof, and greatly injured, wetted, and damaged the said garden-ground of the said plaintiff, and dirtied and spoiled the gravel walks of the said garden-ground; and by reason of the premises the plaintiff hath been greatly annoyed and incommoded in the use, possession, and enjoyment of his said messuage, garden-ground, land, and premises, and the same thereby became and were greatly damaged, deteriorated, and lessened in value.

Pleas—1st, Not guilty; 2nd, Leave and license.

At the trial before Tindal, C. J. at the sittings in Middlesex, after Hilary Term last, it was objected on the part of the defendant, that, as the action was only for the consequential damage occasioned by the falling of rain, and as no evidence had been given of any rain having fallen between the completion of the cornice and the commencement of the suit, there was no evidence at all of actual damage within the scope of the declaration. The Chief Justice, however, left it to the jury whether there had been any actual damage done and proved, either by the rain dripping, or by the cornice overhanging the ground. The jury found a verdict for the plaintiff, damages 40s., and leave was given to the defendant to move to enter a nonsuit. A rule *nisi* for that purpose having been obtained,

Shee, Serjt. (*Warren* with him) now shewed cause, and submitted that the declaration disclosed a ground of action independent of any damage by reason of the rain falling, and also that if evidence of such damage was necessary, it had been given.

Cases cited: *Penruddock's* case (5 Rep. 100); *Jackson* v. *Pesker* (1 M. & S. 234); *Tucker* v. *Newman* (1 A. & E. 40); *Williams* v. *Morland* (2 B. & C. 910); *Barker* v. *Green* (2 Bing. 317); and *Williams* v. *Mostyn* (4 M. & W. 145).

Talfourd, Serjt. in support of the rule, contended that, on the present record, there was no cause of action in respect of any actual or constructive damage, if that was struck out which related to the injury by the rain falling; that if the declaration contained nothing but an allegation of a trespass, it would be bad, and that in order to convert what was a trespass into an injury for which an action on the case would lie, some particular damage must be shewn; that the damage pointed out by the declaration was only that by rain, and that the learned judge should not, therefore, have left it to the jury in the alternative whether there was injury by the rain or by the overhanging of the cornice.

COLTMAN, J.(a)—It appears that the Chief Justice left it to the jury to say whether there had been any actual damage done and proved, either by the rain dripping or by the cornice overhanging the ground. With regard to the first part of this direction of my lord, there were circumstances from which the jury were at liberty to infer such an injury might have occurred. It is clear, therefore, that there was no defect in that part of the summing up. With reference to the other part of the direction as to there being damage by the overhanging of the cornice, if it was not right to leave this to the jury, then the direction generally would be wrong, as it would be difficult to say in respect of which the verdict might not have passed. This part of the direction turns on the question, whether there was any such allegation in the declaration as would authorize that part being submitted to the jury. My brother Talfourd said that it was not competent for the Chief Justice to admit evidence of there being any such damage, there being no allegation in the declaration authorizing it, although it is alleged that, by reason of the premises, the plaintiff hath been greatly annoyed and incommoded in the use, possession, and enjoyment of his said messuage and garden, because it has been contended that the allegation that the defendant put the cornice and projection near to and projecting over the garden-ground of the plaintiff, is an allegation of a trespass, and the damage by reason of the premises was only a damage resulting from a trespass. It certainly was never contended at the trial, nor in moving for the rule for a new trial, that this which is so alleged amounted to a trespass; and if we look at the declaration, I am of opinion it does not necessarily amount to a trespass, even if it be conceded that the presumption is that the space from the soil to the sky belongs to the owner of the soil, for there is nothing here to shew that the plaintiff's right was co-extensive with that right. Indeed, although such is the presumption of law, still it is but a presumption, and not a mere matter of fact, for one man may have an upper chamber and another a lower chamber of the same house. There is, therefore, nothing in the declaration to shew that a trespass was necessarily committed. *Baten's* case (9 Rep. 53) bears very much on the present. There the defendant built a house on his own land, which jutted on the plaintiff's house, and it was held that the plaintiff need not assign a special nuisance, for that it appeared to the Court that it was a nuisance for the defendant to have built a house overhanging the plaintiff's house. The Court there thought that the mere act of overhanging sufficiently imported a nuisance, from which the law itself would presume a damage. If so, then it was unnecessary to lay any damage resulting therefrom in this declaration; and I therefore see no reason to disturb the verdict.

(a) TINDAL, C. J. was absent.

MAULE, J. and CRESSWELL, J. delivered judgments concurring therewith. *Rule discharged.*

Monday, June 9.

GIBSON *v.* MILNER.

Plene administravit—Executor retaining money for funeral expenses.

Shee, Serjt. moved for a rule to shew cause why the damages should not be reduced to 13*l.* pursuant to leave reserved. The action, which was tried at the Middlesex sittings in the present Term, before Erle, J. was brought against the defendant as executor upon a covenant entered into by the intestate. The defendant pleaded *plene administravit*, and it was proved at the trial he had sufficient assets to answer the plaintiff's debt, subject to the question whether he had any right or not to retain under this plea the sum of 16*l.* for the funeral expenses of the intestate, for which it was proved the defendant had made himself liable to pay, but which he had not yet in fact paid.

Gillies v. *Smither* (2 Stark. N. P. C. 528) and 2 Williams on Executors, 1550, were cited. *Rule nisi.*

Tuesday, June 10.

SHEPHERD *v.* SHEPHERD.

Declaration stated that defendant on, &c. made his promissory note payable to plaintiff or order on a day certain, which day had expired before the commencement of the suit, and then delivered the note to the plaintiff, and thereupon the defendant then agreed to pay the amount of the said note to the plaintiff on request, whereby an action had accrued, &c. Held, that it sufficiently appeared that the note was due before action, and also that the declaration was not demurrable on the ground of duplicity.

Debt.—The declaration stated that the defendant, on the 25th day of March, A.D. 1844, made his promissory note in writing, and thereby promised to pay the plaintiff or his order 690*l.* on the 25th day of March, A.D. 1845, which day had expired before the commencement of this suit, and then delivered the said note to the plaintiff; and thereupon the defendant then agreed to pay the amount of the said note to the plaintiff on request, whereby, and by reason of the non-payment of the said sum of money, an action has accrued to the plaintiff to demand and have of and from the defendant the said sum of money; yet the defendant has not paid the said sum, or any part thereof.

Demurrer thereto, alleging, as causes of demurrer, that the declaration is double and inconsistent in this, to wit, that in one part it states and alleges an agreement to pay the sum of 690*l.* on the 25th day of March, A.D. 1845, and in another part, that the defendant agreed to pay the same sum on request; and also, for that it is uncertain whether the plaintiff intends to rely on an express or an implied agreement; and if on the latter, that there is no sufficient consideration stated for such agreement.

Byles, Serjt. in support of the demurrer.—It is submitted that the declaration is even bad on a general demurrer, on the ground that no sufficient breach is shewn. A promissory note has days of grace for payment; here the allegation that the 25th March (the day on which the money is promised to be paid) has expired before the commencement of the suit, does not shew that the period at which the note would become payable had elapsed before action. (*Abbott* v. *Aslett*, 1 M. & W. 209.) [MAULE, J.—In that case Parke, B. says "that if the date was stated with certainty, it was sufficient to shew that it was payable a certain time after the date;" so that if, as here, it is not laid under a *videlicet*, and the Court can see from the date of the writ that the action was not commenced until after the note was due, it is sufficient.] Then the declaration is bad for the causes mentioned in the special demurrer. The objection that it is double is not removed, that the pleading is ill pleaded; it is not the less double on that account. (*Slade* v. *Drake*, Hob. 295; and *Pureford* v. *Peek*, 9 M. & W. 196; *Stephens* v. *Underwood*, 4 Bing. N. C. 655.) [MAULE, J.—The statement that the defendant then agreed to pay on request is quite immaterial, and may be struck out; it would not create any liability, for it was not such a promise as the law would infer.] If it was made after the note was due, it might be good on an account stated, and the word "thereupon" may here be well considered as equivalent to afterwards.

Dowling, Serjt. (*Bramwell* with him), contrà, was stopped by the Court.

TINDAL, C.J.—I think that the declaration is sufficient, notwithstanding the grounds of objection pointed out on special demurrer. Here the declaration contains an allegation that on a particular day, and which is not laid under any *videlicet*, namely, 25th of March, 1844, the defendant made his promissory note, and alleges also a promise to pay the same on the 25th of March, 1845, which day is also not under a *videlicet*. The allegation afterwards, that that day had expired before the commencement of this suit, was unnecessary, and may be struck out. The declaration then proceeds to state that he then delivered the said note to the plaintiff; this also is only surplusage. What, then, is the effect, if, when the day has expired on which the defendant promised to pay, he should agree to pay what he was liable to pay when he should be requested? This allegation in the declaration is only a statement of the legal effect of the defendant's liability. It is said that it is bad for duplicity, and that it is not the less so because one part is badly pleaded. That rule may be applicable to pleas, but there has been nothing to shew it extends to declarations.

COLTMAN, J.—I am of the same opinion. I am not aware that the insertion in a declaration of a promise which in law has no operation, will therefore make the declaration bad, if it otherwise contains a sufficient cause of action.

MAULE, J.—The sense in which a plea may be bad, on the ground of its being double, is not the sense in which a declaration is also to be considered bad on the ground of duplicity. A plea is bad if it gives two substantial answers to the antecedent pleading, but a declaration is not bad for stating two causes of action. A declaration may be bad when, instead of containing two distinct causes of action, it states one cause of action twice over. Thus, in an action on a bond to the stat. 8 & 9 Wm. 3, more than one breach could not have been assigned, as one alone gave the cause of action. If here the declaration had suggested another ground for making the defendant liable to pay the note, there might have been some colour for this objection; as it is, it states only what does not confer any cause of action, but is a mere nullity.

CRESSWELL, J. concurred, and referred to *Galway* v. *Rose* (6 M. & W. 291) as supporting the opinion of Maule, J. *Judgment for the plaintiff.*

ROYLE *v.* CONSTERDINE.

Court refused to discharge a defendant out of custody, under the 7 & 8 Vict. c. 96, s. 57, who had been taken in execution in an action brought on a judgment for 27l. but which judgment had been obtained in an action for a debt less than 20l.

Dowling, Serjt. moved to have the defendant discharged out of custody. It appeared that the plaintiff had originally sued the defendant for a debt of 10*l.* which, together with the costs of action, amounted to 27*l.* for which judgment was signed. Another action was thereupon brought on this judgment, upon which the defendant was now in execution. It was submitted that this was within the stat. 7 & 8 Vict. c. 96, s. 57, and that although the Court of Exchequer, in *Hopkins* v. *Freeman* (13 M. & W. 372), had refused to stay proceedings in an action, yet it was otherwise where the defendant had been actually taken in execution.

The COURT however thought that the Act did not apply, and that the defendant was therefore not entitled to relief. *Rule refused.*

Wednesday June 11.

CAMPBELL *v.* WEBSTER.

Protest for non-acceptance, waiver of.

Dowling, Serjt. moved for a new trial, on the ground of misdirection. The action was on a bill of exchange drawn by the defendant at Halifax, in Nova Scotia, on Messrs. Capron and Co. in London, in favour of the plaintiff, for 100*l.* The bill was refused acceptance by the drawees, and the question at the trial before Erle, J. in this term was, on the issue under the 2nd plea, which denied that the bill was duly protested for non-acceptance. It appeared that no protest had been attached to the bill, but it was attempted to remove the difficulty the plaintiff was in on this issue, by shewing from certain letters written by the defendant, that he had waived any objection as to there not being a proper protest. The admissibility of this evidence was objected to by the defendant, but the learned judge allowed the same, as being evidence from which an actual protest might be presumed. This, it was now submitted, was incorrect.

Cases cited: *Burgh* v. *Legge* (5 M. & W. 418); and *Pattisson* v. *Beecher* (6 Moore, 319).

Rule nisi.

BUSINESS OF THE WEEK.

Thursday.

SCOTT and ANOTHER v. WATSON.—*Channell*, ___, shewed cause against rule for setting aside judgment which had been signed on ground of pleas not being issuable. *Byles*, Serjt. contrà, not called on. *Rule absolute.*

PATTESON v. HOLLAND. *Part heard.*

Friday.

LOGAN v. BELL.—*Talfourd*, Serjt. for the plaintiff. *Channell*, Serjt. (*Petersdorff* with him) for defendant. *Cur. adv. vult.*

THORPE v. COLEMAN. *Part heard.*

Saturday.

KEYS v. IRVINE.—*Dowling*, Serjt. shewed cause. *Byles*, Serjt. in support of rule for commission to examine witnesses. *Rule absolute.*

Monday.

ASHLEY v. FISHER.—*Channell*, Serjt. applied to set aside order of Coltman, J. *No rule.*

WILLIAMS v. CURRIE.—*Byles*, Serjt. shewed cause. *Shee*, Serjt. (*Mellor* with him) in support of rule to reduce the damages. *Rule discharged.*

PATTESON v. HOLLAND.—*Byles*, Serjt. (*Grove* and *Talmadge* with him) shewed cause. *Channell*, Serjt. in support of rule for new trial. *Cur. adv. vult.*

Tuesday.

DUKE OF BRUNSWICK v. MILNER.—*Byles*, Serjt. (*Wordsworth* with him) moved on behalf of the defendant for a new inquiry before the sheriff, on the ground of the damages being excessive. *Rule refused.*

TURQUAND and OTHERS, Assignees, v. HEENAN.—*Channell*, Serjt. (with him *Horill*) shewed cause. *Shee*, Serjt. (with him *Bramwell*) in support of rule or new trial. *Rule discharged.*

THORPE v. COLEMAN.—*Byles*, Serjt. (with him Sir *John Bayley*) for plaintiff. *Channell*, Serjt. for defendant. *Cur. adv. vult.*

Wednesday.

WRIGHT v. TALLIS.—Sir *Thomas Wilde* (*Barstow* with him) in support of demurrer. *Channell*, Serjt. (*M. Smith* with him) contrà. *Cur. adv. vult.*

COOK v. HENSON.—*Dowling*, Serjt. in support of demurrer. *Channell*, Serjt. contrà. *Cur. adv. vult.*

HAMMOND v. COLLS.—*Channell* and *Shee*, Serjts. in support of demurrer. *Manning*, Serjt. contrà. *Cur. adv. vult.*

PRIOR v. HEMSWORTH.—*Talfourd*, Serjt. shewed cause. *Shee*, Serjt. in support of rule for setting aside appearance for irregularity. *Rule absolute.*

MAY v. CLARKE and ANOTHER.—*Byles*, Serjt. shewed cause. *C. Jones*, Serjt. in support of rule for a new trial. *Rule discharged.*

SMITH v. BURTON.—*C. Jones*, Serjt. shewed cause. *Byles*, Serjt. in support of rule. *Rule discharged.*

CATLIN v. BROOKS.—*Byles*, Serjt. moved to set aside award. *Rule nisi.*

HOMES v. HURD.—*C. Jones*, Serjt. moved for a new trial. *Rule refused.*

LEWIS v. LORD KENSINGTON.—*Channell*, Serjt. (*Peacock* with him) moved to set aside judgment on a warrant of attorney. Case cited: *Errard* v. *Poppleton* (5 Q. B. 181). *Rule nisi.*

SNELLING v. GOURLEY. — *C. Jones* moved for new trial on the ground of surprise. *Rule nisi.*

Thursday.

DOORMAN v. PRATT.—*Byles*, Serjt. shewed cause. *Shee*, Serjt. (*Corrie* with him), in support of rule. *Rule absolute, striking out costs of Aliens' claim and of this application.*

COLSON v. BISHOP OF CARLISLE. *Rule enlarged to next Term.*

REVELL v. WETHERELL.—*Byles*, Serjt. moved that costs of defendant being brought up to be charged in execution might be paid by the attorney of the execution creditor. *Rule nisi.*

COURT OF EXCHEQUER.

Wednesday, June 4.

WRIGHTSON v. MACAULEY.

Special case—Construction of limitations in a will.

Where a testator died leaving real estate, and by his will devised it to certain parties, creating various limitations, failing which it was to go "to the use of his own right heirs being of the name of Heber, and his and their heirs for ever:"—Held, that this ultimate limitation vested at the time of the death of the testator, and was not kept suspended until the death of the last devisee for life.

This was a special case from Vice-Chancellor Wigram for the opinion of the Court on three points. The question arose upon the construction of the will of the Rev. John Heber, who died in 1775, and who, by his will, &c. devised all his real estate to trustees living at Marton, Buckden, and elsewhere, upon the various trusts following: first, to the use of his son, Reginald Heber, and his assigns, for life, and, after his decease, to the first son of the said Reginald, and his heirs male; and, for default of such issue, to the second, third, fourth, fifth, sixth, seventh, and all and every other son or sons of the body of his said son Reginald; and, in default of such issue, to the daughters of the said Reginald; and, in default of such issue, male or female, of his said son Reginald, then to his nephew, Reginald Heber, (whom he had before constituted one of his trustees for the above trusts), and his assigns for his natural life, and then to the use of Richard Heber, the son of the said Reginald (the nephew of the testator); failing him, to his first son and his heirs male; then to other sons, and their heirs male successively. "And in default of the said Richard Heber being alive at the time of his father's death, or being alive and taking an estate for life by virtue of his said will, and dying without issue male of his body, as aforesaid, then to the use and behoof of the male heir who should be in possession and lawfully entitled for the time being unto the ancient estate at Marton belonging to the Heber family, and the assigns of such male heir for and during the term of his natural life;" then to the use of the first son of such heir; then to the second son, &c. (as before). "And for default of a male heir being in possession of and entitled to the said ancient estate of Marton at the times thereinbefore for that purpose respectively mentioned, or in default of issue male of such male heir as aforesaid; *then to the use of his own right heirs, being of the name of Heber, and his or their heirs and assigns for ever.*" There was throughout a power to the trustees to make all entries, and bring all actions as occasion should require, to support the contingent uses and estates limited by the will. The case found that the testator died in 1775, without having revoked or altered his will, having had issue two children—Reginald (the first devisee for life), and John, who died intestate during the lifetime of his father. Reginald, at the death of the testator, entered into possession or receipt of the rents and profits of the estates in Buckden, devised to him for his life, and died in 1799 without having had issue, having duly executed and attested his will to pass freehold estates, but there was no effectual devise of the estates in Buckden in the will, as against his heir-at-law. At his death the nephew of the testator, Reginald Heber, the second devisee for life, under the will of the testator, and also the tenant for life of the ancient estate at Marton, then took possession of the rents and profits of the said devised estates, and continued in possession up to his death in 1804, and thereupon his eldest son, the third devisee for life, mentioned in the will of the testator, John Heber, and also tenant in tail of the estates at Marton, entered into possession of the rents and profits of the said devised estates, and so continued until his death in 1833, when he died without having ever had issue. The said Richard, in 1827, suffered a recovery of the estate at Marton, thereby barring the entail which then existed in favour of his younger brother, Reginald Heber, the late Bishop of Calcutta; the said Richard made his will, duly executed and attested, to pass real estate, and devised all his real estate, including the ancient estate at Marton, to the defendant Mary (who was the daughter of his father, Reginald, by his second wife), then Mary Cholmondeley, widow, but now wife of the other defendant, Samuel Herrick Macauley, who, at the death of her said half-brother, Richard, entered into possession of the said estate of Marton, and has continued in possession ever since.

The eldest brother of the testator, John Heber, was Thomas Heber, who was tenant for life of the ancient estate of Marton, with remainder to his first and other sons successively. He died in 1752, during the lifetime of John Heber, the testator, leaving issue two sons him surviving, Richard, the eldest, and Reginald, who was the second devisee for life mentioned in the will of the testator, John Heber. Richard died in 1766, leaving two children him surviving, Mary Heber and Henrietta Heber. Henrietta intermarried with William Wrightson, and had by him William Battie Wrightson, his eldest son and heir-at-law, and a daughter, Harriett Wrightson, who afterwards married, and is now the wife of the Hon. H. H. Hutchinson. Mary Heber died in 1809, having by her will devised certain specific estates, not including any estate or interest she had or might have in the estate devised by the will of the testator, John Heber, to certain persons therein named, and the residue of her real estate to her niece, Harriett Hutchinson. Henrietta Wrightson died in 1820, and her husband in 1827, and upon her death her son William Battie Wrightson became, and now is, the heir-at-law to the testator, John Heber, and of his son, Reginald Heber. Reginald Heber (the nephew of John Heber, and tenant for life of the ancient estate of Morton, with remainder to his other sons in tail male) had issue by his present marriage one son only, named Richard, the third devisee for life, and by a second marriage three children, Reginald, Thomas, and Mary, the now defendant, who married Mr. Macauley, and was the devisee of the said ancient estate of Marton under the will of Richard Heber. The last-named Reginald, afterwards Lord Bishop of Calcutta, died in 1826, leaving two daughters, Emily and Harriett Sarah, him surviving.

At the death of Richard Heber, the third devisee for life under the will of John Heber, and the then owner in fee of the ancient estate of [illegible] there was no male heir in possession of [illegible] entitled for the time being unto the an[illegible] at Morton; but the defendant Mary Macauley (formerly Mary Heber) became entitled to such estate. At that time Emily Heber and Harriott Sarah Heber were the nearest relations of the testator John Heber then bearing the name of Heber, and would have been his co-heiresses, and of his son Reginald, if the female line of Richard, the eldest son of Thomas Heber, had failed.

William Battie Wrightson, as eldest son and heir-at-law of his mother, formerly Henrietta Heber, and the Hon. H. H. Hutchinson and Harriett his wife, in the right of the said Harriett, as devisee of Mary Heber, claim to be entitled to the said freehold estates at Buckden in right of the said Mary and Henrietta Heber respectively, who were the co-heiresses of Reginald, and also the testator, John Heber. There being various equitable claims affecting the estates so devised by the said John Heber, a suit was instituted, among other purposes, to ascertain the rights and interests of the different parties in these estates; and the questions for the opinion of the Court were—1st, whether the ultimate limitation in the will of John Heber to the right line of the testator being of the name of Heber, vested at the testator's death in his son Reginald Heber. 2nd. If it did not so vest, whether that ultimate limitation took effect at the death of Richard Heber, the third devisee for life. 3rd. Whether at the death of the said Richard Heber, the said William Battie Wrightson, and the Hon. H. H. Hutchinson, and Harriott his wife, or what other person or persons became entitled to the possession of the estates, and hereditaments so devised by the testator, John Heber.

Malins (*Hugh Hill* with him), for the plaintiffs, contended, first, that the ultimate limitation in the estate of Buckden vested at the time of the testator's death in his son Reginald, and he having a devisable interest therein, and not having made any effectual devise thereof, died intestate as to that estate, and therefore it descended to his heir. The two daughters of Richard, Mary and Henrietta, being his co-heiresses, then became entitled, and from them the present plaintiffs. Then, secondly, if the ultimate limitation was held to be suspended until the death of the third devisee for life, in 1833, then still it was contended the limitation failed, as there was no one in whom it could vest, for the party to take would, it was contended, take as a purchaser; and as there was no one who answered the description in all respects, the limitation failed altogether, and therefore the present plaintiffs would still be entitled as heirs by descent.

Cases cited: *Doe* v. *Hutton* (3 Bos. & Pul. 643); *Goodtitle* v. *White* (15 East, 174); Fearn. Contin. Rem. 561; *Goodtitle* v. *Pugh* (Appendix to Fearn, 563); Hargrave's note to Co. Lit. 246; *Cholmondeley* v. *Clinton* (2 Meriv. 348); 2 Jarman on Wills, 8; *Ashhurst's* case (Hob. 34); *Counden* v. *Clark* (Moore, 860); *Doe* v. *Morey* (12 East, 589); *Doe* v. *Spratt* (5 B. & Ad. 731); *Stert* v. *Platell* (5 B. N. C. 434); *Doe* v. *Lawson* (3 East, 278); *Boydell* v. *Golightly* (7 Jurist).

J. Parker, Q.C. contrà, contended, 1st, that the vesting of the ultimate limitation did not take effect until the determination of the particular estates, which was clearly the intention of the testator; and, 2nd, that the rule that a person taking as purchaser must take as surviving heir, was not inflexible.

Cases cited: *Minter* v. _____ (13 Sim. 52); *Pellyn* v. *Peace* (Bridgman's Rep. 14); *Jones* v. *Colbreck* (8 Ves. 38); *Buller* v. *Bushell* (3 My. & K. 232); *Goodtitle* v. *Burtenshaw* (Fearn. app. No. 1, p. 570); *Wills* v. *Palmer* (5 Bar. 2617); Cro. Eliz. 431; Co. Lit. 24, E.

Malins, in reply, was stopped by the Court.

POLLOCK, C.B.—I think that, according to the proper rules of construction, the ultimate limitation in this will vested at the death of the testator; the rule being, that the limitation shall be held to vest at the earliest possible period.

PARKE, B.—I think that the first question should be answered in the affirmative, on the ground mentioned by my Lord Chief Baron; the second, in the negative; and the third in the affirmative.

ALDERSON, B. and PLATT, B. were of the same opinion. *Judgment for the plaintiffs.*

COOK v. SWIFT.

In an action for penalties against a party for acting as a police commissioner under 4 & 5 Vict. c. 112, without being properly qualified, it is sufficient to declare generally against him for so acting, without setting out in what respect the party is disqualified.

This was an action brought against the defendant to recover a penalty for his having acted as a commissioner of police for Bolton without (as it was alleged) being properly qualified.

The declaration was demurred to on the ground that it was too general, as it did not state in what respect the said commissioner was not qualified.

Martin, Q. C. in support of the demurrer. The defendant is appointed under 4 & 5 Vict. c. 112, and several things mu[illegible] qualify him under that Act, the absence [illegible] which disqualifies. Now

[illegible] that the plaintiff ought to point out the particular disqualification relied on, and give the defendant an opportunity of traversing it.

POLLOCK, C. B.—I see, by the 19th section, a party may be sued if he acts, and I think the burden of proving his qualification in all respects is thrown upon the party acting, and that a mere general declaration against him for so doing is sufficient. You had better amend by pleading over.

Amendment accordingly.

BUSINESS OF THE WEEK.

Wednesday.

Doe dem. HILL and ANOTHER *v.* HILL and OTHERS.—Special case. *Rejected.*

JEFFREYS *v.* EVANS and OTHERS.—*Demurrer* to plea. *Judgment for plaintiff.*

Friday.

MCINTOSH *v.* MIDLAND COUNTIES RAILWAY COMPANY. *Part heard.*

Saturday.

MCINTOSH *v.* MIDLAND COUNTIES RAILWAY COMPANY. *Cur. adv. vult.*

WAKLEY *v.* HEALY and ANOTHER.—*Martin*, Q.C. and *Perry* shewed cause against a rule calling on the defendants to shew cause why the writ of inquiry in this case, which was an action for libel in which judgment had gone by default, should not be executed before a judge instead of the sheriff. *Bramwell*, contrà, was not called on. *Rule absolute.*

NORMAN *v.* PHILLIPS.—*Keating* and *Dowdeswell* shewed cause against a rule obtained by *Talfourd*, Serjt. to set aside the verdict for the plaintiff and enter a nonsuit, pursuant to leave reserved at the trial. *Talfourd*, Serjt. and *J. Gray*, contrà.

Cur. adv. vult.

EXCHEQUER CHAMBER.

ON ERRORS FROM THE COURT OF QUEEN'S BENCH.

(Argued Feb. 1845; determined April 22, 1845.)

(Before TINDAL, C. J., PARKE, ALDERSON, ROLFE, and PLATT, BB. and MAULE and CRESSWELL, JJ.)

HODGSON *v.* REPTON, Clerk.

1. *The treasurer of Queen Anne's Bounty is not, under the Ecclesiastical Commission Act, 5 & 6 Wm. 4, c. 30, entitled to recover the mesne profits of prebendal stalls, which have been filled up during the period provided by such Acts, if such profits are received by the prebendary not separately in right of the prebendal stall, as the corpus belonging to the prebend, but as his share of the issues of the possession which he holds in common with the rest of the Chapter, and which belong to the Dean and Chapter.*
2. *A civilian cannot be heard in the Court of Exchequer Chamber without an order of the Court.*

This case came on a writ of error from a judgment of the Queen's Bench, in favour of a plaintiff below, the now defendant, on a special verdict.

The action was brought in *assumpsit*, by the Rev. Edward Repton, clerk, against Christopher Hodgson, for money had and received; to which the defendant pleaded *Non assumpsit.*

The special verdict began by stating that the plaintiff was and is one of the former chaplains of the House of Commons; and the defendant, since the passing of an Act, 6 Wm. 4, for protecting the revenues of vacant ecclesiastical dignities, &c. during the pending inquiries into the state of the Church in England and Wales, was treasurer of the governors of Queen Anne's Bounty, and that by such Act, after reciting that his Majesty had signified his intention to defer the nomination to any vacant dignity, prebend, canonry, or benefice, without cure of souls, until the circumstances connected therewith had undergone the consideration of certain commissioners theretofore named for considering the state of the Established Church with reference to ecclesiastical revenues, it was enacted that when any dignity, &c. being in the patronage of his Majesty, should become vacant during such commission, all profits which should arise from the same, until a successor should be appointed, should be paid to the treasurer of Queen Anne's Bounty, who should enjoy all legal rights and powers for enforcing payment thereof, and that such treasurer should keep an account of all sums received by him under such Act, and retain the balance *until he should be otherwise ordered by competent authority.* And by the 1st sect. of another Act, (7 Wm. 4), "For suspending, for one Year, Appointments to certain Dignities and Offices in Cathedral and Collegiate Churches, and to Sinecure Rectories," it was enacted, that no appointment, &c. should be made to any canonry, &c. in any cathedral church then vacant, which should become so during the said Act; and that such Act should remain in force for one year. And that by another Act (1 Vict.), the said last-mentioned Act should be in force till the 1st of August, 1838. And that by the 1st sect. of 2 Vict. it was enacted that the said Act, 7 Wm. 4, should continue in force till the 1st of August, 1839; and that by the 5th sect. it was enacted that nothing should prevent the appointment, &c. of the Rev. Frederick Vernon Lockwood, the Rev. Edward Repton, the Rev. Temple Frere, formerly chaplains to the House of Commons, to any canonry, &c. then vacant, or which should become vacant, to which her Majesty might please to appoint them. The special verdict then proceeded to state that on the 7th Nov. 1838, the plaintiff, being the said Rev. Edward Repton, was duly appointed, &c. to a canonry or prebend of the collegiate church of Westminster, and from that time became in the enjoyment of the said canonry, &c. and the profits thereof. And that the said canonry had become vacant on the death of the late Dr. Ryder, Bishop of Lichfield, on the 31st March, 1836, the said commission then being in existence, and that the said treasurer of Queen Anne's Bounty, in pursuance of the said Act, 6 Wm. 4, had since that time, and until the appointment of the plaintiff, received the profits of the said canonry, &c.; and that at the time of the appointment of the plaintiff, the said treasurer had in his hands 2,952*l.* being the net profits of the said canonry, &c. for the period between the death of the said Dr. Ryder and the appointment of the plaintiff. And that immediately after the plaintiff's appointment, and before the Act 4 Vict. the plaintiff ordered, so far as he had authority so to do, the said treasurer to pay him, the plaintiff, the said 2,952*l.* claiming to be lawfully entitled thereto, and to be lawfully authorized to order the payment thereof to himself. And after the passing of the said last-mentioned Act, and before the defendant had delivered any account, or paid over the said sum to the Commissioners, the plaintiff, on the 29th August, 1840, caused the following letter to be delivered to the defendant. The letter was then set out, which called on the defendant not to pay over to the Church Commissioners the sums received by him in right of the plaintiff's prebend. And on the 31st August, 1840, the defendant received from the Dean of Westminster a letter to the following effect:

"Ashburton, Devon, August 31, 1840.

"Sir,—By the ancient usage and custom of the collegiate church, if any division of profits is made during the time that any stall is vacant, the share belonging to such vacant stall is appropriated and becomes due to the fabric fund. Whatever, therefore, has been paid to you during the time that the stalls now filled by the Reverend Mr. Repton and the Reverend Mr. Frere were vacant, belong rightfully to the fund, both because the stalls have not yet become subject to the Act for regulating ecclesiastical duties and revenues, and because they were not affected by the suspending Acts passed during the time that the aforesaid Act was in deliberation. It is my duty, therefore, to demand of you the sums wrongfully paid into your hands during the time these stalls were vacant, both on account of the justice of the claim, and the urgent demands which exist at this time upon the fabric fund for the reparation of the abbey, and I hereby give you notice not to pay any such sums to any one not duly authorized by me to receive the same on behalf of the said fabric fund.

(Signed) "JOHN IRELAND,

"Dean of Westminster."

And that a similar demand was also made by the treasurer of the church of St. Peter, Westminster. And that, by an Act passed on the 11th August, 1840, it was enacted that within one month thereafter the treasurer of Queen Anne's Bounty should deliver to the Ecclesiastical Commissioners for England a full account of all moneys received by him under the said Act 6 Wm. 4, and he should pay all moneys then in his hands when ordered by such commissioners. And the defendant declined to comply with the order of the plaintiff, and did not pay him the 2,952*l.* and within a month of the last-mentioned Act, delivered to the commissioners an account of all moneys received by him, and amongst them of the profits of the said canonry, and paid the same over to such commissioners. And the plaintiff demanded the same of the commissioners, who refused to pay it over. The Court below gave judgment for the plaintiff that he should recover the 2,952*l.* And on such judgment a writ of error was brought.

The Queen's Advocate, Sir *John Dodson*, appeared on behalf of the writ.

Sir *Thomas Wilde* (*Kinglake*, Serjt. with him), contrà.

On the *Queen's Advocate* commencing his address to the Court, the LORD CHIEF JUSTICE said,—It is usual to have an order for a civilian to be heard, and *two* must appear. PARKE, B. added,—You have *no right* to appear. The *Queen's Advocate* then said he was called to the Bar. TINDAL, C.J.—You have answered the objection.

The *Queen's Advocate* then argued at great length in support of the writ of error, and was answered by Sir *Thomas Wilde*; but the point on which the judgment of the Court turned makes it unnecessary to report the detailed argument. The main question was whether, under the 5 & 6 Wm. 4, c. 30, Mr. Repton was a "*competent authority*" to "*order*" the payment of the profits to be made to *him*. The *Queen's Advocate* said, the question was whether Mr. Repton was entitled to the mesne profits of the prebend under the 28 Hen. 8, c. 11, s. 3, which enacts that "all profits, &c. belonging to any prebend, that shall belong to the successor, towards the payment of first-fruits." Now, it is very true that Dr. Godolphin says,—"After the death of a prebendary, the dean and chapter shall have the profits" (52); but Dr. Burn reconciles the apparent discrepancy thus—"That the issues of those possessions which he hath in *common with the rest of the chapter* shall, after his death, be divided *amongst the surviving members* of the chapter; but the profits of those possessions which he hath in his *separate capacity*, as a *sole corporation* of himself, shall inure to his successor." (2 Ecc. Law, 92.) This distinction is recognized in the 3rd section of the 5 & 6 Wm. 4, c. 30.

Sir *Thomas Wilde* objected that this point was not made below, and that the judgment of the Court of Queen's Bench and the argument had turned on an entirely different ground.

The argument then proceeded on the main question, but as the Court thought that the first point should be disposed of before the other is decided, we do not give the argument.

JUDGMENT.

TINDAL, C.J. delivering judgment, said,—Upon taking this case into consideration, for the purpose of giving judgment thereon, the objection which was pointed out by the Court in the course of the argument, as to the insufficiency of the special verdict, appears to us, upon further discussion, to be insurmountable. The special verdict found there was a vacancy in the canonry or prebend from the 31st of March, 1836, by the death of the Bishop of Lichfield, and that the defendant below, the treasurer of Queen's Anne's Bounty, in pursuance of the statute 6 Wm. 4, had from that time, and until the appointment of the plaintiff below, received the profits of the said canonry or prebend; but the special verdict is altogether silent as to the nature of those profits, or the source from which they proceed. Those profits may be either derivable from possessions which the prebendary holds separately in right of the prebendal stall, as the *corpus* belonging to the prebend; or those profits may be the share of the prebendary in the issues of the possession which he holds in common with the rest of the chapter, and which belong to the corporation of the Dean and Chapter; in which latter case we think it clear the plaintiff below can have no right of action. And as we hold it to be indispensable that the facts should be distinctly found by the jury one way or the other before we give our final judgment, we do at present, for that purpose, award a *venire de novo*.

BAIL COURT.

Monday, June 9.

(Before Mr. Justice WIGHTMAN.)

REG. *v.* JUSTICES OF LINDSAY.

A local Act, after directing various inferior proceedings by previous sections, enacted by the 158th section that no proceedings under the Act should be quashed for informality, or removed by certiorari; and then, by a subsequent section, gave an appeal in certain cases to the quarter sessions.

Held, that an order of quarter sessions under the Act could not be removed by certiorari.

Wildman shewed cause against a rule for a *certiorari* to bring up an order of sessions made upon an appeal against a drainage rate under the 161st sec. of 6 & 7 Vict. c. 76. He submitted that the *certiorari* was taken away by sec. 158 of the Act, which provided that no proceedings under the Act should be quashed for informality or removed by *certiorari*.

Willmore, contrà, contended that the 158th section applied only to such inferior proceedings as were mentioned in the sections preceding the 158th, and not to orders of quarter sessions under the 161st section; first, because it was always usual in Acts of Parliament for the clause taking away the *certiorari* to *follow* the section to which it was intended to apply; and, secondly, because the word "proceedings" alone was used in this instance, whereas it was usual to use some other words in addition, as, for instance, that "no proceedings or *judgments* should be removed," &c. when it was intended that the clause should apply to orders of quarter sessions. In illustration of this position he referred to 7 & 8 Wm. 3, c. 6. *Cur. adv. vult.*

WIGHTMAN, J. this day gave judgment.—He said that the rule must be discharged. The words of the 158th section were wide enough to include orders of quarter sessions, and if they were not held to do so, the absurdity would follow, that whilst an order of justices, unappealed against, could not be removed, the same order, if appealed against, might be removed. *Rule discharged.*

DOE *dem.* GLYNES and OTHERS *v.* LOWE.

Where, in an action of ejectment, the lessors of the plaintiff were infants, and a next friend was appointed, who, however, did not enter into, and was not named in, the consent rule, and the plaintiff was nonsuited at the trial on the merits—Held, that the defendant could not call upon the next friend for the costs, there being no consent rule whereby she was bound to pay them.

Petersdorff moved for a rule calling upon Mrs.

Hockley, who had been appointed the next friend of the lessors of the plaintiff, who were infants, and her husband, to shew cause why they should not pay the costs of this ejectment. It appeared that the ejectment having been brought at the instance of the lessors of the plaintiff, who were minors, their mother, who was then a widow, was appointed their next friend; no consent rule was entered into by the lessors of the plaintiff nor by their next friend, and the cause went on to trial, when the plaintiff was nonsuited upon the merits.

WIGHTMAN, J.—I do not see how you can call upon the next friend to pay costs. Ordinarily, the plaintiff only is the party liable to pay; but the lessor in ejectment becomes liable to pay them by virtue of the consent rule. In this case there was no consent rule to which the next friend was a party.

Petersdorff.—We have this remedy on the rule appointing the next friend.

WIGHTMAN, J.—Certainly not. If you had intended to have made the next friend liable for costs, you should have had the consent rule amended by inserting in it the next friend's name. *Rule refused.*

BELL *v.* WALDRON.

The Court will not grant the costs upon an action on a judgment for a debt under 20l. where the conduct of the defendant has not been vexatious, although the original judgment was obtained before the passing of 7 & 8 Vict. c. 96, and the defendant had no goods whereon to levy.

Prideaux shewed cause against a rule obtained herein by *Tyrwhitt*, under the 43 Geo. 3, c. 46, s. 4, for the costs of an action brought on a judgment. It appeared that originally an action had been brought against the brother of the defendant for the recovery of a debt of 16*l.*; that such action was settled by the defendant and his brother giving two promissory notes for the debt and costs, each for half the amount; that on the said notes becoming due, they were unpaid; whereupon two actions were brought, upon each of which judgment was obtained; that a *fi. fa.* was issued against the goods of the defendant, which was rendered unproductive in consequence of the sheriff receiving a notice that the goods were the property of a third person; that the defendant was living in furnished apartments, and had no goods of his own; that writs of *ca. sa.* were issued against him, which he avoided by keeping out of the way; that the brother was taken on a *ca. sa.* and took the benefit of the Insolvent Act; that subsequently, the 7 & 8 Vict. c. 96, passed, the 57th section of which prohibits the arrest of defendants in an action for a debt not exceeding 20*l.*; that since the passing of that Act the defendant had been repeatedly seen; that in consequence of the premises, the plaintiff commenced the present action on the two judgments before obtained for the amount of 54*l.*; that the defendant pleaded to such plea (the nature of which plea was not stated); that the action went on to trial, and the defendant not appearing, the plaintiff recovered a verdict. It was now contended, in opposition to this rule, that the action on the judgment was frivolous and vexatious, and brought alone to defeat the object of the 7 & 8 Vict. c. 96, and that there was no evidence whatever to shew that the defendant's conduct had been either fraudulent or dishonest. (*Hall* v. *Pierce*, 5 Dowl. 603; *Hanmer* v. *White*, 1 Dowl. & L. 653.)

Tyrwhitt, contrà, argued that the present action was properly brought, inasmuch as the former ones had been unavailing, and that it was the object of the 43 Geo. 3, c. 46, which rendered it necessary in such an action as this to apply to the Court for costs, only to restrain the bringing of a second action where there might have been a sufficient remedy by execution in the first, which in the present case there had not been; that the pleading to the action on the judgment was a vexatious proceeding, as there could have been no real defence to the action.

WIGHTMAN, J.—I don't think I ought to allow the costs in this action; there is nothing vexatious shewn in the conduct of the defendant, and I think, unless there had been something vexatious on his part, the costs ought not to be allowed. You seek to have a benefit by bringing this action, which you could not have had upon the judgments in the former actions, in consequence of the operation of Lord Brougham's Act, and you now come to ask for the costs of this second action. The plaintiff has his advantage in taking the case out of that Act, but I think he ought not to have the costs.

Rule discharged without costs.

Tuesday, June 10.

PAYNE *v.* DAVIS.

Where a defendant pleads a set-off, and an order is obtained directing him, within a limited time, to deliver the particulars thereof, or be excluded from giving the same in evidence, and he neglects to comply therewith, a judge at nisi prius has no power to exclude evidence tendered in proof of such plea.

Semble, the proper course to be pursued by a plaintiff in such a case is to apply for an attachment against the defendant; or, if there be other pleas pleaded, to apply to a judge to strike out such plea of set-off.

Atkinson shewed cause against a rule obtained by *Lush* for a new trial herein. It appeared that this was an action brought against the indorsee of a bill of exchange, to which the defendant pleaded one plea, viz. that of a set-off. On the 23rd of April the plaintiff obtained a summons for the particulars of the defendant's set-off, to which the defendant gave a consent and the order was accordingly drawn up and served on the Friday, the 25th. The order was to deliver the particulars within two days, "or in default thereof that the defendant be precluded from giving any evidence in support of such set-off at the trial of the cause." The particulars were not delivered within the time, which expired on the Monday, but were served on the following Tuesday, when they were returned by the plaintiff, on the ground of their having been delivered too late, and not therefore in pursuance of the order. The action was set down for trial for the first sitting in this Term, when, in consequence of the defendant being misinformed at the marshal's office as to the day of trial, he did not appear, and the cause was tried as undefended, and the plaintiff had a verdict. Upon this the present rule was obtained, being alleged that the absence of the defendant at the trial was solely in consequence of the misinformation as to the day of trial received at the marshal's office.

Against this rule it was contended, first, that the defendant was guilty of *laches*; and, second, that if he had appeared at the trial he could have given no evidence of his set-off, inasmuch as he had not delivered his particulars within the two days, as limited by the judge's order.

Lush, contrà, argued that the omission to appear at the trial was not the fault of the defendant, and that he was ready to pay the costs of the day; and that as to the second objection, notwithstanding the particulars of set-off were not delivered within the two days, the defendant would still have been at liberty to have given evidence of his set-off; for that the only penalty upon the defendant for not giving the particulars, pursuant to the order, would have been an attachment; or, had there been several pleas, the plaintiff might have applied to a judge to strike out the plea of set-off; but that the judge at *nisi prius* would have had no right to have rejected the evidence upon it; and that if he had, a bill of exception would have lain, and the judge's order would then have been no answer.

WIGHTMAN, J.—I think this is so, and that the rule ought to be made absolute on payment of costs, the defendant undertaking to go to trial at the Sittings after Term, and giving judgment of the Term if necessary.

Atkinson.—Do I understand your lordship that the defendant is to be at liberty to give evidence of his set-off at the trial?

WIGHTMAN, J.—I think he is.

—— *Rule accordingly.*

Wednesday, June 11.

(Before Mr. Justice COLERIDGE.)

REG. *v.* THE JUSTICES OF WESTMORELAND.

Where an order of bastardy set out that the mother had applied "to J. M. one of her Majesty's justices of the peace usually acting in this division, for a summons," not stating that the said justice was acting for the said division: Held, that the allegation was sufficient under the 8 Vict. c. 10 (An Act to make certain Provisions for Proceedings in Bastardy).

Addison shewed cause against a rule calling upon two of the justices of Westmoreland to shew cause why they should not return into this court a certain order of bastardy made on the complaint of one Rebecca Blackett, with the view to the said order being quashed for defects apparent upon its face.

A great variety of objections were taken on moving for this rule, which, however, were removed by the operation of the 8 Vict. c. 10, "An Act to make certain Provisions for Proceedings in Bastardy" (passed 8th of May, 1845), and the only one which was ultimately relied on, was, that it did not appear on the face of the order that the justice who granted the summons on the application of the mother was a justice who had jurisdiction to do so, there being no statement that he was a justice acting *for* the division; the allegation in the order being that the said Rebecca Blackett, having, &c. did "make application to Joseph Milner, clerk, one of her Majesty's justices of the peace usually acting *in* this division, for a summons," &c.

In support of the order, it was argued that this allegation was equivalent to that contained in No. 8 in the schedule of the 8 Vict. c. 10, the word in such schedule being "for," instead of "in."

Bliss, contrà, contended that the substitution of the word "in" for that of "for" was most material, as the latter word was the only one which shewed jurisdiction in the justice; that the words are not equivalent; that a justice who had no jurisdiction in the county might nevertheless act *in* it.

COLERIDGE, J.—I think the spirit of this Act of Parliament is to discountenance those merely verbal inaccuracies which prevented these orders from being effectual; I mention this, not because I think that such objections may not properly be taken, but only that we may view them in the proper light. Mr. Bliss says, that the word "in," made use of in the order, does not shew that the justice had any jurisdiction to grant the summons, and that it should have stated that he was acting "*for*" the division. The words, however, are, "*usually acting*," which is strong presumptive evidence that the justice was acting *for* the division. But I really think that there is sufficient evidence to shew that the legislature intended these words to be synonymous, for the form in the Act goes on to say, "And the said justice thereupon issued his summons to the said —— to appear at a petty sessions to be holden on this day, for this division, *in which* the said justice usually acts," so that here, where you would expect to have the jurisdiction most strongly marked, the word "in" is used. I think the rule must be discharged. —— *Rule discharged.*

Thursday, June 12.

REG. *v.* THE JUSTICES OF MONTGOMERYSHIRE, in the matter of the appeal between THE PARISH OF LLANECIL, Merionethshire, appellants, and THE PARISH OF CARNO, Montgomeryshire, respondents.

The Court of Quarter Sessions are the only judges of their own practice, and this Court will not interfere with any of their rules unless they are contrary to reason. Where, therefore, by a rule of the Montgomeryshire Sessions, it was ordered that twenty-eight days' notice should be given of an adjourned appeal, and the sessions refused to hear an appeal because such rule had not been complied with, Held, on motion for a mandamus, that the rule was not so unreasonable as to induce the Court to interfere.

Bodkin, on a former day in Term, shewed cause against a rule for a *mandamus*, commanding the justices of Montgomeryshire to enter continuances and hear an appeal against an order of removal. The order in question was made on the 18th of December, 1843, and notice of it was given on the 20th; no notice of appeal having been given, it was executed on the 13th of January, 1844. At the ensuing April sessions an appeal was entered and respited, and on the 19th of June notice of appeal for the ensuing sessions, to be holden on the 4th of July, together with the grounds of appeal, were served on the respondents. It further appeared that by one of the rules of the Montgomeryshire sessions it was provided as follows:—"Notice of prosecuting adjourned appeals to be given, in like manner, twenty-eight clear days before the sessions, and, unless the appellants prosecute the said appeal with effect at the said next sessions, the order of removal to stand confirmed." On the appeal being called on, it was objected, on the part of the respondents, that this rule had not been complied with, fourteen days' notice only having been given. The sessions held this objection to be fatal, and the order of removal was thereupon confirmed with costs; whereupon this rule was obtained, on the ground that the rule of sessions requiring such twenty-eight days' notice was unreasonable. In support of the order of sessions it was argued that the rule in question was *not* unreasonable; that it applies only to respited appeals, in which case it is proper that a long notice should be given; that the decision of Patteson, J. in *R.* v. *The Justices of Monmouthshire* (3 Dowl. 306), shews that it is for the justices to determine what notice they will require in cases of respited appeals; that the order of respite itself contained a direction that it should be served twenty-eight days before the sessions.

Townsend and *Pashley*, contrà, argued that the rule of the sessions was unreasonable; that it was altogether in opposition to the spirit of the 4 & 5 Wm. 4, c. 76, which requires only *fourteen* days' previous delivery of the grounds of appeal; that the utmost limit in almost any legal proceeding being fourteen days, twenty-eight days were clearly inconsistent with reason; that if such a number of days were not unreasonable, any greater number would not be, and it would be difficult to assign a limit; that this rule of sessions being unreasonable, the Court will interfere, as it has done in other cases, to correct the badly-exercised discretion of the justices. (*Rex* v. *The Justices of Lancashire*, 7 B. & C. 691; *R.* v. *The Justices of Monmouthshire*, 3 Dowl. 306; *R.* v. *The Justices of Wilts*, 10 East, 404; *R.* v. *The Justices of Norfolk*, 5 B. & Ad. 990; *R.* v. *The Justices of Staffordshire*, 4 Ad. & Ell. 844; *R.* v. *The Justices of the West Riding of Yorkshire*, 2 Q.B. 716.)

Cur. adv. vult.

His lordship this day gave the following judgment.—This was a rule for a *mandamus* against the justices of Montgomeryshire, commanding them to enter continuances and hear an appeal against an order of removal. The order itself was made and served in December 1843, and in January it was executed; at the next April sessions an appeal was entered and respited, and the appeal came on for trial at the following July sessions. The practice at the sessions required twenty-eight days' notice of trial of a respited appeal, and because the appellants had not given a notice of this length the justices refused to hear it. The question, therefore, is, whether this rule which requires twenty-eight days' notice is so unreasonable as to induce the Court to interfere. The case of *Reg.* v. *The Justices of Wilts* (10 East), and many others, were cited in the argument, but the result of them all is, that the Court

sions are the only judges of their own practice, and that this Court will not interfere unless the rule of the sessions is contrary to reason. But here the rule in question applied only to notices of respited appeals, and there was an interval of three months between the two sessions, and there was, therefore, plenty of time to have given the required notice. It appears to me, therefore, that this Court ought not to interfere in this case, and that the rule should to be discharged. *Rule discharged.*

WILLIAMS and ANOTHER, Assignees, *v.* VINES and ANOTHER.

Where a defendant pleads a payment into court and another plea, and the plaintiff takes the money out of court and demurs to the latter plea, which demurrer is decided in his favour, and he then enters a nolle prosequi to the residue of the action, except the costs of the demurrer, he is entitled to those costs on taxation.

Bramwell, on a former day, moved for a rule for the Master to review his taxation herein. This was an action by the assignees of a bankrupt for money had and received, and on an account stated. To this the defendants pleaded, 1st, except as to 112*l.* the general issue; 2nd, except as to 112*l.* a set-off; 3rd, a payment into court of 112*l.*; and 4th, a special plea of lien. The plaintiffs took out of court the 112*l.* traversed the two first pleas, and demurred to the fourth. The demurrer was, on argument, decided in favour of the plaintiffs. They then delivered a paper which purported to be a *nolle prosequi*, by which they declared that they would not further prosecute the said suit, except as to the costs of the demurrer. Subsequently they obtained an appointment to tax, and when before the Master, they claimed not only the general costs of the cause up to the payment of the money into court, but the costs of the demurrer also, which latter costs the defendants claimed upon the ground that the *nolle prosequi* was an admission that the plaintiffs had no right of action beyond the sum paid into court, and that all proceedings subsequent to that were unwarranted. (3 & 4 Wm. 4, c. 42, s. 33.) The Master having decided in favour of the plaintiffs, and against the defendants, this rule was obtained; and it was argued that the defendants were entitled to the costs of the demurrer notwithstanding they had failed thereon, the plaintiffs having, by their *nolle prosequi*, foregone all their right of action, except in respect of the 112*l.* paid into court.

WIGHTMAN, J.—Surely the plaintiffs are entitled to the costs of your bad plea?

Bramwell.—They confess that they fail as to all except the 112*l.*; part of the action in which they confess they fail is this very demurrer.

WIGHTMAN, J.—But they have judgment on their demurrer for their costs.

Bramwell.—They have only interlocutory judgment. They have failed upon this part of their demand, by their own confession, by entering a *nolle prosequi.*

WIGHTMAN, J.—If a defendant overloads the record with a parcel of bad pleas, to which the plaintiffs demur, they ought to have their costs if they succeed. I will look at the pleadings.

Cur. adv. vult.

His lordship this day refused the rule, declaring it as his opinion that the Master had properly taxed the costs. *Rule refused.*

REG. *v.* THE JUSTICES OF MIDDLESEX.

Where an Act of Parliament provides that a certain number of days' notice "at least" shall be given, that means so many clear days, and therefore excludes the day on which the notice is given.

Prendergast, on a former day in Term, shewed cause against a rule obtained by *Pashley*, calling upon the justices of Middlesex to shew cause why a *mandamus* should not issue, directing them to enter continuances and hear an appeal of Henry Thomas against a rate for the relief of the poor of the parish of St. Leonard's, Shoreditch. This was an appeal under the 121st section of the 53 Geo. 3, c. 112 (local), which provides that, if any person shall feel himself aggrieved by any assessment, he may apply to the trustees appointed under the Act, within twenty days next after the demand made upon him, who are empowered to give relief; and that if the appellant is not satisfied therewith, or if relief is refused, he may apply to the quarter sessions within three months after their decision, "such appellant first giving seven days' notice at least, in writing, of his or her intention of bringing such appeal, and of the matter thereof," to the clerk or clerks of such trustees, &c. The appellant, intending to appeal against an assessment under this Act, gave notice, at half-past nine in the morning of the 31st of December last, for the next sessions, which commenced at ten o'clock on the following 7th of January. On the appeal coming on for trial, it was objected, on the part of the respondents, that sufficient notice of appeal had not been given, the words "seven days' notice at least" meaning seven clear [illegible] not including, as in this case, the day of the [illegible] of the notice. The sessions being of this opini[illegible] used to hear the appeal, whereupon this rule was obtained. It was now contended, in opposition to this rule, that the justices were correct in their decision, and that the above words excluded both the first and last days, so that there should have been seven clear intermediate days. (*Zouch* v. *Empsey*, 4 B. & Ald. 522; *Reg.* v. *The Justices of Shropshire*, 8 Ad. & Ell. 173; *Young* v. *Higgon*, 9 L. J. M. c. 29; *Mitchell* v. *Foster*, 12 Ad. & Ell.; *Chambers* v. *Smith*, 13 L. J. Ex. 25; *Godson* v. *Sanctuary*, 4 B. & Ad. 255.)

Pashley, contrà, argued that the notice of appeal was in time, and that the words in question must be construed as including one day and excluding the other; and that, even as it was, there were, by counting the fractions of the days, seven clear days, the notice of appeal having been delivered at half-past nine in the morning on the 31st of December, and the sessions not commencing until ten on the 7th of January. (*Pugh* v. *Robinson*, 1 T. R. 116; *Ex parte David*, 4 Dow. & Ry. 647; 1 Dow. 517; *Wallace* v. *King*, 1 Hy. Bla. 13; *Harper* v. *Taswell*, 6 B. & P. 166; *Cook* v. ——, 5 T. R. 255; *Cowley* v. *Harris*, Mo. & M. 141.) *Cur. adv. vult.*(a)

His Lordship to-day gave the following judgment.—There was a case of *Reg.* v. *The Justices of Middlesex*, which was an application for a *mandamus* to justices to enter continuances and hear an appeal. The Act of Parliament under which the appeal was brought directed that *seven days' notice at least* should be given of the appeal. Now it appears that the first day of the sessions was the 7th of January, and the notice was served at half-past nine in the morning on the previous 31st of December; and the question is, whether the first day should be computed in the seven or not. If the question were to be considered now for the first time, I should be perhaps inclined to doubt whether or not the first day should be excluded, but it has been so frequently held that the words "at least;" mean to exclude the first and last days, that I have no discretion to decide otherwise; the cases of *Zouch* v. *Empsey*, *Reg.* v. *The Justices of Shropshire*, and *Mitchell* v. *Foster* are direct authorities that the words "at least" exclude the day of the service. It was however contended that the fraction of a day might be considered, and that as the notice was given at half-past nine on the 31st, and the sessions commenced at ten on the 7th, there were seven clear days; but this computation is only in cases where it is necessary to ascertain which of two acts is to have precedence of the other. I am therefore of opinion that the notice was served one day too late. It is unnecessary to consider the other points. *Rule discharged.*

(a) There were other points taken and argued, but as nothing turned upon them in the judgment, they are omitted.

BUSINESS OF THE WEEK.

Friday.

REG. *v.* THE JUSTICES OF MIDDLESEX.—This case was further argued this day.

Ex parte THE COMMISSIONERS OF PAVING FOR KENTISH TOWN, MIDDLESEX.—*Hoggins* (*Howorth* with him) moved for a rule *nisi* for a *mandamus* to be directed to George Long, esq. magistrate of High-street, Marylebone, commanding him to issue his warrant to levy on the goods of Thomas Bird, the occupier of No. 15, Southampton-terrace, the sum of of 3*l.* 9*s.* 10*d.* being the residue of 4*l.* 3*s.* 10*d.* laid out by the commissioners under the 4 & 5 Vict. c. 69 (local act), in paving, gravelling, &c. the footway and works incidental thereto, next to and adjoining the said house, together with 1*s.* 7*d.* interest thereon, and why Robert Mansell Brown, Thomas Bird, and Joseph Perkins should not pay the costs of and occasioned by the same and this application. The object of this motion was to try the liability to pay the rate in question, which was disputed. *Rule nisi.*

DOE *dem.* BLACK *v.* ROE.—*O'Malley* moved for a rule to set aside the judgment signed against the casual ejector herein. *Rule refused.*

Saturday.

REG. *v.* THE JUSTICES OF MIDDLESEX.—The arguments in this case were concluded this day. *Cur. adv. vult.*

SIMPKIN *v.* TARLINGTON.—*Hill*, Q.C. shewed cause against this rule, which was obtained to set aside the verdict for the plaintiff and for a new trial. *Whitehurst*, Q.C. and *Mellor*, contrà. *Cur. adv. vult.*

WATTS *v.* TARLINGTON. *Part heard.*

PARSONS *v.* MILLS.—*T. W. Saunders* moved to set aside the issue herein for irregularity. *Rule refused.*

DOE *dem.* NELSON and OTHERS *v.* WADE and OTHERS.—*Rawlinson* moved to set aside the proceedings herein with costs. *Rule nisi.*

DOE *dem.* COTTERELL *v.* WALKER.—*W. Smith* moved for a rule to set aside the issue and notice of trial herein, on the grounds—1st. That no consent rule had been drawn up. 2nd. That there had been an order to stay the proceedings. 3rd. That the issue was not in the proper form. *Rule nisi.*

REG. on the prosecution of REEVE, *v.* EVANS.—*Lush* moved to stay the proceedings on the *sci. fa.* herein, on the defendant giving a peremptory undertaking to try the indictment.

REG. *v.* THE TOWN COUNCIL OF LICHFIELD.—*Talfourd*, Serjt. moved for a rule directing this case (which was an issue on a return to a *mandamus*) to be tried in Staffordshire. *Rule nisi.*

Monday.

CHAMBERS *v.* TARLINGTON.

Rule absolute for a new trial.

MORRIS *v.* ——.—The *Solicitor-General* moved to discharge an order made upon the East-India Company by the Insolvent Debtors' Court for the payment to the assignee of an insolvent a portion of his pension receivable from that company, on the ground that such pension was not within the meaning of sections 14 and 15 of the 1 & 2 Vict. c. 110. *Rule nisi.*

THE QUEEN *v.* THE MANCHESTER, BURY, AND ROSSENDALE RAILWAY COMPANY.—*Archbold* moved, on the behalf of a Mr. Openshaw, for a *mandamus* commanding the above company to give compensation for damage done to the property of the applicant. *Rule nisi.*

Re J. T. JERWOOD, Gent., one, &c.—*Hindmarsh* shewed cause against this rule. *Horn*, contrà. *Rule discharged.*

QUINETTE *v.* DAY and OTHERS.—*Hoggins* moved to set aside the judgment signed herein for irregularity. *Rule nisi.*

HUDSON *v.* HIGGINBOTHAM.—*Weightman* moved for a nonsuit herein. *Cur. adv. vult.*

Re GEORGE WAUGH.—*Lush* moved for a rule *nisi* to tax the bill of this gentleman. *Rule nisi.*

TAYLOR *v.* HODGSON.—*Rule absolute herein.* (See 5 L. T. 179.)

DAVIS *v.* CROCKFORD, Administratrix.—This rule, which was obtained last term by *Welsby*, to discharge the rule to remove the venue from Cheshire to Flintshire, was *Discharged.*

BLACKWIN *v.* MATTHEW.—*Willes* moved for a rule calling upon the plaintiff to pay the costs herein. *Rule nisi.*

MURTON *v.* WESTHALL.—*Wood* moved to set aside the proceedings herein for irregularity. *Rule nisi.*

Tuesday.

LAURIE, Knight, *v.* BLACKSTONE.—*Gurney*, Q. C. moved to discharge the rule for a special jury herein. *Rule nisi.*

REG. *v.* ST. JOHN'S COLLEGE, OXFORD.—*Dowling* moved for a rule to enable the prosecutor of this *mandamus* to inspect and take copies of certain deeds and charters with the view to pleading to the return herein. *Rule refused.*

REG. *v.* THE GUARDIANS OF THE TOTNES UNION.—*M. Smith* applied to enlarge the rule herein. *Greenwood* opposed the application.

Rule absolute for a mandamus.

HILL *v.* JONES and ANOTHER.—*Miller* shewed cause against a rule for judgment, as in case of a nonsuit, and contended that the application was made too soon, the issue having been joined on the 18th Feb. last. (*Balls* v. *Margrave*, 1 Scott, 213.) *Jones*, Serjt. contrà. *Rule discharged with costs.*

LAKE *v.* HOBBS.—*Prideaux* shewed cause against rule for judgment as in case of a nonsuit.—*Humfrey*, Q.C. contrà. *Rule discharged on terms.*

KEENE *v.* LAWRENCE.—*Humfrey*, Q. C. shewed cause against a rule to set aside the proceedings herein for irregularity. *Corrie*, contrà.

Rule absolute.

REG. *v.* THE OVERSEERS OF EAST BERGHOLT.—*H. Hill* shewed cause against this rule. *Lush*, contrà. (See 5 Law T. 100.)

Rule discharged with costs.

REG. *v.* ONSLOW and ANOTHER, Justices of Gloucestershire.—This case was part heard.

Wednesday.

REG. *v.* ONSLOW and ANOTHER, Justices of Gloucestershire.—*Keating* shewed cause against this rule, which called upon the above justices to shew cause why they should not pay the costs of a *mandamus*. *Newton*, in support.

Rule discharged with costs.

REG. *v.* THE CHURCHWARDENS, &c. of BANGOR.—*Archbold* moved to enlarge this rule.

Enlarged to Michaelmas Term.

Ex parte BURGESS.—*Peacock* moved for a *certiorari* to remove the allowance of the account of the auditor of the Sevenoaks union, allowing 300*l.* as paid to the architect for building the union poorhouse, which had been charged on the establishment fund for the year, instead of, as it is contended it should have been, paid out of the building fund, under the 4 & 5 Wm. 4, c. 76, ss, 23, 24. *Rule nisi.*

LANE *v.* ——.—*Lush* moved to set aside the warrant of attorney given herein by the defendant, and that he might be discharged out of custody, on the ground that the said warrant was not properly attested. *Rule nisi, returnable at Chambers.*

REG. *v.* THE MAYOR, &c. OF SANDWICH.—*Peacock* shewed cause herein. *Whitehurst*, Q. C. contrà. *Rule absolute on terms.*

HIGGINS *v.* DIXON.—*Hoggins* shewed cause against the rule herein for a nonsuit or a new trial. *Ogle*, contrà. *Cur. adv. vult.*

WEST *v.* FINER.—*Crouch* shewed cause against a rule for judgment as in case of a nonsuit. *Peacock*, contrà. *Rule absolute.*

THE INHABITANTS OF THE CHAPELRY OF HEWORTH, DURHAM *v.* REG. (*in error*).—*Kate*

shewed cause against a rule to set aside the allowance of the writ of error herein as having issued against good faith. *Granger*, contrà. *Rule absolute.*

ROBINSON *v.* ROBINSON.—*Whitehurst*, Q. C. shewed cause against a rule obtained herein to set aside the judgment and execution, and that the plaintiff should pay the assignees of the defendant the sum of 1,085*l.* 6s. 6d. &c. &c. *Martin*, Q. C. contrà. *Cur. adv. vult.*

ELDERTON *v.* TAYLOR.—*Peacock* and *Lush* shewed cause against the rule herein to set aside the award. *Humfrey*, Q. C. and *Borill*, contrà. *Rule discharged, with costs.*

SAME *v.* SAME.—*Humfrey*, Q. C. obtained a rule *nisi* to set aside this award as not being final.

CRIPPEN and ANOTHER *v.* BIRT.—*Jervis*, Q. C. and *Henderson* shewed cause against the rule herein for a new trial, on the ground of surprise. *Petersdorff*, contrà. *Rule discharged.*

PULLING *v.* ROBINSON.—*Jones*, Serjt. moved for a rule under the Interpleader Act. *Rule nisi.*

WALTON *v.* WHALLEY.—*Prideaux* moved to enlarge this rule. *Rule enlarged till next Term.*

HOBBS *v.* HARVEY.—*Kerschner* shewed cause against a rule calling upon the plaintiff, who had brought an action against the printer of the *Globe*, to recover several penalties for advertising foreign lotteries, to give security for costs. *Peacock*, contrà. *Rule absolute.*

REG. *v.* THE SOUTH-EASTERN RAILWAY COMPANY.—The parties herein agreed to a return being made to the *mandamus*. *Rule absolute accordingly.*

SIMONS *v.* PEACOCK.—*Lush* moved to rescind an order of Mr. Justice Wightman, directing the plaintiff's bill of costs to be taxed. The question was whether an attorney in the country, who, on the instructions of the solicitor of the Post-office, had prosecuted a prisoner, was to be considered in the light of an agent. *H. Hill* shewed cause in the first instance. *Cur. adv. vult.*

Thursday.

STULTZ *v.* GREVILLE.—*Bevan* moved to set aside the *distringas* to proceed to outlawry herein. *Rule nisi.*

JOEL *v.* COLEGRAVE.—*James* shewed cause against a rule for the payment out of court to the defendant of 42*l.* deposited in lieu of special bail. *Keane*, contrà. *Rule absolute.*

REG. *v.* THE JUSTICES OF CHESHIRE.—His lordship drew the attention of *Townsend* to the 8 Vict. c. 10, who argued that the blank in the form No. 8 of the schedule, after the words "heard the evidence of such a woman," was intended to be filled up by the word "oath," or "affirmation." *Cur. adv. vult.*

DOE *dem.* COTTERELL *v.* WALKER and ANOTHER.—*Flood* shewed cause against the rule herein to set aside the issue and notice of trial.—*J. W. Smith*, contrà. *Rule absolute.*

SAME *v.* SAME.—*Flood* moved to set aside two orders of Mr. Justice Coleridge herein. *Rule refused.*

BAXTER *v.* GRUNDY.—*Humfrey*, Q.C. shewed cause against a rule to refer the bill of costs herein to taxation.—*Archbold*, contrà. *Rule absolute on terms.*

SIMPKIN *v.* TARLINGTON.

WATTS *v.* SAME.

Rules absolute herein for new trials, defendant paying the costs, and bringing the amount into court.

REG. on the Prosecution of CHAS. SIMPSON, Gent. one, &c. *v.* THE COUNCIL OF THE CITY AND BOROUGH OF LICHFIELD.—*W. R. Cole* shewed cause against the rule herein, that the issues which were joined on a return to a *mandamus*, should be tried at Stafford. *Talfourd*, Serjt. and *J. W. Smith*, contrà. *Rule absolute.*

Ex parte ROPER.—*Prideaux* shewed cause against a rule calling on Mr. B. Hope to shew cause why his articled clerk should not be assigned to another attorney, and why the premium, or part thereof, should not be returned. *Gray*, contrà. *Referred to the Master.*

REG. *v.* EMILY EVANS.—*Corner* shewed cause against a rule herein to stay the *sci. fa.* on a peremptory undertaking to try at the sittings after Michaelmas Term. *Miller*, contrà.

Rule absolute on payment of the costs of the sci. fa. and of this rule.

BENTON *v.* MOORE.—*Petersdorff* shewed cause against a rule to set aside a judgment and execution herein. *Lush*, contrà.

Rule absolute: no action to be brought.

Saunders moved to discharge a party out of custody under the 48 Geo. 3, c. 123. *Unthank*, contrà. *Rule refused.*

MILES *v.* BOW.—*Crowder*, Q.C. shewed cause against a rule to enter up judgment for the plaintiff *nunc pro tunc*, the plaintiff having died before the decision on the *demurrer* (which decision was in his favour). *Bull*, Q. C. contrà. *Cur. adv. vult.*

REG. *v.* ROYDS.—*Rule discharged without costs.*

BEETENSON *v.* DICKEN.—*Rew*, *Miller*, and *Carrow* appeared for the several parties to this interpleader rule. *Terms arranged by the Court.*

Bankrupt and Insolvent Courts.

COURT OF REVIEW.

Wednesday, June 4.

Ex parte MONTEFIORE, *re* MONTEFIORE.

Bankrupt trustee—Proof.

The father of an infant received a legacy on account of the infant, and invested it in securities out of the ordinary course. He subsequently became bankrupt and it was held that the cestui que trust could elect whether to prove in respect of the legacy and interest, or the securities and profits.

In this case, a fiat, dated the 28th of August, 1843, was issued against the bankrupt, Joseph Barrow Montefiore. On the 29th of Feb. 1844, a fiat was issued against J. B. Montefiore and Jacob Montefiore his brother, and by an order of the Court, dated the 1st of May, 1844, the proceedings under the two fiats were incorporated.

This petition was presented by the two infant daughters of the bankrupt J. B. Montefiore, praying that he might be at liberty to prove against his separate estate in respect of two legacies of 75*l.* each received by the bankrupt on their account.

In August and July 1830, the bankrupt was residing at Sydney, and while there received, by remittances from England, the two legacies on account of the petitioners. These sums were invested in different securities in the colonies of Australasia; and in the bankrupt's books regular entries were made of the transactions connected with them.

Rogers, for the petitioners.

Swanston and *Hawkes*, for some of the assignees, and,

Hayes, for the other assignees.

The CHIEF JUDGE.—An executor, properly or improperly, paid a legacy, or money in respect of legacy, to the father of an infant; he deals with the money, and makes investments out of the ordinary course; he becomes bankrupt: the *cestuis que trust* have a right to elect to take either the debt with interest, or the investments with the profits, as may be for their advantage. Which is for their advantage is a matter which must be investigated. Various questions may arise as to the maintenance, &c. of these infants; but the general rules of law, as I have stated them, cannot be questioned.

COMMISSIONERS' COURTS.

Thursday, May 29.

(Before Mr. Commissioner HOLROYD.)

Re ROYLE, an Insolvent.

Where an affidavit verifying the schedule of an insolvent is defective, the Court has no power to amend it.

If an insolvent has been discharged out of custody by order of the Court, upon filing his petition, the Court will, if his petition be afterwards dismissed, order him back into custody.

Insolvent at the time of filing his petition in this court was in custody under an execution, but shortly after his petition was filed he was discharged by order of the Court, according to the usual practice. On the day appointed for the examination of the insolvent on his interim order, he was opposed for the detaining creditor, and on that occasion the insolvent swore that he did not know the party at whose suit he had been taken in execution; that he was not indebted to him, and that he had never been served with a writ at his suit. The detaining creditor was not in court. Some friends of the insolvent undertook to pay into court the amount of the supposed debt, to be paid over to the execution creditor in the event of his appearing in court in person on a day to be named by the Commissioner for such purpose, and substantiating his demand. His Honour, under these circumstances adjourned the meeting until this day.

Cooke (with whom was *Hughes*), for the execution creditor, now took an objection to the affidavit of the insolvent verifying his schedule as required by the 7 & 8 Vict. c. 96, s. 2, that there was no date in the jurat. Upon an affidavit so defective perjury could not be assigned, which is the proper test of sufficiency. The affidavit being bad, there is no power given to the Court by any of the statutes relating to insolvents to amend it. The petition must, therefore, be dismissed, and the insolvent ordered back into custody.

Clarkson (*Sturgeon* with him), for the insolvent.—It is too late now to take a technical objection; it should have been taken at the first meeting; but even if the Court will now entertain such an objection, it cannot be supported. The insolvent was actually sworn to the truth of his schedule, and signed the affidavit; and the officer of the court having omitted, in filling up the jurat, to insert the date, the Court will now direct the mistake of its own officer to be amended and the date inserted.

Mr. Commissioner HOLROYD.—I do not understand the insolvent to contend that the affidavit is correct, but that it may be amended. The form of the affidavit is given by the Act, and I cannot amend it. The petition must be dismissed; and as my order discharging the insolvent from custody was therefore wrongly made, I shall order him back into custody, and the money paid into court must be returned.

Wednesday, June 4.

(Before Mr. Commissioner SHEPHERD.)

Re POOLE, a Bankrupt.

Where a party seeks to prove a debt against the estate of a bankrupt upon a judgment, the Court will, under certain circumstances, inquire into the consideration for the debt before allowing the proof.

A proof for 250*l.* was tendered to the Court by the plaintiff upon a judgment obtained after verdict in an action of debt. The cause was tried at the assizes, and defended by the bankrupt. Verdict was given for the plaintiff. The judge who presided at the trial certified that "execution ought to issue in a fortnight." A new trial was afterwards moved for by the defendant, and refused. Judgment had been signed and execution issued thereon by the plaintiff, but little had been levied under the execution. The defendant had since become bankrupt.

The record, with the Master's *allocatur* and the judgment, were put in. The assignees of the bankrupt contended these were not sufficient to support the proof, but that the debt must be proved in the same manner as if no verdict had been obtained.

Hughes, in support of the proof.—The judgment is of itself evidence of the debt, and until it is impeached, the Court has no jurisdiction to inquire into the consideration for the debt. There is no impeachment of the verdict in this case, the new trial having been refused. The judgment cannot now be set aside except upon a writ of error.

His HONOUR thought that the motion for a new trial was an impeachment of the verdict, and refused to allow the proof without evidence being given of the consideration for the debt. *Proof withdrawn.*

Thursday, May 6.

(Before Mr. Commissioner GOULBURN.)

Re JOHN PETERS, a Bankrupt.

Where the purchaser of an estate at auction does not complete his purchase, and the estate is afterwards put up to sale again, and re-sold in pursuance of the conditions of sale, but at a less price, and the first purchaser afterwards becomes a bankrupt, the vendors may prove for the deficiency and expenses against his estate.

This was a meeting to declare a dividend.

It appeared that certain freehold property of Edward Peters, since a bankrupt, had been put up to sale at auction, and was knocked down to the bankrupt. By the conditions of sale a certain per-centage on the amount of the purchase-money was to be deposited at the time of sale, and if the purchase was not completed by a certain time the deposit was to be considered as liquidated damages and to be forfeited, and the estate put up again to sale, and if any deficiency occurred upon such re-sale, such deficiency was to be considered as liquidated damages and to be paid to the vendors by such purchaser. The bankrupt did not complete the purchase, and the estate was put up again for sale, and was knocked down at much less price. The assignees of Edward Peters, in conjunction with the mortgagees of the estate, now put in a joint claim against the estate of the bankrupt for the deficiency and costs of the re-sale.

Forster, for the mortgagees, contended that the vendors had a lien on the estate for the whole amount of the purchase-money under the first sale, and that, having received the purchase-money under the second sale, they were entitled to prove against the estate of the bankrupt for the deficiency, and the expenses incurred in consequence of the non-completion of the first purchase. In support of this proposition he cited *Ex parte Gyde* (1 Glyn & Jameson, 323); *Hooper* v. *Booth* (1 B. & A. 557); *Green* v. *Bicknall* (8 A. & E. 111).

The vendors were not now prepared to prove for the costs of the re-sale.

His HONOUR.—I will, upon the authority of the cases cited, allow a claim to be entered for the amount of the deficiency less the deposit already received, but I cannot admit any claim for the costs until the vendors are in a situation to prove for them.

Claim entered accordingly.

COUNTRY COMMISSIONERS' COURTS.

BRISTOL DISTRICT BANKRUPTCY COURT.

(Before Mr. Commissioner STEVENSON.)

Tuesday, June 3.

Re MEEK.

Where any of the debts in the schedule of an insolvent owing more than 300l. were contracted whilst he was a trader, the petition must be dismissed; but quære, whether a debt contracted whilst the insolvent was out of business, but precious to a subsequent trading, will disqualify him from petitioning? And quære, whether any other than a good petitioning creditor's debt would so disqualify an insolvent?

This insolvent came up for his first hearing. His debts and liabilities amounted to nearly 9,000*l.* some of which appeared by the dates in his schedule to have been incurred as long ago as 18[illegible].

Homes opposed for several creditors, and in his examination of the insolvent it appeared that Meek, after being an innkeeper in London, had retired from business for two years, after which, in 1836, he had taken the Queen's Head inn in Cheltenham, and carried on the trade of a victualler there until November 1838.

His HONOUR.—Then I have no further jurisdiction in the case, as several of the debts in the schedule bear date earlier than November 1838. One for 250*l.* I notice, is dated in 1835.

Lovegrove, attorney for the insolvent, said that none of those debts were contracted *whilst* insolvent was a trader. The debt of 250*l.* dated in 1835, was contracted during the interval when insolvent was out of business, previous to his taking the Queen's Head in Cheltenham.

Homes referred to a debt of 200*l.* due to Mr. Stiles it bore dates "1837 to 1840 inclusive."

Lovegrove.—That debt is stated to be the balance of an account, and the dates given in the schedule are those of the earliest and latest items in that account; but many sums have been paid on account, which sums, I contend, should be appropriated to the discharge of the earlier items, in which case it will appear that all that part of the debt which was incurred before Meek left off trading has been paid.

His HONOUR.—The points raised by Mr. Lovegrove certainly require some consideration. Is there such a debt still existing, and contracted before November 1838, as would constitute a good petitioning creditor's debt?

On such a debt being pointed out, to which Mr. Lovegrove's objections did not apply,

His HONOUR said it was then unnecessary to decide the other questions that had been raised, and

Dismissed the petition.

THE LEGISLATOR.

Summary.

THE Small Debts Bill has passed the Lords, and we understand that some material alterations were made in the last stage. The Bill, as sent to them, is not yet printed by the Commons, so we are unable to inform our readers what are the changes thus effected. But many of the objections noticed in the leading article on the subject must be strenuously urged in its progress through the Lower House.

Imperial Parliament.

PUBLIC BUSINESS TRANSACTED.

BILLS READ A FIRST TIME.

Wednesday, June 11.

Arrestment of Wages, Scotland, No. 2—"to amend the Law of Arrestment of Wages in Scotland."

Timber Ships—"to continue and amend an Act of the 5th and 6th years of Her present Majesty, for preventing ships clearing out from any Port in British North America, or in the Settlement of Honduras, from loading any part of their cargo of Timber upon deck."

BILLS READ A SECOND TIME.

Wednesday, June 11.

Dog Stealing
County Rates.

Thursday, June 12.

Poor Law Amendment.

BILL READ A THIRD TIME AND PASSED.

Thursday, June 12.

Banking, Scotland.

PRIVATE BUSINESS TRANSACTED.

BILLS READ A FIRST TIME.

Thursday, June 12.

Bolton and Leigh, Kenyon and Leigh Junction, North Union, Liverpool and Manchester, and Grand Junction Railway Companies Amalgamation.

BILLS READ A SECOND TIME.

Friday, June 6.

Birmingham and Gloucester Railway, Worcester Branch and Cheltenham Extension.

BILLS READ A THIRD TIME AND PASSED.

Friday, June 6.

Edinburgh and Harwich Railway
Quinborows Borough
Great North of England and Richmond Railway
North British Railway
Yarmouth and Norwich Railway
Lowestoft Railway and Harbour.

Tuesday, June 10.

London and Greenwich Railway
Newcastle-upon-Tyne and North Shields Railway, Tynemouth Extension.

Wednesday, June 11.

Newcastle and Berwick Railway
Manchester Improvement
Manchester Court of Record, No. 2
Bridgewater Navigation and Railway.

Thursday, June 12.

Caledonian Railway
Clydesdale Junction Railway
Dundee and Perth Railway.

SESSIONAL PRINTED PAPERS.

[illegible]

321. Bill—Statute Labour, Scotland—Amended.
343. — Pious and Charitable Purposes.
334. — Salmon Fisheries, amended.
359. — Railway Clauses Consolidation, Scotland, amendments made by the Lords.
306. Stamp and Tax Office, Stamps—Returns.
315. Railway Bills, Ireland—Report from Committee.
322. Church Building Materials—Return.
346. Vaccine Establishment—Report.
349. Steam Vessels—Return.
350. Quassia and Beer—Account.
320. Fisheries, Ireland—Third Annual Report of Commissioners.
272. Indian Law—Special Report of Commissioners.
Slave Trade—Convention between her Majesty and the King of the French.
179. Poor Law Commissioners—Returns.
357. New Zealand, Proprietary Government—Correspondence.
339. Coals, Cinders, and Culm—Account.
355. London Coal Market—Returns.
366. Newgate Gaol, Convict Hocker, &c.—Report of Inspector of Prisons.

DOG-STEALING.—There is a Bill now before the House of Commons to make the stealing of dogs a misdemeanor. For the first offence, before a magistrate, the party may be committed for a period not exceeding six months, or be fined above the value of the dog a sum not exceeding 20*l.*; for the second offence, to be indicted, and may be transported for seven years, or imprisoned, or fined and imprisoned. A penalty of 20*l.* may be levied for having possession of stolen dogs or their skins.

Lord Brougham's Bill to amend the law of marriage will extinguish Gretna Green—at least as a refuge for English lovers. It provides that no marriage in Scotland shall be valid unless both the parties were born in Scotland, or reside there, or have lived in Scotland for three weeks preceding the marriage.

PENNY POSTAGE.—The usual Post-office returns have just been issued; they shew results which must be highly gratifying to the friends of penny postage. The total number of letter delivered in the United Kingdom in the year 1844 was 242 millions, which is an increase of nearly 22 millions on the previous year. (The number before the reduction of the rate, it may be necessary to remind our readers, was 75 millions.) But the most remarkable fact is the great increase in the London district, or old twopenny-post, the letters of which have more than doubled since the penny rate was established.

THE MAGISTRATE.

Summary.

NOTHING has occurred requiring comment on the subject of the administration of the law.

THE LAWYER.

Summary.

THE continued stream of reports, and the other topics pressing for publication and discussion, compel us to cut short all comments, and merely to refer the reader to the intelligence collected in the various departments. Next week we shall be obliged to publish another double number.

NOTES ON LEADING CASES.

No. II.

CHAPPLE *v.* ANNE COOPER.

(13 M. & W. 252.)

The rule of law as to "necessaries" for an infant—What are "necessaries?"—Contract by an infant widow to pay the expenses of her husband's funeral.

This case (the authorized report of which has only just appeared) raises one of those innumerable questions that depend for their determination upon the legal meaning of the term "necessaries," as applied to the contract of an infant or married woman: and in order fully to understand its bearings and decision, it will be desirable to consider briefly what construction has been put upon that term.

The very meaning of the word, in its ordinary acceptation, of course includes all things necessary to the health and comfort of the infant. Meat, drink, apparel, lodgings, and medicine are therefore ranked in the first class of those articles for which an infant is obviously liable on his contract. (Bac. Ab. *Infancy* (I.); 3 Com. Dig. *Enfant* (B.) 5.)

Things necessary," says Baron Alderson in the case before us, "are those without which an individual cannot reasonably exist. In the first place, food, raiment, lodging, and the like: about these there is no doubt." (p. 258.) But aliment for the mind is as necessary in civil life as food for the body; and education and instruction come clearly within the range of indispensable necessities. (Co. Lytt. 172 a.; *Manby* v. *Scott*, 1 Sid. 112; *Pickering* v. *Gunning*, Sir W. Jones, 18; *Peters* v. *Fleming*, 6 M. & W. 48.) But though a man be well supplied with food and raiment, and have received a polite education, how much does he still stand in need of? By himself how little can a man do to help himself—and the service and attendance of others is clearly a prime necessary in an artificial society. "Hence attendance may be the subject of an infant's contract" (*per* Alderson, B. *ut supra*). But when it is once assumed that *some* clothes, *some* food, *some* education, *some* attendance, are necessary, then the question arises—what quantity and what quality will the law allow? The rule which has been laid down in a long series of cases, is that "the extent of the contract may vary according to the state and condition of the infant himself." (Ibid.) From the earliest time down to the present, the word "necessaries" was not confined, in its strict sense, to such articles as were necessary to the support of life, but extended to articles "*fit to maintain the particular person in the state, station, and degree in life in which he is.* All such articles as are purely ornamental are to be rejected, because they cannot be requisite for any one." (*per* Parke, B. in *Peters* v. *Fleming*); and in the same case Alderson, B. says, "It has been ruled that an infant may be liable for schooling, and if it become a question, how much schooling is necessary, then you must inquire what situation in life he is required to fill. A knowledge of the learned languages may be necessary for one, a knowledge of reading and writing may be sufficient for another. The real question would be, whether or not what he has contracted for be such as a person in his station and rank in life would require." (See also the cases of *Ford* v. *Fothergill*, 1 Esp. 211; *Mackarall* v. *Bachelor*, Cro. Eliz. 583; *Clowes* v. *Brooke*, 2 Stra. 1011; *Burghart* v. *Hall*, 4 M. & W. 727; *Brayshaw* v. *Eaton*, 7 Scott, 183.) According to this rule it was held by Lord Ellenborough that regimentals furnished to an infant who was a member of a volunteer corps were necessaries for him. (*Coates* v. *Wilson*, 5 Esp. 152.) Lord Kenyon refused to say that a servant, and livery for that servant, were not necessaries for a captain in the army. (*Hands* v. *Slaney*, 8 T. R. 579.) But if proper clothes have been supplied to an infant by his father, any others cannot be considered as necessary (*Cook* v. *Denton*, 3 Car. & P.; *Burghart* v. *Angerstein*, 6 Car. & P. 690); and an infant living under the roof of his parent, who provides what he considers necessary, cannot bind himself to a stranger for such articles as might be deemed necessaries under different circumstances. (*Borrinsale* v. *Greville*, 1 Selw. N. P. 128; *Bainbridge* v. *Pickering*, 2 W. Black. 1325; *Story* v. *Perry*, 4 Car. & P. 526.) A stanhope was held not necessary for a minor, the son of a beneficed clergyman, who had retired from the army on the ground of an insufficient fortune. (*Charters* v. *Bayntun*, 7 Car. & P. 52.) An infant is not liable for *money lent* to supply him with necessaries (*Prober* v. *Knouth*, 2 Esp. 472, n.); nor for money advanced to place him out as an apprentice. (*Smith* v. *Gibson*, Peake's Add. Cases, 52.) The question whether the things supplied are or are not necessaries is a question for the jury (*Peters* v. *Fleming*, 6 M. & W. 42; *Maddox* v. *Miller*, 1 M. & S. 738), yet it is subject to the control of the judge; and, in *Harris* v. *Fane* (1 Scott, N. R. 287), the jury having found that certain things were necessaries, contrary to the opinion expressed by the judge at the trial, the Court considered the verdict perverse, and granted a new trial. From the cases above stated, it will be seen that there must be a real and substantial advantage derived to the infant from any contract upon which he is held liable; but this advantage need not be confined personally to himself. "Necessaries for an infant's wife are necessaries for him (*Turner* v. *Frisby*, 1 Stra. 168; Carter R. 215), and (upon his express or implied credit) "he is liable for necessaries supplied to his "lawful children" (Bac. Max. p. 86, ed. 1741), where the noble author, illustrating the maxim *persona conjuncta æquiparatur interesse proprio*, says, "So, if a man under the age of twenty-one years, contract for the nursing of his lawful child, this contract is good, and shall not be avoided by infancy, no more than if he had contracted for his own aliments or erudition."

This brings us to the case of *Chapple* v. *Cooper*, which we have placed at the head of these remarks.

It was in debt for the work and labour of the plaintiff, as an undertaker, bestowed by him in and about the funeral of a certain person then lately deceased, upon the retainer and at the request of the defendant.

Pleas—Never indebted, and Infancy.

Replication to the latter plea—That the work, &c. were used about the funeral of the defendant's husband, and were necessaries suitable to the defendant's condition. It was proved upon the trial that the expenses of the funeral had been ordered by the defendant, whose husband had left no property to be administered. The defendant's case was that the funeral expenses of her husband could not be considered necessaries for her, and upon this point the whole question turned. The argument for the plaintiff was that the removal of the body and its decent equipment were necessary both to the health and reputation of the widow. She could not leave it until its interment, and until that time her health depended upon its due preservation; and interred it must be—for could a woman throw her husband's body into the highway? If there were assets, she would recover the expenses from the representative; and the absence of assets did not relieve her from the obligation of seeing the corpse decently buried. Lord Denman, in *Reg.* v. *Stewart* (12 Ad. & E. 773), had imposed that obligation upon every stranger in whose house a poor person died; and if upon a stranger, it was, *à fortiori*, incumbent upon the widow. For the other side it was insisted, that the interment would yield no personal benefit to the widow, more than it would to any stranger or lodger who happened to reside in the house, and that consequently she was no more liable than they were. The Court, however, held that the defendant was liable upon her contract, though not exactly for the reasons urged in the plaintiff's argument. They doubted whether it could be said that any personal advantage resulted to the infant directly from the mere act of burial; but they decided the case upon the general principle that "necessaries furnished to those with whom an infant becomes one person by or through the contract of marriage are, in point of law, necessaries to the infant himself." Now, decent Christian burial had been considered by many authorities "as a part of a man's own rights," and must therefore be considered as reasonably necessary to him. If this were so, the decent Christian burial of his wife and lawful children (being *personæ conjunctæ* with him) were also reasonably necessary to him; and for such a "necessary" he was bound upon his contract. Such would be the case with an infant husband; and as the contract was deemed to be one for the personal benefit of the contractor, there seemed to be no reason why the principle should not equally apply to an infant widow, who, as her coverture was at an end, was at liberty to contract. The whole of this reasoning turns upon the assumption that Christian burial is a right to which every one is entitled; and though we believe, with certain qualifications, this assumption to be true, it would have been more satisfactory if the authorities by which it is supported had been mentioned. The Court probably referred to the cases of *Jones* v. *Ashburnham* (4 East, 165); *Rex* v. *Lynn* (2 T. R. 733); *Andrewes* v. *Cawthorne* (Willes, 536), which see; and Rogers, Ecc. Law, c. on "Burial." That "Christian" burial is not a universal right, the very phrase indicates. It must necessarily be confined to those who profess Christianity; and might not a question arise out of the doctrines of the Church of England, on the subject of baptism. If the defendant's husband in the case before us had been an avowed and notorious infidel, would the Court have been justified in assuming that to him Christian burial was necessary? and would it not be also worthy of consideration whether the articles which must constitute an undertaker's particulars of demand are included in the right to burial? This case may be added to the list of those on the subject given by Chitty on Contracts, pp. 114-15, 2nd ed.

PROMOTIONS, APPOINTMENTS, ETC.

[Clerks of the Peace for Counties, Cities, and Boroughs, will oblige by regularly forwarding the names and addresses of all new Magistrates who may qualify.]

DOWNING-STREET, June 9.—The Queen has been pleased to appoint Sir John Campbell, Bart. to be Lieutenant-governor of the island of St. Vincent.

LINCOLN'S-INN, June 10.—The calls to the bar of the Hon. Society of Lincoln's-Inn were made this evening. The number, compared with previous calls in a term, is comparatively small; the names of the gentlemen are as follow:—Mr. Thomas W. Phipson Mr. W. Henderson, Mr. James Fenton, Mr. Ogden Bolton, Mr. Richard J. Griffiths, Mr. John Ferrier, Mr. Arthur S. Eddis, and Mr. Charles Winter.

MIDDLE TEMPLE, June 7.—The undermentioned gentlemen were called to the degree of the outer bar on Friday, and this evening, were sworn in in the usual manner in the dining-hall, and admitted—namely, Mr. Edward Lawes, Mr. Andrew Edgar, Mr. Paull Parnell, Mr. Henry Paull, Mr. R. C. Bewicke, Mr. R. Kettle, Mr. H. W. Buxton, Mr. W. Lewis Thomas, and Mr. Michael P. Smith.

The Lord Chancellor has appointed John Cooke, of Over, in the county of Chester, gent.; Thomas Spooner, of Leicester, gent.; and Charles Kentish Robert, of Saffron Walden, Essex, gent. to be Masters Extraordinary in the High Court of Chancery.

COURT PAPERS.

SUMMER CIRCUITS OF THE JUDGES.

OXFORD CIRCUIT.

(Before the Right Hon. the Lord Chief Justice of England, Lord DENMAN, and Mr. Justice PATTESON.)

Berkshire—Thursday, July 10, at Abingdon.
Oxfordshire—Saturday, July 12, at Oxford.
Worcestershire—Wednesday, July 16, at Worcester.
City of Worcester, on the same day, at the Guildhall.
Staffordshire—Saturday, July 19, at Stafford.
Shropshire—Friday, July 25, at Shrewsbury.
Herefordshire—Tuesday, July 29, at Hereford.
Monmouthshire—Thursday, July 31, at Monmouth.
Gloucestershire—Saturday, August 2, at Gloucester.
City of Gloucester, on the same day, at the Guildhall.

MIDLAND CIRCUIT.

(Before the Right Hon. Sir FREDERICK POLLOCK, Knt. Lord Chief Baron of the Exchequer, and Mr. Justice MAULE.)

Northamptonshire—Monday, July 14, at Northampton.
Rutlandshire—Friday, July 18, at Oakham.
Lincolnshire—Saturday, July 19, at Lincoln.
City of Lincoln, on the same day, at the Guildhall.
Nottinghamshire—Friday, July 25, at Nottingham.
Town of Nottingham, on the same day, at the Guildhall.
Derbyshire—Tuesday, July 29, at Derby.
Leicestershire—Friday, August 1, at Leicester.
Borough of Leicester, on the same day, at Leicester.
Warwickshire, Coventry Division—Tuesday, August 5, at Coventry.
Warwickshire, Warwick Division—Wednesday, August 6, at Warwick.

NORTHERN CIRCUIT.

(Before Mr. Baron ROLFE, and Mr. Justice CRESSWELL.)

Yorkshire—Thursday, July 10, at York.
City of York, on the same day.
Durham—Thursday, July 24, at Durham.
Northumberland—Wednesday, July 30, at Newcastle.
Cumberland—Monday, August 4, at Carlisle.
Westmoreland—Thursday, August 7, at Appleby.
Lancashire, Northern Division—Saturday, August 9, at Lancaster.
Lancashire, Eastern Division—Wednesday, August 13, at Liverpool.

NORFOLK CIRCUIT.

(Before Mr. Baron ALDERSON, and Mr. Justice WILLIAMS.)

Buckinghamshire—July 10, at Buckingham.
Bedfordshire—July 11, at Bedford.
Huntingdonshire—July 16, at Huntingdon.
Cambridgeshire—July 18, at the County Court, Cambridge.
Norfolk—July 22, at the Castle of Norwich.
City of Norwich, on the same day, at the Guildhall.
Suffolk—July 26, at Ipswich.

HOME CIRCUIT.

(Before the Right Hon. Sir N. C. TINDAL, Knt. Lord Chief Justice of the Court of Common Pleas, and Mr. Justice COLERIDGE.)

Hertfordshire—Thursday, July 10, at Hertford.
Essex—Monday, July 14, at Chelmsford.
Kent—Monday, July 21, at Maidstone.
Sussex—Monday, July 28, at Lewes.
Surrey—Thursday, July 31, at Guildford.

NORTH WALES CIRCUIT.

(Before Mr. Baron PARKE.)

Montgomeryshire—Tuesday, July 15, at Newtown.
Merionethshire—Friday, July 18, at Dolgelly.
Carnarvonshire—Tuesday, July 22, at Carnarvon.
Anglesea—Saturday, July 26, at Beaumaris.
Denbighshire—Wednesday, July 30, at Ruthin.
Flintshire—Saturday, August 2, at Mold.
Cheshire—Tuesday, August 5, at the Castle of Chester.
City of Chester, on same day, at the Guildhall.

Mr. Justice Coltman, who proceeds on the circuit for South Wales, will meet Mr. Baron Parke at Chester on the 5th of August, when the Commission will be opened, but no business will be done until the following day.

WESTERN CIRCUIT.

(Before Mr. Justice ERLE, and Mr. Baron PLATT.)

Hampshire—Thursday, July 10, at Winchester.
Dorsetshire—Wednesday, July 16, at Dorchester.
Devonshire—Saturday, July 19, at the Castle of Exeter.
City of Exeter, on the same day, at the Guildhall.
Cornwall—Saturday, July 26, at Bodmin.
Somersetshire—Saturday, August 2, at Bridgewater.
Wiltshire—Saturday, August 9, at Devizes.
City of Bristol—Friday, August 15, at the Guildhall.

CIRCUITS OF THE COMMISSIONERS FOR THE RELIEF OF INSOLVENT DEBTORS.

AUTUMN CIRCUITS, 1845.

Midland Circuit.

HENRY REVELL REYNOLDS, Esq. Chief Commissioner.

Essex—at Chelmsford, Tuesday, Oct. 28.
Essex—at Colchester, Wednesday, Oct. 29.
Suffolk—at Ipswich, Thursday, Oct. 30.
Norfolk—at Yarmouth, Saturday, Nov. 1.
Norfolk—at Norwich Castle, Monday, Nov. 3.
Norwich—at the City and County of the City of, on the same day.
Norfolk—at Lynn, Wednesday, Nov. 5.
Suffolk—at Bury St. Edmunds, Thursday, Nov. 6.
Cambridgeshire—at Cambridge, Friday, Nov. 7.
Huntingdonshire—at Huntingdon, Monday, Nov. 10.
Northamptonshire—at Peterborough, Tuesday, Nov. 11.
Rutlandshire—at Oakham, Wednesday, Nov. 12.
Lincolnshire—at Lincoln and City, Friday, Nov. 14.
Nottinghamshire—at Nottingham, Monday, Nov. 17.
Nottingham—at the Town and County of the Town of, on the same day.
Derbyshire—at Derby, Wednesday, Nov. 19.
Lichfield—at the City and County of the City of, Friday, Nov. 21.
Staffordshire—at Stafford, Saturday, Nov. 22.
Shropshire—at Shrewsbury, Tuesday, Nov. 25.
Warwickshire—at Birmingham, Thursday, Nov. 27.
Warwickshire—at Warwick, Friday, Nov. 28.
Warwickshire—at Coventry, Monday, Dec. 1.
Leicestershire—at Leicester, Tuesday, Dec. 2.
Bedfordshire—at Bedford, Thursday, Dec. 4.
Northamptonshire—at Northampton, Friday, Dec. 5.
Buckinghamshire—at Aylesbury, Monday, Dec. 8.

Southern Circuit.

JOHN GREATHED HARRIS, Esq. Commissioner.

Berkshire—at Reading, Friday, Oct. 17.
Oxfordshire—at Oxford, Monday, Oct. 20.
Worcestershire—at Worcester, Wednesday, Oct. 22.
Herefordshire—at Hereford, Friday, Oct. 24.
Radnorshire—at Presteigne, Monday, Oct. 27.
Brecknockshire—at Brecon, Wednesday, Oct. 29.
Carmarthenshire—at Carmarthen, Friday, Oct. 31.
Cardiganshire—at Cardigan, Monday, Nov. 3.
Pembrokeshire—at Haverfordwest, Wednesday, Nov. 5.
Glamorganshire—at Swansea, Friday, Nov. 7.
Glamorganshire—at Cardiff, Monday, Nov. 10.
Monmouthshire—at Monmouth, Wednesday, Nov. 12.
Gloucestershire—at Gloucester, Friday, Nov. 14.
Somersetshire—at Bath, Monday, Nov. 17.
Bristol—at the City and County of the City of, Tuesday, Nov. 18.
Somersetshire—at Taunton, Thursday, Nov. 20.
Devonshire—at Exeter, Monday, Nov. 24.
Exeter—at the City and County of the City of, on the same day.
Devonshire—at Plymouth, Wednesday, Nov. 26.
Cornwall—at Bodmin, Thursday, Nov. 27.
Dorsetshire—at Dorchester, Monday, Dec. 1.
Wiltshire—at Salisbury, Wednesday, Dec. 3.
Southampton—at the Town and County of the Town of, Thursday, Dec. 4.
Southampton—at Winchester, Friday, Dec. 5.

Home Circuit.

WILLIAM JOHN LAW, Esq. Commissioner.

Kent—at Dover, Friday, Nov. 7.
Canterbury—at the City and County of the City of, Monday, Nov. 10.
Kent—at Maidstone, Tuesday, Nov. 11.
Sussex—at Lewes, Friday, Nov. 21.
Hertfordshire—at Hertford, Wednesday, Dec. 3.

Northern Circuit.

DAVID POLLOCK, Esq. Commissioner.

Yorkshire—at Sheffield, Tuesday, Oct. 14.
Yorkshire—at Wakefield, Thursday, Oct. 16.
Kingston-upon-Hull—at the Town and County of the Town of, Monday, Oct. 20.
Yorkshire—at York, Wednesday, Oct. 22.
Yorkshire—at Richmond, Friday, Oct. 24.
Durham—at Durham, Saturday, Oct. 25.
Northumberland—at Newcastle-upon-Tyne, Monday, October 27.
Newcastle-upon-Tyne—at the Town and County of the Town of, on the same day.
Cumberland—at Carlisle, Wednesday, Oct. 29.
Westmoreland—at Appleby, Friday, Oct. 31.
Westmoreland—at Kendal, Saturday, Nov. 1.
Lancashire—at Lancaster, Thursday, Nov. 6.
Lancashire—at Liverpool, Thursday, Nov. 13.
Montgomeryshire—at Welsh Pool, Monday, Nov. 17.
Merionethshire—at Dolgelly, Wednesday, Nov. 19.
Carnarvonshire—at Carnarvon, Saturday, Nov. 22.
Anglesey—at Beaumaris, Tuesday, Nov. 25.
Denbighshire—at Ruthin, Thursday, Nov. 27.
Flintshire—at Mold, Friday, Nov. 28.
Cheshire—at Chester, Monday, Dec. 1.
Chester—at the City and County of the City of, on the same day.

COURT OF COMMON PLEAS.

Trinity Term—In the eighth Year of the Reign of Queen Victoria.

June 6.

This Court will, on Wednesday, the 2nd day of July next, hold a sitting, and will proceed to give judgment in certain of the matters standing over for the consideration of the Court. N. C. TINDAL.

The following Order has been affixed in the Hall of the Middle Temple:

"The Masters of the Bench, having fully investigated the charges preferred against Augustus Newton, esq. Barrister of this society, and having heard him in his defence, are unanimously of opinion that his conduct at the Bar, as proved before them, has been in several instances highly unprofessional, and is deserving of severe censure. And they do order that he be excluded from the Hall for the period of two years from this date.

"And that this Order be affixed to the screen in the Hall.

"Dated the 5th day of July, 1845."

CLOSE COPIES OF CHANCERY RECORDS.

The following memorial from the Solicitors having been addressed to the Lord Chancellor, received immediate attention, and resulted in the issuing of the orders subjoined.

"That your memorialists have heard that by direction of your lordship the practice has been put an end to of allowing the different stationers of the court to make close or brief copies at the same time that office copies are being made.

"That an order regulating this practice in the Six Clerks' Office, and putting it on the footing on which it has hitherto stood, was made as long ago as 1763. (See Beames' Orders, p. 240.)

"That this practice is one of essential importance to the suitor, and by no possibility can ever cost him one farthing; has extensively prevailed in the courts of equity and bankruptcy from time immemorial, and also, so far as needful, in the courts of law; and that there is no authenticated instance of its abuse; and, as your memorialists confidently believe, it is peculiarly not open to abuse.

"That, while the benefit of the practice is entirely to the advantage of the *suitor*, the abuse, if there were any, would operate solely to the personal detriment of the *solicitor*, and merely in diminution of his own professional remuneration.

"That all the record keepers, the taxing masters, the clerks of inrolment, and the clerk of affidavits, and all officers acquainted with the practical working of a solicitor's business, would, your memorialists are quite confident, corroborate your memorialists' statement of the importance of the practice and its entire freedom from objection.

"That this practice is totally different from the objectionable system still continued of copy money in the masters' offices, as in that case copies badly made and not wanted have often to be taken, and, when taken, are paid for by the client; whereas the copies in question are all of them copies urgently wanted, and are made on account of the solicitor, and the money paid for them is paid by him out of his own pocket, and not by the client: the single difference between these copies and all other copies he makes being, that the copies in question are made for him by the stationer to the office, instead of by the stationer he usually employs.

"That from the mode in which office copies are necessarily made, they take much longer time to make than close or brief copies, and that when made they cannot be used, but immediately require a brief copy to be made from them, and therefore the new regulation will cause it to be nearly three times as long in future as it has been, before copies of records can be ready for use.

"That in cases of injunction, particularly of injunctions as to commercial matters, the effect of abolishing the practice in question will often be fatal to the interests of suitors, inasmuch as it will necessarily make it three or four days, at the least, before brief copies of bills, answers, or affidavits filed of record can be obtained and placed in the hands of counsel; and it is well known that in many cases the continuance of an *ex parte* injunction for three or four days is really the whole object of a suit.

"That in such cases as injunctions to prevent the transfer of bills or stock, or to prevent sales, or the sailing of vessels, or the publication of magazines or newspapers, or with regard to railroads or other public works—every day's needless continuance of an injunction is most detrimental.

"That cases in which injunctions are moved for on two clear days' notice given by leave of Court before appearance, are of almost daily occurrence, and that heretofore, by means of the facilities given by the old practice, the defendant could get copies of the bill and affidavits, so as to appear on such motion; but that the defendant will not, under the new regulation, be able in future to get a brief of the bill into his counsel's hands in time for such motion, or under four or five days after receiving the notice, at the very earliest.

"That your memorialists feel convinced that if the new regulation is to be persisted in, cases must periodically occur in which the obstacle now first interposed will be found to have produced ruinous mischief.

"That if parties are to be compelled to wait for office copies of affidavits, and then to make their brief from the office copy, the mischief and difficulty which will arise on opposed motions and petitions will be of daily occurrence.

"That the new regulation makes new rules of practice imperatively requisite, because in a variety of cases the times now allowed by the Court must in consequence be lengthened. Your memorialists would allege, for instance, the case of dissolving an injunction to stay trial where exceptions to the answer required to be drawn, signed by counsel, and ___ before the time by which, under the new regulation, a copy of the answer can be *obtained*, and much less before it can be briefed and read."

The Lord Chancellor has been pleased to make the following order:—

"Monday, the 10th day of March, 1845.

"Whereas a memorial hath been presented to the Lord Chancellor by several solicitors of this court, setting forth as therein stated, and praying that his lordship would be pleased either to allow what is alleged to have been the ancient practice of the court as to close and brief copies to be continued, or else to make such new regulations as will give the suitors the facilities for the transaction of business to which it is alleged they have always been accustomed. And whereas his lordship hath considered the matter of the said memorial, and hath therein called to his assistance the Master of the Rolls, it is thereupon hereby ordered, that the clerks of records and writs may, in cases requiring extraordinary despatch, permit the stationers employed in their office to make close or brief copies, as well as office copies, subject nevertheless to the following provisions; viz.—

"I.—The clerks of records and writs are to provide,

"1st. That such permission shall not be given to any stationer or copyist who is or may be a salaried clerk in the office.

"2nd. That such permission shall not be given in any case in which the making and delivery of a close or brief copy would in any manner delay the making or due delivery of the office copy.

"II.—No officer or clerk in the office shall become entitled to or shall demand or receive any fee, gift, gratuity, emolument, or advantage arising out of, or in any way to be derived from, the permission to make or the making or delivery of any such close or office copy.

"LYNDHURST, C.
"LANGDALE, M. R."

GENERAL ORDERS AND RULES OF THE HIGH COURT OF CHANCERY.

(*Continued from p. 208.*)

XVII. No order is to be made for leave to file exceptions *nunc pro tunc*.

XVIII. If a defendant, using due diligence, is unable to put in his answer to a bill within the times allowed by Order XVI. the master (on sufficient cause being shewn) may allow to such defendant such further time, and on such, if any, terms, as to the master seems just.

XIX. The master may enlarge the time for making his report upon exceptions, in all cases where the time is not limited by the order of reference, or by notice given pursuant to article 21, of Order XVI.

XX. In all cases where the master is authorized to appoint the time for any proceeding, or to enlarge the time allowed for any proceeding by general order, he may further enlarge any time so appointed or enlarged by himself, and on such, if any, terms as to him seem just, provided the application for such enlargement is made before the expiration of the time previously allowed, and he is satisfied that such enlargement is required for the purpose of justice, and not with a view to create unnecessary delay.

XXI. The power of the Court to enlarge or abridge the time for doing any act or taking any proceeding in a cause upon such, if any, terms as the justice of the case requires, is unaffected by these Orders.

Subpœna.

XXII. Subpœnas to appear, or to appear and answer, which are served within the jurisdiction of the Court, are to be made returnable within eight days after the service thereof.

XXIII. Subpœnas to appear, or to appear and answer, which are served out of the jurisdiction of the Court, are to be made returnable at such time after the service thereof as the Court by special order may direct; and if an answer be required, each such subpœna is to specify the time after service within which the defendant is required to answer.

XXIV. All writs of subpœna in this Court are to be prepared by the solicitor of the party requiring the same; and the seal for sealing the same is to be marked or inscribed with the words "Subpœna Office, Chancery;" and such writs are to be in the terms mentioned at the foot of these orders, or as near as may be, with such alterations and variations as circumstances may require.

XXV. In the interval between the suing out and service of any subpœna, the party suing out the same may correct any error in the names of parties or witnesses, and may have the writ resealed upon payment to the clerk of the subpœna office of a fee of one shilling, and at the same time leaving a corrected præcipe of such subpœna, marked, altered, and resealed, and signed with the name and address of the solicitor or solicitors suing out the same.

XXVI. Service upon a defendant's solicitor of a subpœna to answer an amended bill, or to hear judgment, is to be deemed good service upon the party.

XXVII. After the allowance of or submission to exceptions to an answer for insufficiency, a defendant is to answer within the time appointed, without being served with any subpœna to make a better answer.

Service of Copy Bill.

XXVIII. Where the plaintiff has omitted to serve any defendant with a copy of the bill under the 23rd of the Orders of the 26th of August, 1841, within twelve weeks from the filing of such bill, the Court may, if it shall think fit, upon the motion of the plaintiff, without notice, give the plaintiff leave to serve such defendant with such copy within such time and upon such terms as to the Court seems just.

Appearance.

XXIX. If any defendant, not appearing to be an infant or a person of weak or unsound mind unable of himself to defend the suit, is when within the jurisdiction of the Court duly served with a subpœna to appear to or to appear to and answer a bill, and refuses or neglects to appear thereto within eight days after such service, the plaintiff may, after the expiration of such eight days, and within three weeks from the time of such service, apply to the record and writ clerk to enter an appearance for such defendant: and, no appearance having been entered, the record and writ clerk is to enter such appearance accordingly, upon being satisfied by affidavit that the supœna was duly served upon such defendant personally or at his dwelling-house or usual place of abode; and after the expiration of such three weeks, or after the time allowed to such defendant for appearing has expired, in any case in which the record and writ clerk is not hereby required to enter such appearance the plaintiff may apply to the Court for leave to enter such appearance for such defendant; and the Court, being satisfied that the supœna was duly served, and that no appearance has been entered for such defendant, may, if it so thinks fit, order the same accordingly.

XXX. Any appearance entered at the instance of the plaintiff for a defendant who, at the time of the entry thereof, is an infant or a person of weak or unsound mind unable of himself to defend the suit, is irregular and of no validity.

XXXI. In case it appears to the Court by sufficient evidence that any defendant against whom a subpœna to appear to or to appear to and answer a bill has issued has been within the jurisdiction of the Court at some time not more than two years before the subpœna was issued, and that such defendant is beyond the seas, or that upon inquiry at his usual place of abode (if he had any) or at any other place or places where at the time when the subpœna was issued he might probably have been met with, he could not be found so as to be served with process, and that in either case there is just ground to believe that such defendant is gone out of the realm or otherwise absconded to avoid being served with process, then and in such case the Court may order that such defendant do appear at a certain day to be named in the order; and a copy of such order, together with a notice thereof to the effect set forth at the foot of this order, may, within fourteen days after such order made, be inserted in the *London Gazette*, and be otherwise published as the Court directs; and in case the defendant does not appear within the time limited by such order or within such further time as the Court appoints, then, on proof made of such publication as aforesaid of the aforesaid order, the Court may order an appearance to be entered for the defendant on the application of the plaintiff.

NOTICE.—"A. B., take notice, that if you do not appear pursuant to the above order, the plaintiff may enter an appearance for you, and the Court may afterwards grant to the plaintiff such relief as he may appear to be entitled to on his own shewing."

XXXII. If, upon default made by a defendant in not appearing to or not answering a bill, it appears to the Court that such defendant is an infant, or a person of weak or unsound mind not so found by inquisition, so that he is unable of himself to defend the suit, the Court may, upon the application of the plaintiff, order that one of the solicitors of the Court be assigned guardian of such defendant, by whom he may appear to and answer or may answer the bill and defend the suit.

But no such order is to be made unless it appears to the Court on the hearing of such application that the subpœna to appear to and answer the bill was duly served, and that notice of such application was, after the expiration of the time allowed for appearing to or for answering the bill, and at least six days before the hearing of the application, served upon or left at the dwelling-house of the person with whom or under whose care such defendant was at the time of serving such subpœna, and (in the case of such defendant being an infant not residing with or under the care of his father or guardian) that notice of such application was also served upon or left at the dwelling-house of the father or guardian of such infant, unless the Court at the time of hearing such application thinks fit to dispense with such last-mentioned service.

XXXIII. Where a defendant in any suit is out of the jurisdiction of the Court.

1. The Court, upon application supported by such evidence as shall satisfy the Court in what place

or country such defendant is or may probably be found, may order that the subpœna to appear to or to appear to and answer the bill, may be served on such defendant in such place or country or within such limits as the Court thinks fit to direct.

2. Such order is to limit a time (depending on the place or country within which the subpœna is to be served) after service of the subpœna within which such defendant is to appear to the bill, and also (if an answer be required) a time within which such defendant is to plead, answer, or demur, or obtain from the Court further time to make his defence to the bill.

3. At the time when such subpœna shall be served, the plaintiff is also to cause such defendant to be served with a copy of the bill and a copy of the order giving the plaintiff leave to serve the subpœna.

4. And if upon the expiration of the time for appearing it appears to the satisfaction of the Court that such defendant was duly served with the subpœna and with a copy of the bill and a copy of the order, the Court may, upon the application of the plaintiff, order an appearance to be entered for such defendant.

XXXIV. Affidavits filed for the purpose of proving the service of a subpœna upon any defendant are to state when, where, and how such subpœna was served, and by whom such service was effected.

XXXV. The plaintiff, having duly caused an appearance to be entered for any defendant, is entitled, as against the same defendant, to the costs of and incident to entering such appearance, whatever may be the event of the suit; and such costs are to be added to any costs which the plaintiff may be entitled to receive from such defendant, or set off against any costs which he may be ordered to pay to such defendant; but payment thereof is not to be otherwise enforced without the leave of the Court.

XXXVI. A defendant, notwithstanding that an appearance may have been entered for him by the plaintiff, may afterwards enter an appearance for himself in the ordinary way; but such appearance by such defendant is not to affect any proceeding duly taken or any right acquired by the plaintiff under or after the appearance entered by him, or prejudice the plaintiff's right to be allowed the costs of the first appearance.

XXXVII. No party is to enter either a common or special appearance under the 26th or 27th of the Orders of the 26th of August, 1841, after the expiration of twelve days from the service of the copy of the bill, without first obtaining an order of the Court for that purpose, such order to be obtained on notice to the plaintiff, and to be granted, if the Court thinks fit, upon such terms as are just; and any party so entering such common or special appearance is bound by all the proceedings in the cause prior to such appearance being entered, unless the Court otherwise directs.

Scandal and impertinence.

XXXVIII. No order is to be made for referring any pleading or other matter depending before the Court for scandal or impertinence, unless exceptions are taken in writing, and signed by counsel, describing the particular passages which are alleged to be scandalous or impertinent.

XXXIX. Where any person or party, having filed exceptions to any pleading or other matter depending before the Court for scandal, and any party having filed such exceptions for impertinence, does not obtain an order to refer the same to the Master within six days after the filing thereof, such exceptions are to be considered as abandoned, and the person or party by whom such exceptions were filed is to pay to the opposite party such costs as may have been incurred by such party in respect of such exceptions.

XL. Where any person or party, having obtained an order to refer exceptions to the Master for scandal, and any party having obtained an order to refer such exceptions to the Master for impertinence, does not obtain the Master's report thereon within fourteen days after the date of the order, or within such further time as the Master thinks fit to allow, the exceptions and the order referring the same are to be considered as abandoned, and the person or party by whom such exceptions were filed is to pay to the opposite party such costs as may have been incurred by such party in respect of such exceptions, order, and reference.

XLI. Upon the expiration of four days from the filing of the Master's report that any pleading or other matter depending before the Court is scandalous or impertinent, the officer having the custody or charge of such pleading or other matter is, upon production to him of an office copy of the Master's report, and a certificate that no exception thereto was filed, or an affidavit that no order to set down any such exception was served within four days after the filing thereof, to expunge from such pleading or other matter such parts thereof as the Master has found to be scandalous or impertinent, and thereupon the person or party requiring such scandalous or impertinent matter to be expunged is to pay to the officer expunging the same the same fee as on the like occasion has heretofore been paid to the Master.

XLII. The Master having found any pleading or matter depending before the Court to be or not to be scandalous or impertinent, is to direct by whom the costs of, and consequent upon, the reference are to be paid.

Commission to take answer.

XLIII. All commissions to take answers are to be made returnable without delay; and a defendant in a country cause is not to be permitted to crave the common *dedimus*.

Entering demurrer and plea.

XLIV. A demurrer or plea need not be entered with the registrar; but upon the filing thereof by a defendant, either party is to be at liberty to set the same down for argument immediately.

Demurrer.

XLV. Where a demurrer to the whole or part of a bill is allowed upon argument, the plaintiff, unless the Court orders to the contrary, is to pay to the demurring party the costs of the demurrer, and if the demurrer be to the whole bill, the costs of the suit also.

XLVI. Where a demurrer to the whole bill is not set down for argument within twelve days after the filing thereof, and the plaintiff does not within such twelve days serve an order for leave to amend the bill, the demurrer is to be held sufficient to the same extent and for the same purposes, and the plaintiff is to pay to the demurring party the same costs, as in the case of a demurrer to the whole bill allowed upon argument.

XLVII. Where a demurrer to part of a bill is not set down for argument within three weeks after the filing thereof, and the plaintiff does not within such three weeks serve an order for leave to amend the bill, the demurrer is to be held sufficient to the same extent and for the same purposes, and the plaintiff is to pay to the demurring party the same costs, as in the case of a demurrer to part of a bill allowed upon argument.

Plea.

XLVIII. Where a plea to the whole or part of a bill is allowed upon argument, the plaintiff, unless he undertakes to reply to the plea, or the Court orders to the contrary, is to pay to the party by whom the plea is filed the costs of the plea, and if the plea be to the whole bill, the costs of the suit also; and in such last-mentioned case the order allowing the plea is to direct the dismissal of the bill.

XLIX. Where a plea to the whole or part of a bill is not set down for argument within three weeks after the filing thereof, and the plaintiff does not within such three weeks serve an order for leave to amend the bill, or does not within such three weeks by notice in writing undertake to reply to the plea, the plea is to be held good to the same extent, and for the same purposes, and the same costs are to be paid by the plaintiff, as in the case of a plea to the whole or part of a bill allowed upon argument; and where the plea is to the whole bill the defendant by whom such plea was filed may at any time after the expiration of such three weeks obtain as of course an order to dismiss the bill.

L. The plaintiff having undertaken to reply to a plea to the whole bill, is not without the special leave of the Court to take any proceeding against the defendant by whom the plea was filed till after replication.

Election to proceed at law or in equity.

LI. A defendant whose answer is excepted to or referred back on former exceptions, alleging that the plaintiff is prosecuting him in this court and also at law for the same matter, may by notice in writing require the plaintiff to procure the Master's report on the exceptions within four days after the service of such notice; and if the plaintiff does not procure the Master's report in four days accordingly, or if the exceptions be not allowed, such defendant may obtain as of course, on motion or petition, the usual order for the plaintiff to elect in which court he will proceed, with the usual directions; but the plaintiff may move to discharge such order on the merits confessed in the answer.

(*To be continued.*)

LEGAL INTELLIGENCE.

(Before Mr. Commissioner HOLROYD.)

Re GEORGE ROSS.

The Heir-at-Law Society.

In this case the insolvent was described of Chatham-place, Blackfriars, and of Trafalgar-square, Charing-cross. He has been some time before the public as connected with public companies, and now came up in custody from the Queen's Prison for his interim order. His debts on the face of his schedule amounted to 7,000*l.* many of which were for law expenses, and the assets were one debt (stated to be good) of 100*l.*

Cooke supported the insolvent; *Fry* opposed the application.

The insolvent was examined, and said he was the manager of the "Heir-at-Law Society," the business of which concern was carried on in Chatham-place and Trafalgar-square. The three trustees were Sir John Ross, Mr. Barron, and Baron Seton. There were likewise directors; Mr. Watson, a private gentleman, who resided in London-street, Fitzroy-square, was one. Three clerks were employed, who were paid from the funds derived from the society, but to one of those part of his salary was still owing, the debt of which appeared in his (the insolvent's) schedule.

The insolvent was asked to disclose the names of the whole of the directors, which he refused to do. He admitted he gave receipts for money received by the society in his capacity of manager. The clerks also gave receipts when any money was paid to them. The insolvent refused to enter into the particulars of the object of the "Heir-at-Law Society." He denied the accusation of irregular conduct in the formation of companies, though he admitted he was so accused by the *Railway Times*, for which he brought an action. Some of the counts in that libel case were given for the defendant. He had been connected with other companies, the objects of which were not carried out. He admitted that he was insolvent about fourteen years ago, when he got a remand of twelve months, and that he was a bankrupt forty years ago.

Cooke said the insolvent was eighty years of age; he had been in prison already some months, and his object was again to come before the Court.

EMOLUMENTS AND PERQUISITES IN THE LAW COURTS.—Much light has been thrown upon the above subject, within the last few days, by the publication of a return, moved for by the Parliamentary law reformer, Mr. W. H. Watson, M.P. for Kinsale, of all officers in the Courts of Common Pleas and Chancery of the county palatine of Lancaster, with the names and the dates of their respective appointments, &c. The return extends to the county palatine of Durham as well as to the Courts of Chancery and common law in London. The following results are thus obtained:—The fees received by the prothonotary (or his deputy) of the Court of Common Pleas in the county palatine of Lancaster yielded a net amount, in 1841, of 2,351*l.*; in 1842, of 2,257*l.*; and in 1843, of 1,835*l.* The sum fixed by the commissioners appointed under Act 1 Wm. 4, c. 58, to be paid to the prothonotary as compensation, amounts to 2,704*l.* 13s. 4d. The deputy's name is Forrest; he receives a salary of 750*l.* The registrar of the Court of Chancery of the same county palatine, Mr. W. Shawe, received as fees in 1841, 983*l.*; in 1842, 628*l.*; and in 1843, 668*l.* He is appointed by the Crown, in right of the duchy and county palatine of Lancaster, by letters patent, under seal of the said duchy and county palatine; and the present registrar has executed the duties of the office *in propriâ personâ*, and not by deputy; he is wholly paid by fees, without any salary, and all the expenses are defrayed out of the fees received by him. No compensation has been granted to the registrar since his appointment in the year 1820. Turning to the accounts of the Court of Exchequer, it is found that the total amount of fees received in the "Office of Pleas" of the Court of Exchequer was, in 1841, 31,896*l.*; in 1842, 31,648*l.*; and in 1843, 28,277*l.*; making altogether a grand total of 91,823*l.* Of the amount of 31,896*l.* received in 1841, 14,177*l.* was applied to salaries, 896*l.* to expenses, and 16,882*l.* paid over to the Consolidated Fund. Of the 31,648*l.* received in 1842, 14,081*l.* was applied to salaries, 794*l.* to expenses, and 16,773*l.* paid over to the Consolidated Fund. Of the 28,277*l.* received in 1843, 14,988*l.* was devoted to salaries, 818*l.* to expenses, and 12,471*l.* paid over to the Consolidated Fund. The Compensation Annuities paid out of the funds above mentioned consist of an annuity of 1,454*l.* to Mr. E. Walker, one of 455*l.* to Mr. S. Richards, and one of 200*l.* to Mr. T. Dax, late Clerk of the Errors, on the abolition of that office by the Act 7 Wm. 4 & 1 Vict. c. 30. Mr. T. Dax receives, independently of this pension, a salary of 1,200*l.* a-year as one of the Masters of the Court of Exchequer, making his emoluments amount altogether to 1,400*l.* per annum. The other masters receive 1,200*l.* a-year. Amongst the "Masters' clerks" we find the name of Mr. Edward T. Dax, with a salary of 150*l.* a-year. No officer connected with this department of the Court of Exchequer is paid by fees. A fee of 7d. is paid to the Chancellor of the Exchequer on every writ, and on every *nisi prius* record issued out of this office; and the Lord Chief Baron's marshal and associate, the hereditary chief-usher, the four ushers, and the court-keeper, the keeper of the Queen's Prison, and the tipstaff, are paid in part or in the whole by fees. The books of the office do not enable the Masters (Messrs. Dax, Walker, Walton, Bennett, and Dare) to make any return of their names, or of the amount of fees received by them, except with regard to Hammer, the tipstaff, whose salary is fixed at 300*l.* The total receipts, in the shape of fees, of the taxing-masters of the High Court of Chancery, since their appointment, amounted, in the aggregate, to 37,422*l.*; of which Mr. Baines has received 7,880*l.*; Mr. R. B. Follett, 5,664*l.*; Mr. Gatty, 5,124*l.*; Mr. P. Martineau, 6,145*l.*; Mr. Mills, 6,965*l.*; and Mr. Wainewright, 5,613*l.* Of the 37,422*l.*, 3,564*l.* was received

for warrants, 7,018*l.* for copies, 24,010*l.* as per centage, and fees on taxation, &c. and 2,807*l.* for certificates. The whole of the above fees have been, according to the Act of Parliament, monthly paid into the Bank of England, with the privity of the Accountant-General to the Suitors' Fee Fund account. The fees received by the Masters of the Court of Common Pleas, in 1843, amounted to 12,108*l.* and the expenses to 11,032*l.*; those received in the same year by the Masters on the plea side of the Court of Queen's Bench amounted to 28,857*l.* and the concurrent disbursements to 13,459*l.*

UNCERTIFICATED ATTORNEYS.—At the Glossop Court of Requests, before Joseph St. John Yates, Esq. Barrister-at-law, on the 24th May last, a complaint under 7 & 8 Vict. c. 96, s. 59, for fraudulently removing goods to avoid an execution, some time ago obtained in that court, for a debt of 11*l.* 8s. 11½d., came on for hearing. Mr. Eccles, solicitor, Marple, appeared for the plaintiff, and a clerk of Mr. Chew's, solicitor, Manchester, for the defendant. On the case being called, Mr. Eccles, addressing the judge, said, he wished the fact to be ascertained before he opened the case, whether or not the gentleman who appeared for the defendant was an attorney, and took out his certificate. To this the reply given was, that he was an attorney, though not practising on his own account, but acting as managing clerk to the gentleman before-named, and that he did not take out a certificate, but intended to do so. Mr. Eccles said, he felt it due to the profession to which he belonged, to protest against the appearance, in that court as an advocate, of any person who was not an attorney, duly taking out his certificate, and practising on his own account. The judge said the objection was a very proper one; it was not only due to the profession, but also to the dignity of the Court, that none but solicitors, in every respect duly qualified, should be permitted to appear as advocates; that his predecessor in office, R. G. Duck, Esq., had laid that down as a rule of court, and that he (Mr. Yates) would act according to that rule. The defendant, being left without advocate, the case was, at the suggestion of Mr. Eccles, adjourned to the next court, the defendant paying the costs of the day.

On Friday last, Francis Newman Rogers, Esq., Deputy Judge Advocate, and Recorder of Exeter, to whom Sir James Graham had intrusted the inquiry into the case of Eliza Price (so often noticed in our columns), and into the mode of conducting magisterial business generally in the Kingswinford district, commenced his investigation at Wordsley, and continued it on the following day (Saturday)) at the Cross Inn, Kingswinford. The proceedings were strictly private, none but magistrates and parties interested in the proceedings being admitted into the room. W. Robins, Esq., R. Scott, Esq., W. Trow, Esq., and W. Foster, Esq., we understand, appeared as promoters of the complaints; while among the friends of Mr. Briscoe were H. Hill, Esq., the Rev. W. H. Cartwright, T. Badger, Esq., Philip Williams, Esq., Dr. Dehane, W. H. Cope, Esq., C. H. Molineux, Esq., Cornelius Cartwright, Esq., Capt. Bennitt (all magistrates), and several other gentlemen of consideration in the neighbourhood. Of course, owing to the injunction of the learned commissioner, we are precluded giving any report of the evidence taken, but we may state that every allegation of harshness or illegality on the part of Mr. Briscoe was completely disproved, and that the misrepresentations, alleging cruelty on the part of the constable, came to the same end; Eliza Price, the woman herself, denying that the constable Baker had been guilty of cruelty or harshness towards her. The charge, it is only truth to say, was an utter failure, and some subsidiary accusations were as effectually rebutted. In the course of the investigation strong testimony to the usefulness and activity of Mr. Briscoe as a magistrate was given by W. Grazebrook, Esq., and other gentlemen. Until some declaration on the part of Sir James Graham is made, and in order to give time for the *amende honorable* by Mr. Duncombe and other parties concerned (if such a thing can be expected), we feel ourselves at present restrained from further reference to the case, only adding that, notwithstanding an endeavour on the part of some of Mr. Briscoe's more immediate friends to prevent such a demonstration, the worthy magistrate was most heartily cheered on quitting the inn at the conclusion of the investigation.—*Wolverhampton Chronicle.*

WILL OF GENERAL ROBERTSON.—Probate of the will and two codicils, as far as respects the property in England, of James Robertson, formerly of Hillside, but late of Canaan Bank, near the city of Edinburgh, a general in her Majesty's army, has just been granted to his nephew, Mr. John Russell, one of the executors, a power being reserved to Lieut.-Col. David Robertson Macdonald, the brother, and Mr. William Robertson, a nephew of the deceased, to prove hereafter. The personal estate in England is sworn under 4,000*l.* He bequeaths annuities to his sisters, legacies to his nieces, the Countess of Minto, Lady Adam, and Lady Nicholson, and others, his relations; leaves 1,000*l.* to his nephew, Lieut. James [illegible] in Company; also a legacy to each of his children; leaves to his own servant a legacy of 400*l.* and all his apparel, and legacies to all his other servants; bequeaths his property at Canaan Bank (including plate, pictures, furniture, and moveables) to his nephew, John Russell, and leaves him a moiety of the residue; the other moiety to his brother, Colonel Macdonald, and his family. The will is dated December 1, 1835, and the second codicil Nov. 9, 1842. The deceased died on the 29th of March last. The will was approved in Edinburgh on the 5th of April last.

SIR W. FOLLETT.—(From a Correspondent of the *Times.*)—It is with very much regret that we are reluctantly constrained to believe, from accounts which have reached us, and on which we have every reason to place reliance, that the health of this learned gentleman is in a much more unfavourable state than the public have been led to believe from the different accounts which have been published from time to time. It is not very difficult to imagine how anxious the friends of the learned Attorney-General should naturally be that the public, by whom his great talents are so fully appreciated, and who are so fully sensible of his value as a distinguished member of the Profession of which he is so great an ornament, should be as long as possible kept in ignorance of his real condition. It is scarcely necessary for us to state how adverse it is to our intention or wish to create any unnecessary alarm in the public mind in a matter of so much interest and importance, but it is useless to conceal the fact that we feel certain we are far from exaggerating when we assert that the present state of Sir William's health is most unsatisfactory, and that he is, if possible, in a weaker and more debilitated state than when he left this country some time back for the continent, whatever may be stated to the contrary. Sir William was exceedingly unwell last week. Dr. Bright, the learned gentleman's brother-in-law, has been constant in his attendance upon him, and we are glad to state that he is at present somewhat better. It is understood that his illness has been brought on principally in consequence of intense study and a too close application to his professional duties.

BUSINESS IN THE LAW COURTS.—The excess of business in the Court of Queen's Bench still remains undiminished, there being at present standing for hearing for the sittings after Term, which commenced on the 13th inst. no less than 138 causes, 103 of which are remanets from the previous sitting, and the remainder new causes; out of these 68 are special jury cases. The Court adjourns to London on the 29th, so that it is next to impossible that the list can be got through, and those actions which are not decided this sitting will remain until November before they can be heard. In the other courts the lists are by no means heavy, that of the Common Pleas numbering only 23, and that of the Exchequer of Pleas 30; but considerable additions will be made before the sittings terminate.

IRISH.

The following gentlemen have been called to the Bar in the present Term:—Henry O'Malley, William F. Holland, John Levey, Robt. Haliday, George William Grogan, John Pitt Kennedy, William Patrick Carr, John O'Hagan, George Augustus Frederick Robinson, Edward Blackburne, William Hackett, and John Frazer, esqrs.

SUMMER ASSIZES.—The following are the circuits selected by the judges for the summer assizes:—*North-West Circuit.*—The Chief Justice, and Mr. Justice Torrens. *Leinster Circuit.*—The Chief Justice of the Common Pleas and Mr. Baron Pennefather. *Munster Circuit.*—The Chief Baron and Mr. Justice Burton. *The Home Circuit.*—Mr. Justice Crampton and Mr. Justice Ball. *The North-East Circuit.*—Mr. Justice Perrin and Mr. Baron Richards. *Connaught Circuit.*—Mr. Baron Lefroy and Mr. Justice Jackson.

THE MAGISTRACY.—The Lord Chancellor has appointed Purefoy Poe, esq. to the commission of the peace for the counties of Tipperary and Kilkenny, on the recommendation of the Earls of Donoughmore and Besborough, the Lords Lieutenants of the respective counties.

CORRESPONDENCE.

SMALL DEBTS BILL.

TO THE EDITOR OF THE LAW TIMES.

SIR,—In the borough of Great Yarmouth, we shall, I fear, experience but little benefit from the proposed *amendment*, although much injured by the *existing* law. We have *no* District Bankruptcy Court, to which, under Lord Brougham's new plan, to appeal; but have the delightful experience of the practice in the metropolitan court, *at a distance from us of* 120 *miles*. We have, it is true, a court of requests for debts under 40s. but presided over by a commissioners *only*, without a chairman either from the Bar or the list of certificated attorneys. To what available tribunal, then, I would ask, are we to summon our fraudulent debtors? Can it be expected that to this borough, or to the city of Norwich (which I believe to be in a like predicament as to its court of requests), or to any of the counties in this eastern district, the so much talked-of *remedy* will eradicate the cancerous evil his lordship in the last session inflicted upon the trading population and labouring classes; first, by sweeping off thousands of pounds, in credit, then standing in account against the latter; and, secondly, from the distrust the traders have subsequently displayed towards their customers?

I submit that, unless the power to summon fraudulent debtors is more extensively conferred on courts of request, as *now constituted*, and their *jurisdiction extended* for that and all other purposes, to all debts under 20*l.* the proposed remedy will be little short of a *name*, without a shadow of reality.

I am, Sir, yours, &c.

JOHN CLOWES.

Great Yarmouth, 9th June, 1845.

LAW OF DEBTOR AND CREDITOR.

TO THE EDITOR OF THE LAW TIMES.

SIR,—Your unceasing endeavour to reform the law of debtor and creditor induces me to trouble you with a few remarks on the subject, at a period when the public mind is so much excited towards miscalled amendments and re-amendments of a law, the impolitic formation of which has induced so many baneful results to the commercial world.

I have observed, in many instances, that a man has failed more by reason of the law as it now exists than from any other cause. Suppose the case of an honest man; when he finds he cannot meet his payments in due course, he becomes alarmed, and, there being no *inducement* for him to continue honest, he makes away with his property by false sales to sustain his tainted credit; magnifies his situation, from his horror of being guilty of the *crime* of bankruptcy; pressed by his creditors, he still hopes to extricate himself, and obtains further credit through the medium of accommodation bills, loan societies, &c. at whatever cost: honesty takes flight; he gets from bad to worse, and finally "stops." He petitions the Court of Bankruptcy, and being opposed by his more recent creditors, on the ground that their debts were contracted in fraud (see 59th sec. 7 & 8 Vict. c. 96), he is adjourned *sine die*, and morally ruined, with the alternative of a workhouse or a swindling existence, and he leaves the court regretting that he should have been so great a fool (that is, so honest a man) as not to have got deeper into debt, and made a purse for himself while he had the opportunity.

This is the bane, and the cure, I humbly submit, is in the hands of the Legislature. Make the Court of Bankruptcy a tribunal for *reward* and punishment, so as to induce the *right-thinking* trader to *stop* at the *right time*. As at present, his *first false step* places him on a level with the systematic swindler, I would, with deference, suggest that a committee of scrutiny (essentially private) be appointed, to consist of practically informed men, and presided over by commissioners in bankruptcy; let this be the appeal for the unfortunate trader when he first feels himself "going." Let the creditors be summoned; they will in most cases assist him, as it is their interest so to do; this would prevent undue preference, fraudulent bills of sale, and ruinous litigation; a healthy arrangement would be effected; confidence restored; his self-esteem preserved, as the *ban* of bankruptcy would be removed; his energies would be redoubled from past experience, and the sinking trader give place to the prosperous and respected man of business. This can only be effected by adopting a scale of vigorous punishment for the artistic swindler and criminal bankrupt, who should be subject to the same (to him preliminary) scrutiny, and be judged upon the merits of his conduct, and not merely, as now, on the uncertain test of his balance-sheet.

The space of a letter will not admit of detailing the many advantages that I believe would result from a plan of which this is of course but an outline, and one suggested by the fact that so much excitement is now prevailing, and time employed in the endeavour to improve and make healthy the branches, while the root itself is so corrupt.

I am, Sir, yours, &c.

JAMES M. CONSTABLE,

Secretary to the "London Commercial Association for the opposition of Fraudulent Bankrupts and Insolvents."

73, Basinghall-street, June 11, 1845.

SELECTIONS FROM CORRESPONDENCE.

"X." thus comments on the Small Debts Bill:—

I, for one, have to thank you for giving us a copy of this, as it now stands, singular Bill. Should the same become law, it is hoped it will sweep away the petty prescriptive jurisdictions, many of which are indeed "great grievances to the subject;" but the Law Societies ought to scrutinize the measure.

For instance, in the county of Salop, a noble lord has two honour or hundred courts, Clun and Purslows; and he claims exclusive jurisdiction for the recovery of small debts over an extensive district, comprising about a dozen parishes. The proceedings in these courts are so dilatory and expensive, and the

officers are of so low a grade, being farmers and tradesmen, that but few persons attempt to recover debts therein—in fact, it is a denial of justice. The sheriff of Shropshire has been so threatened with actions, that he now appends a caution at the bottom of his summonses against executing the same within either of the excellent jurisdictions alluded to.

A correspondent complains of the practice of a certain class of Solicitors getting themselves made the executors of weak-minded clients, to the great dissatisfaction of surviving relatives, and which heaps another stigma on the Profession; and he suggests the propriety of the different Law Societies reprobating the discreditable practice.

"W. W. W." complains of the recent decisions on "*Notices to quit.*"

Allow a practising attorney to complain of the tendency of modern decisions to make a complicated affair of a very simple thing—a notice to quit.

There are two cases in your current volume, one at page 96, and the other at page 196, where as much ado seems to have been made about the proper wording of a notice to quit, as if it had been a surrebutter specially demurred to. In the former case Alderson, B. says, "The landlord here seems not to have been quite certain himself of the time at which the tenancy would expire, and has tried to throw the burden of discovering that upon his tenant." What if he did?

The cases interfering with the simple operation of a notice to quit are too numerous and decisive not to be binding; but I submit they are egregiously wrong in principle. A notice to quit is a notice to quit, however it be worded—and the proper question ought to be, not what particular terms are used, but, is it *a* notice to quit? I consider this an instance of the tendency of judges, special pleaders, and chamber-bred counsel to fetter, mystify, and distort the business of the law to the inconvenience and perplexity of the "General Practitioner," and the cost of the client.

To Readers and Correspondents.

A portion of the Report of the Exchequer for Thursday and Friday, the 5th and 6th instant, has been omitted in consequence of an accident. It will appear next week.

NOTICE TO SUBSCRIBERS.

The Indices to the fourth volume being now completed, the numbers for binding may be sent, through the post, in parcels open at the ends, with a mark by which they may be known, and of which the Publisher should be advised by letter, as also how, when bound, it is to be returned. If sent by parcel, advantage may be taken of the opportunity to inclose other books for the binder.

The Volumes of the LAW TIMES, *handsomely and uniformly bound, at 5s. 6d. each, if forwarded to the Office; with the Solicitor's name and abode lettered on the cover, 1s. extra.*

An Alphabetical Index to the Cases in the current Volume of the LAW TIMES *always lies at the Office for the purpose of reference.*

THE LAW TIMES.

SATURDAY, JUNE 14, 1845.

TO READERS.

REPEATED requests are made that the LAW TIMES would publish an annual digest of all the Reports and Statutes—a sort of *Index Legum* of the year.

That such a work would be an extremely useful addition to the volumes of the LAW TIMES there can be no doubt; but the difficulty lies in the manner of accomplishing it. Certain it is that it could not be contained within the ordinary columns of the weekly journal, for it would occupy at least four or five entire numbers. Nor could it be given in the form of supplements, for already the subscribers, who by prepayment receive the supplements gratuitously, are enjoying a very much larger boon than was anticipated when that arrangement was made.

But one mode of meeting the requirements of our subscribers presents itself. It is to make of this a distinct publication, distinctly paged, so that it need be taken only by those who desire it, without burdening those who may not want it; the size and shape, however, to be that of the LAW TIMES, so that it may be bound with the volumes as a part of the legal record of the year.

On a close calculation we find that, if sold in numbers at a shilling, stamped, so that they may be transmitted by the post, 1,000 orders will be necessary to meet the expenses. The precise length cannot be ascertained, of course, as it must depend upon the legislation and decisions of the year, but probably it will not exceed six or seven numbers. This, however, is considerably less than the cost of any one o the digests of the reports alone, whereas th *Year-Book* (such it is proposed to call it) the LAW TIMES will contain a digested Inde to the Statutes as well as to the Reports; i short, it will be an Index to all the actual law made and decided during the year, and it wi be formed upon an improved plan, some tim since submitted to us.

As it will not be undertaken unless th necessary number of orders be received, w shall thank those of our subscribers who ma desire to possess it to forward their names a soon as possible, for, as the labour and tim required will be very great, it must be commenced in the vacation, that it may be read for publication early in January.

THE BENCHERS AND THE BAR.

THE recent decision of the Benchers of th Middle Temple will, we trust, operate as a salutary warning against indulgence in thos unprofessional practices which had of lat been spreading, and which threatened to degrade the Bar of England from the lofty place in public estimation it has up to this period maintained through all the change and troubles of government and of society. The timely interference of the Benchers for the vindication of the societies over which they preside, has, we hope and believe, checked that downward tendency; and no doubt they will adopt stringent measures to prevent, as far as possible, the recurrence of the scenes which have lately compelled them to inquiry. As we have repeatedly urged, the remedy is in their own hands. It will not be enough for the Benchers to punish when unprofessional practices are proved, they must render them less probable by a little more strictness in the admission of members, whether as students, or to the Bar. Previous to a call, the strictest inquiry as to *character* ought to be made; and we question whether there should not be something like an assurance that the candidate has reasonable means of subsistence until, in the ordinary course of things, he can expect business. The fact cannot be disguised, that poverty is the real cause of almost all the unprofessional practices complained of. "I must live" is the self-defence of the wrong-doer, forgetful that there was no necessity for his entering a profession by which no man can reasonably hope to live for some six or seven years, unless he possessed the means of respectable subsistence in the interval. He knew the conditions when he joined, that business was to be obtained only according to certain prescribed rules, required for the advantage of the whole Profession; and if he violate those rules, he cannot complain if he be rejected by the Profession. In the recent case the Benchers have not proceeded to the extreme measure of disbarring, but have been content severely to censure and mark their sense of the misconduct by exclusion for two years from the Hall. Thus do they give fair warning that wrong has been done, and if that wrong be repeated, the extreme penalty must be expected. It will operate as a hint to others who might be inclined to follow the example, that they cannot do the like with impunity.

The inquiry was, we believe, undertaken at the instance of the Metropolitan and Provincial Legal Association, whose incessant exertions to purify the Profession deserve all the encouragement that can be given by thanks and by support.

VERULAM SOCIETY.

THE second number of *Registration Appeal Cases*, the 10th of *Magistrates' Cases*, and the 7th of *Practice Cases*, will be ready on Saturday next.

The 11th and 12th of *Magistrates' Cases*, and the 7th and 8th of *Criminal Law Cases*, are in the press, and will, we hope, be published in time to complete parts for the ensuing Sessions and Circuits.

Mr. ALLNUTT's noted and indexed edition of the new Orders in Chancery, for office use, will be published on Saturday next.

The following forms have been added to the list:—

Agreement for the sale and purchase of shares in joint-stock companies.
The complete set of forms under the Debtors and Creditors Act.
Certificate of acknowledgment of married woman, on parchment.
Affidavit of execution of ditto.
Bill of costs on judgment for want of plea.

REGISTRATION OF ELECTORS.
Notice of claim (Counties), price 4d. per doz.
Notice of objection, ditto.
The forms for boroughs will be ready in the course of the week.

Other forms are in preparation, especially agreements for leases of houses, lands, and for building leases, which have been much inquired after.

LORD BROUGHAM'S SMALL DEBTS BILL.

HAVING expressed our cordial approval of the principle of this Bill, which we take to be the punishment of fraud in debtors, as well by the improvident contraction of the debt as by dishonest attempts to evade payment, we purpose now, as promised last week, to consider in detail the various objections that arise upon the face of the Bill as framed, and the amendments and additions that might advantageously be introduced into it.

In this review we have the aid of a number of experienced correspondents in both branches of the Profession who have favoured us with their communications on the very important subject, and we regret only that we are compelled to use their suggestions in this shape, instead of publishing their letters *in extenso*; a course which, however, our contracted limits have absolutely forbidden.

The first class of objections are to the jurisdiction. The powers of the Act are to be exercised by commissioners of bankruptcy or judge of any local court, being a barrister or attorney. It is alleged, and with truth, that in many districts there are no near commissioners nor courts, and many of the existing local courts are presided over by persons who are neither barristers nor attorneys.

But it appears to us that this is no objection to the measure itself, which can do no more than the existing judicial arrangements of the country will permit. It is no reason for depriving nine-tenths of the country of a remedy for a great evil, because the other tenth is so situated that it cannot so readily avail itself of the law. The hardship, if such it be, is not limited to this; it prevails equally in the application of other protective laws. If a man be robbed of sixpence, he is compelled to travel, perhaps, seventy miles, and spend a week at an assize town, to punish the offender; and it is being somewhat over-nice to oppose a law that enables him to punish a man who robs him of 20*l.* in the shape of a debt, because he must ride a few miles for the purpose, the more especially as it is at his own option whether he will punish the wrong or

not; and if, having the power, he declines to use it, he has no right to blame the law or its framers.

Whether there be any other authority in whom its powers may be safely vested is another question; but none such have been suggested by the objectors, and therefore we presume they have no better plan to offer.

Besides, it is to be remembered that all difficulties arising from cost and trouble will be easily overcome by means of the societies for the protection of creditors against fraudulent debtors which, in conformity with the hint we threw out last week, are already in progress of formation in many parts of the kingdom, and, doubtless, ere long, will be established everywhere.

Objections more serious arise from the entire absence of all provision for the working of the measure. There is not a word about costs, yet there should be a power to the Court to award costs to a creditor who succeeds in establishing his case against the fraudulent debtor.

But there are deficiencies still more serious. The powers of the Bill are not extended to the Insolvent Court. No machinery is provided for carrying out details. The creditor is permitted to summon the debtor; but how is the Court to enforce obedience? It is not empowered to issue a warrant for his apprehension; and even if it should be deemed that power to apprehend is incidental to the power to summon, the Court of Bankruptcy has no officer to serve the process, nor is any given by the Bill. This requires amendment.

There is another difficulty for which no provision is made. As the Bill stands, it will have the effect of establishing two jurisdictions for the same subject-matter, between which continual conflicts must arise. If, for instance, a debtor be in the hands of the Insolvent Court or of a Commissioner of Bankrupts, these Courts will inquire into and adjudicate upon all his debts, as well those under as above 20*l.* If, at the same time, the creditor chooses to summon him under the Small Debts Bill, before another commissioner or the judge of a local court, he may harass him with two inquiries—two processes—beside producing a collision between the two jurisdictions. It will be evident that something must be introduced to prevent this inevitable result—what, it is not our province to determine, but without it the difficulties in the way of the practical operation of the measure will be enormous.

Another serious objection is the short term of imprisonment. Forty days will not deter the rogue; a larger discretion should be given, to meet cases of great atrocity, and the discretion should range from a week to six months.

Mr. Green, of Leeds, who has had considerable experience in this branch of the law, suggests that the limit of the order for attachment of wages to cases in which they amount to 50*l.* a year, will make this useful portion of the bill practically inoperative in the country, for few there receive that sum. Moreover, the *onus* of proof is thrown upon the creditor. Now certainly this ought not to be, for it is manifestly the debtor's place to prove that he cannot pay. The matter ought to be left to the discretion of the Court, which, on hearing all the circumstances, will be best enabled to judge of the ability of the debtor to apply any and what portion of his wages to the payment of his debts. Mr. Green further objects that the clause which gives the power to make an order for the payment out of wages gives no power to enforce that order. But our correspondent has omitted to note, that disobedience to an order is ground for imprisonment, and that is sufficient for the purpose.

Mr. Green is further of opinion that imprisonment is not desirable, and would rarely be enforced. He thinks that ample powers to attach wages and every species of property will be far more effective. So think we; but if a rogue have neither property nor income, he can only be punished by imprisonment. Both powers are essential to a good law of debtor and creditor.

Mr. Ross, of Barnard's-Inn, complains of the powers given by the Bill, and of its severity. But he does not attempt to shew how otherwise the evil is to be remedied. He adds, that creditors will not incur the cost of enforcing it. As we have said before, that will be a matter for their own consideration; if the law give them a remedy, they cannot complain if themselves permit the continuance of the wrong. He further points out two important omissions in the offences enumerated, viz. the keeping back, destruction, or mutilation of books, and the vexatious defence to an action.

Another provision strikes us as very objectionable. It is that which permits the creditor to be examined as to his debt. When it is remembered that it is only after judgment recovered that the creditor can put the law in force, an inquiry into the debt is permitting, in fact, a new trial, and disturbing a settled matter, contrary to all rule of law and policy. There can be no doubt that this provision ought to be expunged from the Bill.

Again, we must protest against the clause that permits not only the proceedings under this, but under the existing law of insolvency, to be conducted by others than attorneys or counsel. The effect of such laxity will be to gather about these courts the entire crew of Sham Lawyers, who will lower their respectability and influence without benefiting the suitors, who will be made, in one shape or another, to pay these harpies as much as they would pay respectable solicitors. We have the more suspicion of this clause, because it appears to be an attempt, by a side-wind, to get rid of the decision of Mr. Commissioner Fonblanque upon the existing statute, as requiring the presence of an attorney. Let parties appear in person, if they please, but if they do not choose so to do, they should be required to appear by a recognised practitioner, responsible to the Court for his conduct. The real interest of the client, and the due conduct of the business of the courts, demand this protection; and as, if permitted to pass, the clause will be of serious injury to the attorneys, by the race of pettifoggers it will encourage, we hope the Law Societies will take efficient measures to secure its being expunged in the House of Commons.

These are the most important objections that suggest themselves at this moment. Should others occur to any of our readers, they shall be considered next week.

The immediate question now is, how shall these defects be brought before the House? Unluckily, the Profession has not there a mouthpiece to utter its complaints, or an eye to watch its grievances. It is to be hoped that the next general election will supply this, the greatest need of the Profession. They have influence and power enough to secure at least one representative for themselves, if they would but exercise it.

THE CRITIC.

New Books.

A Lecture on Mortmain and Charitable Uses, delivered to the Articled Clerks of Members of the Manchester Law Association on the 2nd of January, 1845. By Mr. Joseph Grave, Solicitor. Manchester, 1845.

Lecture on the Law of Evidence, delivered to the Members of the Manchester Law Association and their Articled Clerks. By R. B. B. Cobbett, Attorney-at-Law. Manchester: Powlson and Sons.

The provinces are taking the lead of the metropolis in the matter of legal education, and setting an example which it behoves the Profession here to follow, or a country education will be not only the best for a foundation, but the best for "a finish."

And let the Inns of Court look to it. When the attorneys are taking such efficient measures for self-improvement, they who are endowed so amply with the means of giving to their pupils the largest course of legal instruction, and who may assure the members that due advantage is taken of the boon by the simple plan of an examination into a man's acquirements before they honour him with the title of "my *learned* friend," it is, we say, high time that they should devote a portion of their revenues to a provision for at least as large instruction for candidates for the Bar as is provided by the law association of a country town for the education of its articled clerks.

Here are two lectures gratuitously delivered at Manchester by solicitors resident there, and which for learning, for research, for the happy mingling of abstruse law with familiar illustration; for purity and even elegance of diction; for largeness and liberality of thought, may compare with the best legal compositions of our day. Mr. Grave's lecture on *Mortmain* is both an historical and a critical essay, tracing the law from its origin to the present time. Mr. Cobbett's lecture on the *Law of Evidence* is a very model of a popular summary of a wide subject. His arrangement of his theme is masterly, and, we believe, entirely original; but it is perfectly in accordance with common sense, and therefore peculiarly adapted to infix itself in the memory.

Both of these lectures deserve a wider circulation than the place of their delivery. They may be read with profit and pleasure by all students of the law. Of their cost we know nothing, but we presume it to be trifling. At all events, our publisher shall procure a few copies for the use of those who may desire to share the benefits enjoyed by the clerks of the members of the Manchester Law Association, to which be all honour for the great and successful exertions it has made, and is making, to exalt the Profession, and for having introduced such ornaments to it as Mr. Grave and Mr. Cobbett.

We regret that other claims forbid us to prove by extract the justice of these comments.

BIRTHS, MARRIAGES, AND DEATHS.

[The charge for the insertion of the above is 5s.]

BIRTHS.

Bovill.—On Saturday, the 7th inst. at 5 A, Spring-gardens, the lady of William Bovill, esq. of a son.

Nesfield.—On the 9th inst. at Castle-hill, Bakewell, the wife of R. W. M. Nesfield, esq. barrister-at-law, of a son, still-born.

Robinson.—On the 4th inst. at 7, Barkham-terrace, the lady of B. Coulson Robinson, esq. of the Middle Temple, barrister-at-law, of a son, still-born.

MARRIAGES.

Boden, George, of the Inner Temple, esq. M.A. to Catherine, second daughter of the late John Perfect, esq. of Pontefract, on the 5th inst. at Settle.

Cunningham, John Sinclair, esq. of Gilmour-place, Edinburgh, to Mary Ann, eldest daughter of the late Mr. Charles Ashton, solicitor, London, on the 7th inst. at St. Mary Aldermary.

Holbeche, Vincent, esq. of Sutton Coldfield, Warwickshire, to Emma, eldest daughter of Edward Addenbrooke Addenbrooke, Esq. of Kingswinford, Staffordshire, on the 5th inst. at Kingswinford.

Mueller, Dr. Herman, professor of law at the University of Wuerzburg, to Maria Isabella Dillon, eldest daughter of the late Richard Purcell, esq. of Cranford, on the 27th of May, at Barnhofen, on the Rhine.

Percival, Andrew, solicitor, of Peterborough, second son of William Percival, esq. of Northampton, to Eliza, eldest daughter of John Gates, esq. chapter clerk of the above Cathedral, on the 9th inst. at Peterborough.

Sutton, Edwin C. esq. of the Inner Temple, barrister-at-law, to Elizabeth, fourth daughter of the late W. Greene, esq. of Melksham, Wiltshire, on the 10th inst. at Middleton-square.

DEATHS.

Curwood, Jane, only surviving sister of John Curwood, esq. barrister-at-law, on the 4th inst. in the parish of St. Dunstan, aged 60.

Hurd, Phillip, esq. of Ladbroke-terrace, Notting-hill, barrister-at-law, eldest son of the late Phillip Hurd, esq. of the Lodge, Kentish-town, of a rapid decline, on the 7th inst. at Brighton.

Stephen, Mr. George, solicitor, of paralysis, on the 5th inst. at No. 7, William-street, Knightsbridge, aged 47.

Sale, Richard Cowlishaw, for forty-two years solicitor to the Grand Junction Canal Company, of congestion of the brain, on the 7th inst. at 21, Surrey-street, Strand, aged 64.

JOURNAL OF PROPERTY.

CONDITIONS OF SALE.

CONDITIONS CONCURRENT—RESTRICTIVE.

(*Continued from page* 211.)

(FROM THE LAW REVIEW.)

3. Another rule applying to such conditions is, that a purchaser is at liberty to raise objections founded on information derived *aliunde*, and that he not confined to objections suggested by or necessarily deducible from the abstract. That document may be unexceptionable on the face of it, or within the purview of the conditions of sale; but an existing flaw in the title, however discovered, must be removed before the vendor can enforce his contract.

This was decided by the Court of Exchequer in the case of *Shepherd* v. *Keatley* (1 Cro. M. & R. 117), where one of the conditions of sale of leasehold estate was as follows:—"The vendors shall deliver an abstract of the lease and of the subsequent title under which the leasehold lots are sold, *but shall not be obliged to produce the lessor's title.*"

The abstract was duly delivered, and an assignment was subsequently tendered to the purchaser for his execution: but he refused to accept it, on the ground of certain defects discovered *aliunde* by the purchaser in the lessor's title. The vendor thereupon brought an action for breach of contract: and by consent of the parties the facts were turned into a special case to be argued before the Court of Exchequer. In the course of the argument, Lord Lyndhurst, C. B. said, "The question is, not whether the plaintiffs were bound to produce the lessor's title, but whether the defendant [illegible] from taking objections to it:" and in delivering ju[illegible] "The whole case depends [illegible] words, 'shall not be obliged to produce the lessor's title:' and it seems to me that those words mean no-

thing more than there shall be no obligation upon the vendor to produce, for the satisfaction of the purchaser, any evidence of lessor's title..... The construction put by the Court upon the words used in *Spratt* v. *Jeffery* was, that they operated as a waiver of the objection. But there is nothing to shew that the parties in the present case had any intention of the kind. I do not say what my own opinion would have been upon the words in *Spratt* v. *Jeffery*. It is sufficient to distinguish them from the words here used." Mr. Baron Alderson likewise said: "*Spratt* v. *Jeffery* was a case not merely [illegible] producing the lessor's title, but a waiver of that title altogether. Possibly upon the words there used, I might not have come to the same conclusion as the Court of King's Bench did; but it is unnecessary to give any opinion upon that point, as those words differ from the expressions employed here. The not being '*obliged*' to produce the lessor's title merely confers upon the vendor the power of enforcing the contract, without producing or giving evidence of that title; but that expression cannot prevent the purchaser from taking objections discovered by himself."

4. Where restrictive conditions of sale are prefaced or accompanied by a statement of facts or circumstances constituting the grounds or inducement for imposing a restriction upon the purchaser's right of inquiry, the purchaser, unless expressly precluded by the condition itself, has a right to call for evidence in support of the inducement thus put forward.

This was decided in *Symons* v. *James* (1 Yo. & Coll. C. C. 487) by the Vice-Chancellor Knight Bruce. The sale took place under a decree, and the property was sold in lots. With respect to Lot 24, the 15th condition of sale was as follows:—"That as Lot 24 consists of a variety of allotments, which were awarded in the year 1784 to Robert Macreath, esquire, or his tenants, in respect of the manor, or some part or parts of the manor of East Brent, or of the lands held therewith, of which he was then the owner, which manor, together with such allotments and all lands held therewith, was subsequently purchased by the said George Symons; the title of vendors to the said manor shall be conclusive evidence of their title to the said Lot 24, and the vendors shall not be required to identify such lot with any part of the lands held with the manor, and conveyed to the said George Symons with the manor."

The twenty-fourth lot was sold, and an abstract of title was delivered to the purchaser, with the following title prefixed:—"An abstract of the title of the devisees of George Symons, esq., to four closes of freehold land, situate in Mark Moor, in the parish of Mark, in the county of Somerset, consisting of allotments No. 587 to 609, both inclusive, on the Mark Moor Inclosure award plan, and being Lot 24 in the particulars of sale." The abstract set out various documents, from which it appeared that a Mr. Dawes purchased the manor and lands from Mr. Macreath, made a conveyance to Symons, by which only eighteen allotments were conveyed in express terms to Symons. The master having reported in favour of the title, the purchaser took an exception, objecting that a good title had not been shewn to twenty-three allotments, according to the terms of the fifteenth condition of sale. The vendors contended that the latter clause of the condition saved them from the obligation of identifying the allotments, and relied on the probability that in consequence of change of boundaries, the eighteen lots specified in the conveyances were the only allotments remaining as they were originally allotted, but that the whole twenty-three lots were actually included in the deeds. But the Vice-Chancellor said he was not convinced that the vendors had discharged themselves from that obligation which was incumbent upon a vendor in circumstances of this description, and his honour proceeded thus:—"The fifteenth condition of sale, as a reason for imposing certain terms upon a purchaser, makes two assertions of fact. Whether the purchaser is or not to be bound by the condition must depend upon the accuracy of those two assertions in point of fact. The first assertion is, that 'lot 24 consists of a variety of allotments, which were awarded in the year 1784 to Robert Macreath, esq., or his tenants, in respect of the manor,' and so on. The second assertion is, "that the manor, together with such allotments, and all lands held therewith, was subsequently purchased by George Symonds.' Now, it appears to me, that it is incumbent upon the vendor to give evidence of those two matters of fact, and that to hold, that by reason of the condition following those assertions, the vendor is relieved from proving them, would not be fair or reasonable as between vendor and purchaser....... .. I apprehend that any ordinary reader of this fifteenth condition of sale would read it as importing that whatever Macreath had went to Symons.......... That, however, is not so, for it appears that much of what Macreath had did not go to Symons. I apprehend that, according to every rule which ought to guide a court in deciding a question of this description between vendor and purchaser, I must hold, that the purchaser is entitled to more evidence than he has hitherto received.......... I shall not either allow or overrule the exception, nor shall I part with the deposit, but I shall refer it back to the master to review his report; and, in reviewing his report, let the master inquire whether the lands contained in Lot 24 were comprehended in the conveyance of Dawes to Symons. And let the master have regard to any evidence which may be laid before him as to the enjoyment of Lot 24 since the year 1792."

(II.) Conditions *remedial* are usually, 1, Rescissory; and 2, Compensatory.

1. *Conditions Rescissory.*—Special conditions of sale generally contain a clause requiring all objections to the abstract to be stated within a limited time, and authorizing the vendor, in case of his inability to remove them, to rescind the contract.

According to Sir Edward Sugden (1 V. & P. 43), the late Mr. Bradley recommended that where it is understood at the time of sale that the vendor has only a doubtful title, a provisional clause to the following effect should be inserted in conditions of sale and articles of purchase, which would be sufficient, he thought, to obviate any doubt that might otherwise arise at the sale:—"That if the counsel for the purchaser shall, on the examination of the title, be of opinion that a good title and conveyance cannot be made of the purchased premises, within the time limited by the articles for carrying the same into execution; in that case the same articles shall be discharged, and not further proceeded in on either side."

Conditions founded on this principle are now in constant use; but owing to the various forms in which clauses of this kind have been worded, and to the conduct of the parties to the contracts, much litigation has ensued.

Upon conditions of this class it has been decided;

1. That where a vendor, having an option by the conditions of sale to rescind the contract in case of objections being made to the title, receives objections from the purchaser, and undertakes to remove them, the power of rescission is waived; and if the vendor, after thus entertaining the objections, should find himself unable to remove them, he will not be allowed to fall back upon the conditions of sale and rescind the contract, but will be placed in the same situation as if the contract had been originally unaccompanied by any such condition.

Thus in *Tanner* v. *Smith* (10 Sim. 410), which was a suit by vendors for specific performance, it appeared that by one of the conditions of sale the abstract was to be delivered to the purchaser or his solicitor within twenty days after the sale; and by another condition (the 7th) it was provided, that if the purchaser should raise objections to the title, which the vendors should not be able or willing to remove, and the purchaser should insist upon such objections, the vendor *should be at liberty by writing under* his hand *to rescind the contract*, on repaying to the purchaser his or her deposit money, without interest or costs; and that all objections which should not be taken, in writing, within ten days after the delivery of the abstract, should be considered as waived. The abstract was delivered within the twenty days; and within the next ten days the defendant sent to the vendors several written objections to the title. Upon this, the vendors intimated that the objections should be removed, and that a further abstract should be forthwith supplied, for the consideration of which ten more days would be allowed. Before the further abstract was delivered, the time for completing the sale had expired; and the defendant and purchaser had brought an action to recover his deposit. On a motion to restrain the action, the construction of the 7th condition came into question before the Vice-Chancellor of England; and his honour, after observing that it appeared to him to be a new condition, gave the following decision:—"My opinion is, that when objections to the title have been delivered within the ten days, then the vendors shall have the power of determining which of two courses they will adopt; that is, whether they will endeavour to remove or answer the objections, or whether they will put an end to the contract altogether. If they are either unwilling or unable to remove the objections, then they must pay back the deposit money, without either interest or costs. . . . If the vendor once elect to answer the objections, they are for ever thereafter precluded from exercising the option given to them by that condition to rescind the contract." His honour is further reported to have said, in the same case, "It seems to me a condition which is capable of being exercised at one time only. When objections are delivered, if the vendor says that he is able and willing to remove them, he is excluded at any time afterwards, whether upon the same objections or future objections, from availing himself of that condition to rescind the contract, on the ground that he is not able or willing."

In *Morley* v. *Cook* (2 Hare, 109, 110, n.), in which the purchaser filed a bill for specific performance, the 6th condition of sale contained the following clause: "In case any of the purchasers shall raise objections not herein provided for, and which the vendor shall not be able or willing to remove, the vendors shall be at liberty to rescind the contract, by writing under their hands, on repaying to such purchaser or purchasers his or her deposit, without interest, costs, or further compensation; and all objections not made in writing, and delivered to the vendor's solicitor within fourteen days after the delivery of the abstract, shall be treated as waived; and in this respect time shall be deemed the essence of the contract."

The sale took place on the 14th of January, 1841; and on the 25th, the vendor delivered an abstract, which was returned with queries and requisitions. The abstract was re-delivered with answers to the questions on or before the 17th of February, on which day the purchaser objected to the answers as insufficient. A correspondence and treaty then ensued between the parties in reference to the title until the 25th of March, when the vendor's solicitor gave notice that if the purchaser was unwilling to complete the purchase upon the title then shewn, the vendor would avail himself of the 6th condition of sale to rescind the contract, and he thereby rescinded the contract accordingly.

The Vice-Chancellor Wigram held the case to be concluded by the decision of the Vice-Chancellor of England in *Tanner* v. *Smith* (10 Sim. 410); and gave his opinion that a treaty between the vendor and purchaser for the completion of the title by the former, after the purchaser's objections have been taken to the abstract, ought to be deemed a waiver of the condition; and that in equity, as well as at law, the condition once waived is gone for ever.

Upon the same point, Sir John Leach said, in *Minchin* v. *Nance* (cited 4 Beav. 277), "You cannot put an end to a contract under such a condition but at the first moment; and after permitting the other party to proceed, you cannot turn round and say, now I will put an end to the contract."

In *Cutts* v. *Thodey* (6 Jurist, 1027), the Vice-Chancellor of England followed his own former decision in *Tanner* v. *Smith*, and held that a vendor who enters into discussions with a purchaser respecting the objections to the title, waives his rescissory right, and all benefit of the purchaser's waiver or constructive waiver of such objections.

It is to be presumed, therefore, that when a vendor, by treating for the completion of his title after objections taken, has waived his right to rescind under the condition, all parties are, in the absence of special circumstances, remitted to the ordinary rules of a court of equity, in reference to questions of title, unfettered by the particular conditions of sale. (2 Hare, 113.)

But where a purchaser contends that if the vendor make any addition to the abstract first delivered, a new period of time corresponding with that mentioned in the condition begins to run in the purchaser's favour from the time of delivering such addition, then it is also presumed that the vendor's right of rescission will likewise recommence *de novo*: as the vendor's power to rescind the contract under the condition must be coextensive with the purchaser's right to object to the title under the same condition. (See per Wigram, V. C. 2 Hare, 113). The vendor, however, has it in his power, by a proper mode of framing the conditions of sale, to reserve to himself the right of rescinding the contract after entering into correspondence or explanations regarding the purchaser's objections; and considering the course of the decisions respecting the vendor's rescissory power, it appears to us that such an addition to the terms of the conditions of sale would be extremely prudent, as removing at least one ground of controversy and litigation.

(*To be continued.*)

Public Sales.

By Messrs. FULLER and MARSH, at the Mart.

An important freehold property, entitled the Sugwas Court Estate, situate in the parish of Eaton Bishop, about three miles from the ancient city and county of Hereford, and comprises an excellent residence, extensive coach-house and stabling, cider stores, and pleasure-grounds, kitchen-gardens, &c. and about 56a. of meadow, pasture, and arable land, fruit plantations, and orchard grounds; a comfortable homestead, all requisite agricultural buildings and labourers' cottages, with two-thirds of the tithes of corn, grain, and hay, or the rent-charge of 57*l.* 5s. 7d. in lieu thereof, together with the manorial rights, fishery, royalties, &c.—40,000*l.*

A freehold estate situate at Speldhurst, Kent, consi[illegible] of a water corn-mill, with house and garden, six cot[illegible] a smith's shop, and 16a. of hop, orchard, and meadow [illegible] let at rentals amounting to 93*l.* 16s. per annum, land-tax 16s. —1,570*l.*

A freehold estate, situate in Burrough-lane, Hendon, comprising 19a. 1r. 9p. of meadow land—1,100*l.*

A copyhold estate, comprising a spacious detached family residence, distinguished as Brook Lodge, Hendon, Middlesex, encircled by tastefully designed pleasure-grounds, kitchen gardens, orchards, and about 19a. of meadow land, let at rentals amounting to 118*l.* 10s. per annum. [illegible] perty is sold subject to the payment of an annuity of 1[illegible] during the life of a female aged 48—2,580*l.*

A copyhold estate, situate in the parishes of Hunton and Yalding, Kent, and comprising Cheveney House, a spacious family residence; a short remove from the house is a homestead, agricultural buildings, and about 148a. of arable, meadow, orchard, and pasture land, including a hop garden of about 26 acres—9,050*l.*

A freehold estate, comprising four cott[illegible] of land, situate at the upper part of the [illegible] 490*l.*

A residence, No. 3, Clarence-terrace, Tonbridge Wells; held for 54½ years from September, 1832, at 8*l.* per annum; present net rental 60*l.* 5s. per annum—650*l.*

A residence distinguished as Essex Lodge, Brixton-rise, Surrey, the much admired residence of the late Daniel Higley Richardson, esq. with pleasure and kitchen garden, green-house, and three-stall stable, &c.; held for 93 years, at a ground-rent of 22l. 10s. per annum—3,300l.

By Messrs. MUSGROVE and GADSDEN.

A freehold ground-rent of 6l. 5s. per annum, with the reversion, secured upon a residence No. 1, Belmont-place, Vauxhall, let for 8¾ years at 40l. per annum. The whole of the ground-rents in this and the following 13 lots arise from leases which will expire at Lady-day, 1854 (with the exception of lot 14, which falls in at Michaelmas, 1852), so that in nine years from Lady-day last the purchasers will be entitled to the full rentals of the respective properties—405l.

A similar ground-rent, arising from No. 2—405l.

A ditto, arising from No. 3—495l.

A freehold ground-rent of 6l. 5s. arising from No. 4—420l.

A freehold ground-rent of 6l. 5s. arising from No. 6—430l.

A ditto, arising from No. 8—415l.

A freehold residence, known as No. 5, Belmont-place, Vauxhall, let under an agreement as yearly tenant, at the rental of 40l. per annum—710l.

A freehold residence, No. 7, Belmont-place, let for a term expiring at Michaelmas next, at 34l. per annum—560l.

A freehold ground-rent of 6l. per annum, secured upon No. 1, Nine Elms-lane, Vauxhall, let for 8¾ years at 34l. per annum—270l.

A freehold ground-rent of 4l. per annum, arising from No. 2—408l.

A ditto, arising from No. 3—495l.

A ditto, arising from No. 4—345l.

A ditto arising from No. 5—300l.

A freehold ground-rent of 8l. per annum, with the reversion secured upon a residence, with a double-fronted shop and premises, at the south corner of Nine Elms-lane and Wandsworth-road, let for 8¾ years from Lady-day last—405l.

A freehold residence with shop and premises, No. 2, Belmont-row, let for 21 years from Midsummer, 1843, at a net rental of 35l. per annum—570l.

A freehold estate, comprehending Belmont House, Vauxhall, with its grounds and premises, comprising altogether about 3 acres, and possessing frontages on the Wandsworth-road and Nine Elms-lane, with extensive wharfage on the river—6,350l.

A leasehold ground-rent of 305l. 12s. held for a term, of which 56¾ years were unexpired at Lady-day last, at a ground-rent of 52l. 10s. per annum—3,700l.

A freehold ground-rent of 16l. per annum, secured upon two houses, Nos. 4 and 47, Trinity-street, Rotherhithe; together with three houses in Trinity-court, let for 27¼ years, at 16l. per annum—310l.

A leasehold estate, being No. 28, Shaftesbury-terrace, Pimlico, let for 27¾ years, at a rent of 85l. per annum: this and the following lot are held under the Marquis of Westminster, for 78¼ years, at a nominal ground-rent of 1s. per annum—1,340l.

A residence, No. 29, let for 6¼ years, at 65l. per annum; held for 78¼ years free from rent—1,150l.

A residence, No. 26, Euston-place, St. Pancras, held for 62¼ years, at a ground-rent of 16l. 16s. per annum—600l.

A rental of 54l. 15s. arising out of four houses in Union-row, Newington Butts; held for 5 years, at a ground-rent of 4l. 16s. per annum—150l.

By Messrs. RUSHWORTH and JARVIS, at Garraway's.

A freehold ground-rent of 9l. per annum, secured on five houses, situate in Duckett-street, Stepney; the above freehold property is let on a building lease at a ground-rent of 9l. a year, for a term whereof 46½ years are unexpired—215l.

By Mr. MOORE, at the Mart.

Seven leasehold houses, Nos. 3 to 9, Oxford-street, Mile-end (in lots), each containing six rooms and garden, let at 182l. per annum, vendor paying rates, term 57 years, ground-rent 40l. per annum; the fixtures to be taken at a valuation—1,015l.

A house and shop in Birdcage-walk, Hackney-road, let at 18l. per annum, held for 27 years, at a ground-rent of 2l. 2s. per annum—85l.

A six-roomed house, with long garden, 33, Queen-street, Mile-end, let at 25l. per annum, held of the Mercers' Company for 68 years, at 4l. per annum ground-rent; the fixtures at a valuation—220l.

A ditto, No. 34, Queen-street—220l.

Two similar houses, in Smith-street adjoining—415l.

A plot of freehold ground on Windmill-hill, Gravesend, with a frontage to Clarence-place of 37 ft. by a depth of 108 ft.; land-tax redeemed—115l.

A ditto, 37 ft. by 109 ft.—135l.

A ditto, 48 ft. by 110 ft.—240l.

A detached cottage, at Broad-green, Croydon, containing nine rooms, kitchens, coal and wine cellars, stable, chaise-house, and about an acre of garden, let at 50l. per annum, held for 74 years, at 30l. per annum—250l.

An eight-roomed house, with garden nearly adjoining, at present in hand, but of the presumed value of 30l. per annum, held for 74 years, at 17l. 10s. per annum—130l.

A five-roomed house, 39, Charles-street, Commercial-road, let at 20l. per annum, vendor paying rates, held for 48 years, at 4l. per annum—95l.

A ditto, No. 2, Charles-street—85l.

A plot of building ground, 16 feet by 15 feet, in Carr-street, near the Ben Johnson, Stepney; part freehold and part copyhold—28l.

A plot of copyhold ground, 16 feet by 65 feet, in Carr-street, quit rent 2d. per annum, fine certain 1s.—26l.

A plot of freehold ground in Vincent-street, adjoining—36l.

Two houses, Nos. 6 and 7 Union-row, Stepney Green, unexpired term 6 years, ground-rent 2l. 8s. let at 30l. less the rates—35l.

A six-roomed house, No. 14, Friendly-place, Mile-end-road, let at 18l. vendor paying rates, term 65 years, ground-rent 1l. 2s. per annum—145l.

The Marquis of Westminster, it is said, has purchased the celebrated Fonthill estate, formerly the property of Mr. Beckford.

THE MONEY MARKET.

	Sat.	Mon.	Tues.	Wed.	Thurs.	Frid.
Three per Cents. Consols	99½	99	99	99⅛	99¼	99¼
Three per Cents. Reduced	98¾	98¾	98⅞	99	99⅛	99¼
New Three-&-a-quarter per Cts	101⅛	101⅛	101⅜	101⅝	102⅛	102¼
Long Annuities..............	11⅛	11⅛	11⅛	11⅛	11⅛	11⅛
Bank Stock	211	211¼	211½	211¾	212¾	212
India Stock	279	279½	279	279½	279	270
India Bonds, prem..........	74	75	74	74	75	75
Exchequer Bills, prem.	60	61	61	61	61	60
FOREIGN.						
Spanish Five per Cents.......	29	29¼	29	29½	28⅞	28¼
Spanish Three per Cents.	41¼	41⅛	41⅛	41½	41½	41½
Russian	117¾	117½	117¾	117¾	117	117¾
Peruvian..................	30½	30¾	31	30¾	30½	30¾
Portuguese	67¼	67¼	67½	67¼	68¼	68¾
Mexican..................	37¾	38	38¼	38	38	38
——— Deferred	19¼	19¼	20	20¼	20½	20½
Dutch Two-and-a-Half per Cents..................	63¼	63⅜	63½	63⅜	63⅜	63⅛
——— Four per Cents.	98¼	98¼	98¼	98¼	98¼	98½
Danish	88	89	88½	89	89	89
Colombian	16¼	16½	16½	16⅞	17	17⅜
Chilian	99½	99½	99½	99⅞	100	100
Buenos Ayres	43½	43½	44	44	44½	44½
Brazilian..................	89½	89½	89½	89⅞	90	90½
Belgian	99½	99¼	99½	99½	100	100

THE GAZETTES.

The sum stated as the Dividend means so much declared in the Pound. The Assignees, when chosen, follow this statement.

Tuesday, June 3.

Attwater, W. dyer, div. next week. Bellamy, London.—*Cook*, H. P. victualler, last exam. passed.—*Phillips* and *Co.* silk dressers, last exam. July 8.—*Prebble*, H. T. wine merchant, last exam. sine die.—*Pugsley*, D. warehouseman, last exam. passed.—*Slade* and *Co.* rope manufacturers, div. Slade next week.—*Till*, C. draper, last exam. passed.—*Williams* and *Co.* auctioneers, last exam. June 24.

Wednesday, June 4.

Jenkyns and *Co.* merchants, div. H. next week. Johnson, London.—*Page*, F. builder, last exam. June 30.—*Peacock*, G. corn dealer, last exam. June 30.—*Robertson* and *Co.* cabinet makers, div. next week. Johnson, London.—*Todman*, J. G. victualler, div. next week. Edwards, London.—*Turner*, H. cowkeeper, div. next week. Johnson, London.

Thursday, June 5.

Osborrow, M. pawnbroker, fin. div. next week. Follett, London.—*Peters*, J. innkeeper, div. next week. Green, London.—*Tottem*, G. G. jeweller, last exam. June 17.

Friday, June 6.

Blunden, R. plumber, div. next week. Turquand, London.—*Blythe*, F. E. porter merchant, div. next week. Turquand, London.—*Chandler*, W. chymist, div. next week. Turquand, London.—*Cox*, S. horse dealer, fin. div. next week. Groom, London.—*Coyle*, T. H. wine merchant, last exam. passed.—*Dollman*, E. merchant, div. next week. Alsager, London.—*Fossick*, S. warehouseman, &c. div. next week. Groom, London.—*Hawkins*, G. clothier, last exam. passed.—*Hensman*, and *Co.* coal merchants, last exam. July 3.—*Herbert*, R. M. tea dealer, div. next week. Turquand, London.—*Homewood*, T. victualler, annulled.—*Hopkins* and *Co.* bankers, div. next week. Alsager, London.—*James*, T. G. builder, div. next week. Alsager, London.—*Jarvis* and *Co.* wine merchants, last exam. July 4.—*Johnson*, W. wine merchant, last exam. June 27.—*Leplastrier*, L. watchmaker, last exam. passed.—*Meek*, W. ironmonger, div. next week. Turquand, London. *Plowman*, J. ironmonger, last exam. July 18.—*Tupper*, W. C. grocer, last exam. passed.—*Warren*, J. U. hotel keeper, last exam. sine die.—*Woolcott*, G. builder, div. next week. Johnson, London.

DIVIDENDS.

Bankrupts' Estates.

Official Assignees are given, to whom apply for the Dividends.

Allinson, R. ironmonger, third, 2s., and 6s. 4d. to new proofs. Wakley, Newcastle.—*Adamson*, W. butcher, second and final, 2d. 8s. Newcastle.—*Heginbottom*, W. cotton spinner, final, 2d. and first and final 2s. 8d. to new proofs. Fraser, Manchester.—*Johnson*, J. miller, final, 5d. and first and final 1s. 5d. to new proofs. Young, Leeds.—*White*, G. E. tailor, first, 5s. Graham, London.—*Wilson* and *Co.* colour manufacturers, first, separate, H. Newton, 2s. 3d. on new proofs. Valpy, Birmingham.—*Wood* and *Wood*, Blackwell-hall factors, third, 4¾d. Whitmore, London.

Insolvents' Estates.

Baggs, B. T. H. clerk, Bolwell-st. Lambeth, 8½d.—*Burn*, F. M. milliner, Dufaur's-place, Golden-sq. 1s. 7½d.—*Empson*, M. attorney, Hull, 3s. 1½d.—*Ingleton*, T. Ordnance storekeeper, Salisbury-sq. 8½d.—*Jauncey*, W. victualler, Lower Mitcham-green, 5½d.—*Mott*, C. widow, Milford Haven, 6s. 11d.—*Reed*, R. B. gent. Broughton, further, 1s. 0½d.—*Rogers*, W. innkeeper, Dodbrook, 1s. 6½d.—*Romney*, E. D. lieutenant in the navy, York, 7s.—*Steel*, E. cheese dealer, Great Newport-st. 6s. 6½d.—*Woods*, G. tailor, Mount-place, Whitechapel-road, 6½d.

ASSIGNMENTS

To Trustees for the benefit of Creditors.

Gazette, June 6.

Bradshaw, J. linen draper, Oswestry, May 2. Trust. G. Rae, accountant, Oswestry. Sols. Roberts and Th m Oswestry.—*Elkington*, J. merchant, Rye, June 6. Trust. T. M. Flockton, turpentine manufacturer, Potter's-fields. Sol. Slee, Parish-st. Southwark.—*Page*, W. B. nurseryman Southampton, April 26. Trusts. J. Noble, seedsman, Fleet-st., L. Pocock, esq. Montague-st. and T. Kennedy, gent. Chancery-lane. Sol. Burton, Powis-place, Queen-sq.

Bankrupts.

DATE OF FIAT AND PETITIONING CREDITORS' NAMES.

Gazette, June 6.

BURBURY, JOHN, maltster, Leek Wootton, Warwicksh. June 17 and July 15, at half-past ten, Birmingham; Valpy, off. ass.; Morris and Wallington, Warwick, Jones, Starston, and Nelson, Gresham-place, Lombard-st. sols. Date of fiat, May 27. J. Dormer, farmer, Ashon, Warwickshire, pet. cr.

CARSCADEN, WILLIAM RICHARD, hosier and lace dealer, No. 68, Kirkgate, Leeds, June 10 and July 10, at eleven, Leeds, Com. West; Freeman, off. ass.; Williamson and Hill, Gray's-inn, and Sykes, Leeds, sols. Date of fiat, June 2. Bankrupt's own petition.

CRABB, JOB, hemp and flax manufacturer, Hook-mills, Charlstock, Dorsetsh. June 19 and July 17, as one, Exeter, Com. Bere; Hirtzel, off. ass; Templer and Son, Bridport, Terrell, Exeter, and Clowes and Co. Temple, sols. Date of fiat, May 27. T. A. Mitchell and J. Mitchell, merchants, New broad-st. pet. crs.

DAVIS, JOHN, chemist and druggist, 3, St. Michael's crescent, St. Michael's-hill, Bristol, June 23, at twelve, July 21, at eleven, Bristol, Com. Stephen; Kynaston, off. ass.; Hudson, Bloomsbury-sq. and Hopkins, Bristol, sols. Date of fiat, June 2. Bankrupt's own petition.

DE WILDE, FREDERICK AUGUSTUS, cabinet ironmonger, brass manufacturer, and window blind maker, Nos. 71, 72, and 73, Wells-st. Oxford-st. June 13, at half-past eleven, July 18, at one, Basinghall-st. Com. Fonblanque; Belcher, off. ass.; Lawrance and Plews, Bucklersbury, sols. Date of fiat, June 3. Bankrupt's own petition.

GENT, CHARLES, and MILLAR, GEORGE, commission merchants, Bread-st. City, June 20, at half-past twelve, July 22, at eleven, Basinghall-st, Com. Fane; Alsager, off. ass.; Lloyd, Milk-st. sol. Date of fiat, May 19. W. M'Adam, sen. and jun. calico printers, Glasgow, pet. crs.

JONES, EDWARD THOMAS, and CROSSKILL, HENRY MORRITT, booksellers, printers, and stationers, Rochdale, Lancashire, June 18 and July 14, at twelve, Manchester; Stanway, off. ass.; Smith, Chancery-lane, and Holgate and Roberts, Rochdale, sols. Date of fiat, May 30. Bankrupt's own petition.

NELSON, JAMES MARKS, general broker, Liverpool, June 19 and July 17, at eleven, Liverpool, Com. Phillips; Morgan, off. ass.; Oliver, Old Jewry, and Evans, Liverpool, sols. Date of fiat, May 27. Bankrupt's own petition.

SMITH, JOHN, ship and insurance broker, St. Dunstan's-hill, City, June 14, at two, July 11, at eleven, Basinghall-st, Com. Goulburn; Follett, off. ass.; Weir and Smith, Coopers'-hall, sols. Date of fiat, June 3. Bankrupt's own petition.

SMITH, JOHN, grocer, No. 59, London-st. Reading, Berks, June 17 and July 15, at twelve, Basinghall-st. Com. Holroyd; Edwards, off. ass.; Lamb, Queen-st.-chambers, sol. Date of fiat, June 3. J. G. Lamb, tallow chandler, Reading, pet. cr.

WALTERS, WILLIAM, silk mercer, linen draper, and haberdasher, late of No. 23, Crawford-st. Marylebone, but now of No. 14, Harcourt-st. assistant warehouseman, June 17, at half-past twelve, July 14, at eleven, Basinghall-st. Com. Shepherd; Graham, off. ass.; Galsworthy and Co. Cook's-court, and Gray, Bristol, sols. Date of fiat, June 4. Bankrupt's own petition.

Gazette, June 10.

BYFORD, GEORGE, wholesale grocer, Liverpool, June 23 and July 17, at eleven, Liverpool, Com. Phillips; Casenove, off. ass.; Brady and Sons, Staple-inn, Holborn, and Carson, Liverpool, sols. Date of fiat, June 4. Bankrupt's own petition.

DALTON, CHARLES, stone mason, Canal-bridge, Old Kent-rd. June 20, at two, July 16, at half-past eleven, Basinghall-st. Com. Evans; Bell, off. ass.; Braham, Chancery-lane, sol. Date of fiat, June 7. A. Jones, bill broker, 2, Old Kent-rd. pet. cr.

ESTALL, GEORGE, plasterer, Holywell-st. Westminster, June 17, at half-past one, July 22, at twelve, Basinghall-st. Com. Fane; Whitmore, off. ass.; Oriel, Alfred-pl. Bedford-sq. sol. Date of of fiat, June 6. Bankrupt's own petition.

FISHER, JAMES, spirit merchant, Norfolk-st. Lynn, Norfolk, June 17, at half-past one, July 16, at eleven, Basinghall-st. Com. Evans; Johnson, off. ass.; Homer and Son, Bridge-st. Southwark, sol. Date of fiat, June 2. D. Hart, wine merchant, Fenchurch-st. pet. cr.

FISH, ROBERT, plumber and glazier, Ventnor, Isle of Wight, June 17, at half-past twelve, July 25, at two, Basinghall-st. Com. Fonblanque; Belcher, off. ass.; Parker, St. Paul's Church-yard, sol. Date of fiat, May 31. J. Purdue, cheesemonger, 152, High-st. Southwark, and H. Leake, executors of J. Pile, deceased, pet. crs.

GOODALL, GEORGE, licensed victualler and dealer in wines and spirits, Ashton-under-Lyne, Lancashire, June 21 and July 17, at twelve, Manchester; Pott, off. ass.; Johnson and Co. Temple, and Snowball, Liverpool, sols. Date of fiat, May 31. J. Procter, wine and spirit merchant, Liverpool and Much Woolton, pet. cr.

HICKS, CHARLES THOMAS, drug grinders and black lead manufacturers, 105, Upper Thames-st. City, June 20, at twelve, July 15, at one, Basinghall-st. Com. Holroyd; Edwards, off. ass.; Lawrance and Plews, Bucklersbury, sols. Date of fiat, June 5. H. S. Hodgson, gent. 29, Southampton-st. Strand, pet. cr.

JONES, BENJAMIN SAMUEL, grocer, draper, provision dealer, and beer seller, Wrockwardine Wood, Wrockwardine, Shropshire, June 21, at twelve, July 19, at half-past twelve, Birmingham; Christie, off. ass.; Marcy, Wellington, and Slaney, Birmingham, sols. Date of fiat, June 3. Bankrupt's own petition.

PAYLER, THOMAS, scribbling miller, Pudsey, Yorkshire, June 20 and July 21, at eleven, Leeds, Com. Boteler; Fearne, off. ass.; Wiglesworth and Co. Gray's-inn, and Upton and Clapham, Leeds, sols. Date of fiat, May 31. J., W., and G. F. Sykes, colliers, Leeds, pet. crs.

PARTNERSHIPS DISSOLVED.

Gazette, June 3.

Askew, R. *Barlow*, T. and *Davenport*, S. dyers, Manchester, May 13. Debts paid by Askew.—*Barratt*, J. and *Myers*, J. painters, Bradford, May 28. Debts paid by Barratt.—*Beaumont*, R. and *Kennedy*, F. stockbrokers, Leeds, May 31. Debts paid by Kennedy.—*Beaumont*, R. *Kennedy*,

[illegible] Debts paid by Glynn.—*Garrings*, S. [illegible] L. E. milliner, Manchester, May 30. [illegible] by Garringe.—*Graham*, T. and *Hayward*, W. [illegible] light manufacturers, Rook's-yard, Queen-st. [illegible] May 24.—*Hamer*, W. and *Bentley*, J. cotton spinners, Little Lever, near Bolton, and Manchester, May 31. Debts paid by Hamer.—*Hamilton*, J. and *Baines*, J. ship brokers, Liverpool, May 30. Debts paid by Baines. —*Hamann*, J. H. F. W. and *Kuper*, J. G. W. wine rope manufacturers, St. George's-terrace, Camberwell, May 31. Debts paid by Kuper.—*Handley*, T. and *Handley*, C. attorneys, Warwick, March 25. Debts paid by Handley.—*Jordan*, C. J. and *Dale*, W. general agents, Old Trinity-house, Water-lane, March 31.—*Luscombe*, T. *Bryant*, W. and *James*, E. coal merchants, Plymouth, May 31.—Debts paid by Luscombe.—*Patterson*, E. *Powell*, E. and *Field*, A. G. H. haberdashers, Church-st. Hackney, April 30.—*Powell*, E. B. and *Brayfield*, B. jun. maltsters, Tattenhall, Cheshire, May 30.—*Rosbach*, C. and *Hatty*, J. timber merchants, Hull, May 31. Debts paid by Rosbach.—*Rawson*, H. and [illegible], W. manufacturers, Leicester, May 26.—*Smart*, W. and *Pollett*, A. wholesale stationers, Old Fish-st. May 19. [illegible], J. jun. and *Hyde*, W. jun. ironmongers, Liverpool, April 30.—*Thelier*, E. and *Southworth*, J. coal miners, Orrell, near Wigan, May 27.—*Thompson*, J. and *Ellerbeck*, G. rock salt proprietors, Northwich, May 31.—*Trischner*, T. F. and *Conquest*, W. S. Russia brokers, Old Broad-st. May 30. Debts paid by Trischner.—*Watson*, W. G. *Tyrrell*, G. and *Cory*, H. white lead manufacturers, Narrow-st. Limehouse, June 2.—*Webb*, P. and *Irving*, J. starch manufacturers, Liverpool, May 31. Debts paid by Irving.—*Wickham*, T. and *Brooks*, C. carmen, Trinity Arms-yard, Swan-st. Newington, May 20. Debts paid by Wickham.—*Williamson*, J. and *Harrison*, F. dyers, Pendleton, May 31. Debts paid by Harrison.

Gazette, June 6.

Aldridge, J. and *Cribb*, J. corn merchants, Poole, March 31.—*Booth*, E. S. and C. and *Booth*, H. C. and W. F. stock brokers, Liverpool and Manchester, June 4. Debts paid by E. S. Booth.—*Bowly*, E. and *Perris*, R. brewers, Cirencester, May 31. Debts paid by Bowly.—*Brownless*, C. and *Dunlop*, J. brickmakers, Leeds, June 5.—*Byron*, J. and *Teasdale*, J. wharfingers, Hull, May 27.—*Clarance*, T. and *Downes*, J. jun. tea brokers, Billiter-st. June 3. Debts paid by Clarance.—*Clayton*, J. and T. woolstaplers, Bradford, June 2.—*Collinson*, W. and *Flint*, T. W. stock brokers, Hull, May 31. Debts paid by Flint.—*Crouch*, R. and *Page*, J. drapers, High-st. Whitechapel, June 3.—*Crowther*, J. and G. grocers, Bacup, May 30.—*Dobbs*, A. A. and *Steele*, C. H. wine merchants, Liverpool and Birkenhead, May 17.—*Eaden*, F. and A. spirit merchants, Cambridge, April 3.—*Eykyn*, R. and J. stock brokers, Change-alley, May 31.—*Finch*, G. W. and *Nash*, R. attorneys, Lincoln's-inn-fields, March 31. —*Gibson*, C. and *Pendry*, W. mercers, Hereford, March 31. Debts paid by Gibson.—*Haigh*, B. and *Beverley*, J. manufacturers, Barnsley, May 24. Debts paid by Haigh.—*Harrison*, R. and *Fairfax*, R. coach builders, Brook-st. New-road, June 4. Debts paid by Harrison.—*Hattersley*, J. and *Jackson*, W. spindle manufacturers, Leeds, May 31.—*Ibberson*, T. and *Jessop*, J. fancy waistcoating manufacturers, Halifax and Huddersfield, June 3.—*Jones*, D. and *Evans*, D. bankers, Lampeter, Cardiganshire, May 31.—*Osborne*, C. and *Jackson*, J. gun makers, Birmingham, May 17.—*Phillips*, E. and J. size dealers, Leeds, Jan. 31. Debts paid by E. Phillips.—*Primrose*, J. T. and *Hunner*, A. surgeons, Wimbledon, Aug. 1.—*Skelton*, W. H. *Mentha*, A. H. and [illegible], A. merchants, Manchester, May 1.—*Stabler*, T. and *Price*, S. tallow chandlers, Manchester, April 1. Debts paid by Stabler.—*Storey*, J. and *Lawrence*, J. stonemasons, Belton and Halton, Lancashire, June 2. Debts paid by Storey.—*Walls*, T. and W. and *Fisk*, T. cooks, Chelmsford, so far as regards Fisk, June 2.—*Ward*, E. and *Whitehouse*, J. colliers, Tipton, May 26.—*Whiston*, R. and *Barnsley*, J. soda-water makers, Birmingham, June 3. Debts paid by Whiston.

Insolvents

Petitioning the Courts of Bankruptcy.

PETITIONS TO BE HEARD AT BASINGHALL-STREET.

Gazette, June 9.

Brooks, G. assistant to a victualler, Stephen-st. Lisson-grove, June 18, at half-past eleven.—*Callan*, F. R. attorney's clerk, Islington, June 18, at twelve.—*Collis*, W. J. brush maker, Hunter-st. Dover-rd. June 18, at twelve.—*Denham*, J. architect, Ventnor, Isle of Wight, June 18, at twelve. —*Fish*, J. plumber, Trellick-ter. Vauxhall-rd. June 7, at eleven.—*Osborne*, J. Hitcham, Isle of Ely, June 11, at eleven.—*Levy*, D. tailor, Bennington's-row, Westminster, June 7, at one.—*Nash*, J. cattle-dealer, Haddenham, June [illegible] at one.—*Palmer*, J. bootmaker, Duke-st. West Smithfield, June 7, at half-past eleven.—*Parsley*, W. hat maker, Woolwich, June 18, at twelve.—*Rowe*, J. J. blood joiner, Bankside, June 18, at half-past eleven.—*Stallebrass*, W. baker, [illegible], June 18, at one.—*Stamford*, J. A. surgeon, Southwark, June 27, at eleven.—*Stewart*, A. H. penmaker, Hillingdon, June 27, at half-past eleven.—*Wright*, C. out of business, [illegible], New South Lambeth-rd. June 18.

COUNTRY.

Gazette, June 9.

[illegible] commission agent, Bradford, June 18, at [illegible] M. farmer, Stratbury, Skipp, June [illegible] —*Edmunds*, J. jun. ironmaster, [illegible] at eleven.—*Evans*, J. [illegible] Lincoln, June 18, at [illegible] Carlisle, June 18, at half-past [illegible] retired grocer, [illegible]

MEETINGS IN THE COUNTRY.

Barrowclough, J. [illegible], June 25, at twelve,

[illegible]

PETITIONS TO BE HEARD AT BASINGHALL-STREET.

Gazette, June 6.

Arnold, D. piano maker, St. Albans, June 18, at eleven.—*Branch*, G. bookbinder, Crown-court, Tudor-st. Salisbury-sq. June 26, at eleven.—*Guest*, W. V. publican, River Head, near Seven Oaks, June 26, at eleven.—*Holbrook*, H. tailor, Wilton-road, Pimlico, and Stockbridge-ter. Vauxhall-bridge-road, June 26, at eleven.—*Kirkham*, J. butcher, Pimlico, June 26, at eleven.—*Munday*, B. butcher, Lambeth-walk, June 26, at half-past eleven.

IN THE COUNTRY.

Jessop, R. C. bootmaker, Lincoln, June 17, at eleven, Leeds.—*Slade*, C. sadler, Ugborough, June 17, at eleven, Exeter.—*Yates*, W. W. cooper, Scarborough, June 17, at eleven, Leeds.

MEETINGS IN THE COUNTRY.

Buckeridge, R. July 8, at half-past twelve, Birmingham.

From the Gazette of Friday, June 13.

Bankrupts.

Wood, H. draper, Cheltenham.—*Hill*, J. licensed victualler, Hammersmith.—*Mobbs*, J. jun baker, Chichester. —*Green*, G. H. and G. C. wholesale stationers, Barge-yard, Bucklesbury.—*Squiers*, J. fruiterer, Ipswich.—*Wood*, W. and *Holmes*, J. tea dealers, Maidstone.—*Gibbons*, W. licensed victualler, Manchester.—*Clifton*, T. printer, Barnard Castle, Durham.—*Braithwaite*, J. innkeeper, Morpeth.

CONTENTS. Page.

THE REPORTS.

Equity Courts.

LORD CHANCELLOR'S COURT.

Wednesday, April 30.
Re DYNELY, a Lunatic.
Practice in lunacy—Leave given to the committee to oppose a railway bill.

Heathfield supported a petition by the committee of the estate for leave to oppose a railway bill before a parliamentary committee, upon the ground that the works would cut off certain springs belonging to the estate. The income the lunatic derived from this property was 636*l*.

The LORD CHANCELLOR.—The lunatic's estate is likely to be seriously injured if some means be not taken to prevent it. You may take the order in the form you ask for it.

Thursday, May 22.
Re STOCK, a Bankrupt.
Jurisdiction in bankruptcy—Taxation of costs—Commissioners—The Court of Review.

Kinglake applied to the Lord Chancellor, under the jurisdiction of the great seal in bankruptcy. There had been an error in the docket in the description of the bankrupt's residence, and on an application to the Court of Review a new docket had been directed, and also that the Commissioner (Evans) should tax the costs of the application, which were to be paid out of the bankrupt's estate. Mr. Commissioner Evans declined to take any steps in the matter, upon the ground that the matter had gone from his court to a higher tribunal. There being such a conflict of opinion, the parties made the present application.

The LORD CHANCELLOR.—Did the Court of Review suggest that such an application should be made?

Kinglake.—No.

The LORD CHANCELLOR.—I cannot make an order without first communicating with the Chief Judge.

May 22 *and* 23.
WHITE *v.* DOBBINSON.
Insurance—Contract of indemnity—Double payment—Award—Injunction—Lien.

An insurance on shipping is merely a contract to indemnify the insured against loss, and therefore when compensation for loss or damage has been received from other parties, the underwriters are discharged from all claim by the insured; and where the underwriters have paid the loss, and the assured party afterwards obtains compensation from other persons, the underwriters will have a claim to be repaid what they have paid under the policy, which claim they can enforce in equity. Persons under such circumstances will be restrained by injunction from receiving double compensations without providing for the underwriters' lien.

This was an appeal by the defendant Hicks against an order of the Vice-Chancellor of England, which restrained Hicks from receiving, and Messrs. and Co. from paying, a sum of 800*l*. which had been awarded in respect of damages done to the ship *Diana*, without first paying or providing for the sum of 205*l*. in respect of which the plaintiff claimed to have a lien on the sum so awarded.

The facts were these:—The defendant Hicks being the owner of the ship *Diana*, had effected an insurance upon her with the Port Marine Insurance Company for 600*l*. Dobbinson and Co. were owners of a ship called the *Xenophon*. In October, 1842, a collision occurred in the north seas between the *Diana* and the *Xenophon*, in which the former suffered so much injury that she was obliged to put into a Prussian port to refit, at the cost of 950*l*. for repairs, besides other expenses and losses occasioned by the delay. The *Diana* was also insured with the Forth Insurance Company, and soon after the accident Hicks settled with the Port Marine Insurance Company, as for an average loss, and received from that company the sum of 205*l*. in full for all claims under their policy. Hicks afterwards brought an action against Dobbinson and Co. (the owners of the *Xenophon*) for the injury done to the *Diana*, and the consequential losses, which before trial was referred to arbitrators, who awarded that Messrs. Dobbinson should pay 800*l*. to Hicks. The plaintiff, who is the officer of the Port Marine Insurance Company, then claimed to have a lien upon the sum so awarded, to the extent of the sum the company had paid to Hicks, upon the ground that the insurance was only a contract of indemnity against loss, and that when the owner of the *Diana* had received full compensation for damage from the owners of the *Xenophon*, he became trustee for the company to the extent of the sum they had paid in respect of such damage. On the plaintiff's motion the Vice-Chancellor of England granted an injunction as above stated. The defendant Hicks now moved by way of appeal to discharge that order. Hicks had assigned to the Newcastle Bank as a security for 900*l*. whatever should be recovered from the owners of the *Xenophon*.

Walker and *Anderson*, for the defendant Hicks.—They contended that the sum awarded was for damages and losses not covered by the sums received from the underwriters, which sums the arbitrators must have taken into their consideration. They cited *Randal* v. *Corkran* (1 Ves. sen. 98); *Blaauwpot* v. *Da Costa* (1 Eden, 130); *Brook* v. *M'Doual*) 1 Young & Collyer, Exchequer, 300); *Cullen* v. *Butler* (5 Maule & Selwyn, 461).

LORD CHANCELLOR.—I granted on this motion that Hicks has had a complete indemnity for the loss sustained by the collision awarded to him by the arbitrators; if they have not, he should have taken means to set aside the award. As it appears on this motion, Hicks submitted the whole case to the arbitrators, and they have given him a full indemnity. He is fixed by the award. In the present state of the case, I must consider that he has submitted to judges of his own choosing, and they have given him full compensation.

Walker.—*Tulloch* v. *Edwards* (12 East, 488) shews that a person may be entitled to double compensation. The settlement with the insurers was a final one, and the arbitrators must have considered the payment made by the company in estimating the sum awarded.

The LORD CHANCELLOR.—I consider that the arbitrators did not take into their consideration the payment by the company, and that they gave Hicks a full indemnity. What is an insurance but a contract of indemnity? Then Hicks having received a full satisfaction under the award, what right has he to retain money received from the insurance office as an indemnity for damage? I am rather inclined to rely on the award of the arbitrators, because they had all the facts and evidence before them, or they decided upon statements agreed to by the parties. If Hicks had received an indemnity before the payment of the money by the company, it would clearly have been contrary to equity that he should retain that money. Parke on Marine Assurances says, that a contract to insure is one of indemnity only, and that the insured shall not receive double compensations for a loss; but in case the loss has been paid, and the insured afterwards recovers the amount of damages from another source, the insurers shall stand in his place to the extent of the sum they have paid. That corresponds with the opinion by Lord Abinger in the case in the Exchequer.

Walker.—In *Henson* v. *Blackwell* (9 Jurist, 390), very recently decided by Vice-Chancellor Wigram, the principle of double payment was affirmed. There it was held that a creditor might receive the amount of an insurance effected on his debtor's life without accounting for the sum so received in reduction of the debt.

Anderson.—The bill states that the award is a compensation for the damages done to the ship only, which amounted to 1,047*l*. and that the consequential loss was 1,200*l*. There is a distinction between total loss and full satisfaction on the part of the insurers, and partial loss and average payment for compensation. The last case is in the nature of a compromise. Even if the plaintiff's claim is right, his only course is an action for money had and received.

Romilly and *Wood*, for the plaintiff, contended that all the cases shew than an insurance is only a contract for indemnity, and that where an insured party has received a sum for his loss from another quarter, the underwriters will be discharged; and it was indifferent in what order the money was received, for in all cases the party receiving twice for his loss is bound to account to the insurers. The award in this case was for both the damages to the ship and the consequential injury, otherwise it was wrong, and might have been set aside. Hicks should have provided by the terms of the reference for keeping distinct the sums awarded in respect of these two subjects, had he deemed it important; and not having done so, he cannot take advantage of any difficulty or confusion created by his own act.

The LORD CHANCELLOR.—I think that, for the purposes of this motion, I must assume that the arbitrators have given him full satisfaction.

Romilly.—Even if the plaintiff could have maintained an action, which is doubtful, that would not take away the concurrent jurisdiction of equity, for Hicks is a constructive trustee for the plaintiff to the extent of the sum paid by the company.

The LORD CHANCELLOR.—A great many inquiries will be necessary in the cause before a decree can be made. There must be an inquiry as to the amount the arbitrators have awarded under the two heads, of damage, and consequential injury.

Romilly.—*Yates* v. *White* (5 Scott, 650); S. C. 4 Bingham New Cases; *Ex parte Andrews* (2 Rose, 410); S. C. 1 Mad. 573. If defendant relied on the objection of want of equity, he should have demurred to the bill.

The LORD CHANCELLOR.—After Lord Abinger had sat for some time in equity, he expressed an opinion that the assured receiving double satisfaction would be a trustee for the insurers.

Romilly.—We are willing that the amount should be paid into court.

Wood cited *Godsol* v. *Boldero* (9 East, 71); *Humphrey* v. *Arabin* (1 Ll. & G. 318); 2 Parke on Marine Insurance, 905.

Chandless, for Dobbinson and Co.

Walker, in reply.

The LORD CHANCELLOR.—On this motion I will not allow the claim of the Newcastle Bank to affect my decision. That security was taken subject to all the equities which would have affected the money recovered in the hands of Hicks himself. The decision on the main question in the present motion, must be founded on the assumption that the arbitrators have given complete compensation for damages done to the vessel. The underwriters undertake to indemnify the insured against losses if not otherwise paid; but when those losses have been paid, the insured has no claim against the insurers. Here the company have paid for a loss, for which the insured afterwards obtains full satisfaction, and it is contrary to equity that he should retain the money. The underwriters have a claim upon the fund awarded, and are entitled in some shape or other to recover back the money they have paid. The question as to the mode of proceeding to recover the money was raised in a very inconvenient form upon an interlocutory motion. But it had been decided that the Court had jurisdiction to entertain such a suit as the present; and after the cases cited, in which we have the clearly expressed opinions of Lord Hardwicke and Lord Northington, recognized by Mr. Baron Parke, and more recently by Lord Abinger, who at that time possessed considerable experience of the practice in equity, from having presided for several years on the equity side of the Court of Exchequer, I think I ought not, on a motion of this kind, to refuse to entertain the jurisdiction. As to the form of the injunction, the parties may consent to have the sum claimed laid out in Exchequer-bills. I must affirm the decision of the Vice-Chancellor with costs. The costs of Dobbinson and Co. must be paid out of the sum awarded, and the bill dismissed as against them.

VICE-CHANCELLOR OF ENGLAND'S COURT.

GARDNER *v.* MARSHALL.
April 29, *May* 3, *and May* 6.
Practice—Exceptions to Master's report—Bankruptcy of husband—Unsettled property of wife, to what extent, and under what circumstances, protected from the claims of assignees.

G. upon various occasions subsequently to his marriage, received several sums of money from his wife's father, amounting to about 6,000l. which were appropriated by G. to his own purposes. The wife's uncle by his will gave her a life interest in the residue of his property, with remainder to her children, subject to a certain annuity. The trustees of this fund advanced the whole of it to the husband and secured it by a mortgage of his brewery and plant, subject, however, to a prior mortgage of 12,000l. whereby the security became inadequate. The property so advanced by the

trustees was found to amount to about 5,340l. and upon a sale of the brewery and plant, the produce of such sale was found to be insufficient by 900l. to meet this demand. Under her father's will the wife was entitled to the residue of his estate, subject to an annuity of 250l. and this interest she had been induced to assign to the trustees for their protection in their advances of the trust fund to her husband. The husband became a bankrupt, and the interest of the wife out of her father's estate after the death of the annuitant was represented to be but trifling. No settlement had ever been made upon the wife, either out of her own property or that of her husband, and the husband being wholly incompetent to maintain his wife, who with a large family had been living upon her own exertions, aided by the liberality of her friends, a bill was filed on behalf of the wife by her next friend, against the assignees of the husband, praying a settlement out of the property in question, and for an injunction. Upon a reference to the Master, to find what proportion the wife was entitled to out of the bankrupt's estate, he reported that the whole of the fund of 5,340l. ought to be settled upon the wife. To this report the defendants excepted. Held, that the Master was right in his conclusion, and that, under the circumstances of the case (to whatever extent the authorities upon the subject had gone), the wife was entitled to have the whole fund settled upon her.

From the Master's report it appeared that the plaintiff's husband, J. Gardner the elder, had had the sum of 6,000l. advanced to him by one of his wife's relatives, no part of which was settled upon her, but was appropriated entirely for his own purposes. Under the will and codicil of William Haydon, Mrs. Gardner was entitled to a life interest out of certain personal property, with remainder to her children absolutely. After the death of William Haydon, the trustees of his will advanced the whole of this property in which Mrs. Gardner had a life estate to her husband upon a mortgage of the brewery, with the fixtures and plant, which, however, was subject to a prior mortgage of 12,000l. About the month of March 1833, the then infant children of Mrs. Gardner, by their next friend, filed their bill against J. Gardner, the elder, and the trustees of the will of W. Haydon, on the ground of the insufficiency of this security, and praying that the trustees might secure to them the deficiency; and it was by a decree in the suit declared that the sum of 5,339l. 15s. 2d. was the clear residue of such personal estate; that new trustees should be appointed, and that the premises should be duly assured and conveyed to them, which order was carried into effect.

After the sale of the brewery, and satisfying former incumbrances, it was found that the residue was inadequate to satisfy the debt of 5,339l. 15s. 2d. there remaining only 3,621l. for that purpose, in addition to the sum of 894l. 10s. 6d, the valuation of the plant, &c.

By a deed dated 9th August, 1834, Mrs. Gardner charged all her interest under the will of Richard Haydon, named in the pleadings, for the purpose of making good any deficiency in the shares of her children under William Haydon's will.

By another indenture, G. C. Haines and Henry Marshall, having lent to J. Gardner, the elder, the sum of 800l. he thereby covenanted for the repayment of it, and it was declared that G. C. Haines and Henry Marshall should stand interested in (among other securities) the said Sarah Gardner's shares and rights under the will of Richard Haydon.

Under this will she was entitled to a life interest, which had not, by reason of the several advances and charges for her husband's benefit and to pay his debts, ever been of any service to her.

In 1840 a fiat in bankruptcy was issued against J. Gardner, the elder, since which period Mrs. Gardner had been without the means of supporting herself and family except by her own exertions and the bounty of her friends, she receiving little or no assistance from her husband during that period, they having lived separate for several years.

The Master certified that, having regard to the large amount of property which J. Gardner, the elder, had received from the estates of his wife's relations, and to her entirely unprovided condition, also her former circumstances in life, the interests, dividends, and proceeds of the residue of the personal estate of William Haydon, amounting to 5,339l. 15s. 2d. when raised, should be settled upon the wife for her separate use, free from the control of her husband, and with out power of anticipation.

This report was excepted to, and the question now raised was, whether, upon equitable principles, the Court would protect the wife's claim to such an extent as to direct a settlement of the whole of the wreck of her fortune upon her against the claims of her husband's creditors.

Anderton and *Freeling*, in support of the exceptions, urged that as the wife and her children would have been benefited by the husband's success in business, the creditors' claims ought to be regarded as well as that of the wife; at any rate, the whole amount ought not to be appropriated as suggested by the Master, and cited the cases of *Wright* v. *Morley* (11 Ves. 7; *Beresford* v. *Hobson* (1 Madd. 362); *Ex parte Thompson* (2 Mon. & Ayr.); *Coster* v. *Coster* (9 Sim. 597); *Barden* v. *Deal* (2 Ves. jun.)

Bethell and *Rolt*, for the Master's report, submitted that the assignees could only claim all that the husband was entitled to out of his wife's property, which amounted to nothing, so long as he was himself a debtor to her estate.

Cases cited: *Oswell* v. *Probert* (2 Ves. jun. 679); *Watkyns* v. *Watkyns* (2 Atk. 96).

Walker, for the trustees.

Hetherington, for the children.

Monday, May 5.

JUDGMENT.

The VICE-CHANCELLOR.—In the case of *Coster* v. *Coster* (9 Sim. 597), the Court felt itself called upon to give the husband only one-fourth of his wife's property. I there conceived that the wife ought to have three-fourths out of the property bequeathed to her, and that the Court in every such case should exercise its own discretion; but no case has arisen in which it has been expressly laid down as a fixed rule, what shall be the proportionable amount of the wife's property reserved to her. It must be guided by circumstances; and in so doing, it will take into consideration what is the amount of the wife's fortune; what portion the husband has already received, and what are the means left for the wife's maintenance. If the husband has already appropriated to himself the greater portion of her property, then the question arises, as precisely in the present case, what shall be done with the residue? After the marriage, it appears that the father advanced, at different times, to the husband various sums, amounting to about 6,000l. and by him appropriated to his own purposes, so that, although there was no actual settlement made at the time of the marriage, which took place in 1815, yet it, in effect, amounted to one. Then, as to the amount of property which she derived from her uncle's will, that was considered to be about 5,339l. for which no adequate security had been given. With respect to the husband's continuing to live with his wife, I think that desertion, on his part, would have been far better, for any assistance which he might render her by way of maintenance; for as he was not in a situation to aid her in procuring the necessary means of subsistence, she was, out of her own exertions and the bounty of her friends, compelled to maintain him. I am of opinion that the Master was quite right in coming to the conclusion he did, namely to have the whole of the miserable remnant of the wife's fortune settled upon her; and if there be no precedent for such a case, I will make one. *Exception overruled.*

ROLLS COURT.

Friday, May 2.

CROSS *v.* CROSS.

Infant—Next friend—Inquiry as to which of two suits is most for infants' benefit—Costs.

One suit is instituted by a person interested to carry out an arrangement respecting partnership property, of which infants were entitled to a share, and another suit is proposed to be instituted by a next friend of the infants, objecting to the arrangement, and on a reference to the Master, he found that the proposed arrangement was for the infants' benefit, the next friend in the second suit was nevertheless held entitled to his costs, though no fault on examination could be found with the conductor of the first suit.

Mr. Cross was in partnership with Mr. Sewell as general warehousemen, and was entitled, as was supposed, to a large sum of money in respect thereof. On his death, his wife, Mrs. Cross took out administration to his estate, and on the 24th of June, 1842, entered into an arrangement with Mr. Sewell, whereby he was to pay her 15,000l. in full of all demands of her late husband on the partnership. This arrangement, however, could not be carried out effectually without a suit, as there were infants interested. Accordingly Mr. Sewell instituted a suit, but a Mr. Chapman objecting to the arrangements, and imputations of fraud, &c. being thrown out, a fresh suit was proposed to be set on foot by Mr. C. as next friend of the infants; and thereupon a petition was presented for a reference to the Master. The petition stated all the details, and prayed a reference to the Master to inquire whether the arrangement of June 1842 was a fit and proper arrangement, and whether steps should be taken to open up the settlement with Mr. Sewell. All parties attended in the Master's office with their respective accountants, &c. and the Master being satisfied that the arrangement was proper, notwithstanding the imputations, none of which were proved, so reported, and the present petition prayed a confirmation of that report, and a reference to tax the costs, and for payment thereof.

Kindersley (with him *Glasse*), for the petition.

Turner (with him *Baily*), contrà, objected to the payment of the costs of the reference out of the estate, amounting to nearly 200l. There was no ground for it on the Master's report. All the charges were shewn to be unfounded, on a careful examination of all matters by the parties, attended by their accountants.

Roupell, for defendants, George and William Cross.

Kindersley, in reply, said it was a contest between two suits, and it was not so unreasonable a proceeding on the part of Mr. Chapman to act as he did, that he should have to pay the costs out of his own pocket, inasmuch as Mr. Sewell had filed his bill to carry out the arrangement, and he was an interested party.

The MASTER of the ROLLS.—On the one hand, there is danger of encouraging litigation by strangers on behalf of infants; and on the other hand, of deterring persons from undertaking the office of next friend; so that there is danger of an unsatisfactory conclusion. Cross and Sewell were partners, and an arrangement was entered into to pay a fixed sum to the representative of Cross. But infants were interested, and therefore this arrangement by the representative of Cross was not valid. It was conceived that there was something wrong in the arrangement, and that there were errors in the accounts, &c. The arrangement being made, two suits were the consequence; one maintaining the arrangement to be correct, the other impugning it. There being two separate next friends, an inquiry was directed as to which of the suits was best for the infants, and the Master reported in favour of Mr. Sewell's. There must have been something to induce him to say so. The matter then comes here, and the petition is found to contain imputations unfounded in the result; but the reference was only as to whether the arrangen[illegible] and proper, &c. and not as to whether there was fraud or not. The Master, however, reported on the allegations in the petition, and stated that no fraud was proved, though that was no part of the subject of reference. It turns out, however, that the investigation was fit and proper; and therefore, in this, as in other cases, as there appeared ground for inquiry, though it is expensive, I shall allow the costs out of the estate.

Tuesday, May 6, and Thursday, May 8.

Re BRACEY.

Taxation of costs—Special application—Order of course—Signing.

Hardy, on behalf of a mortgagor, made a special application on petition for the taxation of a bill of costs of the mortgagee. He said, the application being by a third party, his client had been informed by the secretary that such was the rule in such a case, by an order at the Rolls. A further ground for the application also was, that till the case of *Re Pender* (5 Law T. 170), the bill not being signed was thought not to be taxable.

Turner, contrà.

The MASTER of the ROLLS.—I shall inquire as to the rule you allude to, Mr. *Hardy*; but if it turns out that a common order only is necessary, you must pay the costs of this petition.

May 8. The MASTER of the ROLLS.—The case was this: there was a sum of money deposited to abide the result, and the bill was to be submitted to taxation, or to be the subject of an arrangement. The person who applied at the secretary's office could not explain the nature of the arrangement, and the secretary thought it ought not to be the common order of course, because of the alternative. It turns out, however, that no arrangement could be come to by the town agents to whom it was referred, and therefore it is the same as if there had been no such alternative proposed. So that it ought to have been the common order.

Thursday, May 8.

FOX *v.* WHITMORE.

Practice—Contempt for want of an answer—Commitment—Taking a bill pro confesso—Discharge.

Although a prisoner in contempt for want of an answer is entitled to his discharge after the time allowed by the 11 Geo. 4 & 1 Wm. 4, c. 36, s. 15, r. 13, has expired, without his being brought up by habeas corpus, to have the bill taken pro confesso against him, still if justice cannot be done without detaining him, the Court will do so.

In this case the defendant was imprisoned in the gaol of Derby on the 16th of January last, and on the 31st of the same month was brought to the bar of the court by *habeas corpus*, and committed to the Queen's Bench Prison. Reckoning from the 16th of January, the time within which he could be brought up on a *habeas corpus*, to have the bill taken *pro confesso* against him, under the 11 Geo. 4 & 1 Wm. 4, c. 36, s. 15, r. 13, expired on the 27th of April, and as the plaintiff had not so brought him up, the defendant was entitled to be discharged. Accordingly,

Teed moved that he be discharged, without costs, in the usual way.

Turner, contrà.—The defendant says he is a pauper, and therefore his case comes within the 6th and 7th rules of the 15th section of the Act, by which he is to be discharged, having done such acts as the Court directs. [The MASTER of the ROLLS.—You have not obtained an order to take the bill *pro confesso*.] No; we want an answer from the defendant as to whether there was any settlement of certain estates by him on his marriage. These estates are in

mortgage, and the suit being a foreclosure suit, if we were to obtain a decree, it would be inoperative, there being a settlement, and we having notice of it. This consideration takes the case out of the 13th rule. But even if that were not so, the time did not begin to run till he was lodged in the Queen's Bench Prison, by order of the Court, that is, on the 31st of January; so that the time for his being discharged from custody will not be till the 12th of May. Besides, during the pendency of the reference to the Master, and the Master's inquiry as to the fact of his poverty and inability to put in his answer, the time does not run. (*Barnewell* v. *Cooke*, 7 Simons, 320; *Bates* v. *Frost*, 9 Jur. 91.)

Teed, in reply.—If, after the defendant has been two months in any custody, the plaintiff neglects for six weeks to take the bill *pro confesso*, the defendant is absolutely entitled to his discharge. (*Collins* v. *Collyer*, 1 Cr. & Ph. 262.) Any time after the 16th of March the plaintiff might have moved to take the bill *pro confesso*.

The MASTER of the ROLLS.—Few of these cases are cases of compassion; generally they are cases of obstinacy, and unwillingness to obey the orders of the Court. If in this case any arrangement could be made to discharge the prisoner, it would be satisfactory to all persons. No doubt the 6th and 7th rules, &c. relating to a pauper, give an opportunity to the defendant of being discharged as soon as he performs his duty; they proceed on the supposition of there being willingness but inability on his part. The other rule is a spur on the plaintiff, and entitles the defendant to his discharge unless the plaintiff uses diligence. But that does not deprive the plaintiff of his right over the defendant, for he may be again attached and imprisoned, and the whole process may be gone through again. It is not necessary to say whether the two months are to be affected by the time of the reference to the Master to see if the defendant is unable to put in his answer from poverty. It is reasonable that it should, however. I assume that the plaintiff, if he had so desired, and did not want to have an answer, might have proceeded to take the bill *pro confesso*. If he had thought proper, he might have obtained the *habeas* in proper time; but not having done so, the plaintiff is entitled to his discharge, unless the Court see good cause to the contrary. This power is to be exercised by the Court on the motion of the plaintiff, at the time, it may be, of the motion being made to discharge the defendant; and accordingly here is the plaintiff making such application. There is enough to shew that justice cannot be done without detaining the defendant.

WESTON *v.* ROBINSON.

Action at law—Injunction—Breach of covenant.

The defendant demised certain land, of which he was owner, to the plaintiff, with covenants to build, &c. and the next day the plaintiff mortgaged to the defendant. The covenants were not performed by the plaintiff, and an action at law was brought against him by the defendant, to restrain which he filed a bill, and obtained a common injunction. Afterwards, an order *nisi* to dissolve being obtained by the defendant, cause was now shewn against it by

Bilton, for the plaintiff.—The action at law was commenced by the defendant, who is both mortgagee and lessor, on the 27th of June last, but is not now being proceeded with, the rent and costs having been tendered.

The MASTER of the ROLLS.—What, then, is the dispute, if the defendant is not proceeding with the action?

Willcock, for the defendant.—The bill is filed and the injunction obtained restraining us from bringing *any* action whatever at law, not an action merely on the covenants, for breach thereof. Now we are both mortgagee and lessor, and though we do not seek to proceed in the action for the breach of covenant, yet we are desirous of pursuing our remedies as mortgagee, and we are restrained from doing so by the form of the injunction, which is unlimited. All we want is liberty to act on our rights as mortgagees

The MASTER of the ROLLS.—Continue the restraint as to forfeiture in respect of the breach of covenant, leaving the defendant at liberty to proceed as mortgagee.

VICE-CHANCELLOR KNIGHT BRUCE'S COURT.

Saturday, May 3.

Re ALCOCK.

Solicitor and client—Taxation of costs.

Where a bill of costs had been paid under pressure, the Court considered it a sufficient special circumstance to refer the bill for taxation under the 41st section of the Attorneys and Solicitors Act.

This was a petition to tax a solicitor's bill of costs under the following circumstances. Certain freehold and copyhold property had been mortgaged, and was subsequently, upon a further sum being advanced upon it, conveyed and surrendered to the new mortgagee, upon trusts for sale and payment out of the produce of all the moneys then due to others and to himself, and for the payment of the balance to the mortgagor, and upon further trust to reconvey to the mortgagor such portions of the property as should not be required to be sold. The mortgagor died intestate, leaving Mrs. Wilkinson, one of the petitioners, his heiress-at-law, and she also became his personal representative. During the lifetime of the mortgagor, his solicitors sent to him their bill of costs in respect of the last-mentioned mortgage security, amounting to 39*l.* 17*s.* 5*d.* and after his decease the bill was again sent in. Mr. Wilkinson and his wife executed a power of attorney to Mr. Haworth, another of the petitioners, to sell the real and personal estate of the mortgagor, and to apply the same in a due course of administration. Notice was served, in the name of Mr. and Mrs. Wilkinson, upon the last mortgagee, of their intention to pay off the mortgage moneys at the end of six months. Mr. Wilkinson and his wife then conveyed all their interest in the real estate to Haworth, upon trusts for sale and payment of the incumbrances, &c. Haworth sold the estate in parts to nine purchasers, freed from the incumbrances; but the last mortgagee, who had the legal estate, being a necessary party to the conveyance, the drafts of the conveyance were sent to his solicitors, accompanied by a request that their bill of costs might be sent in within a reasonable time before the day on which the six months' notice expired. Two days before that day, viz., on the 11th of January, 1845, the bill was sent in amounting to 152*l.* 3*s.* 4*d.*, the first item of which was, "bill allowed, 39*l.* 17*s.* 5*d.*," being the bill before mentioned. The parties having met on the 15th of January, to complete the purchases, the mortgagee's solicitors refused to permit the redemption of the estates until payment of the principal and interest and their bill of costs. The petitioners' solicitor accordingly paid the full amount, but at the same time protested against the first and several other items in the bill. This petition was presented on the 22nd of March, 1845, stating the above facts, and complaining of several items in the bill, and praying that the bill might be taxed, and that the solicitors might refund what might be found to have been overpaid.

Russell and *Metcalfe*, for the petitioners.

Simpkinson and *Heathfield*, for the respondents, relied upon the cases of *Re Thomson* (Law Journal, 29 Jan. 1845) and *Ex parte Andrews* (8 Jurist, 327).

The VICE-CHANCELLOR said that, if he thought that the Lord Chancellor in *Ex parte Andrews* had intended to lay down any general rule that in such a case as this it was necessary to enter into a consideration of the items of the bill, he should probably enter into such consideration. But he did not think that his lordship had done so, and he would therefore say that without making a single observation or offering any opinion upon the items, the bills must be referred. He should direct the taxation upon the ground of pressure, not for a moment suggesting or intimating any opinion that that pressure was improper, but still there was pressure. Protest in itself was not material, but coupled as in this case with other facts, it was a circumstance to be considered. The reference must go to the master without any intimation of his honour's opinion upon any of the items or the principle of the bills, and without any expression of opinion whether or not the bills would be much or at all reduced.

Monday, May 26.

EDWARDS *v.* BROWN.

Reversionary interest—Sale—Trustee.

Circumstances under which the Court set aside a sale of a reversionary interest, for an inadequate price, to the tenant for life of the whole of the property, and trustee of a portion of it.

The plaintiff in this case having a reversionary interest in landed property at Torquay, and in personal property, sold it, in Nov. 1835, for 1,700*l.* to the tenant for life, who was also, as the executrix of the testator, trustee of a portion of the property. This bill was filed to set aside the sale, and prayed also that the conveyance might be declared to be a security only for the repayment of the consideration money with interest. The evidence in the cause shewed that the full value had not been given.

Wigram and *Prior*, for the plaintiff.

Russell and *Bird*, for the defendant.

The following cases were cited: *Gowland* v. *De Faria* (17 Ves. 20); *Hinksman* v. *Smith* (3 Russ. 433); *Aldborough* v. *Fryer* (3 Cl. & Fin. 436); *Bantree* v. *Watson* (3 Myl. & Keen, 333); and *Shelly* v. *Nash* (3 Madd. 232).

The VICE-CHANCELLOR.—In estimating the value of a reversionary interest of this description, the apparent amount of the property is plainly not all that is to be considered. The nature, position, and variety of the particulars of the property are, beyond all doubt, to be taken into consideration, in estimating the value of the interest sold. It is probably true that the landed interest in and about Torquay, has been progressively increasing in value since 1835. It is probably true also, that the purchasers from the defendant, from circumstances in which they were placed, gave, from personal reasons, very high price for their purchases. It may further be assumed as true, or as highly probable, that, circumstanced as this property was, the plaintiff would have found it an extremely difficult and expensive matter, by reason of making out his title, and furnishing abstracts, to effect a sale of his interest at a fair price to a stranger. After, however, giving all the weight due to each consideration, I have found it impossible, in my judgment, to reduce the fair value, the proper market value of the interest sold in 1835, to so low a sum as 1,900*l.* The price given was 1,700*l.*; and I think that on a sale of a reversionary interest by private contract, the difference between 1,700*l.* the money given, and 1,900 (so low as which I am unable, on the materials before me, to estimate the market value in 1835), even that sum of 200*l.* difference is material. Whether, however, of necessity, and in all cases, such a proportion of difference would be decisive, I do not say. The plaintiff, a young man, at the time of the sale under twenty-three years of age, not probably embarrassed in his circumstances, but certainly straitened, very desirous of having the command of money, having no property but this, very probably under no pressure for money, nor in debt, except that in November, 1834, four or five months after he attained majority, he borrowed 250*l.* on security of this property, and the whole was, as far as can be collected, expended before November, 1835, and no explanation was given why it was so. These circumstances are not to be disregarded; and it is to be added to them that of a considerable portion of the property, the reversionary interest in which was sold, the purchaser herself was the trustee, as being the executrix of the testator, under whose will the property was derived, and that she was the tenant for life of the whole of that property. Taking all these circumstances together, I am of opinion that this dealing for a reversionary interest by private contract, as the plaintiff questions it, cannot be allowed to stand, and as no time has elapsed to bar him, nor has his conduct been such as to preclude him, he is entitled to relief. The decree will, therefore, be, that the plaintiff, undertaking not to question the sales made by the defendant, declare that the deeds of sale to the defendant, dated in 1835, ought to stand as securities only for the payment of the sum of 1,700*l.* and such interest and sums of money as ought to be paid to her by the plaintiff, subject to such deductions as he may be found to be entitled to make thereout.

WARREN *v.* POSTLETHWAITE.

Signing—Publication of a will, what amounts to.

An acknowledgment or declaration by a testator in the presence of witnesses that an instrument is testamentary, amounts to a publication of that instrument as his will.

By a settlement, dated in February, 1832, and made upon the marriage of Mrs. Postlethwaite, certain property belonging to her was assigned to trustees, and she had a power reserved to her to dispose of it by any deed or deeds, instrument or instruments, in writing, to be by her sealed and delivered in the presence of, and to be attested by, two or more credible witnesses, or *by her last will and testament in writing, or by any codicil thereto duly signed and published in the presence of two or more credible witnesses*, and in default of appointment, the property was to be held in trust for her next of kin. Mrs. Postlethwaite made a will, at the foot of which she signed her name and affixed her seal; then followed the signatures of three of her domestic servants; and underneath was the following memorandum in the testatrix's hand-writing:—"Signed and sealed at Hamburgh House, this 23rd day of July, 1834, in the presence of the above witnesses, all servants in the house." Two days afterwards the testatrix died. The question was, whether the will had been "duly published," so as to render it a valid execution of the power. Evidence of a conflicting nature had been gone into, as to the words made use of by the testatrix at the time of the execution of the will.

Swanston and *D. James*, for the plaintiff.

Freeling, Torriano, Bazalgette, Maule, Fisher, and *Willcock*, for the several defendants.

The following cases were cited: *M'Queen* v. *Farquhar* (11 Ves. 467); *Bainbridge* v. *Smith* (8 Sim. 86); *Wright* v. *Wakeford* (17 Ves. 458); *Doe* v. *Burdett* (4 Ad. & Ell. 1); *George* v. *Riley* (2 Curt. 1); *Allen* v. *Bradshaw* (1 Curt. 110); and *Pennant* v. *Kingscote* (7 Jurist, 754).

The VICE-CHANCELLOR.—How this case would have stood if the language of the power had required an attestation, it is not necessary for me to give an opinion. The language of the power requires only that the will shall be duly signed and published by the lady in the presence of two witnesses. It does not require sealing. An instrument is produced in the form of a will which is admitted to have been signed by her, and the names of three witnesses are also upon it. That she signed this with a testamentary intention appears clear, and could not reasonably be disputed, and has not been so. The first question is, did she sign it in the pre[sence] of two witnesses? There is at the foot of the instrument a memorandum [w]hich is admitted to b[e] in her hand-writing, "signed and sealed at Hamburgh House, this 23rd day of July, 1834, in the presence of the above witnesses, all ser-

vants in the house." The lady died two days afterwards. It is, as I have said, signed by her; and there is also the impression of a seal placed close to her signature. Now, whether the signatures of the witnesses are or are not to be connected with this attestation, it is immaterial, I think, to decide; I do not decide it. However that may be, this memorandum in her handwriting shews that her mind was addressed to the materiality or the prudence of signature being in the presence of the witnesses. If, according to the argument of some of those who oppose this instrument, this memorandum is to be considered as connected with the signatures of the witnesses, as far as the witnesses are concerned, then, the probability is increased that the signature was in their presence, because then they at least would have acknowledged that the signature was in their presence. I do not decide that point; for I am clearly of opinion, both upon principle and upon the highest authority, that where an attestation is not required, the mere circumstance that there is an attestation, specifying certain things, does not exclude evidence that other things were done besides those which are attested. For these reasons I do not decide that the signatures of the witnesses are or are not to be connected with the memorandum of attestation below those signatures. It being then probable, from the circumstances of the case, of which there is no question, and especially from the circumstance that this memorandum was written by the testatrix herself, that she did sign it in the presence of the three witnesses, or two of them, is that assumption inconsistent with the testimony of the witnesses taken together? I think that it is not. Taking the depositions of the three witnesses together, the probability that she actually signed, and not merely acknowledged her signature, in the presence of three or two of them is rather increased than diminished. I give, therefore, no opinion whether, in the case of a power such as this is, an acknowledgment of a signature is or is not equivalent to a signature. The just conclusion, in point of fact, from this document and from what the witnesses state, is, that it was signed by this lady in the presence of two witnesses. The next question is, whether it was *published* by her in the presence of two witnesses. It may be difficult to give an exact or full definition of the term "publication" used in the testamentary sense, but the authorities, I think, warrant me thus far, that whatever else, if any thing else, may be a publication of a will, it is a publication if a testator in the presence of witnesses acknowledges or declares an instrument to be testamentary. The question then is, whether it is the just inference from the document and the evidence that the testatrix acknowledged and declared this instrument to be testamentary in the presence of two witnesses. It is not to be expected that witnesses in this situation of life, or indeed in any condition of life, if not belonging to the profession of the law, should, at a distance of ten years, be able to say whether the expression used was "deed" or "will," or what was the exact and precise course of facts that took place, or the strict tenour of the words used. It is not to be expected. It would be dangerous, however, in a case of this description, to examine too closely and with too much minuteness the statements made upon the recollection of such circumstances as these at a great distance of time, where there is no imputation and no suspicion of fraud. It is clear, from what the witnesses say, that the testatrix summoned them for the purpose of effecting and completing a formal act of business. She seems, so far as one can collect from this instrument and from the circumstances, to have been a woman of good understanding and a woman of business. She was alive to the necessity of there being witnesses, or at least to its prudence; and it is quite clear that she did in some manner call the attention of the witnesses to the circumstance that it was a formal instrument, a matter of business affecting property, that they were attesting. Is it, then, a fair and reasonable inference from the circumstances that she misdescribed the instrument, or that she mentioned it to them as otherwise than it was? The probability is, that she mentioned it to them as it was. I am of opinion, that as, from the testimony of witnesses, it is not necessary to suppose she misdescribed the instrument (and in some manner she did describe it), so that testimony, in my opinion renders it reasonable to conclude that she did accurately describe it. I am of opinion, from the evidence, that the just conclusion is, that she signed this instrument as her will in the presence of two witnesses, and that, by declaring it in the presence of two witnesses to be her will, she published it, and therefore it must be established. What I have said is not to have the least reference to any case where attestation is required.

VICE-CHANCELLOR WIGRAM'S COURT.

Saturday, May 24.

BUCKLE *v.* FAWCETT.

Will—Survivorship—Distribution.

Ralph Rider, by his will, dated in 1806, devised all his real and personal estate to trustees, upon trust, after payment of certain charges, to the use of his nephew, Matthew Handley, during his life, and after his decease to the use of all and every the children of his said nephew, as therein mentioned; and in case his nephew died without leaving any children or the issue of children surviving him, then, upon trust, that his said trustees should convey, pay, and assure the said real and personal estate unto and equally between all and every the children of his cousins Mark Rider and Ralph Rider, and the survivor of them, share and share alike; but in case any such children should be then dead, leaving issue of his, her, or their body or bodies, lawfully begotten, that then and in such case such issue should have and receive and be entitled to such original portion or portions, share or shares, of the said trust property as the father or mother of such issue would have been entitled to if then living, as also such other portion or portions thereof as the father or mother of such issue so dying might have been entitled to by survivorship or otherwise under his will, equally, to be divided amongst them, if more than one, share and share alike; and if only one, the whole to such one, to be paid at their or his respective ages of 21 years; and named his said trustees also executors of his will.

Ralph Rider, the testator, died in 1806, without revoking his said will, and the same was duly proved by his said trustees and executors, who acted in execution of the trust thereof.

Matthew Handley married shortly after the death of the testator, and died in 1813, without having had any children.

Mark Rider had eight children, of whom three died intestate in the lifetime of the testator; two survived the testator, but died in the lifetime of Matthew Handley intestate; two died in the lifetime of the testator and before the date of his will, leaving issue; and the remaining one is now living, and a defendant in the suit.

Ralph Rider had three children, one of whom died in the lifetime of the testator and before the date of his will, leaving children, who claim a share in the trust property; the remaining two survived the testator, but died in the lifetime of Matthew Handley, leaving children, some of whom have since died, leaving children who claim a share in the trust property.

In consequence of the complicated claims which arose under the above state of facts, the trustees instituted this suit to have the trust property administered under the decree of the Court; and at the hearing of the claimants (*Romilly* for plaintiffs, and *Prior*, *Phillips*, *Rolt*, *R. Palmer*, and *Wood* for the other parties), the following cases were cited: *Salisbury* v. *Petty* (3 Hare, 86); 2 Jarman on Wills, 651; *Doe* v. *Tiray* (8 Barnewall & Cress. 23); *Edwards* v. *Simons* (6 Taunt. 213); *Gray* v. *Garman* (2 Hare, 268).

The VICE-CHANCELLOR.—The question is, to what period the survivorship is to be referred: the grounds upon which the earlier cases have been decided make a distinction when dealing with real estate and when with personal estate, which has left the point in a very unsatisfactory state, and it is not easy to understand the distinction. I do not dispute the case of *Forth* v. *Chapman*, cited in Atkyns' Reports, but can see no analogy between that and the present case. The same construction must be made as if the testator had not in terms provided for real estate remaining unsold at the time of distribution. As to the word "and" connecting the bequest, it ought to be read "or;" as used in the previous sentence; the word "issue" must be read "children" and survivorship must be referred to the period of division, so that the children of those children who were dead at the date of the will are excluded; the effect will be, that children who survived both testator and tenant for life, and all children who died in the lifetime of tenant for life having children, will take, and if they died before division, their representatives will take.

SHIPTON *v.* RAWLINGS.

Breach of trust—Parties—32nd order of Aug. 1841.

Although suits for breaches of trust are within the 32nd order of Aug. 1841, *the most guilty trustee cannot be omitted from being a party to the bill.*

This bill was filed to make trustees liable for a breach of trust. When it came on for hearing, a preliminary objection was taken that all the proper parties were not before the Court, when the cause was directed to stand over, with liberty to the parties to amend the bill by adding parties as they should be advised. Great difficulty was found in adding the necessary parties, and it was considered best, under the circumstances, to bring the cause on again, and have the opinion of the Court whether it was essential to the progress of the suit that the absent parties should be brought before the Court. The facts of the case are so fully stated in the judgment, that it is unnecessary to make a previous statement of them.

Kenyon Parker and *Follett* appeared for plaintiffs.

Toaney, for the trustees, defendants.

Romilly, for a Mr. Sentence, a defendant.

For the plaintiffs it was contended that the claim in this suit came within the 32nd order of Aug. 1841, and that, therefore, the frame of the bill was good in having selected some only of parties liable to be proceeded against.

JUDGMENT.

WIGRAM, V. C.—The testator Shipton in this case, being possessed of certain leasehold property, consisting of houses held for terms of years, renewable upon payment of certain fines to the Bishop of Winchester, and other personal estate, made his will, dated the 8th of May, 1827, and bequeathed those leaseholds and all other his personal estate, to his wife, Sarah Rawlings, the defendant Rawlings, and a man named Dent, who is since dead, upon trust, to pay all his debts, and out of the produce of the residue of his property to set aside annually so much of the rents and profits of his leaseholds as would be sufficient to pay the rents reserved upon them, the fines paid on renewal of the leases, and keep the premises in repair; and what remained of the profits of his property, upon trust for the use of his wife, Sarah Rawlings, for life, and after her decease, as to six of the houses held under the see of Winchester, to the use of the plaintiff for life, and after his decease to his children; and as to the remainder of his leaseholds, to Mary Harding for life, remainder to her children, and appointed Sarah Shipton, his wife, Rawlings, and Dent his executors, and died in 1831. His widow, Rawlings, and Dent all proved the will, and the personal estate was found sufficient to pay all debts due by the testator, and other expenses, without trenching upon the leasehold houses. His widow Sarah entered into receipt of the rent of the leasehold houses, with the consent of the other trustees. No portion of the rents was laid aside to provide for the renewal of the leases or repair of the premises, and in 1834 Sarah Shipton, the widow, married William Sentence, a defendant. Previous to this marriage a settlement was executed between William Sentence, Sarah Shipton, and Jennings and Bowler, as trustees, wherein the will of the testator was recited, so far as the bequests to his wife extended, and all her property of every kind was assigned to Jennings and Bowler, upon trust, to the use of Sarah Shipton for life, and what Sarah Shipton had of her own was limited after her death to her husband for life, remainder to such uses as Sarah Shipton should appoint, and in default, as therein mentioned. After marriage with William Sentence, Sarah Shipton continued to receive the whole rents of the leaseholds, and no sum was ever set aside for renewals or repairs, and premises got very much out of repair. The widow of testator died, having made her will, and appointed away her separate estate, and made the trustees of her marriage settlement her executors. The bill is by Thomas Shipton and his children, and the other parties entitled after the death of the testator's widow, against the surviving trustees of the testator and the representatives of such as are dead; and Jennings, the surviving executor of testator's widow, was also a party, but is since dead, and the bill has not been revived against his representative. There is, therefore, no representative of the widow of testator before the Court. The bill alleges that the widow of the testator had 300*l.* of her own money at the time of her marriage with William Sentence, which she gave away by her will, and prayed that the trustees of the testator, and that Jennings and Sentence, for such parts as are due from the estate of Sarah Sentence, may be ordered to pay such sums as were necessary to set aside for the purpose of paying fines or renewals, and repairs, since the death of the testator. There is no representative of the widow before the Court, and yet the bill charges that the estates of William and Sarah Sentence are liable. For those breaches of trust before marriage the husband is not liable; the case is not within the new orders of August 1841. With regard to the breaches of trust after marriage, Rawlings says the estate of Sarah is liable; if it is, there is no doubt it is as to what occurred previously. It does not appear to follow, from the 32nd order of August 1843, that, because there is a primary claim against joint trustees, in all cases one may be selected. It has certainly been ruled by Lord Langdale that trustees are within the 32nd order; as in the case of two trustees, suppose they join to sell, and divide the property between them, I do not say that each is not liable to the whole, and *cestui que trust* can go against each or either; this has also been decided by Lord Cottenham; but there may be cases where trustees may be severally liable, and yet the Court will not suffer proceedings to be taken against one without bringing the other before the Court. Suppose one trustee only to act, receive the money, and only invest in his own name, that is a breach of trust in the non-acting trustee; and if the trustee who had the money sold it out to his own use, in that case, although the non-acting trustee may be liable, yet the Court would not allow the *cestui que trust* to go against the non-acting trustee without bringing the acting trustee before the Court. This is the case of *Perry* v. *Knot* (4 Beavan, 179), where Lord Langdale decided that the representative of the trustee who received the money must be made a party. In the present case, by the allegations in the bill, and in the answer of the other trustee, it is insisted that the 300*l.* ought to be set apart to meet the claim of the plaintiffs, and the question is

whether this separate property is liable, which is very uncertain after her death. The case is this: the wife has property, the settlement is made; the effect is, that this separate property must be considered part of the trust property, and be set aside to meet this claim; a case may be made that the other trustees have a right to have this money first set aside, and I am therefore of opinion she must be represented in this suit.

Common Law Courts.

COURT OF QUEEN'S BENCH.

Tuesday, June 3.

REG. *v.* THE NORTH MIDLAND RAILWAY COMPANY.

Construction of an agreement—Special damage, what.

Mandamus, at the instance of Sir W. Milner, to compel the North Midland Railway Company to make certain watering-places for cattle on lands intersected by the railway. The material parts of the return are set out in the judgment. This return had been traversed, and the case came on for argument (May 3) upon demurrer to these traverses.

Wortley, Q. C. and *Addison*, in support of the demurrer.—The main question intended to be raised is as to the construction of an agreement between the company and Sir Wm. Milner, set out in the return; that was an agreement for the payment by the company of a sum certain for all special damage occasioned by a deviation in the line of the railway; and we contend that the making of the ponds or watering-places required by this writ to be made is a special damage, for which the company has already paid under that agreement. The damage is the exclusion of the cattle from their old watering-places, and that is certainly of a very special character. It is therefore covered by the payment of the sum mentioned in the agreement. Further, this is not a "convenience" within the meaning of the agreement, which the company is bound to provide; but if it be, then it comes under the clause of the agreement which authorizes Sir Wm. Milner to make it himself, and recover the expense by action. In that case, therefore, he would not be entitled to proceed by *mandamus*.

Knowles, Q. C. (*Cowling* and *H. Hill* with him), contrà. — This agreement is supplementary to the Act of Parliament incorporating the company; under the 88th section of which they are strictly enjoined to make watering-places, and keep them supplied with water. By the agreement a certain sum is to be paid to Sir W. Milner for withdrawing his opposition to the proposed deviation; that deviation involving some further damage to the property of Sir W. Milner; and the subsequent part of the agreement only means that where the railway intersects a close, so as to leave one part of it uselessly small, the company are to throw that small portion into the adjoining land, if it should happen to belong to Sir William Milner. Case cited: *Reg.* v. *The Mayor of York* (5 T. R. 66). *Cur. adv. vult.*

JUDGMENT.

Lord DENMAN, C.J. now delivered the judgment of the Court.—The case of *Reg.* v. *The North Midland Railway* was a *mandamus* commanding the defendants, in pursuance of the Act of Parliament under which they were incorporated, to make ponds (or watering-places) in certain closes or pieces of land intersected by the railway, as prescribed by the 88th section of that Act. The defendants had made a return stating an indenture between Sir William Milner, the prosecutor of this writ, and themselves, by which, in consideration of his not opposing the alteration of their line, it was agreed that they should pay to Sir William Milner, as for the special damage thereby occasioned to the lands and tenements of the said Sir William Milner, and particularly to a mansion-house of his called Bolton Lodge, the sum of 5,000*l.* to be paid as therein mentioned, and to be exclusive of the value of the land which the company would require for the purposes of the said railway, and the ordinary damages which the company might commit either to the said Sir William Milner or his tenants, and which land and damages were to be valued and paid for by the company in the manner provided for by the Act, unless the parties to the deed should otherwise agree; and, further, that whenever the closes, or pieces or parcels of land or ground, belonging to him should be intersected by the railway, and if the adjoining land should belong to Sir William Milner, and he should require the same, they should be thrown into the adjoining land by removing the fences, drains, gates, and stiles in a sufficient and workmanlike manner, and that the company should and would, at their own expense, make and complete such fences, drains, gates, and stiles, and other conveniences, as might be required for the re-dividing of the fields on the same estate, which should be intersected by the railway, and for carrying them to the adjoining fields of the said estates for the purpose of convenient occupation.

The defendants then state that Sir William Milner gave notice that, in pursuance of the deed, he required them to make such fences, drains, gates, stiles, and other conveniences as might be necessary, setting out as one head of the works he required to be done, the ponds which are the subject of this writ. The defendants say they executed the works required, except the pond, and they conclude by alleging that the cutting off of ponds and watering-places, as stated in the writ, and the damages occasioned thereby, were part of the special damages covered by the 5,000*l.*; and further, that the ponds they were required to make were not conveniences within the meaning of the indenture last set forth. Sir William Milner has traversed both these assertions, to which the defendants have demurred. Technical objections were taken on both sides: it was argued on one side, that the matters traversed are matters of law, and not of fact; on the other hand it was argued, that the return is bad, and that it is repugnant. We do not enter into these objections, ... we are of opinion the indenture furnishes no sufficient answer to the writ. The special damages for which the 5,000*l.* were paid, are evidently such as were familiar to Sir Willliam Milner in the alteration of the line, of whatever nature they may be, and not such damages as might happen to any person whose lands were intersected; such damages are, in the very clause of the indenture, pointed out as ordinary damages, and the 88th section of the Act provides for them in terms. The indenture was made on the 1st of May, 1837; long after the Act, which passed on the 21st of June, 1836; and the clause in the indenture seems almost exactly to refer to that section among others in the Act. With respect to the other clause in the indenture, it is plain the word "conveniences" there used does not apply to all things necessary for the occupation of the land, but to all things necessary for the re-dividing and laying the intersected closes to the adjoining land for the purpose of convenient occupation; it is laying the lands together for which those words must be employed, not making fences and other conveniences; added to which, the 88th section obliges the company to supply water, and gives them power to go even over the lands of a third person; which, if the clause of the indenture were to receive the construction of the defendants, would relate only to making ponds on the lands of Sir William Milner. At all events, it cannot alter the obvious meaning of the indenture itself. Upon the whole, we are of opinion the prosecutor is entitled to our judgment, and the peremptory writ of *mandamus* must issue.

Judgment for the Crown.

Wednesday, June 4.

ST. KATHERINE'S DOCK COMPANY *v.* HIGGS.

The Commissioners of Sewers are entitled to unite distinct "levels" (or districts of sewers) into one "level;" and if the inhabitants of both derive any benefit from the common sewer, they may be rated together by a common rate.

Replevin against the defendant, for having, on the 29th day of July, 1842, in the parish of St. Botolph, Aldgate, in the county of Middlesex, seized a crane of the value of 600*l.* the property of the defendant, and unjustly detained it.

Cognizance—The defendant justified the alleged seizure and detention as a commissioner of sewers for the district of the Tower Hamlets.

Replication- -de injuriâ.

The action was tried at the sittings in London after Trinity Term, and a verdict was found for the plaintiff, subject to the opinion of the Court upon a special case. In the case it was found that the defendants were commissioners of sewers, appointed by the authority of the 11 H. 8, and various other statutes, for the district of the Tower Hamlets, comprising many parishes in the eastern parts of London, from Hackney to the Thames, and from the Tower to the Lea. For many years the whole district was divided into two smaller districts or "levels," for the purpose of sewerage,—the Spitalfields, and the Wapping level, —each being separate from the other, and the inhabitants of each being rated by a distinct rate. In 1825, the St. Katherine's Dock Company Act passed. The company took into their own hands the sewerage of the land adjoining their own property, and making a new main sewer to the river, down Nightingale-lane, formed a third level, known as the Nightingale-lane level. Up to 1837 this Nightingale-lane level, within which the St. Katherine's Dock Company was rated, was independent as to drainage, presentments, rates, and in all respects, of the commissioners. To that level the company had been annually rated to the amount of 16,000*l.* a year. In 1837, however, the commissioners united the Wapping and Spitalfields levels to the Nightingale-lane level, and made one rate for sewerage common to the inhabitants of the united levels. The company resisted the validity of that rate, and denied the title of the commissioners to unite the two levels. As to the benefit derived from this union by the company, the case found that "the Nightingale-lane level derived no benefit from the junction, their own drainage having been amply sufficient, and their own sewers used;" but it also found that "there was benefit to all the levels, taking them together." If the Court should think the rate bad, the verdict for the plaintiffs to stand—if the rate were good, the verdict to be entered for the defendant.

Dundas, Q.C. (*Ogle* was with him) for the plaintiffs. —Here there was no dispute as to the general principle that those who received the benefit of the sewer should pay the rate. (*Rooke's* case, 5 R. 99, b; *Rex* v. *The Commissioners of the Tower Hamlets*, 9 B. & C. 521; *Soady* v. *Wilson*, 3 Ad. & E. 263.) If, therefore, the St. Katherine's Dock Company received any benefit from this united level, they would be ready to pay for it; but the case distinctly found that they received no benefit whatever. There were four objections to the present rate: 1st. The Commissioners of Sewers had no authority to make a union of two separate levels. The word "level" was not to be found in any of the statutes of sewers, nor in the commission under which the defendants acted; but it had been used in *Rooke's* case in 1601, and in Dugdale's History of Embanking, and it had received a judicial interpretation by Lord Tenterden in the *Tower Hamlets* case, in 9 B. & C. It seemed to mean a separate range or district of sewers, and there was no evidence of any authority justifying the union of districts which had for years been separate. No instance of any such practice had been recorded except in the union of the Wapping and Spitalfields levels in 1803; but whether the consent of the parties had in that case been first obtained was not known. Manifest injustice would be worked by permitting such a union, which might be made for the good of the inhabitants of the one district, and to the injury of the inhabitants of the other. The commissioners, it had been held, were not entitled to assess by one rate for separate districts. (*Reg.* v. *The Commissioners of the Tower Hamlets*, per Lord Tenterden, C. J.) A separate level must have a separate rate. In the present case the inhabitants of the Nightingale-lane level would derive no benefit; nay, in one respect, they would suffer positive loss, viz. from the use of their sewers, by the additional water passing through them. (*Masters* v. *Scroggs*, 3 M. & S. 447.) The benefit of the 16,000*l.* a year paid by the company would be paid for the benefit of the rate-payers of the newly added level. Joining together the Nightingale-lane level with the other two levels, the company did receive some benefit from the level; but standing alone in their own level, as they wished to stand, they received no benefit whatever. Secondly. If the commissioners possessed the power of joining separate levels, it was a power not to be exercised arbitrarily for the benefit of one set of inhabitants, and for the injury of another, as in this case. But, thirdly, supposing them to have the power, and to have exercised it with discretion, there was no evidence of any union of levels having really taken place. Such a union was a solemn act, and there was no evidence here of any decree by, or entry into the books of, the commissioners. [COLERIDGE, J. May it not be contended that, whatever the district be called, if all the districts receive a common benefit, they should be assessed by one rate?] It was submitted not, upon the authority of the case in 9 B. & C. Lastly, there had been no notice of this union, and, having been done behind the backs of the plaintiffs, it was invalid as against them. (*Stafford* v. *Hamston*, 2 Brod. & B. 691.)

F. Kelly, Q. C. (*Willes* was with him) for the defendant. — These Commissioners of Sewers, a high and ancient court of record, to whose care the health and safety of eight hundred thousand people were intrusted, and who could have no personal interest in the question, were not to be presumed to have acted arbitrarily. The real question was, had they the power of making a new sewer? The Act of Parliament gave them unlimited authority to make any sewers in their district, and the whole difficulty had arisen from the word "level." There was no magic in that word. It involved no restriction of the authority of the commissioners — its use had arisen solely from the division of districts for the purpose of the rating, no one, undoubtedly, being liable to a rate who was not benefited by the sewer for which the rate was collected. When the Act of Parliament gave an unqualified authority to make sewers, it was for the plaintiffs to shew the limit or disqualification now insisted upon. If the union of two sewers, previously distinct, were for the benefit of both districts, ought it not to be made? Here the act of junction was not paid for by the inhabitants of the old Nightingale-lane level; but after the junction had been completed, they were assessed together with those who used the higher portion of their sewer. [PATTESON, J.—Then they are rated for a sewer, part of which lies at a great distance from their own property?] Yes; but how could it be prevented? With an increase of population it was frequently necessary to extend an old sewer. For each extension there could not be a separate rate, or else a separate rate might be required for each separate house. The question really came to this, were the inhabitants of the Nightingale-lane level benefited by the sewer for which they were rated? [PATTESON, J.—The case says that, alone, they are not benefited, and I cannot understand how they can be benefited by a channel of water flowing at a great distance from their abodes.] The case, however, found that, taking the

levels together, they were all benefited by the sewer; and, being benefited by this united sewer, were not the plaintiffs liable, with all the rest of the inhabitants of the whole district through which it flowed? [PATTESON, J.—What I want to know is this: here there have been two levels and two rates. Why should they not be continued?] Could there be a new rate for every additional house? [COLERIDGE, J.—Ought the commissioners to lay an additional burden upon any part of the district without giving to it a corresponding benefit?] The discretion was left to the commissioners of arranging the whole drainage of the district for the benefit of the majority of its inhabitants. If the legislature had intended to make a division of the district permanent for the purposes of rating after a given time, it would have so provided. The powers given to the commissioners were most ample. (Stat. 2 Wm. & Mary, sess. 2, c. 8, s. 14, and all the subsequent statutes on sewers.) There could not be two rates for this one sewer. If the inhabitants of the Nightingale-lane level were rated alone, the rate would be objectionable by the omission of the other inhabitants; if the others were rated alone, they would object to the omission of the residents of Nightingale-lane. Now, all the inhabitants were benefited in common, though it was true that benefit was of very unequal amount. [PATTESON, J. —If the expense common to both were divided, and each party were assessed with his own share, could they complain that the others were not included?] There was no legal principle of apportionment upon which they could be so assessed. The only mode of rating was by assessment, not according to the benefit which each rate-payer enjoyed, but according to the value of his property. The name of each rate, too, must appear, and the name would not be applicable to both. If the proposition rested upon numbers, space of ground, wealth of inhabitants, a new principle would be introduced into the law. The whole principles of rating were explained by Lord Tenterden in the case in 9 B. & C., and those principles were inconsistent with the division of this rate. There was no force in the other objections.

Dundas, in reply.—A "level" was a recognised division of land, for the purposes of sewerage and of rating in connection with sewers; and that division, so recognised by the courts of law in various cases, could not be swept away by the decree of any body of commissioners. *Cur. adv. vult.*

Mr. Justice PATTESON now delivered the judgment of the Court.—He said that the defendant had acknowledged taking the goods in question as a distress for a tax or sewer's rate, and the question raised for the consideration of the Court was, whether that rate had been lawfully imposed. It appeared in the case that the jurisdiction of the Commissioners of Sewers for the Tower Hamlets extended over a large and populous district, within the limits of which a part of the premises of the plaintiffs stood. Previously to the year 1803 this district had comprised several distinct levels, such as Spitalfields, Wapping, and others. After that time three others were added. Until the junction of these several levels, each of them had been separately assessed, and were never jointly assessed till now. In 1825 an Act of Parliament had been passed for constructing certain wet docks, warehouses, &c. to be called the St. Katherine Docks, and the plaintiffs were constituted a corporation. A portion of the works of the plaintiffs were without, the rest were within, the jurisdiction of the Commissioners of Sewers; but no question on that fact arose here, for the difficulty in the present case was not as to the amount of this rate, but as to its legality. In 1827 a junction was effected between the districts of Spitalfields and Wapping; and in 1836 the commissioners had ordered a communication to be made between the Spitalfields and Wapping and the Nightingale-lane levels. The expenses of this junction were paid by a rate made exclusively by the Spitalfields and the Wapping levels, the only communication between which was effected by the sewer in Nightingale-lane. The question of benefit to the plaintiffs from these works of the defendant were, upon the evidence, somewhat doubtful, it being said, for the defendant, that they benefited in common with the rest of the neighbourhood; while the plaintiffs alleged that their own drainage was sufficient for their own purposes, and that they were more prejudiced than benefited by what the defendant had done. But it was observable that in this objection to the rating it was not stated that the inhabitants of Nightingale-lane level were more heavily taxed than before. Under these circumstances, the jury of sewers had made a presentment, under which they found that the plaintiffs were the owners of property liable to be taxed for the maintenance of these sewers. By a decree of the commissioners, made in 1838, the commissioners of the four levels confirmed the rate imposed in virtue of this finding. The important question then arose, whether the Commissioners of Sewers had power to unite these levels, which were before separate, and were separately assessed. What was their jurisdiction? It must, of course, be extensive. Their duties were necessarily those of great trust and great urgency. They were bound to provide all that was necessary and in the way the most convenient to the public; and if any district required new sewers, the commissioners might give orders accordingly. That power was clear, and by strict analogy the union of levels was a matter within their jurisdiction. The question of the greater or the less amount of benefit, or the absence of it altogether, was one, therefore, which was within their jurisdiction, and subject to their discretion; and if the operations of the commissioners were to be suspended till the precise benefit of each district could be ascertained, consequences of the most serious kind might ensue. It was said, however, that though the union of the levels might be necessary, still the assessments ought to be the same as before. It was not shewn here that they were greater, and it was clear that after the union (the power to make which appeared to be clear) there could not be separate assessments upon the separate levels. On the whole, therefore, their lordships were of opinion that there must be judgment for the defendant.

The verdict to be entered for the defendant.

Wednesday, June 11.

REG. v. BUCHANAN.

An indictment upon 6 & 7 Vict. c. 73, s. 2, for practising as an attorney at quarter sessions will not be quashed upon certiorari, it not being clearly bad.

The *Solicitor-General* shewed cause against a rule obtained by *Horne* to quash an indictment which had been removed into this court by *certiorari*. (See Law Times, 216.) This indictment is against a Mr. Buchanan for acting as an attorney before the Court of Quarter Sessions at Canterbury. Much irregular matter has been introduced upon the affidavits by Mr. Buchanan as to the originator and the cause of this indictment. To this we have given the fullest denial, but the whole question is, whether the indictment which has been removed into this court, is sustainable. It is framed upon the 2nd section of 6 & 7 Vict. c. 73. [DENMAN, C. J.—The question is, whether it is so clearly unsustainable that we ought to prevent it being tried.] It is objected that the 35th and 36th sections are to be looked at, and that as these sections impose certain disabilities and liabilities for practising without being duly qualified, and the offence itself is a new one, that this is the only remedy which can be adopted, and for this was cited 2 Hawk. Pleas, c. 25, s. 4; *Castle's* case (Cro. Jac. 643); *Watson's* case (1 Salk. 45). Those sections, however, only prevent recovery of fees, and render the person liable to be punished for contempt of court; and the rule deduced from the above cases is subject to this important qualification, that where there is a substantive prohibitory clause, although there be afterwards a particular provision, and a particular remedy given, there an indictment will lie upon the prohibitory clause, and the remedy is cumulative. That is laid down by Denison, J. in *Rex* v. *Wright* (1 Burr. 545). In *Rex* v. *Harris* (4 T. R. 202), Ashurst, J. laid down the principle in the following terms:— "It is a clear and established principle that where a new offence is created by an Act of Parliament, and a penalty is annexed to it by a separate and substantive clause, it is not necessary for the prosecutor to sue for the penalty, but he may proceed on the prior clause, on the ground of its being a misdemeanor." But this is not a new offence; and then this indictment is sustainable upon the principle laid down in *Rex* v. *Robinson* (2 Burr. 799), and *Rex* v. *Boyall* (832). For in such cases the remedy given by the statute is cumulative, and does not take away the former remedy (and see *Rex* v. *Dickenson*, 1 Saund. 135, g). If this is not an indictable offence, there is no punishment in respect of the public offence. The Court can punish only for the disrespect to itself, as for a contempt.

Horne, in support of the rule.—This rule must be made absolute. Where an offence is indictable before an Act of Parliament, and by the Act a penalty is annexed, no doubt it is cumulative; but if the offence was not indictable *before*, then the mode of proceeding by the statute can alone be pursued. Such is the uniform current of the authorities. (2 Hawk. c. 25, s. 4; *Castle's* case, Cro. Jac. 643.) Hawkins writes thus 'Where a statute makes a new offence, which was no way prohibited by the common law, and appoints a particular mode of proceeding, as by commitment, or action of debt, or information, and without mentioning an indictment, it seems to be settled at this day that it will not maintain an indictment, because the mentioning the other methods of proceeding only seems impliedly to exclude that of indictment." And this is the question in all the cases, and not the position of the clause in the statute which makes the offence. Thus, in *Stephens* v. *Watson* (1 Salk. 45), it was laid down that the keeping an alehouse was not punishable by indictment, because the statute made it punishable in another manner. The qualification put by Mr. Justice Ashurst is not to be found in any of the old authorities. (See cases already cited, and *Rex* v. *Wigg*, 2 Ld. Raym. 1163; *Rex* v. *Manning*, Fitzgib. 47; *Rex* v. *Dixon*, 10 Mod. 335; Com. Dig. tit. Indictment, E; 1 Williams' Saunders, 250, c.) But this was not an indictable offence. The words of the section are like that of 2 Geo. 2, c. 23, s. 1, but for 115 years no indictment was ever preferred. [PATTESON, J.—Does the 35th section apply to persons practising at quarter sessions? The words there are "any court of law or equity," but in the 2nd section the court of quarter sessions is expressly mentioned.] The *Solicitor-General* observed that it had been held that a bill for business done at quarter sessions is taxable. (*Sylvester* v. *Webster*, 1 D. P. C. 708; 9 Bing. 388.) [PATTESON, J.—The 22 Geo. 2, s. 12, contained an express prohibition against unqualified persons acting at quarter sessions. Lord DENMAN, C. J.—I am informed that, on application for re-admission, practising at quarter sessions is not considered to render the applicants liable to be fined.] There is no authority for saying that this was ever an indictable offence, and all the books of practice have been searched in vain, although the penalty has been sued for. (*Matthews* v. *Royle*, 6 Moore, 70.) [PATTESON, J. —Could there be any punishment for contempt, under sect. 35, at a subsequent court of quarter sessions?] Possibly not; this may be a *casus omissus*. [PATTESON, J.—It may afford reason to infer that the section does not apply at all to quarter sessions.] *Rex* v. *Wright* is no authority for the distinction as to the position of the prohibitory words in a statute. Mr. Justice Denison's dictum was extra-judicial, and the rule to quash the indictment was ultimately made absolute: and Lord Mansfield said, *Crofton's* case (Ventr. 63), in which it was held an indictment would lie, although the statute creating the offence inflicted a specific penalty, "had been denied many times." The 35th section cannot be independent of the second. By it a person being himself a plaintiff or defendant, and acting as attorney, is exempted from the penalties in that section, and yet, according to the construction now suggested, he might be indicted under the second. [PATTESON, J.—How can a man act as attorney for himself?] The Act contemplates such a case, and we must therefore say that it is possible. If it is held that the insertion of the penalties in a subsequent clause renders a person liable to be indicted under the general prohibitory clause, great inconveniences would arise, for it is now the practice to draw statutes in that way; as the Factories Act, the Merchant Seamen's Act, and many others.

By the COURT.—If the defendant had demurred, he probably would have had judgment by this time. This proceeding by rule is a most inconvenient mode of proceeding, unless it is most obviously and overpoweringly clear that the indictment is bad. It is also a very inconvenient course, as it introduces a number of affidavits which must be answered, and probably at great expense. We cannot say that this indictment is so obviously bad as to justify us in granting this rule, and, without giving any further opinion upon the case, the rule must be discharged.(a)

Rule discharged.

At a subsequent period of the day, *Horne* asked whether, if the defendant demurred, and the demurrer was decided against him, he would be allowed to plead over also according to the recent cases; but the Court declined to give any direction in the matter.

HALL v. JOHN LACK and EDWARD JOHN LACK.

Where a deed of annuity had been improperly set aside as well as a judgment upon a warrant of attorney, the Court of Queen's Bench in a subsequent term, under special circumstances, allowed the rule to be amended upon payment of costs, by limiting it to the judgment.

Kelly, Q. C. had obtained a rule to amend a rule made in last Easter Term, setting aside an annuity deed, a warrant of attorney, and judgment thereon, under the following circumstances:—On the 31st day of January, 1844, a rule had been obtained, calling upon the plaintiff, the Rev. Charles Ranken Hall, to shew cause why the warrant of attorney, and the judgment signed thereon, and the deed of annuity specified in an affidavit thereto annexed, should not be set aside on the following grounds. 1st. That the true and full consideration for the grant of annuity was not stated in the grant or memorial thereof, because two policies of insurance, on which a bonus had been declared on each, the bonuses amounting together to 735*l.* and of the value of 1,016*l.* 13s. at the time of the grant of the annuity, and assigned and delivered to the plaintiff, were part of the consideration for the grant of the said annuity. 2nd. That the pension is not assignable by law. 3rd. That no consideration was paid to the defendant for the grant of the annuity; but that Henry Merrick Elderton and Robert Philott, acting as attorneys for the grantor and grantee of the annuity, obtained the bills of exchange for 5,000*l.* from the defendant, and that if plaintiff ever advanced any money at all for the annuity, which was disputed, the said attorneys never have rendered any account to the defendant of the receipt and expenditure of the 5,000*l.* or any part thereof, and ever since the grant of the annuity refused to do so. 4th. That the covenants for repayment of extra insurance in the deed operate as assurance for the return of the principal money. 5th. That the grant was obtained from defendants by undue influence of the said Henry M. Elderton and Robert

(a) Lord DENMAN, C. J., PATTESON and WILLIAMS, JJ

Phillott, acting as attorneys for both parties, and by misrepresentation and fraud. By order of the Court, June 11, 1844, the matters in the above rule were referred to one of the Masters. Mr. Turner made his report on April 14, 1845. He found that the annuity-deed recited amongst other things that the plaintiff had lent to the defendants five sums of 300*l.* 200*l.* 2,000*l.* 1,500*l.* and 1,000*l.*, and that, as security for the repayment thereof, the plaintiff held certain bills of exchange drawn by one defendant and accepted by the other; that, in consideration of the cancellation of the said bills, an annuity of 804*l.* 11s. had been granted by the defendants during the life of J. Lack, and a warrant of attorney executed, and a power of attorney to the plaintiff and R. Phillott to receive the defendant's pension; and that the said bills had been delivered up by the plaintiff, and had been cancelled by the defendants; and that by the said deed the plaintiff released the defendants from the said sums secured by the said bills; and that the defendants, in consideration thereof, granted to the plaintiff an annuity of 804*l.* a year, and the defendant, J. Lack, assigned the pension as a further security. The Master further found that the warrant of attorney was duly executed, and judgment signed thereon, January 5, 1843, and that a memorial of the deed and the warrant of attorney were enrolled on Jan. 3, and that in the memorial the consideration and mode of payment were thus stated:—

"5,000*l.* sterling, made up of five several sums of 300*l.* 200*l.* 2,000*l.* 1,500*l.* 1,000*l.* sterling respectively, previously lent or advanced by C. R. Hall, to or for the use of J. Lack and E. J. Lack, and owing to C. R. Hall, upon the security of five several bills of exchange drawn by E. J. Lack upon, and accepted by J. Lack, and indorsed by E. J. Lack and H. M. Elderton, the said consideration being paid or satisfied by the cancellation or destruction of the same bills, and a release by C. R. Hall of J. Lack, E. J. Lack, and H. M. Elderton from the sums respectively secured thereby, and interest, for securing the same annuity or rent-charge."

As to the first objection, he found that the two policies of insurance formed no part of the consideration for the annuity; and as to the second, that the pension was assigned; and as to the third, he found that in April 1840, the plaintiff being about to leave England for the Continent, he executed a letter of attorney to the said Robert Phillott, in the said indenture mentioned, one of the attorneys of this court authorizing him to receive the dividends of and to sell the whole or any part of a sum of 7,787*l.* 10s. Reduced Annuities, standing in his name, and requested the said Robert Phillott to look out for some other investments for the same. And he found that prior to April 1840, and thenceforward during the whole period in which the transactions and matters hereinafter mentioned were going on, the said R. Phillott and the said H. M. Elderton, in the said indenture also mentioned, carried on business in London in partnership together as attorneys and solicitors, and that the said Elderton and Phillott were in such transactions and matters the attorneys of the plaintiff, and also the attorneys of the defendants, the said R. Phillott acting for the plaintiff, and the said H. M. Elderton and Robert Phillott both (but the said H. M. Elderton principally) acting for the defendants. And he found that the said R. Phillott, under the general authority given by the said letter of attorney, but without any further or particular authority or instruction from the plaintiff, and without his knowledge or privity, sold out the sum of 7,112*l.* 5s. Reduced Annuities, part of the said 7,787*l.* 10s. annuities, belonging to the plaintiff, at certain times specified. And he further found that the produce of the said sale, 6,392*l.* 19s. 1d. was received by the said R. Phillott; and that Messrs. Elderton and Phillott, previous to July 1841, had discounted, or caused to be discounted, at 20 per cent. bills of exchange to a large amount, drawn by one of the defendants and accepted by the other, and amongst them the bills of exchange amounting to 5,000*l.* mentioned in the said annuity; and that the said Phillott, in discounting the last-mentioned bills without the plaintiff's knowledge or consent, applied for that purpose part of the said moneys belonging to the plaintiff; and that the defendant J. Lack was aware at the time that the said bills, or at all events one of them, were or was discounted by Phillott with the plaintiff's money. He found, also, that out of these moneys Elderton and Phillott paid debts and liabilities of J. Lack, but that the accounts were not settled between the parties. And further, he found that the plaintiff never did lend or advance to the defendants, or either of them, the several sums of money, 300*l.*, 200*l.*, 2,000*l.*, 1,500*l.*, and 1,000*l.* as mentioned in the annuity-deed, unless the Court should think that, under the above circumstances, a loan was to be implied; and that the said Elderton and Phillott never did, nor did either of them, render any account to the defendants as to the 5,000*l.*; but that it did not appear any application had ever been made prior to the execution of the deed.

As to the fourth objection, the Master set out the covenant for the opinion of the Court; and as to the fifth, that there was no fraud, unless the circumstances above detailed amounted to such fraud.

The Court decided upon the third objection, and on the 6th of May the following rule was made, after argument:—"Upon reading the rule made in this cause, on Tuesday, the 11th day of June, in Trinity Term last past, the report of Charles Robert Turner, one of the Masters of this court, and upon hearing Mr. Lee, of counsel for the plaintiff, and Mr. Whateley, of counsel for the defendants, it is ordered that the warrant of attorney, the judgment signed thereon, and the deed of annuity named in the affidavit in the rule made in this cause on Wednesday, the 31st day of January, in Hilary Term, in the seventh year of her present Majesty mentioned, be set aside." This rule was served upon the 7th or 8th of May; but as it seemed to be admitted too late for any motion to be made in Easter Term. On the first day of Trinity Term, *Kelly*, Q. C. obtained the following rule, upon an affidavit as to the facts relating to the service, and upon the objection that the Court had no power to set aside the annuity-deed, as none of the objections brought it within the operation of the 6th section of the 53 Geo. 3, c. 141. On Wednesday (June 11),

Whateley, Q. C. and *Corrie* shewed cause against this rule.—There is a preliminary objection to this rule, that it is not drawn up upon reading the Master's report; and, consequently, the proper materials are not before the Court. If, however, the report is to be referred to, it appears from it that there was no consideration between the plaintiff and the defendant, and that there was no actual advance of any sum. The deed has, therefore, been rightly set aside; but, at any rate, the rule cannot be reopened. It has been heard, argued, and decided upon, and the rule made absolute in the terms of the rule *nisi*. In *Earle* v. *Brown* (10 A. & E. 412), where, in consequence of the non-enrolment of a subsequent deed for a reduced annuity, that deed, together with the former deed and warrant of attorney, and a power of attorney to receive a pension, had been set aside, the Court refused in a subsequent Term to revise the rule by limiting it to the last deed. (*Earle* v. *Brown*, 4 Jurist, 8.) In *Ex parte Lewis* (2 A. & E. 135), on an objection under the 2nd section, the Court set aside the annuity-deed. [PATTESON, J.—In the report of that case there is an omission. The decision was also upon objections raised under the 6th section; I made a note of it at the time.] Here there was a retainer under the 6th section. The discount at 20 per cent. amounted to a retainer within the words "any pretence whatever."

Kelly, Q.C. (with whom was *W. Lee*, Q. C.) in support of the rule.—This rule has been obtained because the former rule was drawn up with a manifest error. It must have been intended to set aside the judgment only. [Lord DENMAN, C. J.—Is your rule properly drawn up, without referring to the Master's report?] Yes; it is to alter the existing rule, and it is therefore sufficient to refer to the rule and the affidavit as to the service. It is merely an appeal to the Court whether the judgment, as given, is the judgment they intended to give. The Court may, for their convenience, refer to the report, but it is in fact, an appeal to the memory of the Court. [WILLIAMS, J.—The report was part of the materials we decided upon.] Suppose, within an hour of the judgment, this rule had been drawn up and served, I might have come into court, and put it to the Court whether it was intended to be so drawn up. [Lord DENMAN, C. J.—It would not have then been necessary to have a rule.] Nor is it now necessary to refer again to all the materials upon which the original rule was drawn up. The lateness of the service prevented any application in the same Term. It is clear that there was a mistake. In none of the five grounds stated is there any thing to bring the case within the 6th section, unless it be the third. But there was neither any part of the consideration returned, or paid in notes, which were subsequently cancelled, or paid in goods, or retained on pretence of answering the future payment, or any other pretence. The finding of the Master negatives any of these grounds, which are the only objections under the 6th section.

Lord DENMAN, C. J.—It would always be a matter of very great regret that we should have made a mistake which could not be remedied; but it is necessary that there should be rules observed as to reopening questions, or litigation would never be concluded. Here the first objection is that the rule is improperly drawn up in consequence of the omission to refer to the Master's report. To this, however, it is answered, and we think correctly, that the motion is, in fact, only an appeal to the recollection of the Court, and we are asked whether or not we did decide as we are said to have done by the rule complained of. We therefore think we may entertain the question. When the rule was made absolute, it necessarily included the grounds of the rule, and when the grounds of the rule are looked at, it is manifestly inconsistent to say that they afforded reasons for setting aside the annuity-deed. It was admitted too by Mr. Lee that he did not press his view of the 6th section so strongly upon the Court as he should have done, had they not then expressed their strong opinion in favour of the application generally.

It was then a rule sought for upon certain grounds and made absolute upon different grounds, and therefore I think it may be corrected.

PATTESON, J.—The only part of the 6th section within which this case could possibly be brought, is, "if the consideration, or any part of it, shall be retained upon any pretence of answering the future payment of the annuity, *or any other pretence*;" and it is said that here it was retained because there was no consideration. The Master finds that there was no loan upon the bills, and how, then, could there be a retainer? The allowance of this amendment must not be drawn into a precedent that the Court will reconsider matters solemnly decided.

WILLIAMS, J.—I believe the rule has been constantly acted upon, and it is only under the very special circumstances of this case that we allow it to be infringed upon; and especially because upon the rule, which includes the grounds of objection to the deed of annuity and warrant of attorney, (*a*) the error is apparent, as upon those grounds, the judgment could not have been intended to be pronounced as it was; and this the Court can see on the materials before them.

Rule granted, upon payment of costs and the costs of the application.

Thursday, June 12.

VYSE *v.* BIRD.

This Court having given judgment for the defendant on demurrer, nobody appearing for the plaintiff when the case was called on, afterwards restored the case to the special paper, and when the case came on for argument again, judgment was given for the plaintiff, nobody then appearing for the defendant. Held, that the Court has authority to correct any judgment which it may pronounce during any part of the sitting at which it is pronounced; and that therefore there was no ground for setting aside the second judgment signed for the plaintiff. But the Court refused to discharge a rule obtained for that purpose with costs.

Swann shewed cause against a rule calling on the plaintiff to shew cause why the judgment signed for the plaintiff on demurrer should not be set aside. The action was on a promissory note, containing also counts for money lent, and on an account stated; to which the defendant had pleaded to the first counts special plea; to the second and third counts, *non assumpsit*. To the replication to the first of those pleas the defendant demurred; and on the 1st Feb. 1845, the demurrer came on for argument. Counsel then appeared on behalf of the defendant, but none appearing for the plaintiff, judgment was given for the defendant; accordingly, on the 7th, judgment was signed and entered up for the defendant. On the 4th of Feb. however, upon the application of counsel for the plaintiff, it was ordered that the cause should be restored to its place in the special paper, which rule was not served on the defendant until the 10th Feb.; but the officer of the court had previously given the defendant information of the fact. After some correspondence between the parties, the case, having been restored to the special paper, came on for argument upon the demurrer; and then no counsel appearing for defendant, the judgment was given for the plaintiff, and was signed and entered up on the 20th May: a rule *nisi* to compute had also been obtained. It was now sought to set aside that judgment for the plaintiff; but the learned counsel contended that it was perfectly competent to the Court to correct its own judgment; and that the judgment for the plaintiff having been signed by the authority of the Court, and that authority not having been in any way recalled, it was a perfectly regular judgment.

Hugh Hill, contrà, submitted that two inconsistent judgments could not stand; and that it was at all events incumbent on the plaintiff to have set aside the judgment signed for the defendant, before availing himself of the authority of the Court to sign judgment for the plaintiff. The Court had given its judgment in favour of the defendant, and after that judgment had been signed and the roll carried in, it was a very strong course to allow a different judgment to be signed in the same cause.

Lord DENMAN, C. J.—Whatever is done at one sitting is to be taken as done at the same time; and if, therefore, in any case we come to a decision which we afterwards think wrong, we have the privilege, during the same sitting, of making it right. In this case we gave judgment against a party, whose counsel, when he came, was clearly entitled to be heard; and that being so, there was no authority to sign judgment for the defendant. Besides, I have great faith in the virtue of consent, and I think consent ought to be readily presumed in a case of this sort. Then, unless the Court is informed that it has done something incorrect, the judgment signed for the plaintiff is good; because it was signed under the authority of the Court. The rule to compute must be made absolute, and the other rule discharged.

The other judges concurred.

Swann applied to have the rule discharged with costs.

(*a*) In pursuance of R. G. 42 Geo. 3.

Lord DENMAN, C. J.—We cannot do that. This case may be a lesson to parties that we cannot grant any indulgence in cases of this sort; and that if counsel do not appear when a case is called on, their clients must pay the costs.

Rule discharged, without costs.

MORRIS *v.* MANASTY.

A pension granted for services rendered to the East India Company, by resolution of the Directors, is not within the 14th section of 1 & 2 Vict. c. 110, so as to be liable to be charged with the payment of a judgment debt by a judge's order.

A rule *nisi* had been obtained for setting aside an order of Mr. Justice Wightman, charging an annuity standing in the defendant's name in the books of the East India Company with the payment of 216*l*. 3*s*. 8*d*. due to the plaintiff on the judgment in this action, unless cause should be shewn to the contrary within six calendar months. It appeared from the affidavits, that by resolutions of the Directors of the East India Company, the last of which was dated the 5th May, 1842, a pension of 100*l*. a year had been granted to the defendant; that he had assigned it by indenture to a person of the name of Collett, who had given notice of the assignment to the East India Company.

Hugh Hill, for the plaintiff, now shewed cause. —This order is made under stat. 1 & 2 Vict. c. 110, s. 15; but, according to the 15th clause of that Act, this application is premature until the order of the judge has been made absolute; and here there is no proof even of any service on the judgment debtor. (*Brown* v. *Bamford*, 9 Mee. & W. 42; *Rogers* v. *Holloway*, 5 Man. & G. 292.) The questions which arise here are, first, whether this is an annuity within the meaning of the 14th section of the Act; and, secondly, whether the defendant could assign this annuity by deed for the benefit of a third party; and they are too grave and important questions to be disposed of summarily on motion. (*Wells* v. *Foster*, 8 M. & W. 149.)

The *Solicitor-General*, *Wigram*, Q. C. and *Forsyth*, for the East India Company, and *Watson*, Q. C. for Mr. Collett, in support of the rule.—Application was made to Mr. Justice Wightman to discharge this order; but he indorsed the summons, "No order;—without prejudice to any application which may be made to the Court." He in effect referred us to this Court; and it would be a monstrous thing to suppose that by an order of this sort a *stop* could be put upon stock for a period of six months without any means of redress. *Brown* v. *Bamford* is quite distinguishable. Further, the statute does not apply to this case. The 14th section enacts "that if any person against whom any judgment shall have been entered up in any of her Majesty's superior courts at Westminster shall have any government stock, funds, or annuities, or any stock or shares of or in any public company in England (whether incorporated or not), standing in his name, &c. it shall be lawful for a judge of one of the superior courts, on the application of any judgment creditor, to order that such stock, &c. or such of them, or such part thereof respectively, as he shall think fit, shall stand charged with the payment of the amount for which judgment shall have been so recovered," &c.; but the pension granted to the defendant is neither "government stock, funds, or annuities," nor is it "any stock or share of or in any public company in England."

Lord DENMAN, C. J.—We are of that opinion.

Rule absolute.

REG. *v.* PAINTER.

A rule for a mandamus to justices, commanding them to issue a warrant to levy a distress upon one T. C. for a poor's rate due from him as a shareholder of a public bridge, having been made absolute, and the justices having made a return thereto, this Court granted leave to C. to make an additional return on payment of costs.

Crompton and *Pashley* shewed cause against a rule calling on the prosecutors to shew cause why Henry Chasemore should not have leave to make a return to the *mandamus* issued in this case (see 5 Law T. 91), or to amend the return of the justices. The return made by the justices raises all the points formerly discussed, and has been demurred to; and if Mr. Chasemore wished to make a distinct return, he should have applied when the rule *nisi* was before the Court. [Lord DENMAN, C. J.—How are you prejudiced?] The effect was, that the joinder in demurrer was delivered one day too late to put the case into the Crown Paper.

M. Chambers and *C. Clark*, contra, were not called upon.

Lord DENMAN, C. J.—We should look very narrowly at such an application, if the interests of the other party could be affected by it: even if it involved a loss of time, we should pause before we granted it; but it is clear this case could not have been brought on this Term. But there being no prejudice to the other side, we do not think the application unreasonable, of course upon payment of all the costs.

Chambers.—Then the two returns may be incorporated; that will do away with the demurrer. [COLERIDGE, J.—Not necessarily so; they may demur to part and plead to part.]

Crompton.—If they plead, we ought to be able to try at the next assizes.

Lord DENMAN, C. J.—Yes; if they plead to issue, I think it ought to be done in time for the next assizes.

Rule absolute on those terms.

CHARLESWORTH *v.* ELLIS.

The omission to enter an appearance before signing judgment and issuing execution upon a warrant of attorney, is an irregularity only, and cannot be taken advantage of after a reasonable time has elapsed:—Semble, per Patteson, J. that it would be different in an action.

An affidavit that deponent has searched the book in which appearances are entered, and that no appearance has been by or for defendant is sufficient.

A rule *nisi* had been obtained (May 26) for setting aside judgment signed upon a warrant of attorney, the execution issued thereon, and all subsequent proceedings, on the ground that no appearance had been entered. The affidavit as to that point stated that the deponent had "searched the appearance-book, in which appearances are entered, and that no appearance has been by or for the above-named defendant." It appeared that judgment was signed by the plaintiff upon a warrant of attorney on February 6th; that execution issued on the 24th April; that the sale took place on the 2nd May; that on the next day a docket was struck, and on the 5th of May a fiat of bankruptcy issued; that at the first public meeting after the fiat the assignees were chosen, and that this application was made with the consent of the assignees.

Knowles, Q.C. shewed cause.—First, the affidavit is defective; it says, "no appearance has been by or for the defendant;" not "no appearance has been entered by or for" him. [Lord DENMAN, C. J.—It says that the party has searched the book in which appearances are entered, and that none has been for the defendant: that is, none has been entered for him.] Then, first, it is not necessary to enter an appearance before signing judgment on a warrant of attorney; there is nothing to appear to; but, secondly, the want of appearance is at most an irregularity only; and if so, this application is too late; citing *Williams* v. *Strahan* (1 N. R. 309); *Fynn* v. *Kemp* (2 Dowl. 620); *Hawkins* v. *Hassel* (12 M. & W. 776; 1 D. & L. 1006); *Kemp* v. *Matthew* (8 Scott, 399); *Bircham* v. *Tucker* (8 Scott, 469). To set aside a judgment for irregularity, the parties must come within a reasonable time after knowing that judgment [illegible] signed, *Grant* v. *Flower* (5 Dowl. 419); that is, within a reasonable time after he knows of the proceeding in which the irregularity took place, and not after he knows of the irregularity itself. (*Esdaile* v. *Davis*, 6 Dowl. 465; *Routledge* v. *Giles*, 2 Cr. & J. 163.)

Pashley, contrà.—1. To sign judgment in an action without an appearance, is a nullity (*Roberts* v. *Spurr*, 3 Dowl. 551); and it makes no difference that there is a warrant of attorney authorizing the plaintiff to sign judgment, especially as the authority is "to appear" for the defendant in one of the courts, and receive a declaration. It is no answer that there is no writ to appear to; because in an action a party may appear if he please, without a writ, which is only a mode of compelling him to come. *Grant* v. *Flower*, *Williams* v. *Strahan*, and *Hawkins* v. *Hassel*, are distinguishable. The cases in 8 Scott are not reported elsewhere; and *Bircham* v. *Tucker* proceeds upon the assumption that *Kemp* v. *Matthew* decided a point, which it did not decide, according to the report of it. [PATTESON, J. To what is the defendant to appear?] He is to appear in the action in which, according to the warrant of attorney, the declaration is to be received. [PATTESON, J.—There is none. This is altogether a different case from that of an ordinary action. Certainly, Mr. Archbold in his Practice, on the subject of warrants of attorney, and under the head "Judgment, how signed," says, "Enter an appearance for the defendant" (Chitty, 7th edit. p. 697), but he gives no authority for it.] This Court does not favour laxity of practice. (*R.* v. *The West Riding Justices*, 3 M. & S. 494.) A warrant of attorney is an authority which must be executed entirely. (Co. Litt. 52, a & b.) But even if this is a mere irregularity, it is not waived under the circumstances of this case.

Lord DENMAN, C. J.—I have no doubt that Mr. Scott's report is quite correct. He is a very accurate reporter; and when it is said that these cases are not reported elsewhere, I am sure that they would have been, if wrong, with a long note in explanation; but if this were an irregularity, it would be waived by length of time. It is quite clear that the bankrupt knew all about it long ago.

Rule discharged.

Re HOLT.

Watson, Q. C. applied for an order to the examiners to examine and admit a Mr. Holt as an attorney. They had refused to do so, assigning as a reason that he had been convicted of a misdemeanor together with another person; the offence was that of a conspiracy. The service had been properly completed. [Lord DENMAN, C. J.—It was a conspiracy by means of perjury to fix a man with a judgment without any previous notice.] He states it was for imprisoning a person under those circumstances; but that before the trial he communicated the whole of the circumstances to the prosecutor, who did not press for judgment.

Lord DENMAN, C. J.—If a man submits to be found guilty to a charge such as this, is this a person fit to be clothed with the authority of this Court as its officer? Has he not been convicted, and would this Court do its duty to society by allowing such a person to practise as an attorney? We cannot grant this application.

Rule refused.

REG. *v.* SIR RICHARD DOBSON and OTHERS.

Judgment upon an indictment for nuisance.

Indictment against the proprietors of the Greenwich Pier Company, for a nuisance in encroaching on the river Thames. The defendants had suffered judgment by default; but in the affidavits now filed they had set up a license from the Corporation of London to make the encroachment.

M. Chambers moved for judgment upon the defendants. They had admitted the nuisance by suffering judgment by default, and they were not at liberty now, upon affidavit, to set up a right to do that which was the nuisance complained of. Nothing had been done to abate it, and it became necessary, therefore, for the watermen of Greenwich, who were injured by the nuisance, and were the parties prosecuting the indictment, to apply for the assistance of the Court.

Badeley, for the defendants.—The defendants are all of them most respectable persons, and little likely to do any thing which they believed to be illegal; the works which they are carrying out, if completed, would be very beneficial, instead of injurious, to the navigation of the river, though, in their present incomplete state, they might be, to some small extent, an obstruction. The rights of the watermen and the Greenwich Pier Company have been the subject of much angry feeling and litigation, but the imputations thrown out in the affidavits on the other side are unwarrantable. They have the benefit of the public in view, and have acted upon a legal right to do as they have done. They have acted with the best intentions, and have been prevented from completing the work only by the acts of the prosecutors, who have thrown every difficulty in their way.

PATTESON, J. pronounced judgment.—This was an indictment for a nuisance in the river Thames by means of the Greenwich Watermen's Company's pier. The motion was first for a new trial, and then there was an agreement to abide by the original judgment, and this was after the reference. The only course left is to pass the usual sentence, that the writ be issued by the sheriff to abate the nuisance, with a nominal fine of 5*l*. This writ will remain in the sheriffs' office till next term, which will give the parties the opportunity of removing the nuisance, and of so arranging the matter themselves.

Friday, June 13.

REG. *v.* THE GUARDIANS OF THE TOTNESS UNION.

An order of two justices, under 4 & 5 Wm. 4, c. 76, s. 27, directing relief out of the workhouse to be given to an adult person, from old age or infirmity of body unable to work, ought not to be made without summoning the overseers of the parish interested in opposing such order: and if such an order is made ex parte, this Court will not enforce obedience to it by mandamus.

Quære, whether such order ought to be directed to the guardians of the union.

Mandamus to the Guardians of the Totness Union, commanding them to obey an order of two justices, directing them to give relief to one Elizabeth Perring, an adult person wholly unable to work, and so certified to be of his own knowledge, by one of the said justices, without requiring her to reside in any workhouse. Return setting up the invalidity of the order, and demurrer thereto.

Watson, Q.C. in support of the demurrer, contended that the order in question being made under the 27th section of 4 & 5 W. 4, c. 76, had fully complied with all the requirements of that section, and was therefore good. That section provided that "in any union to be formed under that Act, it shall be lawful for any two of his Majesty's justices of the peace, usually acting for the district wherein such union may be situated, at their just and proper discretion, to direct, by order, under their hands and seals, that relief shall be given to any adult person, who shall from old age or infirmity of body be wholly unable to work, without requiring that such person shall reside in any workhouse; provided always, that one of such justices shall certify in such order, of his own knowledge, that such person is wholly unable to work, as aforesaid, and provided further that such person shall be lawfully entitled to relief in such union, and shall desire to receive the same out of a workhouse." The clause therefore required no notice to the parish, and none was necessary; and further, the order was properly directed to the guardians, who are the only persons having a discretionary power as to the mode and quantity of relief.

M. Smith, contrà.—It is monstrous to suppose that the legislature could have intended that two justices alone should have the power of controlling the guardians, a body to which, *ex officio*, all the magistrates of the county belong. The order should at all events have been directed to the overseers; that would have avoided the flagrant absurdity involved in the other course; and there are cases in which the legislature has necessarily invested overseers with a discretionary power as to the mode and quantity of relief. The overseers would afterwards be subject to the auditors, who would not pass their accounts if they contained improper items of relief. But, secondly, this order was made *ex parte*, and that is contrary to the principle laid down in *Painter* v. *the Liverpool Gas Company* (3 Ad. & E. 433). The overseers of the parish to be charged should have been summoned, or the guardians,—somebody, in fact, to protect the rates. Both justices are to be satisfied of all the necessary facts, and they involve both the settlement and chargeability, as well as the inability to work; that is to be certified by one magistrate of his own knowledge; but that certificate is not alone sufficient; and how can the magistrates satisfy themselves on these points without summoning the parish officers? [PATTESON, J.—The 9 Geo. 1, c. 7, s. 1, expressly provides that no justice of the peace shall order relief "until such justice hath summoned two of the overseers of the poor to shew cause why such relief should not be given;" and if, when relief was ordinarily given out of the workhouse, the overseers were to be summoned, I can see no reason why they should not be summoned under this clause, giving a special authority to order relief contrary to the general scope of the Act.]

Lord DENMAN, C. J.—This principle must prevail with regard to this order, the object of which is to affect a parish to a certain extent with regard to matters which are more likely to be within their knowledge than in that of other parties. It is true that a certificate of one of the justices is required, but it is not said that that shall be all sufficient. It is quite possible that the magistrate may have been imposed upon; and there is nothing therefore to take this case out of the general principle, that when a party was to be affected by any thing to be done against him, he should have an opportunity of shewing cause why that thing should not be done.

The other judges concurred.

Watson, Q. C. mentioned that, in the new edition of Burn's Justice, a form was given precisely similar to that in the present case.

Lord DENMAN, C. J.—It is very difficult to know what would be a right order.

Judgment for the defendants.

MURRAY *v.* THE QUEEN.

An indictment for bigamy need not contain any other averment of the subsistence of the first marriage at the time of the second than is involved in the usual allegation, "A. B. his former wife, being then alive." In the record of the sentence it is not necessary to make any reference to the statute or statutes under which it is pronounced.

Error on an indictment for bigamy, assigning for cause that the indictment was defective in not averring a continuance of the first marriage at the time of the second; and that the record of the judgment was bad in stating it to be passed in pursuance of the statute in that case made and provided; whereas the sentence for the said offence was regulated by more statutes than one.

G. T. White (with whom was *Couling*) for the plaintiff, argued that both on reason and on authority the averment, that at the time of the second marriage the first marriage was continuing, was essential to the description of the crime of bigamy. The statutes both of 1 Jac. 1. c. 11, and 35 Geo. 3, c. 67, shew the necessity of that averment, for they use the words "any person being married;" and Lord Coke, in his reading on the statute of Jac. 1 (3 Inst. 88), puts that construction upon those words. The being married at the time of the second marriage is of the essence of the offence; and the omission to own it is a material defect, which cannot be supplied by any implication or intendment. The averment must be positive and distinct; and the words "his former wife" being still alive are not sufficient; they are mere description. It is quite possible, consistently with this indictment, that the first marriage may have been dissolved before the second took place; and if so, there is no offence; and the possibility of that ought to be excluded. The indictment is in the words of the statute, but that is not enough. As to the second point, the record of the judgment is defective. It appears to be founded upon one statute only; whereas it does, in fact, depend upon several. First, the 35 Geo. 3, c. 67, provides that this offence shall be subject to the same punishment as those who were convicted of grand and petit larceny. Then, the 4 Geo. 1, c. 11, enacts that persons convicted of grand or petit larceny should be sent to some of her Majesty's colonies or plantations in America for seven years; and by the 19 Geo. 3, c. 74, the punishment of transportation to America was altered to transportation to America or elsewhere. All these statutes are in force, and ought all to have been referred to. Where an offence is prohibited by one statute, and the punishment altered by another, the indictment must conclude *contra formam statutorum*. (*R.* v. *Adams*, 1 Car. & M. 299.)

The following authorities were also cited: *Porter's* case (Cro. Car. 461); *Duchess of Kingston's* case (20 How. St. Tr. 355); Starkie's Crim. Pl. 434; *R.* v. *Millis* (10 Clark & Fin. 534); Archbold's Crim. Pl. 361; 1 Hawkins, P. C. c. 43; *Thursby* v. *Plant* (1 Wms. Saund. 235, note 8); *Fryer* v. *Combes* (11 Ad. & E. 403); *Dayrell* v. *Hoare* (12 Ad. & E. 356); *R.* v. *M'Gregor* (3 Bos. & P. 106); *Lolly's* case (1 R. & R. 237); 2 Burn's Eccl. Law; *Fletcher* v. *Calthrop* (14 L. J. M. C. N. S. 49).

Waddington, for the Crown, was not called upon.

By the COURT.—It is stated in express terms that the first marriage did take place; and why is a divorce to be presumed? On the contrary, the assumption is that the *status* of marriage continues, until the contrary is shewn. Besides, the allegation is distinct that at the time of the second marriage "the former wife" was still alive; and that description would not be at all correctly applicable, if the first marriage had been annulled. As to the second point, it was wholly unnecessary to refer to any statute in the record of the judgment; the only question is, whether the sentence is one which the Court had authority to pronounce; and that is not disputed; but if any such reference were necessary, a reference to one statute is sufficient, as it is by one statute that the Crown, with the advice of the Privy Council, appoints the places to which offenders are to be transported.

Judgment for the Crown.

REG. *v.* THE JUSTICES OF EAST SUSSEX.

Upon demurrer to a return to a writ of mandamus commanding justices to hear an appeal, the Court gave judgment for the defendants, it being stated on the return that the justices had decided every point submitted to them.

Mandamus to the justices of East Sussex, commanding them to enter continuances and hear an appeal between the parish of Westham, appellants, and the parish of Eastbourne, respondents.

The return set out the order of removal and examinations, and twenty-five grounds of appeal at length. It then, in substance, stated, that on the hearing of the appeal, the appellants objected to the validity of the order of removal, on the ground that no complaint in writing appeared either on the order or the examinations; that the sessions overruled the objection; and that the appellants raised no other objection whatever to the order of removal or examinations; that thereupon the respondents objected to the sufficiency of the grounds of appeal, as leaving untraversed a sufficient portion of the examination to support the order; that the appellants argued against that objection; but that the sessions held it good; and that the appellants did not offer to go into any other part of their case, and did not require that the respondents should be put to proof of any part of their case; and did not require the decision of the sessions upon any other point; that therefore the sessions confirmed the order, with costs, and had not entered continuances, in obedience to the writ, because the appeal had been already heard.

Demurrer and *joinder*.

Fitzherbert, in support of the demurrer.—This is an improper return. The justices knew that the point upon which the *mandamus* issued was, whether the appellants had waived their objection to the want of a complaint in writing; and they ought to have made a return upon that point; instead of which they have evaded the object by a general statement of what took place. The return is not untrue; because it says that we argued against the respondent's general objection to our grounds of appeal; but it is insufficient, because it omits to state that we did at that time insist upon our objection to the order; and that was the proper time for us to do so. In effect they refused to hear; several grounds of appeal are set out on the return; and it ought to have been shewn that in some way they were disposed of; but that is not done; and no argument can be raised against us from the statement that we did not require to go further into the case; because, after the decision upon one general objection to all our grounds of appeal, it would have been useless to go on.

Johnson and *Creasy*, contrà, were not called upon.

By the COURT.—If this return is true, then the justices have heard the appeal; if false, it should have been traversed. *Judgment for the defendants.*

Saturday, June 14.

DAWSON *v.* GREGORY.

In debt against an administrator on the judgment of a court baron, upon an issue of nul tiel record,—Held, that the judgment was sufficiently proved by the virâ voce testimony of the officer of the Court present at the trial, and the production of levari facias issued by him, there being no records in that court, and no form of judgment proper to that court. Held also, that plene administravit could not have been pleaded; and that, therefore, evidence that defendant had fully administered could not be received on an issue elongavit vel non.

Debt upon a judgment for 4*l.* 14s. 6d. and 16*l.* 10s. 11d. costs recovered in the court baron of G. Lane Fox, esq. at Wakefield, against the defendant as administrator of one Gregory, deceased, suggesting an *elongavit*.

Pleas—1st, That there was no such record; 2nd, That at the time of the said judgment defendant had fully administered; *absque hoc*, that he had since eloigned.

At the trial, verdict for the plaintiff, with full da-......

The defendant tendered evidence that he had fully administered; but Coltman, J. held that the issue was on the *elongavit*, and that the plea of *plenè administravit* had been fully disposed of in the court below. A rule *nisi* having been obtained for a nonsuit or new trial, pursuant to leave reserved,

Watson, Q.C. and *Thompson* shewed cause.—The defendant here had no right to give evidence of *plenè administravit*; that would have been a proper plea in the court below; and if the defendant neglects to plead it there, or pleading it, it is found against him, he cannot set it up as a defence in an action on that judgment; and if he cannot plead it, neither can he give evidence of it. (*Dyson* v. *Wood*, 3 B. & C. 449; Phill. on Evid. 629; *Irving* v. *Peters*, 3 T. R. 685; *Arundell* v. *White*, 14 East, 216; *Henderson* v. *Henderson*, 13 L. J. N. S. (Q.B. 274.) As to the 1st plea, there was sufficient evidence of the judgment in the *virâ voce* testimony of the officer, who was present at the trial, and in the production of the writ of *levari facias*, which was the consequence of it.

J. Henderson, contrà.—The judgment below was given in opposition to the advice of the presiding barrister; however, it is admitted that the judgment is conclusive of the facts; but here there is no proper proof that such a judgment exists. The evidence is this; a person comes forward and says that there are no records in this court baron; but that there was such a trial, and that he, as the officer of the court, issued a *levari facias*, which he produces, and which is the first and only written evidence of the judgment. That document only recites that there has been a verdict for the plaintiff, but contains no further expression of the will of the Court; the *levari facias* itself is against the goods of the intestate; but the verdict in no way specifies whether execution is to be *de bonis propriis*, or against the goods of the intestate. Although the defendant may not be at liberty to plead *plene administravit*, evidence of it cannot be excluded, because it applies to the issue *elongavit vel non*. (*Vooght* v. *Winch*, 2 B. & A. 662.)

The COURT were of opinion that the proof of the judgment was quite sufficient, it being admitted that there was no precise form proper to the judgments of that Court; there being the *virâ voce* testimony of the officer that the trial took place in his presence, and that he made an entry of the verdict for the plaintiff; and the *levari facias* being the customary mode by which that Court expressed what was meant by a verdict for the plaintiff. With regard to the second point, if a plea of *plene administravit* had been pleaded, it would have been demurrable; and that being so, no evidence in support of such a plea could be read. It was quite obvious that the issue was really on the *elongavit*. —— *Rule discharged.*

BUSINESS OF THE WEEK.

Thursday.

EDMONDS *v.* EVANS.—Action for criminal conversation. *Plea*, Not guilty. A rule *nisi* having been obtained for leave to add other pleas setting up as a defence that at the time when the grievances complained of were alleged in the declaration to have taken place, a deed of separation had been executed by the plaintiff and his wife; and that they were then, in pursuance of that deed, living separate. The *Solicitor-General* and *C. Clark* shewed cause, and contended that the pleas afforded no defence. By the COURT.—This is too doubtful a question to be decided on motion; the pleas may be added, and then their validity can afterwards be questioned. *Hawkins*, in support of the rule, was not called upon.

Rule absolute, the plaintiff to summon a special jury in London or Middlesex, and the defendant to take short notice of trial.

SILVESTER *v.* USQUEY.—Rule calling on the plaintiff's attorneys to shew cause why they should not deliver up all the papers in the cause without costs, or why they should not proceed in the action without any costs, or why the plaintiff should not be at liberty to appoint other attorneys; and why his present attorneys should not pay the costs of this application; referred, by consent, at the suggestion of Lord Denman. *Watson*, Q.C. shewed cause, and *Duncan*, in support of the rule.

ALCOCK *v.* NETHERSOLE.—Rule enlarged for a week, that the plaintiff might have time to consider whether he would consent to a reference. *Knowles*, Q.C. to shew cause. The *Solicitor-General* and *Borill*, in support of the rule.

HILTON *v.* LORD GRANVILLE.—*T. F. Ellis*, Attorney-General of the Duchy of Lancaster, intimated to the Court that it was the intention of the Queen

to have a trial at bar in this case if the rule for a new trial should be made absolute; and applied to the Court to state whether they considered an intimation from him, as Attorney-General of the duchy, sufficient, without any intimation from the law officers of the Crown, mentioning the case of *The Duchy of Lancaster* (Plowden, 212), in which it was considered that the Crown held the duchy with the personal prerogatives; but, the *Solicitor-General* being present, the Court thought it would be better to remove all difficulty by receiving the intimation from him. The *Solicitor-General* accordingly informed the Court that it was her Majesty's intention to have a trial at bar in this case.

COMMON *v.* FRASER.

Rule to shew cause in chambers on affidavits already made.

GREEN *v.* BIRCH.—This was an application for a rule to pay certain money to the assignees of the estate of the defendant; in opposition to which it was contended that a writ of error might be brought, which would reverse the judgment in virtue of which the money was due. By the COURT.—We must not take the money out of safe custody to give it to a party who may prove to be not entitled to it.

HALL and WIFE, Executrix, *v.* SIMPSON.

Rule nisi.

Saturday.

FERRAND *v.* MILLIGAN.—*Trespass quare clausum fregit. Plea*—A right of way. Rule for a new trial on the ground of the verdict being against the evidence, discharged. *Wortley*, Q. C. and *Tomlinson* shewed cause. *Baines*, Q. C., *Addison*, and *Ingham*, contrà.

HARGREAVES *v.* WOOD.—*Assumpsit on a guarantee.* Rule to set aside the verdict on the third plea, which raised a question as to the construction of the guarantee. *Wortley*, Q. C. and *Hoggins*, for the plaintiff. *Knowles*, Q.C. and *Cowling*, for the defendant. *Cur. adv. vult.*

BROOKS *v.* BOCKETT.—Part heard. The argument to be resumed on Saturday next; and *Skillbeck* v. *Garnett*, involving a similar point upon the Attorney and Solicitors Act, to be brought on at the same time.

LITTLECHILD *v.* BANKES.—A note of this case will appear next week.

COURT OF EXCHEQUER.

Thursday, May 29.

DAVEY *v.* WARNE.

A surveyor, appointed under the 57 Geo. 3, c. 29, (The Metropolitan Paving Act), has no right, under the 75th section of that Act, to remove a ladder placed against a house in his district for the purpose of whitewashing the house. A license granted under the same section to erect a board, scaffolding, &c. at No. 14, Porter-st. does not authorize the licensee to erect one in another street, which forms one of the sides of the house 14, Porter-street.

When an Act of Parliament provides that a plaintiff shall not recover in any action for any thing done under the Act, unless a certain notice shall have been given, the defendant must plead the want of notice, or he cannot avail himself of it.

Action of trespass for seizing and taking divers ladders, washtubs, and whitewash of the plaintiff, whereby plaintiff lost a contract for whitewashing a house in Porter-street.

The first plea was as follows:—

The defendant as to the said trespasses in the declaration mentioned, so far as they relate to two of the said ladders, and to the said cords, says, that after the making and passing of a certain Act of Parliament, made and passed in the session of Parliament holden in the twenty-third year of the reign of his late Majesty King George the Third, intituled, "An Act for better paving, cleansing and lighting the parish of St. Anne, and such part of Cock-lane as lies in the parish of St. Martin-in-the-Fields, within the liberty of Westminster, and for removing and preventing nuisances therein," and after the making and passing of another Act of Parliament, made and passed in the session of Parliament holden in the fifty-seventh year of the reign of his said late Majesty, King George the Third, intituled, "An Act for better paving, improving, and regulating the streets of the metropolis, and removing and preventing nuisances and obstructions therein," and before the said time, when, &c. in the declaration mentioned, and on the second Thursday in the month of February, A.D. 1843, to wit on the 9th day of February, in the year last aforesaid, the inhabitants of the said parish of Saint Anne, Westminster, then having a right to assemble in the vestry of the said parish, did, according to the power and authority by the said first-mentioned Act of Parliament given, assemble and meet in the vestry-room of the said parish, between the hours of ten in the morning and two in the afternoon of the said last-mentioned day, and did then and there elect and appoint twenty-one persons, namely, Henry Williams, &c. [setting out the names] the same then being householders and resident in the said parish, and assessed to and paying their respective shares of the rates or assessments made by virtue of the first-mentioned Act, to be a committee for the better and more effectually carrying the said first-mentioned Act into execution. And the defendant further says, that at and always from the time of the passing of the said secondly-mentioned Act, the said parish of St. Anne was, and yet is, included within the operation of the said secondly-mentioned Act. And the defendant further says, that after the said appointment of the said twenty-one persons to be commissioners as aforesaid, for the purposes aforesaid, and while they were such commissioners, and after the making of the secondly-mentioned Act, and before the said time when, &c. in the declaration mentioned, to wit on the 10th day of February, A.D. 1843, there then being no surveyor or surveyors of the pavements within the said parish of St. Anne, the said commissioners then being the persons having the control of the pavements of the said parish, so [e]luded as aforesaid, and having then first duly taken and subscribed the oath required by the said first-mentioned Act to be taken by the committee men or commissioners, according to the first-mentioned Act, did, at a certain meeting of the said commissioners, then by them holden, in the vestry-room of the said parish, within fourteen days after they were so chosen, according to the power and authority given to them by the said secondly-mentioned Act in that behalf given, duly and legally appoint the defendant to be the surveyor of the pavements within the said parish of St. Anne, he the defendant, then, at the time of the said last-mentioned appointment, being a competent person in that behalf, and a housekeeper, and having an office within the said parish of St. Anne, which appointment he, the defendant, then accepted, before the said time when, &c. in the declaration mentioned, to wit on the day and year last aforesaid. And the defendant further says, that at the time of the last-mentioned meeting, and at the respective times when they so took the said oath, and so appointed the defendant to be such surveyor, the said commissioners were each of them resident and a householder in the said parish of St. Anne, and assessed to and paying his share of the rates and assessments made by virtue of the said first-mentioned Act, and also seised and possessed of real and personal estate together of the value of 2,000*l.* over and above debts and reprisals, and did not hold any office of profit, and was not in any way interested or concerned in any contract or work to be done in or about the execution of any of the powers of the said first-mentioned Act. And the defendant further says, that under and by virtue of the said last-mentioned appointment, he, the defendant, continued to be and was the surveyor of the pavements within the said parish of St. Anne from the said time when he was so appointed as aforesaid, up to and until, and at and after the said time when, &c. in the declaration mentioned. And the defendant further says, that after his said appointment as such surveyor of the pavements aforesaid, and while he continued such surveyor as aforesaid, and before the said time when, &c. in the declaration mentioned, to wit, on the day and year in the declaration mentioned, he, the plaintiff, did, at No. 14, Porter-street, being a house fronting a street called Porter-street, on one of the sides of the said house, and fronting Newport-court, hereafter [me]ntioned, on one of the other sides of the said house, [w]rongfully and unlawfully, for the purpose of using the same in doing some plasterers' work at the said house, set up in a certain public place in the said parish of St. Anne, and within the jurisdiction of the said secondly mentioned Act, and within the jurisdiction of the said defendant as such surveyor as aforesaid, which said public place then was called Newport-court two of the said ladders in the declaration mentioned, and then so set up the same there that each of the said ladders was so then and there set up in the manner following, that is to say, by tieing the said two ladders together with the cords in the declaration mentioned, and placing the same, so tied, against the said No. 14, Porter-street, in such a manner that one [of] the said ladders then stood upon the ground of Newport-court aforesaid, and was prevented from touching the said No. 14, Porter-street, by reason of its being so tied to the other of the said two ladders; and that the other of the said two ladders rested against the said No. 14, Porter-street, and was supported and prevented from touching the ground by the first-mentioned of the said two ladders, contrary to the form of the said secondly mentioned Act; and then wrongfully and unlawfully, and contrary to the form of the said secondly-mentioned Act, continued the said two ladders so, as aforesaid, wrongfully set up, as aforesaid, in the said public place, as aforesaid, until the defendant, at the said time when, &c. in the declaration mentioned, then and still being the sur[veyor] of the pavements within the said parish for the time being, as such surveyor, in pursuance of the said [se]condly-mentioned Act, in order to pull down and remove the same two ladders and cords, seized and took the said two ladders and the said cords, by which the same were so tied, as aforesaid, and then pulled down, and removed, and carried away the same to a convenient place, and there kept the same until the defendant did, at the request of the plaintiff, restore the said two ladders and cords to the plaintiff, doing no unnecessary damage to the plaintiff on the occasion aforesaid. And the defendant further says, that he was not, at the time of his said appointment to the office of surveyor of the pavements, as aforesaid, nor after such appointment, at any time before or at the said time when, &c. in the declaration mentioned, did he become a commissioner or a trustee or a person having the control of the pavements of the said parish of St. Anne, by virtue of the said first-mentioned Act, or any other local Act or Acts of Parliament, or otherwise, nor a pavior, or mason, or dealer in stones; and that he had not, at the time of such appointment, as aforesaid, or at any time afterwards, before or at the said time when, &c. in the declaration mentioned, any share or interest in any employment or contract for the pavement, or reparation of the pavement, of the said parish of St. Anne, nor in any other public works under the said commissioners, being the persons having such control as aforesaid alone; and that he, the defendant, did not before or at the said time when, &c. in the declaration mentioned, cease to be a housekeeper, or to have an office within the said parish of St. Anne, nor otherwise become disqualified by virtue of the said secondly-mentioned Act.—*Verification.*

There was another plea to the same effect, justifying the removal of other ladders.

As to the wash-tubs, &c. the defendant pleaded payment of forty shillings into court, and no damages *ultra.*

To the first plea the plaintiff replied as follows:—Firstly. The plaintiff as to the plea of the defendant by him pleaded as to the trespasses in the declaration mentioned, so far as they relate to two of the said ladders, and to the said cords therein mentioned, says, that the said two ladders, so tied with the said cords, were, just before the said time, when, &c. to wit, on the day and year in the declaration mentioned, necessarily and properly set up, as therein mentioned, for the purpose of doing plasterers' work to and repairing the said house, No. 14, Porter-street, by the leave and license in writing, before the setting up the said two ladders, and before the said time when, &c. to wit, on the 13th day of Dec. A.D. 1843, had and obtained under the hand of the defendant, then being such surveyor as aforesaid, for the purpose of doing the said plasterers' work, and repairing the said house, No. 14, Porter-street, which said license then specified the length of time for which the said ladders when so set up might be continued, to wit, for two days, according to the form of the statute in such case made; and at the said time, when, &c. the said period in the said leave and license specified had not elapsed, and the said ladders were then necessarily and properly set up for the purpose aforesaid, according to the said leave and license.—*Verification.*

The replication to the second plea was similar to that to the first.

To the third plea, the plaintiff replied that there were damages *ultra*, upon which issue was joined.

The rejoinders to the replications to the second and third pleas traversed that the said ladders were set up by the leave and license of the defendant, *modo et formâ.*

Upon this issue was joined.

At the trial before Pollock, C. B. at the sittings in Middlesex, it was proved that a ladder having been set up by the plaintiff on the footway in Newport-court, in the parish of St. Anne, Westminster, against the wall of a house, No. 14, Porter-street, and another having been set up in Porter-street against the house No. 15, in that street, they were both, together with some other things covered by the payment into court, removed by persons acting under the orders of the defendant, who was the surveyor of pavements of the parish of St. Anne, within which the houses were situated, and who was duly appointed under the provisions of the 57 Geo. 3, c. 29, s. 2 (local and personal). Before putting up the ladders it appeared that the plaintiff had applied for a license to the defendant to do so, he believing himself not to be entitled to do so without it. The following leave was accordingly granted:—

"Parish of St. Anne, Westminster.

"I, Edmund Warne, being the surveyor of pavements for the parish of St. Anne, Westminster, do grant Mr. Davey, of 11, Princes-row, this license to erect ladder at No. 14, Porter-street.

"This license is granted by me, the said surveyor, two days; and as soon as the work is completed, the said Davey must give notice in writing thereof to the surveyor of pavements for the time being of the said parish, in order that the paving and other property displaced or injured may be restored by proper workmen under his direction, the expense of which being ascertained, the balance (if any) of the deposit money is to be returned to him, the said Davey.

"This license will be void, and subject the persons to whom it is granted to —— penalties for violations of the law, if he or they at any time neglect to form a board or platform and rail for foot-passengers round such board, and cause the same to be lighted from sunset to sunrise; or if he or they neglect to paint the scaffold-poles and ladder white at least eight feet

from the ground upwards, if required so to do; and if the platform and paving adjoining thereto be not kept clean and free from rubbish or other obstruction.

"EDMUND WARNE."

The ladders, however, having been set up, as it appeared to the defendant, in places and in a manner not warranted by the license, he ordered them to be removed. It was contended by the plaintiff at the trial, that as to the ladder set up against the house No. 14, Porter-street, that at all events was within the meaning of the license, which must be taken to authorize the putting it up against any part of the house itself, whether upon the side in Porter-street, or upon that in Newport-court. It was contended for the defendant that the license was to be construed strictly, and could only authorize the setting up the ladder in Porter-street itself. It was also contended that the defendant was entitled to notice of action under the statute, and that the notice which had been given being insufficient, the defendant was entitled to succeed on that ground, although he had not pleaded the want of notice. The learned judge was of opinion that the license did not warrant the putting up the ladders either in Newport-court against the house in 14, Porter-street, nor in Porter-street against No. 15, and the defendant had a verdict.

Humfrey having obtained a rule for a new trial, on the ground of misdirection, or for judgment *non obstante veredicto*, upon the first and second issues,

Jervis and *Monteith* now shewed cause.—The Lord Chief Baron was right. A license of this sort is to be construed strictly for the public benefit. If this had been a hoard instead of a ladder, Newport-court might have been stopped altogether. [ROLFE, B.—Would not a license to erect a ladder against Covent Garden authorize you to erect one in Bow-street against the wall of the theatre?] The question is, whether this is a description of the house, or of the place where the ladder is to be put. There is another point to the advantage of which the defendant is entitled on this motion. The statute 57 Geo. 3, c. 29, s. 132, requires a notice to be given twenty-one days before the commencement of any action for any thing done in pursuance of this Act, signed by the attorney for the plaintiff, and provides that no person shall recover in any such action, unless the notice has been given. No such notice has been given here. It is not signed by the attorney. [ALDERSON, B.—Can you take advantage of that without having pleaded it?] I submit that the Act requires the evidence to be given in every case, whether it is pleaded or not. (*Wagstaffe* v. *Sharpe*, 3 M. & W. 521; *Wills* v. *Langridge*, 5 A. & E. 383.)

Humfrey, contrà.—The case of *Wagstaffe* v. *Sharpe* was decided upon the construction of the 55 Geo. 3, c. 194, of which the language is very much stronger than that of the present Act. The language of the 21st section of that Act is, "that no apothecary shall be allowed to recover any charges claimed by him in any court of law unless such apothecary shall *prove on the trial* that he was in practice as an apothecary before the 5th of August 1815, or that he has obtained a certificate to practise as an apothecary from the Master Wardens and Society of Apothecaries." The statute now under consideration only makes it necessary that the notice shall have been given, but it leaves the question whether it has been so or not to be properly raised by the pleadings. It does not require the proof whether it is a matter in issue or not. Notwithstanding the stronger language of the statute cited in *Wagstaffe* v. *Sharpe*, the Court there had very great doubts about the question raised. Parke, B. there said in his judgment, "This case has been the subject of much consideration, but we have at length come to the conclusion, that as this is only a court of co-ordinate jurisdiction, we are bound by the decision in the Court of King's Bench in *Shearwood* v. *Hay*, and *Wills* v. *Langridge*, however great the doubt which some of the members of the Court may feel as to the propriety of that decision." It is submitted that, in the present case, no advantage of the want of notice could be taken without a plea to that effect. It is also submitted that the license did justify the placing the ladder in Newport-court. The words, "No. 14, Porter-street," are a mere description of the house, and the license was sufficient to enable the plaintiff to place his ladder against any part of the house or on any side of it. Lastly, the plea is bad. It attempts to set up a justification under the 75th section of the 57 Geo. 3, c. 29, which, after prohibiting the setting up of certain things therein specified, authorizes the surveyor of pavements to pull them down if erected. The words of the section are, "That no person or persons whomsoever shall erect, place, set up, or build in any street or other public place, in any parochial or other district within the jurisdiction of this Act, at any time or times hereafter, any hoard or scaffolding, or place or erect any posts, bars, rails, boards, or other thing by way of inclosure for the purpose of making mortar, or of depositing or sifting, screening or slacking any bricks, stone, lime, sand, or any other materials for building or reparing any house or other tenement or erection, or for other works, or for any other purpose, without leave or license first had and obtained under the hand of the surveyor," &c. A ladder is not included among the things prohibited. If the Court is of this opinion, the plaintiff will be content with judgment *non obstante veredicto*, and will not press for a new trial.

He was here stopped by the Court.

ALDERSON, B.—It seems to me that the Act of Parliament extends to inclosures only. It extends to hoards and scaffoldings *eo nomine*, and to other matters if they are inclosures. With respect to the notice, we are all of opinion that the want of it ought to have been pleaded. It is an important point, and I believe we have no doubt about it. On the other point we have no doubt that the Lord Chief Baron was right. The public are entitled to be protected. Suppose this had been a hoard or a scaffolding, the public might have been quite excluded from Newport-court. It might have been stopped up. These notices must be strictly construed for the good of the public.

Rule absolute for judgment non obstante veredicto.

Thursday, June 5.

SMITH v. ROCKE.

Action on an attorney's bill.

An attorney who had been retained to conduct the defence of an action brought against a party, obtained a verdict for his client; a rule for a new trial was subsequently obtained, but two assizes having passed without any further step being taken by the plaintiff to proceed to a second trial, the attorney sent in his bill of costs, which the defendant promised to pay. Held, that this was reasonable notice to his client of his intention to determine the contract between them and to retire from the further conduct of the suit, and that the promise to pay the bill was a concurrence by the defendant to the termination of the relation of attorney and client which had subsisted between them.

This was an action of debt for an attorney's bill.

Pleas—Money paid, and Never indebted.

The plaintiff had a verdict for 62*l.* with leave for the defendant to move to enter a nonsuit. It appeared that some time in 1843 an action was brought against the present defendant by a person named Bell, whereupon the defendant retained the present plaintiff, Smith, to defend the action. In the course of the cause, Smith made an admission which was in some degree prejudicial to his client's case, and might, it was said, have lost him the verdict; but, notwithstanding that, the defendant had a verdict; a rule *nisi* for a new trial was afterwards obtained, on the ground that the verdict was against evidence, and this rule was ultimately made absolute, on payment of costs, but no steps were taken by the plaintiff to take down the cause for trial again; and, consequently, after the lapse of two assizes (it being a country cause), the present plaintiff sent in his bill of costs to the defendant for defending the action, which the defendant promised to pay as soon as he could get 50*l.* or 60*l.*; but said "money was then very scarce with him." No payment, however, being made, the present action was brought, and a verdict taken for the full amount of the plaintiff's claim. The present rule was obtained on the ground that the plaintiff had been guilty of negligence, in making admissions which had prejudiced his client's case, and also that the contract between an attorney and his client was an entire one, and that the attorney could not sustain an action for his bill of costs in a suit until that suit was brought to an end.

J. Gray now shewed cause, and contended that, as to the charge of negligence in the attorney, that could not be sustained, as he had got a verdict for his client, and therefore it could not be said that he had received no benefit. Then, as to the question of the entirety of contract, it may be admitted that where an attorney commences a suit, he is bound to carry it on to its termination, unless he give his client reasonable notice of his intention not to proceed further with it; but here, it is contended that the delivery of the bill was a notice to the client that the attorney did not intend to go on with the case, and the promise to pay the bill must, it is submitted, be taken to be an assent by the client to the attorney's withdrawal from the suit. Then it was done at a very reasonable time, just after the summer assize, when the cause could not be taken down for trial by the plaintiff until the next spring, and there was, therefore, plenty of time for the defendant to retain a fresh attorney.

Cases cited: *Harris* v. *Osborn* (2 Cromp. & M. 629); *Vansandau* v. *Browne* (1 Bing. 402).

Godson, Q. C. and *Hugh Hill*, in support of the rule.—First, there has been no sufficient notice to the client of the attorney's intention to determine the contract between them. He ought to have informed the client that the next step in the cause was to take the cause down by proviso, but that he did not intend doing so, or proceeding further with the suit. He should have given reasonable notice of his intention to withdraw from the suit. [PLATT, B.—What would you call reasonable notice?] Why, he should have said, "You may try by proviso. I shall not do so for you; pay me my costs." [ALDERSON, B.—Surely the delivery of the bill is both giving notice that he will not proceed further and asking for costs. POLLOCK, C. B.—What could the attorney do more in the way of demanding money? Here was a bill delivered and a promise to pay without there being any duress.] But it is submitted that the mere delivery of the bill will not put an end to the contract, for the whole question is, was this contract put an end to? And it is contended that this was a continuing contract until there should be an express notice by the attorney that he would not go on further with the suit. Then he was guilty of negligence. [ALDERSON, B.—It is a strange thing to say that an attorney has been guilty of negligence who wins the verdict.] Then he should at all events have informed his client what was the next step in the cause. Here no advice whatever is given, and no sufficient notice of the intention to withdraw.

Case cited: *Nicholls* v. *Wilson* (11 M. & W. 106).

By the COURT.—This rule must be discharged. There is no question as to the general rule of law that an attorney is bound to carry on a suit to its termination, unless he give reasonable notice to his client of his intention to retire from the further conduct of it; but then is there such reasonable notice here? We think there was. It is reasonable to infer from the conduct of the parties that there was an agreement between the parties that the relation of attorney and client which had existed between them should be put an end to. Here a bill is delivered at a very proper time, when there was a pause in the suit, and there is a promise to pay that bill; the client was not put in any difficulty, but had ample time to supply the place of the attorney before any other step in the cause could be taken, if any ever should be, which seems very doubtful, from the fact of the plaintiff having let two assizes pass without attempting to proceed. Then as to the supposed negligence, the attorney won the verdict, and the admission complained of was only in the cause, and would not affect a second trial. The rule must therefore be discharged. *Rule discharged.*

Friday, June 6.

LAURENCE v. CLARKE.

Notice to produce.

A notice to produce a bill of exchange (which was declared on, but was not in issue in the cause) was served at the attorney's office in Oxford-street at half-past eight the night before the trial of the cause in London:—Held, insufficient. Held also, that the defendant could not refer to the bill in any way at the trial without having given a notice to produce it.

This was an action by the indorsee against the acceptor of a bill of exchange. There was no plea denying the acceptance. At the trial, the defendant proposed to give evidence of the circumstances under which the bill was given; but it was objected that could not be done, as the defendant could give secondary evidence of or refer to the bill without having given a notice to produce the note. A notice was then put in and read, when it appeared to be headed "in the Common Pleas" instead of the Exchequer, and that it was only served at half-past eight on the night before the trial, the service not being personal, but merely by leaving at the office of the attorney in Oxford-street. The client lived in London. The learned judge who tried the cause held this notice to be bad, and refused to admit the evidence, and the plaintiff had a verdict.

Petersdorff having obtained a rule *nisi* for a new trial on the ground of the rejection of evidence,

Jervis, Q.C. now shewed cause, and contended that the notice to produce was clearly bad and insufficient on two grounds; 1st, for being entitled in the Common Pleas instead of the Exchequer; and, 2nd, that it was not served in time. Here the bill was not in issue, as there was no plea denying the acceptance; therefore the attorney was not bound to have it, and should have had some time given him to communicate with his client, which it was not shewn that he had here, as it did not appear that the notice had ever come to his hands. The notice was not sworn to be served until half-past eight on the night before the trial, and this was only by leaving it at the office; and it might be that the attorney went straight to the court the next morning, without going to his office, as his cause was first.

Wordsworth, same side.

Cases cited: *Harvey* v. *Morgan* (2 Starkie, 19); *Byrne* v. *Harvey* (2 M. & R. 89); *Holt* v. *Miers* (9 C. & P. 191).

Petersdorff, in support of his rule.—This was a notice not to produce papers which it was probable the client might have, but the very bill declared on, and there was quite sufficient notice to the attorney by leaving this notice to produce at his office the evening before the trial. [ALDERSON, B.—I think this is not a sufficient service. It is stated to be "by leaving at the attorney's office" at half-past eight the night before the trial, and may have been by putting it under the door. The question is, has the party had reasonable notice? I think he has not. I do not express any opinion on the point put, as to the notice being entitled in the Common Pleas instead of the Exchequer; but I think this service was not in time.] Then it is submitted that no notice was necessary. The evidence proposed to be given

was not parol evidence of the contents of the bill, but merely of facts which took place at the time it was given. [Rolfe, B.—That is, you wanted to prove that at the time a certain paper writing was given, certain concomitant circumstances took place, and then you seek to refer to that piece of paper writing, which is in the hands of th other party, without having given him notice to pr luce it; how can you do that?] It is submitted that there dmission of the existence of the bill on the pleadings by both parties.

By the Court.—If the party wished to refer to the bill, he should have given a proper and reasonable notice to produce it; he has not done that, and therefore we think the evidence was properly rejected. The referring to the note in any way is seeking to give parol evidence of its contents; that he could not do, and therefore this rule must be discharged.

Rule discharged.

Thursday, June 12.

Lumley v. Dubourg.

The plaintiff had discharged a rule for judgment, as in case of a nonsuit, upon giving a peremptory undertaking to try at the next sittings. He took all the necessary steps and duly entered his cause, although it was low down in the list. The cause was, ultimately, from press of business, made a remanet to the next sittings. The defendant had obtained judgment, as in case of a nonsuit, on the ground that the plaintiff had not proceeded to trial in pursuance of his undertaking: Held, that, under those circumstances, the defendant was not entitled to judgment, and that the Court would enlarge the plaintiff's undertaking.

The plaintiff not having proceeded to trial in due time, the defendant had applied for and obtained a rule for judgment, as in case of a nonsuit, which had been discharged on the plaintiff's giving a peremptory undertaking to try at the next sittings in Middlesex. The cause was duly set down pursuant to the undertaking, but it stood late in the list, and owing to the press of business, was not tried, but was made a *remanet*. The defendant then obtained a rule absolute for judgment, as in case of a nonsuit, on reading the previous rule.

Hoggins afterwards obtained a rule to set aside the judgment and other proceedings taken pursuant to that rule.

Ogle now shewed cause, citing *Ward* v. *Turner* (5 Dowl. 21); 14 Geo. 2, c. 17.

Hoggins, contrà, citing *Gilbert* v. *Kirkland* (2 Dowl. 153).

By the Court.—The rule must be absolute. The plaintiff has done all in his power to proceed to trial, and has only been prevented by the act of the Court.

Rule absolute.

Re Carus Wilson.

Fry mentioned this case again, and inquired whether the Court had come to any conclusion upon the point raised yesterday, whether a *habeas corpus* in this case might be made returnable at chambers. The Court, however, said that they had had an opportunity since yesterday of looking into the affidavits, and they were not of opinion that this was a case in which, upon the merits, a *habeas corpus* ought to issue.

Writ refused.

Froude and Wife v. Towell.

Account stated.

A letter offering to pay a certain sum of money discharge of a disputed account, followed by a tender of the sum, which is refused, is not evidence of an account stated.

Debt.—The declaration contained a count for the use and hire of a boat, and also a count upon an account stated.

At the trial before Wightman, J. at the last Wiltshire Summer Assizes, the plaintiff failed to prove the letting to hire of the boat, and relied upon the following evidence to support the account stated:—

First, a letter written by the defendant to the female plaintiff, before she married the other plaintiff, in which he says—

"You had better let Thomas have the boat and horse, and I will give you the odds of money. I let William have 5*l.* when he bought the first boat, and 30*l.* when he bought this; and paid Mr. Theobald for the clothes. You can have the money as you want it."

The following letter was then put in, written by the defendant's attorney to the plaintiff's attorney; and the defendant's attorney proved that it was written by the defendant's direction:—

"Mr. Powell has brought me your letter, and stated to me the circumstances respecting it. At the time of his son's decease he was indebted to Mr. Powell in a sum of 42*l.* advanced him for the particular purpose of investing in the purchase of the boat. After his decease, Mr. Powell sent two persons to the widow, who gave up the boat to them on Mr. Powell's account—the widow consenting to receive the balance of the value of the boat after deducting his debt. The boat has been valued by a competent person, and Mr. Powell has caused to be tendered the difference so agreed to be received; he has therefore acted an honest and upright part, and he is willing to pay a properly authorized party the difference which the widow has refused."

A witness was called, who proved that by the defendant's direction he made a tender of 24*l.* the balance of the boat, to the female plaintiff, which she refused.

Verdict for defendant, with liberty to move to enter verdict for plaintiff, with 24*l.* damages, if Court shall be of opinion there was any evidence to go to the jury upon an account stated.

Cockburn Q. C. afterwards obtained a rule accordingly.

Crowder, Q. C. shewed cause, and *Cockburn* not being present, the Court discharged the rule; but upon application they consented to re-open it, and hear *Cockburn*, who was now heard in support of the rule, citing *Knowles and Others* v. *Michel* (13 East, 250); *Highmore* v. *Primrose* (5 M. & S. 65); *Tucker* v. *Barrow* (7 B. & C. 623); *Wayman* v. *Hilliard* (7 Bing. 101).

Pollock, C. B.—I do not see any reason whatever for varying the judgment of the Court that the rule should be discharged. I have no doubt any distinct admission of a particular sum as due will be sufficient. That is not the case here. The only admission here is an offer to pay a certain sum if the other party will take it, which she refused to do. You might as well say a tender, not accepted, would be evidence of an account stated.

Alderson, B.—Here is a tender of 24*l.* refused. Surely it would violate all one's ideas of common sense if that were held to be an account stated.

Rule discharged.

BUSINESS OF THE WEEK.

Thursday.

Beck v. Flower.

Rule enlarged for the Master to report.

Re Thomson. *Rule discharged.*

Reg. v. Wolf.

Rule absolute on payment of costs.

Alderton v. Richardson.—*Crowder*, Q. C. shewed cause. *Watson*, Q.C. and *Humfreys*, Q.C. contrà. *Rule discharged.*

Knapp v. Walker.—*Corrie* moved for leave to amend the *capias* in this case by striking out the costs, 7*l.* *Rule nisi.*

Graham v. Walker.—*Bovill* moved to set aside the verdict in this case, with costs, on the ground that the notice of trial was irregular. Case cited: *Benthall* v. *West* (1 Dowl. & Lowndes, 599).

Rule nisi.

Friday.

Dewley v. Bergonzi.—This was a rule for a new trial, on the ground that the verdict was against evidence. *Humphrey*, Q. C. shewed cause. *Martin*, Q. C. in support of the rule.

Rule absolute on payment of costs.

Watson v. Steward. Rule for a new trial, on the ground that the verdict was against evidence. *Jervis*, Q. C. and *E. James* shewed cause. *Cockburn*, Q. C. and *Bramwell*, contrà.

Rule discharged.

Wednesday.

The Attorney-General v. Halling.—*S. Parker*, Q.C. in reply. *Wilde*, for the Crown.

Cur. adv. vult.

The Attorney-General v. Brown.—*Demurrer* to plea of not guilty. *Jer* Q.C. appeared to support the demurrer. *Willes*, contrà.

Amendment by the Crown by pleading over.

Cracknell v. Croker. *Rule absolute.*

Kean v. Skipwith.—*Hora* moved to set aside the award in this case, on the ground of misconduct in the exhibitors. *Rule nisi.*

Re C. Carus Wilson.—*Watson*, Q.C. (*Fry* with him), moved for a *habeas corpus*. *Cur. adv. vult.*

Monday.

Attorney-General v. Lennox. Special case. *Crompton* for the Crown. *Jervis* and *Cowling* for the defendant. *Cur. adv. vult.*

Re Stevenson, gent. one, &c. in a cause of Tirrwick v. Watson.—*Temple* shewed cause against a rule obtained by *Martin*, Q.C. calling on an attorney to pay certain costs. *Referred to the Master.*

Udall v. Walton. *Rule absolute.*

Tuesday.

Attorney-General v. Halling.

Part heard.

Thursday.

Hoyles v. Blore. *Cur. adv. vult.*

Doe *dem.* —— v. Davis.

Settled between the counsel.

Yearsley v. Heane.—This case will be reported next week.

EXCHEQUER CHAMBER.

ON ERRORS FROM THE COURT OF QUEEN'S BENCH.

(Argued Feb. 3: determined June 14, 1845.)

Before Tindal, C. J., Parke, Alderson, Rolfe, and Platt, BB., and Coltman, Maule, and Cresswell, JJ.)

Scott *v.* Wedlake, Administrator.

A plea of ne unques administrator should conclude with a verification, and not to the country.

2. A judgment that the writ be quashed on a demurrer to such a plea is erroneous.

This case arose on a demurrer to the plea, which plea the Court below thought good and sufficient in law.

Atherton now appeared in support of the writ of error and of the demurrer, and contended that the plea had improperly concluded with a verification instead of to the country.

The action was brought against the defendant as administratrix, with the will annexed, of one Thomas Wedlake, and the declaration contained two counts, the first of which was on a promissory note made by the deceased, and the second on an account stated with him. To this declaration the defendant pleaded that she was not and never had been administratrix of the goods and chattels of the deceased, and the plea concluded with a verification. The plaintiff thereupon demurred specially on the following grounds:—That if the plea was to be taken as merely denying that the defendant ever was administratrix at all, or liable as such, the plea improperly concluded with a verification, and ought to have concluded to the country; that if the said plea was to be taken as alleging that although in point of fact the defendant was once administratrix, but that in point of law she had ceased to be so at the time when the plea was pleaded, or that at the time when that plea was pleaded she had ceased to be liable as administratrix, yet the plea was bad for uncertainty, as not shewing how and in what manner the defendant ceased to be administratrix, or to be liable as such, and likewise bad for duplicity, in insisting on such defence, and also in denying that the defendant ever was administratrix. That the said plea was informal and repugnant, because it did not expressly admit or deny that the defendant was administratrix at the time when the action was commenced. That the said plea raised an immaterial issue, namely, whether the defendant was administratrix at the time or when that plea was pleaded; and, lastly, that it was repugnant and informal in saying that the defendant was not (that is at the time when that plea was pleaded) administratrix in manner and form as in the declaration alleged, the declaration containing no such allegation; the Court below gave judgment that the writ be quashed.

Atherton first objected that the judgment so entered was erroneous, as the plea was in *bar*, and not in *abatement*, and therefore it was wrong to adjudge that the writ be quashed. He then maintained the demurrer. The Court below decided that the words "is not" in the plea are words of surplusage. But these words cannot be so rejected. They refer to the *time of the plea*. (*De Brit* v. *Papillon*, 1 East, 502.) The administratrix may not have been so at the time of the writ, but have become so since, and therefore the allegation "never hath been" would be improper and insufficient to meet the case. If the replication omitted to traverse the words "is not," it would be bad. (*Dendy* v. *Powell*, 3 M. & W. 444.) The plea ought to have concluded to the country. It amounted to a traverse of the character ascribed to the defendant. The Court below thought the precedents warranted the conclusion with a verification, but all the precedents are cases of *executors*. There is no form of *ne unques administrator* in the old books. *Atherton* referred to Co. En. 144 a.; Rastell, 322, 330; Winch, 341.

Corrie, contrà, said there was a form for an administrator in Rastell, 321.

Atherton.—It is very true that Mr. Chitty gives the conclusion for the *administrator* with a *verification* (3 Pleading, 808, 6th edition); but he had inadvertently forgotten the distinction between the case of an *executor* and *administrator*. In the former case the plea not only avers that the defendant never was executor, *but also* that he "never administered" any of the goods of the testator, and the replication must negative *both* allegations. New matter is therefore clearly introduced in *that* case. But here the replication is merely a repetition of the declaration that the defendant was administratrix. This distinction is recognised by *Fowler* v. *Cooke* (1 Salk. 297). Here there is no new matter alleged in the plea.

Corrie, contrà, said, first, that it was only a plea in *abatement* (Com. Dig. "Pleader," 2 D. 12, and 2nd); that whether the defendant be named executor or administrator, was immaterial; it was a mere name of office—a wrongful intermeddler may be termed an executor. It is a mere allegation that the party is the representative of the deceased. This is an exception to the general rule of a traverse concluding to the country, and is good on precedent. The plea of *liberum tenementum* in trespass concludes with a verification, though it is an argumentative traverse. When the traverse includes all the declaration like *non assumpsit*, it must conclude to the country; but when it selects part of the declaration, with a verification. The plea would be bad if it did not include something not in the declaration. The time between the writ and the declaration must be included. An executor and administrator are one—and the allegation that the defendant never administered is mere surplusage.

Atherton, in reply, said that if there is an identity between an executor and administrator, the precedent of the former must be followed, and the plea must allege that the defendant *never administered*, which would clearly be introducing *new matter*.

Cur. adv. vult.

Bankrupt and Insolbent Courts.

COMMISSIONERS' COURTS.

Saturday, June 7.
(Before Mr. Commissioner GOULBURN.)
Re YATES, a Bankrupt.
Postponing certificate.

Where a bankrupt, under the excitement of liquor, had given another party an I O U to enable him to prove against his estate, but, on the proof being tendered, the bankrupt came up and opposed the proof, stating to the Court the circumstance, the Court will, nevertheless, postpone the granting of the certificate for twelve months.

This bankrupt had been in partnership with another party, and both had become bankrupt. Under the separate estate of the bankrupt, the assets were more than sufficient to pay twenty shillings in the pound; but there was scarcely any thing for the joint creditors. At the last meeting, which was a meeting to declare a final dividend on the separate estate of the bankrupt, a party appeared to prove a debt on two I O U's, amounting together to 27*l.* The bankrupt having heard that this party was about to prove on the I O U's, came up from a distance to oppose the proof. In examination he stated that the party, whom he had previously known, came to him some time since, and proposed to give him the I O U's dated previous to the bankruptcy, to enable him to prove, and that the amount he received upon such proof should be divided between the bankrupt and himself; the bankrupt at first refused, but afterwards, having been supplied with drink by the party, he consented, and gave the two I O U's, dated previous to the bankruptcy. The solicitor for the assignees, upon being asked by the Commissioner whether he had any thing to say against the granting of the certificate, said he had not, and recommended the bankrupt to the merciful consideration of the Court, he being a young man.

His HONOUR said, I don't think I ought to pass such a fraud. Am I to grant to this bankrupt, the same benefit I should to an honest man? or ought I to grant on the score of compassion that which I should not on the score of justice? I shall postpone the certificate for twelve months.

Tuesday, June 10.
(Before Mr. Commissioner EVANS.)
Ex parte the ASSIGNEES of PAGE, a bankrupt.

A party summoned to this Court to admit a debt due from him as administrator to his late partner, cannot set off against such claim a debt due from the plaintiff to him as surviving partner.

This was a summons issued on behalf of the assignees of Page, a bankrupt, under the 5 & 6 Vict. c. 122, s. 11, calling upon defendant, as administrator to his father, to shew cause why he should not admit a debt alleged to be due from his father to the estate of the bankrupt. The sum claimed was for work done by the bankrupt for the father of the defendant. The defendant and his father were in partnership; and the bankrupt and the firm had for some time previous to the bankruptcy, and also previous to the death of the father, which happened about the same time, had mutual dealings. The bankrupt was indebted to the firm for goods sold in a larger amount than that now claimed by his assignee against the defendant. The defendant claimed, as administrator to his father's estate, and as surviving partner of the firm, to set off the debt due from the bankrupt's estate to the firm, against the debt due from his father to the bankrupt.

Sturgeon, for the assignees, contended that they were entitled to payment from the defendant, as administrator to his father's estate, of the sum claimed for work done for the father on his private account; and although the bankrupt, no doubt, intended to set off the one demand against the other, yet the set-off could not be allowed against the assignees, but the defendant must prove against the bankrupt's estate in respect of the debt due to the firm.

His HONOUR.—The defendant, as administrator to his father, cannot insist on a set-off, or refuse to pay the amount claimed. Although mutual credit between the firm and the bankrupt appears to have been intended, that intention cannot be acted upon in this court, no agreement to that effect having been made. The defendant cannot set off the debt due to him as surviving partner against the debt due from him as administrator to his father. There cannot be a set-off where the debts are *in auter droit.*

Wednesday, June 4.
(Before Mr. Commissioner FANE.)
In the matter of SAWYER, an Insolvent Debtor.

Where a party has taken advantage of his position as an attorney fraudulently to obtain money from a client, the Court will visit him with the utmost extent of punishment allowed by law in cases of fraud. The proviso in the 28th sec. of 7 & 8 Vict. cap. 96, "that no debtor shall be imprisoned on any process for more than twelve calendar months," does not give authority to the Court of Bankruptcy to release an insolvent at the expiration of that time.

This case was heard some time since, when the Court took time to consider.

His HONOUR now gave judgment.—This was an application by James Sawyer, an attorney, for an order to be made under the 28th section of the Insolvent Act of 1844, to protect him from being further detained in prison. The insolvent has given in a list of debts, to the amount of 6,622*l.* and a list of assets, which up to this time have produced nothing. [It is unnecessary to state the facts from which the Court arrived at the conclusion that the insolvent had been guilty of fraudulent practices towards his client.] The question is, what course I ought to pursue to act in accordance with the 28th section of the Act of last year; and I consider that, in a case of such gross fraud, where an attorney avails himself of the confidence which his client reposes in him as a friend and capable adviser, to cheat that client, and more particularly where, as in this case, the cheat operates upon the greatest portion of the unfortunate client's means of subsistence, I ought to shew the utmost severity which the legislature appears to have sanctioned. I have looked into the Insolvent Debtors' Court Act, and I find by the 78th section of that Act, that where a prisoner has contracted a debt by means of fraudulent pretences, he is nevertheless to be released from prison, at the latest, after having undergone two years' imprisonment; the legislature therefore has, as I conceive, sanctioned the doctrine that for no fraud, however gross, shall a man be kept in prison for more than two years, unless indicted and convicted; and in submission to that view, I will make a protecting order on the 4th day of April, 1846, when the insolvent will have lain in prison two years, and will then, if applied to, make an order under the 29th section for his release. I cannot release the insolvent under the proviso at the end of the 28th section, because that proviso does not give any authority to the Court of Bankruptcy.

COUNTRY COMMISSIONERS' COURTS.

BRISTOL DISTRICT BANKRUPTCY COURT.
Wednesday, June 4.
(Before Mr. Commissioner STEVENSON.)
Re DRURY.

Where an insolvent's petition has been twice dismissed on mere technical objections, the Court will allow him to petition a third time.

This insolvent came up for his first hearing, when *Higgins*, attorney, of Bath, stated that two previous petitions in this court had been dismissed. It was a great hardship to creditors to be brought so repeatedly before the Court.

Stone, for the insolvent, said that the two former petitions had been dismissed on purely technical grounds; the first dismissal was in consequence of the omission of a creditor, the last was in consequence of the insolvent's not having complied with an order of the Court to furnish an account, which non-compliance arose from the neglect of the insolvent's solicitor, who had not made out the account as ordered; and the insolvent's counsel was then unable to explain the cause of its absence.

His HONOUR assented to this, and the hearing proceeded. On *Higgins* stating that he was not then prepared to go into his case, a day was named for the final order.

Wednesday, June 11.
Ex parte REES, *re* SCOWCROFT.

A mortagee may give up his security, and prove the mortgage debt four years after the bankruptcy, without accounting for the rents and profits, where no proof can be given that he had ever taken possession, as mortgagee, of the mortgaged premises, even where the mortgage was made to him as trustee for the bankrupt's wife under her settlement, and the bankrupt's wife has remained with her husband in possession of the mortgaged premises since the date of the mortgage.

Greville, solicitor, applied to file a proof of 1,000*l.* for money advanced to the bankrupt by the Rev. William Rees, as trustee for the bankrupt's wife, under a marriage settlement produced to the Court, for which sum the said trustee held no security, save and except a certain indenture of mortgage, which was offered to be given up to the assignees for the benefit of the estate.

Homes, for the assignees, objected to the proof. The marriage settlement produced contained a power to advance 1,000*l.* at the request, in writing, of the bankrupt, upon security of a farm called Robleston, of which the bankrupt had a beneficial lease. The money had been advanced in July 1840, about six months before the date of the fiat; and the mortgage produced and now offered to be given up was dated in December 1840, only eighteen days before the date of the fiat. The assignees never disputed the validity of the mortgage, but had allowed Mr. Rees to take possession of the mortgaged property in trust for Mrs. Scowcroft, the bankrupt's wife, and she had been residing on the farm, receiving the profits thereof uninterruptedly from the date of the fiat until the present time, upwards of four years. The lease so mortgaged to Mr. Rees had now become nearly valueless, and Mr. Rees therefore wished to give up the mortgage, and prove his whole debt without accounting for the receipts in the meantime arising from the mortgaged property. *Homes* submitted that, before the proof could be received, the mortgagee should account for the profits of the farm in the usual manner of mortgagees in possession, up to the time of the security being given up to the assignees. *Greville* denied that Mr. Rees had ever taken possession of the farm as mortgagee; the mortgage-deed had always been in possession of Scowcroft, the bankrupt, and was not executed by Rees, the mortgagee. Mr. and Mrs. Scowcroft had been in possession, by permission of the assignees, in the same way as they possessed the farm before the mortgage; and Rees had never done any act equivalent to taking possession as mortgagee. The possession of Scowcroft and his wife was no possession by Rees as mortgagee. *Homes* proved the payment of rent on one occasion after the mortgage by Rees, to the landlord of the farm. *Greville* said this was merely an advance by Rees of the money for the payment of the rent, and was never intended in any way as an act of ownership as tenant in possession of the farm. Scowcroft himself had paid the rent since, and the single payment made by Rees was only an advance of the rent for Scowcroft.

His HONOUR.—Under these circumstances, I think the assignees have failed to make out their case of the mortgagee having taken possession. The proof is simply for the principal debt (which it appears was actually advanced by Rees), and not for any interest on that debt. If the assignees think they can shew by any other evidence that Rees actually took possession as mortgagee, I will adjourn the proof at the expense of the estate; otherwise the proof will be received.

Proof received.

Friday, June 13.
Re INIGHT.

Where an insolvent, having obtained leave to amend his schedule, inserts items which clearly shew that the former schedule was wilfully false, the petition will be dismissed.

The Court will retain jurisdiction over a petition whenever it is desirable for the creditors to do so, notwithstanding a case has been made out for dismissal.

In this case, the first hearing had been adjourned for the insolvent to amend his balance-sheet. The former balance-sheet contained an item of expenditure set down at 10s. a week for 194 weeks, but in the amended balance-sheet, the insolvent had entered the same item, for the same period, at 15s. a week.

Homes, for an opposing creditor, contended that the leave to amend the balance-sheet was given in order that the insolvent might insert therein some *additional* information to his creditors, but the amended account contained matter which completely falsified the former balance-sheet; if it had been proved on the first hearing that this item ought to have been 15s. instead of 10s. a week, the petition would have been dismissed, for such a variance extending over so long a period as 194 weeks, could not have been accidental, but must have been wilful. Leave to amend, except in cases of mistake, does not mean leave to contradict entirely the former matter stated; the items in the amended balance-sheet should be more minute, more in detail, than, and elucidatory of, the former account, but certainly not inconsistent with it. By this amended balance-sheet, it is clear that the former one contained a statement wilfully false. *Homes* also pointed out another item, which had been inserted in the amended account, and could not have been *accidentally* omitted in the former one.

His HONOUR.—The order to amend was certainly not intended to give the insolvent permission to insert items shewing that the former account was false. The petition must be dismissed.

Packwood, solicitor for a creditor, asked the Court to adjourn the final order *sine die*, as it would be beneficial to the creditors to retain jurisdiction over the estate.

His HONOUR consented, and then, instead of dismissing the petition, *refused to name any day for the final order*, directing that insolvent should not be permitted to apply for another hearing for six weeks.

Circuit Reports.

SPRING ASSIZES. NORFOLK CIRCUIT.
Cambridge, March, 1845.
(Before Mr. Baron PARKE.)
DOE *dem.* WHITE *v.* OKEY.

Landlord and tenant—Ejectment—Agreement of demise—Notice to quit.

Where an agreement of demise for a year, from the 25th March preceding its date in June, of two cottages

and pasture land, requires six months' notice of determination, that notice must follow the general rule, and expire at the end of the current year, though there is a clause for the payment of a proportionate part of the rent reserved for any time less than a year that the tenant shall occupy the premises.

Ejectment for the recovery of two cottages and a close of pasture land.

It appeared from the evidence of the plaintiff, that the defendant, being in the occupation of the premises in question, entered into an agreement with the lessor of the plaintiff for the further enjoyment of the same, of which the following is a copy:—

"Memorandum of an agreement made and entered into this 25th day of June, 1842, between Hamilton White, of Grantchester, in the county of Cambridge, of one part, and James Okey, of the same place, of the other, whereby the said H. W. hath agreed to let to the said J. O. and the said J. O. hath agreed to hire all that, &c. as the same are now in the occupation of the said J. O. for one year, from the 25th of March last, and so on from year to year, until this agreement shall be determined by one of the said parties giving, in the first or any subsequent year, to the other of them, six months' notice in writing for that purpose, at and under the clear yearly rent of 30*l.* payable half-yearly, viz. on the 29th September, and 25th March, or a proportionate part thereof for any time less than a year that the said J. O. shall occupy the said premises."

The defendant remained in the occupation of the demised premises till the 23rd of July, 1844, on which day the lessor of the plaintiff, deeming that he was enabled so to do, under the peculiar terms of their agreement, gave to him a notice to quit, determinable on the 1st of February, 1845, being a short period over six months. The defendant, however, contending that he was entitled to the usual notice determinable at the end of the current year, refused to give up the premises, whereupon this action was brought.

Byles, Serjt. (with whom was *O'Malley*), in opening the case to the jury, contended that the agreement reserving a proportionate part of the rent for any time less than a year that the tenant might occupy the premises, contemplated the power of putting an end to the tenancy by six months' notice, which might determine at any period of the year.

Gunning, contrà, for the defendant.—The lessor of the plaintiff must be called. There is nothing in this case to obviate the necessity of a six months' notice, to expire at the end of the current year of the tenancy created thereby. It is, indeed, contended that this agreement is taken out of the general rule by reason of the clause for the payment of the rent or any proportionate part thereof for any time less than a year which the defendant might occupy the demised premises; but it is apprehended that there are two clear answers to that argument. The *habendum*, in the first place, dates from "March last," a period of three months anterior to the date of the instrument, and the parties might very well, under such circumstances, contemplate the power of putting an end to the tenancy at the expiration of the first year, in which case, under this peculiar clause, there would only be nine months' rent to be paid in the first year, though the holding would commence from the March, and would therefore extend over the whole year. This might very well be the meaning of the parties, for they use the expression, "occupy the premises," with the view, no doubt, of regulating the payment of rent. This, however, does not at all militate against the application of the general rule which regulates the proper period for giving notices to quit; for though the parties here might contemplate the cessation of the tenancy at the end of the first year, it does not at all follow that they intended to waive the right to six months' notice, determinable at the end of the first year as well as at any subsequent one, as, indeed, the agreement says. In the next place, it might be that this peculiar clause was introduced because the parties contemplated putting an end to the tenancy by mutual agreement. In such a case that clause might be introduced to guard against the tenant's refusal to pay a rent proportionate to the actual duration of occupation, by saying that the time for paying rent had not yet arrived, while it would, in like manner, protect him from any attempt on the part of the landlord to make him pay rent for the whole half-year, because he had occupied the premises during a part of it. Now the courts all lean to the necessity of bringing the expiration of tenancies to the end of their current year, and even where there is a quarterly payment of rent reserved and notice, it has been held that the notice must expire at the end of the current year. In either of the cases just put, the words of the lease would be satisfied without any interference with the general rule of law as to the proper period for the termination of the notice to quit. The words of the agreement are clear both as to the necessity for a six months' notice and as to the *habendum*, and the only peculiar passage refers to the time for the payment of the rent; so that, on the whole, it is submitted that the proper notice has not been given in this case, and that the defendant must have a verdict.

PARKE, B.—My present impression is, that the six months' notice ought to expire at the end of the current year according to the usual rule, and that the clause as to the proportionate rent refers only to the first year.

Byles, Serjt. submitted that the action was well brought, and that the notice had been properly given under this agreement. The defendant's counsel admits, by his first proposition, that the usual principle does not govern this case, as the current year means the current year of the term, and the clause is for any part of a year.

PARKE, B.—No. The agreement is well satisfied by Mr. Gunning's argument on the first point raised by him in objection to the sufficiency of this notice. There is a demise for a year on the face of the agreement, which is in truth but one for nine months, with a proviso for six months' notice, and to that case the clause relating to the proportionate rent is applicable.

Byles, Serjt.—Neither is the second argument tenable, for the termination of the tenancy by agreement would not require any reference to the terms of the lease. An agreement would, of course, introduce special terms.

PARKE, B.—That may be: but my opinion is, and strongly so, that the agreement is to be construed to mean a notice determinable at the end of the current year, otherwise the tenancy might be determined in a manner which would work injustice to one party or the other by the capricious selection of the period at which the notice might be given. Under these circumstances, I shall direct a verdict for the defendant. *Verdict for the defendant.*

NISI PRIUS COURT.

Bury St. Edmunds.

(Before Mr. Justice PATTESON.)

REGINA *v.* WELHAM.

Misdemeanor and felony—Merger—Indictment for inciting to commit felony—Requisites.

In an indictment for inciting another to commit a felony, the party charged to have been incited must be shewn to have been aware that the act contemplated was a felony. If the party incited is not an innocent agent, and the act incited be committed, the party inciting is a principal felon, inasmuch as he is an accessory before the fact to a felony, and the misdemeanor merges in the felony.

The indictment, which had been removed into this court by *certiorari*, charged that defendant on, &c. at, &c. falsely, wickedly, and unlawfully did solicit, move, incite, counsel, and command one Robert Hood feloniously and unlawfully to steal, take and carry away a load of wheat in the straw of the value of 40s. one load of unthreshed wheat of the value of 40s. and one load of straw of the value of 10s. of the goods and chattels of one James Ward. A second count laid the property to be in John Henry Gell and others.

Byles, Serjt. (*O'Malley* with him) called several witnesses for the prosecution, from whose testimony it appeared that the defendant was a miller living in the parish of Haughley, in the county of Suffolk, where the prosecutor, Mr. Ward, occupies a large farm. Some time ago a dispute arose between Mr. Ward and Mr. John Henry Gell and other gentlemen, the trustees of a charity called "Dr. Triplett's Charity," who claimed the tithe over certain portions of his property. The consequence of this dispute was that in 1842 Mr. Ward "set out the tithe" of several acres of land, which was repudiated by the trustees; and as neither party would remove it, the wheat was left on the ground to rot, and eventually was eaten by the prosecutor's pigs, when he turned them into his fields. In 1844, similar disputes arose, and on the 28th of August, 1844, a large quantity of wheat in the straw was set out by the prosecutor, as tithe for the trustees, who again refused to take it. Not far from the defendant's mill lives one Robert Hood, a publican, and it was proved that on the 6th of September Welham went to Hood's house, and calling him out, told him to "go and take his (Welham's) waggon, and get the wheat." This Hood at first declined to do, but on Welham's saying "Go and get it, and get some men to help you and I'll be answerable if any thing happens," Hood assented, and, going into his tap-room, asked the company there assembled, who had overheard this conversation, to "go and help him get the wheat in Mr. Ward's field, and stack it on the Null Hill." Some of them assented, and went to Welham's for the waggon and horse but Hood remained at home. While the men were on Welham's premises they saw him, and received from him some directions about the matter. After which they went to the field at o'clock p. m., and were engaged in loading the waggon with the tithe wheat, when Mr Ward came up and ordered them to desist and leave his field. This they did, and returned with their horses to Welham, who, on learning what had happened with the wheat and the waggon, said, "I would have brought them away by force if I couldn't by any other way." These men, on cross-examination, denied all knowledge of the matter, and asserted that they did not think they were doing any harm in obeying Hood's wishes. This being the case for the prosecution,

Prendergast (with whom was *Power*) submitted that the case had entirely failed. The evidence adduced by the prosecutor proved a felony in the defendant, if any offence had been committed at all by him, and as the charge was that of a misdemeanor, this indictment fell to the ground, for the minor offence was merged by law in the major one.

PATTESON, J.—That question is now under discussion. The judges are engaged in discussing it, and are inclined to think that the principle has hitherto been quite misunderstood.

Prendergast.—At all events the law is, that if a clear felony is proved to have been committed, any one who is an accessory before the fact is indictable for a principal felony, and not for a misdemeanor. Now here, if the men employed by Hood under the directions of Welham committed a felony in removing the prosecutor's wheat from his field into Welham's waggon for the purpose of taking it to his premises, he is then not liable in this form, but as an accessory before the fact, and that is a felony, not a misdemeanor.

PATTESON, J.—The case, however, is not even so strong as that. Hood was the only person spoken to by Welham, and he did not commit any felony, for he staid at home, and employed others to go and get the wheat.

Prendergast.—The defendant was proved to have spoken to one of the men who did take the wheat before they went to the field, when they were getting the horses. There was, therefore, a complete adoption on his part of the felony, and the wheat was beyond all question stolen by them in point of law.

PATTESON, J.—Yes, that is so. I find he did speak to Chamberlayne. If, therefore, Chamberlayne committed a felony, the defendant did so too; but the witness was an innocent party, and I very much doubt whether a man can be indicted for inciting a felony when the party charged to have been incited does not intend in what he does to commit a felony. I would wish, however, to obtain my brother Parke's opinion on the subject, and ascertain whether he agrees with me in thinking that the party incited must be aware of the contemplated felony and intend to commit it, and that the misdemeanor merges in the felony. His lordship then retired for a few moments, and on his return said—I have spoken to my brother Parke, and we are both clearly of opinion that there can be no inciting to commit a felony unless the party incited knows that the act in which he is about to engage is a felony. On the other point, Baron Parke agrees with me in saying that the misdemeanor merges in the felony. Both those objections, therefore, must prevail in this case, and the prisoner must be acquitted. *Not guilty.*

Irish Reports.

COURT OF EXCHEQUER.

Wednesday, June 11.

(Before the full Court.)

CARROLL *v.* CORNEILLE.

Practice—Commissioners for taking affidavits in England—Insufficiency of jurat.

A commissioner of the Court of Exchequer (a) in Ireland for taking affidavits in the county of Middlesex, omitted to certify in the jurat of an affidavit that he knew the deponent, or any person who certified that he knew the party. Held, that the affidavit was thereby vitiated, and could not be used.

In this case, which was an action upon bills of exchange, by an indorsee against an indorser, on a former day, a conditional order had been obtained to stay the plaintiff's attorney from proceeding further in the cause, until he should furnish the defendant with notice, in writing, of the plaintiff's addition and residence.

J. D. Fitzgerald now moved to make the conditional order absolute, and was about to read the affidavit of the defendant, when

Babington, contrà, objected to its being used. It appeared to be an affidavit sworn before a commissioner of this Court for the county of Middlesex; but in the jurat the commissioner has omitted to state that he knows the deponent, or that he knows any person who has certified that he knows the deponent, contrary to the rule laid down in Yeo and Billings' Exch Prac. 12, and to the printed instructions given to commissioners, (*b*) and attached to their

(*a*) The Court of Queen's Bench, in Warren *v.* Mullen (*Batty*, 574), and Elkin *v.* Snow (1 Jebb & S. anno 1838), held that a similar omission did not vitiate an affidavit taken in England, but intimated their opinion, in Elkin *v.* Snow, that the practice ought not to prevail; and in 1840 made an order that affidavits taken before their commissioners in Ireland, *or elsewhere*, shall contain a certificate of his knowing the deponent, or some one who knows him; so that the above cases can no longer be considered an authority for such an omission.

(*b*) The printed directions to commissioners upon this point are, "You are to take care that the person making the affidavit be known to you, or to some creditable person who can inform you it is the true person that makes the affidavit, and the person informing you must say 'he knows the party.'"

commissions (1 Stewart's Forms, 525), and to the form given in Ferguson's Pract. Forms, 702.

Fitzgerald.—This objection is not now open to the plaintiff. An affidavit has been filed as cause against this conditional order, which merely states that, as deponent is advised and believes, the affidavit upon which the conditional order was obtained is "irregular, informal, and insufficient, and contrary to the rules and practice of this honourable Court." It should have stated what the irregularity was, as then we might have withdrawn the conditional order.

PENNEFATHER, B.—That affidavit is quite right, the plaintiff must lodge some affidavit with the officer as cause, or else the rule would be made absolute; then he takes the objection the first time he comes before the Court.

Fitzgerald.—Although I admit it has been the practice for Irish commissioners to certify to their knowledge of deponents, I am informed it is not the practice for English commissioners to do so; besides, it is to be presumed that the commissioners, who are persons of respectability, when they take affidavits, are satisfied of the identity of the parties.

Babington.—It is peculiarly necessary that the practice of the Court should be adhered to in this case. The affidavit purports to be made by the defendant, who describes himself therein as a coal-merchant, resident in Limerick. It appears that, after action brought, he had gone over to Middlesex and made this affidavit for the purpose of staying proceedings. A prosecution for perjury committed in such an affidavit would be very much embarrassed by the commissioner's not having certified to the deponent's indentity. The defendant is entitled to no favour, as, before the conditional order was obtained, notice of trial had actually been served for Friday last, which the plaintiff could not act upon in consequence of that order.

The COURT were all of opinion that the affidavit could not be used, and directed the conditional order to be *Discharged with costs.*

THE LEGISLATOR.

Summary.

No further progress has been made with any of the pending measures that more immediately interest the Profession. The Common Law Courts' Process Bills have been "quietly inurned;" and at this late period of the session it is probable that most, if not all, of their comates will share the same fate. The Justices' Clerks Bill *may* be more fortunate. Even at the risk of wearying our readers with repetition, we must in this place also urge upon them the necessity of doing something, and that promptly too, to procure the omission from the *Small Debts Bill* of the clause permitting others than attorneys and counsel to appear for the parties in all matters relating to insolvency and bankruptcy.

Imperial Parliament.

PUBLIC BUSINESS TRANSACTED.

BILLS READ A FIRST TIME.

Tuesday, June 17.

Seal Office Abolition—for abolishing the separate Seal Office of the Courts of Queen's Bench and Common Pleas
Assessed Taxes Composition—to continue for a further term, and to amend, the Acts for authorizing a Composition for Assessed Taxes
West India Islands Relief—to facilitate the recovery of loans made by the West India Relief Commissioners
Bills of Exchange, &c.—to continue an Act for exempting certain Bills of Exchange and Promissory Notes from the operation of the Laws relating to Usury.

Wednesday, June 18.

Sir Henry Pottinger's Annuity—to settle an Annuity on Sir Henry Pottinger, bart. in consideration of his eminent services
Merchant Seamen—for the protection of Seamen entering on board Merchant Ships
Art Unions—for legalizing Art Unions.

BILLS READ A SECOND TIME.

Wednesday, June 18.

Arrestment of Wages, Scotland.

Thursday, June 19.

Commons Inclosure
Drainage of Lands
Seal Office Abolition
West India Islands Relief
Sir Henry Pottinger's Annuity.

PRIVATE BUSINESS TRANSACTED.

BILLS READ A FIRST TIME.

Monday, June 16.

Rochdale Vicarage (Molesworth) Estate.

Tuesday, June 17.

Hawkins's Estate
Lady Sandy's (Turner's) Estate.

BILLS READ A SECOND TIME.

Monday, June 16.

Eastern Counties Railway
Bristol Parochial Rates, No. 2
Timber Ships.

Thursday, June 19.

Epping Railway, No. 2.

BILLS READ A THIRD TIME AND PASSED.

Monday, June 16.

Dundee Waterworks
Reversionary Interest Society, No. 2
Harwell and Streetly Road
Blackburn and Preston Railway
Newcastle and Darlington Railway, Brandling Junction
Monkland and Kirkintilloch Railway
Sheffield and Rotherham Railway
Taw Vale Railway and Dock
Waterford and Kilkenny Railway
Kendal Reservoirs
Agricultural and Commercial Bank of Ireland
Banking, Ireland.

Tuesday, June 17.

Shaw's Waterworks
Battersea Poor
Londonderry and Coleraine Railway
Londonderry and Enniskillen Railway
Glasgow, Garnkirk, and Coatbridge Railway
North British Insurance Company.

Wednesday, June 18.

Molyneux's Estate

Thursday, June 19.

Manchester and Birmingham Railway, Ashton Branch
North Wales Railway
Hartlepool Pier and Port
North Woolwich Railway
Duke of Argyll's Estate
Eastern Union and Bury St. Edmunds Railway, No. 2
Dundalk and Enniskillen Railway
Stalybridge Waterworks
Waterford and Limerick Railway
Wolverhampton Waterworks
Whitehaven and Furness Railway
Glossop Gas.

SESSIONAL PRINTED PAPERS.

Par. Num.
358. Bills—Lunatic Asylums and Pauper Lunatics
368. — Arrestment of Wages, Scotland, No. 2
370. — Timber Ships
381. — Seal Office Abolition
386. — West India Islands Relief
360. Oxford, Worcester, and Wolverhampton Railway, and Oxford and Rugby Railway Bills—Minutes of Evidence, Parts I. and II.
369. New Zealand—Copies of Despatches
Slave Trade—Correspondence, Classes A, B, and D
377. Grain, Septennial Prices—Return
Criminal Offenders, Scotland—Tables
China—Ordinances passed in 1844
Factories—Reports of Inspectors.

Bills in Progress.

A Bill intituled "An Act for giving a Remedy by way of Declaratory Suit."

1. *Persons apprehending an intention in other persons to dispute their rights may file a bill against them. Court may direct an issue.*—Whereas it hath been found in the law and practice of Scotland that great benefit results from giving to parties an easy method of establishing rights before the same are contested by any process of litigation thereof, saving much expence and anxiety, and preventing the loss of evidence touching the same; and whereas it is expedient that a like remedy be given to her Majesty's subjects in other parts of the United Kingdom, under proper regulations, and with such alterations as may best adapt the same to the system of law therein established; Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that it shall and may be lawful for any person possessed of any estate in lands, tenements, or hereditaments, whether at law or in equity, or of any personal estate, or of any office or franchise, or of any casement, or of any right or claim to such estate, office, franchise, or easement, to file his bill in the Court of Chancery in England or in Ireland, setting forth the nature of his said estate or right or claim, and suggesting that he is apprehensive that the right of which he stands possessed in such estate, office, franchise, or easement may be disputed, or that the right or claim which he alleges is denied by the adverse possession of other parties and to pray that the parties whom he may suggest as likely to dispute the same, or the parties who do at present deny the same, as the case may be, shall full answer make to the matters of his bill, whereupon such parties, being duly served with notice, and the bill, according to the practice of the said courts, shall be required to answer according to such practice, and the plaintiff filing the bill may reply thereto, according to such practice, and upon an issue being therein joined the Court shall proceed to hear the same, or to order a commission for examining witnesses, or to direct an issue to be tried at law, as to the Court shall seem meet: Provided always, that at any stage of the proceeding it shall be lawful for the said Court to direct an issue to be tried at law, and provided that either party may require such issue to be tried: Provided further, that upon the trial of any issue under this Act all bills of exceptions shall be carried before the Court out of which the record shall come, and be disposed of therein, and all motions for new trial shall likewise be made therein, and the judgment of the said Court shall be given upon the issue, and shall declare the finding of the jury according to such finding; and the said judgment, with the matter of any exceptions taken in the course of the proceeding, shall be examinable by the courts of error in like manner as if the issue had been tried and judgment given in any action first brought in the said court out of which the record shall have come; and the said judgment, if not brought by writ of error before any court of error, or the judgment of the court of error before whom it may be brought, shall be final and conclusive upon the Court of Chancery out of which such issue shall have been sent, in further dealing with the subject matter of such suit.

2. *Defendants may plead or demur.*—Provided always that it shall be lawful for any party defendant to such bill to plead any matter in law or in equity, or to demur to such bill (except for want of parties); and the Court shall decide on such plea or demurrer, allowing or overruling the same, or ordering the plea to stand for an answer, according to the practice of the said Court, and as it shall deem just.

3. *Plaintiffs may except to answers.*—Provided also, that it shall be lawful for the said plaintiffs to except to the answer made by any defendant, and for the Court to decide on such exception according to such practice as aforesaid.

4. *Court of Chancery may send a case for opinion of a court of law.*—Provided further, that in any stage of such proceedings it shall be lawful for the said courts to send a case for the opinion of any court of law, according to such practice, whether any party shall require them so to do or not; but that if either party shall require it such courts shall be bound to send such case; and the certificate of the Court, with the case sent, may be carried by writ of error to the courts of error, in like manner as if a judgment had been given in an action before such court of law; and the judgment, if not brought under review of the court of error, or the judgment of the court of error, shall be binding and conclusive upon the Court of Chancery from which the case had been sent in further dealing with the matter of such suit.

5. *Court of Chancery may refer matters to masters.*—And be it enacted, that in further proceeding with such suit the said Court of Chancery shall have power to refer any matters connected therewith or arising therefrom for inquiry to the masters of the said courts; and such masters shall proceed therein and report according to the practice of such courts; and such reports may be excepted to, according to such practice, and such orders may be made upon such reports as the Court shall think just, and as shall accord with their practice.

6. *Court of Chancery may make decree declaratory only of rights.*—And be it enacted, that the said courts shall make such decrees upon the matter of the said bills, after the whole shall have been fully inquired into, as shall appear just according to law and equity, but such decree shall only declare the rights of the said parties, and shall not affect the present possession or enjoyment of any estate or easement or other right; but such decree shall be conclusive and binding upon all the parties to such suit, and all persons claiming under or through them, in all courts of law or equity whatsoever, as often as any suit or action shall be brought in any court of law or equity by or against any such parties, or any persons claiming by or through them.

7. *A person may file a bill to declare his own legitimacy.*—And be it enacted, that any person may file his bill to have his legitimacy found and declared by sentence of such courts, making parties defendants to such bill any persons who may be suggested as likely to dispute the same; and the proceedings in regard to such bill shall be the same as hereinbefore enacted and provided in regard to any bill filed touching an estate in possession, or easement, or other right enjoyed by any party.

8. *A person may file a bill to declare another's bastardy.*—And be it enacted, that any person having any interest, or who may appear likely in future to have any interest, in proving any person to be a bastard, may file his bill praying to have the bastardy found and declared by decree of such courts, and making party defendant to the said suit the person whose bastardy he seeks to have declared, and the proceedings in regard to such bill shall be the same as hereinbefore enacted and provided in regard to bills filed by parties claiming to have right to any estate or easement from which they are excluded by parties in possession.

9. *Question of validity of any marriage may be sent to the Consistorial Courts.*—Provided always, that it shall be lawful for the said courts to direct, in such cases of suits to declare legitimacy or to declare bastardy, to send the question of the validity of any marriage which may come in dispute, the parties to which marriage are both still living, to be tried by the Consistorial courts, according to their practice, and subject to appeal before her Majesty in Council, or if in Ireland before the delegates; and the decrees of such courts, and the orders of her Majesty in Council, or of the delegates in Ireland, shall be conclusive and binding in respect to such marriage in the said Courts of Chancery, in dealing further with the bill out of which the question touching such marriage shall have arisen.

10. *Particulars of decrees of legitimacy and bas-*

tardy.—And be it enacted, that the decree of the said courts in the matter of such suits touching legitimacy and bastardy shall only declare the parties suing or defending respectively to be legitimate or bastard, as the case may appear to be, and shall be conclusive and binding upon all parties to such suits, and upon all parties claiming through or under them, in all courts whatever.

11. *Appeal to Parliament.*—Provided always, that all orders and decrees made in suits under this Act shall be liable to be questioned by appeal to Parliament, in like manner as if the same had been made in any suits now competent by the law and practice of such courts.

12. *Effect of decrees i Chancery in respect to the House of Lords and claims of peerage.*—Provided always, and be it enacted, that nothing herein contained shall be deemed or taken to conclude or bind the Lords' House of Parliament in any inquiry which may arise before them touching the rights of any person claiming any right of peerage, but that the decrees made by the Court of Chancery touching the said rights shall and may be receivable in evidence before the said House, or any committee thereof, in any case arising before the said Lords' House of Parliament.

13. *Saving rights of the Crown.*—Provided further, that no such decree or decrees shall be conclusive or binding upon her Majesty, her heirs and successors, in the case of any claim of any person to have a writ of summons issued calling such person to the Lords House of Parliament.

14. *Costs.*—And be it enacted, that the costs of all parties to any suit brought under this Act shall be paid by the party preferring the bill, such costs to be taxed and allowed according to the practice of the court in which the same may be brought in taxing costs as between solicitor and client.

15. *Courts having jurisdiction may make regulations for directing the practice under this Act—Regulations to be laid before Parliament.*—And be it enacted, that it shall be lawful for the Lord Chancellor of England, with the advice and consent of the Master of the Rolls and one or other of the Vice-Chancellors, and for the Lord Chancellor of Ireland with the advice and consent of the Master of the Rolls, to make rules and regulations for directing the practice of their several courts in all suits brought under this Act; and for the Lord Chief Justices of the Queen's Bench of England and Ireland, with the advice and consent of the Lord Chief Justice of the Common Pleas and the Lord Chief Baron of the Exchequer, to make rules and regulations for the trial of issues, and granting certificates on cases sent under this Act, out of the Courts of Chancery in England and Ireland respectively; which rules and regulations shall be binding upon the said courts respectively, unless a resolution shall be passed by either House of Parliament disapproving of the same; and copies of all rules and regulations made under this Act shall be laid before both Houses of Parliament within six weeks after the same shall be made, if Parliament be then sitting, or within six weeks after the beginning of the next session, if Parliament shall not be sitting when such rules and regulations are made.

A Bill intituled "An Act for amending and declaring the Law of Marriage."

1. *Declaring under what circumstances marriages solemnized in Scotland shall be valid.*—Whereas it is expedient that the law should be certain and known, especially touching marriage and legitimacy, and that its provisions should be rendered as difficult to evade as may be Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that from and after the first day of January, one thousand eight hundred and forty-six no marriage contracted, had, made, or solemnized in Scotland shall be valid, either in Scotland or any other part of the United Kingdom or of the dominions thereunto belonging, unless both the parties were born in Scotland, or had had their most usual place of residence there, or had lived in Scotland for three weeks next preceding such marriage; any law, custom, or usage to the contrary notwithstanding.

2. *In what cases Court of Session may dissolve marriages not solemnized in Scotland.*—And be it enacted, that from and after the day and year aforesaid no divorce shall be pronounced by the Court of Session in Scotland to dissolve any marriage not had in Scotland, unless the husband be a Scotchman, or unless his usual place of residence be in Scotland, or unless both the husband and the wife shall have lived in Scotland for twelve calendar months next preceding the commencement of the suit to be instituted in the Court of Session for such divorce; any law, custom, or usage to the contrary notwithstanding.

3. *Children legitimate by the law of Scotland to be deemed so in all parts of the United Kingdom.*—And be it declared and enacted, that all children born in Scotland, who by the law of Scotland now are or hereafter shall be legitimate, shall be deemed and taken to be born in lawful wedlock in all courts and to all purposes whatsoever in all other parts of the United Kingdom as well as in Scotland, and in all the dominions to the said United Kingdom belonging.

4. *Marriages and divorces valid by the law of Scotland to be deemed so in all parts of the United Kingdom.*—And be it declared and enacted, that all marriages had or to be had in Scotland, and valid according to the law of Scotland, and all divorces had or to be had in Scotland, and valid according to the law of Scotland, shall be deemed and taken to be valid marriages and valid divorces in the other parts of the United Kingdom and in all the dominions thereunto belonging, to all intents and purposes whatsoever; any law, custom, or usage to the contrary notwithstanding.

5. *Certificated copy of entry by sheriff depute that parties were married, and that they lived in Scotland three weeks preceding such marriage, conclusive as to its validity.*—And be it enacted, that if any persons married in Scotland from and after the day and year aforesaid shall prove to the satisfaction of the sheriff depute or his substitute in the county or stewartry where such marriage was had that they have been married to one another, and that they had lived in Scotland for three weeks next preceding such marriage, and such sheriff shall certify the same under his hand, the sheriff clerk of such county or stewartry shall, on payment of the fee of two shillings and six pence, record the same in a book to be kept for that purpose; and any certificated copy of such entry, signed by the sheriff clerk for the time being, and which he is hereby required and empowered to give, charging for the same the sum of one shilling, shall be received in evidence of such marriage and such previous living in Scotland, and shall be conclusive of the validity thereof in all courts in the United Kingdom and dominions thereunto belonging, and to all intents and purposes whatsoever.

6. *Persons forging such entry, &c. liable to transportation for seven years, &c.* And be it enacted that if any person or persons other than the sheriff clerk aforesaid shall make such entry in such books, or shall wilfully forge or fabricate such entry in such book, or the handwriting of such sheriff, sheriff depute, or substitute to any certificate touching such marriage or touching such entry, he, she, or they shall be deemed guilty of forgery, and being duly convicted thereof shall be transported for life or for such term of years as to the Court which shall try the same shall appear fit

HOUSE OF LORDS.

SMALL DEBTS.

THURSDAY, June 19.—Lord BROUGHAM, bringing forward again his Bill for the more effectual recovery of small debts, observed that it had been withdrawn in another place in consequence of its having contained a clause enacting that a fee of 1s. should be paid in certain cases to the gaolers of prisons. He had struck the words "fee of 1s." out of the bill, which he trusted would satisfy the privilegians elsewhere, and he begged to move that the Bill be read a first time.

LAW REFORMS.

Lord CAMPBELL rose to move that a committee of their lordships be appointed to search the journals of the other house, in order to discover what had been done with certain Bills that had been sent down by their lordships. The noble lord observed, that his impression was, the committee would find the further proceedings of those Bills had been postponed for six months. It became necessary to extend the former Bill to Ireland, because it was necessary that parties who were domiciled in Ireland, who contracted debt there, and who afterwards became absentees, should be made fully liable for the amount of the debts which they so contracted, and that process should be issued out so as to make their property liable also. Their lordships must at once see that it was necessary not to limit the Bills to England and Scotland.

All the law lords and all the lay lords concurred in the measure: the Government also sanctioned it; and he therefore felt himself called upon to move that a committee be appointed to search the journals of the other house in order to see what had become of the Bill. —The LORD CHANCELLOR said, the Bill had been introduced in the course of the last session of Parliament; that he approved of it; that some delay had arisen in consequence of the necessity of laying it before the Lord Advocate. It was again introduced this session, but the real fault of the delay rested not with his noble and learned friend who had last addressed their lordships, but with the hon. and learned member of the other House to whose care the Bill was intrusted—the Bill had been sacrificed to a few jokes—it never had been really opened; and when the House went into committee on it, a motion was carried without discussion that it be recommitted that day three months. — Lord CAMPBELL said, that though the Bill had not been proceeded with in the other House, yet he hoped that the hon. and learned member who had been intrusted with it would long continue a member of the united Parliament, and that that hon. and learned gentleman would see now, and at all future times, the great advantage of continuing the united character of that Parliament *in secula seculorum*.—The LORD CHANCELLOR wished to say that no imputation whatever rested upon the hon. and learned gentleman to whose name reference had been made—he believed him to be a most estimable person. —The conversation then dropped.

HOUSE OF COMMONS.

CHANNEL ISLANDS.

FRIDAY, June 13.—Mr. ROEBUCK wished to ask the right hon. baronet the Secretary for the Home Department a question with reference to a notice which he had on the books with respect to the Channel Islands. He wished to know whether the right hon. gentleman was of opinion, from the circumstances which had been brought under his consideration, that the state of these islands called for inquiry, and if so, whether he was prepared to recommend to her Majesty in Council to order any such inquiry to be instituted?—Sir J. GRAHAM said that certain circumstances which had been brought before him relative to the administration of justice in the Channel Islands, had convinced him that some inquiry was necessary, and he had therefore thought it his duty to call the attention of the President of the Council to the subject, with the view of recommending her Majesty to advise an inquiry to be instituted into the present state of the criminal law in the Channel Islands, into the mode in which that law was administered, and also into the tribunals which existed in these islands.

USURY LAWS.

MONDAY, June 16.—In the absence of the Chancellor of the Exchequer, Sir G. CLERK obtained leave to bring in a Bill to continue an Act of her present Majesty for exempting certain bills of exchange and promissory notes from the operation of the usury laws.

DROPPED BILLS.—In the House of Commons last evening there were three Bills for amending common law process, which were in as many minutes postponed for twice the number of months. This little triad of Bills was the offspring of the senatorial wantonness of a noble lord, and they had actually come through all the stages of the upper House, but were now given up with the consent of their author, on his finding that they were not approved by the profession generally. Here is a lesson for another law lord in the like case offending, if a schoolmaster may be taught! It would be an agreeable surprise to us if Lord Brougham were to follow his learned brother's example, and give up even three of his nine bills—any three he pleases.—*Times*.

THE MAGISTRATE.

Summary.

SIR JAMES GRAHAM has, according to the newspapers, directed the release of some three or four persons committed by the magistrates for non-payment of penalties for offences against the Game Laws.

Now, without vindicating the severity of the law, which we would gladly see mitigated, we much question the propriety of this mode of accomplishing the object. The effect upon the vulgar mind is to impugn, not so much the law, as its administrators. Doubtless in their neighbourhoods the magistrates who pronounced the sentence, and not the law they were compelled to observe, are deemed by the people to have been thus rebuked by the Government. Respect for the magistrates cannot but be grievously impaired and their influence shaken, where it was most desirable that it should be supported by the superior powers. If the law be too severe, the proper course is to mitigate that severity by a new law; if the magistrate be injudicious or partial in its administration, he should first be rebuked, and if he continue to err, dismissed. But nothing of the sort is charged against the magistracy in the cases in question, or, at least, there has been no censure, as there should have been, had they been the cause of the interference of the Government. We presume, therefore, that it is the law, and the law only, that Sir JAMES GRAHAM has intended to condemn; and if so be, we cannot hesitate to meet with unqualified reprobation the course he has adopted, as fraught with incalculable mischiefs to the administration of justice.

REVIEW OF MAGISTRATES' CASES IN EASTER AND TRINITY TERMS.

THERE have been many decisions during the last two Terms which tend to elucidate and develop Parish Settlement Law. We shall endeavour in this and our next Number to present to our readers those which are of the most use, in order that they may be made applicable to the approaching Sessions; although some, in which judgment is not yet pronounced, and others of minor moment, must necessarily stand over.

SECONDARY EVIDENCE.—*Reg.* v. *Orton* (5 Law T. 53).—This case decides that a notice to produce a rate-book in the form of a summons from a justice, served upon the overseers of the parish in which the pauper is supposed to be settled, will not be sufficient to let in secondary evidence at the hearing before the removing magistrates. The Court held this bad, inasmuch as it was a summons to the overseer to appear, and to bring with him the rate-book signed by a justice, and not by the overseers of the removing parish. We confess we are quite at loss to understand this decision. 7 & 8 Vict. c. 101, s. 70, expressly enables justices to summon witnesses to appear and give evidence. Lord DENMAN, C. J. said there were means to compel attendance; they appear to us to have been taken in this case.

FINAL DECISION OF THE SESSIONS.—*Reg.* v. *Bakewell.*—The Court will not interfere where the Sessions have exercised their judgment, and come to a decision upon a matter of fact which they are alone competent to determine. The question here was, which of two churches, both called Biwell Church, was meant in an examination which the justices held to be ambiguous, and they quashed the order, subject to a case. As Lord DENMAN said, "They did wrong only in granting a case. The case put to the Court must be one of law, not of facts, which the Sessions alone can decide. *Reg.* v. *Kesteven* (1 Bit. & Sym. M. C. 8) will be strictly observed.

PRACTICE—CERTIORARI.—*Reg.* v. *Appleby* (5 Law T. 71).—Where a material variance between the writ of *certiorari* and the return becomes known to the Court incidentally, prior to the argument upon a rule to quash the *certiorari* and return, they will take notice of it, and make the rule absolute. *Reg.* v. *The Inhabitants of Sevenoaks* (Law T. 725).—The service of notice of *certiorari* upon two of the justices mentioned in the caption of the order of sessions is *primâ facie* sufficient, it not being shewn that they were not present when the order was made.

EMANCIPATION.—*Reg.* v. *Lilleshall* (5 Law T. 71).—The question herein submitted to the Court was whether, to entitle a pauper to a settlement *ex parte paternâ*, the evidence of which was acknowledgment by relief to the father after the pauper had attained the age of twenty-one years, it was necessary to negative a presumption in law, founded on the mere fact of his having attained the age of twenty-one years, that the pauper had been emancipated, and did not form part of his father's family at the time when the circumstances that constituted the acknowledgment took place.

The Court held that it was not necessary to negative an exception, and that there is no presumption that a person of full age must be emancipated; and even where the father's settlement is not gained till after the son comes of age there is no need to state that the son is unemancipated, no facts shewing that he is emancipated.

EVIDENCE.—*Reg.* v. *St. Anne, Westminster* (5 Law T. 71). Evidence of the production of letters of administration before the justices need not be given, if they are sent to the appellant parish. And this applies as a general rule in all cases where documents are produced. They should be sent to the receiving parish, or a copy of them, but they need not be identified in the evidence as the same produced before the justices. But where the document, though produced, is not sent to the appellants, the order is thereby nullified, as has been decided in a subsequent case, to which we shall hereafter refer.

JURISDICTION — ENTRY OF APPEAL.—*Reg.* v. *Sevenoaks* (5 Law T. 73).—An order of removal was made July 29, served August 7; on Oct. 14, the sessions being Oct. 17, notices of grounds of appeal were served, but dated September 7. The respondents did not appear at the October sessions, nor was there then any entry or respite of the appeal. At the next Epiphany sessions, without any further notice, the appellants obtained, in the absence of the respondents, an order to quash, with costs.

The Court held that in such a case there was no jurisdiction; that attorneys ought to be careful not to plunge parishes into litigation for want of a little openness in their proceedings. The appeal was not entered and reported in October; at least, if it had been so, the appellants would have shewn it in their affidavits. The attorney of the respondents swears that he is "informed and believes" that there was none, and the appellants ought to have answered his affidavit.

STATEMENT OF SETTLEMENT — BASTARD'S BIRTH AND PAYMENT OF RATES.—*Reg.* v. *St. Paul's, Covent-garden* (5 Law T. 91). —*Sufficiency of examination.*—"In or about" the year 1833 is an insufficient statement of the period of birth, in the case of a bastard, for as it depends on whether the child was born before or after the 14th August, 1834, where it is settled, it is material to state the day of its birth with certainty. A ground of appeal is likewise bad, according to the case of *Reg.* v. *The Inhabitants of Ripon* (5 Law T. 90), setting up a settlement by payment of rates under 6 Geo. 4, c. 57, s. 2, if it omits to state that the tenement consisted of "a separate and distinct" dwelling-house or building.

AUDITORS OF PARISHES.—*Reg.* v. *Inhabitants of Burnham* (5 Law T. 92).—An auditor who has continued to act without re-appointment by the Poor Law Commissioners under 7 & 8 Vict. c. 101, s. 37, is a district auditor within the meaning of the Act, and a *certiorari* will lie to remove the accounts. J. C. S.

CONFESSIONS OF PRISONERS.

THE MAGISTRATES OF AYLESBURY AND THEIR CHAPLAIN.

THE dispute between the magistrates of Aylesbury and their chaplain, as to whether the latter was bound to give up the confession of a criminal, is one of not less interest than importance to the public.

It involves, too, a sufficiency of legal matter to insure for it a place in a journal of jurisprudence.

The case we allude to is that of TAWELL, who was found guilty of murder (by poisoning), and condemned to die. Whilst awaiting that sentence, he made a written confession of his guilt, and on the eve of the execution delivered it to the chaplain of Aylesbury gaol, with an injunction that it should not be made public. The chaplain under such circumstances received it, and when called upon by the magistrates to give it up, refused; hence arose the dispute in question. The chaplain, however, afterwards gave it up to the Home Secretary, Sir JAMES GRAHAM—but this is beyond our purpose. The question for us to consider is, whether a chaplain of a gaol is justified in RECEIVING a confession from a person condemned to die, with a condition attached to it, viz. that it shall not be made public, or, in short, accompanied with any other condition. If we take the answer to be in the affirmative, there cannot be a doubt that a disclosure to magistrates or any one else would be prohibited as contrary to all principles of honesty, notions of good faith, and obligations which morality imposes. The question is, therefore, not as to the propriety of *disclosing*, but of *receiving* such a confession as we have mentioned. The more readily to solve this difficulty, we must inquire what is the end contemplated by inducing a wretched criminal to confess. It must be generally admitted, whether it be for the inward satisfaction of the jury, for the proof it affords of the efficacy of the criminal laws of this country, or for the sake of humanity itself, that the public confession of guilt is most desirable. It puts an end to our doubts and fears, and vindicates the law of the land; for in that hour the law may be said to triumph; yet, notwithstanding these advantages to the individual and the public, a confession has a higher office than the compesure of the timid or the vindication of the law. It is the first sign of repentance, and a part propitiation for the guilty soul. A guilty man may surely hold commune with his Maker through the intervention of his confessor in private, and yet not be less acceptable to Him of infinite mercy. The acknowledgment of a guilty person's sins is not so much a matter between him and his fellow-man or the public, as with him and his Maker. In fact the law of the land has had its course, and its sentence will be fulfilled. The confessor or chaplain of a gaol is no officer of it, and being elected and paid by the magistrates makes him no servant of theirs; for, as a confession of a criminal after conviction is out of the pale of the criminal law, so is the duty of a chaplain as regards such confession beyond the control of the magistrates. This, then, must be understood, that a chaplain is engaged with a criminal to induce a confession, not for public purposes, but for the atonement of the guilty one's own sins, and as a mediator between him and his Maker. The most extreme case we could put of a chaplain, would be that he refused to make known to any one the fact of a criminal making a confession. This, however, did not happen in the case before us. The chaplain refused to give the detail only of the written confession to the public. And it has been contended that he ought to have received it unrestricted, or not at all. This we are inclined to doubt. Suppose a criminal to refuse confession except certain conditions be appended to it; or, which is more reasonable, that he is deterred altogether from making a confession, because he knows it will only be received unrestricted. Would it not be more advantageous to the public to receive it under such circumstances, than to refuse or prevent its being tendered at all? It must be remembered that the confession would not have been made except under and subject to conditions; so nothing would be lost, but, on the contrary, a restricted confession obtained. It may be said, to withhold any part of a confession, or to receive it with a condition that its details should not be divulged, would compromise the law, and defeat the ends of justice, for that it may contain an accusation against third parties, and implicate others who are not in custody or even suspected; but even in this case, the only one, perhaps, in which a chaplain could not refuse to divulge, it would be his duty to tell the criminal beforehand that a confession could be received with no such terms. But there are other motives besides a wish to screen others from the penalty of the law, which induce a criminal to attach a condition to his confession that it should not meet the public eye; such as the pain it would cause those who must be named in conjunction with the prisoner, and the discomfiture of others who were friends or relations of the murderer, though all equally innocent of any participation in the guilt, yet all anxious to avoid such an unpleasant notoriety. Neither would it be possible for the criminal (though willing) to omit such unpleasant detail in every case; for, to give a semblance of truth to a statement of this sort, it is often absolutely necessary to detail the whole circumstances—who, for instance, were visited before and who after the bloody deed was accomplished; and it may be added, that though the prisoner were to mention his guilt in the detailed confession of another offence upon the same victim, its further publicity might not only be useless to the public, but hurtful to the feelings of any who had been acquainted with him. On the part of the magistrates of Aylesbury, it is said that the chaplain, being their servant, has no option, but is bound to disclose *every thing* which is communicated to him in his official capacity, and that he, as chaplain, is no judge of what might be beneficial and what detrimental to the public good; and that there is an implied contract existing between master and servant, which obliges the latter to disclose any thing and every thing affecting the former. Admitting this doctrine for a moment, are not the magistrates themselves servants,—subordinates to the minister, and the minister the servant of the public? And in such capacity, what more powers have they to judge for the public, in the stead of the public judging for themselves, than the chaplain of a gaol? If a chap-

lain of a gaol is a mechanical officer, without any discretion or judgment, in what respect do the magistrates or the minister differ? Then every word and every movement of a criminal must be detailed and given with great exactness to the public. Our notions of public policy and general expediency incline us to think such a doctrine would be most detrimental to the public interest. And that not only ought every public officer to have a liberty of discretion in proportion to his abilities, but that the chaplain of a gaol in particular should judge of the circumstances under which he ought to receive the confession of a criminal, because it would induce a confession where otherwise it would not be made, and thereby benefit the criminal and be advantageous to the public, without a chance of any corresponding evil result. J. H.

POOR LAW CIRCULAR.

(*Continued from page* 111.

SETTLEMENT.

1. OF BASTARD, WHERE THE MOTHER AFTERWARDS MARRIED, AND HER HUSBAND HAD DIED.

June 8, 1844.

Clerk of the Docking Union—Stated, that Mary Williamson, widow, aged 31 (formerly Mary Roy), on the 21st April, 1834, was confined with an illegitimate child in the parish of Burnnam Westgate, where she then lived, and in which she was settled. In the year 1837 she married Thomas Williamson, of Burnham Sutton, farm-labourer, on which she, with the child, followed her husband's settlement. In March 1843 the man died, since which time the parish officers of Burnham Sutton considered the child to belong to Burnham Westgate, and claimed a year's maintenance of the latter parish for the child. Inquired, whether the child actually belonged to Burnham Westgate; and, if so, whether the parish of Burnham Sutton could claim a year's maintenance.

Ans.—As the bastard child alluded to was born before the passing of the Poor Law Amendment Act, it will not follow its mother's settlement under the 71st section of that Act, but it still belongs to the parish of its birth, which appears to be Burnham Westgate. The child being above the age of nurture, may now be removed to that parish; but the Commissioners know of no authority under which the parish of Burnham Sutton can recover from Burnham Westgate the relief already afforded to the child, which while it was residing in Burnham Sutton that parish was bound to provide.

2. BY RENTING A TENEMENT AND GARDEN SEPARATELY.

June 20, 1844.

Mr. Smith, Relieving Officer, South Hetton—Inquired, whether A, who occupied a tenement for upwards of four years at 8*l.* per annum, and paid rates and taxes in respect thereof, and also a garden, by a separate holding, for which he paid 6*l.* per annum, both holdings being in the same township, had gained settlement in that township.

Ans.—The Commissioners see no reason to suppose that the house rented at 8*l.* and the garden rented at 6*l.* per annum cannot be added together for the purpose of conferring a settlement upon the tenant. The 59 Geo. 3, c. 50, and 6 Geo. 4, c. 57, and the 1 Wm. 4, c. 18, all hold the same language upon this point. They all require the tenement to consist "of a dwelling-house or building, or of land, *or of both.*" In *R.* v. *North Collingham* (a case very similar to the present), a man rented a house and garden in North Collingham at 6*l.* 6s. a year, and also a piece of garden ground in the same parish at 3*l.* 15s. a year; and in reference to the terms of the 59 Geo. 3, c. 50, this was deemed sufficient to confer a settlement (1 B. & C. 678).

VALUATION.

NO LICENSE OR STAMP REQUIRED UNDER THE PAROCHIAL ASSESSMENTS ACT.

June 15, 1844.

Mr. J. Edwards, Overseer, Lampeter Union—Inquired, whether by the Parochial Assessments Act a license is required by the valuation of property to the poor-rate, in case of an appeal, and whether the valuation should be stamped.

Ans.—Guided by the decision in the case of *Atkinson* v. *Fell* (5 M. & S. 240), the Commissioners consider that a person appointed under the 6 & 7 Wm. 4, c. 96, to make a valuation of the rateable property of a parish, need not take out an appraiser's license; and that a valuation made by a person so appointed does not require a stamp. In *Atkinson* v. *Fell*, it was held that a valuation of the parish lands, made by two parishioners appointed by the parish officers, with a view of assisting them to equalize the poor-rate, did not require a stamp. It was intimated by the Court that, had such valuation required a stamp, then the persons making it ought to have had a license, which, it appears, they had not. It would seem from that decision that a person need only take out a license where the valuation to be made by him is intended to be binding between parties, or where a certain benefit, or right of action, is to result from it, and not where the valuation is not obligatory upon parties, but merely designed for their private information. A valuation made in pursuance of the 6 & 7 Wm. 4, c. 96, is intended for the guidance of the overseers, and is not binding upon them (see *Reg.* v. *Lord Yarborough*, 12 A. & E. 416).

THE SHERIFF'S FUND FOR MIDDLESEX AND LONDON.—A charitable fund for the purpose of temporary relief to destitute prisoners on their discharge after acquittal, or completion of the period of incarceration, was founded so long ago as the year 1808; but it was not until a more recent period that public aid was solicited in furtherance of its objects. General attention having been called to this institution, such assistance was rendered as to induce an extension of its field of operation, by temporary relief of families dependent on prisoners; by provision for those who on discharge have no means of subsistence or habitation; by supply of tools, implements, and materials conducive to habits of industry; and for establishment of an asylum affording for a brief period shelter, instruction, and employment. When it is considered that an average of 3,000 prisoners are annually under confinement in the city prisons, it will be seen that an ample field is open for a discriminating benevolence. The first festival in aid of this fund was held on Tuesday evening at the London Tavern, where a party of about 150 gentlemen sat down to a dinner, which was calculated to raise the high reputation already obtained by the liberal proprietors of that establishment. The chair was taken by his Royal Highness the Duke of Cambridge, who was supported by Aldermen and Sheriffs Hunter and Sydney, Aldermen Johnson and Challis, Mr. B. B. Cabbell, Sir M. Montefiore, &c. After the usual routine toasts, the secretary read a very gratifying report, from which it appeared that the fund rested on an investment amounting to nearly 18,000*l.*, besides the support of yearly contributions and donations. The chairman having warmly eulogized the charity, the meeting responded to his proposal of "Prosperity to the Sheriffs' Fund," and the secretary read a long list of subscriptions, which amounted in the whole to nearly 1,000*l.* The proceedings were agreeably enlivened by the vocal performances of Messrs. Young, Turner, Ransford, Shoubridge, and Bruton, and the evening passed off to the entire satisfaction of all assembled.

THE LAWYER.

Summary.

THE continuous stream of Reports, the judges having resolved to do double duty, in order to bring up the heavy arrears of business, has compelled another double number, and we fear that more will yet be needful, as many of the heaviest judgments are to come. All other intelligence, not of immediate moment, must be deferred to the leisure of the long vacation. At present every thing that will bear curtailment is unavoidably reduced to the narrowest limits, and much omitted to which we would gladly have given place.

LEADING CASES.—No. III.

DAWSON *v.* CHAMNEY.

(5 Q. B. 161.)

Liability of innkeepers—Who are innkeepers?—Their obligation to receive guests—Their responsibility for the property of the guests—Presumption of law with regard to its damage while in the inn.

This case (which is reported in the last number of the Queen's Bench Reports) opens to our consideration the doctrines which have been laid down with regard to the liability of innkeepers. It is well known that, in return for the profit which innkeepers derive from the necessities of travellers, the common law has imposed peculiar responsibilities upon them, and it is our present purpose to explain what those responsibilities are, under what circumstances they are imposed, or in what cases they are relaxed.

The great source from which all the learning on this subject is derived is the report of *Calye's* case, as given in the 8th part of Coke, 32 a.; and the great variety of cases subsequent to it (including the one now before us) has done little else than confirm, or, perhaps, in some points, explain its resolutions. There is a preliminary question, however, which it is necessary to consider before we refer to that case, viz. who is an *inn*-keeper? or, rather, what is an inn?—and this question has thus been answered by Best, J. in the case of *Thompson* v. *Lacy* (3 B. & Ald. 287): "An inn is a house, the owner of which holds out that he will receive *all* travellers and sojourners who are willing to pay a price adequate to the sort of accommodation provided, and who come in a situation in which they are fit to be received. A lodging-house keeper, on the other hand, makes a contract with every man that comes, whereas an innkeeper is bound, without making any special contract, to provide lodging and entertainment for all at a reasonable price." Consequently a London tavern and coffee-house, where beds, &c. are provided, was held to be an inn, though not frequented by stage-coaches, and having no stables attached. (*Ibid.* and *Jones* v. *Osborn*, 2 Chitty R. 484; but see contra, *Doe* v. *Laming*, 4 Camp. 77.) A sign is not essential to an inn, but it is an evidence of it. (*Parker* v. *Flint*, 12 Mod. 255.) If a man put a sign at his door and harbour guests, that shall be deemed a common inn; and if, after taking down the sign, the owner continues to entertain travellers, it shall still be deemed a common inn as if he had a sign. (2 Roll. Rep. 341.) But one who lived at Epsom and lodged strangers in the season for drinking the waters, and dressed victuals for them, and sold beer to his lodgers and to none else, and found hay for their horses, is not an innkeeper, nor can his house be considered as an inn; and per Holt, C.J. if one come to an inn and make a contract for lodging for a set time, and do not eat or drink there, he is no guest, but a lodger, and as such not under the innkeeper's protection; but if he eat and drink it is otherwise; or if he pay for his diet there, though he do not take it there. (*Parker* v. *Flint*, ubi supra. See also Bac. Abr. Inns and Innkeepers, c. 5; *Calye's* case, ubi supra; Carth, 417; 5 Mod. 497; 1 Salk, 387; 1 Bell's Com. 469.) From the character and position of an innkeeper, thus explained, the first obligation which the law imposes upon him obviously arises. He is recognized by law as the keeper of a common inn or *diversorium*, open at all times *to all* travellers; and hence he is bound "to take in *all* travellers and wayfaring persons" and to provide for them reasonable and proper accommodation. "There is no doubt," says Baron Parke, in the recent case of *Hawthorn* v. *Hammond* (1 Car. & Kir. 407), "that the law is, that a person who keeps a public inn is bound to admit all persons who apply peaceably to be admitted as guests;" though in that case the plaintiff claimed admission at night after the inn door had been fastened. The landlord is also bound to provide suitable accommodation for his guests during their residence in the inn. What constitutes suitable accommodation would seem to depend upon the character of the inn and rank of the guest, and is a question upon which a jury would decide according to the particular circumstances of each case. No guest, however, has a right to expect a compliance with his own peculiar caprices" (*Fell* v. *Knight*, 8 M. & W. 269), and consequently it was there held, that the landlord was not bound to provide the plaintiff with a particular apartment, nor to furnish him with a bed-room for the purpose of sitting up all night, as he had offered to furnish him with a proper room for that purpose. Lord Abinger said, "I do not think a landlord is bound to provide for his guest the precise room the latter may select. All that the law requires of him is to find for his guest reasonable and proper accommodation; if he does that, he does all that is requisite." (Ibid. 276.) Nor is an innkeeper bound to find shew-rooms for the goods of his guests, but only convenient lodging. (*Burgess* v. *Clements*, 4 M. & S. 310.) Some doubt has arisen whether a traveller claiming admission to an inn is bound to tender the amount to which the innkeeper would be reasonably entitled for the entertainment demanded; but the better opinion seems to be that such a tender is still necessary. (*Fell* v. *Knight*, 8 M. & W. 276; *Rex* v. *Ivens*, 7 Car. & P. 220; per Coleridge, J.) Not only is an innkeeper liable in a civil action for refusing to admit or properly to entertain a traveller, but an indictment will lie against him in a criminal court. In 1 Curw. Hawk. p. 714, it is said, "It seems also to be clear that if one who keeps a common inn refuse either to receive a traveller as a guest into his house, or to find him victuals or lodging upon his tendering him a reasonable sum for the same, he is not only liable to render damages for the injury, in an action on the case, at the suit of the party grieved, but may also be indicted and fined at the suit of the king." And in the case of *Rex* v. *Ivens* above cited, such an indict-

ment was preferred. The general principles of the law on this subject are there very clearly laid down by Mr. Justice Coleridge. "Though I do not recollect," says his lordship, "to have ever heard of such an indictment having been tried before, the law applicable to the case is this—that an indictment lies against an innkeeper who refuses to receive a guest, he having at the time room in his house, and either the price of the guest's entertainment being tendered to him, or such circumstances occurring as will dispense with that tender. This law is founded in good sense. The innkeeper is not to select his guests. He has no right to say to one, you shall come into my inn, and to another, you shall not, as every one coming and conducting himself in a proper manner has a right to be received; and for this purpose innkeepers are a sort of public servants, they having in return a kind of privilege of entertaining travellers, and supplying them with what they want; but, "if a person came to an inn drunk, or behaved in an indecent or improper manner, I am of opinion that the innkeeper is not forced to receive him;" and his lordship subsequently ruled that it is no defence for the innkeeper that the guest was travelling on a Sunday, and at an hour of the night after the innkeeper's family had gone to bed, and that the innkeeper before admitting a guest has no right to insist upon knowing his name or abode. Whether the keepers of the fashionable hotels in the west-end of London come within the scope of these principles, or whether their establishments would by the law be regarded as "common inns" may be a question of some nicety, but it is certainly not one of sufficient practical importance to detain us from the consideration of the subject more immediately before us. When the traveller has once been received as a guest, he and his goods are considered as under the protection of the innkeeper. In the writ (upon which the first resolution in *Calye's* case is founded) the responsibility of the innkeeper is thus laid down: "that, by the custom of this realm, innkeepers are obliged to keep the goods and chattels of their guests, which are within their inns, without subtraction or loss, day and night, so that no damage shall come to them from the negligence of the innkeeper or his servants (*ita quod pro defectu hospitatorum seu servientium suorum, &c., hospitibus hujusmodi damnum non eveniat ullo modo.* Fitzh. Nat. Brev. 94, a). A delivery of the goods into the custody of the innkeeper is not necessary to charge him with them; for although the guest doth not deliver them, or acquaint the innkeeper with them, still the latter is bound to pay for them if they are stolen or carried away. (*Calye's* case, ubi supra; Story on Bailments, c. vi. p. 313.) Nor is it any excuse that the innkeeper delivered to the guest the key of the chamber in which he is lodged, and that he left the chamber door open. (Ibid.) But "if there be evidence that the guest accepted the key, and took upon himself the care of his goods, it is for the jury to determine whether this evidence of his receiving the key proves that he did it *animo custodiendi*, and with a purpose of exempting the innkeeper, or whether he took it merely because the landlord forced it on him, or for the sake of securing greater privacy." (Per Lord Ellenborough, C. J., in *Burgess* v. *Clements*, 4 M. & S. 310.) In that case it was decided that the responsibility of the innkeeper may be relieved by the conduct of the guest himself; and that though the presumption is always *primâ facie* against the innkeeper it may be rebutted. "The cases shew that the rule is not so inveterate against the innkeeper, but that the guest may exonerate him by his fault, as if the goods are carried away by the guest's servant or companion whom he brings with him." (Ibid. 311). And it was laid down also, that where circumstances of suspicion arise, the guest must exercise ordinary care. (See *Farnworth* v. *Packwood*, 1 Stark. R. 249.) The innkeeper, however, cannot exonerate himself but by positive proof that the loss was not by means of any person for whom he is responsible. (*Bennet* v. *Mellor*, 5 T. R. 273; *Burgess* v. *Clements*, ubi sup.) Accordingly, if the habit of the servants at an inn is to place the guests' goods in their bed-rooms, and a guest should request his to be carried into the common commercial room to which travellers in general resort, and they are there stolen, the innkeeper will nevertheless be held responsible for the loss, unless the innkeeper has given notice to his guest that he will not be responsible unless the goods are put into the bed-room (*Richmond* v. *Smith*, 8 B. & C. 9); though the analogy there drawn by the Court between an innkeeper and a common carrier presses, according to recent decisions, somewhat too severely against the former. That it does so, is evident from the case of *Dawson* v. *Chamney*, now before us.

This was an action on the case for injury done to the plaintiff's horse by the defendant, an innkeeper, or his servants. On the trial, it appeared that the defendant kept a public-house in Penrith, and that on Penrith market-day the plaintiff's servant went to the house and gave the horse in charge of the hostler, who placed him in a stall where there was another horse, and the injury was done by the other horse kicking the horse of the plaintiff. The defendant's counsel upon this evidence contended that the plaintiff must be nonsuited for want of proof of negligence. The learned judge (Cresswell, J.), however, thought that there was a case for the jury, and the defendant then called witnesses to shew that proper care had been taken of the horse. The learned judge directed the jury to find for the plaintiff, if they were of opinion that the defendant, by himself or his servants, had been guilty of direct injury or negligence, but otherwise for the defendant, and the jury found for the defendant. In refusing a rule for a new trial, on the ground of misdirection, the Court, having considered their judgment, said, "The law of England is clearly laid down in *Calye's* case, which is a full comment on the writ in Fitzh. N.B. One ingredient is, that the loss or damage arises *pro defectu hospitatoris seu servientium suorum*. When, therefore, the nature of the injury left the cause wholly doubtful, it was correct to take the opinion of the jury whether the evidence established that it was produced by a defect of such care." And again; "The proof of such attention and skilful management as convinced the jury that the damage could not have been occasioned by the injury imputed, took away the ground of action, according to all the authorities." (5 Q. B. 168-9, per Lord Denman, C. J.)

The length to which these remarks have already run, only enables us to add that innkeepers are only liable for goods brought within the inn (*infra hospitium*), or in the premises adjoining, for goods commonly kept there. (*Jones* v. *Tyler*, 1 A. & E. 523.) If, therefore, an innkeeper, at the request of his guest, sends his horse to pasture and the horse is stolen, the innkeeper is not, as such, liable for the loss; but *contrà*, if the innkeeper does it of his own accord. (*Calye's* case, ubi sup.) If the loss of the goods occurs after the departure of the guests, the innkeeper is only liable as bailee. (Story on Bailm. c. vi. p. 313.) The "goods and chattels" for which he is liable include deeds, obligations, choses in action, and money (*Cayle's* case; *Kent* v. *Shuckard*, 2 B. & Ad. 803); but the innkeeper is not responsible for a tort or injury done to the person of his guest without his own co-operation or consent (*ibid.*); but if his servants rob a guest, he is responsible. (Jones on Bailm. 95; 1 Bla. Com. 430; Chit. Cont. 379.) In return for these heavy liabilities, the law invests him with some peculiar privileges, for he has a lien upon the goods (though not upon the person of his guest, nor the clothes he is wearing) for his compensation. (*Thompson* v. *Lacy*, 3 B. & Ald. 287; *Jones* v. *Thurloe*, 8 Mod. 172; *Newton* v. *Trigg*, 1 Shower, 270; *Sunbolf* v. *Alford*, 3 M. & W. 248; *Proctor* v. *Nicholson*, 7 Car. & P. 67). But the horse of a guest can be detained only for his own meal, and not for the expenses of its owner. (Bac. Abr. Inns, D.; see also *Johnson* v. *Hill*, 3 Stark. 172; *Binns* v. *Pigott*, 9 Car. & P. 208).

PROMOTIONS, APPOINTMENTS, ETC.

[Clerks of the Peace for Counties, Cities, and Boroughs, will oblige by regularly forwarding the names and addresses of all new Magistrates who may qualify.]

FOREIGN-OFFICE, June 12.—The Queen has been pleased to approve of Don Adolfo Guillemard y Aragon, as Consul at Sierra Leone for her Majesty the Queen of Spain.

The Lord Chancellor has appointed Talbot Shelton, of Nottingham, in the county of Nottingham, gent. and Charles Kentish Probert, of Saffron Walden, in the county of Essex, gent. to be Masters Extraordinary in the High Court of Chancery.

COURT PAPERS.

CHANCERY SITTINGS

After Trinity Term, 1845.

To sit at Lincoln's-inn at Ten o'clock each day.

Before the LORD CHANCELLOR.

Monday	June 23	The First Seal. Appeal Motions
Tuesday	24	Appeals
Wednesday	25	
Thursday	26	
Friday	27	Petition day. Unopposed Petitions and Appeals
Saturday	28	Appeals
Monday	30	
Tuesday	July 1	
Wednesday	2	
Thursday	3	The Second Seal. Appeal Motions
Friday	4	Petition day. Unopposed Petitions and Appeals
Saturday	5	Appeals
Monday	7	
Tuesday	8	
Wednesday	9	
Thursday	10	
Friday	11	Petition day. Unopposed Petitions and Appeals
Saturday	12	The Third Seal. Appeal Motions
Monday	14	Appeals
Tuesday	15	
Wednesday	16	
Thursday	17	
Friday	18	Petition day, Unopposed Petitions and Appeals
Saturday	19	Appeals
Monday	21	The Fourth Seal. Appeal Motions
Tuesday	22	Petitions.

Such days as his Lordship is occupied in the House of Lords excepted.

Before the VICE-CHANCELLOR OF ENGLAND.

Monday	June 23	The First Seal. Motions
Tuesday	24	Pleas, Demurrers, Causes, Further Directions, and Exceptions
Wednesday	25	
Thursday	26	
Friday	27	Petition day. Unopposed Petitions, Short Causes, and Causes
Saturday	28	Pleas, Demurrers, Causes, Further Directions, and Exceptions
Monday	30	
Tuesday	July 1	
Wednesday	2	
Thursday	3	The Second Seal. Motions
Friday	4	Petition day. Unopposed Petitions, Short Causes, and Causes
Saturday	5	
Monday		Pleas, Demurrers, Causes, Further Directions, and Exceptions
Tuesday		
Wednesday		
Thursday		
Friday	11	Petition day. Unopposed Petitions, Short Causes, and Causes
Monday	14	Pleas, Demurrers, Causes, Further Directions, and Exceptions
Tuesday	15	
Wednesday	16	
Thursday	17	
Friday	18	Petition day. Unopposed Petitions, Short Causes, and Causes
Saturday	19	Pleas, Demurrers, Causes, Further Directions, and Exceptions
Monday	21	The Fourth Seal. Motions
Tuesday	22	General Petition Day.

N.B. Unopposed Petitions and Short Causes on July 25, at the sitting of the Court.

Before VICE-CHANCELLOR KNIGHT BRUCE.

Monday	June 23	First Seal. Motions and Causes
Tuesday	24	Pleas, Demurrers, Causes, Further Directions, and Exceptions
Wednesday	25	Bankrupt Petitions and Causes
Thursday	26	Pleas, Causes, &c.
Friday	27	Petition Day. Petitions and Causes
Saturday	28	Short Causes and Causes
Monday	30	Bankrupt Petitions and ditto
Tuesday	July 1	Pleas, Causes, &c.
Wednesday	2	Bankrupt Petitions and Causes
Thursday	3	Second Seal. Motions and Causes
Friday	4	Petition day. Petitions and Causes
Saturday	5	Short Causes and Causes
Monday	7	Bankrupt Petitions and Causes
Tuesday	8	Pleas, Causes, &c.
Wednesday	9	Bankrupt Petitions and Causes
Thursday	10	Pleas, Causes, &c.
Friday	11	Petition day. Petitions and Causes
Saturday	12	Third Seal. Motions, Short Causes, and Causes.
Monday	14	Bankrupt Petitions and Causes
Tuesday	15	Pleas, Causes, &c.
Wednesday	16	Bankrupt Petitions and Causes
Thursday	17	Pleas, Causes, &c.
Friday	18	Petition Day. Petitions and Causes
Saturday	19	Short Causes and Causes
Monday	21	Fourth Seal. Motions and Bankrupt Petitions
Tuesday	22	Petitions
Wednesday	23	Bankrupt Petitions.

Before VICE-CHANCELLOR WIGRAM.

Monday	June 23	First Seal. Motions and Causes
Tuesday	24	Pleas, Demurrers, Causes, Further Directions, and Exceptions
Wednesday	25	
Thursday	26	
Friday	27	Petition day. Pleas, Causes, &c.
Saturday	28	Short Causes, Petitions (unopposed first), and Causes
Monday	30	Pleas, Demurrers, Causes, Further Directions, and Exceptions
Tuesday	July 1	
Wednesday	2	
Thursday	3	Second Seal. Motions and Causes
Friday	4	Petition day. Pleas, Causes, &c.
Saturday	5	Short Causes, Petitions (unopposed first), and Causes

Monday	7	Pleas, Demurrers, Causes, Further Directions, and Exceptions
Tuesday	8	
Wednesday	9	
Thursday	10	
Friday	11	—Petition day. Pleas, Causes, &c.
Saturday	12	Third Seal. Motions, Short Causes, and Petitions, unopposed first
Monday	14	Pleas, Demurrers, Causes, Further Directions, and Exceptions
Tuesday	15	
Wednesday	16	
Thursday	17	
Friday	18	—Petition day. Pleas, Causes, &c.
Saturday	19	Short Causes, Petitions (unopposed first), and Causes
Monday	21	Fourth Seal. Motions and Causes
Tuesday	22	Petitions.

Before the MASTER OF THE ROLLS.

At the Rolls Court, Chancery Lane.

Monday	June 23	—Motions
Tuesday	24	—Petitions, unopposed first
Wednesday	25	Pleas, Demurrers, Causes, Further Directions, and Exceptions
Thursday	26	
Friday	27	
Saturday	28	
Monday	30	
Tuesday	July 1	—Petitions, unopposed first
Wednesday	2	—Pleas, Causes, &c.
Thursday	3	—Motions
Friday	4	Pleas, Demurrers, Causes, Further Directions, and Exceptions
Saturday	5	
Monday	7	
Tuesday	8	Petitions, unopposed first
Wednesday	9	Pleas, Demurrers, Causes, Further Directions, and Exceptions
Thursday	10	
Friday	11	
Saturday	12	—Motions
Monday	14	—Pleas, Causes, &c.
Tuesday	15	—Petitions, unopposed first
Wednesday	16	Pleas, Demurrers, Causes, Further Directions, and Exceptions
Thursday	17	
Friday	18	
Saturday	19	
Monday	21	—Motions
Tuesday	22	—Petitions, unopposed first.

Short Causes, and Consent Causes, every Tuesday at the sitting of the Court.

Note.—Petitions must be presented, and copies left with the secretary, on or before the Saturday preceding the Tuesday on which it is intended they should be heard. Those requiring notice must be presented on or before the Friday preceding.

GENERAL ORDERS AND RULES OF THE HIGH COURT OF CHANCERY.

(*Continued from page 225.*)

Traversing note.

LII. After the expiration of the time allowed to a defendant to plead, answer, or demur (not demurring alone) to any original or supplemental bill or bill amended before answer, if such defendant has filed no plea, answer, or demurrer, the plaintiff may file a note at the record and writ clerk's office to the following effect:—"The plaintiff intends to proceed with his cause as if the defendant had filed an answer traversing the case made by the bill."

LIII. After the expiration of the time allowed to plead, answer, or demur, not demurring alone, to a bill amended after answer, the plaintiff (if a defendant has not filed any plea, answer, or demurrer) may file a note at the record and writ clerk's office to the following effect:—"The plaintiff intends to proceed with his cause as if the defendant had filed an answer traversing the allegations introduced into the bill by amendment."

LIV. After the expiration of the time allowed to a defendant to put in his further answer to any bill, the plaintiff (if such defendant shall not have put in any further answer) may file a note at the record and writ clerk's office to the following effect:—"The plaintiff intends to proceed with his cause as if the defendant had filed a further answer traversing the allegations in the bill whereon the exceptions are founded."

LV. Where a demurrer or plea to the whole bill is overruled, the plaintiff, if he does not require an answer, may immediately file his note in manner directed by Orders LII. or LIII. as the case may require, and with the same effect, unless the Court, overruling such demurrer or plea, gives time to defendant to plead, answer, or demur; and in such case, if the defendant files no plea, answer, or demurrer within the time so allowed by the Court, the plaintiff, if he does not then require an answer, may, on the expiration of such time, file such note.

LVI. A traversing note having been filed, a copy thereof is to be served on the defendant against whom the same is filed, in the manner directed by the nineteenth and twenty-first of the orders of the 26th October, 1842, for the service of documents not requiring personal service.

LVII. A traversing note being filed, and a copy thereof duly served, is to have the same effect as if a defendant had filed a full answer or further answer traversing the whole bill, or such parts of the bill as the note relates to, on the day on which the note was filed.

LVIII. After the service of the copy of a traversing note filed as aforesaid, a defendant is not at liberty to plead, answer, or demur to a bill, or to put in any further answer thereto, without the special leave of the Court, and the cause is to stand in the same situation as if such defendant had filed a full answer or further answer to the bill on the day on which the note was filed.

Injunction to stay proceedings at law.

LIX. The plaintiff in a bill praying an injunction to stay proceedings at law is entitled, as of course, on motion or petition, and without an attachment, to the common injunction for want of appearance, if a defendant has not appeared in person or by his own solicitor on or after the expiration of eight days from the service of the subpœna, and for want of answer, if a defendant is in fault for want of answer on or after the expiration of eight days from the day on which an appearance was entered by or for him.

LX. The plaintiff in an injunction cause, having obtained the common injunction to stay proceedings at law, may (either before or after the answer of a defendant is put in, and whether such injunction be or be not continued to the hearing of the cause) obtain one order as of course to amend his bill without prejudice to the injunction; and if such bill be amended pursuant to such order, such defendant may thereupon, and although he may not have put in his answer to such bill or the amendments thereof, move the Court, on notice to dissolve the injunction, on the ground that such bill as amended does not, even if the amendments be true, entitle the plaintiff thereto.

Revivor.

LXI. The plaintiff in a bill of revivor, or of revivor and supplement, is entitled as of course, upon motion or petition, to the common order to revive, if a defendant, having appeared in person or by his own solicitor, does not within eight days after such appearance plead or demur to the whole bill, or to so much thereof as prays the revivor.

LXII. If the plaintiff in a bill of revivor or of revivor and supplement has caused an appearance thereto to be entered for any defendant against whom it is sought to revive the suit, and such defendant does not within eight days after such appearance plead or demur to the whole bill or to so much thereof as prays the revivor, the Court may, if it thinks fit, make the common order to revive, upon motion; such motion being made on notice to be served on such defendant as other notices of motion, if such defendant was a party to the suit at the time of the abatement thereof; but if such defendant was not a party to the suit at such time, then such motion is to be made on notice served on such defendant personally, unless it appears on affidavit that the plaintiff is unable or ought not to be bound to serve such notice personally, by reason of such defendant being out of the jurisdiction or being concealed or for any other cause; and if it appears to the Court that the plaintiff cannot or ought not to be bound to serve such notice personally, then upon notice otherwise served or published as the Court may direct.

LXIII. In cases where a suit abates by the death of a sole plaintiff, the Court, upon motion of any defendant made on notice served on the legal representative of the deceased plaintiff, may order that such legal representative do revive the suit within a limited time, or that the bill be dismissed.

Amendments of bill.

LXIV. An order for leave to amend a bill may be obtained at any time before answer, upon motion or petition, without notice.

LXV. An order for leave to amend a bill only for the purpose of rectifying some clerical error in names, dates, or sums, may be obtained at any time upon motion or petition, without notice.

LXVI. One order of course for leave to amend a bill as the plaintiff may be advised, may be obtained by the plaintiff, at any time before filing (or undertaking to file) a replication, and within four weeks after the answer or the last of several answers is to be deemed sufficient; but no further order of course for leave to amend a bill is to be granted after an answer has been filed, unless in the case provided for by Order LXV.

LXVII. A special order for leave to amend a bill is not to be granted without affidavit to the effect,—1, that the draft of the proposed amendments has been settled, approved, and signed by counsel; and 2, that such amendment is not intended for the purpose of delay or vexation, but because the same is considered to be material for the case of the plaintiff.

LXVIII. After the plaintiff has filed or undertaken to file a replication, or after the expiration of four weeks from the time when the answer or last answer is deemed sufficient, a special order for leave to amend a bill is not to be granted without further affidavit shewing that the matter of the proposed amendment is material and could not with reasonable diligence have been sooner introduced into such bill.

LXIX. Such affidavits as are mentioned in Orders LXVII. and LXVIII. are to be made by the plaintiff and his solicitor, or by the solicitor alone in case the plaintiff from being abroad or otherwise is unable to join therein.

LXX. Where the plaintiff obtains an order for leave to amend his bill, and does not amend the same within the time limited for that purpose, the order to amend becomes void, and the cause as to dismissal stands in the same situation as if such order had not been made.

Amended bill. No answer required.

LXXI. Where the plaintiff amends his bill without requiring an answer to the amendments, no warrant for time to answer such amendments is to be granted after the expiration of eight days from the service of the notice of the amendment of the bill.

Defendant likely to abscond without answering.

LXXII. If there is just reason to believe that any defendant means to abscond before answering the bill, the Court may, on the *ex parte* application of the plaintiff, at any time after appearance has been entered for such defendant by the plaintiff, order an attachment for want of answer to issue against him; and such attachment is to be made returnable at such time as the Court directs.

Defendant attached for want of answer.

LXXIII. If any defendant, being in custody of the serjeant-at-arms or of a messenger under an attachment for want of his answer, is not brought to the bar of the Court within ten days after he was taken into custody, he is to be discharged out of custody by the serjeant-at-arms or messenger in whose custody he is, without payment by him of the costs of his contempt, which in such case are to be paid by the plaintiff; but if such defendant does not put in his answer within eight days after such discharge, the plaintiff may cause a new attachment to be issued against him for want of his answer.

LXXIV. If any defendant be in prison under or being already in prison be detained under an attachment for not answering, and be not brought to the bar of the court within thirty days from the time of his being actually in custody or detained (being already in custody under such attachment), he is to be discharged from the process for want of answer under which he was arrested or detained by the sheriff, gaoler, or keeper of the gaol in whose custody he is without payment of the costs of his contempt, which in such case are to be paid by the plaintiff; but if such defendant does not put in his answer within eight days after such discharge, the plaintiff may cause a new attachment to be issued against him for want of his answer.

LXXV. A defendant being brought up in custody for want of his answer, and making oath in court that he is unable, by reason of poverty, to employ a solicitor to put in his answer, the Court is thereupon to refer it to the Master to inquire into the truth of that allegation, and to report thereon to the Court forthwith; and the Court may employ a solicitor to conduct such inquiry on the behalf of such defendant; and if the Master reports such defendant to be unable by reason of poverty to employ a solicitor to put in his answer, the Court may assign a solicitor and counsel for such defendant, to enable him to put in his answer.

Pro confesso.—Preliminary proceedings.

LXXVI. Upon the execution of an attachment for want of answer against any defendant, or at any time within three weeks afterwards, the plaintiff may cause such defendant to be served with a notice of motion to be made on some day not less than three weeks after the day of such service, that the bill may be taken *pro confesso* against such defendant; and thereupon, unless such defendant has in the meantime put in his answer to the bill, or obtained further time to answer the same, the Court, if it so thinks fit, may order the bill to be taken *pro confesso* against such defendant, either immediately, or at such time, and upon such terms, and subject to such conditions, as under the circumstances of the case the Court thinks proper.

LXXVII. In cases where any defendant, either being or not being within the jurisdiction of the Court, does not put in his answer in due time after appearance entered by or for him, and the plaintiff is unable, with due diligence, to procure a writ of attachment, or any subsequent process, for want of answer, to be executed against such defendant by reason of his being out of the jurisdiction of the Court, or being concealed, or for any other cause, then such defendant is, for the purpose of enabling the plaintiff to obtain an order to take the bill *pro confesso*, to be deemed to have absconded to avoid, or to have refused to obey, the process of the Court.

LXXVIII. In cases where any defendant who, under Order LXXVII. may be deemed to have absconded to avoid, or to have refused to obey, the process of the Court, has appeared in person, or by his own solicitor, the plaintiff may serve upon such defendant or his solicitor a notice, that on a day in such notice named (being not less than fourteen days after the service of such notice) the Court will be moved that the bill may be taken *pro confesso* against such defendant; and the plaintiff is, upon the hearing of such motion, to satisfy the Court that such defendant ought, under the provisions of Order LXXVII. to be deemed to have absconded to avoid, or to have refused to obey, the process of the Court; and the Court being so satisfied, and the answer not being filed, may, if it so thinks fit, order the bill to be taken *pro confesso* against such defendant, either immediately, or at such time or upon such further notice as under the circumstances of the case the Court may think proper.

LXXIX. In cases where any defendant who, under Order LXXVII. may be deemed to have absconded to avoid or to have refused to obey the process of the Court, has had an appearance entered for him under Orders XXIX., XXXI., or XXXIII. and has not afterwards appeared in person or by his own solicitor, the plaintiff may cause to be inserted in the *London Gazette* a notice that on a day in such notice named (being not less than four weeks after the first insertion of such notice in the *London Gazette*) the Court will be moved that the bill may be taken *pro confesso* against such defendant; and the plaintiff is, upon the hearing of such motion, to satisfy the Court that such defendant ought, under the provisions of Order LXXVII. to be deemed to have absconded to avoid or to have refused to obey the process of the Court, and that such notice of motion has been inserted in the *London Gazette* at least once in every week from the time of the first insertion thereof up to the time for which the said notice is given; and the Court being so satisfied, and the answer not having been filed, may, if it so thinks fit, order the bill to be taken *pro confesso* against such defendant, either immediately or at such time or upon such further notice as, under the circumstances of the case, the Court may think proper.

LXXX. Any defendant being in custody for want of his answer, and submitting to have the bill taken *pro confesso* against him, may apply to the Court, upon motion with notice to be served on the plaintiff, to be discharged out of custody; and thereupon the Court may order the bill to be taken *pro confesso* against such defendant, and may order him to be discharged out of custody upon such terms as appear to be just, unless it appears from the nature of the plaintiff's case or otherwise to the satisfaction of the Court that justice cannot be done to the plaintiff without discovery or further discovery from such defendant.

Pro confesso—Hearing—Decree.

LXXXI. No cause in which an order is made that a bill be taken *pro confesso* against a defendant is to be heard on the same day on which the order is made; but the cause is to be set down to be heard, and the Court, if it so thinks fit, may appoint a special day for the hearing thereof.

LXXXII. A defendant against whom an order to take a bill *pro confesso* is made is at liberty to appear at the hearing of the cause; and if he waives all objection to the order, but not otherwise, he may be heard to argue the case upon the merits as stated in the bill.

LXXXIII. Upon the hearing of a cause in which a bill has been ordered to be taken *pro confesso*, such decree is to be made as to the Court seems just; and in the case of any defendant who has appeared at the hearing and waived all objection to such order to take the bill *pro confesso*, or against whom the order has been made after appearance by himself or his own solicitor, or upon notice served on or after the execution of a writ of attachment against him, the decree is to be absolute.

LXXXIV. In pronouncing the decree, the Court may, either upon the case stated in the bill, or upon that case and a petition presented by the plaintiff for the purpose, as the case may require, order a receiver of the real and personal estate of the defendant against whom the bill has been ordered to be taken *pro confesso* to be appointed with the usual directions, or direct a sequestration of such real and personal estate to be issued, and may (if it appears to be just) direct payment to be made out of such real or personal estate of such sum or sums of money as at the hearing or any subsequent stage of the cause the plaintiff appears to be entitled to: provided that unless the decree be absolute, such payment is not to be directed without security being given by the plaintiff for restitution, if the Court afterwards thinks fit to order restitution to be made.

LXXXV. A decree founded on a Bill taken *pro confesso* is to be passed and entered as other decrees.

LXXXVI. After a decree founded on a bill taken *pro confesso* has been passed and entered, an office copy thereof is (unless the Court dispenses with service thereof) to be served on the defendant against whom the order to take the bill *pro confesso* was made, or his solicitor; and if the decree be not absolute under Order LXXXIII. such defendant or his solicitor is to be at the same time served with a notice to the effect that if such defendant desires permission to answer the plaintiff's bill and set aside the decree, application for that purpose must be made to the Court within the time specified in the notice, or that such defendant will be absolutely excluded from making any such application.

LXXXVII. If such notice as is mentioned in Order LXXXVI. is to be served within the jurisdiction of the Court, the time therein specified for such application to be made by the defendant is to be three weeks after service of such notice; but if such notice is to be served out of the jurisdiction of the Court, such time is to be specially appointed by the Court on the *ex parte* application of the plaintiff.

LXXXVIII. No proceeding is to be taken and no receiver appointed under the decree, nor any sequestrator under any sequestration issued in pursuance thereof is to take possession of or in any manner intermeddle with any part of the real or personal estate of a defendant, and no other process is to issue to compel performance of the decree without leave of the Court, which is to be obtained on motion, with notice served on such defendant or his solicitor, unless the Court dispenses with such service.

LXXXIX. Any defendant waiving all objection to the order to take the bill *pro confesso*, and submitting to pay such costs as the Court may direct, may, before enrolment of the decree, have the cause reheard upon the merits stated in the bill, the petition for rehearing being signed by counsel as other petitions for rehearing.

(*To be continued.*)

LEGAL INTELLIGENCE.

MR. PYKE'S CASE.

We have received from Mr. Pyke a report of the proceedings before the judges on his unsuccessful appeal from the decision of the Benchers. We confess we cannot find in what manner it helps his case; but as he seems to think it a sort of *audi alteram partem*, we give it a place:—

MR. PYKE'S CASE AND THE INNS OF COURT.

Hilary, Easter, and Trinity Terms, 1845.

In the matter of H. H. PYKE, Esq. of the Home Circuit, Barrister-at-Law, appellant;

And

The TREASURER and MASTERS of the BENCH of the Hon. Society of Gray's Inn, respondents.

This important petition of appeal came on to be heard at the end of last Hilary Term, before the fifteen judges of England, when twelve of their lordships presided, including the Right Honourables the three Chiefs, Lord Denman, Sir N. C. Tindal, Knight, and the Lord Chief Baron.

The appellant, Mr. *Pyke*, conducted his own case, attended by his solicitor, and (*inter alia*) urged upon their lordships that the principles involved not only deeply affected his own, but the rights of 3,000 of the Bar of England, and, in fact, both branches of the profession, also those gentlemen now or hereafter preparing to enter it; and *that there was not the slightest ground to warrant so severe and ruinous a sentence*, passed upon him by the Benchers of Gray's-inn—*Disbarral, degradation*, and *expulsion*—independent of their utter want of power to do so.

The Benchers were represented by four of their body, headed by *Francis Whitmarsh*, esq. Q. C. and Mr. *Ryland*, the City Pleader, in support of their sentence for an alleged breach of etiquette, but denied to be so by the appellant.

The first and main ground relied on by the appellant, Mr. *Pyke*, was, that the inns of court had no inherent or judicial right by law or custom to *disbar, degrade*, or *expel*; and after tracing the origin of the inns of court, and the dealings of the Crown with this *once* judicial university, shewn to be so by all the early text writers, the appellant finally produced the opinions of Mr. Bethell, Q. C. and Sir John Dodson, with the authorities there cited by those learned counsel in the case of Mr. Ward and the University of Oxford (against the proposed degradation of that reverend gentleman), and finally quoted Horne's Mirror of Justices' Abuses of the Common Laws, chapter 5, page 230, No. 42, in which it is expressly laid down that *it is abuse to suspend a pleader if he be not attaint of trespass, for which he is condemnable to corporal punishment*; thus shewing that suspension is the *only* punishment; and Mr. Pyke urged *even* in *that* case the inns of court had *no* power; that it was *alone* the privilege of their lordships to exercise, in the shape of *silencing* a barrister if his acts provoked it; and that their lordships were agents of the Crown, who is alone the visitor of the inns of court.

Their lordships repeatedly deliberated, and intimated that the matter of the petition of appeal should then at once go back to be reconsidered by the Benchers, but finally the case went over to Easter Term for judgment.

Easter Term.—Kelly, Q. C. and *Baddeley*, having this Term obtained a rule *nisi* for a *mandamus* to the authorities of the University of Oxford to restore to the Rev. Mr. Ward his degrees of B.A. and M.A. and the principles involved being in many respects similar to the case of the appellant, Mr. Pyke—

Judgment deferred.

Trinity Term.—Council Chamber, Monday, May 26. (Before 13 Judges.)—Mr. *Pyke* further heard against the alleged right and power of the inns of court to disbar and suspend, and, *inter alia*, in the case of solicitors who may quit their profession for the Bar, and the gross injustice of the sentence upon him.

Council Chamber, Monday, June 9. (Before 11 Judges.)—*Their lordships affirmed the judgment of the Benchers.*

UNITED LAW CLERKS' SOCIETY. — The thirteenth anniversary of this society was celebrated on the 13th inst. by a public dinner, presided over by Mr. Baron Alderson. There were also present Mr. Baron Platt, H. Twiss, esq. D. Wakefield, esq. T. G. Teed, esq. J. Willcock, esq. D. Mallnes, esq. Sir G. Stephen, Mr. Secondary Potter, J. Walten, esq. and about eighty other gentlemen of both professions. After the cloth was withdrawn, *Benedictus* was sung by Messrs. Hobbs, Hatton, Hawkins, and Chapman. The usual loyal toasts were first proposed, then the chairman, in a speech eulogising the meritorious objects of the institution, proposed, " Prosperity to the United Law Clerks' Society." The toast was received with the warmest enthusiasm. Several other toasts followed, including the healths of the chairman, of the Lord Chancellor, and of Lord Cottenham. Among the subscriptions, the total of which amounted to 600*l.* the following were announced:— G. Henderson, 3*l.* 3*s.*; Sir G. Stephen, 5*l.* 5*s.*; Messrs. Collett and Co. 5*l.* 5*s.*; J. Freshfield, esq. 10*l.* 10*s.*; Mr. Justice Erle, 10*l.*; Lord Tenterden, 5*l.* 5*s.*; Mr. Baron Alderson, 10*l.* 10*s.*; Mr. Justice Coltman, 5*l.* 5*s.*; Lord Ellenborough, 5*l.* 5*s.*; Mr. Baron Platt, 10*l.* 10*s.*; and H. Twiss, esq. 5*l.* 5*s.*

SERJEANTS'-INN-HALL.—In the matter of Henry Hugh Pyke.—By an order of pension made by the benchers of the Hon. Society of Gray's-inn, on the 11th of December, 1844, Mr. Pyke was disbarred and expelled the society. Mr. Pyke appealed against that order to the judges, as visitors of the inns of court, and was heard at considerable length upon such appeal on two evenings, appointed by the judges for that purpose, at Serjeants'-inn-hall. On Monday, the 9th inst. the judges again met to deliver their judgment upon the appeal. Eleven judges were present, and upon entering the hall they took their seats at the table at the upper end, and immediately upon being seated Lord Denman delivered the decision of the Court:—" We have considered the application of Mr. Pyke against the order made by the Treasurer and Masters of the bench of the Hon. Society of Gray's-inn, and are unanimously of opinion that the order appealed against should be affirmed." The judges, who were all robed, immediately rose and quitted the hall.

LINCOLN'S-INN.—The recent temporary cessation of business in the equity courts will continue up to Monday, the 23rd of June, when they will resume and continue sitting up to about the 22nd of July, when they will rise for the long vacation.

Mr. Frederick Peel, second son of Sir Robert Peel, bart. has just entered the Temple as a student.

MR. AUGUSTUS NEWTON'S CASE.—We are requested by Mr. NEWTON to state that of the three charges preferred against him one only was proved, viz., that he had acted as counsel for parties at petty sessions without the intervention of an attorney. His defence was, that it is the practice for counsel in the superior courts to accept briefs direct from parties, where they appear in person upon the record, and not by attorney, and that the case of parties at petty sessions is analogous. Mr. Newton states also that it is his intention to appeal to the judges against the decision of the benchers.

WILL OF ROBERT LADBROKE, ESQ. THE LATE BANKER.—Probate of the will and two codicils of Robert Ladbroke, late of Hedley, Surrey, and of Florence, in Tuscany, esq. was granted on the 30th ult. to the nephew, Felix Ladbroke, Edmond Saxton Pery Calvert, and William Beresford, esqrs. the executors. Personal estate in England sworn under 160,000*l.* The testator died on the first of February last, at Florence. The will is dated 23rd July, 1842, and the last codicil in July, 1844, and confirms the will. He leaves an annuity of 1,400*l.* a year to his brother Henry Ladbroke, and 500*l.* a year to the wife of his nephew Felix Ladbroke, if she should survive her husband. Devises and bequeaths his freehold and leasehold estates in England to his nephew, Felix Ladbroke, and his issue male; in default to his brother, Henry Ladbroke, and his issue male; in default to his cousin, Edmond Saxton Pery Calvert, and his male issue, and so on; and in default of male issue to his right heirs, to take the name of Ladbroke, and bear the family arms. Bequeaths the residue of his estates in England, Italy, or elsewhere, to his nephew, Felix Ladbroke.—*Sunday Times.*

IRELAND.

Matthew Baker, esq. Q.C. has been appointed Crown Prosecutor for the Connaught Circuit.

The following days have been fixed for holding the assizes upon the Home Circuit. The days for holding the assizes upon the circuits have not yet been announced. Carlow, Tuesday, July 8th. Athy, Thursday, July 10th. Maryborough, Saturday, July 12th. Tullamore, Wednesday, July 16th. Mullingar, July 21st. Trim, July 24th. The period for holding the Trim assizes may possibly be changed to July 23rd at three o'clock P.M. instead of July 24th at ten o'clock, A.M.

The *Dublin Evening Mail* states that a majority of the benchers of the King's Inns have determined on disbarring Mr. J. J. Hardy, but the fact has not been officially announced to the profession.

THE MAGISTRACY.—J. Higginson, of Lisburn, has been appointed to the commission of the peace by the Lord Chancellor.

CORRESPONDENCE.

JUSTICES' CLERKS BILL.

TO THE EDITOR OF THE LAW TIMES.

Sir,—I beg to call the attention of your professional readers (especially of those who have any concern with the duties of magistrates and their clerks) to a specimen of the reckless legislation of the present day in a notice given by Capt. Pechell for the introduction of a clause in the Justices' Clerks and Clerks of the Peace Bill to the following effect:—"That the clerk of every bench of justices in England shall, within twenty-four hours after a conviction (under any statute where an appeal is allowed) cause such conviction to be made out in writing, and to be signed by the convicting justice or justices under a penalty of 50*l*." The bench of justices to whom I act as clerk meet (for the convenience of the district) at a place near the centre of the division, about eight miles from any town, and from three to five miles from the respective residences of each of the justices. The business not unfrequently lasts until five or six o'clock in the afternoon. Now I would ask any man of common sense how it is possible, with any due regard to the care and accuracy requisite in drawing up convictions (especially in cases where an appeal is likely to follow), that the convictions made at any of our petty sessions (and many will be similarly circumstanced) should be made out and taken, or sent round, to the justices for their signatures by the same hour the following day? This is something of a piece with the repeated assertions, or at least inferences, made by Mr. Escott and others, that the costs payable by a defendant on a conviction all go into the pocket of the clerk; whereas, if the parties making such assertions knew any thing of the matter, they would know that three-fourths of the costs are the expenses of the constable and witnesses, who must be paid for leaving their homes and attending the best part of the day at the petty sessions. I am, &c.

G. H. Seymour,
Clerk to the North-Riding Magistrates,
Bulmer Division.

York, June 16, 1845.

SMALL DEBTS BILL.

TO THE EDITOR OF THE LAW TIMES.

Sir,—I concur with you in approving the principle of Lord Brougham's Bill for the amendment of the law relative to the recovery of debts not exceeding 20*l*.; and presuming that creditors generally will readily accord their approval also, it seems most desirable that the Profession, through the different Law Societies, and by all means within their power, should exert their utmost efforts, not only in pointing out defects in the Bill, but in suggesting improvements, so as to secure, as far as possible, its efficiency for the purpose intended, when it shall have become law.

And premising that I concur generally in your observations in the last number of the Law Times, I shall merely beg leave to offer my mite to the general stock of suggestions and observations you appear to have received from other quarters.

First, then, as to the question of jurisdiction: a very little extension appears only to be required so as to render its operation effective in certain localities; as, for instance, where there are no near commissioners of bankruptcy, or courts of request having a barrister or attorney as judge, it should give jurisdiction to the now existing courts of requests; and where there are no such courts, then to the magistracy in petty and quarter sessions, either, or both—or, at the option of the creditor, to a judge at chambers, out of which the process issued on which the judgment shall have been obtained; that is, until such commissioners or courts as contemplated by the Bill should be established within such localities, if any, when their jurisdiction might be declared to cease; and which I cannot but think might easily be got introduced into the Bill, it not at all appearing to affect any existing interest, or "judicial arrangement of the country," and would render the jurisdiction efficient.

Its other defects, some of them so lamentably serious (and which you have so appropriately pointed out), I shall not attempt to grapple with, but suggest that they at once become the subject of close investigation by the different law societies, and that after they have discussed the subject, and matured their different plans, a deputation from each do meet in London, who shall then, together with the Incorporated Metropolitan Society, and the Metropolitan and Provincial Legal Association, or otherwise as may be agreed upon, digest and consolidate the amendments, and obtain the aid of some M. P. in order to effect the desired object: and it should be remembered that not a moment's time should be lost, if the Bill is to be carried in an efficient shape during the present session.

Before taking leave of the subject, I would suggest, in reference to Mr. Green's suggestion, to which you refer, that I think with him in the main, but must dissent from the proposition that the order to be made for imprisonment on disobedience, will, in numerous cases, be sufficient for the enforcement of payment; and hence I would suggest that the most efficient remedy would be to enact that service of the order on the party having the wages, &c. to pay (and which should extend to moneys in savings' banks, in the hands of trustees under wills, &c. &c.) should operate as an attachment and authorize the master, &c. to pay the amount ordered to the creditor direct (without being permitted to go in the debtor's hands), whose receipt should be sufficient, and discharge his liability to the debtor to the extent of the sum ordered &c.: but nevertheless the power to imprison should be retained, or the rogue without either property or income would go scot-free.

I would also suggest that the provision for the examination of the creditor only requires modification; he ought not certainly to be driven into proof of his debt, farther than that in fact he has a judgment for such an amount; but to be at liberty to be examined, or give evidence of any fraud or misrepresentation on the part of the debtor at the time of contracting the debt, and of his subsequent conduct in evading payment, as well as of a vexatious defence, &c. for the information of the Court in making its order, but nothing more. I am, Sir, &c.

Chesterfield, June 17, 1845. Jos. Dodgson.

THE QUEEN v. BUCHANAN.

TO THE EDITOR OF THE LAW TIMES.

Sir,—Seeing you have promised a full notice of the above proceeding in the Law Times of Saturday next, will you think it intruding too much to remark at the same time that the defendant is not Mr. Buchanan, one of the solicitors to the "Commercial Association for the Opposition of Fraudulent Insolvents;" a fact which, if not known, might prejudice the early efforts of the society.

I am, Sir, yours, &c.
Jas. M. Constable,
Secretary to the Association.

73, Basinghall-street, June 19th, 1845.

THE QUEEN v. BUCHANAN.

To the Editor of the Times.

Sir,—Several persons having asked me if I am the person indicted for practising as an unqualified attorney at the Canterbury Sessions, I trust, as there are only two attorneys of the above name in London, you will be good enough to insert in your paper that I am not the person. The real defendant, I believe, is, or was, clerk to the board of guardians of the Chatham Union, and the prosecution is, I am informed, to raise a point of law under the Poor Law Act.

As the continued supposition that I am the person indicted would inflict a serious injury on my business, I trust you will insert this denial in your next publication. I am, Sir, &c.

8, Basinghall-street, June 13. W. R. Buchanan.

SELECTIONS FROM CORRESPONDENCE.

"An Original Subscriber" submits to the Profession the following question of professional etiquette. Our first impression is certainly that it is a legitimate transaction.

In several parts of the country there are solicitors who now buy and sell railway shares for their clients, for which they receive a commission according to the price of the shares, contending that this is a legitimate branch of practice. If such conduct be unprofessional, it calls for the notice of the Law Societies and the law journals; and, if not, it is equally desirable that all should know that they may pursue a similar course without impropriety. The subject is particularly worthy of consideration at the present time, when investments in the shares of joint-stock companies have become the most important and most profitable channels for the capital of the country.

A Solicitor complains of another clause in the Small Debts Bill:—

The Bill, as sent down from the Peers to the House of Commons, has (since the passing through committee) received the addition of a *jobbing clause*, viz. —"That the taxing Master of the Court of Bankruptcy need *not* be an attorney or solicitor." This is to qualify by Act of Parliament Mr. Winslow, junior, who has acted as taxing Master since the death of Mr. D. H. Richardson.

Surely the attorneys ought to remonstrate against this system of depriving them of the offices they are fairly entitled to fill.

"A Subscriber" submits the following point of professional etiquette to the experienced of the Profession, whose opinions will oblige.

An estate was mortgaged in fee to a *feme sole* who afterwards married. On the money being paid off, the husband and wife reconveyed the property; the reconveyance was prepared by the mortgagor's solicitor, and approved, in the usual way, by the mortgagee's solicitor. The deed requiring acknowledgment by the wife, pursuant to the statute 3 & 4 Wm. 4, a question arose with the solicitors, which was entitled to prepare the certificate, affidavit, &c.; file same, and receive the charges attending the acknowledgment. The mortgagee's solicitor rested his claim on the acknowledgment being part of the execution of the deed by his client; whilst the mortgagor's solicitor alleged that it was as much his right to prepare the affidavit, certificate, file same, and receive the charges relating thereto, as to prepare the reconveyance.

Will you, or any of your numerous friends, be so good as answer the above practical question, and in doing so state the reason or authority for it?

"A Devonshire Attorney" thus objects to certain clauses in the Justices' Clerks and Clerks of the Peace Bill:—

In that number of your valuable paper which was published on the 24th ult. you inserted some new clauses which had been introduced as amendments to this Bill. As I have not seen any comment thereon in either of your subsequent numbers, allow me to ask whether, under clause A, the justices will have power to order that the duties of their clerk shall include the prosecution of offenders, &c. although such clerk may not be an attorney? It may not be known to you that in Devonshire the justices' clerks are frequently *not* attorneys. Should such be the effect of the clause, the injustice is very manifest. Indeed, if such be not its effect, the clause appears to me very prejudicial to practitioners generally.

It is well known that in most prosecutions the prosecutors themselves have to bear *some*, and sometimes *heavy* costs, and this must still be so, though the justices' clerks may be employed. Is it fair to take these costs (not paid by the county) from the regular professional adviser of the prosecutor, and put them into the pocket of the justices' clerk?

Almost all the costs which the county pays are for witnesses' and prosecutors' attendance and expenses, and for the indictment. Very little is allowed for professional charges, for brief, and attending trial, &c. It is very questionable whether the proposed alteration would not entail greater expense on some counties, and it is very certain that it would deprive many practitioners of a legitimate source of income.

June 19, 1845.

To Readers and Correspondents.

Latchford.—*Sweet's Edition of Bythewood is good; but a sound and not a re-elaborated treatise on conveyancing is a desideratum in the Profession.*

A Subscriber's Clerk.—*Gurney's is, we believe, the best system of Short-hand.*

A Subscriber. *It is always left to the discretion of the reporter, whether he deems a case to contain any points of law worth reporting.*

W. M. A.—*The consideration of his letter is unavoidably postponed.*

NOTICE TO SUBSCRIBERS.

The Indices to the fourth volume being now completed, the numbers for binding may be sent, through the post, in parcels open at the ends, with a mark by which they may be known, and of which the Publisher should be advised by letter, as also how, when bound, it is to be returned. If sent by parcel, advantage may be taken of the opportunity to inclose other books for the binder.

The Volumes of the Law Times, *handsomely and uniformly bound, at 5s. 6d. each, if forwarded to the Office; with the Solicitor's name and abode lettered on the cover, 1s. extra.*

An Alphabetical Index to the Cases in the current Volume of the Law Times *always lies at the Office for the purpose of reference.*

TO SUBSCRIBERS.

It is proposed to publish an annual *Index Legum*, consisting of a digest of all the reported cases and statutes of the past year, under the title of the Year Book, to be bound with the volumes of the Law Times, or separately, at option. It will be comprised in about six or seven numbers, at 1s. each, stamped, for transmission by post. It will not be commenced unless 1,000 subscribers order it. Persons desirous of having it are therefore requested to transmit their names as soon as possible.

THE LAW TIMES.

SATURDAY, JUNE 21, 1845.

THE SMALL DEBTS BILL.

THE more we reflect upon the clause so insidiously introduced into this measure, permitting parties to appear by other than counsel or attorney, the more forcibly do we feel the necessity for prompt and energetic exertion on the part of the Profession to procure its erasure before the Bill is permitted to pass the Commons. The practical operation of this provision will be virtually to repeal the protection intended to be afforded by the Attorneys and Solicitors Act; its certain consequence will be, not merely to foster the existing race of sham lawyers, already too numerous and audacious, but to breed a new and countless spawn of these pests of society, who will flourish under the sanction of law, and commit every kind of rascality with impunity. The law, as it is, wisely provides that a suitor may, if he please, appear and conduct his suit in person; but if he desires to appear by an agent, the law requires that the agent shall be an officer of the court duly qualified for the task, and responsible to the Court for his conduct. Wherefore these provisions? For the benefit of the lawyer? Certainly not, but for the security of the client. It is for the suitor's sake,—to save *him* from the ruinous consequences of incapacity or dishonesty in the person to whom his property or honour is to be confided, that the law of attorneys has been framed, and that suitors are required, when they need an agent, to employ one who has been subjected to certain tests, and is amenable to the Courts in which he practises. Lord BROUGHAM'S Bill flies in the face of this wise principle of our judicature; it establishes a new corps of practitioners, for whose fitness and fairness no security is provided, and who may with impunity commit whatever malpractices they please, so that they keep clear of offences actually indictable.

Such is the effect of this mischievous clause as respects the public these are the general objections to it. The Lawyers have equal or stronger grounds of complaint. The law has imposed upon them an expensive education and heavy taxes for admission into their Profession, and for permission to practise. It subjects them to the jealous supervision of the judicial authorities, and surrounds them with punishments for any breach of faith in the conduct of their business. In return for these burdens and securities, it has guaranteed to them the privilege of conducting the legal affairs of the community, still subject, both as to their charges and for their conduct, to the control of the authorities. The existing members of the Profession have fulfilled their part of the bargain; to permit others who have been subjected to none of the conditions now to come in and reap some of the advantages, is a violation of good faith which would be disgraceful to a legislature, and which needs only to be set properly before the House of Commons to be at once abandoned.

But how, in the absence of any man in the House of Commons to be to the Lawyer what Mr. WAKLEY is to the Medical Profession,—the protector of their interests, the representative of their views,—how, we ask, can the object desired be best pursued? Petitions are worthless: there remains only the less noisy but more effective plan of an application from each Law Society to all the members connected with its locality, pointing out the mischiefs of the clause, and requesting its expurgation; and the two central Associations—the Law Institution and "the Metropolitan and Provincial Society"—should direct their still more efficient powers to the agitation of the fountain head, and to convince the Government that it would be unwise to permit such a bad clause to destroy a good measure.

A QUESTION ANSWERED.

A CORRESPONDENT asks, "What are the uses and advantages of joining the Verulam Society?"

The reply to this question affords an opportunity for briefly reviewing what has been already accomplished, and estimating what each member has actually gained by it.

Just a year has elapsed since the operations of the society actually commenced.

In that short period have been produced no less than five series of practical reports, upwards of seventy different Forms for office use, and a volume that will be indispensable to every member of the Profession: to wit,—*Mr. Allnutt's edition of the New Orders in Chancery.* The reports are now sufficiently advanced to enable a comparison to be formed between them and others, we mean as to their cost, for of their intrinsic worth it becomes not us to offer an opinion,—the verdict of the Profession has been already pronounced upon that.

The *Real Property and Conveyancing Reports*, and the *Criminal Law Reports*, are unique, and consequently cannot be tried by any standard. But a comparison between the others and their contemporaries will shew precisely what the Profession has profited by their lower prices.

The *Magistrates' Cases* for one whole year are now published. Their total cost to members is 9s.

The cost of the *New Sessions Cases* for the same period is just 1*l.* 4s. Moreover, the cases reported in the Verulam are much more numerous than those in the latter.

Thus on this single series of reports there is a direct gain to the practitioner of 15s. in the year.

So is it with the *Registration Appeals.* The cost in the Verulam is 1s.; the others are 5s.

The same proportion is preserved in the other series. The *Practice Cases*, although far more numerous and complete, and comprising both equity and common law, cost rather less than one-half the cost of *Dowling & Lowndes*, limited to common law.

The part of the *Criminal Law Cases* at 4s. contains more reports than a 10s. part of *Carrington & Kirwan.*

As for the forms; the members obtain these at one-fourth less than the usual cost. There is not an office which does not consume upon an average 5*l.* worth of forms in a year.

We are now in a position to estimate the advantages which in this single first year the members have reaped, and that under all the disadvantages of a beginning.

Thirty-four numbers of reports have appeared; some of these can be procured nowhere beside, and all are very much less costly than others. But passing over this, looking only to the gain which a member has beyond the public, there will appear a clear advantage on the reports of 16s.; and if he use 5*l.* worth of forms, on them of 1*l.* 5s., making a total clear gain of 2*l.* 1s. in a single year, in return for his half-guinea entrance fee.

If such has been the advantage in one year, how much greater will it be as publication proceeds. When the entire series of forms are completed, and the contemplated text-books are brought out, for which only added numbers are wanting, the annual advantage to the members will grow in the same proportion.

It is hoped that these plain figures will prove to our correspondent that the advantages of the Verulam Society are not theoretical, but tangible—not results that may be, but gain that has been great already, with certainty of rapid multiplication.

VERULAM SOCIETY.

No. 2 of *Registration Appeals*, comprising those of Michaelmas Term last, will be published on Monday; No. 8, completing Part II. of *Practice Cases in Law and Equity*, is published this day. No. 10 of *Magistrates' Cases*, containing those of Easter Term, will be ready on Thursday next, and Nos. 7 and 8 of *Criminal Law Cases*, completing Part II. for use on Circuit, are in the press.

Mr. ALLNUTT'S indexed and noted edition of the New Orders in Chancery will be ready on Tuesday.

Many more Forms are in the press, and will be announced next week.

LAWS OF FRANCE.
No. IX.
COUR ROYALE OF ROUEN.

Solemn Sittings(a) of the 7th and 8th May. Foreigners can bring an action before the French Courts for the piracy of their names, marks, and labels.

Fully to understand this case, our former article (4 Law Times, 82), in which the decision of the Cour de Cassation was given, only a short statement is necessary on the present occasion.

The house of Rowland and Son, London, invented some years ago a cosmetic well known under the name of Macassar oil.

To prevent counterfeit, the house of Rowland not only adopted bottles and labels of a peculiar shape, but also applied the fac-simile of the signature of the house to each label.

The French, and especially the Parisian counterfeiters, not only did not content themselves with manufacturing Macassar oil, but imitated exactly the labels,—even the fac-simile of the signature.

The house of Rowland and Son summoned them for this usurpation, and demanded damages, which were awarded by the Tribunal de Commerce of the Seine, whose decision was confirmed by the Cour Royale of Paris.

The Court of Cassation, appealed to against this decree, annulled it August 14th, 1844. Inasmuch as—

The action was not legally authorized either by general or by special right:

That the laws of the 28th July, 1824, and of the 22nd Germinal, year 11, relating to counterfeits, do not intimate that the benefit of them may be applied to foreigners not admitted to enjoy the civil rights of France.

That, according to Art. 11 and 13 of the Civil Code, foreigners not admitted to the enjoyment of the civil rights by the king's authority only enjoy in France the civil rights which are reciprocally granted to Frenchmen by the treaty with the nation to which the foreigners belong:

That Rowland and Son do not allege having been admitted by the king's authority to the enjoyment of the civil rights of France; that no treaty between France and England reciprocally admits manufacturers of both countries to exercise in each their rights of action on account of the use of their names.

This judgment, the heads of which only we give here, referred the case, on the plea of a wrong application of the law, to the Cour Royale of Rouen where it has been tried again.

The counterfeiters' advocate, in enlarging upon the decree of the Court of Cassation, stated that, in the absence of a treaty, it was unjust that foreigners might counterfeit, as they pleased, all our productions with the greatest impunity, and that, on our side, instigated by a vain generosity, we should endeavour to prevent our manufacturers deriving some little profit from similar piracies, for which, do what we will, we should ever be behind-hand with our English neighbours.

The sacred property of a name, that the house of Rowland pretends to claim, for fear it should fall into discesteem or be dishonoured, this name is, in fact, but a simple mark placed on goods, and which serves to designate them.

And, moreover, by what right shall a foreigner, who cannot avail himself of reciprocal treaties, and who, neither by patent nor by taxes, contributes to the expenses of the state, come and benefit by the civil laws of that state—laws whose name alone declares to be applicable to citizens only?

The house of Rowland pretends to have sustained detriment; they have not the right of complaining. In this case it is not the same as in the affair of the *Britannia*, in which the Court judged that a Frenchman, wronged abroad by a foreigner, could demand reparation for the damage before the French Courts; to the fact of an injury having been

(a) *Audiences Solennelles*,—that is to say all the Courts united.

sustained, was added the rights of a denizen in the person of the plaintiff.

The advocate of Rowland and Son maintained that, on the contrary, the rights claimed in this case were rights recognised in all countries where the law of nations was acknowledged, and, according to those rights, they could not reject a man's claims, of whatever nation he might be, upon the plea that his claims could not be admitted.

The Procureur-General then summed up the case. He first expressed himself strongly against the dishonesty of the claims of the French counterfeiters, who, not content with having by one theft counterfeited the product invented by the English house, had attempted a robbery still more audacious, in taking even the name. Then, taking into consideration the rights of the case, the Procureur-General confirmed the judgment, and adopted the opinions of the Tribunal de Commerce of Paris.

The Court after a long deliberation rendered a judgment, admitting the doctrine of the Court of Cassation on Art. 11 and 13 of the Civil Code, and on the laws of Germinal, year 11, and 1821, but declaring that the proceedings admitted by Art. 1382 of the Civil Code, against the author of any damage, might be claimed by a foreigner, and that with regard to that the Frenchman was bound by the *quasi*-contract (*quasi-contrat*) resulting from his action.

Considering that the property of the name of a house was of the law of nations, and might be claimed by every one before the French courts, who ought to ordain the suppression of every thing which might be injurious to that property,

The Court confirmed the judgment of the Tribunal de Commerce of the Seine.

This doctrine is equitable,(*b*) and we do not doubt that, should another appeal be lodged before the Court of Cassation, this supreme court will pronounce that the Cour Royale of Rouen has rightly applied the law.

Art. 1382 of the Civil Code compels all persons having occasioned an injury to repair it, and as this law belongs more to the law of nations than to civil rights, the foreigner ought to enjoy it as well as the denizen. N. Treitt.

Paris, May 24, 1845. Avocat à la Cour Royale.

(*b*) Our readers may recollect that, in the article to which we have already referred them, we differed in opinion from the judgment given by the Court of Cassation, which we considered as a narrow apprehension of the spirit of our laws.—4 Law Times, 83.

THE CRITIC.

New Books.

The Laws of Patents in Foreign Countries, translated, with Notes, &c. By R. W. Urling, of Brussels, Patent Agent. London, 1845. Simpkin and Co.

This is an extremely useful volume to inventors, and, indeed, to all engaged in administering the Law of Patents. Ample information is given as to the processes necessary to secure a patent in almost every civilized country. As it is only of limited interest to our readers, we need do no more than notice its appearance, recommending it to those who may have occasion to seek acquaintance with its subject matter.

Equity Reports: containing the Reports in the Courts of the V. C. of England, V. C. Bruce, and V. C. Wigram. Edited and arranged by William Holt, Esq. Barrister-at-law. London, 1845. Addison.

"If this work," says the preface, "is needed by the Profession, it is sure to meet the success it deserves; and if it is not required, it is as well it should be discontinued."

The question thus raised time only can determine; but it is one that must present itself to every reader as it did to the proprietors. Is the work *needed*?

Already each of the Vice-Chancellor's Courts has its *regular* reporter, therefore, simply as a record of the decisions of these courts, it supplies no *deficiency*. Hence it must rest its claims to support on one of two grounds; either that the reports are substantially superior, or that they are brought out with more rapidity.

Are they *superior* to the regular reports? This the projectors themselves would not assert. The argument then resolves itself into the simple query, are they produced with more rapidity than the *regular* reports?

They are so: and now comes the doubt we entertain whether their publication in this form a few weeks earlier than in the regular reports will prove a sufficient inducement to the Profession to incur the cost their purchase will entail, *in addition* to that of the regular reports, for the latter *must* still be procured when they come out, and will of course ever remain the *established authority*. No new reports can be *substituted* for the authorized ones; they can only be used for cases not reported in the latter, or in the interval before their appearance. It is for this reason that two species of reports of any court, and two only, are ever required by the practitioner, namely, the *regular* report, as the standard authority which, because it is to be the ultimate authority, demands immense care in the getting up, and therefore must inevitably be tardy of publication, and a *speedy* report giving immediate information of the points decided, to be a guide to the practitioner until he shall receive the cases set out at length in the regular report. No series of reports of any court can flourish which does not fall under one of these two classes, because no other can be of much practical utility to the Profession, and into these all existing reports, and all new projects, must ultimately resolve themselves.

Bearing this in mind, let us see if there be any and what prospect of such a work as this upon our table being needed by the Profession. We must say that, notwithstanding its intrinsic merits, we can discover none. It does not belong to either of the classes of reports we have named. It is not *the* regular report of the courts, nor can it ever be substituted for it. The practitioner, therefore, cannot take these *instead* of the recognised authorities. They add some 3*l*. or 4*l*. per annum to his expenses; but, though they supply him with information before the regular reports, and so far are useful, still he has to ask himself if that utility be not too dearly purchased. Can he not, in fact, procure the same information elsewhere, at a very much less cost? The answer must be in the affirmative. It is true that he needs a speedy report of the points decided by the equity courts, to serve him until their appearance in the authorized reports; but this is already supplied to him by the *Law Journal*, the *Jurist*, &c.; and these not only furnish him with all the speedy reports he requires of the three courts comprised in the book before us, but of all the other courts of law and equity with them, at a less cost than will be that of these three courts only.

For these reasons we cannot come to the conclusion that the design of which this is the first portion is needed by the Profession, and, if not needed, we fear that even the ability employed upon it will not make it successful. In itself it is a well got up work, and if it could be substituted for the regular report of the three Vice-Chancellors' courts, the Profession would have no cause to regret the exchange. The reports are full, and apparently accurate; they are very artistically written. Useful notes accompany some of the cases, and a copious index gives ready access to the contents of the volume. We are in duty bound to state to our readers the reasons that appear to us to militate against the design of this enterprise, but we must at the same time speak in terms of unqualified praise of its execution.

The Statutes 7 & 8 Vict. cc. 96, 70, and 111, and all the New Rules and Orders relating to Bankruptcy and Insolvency; together with the Recent Decisions, &c. By John Herber Koe, Esq. Q. C. and Samuel Miller, Esq. Barristers-at-Law. London, 1845. Butterworth.

This volume is intended to be a continuation of *Montague and Ayrton's Bankrupt Law*. Its title describes the nature of its contents. The digest of cases decided since the publication of the above standard work will be of considerable utility. Glancing over them, we are surprised to see that the editors have taken none from the Law Times, although more than one-half of the decisions on the Law of Bankruptcy and Insolvency have been reported nowhere beside.

A Succinct and Brief Exposition of the Laws which relate to the Medical Profession. By T. W. S. Esq. Barrister-at-Law.

This little pamphlet is a republication of a treatise which appeared in the *Medical Directory*. It is a useful summary of the existing law.

BIRTHS, MARRIAGES, AND DEATHS.

[The charge for the insertion of the above is 5s.]

BIRTHS.

Briggs.—On the 18th inst. at 41, Hans-place, the lady of T. C. Briggs, esq. barrister-at-law, of a son.

Curtis.—On the 13th inst. the lady of J. E. B. Curtis, esq. of Lincoln's-inn, of a son.

Goodeve.—On the 14th inst. in Kensington-square, the lady of Joseph Goodeve, esq. of Lincoln's-inn, barrister, of a daughter.

Vaughan.—On the 14th inst. at Argyle-street, the wife of Mr. S. B. Vaughan, solicitor, of Lincoln's-inn-fields, of a daughter.

MARRIAGES.

Berry, William Samuel, eldest son of W. J. Berry, esq. of Doctors'-commons, to Mary, oldest daughter of Joseph Alexander, esq. of Myddelton-square, on the 11th inst. at St. Mark's Church, Pentonville.

Pilgrim, John Thomas, of Atherstone, Warwickshire, solicitor, to Emily Jane, the youngest daughter of John Osborn, esq. of Lunslade, Warwickshire, on the 12th inst. at the latter place.

Reeves, Archibald, esq. solicitor, of Taunton, to Rhoda, daughter of H. Prankard, esq. solicitor, of Langport, on the 11th inst. at Langport.

Sweet, Henry, fourth son of the Rev. C. B. Sweet, of Broadleigh, Somersetshire, to Anne, second daughter of S. Macmullen, esq. M.D. of Taunton, on the 12th inst. at Taunton.

Symons, Jelinger C. esq. barrister-at-law, of the Middle Temple, to Angelina, youngest daughter of Edward Kendall, esq. of Cheltenham, on the 16th inst. at St. James's Church, Hyde-park.

Wilkinson, Richard Reeves, esq. of Gosport, to Sarah Georgiana, youngest daughter of the late Joshua Thorne, esq. of Old Stratford, Northamptonshire, on the 17th inst. at Alverstoke.

DEATHS.

Freeling, Mrs. Louisa, wife of Charles R. Freeling, of Weymouth-street and Lincoln's-inn, esq. and daughter of the late Ilted Nicholl, esq. on the 12th inst. aged 25.

Meaden, George, esq. solicitor, on the 10th inst. in Wellington-terrace, St. John's-wood, aged 30.

Phillott, Mary Anne, second daughter of the late Rev. J. S. Phillott, vicar of Wookey, on the 10th inst. at Mortlake, Surrey.

Scarlett, the Hon. James Henry Lawrence, youngest son of Lord Abinger, on the 15th inst. in New-street, Spring-gardens, aged 16.

NECROLOGY.

LORD HARRIS.

We have to record the demise of the above gallant nobleman, who died on Friday last, to the deep grief of his family, at Belmont, his seat near Faversham, Kent, after a short illness. We have been informed that his lordship complained of indisposition on Tuesday, and that his illness continued on the increase until Friday, when he expired, surrounded by his amiable wife and children.

The deceased, William George Harris, was eldest son of General Lord Harris, who rendered such distinguished services at the taking of Seringapatam, and who for that and his other eminent services in the East Indies had a peerage conferred on him by his Sovereign, in 1815, by the title of Baron Harris of Seringapatam, in the East Indies, and of Belmont, in the county of Kent. His lordship was born on the 17th of January, 1782, and was consequently in his 64th year. He was twice married—namely, first, on the 17th of October, 1809, to Miss Eliza Serena Anne Dick, daughter of Mr. William Dick, who died on the 23rd of January, 1817; and secondly, 28th May, 1824, to Miss Isabella Temple, only child of Mr. Robert Handcock Temple, who survives his lordship. The noble lord had families by both alliances.

He succeeded to the title on the death of his father, in May, 1829: and after having enjoyed the title for 16 years, he is succeeded by his eldest son, by his first marriage, the Hon. George Francis Robert Harris, now Lord Harris.

The deceased nobleman, like his father, was brought up to the army, and must have entered the service at an early age, as he joined the 76th Regiment in India in 1797, being at that time lieutenant. He there saw much service, having been present at the battle of Mallavelly, in nearly all the affairs of out-posts, and served in the storming party which carried Seringapatam. He was also at the battle of Blueberg, Cape of Good Hope. He returned to England a lieutenant-colonel, and in 1813 and 1814 served in Holland, in the 73rd Regiment. At the taking of the village of Merxem he commanded a brigade. At Waterloo he displayed marked gallantry, and in that sanguinary battle was severely wounded through the right shoulder.

On his retirement from the lieutenant-colonelcy of the 73rd Regiment he was presented with a superb sword by the officers of that gallant regiment, "in testimony of the high regard they entertained of his character and conduct."

For his services in Holland he was decorated by the King of that country with the Order of William of Holland. He was a Knight Commander of the Royal Hanoverian Guelphic Order, and a Companion of the Most Honourable Order of the Bath.

The deceased lord was appointed colonel of the 73rd Regiment in December, 1835, which of course becomes vacant by his death. His lordship was one of the Gentlemen Ushers to the Queen.

His commission was dated as follows:—Ensign, May 24, 1795; lieutenant, Jan. 3, 1796; captain, Oct. 10, 1800; major, June 15, 1804; lieut.-colonel, Dec. 29, 1806; colonel, June 4, 1814; major-general, July 29, 1821; and lieut.-general, Jan 10, 1837.

The late lord had recently published in a collected form, from authentic materials in the possession of his family, the life of his gallant father, the first Lord Harris.

JOURNAL OF PROPERTY.

CONDITIONS OF SALE.

CONDITIONS REMEDIAL—RESCISSORY.

(*Continued from page* 230.)

FROM THE LAW REVIEW.

(2.) There may, notwithstanding, be circumstances under which a treaty or correspondence respecting objections will not affect the vendor's right of rescis-...... This occurred in the case of *Page* v. *Adam* (4 Beav. 269), in which the purchaser had filed the bill for a specific performance of the contract. By the 5th condition of sale, it was required that the purchaser should, within twenty-eight days next after the delivery of the abstract, "state in writing and transmit to the vendor's solicitors all objections to the title shewn by such abstract, and all requisitions in respect thereof;" . . . . "and if any such objections are made, and *not removed* within fourteen days after the expiration of the twenty-eight days herein named, that then, or *at any time thereafter, the vendor shall be at full liberty* (by notice in writing to be delivered to any purchaser, or his or her solicitor) *to annul and put an end to his or her contract for sale.*" The abstract was delivered and returned in due time with observations and queries. The contract was not thereupon rescinded by the vendor, but answers to the queries were returned. Upon these answers observations were made; and it was with reference to these last observations that the vendor claimed the right of annulling the contract, and gave notice to the purchaser accordingly. The purchaser's chief objection to the title was apparent on the face of the abstract as originally delivered, and consisted of a point of law which, at the hearing of the cause at the Rolls, Lord Langdale, M. R. decided against him. His lordship likewise, under the circumstances of the case, held the right of rescission well exercised; but added, that he should have thought the notice to annul the contract invalid, if, in giving it, the vendor had sought improperly to escape from a duty, which by the nature of the contract he was bound to perform.

As in *Page* v. *Adam*, the vendor did not rescind the contract upon the first return of the abstract, but entered into correspondence with the purchaser for the purpose of removing his objection to the title, there seems at first sight to be a variance between the judgment of the Master of the Rolls and that of the Vice-Chancellor of England in *Tanner* v. *Smith*. Upon this point the Vice-Chancellor Wigram made the following observations:—"The Vice-Chancellor of England held that a treaty and correspondence between the vendor and purchaser, after the first objection taken, *with a view to complete* the title, was a waiver of the condition. It was not meant in *Page* v. *Adam* to decide that the vendor could take the benefit of the condition after he had waived it; and the case rather points to the conclusion, that Lord Langdale did not consider the treaty and correspondence as necessarily a waiver; and his observations about the good faith of the proceeding on the part of the vendor point the same way." (2 Hare, 110.) In accordance with these remarks of the Vice-Chancellor Wigram, it should be stated that in *Page* v. *Adam* the correspondence entered into by the vendor was not *with a view to complete the title*, or to make any additions to the abstract, but for the purpose of insisting on the sufficiency of the title as deduced by the original abstract; and under these circumstances there is a clear distinction between that case and *Tanner* v. *Smith*. "The vendor," says Vice-Chancellor Wigram, in *Morley* v. *Cook*, "cannot be bound to do more than *bonâ fide* deliver such abstract of title as he has at the time of delivering it, if the effect of doing more towards the completion of the title, in answer to the purchaser's requisition, is to have the effect of a waiver of any condition of sale."

(3.) But the vendor's exercise of the right of rescission under such conditions of sale is not conclusive against the purchaser, upon the vendor's simple declaration of his inability to remove the purchaser's objections; and, if needful, the Court will, at the purchaser's instance, direct an inquiry as to the vendor's capability of shewing a good title. In *Roberts* v. *Wyatt* (2 Taunt. 268), an abstract had been sent to the purchaser, who, after taking an opinion thereon, had returned it with the objections to the vendor's solicitor. The latter stated that he was unable to clear up the objections of the purchaser's counsel, and refused to deliver up the abstract, though the purchaser offered to take such title as the defendant could make. Upon this the purchaser brought trover for the abstract against the vendor's solicitor: and one of the objections to the action was, that the contract was at an end under a proviso, "that in case the vendor could not deduce a good and marketable title, such as the purchaser or his counsel should approve, or if the purchaser should not pay the purchase-money on the appointed day, the agreement should be utterly void." Sir James Mansfield, C.J. there observed, "The defendant still says, I cannot answer this objection of Mr. Humphreys, and the whole transaction is at an end; but that is not so; if the plaintiff had said the thing is over, the matter might be rescinded. But what says the defendant? 'I cannot answer the objections.' In equity such an answer will not suffice; otherwise a seller, who had altered his mind, might very easily get rid of a contract; but the Courts of Equity say he shall answer on oath, first, in his answer to a bill filed against him, then on examination before a Master, whether a title cannot be made. The Courts often make a way to obviate apparent difficulties, and compel the seller to procure conveyances in order to complete his title; and the defendant's declaration, that he rescinds the contract, will not at all defeat the purchaser's right." And Lawrance, J. concurred, saying, "I am of the same opinion, upon the construction of the proviso; it would be a monstrous construction, if either party could vitiate the agreement by refusing to perform his part of it."

Lord Langdale's remarks at the conclusion of his judgment in *Page* v. *Adam*, appear also to coincide with the doctrine of the Court of Common Pleas in *Roberts* v. *Wyatt*: and in any other view of the relative rights of the parties, it is obvious that a vendor wishing to escape from his own contract would be clothed with a power which he might exercise in a most unconscientious manner. The vendor's rescissory power under special conditions of sale is, therefore, in nowise an arbitrary or unimpeachable right; and consequently it cannot be safely put in force, except in concurrence with the means of proving the vendor's entire *bona fides* in the proceeding.

(4.) Neither will a vendor be allowed, by the delivery of a designedly imperfect abstract in the first instance, to secure to himself the opportunity of rescinding the contract.

This point arose in *Morley* v. *Cook*, and the Vice-Chancellor Wigram made the following remarks upon it:—"Undoubtedly a Court of Equity would not permit a vendor, who had a good title and the means of shewing such title on his abstract, fraudulently to deliver an imperfect abstract, to which objections would necessarily be taken: and upon these objections being taken, avail himself of his own fraud to avoid his contract under the condition. I agree," continued his Honour, "that a vendor, in a case like the present, is bound to deliver the best abstract that he can; and a Court of Equity would not do a very violent act in holding, that a vendor who, under conditions of this kind, having a perfect abstract, fraudulently delivered one which was imperfect, had, by such fraudulent breach of the conditions on his part, forfeited the benefit of the conditions in his favour." The point did not call for direct decision; but there can be little doubt that his Honour laid down the law with his usual accuracy.

(5.) In order, also, to prevent a vendor from forcing an imperfect title upon a purchaser, it has been ruled that the time limited by the conditions of sale for the statement of the purchaser's objections to the title shall not begin to run until the delivery of a perfect abstract; and consequently that the vendor's right of rescission shall be in like manner deferred.

Thus in *Hobson* v. *Bell* (2 Beav. 17), where the subject of contract was a reversionary interest in stock, which was sold by a mortgagee under a power of sale, the 4th condition of sale was as follows:—"The vendor shall deliver an abstract of title to the purchaser or his solicitor within two days of the day of the sale to the stock in question, and all and every objection to the title shall be made and communicated in writing to the vendor's solicitor within twenty-one days after the delivery of the abstract; and if the same be found valid, the vendor shall be at liberty to rescind the contract on returning to the purchaser his deposit money; but all and every objection to the title not so taken and communicated within such period of twenty-one days from the delivery of the abstract aforesaid shall be deemed waived, and in this respect time shall be considered the essence of the contract." The abstract omitted several material parts of the will by which the reversionary interest was created, and was further defective in not giving any evidence of the identity of the stock, or of its liability to the trusts of the will, or of the default by virtue of which the mortgagee's power of sale became exercisable. Lord Langdale, M. R. was clearly of opinion that the abstract was defective, and that it ought to have been originally delivered to the purchaser in a more perfect form: and his lordship proceeded thus:—"To say that the time for making objections should run from the time of delivering that imperfect abstract, from which it could not be ascertained what objections there might be, appears to me extremely unreasonable. The objections could only be taken when a proper opportunity had been given for taking them, or when a perfect abstract had been furnished to the purchaser, and such an abstract has not yet been delivered. By the conditions all objections to the title are to be made within twenty-one days *from the delivery* of the abstract, that is, within twenty-one days from a time which has not yet arrived. The conditions also provide that all objections not so taken within such period of twenty-one days from the delivery of the abstract shall be deemed waived, and that time shall be considered the essence of the contract, as to the waiver of objections not taken within that time. It appears to me, that upon the construction of these conditions, and having regard to the abstract delivered, time cannot be considered as having been made of the essence of the contract.

The same principle was recognised in *Blacklow* v. *Laws* (2 Hare, 40), in which case it appeared that by the 8th condition of sale the purchaser was required within twenty-one days next after the delivery of the abstract to deliver to the vendor's solicitors a statement in writing of such objections to the title disclosed by the abstract as he should be advised to take; and that every objection not so taken and communicated within such period should be deemed waived. The sale took place under a decree of the Court of Chancery, and the abstract delivered to the purchaser did not contain any statement of the pleadings in the cause. Such objections as the abstract disclosed were delivered within the twenty-one days, together with a requisition by the purchaser's counsel for a brief of the pleadings. The brief was not supplied until long after the expiration of the twenty-one days, and then the purchaser's counsel took an objection that the plea was irregular. The vendors insisted that the objection came too late, as it arose from the inspection of a document which had been called for within the twenty-one days. But Vice-Chancellor Wigram held the contrary, and decided that the twenty-one days allowed for objecting to the title were not to be computed from the time of the delivery of an imperfect abstract, and that the purchaser was not precluded from taking an objection which arose out of evidence called for before the expiration of the time fixed.

It becomes, therefore, a point of importance to determine what constitutes a perfect abstract within the purview of the cases of *Hobson* v. *Bell* and *Blacklow* v. *Laws*.

In *Morley* v. *Cook* (2 Hare, 106), it was contended in argument by the purchaser, that a perfect abstract had not been delivered, and, therefore, that the time for delivering objections had not expired. In reference to this argument, the Vice-Chancellor Wigram said, "If by the expression 'perfect abstract' is meant the most perfect abstract in the vendor's possession, actual or constructive, at the time of his delivering it, I should probably accede to the plaintiff's argument. . . . . In any other sense of the words 'perfect abstract,' I should have difficulty in following the argument. A perfect abstract, in the strict sense of the term, would shew a good title; but the conditions clearly mean to provide for the case of an abstract not shewing a good title." In *Hobson* v. *Bell*, Lord Langdale must have considered that the vendor's omission to exhibit in the abstract those special particulars and circumstances which constituted his own title as originally derived from the mortgagor, and his existing right as a mortgagee to exercise a power of sale, was a clear breach or neglect of duty on the vendor's part; as such facts must have been known to the vendor, and were palpably such as a purchaser would insist upon knowing.

It may therefore, we think, be inferred, that a perfect abstract is the best that the vendor has it in his own power, by proper skill and diligence, to present to the purchaser at the appointed time: and the Vice-Chancellor Wigram's observations in *Morley* v. *Cook* seem to shew that if the vendor's honesty or diligence regarding the contents of the abstract be impeached, the Court will take upon itself to inquire whether the vendor could not in the first instance have furnished a better, or rather a less imperfect abstract of his title; not whether he had the means of procuring a better title than that under which he actually holds the property at the time of the delivery of the abstract, but whether the abstract originally delivered has accurately set forth his actual present title, and all such particulars regarding it as he is in legal intendment presumed to know, and from the exhibition of which he has not protected himself by means of the restrictive conditions (if any) accompanying the sale.

It appears to be undecided in what manner the Court would deal with the vendor's rescissory power, where a vendor acting *bonâ fide* should deliver a second abstract (properly so called) after objections taken to a first abstract. (2 Hare, 114.) But such a point may easily be provided for by the conditions of sale, so as to obviate the necessity of applying to a Court of Law or Equity for its decision.

(6.) The rescissory power of a vendor being designed for his own protection against possible difficulties and expenses, it cannot, we apprehend, be exercised or

enforced against a purchaser who may be willing to take the title, notwithstanding its defects and his own objections to it. But as doubts may arise whether such a clause absolutely vacates the contract, or leaves the purchaser at liberty to accept the title, the point ought to be rendered certain by express words in the conditions of sale. (*Williams* v. *Edwards*, 2 Sim. 78; see *Rede* v. *Farr*, 6 M. & S. 121.) It is clear, however, that a vendor cannot by wilful neglect to satisfy a requisition release himself from the contract. (*Taylor* v. *Brown*, 2 Beav. 181; *Page* v. *Adam*, 4 Beav. 269.)

(To be continued.)

Public Sales.

By Messrs. SHUTTLEWORTH and SONS, at the Mart

Several valuable freehold and copyhold estates, comprising Dew Hookers and Great and Little Tillingham Farms, situate in the parishes of Peasmarsh and Rye, Sussex, containing altogether 308a. 1r. 11p. of superior corn, hop, meadow, pasture, and wood land, suitable farm-houses and agricultural buildings. The tithes have been commuted in both parishes. The lands in Great and Little Tillingham Farms are subject to a land-tax amounting to 8*l.* 12s. per annum. The timber to be taken at a valuation—15,000*l.*

A freehold estate, comprising the manor, or reputed manor of Seaford and Little Sutton Farm, situate in the village of Seaford, Sussex, consisting of 249a. 2r. 11p. with a farm-yard, barn, stable, and waggon-lodge; let at 25*l.* per annum, land-tax allowed 8*l.* 17s. 10d.—6,220*l.*

A freehold estate, situate three miles from Seaford, comprising the manor of Tallers and Frog-Fyrle, otherwise Burnt House Farm, consisting of 447a. 26p. with farm-house, three cottages or tenements, and other buildings; let at 164*l.* 10s. per annum, land-tax, quit rents, and water-scot allowed, amounting together to 19*l.* 4s. 3d. per annum, the timber included—4,140*l.*

A copyhold inclosure of meadow land, situate on the borders of the high road from Lewes to Alfriston, 13a. 3r. 20p.; the rent to be apportioned for this lot is 30*l.* per annum; about three roods of this land is freehold—590*l.*

By Messrs. HOGGART and NORTON.

Valuable freehold estates, nearly the whole tithe free and land-tax redeemed, situate in Hadnell, Radbourne, Bishop's Itchington, and Burton Dassett, containing together 1,499a. 2r. 19p. of pasture, meadow, and arable land, with good farm-houses, farm buildings, and cattle-sheds, producing together 1,730*l.* per annum, divided into four lots as follows:—

The Hadnell Manor and Lower Radbourne Farms, in the county of Warwick, and comprising together 773a. 2r. 3p. of pasture, meadow, and arable land, with two farm-houses, let at 350*l.* per annum—27,400*l.*

A freehold property, situate in the parish of Bishop's Itchington, comprising the Holme's House Farm, with farm-house, homestead, farm buildings, and 280a. 2r. 15p. of pasture, meadow, and arable land—27,900*l.*

A freehold farm near the preceding lot, with farm-house, farm buildings, homestead, and 122a. 2p. of meadow and arable land—8,550*l.*

A freehold farm, land-tax redeemed and tithe free, situate in the village of Knightcote, with farm-house, farm buildings, homestead, garden, orchard, and 227a. 1r. 39p. of pasture, meadow, and arable land, let at 280*l.* per annum—2,550*l.*

By Mr. ROBERTS.

A freehold and copyhold farm, land-tax redeemed, containing 122a. 1r. 35p. of arable and meadow land, called the Three Cherry Trees Farm, near Hemel Hempstead, Hertfordshire—3,420*l.*

A freehold residence called the Heath, at Hemel Hempstead, Hertfordshire, placed on an eminence in its park-like grounds, containing in the whole 19a. 1r. 35p.—4,100*l.*

Three freehold cottages and gardens, called the Ivy Cottages, near the above—300*l.*

An inclosure of meadow land, called Wellcroft, containing 5a. 30p. near the above—400*l.*

By Mr. ROBERTS, at the Mart.

A leasehold cottage residence, situate in Downham road, Kingsland-road, containing seven rooms, coal and wine cellars, let at 35*l.* per annum, held for 73 years, at 4*l.* 10s. ground-rent—315*l.*

Four leasehold houses at Baden-place, Cambridge-heath, containing four rooms, kitchen and garden, let at 81*l.* per annum, held for 57 years, at a ground-rent of 10*l.* 5s. 610*l.*

A plot of freehold ground, 15 feet by 15 feet, at Stratford —18*l.*

A plot of ground on the south side of North-street, leading out of Francis-st. Maryland Point, 12 feet by 45 feet—18*l.*

A plot of ground adjoining—18*l.*

A plot of ground adjoining—18*l.*

A plot of ground adjoining—18*l.*

A plot of ground on west side of East-street, at Maryland-point, Stratford, containing 15 ft. by 60 ft.—18*l.*

A leasehold house, No. 18, Edward-street, Upper Park-place, Dorset-square, let at 27*l.* per annum, term 81 years, at a ground-rent of 7*l.* 16s.—200*l.*

Two leasehold detached cottages, Laurel-street, Queen's-road, Dalston, containing seven rooms each, wash-houses, and cellars, let at 60*l.* per annum, term 71 years, at a ground-rent of 8*l.*—560*l.*

Two leasehold houses and shop, 51 and 52, Barbican, together with premises in the rear, let at 121*l.* per annum, held for a term of 55 years, at a ground-rent of 20*l.*—1,045*l.*

Two superior cottage residences, situate at Halliford-street, Islington, let at 50*l.* per annum each, term 99 years, at a ground-rent of 11*l.* 5s. 995*l.*

By Messrs. MUSGROVE and GADSDEN.

A leasehold estate comprising four houses Nos. 1 to 4, Laburnam-terrace, near Kingsland-road; let at 112*l.* per annum; held for 76 years from Midsummer, 1843, at a ground-rent of 30*l.* 14s. per annum, land-tax redeemed—980*l.*

A freehold property, comprising the newly licensed public-house, being No. 21, Laburnam-terrace, at the corner of Cross-street, and intended to be called the Duke of Lancaster—2,360*l.*

Thirty-five freehold houses, known as Laburnam-terrace, Kingsland-road, with front and back garden, several of them let at 28*l.* per annum, offered in separate lots, and generally produced 390*l.* each lot.

By Messrs. WINSTANLEY, at the Mart.

A family residence, known as Hatcham Grove, situate near the New Cross Railway Station and Turnpike, on the Greenwich road, with offices, stabling for seven horses, two coach-houses, gardens, green-house, lawns, lodge entrance, carriage drive, and paddocks, containing altogether about 17 acres; part of the land has a frontage of nearly 800 feet on the Greenwich and Peckham roads; the estate is held under the Haberdashers' Company for 67¾ years, at a ground-rent of 34*l.* 16s. per annum, and a fine of 6*l.* 14s. every seven years—4,960*l.*

A freehold residence, No. 10, Colebrooke-row, Islington, let at 52*l.* 10s. per annum—810*l.*

THE MONEY MARKET.

	Sat.	Mon.	Tues.	Wed.	Thurs.	Frid.
Three per Cents. Consols	99¼	99⅛	99¼	99½	99¼	99¼
Three per Cents. Reduced	99¼	99¼	99¼	99¼	99½	99¼
New Three-&-a-quarter per Cts	101⅞	101⅞	101⅞	102	102⅛	102¼
Long Annuities..............	11¾	11⅝	11¾	11⅝	11⅝	11¾
Bank Stock	212	211¾	211½	211¾	212¼	212
India Stock	279	279¼	279	279½	279	270
India Bonds, prem............	74	75	74	74	75	75
Exchequer Bills, prem.	56	55	57	57	57	57
FOREIGN.						
Spanish Five per Cents.......	28¼	28¼	28	28¼	28¾	28¼
Spanish Three per Cents.	41¼	41½	41½	41½	41½	41½
Russian	118¾	118½	119¼	119¼	119½	119¼
Peruvian.....................	32½	31½	31	31¾	31¼	31½
Portuguese	65¼	66	66½	66¼	66¼	65¾
Mexican......................	37¾	38	38¼	38	38	38
——— Deferred	20¼	19¼	20½	20¼	20½	20½
Dutch Two-and-a-Half per Cents..............	63½	63¾	63½	63¾	63	63¼
——— Four per Cents.	98¼	98¼	98¼	98¼	98¼	98½
Danish	89	89	89½	89½	89	89½
Colombian....................	17¼	17½	17½	17½	17½	17½
Chilian	98½	98½	98½	99	100	100
Buenos Ayres	44½	44½	45	45	46	46½
Brazilian....................	89½	89½	89½	89¾	90	90½
Belgian	99½	99¼	99½	99¾	100	100

Sale of Railway and other Shares by Auction.—On Tuesday the first sale of railway shares by auction in Liverpool took place at the Commercial Sale-room, Temple-court. Mr. William Gardner, broker, of South John-street, acted as auctioneer on the occasion. There was a very numerous attendance, and the business appeared to be conducted with spirit and satisfaction to the company. Several sales were made. We subjoin a list of the day's transactions:—10 old shares in the Liverpool Fire and Life Insurance Company fetched 7*l.*; 10 new ditto, 4*l.* 10s.; 20 shares in the Union Bank of Liverpool, 13*l.*; 100 shares in ditto, 12*l.* 17s. 6d.; 10 shares in the Birkenhead and Cheshire Junction Railway, 11*l.* 10s.; 20 shares in ditto, 11*l.* 7s. 6d.; for 20 shares in ditto, 11*l.* 5s. was bid, and they were taken in at 11*l.* 12s. 6d.; 120 shares in the Belfast and County Down Railway fetched 1*l.* 6s. 3d.; 35 shares in the Great Paris and Lyons Railway, 2*l.* 1s.; 160 shares in the London and York, 3*l.* 17s. 6d.; 10 shares in the Londonderry and Enniskillen, 4*l.* 15s.; for 225 shares in the Newry and Enniskillen, 4*l.* 17s. 6d. was bid, and they were taken in at 5*l.* 5s.; 50 Paris and Lyons (Laffitte's, English) fetched 2*l.* 18s. 9d.; for 100 shares in the Rugby, Worcester, and Tring, 2*l.* 12s. 6d. was bid, and they were taken in at 3*l.*; for 10 shares in the Liverpool and Bury, 15*l.* 5s. was bid, and they were taken in at 16*l.* 5s. At the close of the transactions Mr. Gardner announced that there would be another sale of shares by auction that day fortnight, and we understand that it is his intention to have a sale every fortnight, or oftener if necessary.

Denham-place Estates and Manor-farm, Greenford.—This valuable property was put up to auction on the 19th June by Messrs. Brooks and Green, at their auction-rooms, 28, Old Bond-st. but as there was no first bidding beyond half its value, Messrs. Brooks and Green declined proceeding with the sale. This fine property is therefore still in the market.

THE GAZETTES.

The sum stated as the Dividend means so much declared in the Pound. The Assignees, when chosen, follow this statement.

Saturday, June 7.

Williams, W. victualler, last exam. passed.

Tuesday, June 10.

Hood, W. grocer, first div. next week. Groom, London. —*Johnson*, A. M. innkeeper, last exam. June 27.—*Pegler*, F. J. woollen draper, div. next week. Whitmore, London.—*Thorpe*, H. linendraper, first div. next week. Groom, London.

Wednesday, June 11.

Baldwin and *Co.* drapers, last exam. July 16.—*Day*, J. R. victualler, last exam. passed.

Thursday, June 12.

Chandler, B. ironmonger, last exam. July 3.—*Figge*, J. F. merchant, div. next week. Turquand, London.—*Kerr* and *Co.* army agents, div. B. next week. Turquand, London.—*Pile* and *Co.* wine merchants, joint and separate divs. next week. Graham, London.—*Thompson*, A. merchant, div. next week. Turquand, London.

Friday, June 13.

Armfield, W. draper, final div. next week. Belcher, London.—*Colnaghi*, M. L. G. printseller, first div. next week. Groom, London.—*Cross*, R. corn merchant, last exam. June 27.—*Dingley*, T. draper, div. next week. Alsager, London. —*Marshall*, R. stone mason, first div. next week. Groom, London.—*Mills*, W. H. wine merchant, div. next week. Pennell, London.—*Paulton*, J. mason, div. next week. Whitmore, London.—*Slater*, E. cabinet maker, last exam. July 3.—*Smirk*, J. E. victualler, last exam. August 6.—*Swansborough* and *Oake*, warehousemen, final joint div. S. and H. next week. Belcher, London.

Saturday, June 14.

Harvey, S. cattle dealer, last exam. passed, div. next week. Green, London.—*Moutrie*, J. music seller, div. next week. Green, London.—*Roberts*, W. K. grocer, div. next week. Green, London.

DIVIDENDS.

Bankrupts' Estates.

Official Assignees are given, to whom apply for the Dividends.

Jones, J. fellmonger, first, 11½d. Morgan, Liverpool.—*Jones*, R. auctioneer, 1s. Morgan, Liverpool.—*Metcalfe*, J. silk manufacturer, first, 1s. 10d. Hobson, Manchester.—*Potter* and *Co.* calico printers, third, 4½d. Stanway, Manchester.—*Reynolds*, B. silk printer, first, 2s. Groom, London.—*Stevens* and *Co.* contractors, second, 6d. Groom, London.—*Ward*, J. engineer, first, 10s. 6d. Pott, Manchester.

Insolvents' Estates.

Edwards, T. surgeon, St. Asaph, 3s. 9d.—*Murley*, W. commander in the navy, 2s. 1d.—*Wright*, T. farmer, Durham on the hill, Cheshire, 9d.

ASSIGNMENTS

To Trustees for the benefit of Creditors.

Gazette, June 13.

Billing, J. draper, Helston, April 16. Trusts. J. and R. Puckle, warehousemen, Milk st. Sols. Reed and Shaw, Friday-st.—*Chapman*, G. A. linen draper, Great Russell-st. May 21. Trusts. J. Bradbury, warehouseman, Aldermanbury, and Henry Sturt, warehouseman, Wood-st. Sols. Hardwick and Co. Weavers'-hall.—*Geden*, G. tailor, Bidford, June 2. Trusts. T. Baugh and J. Heath, drapers, Birmingham. Sol. Allcock, Birmingham. *West*, J. Burslem, and *West*, W. B. Sheffield, lace dealers, May 2. Trust. R. Groucock, laceman, Bow Church-yard. Sols. Reed and Shaw, Friday-st.

Gazette, June 17.

Ward, J. coach proprietor, Leeds (June 12). Trustees, G. Hill, bookkeeper, and R. Wilson, coach builder, Leeds. Sol. Naylor, Leeds.

Bankrupts.

DATE OF FIAT AND PETITIONING CREDITORS' NAMES.

Gazette, June 13.

Braithwaite, John, innkeeper, Morpeth, Northumberland, July 3, at eleven, 29, at two, Newcastle, Com. Ellison; Wakley, off. ass.; Woodman, Morpeth, and Crosby and Compton, Church-ct. Old Jewry, sols. Date of fiat, June 7. J. Creighton, painter, Morpeth, pet. cr.

Clifton, Thomas, printer, stationer, and bookseller, Barnard-castle, Durham, July 1, at two, 29, at half-past one, Newcastle, Com. Ellison; Baker, off. ass.; Richardson, Barnard-castle, Tyas, Beaufort-buildings, and Ingledew, Newcastle, sols. Date of fiat, June 4. M. Softley, widow, Barnard-castle, pet. cr.

Gibbons, William, licenced victualler, Boardman-street, Manchester, June 25, at eleven, July 22, at twelve, Manchester; Stanway off. ass. Makinson and Sanders, Temple, and Atkinson and Saunders, Manchester, sols. Date of fiat, June 11. Bankrupt's own petition.

Green, George How, and Green, George Courthope, wholesale stationers, Barge-yard, Bucklersbury. June 27, at one, July 22, at half-past eleven, Basinghall-st. Com. Holroyd; Edwards, off. ass.; Wollen, Bucklersbury, sol. Date of fiat, June 10. J. S. Hazard and T. Roberts, paper agents, College-hill, pet. crs.

Hill, John, licensed victualler, Six Bells public-house, Queen-st. Hammersmith, June 20 and July 25, at one, Basinghall-st. Com. Fonblanque; Pennell, off. ass.; Holmer and Son, Bridge st. Southwark, sols. Date of fiat, June 10. G. Pay, jun. distiller, New Kent-road, pet. cr.

Marks, James, the younger, baker and corn dealer, Chichester, Sussex, June 3, at half-past one, July 28, at eleven, Basinghall-st. Com. Goulburn; Follett, off. ass.; Soles and Turner, Aldermanbury, sols. Date of fiat, June 11. Bankrupt's own petition.

Squiers, John, fruiterer, greengrocer, and confectioner, Ipswich, June 20, at one, July 21, at eleven, Basinghall-st. Com. Shepherd; Turquand, off. ass.; Hart, Lincoln's-inn-fields, sol. Date of fiat, June 9. J. Wing, fruiterer, East-st. Spitalfields, pet. cr.

Wood, Henry, draper, Cheltenham, Gloucestershire, June 25, at two, July 25, at one, Basinghall-st. Com. Fane; Alsager, off. ass.; Tilleard and Son, Old Jewry, sols. Date of fiat, June 4. J. and J. B. Chafley, warehousemen, Queen-st. Cheapside, pet. crs.

Wood, Wilson, and Holmes, John, tea dealers, Maidstone, Kent, June 20, at half-past one, July 21, at half-past eleven, Basinghall-st. Com. Shepherd; Graham, off. ass.; Dodds and Co. Billiter-st. sols. Date of fiat, May 28. F. T. Clarke and R. Rowe, tea dealers, Arthur-st. West, pet. crs.

Gazette, June 17.

Bond, Joseph, grocer, Reading, June 27, at half-past eleven, July 29, at twelve, Basinghall-st. Com. Holroyd; Groom, off. ass.; Hill and Matthews, Bury-court, St. Mary Axe, sols. Date of fiat, June 7. T. Brown and J.

C. Con[illegible], grocers, White Horse-yard, Friday-st. pet. crs.

BROWN, WILLIAM LAX, merchant, Liverpool, June 27 and July 23, at eleven, Livepool, Com. Ludlow; Bird, off. ass.; Oliver, Old Jewry, and Evans, Liverpool, sols. Date of fiat, June 12. Banrupt's own petition.

HILL, THOMAS JAMES, builder, out of business, late of Minerva-terrace, Islington, and No. 4, Cumberland-row, Islington-green, and now of No. 23, Retreat-place, Hackney, June 27, at eleven, July 29, at twelve, Basinghall-st. Com. Fane; Alsager, off. ass.; Smith, Wilmington-sq. sol. Date of fiat, June 12. Bankrupt's own petition.

PESTELL, JOHN, corn factor and market gardener, Beeston, Sandy, Bedfordshire, June 24, at one, July 29, at twelve, Basinghall-st. Com. Fonblanque; Belcher, off. ass.; Johnson and Co. Temple, and Chapman, Biggleswade, sols. Date of fiat, June 10. W. T. Chapman, gent. Biggleswade, and A. and E. A. White, executors of T. Yoxon, deceased, pet. crs.

PETERS, JOHN, fancy trimming manufacturer, Kent-street, Haggerstone, June 30 and July 26, at twelve, Basinghall-st. Com. Goulburn; Greed, off. ass.; Llewellyn, Noble-st. Cheapside, sol. Date of fiat, June 16. Bankrupt's own petition.

SIMONS, JOHN the elder, coal merchant, Camden-wharf, Camden-town, June 27, at two, July 28, at eleven, Basinghall-st. Com. Shepherd; Turquand, off. ass.; Cooper, Heathcote-st. Mecklenburgh-sq. sol. Date of fiat, June 13. Bankrupt's own petition.

SLATER, GILBERT, grocer and tea dealer, London terrace, Hackney-road, June 24, at half-past one, July 29, at one, Basinghall-st. Com. Fonblanque; Pennell, off. ass.; Shearman and Co. Great Tower-st. sols. Date of fiat, June 16. F. Slater, gent. 23, Great Tower-st. pet. cr.

SPENCE, MARY, and SPENCE, WILLIAM WHITAKER, woollen drapers, Newcastle-upon-Tyne, July 8, at half-past one, August 5, at two, Newcastle, Com. Ellison; Wakley, off. ass.; Henderson, Mansell-st. Goodman's-fields, and Cram, Newcastle, sols. Date of fiat, June 4. W. H. Stamp, gent. Ramsgate and Brixton, pet. cr.

TALLENT, ALFRED, the elder, provision dealer and general merchant, Ipswich, June 24, at eleven, July 26, at one, Basinghall-st. Com. Goulburn; Green off. ass.; Elmslie and Co. Moorgate-st. sols. Date of fiat, June 7. C. H. Harben, cheese factor, 8, High-st. Whitechapel, pet. cr.

THOMAS, SAMUEL, bullion merchant, 21, Cornhill, June 27, at half-past twelve, July 29, at eleven, Basinghall-st. Com. Holroyd; Groom off. ass.; Crowder and Co. Coleman-st. sols. Date of fiat, June 12. Bankrupt's own petition.

WILSON, CHARLES DAME, 20, Saville-pl. Mile-end, and Globe-wharf, Mile-end, June 28, at half-past twelve, July 30, at twelve, Basinghall-st. Com. Evans; Bell, off. ass.; Overton and Hughes, Old Jewry, sols. Date of fiat, June 13. H. Kilsington, brick maker, Ilford, Essex, pet. cr.

PARTNERSHIPS DISSOLVED.

Gazette, June 10.

Baker, G. and *Young*, L. butchers, Gravesend, June 6.—*Bustard*, J. and *Rhodes*, J. bricklayers, Hulme, June 6.—*Cadman*, E. and H. and *Walker*, C. file manufacturers, Sheffield, so far as regards Walker, June 5. Debts paid by the remaining partners.—*Cockshutt*, E. and *Goodier*, T. ironfounders, Preston, June 6. Debts paid by Cockshutt.—*Croll*, A. A. and *Richards*, W. dry meter manufacturers, St. James's-walk, Clerkenwell, June 4. Debts paid by Croll.—*Davis*, H. D. and *Tuckett*, F. H. tea dealers, Bristol, June 2. Debts paid by Tuckett. *Drely*, R. and *De Fonvielle*, G. F. filter manufacturers, King William-st. West strand, June 6. Debts paid by De Fonvielle.—*Evans*, T. H. and *Turner*, T. and L. wine merchants, Carnarvon, June 2.—*Gant*, J. and S. zinc manufacturers, Tottenham-court New-road, May 22. Debts paid by S. Gant.—*Hawthornthwaite*, T. and J. general drapers, Manchester, June 7. Debts paid by T. Hawthornthwaite.—*Hay*, G. and *Brooke*, R. tobacco manufacturers, Leeds, June 7.—*Lester*, F. and J. T. and *Furendon*, M. harness makers, Aldingbourne, Sussex, April 28.—*Lister*, J. and *Butler*, G. millers, Welton, Yorkshire, May 29. Debts paid by Lister.—*M'Gill*, J. and *Thoms*, R. T. commission agents, Cheapside, June 10. Debts paid by M'Gill. *Ogden*, R. *Frost*, J. and *Ogden*, T. (deceased), cotton spinners, Manchester, May 29. Debts paid by Frost.—*Rider*, G. and *Bickersteth*, T. S. ship chandlers, Liverpool, May 30.—*Smith*, G. and *Madgwick*, T. cabinet makers, Pavement, Moorfields, June 7. Debts paid by Madgwick.—*Tanner*, W. H. and H. grocers, Lichfield and Stafford, June 2. Debts paid by W. H. Tanner, Lichfield.—*Usher*, L. and T. coach manufacturers, Newcastle-upon-Tyne, June 5.—*Watkins*, B. and *Patrick*, E. water carriers, Abingdon, June 5.—*Walthew*, J. M. and *Holmes*, A. L. ship brokers, Liverpool, May 31.

Gazette, June 13.

Badcock, R. and J. drapers, East Ilsley, June 3.—*Badcock*, R. sen. and jun. drapers, Abingdon, June 3.—*Bateson*, J. and *Fearnley*, J. woollen cloth manufacturers, Leeds, June 10. Debts paid by Fearnley.—*Coleman*, E. *Grant*, G. and *Potter*, G. rectifiers, Dover, March 17.—*Cookson*, A. D. and *Wilton*, J. W. surgeons, Gloucester, June 2.—*Dilton*, A. and *Cook*, T. grocers, Liverpool, June 2. Debts paid by Cook.—*Dyson*, J. and *Newland*, D. tea dealers, Rochdale, July 29. Debts paid by Dyson.—*Green*, J. and *Young*, J. printers, Hull, May 31. Debts paid by Green.—*Hawgood*, H. and *Scroggie*, W. stationers, Newington-causeway, June 12. Debts paid by Hawgood.—*Harrison*, A. and *Smith*, J. attorneys, Birmingham, June 5.—*Hope*, E. and T. brace manufacturers, Manchester, June 7. Debts paid by T. Hope.—*Hope*, J. sen. and jun. and E. engravers to calico printers, Manchester, June 7.—*Howden*, R. and G. patent stove manufacturers, Pump-row, Old Street-road, June 12.—*Mackreth*, F. T. and *Scott*, J. tea dealers, Upper Thames-st. June 11. Debts paid by Downes, jun. and Scott.—*Mason*, W. and *Coupe*, J. joiners, Nottingham, June 10. Debts paid by Coupe.—*Mogg*, C. and F. G. carpet dealers, Bristol, Feb. 3. Debts paid by C. Mogg and Drewe.—*Norton*, W. and *Roberts*, J. spice merchants, Eastcheap, June 12. Debts paid by Roberts.—*Percy*, J. sen. and jun. builders, Regent-st. March 25.—*Slater*, G. and *Moore*, S. coffee-dealers, Mincing-lane, June 13.—*Smith*, C. E. and H. J. accountants, Sheffield, June 12. Debts paid by Smith.—*Smith*, F. and *Burt*, M. dress makers, Wigmore-st, June 9.—*Wray*, J. *Crabtree*, W. and *Dawson*, W. machine makers and piece weavers, Bradford, June 9. Debts paid by Wray and Dawson.

Insolvents

Petitioning the Courts of Bankruptcy.

PETITIONS TO BE HEARD AT BASINGHALL-STREET.

Gazette, June 10.

Bedford, J. railway superintendent, Wolverton, June 14, at one.—*Bloomfield*, J. R. bricklayer, Mendesham, June 14, at eleven.—*Moss*, J, butcher, Bushey-heath, Herts, June 24, at half-past eleven.—*Penkome*, W. saddler, Princess-st. Cavendish-square, June 23, at half-past twelve.—*Philpott*, J. ironmonger, Brompton, Kent, June 26, at twelve.—*Playle*, W. R. wheelwright, Purleigh, June 25, at eleven.—*Roberts*, E. cabinet manufacturer, High-st. Hoxton, June 24, at eleven.—*Royle*, H. H. dealer in furs, Roper's-buildings, Houndsditch, June 19, at twelve.—*Wenham*, T. out of business, Webber-row, Westminster-road, June 11, at eleven.

COUNTRY.

Bennett, W. brewer and silk weaver, Waters, near Macclesfield, June 19, at twelve, Manchester.—*Hinchliffe*, H. overlooker in a factory, Hollinwood, June 21, at twelve, Manchester.—*Hoult*, W. quarry master, Kidderminster, July 2, at half-past ten, Birmingham.—*Layton*, J. victualler, Birmingham, July 2, at eleven, Birmingham.—*Nathan*, J. farmer, Manordivey, Pembrokeshire, June 27, at eleven, Bristol.—*O'Sullivan*, J. gentleman, Bootle, near Liverpool, June 16, at eleven, Liverpool.—*Phillips*, J. victualler, Treforest, Glamorganshire, June 25, at eleven, Bristol.—*Teale*, J. upholsterer, Leeds, June 25, at eleven, Leeds.—*Teat*, J. grocer, Bath, June 24, at half-past eleven, Bristol.—*Turner*, A. tailor, Belper-lane-end, Derbyshire, June 18, at eleven, Birmingham.

MEETINGS AT BASINGHALL-STREET.

Walker, F. F. engraver, Union-st. Somers'-town, July 2, at eleven.

PETITIONS TO BE HEARD AT BASINGHALL-STREET.

Gazette, June 13.

Bish, H. omnibus driver, West Ham, June 21, at half-past one.—*Caldwell*, J. skinman, Cole-st. Dover-road, June 27, at half-past twelve.—*Dix*, E. schoolmistress, Queen's-ter. Brunswick-st. Dover-road, June 26, at twelve.—*Hope*, B. solicitor, Portugal-st. June 26, at half-past one.—*Jackson*, F. G. organist, Sheerness, June 26, at twelve.—*Martin*, J. out of business, Romford, June 26, at one.—*Peters*, J. Reading, June 23, at twelve.—*Sainsbury*, J. T. beer retailer, Old Montague-st. Whitechapel, June 27, at one.—*Spikes*, T. bricklayer, John-st. Southwark, June 23, at one.—*Tanner*, W. baker, Brackley, June 26, at eleven.—*Walker*, H. barmaid, Ryder's-ct. Leicester-sq. June 27, at twelve.

IN THE COUNTRY.

Gazette, June 13.

Bell, S. baker, Amble, July 3, at half-past one, Newcastle.—*Cornick*, R. shepherd, Brympton, near Yeovil, June 19, at one, Exeter.—*Forster*, J. grocer, Carlisle, July 2, at half-past two, Newcastle.—*Hill*, W. coachman, Bath, July 3, at eleven, Bristol.—*Pringle*, J. agent, Newcastle, July 2, at half-past two, Newcastle.—*Roberts*, J. surgeon, Bangor, June 20, at eleven, Liverpool.—*Sanderson*, T. coal merchant, Everton and Liverpool, June 20, at half-past ten, Liverpool.—*Sharland*, W. K. tailor, Bath, June 19, at one, Exeter.—*Souter*, J. B. attorney, Newcastle, June 26, at half-past two, Newcastle.—*Spurway*, J. baker, Bristol, July 3, at half past eleven, Bristol.

MEETINGS IN THE COUNTRY.

Gazette, June 13.

Badger, T. tailor, Sheffield, July 9, at eleven, Leeds.—*Dawson*, A. clothier, Huddersfield, July 9, at eleven, Leeds.—*Haigh*, G. beer retailer, Almondbury, July 9, at eleven, Leeds.—*Milner*, C. shoe maker, Elvington, July 9, at eleven, Leeds.—*Smith*, G. miller, Kirby Malzard, July 9, at eleven, Leeds.—*Wright*, W. draper, Halifax, July 9, at eleven, Leeds.

From the Gazette of Friday, June 20.

Bankrupts.

Smith, T. C. and *Hayes*, R. hotel keepers, Henrietta-st. Covent-garden.—*Thompson*, T. bill broker, Northampton.—*Kohne*, H. wholesale stay manufacturer, Laurence Pountney-lane.—*Connell*, W. cabinet maker, Exeter.—*Smith*, E. auctioneer, Regent-street, Middlesex.—*Brogden*, C. bookseller, Lincoln.—*Crabtree*, J. and *Burnley*, W. woollen manufacturers, Tunstead, Lancashire.—*Cummins*, J. bookseller, Weymouth.—*Isherwood*, J. innkeeper, Bolton.—*Cutcliffe*, C. N. surgeon, Barnstaple.

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MORSE *v.* PEPPER.

May 1 *and* 28.

Transfer of causes—Original and supplemental bill set down in different courts—Practice.

Stinton applied that the original cause in this suit, which stood for hearing before the Lord Chancellor, might be set down to be heard by Vice-Chancellor Wigram, with a supplemental bill which was in his Honour's paper. The cause had been heard as an original one before Lord Cottenham, previous to the general order directing that original causes should not be set down before the Lord Chancellor, and had stood over for the purpose of adding parties by a supplemental bill.

The LORD CHANCELLOR.—As no opinion was given upon the merits when the cause was before the late Lord Chancellor, it may be done.

THE QUEEN on the prosecution of WILSON *v.* NEWTON.

Cancelling patent after judgment in scire facias against the patent—Mode of compelling the patentee to bring in the patent to be cancelled—Writ of attachment—Practice—The common law jurisdiction of the Court of Chancery.

In this case a writ of *scire facias* to repeal the letters patent issued out of this court, and judgment had been given in the Court of Queen's Bench. Several issues had been taken, and a verdict given for the Crown upon each. Judgment was signed in the Queen's Bench in Easter Term, when it became a matter of right that the patent should be cancelled by tearing off the seal. The object of the present motion, which had been made on notice, was to compel the defendant to bring in the letters patent to be cancelled.

Hindmarch and *Webster* (of the common law bar) supported the motion.

The LORD CHANCELLOR.—By what authority was the judgment entered up? By whom was it entered up, and was it on any application made to the Court of Queen's Bench? I have inquired of the officer of the Petty Bag Office, and there is no instance for 100 years of the transcript of the record of a *scire facias* having come back to this court. Has the Court of Queen's Bench after the issues have been tried any further jurisdiction, or does it remain in this Court? [*Hindmarch.*—The matter is remitted here.] Then the officer of the Queen's Bench cannot as of course enter up judgment. Is there any instance where the Court has cancelled letters patent? Must they not be revoked before cancellation? Can you point out any instances in which it has been done and the form? [*Hindmarch* referred to *Reg.* v. *Nickels* (Webster's Rep. ; 1 Phillips, 36). In Coke's Inst. 89, p. 784, it is said that a *scire facias* was remanded back into Chancery and then [illegible] is to be given. Rolle's Abridg. "Court," G, 1 [illegible]

The LORD CHANCELLOR.—It is not the record which goes to the Queen's Bench, only a mere transcript.

[*Hi*]*ndmarch.*—It is treated by the Queen's Bench as an ordinary judgment. The form of action in *scire facias* asks [illegible] the patent should not be restored into the Court of [illegible] there to be cancelled. Therefore execution [illegible] had here. There are but two [illegible]es on the subject which shew how that is to be done. (1 Coke's Reports, 174, A & B; *Rex* v. *Carey*, 1 Equity Cases abridged.) They had been informed by Mr. Botch, that about twenty years ago a patent was brought into court and cancelled by the Chancellor.

Wakefield, for the defendant, asked for time to examine the cases bearing upon this obsolete practice.

The LORD CHANCELLOR.—I recollect cases of *scire facias* to repeal letters patent; there must be precedents.

Hindmarch.—The oldest officers do not remember any.

The LORD CHANCELLOR.—I think the form of the writ speaks for itself; there has been a verdict against it, and it must be cancelled; the only question is as to the form. The motion may stand over until next Term; but unless some authority is shewn to the contrary, the motion will be granted, and the defendant must be required to bring in the patent to be cancelled.

May 28.—On this occasion, the LORD CHANCELLOR was assisted by Lord LANGDALE, Master of the Rolls.

Hindmarch and *Webster* again moved that the patent might be vacated, and the letters patent and the enrolment cancelled. They cited and referred to Brook, tit. "Record," pl. 79; Fitzherbert's Abridgment, tit. "Petition," pl. 19; 46 Edw. 3; Rolle's Abridg. tit. "Court"—Court of King's Bench, G; 6 Viner's Abridg. 548; Year Book, Michaelmas, 24 Edw. 3, 73, pl. 91; *Bishop of Bristol* v. *Proctor* (1 Rolle's Rep. 287); Year Book, 10 Edw. 3; 4 Inst. pl. 47; *Rex* v. *Carey* (1 Eq. Cas. Abr. 189, 10 Coke Rep. 113, b); 3 Blackstone's Commentaries, 53; *Rex* v. *Butler* (6 Manning & Grainger).

The LORD CHANCELLOR.—I have no doubt that the letters patent must be cancelled; but the question is as to the form of process to compel the defendant to bring them in for that purpose.

The MASTER of the ROLLS.—Two things are necessary, that the patent should be cancelled and the enrolment vacated, therefore the question is, how is the patent to be brought in to be cancelled?

The LORD CHANCELLOR.—There must be a process of execution upon the judgment. Now what is that process? Do not the officers of the Petty Bag know?

Hindmarch.—No form of process applicable to this case is known. The proper remedy is a writ of attachment against the person. The defendant had appeared and prayed for time, and therefore, whatever might have been the old practice, he was amenable to the jurisdiction, and bound to obey any order of the Court to bring in the patent to be cancelled.

The MASTER of the ROLLS.—An order should be made that the defendant bring in the letters patent by a particular day. That would be a regular order, which if the defendant disobey, there must be an attachment. If there be no precedent for such a proceeding, the Court will make one.

The LORD CHANCELLOR.—This proceeding is on the common law side of this court, and the proceeding taken should be in analogy to similar proceedings in the common law courts. Those courts do not enforce their orders by attachment; but in case of contempt of those courts by disobedience of their orders, they issue a writ of attachment.

Webster.—Until the late Act, which allows patents to be amended, it was useless to cancel the patent; now it may be used for purposes of fraud, if not cancelled. He referred to Richardson's Practice in the Common Pleas, 391, 398; 2 Saunders, 720.

The LORD CHANCELLOR.—It is a common law judgment, therefore the prosecutor has a right to have the patent cancelled. I have no discretion upon the subject.

Wakefield, for the defendant, contended that nothing more could be done upon the judgment, as was proved by the fact that no such further proceeding had been taken for many hundred years. He read an affidavit of the defendant's, stating that the invention claimed by the patent was that of a foreigner resident in France, who had directed the defendant, who is a patent agent, to obtain a patent; that he did so in his own name for reasons of convenience, which he stated; and that he had transmitted the letters patent to his employer in France, from whom, notwithstanding the present proceedings, he had not been able to obtain them.

The LORD CHANCELLOR.—Is there any answer to that affidavit on the part of the prosecutor?

Hindmarch.—This is the first time we have heard of the difficulty. But the defendant may surrender the privilege which the patent grants. He may execute such a surrender, and have it entered on the rolls of this court. It may still be used to terrify the prosecutor's customers.

The LORD CHANCELLOR.—If the enrolment is cancelled, and the defendant undertakes not to bring a writ of error, that will be quite as good as a surrender.

Wakefield.—The defendant is quite ready to do so. The order made was, that the enrolment of the patent should be cancelled, and a *vacatur* entered upon the roll, the defendant undertaking to bring no writ of error, and not to assign the patent.

Saturday, May 3.

Ex parte INCH.

Lease—Rig[illegible]

This was a cause petition by way [illegible] the decision of the Vice-Chancellor of England. The petitioner, Inch, had been discharged under the Insolvent Debtors Act, and assignees of his estate had been appointed. The leasehold house of the insolvent remained in his possession, there being no beneficial interest, and the insolvent, having re-established himself in business, had laid out a considerable sum of money in improvements, &c. He had remained in unquestioned possession for several years, but lately the Commissioners of Woods and Forests requiring the house under the Westminster Improvement Act, had agreed to give 150*l.* for the lease and good will. The assignees claimed that sum, and the Vice-Chancellor decided that they were entitled to receive it. Against that decision the petitioner appealed.

Wakefield, for the appellant.

The LORD CHANCELLOR.—This money belongs to the insolvent's estate under his insolvency, if his subsequent creditors do not interfere.

The appeal must be dismissed with costs.

Friday, May 30.

SAUMAREZ *v.* SAUMAREZ.

Practice—Costs—Parties—Date of decree.

This appeal had stood over for the purpose of bringing some necessary parties before the Court, the Lord Chancellor having expressed his opinion on the points at issue, which have been reported in the Law Times. That had now been done, and *Kay*, for the appellants, suggested that the costs of all parties should come out of the estate.

Montagu, for Richard Saumarez, who was entitled to one-third of the testator's estate, and who had not appealed, proposed that the costs ought to come out of the shares of the two sisters who had appealed. No question had been raised or decided upon the appeal with respect to the third share of Richard Saumarez, and it would be unfair to involve him in costs to determine the construction of the will with reference to the other two-thirds.

The LORD CHANCELLOR.—It was a fair question of construction, and the costs must come out of the residuary estate. The decree must be dated to-day, the record being now complete.

Re TILLOTT, a Lunatic.

Practice in lunacy—Part maintenance—Ability of the father of the lunatic.

Walker supported a petition, which prayed, amongst other things, that a sum of 450*l.* which the lunatic's father had necessarily paid on his behalf, might be repaid; and that an allowance for past maintenance during his minority might be also allowed to the father. The sum actually expended by the father in maintenance had been 1,126*l.* or about 300*l.* a year. The father by his affidavit stated that he was not of sufficient ability to maintain the lunatic, for after deducting an allowance made to his (the father's) eldest son, who had a large family, his yearly income was only 1,400*l.* or thereabouts, and was almost wholly derived from property in which he had only a life-interest. The lunatic's income amounted to 432*l.*

The LORD CHANCELLOR.—I wish the statements of the petition and the affidavit had been more precise. You may take an order for repayment of the 450*l.*, with reference as to the extraordinary expenses incurred on behalf of the lunatic.

Re BRYAN, a Lunatic.

Practice—Purposes for which lunatic's estate may be sold—Lunatic tenant in tail—Costs—1 Wm. 4, c. 65.

This was a petition for the sale, under the 28th section of 1 Wm. 4, c. 65, of real estate, of which the lunatic is tenant in tail, which enacted that the Lord Chancellor might order the land of or to which any lunatic should be seised, or possessed, or entitled, to be sold or charged by way of mortgage, or otherwise disposed of as should be deemed most expedient, "for the purpose of raising money for payment of the debts or engagements of such lunatic, the discharge of any incumbrances on his estates, the costs of applying for and obtaining the commission of lunacy and in opposition thereto, and all proceedings under the said commission, and the costs of such sales, mortgages, charges, and incumbrances, and other dispositions, or for any of such purposes as aforesaid," as the Lord Chancellor should direct; that the money arising from such sale should be so applied under the direction of the Lord Chancellor, and who is to direct the committee of the estate of the lunatic to execute in his place conveyances of the estates so to be sold, &c. and to do all such acts as should be necessary to effectuate the same.

Glasse supported the petition.—The commission issued in January 1840, and he was found to have been a lunatic from 1835. His wife had been appointed committee. The lunatic was at that time a prisoner in Whitecross-street prison, and his children were in great distress. Mr. Smith, who was copetitioner with the wife, had incurred costs amounting to 1,054*l.* The only property of the lunatic con-

sisted of real estate, to a moiety of which he was entitled in fee, but that had been mortgaged to its value; and he was tenant in tail of the other [illegible], from which there was a clear surplus income. There was no provision for the costs which [illegible] incurred, unless his lordship would direct a [illegible] to be made under the Act upon the moiety of the estate of which the lunatic was tenant in tail. At all events a reference should be directed whether it would be for the benefit of the lunatic. In the case of *Re Brand* (1 Mylne & Keene, 150), Lord Brougham, C. directed the estate of a lunatic, who had no issue and was tenant in tail in possession with the immediate reversion to himself in fee, to be sold for the payment of his debts under this Act. Here the lunatic was tenant in tail with remainder to his children.

The LORD CHANCELLOR.—Then this does not fall within the case decided by Lord Brougham, where he said, "If there had been any intermediate remainders, the estate would not have been such as comes within the description of 'land of or to which any person being a *lunatic shall be* seised, possessed, or entitled;' and I should have held, without any doubt, that the Act only gives the power of selling or charging the lunatic's own interest, and not of doing any thing which would defeat the estates of others, although the lunatic, if of sound mind, might have defeated those estates. It is plain enough, upon the reason of the thing, that we must impose this restriction on the very great generality of the expressions employed in the twenty-eighth section and interpreted by the second. But the twenty-ninth section, respecting the application of the surplus, leaves it still more clear; for none of the terms used to describe the persons whose interests in the surplus are saved by that section are at all applicable to remaindermen." At the expense of the petitioner it may be referred to the commissioner to inquire what estates of the lunatic may be properly charged.

Re CHURCHILL.

Compromise of lunatic's claims—Reference.

This was a petition by the committee of the lunatic for a reference to the commissioner to inquire whether it would be for the benefit of the estate to accept 300*l.* in full for a share of and in a sum of 5,000*l.* to which the lunatic and others had been declared to be entitled. It was divisible into four parts. One of the shares had been forfeited by the insolvency of the person who would otherwise have been entitled. The actual amount of the lunatic's claim was 379*l.* besides a dividend. — *Reference ordered.*

Re WALKER, a Lunatic.

Confirmation of an agreement to abandon a former agreement for the purchase of an estate.

A reference in this case was made to inquire whether it would be for the benefit of the lunatic's estate that an agreement should be confirmed by which a former agreement for purchase had been made by the lunatic. The vendor had instituted a suit for specific performance. — *Ordered.*

Re MOFFATT.

Practice—Costs, charges, and expenses.

[illegible] supported a petition praying that the [illegible] might be allowed costs, charges, and expenses instead of costs only. On suing out the commission, it was necessary to make a special application, and the personal representative appeared and consented.

The LORD CHANCELLOR.—Such an order is not authorized. *Order refused.*

VICE-CHANCELLOR OF ENGLAND'S COURT.

Monday, June 9.

WARBURTON *v.* SANDYS.

Appointment of a new trustee—Powers vested in former trustees—Effect of a duplicate instrument in reference to a power of appointment "by any deed or writing."

A testator devised all his real estates to four trustees, with a power of sale, and directed that, on any vacancy in the trust, the surviving trustees or trustee should appoint a new trustee within two months after such vacancy, to act in the execution of the trusts. One of the trustees dying on the 10th of March, 1843, a deed was prepared in duplicate, appointing a new trustee, a copy of which was executed by two of the trustees in London, and the other by the third trustee in Dublin on the 9th of May following, but the legal estate was not conveyed to the newly-appointed trustee. The four trustees then joined in a [illegible] of the real estate to a purchaser (the defendant). Held, in a suit by the trustees for specific performance, that a new trustee had not been appointed, [illegible] the legal estate was in the three surviving [illegible] who could execute a power of sale and make a good conveyance to the purchaser. Held also, that the power to [appoint] "by any deed or writing" was well exercised by the duplicate.

This was a question upon demurrer, which arose under the will of the late John Abernethy, esq. which was dated [illegible] of January, 18[illegible], who devised and bequeathed all and singular his freehold, copyhold, and leasehold estates, messuages, tenements, farms, houses, lands, and hereditaments wheresoever situate, and also all his money, securities for money, and all other his estate and effects (except what he had thereinbefore given to his wife) which he should die possessed of, or over which he should have a disposing power at the time of his decease, unto J. Warburton, S. Arbouin, J. Bourdillon, and C. Lawrence, their heirs, executors, administrators, and assigns, according to the nature and quality thereof respectively, upon certain trusts during the life of his wife, and after her decease upon certain other trusts therein mentioned, for the benefit of his children. The testator then declared his will and mind to be, that it should be lawful for his said trustees, or the survivors of them, or the heirs, executors, administrators, or assigns of such survivor, to make sale of the lands in manner therein mentioned, and gave also certain other powers to be exercised by them. And the testator declared his mind and will to be, that in case either of them, the said J. Warburton, S. Arbouin, J. Bourdillon, and C. Lawrence, should happen to depart this life, or refuse, neglect, decline, or become incapable of acting in the trusts thereby in them reposed, then and in every such case it should and might be lawful, and he did thereby will and direct that the survivors or survivor of them, or others or other of them (as the case might be), should immediately, or within two months after any such trustee or trustees dying, or refusing, or neglecting, declining, or becoming incapable of acting in the trusts thereby in him or them reposed, *by any deed or writing* under his or their hand and seal or hands and seals, to be attested by two or more credible witnesses, nominate some other fit person or persons to be a trustee or trustees in the place and stead of the person or persons so dying, neglecting, declining, or becoming incapable to act in the execution of the trusts thereby in him or them reposed; which new trustee or trustees to be so nominated and appointed should have the same power and authority in the said trust premises, and in the execution of the trusts therein comprised, as they, the said J. Warburton, S. Arbouin, J. Bourdillon, and C. Lawrence, or either of them, would have had or been entitled to in case they had been living, or had continued to act or been capable of acting in the execution of the trust thereby in them reposed.

S. Arbouin, one of the above-named trustees, died on the 10th March, 1843; and by duplicate indentures which were executed on the 9th May, 1843, by J. Warburton and C. Lawrence in London, and by J. Bourdillon in Dublin, the said J. Warburton, C. Lawrence, and J. Bourdillon nominated and appointed C. Burrows to be a trustee in the place and stead of the said S. Arbouin, deceased.

On the 16th August, 1844, all the four trustees put up part of the testator's real estate for sale by public auction, and the defendant, S. Sandys, became the purchaser of part of the property. The defendant, however, refused to complete his purchase, on the ground that C. Burrows, the new trustee, had not been appointed within two lunar months, and that the duplicate indenture was not a due execution of the power; and that, consequently, there were but three trustees, who were unable alone to make a good title to the premises. J. Warburton, with his co-trustees, including Burrows, filed their bill against Sandys, the defendant, for a specific performance of his contract, to which he put in a general demurrer.

Bird and *Greening*, for the demurrer, contended that the clauses restricting the appointment to two months would be absolutely useless unless the direction be not taken to imply a condition that if they, the trustees, should not so appoint, their powers are gone, since they might appoint at any time. That the three surviving trustees could only execute the power of sale during the two months in which there might be a vacancy; but that, having neglected so to do, it would be necessary to apply to the Court for the purpose of appointing a fourth, after which it would be competent for them all either to sell or to execute their other powers. But that a distinction exists whether the powers are public or private. In the former there are several cases of this nature; in the latter there are none. (*Attorney-General v. Scott*, 1 Ves. 413.) [The VICE-CHANCELLOR.—Suppose the three surviving trustees do not duly execute their power of appointing a new trustee, do not their powers in every other respect remain?] *Greening*.—No; for in the case put by your Honour the powers are suspended, but not destroyed. The testator must be taken to have assumed that what he directed to be done would be done, and unless it be done the trust is suspended until the new trustee is appointed by the Court. (*Bayley v. Mansell*, 4 Madd. 226; *White v. White*, 5 Beav. 221.)

Batten, in support of the bill, stated that the suit was only instituted for the purpose of taking the opinion of the Court as to whether the words in reference to the appointment of a new trustee within the two months were imperative and conditional, or directory only, which would give the surviving trustees power to appoint at any time. He therefore [illegible] that the [illegible] *Wood v. Cogwin*, 1 Dow. [illegible]

Some discussion arose [illegible] the meaning of the word [illegible] were intended to signify [illegible] the determination of which [illegible] *Alvarez* (3 Atk. 342) [illegible] & Coll. 401) were cited, but [illegible] mined by the Court.

The VICE-CHANCELLOR.—There is one point which I cannot help observing, namely, the testator has not said the appointment [illegible] by any deed or writing, under his or their hand and seal, or hands and seals, so that it might be valid if made by twenty deeds. I do not think it affects that it is any objection to the title of the vendor. My opinion at present is that no new trustee has been appointed, and for this reason; when the testator says that the surviving trustee shall nominate a fit and proper person to be the new trustee, he could not intend that the barren operation of naming a trustee was all that should be done. It is plain to my mind that unless there were a conveyance executed, so as to give to the person newly made a joint interest with the surviving trustees, there was no trustee nominated within the meaning of the power as it must necessarily be taken. There can be no doubt the testator meant that the person so to be nominated should be to all intents and purposes a trustee, as the others were. Suppose such trustee had been nominated, and there had been no conveyance, and either of the trustees had died; or put a case of commorientes when all had perished at once, how was Dr. B[illegible] himself appointed, to execute any trust? What [illegible] He could not do it; for it is plain he would not have any estate at all. When, therefore, the testator's "nominate," he must mean not so as to become effectually a trustee. My opinion is, therefore, that the effect of the deed is merely to name a person who shall be the new trustee; and I cannot but think that, though the surviving trustees have not named a new trustee as the testator wished, still that they remain trustees with the power and duty of performing the trusts of the will, so far as they remain in them. It seemed to me that when the four, for the sake of conformity, ordered the estate to be put up for sale, and the defendant became the purchaser, it was competent for the four to file a bill, one for the sake of conformity, and the others in point of substance. My opinion therefore is, that the three surviving trustees have the legal estate of the testator in them, and that their receipt will be a good discharge to the purchaser.

Demurrer overruled.

ROLLS COURT.

Feb. 26 and May 23.

BEAVAN *v.* GIBBERT.

Practice—Report, confirmation of—Order nisi and motion on petition absolute—Irregularity—Motion to discharge.

If an order of reference to the Master be made upon petition, and objections are taken to the draft report and overruled, the report may be confirmed upon motion nisi, and the confirmation need not be upon petition absolute in the first instance.

The motion nisi is seven or eight times less expensive than the petition.

In this cause, after the answer of the defendants had been put in, an order, on the petition of two of the defendants, was made by consent on the 13th Jan. 1845, directing that all proceedings should be stayed for six months, and it was referred to the Master to ascertain what was due to the plaintiff, as mortgagee, for principal, interest, and costs, and also to ascertain the priorities as between the plaintiff and the defendant Mr. Gilbert; and liberty was given to Mr. Gilbert to apply, without prejudice to any of the plaintiff's rights if it should become necessary to review the proceedings. The plaintiff's demand consisting of several claims, the Master made a separate report, and to this objections were carried in by the plaintiff in the usual way, and were overruled, and on the 29th of Jan. 1845, the report was signed by the Master. The defendant then applied to the Court for an order *nisi* to confirm the report; and a motion was now made to discharge the order so obtained, for irregularity, on the ground that the application ought to have been made to confirm absolutely in the first instance.

Kindersley (with him *Malins*), for the motion.—We have taken objections to the Master's report, which have been overruled, and the only way we can bring them here is by petition; but we could not proceed by petition in opposition to the order *nisi*. We contend we therefore now move to discharge that order, on the ground that the confirmation ought to be on petition absolutely, and not upon an order *nisi*. (*Gilley v. Pinsent*, 1 Hare, 330; 2 Daniell's Pract. 936; 2 Smith's Pract. 381; 3rd edit.)

Turner, contra.—The question is one of importance, for the costs of the application to confirm by petition are much greater than by order *nisi*. The question before Vice-Chancellor Wigram in *Gilley v. Pinsent* was, whether parties could apply to the Court by

[illegible] petition without previously carrying in objections before the Master to the draft report; and that case is therefore inapplicable for the present.—He cited *Hodges* v. *Rempsey* (6 Jur. 791; 7 Jur. 292).

[illegible]

The MASTER of the ROLLS.—I have to inquire whether the order *nisi* is proper in this case, and regularly obtained. I would feel very great respect for Vice-Chancellor Wigram's opinion, if his decision had been on this question; but the point was not before him. As the authorities produced afford so little assistance, the parties may make further inquiries as to the practice, and the motion may stand over for that purpose.

Friday, May 23.—The MASTER of the ROLLS.—On the 20th February, 1845, the plaintiff moved to discharge the order *nisi*, which the defendant had obtained, for irregularity, on the ground that the application ought to have been made to confirm absolutely in the first instance; and the case of *Ottley* v. *Pensam* was adduced in support of that position. In that case, however, Vice-Chancellor Wigram, for whose opinion I have the greatest respect, was not called upon to decide this question, and I cannot consider it to be any authority on the present point. But, the question being whether the report may be confirmed by order *nisi* as well as by petition absolutely, I have caused inquiries to be made in the Masters' offices, and I do not find any general rule of practice applicable to this case, or that an order *nisi* is irregular. This, however, is a report to which either party may except, if the exceptions are filed without delay. Another consideration in the present case also, is, that a further order will be required, this being a separate report; and the order *nisi* is seven or eight times less expensive than the petition absolute. Being unable to find that the course here pursued is irregular, and finding it to be convenient, and that the order *nisi* is less expensive, I therefore dismiss the motion without costs. I will allow a week to except.

Common Law Courts.

COURT OF QUEEN'S BENCH.

[The following judgment was delivered in Hilary Term, but accidentally mislaid.]

JONES *v.* ROBERTS.

Pleading—Custom.

Custom may be pleaded in a question of supposed right between individuals; therefore, where two farms adjoined, and, for want of fences, the sheep of one had been accustomed to wander over and feed upon the other, a plea to an action of trespass that sheep had from time immemorial been accustomed so to wander, held to be a good plea.

Lord DENMAN, C. J. now delivered the judgment of the Court.—This case arose on a demurrer to the rejoinder. On the argument the rejoinder was abandoned, and the question is as to the validity of the replication. It alleges that the farms of the plaintiff and the defendant had immemorially joined each other, not separated by any fence sufficient to turn the sheep. The replication states the sheep from time to time, and during all the time, were daily put in on the said farm to feed on the grass land there and then growing, and from time to time immemorially had gone, escaped, and rambled, and had been used and accustomed to go therefrom into the said field called F—— Green, on which the said sheep were so taken and distrained, the said several closes being part and parcel thereof, and the sheep were allowed to intermix there, and to feed from time to time on the grass growing in and upon the said closes mentioned; and in like manner stating mutuality as to the other parts. Enjoyment is the ordinary form in which common of vicinage is pleaded, if you substitute the word waste for farm; and, whether common of vicinage is a mere right or excuse for a trespass, the form of pleading is the same. The question seems to be, whether the law on the subject, applicable to adjoining wastes lying undivided, is to be applicable also to adjoining land held in severalty and lying undivided. It is said in either case a common may be put an end to by enclosure, and that this may as well exist between private owners as between them and the lord of the manor. No doubt it may be put an end to by enclosure, as appears by a statement in *Reg.* v. *Wilson*, and other cases, in all of which it is treated rather as an excuse for a trespass than as a right. The cases cited in *Cobbet's* case are nothing like what is pleaded here, for there there were arable lands lying interspersed; here the farms are merely adjoining, not interspersed. If the right or excuse here pleaded can be supported, it must be by analogy to what is established. Now it must be observed it is not pleaded as a prescription, but as a custom. No doubt it was competent to the owners of the respective farms to create such a usage by grant, and if that were done, then possibly it might be supported. There is a case in Brooke's Abridgment, which was referred to, where it is said that a man shall be prescribed if his beasts escape on the lands of B; B cannot distrain, but may have an action; but at all events he may be [illegible] prescribed. We believe this was the first time that any supposed right between any two individuals has been pleaded as a matter of custom; for it mentions the case of manors lying open together in use in respect of ownership of soil and waste, but copyhold in respect of their customary rights, and freehold in respect of their prescriptive rights, and having the same common interest; and it may well be; a common custom and usage for the convenience of all parties may have existed from time immemorial, as the straying of cattle, or the custom and usage may have had its origin in an actual contract, it not being at all impossible that two persons would have entered into an actual contract of that sort for the acquirement of that which was for their mutual benefit. No such reason applies in a case where the farms are held in severalty, and in the absence of any precedent we are of opinion that it is not valid, and that therefore the defendant is entitled to the judgment of the Court.

POWELL *v.* PRITCHARD.

Where cattle lawfully on one ground are used to stray on another, user for forty years under the statute is a good plea.

This case is so similar to the preceding one that it will not be necessary to occupy our columns with more than the

JUDGMENT.

Lord DENMAN, C. J. now delivered the judgment of the Court. Here the question was, whether common of vicinage from time immemorial could be claimed by a person stating himself to be a commoner, not by prescription, but for three years under the statute. Now common of vicinage is not a right, it is but matter of excuse for a trespass. *Cobbet's* case, and other authorities, sufficiently establish this position. It may be claimed by prescription, but it is rather a matter of immemorial custom, as we have stated in the case of *Jones* v. *Roberts*. In substance the question is, whether, where cattle lawfully on one common have been used to stray on the other, all that is necessary in pleading is to shew that the cattle were lawfully on their own common before they strayed: that is done by shewing forty years' user under the statute. Before the statute it must have been doubtless shewn that they were then using either their prescriptive right of common, or by leave of the lord; but since the statute it is otherwise. It is said great inconvenience may follow,—that the lord of the manor may make many grants, and purposely stock his own common in order to eat up the grass on the adjoining one. If that were clearly done it might be held fraudulent, or, at all events, there is a remedy by enclosure. As to the verdict being against the evidence, or that it was improperly left to the jury, we think there was no such doubt as could warrant our disturbing the verdict; as to the misdirection, we see none. There is no complaint that the learned judge put any thing wrong to the jury, only that he did not enter into all the details of the case, and exercise a sound discretion. We think it was unnecessary for him to detail it more. With respect to the evidence of occupation we are clearly of the opinion given in *Sparks* v. ——— (1 M. & S.), and there is no objection on that ground. Our judgment must be that the rule be discharged.

Saturday, June 14.

LITTLECHILD *v.* BANKS.

In debt for goods sold and delivered, on an issue never indebted, it is not necessary for the plaintiff to negative a payment contemporaneous with the delivery, though it may be open to the defendant upon that issue to prove such a payment, as, if proved, it would shew that no debt had ever arisen.

Debt, for goods sold and delivered.

Plea—Never indebted. Issue thereon.

At the trial the delivery of the goods was proved; and *Petersdorff*, for the defendant, in his address to the jury, urged that the plaintiff ought to have satisfied them that there was a sale upon credit; that mere delivery was not sufficient because consistent with a payment at the time of delivery; and that, if there were such a payment, no debt ever arose between the plaintiff and defendant. The jury found a verdict for the defendant, and a rule *nisi* had been obtained to set aside that verdict and for a new trial.

Petersdorff now shewed cause.—Where goods are sold for ready money, and there is a payment contemporaneous with the delivery of the goods, no debt arises. (*Bussey* v. *Barnett*, 9 Mee. & W. 312.) The plaintiff, therefore, in order to prove a debt, ought to negative such a payment. The declaration in debt avers a sale on credit; and that is put in issue by *nunquam indebitatus*. It is, therefore, for the jury to say whether there was such a sale, and here they have said that there was not.

By the COURT.—This verdict cannot stand. *Primâ facie*, the delivery of the goods proves a debt; and it is for the defendant afterwards to rebut that case if he can; but no attempt to do so was made in this case. *Bussey* v. *Barnett* only decides that where the contract is for ready money, and the payment is according to that contract, no debt ever arising, the defendant may give evidence of it under the general issue.

[illegible] *Fitzherbert*, in support of the rule, was not called upon.

Rule absolute.

Friday, June 20.

HARRISON *v.* VARTY.

Ownership within the Malicious Trespass Act, means the person having the possession and care of the property.

Cross-rules had been obtained in this case, turning upon the right of the defendant to notice of action, but both were disposed of upon the single point here reported. It was an action for false imprisonment, brought by the plaintiff, who had been given into the custody of the police while employed in cutting some branches of some trees by the direction of one Duncan, who claimed to be part owner of the property. The defendant had acted under a local Act, 29 Geo. 2, c. 90, from which it appeared that the inhabitants of the houses upon the estate (the York Gate Estate) were to be the managing owners thereof, and that for acts done in the administration of the Act, the owners were entitled to notice of action.

Hance contended that the local Act was no evidence of the title against third parties, and that if it was, the property could not be vested in the successive inhabitants for the time being; citing *Rex* v. *Sutton* (4 M. & S. 532); *Doe dem. Grundy* v. *Clarke* (14 East, 488); *Phillips* v. *Pearce* (5 B. & C. 433). He further contended that, if owners, they were not entitled to notice, as the jury had found that the plaintiff was not committing any malicious trespass, and that the parties, to bring themselves within the protection, ought to have reasonable ground for believing that they were acting under the statute; citing *Cook* v. *Leonard* (6 B. & C. 351); *Cann* v. *Clipperton* (10 A. & E. 582).

Jervis, Q.C. contrà.—To entitle a person to take proceedings under the Malicious Trespass Act, 7 & 8 Geo. 4, c. 30, s. 28, he need not have a legal title to enable him to maintain ejectment. "The owner of the property injured," must mean the person in whose possession and care the property is; and this was the position of the defendants. We had a *bonâ fide* belief that we were acting in execution of the Act, and that is all that is necessary, according to *Beechey* v. *Sides* (9 B. & C. 806), which was a case upon this very section.

By the COURT.—You have established that the defendants were entitled to notice, because you shew the rightful possession to be in them. They were trustees managing the property, and bound to do what was necessary for its protection. The jury found that the plaintiff was not acting maliciously, but there was good reason for the defendant to think so, and take immediate measures to prevent the property from being injured. It is not necessary to shew a regular title to support ejectment.

Judgment for defendant.

GRAHAM and OTHERS, Assignees of THOMAS SEDDON and GEORGE SEDDON, *v.* WITHERBY and ANOTHER.

(Argued in Hilary Term.)

Where an execution upon a warrant of attorney is set aside under 6 Geo. 4, c. 16, s. 108, the assignees are not entitled to the goods against an execution creditor in an adverse action, at whose suit a writ has been duly delivered to the sheriff before the fiat, notwithstanding that the first execution would have absorbed all the proceeds, had a sale taken place before the fiat.

Goldschmidt v. *Hamlet is good law.*

This was a special case stated for the opinion of the Court by an order of Patteson, J. It was in substance as follows:—The bankrupts, Messrs. T. and G. Seddon, executed in favour of Thomas Bennett a warrant of attorney for 50,000*l.* dated October 21, 1840. This was duly attested and filed within twenty-one days of its execution. Judgment for 50,000*l.* and 1s. damages was entered up in pursuance thereof Jan. 18, 1842, and writ of *fi. fa.* was issued the same day, indorsed to levy 20,000*l.* and the same day delivered to Alexander Rogers and William Magnay, the Sheriff of Middlesex. The sheriff on the same day, and before the return thereof, and before the delivery to them of the *fi. fa.* at the suit of the present defendants, and before the issuing of the fiat hereinafter mentioned, seized under the writ, at the suit of Bennett, certain goods of the said T. and G. Seddon, but not sufficient to satisfy the writ, and the proceeds of which would have been less than the sum indorsed. The sheriff remained in possession of the said goods until after the issuing of the fiat against T. and G. Seddon. On the 7th of January 1842, final judgment for 138*l.* 11s. was signed in an action commenced adversely, and not by collusion, or for the purpose of fraudulent preference, by the present defendants against T. and G. Seddon; and on the 27th of January, 1842, a writ of *testatum fi. fa.* was issued by the plaintiffs in that action to the Sheriff of Middlesex to levy of the goods of the said T. and G. Seddon 138*l.* 11s. duly indorsed, &c.

On the 27th of January, 1842, and whilst the sheriff was in possession of the goods under the first-mentioned writ, the last-mentioned writ was delivered to the sheriff for execution, and on the same day a

warrant was granted to the officer already in possession under Bennett's writ. The sheriff remained in possession until he withdrew as hereinafter mentioned. The said writ was issued by the defendants, and delivered and executed as aforesaid, *bonâ fide*, and the defendants had not at the time of its issuing or delivery to the sheriff, or of the delivery of the warrant thereon, any notice of any prior act of bankruptcy committed by T. and G. Seddon. A fiat in bankruptcy issued against T. and G. Seddon, Feb. 3, 1842, and on Feb. 4 they were duly declared bankrupts; and on the 11th the plaintiffs were appointed assignees. On the 19th of February, and while the sheriff remained in possession, Coleridge, J. upon the application of the sheriff, made an order in the said causes of *Bennett* v. *Seddon*, *Witherby* v. *Seddon*, and in three other causes of *Lynes* v. *Seddon*, and *Corney* v. *Seddon* (two causes), that the sheriff should withdraw; that the assignees should sell the goods and pay the proceeds into court, and that an issue should be tried at the then next Kingston assizes, in which the assignees should be plaintiffs and Bennett defendant, and that the questions in the last four actions should stand over until the decision of the issue. The sheriff accordingly withdrew and the goods were sold by the assignees for 7,413*l.* 7s. 3d. and that sum paid into court. This sum was much less than sufficient to satisfy this execution of Bennett. The issue directed by the order between the plaintiffs and Bennett was proceeded with, and on June 27, 1843, determined in favour of the plaintiffs, on the ground that the writ of *fi. fa.* at the suit of Bennett being founded on a judgment by warrant of attorney, and being a writ under which the sheriff had seized only, but not sold at the date of the fiat, Bennett was a creditor having a security for his debt, within the 6 Geo. 4, c. 16, s. 108, and therefore only entitled to be paid rateably with other fair creditors. In all other respects Bennett's execution was valid. On July 11, 1843, Patteson, J. made an order in the said five causes that 6,150*l.* parcel of 7,413*l.* 7s. 3d. should be paid out of court to G. J. Graham, the official assignee, and that cases should be stated for the opinion of this Court in the actions of *Lynes* v. *Seddon* and *Witherby* v. *Seddon*, with liberty to turn them into a special verdict, if the Court should think fit. The sum of 6,150*l.* has been paid accordingly to the official assignee; the balance of the said sum of 7,413*l.* 7s. 3d. still remaining in court, and being sufficient to satisfy the full amounts claimed in both the said actions of *Lynes* v. *Seddon* and *Witherby* v. *Seddon*, the latter being the action in which the now defendants were plaintiffs.

The question for the opinion of the Court was, whether, under the circumstances above stated, the plaintiffs, as assignees, were entitled as against the now defendants, to receive the aforesaid balance of the said sum of 7,413*l.* 7s. 3d. so remaining in court, before or until the said execution of the defendants should have been paid and satisfied out of such balance.

The points stated for argument for the plaintiffs were that the 108th section of the 6 Geo. 4, c. 16, operates upon execution by warrant of attorney for the benefit of the assignees, and not for the benefit of subsequent execution creditors, and that property rescued by that section from an execution by warrant of attorney belongs to the assignees, and not to subsequent execution creditors.

Willes, for the assignees.—The question turns mainly upon the construction of 6 Geo. 4, c. 16, s. 108. The facts are briefly that an execution upon a warrant of attorney is put into the sheriff's hand, and he seizes the goods of the execution debtor. While in possession, another execution, but not upon a warrant of attorney, is received, and a warrant to levy is given to the same officer. Before the sale, a fiat issues against the execution debtor, by which the first execution is set aside; and the question is, whether the assignees or the second judgment creditor is entitled to reap the benefit of the execution being set aside. First, there was no seizure under 6 Geo. 4; secondly, if there was such a seizure, then the effect of the bankruptcy prior to the sale was to give the creditors what, but for the bankruptcy, the first judgment creditor would have been entitled to. 1. There was no seizure. While the first was the only writ in the sheriff's hands, the proceeds of the sale must have been given to Bennett. Then the second execution is delivered to the sheriff, and a warrant to levy given to the same officer, which is said to be equivalent to a seizure "upon the property of the bankrupt." I concede the general rule that a subsequent execution creditor is entitled to the surplus, or to all, if the prior execution is void, because there can be no *actual* seizure under a subsequent writ when the sheriff is already in possession of all the goods under the first. But I submit that the seizure contemplated by the 108th section is a real substantial seizure for the purposes of sale, which this was not, as the case distinctly finds that the goods were insufficient to satisfy the first writ. *Johnson* v. *Evans* (1 Dowl. & Lowndes, 935) supports this view. There the property of a partnership had been seized under an execution against one of the partners; and whilst in the possession of the officer, an execution against the partnership was lodged with the sheriff, who made out a warrant to a different officer, but no actual entry or seizure was made. After a fiat against the partners, the sheriff sold the property and satisfied *both* writs; and it was held that there was no sufficient seizure under under the second writ within the 108th section, because there never had been a seizure of the partnership property for the purposes of sale under the second writ, and the partnership property was not applicable to the first writ. Where the goods seized are not applicable to the satisfaction of the writ, *nulla bona* is a good return. (*Drewe* v. *Lainson*, 11 A. & E. 529.) So here, had no fiat issued, a return of *nulla bona* to the second writ would have been good; and how, then, can it be said that what was originally no seizure at all became so by the issuing of the fiat. An available seizure is essential, which this was not. 2. But if the Court should think that there was a sufficient seizure, then it is submitted that the construction put upon the 108th section by the Court of Common Pleas in *Goldschmidt* v. *Hamlet* (1 Dowl. & L. 501) is not correct, and the creditors are entitled to the benefit of this prior execution being set aside. The general object of all the bankruptcy statutes is a rateable division among all the creditors; and, since the first execution was here superseded by the operation of the 108th section, it is superseded for all purposes. Here, but for the bankruptcy, all the proceeds would have been paid to Bennett; how, then, can it be said that the bankruptcy is to benefit the second execution creditor? The "fair creditor," for whose protection that proviso was enacted, must mean the same as in 21 Jac. 1, that is, persons who will prove under the fiat. [PATTESON, J.—Was the second creditor here an unfair creditor?] No; but he would have no title but for the 108th section, and that confers the benefit upon the creditors generally. The execution is prevented, and the proceeds transferred to the creditors rateably. He cited also *Wintle* v. *Chetwynd* (7 D. P. C. 554); *Heenan* v. *Evans* (1 D. N. S. 204); *Imray* v. *Magnay* (11 M. & W. 267); *Morris* v. *Mellin* (6 B. & C. 446).

Atherton, contrà.—This case must be decided according to *Goldschmidt* v. *Hamlet*. It is found, in the special case, that the writ was delivered for execution to the sheriff, and it is afterwards said, "this writ so delivered and executed as aforesaid;" so that nothing was left undone to effect the execution that could be done either by the sheriff and the officer or the creditor. The warrant was made out and delivered to the officer, and he consequently remained in possession under both writs. *Johnson* v. *Evans* (1 D. & L. 985), which is relied upon by the plaintiffs, proves that this was so; for here the proceeds of the sale would have been applicable to the second writ, if from any cause the first was got rid of. The question is, was there not a seizure in contemplation of law? Then *Goldschmidt* v. *Hamlet* on all fours with the present case. There, also, the goods seized were insufficient to satisfy the writs upon the judgments that were set aside. (See 6 Sc. N. R. 962.) The operation of the 108th section inverted, and it is argued as if it was an enabling statute, instead of a disabling statute. The plaintiffs, as assignees, only take what is given them expressly by statute; that is, the property of the bankrupt at the time of the fiat, except in the cases expressly within the 108th section. The proviso does not affect this execution, where the defendants were creditors having security by means of the seizure, and are therefore excepted from the disabling operation of the introductory part of the 108th section. Where the assignees are intended to have the benefit, the words are express, as by 3 Geo. 4, c. 39, warrants of attorney not duly filed are void as against the assignees, and they may recover back for the use of the creditors what has been obtained by virtue of such warrants.

Willes, in reply.—It was found here that the goods were insufficient to satisfy the first writ, therefore there could be no seizure under the second of any thing applicable to it. It would appear from the report in 6 Scott, of *Goldschmidt* v. *Hamlet*, that all the writs were set in motion at once.

In the sittings after Trinity Term the judgment of the Court was delivered by Lord Denman, C. J.

JUDGMENT.

Lord DENMAN, C. J. now delivered the judgment of the Court.—The material facts of this case are as follow: On the 18th of January, 1842, the sheriff of Middlesex seized the goods in question under a writ of *fi. fa.* at the suit of Thomas Bennett, and against Thomas Seddon and G. Seddon; the judgment was on a warrant of attorney. While the sheriff was in possession on the 27th of January, a writ of *fi. fa.* in debt against the Seddons, at the suit of the now defendants, was delivered to him, and a warrant granted and delivered to the same officer who was in possession. The judgment was in an adverse *bonâ fide* action, and the now defendants had no notice of any prior act of bankruptcy committed by T. and G. Seddon. While the goods still remained in the possession of the sheriff, on the 3rd of February a fiat in bankruptcy issued against T. and G. Seddon, which was regularly prosecuted, and in which the plaintiffs are the assignees. The date of the act of bankruptcy is not stated. The goods have since been sold for an amount less than the sum indorsed to be levied under Bennett's writ, but much more than is indorsed to be levied under the writ of the now defendants. The question is, whether the now defendants are entitled to the sum raised as against the assignees. The case of *Goldschmidt* v. *Hamlet*, decided by the Court of Common Pleas (6 M. & G. and 6 Scott N. R.; 1 Dowl. & Lowndes, 501, and 12 Law J.) is a case directly in point, and in favour of the now defendants. There are some discrepancies in the reports of that case, which are not very material, and it is plain we cannot give judgment for the present plaintiff without treating that case as having been wrongly decided. In order to arrive at a right conclusion, it seems necessary to ascertain, in the first place, what were the rights and relative position of Bennett and the now complainants, after the writs had been delivered to the sheriff and before the bankruptcy. Now, as no fraud or irregularity is alleged in this case, it is plain that Bennett's writ, on which alone the sheriff seized in the first instance, was entitled to preference over that of the now defendants, and as the goods were not sufficient in value to satisfy Bennett's writ, the now defendants, but for the bankruptcy, could not have taken any thing. Now it is well established that when a sheriff seizes, he seizes under all the writs then in his hands, and as writs which come into his hands subsequently to the seizure attach on the goods already seized, a creditor under such subsequent writ would be entitled to the proceeds, if the first writ be either satisfied or put aside or withdrawn; still the now defendants, without the aid of the bankruptcy, could have taken nothing, because, independently of the bankruptcy, Bennett's writ was not satisfied, or set aside, or withdrawn, and the now creditors have not been deprived of any right they were entitled to at common law. At common law Bennett was entitled to preference of them, and they cannot complain that they take nothing unless they can shew that the Bankrupt Act operated to give them a preference which they would not have had at common law. Is that then the effect of the bankruptcy under the circumstances, and particularly the 108th sec. of the 6 Geo. 4, c. 16? It is clear that by the operation of that section Bennett was deprived of the fruits of the execution, and is compelled to come in *pari passu* with the other creditors. That section manifestly treats judgment creditors upon warrants of attorney as if they are to be compared to fair creditors, for it treats them as being creditors for a valuable consideration, and provides that they should be paid "rateably" (that is the expression) "with such," that is, "other fair creditors." The object of the section manifestly was to put upon the same footing as the *bonâ fide* and fair creditors, those who had seized under an execution, by virtue of warrants of attorney, and compel them to relinquish the seizure and bring the proceeds into hotch-potch for the benefit of all the creditors, and not to set aside that particular execution. Accordingly, this Court, in *Taylor* v. *Taylor* (5 B. & C. 392), refused to set aside such a writ as being void; and again, in *Notley* v. *Buck* (8 B. & C. 160), this Court refused to decide whether the sheriff was a wrongdoer in selling under such a writ, although it held that the money raised belonged to the assignees. But the view the Court took in those cases in the present case is clearly out of the question, because Bennett's execution, which was good at common law against the sheriff and against the now defendants, would still remain good against all persons, although the proceeds would be transferred from Bennett to the credit of the assignees. But the Court of Exchequer, in the recent case of *Cheston* v. *Gibbs* (12 M. & W. 111), having differed from the view taken in *Taylor* v. *Taylor* (5 B. & C.), and having decided that the 108th section affects the writ itself, the position of the assignees is materially altered. That case was twice argued and well considered, and according to the law there laid down, it would seem that Bennett's writ becomes void by the issuing of the fiat, and that the assignees might have maintained *trover* against the sheriff if he had sold under it. The sheriff was bound then to treat the writ as void under the fiat. But at the moment he so treated it, the right of the now defendants would have attached to the goods. It will therefore avail against the assignees, and all the world, and becomes absolute, so to speak, because, in effect, the first writ of the now defendants was to be satisfied out of the proceeds of the goods. Upon the authority of *Cheston* v. *Gibbs*, therefore, and that of *Goldschmidt* v. *Hamlet*, we think the now defendants are entitled to the judgment of the Court.

Judgment for the defendants.

Saturday, June 21.

JAQUES *v.* NORTON.

A declaration in assumpsit stated that in consideration that the plaintiff, at the request, &c. had promised the defendant to buy of him and pay for goods, &c. to be by the defendant packed and preserved for a voyage; defendant promised to furnish such goods packed, &c.; and that although plaintiff did afterwards buy of defendant and pay for goods "as and

for the goods so agreed to be bought," and which defendant delivered packed, &c. "as and for the goods so agreed for," yet the defendant broke his promise in this:—1, that at the time of the delivery of the said goods the same were not the goods "agreed to be bought," but inferior goods; 2, that defendant did not furnish the goods "so agreed for" properly packed, but had negligently packed them; and, 3, that the goods so delivered were deficient in quantity. On general demurrer to this declaration,

Held, that the 1st and 2nd breaches were bad, because they applied to the goods agreed to be bought; whereas the promise applied to the goods actually bought and paid for "as and for" the goods contracted for; but that the third breach disclosed a good cause of action, as it applied to the goods actually delivered. Judgment was therefore given distributively, for the defendant on the 1st and 2nd breach, for the plaintiff on the last.

Assumpsit.—The declaration stated that a vessel was about to set sail on a certain voyage, and thereupon, &c. in consideration that the plaintiff, at the request of the defendant, had then promised the defendant to buy of him and pay for divers goods and merchandize, to wit, &c. to be by the defendant packed and preserved for the said voyage, for certain prices then agreed upon by and between the plaintiff and defendant, to wit, &c. he, the defendant, then promised the plaintiff to furnish and deliver such goods and merchandize for the purposes aforesaid, preserved and packed up for the said voyage; and that although the plaintiff, confiding in the said promise of the defendant, did afterwards, &c. buy of the defendant, and did also then, in pursuance of the said agreement, pay for a large quantity of goods and merchandize, as and for the goods and merchandize so agreed to be bought, and which the defendant afterwards, &c. delivered packed in chests or cases, as and for the goods and merchandize so agreed for as aforesaid; yet that the defendant broke his promise in this, that at the time of the delivery of the said goods and merchandize the same were not the goods and merchandize so agreed to be bought as aforesaid, but were goods of an inferior sort, quality, and description, and were bad goods; and also in this, that he did not furnish and deliver the goods and merchandize so agreed for, as aforesaid, properly packed and preserved for the said voyage, but on the contrary thereof so negligently, carelessly, and improperly conducted and behaved himself in and about the packing, &c. that divers quantities of the said goods, &c. were, by and through the negligent and improper conduct of the defendant in that behalf, broken and damaged, and became of no use to the plaintiff; and also in this, that the said goods and merchandize so delivered by him, as aforesaid, were deficient in quantity, and that the deficiency in the quantity so delivered amounted to, &c. whereby the plaintiff had been deprived of great gains and profits which would have accrued to him from the sale of the said goods, &c. alleging special damage.

General demurrer to this declaration, on the following grounds:—

1. That plaintiff does not say either that he bought, or was ready and willing to buy the goods agreed for; but merely that he bought goods as and for those goods.

2. That the first breach is bad, because, although defendant may by mistake have delivered the wrong goods, he may have been ready and willing to deliver the goods agreed for.

3. That the plaintiff is not entitled to complain of the matter alleged in the second breach, because his buying the goods agreed for is a condition precedent to the defendant's obligation to deliver those goods packed and preserved, and there is no allegation that the plaintiff bought or was ready to buy the goods agreed for.

4. That the second breach is also bad, because it consists of want of care, and the declaration does not allege a promise to take care.

5. That the last breach is bad, because, if it refers to a deficiency in the goods agreed for, then it is open to the objections first and thirdly above stated; and because, if it refer to the goods not agreed for, then there is no promise that the goods not agreed for should be of any particular quantity.

6. That the last breach is unmeaning, and does not shew that the quantity agreed for was not delivered, and merely amounts at the utmost to this, that certain goods delivered were not of the quantity agreed for, but does not allege that other goods to make up that quantity were not delivered.

7. That there is a misjoinder of incompatible breaches, if the declaration is meant both to assert that goods agreed for were not delivered, and that they were delivered, but not properly packed, each of which breaches negatives the other.

Joinder in demurrer.

J. Gray, in support of the demurrer.—The declaration is clearly bad; there is no averment that the plaintiff bought, or was ready and willing to buy the goods contracted for; and that defect applies to all the breaches, for it is a condition precedent to the defendant's liability even to send the goods on board the vessel at all. There is no identification of the goods contracted for and the goods bought, and if the goods actually bought were sent, it is no breach that they were different from the goods contracted for.

E. Lawes contrà.—These objections cannot be maintained on general demurrer. The declaration in substance states a contract to buy, and a buying of certain goods to be carefully packed, and a breach of that contract in the delivery of goods inferior in quality, deficient in quantity, and carelessly packed. The defects, if any, are matter of form only; and to be taken advantage of only on special demurrer. At all events the 3rd breach is good, because it alleges a deficiency in the quantity of the goods actually delivered, which was certainly a violation of the defendant's contract; and if that be so, then the demurrer, which applies to all the breaches is too large, and there must be judgment for the plaintiff.

Gray in reply.—That is not [illegible] the doctrine of large demurrers is no longer maintainable. [Lord DENMAN, C.J.—No demurrer is too large if it hits any objection well.] The cases are collected in a note by Mr. Serjt. Manning to *Hinde* v. *Gray* (1 Man. & G. 201); and *Briscoe* v. *Hill* (10 M. & W. 735) is an authority in favour of the view there taken.

Lord DENMAN, C.J. (after stating the pleadings).—The complaint therefore intended to be made in the first breach clearly is, the non-delivery of the goods contracted for; but that breach is not well laid to the promises stated in the declaration; the promise being to deliver such goods as the plaintiff should buy, and the averment being that the plaintiff did buy, not the goods contracted for, but certain goods as and for those goods. The 2nd breach also applies to the goods which the plaintiff thought proper to buy and pay for as and for the goods contracted for; but the promise to pack for the voyage relates only to the goods contracted for, and that breach therefore is also incorrectly stated; but as to the 3rd breach, which states that the goods actually delivered were deficient in quantity, that does appear to me to constitute a good cause of action. There was a contract to deliver some goods, and there was a delivery of goods, the plaintiff buying and paying for them; then the 3rd breach states that those goods were deficient in quantity, and for that I think the action may be maintained. Then, looking to the doctrine of general demurrers, what is the Court bound to do? I think the Court is bound to look at each count or breach as a single cause of complaint; and where on general demurrer objections are made to several counts, and as to some there are objections good on a general demurrer, the Court must give judgment for the defendant who demurs upon those counts or breaches, rejecting all that of the demurrer which is too large; and, as to the count or breach which is good, giving judgment for the plaintiff upon that. Accordingly in this case our judgment will be for the defendant upon the 1st and 2nd breaches, and for the plaintiff upon the 3rd. *Judgment accordingly.*

SKILBECK *v.* GARBETT.

Proof of the delivery of a letter inclosing a bill of costs to a bellman, or that the letter was put into a box in the attorney's office, and that the bellman called every afternoon and took all letters found in that box, is sufficient proof of a "posting" of such letter within the Attorney and Solicitors Act.

Assumpsit for work and labour, money paid, and on an account stated.

Plea—That the plaintiffs before and at the time when the causes of action accrued were and still are attorneys, &c. and that the money mentioned in the 1st count was and is money claimed by the plaintiffs for work done as such attorneys in transacting the business of the defendant, and that the money mentioned in the 2nd count was and is money claimed for fees and disbursements paid by them in the transacting of such business as aforesaid, and that the account in the last count mentioned was stated of and concerning moneys due from defendant to the plaintiffs in respect of the costs, &c. of the plaintiffs as attorneys for the defendant in transacting such business as aforesaid; that this suit was commenced after the making of a certain Act of Parliament passed in the 6th and 7th years of the reign of the Queen, intituled "An Act, &c.;" and that the plaintiffs did not, nor would, nor did nor would either of them, one month or at any other time before the commencement of this suit deliver unto the defendant being the party to be charged therewith, *or send by the post to* or leave for him at his counting-house, office of business, dwelling-house, or last known place of abode, a bill of the said fees, charges, and disbursements, or of any of them, or of any part thereof, subscribed with the proper hands of the plaintiffs or with the proper hand of either of them, or by either of the plaintiffs, either with his own name or with any name or style whatsoever, or inclosed in or accompanied by any letter subscribed with the proper hands of the plaintiffs, or, &c. referring to the said bill according to the form of the statutes, &c. but wholly refused, &c.—*Verification.*

Replication—That the plaintiffs did, one month before the commencement of this suit, to wit, on, &c. send by post to the defendant at his office of business a bill of the said fees, &c. inclosed in a letter subscribed with the proper hand of one of the plaintiffs, to wit, &c. with a certain name and style, being the name and style of the partnership of the plaintiffs, to wit, &c. referring to the said bill according to the form of the said statute, concluding to the country. Issue thereon.

At the trial, it appeared that the defendant is an attorney at Wellington, in Salop, and that the action was brought for business done by the plaintiffs as his London agents; that previously to the passing of the Attorney and Solicitors' Act (6 & 7 Vict. c. 73), four bills of costs were at different times made out in the plaintiff's office, and inclosed in letters written to the defendant by some one of the plaintiffs; that in the usual course of business those letters were put into a box in the plaintiff's office, and that the postman or bellman called every afternoon, took all letters out of that box, and put them into his bag. The residue of the plaintiff's demand was 7*l.* 18*s.* 8*d.* and it was proved that two bills for that amount had been posted by a clerk in a regular receiving-office in Chancery-lane. The jury found a verdict for the plaintiffs for 26*l.* 7*s.* 5*d.* the whole amount claimed; and on the 25th of April last *Chambers* obtained a rule *nisi* for a new trial, or for a reduction of the damages to the sum of 7*l.* 18*s.* 8*d.* on three grounds; 1st, that the issue being whether a bill was delivered pursuant to the statute, the only proof given as to part of the demand was of bills delivered before the statute; 2nd, that at all events the delivery to the bellman was not a sufficient posting of the letters; and, 3rd, that to support the replication it should have been proved that a bill to the whole amount mentioned in the declaration was delivered *sec. stat.*

Hugh Hill now shewed cause.—First, as to the point of pleading, that upon this replication there must be proof of the delivery of a bill as to the whole, there is no ground for the objection. It stands upon the same footing as a plea of the Statute of Limitations, which is divisible, and is a defence as to the items to which it applies, and to no others. (1 Wms. Saunders, 208, *k*; 2 Wms. Saunders, last ed. 122 *a.*; *Lord* v. *Houstoun*, 11 East, 62.) Secondly, it is quite sufficient that the letters were taken by the postman in the regular course of business.

C. Clark, contrà.—The first point noticed on the other side was taken upon the authority of *Todd* v. *Emly* (14 L. J. N. S. Q. B. 150); but that case is perhaps distinguishable. However, on the second point, it is submitted that clearly the delivery to the bellman was not sufficient; citing *Hetherington* v. *Kemp* (4 Camp. 193); *Hawkes* v. *Salter* (4 Bing. 715); *Hawkins* v. *Rutt* (Peake's N. P. C. 248); *Packe* v. *Alexander* (3 M. & Scott, 789).

Lord DENMAN, C. J.—If a public officer takes possession of the letter in the performance of a public duty, it is the same thing as if the letter were put into the post-office.

COLERIDGE, J.—In *Hetherington* v. *Kemp*, Lord Ellenborough said, "Some evidence must be given that the letter was taken from the table in the counting-house, and put into the post-office. Had you called the porter, and he had said that, although he had no recollection of the letter in question, he invariably carried to the post-office all the letters found upon the table, this might have done;" and I think this case falls within that rule; because it cannot be necessary to call the porter to state that which another person affirmatively says of him; and here it is proved to be the bellman's practice to take all letters out of the box. The delivery, therefore, is sufficient, and no question arises upon the construction of the statute. *Rule discharged.*

GRAHAM *v.* LYNES.

This differed from *Graham* v. *Witherby* only in the circumstance that under Lyne's writ goods had been seized belonging to T. Seddon, upon which no actual seizure had been made under the prior writ issued upon Bennett's judgment.

It was argued by *Willes* for the assignees, and *Bramwell* for the defendant Lynes. In addition to the cases cited in the argument upon the former case, were cited, *Rybant* v. *Peckham* (1 T. R. 731); *Saunders* v. *Bridges* (3 B. & Ald. 95); *Whitmore* v. *Green* (2 D. & L.) *Cur. adv. vult.*

After delivering the judgment in *Graham* v. *Witherby*, the Court briefly gave judgment in favour of the defendant.

BUSINESS OF THE WEEK.

Friday.

DOE *dem.* EDNEY *v.* WISE.—*Crowder* and *Barstow* were heard against the rule for new trial, as against evidence. *Bull*, Q. C. and *Rawlinson*, contrà. *Rule absolute, on payment of costs.*

WEBBER *v.* PRELLER. *Cur. adv. vult.*

POW *v.* TAUNTON. *Cur. adv. vult.*

DOE *dem.* GLADMIN *v.* PLUMER. *Rule discharged, with leave to Jerris, Q. C. to mention the case again.*

MERCER *v.* BARTLETT. *Cur. adv. vult.*

Saturday.

BLAKESLEY *v.* SMALLWOOD.—*Assumpsit. Demurrer* to *Replication. Aspinall* for the plaintiff. *Peacock* for the defendant. *Cur. adv. vult.*

BENSON *v.* BUTLER. *Settled.*

Young v. Smith.—Judgment for the defendant, nobody appearing on the part of the plaintiff.

Faber v. Burgess.—The parties agreed to amend, on payment of costs.

Pyke v. Ryall.—*Demurrer* to plea. On the motion of *Manning*, Serjt. judgment for the defendant, nobody appearing for the plaintiff.

Milner v. Myer.—*Trespass, quare clausum fregit.* Third *Plea*—setting up a right in the landlord or his on-coming tenant to plough and cultivate the *locus in quo*. *Replication*—protesting some of the allegations in the plea, and *de injuriâ absque residuo causæ*. *Demurrer* thereto. *Hugh Hill* in support of the demurrer. *Rew*, contrà. *Cur. adv. vult.*

Elliott v. Edwards.

Rule for a new trial refused.

Beaumont v. Reeve.—*Willes* prayed judgment in the absence of the opposite party.

Judgment accordingly.

Brooks v. Bockett.—*Assumpsit* for work and labour as an attorney. *Plea*, the non-delivery of a signed bill pursuant to 6 & 7 Vict. c. 73, s. 37. Rule *nisi*, for a nonsuit or in arrest of judgment. *Peacock* shewed cause. *Watson*, Q.C. and *Gurney*, Q.C. contrà. *Cur. adv. vult.*

Belcher and Others, Assignees, v. Gummeau.—*Trover* by assignees of a bankrupt. On a rule *nisi* for a new trial, the main question was, whether the procuring goods to be taken in execution is an act of bankruptcy before the goods are actually taken; and whether if, after the goods have been taken, the act of bankruptcy has relation back to the time of the procurement. *Watson*, Q.C. and *Gurney*, Q.C. shewed cause. *Wortley*, Q.C. and *Ogle*, contrà.

Cur. adv. vult.

CROWN CASES RESERVED.

Saturday, April 26.

(Before all the Judges, except Parke, B. and Maule, J.)

Reg. v. Camplin.

If a man makes a woman quite drunk, and then violates her person, he is guilty of rape, though the jury find that he administered the liquor for the purpose of exciting her only, and not with the intention of rendering her insensible and then having sexual connection with her.

The prisoner was tried at the Old Bailey on an indictment for rape, committed on the person of a girl thirteen years old. The evidence was that the prisoner made her quite drunk, and whilst she was insensible, violated her. The jury found that the prisoner gave her the liquor for the purpose of exciting her, and not intending to render her insensible and then have connection with her. The prisoner's counsel objected that the crime of rape was not proved, and that point was reserved for the opinion of the judges.

Ballantine, for the prisoner, now contended that in order to constitute the offence of rape, there must be an actual resistance on the part of the person ravished; and that the form of indictment containing the words "violently and against her will," proved that necessity; but, further, that in the present case, according to the finding of the jury, there was neither force nor fraud. It was an improper thing to give the girl liquor, but the jury had negatived any intention to commit a rape. All the evidence went to shew that if the man had any intention at all, it was to induce the woman to consent; and the learned judge distinctly put to the jury the two questions whether the prisoner gave her the liquor intending to have connection with her by force, or only for the purpose of exciting her.

Authorities referred to: 1 Hawk. 41, s. 6; *R.* v. *Jackson* (R. & R. 487); *R.* v. *Saunders* (8 C. & P. 265); *R.* v. *Williams* (ibid. 286); *R.* v. *Stanton* (1 Car. & K. 415).

Upon consideration, the judges held the conviction right.

COURT OF EXCHEQUER.

Tuesday, June 10.

The Attorney-General v. The Marquis of Hertford.

Legacy duty.

Where the donee of a power had an option to charge certain real estate with annuities, the amounts of which were not specifically defined by the power: Held, that such annuities were within the proviso of the 4th sec. of 45 Geo. 3, c. 28, which exempts from the duties imposed by the Act "any specific sum or sums of money" appointed by any will, &c. under any power, &c.

This case was heard some months since, and as the judgment contains all the material points, it will be unnecessary to refer more particularly to the arguments.

JUDGMENT.

Parke, B. now delivered judgment.—The question raised in this case is, whether the appointment by the codicil to Lord Hertford's will of the annuity of 700*l.* a year to Lady Strahen, pursuant to the powers contained in the deed of the 2nd of October, was to be liable to legacy duty or not, under the 55 Geo. 3, c. 184. That statute imposes a duty on every legacy given by will, either out of the personal estate of the testator, or out of or chargeable upon his real estate, or out of moneys to arise by the sale, or mortgage, or other disposition of his real estate.

What is a legacy out of or charged upon the real estate of the testator, depends upon the construction of the 45 Geo. 3, c. 28, which first imposes a duty on such legacies, and is incorporated with the 55 Geo. 3, by the general provision contained in sec. 8 of that Act. The material section of the 45 Geo. 3 is the 4th. It defines what a legacy of personalty is, as had been previously done by statute 36 Geo. 3, and adds a description of what is a legacy payable out of the real estate. It provides "that every gift by any will or testamentary instrument of any person dying after the passing of this Act, who by virtue of any such will or testamentary instrument shall have effects, shall be satisfied out of the personal estate of such person so dying, or out of any personal estate which such person shall have power to dispose of as he or she shall think fit, or which shall have been charged upon or made payable out of any real estate, or be directed to be satisfied out of any moneys to arise by the sale of any real estate of the person so dying, or which such person may have the power to dispose of, whether the same shall be given by way of annuity, or in any other form, shall be deemed and taken to be a legacy within the true intent and meaning of this Act. Provided always, that nothing herein contained shall be construed to extend to the charging with the duties by this Act granted any specific sum or sums of money, or any share or proportion thereof, charged by any marriage settlement, or deed or deeds, upon any real estate in any case in which any such specific sum or sums, or share or proportion thereof, shall be appointed or apportioned by any will or testamentary instrument under any power given for that purpose by any such marriage settlement, or deed or deeds." If we had to construe the first part of the clause only, without taking the proviso and such subsequent section into consideration, we might probably have held that the appointment of the annuity of Lady Strahen was liable to duty. The case *Re Chumley* (1 Crom. & Mee. 149) had already decided that there the person had an absolute power under the settlement to dispose of a sum of money by will; a gift by will of the whole of the sum in different portions to different legatees was liable to the legacy duty; and if, instead of a sum of money, the power had been to appoint an annuity charged upon personal estate, there could have been no doubt but that the gift of an annuity by will would never have been liable to legacy duty, though the whole annuity had been given to one person. It cannot make any difference in this respect whether a part of the fund, which the testator has an absolute power to dispose of, or the whole fund, be given; the legacy is equally satisfied out of personal estate, which the testator has power to dispose of as he shall think fit.

If such be the construction of the fourth section in the part relating to personalty, it will be reasonable to put the same construction on the parts relating to real estate; and therefore we should probably have held that this annuity itself being real estate, which Lord Hertford had absolute power to dispose of, so the gift of a sum charged upon or the part of the annuity would have been liable, as a gift of the whole would be. Still, however, there would have been a difficulty in fixing the defendant in this information with the duty under section 5, because, if the annuity itself was the real estate which the late marquis had the power to dispose of, the defendant, the present marquis, was not the person entitled to that real estate. He was entitled to the estate for life on the real estate charged with his annuity; consequently, the late marquis had no power of disposition over that real estate.

The proviso which follows, however, creates a further difficulty which we cannot get over; and reading the whole clause together, we think that the intention of the legislature to render such a gift as this liable to duty is at all events not so clearly expressed that we ought to decide against the defendant. It is a settled principle that the subject ought not to be charged with a duty except by words clearly imposing it. It is extremely probable that the former part of the clause intended to protect provisions for families only out of pecuniary charges on real estate by *ante nuptial* or *post nuptial* marriage settlements, especially when we bear in mind that the 45 Geo. 3, c. 28, first imposed a duty on legacies to children or their descendants, and it is likely that the large words were introduced with a view of completely securing the object. But we cannot act upon such a conjecture; the words include every charge by deed of a specific sum or sums; and if the proviso protects an appointment by will where the charge is 700*l.* in one sum, it is difficult to conceive why it should not equally apply to any number of sums of 700*l.* payable annually. Mr. Crompton never contended that the words "specific sums" only applied to charges of sums certain, the precise amount of which was ascertained by the deed or settlement. But we have a difficulty in understanding why the legislature should mean to give an exception where the charge was of 100*l.* certain, and to take it away where it was a charge of 700*l.* or less, at the option of the donee of the power. Indeed, Lord Denman has already intimated his opinion in delivering the judgment of the Court of Exchequer Chamber in error in *Pickard* v. *The Attorney-General* (6 Mee. & Wel. 348), that charges of this nature (for the charge there was of an annuity not exceeding a certain amount) would be exempt if originally made by deed under this proviso. For these reasons, we are of opinion that our judgment must be for the defendant.

Chapple v. Purday.

Thursday, June 12.

Copyright.

A foreign author residing abroad, and composing a work there, or the assignee of such foreign author, though a British subject, has not by the common law of England, nor by the statute law, any copyright in this country.

But if a foreign author, not having published abroad, first publishes in England, he has a copyright in such publication.

The facts, arguments, and cases cited on both sides are so elaborately stated and reviewed in the judgment, that it will be but wasting the reader's time to repeat them here.

Jervis, Q.C. *Godson*, Q.C. and *Crompton*, for the defendants, pursuant to leave reserved, obtained a rule *nisi* in Michaelmas Term last, for plaintiff to shew cause why a verdict should not be entered for the defendant. (See 4 Law T. 114.) Cause was was shewn in Hilary Term, when

Cur. adv. vult.

JUDGMENT.

Pollock, C.B. now delivered judgment.—This was an action for the infringement of the copyright of the music of the opera of *Fra Diavolo*, claimed by the plaintiff. The pleas denied the copyright claimed, and denied the plaintiff was proprietor. The material facts, as they appeared in evidence at the trial, were, that in 1829, Auber, a Frenchman, composed at Paris the overture to *Fra Diavolo*, which is the subject of the present action. Soon after, Auber assigned it to Fronpenas, and Fronpenas, on the 12th of January, 1830, sold it to Latour, a denizen of England, by an instrument in writing. On the 28th of January, 1830, there was a representation of the piece, and the overture was played at the Opera Comique, in Paris. About the 9th of February, 1830, there was an entry at Stationers' Hall, in the name of D'Almaine and Company, who were in connection with Fronpenas. On the 13th of February, 1830, Latour in Paris sold to the plaintiff by memorandum in writing, not under seal (but which was proved at the trial to be good and valid by the French law), the copyright in England. On the 5th of March, the overture was printed and published at Paris. On the 2nd of June, 1836, Latour, Auber, and Fronpenas, by indenture, assigned to the plaintiff the copyright in England, and on the 14th of May, 1840, the plaintiff published the music in England, subsequent to which the defendant published copies in England, for which this action was brought. Two questions of importance were raised in the course of the argument: the first is, whether at common law a foreigner residing abroad, and composing a work, has a copyright in England? The second, whether such foreign author, or his assignee, has such a right, by virtue of the English statutes? Upon the first question we do not feel any difficulty, and we are of opinion that a foreign author residing abroad, and composing a work there, has not by the common law of England any copyright here. The copyright is the exclusive right of multiplying copies of an original work or composition, and consequently preventing others from so doing. The general question, whether there was such a right at common law, was elaborately discussed in the great case of *Millar* v. *Taylor* (4 Burr. 2,333; and *Beckett* v. *Donaldson*, reported in 4 Burr. 2,408 and 2 Bro. P. C. 129). In *Millar* v. *Taylor* it was decided by Lord Mansfield, Justice Ashton, and Justice Mills, that at common law such a copyright existed, and the judgment was given for the plaintiff; and in *Becket* v. *Donaldson*, which was an injunction founded upon the judgment in *Millar* v. *Taylor*, the majority of the judges held that such a common law right existed, but the majority also held that it was taken away by the statute of Anne. We, however, are all of opinion that no such right exists in a foreigner at the common law, but that such a right is the creature of the municipal law of each country; and that in England it is altogether governed by the statutes which have been passed, regulating it, as in France, it is governed by the law of that country; but such a law has no extra-territorial power, and cannot be enforced beyond the limits of the state. Admitting, therefore, that by the law of France no one can, without the consent of the author, make or print any copy of his work, at any time or in any place, no right can be claimed in this country as founded upon such a law, nor can any right be claimed here, except what can be supported by the law of this country. The subjects of this country are not bound to obey such a law of France, nor the courts of this country to enforce it. It follows that a British sub-

but, they at common law fairly print and publish in Great Britain any number of copies of a French work, without being exposed to an action at the suit of the French author, whose exclusive privilege, founded upon the French law, is limited by the French territory; and indeed, if this were not so, the attempt to establish international copyright by treaty would have been altogether unnecessary. A foreign author having, therefore, by the common law no exclusive right in this country, the only remaining question is, whether he has such a right by the statute law, and this depends upon the construction of the statutes relating to literary copyright which were in force at the time of the transaction in question, namely, the 8 Anne, c. 19, and 54 Geo. 3, c. 156. If a judicial construction had been put on these statutes by a direct and deliberate decision of any Court, we should feel bound by it; but supposing that for the present there is no such decision, and the question comes now to be considered for the first time, we should feel no difficulty as to the proper construction to be put upon these statutes. They were passed for the encouragement of learning and the arts, by insuring to the authors, artists, and inventors, the reward of their labour. In their language these acts are general, but *primâ facie* it is to be concluded that the British legislature means only to protect British subjects, and foster and encourage British industry and talent; and therefore, where statutes of the United Kingdom speak of authors and inventors, they refer to subjects of, and residents in, the United Kingdom, or at least British subjects by birth or residence, and do not apply to foreigners resident abroad; and therefore, adverting principally to the statutes 8 Anne and 54 George 3, their provisions clearly refer to such works as are published in Great Britain or the United Kingdom, from which first publication the time begins to run from which an entry is, under the 2nd section of the one and under the 5th section of the other, to be made at Stationers' Hall, in order for the recovery of penalties, and within twelve months after which publication, copies are to be delivered by the publisher to the British Museum and other libraries. We should therefore conclude, upon the construction of the statutes alone, that a foreign author, or the assignee of a foreign author, whether a British subject or not, had no copyright in England, and no right of action on the grounds of any piracy of his work committed in the British territories. It remains to be considered what have been the decisions of our Courts on the construction of this and similar other Acts of Parliament. Under the statute of the 21 James 1, c. 3, against monopolies, the sixth section leaves, as they stood at common law, all the letters patent for fourteen years of new manufactures granted to the first inventors. It has been decided that an importer is within the clause, and if the manufacture be new in the realm, he is an inventor, and may have a patent, though he is not the assignee of a foreign inventor, and though he may be a foreigner himself, if the Crown choses to grant him a patent. The authority for that is to be found in *Edgeberry* v. *Stephens*, 2nd Salkeld. The principle of this decision is, that the common law authorizes the grant of a monopoly in this case, it being for the public benefit to introduce new inventions from abroad under the Copyright Acts. There is, we believe, no decision precisely in point, but the result of the dicta and the authorities is, that a foreign author, or his assignees, may have the benefits of the statute if his publication be in England, but not otherwise, and the mere importer, without title, is not the author within the meaning of these Acts.

The first case on the subject is *Clementi* v. *Walker* (2nd Barnewell & Creswell, 861), which occurred in 1824, in which the inclination of the opinion of the Court was strongly expressed in favour of what I have stated to be *primâ facie* the natural construction of the Acts. The points actually decided in that case were, first, that the plaintiff, who was not the author, nor then the assignee of the author, gains no rights by a mere first publication in England; and, secondly, that the assignee had no right here if the author had first published in this country. Whether if the foreigner had first published in this country he would have had the right under the statutes, or would have been deprived of it if he had first published abroad, are points undecided by that case; but there is a strong opinion expressed that if the foreign author does not publish here promptly he loses any right he might otherwise have.

The next case on the subject was in 1828, of *De Londre* v. *Shaw* (2 Simons, 237), before the Vice-Chancellor of England. It certainly does not decide the question now before us; but it is a dictum that the Court does not protect the copyright of a foreigner, which is quite true if there be nothing more than a foreign work not published here in the name of the author or his assignees. In 1831 there was the case of *Guichard* v. *Mori* (9 Law J. N.S. Chancery, p. 226), in which Lord Chancellor Brougham decided that if a book was written by a foreigner, and published in a foreign country, the person who purchased the right to publish it here could not support any claim to the copyright in this country, neither at law nor in equity. This case was followed by one on a similar subject, the copyright of an engraving, *Page* v. *Townshend* (5 Simons, 395), in which the Vice-Chancellor of England expressed an opinion that the object of the legislature in the statutes as to engravings was to protect those works which were to be designed, engraved, etched, or worked in Great Britain, and not those which were designed, engraved, etched, or worked abroad, and only published in Great Britain. In 1839 another case came before the Vice-Chancellor of England, *Bentley* v. *Forster* (10 Simons, 329), in which that learned judge decided that the statutes 8 Anne and 54 Geo. 3 did not extend to a foreign author and his assignees if he or they first published in England. There is an ambiguity in the judgment as reported, for it may mean if he is the first who published in England, or if the first publication anywhere be in England, and the context does not enable us to determine with certainty in which sense the words were used, though more probably the latter. An action was directed to be brought, but the defendants submitted, and no further investigation took place. In the meantime, in 1835 the case of *D'Almaine* v. *Boosey* was decided by Lord Abinger, reported in 1 Young & Collyer, 288. Lord Abinger granted an injunction to restrain the piracy of music composed by Auber at Paris, but not published there, and first published in England, not by the composer, but by his assignee, a native British subject. The decision puts the English assignee on the footing of the author or composer, and holds him entitled to the copyright by virtue of such first publication, whether at common law or under the statutes.

These are the cases on the subject; and the result seems to be, that if a foreign author, not having published abroad, first publishes in England, he may have the benefits of the statute; but that no case has decided that, if the author first publishes abroad, he can afterwards have the benefit of it by first publishing here. The 7th section of the 4 Geo. 3, c. 107, favours this construction; for it protects against piracy, by importation from abroad, those works only which are first composed, written, printed, or published, in "this kingdom;" probably it would include the whole of the United Kingdom; and this protection would seem to be co-extensive with the rights to be thereby secured. A further argument may be derived, though perhaps not a very cogent one, from the International Copyright Act, 1 & 2 Vict. c. 89, which empowers her Majesty, by order in Council, to give to the authors of works published abroad the sole power and liberty of printing in the British dominions, for a term not exceeding that which authors, being British subjects, were then by the law entitled to in respect of books first published within the United Kingdom. This shews the opinion of the legislature, which may assist us in interpreting the law, and it shews that by the former statutes a foreigner, who first published abroad, was not entitled to the protection of the Act, and probably was not entitled under any circumstances. Upon the whole, then, we think, it doubtful, whether a foreigner, not resident here, can have an English copyright at all, and we think he certainly cannot if he has first published his work abroad, before any publication in England. It remains to be considered whether the plaintiff is in the situation of a foreigner who has first published abroad. At the time of the assignment to him no publication took place, but before he published in England, a publication had taken place by the assignor in France; therefore the work had been published abroad before the plaintiff published it in England, and such publication was not by a wrong-doer, but by a person who was lawfully entitled to publish. It seems to us, therefore, that for this purpose the plaintiff and Auber and Frapenas must be considered the same person; and we think, as the publication in Paris by the composer, or his assignor there, prior to any publication in England, prevents a copyright from being acquired under the statutes, and there being no right at common law or under the statutes, the rule for a nonsuit must be made absolute.

Wednesday, June 18.

(Sittings in Banco after Term.)

CHOLMONDELEY and OTHERS *v.* DORLEY.

Semble, where the indorsement on the back of a promissory note shewed the time at which the interest to be paid on it was to be calculated: Held, that it ought to have an agreement stamp.

Quære, where a note bears an indorsement on it made at the same time the note is written, which explains the purpose for which it was given, but does not vary the instrument as between the parties to it, whether it is a negotiable instrument within 3 & 4 Anne, c. 9?

This was an action brought by the plaintiffs, as the payees of a promissory note, against the defendant, as one of the makers thereof. Verdict for the plaintiffs, damages 125*l.* with leave reserved to the defendant to move to enter a nonsuit, or for a new trial.

The note declared on was in the following form:—

"Market Rasen, July 1, 1836.

"Borrowed and received of the Lincoln and Linsay Banking Company, the sum of one hundred pounds, which we jointly and severally promise to pay to Sir Montague Jno. Chomely, Bart. and William Wrigtlesworth, trustees of the said ban. co. or their order upon demand, with lawful interest.

(Signed) "THOS. SMITH, sen.
"THOS. SMITH, jun.
"THOS. DORLEY.

"Witnesses to the signing of Thos. Smith, sen. and Thos. Dorley WILLIAM ROWSON.

"Witness to the signing of Thos. Smith, jun.
MICHAEL MORE."

Upon the note there was the following indorsement:—

"The within note is given for securing floating advances from the Lincoln and Linsay Banking Company to the within-named Thomas Smith, sen. with lawful interest for the same from the respective times when such advances have been or may be made, together with commission, stamps, postages, and all usual charges and disbursements, not exceeding in the whole, at any one time, the sum of 100*l.* within mentioned."

(Signed and witnessed as before.)

Whitehurst, Q. C. some time since obtained a rule *nisi*, pursuant to the leave reserved, on two grounds: first, that the note was not a negotiable instrument within the statute of 3 & 4 Anne, c. 9, but was a mere guarantee; and secondly, if the Court held it to be a promissory note, then there had been no payment made on account of it to take it out of the Statute of Limitations.

Byles, Serjt. and *Gunning* now shewed cause, and contended that the indorsement on the note did not vary it at all as between these parties, but was a mere amplification of the ordinary words used in a note of "value received," and that a fluctuating account at a banker's was a good consideration for the giving of a promissory note. Here it was clear that these parties intended to treat this as an ordinary promissory note, for they refer to it in the indorsement as a *note*. Then as to the point on the Statute of Limitations, it was proved at the trial that interest had been charged on all the various advances made by the bank to Smith, many of which were within six years, and this it was contended took the case out of the statute.

Cases cited. *Leeds* v. *Lancashire* (2 Camp. 204); *Heniker* v. *Wegg* (4 Q. B. 792); *Dowling* v. *Ford* (11 M. & W. 321); *Brill* v. *Crick* (1 M. & W. 232).

Whitehurst, Q. C. and *O'Malley*, contrà.—This is a mere guarantee to pay for money advances to another instead of for goods, and it may be that, if properly stamped, an action on the special contract might be maintained; but this is an action on a *promissory note*. Now it is contended, first, that this is not a negotiable instrument. This is shewn by the indorsement, and the moment it was admitted at the trial that the indorsement was written at the same time as the note, there was an end of the case, as it shewed that the promise was a conditional one, and therefore the instrument was not a negotiable one within the statute of 3 & 4 Anne, c. 9. Then, even if the Court were to hold that this was a note, there are no payments of interest made on account thereof to take it out of the statute. (Stopped by the Court.)

PARKE, B.—I think it is clear, that this rule must be made absolute for a nonsuit, for the only way to take this note, if it be one, out of the Statute of Limitations, would be to shew payment of interest. Now that can only be done under the agreement contained in the indorsement, and then the note should have an agreement stamp. This point, too, was taken by Mr. O'Malley, at the trial.

Whitehurst.—I think we are entitled to a verdict, as there is no sufficient evidence of any payment.

PARKE, B.—If we go on the point that this instrument ought to be stamped with an agreement stamp, it must be a nonsuit; if you choose to waive that and go on, you may take your chance of a verdict.

Whitehurst declining to do this,

Rule absolute to enter nonsuit.

PHILLIPS *v.* WARREN.

In an action by the indorsee against the acceptor of a bill of exchange, a general receipt on the back of the bill is not of itself evidence of its having been paid by the acceptor, unless it is shewn to have been in his possession after it was paid.

This was an action by the indorsee of a bill of exchange against the acceptor. Verdict for the plaintiff. At the trial it appeared that on the afternoon of the day on which the bill became due, in 1843, and while it was lying at Barclay's, the banker's, it had been paid by some one who was not known to the banker's clerk, but who, on the bill being paid, wrote the letter "R" on the back of the bill.

A rule *nisi* was moved for and obtained by *M. Chambers* last Term (*ante*, 56), to enter a verdict for the defendant, or for a new trial, on the ground that the letter "R" on the back of the bill was a receipt, which imported, *primâ facie*, that the bill had been paid by the acceptor, and ought to have been so left to the jury.

Hugh Hill now shewed cause, and contended that a general receipt on the back of a bill was not sufficient to shew that it had been paid by the acceptor, unless perhaps it was shewn to be in the possession of the

acceptor after such payment, and to come out of his custody. Then, as to the case of *Scoley* v. *Walsley* (Peak, 34), which had been relied on by the other side on moving for the rule, that case, it is submitted, is a *nisi prius* case, and is bad here.

M. Chambers, in support of the rule, relied on *Scoley* v. *Walsley*, and contended that the ruling of Lord Kenyon in that case was reasonable. In that case, on a bill being produced with a receipt on the back, Lord Kenyon says, "that, *primâ facie*, the receipt on the back of the bill imports that it *was paid by the acceptor*. For aught I know to the contrary, the plaintiff and the defendant may have settled their accounts, and this bill may have been delivered up on such settlement. It must, therefore, be explained before I admit it in evidence of the bill having been paid by the drawer."

PARKE, B.—I confess I do not at all understand the case cited from Peak; but giving full weight to all that Lord Kenyon is reported to have said in that case, I am not disposed to carry it further. The letter "R" means nothing until it is shewn what is to be understood by it. Now here a person is called who does not clearly explain that; and from what he proved, it is reasonable to suppose that this bill was not paid by the acceptor; for if it had been, it would have been in his possession, and he could have proved that in some way or other; indeed, he does not even now make an affidavit to that effect.

The rest of the Court concurring,

Rule discharged.

Friday, June 20.

THOMPSON *v.* DOMINEY.

An indorsee of a bill of lading cannot bring an action in his own name for an injury to the goods transferred, the right of property, and not the right of action, in respect of such goods being all that passed by the indorsement.

This was an action brought by the indorsee of a bill of lading against the shipper for an injury to the goods shipped. At the trial the plaintiff had a verdict. A rule *nisi* to enter a nonsuit having been obtained by *Kinglake*, Serjt. on the ground that no action would lie by the indorsee of a bill of lading in his own name,

Greenwood now shewed cause, and contended that such an action would lie by the custom of merchants; that the contract of the shipper was in fact a contract with the consignee and his assigns, and arose in the same way as that of the acceptor with the indorsee of a bill of exchange. [PARKE, B.—I never heard of such a thing as that an action could be maintained by the indorsee of a bill of lading in his own name.] We say it is by the custom of merchants. [ALDERSON, B.—If so, it must be to be found somewhere; can you shew us any authority for this form of action?] Not precisely in point, perhaps; but in *Lickbarrow* v. *Mason* (2 Term, 63), it was proved by the jury that a bill of lading was a negotiable instrument, and passed the property in goods by the delivery and indorsement thereof. [PARKE, B.—I have never heard that if a bill of lading is found in the streets, with an indorsement on it in blank, the party finding it could transfer any right by handing it over to another party, and receiving value.] I admit that you cannot assimilate a bill of lading with a bill of exchange in all respects. [PARKE, B.—This is a chose in action, and by law is not transferable by indorsement to convey a right of action; but you say this right of action is transferable by the custom of merchants, and you can shew no authority for that position; you cite no case, and the point is not even mentioned in Lord Tenterden's book on Shipping. The utmost length that the custom of merchants has gone has been to do away with the right of stoppage *in transitu*.]

Greenwood then referred to *Haille* v. *Smith* (1 B. & P. 564); *Howard* v. *Tucker* (1 B. & A. 712); *Sargent* v. *Morris* (3 B. & Al. 277).

Kinglake, Serjt. was not called on.

PARKE.—Here is not a shadow of pretence for saying that the indorsement does any more than transfer the right of property, and not the right of action. A right to bring trover for the goods themselves may be transferred, but not more.

The rest of the Court concurring,

Rule absolute to enter a nonsuit.

THE MAYOR OF BRIDGEWATER *v.* ALLEN.

A modus which has existed for sixty years, that all in-dwellers of a parish occupying land therein shall pay sixpence per acre, in lieu of tithes, and all out-dwellers one shilling, is a reasonable modus.

This was a question as to the legality of a *modus* payable by the occupiers of land in a certain parish. The *modus* claimed being for the out-dwellers occupying land in the parish to pay one shilling in lieu of all tithes, except of pigs, and for the in-dwellers to pay sixpence.

At the trial at the last assizes for Somersetshire the jury found in favour of the *modus* set up. *Crowder*, Q. C. having obtained a rule *nisi* for a new trial, on the ground that the *modus* was unreasonable, and therefore bad,

Kinglake, Serjt. and *Greenwood* now shewed cause, and contended that the *modus* was a perfectly good one in all respects, for it was certain in amount, in the time when it was to be paid, and also to and by whom it was to be paid; and it must be taken to have been paid from time immemorial, as a payment has been proved for sixty years, which was equivalent, under Lord Tenterden's Act, to a proof of payment from time immemorial. Then it was submitted that there was nothing unreasonable in the owner of the tithes making such a *modus*, as it was clear that the in-dwellers were liable to more burdens than the out-dwellers, as they had to pay Easter dues and surplice fees to the parson, and also to pay agistment tithes, which would not be payable by an out-dweller, who, for instance, with respect of the tithe of milk, would pay it to the parson of the parish where the cows were milked. It was therefore quite reasonable that the out-dweller should pay more than the in-dweller. [PARKE, B.—The only question is, can you assign a reason for the difference? If you can, good; if not, then the *modus* would be bad.] Then it is submitted there is a very good reason shewn here why the parson should make such a bargain.

Cases cited: *Chapman* v. *The Bishop of Lincoln* (2 E. & Y. 11); *Loxton* v. *Langston* (1 E. & Y. 567); *Sansome* v. *Shaw* (2 E. & Y. 120); *Hatcher* v. *Ridly* (1 E. & Y. 506).

Crowder, Q. C. and *Elliott*, contrà.—No case can be found where a *modus* that the same land in different hands shall pay a different sum has been held good; it might be as well said that a *modus* that all red-haired men should pay a larger sum than others would be good. Then as to the point put, that in-dwellers are more valuable tenants to the parson than out-dwellers, that may be put both ways, for the parson has more to do for the in-dwellers than the out. [ALDERSON, B.—Is there any case which shews that where a bargain of this kind has been made and acceded to from the time of Richard the 2nd, and which was not illegal then, has been set aside?] It may be that the parson can bind himself, but not his successors. [ALDERSON, B.—That might be a good argument if you were arguing before the late Act.]

Cases cited: *Manby* v. *Taylor* (2 E. & Y. 696); *Knight* v. *Waterford* (4 Y. & C. 283).

By the COURT.—This rule must be discharged. First, we must take it that there has been a payment from the time of Richard the 2nd, and therefore immemorial; then are we in a condition to say this *modus* is clearly unreasonable, for it seems to us that we are bound to support it if we can, and that we can do so on the grounds submitted by brother Kinglake. There is manifestly a good reason for imposing a higher sum on an out-dweller, as he pays no personal tithes or Easter dues, &c.; then, as it has existed so long, we will not disturb it. *Rule discharged.*

CUTCLIFFE *v.* BROMRIDGE.—This case was argued at some length, when it appearing that a point of waiver or no waiver had been left to the jury, the Court said there must be a new trial to take their opinion on that point. *New trial accordingly.*

CORNISH *v.* DAKIN.—In this case it appeared that the misdirection complained of did not appear on the judge's notes. The Court said they must adhere to their rule, and take the judge's note to be correct; and as that put the defendant out of court, the rule must be discharged. *Rule discharged.*

BRINSLEY *v.* AGOTT.—*Martin*, Q. C. *Cowling*, and *Tyler* shewed cause. *Asplant*, contrà.

Rule discharged.

BUSINESS OF THE WEEK.

Wednesday.

RUTLEY *v.* THE SOUTH-WESTERN RAILWAY COMPANY.—*Montagu Chambers* shewed cause. *Shee*, Serjt. (*Peacock* and *Badeley* with him) contrà.

Rule discharged.

BARRETT *v.* ROLF.—*Channell*, Serjt. shewed cause in this case against a rule obtained by *M. Chambers* (see *ante*, 57). *Wiles* appeared to support the rule. The Court suggested that the parties had better come to some arrangement, and suggested that the damages be reduced to 40s.

Stands over to see if the parties will agree.

DOE *dem.* ORLY *v.* BOTTOMLEY.

Verdict to be altered by arrangement, and entered distributively.

HEAN *v.* WILLIAMS. *Rule discharged.*

Thursday.

IRELAND *v.* HARRIS.

Rule absolute to arrest judgment.

RYLATT *v.* STAFFORD.—Rule for a new trial, on the ground of a verdict against evidence.

Rule absolute.

PHILLIPPS *v.* SMITH.—*Whitehurst* shewed cause against a rule for a new trial obtained by *Humfrey*.

Cur. adv. vult.

BREACH *v.* KNIGHT.—Rule absolute to enter verdict for plaintiff for nominal damages.

BITTLESTON AND ANOTHER, Assignees, *v.* COOPER.

Rule discharged.

EXCHEQUER CHAMBER.

Saturday, June 14.

[The arguments in the following case were reported last week (see 5 Law T. 244). The Court this day gave judgment.]

SCOTT *v.* WEDLAKE.

JUDGMENT.

TINDAL, C. J.—This is an action of *assumpsit* brought against the defendant as administratrix, with the will annexed, of Thomas Wedlake upon promises made by the testator in his life time. The defendant pleaded that she was not, and never had been administratrix in manner and form as the plaintiff had alleged; and to this plea there is a verification. To this plea the plaintiff demurred, and assigned two causes of demurrer, and on the argument on the demurrer the Court of Queen's Bench gave judgment that the writ be quashed. The first cause of demurrer assigns that the plea, if it is to be taken as merely denying that the defendant ever was administratrix or liable as such, improperly concludes with a verification, and ought to have concluded to the country; the other causes of demurrer were not raised in argument, and it is unnecessary to notice them further than to state that it appears clear to us that the plea is to be taken as merely denying that the defendant ever was administratrix, and liable as such, and consequently the causes of demurrer, which proceed on the proposition that the plea is not such a denial, cannot be sustained. It remains, therefore, to be considered whether the plea, in the sense ascribed to it in the first cause of demurrer, which we think its manifest and true sense, is bad, from not concluding to the country. As to the argument that no person could sue or be sued as administrator, the statute 31 Edw. 3, c. 11, requires the ordinary, in every case where a man dieth intestate, to depute his next and most lawful friend to administer his goods, and enables such administrator to demand and recover, as executor, debts due to the estate, and makes him liable to answer in the King's Court and give an account as completely as the dead person would have given, and in the same manner as executors shall answer. This statute in its terms applies only to administrators where a man dies intestate, but it has been extended further, and comprehends equally both plaintiffs and defendants where administration has been granted, although there was no intestacy; as in the case of *Walker* v. *Woollaston* (2 P. W. 576), and other cases, and see Comyn's Digest, tit. Pleader. The statute Edw. 3 does not prescribe the form of proceeding by or against administrators, but it enables them to sue as executors, and makes them liable to be sued in the same manner as executors. Its intention and spirit seem to be, that no unnecessary difference should be made between executors and administrators. In the cases of defendants charged as executors, the decisions have established that a conclusion with a verification is proper; and its propriety cannot now be questioned, even though the reason of the rule cannot now be understood; and it was admitted in the argument that there is no doubt, if the rule be applicable to the case of administrators, the present plea was properly concluded. That reason, however, is applicable in the opinion of the Court. It was contended in the argument that the case of a defendant charged as administratrix differed from that of one charged as executor; because the plea of *ne unques* executor, by denying that the defendant was executor of the last will, or administered as executor, denies more than the declaration alleges, which only charges the defendant as executor of the last will; whereas the plea in the present case of an administrator does no more than deny the allegation in the declaration. But this distinction does not appear to be well founded. The declaration, in case of an executor, does indeed describe him as executor of the last will and testament, but this is because there is no other form; and it has been held, that the denying the defendant is executor of the last will, or even administered as executor, does no more than deny that he is executor either by right or by circumstances, and does no more than deny what the allegation in the declaration that the defendant is executor of the last will is to be understood to import. It appears to us, that the defendant in the present case was not bound to conclude to the country; and that the Court of Queen's Bench was right in holding the plea to be good. The Court also said that the judgment had been erroneously entered up, viz. that the writ be quashed, and therefore reversed it as entered; giving judgment, however, for the plaintiff.

ON ERROR FROM THE COURT OF EXCHEQUER.

(Argued June 18 and 19; determined June 19.)

(Before TINDAL, C. J., COLERIDGE, WILLIAMS, COLTMAN, MAULE, and CRESSWELL, J.J.)

ORMROD *v.* HUTH and Others.

1. *Where upon the sale of goods the purchaser does not require a warranty, he cannot recover in an action on the case for deceit upon a mere representation of the quality by the seller, unless he can shew that the representation was bottomed in fraud.*

2. *If the representation was false to the knowledge of the party making it, this would in general be conclusive evidence of fraud; but if the representation was honestly made and believed at the time to be true by the party making it, although not true in point of fact, this does not amount to fraud in law, and the rule caveat emptor applies.*

This writ of error arose on a bill of exceptions. The action was one on the case, and the declaration alleged that the plaintiff, on the 9th of April, 1840, at the request of the defendants, bargained with the defendants to buy of them 142 bales of cotton at the price of 1,646*l.* 15*s.* and the defendants then, *during such bargaining, falsely, fraudulently, and deceitfully exhibited to the plaintiff* 142 *bales of cotton*, and represented to the plaintiff, and induced the plaintiff to believe, that the same parcels were samples of the said cotton so bargained for, and were fair samples thereof, and that the said cotton was equal to and was of the same description with and of like quality with the parcels so exhibited, and thereupon the plaintiff confiding, &c. in the parcels so exhibited, and the said representations of the defendants, *was induced to buy and did buy* the said cotton for 1,646*l.* 15*s.* and afterwards paid such sum for the same, whereas in truth and in fact the said parcels were not fair samples, nor were they samples of the said cotton so bargained for, nor was the said cotton equal to &c. the said parcels, but of inferior description and quality, and much less value; and the plaintiff says that the defendants falsely and fraudulently deceived the plaintiff on the sale of the said cotton, by means whereof, &c.

The defendants pleaded, 1, Not guilty; 2, that the plaintiff was not induced to buy nor did he buy the said cotton as alleged. The replication joined issue.

The record alleged that the trial was had at the Liverpool Spring Assizes for 1843, and set out the evidence, which we do not think it necessary to detail. And the record proceeded to state that the counsel for the defendants did insist that there was no case to leave to the jury, as neither the defendants nor their brokers appeared to have had knowledge of the said alleged misrepresentation being false, or to have acted in any respect against good faith or with any fraudulent purpose; but to this the counsel for the plaintiff did then and there insist that such proof was not necessary; that the delivery of samples not corresponding with the bulk was a false representation of the quality of the cotton, *which must be considered in law as fraudulent, as being the statement of a fact which the party making it did not know to be true*, and which in fact was not true, and which induced the buyer to make the purchase. And the learned judge did then and there declare and deliver his opinion to the jury, that *unless the jury could see grounds for inferring that the defendants or their brokers were acquainted with the fraud* that had been practised, or had acted against good faith or with some fraudulent purpose, the defendants were entitled to the verdict on the first issue. Whereupon the counsel for the plaintiff did then and there except to the said direction, and insist that proof of the defendants or their brokers being acquainted with the fraud that had been practised, or of their having acted against good faith, was not necessary to be given by him on that issue. The record then alleged that the jury gave a verdict for the defendants on the said first issue. The ground assigned for error was, that when a vendor, during the course of negotiating a sale, makes a representation to the purchaser which is likely to act as an inducement to the latter, who subsequently completes the bargain, the vendor not having made any communication as to the extent or means of his knowledge or ignorance, nor given any caution or explanation, and the representation turns out to be false, and an action on the case is brought upon it, the jury is not precluded from finding in favour of the plaintiff by reason of knowledge of the falsehood, or of acting against good faith, or with fraudulent intent, not being brought home to the defendant.

Cowling (*Wortley*, Q.C. with him) now appeared in support of the writ of error; and

Crompton (*Dundas*, Q.C. with him), contrà.

Cowling.—The plaintiff ought to have had the verdict, although the jury may not have found fraud. It appears from the evidence that the bales were piled in the warehouse, so that a purchaser could only see one side. My proposition is, that when a vendor makes a representation, whether ignorant or not that it is false, which representation may be an inducement to a purchaser, and he *does* purchase, and the representation turns out false, the plaintiff may recover *without fraud*. The jury *may*, although they *need* not, find fraud. Unless this proposition be maintained, there will be a difficulty, or rather impossibility, of obtaining redress. There can be no remedy, if not this. In all cases of contract, the utmost fair dealing is required. If one party *does* induce another, and the inducement is not grounded on fact, an action on the case may be maintained. (Com. Dig. Action, Case A.) To justify the action, doubtless there must be *damage* and *wrong*; but it is wrong and a legal fraud *indiscreetly* and *wantonly* to make assertions without foundation. Lawrence, J. said (6 T. R. 657), "Where a man swears to a particular fact, *without knowing at the time whether the fact be true or false*, it is as much perjury as if he knew the fact to be false, and equally indictable." If a defendant makes a representation which is false, though he knew nothing about it, the jury is warranted in finding him guilty of a fraud. In *policies of insurance*, the principle now contended for, as applicable to all contracts, prevails; and though *such* contracts are no doubt watched with peculiar jealousy, the principle on which they are set aside when entered into on false representations equally rescinds all contracts. In the note to *Goram* v. *Sweeting* (2 Wms. Saund. 200 b, n 1), all the cases are collected on policies of insurance, and thus summed up:—"It is essential that in all contracts of insurance the greatest good faith should be observed by the assurer and assured towards each other; for fraud, or a concealment or misrepresentation of any material circumstance, makes the whole contract void." And Mr. Serjeant Williams adds a quotation from Yates, J. (*Hodgson* v. *Richardson*, 1 Blac. 465), extending the principle to *all* contracts: "Indeed, the concealment of material circumstances is held to vitiate all contracts upon the principles of natural law. A man who is kept ignorant of any material ingredient may safely say that it is not his contract—*non hæc in fœdera veni*." And the judgment of Lord Mansfield throughout, in *Carter* v. *Boehm* (3 Burr. 1,905), supports the same view. The law does not look at *motives*, but *results*, of acts. In the publication of a *libel*, for instance, it looks only at the *tendency* of the act. (*Chalmers* v. *Payne*, 2 C. M. & R. 156; *Fisher* v. *Clement*, 10 B. & C. 472.) It is alleged on the other side that we do not shew an improper motive in the defendant. It is impossible the vendor *can* discover the *real* motive. If the Court see there might be a motive, they will not inquire whether the party really *acted* on it. The contract must be avoided by the misrepresentation. Lord Mansfield said, in *Pawson* v. *Watson* (3 Burr. 788), "It is equally false to undertake to say that which he knows nothing at all of, as to say *that* is true which he knows is not true." In *Crosse* v. *Gardener* (Carth. 90), there was no fraud and no knowledge of the falsity. It has always been considered the law, and is confirmed by *Schneider* v. *Heath* (3 Camp. 506), where Sir James Mansfield, C. J. says, "It signifies nothing whether a man represents a thing to be different from what he knows it to be, *or whether he makes a representation which he does not know at the time to be true or false, if in point of fact it turns out to be false*." In *Smout* v. *Ilbery* (10 M.&W. 1, 9), Alderson, B. in giving the judgment of the Court says, "It is a wrong to state as true what the individual making such statement does not know to be true, even though he does not know it to be false, but believes, without sufficient grounds, that the statement will ultimately turn out correct. And if that wrong produces injury to a third person, who is wholly ignorant of the grounds on which such belief is founded, and who has relied on the correctness of his assertion, it is equally just that he who makes such assertion should be personally liable for its consequences." In *Adamson* v. *Jarvis* (4 Bing. 66), Best, C. J. says, "These cases rest on this principle, that if a man having the possession of property which gives him the character of owner, affirms that he *is* owner, and thereby induces a man to buy, when in point of fact the affirmant is not the owner, he is liable to an action. It has been said, that is because there is a breach of *contract* to rest the action on, and that there is no contract in this case. That is *not* the true principle; it is this—*he who affirms either what he does not know to be true*, or knows to be false, to another's prejudice and his own gain, is, both in morality and law, guilty of falsehood, and must answer in damages." [TINDAL, C. J.—That was a case of title.] In *Burrowes* v. *Lock* (10 Vesey, 476), the Master of the Rolls said, "The plaintiff cannot dive into the secret recesses of the heart, so as to know whether the party did or did not *recollect* the fact, and it is no excuse to say he did not recollect it; at least it was *gross* negligence to *take upon him to aver distinctly and positively*, without giving himself the trouble to recollect whether the fact was so or not." The recent case of *Fuller* v. *Wilson* (3 Q. B. 58) is strongly in favour of the plaintiff. There, the defendant being owner of a house, employed an agent to sell it. The agent described it as free from rates and taxes, and did not know it to be otherwise; but it was, in fact, liable to certain rates and taxes, as the defendant knew. On the faith of the agent's description plaintiff bought the house. Held, the plaintiff might maintain case for deceit; though it did not appear that defendant had instructed the agent to make any representation as to taxes. The judgment was, no doubt, afterwards reversed, but not on this point. (3 Q. B. 76.) In *Railton* v. *Mathews* (10 Cl. & F. 934, 943), Lord Campbell thus laid down the rule as to fraud: "What is the meaning of *undue concealment* on the part of the defenders? I apprehend the meaning of those words is, whether Railton was induced to subscribe the bond by the defenders having omitted to divulge facts within their knowledge, which they were bound *in point of law* to divulge; and whether they concealed those facts *from one motive or another*, I apprehend, is *wholly immaterial*. It certainly is wholly immaterial to the interest of the surety, because, to say that his obligations shall depend on that which is passing in the mind of the party requiring the bond, appears to me preposterous; for that would make the obligation of the surety depend on whether the other party had a good memory, or whether he was a person of good sense, or whether he had the motive in his mind, or whether he was aware that these facts ought to be disclosed. The liability of a surety must depend on the situation in which he is placed, *or the knowledge communicated to him* of the facts of the case, and not upon what was passing in the mind of the other party, *or the motive of the other party. If the facts are such as ought to have been communicated, if it was material to the surety that they should be communicated, the motive for withholding them, I apprehend, is wholly immaterial*." In *Moens* v. *Heyworth* (10 M. & W. 147), which will, no doubt, be relied upon on the other side, Lord Abinger expressly says: "The fraud which vitiates a contract, and gives the party a right to recover, does not, in all cases, necessarily imply *moral turpitude*. There may be a misrepresentation as to the fact stated in the contract, all the circumstances in which the party may believe to be true." And Parke, B. referring to *Polhill* v. *Walter*, and *Foster* v. *Charles*, said, "In both those cases there was not any *deliberate intention* to deceive, yet it was called a *fraud*, though it was not of so grave a character."

Crompton, contrà.—In all cases of sales of goods, *caveat emptor* applies, as far as the *condition and quality* of the goods are in question, unless there is a *warranty* or *fraud*. *Legal* fraud, as distinguished from *moral* fraud, has no existence. The *scienter* is only a branch of fraud. In Smith's Leading Cases, in his note to *Chandelor* v. *Lopus* (vol. 1, p. 78) he thus lays down the rule: "When *Chandelor* v. *Lopus* was decided, the distinction was not then clearly recognized, which is now, however, perfectly established, between an action on a *warranty* express or implied, and the action upon the case for false representation, *in order to maintain which the defendant must be shewn to have been actually and fraudulently cognizant of the falsehood of his representation*." In *Budd* v. *Fairmanner* (8 Bing. 52), Best, C. J. says, "If an article be sold by description merely, and the buyer afterwards discover a latent defect, he must go further, *allege the scienter, and shew that the description was false within the knowledge of the seller*." So in *Meyer* v. *Everth* (4 Camp. 22), it was expressly held by Lord Ellenborough, that where upon a sale of goods the seller produces a sample, and represents that the bulk is of equal quality, if there be a sale-note which does not refer to the sample, this is not a sale by sample; if the goods turn out to be of inferior quality, the purchaser's remedy is by an action on the case for a deceitful representation. In *Freeman* v. *Baker* (5 B. & Ad. 797), it was held, that an action of deceit does not lie against a person making an untrue representation to another, on the faith of which the hearer acts, and thereby incurs damage, *if the party making such representation did not know it to be untrue*. So in *Dobell* v. *Stevens* (3 B. & C. 623), and the previous case of *Lysney* v. *Selby* (2 Ld. Raym. 1118), (*a*) which were actions, the first, for falsely and fraudulently misrepresenting the amount of business done on the sale of a public house, and the second, for misrepresenting the yearly rent of houses sold, the whole question turned on the *scienter*. In *Allen* v. *Hopkins* (13 Law Journ. 318, Exch.) Pollock, C. B. in giving the judgment of the Court, said that the rule of *caveat emptor* did not apply to the *title* of the plaintiff, but to the *condition* of the goods; a distinction which disposes of *Crosse* v. *Gardener*, and that class of cases. In *Early* v. *Garrett* (9 B. & C. 932), *Bayley*, J. says, "If a seller fraudulently conceal what he ought to communicate, it will render the contract null and void. But the authorities establish that *the concealment must be fraudulent*." And Littledale, J.—"The *scienter* or *fraud* is the gist of the action where there is no warranty"—referring to *Springwell* v. *Allen* (2 East, 448, n); and Parke, J. said, "The decisions shew that the purchaser cannot recover unless he prove *fraud* on the part of the seller. I think the learned judge properly stated to the jury that mere non-communication was not sufficient to avoid the contract, but that *it must be fraudulent*." In 3 Bla. Com. 166, the action of deceit is said to be maintainable for want of *title* to goods (which is clearly erroneous), and in the case, which is a peculiar and excepted one, of provisions *not wholesome*. The same class of cases may be seen Vin. Ab. Action, Case, Deceit, pp. 1, 2. They depend on manifestly peculiar circumstances. The law differs from the civil law in this, that the civil law gave a remedy for want of *title* even in the innocent vendor of *goods*, whereas *we* do not admit *any* right of action in *such* case, and only give the right for a defect of quality when it is *fraudulently* concealed or misrepresented. *Haycraft* v. *Creasy* and a large class of cases no doubt refer to representations not between the parties, but to third persons, yet if any distinction existed between *legal and moral fraud* it would equally have applied to those cases. In

(*a*) See these cases much commented on in the great case of *Small* v. *Attwood* (6 Cl. & Fin. 232).

Cornfoot v. *Fowke* (6 M. & W. 358), Lord Abinger, C. B. first suggested the distinction between legal and moral fraud; his lordship there observes that it is not correct to suppose that the legal definition of fraud and covin necessarily includes any degree of moral turpitude, and he refers to the law of insurance, in which he observes that "nothing is more certain than that the concealment or misrepresentation, whether by principal or agent, by design or by mistake of a material fact, however innocently made, avoids the contract on the ground of a legal fraud." It is submitted, however, that this remark of his lordship, although applicable to cases of insurance, is not so to other contracts, for the contract of insurance is *uberrimæ fidei*, and the rule respecting it which requires the full and unreserved disclosure of material facts is not so stringently applied in other cases, especially on the sale of goods. Moreover, Parke, B. in the decision last referred to, expressly repudiates the distinction insisted on by the Lord Chief Baron, and observes, "It is not enough to support the plea that the representation is untrue, it must proved to have been fraudulently made." It is very true that in *Fuller* v. *Wilson* (3 Q. B. 58), Lord Denman adverts with approbation to the position maintained by Lord Abinger in *Cornfoot* v. *Fowke*; but the judgment of the Court of Queen's Bench in that case proceeded on another ground, and Tindal, C. J. in reversing that judgment on error brought, expressly declined to enter into the question discussed in *Cornfoot* v. *Fowke* (3 Q. B. 1012); and certainly *Freeman* v. *Baker* (5 B. & Ad. 797), which is expressly in point, has not been overruled in any subsequent case. In *Collins* v. *Evans*, in error (13 Law Journ. N.S. Q.B. 180; reversing the judgment of the Court of Queen's Bench, 12 Id. 339; and 3 Q. B. 78, note (*b*)), the action was brought for a false representation, whereby the sheriffs of London were induced to detain the wrong person under process, the defendants pleaded that when they made the representation they had good and probable reason to believe, and did with good faith believe, that the representation was true, and the question which ultimately came before the Court of Exchequer Chamber was, whether the defendants having reason to believe, and actually believing a fact to be true, and representing it as such to the plaintiffs, were liable to an action, if in the event they proved to have been mistaken. Tindal, C. J. in delivering the judgment of the Court, stated the result of the authorities to be, that a mere representation untrue in fact, but honestly made, is not actionable, and that to render it so it is essential to prove fraud. His lordship referred to *Humphreys* v. *Pratt* (5 Bligh, N.S. 154), and distinguished that case on the ground that the sheriff was there made the mandatory or agent of the judgment creditor, for the purpose of taking the goods; that he was consequently in the eye of the law a trespasser, although acting innocently, and might recover over against his master or principal the damages which he was obliged to pay, in consequence of obeying his directions. *Taylor* v. *Ashton* (11 M. & W. 401), does not militate against the general principle now contended for: there an action was held maintainable for a false representation made for a fraudulent purpose, with intent to induce the plaintiff to do an act which he subsequently did, and from which damage resulted to him; and in the course of the argument in that case Parke, B. observes, that "there may undoubtedly be a fraudulent representation, *if made dishonestly*, of that which the party does not know to be untrue, if he does not know it to be true," a proposition in the correctness of which the defendant in error is perfectly willing to acquiesce. His lordship further remarked, in delivering the judgment, that independently of any contract between the parties, no one can be made responsible for a representation like that under the consideration of the Court, unless it be *fraudulently made*. It is submitted, therefore, that the rule of *caveat emptor* is applicable in all cases relating to the sale of goods, unless there be a warranty, or unless there be proof of a fraudulent motive or intention in the party making the representation which turns out to be untrue. Is there or is there not such a doctrine as that relative to the *scienter*? The argument for the plaintiff in error, if valid at all, must go to the extent of saying that there is not. The case of *Smout* v. *Ilbery* (10 M. & W. 1), on which the counsel for the plaintiff relies, turned on the question whether a party holding himself out as agent was subsequently estopped from denying that he acted as such, and the judgment of the Court delivered by Alderson, B. contains many observations applicable to the law of principal and agent, but which are not intended to [illegible] to contracts like the present for the sale of [illegible] nor to affect the law relative thereto. In conclusion, it is conceived that the Court has only one alternative, either to support the ruling of the learned judge, which seems strictly in accordance with the great current of authorities, or to deny the necessity of averring the *scienter* in a declaration grounded on a false representation, and thereby to alter the practice which has uniformly obtained in pleading during six or seven hundred [illegible] has been during that period uni[illegible] as correct.

In adopting the former course, the Court will establish a principle consistent with justice and common sense, viz. that good faith is sufficient to protect the party making inadvertently an untrue representation, a principle, moreover, which can entail no real hardship on the person who sustains loss, inasmuch as he might have protected himself from such loss by requiring a warranty as to the quality of the goods purchased. In the absence of such warranty the Court will not afford its aid, unless fraud can be shewn on the part of the vendor.

Cowling, in reply.—The principle for which the plaintiff in error contends is expressly laid down by Dr. Story in the 2nd edition of his Treatise on Equity Jurisprudence, vol. 1, p. 166. After considering the subject of misrepresentation generally, he observes as follows:—"Whether the party thus misrepresenting a fact knew it to be false, or made the assertion without knowing whether it were true or false, is wholly immaterial, for the affirmation of what one does not know or believe to be true is equally, in morals and law, as unjustifiable as the affirmation of what is known to be positively false; and even if the party innocently misrepresents a fact by mistake, it is equally conclusive, for it operates as a surprise and imposition upon the other party." The rule here stated is laid down in similar terms in Roscoe on Evidence, by Smirke (366), and obtained in the civil law. The question resolves itself into this—What is fraud? is it not a legal fraud to mislead another, however innocently this may be done? It is submitted that the maxim of *caveat emptor* is not applicable when the purchaser of chattels has been thus misled and thrown off his guard, and has thereby incurred damage. It is conceded on the other side, that an action will lie if a person *sciens*, though with the best motives, says what is not true; why should it not also lie without proving or averring the *scienter*? In trespass, the party doing that which constitutes a legal trespass is liable, however innocent his intention; the intention, as in the case of an assault committed by mistake on the wrong party, goes only in aggravation of damages. It is by no means necessary to contend, in behalf of the plaintiff's right to recover, that every representation is equivalent to a warranty; it will only be so when made respecting a material fact, and when it must have an evident tendency to mislead the other party. Is not such a misrepresentation in legal language fraudulent? Many of the cases which have been cited on the other side are clearly distinguishable from the present. They proceed on the principle that the *scienter* must be averred when there is no dealing between the immediate parties to the contract, or those directly interested in the subject matter of the representation. To this class of cases belong *Pasley* v. *Freeman* (3 T. R. 51), *Haycraft* v. *Creasy* (2 East, 92), and others in which the facts were similar. In Selwyn, N. P. 10th edit. tit. Deceit, p. 637, several cases are cited, in which an action has been held maintainable in the nature of deceit, but where there was neither an express warranty of the goods sold, nor any false representation respecting them; in these cases, it is admitted that the *scienter* must be averred and proved, because the gist of the action is the *implied* warranty. But if the test of the party's knowledge were to be applied wherever there was an express affirmation at the time of sale, it would lead to much uncertainty. A forgetfulness of facts must be held equivalent to the absence of knowledge *ab initio* (*Kelly* v. *Solari*, 11 Law Journ. N. S. Exchequer, 10), and great difficulty would be experienced in applying such a principle to the facts which might present themselves. On looking at the facts of the case before the Court, it will be seen that an untrue representation was made, that a dealing was going on between the immediate parties, that there was a motive to mislead, and that the contract of sale was actually completed by the plaintiff whilst under a misconception caused by the defendants' statement. Do not these facts constitute a *primâ facie* case of legal fraud? The term *moral* fraud is too wide and too indefinite to admit of a correct application: it may be conceded that in the present case there was no moral fraud, but it is contended that there was a legal fraud; there was *injuria* coupled with *damnum*, and for this the plaintiff has a right of action. As to the argument that the contract of insurance, which is avoided by misrepresentation, differs from other contracts, the answer is, that it does so only in the degree of *fides* requisite to be observed. The numerous authorities which have been relied upon for the defendant will be found on examination inconclusive. *Chandelor* v. *Lopus* (Cro. Jac. 4), if it proves any thing, proves too much; besides, in that case the warranty was not made at the time of sale. [TINDAL, C. J.—How would you declare in such a case? Was not the affirmation very near a warranty?] In a similar case it is conceived that a jury would at the present day find it to be a warranty; the authority of the case just mentioned is not to be relied on. *Budd* v. *Fairmaner* (8 Bing. 48) only decides that a warranty must be complied with in every particular, whereas a representation must be true only as to *material* facts which would influence the purchaser in completing his bargain. (2 Wms. Saund. 6th ed. 200 c, note (c).) In *Meyer* v. *Everth* (4 Camp. 22), there was a contract in writing, and Lord Ellenborough does not say that the action for false representation would not lie without knowledge being proved. *Freeman* v. *Baker* (5 B. & Ad. 797) differs from the present case. There the inventory was in writing, and there was no ground for presuming fraud; on the contrary, the sale of the ship and stores was expressly stated to be "with all faults," so that the purchaser was on his guard; but here there was no such agreement nor proviso. *Dobell* v. *Stevens* (3 B. & C. 623), is quite consistent with the argument now submitted: that case, indeed, proves nothing either way; it only shews that if there be fraud the action will lie. In *Springwell* v. *Allen* (2 East, 448, note), there was neither a warranty nor a representation, and consequently the plaintiff was nonsuited at the trial. In *Williamson* v. *Allison* (2 East, 446), there was an express warranty, and therefore it was held that the *scienter* need not be charged nor proved. Neither are these cases in point where there is an implied contract, as in the sale of provisions. *Medina* v. *Stoughton* (Salk. 210), and *Dale's* case (Cro. Eliz. 44), differ from that now under consideration, because here the defendant knew, or had the means of knowing, the falsehood of the statement. In *Parkinson* v. *Lee* (2 East, 314), there was a warranty that the bulk of the hops sold answered the sample, and there was a latent defect both in the bulk and sample, and it was held, that the law would not raise an implied warranty that the commodity sold should be merchantable. In the present case there was no express warranty, and the bulk of the cotton did not correspond with the sample. In *Dunlop* v. *Waugh* (1 Peake, N. P. C.), the defendant spoke as to his belief only, and stated his means of information: that was not a case of false representation. The opinion of Lord Abinger, C. B. in *Cornfoot* v. *Fowke*, is expressly in the plaintiff's favour, and was adopted by the Court of Queen's Bench in *Fuller* v. *Wilson*; or at all events was referred to with approbation. The observations of Heath, J. and Gibbs, J. in *Pickering* v. *Dowson* (4 Taunt. 779), must be taken with reference to the facts then before the Court, and are not applicable in the present case. The recent decision of the House of Lords, in *Railton* v. *Mathews* (10 Clark & Fin. 934), is strongly in support of the plaintiff; it was there held that mere non-communication of circumstances affecting the situation of the parties, and material for the surety to be acquainted with, and within the knowledge of the person obtaining a surety bond, is undue concealment, though not wilful nor intentional, nor with a view to any private advantage. As to the difficulty which it has been suggested might arise in drawing the declaration grounded on a false representation, without alleging fraud, the answer is, that fraud would be alleged; and the real question is, as to the meaning of the word "fraud." So in very many cases the *scienter* would likewise be a material averment. The remaining recent decisions which have been insisted on for the defendant may be easily disposed of. *Fuller* v. *Wilson*, when brought before the Court of Error, went off on a different point from that which will have now to be decided. *Evans* v. *Collins* is within that class of cases of which *Pasley* v. *Freeman* is the leading authority; there was no dealing between the parties, and, consequently, no incentive to fraud and deceit in making the representation. So in *Taylor* v. *Ashton* the parties were entirely separate and unconnected with each other, and therefore fraud or some dishonest motive ought to have been shewn. On the whole, it is submitted that all, or nearly all, the cases which have been hitherto decided will be found distinguishable from the present; and that, whether considered as a question of law or morals, it is highly important for the interests of society and consistent with strict justice that the purchaser of goods should be protected, and should have a remedy when prejudiced by the false representations of the vendor. Such remedy can only be obtained in the present case by ordering a *venire de novo*.

The COURT at once gave judgment, without taking time to consider,

TINDAL, C.J. observing, We think the direction of the learned judge was perfectly correct. The action is brought for a false and fraudulent representation alleged to have been made by the defendant in the sale of certain cotton to the plaintiffs, that the cotton was of the same description, and of equal and like quality with the sample by them exhibited, whereas, in fact, it was not; the action not being brought upon an express warranty, nor any express allegation being made in the declaration that the defendant *knew*, at the time, that the bulk did not equal in description or quality the sample which had been so exhibited.

Upon the trial the learned judge directed the jury that unless they could infer that the defendants or their brokers were acquainted with the fraud that had been practised in the packing, or had been acting in the transaction against good faith or with some fraudulent purpose, the defendant was entitled to the verdict, and we consider this the proper direction. The rule which is to be derived from all the cases appears to us to be that where, upon the sale of goods, the purchaser is satisfied without requiring a warranty

which is a matter for his own consideration, he cannot recover upon a mere representation of the quality by the seller unless he can shew that the representation was bottomed in fraud. If, indeed, the representation was false to the knowledge of the party making it, this would, in general, be conclusive evidence of fraud; but if the representation was honestly made and believed at the time to be true by the party making it, although not true in point of fact, we think this does not amount to fraud in law; but that the rule of *caveat emptor* applies, and the representation itself does not furnish a ground of action; and, although the cases may in appearance raise some difficulty as to the effect of a false assertion or representation of title in the seller, yet it will be found, on examination, that in each of those cases there was either an assertion of title embodied in the contract, or a representation of title, which was false, to the knowledge of the seller. The rule we have drawn from the cases appears to us to be supported so clearly by the early as well as the most recent decisions, that we think it unnecessary to bring them forward in recital, satisfying ourselves by saying that the exception must be disallowed, and the judgment of the Court of Exchequer affirmed.

Bankrupt and Insolvent Courts.

COMMISSIONERS' COURTS.

Saturday, June 13.

Re WENHAM.

(Before Mr. Commissioner GOULBURN.)

Where a party is described in his petition as a prisoner in the Queen's Prison, it is a sufficient description of his quality to satisfy the terms of the Act of Parliament.

Quære, if an insolvent is detained in custody under an attachment for costs, the Court has power, before the final order for protection is granted, to make an order for the insolvent to be discharged from custody.

Dowse, on behalf of the detaining creditor, objected that this was not such a description of the quality of the insolvent as is required by schedule A, No. 1, of the 7 & 8 Vict. c. 96. It is there directed that the name, address, and quality of the insolvent shall be inserted in the petition. If the insolvent was not in any business, he should have been described as a gentleman.

Sturgeon, for the insolvent.—The insolvent cannot properly be described as of any quality. The term gentleman would not be a proper description, as the insolvent was, when taken in execution, a stock-broker, but he could not properly be described as a stock-broker, because he did not carry on such business at the time of filing his petition.

His HONOUR thought the description sufficient, and granted the interim order.

A question now arose as to the power of the Court to discharge the insolvent from custody. An attachment for costs having been lodged against him at the prison previous to his being brought up to the Court this day for his interim order.

Dowse contended that the 23rd section, which gave the Court power where a prisoner is in custody at the time of filing his petition to discharge such insolvent from custody, only applied to cases where the prisoner was in custody under an execution. The 26th section provides that the final order, when granted, shall extend to all process issuing out of any court for any contempt for non-payment of money or of costs, and the 29th section provides that when a petitioner is detained under any process in respect of which he is protected by the final order, the Court may order him to be discharged. The legislature, therefore, clearly intended to make this distinction, that upon filing a petition a prisoner should be discharged out of custody as to all executions, but not as to any other process until his final order for protection was granted.

His HONOUR said, such had been the construction put upon the Act, which was not very clear in that respect; he should, therefore, make an order for the insolvent's discharge *vale at quantum*.

Wednesday, June 18.

(Before Mr. Commissioner FONBLANQUE.)

Re COLLIS.

Where an insolvent had inadvertently omitted to insert in his petition the amount he had paid to his attorney, as required by the form given in the Act, the Court will not on that ground dismiss his petition.

This insolvent was opposed on the ground that there was no statement in his petition of any sum having been paid by him to his attorney for the costs of the petition, as required by the form given in the Act of Parliament. The balance-sheet shewed that a sum had been paid, and it ought to have been so stated in the petition.

His HONOUR.—As the money paid to the attorney is set out in the schedule, it is evident that concealment was not intended. I shall not dismiss this petition. If I thought the insolvent had intended concealment I should have dismissed his petition.

Thursday, June 19.

(Before Mr. Commissioner HOLROYD.)

Re HANNELL.

Where a party in insolvent circumstances assigns over his property for the benefit of his creditors, and some of them refuse to come in, he ought to come at once to this Court.

Where some of the creditors had signed a deed of composition, and received a dividend, and others refused to sign, this Court will not grant a final order until all the creditors are placed in a similar situation as to the dividend.

Where an insolvent defended an action brought against him, and at the trial one issue was found for the plaintiff, and a nolle prosequi entered as to the other issues, Held, not a vexatious defence.

Insolvent some time previous to presenting his petition, assigned over all his property to trustees for the benefit of creditors. A dividend had been paid to such of the creditors as had signed the deed.

Dowse, on behalf of a creditor who had refused to sign the deed, and had brought an action for his debt, opposed the final order on the ground of a vexatious defence to the action, and also of undue preference. Insolvent had defended the action. At the trial a verdict was given for the plaintiff on the first issue, and a *nolle prosequi* entered as to the remaining issues.

Lucas, for the insolvent.—This was not a vexatious defence. Plaintiff, by the course he took, admitted that he had brought his action for more than he could support. Insolvent was right in defending it. As to the undue preference, the insolvent is ready to pay the plaintiff the balance of the costs (after allowing the amount of the costs on the *nolle prosequi*) in full, and a dividend on the plaintiff's debt equal to that which the other creditors have received.

Dowse abandoned the vexatious defence, and agreed to the proposal for payment.

His HONOUR.—As all the creditors did not agree to come in under the composition deed, the insolvent ought to have come at once to this Court, where his estate would have been properly administered, instead of some of his creditors receiving a dividend and others nothing. I shall not grant the insolvent his final order until all the creditors are put in a similar position as to the dividend.

The money was then paid according to the proposition, and the final order granted.

Monday, June 23.

Before Mr. Commissioner SHEPHERD.

Re LANE.

The mere fact of a party being insolvent is not sufficient evidence of his having contracted debts without reasonable assurance of being able to pay.

The insolvent was supported by *Cooke*. His debts were considerable. He had some trifling property, which had been given up, and his wife had a good income to which he would be entitled in the event of his surviving her. A fair proposal was made on behalf of the insolvent to his creditors, with the concurrence of his wife, for the liquidation of his debts.

Sturgeon, on behalf of several of the creditors, agreed to the terms of the proposal, and to withdraw their opposition. One creditor, who opposed by a separate attorney, refused to accede to the proposal, and the opposition on behalf of this creditor was gone into. It appeared that a small part of the debt was for goods, and the remainder on a renewed bill of exchange. The original bill had been accepted by the insolvent and discounted by the creditor so long as three years ago, and from time to time renewed. The amount due for goods had been tendered to the creditor. It was contended that the insolvent had contracted this debt without a reasonable assurance of being able to pay.

His HONOUR.—This is only the renewal, not the contracting of a fresh debt. The question is, does this come within the penal condition of the Act. There is nothing to shew that when this debt was contracted, three years ago, the insolvent had not reasonable assurance of being able to pay. It has been decided that the mere fact of a party being insolvent is not sufficient to bring him within the condition. If it were so, no insolvent could be discharged; and I do not see what would be the use of the Act, unless in the case of a sudden crash. This clause ought to be construed strictly. I do not think any case is made out against the insolvent. The final order must be adjourned from time to time, until the arrangement is carried out; the insolvent to have his protection in the mean time.

THE LEGISLATOR.

Summary.

THE Settlement Bill is abandoned for the session, and it becomes more than ever doubtful whether any one of the Bills for the amendment of the law will be added to the statute-book this year.

Imperial Parliament.

PUBLIC BUSINESS TRANSACTED.

BILLS READ A FIRST TIME.

Tuesday, June 24.

Accidents Compensation.

Wednesday, June 25.

Foreign Lotteries—to amend an Act of 7 Wm. 4, for preventing the advertising of foreign and other illegal lotteries, and to discontinue certain actions commenced under the provisions of the said Act.

BILLS READ A SECOND TIME.

Friday, June 20.

Assessed Taxes Composition
Bills of Exchange, &c.
Merchant Seamen.

Monday, June 23.

Lunatic Asylum and Pauper Lunatics
Lunatics Bill
Art Unions.

BILLS READ A THIRD TIME AND PASSED.

Wednesday, June 25.

West India Islands Relief
Sir Henry Pottinger's Annuity.

PRIVATE BUSINESS TRANSACTED.

BILLS READ A FIRST TIME.

Tuesday, June 24.

Lord Barrington's Estate.

Thursday, June 26.

Morden College.

BILLS READ A SECOND TIME.

Monday, June 23.

Epping Railway.

Wednesday, June 25.

Lord Barrington's Estate
Dublin Pipe Water.

BILLS READ A THIRD TIME AND PASSED.

Friday, June 20.

London and Brighton Railway, Horsham Branch
Eastern Union Railway
North Wales Mineral Railway.

Monday, June 23.

Dublin and Belfast Junction Railway
Ulster Extension Railway
Cromford Canal
Manchester, Bury, and Rossendale Railway
Great Southern and Western Railway, Ireland
St. Helens Improvement
Chester and Birkenhead Railway
Ashton, Stalybridge, and Liverpool Junction Railway
Cornwall Railway.

Tuesday, June 24.

Oxford, Worcester, and Wolverhampton Railway
Totnes Markets and Waterworks
Lyme Regis Improvement
Oxford and Rugby Railway.

Wednesday, June 25.

Falmouth Harbour Improvement.

Thursday, June 26.

Cork and Bandon Railway
Keyingham Drainage
Westminster Improvement
Liverpool and Bury Railway
Sheffield Waterworks
Lord Barrington's Estate
West London Railway.

SESSIONAL PRINTED PAPERS.

Par. Num.
373. Bills—Lunatics
382. — Coal Trade, Port of London, amended
385. — Assessed Taxes Composition
387. — Bills of Exchange, &c.
391. — Sir Henry Pottinger's Annuity
392. — Merchant Seamen
393. — Art Unions
375. — County Rates, amended
400. — Colleges, Ireland, amended
401. — Poor Law Amendment, Scotland, amended
402. — Assessed Taxes composition, amended
333. Pauper Lunatics—Return
173 and 226. Railways, Durham and Eastern Yorkshire Division—Map
Public Works, Ireland—Thirteenth Annual Report
Circuit Regulation Commission—Report
380. Milbank Prison, Lighting and Ventilating—Return
351. Poor Law, Ireland—Return
367. Municipal Boroughs, Ireland—Abstract of Statements of Moneys received and expended
376. Mails Conveyance—Account
328. East India—Copy of Acts passed in 1843
397. Printed Papers, Howard v. Gossett—Second Report of Committee
363. Removal of Paupers—Return
371. Oaths, Ireland—Returns
395. Railway Bills, State and Progress of—Report of Committee
317. Railway Subscribers of 2,000*l*. and upwards—Return
The Porte—Papers relating to the Claims of the Emir Beshir El-kassim
Portendic—Further Papers

HOUSE OF LORDS.

SMALL DEBTS BILL.

MONDAY, JUNE 23.—Lord BROUGHAM moved the second reading of the Small Debts Bill.—The question was immediately put, and the Bill read a second time.—The noble and learned lord then moved that the 155th of the standing orders of the House be suspended in order that the Bill might be committed forthwith. The Bill (he said) had been sent down to the Commons, and returned from that house in consequence of an informality, which made it necessary, after a slight verbal alteration, to re-introduce the measure, and pass it through its several stages.

CHARITABLE TRUSTS BILL.

The LORD CHANCELLOR moved the committal of

the Charitable Trusts Bill.—Lord CAMPBELL said there were certain parties affected by this Bill who were desirous of being heard by counsel at the bar.—The LORD CHANCELLOR said he intended merely to lay the amended Bill on the table, in order that it might be printed.—The Bill went through the committee, and was ordered to be printed as amended.—The LORD CHANCELLOR laid upon the table a Bill to amend the law of real property, which was read a first time.

HOUSE OF COMMONS.

THE LAW OF SETTLEMENT.

MONDAY, June 23.—In answer to a question from Mr. S. CRAWFORD, Sir J. GRAHAM said, that not only in that house, but in the country, there existed so great a contrariety of opinion respecting the law of settlement, that it was not his intention to press his proposed alterations in the present session. But, as he believed there was no great objection to the remaining and larger part of the Bill, which related to the law of removal and the mode of trying appeals, he hoped the House would agree to the second reading of the Bill, in order that a legislative remedy might be immediately applied to the existing state of the law upon these two points.

RAILWAY BILLS.

The following is the report from the Select Committee appointed to inquire into the state and progress of the several railway bills now before Parliament, and to consider and report their opinion as to what measures should be adopted by the House, in order to facilitate the re-introduction, and to prevent expense and delay in the progress through Parliament in the next session, of such railway bills as it may be found impossible to pass into laws from want of time for their proper investigation during the present session:—

Resolved,—That in order to prevent expense and delay in the progress through Parliament in the next session of such railway bills as it may be found impossible to pass into laws, from want of time for their proper investigation during the present session, it is desirable that a bill should be passed to prevent the proceedings on such bills being discontinued by a prorogation of Parliament.

Resolved,—That this privilege shall be extended to such bills only as shall have been reported to the House and ordered to be engrossed.

June 20, 1845.

THE MAGISTRATE.

Summary.

THE next week will call the magistracy of the country to the duties of the Quarter Sessions. We take the opportunity of again reminding them that they on whom devolves the discharge of the legal business of these sessions require, as a matter of justice, that notice of the places and times of holding them should be given in some central medium, where all who seek might find it, instead of limiting the announcement as now to the local newspapers. The example has been set by many counties and boroughs, as the columns of the LAW TIMES will prove, and why should it not be followed by the rest? In the cities and boroughs especially, where the times of holding the sessions vary, such a notice ought to be given universally, and if the proposition were properly submitted by our readers resident in such localities, it would, we doubt not, be readily adopted.

In *Reg.* v. *Greenaway* and *Reg.* v. *Cary*, judgment was delivered yesterday, and the Court decided that, under a *subpœna duces tecum*, issued from the Crown Office, parish officers are bound to appear with the rate-books before the removing magistrates, but they expressly declined to say whether they would be bound to give them in evidence when so produced.

REVIEW OF MAGISTRATES' CASES IN EASTER AND TRINITY TERMS, 1845.

UNLAWFUL POSSESSION OF WOOLLEN GOODS, STATUTE, CONVICTION. — *Reg.* v. *Wilcock* (5 Law. T. 170).—The 17th Geo. 3, c. 56, was enacted to give summary conviction of persons who had woollen materials unlawfully in their possession. This case decides that the conviction need not set out that the goods were found *concealed* in the house of the offender, or that they were found upon search made for them, no such limitation being imposed by the Act. The offence consists in the possession of goods suspected to be purloined, without being able to give a satisfactory account of them. A mistake has been made in the title of the 13 Geo. 3, which the 58 Geo. 3, c. 57, intends to repeal, under a reference to 17 Geo. 3; therefore, the penalties need not be specifically apportioned, as would have been the case if the 17 Geo. 3, c. 56, had been repealed. The other point decided by this case is, that where the justices who convict are different from those who receive the information, the conviction must be drawn up conformably to the facts under the 3 Geo. 4, c. 23, s. 2. *Jones* v. *Gurdon* (2 Q. B. 600) contains the law on this point.

QUO WARRANTO.—*Reg.* v. *Hewdall* (5 Law T. 90).—This case decided merely that where the facts relating to the election of a burgess are incorrectly stated in the affidavits, the Court will not entertain the application.

RATEABILITY OF BRIDGES.—*Reg.* v. *Paynter* (5 Law T 91).—Where the shareholders of a bridge are tenants in common, they are assessable, although the property may be vested in trustees, and any one may be rated, he being thrown upon his own resources to get contributions from the others. A *mandamus* went to compel the justices to issue a distress warrant, in the case of the *Putney Bridge*, upon Mr. Chacemore, one of the shareholders.

CHARGEABILITY, EVIDENCE OF.—*Reg.* v. *Manchester* (5 Law T. 172).—In this case, the pauper stated that she was residing in the workhouse in that town, and was now chargeable thereto. Although it was argued that this clearly did not shew relief, the Court held it did, and Coleridge, J. added, that the statement need not shew *conclusive evidence*. This decision effectually relaxes the rule as laid down in *Reg.* v. *High Bickington* (1 Bit. & Sym. M. C. 1).

In the case of *Reg.* v. *Willatts* (5 Law T. 172), it was held, that the statement that the pauper "had lately *intruded* and come into the said parish, and had become chargeable," was not sufficient.

CHARGEABILITY, EVIDENCE OF. — *Reg.* v. *Great Bolton* (5 Law T. 191).—This case very distinctly decides that it is not necessary to do more than state the fact that *relief* is given to the pauper to prove the fact of chargeability. The pauper here stated that she was "receiving relief from, and is actually chargeable to, the parish of ———." The case of *Reg.* v. *High Bickington* went no further, and the remark there made by Patteson, J. indicated what is now expressly ruled—that to say relief was given suffices.

SECOND ORDER OF REMOVAL.—*Same case.*—An order having been obtained and quashed, and a case granted, the removing parish may obtain a second order before the expiration of the six months within which the case granted on the first order might have been removed. In this case the Court was of opinion that it was competent to the party to whom a case had been granted to forego that benefit, and that as there had not been any attempt to pursue both remedies, the respondents must be taken to have abandoned the case on the first order altogether, which entitled them to proceed with the second. The Court, however, determined this case chiefly on the ground that the defect for which the order was quashed was one of form, and that it would not have precluded the respondents from removing again, even if the case had been decided against them. Whether it would have been permissible thus to give the go-by to a case granted on some point which might affect the merits, and so bar the respondents from a second removal to the same settlement (*Reg.* v. *Charlbury Walcott*, 13 Law. Jour. M. C. 19), is, to say the least of it, extremely doubtful. We incline to think that in such a case the Court would compel the respondents to stand or fall by their first order.

CHARGEABILITY, EVIDENCE OF PRESENT.—In *Reg.* v. *Stockton-on-Tees* (5 Law T. 194), the words "is residing and has become chargeable" were held sufficient evidence of present chargeability.

DOCUMENTARY EVIDENCE.—*Reg.* v. *East Rainton* (5 Law T. 195).—Wherever a deed is produced before the removing justices, let a copy be sent to the receiving parish together with the examinations; for, to omit it is fatal to the order.

VARIANCE IN EXAMINATION.—*Reg.* v. *Killerbey* (5 Law T. 195).—Wherever the ground of appeal merely traverses a settlement in the words of the examination, it is not competent to the appellants to take objection thereunder to a variance of date, no date having been specifically named. In this case it appeared that the examinations set up a settlement by hiring and service with Thomas Booth, and service thereunder for two years, from November, 1819, to November, 1821, and a further settlement in the same parish by hiring and service with John Booth, the son of Thomas Booth, "after the expiration of the said service with Thomas Booth," &c. and service thereunder for a year. The examinations shewed that the pauper had married in March, 1822. One ground of appeal traversed the first settlement; another traversed the second settlement, stating that the pauper did not gain a settlement, &c. by hiring and service "after the expiration of the said service with Thomas Booth," &c. At the trial of the appeal, it appeared that the first service had been from 1817 to 1819, and the first settlement fell to the ground, and the Court held, that they had traversed the specific service, and not the specific year; and, indeed, could not do so by a traverse in the pauper's own words, because he did not give a date to the period of the second service, except by implication. If the appellants meant to rely on the variance, they should have pointed it out. This is an important decision, and certainly increases the nicety with which grounds must be drawn.

ESTATE SETTLEMENT.—*Reg.* v. *Cuddington* (5 Law T. 172).—Nothing is worse defined that what constitutes such an occupancy of a tenement by a pauper as amounts to adverse possession, and gives an estate settlement. We shall have occasion shortly to deduce some general rules from the decisions on this vexed question; in the present case it appeared that the pauper having originally built a house on waste land, had paid 2s. 6d. yearly to the lord. It was held, that this did not give a settlement, as the rent was an acknowledgment of tenancy.

SERVICE OF COPY OF ORDERS OF SESSIONS.—*Reg.* v. *Mortlock* (5 Law T. 140).—The order of a Court of Sessions is sufficiently served by a copy of it being sent to the party on whom the service is to be made; for the order is, in point of fact, nothing more than an entry in the minute book of the Sessions, which it would be impossible to serve. Where, moreover, the justices order the costs to be ascertained by the clerk of the peace, such costs, when ascertained, form part of the order itself.

ORDERS OF REMOVAL: SIGNATURES.—*Reg.* v. *Worthingbury* (5 Law T. 173).—Orders signed by justices with the initials of their Christian names, and their surnames only in full, are good; magistrates will do well to adhere to their usual signature. These objections are a great discredit to those who bring them, and are invariably condemned by the Court.

LEGITIMATE CHILD.—*Reg.* v. *Tolley* (5 Law T. 196).—The mere statement that A.B. is the child of C. D. is equivalent to saying that he is the legitimate child; for, says Lord DENMAN, C. J. "the law does not contemplate the relation of illegitimate children at all." *Reg.* v. *Bakewell* (5 Law T. 53) his lordship thought quite distinguishable, because the Sessions were the only judges of the facts; here they decided, subject to the objection.

HIGHWAY ACT: NOTICE OF APPEAL.—*Reg.* v. *Derbyshire* (5 Law T. 193).—On appeal against an order made by justices upon a surveyor of highways, it is essential that notice of the appeal be given within six days of the making of the order, whether the order has been served or not.

SUBSEQUENT SETTLEMENTS.—*Reg.* v. *St Margaret's, Westminster* (5 Law T. 195).—Wherever it appears there is a subsequent settlement to the one relied on, it vitiates an order based on the anterior one. These subsequent settlements must be traced out or not named. (See *Rex* v. *Beverley*, 1 B. & Ad. 201; *Reg.* v. *Yelvertoft*, 1 Bit. & Sym. M. C. 156; 1 Dav. & Mer. 310.)

JURISDICTION TO MAKE ORDERS.—*Reg.* v. *Stockton-upon-Tees* (5 Law T. 194).—Orders of removal must distinctly shew that the complaint of chargeability was made to justices acting within their jurisdiction.

BASTARDY ORDERS.—*Reg.* v. *Justices of Lancashire* (5 Law T. 202).—This was only a Bail Court decision. It is to the effect that the 7 & 8 Vict. c. 101, gives no discretion to the justices as to hearing the complaint of the mother of a bastard child; not even where an order may have been previously obtained by the guardians under 2 & 3 Vict. c. 85; this startling decision, however, only goes to the length of compelling the justices to

hear the case,—not to grant the order under such circumstances.

SIGNATURE BY GUARDIANS OF NOTICES OF CHARGEABILITY.—*Reg.* v. *St. Mary, Lambeth*, and *Reg.* v. *St. Mary, Southampton* (5 Law T. 215).—The Poor Law Act requires the notice to be sent "by the overseers or guardians of the parish obtaining such order," &c. In the former case, the parish constituted a union, and there it was of course held, that as the parish and the union were identical, the guardians of one were guardians of the other, and might sign *qua* guardians of the parish. But in the second case, where three parishes were united in one union, it was held they might not; the guardians of *three* parishes not being identical with the guardians of *one*.

EVIDENCE: LOST DOCUMENT.—*Reg.* v. *Kenilworth* (5 Law T. 215).—This case contained no point whatever. It was merely a question of whether sufficient search in the likeliest place to find it had been made for an indenture, to let in secondary evidence of it. The Court held there had, and rebuked the Sessions for sending such a case to them at all. It ought to be understood by justices that they are not justified in troubling the Court of Queen's Bench with these trivial matters, involving no point of law. They must decide themselves.

FORMAL DEFECTS IN BASTARDY ORDERS.—To say acting in a division, instead of *for* a division, is cured by the 8 Vict. c. 10 [the Lumley Act]. (*Reg.* v. *the Justices of Westmoreland* (5 Law T. 220.)

NOTICE; DAYS TO BE RECKONED.—*Reg.* v. *Justices of Middlesex* (5 Law T. 221).—Where an Act requires so many days' notice "*at least*" to be given of an appeal, they are to be clear days, exclusive of the days of the service and of the sessions.

PRACTICE OF SESSIONS.—*Reg.* v. *Justices of Montgomeryshire* (5 Law T. 220).—The Court of Quarter Sessions are the only judges of their own practice, and the Queen's Bench will not interfere with any of their rules unless they are contrary to reason. Where, therefore, by a rule of the Montgomery Sessions, it was ordered that twenty-eight days' notice should be given of an adjourned appeal, and the sessions refused to hear an appeal because such rule had not been complied with; Held, on motion for a *mandamus*, that the rule was not so unreasonable as to induce the Court to interfere. Here we must conclude for the present our review of the many magistrates' cases which have poured in upon the two last Terms; some stragglers we reserve for early notice: the material decisions have been given. We cannot conclude this notice without again advising parish officers and country practitioners to make themselves familiar with the working and principles of the law as it is, and not to rest in delusive expectations of a change which is entirely *in nubibus*. The cases above noticed exhibit a degree of ignorance and incompetency on the subject which it is strange should still exist, after so much has been done, ruled, and written to make known at least the elements of parish law. So, however, it is; and to judge from the length of the last Crown paper, it seems that litigation is fattening upon growing blunders and increasing conflict. J. C. S.

TO THE EDITOR OF THE LAW TIMES.

SIR,—In your "Review of Magistrates' Cases" in the LAW TIMES of last week, under the head of "Secondary Evidence," you observe, "that you are quite at a loss to understand the decision in *Reg.* v. *Orton*, as the 7 & 8 Vict. c. 101, s. 70, expressly enables justices to summon witnesses to appear and give evidence." As I think you appear to be under some misapprehension on this point, perhaps you will be kind enough to permit me to make a remark or two upon the subject. The case of *Reg.* v. *Orton* appears to me to have been rightly decided, as it has only decided that secondary evidence of a rate-book cannot be admitted by justices in petty sessions, where an overseer is summoned by a justice of the peace to appear in petty sessions and produce such rate-book. I do not know of any power possessed by justices to summon any party to produce any thing whatever; and indeed the 7 & 8 Vict. c. 101, s. 70, confers upon them no such power; it only gives justices power to summon parties "to appear and give evidence;" and farther, it only gives them power to summon parties to appear and give evidence "in any proceedings to be had before justices in petty or special sessions, or out of sessions, under the provisions of the said Act, or of any of the Acts required to be construed as one Act therewith." Now the Act required to be construed with it as one Act is the 5 & 6 Vict. c. 57, and this latter Act requires to be construed with it as one Act, the 4 & 5 Wm. 4, c. 76, and some subsequent Acts, but no prior ones; and as the power of justices to grant orders of removal, and consequently to take examinations, is not conferred by the 4 & 5 Wm. 4, c. 76, or any subsequent Act, I contend that the power in 7 & 8 Vict. c. 101, s. 70, does not at all authorize justices to summon parties to appear and give evidence in petty sessions in cases of applications for orders of removal, much less to summon parties to appear and produce any thing. The power referred to by Lord Denman must be a *subpœna duces tecum*, which can be had at the Crown Office of the Court of Queen's Bench.

I am, Sir, yours, &c.
THOMAS A. DAVIDSON.

Newcastle-upon-Tyne, June 24, 1845.

REMOVAL OF PAUPERS.—It appears, by a Parliamentary return of the sums paid by counties, boroughs, towns corporate, &c. for the removal of poor persons born in Scotland and Ireland, and charged to parishes in England, under the provisions of the Act 3 & 4 Wm. 4, c. 40, for three years ending with 1844, that the county of Middlesex paid, in 1842, 2,619l. 9s. [illegible]d.; in 1843, [illegible],119l. 13s. 2d.; in 1844, 2,861l. 14s. 9d. Surrey paid in the same years respectively, 238l. 16s. [illegible]d., 319l. 4s. 10d., 344l. [illegible]s. The county of Lancaster paid 1,308l. 9s. 1d., 1,169l. 14s. [illegible]d., [illegible]l. 9s. [illegible]d. But accounts relative to Lancashire were not made up later than Midsummer 1844.

THE LAWYER.

Summary.

THE crowd of judgments that occupy our columns this week compels the exclusion of almost all other intelligence. Many more are already given, and a further array is promised, so that for some time to come this novel feature of the LAW TIMES will carry to the Profession some months before they can procure them elsewhere, the very words of the Judges in their written decisions upon all the important questions they had reserved for mature deliberation. Whether the length and number of these will compel more double numbers we cannot say, but we shall of course avoid them, if possible, as each is attended with a loss to us of nearly 20l. But rather than that our readers shall not be put in possession of these written judgments at the earliest possible moment, the sacrifice shall be made.

THE CIRCUITS COMMISSION.—REPORT.

TO THE QUEEN'S MOST GRACIOUS MAJESTY.

Your Majesty having been pleased to issue a commission under the great seal, dated the 14th of February, 1845, directed to Sir James Parke, knight, one of the barons of your Majesty's Exchequer; Sir Edward Hall Alderson, knight, one other of the said barons; Sir John Taylor Coleridge, knight, one of the justices of your Majesty's Court of Queen's Bench; the Hon. James Stuart Wortley; Fitzroy Kelly, and William Whateley, and John Greenwood, esqrs. and Sir William Heathcote, bart.; and Edmund Denison and Thomas Grimstone Bucknall Estcourt, esqrs.; whereby, after reciting that it had been humbly represented unto your Majesty that the circuits of the judges in England and Wales are very unequal, as well in extent as with respect to the number of causes tried upon such circuits respectively, and that the intervals between the period of holding the same in each year are also very unequal; and that it had been considered that some alteration in these particulars might be conducive to the public good, your Majesty was graciously pleased to appoint the said several persons, or any five or more of them, to be your Majesty's commissioners for inquiring and considering whether it would be expedient, with a view to the more convenient and better administration of justice, that any and what alterations should be made in the division of England and Wales into circuits for judicial business, and in the periods for holding such circuits, and whether it would be necessary or proper that any change should be made in the law Terms for the purpose of such alterations, and also for considering in what manner such alterations may be best effected.

We, the commissioners, whose hands and seals are hereunto set, have carefully examined into the questions referred to us, and humbly report to your Majesty the result of our inquiries.

We first proceeded to consider whether the inconveniences arising from the unequal division of the year into two circuits are such as to require a change, and how such change may best be effected. At present the interval between the summer and spring circuits is nearly eight months, whilst that between the spring and summer circuits does not exceed four; and the former interval includes the whole winter, with its long nights, and its increased suffering amongst the poorer classes. It cannot, therefore, be wondered at, if, from the longer interval alone at the spring circuit, the civil business should more than equal, and still less if, from the combined effort of both causes, the criminal business should very greatly exceed, that of the summer circuit; and thus the burden upon the jurymen at the two assizes is disproportioned, and the prisoners committed soon after the summer assizes are necessarily imprisoned for a much longer period than those committed after the Lent assizes.

This has led to the special commissions for delivering the gaols, issued for the last two years, under which sittings have been held in the larger counties in the months of December and January. These have supplied a remedy for the particular evils against which they were directed, but are themselves liable to the most serious objections. The sittings have been held to the great inconvenience and expense of jurors, sheriffs, and others, whose duties require their attendance at the assizes, and who were called from their homes once oftener in the year than heretofore. They have been unattended by the same full bar which the union of criminal and civil business attracts to the ordinary assizes, which is not only an important benefit to the accused, but a great security for the due administration of justice; and they have been presided over by a single judge, a course by no means so satisfactory as where two judges travel the same circuit and have the opportunity for mutual advice and assistance.

It appears to us that the necessity for a third circuit for criminal cases, with its attending advantages, may be obviated, and the benefit of a more speedy trial of offenders obtained, by a permanent arrangement, whereby the circuits may occur at equal intervals of time, and the business be equally distributed between the winter and summer assizes.

And this can only be done by an alteration in the time of holding the spring circuit; for to alter the summer circuit, and to fix it during the months of September and October, would, we are convinced, be inexpedient. It would take from the bar and the judges, and indeed the whole legal Profession, that wholesome vacation which alone, by its annual recurrence, brings them back with minds refreshed by leisure and varied study to their important duties, and it would be to devote a period of the year to the assizes at which the gentlemen and farmers of the country, who in general have to act as jurymen, are otherwise much engaged.

In order, therefore, to divide the year equally, the spring assizes must begin early in January; we think about the 11th January would be found most convenient, as being immediately after the Christmas quarter sessions, when the gaols will have been delivered of the smaller offences by the local magistracy.

In order to accomplish this, Hilary Term must be changed; and we at one time supposed that the postponement of Hilary Term till the beginning of March would be the best arrangement. But we have thought, on fuller consideration, that it is desirable to have two terms following each circuit, in order that there may be an opportunity of hearing and of disposing of the motions for new trials arising therefrom, and of enabling the parties, where new trials are granted, to proceed to try their causes at the following assizes, as at present is or ought to be the case.

We therefore have come to the conclusion, that it will be on the whole more expedient to provide that in the interval before Christmas there should be two terms, and that, as now between Easter and Trinity Terms, there should be only a short vacation between them.

We propose, then, to leave Michaelmas Term untouched, to make a vacation of a week between it and a new term, still to be called Hilary Term, which should end on the 23rd of December, and to leave Easter and Trinity Terms, and the vacations after each, untouched. The legal year would then stand thus:—November the 2nd to November the 25th, Michaelmas Term; November the 25th to the 2nd of December, vacation; the 2nd of December to the 23rd of December, Hilary Term; December the 23rd to April the 15th, vacation; and the rest of the year as at present. The vacation between Hilary and Easter Terms would suffice for the assizes and sittings; and the deficiency of three weeks lost to the sittings by the short vacation between Michaelmas and Hilary Terms may then be supplied at the discretion of the respective chief judges of each court. We would limit that discretion only by forbidding sittings after the 11th of January, and before the 1st of March. In order to accomplish this object, the aid of the Legislature will be required.

If this plan be adopted, we would suggest further, that the Secretary of State for the Home Department should recommend the justices of the peace, in their respective counties, to make some permanent arrangements for the more completely lighting the courts of justice, both as to the parts occupied by the spectators, and those devoted to the transaction of business, so that order may be more easily preserved. This we mention because the assizes will, under this proposed

It may be as well also to observe, that unless your Majesty shall be pleased to make some alteration in the time for the next appointment of sheriffs, the existing officers will, in many cases, be obliged to serve at three assizes.

We have next proceeded to inquire whether the present inequality of the circuits requires to be corrected, and the circuits more conveniently arranged for the despatch of business by the fifteen judges, and in what way this can best be effected.

The length of time occupied on the respective circuits, which are travelled by two judges each, is at present nearly as follows:—On the Norfolk circuit rather more than three weeks; on the home and the Midland, each, rather more than a month; on the Oxford and western circuits, each, about six weeks; the northern circuit, about eight weeks, and this allowing only a fortnight for York, for which, however, three weeks ought to be allowed, in order to avoid the danger of remanets, and to insure the disposal of the criminal business there by the judges alone, without the aid of other commissioners.

The number of causes forms the best criterion of the weight of business on each circuit; that of the prisoners is less accurate, for on all the circuits, except the northern, persons charged with small offences are generally committed for trial at the assizes, if they occur before the quarter sessions. On the northern the great offences only, for the most part, are sent to the assizes, which circumstance diminishes the apparent relative quantity of criminal business on that circuit, as stated in the official returns. Assuming, therefore, the number of causes as the proper criterion, and taking an average of the last ten years, we find the business of the northern circuit to be five times as great as the Norfolk or Welsh circuits, nearly three times as great as the Midland, more than twice as great as the Oxford or western, and nearly twice as great as the home circuit. We all agree that though some inequality on the circuits is desirable, both for the judges and the bar, yet that which now exists in this instance is too great; and the only question is, how best it can be remedied.

We are satisfied that the business of the chambers in London during the circuits is fully sufficient to occupy the undivided attention of the fifteenth judge, who must remain in town, and that his labours certainly equal, and probably exceed, those of any judge travelling the circuit.

It follows, therefore, that only fourteen judges can be spared for the circuits. On this supposition we have succeeded; and here a difference of opinion has arisen amongst the members of the commission.

All are agreed that the northern circuit is at present inconveniently long, and that the business of some of the smaller circuits might, without improperly pressing on the judges, be increased, and the northern circuit divided; but the only effective division which is practicable with the present number of judges would clearly involve the annexation either of Yorkshire or Lancashire, or of some part of one of those counties, to the duty of two judges other than those travelling the northern circuit.

Under these circumstances, three of our body, Mr. Baron Parke, Mr. Justice Coleridge, and Mr. Beckett Denison, are of opinion that the convenience of the country requires that some one of these divisions should be adopted; whilst, on the other hand, six of our body, viz. Mr. Baron Alderson, Mr. Fitzroy Kelly, Mr. Stuart Wortley, Mr. Whateley, Mr. Greenwood, and Mr. Estcourt, think that no such change should, for the present at least, be adopted. With the exception of Mr. Baron Alderson, they are of opinion that no efficient and permanent alteration can be made without increasing the present number of judges; and he concurs with them in thinking, that as the changes already suggested in the Terms, and the time of holding the spring assizes, will allow sufficient space for the despatch of the business of the northern circuit, as at present constituted, before the Easter Term, though probably not before the commencement of the sittings, the practical effect of the changes agreed by all to be recommended should be tried before any other be made.

Upon the supposition, however, that your Majesty may possibly think it proper to act upon the former opinion, we have proceeded to inquire which of the suggested divisions would be preferable, and in what manner it should be effected. And here we have all agreed, with the exception of Mr. Stuart Wortley, who forbears to give any such contingent opinion, that to separate Yorkshire from the rest of the northern districts would be the most convenient arrangement. We do not, however, propose to annex Yorkshire to any other circuit, but to form it, as it were, into a new circuit of itself. The question then arises, by whom as judges are the duties of this new circuit to be performed; and we think that the additional labour will most conveniently be imposed on those whose present duties are the lightest, viz. the judges travelling the Norfolk circuit, and that both their convenience and that of the bar of the northern circuit concur in the arrangement, that it should be travelled, in addition to their own circuit, by these judges after their ordinary labours shall have terminated. The usual duration of the Norfolk circuit needs not much to exceed three weeks, and this additional duty would probably double it. This would only make a six weeks' circuit, and we think that, in comparison with several of the other circuits, this would not be found to be inconveniently long. Probably the learned judges would think it advisable to begin the Norfolk circuit in Norfolk and Suffolk, and end it in Buckinghamshire. By so doing they would at the end of their first circuit, be within a few hours' distance from York, the scene of their additional labours; much nearer in point of time, and not further in point of distance, than the judge travelling the South Wales circuit is, at the end of that circuit, from his duties at Chester.

We have no doubt that an efficient bar from the northern and Norfolk circuits would attend the new circuit; and we recommend that the learned judges who travel the northern circuit should make Liverpool the last place, and that the commission days for York and Liverpool should, for the present at least, be on the same day.

This plan, it will be seen, provides for the reduction of the northern circuit, without disturbing any other circuit, or rendering it necessary to provide any new arrangement of clerks of assize; and if at any future time the number of the judges should be increased, and more general changes introduced, the additional labour now proposed to be thrown upon the judges travelling the Norfolk circuit may, without inconvenience, be withdrawn.

One trifling alteration would be necessary, if this plan should be adopted, in the appointment of the revising barristers; it would be proper, by the aid of Parliament, to assign a definite number of them to Yorkshire, subtracting it from the number now assigned to the northern circuit and to give the appointment to the senior judge in the commission for Yorkshire.

We humbly take leave further to state to your Majesty our opinion, that whether a change shall be made in the northern circuit or not, we think we are not called on to recommend a change in the arrangement of any other circuit. It certainly appears very desirable in itself that the Welsh circuit should be remodelled, so that the assizes may be held before two judges, the number of assize towns being diminished, the disadvantage of a circuit being travelled by a single judge being serious and sensibly felt; but this cannot be accomplished without a considerable expense in the erection of new courts, the enlargement of gaols, and the preparation of additional lodgings for the judges; and unless it should be thought proper to provide for these in the first instance, at the general expense of the whole kingdom, they will throw a heavy burden on the counties in the principality. We know that the and other obstacles prevented the plan recommended by the Commissioners for the Amendment of the Law, appointed by his late Majesty King George IV. in 1828, from taking place, and we have therefore abstained from entering into an inquiry with respect to any change in the Welsh circuit. We have also abstained from offering any opinion upon several other changes suggested to us on the part of the inhabitants of Bristol and other places; such as the propriety of holding two assizes within the year, instead of one at Bristol; of holding assizes at other places than those at which they are now held in various counties, and of limiting the assize held at Coventry to the city of Coventry alone. We do not undervalue the importance of some of these, nor look upon them unfavourably; but they appear to us not to fall within the scope of our commission.

All which we humbly submit.

Signed and sealed the 3rd day of June, 1845.

James Parke,	(L.S.)
E. H. Alderson,	(L.S.)
J. T. Coleridge,	(L.S.)
Fitzroy Kelly,	(L.S.)
W. Whateley,	(L.S.)
James S. Wortley,	(L.S.)
John Greenwood,	(L.S.)
Edm. Denison,	(L.S.)
T. G. Bucknall Estcourt,	(L.S.)

PROMOTIONS, APPOINTMENTS, ETC.

[Clerks of the Peace for Counties, Cities, and Boroughs, will oblige by regularly forwarding the names and addresses of all new Magistrates who may qualify.]

Crown-office, June 27, 1845. — Member returned to serve in this present Parliament.—County of Edinburgh—Sir John Hope, of Craighall, bart. in the room of William Ramsay Ramsay, esq. who has accepted the office of Steward of her Majesty's Chiltern Hundreds.

Whitehall, March 21, 1844.—The Lord Chancellor has appointed John William Jones, of [illegible], near Newnham, in the county of Gloucester, gent. to be a Master Extraordinary in the High Court of Chancery.

Commissions signed by the Lord Lieutenant of the county of Cornwall.—Thomas Tristrem Spry Carlyon, esq. to be Deputy Lieutenant; Francis Howell, esq. to be Deputy Lieutenant.

Commission signed by the Lord Lieutenant of the county of Derby.—Thomas Gray Gisborne, esq. to be Deputy Lieutenant.

Commission signed by the Lord Lieutenant of the county of Stafford.—Richard Dyott, esq. to be Deputy Lieutenant.

COURT PAPERS.

NEW RULE OF THE COMMON LAW COURTS.

Judges' Orders for Signing Judgment.

By order of Mr. Baron Parke, Mr. Justice Wightman, and Mr. Justice Erle.

"We have considered the means best calculated to prevent parties from fraudulently obtaining judge's orders for signing judgment, and recommend that the following precautions be adopted:—

That all written consents upon which such orders are obtained shall be preserved in the chambers of the respective courts.

That in actions where the defendant has appeared by attorney, no such order be made unless the consent of the defendant be given by his attorney or agent.

That where the defendant has not appeared, or has appeared in person, no such order be made, unless the defendant attends the judge and gives his consent in person, or unless his written consent be attested by an attorney acting on his behalf; but we think that these precautions are unnecessary where the defendant is a barrister, conveyancer, special pleader, or attorney."

"We think that Sunday ought to be counted as one of the four days between the delivery of paper books and the day of argument, except it is the last, when it is to be omitted according to the general rule."

12th June, 1845.

GENERAL ORDERS AND RULES OF THE HIGH COURT OF CHANCERY.

(*Continued from page 253.*)

Pro confesso—Hearing—Decree.

XC. In cases where a decree is not absolute under Order LXXXIII. the Court may order the same to be made absolute on the motion of the plaintiff, made,

1. After the expiration of three weeks from the service of a copy of the decree on the defendant, where the decree has been served within the jurisdiction.
2. After the expiration of the time limited by the notice provided for by Order LXXXVI. where the decree has been served without the jurisdiction.
3. After the expiration of three years from the date of the decree, where a defendant has not been served with a copy thereof.

And such order may be made either on the first hearing of such motion, or on the expiration of any further time which the Court may on the hearing of such motion allow to the defendant for presenting a petition for leave to answer the bill.

XCI. Where the decree is not absolute under Order LXXXIII. and has not been made absolute under Order XC. and a defendant has a case upon merits not appearing in the bill, he may apply to the Court by petition stating such case, and submitting to such terms with respect to costs and otherwise as the Court may think reasonable, for leave to answer the bill; and the Court, being satisfied that such case is proper to be submitted to the judgment of the Court, may, if it thinks fit, and upon such terms as seem just, vacate the inrolment (if any) of the decree, and permit such defendant to answer the bill; and if permission be given to such defendant to answer the bill, leave may be given to file a separate replication to such answer, and issue may be joined, and witnesses examined, and such proceedings had as if the decree had not been made, and no proceedings against such defendant had been had in the cause.

XCII. The rights and liabilities of any plaintiff or defendant under a decree made upon a bill taken *pro confesso* extend to the representatives of any deceased plaintiff or defendant, and to any persons or person claiming under any person who was plaintiff or defendant at the time when the decree was pronounced; and with reference to the altered state of parties and any new interests acquired, the Court may, upon motion or petition served in such manner and supported by such evidence as under the circumstances of the case the Court deems sufficient, permit any party or the representative of any party, to file such bill or

bills, or adopt such proceedings as the nature and circumstances of the case require, for the purpose of having the decree (if absolute) duly executed, or for the purpose of having the matter of the decree (if not absolute) duly considered, and the rights of the parties duly ascertained and determined.

Joining Issue.

XCIII. No *subpœna* to rejoin is hereafter to be issued; and only one replication is to be filed in each cause, unless the Court otherwise orders; and the replication is to be in the form set forth at the foot of this Order, or as near thereto as circumstances admit and require; and upon the filing of such replication the cause is to be deemed to be completely at issue; and each defendant may, without any rule or order, proceed to examine his witnesses, and the plaintiff may in like manner proceed to examine his witnesses so soon as notice of the replication being filed has been duly served on all the defendants who have filed an answer or plea, or against whom a traversing note has been filed.

Form of Replication.

"Between A. B. - - - Plaintiff.
"and
"C. D., E. F., G. H., &c. - Defendants.

"The plaintiff in this cause hereby joins issue with the defendant C. D." [*all the defendants who have answered or pleaded, or against whom a traversing note has been filed*], "and will hear the cause on bill and answer against the defendant E. F." [*all the defendants against whom the cause is to be heard on bill and answer*], "and on the order to take the bill as confessed against the defendant G. H." [*as the case may be*].

Commission to examine witnesses.

XCIV. Commissions to examine witnesses within the jurisdiction of the Court are to be directed to two commissioners only, and, unless the Court otherwise orders, are to be made returnable without delay; and the commissioners are to be either barristers or solicitors not concerned in the cause, and each one of such two commissioners is to have all such power and authority to examine witnesses as have heretofore been vested in the acting commissioners named in the commissions to examine witnesses which have heretofore been issued; but the commissioner first named in the commissions to be hereafter issued is alone to act in the execution of any commission, unless he is, by illness or other sufficient cause, incapacitated from acting therein, in which case the commissioner secondly named is alone to act in the execution of such commission.

XCV. Immediately after the replication is filed, the plaintiff, if he thinks fit, may give notice to all other parties entitled to examine witnesses in the cause of his intention to sue out a commission for that purpose; and the plaintiff, if he gives such notice within two days after the filing of the replication, or before any defendant has given notice of his intention to sue out a commission, is to have the carriage of the commission.

XCVI. After the expiration of two days from the filing of the replication, if the plaintiff has not previously given notice to all other parties entitled to examine witnesses in the cause of his intention to sue out a commission for that purpose, any defendant may give notice to all the other parties entitled to examine witnesses in the same cause of such defendant's intention to sue out a commission for that purpose; and any defendant so giving such notice is to have the carriage of the commission, unless such notice be given by more than one defendant, in which case the defendant who first gave such notice is to have the carriage of the commission.

XCVII. Where the parties entitled to examine witnesses in the cause agree to the nomination of persons to be commissioners, and to the order in which such commissioners are to be named, the record and writ clerk, upon being applied to for the purpose, is to cause a commission directed to such persons to be sealed and delivered to the person entitled to have the carriage thereof.

XCVIII. If all the parties entitled to examine witnesses in the cause have not, within four days after the filing of the replication, agreed to the nomination of persons to be commissioners, any party entitled to examine witnesses in the cause may apply to the Master to whom any former reference in the cause has been made, or to the Master in rotation in case no former reference has been made, for a warrant returnable in two days requiring the other parties to attend for the purpose of having commissioners named, and such Master is to grant such warrant; and the same being duly served, all parties, on the return thereof, are to propose commissioners; and if among the persons so proposed there are two or more to whom no just objection is made, the Master is to select or nominate and certify to be commissioners such two of the proposed persons as appear to him most proper to perform the duty; but if it appears that no one or only one of such proposed persons is free from just objection, the Master, as the case may be, is to nominate and certify two proper persons, or to nominate one proper person and certify him and the person free from objection to be the commissioners.

XCIX. If any question arises as to the commissioner who is to be first named, or as to the party who is to have the carriage of the commission, the Master is to determine such question, and to name the party who is to have the carriage of the commission.

C. If any party entitled to examine witnesses in a cause shall desire to have any additional commission or commissions, application is to be made to the Master for leave to sue out such additional commission or commissions; and upon the Master's certificate that such additional commission or commissions is or are proper to be issued the same may be sued out in the same manner as a first or only commission; and in case the parties do not agree, any question respecting the commissioners to be named or the order in which they are to be named in the commission, or any question respecting the carriage of any such additional commission, is to be settled by the Master as in the case of a first or only commission.

CI. The Master is to deliver his certificate of the nomination of the commissioners to the solicitor of the party who is to have the carriage of the commission; and such solicitor is on the same day, or at the latest on the day next following the date of the Master's certificate, to file the same, and is, within two days from the date thereof, to take an office copy thereof to the record and writ clerk, who is, on the same day, or at the latest on the day next following his receipt of such office copy, to seal a commission directed to the persons named in the certificate, and to deliver such commission to the solicitor from whom he received the certificate; and such solicitor having received the commission is, within one week after the teste thereof, to deliver the same to the commissioner therein first-named, if he be at the time able to act in the execution of the commission, but if not, then to the commissioner secondly named.

CII. If any solicitor having the carriage of a commission does not, within six days after the date of the Master's certificate, obtain the commission, and duly deliver the same to the commissioner by whom the same is to be executed, any other party entitled to examine witnesses may apply to the Master for leave to take out a new commission directed to the same commissioners, and to have the carriage of such commission; and the costs of such application are to be paid by the party in default, whether the application succeeds or not.

(*To be continued.*)

LEGAL INTELLIGENCE.

BIRMINGHAM DISTRICT BANKRUPTCY COURT.

Thursday, June 12.

(Before Mr. Commissioner DANIEL.)

Re CHARLES STANLEY, of Newport, Shropshire, Solicitor.

This was the first examination. The insolvent was supported by *Smith*, and opposed by *Motteram* (who was instructed by Messrs. Price, Denkin, and Dent, solicitors, Wolverhampton), on behalf of the executors of Mrs. Thomas, deceased, and by *T. S. James*, on behalf of other creditors.

The insolvent, on his examination, admitted that he had advised the executors to sell out a portion of Three per Cent. Stock left by Mrs. Thomas, for the purpose of paying legacy-duty under her will, amounting to 22*l.* 9s. and to Mr. Norris, one of the executors, 40*l.* which he had advanced out of his own money, in 1840, to pay Mr. Stanley's bill for proving the will. The insolvent further admitted that he sold out 100*l.* of the stock, which realized 98*l.* 15s. in May, 1844, through the medium of his agent, Mr. Holmes, of London, and that out of the produce he had paid Mr. Norris 30*l.* 5s.; that the legacy duty was to have been paid in May, 1844, with a portion of the balance, and that the remainder, subject to the insolvent's charges in respect to the sale of stock, should have then been handed over to the executors. The insolvent admitted also that he never paid the legacy-duty, or any further sum to the executors, notwithstanding that the stamp-office threatened the latter with process for non-payment of duty, and notwithstanding urgent application by the executors to the insolvent, and personal solicitation by one of them, Mr. Norris, who (as stated by *Motteram*) walked from Birmingham to Newport and back (a distance of sixty miles) three times during 1844, to endeavour to bring the insolvent to a settlement. Sixteen letters from the insolvent to Mr. Norris were produced; they contained frivolous reasons for the delay, and positive promises to pay the duty and settle the matter. The insolvent further admitted, that when Messrs. Price and Co. in March, 1845, had obtained, on behalf of the executors, an order by the Master of the Rolls for the insolvent to deliver his bill, &c. within a limited time, he had failed to do so, but subsequently delivered a bill for selling out the stock and preparing residuary accounts, which he had never passed, amounting to 6*l.* 1s. 6d. which was taxed by one of the Masters of the Court of Chancery, and reduced to 11*l.* 2s. 9d.; that he (the insolvent) was subsequently ordered to pay to the executors the balance, 66*l.* 17s. 6d. found due from him, the order being made on the Saturday before he had filed his present petition. The insolvent also admitted that the executors might have been put to about 30*l.* expense in obtaining the order.

Motteram said the expenses were in reality about 38*l.*

The insolvent also stated that he was a bankrupt in September, 1842, and that no dividend had been paid to his creditors.

James was about to examine the insolvent on behalf of his clients, when

Smith said, that after what had taken place he did not think he should be justified in taking up the time of the Court, but would consent to the dismissal of the insolvent's petition, as he was aware that, in addition to what had been brought before the Court, the insolvent had become surety for Mr. Garbett, solicitor, Wellington, Salop, without the means of fulfilling his engagements.

His HONOUR told Mr. Smith that he had exercised a sound discretion, as it was clear that the insolvent had committed a breach of trust, and after animadverting in very severe terms upon the conduct of the insolvent, as proved by the facts elicited in the examination. *Petition dismissed.*

The annual dinner of the members of the United Law Debating Society took place on Tuesday last at the Trafalgar Hotel, Greenwich. Alfred Fry, esq. in the chair. A peculiar interest attached to the occasion from the presentation to the secretary, Charles H. Grove, esq. of an elegant clock which had been purchased for him by a general subscription among the members. After the usual toasts had been disposed of, the chairman, in the name of the society, presented the clock to the secretary as an enduring testimonial to him of the sense entertained by his fellow-members of his valuable services for the last five years, in which he has uninterruptedly and most efficiently discharged the duties of his office, necessarily so important to the interests of such a society. Mr. Grove expressed his pleasure in finding that his discharge of his duties had given satisfaction to his learned friends, and thanked them for the handsome memorial which they had given him of their regard. The company separated, after the enjoyment of a very pleasant evening.

POOR LAW COMMISSION.—From a bulky return just published, it appears that Mr. Commissioner Nicholls attended at his office 276 days in 1843, and 260 days in 1844; that Mr. G. C. Lewis attended 242 days in 1843, and 241 days in 1844; and that Sir E. Head attended 276 days in 1843, and 273 days in 1844.

We have been favoured with the sight of a private letter received this morning from Jersey, which states that C. C. Wilson, esq. was unconditionally released from prison on Wednesday last, after a consultation by the states. He was met and escorted from prison by a large multitude, who hailed him with enthusiastic plaudits.—*Globe.*

CORRESPONDENCE.

SMALL DEBTS BILL.

SIR,—Your able analysis in the LAW TIMES of Saturday last of Lord Brougham's Amended Act for the Recovery of Debts under 20*l.* has made it an easy task to give my opinion thereon. I perfectly coincide with your views on the subject. The 2nd clause, giving forty days as the maximum term of imprisonment, I think unsatisfactory, seeing that the 1st & 2nd Vic. cap. 110, gives the Insolvent Debtors Court the power to imprison for individual offences for one, two, and three years, and which has been found to act with good effect.

The 4th clause is open to great objections. The Bankruptcy Court will be constantly crowded with the lowest set; consisting of discharged attorneys' clerks, now become accountants, who will seek professional business under this clause by advertisment, &c.; also a set of men known as agents (but practising under the name of some attorney), who have infested the Insolvent Debtors Court in Portugal-street for years, and whom the commissioners have in vain attempted to remove. And here I may mention that when the (Insolvent) Court was first established, the law recognized agents for the purpose of conducting the business of debtors to save expence, but it was soon discovered that these men being irresponsible (they not being attorneys), the most infamous practices sprang up, and every description of fraud prevailed. The legislature was at length appealed to, and a statute passed prohibiting such persons from being in any way connected with the conduct of insolvent cases, and that attorneys alone should be suffered to practise in the Court. It may, therefore, be easily imagined to what a condition the Court of Bankruptcy will be brought, as it will most surely be made

the arena for every description of extortion, fraud, perjury, and subornation of perjury, most injurious to the unfortunate debtor, and disastrous to his estate, by the admission of men to conduct its business, who, having no responsibility, can have no fear of consequences. There appears to be a most important clause wanting to meet an evil of daily occurrence, namely, on the sheriff making a levy the landlord ought to make something more than a mere claim of rent due; what objection can there be to his making an affidavit of such fact? This unobjectionable preliminary would afford a check against that collusion that frequently exists between landlord and tenant, to the prejudice of an execution creditor. Should you think these remarks of any utility, and you have space in your columns for their insertion, further suggestions of more value may be produced from others. I am, Sir, yours, &c.,

W. R. Buchanan.

8, Basinghall-street, June 10, 1845.

SELECTIONS FROM CORRESPONDENCE.

X. offers the following suggestions on the Small Debts Bill:—

Perhaps some of the hints herein may be new, and expecting this I forward them.

Summons may be obtained from the commissioner of bankrupts for the district "or from *any* Court of Requests, Court of Commissioners, or other court for the recovery of small debts, having a chairman or other presiding officer who shall be either a barrister-at-law, or attorney, or solicitor."

1st. Supposing there is a Court of Requests more immediate than the district court (which *may be ninety-nine miles distant*), and the creditor prefers the investigation to be conducted in the latter court, and summons his debtor accordingly, would the debtor be liable to attachment for non-attendance; and would poverty or inability to pay the expenses of the journey be a sufficient excuse?

2nd. There are several charter or borough courts where debts *to any amount* are recoverable;—would these answer the description of "other court for the recovery of *small* debts?"

3rd. In some courts the "attorney or solicitor," being the "presiding officer," having power to commit, may be—and in one instance, known to the writer, is—a brother attorney of the town in which the court is—a solicitor in full practice: a moment's reflection will be enough to perceive the injurious consequences which may proceed from this.

"And the debtor being called before such commissioner or court, at the time to be named in such summons, shall be examined by the said commissioner or court, and shall be interrogated before such commissioner or court by the creditor summoning him."

1st. Here is an *obligation* ("*shall*") not a *power* imposed on the "commissioner or court" *and* the creditor to examine and interrogate. This, of course, will exclude all other persons (attorneys, &c.) from examination and interrogation. Sec. 4, however, which contemplates the existence of this power, is a waste of type; it need not have been inserted.

1st. There is no power to summon any other person besides the debtor. Does the 7 & 8 Vict. c. 96, affect this? How often is there a conspiracy between the debtor and others (bills of sale)! A summons for other persons would be useful; as also in cases of wages, how are they to be ascertained but from the master, manager, &c.?

2nd. Some places, although within the "district," are ninety-nine miles distant from Basinghall-street. If creditor summons debtor, what expense to creditor! and if the debtor cannot afford *that*, may be a sufficient excuse for his non-attendance, he may be referred to the Court of Requests, &c. Ask the Profession what is thought of them.

3rd. If property of debtor should be afterwards discovered, or evidence of fraud or perjury, &c. creditor should be able to go to court for redress, and to proceed against debtor, notwithstanding previous proceedings.

4th. Would it not be as well for the order, &c. for wages to reach the master to operate as a *distringas*? The refusal to pay wages according to order subjects the disobedient to imprisonment, "provided always, that no such order for imprisonment nor any order for imprisonment shall be made for any longer time than forty days."

This, it is supposed, intends *each* order; there may be several orders, *each* giving forty days.

Is the examination to be on oath?

"A. C." thus notices a complaint made by Mr. Gay three weeks since:—

The perusal of Mr. Gay's letter, in your last week's paper, brought to my recollection a case in which the hardship complained of was got rid of in a very simple manner. In the case alluded to, which took place at the Birmingham District Court, the solicitor attending on behalf of the bankrupt to oppose the Commissioner's adjudication took notes of the proceedings *on the back of his brief*, and upon being applied to to give them up, he appealed to the commissioner (Mr. Daniell), who decided that he was at liberty to retain them, as it was not to be expected that he should part with his brief, which was the only alternative.

To Readers and Correspondents.

A Squirrel.—*We cannot answer his query.*

Last week a report was headed Re Stevenson, Gent. This was a mistake; Mr. Stevenson was only the attorney in the cause, which should have been entitled Terryick *v.* Watson.

J. W. S. (Stoke).—*Public professional misconduct is alone within our purview. Private unprofessional practices in matters of business are within the cognizance of the Courts or of the Law Societies.*

R. N. G. (Derby).—*With so many other claims upon our space, we are compelled to decline his kind communication.*

S. D. S.—*No; altogether a different production.*

C. A. (West Bromwich).—*Dr. Whateley's is the best, but we fear it cannot be procured at less than the price named.*

A Subscriber.—*We have already exposed Mr. Weston's advertisements more than once. He is lost to all sense of shame.*

A Subscriber's *remarks on the Law of Debtor and Creditor will receive attention.*

NOTICE TO SUBSCRIBERS.

The Indices to the fourth volume being now completed, the numbers for binding may be sent, through the post, in parcels open at the ends, with a mark by which they may be known, and of which the Publisher should be advised by letter, as also how, when bound, it is to be returned. If sent by parcel, advantage may be taken of the opportunity to inclose other books for the binder.

The Volumes of the Law Times, *handsomely and uniformly bound, at 5s. 6d. each, if forwarded to the Office: with the Solicitor's name and abode lettered on the cover, 1s. extra.*

An Alphabetical Index to the Cases in the current Volume of the Law Times *always lies at the Office for the purpose of reference.*

TO SUBSCRIBERS.

It is proposed to publish an annual *Index Legum*, consisting of a digest of all the reported cases and statutes of the past year, under the title of the Year Book, to be bound with the volumes of the Law Times, or separately, at option. It will be comprised in about six or seven numbers, at 1s. each, stamped, for transmission by post. It will not be commenced unless 1,000 subscribers order it. Persons desirous of having it are therefore requested to transmit their names as soon as possible.

THE LAW TIMES.

SATURDAY, JUNE 28, 1845.

CIRCUIT COMMISSIONERS' REPORT.

This document has made its appearance somewhat earlier than was anticipated. It will be found set out at length in another part of this day's Law Times.

It has been the evil fate of this Report to receive from the newspapers, almost without exception, ridicule instead of respect; its language has been laughed at, its propositions have been abused; but really, after reading it with care, we can find no just cause for the treatment it has received. The Commissioners appear to have performed the limited duty assigned to them with zeal and assiduity. They have not decided without anxious inquiry, full discussion, and long deliberation, and the conclusions at which they have arrived may boast this presumption in their favour, that of their many assailants, not one has ventured to suggest better plans.

It is easy enough to find fault with any proposition on any subject, and for this reason, that no human schemes can be perfect, and those the most wisely framed have a mixture of evil. Therefore, while a prudent man will always listen to objections with a view to obviate them if he can, he will not much respect an opposition which does not accompany its fault-finding with propositions shewing how the same end might be obtained more surely by other means. If its critics do not this, it may be presumed that they cannot, and that the hostility is the result not so much of superior wisdom which constructs, as of that shabby substitute for wisdom which delights in the more easy task of proving what nobody will deny, that a scheme is *not* perfect.

Such is the nature of the hostility experienced by the Report of the Circuit Commissioners. Its impugners have succeeded in proving that it is *not perfect*—that is all. They have utterly failed to shew that its propositions are not the best practicable under the circumstances, for they have not produced aught more practicable.

It seems to have been forgotten that the Commissioners had to deal with existing arrangements, and that their duty was limited to the improvement of these; to construct an entirely new judicial system was no part of their instructions. Doubtless, if they had been set to frame an entirely fresh scheme for the transaction of the legal business of the land, they might and they would have produced something far more complete than that which they have suggested. But being restricted to the improvement of existing arrangements, they have looked no further; and within the scope of their inquiry they have, as it appears, come to the wisest conclusions the case would permit.

The Commissioners laboured under another disadvantage, for which due allowance has not been made. The question whether the present strength of the judicial corps was sufficient for the due discharge of the legal business of the country, was intimately interwoven with that of the arrangements of the Terms and Circuits. The latter would materially depend upon the former, and to withdraw this question from consideration was to take away the foundation upon which the superstructure was to be erected. As the Commissioners were appointed only to inquire and advise, not to act, we cannot understand the asserted scruples of the Home Office towards the prerogatives of the Crown. But the mischief is done, and we must take the Report with a fair allowance for the disadvantages under which it was prepared, and, so viewing it, we cannot share the dissatisfaction expressed by our contemporaries;—why, we purpose to set forth next week, our contracted limits forbidding an investigation of each suggestion in the Report amid such a crowd of judgments claiming a place as of more immediate practical importance to our readers than any other legal topics.

THE SMALL DEBTS BILL.

This Bill was suddenly withdrawn from the Commons in consequence of the insertion of a penalty in one of the clauses, which infringed the privilege of the Commons as to the inception of money bills. The offensive matter has been expunged, and the Bill has again galloped through the Lords, and is sent down to the Commons, but, we are sorry to say, with all its other imperfections on its head, more especially that huge blot, the clause permitting other than counsel and attorneys to practise in the courts of insolvency and bankruptcy. Again we urge—we entreat the Law Societies to set their representatives upon this most dangerous and obnoxious clause, which, if passed, will, we venture to say, in ten years do more to degrade the Profession and plague the country with the pest of sham lawyers, than the combined efforts of the attorneys and the laws passed for their

protection and respectability have sufficed to advance it. This clause is a virtual repeal of the Attorneys and Solicitors Act.

VERULAM SOCIETY.

The 2nd number of *Registration Cases*, comprising those of Michaelmas Term last; the 8th number of *Practice Cases*, completing the second part; and the 9th and 10th numbers of *Magistrates' Cases*, comprising those of Easter Term, have been issued during the last week.

The 7th number of *Criminal Law Cases* will be ready on Tuesday, and will contain the commencement of an Appendix of *Precedents*, which will, we trust, be found of great practical utility to the Profession.

The 8th number of *Criminal Cases* is in the press, completing Part II. which will be issued in time for the ensuing circuits.

The 11th and 12th numbers of *Magistrates' Cases*, the 9th of *Practice Cases*, and the 3rd of *Registration Appeals* are in the press.

Mr. Allnutt's edition of the new Orders in Chancery, for office use, was published on Saturday last. The price has been fixed at 3s. only, in boards. Members of the Verulam Society will of course obtain it at the usual reduction.

As being most immediately in request, the past week has been devoted to the preparation of the Registration Forms, of which the following are ready:—

Notice of Claim (Counties) . . price 4d. per dozen
Notice of Objection to Overseers (Counties) . . . . do.
Do. to parties (Counties) do.

The forms for boroughs will be ready in a few days.

In Conveyancing the following forms have been added to the list:—

Country Certificate of acknowledgment of a Married Woman (on parchment) each 1s.
Affidavit for do. where no provision is made (parchment) . . . . . . 1s.
Town Certificate, ditto . . . . . 1s.
Town Affidavit, ditto . . . . . . 1s.
Copies on paper, to be used as drafts of each of the above, price 1s. 6d. per doz.

In *Insolvency* there is now ready the entire series of twelve forms prescribed by the Debtors and Creditors Act, price 2s. per set, or 2s. per dozen of either form.

A complete list of the publications and forms of the Society is in the press, and will be sent to any applicant.

It should be observed that any quantity of the forms, from a dozen upwards, may be obtained by any solicitor in the country by order of any bookseller, provided he specify the number and name as stated in the advertisement; or if he send an order to the value of 2*l.* the parcel will be transmitted to him, carriage paid.

THE VERULAM REPORTS.

A correspondent referring to the proofs last week adduced of the advantages in direct pecuniary saving obtained by the members of the Society, alleges that the Reports were not cheaper than those of the *Law Journal*. This complaint has induced us to make a close calculation, and the following is the result:—

The price of the *Law Journal* is 3*l.* 4s. per annum; for this the purchasers obtain a volume averaging about 1,300 pages, each page consisting of 715 words upon the average.

By division it will be found that this gives 19 pages of 715 words for a shilling.

But the Verulam Reports give for a shilling 28 pages of 798 words in each, or just 12 pages in the whole more than the *Law Journal*, being considerably above *one-half more* in quantity of printed matter. In other words, the Verulam Reports supply for four shillings as much report as the *Law Journal* charges six shillings and sixpence for.

And there is this great advantage in the Verulam Reports, that any one series the practitioner wants may be obtained without the burden of purchasing all those he may not want. The country practitioner needs very few indeed of the Equity Reports. In the Verulam he can procure just those he requires—the *Practice* and the *Conveyancing* Cases, without being compelled to burden himself with the purchase of all the other cases that are to him entirely useless.

We trust these plain figures, which he may readily test, will remove the doubts of our correspondent, and of any who may have entertained a similar feeling.

JOURNAL OF PROPERTY.

CONDITIONS OF SALE.

CONDITIONS REMEDIAL—COMPENSATORY.

(*Concluded from page 258.*)

FROM THE LAW REVIEW.

By this class of conditions it is usually stipulated, that where any error is discovered in the description or quantity of the estate, or in the vendor's interest therein, the contract shall not be vacated or avoided, but the purchaser shall accept a compensation, or be allowed an abatement in his purchase money.

Courts of Equity, acting on general principles, enforce the partial performance of contracts, even in the absence of special conditions of this nature, in cases where the subject of sale can be *substantially* conveyed to the purchaser: and the general doctrines on this subject will be found discussed at large in Sir Edward Sugden's *Treatise on Vendors and Purchasers*. But the principle of compensation is one of exceedingly difficult application, as will be seen by the various decisions relating to it. "There is no standard," says Sir Thomas Plumer, M. R. "by which to ascertain what is essential to a purchaser. The motives for purchasing real property are very different in different persons. Tastes, opinions, ages, create different views. Some particularity, some whim may have induced him to purchase. What is desirable to one is not so to another. One wants a wood for game, another desires it only as a beautiful object; one looks only to agriculture, another dislikes tithes. It therefore seems a little arbitrary to insist on a party taking compensation." (1 Madd. 167.) But where the contract of sale itself introduces the principle of compensation, its application, if practicable, becomes unavoidable: and in regard to the language of conditions of sale, one or two points are deserving of notice, as being not always within the contemplation of the persons by whom such conditions are usually framed.

(1.) In order to admit the principle of compensation, the errors contained in the particulars of sale must not be intentional.

This was decided by Lord Ellenborough, C. J. in the case of the *Duke of Norfolk* v. *Worthy* (2 Campb. 337. Abridged in Sugd. V. & P.), where the estate was described in the particulars as *about* one mile from Horsham. It turned out that the estate was between three and four miles from that place. Upon an action brought by the purchaser for recovery of the deposit, it was insisted that the effect of the misdescription was saved by the condition, which provided that no error or misstatement should vitiate the sale. But Lord Ellenborough said that, in cases of this sort, he should always require an ample and substantial performance of the particulars of sale, unless they were specifically qualified. Here there was a clause inserted, providing that an error in the description of the premises should not vitiate the sale, but an allowance should be made for it. This, he conceived, was meant to guard against unintentional errors, not to compel the purchaser to complete the contract if he had been designedly misled. His lordship, therefore, left it to the jury, whether this was merely an erroneous statement, or the misdescription was wilfully introduced to make the land appear more valuable from being in the neighbourhood of a borough town. In the former case the contract remained in force; but, in the latter case, the plaintiff was to be relieved from it, and was entitled to recover back his deposit. The plaintiff had a verdict, so that the jury, says Sir Edward Sugden, must have thought the misdescription fraudulent. Lord Tenterden, in a subsequent case, expressed his opinion that where the misrepresentation was of the essence of the subject of sale, it is immaterial whether the variance be wilful or not. (*Sherwood* v. *Robins*, 1 Mood. & Malk. 194.)

(2.) Misdescriptions in constituting the essence of the subject of sale will vitiate the contract, and exclude the principle of compensation.

In *Flight* v. *Booth* (1 Scott, 190; 1 Scott's N. C. 370), the Lord Chief Justice Tindal thus adverted to the state of the law relative to compensation for misdescriptions:—"It is extremely difficult to lay down from the decided cases any certain definite rule, which shall determine what misstatement or misdescription in the particulars shall justify a rescinding of the contract, and what shall be a ground of compensation only. All the cases concur in this, that, where the misstatement is wilful or designed, it amounts to fraud; and such fraud, upon general principles of law, avoids the contract altogether. But with respect to misstatements which stand clear of fraud, it is impossible to reconcile all the cases: some of them laying it down that no misstatements which originate in carelessness, however gross, shall avoid the contract, but shall form the subject of compensation only: (*Duke of Norfolk* v. *Worthy*, 1 Campb. 337; *Wright* v. *Wilson*, 1 M. & Rob. 207); whilst other cases lay down the rule, that a misdescription in a material point, although occasioned by negligence only, not by fraud, will vitiate the contract of sale. (*Jones* v. *Edney*, 3 Campb. 285; *Waring* v. *Hoggart*, Ry. & Mo. 40; *Stewart* v. *Elliston*, 1 Mer. 27.) In this state of discrepancy between the decided cases, we think it is at all events a safe rule to adopt, that where the misdescription, although not proceeding from fraud, is in a material and substantial point, so far affecting the subject matter of the contract, that it may reasonably be supposed that, but for such misdescription, the purchaser might never have entered into the contract at all, in such case the contract is avoided altogether, and the purchaser is not bound to resort to the clause of compensation. Under such a state of facts the purchaser may be considered as not having purchased the thing which was really the subject of sale."

(3.) Where a misdescription is not, from the nature of it, capable of pecuniary estimation, the principle of compensation cannot operate, and the contract will fail.

The case of the *Duke of Norfolk* v. *Worthy* (1 Campb. 337), already cited, is an example of this rule with respect to the *quality* of an estate,—the difference in value between a distance of one mile and another of four miles from a borough-town, being wholly incapable of estimation.

In *Sherwood* v. *Robins* (1 Mood. & Malk. 194), also, where there was a stipulation for compensation to the purchaser, in case of misdescription, the principle was found inapplicable. The plaintiff brought his action to recover from an auctioneer the deposit paid on a purchase at an auction of property described as "the reversion of 2,000*l.* after the death of a person aged 66," subject to a contingency defeating the reversion in case the party on whose death the reversion was expectant should leave children. It was proved that the party in question was only of the age of 64, and not of 66; and the jury having found that this misrepresentation was wilful, the plaintiff obtained a verdict. Lord Tenterden, C. J. then said that he thought the wilfulness of the misrepresentation immaterial, and proceeded thus—"In the case of a reversion, simply expectant on the death of an individual, if a mistake be made in his age, a compensation may be made under the condition, for the difference of value may be computed; but where there is an additional contingency, such as that of the birth of future children, in this case, the difference of age alters the likelihood of that contingency; and in such a case, therefore, no estimate can possibly be made of the difference of value between the thing described and the thing sold, and the contract itself must be vacated."

In *Flight* v. *Booth* (1 Scott, 190; 1 Scott's N. C. 370) the particulars of sale described a house in the Piazza of Covent-garden as calculated for an extensive business in the carpet, haberdashery, drapery, paper, floorcloth, upholstery, *grocery*, *tea-trade*, &c.; and stated that there was a clause in the lease prohibiting any *offensive* trades to be carried on upon the premises, and that "they cannot be let to a coffee-house-keeper or working hatter." On the production of the lease it was found that the prohibition extended to the trades of a "brewer, baker, sugar-baker, vintner, victualler, butcher, tripe-seller, poulterer, fishmonger, cheesemonger, fruiterer, herb-seller, coffee-house-keeper, distiller, dyer, brazier, smith, tinman, farrier, dealer in old iron, pipe-burner, tallow-chandler, soap-boiler, working hatter," or suffering the premises to be used as a shop or place for the sale of coals, potatoes, *or any provisions whatsoever*." There was also a clause prohibiting assignment of the premises during the last seven years of the term, without the consent, in writing, of the superior landlord. Upon these facts, the Court of Common Pleas held that the misdescription was so material, and the difference of value so uncertain and arbitrary, that recourse could not be had to the compensation clause, and consequently that the purchaser was entitled to rescind the contract and recover back his deposit.

In *Dykes* v. *Blake* (6 Scott. 320), the thirteenth lot was described in the particulars as "a first-rate building plot of freehold ground," having a frontage of eighty-six feet to the grove and ninety feet to the carriage sweep." The existence, however, of a right of way across the ground was suppressed; and the Court of Common Pleas held that the principle of compensation did not apply. "The purchaser," the Court said, "might fairly conclude, as the seller intended him to conclude, that he might purchase the whole lot for the purpose of building. But the direction of the way claimed would render the close altogether useless for the very purpose for which it was known to be purchased."

In *White* v. *Cuddon* (8 Cl. & Fin. 766) certain manors were described as manors in which the fines were arbitrary, while the annual amount of such fines

It appeared that the fines were ar[bitrary on] alienation; and the House of Lords held that the purchaser could not enforce specific [performance] with compensation, because there were [no] data by which the amount of it could be [ascertain]ed, for arbitrary fines are necessarily incapable of valuation.

A partial defect in the title to the estate is also not a subject of compensation. Thus in *Wheatley* v. *Slade* (4 Sim. 126); see also *Dalby* v. *Pullen* (3 Sim. 29), where a vendor entitled to nine-sixteenths of the fee-simple agreed to sell the entirety, the Vice-Chancellor of England refused to decree a specific performance with an abatement of the purchase money.

So also in *Roffey* v. *Smallcross* (4 Madd. 227), where under a decree a person purchased two-sevenths of an estate in one lot, and a good title was made to only one seventh, the purchaser was allowed to rescind the contract as to the whole of the lot.

Again, the difference between a freehold and a copyhold estate is incapable of estimation; and a purchaser cannot be compelled to accept a copyhold estate in lieu of a freehold (*Twining* v. *Morrice*, 3 Bro. C. C. 326, 331); though a vendor will perhaps be allowed time to procure an enfranchisement.

(4.) Where conditions of sale extend, as they sometimes do, to provide compensation, not only for the [vendor], but also for the purchaser, in case of misdirection or error, the effect of such conditions is particularly oppressive on the purchaser, as he may thus be rendered liable to the payment of a sum of money far beyond the limit of his own resources.

We are not aware of any case of this kind having come before the courts for decision upon the vendor's claim for compensation. But as an error in the particulars of sale necessarily originates with the vendor, we apprehend that he would have great difficulty in substantiating a claim of this nature in any case where the means of obtaining accuracy were within his command previously to the sale. In *Tomkins* v. *White* (3 Smith, 439), Lord Ellenborough said, "A little more fairness on the part of auctioneers in the framing of their particulars would avoid all these inconveniences. There is always a suppression of a fair description of the premises, or there is something stated which does not belong to them; and in favour of justice, considering how little knowledge the parties have of the thing sold, much more particularity and fairness might be expected of them. The particulars are in truth like the description in a policy of insurance, and the buyer knows nothing but what the party communicates."

III. Conditions *Posterior*.—Conditions of this class usually make provision for satisfaction to the vendor in case of the purchaser's non-fulfilment of his contract. It is generally stipulated that if the purchaser shall fail to comply with the conditions, the deposit shall be forfeited, and the proprietors be at liberty to resell the estate; and the deficiency, if any, by such sale, together with all charges attending the same, shall be made good by the defaulter; and Sir Edward Sugden advises that this condition should never be omitted. It forms a lien on the estate for the purchase money, &c. and if the purchaser do not comply with the conditions, the vendor may, by virtue of this stipulation, resell the estate, and recover the deficiency and charges from the purchaser. And if the money produced by the second sale exceed the original purchase money, the purchaser who has violated the agreement will not be entitled to the surplus, but the vendor himself will be entitled to retain it. (Sug. V. & P. 34, 7th edit.) Conditions posterior sometimes, however, go on to provide for stipulated damages to be mutually payable by either party making default in fulfilling the contract. But the construction of such a clause in the conditions seems to be attended with some doubt. In *Reilly* v. *Jones* (1 Bing. 302), on the sale of the lease of a public-house, there was a condition that law expenses, &c. should be paid by the parties in equal moieties, and that, either of them not fulfilling all and every part of the agreement, the party not fulfilling should pay unto the other the sum of 500*l.* "settled and fixed as liquidated damages;" and it was held by the Court of Common Pleas that the sum thus fixed was not a mere penalty to cover the actual damage, but was itself the measure of damages to be recovered on any breach of the agreement. In *Randal* v. *Everest* (1 Mood. & Malk. 41), however, Lord Tenterden took a different view of such condition. The agreement in that case contained the following clause: "If either of the parties shall neglect or refuse to comply with his part of the agreement, the party so refusing or neglecting shall pay to the other of them, on demand, the sum of 100*l.* hereby mutually agreed upon to be the damages ascertained and fixed on breach thereof." And his lordship, in summing up, said: "A great deal has been said about the different import of the terms *penalty* and *stipulated damages*; but I am of opinion, and shall always hold so until compelled by a higher authority to say otherwise, that whether the term *penalty* or *liquidated damages* be used in the agreement, a party who claims compensation for a default shall only be allowed to recover what damage he has really sustained. Whatever language the parties may choose to use, I am of opinion, in point of law, that a jury cannot be called upon to give more damage than the party has really sustained. I confine my opinion to contracts not under seal; instruments in that form may perhaps receive a different construction." The subject was again discussed in *Crisdee* v. *Bolton* (3 Carr. & P. 240, 243), before the Court of Common Pleas, when Best, C. J. said he could not subscribe to the doctrine of Lord Tenterden in *Randal* v. *Everest*. Sir Edward Sugden has noticed this diversity of judicial opinion; and remarks that whichever may be the correct opinion, a jury may, without proof of damage, give the whole sum named in the conditions. His observation applies also to a stipulation that the deposit shall be forfeited and belong to the seller as stipulated damages: and he adds, that, where the expenses of the resale, &c. are stipulated for, the measure of damages would be those expenses, &c. (1 V. & P. 66, 10th ed.)

Public Sales.

By Messrs. HOGGART and NORTON, at the Mart.

A freehold and copyhold estate, comprising a residence, with pleasure-grounds, gardens, and meadow land adjoining, containing together upwards of 5½ acres, situate at Upton, near Stratford, of which 3a. 30p. is freehold; fine and quit-rents amounting together to 3s. 1d. per annum—2,900*l.*

By Messrs. NEWTON and APPLETON, at the Mart.

Lot 1. Three leasehold houses, Nos. 2, 3, and 4, Acton-place, Kingsland-road, let at 52*l.* lease 60 years, ground-rent 25*l.* 16s.—315*l.*

Lot 2. An improved rent of 36*l.* 14s. a year, for 60 years, secured on several houses in Lee-street and North-street—620*l.*

Lot 3. Two family residences, Nos. 8 and 9, Acton-place, let at 75*l.* to tenants at will, leasehold, for 60 years, at a ground-rent of 20*l.*—690*l.*

Lot 4. Two ditto ditto—710*l.*

Lot 5. One ditto let at 30*l.* leasehold, for 60 years, at a pepper-corn rent—350 guineas.

Lot 6. One ditto let at 35*l.* ditto—360 guineas.

Lot 7. One ditto ditto—370 guineas.

Lot 8. One ditto ditto—380*l.*

Lot 9. One ditto in Dunston-street, let on lease at 20*l.* leasehold, for 60 years, at a pepper-corn rent—300 guineas.

Lot 10. A residence, No. 25, Acton-place, let at 35*l.* at will, leasehold, for 60 years, at a ground-rent of 5*l.*—360*l.*

Lot 11. Ditto, No 26, ditto—340 guineas.

Lot 12. Ditto, No. 27, ditto—330 guineas.

Lot 13. Ditto, No. 28, ditto—315 guineas.

Lot 14. An improved rent of 36*l.* for 60 years, on two pair of cottages, opposite the Regent's Canal, Kingsland-road—570*l.*

Lot 15. Ditto of 24*l.* for 60 years, on nine houses in Dunston-street, Kingsland-road—410 guineas.

Lot 16. Ditto of 20*l.* for 60 years, on a rope factory and residence, in Lee-street, Kingsland-road—405 guineas.

Lot 17. An improved rent of 18*l.* 10s. for 60 years, secured on five houses in Hannah-place, Kingsland-road—250 guineas.

Lot 18. Ditto of 18*l.* ditto—300 guineas.

Lot 19. Ditto of 18*l.* for 60 years, on a pair of cottages by the Regent's-canal—310 guineas.

Lot 20. Two dwelling-houses in Thomas-street, let at 18*l.* each (landlord paying taxes), lease for 60 years—260*l.*

Lot 21. Three ditto ditto—390 guineas.

Lot 22. Four ditto ditto—590*l.*

Lot 23. Four ditto ditto—600*l.*

The following scale of charges, *reduced more than one-third*, has been adopted for Advertisements of Estates for Sale, &c., exceeding 10 lines in length:

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For every succeeding 30 words . 1s.

THE MONEY MARKET.

	Sat.	Mon.	Tues.	Wed.	Thurs.	Frid.
Three per Cents. Consols	99	99⅛	99	99⅛	99	99
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Long Annuities	11¼	11⅛	11⅛	11⅛	11⅛	11¼
Bank Stock	212	211¼	211½	211¾	212½	212
India Stock	279	279½	279	279½	279	270
India Bonds, prem.	71	72	73	73	73	73
Exchequer Bills, prem.	57	57	58	58	59	59
FOREIGN.						
Spanish Five per Cents.	28¼	28¼	26⅛	28¼	28⅞	28¼
Spanish Three per Cents.	41¼	41⅛	41⅛	41¼	41½	41¼
Russian	118¾	118½	119¼	119¼	119½	119⅞
Peruvian	32	31⅞	31⅛	31⅞	32	31⅞
Portuguese	66¼	66½	66½	67¼	67¼	67⅛
Mexican	37⅞	37¾	38	37⅞	37⅞	38
——— Deferred	21¼	21¼	21⅛	20¼	21⅛	21⅛
Dutch Two-and-a-Half per Cents.	63⅛	63½	63⅛	63⅝	63⅞	63⅛
——— Four per Cents.	98¼	98¼	98¼	98¼	98¼	98¼
Danish	88⅛	88⅞	89	89¼	89¼	89⅛
Colombian	17¼	17⅛	17⅛	17⅝	17⅛	17⅛
Chilian	98	98½	98⅞	99	100	100
Buenos Ayres	44½	44½	45	45	46	46½
Brazilian	89½	89⅞	89⅛	89⅞	90	90⅛
Belgian	99	99½	99⅛	99⅛	100	100

Lord Vivian has, we hear, become the purchaser of the late Marquis of Hertford's unique villa in the Regent's-park.

BIRTHS, MARRIAGES, AND [illegible].

[The charge for the insertion of the above is 5s.]

BIRTHS.

DENMAN.—On the 22nd instant, at [illegible], Torrington-square, the Hon. Mrs. Richard Denman, of a daughter.

FRENCH.—On the 28th inst. the lady of George French, of Lincoln's-inn, esq. barrister-at-law, of a daughter.

NICHOLL.—On the 23rd inst. at Clapton, the lady of H. L. Nicholl, D.C.L. of a son.

MARRIAGES.

HALLIDAY, John, esq. of Chapel Cleeve, to Georgina Ellen, youngest daughter of Edward Coles, esq. of Paul's-house, Taunton, on the 18th inst. at Bishop's Hull.

ODDIE, Richard Harby, esq. of the Middle Temple, barrister-at-law, to Harriot-Ann, eldest daughter of the late Captain Job Hanmer, R.N. of Holbrook-hall, Suffolk, on the 17th inst. at Edwardston, Suffolk.

DEATHS.

BOWYER, Sarah, widow of Mr. Samuel Bowyer, formerly of the Six Clerks' office, on the 24th inst. at her son's, Barnsbury-row, Islington, aged 78.

BREMILOW, Moutague Adam, the infant son of the late Adam Bremilow, esq. barrister-at-law, on the 22nd inst. at Wilton-place, aged 10 months.

GARNETT, George, esq. of the Inner Temple, barrister-at-law, on the 24th inst. aged 39.

GIBBS, Mr. William, solicitor, 10, King's-road, Bedford-row, on the 21st inst. at Pinner, aged 35.

MILLER, Mrs. Mary, wife of Mr. John Miller, solicitor, formerly of Red-lion-square, on the 21st inst. at the house of her friend, Miss Phillips, at Clapham, aged 75.

WATERMAN, William, esq. of Essex-street, Strand, on the 21st inst. at Brompton.

THE GAZETTES.

The sum stated as the Dividend means so much declared in the Pound. The Assignees, when chosen, follow this statement.

Monday, June 16.

Brice, S. tailor, last exam. passed.

Tuesday, June 17.

Batt and *Batt*, silk dealers, last exam. passed.—*Ceaser*, D. victualler, last exam. passed.—*Darvel*, E. S. colonial broker, last exam. passed.—*Ford*, T. H. victualler, div. next week. Belcher, London.—*Green*, J. wine merchant, div. next week. Alsager, London.—*Kirkpatrick*, J. banker, div. next week. Whitmore, London.—*Painter*, M. C. grocer, div. next week. Alsager, London.—*Smith*, D. merchant, div. next week. Belcher, London.—*Spencer*, W. brewer, div. next week. Alsager, London.—*Walters*, W. assistant warehouseman, assignees July 14.

Wednesday, June 18.

Brain, J. engraver, last exam. passed.—*Piper*, T. F. stay manufacturer, last exam. Sept. 16.—*Taylor*, W. J. grocer, last exam. passed.

Friday, June 20.

Austin, W. carpenter, div. next week. Alsager, London.—*Farren*, J. corn dealer, final div. next week. Turquand, London.—*Finlayson*, J. grocer, div. next week. Belcher, London.—*Haward*, C. S. grocer, div. next week. Whitmore, London.—*Innes* and *Bracher*, brewers, last exam. of Innes passed, joint and sep. divs. next week. Johnson, London.—*Kilford*, T. cabinet maker, div. next week. Graham, London.—*Lucas*, T. F. coach proprietor, div. next week. Bell, London.—*Pim*, J. draper, div. next week. Belcher, London.—*Robinson*, R. spirit merchant, last exam. July 22.—*Seager*, T. leather cutter, last exam. July 4.—*Smith*, J. corn merchant, div. next week. Graham, London.—*Thurnell*, W. upholsterer, last exam. July 11.—*Warriner*, G. victualler, last exam. July 22.—*Watson* and *Byers*, warehousemen, sep. divs. next week. Turquand, London.

Saturday, June 21.

Furnival, J. corn dealer, last exam. passed.—*Smith*, N. T. jun. shipowner, final div. next week. Follett, London.

DIVIDENDS.

Bankrupts' Estates.

Official Assignees are given, to whom apply for the Dividends.

Andrews, J. stock broker, third, 1s. 9½d. Graham, London.—*Ashbarry*, J. farmer, first, 1s. Whitmore, Birmingham.—*Buchanan* and *Co.* merchants, third, 0½d. Turner, Liverpool.—*Carter*, C. miller, first, 1s. 5d. Whitmore, Birmingham.—*Chapman*, G. grocer, 8s. 5d. Graham, London.—*Charles* and *Co.* ship chandlers, sep. G. C. 14s. 6d. Morgan, Liverpool.—*Glyde*, S. grocer, second, 6d. Graham, London.—*Hall*, W. grocer, first, 2s. Baker, Newcastle.—*Heggin-botham* and *Peck*, machine makers, first, 3s. 7½d. Hobson, Manchester.—*Howell*, W. jun. bookseller, first, 5s. 4½d. Bird, Liverpool.—*Lord* and *Co.* cloth manufacturers, first and final, 2s. 10d. Hope, Leeds.—*Pell*, W. draper, first and final, 4s. 1½d. Baker, Newcastle.—*Spencer*, R. scrivener, first, 6d. Baker, Newcastle.—*Storey* and *Co.* ship chandlers, first, joint, 4s.; first sep. of Storey, 9d. Morgan, Liverpool.—*Vickers*, A. ironmonger, first, 2s. Hobson, Manchester.—*Wehnert*, H. tailor, fourth, 11½d. Whitmore, Birmingham.

Insolvents' Estates.

Greasley, J. joiner, Nottingham, 1s. 4½d.—*Higgins*, W. farmer, East Malling, 9s. 6d.—*Seddon*, R. farmer, Bowdon, 7s. 5d.—*Waite*, S. gent. Shepherd's-bush, 4s. 6½d.

ASSIGNMENTS

To Trustees for the benefit of Creditors.

Gazette, June 24.

Cant, G. brewer, Stevenage, Herts, June 23. Trusts. R. Brown, farmer, Alconbury, Huntingdonshire, and J. Horrell, farmer, Eaton Socon, Bedfordshire. Sols. Messrs. Veasey, Baldock.—*Eastwood*, T. grocer, Brighton and Fycombe, Sussex, May 27. Trusts. I. G. Bass and R. Rowley, merchants, Brighton. Sol. Bennett, Brighton.—*Forth*, W. innkeeper, Crickhowell, Brecknockshire, May 30. Trusts. R. Harrby, wine merchant, Newport, W. Ellis, brewer, Abergavenny, H. Paul, wine merchant, Clifton, and E. Bellamy, wine merchant, Abergavenny. Sol. Baker, Abergavenny.—*Putnam*, H. painter, Petersfield, Hants, April 30. Trusts. W. Devey, brassfounder, Shoe-lane, and E. Albert, gent. Midhurst, Sussex. Sol. Devey, Ely-place, Holborn.—*Walter*, J. H. ironmonger, Southampton-st. Camberwell, April 26. Trusts. J. S. Nettlefold, ironmonger, High Holborn, and A. H. Farwig, zinc manufacturer, Salisbury-court, Fleet-st. Sols. Elmslie and Preston, Moorgate-st.

Bankrupts.

DATE OF FIAT AND PETITIONING CREDITORS' NAMES.

Gazette, June 20.

BROGDEN, CHARLES, bookseller, stationer, printer, and publisher, Lincoln, July 7 and 21, at twelve, Leeds, Com. Boteler; Hope, off. ass.; Scott and Tahourdin, Lincoln's-inn-fields, Moore, Lincoln, and Payne and Co. Leeds, sols. Date of fiat, June 16. T. Melton, innkeeper, Lincoln, pet. cr.

COMMINS, JOHN, bookseller and stationer, Weymouth Dorsetshire, July 8 and 29, at eleven, Exeter, Com. Bere; Hirtzel, off. ass.; Steggall, Weymouth, Head, Exeter, and Bowden, Great James-st. sols. Date of fiat, June 7. J. Renshaw and G. B. Kirkman, wholesale stationers, Budge-row, pet. crs.

CONNETT, WILLIAM, cabinet maker, Exeter, June 30 and July 30, at one, Basinghall-st. Com. Evans; Johnson, off. ass.; Soles and Turner, Aldermanbury, sols. Date of fiat, June 11. J. S. Bassett, warehouseman, Wood-st. pet. cr.

CRABTREE, JOHN, and DURNLEY, WILLIAM, woollen manufacturers, Tunstead, Forest of Rossendale, Lancashire, July 8 and 25, at twelve, Manchester, Hobson, off. ass.; Milne and Co. Temple, and Buck and Eastwood, Burnley, sols. Date of fiat, June 9. R. and J. Howard, worsted-spinners, Burnley, pet. crs.

CUTCLIFFE, CHARLES NEWELL, surgeon and apothecary, Pilton, near Barnstaple, Devonshire, July 8 and 29, at eleven, Exeter, Com. Bere; Hernaman, off. ass.; Comins, Tiverton, and Watts and Co. Ely-place, sols. Date of fiat, June 17. J. Whitefield, draper, Barnstaple, pet. cr.

ISHERWOOD, JAMES, innkeeper, Bolton, Lancashire, July 8 and 30, at twelve, Manchester; Fraser, off. ass.; Gregory and Co. Bedford-row, Taylor and Westmoreland, Wakefield, and Bellhouse, Manchester, sols. Date of fiat, June 6. S. Norcliffe, maltster, Wakefield, pet. cr.

RODING, HENRY, wholesale stay manufacturer, Laurence Pountney-lane, City, and No. 8, Dorchester-pl. New North-road, Middlesex, June 27, at two, July 29, at eleven, Basinghall-st. Com. Fane; Whitmore, off. ass.; Cox, Pinner's Hall, sol. Date of fiat, June 11. Bankrupt's own petition.

SMITH, THOMAS CLERC, and HAYES, RICHARD, hotel-keepers, 18, Henrietta-st. Covent Garden, July 3 and Aug. 1, at twelve, Basinghall-st. Com. Fane; Whitmore, off. ass.; Potter and Collingridge, Basinghall-st. sols. Date of fiat, June 17. J. Pook, gent. Bedford-st. Covent Garden, pet. cr.

SMITH, EDWARD, auctioneer, 205, Regent-st. July 4, at one, Aug. 5, at half-past eleven, Basinghall-st. Com. Holroyd; Edwards, off. ass.; Hughes, Bedford-st. Covent-garden, sol. Date of fiat, June 7. R. Paris, upholsterer, Bouverie-st. pet. cr.

THOMPSON, THOMAS, bill broker and scrivener, Northampton, July 3, at half-past twelve, Aug. 1, at half-past one, Basinghall street, Com. Fane; Alsager, off. ass.; Norcut, Queen-st. sol. Date of fiat, June 16. G. Wheeler, pawnbroker, Croydon, pet. cr.

Gazette, June 24.

BOWLES, GEORGE, and POCKLINGTON, JOSEPH PAIN, meat and butter salesmen, 20, Newgate-st. City, July 9, at half-past one, Aug. 12, at twelve, Basinghall-st. Com. Holroyd; Groom, off. ass.; Young, Warwick-sq. sol. Date of fiat, June 23. R. Pocklington, meat salesman, York-ter. City-rd. pet. cr.

COLLEDGE, MATTHEW, coal merchant, Brinklow, Warwickshire, July 10 and Aug. 4, at eleven, Birmingham, Com. Daniell; Bittleston, off. ass.; Smith, Birmingham, sol. Date of fiat, June 18. Bankrupt's own petition.

HILDITCH, WILLIAM, grocer, druggist, oil and colourman, Fachwen, St Asaph, Flintshire, July 14 and 31, at twelve, Liverpool, Com. Phillips; Morgan, off. ass.; M'Gregor, Suffolk-st. Pall Mall, and Evans, Denbigh, and Evans, Liverpool, sols. Date of fiat, June 17. Bankrupt's own petition.

LEJEUNE, WILLIAM RICKMAN, corn and manure merchant, Southampton, June 30 and July 29, at twelve, Basinghall-st. Com Goulbourn; Follett, off. ass.; Smith and Atkins, Serjeants'-inn, and Mackey and Girdlestone, Southampton, sols. Date of fiat, June 16. W. Hazleton, merchant, Southampton, pet. cr.

MORTON, WILLIAM, gas fitter, Railway-pl. Fenchurch-st. City, July 4 at twelve, and Aug. 5, at eleven, Basinghall-st. Com Fane; Whitmore, off. ass.; Loveland and Co. Symond's-inn, sols. Date of fiat, June 23. Bankrupt's own petition.

MOSSMAN, WILLIAM, fancy stationer and toyman, 14, Clarke's-place, High-street, Islington, June 30, at two, Aug. 4, at half-past eleven, Basinghall-street; Com. Shepherd; Graham, off. ass. Wright and Co. Golden-square, sols. Date of fiat, June 11. R. and W. Caldwell, warehousemen, 34, Paternoster-row, pet. crs.

ROSE, FRANCIS, surgeon and apothecary, Nether Stowey, near Bridgewater, Somersetshire, July 8 and 29, at eleven, Exeter; Com. Bere; Hirtzel, off. ass. Boyle, Clement's-inn, Smith, jun. Bridgewater, and Stogdon, Exeter, sols. Date of fiat, June 18. Bankrupt's own petition.

WILSON, JAMES, the younger, butcher, Leeds, July 7 and 28, at eleven, Leeds; Com. Boteler; Fearne, off. ass. Milton and Nealor, Southampton-buildings, and Dunning and Stawman, Leeds, sols. Date of fiat, June 20. Bankrupt's own petition.

PARTNERSHIPS DISSOLVED.

Gazette, June 17.

Brown, N. and *Hedley*, T. wood merchants, Hexham, January.—*Chilland*, G. and H. corn dealers, Huddersfield, June 14.—*Hudson*, J. and *Forgie*, W. lace manufacturers, Nottingham, June 14. Debts paid by Hudson.—*Moses*, I. Dec. 31 and *Moses*, J. jun. navy agents, Portsea and Ryde, Oct. 17. Debts paid by Moses, jun.—*Orr*, J. and *MacMaster*, R. ship brokers, Liverpool, May 31. Debts paid by Orr.—*Quesbury*, J. and *Harris*, J. L. Blackwell-hall factors, Frederick's-place, Old Jewry, June 10. Debts paid by Quesbury.—*Sugden*, W. and *Redfern*, B. stonemasons, Manchester, June 12. Debts paid by Sugden.—*Watney*, J. and *Boutts*, D. May 31.

Gazette, June 20.

Bach, H. and W. haberdashers, Birmingham, June 18.—*Beville*, H. R. *Goodman*, T. and *Nelson*, G. as the Patent Disc Engine Company, Birmingham, July 1, 1844. Debts paid by the partners.—*Black*, S. *Phillips*, J. and *Hillhouse*, C. Maidos, so far as regards Hillhouse, Dec. 31.—*Butler*, W. and J. grocers and drapers, Witham, June 16.—*Chapple*, J. and *Abraham*, B. picture dealers, Exeter, June 18.—*Davies*, T. and *Farrer*, S. commission agents, Manchester, June 17. Debts paid by Davies.—*Davis*, G. and J. brick manufacturers, Iron-bridge and Madeley-wood, June 17.—*Elphick*, W. and H. farmers, Newhaven and Heighton, June 17.—*Furniss*, E. *Wing*, R. *Westerdale*, J. S. and *Furniss*, F. oil manufacturers, Hull, June 10.—*Hardcastle*, W. *Jackson*, E. W. and *Baxendall*, A. and I. coal miners, East Aidaley, May 31. Debts paid by Jackson and A. Baxendall.—*Holland*, J. and *Wright*, W. plumbers, Sheffield, June 17.—*Hornby*, W. and *Wilkinson*, J. joiners, Bootle-cum-Linacre, near Liverpool, June 18.—*Lorimier*, A. and *West*, B. manufacturers of apparatus for facilitating drawing, Clerkenwell-close, June 12. Debts paid by West.—*Martin*, C. and N. attorneys, Vintners'-hall, June 19.—*Mayers*, W. and J. Finchampstead and Arthorfield, Berks, Feb. 11.—*Moore*, W. and J. F. soap manufacturers, Liverpool, June 19. Debts paid by W. Moore.—*Statham*, E. and *Mason*, W. surveyors, Amersham, May 14.—*Strauss*, S. and *Cohn*, D. D. importers, Abchurch-lane, June 16. Debts paid by Strauss.—*Turner*, P. B. and *Hensman*, G. attorneys, Basing-lane, June 18. Debts paid by Hensman.—*Walker*, R. sen. and jun. corrugated iron manufacturers, Bermondsey, Jan. 1.—*Werthiem*, A. and *Beaver*, L. watchmakers, Manchester, May 27.

Insolvents

Petitioning the Courts of Bankruptcy.

Gazette, June 17.

PETITIONS TO BE HEARD AT BASINGHALL-STREET.

Adams, J. G. baker, Gillingham, June 25, at twelve.—*Aldous*, W. L. artist, Walcot-pl. West, Lambeth, July 10, at eleven.—*Colwell*, H jun truss maker, Horse-shoe-ct. Ludgate-hill, July 10, at eleven.—*Curtis*, J. corn dealer, James's-place, Holloway, June 25, at twelve.—*Hay*, P. gent. Thanet-st. Burton-crescent, June 30, at eleven.—*Linsell*, L. farmer, North Weald, near Epping, June 28, at half-past two.—*Linsbeer*, J. boot maker, Great Queen-st. Lincoln's-inn-fields, June 25, at twelve.—*Mitchell*, G. butcher, Winchester, June 27, at half-past one.—*Morley*, J. oyster dealer, Bath-place, New-rd. June 28, at eleven.—*Ross*, G. accountant, Chatham-place, New Bridge-st. and Bell's-buildings, Salisbury-sq. June 26, at two.—*Salmon*, E. and *Thorne*, C. provision dealers, Lower East Smithfield, July 10, at eleven.—*White*, J. S tailor, Hackney-rd. July 10, at eleven.—*Woodhams*, C. clothier, Lambeth-walk, June 30, at half past eleven.

IN THE COUNTRY.

Gazette, June 17.

Halfhead, W. clerk, Stoke Saint Gregory, near Taunton, June 26, at eleven, Exeter.—*Hewitt*, R. butcher, Manchester, July 2, at twelve, Manchester.—*Rees*, D. sen. farmer, Llanthoysaint, July 10, at eleven, Bristol.—*Oram*, W. hair-dresser, Frome Selwood, July 10, at half-past eleven, Bristol.

MEETINGS IN THE COUNTRY.

Gazette, June 17.

Armstrong, G. L. July 11, at eleven, Liverpool, div.—*Griffiths*, E. July 11, at eleven, Liverpool, div.—*Haigh*, G. carpenter, Hill-house, near Huddersfield, July 9, at eleven, Leeds, aud.—*Hull*, T. butcher, Great Ashby, July 9, at eleven, Birmingham, aud.—*Speed*, W. July 11, at twelve, Liverpool, aud

PETITIONS TO BE HEARD AT BASINGHALL-STREET.

Gazette, June 20.

Apperley, J. clerk, Warwick-st. Pimlico, July 10, at eleven.—*Dunn*, J jun Holywell-st. and *Sweet*, E. Holywell-st. and Denzell-street, publishers, June 30, at twelve.—*Ratcliff*, S butcher, Chelmsford, June 27, at two.—*Rogers*, J. house decorator, Dean-st. Westminster, July 2, at twelve.—*Seaward*, W. lieutenant, Perry-st. near Gravesend, July 2, at twelve.

IN THE COUNTRY.

Ainsley, J. joiner, Stockton-upon-Tees, July 1, at half-past eleven, Newcastle.—*Bowser*, S. coal miner, Pembrey, July 15, at half-past eleven, Bristol.—*Daniell*, T. music seller, Castle Cary, July 8, at half-past eleven, Bristol.—*Ewing*, J bookseller, Durham, July 3, at half-past two, Newcastle.—*Glover*, B. traveller, Manchester, July 3, at twelve, Manchester.—*Martin*, J. H. painter, Cheltenham, July 15, at eleven, Bristol.—*Reynolds*, R. hair dresser, Madeley, June 26, at eleven, Birmingham.—*Robinson*, E. furniture broker, Great Bolton, July 2, at twelve, Manchester.—*Spours*, E. labourer, Newcastle, July 1, at eleven, Newcastle.—*Whitford*, H. farmer, Cardington, July 4, at half past ten, Birmingham.—*Young*, G. fishmonger, Binegar, July 14, at eleven, Bristol.

MEETINGS AT BASINGHALL-STREET.

Richmond, S. widow, Rayleigh, July 12, at eleven.

From the Gazette of Friday, June 27.

Bankrupts.

May, S. and *Mottram*, P. drapers, Shrewsbury.—*Carr*, R. cheesemonger, Fore-st. Cripplegate.—*Greenwell*, W. wheelwright, Redcross-st. Southwark.—*Forrester*, J. baker, Hampstead.—*Paine*, C. plumber, Lewes, Sussex.—*Westmore*, R. joiner, West Derby, Lancashire.—*May*, W. draper, Liverpool.—*Loraine*, F. bookseller, Newcastle-upon-Tyne.—*Thomas*, E. wine merchant, Bristol.

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Conveyance after decree for sale to pay debts—Disclaimer—Trustee—First executory devisee.

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The children of J. A. take under an executory devise, but the four children of J. A. he being alive, cannot convey under the Act as first executory devisee, inasmuch, as there may be other children born, and they therefore have not the whole interest in them.

Thomas Archer, by his will, gave and devised "all those three messuages, &c. at Barleston, Leicestershire, unto and to the use of Thomas Moore and his heirs, during the life of the testator's wife, or until she should marry again, and during the life of his son Joseph and after the decease or bankruptcy of his said son, or any attempt by him to dispose of, by way of anticipation, the rents and profits of the said premises, or any part thereof, upon certain trusts for the benefit of the testator's wife; and, after the decease or second marriage of his said wife, upon certain trusts for the benefit" of his said son Joseph Archer; and after the decease, bankruptcy, or insolvency of his said son, or any attempt by him to dispose of, by way of anticipation, the said rents and profits, or any part thereof, whichever should first happen, the said testator gave, devised, and appointed the said messuages, &c. unto and to the use of all and every the child and children of his said son, if more than one, in equal shares and proportions, and the heirs of the body and respective bodies of all and every of such child and children respectively issuing, as tenants in common, and not as joint tenants," with remainders over.

There was another estate devised in precisely the same terms in favour of Thomas Archer, another son of the testator, and his children; and another estate was devised, in like manner, for the benefit of a third son, Samuel Archer, and his children, which, after limitations precisely similar to the above, thus proceeded:—"And in case there should be no child or descendant of a child of his said son, Samuel Archer, to inherit under the said last-mentioned devise, the said testator devised the said last-mentioned hereditaments unto and to the use of the said Thomas Moore and his heirs during the lives of his, the said testator's, children, the said Joseph Archer and Thomas Archer, Mary the wife of Thomas Thornelve, and Eliza Archer, and the life of the surviver of them, upon trust, to receive the rents and profits, and divide the same between his said last-named children and the survivors and surviver of them, equally or wholly, as the case might be; and, after the decease of the survivor of them, his said last-named children, the said testator devised the said hereditaments unto and to the use of all and every his grandchild and grandchildren, if more than one, in equal shares and proportions, and his, her, and their respective heirs and assigns, for ever, as tenants in common." After the testator's death, Thomas Moore, the devisee in trust, disclaimed, and the legal estates, during the lives of the testator's sons, thereupon descended to Francis Charles Archer, his eldest son and heir-at-law. A decree having been made in a creditor's suit, by which the real estates of the testator were directed to be sold, all those estates had been sold, and, by leave of the Court, to two of the defendants in the cause. A petition had been presented in the cause, and under Sir Edward Sugden's Act (1 Wm. 4, c. 47), for the purpose of obtaining a conveyance, under that Act, of the estates which had been devised in settlement. The question raised before the Master of the Rolls was, whether there was any person within the terms of the Act whom the Court could direct to convey, and Lord Langdale held, that as to the estates devised to Joseph, Thomas, and Samuel Archer, and their respective children, there was no such person. The petition now came on by way of appeal. Both the testator's sons, Joseph and Thomas, were living, and each of of them had several children. Samuel Archer had survived the testator, and died leaving an infant and only son, who died also soon after Samuel, at the age of a few months. The petition prayed that the testator's heir-at-law and the testator's sons, the equitable tenants for life, and their children, "or such of them as might be necessary and proper parties for that purpose," might be ordered to convey the respective estates to the purchasers. The Master of the Rolls held that this case was not within the 12th section of the Act, which provides "that where any lands, &c. hath been or shall *be devised in settlement* by any person or persons, whose estate under this Act, or by law, or his or their will or wills, shall be liable to the payment of his or their debts, and by *such devise shall be vested in any person or persons for life, or other limited interest*, with any remainder, limitation, or gift over, which may not be vested, or may be vested, in some person or persons from whom a conveyance or other assurance of the same cannot be obtained, or by way of executory devise, and a decree shall be made for the sale thereof for the payment of such debts or any of them, it shall be lawful for the Court by whom such decree shall be made to direct any such tenant for life, or other person having a limited interest, or the first executory devisee thereof, to convey, release, assign, surrender, or otherwise assure the fee-simple, or other the whole interest so to be sold, to the purchaser or purchasers, or in such manner as the said Court shall think proper; and every such conveyance, release, surrender, assignment, or other assurance shall be as effectual as if the person who made and executed the same were seized or possessed of the fee-simple or other whole estate to be sold."

By the 11th section of the Act infants were compellable to convey under the Act estates which were vested in them, notwithstanding their infancy, and such conveyances were declared to have the same effect upon their interest as if such infants were at the time of executing the same of the full age of twenty-one years.

Daniel and *Malins* contended that the heir at-law of the testator, upon whom the legal estate had descended on the disclaimer of Thomas Moore, the devisee in trust, *pour autre vie*, was the proper person to convey, and that the order prayed was within the spirit and policy of the Act, though not strictly within its words. That if the Court should be of opinion that the heir-at-law could not be directed to convey under the Act, then that the equitable tenant for life was a person having "a limited interest" within the 12th section, and as such might be directed to convey; that there was nothing in the Act to shew that such person must have the legal estate; or otherwise the Court might, by the conjoint operation of the 11th and 12th sections, direct the present infant children of Jos. Archer and Thos. Archer respectively to convey as "first executory devisee." In regard to the devise to Samuel Archer and his children, they contended that the heir-at-law was the proper person to convey, he being bound by the trusts of the will. They cited *Hopkins* v. *Hopkins* (Cas. tem. Talbot, 44); *Hopkins* v. *Hopkins* (1 Atkyns, 581); *Brook* v. *Smith* (2 Russ. & Myl. 73); *Gore* v. *Gore* (2 Pr. Wm. 28).

Faber, for two purchasers, supported the petition.

Bloxam, for another, objected that the Court had no power to make the order.

The LORD CHANCELLOR, during the argument, and at the conclusion, said, with reference to the argument that the children already born might convey as first "executory devisees,"—That is rather a nice question. Supposing the four present children of Joseph Archer were to execute a conveyance, and then another child was to come into existence, the conveyance would not have been made by the first executory devisee under the will. The Act means that the first complete executory devisee shall convey where there are successive executory devises. If the whole executory devisee were ordered to convey, the estate would pass under the statute; but can the present four children convey the whole interest of the first executory devisee? All who are in existence can convey; but in order to render the conveyance effectual, all who have the first executory devise, that is, all the children of Joseph, must concur. If more children are born, what becomes of the executory devisee?

Daniel.—The purchaser takes the fee by force of the statute; the persons ordered to convey constitute the mere machinery.

The LORD CHANCELLOR.—On other children being born, I think those children must afterwards convey, so that it may be necessary to come for successive orders during the whole of the life of the equitable tenant for life. The conveyance must be made by all who may be entitled to the executory devise, not by those who are now the existing persons at present so entitled. The present children do not answer the description of persons who take the first executory devise. They do not take the whole executory devise; you must wait until the event is decided. Suppose the fee to be in all the children of A, those children who happened to be in existence during A's life could not convey the fee, for there might be more children. I put it as if there were a *fee*, and all the children had the fee; two who were born could not convey the fee. The statute says the person who has the first executory devise; that means the persons who have all the executory devise, not those who have a part of it. It is the mere substitution of the executory devise for the fee.

As to the testator's heir being a person who might be ordered to convey under the 12th section, his lordship said,—Certain persons having limited interests are directed to convey, and such persons are described in the Act of Parliament. The heir-at-law in *Brook* v. *Smith* (*supra*) was comprised in such description. I cannot depart from the words of the Act. As to the equitable tenant for life, his lordship said,—Persons who have the power of conveying to the purchaser a good limited title to the legal estate under the will by virtue of a devise, may, under the Act, be directed to convey. But the heir-at-law does not take by devise; and the equitable tenant for life has not a complete limited estate. It is a case omitted from the Act, and ought to be remedied by the legislature.

February 11 and 13, May 30, June 11.

CLIFFORD v. TURRELL.

Specific performance—Parol agreement—Evidence—Deed—Proof of consideration not appearing upon the instrument.

Specific performance of an agreement to grant a personal annuity will be decreed in equity.

A parol agreement, which is not liable to the objection of the Statute of Frauds, or to which that objection has not been taken, if distinctly proved by unimpeached testimony, will be specifically performed, notwithstanding some correspondence had taken place between the parties which it might be difficult to reconcile with the existence of an agreement.

Other consideration than that stated in a deed may be proved, provided such further consideration be consistent with that stated in the deed.

This was an appeal from a decree made by Vice-Chancellor Knight Bruce, for specific performance of an agreement to grant to the plaintiff an annuity of 40*l.* during his life, and to provide him with a house of the value of 10*l.* a year. The circumstances were shortly these:—The plaintiff, Clifford, occupied a farm in Buckinghamshire as tenant to Mr. Du Pre, the defendant, his brother in-law, being surety for the payment of the rent. The plaintiff was also indebted to the defendant in the sum of about 1,000*l.* For that sum the defendant obtained a judgment against the plaintiff on a warrant of attorney, upon which an execution issued, and the goods and farming stock of the plaintiff, as well as the lease of the farm, were levied by the sheriff. The value of the goods and stock amounted to about 1,500*l.* the lease itself being worth nothing. The sheriff assigned to the defendant Turrell all the goods and stock as well as the lease, the landlord having waived the forfeiture. An arrear of more than a year's rent was due to the landlord, which the defendant paid. The plaintiff was pressed to join in this assignment to the defendant, which he did after some hesitation, and, as was proved by three witnesses, in consequence of an express promise made on the defendant's behalf that he would pay to the plaintiff an annuity of 40*l.* and provide him with a dwelling-house of the yearly value of 10*l.* One of the witnesses also said that the defendant further promised to employ the plaintiff's son as his bailiff, but that was not insisted upon by the bill, and was expressly waived at the bar. The defendant had not, by his answer, insisted upon the Statute of Frauds, or that the annuity had not been enrolled. There was no written memorandum of this agreement. The assignment made by the plaintiff of the stock and lease to the defendant recited the debt, levy, &c. and was

stated to be in consideration of the premises, and of 10*s*. Several payments had been made on account of the annuity. Some letters written by the plaintiff to his daughter, and by her, at his desire, to the defendant, in which the allowance was impliedly treated as a gift.

Cooper and *Tripp*, for the plaintiff, contended that the decree was right, and in support of it cited *Rex* v. *Scammonden* (3 Term Reports); that since the time of Lord Coke, it had been the rule to receive evidence of a consideration not expressed in the deed, provided such consideration was not inconsistent with that expressed. (*Filmer* v. *Gott*, 4 Bro. Par. Cas. 230.) They also cited and mentioned, 1 Phillips on Evidence, 549, 9th ed. where the authorities are collected; *Peacock* v. *Monk* (1 Ves. sen. 127); *Sadler* v. *Sadler* (before the Vice-Chancellor, 1819, cited 1 Madd. Ch. Prac. 360); *Ball* v. *Coggs* (1 Bro. Par. Cases, 140); *Adderley* v. *Dixon* (1 Sim. & Stu.); *Withy* v. *Cottle* (1 Sim. & Stu. 164); *Pritchard* v. *Ovary* (1 Jac. & Walk. 396); *Taylor* v. *Neville*, cited in *Buxton* v. *Lister* (3 Atk. 383); *Lady Herbert* v. *Lord Powys* (1 Bro. Par. Cas. 315); *Carberry* v. *Weston* (1 Bro. Par. Cas. 429); *Hartopp* v. *Hartopp* (17 Ves. 192); *Craythorne* v. *Swinburne* (14 Ves. 160).

Simpkinson and *Chandless*, for the defendant, contended that the plaintiff could not give evidence of any other consideration than that stated in the deed; and referred to the letters written by plaintiff and his daughter, which were quite inconsistent with the claim of right asserted by the bill. (*Peacock* v. *Monk*, 1 Ves. sen. 127; *Kimberley* v. *Jennings*, 6 Sim. 340.)

Cooper, in reply, referred to this case before the Vice-Chancellor, reported 1 You. & Col.; *Brough* v. *Oddy* (1 Rus. & Myl. 55); 3 Sugden Vend. and Purch. 193; *Farell* v. *Heelis* (Ambl. 726); *Mildmay's* case (1 Coke Rep. 176); *Cromwell's* case (ibid. 76); 3 Starkie on Evid. 758, 3rd ed.; *Vernon's* case (4 Coke, 1); *Bedell's* case (7 Coke, 39).

JUDGMENT.

June 11.—The LORD CHANCELLOR.—In this case the plaintiff was tenant of a farm in Buckinghamshire, at the rent of 240*l*. a year, for which the defendant, who was his brother-in-law, was surety. The defendant had also lent the plaintiff two sums of money, amounting together to upwards of 1,000*l*. for which the plaintiff had given a warrant of attorney, upon which judgment had been entered up; and default having been made in payment, execution had issued, under which the sheriff levied the amount by seizing the plaintiff's furniture, farming stock, and the lease of the farm. The property thus seized was valued, and the valuation amounted to 1,540*l*. The execution was issued for 1,080*l*. After the valuation, the defendant agreed with the sheriff to purchase the furniture, the stock, and the lease at the valuation, namely, 1,540*l*. If that agreement had been carried into effect, the defendant would have had to pay the sheriff the difference between 1,540*l*., the amount of the valuation, and 1,080*l*. The sheriff must have paid the landlord a year's rent, 240*l*., and the poundage and incidental expenses of the levy, which would have left a surplus coming to the plaintiff of about 100*l*. In this state of things the defendant would have been left in this situation; he would have remained liable to the landlord for the arrear of rent which was due beyond one year's rent, and for all future rent so long as the lease continued; and the plaintiff's goods and stock having been seized, he would have had no means of carrying on the farm, so that it was not immaterial or unreasonable to suppose that what had been stated to have taken place between the parties as to the agreement did take place. The plaintiff stated in his bill that the defendant was desirous that the stock and the lease should be assigned by the plaintiff; that the plaintiff was unwilling to make that assignment; that he had been pressed over and over again by the defendant to do so, and that he at last reluctantly agreed to join in the assignment, upon the terms of the defendant agreeing to grant him an annuity of 40*l*. for life, and to find a house of the value of 10*l*. a year. That was the case alleged on the part of the plaintiff. The first question in the case was whether an agreement had been made, and whether the terms of it were satisfactorily made out by evidence. Three witnesses had been examined in the cause upon this point—the two Rolfes (father and son) and Everett—the two first being respectable farmers, and the third a respectable auctioneer. These witnesses had been examined in chief by both parties, and the defendant had cross-examined them; they had, therefore, been examined three times as to the particulars of the agreement. They all represented that the defendant was very desirous to obtain an assignment of the stock and lease, and the plaintiff was very reluctant to make it; the defendant pressed him over and over again, and employed these different individuals as agents of him, the defendant. They made various proposals and at different times to the plaintiff, and having pressed him again and again to make the assignment, he at last consented to do so. There was no room for mistake as to the nature of the transaction, and that the agreement was deliberately entered into by the plaintiff is distinctly proved by three respectable witnesses. The Court can act upon their evidence, which must be admitted. They were authorized to make the proposition to the plaintiff, and it was accepted by him. Thus stands the case upon the testimony of the witnesses.

During the argument I was much struck by the correspondence which had taken place between the parties. It was said that it was impossible to reconcile the contents of that correspondence with the existence of such an agreement as that deposed to by the witnesses. I still feel great difficulty in reconciling them; and it appears that the Vice-Chancellor felt the same difficulty in the case. It is to be observed, however, that the plaintiff was an ignorant and illiterate man, in great distress and poverty; and that the defendant was a substantial farmer, and connected with the plaintiff by marriage. It was possible that, although such an agreement had been made between the parties, the plaintiff may have considered that such a parol agreement could not be enforced in a court of justice, or that by reason of his poverty he had no means of enforcing the agreement. This may explain the circumstance; for it appeared that he made application to the defendant, a man of substance, for money, and those applications were made more to the bounty of the defendant than upon the ground of any claim of right the plaintiff had. However strong the inferences to be drawn from the correspondence were, they could not be put in competition with the direct, consistent evidence of three witnesses. I therefore come to the conclusion upon the evidence, that the agreement has been proved. If so, the remaining points are questions of law. The first is, as to the consideration of the deed. It was said by the defendant's counsel that you cannot go out of the consideration stated on the deed. The deed recited the debt, the levy, and the valuation; and that in consideration of the premises and the payment of 10*s*. the plaintiff assigned, &c. to the defendant; and it was said the plaintiff cannot go out of the deed to prove that there was any other consideration for the assignment than that stated upon the deed. The settled rule of law is, that you may go out of the deed to prove a further consideration consistent with that stated in the deed, but you cannot be allowed to prove a consideration inconsistent with it. Another consideration which stands well with the consideration mentioned in the deed may be proved. The authorities cited to establish a contrary doctrine were all cases of strangers to the deed. There are several old cases which prove that a further consideration consistent with that in the deed may be given in evidence. That was established by the case of *Villers* v. *Beaumont* (2 Dyer, 145 a), where the subject was very much discussed, and was decided by three judges against one. That was confirmed by other cases mentioned by Lord Coke. The first was *Mildmay's* case; but there Lord Coke does not refer to the case in Dyer, but states the proposition in the terms it is there stated. In a subsequent case he refers to the case in Dyer; that is, the Court refers to that case according to the report by Lord Coke. In *Vernon's* case (4 Coke's Reports), and *Bedell's* case (7 Co. Rep.), the doctrine is stated in the terms of the report in Dyer, and it has ever since been consistently acted upon by the courts of law and equity; and it has been confirmed by the modern case of *Milner* v. *Salkeld*, decided by Chief Justice Willes. I should not have thought it necessary to have gone so minutely into the details of these cases, but for the case before Lord Hardwicke, in which he is said to have expressed a contrary opinion. But it was not necessary to question that opinion, for that case was quite consistent with the present decision: no consideration was stated in the deed, and Lord Hardwicke thought that such consideration might be proved; and he went to say, "for to be sure, where any consideration is mentioned, as of love and affection only, if it is not said, and for other considerations, you cannot enter into proof of any other; the reason is, because it would be contrary to the deed; for when the deed says it is in consideration of a particular thing, that imports the whole consideration, and is negative to any other. But this is a middle case, there being no consideration at all in the deed." I do not know whether the report in Vesey is correct; but if the case is accurately reported, it was an *obiter*, not necessary for the decision of the case, and it may have been incorrectly reported. At all events, it is at variance with the current of decision; and I think in this case the evidence was properly received, of a consideration not mentioned, in addition to the consideration stated in the deed and consistent with it.

The only remaining question is, whether the Court can decree the specific performance of an agreement for the grant of an annuity not charged upon land, but a mere personal annuity. It was said the party may go to a court of law, and recover damages for the breach of such an agreement, and therefore it was not a case for the interference of a court of equity. The answer to that was this, that there were several cases in which the contrary had been decided, and the principle had been confirmed by the House of Lords. Damages at law would be estimated by a jury according to the average duration of human life; but that might or might not be a sufficient compensation, as the party might live beyond the average period of life. I am therefore of opinion upon all these grounds, that the specific performance of an agreement for a personal annuity can be had in this court, and that this is a case for such a specific performance. The agreement to provide a house of 10*l*. a year falls within the same principle. I think the decision of the Vice-Chancellor was right, both on the facts and in law, and that it ought to be affirmed with costs.

VICE-CHANCELLOR OF ENGLAND'S COURT.

Monday, June 2.

STURGES *v.* PALEY.

Practice—Right of precedence.

Upon the hearing of a petition to confirm the Master's report, and a counter-petition that the Master might review his report, the right to begin belongs to the counsel for the counter-petition.

This was a case which came before the Court upon a petition that the Master's report, approving a receiver might be confirmed; also a counter-petition praying that the Master might review his report.

C. P. Cooper and *Rogers*, who appeared for the counter-petition, contended they had a right to begin, as their petition was in the nature of exceptions to the Master's report, and that therefore the practice ought to be by analogy precisely the same as in the case of exceptions.

James Parker and *Daniel*, who appeared to support the first petition, submitted that, as the whole case was opened by them through means of the petition, they therefore had the right to begin; that the case of the *Princess Bariatinsky*, as reported in 1 Phil. 442, was one precisely similar, for there a question arose as to the right to begin between two sets of counsel, one appearing upon a petition to confirm the report, and the other to support a counter-petition. The Lord Chancellor in that case, however, did not consider the counter-petition in the light of a particular exception to certain parts of the report, but in substance a general objection to the whole; and his lordship therefore allowed the first petitioners to open.

C. P. Cooper observed that the case just cited was one of lunacy, and the petition was there to confirm the commissioner's report, and it did not follow that the practice in Chancery should be the same.

Koe, *Bethell*, *Fleming*, *Walford*, and *Amphlett* appeared for the other parties.

His HONOUR the VICE-CHANCELLOR thought there was a difference between the two cases in the question before him, and therefore decided that the counter-petitioners had the right to begin.

Monday, June 9.

SMITH *v.* GROVES.

Practice—Service of copy of the bill under the 23rd order of August 26, 1841.

The 23rd order of 26th of August, 1841, provides that "where no account, payment, conveyance, or other direct relief is sought against a party to a suit, it shall not be necessary for the plaintiff to require such party to appear to and answer the bill; but the plaintiff shall be at liberty to serve such party with a copy of the bill, omitting the interrogatory part thereof: and such bill as against such party shall not pray a subpœna to appear and answer, but shall pray that such party, upon being served with a copy of the bill, may be bound by all the proceedings in the cause," &c. These latter words need not be inserted in the prayer of process.

This question arose out of an objection which had been raised in the office of the Clerk of Records and Writs, upon the above order of August 1841. It appears that in the commencement of the prayer of the bill the words "that the defendant, upon being served, might be bound by all the proceedings in the cause," were inserted, but were omitted at the end with the prayer of process.

The question was now put to the Court by *Tennant*.—The Lord Chancellor, in *Gibson* v. *Haines* (1 Hare, 317), having, upon an appeal from V. C. Wigram, stated that the convenient course would be to require this particular prayer in future bills to be inserted in the prayer of process, although on that occasion he directed the memorandum of service to be entered with the Six Clerks.

The VICE-CHANCELLOR.—My Lord Chancellor, I see, in the case alluded to, did not say in express terms that it should be so, but that it would be convenient. Now although the course suggested might be very convenient, yet as I do not wish to sanction a new form of the order by determining in what part the prayer is to be inserted, nor to lay an unnecessary burden on the suitor, I must consider the order sufficiently complied with. If his lordship had really declared that the particular prayer should be so inserted for the future, there is an end of the question; but it seems to me to have been nothing more than an extra-judicial opinion of his, and I do not see how I can take an intimation of opinion as an authority for varying the order. I must confess I am unable to see that it is any more inconvenient for the

Clerk of the Record and Writs to look at the beginning than at the end of the prayer; on the contrary, I should rather have thought it best to have the most material thing first. *Objection overruled.*

Saturday, June 28.

LLOYD *v.* LAVER.

Will—Power of appointment, invalidity of.

Power was given to A. to appoint a certain fund among such of her children as might be living at her decease, in such manner as she should by will direct. A. had three daughters, H., F. and M., and by her will gave the whole fund to M. and in default of any appointment by her to her next of kin; M. died without having made any appointment: Held, that, under the circumstances, A.'s appointment was invalid.

This was a question which arose as to the validity of an appointment under the will of a Mrs. Partridge. It appears that a lady by the name of Pace by her will bequeathed a sum of 1,000*l.* Three per Cent. Consolidated Bank Annuities to Mrs. Partridge for her life, with a power of appointment to such of her children as might be living at her decease, in such manner and subject to such contingencies as she should by will direct.

Mrs. Partridge, assuming to act in conformity with the will of the testatrix, by her will appointed the 1,000*l.* Consols to her daughter Henrietta for life, with remainder to her second daughter Frances for her life, with remainder to another daughter Mary, and in default of any appointment by her, the said Mary, to her next of kin. The second daughter Frances died in the lifetime of her sister Henrietta, who died intestate, and Mary having also died without executing the power of appointment so given to her by her mother, a doubt arose as to whether the will of Mrs. Partridge was a due exercise of her power of appointment.

Stuart, Anderton, Whitmarsh, Koe, Smyth, Campbell, and *Freeling* appeared for the several parties.

The VICE-CHANCELLOR was of opinion, that where a party gave a power of appointment to be exercised in favour of a number of children who should be living at a certain event, there existed no authority which declared that the appointment of the whole fund to one child for life, with remainder to the other children, was good, and therefore decreed in favour of the plaintiff, who claimed in default of the appointment.

Tuesday, July 1.

BATTERSHELL *v.* BISHOP OF WINCHESTER.

Renewal of lease for lives—Obligation to renew—Question of law.

The Bishop of Winchester being lord of the manor of A. in 1695 granted, under an Act for that purpose, a lease for three lives at a certain rent. Since then a renewal had taken place at three different times, the last in 1807. In 1830 one life only remained to continue this last lease. Application was then made to the present bishop to renew, and upon a question as to whether the Act was obligatory to renew upon every bishop in perpetuum, Held, that such a question was a purely legal one, and cognizable only in a court of law.

This was a suit which had for its object the fixing an obligation on the Bishop of Winchester to renew a lease for lives of certain portions of land situate at Alverstoke, near Gosport, whereon the Gosport Water-works had been erected.

It appears that, by a private Act of Parliament passed in the year 1695, a provision was made whereby the Bishop of Winchester, who was also lord of the manor of Alverstoke, granted the first lease to a person by the name of Lewis for three lives, at the rent of 20*s.* per annum. There had been three renewals of this lease since it was first granted; namely, one in 1786, another in 1793, and the third in 1807. It was discovered in the year 1830 that two of the lives for which the last-mentioned lease had been granted had dropped, and an application was made to the present bishop to renew. And the question now raised was, whether the obligation created by the Act of Parliament in 1695 was binding upon and transferable to every successor in the see of Winchester.

Bethell and *Shebbeare*, for the plaintiff.

Stuart and *Stinton*, for the defendants, were not heard, for

His Honour the VICE-CHANCELLOR considered that the question as to whether there was a legal obligation on the present Bishop of Winchester to grant a renewal of the lease was purely a case for a court of law, and that, if all the parties agreed to be bound by his judgment, he could only pronounce an opinion.

It was then agreed to by both sides that a case should be directed for the opinion of the Judges of the Court of Common Pleas.

ROLLS COURT.

BARLOW *v.* GAINS.

A mortgagee has a right to pursue his remedies at law, though there is also a suit instituted in Chancery, which would give him the same or equal relief.

Kindersley, in this case (reported in 5 Law T. 190), again applied to the Court to restrain the defendant from renewing proceedings at law. The defendant insists he has a right to go on, and we contend the Court has the right to restrain him.

Craig, on the same side.—If we proceed with all convenient speed, he ought not to renew his action; if we do not, he may be permitted to do so. The mortgagee may have foreclosure in this suit, and that will answer his purpose as well as bringing an ejectment or proceeding on the covenants; and he may now hurry on as fast as he likes, for he has a decree.

Moore asked for his costs.

The MASTER of the ROLLS.—It is inconvenient that so many proceedings should be taken; but the mortgagee may at the same time enforce all his remedies, both at law and in equity, or such of them as he thinks fit. I cannot grant the motion.

June 2 and 5.

MADEN *v.* VEEVERS.

Though the rule is that a defendant has a right to urge on the plaintiff to prosecute the suit against his co-defendants, yet he will not be permitted to do so in extreme cases, and where the case is one of great complication.

In this case, which was one of great complication, and has been the subject of a long litigation, Mrs. Veevers, one of the defendants, having agreed to compromise the suit upon payment to her of 1,500*l.* her terms were agreed to, and the money paid in April last; but a few days after she died, and the suit abated. It was intended and arranged that proceedings should stop, and deeds for carrying the compromise into effect were prepared, but not executed. Under these circumstances,

Mylne now moved, on the part of one Hoyle, a co-defendant, to dismiss the bill, with costs, for want of prosecution, he having never agreed to the compromise, and his answer having been put in long since.

Kindersley, contrà.—It was a pity that the motion was made, for it was distinctly stated to Mr. Hoyle that as soon as the deeds which were prepared could be executed, the plaintiff would move to dismiss the bill against him with his costs; the delay in doing so was solely owing to the non-completion of the arrangement, which was being proceeded with as fast as possible. The motion ought to have been to revive in a given time, or to dismiss after that time had expired.

The MASTER of the ROLLS.—I cannot grant the motion. All I can do is, to let it stand over for a month or six weeks or to the last seal before the long vacation. This gentleman has given a great deal of trouble, and though he knows the complication of the case, he still persists in doing so. He must not, however, in this court urge his extreme rights in such a case as this. He is promised to be dismissed with his costs as soon as conveniently may be; but though the rule is that a defendant may use the means provided for urging on the plaintiff to prosecute the suit against his co-defendant, yet he cannot be permitted to do so in an extreme case like this.

Thursday, June 5.

LANGLEY *v.* FISHER.

Practice—Enlarging publication—Delay—Insufficient affidavits.

Publication having been enlarged till a month after the decision, upon an appeal as to the admissibility of evidence, and during the month the rule being also enlarged for an additional number of days, further enlargement will not be granted on the day before the expiration of the last day fixed, unless upon very special affidavits, accounting satisfactorily for the delay.

The bill in this case was filed so long ago as the year 1836; and the subject-matter of the suit was certain property, to a seventh of which Mrs. Prideaux was entitled to her separate use. She put in a separate answer, and her husband answered and disclaimed. There were charges of fraud, &c. and the plaintiff, in taking evidence, sought to have Mr. Prideaux as a witness. Mr. Prideaux demurred to the admissibility of his evidence, which demurrer was allowed in Nov. 1843 (*vide* 5 Beav. 443) at the Rolls, and, on appeal, was also allowed on the 10th April last. Publication had been enlarged several times, and lastly till after the expiration of one month from the Chancellor's decision being given. After the 10th of April publication was again enlarged till the 29th of May, and on the 28th application was made to have a day fixed for examination of witnesses; but no day could be given for a month, because of the press of other business. Under these circumstances, application was now made by the plaintiff to enlarge publication till a day could be obtained for such examination, he undertaking to proceed forthwith.

Mahns, for the motion.—The number of enlargements is no objection, for that frequently happens. We did not know what course to take till the 28th of May, because we had hope of a decision in our favour, the Chancellor having taken one year and eight months to come to a decision, shewing, we thought, that the case was doubtful, so that between the 10th and 26th of April we were obliged to consult counsel, &c. and as soon as we could we applied for a day. Being deprived of our material witness, we did not know what to do. We swear that the evidence of the two witnesses we seek to examine is material and necessary in support of our case.—He cited *Barnes* v. *Abram* (3 Madd. 103).

Kindersley (with him *Turner*), contrà.—The application to the examiner was made *pro formâ* to enable the plaintiff to come into this court to make the present motion. The delay is not accounted for; and moreover there has been great delay throughout the cause.

Cooper, for other parties.

The MASTER of the ROLLS.—I will give the plaintiff leave to make a better affidavit, if he can, in explanation of the delay, as well pending the appeal as after the decision of the Chancellor; otherwise I shall dismiss the motion. Publication to be enlarged in the meanwhile.

VICE-CHANCELLOR KNIGHT BRUCE'S COURT.

May 28 and 31.

EATON *v.* BARKER.

Construction of will—"Surviving."

After a bequest to daughters of the testator, the testator directed that proper articles should be drawn up on their marriage, "to the intent that, should any of them die without issue, then, on decease of their respective husbands and themselves, their fortunes to revert to their surviving brothers, share and share alike." One of the testator's daughters died during the life of her brothers, who all died in the lifetime of her husband.

Held, that the husband, as administrator of the wife, was entitled to the fund absolutely.

Thomas Boydell, by his will, dated the 17th of March, 1795, gave and devised all his messuages, lands, and tenements, and also all his leasehold premises, with their and every of their appurtenances, unto Edward Griffiths and Richard Barker, and to their heirs, executors, and administrators, upon trust, so soon as conveniently might be after his decease, to convey, settle, and assure the same estates unto and to the use of his sons Thomas, Josiah, William, John, and James, in such parts and shares, and under and subject to such charges in favour of his daughters, and for payment of his debts (if any), as his personal estate would not extend to pay, as were set down or mentioned in the memorandum or paper writing thereunto annexed and subscribed by him; and he thereby expressly directed that the annuities and legacies intended for his said daughters should be secured to them respectively upon and for the estates mentioned and intended to be charged therewith. The testator then devised a portion of his estates to his son William, subject to a rent-charge of 100*l.* per annum, payable to his sister, Ann Boydell, till her marriage, and subject to 2,000*l.* after marriage; and in the memorandum referred to by the will was the following clause: "And that my sons may not be laid under any unnecessary restraint, I give them the several estates hereinbefore specifically mentioned to their own proper use and disposal, as circumstances may require, for ever, trusting, from the brotherly affection that has always appeared to subsist between them, that they will not dispose of the same to the prejudice of each other, should any of them die without issue; and as to my daughters, I also trust that they will not dispose of themselves in marriage without consulting my executors and getting their assistance in drawing up proper articles, to the intent that, should any of them die without issue, then on the decease of their respective husbands and themselves, then their fortune to revert to their surviving brothers, share and share alike."

The will, with the memorandum, was proved by E. Griffiths and R. Barker, the executors named in the will. Ann Boydell, on the 16th Sept. 1799, married the plaintiff, Joseph Eaton, and no settlement was ever made of any of her property. The sum of 2,515*l.* 19*s.* 3*d.* representing the sum of 2,000*l.* bequeathed by the will, and received from Wm. Boydell, was in the hands of Harriette Barker, the representative of the surviving executor of the testator's will. Ann Eaton died on the 24th Feb. 1837. Previous to that time, Thos. Boydell and Wm. Boydell had died; the other three brothers were living, but died before the institution of the suit. The plaintiff, as administrator of his wife's estate, filed the present bill against Harriette Barker and the representatives of the three brothers who survived the plaintiff's wife, claiming the absolute interest in the sum of 2,515*l.* 19*s.* 3*d.*

Wigram and *Jolliffe*, for the plaintiff, were proceeding to argue the case on behalf of the plaintiff, on the ground that no trust was created by the will, and that the words used by the testator were merely precatory; when

The VICE-CHANCELLOR suggested that they should

argue the case by assuming that a trust was created; but that, nevertheless, as in the case of *Harrison* v. *Foreman* (5 Ves. 207), the gift to the daughter being a clear vested interest, was not divested; the express contingency upon which it was to be divested, viz. the event of the brothers surviving the daughter and her husband, not having happened.

Russell, *Stinton*, *Swanston*, and *Burdon*, for the representatives of the brothers.

Micklethwaite, for Harriette Barker.

The VICE-CHANCELLOR.—My present impression is, that the words "surviving brothers" mean brothers then living; if they do, the sentence would run thus—"to the intent that, should any of them die without issue, the on the decease of their respective husbands and themselves, their fortune to revert to their brothers then living." If that be the true interpretation, the gift over is ineffectual, because there is no brother now living, and the husband is alive; so that the gift to the daughters would not be divested. And with this view it will not be necessary to consider the question of trust or no trust. I will consider this case, and mention it again.

His HONOUR, on a subsequent day, stated that his opinion was unaltered.

Decree—Declare the legacy absolute in the administrator of Mrs. Eaton; tax all parties' costs, as between solicitor and client, pay them out of the fund, and pay the residue to the administrator.

Friday, May 30.

SWALLOW *v.* DAY.

Practice—Mistake in answer.

Supplemental answer allowed to be filed under special circumstances to contradict a statement made by mistake in the original answer.

The order for leave to file a supplemental answer not having been passed and entered, and the time being on the point of expiring, the Court refused to allow the answer to be sworn in court, but directed the registrar at once to pass and enter the order, and that the officer should receive the answer upon production of the minute of the fact made by the registrar.

This was a motion by the defendant that he might be at liberty to file a supplemental answer for the purpose of correcting so much of his answer, sworn and filed, as contained an allegation interlined in the last skin in these words, "and paid part thereof to the bankers," such allegation having been inserted in the answer by mistake, and having been since discovered by the defendant to be erroneous. It appeared that the bill was filed for the purpose of taking accounts of a partnership, and by the answer it was sworn that the debts due to the partnership had, up to a certain time, been received by the defendant, and then were inserted the words upon which the question arose. The origin of the mistake was shewn by the affidavits filed in support of the motion.

Prendergast, in support of the motion.

Rolt, contrà, cited *Wells* v. *Wood* (10 Ves. 402); *Curling* v. *Marquis Townshend* (19 Ves. 628), and *Greenwood* v. *Atkinson* (4 Sim.).

The VICE-CHANCELLOR said, that the defendant had sworn that the fact sworn to in the answer was so sworn under the impression that it was true. He had sworn that the passage was written by him in the draft, and was immediately afterwards interlined in the last skin of the engrossment of the answer; and the answer so altered was sworn; that he verily believed that such interlineation was true, but that on returning to his club and referring to his books, he discovered that he had been led into some mistake or confusion of dates, and that he had made an erroneous statement; that this was made without any design of fraudulently or improperly delaying, prejudicing, or injuring the plaintiff, or in anywise misstating or misrepresenting any matter. In such a state of circumstances, and as there was no affidavit in opposition, it was impossible not to believe the statements in the affidavit; and as the defendant was in time in asking for leave to file a supplemental answer, his Honour thought that he ought to be at liberty to do as asked by the notice of motion. He should be most reluctant to do or say any thing having the appearance even of being in opposition to any thing that had been done or said by such a judge as Lord Eldon. His lordship, in *Edwards* v. *M'Leay* (2 Ves. & Beames, 256), had said, "There are many cases in which Lord Thurlow refused leave to amend an answer, and that is obviously right, upon this reason, that the Court, permitting the destruction of the answer upon the record and the substitution of another, has no security as to the propriety with which the final answer was sworn. The course has therefore been to permit an additional answer to be filed, which has been done in many instances, always with great difficulty, where an addition is to be put upon the record prejudicial to the plaintiff, though the Court would be inclined to yield to the application, if the object was to remove out of the plaintiff's way the effect of a denial, or to give him the benefit of an admission, material, perhaps conclusive, to enable him to obtain a decree. Where, therefore, the opposition to such application is not on the ground that it is against the plaintiff's interest that such supplemental answer should be put in; that with reference to his interest in that cause or property any mischief can arise to the plaintiff, the only ground for hesitation is the public interest, upon the circumstance that the defendant might have been guilty of perjury, and a prosecution for that offence may be required for the public interest." To that his Honour said that he wholly acceded, and he did not consider the permission he had given in any way conflicted with the rule so laid down. The defendant must have leave to do as he asked; the answer to be filed within a week, and the defendant to pay the costs of the same, and all costs to be occasioned thereby.

Thursday, June 5.

Prendergast now applied that the defendant might be at liberty to swear his answer personally before the Court, as the time allowed by the Court would expire within half an hour, and the defendant was compelled to leave London that day, and therefore he could not ask for further time. The answer had been prepared and engrossed, but the officer at the Clerk of Records and Writs Office had refused to allow it to be sworn to, because the order permitting the supplemental answer to be put in had not been entered and passed. The delay in entering and passing the order had been occasioned by the minutes of the order having been received only the day before. It was submitted that the Court had full jurisdiction to do all that it could delegate to its officers.

The VICE-CHANCELLOR said that he should have no objection to do this, if it were consistent with the practice of the court. The registrar agreed with him in thinking that no such practice existed; the application had better be made to the Lord Chancellor. He did not, however, see any difficulty on principle, but had rather not do any thing not sanctioned by practice.

Prendergast accordingly made an application to the Lord Chancellor, but his lordship seemed to feel the same difficulty as the Vice Chancellor, and considered that the regular way would be to ask for an extension of time. As no notice, however, had been given of such an application, and as even if notice had been given, the extension would of itself be most inconvenient to the defendant, his lordship directed the registrar at once to pass and enter the order, and the officer to receive the answer upon the production of the minute of that fact made by the registrar. His lordship did not like to make a precedent by allowing the order to be sworn in court, a precedent the whole consequences of which he could not foresee.

May 29 and 30, and June 7.

WILSON *v.* PARKER.

Practice—Amendment of bill after replication.

A motion for leave to withdraw a replication and to amend the bill should be made in the first instance to the Master; but, upon the objection to the Court's hearing the motion before any application to the Master, being waived by the defendant, the Court heard the motion.

This was a motion on behalf of the plaintiff for leave to withdraw replication and to amend the bill. It was objected, on behalf of the defendant, that the notion should in the first instance have been made to the Master, according to the 3 & 4 Wm. 4, c. 94, s. 13, and the 13th of the Orders of December 1833.

Lee, for the plaintiff.

Rolt, for the defendant.

The VICE-CHANCELLOR.—The objection, if insisted on, is fatal. Very likely the motion will ultimately come before the Court, and if the objection is not insisted on, it had better be heard at once.

Rolt said, that if the plaintiff would pay the costs of the day, he would not press his objection.

This proposition being assented to by the plaintiff, the motion was heard.

The VICE-CHANCELLOR.—As the plaintiff desires an opportunity to amend, confining that amendment to the prayer of the bill, I am of opinion that that opportunity ought not to be refused him. One course will be better for the defendant himself than at least one other that might be taken. The defendant the waiving any question of jurisdiction, and the plaintiff submitting to pay the costs of and rendered necessary by the amendment, let him be at liberty within a time to be fixed to amend his bill by extending the prayer, and not further or otherwise, he not requiring any further answer, and let the defendant be at liberty to plead, answer, or demur to the bill as so amended within a time to be named.

VICE-CHANCELLOR WIGRAM'S COURT.

Saturday, May 31.

SOTHEBY *v.* WILLIAMSON.

Costs.

Solicitor has no claim for his costs out of the estate of an infant where his retainer ceases by death of next friend of the infant (who employed him) before suit instituted.

This was a petition heard by order when this cause came on upon further directions. The object of the petition was to have certain costs which himself incurred in respect to part of the property included in this suit, before the bill was filed, paid out of the funds included in the suit. This suit was filed on behalf of infants by their next friend, to have the estate of their father administered under the order of the Court. Previous to the suit being instituted, petitioner had been employed by the grandfather of the infants to recover assets of the infants which had been improperly invested by the executrix of their father; in doing so, certain costs had been incurred, and petitioner had got into his possession securities for money, and other papers relating to the property included in the suit; but before the business was finally settled, the grandfather died intestate and insolvent, and another person filed this bill for the general administration of the property as next friend of the infants, and employed another solicitor to carry on the suit; during the progress of the suit, petitioner, by order of the Court, delivered up possession of all deeds, papers, and securities for money in his hands, without prejudice to any lien which the petitioner might have thereon for his costs, and furnished evidence in the suit, and was examined as a witness; under these circumstances, the petitioner now prayed to have his costs, incurred before suit for the grandfather, and since suit for the next friend of the infants, arising from the aid rendered by him from his knowledge of all the circumstances relating to the matters, included in the suit.

Wood appeared for the petitioner; he cited *Ex parte Cant* (10 Ves. 554); *Cranstown* v. *Johnston* (5 Ves. 227); *Thompson* v. *Shepherd* (2 Cox, 161); and Beames on Costs.

Romilly, for the defendant.

WIGRAM, V. C.—I must decide this case against the petitioner. If the executrix had been obliged to pay him, he might have had a lien, as she might charge the general estate. The facts of the case are these: the executrix enters into an agreement with the grandfather, and breaks it; petitioner is engaged by the grandfather, and afterwards a bill is filed; if the estate should prove deficient, could this claim be paid out of the general estate? This charge, arising in consequence of a breach of a private agreement between the grandfather and the executrix, the executrix should have got in the money. The claim for these costs should be against the estate of the grandfather. Admitting it was a breach of trust, I should be diminishing the fund which belongs either to the infants or creditors, which I feel this case does not admit. The petitioner must go against the estate of the grandfather.

BOLTON *v.* WARD.

Copyholds—Specific performance—Agreement—Partition.

Equity will decree specific performance of an agreement (made previous to the stat. 4 & 5 Vict. c. 35) for a partition of copyholds, where there has been a valuable consideration, a part performance, and the partition is sufficiently clear from the agreement and acts of the parties.

Stephen Ward being seised in fee of hereditaments, according to the custom of the manor of Knaresborough, where the rules of descent regarding lands are the same as at common law, had children by two wives, viz. James, William, and Wilks by his first wife, and Stephen, and Ann Bolton, the plaintiff, by his second wife; made his will and gave 10*l.* per annum to his second wife, Ann, a defendant, charged upon his copyhold lands; and then gave all his lands, copyhold and freehold, to his sons, William Ward and Stephen Ward, as joint tenants in fee, charged with the payment of legacies to his other children, and died without revoking his will in November 1831. William and Stephen, the devisees, were admitted, and continued in possession of the copyholds as joint tenants, and in February 1833 William and Stephen agreed to divide the real and personal estate derived from their father, Stephen Ward, and reduced it into writing, wherein were specially set out by name the several closes and hereditaments which each was to hold in severalty, and, by the words of the agreement, "road themselves in," and receive and pay all debts charged upon the lands equally; and a penalty of 100*l.* was laid on either party who attempted to annul the agreement, which was executed by both William and Stephen Ward. The several closes as mentioned in the agreement were allotted to each, and they severally entered and held possession in severalty, and all debts were paid and received according to the terms of the agreement; and the division so made continued during their respective lives, but no surrender and admission was made to give full effect to the agreement. In 1843, Stephen Ward, the younger, died intestate, without having married, leaving plaintiff, his sister, surviving, and heiress at law according to the custom of the manor. After Stephen Ward the younger died, plaintiff entered and held possession of the lands he took under the agreement, without any interference in the beginning from William Ward; but after some time he brought an action of ejectment against plaintiff to recover the lands, whereupon plaintiff filed this bill to have William Ward declared a trustee of the copyholds for the plaintiff, and a decree directing him

to surrender them to the use of the plaintiff, and for an injunction to restrain the ejectment.

Kenyon Parker and *Shee*, for the plaintiff.

Rigott, for the defendant, argued that the Court had not jurisdiction to decree a specific performance of an agreement in a partition of copyholds, as the agreement being made before stat. 4 & 5 Vict. c. 35, that statute could not be taken advantage of, and before that statute a court of equity could not make a decree for a partition of copyhold lands, and cited *Townsend* v. *Stangroom* (6 Ves. 328); *Beaumont* v. *Bramley* (1 Turner & Russell, 41); *Horncastle* v. *Charlesworth* (11 Sim. 315); *Jake* v. *Morshed* (6 Bea. 213).

WIGRAM, V. C.—In this case a bill was filed praying specific performance of an agreement for a partition of copyhold lands devised by a testator named Stephen Ward many years since to his two sons, William and Stephen Ward, as joint tenants in fee; those sons, after his death, were duly admitted, and their names appear to all except a small part of the copyhold lands, which appears to have been omitted by mistake. The agreement mentioned in the pleadings is afterwards entered into and acted upon by allotting the several parts to each, although the description of the lands is not sufficiently accurate to enable the Court to execute a partition. In the absence of other evidence, I must assume there was such a division of the estate that the Court may find sufficient to execute it. One objection was that the Court had no jurisdiction under stat. 4 & 5 Vict. c. 35, and the cases of *Horncastle* v. *Charlesworth* and *Joke* v. *Morshed* were cited in support of it. Whether I am to assume that the Court has no jurisdiction for the reason urged, is another question; if this was merely a bill for partition, I should be bound by those authorities. Suppose A and B joint tenants of copyholds, there can be no doubt whatever that they can join in selling to C; then C can compel them, as joint-tenants, to perform that contract, and they may likewise compel the lord to accept C as tenant. If they can sell the whole, surely they can contract to sell a part; and if so, I have no doubt that the Court in this case has jurisdiction to compel a specific performance against those who entered into such a contract, that they may perform the agreement for this division. The agreement was followed by a separate occupation. This is precisely the same as any other agreement which the Court might be called upon to enforce; I can see no difference whatever in this from the ordinary case of a bill for partition, in which the Court would order a specific performance to divide lands, and hold them in severalty. In this case it was not merely as to copyhold, but also to the rest of the property under the will. There is no ground whatever for supposing otherwise but that they should divide the entirety of the lands devised. One point was that, assuming there to be partition, whether there was a good consideration. It is quite clear there was a good consideration *ex post facto*, and possession taken by each: I must decide that against the defendant. If, as said upon argument, it was not the intention of the parties that the partition should extend beyond their lives, I cannot account for the case when an agreement is actually executed by both parties, and acquiesced in; it is only a man executing a deed, and saying that what appears to be his intention by such deed was not his intention. I cannot give effect to an intention which does not appear upon this agreement, and is, in fact, quite the contrary.

Decree a specific performance, and each party shall execute such surrender as may be requisite, with a reference to the Master, in case parties differ, to settle the terms. With regard to the part not surrendered, as it does not appear whether Stephen or William has it, plaintiff must take such proceedings as she may be advised to procure a surrender. Costs reserved.

Common Law Courts.

COURT OF QUEEN'S BENCH.

NOTE.—In the case of *Jones* v. *Roberts* (5 Law T. 263), the head note, which was written in the absence of the Reporter, states the demurrer to be directly the reverse of what in fact it was. It was decided that custom could *not* be pleaded in such a case, and the plea to that effect was held to be a *bad*, and not a good plea, as there stated. This mistake will be obvious on perusal of the judgment, but we deem it right to mention it here, lest it should mislead those who look no further than the head note.

Friday, June 27.

DEFRIES v. LITTLEWOOD.

Proof of goods bargained and sold.

This was an action for non-delivery of goods pursuant to an agreement. The declaration was framed upon an agreement by which goods were bargained and sold, with a distinct averment that the defendant sold to the plaintiff divers goods, and after an allegation as to the mode of payment, proceeded, "In consideration thereof," the defendant promised to deliver, &c.

Pleas—1. *Non assumpsit.* 2. Traverse of sale of goods or any part. 3. Plaintiff was not ready to deliver. 4. That defendants had not notice to deliver. 5. That plaintiff exonerated defendant from obligation to deliver.

At the trial, a document was put in by the plaintiff, and a verdict was found for the defendant, with leave to the plaintiff to move for nonsuit on objection to this document. It was in the form of a bill of parcels, stating numerous items and prices. To one was added these words "with rims to fit No. 3;" and in several, the words "to pattern" were added. At the bottom was—"The above order to be executed upon the terms specified." It was objected at the trial, that this required a stamp; and further, that, supposing it admissible, it did not prove the declaration, for that it did not constitute a bargain and sale. A rule *nisi* had been obtained for a nonsuit; against which

Heaton shewed cause.—Numerous cases shew that *Buxton* v. *Bedall* (3 East, 303), which was relied upon to support this objection, has been overruled. It is not necessary that the goods, the subject of the contract, should be in existence at the time. (*Wilkes* v. *Atkinson*, 6 Taunt. 11; *Primer* v. *Arnold*, 2 C. M. & R. 613; *Watkins* v. *Vincr*, 2 Stark. 368; *Venning* v. *Leckie*, 13 East, 7.) The words of the statute are, "agreements for or *relating to* the sale of goods." At any rate, it must be clearly shewn that a stamp is necessary, and here it is quite consistent that the goods were already made.

Greenwood, contra.—The second point is not answered. It was clearly no bargain and sale. By an order for goods generally, even when the size, description, and character are specified, no property is gained in the goods until they are in some manner appropriated. This is an order which would be satisfied by the delivery of any goods of that description. (*Carruthers* v. *Payne*, 5 Bing. 270; *Mucklow* v. *Mangles*, 1 Taunt. 318; *Atkinson* v. *Bell*, 8 B. & C. 277; *Dixon* v. *Yates*, 5 B. & Ad. 313; *Clark* v. *Spence*, 4 Ad. & E. 448.) The declaration should not have been framed as upon a bargain and sale. He also contended that a stamp was necessary; but the judgment of the Court was only given upon the other point.

Heaton was allowed to address the Court again, not having been aware that the second point had been made at the trial, and suggested that the world sold might be struck out.

Lord DENMAN, C. J.—This objection cannot be got over. The declaration is framed for the nondelivery of goods bargained and sold. It is clear that, to pass possession of goods without delivery, there must be a specification of them, which was not done in this case.

PATTESON, J.—It is not merely in contract of bargain and sale, but there are express averments, that the defendant sold, and in consideration thereof, &c. &c. The agreement put in does not support the declaration; apart from the question of the stamp, the plaintiff must be nonsuited.

WILLIAMS, J. and COLERIDGE, J. concurred.

Rule absolute.

REG. v. INHABITANTS OF HICKLING.

An order of justices apportioning certain parts of a highway upon particular parishes, pursuant to 34 Geo. 3, c. 64, is conclusive proof that the highway was in the respective parishes as required by the Act.

An application for costs by a prosecutor of an indictment for the non-repair of a highway directed by justices, after he has obtained a rule to stay the judgment, is not a step so as to waive the rule.

This was an indictment against the parish of Hickling, in the county of Nottingham, for the non-repair of a road, being a portion of the ancient foss-way leading from Newark-upon-Trent to Leicester, which intersects the parishes of Hickling and Widmerpool for the distance of 858 yards. The respective boundaries of the two parishes were, it was said, in the middle of the road. In 1816 proceedings had been taken under 34 Geo. 3, c. 64 (now repealed), which gave power to two justices of the county, upon complaint of one of the surveyors of the highways of any parish stating that there is situated in the parish adjoining thereto a highway to be repaired on one side by one parish, and on the other by another, to summon the surveyors of the highways of such other parish, and after examination, and hearing the parties and their witnesses, to determine and allot a portion in length of the highway to each parish to repair in future. The Act directed that the order of the justices, with the plan of the highway, and the allotment thereof, should be filed with the clerk of the peace, and also that such stones and boundary-marks should be put up as the justices might think fit. The 2nd section provided that, from and after the filing, such parishes should be respectively bound as of common right to repair the respective parts allotted to them, and those parts only. The 7th section gave a right of appeal to the sessions. An application was made under this Act, and on the 14th of October, 1816, an order was made adopting the form in the Act, and allotting 470 yards to the parish of Hickling. This order and the plan were duly filed: there was no appeal. The portion allotted to Hickling parish being out of repair, an application was made to the justices under 5 & 6 Wm. 4, c. 50; but as the surveyor denied the liability of the parish of Hickling, this indictment was directed to be preferred.

The first count(*a*) stated the nature of the road, the order of the justices, that it was duly filed, whereby, and by force of the statute, the said parish of Hickling became and was, thence continually has been, and now is, bound as of common right to maintain an, &c. It then stated the 478 yards (which was the portion allotted) was out of repair. The 2nd and 3rd counts were for the non-repair of the portions of the road, considering them as repairable by the parish of Hickling as at common law. These two counts were inserted upon the words of the statute, that after the allotment the parishes should be respectively bound to repair as of common right. The indictment was removed by *certiorari* into the Queen's Bench, and tried at Nottingham Summer Assizes, 1844. Admissions were made as to all formal proof of the highway and the order, but it was contended by the parish of Hickling that at the time the order was made the surveyor of that parish did not admit that any part of the road was within their parish, and that therefore the justices were without jurisdiction to make the order, and that it was open to the defendants to prove now that no portion of the road was within the parish. Contradictory evidence was given as to this, and Coltman, J. left it to the jury to determine whether it was proved that, before the order, half of the road was in the parish of Hickling. The jury found for the defendants, with which verdict the learned judge was dissatisfied.

A rule *nisi* had been obtained to stay the judgment or for a new trial, on account of the verdict being against evidence, and for misdirection, because the learned judge had not directed the jury that the order was conclusive.

Whitehurst, Q.C. and *Mellor* now shewed cause.—There is a preliminary objection to this rule. Since it was obtained, in Michaelmas Term, the prosecutor has obtained, a judge's order for the taxation of his costs, and a rule is now pending to set aside that order. That was another step, and therefore a waiver of the rule, which is a stay of proceedings. This also is a criminal case, and a verdict having been found for defendants, the Court will not interfere. Then this order in 1816 was made without jurisdiction. The only case within the statute was where the highway *was* in two parishes. The justices had no power to determine the disputed boundaries. This is shewn by all the forms given in the Act. The first count alleges that it was a highway from time immemorial, and this ought to have been proved. The facts alleged in an order like this may be questioned. The jurisdiction must be proved if traversed, as it is here by *not guilty*. He cited *Herbert* v. *Cooke* (3 Dougl. 101); *Carratt* v. *Morley* (1 Q. B. 18); Buller's N.P. 247); *Allen* v. *Dundas* (3 T. R. 130); *Morrell* v. *Martin*, 3 M. & G. 581); *Welch* v. *Nash* (8 E. 394). It is a special authority, to be exercised only in a special mode, and it must be strictly followed, as being the creature of the statute. There is no adjudication that this was in the parish of Hickling.

Willmore and *Wildman*, in support of the rule.—This is not a criminal proceeding in fact, and there is no objection to a new trial being granted, for this reason. [Lord DENMAN, C.J. intimated that this point need not be argued.] The evidence was clearly the other way, as the learned judge thought also. But the order is conclusive. The title of the Act is, "An Act for the more effectually repairing such parts of the highways as are to be repaired by two parishes." It is said to be no adjudication; but if the order is examined, it is shewn that it was in effect. It was according to the statute, and incorporates the previous statements. If justices could only act when it was admitted that the highway was in the parish, the statute would be virtually repealed. For what purpose can witnesses be called if the justices are not to determine whether it is in the parish or not? *Welch* v. *Nash* (8 East 394) is very distinguishable; there what was omitted was a condition precedent. Here it is shewn that the parties were litigant, that they both appeared, and that witnesses were examined. *Brittain* v. *Kinnaird* (1 B. & B. 432), *Aldridge* v. *Haines* (2 B. & Ad. 395) establish that this order is conclusive. (*Cave* v. *Mountain*, 1 M. & Gr. 257; *Reg.* v. *Bolton*, 1 Q. B. 66; *Basten* v. *Carew*, 3 B. & C. 649, were also cited.) The order is in the form given by the statute, and states that witnesses were called. A certain tribunal has been appointed, and has been applied to, and determined certain facts directly within its scope, and this decision cannot be questioned.

Lord DENMAN, C.J.—This was within the jurisdiction of the justices, and they have exercised the jurisdiction they possessed. They had full power to decide it. The verdict therefore is wrong. Judgment must be suspended, to give the prosecutor an opportunity of taking the case again to trial.

PATTESON, J.—This is quite within the authority of *Brittain* v. *Kinnaird*. If no form had been given by the statute, then I should have required the adjudication of the fact to have been more specific; but as

(*a*) This will be given at length in Bit. & Sym. Magistrates' Cases.

the form given is pursued, and it involves the existence of the facts, it is sufficient.

WILLIAMS, J. concurred.

Saturday, June 28.

WOOD *v.* DIXIE, Bart.

The mere intention to defeat an execution is not sufficient of itself to render fraudulent and void an assignment in other respects valid.

Trespass, *de bonis asportatis.*

Pleas.—1. Not guilty. 2. That the dwelling-house in the declaration mentioned was not the dwelling-house of the plaintiff. 3. That the goods and chattels in the declaration mentioned were not the goods and chattels of the plaintiff. 4. Justification by the defendant, as sheriff of Leicestershire, under a *fi. fa.* issued in an action in which Oliver Beckitt was the plaintiff, and George Phillips the defendant.

Replication to the 4th plea, admitting the judgment in the action, the issuing of the writ, and the delivery of it to the defendant, *de injuriâ absque residuo causæ.*

At the trial, which took place before Coltman, J. at the last Summer Assizes for the county of Leicester, it appeared that, in November 1843, George Phillips, the party against whom the writ of *fi. fa.* issued, was a publican, keeping the Angel Inn, at Leicester; that about the 6th of that month, he disposed of the inn, stock in trade, &c. to the plaintiff; and actually received from him 157*l.* in cash, the remainder of the purchase-money being made up by a debt due from Phillips to the plaintiff. In a few hours after that transaction, the sheriff's officers came in and seized under the writ, against Phillips, who was, in the following December, made a bankrupt. The question was, whether that transaction was not void, as a fraudulent preference; and Mr. Justice Coltman, in summing up, told the jury that if there were no *bonâ fide* payment by the plaintiff to the bankrupt, then there was a clear case of fraud, and that even if there were a *bonâ fide* payment, but a payment made with intent to defeat the execution, still that would be a fraudulent transaction within the statute, and he therefore left to them the two questions:—1st, whether there was in fact a *bonâ fide* payment; and 2nd, whether if there was such payment, it was a fraudulent contrivance to defeat the execution; because, in either of these cases, their verdict must be for the defendant. The jury found a verdict for the defendant; and on the part of the plaintiff, *Humfrey*, Q. C. had since obtained a rule *nisi* for a new trial, on the ground of misdirection.

Whitehurst, Q.C., *Miller*, and *Mellor* shewed cause.—The direction of the learned judge was perfectly correct. The statute 13 Eliz. c. 5, s. 6 certainly protects conveyances made upon good consideration and *bonâ fide*; but it also invalidates every act done to defraud a creditor; and it has been repeatedly held that even where persons have given a full price for goods, and the possession has been actually transferred, still the object having been to defeat creditors, the transaction has been held fraudulent, and therefore void under the statute of Elizabeth. (*Cadogan* v. *Kennett*, Cowp. 432; *Twyne's* case, 3 Rep. 81, 82 a; *Doe d.* v. *Baynton*, 6 East, 257; *Warmoll* v. *Young*, 5 B. & C. 660; *Eastwood* v. *Browne*, R. & M. 322; *Holland* v. *Atkinson*, 5 T. R. 235.) The learned judge, therefore, was perfectly right in telling the jury that if the sale was effected for the purpose of defeating the execution, it was fraudulent and void, even though it were an actual sale for a good consideration.

Humfrey, Q. C. and *K. Macaulay* contrà.—The view taken by the other side is in opposition to the uniform course of modern practice and authority. The question now always is, whether the transaction was an actual sale transferring the property, or a mere pretence for the purpose of defrauding creditors. The operation of the Bankrupt Acts is to protect all real transactions of this sort; and though there may have been some intention to defeat creditors, that is not *per se* enough to render the whole void. It is true, the transactions must be *bonâ fide*, but that means *bonâ fide* as between the parties—the parties to the particular transaction only—and not as between one of those parties and his creditors. (*Martin* v. *Lamb*, 5 Q. B. 119.)

By the COURT.—The direction of the learned judge was certainly incorrect in point of law; the mere intention to defeat an execution is not alone sufficient to make an assignment, otherwise good, fraudulent and void; that position is sanctioned by an almost unvarying practice in these cases for many years, and although the jury upon a second trial may come to the same conclusion, we cannot enter into that. The ruling was certainly wrong in the respect now pointed out, and there must therefore be a new trial.

Rule absolute.

Wednesday, July 2.

(Sittings in Banco after Term.)

(Before Lord DENMAN, C. J., PATTESON, J. WILLIAMS, J. and COLERIDGE, J.)

DOE *dem.* CLARKE *v.* SMARRIDGE.

Cockburn and *Barstow* shewed cause against a rule obtained by *Crowder* to enter a nonsuit in this case. The question was, whether, where there had been a lease for three years, a holding over by the tenant, and payment by him of a year's rent, the law presumed a tenancy for that single year, or an ordinary tenancy from year to year, necessarily involving a tenancy for two years. The point was raised upon the sufficiency of the notice to quit under which the tenant was to leave at the expiration of the first year after the holding over.

Crowder and *Smith* supported the rule.

Cur. adv. vult.

DOVELL *v.* GEVE.

Surprise.

Crowder and *Smith* shewed cause against a rule obtained by *Cockburn* for a new trial in this case on the ground of surprise. It was an action of *assumpsit* for money had and received, against the defendant as executrix, and, amongst other pleas, the defendant had pleaded a delivery to the plaintiff of certain deeds (for the value of which the action had been brought) in satisfaction and discharge of the promise. The alleged ground of surprise was that the counsel for the defendant, during the course of the summing up, had referred to an item in an account drawn up by the plaintiff, by which he had admitted the receipt of these deeds, and, in the balance struck between the parties, had reckoned their value in money. Affidavits had been produced in support of the rule to shew that the deeds had casually come into the hands of the plaintiff's attorney, who had sought to dispossess himself of them, and that they had not been received as an equivalent for the money due; but they submitted that the parties who had made these depositions might have been called on the trial, and that in reality the attention of the plaintiff must have been directed to the item in the account long before it was pointed out by the defendant's counsel.

Cockburn and *Greenwood* supported the rule. The parties making the affidavits could not have been called upon the trial, for the point had not been taken until the summing up. The depositions were sufficient to shew that there had been a miscarriage of justice, and a new trial should be granted.

Lord DENMAN, C.J.—The Court are unanimously of opinion that the rule must be discharged.

Rule discharged.

SHANK *v.* KEITH.

New trial.

Trespass quare clausum fregit.

The main question raised at the trial was, whether the particular spot of ground upon which the trespass was alleged to have been committed was the property of the plaintiff or the defendant. They both attempted to establish their claim by deeds which were put in, and by acts of ownership for twenty years. In summing up, Mr. Justice Patteson told the jury that "the descriptions of the land contained in the different deeds were not specific, and that they must be explained by the acts of ownership." The jury found a verdict for the plaintiff; and *Crowder* subsequently obtained a rule *nisi* for a new trial, on the ground that the learned judge had not sufficiently pointed out to the jury the effect of the acts of ownership performed by the defendant, and also that the verdict was against evidence. Against that rule,

Cockburn and *Bull* now shewed cause.—The evidence was very conflicting, and the jury had formed their opinion upon it. It was impossible to say that there was any misdirection. The learned judge had only stated what was obviously true, and what was as fair to the defendant's case as to that of the plaintiff. The question was purely one of conflicting evidence, and with the province of jury the Court would not be disposed to interfere.

Crowder and *Smith* supported the rule.

Lord DENMAN, C. J.—It is impossible to say that the evidence is not very conflicting, but we think on the whole that the case had better go down to a new trial.

Rule absolute accordingly.

Saturday.

COOPER *v.* HARDING and ANOTHER.—A report of this case will appear next week.

COURT OF EXCHEQUER.

Wednesday June 25.

(Sittings in Banco after Term)

RUSSELL *v.* POWELL.

A paper given to a party under the direction of the Court of Chancery, authorizing the payment of a sum of money to him, and which required the signature of two persons, does not require a stamp. Quære, whether it would have been an order for the payment of money within the provisions of the Stamp Act?

This was an action on a special agreement, verdict for the plaintiff. Rule *nisi* for a new trial was obtained, on the ground that a certain paper which was given in evidence at the trial required a stamp.

It appeared that the Court of Chancery had made an order in a cause depending there, that certain moneys should be paid to the defendant, on a paper signed by one Minn, and the defendant having given it to the parties by whom the money was to be paid. The only issue in the cause was, whether the plaintiff had procured this paper (called an "order" in the plea), signed by Minn, and handed it over to the defendant. At the trial the plaintiff gave in evidence a paper signed Minn, when it was objected for the defendant that it could not be read, as it was an order for the payment of money and required a stamp. The learned judge admitted it in evidence, and the plaintiff had a verdict. A rule *nisi* for a new trial having been obtained,

Jervis, Q. C. and *Bovill* now shewed cause, and contended that they had complied with the terms of the issue in procuring the paper in question, which was merely a direction to the parties required by the Court of Chancery, and was not an order for the payment of money; the order under which the money was paid, in fact being the order of the Court of Chancery. Then, if it could be contended that the document in question could not be a negotiable instrument requiring a stamp, yet this instrument was imperfect, as only signed by one party. [PARKE, B.—Suppose this document to be forged, would an indictment lie?] I should say not, as it is an incomplete instrument, and when complete, is not an order for the payment of money. It is merely a carrying out of the directions of the Court of Chancery; indeed the document is entitled in the cause, and its being called an "order" in the pleadings will not render it so. Then it had been objected that a proper document had not been obtained by the plaintiff. Now, it was clear that the plaintiff had obtained a proper document and given it to the defendant, as it was shewn at the trial that the defendant had received the money, and the issue was, whether the plaintiff had delivered such a document as, when signed by the other party, who was the defendant, would enable him to obtain the money. Then an objection had been raised, that the plaintiff ought to have tendered this instrument stamped. That objection had not been taken at the trial; if it had, as the cause was a long one, the plaintiff could have got it stamped, being an incomplete instrument.

Baddeley (*Knowles*, Q. C. with him), contrà, contended that if the document in question was not an order, it was not within the terms of the issue; if it was, it required a stamp. Then as to the objection that the instrument was incomplete, it was contended that it was complete *quoad* one of the parties, and therefore required the stamp. Then it is contended that this is an order for the payment of money, and a negotiable instrument within the provisions of the Stamp Act, and that the direction that the money was to be paid out of a particular fund made no difference, as the fund was certain, and did not prevent it from being a bill or note. Then, it was submitted, that if it was necessary for the document to be stamped at the time it was to be given by the plaintiff to the defendant, the Stamp-office would not have stamped it.

ALDERSON, B.—Why not? The Stamp-office can only refuse to stamp a bill or note when the *bill* or *note* is engrossed on the paper. Now it is not a *bill* or *note* until it is signed, and, as this was a joint instrument, beginning "We," it was incomplete until signed by both parties.

By the COURT (*a*) (ROLFE *dissentiente*).—This rule must be discharged. The document in question seems to us not to be a bill or note; but we do not say that it might not have been so if it had been signed by both parties, or had been indorsed over to some party with the knowledge of Minn for value, and then it would have required a stamp; but here it seems to us that, upon these pleadings, the plaintiff has complied with the terms of the issue in tendering this incomplete paper, and that it is not such a paper as requires a stamp, being incomplete. *Rule discharged.*

MOON *v.* ROBINSON.

The four days within which a new trial is to be moved for, are to be calculated from the day of the trial, and not from the day on which the distringas is returnable.

Humphrey, Q.C. appeared to shew cause in this case against the rule for a new trial, and took an objection to the rule as being moved for too late.

It appeared that the cause was tried on Friday, the 18th of April, and that the rule *nisi* was not moved for until Saturday, the 26th of that month. It further appeared that the *distringas* was returnable on the 23rd.

Jervis, Q. C. appeared to support his rule, and contended that a party moving for a new trial had until four days after the return of the *distringas* in which to move for a new trial, and therefore he was in time.

Humphrey, Q. C. contrà.

By the COURT.—The rule is quite clear; a motion for a new trial must be made within four days of the *trial*, and not of the return of *distringas*.

Rule discharged.

Friday, June 27.

BRADBURN *v.* FRANCIS.

Demurrer.

Unthank was heard for the plaintiff, but it appearing that the contents of a deed of which oyer had been [illegible]

(*a*) Parke, Alderson, Rolfe, and Platt, BB.

[illegible] this paper [illegible] mentioned [illegible]

[illegible] *Pinnock* v. *Harrison.* [illegible]

[illegible] *a rate imposed upon a district by commissioners* [illegible] *Act of Parliament is not a parochial or a parliamentary tax.*

This was an action of trespass, in which the plaintiff had a verdict, subject to the opinion of this Court upon a special case. The defendant had seized the plaintiff's goods as a distress for rent, and the validity of the distress depended upon the question, whether a sewers' rate for the district of Holborn and Finsbury was or was not included within the terms of an agreement, whereby it was provided, "that all taxes, parochial or parliamentary, should be paid by the tenant."

Peacock, for the plaintiff, submitted that the plaintiff was entitled to judgment. The rate in question was neither a parochial rate nor a parliamentary rate. It was not a parochial rate, for it was imposed upon a district, and not upon a parish, or for parochial purposes. It was not a parliamentary tax, because imposed by certain commissioners, and not by the direct and immediate operation of an Act of Parliament. The mere fact of its being imposed under the authority of an Act of Parliament was not sufficient to make a parliamentary tax. The assessment itself must be directly imposed by the statute, as was the case with the income tax.

Cases cited: *Brewster* v. *Kitchell* (2 Salk. 615); *Garth* v. *Andrewes* (3 M. & W. 312); *Baker* v. *Greenhill* (3 Q. B. 148).

Barstow, contrà, submitted that this was a parochial tax, for it was imposed under the direct authority of an Act of Parliament by parishioners appointed under the Act. He cited *Amfield* v. *White* (R. & M. 246; 7 B. & C.); *Governors of Christ's Hospital* v. *Hamell* (3 Scott N. R. 135).

By the COURT.—Mr. Barstow does not pretend that this is a parochial tax; and it is equally clear that it is not a parliamentary tax, for it is not directly imposed by any statute. If we were to hold that this is a parliamentary tax, because imposed immediately by authority of an Act of Parliament, we must hold that the poor-rate is a parliamentary tax. The difficulty would have been obviated if the parties had been content to provide for the payment of all taxes generally, without specifying what, or if they had added the words "or otherwise" after the words "parochial and parliamentary."

Judgment for plaintiff.

HARVEY *v.* BRIDGES.

Demurrer.

To a declaration for breaking and entering, vi et armis, into plaintiff's dwelling-house, and evicting him, liberum tenementum *is a good plea.*

Declaration for breaking and entering the plaintiff's dwelling-house (specifying the house), with force and arms, and with force and arms turning out and evicting the plaintiff.

Plea—"*Liberum tenementum.*" *Demurrer.*

Lush, in support of the demurrer.—The plea is bad. *Liberum tenementum* was always considered an anomalous plea, and was only allowed as a means of compelling the plaintiff to describe his close by abuttals, &c. It is no answer where the close is so described, and there is no authority expressly deciding that it is so, although, no doubt, it has been usual to plead it ever since the new rules, which render it necessary to describe the close in the first instance. (*Lambert* v. *Smithers*, Willes, 218; *Cook* v. *Jackson*, 9 D. & R.) At any rate, if it be an answer for breaking and entering a close, it is none for breaking and entering a dwelling-house *vi et armis*, and evicting a party from his possession. (*R.* v. *Bathurst*, 3 Burr.; *R.* v. *Storr*, ibid. 1699; *Seaward and Wife* v. ——, 1 Salk. 406; *R.* v. *Wilson.*)

By the COURT.—It is no doubt an anomalous plea, but its validity is too well established to question it now.

Judgment for defendant.

Saturday, June 28.

TURNER and OTHERS *v.* LAMB.

Demurrer—Action of covenant.

The declaration stated—For that whereas heretofore, to wit, on the 29th day of August, A.D. 1840, by a certain indenture then made, &c. the plaintiffs did demise, &c. to the defendant, &c. all, &c., to have and to hold the said several demised premises unto the said defendant, from the 24th day of June then last past, for the full end and term of twenty-one years thence next ensuing, and fully, &c. at, &c. [covenants to repair, &c.]; by virtue of which said demise the said defendant afterwards, to wit on the day and year first aforesaid, then entered into, &c. and became and was thereof possessed, and continued so thereof possessed for the said term [averments of performance by plaintiff, non-performance by defendant]. But on the contrary thereof, the said defendant afterwards, and after the making of the same indenture, and during the continuance of the said demise, and while he was so possessed of the said demised premises, with the appurtenances as aforesaid, to wit, on the day and year first aforesaid, and from thence up to and until the commencement of this suit, suffered, &c. [breaches], to the damage, &c.

Plea.—And as to so much of the said supposed breaches of covenant in the said declaration mentioned, as accrued and were committed after the issuing of the fiat in bankruptcy against the defendant hereinafter next mentioned, the defendant says that before and at the time of the day and year hereinafter next mentioned, and before the commencement of this suit, and during the said term by the said indenture created as aforesaid, to wit on the 10th day of May, A.D. 1844, and from thence continually until and after the time of issuing the fiat in bankruptcy hereinafter mentioned, defendant was a dealer, &c. [fiat issued—assignees appointed]. And the defendant further saith, that afterwards, &c. to wit, on the 9th day of July, A.D. 1844, the said W. B. and G. G. so then being such assignees as aforesaid, did decline the said indenture of lease, according to the form, &c. of which the plaintiffs and the defendant afterwards, and before the commencement of this suit, to wit, on the 9th day of July, A.D. 1844, had notice [assignees before suit, and within fourteen days, &c. delivered lease], and this the defendant is ready, &c.

Demurrer.—That it is not averred that the said term continued till the issuing of the fiat, and that it is consistent with the said plea that the said term had ceased before the fiat issued: that it is consistent with the said plea that the said lease was granted to the defendant after his bankruptcy and adjudication, and therefore not such a lease as can be delivered up to the lessor, as in the said plea mentioned.

Joinder in demurrer.

Ogle, in support of the demurrer, referred to 49 Geo. 3, c. 121; 6 Geo. 4, c. 16, s. 75, and cited *Turk* v. *Pike* (6 Bing. 321); *Parkinson* v. *Whitehead* (2 M. & G. 329).

Pearson, contrà, contended that the date in the *habendum* fixed the time of the commencement of the term. [PLATT, B.—It would not be at variance with your declaration if the lease was made fifty years ago.]

PARKE, B.—The 24th of June then last past means the 24th of June before the execution of the indenture. There is nothing to shew that the lease was subsisting at the time of the bankruptcy; it is consistent with every allegation that the lease may not have existed until after the fiat, in which case the bankrupt would be liable.

Judgment for the plaintiff.

Wednesday, July 2.

THORPE *v.* PLOWDEN.

When a composition for tithes made and entered into more than sixty years before the passing of the statute 2 & 3 Wm. 4, c. 100, has not been validly and altogether set aside by proceedings adopted within the year from the passing of the Act for such purpose, the composition is thereby confirmed and rendered binding on all parties.

Proceedings adopted within the year, not having for their object the entire setting aside of the agreement, are not within the operation of the 3rd section, and will not give either party the right to treat such agreement as at an end.

A composition for tithes is good, notwithstanding it includes some other agreement which may or may not be legal.

This was a special case arising out of a feigned issue to try a right to certain tithes under the following circumstances:—The lands upon which the tithes were claimed were, in 1711, the property of Wm. Plowden. At this time an agreement was entered into between Wm. Plowden and one John Wilson, the then rector, that W. Plowden should convey land to be enjoyed as glebe land, and should convey 40*l.* per annum for ever to the rector; and that all the land taken before as glebe should be possessed and enjoyed by W. Plowden, his heirs, &c. as their own proper lands for ever. A certificate of this agreement was forwarded to the bishop, who consented thereto. The exchange was subsequently, in 1715, confirmed by a decree, and made perpetual. This was continued up to the year 1832, when the 2 & 3 Wm. 4, c. 100 ("An Act for shortening the Time required in Claims of Modus decimandi, or Exemption from or Discharge of Tithes") was passed. The rector then refused to receive the annuity, but still retained the lands which he held under the exchange (and which were much more valuable than the original glebe lands), and took proceedings in equity for the purpose of recovering the tithes, in which he was unsuccessful, upon the ground that he could not come into a court of equity and ask for the payment of tithes while he retained part of the consideration for their discharge, contrary to the principle "that he who seeks equity must do equity." In these proceedings, also, some persons were omitted who should have been made parties to the suit. Since the decision of *Thorpe* v. *Mattingley* (1839), the defendant had set out his tithes, but now refused longer to do so; whereupon an action of debt was brought by the rector for the treble value of the tithes not set out. The question then arose as to whether the rector had properly [illegible] ded under the statute so as to entitle him to treat the agreement as at an end; upon which it came before the Court of Exchequer as a special case.

Crompton, for plaintiff.—The *primâ facie* right of the plaintiff is admitted. After stating the circumstances of the case, he proceeded to contend that this agreement was not a composition for tithes within the 2 Wm. 4, c. 100; but if so, the proceedings adopted by the rector had taken the case out of the statute. This was an agreement for an exchange of lands, not a mere composition of money, nor land given in lieu of tithes; and that part of the agreement having reference to the glebe lands was clearly illegal, for they could not be affected by the agreement, and could not legally pass; and therefore, that part of the agreement being illegal, the whole was so; the agreement was entire, and could not be separated one part from the other for the purpose of declaring such part to be legal. When the Act came into operation, the plaintiff had a right to take the glebe land as belonging to the church; it was his, and the remainder of the land passed to the representatives of the other party, if they could have been found. This question turns entirely upon the statute. In all the previous arguments upon it, it was assumed that this was a tithe composition, and if so, the 2nd section of the statute would have applied to confirm it; but as it was not a composition, that section did not apply. To have made this agreement good as a composition for tithes, it should have expressed that something was given exclusively for tithes, something which might legally be given; here it is impossible to say what was given for the tithes. The difficulty in this case arises from the statute not protecting any transactions as to the glebe lands. The plaintiff might have brought an ejectment to recover them at the time this question first arose, for no time runs as against the church, and there is not a word in the statute having reference to church lands; nor does it render legal every illegal composition; the object is not to give any new discharge from tithes, or any new right, but it is intended to operate on any previous arrangement, and to point out the time within which evidence may be given. (*Clay* v. *Fellowes*, 4 Q.B. 313.) The word "*since*" in the 2nd section means since confirmation by the Court of Chancery, and not since the time of the passing of the Act; this is the only construction by which to avoid an absurdity, otherwise it would be necessary through all future ages to look back to the year 1833. Taking this to be the construction, the 3rd section taken in connection with the 2nd section puts an end to every difficulty. The statute is not to have effect unless the usage existed at the time of passing the Act, and proceedings be taken by the party within the year; if the party does within that time assert his right, whether by action or suit, the whole thing will be open. The Court has already held, in *Thorpe* v. *Mattingley*, that a suit going on on the equity side of the Exchequer was sufficient to entitle the rector to his tithes. The plaintiff was clearly within the very words of the statute, as then expounded by this Court. In this case, as in the 3rd section, is it not prejudicial to this plaintiff? He comes directly within the description. The plaintiff is not to be confined to any particular suit. If the party brought his action within the time, successfully or not, he would not be barred: there is nothing in the statute to say that it must be brought to a successful termination; if it was so, this conclusion must be come to, that it must depend upon the ultimate success of the question without reference to the merits, perhaps upon some trifling failure on the record. The statute is intended to apply when there has been a clear user not interrupted before the statute, and not interrupted within the year. The statute must not be construed literally, taking the very words in opposition to the evident meaning, but the intention must be adopted and acted on. The plaintiff had already recovered on the judgment of this Court, and received his money year after year. The first suit had been commenced within the year, and the statute must be held to apply in this case as in that of *Thorpe* v. *Mattingley*, unless you introduce the word "successfully," for otherwise they are precisely similar. The construction adopted in that case was a perfectly sound one.

Bethell, Q. C.—The original error in all these proceedings was the institution of a suit for the tithes in kind. The statute was not intended to apply to compositions real made before 13 Eliz. because those were clearly good, but to subsequent compositions. In this case Mr. Plowden was entitled to avail himself of the statute after the expiration of the first year from the passing of the Act. The decree made in 1715 was in the nature of that referred to in the 44th section of the Tithe Composition Act, and was a final decree, declaring this agreement good and binding. The nature of this agreement was to benefit the Church, and to put an end to the disputive claim over the land of Mr. Plowden. The land was given in lieu of tithes, and was a composition real; and it is not the less a composition for tithes because it embraces other matters. This composition would have been unquestionably good before the statute of Eliz. and the Court will now so [illegible] it. But the 2 Wm. 4, c. 100, applies to [illegible] compositions, that

intention of the statute being to render valid those agreements which, but for the statute, would have continued invalid, the third section protecting the rights of any parties who might, within the year, proceed to assert them by legal proceedings, for the purpose of setting aside any such illegal agreement. The case of *Thorpe* v. *Mattingley* (2 You. & Col. 421), if upheld by the House of Lords, would not have applied to this case, for here the party mistook his remedy. In the first instance, Mr. Thorpe should have proceeded to set aside the agreement altogether, both as to the exchange of lands and the payment of money. Not having done so within the limited time, but having adopted other proceedings to which the Act does not apply, the agreement becomes valid under the statute and binding on all parties.

Cases cited: *Cooper* v. *B[illegible]an* (11 Cl. & Fin. 578); *Atterbury* v. *Turner* (1 Eng. & You. 543); *Plowden* v. *Thorpe* (7 Cl. & Fin. 158); *Croughton* v. *Blake* (12 M. & W. 205).

Crompton replied.

PARKE, B.—No difficulty arises under the second section of the statute. The meaning is plain, that where an equitable arrangement has been, before the passing of the statute, entered into between the parties, and continued until the time of the Act, and no proceedings were taken by either party within twelve months from the passing of the Act to set such arrangement aside, it should be binding on all parties: the word "*since*" must be read as meaning since the passing of the Act. A suit might have been instituted in the Court of Chancery to set aside the previous agreement by making the proper parties the parties to the suit, and then, the statute says, the suit shall be effective. This being to set aside a practice which has prevailed for a century before, care should have been taken to have framed the proceedings against the proper parties, and in the proper way. The case of *Thorpe* v. *Mattingley* cannot be supported. A composition for tithes is not to be confined to the narrow construction sought to be put upon it. I think this is not the less a composition for tithes because it may be something more. I am therefore of opinion judgment must be for the defendant.

ALDERSON, B.—I am of the same opinion. The decision of *Thorpe* v. *Mattingley* is not material to the present case. This agreement may not be valid as to the exchange for glebe lands; but it is still good and valuable as a composition for tithes, though it contains other matters. The statute says, that all compositions for tithes then existing and not set aside should be confirmed and made valid. This is a composition not set aside, and therefore made valid by the 2nd section. Then is there any other clause to set aside this injustice, as it might have been, coming suddenly upon the party? The 3rd section contains a reasonable provision for that purpose; it gives a remedy within twelve months; therefore within that time something should have been done for the purpose of setting it aside. This might have been effected by bringing the proper parties before the Court of Chancery, and if so set aside, it would have been final. This is the literal construction of the statute, and we can give no other, consistent with justice to all parties.

PLATT, B.—I have no doubt upon the construction of the statute. The 1st section provides certain means for supporting a *modus decimandi*, or exemption from tithes. Upon this some case might occur requiring protection, such as when payments had been made and sanctioned by a court of justice; but it would not do to let all loose that were not strictly valid in law, and therefore the 3rd section was passed providing that any party desirous of getting rid of such an agreement, was not to be debarred from so doing, and it gives him a certain time during which he might elect to proceed or not. There is no doubt proceedings might have been adopted for the purpose of setting this aside or for reviewing the decree. Such proceedings not having been adopted, it seems to me the parties must be bound by the agreement. As to whether this is a composition or not, the question is, are the tithes compounded for? if so, it was a composition for tithes; because it was something more, it was not something less. I am therefore of opinion judgment should be for the defendant.

ROLFE, B. was at chambers.

Re JOHN CLARKE, RICHARD MITCHELL, JOSEPH PHILLIPS, and THOS. SMITH, Bankrupts.

Form of promissory note, signed by one partner on behalf of the firm.

A promissory note in the words following—"I promise to pay, &c. for J. C., R. M., J. P. and T. S." signed by R. M. the parties being partners: Held, to be binding upon the firm.

This was a case out of Chancery, arising upon the construction of several notes given in the following form:—

"I promise to pay, &c. for John Clarke, Richd. Mitchell, Joseph Phillips, and Thos. Smith.

"RICHD. MITCHELL."

The firm were bankers; Richd. Mitchell also carried on a distinct business (not as a banker) on his private account. The banking firm having become bankrupts, a question arose whether Richd. Mitchell was separately liable on these notes. The object was to try the validity of *Hall* v. *Smith* (1 B. & C. 407, and 2 Dow. & Ry. 584), a case precisely similar to the present.

W. T. S. Daniel, for the assignees, contended, that an action would lie against Richd. Mitchell alone upon the note; that *Hall* v. *Smith* was an authority directly in point, and had never been doubted to be good law, except by Mr. Justice Story, in his book on Partnership, p. 222. The note commencing with the word *I*, that word applied to the party who subscribed it. A reasonable construction to be put upon the document, not regarding it merely as a banker's note, was, that this was a contract on the part of Richd. Mitchell to pay money for the members of the banking firm; it was in the nature of a guarantee. [PARKE, B.—Is not this the case of a person subscribing his name merely as the agent of others, although in reality one of the firm? The note must either bind the firm, or it must bind Richard Mitchell; there is but one promise on the face of the note, and it cannot bind both.] He did not contend that both were liable, he only contended that Richd. Mitchell was the party liable; and if two constructions could be put upon the document, the Court would give it that construction which was most against the maker. (*Marsh* v. *Ward*, Peake, N. P. C. 130; *Clark* v. *Blackstock*, Holt, N. P. Rep. 474; *Lord Galway* v. *Matthew*, 1 Camp. 403; *Leadbitter* v. *Farrow*, 5 M. & S. 349; *Shipton* v. *Thornton*, 9 A. & E. 314; *Doty* v. *Bates*, 11 Johnson, 543, American Rep.)

M. D. Hill, contrà, not heard.

PARKE, B.—The Court will certify that this is a promise binding on the firm, the signature by Richard Mitchell being subscribed as agent for the firm, without any intention to bind himself individually; it is the usual form in which notes of this description are drawn, and therefore that no action could be supported against Richard Mitchell.

BUSINESS OF THE WEEK.

Wednesday.

CARTER *v.* THOMPSON.

Rule absolute for a new trial.

FROME *v.* INGLE.—The Court said they had seen Mr. Justice Wightman, and that he was satisfied with the verdict; therefore there would be no new trial.

Rule for a new trial refused.

CHOUTER *v.* JOHNSON.

Rule absolute for a new trial.

SLADE *v.* HAWLEY.—*Peacock* shewed cause. *Bramwell* in support of the rule. Verdict to be increased to 13*l.* 2*s.* 6*d.* on the second breach of the first count, and to be entered for the defendant on the second count.

PENNELL *v.* ASTON.—*Crowder* Q. C. and *Bull* appeared to shew cause in this case, when it appearing that there was a clear misdirection by the learned judge who tried the cause, the Court (without calling on *Humphrey*, Q. C.) said the rule must be absolute.

Rule absolute for a new trial.

Friday.

CURTIS *v.* SCALES.—This was a special case from Chancery on the construction of a will. *Smirke* for the plaintiff. *Part heard.*

Saturday.

SLATER and WIFE *v.* DANGERFIELD.—*Special case. Smirke*, for the plaintiffs. *Borill*, for the defendant. *Cur. adv. vult.*

Wednesday.

DUNCAN *v.* BENSON.—In this cause the court postponed giving judgment till next Term.

BRADBURN *v.* BOTFIELD.—*Demurrer. Unthank* in support of the demurrer. *J. W. Smith*, contrà. *Cur. adv. vult.*

BEVIS *v.* HULME.—On the application of *Crompton*, to stand over till next Term; as also, on the like application, INGRAM *v.* HARRIS.

The following also, being all the cases in the special paper not heard, were desired to stand over till next Term.—OFFOR *v.* WINDSOR; DAVIS *v.* NUTT; DOE *dem.* SAMS *v.* GARLICK; SMYTH *v.* HOLMES; CLARK *v.* RICHARDSON; EWART *v.* JONES; BRITTAIN *v.* LLOYD; EARL OF ROSS *v.* WAINMAN; GASKOIN *v.* WATERS; SUTCLIFFE *v.* BROOKE.

Thursday.

The judges of this court sat in the Exchequer Chamber, in error.

Bankrupt and Insolvent Courts.

COURT OF REVIEW.

Wednesday, July 2.

Ex parte UNDERWOOD, *re* HEMSWORTH.

Solicitor's lien—Assignees.

The solicitor of a bankrupt had in his possession, at the time of the bankruptcy, a title-deed relating to part of the bankrupt's estate, upon which he claimed a lien for costs: the assignees were held not to have any higher rights with regard to the deed than the bankrupt himself had.

This was a petition by the assignees of the bankrupt, praying that Messrs. Plucknett and Roberts might be ordered to deposit with the official assignee a bill of sale belonging to the [illegible]'s estate, or that the assignees might have [illegible] inspect the document, &c.

It appeared that at the time of the bankruptcy, Messrs. Plucknett and Roberts were the solicitors of the bankrupt, and had in their possession a bill of sale of a vessel which formed part of the bankrupt's estate. Upon this document they claimed a lien on account of costs due to them, and the assignees having offered the vessel for sale, Messrs. Plucknett and Roberts refused to allow an inspection of the deed, or to give a copy of it, without the previous discharge of their lien.

Russell and *T. Parker*, jun. for the petition, cited *Rosser* v. *Knott* (1 Ves. & Bea. 349), and contended that the assignees were in a different position from the bankrupt himself.

Swanston and *Giffard*, for Messrs. Plucknett and Roberts, who submitted to the jurisdiction, were not heard.

The CHIEF JUDGE.—In cases of this description, perhaps the solicitor may have so conducted himself as to defeat or prejudice the lien given to him by the general law of the country. I presume there has not been any such misconduct in this case. The question is, whether bankruptcy makes any difference—whether the rights of the assignees stand higher than those of the bankrupt. How this cause would have stood if the document in question had belonged to a cause, or related to a proceeding in a court of justice, I abstain from giving any opinion. It does not relate to a cause or a proceeding in a court of justice, it is a simple title-deed, and, as to a title-deed, I think the bankruptcy makes no difference, and that the rights of the assignees do not stand higher than those of the bankrupt. The solicitor stands substantially in the relation of a solicitor discharged, not by his own act, not by his own choice, not by his own fault. Then there remain two questions, if the first can properly be called a question, viz. whether there has been any conduct on the part of the solicitor defeating or diminishing the right which he has by the general law. If the petitioners wish to argue this I will hear it. The remaining question is, whether a solicitor having a lien on his client's title-deed, is entitled to refuse his client a copy of the deed. This I am willing to hear argued, if it is wished.

Russell having intimated that it was not intended to argue the case further—

The CHIEF JUDGE continued.—This petition, so far as it seeks that Messrs. Plucknett and Roberts may be ordered to deposit the bill of sale with the official assignee, must of course be dismissed. The question is, whether, a client desiring from a solicitor a copy of a title-deed, he can have it, when the solicitor is entitled to say "pay me my bill," and does not improperly or unreasonably decline to act. I have stated that I am willing to hear that argued if it is desired. Every part of a claim on the part of assignees to stand on a higher ground than the bankrupt requires to be watched with great jealousy. What the law gives them they shall have. I am of opinion I ought not to make any order on this petition, except to dismiss it, with costs to be paid out of the estate. I do not mean to blame the assignees. I do not give any opinion whether the solicitors might not be examined here, as I am exercising the same functions as a commissioner. I consider the submission of the solicitors to the jurisdiction to extend to the jurisdiction of the Court, for the purpose of considering the whole merits.

THE LEGISLATOR.

Summary.

THE unprecedented number of eighty Bills have received the Royal assent in one batch. The list will be found below. It consists almost entirely of private Acts, and the few public ones are of small importance. The period has now arrived for the annual slaughter of legislative projects. It commenced with the Common Law Process Bills, whose loss is to be lamented, for they went to supply a manifest defect in the difficulties that impede the service of process upon persons abroad. Why they were not permitted to pass without opposition is a mystery nobody can solve. The Government will shortly announce what they intend to abandon, what to carry.

Imperial Parliament.

PUBLIC BUSINESS TRANSACTED.

Monday, June 23.

ROYAL ASSENT.

Mr. Speaker reported the royal assent to upwards of eighty Bills, for which see House of Lords report, p. [illegible].

BILLS READ A FIRST TIME.

Friday, June 27.

Small Debts, No. 3

[Pub]lic Works, Ireland—"for the appointment [of] constables for keeping the peace near public works in Ireland."

Monday, June 30.

Valuation, Ireland—"to amend the law relating to the valuation of rateable property in Ireland."

Tuesday, July 1.

Charitable Trusts

Ecclesiastical Courts

Thursday, July 3.

Masters and Workmen—"to make further regulations respecting the tickets of work to be delivered to persons employed in the manufacture of hosiery in certain cases."

Church Building Act Amendment.

BILLS READ A SECOND TIME.

Monday, June 30.

Foreign Lotteries.

Wednesday, July 2.

Turnpike Trusts, South Wales.

Thursday, July 3.

Constables, Public Works, Ireland.

BILLS READ A THIRD TIME AND PASSED.

Friday, June 27.

Assessed Taxes Composition

Timber Ships

Assessment of Wages, Scotland, No. 2.

Monday, June 30.

Statute Labour, Scotland

Dog Stealing.

Thursday, July 3.

Seal Office Abolition.

PRIVATE BUSINESS TRANSACTED.

BILLS READ A FIRST TIME.

Friday, June 27.

Earl of Onslow's (Ellerker's) Estate

Heaviside's Divorce

Lord Monson's Estate.

Monday, June 30.

White's Charity Estate

Weber Road, No. 2

Rothwell Prison.

Tuesday, July 1.

Ellison's Estate.

Thursday, July 3.

Oddart, or Sherwin's Estate.

BILLS READ A SECOND TIME.

Friday, June 27.

Rochdale Vicarage (Molesworth) Estate

Hawkins's Estate.

Tuesday, July 1.

Heaviside's Divorce.

BILLS READ A THIRD TIME AND PASSED.

Friday, June 27.

Belfast Improvement

Liverpool and Manchester Railway

North Union and Ribble Navigation

Birmingham and Gloucester Railway (Gloucester Extensions, Stoke Branch and Midland Railways Junction)

Great North of England (Clarence and Hartlepool Junction) Railway

Richmond (Surrey) Railway.

Newry and Enniskillen Railway.

Monday, June 30.

Wear Valley Railway

Middleborough and Redcar Railway

Cockermouth and Workington Railway

Edinburgh and Northern Railway

Preston and Wyre Railway Branches

Scottish Midland Junction

Shepley-lane-head and Barnesley Road.

Tuesday, July 1.

Runcorn and Preston Brook

Newport and Pontypool Railway.

Wednesday, July 2.

London and South Western Railway, No. 2.

Thursday, July 3.

Forth and Clyde Navigation, and Union Canal Junction, No. 2

Irish Great Western Railway, Dublin to Galway

Bermondsey Improvement, No. 2.

SESSIONAL PRINTED PAPERS.

Par. Num.

404. Bills Deodands Abolition.
405. — Accidents Compensation.
407. — Lunatic Asylums and Pauper Lunatics amended
408. — Lunatics amended.
410. — Scientific and Literary Societies, amended.
411. — Merchant Seamen, amended.
412. — Foreign Lotteries.
415. — Dog Stealing, amended by Committee and on Report.
414. — Small Debts, No. 3.
418. — Turnpike Trusts, South Wales.
417. — Constables, Public Works, Ireland.
— Merchant Seamen, amended on Re-commit[ment].
424. — Rothwell Prison.
370. East India—Paper.
383. Private Bills, Subscription Contract, &c.—Return.
Tithe Commission—Report of Commissioners.
Frame-work Knitters—Appendix to Report, Part 2, Nottinghamshire and Derbyshire.
419. Classification of Railway Bills—9th Report of Committee.
390. Railways—Minutes of the Board of Trade.
332. Clerks of the Peace—Abstract Return.
309. (2) Corporal Punishment—Return.
389. Lunatics, Scotland—Return.
Lunatic Asylums, Ireland—Report of Inspectors-General.
420. Railways, Compensation for Lands, &c.—Report from the Committee of the House of Lords.
416. Slave Trade—Return.
421. Seamen—Return.
422. Merchant Seamen's Fund Bill—Report from Committee.
427. Railway Bills, State and Progress of—First Report from Select Committee of the House of Lords.
361. Revenue, Taxation, &c.—Account.
381. Sweets or Made Wines—Returns.
429. Monies in the Exchequer—Account.

Sugars of Cuba and Porto Rico—Copies of Correspondence.

Drainage, Ireland—Third Annual Report.

Bills in Progress.

BILL TO AMEND THE LAW OF REAL PROPERTY.

(Presented by the Lord Chancellor.)

This is the promised Bill to amend the Transfer of Property Act, and it provides,—

1. That so much of an Act passed in the last session of Parliament, intituled, "An Act to simplify the Transfer of Property," as enacted that, after the time at which that Act should come into operation, no estate in land should be created by way of contingent remainder; but that every estate which, before that time, would have taken effect as a contingent remainder, should take effect (if in a will or codicil) as an executory devise, and (if in a deed) as an executory estate, of the same nature, and having the same properties as an executory devise; and that contingent remainders existing under deeds, wills, or instruments executed or made before the time when that Act should come into operation, should not fail, or be destroyed or barred, merely by reason of the destruction or merger of any preceding estate, or its determination by any other means than the natural effluxion of the time of such preceding estate, or some event on which it was in its creation limited to determine, shall be and is hereby repealed, as from the time of the commencement and taking effect thereof; and that the residue of the said Act shall be and is hereby repealed, as from the day of , 1845.

2. That after the said day of , 1845, all corporeal tenements and hereditaments shall, as regards the conveyance of the immediate freehold thereof, be deemed to lie in grant as well as in livery; and that every deed which, by force only of this enactment, shall be effectual as a grant, shall be chargeable with the stamp duty with which the same deed would have been chargeable in case the same had been a release, founded on a lease or bargain and sale for a year, and also with the stamp duty with which such lease or bargain and sale for a year would have been chargeable, exclusive of progressive duty.

3. That a feoffment, made after the said day of , 1845, other than a feoffment made under a custom by an infant, shall be void at law, unless evidenced by deed; and that a partition, and an exchange, of any tenements or hereditaments, not being copyhold, and a lease, required by law to be in writing, of any tenements or hereditaments, and an assignment of a chattel interest, not being copyhold, in any tenements or hereditaments, and a surrender in writing of an interest in any tenements or hereditaments, not being a copyhold interest and not being an interest which might by law have been created without writing, made after the said day of , 1845, shall also be void at law, unless made by deed.

4. That a feoffment, made after the said day of , 1845, shall not have any tortious operation; and that an exchange, or a partition, of any tenements or hereditaments, made by deed, executed after the said day of , 1845, shall not imply any warranty or condition in law; and that the word "give" or the word "grant," in a deed, executed after the same day, shall not imply any warranty or covenant in law, in respect of any tenements or hereditaments, except so far as the word "give" or the word "grant" may, by force of any Act of Parliament, imply a warranty or covenant.

5. That, under an indenture, executed after the said day of , 1845, an immediate estate or interest in any tenements or hereditaments, and the benefit of a condition or covenant respecting any tenements or hereditaments, may be taken, without naming the taker thereof a party to the same indenture; also, that a deed, executed after the said day of 1845, purporting to be an indenture, but not actually indented, shall have the effect of an indenture.

6. That, after the day of , 1845, a contingent, an executory, and a future interest, and a possibility coupled with an interest, in any tenements or hereditaments in England, of any tenure, whether the object of the gift or limitation of such interest or possibility be or be not ascertained, also a right of entry whether immediate or future, and whether vested or contingent, into or upon any tenements or hereditaments in England, of any tenure, may be disposed of by deed; but that no such disposition shall, by force only of this Act, defeat or enlarge an estate tail; and that every such disposition by a married woman shall be made conformably to the provisions, relative to dispositions by married women, of an Act passed in the 3 & 4 Wm. 4, c. 74, intituled "An Act for the Abolition of Fines and Recoveries, and for the Substitution of more simple Modes of Assurance."

7. That, after the day of 1845, an estate or interest in any tenements or hereditaments in England, of any tenure, may be disclaimed by a married woman by deed; and that every such disclaimer shall be made conformably to the said provisions of the said Act for the abolition of fines and recoveries and for the substitution of more simple modes of assurance.

8. That a contingent remainder, existing at any time after the 31st December, 1844, shall be, and, if created before the passing of this Act, shall be deemed to have been, capable, notwithstanding the determination of any preceding estate of freehold, by forfeiture, surrender, or merger, of taking effect, in the same manner, in all respects, as if such determination had not happened.

9. That when the reversion expectant on a lease, made either before or after the passing of this Act, of any tenements or hereditaments, of any tenure, shall, after the said day of , 1845, be surrendered or merge, the estate which, if the same lease were determined, would for the time being confer a vested right to the immediate possession of the same tenements or hereditaments, shall, to the extent and for the purpose of preserving such incidents to, and obligations on, the same reversion, as, but for the surrender or merger thereof, would have subsisted, be deemed the reversion expectant on the same lease.

10. That this Act shall not extend to Scotland.

DEODANDS.—The following is the Bill entitled "An Act to abolish Deodands," as brought from the House of Lords:—"Whereas the law respecting the forfeiture of chattels which have moved to or caused the death of man, and respecting deodands, is unreasonable and inconvenient; be it enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons in this present Parliament assembled, and by the authority of the same, that from and after the 1st day of September, 1845, there shall be no forfeiture of any chattel for or in respect of the same having moved to or caused the death of man; and no coroner's jury sworn to inquire, upon the sight of any dead body, how the deceased came by his death, shall find any forfeiture of any chattel which may have moved to or caused the death of the deceased, or any deodand whatsoever; and it shall not be necessary in any indictment or inquisition for homicide to allege the value of the instrument which caused the death of the deceased, or to allege that the same was of no value."

HOUSE OF LORDS.

ROYAL COMMISSION.

MONDAY, June 26.—A short time before four o'clock, the Lords Commissioners appointed to give the royal assent to various Bills took their seats, when the royal assent was given to upwards of eighty Bills, among which were—Public Officers' Qualification Indemnity, the Military Savings' Banks, the Privy Council Administration of Justice, the Maynooth College Better Government, an Act to Regulate the Labour of Children and Women in Print Works, an Act to empower Canal Companies to vary their Tolls, the Scotland Fisheries, the Scotch Heritable Securities, an Act to amend the Laws enabling Justices of the Peace to borrow money on mortgage of the county-rates in Middlesex, the Crediton Small Debts, the Battersea Poor-rates, Clerkenwell Improvement, Chester Improvement, the Claughton-cum-Grange St. Andrew's Church, the Claughton-cum-Grange St. John the Baptist Church, the Cromer Sea Walls Improvement, the Chester and Holyhead Railway, the York and North Midland Railway (York and Scarborough Branch), the Manchester, Bury, Blackburn, and Burnley Railway; the Leeds, Dewsbury, and Huddersfield Railway; the Dunstable Railway, the Leeds and Bradford (Shipley to Colne Branch) Railway, the Huddersfield and Sheffield Junction Railway, the Berks and Hants Railway, the Yarmouth and Norwich and Norwich and Brandon Railway Consolidation, the Shrewsbury, Oswestry, and Chester Railway; the Bedford Railway, the Blackburn, Darwen, and Bolton Railway; the Monkland and Kirkintilloch Railway, the Newcastle-upon-Tyne and Tynemouth Railway; the Ely and Huntingdon Railway; the Midland Railway Company's Extension to Nottingham and Lincoln, the Great Grimsby and Sheffield Junction Railway, the Hull and Selby Railway (Bridlington Branch), the Kendal and Windermere Railway, the Brighton, Lewes, and Hastings Railway Company (Keymer Branch); the Wilts, Somerset, and Weymouth Railway; the Manchester and Leeds Railway (Burnley and Oldham branch), the Lynn and Ely Railway, the Midland Railway Company (Syston and Peterborough branch), the Glasgow, Garnkirk, and Coatbridge Railway; the Whitby and Pickering Railway, the York and North Midland Railway (Bridlington branch), the Newcastle-upon-Tyne Port, Hoddam Harbour, the Southampton Docks, the Birkenhead Docks, the Wexford Castle Hill Docks, the Hungerford and Lambeth Suspension Bridge Improvement, the Clifton Bridge, Stoke-upon-Trent Market, Glasgow Market, the Plymouth Gas, the De-

venport Gas, the Birmingham and Staffordshire Gas, the Taunton Gas, the Scarborough Water-works, the Southwark and Vauxhall Water-works, the Huddersfield Water-works, the Nottingham Water-works, the Newcastle-upon-Tyne Water-works; an Act to enable the Shaws Water Joint Stock Company to increase the supply of Water; an Act to carry into effect an Arrangement between the Corporation of the Royal Naval School and the Committee for Managing the Patriotic Fund; the Newcastle Coal Fund, the Hemel Hempstead Poor Rates, the Standard Life Assurance Company, the Edinburgh Life Assurance Company the North British Assurance Company, the West of London and Westminster Cemetery Company; an Act to enable the Master and Commonalty of Watermen to invest the Endowment Fund of the Free Watermen's Asylum in the purchase of Land; the Stoken church and New Woodstock Road, the Duke of Argyle's Estate, Molyneaux's Estate, Barrington's Estate, the Leicester Inclosure, the Nottingham Inclosure, and the Spond Inclosure Bills.

The Commissioners were the Lord Chancellor, the Duke of Buccleuch, and the Earl of Shaftesbury.

HOUSE OF COMMONS.

SMALL DEBTS BILL.

FRIDAY, June 27.—On the motion of Mr. KELLY, the Small Debts Bill was read a first time.

NEW WRIT.

MONDAY, June 30.—A new writ was ordered, on the motion of Sir GEORGE CLERK, for the borough of Abingdon, for the election of a burgess in the room of Sir F. Thesiger, who had accepted the office of Attorney-General.

LUNATIC ASYLUMS AND PAUPER LUNATICS BILL.

WEDNESDAY, July 2.—The House, on the motion of Lord ASHLEY, went into committee on this Bill. Clauses 1, 2, and 3 were agreed to without discussion; clauses 4, 5, 6, and 7 were then agreed to after some brief conversation. When clause 8 was under discussion, Mr. WAKLEY said he thought the clause before them was subversive of the entire principle of the noble lord's bill, for there was not a workhouse in the kingdom where a case of chronic lunacy could be advantageously received. He hoped the noble lord would consent to expunge the clause.—Lord ASHLEY said that if the opinion of the House was against the clause he should be ready to strike it out.—Sir J. GRAHAM said that in certain cases chronic lunatics might be advantageously provided for in workhouses. He would not say, however, that a better arrangement might not be made by the building of separate asylums.—Mr. HENLY opposed the clause, on the ground that it might, if adopted, give rise to improper treatment of chronic lunatics.—The clause, with some verbal amendments, was agreed to. Clauses from 9 to 40 were agreed to. Clause 41 was postponed. Clauses up to 45 were agreed to, after which the CHAIRMAN reported progress.

LUNATICS BILL.

On the motion of Lord ASHLEY, the committee on this Bill was fixed for Wednesday next, at twelve o'clock.

GAMING AND WAGERS.

THURSDAY, July 3. — Lord WHARNCLIFFE moved the second reading of th Bill, which, after some discussion, was agreed to.

ADMINISTRATION OF CRIMINAL JUSTICE BILL.

Lord DENMAN moved the second reading of the Administration of Criminal Justice Bill. The object of this Bill was to remedy certain existing defects in the law, of which all the judges were sensible. In several cases severe punishments were affixed by Act of Parliament to certain species of offences, and all discretion was taken away from judges, who were sometimes bound to pass a sentence of transportation for life, where justice would be satisfied by a lighter punishment. Another object of this Bill was to correct a defect in the Criminal Court Act, in respect to recognizances. A third object was to provide that, where the venue was changed, the writ of *certiorari* should always point out where the trial should take place. With respect to another provision in the Bill, his noble and learned friend (Lord Campbell) had an objection, and he (Lord Denman) was not satisfied with it. In many cases a very serious offence might be committed, little short of felony, but only the punishment affixed to misdemeanors could be inflicted, though it was impossible it could be classed with the other descriptions of misdemeanors. There was no power of adding solitary confinement or hard labour. He could suggest a vast number of cases of great cruelty in which the parties were dismissed with the light punishment of a common assault. He did not know how to prevent this evil but by giving the judges a discretionary power. If any noble lord could suggest a wider criterion he would adopt it. He also suggested that this discretion should be confined to the superior courts.—Lord CAMPBELL said, he very greatly approved of three clauses of the Bill to which his noble and learned friend adverted. But he did most seriously object to the other clause. How did the Bill now stand? Any person convicted before any tribunal of any assault would be liable to be imprisoned for three years, to hard labour, and to solitary confinement, at the discretion of the Court. What was an assault? Holding up a fist in the face of another was an assault. Suppose a game case, and a notorious poacher, who had been several times convicted and sentenced to imprisonment, were brought before the quarter sessions and convicted of an assault, he would be at the mercy of the justices, and although the offence he had committed might be sufficiently punished by two days' imprisonment, he might be sentenced to two years' imprisonment, with hard labour and solitary confinement. Even at the assizes, not only Queen's judges presided, but occasionally serjeants and Queen's counsel. He should feel it to be his duty in the committee to move that this clause be struck out.—Lord BROUGHAM said, this bill was a very great improvement in the law, but for one proviso, which was not sufficiently guarded. If, instead of the words "all assaults," were substituted "all assaults with intent to commit felony," or some such words, the clause would be unobjectionable. He also suggested that the words "assaults of an indecent description" should be introduced into the bill.—The LORD CHANCELLOR said, that by the common law, common assaults were punishable with fine or imprisonment, at the discretion of the court; and he understood this was the principle of the bill now under their consideration, with this addition, that offenders should be liable to be committed to hard labour or to solitary confinement. The bill would leave the law as it stood before in this respect—namely, that the punishment would be left entirely to the discretion of the court before which the case was tried; but the bill provided that the amount of punishment should not exceed a certain limit. He must say, that he thought this extensive discretionary power should be confined to the superior courts; for although, generally speaking, justices of the peace had discharged their duties in a most satisfactory manner, there had been some exceptions, and he thought that the powers conferred by this bill ought to be confined to those who from education possessed an intimate acquaintance with the law.—After a few words from Lord DENMAN, the bill was read a second time. The Real Property Conveyance Bill went through committee, with some verbal amendments, and was ordered to be read a third time on Monday.

PETITIONS TO PARLIAMENT.—The 36th report of the Select Committee on Public Petitions shews that there are, amongst others, now before the House of Commons—7 petitions for a repeal of the union with Ireland, signed by 4,751 persons; 3 petitions, complaining of refusals to grant land for the Scotch Free Churches, signed by 784 persons; 5 petitions against the emancipation of the Jews, signed by 105 persons; 225 petitions for a better observance of the Sabbath Day, signed by 26,917 persons; 20 petitions against the Scotch Universities Bill, signed by 875 persons; 24 petitions in favour of it, signed by 883 persons; 561 petitions for agricultural relief, signed by 39,406 persons; 20 petitions in favour of the Arrestment of Wages (Scotland) Bill, signed by 2,083 persons; 77 petitions against the Colleges (Ireland) Bill, signed by 141,567 persons; 327 petitions for a 10-hours factory bill, signed by 15,536 persons; 11 petitions for sanitary regulations in towns, signed by 2,192 persons; 273 petitions for an alteration of the Physic and Surgery Bill, signed by 3,624 persons, and 867 petitions for diminishing the abominable nuisance of public houses, signed by no less than 191,925 individuals.

CORPORAL PUNISHMENTS.—A return of the corporal punishments inflicted in the Royal Navy, in each of the years 1839 to 1843, both inclusive, stating the highest and lowest number of lashes at each time, and the aggregate number of lashes in each year, in continuation of Parliamentary paper No. 371, of session 1838, gives the following results:—There were in 1839, 2,007 punishments inflicted; the highest number of lashes was 59,341; the highest number inflicted at one time, 60, and the lowest, 3. In 1840, the total number of punishments was 2,026; the total number of lashes, 60,302; the highest number inflicted at one time and the lowest were, respectively, 48 and 1. In 1841, the total number of punishments was 2,066; the total number of lashes, 61,669; the highest number inflicted at one time, 50, and the lowest, 2. In 1842, the total number of punishments was 2,472; the total number of lashes, 71,024, the highest number inflicted at one time, and that by sentence of court-martial, 100, and the lowest, 1. In 1843, the total number of punishments was 2,170; the total number of lashes inflicted, 63,985; the highest number at one time, 60, and the lowest, 3.

REPORT OF THE TITHE COMMISSIONERS FOR ENGLAND AND WALES.

Tithe Commission-office, May 31 and June 18.

SIR,—It is our duty to report to you the progress of the commutation of tithes in England and Wales to the close of the year 1844.

We have received notices that voluntary proceedings have commenced in 9,594 tithe districts; of these notices 39 were received during the year 1844.

We have received 6,964 agreements, and confirmed 6,616; of these, 87 have been received and 121 confirmed during the year 1844.

4,545 notices for making awards have been issued, of which 674 were issued during the year 1844.

We have received 3,324 drafts of compulsory awards, and confirmed 2,821; of these 643 have been received and 646 confirmed during the year 1844.

We have received 8,338 apportionments, and confirmed 7,919; and of these 813 have been received and 1,034 confirmed during the year 1844.

In 9,437 tithe districts, as will be seen from the above statement, the rent-charges to be hereafter paid have been finally established by confirmed agreements or confirmed awards.

We have in our possession voluntary agreements, and drafts of awards, as yet unconfirmed, which will include 851 additional tithe districts; and make a total, when completed, of 10,288 districts in which the tithes are commuted.

We have to repeat our regret that no decision has been given on the disputed points arising out of the statute of the 2 & 3 Wm. 4, c. 100, commonly called Lord Tenterden's Act.

In the numerous cases which must be determined by the final interpretation of that Act we are at present unable to proceed with any confidence in our own decisions, or any hope that such decisions will be acquiesced in by the parties, or confirmed by the Courts.

This difficulty, of which we pointed out the existence and the consequences in our last report, becomes, of course, of more urgent importance as our labours in other respects draw nearer to their close.

The disputes which existed as to the recovery of rent-charges due from railroads have been removed by a clause of the 7 & 8 Vict. c. 85.

On the other points recommended for legislation we have found no reason to alter our opinion.

We are glad to be able to state that the power we now possess of legalizing exchanges of glebe lands and exchanges of rent-charges for a limited portion of land are found extensively useful.

We venture to recommend that before the tithe commission expires, similar power, perhaps slightly modified, should be invested in some permanent public body. The superintendence of the operation is attended by very little labour or difficulty.

We have the honour to be, Sir,
Your faithful and obedient servants,
W. BLAMIRE,
T. WENTWORTH BULLER.
R. JONES.

To the Right Hon. Sir J. R. G. Graham, Bart, &c.

FORMATION OF A NEW PENAL SETTLEMENT.—We are enabled to state, that authentic information has reached the colony of the intention of government to form a penal settlement on the northern coast of Australia, beyond the limits of this colony. The exact spot has not, as we understand, been fixed upon. Halifax Bay is spoken of as likely to form an advantageous position for the purpose. The first ships, with convicts on board for the new settlement, may be expected shortly to arrive at Sydney. A meeting, it is said, is to take place between Sir George Gipps, Sir Eardley Wilmot, and Mr. Latrobe, the superintendent of Port Philip, in order to take into consideration and report upon the course which they may consider most advisable to adopt in the formation of the settlement, and the carrying out a judicious and comprehensive system of penal discipline. —*Australian.*

CLERKS OF THE PEACE.—The usual annual return relative to the emoluments of clerks of the peace in England and Wales has been issued by order of Mr. Barneby, M.P. It appears that the clerks of the peace in England and Wales received from the county-rates, in 1840, 44,495*l.*; in 1841, 46,436*l.*; in 1842, 49,424*l.*; in 1843, 50,028*l.*; and in 1844, 48,107*l.* From other sources, in 1840, 8,311*l.*; in 1841, 8,416*l.*; in 1842, 9,378*l.*; in 1843, [illegible]292*l.*; and in 1844, 11,057*l.*; the total amount received being, in 1840, 53,726*l.*; in 1841, 55,723*l.*; in 1842, 59,678*l.*; in 1843, 60,049*l.*; and in 1844, 59,[illegible]5*l.*

THE MAGISTRATE.

Summary.

No incident in the administration of the law claims particular notice.

THE LAWYER.

Summary.

THE melancholy, because untimely death of the brightest ornament of the Bar, in the very

moment of his success, with the highest honours of his Profession at his feet, is the first theme upon the tongue of every Lawyer The next is as to the changes which the vacancy thus created will occasion. Sir F. THESIGER, as of right, was immediately appointed to the vacant office of Attorney-General; but some delay has occurred in the appointment of his successor. Rumors are rife, but we wait the official announcement which cannot be long deferred In the Profession there cannot be two opinions as to the man whose claims are the strongest—Mr. KELLY

PROMOTIONS, APPOINTMENTS, ETC.

[Clerks of the Peace for Counties, Cities, and Boroughs, will oblige by regularly forwarding the names and addresses of all new Magistrates who may qualify]

At the Court of Buckingham Palace, the 30th day of June, 1845, present the Queen's most excellent Majesty in Council —This day the Right Hon William Bingham Baring and the Right Hon Henry Lytton Bulwer were, by her Majesty's command, sworn of her Majesty's Most Honourable Privy Council, and took their respective places at the Board accordingly

Her Majesty having been pleased to appoint the Most Noble Richard Marquis of Westminster to be Lord Lieutenant and Custos Rotulorum of the county of Chester, and of the city of Chester and county of the same, and Sir Stephen Richard Glynne, bart to be Lieutenant and Custos Rotulorum of the county of Flint, they this day took the oaths appointed to be taken thereupon, instead of the oaths of allegiance and supremacy

FOREIGN OFFICE, JUNE 27 —The Queen has been pleased to approve of Don Juan Jo [illegible] Garcia as Vice Consul at Sierra Leone for her Majesty the Queen of Spain

WHITEHALL, JUNE 28 —The Queen has been pleased to grant unto Peter Stafford Carey, esq the office of Bailiff of the island of Guernsey, in the room of John Guille, esq deceased

COURT OF CHANCERY, LINCOLN'S INN, JULY 3.—Mr Serjeant Shee having received a patent of precedence, and Mr Montagu Chambers having been appointed one of her Majesty's counsel, were this day invited by the Lord Chancellor to take their seats within the bar

It is stated that Mr Robert Allan, of the Oxford Circuit, is to be created Serjeant at Law

CLERK OF THE PEACE'S OFFICE CARLISLE, JULY 2, 1845 —The following gentlemen have qualified as Justices of the Peace for the county of Cumberland, and taken the usual oaths at the present sessions held at Carlisle, viz the Hon Charles Wentworth George Howard, of Naworth Castle Peter Dixon, of Holme Eden, John Cowley Fisher, of Woodhill, and Joshua Stanger, of Fieldside, Keswick, esqrs

COURT PAPERS.

CHANCERY CAUSE LISTS

Before the LORD CHANCELLOR
Sittings after Trinity Term 1845

APPEALS

S O Clun Hospital v Earl Powis appeal and petition
Attorney general v Earl Powis ditto
The Sheffield Canal Company v The Sheffield and Rotherham Railway Company
Day to be fixed Strickland v Strickland
Ditto v Boynton
Ditto v Strickland
Part heard Brun v Knott, two causes
Millar v Craig
Davenport v Bishop
Forbes v Peacock
Tyler v Hinton
Miln v Walton
Vandeleur v Blagrave
Crosley v The Derby Gas Company
Parker v Bult
Ladbrooke v Smith
S O. Hitch v Leworthy
Cooke v Lowndes
Drake v. Drake
Dalton v Hayter
B[illegible]tt v Meux
[illegible] v Banner
Dobson v. Lyall
Monrat v Richardson
Millbank v. Collier, appeal, want of parties
Deeks v Stanhope, three causes
Wiltshire v Rabbitt
Smith v Earl of Effingham
Archer v Hudson
Turner v Newport
The Attorney general v. The Master and Wardens of the City of Bristol
Truelock v Robey
Younghusband v Gisborne
[illegible] v Willis
[illegible] v. Gallagan

Bush v. Shipman
Black v Chaytor
Mitford v Reynolds
Johnson v Ditto
Thwaites v Foreman
Watts v Lord Eglinton
Curson v Belworthy
Watson v. Parker
Dutchesson v Cabburn
Taylor v Wyld
Bellamy v Sabine
Attorney-general v Malkin, cause by order
Johnson v Child

Before the VICE CHANCELLOR OF ENGLAND

Pleas Demurrers, Causes, and Further Directions
Green v Baily dem
Clarke v Young two dems
Bryan v Twigg exons
Hardy v Hill
June 27 —Rool [illegible] v Newcomb [illegible]
Grand Junction Canal Company v Dimes at request of defendant
June 25 —Wilson v Williams
Part heard Nichols v Wilson four causes ditto
Gunnand v Nash fur dirs and petition
Gammond v Johnson
Mackreth v Dunn fur dirs and costs
Newton v Harle [illegible] exons
Turquand v Knight
Yeats v Yeats
Clarke v Smith two causes
Roberts v Evans
Beale v Warder
Pearce v Pearce
Catlett v Tumbrick exon
Lane v Husband
Crighton v Blink, fur dirs and costs
To stand over Davis v Clanter four causes
Montgomery v Culland fur dirs and costs
Clowes v Slown ditto
Same v McHalon, ditto
Clowns v Sarc
Petre v Eastern Counties Railway
Lloyd v Laver fur dirs and costs
Battershall v Bishop of Winchester, two causes
[illegible] v Gordon ditto in [illegible]
Gamble v Burnell fur dirs and costs
Jenkins v Cross [illegible]
Ditto v Bent fur dirs
Bryant v Daniels ditto and costs
Harvey v Bailey exons and fur dirs
Hamilton v Russell fur dirs
Roberts v Roberts
Howard v Cook
Atkinson v Jones
Same v Manly
Jones v Merrill
Rooke v Newcombe
Stevens v Stevens
June Gould v Ettmore
Dalhousie v Ogilvie
Slack v Rylands
Pilfer v Lunion
Same v Pash
Walker v Wright fur dirs and costs
Welby v Dowling
Lumley v M Donald fur dirs
Same v Phillips ditto
Carrington v Towe, ditto
Same v Crillith suppl bill
Same v Attorney gen ditto
Wiggin v Fuller fur dirs and costs
Marsden v Yorke ditto
[illegible] Vale Railway Company
Same v Armin
Campbell v Lister fur dirs and cost
Ewart v Williams
Williams v Ewart
Munwinner v Dickinson
Creswick v Antrol [illegible]
Boswell v King ditto and costs
Robinson v Smith
Davies v Ashford exons two sets
Same v Sim fur dirs
Davie v Colman ditto
Dobson v Dobson ditto and costs
Hill v Smart
Dell v Price
Watson v England } Fur dirs and costs
Smith v Warde
Hardy v Byron
Prickett v Round
Swabey v Swabey } Ditto
Williams v Panton
Clarke v Clarke
Parker v Parker
Judson v Cornwell, fur dirs and petition
Gaches v Warner, two causes
Minor v Minor
Lake v Tucker
Bell v Pennell
Westemeath v Dormen } Fur. dirs
Byron v Douglas
Chapman v Earl of Tankerville
Scott v Scott
Coventry v Coventry, two causes
Cook v Finney
Mayor &c of Louth v. Warden, &c of Louth Free School
Mole v Manfield
Goodall v Maxwell, three causes
Danvers v Lockwood
Adey v Arnold

Before VICE CHANCELLOR KNIGHT BRUCE.

Causes, Further Directions, and Exceptions
After Mich Term Dodsworth v Kinnaird, two causes, at request of defendant
Hobson v Everett
Same v Ferraby
June 24 Carnfield v Wyndham, demurrer
Short. Meymot v. Morson

June 23 Williams v Edwards, part heard
O S. Tubbs v. Fubby
Leech v Hearse
Steel v Parsons
Hilyard v Langley
Langley v Hilyard
Ford v Moline
Burne v. Getting
Newell v Hackenbotham
Kent v Waterhouse
Ward v Biddles
Smith v Graham
Pannell v Hurley
Same v Paul
Everatt v Wildes
Hawkes v Howell
Short Hunt v Hunt
Causes transferred from the Master of the Rolls' List.
Macgregor v Macgregor, fur dirs and costs
Hatfield v Wells
Compton v [illegible]
Cathcart v East India Company
Kightley v Trimbey two causes
Horrocks v Leadman
Bishop v Cappell
Hill v Maurice fur dirs and costs
Smith v Webster ditto
Hatfield v Pryme ditto
Same v Shelton ditto
Kemp v Wade ditto
Solman v Stalman at request of defendant
Cheetham v Sturtevant
Same v Hopkins
Bulton v Dawson
Bearfield v Dorrington, fur dirs and costs
Vickers v Cowell
Egmont v Cowell
Anderson v Stather
Monypenny v Mitcall
Portland v Foukes
Jones v Jones
Fetcham v Hughes fur dirs and costs
Pennington v Selby
End of Causes transferred
Bliss v Illes
Yule v Wyndham
Edwards v Webb, fur dirs and costs
Hunton v Crane
Bateman v Mathel
Same v Cole } At request of defendant
Same v Mathel
Smith v Smith
Bullen v Scott
Hedley v Strother
Rhodes v Mason
Gord v Atkinson

Before VICE CHANCELLOR WIGRAM

Causes, Further Directions and Exceptions
June 3 Neill v Duke of Beaufort
Same v Aust [illegible]
Duke of Beaufort v Taylor
Same v Austin
Bennett v Deane
Ironmonger v Grover
Cooper v Pratt
Bear v Schofield
Everatt v Burrell at request of defendant
July 12 Robinson v Grundy
June 3 Attorney-gen v Cradock
Same v Binks
Wyles v Brun
Morris v Howes fur dirs and costs
Cocksedge v Cocksedge
Same v Bell
Ismet v Baker
S O for suppl Bill Alher v Walford two causes
Impey v Impey
June 21 Iwitt v Iwitt
Bishop v Wise
Atkinson v Byrs
Foster v Foster
Welsford v Everett
Shutte v Shutte
Olive v Barr
Iremonger v Palmer
Attorney-gen v Harrow School
Powell v Cockerell
Wilmot v Pike
Harbridge v Wogan
Same v Price
Wrightson v Macaulay, fur dirs and costs.
Cutler v Mills ditto
Dunn v Mills ditto
Lander v Ingersoll
Wadmore v Taylor fur dirs and costs
Same v Meadow, ditto
Wood v Freeman
Siggers v Austin
Same v Alsager
Short Duvall v Dickens
Phene v Gillan
Letts v Smith, fur dirs and costs
Chard v Chard, ditto
Way v Bassett
Cole v Jealous
Smith v Jones pro confesso
Totham v Lightbody, exons.
Tuppen v Tuppen

COURT OF REVIEW

GENERAL LIST OF PETITIONS
Adjourned Petitions Hastings v Dobbs
Burdes v Thompson
Davies v. Davies
New Petitions. Harvey v Chapman
Finch v Francis
Marshall v Wise
Harris v May
Moore v Westrup
Same v Same, motion
Hall v Waller

Pearson v. Churchill
Underwood v. Hemsworth
Broadbent v. Hudson
Cheetham v. Cheetham
Burwood v. Taylor
Martin v. Martin
Pearce v. Robinson
Heming v. Butler.

GENERAL ORDERS AND RULES OF THE HIGH COURT OF CHANCERY.

(*Continued from page 275.*)

Form of Commission.

CIII. The form of a commission to be hereafter issued for the examination of witnesses is to be as follows, with such (if any) variations as the circumstances of the case require :—

"Victoria, &c.

"To A. B. and C. D. greeting.

"Know ye that we, in confidence of your prudence and fidelity, have appointed you, and by these presents do give unto each of you full power and authority, diligently to examine all witnesses whatsoever upon certain interrogatories to be exhibited to you in a cause wherein E. F. is complainant and G. H. and others are defendants; and therefore we command that one of you do, at certain days and places to be appointed for that purpose, cause the said witnesses to come before you, and then and there examine each of them apart upon the said interrogatories, either on their respective corporal oaths first taken before you upon the Holy Evangelists, or in the case of Quakers upon their solemn affirmation and declaration, or in such other solemn manner as is or may be authorized by law, and that you do take such their examinations and reduce them into writing on parchment; and when you shall have so taken them, you are to send the same to us in our Chancery without delay, wheresoever it shall then be, closed up and under your seal, distinctly and plainly set, together with the said interrogatories and this writ. And we further command you, that before you act in or be present at the swearing or examining any witness or witnesses you do take the oath first specified in the schedule hereunto annexed. And we further command that all and every the clerk or clerks employed in taking, writing, transcribing, or engrossing the deposition or depositions of witnesses to be examined by virtue of these presents shall, before he or they be permitted to act as clerk or clerks as aforesaid, or be present at such examination, severally take the oath last specified in the said schedule annexed; and we also give to you full power and authority to administer such oath to such clerk or clerks in manner aforesaid. Witness ourself at Westminster, the day of , in the year of our reign.

"LANGDALE."

Endorsement.

"By order of Court."

(Name and address of agent and solicitor issuing writ.)

CIV. The oath to be taken by a commissioner is to be set forth in a schedule annexed to the commission, and is to be in the form following; viz.

"You shall, according to the best of your skill and knowledge, truly, faithfully, and without partiality to any or either of the parties in this cause, take the examinations and depositions of all and every witness and witnesses produced and examined, by virtue of the commission hereunto annexed, upon the interrogatories produced and left with you: and you shall not publish, disclose, or make known to any person or persons whatsoever, except to the clerk or clerks by you employed and sworn to secrecy in the execution of this commission, the contents of all or any of the depositions of the witnesses or any of them to be taken by you by virtue of the said commission, until publication shall pass pursuant to some general or special order of the High Court of Chancery.

"So help you GOD."

And the said oath is to be taken by the commissioner who is to act in the execution of the commission previously to his acting therein before any master in ordinary, or before any master extraordinary of the court who is not employed or concerned in the cause, and such master extraordinary is hereby authorized and required to administer such oath.

CV. The oath to be taken by the clerk or clerks employed in taking, writing, transcribing, or engrossing the deposition or depositions of witnesses to be examined by virtue of a commission is to be set forth in a schedule, annexed to the commission, and is to be in the form following: viz.

"You shall truly and faithfully, and without partiality to any or either of the parties in this cause, take and write down, transcribe and ingross, the depositions of all and every witness and witnesses produced before and examined by either of the commissioners named in the commission hereunto annexed as far forth as you are directed and employed by the said commissioner to take, write down, or ingross the said depositions or any of them; and you shall not publish, disclose, or make known to any person or persons whatsoever the contents of all or any of the depositions of the witnesses or any of them to be taken, written down, transcribed, or ingrossed by you, or whereto you shall have recourse or be any ways privy, until publication shall pass pursuant to some general or special order of the High Court of Chancery.

"So help you GOD."

And the said oath is to be taken before the acting commissioner by the clerk or clerks employed as aforesaid, before he or they be permitted to act as such clerk or clerks, or to be present at the examination of witnesses under the commission; and the commissioner is hereby authorized and required to administer the said oath to such clerk or clerks accordingly.

CVI. The commissioner having taken such oath is, at the instance of any party entitled to examine witnesses, to sign and deliver to such party a notice in writing specifying the time and place when and where he will proceed to examine witnesses, and such notice is to be duly served by the party who obtains it upon the solicitors of all the other parties entitled to examine witnesses under the commission, and in case any such party has no solicitor, upon such party, at least ten clear days before the day therein named for proceeding to examine witnesses.

CVII. All depositions of witnesses are to be taken and expressed in the first person of the deponent.

CVIII. If the examination of witnesses cannot be completed in one day, and the circumstances of the case permit, the commissioner is to proceed *de die in diem*, during six hours of each day, between the hours of eight in the morning and six in the afternoon, until the witnesses for all parties are fully examined; nevertheless the commissioner may, if in his opinion the circumstances of the case require an adjournment, adjourn the proceedings from time to time and from place to place, in such manner as he thinks proper; but he is in all cases to enter on the depositions any adjournment, and where such adjournment is from place to place or otherwise than *de die in diem*, the cause or reason of such adjournment, and he is also to enter on the depositions the hours of the day on which he commences and concludes the examination of witnesses on each day, and the true cause of his not proceeding for the full time of six hours on each day, if such should be the case.

CIX. When the examination of witnesses is completed, the commissioner is to seal up the depositions, and is to transmit the same sealed up with the commission to the Record and Writ Clerk's office.

CX. The commissioner is, for the performance of his duty as such commissioner, entitled to receive the following sums of money, viz. :—

	£.	s.	d.
For every day in which he is necessarily, and without any default of his own, detained in the execution of the commission, for his expenses the sum of	2	2	0
For every day in which he is *bonâ fide* employed in the examination of witnesses, the further sum of . .	3	3	0
For every mile that he travels directly from his place of residence to the place where he opens the commission, and from place to place where the commission is adjourned, and from the place where he last acts in the execution of the commission to his place of residence, the sum of	0	1	6

Publication.

CXI. Publication is to pass without rule or order on the expiration of two months after the filing of the replication, unless such time expires in the long vacation, or is enlarged by order.

CXII. If the two months after the filing of the replication expire in the long vacation, publication is to pass on the second day of the ensuing Michaelmas Term, unless the time is enlarged by order.

CXIII. If the time is enlarged by order, publication is to pass without rule or order on the expiration of the enlarged time, unless the enlarged time expires in the long vacation, in which case publication is to pass without rule or order on the second day of the ensuing Michaelmas Term, unless the time is further enlarged by order.

Dismissal.

CXIV. Any defendant may, upon notice, move the Court that the bill may be dismissed, with costs, for want of prosecution, and the Court may order accordingly,

1. If the plaintiff, having obtained no order to enlarge the time, does not obtain and serve an order for leave to amend the bill, or does not file the replication, or set down the cause to be heard on bill and answer, within four weeks after the answer, or the last of the answers, is found or deemed to be sufficient, or after the filing of a traversing note; or
2. If the plaintiff, having undertaken to reply to a plea to the whole bill, does not file his replication within four weeks after the date of his undertaking; or
3. If the plaintiff, having obtained no order to enlarge the time, does not amend the bill within fourteen days after the date of the order for leave to amend; or
4. If the plaintiff, having obtained no order to enlarge the time, does not set down the cause to be heard, and obtain and serve a subpœna to hear judgment within four weeks after publication has passed.

CXV. Where the plaintiff has, after answer, amended his bill without requiring an answer to the amendments, any defendant may upon notice move to dismiss the bill, with costs, for want of prosecution, if the plaintiff, having obtained no order to enlarge the time, does not file the replication, or set down the cause to be heard on bill and answer, within the times following; viz.

1. Within fourteen days after service of notice of the amendment of the bill, in cases where the defendant does not desire to answer the amendments.
2. Within fourteen days after the master's refusal to allow further time, in cases where the defendant, desiring to answer, has not put in his answer within eight days after the service of notice of the amendment of the bill, and the master has refused to allow further time.
3. Within fourteen days after the filing of the answer in cases where the defendant has put in an answer to the amendment, unless the plaintiff has within such fourteen days obtained from the Court a special order for leave to re-amend the bill.

CXVI. If, after publication passed, the plaintiff neglects to set down the cause to be heard, any defendant, after the expiration of four weeks, may set the same down at his own request, instead of proceeding to dismiss the bill for want of prosecution, and may obtain a subpœna to hear judgment, and serve the same on the plaintiff.

CXVII. If the plaintiff, after the cause is set down to be heard, causes the bill to be dismissed on his own application, or if the cause is called on to be heard in court, and the plaintiff makes default, and by reason thereof the bill is dismissed, then and in such case such dismissal is, unless the Court otherwise orders, to be equivalent to a dismissal on the merits, and may be pleaded in bar to another suit for the same matter.

CXVIII. A defendant is not to be at liberty to move to dismiss a bill for want of prosecution until after the expiration of the time within which a plaintiff may obtain an order to amend such bill.

Conditional Order.

CXIX. In all cases where any person or party having obtained from the Court or from a master any order upon condition does not perform or comply with such condition, he is to be considered to have waived or abandoned such order so far as the same is beneficial to himself, and any other party or person interested in the matter may, on breach or non-performance of the condition, take either such proceedings as the order may in such case warrant, or such proceedings as might have been taken if no such order had been made, unless the Court orders to the contrary.

Costs.

CXX. Where costs are to be taxed as between party and party, the taxing master may allow to the party entitled to receive such costs all such just and reasonable expenses as appear to have been properly incurred in

The service and execution of writs, and the service of orders, notices, petitions, and warrants,
Advising with counsel on the pleadings, evidence, and other proceedings in the cause,
Procuring counsel to settle and sign pleadings and such petitions as may appear to have been proper to be settled by counsel,
Procuring consultations of counsel,
Procuring the attendance of counsel in the master's offices upon questions relating to pleadings or title,
Procuring evidence by deposition or affidavit, and the attendance of witnesses,
and
Supplying counsel with copies of or extracts from necessary documents.

But in allowing such costs the taxing master is not to allow to such party any costs which do not appear to have been necessary or proper for the attainment of justice or for defending his rights, or which appear to have been incurred through over caution, negligence, or mistake, or merely at the de[illegible] of the party.

CXXI. The costs of such copies of pleadings and proceedings as have heretofore been allowed in the taxation of costs between party and party in country causes, are hereafter to be allowed in the taxation of costs between party and party in town causes.

CXXII. If upon the hearing of any cause, petition, or motion the Court is of opinion that any pleading, petition, or affidavit which has not been referred for impertinence, or any part of any such pleading, petition, or affidavit, is improper or of unnecessary length, the Court may either declare such pleading, petition, or affidavit, or any part thereof, to be im-

proper or of unnecessary length, or may direct the taxing master to look into such pleading, petition, or affidavit, and distinguish what parts or part thereof are or is improper or of unnecessary length, and may direct the taxing master to ascertain the costs occasioned to any party by such parts or part thereof as in the one case may have been declared to be, and in the other case may have been distinguished as being, improper or of unnecessary length, and may make such order as is just for the payment, set-off, or other allowance of such costs.

CXXIII. Upon interlocutory applications, where the Court deems it proper to award costs to either party, the Court may by the order direct payment of a sum in gross in lieu of taxed costs, and direct by and to whom such sum in gross is to be paid.

CXXIV. In cases where a bill or petition is dismissed with costs, or a motion is refused with costs, or any costs are by any general or special order ordered or decreed to be paid, the taxing master may tax such costs without any order referring the same for taxation, unless the Court, upon the application of the party alleging himself to be aggrieved, prohibits the taxation of such costs; and the costs to be certified by the taxing master are to be recovered by *subpœna*.

CXXV. The costs of a bill of discovery filed by any defendant to a bill for relief are to be costs in the original cause, unless the Court otherwise orders.

(*To be continued.*)

LEGAL INTELLIGENCE.

FUNERAL OF SIR WILLIAM FOLLETT.

The mortal remains of this distinguished lawyer and advocate were yesterday morning consigned to their last resting-place, in the vaults under the eastern portion of the Temple Church. The whole of the judges (with the exception of Lord Denman, who was unable to attend), the Lord Chancellor, Lord Brougham, Sir Robert Peel, Sir James Graham, the Right Hon. the Chancellor of the Exchequer, the Vice-Chancellor of England, Earl Caernarvon, Vice-Chancellors Wigram and Knight Bruce, Lord Campbell, Mr. Greene, M.P. Chairman of the House; Wm. Brougham, esq. Wm. Wingfield, esq. the Attorney-General, Lord Langdale, R. Kindersley, esq. Mr. Baron Parke, and upwards of 200 of the principal members of the common law and equity courts, being present to pay the last token of respect to the lamented deceased, and assist in the funeral ceremony. The funeral *cortege*, which consisted of a hearse, containing the body, and three mourning coaches, each drawn by four horses, in which were relatives of the deceased, left Cumberland-terrace at eleven o'clock, and arrived at the Temple exactly at half-past twelve, when the procession was formed on the terrace in front of the gardens, and proceeded in the following order:—The Master, the beadles and attendants of the Inner and Middle Temple; the benchers of the Inner Temple, the benchers of the Middle Temple, two by two; the lid of feathers and porters, the choir, consisting of ten boys and twelve male voices; the reader; Archdeacon Robinson, the Master of the Temple; the coffin, on the right of which, Mr. Burge, Q.C. as treasurer of the Temple, Chief Justice Tindal, Sir James Graham, the Chancellor of the Exchequer; and on the left, Mr. Crowder, Q.C. Principal of the Temple; Lord Lyndhurst, Sir R. Peel, and the Vice-Chancellor of England acted as pall-bearers. The chief mourner, R. B. Follett, esq. and the brothers and immediate relatives of the deceased, followed by upwards of one hundred gentlemen, forming nearly the whole of the Queen's Counsel in the several Courts of Law, as also the Judges, two by two. They proceeded round the terrace into King's Bench-walk, through Tanfield-court, to the western entrance of the church, and up the centre. The body being deposited on a bier, the persons forming the procession filed off to the places allotted to them. The body and gallery of the church being filled by the various members of the Profession, the Funeral Service was chanted by the whole choir, at the conclusion of which the body was deposited in the catacombs, between the late Mr. Joy and Mrs. Warre, and immediately beneath the remains of the late Lord Thurlow. The scene was altogether one of the most impressive and solemn appearance, and there could not have been less than 5,000 persons present on the occasion.

HOWARD *v.* GOSSETT.—Up to the present time no steps have been taken on the part of the solicitor for Sir W. Gossett, the Sergeant-at-Arms of the House of Commons—the nominal defendant, in fact, in this action—to obtain the writ of error for the reversal of the judgment of the Queen's Bench upon the demurrer, notwithstanding the resolution of the House on Thursday. It appears some difficulty exists whether, notwithstanding the resolution of the House, the writ can be available, in consequence of the proceedings after the judgment on demurrer having been allowed to go on to trial, judgment, and execution issued and levied, and the judgment, by payment of the amount of the levy, satisfied, as the writ of error, according to the practice of the courts, ought to have been issued before; at all events, if the writ issues, a reversal of the judgment only could be obtained on record, the plaintiff quietly keeping the amount of the verdict and costs in his pocket.—*Globe.*

IMPORTANT TO ANGLERS.—By the new Fishery Act, all rivers in England and Wales are to be closed on the 13th of September in each year, and any person catching, or having in his possession, any trout measuring in length less than seven inches from eye to fork, will subject himself to a penalty not exceeding 10*l.* nor less than 5*l.*

CORRESPONDENCE.

THE SMALL DEBTS BILL.

TO THE EDITOR OF THE LAW TIMES.

SIR,—In your abridgment of the correspondence in the LAW TIMES of the 14th inst. in answer to my statement that the Bill gave power to make an order on wages, but did not give any power to enforce that order, you have observed, that the clause which gives power to imprison will be sufficient to enforce the order. I was afraid, when I read the abridgment, that it would mislead, and be taken as my opinion; and on reading Mr. Dodgson's letter in the LAW TIMES of the 21st, I find it has misled him, as he supposes I hold an opinion on the matter in direct opposition to the one I do hold, and therefore I hope you will allow me to put the matter right, as my opinion, which is formed upon ten years' particular attention to the law of debts, and upon much practical experience, may perhaps be considered valuable, if it be only on account of my practical knowledge of the working system of local courts, and the peculiar facilities I have had for obtaining information. There are thousands, and, I believe, *tens of thousands*, of orders which were made by the judges of local courts, long before imprisonment was abolished, which could not be enforced by imprisonment or otherwise, as the goods were generally claimed by the landlord, and the plaintiffs suffered the judgments to remain dormant, because they could not afford, as they said, "to throw good money after bad," in sending men twenty, thirty, or forty miles to prison *without any probable benefit.* Subscriptions have been raised, and parties sent to prison as an example, but it failed to do any good; and defendants have told me they should be happy to go to prison again, as they were as comfortable in prison as out of it.

Imprisonment may be of benefit in cases where the prison is not far from the court and the defendant's residence. I am therefore of opinion, that no law, *however severe the imprisonment may be*, will be sufficient, unless it gives power to attach wages in the hands of the master, "money in savings' banks, in the hands of trustees, under wills," &c. My practical experience enables me to state, that in at least ninety cases out of every hundred, the defendants in the local courts are either improvident, unprincipled, or drunkards; that it is their own fault which brings them into court; that the generality of cases are under 5*l.* and that most of the defendants have nothing worth the operation of an Insolvent Act.

My opinion will be further collected from the letter on "Imprisonment for Debt," in the *Justice of the Peace*, of 2nd November last, pages 734, 735, where it is suggested that the tradesman should be enabled to serve the master with the bill on a penny stamp, &c.

The law of payment of rent by execution creditors has a most important bearing upon this subject; and in the 7 & 8 Vict. c. 96, s. 67, an attempt has been made to amend it, but unfortunately, by giving landlords *four times of payment*, the law is perfectly evaded and rendered null. By making all the weekly and monthly tenants into quarterly tenants, the landlord may claim his four quarters', or one year's rent, as heretofore. If it had, in those small matters, restricted the landlord's claim to three months, it would have been a great benefit to suitors in local courts, and only an act of justice.

I am, Sir, yours, &c.

Leeds, 24th June, 1845. J. GREEN.

SMALL DEBTS BILL.

TO THE EDITOR OF THE LAW TIMES.

SIR,—I inclose you copy of a clause I sent to Mr. Hawes, for him to propose in the House of Commons when the new Small Debts Bill gets there. You will perceive it is intended to meet an evil of *every day occurrence*, as any sheriff's officer could easily convince you. I am, Sir, yours &c. H. GRAINGER,

Solicitor to the London Commercial Association for Opposition of Fraudulent Insolvents, &c.

8, Basinghall-street, June 7, 1845.

Proposed clause to be added to the Small Debts Bill, now in the House of Lords.

Landlord on claim of rent in arrear to make affidavit of the truth thereof.—And whereas judgment creditors are often deprived of the fruits of their judgments against their debtors on the levy of a writ of *fieri facias* by fraudulent claims of rent in arrear by the landlords of such debtors acting in collusion with their tenants, be it enacted for remedy thereof, that no sheriff's officer or bailiff, or other person charged with the execution of any process against the goods and chattels of a judgment debtor shall be bound to take notice of any claim for arrears of rent due to any landlord, unless such claim be accompanied by an affidavit sworn before one of her Majesty's justices of the peace, setting forth the amount due to the landlord, and the period when it became due, and such affidavit made by the landlord, or his receiver or agent, shall be delivered to such sheriff's officer or bailiff, or other person having the execution of such process as aforesaid, at the time of making any such claim for rent in arrear as aforesaid, any law, statute, or usage to the contrary notwithstanding.

SMALL DEBTS BILL.

TO THE EDITOR OF THE LAW TIMES.

SIR,—I feel somewhat disappointed that your last number furnishes no announcement of any thing being about to be done by the Profession or the Law Societies, with the view of obtaining the correction and amendment of this Bill ere it passes into law. I hope, however, your next will dispel my anxiety on this subject.

In reference to the clause suggested by Mr. Buchanan, I concur with him, and moreover think that the landlord ought certainly to be required to make oath as to the amount of rent due, ere he is allowed to deprive a judgment creditor of the benefit of his execution; which would in a great measure operate as a check against a claim where there is no rent due, or a less sum than claimed. But I would further observe, that it must be remembered fictitious claims are by no means the most numerous, as it *much more frequently* happens that the landlord has what would be legally termed a *bonâ fide* claim for rent in *fact* due, and which he *permits*, very frequently in *collusion* with his tenant, to *remain* due, so as to defeat *all* executions whatever (and in which cases the proposed affidavit would always be forthcoming and available); and to strike at the *root* of such a system, there appears but one remedy, namely, that the suggested clause should, to make it effective, go the length of depriving the landlord of his lien, as against an *alias*, or any other execution (he having once claimed his lien), say, at the end of three or six months, or otherwise, according with the time the rent falls due. In fact, the above system prevails to that extent in this neighbourhood, that, to speak within bounds, it almost as frequently happens an execution for a small debt is rendered unavailable as otherwise.

I am, Sir, yours, &c.

Chesterfield, 1st July, 1845. JOS. DODGSON.

TO THE EDITOR OF THE LAW TIMES.

SIR,—Being in London at the latter end of last week, I was for the first time shewn an article in your journal of the 7th inst. in which, under the head of "Sham Lawyers," after preluding it by some remarks of your own as to my "mingling law with physic," and "advising the neighbouring law society to keep an eye upon me," you have copied a letter written by me to a Mr. H. Cooper, requiring payment of the sum of 20s. which he owed to a poor man of the name of Harries, I need hardly state that, had I sooner become acquainted with the fact of your having thus made a public exhibition of me, I should have taken earlier notice of it, and, had time permitted when in town, would have paid you a personal visit upon the subject; as it is, I must trust to your sense of honour and fair play (upon which I understand you pride yourself) to give insertion in your next number to these few lines in answer.

In the first place allow me to say that the term "sham lawyer," as applied to me, is most unjust and incorrect, as I do not claim any pretensions to the title, nor do I in any way act in a manner to deserve it. So far from being an enemy to the Profession, which that designation would seem to imply, I am, on the contrary, one of its best friends, being constantly the means of introducing some excellent pieces of business to its different members in this and other localities, which they would otherwise never have heard of, and in proof of which fact I could refer you to some gentlemen as respectable as any others to be found on the roll of attorneys.

I cannot help feeling pity for the party who, from private pique, has been induced to send you the trumpery letter, in the writing of which both he and you seem to think that I have committed so grievous a sin, although "the head and front of my offending" is, that I have *gratuitously* interfered for the purpose of getting a trifling matter settled between two poor men, and thereby prevented proceedings being taken for the recovery of the paltry sum of 20s.! If the members of the Profession would themselves act upon the same principle, instead of wantonly incurring costs, as too many of them do, one great cause of complaint against them would be removed.

I am, yours, &c.

Narberth, June 30, 1845.

[This letter came unsigned, but of course the writer is the author of the letter published in a previous number.]

TO THE EDITOR OF THE LAW TIMES.

SIR,—I am induced to trouble you with a letter relative to a Bill which has been introduced into the House of Lords by Lord Campbell, for establishing a General Metropolitan Registry of Deeds relating to real property in England, and which, I think, ought to engage the attention of the Legal Profession, affecting, as it would, most materially, their interests.

I consider this Bill uncalled for by any adequate occasion of necessity or usefulness either to the land-owner or to the public at large; and in its working, it would be productive of consequences highly injurious to both.

The proposed law would operate most injuriously towards persons wishing to raise money on sudden emergencies, when the increased expense under the machinery incidental to the proposed Bill would often frustrate the object of the party.

Again, the exposure attendant upon a general registry I cannot but consider as an invasion of the private rights of individuals; it might, in many cases, induce persons to avoid entering into transactions which would become known to all, and which might in many cases, from family considerations, be most inadvisable.

Should you concur with me in the propriety of these remarks, perhaps you will be good enough to draw the attention of your readers to the subject.

I am yours, &c.

JACOB F. Y. MOGG.

Midsomer-Norton, near Bath, July 1, 1845.

SELECTIONS FROM CORRESPONDENCE.

OMEGA thus writes:—The apathy of the country attorneys respecting the clause empowering the justices to appoint their clerks to conduct all prosecutions arising within the different divisions is truly surprising. If the bill should pass without having the obnoxious and insulting clause expunged, it is certain that the jobbing will commence immediately afterwards, more especially in the smaller counties. What are the two great law societies about in a matter which affects the interests of the great body of the country practitioners?

SMALL DEBTS BILL.—I am asked by different clients of what practical use the summoning, &c. of a debtor *after* a judgment obtained will be. They also complain, and justly too, that the present expensive system of recovering, or attempting to recover, small debts under 20*l*. is left totally untouched.

"Z." a correspondent, seeks a reply to the subjoined query:—

Can any of your readers inform me whether, in case of a woman applying under the late Bastardy Act for an order upon the alleged father, should have the case dismissed for want of evidence, she is at liberty to apply again at a future petty sessions, or is she to appeal to the quarter sessions?

To Readers and Correspondents.

J. R.—*Such conduct would no doubt be taken notice of by the Judges, if formally brought before them.*

LEX.—*The work alluded to, we find, on reference to the publisher, will appear in two parts, price* 2s. *each, one of which is now ready.*

MR. STILES'S *letter is now in type, but unavoidably deferred.*

NOTICE TO SUBSCRIBERS.

The Indices to the fourth volume being now completed, the numbers for binding may be sent, through the post, in parcels open at the ends, with a mark by which they may be known, and of which the Publisher should be advised by letter, as also how, when bound, it is to be returned. If sent by parcel, advantage may be taken of the opportunity to inclose other books for the binder.

The Volumes of the LAW TIMES, *handsomely and uniformly bound, at* 5s. 6d. *each, if forwarded to the Office; with the Solicitor's name and abode lettered on the cover,* 1s. *extra.*

An Alphabetical Index to the Cases in the current Volume of the LAW TIMES *always lies at the Office for the purpose of reference.*

SCALE OF CHARGES FOR ADVERTISEMENTS.

Advertisements from the Country should be accompanied with an order upon the Agent in Town, or a Post-office order (payable at 180 Strand) for the amount.

N. B.—*For Scale for Estate Advertisements, see* JOURNAL OF PROPERTY.

NOTICE.

The full price will be given for Nos. 2, 4, 24, 26, 83, 85, *and* 86 *of the* LAW TIMES; *and postage stamps to the amount will be transmitted to any person forwarding any of the above numbers. Half the cost price will be given for the First Volume, if complete.*

TO SUBSCRIBERS.

It is proposed to publish an annual *Index Legum*, consisting of a digest of all the reported cases and statutes of the past year, under the title of the YEAR BOOK, to be bound with the volumes of the LAW TIMES, or separately, at option. It will be comprised in about six or seven numbers, at 1s. each, stamped, for transmission by post. It will not be commenced unless 1,000 subscribers order it. Persons desirous of having it are therefore requested to transmit their names as soon as possible.

THE LAW TIMES.

SATURDAY, JULY 5, 1845.

MR. KELLY.

THE judgment of the Profession, looking round for the man possessing the highest professional claims to the vacant Solicitor-Generalship, will be pronounced unanimously in favour of Mr. KELLY, who, as a Lawyer, stands confessedly the foremost of the Bar.

But the *Morning Chronicle*, in an article of great ability, has raised another issue; and, frankly admitting Mr. KELLY'S professional claims, has alleged against him a moral disqualification for the office which, it is agreed on all hands, he is intellectually the most fitted to fill.

A minister, argues the *Chronicle*, has no right to lead to the foot of the Bench a man whom he would not place upon it; and then the *Chronicle* proceeds to urge that Mr. KELLY is not *morally* qualified for the judicial office.

In proof of this, two charges, and two only, are adduced. The one, that Mr. KELLY was guilty of bribery at the Ipswich election; and the other, that he knowingly cited a short-hand writer's note wrongly, for the purpose of misrepresenting the sense of it.

These are grave charges in sound; but when examined they do not justify the conclusion.

True, Mr. KELLY was unseated for bribery at Ipswich. But, in honest truth, is that an offence to disqualify a man for the fulfilment with honour of the duties of a judge? Is it not the *fact*, that nine-tenths of the members of the House of Commons are guilty of bribery? There is scarcely one of the judges who has held a seat there who was not more or less guilty of the same offence: the only difference being, that Mr. KELLY had the ill luck to be found out. We are far from justifying bribery; but we assert that it is not, according to the estimation of society, such a moral taint as to incapacitate a man for office of any kind. We doubt whether there has been an Attorney or Solicitor-General for the last century who has not been directly or *indirectly* guilty of bribery.

The other charge is a very cruel one to be preferred against any man, because it is one which he cannot possibly disprove. Mr. KELLY wrongly reads some MS. in the hurry of a trial. It is easy enough for an enemy to say, "that was done wilfully;" nor can the party so charged do more than set his simple denial against that assertion. A fact is against him; its hue depends upon another fact, incapable of proof or disproof. To take from a man his character on such a pretence is at any time a rank injustice—at such a time, ungenerous as well as unjust.

The specific objections of the *Chronicle* to Mr. KELLY'S appointment, thus examined, are seen to be worthless. But it is yet more cruel at such a moment to endeavour to blast the prospects of professional honour hardly won, and undoubtedly professionally well deserved, by general insinuations, which cannot be met and contradicted, because they allege nothing.

Having thus disposed of the objections of the *Chronicle*, we may be permitted, on behalf of the Profession, to urge the justice and propriety of conferring upon Mr. KELLY the honours he has so well merited by his profound knowledge as a lawyer and his great abilities as an advocate.

THE CIRCUIT COMMISSIONERS' REPORT.

THE changes recommended are very trifling, and afford some countenance to the unceremonious treatment the Report has received. Undoubtedly it has proved a mountain in labour, and the machinery of a commission, and the laying together of so many wise heads for so long a time, were scarcely necessary for the maturing of alterations so minute as those suggested in the Report. Still, as we have already observed, the blame rests not with the Commissioners, but with the Government that so absurdly limited the circle of their inquiries. They have come to the best conclusion the contracted range of their research permitted, and we must deal with it as we find it.

They first suggest a change in the Terms, so as to distribute them at more equal intervals. Michaelmas and Hilary Terms are to be held in November and December; Easter and Trinity at the same times as now.

The Circuits are then to be appointed at more equal periods. There will be one in January; the other in July, as now. It is rightly anticipated that this will remove the very inconvenient necessity for the Winter Circuit.

Under any circumstances, this change will be desirable. But the proposed re-arrangement of the circuits is open to more objection. Certain it is that the Northern Circuit must be relieved from some of its business; the load is growing more weighty than judges and counsel can endure. But will the evil complained of be cured by the remedy suggested? Is it not, in fact, a palliation, and not a cure? And will not the fast-growing population inevitably compel an entire reconstruction of the existing circuit arrangements ere many years have passed? If, then, a change must be made, let that change be one which will meet thoroughly present difficulties, and provide for pending claims. The construction of a new circuit, either by severing the Northern in twain, or remodelling all, can alone meet the exigency of the circumstances.

But this cannot be effected without the aid of one or two additional judges, and this the commissioners were not empowered to recommend, so they were compelled to leave out of sight the only efficient remedy.

More judges are wanting in Westminster Hall for the establishment of a Crown Court specially for Crown business, and for the criminal appeals, which cannot much longer be withheld from the demands of justice.

This and throwing open the Court of Common Pleas would, we believe, offer an easy solution of the difficulty which the commissioners have evaded rather than overcome; and if they had been permitted to pronounce an opinion upon that question, they would have presented a very different report from this which has so greatly disappointed public expectation.

VERULAM SOCIETY.

THE absence of almost all the Reporters on duty at their various Quarter Sessions, has delayed the issue of three numbers of the reports, which only wait their correction of the proofs. In the course of next week will be issued No. 11 of *Magistrates' Cases*; No. 3, completing Part 1 of *Registration Appeals*; Nos. 7 and 8 of *Criminal Cases*, and No. 13 of *Real Property and Conveyancing Cases*.

The same cause has prevented the issue of a further addition to the list of *Forms for*

The following members have been enrolled since our last report:—

Hooper, Alfred C. Worcester.
Yeomans, John, jun. Sheffield.
Welch, Martin K. Poole.
Astley, H. E. Hungerford.
Hearn, J. H. Newport, Isle of Wight.
Hinton, Henry, Much Wenlock.

THE CRITIC.

New Books.

The Law Magazine for May.

We take one of the extracts we had marked. The other shall follow as opportunity offers. It is from the "Notes on Leading Cases."

UNSTAMPED INSTRUMENTS.

Buxton v. *Cornish* (12 M. & W. 426); *Smart* v. *Nokes* (7 Scott, N. R. 786).

To what extent, and for what purposes, instruments, which by the Stamp Acts are required to be stamped, may be received in evidence, although not stamped, is a question which has been agitated in so great a variety of cases, and has been the subject of so many decisions, not altogether consistent or reconcilable, that a short review of those cases cannot fail, it is thought, to be acceptable to the profession, and will form at all events an appropriate introduction to the statement of the points decided in the recent cases of *Buxton* v. *Cornish*, and *Smart* v. *Nokes*.

The words of the Stamp Acts, upon which this question depends, provide, that no instrument, liable to the duties by those Acts imposed, "shall be pleaded or given in evidence in any court, or admitted in any court *to be good, useful, or available* in law or equity," until the paper, vellum, &c. on which such instrument shall be engrossed, printed, written, &c. shall be stamped or marked with a lawful stamp or mark, to denote the rate or duty as directed by those Acts. Words of larger or more comprehensive import, it would have been difficult to find; and it is not surprising that, when cases arose in which justice and common sense demanded that limitations and exceptions should be engrafted on the general rule so broadly laid down, considerable doubt and difficulty should have been felt, and that a lengthened period should have elapsed before those doubts were fully resolved, and that difficulty overcome.

At an early period, however, it was decided by all the judges, that on an indictment for forging a bill of exchange, the forged bill might be given in evidence, though not stamped (*R.* v. *Hawkeswood*, 1 Leach, C. C. 292, 3rd edit.; 2 East, P. C. 955); and that decision has since that time been repeatedly acted upon. (*R.* v. *Teague*, Bayley on Bills, 547, n. (12), 5th edit.; 2 East, P. C. 979; *R.* v. *Lee*, 1 Leach, C. C. 293, n. (*a*); *R.* v. *Morton*, 2 East, P. C. 955; *R.* v. *Recutist*, 2 Leach, C. C. 703, 4th edit.; *R.* v. *Davies*, 2 East, P. C. 956.) So in *Rex* v. *Pooley* (3 Bos. & Pull. 311; Russ. & R. C. C. 31), an unstamped draft was admitted to prove the larceny of a letter in which it was inclosed; and in the analogous cases of usury, illegality, or fraud, it is well settled that usurious, illegal, and fraudulent instruments may be received for the purpose of defeating them, although unstamped. (*Nash* v. *Duncomb*, 1 Moo. & Robb. 104; *Dover* v. *Maestar*, 5 Esp. 92; *Holland* q. t. v. *Duffin*, Peake's N. P. C. 58; *R.* v. *Fowle*, 4 Car. & P. 592; *Coppock* v. *Bower*, 4 Mee. & W. 361.) It is true, that in *Whitwell* v. *Dimsdale* (Peake's N. P. C. 167), where an agreement between a bankrupt and his sons was offered to prove fraud, Lord Kenyon is reported to have said that an unstamped agreement could not be given in evidence for any purpose whatever, either to establish or defeat it, and that he dissented from the decision in *R.* v. *Hawkeswood*: but it appears that subsequently that learned judge altered his opinion. In the case of *Keable* v. *Payne* (8 Ad. & Ell. 555), an attempt was made to distinguish that case from those already mentioned, on the ground that the fraud there charged was not a fraud committed by the defendant, but by a third person, and that therefore, as against the defendant, an unstamped cheque, offered in evidence to prove the fraud, ought not to be received; but the Court held that there was no ground for any such distinction; that the cheque was an ingredient in the fraud, and might be given in evidence to shew the criminal act. This class of cases was very much discussed, and the principle upon which they rest very clearly elicited, in the subsequent case of *Williams* v. *Gerry* (10 Mee. & W. 296). There Lord Abinger said, "With regard to promissory notes and bills of exchange, and all matters which are the subject of the Stamp Acts, unless they are stamped when they are produced, they must be rejected whenever they are produced to shew that they have or ever had any validity. But the case is different when the purpose is not to give them effect, but to defeat them, and to shew that they were entered into for the purpose of fraud and conspiracy." Then, referring to cases of forgery, he proceeds, "Is it to be said that, because it is forged upon a wrong stamp, the forgery cannot be established in a court of law? It would not be the less a fraud or forgery on that account; and to hold the document inadmissible would manifestly be a departure from the spirit and letter of the Act of Parliament. The ground upon which it is admitted in such cases is, that it is not a valid instrument, but merely evidence of the fraud, and that the party may produce such an instrument for the purpose of defeating it."

On the other hand, even in criminal cases, an unstamped instrument cannot be received in evidence, if offered for the purpose of making it in any sense effective or available. Thus on an indictment for arson, with intent to defraud an insurance company, an unstamped memorandum on the policy, stating the removal of the goods insured to the house in which the felony was charged to have been committed, was rejected; because there, as was said by Patteson, J. in *Keable* v. *Payne*, "the validity of the instrument was essential to the offence charged;" and upon the same principle, where a clerk was indicted for embezzling his master's money, Bayley, J. held that an unstamped receipt, given by the servant to the debtor, who paid him the money, was not evidence against the prisoner. (3 Stark. Evid. 1058, last edit.) There is another criminal case in which similar evidence was rejected, although not upon the same ground. In the case of *R.* v. *Smyth* (1 Moo. & Rob. 155), Lord Tenterden rejected an unstamped agreement for a lease, although it was offered to shew that one of the defendants, a married woman, had therein described herself as a widow, and that the whole transaction was fraudulent and void; and his lordship upon that occasion said, "The cases of forged instruments are not in point here. The indictment is not in any way founded upon the instrument produced. If it were, if the agreement constituted the crime, the defendant certainly could not exclude it because unstamped; but here it is only *collaterally introduced*, and must be subject to the ordinary rules of evidence,"—a distinction certainly not drawn in any other case,—and at variance not only with the case of *R.* v. *Pooley*, where an unstamped draft was received for a purely collateral purpose, but with the principles laid down in *Williams* v. *Gerry*, and the other cases cited. Whether in any particular case, the instrument be offered for a collateral purpose, or as evidence directly bearing upon the issue raised, is immaterial; the true question being whether the instrument is produced for the purpose of giving it any legal effect; or for the purpose of shewing it to be wholly void and inoperative; for the former purpose it is in all cases inadmissible—if for the latter, in all admissible. This distinction has not always been borne in mind, and hence much of the doubt and confusion which have arisen. In the case of *Gregory* v. *Frazer* (3 Camp. 454), the decision was in accordance with the view above stated, but not so the words of the learned judge, or the language of the marginal note. There an unstamped promissory note was offered to shew that the defendant was in a state of intoxication when he wrote it,—and that it had been obtained from him by fraud,—and Lord Ellenborough said, "The note certainly cannot be received in evidence as a security, or to prove the loan of the money; but I think it may be looked at by the jury as a cotemporary writing to prove or disprove the fraud imputed to the plaintiff." In *Jardine* v. *Payne* (1 B. & Adol 663), Lord Tenterden recognises that case as an authority for the position, that an unstamped instrument may be received "for a collateral object" generally; and it is so cited in *Keable* v. *Payne* and other cases. But the language and decision of the Court of Exchequer in *Williams* v. *Gerry* establish that, though an unstamped instrument would be evidence to "prove" the fraud, it could not be received if tendered as evidence to "disprove" it; for on that very ground they refused to receive a cancelled bill of sale offered to shew that a second bill of sale was given *bonâ fide*, and not fraudulently. The same observation applied to the case of *R.* v. *Castle Morton* (3 B. & A. 588), where an unstamped agreement for letting a tenement was offered to prove its value, and rejected, not because it was to a certain extent a setting up of that agreement, but because it was not "collateral." The case of *Reed* v. *Deere* (7 B. & C. 261), is not easily reconciled with subsequent decisions, for there the Court looked at an unstamped agreement for the purpose of seeing whether it varied materially from a former agreement, also produced. That case does not seem essentially distinguishable from *R.* v. *Pendleton* (15 East, 440), where the Court looked at an unstamped instrument to see if the term had expired, in order to determine whether parol evidence was receivable to prove the yearly service after the term had expired; Mr. Justice Bayley saying, "Though we cannot look at the unstamped instrument for the purpose of proving by it any agreement between the parties, for such is the general import of the Stamp Acts, yet the Court may look at it to see whether it applies to the evidence of a contract between them." In both these cases the purposes for which the instruments were offered were certainly collateral; and yet both are at variance with the subsequent decision of *Vincent* v. *Cole* (Moo. & M. 257), at *nisi prius*, and afterwards in the Court of Queen's Bench, where Lord Tenterden held that the plaintiff could not recover for any work extra the agreement, without first producing and proving the agreement.

The only remaining case to which it is necessary to refer is that of *Sweeting* v. *Halse* (9 B. & C. 365; 4 M. & R. 287), where the Court held that an unstamped bill of exchange written on the back of a cancelled bill, ought not to have been received in evidence for the purpose of shewing that the first bill had been cancelled with the drawer's consent; a decision which may perhaps be reconciled with the principle already stated, by the fact that the unstamped bill was there offered for the purpose of giving it effect, though that distinction is not very satisfactory; and at all events it would seem that the ground upon which that case was decided was stated too broadly by Lord Tenterden in these words:—"The jury therefore were allowed to draw a conclusion of fact from an unstamped instrument, which in point of law could not be done."

The case of *Buxton* v. *Cornish* (12 M. & W. 426) may be very shortly stated, but it is important as settling a point of frequent occurrence in *nisi prius* practice. It was an action of debt against the maker of a promissory note for 50*l.* with counts for money lent, and on an account stated. Amongst other pleas, there was a plea of set-off for work and labour, &c. pleaded to the whole declaration. At the trial it was proved in the course of the plaintiffs' case, that the work done for them by the defendant was done under written contracts. The defendant's counsel called a witness in support of the plea of set-off, and upon his asking him respecting work done beyond those contracts, the learned judge said that if the defendant proposed to prove work done which was not within the contracts, he must first put in the written contracts to shew what work was *within* them. The contracts being produced, appeared to be unstamped; but the counsel contended that the judge might still look at them, and admit such parol evidence as had no relation to them. This the learned judge refused to do, and upon a motion for a new trial, the Court of Exchequer held that he was right. The case of *R.* v. *Pendleton* was mainly relied upon in support of the motion, but Mr. Baron Parke stated that the case of *Vincent* v. *Cole* must be considered as overruling the dictum of Bayley, J. in *R.* v. *Pendleton*, and all the Court declared the practice to be now fully established. In the course of the judgments both of Lord Abinger and Mr. Baron Parke, there are strong general observations as to the inadmissibility of unstamped instruments, which must be taken as applied only to the class of cases then under their consideration, and not as affecting that other class of cases which was discussed by the Court in *Williams* v. *Gerry*.

To that latter class belongs the case of *Smart* v. *Nokes* (7 Scott, N.R. 786). That was an action of debt, for money lent, interest, and on an account stated; to which the defendant pleaded "never indebted" and payment. At the trial a memorandum was put in, by which it appeared that the defendant had been indebted to the plaintiff in a sum of 1,000*l.*, but that he had paid 500*l.* in cash and the residue of the debt with four months' interest at 20*l.* per cent. by a bill for 533*l.* 6*s.* 8*d.* That bill was drawn on a wrong stamp and was dishonoured; and it was offered in evidence by the plaintiff to shew by anticipation the real nature of the transaction, and to remove the inference that the whole debt had been satisfied. The evidence having been rejected, a motion was made for a new trial and granted on that ground. All the cases were brought under the notice of the Court, and with the exception of Mr. Justice Cresswell, none of the judges felt even a doubt as to the admissibility of the instrument. The Lord Chief Justice in the course of his judgment used these words:—"What the plaintiff had in view in offering this bill in evidence was not to shew that the bill mentioned in the memorandum was 'good, useful, or available in law,' but that the statement as to the bill was false in fact, and that that which purported to be a bill of exchange was altogether unproductive and unavailable, a mere piece of waste paper." The learned judge then distinguished the case of *Sweeting* v. *Halse*, which he considered "the strongest case against the plaintiff," by saying that "there the very purpose of offering the new bill in evidence was to shew an existing contract, not to shew that the unstamped instrument was altogether unavailable, as here." The other judges, relying principally on *Williams* v. *Gerry*, agreed with his lordship; although Mr. Justice Cresswell could not "think the point was free from difficulty."

It may now therefore we think be safely stated as the result of all these cases, that that test which we have already mentioned is the true one; that for the purpose of defeating an instrument subject to the stamp laws, for the purpose of shewing it wholly void and inoperative, and for such purpose only, it may be received in evidence though not stamped; and that it is incorrect to say, as in *Gregory* v. *Frazer*, that for collateral purposes generally, or, as in *Rex* v. *Pendleton*, for the particular purpose of seeing what is not mentioned in it, it is at all admissible in evidence. These cases may be conveniently noted in 3 Stark. on Evid. 1058; Roscoe, 154.

NECROLOGY.

DEATH OF SIR WILLIAM WEBB FOLLETT.

(*From The Times.*)

Few men of feeble constitution undertake the arduous duties which devolve upon a member of the common law bar; and it almost always happens that the Attorney-General is a man in the full vigour of life. The death of any one holding that high office is therefore an event of very rare occurrence, and since the Revolution is actually unparalleled, with the single exception of Mr. Wallace, who died in 1783. This great public functionary is *ex officio* head of the bar; but it does not necessarily follow that he is the most distinguished man in the profession; Sir W. Follett, however, was not only the most eminent lawyer of the present day, but a man who had acquired a much higher reputation than usually belongs even to the first member of the bar. He had surpassed his contemporaries in so extraordinary a degree, that his merits, power, and authority as an adviser and an advocate, were never estimated by ordinary rules, or rewarded in the proportion and manner of other men. The events, then, which formed, or at least modified, such an intellect possess an interest deeper and more enduring than commonly attaches to the history of the man who for the time being happens to be the leading member of the bar. Of Sir William Follett's descent there is nothing remarkable to be related. His parents, though not moving in the first circles even of provincial society, were nevertheless persons of much respectability and considerable substance. In early life his father, Benjamin Follett, was in the army; and in 1790, being then a captain in the 13th regiment of foot, married the only daughter of Mr. J. Webb, of Kinsale; and so anxious are the inhabitants of nearly every place to claim for their particular town the honour of having given birth to a great man, that the people of Kinsale appropriate to themselves the distinction of being the fellow-townsmen of Sir William, stating that he was born at the house of his grandfather, Mr. Webb; an event certainly too probable to be disputed on slight grounds; it has been, however, stated on very good authority that his birthplace was Topsham, in Devonshire—the residence of his father. Arduous services in the West Indies having seriously impaired the health of Captain Follett, he was induced to relinquish th[e] profession of arms, and, entering into partnership with [so]me members of his family, he devoted his remaining energies to mercantile pursuits, chiefly connected with building and the timber trade. In the le[ss ex]citing duties of this occupation—aided by the genial climate of Devonshire—he attained the 71st year of his age: his death took place in January 1833, shortly before his celebrated son obtained a silk gown. Although Sir William happened to be the eldest surviving son of his father, he was junior to Lieutenant Follett, of the 43rd Foot, who was killed before San Sebastian in September 1813.

Notwithstanding the fond belief of the people of Kinsale, there is little doubt that the late Attorney-General was born at Topsham; and that that event took place on the 2nd of December, 1798; he was, therefore, at the time of his death, in the 47th year of his age. Of his mere childhood no records have been preserved, beyond the fact that his father—a military man—viewed with much pain and regret the physical weakness of his son William; and was unable to discern in the feeble boy even the faintest glimmerings of that intellect which eventually placed him above the highest rank of the most learned profession. His early education was commenced under Dr. Lempriere, the well-known author of the *Classical Dictionary*, who was then at the head of the Exeter Grammar School; but, even at that period, the disease which caused his death and embittered his life gave such alarming tokens of its existence that his friends were compelled to relinquish the numerous advantages which attend education in a public school; and he was therefore placed under the private tuition of the Rev. Mr. Hutchinson, at that time curate of Heavitree, near Exeter. As every thing relating to such a man becomes the subject of inquiry and conjecture, we find, on referring to the journals of last year, that a paragraph went the round of the papers, [illegible] liam Follett to an occurrence which took place while he was at school. It was said, that a surfeit of fruit, combined with the effects of extreme fatigue, brought on a degree of illness from which he never afterwards recovered; and that the injury which his constitution then sustained laid the foundation of that malady which has terminated in death. The better founded opinion, however, is, that he laboured under a strong predisposition to an affection of the spine, and that severe intellectual labour developed causes of disease which otherwise might long have remained dormant. He had scarcely entered his 16th year when he proceeded to Trinity College, Cambridge; and [in 18]18 took the degree of B.A. Generally speaking, successful lawyers have been distinguished men at college; but to this rule, the soundness of which is attested by many living examples, Sir William Follett was a memorable exception. He passed through his collegiate course without distinction; and when he left Cambridge his chief acquisition was the affectionate esteem of every man whose friendship was worth possessing. It has often been observed that Liberalism in politics prevails more at Cambridge than at Oxford; and there is no doubt that when Sir William was at the university his opinions partook very little of Toryism. A fellow-student who met him shortly after he entered Parliament taxed him with a desertion of his old principles, to which Mr. Follett replied that his joining the Tories in the days of their adversity was at least disinterested. The Whigs were then in the heyday of power and popularity, and there can be no doubt that he might at once have obtained from their sense of self-interest the highest patronage to which so young a man could aspire. It is well known that overtures were made to him by the ministry of that day. But the earlier part of his career now more immediately demands our attention. The want of physical strength, the absence of a good school education, and the early age at which he went to Cambridge, may account for his quitting the university without much *eclat*. Besides that, he turned his attention away from university pursuits, and towards the profession of the law, at an almost incredibly early age; and, if the dates on which this statement is founded did not rest upon good authority, we should be inclined to suspect that there might be some mistake. In Michaelmas Term, 1814, he became a member of the Inner Temple, and imbibed the earlier part of his professional education under Mr. Robert Bayly and the late Mr. Godfrey Sykes. It was not the mistaken admiration of friends, for his father had greatly underrated him; nor the influence of powerful connections, for he had none, which could have induced him to incur the hazards of that great intellectual lottery—the bar; on the contrary, he was evidently prompted to this important step by the consciousness of possessing a memory capable of acquiring, preserving, and producing the endless variety of knowledge which an accomplished advocate must possess, the consciousness, also, of being gifted with the soundest judgment, the most vigorous reasoning powers, and a faculty of logical arrangement which none excepting lawyers can fully estimate.

"A pleader," in the technical sense of the word, is a man who estimates very highly—the world says inordinately—the importance of special pleading. Many gentlemen belonging to that branch of the profession affirm, and religiously believe, that special pleading is the only scientific part of the law; it is, however, quite certain that a large majority of those who have succeeded as barristers are men who have practised below the bar as pleaders. Under good advice, or with an intuitive knowledge of that which was "wisest, virtuousest, discreetest, best," Sir William Follett applied himself in right earnest to those toils in a pleader's office from which he eventually reaped a distant, but rich reward. In 1821, being then in the 23rd year of his age, he commenced practice as a special pleader. But the current of every portion of his life was broken by the checks and interruptions of a fatal malady. The sedentary occupations and intellectual labour of a pleader's desk acting upon constitutional predisposition, brought on a severe attack of illness, which compelled him to leave London during the early portion of 1824. In the Trinity Term of that year, however, he was called to the bar, and in the summer of 1825 joined the western circuit. Every one familiar with the history of the profession knows that Sir William Follett's rise was rapid; but whether a man's progress happens to be slow or speedy, the observers "after the fact" are remarkably fertile in their conjectures as to its cause, and wonderfully pertinacious in asserting that one individual case was the sole moving agent. Doubtless the career of a great lawyer must have small beginnings; it must have its adumbrations of coming greatness; but no mistake can be more egregious than to imagine that in life a man has only a few opportunities; and that if he only knows how to take advantage of one of these at the favourable moment, possessing at the same time courage to repress rivalry and vigour to retain his place in the current of success, nothing can arrest his future progress. The ingenious theorists of this class who applied themselves to investigating the first causes of Sir William Follett's eminence, have selected a case in which he successfully opposed Mr. Baron Parke, then in the height of professional distinction, upon the question whether a coroner's was an open court, or whether that officer possessed the power of excluding the public from its deliberations. But the opportunities of distinguishing himself which accidental circumstances brought within his reach were quite as numerous as the skill, dexterity, and judgment which he displayed in taking advantage of them were striking and pre-eminent. The late Sir Charles Williams, Senior Commissioner of the Court of Bankruptcy, was amongst the number of those who took to themselves the credit of foretelling the greatness which awaited "young Follett," as he was accustomed to call him; and Sir Charles even went the length of falling into the impropriety of suggesting to solicitors that he very much liked to have that rising young man as his junior. It was natural enough that a junior so learned, so subtle, so discriminating, at once very prompt and very cautious, should be considered by every leader as his right hand. Leading counsel always wished to have him for a junior, and clients thought themselves safe when that object was attained. His business was, therefore, unusually great before he reached the honour of a silk gown; and it is a curious fact, that his appointments as a King's Counsel and Solicitor-General were very nearly coincident. By this time he had attained not only to the highest rank amongst the gentlemen of the bar, but to a station apart from and above the most eminent of that learned profession. Clients would thus commune with themselves:—"We must have Sir William Follett; if he be not with us, he is sure to be against us. Even with the pressure of his other calls, the uncertainty of his health, the possibility of his never appearing in court till the day is half spent, he still may come to the rescue, and even at the eleventh hour give us a chance of victory." Unhappy disappointments, however, were very frequent. So often did they occur, that solicitors and clients, in the agony of disaster and defeat, were in the habit of saying that Sir William often took briefs when he must have known that he could not attend in court; and, as barristers never return fees, the suitor sometimes found that he lost his money and missed his advocate at a moment when he could badly spare either. These grievous occurrences, against which Westminster-hall rang with complaints, were partly occasioned by the paucity of distinguished men at the Chancery bar, to which, therefore, Sir William was frequently attracted, and partly by the number of cases in which he was specially retained as counsel in various and distant courts; for, wherever a great cause was to be tried or argued, there was he in the midst of the *melée*. The Court of Queen's Bench—that great mart of ability and learning—was, of course, his head-quarters; but the Bench in every court had the benefit of his wisdom, and every Bar the incitement of his example. From day to day he might be heard arguing colonial appeals before the Privy Council, Scottish appeals before the House of Lords, profound questions of equity before the "Keeper of the Great Seal," a patent cause in the Rolls Court, a question of bribery and corruption before a Parliamentary Committee, a revenue case in the Exchequer, an intricate ejectment cause in the Common Pleas, a piece of magisterial delinquency in his own court, or conducting a weighty cause before a compensation jury in the city. These various demands on his time rendered his presence in any given place matter of great uncertainty. But amongst the most remarkable features in his character we find this,—that though he frequently disappointed a client, he never made a personal enemy, nor ever wounded the feelings of an opponent. Those who have passed through, or even witnessed, the sharp conflicts of the bar and the House of Commons will be ready to exclaim, that "this is another instance in which truth proves to be more wonderful than fiction." But the fact just stated has been attested by evidence respecting which there cannot be a shadow of doubt. His temper was imperturbable; and though, perhaps, too passionless to appeal with eloquence to the feelings of a jury, his admirable coolness, presence of mind, delicacy, and quick perceptions, carried him triumphantly through the thousand embarrassments that beset a lawyer's path. While yet in the early stages of his professional career we find him, according to the "custom of his craft," transferring his thoughts from law to politics; and this "change came over the spirit of his dream" apparently at a most unfavourable period, namely, the dissolution which immediately followed the passing of the Reform Act. At that election he started as a candidate for Exeter; but his advocacy of Conservative principles then gave his opponents a decisive triumph, and it was not till 1835 that he succeeded in obtaining a seat in the House of Commons; at that time, however, he was placed at the head of the poll; and for ten years the city of Exeter has enjoyed the honour of returning him to Parliament. It is said that he owed at least one of his elections to the fact that he was favourable to the Dissenters' Chapels Bill; and it seems to be a well-founded opinion that if he had not cultivated the confidence of the Dissenters he would have found it difficult during so many years to retain his seat for Exeter.

When Sir Robert Peel was summoned from Italy to form a Conservative administration, Mr. Follett was appointed to the office of Solicitor-General, upon which occasion he received the honour of knighthood. Of course, when the Peel Ministry threw up office he accompanied them into opposition; and when they were restored to power, in the year 1841, he resumed his previous office. On Sir Frederick Pollock's being raised to the bench, in May 1844, Sir William Follett became Attorney-General, in which office he continued till the period of his lamented decease. During ten years he possessed—as already stated—a seat in the House of Commons. His first speech was on Lord John Russell's resolution for appropriat-

ing the alleged surplus revenues of the Irish branch of the established church; and, although large expectations were formed respecting the parliamentary success of Sir William Follett, yet that success fully realized the anticipations of his friends. Scarcely does a lawyer in a hundred succeed as a parliamentary speaker; and those who never rest contented without an explanation, endeavour to account for this by asserting, as they do with some plausibility, that the practice of the law contracts the range of a man's intellect, and circumscribes the extent of his reading; while, the objects of forensic and parliamentary oratory being widely dissimilar, the one occupied with facts and legal science, the other almost wholly with questions of expediency, it was considered as wonderful that a man like Sir William Follett—a mere lawyer, as he was thought—should become a leading member of the House of Commons. It was only necessary for him, however, to deliver two or three speeches in order to overcome the prejudices which that assembly entertain against gentlemen of the long robe. With little hesitation they acknowledged the extent of his varied acquirements, the force and dignity of his style, and the winning grace of his manner; even the melody of his voice was not without its influence.

While the Conservatives were in opposition, Sir William Follett participated in many of the discussions of that busy period, particularly in those on the Corporation Reform Bill, when he successfully asserted the rights of freemen who were doomed to be sacrificed for their adhesion to Conservative principles; but during the last two or three years he had been obliged in a great degree to abstain from either parliamentary or professional labours. The progress of his afflicting malady made such rapid inroads upon his constitution, that for months together he was obliged to withdraw his attention from business, and make excursions to the south of Europe. But, as organic affections of this nature—though the sufferings of the patient may be mitigated—never entirely yield to medical treatment, the friends of Sir W. Follett have for many months past been prepared for the melancholy event which has deprived society of a most amiable man, the bar of one of its ablest advocates, the legislature of a learned and useful member, the Crown of its great law officer, and his family of one who is understood to have been most exemplary in all the relations of private life.

Just fifteen years ago Sir William Follett married Miss Giffard, the eldest daughter of the late Sir Harding Giffard, Chief Justice of Ceylon. This marriage took place in the month of October, 1830; and the celebrated man whose memoirs are thus brought to a close has left not only a widow but a family to lament a loss which can never be repaired. It only remains for us to state that Sir W. Follett died shortly after three o'clock on the afternoon of Saturday last.

BIRTHS, MARRIAGES, AND DEATHS.

[The charge for the insertion of the above is 5s.]

BIRTHS.

Bellasis.—On Saturday, the 28th ult. in Bedford-square, the wife of Mr. Serjeant Bellasis, of a daughter.

Blaxland.—On Sunday, the 29th ult. at Sutton-place, Hackney, the lady of George Blaxland, esq. Solicitor, of a son.

Dunlass.—On the 24th ult. at 38, Melville-street, Edinburgh, the lady of Alexander Dunlass, esq. Advocate, of a daughter.

Larken.—On the 23rd ult. at Puckeridge, Hertfordshire, Mrs. George Larken, of a daughter.

Milward.—On the 30th ult. at the Manor-house, Lechdale, the lady of George Milward, esq. Barrister-at-Law, of a son.

MARRIAGES.

Brackenbury, Rev. John Matthew, A.M. of St. John's College, Cambridge, to Mary Shield, fourth daughter of George Maunsell Shield, esq. of Rochester, Kent, on the 3rd inst. at Croydon Old Church.

Cooper, John Martin, esq. of Sunderland, Solicitor, to Ann Mowbray, daughter of J. Jopling, esq. of Newcastle-upon-Tyne, shipowner, on the 27th of May last, at Newcastle-upon-Tyne.

Wood, Rev. Peter Almeric Leheup, of Littleton, in the county of Middlesex, eldest son of the Very Rev. the Dean of Middleham, to Caroline Elizabeth, eldest daughter of the Hon. Mr. Justice Wightman, on the 26th ult. at Hampton.

DEATHS.

Downes, William, esq. Solicitor, and for many years coroner of the county of Salop, on the 1st inst. at Ludlow, Salop, aged 45.

Piper, James, esq. Solicitor, third son of Thomas Piper, esq. of Denmark-hill, Surrey, on the 29th ult. at Hastings, aged 35.

JOURNAL OF PROPERTY.

Public Sales.

By Messrs. SHUTTLEWORTH and SONS, at the Mart.

A freehold dwelling-house at Vine-place, Fulham—90*l.*

A ditto—90*l.*

A leasehold residence, with forty-two acres of land, situate at Shooter's-hill, in the county of Kent—1,400*l.*

A freehold estate, known as Little Sutton Farm, comprising 24a. 2r. 11p. situate at Seaford, in the county of Sussex—1,290*l.*

A ditto, known as Frog Fyrle, comprising 447a. 36p. situate in Alpiston and Littlington, in the county of Sussex—4,140*l.*

Four inclosures of meadow land, comprising 18a. 1r. 21p. situate in the parish of Arlington—770*l.*

A freehold estate, known as Dew, Hooker's, and Little Tillingham Farms, comprising 308a. 1r. 14p. with suitable agricultural buildings situate at Peasmarsh and Rye—15,000*l.*

A freehold residence, with 60a. of park-like meadow land, known as the Friars, situate at Winchelsea—7,900*l.*

An inclosure of meadow land, opposite the ancient gate, containing 2a. 1r. 15p.—440*l.*

A dwelling-house near ditto, let at 10*l.* per annum—125*l.*

An inclosure of meadow land, known as Second Cliff Field, containing 2a. 30p.—240*l.*

A freehold tenement, let at 5*l.* per annum—75*l.*

A ditto, and an inclosure of meadow land, containing 3r. 21p.—115*l.*

An inclosure of arable land, containing 6a. 3r. 26p.—545*l.*

A cottage and plot of garden ground, let at 7*l.* 10s. per annum—115*l.*

A freehold estate, consisting of a large double tenement, and ten others, part in hand—695*l.*

Two inclosures of rich meadow land and plantation, containing 8a. 29p.—790*l.*

By Messrs. FULLER and MARSH, at the Mart.

A freehold house and shop, situated in Markham-place, Tottenham; let at 30*l.* per annum—540*l.*

Sixteen freehold cottages, let at 112*l.* per annum, situate in Brunswick-court, Tottenham—810*l.*

A residence, No. 25, Penton-street, Pentonville, let at 60*l.*; held for 60 years from September 1805, at a ground-rent of 2*l.* per annum—220*l.*

A house, No. 97, York-street, Stepney, let at 20*l.* per annum; held for 81 years from December 1804, at a ground-rent of 4*l.* per annum—170*l.*

Three houses, Nos. 1, 2, and 3, Bryan-street, Caledonian-road, Pentonville, let at 81*l.* per annum; held for 99 years from December 1842, at a ground-rent of 10*l.* 10s. per annum—740*l.*

Three ditto, Nos. 7, 8, and 9, let at 80*l.* per annum—730*l.*

A house, No. 13, Bryan-street, let at 28*l.*; held for 99 years from December 1842, at 3*l.* 10s. per annum—250*l.*

A ditto, No. 14, let at 26*l.* ditto—245*l.*

A ditto, No. 15, ditto—240*l.*

The life interest of a gentleman, aged 60, in the one-third part of the dividends and annual produce of 9,824*l.* 16s. 4d. Three per Cent. Consolidated Bank Annuities—viz. 98*l.* 4s. 10d. per annum, during the life of the above gentleman; also a policy for 1,200*l.* effected with the Guardian Company, on the 21st January, 1825, on the same life, annual premium 39*l.*—890*l.*

The absolute reversion to 1,000*l.* Three per Cent. Consolidated Bank Annuities, on the death of a lady and gentleman, the former aged 46 and the latter aged 50—200*l.*

The absolute reversion to 1,031*l.* 10s. Three per Cent. Consolidated Bank Annuities, on the death of a gentleman in the 61th year of his age—550*l.*

A ditto ditto—550*l.*

The reversionary share and interest under a will to one-sixth part of 2,223*l.* 9s. 11d. Three per Cent. Consolidated Bank Annuities, and 1,124*l.* 12s. 9d. Reduced Bank Annuities, receivable upon the death of the survivor of two ladies, now in their 81st and 72nd years, provided a life of 30 survives her; also a policy for 500*l.* in the Licensed Victuallers' Office—245*l.*

A similar share—245*l.*

The absolute reversionary interest to 314*l.* 8s. 4d. secured by a policy of assurance for [illegible]00*l.* effected with the Globe Company, July 5, 1830, on the life of a gentleman the 51st year of his age, on the decease of the aforesaid gentleman—110*l.*

The absolute reversion to one-sixth part of 2,713*l.* 10s. Three-and-a-Quarter per Cent. Reduced Annuities, on the decease of a lady now in the 63rd year of her age—260*l.*

The contingent reversion to three-fifths of the following sums, viz. a redeemable annuity of 40*l.* per annum, secured on long leasehold property, the consideration for redeeming the same 500*l.* Three-and-a-Quarter per Cents. Reduced; 384*l.* amount secured by mortgage of freehold and leasehold estates of ample value; 1,700*l.* on the decease of a lady now aged 53—655*l.*

A reversionary interest in so much of a capital sum of 588*l.* 9s. Bank Stock as at the decease of the survivor of two parties now in their 67th and 68th years shall be of the value of 900*l.* sterling, and to which the purchaser will become entitled upon the decease of the survivor, provided the son of the above parties, now aged 38, or any of his children, shall be living at the decease of the survivor of them; the son has three children—400*l.*

The absolute reversion to 3,333*l.* 6s. 8d Three per Cent. Consols, receivable on the decease of a lady now aged 54, and 1,666*l.* 13s. 4d. Three per Cent. Consols, on the decease of another lady, now aged 72—2,200*l.*

A policy for 500*l.* effected with the Asylum Office October 26, 1837, on the life of a gentleman now in the 66th year of his age; annual premium 36*l.* 15s.—80*l.*

Ten 5*l.* shares, 5*l.* called and paid, in the Westminster Steam Packet Company—25s. per share.

Five similar shares—22s. 6d. per share.

The above shares are sold by order of the executors of the late Mr. Wm. Gray.

Three average shares, of 30*l.* 18s. 10d. each, called and paid, in the Kennet and Avon Canal and Navigation Company sold by order of the administrator of the late Mr. Thomas Samuel Ballard—8*l.* 16s. per share.

Five 10*l.* shares, 10*l.* called and paid, in the Diamond London and Gravesend Steam-packet Company—1*l.* 2s. 6d. per share.

Five 20*l.* shares, 20*l.* called and paid, in the Herne Bay Steam-packet Company—16*l.* per share.

Ten 10*l.* shares, 10*l.* called and paid, in the Sons of the Thames London and Gravesend Steam-packet Company—1*l.* 5s. per share.

Ten 2*l.* 10s. shares, called and paid, in the Waterman's Greenwich and Woolwich Steam-packet Company—2*l.* per share.

Several ground-rents, amounting to 190*l.* 2s. per annum, arising from copyhold estates near the cemetery, the church, and the celebrated Beulah Spa at Norwood, Surrey, arising from the King's Head Tavern, and the celebrated Tivoli Gardens, 14 houses and shops, six cottages, and several plots of land; the present estimated value exceeds 900*l.* per annum—6,300*l.*

A freehold residence, No. 1, East Cliff House, Herne Bay, let at 30*l.* per annum—550*l.*

By Mr. W. W. SIMPSON.

A detached cottage residence, being No. 12, Albany-road, Camberwell, let at 42*l.*; held for 32 years, at a ground-rent of 12*l.* 16s.—265*l.*

Five original shares of 10*l.* each in the London and Westminster Steam-boat Company—35*l.*

Sixty proprietors' shares of 10*l.* each in the Original London and Richmond Steam-packet Company—26s. per share.

Twenty-seven ditto—28s. per share.

One hundred shares of 2*l.* 10s. each in the Waterman's Steam-packet Company—240*l.*

The freehold and tithe-free mills, called the Four Mills, or King's Mills, situate at Bromley, near Bow, and on the river Lea, which commands the counties of Essex and Hertford, with the London markets, by water carriage. The mills are substantially brick built, and strongly timbered, and capable of grinding 15 000 quarters annually. There are 12 pairs of stones, and every appendage for working the mills to the best advantage, and there is stowage for 8,000 quarters of corn and meal. Detached is a residence, with garden, also four cottages and a piece of ground adapted for the erection of warehouses—9,200*l.*

A residence, No. 5, Barrington-road, Brixton, held for 80 years from Christmas 1842, at a ground-rent of 10*l.*—410*l.*

A ditto, No. 6, ditto—400*l.*

A plot of building-ground adjoining, held for 80 [years] from Lady-day 1842, at a ground-rent of 15*l.* 8s. per a[nnum] —100*l.*

A plot of building-ground situated fronting a new road in Denmark-street, Camberwell, frontage 31ft. depth 179ft.; a lease will be granted for 67 years from Lady-day 1842, at 1*l.* 7s. 6d. per annum—65*l.*

The freehold public house, known as the Rose and Cock, in Love-lane, Lower Thames-street, City—1,150*l.*

A residence, No. 5, Stafford-terrace, Brixton, let at 84*l.* per annum, held for 80 years from Christmas 1842, at a ground-rent of 7*l.* per annum, land-tax redeemed—300*l.*

A house with shop and spacious premises in the rear, No. 19, Warren-street, Fitzroy-square, let at 60*l.* per annum, held for 43½ years, at a ground-rent of 12*l.* 12s. per annum—500*l.*

A cottage residence, No. 22, Park-crescent, Stockwell, let at 32*l.* held for 80½ years, at a ground-rent of 5*l.* 5s. per annum—350*l.*

A similar residence adjoining—350*l.*

By Messrs. MUSGROVE and GADSDEN, at the Mart.

A freehold house, warehouse, and premises, No. 119, Basinghall-street, City; let for 21 years, at 118*l.* per annum—2,110*l.*

A ditto, No. 14; let at 109*l.* per annum—2,100*l.*

A freehold residence, warehouse, and premises, No. 26, Steward-street, Spitalfields; let for 21 years, at 80*l.* per annum—1,500*l.*

A residence, shop, and premises, No. 106, Albany-street, Regent's Park, let at 60*l.* per annum—held for 99 years, from March 1825, at a ground-rent of 15*l.* per annum—645*l.*

A house and shop, No. 14, Frederick's-place, Old Kent-road, let at 65*l.* per annum; held for 70 years, from September 1828, at a ground rent of 26*l.* per annum—520*l.*

A residence, No. 9, Arlington-street, Piccadilly, let at 210*l.* held for 33 years, from Christmas last, at 100*l.* per annum—1,500*l.*

RAILWAY SPECULATION.

The following are extracts from a return to the House of Commons of the names, &c. of persons subscribing 2,000*l.* and upwards to railway schemes. The return is No. 317 of the present session:—

1.	Mills, Francis, esq. New-street, Spring-gardens	£670,300
2.	Thomas, Wm. H. merchant, Moorgate-street	624,320
3.	Smale, H. Lewis, proctor, Doctors'-commons	601,750
4.	Tyndale, Charles William, esq. Brompton ..	587,780
5.	Macgregor, James, banker, Liverpool	579,800
6.	Murray, Charles Knight, esq. Notting-hill ..	574,800
7.	Harding, Benj. esq. Wadhurst Castle, Sussex	574,760
8.	Kirkland, Sir John, Pall-mall	574,760
9.	Browne, Robt. merchant, Edge-hill, Liverpool	577,280
10.	Winslow, Ed. esq. Torrington-square, London	320,160
11.	Hudson, George, esq. York	319,835
12.	Gower, R. F. merchant, Devonshire-place ..	292,000
13.	Crowley, Charles S. gentleman, Croydon ..	288,463
14.	Hankey, George, merchant, Mincing-lane ..	287,400
15.	Davis, Richard, merchant, St. Helen's-place ..	287,400
16.	Rich, H. esq. Mount-street, Grosvenor-square	287,000
17.	Vigurs, L. merchant, Old Broad-street, city ..	245,000
18.	Hornby, Joseph, merchant, Liverpool ..	220,000
19.	Manchester and Birmingham Railway	200,000
20.	Wilkinson, William Arthur, esq. Camberwell	192,626
21.	Jones, George, gentleman, Redland, Bristol ..	192,500
22.	Miles, John William, banker, Leigh-court ..	180,000
23.	Goldsmid, Sir Isaac Lyon, bart...	179,500
24	Simonds, Henry, esq. Reading	175,000
25.	Stern, Sigismond, merchant, 52, Spring-gardens, Manchester	174,500
26.	Tothill, William, merchant, Bristol	170,000
27.	Marshall, W. esq. Penwortham-hall, Preston	167,000
28.	Schuster, Leo, merchant, Manchester. ..	167,000
29.	Smith, Thomas, merchant, Reigate-lodge ..	160,580
30.	Chaplin, William James, esq. Adelphi-terrace	158,320
31.	Moss, John, banker, Liverpool	158,080
32.	Walters, G. S. merchant, Coleman-st. London	156,000
33.	Stevens, C. gentleman, Frederick's-pl. London	155,000
34.	Brooks, Samuel, banker, Manchester	154,500
35.	Garnet, Robert, esq. Wyerside, Lancaster .	154,000
36.	Broadbent, Thomas, merchant, Manchester ..	151,500
37.	Gower, E. mercht. Hanover-ter. Regent's-pk.	150,000
38.	Mercier, F. gent. Lordship-lane, Tottenham ..	148,000
39.	Hatton, James, iron-merchant, Salford . ..	143,900
40.	Gladstone, Robertson, merchant, Liverpool ..	140,000
41.	Maze, Peter, merchant, Bristol	140,000
42.	Smith, John, merchant, Manchester	140,000
43.	Paul, Charles, banker, Clifton	130,000
44.	Waddington, David, gentleman, Manchester..	129,770
45.	Glyn, George Carr, esq. Lombard-street ..	127,520
46.	Wright, J. clerk, Westbourne-ter. Hyde-park	121,000
47.	Young, Thomas, esq. Albany, Piccadilly ..	120,580
48.	Mowatt, Francis, esq. 35, Devonshire-place ..	120,400
49.	Hargreaves, J. merchant, Manchester.. ..	121,300
50.	Houldsworth, Henry, merchant, Manchester..	119,000
51.	Cropper, Ed. esq. Liverpool	118,400
52.	Barlow, Frederick Pratt, esq. Kensington-sq..	115,800
53.	Hodgson, David, esq. Liverpool..	114,400
54.	Peto, S. M. contr. pub. works, 47, Russell-sq.	113,625
55.	Baines, Benjamin, Holloway	112,850

56. Whiskin, James, esq. Upper Bedford-place .. 132,470
57. Davies, Robert, gentleman, York 110,000
58. Rickets, Frederick, merchant, London .. 110,000
59. Roberts, Frederick, gentleman, Camberwell .. 110,083
60. Smith, Archibald, merchant, Glasgow 107,150
61. Tee, Charles, linen manufacturer, Pinderoaks, Barnsley, Yorkshire 106,480
62. Lawrie, J. gent. Charles-st. St. James's-sq. .. 106,580
63. Saltmarshe, Christopher, esq. Yorkshire .. 103,000
64. Learmonth, John, esq. Edinburgh 103,000
65. Humphrys, A. esq. 22, Upper Wimpole-street 102,700
66. Enthoven, Henry J. merchant, Broad-st. City 102,500
67. Palmer, Charles J. solicitor, Great Yarmouth 100,820
68. Prinsep, Henry T. esq. 37, Hyde-park-square 100,500
69. Aiken, Peter Freeland, banker, Clifton . 100,000
70. Walters, Gregory Seale, merchant, 2, Artillery-place, Finsbury 100,000
71. Ward, Henry George, esq. M.P. 100,000

New Railway Schemes.—The week's enumeration of new schemes embraces no fewer than fourteen. Amongst them may be mentioned the Birmingham and Oxford Junction, which proposes to connect the north with the west of England; the Gloucester, Aberystwith, and Central Wales, with a capital of one million and a quarter; the Great Sicilian, to skirt the north-west coast of Sicily; the Bengal Great Western, 425 miles. from Calcutta to the interior; the Carlow and Kilkenny; the Manchester, Liverpool, and Great North of England; the Auxerre, a branch of the Paris and Lyons; the Bremen and Bremenhafen, forty miles from Bremen to the harbour on the Weser; the British Guiana, for connecting Demerara, Essequibo, and Berbice; the Direct West of England, a broad gauge line from Reading and Newbury to Taunton; the Birmingham, Thame, and Buckingham; the Birmingham, Warwick, and Daventry Junction; the Swedish General; and the Regent's Canal line, from Paddington to Limehouse.—*Globe.*

THE MONEY MARKET.

	Sat.	Mon	Tues	Wed	Thur	
Three per Cents. Consols	99	99¼	99	98½	98⅞	
Three per Cents. Reduced	99¼	99¼	99½	99½	99¼	99⅜
New Three-&-a-quarter per Cts	101⅞	101¾	101¾	102¼	102⅛	102¼
Long Annuities	11¾	11⅞	11⅞	11⅞	11¾	11⅞
Bank Stock	212	211½	211½	211½	211¼	211½
India Stock	279	279½	279	279½	279	270
India Bonds, prem.	71	72	73	72	71	72
Exchequer Bills, prem.	57	57	58			
FOREIGN.						
Spanish Five per Cents.	28¼	28¼	28⅛	28¼	27¾	27¾
Spanish Three per Cents.	41¼	41⅛	41⅛	40¼	39½	39¼
Russian	118½	118½	119¼	119¼	119½	119¼
Peruvian	32	31½	31¼	31½	32	31½
Portuguese	66¼	66¼	66¼	65¼	64¾	65½
Mexican	37½	37¼	36	37¼	37¼	36¼
——— Deferred	21¼	21¼	21½	20½	21½	21½
Dutch Two-and-a-Half per Cents.	63¼	64⅛	63¼	63½	62⅞	63½
Four per Cents.	98¼	98¼	98¼	98¼	98¼	
Danish	88½	88⅞	89		89¼	89½
Colombian	17¼	17½	17½	17½	17⅞	18¼
Chilian	98	98½	98½		100	99½
Buenos Ayres	44½	44½	45	45	46½	46½
Brazilian	89½	89½	89½	89½	90	90
Belgian	99	99¼	99¼	99½	100	100

THE GAZETTES.

The sum stated as the Dividend means so much declared in the Pound. The Assignees, when chosen, follow this statement.

Tuesday, June 24.

Ellis, J. W. cloth merchant, last exam. sine die.—*Jackson*, G. upholsterer, div. next week. Groom, London.—*Williamson*, W. H. tobacconist, div. next week. Groom, London.

Wednesday, June 25.

Peers, G. T. plumber, last exam. Dec. 18.

Thursday, June 26.

Barham, R. draper, div. next week. Follett, London.—*Bright*, B. victualler, div. next week. Follett, London.—*Hoadley*, S. coachmaker, final div. next week. Follett, London.—*Nicolay*, L. J. draper div. next week, Pennell, London.—*Tucker*, R. farrier, div. next week. Follett, London.—*Welch*, J. victualler, div. next week. Follett, London.—*Wilson*, J. bootmaker, div. next week. Pennell, London.

Friday, June 27.

Bohlé, A. tailor, div. next week. Johnson, London.—*Bolham*, E. innholder, final div. next week.—*Cole*, F. L. wine merchant, last exam. Aug. 1.—*Hart*, J. builder, div. next week. Pennell, London. *Hill*, T. J. builder, assignees, July 29.—*King*, S. warehouseman, last exam. passed.—*Kollman*, G. A. pianoforte maker, div. next week, Johnson, London.—*Palmer*, B. W. wine merchant, div. next week, Follett, London.—*Richards*, J. plumber, last exam. passed.—*Simpson* and *Co.* engineers, joint div. next week. Follett, London.—*Smith*, J. corn merchant, last exam. passed.—*Vines*, B. grocer, div. next week, Johnson, London.—*Ward* and *Co.* meat salesmen, joint div. next week. Follett, London.—*White*, J. currier, last exam. passed.—*Williams*, H. grocer, div. next week. Follett, London.—*Wood*, J. F. surgeon, div. next week. Follett, London.

Saturday, June 28.

Argent, I. victualler, div. next week. Johnson, London.—*Martin*, J. tallow chandler, div. next week. Johnson, London.—*Pugsely*, D. warehouseman, div. next week. Johnson, London.—*Robinson*, C. oil merchant, div. next week. Johnson, London.—*Vines*, J. miller, div. next week. Johnson, London.—*Young*, W. nurseryman, div. next week. Bell, London.

DIVIDENDS.

Bankrupts' Estates.

Official Assignees are given, to whom apply for the Dividends.

Almond, R. coal dealer, second, 5d. Cazenove, Liverpool. *Attwater*, W. dyer, first, 1s. Belcher, London.—*Blackburn*, H. W. woolstapler, second, 2d. Freeman, Leeds.—*Blake*, J. edge tool manufacturer, first, 10d. Wakley, Newcastle.—*Balke*, J. hardwareman, first, 10d. Wakley, Newcastle.—*Collinson*, W. shipwright, first, 1s. Freeman, Leeds.—*Cox*, S. horse dealer, second and final, 3s. 6d. Groom, London.—*East*, W. builder, second, 1¼d. Christie, Birmingham.—*Elliot*, R. merchant, first, 2s. to new proofs, second, 1s. 0½d. Freeman, Leeds.—*Haug*, I. first, 4s. 6d. Belcher, London. *Hawksley*, J. merchant, final, [illegible]-85d. Bittleston, Birmingham.—*Hill*, R. currier, 1s. 5½d. Hernaman, Exeter.—*Jarman*, W. E. confectioner, 2s. 7d. Hernaman, Exeter.—*Johnson*, J. merchant, first, 3¾d. Cazenove, Liverpool.—*Jones*, B. victualler, first, 8s. 6d. Bittleston, Birmingham.—*Lakin*, T. builder, first, 5s. Bittleston, Birmingham.—*Lane*, T. coal merchant, first, 2s. 3d. Bittleston, Birmingham.—*Lecesne*, L. C. merchant, first. 1s. 10¾d. Graham, London.—*Moss*, W. draper, second, 6d. Freeman, Leeds.—*Newbold*, J. tailor, first, 5s. Bittleston, Birmingham.—*Nicholson*, W. F. worsted spinner, first, 4s. to new proofs, second and final, 1s. Freeman, Leeds.—*Osborrow*, M. pawnbroker, 20s. Follett, London.—*Pearson*, T. builder, first and final, 1½d. Follett, London.—*Prior* and *Co.* brush manufacturers, first and second, 2s. 6d. and 3s. 3d. to new proofs; second, 3s. 3d. on old proofs; and first and final, Prior, 20s. Freeman, Leeds.—*Wilkinson*, T. draper, first, 3s. Wakley, Newcastle. *Wilson* and *Wilson*, merchants, T. W. 4s. 2½d. Morgan, Liverpool.

Insolvents' Estates.

Barton, C. clerk, Halliford, 1s. 6½d.—*Duckers*, C. ensign, on half-pay, Audlem, 15s. 7d.—*Durrant*, R. wheelwright, Brackley, 6s. 4½d.

ASSIGNMENTS

To Trustees for the benefit of Creditors.

Gazette, June 27

Ashby, H. farmer, miller, and baker, Weston by Welland, Northamptonshire, June 10. Trusts. G. Bland, grazier, Dingley, W. Kendall, grazier, Weston by Welland, and W. Pain, grazier, Brampton Ash, Northamptonshire. Sol. Douglass, Market Harborough.—*Gosnold*, C. tailor, Ebury-street, Pimlico, June 24. Trusts. T. Allen and G. Stanton, woollen drapers, Marylebone-st. Sol Smith, New-Inn.—*King*, T. innkeeper, Rodborough, June 14. Trusts. D. Davis, Cainscross, and T. Davis, Stroud, auctioneers. Sol. Croome, Cainscross.—*Newburn*, J. builder, Oxton, near Birkenhead, May 8. Trusts. J. D. Hore, accountant, Birkenhead, M. N. Raynes, timber merchant, Birkenhead, and W. [illegible]rough. oil manufacturer, Oxton. Sols. Keightley Banning, Liverpool.

Gazette, July 1.

Barnes, J. coal merchant, Surfleet, Lincolnshire, June 13. Trusts. J Wake, coal agent, Goole, and J. Walker, gent. Spalding. Sol. Walker, Spalding. *Dicker*, J. spirit merchant, Barnstaple, May 28. Trusts. R. Castle, distiller, Bristol, S. Bencraft, banker, Barnstaple, and W. Porter, baker, Barnstaple. Sols. Messrs. Bencraft, Barnstaple.—*Gunner*, F. T. grocer, Guildford, June 0. Trusts. S. Haydon, banker, Guildford, H Wathen, tea-broker, Fenchurch-street, and F. Hicks, wholesale grocer, Mincing-lane. Sol. Low, Chancery-lane.—*Wilson*, H. baker, Shrivenham, Berkshire, June 23. Trust. J. Fidel, builder, Farringdon. Sols Crowdy and Son, Farringdon.

Bankrupts.

DATE OF FIAT AND PETITIONING CREDITORS' NAMES.

Gazette, June 27.

Carr, Richard, cheesemonger, 112, Fore-st. Cripplegate, City, July 10, at half-past eleven, Aug. 8, at twelve, Basinghall-st. Com. Fonblanque; Pennell, off. ass.; Gauntlett, Gray's-inn-pl. sol. Date of fiat, June 21. G. Pensam, cheesemonger, Newgate-st. pet. cr.

Forre[illegible]r, James, baker, Hampstead, Middlesex, July 8, at half-past two, Aug 6, at half-past eleven, Basinghall-st. Com. Evans; Johnson, off. ass.; Vandercom and Co. Bush-lane, sols. Date of fiat, June 17. F. Haggar, miller, Hertford, J. G. Fordham, banker, Cambridge, and D. B. Haggar, miller, Hertford, executors of T. N. Haggar, dec. pet.

[illegible]lenswell, William, wheelwright, 80, Redcross-st. Southwark, July [illegible], at one, Aug 9, at twelve, Basinghall-st. Com. Goulburn; Green, off. ass.; Wellborne, Tooley-st. sol. Date of fiat, June 21 Bankrupt's own petition.

Lorains, Fenwick, bookseller and stationer, Newcastle-upon-Tyne, July 8 and Aug. 20, at two, Newcastle, Com Ellison; Baker, off. ass.; Shield and Harwood, Queen-st. and Chartres, Newcastle-upon-Tyne, sols. Date of fiat, June 16. R. Robinson, wholesale stationer, Newcastle-on-Tyne, pet. cr.

M[illegible], Samuel, and Mottram, Pryse, drapers, Shrewsbury, Salop July 10 and Aug. 8, at half-past twelve, Basinghall-st. Com. Fonblanque; Pennell, off. ass.; Goddard, Wood st. sol. Date of fiat, June 16. P. Jackson and J. Watson, silk warehousemen, Wood-st. pet. crs.

May, William, draper and hosier, Scotland-rd. Liverpool, July 11 and Aug. 15, at eleven, Liverpool, Com. Ludlow; Turner, off. ass.; Reed and Shaw, Friday-st. and Sale and Worthington, Manchester, sols. Date of fiat, June 20. T. Smith, linen merchant, Manchester, pet. cr.

Paine, Charlotte, plumber, painter, and glazier, East-gate-st. Lewes, Sussex, July 1[illegible], at half-past one, Aug. 5, at eleven, Basinghall-st. Com. Holroyd; Groom, off. ass.; Sowton, Great James-st. and Messrs. Blaker, Lewes, sols. Date of fiat, June 24. Bankrupt's own petition.

Thomas, Edward, wine and spirit merchant, brewer, grocer, and lodging housekeeper, Clifton, Bristol, July 11, at twelve, Aug. 22, at eleven, Bristol, Com. Stevenson; Miller, off. ass.; Haberfield, Bristol, sol. Date of fiat, June 17. Bankrupt's own petition.

Westmore, Robert, joiner and builder, West Derby, near Liverpool, July 9 and Aug 8, at eleven, Liverpool, Com. Phillips; Cazenove, off. ass.; Gregory and Co. Bedford-row, and Payne, Liverpool, sols. Date of fiat, June 24. Bankrupt's own petition.

Gazette, July 1.

Bentall, Thornton, stock and share broker and money scrivener, Copthall-chambers, London, July 9, at half-past twelve, Aug. 12, at half-past eleven, Basinghall-st. Com. Fane; Alsager, off. ass.; Messrs. Thomas and Co. Cloak-lane, sols. Date of fiat, June 23. J. Grant, watch maker, 75, Fleet-st. pet. cr.

Bindley, John, hosier, Atherstone, Warwickshire, July 10, at twelve. Aug. 5, at eleven, Birmingham; Christie, off. ass.; Smith, Birmingham, and Jackson, Field-court, Gray's-inn, sols. Date of fiat, June 23. Bankrupt's own petition.

Brown, Thomas, manufacturer of grylle whelp, No. 19, Billiter-st. July 15, at half-past two, Aug. 6, at twelve, Basinghall-st. Com. Holroyd; Edwards, off. ass.; Fawcett, Jewin-st. and Hockley, sol. Date of fiat, June 28. C. J. Redpath and J. Brown, ironmongers, Commercial-road-East, pet. crs.

Clarkson, Thomas, the younger, upholsterers' warehouseman, No. 10 a, Charles-st. Middlesex-hospital, July 9, at twelve, Aug. 12, at eleven, Basinghall-st. Com. Fane; Alsager, off. ass.; Ford, Bloomsbury-sq. sol. Date of fiat, June 27. T. Small, mineral teeth manufacturer, 187, High Holborn, pet. cr.

Coleman, William, victualler, Crediton, Devonshire, July 8, at eleven, Aug. 7, at one, Exeter, Com. Bere; Hernaman, off. ass.; Davies and Son, Warwick-st. London, Francis, Crediton, and Stogden, Exeter, sols. Date of fiat June 23. W. Snow, maltster, Crediton, pet. cr.

Flynn, William George, merchant, 81, Lower Thames-st. July 8, at half-past twelve, Aug. 12, at twelve, Basinghall-st. Com. Fonblanque; Belcher, off. ass.; Amory and Co. Throgmorton-st. sols. Date of fiat, June 23. J. Rundell, H. Rundell, and C. Rundell, coal merchants, Queenhithe, pet. crs.

Hancock, Joseph, the younger, corn factor and maltster, late of Old Broad-st. now of Wells, Norfolk, July 8 and Aug. 11, at half-past eleven. Basinghall-st. Com. Shepherd; Graham, off. ass.; Stevens and Co. Queen-st. sols. Date of fiat, June 16. E. Cooper, banker, 71, Lombard-st. pet. cr.

Wakefield, Christopher, licensed victualler and wine merchant, late of Hampton-wick, Middlesex, July 10 and Aug. 12, at one, Basinghall-st. Com. Fonblanque; Pennell, off. ass.; Parrell, New North-st. Red Lion-square, sol. Date of fiat, June 30. Bankrupt's own petition.

Witchell, Henry James, bookseller and stationer, Carnarvon, July 15 and Aug. 12, at eleven, Liverpool, Com. Ludlow; Bird, off. ass.; Clarke and Co. Old Bailey, and Lowndes and Co. Liverpool, sols. Date of fiat, June 27. W. Cooper, jun. Sir J. Williams, Kt. W. Cooper, C. Boyle, and T. Cooper, wholesale stationers, West Smithfield, pet. crs.

Wolton, James Cousins, ironmonger, Halsted, Essex; July 8, at eleven, Aug. 9, at one, Basinghall-st. Com. Goulburn; Green, off. ass.; Gale, Basinghall-st. and Parker, Chelmsford, sols. Date of fiat, June 27. Bankrupts' own petition.

PARTNERSHIPS DISSOLVED.

Gazette, June 24.

Barlow, R. and *Edwards*, B. ironmasters, Abenbury Forge, near Wrexham, June 20.—*Bath*, S. and *Bolton*, P. J. coal merchants, High-st. Wapping, June 21.—*Bedells*, C. and W. manufacturers of elastic fabrics, Leicester, June 17.—*Brittain*, J. and *Smales*, D. hop merchants, Hull, June 21. Debts paid by Smales. *Colledge*, C. and *Henningham*, S. engravers and copper-plate printers, Birmingham, June 16. Debts paid by Colledge.—*Coulborn*, E. W. and R. O. fustian manufacturers, Manchester, May 26. Debts paid by R. O. Coulborn.—*Davies*, J. and *Fallows*, J. cotton waste spinners, Stockport, June 20. Debts paid by Davies.—*Debenham*, R. and A. A. drapers, Upper Clapton, June 23. Debts paid by A. A. Debenham.—*Elston*, W. and *Lidstone*, J. builders, Old Bailey, June 21.—*Gill*, D. and *Wainwright*, T. iron founders, Leeds, June 18. Debts paid by Wainwright.—*Halliday*, W. and *Rhodes*, G. worsted spinners, Heckmondwike, June 20. Debts paid by Rhodes.—*Harris*, A. C. and *Bell*, T. merchants, Alexandria, Dec. 31.—*Holdsworth*, S. and *Milner*, W. R. surgeons, Wakefield, Jan. 1.—*Hunter*, T. and *Smith*, C. tea dealers, Bishopwearmouth, May 23.—*Leach*, Jos. sen. and jun. and John, worsted manufacturers, Bingley, so far as regards John Leach, June 16.—*Meredith*, E. and *Parker*, C. linendrapers, Liverpool, June 20. Debts paid by Meredith.—*Raine*, H. and *Scholes*, R. plumbers, Bury, May 12. Debts paid by Raine.—*Sangster*, G. and *Mellis*, J. F. cotton factors, Queen-st. Cheapside June 20. Debts paid by Melliss.—*Taylor*, J. and T. gold beaters, Kirby-st. Hatton garden, June 23.—*Turner*, J. and C. leather sellers, Church-st. Bethnal-green.—*Willis*, A., J. S., H. H. and A. jun. merchants, Crosby sq. June 23, 1843.—*Willis*, A., J. S. and H. H. insurance brokers, Crosby-sq June 30, 1843.—*Withinshaw*, E. and J. leather sellers, Shelton, Staffordshire, June 19.

Gazette, June 27.

Barron, E. and *Cullen*, W. H. attorneys, Bloomsbury-sq. June 24.—*Beilby*, J. and *Markham*, R. coopers, Hull, June 21.—*Bowyer*, J. and *Baker*, H. attorneys, Petworth, June 24.—*Butcher*, W. and M. beer retailers, Stepney, June 24.—*Edmeston*, J. and *Wilaen*, C. H. flour dealers, Mark-lane, June 21.—*Gillard*, J. and *Blight*, J. coach builders, Plymouth and Tavistock, June 21. Debts paid by Westlake, builder, Plymouth, and Ellis, baker, Plymouth.—*Hacking*, J. and *Lupton*, G. milliners, Lancaster, June 23.—*Heeles*, J. B. and *Herbert*, W. estate agents, Basinghall-st. June 25. Debts paid by Heeles.—*Hiles*, J. E. and *Frankland*, W. J. commission agents, Liverpool, June 21.—*Hunter*, J. and *Webster*, A. T. straw hat manufacturers, Luton, June 22.—*Jefferies*, E. and *Longdon*, T. tailors, Bath, May 31.—*Johnson*, P. N. and *Cock*, W. J. assayers, Hatton-garden, June 25. Debts paid by Johnson.—*Johnson*, W. and *Stafford*, J. plumbers, Wakefield, June 24. Debts paid by Stafford.—

...amps, Liverpool, June ...anelly Stone Coal Company, ...lly, Dec. 31, 1844. Debts paid by Kymer.—*Oswald*, G. and *Oliver*, G. Calcutta, Manchester, and Glasgow, April ...—*Allen*, H. ...deceased, and *Ridley*, G. and W. wine merchants and brewers, Ipswich, June 24. Debts paid by G. and H. Ridley, jun. — *Sillitoe*, R. and *Morriss*, F. ...makers, Newington-causeway, June 24.—*Slaney*, H. and *Muskett*, W. tea brokers, Fenchurch-st. June 26.—*Smith*, E. and *Moore*, T. brick makers, Berclay, Isle of Wight, June 7. Debts paid by Smith.—*Storry*, J. and *Bates*, E. carvers, Leeds, Nov. 30.—*Stowers*, C. H. and ...d, H. stationers, Chancery-lane, and Percy-st. Bagnigge-wells, June 24. Debts paid by Pope, 22, Budge-row.—...tt, M., *Hopkins*, J. C., *O'Brien*, D., *Robinson*, J., *Cundell*, R., *Oliver*, J., *Ewbank*, G., *Barnes*, J., *Shields*, J., and *O'Brien*, W. brewers, West Auckland, so far as regards W. O'Brien, Jan. J.—*Suggitt*, I. and *Ellerton*, J. lamp manufacturers, Howden, Yorkshire, June 21. Debts paid by Suggitt.—*Sutton*, J. and G. drysalters, Manchester, June 12. Debts paid by G. Sutton.—*White*, H. R. and *Abbott*, F. wine merchants, Margate, June 23. Debts paid by Abbott.—*Whitmore*, I. H. S. and *Jardine*, J. B. chemists, Drury-lane, June 24.—*Wilson*, L. *Keith*, D. and *Shoobridge*, T. silk manufacturers, Wood-st. so far as regards Wilson, June 17.

Insolvents

Petitioning the Courts of Bankruptcy.

Gazette, June 24.

PETITIONS TO BE HEARD AT BASINGHALL-STREET.

Boore, C. out of business, Lower Tooting, June 28, at half-past eleven.—*Burton*, H. clerk, York-square, Commercial-road East, June 28, at twelve.—*Goldsmid*, L. P. agent, Lodge-road, St. John's-wood, June 28, at eleven.—*Moody*, E. auctioneer, Greek-st. Soho, June 28, at eleven.—*Potter*, T. G. A. tobacconist, Pickering-place, St. James's-street, July 2, at twelve.—*Richards*, H. attorney, Milton-st. Dorset-sq. and Chandos-st. Cavendish-sq. July 10, at eleven.—*Wheeler*, D. coach maker, Reading, June 28, at half-past one.

MEETINGS IN THE COUNTRY.

Bayley, R. farming bailiff, Stafford, July 5, at half-past ten, Birmingham.—*Caswell*, J. carpenter, Great Malvern, July 4, at half-past ten, Birmingham.—*Hickes*, H. butcher, Kilmersdon, July 10, at twelve, Bristol.—*Platts*, J. blade forger, Sheffield, July 1, at eleven, Leeds.—*Morton*, G. inn-keeper, Northampton, July 10, at eleven.—*Smith*, W. livery stable keeper, Clifton, July 10, at one, Bristol.

PETITIONS TO BE HEARD AT BASINGHALL-STREET.

Gazette, June 27.

Davies, J. F. bootmaker, High-st. Shadwell, July 2, at twelve.—*Hayton*, A. clerk, Thame, July 10, at eleven.—*Hodgson*, J. H. victualler, Rosemary-lane, July 10, at one.—*Lord*, J. coal merchant, Great Cambridge-st. Hackney-road, July 9, at twelve.—*Merfield*, M. A. enameller, Ratcliffe-terrace, Goswell-st. June 10, at eleven.—*Paine*, J. D. surveyor, Bear-lane, Blackfriars and Lincoln's-inn-fields, June 30, at one.—*Pepler*, J. bricklayer, Bushey, July 3, at half-past eleven.—*Reynolds*, C. clerk, Hanover-st. Peckham, July 10, at twelve.—*Roret*, J. B. artificial flower maker, High Holborn, July 9, at twelve.—*Salisbury*, J. sailmaker, King James-stairs, Wapping-wall, July 10, at twelve.—*Spencer*, W. J. lighterman, Lower Queen-st. Rotherhithe, July 10, at eleven.—*Till*, B. butcher, York-st. Westminster, July 10, at twelve.

IN THE COUNTRY.

Gazette, June 27.

Baker, W. small ware dealer, Liverpool, July 11, at eleven, Liverpool. — *Beddall*, W. miner, Kingswinford, July 4, at half-past ten, Birmingham.—*Bibby*, J. victualler, Wavertree, July 8, at eleven, Liverpool. *Foulds*, W. jun. butcher, Kirkdale, July 7, at twelve, Liverpool. *Freeman*, J. jun. labourer, Barnsley, July 9, at eleven, Leeds.—*Robinson*, F. traveller, Nottingham, July 9, at half-past ten, Birmingham.—*Thacker*, J. out of business, Birmingham, July 2, at twelve, Birmingham.—*Thomson*, C. registrar, Aigburth, near Liverpool, Aug. 19, at eleven, Liverpool.—*Waechter*, L. book-keeper, Salford, July 10, at twelve, Manchester.—*Willesford*, F. E. S. attorney, Exeter, July 8, at eleven, Exeter.

MEETINGS IN THE COUNTRY.

Gazette, June 27.

Jepson, T. B. grocer, Manchester, July 22, at twelve, Manchester.

From the Gazette of Friday, July 4.

Bankrupts.

Pemeller, T. coal merchant, Tysoe-street, Spa-fields.—*Wyatt*, T. H. common brewer, Banbury, Oxfordshire.—*Brook*, G. dyer, Huddersfield.—*Housefield*, T. ironmonger, Lincoln.—*Stonehouse*, J. draper, Scarborough.—*Armstrong*, R. shipwright, Newcastle-upon-Tyne.—*Lewis*, J. card-maker, Birmingham.

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WHEREAS, by an ORDER of the HIGH COURT OF CHANCERY, made in a Cause *Chalmers* v. *Watmough*, it is, amongst other things, referred to James William Farrer, esq. one of the Masters of the said Court, to inquire and state who was, at the time of the death of JOSEPH HAMPSON, formerly of Wavertree, in the county of Lancaster, and late of Liverpool, in the said county, Farmer and Cowkeeper, deceased, the testator in the pleadings of the said cause mentioned (which took place on or about the 11th day of May, 1827), and who is now his HEIR-AT-LAW, or who now represents the said Testator in respect of his real estate, if any, which did not pass by his will and codicil in the pleadings of the said cause also mentioned: Therefore, any person or persons claiming to be such Heir or Heirs-at-law, or representative or representatives, are, by their solicitors, on or before the 19th day of July next, to come in before the said Master, at his Chambers in Southampton-buildings, Chancery-lane, London, and prove his, her, or their Descent or Representation; or, in default thereof, they will be peremptorily excluded the benefit of the said Order. JOHN F. ISAACSON,
40, Norfolk-street, Strand,
Plaintiff's Solicitor.

Periodical Sales (established in the year 1803) of Reversions, Life Interests, Annuities, Policies of Assurance, Advowsons, Next Presentations, Rent Charges in lieu of Tithes, Post-obit Bonds, Tontines, Debentures, Ground Rents, Improved Rents, Shares in Docks, Canals, Mines, Railways, Insurance Companies, and all Public Undertakings.

MESSRS. SHUTTLEWORTH and SONS respectfully inform the public, that upwards of 40 years' experience having proved the classification of this species of property to be extremely advantageous and economical to vendors, and equally satisfactory and convenient to purchasers, the PERIODICAL SALES of reversionary interests, policies of insurance, tontines, debentures, advowsons, next presentations, all securities dependent upon human life, sh[ares] in docks, canals, mines, railways, and all public undertakings, will be continued through 1845, as follow:—

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" Sept. 5.	" Dec. 5.
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Particulars may be had Ten days previous to each sale, at the Royal Hotel, Manchester; the Adelphi Hotel, Liverpool; Dee's Royal Hotel, Birmingham: the Angel, Oxford; the Eagle and Child, Cambridge; at the Mart; and of Messrs. SHUTTLEWORTH and SONS, 28, Poultry.

Marine Residence, with Eleven Acres of ornamental Plantations, Gardens, and Paddocks, in Plymouth; and Farms in Egg Buckland, Devonshire, for sale.

TO BE SOLD by AUCTION, by Messrs. WOOD and SON, on MONDAY, the 28th day of July, at the Royal Hotel, Plymouth, precisely at Two o'clock in the afternoon.

Lot 1.—Green Bank, with immediate possession. The villa and grounds are situated at Plymouth, and contain about eleven acres of pasture, gardens, shrubbery, and plantations, within a walled inclosure. The House contains an entrance hall, library, drawing-room, dining-room or picture-gallery, morning-room, conservatories, bath-room, first and second kitchens, servants' hall, and all requisite offices on the ground floor, with extensive cellars under; two staircases, six best bed-rooms, and dressing-room, two water-closets, five servants' rooms, and every domestic arrangement which can be required to render the place fit for the residence of a family of the first respectability. The stable is detached, contains loose boxes and stalls for eight horses, double coach-house, hay-house, granary, and saddle-room, with groom's apartment, the whole inclosed. An abundant supply of excellent spring and soft water. Should this stabling not be required, it could readily be converted into a house or houses, with separate entrances. The estate, whilst it commands uninterrupted views of the Eddystone, Sound, Breakwater, Cawsand Bay, Mount Edgcumbe, and all the adjacent country, is perfectly sheltered, and has a southern aspect. The property forms a most delightful residence, within a short distance of the town end of the intended terminus of the South Devon Railway. It was completed by the proprietor for his own occupation, at a great expense, and is sold in consequence of his having left the neighbourhood.

Lot 2.—An Estate called Skinner's-place, in the parish of Egg Buckland, in the county of Devon, containing about 38 acres, now in the occupation of Mr. John Blake.

Lot 3.—An Estate called Frogmoor, containing about 54 acres, in the occupation of Mr. John Brooking.

Lot 4.—An Estate called Colwell, in Egg Buckland, with the famous Slate Quarry, called Rumple Quarry, containing in the whole about 140 acres. The arable, tillage, and pasture lands are in the occupation of Mr. John Wills, the Quarry and Woods are in hand.

Lot 5.—Three Cottages and a Garden, in Egg Buckland.

Lot 6.—A Cottage and Garden, in the said village.

Lot 7.—The Public-house in the said village, called the New Inn, with the Garden thereto belonging.

Lot 8.—A Cottage, Blacksmith's Shop, and Garden, in the said village.

Lot 9.—A Cottage and Garden, in the said village.

Lot 10.—A Cottage and Garden, in the said village.

Lot 11.—Four Cottages and Gardens, also situate in the said village.

Colwell is within five miles, the other Estates, the Cottages and Inn, are within two miles of Green Bank, and would form a desirable appendage to that Property. The Timber is to be taken at a valuation. The respective tenants will shew the Estates.—Cards of admission to view Green Bank, and further particulars of the whole Property, may be obtained from Mr. Surr, solicitor, 80, Lombard-st. London, or Mr. Elworthy, solicitor, Courtenay-st. Plymouth.

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LORD CHANCELLOR'S COURT.

Wednesday, June 25, and Friday, June 27.

BOSCHETTI *v.* POWELL.

Payment into court—Admissions in answer to affidavits—Infant's suit—Motion to dismiss—Costs—Practice.

Where a suit has been instituted in the name and on the behalf of an infant, of which the infant when of age disapproves, some application by the plaintiff is necessary to stay further proceedings in the cause, but the motion ought not to be that the bill may be dismissed. Where one of several trustees admitted a distinct balance, but the other trustees admitted a large balance, without stating any specific sum, it was held not to be a sufficient admission to authorize the Court to order a transfer of the fund into the name of the Accountant-General. And such an interlocutory order will not be made except upon the personal admission of each party liable to the payment, made on answer or examination. Affidavits in which such admission was made, used in the Master's office for another purpose, will not be received to help the application. Neither will the Master's report be so received, though it expressly finds the sum in the trustee's hands.

This was a motion made on the behalf of the plaintiff, Juana B. M. F. Boschetti, an infant, who sued by Charles Fiddes, her next friend, who was also solicitor in the cause, that the defendants Thomas Powell, Romain Amiel, and Alexander Shea might be ordered to transfer into the name of the Accountant-General in trust in the cause the sum of 28,509*l.* Three per Cent. Consols, now standing in their names as executors and trustees of the will of the plaintiff's father, John Boschetti. By that will all the real and personal estate was vested in the trustees for the plaintiff for life, with remainder to her children equally, and, in the event of her dying without children, with remainder over. The testator was resident at Gibraltar, and his real estates, which were considerable, were in that place; the funds in this country had arisen from remittances for investment made by the executors, who were also resident in Gibraltar. The plaintiff came to this country in 1839, and on the 15th of January 1844, a bill was filed in her name by Mr. Fiddes, as her next friend, against the trustees, for an account of the testator's estate, before the Vice-Chancellor of England. On the same day, but later in the day, another bill was filed in the plaintiff's name by Williams, as next friend, in the Rolls Court. On the 16th of January, an order was made by the Vice-Chancellor for a reference to the Master in Fiddes's suit as to the appointment of guardians. On the same day Powell, one of the trustees, having come to England, put in his answer. A decree was sought, but refused, because no personal representation to the testator had been granted in this country. On the 17th January, 1844, an order was made at the Rolls in both causes, on petition for a reference to the Master as to guardians, and Fiddes was to have liberty to attend the Master on the subject of the appointment of guardians without being bound by any of the statements made in Williams' suit. The Master had reported that certain persons were fit to be appointed guardians, who were appointed accordingly. Fiddes's cause was afterwards transferred to the Rolls. The defendant Powell, who answered separately from his co-trustees, admitted that he and his connections in Gibraltar had from time to time remitted to England various sums of money, belonging to the testator's estate, to be invested, the particulars of which he could not state in the absence of papers, but that there was then standing in his name, and that of his co-trustees, the sum of 28,509*l.* Three per Cent. Consols. The other trustees stated they believed that there was standing in their names, jointly with that of their co-trustee Powell, a large sum of money, but they did not state any definite amount. The Master of the Rolls decided that there was no sufficient admission by all the trustees that any particular amount was standing in their names, to authorize the Court to direct the fund to be transferred on an interlocutory application. From that decision Fiddes, in his suit on the behalf of the infant, appealed; and he gave the defendants notice that upon the motion he would read the affidavits of the defendants used before the Master upon the reference for appointing guardians, and the Master's report on that occasion.

Lowndes and *Torriano*, for the plaintiff, were about to open the motion, when

Wakefield and *Rogers* objected that the motion could not be heard, because on the 16th of June instant the plaintiff attained her majority, and on the following day served on Mr. Fiddes a notice that she repudiated the suit, and required him not to proceed with it.

Lowndes cited 1 Smith's Chancery Prac. 167, and *Anon.* (4 Mad. 461), to shew that it was necessary for the infant to move to dismiss the bill, and that until she had done so the cause must proceed.

The LORD CHANCELLOR held that some application on the part of the infant was required, and that as the cause was properly constituted the motion should go on.

Lowndes and *Torriano* then contended that they were entitled to read the affidavits used before the Master which contained a distinct admission by the defendants Amiel and Shea of the amount of the fund, and they referred to *Quarrel* v. *Beckford* (14 Ves. 177); —— v. *Buchall* (24 July, 18 5), before Lord Eldon, C. cited in 2 Mad. Prac. 521, 3rd ed.

Wakefield, contrà, cited *Black* v. *Creighton* (2 Molloy, 554).

The LORD CHANCELLOR.—An incidental admission, where the defendant's attention was directed to another point, cannot be used in aid of the answer.

Lowndes then proposed to read the Master's report, in which he found that the sum sought to be transferred was standing in the names of the defendants the executors.

Wakefield and *Rogers* contended that no evidence was admissible to bring money into court in this stage of the cause, except admission by the defendant in an answer or examination. They also contended that the Court had no jurisdiction to make the order, because the plaintiff having become of age and repudiated the suit, it was, in fact, an application by a stranger. The office of next friend has ceased.

The LORD CHANCELLOR.—Is she an actor in any way?

Rogers.—We appear as her counsel, instructed by her solicitor, to object to the suit proceeding.

Lowndes referred to *Ballard* v. *White* (2 Hare, 158); Macpherson on Infants, 152.

Wakefield cited *Acres* v. *Little* (7 Sim. 138); *Guy* v. *Guy* (2 Beavan, 460).

The LORD CHANCELLOR.—This is an application for payment of money into court for her benefit. Will the Court direct it now she is of age and does not wish it to be done?

JUDGMENT.

Friday, June 27.—The LORD CHANCELLOR.—A suit having been instituted by a next friend, an application was made in that suit to transfer stock which was standing in the names of three of the defendants, who are trustees, into the name of the Accountant-General, in trust in the cause. This was opposed on two grounds. First, it was stated that the infant, on whose behalf the suit had been instituted, was now of age, and she has repudiated the suit. She came of age on the 16th of June, and on the following day served a notice on the next friend, who is the solicitor in the cause, of the fact of her having become of age; that the suit had been instituted without her knowledge or authority, and requiring him to abstain from further prosecuting it. This is stated by the defendant in answer to the motion. The question is, whether, under these circumstances, I ought to grant the motion.

It is quite clear that when the plaintiff comes of age she may either adopt or repudiate the suit. If the plaintiff should adopt the suit, or even if she do not repudiate it, but assents to its proceeding, she will become liable to all the costs, past as well as future, of the suit; but if she repudiates the suit, she is not liable for any costs, and upon very good grounds; for the suit may have been instituted without her knowledge or approbation.

The question is, what course the plaintiff, who repudiates the suit, should take. It was said that she ought to apply to dismiss the bill; but if she should do so, it is possible that the Court may saddle her with costs. It is not necessary, therefore, that she should apply to have the bill dismissed; but she may apply to the Court in some summary way, in order to call upon the plaintiff's solicitor not to take any other step in the cause. That has to some extent been done in this instance by the notice. On the infant coming of age the cause becomes her cause, and she has a right to abandon it; but if she pleases to proceed with the cause, the next friend becomes merely her agent. The only question is, whether the course which has been adopted in the cause is sufficient to prevent it being proceeded with, or whether a distinct application ought to be made. It may be doubtful whether the mere notice is a sufficient answer to this motion. I think a distinct application ought to be made. But the solicitor ought not to proceed after such a notice; but if he does, the plaintiff, the late infant, may make an application to stay all proceedings in the cause. Still I shall not proceed with the motion, and if the next friend has any thing to say to the contrary, it must be specially brought under my notice. The motion must stand over, to give the plaintiff, the late infant, an opportunity of making some application. It is clear that the infant, on coming of age, need not move to dismiss the bill, notwithstanding the anonymous case in Maddocks; and my opinion on that case is confirmed by the note in Beames on Costs.

Upon the other point, the answers are not a sufficient admission of a balance in order to have the fund brought into court. They admit it in this manner: one of the trustees states that a particular sum is standing in the names of himself and his co-trustees; and the two other trustees admit that a large balance is standing in their names and that of their co-trustee, but do not state the amount. It was attempted to supply the want of a distinct admission on the part of two of the trustees, by an affidavit used before the Master upon a reference, as to the appointment of guardians. But the parties are not in a condition to read such affidavit. Another attempt was made to supply the defect by the finding of the Master in his report, where the Master found that the sum admitted by the one answer was standing in the names of the trustees. But the report may have been founded upon the affidavit of a third person. That is not an admission by the defendants; and there is no instance in which such a report has been admitted. Then it was said that the report had not been excepted to, and that that was an admission of its correctness; but it is not so; that is merely a constructive admission. There is no admission by the defendants in the report, and there is no instance in which money has been ordered into court on an interlocutory application, except upon admissions in an answer or examination of the defendant. There was no case cited in which such a report had been admitted.

Lowndes referred to the case of *Gordon* v. *Rothley* (3 Ves. 572), where a defendant was ordered to pay into court the sum ascertained by the Master's report to be the balance due from him.

The LORD CHANCELLOR.—That was in quite a different state of the cause; that may have been founded upon affidavits or upon evidence. But a mere omission to except to the report is only a constructive admission. I have looked for cases, and I could find no case going beyond admission and examination. If it becomes necessary, in consequence of the decision upon the other point, I will look further into it.

ROLLS COURT.

April 24 and May 23.

TOLSON *v.* JARVIS.

Practice—Order, entry of, irregular—Attachment—Detainer—Discharge.

A detainer is lodged on an attachment for costs which had been ordered to be paid, at the Queen's Bench prison, against A B, then a prisoner in respect of other matters. The order to pay had been carried to the proper office, and signed and stamped with the seal of the office, but by some mistake was not entered. A B moved to discharge the order, and pending the motion the entry was made. Held, that the order, attachment, and entry should all be discharged.

All orders must be duly entered, else they are not deemed orders.

In the year 1837, Major Tolson, the plaintiff, then a prisoner in the Queen's Bench prison, instituted this suit, and the defendant Jarvis having put in a demurrer, it was allowed, with costs, by an order of the Master of the Rolls of the 31st May, 1837. On the 22nd of June, 1837, an attachment was issued against the plaintiff for the sum of 28*l.* 10*s.* 11*d.* costs, and was on the 24th lodged with the marshal of the Queen's

Bench prison. It was alleged by the plaintiff, however, that the order had never been entered, and that it could not be found in the indexes of the register-books, &c.; and notice was therefore given to the defendant of a motion to discharge the prisoner out of custody on the attachment. On the 8th of April, before the motion was made, defendant's counsel informed plaintiff's counsel that the order had been entered, and the clerk of the solicitors of the defendant shewed him an order of the 31st May, 1837, marked "entered," and sealed with the seal of the Report Office. It was then agreed that the motion should stand over till search could be made. The plaintiff's solicitor, on searching the books the next day (the 9th of April), found the order entered in fresh ink on the last page of the register book for 1837, and was informed that it had been so made the previous day, the original order having been left for that purpose after the solicitor had seen it. On finding this, the plaintiff, on the 11th of April, served the defendant with notice of motion to discharge the entry, for irregularity, and also the order and attachment, and the motion now came on to be heard.

Hetherington, for the motion, contended that the order not having been entered, was invalid, and therefore all proceedings founded upon it were so too.

Prior, contra.—The usual course is to enter one-sided orders on a sheet of paper, till there is time to enter them in the register-book, and in that way the omission has taken place. But the entry on the sheet of paper is a valid entry, and therefore the order [illegible] valid order, and so is the attachment founded upon it.

Hetherington, in reply. The defendant could have obtained an order, *nunc pro tunc*, to make the entry, and thus he would have had every thing quite regular. His making the entry as it has been made is an admission on his part that the practice is to have an entry in the book. He ought to pay the costs.

The MASTER of the ROLLS.—The point is very simple. There is no imputation on the officers of the Court, or on any [illegible]. Mr. Hetherington's proposition is, that entry is necessary to make the order valid; and therefore he seeks to have the prisoner discharged out of custody. I will inquire.

Friday, May 23. The MASTER of the ROLLS.—In this case a demurrer to the plaintiff's bill was allowed on the 31st of May, 1837, and the plaintiff was ordered to pay the costs which had been incurred. The plaintiff disobeyed the order, and in consequence an attachment issued; and on the 24th of June, 1837, it was lodged as a detainer against him at the Queen's Bench prison, the plaintiff being then, as he is now, in the custody of the marshal in respect of other matters. Some time before the 7th of April, 1845, the plaintiff discovered, as he alleged, that the order [illegible] the attachment was founded was valid, [illegible] had not been duly entered, and thereupon he ga[ve] the defendant notice of motion to discharge the o[rde]r and the attachment, for irregularity. [In]quiry was then made at the Report Office, but [no] trace of the entry could be found. The original, however, had been taken to the office and stamped [illegible] in the proper manner, and was so produced [illegible] [plain]tiff, and was then, after such production, entered in the [regist]er-book, and the plaintiff moved to discharge [illegible] as the order, &c. It clearly appears that all the [defen]dant had to do to perfect the [order] was done, as appears by the circumstances of the case. The order, however, being one-sided, was entered a[illegible] paper, and never transferred to the book [illegible]. Not being entered till after the [m]otion, it must be deemed not to be en[tered, an]d it must be discharged, as well as the [att]achment; but I make no order as to [costs. I am] sorry for what has happened, but will [illegible] guard against any such irregularity here[after].

[illegible] [move]d for leave to enter the order as of th[e] [illegible] give a notice of motion for an early da[y], as the [pla]intiff had cleared himself of all other de[tainers].

Hetherington, contra.

The MASTER of the ROLLS.—The usual course must be pursued.

April 17, May 7, and June 9.

ATTORNEY-GENERAL *v.* RICKARDS.

Practice—Plea—Outlawry—Record—Entry of [illegible] writ of exigent—Return of the writ.

To constitute a judgment of outlawry complete, the writ of exigent must not only be returned by the sheriff, but entered on the rolls of the Court of [Common] Pleas, judgment of outlawry by the coroners of the county is not sufficient.

[The a]llegations in an information by the Attorney-General being that the writ of exigent was returned by the sheriff duly registered and entered on record [in t]he Common Pleas, and a plea being put in to the information that the outlawry was not registered, [nor] entered, nor on record: Held, that the plea [was goo]d, [illegible] it did not deny the allegation of [illegible] directly but only under the general assertion.

[On t]he 14th of January, 1843, the Attorney-General, at the relation of Frederick Engler, and of John Stulz and Samuel Housley, exhibited an information in the Court of Chancery against Edward Henry Rickards and Samuel Walker, and against Arthur Annesley (now Lord Valentia), then and now out of the jurisdiction of the Court.

In the year 1817 Arthur Annesley gave his bond to George Stulz for 300*l*. but neither principal nor interest was ever paid. In 1832 George Stulz died, [an]d Frederick Engler having taken out letters of administration, assigned the bond to John Stulz and Samuel Housley. In 1834 an action was brought in the Common Pleas to recover the moneys due upon the bond, and the several steps of the process to outlawry were gone through, the last proclamation being on the 22nd of January, 1835, "whereby, as on that day the said A. Annesley be[ing calle]d was outlawed, and the sheriff of Middlesex so returned the writ of *exigent* accordingly." The information alleged that the judgment of outlawry was entered and registered. In July 1841 a *capias utlagatum* was issued to the sheriff of Oxfordshire to inquire of the goods, &c. of the outlaw, and the return thereto being too general, was quashed. In November 1841 another *capias utlagatum* was issued, and at the inquisition held in pursuance thereof, Rickards (who, with Walker, was the solicitor of Annesley) produced a deed of conveyance of the estates, &c. of Annesley to Rickards and Walker on trusts, the last of which was for Annesley himself. The sheriff accordingly returned *nulla bona*, &c. This deed was made between the times of issuing the first and second *capias utlagatum*, and Rickard and Walker knew of all the steps that [we]re taken by the plaintiffs. The information charged fraud, &c. and prayed that the Attorney-General, on behalf of her Majesty, might have the benefit in equity of the judgment of outlawry and of the writ of *capias utlagatum* issued thereon, and that the deed might be declared void, &c. Exceptions were taken to the bill, but ultimately overruled in the House of Lords; and afterwards the defendants put in the following plea to the information:—

"These defendants, by, &c. do, &c. and for, &c. say, that there never was, and that there is not now, any judgment of outlawry entered in her Majesty's Court of Common Pleas at Westminster, in the action in the said information mentioned, against A. Annesley, one of the defendants to the said information, on or as of the 22nd day of January, 1835, or on or as of any other day; and that no such judgment as in the said information mentioned was duly or otherwise registered in the said court; and that there never was, and is not now, any record of the outlawry in the said information mentioned, of the said A. Annesley, in the said court, or on the records thereof, as by &c."

That plea the plaintiff set down for argument without filing any replication.

Kindersley (with him *Kenyon*), for the defendant, insisted that their plea amounted to *nul tiel* record, and completely took away the foundation of the [in]formation. They contended also that it was correct in point of form, and in proof thereof cited 1 Wentw. Plead. 230, 250, 251, id. 11, 15; 3 id. 117, 118; 7 id. 66, 67, 77, 151, 3 Chitt. Plead. 854; Tidd Pr. Forms, 261. They contended also that the outlawry must appear of record, before forfeiture of goods, &c. (Litt. 197; Co. Litt. 288, b.); that the record of the outlawry is the roll made up by the Court (Co. Litt. [illegible] and the only proof of the outlawry is the record itself. [illegible], *Dyson* v. *Wood*, B. & Cr. 151.)

T[illegible] with him (*Campbell*), contra. The return of the [writ of exigent is no]t denied by the plea; and if the [return be entere]d, it is sufficient. (Co. Litt. 288, b.) If the *exigent* be the record, it is not material th[at] there should not now be a record; it may have been lost. (Vin. Ab. tit. Record (O), pl. 5; id. Utlawry (Q. [illegible]) pl. 5; id. Record (B), pl. 10; Co. Litt. 260. [Be]sides, entry, however necessary as between party and party, is not so to perfect the Queen's title (Vin. Ab. Utlawry (A 6), pl. 1, referring to 15 Eliz. 317 b.) Besides, the plea raises three distinct issues, inasmuch as it is that there is no judgment of outlawry entered, registered, and on record, [an]d last embracing all, and is therefore bad in form [and] substance.

Kin[dersle]y, in reply.

The [MA]STER of the ROLLS. I hardly think the [illegible] return of the writ of *exigent* is sufficient. I am inclined to think with the pleader that [th]e entry is necessary. I could not refuse leave, however, to amend either plea or bill, whichever of the two may be found to need, and this proceeding is the [illegible].

Mond[ay] [illegible].—The MASTER of the ROLLS [stated the] facts of the case at length, and observed that the [jud]gment of outlawry was the only title on which the plaintiff rested his claim, and it was alleged that the outlawry was complete; and it was asked, therefore, that the plaintiff should have the benefit in equity of the judgment of outlawry, and [of the writ] of *capias utlagatum* issued thereon. On the other hand, that allegation is denied by the defendants, and they say that there never was any outlawry duly entered, nor is there any such now, and therefore that the plaintiff's title is incomplete. Taking the allegations in the plea to be true, we must take it that the writ of *exigent* was returned, but not entered or enrolled. I think, then, that the allegation of Annesley being outlawed can only be understood to amount to an allegation that he was outlawed by the coroner adjudging him an outlaw; and the question is, what is the effect of that, followed up by a return of the writ of *exigent*, but no entry thereof on the rolls of the Court of Common Pleas? The writ returned is a record; it is so said by Coke; but is the return of the writ such a record as was intended? All I can collect from the cases in Viner is, that after the return of the writ the entry on the roll was a subsequent proceeding, which might be adopted at any time. But the cases do not appear to warrant that the return of the writ of *exigent* is alone sufficient to constitute outlawry. The plea, therefore, is good, and must be allowed.

Wednesday, June 11.

Re MASSEY.

Practice—Taxation—Payment under protest—Application by third parties.

After a bill of costs as between a trustee and his solicitor has been bonâ fide delivered and paid, a third party interested in the fund cannot have it taxed as against the solicitor, after the expiration of a year from the payment of it, even though he may have no notice of the payment; but he may have an account against the trustee.

The words "under protest," if only used as an expression of dissatisfaction at the amount received or paid, have no effect: they must be accompanied with a reference to a ground sufficient to justify taxation, to have any efficacy in reserving a right to it.

The stat. 6 & 7 Vict. c. 73, was never intended to interfere with the arrangements between trustees or executors and their solicitors.

R. Francis being indebted to the petitioner, William Cann Kiddle, in the sum of 200*l*. on his promissory note, in 1815 made his will, and thereby devised his estate to his sons William Francis and R. Francis, to sell and pay debts. The testator died in 1819. The interest on the debt was paid down to the year 1840, when the only part of the testator's estate which remained unrealized being in mortgage to one Baldwin, it was agreed between R. Francis, the surviving trustee, and the petitioner, who was the only creditor of the testator, that the estate should be sold, and the surplus proceeds, after satisfying the mortgage, &c. should be paid to the petitioner in discharge of his debt. R. Francis accordingly employed William Massey to sell the estate, which he did in 1841, and received the purchase-money, amounting to 823*l*. 12*s*. 9*d*. and paid off the mortgage debt, which was 604*l*. The petitioner then applied for payment of the balance, which William Massey said he could not ascertain till he should get his town agent's bill of costs for making out the title to the estate. There being great delay, however, he subsequently proposed to pay interest. On the 29th of August, 1844, the petitioner's solicitor, Mr. Spanton, wrote to Mr. Massey for the account and for payment of the balance, and subsequently made other applications. At last Mr. Massey proposed to pay the balance without any deduction for the town agent's bill, and on the 11th December, 1844, he delivered an account headed "R. Francis, trustee of R Francis, deceased," containing several items, of which one was 634*l*. stated to have been paid to the mortgagee. In January last Mr. Spanton had a meeting with Mr. Massey, and on again pointing out, as he had on the 14th December previously, that the mortgage item should have been 604*l*. Mr. Massey insisted it was [righ]t, and it is alleged by Mr. Spanton, but denied by Mr. Massey, that the latter said, if the petitioner did not take the balance as made out, he would pay it over to Mr. Francis, and the petitioner "might help himself as he best could." Under these circumstances, therefore, the petitioner received the amount offered, but under protest, and gave a receipt for it. It was shewn to Mr. Massey, by his own handwriting, that the 634*l*. should have been 604*l*. and he then admitted it, but said there was a sum of 15*l*. rents not allowed for, and deducting that he would pay the remainder. It appeared on affidavit that Mr. Massey's bill of costs had been allowed in 1841 by Mr. Francis out of assets then in his hands. The petitioner now sought, under the 6 & 7 Vict. c. 73, copies of his bills of costs and taxation thereof; also payment of the 30*l*. overcharge in respect to the mortgage. Several items were objected to, some charged long before Mr. Massey was the solicitor.

Rogers, for the petitioner, denied that there was any payment binding so as to prevent taxation. The pay[ment] had been made behind the back of the petitioner, and could not be permitted to interfere with his rights.

Toller, contrà, cited *Re Downes* (5 Beav. 425).

The MASTER of the ROLLS.—In cases of taxation such as this, the matter rests on a very narrow foundation. Whoever supposed the Attorneys and Solicitors Act was intended to interfere with arrangements between trustees or executors and their solicitors? I admit if a solicitor seeks to evade the provisions of the Act by a pretended delivery of a bill and payment thereof by the trustee, the Court would in-

terfere, but there is nothing of that kind suggested here. Mr. Kiddle was entitled by the agreement to an account from Mr. Francis, and he may still have it; but the question is not between Kiddle and Francis, but between the former and Massey. The latter proposed to pay the balance, without deducting any thing on account of the town agent's bill, and on Kiddle hesitating, he told him he would pay it over, and he might help himself the best way he could. This is denied by Massey, but he was angry, and perhaps has not the clearest recollection of what he said. Kiddle then accepts the money "under protest." These words, if used in reference to some other ground which would justify it, might have the effect of reserving a right to taxation; here they only mean you give me too little. It is now asked to tax the bill, the Act being express that payment shall not preclude it, if application be made before the expiration of the year. The petition must be dismissed, and admitting Mr. Massey's want of temper, I nevertheless give him his costs.

Thursday, June 12.

LANGLEY *v.* FISHER.

In this case, which was reported in 5 Law T. 283, *Malins* renewed his motion upon an amended affidavit, in which the plaintiff distinctly swore that he wished to examine two witnesses, without whose evidence he could not, and with which he could, proceed with the cause.

The MASTER of the ROLLS.—I grant your order, but you must pay the costs.

CLARK *v.* HALL.

Practice—Examination of a witness after decree before the Master, who had been examined as a witness in the cause—Time within which application for leave may be made.

A reference to the Master having been directed, by a decree made at the hearing of a cause to inquire who were the next of kin of a deceased intestate, a witness who had been examined by the plaintiff before the hearing in support of his claim as next of kin was, on the application of a person (not a party to the suit) coming in under the decree, and claiming as one of the next of kin, directed to be examined by the Master, if he thought fit, as a witness for him.

This was a suit instituted by parties claiming as the next of kin of Thomas Sharpe, deceased. They had examined as a witness before the commissioners in support of their claim one Wheeler, a parish clerk, the subject-matter of the examination being in respect to an inscription on a tombstone. The cause having come on to be heard, and a reference to the Master having been directed, to inquire who were the next of kin of the deceased, a person not a party to the cause came into the Master's office under the decree, and claimed to be one of the next of kin, and in support of his claim, tendered the same Wheeler as a witness, but the Master refused to examine him without an order.

Fleming now moved, on behalf of the claimant, for liberty to examine Wheeler in support of the claim. The evidence of the witness is material, and the party now seeking to examine him was no party to the suit, and had no opportunity of examining him before the commissioners. The rule of court that a party had examined a witness before the commissioners should not be permitted to re-examine him before the Master, was intended to prevent a party from bolstering up a case if found to be defective, but did not apply to such a case as this. He cited *Melford* v. *Peters* (8 Sim. 630).

Heathfield, for the plaintiffs, contrà.—Mr. Hall, one of the defendants, having disputed the pedigree of the plaintiffs, they went into that question and examined Wheeler as a witness in their favour. The result was, they established their pedigree against Hall. Now this party comes, and insists on examining Wheeler to the very same points; but if the motion be granted, it will let in all the mischiefs that the rule of the court against the re-examination of a witness was intended to guard against. The evidence of the witness had been read in the Master's office, and the object of the present application is to make him contradict himself. [The MASTER of the ROLLS.—What is to prevent them filing a bill, and then examining any one they think fit?] Besides, there has been great delay, and the application is now too late.

The MASTER of the ROLLS.—I have no doubt about the case. The cause was at issue, and the witness had been examined as between the plaintiffs and the defendants, but no other person. Well, then, the present claimant comes in under the decree, having been no party to the cause, and having had, therefore, no opportunity to examine the witness; and it is said to be unreasonable that he should now examine him, because the plaintiffs have done so before. It is both reasonable and fair. But then it is said the application is too late. How long is evidence admissible in the Master's office? why just till he signs the warrant for drawing up his report, which in this case he has not yet done. Let the Master be at liberty to permit the witness to be examined, if he should so think fit.

VICE-CHANCELLOR KNIGHT BRUCE'S COURT.

Saturday, May 31.

CHADWICK *v.* HEATLEY.

Trustee—Release.

Circumstances under which a trustee is entitled to a release on account of his trust, and of what nature such release should be.

This suit was instituted by a *cestui que trust*, entitled to a sum of stock, against a trustee, to compel the transfer of the stock; and the bill also prayed that the costs of the suit should be paid by the trustee. The circumstances under which the suit was instituted will sufficiently appear from the Vice-Chancellor's judgment.

Anderdon and *Terrell*, for the plaintiff.

Swanston and *Amphlett*, for the defendant.

The VICE-CHANCELLOR said that the defendant, Mr. Heatley, and two others, were the executors, and, under the will of the testator, were trustees of his real and personal estate. They acted in the trusts, paid the debts so far as the personal estate was sufficient, and sold the real estate for payment of the remainder. A residue of the money remained, and of this clear residue the plaintiff and his sister were entitled to equal shares, subject only to a life interest in it, which life interest had determined; and the plaintiff was, therefore, absolutely entitled to his moiety, his sister having received hers, and given a release to the surviving trustee, the defendant. On the death of the tenant for life, the defendant required a general release, containing a full statement of the accounts, which would have the effect of releasing him from all responsibility in respect of the estate of the testator, so far as that could be done. The lady acceded, and executed the deed, which was prepared for the execution of both, but the plaintiff declined to join in it. His Honour was of opinion that the defendant was not entitled in this case, nor in any such case deed would be, and was, wholly harmless, but that was another question; but, although a deed was not requisite, and could not be insisted on, it was the right of the defendant, the trustee, to require that his accounts should be seen, and he and his family who might succeed him should be relieved from the pain, anxiety, and danger of an unsettled outstanding account—a pain, anxiety, and danger familiar to every one who had practised in the Court of Chancery. The defendant was entitled to have his accounts, as it was familiarly termed, "wound up," and to have a valid receipt and release, no matter what the form, from all further claims, except so far as his accounts would be open to be surcharged and falsified. The plaintiff, however, by his correspondence, not only refused to execute the deed, but refused to give any release, either express or implied, but offered a mere simple receipt for the money, and intimated pretty plainly that he would keep the accounts open. On the one hand, the defendant was not entitled to a release by deed, which he demanded; and on the other hand, he was entitled to a release in respect of his trusteeship, which was refused to be given in any form by the plaintiff. If the plaintiff would not accept the sum in question in full of all demands on the defendant, in respect of his account of the testator's estate, his Honour said that he must direct a general account of that estate.

Anderdon said he was not instructed to ask for such an account, and the following order was ultimately made:—

The Court having desired to be informed whether the plaintiff was willing to receive the sum in full of all demands of the plaintiff on the defendant in respect of the real and personal estate of the testator, and counsel stating that he has no instructions, and no answer to make to the suggestion of the Court, and respectfully leaves the case to the judgment of the Court, the money must be brought into court, and the ordinary administration accounts of the testator's estate must be taken.

Anderdon and *Terrell* afterwards applied that the cause should stand over in order to ascertain whether the plaintiff would elect to take the decree, or to accept the money as suggested, which application was granted.

Monday, June 2.

BUTLER *v.* POWIS.

Specific performance—Lease by tenant for life.

An agreement for a lease upon the expiration of an existing lease, entered into by a tenant for life of the land, with remainder to his first and other sons in tail, with the ultimate reversion in fee in himself, was, under the circumstances, directed to be specifically performed, there being a part performance of the agreement, and the tenant for life, though married twenty-eight years, having no children at the date of the agreement.

By a bond, dated in 1807, John Bowater became bound in the penal sum of 800*l.* to demise and grant, when two leases therein mentioned should terminate by surrender or otherwise, unto James Elcock, his executors, administrators, and assigns, two pieces of land, which by two leases dated the 26th of December, 1769, were demised by Bowater's father to two persons for ninety-nine years; the demise to be to Elcock, his executors, administrators, and assigns, for ninety-nine years from the date of such demise, at the rent of 20*l.* per annum, with a covenant by Elcock to lay out 150*l.* within twenty years in building a house upon the land, and such other covenants as were usually inserted in leases by the said John Bowater. By his will, dated the 10th of August, 1809, John Bowater devised his real estates to Powis and Long, in fee, upon trusts for the natural children of the testator therein described, and the will was re-executed in 1810. The testator died in June 1810, and the will was shortly afterwards proved by the trustees, who were also appointed executors, and the executrix. The defendant Powis was the surviving trustee and executor of Bowater's will. Elcock, the obligee of the bond, died in 1812, and the plaintiff in this suit was the representative of the surviving executor of his will. At Michaelmas 1826, the two leases expired, and the trustees of Bowater's will thereupon gave possession of the land to the executors of Elcock's will, and they or their representatives remained in such possession until the institution of this suit, and the rent of 20*l.* was paid from the year 1826 to the receiver appointed in a suit for the administration of Bowater's estate. The bill was filed to obtain a specific performance of the agreement contained in the bond. It appeared, however, from the answer, that by indentures dated the 30th and 31st July, 1778, the land (amongst other things) was settled by Bowater, to secure a jointure to his wife, with remainder to the first and other sons of the marriage in tail, with remainder to Bowater in fee, with power to grant leases for twenty-one years. By a private Act of Parliament, passed in 1779, power was given to Bowater during his life, and after his death to the guardians of his issue male by his said marriage, during their respective minorities, to grant building leases for ninety-nine years, to take effect in possession, and not by way of future interest.

Russell and *Taylor* for the plaintiff.

Wigram and *Heberden* for the principal defendants; *Kenyon*, *Parker*, and *Steere*, for the surviving trustee; and *Beales* for another defendant.

The case of *Harnett* v. *Yeilding* (2 Sch. & Lef. 549) was cited.

The VICE-CHANCELLOR.—This instrument alone, or in combination with the other facts of the case, is, or amounts to, evidence of an agreement, which is, in my opinion, a building agreement in favour of the plaintiff for the grant of the lease on the terms stated in it. Whether or not the Court shall exercise its jurisdiction in decreeing a specific performance is another question. The principle laid down by Lord Redesdale in the case cited, viz. *Harnett v. Yeilding*, is said to furnish an objection. In the case now before me, Mr. Bowater was tenant for life, with remainder to his first and other sons in tail male by his then wife, with remainder, or rather for he was the author of the settlement—with reversion to himself in fee simple. He had been married to the lady upwards of twenty-eight years at the time he executed the instrument, namely, on the 23rd of March, 1807, and does not appear ever to have had any issue by her; under such circumstances it was not very unreasonable for Mr. Bowater to consider himself tenant in fee simple of this property. There does not appear to be any reason to suppose that the tenant who took the land from him knew any thing of his title. He describes himself as if he were tenant in fee simple. He died before 1826, the year when the former leases, on the expiration of which the new lease was then granted, determined; and eventually the tenant, or those representing him, entered into, or continued in, possession, that is to say, continued in possession on the former terms. The rent paid on the original lease was 6*l.*; that reserved by the instrument in question was 20*l.*; and that rent was regularly paid, and has been regularly paid, up to the present time—paid to the receiver duly appointed by the Court in the suit for the administration of the testator's estate, and, it must also be assumed, so paid with the knowledge of all parties concerned. It has been argued that there is a want of mutuality, by reason that the agreement is one-sided, as being only executed by the testator. That does not form any sufficient defence, for it has long been decided that an agreement so situated may be enforced; and, if such an agreement were available, there has been a part performance in this case. If there had not been such part performance, a difficulty might have arisen in that part of the instrument which directs that the lease should be subject to such covenants as were usual in leases granted by the said Mr. Bowater. This would have presented a difficulty had the benefit of the Statute of Frauds been prayed, and the part performance been out of the question. Situated, however, as the case is, I am not called on to consider that point. The plaintiff is entitled to have it ascertained what are the covenants usually inserted in leases granted by Mr. Bowater; he is entitled to his lease accordingly; and he must have the costs of the suit, which, for all substantial purposes, is an undefended one.

Wednesday, June 4.

ATTORNEY-GENERAL *v.* CORPORATION OF BOSTON.

Evidence of usage—Practice.

To expla charter of the 5th year of Ph. & M. it was held that evidence of practice and usage was receivable.

In this case a question arose upon the construction of a charter of the 5th of Philip and Mary, whereby, after reciting that lands had formerly belonged to two guilds, and had been devoted to the support of a school and other religious purposes, and that it was the object of the charter to restore them to those uses, it was directed that the lands should be appropriated "ad sustentacoem pedagogi et suppedagogi Scole predce ac Cappelanoz et pauperes predict' ac alia necessaria *predict' Burgum Scholam* Capellanos et pauperes predict et sustentacoem et manutenocem eosdem," &c. In the translation used by the corporation, the words "Burgum cholam" had been rendered "borough school." After providing for the purposes mentioned in the charter, the corporation had applied the surplus funds in the erection and keeping in repair of a bridge, and this information was filed to decide, among other things, whether this was a proper application of the funds. It being necessary, in the first instance, that a reference should be made to the Master, the question was argued whether, to explain the charter, evidence might be given of contemporaneous, subsequent, and uniform usage.

Swanston and *Metcalfe*, for the relators.

Bacon and *R. Palmer*, for the schoolmaster and usher.

Russell, Campbell, W. D. Chambers, Wigram, Cole, and Spurrer, for other defendants, were not heard.

The VICE-CHANCELLOR.—The language of the charter and the age of the charter are such as, in my opinion, justify the introduction of evidence of practice and usage; nor do I think that the pleadings exclude that evidence. If, however, they had, I should have directed the case to stand over to have the pleadings amended. Whatever that evidence amounts to, it will not be conclusive. All that the Court does is to say that the evidence is receivable.

Refer it to the Master to inquire what estates are comprised in the charter, and whether the corporation or the charitable trustees are now seised or in possession of the whole thereof and if not, what has become of the rest. The Master also to inquire for what pur or purpos from time to time, ever since the date of the charter, so far as can be ascertained, the rents and revenues have been applied. Let the Master inquire what property is included in Bragg's deed [describing the deed], and what has become thereof: and let the Master inquire what real estates other than those in that deed the corporation were seised or possessed of as trustees for any charitable purposes: and let the Master inquire and state the charitable purposes to which the several parts were of right devoted, and, if it sho ld appear that the corporation has at any time alienated any estates of which they w l for any charitable purposes, let the Master stat the particulars and circumstances of such alienation The Master to state specially as to the e of any particular lands at any particular tim Let the parties be at liberty, without prejudice to any question, to continue the payments to the clergyman, schoolmaster, and usher, and to the poor. Liberty to apply.

VICE-CHANCELLOR WIGRAM'S COURT.

Saturday, June 28, Monday, June 30, and Tuesday, July 1.

LANDER *v.* INGERSOLL.

Infant—Next friend—Solicitor—Costs.

A solicitor is not justified in selecting a next friend to act in a suit on behalf of an infant against the express desire of the near relations of the infant: the Court will remove a next friend so appointed, and, where interested motives appear to have induced the act, the solicitor will be made to pay the costs of a reference to the Master to have another person to act as next friend.

This was a motion of the infant plaintiff, by Mrs. Lander, his mother and testamentary guardian, as his next friend, to have Mr. Shepherd, the next friend named in this suit, removed, to make him give security for costs already incurred, and for a reference to the Master to name a new next friend during the further prosecution of the suit

The motion was made on the ground of improper conduct on the part of the solicitor, in making Mr. Shepherd the next friend, which arose under the following circumstances. The infant plaintiff became entitled to one fifth part of the residuary estate a lady named Armfield, whereupon his motl ployed Mr. Elworthy, an attorney at Plymouth, to act for the infant, and by his instructions a bill was filed in July 1843 by Mr. Sirr, his London agent, on behalf of the infant, by a Mr. Carteret, as next friend, to secure the rights of the infant in the residuary estate. Mr. Carteret was named next friend by the consent and approval of Mrs. Lander; he, however, shortly after died, whereupon a meeting took place between Mrs. Lander, Mr. Elworthy, and Mr. Sirr, to settle who should be named next friend: Mrs. Lander was anxious to have herself, her father, or brother named; nothing, however was settled, and a dispute afterwards arose upon what did occur at that meeting, and Mrs. Lander, after seeing Mr. Sirr frequently upon the business, considered her affairs had not been sufficiently attended to by Mr. Sirr, of which she complained to Mr. Elworthy, and not receiving a satisfactory answer from Mr. Elworthy, she wrote on the 5th of Feb. 1844 to withdraw her retainer from him, and requested him to send in his bill of costs, and also to instruct Mr. Sirr to deliver up the papers relating to the suit to her: Mr. Elworthy did not attend to her instructions, whereupo Mrs. Lander employed a Mr. White, a solicitor, to write a similar letter, and also a Mr. Bridgeman, a solicitor, to make the same application; all which applications Mr. Elworthy answered by frivolous excuses, but never either sent in his bill of costs, or instructed Mr. Sirr to deliver up the papers; at length Mr. White writes a peremptory letter, by Mrs. Lander's instructions, that he was not to act further in the suit, and demanded his bill of costs and the papers; the day following this letter Mr. Elworthy obtains an order in the suit to amend the bill, and on the 8th of March, 1844, the bill is amended by him, making a Mr. Shepherd the next friend of the infant, without consulting Mrs. Lander. Mr. Shepherd was a friend of Mr. Elworthy, and tter stranger to Mrs. Lander. Upon Mrs. Lander hearing of the amendment, Mr. Bridgeman, her solicitor, writes to Mr. Elworthy, on the 2nd of August, 1844, to have Mr. Shepherd's address, that Mrs. Lander might communicate with him; Mr. Elworthy refuses to give Mr. Shepherd's address, stating that it was quite unnecessary, and that he could justify all he had done. Mr. Bridgeman, from ill-health, gives up the management of Mrs. Lander's affairs, when she employs a Mr. Smith, a solicitor, and in January 1845 he writes to Mr. Elworthy, stating that the suit being in the name of a stranger to Mrs. Lander, she wishes all further proceedings to be stopped; to which Mr. Elworthy answers by merely guaranteeing the respectability of Mr. Shepherd. No further steps were taken by Mrs. Lander until this motion was filed in May 1845: in form, as originally filed, it was the motion of Mrs. Lander, who was no party to the suit, and was in substance the same as the motion in *Nalder* v. *Hawkins* (2 Mylne & Keen, 243): that being of a similar nature was used as a precedent.

Romilly and *Mylne* for Mrs. Lander.

Wilcox for the infant, his next friend Mr. Shepherd, and Mr. Elworthy.

Cairns and *Collins* for other parties in the suit.

On the motion coming on for hearing, *Wilcox* took objections—first, that no notice had been served on the next friend or other parties; second, that the motion was wrong in form, it being framed as the motion of Mrs. Lander on behalf of the infant plaintiff, and not the motion of the infant by Mrs. Lander as his next friend. Mrs. Lander had no right to make a motion, being no party to the suit—she had no *locus standi* in court; all which objections the Vice-Chancellor allowed, and directed the motion to stand over, that notice might be served on Mr. Shepherd, and to be amended by making it the motion of the infant plaintiff. The motion was amended as directed by the Court, and was amended in addition by asking that Mr. Shepherd might be ordered to give security for costs, which was not asked in the original motion. When the amended motion came on for hearing, *Wilcox* took objection that the Court had not ordered the motion to be amended by asking security for costs against Mr. Shepherd, and that therefore the amendment was irregular; the Court, however, overruled the objection, and directed the motion to proceed.

The VICE-CHANCELLOR.—This is an application to remove a next friend by an infant plaintiff. The ground of the application is not that this suit was improperly instituted, or that there was any misconduct in the next friend; but it was said there had been, and it appeared on the face of the proceedings, that delay had occurred in the prosecution of this suit. I considered there was no ground for charging that delay against the next friend, and I do not wish by any observations to appear to impeach the conduct of Mr. Shepherd in any way, but that the solicitor of the next friend is not a person who ought to have the conduct of this suit. The question before me is, whether it would be for the benefit of the infant to accede to this application, and whether that could be done in justice to the other parties. Upon the facts of the case I may state it, as the clear result of the evidence, that Elworthy was originally retained by the mother of the infant, and received the papers from her, and that he looked to her for the payment of his costs; and thus the original suit was instituted, and Mr. Carteret made next friend. Carteret died shortly after the institution of the suit; some time was then lost in fixing who should be next friend, for, after several meetings, no one was named. Mrs. Lauder then changed her residence, and withdrew her retainer from Mr. Elworthy, and asked for her bill of costs and papers. Mr. Elworthy excused himself for the delay in sending his bill, stating no harm would take place. Harm, however, did take place. Mrs. Lander appointed another solicitor; Mr. Elworthy continued to act as solicitor in the suit by making Mr. Shepherd next friend of the infant in the suit; Mrs. Lander applies for interviews with Mr. Shepherd, and is refused; and costs are by all these proceedings incurred. This is the evidence upon which the motion is founded. It may be looked at in two ways; first, that the application is proper to the extent that it shews Mr. Elworthy is not a proper person to have the conduct of this suit; and, second, that it is not for the benefit of the infant that the suit should be removed from the control of the infant's friends; and upon the more general principles I should come to the same conclusion, that, while the Court encourages suits on behalf of infants, it will not encourage them where, as in this case, a person retained by the family, makes this private arrangement for his benefit, in consequence of some pique to the mother. Great difficulty has been imposed by the conduct of the infant; I say the infant, but it must be considered the conduct of the mother during that time. Mr. Elworthy has become under THE liability of the other parties who have incurred costs by reason of his conduct: the effect of removing Mr. Elworthy would be to deprive the other parties of their security for costs. This conduct has arisen from the neglect which began in 1844; it is out of that the difficulty has arisen. Some limit should be given to the indulgence of infants where the rights of other parties are concerned. Shepherd has no interest; he can have no desire to act, provided he can be set right by the Court in respect of costs. Mr. Elworthy's costs must be paid up to this time: he can have no objection, upon the Court relieving him with a proper indemnity. It is right to say the delay in bringing on this motion unexplained. If Mr. Romilly's clients will give security for costs, and the other parties do not object, I shall make the order at once.

Ordered, that Mrs. Lander, as next friend of the infant, undertaking to pay the costs of the next friend within a fortnight after taxation, as between solicitor and client, refer it to the Master to name a next friend, Mr. Elworthy to pay the costs of this application, and the cost of the inquiry before the Master, reserving the question by whom the costs paid by Mr. Elworthy are to be paid; Mrs. Lander to pay the costs of getting the security for costs, because of the delay made in this proceeding, being upwards of fourteen months, altogether unexplained.

Saturday, June 28.

BROWN *v.* PRINGLE.

Petition—Practice—Affidavits.

A petition to the Court of Chancery, under a power of attorney from a party abroad, must be made in the name of the grantor.

This was a petition by an attorney, who acted under a power from a woman named Anne Jackson, the wife of Archibald Jackson, living at New York, in the United States of America, for an order to have a legacy paid to him for Anne Jackson, which was allowed to her under the decree of the Court in this suit.

Anne Jackson was entitled to the legacy in question under the will of a lady named Hart, who bequeathed it to her by the name of Anne Jackson, the wife of Wm. Jackson, of New York. Affidavits made at New York were read to prove that Anne Jackson, the wife of Archibald Jackson, was the person intended by the testatrix. These affidavits had not been filed in court.

The VICE-CHANCELLOR directed the petition to be amended, by making it the petition of Anne Jackson, and not the petition of her attorney, and the affidavits to be filed; and upon an undertaking being given to account, granted the prayer of the petition.

Common Law Courts.

COURT OF QUEEN'S BENCH.

Friday, June 27.

MERCER *v.* WALL.

Right to begin—Master and servant.

Wherever the plaintiff has any thing to prove, either to obtain a verdict or to ascertain the amount of damages, he has the right to begin, although in form the affirmative of the issues may be upon the defendant.

A knowledge of a servant's misconduct is not essential to justify his dismissal.

This was an action of covenant for a wrongful dismissal of the plaintiff by the defendant, an attorney, to whom he had been clerk. The defendant had pleaded a justification, setting out an alleged conspiracy with one Grattan, a professional rival, by unlawful means and devices to cause divers clients to leave the defendant and employ Grattan, and the acts alleged were numerous; such as improper production of deeds, and

improper behaviour in personating the defendant, &c. At the trial the defendant claimed to begin, but Lord Denman, C. J. held that the plaintiff was entitled to do so, and left it to the jury to say whether the misconduct proved was sufficient to justify the discharge, and said that it was necessary that the defendant should have known of the misconduct at the time of dismissal. A rule for a new trial had been obtained, against which

M. D. Hill, Q. C. and *Humfrey*, Q.C. now shewed cause.—The plaintiff had the right to begin; for the principle is, that if the plaintiff is called upon to give evidence to enable him to succeed in his action, there he must begin. The construction that would limit this to cases where the plaintiff must give evidence to obtain a verdict is too narrow. [Lord DENMAN, C. J.—Where substantial damages are sought, the plaintiff must begin.] Here success for nominal damages would be ruin. There is no case of a new trial being granted on account of a mistake as to the right to begin, unless the burden of proof has been thrown upon the wrong party. To the rule above laid down some have made exceptions, as in cases of personal injury and libel and slander. But in fact there are cases every way, and the presiding judge cannot be said to have broken any rule. [Lord DENMAN, C.J. —In *Solomon* v. *Lawson* there was no dispute as to the right of the plaintiff to begin.] The following cases were cited: *Burrell* v. *Nicholson* (6 C. & P. 202); *Curtis* v. *Wheeler* (1 M. & M. 493); *Wood* v. *Morewood* (not reported); *Cooper* v. *Wakley* (1 M. & M. 248); *Hoggett* v. *Oxley* (2 M. & R. 251); *Carter* v. *Jones* (1 M. & R. 281); *Bird* v. *Higginson* (2 A. & E. 160); *Stamford* v. *Paton* (1 Car. & K.) Then the opinion of the jury was properly taken, and the knowledge of the grounds of complaint was necessary. (*Cussons* v. *Skinner*, 11 M. & W.)

Whitehurst, Q.C., *Waddington*, and *Mellor*, in support of the rule.—The Court will interfere where the judge has made a mistake on the right to begin. Here the affirmative of the issue was upon the defendant, and that is the test of the right to begin, except where the rule laid down by the judge as to libel and slander applies. If the rule as laid down by Lord Denman is right, the plaintiff will begin in every case, for some damages must always be proved. The excepted cases are against principle, and prove what the law really was. The test is, against whom would the verdict be if no evidence was given on either side?—then that person must begin. The following cases were cited: *Cooper* v. *Wakley*, *Cottin* v. *James* (M. & M. 270); *Bird* v. *Higginson* (2 A. & E.); *Mills* v. *Barber* (1 M. & W.); *Lewis* v. *Barker* (4 A. & E.); *Poole* v. *Rogers* (2 M. & R.); *Wooton* v. *Barton* (1 M. & R. 518); *Reere* v. *Underhill* (6 C. & P. 773); *Pearson* v. *Coles* (1 M. & R. 406). As to the misdirection, the learned judge should have stated which of the charges would have sufficed to justify the dismissal. [PATTESON, J.—It is a charge of conspiracy, and the conspiracy must therefore be proved.] Conspiracy is only an agreement, and is not an essential part here. Then it was not necessary that the defendant should have known the facts. (*Ridgway* v. *Hungerford Market Company*, 3 A. & E.; *Morrish* v. *Murray*, 13 M. & W. 52.) *Cur. adv. vult.*

At the sittings after Trinity Term, Lord DENMAN, C. J. delivered judgment as follows:—

Lord DENMAN, C. J.—In the case of *Mercer* v. *Wall*, the first question was, whether the defendant or the plaintiff ought to begin. It was for a breach of covenant in turning away a clerk without sufficient cause. The question was, whether the defendant, by his plea, had alleged certain sufficient causes; that led to rather a general discussion. The natural course would seem to be, that the plaintiff should bring his own cause of complaint before the Court and the jury, in every case where he has any thing to prove, either which he thinks necessary to obtain a verdict, or for the amount of damages. The law, however, is supposed to be, that the defendant, by admitting on the record the statements there pleaded, which, if not proved, will defeat the plaintiff's cause of action, may entitle himself to open the proceedings at the trial, anticipating the plaintiff's statement, either for the purpose of answering and disparaging him and his ground of complaint, offering or not offering any proof of his own defensive allegations; and if he offer it, it is not the plaintiff's case as established, but that which he chooses to represent the plaintiff's case to be.

It appears to us highly expedient the plaintiff should begin, in order that the judge and jury, and the defendant himself, should know precisely how the claim is shaped; for this may convince the defendant the defence he has pleaded cannot be established, or, on hearing the extent of the demand made, it may induce him to consent to it. If this does not occur, the plaintiff brings forward his case, and points attention to the principal object of the trial, and enables the defendant to meet him with full understanding of the nature, and character, and object. If it were a presumption of law, or all experience proved that the plaintiff's evidence must always occupy many hours, and that the defendant's could not last more than as many minutes, some advantage would be secured by postponing the plaintiff's case to that of the defendant; but first, the directly contrary in both instances may be true; and, secondly, the time would only be saved by stopping the cause for the purpose of taking the verdict at the close of the defendant's proof, if the evidence was in favour of the defendant. This has never been done or suggested; if it was suggested, the jury would be likely to say, on most occasions, they could not form a satisfactory opinion on the facts of the defendant's proof in answer, until they had heard the grievance on which the plaintiff founds his action; and the temptation would be strong to a defendant, who knows that the case can be proved against him, to admit it in his plea in general terms, and offer something by way of general defence, which he knows to be untrue, for the mere purp[illegible] of beginning. Take one [illegible] two cases,—trespass, plea of leave and license. The plaintiff wishes to shew extensive damage to have bee[illegible] done to his property, for the purpose of p[illegible]ving a wilful injury; but the defendant a[illegible]firms, and must begin. It is obviously necessary for him to state some cause of action, and to shew that some supposed license applies to it: he brings evidence to prove a license; when the plaintiff's turn comes, he clearly shews the license set up could not apply to the trespass complained of, and the real trial now commences, and the whole time given to the defendant's statement in evidence in support of his affirmative has been thrown away. Suppose an action for criminal conversation—plea, that the plaintiff had deserted his wife. The defendant then is to begin, and possess the jury of the plea of cruelty and infidelity, and other injuries. He purchases his right only by admitting his adulterous intercourse. What good reason does such an admission supply for conferring any advantages upon him? He makes his attempt by calling some evidence; whether he fails or succeeds, cannot be known until the whole case is closed. Then the plaintiff brings forward his own complaint as to the extent of injury and the just amount of damages, with the disadvantege of first struggling against the heavy charge with which he is so loaded. Probably the defendant has no such defence; but his affirmative on the record gives him the right to introduce the plaintiff's case by stating his infamy without proof, and by proving every circumstance of mere disparagement and degradation short of the fact he has pleaded. It is not wonderful little authority should be found on this point; very few Nisi Prius cases were formerly reported. What was called the *right* to begin was rather a burden than a benefit: the general opinion prevailed that the course [illegible]lopted by the judges at Nisi Prius was not subject to revision in any other court. I for one can speak of my own impression, arising from an attendance at Nisi Prius as a barrister near thirty years, corresponding, as far as I have been able to observe, with the general opinion of the Bar during the whole of that time. It was never doubted, to my knowledge, that the plaintiff was privileged, and required to begin whensoever any thing was to be proved by him. The simple and easy application of this mode of practice would recommend it for adoption if the question were new, and would raise a great probability that the common sense of old times had sanctioned it as part of our system. It frequently occurred that, in an action of trespass and plea of justification under a right, the defendant claimed to begin: he said, "I admit the trespass, the burden of proving the defence rests upon me." The answer constantly given was, that the plaintiff had a right to begin, although you do admit the trespass, for then I go for substantial damages. I claim to disprove your right in the first place, if I think proper; at all events, to possess the jury of the extent of the mischief you have done me. On such an occasion the judge was in the habit of taking upon himself to decide whether the plaintiff really went for substantial damages; if he did, it was always assumed that he must begin, and the judge perhaps decided this matter without any adequate materials; but he would not have thought of so deciding if the right depended on the issue as it appeared on the record. We are well aware of the decision in *Cooper* v. *Wakley* in an action for a libel on a surgeon, charging want of skill in an operation; the defendant admitted the publication, but pleaded the truth of his charge, and contended that, as the said issue was affirmative, he had the right to begin by proof of it. Lord Tenterden doubted; after consulting two other judges who were then sitting in an adjoining court (Bayley and Littledale, JJ.) he decided in the defendant's favour. No three judges who ever sat together in Westminster Hall commanded more respect than those, yet the appeal may be made to all who were then practising at the bar, whether that decision was not universally felt to be wrong, both as against principle and as an innovation. Soon after the period when I was raised to the bench, this ruling became the subject of discussion among the judges; many of them attended to consider of it, and the following short resolution was drawn up and signed by those present, and afterwards adopted by Lord Lyndhurst, then chief baron, by Mr. Baron Bayley, Mr. Justice Taunton, and myself:—"In actions for libel, slander, and injuries to the person, the plaintiff should begin, although the affirmative issue is on the defendant." I possess this document, signed by the initials of the present Chief Justice of the Common Pleas, Sir John Bosanquet, the late Mr. Justice Park, Littledale, Justice, Bolland and Gurney, Barons. Among the judges who adhered to this retractation of the decision of *Cooper* v. *Wakley*, were the two I have named the cosessors to Lord Tenterden when that decision was made. His own opinion on the principle, I gather from what he said in *Cotton* v. *James*. If ever a decision was overruled on great deliberation, and by an undeviating practice afterwards, it is that in *Cooper* v. *Wakley*. An ingenious argument was used at the bar that this resolution did not declare the law as the judges understood it, but merely enacted a new practice, which they thought more convenient than the former. We cannot think this explanation admissible; the judges have never assumed the right of sacrificing the law to their sense of convenience. The balance of convenience might have some effect as an argument to shew how the rule of practice was bad; but their duty was limited to a declaration of the rule, which they never would have promulgated if they had not believed it to be the law. The rule and practice were decided as confined to the case then under consideration, wisely avoiding any matters not then before them; contented with the correction of what they thought a grievous mistake, they excluded from their consideration every other point, and left the practice upon actions of contract in its former state. How, then, did the practice stand, taking it to be now established as to those which have just been described, in ca[illegible]s of *tort*? The first question seems to be why any difference should exist between the two classes. There is the same general reason, the propriety of first understanding from the plaintiff the nature of his complaint, and his estimate of damage sustained; there is often exactly the same question to be tried in *assumpsit* or covenant as in libel, slander, or injuries to the person. Suppose an action for breach of promise to marry; plea, the defendant broke his promise because the plaintiff was guilty of fornication; can any reason be assigned for allowing the defendant to begin in that case rather than when he pleaded the same facts as a justification in libel [illegible] slander? The very case now before us raises t[illegible] very same question;—plea, the clerk was guilty of misconduct in the service. On what principle can it be right for the defendant to begin, if the same plea was pleaded for a justification for libel and slander, and to follow the defendant when the very same facts are made the excuse for a breach of covenant? Suppose a plea that the contract was rescinded to an action for a breach of marriage promise; according to the present argument, the proof of the rescission must precede the proof of the contract, and the record, in dryly stating such a rescission, gives no information as to the real understanding between the parties. There was probably a correspondence; the letters which the defendant selects as rescinding may appear to have that effect when presented alone, but the contrary taken with reference to those with which, combined with the contract, the verdict itself must be inferred. In ejectment, the defendant may entitle himself to begin by admitting the plaintiff must recover possession which alone is sought, unless the defendants can establish a certain fact in answer; and so in an action for damages, if the damages are ascertained, the plaintiff must recover the amount, and no more, unless the defendant proves what he has alleged in pleading. Here is no difficulty against the defendant proceeding at once to establish the fact; but if the extent of damage is not ascertained, the plaintiff is the person to ascertain it, and his doing so will have the good effect of making the defence in a vast majority of cases much more easily understood by all who are interested with the decision of it. For these reasons we are of opinion that the plaintiff was entitled to begin on the present occasion, and it is plain that the defendant has suffered no disadvantage from the course pursued; the plaintiff, in going forth to meet the charge of misconduct, called the witness on whom the defendant must have relied, whom he then had the advantage of cross-examining to prove his own case. A second objection was, that the judge held the plea not to be proved, because the conspiracy to injure the defendant was not proved; upon that subject the opinion of the jury was taken upon a general statement that the proof of conspiracy was insufficient, upon which I believe the jury agreed with the judge, and no particular point was made of leaving it to the jury more in detail. Now there is some little difference in the Court up[illegible]n that subject, because some of us are of opinion that that alone ought to have induced the judge to say that the plea was altogether unproved; however, the course taken was, that I submitted to the jury the question whether the charges were of a sufficient magnitude, if they were proved, to justify the defendant in dismissing the plaintiff; those of my learned brothers who think the plea ought to have been stated to have been unproved altogether, if the conspiracy was unproved, of course think that the plea ought to have been stated as unproved, though on different grounds from what were taken at the trial. Then there was also a question, whether it

was not wrong to tell the jury that it was necessary to shew that the defendant was aware of the offences laid to the plaintiff's charge, and for that reason dismissed him. The case of *Ridgway* v. *The Hungerford Market Company* was quoted; there is no doubt about that case, that it is not necessary that the defendant should be aware of the offences, and should prove at the trial he knew of them; because, if any offence could be proved to have occurred before, which would warrant him in dismissing the plaintiff, and which shewed the plaintiff had no right to continue in his service, the plea would be well proved on proof of the facts themselves, without proof of knowledge; but here the very description of the offences was, that they were known to the defendant, and that he acted upon them; so that the plaintiff would be materially misled if he were to enter into any other set of charges; on the contrary, he must confine his attention, under such a plea, to those that are described to have been brought to the defendant's knowledge. Upon the whole, we do not believe there has been any thing wrong, and the rule for a new trial must be discharged. *Rule discharged.*

Saturday, June 28.

COOPER *v.* HARDING and ANOTHER.

Application being made to a District Court of Bankruptcy under 6 *Geo.* 4, *c.* 16, *s.* 33, *for a warrant to apprehend a party who had failed to attend in obedience to a summons previously served, an affidavit was read on the part of the person summoned, stating that his expenses had not been tendered to him; upon which the commissioner told the applicants, the solicitors to the fiat, that if, under those circumstances, they took the warrant, they must take it at their peril, to which they replied that they would take it upon their own responsibility. The commissioner then signed the warrant, which was executed by the messenger. Held, that the signing of the warrant was nevertheless a judicial act in the commissioner, that the applicants had not made the act their own, and were therefore not liable in trespass.*

Semble, that the words, "any person suspected of having of the estate of the bankrupt in his possession, in the 33*rd and* 35*th clauses of* 6 *Geo.* 4, *c.* 16, *do not mean suspected by the commissioners, and therefore an averment in a plea that the plaintiff was suspected by the commissioner was held immaterial.*

Trespass, for false imprisonment.

Pleas, by the defendants severally.—1st. Not guilty. 2nd. A special plea of justification, setting out proceedings in bankruptcy against John Jones and John Boon, before the passing of the stat. 7 & 8 Vict.; and the transfer of those proceedings into the Birmingham District Court of Bankruptcy after the passing of the said Act; and stating that after the adjudication upon the said fiat, as thereinbefore mentioned, and after the removal into the said district court, to wit, on, &c. the plaintiff was a person suspected of having some of the estate of the said bankrupts in his possession, and was capable of giving information concerning the trade, dealings, and estate of the said bankrupts, according to the true intent and meaning of the statute in such case made and provided; and thereupon, &c. Edmund Robert Daniell, esq. then and still being a commissioner of the said Court of Bankruptcy, duly appointed and authorized, &c. suspecting the plaintiff of having some of the estate of the said bankrupts in his possession, and believing the plaintiff to be capable of giving such information as aforesaid, did by a certain summons, bearing date, &c. summon the said plaintiff personally to be and appear before a commission acting in the prosecution of the said fiat, on a certain day, &c. at, &c. then and there to be examined, by virtue of the said fiat and of the said statutes, &c.; which said summons was personally served upon the plaintiff a reasonable time before that appointed therein; then alleging the attendance of the commissioner for the purpose of examining the plaintiff; yet, that the plaintiff having no lawful impediment whatever, did not appear &c.; whereupon defendant, Wm. Harding, as solicitor to the fiat, and to one Thomas Wood, an assignee under the fiat [said in the plea by the other defendant, "Geo. Smith, as agent for one Wm. Harding, &c."], did apply to the said commissioner to issue a warrant, under his hand and seal, to apprehend the plaintiff and bring him before the said commissioner to be examined, &c.; and thereupon the said commissioner then being duly authorized, &c. then, to wit, on, &c. by his certain warrant, given under his hand and seal, and bearing date, &c. and directed to Francis Order Badham, messenger to the said fiat, and to his assistants, and which said warrant was duly made according to the form of the statute, &c. after reciting the issuing of the fiat, the authority of the commissioner, the summons, proof on oath of the service thereof, the attendance of the commissioner, and the non-appearance of the plaintiff, having lawful impediment made known to or allowed by the said commissioner, did thereby will, require, and authorize the said messenger and his assistants, &c. immediately upon the receipt thereof, to arrest the said plaintiff by his body, and bring him before a commissioner acting, &c., on, &c., in order to his the said plaintiff's being examined as aforesaid, which said warrant afterwards, &c., was duly delivered to the said messenger, to be by him executed in due form of law. *Virtute cujus, &c.*

Replication, protesting the issuing of the fiat against Jones and Boon, the adjudication, the transfer into the Birmingham District Court, the authority of E. R. Daniell, Esq. as commissioner, and the issuing of the summons and warrant by him, and *de injuriâ absque residuo causæ*.

At the trial before Lord Denman, at the Warwick Spring Assizes, 1844, it appeared that, on the 31st of October, 1843, a request was preferred to the Birmingham Court of Bankruptcy on behalf of the defendant Harding, for a summons, requiring the attendance of the plaintiff as a person capable of giving information concerning the estate of the bankrupts, that request being contained in a printed form, always used in that court for such applications; but it having been before stated that the plaintiff was suspected of having property of the bankrupts in his possession, that Mr. Commissioner Daniell thereupon issued a summons, which was served upon the plaintiff; that at the time of th the plaintiff claimed to have his expenses tendered to him then, and, upon a refusal to comply with that demand, stated that he should not attend in obedience to the summons. That, upon the return of the summons, both the defendants appeared in the Bankruptcy Court at Birmingham, and were both present and consulting together, when the defendant Smith applied for a warrant to apprehend the plaintiff and bring him before the Court. A solicitor named John Smith then read to the commissioner an affidavit, setting forth the ground of the plaintiff's non-attendance; but declined to appear for him, as that might waive his right to object to the proceedings. That the commissioner then asked the defendants if they had heard the affidavit read, and said to them, "If you take the warrant, you take it at your own peril." That defendant Smith, after consultation with the other defendant, said, "We will take the warrant on our own responsibility." That the warrant was afterwards drawn up by an attorney, who was instructed for that purpose by the defendants, and signed by the com that it was left on the table before the commissioner, and Badham, the messenger, directed by the same person to take and execute it. Under that warrant the plaintiff was taken and brought before Mr. Commissioner Balguy, who immediately discharged him, as being not a person suspected of having the bankrupt's property in his possession, but a witness, and entitled to have his expenses tendered on the service of the summons. The summons and warrant were put in, and neither of them contained any statement that the plaintiff was a person suspected, &c.; nor did the warrant allege any tender of expenses when the summons was served. On the part of the defendants it was submitted, first, that case, and not trespass, was the proper form of action; and, secondly, that the special plea was proved. The learned Judge left it to the jury say whether the plaintiff was suspected of ing some of the bankrupt's property in his posse n either by the commissioner or the defendants; l the jury found that he was so suspected by the defendants, but not by the commissioner; and accordingly they gave a verdict for the plaintiff, damages 25*l.*; but the learned Judge reserved leave to move to enter a nonsuit, or a verdict for the defendants on the special plea.

M. D. Hill, Q. C. *Clarke*, Serjt. and *Bittleston*, now shewed cause.—First, it is impossible that the verdict can be entered for the defendants, for the jury have found that their plea is not proved; and, therefore, if they mean to say that all that is necessary and material to their case is admitted by the replication then their rule should have been for judgment *non obstante veredicto*. But, secondly, trespass the proper form of action. This is not a mere application to a Court having jurisdiction over the subject-matter, as in *Carratt* v. *Morley* (1 Q. B. 18); but that degree of "officious interference" which, in *Green* v. *Elgie* (5 Q. B. 99) was held to render an attorney a trespasser. That case was very similar in its circumstances to the present, and is a strong authority for the plaintiff. *Bryant* v. *Clutton* (1 Mee. & W. 408), and *West* v. *Smallwood* (3 Mee. & W. 418), also support the same ..... The imprisonment of the plaintiff was the natural and necessary consequence of the defendant's conduct; and although it was the commissioner who signed the warrant, it is impossible to say, under the circumstances of this case, that in so doing he performed a judicial act, which will protect these defendants. They con ted to take the warrant at their peril; and they cannot therefore claim the protection of a judicial authority, which as to that case was disclaimed by the commissioner himself. They were the actors in the transaction, not the commissioner. *Raphael* v. *Verelst* (Sir W. Black. 1055). The third point turns upon the construction of the Bankrupt Act (6 G. 4, c. 16), the thirty-third section of which enacts that, after adjudication, "it shall be lawful for the commissioners, by writing under their hands, to summon before them any person known or suspected to have any of the estate of the bankrupt in his possession, or who is supposed to be indebted to the bankrupt, or any person whom the commissioner believes capable of giving information concerning the person, trade, dealings, or estate of such bankrupt, &c. and if such person so summoned as aforesaid shall not come before the commissioners at the time appointed, having no lawful impediment made known to the said commissioners at the time of their meeting and allowed by them, it shall be lawful for the said commissioners, by warrant under their hands and seals, to authorize and direct the person or persons therein named for that purpose to apprehend and arrest such person and bring him before them to be examined as aforesaid." The 35th clause enacts, "That where any person known or suspected to have any of the estate of the bankrupt in his possession, or who is supposed to be indebted to the bankrupt, shall be summoned to attend before the said commissioners, every such person shall have such costs and charges as the said commissioners shall in their discretion think fit; and every witness summoned to attend before the commissioners shall have his necessary expenses tendered to him in like manner, as is now by law required, upon service of a *subpœna* in an action at law." It is clear, from these clauses, that the legislature intended that a different course should be taken with regard to persons suspected of having bankrupts' property in their possession, from that which was to be pursued in regard to persons summoned as witnesses only. Now upon these pleadings every material fact not protested is put in issue (*Lucas* v. *Knockells*, 10 Bing. 156; *Carnaby* v. *Webb*, 1 P. & D. 98); and the defendants are not entitled to a verdict upon that plea unless all the necessary steps in the bankruptcy (as the act of bankruptcy, and the petitioning creditors' debt), the suspicion of the commissioner that the plaintiff had some of the bankrupt's property in his possession, and the absence of a lawful excuse for his disobedience of the summons, have been proved. The argument on the other side will be, that the averment that the commissioner suspected, &c. is wholly immaterial; but that can hardly be so, since the commissioner is the person who ought to decide upon the issuing of the warrant, and before he issues it, he ought to be satisfied at all events that there is some reasonable ground for the suspicion. It is impossible that the Legislature could have intended that all persons were to be treated as suspected, who were merely stated to be so by the applicant for a warrant. The averment, therefore, is material, and has been found expressly for the plaintiff. Further, the plaintiff had a lawful excuse for his non-attendance; the summons served upon him required his attendance to be examined only; he therefore was in a situation to require a tender of his expenses; that was a condition precedent to his obligation to pay the summons, and he could not be deprived of that right by the circumstance, of which he knew nothing, that the parties who had applied for the summons suspected him of having the bankrupt's property in his possession. That being so, the plaintiff had a lawful excuse; he was not bound to obey the summons; and there was no jurisdiction to issue the warrant against him. Upon the whole, therefore, the rule ought to be discharged.

Whitehurst, Q. C. and *Hayes*, for the defendant Smith; and *Humfrey*, Q.C. and *Waddington*, for defendant Harding, contrà.—First, the rule is properly framed; the defendants could not move in arrest of judgment, or for judgment *non obstante veredicto*, because their plea is a good plea, and, as they contend, is completely proved. The proper application, therefore, is, that the verdict should be entered for them on that plea. As to the second point, it has been established ever since the *Marshalsea* case (10 Co. Rep. 76a), that the parties who merely put in motion a court having jurisdiction over the subject-matter, are not trespassers, though the proceedings should be *inverso ordine*, or erroneous. That is the case here; that the commissioner had jurisdiction over the subject-matter, cannot be disputed; and the proceedings of which the plaintiff complains were, at most, only erroneous. The act of the commissioners in signing the warrant was a judicial act, and is a complete protection to the defendants. *Green* v. *Elgie* is quite distinguishable; for there the Court considered that after the issuing of the warrant, the defendants had been guilty of officious interference in its execution; but in the present case the execution of the warrant was left entirely to the messengers of the Court, the defendants not interfering at all after the warrant was issued. The commissioner could not divest himself of his judicial authority; nor could the degree of pressure used by the defendants affect the character of the Act. [WILLIAMS, J.—The judges frequently say, when pressed to grant a rule, "you must take it at the peril of having it discharged with costs."] Certainly; and their saying so does not make the granting of the rule less a judicial act. If the defendants were actuated by malice in what they did, they would be liable to an action on the

case; but they are not in any legal sense trespassers, and the rule for a nonsuit must be made absolute. As to the special plea, we contend that the suspicion of the commissioner was wholly immaterial, and that every thing else must be taken as found; but that even if material, the granting of the warrant was conclusive evidence of it. It is essential that the form of the summons should be the same in all cases; otherwise the very object of the statute would be defeated, by giving the suspected person notice of the suspicions which were entertained. Then the plea alleges that the plaintiff had no lawful excuse allowed by the commissioners, and that is distinctly proved; it is to be taken as found that the commissioner disallowed the excuse. Then the warrant is set out, and it is a good warrant upon the face of it; for it is not necessary to aver a tender of expenses, or that the plaintiff was a suspected person; it is sufficient to shew that he had no lawful excuse for his disobedience allowed by the commissioner. [They were then stopped by the Court.]

Lord DENMAN, C. J.—If I may venture to say so, the defendants have not rested their case on sufficiently high ground; for my decision proceeds upon this—that the act of the commissioners was a judicial act of the mind; it was the judgment of a competent court, founded upon certain grounds which, whether rightly or wrongly, influenced its decision; but stress is laid upon the language used by the commissioner, "You must take the warrant on your own responsibility," and the defendant's acquiescence; I do not think that that makes any difference; suppose, as might well be, that any gentlemen of great weight at the bar were to press upon us observations which should lead to an incorrect decision, can it be supposed that it would be less the judgment of the Court on that account? It is quite clear that a judge cannot relieve himself from the responsibility of deciding if he has jurisdiction; and therefore, if he has jurisdiction, it is a protection to him and to all who put him in motion, as well as to those whose duty it is to obey his order. In this case I am satisfied that the defendants did not make the act their own, and therefore they are entitled to have a verdict of Not Guilty upon the general issue. It is therefore unnecessary to enter upon the question as to the plaintiff's being a suspected person; but it appears to me that the averment of the commissioner's suspicion is wholly immaterial. The intention of the act is clear, that if the commissioner finds that suspicions are entertained, then he may issue his warrant to bring the party before him.

WILLIAMS and COLERIDGE, JJ. concurred.

Rule absolute.

Thursday, July 3.

(Before DENMAN, C. J., PATTESON, J., WILLIAMS, J., and COLERIDGE, J.)

DOE *dem.* EDNEY *v.* BRUHAM.

DOE *dem.* EDNEY *v.* BILLET.

Ejectment—Limitation of Title—" Rent."

These two cases, with one exception, to which it is not now necessary to refer, arose out of the same state of facts.

Each case was an action of ejectment against the defendant, who for many years had occupied a part of a parish-house belonging to the churchwardens of a parish, upon the condition that such defendant should assist in sweeping and cleaning the parish-church, and the action was brought to recover possession of such tenement. The defence set up upon the trial was founded upon the Limitation of Title Act (3 & 4 Wm. 4, c. 27), and the question now before the Court was, whether that statute applied to a possession founded upon such a service as that by which the defendants in these two actions held. That question turned upon the words of the 1st section of the Act, by which it is provided that "the word 'rent' shall extend to all heriots and to all *services* and suits for which a distress may be made." Upon these words arose the point, whether a distress would lie for the particular service above mentioned.

A rule for a nonsuit having been obtained,

Butt now shewed cause in both cases, *Barstow* in support of the rule. *Cur. adv. vult.*

BATE *v.* BLOOD AND ANOTHER, Executors of PRUDENCE MORRIS.

New trial Verdict against evidence.

Assumpsit on a promissory note for 500*l.* in the name of Robins.

Plea.—That the defendant did not make the note, upon which issue joined, tried before Mr. Justice Coleridge at Stafford, when a verdict was found for the plaintiff. A rule having been obtained upon affidavits to set that verdict aside, and for a new trial, on the ground that the verdict was against evidence.

Talfourd, Serjt. to-day shewed cause. The question turned simply upon the point whether the deceased Mrs. Morris had given to her daughter authority to make the note in question, upon which it was now sought to fix a liability on her executors.

Alexander and *V. Lee* were not called upon to support the rule.

DENMAN, C.J.—There must be a new trial in this case, and the costs must abide the event of the second trial. *Rule absolute.*

Friday, July 4.

BILTON *v.* LORD GRANVILLE.

New trial—Negligent and improper working of mines —Verdict against evidence.

Case against the defendant (lessee under the Crown) for improperly and negligently working mines at Newcastle-under-Lyme, in the county of Stafford, near to the messuage, &c. of the plaintiff, whereby the said messuage and premises, the foundations of which were enjoyed by and of right belonged to the plaintiff, were undermined and damaged, &c.

Pleas.—1. Not guilty. 2. That the plaintiff did not enjoy, &c. the foundations, &c.; and several pleas setting up the custom of working mines in this county, in accordance with the manner in which the defendant's mines had been worked. On the two first pleas issue was joined, and traverse to the pleas as to the custom of the district.

This case arose out of some proceedings in Chancery, and had been directed by the Lord Chancellor to be tried, in order to decide the question whether the mines were properly worked in accordance with the custom of working mines in the county of Stafford. Under the direction of the Lord Chancellor, an admission was made by the defendant that his agent worked the mines "near" the house of the plaintiff, and that the damage suffered arose from such working. The case was tried at Stafford, before Tindal, C.J. The plaintiff's counsel, having addressed the jury, called two witnesses, who proved the damage done to the plaintiff's property, and that that damage had gradually increased, the [mine] had been worked nearer and nearer to the house. Sir *T. Wilde*, on the part of the defendant, then (at two in the afternoon) requested the judge to adjourn the trial until the succeeding day, on the ground that the witnesses to prove the custom of the county were not ready. On the following morning, however, Sir *T. Wilde* declined to call any witnesses. He addressed the jury, and in his address submitted to the learned judge, that he must direct the jury to find a verdict for the defendant on the first issue, the plaintiff's evidence having been insufficient to support the allegation of negligent and improper working. The learned Chief Justice, in summing up, told the jury, that as to the custom they must find a verdict for the plaintiff, but the general issue, whether the damage arose from the improper and negligent working, he left to the jury, expressing, at the same time, a strong opinion that the plaintiff's evidence was insufficient to support it, and that the verdict must be for the defendant. The jury, however, who had had a view of the premises, found a verdict for the plaintiff on that issue. During the course of the trial, a question arose as to the construction of the admission made by the defendant in the Court of Chancery. The Lord Chief Justice held that it did not admit any negligent or improper working of the mine.

Sir *T. Wilde* subsequently obtained a rule to shew cause why the verdict found for the plaintiff should not be set aside, and a new trial had, on the ground of misdirection, or that the verdict was against evidence.

Kelly, Q. C., *Godson*, Q. C., *Stammers*, and *J. W. Smith* now shewed cause.—There clearly was no misdirection on the part of the Chief Justice. His summing up had been altogether in favour of the defendant. If it were said that there was no evidence of negligent working, and that the plaintiff should have been nonsuited, the defendant's [counsel] had not asked for a nonsuit. He had asked his lordship to adjourn the court on the first day of the trial, and on the next morning had proceeded to address the jury. This shewed that, in his opinion, there was some evidence to go to the jury, and the weight of that evidence it was the province of the jury to estimate. The jury had had a view of the premises, and the old authorities shewed that a view itself was evidence for the jury. (*Bushell's* case, Vaughan's R. 147; 3 Bl. Com. 228.) This jury, selected out of a mining county, was familiar with the proper working of mines, and they had found that the mines in the present case had been improperly worked. A question, too, would arise as to the improper working, upon the defendant's admission. With great deference to the Chief Justice of the Common Pleas, it was submitted that the admission did admit and was intended to admit the negligence, &c. If not, it was an injury, instead of an advantage, to the plaintiff's cause, for it prevented an inspection of the mine by witnesses who could have proved the improper manner in which it had been worked. But, looking to the legal aspect of this case, was it necessary either to allege in the declaration, or to prove on the trial, wilful negligence? Would not the law presume negligence in a working of mines which placed in ruins the superincumbent houses, unless such a working were founded upon and justified by a peculiar custom? The action would lie in this case if the terms "negligently and improperly" had been struck out of the declaration. The cause of action consisted of the damage done to the plaintiff's property, not in the negligent working of the defendant's own mine, which he was entitled to work negligently or in whatever way he pleased, if he did no injury to his neighbours. If this view were correct, the insufficiency of the plaintiff's evidence on the trial—if it were insufficient—to support the negligent working of the mine would afford no ground for a new trial; and in support of this view the authorities were numerous and conclusive. (*Wyatt* v. *Harrison*, 3 B. & Ad. 876; *Dodd* v. *Holme*, 1 Ad. & E. 493; *Partridge* v. *Scott*, 3 M. & W. 220; *Stansell* v. *Jollard*, 1 Sel. N. P. 10th ed. 435; *Trowerd* v. *Chadwick*, 3 B. N. C. 334; in error, 6 B. N. C. 1; and a Nisi Prius case not reported, *Mansfield* v. *Gressel*, tried at Guildhall at the sittings after last Term, per Coltman, J.) That the allegation in this, as in all actions of *tort*, was severable, would scarcely be disputed; but the cases on the point were all collected in the 1st vol. of Starkie on Evidence, 442, 3rd ed. If the Court, however, were of opinion that the rule must be made absolute, it must be upon payment of costs.

Sir *T. Wilde*, *Talfourd*, Serjt. and *Ellis* submitted that the rule must be made absolute, and they hoped, under the circumstances of this case, without the payment of costs. They supported the rule upon one of two grounds; either that the Chief Justice of the Common Pleas had in his summing up stated that which clearly amounted to an intimation that the jury should find a verdict for the defendant, and in that case that the verdict was perverse; or that he had not given such an intimation, and then, that the omission so to do amounted to a misdirection. The parties had gone down to try the question of negligent working, and to that question they were now restricted. Upon the negligent working the plaintiff's counsel had insisted in his very strong address to the jury. Upon that point the learned judge had summed up, and the jury had given their verdict. The Court therefore would now say whether that verdict should stand, and would not be led away to another question which had not been raised at the trial. They were not now called upon to argue the effect of the declaration. They were bound by the view with which the case had been tried. They, however, submitted that proof of positive negligence was necessary for the maintenance of this action. In all the cases mentioned on the other side, the houses or property had existed antecedently to the working of the mine; but here, the mine in question had had been worked long before the plaintiff's house had been in existence. Undoubtedly, a man was bound so to use his own property as not to interfere with the rights of his neighbour, and the defendant here was bound so to work his mine as not to interfere with the due enjoyment of the owners of the houses whose rights had been vested prior to the commencement of his operations. But was a man bound so to work his mine that the surface of the land should be capable of bearing any weight which the proprietors of the surface chose to put upon it? Was the owner of a mine compellable by law to be for ever altering his mode of working and managing his own property to suit the convenience and interests of those who possessed the super-jacent soil? or was he to be deprived of the profits derivable from its proper working in order that additional profits might flow into the pockets of his neighbours? For such a proposition no principle of law and no authority could be quoted, and it was opposed to reason and to public policy. (They referred to the cases conveniently collected in the 2nd vol. of Williams's Saunders, last ed. p. 400.) The evidence, then, necessary to support the plaintiff's case failed him upon the trial. It surely could not be meant that a view by the jury was of itself sufficient evidence. [PATTESON, J. If there was no evidence to go to the jury, why did you not ask for a nonsuit?] The defendant's counsel was unwilling to leave unanswered the strong and exaggerated address of the counsel on the other side. It had produced a deep impression in the county, and it was most desirable to remove a belief that the noble defendant, who was a lessee under the Crown, had in his working of these mines been utterly indifferent to the lives of the inhabitants, and to the existence of churches, hospitals, and every other sort of property. [DENMAN, C. J.—Why did you not try the question of custom which you had raised on the pleadings?] Because the case on the trial had been treated as a case of negligent working; and no custom could justify gross and wilful negligence.

DENMAN, C. J.—We all think, under the circumstances of the case, that the verdict is an unsatisfactory one, and that a new trial must be had; but as the defendant did not ask for a nonsuit, and did not attempt to establish the custom which he himself had placed upon the record, we make the rule absolute upon the payment of costs.

Rule absolute upon payment of costs.

BUSINESS OF THE WEEK.

COLLIER *v.* CLARKE.—*Welsby* shewed cause against a rule obtained by *Jervis*, Q.C. why the verdict on the 1st and 3rd issues in this case should not be entered for the defendant. *V. Williams* supported the rule. *Cur. adv. vult.*

REG. *v.* THE LIVERPOOL AND MANCHESTER RAILWAY COMPANY.—This cause was called, but

J. S. Wortley intimated that there was a probability of an arrangement between the parties. Denman, C. J. recommended the adoption of that course, and the case was ordered to stand over.

COURT OF COMMON PLEAS.

Wednesday, July 2.

ALLPORT v. NUTT.

A lottery, by which a number of persons subscribe towards a common fund to be received by the subscriber who shall be the drawer of the name of a horse which shall happen to be the winner of a particular race about to be run, is an illegal lottery within the meaning of the Lottery Acts 10 & 11 *Wm.* 3, *c.* 17, *and* 42 *Geo.* 3, *c.* 119.

Held also, that such illegality should be specially pleaded.

Debt for money had and received, and on an account stated.

Pleas—1st, Never indebted, except as to 1*l.* parcel, &c.; 2nd, as to the sum of 99*l.* parcel of the moneys in the first count, and as to the sum of 99*l.* parcel of moneys in last count, the same sums being other and different parcels from the aforesaid sum of 1*l.* parcel, &c. in the first plea mentioned, and therein excepted, that heretofore, and before the having or receiving by defendant of the said sum of money in the said first count mentioned, and before the said statement of the said account and making of the promise in the declaration mentioned, a certain race, to wit, a horse-race, called the Derby Stakes, in which divers, to wit, 155 horses were proposed to run, was about, to wit, on 22nd of May, 1844, to be run, to wit, upon a certain course, called Epsom Downs, in the county of Surrey; and that heretofore, and before the having or receiving by defendant of the said sum of money in the first count mentioned, or any part thereof, and before the said statement of the said account, and before the making of the said promise in the said declaration mentioned, to wit, &c. a certain illegal game called a lottery, not authorized by law or Act of Parliament, was, contrary to the form of the statutes in such case made and provided, by defendant set up, kept open, and exposed to be played and drawn at by lot, at and in a certain public house and inn, called or known by the name or sign of the George and Gate, situate and being in the city of London, under and subject to the following, amongst other terms, rules, and regulations; that is to say, that the adventurers and subscribers in and to the said game might consist of as many as, but not of more than, 155 members; that each of those adventurers and subscribers should contribute and pay the sum of 1*l.* for his playing in the said game and the chance of his drawing a prize therein; that the said contributions and payments should be made to defendant, who should be the treasurer; that before the running of the said race, the name of each one of the horses entered for the running thereof should be put on a several and separate card, making together 155 cards; and that all of those cards should afterwards, and before the running of the said race, be placed in a box, and be mixed up together therein in one general mass, and that the name of each one of the said several persons respectively who had become adventurers in and subscribers to said game, should be put on a several and separate card, making together 155 cards, and that all of those cards should also, before the running of the said race, be placed in another box, and mixed up together therein in one general mass, and that before the running of the said race, two disinterested persons should draw the said cards out of the said boxes in the following manner; that is to say, that one of those two persons should openly and as chance should direct, first draw out of the said box containing the cards with the names of the said horses so put thereon, one of those cards, and that the said other of the said two disinterested persons should openly and as chance should direct then draw out of the said other box, containing the cards with the names of the said adventurers and subscribers put thereon, one of those cards, and that the said two disinterested persons should continue drawing in that manner alternately, openly and as chance should direct, out of the said boxes, the whole of the said cards, and that the person whose name was on the card drawn out of said box containing the cards with the names of the said adventurers, immediately succeeding the drawing of the card out of the said box containing the said cards with the names of the said horses so put thereon as aforesaid, on which card was put the name of the horse that on the running of the said race should be placed as the winner thereof by the person who should be the judge of the said race, be entitled to receive from and be paid by the defendant the prize or sum of 100*l.* out of the moneys so to be subscribed, and deposited with, and paid to the defendant as treasurer as aforesaid, contrary to the form of the statutes in such case made and provided. And further, that the said illegal game having been so set up, kept open, and exposed to be played and drawn at in manner aforesaid, the plaintiff and divers, to wit, 154 other persons afterwards, to wit, on, &c. and in divers other days and times afterwards, and before the drawing the said game as hereinafter mentioned, according to the said terms, rules, and regulations, became and were respectively adventurers in and subscribers to the said game, to the amount of the said sum of 1*l.* each. And they then, as such adventurers and subscribers, contributed and paid the said sum of 1*l.* each; and the amount of the said sums so contributed and paid by them as aforesaid came altogether to the sum of 155*l.* and the same were, in pursuance of the said terms, rules, and regulations, on the said days and times, paid to and received by defendant, as such treasurer as aforesaid; and further, that afterwards, and before the running of the said race, to wit, on, &c. in pursuance of the said terms, rules, and regulations, and in furtherance of the said illegal game, the name of each one of the horses entered for the running of the said race was put on a several and separate card, making together 155 cards, and all of those cards were then placed in a box and mixed up together therein in one general mass, and the name of the plaintiff, and of each one of the said several other persons who had become adventurers in and subscribers to the said game, was then also put on a several and separate card, making together 155 cards, and that all of those cards were then placed in another box, and mixed up together therein in one general mass; and further, that, in pursuance of the said terms, rules, and regulations, and in furtherance of the said illegal game, afterwards, and before the running of the said race, to wit, on the day and year last aforesaid, two disinterested persons, whose names are to the defendant unknown, then respectively drew the said cards respectively out of the said boxes in the manner and form, and according to the terms, rules, and regulations aforesaid; that is to say, one of those persons then openly, and as chance directed, first drew out of the said box containing the cards with the names of the said horses so put thereon as aforesaid one of those cards; and the other of the said two persons then openly and as chance directed drew out of the said other box, containing the cards with the names of the plaintiff and the said other adventurers in and subscribers to the said game put thereon, one of those cards, and the said two disinterested persons then continued drawing in that manner alternately, openly and as chance directed, out of the said boxes the whole of the said cards; and on that occasion one of the said two disinterested persons then drew openly and as chance directed out of the said box, containing the said cards, with the names of the said horses thereon, according to the said terms, rules, and regulations, a card with the name of a horse thereon, to wit, a horse called Running Rein, which had been and was proposed and entered to run, and was about to run the said race, and then immediately succeeding such drawing the said other disinterested person drew out of the said box containing the cards with the names of the plaintiff and the said other adventurers in and subscribers to the said game, according to the said terms, rules, and regulations, a card with the name of the plaintiff thereon, contrary to the form of the statutes in such case made and provided; and the defendant further saith, that afterwards and before the commencement of this suit, to wit, on, &c. the aforesaid race was run, and the said horse called Running Rein, whose name was put on the said card so drawn as aforesaid, was, in the running of the said race, placed by one Mr. Clark, the person who was the judge of the said race, as the winner thereof, whereby the plaintiff, according to the said terms, rules, and regulations of the said illegal game, became and was entitled to receive from and be paid by the defendant the said sum of 100*l.* out of the moneys so subscribed and deposited with and paid to the defendant as aforesaid; and the defendant further saith, that the said sum of 99*l.* parcel of the moneys in the said first count of said declaration mentioned, and to which this plea is pleaded, was and is parcel of the same identical sum of 100*l.* to which the plaintiff became and was entitled under the terms, rules, and regulations of the said game, to receive from and be paid by the defendant as aforesaid out of the moneys so subscribed and deposited with and paid to the defendant as aforesaid, and not any other or different sum of money; and that the same consists wholly and exclusively of portions of the contributions and moneys so subscribed and paid to and received by the defendant as aforesaid from the said adventurers in and subscribers to the said game other than the plaintiff; and that the said sum of 99*l.* so being such parcel as aforesaid, was received and always held by defendant as such treasurer as aforesaid, and due to the plaintiff, and to which he was entitled as aforesaid, and in manner in this plea mentioned, and not otherwise howsoever; and that the said account in the said last count mentioned to have been stated by and between the plaintiff and the defendant, so far as the same relates to said sum of 99*l.* parcel as aforesaid, and to which this plea is pleaded, was stated by and between the plaintiff and defendant of and concerning the said sum of 99*l.* so received and held by defendant as such treasurer aforesaid in manner aforesaid, and not for or concerning or in respect of any other moneys or any other account whatsoever.—*Verification.*

Thirdly,—As to the sum of 1*l.* parcel, &c. payment of that sum into court.

Demurrer to the second plea, assigning for causes of demurrer that the method of determining the right of the said plaintiff to the moneys as to which the second plea is pleaded, as the same is stated, set forth, and described in the said second plea, was not an illegal game or a lottery not authorized by law, but was in fact a mode of betting by each of the so-called adventurers or subscribers in the said second plea mentioned to a small and legal amount or stake in that behalf upon the horse-race therein mentioned, being a lawful horse-race; and also that the said second plea amounts to the general issue.

The case was argued in Easter Term last by *Byles*, Serjt. for the plaintiff, and *Channell*, Serjt. for the defendant, but the arguments so fully appear in the judgment of the Court that it would be superfluous to state them here. It is only necessary to refer to the following statutes and cases which were cited: 16 Car. 2, c. 7; 9 Anne, c. 14; 10 & 11 Wm. 3, c. 17; 8 Geo. 1, c. 2, s. 36; 12 Geo. 2, c. 28; 18 Geo. 2, c. 34; and 42 Geo. 3, c. 119; *Applegarth* v. *Colley* (10 M. & W. 723); *Shillito* v. *Teed* (7 Bing. 405); and *Bentick* v. *Connop* (13 Law J. N.S. Q.B. 125).

Cur. adv. vult.

JUDGMENT.

Tindal, C. J. now delivered the judgment of the Court.—This was an action for money had and received. The plea states that a race was about to be run, and an illegal game called a lottery, not authorized, but disallowed by Act of Parliament, was set up by the defendant for single subscribers of 1*l.* each, to be paid to the defendant under regulations which amounted in substance to this; that the subscriber whose name should be drawn out of a box after the name of a horse was drawn out of another box, if such horse should be placed first in the race, should be entitled to receive from the defendant 100*l.* The plea alleges that the subscriptions were paid by the plaintiff and others to the defendant, and that the plaintiff, under the regulations, became entitled to the sum demanded. To this plea there was a demurrer, and in support thereof, it was contended before us, on the part of the plaintiff, that the statutes for the suppression of lotteries were to be restricted in their construction, to lotteries of the same description with those mentioned in the respective preambles thereto, at least to lotteries in which an unfair advantage was taken, and that they do not render illegal the lottery in question, which it appears was perfectly fair. We are of opinion, however, that those statutes are not to be so restricted, but that, on the contrary, effect is to be given to the clear words and general prohibitions contained in them, and that the lottery in question is illegal. The 10 & 11 Wm. 3, c. 17, recites the mischiefs from certain lotteries under colour of certain patents or grants under the great seal, and it enacts, not only that all such lotteries, but also that *all other lotteries*, are nuisances, and imposes a penalty on all persons who shall draw at any lottery. The 42 Geo. 3, c. 119, recites the mischiefs from certain lotteries called "little-goes," and enacts that any person who shall keep any place to keep open any lottery called a "little-go," *or any other lottery* whatsoever, not authorized by Parliament, shall forfeit 500*l.* We think it would be in contravention of the express words and clear intention of these statutes if we held the lottery in question can be excepted from the operation of these very general words. It was also contended that the plaintiff's cause of action was not derived from a lottery, but was more properly in the nature of a bet to lay a sum under 10*l.* on a particular race, and on that ground was to be considered a lawful wager. We are of opinion, however, that this ground cannot be sustained, both because it appears in the plea that the plaintiff's cause of action depends entirely on the lottery, and also because, even admitting the cause of action to arise from a bet, without the lottery, the plaintiff could not by law recover the sum in question. As we shall have occasion to consider this precise question more fully in the case of *Thorpe* v. *Coleman*, in which we purpose to give judgment this day, it will be unnecessary to enlarge on it at present. The plea, therefore, as it appears to us, shews that the cause of action was illegal by statute, and consequently, under the new rules, the special plea was necessary, and cannot be held to amount to the general issue. The defendant, therefore, is entitled to the judgment in his favour.

Judgment for defendant.

THORPE v. COLEMAN.

A bet of 10*l. upon a horse-race is illegal, and the payment thereof cannot be enforced by action.*

Assumpsit.—The first count of the declaration stated that at the time of the making of the agreement and promise of the defendant thereinafter next mentioned, a certain race called the Derby, for certain sweepstakes amounting to a large sum of money, to wit the sum of 4,000*l.* was intended and about to be run over a certain course called the Derby Course, at a certain place, to wit at Epsom, and it was then expected that a certain horse called Orlando, and a certain

other horse called Campunero, and also certain other horses, would run the said race over the said course for the said stakes; and thereupon heretofore, to wit, on, &c. it was agreed by and between the plaintiff and the defendant that if the said horse called Orlando, in running the said race, should beat the said horse called Campunero and the said other horses which should run the said race over the said course for the said stake, and should win the said race, he, the defendant, should pay the plaintiff the sum of 10*l.*; but that if the said horse called Campunero, in running the said race, should beat the said horse called Orlando and the said other horses which should run the said race over the said course for the said stake, and should win the said race, he, the plaintiff, should pay to the defendant the sum of 10*l.* Averment of mutual promises, and that afterwards, to wit, on, &c. the race for the said stakes was run by and between the said horse called Campunero and the said horse called Orlando and divers, to wit, 20 other horses, over the said course; and that, in running the said race, the said horse called Orlando did beat the said horse called Campunero and the said other horses so running as aforesaid, and did win the said race, whereof the said defendant then had notice, and was then requested by the plaintiff to pay him the said sum of 10*l.*

Breach—The non-payment of the said sum of 10*l.* or any part thereof to the plaintiff.

There was also a count on an account stated.

The defendant pleaded secondly, as to first count, that certain two persons, to wit, Jonathan Peel and Sir Gilbert Heathcote, and certain other persons whose names are to the defendant unknown, before and at the time of the making of the agreement and promise in the first count mentioned, to wit, on, &c. were playing at a certain game called horse-racing, and respectively intending and about to cause the said horses in the first count mentioned to run the said horse-race in the said first count mentioned, in and about the said playing and as part of the said game, in manner following; that is to say, by the said Jonathan Peel causing the said horse called Orlando, and a certain other horse so to run, and by the said Sir Gilbert Heathcote causing the said horse called Campunero so to run, and by the said persons whose names are to the defendant unknown respectively, each of them causing one of the remaining horses in the first count mentioned so to run. That the said intention of the said persons then caused the said expectation in the first count mentioned, of all which premises respectively the plaintiff and the defendant respectively, before and at the time of the making of the agreement in the first count mentioned, had notice; that the agreement in the first count mentioned was made, as therein is mentioned, after the 1st day of May, A.D. 1711, to wit, on the day and year in the first count mentioned, and was an agreement whereby the plaintiff and the defendant betted the sum of 10*l.* to the sum of 10*l.* being the said sums of 10*l.* and 10*l.* in the first count mentioned, on the sides of the said Jonathan Peel, so far as he was about and intended to cause the said horse called Orlando so to run as aforesaid; and of the said Sir Gilbert Heathcote, that is to say, on their sides, in the said game, he, the plaintiff, by the said agreement so then betting as aforesaid on the side of the said Jonathan Peel in respect of the said horse called Orlando, so by him, the said Jonathan Peel, intended to be caused to run, and he, the defendant, thereby so then betting on the side of the said Sir Gilbert Heathcote in respect of the said horse called Campunero. That he, the defendant, then, after the 1st day of May, 1711, to wit, on, &c. at one and the same time, by so as aforesaid betting on the side of the said Sir Gilbert Heathcote, so as aforesaid then playing at the said game, lost to the plaintiff the said sum of 10*l.* so by him, the defendant, bet as aforesaid, and which is the said sum of 10*l.* so in the first count alleged not to have been paid by him, the defendant, against the form of the statute in such case made and provided. *Verification.*

To this plea there was a general demurrer.

Byles, Serjt. (Sir *J. Bayley* with him), in support of the demurrer.—The question is, whether a bet for the sum of 10*l.* on a legal horse-race is a legal bet. It is submitted that it is. The question turns on the construction to be put on the statute of 9 Anne, c. 14. The first section of that Act is considered in *Applegarth* v. *Colley* (10 M. & W. 723) to make void not merely the securities, but also the contracts themselves, and reliance is there placed on the effect of the statute 5 & 6 W. 4, c. 41; but it is submitted that that last statute makes no alteration as to the construction formerly put on the first section of the statute of Anne, and that construction did not make the contract void. As to this he cited *Robinson* v. *Bland* (1 W. Black. 260); *Barjeau* v. *Walmsley* (2 Stra. 1249); and *M'Kinnell* v. *Robinson* (3 M. & W. 434). The 5th section only applies to deceitful gaming, and gaming for more than 10*l.* (*Daintree* v. *Hutchinson*, 10 M. & W. 85.) The opinion of Patteson, J. in giving evidence, on the 4th March, 1844, before the House of Commons, was cited, to shew that a bet is illegal only when above 10*l.* The second section is not now in force; it has been suspended by the stat. 7 & 8 Vict. c. 3, & 7 & 8 Vict. c. 58. Besides, the second section does not avoid the contract, as appears from the opinion of Heath, J. in a case mentioned in Mr. Evans's note, quoted in Chitty's Statutes, 422. (*Carman* v. *Bryce*, 3 B. & A. 179.) The objection, too, to the plaintiff's suing, on the ground of its introducing a circuity of action, does not apply, as this action is only for damages for breach of a contract, and is not for recovery of a debt.

Channell, Serjt. contrà.—The case of *Applegarth* v. *Colley* was determined after consideration, and is an express authority that the first section of the statute of Anne makes the contract itself void; a bet, therefore, for any amount would be illegal. If the first section does not make the contract void, then it is submitted the second section applies, and that that section has not been repealed. No case has decided that a bet of or even under 10*l.* is legal, and although the action is for damages, yet if the consideration is illegal by the statute, the plaintiff ought not to recover, and it would give rise to a circuity of action, which should be avoided. It was also contended that the present fell within stat. 18 Geo. 2, c. 31, s. 8.

Byles, Serjt. replied, citing, on stat. of Anne, sec. 2, *Smith* v. *Bond* (11 M. & W. 549). *Cur. adv. vult.*

JUDGMENT.

TINDAL, C. J. now delivered the judgment of the Court.—This was an action brought for the purpose of recovering the sum of 10*l.* won by betting on a legal horse-race; the pleadings were properly framed, and raise the question whether such a bet is recoverable in a court of law. In the course of the argument much discussion arose respecting the case of *Applegarth* v. *Colley* (10 M. & W. 723), in which it was stated that all contracts for payment of money won at play, however small the amount, were void, by virtue of the statute 9 Anne, c. 14. We do not mean to express any opinion, or to intimate any doubt in reference to that case, but we do not think it necessary for the decision of the present case that we should enter into a discussion of the law there laid down as applicable to bets under 10*l.* the action in the present case being brought for the sum of 10*l.* and so falling wholly within the 2nd section of the statute 9 Anne, c. 14; and, looking to the pr[illegible]f that section, we are of opinion that the present act[illegible]nnot be maintained. By that section it is provided in substance that any person who shall at any time, by betting on the sides of such as do play at any of the games aforesaid (amongst which horse-racing is held to be included), lose to any person so playing or betting the sum or value of 10*l.* and shall pay or deliver the same or any part thereof, the person so losing and paying or delivering shall be at liberty within three months then next to sue for and recover the money so lost and paid or delivered, or any part thereof, from the winner thereof; and it is further provided, that if the person so losing shall not sue for the money or other thing lost and paid or delivered within the time aforesaid, it shall be lawful for any person to sue for and recover a sum treble the value thereof, one moiety to his own use and the other moiety to the use of the poor of the parish. Now it appears to us to follow from that provision, if the party losing shall be entitled to recover back the money which he paid voluntarily that no action can be maintained against him for refusing to pay it; it is clearly the intention of the Act that the loser shall not ultimately lose, and the winner ultimately win the money, if the loser choose to enforce the rights given him by the Act. It cannot be supposed that any thing so unreasonable should be intended, as that the loser, in order to avail himself of the benefit of the Act, should first pay the money and then recover it back; it is much more reasonable to hold that the intention of the Act was that he should not be compelled to pay his share and that no action should lie to compel him to do so. The law, which is said to "abhor circuity of action," is not so absurd as to allow the winner to maintain an action to recover the money which he may immediately afterwards be compelled to refund in an action brought against him. It was, indeed, contended by my brother Byles, that the argument against circuity of action did not properly apply, for that the plaintiff had brought the action, not for the purpose of recovering the money he had won, but to recover damages against the defendant for a breach of his agreement to pay the money. This argument appears to us to savour rather too much of subtlety, and cannot avail here, for the only substantial question in the case is, whether the plaintiff is entitled to the money. The question of damages is dependent altogether on the right to the money itself, and if the defendant is not bound to perform his contract, no action can lie against him to recover damages for not performing it. My brother Byles further cited the case decided by Heath, J. as being in favour of his client. The case is to be found in the note in page 422 of Chitty's edition of the Statutes, and is thus reported: "*Trover* for a mare lost upon a gaming contract (the action being commenced after three months): it was ruled the plaintiff was not entitled to recover, on account of the general invalidity of the contract, and by Heath, J. there is no substantive clause in the Act which avoids the contract, it only renders it liable to be defeated *sub modo*, for which purpose the plaintiff must bring an action in a limited time." That case, however, is quite distinguishable from the present. The question there appears to have been whether a person who had voluntarily paid a bet could bring an action to recover it back after the expiration of three months; the question here is, whether he can be compelled to pay it; and my decision in the present case is, therefore, by no means at variance with the decision of Heath, J. A further argument was urged, arising out of the statute 7 & 8 Vict. c. 3, and also c. 58. It was contended that the action given by the second section of 9 Anne, c. 14, to the loser to recover back the money lost, is an action to recover a pecuniary forfeiture or penalty, within the meaning of the statutes 7 & 8 Vict. c. 3, & c. 58, and that by the operation of those statutes, the right the loser has to sue for it is suspended, and that consequently that right could not be set up by way of answer to the plaintiff's claim to maintain his present action. By the former of the two Acts referred to it is enacted, that it shall be lawful for any person against whom any writ shall have been sued out at the suit of any common informer, or any person other than the actual loser, for the recovery of any forfeiture or pecuniary penalty incurred under the provisions of the Acts there specified, amongst which is the statute 9 Anne, c. 14, by play at any of the games in the schedule mentioned, or by betting on the sides of such as did play, to apply to the Court or a judge for an order to stay proceedings for three months, and until the end of the then sessions of Parliament, which order the Court or judge was required to make. By the latter Act, after citing the former, and that it was expedient that all the proceedings which were stayed or suspended, or authorized to be so by the operation of the former Act, should be stayed or suspended for a further period, and that no proceedings of a like nature should be commenced or proceeded with during such further period, it is enacted that all actions that shall have been brought for the recovery of any forfeiture or pecuniary penalty incurred, or supposed to have been incurred, under the provisions of the several Acts recited in the said recited Acts, for playing or betting on the sides of such as do play thereat, whether any order of any court or judge shall have been made therein or not, shall be and the same are thereby stayed and suspended until the end of the then next session of Parliament, and that no action, suit, or other proceeding shall be brought for the purpose of recovering any forfeiture or any pecuniary penalty incurred, or supposed to be incurred under the provisions of the several Acts for playing and betting on the side of such as do play thereat previously to the end of the then next session of Parliament. It is clear the statute 6 & 7 Vict. c. 3, has not the effect of suspending the right of the loser of the bet to recover back the amount paid, there being an express exception of such person; and considering that the two Acts are made *in pari materiâ*, and that the preamble of the Act 7 & 8 Vict. c. 58, refers only to proceedings which might have been stayed under the operation of chap. 3, and to other proceedings of a like nature, we think that the 7 & 8 Vict. c. 58, was not intended to suspend the right to sue except for the recovery of any pecuniary penalty or forfeiture of a like nature with those, the recovery whereof was stayed by the 3rd chapter of the statute, namely, penalties to be recovered from persons other than the losers. But even if this were doubtful, and even though it should be held that the particular remedy given by the Act of Anne is temporarily suspended by the effect of the Act 7 & 8 Vict. c. 58, it will not follow that it will have the effect of giving to the winner of the bet a right of action which he did not before possess. The Act is a temporary Act passed for the purposes of obviating a particular inconvenience, and sufficient effect is given to this provision by holding it to apply to those matters which are directly and in terms applicable, without giving it entirely the effect of altering the existing state of the law, a matter which the framers of the Act did not appear to have at all in their contemplation. We think, therefore, for the grounds above stated, that there should be *Judgment for the defendant.*

EXCHEQUER CHAMBER.

KING *v.* THE QUEEN.

An indictment for a conspiracy to defraud certain liege subjects, being tradesmen, of their goods, was held bad, for not particularizing the persons intended to be defrauded.

This was an indictment preferred by William Ayscough Wilkinson and Charles Wilkinson, Frank Braithwaite and William Jones, John White and Charles White, and Charles Town and Emanuel Emanuel, against William Henry King, Emily Ann Birch, widow, Ann Dorcas Phillips, and Augusta Ann Birch, charging them that they did unlawfully combine, conspire, confederate, and agree together *to cheat and defraud certain liege subjects of our lady the Queen, being tradesmen*, of divers large quantities of their goods and chattels; and that the said Emily Ann Birch did, in pursuance of the said conspiracy,

fraudulently order and obtain, upon credit, from William Ayscough Wilkinson and Charles Wilkinson, upholsterers, in the city of London, divers goods and chattels of the value of 500*l.* belonging to the said William A. Wilkinson and Charles Wilkinson; from Frank Braithwaite and William Jones, silversmiths, of Westminster, divers goods and chattels of the value of 600*l.* belonging to the said Frank Braithwaite and William from John White and Charles White, wine merchants, of London aforesaid, divers goods and chattels of the value of 500*l.* belonging to the said John White and Charles White; from Charles Town and Emanuel Emanuel, silversmiths, of Westminster aforesaid, divers goods and chattels of the value of 500*l.* belonging to the said C. Town and E. Emanuel; and from divers other tradesmen, whose names are to the jurors unknown, divers other goods and chattels of the value of 2,000*l.* belonging to such tradesmen respectively; and that the said E. A. Birch did, in further pursuance of the said conspiracy, and in order that the said goods and chattels might be taken in execution and sold as hereafter mentioned, order and direct that the said goods and chattels, so fraudulently obtained on credit as aforesaid, should be delivered by the said several tradesmen respectively, at the house of the said E. A. Birch, in Bedford-place, Russell square; and that the said goods and chattels were so delivered accordingly; and that no payment, remuneration, or satisfaction for the said goods and chattels was at the time of such delivery, or at any other time, made by or on behalf of the said E. A. Birch, W. H. King, A. D. Phillips, and A. A. Birch, or any of them, to the said several tradesmen before mentioned, or whose names as aforesaid are to the jurors unknown, or to any of them, or to any other person authorized by them, or any of them, to receive the same; and that, in further pursuance of the said conspiracy, and in order that the said goods and chattels might be taken in execution and sold as hereafter mentioned, the said E. A. Birch did allow and procure the said goods and chattels, so delivered as aforesaid, to continue and be in her said house, until they were taken in execution as hereafter mentioned; and that the said E. A. Birch, W. H. King, and A. D. Phillips, in further pursuance of the said conspiracy, did falsely and fraudulently pretend that certain debts were due and owing from the said E. A. Birch to the said W. H. King and A. D. Phillips respectively, viz. a fictitious debt of 2,145*l.* 11*s.* 6*d.* to the said W. H. King, and a fictitious debt of 511*l.* 16*s.* to the said A. D. Phillips: and that the said W. H. King and A. D. Phillips, in further pursuance of the said conspiracy, and in order to obtain payment of such false and fictitious debts, did commence and cause to be commenced respectively, by collusion with the said E. A. Birch, separate actions at law against the said E. A. Birch, in the Court of Queen's Bench at Westminster, and in the Court of Common Pleas at Westminster; and that afterwards judgments were collusively signed and caused to be signed by the said W. H. King and A. D. Phillips respectively, in each of the said actions for want of a plea; and certain writs of *fi. fa.* were collusively sued out and caused to be sued out by the said W. H. King and A. D. Phillips, upon the respective judgments so obtained by collusion as aforesaid; by virtue of which writs the said goods and chattels, so fraudulently obtained as aforesaid from the said several tradesmen before mentioned, and the said several tradesmen whose names as aforesaid are to the jurors unknown, were, before the expiration of the said respective times of credit, taken in execution and sold in due course of law, in order to satisfy the fictitious debts falsely and fraudulently alleged to be due and owing from the said E. A. Birch to the said W. H. King and A. D. Philips respectively. The jury found the defendants guilty of the conspiracy to defraud, as alleged in the first count, and on that count alone the judgment was entered up against the defendants. The indictment contained thirty-three counts, varying the statement of the case; but as the judgment was then entered up only on the first, it is unnecessary to refer to them.

Pashley now contended that the first count in the indictment was bad, and that the judgment entered thereon must be reversed.(*a*) The overt acts set out are consistent with innocence, legal and moral. The count avers neither want of intention to pay, nor of present ability to do so; nor that the parties alleged to be defrauded were not actually paid. The indictment was sustained below by the authority of *Rex* v. *Gill* (2 B. & Ald. 204); but that case went to the extreme verge of the law. Besides, there the individual alleged to be defrauded was named in the indictment, and Holroyd, J. relied expressly on that point in his judgment. That circumstance distinguishes the case from the present. Holroyd, J. says—"Here it is stated that the parties did conspire, and that the object was to obtain, by false pretences, money from a *particular person*." No doubt a conspiracy to get goods fraudulently from particular persons would be good. (*The Poulterers'* case, 9 Co.) But they must be expressly named in the indictment, unless the very nature of the case prevents it, as in *Rex* v. *De Berenger* (3 M. & S. 67), which was a conspiracy by false rumours to raise the price of the public government funds *on a particular day*, with intent to injure the subjects who should purchase on that day; and there certainly it was held unnecessary to specify the persons who purchased or the persons intended to be injured. [ALDERSON, B.—There it was impossible to name them, as they were not known at the time of the conspiracy. POLLOCK, C.B.—In the State Trials indictments are frequent where crowds of persons are alleged to have been intimidated; but there the persons could not be known, and consequently could not be named.] Those cases are perfectly reconcilable with the argument here, that when they *can be* named, they should be. Lord Ellenborough said, in *Rex* v. *De Berenger*, "The defendants could not, except by a spirit of prophecy, divine who would be the purchasers on a subsequent day." In *Reg.* v. *O'Connell* (11 Clark & F. 155—234), an allegation that the defendant endeavoured, *by intimidation*, to effect a seditious conspiracy, was held not sufficient. In the present case the uncertainty of the charge is greater. It may be against tradesmen of any part of England. [POLLOCK, C. B.—Such a conspiracy is *possible*.] No doubt; and it would be a good charge if so stated. [PARKE, B.—Either the name should be given or there should be some reason assigned why it cannot be given.] Cases of *necessity* are of course an exception to the rule. They are stated 1 Starkie Criminal Pleading, 188. [ALDERSON.—A person at the Old Bailey refused to give his name, and was indicted as *a person now present who refuses to give his name*, &c.] In *Reg.* v. *Parker* (3 Q. B. Rep. 292), an indictment charged that defendants conspired, by false pretences, to obtain from persons named divers goods and merchandize, and to cheat and defraud them of the said goods, &c.; and, in pursuance of the said conspiracy, did, by false pretences, which are stated, obtain from them the goods, &c. and did cheat, &c. to the damage of the persons named: held bad, for not stating *whose* the goods, &c. were. Lord Denman said, "Although weighty doubts may be stated as to the propriety of requiring particularity in matters which do not affect the question of moral offence, yet it has always been held that the goods must be described as *belonging to some party*, or that some other description must be given of them, since otherwise the prosecutor might *make an indefinite statement*, and *lie in wait* for whatever might *come out in evidence*." The acts here alleged to have been done in pursuance of the conspiracy are all innocent. The phrases "of corruption," &c. merely shew the prosecutor's notion. Lord Ellenborough, in *Rex* v. *Turner* (13 Car. 231), said, "I should be sorry that the cases of conspiracy against individuals, which have gone far enough, should be pushed still further;" and in *Reg.* v. *Kenrick* (5 Q. B. Rep. 49), it was held that *Rex* v. *Gill* was not to be extended. In *Rex* v. *Fowle* (1 C. & P. 592), it was held by Lord Tenterden that an indictment to "cheat the just and lawful creditors of F." ought to have stated *who* was to be defrauded. 2nd. The judgment is bad, because it is *in futuro*. It is to commence from the time of the *person being taken*. On this point the Court thought the 11 Geo. 4 & 1 Wm. 4, c. 70, s. 9, conclusive that judgment might be so given in the defendant's absence.

Cleasby, contrà, said, the difficulty of proving conspiracies as laid had given rise to the generality of allegation. The acts were secret. [MAULE, J.—Not necessarily. Sometimes conspiracies are exclusively in public.] The first part of the count charges the intent to have been to defraud tradesmen. All that follows has relation to that defrauding. It was a general confederacy, not against any particular persons or confined to any place. No doubt, when a charge is made of defrauding a particular person, he must be named, or stated to be unknown. All the cases have turned, not on whether a conspiracy can be charged for defrauding generally, but on whether, *when* you have a specific person, you ought to name him. [MAULE, J.—Suppose it was alleged to be to cheat a subject of the Queen. Ought you not to name him? Must it *not* be *intended* that he *could be* named? The question is, is the crime stated with sufficient particularity?] *Rex* v. *Spragg* (2 Burr. 993) quite bears out this indictment. [CRESSWELL, J.—Suppose evidence had been given of a conspiracy to defraud A and B; would that have sustained this indictment?] The case of *Reg.* v. *O'Connell* turned on the word *intimidation* not being a technical word. Here the latter part explains the former; and *Reg.* v. *Peck* (9 Ad. & Ell. 686) is an express authority that the person to be defrauded need not be named. *Cur. adv. vult.*

JUDGMENT.

June 14. TINDAL, C. J. delivered the judgment of the Court of Error.—In this case, the learned counsel for the plaintiff in error relied mainly on two objections; first, that the judgment of the learned judge, pronounced at Nisi Prius under the provisions of the 11 Geo. 4 & 1 Wm. 4. c. 70, s. 9, was erroneous, inasmuch as it was entered on the *postea* in language which the law does not recognize as proper for that purpose, and he cited the case of *Rex* v. *Kenworthy* (1 B. & C. 711), and the several authorities therein referred to. The form used in the *postea* is that the judge pronounced judgment, and did order and adjudge, &c.; and we do not think it necessary to decide whether, when judgment is pronounced under the Act of Parliament above referred to, the usual and appropriate language in which judgment is given by the Court, namely, that it is considered, &c. must be made use of or not. Perhaps it may be better that the established words of art and form should not be omitted on all future occasions. The second and more important objection was, that the indictment in itself was bad, and we are all, upon consideration, of the opinion that this objection must prevail. Mr. Pashley, for the plaintiff in error, argued that this indictment was bad because it contained a defective statement of the crime of conspiracy, and we agree that it is so defective. The charge is, that the defendants below conspired to cheat and defraud divers liege subjects, being tradesmen, of their goods, &c.; the objection is, that these persons should have been designated by their Christian and surnames, or an excuse made, such as, that their names are to the jurors unknown; because this allegation imports the intention of the conspirators was to cheat certain definite individuals, and if the conspiracy was to cheat indefinite individuals, as, for instance, those whom they should afterwards deal with, or fix upon, they ought to have been described in appropriate terms, shewing that the objects of the conspiracy were at the time of entering into it unascertained, as was in fact done in the case of *Rex* v. *De Berenger* (3 M. & S. 67), and *Reg.* v. *Peek* (9 A. & E. 683). It was argued, if on the trial of this indictment it had been proved that the intention was not to cheat certain definite individuals, but such as the conspirators should afterwards trade with or select, they would have been entitled to an acquittal; and we all agree in this view of the case, and think that the reasons given against the validity of this part of the indictment are correct. It was then urged by the learned counsel for the Crown, that, supposing these objections to be well founded, this defect in the allegation of the conspiracy was cured by referring to the whole indictment, particularly that part stating the overt acts, as well as that stating the conspiracy. The case of *Rex* v. *Spragg* (2 Burr. 993) was cited as an authority that the whole ought to be taken together. The point decided in that case appears to us to have been merely this;—that in an indictment for a conspiracy, although the conspiracy be insufficiently charged, yet if the rest of the indictment contains a good charge of misdemeanor, the indictment is good. And Lord Mansfield distinguished between the allegation of an executed conspiracy to prefer an indictment, as to the sufficiency of which he gives no opinion, and that of the actually preferring an indictment maliciously and without probable cause, which he calls a complete conspiracy actually carried into execution; and this we hold to be clearly sufficient; and no doubt it was so, for, rejecting the statement of the unexecuted conspiracy, the indictment undoubtedly contains a complete description of the common law misdemeanor. But if we examine the allegations in these indictments, there is no sufficient description of any act done after the conspiracy which amounts to a misdemeanor at common law. None of the overt acts are shewn by proper averments to be indictable in themselves. The obtaining goods, for instance, from certain named individuals on credit, without any averment of the use of false tokens, is not an indictable misdemeanor; and if it is said, because it is averred, to have been done in pursuance of the conspiracy before mentioned, it must be taken to be equivalent to an averment that the conspiracy was to cheat the named individuals of their goods; the answer is, first, that it does not necessarily follow that, because the goods were obtained in pursuance of a conspiracy to cheat some persons, the conspiracy was to cheat the persons from whom the goods were obtained; they might have been obtained from A in the execution of an ulterior purpose to cheat B of the goods. And, secondly, another answer is, that if that averment is to be taken as equivalent to an averment that the goods were taken from the named individuals in pursuance of an illegal conspiracy to cheat and defraud those named individuals of their goods; it would still be defective, as not containing a direct and positive averment that the defendant did conspire to cheat and defraud those persons, which an indictment for a conspiracy, when that conspiracy itself is a crime, ought certainly to contain; the averment describing the offence ought to be direct and positive. The other allegations of what are termed overt acts are open to the same objection; in none of them is there a complete description of a common law misdemeanor, independent of the conspiracy; the allegation of the conspiracy is insufficient, and not direct and positive. For these reasons we are of opinion that the indictment is defective, and the judgment of the Court of Queen's Bench must be reversed.

(*a*) See the case below, 13 L. J

ON ERROR FROM THE COURT OF QUEEN'S BENCH.

(Before TINDAL, C.J. PARKE, ALDERSON, ROLFE, and PLATT, BB. COLTMAN, MAULE, and CRESSWELL, JJ.)

SOARES v. GLYN.

(Argued June 13; determined July 3, 1845.)

The government of Don Miguel in June 1833 negotiated a loan with Messrs. Outrequin and Jauge in Paris, who transmitted the amount to the government by bills of exchange. Some of those bills were bills accepted by the defendants, and they were specially indorsed by Messrs. O. and J. in June 1833 to Monsieur the treasurer-general of the royal treasury of Portugal. The treasurer-general at that time was M. Conto, who remained in that office till the 9th August, 1833, having been dismissed by a decree of the government of Don Pedro, dated the 7th. Don Pedro expelled Don Miguel from the government of Portugal on the 24th July. The bills were indorsed to the plaintiff by M. Couto on the 7th of August. Held, that it was erroneously left by the Lord Chief Justice to the jury to consider whether, by the indorsement of Messrs. O. and J. they intended to apply it to the person then holding the office of treasurer-general to Don Miguel, and to no other person, and that if it was intended to apply only to the government of Don Miguel, the plaintiff could not recover; as at the time of both indorsements Couto was treasurer, and no evidence of the intention of Messrs. O. and J. was receivable to qualify the terms of their indorsement.

This case arose on a bill of exceptions to the direction of Lord Denman at Guildhall, in February 1843.

The action was in *assumpsit* by Manuel Joaquim Soares against Sir A. C. Glyn, Charles Mills, and G. C. Glyn, and the declaration stated that the Baron d'Este, on the 4th of June, 1833, in foreign parts, to wit, at Paris, made his bill of exchange, directed to the defendants, and required them, ninety days after date, to pay to the order of Messrs. Outrequin and Jauge 650*l.* and the defendants accepted the said bill, and the said Messrs. O. and J. indorsed the said bill to Monsieur the treasurer-general of the royal treasury of Portugal, and the said treasurer-general, *i. e.* one Joaquim Fernandes Couto, then being the treasurer-general aforesaid, indorsed the said bill to the plaintiff, but the defendants did not pay the bill when due. There were several other counts on other bills to the same effect. There were several pleas: 1st, That the said Messrs. O. and J. did not indorse the said bills to Monsieur the treasurer-general of the royal treasury of Portugal, as alleged; 2nd, That the said treasurer-general did not indorse to the plaintiff; 3rd, That the treasurer-general of the royal treasury of Portugal mentioned in the several counts of the declaration is one and the same person; and that the said treasurer-general by whom the indorsements are respectively alleged to have been made to the *plaintiff at the time when he so indorsed, was not such treasurer-general as was designated and intended by the said indorsement of Messrs. O. and J.*, but was another and different functionary, and the agent and minister of another and different and adverse and hostile government, and had no title or authority to indorse the said bills or any of them. The fourth plea, to the 1st, 2nd, 3rd, and 4th counts, stated that when the said bills were indorsed by the said Messrs. O. and J. and for some time afterwards, *Don Miguel was de facto king of Portugal*, and by himself and his ministers carried on the government thereof; and all ministers and functionaries in the administration were appointed by and accountable to him; and that before such indorsements by Messrs. O. and J. and whilst he was such king, the said Don Miguel had occasion to raise a loan of money for the exigencies of his government, upon the security of certain scrip or bonds issued under the authority of the said Don Miguel and his government, they engaging to pay to the holders the sums mentioned therein and interest half-yearly; and that the said Messrs. O. and J. being bankers at Paris, entered into an agreement with the said Don Miguel and his government for negotiating such loan on account of the said Don Miguel and his government, and for remitting the same when raised to the treasurer of the royal treasury of Portugal, appointed by and acting under the authority of the said Don Miguel and his government, to be applied by such treasurer to and for the use and service of the said Don Miguel and his government; and that afterwards, and before the said indorsements of Messrs. O. and J. and whilst the said Don Miguel was such king, to wit on the 1st March, 1833, for the purpose of raising such loan, certain scrip or bonds were issued by and under the authority of the said Don Miguel and his government, whereby the said Don Miguel and his government became bound for the repayment of the several sums of money mentioned in such bonds or scrip respectively to the holders thereof, with interest thereon, half-yearly, which scrip or bonds were then delivered to Messrs. O. and J. as agents of the said Don Miguel and his government, for the purposes and under the agreement aforesaid; and Messrs. O. and J. thereupon became bound to transmit to the treasurer of the royal treasury of Portugal the amount of the said loan when and as the same should be received upon the said scrip or bonds, and otherwise to apply the same according to the directions of the Portuguese government, meaning the government of Portugal as then constituted and existing. And that afterwards, and while the said Don Miguel was such king, Messrs. O. and J. in pursuance of the said agreement, themselves subscribed and advanced, and procured to be subscribed and advanced by divers other persons, considerable sums of money, for the use of Don Miguel and his government, upon the security of the said scrip or bonds, which sums of money amounted in the whole to more than the amount of the bills of exchange mentioned in the declaration; Messrs. O. and J. retaining for themselves, and delivering to the other subscribers to the loan as security, certain of the said scrip or bonds, according to the amount of the several advances. And that on the 4th June, 1833, Messrs. O. and J. purchased and procured to be drawn, payable to them, or their order, among others, the said bills of exchange, for the purpose of remitting the same on account of the said loan to the said Don Miguel and his government; and in order to enable Don Miguel and his government to receive payment of the said bills of exchange, when due, Messrs. O. and J. on the 6th June, 1833, specially indorsed the said bills, in the French language, as follows:—"Pay to the order of M. the treasurer-general of the royal treasury of Portugal, value on account of the negotiations of the royal loan of Portugal. F. J. Outrequin and Jauge;" the said Messrs. O. and J. thereby intending to make the same payable to the order of such person as should be for the time being the treasurer-general of the royal treasury of Portugal, by the appointment and as minister of the said Don Miguel and his government, and not of any person appointed by or acting under the authority of any government or pretended government distinct from and adverse to that of the said Don Miguel; and that Messrs. O. and J. then sent the said bills of exchange, so indorsed, to the royal treasury at Lisbon, for the use of Don Miguel and his government, and on account of the said loan, and not for the use of any government or pretended government distinct from and adverse to that of the said Don Miguel. And that on the 12th July, 1833, the said bills of exchange were duly received by Joaquin Fernandes Couto, then treasurer-general of the royal treasury of Portugal, by the appointment and as minister of Don Miguel. And that afterwards, and while the said bills of exchange were still in the possession and custody of the said J. F. Couto, as such treasurer, Don Pedro, Duke of Braganza, with a hostile force, took possession of the city of Lisbon, and compelled Don Miguel to quit, and afterwards, and before the said indorsement of the said bills of exchange, subverted the government of Don Miguel, and caused Donna Maria to be proclaimed Queen of Portugal, in the room of Don Miguel, and with his adherents assumed the functions of government, as regent for the said Donna Maria, she being then under age. And that on such assumption of the government by Don Pedro and his adherents, the said J. F. Couto altogether ceased to exercise the functions of treasurer-general of the royal treasury of Portugal, and thereafter did no act as minister or agent of Don Miguel, or on his account as such treasurer. And that afterwards Don Pedro and his government, in the name and on the behalf of Donna Maria, forcibly took possession of the said bills of exchange, without the consent and against the will of Don Miguel; and the said J. F. Couto, after he had ceased to be treasurer as aforesaid, to wit, on the 7th of August, 1833, being then treasurer-general of the royal treasury of Portugal, under an appointment colourable, made by Don Pedro as regent for Donna Maria, for the purpose of procuring the indorsement of the said bills of exchange by the said J. F. Couto as such treasurer, and being the minister of Donna Maria and her government, a government distinct from and adverse to that of Don Miguel, fraudulently, and in collusion with Don Pedro and his ministers acting for Donna Maria, indorsed the said bills of exchange to the plaintiff, for the purpose of enabling Don Pedro and his ministers, through the means and agency of the plaintiff, to procure and receive payment, and to apply the proceeds thereof to the use of Donna Maria and her Government, in fraud and violation of the purpose for which the said bills of exchange were indorsed and remitted by Messrs. O. and J. as aforesaid. And that afterwards, and before the said bills of exchange were presented to the defendants for payment, Donna Maria attained her full age, and took upon herself the functions of sovereignty, and carried on the government; and thereupon, to wit, on the 1st of November, 1834, the said bills of exchange came into her possession; and that the government of Donna Maria, after she attained her full age, as well as that of Don Pedro as regent for her before that period, was distinct from and adverse to that of Don Miguel; and that neither Don Pedro as such regent, nor Donna Maria, nor any person for them or either of them, ever gave any valuable consideration whatever for the said bills of exchange; and that the loan raised, and the bonds or scrip issued, as aforesaid, have not been recognised or repaid, nor has any interest thereon been paid or agreed to be paid, by or on behalf of Donna Maria or her government; but, on the contrary, Donna Maria and her government, alleging that the government of Don Miguel was not a lawful government, and that the acts of Don Miguel and his government are altogether null and void, have refused, and still do refuse, to acknowledge as valid and binding on the government of Donna Maria the said bonds or scrip, in consideration and on security of which the said bills of exchange were indorsed and remitted by Messrs. O. and J. as aforesaid; and that the plaintiff hath not given any valuable consideration whatever for the said bills of exchange, and holds them merely as the agent of Donna Maria and her government, for the purpose of fraudulently, and in collusion with Donna Maria and her government, procuring and receiving payment of the same, and applying the proceeds thereof to the use of Donna Maria and her government, in fraud and violation of the purpose for which the said bills of exchange were indorsed and remitted by Messrs. O. and J. as aforesaid. The 5th plea, as to the 5th and 6th counts, was similar to the 4th; and to the last count the defendants pleaded that they did not promise in manner and form as the plaintiff complained against them.

The replication joined issues on the two first pleas, and to the third plea alleged that the said treasurer-general by whom the said indorsements were made to the plaintiff *was* the treasurer-general designated and intended by the said indorsements of Messrs. O. and J.; and to the following pleas alleged that the several matters therein were not true in substance or fact. The jury found that the said Messrs. O. and J. *did* indorse, and that the said treasurer-general did *not* indorse as alleged; and thirdly, *that the said treasurer general was not the treasurer-general designated* or intended by the said indorsements of Messrs. O. and J.; and that the fourth and fifth pleas were *not* true in substance or fact, on which judgment was entered up that the plaintiff take nothing by his writ. The bill of exceptions then set out the evidence, and the summing up of the Lord Chief Justice at length. [TINDAL, C. J. complained of the unnecessary and absurd length of the bill of exceptions, and said it was wrong to state all the judge says. He said, when bills of exception were brought to him, he only allowed so much of the short hand writer's note to be set out as was necessary to explain the exception; and PARKE, B. said he would refuse to sign such a bill.] The evidence first consisted of the various bills, and the indorsements on such bills were as follows:—"*Payez à l'ordre de Monsieur le Trésorier-Géneral du Trésor-Genéral de Portugal, valeur en compte des negociations de l'emprunt royal de Portugal. Paris, le 6 Juin*, 1833. "J. Outrequin and Jauge." And by the treasurer-general thus: "*Pague se a ordem de Sen. M. J. Soares valor em conta. Lisboa, 7 d'Agoste de* 1833.

"P. Thesoureiro Mor do real Erario,
"Joaqm. Fernandes Couto."

The record then set out the evidence of Caetano Mazziotti, who said,—"I am one of the commissioners for the liquidation of the extinct treasury in Lisbon. In August 1833 I was second book-keeper of the treasury. I knew Joze Fernandes Couto; he held the office of treasurer-general *ad interim* in the treasury of Lisbon, and also of accountant-general; he performed the duties of treasurer since 1822; he served first till 1827, and then from 1829; after which he served till 9th August, 1833. The bills of exchange were registered by me at Couto's direction, and I saw them indorsed by him in the building of the treasury. Couto finished being treasurer-general on 7th August, 1833, but he did not quit the situation until the 9th. Previously to his quitting the office, I saw him deliver over the bills to the commission. He did act till 9th August." On cross-examination, he said:—"Don Miguel was displaced by Don Pedro by force on 24th July, 1833. I said that Couto filled the office of treasurer-general *ad interim;* that was after Don Pedro got possession of the country. The government of Don Miguel was put an end to on the arrival of Don Pedro at Lisbon on the 24th July, 1833. From that day the government of Donna Maria exercised the sovereignty of Portugal." And the record then set out the evidence on the part of the defendant, by which it was proved, among other things, that on the 9th August, 1833, Couto was dismissed from his office of chief treasurer *ad interim;* and by the evidence of M. Jauge it was shewn that they, Messrs. O. & J. delivered the bills to the *use of Don Miguel exclusively*. We do not think it necessary to detail the rest of the evidence. The record then set out the summing up of the Lord Chief Justice, in which his lordship said: "The only question most undoubtedly is as to the plaintiff's legal title to sue on these bills—as to the person who was designed to have authority to indorse these bills. You are to say, on all the evidence, whether the indorsement was made to him in *the character of* treasurer-general *exclusively*, or whether it was made to him as an *individual;* and whether on the change of the government the authority to indorse continued in that person who still held the office by name, but held it as an officer to a government in di-

rect hostility to that under which he held when M. Jauge indorsed the bill to him. Now it appears to me that the description of treasurer-general of Portugal is a description *upon which you may receive evidence as to the intention of the party who indorsed to him*, whether that was meant to represent the treasurer who then was in the service of Don Miguel, and him alone, and for the use of Don Miguel, or whether it was meant to apply to any other person who should hold the office of treasurer of Portugal at any time the bills should be found in the treasury there, although a change of government should have taken place in the meantime. *If* you think that the object was to put this money into the hands of the servant of Don Miguel, and *for him alone, and for the use of Don Miguel*, I confess I cannot conceive that then the government of Portugal who happened to succeed him are entitled to possess themselves of that money, or that such servant had authority to indorse it so as to convey a property in it to M. Soares or any other party." The record then alleged that the counsel for the plaintiff excepted to the direction of the Lord Chief Justice, and insisted that he ought to have told the jury that if they believed that *Couto was treasurer-general of the royal treasury of Portugal at the time of the indorsement* to him by Messrs. O. and J. and that he indorsed to the plaintiff, it was sufficient to entitle the plaintiff to a verdict on the second and third issues; and further, that no evidence ought to be received or considered to shew any other intention by the indorsement of Messrs. O and J. than what is expressed by the written indorsement itself, or to vary the legal effect of the indorsement; and further, that the Lord Chief Justice was wrong in directing a verdict for the defendant, if the jury thought Messrs. O. and J. intended that Couto should have power to indorse the bills so long only as he should be treasurer-general of the royal treasury of Portugal under the government of Don Miguel.

Crowder, Q. C. (*Watson*, Q. C. and *Greenwood*, with him) in support of the writ of error.

Kelly, Q. C. (*Martin*, Q. C. with him) contra.

Crowder.—The case is shortly this: While Don Miguel held the government of Portugal, he caused a loan to be negotiated through Messrs. O. and J., who negotiated it by issuing scrip, the money to be remitted to Lisbon; and instead of sending the amount direct in money, they purchased bills in London, and transmitted them in the ordinary way. The bills were indorsed 6th June, 1833, while Don Miguel was sovereign. In the ordinary course of transmission, they would have arrived at the treasury of Portugal. The indorsement *does not name* the treasurer. Couto was at that time filling the office. *His* indorsement was on the 7th of August, 1833, the day he was dismissed; but he acted till the 9th, when he received the decree of his dismissal. The first issue is, whether O. and J. did not indorse to Couto. It is clear they did. On the second issue, the direction of the Lord Chief Justice was in effect that the jury should find for the defendant. On the 24th of July, 1833, there was a change of dynasty in Portugal. Don Pedro succeeded to power, as regent for the queen, Donna Maria. The judge seemed to consider the indorsement had a different effect because of the change of government in July. But that circumstance can, *in law*, make no difference in liability. I contend that, whether the indorsement was to Couto as a public officer, or as an individual, the property passed by *his* indorsement. First, as regards his being *a public officer*. If a bill be indorsed to an officer, *in the name of his office*, and there should afterwards be a change of dynasty, the question of such change cannot be discussed in an action between merchants. The law merchant knows of no such political distinctions. It is said, on the other side, that as the officer is designated on the face of the bill, you are to import the nature of the government into the question of liability. Suppose a *succession* in ordinary cases, *that* would have made no difference. Suppose, also, a change of ministers under Don Miguel, *that* would have made no difference. The public revenues of the state were pledged to the subscribers for the loan—nothing was said about Don Miguel. [ALDERSON, B.—Suppose the recent case of the downfal of Espartero?] Surely no one would contend that all the bills indorsed under that government were void. Besides, secondly, here Couto was himself the treasurer-general at the time of the indorsement. He remained in office *under Don Pedro* from July to the 9th of August. There was a *combination* of the individual with the officer. No authority on the subject can be cited. The nearest is *Rex* v. *Box* (6 Tau. 320), where a note was given to two ladies, stewardesses of a society, and it was held a good note. This very case was before the Courts of Chancery and Exchequer in 1835. (1 Younge & Coll. 644, 700; reversed, House of Lords, 1 West, 250, and 3 M. & K. 450.) In Chancery, the Lord Chancellor Cottenham, then Master of the Rolls, thus expressed himself:—"It is impossible to suppose that it could ever be maintained, in action upon a bill of exchange by the holder against the acceptor, that the title to the crown of a foreign state was matter to be put in issue, and to be submitted to the consideration of a jury." Unless this action can be maintained on Couto's indorsement, no title can be given *to any one* to recover the money. It is said on the other side to be a question who was *designated* and *intended*. But no question can arise except on the *words* of the bill. We except to the direction, that it permits the legal effect of the indorsement to be matter of evidence. In *Thomas* v. *Bishop* (1 Strange, Bayley on Bills, 57) a bill for 200*l*. was drawn upon the defendant by the description of *Mr. H. Bishop, cashier of the York Buildings Company, at their house in Winchester-street, London*, and the bill directed him to place the 200*l*. to the account of the company. The defendant accepted the bill; but on being sued, insisted that the acceptance did not bind him personally, and gave in evidence that the letter of advice from the drawer of the bill was sent to the company. But Page, J. directed the jury to find for the plaintiff, which they did; and upon a rule to shew cause why there should not be a new trial, the whole Court held the direction right; that the addition to the defendant's name was only to describe him with more certainty, and to point out where he was to be found; that the direction to place the money to the account of the company was for the use of the drawee only; and that the letter of advice could not vary the case against an indorsee (which the plaintiff was), because an indorsee could only look to the bill itself.

Kelly, *contra*.—The question is not as to the legal effect of the indorsement, nor whether the bill is negotiable by the custom of merchants, nor whether the third plea is bad in law; but whether, looking to the issues and the plea, any one of the exceptions can be maintained. The issues necessarily involve *what office* Couto held at the time of the indorsements. I contend that if a bill be indorsed to an officer by his title of office, and if the office existed at the time, it would be a good bill, and the indorsement would vest the property in it. The indorsement not being *by name*, but *by office*, an inquiry as to the nature of the office *must* be made by evidence. It appears that there was such an office as treasurer-general at the time of the indorsement by Messrs. O. and J. and a person filling it, and I admit that the indorsement by Messrs. O. and J. was good; but if Couto had ceased to hold such office, or if the office itself had ceased to exist, then I say the negotiability of the bill ceased also. There is no allegation in the declaration that O. and J. indorsed to Couto, but to the treasurer-general, and that such treasurer-general indorsed to the plaintiff. The plea is, that the treasurer-general who indorsed was not the treasurer-general designated by the indorsement. The Lord Chief Justice, therefore, on those issues was perfectly right in his direction. There was no other mode of determining the real question raised by the pleadings. It does not follow, because a person holds an office *in June*, that he or any one else may hold it *in August*. We say the office held at the time of the indorsement by Couto, was *not* the *same* office which he held when the bill was indorsed *to* him. They were different offices. We may be right or wrong in that construction; but *that* was the question between the parties. The treasurer-general who indorsed is not the officer *intended* by Messrs. O. and J. The treasurer-general has *indorsed*. Defendant says it is not the officer intended. [PARKE, B.—The only case in which evidence of intention is received is where two persons are of the same name; *there is an ambiguitas latens*.]

Crowder, in reply.—The main exceptions are, that the effect of the instrument was a question of *law*, and not of *intention*. According to the Law Merchant, no such evidence as this is receivable; and it would be most dangerous to commerce and the complicated transactions of merchants if it were allowed.

Cur. adv. vult.

TINDAL, C. J. delivered the following judgment on the 3rd of July; but as there were only five judges present, judgment was delivered *pro formâ* afterwards on the 5th.

JUDGMENT.

Thursday, July 3.—TINDAL, C. J. delivered the judgment of the Court.—In this case, which was argued before us at the sittings of this court of error, after the last Term, the question for our decision is, whether the direction of the Lord Chief Justice of the Court of Queen's Bench, given on the trial of the cause, was or was not correct, in respect of those points which form the subject of the bill of exceptions. The charge of the Lord Chief Justice is set out at length upon the record, a course of proceeding which is unusual, and ought not to be adopted. The precise point upon which the summing up is sought to be impugned requires so much only of the context to be stated as was necessary, if any was necessary, to explain the direction of the judge, and no more. The statement of the charge at length tends much to embarrass the question, and adds greatly to the expense of proceeding in error. In order to understand the nature of the exception, it will be necessary to state shortly the substance of the pleadings. The action was brought upon six bills of exchange, drawn in Paris, by the Baron D'Este, on the defendants in London, to the order of Outrequin and Jauge, and accepted by the defendants. These bills were indorsed by Outrequin and Jauge to the treasurer-general of the treasury royal of Portugal, and the declaration stated, that one Joachim Fernandes Couto, then being the treasurer-general aforesaid, indorsed the said bills to the plaintiff. To this declaration there were several pleas; first, that Outrequin and Jauge did not indorse to the treasurer-general of the royal treasury of Portugal; secondly, that the treasurer-general of the royal treasury of Portugal did not indorse; thirdly, that the said treasurer-general, by whom the indorsements were alleged to have been made to the said plaintiff, at the time when he indorsed the same, was not such treasurer-general as was designated or intended by the said indorsement of O. and J. but was another and different functionary, and agent of and minister of another and different and adverse and hostile government, and had no title or authority to indorse the bills. There were also the special pleas stating that Don Miguel whilst king of Portugal, raised a loan at Paris, and O. and J. being bankers at Paris, entered into an agreement with Don Miguel and his government for negotiating the raising of the loan and remitting the same; that O. and J. purchased and procured these bills to be drawn, for the purpose of remitting the same on account of the said loan, and in order to enable Don Miguel and his government to make payment of the said bills of exchange, indorsed the said bills of exchange to the order of the treasurer-general of the royal treasury of Portugal, thereby intending and meaning to make them payable to the order of such person as should be for the time being treasurer-general of the royal treasury of Portugal, by the appointment and as minister of the said Don Miguel and his government, and not of any person appointed by or acting under the authority of any government adverse to that of Don Miguel; that the said bills were given to and duly received by the said Fernandes Couto, he being treasurer-general of the royal treasury of Portugal, under and as minister of Don Miguel; that Don Pedro by hostile force took possession of Lisbon, compelled Don Miguel to quit, and subverted his government, whereupon Couto altogether ceased to exercise the functions of treasurer-general of the royal treasury, and from thence has never done any act as minister of Don Miguel; that Don Pedro and the persons then exercising the functions of government in Portugal took forcible possession of the bills, and that Couto fraudulently, and in collusion with Don Pedro and the new government, indorsed the said bills, for the purpose of enabling Don Pedro and the new government, through the plaintiff, to obtain payment of the bills. The plaintiff, in his replication, joined issue on the two first pleas; and as to the third plea, he replied that the treasurer-general by whom the indorsements were made to the plaintiff was the treasurer-general designated and intended by the indorsement of Outrequin and Jauge; omitting, however, to include in the traverse the statements in the defendant's pleas, that he was so at the time of the indorsement; and with respect to the two other special pleas, the replication avers that the matters of fact therein stated were not true. On the trial, evidence was given that the bills were indorsed in order to obtain a part of a loan raised for the use of Don Miguel at Paris, and were intended to be received and negotiated by his treasurer when the bills were indorsed and received at Lisbon. The government of Don Miguel continued, and Couto was the treasurer of the royal treasury under his government. In July, the government of Don Miguel was subverted, and his loan was not recognised by the government of Donna Maria, who succeeded him. But Couto was retained a short time as treasurer, and removed on the 9th of August; and on the 7th of August, before the notification of such removal to him, he indorsed the bills to the plaintiff.

In his summing up, the Lord Chief Justice stated that the description of treasurer of the kingdom of Portugal was a subject on which the jury might receive evidence as to the intention of the party who indorsed, whether it meant the treasurer then in the service of Don Miguel and him alone, or whether it meant to apply to any other person who should hold the office at any time the bills should be in the treasury, although a change of government should take place in the mean time; and that the defendant was entitled to a verdict, if Outrequin and Jauge exclusively looked to Don Miguel as the person whose treasurer was to receive and indorse these bills; and that if it was so intended, the government of Portugal which succeeded, or their servant, had no authority to indorse the bills. His lordship then said the question was, whether the intention of Outrequin and Jauge was that the bill should be indorsed to M. Couto, not as treasurer of the kingdom of Portugal, but exclusively as the treasurer of Don Miguel, and acting in his separate interest; and that the legal title of the plaintiff depended on the question which was submitted to their consideration. The plaintiff's counsel excepted to this direction, and stated that the Lord Chief Justice ought to have given his opinion that if the jury believed that Couto was treasurer-general of the royal treasury at the time of the indorsement to him by Outrequin and Jauge, and that he indorsed to the plaintiff, it was sufficient to entitle the plaintiff to a verdict on the second and third issues; and further, that no evidence ought to have been left to

the jury to shew any other intention by the indorsement of Outrequin and Jauge than that which is expressed by the written indorsement itself, and that no evidence ought to be considered by the jury to alter the legal effect of the indorsement or add to its tenor; and further, that it was wrong to tell the jury that they ought to find a verdict for the defendant if they thought Outrequin and Jauge intended that Couto should have power to indorse the bills so long as he should be treasurer of the royal treasury under the government of Don Miguel, and no longer. The jury found a verdict for the defendants on the second and third issues, and for the plaintiff on the first issue, and those raised on the special pleads. The case was argued at length before us, and we are all of opinion that the direction was not correct in point of law, and that this exception was well founded; and that, consequently, there must be a *venire de novo*. Whoever was the treasurer of the royal treasury at the time of the indorsement by Outrequin and Jauge acquired a legal title in the bills; the indorsement *to his order* was in law an indorsement to *him or his order*, and the indorsement does not mean the mere act of writing the name on the bills, but the handing the bills over and the delivery of them to the indorsees also. No question can arise here as to the effect of the change of officers between the signature of the indorser and the transmission or delivery to the indorsee. When the actual delivery took place, as well as at the time of the making of the indorsement, Couto was treasurer; at both times he was in the same office, and in the same service, and consequently the legal title to the bills vested in him by the indorsement; and there is nothing in the form of the indorsement which can be construed to revest the title in the indorser, or to restrain the indorsee from indorsing anew in case he ceased to have the office; nor can parol evidence be allowed to engraft such a condition, if, indeed, such a condition or qualified power of indorsing should be allowed by the law of merchants, and no authority has been cited to shew us that it could. We think, therefore, the direction of the Lord Chief Justice was wrong in stating that the legal title to the bills in this case depended on the intention of Outrequin and Jauge in using the description of treasurer-general of the royal treasury, or upon their intention that the power of indorsing should depend upon a continuance in the same office. It was unnecessary to inquire, supposing we were competent to do so, as to their intention in indorsing the bills, for the bills were simply indorsed and delivered to the proper treasurer of the kingdom of Portugal, and no parol evidence could be allowed to defeat his title, or qualify his right to indorse. Indeed the stress of the argument for the plaintiff in error was not that the direction was right in point of law, but that the exception had not exactly pointed out the defect, and was itself unintelligible in parts, for it was said the Chief Justice ought not, as the exception stated he ought, to have told the jury that if Couto was treasurer-general at the time of the indorsement of the bill, it was insufficient to entitle the plaintiff to a verdict upon both the second and third pleas, although it might be sufficient as to the second. We think this objection to the sufficiency of this exception ought not to prevail, even supposing it to be wrong as to the third issue, and that the plaintiff was not entitled to a verdict on that ground. We are of opinion the residue of the exception, at all events the two latter branches of it, was properly taken; but we also think that, on the third issue, the direction ought to have been in favour of the plaintiff, as stated in the exception, because the averment that the treasurer-general who indorsed, at the time he indorsed was not such treasurer-general as was designated and intended by Outrequin and Jauge, was not parcel of the issue, but was immaterial. We are therefore of opinion that there must be a *venire de novo*.

Bankrupt and Insolvent Courts.

COMMISSIONERS' COURTS.

Friday, June 27.

(Before Mr. Commissioner GOULBURN.)

Re WENHAM.

An insolvent who has been detained in custody upon an attachment for costs incurred previous to presenting his petition, but not issued until after, upon obtaining his final order for protection is entitled to be discharged as to such attachment.

Insolvent came up this day for his final order. The facts are stated in the report of the case (*ante*, p. 271), on the meeting for the interim order.

Cook (*Dowse* with him) contended that the Court had no power, even after the final order, to discharge the insolvent from custody as to this attachment for costs. The attachment was *not issued until after* the petition was filed. The 22nd section of 7 & 8 Vict. c. 96, enacts that the final order shall protect the person of the insolvent from all process in respect of the several debts due or claimed to be due at *the time of filing the petition* to the several persons named in the schedule as creditors. This section only applies to such debts as were due at the time of filing the petition. The next section gives the commissioner power, where an insolvent is detained in prison for any debt or claim in respect of which he is protected by his final order, to order him to be discharged from custody as to such debt or claim. Then comes the 26th section, which extends the protection under the final order given by the 22nd section to all process for any contempt of Court; for non-payment of money, or of costs or expenses in any such court; and also to all costs of such contempt, or on purging the same. The 26th section, therefore, which merely extends the benefit to be derived from the final order to some cases not included in the former section, must be read as a part of that section; and if so, then it must be construed subject to the limitation as to time contained in that section,—that is to say, the contempt for which the attachment was issued must have been incurred previous to the filing of the schedule. Here the contempt was not complete previous to filing the schedule. The contempt was for nonpayment of costs incurred on an interlocutory proceeding in an action not taxed until after the schedule filed. The contempt, therefore, could not have been committed previous to filing the schedule.

Sturgeon.—The costs for which the insolvent is now in contempt were incurred previous to filing the schedule, although not taxed until after. They were, therefore, a debt due at the time of filing the schedule.

His HONOUR.—I have had the advantage of consulting with Mr. Commissioner Fonblanque on this case, and we both agree in thinking that these costs, for the non-payment of which the insolvent is in contempt, were a debt previous to the filing of the schedule, and that the insolvent is entitled to his discharge. *Ordered accordingly.*

(Before Mr. Commissioner EVANS.)

Re STEWART.

Where an insolvent has omitted from his schedule certain property to which he was entitled, the Court will not allow the schedule to be amended.

Insolvent came up for his interim order for protection, and was about to be opposed by a creditor, when *Hughes*, on his behalf, applied for leave to amend the schedule by inserting certain property to which the insolvent was entitled, which was altogether omitted, but which he stated was in reality of no value, and on that account had been left out. The insolvent was not aware, the property being valueless, that there was any necessity to insert it; no fraud was intended.

His HONOUR.—I shall not permit you to amend. I never allow an amendment where property is wholly left out of a schedule. The petition must be dismissed.

COURT OF REVIEW.

Wednesday, June 25, and Tuesday, July 1.

Ex parte MOORE, *Re* WESTRUP and COCKSEDGE.

Right of proof—Costs of suit—Husband and wife—Commission to examine witnesses.

A husband, having instituted a suit in the Ecclesiastical Court against his wife for a divorce on the ground of adultery, became bankrupt pending the suit, and before any taxation, monition, decree, or order as to costs had been made. After the bankruptcy the husband declared, in the manner required by the Ecclesiastical Court, his intention not to proceed with the suit; it was held that the wife's proctor was entitled to prove under the bankruptcy for the amount of the costs incurred before the bankruptcy.

The execution of a commission to examine witnesses in Dublin commenced before the act of bankruptcy, but the commission was not returned to London until some days after the bankruptcy; and it was held that the execution of the commission was to be considered as one act, and that the whole costs in respect of it were proveable under the fiat.

This was a petition for liberty to prove under the circumstances stated in the judgment.

Swanston and *Rolt* for the petition.

Russell and *Amphlett* for the assignees.

The following cases were cited: *Ex parte Crosse* (2 M. Dea. & De G. 308); *Shepherd* v. *Mackrell* (3 Camp. 326); *Turner* v. *Rooks* (10 Adol. & Ell. 47, and 2 Perry & Dav. 294); *Grindell* v. *Godmond* (5 Ad. & Ell. 755, and 1 Nev. & P. 168); *Cheale* v. *Cheale* (1 Hagg. Eccl. Rep. 374); *Bird* v. *Bird* (Lee's Eccl. Cases, 209); and *Stones* v. *Cooke* (7 Sim. 22).

Tuesday, July 1.—The CHIEF JUDGE.—In this case the petitioner, who is proctor, seeks to prove against the separate estate of one of the bankrupts for the amount of a bill of costs. The matter arose thus:—The bankrupt, Mr. Thomas Martin Cocksedge, sued his wife in the Consistory Court of London for a divorce, on the alleged ground of adultery. She appeared, and defended the suit by her proctor, the petitioner, and certain proceedings having taken place in the suit after her appearance, costs and expenses were thus incurred in it upon her part, the amount of which, had she been *sui juris*, would plainly have been a just debt from her to the proctor. As, however, she was not *sui juris*, it is to be assumed that the proctor, unless he had a demand for his expenses upon the husband, was not entitled to claim them from any other party. These costs and expenses have been, I consider, obviously occasioned by the husband's act, in this sense, that the cause in the Consistory Court was of his institution, and the wife was justly entitled to defend herself. At all events if she was innocent—and hitherto she has not been proved guilty—and, if entitled to defend herself, she is entitled, though not obliged, to do so by means of a proctor. The costs and expenses being incurred, the husband, pending the suit, becomes bankrupt, but, previously to the bankruptcy, there had not been any bill of costs, any taxation, monition, or decree of any kind in respect of the costs, so far as I understand. The petition now before the Court sets forth various particulars, and it will perhaps be better to give the circumstances as stated in the petition. The petition then stated "that in pursuance of the usual practice, your petitioner made out his bill of costs for the proceedings so taken by your petitioner on behalf of the said Ann Cocksedge in the said cause, down to the end of the month of October 1844, and procured the same to be taxed, and the same was duly taxed by the Right Hon. Stephen Lushington, the judge of the said court, at the sum of 348*l*. 9*s*. 5*d*., and your petitioner also obtained an order for a monition to issue for the payment thereof in the event of the said Thomas Martin Cocksedge failing to pay the said costs. That a monition had some time previously issued for the payment, to the said Ann Cocksedge, of certain alimony which had been decreed to her in the said suit, and the said Thomas Martin Cocksedge had failed to pay such alimony, pursuant to the tenor of the said monition; and thereupon your petitioner, as the proctor of the said Ann Cocksedge, prayed the said Court to pronounce the said Thomas Martin Cocksedge in contempt for non-payment of such alimony, and to issue the usual *significavit* for the purpose of enabling a writ *de contumace capiendo* to be taken out thereon; that thereupon the proctor for the said Thomas Martin Cocksedge alleged that he, the said T. M. Cocksedge, had been gazetted as a bankrupt, and that assignees of his estate had been appointed under his bankruptcy, and the said bankruptcy not being disputed, the said Court refused to pronounce the said T. M. Cocksedge in contempt, or to make any order for the issuing of a writ of *significavit*; that the said T. M. Cocksedge has been in fact duly found and declared a bankrupt under a fiat in bankruptcy, which was awarded and issued against him jointly with the said Walter Westrup on the 21st day of October, 1844, and Alfred Robinson, Henry Larchin, and Henry Price have been duly chosen and appointed creditors' assignees, and Wm. Bele has been duly appointed official assignee of the joint and separate estates of the said bankrupts under the said fiat; that the reason assigned by the said Consistory Court for refusing to pronounce the said T. M. Cocksedge in contempt, and to grant the said writ of *significavit* was, that as the law had, by vesting all the said T. M. Cocksedge's property in other persons, taken away his means of paying the amount of such alimony, it would not be right to make an order, which might have the effect of imprisoning him for non-payment of such alimony; that as the reason so assigned by the said Court would apply equally to an application for pronouncing the said T. M. Cocksedge in contempt, and for the issuing of a *significavit* for non-payment of the costs due to your petitioner as aforesaid, your petitioner has not applied to the said Court for that purpose; that the said T. M. Cocksedge has, since the said bankruptcy, duly authorized his proctor, by proxy under his hand and seal, to declare, and his said proctor has accordingly declared, that he, the said T. M. Cocksedge, would not proceed further with the said suit, and a minute of such declaration has been duly recorded in the acts or proceedings of the said Court; but the said Ann Cocksedge being entitled, according to the practice of the said Court, to have the said cause continued with a view to the vindication of her own conduct, has refused to allow the same to be abandoned, and she altogether denies the charges made against her by her said husband; that, under the circumstances aforesaid, your petitioner, on the 11th of April, 1845, tendered his proof under the said fiat, against the separate estate of the said T. M. Cocksedge, for the before-mentioned sum of 348*l*. 9*s*. 5*d*. the amount of his said taxed costs incurred previously to the bankruptcy of the said T. M. Cocksedge, and the consideration of such proof was adjourned till the next meeting under the said bankruptcy, and that at such next meeting, which was held on the 30th day of May, 1845, the Commissioner before whom the fiat is in prosecution refused to admit the said proof, and stated as his reason for so doing that, before he could decide whether the husband would have been liable, he must have enough before him to convince him that the wife had good

grounds for defending the suit, which could not be done until the suit for a divorce was decided." The question raised by the petition is as to the correctness of the conclusion of the learned Commissioner. It seems to be admitted that, had the proctor chosen to be more active, he might have obtained from the Court, at any time after the wife's appearance, an order for the taxation of the costs for the time being in the suit, and a monition for them against the husband before the bankruptcy. There is no evidence that the wife had any separate property. This is a point, as to the materiality or immateriality of which upon the present petition I will say no more than that the absence of any such evidence cannot prejudice the case of the petitioner. There is no evidence that the wife has at any time confessed adultery, or that she has been guilty of it. For the present purpose, as between the petitioner and the assignees, who are strangers to the proceedings, the wife is to be presumed innocent, the suit not having been abandoned until after the bankruptcy. I am of opinion that it would be improper to consider the wife as having been otherwise than unjustly sued. She has, indeed, uniformly asserted her innocence. It must be taken, then, that an unjust suit, involving the wife's station in society, her honour, and her subsistence, was brought against her by her husband, who himself must be considered as having compelled her to defend the suit, or, by omitting all defence, to forego her claims upon his support, her continuance in society, to become, in effect, a pauper and an outcast. Was it reasonable and proper that she should defend such a suit? To that but one answer can be given. Was the defence necessary to her? It may be true, that to be slighted and shunned by society may be an evil, viewed variously, as of more or less weight in various cases, by various persons. But who can dispense with food and raiment? If these are necessary, is it less so that she should have the opportunity of resistance to the unjust obstruction of the means of obtaining them; or can that be deemed a matter of fancy or superfluity? Surely her defence of the suit was necessary, as well as reasonable and proper; and that she should employ a proctor for the purpose was equally reasonable, equally proper, and equally necessary; for although she might have been competent to defend the suit in person, she certainly was not bound to do so. Why, then, is it not to be considered that the husband was, at the time of the bankruptcy, legally indebted to the petitioner in the amount of his bill at that time? The bill appears to be as much for necessaries, properly furnished to the wife, as a bill for ordinary provisions, clothing, and medical attendance would have been. They were not less justly chargeable upon the husband than the costs of an attorney employed by her to defend herself against an indictment for a crime, if she had been falsely accused and her husband had refused to interfere. A man without cause turning his wife out of doors, sends her into the world with the power of obtaining credit against him for necessaries. All her tradesmen become the creditors of the husband. In like manner, it appears to me that, by causeless sending the wife into the Ecclesiastical Court to meet a charge of imputed adultery, the husband enables her to obtain credit in the same way, and the proctor employed by the wife becomes the husband's creditor. I do not think it material to decide, if I could, nor to consider whether, in all cases of costs such as that before me, the rule and practice of the courts of ecclesiastical jurisdiction afford the wife and the proctor, or either of them, a sufficient remedy and a complete protection; whether, in every case where reason and justice require that either of them should be assisted against the husband, and that assistance can be obtained, although the Ecclesiastical Court would interfere, the proceedings at common law, including the forms of execution which the law gives in actions, may not be substantially more convenient and advantageous than the process of order and monition of the ecclesiastical judge. I am not aware of any objection upon principle or authority which goes to shew that the remedies in each jurisdiction may not simultaneously exist in such cases. There may be possibly an objection to the simultaneous use of such remedies, or to resorting to one after having resorted to the other. No such thing has occurred, as I conceive, in the present instance. I cannot view in that light steps taken after the commission, by a bankrupt who has not applied for a certificate as to costs, nor again can it, in my judgment, be a sufficient answer to an action by a proctor against the husband, to say that the case is one in which the ecclesiastical judge had refused, or would, on account of the wife having separate property or otherwise, have refused to interfere against him. The common law right to sue a man for the value of necessaries furnished to his wife, or for a cause of action tantamount to that, cannot, I apprehend, be affected by the question whether the Consistorial Court would or would not have given, or could or could not give to the plaintiff a remedy and redress according to its forms. It is arguable, certainly, that there may be inconvenience in allowing actions to be brought from time to time by a proctor for his costs pending an adverse suit, that may be so; although the Ecclesiastical Court sometimes, indeed very often, I believe, makes the husband pay the costs of the wife step by step, or, as they say there, *de die in diem*. I do not, however, know that there can substantially be a greater difficulty or inconvenience belonging to such a case than to the ordinary case of attorney and client as to costs. In this instance the husband's bankruptcy happened pending the suit, but nothing can be more common than that a party to an action should become bankrupt pending the litigation. His attorney under such circumstances, at least if not guilty of neglect or misconduct before or afterwards, is surely entitled to prove under the bankruptcy for his costs incurred by the client before the bankruptcy, whether the cause do or do not proceed, or however it may have been proceeded with. No neglect, no collusion, no misconduct, no litigiousness, no vexation, has been imputed to the proctor in the present instance. The suit has been ended since the bankruptcy as far as it sought to criminate the wife, and ended by what is, I suppose, analogous to a nonsuit at law in her favour. But put the case of a defendant in an action becoming bankrupt, but not pleading or suggesting his bankruptcy, the action going on, the plaintiff nonsuited and being a beggar, is the successful defendant's attorney not to prove for the costs up to the bankruptcy against the estate of his client? I am quite aware that in the present instance the husband is not the client of his wife's proctor; but for the reasons to which I have referred, I see no difference between the two cases. For, setting bankruptcy out of view, an attorney or solicitor, though abandoning his client's cause during its progress, may, under certain circumstances, lose his right to demand the previous costs against the client; yet, not abandoning the cause, not ceasing to act, he may, during its progress, I suppose, from time to time demand from the client, and sue the client, for payment of his costs incurred for the time being, at least if this be not done in a vexatious and unreasonable manner. I am not aware of either authority or principle against the measure, but I find the Lord Chief Justice of the Court of Common Pleas, in a case (*Van Sandau* v. *Brown*, 9 Bing. 407) in the year 1832, saying—"The objection, however, which has been raised to the plaintiff's recovery is, that an attorney cannot sue for his bill until the business which he has been retained in is terminated. It would be long before I should be induced to assent to such a proposition. Suppose the employer to become insolvent while the attorney is engaged in a long and difficult suit, it would be hard if he could not recede from such an engagement." There is another report of the same case (2 Moore & Scott, 556) in which the Lord Chief Justice is represented as saying—"The main objection to the plaintiff's right to recover, and the question for our consideration is, whether an attorney can bring an action against his client for business done during the progress of a cause, or whether he must wait till the suit has arrived at a final determination, viz. by a judgment at law, or a decree in equity, before he can sue. I should require a strong authority before I acceded to such a proposition; for if an attorney or solicitor is bound to wait till the final determination of a suit, he might in many cases be ruined." And Mr. Justice Bosanquet is mentioned as stating that he "could not agree to the extent of the proposition contended for by the defendant, that a defendant cannot sue his client for business done till the final determination of the suit." I may also add, that if proof of the wife's adultery, in an action by the proctor against the husband for her costs of defence to his suit against her, would defeat the action—a point as to which I say nothing—if that would be inconvenient, such an inconvenience is not of a new kind, it being clear that a husband suing for a divorce may, at the same time, be a defendant in an action, or in various actions by tradesmen as plaintiffs, for articles supplied to the wife, who may ultimately be proved to be, and be treated as, an adulteress. How this matter would have stood if the wife had been guilty, had the suit for a divorce been still in progress, or had she been the party suing, and not the party sued, in proceedings existing before the bankruptcy, it is unnecessary to say. Upon the facts of this case I think the proctor is entitled to prove, and I so decide. The point being of some importance, and specifically, so far as I am aware, new, I had doubts whether I ought to allow the proof, especially against the opinion of the learned Commissioner without affording the assignees an opportunity of trying the question in an action, which might probably be so framed as to try it satisfactorily; but, considering the amount of the sum in dispute, and that they may probably obtain the opinion of the Lord Chancellor before the long vacation, if they appeal speedily from my decision, I have thought it better for the present to act upon my own opinion, and to express it without further delay. In what I have said I have assumed that the amount of the bill is considered by the assignees as reasonable and fair, and that there is not any dispute as to what charges are anterior and what subsequent to the bankruptcy. If there is any difference between the parties on these points, or either of them, I will decide it myself, or put it in the course of investigation. Let the costs of the petition on each side come out of the estate.

Swanston mentioned one part of the bill of costs which might give rise to dispute. It was this: a commission to examine witnesses in Dublin issued some time before the bankruptcy; the execution of the commission commenced at Dublin on the 17th of October, and continued up to the 20th, on which day the act of bankruptcy was committed. The commission was sealed on the 21st, and the parties returned to London by the 23rd. A question might arise whether the costs of the execution of this commission should be apportioned.

The Chief Judge.—As at present advised, I think the execution of the commission was one act. The whole must be considered as a debt proveable under the commission.

Circuit Reports.

Bedford, March 1845.

(Before Mr. Justice Patteson.)

Reg. v. Church.

Larceny—Indictment—Property.

Where lots of wood were sold by auction and paid for, but retained on the premises of the vendor, by the conditions of sale, until a future day, when they were to be removed on presenting a ticket specifying them in each case, and A, the purchaser of one lot, abstracts a pole from the lot of B, before the day on which the ticket could be obtained, and places it in his own lot,

Held, that on an indictment against A for felony, the property was well laid in B.

The indictment charged that the prisoner on, &c. at Woburn, in the county of Beds, feloniously did steal, take, and carry away two ash poles, the property of Joseph Brimley.

Gunning, for the prosecution, proved that there having been a sale of wood in Woburn Park, the seat of his Grace the Duke of Bedford, the prisoner bought one lot, and the prosecutor two. It further appeared, that according to the usual conditions on such occasions, the several lots, which were paid for when knocked down, were left on the ground where they had been exposed for sale, and that they could not be removed therefrom by the purchasers till a certain day, when tickets would be issued, and permission given to the bearers thereof to remove the lots specified therein. Before that day arrived, the prisoner was seen by a keeper in the park to go to the wood where the lots were lying, and to remove from each of the prosecutor's lots one pole, which he placed in his own lot.

Patteson, J.—In this state of things, I doubt whether the property in this indictment is well laid in the purchaser of the lots. Every felony includes a trespass, and trespass can only be brought by him who has the possession of the chattel, or the right to it. Here the wood, though sold to, and paid for by the purchaser, remained, in fact, in the actual possession of the vendor, the Duke of Bedford, and by the express conditions of the sale, the right to the possession of it was in him till a day not arrived at the time of the felonious removal by the prisoner. I question very much whether the purchaser could bring trover for the recovery of his lots till he had obtained his ticket for their removal, and perfected his title to them; not even if the Duke himself had removed them. It strikes me, therefore, that the property remained in the Duke, and that the indictment is wrong in that particular. There is certainly some difficulty in the case, which is not free from doubt in either view of it.

Gunning.—If the property in these poles had been otherwise laid than in the purchaser, the indictment would fail, for as all the lots, including those bought by the prosecutor and that by the prisoner, were in the possession of the Duke of Bedford, if the property had been laid in his Grace, there would not have been any such removal as would constitute a felony. If the property be in the vendor as regards the prosecutor's lots, so it is as regards that of the prisoner, so that the removal from the one to the other is not sufficient to support a charge of larceny. There would, in such a case, be but a mere change of possession, whatever the view of the prisoner might have been as to the future. The prosecutor has paid for this wood, and that passed the property in it to him sufficient to maintain felony and trespass, though the possession of it might by agreement remain in the vendor for a time, and as against a mere wrongdoer that is sufficient property in the purchaser.

Patteson, J.—The case is one of some difficulty, and I will consult my brother before I decide it.

His lordship having retired for a short time, intimated on his return that the indictment was sufficient, and the case proceeded.

Guilty—One week's imprisonment.

THE LEGISLATOR.

Summary.

As usual a flood of new bills has been poured into the House of Commons to be

hurried through as fast as the forms will permit, and without examination or correction, and next session there will be another flood of bills to amend the blunders produced by the hasty legislation of this session. The list of the bills abandoned by the Government will be found in the statement below. Among them are the Justices' Clerks Bill, and the Settlement Bill, and the Medical Bill. After all, the session will be miserably barren of legislation.

Imperial Parliament.

PUBLIC BUSINESS TRANSACTED.

BILLS READ A FIRST TIME.

Friday, July 4.

Borough and Watch Rates,—"for the better collecting Borough and Watch Rates in certain places."

Deodands' Abolition, No. 2—"to abolish Deodands."

Joint Stock Companies—"for facilitating the winding up the affairs of Joint Stok Companies unable to meet their pecuniary engagements."

Darby Court, Westminster—"to empower the Commissioners of her Majesty's Woods to appropriate to building purposes the area of Darby Court, in the parish of St. James, Westminster.

Schoolmasters (Scotland)

Monday, July 7.

Geological Survey Bill,—"to facilitate the completion of a Geological Survey of Great Britain and Ireland, under the direction of the First Commissioner, for the time being, of her Majesty's Woods and Works."

Naval Medical Supplemental Fund Society.

Land Revenue Act Amendment.

Grand Jury Presentments, Dublin,—"to amend an Act of the last Session, for consolidating and amending the law for the regulation of Grand Jury Presentments i i the county of Dubli

Criminal Jurisdiction of As t Ba Ireland—"for regulating the Criminal Jurisdiction of Assistant Barristers as to certain Counties of Cities and Counties of Towns in Ireland.

Unlawful Oaths, Ireland, Continuance.

Fisheries, Ireland—"for the further amendment of an Act of the sixth year of her present Majesty for regulating the Irish Fisheries."

Bankrupts' Declaration.

Tuesday, July 8.

Ecclesiastical Patronage, Ireland.

Art Unions No. 2—"to continue, for a time to be limited, an Act of the seventh and eighth years of her present Majesty, for the indemnification of persons connected with Art Unions and others against certain penalties."

Wednesday, July 9.

Bonded Corn "to continue and amend."

Spirits, Ireland—"to amend certain regulations respecting the retail of spirits in Ireland."

Excise Duties on Spirits, Channel Islands.

Unclaimed Stock and Dividends—"to make further provisions as to stock and dividends unclaimed."

Thursday, July 10.

Real Property.

Assignment of Terms.

Granting of Leases.

Taxing Master, Court of Chancery, Ireland—"for the appointment of a Taxing Master for the High Court of Chancery in Ireland."

Turnpike Roads continuance, Ireland.

BILLS READ A SECOND TIME.

Monday, July 7.

Schoolmasters, Scotland.

Thursday, July 10.

Drainage, Ireland

Joint Stock Companies

Shrewsbury and Holyhead Road.

Geological Survey

Criminal Jurisdiction of Assistant Barristers, Ireland

Art Unions

Masters and Workmen.

BILLS READ A THIRD TIME AND PASSED.

Friday, July 4.

Foreign Lotteries.

Tuesday, July 8.

Constables, Public Works, Ireland

Field Gardens

Turnpike Trusts, South Wales.

Wednesday, July 9.

Schoolmasters, Scotland.

PRIVATE BUSINESS TRANSACTED.

BILLS READ A FIRST TIME.

Monday, July 7.

Shrewsbury and Holyhead Road.

BILLS READ A SECOND TIME.

Monday, July 7.

Lord Manners's Estate.

Tuesday, July 8.

Manchester and Leeds Railway, No. 2

Geldart's Estate.

BILLS READ A THIRD TIME AND PASSED.

Friday, July 4.

Erewash Valley Railway

Glasgow Junction Railway.

Monday, July 7.

Bristol Parochial Rates

St. Helen's Railway and Canal.

Tuesday, July 8.

Lady Sandy's Estate

Glasgow, Barrhead, and Neiston Railway.

)NAL PRINTED PAPERS.

Par. Num.

425. Bill—Valuation, Ireland
430. — Charitable Trusts
431. — Ecclesiastical Courts
437. — Masters and Workmen
439. — Public Museums, &c.—Lords' Amendment
444. — Deodands' Abolition, No. 2
446. — Schoolmasters, Scotland
448. — Whitehaven and Furness Junction Railway—Lords' Amendments
438. — Field Gardens, amended by Committee, on re-commitment and on Report
440. — Drainage, Ireland.
441. — Church Building Act Amendment
461. — Bankrupt's Declaration
443. — Borough and Watch Rates
445. — Joint Stock Companies
451. — Shrewsbury and Holyhead Road
452. — Geological Survey
456. — Criminal Jurisdiction of Assistant Barristers, Ireland
466. — Art-Unions, No. 2

China, Trade at Canton, Amoy, and Shanghai—Returns

362. East India, Territorial Revenues and Disbursements—Account
403. Army and Militia Services—Account
365. Loan Fund Board, Ireland—Seventh Annual Report
432. Foreign Wine—Foreign Spirits—Accounts
435. Wheat, &c.—Account
442. Railway Bills, State and Progress of—Second Report from Committee
372. New South Wales, Licensed Occupation of Crown Lands—Copies of Correspondence, Part 4

National Education, Ireland—Appendix to the Eleventh Report

433. Post Offices—Return
436. Post Office, Scilly Islands—Return

Two Sicilies—Copy of Treaty of Commerce and Navigation.

Bills in Progress.

A Bill intituled "An Act to render the Assignment of satisfied Terms unnecessary."

1. *On 31st Dec. 1845 satisfied terms of years attendant on inheritance, &c. of land, to cease, except, &c.*—Whereas the assignment of satisfied terms has been found to be attended with great difficulty, delay, and expense, and to operate in many cases to the prejudice of the persons justly entitled to the lands to which they relate, Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, That every satisfied term of years which, either by express declaration or by construction of law, shall upon the 31st day of December, 1845, be attendant upon the inheritance or reversion of any land, shall on the 31st day of December, 1846, absolutely cease and determine as to the land upon the inheritance or reversion whereof such term shall be attendant as aforesaid, except that every such term of years which shall be so attendant as aforesaid by express declaration, although hereby made to cease and determine, shall afford to every person the same protection against every incumbrance, charge, estate, right, action, suit, claim, and demand as it would have afforded to him if it had continued to subsist, but had not been assigned or dealt with, after the said 31st day of December, 1845, and shall for the purpose of such protection be considered in every court of law and of equity to be a subsisting term.

2. *Satisfied terms now subsisting, &c. to cease on becoming attendant upon inheritance, &c. of lands.*—And be it enacted, That every term of years now subsisting or hereafter to be created, becoming satisfied after the said 31st day of December, 1845, and which, either by express declaration or by construction of law, shall after the said 31st day of December, 1845, become attendant upon the inheritance or reversion of any land, shall immediately upon the same becoming so attendant absolutely cease and determine as to the land upon the inheritance or reversion whereof such term shall become attendant as aforesaid.

3. *Not to extend to Scotland.*—And be it enacted, That this Act shall not extend to Scotland.

A Bill intituled "An Act for enabling Parties to be examined in the Trial of Civil Actions."

Plaintiffs, &c. in actions for damages or ejectment, subject to same rules and penalties as witnesses.—For the better enabling the truth to be ascertained by courts of law in the trial of civil actions, be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, That, from and after the first of January, one thousand eight hundred and forty-six, it shall be lawful for any person, being a plaintiff or defendant, or one of such plaintiffs or defendants, in any action or inquiry for assessing damages, or the lessor or one of the lessors of the plaintiff in any ejectment, to be tendered or to tender himself or herself in evidence, and to be examined before the Court touching the matter in question, subject to the same rules of evidence in respect of his or her examination, and liable to the same penalties and punishment in case of false deposition, as if he or she had been a witness in the cause, and subject to be proceeded against by summary commitment for prevarication by the Court, as well as to prosecution for false swearing or false affirmation.

2. *Either party may be summoned as a witness upon due notice, &c.*—And be it enacted and declared, That either party in any action or inquiry of damages shall, upon giving notice to any adverse party one month before the trial of such action or execution of such inquiry, and upon tender of the expenses of attending the trial, be entitled to call such adverse party as a witness; provided such party so calling the adverse party shall tender him or herself to be examined in the cause.

3. *Committees of lunatics, &c. not entitled to be examined.*—Provided always, and it is hereby enacted by the authority aforesaid, That nothing in this Act contained shall enable any party to be examined in any action or any inquiry brought by or against the next friend of any infant, or the committee of any lunatic, or any trustee or other person not himself or herself beneficially interested as the real party to the suit.

4. *One party not allowed to be examined in the absence of the other.*—Provided also, and it is hereby enacted by the authority aforesaid, That in case it shall be made to appear at the trial of any cause or execution of any writ of inquiry, when either party is tendered to be examined as aforesaid, that the adverse party, or any one of several adverse parties, is incapable of attending or being examined from sickness, incapacity, or extreme age, or absence on the public service, or any cause other than voluntary absence, then, and in such case, the party so tendered shall not be allowed to be examined; and if notice of such sickness, incapacity, or necessary absence be given to the opposite party before the cause is set down for trial, or notice is given of executing the writ of inquiry, such opposite party may apply to the Court to postpone the trial or inquiry, as in the case of absence of a material witness, which application shall be dealt with by the Court or Judge according to his discretion, in respect of granting the same, and likewise in respect of the terms on which it shall be granted.

5. *Excepted cases, &c.*—Provided always, and it is hereby enacted, That nothing herein contained shall be construed to extend to any prosecution or action for penalties at the suit of the Crown, and wherein there is no person suing as well for himself as for the Crown, nor to any suit or information by the Attorney or Solicitor-General on behalf of the Crown, nor to any suit in equity, nor before any consistorial or other ecclesiastical court, or any Court of Admiralty or Vice-Admiralty, or to proceedings before the Privy Council.

6. *Act may be repealed, &c.*—And be it enacted, That this Act may be repealed, altered, or annulled during the present Session of Parliament.

A Bill intituled, "An Act for furthering the Administration of Criminal Justice."

1. *Her Majesty in Council may appoint Counties within which persons committed for certain offences may be tried.*—For furthering the administration of criminal justice, be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, That it shall and may be lawful for her Majesty in Council to appoint certain counties within which persons committed or who shall be committed for trial for any offences charged to have been committed in such other counties, to be called connected counties, as shall be named by her Majesty in Council, may be tried, as if the same had been committed or charged to be committed within the bodies of the counties respectively appointed by her Majesty in Council; and any justice or justices empowered by any commission of gaol delivery to try persons charged with offences in the counties so appointed and in the connected counties so named shall have power to try all such persons in the counties appointed, although such offence may not be charged to have been committed within such appointed counties, any law, statute, custom, or usage to the contrary in any wise notwithstanding.

2. *Justice of assize may make order for payment of witnesses.*—And be it enacted, That any person charged with any offence, and about to be tried in any of the counties appointed in which the offence is not charged to have been committed, may apply to one or other of the justices of assize for an order to have the expenses of bringing witnesses from the place where such witnesses reside to the nearest place in the county within which the offender is to be tried, and back from such nearest place to the place of their residence; and such justice is hereby authorized to make an order for the payment of such expenses upon the treasurer of the county, with which order the said treasurer is hereby authorized and required to comply.

3. *Justices of gaol delivery to deliver the gaols as well of appointed counties as of counties where trials shall not be had.*—And be it enacted, That all justices in the commission of the gaol delivery shall deliver the gaols as well of the counties in which the trial of offences shall be had, and which shall be appointed as aforesaid by her Majesty in Council, as of the connected counties so named as aforesaid by her Majesty in Council, and within which the trial of offences shall not be had, and that such gaol delivery shall take place in the counties so appointed, as if the commission of gaol delivery had been opened and executed within the bodies of the connected counties so named as aforesaid in which the trial shall not be had.

HOUSE OF LORDS.

ADMINISTRATION OF CRIMINAL JUSTICE.

MONDAY, July 7.—Lord BROUGHAM moved the second reading of the Bill for the Administration of Criminal Justice. By this measure it was proposed to fix upon certan places as assize-towns, at which, as at the Central Criminal Court, all prisoners within a certain circuit should be tried. The state of criminal justice was such that it was necessary either to adopt some such measure as the present, or to appoint a greater number of judges, which latter course would be attended with much inconvenience. Lord CAMPBELL thought a consolidation of the kind would be very beneficial, but that the matter should not be pressed forward this session. Great advantage would be derived from the appointment of a new commission with power to inquire into the whole subject, and to redivide the assize districts of England and Ireland. He begged also to suggest that an interchange on circuit of the English and Irish judges would be very desirable.—The LORD CHANCELLOR concurred in the necessity for a new commission; but, though he did not consider the Irish judges in any way inferior to their English brethren, he did not think they could administer justice so successfully in England. As the report of the late commission was unsatisfactory, he should feel it his duty to recommend the appointment of a new one with more extensive powers.—Lord DENMAN feared it would be long before a satisfactory report was presented. No one could doubt that more frequent gaol deliveries were needed, but he was averse to a permanent winter circuit, and thought such deliveries should only take place occasionally.—Lord BROUGHAM, after the declaration made by the Lord Chancellor, would not press the Bill any further. As regarded new circuits, he thought they should be permanent, not occasional; and though he entertained all respect for the Irish bench, he did not think they had such an acquaintance with the feelings and habits of the people in this country, as to enable them to discharge judicial functions in England. The Bill was then read a second time; several Bills were forwarded a stage, and their lordships adjourned.

DOCUMENTARY EVIDENCE BILL.

THURSDAY, July 10.—On the motion for going into committee on this Bill, Lord BROUGHAM said the object of the Bill was to obviate certain anomalies that existed at present, and to authorize any person to produce documents, properly signed and sealed, as evidence in courts of justice, without proof of the seal or signature; but at the same time to make it a forgery, punishable with seven years' transportation, to forge or fabricate any such document, or to utter it knowing it to be forged or fabricated. As a proof of the necessity for such a measure, he would mention that in all the Railway Bills that had recently passed, there was an omission of all penalties for forgery, and as a furth proof how these parties should be looked after, that the Great Western Company recently introduced a Bill which provided, among other things, that the books of the company, which were evidence at law against them, should in certain cases be also evidence in their favour. It had been suggested to him by a noble friend opposite that it would be of great public utility if it were provided that the Journals of the House should also be taken as evidence in courts of justice; and he would therefore move that the Bill be committed *pro formâ*, in order that it might be printed with amendments, and re-committed.—The LORD CHANCELLOR said he approved of the Bill, and thought the proposed provision with respect to the Journals of the House would be of importance to the administration of justice.—Lord CAMPBELL said he highly approved of the Bill, thinking it would much simplify legal proceedings, save great expense, and prevent many lawsuits. The motion was then agreed to, and the Bill ordered to be reprinted.

HOUSE OF COMMONS.

REMOVAL OF COURTS.

SATURDAY, July 5.—A select committee has been appointed by the House of Commons, on the motion of Mr. C. Buller, "to consider the expediency of erecting a building in the neighbourhood of the inns of court, for the sittings of the Courts of Law and Equity, in lieu of the courts adjoining to Westminster Hall, with a view to the more speedy, convenient, and effectual administration of justice."

BUSINESS OF THE HOUSE.—DROPPED MEASURES.

MONDAY, July 7.—In the House of Commons, Sir R. PEEL rose at five o'clock to state the measures which Government intended to pursue at this late period of the session, and informed the House, in the first place, that in the course of the present week either the Vice-President of the Board of Trade or himself would lay upon the table a minute from the Board of Trade suggesting that some alte- [illegible] charge in the last session. He proposed to render it imperative that all railway projects should be laid before the Board of Trade, to relieve it from the duty of deciding on the relative merits of conflicting plans. A minute for that object would shortly be laid upon the table of the House. Effect had also been given to the address moved the other night by Mr. Cobden; and commissioners had been appointed to report as to the propriety of adopting the broad or narrow gauge. Those commissioners were Sir F. Smith and Professors Barlow and Airey. There were at present fifty or sixty Bills before the House, of which many were of great interest, although they might not create much discussion. He regretted to find that the quantity of business required to be discharged was so great, that it would be advantageous to give an announcement of the Bills which the Government intend to press, and of those which it intended to withdraw. With respect to the Colleges (Ireland) Bill, he intended to conclude the discussion upon it before he proceeded to any further business, in order that it might be sent as early as possible to the Lords. The second reading of the Jewish Disabilities Removal Bill he would move on the earliest opportunity. Sir J. Graham wished to have one of his medical Bills reprinted for the purpose of introducing some modifications into it. If these met the assent of the House, he would proceed with it, otherwise not. Of the principle of the Charitable Trusts Bill the Government approved highly; but it was brought forward at so late a period of the session that it was not probable that it would be persevered with this session. The Ecclesiastical Courts Bill belonged to Lord John R[illegible]. He (Sir R. Peel) was inclined to assent to the second reading of it, but he could not grant to the noble lord a sufficient number of Government days for the discussion of it, and therefore could not make any engagement as to promoting the passing of it this session. Many important alterations ought to be made in the Customs Acts. It was now thirteen years since the last consolidation of them had been made; Government was prepared with a new Consolidation Act, and was anxious to pass it for the sake of the commercial and mercantile classes. If any obstruction were offered to it, Government could not carry it; but if Government were encouraged in its efforts to make that Bill law, he should certainly proceed with it.—Lord JOHN RUSSELL would have proceeded with the Ecclesiastical Courts Bill if Sir R. Peel would have given up to him a sufficient number of Government days; but, as he would not, it appeared to him that no good purpose would be answered by pressing the Bill this session to a second reading.

PRIVILEGE.

Sir J. Y. BULLER presented two petitions, one from Theodore Bryett, stating that he was the partner of Charles Edwards, of Totness, who had acted as solicitor for David Phillips in bringing the action against Mr. Parrott, stating that he knew nothing about the proceedings in it, and praying to be discharged from further attendance upon the House; and another from C. Edwards, solicitor at Totness, and from T. Baker, solicitor of Lime-street, London, stating that they had brought the action against Mr. Parrott at the instance of their client, David Phillips, for evidence given by him before a committee of the House of Commons, which they were informed was maliciously and wilfully false; that in so doing they did not conceive that they were guilty of any breach of privilege, as they believed that the House would give no further protection to its witnesses than that which was given to witnesses in the courts of law; and that, if they had been guilty of a breach of privilege, they had been guilty of it unintentionally; and praying that they too might be discharged from further attendance on the House.—On the motion of Mr. DIVETT, Mr. D. Phillips was then called in and examined. In the course of his examination he explained the circumstances under which he had brought this action. The substance of it was that Mr. Parrott had made a statement respecting him before the Committee on Medical Relief, which was not only false, but, as he believed, maliciously false. He had lost in consequence all his parish business; but he could not say how far he had suffered in his private practice. He had endeavoured to obtain redress both from the board of guardians at Totness and from the Poor Law Commissioners in London, but ineffectually. He had therefore brought this action for words spoken before the committee, coupled with words spoken by Mr. Parrott before the board of guardians at Totness. In so doing he had no intention to offend against the privileges of the House. He was sorry he had infringed them, and if he had done so he had done it unintentionally. He was now aware that he had been guilty of a breach of privilege, and was willing to let the House take such steps as it might think fitting for the protection of its character. He was sharply cross-examined, for the purpose of extracting from him an admission that the action was brought solely upon the words spoken before the committee, and the declaration was put into his hands for that purpose. The witness, however, either was or appeared ignorant of the legal effect of the declaration, which he admitted had been read over to him. A very long and desultory discussion respecting the course to be adopted for the vindication of the privileges of the House ensued, of which it would be useless to attempt a summary; and at last Mr. Phillips and his attorneys, having severally declared their contrition and promised to take no further steps in the prosecution of the action, were discharged from custody.

THE MAGISTRATE.

Summary.

WE scarcely know whether to congratulate or condole with the magistrates' clerks on the dropping of the bill for their "regulation." But the death of the Settlement Bill is a cause for rejoicing, and there is now little chance of a change in the law for many years to come.

THE SALT-HILL MURDER.—At a very full meeting of the Bucks county magistrates (upwards of thirty being present), held in the magistrates' chamber, at Aylesbury, on Thursday last, for the transaction of county business, Dr. Lee, one of the justices, inquired of the chairman, Sir T. D. Aubrey, if the confession signed by John Tawell a few hours before his execution, and placed in the hands of the Rev. Mr. Cox, had been given up by the chaplain of the county prison to the magistrates, especially after the general feeling which prevailed on the subject at the last quarter sessions held for the county? The chairman having replied that that document was still retained by Mr. Cox, it was resolved, on the motion of Dr. Lee, that a letter be addressed to the Rev. Mr. Cox, requesting that he would deliver up the written confession of John Tawell to the magistrates, at the next quarter sessions for the county of Bucks. It was the general opinion of those present at the meeting, that, after this resolution, no further opposition to the wishes of the magistrates would take place on the part of the chaplain.

THE LAWYER.

Summary.

MANY important judgments in this day's LAW TIMES well deserve the reader's attentive perusal; and there are other matters among the Legal Intelligence, &c., that will interest him. So crowded are our columns with the various matters which, at this season, press for publication, that we must forbear comment upon any.

THE LAW AND PRACTICE OF PROCEEDING AGAINST A TRADER-DEBTOR,

Under the Statute 1 & 2 *Vict. c.* 110, *s.* 8.

PART I.—CHAPTER I.

STATUTE.

1. If any single creditor, or any two or more creditors being partners, whose debt shall amount to 100*l.* or upwards, or any two creditors whose debts shall amount to 150*l.* or upwards, or any three or more creditors whose debts shall amount to 200*l.* or upwards, of any trader, within the meaning of the laws now in force respecting bankrupts, shall file an affidavit or affidavits in her Majesty's Court of Bankruptcy, that such debt or debts is or are justly due to him or them respectively, and that such debtor, as he or they verily believe, is such trader as aforesaid, and shall cause him to be served personally with a copy of such affidavit or affidavits, and with a notice in writing requiring immediate payment of such debt or debts; and if such trader shall not, within twenty-one days after personal service of such affidavit or affidavits and notice, pay such debt or debts, or secure or compound for the same, to the satisfaction of such creditor or creditors, or enter into a bond in such sum, and with two sufficient sureties, as a commissioner of the Court of Bankruptcy shall approve of, to pay such sum or sums as shall be recovered in any action or actions which shall have been brought, or shall thereafter be brought for the recovery of the same, together with such costs as shall be given in the same, or to render himself to the custody of the gaoler of the court in which such action shall have been, or may be, brought, according to the practice of such court, or within such time, and in such manner as the said Court, or any judge thereof, shall direct, after judgment shall have been recovered in such action, every such trader shall have been deemed to have committed an act of bankruptcy on the twenty-second day after service of such affidavit or affidavits and notice, provided a fiat in bankruptcy shall issue against such trader within two calendar months from the filing of such affidavit or affidavits, but not otherwise. (1 & 2 Vict. c. 110, s. 8.)

A trader-debtor, who is subject to the Bankrupt Laws in force at the time of passing this statute, is liable to be made a bankrupt if he shall not "pay, secure, or compound" for his debt within twenty-one days after his creditor shall have filed an affidavit of his debt, and made a demand of pay-

ment upon him in the form prescribed by the statute.

2. The first step to be taken by the creditor is to file an affidavit in the Court of Bankruptcy of the justness of his debt, and of such debtor being (to the best of his belief) such a trader as aforesaid, and to cause a copy of this affidavit to be served *personally* upon his debtor, with a notice in writing attached, requiring immediate payment of his debt. Then, if such debtor shall not, within twenty-one days after service of the affidavit and notice, pay or secure the debt to his creditor's satisfaction, or enter into a bond with two sufficient sureties, as a commissioner of the Court of Bankruptcy shall approve to pay *any sum* which shall be recovered in any action which may be brought against him by his creditor for the recovery of his debt, *together with the costs thereof*, or render himself to the custody of the gaoler of the court in which the action shall have been brought, after judgment is recovered against him, according to the practice of the court, or within such time as the said Court, or any judge thereof, shall direct, such trader shall have been deemed to have committed an act of bankruptcy on the *twenty-second day* after service of such affidavit and notice, provided that a fiat in bankruptcy shall be issued against him within *two calendar months* from the filing of the affidavit.

WHAT TRADERS ARE LIABLE.

3. All bankers, brokers, and persons using the trade or profession of a scrivener, receiving other men's moneys or estates into their trust or custody, and persons insuring ships or their freight, or other matters against perils of the sea; warehousemen, wharfingers, packers, builders, carpenters, shipwrights, victuallers, keepers of inns, taverns, hotels, or coffee-houses; dyers, printers, bleachers, fullers, calenderers, cattle or sheep salesmen, and all persons using the trade of merchandize by way of bargaining, exchange, bartering, commission, consignment, or otherwise, in gross or by retail, and all persons who, either for themselves, or as agents, or factors for others, seek their living by buying and selling, or by buying and letting for hire, or by the workmanship of goods or commodities, shall be deemed traders liable to become bankrupt, provided that no farmer, grazier, common labourer, or workman for hire, receiver-general of the taxes, or member of or subscriber to any incorporated, commercial, or trading companies, established by charter or Act of Parliament, shall be deemed as such a trader liable by virtue of this Act to become bankrupt. (6 Geo. 4, c. 16, s. 2.)

THE AMOUNT OF DEBT REQUIRED.

Any *single* creditor, or any two or more creditors, *being partners*, whose debt shall amount to 100*l*. or upwards, or any *two* creditors whose debts shall amount to 150*l*. or upwards, or any *three or more* creditors whose debts shall amount to 200*l*. or upwards, may proceed against a trader-debtor under the provisions of this statute. The debt must be one for which an action can be maintained. (*Ex parte Johnson*, 11 L. J. Reports, N. S.—Bankruptcy, 41.)

THE AFFIDAVIT AND NOTICE.

5. The creditor must "file an affidavit or affidavits in her Majesty's Court of Bankruptcy, that such debt or debts is or are justly due to him or them respectively, and that such debtor, as he or they verily believe, is such trader as aforesaid,(*a*) and shall cause him to be served *personally* with a copy of such affidavit or affidavits, *and* with a notice *in writing*, requiring immediate payment of such debt or *debts*." (1 & 2 Vict. c. 110, s. 8.)

THE AFFIDAVIT BY WHOM TO BE MADE.

6. If the trader be a debtor to a firm consisting of several partners, the affidavit may be made *by one of them*. (*Ex parte Whitby*, 4 Dea. 139; Mont. & Ch. 671, S. C.) Where the affidavit was made by the wife of the creditor, as due to herself and her husband, but the husband alone made the demand, and gave the notice, the provisions of 1 & 2 Vict. c. 110, s. 8, were held to have been complied with. (*Ex parte Wylde*, 11 L. J. Rep. N. S.—Bankruptcy, 18.) The affidavit of debt must be made by the creditor himself, and cannot be filed if made by any other person. (*Ex parte Jeremiah Clark*, 5 Law T. 153.) It is presumed that, in the case of a surviving partner, executor, &c. the same rule would hold as in the proof of debts under a bankruptcy; for the law and various decisions on which the reader is referred to Archbold's Bankruptcy, 10th edition, title "Proof of Debts," p. 182, *et seq.*; and Montagu & Ayrton's Bankruptcy, 2nd edition, title "Proof of Debts," p. 174, *et seq.* The decisions themselves would be too numerous to insert in a short practical treatise of this description.

(*a*) *Vide ante*, as to what traders are liable. (6 Geo. 4, c. 16, s. 2.)

HOW SWORN.

7. By the 5 & 6 Vict. c. 122, s. 67, it is enacted "That all affidavits to be made or used in matters of bankruptcy, *or under or by virtue of any statute relating to bankrupts*, or of this Act, shall and may be sworn before the Court of Review, or before either of the subdivision courts in bankruptcy, or any commissioner, or the master or any registrar or deputy registrar of the Court of Bankruptcy, or master in ordinary or extraordinary of the High Court of Chancery, or in Scotland or Ireland before a magistrate of the county, city, town, or place where such affidavit shall be sworn, or elsewhere, before a magistrate and attested by a notary, or before a British minister, consul, or vice-consul. The provisions of this section of 5 & 6 Vict. c. 122, afford an increased facility in the swearing of affidavits in bankruptcy beyond those of the 13th section of 6 Geo. 4, c. 16, which direct that affidavits shall be sworn before a "master ordinary or extraordinary in Chancery."

WHEN AND WHERE TO BE FILED.

8. The creditor must file his affidavit in the Court of Bankruptcy *before* he serves the notice requiring payment upon his debtor; and the affidavit cannot be taken off the file, unless strong reason be shewn for it, after it is once on. Where the debtor was served with the notice before the affidavit was actually filed (*Ex parte Gibson*, 3 Dea. 531; Mount. & Ch. 255), and where the debt sworn to had been satisfied, and the creditor consented to the application (*Ex parte Ferreday*, 1 M. D. & D. 172), the Court has refused to make an order that the affidavit should be taken off the file. In *Ex parte Ferreday* (*suprà*) Sir John Cross said, "We might, perhaps, permit the party who has made the affidavit to acknowledge on the back of it that he had received satisfaction for his debt, upon the principle of indorsing satisfaction on a judgment, or the creditor might make an affidavit stating that the debt had been satisfied." (See also *Ex parte Cheese*, 3 M. D. & D. 79.)

This seems to be a hard case upon the debtor, as the affidavit may possibly be used *improperly* by some other creditor, who is desirous of issuing a fiat against the debtor. It also operates against him, inasmuch as he must deal disadvantageously with his creditors, and cannot mortgage or sell his property on advantageous terms, until the expiration of two months from the time of filing the affidavit.

In a case where the affidavit was made for a debt of 100*l*. and a bond for that amount had been given and accepted, the creditor afterwards filed a second affidavit, in which he stated that his debt was in reality 3,612*l*. the Court refused to order this second affidavit to be taken off the file (*Ex parte Rose*, 4 Dea. 66; Mont. & Ch. 149); although it may be matter of doubt whether a fiat could be supported for neglect of payment, or giving security for the larger sum on the second affidavit and notice, as an act of bankruptcy. (*Ex parte Rhodes*, 4 Dea. 125; Mont. & Ch. 319.)

When a public company proceed under the Act, it must be proved that some person was duly authorized by them to demand the payment of the debt. (*Ex parte Gratton*, 2 M. D. & D. 401.)

Form of Affidavit.

In the Court of Bankruptcy, London.

A B, of , in the of , maketh oath and saith that E F, of , in the of , is justly and truly indebted to this deponent in the sum of , of lawful money of Great Britain, for [*here state the particulars of the debt*], and that the said sum of is now justly due and owing by the said E. F to this deponent. And this deponent further saith, that the said E F is now, as this deponent verily believes, a trader within the meaning of the laws now in force respecting bankrupts, or some or one of them.

Sworn at , in the of , this day of , one thousand eight hundred and forty

(Signed) A B.

Before me

The affidavit is to be looked upon as analogous to an affidavit to hold to bail, and as a substitute for it, and not as a process tending to a fiat. (*Ex parte Hall*, Mont. & Ch. 365.)

Form of Notice to Debtor to pay.

Take notice that I, A B, of , in the of , have filed an affidavit in her Majesty's Court of Bankruptcy, a copy of which is hereunto annexed, to the effect that you, E F, are justly and truly indebted to me, the said A B, in the sum of , and that the same is now justly due and owing to me, the said A B. And I, the said A B, hereby require of you, the said E F, the immediate payment of the said debt or sum of , together with interest on the said debt, to the time of payment.

Dated this day of , one thousand, eight hundred and forty .

To Mr. E F, of , in the of

(Signed) A B.

A form of notice from the creditor's attorney, instead of from the creditor himself, may easily be framed from the above.

THE COPY OF THE AFFIDAVIT AND THE NOTICE, HOW SERVED.

7. The service must be upon the debtor in person.

Where the notice was served *before* the affidavit was filed, but, upon discovering his mistake, the creditor withdrew his first notice, and served the debtor with a second notice, the Court allowed the first notice to be treated as a nullity, and refused to set aside the proceedings under the second notice, that having been served *after* the affidavit was filed. (*Ex parte Gibson*, 3 Dea. 531; Mont. & Ch. 255.)

LEADING CASES.—No. IV.

CLOSE *v.* PHIPPS.

(8 Scott N. R. 382.)

Money had and received—Rule of law as to voluntary payments—What payments are not voluntary—Assumption, or excess, of legal authority—Duress—Money paid to obtain a legal right—Ignorance of law and of fact.

It has been again and again laid down in a variety of cases, that *assumpsit* for money had and received cannot be supported where a voluntary payment has been made with full knowledge of the facts (*Bilbie* v. *Lumley*, 2 East, 469; *Milnes* v. *Duncan*, 6 B. & C. 677; *Wilson* v. *Ray*, 10 A. & E. 82), but the knowledge is required to be a present knowledge, existing in the mind at the time of payment. Consequently it has been held, that where a plaintiff has *bonâ fide forgotten* the facts which disentitled the defendant to receive the money, the money so paid may be recovered back in that form of action (*Kelly* v. *Solari*, 9 M. & W. 54); in which case it was also laid down, that it is not sufficient to preclude a party from recovering money paid by him under a mistake of fact that he had the *means* of knowledge, unless he paid it intentionally, not choosing to investigate the matter. (See also *Bell* v. *Gardner*, 1 Dowl. N. S. 683; *Pope* v. *Wray*, 4 M. & W. 451.)

Such being the general rule of law as to the effect of voluntary payments, it becomes necessary to inquire when payments are considered to be voluntary; and as every payment made by a reasonable man may be presumed to be voluntary until the contrary is shewn, we shall be better able to come to a right conclusion upon this subject, by referring to some of the cases in which the payments made have been decided to be *not* voluntary. It is then, in the first place, obvious that payments made under compulsion of law are not voluntary payments, but to such payments the rule above stated does not hold. Though clearly not coming within the class of voluntary payments, money paid under legal process, in order to prevent endless litigation, cannot be recovered in an action for money had and received. (*Marriott* v. *Hampton*, 7 T. R. 269; *Brown* v. *M'Kinally*, 1 Esp. 279; *Hamlet* v. *Richardson*, 9 Bing. 644; *Milnes* v. *Duncan*, 6 B. & C. 679; *Kist* v. *Atkinson*, 2 Camp. 63; *Gower* v. *Popkin*, 2 Stark. 8; *Knibbs* v. *Hall*, 1 Esp. 84. See also *Moses* v. *M'Farlane*, 2 Bur. 1009, and *Cobden* v. *Kendricke*, 4 T. R. 432.) Money, however, obtained under colour of legal process by an excess of authority, may be recovered back, for in such a case the payment is not a voluntary payment, and the law has no interest in supporting a legal authority wrongly assumed. (*Snowdon* v. *Davies*, 1 Taun. 359.) Nor is the payment voluntary, nor the authority of the law properly exercised, where a broker who had distrained on a tenant for rent, was requested not to sell, and promised his charges in consideration of

such forbearance, and time was given and the charges paid, but the tenant objected to the amount of the charges; and it was held that if the charges were irregular, they might be recovered back. (*Hills* v. *Street*, 5 Bing. 37.) And it has been laid down that the payment of illegal fees, generally, cannot be considered as voluntary. (*Dew* v. *Parsons*, 2 B. & Ald. 562; *Morgan* v. *Palmer*, 2 B. & C. 729.) These two cases were decided upon the principle, that to render a payment voluntary, the party paying and the party receiving must stand upon an equal footing. In *Morgan* v. *Palmer*, Abbott, C. J. says—"It has been well argued that, the payment having been voluntary, it cannot be recovered back in an action for money had and received. I agree that such a consequence would have followed, '*had the parties been upon equal terms.*' But if the one party has the power of saying to the other, 'that which you require shall not be done except upon the conditions which I choose to impose,' no person can contend that they stand upon any thing like an equal footing." *Dew* v. *Parsons* (*ubi supra*) was an action by the sheriff of Hereford to recover from the defendant a fee to which he alleged a title upon a warrant issued by him. The defendant claimed to set off a sum which his clerk had paid to the sheriff upon some other warrants, under a misapprehension as to his legal liability. It was contended that the defendant could not set off a sum which he was not compellable to pay, but which with a full knowledge of all the facts he had paid under a mistake as to the law; and in support of this view the case of *Brisbane* v. *Dacres* (5 Taun. 153) was relied upon; but Best, J. said, "I am clearly of opinion that the defendant is entitled to set off what he has overpaid to the sheriff, for this is not, like *Brisbane* v. *Dacres*, the case of a voluntary payment. *In that case both parties were equally cognizant of the situation in which they stood*, but here that was not the case." (Ibid. p. 568; *Payne* v. *Chapman*, 4 A. & E. 364.) Upon the same principle of the parties standing upon an unequal footing is founded the right to recover money paid under duress of person or goods. A party wrongly detaining the goods of another, and by such detention compelling the payment of a sum of money, is like the person unduly assuming the authority of the law. The per-dealing with him is scarcely to be regarded free agent. In *Astley* v. *Reynolds* (2 Stra. 915), which is the leading case as to the duress of goods, the Court says, "The plaintiff might have had such an immediate want of his goods, that an action of trover would not do his business. Where the rule *volenti non fit injuria* is applied, it must be where the party had his freedom of exercising his will, which the plaintiff had not. We must take it he paid the money relying on his legal remedy to get it back again." (Ibid. 916.) In that case the defendant had refused to deliver up some plate which the plaintiff had pawned, without the payment of a sum considerably higher than legal interest, and the action was brought to recover the difference between the money paid and the money due by law. The payment in that case, and in similar cases founded upon it, was held to be not voluntary, and the money was consequently recovered. (See *Atlee* v. *Backhouse*, 3 M. & W. 633, per Parke, B.; *Lindon* v. *Hooper*, 1 Cowp. 414; *Skeate* v. *Beale*, 11 A. & E. 983; *Ashmole* v. *Wainwright*, 2 Q. B. 837; *Smith* v. *Sleap*, 12 M. & W. 585.) In *Skeate* v. *Beale*, above cited, the question was, whether a *written agreement* was void because made under duress of goods, and the Court held that the *agreement* was not void on that ground; but in the judgment the Court distinctly recognised the rule above stated. Lord Denman says (ibid. 990), "We consider the law to be clear, and founded on good reason, that an agreement is not void because made under duress of goods. There is no distinction in this respect between a deed and an agreement not under seal; and with regard to the former, the law is laid down in 2 Inst. 483, and Sheppard's Touchstone, p. 61, and the distinction pointed out between duress of or menace to the person, and duress of goods. The former is a constraining force, &c.; but the fear that goods may be taken or injured does not deprive any one of his free agency who possesses that ordinary firmness which the law requires all to exert. *It is not necessary now to enter into the consideration of cases in which it has been held that money paid to redeem goods wrongfully seized, or to prevent their wrongful seizure, may be recovered back in an action for money had and received, for the distinction between those cases and the present, which must be taken to be that of an agreement, not compulsorily but voluntarily entered into, is obvious.*" In *Ashmole* v. *Wainwright*, the defendants, common carriers, refused to re-deliver plaintiff's goods which they had carried for him, except on payment of 5*l*. 5*s*. charges. He insisted that he was not liable to pay any thing, but ultimately, defendants having said that they would take nothing less than the whole sum, he paid the whole, in order to regain his goods, protesting that he was not liable to pay any thing, and that if he was liable, the charge was exorbitant. He had not tendered any smaller sum. Afterwards, without having demanded the return of any surplus, he brought *assumpsit* for money had and received, and on the trial the jury estimated the defendant's charges at 1*l*. 10*s*. The argument there mainly turns upon the necessity of a tender, and upon the mutual want of equity between the parties; the plaintiff in not having offered any sum, and the defendants having claimed a much larger sum than the jury found they were entitled to; but it was not disputed, as a general rule of law that an action would lie to recover money paid under a duress of goods. Patteson, J. says, "I should be sorry to throw any doubt upon the point that an action for money had and received will lie to recover money paid on the wrongful detainer of goods; it would be very dangerous to do so, the doctrine being in itself so reasonable, and supported by so many authorities." (2 Q. B. 845.) Coleridge, J. says, "I never doubted that an action for money had and received might be maintained to recover money paid upon a wrongful detainer of goods." (p. 846.) And the opinion of the whole Court was, that the action lay, without any tender being necessary. *Parker* v. *The Great Western Railway* (7 Scott, N. R. 835) is a recent case, founded upon a similar, but not exactly the same, principle. It was there held, that money paid to induce a defendant to do that which by law he is bound to do, is not a voluntary payment; and that decision seems to rest upon grounds very analogous to those upon which the cases of *Dew* v. *Parsons* and *Morgan* v. *Palmer*, above cited, were decided. The defendants, the Railway Company, having exacted from the plaintiff, a carrier, more than they charged to other carriers for the conveyance of goods for them by their carriages, in breach of their Acts of Parliament, it was held that the sums, thus obtained from the plaintiff, being payments made to induce the company to do that which they were bound to do without them, might be recovered. (See also *Pickford* v. *The Grand Junction Railway Company*, 8 M. & W. 377, 10 M. & W. 399; *Ansell* v. *Waterhouse*, 6 M. & S. 385; *Smith* v. *Bromley*, 2 Doug. 697, n.; *Parsons* v. *Blandy*, Wightwick, 22; *Waterhouse* v. *Keen*, 4 B. & C. 200.)

Following the case of *Parker* v. *The Great Western Railway Company* in time and in doctrine, we now come to *Close* v. *Phipps*, decided in the same court. In this case, which we have placed at the head of these remarks, the late husband of the plaintiff had mortgaged certain property at Balstonborough to one John Welch to secure a sum of 1,000*l*. and interest. In April 1813 the defendant, as the attorney of the mortgagee, gave notice to the plaintiff (who was administratrix *cum testamento annexo* of her deceased husband) that he would proceed to sell the property under the power given by the mortgage-deed, unless the sum due for principal and interest were immediately paid. The defendant advertised the property for sale on the 2nd of October. On the 20th of September one James, a solicitor, called upon the defendant, on behalf of the plaintiff, for the purpose of paying off the principal and interest, when the defendant refused *to stop the sale or to deliver up the deeds without being paid a sum (in addition to the principal and interest, and his costs)* for extra charges and expenses on the trial. Cresswell, J. held that the money having been extorted from the plaintiff under a species of duress, she was entitled to recover it back. A rule to enter a nonsuit having been obtained, it was discharged by the Court, upon the authority of *Parker* v. *The Great Western Railway Company*, without the least hesitation. Tindal, C. J. says, "I think this is quite as strong a case as that last referred to. The interest of the plaintiff to prevent the sale by submitting to the demand was so great that it may well be said the payment was made under what the law calls a species of duress." (8 Scott, 384.) A similar decision, founded upon very similar facts, was pronounced almost contemporaneously by the Court of Queen's Bench, in the case of *Wakefield* v. *Newbon* (13 Law J. N.S. Q.B. 258).

Such are some of the more important grounds on which payments are held not voluntary, but a payment of money made in ignorance of the *law*, but with a knowledge of the facts, is regarded as a voluntary payment, and cannot be recovered, in accordance with the maxim of the civil law, *ignorantia juris excusat neminem*; but ignorance as to the state of *facts* alters the character of the payment, and it may be recovered. See the cases of *Bilbie* v. *Lumley* (*ubi sup.*); *Lowry* v. *Bordieu* (Dougl. 467); *Lothian* v. *Henderson* (3 B. & P. 420); *Gomery* v. *Bond* (3 M. & S. 378); *Skyring* v. *Greenwood* (4 B. & C. 281); *Shaw* v. *Picton* (4 B. & C. 715); and the cases collected in the learned note of Mr. Smith to the case of *Marriott* v. *Hampton* (2 Smith's Leading Cases, 238). We cannot better conclude these remarks than by quoting Lord Mansfield's true and eloquent description of the action for money had and received, which is the form of action in which money paid under the circumstances above stated is recoverable. "This kind of equitable action," said his lordship, "to recover back money which ought not in justice to be kept, is very beneficial, and therefore much encouraged. It lies only for money which, *ex æquo et bono*, the defendant ought to refund. It does not lie for money paid by the plaintiff, which is claimed of him as payable in point of honour and honesty, although it could not have been recovered from him in any course of law, as in payment of a debt barred by the Statute of Limitations, or contracted during his infancy, or to the extent of principal and legal interest upon an usurious contract, or for money fairly lost at play; because in all these cases the defendant may retain it with a safe conscience, though, by positive law, he was barred from recovering; but it lies for money paid by mistake, or upon a consideration which happens to fail, or for money got through imposition, extortion, or oppression, or an undue advantage taken of a party's situation, contrary to laws made for the protection of persons under those circumstances." (2 Burr. 1012.)

PROMOTIONS, APPOINTMENTS, ETC.

[Clerks of the Peace for Counties, Cities, and Boroughs, will oblige by regularly forwarding the names and addresses of all new Magistrates who may qualify.]

Whitehall, July 9.—The Queen has been pleased to direct letters patent to be passed under the Great Seal, granting the dignity of a Baronet of the United Kingdom of Great Britain and Ireland unto John Francis Davis, Esq. Governor of Hong-Kong, and the heirs male of his body lawfully begotten.

Crown-office, July 8.—Members returned to serve in this present Parliament.—County of Suffolk, Western Division.—Philip Bennet, the younger, of Rougham-hall, in the said county, esq. in the room of Lieutenant-Colonel Robert Rushbrooke, deceased.—Borough of Dartmouth—George Moffatt, esq. in the room of Joseph Somes, esq. deceased.

City of Exeter.—Sir John Thomas Buller Duckworth, Bart. in the room of Sir William Webb Follett, deceased.

Borough of Abingdon.—Sir Frederic Thesiger, of Bryanston-square, in the county of Middlesex, Knt. her Majesty's Attorney-General.

Ireland.—His Excellency the Lord Lieutenant has been pleased to make the following appointments under the provisions of the statute of 6 Wm. 4, c. 13, viz. John Wilcocks, esq. R.M. to be an additional resident magistrate for the county of Leitrim; John B. Graves, esq. to be resident magistrate for the county of Cavan, in the room of John Wilcocks, esq.

COURT PAPERS.

IRELAND.

The ensuing Assizes have been fixed for the following days:—

HOME CIRCUIT.

Carlow, at Carlow, Tuesday, 8th July
Kildare, at Athy, Thursday, 10th
Queen's County, at Maryborough, Saturday, 12th
King's County, at Tullamore, Wednesday, 16th
Westmeath, at Mullingar, Monday, 21st
Meath, at Trim, Wednesday, 23rd.

Justices { The Hon. Mr. Justice Crampton
The Right Hon. Baron Richards

Registers { Richard A. Walker, esq.
Robert King Piers, esq.

NORTH-WEST CIRCUIT.

Longford, at Longford, Tuesday, 8th July
Cavan, at Cavan, Friday, 11th
Fermenagh, at Enniskillen, Wednesday, 16th
Tyrone, at Omagh, Monday, 21st
Donegal, at Lifford, Friday, 25th
City and County of Londonderry, at Londonderry, Monday, 28th

Justices { The Right Hon. the Lord Chief Justice. The Hon. Mr. Justice Torrens.

Registers { John Ryan, esq. Richard Babington, esq.

NORTH-EAST CIRCUIT.

County of the Town of Drogheda, at Drogheda, Monday, 7th July
Louth, at Dundalk, Tuesday, 8th
Monaghan, at Monaghan, Thursday, 10th
Armagh, at Armagh, Monday, 14th
Down, at Downpatrick, Thursday, 17th
Antrim, at Carrickfergus, Monday, 21st
The Town of Carrickfergus, at Carrickfergus, same day and hour

Justices { The Right Hon. Mr. Justice Perrin The Right Hon. Mr. Justice Ball

Registers { William Perrin, esq. Nicholas Ball, esq.

LEINSTER CIRCUIT.

Wicklow, at Wicklow, Tuesday, 8th July
Wexford, at Wexford, Friday, 11th
City and County of Waterford, at Waterford, Tuesday, 15th
Tipperary (South Riding), at Clonmel, Monday, 21st
City and County of Kilkenny, at Kilkenny, Friday, 25th
Tipperary (North Riding), at Nenagh, Tuesday, 29th

Justices { The Right Hon. the Lord Chief Justice, Common Pleas The Hon. Baron Pennefather

Registers { John J. Stanford, esq. Samuel Delap, esq.

CONNAUGHT CIRCUIT.

Roscommon, at Roscommon, Tuesday, 8th July
Leitrim, at Carrick-on-Shannon, Monday, 14th
Sligo, at Sligo, Friday, 18th
Mayo, at Castlebar, Tuesday, 22nd
Galway, at Galway, Monday, 28th
The Town of Galway, at Galway, same day and hour

Justices { The Right Hon. Baron Lefroy The Hon. Mr. Justice Jackson

Registers { Thomas Courtnay, esq. Benjamin Dickson, esq.

MUNSTER CIRCUIT.

Clare, at Ennis, Friday, 11th July
Limerick, at Limerick, Thursday, 17th
City of Limerick, at Limerick, same day and hour
Kerry, at Tralee, Wednesday, 30th
Cork, at Cork, Monday, 4th August
City of Cork, at Cork, same day and hour

Justices { The Right Hon. the Lord Chief Baron The Hon. Mr. Justice Burton

Registers { Cheyne Brady, esq. Samuel S. Reeves, esq.

GENERAL ORDERS AND RULES OF THE HIGH COURT OF CHANCERY.

(*Concluded from page 293.*)

Affidavits.

CXXVI. All affidavits are to be taken and expressed in the first person of the deponent.

CXXVII. All copies of affidavits are to be ready for delivery within forty-eight hours after the same are bespoke.

CXXVIII. Any solicitor, party, or person filing an affidavit not taken and expressed in the first person of the deponent is not to be allowed the costs of preparing and filing such affidavit in any taxation of costs.

Forms of Subpœna.

1. *To appear and answer, or to appear only, when the writ is to be served on a defendant [or defendants] within the jurisdiction.*

Victoria, by the Grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith.

To greeting.

We command you [and every of you, *where more than one defendant*], that within eight days after the service of this writ on you, exclusive of the day of such service, laying all other matters and excuses aside, you do cause an appearance to be entered for you in our High Court of Chancery to a bill [*or, as the case may be*, an information, *or* amended bill, *or* information, bill of revivor, bill of revivor and supplement, *or* supplemental bill] filed against you by [and others, *or* another], and that you do answer concerning such things as shall then and there be alleged against you, and observe what our said Court shall direct in this behalf, upon pain of an attachment issuing against your person, and such other process of contempt as our said Court shall award.

Witness ourself at Westminster the day of , in the year of our reign.

DEVON.

[*The following Memorandum to be placed at the foot.*]

Appearances are to be entered at the Record and Writ Clerk's office, in Chancery-lane, London; and if you do not cause your appearance to be entered within the time limited by the above writ, the plaintiff will be at liberty to enter an appearance for you at your expense, and you will be subject to an attachment against your person, and such other process as the Court shall award, and to such order or decree being made against you as the Court shall think just, upon the plaintiff's own shewing.

2. *To appear and answer when the writ is by leave of the Court to be served on a defendant [or defendants] out of the jurisdiction.*

Victoria, &c.

To, &c.

We command you [and every of you, *where more than one defendant*], that within [*insert the time directed by the order giving leave to serve the writ out of the jurisdiction*] after the service of this writ on you, exclusive of the day of such service, laying all other matters and excuses aside, you do cause an appearance to be entered for you in our High Court of Chancery to a bill [*or, as the case may be, &c.*] filed against you by [and others, *or* another], and that within [*insert the time directed by the same order*] you do put in your answer to the same bill [*or, as the case may be, &c.*], and that you do answer concerning such things as shall then and there be alleged against you, and observe what our said Court shall direct in this behalf, upon pain of such process as our said Court shall award.

Witness, &c. DEVON.

[*The following Memorandum to be placed at the foot.*]

Appearances are to be entered at the Record and Writ Clerk's office in Chancery-lane, London and if you do not cause your appearance to be entered within the time limited by the above writ, the plaintiff will be at liberty to enter an appearance for you at your expense, and if you do not plead, answer, or demur to the bill, &c. within the time limited by the above writ, you will be subject to such process as the Court shall award, and to such order or decree being made against you as the Court shall think just, upon the plaintiff's own shewing.

3. *Subpœna to appear, when the writ is by leave of the Court to be served on a defendant [or defendants] out of the jurisdiction.*

Victoria, &c.

To, &c.

We command you [and every of you, *where more than one defendant*], that within [*insert the time directed by the order giving leave to serve the writ out of the jurisdiction*] after the service of this writ on you, exclusive of the day of such service, laying all other matters and excuses aside, you do cause an appearance to be entered for you in our High Court of Chancery to a bill [*or, as the case may be, &c.*] filed against you by [and others, *or* another]; and that you do answer concerning such things as shall then and there be alleged against you, and observe what our said Court shall direct in this behalf, upon pain of such process as our said Court shall award.

Witness, &c. DEVON.

[*The following Memorandum to be placed at the foot.*]

Appearances are to be entered at the Record and Writ Clerk's office in Chancery-lane, London; and if you do not cause your appearance to be entered within the time limited by the above writ, the plaintiff will be at liberty to enter an appearance for you at your expense, and you will be subject to such process the Court shall award, and to such order or decree being made against you as the Court shall think just, upon the plaintiff's own shewing.

4. *Subpœna to hear judgment.*

Victoria, &c.

To greeting.

We command you [and every of you] that you appear before our Lord High Chancellor [*or* before his Lordship or Honour the Master of the Rolls, *as the cause may be set down*] on the day of next, or whenever thereafter a certain cause now pending in our High Court of Chancery, wherein *A B* [and others, *or* another, are *or*] is plaintiff [*or* plaintiffs], and *C D* [and others, *or* another, are *or*] is defendant [*or* defendants], shall come on for hearing, then and there to receive and abide by such judgment and decree as shall then or thereafter be made and pronounced, upon pain of judgment being pronounced against you by default.

Witness, &c. DEVON.

5. *Subpœna for Costs.*

Victoria, &c.

To greeting.

We command you [and every of you] that you pay or cause to be paid, immediately after the service of this writ, to or the bearer of these presents, £. costs [in a cause wherein *A B* [and others, *or* another, are *or*] is plaintiff [*or* plaintiffs], and *C D* [and others, *or* another, are *or*] is defendant [*or* defendants] *or* in the matter of [*as the case may be*,] by our Court of Chancery adjudged to be paid by you, the said under pain of an attachment issuing against your person, and such process for contempt as the Court shall award in default of such payment.

Witness, &c. DEVON.

6. *Subpœna to testify vivâ voce in court, or to testify before the Master.*

Victoria, &c.

To greeting.

We command you [and every of you] that, laying all other matters aside, and notwithstanding any excuse, you personally be and appear before our Lord High Chancellor [*or* before his Lordship or Honour the Master of the Rolls, *or* before Mr. one of the masters of our High Court of Chancery, *or* before *E F or G H*, commissioners named in a commission issued to them for that purpose], at such time and place as the bearer hereof shall by notice in writing appoint, to testify the truth according to your knowledge in a certain suit now depending in our High Court of Chancery, wherein *A B* [and others, another, are *or*] is plaintiff [or plaintiffs], and *C D* [and others, *or* another, are *or*] is defendant [*or* defendants], on the part of the [*in case of subpœna duces tecum, add*, and that you then and there bring with you and produce, *&c.*] And hereof fail not at your peril.

Witness, &c. DEVON.

7. *Subpœna ad test. and Subpœna duces tecum.*

Victoria, &c.

To greeting.

We command you [and every of you] that, laying all other matters aside, and notwithstanding any excuse, you personally be and appear before Mr. one of the examiners of witnesses in our High Court of Chancery, at his office in Rolls Yard, Chancery Lane, London, at such times as the bearer hereof shall by notice in writing appoint [*or* before *E F or G H*, Commissioners appointed for the examination of witnesses in our Chancery, at such times and places as the bearer hereof shall by notice in writing appoint], to testify the truth according to your knowledge in a certain cause depending in our said Court of Chancery, wherein *A B* [and others, *or* another, are *or*] is plaintiff [or plaintiffs], and *C D* [and others, *or* another, are *or*] is defendant [*or* defendants], on the part of the [*in case of subpœna duces tecum, add*, and that you then and there bring with you and produce, *&c.*] And hereof fail not at your peril.

Witness, &c. DEVON.

LYNDHURST, C.
LANGDALE, M. R.
LANCELOT SHADWELL, V. C. E.
JAMES WIGRAM, V. C.

JUDGE'S CHAMBERS.—IMPORTANT NOTICE.—On Thursday Mr. Justice Wightman, the judge appointed to remain in town and dispose of the business in the whole of the common-law courts cognisable by a single judge, in consequence of the crowded state of the chambers, arising from the immense accumulation of applications before him in causes the *venues* of which are for one or other of the counties in which the assizes are about to commence; as also interlocutory matters in cases that parties are being sued in London and Middlesex, where there are no sittings until November next, made an order for the regulation of business to be brought before him, and during the day the following notice was posted in his chambers:—" Notice.—Queen's Bench Chambers, July 10, 1845. The following regulations for transacting the business at these chambers will be strictly observed until further notice. Original summonses only to be placed on the file. Summonses adjourned by the judge will be heard at ten o'clock precisely, according to number. The summonses of the day will be called at five minutes past ten, numbered and heard by the judge in their regular order; if the parties are not ready they will be passed over. One summons only to be attended in the judge's room at a time. There will be a waiting-room for counsel and their clients, who will be admitted at two o'clock, according to their numbers on the counsel file, if ready; if not ready, they will be passed over. Affidavits upon *ex parte* applications for the judge's order (except orders to hold to bail) to be left the day before the orders are applied for, and such affidavits to be properly indorsed with the names of the parties, the nature of the application, and the names of the attorneys. All affidavits produced before the judge must be indorsed and filed."

LEGAL INTELLIGENCE.

THE NEW SOLICITOR-GENERAL.—Mr. Fitzroy Kelly, the new Solicitor-general, is a member and bencher of Lincoln's-inn, and first entered as a student in 1818, as pupil to Mr. Thomas Abraham, whom he left, and became the pupil of Mr. Wilkinson, of Pump-court, Mr. Crowder, Queen's Counsel, being a pupil of that gentleman at the time. He afterwards took out his certificate, and acted as a special pleader until the 7th of May, 1824, Trinity Term, when he was called to the bar. The late Sir William Webb Follett had been entered of the Inner Temple in the same year with Mr. Kelly (1818). They

were constant readers together, and were called to the Bar in the same term. Mr. Kelly and Sir William Follett soon obtained a firm position at the Bar, and were rival juniors, each being engaged in most of the principal and important causes brought before the Court, being separated only by the circuits; the one (Mr. Kelly) having chosen the Norfolk, and Sir W. Follett the Western circuit. In 1835, on the occasion of Sir Robert Peel coming into power, Mr. Kelly received the honour of a silk gown, with Sir W. Follett, preparatory to the latter being appointed Solicitor-general. Mr. Kelly first took his seat in Parliament in that year, for Ipswich, but was, on petition, unseated, and remained out until 1837, when, at the election — having been defeated, with Mr. R. Wason, by Messrs. Milner Gibson and Tuffnell, by a small majority—he succeeded, on petition, in ousting Mr. Tuffnell, and took his seat for Ipswich. At the general election, 1841, he was defeated; and although his opponents were unseated, and the election declared void, he declined to risk another contest, and again remained out of Parliament until 1843, when Sir Alexander Grant having accepted the Chiltern Hundreds, and a vacancy being thereby occasioned, he was, after a severe struggle, elected for Cambridge. The closeness with which Mr. Kelly has trod upon the heels of the late Attorney-general is somewhat curious. Both entered as students the same year, read together, were called to the Bar the same term, received silk gowns together, and after the remains of Sir W. Follett were conveyed to the tomb, Mr. Kelly was appointed Solicitor-general.—*Globe.*

Absconding of an Official Assignee.—Considerable excitement was caused in the Manchester District Bankruptcy Court on Monday morning last, by the report that Mr. John Holt Stanway, one of the four official assignees appointed by the Lord Chancellor in connection with this Court, had absconded. Various rumours were in circulation as to the cause of this strange step; but we believe that the following may be relied on as tolerably correct. Mr. Stanway was the trustee of the late Mr. Robert Scarr, of the firm of Scarr, Petty, and Coulborn, of this town; and we understand for some time past he has been repeatedly called upon to render an account of the trust funds in his hands. Ultimately, after much pressure, he furnished an account about a fortnight ago, and it was then ascertained that there were sums for which he could not account to the amount of upwards of 6,000*l.* He was called on to explain this deficit, and it is supposed that he was unable to do so satisfactorily, and therefore determined to quit the country. As considerable alarm may exist with respect to moneys or property under his control, as the official assignee of various bankrupts' estates, we have great pleasure in stating that, so far as has yet been ascertained, after a careful investigation, there is no reason to suppose that any defalcation whatever will be found in connection with his official assigneeship. He left this town, we understand, on Friday last, and it is believed that he sailed from Liverpool on Saturday morning, in the Great Western steamer, for New York, taking with him his wife and four children. It is stated that he left behind him his resignation of his office, addressed to the Lord Chancellor. Of course his resignation will leave a vacancy, which the Lord Chancellor will doubtless fill up ere long. It seems probable that Mr. Stanway had been applying the trust moneys in his hands to the liquidation of some old demands upon him, in connection with the embarrassments of the late firm of John Holt Stanway and Brother, about six years ago, and that this course has led to his present flight.—*Manchester Guardian.*

Will of General Sir Charles Wale, G.C.B.—The will of this officer has just been proved. Lady Wale enjoys the life interest, under settlement, of 11,000*l.* stock, which, by the will, testator has apportioned to the children at her decease; the better half of the plate is left to her, as well as the personal estate, sworn under 2,000*l.* Certain freeholds and copyholds to be sold for the absolute benefit of his son, Charles Brent Wale. The produce of the sale and other freeholds is to be applied to raise portions of 1,500*l.* for each of his sons, and 900*l.* for each of his daughters, beyond their interest in the property under settlement. The residue of the freehold he has devised to his son, Charles Brent Wale; and his other son, the Rev. Alex. M. Wale, succeeds also to a life interest in a large portion of the freehold property. His executors are the Hon. N. Fellowes, Samuel Prest, and Sherlock Willis. Sir Charles had married three times, each wife the daughter of a clergyman—viz. Miss Sherrard, Miss Johnson, and Miss Brent, and has left a large family.

Will of Colonel Willard.—The will of this officer, who was a magistrate for Sussex, has been proved. He bequeaths the whole of his real and personal estate, the latter sworn under 3,000*l.* to his widow, Mrs. Charlotte Willard. He was 74 when he died.

CORRESPONDENCE.

Udall and Miller, Assignees of Innes, a Bankrupt, *v.* Walton and Others.

Sir,—I find by the report of the business of the week in the Court of Exchequer, in No. 116 of the Law Times, that you report the rule herein as being made absolute: the contrary was the fact; it was discharged.

Believing the case to be of considerable importance to the Profession, I am induced to give you the facts as well as the results of the case. Should, you, however, be of opinion that the case is not of sufficient practical importance to justify your publication of this letter, I beg you will suppress it.

The facts of the case, so far as they are of importance, were as follow:—The bankrupt, on the 20th July, 1844, wrote to the defendants, stating several acts had been committed; but from the tenor of the letter, the words "of bankruptcy" were clearly implied. On the 1st August, 1844, an adverse execution, at the suit of defendants, was levied on the bankrupt's goods and chattels; on the 6th August a fiat issued, which was opened on the 8th August. Notice was given to the sheriff of acts of bankruptcy committed by the bankrupt prior to the seizure. The sheriff thereupon applied for and obtained an order under the Interpleader Act, on which an issue was directed, the claimants, as assignees, being plaintiffs, and the execution creditors defendants (the bankrupt, therefore, not being a party to the record), the question to be tried being whether, at the time of levying and seizing the bankrupt's goods and chattels by the execution creditors (the defendants), they had notice of any prior acts of bankruptcy by the bankrupt committed.

The case was tried at the last Gloucester Assizes, before the Chief Baron, when *the bankrupt* (who was put into the witness-box) proved he wrote the letter of the 20th July, 1844, giving the execution-creditors notice of several acts of bankruptcy by him committed, and that he gave such letter, with a penny, to a servant woman [called] to post; he also proved telling defendant's attorney in a conversation prior to the seizure, he had committed acts of bankruptcy. The bankrupt also proved giving instructions to his maid-servant [called] to deny him to a creditor, which denial was long prior to the 20th July, 1844; he also proved [bills of exchange admitted, which the bankrupt accepted in favour of the petitioning creditor to upwards of 200*l.* being put in] that a debt of upwards of 50*l.* was due from him to the petitioning-creditor at and prior to *the date of the acts* of bankruptcy proved. The date of fiat was also proved—the posting the letter by the servant-woman—the denial to a creditor by the servant-girl, and the course of the post by a clerk from the Post-office, shewing when a letter posted at Cheltenham would reach Wolverhampton. These facts being established, the jury found a verdict for the plaintiffs, with liberty for the defendant to move for a nonsuit—1st, on the ground that general notice of an act of bankruptcy was insufficient; that notice of a specific act of bankruptcy was required under the 2 & 3 Vict. c. 29, and that both the letter and conversation of the bankrupt only gave a general notice of an act of bankruptcy; 2nd, for liberty to move for a new trial, on the ground that the bankrupt was an inadmissible witness under Lord Denman's Act. The Chief Baron, it should be observed, admitted the bankrupt, considering him a competent witness to prove collateral facts, the bankruptcy being admitted not to be in issue by counsel on both sides, but that he, the bankrupt, was an inadmissible witness to prove the constituents of bankruptcy, his rejection arising not on the ground of "*interest*," but that of public policy.

Mr. Serjeant Talfourd, last Easter Term, as counsel for defendants, obtained a rule on both points, and which was argued on the 9th June inst. Mr. Keating and Mr. Dowdeswell shewing cause against the rule, and the result (the facts, however, being altogether erroneously stated) was reported in the *Times* of the 9th June, the judgment of the Court being as follows:—

"There was no doubt that the bankrupt could not be called to support his commission or defeat it; but the object of his testimony was quite collateral to that issue. His bankruptcy had been proved *aliunde*, and he was only wanted to prove that the plaintiff had notice of an act of bankruptcy previously committed by him, and for that purpose he was clearly competent. It was next objected that the proof of notice was not sufficient, for it was too vague, and not so precise as it ought to have been. The Court thought, however, that nothing more was necessary under the Act than was here proved by the bankrupt; nothing could be more precise than the information from a man that he had committed several acts of bankruptcy, and it is quite unnecessary to require the specific acts to be mentioned under such circumstances."

It is thought this is the *first* case in which the bankrupt's testimony has been admitted under Lord Denman's Act; at all events I have not heard of or seen any reported case in which his evidence has been held admissible. In *Miller* v. *Mullings*, also heard before the Chief Baron, I understand the bankrupt's evidence was rejected; but he was there called to prove the petitioning creditor's debt, and the bankruptcy was in question; this, therefore, induces me to think this communication may have interest for my professional brethren, and has caused me to trouble you with these details.

On the point whether general or specific notice of an act of bankruptcy is sufficient to comply with the statute 2 & 3 Vict. c. 29, it is well known there has been most conflicting opinions; and it will be seen by the judgment, that the Court of Exchequer has decided this point in conformity with the dictum of Baron Parke in *Ramsey* v. *Eaton* (10 M. & W. 22), and the expressed opinion of Lord Abinger and the same judge in *Hocking and Others* v. *Acraman* (12 M. & W. 170), and is also in conformity with the decision of Lord Denman in *Arthur* v. *Whitworth* (6 Jur. 323), which, although not decided upon the 2 & 3 Vict. c. 29, yet is an authority for the position that general notice of an act of bankruptcy is sufficient. That case was decided upon the 82nd section of the 6 Geo. 4, c. 16, which, in its proviso, will be found, on examination, to be almost identical in its terms with the proviso to the 2 & 3 Vict. c. 29. The expression of the bankrupt there was—"It will be of no use to you; I have committed acts of bankruptcy;" and, according to the report, Lord Denman said, "It is impossible to say general notice is not sufficient." The point of notice was discussed in the case of *Bird* v. *Bass* (6 M. & G.), in which Maule and Coltman, JJ. held that notice meant "knowledge;" and your readers will remember the recent case of *Conway and Others* v. *Nall*, in the Common Pleas, reported in 5 Law T. No. 111, in which the point as to notice was also very much commented upon, but it was not decided, because in that case there was notice specifically of an act which did not amount to an act of bankruptcy, the act of which notice was given not being completed.

I am, Sir, yours, &c.
H. Stiles,
Solicitor to the assignees.

Cheltenham, June 23, 1845.

LAW CLUB.

TO THE EDITOR OF THE LAW TIMES.

Sir,—A strong feeling has been for some time entertained by many members of our profession that a Club in London, the members of which shall be the attorneys and solicitors from the country, exclusive of those practising in London, would be a source of immense comfort and advantage to its members. It is however difficult to ascertain the general opinion of my professional brethren through any other medium than that of your excellent paper. May I therefore hope you will be good enough to make public this intimation, and to solicit as general as possible an expression of opinion upon it.

Having made inquiries as to the probable expenses attending a scheme of this nature, I shall be most happy to enter into communication with any gentleman who may be desirous of furthering the project.

Yours truly,
A Country Solicitor.

London, 27th June, 1845.

P. S. I send you my name and present address in town, for the purpose of any communication that may be requisite.

SELECTIONS FROM CORRESPONDENCE.

H. B. has transmitted the following comments on the Real Property Amendment Act:—

It is to be hoped that the Lord Chancellor's Bill to Amend the Law of Real Property, a copy of which appears in your journal of the 5th inst. will not, like its predecessor, be hurried through Parliament without that consideration which so important an enactment deserves, lest the confusion created in the practice of conveyancing by the late Act be rendered worse confounded by an ill-digested attempt at amendment.

The first section of the present Bill seems to promise a radical amendment by totally repealing an Act which, after much doubt and confusion of opinion, has for the most part been treated as a nullity. Many of its provisions have, however, been re-enacted in somewhat different words, and it appears to have been intended with a somewhat more extensive application. Thus the 2nd section of the late Act applied only to such freeholds as might previously have been conveyed by lease and release, whilst the 2nd section of the present Bill declares, "That *all* corporeal tenements and hereditaments shall, as regards the conveyance of the immediate freehold thereof, be deemed to lie in *grant* as well as *in livery.*" Now, there are some "corporeal tenements and hereditaments" which could not have been conveyed by lease and release, but which must clearly be included under the very comprehensive term "*all*" in this Bill; for in-

stance, the freehold possessions of ecclesiastical corporations, whereof the "immediate freehold" is, in the majority of instances, conveyed by them to lessees for three lives by lease, with livery of seizin, which lease is exempt from *ad valorem* stamp duty. As the rendering of livery of seizin unnecessary is one of the objects intended to be effected, it would certainly seem that a grant by an ecclesiastical corporation *without livery* may, under this Act, be substituted for the present *lease with it*: but the section goes on to render "*every* deed" operating as a grant under that Act, chargeable with the same stamp duty as if it had been a release founded on a lease for a year, and also with the stamp duty with which such lease for a year would have been chargeable. Therefore, although, since the conveyance by feoffment has fallen almost into disuse, ecclesiastical leases form the greater number of instances in which the delivery of seizin is necessary, and although the property, the subject of such leases, is declared to be in "*grant* as well as in livery," yet would a grant thereof without livery be either chargeable with *ad valorem* lease for a year, and progressive duties, as if it had been a conveyance by lease and release, or be altogether void, on the argument that as the lease and release were never applicable to the case, so neither is the present Bill. But surely it was not contemplated by the framers of the Bill to exclude from its operation the cases I have alluded to, which are of daily occurrence in many parts of the kingdom.

Again: this section renders every deed, operating as a grant and made in pursuance of this section, chargeable not only with the stamp duty with which it would have been chargeable had it been a release founded on a lease for a year, but also with the stamp duty with which such lease for a year would have been chargeable, "*exclusive of progressive duty;*" so that in every case where the lease for a year, if prepared, would have been chargeable with progressive duty, every deed made in pursuance of this section must be chargeable with progressive duty on its own folios and with progressive duty on the folios of which the imaginary lease for a year might have consisted if it had been prepared and ingrossed. If this section passes as it at present stands, we must, in examining a deed made in pursuance of this Act, see that sufficient stamps are impressed to carry the number of folios which would have been contained in the lease for a year had such a thing been still in existence; a no very easy or pleasing duty in examining a lengthy title. In such cases it would be well to resort to the old mode of conveyance by feoffment.

The whole Bill requires strict examination and much consideration, and as it will doubtless receive these from yourself and others more competent than I am to comment on it, I shall not be justified in occupying your valuable space with any addition to my foregoing rather hasty observations, on what appears to be objectionable in the 2nd section, and which you will deal with as in your better judgment you may think they deserve. I would, however, in conclusion, beg your attention and that of your readers to section 9, the intention and effect of which appears very obscure.

NOTICE TO SUBSCRIBERS.

The Indices to the fourth volume being now completed, the numbers for binding may be sent, through the post, in parcels open at the ends, with a mark by which they may be known, and of which the Publisher should be advised by letter, as also how, when bound, it is to be returned. If sent by parcel, advantage may be taken of the opportunity to inclose other books for the binder.

The Volumes of the LAW TIMES, *handsomely and uniformly bound, at 5s. 6d. each, if forwarded to the Office; with the Solicitor's name and abode lettered on the cover, 1s. extra.*

An Alphabetical Index to the Cases in the current Volume of the LAW TIMES *always lies at the Office for the purpose of reference.*

NOTICE.

The full prices will be given for Nos. 2, 4, 24, 26, 83, 85, and 86 of the LAW TIMES; *and postage stamps to the amount will be transmitted to any person forwarding any of the above numbers.*

Half the cost price will be given for the First Volume, if complete.

TO SUBSCRIBERS.

It is proposed to publish an annual *Index Legum*, consisting of a digest of all the reported cases and statutes of the past year, under the title of the YEAR BOOK, to be bound with the volumes of the LAW TIMES, or separately, at option. It will be comprised in about six or seven numbers, at 1s. each, stamped, for transmission by post. It will not be commenced unless 1,000 subscribers order it. Persons desirous of having it are therefore requested to transmit their names as soon as possible.

THE LAW TIMES.

SATURDAY, JULY 12, 1845.

TO THE SUBSCRIBERS TO THE LAW TIMES.

AN unexpected influx of advertisements at the last moment, and since the succeeding remarks were in type, compels us to devote to them a large portion of our added columns. Under such circumstances, the charge for a single number only will be made for *this* double number, whose additional pages are presented gratuitously to the reader.

TO READERS.

WE regret that it should be necessary to present another double number, not merely as being attended with such a heavy sacrifice on our own part, but as imposing additional cost to such of our subscribers as do not choose to avail themselves of the advantage of pre-payment, which gives to them all the supplements and double numbers without charge. But so heavy and numerous have been the judgments of the two last Terms, that we must provide this added space for them, or abandon the plan of presenting *verbatim* reports of all the written judgments, which has given so great satisfaction to the Profession, and enabled them to preserve a complete record of all the deliberately framed decisions of the Courts of Law. We trust that we have not erred in the conclusion that the readers of the LAW TIMES would rather incur the two or three shillings of cost to procure this series of judgments than that it should be broken by omissions or curtailments, without which they could not be compressed into the regular sheet. If we have erred in this supposition, we shall be obliged by a candid statement to that effect, that we may revert to the old system of brief notes instead of *verbatim* reports of judgments.

For the same reason the judgments are in arrear. So numerous have they been (in the whole upwards of a hundred written ones having been delivered in the common law courts since the close of Easter Term) that no diligence of reporter, short-hand writer, or printer, could keep pace with them. During the last week alone, twenty-five, some of them very long, were delivered by the Queen's Bench and the Exchequer. These, of themselves, will fill two or three of our papers. Our readers will therefore acknowledge, we trust, the impossibility of bringing them out, as is our wont with the *regular* business of the Term, within a few days after their delivery. They must wait their turn, and we must pray the patience of readers until that turn comes. All practicable speed shall be made, and perhaps another double number may help to bring up the arrear; but even with such appliances some time must elapse before the unprecedented business of these laborious Terms can be finally cleared off.

THE SMALL DEBTS BILL.

IT is announced by the Government, that this is one of the measures intended to be passed during the present session. We are glad of it; but at the same time we must express our regret that the Bill should be passing with all the imperfections that have been so ably pointed out by the many experienced members of the Profession who have commented upon it through the LAW TIMES. And still there is the mischievous clause that throws open all courts of Insolvency and Bankruptcy to the Sham Lawyers, giving the sanction of the law to a race of harpies whom, to this moment, it has been the wise policy of the law to discourage.

But if the Profession will not bestir itself to ward off this threatened blow before it falls, and while yet it may with ease be parried, no blame can attach to the LAW TIMES. It has done its duty of timely warning: it can do no more.

ADVERTISING ATTORNEYS.

THE following disreputable card has been forwarded to us:—

MR. NICHOLAS WALTON,
SOLICITOR,
DRURY-LANE,
NEWCASTLE-ON-TYNE.

Recovers Debts at a Commission of 10 per Cent.
Debts recovered paid over to the Parties same day as received.
1st July, 1845.

SHAM LAWYERS.

FROM a great heap upon our desk, we take the following specimens of the doings of this tribe:—

22, Duke-street, Leeds, 2nd July, 1845.

Mrs. Hide, I am instructed to apply to you for payment of the amount you stand indebted unto Mr. George Kitchin, and to inform you that unless the same be paid to him or me on or before Saturday next, legal proceedings will be taken for the recovery thereof.

Am, yours, &c.
JO. H. MUSGRAVE.

Here is one in a more presumptuous strain.

High Court of Justiciary, Westminster,
July 1, 1845.

I am authorized and instructed by George Lumley and Son, tailors, to apply to you for the payment of 11s. 6d. which you now stand indebted; and unless the same (together with all costs already incurred) is paid to him in three days, immediate proceedings at law will be issued from the above court without further notice.

I am, yours, &c.
F. G. ROLLANDS.

VERULAM SOCIETY.

THE following reports are now ready:—*Cox and Atkinson's Registration Appeals*, No. 3, with a Supplement, completing Part I. which contains all the cases decided up to this time; No. 8, completing Part II. of *Cox's Criminal Cases*; and No. 11 of *Magistrates' Cases*, No. 9 of *Practice Cases*, and No. 13 of *Real Property and Conveyancing Cases* are in the press.

The remainder of the *Registration Forms*—viz. Notices of Objection both in Boroughs and Counties—are now ready.

MR. CARUS WILSON.

IN our last number but one, our readers will perceive that the attention of the Legal Profession has been drawn to the recent important case of Mr. CARUS WILSON, by an advertisement issuing from his friends. The Jersey authorities distinctly shewed by their conduct a consciousness of the oppressiveness and injustice of their proceedings towards that gentleman, by the *unprecedented* course of *compelling* a reluctant prisoner to quit the gaol to which they had consigned him for eight months! Eight long, tedious winter months in a felon's c for the contempt of protesting against the jurisdiction of their court, after they had been challenged according to law, and for protesting also against the injustice of allowing the proceedings to be conducted in a foreign and unintelligible tongue. We do not wish to argue the questions raised on the recent applications to the Courts of Queen's Bench and Exchequer, but we certainly quite agree with the remarks of our quarterly cotemporary, the *Law Magazine*, in the May number, that if the "alleged facts in relation to Mr. WILSON'S committal be true, some supervision should be established to secure a more judicial performance of the functions of the Court Royal than has been displayed in this case." And we also think that Mr. WILSON should have the means afforded him of procuring legal redress and pecuniary compensation for the wrongs done him, if his imprisonment was illegal and unnecessarily severe. We therefore hope the application to the Legal Profession will be successful, and that a sufficient amount may be raised by subscription to enable the battle to be fairly fought. Mr. WILSON has already established one important point of constitutional law, the superintendence of the superior courts of Westminster-hall over the Jersey tribunals by the writ of *habeas corpus*. He is now seeking to reform the system of administering justice in the Channel Islands; a system we cannot but think singularly absurd and cumbrous, and inapplicable to the times in which we live. Mr. WILSON wishes thoroughly to introduce the Trial by Jury, and to make all causes, where Englishmen are concerned, be conducted in the English tongue. He also wishes to destroy the constitution of a tribunal by which the judges are not necessarily lawyers, but are elected by the rate-payers, like a parish vestry! These seem to us, we confess, very clear improvements, and in the establishment of which Mr. WILSON deserves success. How absurd that, in a part of the Queen's dominions only a few hours' sail from Southampton, a barbarous jargon should be the language of the courts, and tradesmen and farmers the presiding judges! No wonder Sir JAMES GRAHAM has thought it right to appoint a commission of inquiry into the subject. We wish to know what has been done about this same commission. We hope some M.P. will interrogate the Right Hon. Baronet on the subject. The good intentions of the Home-office should not be allowed to remain torpid. We understand that an action has been brought by Mr. WILSON, and the declaration served, against the gaoler of Jersey, for not delivering to that gentleman a copy of the warrant under which he was detained, till several days after the demand, for which the fifth section of the Habeas Corpus Act gives the party grieved the sum of 100*l.*; and unless these highly remedial provisions of that great statute are to remain a dead letter, we presume Mr. WILSON must succeed in his action. But that action leaves the great question between him and the Jersey authorities at large; and, we repeat, we consider that Mr. WILSON ought to have a fair and fair opportunity of obtaining redress for an imprisonment which they who inflicted it have, by their conduct, admitted to have been severe and unreasonable, at least, if not absolutely illegal.

JOURNAL OF PROPERTY.

SOLICITORS AND AUCTIONEERS.

IT was with surprise, that gave place to indignation, that we received the following printed circular:—

On the Transfer of Property by Public Auction and Private Contract: the Reciprocity or Allowance System, &c.

Mr. Rainy respectfully begs leave to solicit the attendance in this Gallery, on Tuesday, July 8th, at two o'clock precisely, of noblemen and gentlemen interested in the transfer of property by public auction or private contract.

The purpose of the proposed meeting is to consider the adoption of some means of counteracting and abolishing the unfair system at present pursued by very many Solicitors and other intermediate persons, or middle men, of secretly trafficking for gain with the patronage of their employers; a system which, while it is subversive of fair dealing, independence, and honourable competition among men of business, operates greatly and manifestly to the prejudice of the interests of the principals.

Mr. Rainy will on this occasion enter into explanations of proceedings connected with sales of property, which he trusts will not be deemed irrelevant or uninteresting, or be considered as in any degree personal, or as a betrayal of private confidence. He hop also, that he shall not be thought obtrusive or presumptuous in his endeavours to induce others to oppose *on principle* (as he has invariably done during a professional career of upwards of twenty years) lerogatory compacts between Solicitors and Auctioneers, &c. in reference to any transaction whatever.

As his statement will involve an exposition of the varied practices of auctioneers and persons designating themselves estate and house agents, together with information relative to scales of commission, and other charges, Mr. Rainy particularly requests the attendance of Solicitors, and also that of Mr. George Robins, Messrs. Christie and Manson, Mr. Alderman Farebrother, Mr. Charles Smith, Mr. W. W. Simpson, and the members of the Select Society of Auctioneers.

14, Regent-street, July 2nd, 1845.

Whether this circular was prompted by an honest conviction of an existing wrong and a chivalrous resolve to sacrifice himself for the sake of justice; or whether, as some might be ill-natured enough to suspect, Mr. RAINY has resorted to this contrivance as a sort of indirect advertisement whereby to bring himself before the public, it contains matter of too serious a character not to claim special notice in this place.

Mr. RAINY has preferred a very grave charge against the Solicitors, a charge so seriously affecting their character, that it must be met either with indignant denial or with an investigation into the names and acts of the guilty parties who have reflected such disgrace upon the Profession.

Mr. RAINY has invited a meeting of the owners of property for the avowed purpose of preferring against the Solicitors a charge no less serious than that "*of secretly trafficking for gain with the patronage of their employers.*" This, according to Mr. RAINY, is not an infrequent crime committed by a few exceptions to the strict rules of professional honour, but the practice of "*very many solicitors*"—a practice which he further denounces as being "subversive of fair dealing," and as operating "to the prejudice of the interests of the principals."

And Mr. RAINY concludes these sweeping charges with a scrap in the "holier-than-thou" strain. He expresses anxiety that others should adopt the principle "he has invariably done during a professional career of upwards of twenty years," (the puff indirect!) and that they, like himself, (good Mr. RAINY!) will be induced to avoid for ever hereafter "all derogatory compacts between Solicitors and Auctioneers."

Lest silence under such accusations should be construed into acquiescence, we must view them seriously, and at once meet Mr. RAINY'S charges with an emphatic and indignant denial.

We deny that such practices are sanctioned by the Profession, that any number of Solicitors are guilty of them—even if they exist at all, which we much doubt; and with equal emphasis do we assert, that if any Solicitors were to attempt them, they would find no concurrence from any respectable Auctioneer.

Mr. RAINY'S charges are general, and therefore they can be met only by a general contradiction. He has accused "very many Solicitors" of cheating their employers, and disgracing their profession by practices which are not merely unprofessional, but dishonest. He has accused the Auctioneers of participating in these frauds. On behalf of both of the Professions thus publicly insulted, we demand NAMES and PROOFS, that, if the charge be true, the guilty may be punished, and the innocent released from the imputation now cast indiscriminately upon all; and that, if it be false, the accused may have an opportunity of boldly meeting and answering it.

This grave matter cannot rest where it is; and, therefore, we shall return to it again.

AUCTIONEERS' COMMISSION.

THE LAW TIMES reporting only decisions on points of law, and not trials at Nisi Prius, we had made no arrangement for reporting specially a case of very great interest, affecting the practice of auctions, which was tried on Saturday at Guildhall, before the Lord Chief Baron of the Exchequer and a special jury. Consequently, we are compelled to extract the best report we could find, which was that in the *Times*, and which appears below.

But brief as is this report, it is sufficient for the only purpose for which it will interest our readers, namely, the settlement of the much-disputed question as to the charges of auctioneers and estate-agents, which is in substance, whether, after an estate is placed in the hands of an auctioneer or agent for sale, at the usual commission, such commission may be claimed, even though the estate were sold by the vendor or some other agent, and not through the intervention of such original auctioneer or agent.

Most of the eminent auctioneers in London were called to prove the custom of the trade, and the jury, under the direction of the learned judge, immediately returned a verdict for the plaintiff, thus establishing the right of agents selling on commission to that commission, although the estate was sold without their intervention.

In other words, that a vendor shall not defraud an auctioneer of the fruit of his exertions y anticipating him in the sale; for such, in plain terms, is the meaning of this most righteous decision.

COURT OF EXCHEQUER.
Saturday, July 5.
(Sittings at Nisi Prius, before Sir F. POLLOCK, Chief Baron, and a special jury, at Guildhall.)
ROBINS *v.* BURKE and ANOTHER.
Auctioneer's charges—Important decision.

Jervis, Q. C. and *Ogle* were counsel for the plaintiff; *Cockburn*, Q. C. and *Bovill* appeared for the defendants.

The plaintiff is Mr. George Robins, the celebrated auctioneer, and this was an action in which he claimed the sum of 644*l.* being the amount of commission alleged to be due to him from the defendants as the vendors of an estate in Bucks, which they had placed in his hands in May 1841. On the part of the defendants the sum of 300*l.* was paid into court; and the question now to be decided was, whether the plaintiff was entitled to any thing beyond that sum.

It appears that the defendants are the trustees under the will of a Mr. Grath, who died possessed of a considerable estate in the county of Bucks. Being directed to sell the property, the defendants offered it to the Duke of Buckingham for 60,000*l.* but without effect, as his Grace, having had the estate surveyed, did not feel inclined to give more than 51,000*l.* for it. Before this the plaintiff was applied to by the defendant to know on what terms he would undertake to "knock down" the property. The plaintiff replied, that he should expect twenty guineas for preliminary expenses and one per cent. commission for an actual sale, but that in the event of the property being bought in, he should only claim fifty guineas and all disbursements, these latter being included, of course in the one per cent. commission on a sale. These terms were assented to, and the plaintiff took his measures to dispose of the estate on the

31st of August. Before that day the defendants renewed their treaty with the Duke, who, on the 30th, concluded it by becoming the purchaser at the price originally named by the trustees. This took place without the privity of the plaintiff, who, when acquainted with the matter, put in his claim to the one per cent. commission, and now called several eminent auctioneers on his behalf, to prove that by the custom of the trade the full amount was payable under the circumstances of the case.

On the part of the defendants, the Duke of Buckingham was called to prove that he had not bought the estate through the plaintiff's intervention, and that he had not been influenced by his advertisements to accede to the terms proposed by the defendants, the fact being that his inducement to purchase the estate arose from its propinquity to other lands belonging to him in the same county.

The Chief Baron, at the close of the plaintiff's reply, summed up the case to the jury, leaving it to them to say whether, although the plaintiff might have had nothing to do with the actual sale to the Duke of Buckingham, he was not fairly entitled to his full commission on the purchase-money paid by his Grace, as though he had "knocked down the estate" to him.

The jury at once returned a verdict for the plaintiff for the full amount claimed.

Public Sales.

By Messrs. WINSTANLEY, at the Mart.

A freehold estate, called Old and New House Farms, in the parish of Brightling, Sussex, consisting of a farmhouse, farm, outbuildings, and two cottages, together with 124a. 3r. 39p. of arable, meadow, and wood land—2,180*l*.

A leasehold estate, consisting of two houses, Nos. 6 and 7, Red Lion-square; also, two houses, Nos. 57 and 58, Eagle-street, and workshops behind, the whole of the value of 277*l*. per annum; held by lease of the Duke of Dorset for a term of which 65 years were unexpired at Lady-day, 1815, at a ground-rent for the whole of 50*l*. per annum—1,450*l*.

A freehold cottage ornée, known as Garlands, situate in the village of Ewhurst, Surrey. The house has been erected, without regard to expense, from a Swiss design, which evinces superior taste; at a convenient distance a capital coach-house and three-stall stable, representing an ornamental lodge, and paved yard at the rear. The villa is approached by a carriage drive, and is surrounded by a beautiful lawn and garden, with rich meadow. The whole property comprises 1a. 2r. 18p.—690*l*.

A set of chambers on the ground floor, No. 19, Buckingham-street, Strand, held for near 50 years at a reserved rent of 25*l*. per annum—235*l*.

By Mr. MOORE, at the Mart.

A freehold house, No. 7, Waterloo-terrace, Commercial-road East, near White Horse-street turnpike—410*l*.

A house, No. 4, Montague-terrace, Mile-end-road; held for 57¾ years at 11*l*. a year ground-rent—400*l*.

A similar house, No. 5—420*l*.

Three ditto, Nos. 10, 11, and 12, let at 143*l*. per annum, held for 57¾ years at a ground-rent of 42*l*. per annum—1,110*l*.

A cottage residence, No. 8, Cobourn-road, Mile-end-road, let at 26*l*. per annum, held for 56*l*. years, at 12*l*. per ann—210*l*.

A similar house, No. 9, let at 28*l*. held for 56¾ years, at a ground-rent of 12*l*.—200*l*.

A ditto, No. 10 let at 27*l*.—205*l*.

A house, No. 29, Tatten-street, Stepney, let at 25*l*.; also a similar house, No. 26, underlet for the whole term, at 6*l*. per annum, held for 45¼ years, at 12*l*. per annum—175*l*.

A house, No. 30, Tatten-street, let at 21*l*. held for 45¼ years, at 6*l*. per annum—160*l*.

A ditto, No. 31, let at 22*l*. held as above—155*l*.

A ditto, No. 32, let at 21*l*.—160*l*.

A ditto, No. 34—160*l*.

A ditto, No. 39, held for the same term, at 6*l*. 2s. per annum, let at 21*l*.—110*l*.

A ditto, No. 40—100*l*.

A ditto, No. 41—100*l*.

A ditto, No. 42—90*l*.

A ditto, No. 43—90*l*.

A house and shop, No. 2, White Horse-terrace, Stepney, held for 45¾ years, at a ground-rent of 4*l*. per annum—200*l*.

By Mr. W. W. SIMPSON, at the Mart.

A freehold estate and manor, situate at Little Dunham, in the county of Norfolk; it comprehends a mansion called Dunham Lodge, placed in the centre of a lawn of park-like appearance, with pleasure-grounds and garden, coach-houses, stabling, &c. and 299a. 3r. 32p. of arable, pasture, and wood lands, lying within a ring fence: also the manor of Little Dunham, extending over 1,800 acres, with the fines and quit rents thereto belonging—15,000*l*.

The next presentation to the vicarage of Felsted, in the county of Essex; it comprises a parsonage house and garden, stabling, coach-house, barn, and yard, and 27a. 3r. 11p. of glebe land, together with the vicarial tithes, extending over 6,319a. 7p. of the parish of Felsted, commuted at 523*l*. 17s. 1d.; and the great tithes on about 138a. in the adjoining parish of Great Saling, commuted at 34*l*. 19s. 6d. The glebe lands are let at a rent of 55*l*. per annum, the garden is let at 5*l*. per annum, and the fees average now about 15*l*. per annum, making together an annual income of 633*l*. 16s. 7d. exclusive of the house and churchyard. The presentation is contingent upon the Right Hon. the Earl of Mornington, who is in his 57th year, surviving the Rev. Jeremiah Audry, the present incumbent, who is in his 71st year. Offered for sale pursuant to an order of the High Court of Chancery in the cause between "Hill v. Hanson." The biddings reached 1,205*l*. when there being no further offer the property was withdrawn.

By Messrs. RUSHWORTH and JARVIS.

A leasehold ground-rent of 18*l*. per annum, secured on a spacious plot of ground, with ten houses erected thereon, situate in Hare-walk, Hoxton; held for fifty-four years three-quarters—330*l*.

By Messrs. HOGGART and NORTON, at the Mart.

A copyhold residence, situate at Muswell-hill, in the parish of Hornsey, with stabling, pleasure-grounds, and garden, the whole containing 2r. 39p.; let at 60*l*. per annum less land-tax—890*l*.

A similar residence, adjoining, with grounds, &c. containing 3r. 13p.; let at 80*l*. per annum—990*l*.

A similar residence, together with a small paddock; the whole containing 1a. 3r. 32p.—990*l*.

A plot of meadow land adjoining the preceding lot, comprising 3r. 1p. copyhold and small part freehold—200*l*.

A similar plot containing 1a. 9p.—250*l*.

A plot of meadow land containing 2a. 1r. 34p.—500*l*.

A ditto containing 1a. 1r. 34p. situate immediately opposite the residences—600*l*.

A freehold house, No. 10, Paddington-green—710*l*.

Two houses, Nos. 9 and 10, City-terrace, City-road; No. 9, let at 65*l*. No. 10, let at 35*l*.; held for 90 years from Christmas, 1801, at a ground-rent of 4*l*. 8s. 9d. per annum—1,080*l*.

A copyhold property, situate at Great Warley, Essex, comprising two inclosures of meadow land, with small farm-house, &c.; the whole containing 5a. 1r.—490*l*.

A freehold inclosure of meadow land, situate at Great Warley, with a small cottage, and containing 3a. 2r. 13p.—240*l*.

An allotment of freehold land, near the preceding lot, containing 1a. 2r. 9p.—90*l*.

A freehold house, situate in High-street, Brentwood, Essex, let at an old rental of 8*l*. per annum—165*l*.

An old policy for 3,000*l*. in the Law Office, effected on the 5th April, 1826, on the life of a gentleman now in the 57th year of his age. The present additions, calculated up to 31st December, 1840, amount to 1,007*l*.; annual premium 94*l*. 5s.—1,230*l*.

A policy for 2,000*l*. on the same life; the present additions amount to 272*l*. annual premium 80*l*. 3s. 4d.—190*l*.

A freehold messuage and garden, No. 23, Gloucester-street, Queen-square, let at 50*l*. per annum—920*l*.

A ditto, No. 26—900*l*.

A ditto, No. 27, with smith's shops, rooms over, yards, &c.—1,200*l*.

A freehold house, No. 28—440*l*.

A ditto, No. 29—400*l*.

A ditto, No. 30, being a capital modern house, with ample domestic offices—1,000*l*.

A ditto, No. 31—800*l*.

A freehold messuage, No. 11, Queen-square—1,030*l*.

A freehold residence, and large garden, No. 42, Great Ormond-street—1,540*l*.

A ditto, No. 43—1,760*l*. A ditto, No. 44—2,000*l*.

A ditto, No. 45—1,400*l*. A ditto, No. 46—2,030*l*.

A freehold double coach-house and stabling for six horses, being Nos. 20 and 21, Ormond-yard—300*l*.

A freehold carpenter's shop and workshop, over No. 18, Ormond-yard—150*l*.

A freehold warehouse with loft over, No. 35, Great Ormond-yard—100*l*.

A freehold building of three floors, No. 12—210*l*.

A coach-house with standing for 4 carriages, being No. 42—180*l*.

A building, No. 31—110*l*.

A freehold building, formerly a stable and coach-house, No. 16, Great Ormond-yard—180*l*.

By Messrs. SHUTTLEWORTH and SONS, at the Mart.

The absolute reversion to 2,333*l*. 6s. 8d. Three per Cent. Consolidated Bank Annuities; and 3,000*l*. like stock upon the decease of the survivor of a gentleman in his 57th year and a lady in her 55th year—1,380*l*.

The absolute reversion to one-third part of 250*l*. upon the decease of a lady now in the 71st year of her age—50*l*.

The contingent reversion to one-eighth part of 2,000*l*. provided a gentleman, now in his 46th year, should survive a gentleman aged 81, and a lady aged 76—105*l*.

The absolute reversion to 389*l*. 7s. 10d. Three per Cent. Consolidated Bank Annuities, on the decease of a gentleman now in the 61th year of his age—145*l*.

The contingent reversion to a mortgage debt of 458*l*. 17s. 10d.—100*l*.

The absolute reversion for life of a gentleman now in the 24th year of his age, in one-fourth part of an annuity of 400*l*. per annum—290*l*.

Ten shares of 50*l*. each in the Commercial and General Company, 5*l*. per share called and paid—2*l*. 2s. 6d. per share.

The contingent life interest of a bankrupt, aged 35, arising from freehold houses and cottages in the borough of Halifax, York, producing a rental of 43*l*. 2s. per annum—125*l*.

The absolute reversion to one-tenth part of 6,225*l*. 11s. 6d. Three-and-a-Quarter per Cent. Reduced Annuities, upon the death of the survivor of a gentleman aged 65 and a lady 58—210*l*.

A policy dated Feb. 26, 1810, effected with the Caledonian Company for 499*l*. 19s. and bonuses, upon the life of a gentleman then aged 25, at a premium of 13*l*. 1s. 3d. per annum, and payable on his decease, or on his attaining the age of 60 years—26*l*.

A policy, dated 10th August, 1832, effected with the London Association, for 1,000*l*. upon the life of a gentleman then aged 34, at an annual premium of 32*l*. 5s.—240*l*.

A ditto, effected with the Asylum Company, for 500*l*. upon the life of a lady then aged 27 years, at an annual premium of 9*l*. 12s. 6d.—42*l*.

A ditto, effected with the London Company, for 250*l*. the 24th September, 1824, upon the life of a gentleman then aged 13; annual premium 9*l*. 5s.—130*l*.

A policy for 100*l*. upon the same life; premium 6*l*. 9s.—38*l*.

The following reversionary interest—viz. A. B. is entitled to the sum of 466*l*. 13s. 4d. Three-and-a-Quarter per Cent. Annuities, subject to the following charges thereon:—viz. an annuity of 100*l*. during the life of a lady aged 32; also, to the payment of another annuity of 30*l*. during the life of a lady aged 67; also to another of 10*l*. during the lives of two ladies aged 66 and 68; making in all 140*l*. per annum. The surplus dividends of each year are payable to A. B. at the death of the annuitant for 100*l*. The sum of 2,000*l*. sterling is to be raised and paid out of the 466*l*. 13s. 4d. stock to her children absolutely—870*l*.

A policy for 1,000*l*., with the accumulations thereon, amounting to 278*l*. effected with the Equitable the 25th June, 1818, on the life of a lady aged 35 last birthday, annual premium 18*l*. 16s.—360*l*.

A ditto ditto on the life of a gentleman, aged 37—395*l*.

A policy for 1,000*l*. with the accumulations thereon, amounting to 200*l*. effected with the Equitable, July 8, 1821, on the life of a gentleman aged 32 last birth-day; annual premium 18*l*. 16s.—285*l*.

A policy for 1,500*l*. with the accumulations thereon, amounting to 150*l*. effected with the Equitable, October 8, 1825, on the life of a gentleman aged 45 last birth-day; annual premium 39*l*. 3s.—475*l*.

By Mr. LEIFCHILD, at Garraway's.

The free public-house and wine and spirit vaults, known as the Duke of Cumberland's Head, situate at the corner of Eagle-street and Lower Grove-street, St. George's East; held for 31 years, from 1834, at 52*l*. 10s. per annum, being part of the surplus property of the London and Blackwall Railway Company—1,780*l*.

By Messrs. MUSGROVE and GADSDEN, at the Mart.

An improvable freehold estate, known as the Manor House, Midway-place, Lower-road, Deptford, with offices, yard, and large garden, together with a chapel and several cottages adjoining, the whole occupying 1½ acre, and of the estimated value of 150*l*. per annum—2,200*l*.

Two cottage residences, Nos. 5 and 6, Belinda Cottages, Holton-street, Lower-road, Islington, let at 70*l*. held for 73¾ years, at 10*l*. per annum—625*l*.

A house and business premises, No. 1, Allan-street, near the preceding lot, let at 32*l*.; held for 73¾ years at 6*l*. per annum—300*l*.

Three houses, Nos. 1, 2, and 3, Forest-row, Dalston, let at 84*l*.; held for 69¼ years, at a ground-rent of 15*l*. per annum—740*l*.

The detached cottage residence, known as No. 7, Lynn Cottages, Forest-row, Dalston, let at 25*l*. held for 50¾ years, at 7*l*. 5s. per annum—150*l*.

The house and garden known as No. 9, Lynn Cottages, Dalston, let at 22*l*.; held for 59¾ years, at 1*l*. per annum—100*l*.

A house, No. 6, Forest Cottages, nearly opposite the preceding lot, let at 20*l*. held for 59¾ years, at 8*l*. 8s.—80*l*.

An improved rent of 35*l*. a year, secured upon Nos. 1, 2, and 3, Grange-road, Dalston, let at 45*l*. 4s.; held for a term, whereof 70 years were unexpired at Lady-day, 1845, at a ground-rent of 10*l*. 4s.—570*l*.

A leasehold property, comprising the Prince Albert public-house, in front of the Queen's-road, Dalston, let for the whole term at 30*l*. per annum. Also two houses, Nos. 6 and 7, Adelaide-place, near the above, let at 28*l*. each, together with the detached residence known as the Adelaide Cottage, let at 28*l*. and the house, No. 7, Temple-street, at the rear of the above, let at 25*l*.—total, 139*l*.; the property is held under three leases, for terms of which 69 years were unexpired at Michaelmas, 1844, at rents amounting together to 24*l*.—1,100*l*.

A reversionary interest to house property at the expiration of about 30 years, for certain terms of years from that time, and now producing nearly 1,200*l*. a year, consisting of numerous houses and shops in Crawford-street, Homer-row, Homer-street, Circus-street, Quebec-street, Thornton-place, and Salisbury-mews, with a factory, other buildings, yards, &c. originally let by various ground leases, granted by the Portman estate, expiring 1873, 1870, and 1877—730*l*.

THE MONEY MARKET.

	Sat.		Tu.	Wed.	Thur.	
Three per Cents. Consols	99¼	99⅛	99⅛	98⅞	98⅞	99⅛
Three per Cents. Reduced	99	99¼	99⅛	99⅛	99⅛	99⅛
New Three &-a-quarter per Cts	102	102¼	102¼	102⅛	102⅛	102⅛
Long Annuities.........	11¼	11⅛	11⅛	11⅛	11⅛	11⅛
Bank Stock	210	210¼	210½	210½	211	211
India Stock	279	279½	279	279½	279	270
India Bonds, prem......	70	70	71	71		72
Exchequer Bills, prem. .	55	56	57	56		57

FOREIGN.

Spanish Five per Cents	27.	27¼	27⅛	27¼	27⅜	27¼
Spanish Three per Cents.	39¼	39⅛	38⅛	38¼	37¾	37¼
R[illegible]an	118¾	118¼	119¼	119¼	119¼	119¾
P[illegible]an....................	32¼	32¾	33¼	33¾	33	34¾
P[illegible]guese	64¼	64½	64¼	65	65	65
Mexican	36¾	37	37¼	37½	37¼	37¼
——— Deferred	20¼	20¼	21½	20⅛	20¾	20¾
Dutch Two-and-a-Half per Cents.....................	63¼	63⅜	63½	63⅜	62⅞	63⅛
——— Four per Cents.	98¼	98¼	98¼	98¼	98¼	98¼
Danish	88½	88¾	89¼	89¼	89¼	89⅛
Colombian	17½	17½	17½	17¾	17½	18
Chilian	99	99½	99¾	99¼	100½	100⅛
Buenos Ayres	45½	45⅛		46	46¼	46¼
Brazilian..................	90½	90½		90½	90	91¼
Belgian	99½	99½	99½	99¾	100	100¼

THE GAZETTES.

Gazette, July 1.

AMOUNT OF DIVIDENDS DECLARED.

The sum stated as the Dividend means so much declared in the Pound. The Assignees, when chosen, follow this statement.

Monday, June 30.

Brown, J. J. grocer, last exam. Sept. 18.—*Cann*, J. bricklayer, last exam. Sept. 16.—*Feariour*, J. hotel keeper, outlawed.—*Kensington and Co.* bankers, joint and sep. div. next week. Johnson, London.—*Peters* J. fancy trimming manufacturer, assignees, none chosen.—*Scott*, W. wine merchant, div. next week. Johnson, London.—*Sims*, T. victualler, last exam. Sept. 18.—*Symonds*, S. Blackwell-hall factor, div. next week. Johnson, London.

Tuesday, July 1.

Clement and *Co.* tea dealers, last exam. passed.—*Couchman*, I. T. builder, div. next week. Groom, London.—*Gorton*, T. jun. bookseller, final div. next week. Belcher. London.—*Guigues*, V. hotel keeper, last exam. passed.—*Hewlings* and *Co.* bill brokers, joint div. and sep. W. next week. Turquand, London.—*Jarrett*, A. hat manufacturer. div. next week. Whitmore, London.—*Jemmett*, G. coachmaker, final joint div. J. and S. next week. Whitmore, London.—*Kirby*. T. oilman, final div. next week. Whitmore, London.—*Mardall*, J. W. insurance broker, div. next week. Belcher, London.—*Vandeau* and *Co.* artificial florists, div. next week. Whitmore, London.

Thursday, July 3.

Thompson, T. bill broker, assignees, July 9.

Friday, July 4.

Dale, W. bootmaker, div. next week. Belcher, London. —*Gibbs*, J. scrivener, div. next week. Edwards, London.—*Herne*, T. draper, annulled —*Kettel*, C. brewer, div. next week. Follett, London.—*Kimble*, R. bootmaker, last exam. passed. — *Payne*, G. tailor, div. next week. Belcher, London. — *Poynter*, W. warehouseman. div. next week Pennell, London.—*Wood*, T. wine merchant, last exam. bankrupt dead.—*Woollett*, J. merchant, div. next week. Alsager, London.

Saturday, July 5.

Poole, W. sen. shopkeeper, last exam. sine die.—*Terry*, H. victualler, last exam. sine die.

DIVIDENDS.

Bankrupts' Estates.

Official Assignees are given, to whom apply for the Dividends.

Ball, G. carpenter, first, 3s. 3d. Acraman, Bristol.—*Bear*, J. draper, 1s. Green, London.—*Bishton*, W. ironmaster, first, 6d. and 9-16ths of a penny. Christie, Birmingham.—*Blockley*, R linen draper, first, 6s. 4½d. Pott, Manchester.—*Cator*, G. A. wool merchant, third and final, 1d. and 11-16ths of 1d. Hope, Leeds.—*Harris*, W. brickmaker, third, 1s. 11¼d. Valpy, Birmingham.—*Heatall*, J. draper, first, 8d. Pennell, London.—*Hilton* and *Co.* paper makers, second, 4d. and first and second, 1s. 10d. to new proofs. Fraser, Manchester.—*Jackson* and *Co.* woolstaplers, final, 1d. Green, London.—*Johnson*, J. C. merchant, second. 4d Pennell, London.—*Leefe* and *Co.* haberdashers, final joint, 1s. 6¼d. Yates, 20s. Green, London. *Losh* and *Co* calico printers, final, 2½d. Pott, Manchester.—*Marshall*, R. stonemason, second, 1s. 10½d. Groom, London.—*Peters*, J. farmer, first, 3s. Green, London.—*Todman*, J. G. victualler, first, 14s. 6d. Edwards, London.—*Winning*, G. upholsterer, final, 4d. Green, London.—*Winton* and *Co.* warehousemen, final joint, 6½d. A. Winton and T. Webber, 20s. Turquand, London.

Insolvents' Estates.

Atterbury, J. farmer, Milton Keynes, 9s. 0½d.—*Ives*, W tailor, Newmarket, 3s. 6d.—*Beckett*, R. harness maker, Wandsworth, 1s. 1d.—*Bromley*, S. lieutenant in the navy, Woodbridge, first, 4s. 5d.—*Chapman*, J. E. clerk, Kennington-oval, 7s. 10½d.—*Ellis*, J. coal merchant, Hull, 4s 10½d. —*Gomme*, J. carpenter, Castle-street East, Oxford-street. 1s. 5½d.—*Hayes*, G. post captain, Portsea, first, 7d. *Inglis*, J. agent, Upper Dorchester-place, New North-road, 2s 1d. —*Lamb*, J. farmer, Hall's Hole-farm, near Tunbridge-wells, Kent, 2s. 4½d.—*Mathews*, J. C. comedian, Brompton-row, 4d. and 3-8ths.—*Mathew*, M. jun. manager of a farm, Beckingham, 1s.—*Mennie*, R. barrack master, Lidford, fourth, 6s. 1d.—*Munro*, A. tinman, Bury Saint Edmunds, 2s. 11d. —*Ray*. S. F. clerk, Wardour-street, second, 11½d.—*Ridson*, H. saddler, Shotley-bridge, Durham, 10d.—*Shakell*, E. auctioneer, Southampton, second, 4d.—*Sherwin*, T. C. commander in the navy, Clarendon-square, 4s. 6d—*Smith*, J. lieutenant of the Wiltshire Militia, Great Neston, final, 8s. 6½d.—*Stevens*, W. sub-lieutenant of Sappers and Miners, Penzance, final, 5s. making 20s.—*Wilkinson*, G. W. lieutenant in the navy, Beaulieu, first, 1s. 1d.

ASSIGNMENTS

To Trustees for the benefit of Creditors.

Gazette, July 4.

Hayes, W. grocer, Northampton, June 19. Trusts. J. Dadford, tobacco manufacturer, and S. E Perkins, grocer, both of Northampton. Sol. Rands, jun. Northampton.

Gazette, July 8.

Powell, R. draper, Oswestry, Salop, June 26. Trusts. T. L. Longueville, gent. Oswestry, T. Price, ironmonger, and J. Minett, miller, Morda. Sol. Sabine, Oswestry.

Bankrupts.

DATE OF FIAT AND PETITIONING CREDITORS' NAMES.

Gazette, July 4.

ARMSTRONG, ROBERT, shipwright, Newcastle upon-Tyne, July 15 and Aug. 26, at two, Newcastle, Com. Ellison; Wakley, off. ass.; Williamson and Hill, Gray's-Inn, and Ingledew, Newcastle, sols. Date of fiat, June 16 J. and J. G. Abbott, and W. Brown, iron founders, Gateshead, pet. crs.

BOUSEFIELD THOMAS, ironmonger, Lincoln, July 15 and Aug. 11, at eleven, Leeds, Com. West; Young, off. ass. Williamson and Hill, Gray's-inn, Moore, Lincoln, and Payne and Co. Leeds, sols.—Date of fiat, June 23. A and H. Smith, R. Ellison, and the Hon. A L Melville, bankers, Bristol, pet. crs.

BROOK, GEORGE, dyer, East-parade, Huddersfield, July 15 and Aug. 14, at eleven, Leeds, Com. West; Freeman, off. ass.; Tindal, Huddersfield, and Coudholm, Leeds, sols. Date of fiat, June 27. Bankrupt's own petition.

LEWIS, JOSEPH, card and pasteboard and coloured paper manufacturer, Birmingham, July 17 and Aug. 8, at eleven, Birmingham, Com. Daniell; Whitmore, off. ass; Motteram and Knowles, Birmingham, and Parkes and Co Bedford-row, sols. Date of fiat, June 26 Bankrupt's own petition.

PEMBERTON, THOMAS, coal merchant and bill discounter, 31, Tysoe-street, Spa-fields, July 11 and Aug 15, at eleven, Basinghall-st. Com. Fonblanque; Pennell, off. ass.; Lewis, Wilmington-sq. sol. Date of fiat, July 1. W. Anderson, surgeon, 12, Chadwell-st. Saint John-street-road, pet. cr.

STONEHOUSE, JOHN, mercer and draper, and hosier, Scarborough, Yorkshire, July 16 and Aug. 4, at eleven, Leeds, Com. Boteler; Hope, off. ass.; Reed and Shaw, Friday-st. and Sale and Worthington, Manchester, sols. Date of fiat, June 25. J. Ryland, Manchester, pet. cr.

WYATT, THOMAS HENRY, common brewer, wine and spirit merchant, and maltster, Banbury, Oxford, July 16, at half-past two, Aug. 12, at one, Basinghall-st. Com. Holroyd; Edwards, off. ass; Sharp, Verulam-buildings, sol. Date of fiat, July 2. Bankrupt's own petition.

Gazette, July 8.

GARDNER, JAMES MEAKIN, wine and brandy merchant, Liverpool, July 21 and Aug. 20, at eleven Liverpool, Com. Phillips; Morgan, off. ass.; Bridger and Blake, London-wall, and Dodge, Liverpool, sols. Date of fiat, July 3. J. Hall, corn merchant, Liverpool, pet. cr.

HARRIS, HENRY, hide and skin salesman, 3, Champion-grove, Camberwell, and 2, Cole-st. Dover-road, Newington, July 15, at half-past one, Aug. 18, at twelve, Basinghall-st. Com. Fane; Alsager, off. ass.; Silvester, Great Dover-st. sol. Date of fiat, July 5. Bankrupt's own petition.

JONES, CHARLES, salesman and pig dealer, Adstock, Buckinghamshire, July 15, at half-past twelve, Aug. 18, at eleven, Basinghall-st. Com. Fane; Whitmore, off. ass.; Blower and Co. Lincoln's-inn-fields, sols. Date of fiat, July 5. Bankrupt's own petition.

KESSELMEYER, CHARLES WILLIAM, merchant, Manchester, July 21 and Aug. 13, at twelve Manchester; Fraser, off. ass.; Makinson and Sanders, Temple, and Atkinson and Saunders, Manchester, sols. Date of fiat, July 5. Bankrupt's own petition.

NELL, WILLIAM, common brewer and wine and spirit merchant, Ardwick and Manchester, July 21 and Aug. 13, at twelve, Manchester; Fraser, off. ass.; Hitchcock and Co. Manchester, and Gregory and Co. Bedford-row, sols. Date of fiat, July 2. T. Jones, wine and spirit merchant, Manchester, pet. cr.

NEWELL, CHARLES, linen draper, Idle, Calverley, Yorkshire, July 22 and Aug. 12, at eleven, Leeds; Com. West; Freeman, off. ass.; Williamson and Hill. Gray's-Inn, and Cariss, Leeds, sols. Date of fiat, July 4. Bankrupt's own petition.

POCOCK, GEORGE, linen draper, Brighton, July 17 and Aug. 18, at one, Basinghall-st. Com. Fane; Whitmore, off. ass.; Reed and Shaw, Friday-st. sols. Date of fiat, July 2. S. Copestake, R Grocock, and G. Moore, lace manufacturers, Bow Church-yard, pet. crs.

REECE, JAMES, ironmonger, Axminster, Devonshire, July 25 and Aug. 11, at one, Exeter; Com. Bere; Hirtzel, off. ass.; Holme and Co. New-Inn, Knight, Axminster, and Messrs. Warren, Exeter, sols. Date of fiat, June 30 G. Shore, gent. Axminster, pet. cr.

ROBINSON, JOSEPH, stuff and woollen printer, Bradford, Yorkshire, July 22 and Aug. 12, at eleven, Leeds; Com. West; Young, off. ass.; Sudlow and Co. Chancery-lane, and Middleton, Leeds, sols. Date of fiat, July 5. Bankrupt's own petition.

SALABERT, MATHEW FRANCIS, hatter, 7, Opera-colonnade, Haymarket, July 19, at one, Aug. 23, at twelve, Basinghall-st. Com. Goulburn; Follett, off. ass.; Yonge and Hancock, Tokenhouse-yard, sols. Date of fiat, June 27. Bankrupt's own petition.

SCOTT, WILLIAM, grocer, Manchester, July 25 and Aug. 15 at twelve, Manchester; Pott, off. ass; Humphreys and Co Chancery-lane, Holden and Clarke, Liverpool, and Hampson and Son, Manchester, sols. Date of fiat, June 21. E. Steele, soap manufacturer, Liverpool, pet. cr.

SPENCER, JONAS, worsted piece manufacturer, Denholme-carr, Thornton, Bradford, Yorkshire, July 22 and Aug. 12, at eleven, Leeds, Com. West; Young, off. ass.; Emmett and Allen, Bloomsbury-sq, Bennett, Halifax, and Courtenay, Leeds, sols. Date of fiat, July 2. J. Birrell, commission-agent, Bradford, pet. cr.

TINSON, JOSEPH, innkeeper, Farringdon, Berkshire, July 17, at eleven, Aug. 19, at twelve, Basinghall-st. Com. Fonblanque; Belcher, off. ass.; White and Co. Bedford-row, and Crowdy and Son, Farringdon, sols. Date of fiat, June 26. O. Gerring, grocer, Faringdon, pet. cr.

WRIGHT, ARTHUR, grocer, Kettering, Northamptonshire, July 19, at half-past twelve, Aug. 23, at eleven, Basinghall-st Com. Goulburn; Follett, off. ass.; Gilbert and Co Philpot-lane, sols. Date of fiat, June 23. J. G. Fleet and F. Fleet, wholesale dealers in sugar, Fenchurch-st, pet. crs.

PARTNERSHIPS DISSOLVED.

Gazette, July 1.

Becket, J. and *Kennedy*, J. L. Scotch agents, Farringdon-st. June 30.—*Burrows*, J. W. and C. wholesale confectioners, Houndsditch, so far as regards J. W. Burrows, June 21. Debts paid by the remaining partners.—*Chivers*, J. and F. and *Powers*, C. breeches makers, Conduit-st. Hanover-sq. June 10—*Dobson*. J. and J. R. hop merchants. St. Thomas's-st. Southwark, June 26.—*Godwin*, D., R. and H. grocers and tallow chandlers, Winchester, June 27.—*Hayne*, H. and G. timber merchants, Old-st. St. Luke's, and Long-lane, West Smithfield, July 1.—*Holborn*, R. M. and *Dence*, R. J. wholesale tea dealers, Mincing-lane, June 30. Debts paid by Holborn—*Johnson*, D. T. and *Turton*, D. H. hop merchants, Aldermary Church yard, May 2.—*Keith*, J. and W. merchants, Strichen, Aberdeenshire Nov. 1. Debts paid by W. Keith—*Long*, H. J. V. and *Edwards*, G. W. wine brokers, Mark-lane, June 20. Debts paid by Long.—*Marriott*. H. and F and *Crowe*, .. ironmongers, Fleet-st. Ludgate-hill, Broad st and Primrose-hill, July 1. Debts paid by H. Marriott—*Melton*, T. C. and *Waylen*, A. manufacturing engineers, Mark lane and Borough-rd. June 30.—*Paynter*, F. E. and *Pollard* W. L. attorneys, South-sq. Gray's-inn, June 23.—*Ridley*, G., W. and H. sen. and jun. wine merchants, Ipswich, June 21. Debts paid by G. and H. Ridley, jun.—*Shaw*, P and S. sen and jun. cotton spinners, Botteas, near Mossley, wool staplers and woollen manufacturers, Micklehurst so far as regards S. Shaw, sen. June 27.—*Suttaby*, R. G. E. and A. booksellers, Stationers' court, Ludgate-hill, so far as regards G. E. Suttaby, June 30. Debts paid by the remaining partners.—*Tozer*. E. A. C., S. K. and J. milliners, Exeter, so far as regards E. A. C. Tozer, June 27. Debts paid by the remaining partners—*Tunley*, W, *Simpson*, J. and *Potts* R S. general carriers, so far as regards J. Simpson, June 11. Debts paid by the remaining partners.—*Vaucher*, F. and *Barns* G. schoolmistresses, Rusholme, June 26.—*Yerbury*, S. and *Stride*, O. plumbers, Frome Selwood, June 9. Debts paid by Yerbury.

Gazette, July 4.

Barker, S., *Choppin*, C. and *Denton*, S. jun. attorneys, Gray's-inn sq. June 30.—*Belville*, W. H. and *Freak*, A. M. manufacturing jewellers, St. John's-sq. Clerkenwell, July 2. —*Brockbank*, C. and *Griffiths*, C. tailors, Liverpool, July 3. —*Bradley*. J. and *Smith*, T. engravers to calico printers, Manchester, July 3. Debts paid by Bradley.—*Browning*, T. and W. S. distillers, Smithfield-bars, March 25. Debts paid W. S. Browning—*Chatterton*, T. and *Starkie*, J. mercers, Macclesfield, June 30. Debts paid by Chatterton.—*Coltart*, W., *Clark*, T. and *Chalmers*, A. W. rope makers, Liverpool, June 30.—*Crook*, W. sen. and jun. ironmongers, Carnaby-st. June 24. Debts paid by Crook, sen.—*Crowdy*, H. C. and *Bruce*, J. solicitors, Highworth, June 1.—*Dugdale*, C., *Perry*, C. H. and *Daly*, J. millers, Liverpool, June 30. Debts paid by Dugdale.—*Evans*, T. S. and *Appleton*, J. grocers, Drury-lane and Chelsea, as to the business at Drury-lane, May 7, and as to the business at Chelsea, May 19.—*Everard*, G. *Colclough*, T. and *Townsend*, G. china manufacturers, Longton, July 1. Debts paid by Everard.—*Fernie*, E. W. and *Tennant*, J. manganese miners and dealers, Tavistock, June 16.—*Fletcher*, J. F. and *Birt*, Hugh, surgeons, Arundel, June 30. Debts paid by G. Balchin, solicitor, Arundel.—*Gorton*, W. and *Rankin*, B. June 1.—*Gotthardt*, J. I. and *Dean*, S. worsted manufacturers, Halifax, May 1. Debts paid by Dean.—*Higgins*, V., V. T. and W. H. iron merchants, Liverpool. July 1. Debts paid by V. Higgins.—*Hogg*, F. H. and *Edmonds*, W. merchants, June 30. Debts paid by Hogg.—*Hopps*, A. and *Chantrell*, G. F. general agents, Leeds, June 30.—*Ironside*, C., *Johnston*, E. and *Ironside*, C. C. Liverpool, as regards C. Ironside, June 30.—*Lamb*, S. B. and *Bell*, H. J. attorneys, Reading, July 1. Debts paid by Lamb.—*Mills*, R. and *Champion*, J. L. grocers, Stroud, July 1.—*Osborne*, G. and *Cooper*, J. Noble-st. Goswell-st. June 28.—*Parsons*, G. and *Townley*, C. J. stock-brokers, Liverpool, July 1.—*Pratt*, B. and *Boland*, J. surgeons, Pershore, June 30. Debts paid by Pratt.—*Potter*, J. and *Smith*, W. H. share brokers, Leeds, June 30. Debts paid by Smith.—*Robinson*, D. and *Hulton*, F. C. attorneys, Blackburn, June 30.—*Salt*, A. and J. cut nail manufacturers, Birmingham, June 30. Debts paid by J. Salt.—*Seckerson*, H. B. and *Bell*, E. attorneys. Stafford, June 24. Debts paid by Seckerson.—*Smith*, E. and *Richardson*, E. grocers, York, April 8, 1844.—*Worthington*, I. and *Cunningham*, J. cotton brokers, Liverpool, July 1.

Insolvents

Petitioning the Courts of Bankruptcy.

Gazette, July 1.

PETITION TO BE HEARD AT BASINGHALL-STREET.

Atkins, A. gent. Edward's-place, Kensington, July 2, at one.—*Basebe*, W. picture dealer, Clarendon-st. Somer's-town, July 17, at twelve.—*Beaumont*, F. W. civil engineer, Bath-place, New-road, July 11, at one.—*Russell*, E. truss-maker, Rawstone-st. July 17, at twelve.—*Walker*, J. tailor, Billericay, July 17, at twelve.

IN THE COUNTRY.

Gazette, July 1.

Barnsdall, J. joiner, Nottingham, July 8, at half-past ten, Birmingham.—*Bush*, J. T. dealer in marine stores, Bristol, July 17, at eleven, Bristol.—*Crouch*, E. shopman, St. George, Gloucestershire, July 21, at half-past eleven, Bristol.—*Evans*, R. draper, Liverpool, July 7, at twelve, Liverpool.—*Gale*, R. W. calenderer, Manchester, July 14, at twelve, Manchester.—*Hudson*, W. joiner, Greenacres-moor, near Oldham, July 10, at twelve, Manchester.—*Linter*, T. H. teacher of music, Burslem, July 8, at half-past ten, Birmingham.—*Matthews*, W. T. glazier, Bristol, July 24, at twelve, Bristol—*Mewburn*, T. M. attorney, Darlington, July 18, at half-past one, Newcastle.—*Milnes* W. H. school keeper, Kegworth, July 8, at half-past ten, Birmingham.—*Ovens*, T. sen. brewer, Bradford, July 15, at twelve, Bristol.—*Preston*, W. merchant tailor, South Shields, July 18, at two, Newcastle.

MEETINGS IN THE COUNTRY.

Gazette, July 1.

Atkinson, G. G. joiner, Stocton-upon-Tees, July 22, at twelve, Newcastle.—*Foster*, G. innkeeper, Carlisle, July 22, at eleven, Newcastle.—*Jepson*, T. B. grocer, Manchester, July 23, at twelve, Manchester.—*Wheatley*, S. farmer, Dronfield, July 25, at twelve, Manchester.

PETITIONS TO BE HEARD AT BASINGHALL-STREET.

Gazette, July 4.

Barrett, B. carver, Reading, July 16, at twelve.—*Edmonds*, J. grocer, Salmon's-lane, Limehouse, July 10, at eleven.—*Fleuret*, F. B. B. out of business, Robin Hood-lane, and Carter-st. Poplar, July 16, at twelve.—*Hatchell*, J. coal dealer, Royal-st. Lambeth, July 17, at two.—*Mitchell*, S. carman, Portland-place, Thomas-st. New Kent-road, July 17, at one.—*Peters*, J. Reading, July 10, at eleven.—*Smith*, T. tyre smith, Alfred-mews, Tottenham-court-road, July 16, at twelve.—*Wilson*, G. carpenter, Newman's-place, Chapel-grove, Somers'-town, July 16, at twelve.

COUNTRY.

Brown, G. innkeeper and dyer, Bradford, July 16, at eleven. Leeds.—*Emmott*, W. clogmaker, Calverley, July 16, at eleven, Leeds.—*Fife*, G. physician, Bishopwearmouth, July 18, at half-past two, Newcastle.—*Gill*, T. blacksmith, Bishop Auckland, July 18, at one, Newcastle.—*Holden*, G. wheelwright, Dodworth, July 8, at eleven, Leeds.—*Olliver*, G. E. out of business, Spetisbury, July 17, at one, Exeter. —*Richardson*, G. sadler, Selby, July 8, at eleven, Leeds.

MEETINGS IN THE COUNTRY.

Key, L. L. out of business, York, July 26, at eleven, Leeds.

From the Gazette of Friday, July 11.

Bankrupts.

Parsley, W. hat maker, Woolwich.—*Elphick*, S. victualler. Bermondsey-st.—*Rawe*, W. H. currier, Portsea.—*Harward*, J. lamp maker. Brook-street.—*Burleigh*, W. scrivener Haverhill.—*Forth Marine Insurance Company*, Bishopsgate-st. Within.—*Dow*, J. A. draper, Romford.—*Eastwood*, T. grocer, Brighton.—*Davenport*, J. wholesale hosier, Little Love-lane London.—*Filbey*, J. licensed victualler, Egham, Surrey.—*Thorn*, J. paper hanger, New Brentford, Middlesex.—*Farrow*, J. draper, Stanton, Suffolk.—*Shorland*, J. grocer, Bristol.—*Lovell*, T. general dealer, Henstridge marsh, Somersetshire.

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THE REPORTS.

Equity Courts.

LORD CHANCELLOR'S COURT.

Friday, June 27.

Re SPLBY, a Lunatic.

Practice in lunacy—Form of order where sale of part of a lunatic's estate made under a decree in Chancery—Lunatic trustee.

Rolt supported a petition to confirm a report of the Master, which found that the lunatic was a trustee within the Act 1 Wm. 4, c. 60, and which prayed that the co-trustees of the lunatic trustee might be directed to execute the conveyance to the purchaser, and also that a prospective order might be made that they should so execute the conveyances of other properties about to be sold under the same decree, and under circumstances precisely similar. The order of reference to the Master to inquire whether the lunatic was a trustee within the Act, had been made in the cause, and not in lunacy. The petitioners were the plaintiffs in the cause, who were entitled to the produce of the estates when sold, and who, until the completion of the sales, had a lien upon the estates for the unpaid purchase money. They were, therefore, persons interested in the estates within the meaning of the Act.

The order of reference, although entitled in the cause and lunacy, and also in the matter of the Act 1 Wm. 4, c. 60, was pronounced by the Lord Chancellor, not as being intrusted by virtue of the Queen's sign manual, as directed by the Act of Parliament, but as judge in the cause, the petition having been presented in the first instance by mistake at the office of the principal secretary, instead of the secretary of lunatics, and the order thereon drawn up by the registrar of the Court of Chancery.

The LORD CHANCELLOR.—The order should have been made in lunacy. All the materials necessary must be on this side of the court, within the Chancellor's jurisdiction in lunacy. The petition prays that the co trustees of the lunatic may convey in the place of the lunatic; but it is not usual to direct more than one person to convey. Neither can there be a prospective order, for the lunatic may be of sound mind before the rest of the estates have been sold. Every time a sale is made there must be an application. Let the petition be handed into the Secretary of Lunatics, and if it can be so modelled as to make it suit the proceedings in lunacy, an order may be made.

Saturday, July 12.

WINTHORPE *v.* WINTHORPE.

Construction of the words "legally declared to be incapable of managing her own affairs"—Commission of lunacy.

In this case the only question was as to the construction of the words "legally incapable," and by leave it was heard in this court as an original cause. By his will, dated in Dec. 1844, the Rev. Wm. Winthorpe bequeathed the sum of 28,000*l.* to certain trustees upon trust to pay the dividends thereof to his widow, whom he mentions to be residing in a private lunatic asylum, until such time as she should, at the cost of the said trust fund, be legally declared to be incapable of managing her own affairs; and in the event of her being so declared, she was to receive an income of 500*l.* per annum only. The only question in the cause was, in what way this lady's incapacity should be legally declared.

Cooper, Wood, Rolt, and *Freeling* appeared for the different parties, and submitted the point.

The LORD CHANCELLOR.—The only way in which a person can be legally declared incapable of managing his own affairs, is by issuing a commission of lunacy, and the finding of a jury that the party is insane. No reference to the Master, or any other proceeding in the Court of Chancery, can authorize me to make such a declaration. All I can do therefore is to give the trustees leave to present a petition in lunacy to the great seal, for a commission of lunacy to inquire into the lady's state of mind.

June 27 and July 2.

Re GAITSKELL.

Practice on petitions under the Attorney and Solicitors Act—Amending petition on appeal—Construction of Act—What a proceeding in a court of common law—Form of order at the Rolls to tax solicitors after a month from delivery.

Where an appeal is made from a decision of the Master of the Rolls under the Attorney and Solicitors Act (6 & 7 Vict. c. 73), the petition on which the order was made may be amended before the hearing of the appeal.

The entry of satisfaction, on the lord of an accountant to the Crown, with the senior master of the Court of Common Pleas, is not such a proceeding in a court of law as will take jurisdiction over a conveyancing bill from the Court of Chancery.

Where the solicitor retains the amount of his bill out of a balance in his hands belonging to his client, that is not a payment within the Act.

The Master of the Rolls has power under the Act to make a general order that all orders to refer bills for taxation, after they have been delivered a month, shall contain a direction that the report shall be signed within a month.

This was an appeal from a decision by the Master of the Rolls, upon a petition by Mr Gaitskell, a solicitor, to discharge an order of course for a reference to tax a bill of costs, made more than a month after it had been delivered.

Mr. Burr had employed Mr Gaitskell to sell various real estates, in the course of which costs had been incurred amounting to upwards of 2,000*l.* Since the order to refer the bill to taxation had been made by the Master of the Rolls, and the appeal, the petition had been amended, but his lordship held that this was mere rehearing of the petition, and the petitioner was at liberty to introduce new matter.

Cooper and *Miller*, for the petitioner.—Mr Gaitskell made the following points. First, whether an order of course could be made by the Master of the Rolls to refer the bill to be taxed without a special application in each case, and whether such an order could properly contain a condition that the Master's report must be obtained within a month, unless the Master should certify a longer time was necessary. Secondly, that the bill delivered had not been signed. Thirdly, that the bill had been paid before the date of the order for taxation, and finally, that part of the business having been done in the Common Pleas, the Master of the Rolls had no jurisdiction under the Act to make the order. The solicitor wished to amend his bill, and alleged that the bills sent to the client were mere sketches. The accounts and bills sent had been accompanied by a letter, and the second point was, therefore, given up. They said that, in the course of former transactions between the respondent and Mr Gaitskell, he had no expectation that his bills would be taxed, and the bills delivered therefore, had been mere estimates.

The LORD CHANCELLOR.—A solicitor has no right to anticipate that his bills will not be taxed.

Miller.—The Master of the Rolls gave Mr Gaitskell leave to present a petition to satisfy the Court that there ought to have been a special application. Without hearing the party, special "directions" and "conditions," as contemplated by the 37th section cannot be inserted in the order of reference. (*Blake v. Flower*, 5 Beavan, 406.)

The LORD CHANCELLOR.—What the Master of the Rolls there said is consistent with the present judgment.

The officer of Rolls Court said the form of the order had been settled within a month after the Act passed, and had been in use ever since.

Miller.—*Re Lees* (5 Beavan, 410). Some part of the business for which charges were contained in the bill consisted of proceedings in the Court of Common Pleas. By an Act of Geo. 2, the Crown had a lien upon all the real estates of accountants to the Crown, and it was provided that the Court of Common Pleas might enter satisfaction for the accountants, on a *quietus* having been obtained from the Pipe-office. The Pipe-office having been abolished, in *Ex parte Fleetwood* (5 Scott, N. R.) an application was made to the Court of Common Pleas for an order that the senior master of the Court should enter satisfaction on a maltster's bond in the way usually done on judgments, and Chief Justice Tindal said that the Act of Parliament gave no power to the Court to make that order, but he would authorize the Master to make the entry for as much as it was worth. In this case a summons had been obtained before a judge at chambers to make a similar entry, which had been made. That was a proceeding in a court of law.

Walker and *Willcock*, for the respondent.

The following cases were cited and referred to:—*Ex parte Branson* (4 Scott, 539); *Winter v. Payne* (6 Term Rep. 645); *Ex parte Prickett* (1 New Rep. 666); *Sandom v. Bowen* (4 Campbell); *Burton v. Chatterton* (3 Barn. & Adl. 486); *Wood v. Griffith* (1 Mcilvale, 35), *Const v. Barr* (2 Russell, 161); *Ex parte Rue* (4 Scott, 417); *Ex parte Dann* (9 Ves. 547), Hullock on Costs; *Wilson v. Gutheridge* (3 Bing & Cres 157); *Wild v. Crawford* (2 Starkie, 538), *Re Barker* (6 Sim. 476); *Collins v. Nicholson* (2 Term Rep. 322).

Cooper, in reply

The LORD CHANCELLOR.—Every word of the Chief Justice in *Re Branston* applies to this case. He said, "Though the deed is required to be recorded in this court, it is not a proceeding in the court, but merely a mode of conveyance." That applies to this case, it was not the intention of the legislature to alter the law in that respect. It meant that a bill for conveyancing business only should be taxed, and in this court I must construe this Act as the old Act of 2 Geo. 2, c. 23, was construed. There must be some proceeding in the course of some proceedings, at law or in equity, or in preparation for some such proceedings. In the case of the maltster, the Pipe-office having been abolished, leave was given to enter satisfaction with the senior Master of the Common Pleas, as in the case of a judgment. The Court said it had no authority to order such an entry, but allowed it to be made by the officer *valeat quantum*. That was not a judgment, but merely a bond.

Cooper.—That decides three of the points against the petitioner. The only other question is whether such a general order as that adopted at the Rolls can be an order of course under the Act, after the expiration of a month.

The LORD CHANCELLOR.—I think the order is sufficient. The Court may make such a general form of order. No injustice is done, because the solicitor had an opportunity of applying to the Court upon the particular circumstances. I am therefore of opinion that the order of the Master of the Rolls must be affirmed.

Re CLEATOR, a Lunatic.

Carriage of petition, where the contest was between an intimate friend, but not a relation, of the lunatic, and the relations, who had kept up no communication with the lunatic.

Practice in lunacy—Attendance at the execution of the commission.

In this case there were two petitions presented for a commission of lunacy; one was by Major Woodgate, who had been for many years an intimate friend of the lunatic, but the only family connection between them was that an uncle of the lunatic had married the petitioner Woodgate's aunt. The other petition was by Mrs Gibbons who was the sole heir-at-law, and one of the two next of kin of the lunatic. The last petitioner was in humble circumstances, and was quite unknown to the lunatic, who had lived in a distant part of the country, and was in a different station of life. The sole question was to who in the carriage of the commission should be given. The lunacy was admitted.

Heathfield, for Major Woodgate's petition.

Kenyon for the heiress at-law, stated that the lunatic had lived in a part of the country remote from her relations, and had much secluded herself; that her insanity partook a good deal of sullenness.

The LORD CHANCELLOR.—Major Woodgate seems to be a meritorious party, and, under the circumstances, ought to have the carriage of the commission. The other party may have leave to attend the execution of the commission, and to adduce evidence as she thinks proper, in order to carry back the lunacy as far as may be possible. The costs of both parties will come out of the estate.

July 2 and 3.

BAILEY *v.* PARRY.

Setting down cause—Certificate by Clerk of Records and Writs—Pleading—Original bill in the nature of a supplemental bill against defendants who have not answered the original bill—Statement of suit—Bill of revivor.

Where the suit abates by the death of a co plaintiff before some of the defendants have appeared to the original bill, and a bill of revivor and supplement is filed against all the defendants, such a bill as against the defendants who have not answered will be an original bill, yet it must contain such a reference to the original, or so much of its contents, that the defendants who have not answered may be fully aware of the objects of the original suit.

Ellis applied for an order upon his lordship's secretary to set down this cause, in which a difficulty had arisen. An original bill had been filed by the plaintiffs against the Attorney-General and several

other defendants, and the principal defendants had appeared and answered, but before the Attorney-General and another defendant, H. Waple, had appeared, the suit abated by the death of one of the plaintiffs. A bill of revivor and supplement had been filed to continue the suit, which, as regarded the Attorney-General and the other defendant who had not answered, was an original bill. The Attorney-General and the other defendant, Waple, had appeared and answered the second bill, only stating they were ignorant of the contents of the first bill. On the usual certificate by the Record and Writs Clerk being applied for, that officer objected that he could not grant the certificate in the ordinary form, but proposed to grant a certificate to the effect that certain of the defendants had answered the original bill and bill of revivor and supplement; but that no answer, plea, or demurrer had been filed by the Attorney-General and J. H. Waple to the original bill, although they were respectively required to answer the same. In *Crowfoot* v. *Mander* (9 Sim. 396), the Vice-Chancellor of England had held in such a case as the present, that it was a settled rule that the bill would be an original bill as far as respected the defendant who had not answered, but a supplemental bill in respect of the suit. An application had been made to the Vice-Chancellor to direct the Record and Writs Clerk to grant the certificate in the usual form, but his Honour said he could not direct that officer to certify contrary to his conscience if he thought it irregular, though the Vice-Chancellor intimated that in his own opinion the pleadings were regular in point of form.

Mr. Berry, the senior Clerk of Records and Writs, then stated what he conceived to be objections to the form of the proceedings.

The LORD CHANCELLOR.—What does the supplemental bill contain? Does it reiterate all that was contained in the original bill?

Ellis.—The supplemental bill contains all that was in the original bill which relates to the defendants who have not answered.

July 3.—The LORD CHANCELLOR, after stating the circumstances, said:—The supplemental bill ought to have contained all the matter which was in the original bill, otherwise the defendants, who had not appeared to the original bill had no means of knowing what was contained in the original bill. They take copies of the supplemental bill in the regular way, and what answer are they able to give? The Attorney-General and the defendant Waple answer merely what is stated in the supplemental bill, and they say that they know nothing of the matters contained and referred to in the original bill. As the record now stands, they are not bound by the original bill, which is only referred to in the supplemental bill. I consider this to be an original bill, and if all are bound by it, that the record is incorrect, and that the officer is right in his objection. The question is, how is it to be set right? It may be done in one of two ways; either by setting forth all the facts by supplemental bill, or by serving the Attorney-General and the other defendant, Waple, with a copy of the original bill, and those defendants may then, by leave of the Court, put in amended answers. It will be for the parties to consider which plan they will adopt.

Ellis suggested that the original bill was referred to in the supplemental bill.

The LORD CHANCELLOR.—The defendants are interrogated whether all the statements and charges in the original bill are true; and they say in answer they don't know what those charges and statements are. The note at the foot of the supplemental bill requires them to answer all the matters which are contained in the original bill. The plaintiffs may amend the supplemental bill by embodying in it all the statements of the original bill.

VICE-CHANCELLOR OF ENGLAND'S COURT.

Easter Term, 1845.

SLOMAN *v.* THE BANK OF ENGLAND.

Jurisdiction of court of equity—Forgery on the Bank of England—11 Geo. 4, c. 13.

Certain stock was standing in the books of the governor and company of the Bank of England in the joint names of H. and P. (trustees for S.) P. by means of a forged power of attorney from H. sold out the whole amount of stock, but continued to account to S. for the dividends. Some time elapsed before it was discovered by H. and S. that the stock no longer stood in the joint names of H. and P. but that, under the forged power of attorney, P. had sold out the whole amount. P. was in England at the time when the discovery was made, and for several days afterwards, but was represented to H. and S. as being unable to be seen from a dangerous illness. No notice was given to the Bank of the forgery until the fifth day from its discovery; and on that day P. escaped from the country. A bill was filed against the governors and company of the Bank of England by S. and H. for the purpose of compelling them to replace the stock which had been so sold out, together with the accruing dividend. This the defendants refused to do, on the ground that due notice had not been given by H. and S. of the forgery; but that they had delayed doing so for the purpose of conniving at P.'s escape; and that if the plaintiffs had any right at all, it was by an action at law. Held, in the first place, that upon the true construction of the above-mentioned statute the proper remedy was in equity, the Bank of England being the public bookkeepers of the stockholders; secondly, that the moment the stock was improperly sold out the right to have it replaced or reinstated arose; but without destroying the principle of the obligation which devolves on the parties seeking equity to do equity, by making known to the Bank the forgery as soon as it arose.

This was a bill filed by John Sloman and Louisa his wife, and Robert Hillman, against the governor and company of the Bank of England and Christopher Picard, out of the jurisdiction of the Court.

Upon the marriage of the plaintiff John Sloman and Louisa his wife, formerly Louisa Hillman, a sum of 6,250*l*. New 4 per Cent. Reduced Bank Annuities was transferred into the joint names of the defendant, C. Pickard, and the plaintiff, R. Hillman, as trustees of an indenture of settlement, dated 16th Nov. 1827, made upon the said marriage.

It appears that the plaintiff, Robert Hillman, is the brother of the plaintiff, Louisa Sloman, and that the defendant, Picard, had married a sister of Sloman.

The whole transaction, in all its details, is too lengthy to be inserted; they, however, sufficiently appear in his Honour's judgment. It will therefore be necessary only to state that on the 4th June, 1839, Picard, by a forged power of attorney, sold out and transferred in his own name, and as the attorney of Hillman, 2,250*l*. part of the stock, and on the 10th July, 1839, he, in the same manner, sold out and transferred 4,000*l*. the residue of the stock. Some correspondence having taken place between Picard and Sloman on the subject of the purchase of land, in which Sloman proposed to invest the trust fund, Picard postponed the affair in various ways, which, in addition to the circumstance of one of Picard's cheques having been dishonoured, alarmed Sloman. Early in the morning of February, 1841, Picard effected his escape from England by a Hamburgh steamer. Some correspondence ensued between Hillman and the Bank of England, which ended by Mr. and Mrs. Sloman and Hillman, on the 12th April, 1842, filing their bill against the governor and company of the Bank of England to compel them to replace or reinvest the stock, and pay the dividends which would have become due since the 5th January, 1841, and all future dividends. The Bank of England defended the suit upon the ground that both Hillman and Sloman had purposely delayed giving them information of the forgery to favour Picard's escape, and filed their cross bill of discovery. This the defendants to the cross bill denied.

Bethell, *Koe*, and *S. B. Follett*, for the plaintiffs, cited *Davis* v. *The Bank of England* (2 Bing. 293); *The Bank of England* v. *Davis* (5 B. & C. 185); *Coles* v. *The Bank of England* (10 Adol. & E. 437); *Ex parte Bolland, re Marsh* (Mont. & Mac. 315); *Hume* v. *Bolland* (Ryan & Mood. 371); *Stone* v. *Marsh* (6 B. & C. 557).

J. Parker and *R. Palmer*, for the Bank, cited *Hammond* v. *Messenger* (9 Sim. 327); *Ashby* v. *Blackwell* (Eden, 299; S. C. Amb. 503); *Crosby* v. *Long* (12 East, 409); *Stone* v. *Marsh* (6 B. & C. 557); *Ex parte Bolland* (1 Mont. & Mac. 396).

The VICE-CHANCELLOR.—Having heard this case at considerable length, I cannot say that I have the slightest doubt as to the situation in which the Bank of England is now placed. It seems to me that the liability of the Bank is constituted by the 11 Geo. 4 & 1 Wm. 4, c. 13; and, without travelling through the formal words of the different sections, it appears that the result of the statute is this, that when the government had determined to reduce the 4 per Cents into Three-and-a-half per Cents. certain enactments were in the first place made, the effect of which was to give an option to the different parties; and then, by the 10th section of the Act, it was directed that books should be kept wherein the names of the different owners of the stock should appear. This was the first thing. Then, by section 6th a particular provision was made, which in itself made it part of the law, that moneys sufficient for the payment of the dividends should be applied by the Bank, and which I notice no further than with reference to that singular point which was brought forward when the case of *Davis* v. *Bank of England* was heard in error, when it was held, as I understand, by the Court of Queen's Bench (for it was not an appeal upon error to the House of Lords), that inasmuch as it had not been alleged that moneys were supplied by the Government, therefore there was no liability on the part of the Bank; because it seems to me that every court of law ought to take for granted that whatever the government of the country says by its law ought to be done, is done. However, the court of error satisfied itself, in getting quit of any difficulty in that case, by embracing that objection. Then comes the 13th section of the Act, and, as I understand that section, it is this: that it has created a duty upon the Bank of England to keep an account, in books to be provided for the purpose, which shall shew each transfer and assignment of stock made by parties who appear to be interested in the funds in question. They are thus constituted, if I may be allowed to use the expression, the parliamentary book-keepers of this fund, whose duty it is at all times, for all persons who may have any interest in the stock, so to keep the account as that it may distinctly appear what transfers and assignments had been made. And it appeared to me that if there had at any time been stock standing in the name of A, and afterwards (it matters not from whatever cause) that stock did not appear to be standing in the name of A, A would have a *primâ facie* right to say, "Let the account stand as it did on a given day;" but if it can be satisfactorily shewn that A himself had made the transfer, that is an answer; but, *primâ facie*, the bank account ought to be kept in such a manner with regard to any individual who appeared to be a stock proprietor as to shew what the account really is. Now, if such be the case, it strikes me, as a matter of course, that relief may at once be obtained in a court of equity, because the plaintiff in equity has to allege against the Bank, "You are bound by law to be my book-keeper in regard to the stock, and shew me the true account of it; and if I can prove that, upon a given day, there was stock standing in my name, and can now shew that it does not stand in my name, and I have not authorized the transfer, you are responsible—that is to say, you are bound to make the account stand as it ought to have stood."

Now this really appears to me to be the true state of the case; and, according to this view, there would be a direct right in every person who was interested in the funds in question to file his bill against the Bank of England, and have any error occasioned by the Bank set right; as an example, it is observable that an action only gives a remedy circuitously, because all that you could recover in a court of law would be a certain amount of money, with which, after you had obtained it, you might or might not be able to purchase a fund to replace the stock, and it rather appears to me that the proper view of the case is that which I have taken, which results from the simple view of the Act of Parliament. And it seems to me (for this case has been argued with great ingenuity both by Mr. Parker and Mr. Palmer, who have done their utmost in favour of their clients) that the very view that I have taken of the matter is a complete answer to that species of objection that was attempted to be set up by Mr. Parker, viz. that where the account is standing in the names of two they are joint tenants, and each of them may transfer a moiety. Now, if I may use the expression civilly, the absolute nonsense is apparent from this, namely, if that proposition be correct, and if the right of the joint tenant is to transfer a moiety;—as an instance, suppose that 1,000*l*. of the stock stands in the names of A and B jointly; then A is to transfer a moiety; he does so;—what is the consequence? Five hundred pounds appears to remain in the names of A and B, and A has still his right to transfer his moiety of that which remains; and thus he may go on, transferring moiety after moiety of every sum which remains, until, as the expression is, the remainder will be less than any assignable quantity. He will, therefore, virtually have the power of assigning the whole fund, and this will be the consequence of the doctrine that a joint tenant has himself a right to make a transfer of the moiety; and it would be utterly impossible for the Bank to be continually keeping a check account against the right of a particular individual, whose name stands conjointly with others, to transfer only a certain portion up to his limited right by law in the mere view of a joint tenancy. It seems to me to be palpable, on the plain language of the Act of Parliament, that the transfers of stock were to be made by the parties in whose names the stock was standing, which was to be made the subject of transfer or assignment. Then, in reference to this particular case, the very view of the law which I take was, in fact, bowed to by the Bank of England, seeing that no transfer was permitted to be made unless on the production of that which was apparently on the face of it an authority of two; and it turns out that in reality it was not the authority of two, and my opinion, therefore, upon this statute is that it was nothing. And the Bank of England having authorized a transfer to be made, which they ought not to have sanctioned, are themselves now liable in a court of equity to replace to the plaintiffs the stock as it stood on the very day of the transfer, and immediately before such transfer. I mention this because the pleadings are rather singular in their form, and it struck me that there existed some sort of difficulty as to the manner in which the relief should be given. However, my opinion is, that if the stock is decreed to be replaced the parties have only to ask for the dividends from the time when they were last received, and there would be an end of the matter.

The next question was this, namely, whether there has been a sufficient case of defence made out on behalf of the Bank of England? Now, of course, I only regard it in a general point of view, and mappi-

nion most certainly is, that the Bank do act meritoriously where, in a case in which they have any ground whatever to suspect that there has been unfair proceedings, they so manage the matter as to produce a fair investigation of the question. Not that it really could amount to much by way of defence, because, provided the stock had been improperly transferred (that is, by the act of the Bank itself, placed in a situation wherein it ought not to have been as against the plaintiff), I should like to ascertain what subsequent misconduct of the plaintiff could deprive him of his antecedent civil right. By a species of defence it is assumed that the plaintiffs have lost their right by some subsequent supposed misconduct, whereas their right to have the stock existed at the very instant when the stock itself was improperly transferred. How their subsequent misconduct, even two or three years afterwards, when it became a question to what extent they had or had not discovered the improper act which had been practised against them—in what manner that should affect their civil right is to me quite a mystery. Still, however, I cannot but think that in a fair case the Bank act a meritorious part towards the public in having the circumstances investigated; because it is quite obvious that fair and open dealing at least requires that as soon as the fraud is discovered notification thereof ought to be made to the Bank. Well, but what is the effect of its application to this particular case? It really does appear to me that there has been no improper conduct on the part of Mr. Sloman or of Mr. Hillman. Mrs. Sloman herself seems to have had nothing whatever to do with the transaction. On the morning of the Thursday, Mr. Sloman came back with Mr. Hillman to London. He was desirous of seeing Mr. Taylor, the stockbroker, but by reason of that gentleman being engaged as a juryman on some trial at Guildhall he could not be seen till after the Bank was closed. There is then an interview. It had been suggested, that possibly the stock might have been replaced; and it really appears to me that it was a kind of moral duty in Messrs. Hillman and Sloman to ascertain whether the fact were really as suggested; because, if the stock had been replaced, every proper feeling would have dictated that they ought not to divulge the crime that had been committed, but be satisfied to let the whole affair remain with the restitution of the property that had been established, and not make an exposure which could not have any other effect than that of hunting a person who had made all the reparation which the case required.

Then again it appears (it must be confessed a remarkable thing) that, as Mr. Taylor represents it, at about ten o'clock the next morning Mr. Taylor, the stockbroker, a person who had been employed throughout in the transaction, and who to a certain extent, as I understand the matter, is really the servant of the Bank, or, at any rate, an accredited agent of the Bank, goes early on Friday morning and makes the search, and then it is ascertained that the stock has not been restored. What then takes place? Mr. Hillman says he shall go and consult his London agent, and he is the professional man; and he was the person, strictly speaking, upon whom, in the eye of the law, the forgery had been committed; he goes to Mr. Tooke and represents the case to him. What exactly passed between him and Mr. Tooke does not clearly appear; but it would seem that this gentleman advised that a certain notice, or letter, as it was called, should be drawn in his office, and be served upon the Bank the next day. Now it is a very remarkable thing that, when the next day arrived, Mr. Taylor, who stood in the situation of the stockbroker from beginning to end of the transaction, and who could not but have known what the real facts were, does not conceive it to be necessary to go at ten o'clock, although he had gone at that hour the day before, in order to see whether the stock was reinvested, but, according to his own statement, he goes at eleven o'clock. I mention this merely because, if hours are to make it an affair of so much importance, of how little importance did Mr. Taylor think the hour was. This last-named gentleman goes, and there is some conversation about the form of the letter to be taken to the Bank; at last it is taken there, and there the information is given. Ought these gentlemen to have run in a frantic manner to the Bank, and there make a story, which perhaps would have been unintelligible, that the forgery had been committed? On the contrary, were they not to do it in a manner which would at once give full and clear information to the Bank? How they could properly have done it otherwise than they did, I really am at a loss to conceive. Then there is not one particle of evidence which goes to shew that either of them had any communication with Picard to force the conclusion that either of them were privy to, or assisting in his escape. The whole of that appears to have been adopted by Mr. Andrews, who was himself the person, in the language of the law, with respect to an accessary after the fact, who received, relieved, assisted, and comforted the felon. From all that, however, these gentlemen are entirely free. But with regard to this particular point of misprision of felony, as it is called, it is observable that all the steps that Hillman and Sloman took were steps directed to the object of ascer- [illegible] to the actual forgery that was supposed to have been committed. As to any restitution which might have rendered any further prosecution of the matter quite unnecessary, even were I to think in the view of the Bank of England, and with respect to making the disclosure in a proper form—and it appears that when the disclosure had been made the Bank did act upon it—it seems to me that in a case of this nature there ought to be something broad and strong, and striking, and that the Court ought not to be occupied hour after hour in sifting minute points which, after all, when this mosaic work has been put together in the most ingenious manner, and has received, if I may use the expression, the finest polish which argument and reasoning can suggest, literally amounts to no more than that by some possibility there is a ground for suspicion, but that the fact is not made out. I must say, for one, I have not received the least suspicion in my mind, upon the whole of the argument in this case, that there was any fair ground of suspicion as to the conduct of Mr. Hillman and Mr. Sloman, and therefore it appears to me that in point of equity the case is clear, and that the defence totally fails; and my opinion is, that there ought to be a decree. I am saying this now, subject to any thing which may be mentioned as to the matter of form, and that the Bank of England ought to be decreed to replace it; and I see that it is asked that it may be replaced in the name of Hillman only, or that there may be another trustee. It appears to me that this is quite optional with the plaintiff, and the Bank cannot have any difficulty as to that; and I do not think that even the Bank will say that Mr. Picard ought to be continued a trustee, and therefore I think that if the decree is that the Bank do forthwith replace in the name of Hillman the sum of 6,500*l.* Three-and-a-Half per Cents., and also be liable to account to the plaintiff for all the dividends received since January 1841, that that will be all that is necessary, for this reason, because, upon the mere restitution of the stock, a right would be given in law to Mr. Hillman to receive the dividends from the time the stock was abstracted; but then, as I am able to collect from the case, the dividends intermediately of course were paid by Mr. Picard, for otherwise the thing would have been known long before, and, therefore, if I say the stock should be transferred, and that the Bank shall be liable to account for the dividends which would have been received on the fund subsequently to the 5th January, 1841, that will be all that can be done in the way of relief, and I must say that, if it be a question whether the Bank shall pay the costs, my opinion is that it ought. *Decree for plaintiff, with costs.*

ROLLS COURT.

Monday, June 23.

GREENWOOD *v.* CHURCHILL.

Practice—Affidavit as to no under-bargain in case of a substituted purchaser.

Kindersley applied in this cause to substitute Mr. Risley as purchaser in the room of purchasers of two several lots, the one sale being in 1834 and the other in 1839, and to extend the time for payment into court of the purchase-money. He produced an affidavit by Mr. Risley that he took the lots at the same price as the other purchasers, and that there was no under-bargain.

Stinton opposed the motion as to the extension of the time.

The MASTER of the ROLLS thought the affidavit not sufficiently full, as, though there might be no under-bargain, there might be collusion. But the affidavit might be amended after inquiry as to the proper form, as to which the books gave little assistance. The costs of the application must be paid by Mr. Risley, together with interest on the purchase-money, which must, if the affidavit be satisfactory, be paid in before the 20th of July next.

April 24 and June 23.

THOMAS *v.* GWYNN.

Practice—Service of an order—Attachment.

Where an order is made that in a certain time after personal service thereof on an infant, he shall execute a deed, and on his neglecting to do so, an attachment is moved for, the affidavit in support of the motion must state not only that a true copy of the order was served on the infant, with notice that disobedience would be a contempt, but the original must be produced and shewn at the same time.

This was a creditors' suit, and a sale having been made under a decree of the Court, the conveyance was ordered to be made to the purchaser; but John Thomas, one of the defendants, whose execution thereof was necessary, being an infant tenant in tail of the estate, and being ordered to execute the deed within fourteen days after personal service thereof,

Piggott, on a former day, applied for substituted service on the infant by leaving notice at the house where his mother Eleanor Thomas lived, on the ground that she had taken him away, no one knew where, to evade service; but the application was not granted, because there was nothing to shew that there was any prospect of the notice reaching the infant or his mother. In the meantime service had been effected by John B. Jeffries, of Carnarvon, solicitor to the plaintiff, who in his affidavit stated that on the 26th May last he personally served John Thomas, the infant, with a true copy of the order, but did not add that he produced and shewed him the original at the same time. He then asked the infant to sign the deed of conveyance, but he refused; and no application had since been made on the part of the infant for that purpose. The fourteen days after service having expired, and the order not being complied with, an attachment was now moved for.

The MASTER of the ROLLS.—The affidavit does not state whether the original was produced and shewn at the time of the service of the copy, and is therefore defective. A fresh affidavit must be made before an attachment can be granted. Every thing must be quite regular.

GARDLER *v.* GARDLER.

Practice—Partnership—Production of papers.

Schomberg moved for the production by the defendant of only a particular lease, though the notice was general. The bill was filed for an account of a partnership concern between the defendant and his deceased brother, Isaac Gardler, as farmers. The partnership, which was denied by the defendant to have existed, was attempted to be made out by circumstances, such as the names of the two brothers being upon the farming carts, bills being sent in to them jointly, &c. The defendant said the bills were unimportant, and sent in by persons who supposed them partners because they lived together. He admitted the lease in question was granted to them as joint tenants, and then stated that the plaintiff was a trustee for him, which it was alleged he could not be unless he was a partner. The production of this lease was therefore sought as a means of shewing partnership.

White, contrà, insisted there was no case made for production. The bill atttempted to make out a partnership, and the defendant absolutely denies it. The defendant held several farms besides that demised by the lease in question, which was for a term, at 8*l.* 10*s.* rent. [The MASTER of the ROLLS.—Is there no relief prayed as to that particular deed, nor any charge respecting it?] Not any.

Schomberg, in reply, admitted in ordinary cases, he would not be entitled to an order, but the defence set up here was such as to make the case an exception, as the document asked might prove the partnership. At all events, let costs be costs in the cause.

The MASTER of the ROLLS.—I must dismiss the motion with costs.

CORRY *v.* CURLEWIS.

Production of documents—Practice where the aid of Chancery is required.

Where documents can only be got at by the aid of equity, they will not be ordered to be produced at a trial at law, without the answer of which they are a part.

Shebbeare applied for the production of documents in this cause at a trial at law between the same parties.

Prior did not object to the order, with the modification that the answer of the defendant should also be produced along with the documents. (*Brown* v. *Thornton*, 1 Myl. & Cr. 243.)

Shebbeare objected to this, and stated that the cases in which the answer was produced were cases of discovery, not relief. If obliged to take the order so modified, he would only take the common order to inspect.

The MASTER of the ROLLS thought he could not have the production of the one without the other.

WARD *v.* WARD.

Motion to dismiss for want of prosecution—Time.

The bill in this case was filed in 1841, and the answer of the defendants put in in 1842. Various motions to dismiss had been made, and time had always been given. There was no complaint as to the costs, which had been paid, but the delay was great.

Selwyn again moved to dismiss for want of prosecution, the time within which the plaintiff should have proceeded having long since expired.

Addis, contrà.—The suit was about to be brought to a hearing, when it became defective by the bankruptcy of one of the parties, and, though frequently applied to, the assignees of the bankrupt have not signified what they intend to do. Besides, the application should have been to bring the cause to a hearing, and make good the defect in the suit, within a given time; and if not, then to dismiss, but not to dismiss absolutely in the first instance.

The MASTER of the ROLLS made the order for the plaintiff to make good the defect in the suit within a given time, or that it be then dismissed.

Re DALBY.

Taxation—Personal and representative character—Orders separate—Lien—Delivery up of papers.

Where a solicitor does business for the executors of a testator by whom he had also been employed, he will

not be required to refer for taxation bills for business done for the former, without those for business done for the latter, nor to deliver up papers, &c. till all his bills are paid.

The petitioners are the executors of one Harrison, who died in June 1825. His will was proved in July following, and Dalby was employed by them in the matter, and on handing them the proctor's bill was paid the amount. One Mee owed the testator 200*l.* and, being unable to pay, the executors took a mortgage security from him, which Dalby prepared. This security, the title-deeds of the estate, and the probate Dalby retained in his possession. Several applications were made to him by the executors for the delivery of those papers, but he refused. Meantime, however, he made out six bills of costs, which, on the 21st of April, 1844, he delivered. Of these, four were headed "Harrison, debtor to Dalby," two of them being entirely confined to business done in the lifetime of Harrison, and the other two being for business both in his lifetime and after his death. A fifth was headed "Messrs. Mee and Harrison, debtors, and the late Mr. Harrison and his executors, in account with Dalby;" and the sixth was for the mortgage. It appeared also that Dalby was indebted, on notes of hand, to the estate of the testator.

Metcalfe now moved that Dalby should deliver only his bills of costs to the executors for business done for them, and that he should deliver up the documents on his possession, on payment of what was found due.

The MASTER of the ROLLS.—You are asking to tax part of his demand. There ought to be an ordinary order to tax the bills for business done in Harrison's lifetime, and another to tax those for business done on the retainer of the executors. There must be two orders.

Leach.—Mr. Dalby has a general lien for all his demand on all the papers, the business being connected. There was no application for the delivery of separate bills. The business commenced in 1810, and Mr. Dalby has received nothing yet.

The MASTER of the ROLLS.—If Mr. Dalby consents, I will make the order to tax on the petition; if he does not, I will dismiss it with costs. It is a storm in a slop-basin.

VICE-CHANCELLOR KNIGHT BRUCE'S COURT.

Friday, June 6.

BADDELEY *v.* CURWEN.

Practice—Demurrer—38th order of August 1841

A bill for administration of assets filed against an executor and an agent who was employed by him in collecting the assets of the testator, and had retained a portion of them, with the consent of the executor, in payment of a debt due to him from the executor, but which did not charge any fraud or collusion between the defendants, is demurrable as to the agent.

The 38th order of August 1841 does not apply to a case where interrogatories are objected to only on the ground that a demurrer to the whole bill, if filed in time, would have been sustainable.

An important question upon the 38th order of August 1841 arose in this case, which was heard upon exceptions to the Master's report. The bill was filed by Mr. and Mrs. Baddeley, who were entitled to a legacy under the will of Mr. Curwen, for an administration of the assets, against John Curwen, the executor and residuary legatee, and John Halford. The bill stated the will, dated the 27th of March, 1834, and the death of the testator in 1836, that John Curwen received and possessed himself of assets of the testator to a large amount, and more than sufficient to pay the debts and legacies; that he paid all the legacies excepting the plaintiff's; that Halford acted and interfered in the administration of the effects, and possessed himself of a considerable part of the assets, and rendered an account of his proceedings to Curwen in 1839; that Halford retained and applied moneys of the testator to his own use, knowing that the plaintiff's legacy was not paid or invested; that Halford pretended that he was employed by, and settled with, Curwen for what he had received, and that Curwen was insolvent; but there was no charge of fraud or collusion between the defendants. To this bill the defendant Halford answered two interrogatories, and "declined to answer any of the interrogatories contained in the said bill of complaint further or otherwise than as thereinbefore answered, and claimed the benefit of that his answer in like manner as if he had demurred to the relief sought by the said bill, and to the discovery sought by such of the interrogatories contained in the said bill as were not thereinbefore answered." To this answer the plaintiff filed exceptions for insufficiency, and the Master having reported it insufficient, the defendant Halford excepted to the Master's report.

Wigram and *Metcalfe*, for the defendants, alluded to the 38th order of August 1841, contending that the bill was clearly demurrable.

The VICE-CHANCELLOR said that he should wish the question of a demurrer lying to the bill to be first argued.

Russell and *Cameron*, for the bill, cited *Wilson* v. *Moore* (1 Myl. & Keen, 337); and *Consett* v. *Bell* (1 Y. & C. C.C. 569).

The VICE-CHANCELLOR then intimated his opinion that the bill was clearly demurrable, and that the question upon the 38th order must be argued.

Wigram and *Metcalfe* cited *Tipping* v. *Clarke* (2 Hare, 383); *Drake* v. *Drake* (2 Hare, 647); and *Fairthorne* v. *Weston* (3 Hare, 387).

Russell and *Cameron* cited Redesdale on Pleading, 307; and *Lancaster* v. *Evors*, before the Lord Chancellor.

Wigram, in reply.

The VICE-CHANCELLOR.—I have already intimated my opinion to be that this bill is so insufficient in its allegations as far as Halford is concerned, that if a demurrer had been filed by him in proper time, that demurrer must have been sustained. He did not take that course, and the question is whether, because he might have taken that course and did not do so, he is now to be excused from answering the bill. That depends upon the true construction of the 38th order, and whether the construction for which Mr. Halford's counsel contends is or is not one substantially inconsistent with other subsisting orders, as to the construction of which there is neither doubt nor difficulty, a point which I do not decide. It is, in my opinion, a construction of so inconvenient a nature as to be unfit for adoption, and I do not decide it. I think there is no necessity, but I think that, according to its true interpretation, it does not extend to a case where interrogatories are objected to only on the ground that a demurrer to the whole bill, if filed in time, would have been sustainable. According to the defendant's construction, the order might and ought to have ended with the word "bill." The subsequent words, however, do not form the only reason upon which I am of opinion (assuming the bill to have been open to a general demurrer) that the answer is insufficient and must be so treated. I may observe, too, that the argument to which the 36th order refers is an argument before the Court, and not before the Master, and so it appears by the 37th order; but the defendant's construction of the 38th order seems to throw upon the Master the obligation of deciding whether a bill is or is not open to a general demurrer—an obligation which, as it seems to me, ought not to belong to his office. Therefore let the defendant answer the bill. I do not say that he is bound to answer every question, and every part of every question; I do not mean to decide that. I only decide that you must answer the questions, or some of the questions, which hitherto you have not answered. It is an exceedingly difficult question, and I wish you would take it to the Lord Chancellor.

Note.—Mr. Cameron did not draw the bill.

Monday, June 9.

COUNTESS DE ZICHY *v.* EARL OF LONSDALE.

Practice—Parties.

Circumstances under which it was held necessary that that a residuary legatee should be a party to a suit for payment of a legacy instituted by the legatee against the executors.

This was a bill filed by a legatee under the will of the late Marquis of Hertford, for payment of the legacy, against the executors, and it was objected by them that the residuary legatee was not a party to the suit.

It appeared that the present marquis, who was the residuary legatee, had instituted an amicable suit against the executors for the administration of the estate. The plaintiff in this suit applied to the executors for payment of the legacy, but was told that the legacy had been adeemed by payments made to the plaintiff in the testator's lifetime. The marquis carried into the Master's office a state of facts as to the ademption, and the Master reported against the ademption. Exceptions being taken to the Master's report, the Master of the Rolls directed them to stand over, stating that there was no jurisdiction to decide the question of ademption in that suit. The personal estate was admitted not to be deficient, but it was alleged that by the codicil by which the legacy was given to the plaintiff, the legacy was charged upon real estates, which passed to the present marquis.

Swanston and *Tripp*, for the plaintiff.

Follett, for the executors, cited *Galle* v. *Greenhill* (Finch, 202).

The VICE-CHANCELLOR.—If it is a reasonably arguable question whether, according to the true construction of the codicil of the 26th of April, 1839, the real estate in Warwickshire, except that in Birmingham, is the only fund or the first fund for payment of the legacy in dispute, Lord Hertford, as heir or devisee, ought to be a party. How that question ought to be decided I give no opinion. It is sufficient for me to say that the objection is not in its nature absurd. Probably what I have said is enough to dispose of the question. If not, the proceedings in the Master of the Rolls' Court, the evidence that has been gone into, whether usable or not in any other cause, the existence of a cause recently instituted by Lord Hertford against all the legatees, and the fact of the assent as to the residuary personal estate, which is mentioned in the answer in this cause, form together grounds amply sufficient, if the executors insist upon the point, that Lord Hertford ought to be a party to this suit. Reserve the costs.

Tuesday, June 10.

ATTORNEY-GENERAL *v.* SEVERNE.

In this case, in which a question arose upon the 23rd section of the 4 Geo. 4, c. 76, and which is reported *ante*, vol. 3, p. 279, sufficient evidence having been produced to prove that the license for the marriage was procured upon the false oath of the wife, the Court declared the forfeiture by her of all estate, right, title, or interest in any property which had accrued or should accrue to her by force of the marriage, &c.

Common Law Courts.

COURT OF QUEEN'S BENCH.

WINTERBOTTOM *v.* INGHAM.

A purchaser of property, who, pending the completion of the title, is let into possession by the vendor, is not liable in use and occupation if, from the vendor's inability to make a title, the purchase is not completed.

This was an action for use and occupation, the defendant having been let into possession pending the completion of the title, which was subsequently not made out, and the sale consequently not made. By one of the conditions of sale, a deposit of 10 per cent. was to be paid upon the purchase-money, provided that the purchaser should not enter until the completion of the contract. He, however, did enter. The title was incomplete, and a bill filed by the plaintiff for specific performance was dismissed with costs. At the trial, Tindal, C. J. nonsuited the plaintiff. *Whitehurst*, Q. C. had obtained a rule for a new trial, against which

Humfrey, Q. C. shewed cause, citing *Hearn* v. *Tomlin* (Peake's N.P.C. 192); *Kulland* v. *Pounsett* (2 Taunt. 145); *Howard* v. *Shaw* (8 M. & W. 118).

Whitehurst, Q.C. in support of the rule, endeavoured to distinguish these cases, as here the jury had been asked, and had expressly found that the occupation was beneficial to the defendant.

JUDGMENT.

Lord DENMAN, C. J. now delivered the judgment of the Court.—This is a case of considerable importance, and likely to be of frequent occurrence—whether one who contracts for the purchase of landed property, but is prevented altogether from completing the purchase, by the vendor's failing to make a good title, is liable to the latter in an action for use and occupation in respect to the time of his holding, on the understanding that such good title would be made and the purchase would be completed. Several cases were cited for the defendant, but none of a very decisive character beyond that of *Hearne* v. *Tomlin* (Peake, 192). Lord Kenyon denied there was a right in the vendor to recover under such circumstances; but he expressly observed that the occupation had caused loss, not benefit; and it is open to the plaintiff to argue, if the occupation had appeared, as it did at the trial of this case, to be a beneficial one, the plaintiff then would have been permitted to recover against the defendant. Again, in *Howard* v. *Shaw* (8 M. & W. 118), Lord Abinger held that use and occupation would lie for holding over after the contract of purchase had been rescinded; and Parke, B. in expressing his opinion on it, takes the opportunity of laying down that it would have been otherwise during the pendency of the contract, because the relation of landlord and tenant did not exist between those parties, the contract itself stipulating that the defendant should hold the premises rent-free. This stipulation is the reason assigned by Lord Abinger for coinciding in the opinion of Parke, B. It was open, therefore, in like manner, for the plaintiff to argue that without the stipulation he would have been entitled to maintain his action. On the other hand, the plaintiff relied on the judgment in 6 Price, 157 (*Hall* v. *Vaughan*), not so much for the circumstances, which were very peculiar, as for the reasons by which the Court justified the setting aside the nonsuit directed by Holroyd, J. The defendant had contracted to sell the property to one Best, who agreed to sell part to the plaintiff, and the plaintiff entered into possession of that part; a suit in equity for specific performance was instituted by the purchaser Best, who succeeded in it. Pending the suit, the defendant obtained possession in the manner set forth in the statement of facts. The defendant was sued for use and occupation, and the learned judge there held the action could not be maintained, being brought by one who had no title to the land against another who had, the purchase-money not having been paid—that was the expression of the learned judge at *nisi prius*—the purchase-money not having been paid. The Lord Chief Baron Richards held a person equitably entitled to an estate is to be considered the owner from the time of making the contract, if specific performance was afterwards decreed; and held that entering into possession by his permission, if not, indeed, by prac-

tising a fraud upon him, the defendant was answerable to him in an action for use and occupation. Wood, B. considered the plaintiff as the real owner of the estate, on the principle that the defendant, who had entered and enjoyed the property without any right to it, was liable to him in that action. Graham, B. expressed doubt, but did not differ from that opinion; and Garrow, B. merely acquiesced. We consider the real question there determined to have been simply this: that an equitable owner can maintain use and occupation under the circumstances stated. The Chief Justice (Tindal) was therefore left free at the assizes to act on his own view of the law, and he thought this action could not be maintained, because the relation of landlord and tenant was never contemplated between the parties. Upon the facts in this case, the plaintiff's counsel contended that, by the consent of all, the defendant was not to be let into possession until the purchase-money had been paid, and his entry therefore could not be referable to that contract, and his occupation was not merely as a purchaser; and he relied upon a distinct contract arising from ordinary implication, and involving ordinary consequences as to the payment of compensation, but he admitted that the entry was because he was the contractor for the purchase, and that if the contract had been completed, so long as the suit was pending, this action could not have been maintained. It seems to us the more correct view to take of the facts, to say that the entry and possession was not upon an understanding that any compensation was to be paid in the event which has arisen. The defendant was certainly considered the purchaser, by himself as well as by the plaintiff, and not a tenant, and the plaintiff cannot convert him into an occupier liable to pay for his occupation by his own wrongful act in not completing the contract of sale. The jury have indeed found that the occupation was beneficial; but this statement is not without ambiguity. It may have been beneficial, supposing he actually had become the owner, by making a fair return of profit on the outlay; but it may also have been a very losing concern, as a balance struck between the outlay and amount of the proceeds during the time of the actual holding; on the other hand, he may have expended in improvements a sum much larger than the reasonable rent. How is this account to be taken, or balances to be struck? A court of equity may have the power of doing justice in such respect between the parties—our courts certainly have none. Therefore, although admitting the defendant's occupation on the plaintiff's permission to occupy, still we must say the defendant had not promised to pay, because both the defendant and the plaintiff understood he made no such promise; and parties may easily secure themselves on occasions like this, by stipulating for matters in the event of the purchase going off. This appears to be the Chief Justice's view, and we think that view is right, and the rule must therefore be discharged.

Rule discharged.

REG. v. TITHE COMMISSIONERS OF ENGLAND AND WALES, *Re* DENT BOUNDARIES.

An award under the 7 Wm. 4 & 1 Vict. c. 69, must shew upon the face of it that the tithes of the parish had not been commuted before the application to the commissioners.

It must also shew that the parochial meeting at which the requisition was signed was called according to the provisions of the Act.

The 2nd section of 7 Wm. 4 & 1 Vict. c. 69, and the 34th section of 2 & 3 Vict. c. 62, can both have an independent operation.

The Court of Queen's Bench is not deprived of its jurisdiction to examine the form of the proceedings when brought up by a certiorari, notwithstanding the Court has the additional power given to it of deciding upon the merits under 7 Wm. 4 & 1 Vict. c. 69.

An award had been made by Mr. Matthew, appointed for that purpose by the Tithe Commissioners for England and Wales, which was now brought up by *certiorari* to be quashed. It was as follows:—"Whereas a request in writing, signed by upwards of two-thirds in value of the owners of lands within the township of Dent, *at a meeting called for that purpose*, having been duly forwarded to the Tithe Commissioners for England and Wales, requesting them *to inquire into and ascertain and set out the boundaries* of the said township of Dent, so far as the said boundaries abut upon the Higher Division of Newby lordship, in the township of Ingleton, in the parish of Bentham, in the said county; the township of Middleton, in the parish of Kirkby Lonsdale, in the county of Westmoreland; and the township of Barton, in the parish of Kirkby Lonsdale aforesaid; I, J. Matthew, by an instrument in writing, under the hand and seal of the Tithe Commissioners, in pursuance of the power to that effect given to them under and by virtue of an Act, &c. (setting out the title of 6 & 7 Wm. 4, and 1 Vict. c. 69), was duly appointed to make such inquiry and *set out such boundary as aforesaid*. And whereas I have caused to be served all such notices, to be inserted all such advertisements as are by the said Act of Parliament, and have held divers meetings and duly examined upon oath all such witnesses as were then produced, and entered into a full investigation of all matters and things relating to the line of boundaries *so in dispute as aforesaid*, I adjudge and determine that the boundary line commences" [here followed a full description of the boundary lines].

To this award seventeen objections had been made. From the seventh to the thirteenth were directed against the award, if made under 2 & 3 Vict. c. 62; but it was admitted that it would only be upheld under the 6 & 7 Wm. 4, and 1 Vict. c. 69. The last, as to the conduct of the arbitrator, was waived. The others are stated *seriatim* in the argument in support of the award.

The *Solicitor-General* (with whom was *C. Buller*) shewed cause in support of the award.—The substance of several objections is, that the power of the assistant commissioner does not appear upon the award; but his authority depends upon the existence of circumstances, which sufficiently appear. There must be a dispute about boundaries of a particular district, of which the tithes are not commuted, and a request by two-thirds of the landowners must have been made to the commissioners. All this appears, for it will be presumed that the appointment was proper. The first specific objection is that the township of Dent is not shewn to be a district contemplated by the Act. But sec. 12 of 6 & 7 Wm. 4, c. 71, is an answer to this objection, and there is not an affidavit to the contrary. The third objection is, that it is not stated that the tithes were about to be commuted. The words of the Act are, "are to be commuted." That means all except those which have been commuted. It will be assumed here, as the request and appointment are duly set forth, that the commissioners had jurisdiction. There is no affidavit that the tithes have been commuted. The fourth objection is, that it does not shew that there was any dispute about the tithes. But there is a request shewn, and an appointment, and the award is as to the boundaries so in dispute as aforesaid. The fifth is, that it does not appear that the meeting was a "parochial meeting." A request by two-thirds of the landowners of the township is shewn, and this will be presumed to have been made at a parochial meeting. The sixth is, that there is no request to the commissioners to inquire into and settle. The words used are, "inquire into, ascertain, and set out." The objection is quite frivolous. The thirteenth objection is, that the said award is bad, because the boundary line of the township of Dent, so far as it abuts upon Newby, is also the boundary of the customary land of Newby, and that no consent of the lords of the manor of Newby has been given; and the fourteenth objection is, that part of the boundary of Dent was part of the boundary of Yorkshire. It does appear that the customary boundary is interfered with, but not the county boundary. The question is, whether 2 & 3 Vict. c. 62, s. 34, applies. The 45th sect. of 6 & 7 Wm. 4, c. 71, gives power to the commissioners, in case of any dispute as to the boundaries of any lands, to inquire into and settle the same, which is necessary for the proper apportionment of the rent-charge. The 1 Vict. c. 69, s. 2, gives power over the boundaries of parishes and districts, but not to set out a new boundary altogether, which power is given by 2 & 3 Vict. c. 62, and the proviso there added applies only to *new* boundaries. The intention and object is clear, to limit the new powers given by that section. If this objection is good, all proceedings might be stopped by the refusal of any single landowner. The case of *Ystradyglass*, in 13 Law J. 287, is distinguishable, for it was not under 1 Vict. c. 61; but here it is. Upon the fifteenth objection, that no sufficient requisition was sent to the tithe commissioners, nothing was said by the Court.

Cowling, for the township of Dent.—The writ of *certiorari* here given is a peculiar one, and no question of form can be entertained. [PATTESON, J.—That would be a strange anomaly.] Sec. 3 of 1 Vict. c. 69, gives a power of appeal to the party interested. He also argued that by sec. 2, a description in writing of the boundaries was alone essential to the award.

Watson, Q. C. in support of the rule.—This award is bad upon the face of it for not shewing jurisdiction; and great strictness is required where statutory powers are given. (*Christie* v. *Unwin*, 11 A. & E. 373; *Reg.* v. *Manchester and Leeds Company*, 8 A. & E. 413.) Then how does it appear? The tithes may consistently have been commuted before the application to the commissioners. And it must have been a "parochial meeting;" a meeting duly held means nothing. (*Evans* v. *Paterson*, 7 Taunt.) The *certiorari* is a matter of right, and can only be destroyed by Act of Parliament. The 95th sec. of 6 & 7 Wm. 4, c. 71, only applies to proceedings under that Act; and 1 Vict. c. 69, s. 3, does not give a *certiorari*, but limits the operation of the former clause. It may give jurisdiction to decide even upon the merits also; but this does not exclude the Court from considering the questions of form.(a)

At the sittings after Trinity Term (June 27) judgment was delivered by

Lord DENMAN, C. J.—The 34th section of the 2 & 3 Vict. c. 62, does not in terms refer to any preceding enactment. And the proviso at the end, taking away the power where the boundaries of parishes are also boundaries of counties, extends only by its very words to the power given by that clause, for the words are, "nothing in this proviso contained." It is true that the 37th section incorporates the former Act, and the question therefore is whether, assuming the whole to be one Act, the 2nd sec. of 7 Wm. 4 & 1 Vict. c. 69, and the 34th sec. of 2 & 3 Vict. c. 62, can both be in operation separately and independently. Now the alteration made by the 28th sec. of 3 & 4 Vict. c. 15, is expressly confined to the 2 & 3 Vict. c. 62, s. 34, and does not affect the 2nd sec. of 7 Wm. 4 & 1 Vict. c. 69; and this is material to the case, for 2 & 3 Vict. wanted alteration in regard to its requiring the assent of both parishes; but the 7 Wm. 4 & 1 Vict. c. 69, did not require such assent, and wanted no alteration in that respect; but if the legislature had intended to incorporate the sections of the 7 Wm. 4 & 1 Vict. and of the 2 & 3 Vict. so as to make them one enactment, surely they would have noticed both sections in the 28th section of the 3 & 4 Vict. c. 15, for they both would have wanted alteration, unless indeed it be taken that the 34th sec. of 2 & 3 Vict. (although it contains no words of repeal) necessarily repeals altogether the 2nd sec. of 7 Wm. 4, & 1 Vict. which is hardly contended for. Now, we think that both sections may be in operation separately and independently, even if taken as parts of one Act. The 2nd sec. of 7 Wm. 4 & 1 Vict. will apply to cases where the parish wish only to ascertain and set out the old and existing boundary; the 34th sec. of the 2 & 3 Vict. will apply to cases where the parish wishes to give the commissioner the option of ascertaining and setting out the old existing boundary, or of drawing and defining a new boundary, as they shall think fit. In the former case, notice is to be given to the adjoining parish, but they are not required to join in an application, nor is any provision made for their dissenting and stopping proceedings, is any restriction imposed in regard to the boundaries of counties and manors. In the latter case, where a new boundary may be drawn and defined, although the adjoining parishes are not required to join in the application, yet, if they dissent within twenty-one days after notice, the proceedings are stopped, and the restrictions respecting boundaries of counties and manors are introduced. Perhaps the distinction as to ascertaining and setting out the old existing boundaries and drawing and defining new boundaries may be, in many instances, of little importance, but in others it may be far otherwise. The legislature appears to have made the distinction upon which we ought to act; added to which, if the two sections are entirely blended together, it would seem the commissioners might, in their discretion, set out a new boundary, although the parishes may not have requested them to do so, which could hardly have been intended.

Has, then, the commissioner, in the present case, drawn a new line of boundary? If he has, it is clear the award is without jurisdiction as regards the parts where county boundaries and manor boundaries join. But the commissioner has sworn positively that he had no intention of drawing or defining a new boundary, and that he has ascertained and set out the old one according to the evidence to the best of his judgment. The award professes to proceed entirely on the 7 Wm. 4 & 1 Vict. to which Act alone it refers by the year and by its title. That of 2 & 3 Vict. having a different title, the commissioner, by the very language of the award, ascertains an existing boundary, not defining a new one, for he says,—"I adjudge and determine that the boundary line commences" so and so; all in the present tense, not using the words "shall henceforth," nor any word of merely future signification. We think this must be considered to be an award under 7 Wm. 4 & 1 Vict. and that the objection as to the county and manor boundaries cannot prevail. We were referred to the case of the Ystradinglass Commutation, in the 13th Law Journal, in which, undoubtedly, the view we now take of the statute was not suggested in the argument, nor did it occur to the Court; the judgment proceeded upon a contrary view. We think that view wrong; but it is to be observed that there was another objection in that case, namely, that it appeared that the tithe of both parishes had been commuted before the application was made to the commissioner. It was therefore not a case within 7 Wm. 4 & 1 Vict. where the words are, "to be commuted." And as the award could not stand under the 2 & 3 Vict. the judgment in that case, in the result, was right. It remains to dispose of the other objections made in the present case, on the supposition that the award

(a) On a subsequent day, May 26, another argument was heard as to this award; the *Solicitor-General* and *C. Buller* on behalf of the commissioners, and *Dundas*, Q.C. for other parties, supported the award, and *Martin*, Q.C. contrà. The objections were the same, with an additional one, that the whole of the boundary line of Barbour was not set out. The decision in the first case of course disposes of this also.

is under the 7 Wm. 4 & 1 Vict. Those who support the award contend, however, this objection cannot be entertained by the Court, inasmuch as the writ of *certiorari* is taken away by the original Act, the 6 & 7 Wm. 4, c. 71, and is given by the 3rd section of 7 Wm. 4 & 1 Vict. only where a party interested is dissatisfied with the judgment or determination of the commissioner as to the boundary; that is, as to the proper boundary having been set out, and that the Court can only enter into the merits, and give a decision upon the evidence, and cannot consider any defect upon the face of the award. The practice of this Court is directly the reverse in all writs of *certiorari*, and although we see plainly that the legislature has in this statute given a further effect to the writ of *certiorari*, and made us a court of appeal upon the merits, yet we do not see any words which take away the proper jurisdiction which we have when the writ of *certiorari* lies, namely, to examine the proceedings below, and decide whether they be good or bad upon the face of them. We think, therefore, we must consider any defect said to appear upon the face of the award.

The first objection is, that it does not appear that the township of Dent was a parish or district within the statute. The interpretation clause, sec. 12, 6 & 7 Wm. 4, and 7 Wm. 4 & 1 Vict. is a sufficient answer: it enacts that the word "parish" shall include township. The second objection is, that it does not appear that the tithes were "to be commuted;" but, consistently with all that appears on the face of the award, the tithes may have been commuted before the application made by the parish respecting the boundaries, in which case the commissioner would have no jurisdiction. We feel ourselves obliged to yield to this objection. The power given by the 2nd section of 7 Wm. 4 & 1 Vict. seems manifestly to have been given with a view to facilitate the final settlement of tithes in each parish, and to have been intended to be exercised before the tithes are commuted: the words are, "of which the tithes are to be commuted." It is therefore necessary for the jurisdiction of the commissioner to shew on the face of the award that the tithes remained to be commuted; and this is the more necessary under the section in question, because the adjoining parishes and townships, which now object, have no right to stop the proceedings, as they have under 3 & 4 Vict. The third objection is, that it does not appear that any dispute about the boundaries had arisen. This we think quite frivolous. It does appear on the face of the whole award. The fourth objection is, that it does not appear that the meeting at which the request was signed was a parochial meeting, called according to the provisions of the Act, the 6 & 7 Wm. 4. This appears to us to be a fatal objection. The second section expressly requires that such meeting should be so called, but the award alleges only that the requisition was signed by upwards of two-thirds in value of the owners of lands in the township of Dent, at a meeting called for THAT purpose. *How* called does not appear. The fifth objection is, that it does not appear that the request to the commissioner was to inquire into and settle the boundary. This we think frivolous. The second section indeed says, the request shall be to inquire into and settle the boundaries; but it goes on to enact, that thereupon the commissioner shall inquire into, ascertain, and set out the boundaries, manifestly meaning the same thing; and the request is to inquire into and ascertain, and set out, that is; to do the very thing which the Act of Parliament says the commissioners shall be appointed to do. Upon the whole, we are of opinion that this award must be quashed upon the second and fourth grounds of objection.

Thursday, June 12.

DOE *dem.* THE EARL OF EGREMONT AND ANOTHER *v.* WILLIAMS AND ANOTHER.

Ejectment—Defective execution of power, right of defendants to particulars of.

Where an ejectment is brought for defect in the execution of the power under which defendants claim, the Court will compel the lessors of the plaintiff to give particulars of the defects relied upon.

M. Smith shewed cause against a rule obtained by the defendants for particulars of the defects of the power upon which the lessors of the plaintiff relied, and for a stay of proceedings until the same were delivered to the defendants. He submitted that the rule must be discharged. The lessors of the plaintiff claimed as reversioners, upon the ground that the lease under which the defendants claimed was not in accordance with the power of leasing given to the appointor. This was, therefore, in effect an application to compel the lessors to disclose their title and upon this ground Rolfe, B. had refused an order for particulars at chambers. A bill of discovery could not be sustained for any such purpose. He further submitted that the Court would not interfere, because the matter had not only been before Rolfe, B. but also twice previously before Williams, J. at chambers, and there had subsequently been unnecessary delay in bringing the matter before the Court.

Prideaux, contrà, submitted that the rule should be absolute. The defendants were *bonâ fide* lessees, the only objection to their title relied upon being a mere defect in the execution of the power under which the lease was granted; the particulars of this defect could only be known to the lessors of the plaintiff, and it was evident that the defendants could not tell how to act, unless the necessary information was given them. The application was not open to the objection insisted upon on the other side, that it called upon the lessors of the plaintiffs to disclose their title; it raised a totally different and collateral question. With regard to this question having been several times considered at chambers, it appeared that this application to the Court had the sanction of Williams, J. and was fairly to be inferred from the language used by Rolfe, B. on refusing the order, that the real point had not been sufficiently brought under his notice. Then the delay was sufficiently accounted for by the circumstances mentioned in the affidavits, and it must not be forgotten that several similar orders had been made by learned judges at chambers upon other ejectments brought by Lord Egremont.

Lord DENMAN, C. J.—We think this rule should be made absolute. Orders for a similar purpose have several times been made by judges at chambers, and it seems reasonable that the defendants should be furnished with the required information. Until they obtain it, they cannot tell how to act; whereas, when it is furnished them, they may possibly be induced to abandon all further resistance to the action.

Rule absolute.

COURT OF COMMON PLEAS.

Wednesday, July 2.

THOMSON *v.* HARDINGE, Bart. and OTHERS.

In an action of trespass on a close which was part of the customary estates of a manor of which one of the defendants was lord, evidence was given that the customary estates of the manor passed by lease and release and admittance. Held, that the evidence supported a plea of liberum tenementum in the lord, as, in such a case, the freehold was in the lord and not the tenant.

Trespass for entering a close of the plaintiff called Spring Plat. The defendants, among other pleas, pleaded that the said close in the declaration mentioned, and in which, &c. is and at the said several times when, &c. was the close, soil, and freehold of the defendant, Sir Charles Hardinge, wherefore, &c.

Verification. To which plea the plaintiff replied that the said close in the declaration mentioned, in which, &c. is not and at the said several times when, &c. was not the close, soil, and freehold of the defendant, Sir Charles Hardinge, in manner and form, &c.

At the trial before Lord Denman, at the last Kent Spring Assizes, the defendants gave evidence that Spring Plat was part of the customary tenement of the manor of which Sir Charles Hardinge was the lord. It appeared that the tenure was not at the will of the lord, neither did the customary tenements pass by surrender and admittance at the lord's court, as in the ordinary case of copyholds, but that they passed by the common-law assurances of lease and release, together with admittance, though in the case of mortgages it was not usual for the mortgagees to be admitted, and on that account, in the present instance, neither the plaintiff nor the party who had conveyed to him had ever been admitted. It was proved, also, that a quit rent of 1s. 6d. and a relief of sometimes 6d. and sometimes 8d. were payable to the lord in respect of the customary tenements. The case went to the jury on the sufficiency or not of the evidence as to admittance at the lord's court being requisite for the passing of these estates. The jury found that it was; and under the direction of the learned judge a verdict was found for the defendants on the plea of *liberum tenementum*, the plaintiff obtaining a verdict on the other issues. In Easter Term last, *Channell*, Serjt. obtained a rule *nisi* for a new trial, on the ground of misdirection, and in the following Term

Shee, Serjt. (*Peacock* with him) shewed cause.—It is submitted that the evidence sufficiently made out that the freehold was in the lord of the manor to prove the plea of *liberum tenementum*. (Burton on Real Property, 424.) In *Stephenson* v. *Hill* (3 Burr. 1278), Lord Mansfield held that the freehold of estates called customary freeholds was in the lord. This was confirmed in *Doe d. Reay* v. *Huntington* (4 East. 271); and the same was also held in *Doe* v. *Danvers* (7 East, 299). It is true there the estates passed by surrender and admittance; but Lord Ellenborough, in giving the judgment of the Court, said that "it appears to us, whether holden at the will of the lord or not, the freehold is in the lord and not in the tenant." The same doctrine was held also in *Burrell* v. *Dodd* (3 Bos. & Pull. 378). On the other hand, Sir W. Blackstone, in his law tracts entitled "Considerations on Copyholders," comes to the conclusion that though the tenures are only a superior kind of copyhold, and the tenants have not a freehold tenure, yet they may have a freehold interest. [MAULE, J. referred to *Bingham* v. *Woodgate* (1 Russ. & Myl. 32.) All that that case decided was, that the union of the fee of the customary tenements with the estate for life of the lord, was a suspension of the seigniory during the life of the lord. It was immaterial and unnecessary in that case to determine whether the freehold was in the lord or the tenant, and at most it only shews a distinction between freehold interest and tenure. Then as to the necessity of the defendant proving a right to the immediate possession to support this plea according to the case of *Doe* v. *Wright* (10 A. & E. 763), it is submitted that this is not so, unless the right to the possession is shewn not to exist. The plea means that the defendant has the present freehold, but not that he is entitled to the immediate possession. [CRESSWELL, J.—You must shew your estate is such as to give you the right to the possession.] It is clear that in the case of a chattel interest the plaintiff must reply; if so, it is submitted he must in a case of copyhold, and a customary freehold is not *per se* a freehold, but in the nature of a copyhold *tenementum*.

Channell, Serjt. (*Bovill* with him) contrà.—Copyhold estates may be by surrender and admittance to be held according to the will of the lord, or according to the custom of the manor; and it is admitted that the mere distinction in the tenure of holding according to the will or the custom is not alone sufficient; but in the present case the tenure is not by surrender at all; it is a customary freehold of this nature, that the estates pass by common-law conveyances. This differs essentially from a chattel interest, because in the case of a tenant for years his estate is consistent with the freehold in possession being in another, and therefore his derivation and subordinate title must be replied. In *Stephenson* v. *Hill* it is to be observed the custom is not stated whether the lands passed by surrender or conveyance; and the same remark applies to *Burrell* v. *Dodd*. *Doe* v. *Danvers* is clearly distinguishable, as the lands were there transferred by surrender and admittance. *Bingham* v. *Woodgate* is a strong case in favour of the plaintiff. There, Sir John Leach, M.R. said, "The custom of a manor requiring a bargain and sale, as well as a surrender and admittance, to pass the customary tenements, they are plainly freehold; and *St. Paul* v. *Lord Dudley and Ward*, and *Doe* v. *Danvers*, have therefore no application." *Hussey* v. *Grills* (Ambler, 301), and *Willan* v. *Lancaster* (3 Russ. 108), seem to shew the freehold is in the tenant.

Cur. adv. vult.

JUDGMENT.

COLTMAN, J.—This was an action of trespass on a close called Spring Plat, to which the defendants pleaded various pleas, on which no question arises, and also pleaded a plea of *liberum tenementum* in Sir Charles Hardinge, on which issue was joined, and which gives rise to the present question. It appeared in evidence that the Spring Plat was a customary tenement of the manor of which Sir Charles Hardinge was the lord, and it was proved by the steward of the manor that the customary tenement of the manor passed by lease and release and admittance. No further proof was given from which any conclusion could be drawn, whether the freehold in the customary tenement held of the manor was in the lord or the tenant. The counsel for the plaintiff, at the trial, contended that the evidence did not shew satisfactorily that admission was necessary, and addressed the jury upon that point, arguing that if admission was not necessary, there could be no ground for holding the freehold to be in the lord. It appears, by the learned judge's report, the case was left to the jury, who found on the plea of *liberum tenementum* for the defendants. A motion was afterwards made on the ground that the customary estates of this manor passing by lease, release, and admittance, the freehold must necessarily be in the tenant, or, if there was a freehold in the lord, there was a freehold interest in the tenant, which needed not have been replied to a plea of *liberum tenementum*. The case came before my brothers Maule, Cresswell, and myself, and we are of opinion that the freehold is in the lord, and the tenant's interest must be subordinate, and this must be replied on the same principle on which a term of years must be pleaded in answer to a plea of *liberum tenementum*, as appears from the cases of *Doe* v. *Huntington* (4 East, 271); and *Doe* v. *Danvers* (7 East. 299). The freehold in a case of customary estates of this nature is in general in the lord, and it does not appear that the nature of the tenure of this manor was so far gone into on the present occasion as to shew that the verdict was wrong. As, however, this verdict would bind a right, we think the plaintiff ought to be at liberty to try the case over again if he thinks he can make out a freehold in himself, and if it is worth his while to attempt it; but as we do not see there was any miscarriage by the judge, it must be on the usual terms of paying the costs.

Rule accordingly.

DAWSON *v.* CROPP.

A landlord cannot make a second distress for the same rent when the goods taken under the first distress were of sufficient value to satisfy the rent, unless there was a good cause for abandoning the first distress, although the rent may have remained unsatisfied.

*It is, therefore, a good replication to a plea justifying the taking of goods as a distress for rent, to allege that the defendant took under a former distress for the same rent goods sufficient in value to satisfy the same, and then might and ought to have fully paid and

satisfied the rent; "yet the defendant wrongfully and vexatiously, and without any cause or excuse, refused and neglected so to do." A rejoinder, alleging that the defendant afterwards lawfully abandoned and put an end to the first distress, and that the rent was still unsatisfied, is bad, for not shewing any lawful ground for relinquishing the first distress.

This case was argued in Easter Term last by *Talfourd*, Serjt. for the defendant, and *Gaselee*, Serjt. for the plaintiff; but the pleadings and arguments are so fully detailed in the judgment, that it is unnecessary here to set them out.

JUDGMENT.

TINDAL, C. J. now delivered the judgment of the Court:—This was an action on the case; the last count of the declaration was in trover for a quantity of household furniture and other goods and chattels. The defendant pleaded several pleas, the last of which stated that the plaintiff was tenant to the defendant of a certain messuage, with the appurtenances, under a demise made to the plaintiff, at a yearly rent of 50*l.* payable quarterly, on the 25th of January, the 24th of March, the 24th of June, the 29th of September, and the 25th of December; that on the 24th of June, 1844, 28*l.* of the rent aforesaid, for half-a-year, ending on that day, became due and payable from the plaintiff to the defendant, and continued due and in arrear, and then justified the taking the goods by distress. To this the plaintiff replied, that after the arrears of rent in the last plea mentioned had become due and payable, and before the committing of the grievance in the last count of the declaration mentioned, and before the taking or distraining of the goods, as in the last plea mentioned, to wit, on the 25th June, 1844, the defendant took and distrained the chattels of the plaintiff other than those in the last count mentioned, as a distress for the said arrears of rent, the said last-mentioned goods being then in and upon the said messuage with the appurtenances, and there being subject and liable to distress for the said arrears of rent, of a sufficient value to satisfy the said arrears of rent, and the defendant then could, and might, and ought to have fully paid and satisfied the said arrears of rent, and the costs out of and by the said goods and chattels, yet the defendant *wrongfully and vexatiously, and without any cause or excuse*, refused and neglected so to do, and after making the said distress in this replication mentioned, for the said arrears of rent in the said last-count mentioned, and at the time when, &c. of his own wrong, vexatiously seized and took the goods and chattels in the last count mentioned, and converted them to his own use. *Rejoinder*, that the goods and chattels taken and distrained in the replication mentioned, before the making of the distress in the last plea mentioned, were not of sufficient value to satisfy the arrears of rent, and the defendant afterwards, and before the making of the distress in the last plea mentioned, lawfully abandoned and put an end to the distress in the said replication mentioned, and withdrew from the possession of the goods and chattels taken and distrained under the same, and did not sell or dispose of them under the said distress, and the rent so distrained for, as in the last plea mentioned, at the time of making the distress in the last plea mentioned, remained and was wholly unpaid and satisfied. *Surrejoinder*, that the goods and chattels taken and distrained as in the replication mentioned were of sufficient value to satisfy the arrears of rent as in the replication alleged. To that surrejoinder the defendant demurred specially on the ground that it took issue on an immaterial matter, and did not traverse, and confess and avoid the material allegations in the rejoinder, namely, that the defendant lawfully abandoned the first distress, and withdrew from the possession, and did not sell the same, and that the rent remained due. On the argument before us in Easter Term, it was contended, in support of the demurrer, that a distress taken and abandoned without sale did not satisfy the rent, and that consequently the landlord was not liable to be sued in trover for making the second distress, and that it was not material whether the goods first distrained were or were not of a sufficient value to satisfy the arrears of rent if the distress was abandoned before sale, and the rent remained still due. The cases of *Lear* v. *Edmonds* (1 B. & A. 157), and *Lingham* v. *Warren* (2 Brod. & Bing. 36), and *Hudd* v. *Ravenor* (2 Brod. & Bing. 662), were cited as authorities for these positions. On the other hand, it was contended if the landlord distrained for rent in arrear more goods than were sufficient to satisfy the rent, and unlawfully abandoned the distress, the question of the rent being due is immaterial; and though it may have been due, yet that, for the second distress, he may be sued in trespass or trover; consequently, if the defendant's rejoinder was good, it could only be on the ground that the sufficiency of the first distress was material, and then the surrejoinder would be good also. The case of *Smith* v. *Goodwin* (4 B. & Ad. 413), and some other cases, were relied upon. (*Wallis* v. *Saville*, 2 Lutw. 1532; and *Lear* v. *Caldecott*, 4 Q. B. 123.) When the case was argued, it appeared somewhat difficult to reconcile all the decisions that were brought to our notice; we therefore took time to look into the case, and now we are of opinion on this pleading our judgment must be for the plaintiff. The replication is a good answer to the plea; for, assuming that the rent remained due, it not having been satisfied by the first distress—and the case of *Lear* v. *Edmonds* (1 B. & A. 157) certainly has not gone beyond that—still the landlord could not, under the circumstances stated in the replication, make the second distress. In Comyn's Digest, Distress (A. 1), it is laid down,—"So, a man cannot take two distresses for the same rent, for it was his folly that he did not take sufficient at first." In that passage it is assumed he might have taken sufficient at first, and in the replication it is averred that he did take sufficient at first. The Chief Baron Comyns refers to Moore, p. 7, and Lut. 1532. The case of Moore is at least an authority for the present plaintiff. It is thus:—a man distrained for 10*l.* rent due at Michaelmas, according to reservation, certain sheep that were only of the value of 40*s.* and he afterwards distrained for the residue, and the tenant made several replevins. The question was, if he could make an avowry. *Montague*, *Hinde*, and *Harris*—"He cannot, for the distress is not good, and it is the folly of the lessor that he would so distrain in the first instance." *Montague*—"Reception lies for the second distress" *Brown*—" If a man have arrear of rent for several days, and take a distress for one day at one time, and for another day at another time, he may; but it is otherwise in the case at bar." The case of *Wallis* v. *Saville*, in Lutwy is an authority for this position, that a man cannot make a second distress for the same rent when he might have taken sufficient at first. We shall not, by acting on these authorities, overrule *Lingham* v. *Warren* and *Hudd* v. *Ravenor*. In the former, the plaintiff declared in replevin; there was an avowry for rent in arrear; the plaintiff pleaded in bar, that the defendant distrained for the same rent, and distrained goods and chattels of sufficient value to satisfy; and on demurrer thereto it was held to be a bad plea, on the ground that many cases are supportable in which the taking a sufficient distress might not produce a satisfaction of the rents, which is undoubtedly true, as in one of the cases: the declaration was in replevin, and there was an avowry for rent in arrear; the plea in bar alleged a former distress for the same rent, and that the defendant might thereby have paid himself the rent, but that he neglected and omitted so to do, and wrongfully and vexatiously made a second distress for the same rent. That plea was held bad on the authority of *Lear* v. *Edmonds*; and the judgment of Richardson, J. shews clearly that the ground of the decision implied that the former distress might have been relinquished in kindness to the defendant, and that no issue could have been taken on the words "neglected and omitted." In the present case the replication goes much further, and says that he *vexatiously, and without any cause or excuse*, refused to satisfy the arrears of rent by means of the first distress. We therefore do not impugn those cases by holding that this replication is good. It remains to be considered whether the rejoinder gives a sufficient answer to it. The rejoinder alleges that the goods distrained in the first instance were not of sufficient value to satisfy the arrears of rent, and that the defendant afterwards lawfully abandoned and put an end to the distress. If it can be read so as to make an insufficiency of the goods distrained the ground for the abandoning, and the averment of sufficiency is material, then the rejoinder averring it is good; but if it is not so to be read, the rejoinder is bad, by reason of its not shewing any lawful ground for relinquishing the first distress, so as to be an answer to the matter alleged in the replication. On these grounds we hold the plaintiff is entitled to judgment.

Judgment for plaintiff.

COURT OF EXCHEQUER.

SITTINGS AFTER TRINITY TERM.

CHANTER *v.* JOHNSON.

To a declaration containing an indebitatus count for the license and permission of the plaintiff to the defendants, granted to use a certain patent invention of the plaintiff, the defendants pleaded the general issue. At the trial, the plaintiff, having proved an order in writing by the defendants in the following terms,—"Send us a license to use one of Chanter and Company's patent furnaces, for which we agree to pay Mr. John Chanter the terms of printed list, &c."—went on to prove that, after the date of this order, one of the furnaces was actually put up and used on the defendants' premises, under the superintendence of the plaintiff. The plaintiff offered in evidence a license in writing, which was rejected by the judge, on the ground that it was unstamped.

Held, that without the written license there was no evidence to go to the jury. Held also, that a license under seal to use a patent is not a deed, and does not require a deed stamp.

Semble, *that a document, which would be a deed if properly executed as such, if it has a seal attached to it, but merely purports to be under hand, is not a deed.*

Assumpsit.—The declaration contained an indebitatus count for the license and permission of the plaintiff to the defendants, before then granted at their request, to use a certain patent invention of the plaintiff, under and by virtue of which license and permission the said patent invention was by them used and enjoyed.

Pleas.—*Non assumpsit*, and other pleas, the issues upon which were found for the plaintiff at the trial, and which were not material to the question decided by the Court.

The plaintiff, at the trial, before Wightman, J. at the last assizes at *Liverpool*, proved the following order, signed by the defendants:

"To Mr. Chanter.

"Send us a license to use one of Chanter & Company's patent furnaces, to be applied to a steam-engine boiler, to which add your moveable fire-bars, 30-horses power; for which we agree to pay Mr. John Chanter, or his order, as a patent right, 22*s.* per horse for furnace.

"Signature,— Wm. Johnson & Co.

"Place,— Wood Street Mill.

"Date,—Feb. 15th, 1844.

"Licenses will be issued, on the order being presented and accepted; payment for the same, due in cash, on delivery, without a special agreement in writing."

It was also proved that, after the date of the order, the patent furnace mentioned in it was put up by the defendants upon their premises, under the superintendence of the plaintiff, and was used by them for some time.

The plaintiff then offered in evidence the following license, and proved that it had been delivered to the defendants:—

"I, John Chanter, in behalf of myself and Company, of Wine Office-court, Fleet-street, in the city of London, county of Middlesex, patentee and proprietor of the inventions known as 'Chanter and Co.'s,' and other patents for improvements in furnaces, boilers, moveable fire-bars, condensers, &c. &c. by virtue of the King's letters patent, under the great seal of Great Britain, bearing date July 1834, September 1834, April 1835, May 1835, November 1835, February 1837, and also her present Majesty's great seal, bearing date September 1839, August 1839, and October 1840, for improvements in furnaces, boilers, moveable fire-bars, condensers, &c. &c. do hereby, in consideration of the sum of thirty-three pounds to me paid by Messrs. Wm. Johnson and Co. (as by receipt hereunto annexed), give and grant to the said Messrs. Wm. Johnson and Co. full and free license, consent, and permission to erect and use upon or at the premises situate at Wood Street Mill, Wigan, but not elsewhere, say one patent furnace to a 30-horse steam-boiler, of the same or similar construction with the said inventions referred to above, for which the said letters patent have been granted; as witness my hand, at London, this nineteenth day of February, 1844.

"JOHN CHANTER." L.S.

One of the witnesses stated, that after Mr. Chanter signed the document, he had affixed a seal to it by the plaintiff's orders.

This document was objected to by the defendants' counsel, upon the ground that, being under seal, it was a deed, and required a deed-stamp, and the learned judge being of that opinion, rejected it. It was then contended that, without that document there was no case to go to the jury. The plaintiff's counsel argued, that, the order having been proved, the subsequent use of the patent by the defendants was evidence that they had the license and permission of the plaintiff, without which they would have been acting illegally in using the patent.

The learned judge inclined to the contrary opinion, but thought the best course was to enter a verdict for the plaintiff, reserving leave for the defendants to move to enter a verdict for them, if the Court should be of opinion that there was no evidence to support the declaration without the license.

Martin, Q.C. obtained a rule accordingly last Easter Term.

Knowles, Q.C. for the plaintiff, also moved for a new trial, upon the ground that the license had been improperly rejected, and he obtained leave to take the point upon the argument on the defendants' rule.

C. Saunders and *Aspinall* now shewed cause against the rule for a nonsuit. First, there was a case to go to the jury without the license. The declaration contains the word "permission" as well as license. Permission to use a patent may be given by parol. [ALDERSON, B.—Is it not clear that the words "send us a license" refer to something on paper, something capable of being sent?] The case stands now for this purpose as if the deed had never been offered; and in that case there was evidence for the jury that the license in writing had been dispensed with, and the parol permission accepted instead. [ALDERSON, B.—Where is there any evidence of a contract to pay any thing except for the written license?] At all events the plaintiff is entitled to a new trial. The license ought to have been received: it is not a deed. It does not appear on the face of it to have been delivered, and there is no evidence of any delivery; but even if there were, it would not be a deed. It contains nothing upon which covenant

could be maintained. There are many documents which are usually, and some of them necessarily, under seal, but which are certainly not deeds; as for instance an award, or a magistrate's warrant, and many others.

Cowling, contrà, contended that the document required a deed-stamp, and was properly rejected, and that there was no case without it.

ALDERSON, B.—We are all of opinion that there was no case for the jury without the license. The contract was clearly for a license in writing, and the cause of action was not complete till the license was delivered. We think, however, that the license was wrongly rejected. The analogy between a document of this sort and an award or justice's warrant seems to us to be good. But at all events, the paper before us does not appear to have been delivered. Although there is a seal upon it, it only purports to be under hand, and there is no evidence of a delivery, but rather the contrary. As this point does not seem to have been reserved, the rule must be absolute for a new trial. *Rule absolute for a new trial.*

Wednesday, June 18.

HARMER *v.* JOHNSON.

Judgment was signed on the 3rd of December, 1841. After the expiration of a year, a judge's order was obtained to issue execution without a sci. fa. A fi. fa. issued in the new form, and was returned nulla bona on 29th of December, 1842. On 23rd of April, 1845, an alias fi. fa. was issued, under which levy was made. Held, that such execution was regular, and that alias writs need not be tested on the day of the return of preceding writs, nor within any particular time afterwards: the rule as to process being returnable on the following Term not being applicable to final process.

The facts and arguments on this case are so fully stated in the judgment, that it is unnecessary to repeat them.

JUDGMENT.

PARKE, B. now delivered the judgment of the Court. In this case a rule *nisi* had been obtained by Mr. Henderson to set aside an execution on a judgment on a warrant of attorney with a defeazance. The judgment, it appears, was signed on the 3rd of December, 1841, and after the expiration of the year a judge's order was obtained to issue execution on the judgment, without a *scire facias*. A *fi. fa.* was accordingly issued in the new form, which was returnable on the 14th of September, 1842, but was returned *nulla bona* on the 29th December, 1842, and on the 23rd of April, 1845, an *alias fi. fa.* was issued, under which a levy took place. The defendant became bankrupt, and the application to set aside the execution was made by his assignee. The principal ground for the application was, that the first execution issued without a *scire facias* to revive the judgment; but that objection appears to have been removed by the judge's order by consent. Mr. Henderson relied upon two others; the first of which was, that the judge's order by consent, although it was valid between the parties, was void as against the assignees, according to 3 Geo. 4, c. 39, which makes warrants of attorney void against the assignees, unless registered, and expressly enacts that those upon which defeazance or conditions have not been indorsed shall be void to all intents and purposes; thus the Court of Queen's Bench in *Bennett* v. *Daniel* (10 B. & C. 500) held that a warrant of attorney, subject to a defeazance, not written on the same paper or parchment, is not void between the parties, but against the assignees. It was argued by Mr. Henderson that the stipulation, if no *fi. fa.* should be necessary, not being part of the defeazance indorsed on the warrant of attorney, was altogether void as against his client. This objection I am of opinion ought not to prevail, because the agreement to waive the necessity of the *scire fac*[illegible] in fact no part of the defeazance or condition, even supposing that term to embrace all the contemporaneous stipulations; for it was made at a subsequent time, and indeed was nothing more than a waiver of the suing out of a *scire facias*, which the plaintiff was about to do, in order to warrant an execution on his judgment, and which was consented to for the purpose of saving expense. The next objection was, that the *alias fi. fa.* was irregular, because it was not properly executed with the first *fi. fa.*; nor could any continuances be entered on the roll to cure the defect, because, if continuances were entered, it would be necessary to amend the *fi. fa.* by converting it into a *pluries*; and such amendment, although it would be allowed against the original defendant, could not be permitted as against his assignee. This objection is founded upon the supposition that process in the new form must be continued in a similar manner to that in the old form, and it seems to me that this is unnecessary. In the old form, each subsequent suit of mesne process was tested on the return day, *quarto die post*, where the proceedings were by original writs; and, in the case of final process, on the return day of the preceding writ. The writ might be sued out, tested of a prior date, and there was never any difference in connecting one writ with another process on the return day of the prior writ; but in the new process, the writs must be tested or bear date in accordance with the 2 Wm. 4, c. 39, s. 12, on the day they are sued out, and writs of *capias ad respondendum* are returnable on execution. Those of *ca. sa.* have no fixed return day, they are returnable on execution only; and, if not executed, are not properly returnable at all; the judge's order, in case of writ of execution, being rather a mode of obliging the sheriff to notify to the Court what has been done under the writ, than of creating a new tested return day for the writ, instead of the former one expressed in the body of the writ itself, that has reference to it. (*Kent* v. *Hislop*, 1 M. & W. 63.) And the old mode of continuing, by entering on the record fictitious writs, with a teste of the return day of the former writ, cannot now be adopted with respect to this description of writ, for there is no such return day; and if a judge's order has the effect of making a return day for the writ, or the writ, when returned in obedience to it, would be spent and determined, as doubtless it would, so that a new writ might issue, founded on the return, I do not think the Court would sanction the entry on the record of a fictitious judge's order to return a writ, in order to make proper continuances; and if one writ was actually returned by virtue of a judge's order, another writ, which must be tested on the very day it issues, could not be a proper writ in continuation, unless it actually issued on the very day of the former return, a course so inconvenient that it would very rarely be adopted and projected. There would be no available mode of continuing such a writ, and the old principle which, although a fiction, is one that must have our consent, and exclude any presumption of the satisfaction of the debt arising from intermediate delay. What, then, is to be done when a writ of execution issued within the year after the judgment or its revival, and the plaintiff wishes to avoid the necessity of a *sci. fa.*? Must the plaintiff issue process in the old form, with fixed return days, which he has the option of doing? The stat. 3 & 4 Wm. 4, c. 67, is not obligatory. Or may he adopt a new form, without any continuance, if the Legislature did not intend that the processes in the new form should be connected together in any way? And then it would follow that, if the plaintiff meant to avoid the necessity of a *scire facias*, he must adopt the old form of the process and the old form of continuance. Or if the Legislature intended that the new process should be connected by the issuing one writ on the precise day that the other was returned, that course must be adopted. It is highly probable that all the consequences of the change introduced by the statute 2 Wm. 4, c. 39, and 3 & 4 Wm. 4, c. 67, were not foreseen. But I think that the Legislature must be taken to have intended the process in the new form should be connected, and that the only mark of connection should be the description of one writ being an *alias* or *pluries* writ. With respect to mesne process, it is clear that the intention of the Legislature was that the writ should be connected, for it is expressly provided by 2 Wm. 4, c. 39, s. 10, that every writ of summons and *capias* may be continued by an *alias* or *pluries*. It is unnecessary that one writ of mesne process in continuation of another should be issued on the very return day of a former writ; for when the operation of the Statute of Limitations is to be defeated (when the object is not to favour the connection of the writ with another), it may be sued out within the month. It would seem from these considerations, the writ might be sued out at a greater interval in ordinary cases, and it has been so held with respect to a *capias ad respondendum*, and even where it was issued over the period of four months, during which the first writ operates (see the case of *Nichols* v. *Leman*, Dowling, P. C. 296); nor need the first writ be returned (*Gregory* v. *Desaruges*, 5 Dow. 193). What then is to be the interval during which a writ may be issued in continuation of another, or mesne process? There appears to be none but the limitation of twelve months, after which the case was out of court, on the second statute for the amendment of the former. The 3 & 4 Wm. 4, c. 67, enables a plaintiff to sue out writs of execution in the new form. I think it must be intended that such writs have similar properties with writs of mesne process, and consequently that succeeding writs need not be tested on the day of the return of the preceding writs, nor within any particular time afterwards; for the limitation of twelve months does not apply after judgment, nor will any practical inconvenience to the defendant follow, for a writ of execution may now be sued out with a long interval between the teste and the return. The rule as to the process being returnable in the following term not being applicable to final process, when there is no proceeding in the court, nor if the writ be continued on the record, does the defendant derive any real advantage; if the amount of the judgment has really been paid before an *alias* or *pluries* writ has issued, the defendant would be relieved on motion, or *audita querela*. For these reasons I think the execution regular, and the rule must be discharged, but without costs.

Bankrupt and Insolvent Courts.

COMMISSIONERS' COURTS.

Wednesday, June 25.

(Before Mr. Commissioner GOULBURN.)

Re MAY.

Where a meeting has been fixed, and duly advertised, for shewing cause against a bankrupt's certificate, the Court will, under certain circumstances, upon the application of a creditor, without hearing the bankrupt, adjourn the meeting.

Under a separate fiat against one of two joint traders, the joint creditors have a right to be heard against the granting of the certificate.

This bankrupt having passed his last examination, applied in the usual course for a meeting, to take into consideration the granting of his certificate. A meeting was appointed and advertised in the usual way, and every thing required by the bankrupt to be done previous to the meeting was done regularly. The hour appointed for the meeting was one o'clock. At twelve o'clock of the day appointed for the meeting, a solicitor, who had opposed the passing of the bankrupt's last examination on behalf of several creditors, applied to the Court to adjourn the meeting, on the ground that the solicitor for the assignees, whom he stated was also solicitor for the bankrupt (but which turned out not to be correct), in writing to him at his request to apprize him of the meeting, had stated that the meeting was to be held at eleven instead of one o'clock, which was the proper hour; that he had attended accordingly, and that his other arrangements prevented his being present at one o'clock. Upon this statement, his Honour adjourned the meeting to a future day.

At one o'clock the solicitor for the assignees appeared in court; the bankrupt also appeared in court, and the matter being called on, *Sturgeon*, for the bankrupt, was about to proceed, when

His HONOUR stated that he had adjourned the meeting under the foregoing circumstances.

Sturgeon urged the hardship of such a proceeding to his client, who was in no way to blame.

His HONOUR said the Court had full power to adjourn any meeting when it thought proper to do so, but, as the fault was not with the bankrupt, his expenses caused by the adjournment should be paid out of the estate.

This being the day named for the adjourned meeting, *Sturgeon* objected to any creditors being heard against the bankrupt's certificate. This was not a regular meeting for that purpose. Even if the Court had the power to adjourn any such meeting, it should not have done so upon the mere statement of a party. There should, at least, have been an affidavit filed with the proceedings upon which to found the adjournment.

The day for opposing the certificate had passed. The 62nd sec. of the 6 Geo. 4, cap. 16, says, at *such sitting* any creditor may oppose; which means the sitting advertised for the purpose; not at such sitting or any adjournment thereof, which are the words used where it is intended to give the Court the power of adjourning. The practice in the Court of Chancery is never to adjourn the certificate on the ground of the opposing creditors not being prepared. *Ex parte Cundell* (1 Glyn & Jamieson); *Ex parte Curtis* (1 Rose, 274), are authorities on this point. The creditors might still oppose the confirmation of the certificate before the Court of Review, but there is no appeal given to the bankrupt against the decision of this Court, when it refuses a bankrupt his certificate.

Further, the parties now wishing to oppose, being joint creditors, are not entitled to do so under this, which is a separate fiat. Under the 6 Geo. 4, joint creditors are entitled to prove against the separate estate for the purpose only of voting in the choice of assignees, and for assenting to or dissenting from the certificate. Now the 5 & 6 Vict. cap. 122, has deprived the creditor of any voice in the granting of the certificate; a joint creditor, therefore, is now only entitled to prove for the purpose of voting in the choice of assignees.

Mr. Commissioner GOULBURN.—Every adjournment of a sitting is the same sitting. Your argument would go the length of saying that this Court, a court of record, has not power to adjourn its sittings. I have no doubt but that the Court has power to adjourn. As to your argument that there is nothing on the file of the Court upon which to ground the adjournment, there is a memorandum which I embodied in the order, stating the reason for the adjournment. As to the last objection, the 39th section of the 5 & 6 Vict. c. 122, says, any of the creditors of the bankrupt may be heard against the allowance of the certificate—are not these parties creditors of the bankrupt? Certainly they are; they are creditors of the firm, and have proved under the separate estate, and their debts are not disputed; then, if creditors, they are entitled to be heard against the certificate. Who is more likely to be injured by the granting of the certificate than they?

SUBDIVISION COURT.
Tuesday, July 8.
(Before Commissioners FONBLANQUE and GOULBURN. HOLROYD, the third Commissioner, did not attend.)

Re THOMAS EASTWOOD.
Lien—Commitment.

An attorney who has been summoned to produce a deed of assignment executed by a trader to certain trustees for the purpose of establishing an act of bankruptcy against such trader, cannot refuse to produce such deed on the ground that he has a lien thereon against the trustees, his clients, for the costs of preparing the deed.

Where an attorney, under the foregoing circumstances, refuses to produce a deed, the Commissioner will commit him to the custody of the messenger to be brought up before a subdivision court.

Bennett, an attorney, carrying on business at Brighton, had been summoned under a commission issued against Eastwood, to produce before Mr. Commissioner Goulburn a deed of assignment, alleged to have been executed by Eastwood to certain trustees for the benefit of his creditors (which deed Bennett had prepared as attorney for the trustees, and which was in his possession), and also to be examined touching the execution of the deed by Eastwood. The execution of the deed by Eastwood was the act of bankruptcy intended to be relied on in support of the commission. Bennett was not required to part with the custody of the deed, but merely to produce it to the Court, and prove the execution. Bennett stated he had prepared the deed not as solicitor for the bankrupt, but for the trustees. It was the deed of the trustees, and he had a lien on it for the costs of preparing it, and he therefore declined to produce it until his costs were paid. He further stated that he had a case a short time since precisely similar before Mr. Commissioner Evans, who had decided that he was entitled to be paid his costs before he produced the deed.(a)

Mr. Commissioner GOULBURN.—That might be where the attorney had been employed by the bankrupt, but in this case he was employed by the trustees.

Mr. Bennett still refusing to produce the deed,

His HONOUR committed him to the custody of the messenger, to be brought up before a subdivision Court on the following day, at the same time saying he would recommend the messenger to take Mr. Bennett's word for his appearance.

Sturgeon, for Bennett, now contended that his client had a right to retain the deed, and was justified in not producing it to the Court until his costs were paid. If the production of the deed would prove the act of bankruptcy as alleged, then the extracting such information from the deed would render it good for nothing, and his client's lien would, in effect, be destroyed.

Mr. Commissioner GOULBURN.—I pointed out to Mr. Bennett yesterday the distinction between the case of an attorney setting up a lien against his own client, or against third parties, and I felt convinced that when he referred to the case alluded to before Mr. Commissioner Evans, he would find that it was a case between attorney and client.

Sturgeon.—The Court of Bankruptcy sits as a court of equity, and the question is, whether the Court is not bound to look at the equities of the case. My client only says, before you make this deed a worthless piece of paper, he ought in equity and justice to have his costs paid.

Mr. Commissioner GOULBURN.—Pay him for what he has done for another party, and to whom he has to look for payment?

Mr. Commissioner FONBLANQUE.—It would be strange equity to make the bankrupt pay other people's debts when he cannot pay his own. To make a deed secret and keep it out of Court, it would only be necessary, according to your argument, to omit to pay the solicitor's bill.

Mr. Commissioner GOULBURN.—In the case of *Furlong* v. *Howard* (2 Schoales & Lefroy), Lord Redesdale, Chancellor, said, "Though a solicitor may have a lien on a deed, yet if his client is bound to produce it for the benefit of a third person, so also must the solicitor." This right is only as between his client and him. The 6 Geo. 4, c. 16, s. 14, empowers the commissioners to summon parties to produce documents necessary to establish the trading and act of bankruptcy. This deed is necessary to establish the act of bankruptcy, and the creditors being third parties, Mr. Bennett is bound to produce it without being paid his costs. I have taken the opinion of Mr. Commissioner Holroyd, who concurs in this view of the case.

Mr. Commissioner FONBLANQUE. — I entirely agree with the opinion of my brother commissioners. About a year and a half ago I committed a country attorney for a similar offence.

Mr. Bennett then produced the deed.

(a) On a subsequent day, Mr. Commissioner Goulburn stated he had since seen Mr. Commissioner Evans, who requested him to state that he could not have decided any such point as alleged by Mr. Bennett, as he perfectly agreed with the decision of the Court on the point.

Thursday, July 17.
(Before Mr. Commissioner FANE.)

Re BELLSON.

Where an insolvent, who has not a lease of his premises and is indebted to his landlord for rent, refuses to give up possession, the Court will not grant him his final order.

This was the day named for granting the insolvent his final order, which was opposed by *Sturgeon* for the landlord of the insolvent, on the ground that the insolvent was indebted to him for rent and refused to give up possession. The insolvent had not any lease of the premises. He stated it was the invariable practice in the Insolvent Court, where an insolvent refused to give up possession, to send him back until he did.

On behalf of the insolvent it was contended that the refusal of the insolvent to give up possession of the premises was not mentioned in the Act among the grounds for refusing an insolvent the protection of the Court.

His HONOUR.—I named a day for the insolvent to come up for his final order, as I was obliged to do under the 24th sect. of 7 & 8 Vict. c. 96; none of the reasons mentioned in that section for not naming a day having occurred in this case, or, at all events, not having been brought under the notice of the Court. But when the insolvent comes up for his final order, the Court is authorized to adjourn the consideration thereof *sine die*. The Court, in this section, is not tied down to the reasons mentioned in the 24th section, but may inquire into the general conduct of the insolvent. I think the insolvent ought to give up possession; if he does not, I shall adjourn the final order *sine die*.

The insolvent having subsequently agreed to give up possession in one month, the final order was adjourned for that time.

Circuit Reports.

WESTERN CIRCUIT.
HANTS SUMMER ASSIZES, 1845.
Winchester, Saturday, July 12.
(Before Mr. Justice ERLE.)

DOE *dem.* MARRYAT *v.* MAIDMENT.

A solicitor to one of the parties to a suit may be called by the opposite party and asked respecting the possession of documents connected with an estate, which he had received in professional confidence; and, for the purpose of identifying such documents, the date and names of the parties to them may be given.

In this case the defendant called an attorney as a witness, who had been the solicitor of the party under whom the lessor of the plaintiff claimed. He was asked if he had not certain documents and papers in his hands, at such a time, appertaining to the land, for the recovery of which this ejectment was brought. He replied, that he had such documents and papers, but had received them as the solicitor for the party to whom the estate then belonged. He was then asked if he had not a certain document of such a date, between certain parties (naming them).

Rawlinson, for the plaintiff, objected to the question. The papers received by the witness, he argued, were received as the solicitor of the party to whom the estate then belonged, and the witness, therefore, could not divulge their contents, or any thing in reference to them.

Crowder, for the defendant, observed that the question proposed was not for the purpose of obtaining a knowledge of the contents of the document, but simply for the purpose of shewing its possession by the plaintiff, so as to give secondary evidence of it if it should not be produced in obedience to the notice given to the plaintiff for that purpose.

Rawlinson submitted that the question could not be put for this purpose. A witness who is solicitor, and protected by the rule respecting professional confidence, could not by such means be made to divulge what deeds his client might or might not have respecting his estate. If such a course could be pursued, it might be used for the purpose of ascertaining whether the client had any deeds to his estate, or perhaps some one particular deed upon which it was known the title depended; and the most ruinous consequence to such client might be the result.

ERLE, J.—I think Mr. Crowder has a right to shew this deed in the possession of the plaintiff, and might do so by the evidence of this witness if he can. For this purpose, I think he is justified in so far referring to the deed as is necessary for the purpose of identifying it. But he cannot carry his question beyond that.

Rawlinson and *M. Smith*, for the lessor of the plaintiff.

Crowder and *Barstow*, for the defendant.

Monday, July 14.
(Before Mr. Baron PLATT.)

REG. *v.* DERMODY.

A witness may be asked generally whether he had ever said [whatever the statement might be], without excepting the evidence he gave before the magistrate.

The prisoner was indicted for cutting and wounding, with intent to murder.

A witness was called who had been before the committing magistrate, and made a deposition in the usual manner. In giving his evidence in court he varied somewhat from the statement made before the magistrate, as that statement appeared in the deposition returned.

Missing, for the prisoner, on cross-examination, put a *general* question, as to whether he had ever said such and such a thing before.

Edwards, for the prosecution, objected to the general nature of the question, contending that it should be put with an exception, as to what was said before the magistrate.

PLATT, B.—The question is perfectly regular. You can shut out any thing said before the magistrate, but your objection comes too soon.

Edwards observed that the objection he had taken had been allowed over and over again on the circuit, and had been universally acted on.

PLATT, B.—I think the objection too soon. The question put by Mr. Missing appears to me perfectly regular. If the witness attempts to state any thing he said before the magistrate, you have an undoubted right to stop him, and require the deposition to be put in.

The question was then put.

Edwards, for the prosecution.

Missing, for the prisoner.

THE LEGISLATOR.

Summary.

THE work of a Session is now being crowded into the business of a night. It is impossible to follow our law makers in the breathless speed with which they strangle some projects of laws, and hurry others through the forms of the House with all their imperfections and impracticabilities. Parliament is to be prorogued early in August, so we will not speculate upon the fate of Bills, but patiently wait results which must so soon be exhibited.

Imperial Parliament.

PUBLIC BUSINESS TRANSACTED.

BILLS READ A FIRST TIME.

Friday, July 11.

Turnpike Roads, Scotland
Games and Wagers
Jurors' Books, Ireland
Bail in Error
Turnpike Acts Continuance
Loan Societies Continuance
Highway Rates Continuance
Militia Ballots Suspension
Stock in Trade Continuance.

Monday, July 14.

Slave Trade, Brazil.

Tuesday, July 15.

Highways—to extend certain provisions in the Act for consolidating and amending the laws relating to the highways in England
Fees, Criminal Courts—for further securing the rights of accused persons, and for abolishing certain fees in Criminal Courts
Real Property, No. 2
Stamp Duties, &c.—to increase the stamp duty on licenses to appraisers; to reduce the stamp duties on registry searches in Ireland; to amend the law relating to the duties on legacies; and also to amend an Act of last session of Parliament for regulating the issue of bank notes in England.

Thursday, July 17.

Documentary Evidence
Militia Pay
Railways, Letting and Leasing
Unions, Ireland.

BILLS READ A SECOND TIME.

Friday, July 11.

Church Building Act Amendment
Grand Jury Presentments, Dublin
Spirits, Ireland
Excise Duties on Spirits, Channel Islands
Unclaimed Stock and Dividends.

Monday, July 14.

Turnpike Acts Continuance
Loan Societies
Highway Rates
Militia Ballots Suspension
Valuation, Ireland
Unlawful Oaths, Ireland
Fisheries, Ireland
Ecclesiastical Patronage, Ireland
Turnpike Roads, Ireland
Bonded Corn
Bail in Error.

Thursday, July 17.

Taxing Master, Court of Chancery, Ireland
Naval Medical Fund Society
Jurors' Books, Ireland
Jewish Disabilities Removal
Deodands Abolition, No. 2
Death by Accidents Compensations
Highways.

BILLS READ A THIRD TIME AND PASSED.

Friday, July 11.

Bankruptcy Declaration Bill.

Tuesday, July 15.
Borough and Watch Rates
Art Unions.

Thursday, July 17.
Highway Rates
Militia Ballots Suspension
Loan Societies
Turnpike Acts Continuance
Unlawful Oaths, Ireland
Commons Inclosure
Lunatic Asylums and Pauper Lunatics
Bills of Exchange
Geological Survey
Rothwell Prison
Unclaimed Stock and Dividends
Bail in Error
Lunatic Asylums Ireland).

PRIVATE BUSINESS TRANSACTED.

BILLS READ A FIRST TIME.

Friday, July 11.
North Walsham School Estate.

Thursday, July 17.
Sampson's Estate
Sir R. K. Dick's Estate
Birmingham Blue Coat School Estate.

BILLS READ A SECOND TIME.

Friday, July 11.
Rothwell Gaol.

Monday, July 14.
White's Charit. Estate
Ellison's Estate.

Tuesday, July 15.
Darby Court (Westminster).

BILLS READ A THIRD TIME AND PASSED.

Friday, July 11.
Direct London and Portsmouth Railway
Lady's Island Embankment
Guilford, Chichester, and Portsmouth Railway
Brighton and Chichester Railway.

Monday, July 14.
Monmouth and Hereford Railway
South Eastern Railway (Tonbridge to Tonbridge Wells).

Tuesday, July 15.
Shrewsbury and Holyhead Road.

Thursday, July 17.
Yokes Road, No. 2
Gravesend and Rochester Railway.

Par. Num.
454. Bills—Land Revenue Act Amendment
455. — Grand Jury Presentments, Dublin
457. — Unlawful Oaths, Ireland
459. — Fisheries, Ireland
474. — Spirits, Ireland
475. — Excise Duties on Spirits, Channel Islands
476. — Unclaimed Stock and Dividends
453. — Naval Medical Supplemental Fund Society
465. — Ecclesiastical Patronage, Ireland.
468. — Bonded Corn
481. — Darby Court, Westminster
484. — Assignment of Terms
485. — Taxing Master, Court of Chancery (Irela
486. — Turnpike Roads Ireland,
482. — Real Property
484. — Granting of Leas[es]
488. — Turnpike Roads (Scotland,
491. — Commons Inclosure (amended by the committee and on report)
492. — Drainage of Lands (amended)
493. — Criminal Lunatics, Ireland (amended)
495. — Games and Wagers
496. — Jurors' Books, Ireland
497. — Bail in Error
498. — Turnpike Acts Continuance
500. — Loan Societies
501. — Highway Rates
502. — Militia Ballots Suspension
503. — Stock in Trade
494. — Merchant Seamen, as amended by the Committee, on Re-commitment, on Second Re-commitment and on Report
505. — Masters and Workmen, amended
506. — Arts Union (No. 2), amended
507. — Slave Trade, Brazil
508. — Municipal Districts, &c. Ireland
510. — Lunatic Asylums and Pauper Lunatics, as amended by Committee, on re-commitment and on Report
513. — Highways
514. — Fees, Criminal Courts.
480. South Eastern Railway Petition—Report from Committee
419. Raja of Sattara:—Paper
447. Scientific and Charitable Institutions Ireland —Further Reports
477. Van Diemen's Land Return
489. Smoke Prevention Second Report from Committee
348. Metropolis Improvements—Second Report of Commissioners
463. Soap—Return
478. Classification of Railway Bills—Tenth Report of Committee
450. Java Prize Money—Return
464. Militia Estimates—Report from Committee
Criminal Offenders, England and Wales;—Tables
478. Pensions, Civil List—Account
Public General Acts—Cap. 2., 25, 26, 27, 28, 22, 30 and 31
420. Railways, compensation for Land, &c.—Report and Evidence from the Committee of the House of Lords
509. Naval Medical Supplemental Fund—Return
Spain, Commercial Privileges—Correspondence

PARLIAMENTARY PAPERS

THE EAST-INDIA COMPANY.—The accounts respecting the annual territorial revenues and disbursements of the East-India Company have just been presented to Parliament. They shew, amongst other particulars, that the gross total revenues and receipts of the Bengal Presidency amounted in 1840-41 to 6,63,56,747 Company's rupees; in 1841-42, to 6,92,93,345 Company's rupees; in 1842-43, to 7,32,63,467 Company's rupees; and in 1843-44, to 7,85,12,352 Company's rupees (according to estimate). The gross total amount of charges concurrently amounted to 8,73,40,152; 9,13,37,516; 9,76,73,698; and 8,98,52,031 Company's rupees respectively; thus exhibiting a deficiency in each year of some 1,13,39,679 to 2,44,10,231 Company's rupees. Of the north-western provinces, the total revenue amounted in 1843-44 (according to estimate), to ,19,13,000 Company's rupees; and the total charges to 93,21,600, leaving a surplus on the netted account of 4,27,38,300 rupees. Of the Madras Presidency, the total revenue amounted in 1843-44 to 5,07,41,946 Company's rupees (gross), and the total charges to 3,56,51,112, leaving a surplus on the netted account of 27,67,186 rupees. Of the Bombay Presidency, the gross total revenue of 1843-44 amounted to 3,30,55,645 rupees, and the net revenue to 2,18,31,763, whilst the total charge amounted to ...3,495 rupees, leaving a deficit on the settled account of 16,78,861 rupees. A general abstract view of the revenues and charges of India shews that in 1843-44 (according to a partial estimate) the total revenues of the three presidencies and the north-west provinces amounted altogether to 18,14,91,813 Company's rupees, equal to 17,015,139*l.* at the rate of 2s. per sicca rupee. The total concurrent charges in 1843-44 amounted to 15,83,38,367 Company's rupees, equal, at the same rate, to 14,844,222*l.* thus leaving a surplus on the whole account of 2,170,917*l.* But the charges disbursed in England on account of the Indian territory during the same period having amounted to 2,914,073*l.* a net deficit remained in the balance of the whole account amounting to 772,322*l.* The net deficiencies in 1840-41, 1841-42, and 1842-43 amounted respectively to 1,753,247*l.* 1,765,701*l.* and 1,346,173*l.*

Bills in Progress.

BAIL IN ERROR.—A bill has been brought from the House of Lords intituled "An Act to Stay Execution of Judgment for Misdemeanors upon giving Bail in Error." It contains but seven clauses. The first enacts that in every case of judgment given after the passing of the Act for a misdemeanor, where the defendant or defendants shall have obtained a writ of error to reverse such judgment, execution thereupon shall be stayed until such writ of error shall be finally determined, and in the defendants shall be imprisoned under such execution, or any fine shall have been levied, either wholly or partly, in pursuance of such judgment, the said defendants shall be entitled to be discharged from durance, and to receive back any money levied on account of such fine from the person in whose possession it shall be, until such final determination; provided always, that no execution upon any such judgment shall be stayed, unless and until the defendants shall become bound by recognizance, to be acknowledged before one of the judges of the Court of Queen's Bench, with two sufficient sureties to be approved of by such judge, in such sum as such judge shall direct, to prosecute the writ of error with effect; and in case the judgment shall be affirmed, forthwith to render the said defendants to prison, according to the said judgment, where imprisonment shall have been adjudged. The time of imprisonment is to be reckoned to begin from the day when the defendants shall be in actual custody under such judgment; and if the defendants shall have been discharged from imprisonment, such defendants shall be liable to be imprisoned for such further period as, with the time during which they may already have been imprisoned under such execution, shall be equal to the period from which such defendants were so adjudged to be imprisoned. The writ of error may be quashed in the case of delay or neglect to prosecute it. The Act is not to extend to Scotland.

THE MAGISTRATE.

Summary.

WE have nothing more to notify in this department than that the Magistrates of Radnor, at the last Quarter Sessions, unanimously resolved to advertise the holding of their Sessions in the LAW TIMES, deeming it but due to the convenience of the Profession most interested in them, that the announcement should appear in a journal where it is sure to be seen and referred to by the parties who are mainly concerned in the information so conveyed. Thus, by degrees, are all the counties, and cities, and boroughs, having a Quarter Sessions, adopting an arrangement so manifestly just towards the Legal Profession that it is only surprising it has not been universally asked for by the Lawyers in every locality, and yielded by the Magistracy.

APPORTIONMENT OF HIGHWAYS.

THE case of *Reg.* v. *The Inhabitants of Hickling* (5 Law T. 285) is an important decision to the effect that an old order of justices in 1815, which apportions certain parts of a highway upon parishes, which it specifies, under 34 Geo. 3, c. 74 (now repealed), is sufficient proof that the highway lies within such parishes, although there was no specific adjudication of the fact. The case arose on an indictment preferred in the usual way upon denial of liability by the surveyor under the 5 & 6 Wm. 4, c. 50, and the question was, whether the defendants might not now prove that no part of the road was in the parish, notwithstanding the order. But the Court held that the order was conclusive of all facts on which it adjudicated, basing their decision on *Brittain* v. *Kinnaird* (Brod. & Bing. 432), which goes, however, merely to shew than in an action against a magistrate, a conviction by him, if there be no defect on the face of it, is conclusive evidence of the facts contained in it; but adds Dallas, C. J. "I agree that if he had not jurisdiction, the conviction signifies nothing." Now the jurisdiction is put in issue in this case by the question whether part of the road did lie in the parish of Hickling. This is not expressly stated in the order, though it follows the form of the statute; but that cannot supply the absence of proof of an essential fact. Besides, there seems to us a great hardship in concluding the parish for ever by a blunder made in 1816. It was, we think, a fit matter of inquiry whether a fact not expressly stated in the order which was essential to the jurisdiction to make it, did exist or not. The decision makes the order itself a proof of the right to make it. S.

CRIMINAL STATISTICS.—A parliamentary blue book has just been issued, containing an account of criminal offenders in England and Wales in the course of last year. It appears that, in 1844, the commitments numbered 26,542, which was a considerable diminution compared with the preceding year, when the commitments amounted to 29,591. In 1841, there were 27,760 commitments for trial; in 1842, 31,309; in 1843, 29,591; and in 1844, only 26,542. It would seem that, for the last five years, the numbers have increased, compared with the preceding five years. The commitments for the last five years numbered 142,389, and in the previous five years 112,864.

THE LAWYER.

Summary.

AGAIN do the reports of the written judgments occupy a large portion of our space, and so many yet remain for publication, that we shall be compelled to do what last week we had announced, namely, to bring out another double number to liquidate a portion of the arrears. The one of last week, being rendered necessary by the quantity of advertisements, was presented as a gift to our subscribers, and consequently has in no way removed the necessity of another, which will probably be adopted next week. All the Circuit reports agree in complaints of the extreme lightness of the business. Lawyers and clients have no time for aught but railways and the speculations connected with them. Many of the judgments reported in this number are of very great importance, and will reward careful study. They are as nearly *verbatim* as a first-rate shorthand writer could take them. Perhaps our readers are not aware that it is only thus that the written judgments can be procured. That which ought to be public property, inasmuch as it is a part of the law of the land, and to which all ought to have free access, is handed to one favoured reporter. But, luckily, stenography is a match for favouritism.

THE LAW AND PRACTICE OF PROCEEDING AGAINST A TRADER-DEBTOR

Under the Statute 1 & 2 Vict. c. 110, s. 8.

CHAPTER II.

The creditor has now filed his affidavit of debt, and served a copy of it, together with a notice re-

quiring immediate payment, upon his debtor. We proceed to examine the consequences of these proceedings, both as they regard the creditor and affect the debtor.

STATUTE.

10. "And if such trader shall not, within *twenty-one days* after personal service of such affidavit or affidavits and notice, pay such debt or debts, or secure or compound for the same to the satisfaction of such creditor or creditors, or enter into a bond in such sum, and with two sufficient sureties, as a commissioner of the Court of Bankruptcy shall approve of, to pay such sum or sums as shall be recovered in any action or actions *which shall have been brought or shall thereafter be brought* for the recovery of the same, together with such costs as shall be given in the same, or to render himself to the custody of the gaoler of the court in which such action shall have been brought, according to the practice of such court, or within such time and in such manner as the said or any judge thereof shall direct, after judgment shall have been recovered in such action, every such trader shall have been deemed to have committed an act of bankruptcy on the twenty-second day after service of such affidavit or affidavits and notice, provided a fiat in bankruptcy shall issue against such trader within two calendar months from the filing of such affidavit or affidavits, but not otherwise. (1 & 2 Vict. c. 110, s. 8.)

WITHIN TWENTY-ONE DAYS.

11. The debtor must either pay the amount of his debt, or secure or compound for the same to his creditors' satisfaction, or enter into a bond, with two sufficient sureties, to be approved of by the commissioner, to pay *any* sums which shall be recovered by his creditor in any action *then pending, or which may thereafter* be brought against him, together with costs of the same; or render himself to the custody of the gaoler of the court in which the action shall be brought, after judgment shall have been recovered against him; or, in default of his complying with one or other of these provisions, such debtor will be deemed to have committed an act of bankruptcy on the *twenty-second day* after the service of the copy of the affidavit and notice, provided the fiat shall be issued against him within two calendar months from the time of the filing of the affidavits. In *Ex parte Gratton* (2 M. D. & D. 401), where the creditor absented himself for a period of a fortnight of the twenty-one days limited by the statute for the payment of the debt, to avoid receiving it, and during his absence the debtor tendered payment of his debt to the creditor's managing clerk, who refused to accept it; Held, that under these circumstances the creditor had concerted the act of bankruptcy, and could not support a fiat under it.

Quære, whether in the computation of the twenty-one days, the day on which the notice is served is to be included. (*Gibson* v. *Muskett*, 3 Scott, N. C. 429; 4 Man. & Gr. 160, S.C.)

PAY, SECURE, OR COMPOUND TO THE CREDITORS' SATISFACTION.

12. In *Ex parte Brown* (1 Mont. & Ch. 177), it was held, that where a creditor, after serving a trader with a notice demanding payment, in compliance with the statute, entered into an agreement with him, by which the trader was to give up all he had in the world, on condition of the creditor's releasing him from his debt, such an agreement was to be considered as a security accepted by the creditor at the time for the satisfaction of the debt, and that he could not afterwards issue a fiat. In that case, Sir John Cross said, "Full satisfaction is one thing: but satisfaction for the time is quite another thing: *a security with which the creditor is satisfied not necessarily amounting to a satisfaction of the debt.*"

In *Attwood* v. *Bankes* (2 Beau. 192), an injunction was granted by the Master of the Rolls to restrain a creditor from proceeding under this statute, by means whereof an act of bankruptcy might be deemed to have been committed by a debtor, or a fiat in bankruptcy might issue against him, on the ground of the creditor having consented to an arrangement, and undertaken to release the debtor from all liability in respect of the debt.

See also *Ex parte Budd* (5 Jurist, 272).

13. OR ENTER INTO A BOND WITH TWO SUFFICIENT SURETIES.

Form of Bond.

In the Court of Bankruptcy.

Know all men by these presents, that we, E F, of , in the of (debtor), and L M, of , in the of , mercer, carrying on business at , in the of , and N O, of , in the of , merchant, carrying on business at , in the of (sureties), are jointly and severally held and firmly bound to A B, of , in the of (creditor), in the penal sum of of good and lawful money of Great Britain, to be paid to the said A B, his certain attorney, executors, administrators, or assigns; for which payment to be well and faithfully made we bind ourselves and each of us, and our and each of our heirs, executors, administrators, and every of them, jointly and severally, by these presents, sealed with our respective seals, and dated this day of , one thousand eight hundred and forty .

Whereas the said A B has, by an affidavit sworn and filed in her Majesty's Court of Bankruptcy, deposed that the said E F is justly and truly indebted to him, the said A B, in the sum of , and that the said E F is a trader within the meaning of the laws now in force respecting bankrupts, or some one of them, as the said A B verily believes. And whereas the said A B did, on the day of , cause the said E F to be personally served with a copy of such affidavit, and with a notice in writing requiring immediate payment of such alleged debt. And whereas the said A B has commenced an action at law against the said E F for recovery of the said alleged debt. And whereas the said E F has requested the said L M and N O (as securities for him) to join him in this present bond, conditioned as hereinafter mentioned, to which they have consented, and the said E F has given notice thereof to the said A B.

Now the condition of this present obligation is such that if the said E F, his executors or administrators, shall pay such sum or sums of money to the said A B, his executors, administrators, or assigns, as shall be recovered in the said action, or in any other action which may have been or shall hereafter be brought for the recovery of the said alleged debt, together with such damage and costs as shall be given in the same, or shall render himself to the custody of the gaoler of the court in which the said action or any other action is brought for the recovery of the said alleged debt, according to the practice of such court or courts, within such time and in such manner as the said court or courts, or any judge thereof respectively, shall direct after judgment shall have been recovered in such action or actions, or shall obtain a legal discharge or release from the said alleged debt, then the present obligation shall be void, but otherwise shall stand and remain in full force and virtue.

Signed, sealed, and delivered in the presence of }

THE BOND MUST BE REGISTERED IN THE OFFICE OF THE COURT OF BANKRUPTCY.

14. The Court in which an action is brought upon the bond has power to direct it to be given up to be cancelled, upon its being satisfied by payment of the money, and notwithstanding the plaintiff's attorney may have a lien upon it for costs (*Wilson* v. *Firth*, 9 Dow. 573): but the Court will not interfere to order the bond to be delivered up, when it is satisfied by the render of the debtor to gaol. *Ridller* v. *Chappelow* (1 Dow. N. S. 657).

AFFIDAVIT BY THE SURETIES.

15. The sureties who execute the bond must at the time of its execution make an affidavit of their being housekeepers, and of the place of their residence; that they are each of them worth property to the amount of the debt sought to be recovered, over and above their own just debts, describing the nature of such property; that they are not bail in any suit or action, and that they have each resided for the last six months at the same place of abode. These affidavits must be filed in the Court of Bankruptcy.

Form of Affidavit of Sureties.

In the Court of Bankruptcy.

Between A B and E F.

L M, of in the, &c. and N O, of &c. [*adding their places of residence respectively*], severally make oath and say, and first the said L M for himself saith, that he is one of the proposed sureties for the above-named defendant, and that he, the said L M is a housekeeper, and resides at aforesaid, and that he has resided at the same place of abode during six months now last past, and that he is worth property to the amount of £ [*the sum sought to be recovered*], over and above what will pay and satisfy all his just debts and incumbrances. That his, the said L M.'s property, to the amount aforesaid, consists of [*here specify the nature and value according to the circumstances of the case, as follows:*] stock in trade in his business as a mercer, carried on by him at , of the value of £ ; of furniture in his house at , of the value of £ ; of a freehold [or *leasehold*] farm of the value of £ , situate at , occupied by ; or of a dwelling-house of the value of £ , situate at , occupied by , or of other property [*particularizing each description of property, with the value thereof*]; and this deponent L M further saith, that he is not surety in any action, or in any manner for the above-named defendant, except on the present occasion, or for any other person. And the above-named deponent, N O, for himself saith [*here pursue the same form as with respect to the former surety.*]

This affidavit of sufficiency must be filed in court.

The Form of Notice of Sureties.

In the Court of Bankruptcy.

In the matter of E F, of , a trader-debtor.

I hereby give you notice, that in pursuance of the provisions of the statute 1 & 2 Vict. c. 110, s. 8, I intend to enter into a bond with two sufficient sureties for the payment of any sum which A B, of (who has filed an affidavit of debt, and served me with a true copy of the same, together with a notice requiring immediate payment), may recover against me in any action which shall have been brought, or may hereafter be brought, against me by the said A B for the recovery of the same, together with the costs thereof; and I hereby further give you notice, that the said sureties will be L M, mercer, residing at , and carrying on business at , and N O, merchant, residing at , and carrying on business at ; and I further give you notice that I shall attend at the Court of Bankruptcy in Basinghall-street, together with the said sureties, on the day of , at o'clock in the noon, and the said sureties will then and there make the requisite affidavit of their sufficiency.

Signed E F
(or V W, attorney for the said E F).

To X Y, attorney for A B, of
(or, To A B, of .)

16. TO THE COMMISSIONER'S SATISFACTION.

The Commissioner's approval of the sureties to the bond must be had within the *twenty-one days*, and is endorsed on the bond in the following form:

24th May, 1842.
Approved of by me,
J. MERIVALE.

Where the bond had been duly executed before, but the commissioner's approval had not been obtained until after the expiration of the twenty-one days, viz. the twenty-third day, Held, that the creditor was justified in issuing a fiat on the last-mentioned day. (*Ex parte Gooddy*, 1 M.D. & D. 677.)

When the commissioner has approved the security offered, he is *functus officio*, and cannot revoke it. The approval may be by parol. (*Ex parte Neale*, 2 M.D. & D. 620.)

17. WITHIN WHAT TIME THE FIAT MUST ISSUE.

The fiat must issue within two calendar months from the filing of such affidavit or affidavits, but not otherwise. The day of filing the affidavit is to be reckoned the first day of the two months, within which a fiat must issue. (*Ex parte Budd*, 5 Jur. 272, 1 M.D. & D. 436.)

(To be continued.)

REGISTRATION OF FOREIGN RAILWAYS.

In another part of this number we have published the opinions of the present Attorney-General and Solicitor-General, and Sir JOHN BAYLEY and Mr. LOFTUS WIGRAM, on a case submitted to them on behalf of the East-Indian Railway Company, and which opinions appeared in the *Times* of the 2nd instant. We beg to invite thereto the attention of our readers, as some doubt appears to have lately arisen as to the necessity or not of registering, under the Joint Stock Companies Registration Act, 7 & 8 Vict. c. 110, companies formed in this country for the purpose of making railways in India, and abroad.

After opinions so decided, and given by the most eminent counsel of the day, we should respectfully have refrained from expressing our own views on the matter, had not our contemporary, the *Jurist*, in a leading article of the 5th instant, thought proper to refer to those opinions, and to controvert the principle laid down in them for testing the application of the Act.

The importance of the question, affecting, as it does, so many companies who are daily being advertised in the public journals, and the necessity therefore that the effect of the statute should be under-

stood, and not a belief that any thing which we can say can either add weight to or was required to strengthen the high authority referred to, have induced us to offer some observations in reply to the arguments urged by our contemporary, and which, in our opinion, seek to put a wrong construction on the Act.

The second section of the statute enacts "that this Act shall apply to every joint-stock company, as hereinafter defined, *established* in any part of the United Kingdom of Great Britain and Ireland, except Scotland, or *established* in Scotland, and having an office or place of business in any other part of the United Kingdom for any commercial purpose," &c.

Our contemporary agrees that the true test of the applicability of the statute, or not, is the place where the company is established; but he contends that a company is not established, within the meaning of that Act, in any other place than that in which its works are to be performed.

We think that it is evident, from the general purview of the Act, that one of its chief objects was to prevent the formation of bubble and fraudulent companies, and to secure the public as much as possible from being deluded by deceitful prospectuses or the speculative schemes of rash and inconsiderate projectors. This, we think, is manifest from the various provisions respecting registry: we need only refer to those relating to the registry, before publication, of the name and objects of the company; of its projectors, together with a written consent on their part to become such; of its subscribers, the deed of settlement, the amount of capital, &c. &c. Although, no doubt, the object of an Act is to be collected from the Act itself, yet it is satisfactory for us to know that this view which we have taken is consistent with the parliamentary report on which the statute was founded. When we remember the evidence that was taken and annexed to that report, particularly as to the formation of the West Middlesex Assurance Company, and other speculations got up on fictitious capital, it is not difficult to see that that which the statute is apparently designed to reach was what the legislature really intended. But if we are right as to this, surely it must not the less be within the mischief intended to be provided against, that a company got up in this country is formed for the purpose of constructing a foreign railway. If the scheme is to be put afloat here—if the projectors are here to go through all the stages of concocting, publishing, and fabricating the concern—if here the public are to be called on to subscribe to the undertaking, and to form the association—very short indeed would the Act fall of one of its objects should it not apply to such a company because its works are to be carried on in a foreign country. What, however, is there in the word *established* to defeat the application of the Act? Our contemporary says that "the 2nd section obviously means by *established* something more or something other than the mere formation of a company without reference to the carrying into effect of its objects; because, with regard to companies established in Scotland, it requires (in order to bring them within the Act) that they should have *an office or place of business* in some other part of the United Kingdom. Now, an office or place of business implies a business carried on; and unless the Act includes in the word 'established' the idea of carrying on the business of the company, we should have this singular, and, as we should submit, somewhat absurd result of the words used—that, as to companies *formed* in England or Ireland, they are within the Act, whether their business is carried on in those countries or not; while, as to companies *formed* in Scotland, they will not be within the Act unless they intend to carry on their business in England or Ireland. The difference between the expressions used in reference to Scotland, and those used in reference to Great Britain and Ireland, seems rather to shew that it is the *carrying on of business* that the Act takes as the test of establishment."

We, however, submit, that the language of the 2nd section shews, if any thing, that the Act meant the very reverse of that which our contemporary would deduce. It shews, in our opinion, that the legislature considered that the place where a company had an office or place of business was not necessarily the place where it was established; in other words, that it might be established in one country, and have a place to carry on its business in another. If the place where a company intends to carry on its business is the place where the company is to be considered by that Act as established, where then was the necessity of saying in the second section, that the Act should apply to a company established in Scotland, when it had an office or place of business in this country? Such would have been needless, as it would have then fallen within the definition of a company established in this country, and so have required registering.

We cannot understand why, if the word "established" is to be interpreted according to its ordinary acceptation, a joint-stock company cannot be said to be established in one country, and to carry on the objects for which it was formed entirely in another. We should be surprised if we were told that the East-India Company, or the General Steam Navigation Company, were not established in England, because the place where the objects of the company were to be carried into effect was in the case of the former in India, and of the latter on the ocean.

Our contemporary appeals to the general clauses of the Act, as being inapplicable to a company having its property and works abroad; but we see in these clauses no reason therefore to exclude such company from the operation of the Act. When we said that one of the objects of the Act was to impose a check on bubble companies, and rash speculations, we did not mean that that was the only object the Act had in contemplation. The Act was also framed for the purpose of giving greater facility to joint-stock companies suing and being sued, to incorporate without destroying the individuality of its members, and generally to provide for the better regulation of these gigantic partnerships. It is for the purpose of effecting this object that the clauses so alluded to have reference, and therefore such clauses can afford no true test for determining that the statute was not meant to effect the other object we have suggested, and to apply to companies falling within such object.

It may be difficult to say precisely what is intended by the statute by a company *established* in this country. Each case must be determined by the evidence applicable to the same, but we should say that a company wholly formed and completed in this country is a company established here, within the meaning of the statute, although its works may be intended to be carried on entirely abroad; at all events, after the opinions of the eminent counsel before referred to, it would be advisable for such companies to register under, and otherwise comply with, the regulations of the statute.

W. P.

PROMOTIONS, APPOINTMENTS, ETC.

[Clerks of the Peace for Counties, Cities, and Boroughs, will oblige by regularly forwarding the names and addresses of all new Magistrates who may qualify.]

DOWNING-STREET, JULY 15.—The Queen has been pleased to appoint George Grey, esq. to be Lieutenant-Governor of the colony of New Zealand.

Her Majesty has also been pleased to appoint Frederick Holt Robe, esq. major in the army, to be Lieutenant-Governor of the province of South Australia.

Her Majesty has further been pleased to appoint George Lilly, esq. to be Assistant Judge of the Supreme Court of the island of Newfoundland.

We observe by the *Gazette* of July 4, that her Majesty has been pleased to grant her "royal license and authority" to enable the Reverend William John Moore, vicar of Sarratt, in Hertfordshire, to take the name and arms of Brabazon.

The Lord Chancellor has apppointed David Randall, of Neath, in the county of Glamorgan, gent. to be a Master Extraordinary in the High Court of Chancery.

CROWN OFFICE, July 17.—Member returned to serve in this present Parliament.—Borough of Cambridge—Fitzroy Kelly, esq. her Majesty's Solicitor-General.

LEGAL INTELLIGENCE.

RAILWAYS IN INDIA.

It was stated in the city article of the *Times* of the 26th ult. that—

"The prospectus of the 'Great Indian Peninsular Railway Company' contains a statement, that 'the registrar of joint-stock companies is satisfied that the company is not with the operation of the 7th and 8th Victoria, c. 110, and therefore does not require to be registered.' The doubt which has existed as to the application of the statute in this case seems to have arisen from the fact that the railroad, though in India, does not necessarily come under the head of foreign railways, since it is formed with a distinct class of English shareholders, and a committee and funds separate from the foreign arrangements. It having been settled, however, that the Act does not apply, the limit of 5s. per share as a deposit is avoided, and 2*l*. 10s. is expressed in the prospectus."

This announcement created considerable sensation, as it was well known that the directors of the East-Indian Railway, acting on an opinion the reverse of the above, and under the impression that the company was in fact within the meaning of the Act, had, in compliance with its provisions, notwithstanding the prejudice the smallness of the deposit was calculated to engender, limited the deposits to 5s. per share. The subject, however, was of too much importance to be left in any doubt, and the directors instructed their solicitor, Mr. Freshfield, to place the following case before the learned counsel whose opinions we subjoin:—

"*Queries submitted to the Solicitor-General, Mr. Fitzroy Kelly, and Sir John Bayley, with their opinion thereon.*

"1. Whether that company is within the purview and provisions of the Act of 7 & 8 Vict. c. 110.

"2. Whether the promoters of that company could legally have advertised or taken a deposit exceeding 10s. per cent. on their proposed capital.

"3. Whether the promoters of that company, or any of them, having advertised without registration or taken a deposit exceeding 10s. per cent. would have been liable to any and what legal consequences for so doing."

"We are clearly of opinion that the East-Indian Railway Company is within the purview and provisions of 7 & 8 Vict. c. 110. The general powers of that Act are by sec. 2 declared to apply to all joint-stock companies established in Great Britain (except Scotland, or established in Scotland with a place of business in Great Britain), for any commercial purpose or purpose of profit; and the true test whether such a company is within the provisions of the Act or not is, the place where it is established, and not the place where the works are to be performed. The proviso in the same section exempts out of the general provisions of the Act railway and other companies there specified, which require the authority of Parliament, for the purpose of making them subject to the special provisions thereinafter provided by the 9th and 23rd sections, but not for the purpose of exempting them altogether from the operation of the Act. This company, therefore, being established in Great Britain, and being a joint-stock company for the purpose of commerce and profit, is, in our opinion, directly within the provisions of this Act, even though it does not require the authority of Parliament.

"We, therefore, think that the promoters of the East-Indian Railway Company could not legally have advertised or taken a deposit exceeding 10s. per cent. on their proposed capital, and that if they did so, they would be liable to the penalties imposed by sections 5 and 24.

"FREDERICK THESIGER.
"FITZROY KELLY.
"JOHN BAYLEY.

"Westminster, June 28, 1845."

OPINION OF MR. LOFTUS WIGRAM.

"1. I think that the company is within the purview and provisions of the Act 7 & 8 Victoria, c. 110. It is a company established in Great Britain for purposes of profit, and appears to be not within any of the cases which are excepted from the Act.

"2. I think that the promoters of the company could not legally have advertised or have taken a deposit exceeding 10s. per cent. on the proposed capital. I think this is the result of the 7th and 23rd sections of the Act.

"3. The pecuniary penalties imposed by the Act do not seem to be applicable to the case in question (see sec. 24); but it would have been highly improper for the promoters to have disregarded the provisions of the Act. I apprehend the consequence of such a course would have been, that the receipt of the extra deposits would have been an illegal transaction, and that the promoters might have evaded their proper responsibility to the shareholders for the due application of the deposits—a state of circumstances which might be highly prejudicial to the company.

"LOFTUS WIGRAM.

"Lincoln's-Inn, June 28."

The Lord Chancellor of Ireland and Lady Sugden and family are staying at Boyle Farm, near Thames Ditton.

PROCEEDINGS OF LAW SOCIETIES.

UNITED LAW CLERKS' SOCIETY.

The following is the report of this society:—

THIRTEENTH ANNUAL REPORT.

In reporting to the patrons and members the proceedings of the society during the past year, it is considered unnecessary to give any detailed statement of

its objects, the institution having been in existence thirteen years, and its character being now well known to the profession.

The expenditure in assisting members prevented by illness from attending to their employment has considerably increased during the year. This has arisen through an increased number of claims, and from the afflictions of some of these members having been unusually severe. To twenty-four members who required this assistance various sums have been paid, amounting altogether to 175*l.* 0*s.* 6*d.* The society has since its institution paid to members thus afflicted 989*l.* 0*s.* 6*d.*

The committee have the pleasure of announcing that no further claim upon the superannuation fund for permanent relief through infirmity, other than sickness, has occurred during the past year.

The disbursements on account of death shew a decrease of exactly one-half as compared with those of last year. The committee have to report the death of the wives of five members; each of these members received 25*l.* being the amount of the assurance *then* payable. The total sum expended in satisfying assurances alone has now amounted to 1,287*l.* 10*s.*

All the payments previously mentioned have been made out of the general or principal fund.

Out of the casual fund many gifts of money have been made to distressed law clerks, not members, and to their widows. The applications for these gifts are becoming more numerous. The committee have received sixty-five during the year, and to forty-one *deserving* applicants relief was *promptly* granted; the remaining cases were such as the committee, after careful investigation, could not entertain. The applicants assisted were clerks, and the widows of clerks, to barristers, solicitors, attorneys, and proctors. One clerk had been a practising attorney, and another applicant was the widow of a solicitor formerly in extensive practice. The committee have also, out of the same fund, granted several small loans to members requiring temporary pecuniary aid. These loans are repayable by instalments suitable to the circumstances of the borrower, and are free from interest or charge of any kind. These gifts and loans have required a disbursement of 366*l.* which, added to previous payments on the same accounts since the foundation of the institution, make the total money thus expended 1,465*l.* 9*s.*

In August last, a subscriber offered to convey to the use of the society a valuable plot of land, on which to erect almshouses for the aged members and their widows. This munificent offer was gratefully received and acknowledged; but on carefully considering the project it was found, with regret, that it could not *at present* be entertained, the members being fearful of retarding in any way the accumulation of that capital, upon the interest of which the payment of assurances and superannuation allowances must ultimately depend.

After satisfying all claims upon the General Fund, the committee have been able to make a considerable addition to the investments with the Commissioners for the Reduction of the National Debt. At the audit in April 1844, the amount of the General Fund was 6,357*l.* 17*s.* 5*d.* The receipts of the year have amounted to 1,555*l.* 19*s.* 3*d.* and the disbursements to 490*l.* 12*s.* leaving a surplus of 1,065*l.* 19*s.* 3*d.* which has been added to the invested capital. The latter, on the 20th May, 1844, was 6,449*l.* 15*s.* 9*d.* and on the same day in this year, 7,410*l.* 7*s.* 1*d.*

The condition of the casual fund is scarcely more favourable than at the same period *last year.* On the 1st April, 1844, the society had in hand the sum of 50*l.* 18*s.* 2*d.* The donations of the profession, and subscriptions of the members to this fund, have amounted in the course of the year to 564*l.* 11*s.* 3*d.* and the disbursements have been 549*l.* 7*s.* 1*d.* leaving a surplus of 66*l.* 2*s.* 4*d.*

The committee announce with pleasure, that the society still continues to receive marked approval, both from its early supporters and from patrons, whose accession has been obtained since the last *anniversary festival.* Among the latter will be found the honourable societies of Staple-Inn, Clements'-Inn, and New-Inn.

A considerable increase during the year in the number of members, shews that the interest taken in the society by those for whose benefit it was formed remains unabated. On the 20th of May last there were 418 members, and their subscriptions amounted to 950*l.*

The rules are now undergoing their periodical revision, when such alterations as experience has shewn to be necessary, or are likely to conduce to the well-being of its members and the clerks of the profession *generally,* will be made. One important subject now under consideration is the practicability of granting to the widows of deceased members an annual allowance, in addition to the benefits to which they are already entitled.

The society (although in a comparatively infant state) has expended nearly 4,000*l.* in promoting its benevolent objects. A considerable portion of this sum has been received by law clerks and their families who have not contributed to its funds. Some were aged clerks who would not have required this assistance, had an institution like the present existed at an earlier period of their lives, when they might have availed themselves of its advantages. The claims upon the casual or benevolent funds are yearly increasing, and although the contributions of the members form a considerable sum, it is insufficient to meet all these demands. The committee respectfully hope, that it will not become necessary to limit in any way the sphere of the society's usefulness, but that, so long as its benevolent character is preserved and its affairs are prudently conducted, it may continue to receive the support of the profession.

13th June, 1845.

THE BEVERLEY AND EAST-RIDING LAW SOCIETY.

At the half-yearly meeting of the above society, held in Beverley, on Tuesday, the 1st day of July, 1845, it was unanimously resolved, that it would be highly beneficial to the interests of the society that it should join the Provincial Law Societies Association, and that the secretary be accordingly requested to signify to the honorary secretary of the association the intention of this society to join it, and to take such other steps as shall be requisite for furthering that object.

TO SUBSCRIBERS.

It is proposed to publish an annual *Index Legum,* consisting of a digest of all the reported cases and statutes of the past year, under the title of the Year Book, to be bound with the volumes of the Law Times, or separately, at option. It will be comprised in about six or seven numbers, at 1s. each, stamped, for transmission by post. It will not be commenced unless 1,000 subscribers order it. Persons desirous of having it are therefore requested to transmit their names as soon as possible.

NOTICE TO SUBSCRIBERS.

The Indices to the fourth volume being now completed, the numbers for binding may be sent, through the post, in parcels open at the ends, with a mark by which they may be known, and of which the Publisher should be advised by letter, as also how, when bound, it is to be returned. If sent by parcel, advantage may be taken of the opportunity to inclose other books for the binder.

The Volumes of the Law Times, *handsomely and uniformly bound, at 5s. 6d. each, if forwarded to the Office; with the Solicitor's name and abode lettered on the cover, 1s. extra.*

An Alphabetical Index to the Cases in the current Volume of the Law Times *always lies at the Office for the purpose of reference.*

THE LAW TIMES.

SATURDAY, JULY 19, 1845.

TO READERS.

Some apology is due to our subscribers for the large space occupied by the advertisements to-day. We should have given another double number for the purpose of containing them, but we were, at the last moment, disappointed of the arrival of the large paper. Compensation, however, shall be made for the encroachment next week, when, without additional charge, a double number will be presented. Our readers may be assured that strict faith will be kept with them in this particular, and that whatever space beyond the outside leaves may from time to time be occupied by advertisements, shall b erepaid in gratis supplements.

THE SUSPICIOUS CLAUSE IN THE SMALL DEBTS BILL.

We are indebted to the active and able secretary to the Metropolitan and Provincial Legal Association for directing our attention to a construction of the clause relating to practitioners in the Insolvent Courts, which certainly removes much of the alarm which at the first glance its language was calculated to excite. The words are these:—

Application to Commissioners, &c. need not be made by counsel or attorney. 5 & 6 *Vict. c.* 116.—And be it enacted, That in making application to any Commissioner or Court as aforesaid, or taking any proceedings under this Act, or under the Act hereinbefore referred to, or under the Act made in the fifth and sixth years of her Majesty's reign, intituled *An Act for the Relief of Insolvent Debtors,* it shall not be requisite for any party, whether creditor or debtor, to employ either counsel or attorney or solicitor.

It is contended, and we are bound to say with sound legal argument, that these words do not empower other persons than attorneys or counsel to act as such, they merely permit a party to appear and conduct his own case in all its stages, without employing attorney or counsel.

Undoubtedly this is the plain import of *the words.* But their legal construction is not always identical with verbal import. The Courts will often give a meaning to words that as they are read have none, and the intention of the Legislature will often be presumed, though it may have failed to express such intention.

The language of the clause must either be read literally, or a meaning must be given to it which it does not carry upon its face. If construed literally, it is a nullity; for already it is the right of parties to appear and be heard in person, if they so please, and only when it is desired to employ an agent is it that, for the protection of the client himself, the law requires that he shall employ a person who has proved his fitness for the office of attorney. It needed no new enactment to preserve this right to the suitor, and if this be all intended by the clause, it is but worthless verbiage.

But if it should be deemed that the Legislature in its wisdom must have had a meaning, and the Courts should take upon themselves to give to the words the meaning supposed to be intended, can they avoid putting any other construction upon them than that they were intended to permit parties to appear and act by others than attorneys and counsel?

Therefore, although the construction suggested by the learned secretary has certainly removed some of the alarm which we, in common with others, had felt on an over-hasty perusal of the clause, still do we deem it of so questionable a character that it ought to be removed before the Bill is permitted to become law. To its erasure there can be no objection. If it be merely a re-enactment of an existing right—to wit, that of parties to appear in person—it is a useless incumbrance, and ought to be struck out. If, on the other hand, any thing more than this be meant by it, that meaning must be at least intended to affect in some manner some existing privilege of Attorney or Counsel, or it would not be necessary thus expressly to name them. In either case the clause should be blotted out: if leaving the existing law unaltered, as being worthless—if changing it, as being in direct violation of the Attorneys and Solicitors Act.

But, unfortunately for our Profession, there is not in the entire House of Commons a man who will do for the lawyer what Mr. Wakley does for the medical profession, watch the progress of legislation, with intent to protect the interests with which he is necessarily so conversant, although our Profession is more concerned by a thousandfold in the doings of the Senate than are the physicians and surgeons. Until we have a representative of our own, we of the law must expect to see all other represented interests preferred to ours.

SHAM LAWYERS.

The following audacious circular has been distributed in Lewes, and advertised in the Sussex newspapers. Let the Law Societies look to

TIMOTHY TURNER,

Accountant, House Agent, Arbitrator, and a Deputy in General,

No. 30, Sun-street, Lewes,

Begs most respectfully to acknowledge the numerous and flattering solicitations of his friends, both in town and country, and desires to inform them, that notwithstanding it has been with much deliberation and the greatest reluctance that he has at length complied with their earnest request, they may fully depend upon that firmness and determination in a straightforward course (*i. e.*) consistent with truth and justice, which has ever characterized his conduct, and which has been made particularly public during his severe contest for the last eighteen months; and although his friends have so highly complimented him, by ascribing his triumphant victory to his knowledge of the law, and that ingenuity so peculiar to himself, yet, he begs to state, that while he would admit that "knowledge is power," nevertheless the grand basis of his victory was that justice, which is every man's right, and which he has, and ever will, pursue for his fellow-man, whether rich or poor. Thus, in this case, there was no doubt of his success, law and justice both being on his side, and which would have been much more conspicuous, had he been able at all times to have kept the sword out of the golden sheatl

T. T. begs also to acknowledge the correctness of the observations which have accompanied the request of his friends, particularly the following; viz. that many respectable tradesmen, and others, have been utterly ruined, and their families brought to pauperism, when difficulties have arisen, and their creditors plunged into excessive expenses and severely injured, through the mismanagement and extravagance of those who fain *would be thought men of business*; whereas, if some judicious, straightforward, economical individual had been called in, the man and his family might have been saved, and every creditor received his 20s. in the pound; and thus, with due care, all things brought about in a most pleasing manner, with a very little expense. So also as it regards disputes between parties—what anxiety and expense have occurred, oftentimes to the ruin of the innocent poor, merely for the want of some one who would take the "*bull by the horns*" and decide between right and wrong; which would often prove beneficial to an inconceivable extent. Moreover, as it respects the collecting of debts—here again have thousands been lavished away; in many instances the expenses far exceeding the debts themselves, and frequently happening to the industrious and deserving; while the most abandoned, and in some cases best able to pay, have received lenity to no purpose, and afterwards treated their creditors with the greatest impertinence; thus the tradesman might save himself much perplexity and time by putting all these backstanding debts into the hands of one who would act with discretion, firmness, and promptitude, shewing lenity where it is really needed, and severity where it is absolutely necessary.

So also with regard to their observation upon buying and selling property, the truth is obvious. Many persons are at a loss to know where to look for one upon whom they can rely, to carry out their wishes fully in these respects; but now they will have an opportunity to buy and sell to advantage, without being conspicuous themselves.

Many other points T. T. would willingly touch upon, seeing the attention of his friends has been thus directed in their kind solicitations, but the above will suffice. And while he would acknowledge, with sincere gratitude, their pressing and most flattering requisition; he would most conscientiously affirm, that they shall realize all that confidence which they may repose in him, and that every department of business shall have his best attention.

Accounts examined and made up.
Rents and Debts Collected of every description (whether large or small).
*** All Monies handed over Immediately upon receipt of the same!!
Property of every description Bought or Sold, and good Investments procured, &c. &c. upon Commission.
Wills and Agreements of every description, &c. &c. made out with despatch, in the most secure and lawful manner.
Insolvents' Accounts made up.
Cases drawn for opinion of Counsel on Questions of Law.
Legacy Duty Receipts made out and calculated.
All cases of Innocent Sufferers taken up and defended (whether rich or *poor*) in the most able manner, and thus every cause of Justice carried out and maintained upon the most economical terms, by application to

MR. TIMOTHY TURNER.

LAW TIMES EDITION OF IMPORTANT STATUTES.

The last edition of Mr. Cox's *Registration of Electors Acts*, incorporating the Reform Act and other Election Statutes, being very nearly exhausted, advantage has been taken of the opportunity to bring out a new edition (*the fourth*), which will contain notes of all the decisions of the Court of Common Pleas upon the Registration Appeals, with other additions and improvements, making it a complete manual of the Law and Practice of Registration. The work is now passing through the press, and will be published in about a fortnight. As soon as ready, it will be duly announced.

VERULAM SOCIETY.

The Reports, which had fallen somewhat into arrear in consequence of the vast crowd of important decisions which have signalized the legal year now drawing to its conclusion, have been at length, by great exertion, brought down very nearly to the present time. During the last week the third number of the *Registration Cases*, with a supplement, completing Part I., has been issued, and thus, for four shillings, do the members obtain all the reports for the two registrations that have taken place since the passing of the Act, while their cost in either of the other series is 11s. The *eighth* number, completing the Second Part, of Cox's *Criminal Law Cases*, has also been issued, and thus, for *eight shillings*, do the members obtain a greater number of cases than in two numbers of *Carrington & Kirwan* and all the *Crown* cases in *Moody*, the cost of which together is at least 25s.

The thirteenth number of *Real Property Cases*, and the ninth number of *Practice Cases in Law and Equity*, will be published on Wednesday, and there are now in the press two more numbers of the latter and three of the former, together with Number 12 of *Magistrates' Cases*, which have been delayed, waiting for some judgments reserved in Easter Term, and only just delivered.

Thus it will be seen that no time is lost in bringing them out with all speed consistent with accuracy, which, in standard reports, is the primary requisite; the notes of cases in the Law Times serving all the purpose of *rapid* reporting—viz. information until a more formal report can be procured.

The following Forms for offices have been added to the list:—

Agreement for Lease of House, 3s. per doz.
Draft Lease of Houses, each sheet, 2s. per doz.
Common Covenants in Lease of House, each sheet, 2s. per doz.

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THE CRITIC.

New Books

A Treatise on the Law of Contracts and Parties to Actions ex Contractu. by C. G. Addison, Esq. of the Inner Temple, Barrister-at-Law. Part I. London, 1845. O. Richards.

It is always with regret that we receive a new publication of worth during the busy season of the legal year that extends from April to the end of July.

This, however, is only the first part of Mr. Addison's treatise; and although for the reason indicated we shall be obliged to be very brief in our notice of it, another opportunity will offer for a more elaborate review when the work is before us in its entirety.

It may be thought by many that Mr. Addison's undertaking is a superfluous labour; that Chitty has already given to the Profession a book on the Law of Contracts, which supplies all their wants, as proved by the many editions through which it has passed with still increasing reputation. But Mr. Addison's is at once a more scientific and a more popular treatise than that of Chitty. The latter, as the reader will remember, is characterized by a remarkable slovenliness of workmanship, as if it had been written in haste, or, as is more likely, as if its compilation had been intrusted to pupils, the author supplying only a few memoranda here and there. Its first edition was in reality little more than a digested index of cases and statutes on the Law of Contracts not under seal. Few attempts were made to reduce the law thus diligently collected to a scientific form by the development of principles, and although subsequent editions have supplied some of these defects, still the general character of the work remains the same; it is not so much a *treatise* as a *note-book*: and, consequently, while very useful in the office for reference by the practitioner, it is an indifferent book for perusal by the student.

The aim of Mr. Addison is, we apprehend, to treat the subject in a more scientific manner than his predecessor, and to produce a work which, while it shall be an accessible authority for the man of business, shall also be intelligible to those unlearned in the law, and an intelligent teacher of the law "to those who are about to cross the threshold of legal science." And if a judgment may be formed from the part before us, in these objects he has been eminently successful.

The plan of the work is this:

The author commences with some preliminary observations on deeds and simple contracts generally. He then proceeds to treat of deeds, their requisites and attributes. From this he passes to simple contracts and the considerations necessary to support them, subdividing this subject into two sections, which review successively the nature of a simple contract, and what amounts to a valid consideration.

The next topic is the contract of sale, and its requisites in respect of authentication by writing, and then the authentication and establishment in law of contracts generally, 1st, by deed; 2nd, by writing signed by the party; 3rd, he reviews the nature and requisites of the written memorandum; 4th, the necessity of stamps on deeds, and simple contracts, and promises in writing.

The fifth chapter is devoted to the legal force and effect and the interpretation of deeds and simple contracts; the sixth, to the conditions precedent to the right of action *ex contractu*; and the seventh to covenants, and simple contracts, and promises created by implication of law, embracing the important and interesting subjects of implied covenants, implied promises, implied contracts of sale, and warranties and promises in respect of goods sold, and implied promises in respect of the various counts in *assumpsit*.

In the following chapter the author treats of the plaintiff in actions *ex contractu*, both on deeds and simple contracts, and then of the right of action in the case of principal and agent. The tenth chapter investigates the difficult subject of joint and separate rights of action *ex contractu*, including, of course, those of partners, and the law of survivorship. The next in order is the consideration of who should be the plaintiffs in such an action, where there is a change of interest by assignment, and by novation and subscription, by bankruptcy or insolvency, by marriage and by death, at which branch of the subject this first part closes.

We regret that we cannot find room for one of the many interesting and instructive passages we had marked for the purpose of shewing Mr. Addison's style of composition, which is sufficiently legal for lawyers to enjoy, without being too obscure for the laity. But we must reluctantly omit them just now, although we hope that the appearance of the succeeding parts at some more leisure season may enable us to perform this act of justice to the author, and at the same time to gratify our readers.

JOURNAL OF PROPERTY.

MR. RAINY.

Reflection has strengthened the indignation we felt at the first perusal of the very gross insult offered by Mr. Rainy to the entire body of solicitors. Such sweeping charges of fraud preferred against the members of one profession by a member of another, who might be presumed by the public to be personally cognisant of the wrong-doing he denounces, cannot but feed the vulgar prejudices against lawyers, and produce unpleasing suspicions in the minds of clients against many a man of lofty integrity. Mr.

RAINY has no right to seek to procure employment for himself by thus sowing doubts between the solicitors and their clients. But the attempt will fail. The Profession he has insulted cannot patronize him; he must have made up his mind to lose them before he ventured thus to insult them. And we suspect he will find that clients will still, as now, continue to confide in their legal advisers for the management of a sale and the employment of the auctioneer, just as if he had never published his advertisement or his paragraph. Noblemen and gentlemen, who trust their solicitors with their title-deeds and their money, will yet trust them to select their auctioneers, assured, in spite of Mr. RAINY's asseverations, that in both of these parties they will find as much honour and honesty, and their interests as well protected, as if they had dismissed their attorney, and placed themselves in the hands of Mr. RAINY alone. Again we deny the frauds charged against the solicitors, and call upon Mr. RAINY for the proof.

THE NEW AUCTION LAWS.

TO THE EDITOR OF THE LAW TIMES.

SIR,—It is really necessary that some notice should be taken of the working of the new auction laws. There can be no doubt th t the legislature, in framing the Act, had the interest of the community solely at heart; but it is equally obvious that Parliament cannot form any positive idea of the working of such a law, and therefore should be assisted by those who have an opportunity of observing the practical results.

I beg to give you my thoughts on the subject, accompanied by some important facts, to be inserted in your next publication, or used in any other way you please.

An auction is sometimes the only mode that can be adopted for the disposal of property; for instance, under wills, assignments to creditors, execution, distraint, and various like circu nst nces; and it is undoubtedly the best mode of disposing peremptorily of every description of property, if such auction be conducted fairly; but, on the contrary, a dishonest auctioneer may make great gains out of estates intrusted to him, and therefore there should be some check, some mode of securing respectable persons to act in so responsible and confidential a capacity.

A strong reason why auctioneers should be respectable may be inferred from a recent case brought before Mr. Alderman Farebrother, reported in the *Times*, the substance of which is briefly as follows:—

A man in difficulties had his goods seized by a sheriff, and, as usual, they were to be sold by auction. Amongst the articles was a diamond ring of some worth; the defendant (for so we may call him) had a brother who was desirous of purchasing the ring as a family relic, and appointed an agent to bid for it, shewing him the lot as marked in a catalogue by the auctioneer. It was given in evidence before the worthy alderman that a spurious article was submitted as the *bonâ fide* one, and of course bought by the agent appointed, upon which the doubly-injured parties applied to the magistrate.

Now, suppose no one branch of the family had been desirous or able to purchase the ring, the rubbish substituted would have fetched little, as in fact it was worth nothing, then such a disgraceful fraud upon the poor man and his creditors would not have been discovered. I dare say you are aware of the fact that when goods are seized under a writ of execution, the auctioneer is chosen by the sheriff's officer, and not by the plaintiff or defendant, and I am convinced that the very same tricks are played even when a poor wretch's last articles of furniture and clothing have been wrung from him, and to whom it is all-important that the utmost value should be obtained, and all to satisfy the cupidity of Mr. Sheriff's Officer and Mr. Auctioneer.

But there is an auctioneer of another class who should be properly introduced to the public. Sales are advertised by this worthy—(I put it in the singular number, and wish it were so)—sales are advertised by this schemer as, "Mr. ——— is honoured with instructions from the executors of ———, esq. deceased," when ———, esq. never existed; and, in fact, the effects might be traced from the broker's shop of the auctioneer, as he is permitted to style himself, and might further be traced to the garret in Moorfields where they were manufactured by a poor miserable man, assisted by his wretched wife and starved children, in the worst and cheapest manner in order to gain a trifling sum out of the low price given that he may earn subsistence.

You must not suppose that I wish to advocate the old system. On the contrary, the auction duty fell the heaviest on those who were least able to pay—as, the widow or family of a man in very moderate circumstances; a small tradesman dying and leaving stock in trade, which must necessarily be realized; assignees for benefit of creditors wishing to avoid the cost of bankruptcy proceedings; while many landowners and capitalists avoided the payment of auction duty by submitting their property to auction, buying in, and selling privately afterwards; but I am anxious to shew how desirable it is that some means should be adopted to put an end to the mock auctions now so conveniently and profitably carried on under the new law, and if possible to render the profession more difficult of access to persons of no character.

Under the old law, auctioneers were obliged to find sureties for payment of the duty, and that to a certain extent kept out disreputable persons; but now, a payment only of ten pounds empowers a man to act as an auctioneer, whether competent or not, and without regard to his character. It may be said that the evil will cure itself; that dishonest auctioneers will be found out, and will not be employed again. That very likely will be the case; but vendors are not the only persons defrauded; the same auctioneers have no employer, they sell their own property under false representations; the public are the sufferers; and as it is difficult for persons to detect the imposition, it will be continued until the public become thoroughly disgusted with auction sales, and then what will be the consequence? Purchasers will be afraid to attend an auction. The linen-draper's mode of tender must be adopted for the sale of effects, and that will open a door for worse roguery still.

For all this evil I am convinced a remedy may be found.

As the public cannot have control over the auctioneer, and further, as I have attempted to shew, auctioneers are employed in cases where neither the vendor nor the public have power to check them, some one should be taken by the Legislature to exclude disreputable persons. Or, perhaps, it might be practicable for auctioneers to form a society, similar to the Law Society, for the prosecution of fraudulent auctioneers: this I merely throw out as a suggestion.

But here allow me to say that I think Mr. Rainy attacks the wrong party when he accuses solicitors of corruption. I feel convinced that some auctioneers are so hungry for business that they have been induced to offer bribes to solicitors; but, of course, then it remains for the solicitor to take to himself or give his client the benefit of it, according to his sense of honour; and, from what I know of the Profession, I have little doubt that the client has generally the full benefit of any reduction in commission made by the touting auctioneer.

V.

Public Sales.

By Messrs. SHUTTLEWORTH and SONS, at the Mart.

A copyhold estate, called Nightingale hall, comprising 9 acres and 22 perches, with suitable attached and detached offices, stabling, &c. situate at Marsh-side, Lower Edmonton—1,200*l*.

A leasehold residence, situate Gloucester-place, Park-road, New Peckham -320*l*.

A leasehold estate, situate Hall place, near the Green, Paddington—260*l*.

A leasehold estate, situate Kent-place, North Wharf-road, Paddington—290*l*.

A freehold estate, called Chislehurst, comprising 122 acres, with lawns, pleasure-grounds, conservatories, and suitable attached and detached offices, situate on the border of Chislehurst-common, in the county of Kent—8 300*l*.

A handsome stone built family mansion called Westrop-house, comprising 5 acres 1 rood and 20 perches, with gardens, shrubberies, and suitable offices, situate near Highworth—4,000*l*

A plot of freehold arable land, comprising 2 acres 3 roods and 14 perches, situate on the road from Highworth to Swindon—220 guineas.

A similar plot of land, comprising 3 acres and 11 perches, situate as above—200 guineas

A similar plot of land, comprising 3 acres and 20 perches, situate as above- 115 guineas.

A similar plot of meadow land, comprising 3 acres 2 roods 5 perches, situate as above—500 guineas.

A similar plot of land, comprising 2 acres 2 roods 25 perches, situate as above 395 guineas.

A leasehold estate, comprising Ock Water corn mill, and dwelling-house, about 8 acres, with suitable attached and detached offices, situate near Abingdon, county of Berks. —470 guineas.

By Mr. LEIFCHILD, at Garraway's.

A freehold property, comprising the Shirrenden estate, situated at Horsmonden, Kent, with residence, domestic offices, stabling, &c.; flower gardens, lawns, and shrubberies, beautifully placed in a park-like paddock, which is adorned with fine and lofty timber, and a noble sheet of water, also a farm-house, farm buildings, and five cottages and gardens, together with 161a. 3r. 30p of arable, meadow, hop, fruit, and wood land. All the property comprised in this lot is exonerated from land-tax, except the sum of 1s. per annum payable on the three cottages; the woodland is tithe-free—5,800*l*.

A freehold estate, called Buck, situate in the parish of Horsmonden, Kent; it consists of a farm-house and offices, barn, yard, and garden, and eight inclosures of arable, meadow, and wood land, which are tithe-free, containing 18a. 2r. 18p. exonerated from land-tax—800*l*.

By Mr. SINGLE.

A freehold estate, called Pitt, situate in the parish of Hennock, Devon, consisting of a mansion, garden, lawn, and plantations, farm-house, and orchard and land, in all 32a. 3r.—5,750*l*.

A farm-house, yard, and garden, 107a. 2r. 30p. being part of the above estate—6,700*l*.

8a. 22p. of land, being part of the above—980*l*.

9a. 1r. 13p. ditto—900*l*.

11a. 3r. 32p. ditto—950*l*.

A freehold estate, comprising about 110 acres, in the parish of Crondell, Hants, divided into 23 lots, of five acres each, produced from 50*l*. to 120*l*. each lot—total, 1,280*l*.

Five acres of freehold building land, situate Sisters-road, Upper Holloway, Islington; the biddings were from 105*l*. to 240*l*. a lot, divided into 35 lots, five of which were not put up—total, 4,370*l*.

By Mr. MOORE, at the Mart.

A Five-roomed Dwelling-house, No. 4, North-street, Jubilee-place, Mile-end, let at 21*l*. 12s. per annum, landlord paying rates, term 56 years, ground-rent 2*l*. 5s. per annum—120*l*.

A ditto, No. 4, Robert-street, let at 17*l*. landlord paying rates, term 56 years, ground-rent 4*l*. per annum—70*l*.

A freehold house, No. 1, St Ann-street, Limehouse, let at 13*l*. landlord paying rates—90*l*.

Five houses, 6 to 10, Robert-street, Jubilee-place, let at 85*l*. landlord paying rates, term 56 years, ground-rent, 6*l*.—550*l*.

A freehold house, 33, Eastfield-street, Limehouse, let at 18*l*. 12s. landlord paying rates—180*l*. fixtures at a valuation.

A ditto, No. 34, ditto—180*l*. ditto.

Two leasehold houses, 37 and 38, Eastfield-street, let at 32*l*. per annum, less the rates of one house, term 65 years, ground-rent 4*l* —250*l*.

Three leasehold houses in John-street, Stepney, let at 51*l*. per annum, held for 28 years at a rent of 30*l*. per annum. The rates are paid by the vendor—85*l*.

By Messrs. HOGGART and NORTON, at the Mart.

A marine residence at Hastings, Sussex, called Hatton House, with offices, pleasure-ground, garden, and paddock, containing altogether about six acres, land-tax redeemed, and the tithes compounded at 30s. per annum—3,000*l*.

A messuage, No. 18, Great Ormond-street, held for a term which will expire at Midsummer, 1864, at the yearly rent of 6*l*.—410*l*.

A residence, No 8, Queen-square, held for 1,000 years from Lady-day, 1714, at a yearly rent of 12*l*.—1 490*l*.

A freehold house, No. 105, Hatton-garden, let on lease at 75*l* per annum—1,260*l*.

A ditto, No. 106, let on lease at 90*l*. per annum—1,440*l*.

A ditto, No. 107, let at 50*l*.—900*l*.

A ditto, No. 108, let at 52*l*. 10s. per annum—770*l*.

A ditto, No. 109, let on lease at 50*l* per annum—880*l*.

A ditto, No. 110, let at 60*l* —930*l*.

An annuity of 150*l*. being part of a pension of 500*l*. per annum, granted by the Honourable East-India Company, and payable during the life of a gentleman in his 46th year, charged with the annual payment of 2*l*. per cent. to the Widow's Fund, and also with the income tax of 7d. in the pound—820*l*.

THE MONEY MARKET.

	Sat.	Mon.	Tues.	Wed.	Thurs.	Frid.
Three per Cents. Consols	99¼	99¼	99¼	98¾	99¼	99¼
Three per Cents. Reduced	99¼	99¼	99½	99¼	99¼	99¼
New Three-&-a-quarter per Cts	101¾	102	102¼	102½	102¼	102½
Long Annuities........	11½	11½	11⅝	11⅝	11⅝	11⅝
Bank Stock	210½	210½	211	211½	211½	211
India Stock	279	279½	279	279½	279	270
India Bonds, prem.........	71	71	72	71	[illegible]	72
Exchequer Bills, prem.	54	55	56			
FOREIGN.						
Spanish Five per Cents....	26½	26½	26½	26½	26½	26½
Spanish Three per Cents. .	37½	37½	37¼	37½	37¼	37¼
Russian	118½	118½	119½	119½	119½	119½
Peruvian	12½	31¾	31	31½	33¼	—
Portuguese	64½	64½	64½	65¼	65	
Mexican	36½	36½	37	37	37	
——— Deferred	20½	20¼	19½	19¼	19½	
Dutch Two-and-a-Half per Cents.	62½	62¾	62½	62¾	62¾	
——— Four per Cents. ..	99½	98¼	99½	99¼	99½	
Danish	89½	89¾	89½	90½	90	
Colombian	17½	17½	17½	17¾	17½	
Chilian	100½	100½	100¾	100¾	101	
Buenos Ayres	45½	45½	45¾	48¾	46½	
Brazilian..............	90½	90½	90½	91	91	
Belgian	99½	99½	99½	99½	100	

CUSTOM-HOUSE SALES.—A question having been raised respecting the officers of the revenue assuming the duties of an auctioneer at the sales by auction at the various ports throughout the kingdom, at stated periods, of goods of various kinds which have been wrested from smugglers, or seized in consequence of some informality with regard to their importation and entry, or for being undervalued or otherwise, and which, as respects the port of London, took place once a quarter at the Commercial Sale-rooms, Mincing-lane, as to whether such officers should be required to take out licenses to enable them to perform the duties required of them in that capacity, the Lords Commissioners of the Treasury have made a communication to the Board of Excise, which has been transmitted to the collectors and comptrollers of Customs throughout the kingdom, for their information and government,—that they do not think it expedient that the officers employed in conducting sales by auction,

under the directions of the Commissioners of Customs, should be required to take out auction licenses for such purpose.

THE GAZETTES.

Gazette, July 4.

AMOUNT OF DIVIDENDS DECLARED.

The sum stated as the Dividend means so much declared in the Pound. The Assignees, when chosen, follow this statement.

Monday, July 7.

Searle, F. W. cheesemonger, last exam. passed.—*Tupper*, W. C. grocer, div. next week. Green, London.—*Yates*, J shipowner, last exam. passed.

Tuesday, July 8.

Cawthorn, W. jun. wine merchant, div. next week Groom, London.—*Halford* and *Co.* bankers, joint div. and sep. B. next week. Edwards, London.—*Lewis*, R. carman last exam. July 18.—*May*, S. watch manufacturer, div. next week. Groom, London.—*Taylor*, J. maltster, last exam. Aug. 12.

Wednesday, July 9.

Church, F. H. surgeon, last exam. Aug. 20.—*Dolesio*, C hotel keeper, div. next week. Follett, London.—*Reay* and *Reay*, wine merchants, joint div. next week. Penfold, London.

Friday, July 11.

Buisson, J. F. merchant, further div. next week. Groom, London.—*Cromfield*, A. scrivener, div. next week. Edwards, London.—*Currie* and *Co.* merchants, joint div. next week. Penford, London.—*Emmett* and *Co.* market gardeners, final div. next week. Groom, London.—*Faucett*, S. linen draper, last exam. July 21.—*Kipling* and *Co.* warehousemen, joint div. next week. Edwards, London.—*Macdonald*, A. merchant, last exam. Nov. 1.—*Smith*, J. ship broker, last exam. Aug. 9.—*Webb*, C. apothecary, div. next week. Edwards London.

Saturday, July 12.

M'Donell, G. wine broker, div. next week. Follett, London.

DIVIDENDS.

Bankrupts' Estates.

Official Assignees are given, to whom apply for the Dividends.

Alder, A. cloth manufacturer, final, ½d. Miller, Bristol.—*Ambrose*, W. timber merchant, third and final, 2⅞d. Miller, Bristol.—*Benbow*, R. timber merchant, final, 8½d. Follett, Liverpool.—*Brocklehurst* and *Co.* engineers, third joint, 3s. 2½d. second of Dircks, 15s. 7d. Turner, Liverpool.—*Clarke*, J. and G. carpet manufacturers, first of J. Clarke, 20s. Christie, Birmingham.—*Coleman* and *Co.* bankers, final, 0¾d. Bittleston, Birmingham —*Colnaghi*, M.H.L G. print seller, third, 10d. Groom, London. -*Drury*, W. S. ironmonger, first, 9s. 8d. Bird, Liverpool.—Ferguson, W. tea dealer, first, 2s. Turner, Liverpool.—*Golborne* and *Co.* wine merchants, sep. Dobbs 20s. Follett, Liverpool.—*Peters*, J. innkeeper, first, 3s. Green, London.

Insolvents' Estates.

Wilding, J. and G. general dealers, Leighton Buzzard, 6s. 5d.

ASSIGNMENTS

To Trustees for the benefit of Creditors.

Gazette, July 11.

Insall, W. auctioneer, Shipston upon Stour, June 12. Trusts. E. W. Wright, doctor of medicine, Shipston upon Stour, E. D. Ford, banker, Stratford upon Avon, and T. Ashwin, gent. Alveston. Sols. Hobbes and Slatter, Stratford upon Avon.—*Norfolk*, J. P. tailor, Bury Saint Edmunds, July 1. Trust. T. House, woollen draper. St. Paul's-church-yard. Sol. Salmon, Bury Saint Edmunds.—*Smith*, J. sen. farmer, Sudbury-common, Middlesex, June 21. Trusts. J. Fuller, cattle salesman, Slough, and C. Burrell, cattle salesman, Walthamstow. Sol. Smith, Barnard's-inn.—*Waller*, B. coach builder, Long-acre, June 5. Trusts. J. Collins, wheelwright, Middle-yard, Great Queen-street, and J. Parsons, coach lace manufacturer, Long-acre. Sol. Mardon, Christchurch-chambers, Newgate-street.

Gazette, July 15.

Degnan, P. gent. Southampton, July 8. Trusts. R. Driver, timber merchant, Southampton, and D. Jackson, gent. Romsey. Sol. Edwards, Southampton.—*Peake*, J. miller, Tolleshunt Knights, Essex, June 24. Trusts. C. Everett, miller, Feering, and J. T. Argent, miller, West Bergholt. Sol. Bickmore, Kelvedon.—*Pritchard*, H. victualler and shopkeeper, Oldswinford, Worcestershire, July 9. Trust. J. Alcock, grocer, Stourbridge. Sol. Collis, Stourbridge.

Bankrupts.

DATE OF FIAT AND PETITIONING CREDITORS' NAMES.

Gazette, July 11.

BURLEIGH, WILLIAM, scrivener, Haverhill, Suffolk, July 19, at half-past eleven, Aug. 22, at twelve, Basinghall-st. Com. Fonblanque; Belcher, off. ass.; Holmes, Liverpool-st. and Jardine, Stoke, near Halstead, Essex. Date of fiat, July 5. W. R. Beavan, H. J. Oakes, and R. Beavan, bankers, Sudbury, pet. crs.

DAVENPORT, JOHN, wholesale hosier and commission agent, Little Love-lane, July 22, at half-past twelve, Aug. 11, at one, Basinghall-st. Com. Holroyd; Edwards, off. ass.; Watson, Winchester-buildings, sol. Date of fiat, July 7. Bankrupt's own petition.

DOW, JOHN ARCHER, draper, Romford, Essex, July 19, at half-past one, Aug. 23, at one, Basinghall-st. Com. Goulburn; Follett, off. ass.; Bristow and Tarrant, Bond-court and Greenwich, sols. Date of fiat, July 3. W. M. Morley and E. Sorrell, warehousemen, Basing-lane, pet. crs.

EASTWOOD, THOMAS, grocer and cheesemonger, Brighton, July 17, at eleven, Aug. 23, at one, Basinghall-st. Com. Goulburn; Green, off. ass.; Stevens and Co. Queen-st. sols. Date of fiat, July 1. J. and C. Ruck, cheesemongers, Duke-st. Southwark, pet. crs.

ELPRICK SAMUEL, victualler, Green Dragon, Bermondsey-street, July 18, at two, Aug. 22, at twelve, Basinghall-st. Com. Fane; Alsager, off. ass.; Pyke, Lincoln's-inn-fields, sols. Date of fiat, July 2. H. Young, T. D. Bainbridge, and D. Menzies, distillers, Holborn, pet. crs.

FARROW, JOHN, draper and grocer, Stanton, near Bury St. July 23, at one, August 22, at eleven, Basinghall-st. Com. Holroyd; Groom, off. ass.; Soles and Turner, Aldermanbury, sols. Date of fiat, July 2. H. W. Castle, J. Jones, and J. Wortley, warehousemen, Love-lane, pet. crs.

FILBEY, JAMES, licensed victualler, Egham, Surrey, July 21, at one, Aug. 11, at twelve, Basinghall-st. Com. Holroyd; Groom, off. ass.; Lloyd, Milk-st. sol. Date of fiat, July 7. Bankrupt's own petition.

FORTH MARINE INSURANCE COMPANY, underwriters, 16, Bishopsgate-st. Within, July 21. at half-past eleven, Aug. 22, at one, Basinghall-st. Com. Fonblanque; Pennell, off. ass.; Ellis, Cowper's-court, Cornhill, sol. Date of fiat, July 2. G. Willis, ship builder, Scarborough, pet. cr.

HAVARD, JOHN, lamp maker, 59, Brook-st. Bond-st. July 17, at half-past twelve, Aug. 22, at half-past one, Basinghall-st. Com. Fane; Whitmore, off. ass.; Hodgson, Red Lion-sq. sol. Date of fiat, July 7. J. Slater, Denmark-st. Soho, gas fitter, pet. cr.

LOVELL, THOMAS, dealer, Henstridge-marsh, Somerset, July 28 and Aug. 22, at twelve, Bristol, Com. Stephen; Hutton, off. ass.; Poole and Gamlen, Gray's-inn, and Chandler, jun. Sherborne, sol. Date of fiat, July 1. B. Chandler, Sherborne, and S. Pretor and D. Penny, his co-partners, bankers, pet. crs.

PARSLEY, WILLIAM, hat and cap maker, 62, Powis-st. Woolwich, July 18, at half-past one, Aug. 22, at eleven, Basinghall-st. Com. Fane; Alsager, off. ass.; Hughes, Chapel-st. Bedford row, sol. Date of fiat, July 8. Bankrupt's own pet.

RAWE, WILLIAM HAWARD, currier and leather seller, North-st. Portsea, July 17 and Aug. 19, at two, Basinghall-st. Com. Fane; Whitmore, off. ass.; Messrs. Clarke, Bishopsgate Church-yd. sol. Date of fiat, July 2. Bankrupt's own pet.

SHORLAND, JOHN, grocer, Bristol, July 25, at twelve, Aug. 22, at one, Bristol, Com. Stevenson; Acraman; off. ass.; Cross and Co. Bristol, sols. Date of fiat, July 7. F. H. Tucker, tea-dealer, Bristol, pet. cr.

THORN, JOSEPH, paper hanger, plumber, painter, and glazier, New Brentford and Great Ealing, July 23, at half-past twelve, Aug. 11, at half-past one, Basinghall-st. Com. Holroyd; Groom, off. ass.; Sloan, Middle Temple-lane, sol. Date of fiat, July 5. J. H. Fillyer, oilman, New Brentford, pet. cr.

Gazette, July 15.

COOKE, HENRY, painter and paper hanger, Liverpool, July 29 and Aug. 22, at eleven, Liverpool, Com. Phillips; Morgan, off. ass.; Vincent and Sherwood, Temple, and Jones, Liverpool, sols. Date of fiat, July 8. Bankrupt's own petition.

HAIGH, BEN, otherwise BENJAMIN, manufacturer, Dob Cross, chapelry of Saddleworth, west riding of York, July 28 and Aug. 18, at eleven, Leeds. Com. Boteler; Fearne, off. ass.; Emmett and Allen, Bloomsbury-sq. and Messrs. Alexander, Halifax, and Courtenay, Leeds, sols. Date of fiat, July 2. R. Cunliffe, baker, 21, Highbury-pl. Islington, pet. cr.

EA, JOHN, the younger, wine and spirit merchant, Liverpool, July 29 and Aug. 22, at twelve, Liverpool, Com. Phillips; Cazenove, off. ass.; Vincent and Sherw Temple, and Brabner and Co. Liverpool, sols. Date of fiat, July 8. Bankrupt's own petition.

ROBINSON, JOHN, spirit merchant, Beverley, York, July 28 and Aug. 18, at eleven, Leeds, Com. Boteler; Fearne, off. ass.; Lamber, John-st. Bedford-row, Shepherd and Myers, Beverley, and Payne and Co. Leeds, sols. Date of fiat, July 5. Bankrupt's own petition.

ROBSON, WILLIAM, grocer, tea dealer, and cheesemonger, High-st. Chipping Barnet, Herts, July 30, at two, Aug. 26, at one, Basinghall-st. Com. Holroyd; Edwards, off. ass.; Sadgrove, Mark-lane, sol. Date of fiat, July 12. Bankrupt's own petition.

TAYLOR, THOMAS DOWNES, oilman, 38, Brook-st. Holborn, July 21, at eleven, Aug. 26, at twelve, Basinghall-st. Com. Fonblanque; Pennell, off. ass.; Berkeley, Lincoln's-inn-fields, sol. Date of fiat, July 11. G. Bishop and B. Pell, distillers, Ropemaker-st. pet. crs.

PARTNERSHIPS DISSOLVED.

Gazette, July 8.

Arbouin, J. jun. *Butcher*, T. and *Blease*, A. W. wine brokers, Mark-lane, June 30. Debts paid by Arbouin and Butcher.—*Baily*, J jun. and *Baily*, W. farmers, Haywood Oaks and Mansfield Woodhouse, Notts, March 25.—*Batt*, C. and *Conquest*, G. millers, Newport, Isle of Wight, July 5.—*Bowler*, J. sen. and *Bowler*, J. hat manufacturers, Bridge-st. Southwark, July 5.—*Cross*, T. and *Aspinall*, J. nankeen manufacturers, Whitefield and Manchester, June 30. Debts paid by Aspinall.—*Douthwaite*, G. and *Bowen*, W. wholesale jewellers, Castle-st. Holborn, July 2.—*Fadeune*, W. D. and E. machine rulers, Maidenhead-court, Aldersgate-lane, June 30.—*Grafton*, E. and *Twining*, M. A. confectioners, Gloucester, July 3.—*Graham*, T. *Fisher*, H. and *Darwen*, T. cotton manufacturers, Chorley, as far as regards Darwen, July 8. Debts paid by Graham and Fisher.—*Halstead*, W., H., and B. woollen cloth manufacturers, Engine-bridge-mill, near Huddersfield, so far as regards W. Halstead, June 23. Debts paid by the remaining partners.—*Holt*, W., E., and J. wool merchants, Leeds and Berlin, so far as regards W. Holt, April 1.—*James*, I. and *Tottle*, J. W. merchants, Gresham st. July 5.—*Johnson*, R. *Bulmer*, W. and *Johnson*, J. warehousemen, Watling-st. so far as regards Bulmer, July 7.—*Monk*, T. and *Booth*, F. surgeons, Preston, July 3. Debts paid by Booth.—*Moore*, J. and *Gudgin*, J. farmers and seedsmen, Stratford and Sandy, Bedfordshire, July 1. Debts paid by Moore.—*Nash*, H. and *Howkins*, L. chymists, Norwich, June 30.—*Paterson*, G. D. *Leach*, G. *Somerset*, A. E. and *Woolcombe*, T. Patent Wood Works, Truro, so far as regards Paterson, June 28. Debts paid by the remaining partners.—*Roberts*, E. and *Grainger*, R. plasterers, Manchester, July 5.—*Sharp*, T., J., W. C., and J. jun. muslin manufacturers, Paisley and London, so far as regards T., J., and W. C. Sharp. June 70.—*Swinden*, W. and G. P. law-stationers, Liverpool, July 5.—*Thomas*, J. jun. and M. A. grocers, Northwich, July 3.—*Tiddeman*, F. A. and *Guthrie*, R. iron merchants, Purfleet-wharf, Earl-st. Blackfriars, July 3.—*Wagstaffe*, M. F. and W. C. T. surgeons, Long-lane, Southwark, and Walcot-pl. Lambeth, July 7. Debts paid by M. F. Wagstaffe.—*Walmsley*, J. and *Turnbull*, J. painters, Manchester, July 2. Debts paid by Turnbull.—*Westbrook*, J. C. and *Isaac*, H. booksellers, ——ton, June 24. Debts paid by . and *Quinn*, B. M. milliners, Debts paid by Wilkins and Quinn.

Gazette, July 11.

Baker, B. and *Earl*, J. S. statuaries, Huyton and Liverpool, June 21. Debts paid by Baker.—*Belloni*, F. and *Primavesi*, J. watchmakers, Warminster, Dec. 31. Debts paid by Primavesi.—*Bigge*, T. *Bridge*, J. G., T., R., and A. C. and *Bigge*, C. R. jewellers, Ludgate-hill, May 30.—*Crosland*, S. and *Crowther*, J. corn millers, Elland, July 8.—*Crowther*, A. and *Crowler*, W. I. R. wine merchants, Wakefield, May 31.—*Fitch*, M. and *Newell*, O. patent salt manufacturers, Chelmsford, July 8.—*Gaden*, T. and *Adey*, W. L. C. and W. (deceased), timber merchants, Poole, July 4. Debts paid by W. L. C. Adey.—*Goldthorp*, J. and *Rhodes*, J. jun. worsted spinners, Wakefield, June 30. Debts paid by Goldthorp.—*Greenwood*, J. *Clough*, H. *Turner*, R. and *Kershaw*, J. (deceased), coach proprietors, Manchester, Cheetham-hill, Broughton, Bury, Radcliffe, Heywood, and Middleton, so far as regards Kershaw, May 11. Debts paid by the remaining partners.—*Hindes*, A. and *Thompson*, J. stock brokers, Leeds, or elsewhere, July 9.—*Ingledew*, T. and *Cattley*, S. W. wholesale grocers, Upper Thames-st. July 8. Debts paid by Cattley.—*James*, R. and *Edwards*, W. Middle-row, Holborn, July 10. Debts paid by Edwards.—*Jones*, J. *Price*, J. J. *Williams*, D. bankers, Builth, Brecon, July 7.—*Lord*, G *Rolfe*, W. H. and *Izod*, J. M. wine merchants, George-yd. Lombard-st. and wine fining makers, Great Tower-st. June 30.—Debts paid by Rolfe.—*Kneebone*, W. and *Partridge*, G. livery-stable keepers, Plymouth, June 20. Debts paid by Partridge.—*Miller*, W. and W. C. stone masons, Grantham, July 5.—*Peniston*, Jos., John, and T. cloth finishers, Leeds, July 7.—*Tuphouse*, W. and *Lovesay*, W. smiths, July 10.—*Thurstan*, M. and *Burley*, E. grocers, Darlaston, July 8. Debts paid by Thurstan.—*Todd*, J. H. and *Walters*, T. attorneys, Winchester, July 1.—*Woolley*, J. and *Mason*, J. tobacco manufacturers, Sheffield, July 9. Debts paid by Woolley.—*Yearsley*, J. and *Bousfield*, W. wine merchants, St. Mary-at-Hill, Tower-st. July 8.

Insolvents

Petitioning the Courts of Bankruptcy.

PETITIONS TO BE HEARD AT BASINGHALL-STREET.

Gazette, July 8.

Blake, T. meat salesman, Walcot-square, Lambeth, and Newgate-market, July 23, at twelve.—*Clarke*, J. B. out of business, Queen's-road, Mile-end, July 23, at one.—*Clarke*, W. L. paper hanger, Princes-street, Lisson-grove, July 9, at one.—*Cross*, W. H. student, Chesterton, July 12, at eleven.—*Ehrenfest*, M. dealer in jewellery, Thornhill-place, Pentonville, August 2, at eleven.—*Flynn*, D. tailor, Addle-hill, July 12, at half-past twelve.—*Giles*, H. tin-plate worker, Lumber-court, Seven-dials, July 11, at half-past twelve.—*Hussey*, T. out of business, Charlotte-street, Portland-place, July 23, at one.—*Lavander*, J. coal basketman, Woolwich, July 23, at twelve.—*Nicholls*, W. carman, Adam's-mews, Edgware-road, Aug. 2, at eleven.—*Phillipson*, W. commission agent, Retreat-place, Hackney, July 12, at twelve.—*Rye*, G. publican, Canterbury, July 12, at half-past eleven.—*Slevin*, P. assistant surgeon, of the cutter *Raven*, on the Sheerness station, August 2, at eleven.—*Tarry*, T. S. W. maltster, out of business, Mornington-street, Mornington-crescent, July 23, at one.—*Wall*, W. fruit salesman, Exeter-street, Strand, and Covent-garden-market, July 11, at twelve.—*Welch*, H. cowkeeper, Brecknock-place, Camden-town, August 2, at eleven.—*Willmott*, T. cabinet maker, Gilbert-street, Grosvenor-square, August 2, at eleven.

COUNTRY.

Gazette, July 8.

Bennett, J. framework knitter, July 15, at ten, Birmingham.—*Brown*, J. H. surgeon, Manchester, July 22, at twelve, Manchester.—*Cleaves*, J. coal miner, High Littleton, July 28, at twelve, Bristol.—*Garside*, J. butcher, Halifax, July 30, at eleven, Leeds.—*Greaves*, S. lieutenant, Llandrino, July 13, at eleven, Liverpool.—*Thwaites*, S. small shopkeeper, Pontefract, July 30, at eleven, Leeds.—*Wheeler*, J. butcher, Frome Selwood, July 31, at eleven, Bristol.

MEETINGS AT BASINGHALL-STREET.

Gazette, July 8.

Pounds, J. bootmaker, Portsmouth, July 31, at eleven, aud. and div.

MEETINGS IN THE COUNTRY.

Gazette, July 8.

Bennett, W. brewer, Macclesfield, July 31, at twelve, Manchester, aud.—*Poole*, W. G. accountant, Liverpool, July 29, at twelve, Liverpool, div.

PETITIONS TO BE HEARD AT BASINGHALL-STREET.

Gazette, July 11.

Brett, J. bricklayer, Crouch-end, Aug. 2, at eleven.—*Cathery*, W. victualler, Portsmouth, July 14, at twelve.—*Golborne*, J. farmer, Welcham, Isle of Ely, July 24, at eleven.—*Hobbs*, R. M. out of business, St. Ann's-hill, Wandsworth, Aug. 2, at eleven.—*Rosenberg*, C. engraver, St. Mark's-road, Kennington, July 14, at eleven.—*Smith*, R. hair dresser, Great Marlow, July 14, at half-past eleven.—*Waters*, S. tailor, Hoveton Saint John, Aug. 2, at eleven.

IN THE COUNTRY.

Gazette, July 11.

Durkham, O. butcher, Newport, July 22, at eleven, Bristol.—*Henderson*, J. Tuscan hat manufacturer, Pontypool, July 29, at eleven, Bristol.—*Norton*, S. butcher, Liverpool, July 18, at eleven, Liverpool.—*Radford*, J. out of business, Belper, July 25, at half-past ten.—*Stones*, V. out of business, Manchester, July 25, at one, Manchester.—*Trimble*, G. grocer, Liverpool, July 18, at eleven, Liverpool.—*Wilkes*, J. file maker, Darlaston, July 19, at half-past ten, Birmingham.—*Wilson*, J. printer, Bideford, July 25, at one, Exeter.

From the Gazette of Friday, July 18.

Bankrupts.

Collyer, J. W. victualler, Newgate-street.—*Bromwich*, H. grocer, Leamington Priors, Warwickshire.—*Smith*, E. and R. and *Swann*, J. provision dealers, Woodhead, Cheshire.—*Green*, R. Jeweller, Bristol.—*Hansen*, P. merchant, Newcastle-upon-Tyne.—*Sugden*, J. and W. machine makers, Leeds.—*Wadley*, T. broker, Liverpool.—*Evans*, J. ironmonger, Liverpool.—*Spencer*, J. jun. builder, Liverpool.—*Parry*, D. currier, Ruthin, Denbighshire.

CONTENTS.

THE REPORTS.

Equity Courts.

LORD CHANCELLOR'S COURT.

Wednesday, July 16.

Re FORSYTHE, a Bankrupt.

Costs of petitioning creditor where assets insufficient—Payments to Secretary of Bankrupts and Accountant-General under 1 & 2 Wm. 4, c. 56.

Faber applied for an order that the Secretary of Bankrupts and the Accountant-General should be directed to refund the sums of 10*l*. and 20*l*. respectively paid under the 45th and 46th sections of the 1 & 2 Wm. 4, c. 56, and which were thereby directed to be paid "*out of the first moneys that shall come to the hands*" of the official assignee. By the 14th section of the 6 Geo. 4, c. 16, the assignees were directed to reimburse the petitioning creditor his costs "out of the first money that shall be got in under the commission." The whole of the estate of the bankrupt had been seized under an execution, which had been contested by the assignees, but finally held to be valid. The petitioning creditor's costs had therefore remained unpaid, and the present application was made to enable the assignees to pay those costs.

The LORD CHANCELLOR.—I cannot order the sums paid under the Act of 1 & 2 Wm. 4, c. 56, to be refunded. There is no such power granted by the Act. *Application refused.*

Friday, July 18.

Re ———, a Bankrupt.

Fiat annulled—Refunding fees paid under Act of 1 & 2 Wm. 4, c. 56.

Wright applied that the two sums of 10*l*. and 20*l*. paid under the Act of 1 & 4 Wm. 2, c. 56, ss. 45, 46, in this bankruptcy should be repaid. There were no assets got in under the bankruptcy, and both sums had been paid by the petitioning creditor out of his own funds. Subsequently the fiat had been annulled, and the affairs agreed to be wound up under a trust deed. The money differed from the case of *Forsythe* (the preceding case) in this material particular, that money paid was not the money of the bankrupt, but of the petitioning creditor. There had never been any estate in the hands of the assignees, and the bankruptcy was now at an end.

The LORD CHANCELLOR.—Under such circumstances, I think there can be no objection to order the fees to be refunded. *Order made.*

Re BARIATINSKY, a Lunatic.

Interim committee of the person—Reference to the commissioner to appoint permanent committee—Delay by the interim committee in acting upon suggestions made by the Lord Chancellor—Practice in lunacy.

Walpole supported a petition by Lord Sherborne and Miss Dutton, the interim committee of the person of the lunatic, for leave to pay into court two sums of money which had been found to be the property of the lunatic, and also to deposit with the Accountant-General, or some other proper officer of the court, a case of pearls of the value of 2,577*l*. also found to be part of the lunatic's estate.

The LORD CHANCELLOR.—What has been done to carry out the suggestions I made as to the mode of treatment pursued towards this lady? It would seem, from what I understand, that matters remain just as they were.

Walpole.—A proposition has been lately brought into the commissioner's office, which is now under consideration, and will soon come before the Lord Chancellor.

The LORD CHANCELLOR.—What is the nature of that proposition?

Walford, for the next of kin, stated he had not seen the proposal, but he had been informed that it related only to the question of maintenance.

The LORD CHANCELLOR.—That does not meet the view I took of the case. If there is any improper delay in carrying out my suggestions, the next of kin have the remedy in their own hands. Lord Sherborne and Miss Dutton had merely been appointed interim committee of the person, and a petition might now be presented by the next of kin for the appointment of a permanent committee.

The order for payment into court, &c. was then made.

On a subsequent day, *Stuart*, for the next of kin, asked that a petition which they had presented for the appointment of a permanent committee might be answered immediately, and an early day appointed for hearing it, to which his lordship acceded.

VICE-CHANCELLOR OF ENGLAND'S COURT.

Wednesday, June 25.

TURQUAND *v.* KNIGHT.

Fraudulent assignment—Liability of trustee to costs—Stat. 2 Vict. c. 29.

Where there has been a fraudulent conveyance, the trustee of such conveyance must pay his own costs, notwithstanding he may have been ignorant of the fraud at the time of the conveyance, and afterwards gave notice of it to the parties interested, he being a party to the deed itself which stated the receipt of the trust-money by him, and also the payment of it by him, when in reality no money ever passed in the transaction at all, and of which he must be presumed to have been aware.

By a certain indenture, bearing date the 20th day of March, 1840, John Chamberlain, in consideration of 400*l*. alleged to have been paid by one John Knight, assigned certain leasehold property to the said J. Knight. By another indenture, bearing date the day following, after reciting that the sum of 400*l*. mentioned in the former deed was not the proper money of John Knight, but of Elizabeth Chamberlain, wife of the said John Chamberlain, and part of her estate limited to her separate use, John Knight thereby declared that he would stand possessed of the said leasehold estates upon certain trusts therein mentioned, for the benefit of Elizabeth Chamberlain and her children. In the month of April, 1840, John Chamberlain went over to Australia; and in May 1840, a fiat having issued against him, he was declared a bankrupt, and the assignees filed the present bill against John Knight and Mrs. Chamberlain, to have the above-mentioned indentures declared fraudulent and void. The Court had accordingly declared them to be so, and a question now arose as to the defendant Knight's costs. In his answer J. Knight stated that he was ignorant of Chamberlain's insolvency at the time when he was called upon to execute the two indentures, and that he executed them at the request of Chamberlain, whose sister he had married. He admitted that he never had in his possession or paid the sum of 400*l*. the consideration-money mentioned in those instruments. He stated, however, that as soon as he had received information of Chamberlain's misconduct he had given notice to the assignees of the existence of these indentures, and the circumstances under which he was called upon to execute them; and it was admitted by the plaintiffs that he had given them information and assistance in the matter. There was a clause in each of the instruments that Knight had paid the 400*l*. to Chamberlain, and in the latter deed that Knight had received it from Mrs. Chamberlain.

Stuart and *Piggott*, for the plaintiffs, under the authority of *Townsend* v. *Westacott* (2 Bea. 340), contended that the conduct of Knight had been such as would totally prevent the Court from allowing him his costs.

Bethell and *Oliver*, for the defendant Knight, relied upon the admission on the other side, that he had given them all the information and assistance in his power, and that as against him the bill only prayed that he might assign the property and deliver up the deeds; and that the sole object of making him a party was to obtain a re-assignment of the property. (*Norcutt* v. *Dodd*, Cr. & Phill. 100.)

Hallett, for Mrs. Chamberlain.

Stuart, in reply.

The VICE-CHANCELLOR.—It seems to me that the defendant, J. Knight, by acknowledging the receipt of the 400*l*. which he knew was quite false, has himself committed an act which has not only afforded a countenance to the fraud, but has made him a party to it. Now, had there been merely an assignment, and the question was whether or not he should re-assign, I should in such a case have come to the conclusion that he ought to have his costs, because the statute, 2 Vict. c. 29, renders the assignment void, and you have asked him to assign. If that had been all, and because you elect to consider him a trustee of an estate which he ought to assign, you should pay his costs. But when he goes out of his way, and is not merely a passive recipient of the property in question, but gives colour to the transaction by acknowledging the receipt of money, there appears to be such misconduct and impropriety in this trustee, that he ought to bear his own costs.

ROLLS COURT.

Monday, June 30.

WESTENRA *v.* GREGORY.

Will—Construction—Accruing shares, how to be taken.

Whether an accrued share passes with the original share under the clause of accruer.

The plaintiff in this case was John Craven Westenra, a colonel in the army. On his marriage with Lady East, the widow of Sir John East, a marriage settlement was made, whereby certain property belonging to Lady East was settled so as to give her the absolute interest therein for life, and a power of disposition by will. This power she exercised by a will dated February 1837, whereby she gave her husband, Colonel Westenra, the interest of the money for life, or until he should marry again; and after his death or second marriage, she directed her trustees to divide the fund in equal shares among her four nieces—viz. Mrs. Bowler, Mrs. Woolley, Miss Emily Raitt (afterwards Mrs. Legh), and Miss Caroline Martha Raitt; and she declared that, "if any of my said nieces shall die before my said husband, J. C. Westenra, or before she or they has or have become entitled to her or their respective distributive share or shares of the said principal moneys, parliamentary or real securities, hereinbefore by me given to her or them, without leaving lawful issue of her or their bodies them surviving, then I give and bequeath the part or share, parts or shares, of her or them so dying without issue, to such of my said nieces as shall then be surviving, to be equally divided between them, at such time or times as her or their original share shall become payable; and if there shall be only one of my said nieces so surviving as aforesaid, then I give and bequeath the whole of the principal moneys, parliamentary or real securities, to such niece, her executors, &c."

After the testatrix's decease, Colonel Westenra married a second time, and thereupon the fund became divisible among the four nieces of the testatrix. Mrs. Woolley having died before the testatrix, without issue, her share went over to the other three by the express words of the will; and Mrs. Legh having died, without issue, after the testatrix, and before the period of distribution, her original share passed to the remaining two; but there was some doubt as to whether her accrued interest in the share of Mrs. Woolley should also pass, or go to her personal representative. To determine that question the present bill was filed.

Kindersley, for the plaintiff.

Turner (with him *Rogers*), for Mrs. Bowler.—There is no doubt as to the share of Mrs. Woolley passing to the other three; but I contend also that, on the death of Mrs. Legh, her share, as well original as accrued, passed to the remaining two. The fund is treated as an aggregate fund, and the whole was to go over to the survivor, if there should be but one, which could not be the case unless the accrued shares should also pass as well as the original. (*Sillick* v. *Booth*, 1 You. & Coll. C. C. 121; *Pain* v. *Benson*, 3 Atk. 78; *Worlidge* v. *Churchill*, 3 Bro. C. C. 465.) The words "part or share, parts or shares," included all they took, both original and accrued.

H. Stevens, for Caroline Martha Raitt, cited *Eyre* v. *Marsden* (2 Kee. 564); 2 Jarman on Wills, 622, and the cases there cited.

G. L. Russell, for Mr. Legh, the husband and representative of Mrs. Legh.—There is no lapse of Mrs. Woolley's share, because the express words of the will apply in this as well as in Mrs. Legh's case. But there are no express words which give over the original as well as the accrued shares of Mrs. Legh upon her decease, the words "part or parts," &c. applying only to the original shares. The word "whole," however, in the last clause, relating to a single survivor, does seem to favour the passing of accrued shares.

The MASTER of the ROLLS.—I cannot construe it in any other way. Both original and accrued shares pass to the two surviving nieces.

April 10 and 23, and June 30.

LETHBRIDGE *v.* CHETWODE.

Non-performance of trusts—Making good to a trust-fund the amount of dividends required by a settlement thereof to be accumulated on a certain event.

The object of the proceedings in this case was to set

right certain improper dealings with a trust-fund in respect of which the trustees had not received the sums they were entitled to by their trust. By a marriage settlement made on the marriage of Miss Ludford with the Rev. Francis Bickley Astley, certain property was vested in trustees (of whom Sir Thomas Lethbridge, the plaintiff, is the survivor), in trust for the husband and wife, and their children, as they should appoint, &c. Part of it [illegible] 5,000*l.* [illegible] by Mr. Astley's father; but there was a proviso, that if Mr. Astley should be presented to the living of Everley, he should cease to receive the dividends thereof, and the trustees should thereafter add them to the trust-fund by way of accumulation, for the benefit of the children. Mr. Astley was appointed to the living in 1830, but continued to receive the dividends, having effected two policies of insurance on his life amounting to a considerable sum, which he appropriated to the benefit of his children, and in [illegible] thereof applied the dividends, as he conceived he might, to his own use. A loan had been declared on the policies, but he had not applied it to the reduction of the premiums. The 5,000*l.* was only paid to the trustees of the settlement in 18[illegible] by Mr. Astley's father's executors, though he had received interest all along. Under these circumstances, the question was, how the amount due should be made good to the trust-fund, without depriving Mr. Astley of too large a portion of his income. It was asked that new trustees should be appointed, that the fund should be made good, &c. A petition was also presented, praying that Mr. Astley should be repaid a certain sum advanced to buy one of the sons a commission, &c.

Turner and *[illegible]*, for the petition.

K[illegible], for the plaintiff.

Cooper, for the defendants.

It was ultimately arranged that Mr. Astley should assign a certain [illegible] sum, and that of the seven children of the marriage, five who were of age should charge their shares. [illegible]

June [illegible] *and July* 3.

CROSSKILL *v.* TUXFORD.

Patent—Injunction—Action at law.

A trial at law to an [illegible] the plaintiff [illegible] the defendant [illegible] the party [illegible] him on [illegible] a second trial [illegible] who is [illegible] the patent [illegible] the extent of [illegible] his [illegible] ing its [illegible]

Neither will the [illegible] be put upon [illegible] of [illegible] the patent, the pl[illegible] his principal defence against [illegible] an injunction to restrain him from making or selling the machine [illegible] the infringement [illegible] of the invalidity of the patent, because of the [illegible] on the same principle.

An account ordered [illegible] by the defendant, instead of an injunction, [illegible] to apply.

This was a motion for an injunction to restrain the defendants, Messrs. Tuxford and Co., from making or selling a machine for rolling land and crushing clods, which it was [illegible] was constructed on the same principle as a like [illegible] for which the plaintiff had taken out a patent in September, 1841. The patented machine consisted of a number of wheels revolving side by side on a [illegible] axle, but separate and independent of each other. On the outer surface of the wheels there were teeth fixed, not in the direction of the radius, but inclined to it, so as, in revolving, to come down [illegible] on the clods of earth. There were also side teeth on the wheels, which had the effect of [illegible] crushing clods coming between the wheels. The defendant's machine was also constructed with wheels moving on the same axle, but they were bound together in bundles of four, six, &c., and there were no side teeth. The plaintiff brought an action [illegible] of his patent, and applied for the injunction accordingly. He had also brought an action at [illegible] on the 31st of August, 1841, against one G[illegible] for an infringement of the patent, and was successful on all the pleas put in by him; and Mr. Justice Cresswell, before whom the case was tried, certified that the question of the validity of the patent came before him on the merits, a [illegible] a new trial was afterwards refused; and an injunction was then granted in this court. Other infringements were also committed by several other persons, but in every case they yielded to the plaintiff's demand before [illegible] action. The plaintiff therefore considered himself confirmed in the enjoyment of his patent.

Kindersley (with him *[illegible]*) contended that the instruments were exactly the same in principle, the only difference being that in place of one wheel there were several [illegible] together; but the bundles [illegible] independently of each other [illegible] single wheels in the other [illegible] the [illegible] and the plaintiff [illegible] of it undisturbed.

[illegible] (with *[illegible]* of *Turner*) contended that the defendant's machine was not an infringement of

the plaintiff's patent, and even if it were, the patent was bad, as other machines had been constructed on the same principle long before. The specification did not claim any single part—either the side teeth, the rings, or wheels rolling on the same axle but separate and independent, or any of the other parts, for they had all been in use before, and therefore could not *per se* be patented; but it claimed the combination of all the parts. Now nothing can be an infringement which affects only the parts and not the combination, as is evident from the case of *Crane* v. *Price* (Webst. Pat. Cas. 408). There the use of the hot blast and of anthracite coal was known before, but only separately; and the patent being for the combination, persons, after it was taken, were nevertheless at liberty to use the parts separately as before. But even if it be an infringement, the patent is bad, as there were machines, constructed on the same principle as that in question, in use long before. A fluted roller was constructed by the defendants in [illegible], which was the same, if the longitudinal [illegible] cut into teeth. Another, made in July 1841, was a wooden cylinder, with independent serrated rings, which were fastened by two iron bars or rods running along the surface of the cylinder. These rods being broken, were afterwards disused, and the machine was then the same as the plaintiff's.

Kindersley, in reply.—[The MASTER of the ROLLS intimated that there must be a trial at law; and the question was as to an injunction, or an account being kept by the defendants in the meantime. The latter was agreed to.] Then, as to the form of the action, as they say the patent is bad, let them bring a *scire [illegible]* and try that question. [The MASTER of the ROLLS.—They cannot be obliged to establish your right against the Crown; it can be of no use to them.] Well, then, let there be a restriction put upon the subject-matter of trial. We have a former adjudication on the validity of the patent, and it is useless to try that again.

The MASTER of the ROLLS.—They cannot be bound by what took place in a case in which they were not parties.

It was then agreed that the trial should take place in [illegible].

Thursday, July 3.

THOMAS [illegible] GWYNNE.

P[illegible] applied again in this case, reported 5 T. 327, and produced an affidavit that the [illegible] order was shewn when a true copy was served on the infant; and an attachment was now granted.

Thursday, June 26.

Re WALTERS.

Taxation of solicitor's bill—Parliamentary agent's charges—Omissions—Addition to—[illegible] Geo. 4, c. 64.

After the delivery of his bill, a solicitor may supply an omission or correct a mistake, but there must be clear and unequivocal proof that it [illegible] mistake, it will not do to [illegible] on taxation [illegible] about to be [illegible] one-sixth, then [illegible] to apply to add to [illegible]

A solicitor who can, [illegible] some instances [illegible] the parliamentary agent's fee instead [illegible] his [illegible] bill [illegible]

Mistakes and omissions [illegible] solicitor's bill as [illegible] parliamentary agent's [illegible] must be clearly p[illegible] to be such before any [illegible] can be allowed.

Quære, whether the petitioner [illegible] to [illegible] &c. ought not to [illegible] the particulars intended to be added.

This was an application by Mr. Walters, a solicitor, for leave to deliver another bill of costs, for the purpose of supplying omissions in and making additional charges to his bill of costs already delivered. Mr. Walters had been employed by the corporation of Swansea in conducting a suit, and also in obtaining an Act of Parliament for local purposes. In obtaining the Act he employed Messrs. Gregory and Faulkner as his parliamentary agents, and, on the completion of the business, they delivered their bill of costs, amounting to about 1,200*l.* Mr. Walters then delivered to the corporation two bills of costs: one incurred in conducting the suit, amounting to 125*l.* and the other in obtaining the Act, amounting to [illegible] 80*l.* inclusive of the parliamentary agents' charges. An order was obtained on the [illegible] of October last for taxing the first bill, and a like order on the 21st of the same month for taxing the second bill; and they were referred to the Taxing Master on the 2nd of November. The taxation had proceeded before the Master so far as that his certificate only was wanted to complete it, when the present petition was presented with reference to the bill of 2,280*l.* This consisted of two parts; one, Walters's own charges, and the other, the parliamentary agents', in both of which however, omissions were sought to be supplied, and in both, it was said, there were undercharges. The agents' charges were, it was said, by mistake less in several instances than those allowed by the parliamentary scheme under the 7 & 8 Geo. 4, c. 64, and in some instances there were omissions. For example, 2*l.* 2*s.* is the charge for attendance at the

houses of Parliament, and less was charged, and 5*l.* 15*s.* 6*d.* a retainer to Mr. Austin, and 10*l.* 10*s.* to the queen's printer, were omitted. As to Mr. Walters's own part of the bill, he had only charged as solicitor, and he now desired to add parliamentary agent's fees in cases where he had himself acted. The bills had been taxed so as to have one-sixth taken off, when, by the addition of an item which the Taxing Master allowed, the scale was turned the other way; but the item in question is disputed.

Turner (with him *Selwyn*), for the petition.—Mr. Walters had delivered the bills without charging sums which he was entitled to charge by the Act of Parliament. The Act is binding on all, and Mr. Walters has no choice; he has omitted sums actually out of pocket, and other sums are less than those to which he is entitled. This appears upon affidavits.

The MASTER of the ROLLS.—Was he so entitled when he delivered the bills? It is material to know that the business has been done; that the right to charge was not known; that if he had known it, he would have insisted on his right, and that if he had made the charge, he believed it would have been allowed. I ought to be satisfied he really paid the money, and did the thing he says; I am not sure, also, whether I ought not to have the additional particulars intended to be added.

Kindersley, for the corporation of Swansea.—I do not contend that a clear mistake or omission may not form the subject of relief, but that is not the case here. The larger bill consists of two parts, Mr. Walters's own and his agents', and there are complaints of omissions on his own part principally, but also on his agents'. The scale of charges laid down by the 7 & 8 Geo. 4, c. 64, only applies to parliamentary agents for services in that capacity; where the same person is solicitor and parliamentary agent, he may charge reasonable fees as solicitor. The Act does not apply to Walters's fees, only to the parliamentary agents'. If he has omitted by mistake an item of disbursement, of course it may be supplied; but to charge as a solicitor, and then claim as a parliamentary agent, is a different thing. With the exception of one or two items of omission, all the rest of his part of the bill are less charges than those of a parliamentary agent's, which he could not charge. The case of *Loveridge* v. *Botham* (1 Bos. & Pull. 49) is conclusive against him; that delivery is conclusive against an increase of, and a very strong presumption against any addition to, the items. [The MASTER of the ROLLS.—The question is, do they come in under the parliamentary scale; you say no, because Walters is not a parliamentary agent. The case was put to me by the other side as if the charges were less than those allowed by the Act; you say they are not so, only in Walters's own charges, which are not parliamentary agent's charges.] That is so. [The MASTER of the ROLLS.—Well, then, the case is clear as to Walters. Now as to the agents' charges.] As to the charge for attendance, the clerk of the parliament states that the fee varies with the time, and the reason of a particular sum being put down in the scale is to shew the average charge; and so of the others. But does Mr. Walters say he paid Messrs. Gregory and Faulkner more? No; he suggests, indeed, that both he and they petition. But the fact is, he comes and says, let me charge more than I paid the parliamentary agents, and that too six months after taxation is ordered, and when the Taxing Master's certificate is ready. The truth is, he fears that one-sixth may be ultimately taxed off (for one item is in dispute), and he wants to increase the items so as to turn the scale. His claim ought to be for money he is liable to pay, or which he has paid. [The MASTER of the ROLLS. Suppose Walters was to have five shillings for the agents' ten shillings.] That would be an arrangement between the parliamentary agent and the solicitor. (Deaves MS. June 1, 1774.) If the agent says I have charged ten shillings when I ought to have charged twenty shillings, and if the bill so delivered is taxed, and a settlement is made on that footing with the client, the parliamentary agent could have no relief against Walters; there is therefore no difficulty on that ground. If the retainer to Mr. Austin, and the payment to the Queen's printer, were really omitted by mistake, of course they must be set right; but there must be very satisfactory evidence of the omission.

The MASTER of the ROLLS.—Mr. Turner, if you have not evidence as to that now, you must have time to produce it; but, on the other hand, if you made small charges not by mistake or omission, you cannot turn round now and say I will have all the law gives me. What I collect as to Mr. Walters's own charges is, that a solicitor's bill of costs has been delivered, and has been referred for taxation, and that it contains a parliamentary agent's bill; that there is a parliamentary regulation which applies to the latter; but that you have no right to charge for business done by the solicitor on the parliamentary scheme.

Turner said that Walters, though he had employed Gregory and Faulkner as his agents, sometimes acted as parliamentary agent himself, and therefore wished to charge in such [illegible]. It is a joint concern between him and the agents, for their affidavits respecting the matter are joint.

The MASTER of the ROLLS.—The Act does not say that, besides solicitor's fees, Mr. Walters is entitled to charge fees as a parliamentary agent. Let the petition stand over, that the petitioner may satisfy the Court, if he can, as to the omissions, &c. complained of in the agents' bill, the petitioner to pay the costs of the petition.

POTTS v. DUTTON.

Practice—Taxation—Charge for engrossing deed—Sale not completed.

A solicitor who, being employed to sell an estate, has, without the title-deeds, satisfied an intended purchaser (whose contract was only verbal) as to the title, and who, not being in possession of the title-deeds, has nevertheless got the conveyance engrossed, will not, upon the purchase going off for want of the production of the deeds, be allowed the expense of engrossing.

Thomas Howard Greville devised certain premises to Joseph Dutton, upon trust for sale; and in 1839 the premises were put up for sale accordingly, by Mr. Gaunt, Dutton's solicitor, but were not sold. The plaintiff, Mr. Potts, however, and the other persons beneficially interested, being desirous that a sale should take place, Thomas Scholefield, acting as the solicitor of Dutton, on the 15th May, 1839, entered into a verbal agreement with a Mr. Tindall for the sale to him of the premises, at the price of 650*l.*; and it was thereby also stipulated that Scholefield should prepare the conveyance, and that the vendors should pay the whole of the expenses of the sale, and of the conveyance to the purchaser. While these proceedings were going on, Mrs. Dutton got the title-deeds into her hands, and gave them to Gaunt, the former solicitor of Dutton, who, upon being applied to, refused to part with them, alleging that he had a lien on them for a large sum due to him by Dutton. Scholefield, however, satisfied the purchaser as to the goodness of the title without the title-deeds; and, in the hope of being able to obtain the deeds through the influence of the *cestui que trusts*, or otherwise, before the completion of the purchase, he prepared the draft conveyance, and submitted it to Mr. Gregory, the solicitor for the purchaser, by whom it was approved. The deed was then engrossed by Mr. Scholefield, and executed by Mr. Dutton; and a memorial for registration was also prepared by the former, the premises being in the county of York. Gaunt, however, having declined to give up the deeds, Mr. Tindall refused to complete, and the sale ultimately went off; and on a resale the premises only produced the sum of 400*l.* Upon the proposed conveyance, Scholefield was asked to furnish his account, and upon the bill being delivered, the common order to tax it was obtained by Potts and the other parties interested; but there being special circumstances in the [illegible] was found necessary to discharge that order [illegible] present a special petition. Scholefield had three distinct charges against Dutton: first, a bill of costs in the cause of *Potts* v. *Dutton*, second, a bill of costs in respect of the trust estate; and third, charges to a large amount, distinct from both of these, against Dutton himself personally. This state of things gave rise to a discussion as to how much was to come into the bill for taxation. Mr. Scholefield claimed to be entitled to payment of his whole demand in every shape against Dutton; but, on the other side, it was proposed to pay him all costs in the suit, and as regarded the trust estate of the testator. This not being acceded to, and Dutton, the trustee, having become insolvent, the *cestui que trusts* presented a petition praying that Scholefield be ordered to deliver his bill of costs as solicitor in the cause, or as relating to the trust estate, and, upon payment of what should be found due, that he should be ordered to deliver up the deed of conveyance of the trust estate, &c.; and on the 8th of November, 1844, he was ordered to deliver his bill, &c. and costs were reserved. The bill was accordingly delivered and referred to the Taxing Master, who made his report on the 30th of April, 1845, finding as therein mentioned, but disallowing an item of 18*l.* 10*s.* being the expenses of engrossing the conveyance and of the execution thereof. The *cestui que trusts* then presented their petition to confirm the Taxing Master's report, and Mr. Scholefield presented a cross petition, praying to be allowed the 18*l.* 10*s.* and to retain the conveyance till he was paid.

Turner, for the cross petition.—Mr. Scholefield, knowing that the purchaser was giving more than the value for the estate, and that he was under no obligation to carry out the contract, might reasonably think it his duty to take care to have every thing ready to complete the purchase the moment he got the deeds from Gaunt, which he expected he should be able to get, and so secure the advantage to the *cestui que trusts.* But the Taxing Master says he should not have engrossed the deed till the title-deeds were delivered by Gaunt; but was he to assume that Gaunt would refuse them, he having no lien upon them, and being offered his bill of costs? The 18*l.* 10*s.* therefore, ought to be allowed. They say, also, we must deliver up the deed to them, but we think we ought to retain it till the charges in question be paid.

Kindersley (with him *Montagu*), for the *cestui que trusts.*—The contract for sale was not in the least binding on the purchaser, for it was verbal, and might of course have been repudiated at any time. It was therefore imprudent in Mr. Scholefield to engross the conveyance under the circumstances, he not even having the deeds in his possession. We are entitled to have the deed delivered up; mere cancellation will not do; it is a cloud upon the title as it is executed by Mr. Dutton.

Turner, in reply.

The MASTER of the ROLLS.—There are two questions in this case; one raised on the petition of Mr. Scholefield, desiring to be allowed the sum of 18*l.* 10*s.* the expenses of engrossing and executing a deed of conveyance, and the other on the petition of the *cestui que trusts* of the will of the testator, desiring the Master's report to be confirmed, and the delivery up to them of the deed of conveyance engrossed by Mr. Scholefield and executed by Mr. Dutton, and also other papers. The case is certainly one of hard practice. Tindall being willing to give more than the value of the estate, and the title being made out, this extraordinary thing happens—Dutton's wife hands over the deeds to Gaunt, and he retains them, insisting he had a lien, though in reality he had none. Scholefield, however, thinking that the persons beneficially interested would be able to get back the deeds, and having an honest expectation that they would, went on to prepare and engross the conveyance; so that all that was wanted was the execution of it by the purchaser and the delivery to him of the title-deeds. If Scholefield thought he would be in a condition to deliver them, he was disappointed, and the sale went off. The question, then, is, whether, having so prepared the draft, and not having the title-deeds in his hands, he was to proceed to the further expense of getting the conveyance engrossed, or should have waited till he had the title-deeds in his possession. He was influenced by a zealous intention of having the deed ready, lest the benefit of the sale might be lost if the purchase could not be completed at the time; but had he a right so to engross it? It is hard practice to refuse him the charge, he being honest, and the sale being likely to be lost if the deed should not be ready. The Taxing Master said he exceeded his duty, and as the expense of engrossing, &c. turned out to be use- [illegible] as it [illegible] imprudent thing to do, he refused the [illegible]. I cannot say he was wrong, and therefore I dismiss the petition as to the allowance of that item. As to the order of course obtained by the *cestui que trusts*, which was discharged for irregularity, there must have been a petition of some sort, and a special petition was accordingly presented, on which an order was made, and the report in pursuance thereof we are now considering. There were three distinct charges by Scholefield against Dutton, and on the discussion as to how much should be brought under consideration on taxation, there was no difficulty on the part of the *cestui que trusts* as to paying the costs of the cause, and relating to the trust estate, not the subject of the suit. I cannot therefore refuse the costs of the original petition. The only thing else is the delivery of the deed. Dutton has executed it, and not delivered it; while, therefore, it remains with him or with Scholefield, it is a cloud on the title. It is said it may be cancelled, but I much doubt whether that would do. Well, then, shall Dutton, who did this from over zeal, be allowed to say he will not do away with the impediment created by the deed, unless all the costs be paid? I must order the delivery of the conveyance, on Scholefield being paid what may be found due to him.

VICE-CHANCELLOR KNIGHT BRUCE'S COURT.

Wednesday, June 11.

ABERDEEN v. GIBBS.

This case, which is reported *ante*, p. 191, was again heard, upon a motion to commit Mrs. Grimstead for contempt, in consequence of an alleged breach of the injunction, in continuing to prosecute the action against the plaintiff.

Russell and *Renshaw*, for the plaintiff.

Wigram and *Trower*, for Mrs. Grimstead, cited *Clarke* v. *Imperial Gas-light Company* (1 Younge, Exch. Ca. 580), and *Montague* v. *Hill* (4 Russ. 128).

Willcock, for the defendant Gibbs.

The VICE-CHANCELLOR.—How this matter would have stood if Mrs. Grimstead had alleged and established, or probably established, against the plaintiff in equity a case of collusion with Mr. Gibbs, or a case of delay, it is not necessary for me to say. No such case is made. In the absence of an allegation of any such collusion, and in the belief I entertain that an answer by Mr. Gibbs, of whatever weight, however little or however great, would be evidence at law receivable upon the trial of that action at law, I am of opinion that this trial must not yet take place so far as any party to this record is concerned. I am of opinion that I can do what appears to me right to this extent upon the notice of motion, however worded, as it stands.

The plaintiff alleging the answer of Gibbs to be insufficient, and undertaking to file exceptions to that answer, for insufficiency, and undertaking to prosecute those exceptions and to proceed to obtain a full answer from Gibbs with diligence, let the trial be stayed until further order; and let this motion stand over, with liberty for either party to apply.

My order is as against Mrs. Grimstead, if she is not already stayed, on which I say nothing.

Thursday, June 12.

BAUER v. MAULE.

Practice—Commission to examine witnesses abroad.

Where persons, not parties to the cause, claiming an interest in the subject-matter of a suit, obtained the Master's certificate to examine witnesses abroad, in support of their claim, without producing an affidavit, there being other affidavits in the Master's office sufficient to satisfy him of the propriety of granting the certificate, the certificate was held to be regular.

On an application for a commission to examine witnesses abroad, it is generally necessary to state the places where it is proposed to execute the commission.

This was an application to set aside a certificate given by the Master under the following circumstances. Inquiries having been directed to be made by the Master, certain persons, not parties in the cause, claimed an interest in the subject-matter of the suit, as next of kin to a deceased person. To establish their relationship, they applied to the Master for his certificate in order to obtain a commission to examine witnesses abroad, but produced no affidavit to support their application. There were, however, affidavits in the Master's office relating to other proceedings in the cause which were sufficient to satisfy the Master of the propriety of granting the certificate. The certificate was therefore granted, and this motion was now made to set it aside.

Lee and *Heathfield*, in support of the motion, referred to the 17th and 51st orders of 1828, and the following cases: *Bamford* v. *Bamford* (2 Hare, 612); *Coote* v. *Coote* (1 Bro. Ch. Ca. 445); *Mendizabel* v. *Machado* (2 Russ. 540); and *Meinertzhagen* v. *Davis*, before the Vice-Chancellor of England.

Wray, for the defendant.

Lee, in reply.

The VICE-CHANCELLOR.—I am satisfied that it is within the proper functions of the Master, executing an inquiry into a matter of fact in his office, to grant a certificate for a commission to examine witnesses abroad. I am equally satisfied that the Master ought not to grant such a certificate as a matter of course, or without some ground laid, sufficient, or which ought to be deemed sufficient, according to the course of the Court. I am of opinion that the Master in this case has granted the certificate upon sufficient grounds before him, according to the course of the Court and the nature of the subject. Let that part of the notice of motion which seeks that the Master's certificate be set aside, be refused. The notice of motion, however, asks other things, and I think that in this case, if not in all other cases, at least in this, it is reasonable that the Court should be informed now, in this stage, of the place or places it is proposed that the commission should be executed, and that information not now being given, and the party who ought to give it, not being here, let further proceedings under the Master's certificate be stayed until further order, with liberty to apply.

PERROT v. NOVELLI.

Practice—Security for costs.

A plaintiff, who was a Frenchman, not a housekeeper in England, but who visited this country occasionally, and for temporary purposes only, and then resided at an inn or in lodgings, was, upon the application of the defendant, ordered to give security for costs.

The plaintiff in this case filed his bill on the 3rd of May, 1845, and therein described himself as residing at No. 15, Mornington-place, in the county of Middlesex, and as a native subject of the kingdom of France, where he generally resided. On the 31st of May inquiry was made at No. 15, Mornington-place, and information was there received that the plaintiff had given up his lodging there some weeks previously, and that he was then residing in France, where his general residence was Vanguard, near Paris. It appeared also by affidavit, that the plaintiff's visits to England were occasional only, and for temporary purposes; and that to the best of the deponent's belief, the plaintiff was not, nor had ever been, a housekeeper in England, but that, upon his visits to England, he resided at an inn or hotel, or in lodgings.

Russell and *W. J. Milne*, on behalf of the defendant, moved that the plaintiff should, under the circumstances, be ordered to give security for costs.

The VICE-CHANCELLOR made the order asked, or that the plaintiff should, with the defendant's consent, pay 100*l.* into the hands of the registrar as security for the costs.

Monday, June 23.

HICKMAN v. HICKMAN.

Practice—Plea—Time for replying to a plea.

The bill in this case was filed on the 6th of March, 1845, and on the 16th of May a plea was filed by the defendant to the whole bill. The plaintiff was duly

served with notice of the plea; but not having set the same down for argument, an application was now made on behalf of the defendant, that the plaintiff might be ordered to pay the costs of the plea and of the suit.

Faber, for the motion.

W. Holt, for the plaintiff, stated that it was his intention to reply to the plea; and as no time was limited for the replication, he was entitled to have his costs of this application.

The 23rd order of August 1841, and the 31st order of April 1828, were referred to.

The VICE-CHANCELLOR said that it appeared that no time is fixed for replying to a plea; but upon the plaintiff's undertaking to reply within a week, he should direct the motion to stand over and reserve the costs.

MIDDLETON *v.* POOLE.

Practice—Payment into court—Retainer.

Where an executor, a defendant in a creditor's suit, admitted that he had money of the testator's in his possession, but that he had retained it on account of a debt due to himself, and there was no constat of the existence of a debt of a higher order than the defendant's, the Court declined to order him to pay the sum into court.

This was a motion in a creditor's suit, instituted against the executor of the debtor, and was made for the purpose of obtaining an order upon the defendant to pay into court a sum of money admitted by his answer to be in his possession. The answer stated that a debt was due to the defendant from the testator, and that the sum in question (332*l.*) was retained by the defendant on account of that debt. It did not appear that there was any debt of a higher order than the defendant's.

W. M. James, for the motion, cited *Tipping* v. *Power* (1 Hare, 411).

Wigram and *Lewin*, for the defendant, cited *Nunn* v. *Barlow* (1 S. & Stu. 528).

The VICE-CHANCELLOR declined making the order, and directed that the motion should stand over. Costs reserved.

Thursday, May 8.

PLOMER *v.* M'DONOGH.

An order to amend a bill having been obtained by the plaintiff after an undertaking by him to speed the cause, was held to be irregular.

In this suit, the bill having been amended, the defendant answered the amended bill on the 18th of October, 1844. No further step having been taken by the plaintiff, the defendant, on the 21st of April, 1845, moved that the bill should be dismissed for want of prosecution, and the plaintiff thereupon gave the usual undertaking to speed. On the 25th of April, the plaintiff, upon special application to the Master, obtained an order for leave to amend the bill.

Wigram and *Rogers*, for the defendant, moved to discharge the order made by the Master.

Russell and *Ellerton*, for the plaintiff, cited 1 Smith's Chancery Practice, 434; 2 Daniell's Chancery Practice, 376; *Darby* v. *Smale* (1 Hare, 490); *Daniel* v. *Austin* (9 Sim. 18); and *Smith* v. *Olver* (3 M. & Cr. 16[illegible]).

The VICE-CHANCELLOR.—How this case would stand or might stand if it had appeared on the record in any shape or in any manner that a commission was not required, or would not be issued, I desire to be understood as giving no opinion. The case before me happens to contain this, that there is nothing on the record to shew that a commission was not required, or would not be issued. I am of opinion that, at least in the circumstances in which this case stands, without saying whether the omission is or is not material, an amendment, or order for amendment, is inconsistent with the previous order. The order of the 25th of April must be discharged. Defendant's costs to be costs in the cause.

June 2, 3, *and* 5.

BELCHER *v.* VARDON.

Leasehold property—Usury.

Where a sum of money is advanced which it is agreed shall be repaid by certain fixed annual instalments, extending over a certain term of years, each instalment being accompanied with interest due on the balance for the time being, the interest being paid by the rents of leasehold property, at the rate of eight per cent., the Court will consider such contract usurious and void, although the lender be liable to covenants contained in the lease, with the landlord of the property.

By an agreement made between the Marquis of Westminster and Mr. Cundy, the former, in consideration of the sums to be expended by Cundy in building upon the land therein described, agreed to grant leases for 99 years of the houses to be built upon the said land as they should be covered in, to Cundy or his nominees. Cundy subsequently mortgaged the land comprised in the agreement to Dodd, to secure the sum of 3,000*l.* and by the mortgage entered into various stipulations as to the leases to be granted by the marquis. Cundy being in want of further advances to proceed with the building, Dodd released the part of the property in dispute in this cause, and a correspondence between Cundy and the defendant Vardon took place, by which Vardon agreed to advance to Cundy 2,050*l.* and Cundy agreed "to pay Vardon rent at the rate of 8*l.* per cent. from the date of the advance, and to take a lease of the houses upon the usual conditions, or find Vardon a tenant subject to his approval; and also that he (Cundy) was to have the option of selling the houses, provided he repaid Vardon the amount advanced on the houses, and all rents due thereon to the day Vardon assigned the lease or leases to Cundy or his nominee." The houses having been sufficiently completed, Cundy on the 11th of May, 1843, wrote to the solicitors of the Marquis of Westminster a letter in the following terms: "Having covered in eight houses upon the marquis's ground in Burton-street and Minerva street, according to my agreement with the marquis I shall be glad for you to grant the lease of such houses to Mr. Thomas Vardon, of Chester-square, when required by him, to whom I have disposed of them at the rents agreed upon, viz. 2*l.* per house;" and to this letter the defendant Vardon wrote and signed the following postscript: "Please to prepare the above leases at your earliest convenience." The leases were accordingly prepared, and, as was alleged, executed by the marquis, but were not delivered to either of the parties. Vardon afterwards increased his advances to the sum of 2,400*l.* and to a judgment creditor of Cundy's for 1,000*l.*, Vardon on the 11th of October, 1843, wrote a letter stating that, "in consideration of his giving Cundy time to discharge his debt of 1,000*l.* he (Cundy) would give him security for 600*l.* part thereof, on No. 76, Chester square, and he (Vardon) thereby undertook to pay the sum of 500*l.* residue thereof, as soon as that sum should have been laid out by Mr. Cundy, upon eight houses in Burton-street and Minerva-street, the leases of which from the Marquis of Westminster were then in a course of preparation, and which houses he was then finishing; and in the event of the last-mentioned sum of 500*l.* not being expended between that time and Christmas, he (Vardon) thereby undertook to hold the said leases subject to his claim upon Cundy for 2,400*l.* and interest for advances made by him to Cundy to build the said houses, until the judgment creditor's demand should be satisfied;" and to this letter Cundy wrote and signed the following postscript: "I hereby approve of the above arrangement and undertaking, and agree to give effect thereto." The property alluded to in the foregoing letters was the "Burton-street property." The "Belgrave-street property" was the subject of an agreement between Vardon and Cundy, dated the 24th of November, 1841, whereby, after reciting two leases to Cundy for 70 years, and that it was intended to erect five houses on the land, it was agreed that Vardon should advance such sums to Cundy as should be mutually agreed upon upon the following conditions: that Cundy should assign to Vardon the two leases and the ground thereby demised, subject to the ground-rent and the covenant reserved and contained in the leases; that Cundy, or his nominees, if approved of by Vardon, his executors or administrators, should take underleases as soon as the houses or any of them should be covered in and completed, for the whole of the said terms wanting ten days, at a rent amounting to 8*l.* per cent. upon the sums which should be advanced by Vardon, such rents to commence from the respective periods at which the advances should be made, the rents to be payable quarterly, with powers of entry and distress. Upon this agreement 800*l.* was advanced by Vardon. Cundy having become bankrupt, his assignees filed this bill, praying that the transactions might be declared usurious and void, but offering to allow the defendant to prove against Cundy's estate for all sums justly due to him; but that if the transactions were considered as a purchase by Vardon, then that an account might be taken of all sums of money laid out on the premises, and an account of what was due to Cundy for his skill and labour employed in the erection of the houses, &c. On the part of the defendant it was alleged that he had purchased the property, &c.

Russell and *Heberden*, for the plaintiffs, cited *Doe* v. *Chambers* (4 Camp. 1); *Doe* v. *Gooch* (3 Barn. & Ald. 664); and *Serirr* v. *Greenway* (19 Ves. 413).

Anderdon, *Wigram*, and *Fooks*, for the defendant, cited *Ex parte Scrivener* (3 Ves. & Bea. 14), and *Binfield* v. *Solomons* (9 Ves. 84).

June 5.—The VICE-CHANCELLOR.—I think it consistent with principle and with the authorities, although I do not say with all the authorities, to hold, that if A, his necessities requiring an advance of 1,000*l.* obtains it from B, upon a bargain between them that, in consideration of such advance, A, his executors and administrators, shall pay B, his executors or administrators, an annuity of 80*l.* for a term of 70 years, commencing immediately, the annuity to be secured by the covenant of A binding himself personally whilst living, and after his death his assets generally, the transaction is usurious, and upon that ground bad, unless protected by those provisions of the legislature which have recently, as to certain cases, repealed or relaxed the usury laws. The term "loan" may or may not be a correct designation of such a transaction. The notion of a loan, in the popular or generally received sense of that expression, may not have entered into the minds of the parties. But how, in its essence or substance, does such a dealing differ from a mere loan of money at interest, when, according to the contract, the principal shall be repaid by certain fixed annual instalments, extending over a great number of years, each instalment being accompanied with interest due on the balance for the time being? I cannot see any material difference. Such cases as I have just mentioned are, I apprehend, common. Generally, I believe, it is a part of such bargains, that any irregularity in payment of the instalments of the principal or interest shall give the creditor the right of demanding immediately the whole sum remaining unpaid; but can the presence or the absence of such a stipulation, of which, when existing, a creditor may or may not choose to avail himself, be a matter of importance in a question of usury? I think not. Forbearance, whether for one year or for several years, is not to be purchased beyond a certain price. The mere inconvenience, a possible inconvenience, arising from the condition of a man's pecuniary capital, as well as the risk of trusting to the solvency of another, is considered to be unfit to be compensated at a rate beyond a certain fixed limit. If this is so, then, considering the length of the term of years, in the present instance exceeding seventy years, the amount of the annual rents intended to be reserved to Mr. Vardon, being eight per cent. upon his advances, and the circumstance that Mr. Cundy personally during his life, and his assets after his death, by the form and nature of the transactions in question, as I understand them, was or were to be liable for the rents, whatever might be the value or produce of the property charged, I am of opinion that such a transaction as that before the Court is usurious and void. The rents were to come out of landed property; landed property was intended to be charged, and the recent relaxation of the usury laws does not therefore help the defendant in this case. At first I doubted whether the liabilities incurred, or to be incurred, by Mr. Vardon, to the head landlord, and the possibility of the determination of the head-leases by re-entry or forfeiture, or by means of a bad or defective title, might not create a material distinction in his favour; but looking at the nature of these liabilities and contingencies—so far as they can be considered; looking also at the whole scheme and frame of the transaction; looking also at the large language of the statute of Queen Anne, I find it impossible to say that any substantial difference ought to be held to arise upon this ground. I must consider that the covenants contained in the underleases, on the part of Mr. Cundy, were to be analogous to those contained in the head-leases respectively; the breaches of them on the part of Mr. Cundy would render him liable to be sued by the head landlord, or would render Cundy or his representatives liable to be sued by Mr. Vardon or his representatives, supposing the underleases were valid, and he would be liable to make adequate compensation in damages. There is no suggestion anywhere against the title of either of the head landlords, at least I have not observed it. With regard, however, to the Burton-street property, what I have said must be taken subject to the qualification that, supposing the total absence of any usury laws, the documents respecting that property are, as it seems to me, of such a kind, and so expressed, as to be insufficient for the creation of any lien on it. For the purpose of coming to a conclusion, these documents ought to be read together. But if this be erroneous, they cannot, in my judgment, properly receive any construction except that which I have given; and as they are viewed and treated by the defendant in the manner in which his answer insists upon them, I think myself bound in this suit, notwithstanding the observation of the defendants on the face of the bill, to treat them in the same manner as those relating to the Belgrave-street property. I have not said specifically whether, in my view, these transactions were intended as shifts and devices to evade the usury laws. If it is necessary for me to give an opinion pointedly upon that specific question, I must answer it in the affirmative, according to my understanding of its nature. It has been said that though the plaintiffs are here as assignees of the bankrupt, they are not entitled to relief in this case without paying the amount fairly due from Mr. Cundy or his estate, or allowing the defendant to have a charge for it upon the property. I cannot accede to that argument. It appears to me they are entitled to relief upon the terms of allowing a proof under the fiat against Mr. Cundy for that amount. The principles applicable to the case of a redemption of a valid security are not, in every respect, applicable to a case of the present description; nor can I properly, as it appears to me, assent to the defendant's demand of a charge on the property in respect of his money expended in building. The defendant must pay the costs up to this time. I was very much struck by the observations as to the forfeiture of the lease, especially by those made by Mr. Fooks. I thought of them a great deal.

VICE-CHANCELLOR WIGRAM'S COURT.

July 7 & 8.

MORRIS v. HOWES.

Settlement — Construction — Power — Limitation to "executors, administrators, and assigns."

A power limited in a settlement, made in contemplation of a marriage to be exercised during coverture, without reference to any future coverture, cannot be exercised during any other coverture than that to which the settlement immediately refers.

Where the ultimate limitation of a fund is to the executors, administrators, and assigns of a party who survives the events upon which the fund is limited to her executors, administrators, and assigns, it will pass under her will to her residuary legatees.

By indentures of settlement, dated in 1776, made previous to the marriage of Henry Ashby with Elizabeth Hickman, certain lands situated at Netherhutford were, after previous limitations, limited to the use of Wm. Hickman and Charles Oakden, their executors, administrators, and assigns, for the term of 500 years from the death of the survivor of Henry Ashby and Elizabeth Hickman, upon trust, in case the said Elizabeth Hickman should leave no issue of her body by the said Henry Ashby at the time of her death, to raise the sum of 1,000*l.* and pay the same to such persons, and upon such trusts, as the said Elizabeth Hickman, at any time during her coverture, should, by any deed or writing duly executed in the presence of two witnesses, or by her last will, appoint or devise the same; and, in default of such appointment or devise, to the use of the executors, administrators, and assigns of the said Ann Hickman, and to no other use, intent, or purpose whatsoever.

The marriage was solemnized, and in 1780 Henry Ashby died, leaving his wife, the said Elizabeth, surviving; there was no issue of the marriage, and Elizabeth Ashby did not exercise the power reserved to her by her marriage settlement above recited during her first coverture. In 1781, Elizabeth, in contemplation of a second marriage with Thos. Litchfield, and during her widowhood, exercised the power of appointment reserved to her by her first marriage settlement, and appointed the said sum of 1,000*l.* to the use of all and every the children and child of her body by the said Thomas Litchfield, and, in default of children, to the use of such persons as she, Elizabeth Ashby, should by deed or will appoint. Elizabeth Ashby married Thomas Litchfield, and in 1784, before she had any children by him, again executed the power reserved to her by her first marriage settlement, and appointed the said 1,000*l.* to Thos. Litchfield, absolutely, reserving to herself a power of revocation in case she had no children by Thos. Litchfield living at her decease, and to re-appoint the same to such persons and for such purposes as she should direct by deed or will, whether covert or sole. There was issue one daughter of the marriage of Eliz. Ashby with Thos. Litchfield, now named Elizabeth Kislingsbury. Elizabeth Litchfield died in 1791, leaving Thos. Litchfield, her husband, and the said Elizabeth, her daughter, and the said Ann Hickman, her mother, surviving, without having revoked the appointment made in 1784 under the power as above stated. In 1793, the said Ann Hickman, conceiving herself entitled, by the events which had occurred, to the said sum of 1,000*l.* under the trust of the indentures of 1776, filed her bill in Chancery to have it paid to her; that bill was dismissed with costs as against the then owner of the lands in question, and without costs as against the subsisting trustees of the term of 500 years created to secure the amount.

In 1779, Ann Hickman made her will, and without making any specific bequest of the said 1,000*l.* bequeathed all the residue of her estate and effects to John Hickman and Henry Hickman upon the trusts therein mentioned, and appointed them her executors, and died in 1779, without revoking her will, leaving her said executors and trustees of her residuary estate surviving, who proved her will. After various deaths and representations, the plaintiffs became and now are the personal representatives of Ann Hickman and her grandson Henry Hickman. The said Thos. Litchfield devised all his estate and effects to his son John Litchfield, and appointed him his executor, and died, leaving his son, the said John Litchfield, by one marriage, and his daughter, the said Eliz. Kislingsbury, by his wife Elizabeth, by a different marriage, surviving him. Under the above facts, four classes of claimants arose; one the executors of Ann Hickman, who claimed beneficially in consequence of the words used in the settlement of 1776; another class were the residuary legatees named in the will of Ann Hickman; a third class were the next of kin of Ann Hickman; and a fourth class were the representatives of Thos. Litchfield under the appointment in 1784. In consequence of these conflicting claims upon the fund, the plaintiff, as the personal representative of Ann Hickman, instituted this suit to have the fund administered under the decree of the Court.

Metcalfe appeared for the executor of Ann Hickman.

Sir *C. Wetherell* and *Elmsley*, for the residuary legatees.

Romilly, for the representatives of Thomas Litchfield.

T. Parker, sen. for other parties.

The cases cited were, *Sanders* v. *Franks* (2 Mad. 147); *Wallis* v. *Taylor* (8 Sim. 241; 1 Anstruther, 128); *Daniel* v. *Dudly* (1 Turn. & Phillips); *Palin* v. *Hills* (1 Mylne & Keene, 470); *Horseman* v. *Abbey* (1 Jac. & Walk. 381); *Beable* v. *Dodd* (1 Term Rep. 193); *Bulmer* v. *Jay* (4 Sim. 48); *Collyer* v. *Squire* (3 Rus. 467); *Holloway* v. *Clarkson* (2 Hare.)

The VICE-CHANCELLOR.—This case appears to have been before Lord Rosslyn in 1793; but the parties not having pleaded his judgment, it does not come before me in a legal form. Whether it binds me or not is impossible to say, for it does not appear to be known what judgment was then made. The bill may have been dismissed; I must therefore consider the case as still open. It is clear from the settlement, that this power was intended to be exercised during coverture; it could not therefore be properly exercised *dum sola*. The next question is, whether the exercise of the power was restricted to the first coverture or not. Sir Thomas Plummer, in *Horseman* v. *Abbly*, considered it was so restricted: I am of the same opinion. Here a marriage is about to be contracted, the settlement is drawn up in reference to that marriage, and the restrictive words used are not in the ordinary form, "present or future coverture," but "during coverture," which must mean the coverture then in immediate contemplation. The consequence is, the power not being exercised during the first coverture, all claims arising from the exercise of the power, whether *dum sola* or during the second coverture, are disposed of. The next consideration is, whether the interest which Ann Hickman had under the settlement passed under her will. The provisions of the settlement were these: "In default of appointment by Elizabeth Hickman, to the use of the executors, administrators, and assigns of the said Ann Hickman, and to no other use, intent, or purpose whatsoever." The first question to be considered is, whether the words "executors or administrators" are to be interpreted next of kin. In *Bulmer* v. *Jay*, Lord Brougham said nothing but a clear case of intention can justify such a construction, and unless such appears, those words must have their plain and ordinary meaning given to them. It is clear here, that the executors and administrators do take, but whether beneficially or not, is another question. It is laid down in the case of *Grafftley* v. *Humpage* (1 Beavan, 46), that the joinder of the word assigns with executors and administrators, gives them a representative character, and clothes them with a trust to administer all funds that come to their hands as any other assets. The case of *Daniel* v. *Dudley* was very similar to this; there the Lord Chancellor held, they took in their representative character, and were bound to administer all assets that came to them in that character as general assets; and in the case of *Hawes* v. *Hawes*, Lord Langdale declared, that unless the Court is absolutely compelled by force of the words used to impute that highly improbable intention, the Court should not adopt such a conclusion, and declared the words used there (which were similar to the present) did not confer a beneficial interest. I am of opinion the same construction must be adopted here, and that the executors of Ann Hickman do not take beneficially. That being disposed of, the next question is between the next of kin and residuary legatee. It is clear, any thing Ann Hickman had at her death passed under her will. This fund was vested in Ann Hickman at the time of her death. It is said, to give this fund to the residuary estate, will clash with the decision of *Palin* v. *Hills*. Such will not be the case, for in *Palin* v. *Hills* the party died before she took a vested interest, having previously made her will; therefore at the time of her death she had nothing to give. Here the interest is clearly vested, and the testatrix makes her will and bequeaths her residuary estate; so that, in considering the decision in this case, the point decided in *Palin* v. *Hills* does not arise, and it is unnecessary to consider whether that decision is to be followed or not. I am therefore of opinion they do not clash, and that the money in question passed to the residuary legatees of Ann Hickman.

Tuesday, July 8.

OAKES v. BEAR.

Equitable mortgage—Deposit—Fraud.

Where the title-deeds deposited in pursuance of an agreement for an equitable mortgage do not extend to all the property mentioned in the agreement, the Court will, notwithstanding, decree the sale of the whole of the property mentioned in the agreement belonging to the mortgagor.

John Bear being indebted to his bankers, the plaintiffs, in the sum of 1,000*l.* executed a memorandum of agreement, in which he recited that he was possessed of certain freehold and leasehold property, and agreed to deposit the title-deeds relating to the property mentioned in security for the repayment of the said sum of 1,000*l.* and any further advances he might raise from the plaintiffs; and in pursuance of that agreement the defendant deposited a bundle of deeds and papers, which he stated were the title-deeds relating to the property mentioned in the agreement, which the plaintiffs received, without examining the contents. John Bear had previously created a lien upon some of the property mentioned in the agreement, in favour of Dakin Bear, of which the plaintiffs had no notice. John Bear makes his will, and devises all his estate and effects to the defendant, upon the trusts therein mentioned, and shortly after dies; upon the death of John Bear, the plaintiffs, for the first time examined the bundle of deeds deposited by John Bear, when they found that the deeds related to only a very small portion of the property mentioned in the agreement, and to none of the property subject to the lien to Dakin Bear.

The plaintiffs then filed this bill to have their lien extended to all the property mentioned in the agreement executed by John Bear, with the deposit and a sale, and to have the deficiency, if any, paid out of the general estate.

Walker, for the plaintiffs, cited the case of *Ex parte Wetherall* (11 Ves. 398).

The VICE-CHANCELLOR.—There can be no question upon the rights of the plaintiffs; a clear fraud has been committed by John Bear. Let Dakin Bear stand as a first incumbrancer on so much of the property as his lien extended to, and that the plaintiffs be second incumbrancers upon that property, and first incumbrancers upon the property covered by the deeds contained in the bundle, and not comprised in Dakin Bear's security. In other respects I make the usual decree in a suit by an equitable mortgagee on behalf of himself and all other creditors of the testator.

Thursday, July 10.

ATKINSON v. BOYS.

Decree—Annuity—Deficiency.

Where a fund stands invested under a decree to a separate account, to pay an annuity out of the dividends, which subsequently become insufficient, the annuitant cannot institute a fresh suit to have the corpus of the fund applied to make up the deficiency so long as the previous decree remains unreversed.

John Atkinson devised all the residue of his real estate and effects to his son, Robert Atkinson, absolutely, subject to his debts, and afterwards died. Robert Atkinson, on his marriage, executed a settlement, under which he conveyed and assigned to trustees the property he had from his father, for a term, with strict powers of distress and sale, to secure the payment of an annuity to his wife of 300*l.* per annum after his death, and upon the decease of the survivor of himself and his wife, to the use of his heirs, executors, administrators, and assigns. Robert Atkinson afterwards sold his life estate in the annuity, and the capital in reversion, to Thomas Boys.

A suit was subsequently instituted by the creditors of John Atkinson to have their debts paid, and Sir John Leach decreed, amongst other orders, that a sum of money, the dividends of which would be sufficient to pay the annuity of 300*l.* should be carried to a separate account, to be called the contingent residuary account, and directed the dividends to be paid to Thomas Boys during the life of Robert Atkinson, and after his death to the plaintiff, his wife, in case she survived him, and, upon the decease of Robert Atkinson and the plaintiff, to pay the capital to Thomas Boys.

Other creditors of John Atkinson subsequently took proceedings against his estate, and the fund set apart by the decree to meet the annuity of 300*l.* became reduced to 3,700*l.* Robert Atkinson died, and his widow, the plaintiff, finding the dividends of the sum invested to pay her annuity insufficient for that purpose, filed this bill to have so much of the sum of 3,700*l.* applied as may be necessary to purchase her an annuity of 300*l.* per annum, or that so much may be ordered to be taken annually from the principal as may be sufficient to make up with the dividends an annuity of 300*l.* for her own use.

K. Parker and *Elmsley* appeared for the plaintiff.

Romilly, for the defendants, took a preliminary objection, that the prayer could not be granted so long as the decree of the Rolls remained unreversed.

Elmsley argued that this was a fund distinctly set apart to meet this annuity, and was primarily applicable for that purpose; and having, by prior claims, become deficient to effect that object from the annual dividends, the plaintiff had a right to file this suit to have the principal applied to make good the deficiency.

The VICE-CHANCELLOR.—I make no decision upon the title of the plaintiff to have the prayer of her bill granted, for this is not the proper course to pursue to have it tried; I cannot decide in favour of the plaintiff without deciding that the order of Sir John Leach is bad. The proper course is, to have the cause reheard by petition at the Rolls.

Common Law Courts.

COURT OF QUEEN'S BENCH.

Friday, July 4.

PARGETER *v.* HARRIS.

Demurrer to replication.

The declaration was on a covenant to pay rent, contained in a certain lease, which was set out. The recitals shewed that the lessors were "owners subject to a mortgage," and the *reddendum* was, "yielding and paying for every year during the demise, 157*l.* 10*s.* as part of interest due upon the mortgage, at the office of Mr. Wratislaw." The declaration contained an averment, that there was no reversion in the plaintiffs, or either of them, at the time of executing the indenture. The second plea was, that the reversion of the said premises was in the plaintiffs and one Pargeter, deceased, and that after the death, the plaintiffs granted to one Salmon the reversion in the said premises. To this the plaintiff replied that there was no reversion of and in the said premises, in the plaintiffs at the time of the indenture.

To this the defendant demurred. The points were, that the plaintiffs were estopped from denying that they had a reversion, because it was implied from the deed that they had, and that the replication was a departure. The plaintiffs contended that the plea was bad, for that the covenant was a covenant in gross.

It was argued on Friday, April 25, by *Alexander*, Q. C. in support of the demurrer, and *Tomlinson*, contrà.

The following authorities were cited: Co. Litt. 352, a; *Green* v. *James* (6 M. & W. 656); *Lawson* v. *Tremerre* (1 A. & E. 792); *Bowman* v. *Rowstron* (2 A. & E. 295); *Carpenter* v. *Buller* (8 M. & W. 209); *Webb* v. *Russell* (3 T. R. 392); *Spencer's* case (5 Rep. 16); *Vivian* v. *Arthur* (1 B. & C. 410); *Vernon* v. *Smith* (5 B. & Ald. 1); Com. Dig. "Estoppel;" *Palmer* v. *Ekins* (1 Ld. Raym.); *Carrick* v. *Blagrave* (1 B. & B. 53); *Cardwell* v. *Lucas* (2 M. & W. 111).

At the sittings after Trinity Term, judgment was delivered as follows:—

JUDGMENT.

Friday, July 4.—Lord DENMAN, C. J.—This was an action of covenant on an indenture dated in 1835, by the two Pargeters and H. Pargeter, since deceased, of the first part, and A. Harris, guardian of I. Pargeter, and G. Pargeter, and W. Pargeter, of the second part, and the defendant of the third part, reciting that the parties of the first part, and A. Harris, as guardian, were owners of land and premises thereby described, subject to mortgages for 3,500*l.* interest payable half yearly. The parties of the first part, with the consent and approbation of A. Harris, demised the lease of the premises to the defendant for seven years, yielding the clear yearly sum of 153*l.* 11*s.* to be paid at the office of the said attorney, in part interest on the said mortgage, and the defendant covenants with the parties of the first part to pay the said yearly sum. The declaration then states the nonpayment of the rent, and avers that the plaintiffs had not, nor had any of them, at or since the time of making the indenture, any reversion of or in the premises. The plea was, that the reversion in the premises expectant on the determination of the lease, was in the parties of the first part; and that before the breach the plaintiff and the survivor of the said parties, assigned that reversion to I. S. who became and is the assignee thereof. The replication was, that no reversion was, at the time of making the indenture, or since, in the parties. On general demurrer, the points marked for argument are, that the replication is bad because the plaintiffs are estopped from saying that the defendant had no reversion; and that it is a departure from the declaration. On the part of the plaintiffs the plea is said to be bad; first, as setting up the assignee's title to sue upon covenants that did not pass by assignment; secondly, in assuming the existence of the reversion, although the declaration alleged there was none, and shewed by indenture that the lessors had only an equitable interest, and no reversion. There is plainly no departure in this case, for the replication does but repeat the precise averment in the declaration, which was obviously necessary, according to the decision of *Green* v. *James* (6 M. & W. 656). The declaration is not in the usual general form in actions of covenant for rent, but states so much of the lease as shews the plaintiff had only the equity in redemption in the premises, and the plaintiff knew that circumstance from the recital; that recital is sufficient to prevent either being estopped from denying that the plaintiff had the legal reversion. The question therefore comes to this, whether, in all cases where the lease discloses that the land is mortgaged, and that the lessor has only the equity of redemption, the covenant for the payment of the rent is not necessarily a covenant in gross. There is the further observation, that the rent is not made payable to any person, only at the office of Mr. Wratislaw aforesaid, in part of the interest due on the said mortgage or mortgages; and the covenant is with the said plaintiffs, their heirs, &c. that he will pay to the plaintiffs, in manner hereinbefore mentioned, the said yearly sum of 153*l.* 11*s.* It is very doubtful whether this can be said to be a reversion at all. In *Gouldsworth* v. *Knight* (11 M. & W. 337), the Court of Exchequer is said to have intimated that the assignees of the lessor who has only an equity of redemption might maintain covenant, but that is not so.

We are of opinion there is no estoppel in this case by reason of the facts being disclosed on the face of the lease, since the covenant is a covenant in gross, and the declaration is good; for the same reasons, the plea is bad. *Judgment for the plaintiffs.*

Wednesday, June 18.

WEBBER *v.* PRELLER.

The "market price" is, in the absence of fraud, the price at which actual sales have been made.

This was a motion for a new trial in an action for the nonpayment of the price of salt under a contract, by which Messrs. Preller were to receive and Messrs. Webber to deliver, in the year 1843, 1,500 tons of salt, at 9*s.* a ton, with a discount of 6*d.* per ton for cash, within ten days of delivery; but if the market price was lower, Messrs. Preller were to have the benefit thereof, and in no case was the price to be above 9*s.* a ton. The amount, at 6*s.* per ton, less the discount, had been tendered and paid into court. It was shewn at the trial, that upon the day upon which the delivery, pursuant to notice, took place, sales had been made in the morning at 6*s.*; but none later in the day, and some of the witnesses stated that the price was higher, and that they would not have sold at that price. The judge directed the jury to take these facts into consideration in determining the market price, and they found that 7*s.* was the price, and a verdict was returned accordingly.

At the sittings after Trinity Term, *Martin*, Q. C. and *J. Henderson* shewed cause against a rule for a new trial, and *Crompton* was heard in support. On July 4, judgment was delivered as follows:—

JUDGMENT.

Lord DENMAN, C. J.—In this case the only question was, what was the market price of salt on the 16th of December, 1843, that being the price which the defendant was to pay to the plaintiff for a quantity of salt delivered on that day, provided it did not exceed 9*s.* a ton, that being the maximum price agreed upon. Two or three sales were proved on that day, and they had been made at 6*s.* per ton, and one of the sales being of a considerable quantity, there was no evidence of any other sale at any other price than 6*s.*; and for some time previous the selling price appeared to be 6*s.* Various witnesses, however, stated that after the 16th of December the price rose to 6*s.* 6*d.*, 7*s.* and 7*s.* 6*d.* and some persons would not have sold for that day for so low a price as 6*s.* and *that* they considered the market price; but there was no proof of any actual dealing on that day at any other price than 6*s.* The learned judge appears to have left the question of the market price to the jury, not only upon the evidence of actual sales and dealings, but upon the evidence also of a subsequent rise in price, and stated that some persons would not have sold for so low a price as 6*s.* on that day, and that they considered the market price on the 16th of December higher than 6*s.* The jury, by their verdict, found 7*s.* to be the market price. We think the jury may have been in some degree misled by the summing up of the learned judge, as they seem to have given their verdict rather with reference to the evidence of subsequent prices and speculations of the witnesses as to the prices at which parties would or would not have sold, than to the evidence of actual transactions on that day, which, in our judgment, was the market price. We therefore think there should be a rule for a new trial, unless the plaintiff will consent to reduce the verdict to the sum which ought to have been allowed, 6*s.* the market price. I think there was no proof that the sale had been kept back on that day by any act of the parties; and no fraud was imputable.

Crompton consented to take a verdict for 20*l.*

On a subsequent day Lord DENMAN, C. J. said—

We have expressed our opinion that the verdict can only stand for about 20*l.*; but we were asked, further, whether the defendant is not entitled to a verdict on the ground that five per cent. ought to be deducted, because the sum properly due was tendered within a stipulated time. We think this deduction ought to be made, but we have no power to enter a verdict for the defendant, therefore can only make the rule absolute in that respect for a new trial.

POW *v.* TAUNTON.

Patent.

This was a motion for a new trial in a patent case. The arguments were purely technical, and constant reference was made to the models in court.

Rotch (June 20) shewed cause.

J. Henderson, contrà.

On July 3rd judgment was given as follows:—

Lord DENMAN, C.J.—This was a motion for a new trial in an action for the infringement of a patent, in which the plaintiff obtained a verdict on all the issues, one of which was that upon a plea denying the novelty of the invention. The patent was for a nipping lever for causing the rotation of wheels, shafts, and cylinders under certain circumstances stated in the specification, by which the plaintiff claimed as his invention the nipping lever, which was used for the sliding-box, before described, affixed to the wheel or the flange, for the purpose of causing the same to rotate or move together with any shaft or cylinder, in the same manner as any thing attached thereto. The question was raised as to whether the sliding-boxes were or were not reasonable or necessary parts of the invention claimed. We think the jury may have been misled by the mode in which the question was left to them, and they may have considered it unimportant whether the use of the sliding-boxes was necessary and reasonable for the plaintiff's invention, provided the use of it was new; and we think that either they were reasonable, and then they ought to have been stated, or they were not reasonable, and then there is no novelty. We think the rule should be absolute for a new trial.

The cases of *Hargreaves* v. *Wood*, *Scarpeline* v. *Atcheson*, *Symons* v. *Peacock*, *Fannin* v. *Anderson*, *Carter* v. *Price*, and *Reg.* v. *New Windsor*, will be reported forthwith. The judgments have been delivered since Term, and the great importance of many of these cases has rendered some delay unavoidable in reporting the arguments.

COURT OF COMMON PLEAS.

Wednesday, July 2.

LOGAN *v.* BELL.

By a marriage settlement certain hereditaments were conveyed to the use of J. W. and her heirs "until the solemnization of the intended marriage, and from and after the solemnization thereof to the use of such person," &c. as she the said J. W. "notwithstanding her said intended or any future coverture, and whether she be covert or sole, and without the consent, concurrence, or privity of her husband, or with such consent, concurrence, or privity, at any time or times, and from time to time," should by will or codicil, &c. appoint. Held, that the power authorized an appointment before marriage, and that an appointment by J. W. under a codicil made after the settlement, and before the marriage, was therefore valid, and not revoked by the subsequent marriage.

This was an action of debt, for money had and received to the use of the plaintiff. At the trial, before Cresswell, J. at the sittings after Trinity Term 1844, a verdict was found for the plaintiff, subject to the opinion of the Court on a special case, which set forth, *inter alia*, a settlement made in contemplation of the marriage afterwards solemnized between the plaintiff and Isabel Wight, and a codicil by Mrs. Logan, made after the settlement and before the marriage. On the argument of the case in Trinity Term last by *Talfourd*, Serjt. for the plaintiff, and *Channell*, Serjt. for the defendant, it was agreed to be admitted that the money had been received to the use of the plaintiff, if the power contained in the settlement was well executed by the codicil made by Mrs. Logan.

The following authorities were cited: Sug. Powers, 6th ed. 349; *Doe dem. Hodsden* v. *Staple* (2 T. R. 684), and in Equity under the name of *Hodsden* v. *Lloyd* (2 Bro. C. C. 534); *Maundrell* v. *Maundrell* (10 Ves. 246); *Sclater* v. *Travell* (Viner's Abr. tit. Authority, G. 8); *Dalby* v. *Pullen* (2 Bing. 144); and *Doe dem. Calkin and Others* v. *Tomlinson* (2 M. & Sel. 165).

The power and the codicil are fully set forth, and the points stated, in the following

JUDGMENT.

TINDAL, C.J. delivered judgment as follows:—In this case the question, as agreed by the parties, is, whether the codicil executed by Mrs. Logan on the 24th of October, 1825, is a valid execution of the power of appointment contained in the marriage settlement of the 22nd of the same month. If it be a valid execution, the plaintiff is entitled to judgment; if not, the defendant. The settlement in question, after reciting the intended marriage between Isabel Wight and George Logan, states that Isabel Wight was seised in fee of the hereditaments in question, and conveys them to Thomas Gilchrist and his heirs, to the use of the said Isabel Wight and her heirs, until the solemnization of the intended marriage, and from and after the solemnization thereof, to the use of such person or persons for such estate or estates, interest or interests, and to and for such ends, intents, and purposes, and upon such trusts, and charged and chargeable in such manner, and subject to such powers, provisos, declarations, and agreements, as she the said Isabel Wight, notwithstanding her said intended or any future coverture, and whether she shall be covert or sole, and without the consent, concurrence, or privity of her husband, or with such consent, concurrence, or privity, at any time or times, and from time to time shall, in and by any deed or deeds, writing or writings, to be by her sealed and delivered in the presence of, and attested by, two or more credible witnesses, or in and by her last will and testament, or any writing in the nature of, or purporting to be her last will and testament, or any codicil or

codicils thereto, to be by her signed and published in the presence of, and attested by three or more credible witnesses, limit, direct, or appoint, or give or devise the same, and for want and in default of, and until such limitations, direction, or appointment, gift or devise, shall be effectually made, and in case any such shall be made then subject thereto, when and so often as the estates or interests thereby limited or created shall respectively cease and determine, to the use of the said Thomas Gilchrist, his heirs, and assigns, for and during the joint natural lives of the said Isabel Wight and George Logan, in trust, from time to time to pay the rents, issues, and profits of the said hereditaments and premises (after all taxes, rates, repairs, insurances, charges, and other outgoings payable for and in respect of the said premises, or any of them, shall have been satisfied thereout) to such person or persons, and in such manner, as she, the said Isabel Wight, by note or order in writing under her hand, shall order, direct or appoint (notwithstanding her coverture); and in default of such order, direction, or appointment, then unto the proper hands of her the said Isabel Wight, to and for her sole and separate use, wholly and independently of the said George Logan, and without the same being in any wise subject to his debts, control, or engagements. And the receipt of the said Isabel Wight alone it is hereby declared shall, notwithstanding her coverture, be a sufficient discharge for so much of the rents and profits of the said premises as shall therein be expressed to be received; and from and immediately after the decease of them, the said Isabel Wight and George Logan, to the use of the said Isabel Wight, her heirs and assigns for ever." On the 26th of October, 1825, the marriage took place, and on the 24th, two days before the marriage, and two days after the settlement, Isabel Wight made a codicil under seal, and signed and published it in the presence of three credible witnesses, by whom it was duly attested. The codicil is in the following terms:—"This is the codicil to my before-written will. I give and bequeath all and singular my messuages, cottages, and hereditaments, situate at Croydon and Croydon Common aforesaid, and all my shares and interest in the new Four per Cent. Annuities, and all other my real and personal estate whatsoever, unto William Birdsell, of Berwick aforesaid, clerk, and John Greenfield, of the same place, grocer, and their heirs, executors, administrators, and assigns, upon trust, for all the children of my body who shall survive me and attain twenty-one years of age, and their heirs, executors, and administrators, as tenants in common, in equal shares, and to apply a competent part of the interest, rents, and dividends for the maintenance, during their minorities, of all my children, and for default of such children, or failure of them, in trust for my intended husband, George Logan, and his assigns, for his natural life, and from and after his decease in trust for all the children of his body who shall survive him and attain twenty-one years of age, and their heirs, executors, and administrators, in equal shares as tenants in common, and to apply the rents and interest in manner aforesaid, for the maintenance and education of them during their minorities; and for default or failure of such children of his body in trust to pay, assign, convey, and transfer, or dispose of all my said real and personal estate in manner as the same is given, bequeathed, devised, and directed by my before-written will. Witness my hand and seal this 24th day of October, 1825, and I declare this to be an appointment under the two deeds of settlement of my real and personal estate on my intended marriage, dated the 22nd instant. Some questions were adverted to in the course of the argument which may be very shortly disposed of. It is no objection to the power, that the party exercising it has a fee or other interest in the land. This is clear from many cases, *Sir Edward Clere's Case* (6 Coke, 17), and *Maundrell* v. *Maundrell* (10 Ves. 245), and other cases there cited. Nor is there any weight in the objection that the execution of the power was to operate after the event arose which was contingent at the time the power was executed. See the cases of *Dalby* v. *Pullen* (2 Bing. 144), and *Sclater* v. *Travell* (Viner's Abridgment, tit. Authority, G. 8), which shew that the power may be effectually executed, though at the time of its execution it is uncertain whether the event on which alone it could take effect shall ever happen. Nor is there any doubt that, supposing there were terms in the settlement to extend to the codicil made after the settlement and before the marriage, the appointment by the codicil was not revoked by the marriage; and according to the language of Lord Kenyon (2 T. R. 684), in the case of *Doe* v. *Staple*, where, after stating that, "generally speaking, the will of a *feme sole* ceases to have any operation after she becomes covert" he adds, "but it is equally clear that where an estate is limited to uses, and a power is given to a *féme covert* before marriage to declare those uses, such limitation of uses may take effect, and this is the rule even in a court of law." And the exception in the Act 7 Wm. 4, c. 26, which excepts from the enactment making marriage a revocation of a will made by a woman under a power of appointment, when the estate would, in default of appointment, pass to her heirs, executors, or administrators, shews that before the Act the will of a woman, under the power of appointment, would not be revoked by a subsequent marriage. There seems therefore to be no doubt that the power to appoint by her codicil made before marriage, if proper words are found to confirm it, might be fully executed, and take effect notwithstanding the subsequent marriage; nor is there any doubt that if Isabel Wight had such a power, it was effectually executed by the codicil, which expressly refers to the power, and is in all respects strictly within its terms. The question therefore is, whether the power given in the settlement did arise before the marriage? The language of the clause conferring that power is full and precise, as it relates to the time when, the circumstances under which, and the form and mode by which, it may be exercised. The words as to the time are, "as she the said Isabel Wight shall, at any time or times, and from time to time." These words in the ordinary sense comprehend all future time, and therefore the time between the settlement and the marriage, the words relating to the circumstances under which the power may be executed are, "notwithstanding her said intended coverture, or any future coverture, and whether she shall be covert or sole, and without the consent, concurrence, or privity of her husband, or with such consent, concurrence, or privity." These words are all enabling, none of them restricting, and as the language respecting time comprehends all future time, that respecting circumstances comprises all the circumstances in which a person not under a natural incapacity can be placed; there is nothing therefore in this part of the clause which restrains the generality of words relating to time. But further, the nature of the uses which Isabel Wight is to have the power of limiting shews that, for the complete operation of the power intended to be given, the execution of it before the marriage should be operative. These uses are by the terms of the settlement to commence from, and immediately after, the solemnization of the marriage: she was, by those express terms, if she thought fit, enabled to make an appointment to commence from and immediately after the marriage. Now this could not strictly and completely be performed by an execution after marriage, as it would operate only from the time of its execution, and the time between the marriage and the execution of the power being limited to the release to uses, any execution after marriage must have some part, how[illegible]nall, of the uses to which the power was originally intended to extend unacted upon. With regard to the terms of that part of the clause conferring the power which relates to the mode and form in which it is to be exercised, though they are not, if simply and loosely construed, inconsistent with the construction that would confine the execution to the time which follows the marriage, yet it will be found that the other construction is the more consonant to their full and exact meaning. Those words which give the power to give and devise by will or codicil, as distinguished from the power to appoint by writing, in the nature of a will or codicil made by Isabel Wight, would be useless unless made for the purpose of a will or codicil made before her intended marriage, or after that and before any future marriage, preventing such, however, from being revoked by marriage. The words themselves are for that purpose most appropriate, and the power is a reasonable and proper o[illegible] The effect of those words is, in combination with those which enable her to appoint during coverture, to prevent any coverture from affecting in any way any disposition of her lands by the power, and saving the necessity of renewing after coverture any disposition made while sole or covert, but which she might not desire to alter. Indeed, to suppose the word "sole" was introduced for the purpose only of protecting her will made during widowhood would be to take away from its effect a case to which it naturally applies, and was in the immediate contemplation of the parties, and sure to happen if the marriage took place at all; and it appears excessively to limit the directions depending upon the future contingency of her surviving her husband and marrying again. We think, therefore, the intention of the words was to confer the power to appoint before as well as after the marriage, and that that intention was effectually expressed. The case of *Hodsden* v. *Lloyd* (2 Bro. C. C. 534) was relied on for the defendant. In that case an agreement, not under seal, was made before the marriage, by which it was agreed that the wife's fortune should, if she happened to die first, be at her own disposal; and by the parties it was agreed to prepare settlement deeds to that effect, and the agreement was accordingly prepared and executed. On the same day, after the agreement and before the marriage, Catherine Culver, the intended wife, made her will, and thereby gave the interest of all her fortune to her husband for life. The Lord Chancellor held the will was revoked by marriage. The distinctions between that case and the present are many and obvious. The agreement was not under seal; there was no person seised to any use; no express mention of any power, or when or how it was to be executed. In order to support the will and the execution of the power, it will be necessary to construe the words "and if the said Catherine Culver shall happen to die first, then the aforesaid fortune to be at her own disposal," as conferring an equitable power of appointment by will made by her before marriage. The Lord Chancellor did not so construe it, but considered it conferred a power only to make a will after marriage, and there seems no reason to doubt the correctness of that construction. That case differs so widely from the terms of the settlement in the present case, by which the power defined by the express words as to the time, circumstances, and mode of execution is enforced, that the construction of the one has no bearing upon that of the other. Upon the whole, therefore, we are of opinion that judgment must be given for the plaintiff. *Judgment for plaintiff.*

Circuit Reports.

WESTERN SUMMER CIRCUIT, 1845.

Dorchester, July 18.

(Before Mr. BARON PLATT.)

REG. v. WARR.

It is not necessary, where one statute creates an offence and affixes a punishment, and a subsequent statute is passed by which the punishment is altered, to conclude an indictment charging such an offence as being contra formam statutorum.

This was an indictment for forgery. There were a great many counts, all of which concluded *contra formam statuti.*

The prisoner demurred to the indictment, and on his behalf it was contended by *Stock*, on the argument of the demurrer, that this conclusion was wrong, and that, as the offence had been created by one statute, and the punishment altered by another, the conclusion should have been *contra formam statutorum.* He cited *Reg.* v. *Adams* (1 Car. & M. 299), in which Coleridge, J. had expressly ruled in this way.

Slade, contrà.—If that decision be correct, all the indictments for sheep-stealing and housebreaking would be wrong. The true rule is, that when the statute creates an offence, and affixes no penalty, and it therefore becomes necessary to pass another statute to affix the penalty, then it might be necessary to conclude *contra formam statutorum;* but it is never necessary, in criminal pleading, to notice or refer in any way to a statute which is simply passed for the purpose of altering the punishment.

PLATT, B. (after consulting Erle, J.) decided that the objection was not tenable, and that the indictment was good.

The prisoner then pleaded "Not Guilty," was tried, convicted, and sentenced to ten years' transportation.

DEVON SUMMER ASSIZES. 1845.

(Before Mr. Baron PLATT.)

REG. v. MARCHANT.

Friendly Society—Larceny—Indictment.

One of three stewards of a benefit society, not enrolled under 10 Geo. 4, c. 56, having the key to one of three locks upon the box, and abstracting the contents during the temporary absence of his co-trustees, cannot be convicted of larceny under a count in the indictment laying the property in the landlord of the inn where the box was kept at the time of the theft.

Prisoner was indicted for stealing certain moneys belonging to a friendly society.

The first count laid the property in James Berry (who was the president of the society). In the second count it was laid in Tully and others (stewards of the society). In the last count it was laid in J. Stiff (the landlord of the inn where the money-box of the society was kept).

The facts were, that the prisoner and Tully were stewards of the society; Berry was the president. The funds of the society were kept in a box with three separate locks, of which the president and two stewards (the prisoner being one) had each a key; so that the box could not be opened but in the presence of the three. The box was kept at the inn at which the society met, in charge of the landlord. On Whit Monday the society assembled; the box was opened, and the money and other effects of the society seen safe therein. The president and the other steward had occasion to quit the room in which the box was, leaving the prisoner alone in the room. They left their keys in the locks. On their return they found the box locked as far as the prisoner's lock was concerned, and the prisoner gone, having abstracted the contents of the box. The rules of the society were not enrolled.

Stone having opened these facts to the jury,

Slade, for the prisoner, submitted to the Court that they did not support the indictment, the prisoner having the entire possession of, and a joint interest in, the box and its contents, when the money was taken.

Stone, for the prosecution, cited *Rex* v. *Bramley* (R. & R. 478), in which it was held that where a member of a benefit society entered the room of the person with whom a box containing the funds of the society was deposited, and took and carried it away, it was holden to be larceny, and contended that, inasmuch as the present indictment contained a count laying the property in the landlord of the inn, who

was answerable to the society for the box and its contents, the taking of the contents of the box was a felonious taking sufficient to support that count.

PLATT, B.—The prisoner had the lawful possession of the box at the time he abstracted its contents. He had also a joint property in those contents; he cannot therefore be held to have stolen the contents of that box from the landlord, who was not responsible for the same while in such possession of the prisoner and his co-trustees. This indictment cannot be sustained. *Not guilty*

THE LEGISLATOR.

Summary.

THE extensive alterations, or rather additions, introduced by the SOLICITOR-GENERAL into the Small Debts Bill will be found, with some comments upon them, among the leading articles. Another huge batch of Bills has received the Royal assent; a list appears under the head of "Business of Parliament."

Imperial Parliament.

PUBLIC BUSINESS TRANSACTED.

AT.

Mr. Speaker reported the royal assent to the following Bills:—Sir Henry Pottinger's Annuity—Assessed Taxes Composition—Timber Ships—Bankruptcy Declaration—West India Islands Relief—Seal Office Abolition—Public Museums—Scientific and Literary Societies—Canal Companies Carriers—Dog Stealing—Railway Clauses Consolidation, Scotland, No. 2—Infeftment, Scotland—Banking, Scotland—Statute Labour, Scotland—Arrestment of Wages, Scotland, No. 2—Schoolmasters, Scotland—Banking, Ireland—Constables, Public Works, Ireland—London and Greenwich Railway—Belfast and Ballymena Railway—North British Railway—Lancaster and Carlisle Railway—York and North Midland Railway, Harrogate Branch—North Woolwich Railway—Guildford Junction Railway—Waterford and Kilkenny Railway—Exeter and Crediton Railway—Bridgwater Navigation and Railway—Sheffield and Rotherham Railway—Edinburgh and Glasgow Railway—Newcastle and Darlington Brandling Junction Railway—Southampton and Dorchester Railway—Eastern Union Railway—Glasgow, Paisley, Kilmarnock, and Ayr Railway, Cumnock Branch—Dundalk and Enniskillen Railway—Eastern Union and Bury St. Edmund's Railway, No 2.—Londonderry and Enniskillen Railway—Chester and Birkenhead Railway Extension—Whitehaven and Furness Junction Railway—Manchester, Bury, and Rossendale Railway—Great North of England and Richmond Railway—Blackburn and Preston Railway—Leeds and Thirsk Railway—Sheffield, Ashton-under-Lyne, and Manchester Railway—North Wales Railway—Taw Vale Railway—Manchester and Birmingham Railway, Ashton Branch—Ashton, Stalybridge, and Liverpool Junction Railway, Ardwick and Guide Bridge Branches—Eastern Counties Railway, Ely and Whittlesea Deviation—Manchester South Junction and Altrincham Railway—Trent Valley Railway—London and Brighton Railway, Horsham Branch—Ulster Railway Extension—North Wales Mineral Railway—North Union and Ribble Navigation Branch Railway—Saint Helen's Canal and Railway—Great North of England, Clarence and Hartlepool Junction, Railway—Great Western Railway, Ireland, Dublin to Mullingar and Athlone—Cockermouth and Workington Railway—Richmond, Surrey, Railway—Cork and Bandon Railway—Liverpool and Manchester Railway—Great Southern and Western Railway, Ireland—Preston and Wyre Railway Branches—Lynn and Dereham Railway—Middlesbro' and Redcar Railway—Dublin and Drogheda Railway—Newry and Enniskillen Railway—Dublin and Belfast Junction Railway, with a Branch to Kells—Waterford and Limerick Railway—Glossop Gas—Glasgow Bridges—Totnes Markets and Waterworks, No. 2—Wolverhampton Waterworks—Lyme Regis Improvement, Market, and Waterworks—Dundee Waterworks—Blackburn Waterworks—Hartlepool Pier and Port—Kendal Reservoirs—Manchester Improvement—Belfast Improvement—Chelsea Improvement—Agricultural and Commercial Bank of Ireland—Queenborough Borough—Forth and Clyde Navigation and Union Canal Junction, No. 2—Manchester Court of Record—Reversionary Interest Society, No. 2—K[illegible] Drainage—Shepley Lane Head and Barnsley Road—Harwell and Streatley Road—W[illegible] k R[illegible]tory—Lady Sandys' (or Turner's) F[illegible] Kidwelly Inclosure.

BILLS READ A FIRST TIME.

Friday, July 18.

Libel

Customs Laws Repeal—to repeal the several [illegible] relating to the Customs

Customs Management—for the management of the customs

Customs Duties—for granting duties of customs

Warehousing of Goods—for the warehousing of goods

British Vessels—for the registering of British vessels

Shipping and Navigation—for the encouragement of British shipping and navigation

Trade of British Possessions Abroad—to regulate the trade of British possessions abroad

Customs Bounties and Allowances—to grant certain bounties and allowances of customs

Isle of Man Trade—for the regulating the trade of the Isle of Man

Smuggling Prevention—for the prevention of smuggling

Customs Regulation—for the general regulation of the customs

Testamentary Dispositions, &c.—to amend the law respecting testamentary dispositions of property in the public funds, and to authorize the payment of dividends on letters of attorney in certain cases

Compensations—to provide for the payment of compensation allowances to certain persons connected with the Courts of Law in England for loss of fees and emoluments

Drainage of Estates.

Monday, July 21.

Court of Chancery, Ireland.

Tuesday, July 22.

Service of Heirs, Scotland—to alter and amend the law and practice in Scotland as to the service of heirs

Crown Charters, &c. Scotland—to alter and amend the practice in Scotland with regard to crown charters and precepts from Chancery

Real Property, No. 3—to amend the law of real property.

Thursday, July 24.

Apprehension of Offenders.

BILLS READ A SECOND TIME.

Friday, July 18.

Small Debts, No. 3
Slave Trade, Brazil
Municipal Districts, &c. Ireland
Stamp Duties, &c.
Militia Pay
Railways, selling or leasing.

Monday, July 21.

Games and Wagers
Real Property, No. 2
Turnpike Roads, Scotland
Testamentary Dispositions
Compensations
Drainage of Estates.

Tuesday, July 22.

Documentary Evidence
Real Property, No. 1
Assignment of Terms
Granting of Leases
Fees, Criminal Courts.

Wednesday, July 23.

Customs Laws Repeal
Customs Management
Customs Duties
Warehousing of Goods
British Vessels
Shipping and Navigation
Trade of British Possessions Abroad
Customs Bounties and Allowances
Isle of Man Trade
Smuggling Prevention
Customs Regulation
Real Property, No. 3
Libel
Removal of Paupers
Stock in Trade
Court of Chancery.

Friday, July 18.

Ecclesiastical Patronage, Ireland
Joint Stock Companies
Land Revenue Act Amendment
Jewish Disabilities Removal
Drainage, Ireland
Spirits, Ireland.

Monday, July 21.

Fisheries, Ireland
Masters and Workmen
Poor Law Amendment, Scotland
Excise Duties on Spirits, Channel Islands
Jurors' Books, Ireland
Jewish Disabilities Removal
Bonded Corn.

Tuesday, July 22.

Highways
Railways, Selling or Leasing
Lunatics.

Wednesday, July 23.

Stamp Duties, &c.
Militia Pay
Unions, Ireland
Testamentary Dispositions
Co[illegible]
Drainage of Estates.

PRIVATE BUSINESS TRANSACTED.

BILLS READ A FIRST TIME.

Friday, July 18.

Molyneux's (Follett's) Estate
Duke of Bridgwater's Estate
Joint Stock Banks, Ireland and Scotland
Winchester College Estate
Marquis of Donegal's Estate
Marsh's or Coxhead's Estate
Bowes's Estate.

Wednesday, July 23.

Lutwiche's (or Fletcher's) Estate.

BILLS READ A SECOND TIME.

Friday, July 18.

North Walsham Estate.

Monday, July 21.

Joint Stock Banks, Scotland and Ireland.

Tuesday, July 22.

Birmingham Blue Coat School Estate.
Molyneux's (Follett's) Estate.

BILLS READ A THIRD TIME AND PASSED.

Friday, July 18.

Dublin Pipe Water, No. 2
Rothwell Prison.

Monday, July 21.

Grand Jury Presentments, Dublin
Epping Railway
Heaviside's Divorce

Wednesday, July 23.

Duddestone and Nechells Improvement
London and Croydon Railway Enlargement
Manchester and Leeds Railway, No. 2.

Thursday, July 24.

Coal Trade, Port of London
Grimsby Dock
Morden College Estate
Geldart's (or Sherwin's) Estate
Haskins's Estate.

SESSIONAL PRINTED PAPERS.

Num.
463. Queen's Printers, Ireland, Acts of Parliament—Returns
469. Crown Manors—Return
479. Railway Department, Board of Trade—Minutes
489. Miscellaneous Estimates—No. 8
517 (1). New Zealand—Copy of Correspondence, Part 1
517 (2). New Zealand, Bay of Islands—Correspondence, Part 2
518. Royal Artillery—Return
511. Bills—Coal Trade, Port of London, as amended by Select Committee, and on Re-commitment
512. — Church Building Act Amendment, amended
515. — Real Property, No. 2
516. — Stamp Duties, &c.
521. — Documentary Evidence
522. — Railways (Selling or Leasing)
523. — Unions (Ireland)
524. — Lunatics (amended by committee, on second re-commitment, and on report)
525. — Libel
527. — Removal of Paupers
530. — Testamentary Dispositions, &c.
540. — Joint Stock Banks (Scotland and Ireland)
541. — Compensations
542. — Drainage of Estates
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PARLIAMENTARY PAPERS.

FOREIGN WINES AND SPIRITS.—A return recently moved for by Mr. Darby, M.P. shews that in the year ending January 5, 1845, the total quantities of foreign wine imported into this country amounted to 8,584,586 gallons, of which 1,662,788 gallons were re-exported. Upon 7,077,451 gallons duty was paid. The quantities retained for home consumption, after deducting the amount exported subsequently to the payment of duty, amounted to 6,838,648 gallons, viz. 319,257 gallons of Cape, 473,789 gallons of French, 2,847,501 gallons of Portuguese, 2,478,360 gallons of Spanish, 111,577 gallons of Madeira, 53,865 gallons of Rhenish, 20,650 gallons of Canary, 158 gallons of Fayal, and 463,527 gallons of Sicilian, &c. wines. The quantities remaining in warehouse under bond on the 5th of January last amounted to 10,367,781 gallons, viz. 6,186,256 gallons in London, and 4,181,525 gallons at other places. It will be seen that the principal wines consumed in this country are those of Oporto and Xeres (port and sherry); that the Cape, French, and Sicilian (Marsala) wines are pretty much on a par, whilst the consumption of Madeira is almost incredibly insignificant. The quantities of foreign spirits imported in 1844 amounted to 5,786,787 gallons; the quantities retained for home consumption to 3,267,878 gallons; the quantities exported to 2,352,636 gallons; the quantities shipped as stores to 387,859 gallons; and the quantities delivered for the use of the navy to 359,924 gallons. The quantities remaining in bond on the 5th of January last amounted altogether to 5,383,467 gallons, viz. 3,276,687 gallons in London, and 2,106,708 gallons at other places in the United Kingdom. Amongst the 3,267,878 gallons retained for domestic consumption, there were 1,988,988 gallons of West-India and colonial rum, 104,324 gallons of East-India rum, and 105,185 gallons of West-India, East-India, and Mauritius rum, all vatted together, making a grand total of 2,198,592 gallons of rum. There were also retained for home use alone, 1,023,073 gallons of brandy, 14,864 gallons of Geneva, 6,077 gallons of other foreign and colonial spirits, and 25,272 gallons of Channel Islands spirits.

PROSECUTIONS.—A return relative to rates of allowance for prosecutors' and witnesses' expenses, and for attorney and counsel, and to prosecutions for felonies and misdemeanours, in the counties of England and Wales, at the two last assizes and quarter sessions, has been printed by order of the House of Commons, on the motion of Mr. W. D. Christie, M.P. for Weymouth. From a summary of the return, it appears that the total number of prosecutions for felonies, at the summer assizes of 1844, and the quarter sessions of 1844-45, in England and Wales, amounted to 1,957, and the total number of prosecutions for misdemeanours to 129; that the number of

prosecutions for felony at the Spring assizes, and the Epiphany or Easter quarter sessions of 1845, amounted to 1,779, and the number of prosecutions for misdemeanours to 100; and that the total number of prosecutions at the two last assizes and the two last quarter sessions, respectively, amounted—those for felonies to 4,476, and those for misdemeanours to 262. The number of cases in which no payment was made for brief or counsel's fee amounted, in the three periods respectively, to 705, 725, and 2,099.

FEES IN CRIMINAL COURTS.—A Bill brought into the lower House of Parliament by Mr. Escott, Sir Jas. Graham, and Viscount Duncan, M.P. "for further securing the rights of accused persons, and for abolishing certain fees in criminal courts," proposes to declare and enact that the plea of "Not guilty" is the free, undoubted, and unconditional right of every subject of this realm accused of crime or misdemeanour; and that henceforth it shall not be lawful for any officer of any court of criminal jurisdiction in the United Kingdom of Great Britain and Ireland, or for any other person whatsoever, to take or demand from any person accused of any crime or misdemeanour any fee or payment whatsoever, either before or after trial, or before, at, or after any summary proceedings before one or more justices of the peace, other than such proper and legal fine as the said court and justices before whom such person shall have been tried, or summarily convicted, are or shall be authorized to impose as a punishment for the offence for which such person shall have been tried and found guilty, or summarily convicted.

REVISING BARRISTERS.—A return, extending to seven pages, has been printed by order of the House of Commons, shewing the operations of the revising barristers of last year. It contains the names of the barristers, with the days they were employed. They are now paid 200*l.* each, including expenses, and the revision which, on its commencement, cost the country 31,000*l.* has been reduced to about one-half of that sum. Last year, the Court of Common Pleas decided seven appeals from counties; two were for the appellants, and five for the respondents. From cities and boroughs there were 23 appeals; 17 were in favour of the respondents, and the remainder for the appellants. Last year, costs were ordered for the first time—the highest amount was 22*l.* 2*s.*, and the smallest 7*l.* 15*s.* 8*d.*

RELIGION IN THE COLONIES.—From a bulky Parliamentary return lately published, it appears that according to a schedule of the grants, endowments, and appropriations, made for the purpose of religious instruction or of education in the colonies (the gross total population of our colonial dependencies amounting in the aggregate to 4,705,739 souls), there was paid in 1842 a total sum of 226,902*l.* to the clergy of the churches of England, Scotland, Rome, and the Methodist and Dissenting ministers, of which 46,964*l.* was paid by the British Treasury, and 176,938*l.* from colonial funds. The grants from the British Treasury to schools during the same period amounted to 26,117*l.* and that from colonial funds to 146,230*l.* making a grand total of 172,407*l.* Of the sum of 49,964*l.* granted by the Treasury to the clergy, those of the Anglican establishment received 44,593*l.*; those of the Scotch, 347*l.*; and those of the Romish, 2,024*l.* Of the sum of 176,938*l.* granted from colonial funds 118,443*l.* was received by the Anglican clergy, 29,645*l.* by the Scotch, 4,634*l.* by the Wesleyans and Dissenters, and 24,216*l.* by the Romish priests.

PUBLIC PETITIONS TO PARLIAMENT.—The 41st report of the select committee shews that there are, or were a few days ago (amongst many others lying on the table of the House of Commons), three petitions in favour of the Jewish Disabilities Removal Bill, signed by 53 persons; 31 petitions against the Universities (Scotland) Bill (recently rejected), signed by 1,108 persons; 40 petitions in favour of the same measure, signed by 1,600 persons; 587 petitions for relief from agricultural taxation, signed by 41,667 persons; 30 petitions for an inquiry into the working of the Anatomy Act, signed by 3,439 persons; 229 petitions against the Irish Colleges Bill, signed by 326,646 persons; 430 petitions for a Ten Hours Factory Bill, signed by 8,788 persons; 9 petitions for an alteration of the laws relating to landlords and tenants in Ireland, signed by 6,142 persons; 101 petitions against the Parochial Settlements Bill, signed by 2,971 persons; 289 petitions for an amendment of Sir J. Graham's Physic and Surgery Bill as it now stands; 28 petitions in its favour, signed by 915 persons; and 9 petitions in favour of the Smoke Prohibition Bill, signed by 6,583 persons.

Bills in Progress.

A Bill intituled "An Act for securing the real Independence of Parliament."

52 Geo. 3, c. 144. *Issuing of judgment for debt, &c. and execution thereon, to disqualify Peers and Members of the Commons from sitting and voting in Parliament.*—Whereas it is highly necessary, for the preservation of the dignity and independence of Parliament, that members of either of the Houses thereof who become insolvent, and do not pay their debts in full, shall not retain their seats in the Commons House, and shall be sequestered from voting in the Lords House; and whereas an Act was passed in the fifty-second year of the reign of his late Majesty George the Third, for preventing such as should be made bankrupt from sitting in the Commons House; but no provision hath yet been made touching such as are insolvent, not being traders, albeit that there is much more reason for regarding the bankruptcy of persons exposed to the risks of trade with favour; and whereas the provisions heretofore made for preventing the delays of justice through privilege of Parliament have not proved effectual, but persons having such privilege do set at nought the judgments and orders of courts of law and equity, to the great scandal of the law, and such persons should no longer be suffered to assist in making the laws which they continually do violate: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that from and after the passing of this Act if any judgment shall be given against any peer or any member of the Commons House, for any debt, or for the costs of any action or suit, and execution shall be issued thereupon, or if any order for the payment of money into court or otherwise shall be made, and process of sequestration issued thereon, and it shall be found by the return of the said process of execution or sequestration that such peer or member of the Commons House hath not goods or chattels sufficient to satisfy the debt, and after sequestration shall have issued and been executed such peer or member hath not paid the money into court, or otherwise obeyed the order in that behalf made, or that the debt shall remain unpaid, then and in that case such peer or member shall be altogether incapable of sitting and voting in either House of Parliament, unless within twelve calendar months from the process being issued against him he shall pay the debt, or pay the money ordered to be paid, with costs on the same judgment or order and process: Provided always, that nothing herein contained shall affect any peer or member of the Commons House who shall have brought a writ of error against such judgment, or appealed against such order, and have given security for the payment of the debt or money in case such judgment or order shall be affirmed, in two sufficient bondsmen, to be approved by a judge of the court in which such judgment shall have been given or order made.

2. *Speaker to issue his warrant for re-election to seats so vacated.*—And be it enacted, that the Speaker shall issue his warrant immediately after the expiration of twelve calendar months from such judgment or order below, and one month from the affirmance thereof on writ of error appeal, for the election of another member to serve ... place of the member so being insolvent, and whose seat shall be utterly void to all intents and purposes on the expiration of such twelve calendar months and one calendar month respectively.

3. *Power of Speaker to nominate persons to issue warrants for new writs extended to vacancies under this Act*—24 Geo. 3, Sess. 2, 26.—And be it enacted by the authority aforesaid, that all and every of the powers contained in an Act of the twenty-fourth year of the reign of his late Majesty George the Third, for repealing so much of the two former Acts as authorized the Speaker of the House of Commons to issue his warrant to the clerk of the crown for making out writs for the election of members to serve in Parliament in the manner therein mentioned and for substituting other provisions for the like purposes, so far as such powers enable the Speaker of the House of Commons to nominate and appoint other persons, being members of the House of Commons to issue warrants for the making out of new writs during the vacancy of the office of Speaker, or during his absence out of the realm, shall be and they are hereby made to be in force for the purpose of enabling him to make the like nomination and appointment for issuing warrants, under the like circumstances and conditions, for the election of members of Parliament in the room of such whose seats shall become vacant under the provisions of this Act.

4. *Act may be repealed, &c.*—And be it enacted, that this Act may be repealed, altered, or amended during this present session of Parliament.

A Bill intituled "An Act to facilitate the Admission in Evidence of certain official and other Documents."

Certain documents to be received in evidence without proof of seal or signature, &c. of person signing the same.—Whereas it is provided by many statutes that various certificates, official and public documents, documents and proceedings of corporations and of joint stock and other companies, and certified copies of documents, by-laws, entries in registers and other books, shall be receivable in evidence of certain particulars in courts of justice, provided they be respectively authenticated in the manner prescribed by such statutes: and whereas the beneficial effect of these provisions has been found by experience to be greatly diminished by the difficulty of proving that the said documents are genuine; and it is expedient to facilitate the admission in evidence of such and the like documents: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that whenever by any Act now in force or hereafter to be in force any certificate, official or public document, or document or proceeding of any corporation or joint stock or other company, or any certified copy of any document, by-law, entry in any register or other book, or of any other proceeding, shall be receivable in evidence of any particular in any court of justice or in any judicial proceeding, the same shall respectively be admitted in evidence, provided they respectively purport to be sealed or impressed with a stamp, or sealed and signed, or signed alone, as required, or impressed with a stamp and signed, as directed by the respective Acts made or to be hereafter made, without any proof of the seal or stamp, where a seal or stamp is necessary, or of the signature or of the official character of the person appearing to have signed the same.

2. *Courts, judges, &c. to take judicial notice of signature of equity or common law judges, &c.*—And be it enacted, that all courts, judges, justices, masters in Chancery, masters of courts, commissioners judicially acting, and other judicial officers shall henceforth take judicial notice of the signature of any of the equity or common law judges of the superior courts at Westminster, provided such signature be attached or appended to any decree, order, certificate, or other judicial or official document.

3. *Persons forging seal, stamp, or signature of certain documents guilty of felony.*—Provided always, and be it enacted, that if any person shall forge the seal, stamp, or signature of any such certificate, official or public document, or document or proceeding of any corporation or joint stock or other company, or of any certified copy of any document, by-law, entry in any register or other book, or other proceeding as aforesaid, or shall tender in evidence any such certificate, official or public document, or document or proceeding of any corporation or joint stock or other company, or any certified copy of any document, by-law, entry in any register or other book, or of any other proceeding, with a false or counterfeit seal, stamp, or signature thereto, knowing the same to be false or counterfeit, or if any person shall forge the signature of any such judge as aforesaid to any order, decree, certificate, or other judicial or official document, or shall tender in evidence any order, decree, certificate, or other judicial or official document with a false or counterfeit signature, or any document with the false signature of any such judge as aforesaid thereto, knowing the same to be false or counterfeit, every such person shall be guilty of felony, and shall upon conviction be liable to transportation for seven years, or to imprisonment for any term not more than three nor less than one year, with hard labour: provided also, that whenever any such document as before mentioned shall have been received in evidence by virtue of this Act, the court, judge, commissioner, or other person officiating judicially who shall have admitted the same, shall, on the request of any party against whom the same is so received, be authorized, at its or at his own discretion, to direct that the same shall be impounded, and be kept in the custody of some officer of the court or other proper person, until further order touching the same shall be given, either by such court, or the court to which such master or other officer belonged, or by the persons or person who constituted such court, or by some one of the equity or common law judges of the superior courts at Westminster, on application being made for that purpose.

4. *Not to extend to Scotland.*—And be it enacted, that this Act shall not extend to Scotland.

5. *Act may be repealed, &c.*—And be it enacted, that this Act may be repealed, altered, or amended during this present session of Parliament.

6. *Commencement of Act.*—And be it enacted, that this Act shall take effect from the first day of November next after the passing thereof.

A Bill intituled "An Act to facilitate the granting of certain Leases."

Persons may use forms in first schedule.—Whereas it is expedient to facilitate the leasing of freehold lands and tenements: be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that it shall be lawful and sufficient for the person seised of or interested in such lands or tenements to lease or demise the same lands to any other person by a deed to be made according to the forms set forth in the first schedule to this Act annexed.

2. *Forms in second schedule may be added, &c.*—That it shall be lawful for any person adopting or employing the deed set forth in the first schedule to this Act to insert in such deed the forms set forth in

the second schedule to this Act, or any of them, and also to insert therein any recital or any other clause or provision whatsoever.

3. *Where words of column* 1 *of second schedule employed, to have same effect as if words of column* 2 *were inserted.*—That whenever any party to any such deed shall employ in such deed any of the forms of words contained in Column I. of the second schedule hereto annexed, and distinguished by any number therein, such deed shall be taken to have the same effect and be construed as if such party had inserted in such deed the form of words contained in Column II. of the same schedule, and distinguished by the same number as is annexed to the form of words employed by such party.

4. *Deed to be valid without indenting or sealing.*—That every such deed shall be valid and effectual without indenting, and also without sealing, except in the case of a corporation; but shall have the same effect and operation as if the same had been indented and sealed.

5. *Deed to include all houses, &c.*—That every such deed, unless any exception be specially made therein, shall be held and construed to include all outhouses, buildings, barns, stables, yards, gardens, cellars, ancient and other lights, paths, passages, ways, waters, watercourses, liberties, privileges, easements, profits, commodities, emoluments, hereditaments, and appurtenances whatsoever, to the lands and tenements therein comprised, belonging, or in any wise appertaining.

6. *Remuneration for deed under the Act not to be by length only.*—That in taxing any bill for preparing and executing any deed under this Act it shall be lawful for the taxing officer, and he is hereby required, in estimating the proper sum to be charged for such transaction, to consider, not only the length of such deed, but the skill and labour employed and responsibility incurred in the preparation thereof.

7. *Deed failing to take effect by this Act to be as valid as if Act not made.*—That any deed which shall fail to take effect by virtue of this Act shall nevertheless be as valid and effectual, and shall bind the parties thereto, so far as the rules of law and equity will permit, as if this Act had not been made.

8. *Construction clause.*—That in the construction and for the purposes of this Act, and the schedules hereto annexed, unless there be something in the subject or context repugnant to such construction, the word "lands" shall extend to all freehold tenements and hereditaments, or any undivided part or share therein; and every word importing the singular number only shall extend and be applied to several persons or things as well as one person or thing; and every word importing the masculine gender only shall extend and be applied to a female as well as a male.

Schedules to which this Act refers.

THE FIRST SCHEDULE.

This deed, made the day of one thousand eight hundred and forty- [*or other year*], in pursuance of an Act made and passed in the reign of her Majesty, Queen Victoria, intituled [*set forth title of Act*], between [*here insert the names of the parties, and recitals, if any*] witnesseth, that in consideration of the rents and covenants hereinafter contained on the part of the said [*lessee*], his executors, administrators, and assigns, he, the said [*lessor*], doth demise unto the said [*lessee*], his executors, administrators, and assigns, all that, &c. [*parcels*], unto the said [*lessee*], his executors, administrators, and assigns, from the day of for the term of years thence ensuing, yielding and paying therefore yearly during the said term, unto the said [*lessor*], his executors, administrators, and assigns, the rent of pounds, by equal quarterly [*or yearly or half yearly*] payments on the day of the day of the day of and the day of in every year, without any deduction whatever in respect of any taxes, charges, or assessments whatsoever, save in so far as an Act of Parliament may have otherwise directed. [*Here insert covenants, or any other provisions.*] In witness whereof the said [*lessor*] and [*lessee*] have hereunto subscribed their names.

[*Lessor.*]
[*Lessee.*]

Signed and delivered by the above-named [*Lessor*] in the presence of *A B of*

Signed and delivered by the above-named [*Lessee*] in the presence of *C D of*

THE SECOND SCHEDULE.

Column I.—1. The said [*name of lessee*] covenants with the said [*name of lessor*] to pay rent;

Column II.—1. And the said lessee doth hereby for himself, his heirs, executors, administrators, and assigns, covenant with the said lessor, his executors, administrators, and assigns, that he, the said lessee, his executors, administrators and assigns, will, during the said term, pay unto the said lessor, his executors, administrators, and assigns, the rent hereby reserved, in manner hereinbefore mentioned, without any deduction whatsoever.

Column I.—2. And to pay taxes.

Column II.—2. And also will pay all taxes, rates, duties, and assessments whatsoever, whether parochial, parliamentary, or otherwise, now charged or hereafter to be charged upon the said demised premises, or upon the said lessor, his executors, administrators, or assigns, on account thereof.

Column I.—3. And to repair.

Column II.—3. And also will during the said term well and sufficiently repair, maintain, pave, empty, cleanse, amend, and keep the said demised premises, with the appurtenances, in good and substantial repair, together with all chimney-pieces, windows, doors, fastenings, water-closets, cisterns, partitions, fixed presses, shelves, pipes, pumps, pales, rails, locks, and keys, and all other fixtures and things which at any time during the said term shall be erected and made, when, where, and so often as need shall be.

Column I.—4. And to paint outside.

Column I.—4. And also that the said lessee, his executors, administrators, and assigns, will in every fourth year in the said term paint all the outside wood-work and iron-work belonging to the said premises, with two coats of proper oil colours, in a workmanlike manner.

Column I.—5. And to insure from fire in the joint names of the said [*lessor*] and the said [*lessee*]; to shew receipts; and to rebuild in case of fire.

Column II.—5. And also that the said lessee, his executors, administrators, and assigns, will forthwith insure the said premises hereby demised to the full value thereof, in some respectable insurance office in London or Westminster, in the joint names of the said lessor, his executors, administrators, and assigns, and the said lessee, his executors, administrators, or assigns, and keep the same so insured during the said term; and will, upon the request of the said lessor, his executors, administrators, or assigns, or his or their agent, shew the receipt for the last premium paid for such insurance for every current year; and also will, as often as the said premises hereby demised shall be burnt down or damaged by fire, forthwith reinstate the same, under the direction of the surveyor of the said lessor, his executors, administrators, or assigns.

Column I.—6. The said [*lessor*] to enter and view state of repair, and the said [*lessee*] covenants with the said [*lessor*] to repair according to notice.

Column II.—6. And it is hereby agreed, that it shall be lawful for the said lessor, his executors, administrators, and assigns, and his or their agents, at all seasonable times during the said term, to enter the said demised premises to take a schedule of the fixtures and things made and erected thereupon, and to examine the condition of the said premises; and further, that all wants of reparation which upon such views shall be found, and for the amendment in which notice in writing shall be left at the premises, the said lessee, his executors, administrators, and assigns, will, within three calendar months next after every such notice, well and sufficiently repair and make good accordingly.

Column I.—7. The said [*lessee*] covenants with the said [*lessor*] not to use premises as a shop.

Column II.—7. And also that the said lessee, his executors, administrators, and assigns, will not convert, use, or occupy the said premises or any part thereof into or as a shop, warehouse, or other place for carrying on any trade or business whatsoever, or suffer the said premises to be used for any such purpose, or otherwise than as a private dwelling-house, without the consent in writing of the said lessor, his executors, administrators, or assigns.

Column I.—8. The said [*lessee*] covenants with the said [*lessor*] to leave premises in good repair.

Column II.—8. And further will, at the expiration or other sooner determination of the said term, peaceably surrender and yield up unto the said lessor, his heirs and assigns, the said premises hereby demised, with the appurtenances, together with all buildings, erections, and fixtures now or hereafter to be built or erected thereon, in good and substantial repair and condition in all respects, reasonable wear and tear and damage by fire only excepted.

Column I.—9. Proviso for re-entry by the said [*lessor*] on non-payment of rent or non-performance of covenants.

Column II.—9. Provided always, and it is expressly agreed, that if the rent hereby reserved, or any part thereof, shall be unpaid for fifteen days after any of the days on which the same ought to have been paid (although no formal demand shall have been made thereof), or in case of the breach or non-performance of any of the covenants and agreements herein contained on the part of the said lessee, his executors, administrators, and assigns, then and in either of such cases it shall be lawful for the said lessor, his executors, administrators, or assigns, at any time thereafter, into and upon the said demised premises, or any part thereof in the name of the whole, to re enter, and the same to have again, re-possess, and enjoy as of his or their former estate, any thing hereinafter contained to the contrary notwithstanding.

Column I.—10. The said [*lessor*] covenants with the said [*lessee*] for quiet enjoyment.

Column II.—10. And the lessor doth hereby, for himself, his heirs, executors, administrators, and assigns, covenant with the said lessee, his executors, administrators, and assigns, that he and they paying the rent hereby reserved, and performing the covenants hereinbefore on his and their part contained, shall and may peaceably possess and enjoy the said demised premises for the term hereby granted, without any interruption or disturbance from the said lessor, his executors, administrators, or assigns, or any other person or persons lawfully claiming by, from, or under him, them, or any of them.

CRIMINAL FEES.

A Bill for further securing the rights of accused persons, and for abolishing certain fees in criminal courts, was presented and read a first time, and ordered to be read a second time on Monday, 21st. This Bill proposes to enact, "that the plea of Not Guilty is the free, undoubted, and unconditional right of every subject of this realm accused of any crime or misdemeanor; and that from and after the *passing of this Act* it shall not be lawful for any officer of any court of criminal jurisdiction in the United Kingdom of Great Britain and Ireland, or for any other person whatsoever, to take or demand from any person accused of any crime or misdemeanor any fee or payment whatsoever, either before, at, or after trial, or before, at, or after any summary proceedings before one or more justice or justices of the peace, other than such proper and legal fine as the said court, or justice or justices of the peace, before whom such person shall have been tried or summarily convicted, are or shall be authorized to impose as a punishment for the offence for which such person shall have been tried and found guilty, or summarily convicted.

HOUSE OF COMMONS.

SMALL DEBTS (No. 3) BILL.

TUESDAY, July 22.—On the motion of the SOLICITOR-GENERAL, the House went into committee on this bill.

After a few words from the SOLICITOR-GENERAL, in moving the order of the day, Mr. WAKLEY said he must enter his protest against proceeding with the bill, because, since the bill was brought down from the other house, thirteen new clauses had been introduced, and three schedules had been added, which honourable members had never before seen.—Sir JAMES GRAHAM said he was very sorry that, owing to a mistake of the printer, the bill had not been put into the hands of honourable members at an earlier period. If the honourable member pressed his motion, he (Sir James Graham) should not think he was doing his duty if he did not at once accede to it. He did not think, however, that there was any thing in the new clauses that would be found objectionable, and he would postpone the bill till Thursday.—Mr. T. DUNCOMBE objected very strongly to that part of the bill providing that the wages of workmen should be arrested in the hands of their masters for the payment of their debts. He objected to that clause operating in any case, except that of yearly salaries. Weekly wages were very uncertain, sometimes more, sometimes less. If that part of the bill were persisted in, he thought that it would be found to operate to the extreme dissatisfaction of all parties.—The SOLICITOR-GENERAL said he thought that the effect of that part of the bill had been misapprehended by the honourable member. The clause objected to contained no power for the attachment of wages on their passage from the hands of the master to the workman. It would only operate in cases where the wages were more than sufficient to supply the means of life, in which case the surplus would be attached, and that only on the order of a judge.—Sir J. GRAHAM said he had collected from the honourable gentleman that it would be agreeable to all parties to postpone the bill till to-morrow.

FEES (CRIMINAL COURT) BILL.

On the order of the day for the second reading of this bill, Mr. ESCOTT said a person who was accused of a criminal offence might plead guilty or not, as he thought proper, and no court of justice could properly inflict any other mulct than the legal fine. He trusted then that the present bill would not be opposed. He had been charged with attempting to abolish fees without giving compensation. But fees meant a legal charge, not an extortionate demand, such as he contended were the fees he had pointed out. He had carefully looked into the law, and could find no Act of Parliament that sanctioned such fees. The only colour for the demand was the permission given to the justices to make a table of fees; but then this Act only contemplated fees that were legal, not such gross and extortionate demands as he had pointed out to the House. He was surprised to find, now he had brought in a bill to abolish this shocking system, that any hon. member should get up and object to the measure. He trusted, as he had made manifest a gross abuse, requiring legislative remedy, that the House would consent to the second reading of the bill.—The ATTORNEY-GENERAL said the House must take care that it was not hurried into rash legislation by the creditable warmth of feeling displayed by the hon. and learned member. If the House were so carried away, hon. members would possibly find that a

sure had passed which, instead of doing good, would cause much mischief. No doubt the hon. and learned member had pointed out great abuses; those abuses ought to be done away with, and he (the Attorney-General) was ready to go along with the hon. and learned member in supporting any well-considered measure for that purpose; but then, looking at the bill before the House, and taking into consideration its scope and tendency, he was afraid the hon. and learned member had gone too far. The bill in question went to abolish many fees that certainly ought not in fairness to be abolished. With respect to fees on acquittal, the 55 Geo. 3 entirely abolished those fees. This Act recognised the principle for which the hon. and learned member contended; but he admitted it did not go far enough. It did not embrace some of those cases pointed out by the hon. and learned member, and so far he agreed with the views of the hon. and learned member. For instance, he thought that parties ought not to be required to pay fees before allowed to plead, nor should those who traversed, except for their own convenience, be called on to pay fees—much less those who had stood their trial, and had been acquitted. But then it was, in his judgment, going too far to abolish all fees secured and allowed by numerous Acts of Parliament. He thought to do this would be a dangerous and hasty piece of legislation. Undoubtedly, there were cases in which fees were much higher than the fines inflicted, and it might be wise to apply a legislative remedy to such an evil; but this was not a sufficient reason for abolishing fees altogether. Unless, therefore, his hon. friend should confine his bill within those limits which he thought safe, and which he had mentioned, he should be obliged to give it his decided opposition.—Mr. AGLIONBY said he thought the bill was much needed, and that it had been very properly brought in. He was sorry the Attorney-General objected to some parts of it, but he thought that was no reason why they should not give it a second reading. He would therefore suggest that they should do so, and that his learned friend should consider the Attorney-General's suggestions, and either amend the bill or take the sense of the House upon it in committee. (Hear, hear.)—Sir J. GRAHAM said that on a former occasion the question had been raised, whether parties acquitted for misdemeanors should be liable to payment of fees, and he then stated that he doubted whether such fees were legal, and that it was certainly not advisable they should be exacted. He was still quite ready to admit that such persons, and persons who were out on bail, or were compelled to plead, should not be liable to payment of fees, but he was not prepared to carry the principle any further.—The House then divided:—

For the second reading	.. ..	40
Against it	.. ..	6
Majority	.. ..	—34

The Bill was then read a second time, and ordered to be committed.

LAW OF REAL PROPERTY.

The ATTORNEY-GENERAL obtained leave to bring in a bill to amend the law relating to real property, which was brought in accordingly, and read a first time.

WEDNESDAY, July 23.—The Real Property (No. 3) Bill was read a second time, and ordered to be committed.—The Darby Court (Westminster) Bill; the Stamp Duties, &c. Bill, and the Militia Pay Bill were each read a third time and passed.

SMALL DEBTS (No. 3) BILL.

On the motion of the ATTORNEY-GENERAL, the House went into committee on this Bill; the several clauses were agreed to, and the report ordered to be received to-morrow (Thursday).—The Lunatics Bill was read a third time and passed.—Mr. SPOONER moved the third reading of the Duddeston and Nechells Improvement Bill.—Mr. MUNTZ opposed the Bill, and moved that it be read a third time that day three months. After a short discussion, the House divided; the numbers were—

For the amendment	.. ..	52
Against it	.. ..	75
Majority against the amendment		—23

The Bill was then read a third time.

COUNTY-RATES.

The House then went into committee on the County Rates Bill. On clause 7 a division took place. The numbers were—

For the clause	.. ..	43
Against it	.. ..	11
Majority for the clause	.. ..	—32

Mr. HAWES complained that this Bill preserved all the inequalities as regarded assessment which were connected with the old County Rates Act, and were the opprobrium of the system. He would be glad to know whether the Bill had received the sanction of her Majesty's Government.—Mr. GRANGER thought it most remarkable that, in a Bill with respect to county-rates, so important an element as the returns of the income and property tax should have been wholly omitted.—Lord G. SOMERSET stated, in answer to the question of the hon. member for Lambeth, that he had read the clauses, and, without going into their general merits, was prepared to say that he approved of them.—After a few words from Mr. DARBY, Mr. G. PALMER, Mr. DICKINSON, and Sir J. Y. BULLER, the remaining clauses and the preamble were agreed to, the House resumed, and the Bill was ordered to be reported to-morrow.

SMALL DEBTS (No. 3) BILL.

THURSDAY, July 24.—Mr. GREENE brought up the report of this Bill, which was agreed to, and some clauses being added, the Bill was ordered to be printed as amended, and to be read a third time on Monday next (at twelve o'clock).

REMOVAL OF PAUPERS BILL.

The House resolved into committee on this Bill. The several clauses were agreed to, after some conversation on the desirableness (if it had been practicable) of removing Irish paupers to the very place of their former abode, and not merely to the port nearest to it. The Bill was reported. The report to be received to-morrow (Friday), at twelve o'clock.—The Taxing Masters Court of Chancery (Ireland) Bill went through committee.—The Turnpike Roads (Ireland) Bill and the Documentary Evidence Bill went through committees, and were ordered to be reported to-morrow (Friday), at twelve o'clock.—The Real Property (No. 1) Bill, and the Assignment of Terms Bill, also went through committee.—The Granting of Leases Bill, and the Real Property (No. 3) Bill, passed through committee.

FEES (CRIMINAL COURTS) BILL.

Mr. ESCOTT, in moving the order of the day for going into committee on this bill, said it appeared to him that a number of hon. members, who had intimated their intention to vote against it were unaware of the grievances it sought to remedy. All that this bill sought to do was to protect an accused person from being put to the necessity of buying his right of pleading, and right of trial, by the payment of exorbitant fees. If he had not the money, the practice was to refuse him the right of pleading. That was the general practice. He had seen it repeatedly; and he had affidavits in his possession of cases of which he had not himself been witness, that it was the constant practice to refuse one charged with a misdemeanor the right of pleading "Not guilty" unless he paid the fees. He was sent back, brought up again at a subsequent session, and that was continued until either the fee was extorted, or it was found that the party really could not pay it. That was the practice in the county where he resided—Somersetshire. It was the same in Devonshire and Dorsetshire, and, in fact, in all the counties where the taking of fees was tolerated: but in 32 counties the practice was abandoned, and he now wanted that to declared to be the law, and that in the whole of the counties of England and Wales the same practice should be carried into operation under this bill. A distinction had been attempted to be drawn between the case of a party acquitted and that of a party convicted; but he was confident that if the House attended to the principle on which that distinction rested, they would see that there was no difference whatever between the two cases. What was the difference between charging a man who was innocent with fees to the amount of 3*l*. and one who was found guilty of an offence the fine for which was 1s. with fees to the same amount? In the one case, the man paid 3*l*. which he ought not to pay, the other 2*l*. 19s. Both cases were equally unjust. Justice could not be done unless they decided that no money (he admitted that it could not be demanded legally now) should be demanded from any person charged with a crime, except that penalty which the Court had a right to inflict, to punish him for the offence with which he was charged. He had been at a great loss to know why this Bill should be opposed. He had never found any person who was not a friend of the parties who demanded these fees who upheld them. It was merely a question of money. The difficulty was this, that these fees formed a convenient way, except to the parties who paid them, of paying certain officers of certain courts. (Hear, hear.) It was most important that the criminal courts of justice in this country should be freed from this stain, and until they were so, the law would not be loved as it ought to be, or the administrators of that law properly respected.—Sir J. GRAHAM said, the hon. and learned gentleman had himself shewn that this Bill was in fact unnecessary, for he had said that the law did not justify the exaction of those fees at that moment. If that were so, then he (Sir J. Graham) was decidedly opposed to all useless legislation. He differed from his hon. friend entirely with regard to persons found guilty. He thought that every person found guilty should have to pay a portion, at any rate, of the costs incurred.—Lord J. MANNERS hoped the House would, at any rate, proceed to the extent which the right hon. baronet, as a responsible adviser of the Government, felt it his duty to recommend.—Mr. G. PALMER supported the Bill.—Dr. BOWRING agreed with the hon. member for Winchester, inasmuch as no fees bought to be charged either on acquittal or conviction; and he trusted that the virtuous attempt of the hon. gentleman would be attended with success.—Mr. DARBY thought that the Bill went too far; he feared, in fact, that it would abolish altogether the just fees generally exacted in criminal cases.—Sir J. GRAHAM gave notice that, if the House rejected this Bill, he would be prepared to place on the table to-morrow a Bill abolishing all fees in criminal courts, both on pleading and on acquittal.—After a few words from Mr. P. Borthwick, Colonel Rolleston, and Mr. J. O'Connell, Mr. ESCOTT said, he had not introduced this Bill until his right hon. friend had intimated his intention to give up a measure he had brought forward with a similar object. He would at once accept the offer of the right hon. gentleman, and congratulated the House that this important question would now receive the attention of that right hon. baronet.—The Bill was then, by leave, withdrawn.

SMALL DEBTS (No. 3) BILL.

FRIDAY, July 18.—The SOLICITOR-GENERAL said that it was a matter of importance that this Bill should pass with as little delay as possible. He had communicated with several members who represented mercantile communities, and he had, in consequence, been enabled to put the Bill into such a form as he believed would be generally acceptable. With the view of introducing the alterations he alluded to, he should move that the Bill be then read a second time and committed *pro formâ*, and that it be reprinted, so as to be circulated to-morrow.—Mr. WAKLEY suggested that the nature of the alterations should be stated, or that the Bill should be delayed for two or three days.—Sir J. GRAHAM thought that if the House would assent to the suggestion of his honourable and learned friend at that period of the session, it would be the best course to pursue. His honourable and learned friend had several important alterations to introduce into the Bill, it therefore would be advisable at once to commit the Bill *pro formâ*.—The Bill was read a second time. The House resolved into committee on it. The amendments of the Solicitor-General were introduced into it. The House resumed, and the Bill was ordered to be recommitted on Monday.

NEW STATUTES

Of the Sessions 8 *Victoria*.

[In this record of actual Legislation, we adopt the plan of giving the titles alone of the statutes of no general or professional interest; and analyses of the more important changes in the law, printing at length such statutes or parts of statutes, only as are of particular interest to our readers.]

(*Continued from page* 43.)

CAP. XVIII.

An Act for Consolidating in one Act certain Provisions usually inserted in Acts authorizing the taking of Lands for undertakings of a public nature. (May 8, 1845.)

This is one of the series of useful consolidation statutes. It is of great bulk, and needs not to be analysed here.

CAP. XIX.

An Act for Consolidating in one Act certain Provisions usually inserted in Acts authorizing the taking of Lands for undertakings of a public nature in Scotland. (May 8, 1845.)

The like as applied to Scotland.

CAP. XX.

An Act for Consolidating in one Act certain Provisions usually inserted in Acts authorizing the Making of Railways. (May 8, 1845.)

Another of the same series.

CAP. XXI.

An Act to amend an Act of the 53rd *of George the Third, for appointing a Stipendiary Magistrate for the Townships of Manchester and Salford, and to provide a Stipendiary Magistrate for the Division of Manchester.* (May 8, 1845.)

CAP. XXII.

An Act to enable the Commissioners of Greenwich Hospital to widen and improve Fisher-lane, in Greenwich, and for other purposes connected with the Estates of the said Commissioners. (May 8, 1845.)

CAP. XXIII.

An Act for raising the sum of 9,379,600*l. by Exchequer Bills, for the Service of the year* 1845. (May 20, 1845.)

CAP. XXIV.

An Act to indemnify such persons in the United Kingdom as have omitted to qualify themselves for Offices and Employments, and to extend the Time limited for those purposes respectively until the 25*th day of March*, 1846. (June 30, 1845.)

The annual Indemnity Act, unaltered in its provisions.

CAP. XXV.

An Act to amend two Acts passed in Ireland for the better Education of persons professing the Roman Catholic Religion, and for the better Government of the College established at Maynooth for the Education of such persons, and also

an Act passed in the Parliament of the United Kingdom for amending the said two Acts. (June 30, 1845.)

The famous Maynooth Bill. As it relates purely to Ireland, it will not be necessary to state its provisions.

CAP. XXVII.

An Act to amend the Act to establish Military Savings Banks. (June 30, 1845.)

CAP. XXVIII.

An Act to empower Canal Companies and the Commissioners of navigable Rivers to vary their Tolls, Rates, and Charges on different parts of their Navigations. (June 30, 1845.)

The purport of this statute is declared in the title. It merely gives the power named, and provides that tolls so altered are to be charged equally to all persons under the circumstances; Sec. 3, that the Act shall not apply to existing companies, until a meeting of the shareholders shall have determined thereupon, nor in other cases until approved by trustees or proprietors, and notices thereof duly published. Sec. 4 saves the rights specifically reserved to canal companies and others by existing Acts of Parliament. Sec. 5 enacts that canal companies, subject to a limitation of profits, are not to raise their dues so as to exceed the maximum of profits. Sec. 6, that nothing herein is to exempt any canal, &c. from any general Act.

CAP. XXIX.

An Act to regulate the Labour of Children, Young Persons, and Women, in Print Works. (June 30, 1845.)

This statute is not of sufficient general interest to justify its insertion here.

CAP. XXX.

An Act to amend an Act passed in the Third and Fourth Years of the Reign of his late Majesty King William the Fourth, intituled "An Act for the better Administration of Justice in his Majesty's Privy Council." (June 30, 1845.)

We present the Act entire.

1. 3 & 4 Wm. 4, c. 41. *Recited Provisions of 3 & 4 Wm. 4, c. 41, not to apply to appeals admitted by Suddur Courts after 1st January*, 1846.—Whereas by an Act passed in the session held in the third and fourth years of the reign of his late Majesty King William the Fourth, intituled "An Act for the better Administration of Justice in his Majesty's Privy Council, after reciting that various appeals to his Majesty in Council from the Courts of Suddur Dewanny Adawlut at the several presidencies of Calcutta, Madras, and Bombay, in the East Indies, had been admitted by the said Courts, and the transcripts of the proceedings in appeal had been from time to time transmitted under the seal of the said Courts through the East-India Company, then called the United Company of Merchants of England trading to the East Indies, to the office of his Majesty's said Privy Council, but that the suitors in the causes so appealed had not taken the necessary measures to bring on the same to a hearing, it was enacted that it should be lawful for his Majesty in Council to give such directions to the said company and other persons, for the purpose of bringing to a hearing before the Judicial Committee of the Privy Council the several cases appealed or thereafter to be appealed to his Majesty in Council from the several Courts of Suddur Dewanny Adawlut in the East Indies, and for appointing agents and counsel for the different parties in such appeals, and to make such orders for the security and payment of the costs thereof as his said Majesty in Council should think fit, and thereupon such appeals should be heard and reported on to his Majesty in Council, and should be by his Majesty in Council determined, in the same manner, and the judgments, orders, and decrees of his Majesty in Council thereon should be of the same force and effect, as if the same had been brought to a hearing by the direction of the parties appealing, in the usual course of proceeding: provided always, that such last-mentioned powers should not extend to any appeals from the said Courts of Suddur Dewanny Adawlut other than appeals on which no proceedings then had been or should hereafter be taken in England on either side for a period of two years subsequent to the admission of the appeal by such Court of Suddur Dewanny Adawlut: and whereas by certain orders in council made under certain powers contained in the said Act provision is made for registering in the council office the arrival in this country of the transcripts of the proceedings in appeals from the said courts: and whereas it is considered advisable that the said Act should be amended in manner hereinafter mentioned: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That the hereinbefore recited provisions of the said Act shall not apply to the case of any appeal which shall be admitted by any of the said Courts of Suddur Dewanny Adawlut after the 1st day of January, 1846.

2. *Appeals admitted after 1st of January*, 1846, *to be considered as abandoned by consent, unless, &c.*—And be it enacted, That any appeal to be admitted by any of the said Courts of Suddur Dewanny Adawlut after the said 1st day of January, 1846, shall be considered and be held to be abandoned and withdrawn by consent of the parties thereto, unless some proceedings shall be taken in England in the same by one or more of the parties thereto within two years after registration at the council office of the arrival of the transcript; and any such appeal as aforesaid shall be held to be abandoned and withdrawn in like manner under any other circumstances which her Majesty in Council may from time to time by any orders or rules in that behalf direct to be taken and considered as a withdrawal thereof; and the East-India Company are hereby required from time to time to ascertain and certify to the proper courts in the East-Indies all appeals which may from time to time become abandoned and dropped under the provisions of this clause.

CAP. XXXI.

An Act to facilitate the Transmission and Extinction of Heritable Securities for Debt in Scotland. (June 30, 1845.)

THE MAGISTRATE.

Summary.

No incident has occurred requiring comment.

THE RIGHT OF ATTORNEYS' CLERKS TO CONDUCT CASES BEFORE MAGISTRATES.—*Important Decision.*—At the County Court, Bolton, on Thursday, the magistrates were engaged in hearing this question, involving the right of articled clerks to conduct cases on behalf of their employers. For a considerable time it has been customary at this court to allow clerks such privilege, but of late several solicitors have expressed their opinion to the effect that such a privilege materially affected the solicitors of this town. An objection was made on the 30th ult. by Mr. Taylor, solicitor, to the practice of attorneys' clerks pleading in that court, and an arrangement was then made to argue the question on this day. Mr. Holden being the senior solicitor who practises in this court, agreed to conduct the argument on behalf of the solicitors. Mr. Greenhalgh, clerk to Mr. Cross, and Mr. Richardson, clerk to Messrs. Winder and Broadbent, appeared to support their right to the privilege. The arguments *pro* and *con.* were proceeded with at great length, after the hearing of which the magistrates retired for consultation. After an absence of about an hour they returned, when Mr. Fletcher gave the following decision:—"We have come to a unanimous opinion on this subject. The construction we put on the Acts quoted is, that no person can act in this court as a pleader, or appear in any case as legal adviser, who is not duly qualified and enrolled as an attorney."—Mr. Holden then requested the Bench to make an entry to that effect in their minutes, to prevent the question being raised on any future occasion.—Mr. Fletcher stated that such entry should be made.—*Manchester Times*, July 12, 1845.

THE LAWYER.

Summary.

ANOTHER double number enables us to bring up a considerable arrear of the written judgments; still however many remain to be reported, for which it is impossible to find room at present. Some other matters, of considerable interest to the Profession, will be found mooted elsewhere.

REVIEW OF DECISIONS IN THE EQUITY, BANKRUPTCY, AND ECCLESIASTICAL COURTS,

For the Half-year ending on the 1st of July, 1845.

BANKRUPTCY.

Attorney.—An attorney not admitted in bankruptcy is not entitled to practise in bankruptcy, through an agent duly admitted. (*Re Williams*, 5 Law T. 80.)

Choice of assignees.—Where the bankrupt was one of five trustees, and had received and misapplied a portion of the trust-money, and an order of the Court of Review was obtained by the other four trustees for liberty to go in under the fiat and tender a proof for the amount, this was held not to be such a debt as to entitle them to vote in the choice of assignees. (*Ex parte Rowe, re Rowe*, 4 Law T. 321.) Where no choice of assignees has been made, the sums of 20*l.* and 10*l.* under the 1 & 2 Wm. 4, c. 56, ss. 46 and 55, are not payable. (*Ex parte Miller, re Miller*, 4 Law T. 473.) Adjourned meetings for the choice of assignees are within the exceptions of the 55th section. (Ibid.) On the annulling of the fiat, with the consent of the creditors, before a choice of assignees has been made, the official assignee is entitled to remuneration for his services. (Ibid.)

Clerk's salary.—A clerk, absent from illness, with the consent of his master for three months, before the bankruptcy, was allowed 30*l.* under 5 & 6 Vict. c. 122, s. 28. (*Ex parte Harris, re Closson*, 5 Law T. 203.)

Contracting debt without ability to pay.—An insolvent who has given a bill of sale of his household goods, furniture, and stock in trade, and has contracted a subsequent debt, does so without reasonable assurance of being able to pay, and is not entitled to the benefit of the Act. (*Re Clark*, 4 Law T. 436.) The mere fact of being insolvent is not sufficient evidence of a party having contracted debts without reasonable assurance of being able to pay. (*Re Lane*, 5 Law T. 271.)

Costs—Statute of Limitations, &c.—The bill of a solicitor for fees and disbursements after the choice of assignees was, upon petition, ordered to be paid, though no item of the bill was within six years, the estate not being completely wound up and distributed; but the Statute of Limitations applies to cases of that sort. (*Ex parte Brutton, re Fisher*, 4 Law T. 321.) Where the bankrupt has obtained his certificate, and there has been no proof under the fiat, and no choice of assignees, and there exists a moral certainty that no choice will ever take place, the official assignee may pay over a small sum in his hands in discharge of the solicitor's costs without reserving the sums required to be paid under the 1 & 2 Wm. 4, c. 56, ss. 46, 55. (*Ex parte Teague*, 4 Law T. 378.) Upon a petition by an assignee for leave to bid at the sale of property under the fiat, the bankrupt, who had been served with the petition was allowed his costs of appearance. (*Ex parte Young, re Worth*, 4 Law T. 473.) Expenses of witnesses summoned to prove an act of bankruptcy, but not examined, cannot be allowed. (*Re* ———, 4 Law T. 473.) A person summoned to be examined touching property of a bankrupt supposed to have been concealed by him, is not entitled to be paid his expenses before he is sworn or examined. (*Re Lampan*, 5 Law T. 179.)

Equitable mortgage—Interest.—In pursuance of an arrangement between trustees and their *cestui que* trust, an equitable mortgage was given to the latter for sums due by the trustees, and the trustees paid interest on the sums up to their bankruptcy. The Court allowed interest at the same rate to be continued from the date of the bankruptcy, although no mention of interest was made in the memorandum given by the trustees upon the equitable mortgage being made. (*Ex parte Mayor, re Solly*, 4 Law T. 399.)

Proof of debt.—The owner of one moiety of a vessel cannot prove against the estate of the bankrupt owner of the other moiety, for half the money paid by him for stores supplied (previous to the execution of the transfer of the moiety to the bankrupt) for the use of the vessel on an intended voyage at the joint risk (*Re Hemsworth*, 5 Law T. 179); and a subsequent agreement must be in writing. (Ibid.) Where a bankrupt had agreed to accept a composition from a debtor, and give him a release, and the debtor had subsequently become a creditor of the estate, before such creditor can prove, he must produce the release. (*Re Lacey and Yates*, 5 Law T. 203.) A business being given to a solicitor by will, on condition of admitting an infant to the business at twenty-one, and in default to pay 1,000*l.* he becomes bankrupt during the minority, and the 1,000*l.* is held to be provable against his estate. (*Ex parte Megarey, re Megarey*, 5 Law T. 203.) The father of an infant received a legacy on his account, and invested it in securities out of the ordinary course, and he became bankrupt; the *cestui que* trust could elect to take the securities and profits, or prove for the legacy and interest. (*Ex parte Montefiore*, 5 Law T. 222.) Vendors may prove for loss of price in a sale to a second purchaser against the estate of a first, who did not complete his purchase. (*Re John Peters*, 5 Law T. 222.)

Protection of the Court—Contempt, &c.—The officer of the sheriff is bound to take notice of the

protection of the Court on its production to him; and the commissioners' courts, being courts of record, have power to punish for contempt and to grant costs. (*Re Day*, 4 Law T. 419.) A person being in contempt of the Insolvent Debtors Court for disobedience to an order made by it on an application for his discharge under the Insolvent Debtors Acts, petitioned the Court of Bankruptcy for his discharge under the 7 & 8 Vict. c. 96, and obtained an interim order. On application for his final order, the commissioner, by an order stating the circumstances of the case, remanded him to his former custody. The Court of Review, upon a petition of appeal, had no jurisdiction. (*Ex parte Newlands, re Newlands*, 4 Law T. 473; and see 5 Law T. 19.) *Quære* as to the appeal from such an order?

Shewing cause against final order of an insolvent.—The opposition by a creditor to the final order of an insolvent who has petitioned the Court for protection, will be restricted to matters in which the creditor has an interest. (*Re Lazarus Alman*, 4 Law T. 273.)

Statement of value of an insolvent's estate.—The statement in the petition of the value of the insolvent's estate must include all his estate, whether incumbered or unincumbered, notwithstanding the word "unincumbered" is in the form of the petition. (*Re John Jones*, 4 Law T. 453.) The word "unincumbered" in the form refers to the word "value," and not to the estate. (Ibid.)

Vexatious defence.—The Court refused to order an insolvent's discharge, for having vexatiously defended an action. (*Re Margaret Parry*, 4 Law T. 440.) Having defended an action with reasonable grounds of doing so is no ground of opposition, but if the defence was vexatious, the final order will be refused. (*Re John Jones*, 4 Law T. 453.)

CONTRACT.

To demise and repair.—Where the appellant had entered into a contract to demise certain premises for a term to the respondents, and previously to the commencement of the term to repair the old premises and build a new warehouse, and the respondents entered accordingly at the day agreed upon, but before the appellant had completed the building and repairs, and before the lease was executed, and a fire soon after destroyed the premises, the respondents were not bound to demise and rebuild, the contract not being completed, and till then the premises being at the appellant's risk. (*Counter* v. *M'Pherson*, 4 Law T. 449.)

COSTS.

Delivery of bill of costs—Signing.—Sending a packet containing a bill of costs, which is afterwards sworn to as being received, is sufficient delivery within the Act, especially when referred to in a letter afterwards. (*Ex parte Burr*, 5 Law T. 123.) Special applications are not required by the Act, only the common order with special directions, which the secretary at the Rolls has orders to give generally. (Ibid.) A bill of costs may be referred for taxation, though delivered unsigned, or unreferred to by any letter accompanying it. (*Re Pender*, 5 Law T. 170.) Where a solicitor transacts business for a client in his personal character, and other business for him in his representative character, and delivers bills for each, there ought to be two distinct orders for taxation. (Ibid.) It is irregular to obtain the common order to tax directing the delivery up of *all* papers on payment of what is due, there being other papers than those relating to the bill. (Ibid.)

Suing in formâ pauperis.—Where a petition is presented in two causes, in one of which the petitioner has an order to sue *in formâ pauperis*, but not in the other, the costs of such petition, on its being dismissed, may be apportioned. (*St. Victor* v. *Devereux*, 4 Law T. 470.)

Suit.—The executors of an insolvent who had been one of several trustees who committed a breach of trust, are entitled, as between party and party, to their costs of a suit relating thereto, to which they are made parties, the estate being administered, and no inquiry having been made as to the insolvency. (*Norton* v. *Pritchard*, 5 Law T. 2.)

Taxation of, &c.—Several cases have come before the Master of the Rolls, in which the parties had entered into a special agreement as to the payment of costs, and he has over and over again held that he has no jurisdiction to construe such agreements on petition. It is only where the parties are agreed as to the effect of the agreement that he will take the petition into consideration. If there be a dispute, they must proceed by bill. Instances are to be found in *Re The Great Western Railway Acts* (4 Law T. 250); *Re Thompson* (4 Law T. 251); *Re Elderton* (4 Law T. 310), &c. On a reference to tax, leave to exhibit a special interrogatory as to the possession of papers will not be granted. (*Re Burt, ex parte Nash*, 5 Law T. 190.) If an order for taxation be refused by a common-law judge, who has competent jurisdiction to decide upon the question, it will not be reconsidered in equity. (*Re Wheeler*, 4 Law T. 251.) The Vice-Chancellors have jurisdiction to make orders for the taxation of bills of costs as well as the Master of the Rolls, though the latter and the Lord Chancellor only are mentioned in the Solicitors Act. (*Re Carew*, 4 Law T. 310.) A solicitor need not wait till the end of the suit to have his costs taxed, if it be delayed by the obstinate conduct of some of the defendants; and he is entitled to a stop order on funds in court to the credit of the plaintiff, if another solicitor is about to be appointed. (*Hobson* v. *Shearwood*, 5 Law T. 19.) The expenses of a short-hand writer's notes of the judge's charge and evidence will not be allowed on taxation, the judge's notes and counsel's notes being considered the legitimate sources of information. (*Malins* v. *Price*, 5 Law T. 143.) After payment of the bill within the year, objectionable items, though not the only thing to be considered when taxation is asked for, must be stated either alone or along with other special circumstances. (*Re Thompson*, 4 Law T. 330.) It is irregular for one of two executors who is beneficially interested to obtain an order for taxation of a solicitor's bill of costs for conveyancing, &c. done for the executors, as between the solicitor and executor, and not as between him and the executors. (*Re Perkins and Gepp*, 4 Law T. 472.) The true construction of the 6 & 7 Vict. c. 73, s. 38, is that a third party, liable to pay costs originally payable by a client to his solicitor, stands, on a reference to tax, in the same situation as the client himself, and the costs must be taxed as between solicitor and client. (*Re Thompson*, 4 Law T. 330.)

ECCLESIASTICAL COURTS.

Costs.—If a parish permit a long accumulation of arrears of church-rates, and then suing, will, for such neglect, be left to pay its own cost (*Blount* v. *Fife*, 5 Law T. 151.)

Divorce.—Misrepresentation by the wife of her name and circumstances is no ground for annulling a marriage. (*Clowes* v. *Clowes*, 5 Law T. 153.) Malicious desertion does not of itself bar the husband's suit for a divorce by reason of the adultery of his wife. (Ibid.)

Faculty.—The Court will not confirm a faculty for a stone altar and credence-table in a parish church, the same not being a communion-table according to the canons and statutes. (*Faulkner* v. *Litchfield and Stearn*, 5 Law T. 21.) This is a very important judgment in reference to the views of the leading parties in the Church.

Jurisdiction.—The bishop in whose diocese an offence is committed by a clerk holding preferment in another diocese, may issue a commission of inquiry, and if the commissioner report that there is *primâ facie* ground for the complaint, the bishop of the diocese in which the defendant holds his preferment is to proceed. (*The office, &c. by Homer and Bloomer* v. *Jones*, 4 Law T. 440.)

Will—Cancellation—Tearing.—A testator had given instructions for a new will, but died before it could be executed. A former will, written on very brittle paper, was found in a box tied up with a draft of the new will, but divided in the middle, the seal and signatures remaining, and there being no other sign of cancelling; the circumstances were not considered to raise a sufficient presumption that the paper was torn for the purpose of revoking, the probability being that it was occasioned by the wear and tear of a brittle paper. (*Bigge* v. *Bigge*, 4 Law T. 471.)

EVIDENCE.

Absence.—A person entitled to a share in a sum of money after the death of the life-tenant went abroad many years before that event, and had not since been heard of. His share was ordered to be paid to the other parties, on the presumption, from the evidence, that he died before the life-tenant. (*Rolfe* v. *Wright*, 4 Law T. 431.)

INSURANCE.

Compensation.—Where compensation for loss, &c. is received from other parties, the underwriters are discharged from all claim. (*White* v. *Dobbinson*, 5 Law T. 233.) And where they have paid the loss, and the insured afterwards obtains compensation from other persons, they have a claim to be repaid. (Ibid.)

JURISDICTION.

Agent of foreign government.—A person sent by the Spanish government to pay certain claims of the British Auxiliary Legion of Spain, and entirely bound by the directions of the Spanish ambassador here, is not subject to the jurisdiction of the Court. (*Service* v *Castaneda*, 5 Law T. 143.)

LUNATIC.

Jurisdiction.—A lunatic will be permitted, under particular circumstances, to reside out of the jurisdiction of the Court, if security be given by some one resident within the jurisdiction that he will be brought back if required by the Chancellor. (*Re Jones*, 4 Law T. 249.)

Practice.—The committee of a lunatic will be permitted to oppose a railway bill injuriously affecting his property. (*Re Dynely*, 5 Law T. 233.) Where the only object of the petitioner for a commission in lunacy is to protect the person and property of the alleged lunatic, it will be granted. (*Re Woodcock*, 4 Law T. 289.) Intervals of long continuance, during which the lunatic may conduct himself rationally, form no grounds for refusing a commission if it is in fact shewn that delusions exist. (*Re Watts*, 4 Law T. 389.) A sum will be allowed the lunatic to contest his lunacy. (*Re Nelson*, 4 Law T. 409.)

MARRIED WOMAN.

Wife's reversionary interest, &c., assignment of by husband.—A wife being entitled to a reversionary legacy, her husband assigned it by way of mortgage, and survived the period appointed for payment; on the authority of *Elwin* v. *Williams* (12 L. J. N.S. 440), the assignment was held void against the wife surviving. (*Ashby* v. *Ashby*, 4 Law T. 252.) Quære, what effect would a release of the property by the husband for valuable consideration have had? A settlement on marriage of a woman's property was made to herself for life, and, after her death, for the children of the marriage equally, with a power to the trustees to advance one-half their presumptive shares, with her consent. She married a second time, and she and her husband, for valuable consideration, assigned the life-interest; she could nevertheless exercise the power of advancement. (*Whitmarsh* v. *Robinson*, 4 Law T. 372.)

Separate use—Restraint on alienation.—The law of separate use containing terms of restriction on alienation is in a somewhat unsettled state, from the effect of late decisions, the alienation clause being sometimes held to affect only the power of appointment, and in other cases to be applicable only to the interest in default. In *Barrymore* v. *Ellis* (8 Sim. 1), it was held that a limitation as the married woman should appoint, but not so as to anticipate, and in default, then to her for her sole use, only restrained the appointment, and gave an uncontrolled authority over the interest. The Vice-Chancellor put stress upon the words, "to her for her separate use," not being "to pay into her proper hands, for, &c." Again, in *Brown* v. *Bamford* (11 Sim. 127), the same decision was made. There there was a receipt clause, that the receipts of the lady should be good discharges; but the Vice-Chancellor said, to make it of any efficacy as a restraint, there ought to have been added, "and no other receipts shall be good discharges." But in *Medley* v. *Horton* (13 Law J. 442), the limitation was, as the married woman should appoint, and in default to be paid into her proper hands for her separate use, and her receipts alone to be sufficient discharges to the trustees, and it was held that the restraint only applied to the estate, not to the general power of appointment. In the case of *Moore* v. *Moore* (1 Coll. 54), however, Knight Bruce, V.C., decided that, under a limitation exactly like that in *Barrymore* v. *Ellis* (though he professed to see a distinction, without saying in what it consisted), the restraint applied both to the power and the estate in default. And in *Baggett* v. *Meux* (1 Coll. 138), the same judge decided that the anticipation clause, placed after the power of appointment and before the estate in default, was both retrospective and prospective. In *Harrop* v. *Howard* (3 Hare, 624; 4 Law T. 352), it has been decided that negative words need not be introduced into the receipt clause to complete the restraint on anticipation, for that clause must be construed to relate to the income, subject to such restraints as are imposed by the former part of the settlement. Lastly, in *Harnett* v. *M'Dougall* (5 Law T. 18), the Master of

the Rolls refused to give effect to a charge on her income by a married woman to whom funds were limited as she should appoint, but with the anticipation clause, and in default, to her to her separate use. The case of *Brown* v. *Bamford* is now before the Lord Chancellor on appeal, and has been twice argued before him, and is now waiting judgment.

MORTGAGE.

Fraud.—A farmer who had a mortgage upon property delivered all the title-deeds, except the deed assigning the mortgage to himself, to his solicitor, with a view to a sale. The solicitor sold the property and absconded; no inquiry till then having been made as to the deeds, the farmer was not held liable as a party to the fraud.

Pension—Mortgage, assignment of.—A pension granted in compensation to a clerk of the Transport Office, after the abolition thereof, is assignable. (*Barry* v. *Disney*, 4 Law T. 471.)

Priority—Laches.—In an administration suit, a bond creditor, being also equitable mortgagee, comes into the Master's office under the decree, and claims the debt on bond, suggesting the mortgage claim, but taking no further steps respecting it for six or seven years. The assets, however, turning out insufficient, he then presents his petition to prove his lien, and thereby gain priority over a specialty creditor: it was dismissed with costs. (*Cattel* v. *Symons*, 4 Law T. 350.)

Redemption.—A mortgagor cannot, before the day mentioned to redeem, compel a mortgagee to receive the principal, interest, and costs in full up to the day of redemption, and to reconvey to the mortgagor. (*Brown* v. *Cole*, 5 Law T. 2.) The death of the mortgagee of real estate is the period to be considered as to the question whether the mortgage is absolute or subject to redemption, and whether his wife be dowable thereout. (*Flack* v. *Longmate*, 5 Law T. 35.)

Repairs, improvements, &c.—A mortgagee in possession will be allowed to charge for repairs, but not alterations or improvements without the mortgagor's consent; and he will be held liable for injury to the mortgaged property, by pulling down cottages and erecting buildings of a different description. In case of a suit for redemption, also, if the mortgagee claims for lasting improvements, but does not prove his expenditure, and the mortgagor shews that the value of the property has been depreciated by the mortgagee's alterations, the latter will not be entitled to an inquiry. (*Sandon* v. *Hooper*, 4 Law T. 269.)

PATENT.

Reference to the Solicitor-General.—Where there is a dispute as to the priority of two conflicting patents for the same invention, the course is to refer it to the Solicitor-General to ascertain if they clash, and if so, then who first invented, not who first presented his petition. (*Re Griffiths's Patent, Re Samuda's Patent*, 5 Law T. 141.) The report of the Solicitor-General on a patent needs no confirmation. In the case of rival patents, the matter is referred to the Solicitor-General, who reports to the Chancellor for his information, and then it is in the discretion of the latter whether he will affix the great seal or not. (*Re Prosser's Patent, Re Pinkus's Patent*, 5 Law T. 189.)

PRACTICE.

Contempt.—Where a defendant is in custody for contempt in not putting in an answer, and (an answer having been subsequently put in) the plaintiff files a replication, that is a waiver of the contempt, and the defendant is entitled to be discharged without payment of costs. (*Oldfield* v. *Cobbett*, 4 Law T. 390.) But though the defendant does so become entitled to be discharged as to the original contempt, yet he remains liable to the costs on subsequent unsuccessful applications to be discharged. (Ibid.) A prisoner in contempt for want of answer, though entitled to his discharge under the 11 Geo. 4 & 1 Wm. 4, c. 36, s. 15, r. 13, yet, if justice cannot be done without detaining him, the Court will do so. (*Fox* v. *Whitmore*, 5 Law T. 234.)

Correction of mistake in answer after replication.—Where a defendant, speaking in his answer to the best of his belief, has made a mistake in the date of an important document, he will be allowed to correct that mistake by a supplemental answer, even after replication, and when the case has for some time stood in the paper for hearing; and that, notwithstanding the effect of the alteration of date may be entirely to displace the plaintiff's claim. (*Fulton* v. *Gilmore*, 4 Law T. 329.) A plaintiff who after replication examines a defendant as a witness, who, by some omission, has neglected to release his interest in the suit, may nevertheless, upon proving the release to have been executed afterwards, use the depositions as if the release had been made prior to the examination. (*Knight* v. *Morrell*, 4 Law T. 410.)

Delay in applying.—An application to discharge for irregularity the common order at the Rolls, in a cause depending before a Vice-Chancellor, should be made as early as practicable. (*St. Victor* v. *Devereux*, 4 Law T. 470.)

Impertinence.—Where an agreement was set out *in verbis*, and there being many transactions to be stated in the bill, the plaintiff, after setting out the agreement, repeated a part of it as an introduction to a branch of the transactions, such repetition was not held impertinent. (*Foster* v. *Breynton*, 4 Law T. 452.)

Infant.—A bill may be filed in the name of an infant married woman by her next friend, without her consent. (*Wortham* v. *Pemberton*, 5 Law T. 2.)

Injunction.—After the passing of the 5 & 6 Vict. c. 22, an order for the committal of a person to the Fleet for contempt for breach of an injunction having become inoperative, and the party having evaded the service of the order for several years, but not having again committed a breach of the injunction, a motion to review the order and commit the party to the Queen's Bench Prison was refused as too severe. (*St. John's College, Oxford*, v. *Pratt*, 1 Law T. 271.)

Motions.—Notice of motion may be given for any day of the Term, provided the usual time is allowed to intervene between the service and hearing; but the Court will only hear the motion on seal days. (*Stow* v. *Fell*, 4 Law T. 471.) Motions before the Lord Chancellor are not strictly appeal motions, and it is no objection to such motions that the terms of the notice of motion vary from those of the original motion in the court below. (*Lidgett* v. *Williams*, 5 Law T. 169.) When the Court permits a motion to stand over to answer an affidavit, it is an indulgence to be granted at the discretion of the Court on terms. (*Damer* v. *Lord Portarlington*, 5 Law T. 189.)

Opening biddings.—The biddings on a sale by the Court will not be opened as of course upon a sufficient advance of price being offered, if the tenure of the property be precarious, as upon life, &c. (*Wallond* v. *Wallond*, 5 Law T. 142.)

Orders.—Orders under the Act 1 Vict. c. 91, and the 4 & 5 Vict. c. 52, are imperative on the Court, and they have no discretion respecting them. (*Calvert* v. *Gandy*, 4 Law T. 371.) The 5th Order of 1828 requires exceptions to be referred not before eight days, nor after fourteen; and if the order to refer the exceptions, though obtained, is not served within the fourteen days, it is to be considered as abandoned. (*Dalton* v. *Hayter*, 4 Law T. 489.) Notwithstanding the 9th and 10th Orders of the 26th of October, 1842, the ordinary Master is the proper person to whom to refer the question as to just and proper sums to be allowed to an accountant for his time and labour. (*Hughes* v. *Wynne*, 4 Law T. 351; id. 17.)

Production of documents.—Where a fact is neither admitted nor denied by the defendant in his answer, affidavits will not be admitted to be read on an interlocutory application to substantiate that fact. (*Edwards* v. *Jones*, 4 Law T. 249.) Where a list of documents is set out in the schedule to an answer, and it is expressly denied that such documents evidence or relate to the plaintiff's title, such documents will not be ordered to be produced. That was the decision in *Adams* v. *Fisher* (3 Myl. & Cr. 526), and because the denial was not sufficient, production was ordered in *Edwards* v. *Jones* (4 Law T. 129). Documents mentioned in the answer to be in the defendant's possession, but not scheduled, and alleged by the defendants, to the best of their knowledge and belief, not to relate to the matters in question, were ordered to be produced. (*Attorney-General* v. *Berry*, 5 Law T. 35.)

Second rehearing.—Though a defendant who is in contempt for non-payment of costs is entitled to be heard on an application to discharge the very order in respect of which he is in contempt, that does not entitle him to apply for a second rehearing until the costs awarded against him on the first have been paid. (*Needham* v. *Needham*, 4 Law T. 309.)

Service of subpœna.—Where a party is resident abroad, a subpœna to answer a bill may be served on a solicitor who has a general power to act for that party in all matters connected with the subject of the suit. (*Murray* v. *Vibart*, 4 Law T. 310, 350.) Where a husband and wife were defendants in a suit, and the wife had appeared to and answered the original bill, and the husband, on being served with a subpœna for himself and wife to a bill of revivor, entered an appearance for himself, but refused to do so for the wife, the Court gave the plaintiff leave to enter one for her under the 8th Order of 1841. (*Holcombe* v. *Trotter*, 5 Law T. 36.)

Time.—An attachment may issue after the time for answering has expired, though the plaintiff has previously joined with the defendant in a commission to take the answer. The time is not thereby extended. (*Boschetti* v. *Power*, 4 Law T. 490.)

STATUTES, CONSTRUCTION OF.

Construction of the Stat. 5 & 6 *Wm.* 4, *c.* 76.—The appointment of a new town-clerk amounts to a removal of the old, under the Act, though the latter does not offer himself for re-appointment. (*Attorney-General* v. *The Mayor of Poole*, 4 Law T. 272.)

Compensation under the 5 & 6 *Wm.* 4, *c.* 76.—Any office held by a town-clerk, which is appendant or appurtenant to, or usually held with the office of town-clerk, though not a corporate one, is an office for the loss of which compensation is to be allowed. (Ibid.)

Construction of the 56 *Geo.* 3, *c.* 60.—Executors by accident overlook stock standing in the name of their testator, which, under the above Act, is transferred to the Commissioners for the Reduction of the National Debt. A person pretending to be grandson and residuary legatee of the testator obtains probate of a paper purporting to be the will, and gets a transfer of the stock at the bank, and being convicted of forgery and transported, the executors of the real will were held entitled to a transfer from the commissioners. (*Ex parte Joliffe*, 4 Law T. 309.)

Stamp Act.—A cheque directed to "A. B. and Co. bankers, L." without any other mention of the place of issuing the cheque, is not within the exceptions from the Stamp Act, and, being unstamped, is void. (*Bond* v. *Warden*, 4 Law T. 451.)

Construction of 4 & 5 *Wm.* 4, *c.* 40, *s.* 12.—The bankers of a friendly society, which, by its rules required the treasurer not to retain any sums which might be in his hands beyond a certain amount, are not to be considered officers of the society within the 4 & 5 Wm. c. 40, s. 12.

TITLE.

Judgment creditors.—Under a decree in a suit by simple creditors of a testator, a sale was directed, and an objection raised to the title to one of the lots which had descended to the testator's heir-at-law from his brother, a devisee under the will, by reason of certain unsatisfied incumbrances against the heir-at-law, whose judgment creditors were not before the Court, was held to be a good objection. (*Parkinson* v. *Piper*, 4 Law T. 410.)

TRUSTS.

Composition of debts.—Trustees are not justified without an express authority, to compound debts, however expedient and beneficial such composition may be shewn to be. (*Samuel* v. *Gibbs*, 4 Law T. 311.)

Liability of trustees.—An executor directed to invest in real or sufficient securities on trust is liable for loss sustained by leaving the assets in a firm even of which his co-executor is a partner. (*Fulton* v. *Gilmore*, 4 Law T. 392; *Ib.* 4 Law T. 431.)

Power of sale.—By a power of sale to trustees of a marriage settlement, "to sell out the trust funds and invest the produce thereof, and they were thereby authorized and required, at the request of husband and wife, so to do, in freehold or copyhold hereditaments or terms for years, having at least 60 years to run, and of sufficient value, and situate in a convenient place," they are bound to sell and invest in town leasehold houses, and the only discretion they have is to see they are of the value and description intended. (*Beauclerk* v. *Ashburnham*, 4 Law T. 431.)

WILL.

Construction.—It is incumbent on those who contend that the word "surviving" is to be construed "other," to point out words in the context which authorize such a construction. (*Cooper* v *Palmer*, 4 Law T. 472.) The rules by which inconsistent clauses of a will are construed or rejected

should be governed by the intention of the testator, apparent upon consideration of the whole will. (*Marrall* v. *Sutton*, 4 Law T. 1.)

Cumulative legacies.—Where a testator has a certain kind of foreign stock, and by two different codicils refers in terms to that stock, and disposes of it to the same person by both codicils, it is a specific legacy, and the second gift is a substitution for the first, and not cumulative. (*Marquis of Hertford* v. *Lord Lowther*, 4 Law T. 450.) But where two different sums of money were given by the same codicils, though in some degree connected by expression with the specific gift, then pecuniary legacies were held to be cumulative, there being no sufficient indication of intention to overturn the general rule. (Ibid.)

Legacy duty.—A British subject domiciled in a British colony died, having debts due to him in England, which his executor collected, and out of the money paid legacies to legatees in England: the legacies were not liable to duty. (*Thomson* v. *Advocate-General*, 4 Law T. 389.)

Misnomer. The *veritas nominis* will overcome the *error descriptionis*. (*Newbolt* v. *Pryce*, 4 Law T. 272.)

Power.—An appointment not exceeding the power by a father to his child under a will, is not fraudulent, though it may ultimately give him the absolute possession of the fund, and defeat the contingent interests of other parties interested therein. (*Pemberton* v. *Jackson*, 5 Law T. 17.)

Precatory words.—An absolute gift to the testator's wife, accompanied by a declaration that he had manifested entire confidence in his wife by giving her sovereign control over the whole of the property for her sole use; but that nevertheless he earnestly conjured her, with the advice of his executors, to proceed forthwith to make ample provision for his child and grandchild, and then a bequest of the residue to his wife, creates no trust in favour of the child or grandchild. (*Winch* v. *Brutton*, 4 Law T. 271.)

Publication.—An acknowledgment or declaration of an instrument to be testamentary in the presence of two witnesses is a publication of a will. (*Warren* v. *Postlethwaite*, 5 Law T. 235.)

Restraint upon alienation.—A testator gave to a person the dividends of a sum for life, and after his death to his wife for life, to be laid out for the good of the children; and upon the youngest child attaining twenty-one, to them equally, but none of them were to sell or part with their share before the period of division; or, if so, it was to go over to the others. One of them, after the death of the father, and before the division, having taken the benefit of the Insolvent Debtors Act, was held to have forfeited his share under the restrictive clause. (*Churchill* v. *Marks*, 4 Law T. 452.)

ON THE GENERAL ISSUE.

ACTION ON THE CASE.

(*Continued from page 157.*)

Passing to the consideration of matter of inducement, introduced by way of explanation, we may notice, first, the case of *M'Gregor* v. *Gregory* (11 M. & W. 289). It was an action of libel against the editor of the *Satirist*, for classing the plaintiff among "black-legs and black-sheep," which words were shewn to have an opprobrious meaning, by introductory averments to the effect that the defendant was in the habit of using them, and his readers understood them as signifying respectively cheats and persons of bad character. Traverses of these averments were met by demurrers. On the argument, it was admitted that facts necessarily introduced for the purpose of explaining the charge were not in issue under not guilty. Upon this principle the case was decided; for the Court was of opinion that it could not have attached a defamatory meaning to the words in question, had no proper facts been averred by way of explanation. The same reason seems to govern cases where averments, introduced for the purpose of giving a peculiarly offensive meaning to words actionable of themselves, state facts so connected with the charge (see *May* v. *Brown*, 3 B. & C. 113), that the plaintiff is obliged to prove that the words relate to those facts. It is true that the words would have supported *an* action without the particular averments in question, and in that sense they may be said to be immaterial But looking at the peculiar meaning attached by the innuendo to the words, the inducement is necessary for the purpose of supporting the charge actually made, and is therefore admitted by not guilty. If, however, such averments be not in any way connected with the charge, they are immaterial, and therefore neither admitted nor in issue. (See *Heming* v. *Power*, 10 M. & W. 564.) There is also another kind of explanatory inducement which is introduced, not for the purpose of giving a defamatory meaning to the words, but in order to shew that they apply to the plaintiff. Such matter of inducement would be requisite, for instance, in the case of a libel on a statesman, alluding to him only by the mention of his office, and would not be put in issue by not guilty. This is distinct from the case of defamation of a person in his office, profession, or trade, by words not otherwise actionable, which is illustrated by one of the examples subjoined to the rule, shewing that there not guilty will not operate as a denial of the fact of the plaintiff holding the office or being of the profession or trade alleged. In the case contemplated by the example, the inducement appears to be necessary in order to entitle the plaintiff to a peculiar kind of reputation; though it may also serve to explain the charge.

The cases decided in actions for negligent driving, &c. seem referable to this head. The ordinary form of declaration may be exemplified by that in *Taverner* v. *Little* (5 N. C. 678), which stated in substance that the plaintiff was possessed of a horse, on which a servant of the plaintiff was riding along a public highway; and the defendant was possessed of a cart, and a horse drawing it, which cart and horse were then under the care and direction of the defendant, who was then driving the same along the said highway; nevertheless the defendant so negligently drove the said horse and cart, that through the negligence of the defendant the said cart ran against the horse of the plaintiff, and wounded it so that it died. Here the inducement, with the exception of the statement of the plaintiff's possession of the horse, which is requisite to found the action, appears to be merely explanatory of the charge. It was held that the defendant could not, under the general issue, shew that the cart which ran against the plaintiff's horse was not the defendant's, nor driven by him or his servant. It was argued that the charge in this action is compounded of the defendant's act, its quality (negligence), the collision, and the damage as consequent. And if, in this particular case, the charge had been such as it was represented to be, doubtless not guilty would have put in issue all those components, without regard to their position in the declaration. The defendant's counsel, in support of his view, urged that the inducement as to the defendant's driving his cart might have been omitted. Supposing that to be done, and the requisite modification made in the declaration, it would have charged the defendant with so negligently driving a cart, that, through such negligence, it ran against the plaintiff's horse and injured it. And it was very properly urged that, in the case of such a declaration, not guilty would have enabled the defendant to shew that he had nothing to do with the driving of the cart. But this argument was defective in not proceeding to prove that such a change in the form of the declaration would have made no alteration in the charge. In truth, the charge actually made was not that the defendant negligently drove a cart, which, by reason of such negligence came into collision with the plaintiff's horse and injured it,—involving all the components above mentioned,—but that the defendant, under certain circumstances stated in the inducement, was guilty of negligence whereby the collision and damage were caused. The circumstances accompanying the negligence were separated from it, and stated by themselves in the inducement; the more properly, because in this action it is the negligence, and not its surrounding circumstances, of which the plaintiff complains. The plea of not guilty, when construed with reference to the particular form of the declaration in *Taverner* v. *Little*, seems to have denied, not the fact of the defendant's driving by himself or servant, but solely the quality of negligence, and the facts of a collision and damages as consequences. The identity of the cart driven by the defendant with that causing the collision, supposing one proved, is admitted by not guilty, because the inducement is so intimately connected with the charge, that it must be understood as though it expressly alleged that "the defendant was driving the cart hereinafter mentioned to have run against the plaintiff's horse." (*Dunford* v. *Trattles*, 12 M. & W. 529; S. C. 1 Dowl. & L. 554.) So the allegation of possession in trover relates to the identical goods charged to have been converted. (See further as to the point of identity, *Barsham* v *Bullock*, 10 A. & E. 23, and *Reed* v. *Thoyts*, 6 M. & W. 410.)

It must be admitted that the reason above given for these decisions is open to the imputation of subtlety. As a matter of fact, the negligence is a mere quality of the driving, and it requires an effort of abstraction to view the negligence as the principal, and the driving as the circumstance. In the obscurity at present involving this subject, the pleader is bound to scrutinize closely the form of the declaration. There are many actions to which the same reasoning might be made applicable by a slight change of form in the declaration; and conclusions established with reference to the ordinary precedents may receive modifications when the charge is artfully narrowed.

THE PRIVILEGE OF COUNSEL.

(*From a Correspondent.*)

IT requires but little apology on our part to introduce a subject of such importance to the Legal Profession, and one so vitally affecting the public interest as the privilege of counsel. It is often a sign of good-will on the part of those who endeavour to point out defects which exist in a particular profession, and which are likely to bring its members into disrepute. On this occasion we claim for our motives equal purity. It comes from high authority that it is for the advantage of the administration of justice that counsel should have "free liberty of speech." Our present purpose is rightly to understand this seeming uncontrollable license. A case recently decided in the Court of Common Pleas, *Hon. F. H. W. Needham* v. *Mr. Serjeant Dowling*, was an action of slander for words spoken in a professional capacity before a court of justice. In reading that report, it affords us some amusement to see the vain attempt of learned counsel to grapple with that refractory gentleman called "Privilege." Mr. Serjeant Wilde, after a hopeless endeavour to confine it within the bounds of moderation, quietly relinquished the task as fruitless. "People spoke," said the learned gentleman, "of the privilege of counsel, *but counsel had no privilege*." The privilege "belonged to the client, speaking through the mouth of the counsel. Were counsel bound to see that every proposition of law or fact was strictly true before they submitted it to the Court? That was impossible." The Lord Chief Justice Tindal, too, "thought that the privilege, which had been very justly put, not as the privilege of the counsel, but of the suitor, must prevail." Now if this be the usage of the Profession and the law of the land, we cannot but think it most unsatisfactory, not only as it affects the public, but as it regards counsel themselves. It would be an insult to the Profession to consider counsel as a mere mouthpiece, as a conduit-pipe of sound from the mouth of one to the ear of another, yet the law does little less than this, and for the purpose, as it would appear, of screening its members. In the case of *Wood* v. *Gunston* (Styles, 462), Chief Justice Glyn said, "that if a counsellor speak scandalous words against one in defending his client's cause, an action lies not he against him for so doing, for it is his duty to speak for his client, *and it shall be intended to be spoken according to his client's instructions*." "If it were not so," asks Sir T. Wilde, in quoting these words, "what became of the confidence between client and counsel?" And so, because of the necessity of maintaining a confidence, of course most useful as well as most sacred, it is requisite to take for granted that counsel give utterance to nothing beyond the tenor of their instructions. Upon the same extraordinary doctrine is the case of *Flint* v. *Pike* (4 Barn. & Cress. 478). Mr. Justice Bayley there said, "The speech of a counsel is privileged by the occasion on which it is spoken; he is at liberty to make strong, even calumnious, observations against the party, the witnesses, and the attorney in the cause. *The law presumes that he acts in discharge of his duty, and in pursuance of his instructions*, and allows him this privilege because it is for the advantage of the administration of justice that he should have free liberty of speech." Here the law in its wisdom has two most convenient presumptions:—1st, that an advocate acts in discharge of his duty; and, 2nd, in pursuance of his instructions. With these premises it is not difficult to arrive at the conclusion, "that it is for the advantage of the administration of justice that counsel should have free liberty of

speech." Yet, for a moment, let us suppose the legal helmet to drop off—that fallen man does *not* do his duty—neither does he follow his instructions—what provision has the law for this emergency? In the case of *Hodgson* v. *Scarlett* (1 Barn. & Ald. 238), it was argued by counsel, on a motion for a new trial, "As to the authority cited by the other side of *Wood* v. *Gunston*, it carries the privilege much too far, for if an action be brought against a counsel, then, according to that case, he is justified, because it will be intended that he spoke by the information of his client; and if an action be brought against the client, he may justify by shewing that he gave no such information to his counsel; so that if that were law, an injured party would be without remedy: there must be some limit laid down. Can it be contended that any thing that has the most remote reference to a case may be said, and that in the most offensive manner? If not, then it ought to be left to the jury not merely to say whether it was pertinent, but whether it was so pertinent as to be justifiable." Should it be said in our presence, "Here then is a piece of juggling, a legal hunt the slipper from right hand to left, from one person to another, until the injured party becomes so bewildered as not to know under which thimble to find his lost pea, and all because the law presumes an impossibility, viz. that counsel are incapable of wrong," what would be our answer? Surely, he who can deal out slander with impunity possesses a privilege, though it may not be a very enviable one. We hope, however, to see the privilege of counsel put upon much higher ground. He must be a dolt who would content himself to be a mere mouthpiece, and nothing short of a coward to assume that character when he is called upon to bear his share of blame. We believe nothing so degrading of the Bar. It was asked with triumph, "Were counsel bound to see that every proposition of law or fact was strictly true before they submitted it to Court?" and answered without pause, "That is impossible." This doctrine ought to be received by the Profession with great caution, and the young advocate particularly ought to look upon it with suspicion. Falsehoods, as palpable as they are base, may pervade the brief from end to end, and stain with the blackest dye the paper on which they are written. Are counsel to spread the malicious poison, which burns the tongue whence it proceeds, amongst the already inflammatory materials of society?—to sow seeds of discord in the unsuspecting heart—to insult the fallen—to add shame to the distressed—to insinuate against the good, and to vilify the innocent?—and all because it is said to be impossible to *inquire* after truth? We believe men cannot so easily exempt themselves from the obligations of morality. It may satisfy him who has made the law his *exclusive study;* but he who knows the doctrines of morality will seek some more reasonable cause than apathy for his neglect in the search after truth. Gisborne, in his Duties of Men, says, "If a cause should present itself of an aspect so dark as to leave the advocate no reasonable doubt of its being founded in iniquity or baseness, or to justify extremely strong suspicions of its evil nature or tendency, he is bound in the sight of God to refuse all connection with the business." It may be asked, who, because brief is heaped upon brief, and every moment is consumed in professional occupation, will *therefore* say he is acquitted of the obligations which morality imposes? It is necessary that a man should adhere to virtue, but it is not necessary that he should be overwhelmed with briefs. It may be difficult to separate truth from falsehood, yet to say that it is impossible, and upon that assertion, not merely to remain inactive, but to spread untested asseverations under the garb of real truths, can be the task of him only who is in reality a degraded mouthpiece. We, however, look upon the members of the Bar as men and moral beings, who are not content to scatter seeds of slander, regardless of their being true or false. No nice distinctions can be admitted in a case of this kind, for morality knows of none. Either counsel have a discretion in receiving instructions, or they have not. If not, Sir T. Wilde is right, and the advocate may be a man and a lawyer, but he is no moralist. If they have, we entreat its exercise for their own and the public advantage. Let us, then, be understood; we would not allow the crime of slander to be shifted from one shoulder to another, but each offender to answer for his own acts and deeds. And that goodly shelter of "being pertinent to the issue," which seems to us like the circle of the horizon, including every thing, let this have some known line of demarcation easily definable by a jury, and not as now, a mere imaginary mark which recedes as you approach. And above all, away with that doctrine which insinuates that counsel are irresponsible beings. Exempt them from the penalties of the English law, if you will, but encourage not a breach of moral duty. And after all it may be doubted whether "scandalous words, or strong or even calumnious observations," are ever necessary for the ends of justice. Slander is but a short-cut to a conclusion of which the premises are seldom proved. In one case a man was called "wicked." Could not the counsel have detailed the circumstances, leaving the conclusion for the judge and jury? and in most cases slander would be spared. It is not enough for a man to keep within the pale of his country's laws. Morality has a boundary-line beyond that over which he is forbidden to step. Our wish is, that that the members of a most learned and honourable profession should be raised above mere professors of language, or irresponsible mouthpieces of others.

J. H.

LEADING CASES.—No. V.

GRINNELL v. WELLS.

(2 D. & L. 610.)

Action by the father for the seduction of his infant daughter.—Upon what principle does the right of action rest?—Loss of service.

The legal principle upon which the father of an infant who has been seduced is entitled to bring his action and to recover damages against the seducer, though canvassed and considered in a long range of cases, was only finally set at rest in Michaelmas Term 1844. It had, indeed, been the common, almost the universal opinion, that the doctrine laid down in the old cases was the sound doctrine, but the arguments brought forward against it were founded upon reasons entitled to so much respect, that every lawyer was disposed to cling to what at first sight, at any rate, appears to be the juster view, and to abandon a fiction which seems somewhat to favour immorality. The authority, however, of numerous and uniform decisions has proved to be irresistible; and to whatever objections this construction of the law may, in a moral point of view, be open, there is no longer any doubt that the received construction is the right one.

The doctrine again and again laid down in the old cases and by various text-writers is, that the loss of service which in certain cases a father may sustain from the seduction of his daughter constitutes his sole title to pecuniary redress from the seducer, and that unless he alleges in his declaration and proves by his evidence the existence of previous service and the subsequent loss of that service, he has no ground of action whatever. The relation, indeed, of parent and child appears to have no bearing whatever on the rights of the plaintiff. The relation of master and servant is the relation necessary for the support of the action, and if that relation exist and be proved to exist, the right of action immediately arises, even to a stranger in blood. The moral obligation, too, on the part of the parent to maintain his child when unable to provide for herself, and the legal obligation to do so imposed upon him by the Poor Law, seem equally immaterial. Unless the parent be also the master, and the daughter be the servant, the act of seduction itself is no loss to him—as far as he is concerned, the act is not legally a *wrongful* act. We shall find in the cases to which we propose now to refer ample authority for every one of the points thus briefly stated.

In the old cases of *Gray* v. *Jefferies* (Cro. Eliz. 55); *Barham* v. *Dennis* (Cro. Eliz. 770), and *Russell* v. *Corne* (2 Raym. 1031), which turn, not upon the peculiar injury of seduction, but upon general personal injury to the plaintiff's child, it was held, that "trespass for beating the son lieth not for the father;" and the foundation of the plaintiff's action is there placed, not upon the wrongful act itself, but upon the loss of service, in which the father is supposed to have a legal interest; and in the latter of these cases (*Russell* v. *Corne*, 2 Raym. 1032), Holt, C.J. says, "So a man cannot maintain an action against another for assaulting his daughter and getting her with child; but he may maintain an action against another for entering his house and assaulting and getting his daughter with child, *per quod servitium amisit*." In the note to *Petty* v. *Waight* (1 Bulst. 173), is a case mentioned, "where an action of trespass was brought by the master for an assault and battery of his servant," &c. and it was held, "for the omission of these words in the declaration, *per quod servitium amisit*, the declaration is not good, and the rule of the court was *quod quærens nil capiat per billem*." In *Randle* v. *Deane* (2 Lutw. 1497), Powell, J. says, "*un action ne gist pur le master si non que il ad perd le service de son servant*." Upon the authority of these cases it was admitted by Davenport, who was of counsel for the plaintiff in the later case of *Postlethwaite* v. *Parkes* (3 Bur. 1878), that "no action would lie but by reason of the loss of the daughter's service." That was an action of trespass *vi et armis*, for an assault upon the plaintiff's daughter and getting her with child, and the declaration concluded with a *per quod servitium amisit*. The case is thus stated:—"The plaintiff's daughter, being 23 years of age, hired herself to one Saul, as a servant, and went to live with Saul her master, and served him some time. During her service she was gotten with child by the defendant, and becoming big with child and unable thereby to perform her service as she was used and ought to do, she was discharged by Saul, her master, who paid her her wages in proportion to the service she had already done him, and the plaintiff, her father, received her, when no one else would, and lodged and boarded her in his house. She was there delivered of a male bastard child in November following, and the plaintiff, her father, maintained her in her lying-in at his own expense." The points made for the defendant were, that there was no loss of service on the plaintiff's part, and that the father's interest in the child had at any rate ceased at the termination of her infancy. The case ended in a compromise at the recommendation of the Court; but Mr. Burrow concludes his report with this note:—"Lord Mansfield, addressing himself to Mr. Wallace (the defendant's counsel), said to him, 'It is not upon any doubt, in point of law, that I propose this compromise,' meaning, I suppose, that he was clear *with* Mr. Wallace, 'that this action could *not* be maintained.' And on this supposition I have ventured to report it, though it was not determined judicially and in form; however, there can be no doubt but that the Court were all of opinion that the action could not be maintained;' and therefore, in compassion to the plaintiff, whose daughter had been injured by the defendant, they wished to save him from the payment of costs." All doubt, however, as to the construction to be put upon that case was subsequently removed by the case of *Benett* v. *Allcott* (2 T. R. 166). There, also, the daughter was above twenty-one years of age, and it was contended that, under these circumstances, it was necessary for the plaintiff to prove a special hiring and service (no question being raised that service, to some extent, was necessary to maintain the action); but of this objection Buller, J. speedily disposed, and in doing so very distinctly laid down the general principle of the law. "With respect to the objection that this action cannot be maintained by the father for debauching his daughter above age, *per quod servitium amisit*, no contract for service having been proved, I take it to be perfectly well settled, since the case of *Postlethwaite* v. *Parkes*, that the action will not lie by the father, unless the daughter be proved in some way or another his servant. In that case the ground which influenced the opinion of the Court was, that the daughter was in the service of another person. But in actions of this kind the slightest evidence is sufficient, even milking cows. There instances of actual service were proved, and therefore it is immaterial whether the daughter was of age or not." (Ibid. 168.)

Benett v. *Allcott* is an important case also, as to the form in which the plaintiff should bring his action. There (as in almost all the preceding cases) the action was trespass for breaking and entering the house of the plaintiff, debauching his daughter, &c. *per quod*, &c. The defendant on the trial proved a license to enter, and it was contended that, as the trespass had not been established, he was entitled to a verdict,—of which opinion would have been the Court, but in that case the only plea was "not guilty," and they held that, under the general issue, the license to enter could not be given in evidence, and therefore that the trespass was proved, and that the verdict must be for the plaintiff, both for the breaking the house, and for that which was a consequence of it, viz. the debauchment of the daughter. But an action on the case has in more recent times been, and still is, the common form of action in cases of this nature. "An action

merely for debauching a man's daughter, by which he loses her service, is an action on the case; but, according to Lord Holt's opinion (2 Raym. 1032), where the offence is accompanied with an illegal entry of the father's house, he has his election either to bring trespass for the breaking and entering, and lay the debauching of the daughter and loss of her service as consequential, or he may bring the action on the case merely for debauching his daughter, *per quod servitium amisit.*" (Per Buller, J. *ubi supra.*) In *Woodward* v. *Walton* (2 New Rep. 476), however, it was held that an action for debauching the plaintiff's daughter, *per quod servitium amisit*, "*is an action of trespass*, and that a count for that purpose may be joined with a count for breaking and entering the house." Notwithstanding, however, the authority of this case, the common form of action now in use is an action on the case; and in *Grinnell* v. *Wells*, at the head of these remarks, in which all the authorities were carefully considered, no ground of objection was taken to the form of action there adopted.

Next to *Benett* v. *Allcott* comes *Saterthwaite* v. *Duerst* (n. d. 5 East, 47) (of which a very unsatisfactory report alone remains). It was there also held, that an action on the case would not lie, unless it were laid with a *per quod servitium amisit.*

The value, however, of *Satterthwaite* v. *Duerst* mainly rests upon the language attributed to Lord Mansfield as to the effect of the daughter's age or non-age. He is reported to have said, "It appears very extraordinary that any action should lie to a person on account of incontinence between two others, both of whom may be of full age: for it does not appear here that the daughter was not of age;" and the question whether the father's right to recover is confined to the period of his daughter's minority, seems never to have been directly, though it has been indirectly, decided. For instance, in *Harper* v. *Luffkin* (7 B. & C. 387), the daughter (for whose seduction and loss of service the plaintiff, her father, sought compensation) had been married eight years, had had two children, but had been separated five years from her husband, and had, subsequently to the separation, lived with her father and acted as his servant. The defendant moved for a rule to enter a nonsuit, on the ground that there was no service, the husband's consent to his wife's service not having been obtained, and his power to reclaim her being constantly in force. But the Court at once refused the rule, Lord Tenterden observing, that "though the contracts of married women were liable to be defeated at the will of the husband, yet they were in many instances hired as servants;" and that in the case before him, the relation of master and servant had actually existed. There it must necessarily be presumed that the daughter (who had been a wife eight years) was not a minor, but no objection was even raised to the plaintiff's right of action on that ground. And, indeed, if the foundation of the action is the service, it is difficult to discover how the age of the servant can affect the right of the master. (See the case of *Speight* v. *Oliveira*, *ubi infrà.*) If it were possible that the daughter could be of so tender an age as to be physically incapable of rendering any service, it is clear that no action would lie; as it was held in a case where trespass had been brought for an injury to a child only two years and a half old. (*Hall* v. *Hollander*, 7 D. & R. 133; 4 B. & C. 660.) The distinction as to age is thus pointed out by Parke, B. in the comparatively recent case of *Harris* v. *Buller* (2 M. & W. 542):—"Formerly," says his lordship, "the action of seduction was held not to be maintainable without proof that the relationship of master and servant existed, and in all cases some service was held necessary. That rule was afterwards so far relaxed, that if the child was a minor, but of an age capable of acts of service, such service it was held might be presumed;" but in the cases in which the question of constructive service has been considered, this distinction as to the age of the servant does not appear to have been taken. (Vide *infrà.*) To return, however, to the long chain of precedent illustrative of the principle upon which this action depends, we must not omit the case of *Dean* v. *Peel* (5 East, 45), which has always been considered a high authority. In that case, the loss of service was alleged in the declaration, but the proof at the trial only went the length of shewing that the daughter was in the service of another person at the time of the seduction, without any intention of returning to her father's house; but that upon her seduction she went home, and was maintained by her father during her illness; and upon this state of circumstances it was held that there was no proof of service to the plaintiff, and that the action was not maintainable; Lord Ellenborough drawing a distinction between that case, in which there had been no *animus revertendi* on the part of the daughter, and the *nisi prius* cases of *Booth* v. *Charlton* and *Johnson* v. *M'Adam*, decided by Mr. Justice Wilson, and quoted in argument, in which the daughters had only casually been absent from their father's house, with the intention of returning to it. See also, *Harris* v. *Buller* (2 M. & W. 539); *Blaymire* v. *Haley* (6 M. & W. 55); *Carr* v. *Clarke* (2 Chit. 260); *Holloway* v. *Abel* (7 C. & P. 528); *Anon.* (1 Smith, 333); *Mann* v. *Barret* (6 Esp. 32). Although from the above cases it seems clear, as a general rule, that the daughter must be in the service, actual or constructive, of the plaintiff, yet there have been cases in which the fact of the daughter having been engaged in the defendant's, and not the plaintiff's service, has not barred the right of action. *Speight* v. *Oliviera* (2 Stark. N. P. C. 493) was a case of this nature; but when considered, it will be found to support, instead of contradicting, the general rule. It was an action on the case brought by a carpenter, whose daughter, of the age of 23 years, had been engaged by the defendant as his servant, to take care of an empty house. During her continuance in his service he seduced her; and the objection raised against the plaintiff on the trial was, that the evidence failed to establish the relation of master and servant between the father and daughter. But Abbot, C.J. said, "that if the defendant did not hire the young woman for the purpose of keeping his house, but with the wicked view of seducing her, then I am of opinion that the relation of master and servant was never contracted between them." The jury believed that the defendant had hired the girl with intent to seduce her; and as there was clear evidence of service to the plaintiff before the period of that hiring, the verdict was entered for him. In that case the criminal design of the defendant annulled the contract of service between him and the young woman; and that contract being annulled, the original service to the plaintiff had never been concluded, and was clearly sufficient to support the action. For this purpose a constructive service is sufficient; and it has been held, not only that no acts of menial service need be proved (*Fores* v. *Wilson*, 1 Peake's N. P. C. 77), but that the mere fact of residence in the father's family and under his protection is sufficient. (*Jones* v. *Brown*, 1 Peake's N. P. C. 306). In *Maunder* v. *Venn* (M. & M. 323), Littledale, J. said, "The right to the service is sufficient;" and cited the opinion of Lord Alvanley in support of the dictum.

As an unavoidable inference from the principle that service is the ground upon which alone this action rests, have arisen the decisions that the benefit of it is not confined to the parent, but extends to any one standing in the necessary relation of master to the injured girl. Accordingly, in *Edmondson* v. *Mackel* (2 T. R. 4) the Court refused to disturb a verdict found for the plaintiff in an action brought by the *aunt*, in whose house the seduced party had resided as servant, though it was proved that the mother was alive, and lived in the same county. The same rule was carried still further in the case of *Irwin* v. *Dearman* (11 East, 23). That was an action on the case for damages, charged in one count to be for debauching and getting with child the *adopted* daughter and servant of the plaintiff, by which he lost her service; and, in another count, for debauching his servant generally, *per quod*, &c. The plaintiff, it appeared, was an officer in the army, and had taken charge of the infant daughter of a deceased soldier in the regiment, who had been a friend and comrade of his, which daughter he had bred up for several years in his house, where she performed the offices of a menial servant. The defendant suffered judgment by default, and a writ of inquiry having been executed before the sheriff of Middlesex, the only actual damage proved was the loss of the young woman's service for five weeks. The jury gave 100*l.* and a rule was subsequently moved for to set aside the inquisition of damages as excessive, and not supported by law with respect to the count charging in aggravation that the servant was the plaintiff's adopted daughter. In refusing the rule, Lord Ellenborough said, "This has always been considered an action *sui generis*, where a person standing in the relation of a parent, or *in loco parentis*, is permitted to recover damages for an injury of this nature, *ultra* the mere loss of service. But even in the case of an actual parent, the loss of service is the legal foundation of the action. And however difficult it may be to reconcile to principle the giving greater damages on the other ground, the practice is become inveterate, and cannot now be shaken. And having been considered, in the case of *Edmondson* v. *Machell*, to extend to an aunt, as one standing *in loco parentis*, I think that this plaintiff, who had adopted and bred up the daughter of a friend and comrade from her infancy, seems to be equally entitled to maintain the action." (*Ibid.* 245.) And in *Fores* v. *Wilson* (*ubi suprà*), Lord Kenyon likewise held that a master who was no relation in blood was equally so entitled. (See also *Manvell* v. *Thomson*, 2 C. & P. 303.)

The last and the decisive case upon the subject is that which stands at the head of this article. The marginal note in *Grinnell* v. *Wells* is as follows:—"In an action on the case for the seduction of a daughter, the declaration must allege a consequent loss of service. The plaintiff declared in case for the seduction of his daughter, that being a poor person, and unable to maintain herself except by her work, the defendant debauched her, and she thereby became sick and unable to work, whereby the plaintiff was forced and obliged, and did necessarily pay sums of money for her maintenance, and in and about her delivery and curing her of her illness:—Held, on motion in arrest of judgment, after verdict for the plaintiff, that the declaration disclosed no sufficient cause of action." In the argument, Sir T. Wilde, for the plaintiff, principally relied upon the obligation imposed upon a father to maintain his poor child, unable to work, by the 43 Eliz. c. 2, s. 7, under an order of justices. It was not necessary to wait for such order to support his child. (*Blythe* v. *Smith*, 6 Scott, N. R. 361.) And as his obligation to support the child had been caused by the wrongful act of the defendant, he was liable for the loss incurred. "If the loss of service will give a cause of action, it must be in a pecuniary point of view; then, *à fortiori*, an actual pecuniary loss alleged, will be sufficient." The Court, however, having taken time to consider, expressed a confident opinion in favour of the defendant. In the course of the judgment, Tindal, C.J. says: "It is the invasion of the legal right of the master to the services of his servant that gives him the right of action for beating his servant; and it is the invasion of the same legal right, and no other, which gives the father the right of action against the seducer of his daughter." Having stated the facts of *Dean* v. *Peel*, above given, his lordship proceeds: "Now this case is in evidence precisely what the present case is in pleading upon the record, and therefore affords a direct authority for the position that where there is absence of any allegation of the loss of service to the father, although there may be an allegation of his being compelled to pay the expenses arising from the wrongful act, the action is, nevertheless, not maintainable." We cannot conclude this note more in accordance with our own feelings and opinion than by quoting the remarks attached by Mr. Starkie to his report of the case of *Speight* v. *Oliveira* (*ubi suprà*). "Although the Courts with an honourable zeal lend every legitimate aid within their reach to give such reparation a pecuniary damages can bestow for injuries of this nature, it is still to be lamented that instances not unfrequently occur when such injuries still remain without redress. The claim to damages in such cases, which is founded upon principles of the strictest justice, the enforcement of which is absolutely essential to curb licentiousness and preserve the morals of society, ought not to depend upon a mere fiction over which the Courts possess no control. It is a reproach to the law of England that the right to damages should not be necessarily conse the injury. Surely it is worthy the attention of the legislature to find a remedy for an evil of such magnitude."

PROMOTIONS, APPOINTMENTS, ETC.

[Clerks of the Peace for Counties, Cities, and Boroughs, will oblige by regularly forwarding the names and addresses of all new Magistrates who may qualify.]

FOREIGN OFFICE, July 15.—The Queen has been pleased to approve of Mr. Joseph Burrell, as Vice Consul at North Shields for his Majesty the Emperor of Austria.

The Queen has been pleased to approve of Mr. John F. Bacon, as Consul at Nassau, in the island of New Providence, for the United States of America.

Downing-street, July 17.—The Queen has also been pleased to appoint John Simcoe Saunders, Esq., to be provincial Secretary for the province of New Brunswick.

Whitehall, July 16.—The Lord Chancellor has appointed Thomas Leeming, of Manchester, in the county palatine of Lancaster, Gent., to be a Master Extraordinary in the High Court of Chancery.

Crown Office, July 17.—Member returned to serve in this present Parliament.—Borough of Cambridge.—Fitzroy Kelly, Esq., her Majesty's Solicitor-General.

COURT PAPERS.

BANKRUPT'S ESTATES.

The following order has been issued by the Lord Chancellor:—

Wednesday, July 9, 1845.

I do order, that the books of the Accountant in Bankruptcy be closed from Monday, the 18th day of August, to Saturday, the 4th day of October next, both days inclusive; and that during that time no draft for any effects shall be signed and delivered out, nor any purchase, sale, or transfer of any stocks, securities, or effects, be made by the said Accountant in Bankruptcy for or on account of any bankrupt's estate.

Provided, that the said accountant be at liberty to sign orders or dividend warrants in such cases as may appear urgent.

(Signed) LYNDHURST, C.

ATTORNEYS APPLYING TO BE ADMITTED,

Michaelmas Term, 1845.

[N.B. Objections to any of the persons whose names appear in the following list should be forwarded to the Secretary of the *Metropolitan and Provincial Law Association*, by whom the necessary inquiries will be instituted, and an opposition made to their admission, if the circumstances should require it. Communications will be held strictly confidential.]

Clerks' Names and Residences.	*To whom Articled, Assigned, &c.*
Ashley, Wm. Edward, Newark	J. W. Lee, Newark
Atkinson, Henry, 11, Everett st.; Pendleton	F. R. Atkinson, Manchester, T Sanders, Elm-ct.
Atherton, Isaac, Liverpool; Whiston, near Prescott	John S. Leigh, Liverpool
Appleyard, James, 20, Liverpool-street; Sirrill, Penrith; Union-place, Lower-road, Islington	T. D. Bleasmire, Penrith
Bird, Charles, Glamford Briggs	Robert Owston, Glamford Briggs
Bartlett, Wm. Robert, Reading	Robert Bartlett, Reading
Baldwin, Alexander, Settle	William Foster, Settle
Budd, Frederic, 53, Frederic-st., Grays-inn-road; and Bedford	T. W. Turnley, Bedford
Brown, Charles, Maidenhead	J. Smith, Maidenhead
Blackburn, Sam Render, Leeds	John Blackburn, Leeds
Bellyse, Fred. C. Hoskins, Whitchurch	G. Harper, Whitchurch
Bird, Andrew Davies, 5, Upper-Harley-street	E. W. Scadding, Gordon-street
Buck, Charles, 7, Great Ormond-street; and 11, New Ormond-street	T. Swainson, Lancaster
Baxter, Edward, Chester	P. Humberston, Chester
Burnley, John Wild, 29, Queen-street, Cheapside	A. Burnley, St. Austell; D. Laing, and P. A. Burrell, White-hart-ct.
Blount, Charles John, 38, Dorset-street, Dorset-square	Henry Mostyn, Usk
Bridges, Nathaniel, 23, Red-lion-square	N. Mason, Red-lion-sq.
Bernard, Edward Westland, 12, Bathurst-street, Sussex-square; and Bristol	George Cooke, Clifton
Boykett, Thomas Hebbert, 1, Belinda-terrace, Islington	E. Smith, Chancery-lane
Berry, William, 47, George-street, Euston-square	M. Smith, Berners-street
Booker, Augustus, Edmonton	S. Williams, Bedford-row
Brittlebank, Geo. Goodwin, Ashborne	J. Brittlebank, Ashborne
Beverley, John, Burnley	H. Alcock, Skipton and Burnley
Bramwell, Thos. Vicars, 18, Smith-street, Chelsea; and Howard-street	W. Woolam, Stockport
Burrell, Peter Charles, Hangor-lane, Stamford-hill; and Middleton-road	P. A. Burrell, White hart court; S. A. Beck, Ironmongers' - hall, Fenchurch-street
Bull, Charles, 48, Swinton-street; Lewes; and Penton-place	John Lewis, Lewes
Colt, George Nathaniel, 41, Great-Russell-st.; Cheltenham; Southam; Hessington-st.; and Southampton-row	R. Winterbotham, Cheltenham; T. E. Parson, Lincoln's-inn-fields
Cavell, Edmund, 2, East-street; and Saxmundham	A. Cavell, Saxmundham
Costerton, Chas. James, 11, New-street, Vincent-square	F. R. Reynolds, Great Yarmouth; J. Murray, Whitehall-place
Curteis, Edward, 12, Montague-street, Russell-square	T. M. Cleoburey, Sackville-street
Cox, George, jun. 14, Sise-lane	George Cox, Sise-lane
Cudworth, John William, 9, New Ormond-street, and Leeds	R. E. Payne, Leeds
Cotton, Edward, 7, Farringdon-street, and Leicester	S. Stone, Leicester
Chambers, Gregory Thomas, 2, Gloucester - terrace, Regent's-park	N. Mason, Red-lion-sq.
Child, Henry Baylis, 53, Trinity-square	G. K. Pollock, Gt. George-street
Clayton, Haviland, 3, Percy-street, Bedford-square	H. B. Wedlake, King's-Bench-walk
Crammond, David Wm., 5, York-place, Barnsbury-park	T. and G. Warry, New-Cambridge
Cambridge, John, jun. Bury St. Edmunds	J. Cambridge, Bury St. Edmund's
Charsley, Edward, Powis-place; Coventry; and Cook's-court	F. Carter, Coventry
Caldicott, Henry, 36, Lonsdale-square, and Dudley	W. Fellowes, jun. Dudley
Dabbs, John, 6, Lamb's Conduit-street, and Warwick	T. Heydon, Warwick
Diaper, Joseph, 6, Montague-pl., Little Britain; and Fareham	Messrs. Paddon, Fareham
Daly, Thomas, 37, Burton-crescent	E. Bretherton, Liverpool
Driver, Samuel Neale, 57, Lincoln's-inn-fields; and Hanover-park, Peckham	E. H. Edwards, New Palace-yard; O. P. Holmes, Liverpool-street
Dollman, Francis, 65, Myddleton-square	R. H. Sawyer, Staple-inn
Duffett, Joseph Gibbs, 11, Furnival's-inn, and Bristol	Messrs. Baynton, Bristol
Dixon, Ralph, 62, Gower-street	T. Brown, Newcastle-on-Tyne; W. C. Bousfield, Gray's-inn-square
Field, John Joseph, 9, Guildford-street	W. Kinsey, Bloomsbury-square
Fryer, James Joseph, York	W. N. Dibb, and J. Richardson, York
Fleetwood, Th. Perrior, 1, Queen-square; Salisbury; and Howard-street	H. Everett, and G. B. Townshend, Salisbury
Fox, Frederic, Norwich	G. Durrant, Norwich
Fisher, Wm. Richard, 13, Gray's-inn-square, and Gt. Yarmouth	J. G. Fisher, Great Yarmouth
Farr, Henry Fuller, 13, Gray's-inn-square, and Norwich	H. Hansell, Norwich
Fisher, John, 45, Bernard-street, and Cleve Yatton	J. Fisher, Cleve Yatton
Gaby, Ralph Bignell, 21, New Milman-street	Benjamin Gaby, Bath
Gell, Inigo, Lewes, and Devonshire-street	F. H. Gell, Lewes; F. T Gell, Carlton-chambers, Regent-street
Grayson, James, Newcastle-upon-Tyne	R. Walters, Newcastle-on-Tyne
Gotobed, Henry, Amwell-terrace, and Lloyd-square	S. B. Lamb, Reading; W. Tooke, Bedford row
Gee, Robert, Stratton	C. E. Palmer, Barnstaple; E. Shearm, Stratton
Gregory, William, 5, Upper Montague-street	J. Ggregory, Clement's-inn
Graham, James, Carlisle	W. Nanson, Carlisle
Gery, Thomas Lewis, 13, Featherstone-buildings, and Daventry	T. O. Gery, Daventry
Greenacre, Charles Edward, 10, Swinton-street, Gray's inn-rd; Gt. Yarmouth; and East Dereham	J. R. Reynolds, Great Yarmouth
Gratrex, Thomas Price, 6, Frederick-street, Gray's - inn - road; Beaufort-buildgs.; Vere-street; and Monmouth	J. Powles, Monmouth; F. J. Ridsdale, Gray's-inn-square
Griffiths, Wm. Higford, 36, Lonsdale-sq., and Chipping Campden	J. R. Griffiths, Chipping Campden
Gillam, John Fight, Golden-sq., and Worcester	R. Gillam, Worcester
Haynes, James Haynes, 23, Wakefield-street, Regent-square, and Newark	G. Tallents, Newark
Hayman, John Marshall, 25, Coventry-street	C. Stone, Taunton; J. Granger, John street
Harris, Hen. 41, Berners-street	D. S. Bockett, Lincoln's-inn-fields
Harmer, Henry Robert, 25, Great Ormond-street, and Great Yarmouth	J. Baker, Gt. Yarmouth
Holmes, Jos. Francis, Beverley	T. Shepherd, Beverley
Hardman, Alfred Lloyd, Manchester	J. Roberts, Manchester
Hardwicke, Eugene, Kidderminster	H. Saunders, Kidderminster
Holland, Richard David, 4, Clarendon-place, and Maida Vale	W. B. Girdlestone, Golden square; R. Gadsden, Furnival's Inn; R. S. Wright, Golden-square
Hewson, Frederick, Balham Hill, and Wrington	B. Helme, New Inn; J. James, Wrington
Huddleston, John, Whitehaven	W. Perry, Whitehaven
Howell, David, Machynlleth	H. Davis, Machynlleth
Hughes, William Henry, Llanrwost	S. Edwardes, Denbigh
Hanson, William Stonehewer, 9, Dorset-square	E. R. Comyn, and H. S. Law, Bush lane
Jones, Thomas Alley, Hammersmith	T. Eden, Salisbury-street; G. Becke, Lincoln's Inn Fields
Ind, Robert Laundy, Cambridge	H. Bradley, Cambridge
Jolley, James Hatch, 1, Upper Stamford - street, Blackfriar's-road	J. G. Meymott, Blackfriar's road
Jones, John Alexander, 2, Old Kent-road	L. H. Braham, Chancery lane
Jevons, William Alfred, Gower-place, Euston-sq., and Neath	W. Llewellyn, Neath
Jarvis, Richard Taylor, 13, Hart-street, Bloomsbury-square	B. Mewburn, Great Winchester street
Ingleby, Christr., 35, Sidmouth-street; Regent-square; Kendal; and Wakefield-street	R. Moser, Kendal
Keyes, Robert James, 27, Beresford-street, Walworth; Rochford; and Corbet-court, Gracechurch-street	G. Wood, Rochford; T. Wood, Corbet court
Knight, William, Tamworth, and Glascote-house	H. J. Damant, Tamworth
Knighton, John, 1, Ann-street, Pentonville	J. Dolman, Clifford's inn
Lyde, Thomas, Earl's-court, Old Brompton	T. Graham, Mitre Court Chambers, Temple
Low, Edwin, 65, Chancery-lane, and Portsea	A. Low, Portsea
Long, Robert, jun. 56, Clarendon-square	C. H. Binstead, Portsmouth; J. Long, Clarendon square
Laurance, Henry, Ipswich	E. Laurance, Ipswich
Lodge, James, Baker-street, Lloyd-square; Preston; and Bare	J. Lodge, Lancester; W. Charnley, Preston
Lawrence, George, 2, Norwood-place, Kensington; and Friday-street	F. J. Reed, Friday street
Macnamara, James R. S., The Grange, Fulham	W. H. Barber, Token-house yard; C. F. Tagart, Raymond bldings.
Merryweather, John, 1, Queen-square, Bloomsbury; and Salisbury	G. Dew, and M. T. Hodding, Salisbury
Mason, Augustus, 2, Endsleigh-street, Tavistock-square	F. Ommanney, Basinghall street; Fran. Edwards, Gray's Inn
Mason, Henry, 73, George-street, Portman-square; and Cuckney, near Mansfield	G. H. Kinderley, New sq. Lincoln's Inn
MacGregor, James, 30, Charter-house-square	W. B. Girdlestone, and R. S. Wright, Golden sq.
Mantell, Alex. Houstoun, Farringdon, and High Wycombe	J. W. Wall, Devizes
Mote, Edward, 21, Penton-place, Pentonville	D. W. Wire, St. Swithin's lane
Michael, James Lionel, 9, Red-lion square, Holborn	J. Michael, Red-lion sq.; A. Y. Bird, Kidderminster
Maberley, Thomas Henry, 23, Albert - square, Commercial - road East; Pratt-st., Camden Town; and Colchester	T. Maberley, Colchester
Myers, Richards, 10, Euston-sq., and Leeds	Ayrton, Gatliff, Leeds
Murdoch, John, 33, Winchester-street, Pentonville	T. Randall, Castle street, Holborn
Marshall, Joseph, Kingston-upon-Hull	T. Thompson, Kingston-upon-hull
Nettleship, William, 21, Liverpool - street, New - road; and Hingham	D. Calver, Kenninghall
Nicholson, Henry, 13, Lloyd-sq., Pentonville	Henry R. Burfoot, and R. Raven, 2, King's Bench Walk, Temple
Nicks, Thomas, Warwick, and Leamington Priors	G. M. P. Kitchen, Warwick; J. B. Hanbury, Leamington Priors
Neate, John, 40, Duke-st., Manchester-square	R. Nation, Orchard street, Portman square
Newington, Alexander T. 8, Duke-street, St. James's; and Hawkhurst	W. P. Beecham, Hawkhurst
Oldham, Fred. Jennings, Spilsby; and Arthur-street, Gray's-inn-road	Messrs. Walker, Spilsby
Oldacres, Robert J. Francis, 5, New Buckingham-street, Dover-road; and Leicester	W. Palmer, Leicester
Oldershaw, Robert Piggott, Lower-street, Islington	R. Oldershaw, Islington
Penfold, William John, 23, River-street, Middleton-square, Pentonville; and Brighton	Attree and M'Whinnie, Brighton
Pemberton, George Thomas, Bishopwearmouth	J. Biggenden, Walbrook
Prance, Courtney Connell, 10, Huntley-street, and Plymouth	A. Rooker, Plymouth

Palmer, William, 11, Egremont-place, New-rd.; and Newbury;	H. Godwin, Newbury; E. S. Bigg, Southampton buildings, Chancery lane
Parry, Thomas, Carmarthen .	T. Williams, Carmarthen
Petherick, William, 5, Camden Cottages, and Moore Terrace, Camden Town . .	R. Haynes, jun. Staple Inn; F. Green, Cateaton street
Pope, John Woodford, Exeter .	M. Daw, Exeter
Porter, Joshua Charles, Mitcham;	J. Rees, College Hill
Pope, John, 2, New Milman-st.;	W. Rodham, Wellington
Patrick, Charles, 20, Soley Terrace, Pentonville . .	R. A. Davidson, Bishop-wearmouth
Parker, Robert John, 6, Frederick-street, Gray's-inn-road; Selby; Sidmouth-street; and Beaufort-buildings . . .	T. M. Weddall, Selby
Piper, George Harry, Ledbury .	T. Jones, Ledbury
Reed, Herbert Adolphus, 18, Swinton-street, Gray's-inn-road; Bridgewater; and Friday-st.;	F. J. Reed, Friday street; F. Deacon, Bridgewater
Ratcliff, Thos. Wrake, Lincoln's-inn-fields, and Canterbury .	R. Walker, Canterbury
Reynolds, Thomas, A. F. 11, Calthorpe-street, Gray's-inn-road;	J. Bush, St. Mildred's ct.
Riley, John, Wolverhampton .	J. Foster, Wolverhampton
Roxburgh, John Pirie, 28, Blomfield-road, Maida-hill; and Maida-hill . . .	R. Ellis, Cowper's court, Cornhill
Reynolds, Thomas John, 69, St. John-street-road, & Northam;	C. Carter, jun. Bideford
Sculthorp, William, Leicester .	J. Briggs, Leicester
Smith, Henry George, Lincoln's-inn-fields Chambers . .	G. Smith, Southampton buildings
Southern, Francis R. jun. 3, Islington-green, and Walsall .	H. Barnett, Walsall
Score, George, jun. Long Melford, and Little Cornard . .	G. Score, sen. Lincoln's Inn Fields
Scotland, William Humphrys, 1, Bath-place, Kensington; and 39, Regent-square . .	J. Sudlow, sen. Chancery lane
Shotton, James George, 21, River-street, Pentonville . .	C. Arrowsmith, jun. Devonshire-st. Queen sq.

ADDED TO THE LIST PURSUANT TO JUDGES' ORDERS.

Andrews, Rich. B. jun. Epping;	R. B. Andrews, sen. Epping
Davies, Robert Pavin, 21, Warwick-street, Regent-street; and Bath . . .	H. Hayman, Bath; D. Davies, Warwick street
Little, Edward Carruthers, Pitchcombe, Gloucester .	G. Edwards, Stroud
Rodham, Thomas, Wellington	W. Rodham, Wellington
Sanders, Henry, Nottingham	S. Sanders, Nottingham
Salter, William, Chard	H. D. Harvey, Chard and Wiveliscombe.

LEGAL INTELLIGENCE.

THE BAR AND THE ATTORNEYS.

DEVON QUARTER SESSIONS, JULY 2, 1845.

An incident of considerable moment to the Profession has occurred here to-day.

Mr. BIRD, a provincial barrister, resident at Exeter, appeared as counsel for a prisoner. The first witness for the prosecution having been examined,

Mr. BIRD rose and addressed the Court in a speech of some length, in which he stated, in substance, that he had taken that opportunity of publicly announcing that in the case in which he was then engaged he had adopted a course which it was his intention to pursue for the future. He had received instructions and taken a fee from the prisoner, without the intervention of an attorney. He was satisfied that, according to the ancient laws and customs of the realm, it was his right, nay, his duty, as counsel, so to do. In an elaborate address he proceeded to state his reasons for having adopted this course, and concluded by observing, that the Bar might take whatever steps they should deem right; he wished to have the question tried, and he challenged investigation.

Mr. HOLDSWORTH, having consulted with the other members of the Bar who were in court during Mr. BIRD's address, said, that as the senior member of the Bar then present, on behalf of his learned friends, who felt with him that, after the avowal made by Mr. BIRD, the question could not rest here, he begged to ask of Mr. BIRD if he had taken his brief without a fee, and whether he had taken his instructions from the prisoner in court?

Mr. BIRD replied that he had taken the instructions from the prisoner personally out of court, and that he had received a fee of one guinea for the defence.

The CHAIRMAN (Sir JOHN KENNAWAY) said, that of course he could not take cognizance of Mr. BIRD's conduct; it was a question between himself and the other members of the Profession. He regretted that it had not been done at the assizes, when the judges might have given an opinion of its propriety. The case then proceeded.

DEVON ASSIZES, EXETER, MONDAY, JULY 21.

At these assizes Mr. BIRD again rose, and addressing the learned judge (PLATT, B.) who was presiding in the criminal court, said, that he was desirous of repeating before a learned judge the statement he had made at the quarter sessions. He appeared then as counsel for the prisoner without the intervention of an attorney, and having received his fee directly from the prisoner, out of court. The prisoner was a poor man, and could not afford to pay an attorney also.

His LORDSHIP said he could not interfere. His duty as a judge was to hear any counsel who might appear, and his experience assured him that the honour of the Profession was safe in the hands of its members. He was confident that if a prisoner were poor and unable to pay the expenses of a defence, there was no man at the Bar who would not readily give him the aid of his abilities. It would be hard indeed if a man were to be precluded from the benefits of a defence by counsel because he could not pay an attorney also. It was very different in the case of a prosecution. However, with this he, as a judge, had no concern. It was not a matter for his decision.

After some further colloquy, the case proceeded.

WILL OF THE LATE JAMES WOOD.—At the Gloucester Town Council meeting, on Thursday, the town clerk mentioned a gratifying piece of intelligence—namely, that the appeal case, *The Corporation of Gloucester* v. *The Executors of the late James Wood*, which, we need hardly remind our readers, involves the question of legacies to the amount of 200,000*l*. left by the late Mr. J. Wood to the corporation, was positively fixed for hearing on Monday next, in the House of Lords. This information, after so many years of tedious and expensive litigation, suggested the confident hope that at length a final judgment would be given in a case so interesting to every inhabitant of this city; and visions of borough-rates diminished, and much-needed public improvements commenced, floated at once before our imagination. Alas! the "law's delay" has not yet terminated—the passion for retaining fees and refreshers has not yet been sated—the judges of her Majesty's last court of appeal will not yet take so good a thing out of the hands of barristers, proctors, and lawyers—and therefore "hope deferred" must still continue to make sad the hearts" of the rate-payers of Gloucester. Their lordships have, it seems, discharged the order for hearing on Monday, and it is now uncertain whether the case can come on during the present session; the probability, indeed, is quite the other way, and the suit may therefore be supposed to be shelved for at least another year.

PROCEEDINGS OF LAW SOCIETIES.

SOCIETY FOR PROMOTING THE AMENDMENT OF THE LAW.

REPORT OF THE COUNCIL.

IN presenting their second annual report, the council of the society congratulate you on the progress the society has made. Our present meeting may in fact be considered as our first anniversary; for the society is not yet eighteen months old, and when we last met, under the name of an annual meeting, it was scarcely constituted. We did, however, even at that early date, anticipate the result to which we have now the gratification of drawing your attention; for we felt strong conviction that the principles and objects of our institution, once understood, could not fail to attract that attention which we deem their importance to deserve. We did not, it is true, look forward to that sudden accession of members, or that rapid accumulation of subscriptions, which has so frequently marked the progress of associations formed for the furtherance of some directly benevolent or other attractive object; for, though we are inferior to none in the importance of the end we seek, we must admit, that it must be pursued through rough and uninviting ways. The impressions we have to produce are of slow growth, requiring much time for their maturity, yet more for the ascertaining of their true value. We cannot seek to attract you by recreation—diversity of labour is admitted to be a species of rest; but the labours to which we invite bear too near an analogy to your daily and professional pursuits to be classed as diversions. Come and work—come and teach—come and learn—are not among the invitations which meet the readiest acceptance. And yet we have succeeded.

We have the satisfaction of stating that the list of new members, admitted by ballot since the last annual meeting, has nearly equalled the number of original members. Our recruits have indeed been principally from the ranks of the law; but we are not without indications, that a more extended view of our object will shortly attract to us persons from other professions, callings, and stations, and that many distinguished members of the Legislature will connect themselves with an institution which, without encroaching on the functions of Parliament, is calculated to facilitate its labours. Many of our senior members have manifested their willingness to open their stores of knowledge; and the juniors have shewn no inconsiderable alacrity in taking advantage of their communications. We always looked forward to this combination as one of the many advantages of this society.

The list of our ordinary members has suffered little diminution—we have to congratulate ourselves on the removal of Mr. Justice Erle and Mr. Baron Platt from the number of ordinary, to that of honorary members, in consequence of their elevation to the bench; in which class also the Chief Baron of the Exchequer has been enrolled. We have, on the other hand, to regret the loss of some amiable and learned colleagues—the sudden death of Mr. Duval deprived the profession of a most learned member, and the cause of law reform (especially as regarding the laws of real property) of an effective advocate. By the no less sudden death of Mr. Commissioner Merivale, an amiable man and very elegant scholar was lost to society; nor can social intercourse be mentioned, without missing at once the good humour, wit, and spirit of Sir Charles Williams.

Consequent on the increase of members, the committee of management will have to report an improved state of your finances; and though they are not yet sufficient to afford an extensive outlay in printing—without which, both the progress of our labours, and their publicity when completed, must be naturally impeded—we are not without hope, that a further improvement in our income may enable us to be more liberal in this branch, and that without the necessity of resorting to any appeal to the public for pecuniary assistance. On this head there has been some difference of opinion in our council; for while some members have contended, and with good reason, that for a public purpose of such permanent importance as the amendment of the law we are well entitled to call on society for those contributions which are always forthcoming in aid of objects of general utility, others have been unwilling to resort to this appeal till they had exhausted their own resources, or at least till the amount of labour performed with our confined means should serve as a basis for calculating the greater benefit which would result from a larger outlay.

To this end, it becomes necessary to advert to the work already completed—to that which is still in progress—and to the probability that some of our suggestions may be adopted by individual Members of Parliament, and that others may be deemed worthy of the notice of the Government, and may thus ultimately obtain the sanction of the legislature. By the constitution of this society, the duty of preparing reports on various subjects—proposed in the first instance by any individual member, who will enter his doubts or suggestions in the rough journal, and then selected for reference by the council—devolves on the various committees of the society, in which committees every member is at liberty to enrol himself. Of these committees there were originally ten, several of which have been already in active operation, and have presented reports, marked by the learning, discrimination, research, and judgment which might be expected from those who assisted in the debate of the subjects, or (which is yet more important) drew up the result of the deliberations.

One of the earliest of these reports was made by the Parliamentary Committee, to which it was referred "to consider the propriety of establishing a board for revising and settling public Bills in Parliament." This report, with the sanction of the society, was communicated by your President to Sir Robert Peel, as Prime Minister, as well as to the Lord Chancellor; and the council have reason to believe that the recommendation is under the consideration of the Government.

The importance of some such measure as is here recommended becomes more and more apparent in every session of Parliament; as in every session political and financial questions, and an overwhelming mass of business connected with public or private speculation, occupy more and more, and jurisprudential measures less and less of the legislative attention. We have seen that Bills for the amendment of the law are usually postponed to so late a period that lengthened discussion upon them becomes impossible; and that they are either hastily thrown out, or passed in so crude and imperfect a state, that a year seldom elapses before "An Act to amend an Act," or "An Act to amend an Act intituled an Act to amend an Act," bears testimony to the imperfection of our legislative machinery. Large views of law reform are but seldom taken—a patch here and a patch there, as insulated evils or inconveniences are occasionally discovered, is all that can be expected; and the maxim of Lord Bacon, "that it is easier to change many things than one," seems to be utterly forgotten.

A responsible board for the preparation of bills would obviate much of this evil; and your council is the more anxious to press this upon your attention, and, through you, upon the attention of those with whom you are in communication on such subjects, as they consider it a main if not an indispensable condition to all sound amendment. Neither is there so much novelty as may at first appear in this proposition. It has been a constant practice to issue commissions of inquiry on various subjects deemed too extensive for the consideration of a parliamentary committee, and

the reports of such commissions have been followed by Bills in conformity or supposed conformity with their recommendations; but, as the commission does not continue to follow the Bills through their several stages of parliamentary progress, it often happens that a small and sometimes casual deviation from the original plan totally alters the measure, and that so mischievously, that the supposed authors have felt it necessary to their reputation to repudiate the transformed or deformed offspring.

The committee on equity have been very diligently engaged on the several matters referred to them; and their labours have been facilitated by the liberal use of his chambers, afforded for their sittings by Mr. Spence; a similar accommodation has also been given by Mr. Koe to the debtor and creditor committee.

The first report made by the equity committee was on a reference, made to them in common with most of the other committees, "To consider the expediency of relieving the suitor from the expense of the judicial establishment and of placing this burthen on the general revenues of the country." We have to regret that no other committee has yet made a report on this subject, since it is one which cannot well be debated on any single branch of judicature, without reference to its bearings on many others. The next report was on the reference to consider "whether any safe and effectual means can be adopted for the taking of the accounts of executors and administrators, and the distribution of the personal estate of testators and intestates in any case, so as to diminish the expense which is at present incurred in attaining these objects." This report, presented on the 11th inst. is still under the consideration of the society. We therefore make no further comment on it than to say that it relates to a subject of every day's occurrence, and bears ample marks of the learning and diligence of those who have prepared it.

The common-law committee have made a very elaborate and valuable report on the subject of documentary evidence; it has met with the approbation of the society, and its recommendations are already embodied in a bill now pending before Parliament.

We have the gratification of making a similar statement as to two reports of the committee on the law of property. In pursuance of the recommendations contained in these reports, Bills to facilitate the conveyance of real property and the granting of leases, and for superseding the necessity of assigning outstanding terms, have been introduced in the present session.

The committee on the law of property have also presented valuable reports on the following reference:—"Whether the appointment of new trustees should not vest the trust property in them, and whether the deed of conveyance or assignment might not be dispensed with." The principle recommended in this report has been adopted in a Bill introduced by the Lord Chancellor for regulating charitable trusts. This committee has also presented reports on the following references:—"Whether any facilities can be adopted for appointing new trustees in cases in which there is no power in the instrument, or the power is defective or cannot be exercised;" and "Whether it be possible and expedient to adapt the machinery of the public funds to the transfer of real property;" and also on the draft of a Bill for amending the Transfer of Property Act privately communicated to the committee.

The committee on the law of debtor and creditor has had many meetings on the several subjects referred to them—subjects which include not only the whole law of bankruptcy and insolvency, but the yet more important and intricate question of commercial and general credit. With so large a field before them, we cannot be surprised that they have not yet come to the conclusion of their labours. *Festina lente* is never so sound a motto as when it relates to interference with the varying transactions of a great trading community.

In addition to the subjects on which reports have been presented, many other questions have been referred to the several committees, and are now under consideration, and in various stages of progress.

The formation of a library has not proceeded as favourably as we anticipated; for though a few members have presented their works, and some facility has been afforded us in obtaining parliamentary papers, we still fall short of even the beginning of such a collection as the uses of the society would require.

Your council have seen with great gratification the success of the *Law Review*, a quarterly journal of jurisprudence commenced in November last, and which, although not in direct connection with the society, is supporting in an efficient manner, and with the co-operation of many distinguished persons, as well members of this society as unconnected with it, many of the objects of this society.

In conclusion, the council trust that the society will agree with them, that, considering the difficulties which were likely to beset an association of this novel nature, it has met with all due encouragement, and has already proved itself competent to deal with the varied and important subjects which obviously come within its range.

The extent of its utility cannot, however, be ascertained by a transient view, various as are the questions already before it. Interesting as are the inquiries already instituted, important as are the objects already attained or within reasonable hope of attainment, they fall infinitely short of the multiplicity of objects which the future may disclose to us. As inquiry proceeds, fresh fields of usefulness open themselves, fresh prospects arise. By the aid of our association sound opinions may be formed and diffused, rash and inexpedient alterations in the law discussed and prevented, professional opinion ascertained and collected, and general assistance given to the gradual improvement of the law.

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It is proposed to publish an annual *Index Legum*, consisting of a digest of all the reported cases and statutes of the past year, under the title of the YEAR BOOK, to be bound with the volumes of the LAW TIMES, or separately, at option. It will be comprised in about six or seven numbers, at 1s. each, stamped, for transmission by post. It will not be commenced unless 1,000 subscribers order it. Persons desirous of having it are therefore requested to transmit their names as soon as possible.

THE LAW TIMES.

SATURDAY, JULY 26, 1845.

TO READERS.

As promised last week, we now present another gratis double number, as compensation for the trespasses which the advertisements have made upon the readers' columns.

THE BAR AND THE ATTORNEYS.

AN incident at the last Devon Quarter Sessions, a short report of which appears among the Legal Intelligence of this week, and a repetition of the same scene at the assizes just concluded, must bring to a speedy and decisive issue the question which has recently excited so much interest in the Profession—namely, whether counsel may communicate with clients, take instructions from them, and conduct their cases, without the intervention of an attorney.

We are bound, at the outset of the discussions which this occurrence must raise, to express our entire conviction that Mr. BIRD is actuated by no mercenary motive, or by no desire to injure the Profession of which he is a member. He entertains peculiar views of the rights and duties of counsel, which he asserts to be based upon the ancient laws and customs of the realm. He is resolved to bring the question to a decisive issue, and he has adopted the bold plan of openly and avowedly violating that which is understood to be an established rule of the Bar, challenging investigation, and calling upon those who object to his proceeding to bring it before the proper tribunal, by whom it may be decided whether his views be right or wrong.

In justice to Mr. BIRD, we are further bound to say, that he has been moved to the adoption of a course so perilous to himself by his belief of the prevalence of a practice which inflicts a grievous hardship upon prisoners and an injustice upon the Bar. He asserts that often, when a prisoner's friends apply to an attorney to defend him, they are told that the costs will be so and so, naming from 5*l.* to 10*l.* or more. If surprise is expressed, the counsel's fee is alleged as the cause. The required sum is paid, the attorney merely copies the depositions upon brief paper, hands them to counsel, with a guinea, or two at the utmost, indorsed as the fee, and pockets the remainder as his own profits.

Mr. BIRD says that he has known some flagrant cases of this, and urged, we verily believe, by honest indignation at the advantage which he believes to be taken of the ignorance of prisoners and their friends, he has come to the resolution of asserting a right which he contends, though dormant, to be still existing, and to appear for parties upon their own instructions without the intervention of an attorney.

We have introduced this explanation of Mr. BIRD's motives, so far as we understand them, in a spirit of fairness towards him, that he may not be classed with those who stoop to professional malpractices, knowing them to be such, with mercenary motives. He has manfully avowed his purpose—boldly demanded inquiry. The question he has raised is, therefore, thrown out for discussion upon its own merits, apart from any personality.

The rule we understand to be this—that counsel shall not take instructions from the party, but from an attorney only, save in the single instance of a retainer by a defendant in a criminal charge given in open court, or, as the phrase is, *a brief handed over the bar.*

We believe the recent decisions of the Inns of Court in certain cases to have been in conformity with this rule.

It is this rule which Mr. BIRD avows his intention to violate by taking instructions out of court from prisoners in person, and, upon those instructions, acting as their counsel.

The legality of the rule is a question to be decided elsewhere; our province is only to consider its expediency, and the propriety of maintaining it, if it exist, or of establishing it, if it be of doubtful authority.

The inquiry involves the still larger question of the propriety of observing a distinction between the functions of the Attorney and of the Advocate. Into this wide field of investigation we will not now enter, but assume that a distinction, recognised by the practice of centuries and the experience of society in all ages and nations, has a *primâ facie* claim upon our respect which it will need powerful arguments to overthrow.

Mr. BIRD's proposition at once defeats this existing arrangement. He would destroy all distinction between the Attorney and the Advocate, and permit the latter to discharge the functions of both.

Numberless are the objections that offer themselves to this innovation upon established practice. We can name a few only of the most prominent. The degradation of the Bar is the least of the mischiefs that would spring from this union of functions, although that, as we have more than once had occasion to shew, is to the people a matter of more serious concern than at the first glance might appear. But the indirect evils would be multitudinous. The division of labour is as beneficial in professional as in mechanical pursuits; the attorney who well performed his business could not qualify himself for the duties of counsel; the advocate competent to his task would have no time for the due performance of the work of the attorney. Both duties would be worse done than now; nor would the client at all profit by the change, for still the counsel who performed the work of the attorney would require to be paid for it, in addition to the fee for his labours as advocate.

Then the great advantage would be lost which now is felt in the decorum and calmness with which the business of our courts of justice is transacted. The effect of parties conducting their own causes, with heated personal animosities, may be determined by any man who has spent a morning in a provincial justice-room, or a Court of Requests. The evil would be but one degree removed were counsel to receive their instructions directly from the parties; unavoidably they would catch some of their heat

and animosity, and so be unfitted for taking that large and accurate view of a case which enables them to bring it to an issue in the most speedy and satisfactory manner. If any proof of this be wanting, we appeal to the experience of all our readers, whether attorney or counsel, if briefs, however carefully got up by the attorney, do not in the majority of cases, take erroneous views (for this reason, that from his minute knowledge of the case in the getting up of it, the attorney's mind is influenced by facts and conversations and *impressions* that are not *evidence*), and if counsel, who come to it without prejudice, and look at the proofs and the proofs only, are not obliged often to adopt a very different course from that recommended by the attorney. According to the present arrangement, the one supplies precisely the defect of the other, and by their combined labours the case is produced in its most perfect shape. But let counsel be his own attorney, and the mischiefs we have described will soon be seen to arise, in company with a host of others we have not space now even to name.

For these reasons, while acknowledging the integrity of Mr. BIRD's motives, and fairly admitting that if the evil of which he complains exist, something should be devised for its cure, we must emphatically protest against the course he has adopted, and urgently call upon the authorities to maintain in its utmost rigour the wholesome rule of professional etiquette at present recognised. That something might be done to put an end to the grievance, if it exist, Mr. BIRD makes the subject of his complaint, we readily acknowledge, but his remedy is worse than the disease.

The colloquy at the assizes must be the subject of a distinct inquiry.

THE SMALL DEBTS BILL.

THE Solicitor-General has introduced so many amendments into this project of law, that it has assumed almost a new shape. The additions exceed the original Bill in length, and almost equal them in importance. We give it at length below, and we propose now to present a short summary of the alterations made, with some comments.

In the first place, we must express our regret that no one of the objections which have been preferred against particular provisions of the Bill by experienced members of the Profession has been removed by the amendments. Still the power of imprisonment is restricted to forty days; still there is no provision for the case of conflicting jurisdictions; still the very equivocal clause remains relative to Counsel and Attorneys. Pity it is that Mr. KELLY, when framing his amendments, had not extended his cares a little further, and so have prevented much doubt and difficulty that will assuredly impede the working of a measure substantially so good.

Twelve entirely new clauses have been introduced for the purpose of enlarging and regulating the jurisdiction of Courts of Requests. These clauses are in effect a Local Courts Bill. They provide that one Secretary of State may enlarge or alter the jurisdiction of any Court of Requests; for the appointment of a judge, who must either be a barrister or special pleader, or an attorney of ten years' standing; for appointment of a deputy by such judge, in case of illness; they give power to frame a table of fees, and provide a fund for the erection of court-house and offices, by a poundage of sixpence in the pound upon sums claimed. A power is given to remove suits exceeding 5*l.* into the superior courts, and also to execute warrants and levy executions out of the jurisdiction.

To the bill is attached a table of fees too long to be extracted this week, but we will endeavour to find room for it in our next.

Of the propriety of thus introducing a Local Courts Bill under cover of a Bill having a purpose so much more restricted, we entertain very great doubt. There are so many and such serious considerations connected with any scheme for local courts, that justice cannot be done to the subject at the close of a session amid the accumulation of business, and the consequence must be, either that a necessarily inefficient and incomplete measure will be made law in a hurry, or the passing of a good measure of more urgency upon which it has been engrafted, will be endangered. But remonstrance is now too late. For good or for evil, Lord BROUGHAM's Bill has been saddled with Mr. KELLY's amendments, and they must stand or fall together.

3. Clause (A). *How order shall be executed.*—And be it enacted, that every bailiff to whom any such order shall be issued shall be thereby empowered to take the body of the person against whom such order shall be made, and all constables and other peace officers within their several jurisdictions shall aid in the execution of every such order; and no protection or certificate, or interim order issuing out of any court of bankruptcy, or for the relief of insolvent debtors, or otherwise howsoever, shall be available to any debtor taken in execution under such order as aforesaid.

4. Clause (B). *Imprisonment may cease on payment of debt.*—And be it declared and enacted, That no imprisonment under this Act shall in anywise operate as satisfaction or extinguishment of any debt or demand; but any person imprisoned under this Act who shall have paid or satisfied the debt or demand and costs remaining due at the time of the order of imprisonment being made, and all subsequent costs, may be discharged out of custody by leave of the commissioner or judge of the court by whom the order of imprisonment was made.

5. Clause (C). *Certain courts to have the like powers in original suits.*—And be it enacted, That the judge of every court of requests or conscience, and of every inferior court of record for the recovery of debts, and of every other court for the recovery of small debts, of which the judge is a barrister-at-law or special pleader, or an attorney of ten years' standing of one of her Majesty's superior courts of common law at Westminster, in which court proceedings shall be heard for the recovery of any debt or demand within the jurisdiction of the said court, shall have the like powers in the suit instituted for recovery of such debt or demand, of examining the parties to the suit, and upon occasion of pronouncing judgment thereon, if judgment be given for the plaintiff, shall have the like powers of further examining the parties, and in the several cases hereinbefore specified of committing the defendant to prison, which he might exercise under the provision hereinbefore contained, if judgment for such debt or demand had been obtained in his court, and the judgment creditor had obtained a summons for such defendant from the same court under this Act, and all the provisions of this Act shall be deemed to apply to such case as if such summons had been obtained.

6. *Where several courts exist in the same town, &c., business not to be transferred from one to the other.*—Provided always, and be it enacted, That in any city, town, or district wherein there are several courts for the recovery of small debts, neither of the said courts shall have any power under this Act in respect of any debt which shall have been sued for in the other of the said courts in the same city, town, or district, unless such other of the said courts shall not have a judge qualified as hereinbefore specified.

7. *Application to commissioners, &c. need not be made by counsel or attorney.* 5 & 6 Vict. c. 116.—And be it declared and enacted, That in making application to any commissioner or court as aforesaid, or taking any proceedings under this Act, or under the Act hereinbefore referred to, or under an Act made in the sixth year of the reign of her Majesty, intituled, "An Act for the Relief of Insolvent Debtors," it shall not be requisite for any party, whether creditor or debtor, to employ either counsel or attorney or solicitor.

8. *Affidavits in bankruptcy and insolvency may be sworn before keepers of prisons.*—And be it enacted, That any affidavit of any prisoner in any of her Majesty's prisons or gaols in England or Wales to be used in matters of bankruptcy or insolvency, or under or by virtue of any statute relating to bankrupts or insolvent debtors, or of this Act, may be sworn before the visiting or other justice, or if within twelve hours none such shall attend, then by the principal keeper or gaoler of such prisons or gaols respectively; and they and he shall be respectively authorized and required to administer the oath upon any such affidavit or affidavits.

9. *Interim orders to persons in custody to be granted, upon petition, without delay.*—And be it declared and enacted, That it shall not be lawful for the commissioners of bankrupt to refuse the interim protecting order to any person actually in custody and petitioning for the same, or to postpone granting such order for two days, or for any other period of time, upon the ground of enabling the detaining creditor to shew cause against granting such order, or upon any other ground whatever.

10. Clause (D). *Jurisdiction of courts may be altered.*—And be it enacted, That it shall be lawful for one of her Majesty's principal secretaries of state at any time, by order to be by him made under his hand and seal, to enlarge the jurisdiction of any such court of requests or conscience, or inferior court of record, for the recovery of debts, or other court for the recovery of small debts, to all debts and demands, whether on balance of account or otherwise, or damage arising out of any express or implied agreement, not exceeding fifteen pounds, and in such cases as he may think fit, to enlarge the district of any such court, or where any part of the district of such court is comprised within the jurisdiction of any other like court, to contract the same and all powers and authorities now vested in any such court the jurisdiction or district

The following is the Bill as amended by the committee:—

A Bill intituled "An Act for the better securing the Payment of Small Debts."

1. *Preamble. Creditor obtaining judgment or order in respect of debt not exceeding 20l. may summon debtor before a commissioner of bankrupts or Court of Requests, &c.*—Whereas it is expedient and just to give creditors a further remedy for the recovery of debts due to them; be it therefore enacted, by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That if any person is or shall be indebted to any other in a sum not exceeding twenty pounds besides costs of suit, by force of any judgment obtained, or of any order for the payment thereof, or of any costs in any court, which judgment or order shall have been obtained from any court of competent jurisdiction in England, it shall be lawful for the creditor so having obtained a judgment or order to obtain a summons from any commissioner of bankrupts for the district in which such debtor shall reside or be, or from any court of requests or conscience, or inferior court of record for the recovery of debts, or other court for the recovery of small debts, within the jurisdiction of which such debtor shall reside or be, having a judge who shall be either a barrister-at law, special pleader, or an attorney of not less than ten years' standing of one of her Majesty's superior Courts of Common Law at Westminster, which summons such commissioner of bankrupts or such court shall be authorized and required to grant, according to the form in schedule (A) hereunto annexed, upon the application of such creditor by any petition or note in writing, according to the form in schedule (B) hereunto annexed; and the debtor appearing before such commissioner or court at the time to be appointed in such summons, shall be examined by the said commissioner or court, and shall, if the creditor think fit, be interrogated before such commissioner or court by the creditor summoning him, touching the manner and time of his contracting his debt, the means or prospect of payment he then had, the property or means of payment he still hath or may have, the disposal he may have made of any property since contracting such debt; and such creditor shall also, if such commissioner or court shall think fit, be examined by the said commissioner or court touching his claim against the said debtor; and it shall be lawful for such commissioner or court to make an order on the said debtor for the payment of his debt by instalments or otherwise; and in case such debtor shall not attend as required by the said summons, and shall not allege a sufficient excuse for not attending, or shall, if attending, refuse to disclose his property, or his transactions respecting the same, or respecting the contracting of the debt, or shall not make answer thereof to the satisfaction of the commissioner or court, or shall appear to such commissioner or court to have been guilty of fraud in contracting the debt, or of having wilfully contracted it without reasonable prospect of being able to pay it, or of having concealed or made away with his property in order to defeat his creditors, or if he appears to have the means of paying the same by instalments or otherwise, and shall not pay the same at such times as the commissioner or court shall order, then in any of the said cases it shall be lawful for such commissioner, or the chairman, assessor, or other presiding officer of such court, to order such debtor, to be committed for any time not exceeding forty days to the common gaol wherein the debtors under judgment and in execution of the superior courts of justice may be confined within the county, city, borough, or place in which such debtor shall be resident, or to any other gaol or debtors' prison within the same county, which shall by any unrevoked declaration of one of her Majesty's principal secretaries of state be allowed as a place of imprisonment under this Act: provided always, that in case a day other than the day of issuing such order for imprisonment shall be appointed for payment of the debt, or of any instalment thereof, no order for imprisonment for non-payment of the debt, or of any instalment thereof, shall be made by such commissioner or judge, until it shall be made to appear to his satisfaction that the debtor has made default, and has disobeyed the order for payment by instalment or otherwise.

2. *Commissioner, &c. may order payment of debt out of salary, pay, or pension, &c.*—And be it enacted, That in making such order for payment as aforesaid, it shall be lawful for such commissioner or court; and they shall be authorized and required, to order such debtor to make payment of his debt out of any salary or wages, or pay or half-pay or pension, which he may be entitled to receive after making such reasonable deduction thereout as to the commissioner or court shall seem necessary for the subsistence of the debtor and his or her family, and the not paying as ordered out of such salary, wages, pay, or pension shall be deemed such disobedience as authorizes the said commissioner or judge to order the imprisonment of the debtor: provided always, that no such order of imprisonment shall be made for any longer time than forty days.

whereof shall be so enlarged, or the district whereof shall be so contracted, shall apply and extend to the jurisdiction or district given or limited under the powers of this Act, and that as fully as if such jurisdiction or district had been given by the Act or Acts establishing or regulating such court and its proceedings: provided always, that no such order shall be made in respect of any court which shall not have a judge who is either a barrister-at-law or special pleader, or an attorney of one of her Majesty's superior courts of common law at Westminster (such attorney being of at least ten years' standing), and who shall be approved of by the Secretary of State making such order; and it shall be lawful for the commissioners of any court in which there shall be no such judge, or a majority of those who shall be present at a meeting called for the purpose, to appoint a judge qualified as aforesaid, subject to the approval of the said Secretary of State.

11. Clause (E). *Who shall be competent to hold the court.*—And be it enacted, That no such order shall avail to extend the jurisdiction of any such court for the trial of any cause in the absence of the judge; and that whenever the number of commissioners present at any court shall not be sufficient for the trial of causes according to the constitution of the court before the passing of this Act, the judge shall act alone with all the powers of the court, whether or not enlarged or altered under this Act, and shall determine all questions, as well of fact as of law, in the causes which shall be brought before him.

12. Clause (F). *Appointing of a deputy.*—And be it enacted, That in all cases of illness or unavoidable absence, the cause whereof shall be entered in the minutes of the court, it shall be lawful for the judge, or, in case of the inability of the judge, for the commissioners, to appoint a deputy, qualified as is hereinbefore provided in the case of the judge, to act for him during such illness or unavoidable absence, and any deputy so appointed, while acting under such appointment, shall have all the powers and privileges and perform all the duties of such judge.

13. Clause (G). *Power for judge to frame a table of fees.*—And be it enacted, That the judge of any such court, the jurisdiction or district whereof shall be extended under the powers of this Act, shall, subject to the approval of one of her Majesty's principal secretaries of state, frame a table of fees to be payable by the suitors of such court or courts, in respect of every proceeding therein; and a table of such fees shall be put in some conspicuous place in the court-house and in the clerk's office, and the fees on every proceeding shall be paid in the first instance by the plaintiff, or party on whose behalf such proceeding is to be had, on or before such proceeding; and all such fees shall be received by the clerk or clerks of such court, who shall account to the other officers of such court for the amount or proportion thereof, which shall be payable to them respectively; and shall also, when required so to do, render an account of all such fees to the commissioners of her Majesty's treasury: provided always, that it shall be lawful for the Secretary of State to lessen the amount of the fees to be taken in any one or more of the courts, the jurisdiction or district whereof shall be extended as aforesaid, in such manner as to him shall seem fit; and again to increase such fees, so that the scale of fees given in the schedule to this Act marked (C) be not in any case surpassed: provided also, that in all cases where any clerk or other officer of any such court shall have been paid by salary instead of fees, such clerk or other officer shall continue to receive such salary, with such reasonable addition thereto, in any case in which under the powers of this Act the duties of such clerk or other officer will become more laborious, as the judge shall direct, with the approval of the Secretary of State; and all sums payable in the name of fees to any such clerk or other officer over and above the amount of such salary, shall be applicable for such purposes and in the manner prescribed by the Act or Acts of Parliament under which such court is constituted.

14. Clause (H). *Poundage to be demanded from suitors upon sum claimed.*—And be it enacted, That, for raising a fund for providing a court-house and offices for any court of requests, or other court for the recovery of small debts, the clerk or clerks of any such court in which, and while it shall be necessary to raise such fund, shall demand and receive from the plaintiff in every suit brought in that court before he shall issue any summons in that suit, the sum of sixpence when the debt or damage claimed shall not exceed twenty shillings, and for every claim exceeding twenty shillings, one-fortieth part thereof (neglecting any sum less than threepence in estimating such fortieth part) or other such sum, in either case not exceeding the rates hereinbefore mentioned, as the commissioner of her Majesty's treasury from time to time shall order, which sum shall be paid in all cases in the first instance by the plaintiff upon suit brought in such court, and shall be considered as costs in the cause, and the clerk or clerks of the court shall keep an account of all moneys so paid to him or them, and shall account for the same to the judge of such court for the time being, and the amount thereof shall accumulate to form a general fund for such court, and shall be applied in defraying the rent and taxes, stationery and other necessary expenses of holding and carrying on the business of such court, in such manner as the commissioners for the time being shall direct.

15. Clause (I). *Lists of unclaimed suitors' money to be made out.*—And be it enacted, That the clerk or clerks of every such court shall, in the month of January in each year, make out a correct list of all sums of money, belonging to suitors in the court, which shall have been paid into court, and which shall have remained unclaimed for the space of twelve calendar months before the first day of the said month of January, specifying the names of the parties for whom or on whose account the same were so paid into court; and a copy of such list shall be put up and remain, during court hours, in some conspicuous part of the court-house, and at all times in the clerk's office.

16. Clause (K). *All suitors' money paid into court and unclaimed for six years to go into the court fund.*—And be it enacted, That all sums of money which shall have been paid into any such court, to the use of any suitor or suitors thereof, and which shall have remained unclaimed for the period of six years before the passing of this Act, and all further sums of money which shall hereafter be paid into any such court to the use of any suitor or suitors thereof, shall, if unclaimed for the period of six years after the same shall have been so paid into court, vest in and belong to the commissioners of such court for the time being, in trust for the general purposes of such court, and shall form a general fund for the payment of all just debts, and the necessary expenses of holding or carrying on the business of such court.

17. Clause (L). *Power to remove suits exceeding 5l. into superior courts.*—And be it enacted, That any suit to be instituted in any such court wherein the claim or demand shall exceed the sum of five pounds, shall be removable by certiorari or otherwise into any of her Majesty's superior courts of common law at Westminster, or into the Court of Common Pleas at Lancaster, by leave of a judge of any one of the said courts, and upon such terms as he shall order.

18. Clause (M). *Power to execute warrants and levy executions out of jurisdiction.*—And be it enacted, That in all cases where final judgment shall have been obtained in any such court, and a warrant or execution shall have issued against the goods and chattels of the defendant, or an order for his commitment shall have been made under this Act, and the defendant, or his goods and chattels, shall be out of the jurisdiction of such court, it shall be lawful for the officer charged with such warrant, execution, or order of commitment, to apply to any justice of the peace acting for any county, division, or place in which the defendant or his goods and chattels shall then be, upon proof being made upon oath (which oath such justice shall be empowered to administer), that the person or goods and chattels of such defendant is or are believed to be within the county, division, or place where such justice of the peace shall act, such justice of the peace shall sign or indorse his name upon the said warrant, execution, or order of commitment, and thereupon the said officer charged therewith shall take and seize the person or the goods and chattels of the defendant wheresoever the same shall be found within the county, division, or place for which such justice of the peace shall act; and all constables and other peace officers shall be aiding and assisting within their respective districts in the execution of the said warrants, executions, or orders.

19. Clause (N). *Interpretation of the word "judge."*—And be it enacted, That in the construction of this Act the word "judge" shall be construed to include every person, being either a barrister-at-law or an attorney of one of her Majesty's superior courts of common law at Westminster, who, according to the constitution of the court, presides in any such court as aforesaid, or acts as judge or assessor therein, whether by the title of judge or barrister or county clerk, assessor, or steward or deputy steward, or by any other style or title whatsoever.

SHAM LAWYERS.

We have received a large number of threatening letters, addressed by a Mr. Kelk, of Newcastle, for the most part to individuals in humble life, who are the more likely to be intimidated by his menaces. We recommend this person to the care of the Newcastle and Gateshead Law Society, to be dealt with as to them may seem meet.

We subjoin a specimen of Mr. Kelk's circulars.

Sir,—Mr. Thompson, of Haswell, and his son, Mr. Isaac Thompson, were with me this morning, and directed me to cause peremptory proceedings to be adopted for the recovery of the amount of your account, in fact they were surprised to hear that I had not already done so; they know you can pay it if you will; this is therefore to inform you that no further application will be made for the same; but if it be not paid at this office by Wednesday, the 23rd instant, a writ will be issued against you in respect thereof.

I am, Sir, your obedient servant,
William Kelk.

11, Royal Arcade, Newcastle-on-Tyne,
15 July, 1845.

VERULAM SOCIETY.

The ninth number of *Practice Cases*, and the thirteenth number of *Real Property* and *Conveyancing Cases*, are now published.

The tenth of *Practice*, the fourteenth of *Real Property*, and the twelfth of *Magistrates' Cases*, are in the press.

The *second part* of *Cox's Criminal Law Cases* has been published for a week past. It was hastened onward that it might be ready for use on the Circuits now in progress. It brings down all the cases to a very recent date, and very few of them have been reported elsewhere.

We must again request payment of the present year's subscriptions.

A form of agreement for a building-lease has been prepared by counsel, and is now printing.

Many new conveyancing forms are being settled by Counsel for the use of the Society; such as the common trustee clauses in a will, the common covenants and provisos in a mortgage; the trustee clauses in settlements.

We shall be obliged for suggestions for forms that would be useful in practice.

JOURNAL OF PROPERTY.

VENDOR AND PURCHASER—CONDITIONS OF SALE—INTEREST.

Our readers are well aware that it is now the common practice to insert amongst the Conditions of Sale, a stipulation that if, "*from any cause whatever*," the contract be not completed on a specified day, the purchaser shall thenceforth pay interest. A doubt has been felt how far the Courts would sanction such a condition in a case where the purchaser has done all in his power, and the blame of the delay rests solely on the vendor. On the one hand, the argument has been, that, whether reasonable or unreasonable, the purchaser had full notice of the condition, and of the consequences which it might entail, and if he choose to purchase under it, it is his own fault, and he cannot justly complain of the results; but, on the other hand, it has been contended, that the purchaser had a right to presume *bona fides* and reasonable diligence on the part of the vendor; that if the latter could not be prepared, or would not take the necessary pains, to complete at the appointed time, his failure must be considered decided misconduct on his part; and to allow him then to insist upon the condition would be a premium for that misconduct.

The point was brought to an issue in the late case of *Greenwood* v. *Churchill* (Law T. March 22). Under an order of the Court of Chancery, property was put up for sale in June 1839; by the conditions (which were very strict), the purchaser was required, on or before the 9th of November in that year, to pay his purchase-money and the amount of certain valuations into court, and he was thenceforth to be entitled to the rents; "but if, from any cause whatever, the purchase-money and valuations should not be paid by the time stipulated, the purchaser should thenceforth pay interest thereon at five per cent." The abstract was to be delivered at a particular time—it was not so; for full a year after, nothing that could be called a useful document was delivered, and at the end of two years and a half the title was not made out; ultimately the purchaser agreed to take it, though still unmarketable, but he objected to pay interest. The question was, under the circumstances could he be compelled to pay it? The Master of the Rolls held that he could, as it was part of his contract. "It is unnecessary to say that the vendor ought not to proceed to a sale without looking to his title and seeing that he is able to make one; but suppose the vendor to have failed in this, the question is, whether such failure is a reason for altering the terms of the contract; and I think it is not; there it is, and the parties must abide by it."

His lordship allowed the purchaser to apply for compensation if he thought he could make out a case, an effectual mode of relief perhaps in that particular instance, the sale having been made

under a decree; but it would be little satisfactory to an ordinary purchaser, who must file a bill for the purpose

In *Greenwood* v. *Churchill* it will have been observed the purchaser had possession; this circumstance, however, seems of no great consequence, for if the stipulation had been that he should not have possession until completion, but nevertheless should pay interest, it would have been equally part of the contract; and therefore, according to the Master of the Rolls, it would have been enforced. The reasonableness or unreasonableness of the stipulation, and the conduct of the parties, are apparently immaterial.

We have thought it right to draw our readers' attention to this case, that they may be fully aware of the extent of liability which attaches under the condition in question. The circumstances of the case were remarkable, and calculated to test the doctrine, for it seems at the time of sale the vendor had not a shadow of evidence of title. He could not even deliver an abstract; he broke his own agreement in that respect; he alone caused the delay; no blame is cast upon the purchaser; yet having, at the end of four years, consented to take the title, though it was even then unmarketable, he is condemned to pay interest during the whole period. With this decision before him, can a solicitor advise his client to purchase under the condition in question? Can a trustee be advised to make such a purchase? And if not, if this condition be of such a discouraging nature, is a trustee in a sale justified in inserting it?

In *Greenwood* v. *Churchill*, of course the purchaser might have abandoned the contract, on finding that the vendor could not give him a title. We have enlarged upon the case, principally to shew that the condition will be upheld by the courts, and that misconduct on the part of the vendor will not prejudice his right to avail himself of it. Cases are repeatedly occurring in practice, in which a vendor, having a perfectly good title, is guilty of scandalous laches in completing. Not long ago, in a case before us, requisitions of an ordinary character were left unanswered for upwards of four months; the defendant's conveyance was also detained a very unreasonable length of time; and eventually the purchaser had to pay six months' interest, though he had used every effort to complete, and there was no reason for non-completion at the time appointed. In such a case a purchaser seems to be substantially without remedy. Surely a solicitor ought seriously to consider before he allows a client to place himself to such an extent at the mercy of a vendor.

SALES OF LAND.—Several fine farms on the estate of Mr. Hope Johnstone, of Annandale, were sold by auction at Dumfries last week. Dryfeholme and some adjoining farms were bought by Mr. Jardine, Tinwald Mains, price nearly 22,000*l*. Mr. Graham, of Shaw, bought another lot for about 7,000*l*. In all, nearly 32,000*l*. were obtained for the property sold. The fine estate of Barbarrow, near Gatehouse, was sold the same day to Mr. Pringle, of Borgue, for 11,905*l*.—*Dumfries Courier*.

VALUE OF LAND IN NORWICH.—At a sale by auction, on the 8th inst. a piece of land, containing 2a. 3r. 3p. adjoining St. Faith's-lane, in this city, the property of C. K. and H. K. Thompson, esqrs. was sold for the sum of 1,705*l*.

Public Sales.

By Messrs. VENTOM and HUGHES, at the Mart.

Two spacious freehold brick-built residences, Nos. 27 and 28, Duke-street, Lincoln's-inn-fields—1,110*l*.

Two freehold brick-built houses, Nos. 7 and 8, Prince's-street, Little Queen-street, Holborn—585*l*.

A freehold brick-built three-stall stable, with loft over, in the centre of New Yard, Great Queen-street, Lincoln's-inn-Fields—155*l*.

A freehold brick-built dwelling house, opposite the Bear Inn, in West Ma'ling Kent—225*l*.

A pair of elegant and modern brick-built villas, "Grove Villas," Highbury-grove, with slated roofs—900*l*.

An elegant villa residence, being No. 3 of the same description as the preceding—880*l*.

The villa adjoining the preceding lot, being No. 4, of the annual value of 80*l*.—900*l*.

One undivided moiety or half part or share of 30*l*. per annum, arising out of a copyhold messuage and dwelling-house, in the township of Enchmarsh, in the parish of Cardington, Salop—145*l*.

A new substantial brick-built residence, with slated roof, No. 1?, Downham-road, New North-road, with a fore-court and grass plot inclosed by iron railings, approached by stone steps, portico entrance, and plate-glass door—360*l*.

Five substantial brick-built family residences, with slated roofs, erected within the last four years, of the best materials, Nos. 29 to 33, Clarence Terrace, Rotherfield-street, Lower-road, Islington—1,720*l*.

Three respectable residences, Nos. 22, 23, and 24, in the same terrace, held by the vendor for 99 years from June 24, 1841, at the apportioned ground-rent of 1s. each house—1,020*l*.

A contingent and reversionary interest receivable on the decease of a gentleman now in his 60th year, in two fourth parts, with the benefit of survivorship in one other fourth part of 861*l*. New 3*l*. 5s. per cent. Annuities, and in the money to arise from the sale of an important freehold property, occupying a spacious plot of ground adjoining Messrs. Elliott's brewery, of the value of 300*l*. per annum; also two policies of insurance, effected in the Economic Life Assurance Company for 500*l*. and 500*l*. upon the lives of the parties whose shares are offered for sale against the life of the tenant for life, the premiums on which amount to 13*l*. 16s. 8d.—750*l*.

A freehold ground-rent of 25*l*. arising out of twelve brick-built houses, Nos. 1 to 12, Edmunds-place, next to Osborne-place, Great Arthur-st. Golden-lane, in the parish of St. Luke's—450*l*.

A desirable freehold property, Nos. 40 and 41, Middlesex-court, Bartholomew-close, West Smithfield, consisting of a respectable residence, with ample accommodation for a family, together with a factory over, extending the whole length of the building; ware rooms; counting house, with two rooms over the church and ruins; with a small residence in the court—1,430*l*.

A desirable freehold brick-built house, No. 1, Tottenham Court-road—1,210*l*.

A substantial brick-built residence, in excellent repair, No. 2, Tottenham Court-road—1,630*l*.

A freehold brick-built house, with stuccoed front, No. 3, Tottenham-court-road—1,570*l*.

A substantial freehold brick-built house, shop, and warehouses—3,620*l*.

Also two houses in Hanway-street, the whole of the presumed annual value of 350*l*.

Two freehold brick-built houses, formerly numbered 6 and 7, Donaldson's-buildings, in the rear of the preceding property—450*l*.

Five freehold brick-built houses, numbered 1 to 5, called Donaldson's-buildings, in Donaldson's-court, Tottenham-court-road—520*l*.

An undivided third-part or share of No. 12, the corner of Castle street, Holborn, held for the residue of the term of 99 years, from the 18th September, 1793—650*l*.

The reversion in fee in the freehold brick-built premises, comprised in the last lot, subject to the said term of 99 years, from the 18th September, 1793, and which property is of the presumed annual value of 250*l*.—200*l*.

A desirable copyhold brick-built family residence, situate in Willow-walk, Kentish-town.

A copyhold brick-built family residence—560*l*.

A copyhold house, seated within its own grounds, known as "the Manor House"—420*l*.

A brick-built residence, being No. 7, Charles-square, Hoxton—150*l*.

Family residence, No. 4, Somerset-place, opposite Gloucester-terrace, New-road, Cannon-street-road, Commercial-road, East—320*l*.

Genteel family residence, No. 11, the south side of the Grove, Hackney, the corner of Grove-lane, also a large walled-in garden, with entrance from the lane; at the extreme end is a stable-yard, brick-built two-stall stable, chaise house and loft over, and water laid on—535*l*.

Two very commodious modern residences, fitted in a style of modern neatness, being Nos. 1 and 2, Seymour-place, Upper Holloway—530*l*.

Nos. 6 and 7, of the same description as the preceding—495*l*.

By Mr. W. W. SIMPSON, at the Mart.

A freehold estate, called Curry Marsh Farm, situate in the parish of Stanford le Hope, Essex; it comprises 131a. 3r. 3p. of green marsh—sold for 1,000*l*.

A freehold estate, called Feltham Lodge, situate in the parish of Feltham, Middlesex; it comprises a residence, situated on a beautiful lawn, belted by plantations and shrubberies, orchard, and kitchen garden, together with 12a. 2r. 25p. of pasture land, let at 70*l*. per annum—900*l*.

A freehold estate, called Bridge Marsh Island Farm, in the parishes of Latchingdon, Althorne, and Mayland, in Essex; it comprises a bailiff's house, together with 495a. 2r. 1p. of arable and grazing land, let at 315*l*. per annum—5,120*l*.

A freehold estate, called Plumes and West Wick Farm, in the parish of North Fambridge, Essex, comprising a small farm-house, farm buildings, and 176a. 2r. 17p. of arable and pasture land, let at 150*l*. per annum, land-tax redeemed—3,120*l*.

A freehold estate, designated Purleigh Barnes, with Tobyes, in the parish of Purleigh, and near the village of Latchingdon, Essex; it includes a farm-house, farm buildings, two tenements, a cottage, and 248a. 2r. 26p. of arable and pasture land, let at 310*l*. per annum—7,950*l*.

A plot of freehold grass land, containing 1a. 22½p. situate near East Brook End, Dagenham, Essex; also, two cottages and gardens, and a plot of grass land containing also 1a. 22½p. land-tax redeemed—350*l*.

A close of freehold grass land, containing 3a. 3r. 29p. called Rail Pond Field, land-tax redeemed, situate near the above—410*l*.

A parcel of freehold grass land, near the above, containing 4a. 1r. 30½p.; also, a ditto, adjoining, containing 4a. 1r. 30½p.—800*l*.

A ditto, adjoining, of 5a. 1r. 10p.; also 5a. 1r. 2p. in the rear—850*l*.

By Mr. PARSONS at Brighton.

A freehold residence at Worthing, No. 5, York-terrace—1,010*l*.

Hurstpierpoint, Sussex. Two freehold dwelling-houses, let at 12*l*. per annum each—320*l*. A freehold dwelling-house, four tenements, and a two-stall stable, producing 69*l*. 17s. per annum—530*l*.

THE MONEY MARKET.

		M.	Tu.	Wed.	Thur.	
Three per Cents. Consols	98⅞	99⅛	99⅛	98⅞	99⅛	99⅛
Three per Cents. Reduced	99⅛	99⅛	99⅞	99⅛	99⅛	99⅛
New Three-&-a-quarter per Cts	101⅞	102	102⅛	102⅛	102⅛	102⅜
Long Annuities..............	11⅞	11⅞	11⅞	11⅞	11⅞	11⅞
Bank Stock	210½	211½	211	211½	211½	211
India Stock	279	279½	279	276½	276	274½
India Bonds, prem....				71	72	
Exchequer Bills, prem.				55	56	
Spanish Five per Cents.......	26½	26½	26½	26⅞	26¾	26½
Spanish Three per Cents.	37½	37½	37⅛	37½	37⅛	37⅞
Russian	118⅞	118½	119¼	119¼	119½	
Peruvian....................	32½	31⅞	31	36½	33½	
Portuguese	64½	64½	64½	60½	65	
Mexican.....................	36½	36½	37	37	38	
——— Deferred	20½	20½	19½	19½	19½	
Dutch Two-and-a-Half per Cents..................	62½	62⅞	62½	62⅞	62½	
——— Four per Cents.	99⅛	98½	99⅛	99¼	99⅛	
Danish	89½	89⅞	89½	90½	90	
Colombian...................	17½	17½	17½	17¾	17½	
Chilian	100½	100				
Buenos Ayres	45½	45				
Brazilian..............	90½	90½	90½	91	91⅛	
Belgian	99½	99½	99½	99½	100½	

BIRTHS, MARRIAGES, AND DEATHS.

[The charge for the insertion of the above is 5s.]

BIRTHS.

OLIVER.—On the 23rd inst. the wife Mr. Oliver, solicitor, of West Ham, Essex, and 36, Old Jewry, London, of a son.

THORP.—On the 19th inst. at St. Ives, Hunts, the lady of Frederick William Thorp, esq. solicitor, of a daughter.

MARRIAGES.

ARCHER, Thomas Goodwin, the third son of Thomas Archer, esq. of Ely, to Sophia, daughter of the late James Brittin, esq. of St. Ives, on the 22nd inst. at St. Pancras New Church

FABBE, John Richard, of the Inner Temple, esq. barrister-at-law, to Hannah Maria Best, of Upper Gower-street, Bedford-square, on the 17th inst. at St. Pancras New Church.

GWYNNE, John, esq. solicitor, of Tenby, to Fanny Price, only child of Thomas Gwyther, esq. of Tenby, on the 17th inst. at St. Mary's, Tenby.

HANCOCK, John Cree, esq. of Devonport, to Jane, daughter of Henry Moore, esq. of Calcutta, at Plymouth.

MATTHEWS, Benjamin, esq. solicitor, of Cardiff, Glamorganshire, to Flora Sophia, only daughter of the late Thomas Gabriel Gunter, esq. of Moreton in Marsh, Gloucestershire, on the 24th inst. at St. George's, Hanover-square.

OLIVER, Lionel, esq. barrister-at-law, to Catherine Ford, daughter of Charles Grant, esq. of Fitzroy-square, on the 24th inst. at St. Pancras Church.

WAUD, Christopher, esq. of the Hon. East-India Company's Home Service, to Mary, daughter of the late Henry Stanley, esq. solicitor, of Billericay, Essex, and niece of Captain Stanley, R.N. of Exeter, on the 17th inst. at St. John's, Holloway.

DEATHS.

CANTERBURY, The Right Hon. Viscount, G.C.B. on the 21st inst. at the residence of his second son, the Hon. H. Manners, Sutton, M.P. aged 66.

STEPHEN, Raymond Robinson Hindmarsh, the son of George Milner Stephen, esq. of the Middle Temple, on the 14th inst. aged 7 months.

THE GAZETTES.

Gazette, July 24.

AMOUNT OF DIVIDENDS DECLARED.

The sum stated as the Dividend means so much declared in the Pound. The Assignees, when chosen, follow this statement.

Monday, July 14.

Mohon and *Co.* wine merchants, last exam. passed.—*Walters*, W. assistant warehouseman, last exam passed.

Tuesday, July 15.

Anton and *Co.* corn factors, joint div. next week. Whitmore, London.—*Bradly* and *Co.* wine merchants, last exam. Aug. 15.—*Brown*, W. grylls whelp manufacturer, assignees Aug. 6.—*Clarkson*, W. boot maker, last exam. Sept. 16.—*Gardner*, G. tavern keeper, div. next week. Groom, London.—*Hicks*, C. T. drug grinder, last exam. passed.—*Marks*, E. M. upholsterer, last exam. passed.—*Smith*, J. grocer, last exam. passed.—*Williams*, W. wheelwright, div. next week.

Wednesday, July 16.

Cook, H. P. victualler, div. next week. Edwards, London.—*Dalton*, C. stone mason, last exam. Sept. 15.—*Fisher*, J. spirit merchant, last exam. passed.—*Jenkyns* and *Co.* merchants, div. J. next week. Johnson, London. *Wyatt*, T. H. brewer, assignees, Aug. 12.

Thursday, July 17.

Pocock, G. linen draper, assignees, adjourned.

Friday, July 18.

De Wilde, F. A. ironmonger, last exam. July 25.—*Matthews*, W. piano forte maker, last exam. Aug. 1.—*Plowman*, J. ironmonger, last exam. passed.

Saturday, July 12.

Shubert, M. F. hatter, assignees, Aug. 23.

DIVIDENDS.

Bankrupts' Estates.

Official Assignees are given, to whom apply for the Dividends.

Askam, R. D. lime-burner, final, 4s. Young, Leeds.—*Blyth*, F. E. porter merchant, first, 1s. 9d. Turquand, London.—*Brown*, J. merchant, first, 6s. 1d. and fur. 10d. to new proofs, and fur. 10d. on old proofs. Young, Leeds.—

Brown, J. cooper, second and final, 2s. 7½d. Baker, Newcastle.—*Carpenter*, W. innkeeper, final, 3½d. Kynaston, Bristol.—*Chandler*, W. chemist, first, 1s. 4d. Turquand, London.—*Currie*, R. bookseller, first and second, 4s. 8d. to new proofs. Baker, Newcastle.—*Evershed*, R. timber merchant, second, 3s. 1d. Graham, London.—*Figge*, J. F. merchant, first, 8d. Turquand, London.—*Gorbell*, T. K. bookseller, first, 6s. 6d. Turquand, London.—*Hardisty*, W. whitesmith, first, 5s. Young, Leeds.—*Harvey*, G. spirit merchant, final, 3s. 3½d. Valpy, Birmingham.—*Herbert*, R. M. tea dealer, first, 3s. 4d. Turquand, London.—*John*, S. scrivener, 4d. and 1-16th. Hernaman, Exeter.—*Keeley*, J. tailor, first, 2s. 6d. Cazenove, Liverpool.—*Kirkpatrick*, J. banker, third, 2s. 6d. Whitmore, London.—*Lewis*, H. cabinet maker, final, 1½d. Kynaston, Bristol.—*Kilford*, T. cabinet maker, first, 11½d. Graham, London.—*Marshall*, S. builder, first, 6s. 8d. Young, Leeds.—*Murcott*, C. factor, first, 11d. Christie, Birmingham.—*Pile*, and *Co.* wine merchants, first joint, 12s. 9d. sep. Staunton, 20s. Graham, London.—*Reevely*, T. jun. plumber, first, 2s. Baker, Newcastle.—*Robinson* and *Co.* grocers, first, Robinson, jun. 3s 11d. Graham, London.—*Robinson*, T. lime burner, first, 7s. Cazenove, Liverpool.—*Rothery*, G. currier, first and final, 1s. 1d. Young, Leeds.—*Smith*, J. corn merchant, first, 5s. 3d. Graham, London.

Insolvents' Estates.

Burge, J. jun. tailor, Weston-super Mare, final, 8½d.

ASSIGNMENTS

To Trustees for the benefit of Creditors.

Tuesday, July 22.

Browning, J. linen-draper, Dorchester, June 7. Trusts. J. Bradbury, warehouseman, Aldermanbury. G. Howes, warehouseman, St. Paul's Church-yard, and W. Devenish, esq. Upway, Dorsetshire. Sols. Hardwick and Davidson, Weavers'-hall, Basinghall-st.—*Finn*, J. widow, and *Finn*, H. farmer, Buckland, Kent, July 12. Trusts. J. Pierce, farmer, Buckland, and G. Lester, jun. saddler, Dover. Sols. Kennet and Bushell, Dover.—*Jacobs*, H. piano-forte manufacturer, Cardington-st. Hampstead-rd. July 11. Trusts. J. S. Nettlefold, ironmonger, High Holborn, and C. Rowed, timber-merchant, Charles-st. Hampstead-rd. Sols. Elmslee and Preston, Moorgate-st.—*Woodman*, J. grocer, Sturminster Newton, Dorsetshire, July 14. Trusts. S. Notley, soap manufacturer, Marnhull, and R. Keynes, grocer, Shaftsbury. Sol. Dashwood, Sturminster Newton.

Gazette, July 18.

Waters, T. hay dealer, St. Woollos, July 29, 1837.

Gazette, July 22.

Martin, G. pin manufacturer and grocer, Gloucester, Nov. 4, 1819.

Bankrupts.

DATE OF FIAT AND PETITIONING CREDITORS' NAMES.

Gazette, July 18.

BROMWICH, HENRY, grocer, Leamington Priors, Warwickshire, July 29, at half-past twelve, Aug. 30, at eleven, Birmingham; Valpy, off. ass.; Cheshire, jun. Birmingham, sol. Date of fiat, June 16. J. Bourne, H. Bourne, and W. Nutter, wholesale grocers, Birmingham, pet. crs.

COLLYER, JAMES WENDER, victualler and salesman, Newgate-street, July 25, at two, Aug. 29, at one, Basinghall-st. Com. Fane; Whitmore, off. ass.; Rasch, Staple's-inn, sol. Date of fiat, July 14. Bankrupt's own petition

EVANS, JOHN, ironmonger, Paradise-st. Liverpool, Aug. 1 and 22, at half-past ten, Liverpool, Com. Ludlow; Bird, off. ass.; Wilkins, Furnival's-inn, and Brown, Liverpool, sols. Date of fiat, July 15. Bankrupt's own petit

GREEN, ROBERT, watchmaker and jeweller, Broad-quay, Bristol, Aug. 4, at eleven, and 29, at twelve, Bristol, Com. Stephen; Kynaston, off. ass.; Davison, Bread-street, and Brittan, Bristol, sols. Date of fiat, July 14. Bankrupt's own petition.

HANSEN, PETER, merchant and shipowner, Newcastle-upon-Tyne, July 24, at one, Aug. 26, at half-past two, Newcastle. Com. Ellison; Wakley, off ass.; Harle, Newcastle, and Chisholme and Co. Lincoln's-inn-fields, sols Date of fiat, July 12. Bankrupt's own petition.

PARRY, DAVID, currier and leather dresser, Ruthin, Denbighshire, Aug. 1 and 22, at twelve, Liverpool. Com Ludlow; Bird, off. ass.; Edwards and Peake, New Palace-yard, Evans, Denbigh, and Evans, Liverpool, sols. Date of fiat, July 11. Bankrupt's own petition.

SMITH, EDMOND, SMITH, ROBERT, and SWANN, JOSEPH, provision dealers and beer sellers, Woodhead, Chester, July 29, at one, Aug. 19, at twelve, Manchester; Fraser, off. ass.; Bower and Son, Chancery-lane, and Brooks, Ashton-under-Lyne, sols. Date of fiat, July 11. Bankrupt's own petition.

SPENCER, JOSEPH, the younger, builder, Liverpool, Aug. 1 and 22, at eleven, Liverpool, Com. Ludlow; Turner, off. ass.; Walker, Furnival's Inn, and Bradley, Liverpool, sols. Date of fiat, July 7. Bankrupt's own petition.

SUGDEN, JOHN, and SUGDEN, WILLIAM, machine makers and millwrights, Leeds, July 28 and Aug. 18, at eleven, Leeds, Com. Boteler; Hope, off. ass.; Milton and Nealor, Southampton-buildings, and Dunning and Stawman, Leeds, sols. Date of fiat, July 16. Bankrupt's own petition.

WADLEY, THOMAS, broker, Liverpool, Aug. 1 and 22, at eleven, Liverpool, Com. Ludlow; Turner, off. ass. Bridger and Blake, London-wall, and Dodge, Liverpool, sols. Date of fiat, July 14. Bankrupt's own petition.

Gazette, July 22.

BAINES, JAMES, grocer, Manchester, Aug. 1 and 22, at eleven, Manchester; Pott, off. ass. Johnson and Co. Temple, and Hitchcock and Co. Manchester, sols. Date of fiat, July 8. W. Sharp, and W. H. Scott, tea-dealers, Manchester, pet. crs.

BARKER, ANN, wine merchant, 10, Lowndes-terrace, Knightsbridge, and 26, Witton-place, Knightsbridge, July 31 and Sept. 1, Basinghall-st. Com. Fane; Alsager, off. ass.; Hensman, Basing-lane, sol. Date of fiat, July 19. Bankrupt's own petition.

BATCHELOR, JOHN, butcher, Morford-st. Walcot Bath, Aug. 7, at half-past eleven, Sept. 12, at eleven, Bristol, Com. Stevenson; Miller, off. ass.; Shattock, Bath, sol. Date of fiat, July 17. Bankrupt's own petition.

BROWN, GEORGE, clothier and outfitter, Barbican, Aug 4, at two, Sept. 2, at twelve, Basinghall-st. Com Holroyd; Groom, off. ass.; Turner, Mount-place, Whitechapel, sol. Date of fiat, July 17. J. Oliver, builder, Lambourn Cottage, Bow, pet. cr.

DOUSBERY, THOMAS, boot and shoe factor, New Farringdon-st. Aug. 5, at twelve, Sept. 1, at two, Basinghall-st. Com. Fonblanque; Belcher, off. ass.; Hensman, Basing-lane, sol. Date of fiat, July 19. J. Stimpson, leather factor, Northampton, pet. cr.

DRIVER, JAMES, victualler, Slawston, Leicestershire, Aug. 1 and Sept. 5, at one, Birmingham, Com. Daniell; Bittleston, off. ass.; Rawlins, Market Harborough, and James, Birmingham, sols. Date of fiat, July 14. Bankrupt's own petition.

FRENCH, ANN BEE, hotel keeper, Newcastle-upon-Tyne, July 29, at eleven, Aug. 29, at two, Newcastle, Com. Ellison; Baker, off. ass.; Harle, Newcastle, and Chisholme and Co. Lincoln's-inn-fields, sols. Date of fiat, July 14. Bankrupt's own petition.

KEDWARD, SAMUEL RICHARD, licensed victualler, 9, Clipstone-st. Fitzroy-square, July 29, at two, Aug. 29, at one, Basinghall-st. Com. Fonblanque; Belcher, off. ass.; Futvoye, John-st. Bedford-row, sol. Date of fiat, July 12. Bankrupt's own petition.

MACK, JOHN, pawnbroker and salesman, Liverpool, Aug. 6 and 22, at twelve, Liverpool, Com. Ludlow; Turner, off. ass.; Humphreys and Co. Chancery-lane, Hetherington and Woodburn, Liverpool, and Jabet, Birmingham, sols. Date of fiat, July 17. J. Cohen and J. Phillips, factors, Birmingham, pet. crs.

MILLER, ALEXANDER, merchant, 26, Walbrook, Aug. 5, at one, Sept. 1, at twelve, Basinghall-st. Com. Holroyd; Edwards, off. ass.; Robson, Clifford's-inn, sol. Date of fiat, July 17. Bankrupt's own petition.

SOLOMON, SOLOMON, tailor and dealer, Strand, July 29, at half-past eleven, Sept. 1, at eleven, Basinghall-st. Com Fonblanque; Belcher, off. ass; Lewis, Grosvenor-st. Bond-st. sol. Date of fiat, July 16. C. Lewis, gent. Grosvenor-st. Bond-st. pet. cr.

WOOD, HENRY, general agent and tanner, 21, Abchurch-lane, City, and Farnham-place, Old Gravel-lane, Southwark, July 31, at one, Sept. 2, at eleven, Basinghall-street, Com. Fonblanque; Pennell, off. ass.; Messrs. Jenkinson, Cannon-st. sols. Date of fiat, July 21. Bankrupt's own petition.

WILD, ANN, and WILD, JOHN, glaziers, glass-stainers, and china dealers, Bristol, Aug. 8, at eleven, Sept. 12, at half-past eleven, Bristol, Com. Stevenson; Acraman, off. ass. Hinton, Bristol, sol. Date of fiat, July 19. Bankrupt's own petition.

PARTNERSHIPS DISSOLVED.

Gazette, July 15.

Barker, J. and *Henshaw*, W. merchants, Manchester, July 7. Debts paid by Henshaw.—*Bennett*, R. F. and G. bonded ship store dealers, Hull, July 12.—*Cook*, J. and E. soap makers, Goodman's-yard, Minories, June 24. Debts paid by E. Cook.—*Davies*, D. *Reed*, W. *Roskilly*, R. and *Pile*, T. J. linen drapers, Blackfriars-road, April 4.—*Davies* J. and W. sen. *Stephens*, T., *Waters*, G. jun. *Morris*, J., *Baker*, J., *Russell*, J., *Nicholas*, J. J., *Nattriss*, J., *Quinton*, H. C., *Gardiner*, J., *Smith*, J.C. and T.W., *Taylor*, J., *Philpotts*, R. and *Davies*, W. jun. wine merchants, Chepstow, so far as regards J. Gardiner, J. Baker, and J. Morris, July 1.—*Foster*, J. M. and *Bird*, W. K. vinegar and mustard manufacturers, Cambridge, June 21.—*Grundy*, E. and W. lacemen, Birmingham, June 30. Debts paid by W. Grundy.—*Haly*, N. and *Roberts*, P. schoolmasters, Saltash, Cornwall, July 8.—*Hicks*, I. and *Skuse*, S. farmers, Buttermere, Wiltshire, July 4. Debts paid by Hicks.—*Hughes*, E. J. and *Whelan*, J. engravers, Manchester, July 10. Debts paid by Hughes.—*Hughes*, J. sen. and W. maltsters, Birmingham, July 4. Debts paid by J. Hughes, sen.—*Jennins*, H., *Shepard*, J. and *Hargrave*, R. stuff merchants, Leeds, so far as regards Shepard, June 1. Debts paid by the remaining partners.—*Jones*, E. and *Ripley*, J. wholesale druggists, Huddersfield, July 10.—*Kilson*, R. *Garthwaite*, J. and *Firth*, B. flax spinners, Brighouse, Nov. 15.—*Load*, V. C. G. and *Mair*, J. warehousemen, Watling-street, June 30. Debts paid by Mair.—*Margetson*, W. and P. leather dressers, New Weston-street, Bermondsey, Calais, and elsewhere, July 14. Debts paid by P. Margetson.—*Midgley*, D. J. and A. Leeds and Huddersfield, June 5. Debts paid by D. Midgley.—*Moore*, M. A. and *Baily*, T. millers, Durweston-mills, Dorsetshire, July 1. Debts paid by Baily.—*O'Dwyer*, A. C. and *Robinson*, W. L. stock brokers, Wakefield, July 11. Debts paid by Robinson.—*Peirce*, J. and *Long*, G. iron mongers, Richmond, Surrey, June 28.—*Playford*, J. and G. pawnbrokers, Great Yarmouth, July 8.—*Purdy*, G. and *Fendt*, B. S. bass and violin makers, Finch-lane and Oxenden-st. July 10. Debts paid by Purdy.—*Radcliffe* C. W. and *Evans*, T. estate agents, Liverpool, July 1. *Rouse*, J. and *Hodgson*, S. carpenters, Cleckheaton, August 31.—*Silva*, Bruno and John Joseph, *Chamico*, Fortunato de Oliveira, *Silva*, Joaquim Joze da, and *Chamico*, Francisco de Oliveira, timber merchants, Crutched-friars and Oporto, May 31.—*Taylor*, C. and *Helliwel*, J. brewers, Kirkburton, July 1. Debts paid by Helliwell.—*Williams*, E. and *Haydon*, W. merchants, Queen-street, Cheapside, July 1. Debts paid by Williams.

Gazette, July 18.

Allsop, H. and *Dewery*, J. brewers, Burton-upon-Trent, Newark, or elsewhere, July 1.—*Aulsebrook*, W. H., *Ward*, J. and *Ward*, W. general agents, Nottingham and Westbromwich, July 11. Debts paid by J. W. and W. Ward.—*Binns*, J and *M'Leod*, A. hat manufacturers, Halifax and Huddersfield, July 15.—*Boulton*, J. and J. jun. mercers, Hanley, July 7. Debts paid by Boulton, jun.—*Cato*, E. and W. grocers, Newcastle and New Conside, July 9.—*Christy*, W. M., J., T., S., H., and A., hat manufacturers, Gracechurch-st. so far as regards W. M. Christy, July 17.—*Courtice*, T. and *Blake*, G. H. tanners, Milton Abbott and Callington, June 21.—*Cross*, S. and *Lucas*, F. wine merchants, Oswestry, July 12. Debts paid by Cross.—*Gilbert*, A. and E. schoolmistresses, Shiffnal, July 14. Debts paid by A. Gilbert.—*Hayes*, J. and *Charnock*, J. coal dust grinders, Wigan, June 18. Debts paid by Hayes.—*Herniman*, W., *Peacock*, H. S. W. and *Herniman*, W. G. fishmongers, Bristol, July 15. Debts paid by W. and W. G. Herniman.—*Hewson*, W. and *Stuart*, T. painters, Leeds, July 5.—*Johnson*, A. W., *Norton*, J. and *Atkinson*, H. scrap iron manufacturers, Thames-bank, June 24.—*Lamb*, J. and *Staniforth*, T. bone manufacturers, Sheffield, July 14. Debts paid by Lamb.—*Leete*, W. and *Warburton*, G. ironmongers, Tottenham-court-rd. July 1.—*Lowe*, N. and *Oakley*, G. coal merchants, Ryde, Jan. 1.—*Milnes*, W. and *Robinson*, J. H. coal factors, Lower Thames-st. June 30.—*Moore*, W. *M'Creight*, J. and *Metge*, P. porter dealers, Liverpool, so far as regards M'Creight, May 31.—*Pendered*, J. and *Wright*, J. spirit merchants, Wellingborough, July 15.—*Pershouse*, H. and *Welch*, G. metal dealers, Birmingham, June 24. Debts paid by Welch.—*Phillips*, B. L. and *Doughty*, J. J. bakers, Whitechapel-rd. July 15.—*Rose*, C. and *Dyson*, C. stock-brokers, Leeds, July 15.—*Screeton*, T. and *Dales*, R. joiners, Hull, June 7.—*Stoit*, J. *Wood*, J. and *Walshaw*, F. wood grinders, so far as regards Wood, May 12.—*Zwilchenbart*, R. and E. and *Lemonius*, A. H. Liverpool, as regards R. Zwilchenbart, June 30.

Insolvents

Petitioning the Courts of Bankruptcy.

PETITIONS TO BE HEARD AT BASINGHALL-STREET.

Gazette, July 15.

Benton, J. out of business, Gravesend, July 30, at twelve.—*Berry*, G. R. chymist, Garnault-place, Clerkenwell, July 30, at one.—*Dufty*, A. spinster, out of business, King-st. St. Luke's, July 31, at twelve.—*Hardy*, J. plumber, Fulham-road, Little Chelsea, July 31, at eleven.—*Haslewood*, J. out of business, Eliza-terrace, Hertford-road, July 30, at twelve.—*Jefferey*, R. wine cooper, Murray-st. New North-road and Great St. Helens, July 31, at eleven.—*Lawrence*, J. P. assistant surgeon, of the brig Nautilus, lying at Portsmouth. August 2, at eleven.—*Northouse*, W. S. out of business, Upper Dorchester-st. Paddington, August 2, at eleven.—*Mutt*, J. mason, Iffley, Oxfordshire, July 31, at twelve.—*Simpkins*, G. boot maker, Upper Seymour-st. Euston-square, July 30, at twelve.

COUNTRY.

Bradley, L. dealer in tea, coffee, and clothes, Almondbury, July 30, at eleven, Leeds.—*Bradley*, W. tailor, Huddersfield, July 30, at eleven, Leeds.—*Cheetham*, J. beer retailer, Manchester, July 31, at twelve, Manchester.—*Quinn*, J. egg dealer, Liverpool, July 24, at eleven, Liverpool.—*Pocock*, J. beerhousekeeper, Bristol, Aug. 1, at eleven, Bristol.

MEETINGS IN THE COUNTRY.

Brigham, C. Roman Catholic clergyman, Dodden, near Kendal, Aug. 5, at half-past eleven, Newcastle.—*Cohen*, B. hawker, Bishop Wearmouth, Aug. 7, at half-past one, Newcastle.—*Cooke*, T. husbandman, Red-house, near Redworth, Aug. 7, at two, Newcastle.—*Cummins*, J. publican, Newcastle, Aug. 7, at half-past one, Newcastle.—*Hall*, T. butcher, Great Ashby, Aug. 6, at eleven, Birmingham.—*Nash*, R. Stockton-upon-Tees, Aug. 7, at one, Newcastle.—*Taylor*, E. cooper, Bradford, July 30, at eleven, Leeds.—*Wilson*, B. B. surgeon, Burton in Kendal, Aug. 7, at one, Newcastle.—*Wilson*, J. cabinet maker, Morpeth, Aug. 7, at two, Newcastle.

PETITIONS TO BE HEARD AT BASINGHALL-STREET.

Gazette, July 18.

Atkins, J. O. musician, Hermes-st. Pentonville, Aug. 7, at eleven.—*Burness*, J. F. baker, Twickenham, Aug. 8, at eleven.—*Coulson*, D. mathematical instrument maker, Clark's-pl. Bagnigge-wells-road, Aug. 7, at twelve.—*Escudier*, J. gent. Baker-st. Portman-sq. Aug. 8, at eleven.—*Hance*, J. H. gent. Northumberland-st. Strand, Aug. 8, at eleven.—*Henderson*, R. coach painter, Edward-st. Dorset-sq. Aug. 7, at eleven.—*Kingsland*, W. carpenter, Canterbury, Aug. 7, at twelve.—*Meadows*, H. W. surgeon's-assistant, Ipswich, Aug. 8, at eleven.—*Page*, F. surgeon, Newmarket, Aug. 7, at twelve.—*Shaw*, H. gent. Harpur-st. Red Lion-sq. July 31, at half-past eleven.—*Walwyn*, R. printer, Kirby-st. Hatton-garden, Aug. 8, at eleven.

COUNTRY.

Barber, R. P. out of business, Leake, July 29, at eleven, Leeds.—*Beaumont*, H. listing twiner, Huddersfield, July 30, at eleven, Leeds.—*Bickley*, J. late surveyor of taxes Bilston, July 29, at twelve, Birmingham.—*Bower*, G. I. clerk, Preston, July 29, at twelve, Manchester.—*Bryant*, S. gardener, Bristol, Aug. 1, at eleven, Bristol.—*Bulmer*, C. hair cutter, Boroughbridge, July 30, at eleven, Leeds.—*Burston*, J. tanner, Bristol, Aug. 7, at eleven, Bristol.—*Butterfield*, F. worsted piece manufacturer, Bradford, July 29, at eleven, Leeds.—*Carter*, G. labourer, Misterton, July 29, at eleven, Leeds.—*Cleeve*, F. B. surgeon and apothecary, July 29, at eleven, Exeter.—*Dibb*, W. servant, Wakefield, July 29, at eleven, Leeds.—*Fearn*, H. foreman in a tailoring establishment, Derby, August 4, at half-past ten, Birmingham.—*Fyfield*, W. beer retailer, Manchester, July 29, at twelve, Manchester.—*Hodson*, H. schoolmaster, Burton-upon-Trent, August 4, at twelve, Birmingham.—*Knowles*, W. out of business, Manchester, July 31, at twelve, Manchester.—*Lukis*, J. printer, Dudley, July 31, at eleven, Birmingham.—*Marshall*, J. coal leader, Pudsey, July 29, at eleven, Leeds.—*Matthews*, T. farmer, Lea-hall, Salop, Aug. 14, at eleven, Birmingham.—*Maude*, J. L. brass founder, Denholme, near Bradford, July 29, at eleven, Leeds.—*Reeves*, J. salesman, Salford, July 29, at twelve, Manchester.—*Sharland*, W. K. tailor, Bath, July 29, at eleven, Exeter.—*Shattock*, C. carpenter, Bath, Aug. 7, at eleven, Bristol.—*Swift*, L. joiner, Dewsbury, July 29, at eleven, Leeds.—*Thacker*, J. out of business, Birmingham, Aug. 5, at eleven, Birmingham.—*Wade*, J. bricklayer, Stockton-upon-Tees, Aug. 5, at twelve, Newcastle.—*Weaver*, T. land surveyor, Bath, Aug. 4, at eleven, Bristol.—*Young*, I. currier, Bristol, Aug. 12, at half-past eleven, Bristol.

MEETINGS IN THE COUNTRY.

Gazette, July 18.

Edwards, R. plumber, Liverpool, Aug. 7, at eleven, Liverpool.—*Edwards*, J. flour-dealer, Much Woolton, Aug. 7, at eleven, Liverpool.—*Mould*, B. publican, Warkworth, Aug. 12, at half-past eleven, Newcastle.—*Smalley*, T. Aug. 8, at twelve, Liverpool.—*Wood*, J. Aug. 8, at twelve, Liverpool.

From the Gazette of Friday, July 25.

Bankrupts.

Harding, E. P. hosier, Gravesend.—*Dumbrill*, J. N. jun. baker, Eastbourne, Sussex.—*Jaques*, G. painter, Tothill-st. Westminster.—*James*, G. draper, Leamington Priors, Warwickshire.—*Nicholson*, R. bookseller, Stockton, Durham.—*Holmes*, T. V. corn-factor, Bristol.—*Allen*, M. butcher, St. Helen's, Lancashire.—*Brown*, T. and *Brown*, D. ship and general agents, Billiter-st.

CONTENTS.

THE REPORTS.

Equity Courts.

LORD CHANCELLOR'S COURT.

BARRS *v.* JACKSON.

Dec. 11 *and* 14, 1843, *July* 10, 1845.

Letters of administration—Determination of the Ecclesiastical Court—Next of kin.

The grant of letters of administration to the next of kin, after a contest in the Ecclesiastical Court, is conclusive evidence that the administrator is sole next of kin, in a suit in this court for distribution of the intestate's effects. The Court is bound by the express authority of the House of Lords, which decided the same point in Bouchier v. Taylor.

This was an appeal by the defendant from a decree of Vice-Chancellor Knight Bruce, which directed an issue to try whether the plaintiff, Mrs. Barrs, was the sole next of kin of Harriet Martindale Smith at the time of her death intestate. Mrs. Barrs was the only child of the brother of the half-blood of the intestate, and the defendant Richard Jackson was her second cousin. The right to administration had been contested between these parties in the Prerogative Court, which had decided in favour of the defendant Jackson, to whom administration had been granted. The question there was the legitimacy of the plaintiff's father, the half-brother of the intestate. The object of the present suit was for an account of the intestate's estate, that the residue might be paid over to the plaintiff, and, in the mean time, that the defendant might be restrained from selling out or transferring the intestate's stock.

Simpkinson and *Heathfield*, for the plaintiff.

Purvis and *Hubback*, for the defendant.

The following cases were cited and referred to: *Blackborough* v. *Davis* (1 Peere Williams, 41, and in Salkeld); *Blackham's* case (1 Salkeld, 290); *David* v. *Froud* (1 Myl. & Keene, 200); *Long* v. *Wakelin* (1 Beavan, 400); *Robins* v. *Crutchley* (2 Wilson, 122, 127); *Elmsley* v. *Young* (2 Myl. & Keene, 780); *Witty* v. *Mangles* (4 Beavan, 358); *Thomas* v. *Ketteriche* (1 Ves. sen. 333); *Bouchier* v. *Taylor* (4 Bro. Par. Cas. 708; Toml. ed. Hargrave's Law Tracts, 473); *Duchess of Kingston's* case (Howell's State Trials); *Doe* v. *Roscoe* (Crompton, Meeson, & Roscoe); *Vooght* v. *Winch* (2 Barn. & Adol. 662); 24 Hen. 8, c. 12, s. 9; 13 Ed. 3, c. 8; *Henslow's* case (9 Coke's Rep.); *Edwards* v. *Freeman* (2 Peere Williams, 441); *Wallis* v. *Hodson* (2 Atk. 117); *Carp* v. *Crawley* (Ld. Raymond, 486); *Palmer* v. *Bodicote* (3 Mad. 58); *Barrs* v. *Jackson* (1 Younge & Collyer, C.C. 585).

JUDGMENT.

July 10.—The LORD CHANCELLOR.—In this case one Harriet Martindale Smith died unmarried and intestate, and a suit was instituted in the Prerogative Court for administration of the intestate's property, the defendant Jackson claiming in that suit as second cousin and next of kin of the intestate, and the plaintiff, Mrs. Barrs, claiming as niece and next of kin of the intestate. The Prerogative Court decided in favour of the claim of Jackson, the sentence being that he should have administration as the next of kin of the intestate. A suit was afterwards instituted in this court by Mrs. Barrs, claiming, as niece and next

of kin, the residuary estate of the intestate, Harriet Martindale Smith. The defendant Jackson, in his answer, insists on the sentence of the Ecclesiastical Court in favour of his claim as being conclusive, the very same question put in issue in this suit having been decided by the sentence of the Ecclesiastical Court. The question here, therefore, is, whether the same point put in issue in this cause has been decided in favour of the defendant Jackson by the Ecclesiastical Court, and whether that sentence is conclusive. Vice-Chancellor Knight Bruce directed an issue, and against that decision this appeal is brought to this court. It was said in the course of the argument that this question had been decided in the year 1776, in the House of Lords, in the case of *Bouchier* v. *Taylor*, which is to be found in the 4th of Brown's Parliamentary Cases. If the point has been raised and decided in that case by the House of Lords, that being the ultimate court of appeal, this Court is bound by that decision. It becomes necessary, therefore, to consider, with some degree of attention, the case of *Bouchier* v. *Taylor*. I will here state the facts of the case. Alice Merchant as first cousin, and Dr. Bouchier as first cousin once removed, had been competitors in the Prerogative Court for administration to Mrs. Millington, an intestate; and Alice Merchant dying during the suit, her executors became parties, and a sentence was pronounced, declaring that they had failed in proving her next of kin, and therefore directing administration to be granted to Dr. Bouchier. Several years after, Taylor, who was Alice Merchant's residuary legatee, and not a party to the suit about administration, filed a bill in Chancery against Dr. Bouchier for a distribution, and though he had pleaded the sentence, the then Master of the Rolls granted an issue to try whether Alice Merchant was next of kin; and his order, on appeal, was confirmed by Lord Chancellor Bathurst. The question in that case was, whether the decision in the suit for administration in the Ecclesiastical Court was conclusive and binding on the parties. It was not a suit between the same original parties to the administration, but a suit against one of those parties by a person claiming under the other, which, in effect, was the same thing. The decision in that case proceeded solely upon the same point as in this case, viz. which of the two parties is next of kin. When that suit came on, the sentence of the Ecclesiastical Court was pleaded in bar. The plea was ordered to stand for an answer, with liberty to except. Exceptions were taken to the answer. Dr. Bouchier appealed to the Lords, and before them two points were made, one being whether the sentence of the Ecclesiastical Court was not conclusive; the other, whether the special circumstances of the case did not make an issue improper. When the case was brought to the House of Lords by appeal, Lord Bathurst was still Lord Chancellor. Lord Mansfield was present, and was the only person who took part in the discussion, and the House of Lords reversed the decree of Lord Chancellor Bathurst, on both grounds, in his presence. If the decision in that case is well founded, it is binding on this Court. It was said that nothing appeared upon the face of that decree to shew the grounds upon which the Lords decided that case. As to that, it is to be remarked that it is not the usage of the House of Lords to state on the face of their orders the grounds of their decisions. In order to know the grounds of their decisions, the reports of the House of Lords must be looked into, and what was said by their lordships in pronouncing their judgments on the cases brought under their consideration. In 1776 there were no reports of cases in the House of Lords. Mr. Brown only made abstracts from the appeal cases lying on the table of the House, and therefore the grounds of the decision cannot be known from the abstract of the case in Brown. But it so happens that the grounds of that decision upon both points are known, from the circumstance that Mr. Hargrave was counsel in the case, took a part in the argument, and was present at the decision given by the House of Lords. There can be no better evidence than Mr. Hargrave's on the matter, which is to be found in his Law Tracts. I will here read from Mr. Hargrave's work the account he gave of the grounds on which the House of Lords decided the case, in these words, viz.: "There are two general grounds on which the appellants conceive the issue to try whether Alice Merchant was the cousin-german and next of kin of the intestate, Ann Millington, ought to have been refused. *One* is, that the sentence of the Ecclesiastical Court, by which the letters of administration were granted to the appellant, Dr. Bouchier, excludes the Court of Chancery from the power of directing an issue. The *other* is, that if the Court had the power, yet, under the particular circumstances of the present case, it ought not to have been exercised in favour of the respondent." From these reasons it appears to me that the decision would be the same, although the objects of the two suits were different, the one suit being for distribution and the other for an administration. If I was satisfied that the representation made in respect to the decision of the case of *Bouchier* v. *Taylor* was correct, and had no reason to doubt it, the point arising in this case has been decided by the ultimate court of appeal, and I am bound by it. It was then said that the judges in the House of Lords had, in the same year (1776), in the judgment delivered on their behalf by Lord Chief Justice De Gray, in the case of *The Duchess of Kingston*, expressed an opinion at variance with the decision in *Bouchier* v. *Taylor*. No opinion of the judges can be taken as against the opinion of the House of Lords, unless so far as it is adopted and made part of a judgment given by the House of Lords. That case is a different one to the case of *Bouchier* v. *Taylor*. That suit (*The Duchess of Kingston*) was a suit for jactitation of marriage. It was a case decided between Mr. Harvey and the Duchess of Kingston. The suit was not between the Crown and the Duchess of Kingston, but the prosecution for bigamy was between the Crown and the Duchess of Kingston; and the sentence of the Ecclesiastical Court was held not conclusive in the prosecution for bigamy. There is, therefore, nothing at all in that case at variance with the decision in *Bouchier* v. *Taylor*. It was then said, that, from the form of the sentence in the present case, it is not to be held conclusive. Mr. Jackson proves he was next of kin, and he was granted administration, and the sentence in his case is the same as that in *Bouchier* v. *Taylor*. It appears to me that nothing turns on the form of the sentence; the sentence is a decision founded on the facts proved before the Court, a mere technical form of expression on the facts which were proved, for the purpose of obtaining the administration. It is material to observe, that before the case of *Bouchier* v. *Taylor* was decided, the point had been decided in a case (*Thomas* v. *Ketterick*) before Lord Hardwicke. In that case the parties were both considered to be next of kin in equal degree. Lord Hardwicke said there, that the question as to the conclusiveness of the sentence could not be argued, the decision of the Ecclesiastical Court being conclusive of itself. I consider the case of *Thomas* v. *Ketterick* a much stronger case than *Bouchier* v. *Taylor*. A suit for distribution might have been instituted in the Ecclesiastical Court as well as in the Court of Chancery, both courts having a concurrent jurisdiction in the matter; and the sentence of the Ecclesiastical Court in such a case would be held to be conclusive. I have consulted judges of the highest authority on this point, and I am informed that a sentence of the Ecclesiastical Court unappealed from is conclusive. It is true that Lord Hardwicke agreed with the decision of the Ecclesiastical Court; but even if he differed in opinion, he still would be bound by the sentence. *Blackman's* case (1 Salkeld, 290) was cited in the course of the argument. That was a case before Lord Holt. It is remarkable that Lord Mansfield, in giving the decision in *Bouchier* v. *Taylor*, relied on and read the language of Lord Holt, from the case in Salkeld. I will not enter into the general arguments which have been addressed to the Court upon the case; for it is unnecessary, inasmuch as this case so closely resembles the case of *Bouchier* v. *Taylor*. If the question in this case is decided by the decision of the House of Lords in *Bouchier* v. *Taylor*, I am bound by it, whatever difference of opinion I might entertain on the matter; and therefore, for these reasons, the appeal must be allowed.

VICE-CHANCELLOR OF ENGLAND'S COURT

Friday, May 23.

CREED *v.* PERRY.

Wife's reversionary interest—Chose in action—Surrender by tenant for life—Reduction into possession.

A husband and his wife were entitled in her right to a share of a reversionary interest in a certain fund held upon trust for her benefit, subject to the life estate therein of A. T. her mother. For the purpose of reducing the reversionary share of the wife into possession, they both agreed with A. T. for the surrender to them of her life interest, which she, A. T. consented to do. The trustees, however, refused to transfer the fund, except under the indemnity of the Court. Held, that with the consent of the wife such transfer might be made.

By an indenture of settlement dated the 10th of May, 1811, and made upon the intended marriage (which afterwards was duly solemnized) between Charles Hawkins and Ann Taylor, one of the defendants (formerly Ann Creed, widow of Thos. Creed, deceased), after reciting that the said Thos. Creed at the time of his death had three children by a former wife, namely, Mary, Jane, and Thomas, who were all then living, and were infants, and that the defendant Ann Taylor (then Ann Creed) had four children by the said Thos. Creed, namely, the plaintiff Ann, the wife of William Raydon, another of the plaintiffs, George Samuel, and the plaintiff William Creed, all likewise infants; it was witnessed that Joseph Sutton Loder and Samuel Creed (trustees of the settlement), their executors, administrators, and assigns, should stand possessed of two sums of 662*l.* 10s. Navy 5 per cent. Annuities, and 500*l.* 4*l.* per cent. Annuities, and the interest divided and annual produce thereof respectively, upon trust to pay the dividends, interest, and annual produce thereof to the said Ann Taylor for

life, for her sole and separate use, but not by way of anticipation, with remainder after her decease upon trust for the benefit of the seven children of Thomas Creed, in equal shares, to be vested interests in them respectively, as and when they should severally attain the age of twenty-one years, being a son or sons, or attain that age or be married, being a daughter or daughters, which should first happen, and to be transferred and assigned to them respectively, at the ages, days, or times aforesaid, if the same should happen after the decease of Ann Taylor; but if the same should happen in her lifetime, then the shares were to be transferred and assigned immediately after her decease, with a proviso for the benefit of survivorship among the children.

Charles Hawkins died in the year 1820; and Ann, his widow, afterwards intermarried with George Taylor, who died several years since, and before the filing of the bill. In the year 1827 Jane Creed, one of the three children of Thomas Creed, intermarried with W. F. Morgan, and died in the month of October, 1827, leaving W. F. Morgan, her husband, her surviving, to whom letters of administration of her estate and effects were duly granted. One of the children of Thomas Creed died under the age of 21.

The trust funds were now vested and standing in the names of J. A. Perry and R. Hill, two of the defendants, as executors of the will of Joseph Sutton Loder, the surviving trustee, under the settlement of marriage of 10th May, 1811, who regularly paid the dividends of the trust fund as they arose to him, Taylor, until the month of April, 1843.

A bill was now filed by Thomas Creed and Mary Creed, two of the above-named children of Thomas Creed, against Ann Taylor, as the administrator of Thomas Creed, her former husband; and by a decree in the suit dated the 26th of June, 1844, it having appeared that the plaintiffs and the defendant, W. F. Morgan, by their counsel had consented to waive all further claim on the estate of the intestate Thomas Creed, and all benefit under the settlement above mentioned, it was ordered that the trustees should sell so much of the 695l. 12s. 6d. New 3½ per cent. Bank Annuities, and 500l. 3½ per cent. Reduced Annuities, not exceeding three 7th parts of such trust-funds, as might be sufficient to raise and to pay each of the plaintiffs, and the defendant W. F. Morgan, the sum of 70l. in full satisfaction of all claims and demands of the plaintiff and W. F. Morgan under the settlement, or otherwise in respect of the estate of the said intestate.

The proportion of the stock directed by the above decree had been sold, and the sum of 70l. was paid to each of the plaintiffs and W. F. Morgan, and there now remained standing in the names of J. A. Perry and Robert Hill upon the trust of the settlement the two several sums of 419l. 9s. New 3½ per cent. Bank Annuities, and 500l. 3½ per cent. Reduced Bank Annuities, together with an arrear of interest which had accrued since the month of April, 1843.

The parties who were interested in the trust-fund were, the defendant, Ann Taylor, as tenant for life, George Creed (out of the jurisdiction), and the plaintiffs, Wm. Raydon and Ann his wife, and William Creed, who were respectively entitled, upon the decease of Ann Taylor, to the residue of the fund.

The plaintiffs being desirous of reducing their reversionary interest in two-thirds of the remaining trust funds into possession, and having them forthwith paid to them, entered into an arrangement with Ann Taylor, who agreed to surrender her life estate in the said two-thirds to the plaintiffs, or to them and J. A. Perry and Robert Hill, in order that such reversion might be reduced into possession; but the trustees refused to join in any such arrangement, except under the direction and indemnity of the Court, alleging that it was doubtful whether in the event of W. Raydon dying in the lifetime of his wife, and before the decease of Ann Taylor, the plaintiff Ann Raydon would not, on the death of Ann Taylor, and notwithstanding such surrender of the life estate therein of Ann Taylor, be entitled to have one-third part of the trust-funds paid over to her. The plaintiffs, however, charged that the effect of such surrender would be to reduce the reversionary interest of the plaintiffs, W. Raydon and Ann his wife, in the trust-funds into possession. They therefore prayed that the said two sums of 419l. 9s. New 3½ per cent. Bank Annuities, and 500l. 3½ per cent. Reduced Annuities, might be sold, and that upon payment by J. A. Perry and R. Hill, to Ann Taylor, of the sum of 69l. 5s. 5d. being the amount of interest, dividends, and annual proceeds then in their hands, which had accrued due on the trust-funds since the month of April, 1823; and upon Ann Taylor surrendering her life interest in two third parts of the trust-funds in such manner and to such persons as that the same might be merged and extinguished; that J. A. Perry and Robert Hill might be ordered to pay one third part of the proceeds of such sale to the plaintiff, Wm. Creed, and the other two third parts thereof to the plaintiffs, Wm. Raydon and Ann his wife, or to the plaintiff W. Raydon, in right of his wife, and that the remaining one third part might be paid into court, to the separate account of the said G. Creed, and the interest and dividends directed to be paid to the said Ann Taylor for her life.

Tillotson, for the plaintiffs, referred to 2 Hayes' Convey. 640, and to the case of *Bean* v. *Sykes*, cited there; also the case of *Zachlan* v. *Adams* (Law Journal).

The VICE-CHANCELLOR conceived that it was competent for the Court to decree a transfer of the fund, but that a petition for that purpose ought to be presented, according to the usual practice, for the payment of the wife's share.

Monday, June 9, 1845.
Ex parte KRAUS.

Legacy act—Power of executor, or other personal representative, to pay money due upon a legacy in the Court—Under what circumstances deterred from so doing—Contingent legacy.

The 32nd sec. of 36 Geo. 3, c. 52, called the Legacy Act, directs that "where by reason of the infancy or absence beyond the seas of any person entitled to any legacy, or to the residue of any personal estate, or any part thereof, chargeable with duty by virtue of this Act, the person or persons having or taking the burden of any will or testamentary instrument, or the administration of such personal estate, cannot pay such legacy or some part thereof, although he, she, or they may have effects for that purpose, or cannot pay such residue or some part thereof, although he, she, or they may have the same, or some part thereof, in his, her, or their hands, it shall be lawful for such person or persons to pay such legacy, or residue, or any part or parts thereof respectively, or any sum or sums of money on account thereof, after deducting the duty chargeable thereon, into the Bank of England, with the privity of the Accountant-General of the Court of Chancery, to be placed to the account of the person or persons for whose benefit the same shall be so paid, &c. And such money, when paid in, shall be laid out by the said Accountant-General without any formal request for that purpose, in the purchase of Three per Cent. Consols, which, with the dividends thereon, shall be transferred and paid to the person or persons entitled thereto, and otherwise applied for his or their benefit, on application to the Court of Chancery by petition or motion of course in a summary way."

Held, that under the provisions of the 32nd sec. of the above Act, an executor is not entitled to pay into the Court of Chancery the amount of a contingent legacy.

The testator Kraus bequeathed to the petitioner, a foreigner residing abroad, a legacy of 500l., provided he should be living at the death of the testator's widow. Several years since the executors invested the sum of 500l., after deducting the legacy duty, in the purchase of 600l. and a fraction Consolidated Bank Annuities, under the provisions of the above-mentioned Act. The testator's widow survived her husband, and died in the month of May, 1844, and the petitioner now claimed to be absolutely entitled to the stock in question, and prayed that the same might be transferred to him.

Tripp, for the petitioner, contended that the 32nd section of the Act embraced all cases, while the legacy duty was payable under that Act, whether they were contingent legacies or not, and that the petitioners had therefore a right to the stock, with all dividends due thereon.

Heathfield, appearing for the executors, submitted that the legacy being contingent upon the petitioner surviving the widow, it did not come within the provisions of the 32nd section.

The VICE-CHANCELLOR conceived that the Legacy Act only authorized the executor, under the 32nd section, to invest the property where the legatee took an absolute interest in the fund, and not where the legacy was merely contingent, and that therefore the legatee was only entitled to claim the bequest of 500l. after deducting the legacy duty, and was not entitled to the stock or the dividends thereof.

ROLLS COURT.

May 5, 7, and June 2.
MERYON *v.* COLLETT.

Deed—Construction—Limitation to executors or administrators.

By a marriage settlement a sum of stock is vested in trustees for the settlor and his assigns, "for his and their own benefit," during the joint lives of him and his wife: and if he should survive, then to transfer the same to him, his executors, administrators, and assigns, for his and their own use and benefit: but if the wife should survive, then after her death to transfer it to his executors or administrators for their own use and benefit. The settlor died intestate before his wife, and she took out administration to his estate: Held, that she was not, as administratrix, entitled to the trust fund for her own personal enjoyment, but was only a trustee thereof for the next of kin.

The words "for his and their own use and benefit," in the first two cases, are surplusage, and if they mean any thing, must be taken to express more distinctly the extent of interest limited; and the words "their own," &c. in the last case, may be taken more emphatically to shew the amount of interest taken by the executors.

By the marriage settlement of George Marshall and Ann his wife, made after the marriage, but in pursuance of articles entered into before it, after reciting the covenant of G. Marshall to convey hereditaments of 300l. annual value to trustees upon trust to secure Ann Marshall an annuity of 200l. and that it not being convenient to do so, he had transferred 4,000l. Navy 5 per Cent. Annuities into the names of the trustees for that purpose, it was declared that the trustees should stand possessed thereof and of the dividends, on trust, during the joint lives, for George Marshall and his assigns, "for his and their own entire use and benefit;" and in case George Marshall should survive, then upon trust, after the decease of Ann Marshall, to transfer the 4,000l. &c. to George Marshall, his executors, administrators, and assigns, "to and for his and their own use and benefit;" but in case Ann Marshall should survive her husband, then on trust to pay the interest to her for life, and after her decease, to transfer the principal "to" the executors *or* administrators of George Marshall, *to and for their own use and benefit.*" There was a provision that the same should be accepted by Ann Marshall in lieu of the annuity covenanted to be limited to her, and in lieu of dower.

In August 1816, George Marshall died intestate, leaving him surviving Ann Marshall, his widow, and four children, viz. George, Mary, Sarah (afterwards the wife of William Henry Smith), and Eliza (who married Charles Lewis Meryon); and administration to his estate was taken out by his widow. In 1822, the 4,000l. stock was converted into 4,200l. Navy Four per Cent. Annuities; and in September 1824, the trustees transferred to the widow 1,400l. stock, being one-third of the 4,200l. stock, to which, ever since the death of George Marshall, she was considered to be entitled under the Statute of Distributions. In 1825, George Marshall, the son, died intestate and unmarried, leaving his mother and sisters him surviving, and the former took out administration to him.

In 1834, Ann Marshall, Mary Marshall, and W. H. Smith and his wife, sold to John Collett their interest in the fund for 1,575l., and shortly afterwards the stock was transferred into the joint names of Richard Cox, the surviving trustee, and Collett. In October 1834, Collett purchased from W. H. Smith the share of Mrs. Meryon in the trust-fund for the sum of 550l. on the faith of Smith's representation that he had authority from Mr. and Mrs. Meryon to make the sale. On the 27th November, 1834, Cox died, and Collett thereupon sold out the stock, and appropriated the proceeds to his own use.

In January 1835, Ann Marshall filed her bill in the Court of Exchequer against Collett, claiming to be entitled to the whole of the fund under the ultimate limitation of the deed of settlement to the executors or administrators of George Marshall, in case Ann Marshall survived him, and impeaching the sale of 1834 on the ground of ignorance of her rights, but she was unsuccessful. (*Marshall* v. *Collett*, 1 Y. & C. 232.)

In July 1835, Anne Marshall died, and Mary Marshall took out administration *de bonis non* to her father and brother, whose assets respectively were found sufficient to pay their debts, &c.

Collett having sold out the stock, Mr. and Mrs. Meryon filed their bill against him and Mary Marshall, denying the power of sale assumed by Smith, and praying for a declaration that they were entitled to five-sixteenths of the 2,800l. stock, being two-thirds of the original sum. Collett alleged that Smith had authority, and submitted to the Court whether Ann Marshall was not entitled to the whole fun as administratrix to her husband, and, if so, she claimed it as a purchaser; but no evidence was gone into on either side. The authority to Smith not being proved, the argument turned on the limitation in the settlement.

Turner and *Greene*, for the plaintiffs, contended that the point was set at rest by the decision in *Marshall* v. *Collett* (1 Y. & C. 232). They cited also *Hames* v. *Hames* (2 Kee. 646).

Kindersley (with him *James*), contrà, contended that the administratrix, Ann Marshall, was entitled under the settlement to take beneficially. They cited *Sanders* v. *Franks* (2 Mad. 147); *Collier* v. *Squire* (3 Russ. 467); *Evans* v. *Charles* (1 Anstr. 128); *Palin* v. *Hills* (1 Myl. & K. 484).

White, for Mary Marshall, the administratrix, asked for his costs.

Turner, in reply.

The MASTER of the ROLLS. [His lordship having stated the facts, proceeded.]—The defendant, Mr. Collett, has not proved that the contract alleged to have been entered into with W. H. Smith was made by the authority of the plaintiffs, and his defence has entirely failed on that ground, and therefore the question between the parties depends on the construction of the deed of settlement. The professed object and the only real intention of that deed was to secure to Mrs. [illegible] her life, in lieu of the rent-charge agreed to be [illegible] by the articles;

and in case she survived her husband, then after her decease the trust-fund was to revert to his executors or administrators. Three events are provided for by the deed, and in reference to each of the three states of things words are used which imply a beneficial interest in the persons to whom they are applied. In the first place, the trustees were to permit George Marshall and his assigns to receive and take, to and for his and their own entire use and benefit, the dividends and interest of the stock during the joint lives of George Marshall and his wife; and, secondly, in case he should survive her, they were to transfer the stock unto George Marshall, his executors, administrators, and assigns, to and for his and their own use and benefit; and, thirdly, in case Ann Marshall should survive him, then after her decease the trustees were to transfer the stock unto the executors and administrators of George Marshall, for their own use and benefit. In the first two cases, the words "to and for his and their own use and benefit" are mere surplusage, and a limitation to himself, his executors, administrators, and assigns, would have had just the same effect without the superadded words, which must have been inserted for the purpose of shewing more distinctly the amount of interest intended to be given; and it is probable that George Marshall, when he used the words in the first two cases, meant nothing more by them. It is more probable also, in the third case, that the only object of the words in question was to express more emphatically the amount of interest in the fund given to the executors or administrators, and to secure to them the transfer thereof, and at the same time also to relieve the trustees from themselves being put to the necessity of looking to the application of the fund by the executors or administrators, by whom it was to be received, the fund being, in so far as the trustees were concerned, to be considered as belonging to George Marshall. I do not think, however, that the object or effect of the words is to give the fund to the executors or administrators for their own personal enjoyment, but only that they might make a proper application of it for the benefit of the next of kin of George Marshall. Such cases as this always involve much difficulty, because words are used the ordinary meaning of which is in opposition to the intention of the deed; but the construction must be in accordance with the object and intention of the parties. I must therefore declare that the whole of the fund in this case belonged to and was part of the personal estate of George Marshall, and that it does not belong to his personal representative beneficially. The plaintiffs are therefore entitled to the relief they have prayed, to have the fund restored, and to a declaration that they are entitled to their original share and also the additional part or share which accrued on the death of George Marshall, the younger; they are also entitled to the costs of the suit. The costs of Mary Marshall must be paid by the plaintiffs, and added to their own costs.

April 24 and June 30.

HALCOMBE v. ANTROBUS.

Practice—Orders of course—Discharging for irregularity—Jurisdiction—Vice-Chancellor's causes—General orders.

A common order to revive a suit obtained after the time fixed by a Vice-Chancellor's order, without mentioning that circumstance to the officer, will be discharged for irregularity, though the defendant's delay in entering his appearance was the cause of its not being obtained in time.

Where an order of course is alleged to be irregularly obtained at the Rolls to revive a suit before another branch of the Court, the jurisdiction of the Master of the Rolls extends only to the question of the irregularity, and he cannot enter into the consideration of the circumstances or merits of the case, if there be any to be considered, except in so far as they may bear upon the incidental costs.

There are three rules applicable to all such cases of orders irregularly obtained:—

1. *A party obtaining an order of course must state every fact material to the making of that order.*
2. *An application to discharge for irregularity must depend on the question of irregularity, though there are merits; and,*
3. *The merits and circumstances which ought to be considered in the branch of the court in which the cause is, ought not to be drawn into the Rolls Court.*

The suit in this case had been originally instituted in the Equity Exchequer in 1828, and had, after the passing of the Act 5 Vict. c. 5, been transferred to the court of Vice-Chancellor Knight Bruce. It had now become abated, and, on a motion by one of the defendants to revive or dismiss, it was ultimately ordered by the Vice-Chancellor, on the 20th of February last, that the plaintiff should in three weeks file his bill of revivor and supplement, and should in six weeks apply for an order to revive the said suit, with liberty to apply in the meantime. The plaintiff accordingly filed his bill of revivor and supplement on the 11th of March, and on the 13th the subpœna was served on the defendant's solicitor, who undertook to appear, but did not enter his appearance till March 31. By the 10th order of Dec. 21, 1833, the defendant has eight days after appearance to a bill of revivor within which to shew cause against reviving the suit, which time did not expire in this case till the 8th of April; but the six weeks allowed by the Vice-Chancellor for obtaining the common order to revive expired on the 3rd of the same month. On the 10th of April, the plaintiff served the defendant with notice of motion for further time before the Vice-Chancellor, but on the 12th he abandoned that notice, and on the 15th obtained at the Rolls, as of course, the common order to revive, and on the 16th served the defendant with an attachment. In the common order so obtained, it was recited that the suit had abated, that the bill of revivor had been filed, and that the time for shewing cause against the revivor had expired without cause shewn, but no notice was taken of the order of the Vice-Chancellor, nor of the other proceedings in the matter. The defendant now moved to discharge the common order, on the grounds of irregularity and the suppression of facts which it was material to have stated on applying for the order.

George L. Russell, in support of the motion, contended that the order should be discharged, because it was obtained after the time allowed by the Vice-Chancellor's order had expired, and when the defendant was in a position to move that the bill be dismissed, and the costs paid under the original order, and because in obtaining it the plaintiff had not fully stated the circumstances of the case to the secretary at the Rolls. He cited *St. Victor* v. *Devereux* (6 Beav. 584) to shew that suppression of material facts is a sufficient ground for discharge.

Turner (with him *Cole*), contrà.—The defendant's solicitor, though he undertook to appear, did not do so til the 31st of March, three days before the expiration of the time to obtain the order to revive. By this course, and by the operation of the 10th Order of December 1833, we were prevented from obtaining the order within the time limited; and yet the defendant now comes here to discharge the order of course. If the defendant had been active, he might have anticipated us, and might have obtained the order to dismiss immediately on the expiration of the time limited, without giving us notice. (*Dobede* v. *Edwards*, 11 Sim. 454.) By allowing us to obtain our order before he obtained his to dismiss, he has waived his right to do so now. (*Fernes* v. *Hutchinson*, 1 Russ. & Mylne, 22.)

G. L. Russell, in reply, said the plaintiff had shewn by his conduct that he knew he could not get the order of course, for he had given notice of motion to obtain further time. The defendant had delayed answering, purposely to prevent the time for demurring from running out much before Easter Term. They accuse us, too, of not being sharp in our practice, and of not obtaining the order immediately. Between the 4th and 15th April, we could not obtain an order, as the courts were not sitting. [The MASTER of the ROLLS.—Suppose you had made an application on the 4th, could you have got an order to dismiss?] Yes, it is an order of course; and we did not undertake to appear sooner. [The MASTER of the ROLLS.—There was liberty from Vice Chancellor Knight Bruce to apply.]—Yes, but we say an order of course is not such as comes under the liberty given by Vice-Chancellor Knight Bruce, which is that only of an application for further time. Besides, the several matters should have been recited in the order to revive.

The MASTER of the ROLLS.—I do not know what is, if this is not, sharp practice. It is said the solicitor for the defendant did not undertake to appear in a given time. What are we to say of a solicitor so undertaking to appear, and knowing the duty to be performed by his adversary eight days after his appearance, who nevertheless does not appear till a day so late that the order to revive cannot be obtained within the time limited? This result, to be sure, was no part of the scheme of the solicitor; he had another object in view, viz. to prevent the time from running out too soon; but the fact is, he did thereby diminish the time for discharging the duty rendered necessary by the order of the Vice-Chancellor. The order to revive was not obtained till the 15th of April, though it might have been obtained previously; but the objection is, that it was not taken out within the time allowed by the Vice-Chancellor. If that is not sharp practice, I mistake the meaning of the term. It is said, however, that matters stated in the order were not so stated at the time it was obtained, and that there are merits and special circumstances in the case, and therefore, even if the order were regular, it was obtained irregularly, and ought to be discharged. As to that I shall reserve my judgment.

JUDGMENT.

Monday, June 30.—The MASTER of the ROLLS.—This is a petition to discharge an order of course made in this court on the 15th of April, for the revival of a suit, on the ground of irregularity. This cause is now pending before Vice-Chancellor Knight Bruce, and an order was made by him on the 20th of February, that an order to revive should be obtained within six weeks, which expired on the 3rd of April, but the defendant not appearing till the 31st of March, the order of revivor could not, by the 10th General Order of the 21st of December, 1833, be obtained till the 8th of April. Under these circumstances, the 3rd of April passed without an order being made, so that the order of the 20th of February, dismissing the bill with costs, became operative; but, under the circumstances, Vice-Chancellor Knight Bruce might have enlarged the time for obtaining the order to revive if an application had been made to him for that purpose. I may presume that the delay of the defendant was the cause of the plaintiff's default. That delay may have been caused by accident or absence, and I cannot conclude that it was wilful; but whatever may have been the cause of it, the defendant would not be allowed to take advantage of it in a court where the merits could be considered. The plaintiff did not apply to Vice-Chancellor Knight Bruce to enlarge the time, but on the 15th of April he applied at the Rolls for an order of course to review the suit, on an allegation that the time for shewing cause against such order had expired without cause shewn; but on that occasion the order of the 20th of February was not mentioned. By reason of that omission, an order to revive was irregularly obtained, and must therefore be discharged. It is said the defendant is not entitled to take advantage of the irregularity in obtaining the order, and I should be of that opinion if I had to consider anything more than the irregularity, but my jurisdiction extends to nothing but the question of irregularity. If there be merits and circumstances in the case, as in *St. Victor* v. *Devereux*, which deserve to be considered, they may be brought under the consideration of the Lord Chancellor or the Vice-Chancellor. A motion before the Lord Chancellor may be at the same time a rehearing from me and an original motion on grounds not relied on before me; and he may take into consideration evidence which I have not before me, and facts and circumstances which are not before me and over which I have no jurisdiction. The Lord Chancellor may also think the application of the parties not within the rule of Lord Cottenham, and he may support the order of course on the merits of the whole case, or he may, without entering into the merits, discharge my order discharging that order of course, and so open up the way to the Vice-Chancellor's adjudicating on the subject, the Vice-Chancellor having no jurisdiction over any order made here. There is nothing in that case to prevent the Vice-Chancellor from making an order to revive, on a proper application being made to him; and if the order now made be acquiesced in, the Vice-Chancellor may, upon an application, also make an order to revive if he thinks fit. Upon occasions of this kind there are three rules applicable; first, a party obtaining an order of course must state every fact material to the making of the order; secondly, an application to discharge for irregularity must depend on the question of irregularity, though there be merits; and thirdly, the merits and special circumstances which ought to be considered by the Vice-Chancellors are not to be drawn into this court. I am not aware that the first rule has ever been doubted; the second was established by Lord Cottenham; and the third is the necessary consequence of the General Orders of the 5th of May, 1837. I have therefore no jurisdiction to take the merits or special circumstances into consideration on the question of discharging the order for irregularity; but they may have weight on the incidental costs. Having regard, therefore, to the special circumstances, the order must be discharged without costs.

Thursday, May 29.

BATE v. BATE.

Where a transfer of stock has been obtained from a party far advanced in years, that circumstance primâ facie entitles the executors of the transferror to an inquiry, and it will be ordered that the fund be brought into court to abide the final issue of the suit.

Roupell (with him *Bagin*) moved, on the part of the plaintiffs, for an injunction to compel the defendant, Sarah Bate, to re-transfer to the plaintiffs a sum of 40*l.* Long Annuities, standing in her name in the books of the Bank of England. The plaintiffs' bill alleged that they were the executors of the will of Mary Bate, made on the 24th of December, 1835, by which, after bequeathing some small legacies, she gave the residue of her property to the children of her brother, John Bate. Mary Bate died in January 1845, and the will was proved by the plaintiffs in the course of the same month. On investigation of the state of her property, the executors found that an annuity of 40*l.* in the Long Annuities, of which she had been possessed, had, in the month of October 1844, been transferred to the defendant, Sarah Bate, a daughter of the plaintiff William Bate, who had resided with the testatrix. The bill further alleged that the transfer was a contrivance of Sarah Bate; that she got the testatrix, who was then imbecile, to make the transfer when she went to the bank to receive her dividends; that Mrs. Bate, though able to write, had signed the transfer as a markswoman, and in the presence of one clerk only, instead of two, according to the usual practice at the bank. After the executors discovered these facts, Sarah Bate agreed with the plaintiffs to retransfer

the annuity in consideration of the sum of 200*l.*; but a few days after this agreement the solicitor for Sarah Bate wrote to the plaintiff's solicitor, withdrawing the offer to retransfer. The present application was made on the grounds of the imbecility of the testatrix, and the tacit acknowledgment by the defendant of the absence of any right, as manifested by the agreement.

Kindersley (with him *Speed*) contended that the testatrix was not imbecile at the time of the transfer, and that she consulted a Mr. Forster, a stock-broker, about it, and had gone to the bank with him; that the clerk asked her if she knew the effect of what she was going to do, and she said she did; and that being unable from cold to sign her name, she made her mark in the presence of the stock-broker, who said it would be sufficient.

The MASTER of the ROLLS.—Cases of this kind, where a party has been about the person of the testatrix in the capacity of companion or domestic, and has obtained a transfer of a large portion of her property without any valuable consideration, are always more or less open to suspicion. The circumstance of the testatrix being so old (83 years) when the transfer was effected, *primâ facie* called for inquiry; and as it was a case of suspicion, it was advisable to have the facts proved. The plaintiffs undertaking to reply forthwith to the answer and to go on with the suit, let the money be brought into Court, and let the defendant, Sarah Bate, be allowed to receive the dividends, without prejudice, till the hearing of the cause.

June 2, 12, *and* 30.

DOWDEN *v.* HOOKE.

Practice—Married woman—Suing in formâ pauperis—Rule—Security for costs.

Where a married woman instituted a suit by her brother as her next friend, who had been a mercantile clerk, and who, though not at the time in employment, swore he did not owe 5l. the Court refused, upon the application of one of the defendants, to order proceedings to be stayed till the next friend should be changed or security given for costs.

The alleged rule of Court that the next friend of a married woman, as contradistinguished from that of an infant, must be a person of substance, has no foundation; there are instances of an order having been made, and that, too, upon due consideration, to permit a next friend of a married woman even to sue in formâ pauperis.

This was a motion on behalf of J. Anderson, one of the defendants in this cause, to stay all proceedings till either a new next friend of the plaintiff, a married woman, should be appointed or security given for payment of costs, and to refer it to the Master to approve of a security. The plaintiff, Mrs. Sarah Watts Dowden, sued by her brother, Archibald Weir, as her next friend, and charged H. P. B. Hook and J. Anderson, the trustees of a marriage-settlement, whereby 200*l.* was settled to her separate use, with a breach of trust.

In support of the motion, it was stated on affidavit that Mr. Weir had been a mercantile clerk, but was then out of employment, and dependent on his mother for support. Both the plaintiff and Mr. Weir, however, denied this, and Mr. Weir stated that he was perfectly solvent, and did not owe 5*l.* in all the world; that he had held valuable situations, and was promised and expected a lucrative appointment. The plaintiff also stated that she had no relations or friends more respectable or influential than her brother, and who were also willing to become her next friend; and in the event of her next friend being changed, or her being compelled to give security for costs, she would be unable to obtain her just rights in consequence of her poverty. The plaintiff's solicitor, Mr. Sparks, also stated on affidavit that Mr. Weir was a gentleman of education, and competent to hold an office of trust and responsibility.

Prior, for the motion, contended for a difference between the next friend of a married woman and that of an infant; the one must be a person of substance, but no regard is paid to the circumstances of the other. He cited *Pennington* v. *Alvin* (1 S. & St. 264), and *Drinan* v. *Mannix* (3 Dru. & War. 154).

Rolt, contrà, denied that the next friend of a married woman must in all cases be a person of substance; that is only so if he be a stranger; but if he be a relation, no inquiry is made as to his circumstances. Security is never asked from any plaintiff *sui juris* within the jurisdiction (*Ogilvie* v. *Herne*, 11 Ves. 608), why should it then be required from a married woman, who must in that case, as she is not permitted to sue *in formâ pauperis*, be shut out from relief altogether? As to the cases, there is no distinction between the next friend of a married woman and of an infant; besides, the cases in reference to married women are few; *Pennington* v. *Alvin* is a gross case, and in *Drinan* v. *Mannix* it appears to have been principally relied on. He cited *Anon.* (1 Ves. jun. 409); *Squirrell* v. *Squirrell* (2 Dickens, 765); *Fellows* v. *Barrett* (1 Keen, 119); *Anon.* (1 Atk. 570).

Prior, in reply.

JUDGMENT.

The MASTER of the ROLLS stated the facts, and then proceeded:—The application is supported by the two cases of *Pennington* v. *Alvin* and *Drinan* v. *Mannix*. The latter case is grounded upon *Pennington* v. *Alvin*, which decided that where the next friend of a married woman, who had taken the benefit of the Insolvent Debtors Act, but was detained in prison (the husband having got damages against him in an action for seduction), proceedings might be stayed till he should be changed, or security given for costs, and that upon the ground that the suit of a married woman by her next friend is substantially her own suit. This is a decision which, as Sir John Leach says, cannot easily be departed from, and it has been adopted by Sir Edward Sugden in *Drinan* v. *Mannix*. Such authority is sufficient to sustain any rule of practice, considered as a general rule of the Court; but the consequences to married women, if it were carried out to the full extent now contended for, appear to be very serious, and in many cases such a rule would prevent married women from instituting suits to establish their just claims, and would indirectly amount to a denial of justice. I have made inquiries, and have found two cases in which a next friend of a married woman has been allowed to sue *in formâ pauperis*. The first is the case of *Collyer* v. *Young*, in which an order to sue *in formâ pauperis* was made on the 25th of October, 1843, and the second is *Valentine* v. *Walker*, in which the date of the order is the 19th of May, 1834. In the latter case, which was eleven years after *Pennington* v. *Alvin* was decided, the order was not made *ex parte* and of course, but after the matter had been brought under the notice of the Court, and on consideration by Sir John Leach himself. It appears then, from these cases, that a married woman may sue *in formâ pauperis*, and it seems, therefore, too much to contend that she cannot sue by a next friend who is perfectly solvent, and who is personally answerable for the costs. Under these circumstances, there is reason to believe that the case of *Pennington* v. *Alvin* depended more on the special circumstances of the case than appears by the report. I refuse the application, but without costs.

VICE-CHANCELLOR KNIGHT BRUCE'S COURT.

Wednesday, June 25.

COMPTON *v.* BLOXHAM.

Construction of will—Gift to executor.

Where a testator, by his will, gave certain property to his brother and sister, whom he appointed executor and executrix, and throughout the will the relationship of his brother to himself was always mentioned with his brother's name, it was held, that, although the brother did not prove the will, he was still entitled to the legacies.

John Bloxham, late of Amesbury, in the county of Wilts, deceased, duly made and executed his last will and testament in writing, bearing date 26th day of July, 1826, which, so far as is material, was in the words and figures, or to the purport or effect following; that is to say, "As it's probable I may die before my wife, it's my will, as soon as I die, my sister Jane Bloxham, my executrix, my brother Charles Bloxham, my executor, take possession immediately of the oak chest of drawers and the little writing-desk in my usual sitting-room, with all its contents; the oak chest of drawers in the dressing-room, the middle room on the ground-floor fronting the street, with all its contents; the ash chest of drawers in my bed-room, with all its contents; the wearing clothes of every description to be given to my brother Charles Bloxham. The silver plate being in the oak chest of drawers in my dressing-room, it's my will that six silver table-spoons and six silver tea-spoons to be left for the use of my widow. At her death, the whole property, the house I now live in, the garden behind the house, the little garden opposite the house, it being all free land, and goods and furniture of every description, with all my books of every sort, to be given to my said sister, Jane Bloxham, my executrix; and to my said brother, Charles Bloxham, my executor, their heirs and assigns, for ever; my monies in the funds, 1,600*l.* in the 3*l.* per Cents reduced, and 1,200*l.* in the New 4*l.* per Cents, to be equally divided between my said sister Jane, and brother Charles Bloxham, on condition my said sister Jane resides in my house after my death to direct and manage all my wife's affairs, to receive her monies and pay her debts, until my wife think proper and is capable of directing her own affairs."

The testator died in the month of December 1827, and the will was proved by his sister, Jane Bloxham, alone. A question arose in the cause, whether Charles Bloxham had, by not proving the will, forfeited his interest under it.

Shapter, for the plaintiff, cited *Reid* v. *Devaynes* (2 Cox, 285); *Stackpole* v. *Howell* (13 Ves. 417); *Calvert* v. *Sebbon* (4 Bea. 222); *Piggott* v. *Green* (6 Sim. 72); and *Cockerell* v. *Barber* (2 Russ. 585).

W. P. Wray, *Glasse*, and *Wray*, for other parties.

The VICE-CHANCELLOR.—I do not see a single instance throughout this will where Charles Bloxham's name is not accompanied by a description of him as the testator's brother. Looking at the whole will, I think that the testator did not intend that the assumption by Charles Bloxham of the office of executor should be a condition precedent to his taking this legacy. In arriving at that conclusion, I think it immaterial whether the will does or does not dispose of the residue, and I think it also immaterial whether Jane Bloxham and Charles Bloxham took as joint tenants or tenants in common, or not. However these two questions are decided, I am of opinion that, according to the terms of this will, Charles Bloxham will take this legacy.

June 26 *and* 27.

ANDERSON *v.* STATHER.

Foreclosure suit—Parties.

An equity of redemption was settled by the mortgagor upon the marriage of his daughter, and by the settlement the daughter was entitled to a rent-charge, and the children of the marriage were entitled to portions to be raised out of the mortgaged estates. The daughter and children were out of the jurisdiction. It was held that they were necessary parties to a foreclosure suit instituted by the mortgagee.

By indentures of lease and release, dated the 26th and 27th of March, 1818, certain freehold estates were mortgaged by Shillito Stather to William George in fee to secure 4,000*l.* and interest. A further charge for 1,000*l.* and interest was executed in the month of September following, and two further charges were made upon the property before the year 1828. The mortgage securities were afterwards transferred to Anderson, who entered into possession of the estates. This suit was instituted by Anderson for the purpose of obtaining a foreclosure or sale of the estates. The bill charged that Henry Johnson and others claimed an interest in the estates, and by the answer of Stather it appeared that, by indentures of lease and release, dated the 1st and 2nd October, 1828, being the settlement made upon the marriage of Stather's daughter with Henry Johnson, the equity of redemption of the estates was conveyed to trustees to the use of Stather until the marriage, and afterwards to the use and intent that the intended wife should receive a rent-charge of 200*l.* a year out of the estates, with powers of distress and entry for the purpose of securing the same, and subject thereto to the use of the trustees for 500 years for securing the rent-charge, with remainder to such uses as Stather should appoint, with remainder to Stather for life, with remainder to the use of a trustee to bar dower, with remainder to the use of Stather in fee. The trusts of the term of 500 years were then declared to be for further securing the rent-charge, and for raising 4,000*l.* for portions for the children of the marriage. The marriage took place, and there were two children of the marriage, who were alleged to be necessary parties to the suit. These children were living with the father and mother in the United States of America.

Parry and *Bevir*, for the plaintiff.

Follett, for the principal defendant, objected that all the proper parties were not before the Court. He cited *Fell* v. *Brown* (2 Bro. Ch. Ca. 275); *Palk* v. *Clinton* (12 Ves. 48); *Brown* v. *Blount* (2 Russ. & Myl. 83); *Farmer* v. *Curtis* (2 Sim. 466); and *Willats* v. *Busby* (5 Bea. 193).

Selwyn, for the trustees of the term of 500 years.

Parry, in reply.

The VICE-CHANCELLOR.—The owner of the estate, Mr. Stather, makes a mortgage and a further charge to the plaintiff. After having done so, he makes a settlement. The persons interested under the settlement are out of the jurisdiction. The daughter and her children have the first charge; they have an immediate interest in the equity of redemption. There is no one here (though I do not know whether that is material) who is *pari passu* with, or on a level with them. They stand first; Mr. Stather is the next. If Mr. Stather does not redeem, he will absolutely lose all right. The only mode is to pay the amount now due. On the payment so made he will have a transfer or acquisition of the security. That, however, may prove no security at all, for the person first entitled may have paid the mortgage, and then may come in and take the estate. The cause must therefore stand over.

Follett and *Selwyn* then applied for the costs of the day, but

The VICE-CHANCELLOR directed that the costs should be reserved.

Thursday, July 3.

STOOKE *v.* VINCENT.

Practice—Exceptions for impertinence.

Where exceptions have been filed for impertinence, but not referred within due time, it is irregular to file other exceptions to the same matter.

In this case the defendant filed exceptions for impertinence to the plaintiff's bill, but by accident no order for referring them was obtained within six days. After the expiration of the six days, another set of exceptions to the bill for the same alleged impertinent matter was filed, and an order of reference was obtained.

Russell and *Moore* now moved that the second set of exceptions should be taken off the file, and the order for referring them be discharged.

Crawford, for the defendant, mentioned the 21st and 22nd articles of the 16th order of May 1845.

The Vice-Chancellor said, that there being one set of exceptions on the file, he thought it irregular to file another set, and that he should therefore grant the motion, with costs, unless Mr. Crawford should be able to shew any authority in support of his argument.

Note.—The case was not mentioned again.

Friday, July 4.

Glover v. Cockerill.

Practice—Misnomer—Service of copy of bill.

A defendant, upon whom a service of a copy of the bill had been made, having been misnamed in the bill, the Court allowed the memorandum to be entered in the proper name of the defendant, upon the production of an affidavit that the person served was the person named as defendant in this bill.

Lloyd applied for leave to enter a memorandum of service of a copy of the bill upon a defendant, whose name in the bill was misspelt. In the affidavit of service the name was spelt correctly, and *Lloyd*, in applying to the Court to have the memorandum of service entered, requested that it should be made in the correct name of the defendant.

The Vice-Chancellor said, that he thought that the bill should be amended as to the name of this defendant, so that the memorandum should correspond with the bill. His Honour, however, afterwards said that if an affidavit were produced, shewing that the copy of the bill was served upon the defendant named in the bill, he would make the order asked.

Common Law Courts.

COURT OF QUEEN'S BENCH.

Fannin v. Anderson.

Where a declaration omits to aver that the time in which a contract is to be fulfilled has elapsed, the fault is cured by pleading over, and the objection must be taken by demurrer.

The Statute of Limitations does not run where one of several co-defendants is beyond seas.

A rule *nisi* for a new trial had been obtained last Term.

This was an action for breach of contract in not supplying the plaintiff with porter to be bottled within twelve months.

Peacock shewed cause on May 2nd, as agreed. The Statute of Limitations was pleaded. The contract was made on the 29th of December, 1836, and the declaration bore date the 9th of January, 1844, and did not state that twelve months had elapsed before the commencement of the suit. It was contended that the date sufficed, and that the declaration must be presumed to be made on the day it bore date (*Owen* v. *Waters*, 2 M. & W. 91; *Way* v. *French*, 3 Bos. & P. 173); that though not evidence of any material fact in a declaration, its date is good evidence of the time of its delivery. It was also contended for the plaintiff, that one of the co-contractors, a defendant, having been beyond the seas, the Statute of Limitations, 21 Jas. 1, c. 16, according to the words of 4 Anne, cl. 18, c. 192, did not run. The words in this latter statute applied, it was contended, to those who might be sued, and not to the actions enumerated in the preceding clauses. Here some of the co-defendants were absent, and the principle which applies to co-plaintiffs does not apply to co-defendants, whom the plaintiff has no power to compel to appear; and it would be a great grievance to deprive him of his remedy against a solvent defendant, who stayed away to evade his liability, the other co-defendants at home being, perhaps, insolvent.

Crompton, contrà.—The case of *Owen* v. *Waters* only goes to this, that the declaration proves the commencement of the suit; but dates laid under a *videlicet* are not material. (*Horne* v. *Newlands*, 1 Ad. & Ell. 49; *Stavert* v. *Eastwood*, 11 M. & W. 197; *Parkinson* v. *Whitehead*, 2 M. & G. 829.) [Patteson, J.—I do not find the time stated at all in that case.] They do not say the time has elapsed, and how are we to plead? Suppose we traversed this, how could we do this if they had brought the action within six months? [Patteson, J.—Why could you not plead it affirmatively?] We might do so, but that would shew that they have not included that in their declaration which it was material for them to aver. The statute clearly runs where any defendant is within seas.

Peacock, in reply, cited *Nightingale* v. *Wilcockson* (10 B. & Cr. 202). Faults in pleading are cured by pleading over. *Cur. adv. vult.*

JUDGMENT.

During the sittings after last term Lord Denman, C. J. gave judgment.—The question in this case was, whether the declaration was good by reason of the want of an averment that the defendant did not within twelve months from some day supply the plaintiff, &c. We think the declaration is good, notwithstanding that objection. It is true that, if the action were really brought within twelve months, the defendant could not safely traverse that averment, unless he had actually supplied the plaintiff with 500 hogsheads of beer before the action, and therefore before the time had elapsed within which he was bound to supply them. But the informality of the averment which might put the defendant into that difficulty should have been pointed out as a cause of demurrer. In *Parkinson* v. *Whitehead* (2 M. & G. 829), a case much resembling the present, there was no averment that the defendant, within two years, would build houses; the only averment was, that he did not, nor would build them, and that they were still unbuilt. Again, the objection is cured by pleading the Statute of Limitations—a plea which must be false, if at least twelve months from making the agreement had not elapsed. The case is, therefore, within the principle of *Crook* v. *Crook and Others*, in Siderfin, 108. The question there arose as to the sufficiency of the rejoinder; but depended upon the construction of 4 Anne, ch. 18. In that case an absence beyond the seas of one of several co-contractors against whom there was a cause of action, prevented the Statute of Limitations, the 21 James 1, ch. 15, from running. For the plaintiff it was contended, the words "or any of them," in the statute of Anne, referred to the persons liable to actions, and not to the actions enumerated in the clause; but we are fully satisfied, on considering the language of the clause, they are compatible with the corresponding sections of the statute of James; and those words, "or any of them," refer to the actions, and not to the persons. No case appears to have been decided by the statute of Anne; but on that of James it was adjudicated, in a case reported in 4 T. R. 516, that if one of several co-plaintiffs be "within seas," the statute does run. The reason given by the Court is, that one plaintiff can act for the others, and use their names in an action, and therefore the protection of the statute is not wanted. With respect to the defendants, however, the reason does not apply. The plaintiff cannot bring an absent defendant into court by any act of his, and therefore if he be compelled to sue those who are "within seas" within six years, without joining those who are absent, he may jointly recover against insolvent persons, and lose his remedy against the solvent ones who are absent. On the other hand, if he sues out a writ against all the others, and continues that without declaring or persists in outlawry, or declares against the absent parties, and declares against those who are within the seas, he is placed in precisely the same situation as if the statute of Anne had never passed, and is obliged to incur fruitless expense, the avoiding of which seems to have been the object of the statute of Anne. That statute seems to have been passed in order to keep the plaintiff's remedy alive, for such object was easily attained before the statute by suing out the writ and continuing it. We think the statute continues to render such a form unnecessary, wherever, by reason of the absence beyond the seas of any of the intended defendants, the plaintiff cannot have his remedy against those whom he is entitled to sue, when indeed he might be under the risk of a plea in abatement if they were within the jurisdiction of the Court. On the whole, we think the distinction taken in the argument between co-plaintiffs and co-defendants is a sound distinction, and the plaintiff, in this case, is entitled to our judgment.

Judgment for the plaintiff.

Thursday, June 19.

Carter v. Price.

JUDGMENT.

Lord Denman, C.J.—We have looked at the affidavits in this case, and we think this party being a surety, and having acted upon the authority of the case in Tidd, which must be considered now as overruled, the rule ought to be discharged, but not with costs.

Reg. v. Inhabitants of New Sarum.

Where a new district has been added to a city or borough by the Municipal Corporation and Reform Act, which includes a bridge formerly repaired by the county, the liability to repair is still upon the county, and not upon the city or borough.

This was an indictment against the inhabitants of the borough of New Sarum, for neglecting to repair a certain bridge called "Harcourt's Bridge," which was tried at the Wilts Lent assizes for 1844, and a special verdict taken by consent. The facts found were, "That Harcourt's bridge is a common public bridge, situate wholly within the parish of Fisherton Anger, in the Queen's common highway there, and used by all persons on foot, and with horses, carts, and carriages; that the bridge, and the approach thereto on the south side, are out of repair; that King William the Fourth, by letters patent, dated the 3rd of June, 1836, granted a separate court of quarter sessions to the said borough; that the city of New Sarum was first incorporated by a charter of King Henry the Third, and comprised the three parishes of St. Edmund, St. Thomas, and St. Martin; charters were subsequently granted to the city by King James, in 1611, by King Charles the First, in 1630, and King Charles the Second, in 1675; that previously to the passing of the statute 5 & 6 Wm. 4, c. 76, the whole of the parish of Fisherton Anger, in the county of Wilts, was without the boundaries of the city; that the bridge called 'Harcourt's Bridge' is an ancient bridge, and the same bridge and the highway adjoining, for the space of 100 yards on each side thereof, are situate in the parish of Fisherton Anger, and the same has always been repaired by and at the expense of the county of Wilts, and no other person has repaired the same. Since the passing of the 5 & 6 Wm. 4, c. 76, no repairs have been done. The limits of the city described in the statute 2 & 3 Wm. 4, c. 64, include, in addition to the three parishes of St. Thomas, St. Edmund, and St. Martin, parts of the parishes of Fisherton Anger and Milford. Harcourt-bridge and the highway adjoining, for the space of 100 yards, are situate in the part of the parish of Fisherton Anger included by the statute of the 2 & 3 Wm. 4, c. 64, within the limits of the borough."

It was now (April 28) argued upon a *concilium*, by *Cockburn*, Q. C. (with him *Butt*, Q. C. and *Barstow*, for the Crown).—Even, independent of the liability thrown upon the borough by the Municipal Corporation Act, the fact of annexation suffices. Where the boundaries of a city were enlarged by royal charter, and a part of the county annexed to the county of the city, the enlarged part is parcel of the old county of the city for the purposes of repairs of existing bridges. (*R.* v. *Norwich*, 1 Stra. 177; *R.* v. *St. Peter, York*, 2 Lord Raym. 1249.) This was an ancient bridge; and annexation by Act of Parliament must have equal effect with annexation by charter. Then by 22 Hen. 8, c. 5 (Statute of Bridges), the jurisdiction of magistrates to enforce the repair is essential to the liability, and by 5 & 6 W. 4, c. 76, the magistrates of the county are deprived of all jurisdiction within the city or borough thus enlarged. The county magistrates having no power to assess for the repair of this bridge, if the city is not liable, no one is, because none but the city magistrates can exercise jurisdiction. By the 1 Anne, c. 18; 12 G. 2, c. 29, the power of justices of towns corporate is recognized. The 92nd section of the Municipal Corporation applies, for here the town corporate has a court of quarter sessions, and its magistrates exercise all the powers of county magistrates, and there is a borough-rate which is applicable to all corporate buildings. This bridge is a corporate building. If the borough is exempt, the bridge must decay, or the county is to pay for the benefit of the borough. By sec. 117, the borough is liable to contribution for certain county expenses, but there is no mention of bridges.

Crowder, Q. C. (with him *M. Smith*), contrà.—The 7th section of 5 & 6 Wm. 4, c. 76, is confined "to the purposes" of the Act. The cases cited are distinguishable. In *R.* v. *St. Peter's*, the annexation was before the Statute of Bridges; and in *R.* v. *Norwich*, there had been a previous liability. Sec. 111 does not apply, and the 117th only applies where the 111th does. The 92nd section does not give power to the borough magistrates to make the rate. It is a *casus omissus*; and even if the borough had built the bridge, it would not have been bound to repair it. He cited *Beardsworth* v. *Torkington* (1 Q. B. 782); *R.* v. *Green* (2 Q. B. 96, 2 Inst. 700, Com. Dig. Chemin, b. 2); *R.* v. *Stoughton* (2 Saund. 158, n.); *R.* v. *Hendon* (4 B. & Ad. 628); *R.* v. *Ecclesfield* (1 B. & A. 348).

Cockburn, in reply.—The instances given in the 92nd section do not exclude other purposes. He cited *R.* v. *Gloucester* (4 A. & E. 689).

Cur. adv. vult.

At the sittings after Trinity Term, Lord Denman, C.J. delivered judgment in substance as follows:—

Lord Denman, C. J.—This was an indictment for the non-repair of a bridge, and the highway for 100 yards adjoining it. At the trial a special verdict was found. It appeared that the district had been incorporated with the city by statute, but was situate without the borough. The metes and bounds set out by 2 & 3 Wm. 4, c. 64, were adopted by 5 & 6 Wm. 4, c. 76. But the 2 & 3 Wm. 4 had no reference to a case like the present, but was only to settle the boundaries for election purposes. Nor did the 5 & 6 Wm. 4 contemplate a case like this. It had been made *alio intuitu* altogether, as appears by the title and the Act itself. The 92nd clause, which provides for the payment of certain of the county expenses, does not contemplate or refer to any payment for such a purpose as this; and the 114th provides also for expenses of prosecution in places like New Sarum. Reliance has been pla[illegible] on the Statute of Bridges; but that imposed no new liability, and under that statute, before the annexation, the city of New Sarum was clearly not liable. It was always repairable by the county. An Act of Parliament, therefore, could alone impose this liability; and there is no reason for saying that 5 & 6 Wm. 4 has this effect. It was passed wholly without reference to it, and this is an unforeseen case; and although there might be inconvenience and inconsistency in relieving a parish from the county-rate, without imposing on it the discharge of the duties for which the county-rate was levied, it is better to suffer the inconvenience than to change the legal liability. If the inconvenience is one that called for remedy, it is for the legislature to interfere. There must, therefore, be judgment for the defendants. *Judgment for the defendants.*

[*Note.*—The judgments in this and the following case of *Reg.* v. *Greenaway* are not reported *verbatim*,

as the Court sat some minutes before the usual time, and they were delivered before the reporters came in.]

Reg. v. Greenaway and Another.

Reg. v. Cary.

Parish officers are bound to produce rate-books before magistrates at petty sessions in obedience to a subpœna duces tecum, although the object is to establish the settlement of the pauper in their parish.

Pashley (with whom was *Corner*) moved for an attachment against the overseers of St. Giles, Camberwell, for disobedience to a Crown Office *subpœna duces tecum*, by which they had been commanded to produce before a certain magistrate of the metropolitan police district the rate-books of their parish for certain years therein named. The object was to prove that a pauper was settled in their parish through a derivative settlement from his father, who had occupied a tenement therein.

The parish officers attended, but without the rate-books, and justified their refusal—1, That a Crown Office *subpœna* could not be issued for petty sessions; 2, That they were not bound to produce evidence against their own parish; 3, That they were parties, and not bound to give evidence against themselves.

It was now contended that the practice as to the *subpœna* for this purpose was clear and ancient; that it was a branch of the jurisdiction of the Court of Queen's Bench to prevent any failure of justice; that the overseers of the parish were not parties, for it was only an inquiry touching the legal rights of the pauper, and it did not appear where he would be removed to; that the evidence was necessary, for mere loose evidence of the payment of the rates was insufficient; that at any rate the parties were bound to bring the books, even if they were not bound to produce the books in evidence.

The following authorities were cited amongst others: Corner's Crown Practice, 256; *R.* v. *Lydeard St. Lawrence* (11 A. & E. 616); *R.* v. *Coppull* (2 East, 25); *Pickering* v. *Moyes* (1 B. & C. 262); *R.* v. *Ring* (8 T.R. 585); *R.* v. *Branell* (1 A. & E. 598); *R.* v. *Orton* (*suprà*); *Doe* v. *Thomas* (9 B. & C. 293); *Geary* v. *Hopkins* (2 Ld. Raym. 851); *Blackie* v. *Porter* (1 Taunt. 386); *Sampson* v. *Lattenham* (5 Mod. 15); *R.* v. *Great Farringdon* (9 B. & C. 541); *May* v. *Gwynne* 4 B. & A. 301).

M. Chambers and *Bovill* shewed cause in the first instance. There is no authority to support such a *subpœna* as this. It is not a matter pending in any court of record, nor was there any court at all when the writ issued. But can one parish force another to produce evidence against itself? There is no difference between forcing parol evidence or documentary. But a rated inhabitant could not be a witness. Then the overseers, as the official representatives of the inhabitants, could not be. The cases where title-deeds had been inspected were distinguishable, for they were held by the party as trustee. The statutes removed a disability, but did not deprive them of a privilege; they were in effect parties, and not compellable to produce. (*R.* v. *Woburn*, 13 E. 395; *R.* v. *Hardwicke*, 11 E. 578; *Worrell* v. *Jones*, 7 B. 395, were cited.)

In the other case, a rule *nisi* had been obtained for an attachment against Mr. Carey, the overseer of Waldron, in the county of Sussex.

Creasy now shewed cause.—*R.* v. *Orton* only shews what is not a proper notice to make secondary evidence admissible. By the order being asked for against another parish, the parish is made a party. It ought not to give the same power as a bill in equity. (*Miles* v. *Dawson*, 1 Esp. 405; *Paterson* v. *Hublthwaite*, 4 Esp. 43, were cited.)

Cobbett, contrà.—They are not parties, and are bound to produce. (*R.* v. *Eriswell*, 3 T. R. 707; 1 Stark. Ev. 87-90; *Amy* v. *Long*, 7 East, 473.)

At the sittings after Trinity Term, judgment was delivered in substance as follows by

Lord Denman, C.J.—We think that the overseers were bound to produce the books, in obedience to the *subpœna*. Whether they should have been read when produced, is a question for the Court before which they are produced. The overseers of the parish to which a removal is to be, are not parties before the removing justices. The rules will be absolute, but the attachment will not issue, on the understanding that the parties will obey.

Friday, July 4.

Hargreaves v. Wood.

Evidence of default of account under a bond.

The facts in this case fully appear in the judgment, which decides no point of law.

JUDGMENT.

Lord Denman, C. J.—This was an action on a bond dated 18th April, 1842, to secure a faithful discharge by the defendant, Charles Wood, of the duties of the office of agent for the Glaisdale Working Man's Co-operative Society. By the condition, it appears that the nature of the duties was to render a true account to the plaintiffs, as the directors, or such persons as they should appoint, of all moneys and other property, and otherwise faithfully discharge the said office. The breach assigned that the defendant Charles Wood received from members and others, on behalf of the said society, goods and chattels of the value of 2,800*l*. and was liable to account for the same, but that he did not render an account of 80*l*. 9*s*. parcel of the said sum. To this declaration the defendant pleaded several pleas, traversing the different allegations contained in the declaration, the most material being the fifth and ninth, in the former of which it is alleged that the said Charles Wood did render an account of the sum of 80*l*. 9*s*.; and in the latter, that he did, when requested, pay over the said sum. From the evidence, it appears that Charles Wood had been, from the month of August 1841, agent for the society, and that his duties before and after the execution of the bond were precisely of the same description. It further appeared, from the notes of the learned judge, that a deficiency was discovered on taking stock in the month of August 1842; and that such deficiency was 112*l*.; but in what manner, or at what time, the deficiency was occasioned, was left on the stock-taking quite uncertain. It might have been occasioned before the 18th of April 1842, the date of the bond, for which default the defendant (the defendant Joseph especially, who is only surety) would not be liable, as the bond is clearly prospective only in its operation. It further appears, however, from the notes, that after the first stock-taking the defendant Charles remained in his office a fortnight longer, and, at the end of it stock was again taken, on which second occasion the deficiency amounted to the sum of 128*l*. making an increase in such deficiency of 16*l*. in the interval. Upon this evidence the learned judge directed the jury to find a verdict for the plaintiff for the sum of 80*l*. 9*s*. with liberty to move to reduce it to the sum of 16*l*. or enter a nonsuit or verdict for the defendant. A motion has been accordingly made, and the subject thereupon discussed. We are of opinion that the rule should be absolute for reducing the verdict to the sum of 16*l*. For the larger sum, we think, the verdict cannot stand, and, for the reason already given, that the period of the breach of duty by the defendant Charles Wood, except as far as regards the fortnight between the first and the second taking of the stock, was left quite in uncertainty; but the stock having been twice taken while the defendant Charles remained in his office after the date of the bond, will afford some evidence of breach of duty within the meaning of the condition. Therefore, for the sum of 16*l*. the verdict ought to stand; but it must be reduced to that sum. The two cases of *Cousin* v. *Page* (2 Cr. M. & Ros.) and another case in 2 Mee. & W. were cited in argument. On examination, we perceive nothing decided in either which is adverse to the conclusion to which we arrive. In one, the action was debt for 100*l*. and the declaration alleged payment by the defendant of 89*l*. and it was thereupon held that the plaintiff, in order to recover anything, must shew a debt beyond 89*l*. which point is so obvious that it seems difficult to discover how any question could possibly be raised upon it. In the case of *Cousin* v. *Page* also, the action was debt for goods sold and delivered, and the second plea stated, as to parcel of the demand, to wit 338*l*. the defendant paid to the plaintiff, and he accepted, a certain sum in satisfaction of the said parcel of demand, the Court held that the defendant must prove payment to the amount of 338*l*. to entitle himself to a verdict upon that plea, because there was an admission that such an amount was due. And if an attempt had been made in this case to recover beyond the amount of 89*l*. the principle of those cases, so far as they proceed upon the effect of admissions on the record, might have been applicable to shew that plaintiffs could not so recover. The use attempted to be made of the cases was, that the default of the defendant, Charles Wood, upon the occasion of his first taking stock having been found to be 112*l*. and upon the second 128*l*. such evidence was contradictory to the admission on the record, that no more than 89*l*. was due. The answer, however, is, that the evidence was adduced for no such purpose, but to shew that there was actual default within a certain period, a fortnight, of the defendant Charles Wood's continuance in the office, in order to entitle the plaintiffs to recover the sum of 16*l*.; for that sum we think the verdict ought to stand.

Bankrupt and Insolvent Courts.

COMMISSIONERS' COURTS.

Tuesday, July 22.

(Before Mr. Commissioner Holroyd.)

Re Williams and Staines, Bankrupts.

Joint estate.

Where two partners became bankrupt, but, previous to the partnership, one of them had carried on business separately, and had a separate stock, and had incurred separate debts in respect thereof, which stock was afterwards dealt with by the partners as if it had been the stock of the partnership:

Held, that such stock was to be treated in bankruptcy as joint stock, and was divisible amongst the joint creditors.

The facts of this case, so far as they have any bearing upon the point decided, are stated in the judgment.

The question arose some time since before his Honour, when he took time to consider, and now delivered his judgment as follows:—

The question in this case is, whether certain property now in the hands of the assignees is to be administered as the separate property of Williams, or as the joint property of the firm of Williams and Staines. It appears that Williams and Staines entered into partnership in November 1844, as wine merchants, agents, and auctioneers; Williams having been in business prior to that time as a wine merchant. At the time of the partnership Williams had a stock of wines, and had incurred debts in respect thereof; after the partnership, the wines appear to have been dealt with as the joint property of the partnership. Williams says that, on the formation of the partnership, it was agreed that his separate debts should be discharged out of his separate property, but Staines denies there was any such agreement. Articles of partnership were drawn up, but they were never executed. Staines does not appear to have had any capital at the time of his entering the concern. As far as can be collected from the unexecuted articles of partnership, they are at variance with the agreement as stated by Williams. But whether there was such an agreement or not, the wines were used as the joint property of the partners; that is, orders were given to the partnership, which were supplied from the stock, and thus it was actually dealt with as partnership property. In March 1845, Williams and Staines assign their property to trustees for the benefit of their creditors, consisting of the wines and effects of the joint concern. Staines had not any property but what he acquired from his partner Williams. This assignment, therefore, again shews a dealing with the property as if it was that of the partnership. This case must be decided with reference to the law as it is in bankruptcy, and as laid down by Lord Eldon in *Ex parte Hunter* (2 Rose's Reports, 382). He is there reported to have said—"There is scarcely any partnership in which the members of it are not entitled to different interests, and yet, upon a bankruptcy, their creditors take it as the promiscuous joint property of them all." It is difficult to say how this rule first obtained, but it cannot now be controverted. This doctrine was more decisively laid down in a recent case, *Ex parte Murton* (1 Mont., Deac. & De Gex, 261), where it was said by Sir George Rose, "There is no difficulty in arriving at a proper decision in this case if we only consider for a moment the principle on which all these cases are governed. That principle is, where property is dealt with by the members of a partnership as joint property, notwithstanding the legal title may be in one partner, it shall be in bankruptcy held to be distributable among all the joint creditors of the partnership." This decision, I think, is directly applicable to the present case. From the evidence given, I consider that these wines have been dealt with by the bankrupts as joint property, and are therefore divisible, according to the rule in bankruptcy, amongst the joint creditors. It may be hard on Williams that the property, in respect of which his separate debts were incurred, should be taken to pay the joint creditors, leaving no funds to pay his separate creditors, but such is the rule. It is true, Williams stated that the property had been kept separate, but it was separate so far only as that there was nothing to mix with it—there was no other property. Orders were given to the house in the character of partners, and goods supplied from the stock, and this seems to me to make a joint property.

Saturday, July 26.

(Before Mr. Commissioner Fonblanque.)

Re Hyde, an Insolvent.

A society formed for the purpose of opposing fraudulent bankrupts and insolvents is not entitled to be heard against an insolvent in this court.

Insolvent came up this day for his final order. The interim order was granted by Mr. Commissioner Goulburn, who was now absent from town. A Mr. Buchanan, the solicitor for a society calling itself the Society for opposing Fraudulent Bankrupts and Insolvents, was about to oppose, when

Sturgeon, for the insolvent, objected to his being heard without having a specific retainer from some creditor to oppose. He held in his hand a printed prospectus of the society, copies of which had been sent to no less than nine of the creditors of the insolvent, with a letter from the secretary, inviting them to oppose the insolvent, and offering each to save them harmless from further costs of opposition if they would inclose a post-office order for one pound. None of these creditors were members of the society. The solicitor for the society contended it was not usual to call for the retainer, and that when the case was heard before Mr. Commissioner Goulburn on the meeting for the interim order, that learned Commissioner had decided in favour of the society being heard.

His Honour said, I am very sorry to differ from Mr. Commissioner Goulburn, or any of my brother commissioners, and I am glad I am now speaking in the presence of another commissioner (Mr. Commis-

sioner Fane), but I will not permit opposition from any society; I feel very strongly upon the point, being convinced that such societies are oppressive towards the unfortunate. They have no conscience, and I will never listen to any of them. I generally find, when a creditor comes before me, he is not altogether devoid of a feeling of compassion for the debtor, and is guided in his opposition by the circumstances of the case.

The insolvent was afterwards opposed by the same solicitor for a creditor, when his Honour said there was not the slightest ground for the opposition.

Final order granted.

Wednesday, July 30.

Re Eagle, an Insolvent.

Where a final order for protection has been granted to an insolvent upon condition of his paying certain sums at stated periods, and he has omitted to do so, his petition for protection is dismissed of itself without the intervention of the Court.

Insolvent had obtained a final order for protection, conditional upon his paying into court a sum of money quarterly for a given period for the benefit of his creditors. Two quarters had elapsed, and the insolvent had not made any payment into court. An application was now made to the commissioner (due notice having been given to the insolvent) to dismiss the insolvent's petition on the before-mentioned grounds. On behalf of the insolvent, it was stated that he was very poor, and, as an excuse for his non-performance of the condition of the order, it was proposed to put in an account of his receipts and disbursements since the order was made, to shew his inability to comply with the terms of the order. It was also proposed by the insolvent to make up the instalments now due by periodical payments.

His Honour said—The order of the Court has not been complied with, and it would be trifling with the Court to listen to such a proposal. The Court has nothing to do with any proposals—they are matters for the consideration of the creditors; and as the order was conditional, and has not been complied with, the petition is dismissed of itself, without the further interference of the Court. Any of the creditors can proceed against the insolvent as if no order had been made. If such order should be pleaded by the insolvent, it would be a sufficient answer that the condition had not been complied with.

Circuit Reports.

NORTHERN CIRCUIT.

DURHAM SUMMER ASSIZES, 1845.

Durham, Saturday, July 26.

(Before Mr. Baron Rolfe.)

Reg. *v.* James Brice and Another.

Previous conviction.

The prisoners were jointly indicted for robbery on the 1st day of July, 1845, and the indictment at the end contained the following charge:—"And the jurors aforesaid, upon their oath aforesaid, do further present, that at the general quarter sessions of the peace of our sovereign lady the Queen, holden, &c. on Monday, the 14th day of October, 1844, the said James Brice was then and there convicted of felony." Both prisoners were convicted of the robbery.

Liddel was about to prove the former conviction against Brice, when

Mr. Baron Rolfe interrupted, and said, as the date in which the robbery was laid was quite immaterial, the indictment did not shew with sufficient certainty that the felony of which he had been previously convicted was committed before the robbery, and would not allow the proof to be gone into of that charge.

Burn, attorney for the prosecution.

WESTERN CIRCUIT.

Cornwall, Tuesday, July 29.

(Before Mr. Justice Erle.)

Reg. *v.* Pomeroy.

A statement made by a prisoner which he refused to sign, but which received the magistrate's signature, as proved by a party present, may be given in evidence without calling the magistrate's clerk, and this, although such statement was so made by the prisoner in reference to another charge than that for the support of which the statement is sought to be given in evidence.

The prisoner was indicted for receiving goods, he knowing them to be stolen. There was a second indictment against him, for breaking and entering a church, and stealing certain articles therefrom.

When examined before the magistrate upon this second charge, he made a confession with regard to the first charge. This was taken down by the magistrate's clerk in the usual manner, was read over to the prisoner, and then received the magistrate's signature. But the prisoner refused to sign it. The magistrate's clerk was not in court, to prove these facts, which were sworn to by the constable who had been present at the examination. The confession was proposed to be given in evidence.

Edwards, on the part of the prisoner, objected, contending that the stat. 7 Geo. 4, c. 64, which made these confessions evidence, on the authority of the magistrate's signature, only applied when the confession was made upon an examination having reference to the charge for the support of which the confession was sought to be given in evidence. He cited *R.* v. *Vaughan* (5 Str. Tr. 25), and other cases collected in Arch. Prac. p. 122, 9th ed.

Erle, J. overruled the objection, deciding that it mattered not for what purpose the confession was made, if it were made before a magistrate, taken down in the regular manner, and received the magistrate's signature, it thereby became valid evidence, and could be used against the prisoner, by having the magistrate's signature, upon the trial of any other charge than that upon the examination in reference to which the confession was made.

Hughes, for the prosecution.

Edwards, for the prisoner.

THE LEGISLATOR.

Summary.

The Small Debts Bill, with the Local Courts Bill of the Solicitor-General tacked to it, has passed the Commons, but there is a rumour that the Lords will not consent thus to have an entirely new subject-matter introduced and made law without being subjected to the regular forms that insure discussion and examination. Should this be so, a measure much required, and otherwise of great utility, will be destroyed by this most unwise attempt to pass a Local Courts Bill by a side-wind.

Imperial Parliament.

PUBLIC BUSINESS TRANSACTED.

ROYAL ASSENT.

Mr. Speaker reported the Royal Assent to the following Bills:—Excise Duties on Spirits, Channel Islands—Unclaimed Stock and Dividends—Church Building Acts Amendment—Militia Ballots Suspension—Jewish Disabilities Removal—Libel—Bail in Error—Art Unions, No. 2—Geological Survey—Loan Societies—Foreign Lotteries—Highway Rates—Highways—Shrewsbury and Holyhead Road—Rothwell Prison—Turnpike Acts Continuance—Turnpike Trusts, South Wales—Drainage of Estates—Colleges, Ireland—Ecclesiastical Patronage, Ireland—Unlawful Oaths, Ireland—Jurors' Books, Ireland—Unions, Ireland—Spirits, Ireland—Drainage of Lands, Ireland—Wear Valley Railway—Aberdeen Railway—Norwich and Brandon Railway Deviation, Diss and Dereham Branches—Bristol and Exeter Railway—West London Railway—Dundee and Perth Railway—Edinburgh and Northern Railway—Taff Vale Railway—Clydesdale Junction Railway—Scottish Central Railway—Caledonian Railway—Newcastle and Berwick Railway—Edinburgh and Hawick Railway—London and South Western Railway, No. 1, Metropolitan Extension—Liverpool and Bury Railway, Bolton, Wigan, and Liverpool Railway and Bury Extension—South Eastern Railway, Tunbridge to Tunbridge Wells—Gravesend and Rochester Railway—Newport and Ponty Pool Railway—Dundee and Perth Railway—Manchester and Leeds Railway—Wakefield, Pontefract, and Goole Railway—Falmouth Harbour Improvement—Cromford Canal—Sheffield Waterworks—St. Helen's Improvement—Bermondsey Improvement, No. 2—Westminster Improvement, No 2—Lady's Island and Tacumshin Embankment—St Matthew, Bethnal Green, Rectory—Morden College Estate—Hawkins's Estate—Ellerker's Estate—Lord Monson's Estate—Gildart's (or Sherwen's) Estate—Heaviside's Divorce.

BILLS READ A FIRST TIME.

Friday, July 25.

Sewerage, Drainage &c of Towns—for the Improvement of the sewerage and drainage of towns and populous districts, and for making provision for an ample supply of water, and for otherwise promoting the health and convenience of the inhabitants

Monday, July 28.

Costs, Private Bills

Waste Lands, Australia.

Wednesday, July 30.

Silk Weavers.

Thursday, July 30.

Exchequer Bills, 9,024,000*l*.

Consolidated Fund.

BILLS READ A SECOND TIME.

Monday, July 28.

Apprehension of Offenders.

Tuesday, July 29.

Fees, Criminal Proceedings.

BILLS READ A THIRD TIME AND PASSED.

Friday, July 25.

County Rates.

Monday, July 28.

Real Property, No. 3

Libel

Church Buildings Acts Amendment

Granting of Leases

Documentary Evidence.

Tuesday, July 29.

Court of Chancery

Stock in Trade

Removal of Paupers

Small Debts, No. 3

Customs Laws Repeal

Customs Management

Customs Duties

Warehousing of Goods

British Vessels

Shipping and Navigation

Trade of British Possessions Abroad

Customs Bounties and Allowances

Isle of Man Trade

Smuggling Prevention

Customs Regulation.

Wednesday, July 30.

Apprehension of Offenders

Municipal Districts

Games and Wagers.

Thursday, July 31.

Valuation, Ireland

Turnpike Roads, Ireland.

PRIVATE BUSINESS TRANSACTED.

BILLS READ A FIRST TIME.

Friday, July 25.

Severne's Estate.

Tuesday, July 29.

Leeds and Bradford Railway (Shipley to Colne) Mistake Rectifying Bill.

BILLS READ A SECOND TIME.

Friday, July 25.

Sampson's Estate

Duke of Bridgwater's Estate

Dick's Estate

Marquis of Donegal's Estate

Winchester College Estate

Bowes's Estate

Marsh's or Coxhead's Estate.

Wednesday, July 30.

Severne's Estate

Lutwidge's (or Fletcher's) Estate

Leeds and Bradford Railway (Shipley to Colne) Mistake Rectifying Bill.

BILLS READ A THIRD TIME AND PASSED.

Friday, July 25.

Ellerker's Estate.

Wednesday, July 30.

Ellison's Estate.

Thursday, July 31.

White's Charity Estate

Rochdale Vicarage (or Molesworth) Estate.

SESSIONAL PRINTED PAPERS.

Par. Num.

553. Bill—Games and Wagers, amended
566. — Small Debts (No 3) (amended by committee on recommitment, and on report)
567. — Apprehension of Offenders
568. — Municipal Districts, &c., Ireland (amended)
569. — Real Property (No. 1) amended)
554. — Service of Heirs, Scotland
555. — Crown Charters, &c., Scotland
572. — Church Building Act Amendment (amended by committe, on re-commitment, and on report)
573. — Granting of Leases (amended)
575. — Fees, Criminal Proceedings
130. — Valuation, Ireland—Clauses to be proposed
571. — Sewerage, Drainage, &c. of Towns
580. — Valuation, Ireland—Amended by Committee, on Re-commitment, and on second Re-commitment
562. — Costs, Private Bills
581. — Waste Lands, Australia
578. — Tenants, Ireland
426. West Indies and British Guiana—Census of the Population

Occulation of Land in Ireland—Evidence, Part 3

541. Archbishopricks and Bishopricks—Return
515. Church of Scotland, Augmentation of Stipends—Return
546. London Corporation—Annual Accounts
543. Railways, Reports of Committees at variance with Reports of Board of Trade—Return
558. Foreign Vessels—Account
561. Court of Justiciary, Inverary—Returns
561. Education, Ireland—Annual Report of Commissioners

Criminal Law—Eighth Report of Commissioners

Eliza Price—Report of Commissioner, &c. &c.

487. Smuggling—Return,
570. Standing Orders Revision—Report from Committee
331. County Treasurers—Abstracts of Accounts
361. Tithes Commutation—Return
407. Poor Law, Ireland—Returns
576. Westminster Abbey, St. Paul's, &c.—Return
581. Naval Medical Supplemental Fund—Report from Select Committee
583. Commercial Marine—Report from Select Committee

Convict Discipline—Copies of Correspondence

519. Public Income and Expenditure—Account
544. Sheriffs, Scotland—Return

Syria—Correspondence, Part 1 and 2

Bills in Progress.

ADMINISTRATION OF JUSTICE IN CHANCERY.

"A Bill for amending certain Acts of the 4 & 5 Vict. for facilitating the administration of justice in the Court of Chancery; and for providing for the discharge of the duties of the *subpœna* office after the death, resignation, or removal of the present patentee of that office."

Whereas an Act was passed in the 3 & 4 Vict. c. 94, intituled "An Act for facilitating the Administration of Justice in the Court of Chancery," whereby power was given to the Lord Chancellor, with the advice and consent of the Master of the Rolls and the Vice-Chancellor, or one of them, to make, from time to time, and at any time within five years from the passing of the said Act, any rules, orders, and regulations for the purposes in the said Act mentioned; and it was thereby enacted that all such rules, orders, and regulations should be laid before both Houses of

Parliament, if Parliament should be then sitting, immediately upon the making or issuing of the same, or if Parliament should not then be sitting, then within five days after the next meeting thereof: and another Act was passed in the 4 & 5 Vict. c. 52, whereby it was enacted that every such rule, order, or regulation made in pursuance of the said recited Act should, from and after the time in that behalf to be appointed by the Lord Chancellor, with such advice and consent as aforesaid, and if no time should be so appointed, then from and after the making thereof, be binding and obligatory on the said court, and be of like force and effect as if the provisions therein contained had been expressly enacted by Parliament; and it was thereby provided, that if either of the Houses of Parliament should, by any resolution passed at any time before such House of Parliament should have actually sat thirty-six days after such rules, orders, and regulations should have been laid before such House of Parliament, resolve that the whole or any part of such rules, orders, or regulations ought not to continue in force, in such case the whole, or such part thereof as should be so included in such resolution, should, from and after such resolution, cease to be binding and obligatory on the said court; and it was thereby also provided that no such rule, order, or regulation as aforesaid should by virtue of the said Act be of the like force and effect as if the provisions therein contained had been expressly made by Parliament, unless the same should be expressed to be made in pursuance of the said Act and of the now-reciting Act; and that every such rule, order, or regulation so expressed to be made in pursuance of the said Act, and of the now-reciting Act, which should not be laid before both Houses of Parliament within the time by the said recited Act limited for that purpose, should from and after the expiration of such time be absolutely void and of no effect: And that an Act was passed in the 5 Vict. c. 5, intituled "An Act to make further Provisions for the Administration of Justice," under the authority of which two additional Vice-Chancellors have been appointed; and it is thereby enacted, that from and after the appointment of the Vice-Chancellors, under the said now-reciting Act, it shall be lawful for the Lord Chancellor, with the advice or consent of the Master of the Rolls and Vice-Chancellors for the time being, or any two of them, and he was thereby authorized and empowered to do all such acts, and to make and issue all such rules and orders, as by any Act or Acts of Parliament then in force, the Lord Chancellor, with the advice or consent of the Master of the Rolls and the Vice-Chancellor for the time being, or one of them, was empowered to do, make, or issue: And that rules, orders, or regulations have from time to time been made in pursuance of the said two first-recited Acts, but it is expedient to extend the time limited by the said first-recited Act for the making thereof in manner hereinafter mentioned.

1. That the term of five years, which under and by virtue of the said first-recited Act now stands limited as the time within which any rules, orders, or regulations thereby or by the said two other Acts authorized and required to be made, must be so made, shall be and the same is hereby extended to ten years from the passing of the said first-recited Act, as if such term of ten years had been originally contained in that Act.

2. That all rules, orders, and regulations to be hereafter made under the provisions of the said first-recited Act shall for all purposes be deemed and taken to be general rules and orders of the High Court of Chancery.

3. And whereas by another Act passed in the 3 & 4 W. 4, c. 94, intituled "An Act for the Regulation of the Proceedings and Practice of certain Offices of the High Court of Chancery in England," it was enacted, that from and after the death, resignation, or removal from his office of the present patentee of the subpœna office, all the duties of such office should be performed by the clerk of the affidavits, who should thereupon receive and account for, in manner thereinafter mentioned, all the fees then receivable by the said patentee: And whereas since the passing of the last-mentioned Act four clerks of records and writs have been appointed, by whom the business of issuing writs of injunction and writs of dedimus potestatem is now discharged: And whereas it is expedient that the duties of the patentee of the subpœna office should be performed and the fees of that office should be received by the said clerks of records and writs: Be it therefore enacted, that so much of the said Act of the 3 & 4 Wm. 4, c. 94, as provides for the execution of the duties and for the receipt of the fees of the subpœna office by the clerk of the affidavits shall be and the same is hereby repealed; and that after the death, resignation, or removal from his office of the present patentee of the subpœna office, the said clerks of records and writs, or any one of them, shall, in place and instead of the said clerk of the affidavits, perform all the duties of the subpœna office, and shall receive all the fees now receivable by the said patentee of that office, and shall pay the same into the Bank of England, to be placed to the account there standing in the name of the Accountant-General of the High Court of Chancery, intituled "The Suitors' Fee Fund Account," at such times and under such regulations as the Lord Chancellor, with the advice and consent of the Master of the Rolls and Vice-Chancellors for the time being, or any two of them, shall by any order direct: Provided always, that it shall be lawful for the Lord Chancellor, with such advice and consent as aforesaid, by any rule or order to be made under the provisions of the said two first-recited Acts, to fix such earlier time for transferring the execution of the duties and the receipt of the fees of the subpœna office to the clerks of records and writs as he shall think fit.

4. That this Act may be amended or repealed in the present session of Parliament.

Costs of Private Bills.—A bill has been passed by the House of Lords, and brought down to the Lower House, entitled "An Act to enable the Houses of Parliament to order Recognizances for Costs in Local and Personal Bills." It simply enacts that, for the better securing landowners and others against oppression and expense, it shall be lawful for either House of Parliament to make an order for the requiring of recognizance to any amount to be acknowledged by the promoters or petitioners for local and personal Acts to the Crown, conditioned for paying the costs and expenses of any parties whose costs and expenses such House may order to be paid, as being incurred in opposition to the passing of such Acts in such Houses respectively.

HOUSE OF LORDS.

CRIMINAL LAW REPORT.

Friday, July 25.—The Lord Chancellor laid upon the table the last report of the Commissioners on Criminal Law. (Hear, hear.) This report (the noble and learned lord observed) related to procedure, not an unimportant part of the subject; and with this report the commissioners concluded their labours. The commission had issued when he (the Lord Chancellor) was not in office, and the gentlemen had been selected by his noble and learned friend (Lord Brougham), who then held the great seal, and he (the Lord Chancellor) had had no concern in the appointment of the commissioners. Nevertheless, it was his duty, in the situation he held, to bear his testimony to the admirable manner in which the duty had been discharged which was intrusted to the commissioners. It was impossible to read their reports without feeling strongly the industry, the intelligence, the accuracy, and the acuteness which they had applied to this complicated subject, and admiring the comprehensive and masterly manner in which they had treated every part of it. If their lordships should be pleased to legislate on the subject of the criminal law in the next session of Parliament, or upon any future occasion, it would be quite unnecessary to apply to any other source for information upon the subject, for they had ample and abundant materials for legislation in these admirable volumes of reports. He had felt it to be his duty to bear his testimony to the manner in which these reports had been executed by those gentlemen, and to express his gratitude, as well as that of the public, for the excellent service they had rendered to the country, and for the industry and talents displayed by them. (Hear.)—Lord Brougham agreed in the observations which had been so eloquently and impressively expressed by his noble and learned friend, and which rendered it unnecessary to add his humble meed of approbation. It was true that the commission had been appointed at the time when he held the great seal; but his noble and learned friend had added one or two distinguished names, Sir Edward Ryan, late Chief Justice of Bengal, and Mr. Vaughan Richards. It was not possible to estimate too highly the merits of the other commissioners—Mr. Starkie, Mr. Bellenden Kerr, and Mr. Amos, who had returned from India. The services of Mr. Starkie, one of the most learned criminal lawyers this country had ever produced, had been given to the commission unremittedly, most liberally, and with the utmost possible benefit to the object in view. We had now a whole criminal code, and compiled in a manner so satisfactory, that little more remained for their lordships to do, in order to give the people of this country a digest of criminal law which would be invaluable to the public, and especially to judges, than to reduce these admirable documents (he meant the reports) into the form of a statute. He could not conclude these few observations without remarking, that although the commissioners were now *functi officio*, he must implore her Majesty's government, and his noble and learned friend in particular, whose department it was, not to omit an opportunity of securing the services of all or any of these commissioners, or any other commissioners, for the formation of a board for systematically and constantly revising the statutes from time to time passed by both Houses of Parliament, including the private Acts, which required more revising and looking into dark corners, and contained more extraordinary provisions, than any one to whom it had not occurred to search into their recesses could possibly imagine; for example, the other day, in a railway Bill, power was given to the company to make its own rate-books. And public Bills were prepared, part by one department and part by another; so that it was often impossible for the unfortunate judges to reconcile and interpret them. Nothing could more facilitate that labour than the board he proposed—not for the first time; or rather, he threw out the suggestion for the consideration of the Government during the long vacation.—Lord Campbell concurred with his noble and learned friends in their appreciation of the labours of the commissioners, and hoped that their reports would not be allowed to be covered with dust. There was no country on the continent of Europe which had not had its criminal laws reduced to writing and published, for the information of those who had to administer, as well as those who had only to obey them. There was nothing in our laws which prevented the same course being adopted here.—The Lord Chancellor said that, although the commissioners had concluded their labours with reference to the special duties assigned to them, they had other duties to perform.—Lord Brougham said, he had done his best to prevent the reports being covered with dust; he had brought forward a bill founded upon them, and if the government did not next session bring forward a bill to carry the reports of the commissioners into effect, he would; he only doubted whether the measure should be contained in one digest, or in two, like the French *Code Criminel* and the *Procedure Criminelle.*

WRITING THE LIVES OF PEERS.

Monday, July 28.—Lord Campbell said that he should take the opportunity of calling the attention of the House to a subject of one of the standing orders, and with respect to which he had given notice. The standing order was to the effect, that any person presuming to publish the works, or life, or will, of any deceased lord of Parliament, without the consent of the heir or executor of such noble lord, should be deemed guilty of a breach of the privileges of that House. He should best discharge his duty on that occasion by referring to the history of the standing order. It took its origin in consequence of the proceedings of the well known Edmund Curll—the infamous, the dauntless, the shameless Edmund Curll. In 1720 died John Sheffield, Duke of Buckingham, a celebrated poet of that day, and Curll published an advertisement in a London paper, called the *Daily Journal*, in which he announced that he intended to publish a libellous life of the deceased nobleman. In consequence of this, the family of that nobleman interposed, and caused a complaint to be made to that House on the subject. He found this stated in the journals of the House of the date of the 22nd June, 1721-22, and that the advertisement was read, announcing that the life and works, in prose and verse, of John Sheffield, Duke of Buckingham, would be published on a certain day named by Edmund Curll, over against Catherine-street. This person was ordered to attend next day. The journals for the next day stated that the House being informed that Curll was in attendance, he was called in and examined as to the advertisement, and was ordered to withdraw. The House then came to this resolution:—That it is resolved by the lords spiritual and temporal in Parliament assembled, that any person presuming to publish the works, life, or will, of any deceased peer, without the consent of his heir or executors, was guilty of a breach of the privileges of that House. Curll was then reprimanded by the Lord Chancellor for allowing the advertisement to be printed, and also forbidden to publish the work. He could not find that the committee appointed on that occasion ever made any report to the House, though he had made diligent search on the subject. On the 31st of January following the matter was, however, again taken into consideration, and the resolution was duly passed as a standing order. That was the order now appearing on their lordships' books, and which had remained in force to this hour. He found that the order was not intended to remain as a dead letter, for an attempt had been made to enforce it in the year 1735. In that year the same Edmund Curll issued another advertisement, which was published in the daily journals, and which gave great alarm to the members of their lordships' House. On the 12th day of May, 1735, this advertisement was brought under the notice of the House. It was published in the *Daily Post Boy* of the 12th of May, and was to the effect that there had been just published Mr. Pope's literary correspondence for thirty years, namely, from 1704 to 1734, being a collection of letters written by him to the right honourable the Earl of Halifax, the right honourable the Earl of Burlington, and many others —printed by Edmund Curll, in Rose-street, and sold by all booksellers. It was ordered by the House that the gentleman usher of the black rod should go and seize all the copies of the book, and that the said Edmund Curll, together with John Halford, for whom the newspaper had been printed, do attend the bar of the House next day. The parties accordingly attended on the following day, and being examined, were ordered to withdraw. The gentleman usher of the black rod then reported to the House what he had done under their lordships' order.

He stated that he had ordered all the copies of the book found at Mr. Curll's house to be seized, and that he believed they might be 500 in number. A committee was appointed, to whom the copy of the book presented by the gentleman usher of the black rod was referred; and Edmund Curll was ordered to attend the committee. The Earl Delawarr brought forward the report of the committee in the House, and it appeared from it that this was an illegal seizure, that no letters from any deceased peer were contained in the publication, and that the committee did not think it contrary to the standing order, and they therefore recommended that the books which had been seized should be restored to Edmund Curll. The report was read by the clerk attending the House, and agreed to, and the books were given back to the publisher. He was not aware that there had been any other seizure under this standing order, though there had been many lives of deceased peers and of deceased prelates, members of their lordships' House, published on various occasions, without the leave of the friends or representatives of the deceased parties. His noble and learned friend, who, he regretted to perceive, was not then present (Lord Brougham) had published lives, powerfully and ably written, of several deceased members of that House, more especially of Lord Chatham and Lord North, and he had no doubt without the consent of the heirs and representatives of those noblemen. He (Lord Campbell) had also employed many laborious hours, without, he hoped, incurring the censure of that House, in writing the lives of the predecessors of his noble and learned friend on the woolsack, both spiritual and temporal. —The LORD CHANCELLOR: Not down to the present time, I hope (a laugh).—Lord CAMPBELL said he hoped many years would pass before any one could have an opportunity of writing the life of the present Lord Chancellor as a deceased peer. (Hear, hear.) The standing order did not apply to the life of any except a deceased peer. In fact, it only followed the rule *de mortuis nil nisi bonum*. It must, if enforced, serve as an entire prohibition against writing the lives of some Chancellors. For instance, St. Swithin had been Lord Chancellor to King Ethelbert, and St. Thomas à Becket was also Lord Chancellor of England, and who the heirs or personal representatives of these deceased members of their lordships' house might be he had been unable to discover. Besides, he considered the standing order unnecessary, inasmuch as the law allowed an indictment to be laid for a libel reflecting on the memory of a deceased person, and a very remarkable action of that kind was tried in the early part of the reign of George II. He considered this standing order one having a strong tendency to bring into disrepute the necessary privileges of their lordships' house, and he therefore begged to move that it be rescinded.—The motion was agreed to.

THURSDAY, July 31.—Their lordships met at half-past four o'clock, when the Royal assent was given by commission to the following Bills:—The Spirit Duties (Guernsey and Jersey) Bill; the Stock and Unclaimed Dividends Bill; the Church Building Acts Bill; the Militia Enrolment Bill; an Act for the relief of persons of the Jewish religion elected to municipal offices; an Act to amend the law respecting defamatory words and libels; an Act to stay execution of judgment for misdemeanors upon giving bail in error; an Act to extend the indemnity of members of art unions against certain penalties; an Act to facilitate the completion of a geological survey of Great Britain and Ireland, under the direction of the First Commissioner for the time being of her Majesty's Woods and Works; the Loan Societies Bill; the Bill to amend an Act of the seventh year of King William IV. for preventing the advertising of foreign and other illegal lotteries, and to discontinue certain actions commenced under the provisions of the said Act; the Turnpike Roads Bill; the Highways (England) Bill, the Shrewsbury and Holyhead Road Bill, the Rothwell Gaol Bill, the Turnpike Acts Bill, the Turnpike Trusts Consolidation (South Wales) Bill, the Drainage Bill, the Colleges (Ireland) Bill; an Act to enable archbishops and bishops in Ireland to charge their sees with the costs incurred by them in defence of their rights of patronage in certain cases, and also to enable tenants for life and other persons having limited interests in estates in Ireland to charge said estates with the costs incurred by them in asserting their rights to ecclesiastical patronage in certain cases; the Unlawful Oaths (Ireland) Bill; an Act for making further regulations for more effectually securing the correctness of the jurors' books in Ireland; the Union and Division of Parishes (Ireland) Bill; an Act to Amend certain Regulations respecting the Retail of Spirits in Ireland; the Drainage (Ireland) Bill; the Wear Valley Railway Bill; the Aberdeen Railway Bill; the Norwich, Brandon, and East Dereham Railway Bill; the Bristol and Exeter Extension Railway Bill, enabling the company to make several branches connected with the existing line; an Act enabling the London and Birmingham Railway to take a lease of the West London Railway, and extend the same to the River Thames; the South-Western Extension Railway Bill; the Dundee and Perth Railway Bill; the Edinburgh and Northern Railway Bill; the Aberdare Railway Bill; the Clydesdale Junction Railway Bill; the Scottish Central Railway Bill; the Caledonian Railway Bill; the Newcastle and Berwick Railway Bill; the Hawick and Roxburgh Railway Bill; the Liverpool, Wigram, Bolton, and Bury Railway Bill; the South-Eastern Railway Bill (branch to Tunbridge Wells); the Thames and Medway Canal Company, in conjunction with the Gravesend and Rochester Company's Bill; the Newport and Pontypool Railway Bill; the Perth and Forfar Railway Bill; the Manchester and Leeds Railway Extension Bill; the Manchester, Leeds, Wakefield, Pontefract, and Goole Railway Bill; the Falmouth Harbour Bill; the Cromford Canal Bill; the Sheffield Waterworks Bill; the St. Helen's Improvement of Town Bill; the Bermondsey Improvement Bill; the Westminster Improvement Bill, the title of which is, "An Act for improving Parts of the City of Westminster;" the Tacumshin (in the county of Wexford) Lake Bill; an Act for extinguishing small tithes and Easter offerings within the parish of St. Matthew, Bethnal-green, in the county of Middlesex, and for providing a fund for the payment of the stipend of the rector of the said parish; the Morden College Bill; the Hawkins Estate Bill; the Mainwaring Estate Bill; the Lord Monson's Estate Bill; the Gildart Estate Bill; and an Act to dissolve the marriage of Richard Heaviside, esq. with Mary his now wife, and to enable him to marry again, and for other purposes.—The Lords Commissioners were the Lord Chancellor, Lord Wharncliffe, and the Duke of Buccleuch.

HOUSE OF COMMONS.

JUDICIAL POWERS OF MAGISTRATES.

MONDAY, July 28.—In answer to a question from Mr. Hendley, Sir J. GRAHAM said that although cases might occur in which magistrates might act singly in a judicial capacity, yet it would be a sound discretion to make such cases rather the exception than the rule; and where a penalty was to be levied, he thought it would be well to do so in the presence of other magistrates and the clerk, where it was possible. When cases occurred in which a delay would defeat the ends of justice, then it would often be necessary for a magistrate to act singly.—Mr. HENLEY wished to be informed whether or not it was the intention of the right honourable baronet to bring in a measure next session relative to those cases where a magistrate was called on to act singly in a judicial capacity.—Sir J. GRAHAM was not prepared to introduce any such measure.—In answer to Mr. HUME, Sir J. GRAHAM said he had no intention of introducing a measure to relieve the county magistrates from those duties. On the whole, he thought that they were most useful to the country from the manner in which they discharged their duties.

THE MAGISTRATE.

Summary.

AN occurrence at Exeter has been severely, but not more severely than justly, commented upon by the daily papers. Our readers are aware of the trial that there took place, of ten men for murder and piracy, of whom seven were convicted, and sentenced to be hung. Mr. Serjeant MANNING, by whom they were defended, raised some questions of law, arising out of the construction of treaties and other points of extreme doubt and difficulty, upon which, not the lawyers only, but nations, are at issue. The learned judge (PLATT, B.) who presided refused to reserve these points for the consideration of the fifteen judges, but took upon himself summarily to decide them, although himself the junior member of the Bench, and necessarily wanting in the advantage of long experience; and although no less than seven lives depended upon his right construction of a doubtful point of law, that would perplex and divide the most sage and learned lawyers in Europe. We must join the *Chronicle* in emphatically protesting against the course adopted by the learned Baron; and we call upon Sir JAMES GRAHAM to respite the execution until the points raised have been formally considered and decided by the ultimate tribunal for appeal on reasonable doubts upon points of law raised at the trials of criminals. Nobody will say that the points raised by the counsel for these prisoners do not admit of reasonable, nay, of very great, doubt; and justice and humanity demand that they should have the advantage which in such case the law gives them—a formal decision of the assembled judges of England. We protest against the plan of hanging first and trying afterwards.

THE STAFFORDSHIRE MAGISTRATES—CASE OF ELIZA PRICE.

THE report of Mr. F. Newman Rogers, the commissioner appointed to inquire into certain allegations contained in the petition of Eliza Price of ill-treatment towards her on the part of two constables of the county of Stafford, and into the manner in which the magisterial business of the Kingswinford district, in Staffordshire, has been conducted, has been presented to both Houses of Parliament by command of her Majesty. The report fully bears out the statements already before the public as to the improper conduct of magisterial business in that district, and is accompanied by a letter from Sir James Graham to the Earl of Talbot, the lord-lieutenant of the county, of which the following is a copy:—

"Whitehall, 30th June, 1845.

My Lord,—I think it necessary to bring under your lordship's notice several matters affecting the administration of justice in the county of Stafford, which have come to my knowledge in consequence of the inquiry recently instituted by me into the complaint of Eliza Price. I have the honour to inclose a copy of Mr. Newman Rogers's report upon this subject, to which I beg to direct your immediate and particular attention.

"It appears that, in the Seisdon division of the county, two petty sessions are periodically held for the same district within a short distance of each other; the one at Wordsley, and the other at the Cross Inn, Kingswinford. This concurrent jurisdiction of two benches of magistrates within the same division has led to conflicting judgments, collision, and disputes between the magistrates concerning their clerks' fees. It is obviously important at once to put a stop to such proceedings; and I beg, therefore, to impress upon your lordship how essential it is that immediate steps should be taken to separate, into two distinct divisions, the populous district which is now made a subject of contention between two benches of magistrates. Until this can be legally effected, I would suggest to your lordship that the magistrates should be enjoined to act, by agreement, within certain parishes, or to adopt by anticipation the division, which I learn is about to be proposed by a committee of magistrates.

"I regret to find that it has long been a practice in the county to detain prisoners during the night *chained* at the stations, and even at public houses and beer-shops. It would appear, moreover, that, in subjecting persons taken into custody to this mode of detention, no reference has been made either to the nature of the offences with which they were charged, or to their condition, or the probability of their attempting to escape. I am informed that this practice, though it has been recently abandoned by the constables of the police force, is still resorted to by other constables; and I would particularly recommend that, through your lordship's suggestions to the magistrates in quarter sessions, such directions may be given to the parish constables as will at once put an end to this practice, which I consider indefensible.

"It is, at the same time, represented to me that there is a great want of proper places of temporary confinement, and there is good reason to believe that such irregular proceedings may, in many cases, have arisen from the neglect to provide convenient lock-up houses; I beg, therefore, to call your lordship's attention, and, through your lordship, the attention of the county magistrates, to the 12th section of the 3rd and 4th of Victoria, c. 88, which empowers the magistrates to erect suitable buildings for this purpose.

"Two other irregularities appear in the course of the inquiry, which do not seem to be confined to the particular case out of which it arose. I allude to the performance of judicial duties (not mere ministerial acts) by magistrates in their private dwellings—a practice which I consider open to serious objections, and which I am happy to learn has for some time been decreasing among county magistrates. The grant of *warrants* also in trivial cases, where the attendance of the parties against whom a complaint is made might be secured by summons, is a course which may unnecessarily entail upon innocent persons the degradation of criminal custody, and frequently a useless loss of their time. I am afraid that the result of this examination proves the existence of dissensions among the magistrates acting in this district of the county of Stafford, which are at variance with the public interest, and inconsistent with the due administration of justice.

"In reference to the particular case complained of, I have learned with much surprise that Mr. Briscoe, whose conduct the petition of Eliza Price brought specially under the notice of Parliament, has been in the habit of executing blank warrants of commitment, and of sending them a distance of seven miles to his clerk, by a constable, with instructions which it is not clear were always in writing, to fill them up. I am sure it is unnecessary to call your lordship's attention to the serious abuses which such an irregular proceeding might produce, or to the injurious effect which so great an informality must have upon the administration of justice.

"There is one other point to which it is necessary

I should advert; I am of opinion, that part of the irregularity which this case has disclosed, would not have arisen, had the clerks to the magistrates acting at the Cross Inn Petty Sessions been fully qualified persons, and I trust that your lordship will deem it right to impress upon the magistrates how necessary it is that they should be assisted in the important business which belongs to the Petty Sessions by clerks who possess every qualification necessary to fit them for the discharge of such duties.

"After full inquiry and consideration, I regret that I cannot avoid expressing my disapproval of Mr. Briscoe's conduct. I do not attribute to him the improper treatment of Eliza Price, while in the custody of the constable. But I have already expressed to him my opinion that it was a harsh proceeding to issue a warrant for her apprehension on a charge of common assault, instead of a summons to appear at the petty sessions. His proceedings, moreover, as a magistrate, are shewn to have been marked by great irregularity. And I request that your lordship will impress strongly upon him the necessity of exercising great caution in his future magisterial duties, of strictly adhering to those legal forms of proceeding which are important to the proper administration of justice, and of preventing, by a more vigilant superintendence of those who may act under his orders, any unnecessary harshness in the execution of the law.

"I have the honour to be, my lord,
"Your lordship's very faithful servant,
"J. G. Graham.

'Earl Talbot, lord-lieutenant of the county of Stafford, &c. &c."

Fees (Criminal Proceedings) Bill.—The Bill of Mr. Escott having been thrown over, in accordance with the request of the Home Secretary, that functionary has, in fulfilment of his promise to that effect, introduced a new Bill "for the abolition of certain fees in criminal cases." It simply goes to enact that the provisions of the Act of the 55 Geo. 3, cap. 50, respecting the discharge of certain prisoners without payment of any fee, do and shall extend to all persons who are now, or who hereafter shall be, charged with or indicted for any felony, or as an accessory thereto, or with or for any misdemeanour, before any court of criminal jurisdiction in England, against whom no bill of indictment shall be found by the grand jury, or who, on their trial shall be acquitted or discharged by proclamation for want of prosecution; and that it is not and shall not be lawful to demand or take from any persons any fee for their appearance to the indictment or information, or for allowing them to plead thereto, or for recording their appearance or plea, or for discharging any recognizances taken for any such persons, or any surety or sureties for them. The second clause enacts, that whereas by the recited Act it was provided that the clerks of the peace or clerks of the court should receive the amount of the fees theretofore payable to them respectively, which were abolished by the said Act, out of the rates of the county, district, hundred, riding, or division, or out of the public stock of the city, town, cinque-port, or liberty of which they were severally the officers, no such payment shall be made out of any such rate or stock in satisfaction of any of the fees abolished by the said Act, to any clerk of assize or clerk of the peace appointed after the passing of this Act, or to any of their deputies.

...nty Treasurers.—The abstracts of the accounts of the several county treasurers of England and Wales, which have just appeared in print, shew that the gross total amount of their receipts was, in 1843, 1,232,518*l.*, and in 1844, 1,193,068*l.* Their gross total disbursements amounted, in 1843, to 1,111,255*l.*; and in 1844, to 1,071,062*l.* Of their receipts, in 1844, 126,808*l.* accrued from balances in hand; 699,327*l.* from county rates; 163,265*l.* from police rates; 103,035*l.* from treasury allowances; and 100,631*l.* from miscellaneous sources.

THE LAWYER.

Summary.

We have been subjected to more difficulties and delays in the completion of the judgments in consequence of the reporters being scattered all over the country at their various circuits; and we are not yet sure that some have not been lost in following them from town to town. This, however, is an inevitable evil. The professional questions now before the public are treated of elsewhere. Probably they will serve to amuse during the long vacation.

REVIEW OF THE CASES DECIDED IN ALL THE COURTS OF COMMON LAW,

During Easter Term and Vacation, and Trinity Term and Vacation, 1845.

In the same manner as last year, we now present a review of the decisions in general law which have been given by the Courts of Common Law during the last two Terms. Notwithstanding they have sat long and worked hard, there are not many of very great importance. The constitutional question at issue in *Howard* v. *Gossett* is that which has attracted most attention; and it may be considered as the decision of the year. There are many points of practice and technical questions also decided, but on the whole, the terms have, we think, been somewhat barren.

ABATEMENT.

The points of pleading which fall within the scope of these summaries being so few, it will, perhaps, be better to notice them under separate heads than under the general term. We therefore mention here, that the argument of Mr. Peacock convinced the Court of Exchequer that the form of conclusion to a plea of abatement for nonjoinder given in Mr. Serjt. Stephen's most valuable book is correct, for that it ought to pray judgment of the *writ* as well as of the declaration. (*Davis* v. *Thompson*, 5 Law T. 130.) The affidavit need not state the residence of the party omitted at the time of the commencement of the suit, but only at the time of plea pleaded in pursuance of 3 & 4 Wm. 4, c. 42, s. 8. (*Bannister* v. *Bachelor*, 5 Law T. 73.)

ANNUITY.

No Acts of Parliament have caused more injustice by the opportunities given to technical objections than those as to the enrolment of annuities; and the extreme caution requisite in transactions of this kind is illustrated by the case of *Abbot* v. *Douglas* (5 Law T. 151). There the Court of Common Pleas decided that the statement in the memorial of the consideration, if *pecuniary*, must be as minute and precise under the 53 Geo. 3, c. 141, as under the old Act of 17 Geo. 3, and that therefore, where a draft upon a banker, payable on demand, formed part of the consideration, and was described as a "draft" only, it was an insufficient statement of the consideration, for which the judgment upon the warrant of attorney was set aside. *Poole* v. *Cabanes* (8 T. R. 328) and *Morris* v. *Wall* (1 Bos. & P. 208) were similar decisions upon the former statute. We may here mention the novel application which was made and granted in *Hall* v. *Lack* (5 Law T. 238) by the Court of Queen's Bench. Through inadvertence, a rule had been drawn up setting aside the annuity-deed as well as the judgment upon the warrant of attorney, upon objections which did not bring the case within the operation of the 6th section of the Act, under which alone the Court has power to set aside by order the deed of annuity. The application to amend the rule was, however, not made until the ensuing Term, and it was contended that there was no power to amend. The Court, however, considering the peculiar circumstances of the case, and that the grounds of objection were incorporated with the rule, and thus the error of the Court made manifest, allowed the amendment, upon payment of costs, with, however, an express warning that they would not allow this to be drawn into a precedent. They held also, that the rule to amend was in substance an application to the memory of the Court, and therefore it needed not to be drawn up upon reading the Master's report upon which the original rule had been granted. It should be observed that Mr. Justice Patteson corrected an omission in the report of *Ex parte Lewis* (2 A. & E. 135) by stating that the judgment proceeded also upon objections under the 6th section of the Act.

ARBITRATION.

Time for making awards.—To judge from the number of applications made each Term to upset awards, arbitrations seem not a very satisfactory mode of settling disputes, but objections have not been very successful during the last two Terms. *Andrewes* v. *Andrewes* (5 Law T. 202) decides that where a period for making the award is limited to a certain time "next after the reference," the day upon which the reference is made must be excluded; so that where the reference was upon the 1st of March, and the award was to be within a calendar month next after the reference, it was in time upon the 1st of April. *Re Higham* (9 D. P. C. 203), to say nothing of *Hardy* v. *Ryle* (9 B. & C. 603) and numerous other cases, would have seemed to us quite sufficient authority as to the mode of calculating the period for making an award. In the case first mentioned, an umpire was appointed to make an award two months "next after the matters were referred to him," and this time was enlarged for three months further. Patteson, J. held that the day of his appointment was clearly to be excluded. The general rule is, that in all periods to be calculated from an act done, the day of doing the act is excluded.

Awards not to be set aside for mistakes which are not apparent.—The extreme eagerness with which a decision, however closely it may approach the extreme verge of the law, is caught at to support some attempt to carry the boundary still further, is illustrated by the case of *Hagger* v. *Baker* (5 Law T.; 14 L. J. 227, Ex.). The Court of Common Pleas having in one instance held that they could interfere to correct gross negligence of arbitrators in subtracting one sum from another, instead of adding them together (*Re Hall* v. *Hinds*, 2 M. & Gr. 847), it was attempted in *Phillips* v. *Evans* (12 M. & W. 309; 13 L. J. 80, Ex.) to set aside an award where the arbitrator had admitted he had made a mistake in fact. This was refused, and the general rule upheld, that, for mistakes not apparent upon the award, no remedy is to be found. But in the principal case, *Re Hall* v. *Hinds* was again called in requisition to set aside an award, because the arbitrator (a barrister) had received as evidence what was clearly inadmissible, viz. the books kept by the plaintiff himself in the way of his business. The Court of Exchequer discharged the rule with costs; and although it was mentioned as a matter of fact, that the arbitrator was not shewn to have formed his judgment upon this inadmissible evidence, yet there is no ground for supposing that this would have made any difference in the decision of the case. The case of *Re Hall*, said Mr. Baron Parke, "has gone quite far enough."

Of a similar nature was the application in *Harlow* v. *Read* (5 Law T. 175), where it was held to be no objection to an award that the arbitrators stated they had considered the decision of the umpire, when in fact they had never consulted the person called the umpire at all, nor had he ever had any power, because the arbitrators had never differed.

Waiver.—As proceeding with the arbitration with knowledge that the time has expired, and has not been enlarged, is a waiver of the objection, so proceeding with knowledge that the witnesses on the other side have not been examined upon oath according to the terms of the reference, is a waiver of the objection to the jurisdiction, notwithstanding that at the time it was pressed upon the arbitrator that he had no power so to examine them. (*Allen* v. *Francis*, 5 Law T. 178.)

ATTORNEY AND SOLICITOR.

We omit here the cases that have arisen as to taxation under the new Act, because we propose to collect these separately, in continuation of our "Practical Notes upon Statutes," (see 3 Law T. 332); but there are some others of professional interest which we will now notice. The first is upon

The liability of attorneys upon personal undertakings.—The courts most properly exercise a summary jurisdiction over their officers, and on more than one occasion have interfered to enforce the fulfilment of several obligations which have been contracted by attorneys in the course of their professional employment, although no strict legal liability may have been incurred. Thus it is no answer to an application to compel an attorney to pay over money he has received, that the debt is barred by the Statute of Limitations. (*Ex parte Sharpe*, 5 D. P. C. 717.) And so the protection given by the statute 1 & 2 Vict. c. 110, to prevent ignorant persons being entrapped into signing warrants of attorney, is not extended to attorneys. And the recent case of *Re Hilliard* (5 Law T. 58, 59) confirms the previous decisions of *Re Greaves* (1 C. & J. 374, n.) and *Re Paterson* (1 D. P. C. 468), and establishes that an attorney will be compelled to perform any undertaking given by him in the course of his employment as such, notwithstanding it be insufficient to ground an action upon. In that case, an undertaking by the defendant's attorney to pay the debt and costs within a certain time was summarily enforced. It is satisfactory to have another decision upon this point, as it is of very great practical importance that attorneys, who are so often obliged, in the course of business, to trust to the promises and undertakings of their opponent attorney, should know that they

have the power to punish any who may endeavour to avoid the fulfilment of such promises upon any technical objection. The Courts will look to what justice and honesty require, and compel the performance of it. It must, however, be always remembered, that this jurisdiction is only exercised where the undertaking has been given in the capacity of an attorney. (See *Walker* v. *Arlett*, 1 D. P. C. 61.)

Right to withdraw from suit.—As an attorney has the peculiar privileges of his general lien to secure his costs, so he is bound to continue a cause once commenced to its termination, unless he can shew satisfactory reasons for discontinuing it, and give due notice of his intention to do so. (See *Nicholls* v. *Wilson*, 11 M. & W. 106.) It is important, therefore, to remark any decisions as to what is sufficient notice. *Smith* v. *Rocke* (5 Law T. 243) was one upon this point. There, an attorney, who had been retained to conduct the defence of an action brought against a party, obtained a verdict for his client. A rule for a new trial was subsequently obtained, but two assizes having passed without any further step being taken by the plaintiff to proceed to a second trial, the attorney sent in his bill of costs, which the defendant promised to pay. This was held to be a reasonable notice to his client of his intention to determine the contract between them, and to retire from the further conduct of the suit, and that the promise to pay the bill was a concurrence by the defendant to the termination of the relation of attorney and client which had subsisted between them, and consequently the attorney was entitled to recover in an action for the amount of his bill.

Is a sham attorney liable to be indicted?—This important question was mooted in *Reg.* v. *Buchanan* (5 Law T. 238). An indictment which had been preferred under the 6 & 7 Vict. c. 73, s. 2, against a Mr. Buchanan for practising as an attorney at Quarter Sessions, had been removed by *certiorari* to be quashed, but the Court refused to say that it was so palpably bad as to justify this proceeding; at the same time intimating no opinion as to its validity. The main argument relied on against it was, that being an indictment under the statute, there was nothing in the statute to warrant a criminal proceeding. The subsequent clause points out a specific remedy, and therefore it was said the rule that acting contrary to the statute is an indictable offence, did not apply. It was curious that no precedent of any indictment could be found; and it was argued that it was only an offence created by statute. We should be inclined to advise, in any future instance, that a count be added, charging the acting as an attorney as an obtaining money under false pretences. It might possibly also be a cheat at common law, as affecting, or tending to affect, public justice.

BANKRUPTCY.

Notice of act of bankruptcy.—It has not yet been decided whether a general notice to the creditor, that a party has committed an act of bankruptcy, is a sufficient notice to exclude the protection of the 2 & 3 Vict. c. 29. It was touched upon in *Ramsey* v. *Eaton* (10 M. & W. 22), but not decided, although Parke, B. intimated his opinion that no notice of a specific act of bankruptcy was necessary. So also did Lord Abinger, in *Hocking* v. *Acraman* (12 M. & W. 170), where the Court of Exchequer decided that notice of a docket being struck was not notice of an act of bankruptcy. Again it was discussed in *Conway* v. *Nall* (5 Law T. 127; 14 Law J. 165, C. P.); but again it was unnecessary to decide it. From the decision, however, that was given, and the observations of the judges, the inference seems to be that such a general notice would be insufficient. The plaintiffs had issued execution upon a judgment, and a seizure had taken place upon the 3rd of April, about one o'clock. Early in the morning, the same day, the following letter was received by the plaintiffs in the original action:—

GENTLEMEN,—To save you expense, I think it right to inform you that Mr. John Nall, of this place, grocer, has committed an act of bankruptcy. He signed a declaration of insolvency yesterday; my clients, Messrs. Robinson and Broadhurst, bankers here, are the principal creditors, and are in possession of all his property for the equal benefit of his creditors. Nall will be declared bankrupt immediately. I have sent for a fiat. I am afraid he is deeply in debt, and his estate will produce but a small dividend; he however states otherwise.

I am, Gentlemen, yours, &c.

To Messrs. Conway and Co. JOHN GILLETT.

The Court of Common Pleas held this to be only a notice of a declaration of insolvency having been signed, and that was only a notice that an act of bankruptcy was probably about to be committed for that, until it was filed and signed as required by the statute, the act was not complete. They thus adhered to the very letter of the statute, and Cresswell, J. remarked, that had the words been, "notice that he had become a bankrupt," a general notice might suffice; whence it seems to follow, and also from the modern strictness of construing Acts of Parliament, that there must be distinct notice of some act of bankruptcy committed. We do not think that *Rothwell* v. *Timbrell* (1 D.N.S. 778) militates against this view. There the creditor had notice of a distinct act done, which no doubt, like every other act, admitted of two constructions; but it was an act such as is ordinarily an act of bankruptcy; and assuming it to be proved to be such act, no more specific notice could well have been given. But a mere general threat that A B has committed an act of bankruptcy would open a wide door to fraud and collusion, in order to deprive a creditor of the fruits of his judgment, for proof of any of the numerous acts which render a man a bankrupt would support the allegation, and such a notice would be given upon every occasion upon the chance of subsequent inquiries ripping up some such act, and would indirectly revive many of the hardships of the old doctrine of relation. In every case, therefore, we would advise that the notice be as distinct as possible, and given to the parties themselves, or their attorney acting in the business; for notice to the sheriff would not avail. (See cases above cited.)

Effect of setting aside an execution upon warrant of attorney.—After the elaborate arguments in *Graham* v. *Witherby* and *Graham* v. *Lynes* (5 Law T. 263), and the time apparently given by the Court to the consideration of the question, the point decided in *Goldschmidt* v. *Hamlet* (1 D. & L. 501) may be looked upon as thoroughly established. The effect, then, of setting aside an execution upon a warrant of attorney is to transfer the property seized to any judgment creditors who may have delivered valid writs of execution into the sheriff's hands, and not to the assignees in exclusion of such creditors. This being so, assignees will be less willing to dispute such executions, and judgment creditors ought in no case to forbear delivering their writs, because the sheriff happens to be already in possession, under what is supposed to be more than sufficient to swallow up the proceeds.

CONTRACT.

There are several useful cases to be noticed under this heading. We shall notice, separately, under the head of "Fraudulent Representation," the principles which govern that class of actions, as decided by *Ormerod* v. *Hutt* (5 Law T. 2).

Executor of trustee.—An executor of a trustee is not liable to the *cestui que trust* in an action for money had and received by the testator, when the only proof is, that there was a surplus in the testator's hands after satisfying the purposes of the trust. There must be a distinct statement of the account, to divest the transaction of its fiduciary character and give a court of law jurisdiction. As long as he is a trustee, he is no debtor. Where the one relation begins, the other ends. (*Bartlett* v. *Dimond*, 5 Law T. 56.)

Master and servant—What will justify a dismissal.—The distinction between moral and legal duties is often confused by persons who indulge in vituperation of the law, because its decisions may work injustice; and *Turner* v. *Mason* (5 Law T. 97) is a good illustration of the value of this distinction, and that the province of the courts of law is necessarily limited to strict legal duties and legal liabilities, and does not include what moral philosophers call imperfect obligations. An action was there brought by a servant against her master, for improperly discharging her without payment of a month's wages. The defence was, that the plaintiff had absented herself without permission and against orders, for a day and a night. The replication set up that the plaintiff had done so for the purpose of seeing her mother, who was dangerously ill. The Court of Exchequer held the replication bad, for they could not decide what was proper and morally right, but what was a breach of performance of a lawful contract. As to the case put by Parke, B. in *Jacquot* v. *Bourn* (7 D. P. C. 348), of a refusal to work during church-time on Sunday, it would, we apprehend, be determined by the application of the nearly obsolete statutes relating to the observance of Sunday, upon which subject we would refer our readers to a very curious and learned work entitled *Feasts and Fasts*, lately published.

In the recent case of *Calder and Salter Hibble Bridge Company* v. *Billing* (5 Law T. 56), it was decided that a bye-law prohibiting parties from navigating their canal on a Sunday was void, however proper and desirable it might be to prevent Sunday traffic.

Knowledge of misconduct at time of dismissal.—Lord Denman, in delivering the judgment of the Court in *Ridgway* v. *Hungerford Market Company* (3 A. & E. 171; 4 Nev. & M. 797), intimated his opinion that a master dismissing his servant for misconduct not only need not state at the time the ground of his dismissal, but need not even be aware of it at the time of such dismissal. This doctrine, which was not necessary to the immediate decision, was not acceded to by Parke, B. in *Cussons* v. *Skinner* (11 M. & W. 172), who, after expressing his assent to the point decided, that a statement of the offence was unnecessary, continued: "But it would be necessary for the defendants who justify the discharge to shew that at the time the discharge took place, in January 1841, *they knew* at least of this act of misconduct." In *Mercer* v. *Wall* (5 Law T. 304), however, the point was incidentally discussed, and while, in that particular case, proof of knowledge was held necessary because expressly averred in the plea, the other part of the doctrine was confirmed in the following words:—"It is not necessary that the defendant should be aware of the offences, and should prove at the trial that he knew of them, because if an offence could be proved to have occurred before, which would warrant him in dismissing the plaintiff, and which shewed the plaintiff had no *right to continue* in his service, the plea would be well proved in proof of the fact, *without proof of knowledge*." In the course of the argument, his lordship said that he had always looked upon it as a kind of personal disability. This, however, may still be considered as a question not absolutely decided, for it has not yet been directly the point at issue in the case, although there can be no doubt what the Court of Queen's Bench would hold.

Money had and received.—It is important to the practitioner to observe the cases which occur upon the right to recover money which has been once paid, either under ignorance or mistake, or under such circumstances as not to be deemed voluntary. *Valpy* v. *Manly* (5 Law T. 94), therefore, demands a place in our summary. The sheriff had entered under a *fi. fa.* against the bankrupt before the fiat, but did not actually seize until after the fiat. He then took an inventory, and was proceeding to sell, but, to prevent the sale, the assignees paid the amount claimed, and brought their action to recover the amount. They were held to be entitled to recover, for there was a claim of right by the sheriff, and power to enforce it; and without the payment, the goods would not have been obtained. We think, however, that the latter part of the judgment of Tindal, C.J. seems to imply that an urgent necessity for the goods is an ingredient to constitute the right of recovering money paid for the goods, and we therefore quote the opinion of Bayley, J. which was confirmed by Holroyd, J. in *Shaw* v. *Woodcock* (7 B. & C. 73). It had been argued, that to enable parties to recover money paid with a knowledge of the facts, two circumstances must concur: that the owner must have an immediate pressing necessity, and the claim of lien must be clearly void; but Bayley, J. laid down the principle as follows:—

If a party has in his possession goods or other property belonging to another, and refuses to deliver such property to that other unless the latter pays him a sum of money which he has no right to receive, and the latter, in order to obtain his property, pays that sum, the money so paid is a payment made by compulsion, and may be recovered back. There is no authority to shew that the two things mentioned in argument are required in order to make the payment compulsory. E. W.

(*To be continued.*)

LEADING CASES.—No. VI.

13 M. & W. 343 affirming judgment in S. C. 11 M. & W. 778.)

DAVIDSON *v.* COOPER (in Error).

Effect of an alteration made in a deed or written instrument—Mode of pleading.

IN continuing our notices of important cases which have been recently decided by the courts of

law, we think it desirable to advert in the first instance to a decision of the Court of Exchequer Chamber, in affirmance of the judgment of the Court of Exchequer, which decision is clearly in accordance with the dictates of common sense, and establishes a principle which is essential to the security of persons incurring liability on written documents, and to the maintenance of good faith in mercantile transactions.

The general principle here alluded to is this:—That any material alteration in a written instrument made subsequently to its completion, and without the privity of the party whom it affects, renders such instrument void, and precludes the party who would have been otherwise entitled to sue from recovering upon it. In *Pigot's* case (11 Rep. 26), which is the leading decision on this subject, it was resolved that "when any deed is altered in a point material by the plaintiff himself, or by any stranger without the privity of the obligee, be it by interlineation, addition, rasing, or by drawing of a pen through a line, or through the midst of any material word, the deed thereby becomes void." If, therefore, a bond be made for 10*l.* and after sealing the bond this amount be altered to 20*l.* by the obligee, and without the privity of the obligor, the bond is thereby rendered void. (11 Rep. 27.) With respect to an immaterial alteration, it was further resolved in the same case, that even this will avoid the deed *if* made by the obligee, or with his privity, but otherwise if made by a stranger without his privity. This latter resolution, however, must, it will appear from the ensuing remarks, be somewhat qualified in its application at the present day.

The mere statement of the rule laid down in *Pigot's* case seems sufficient to shew that it must be equally applicable to instruments not under seal as to deeds; and accordingly, in *Master* v. *Miller* (4 T. R. 320), affirmed in Error (2 H. Bla. 140), the rule was applied to a bill of exchange, and it was held that even an innocent holder for a valuable consideration could not recover on a bill in which an alteration had been made after acceptance, whereby the day of payment was accelerated. The reason of the general rule applicable to the guilty party is observed by Lord Kenyon to be, that "no man shall be permitted to take the chance of committing a fraud without running any risk of losing by the event when it is detected;" and if this objection would prevail in an action brought by the party with whose connivance the alteration was made, it must be equally fatal to the claim of one who derives his title under that party. "Wherever," says Ashhurst, J. "a party takes a bill under such suspicious circumstances appearing on the face of it, it is his duty to inquire how the alteration was made; he takes it at his risk, and must take it subject to the same objection as lay against the party from whom he received it. Upon the whole, there seems to be no difference between deeds and bills of exchange in this respect in favour of the latter; but, on the contrary, if there be any difference, the objection ought to prevail with greater force in the latter than in the former, for it is more particularly necessary that bills of exchange, which are daily circulated from hand to hand, should be preserved with greater purity than deeds which do not pass in circulation." "When it is admitted," observed Eyre, C. J. (2 H. Bla. 143), "that the alteration of a deed would vitiate it, the point seems to me to be concluded; for by the custom of merchants a duty arises on bills of exchange from the operation of law, in the same manner as a duty is created on a deed by the act of the parties."

Precisely on the same principle which guided the judgment of the Courts of Queen's Bench and Exchequer Chamber in *Master* v. *Miller*, was decided the case of *Powell* v. *Divett* (15 East, 29), where it was held that a sale-note was vitiated by a material alteration made by the broker subsequently to the bargain evidenced by it, such alteration having been made at the instance of the vendor, and without the consent of the purchaser. The effect of the document in this case was destroyed by the fraudulent interpolation procured by the vendor's own act, the reason of the decision in *Master* v. *Miller* not being confined to negotiable instruments, but much more general in its application, and extending to all written mercantile contracts. (*Sanderson* v. *Symonds*, 1 BroJ. & B. 426, 431.)

Where, then, an alteration is material, we apprehend that little difficulty can arise in applying the rule of law above laid down, whether or not an alteration is to be considered as material, and whether, if immaterial, the instrument is thereby avoided, are questions which it may not, under particular circumstances, be very easy to solve. In *Sanderson* v. *Symonds*, already cited, an action of *assumpsit* was brought on a maritime policy of insurance effected on a vessel during her voyage to, and "during her stay" at, a particular place. Subsequently to the execution of the policy, the insured inserted after the word "stay" the words "and trade," and the objection was consequently taken that the instrument was thereby rendered totally void; but the Court held that the alteration was clearly immaterial, and that the policy was not vacated by it. "If a deed," observed Dallas, C.J., "be altered in a material point by a stranger, it is rendered void; if it be altered in an immaterial point by a party, it becomes, *in some cases*, void. The original rule was not intended so much to guard against fraud, as to *insure the identity of the instrument*, and prevent the substitution of another without the privity of the party concerned." In like manner, where a parol contract was entered into by which the defendant became tenant to the plaintiff of a farm from year to year, but afterwards signed an agreement containing certain stipulations as to the mode of tillage, and the agreement on being produced contained an erasure in the term of years mentioned in the *habendum*, which was altered from seven to fourteen, it was observed that although, according to the general rule, it lies upon the party producing a document to explain any alteration apparent on the face of it, yet, in the present case, the duration of the term therein mentioned was immaterial, being altogether *dehors* the agreement, and quite independent of the contract entered into by the parties, and that, consequently, the agreement might be received in evidence without any explanation of the erasure. (*Earl of Falmouth* v. *Roberts*, 9 M. & W. 469.)

Having, then, under the given circumstances of the case, determined whether or not the alteration is material, we must, in the event of having decided that it is so, proceed to consider in what manner this defence should be raised on the record. Now it seems to result from the authorities that, with respect to one important class of cases, viz. actions on bills of exchange and promissory notes, the two following rules must be observed: 1. Where the alteration is such as to render a new stamp necessary, or to cause a variance between the bill declared on and that produced; where, in fact, the alteration is such as to put an end to existing liabilities, the defence may be given in evidence, under the plea that the defendant did not accept the bill or make the note. But, 2ndly, when no objection can be taken respecting the sufficiency of the stamp, and where the document, when produced in evidence, agrees with the statement of it in the declaration, the defence that the bill or note has been altered must be specially pleaded by way of confession and avoidance; for the defendant, on such a defence, confesses that he made the contract; but he avoids it by shewing that the contract was afterwards vitiated by the alteration.

Of the first of the above rules an example occurs in *Cock* v. *Coxwell* (2 Cr. M. & R. 291). In that case the bill was declared on *as altered*, and a plea of non-acceptance was held sufficient; for this plea in substance is, "I did not accept the bill in the manner you charge;" and the plaintiff himself establishes this plea by proving a bill in the form in which the defendant did not accept it. (See *Baker* v. *Jubber*, 1 Scott's N.R. 26; *Crotty* v. *Hodges*, 5 Scott, N.R. 221.) *Calvert* v. *Baker* (4 M. & W. 417) may, perhaps, be supported on the ground that the alteration of the bill in that case was such, in the opinion of the Court, as to render a fresh stamp necessary. (Per Parke, B. 11 M. & W. 787.) In illustration of the second rule above laid down, we may refer to *Mason* v. *Bradley* (11 M. & W. 590), which was an action by the payee against the maker of a joint and several promissory note—plea, that the defendant did not make the said note *modo et formâ*. At the trial it appeared that the defendant signed the note in question as a surety, on the faith that six other persons would sign it as co-sureties with him, and these six persons did accordingly sign the note; but on the note being produced at the trial, it appeared that the name of one Jephson, the last person who had signed, had been cut off from the note; it was held that this defence could not be given in evidence under the above plea, but ought to have been pleaded specially as shewing that the original liability of the parties to the instrument had been *altered* by the removal of the name of one of them. (See also *Bell* v. *Gardiner*, 4 Scott, N.R. 621.)

In a recent and important case, bearing directly upon the subject under consideration, the plaintiff declared on a guarantee, and the defendant pleaded *non assumpsit*. On the trial the instrument appeared to have been interlined so as materially to alter its effect, but without the interlineation it corresponded with the declaration. The jury found that the interlineation was made after the instrument was executed; and Lord Denman, in delivering judgment, observed that in this case there was a valid contract, which was avoided by a subsequent act; that nothing was adduced to shew that the original contract was void in its inception; that the promise, denied by the defendant, was established by the evidence, and that the defence arising from matter *ex post facto* ought to have been specially pleaded. (*Hemming* v. *Trenery*, 9 A. & E. 926, recognised 11 M. & W. 787.)

Having thus shortly directed attention to some of the most important modern decisions relative to the subject here treated of, we shall proceed to consider, as concisely as may be consistent with its importance, the case of *Davidson* v. *Cooper* (11 M. & W. 778, affirmed in error 13 id. 343), which will be found very clearly to elucidate the law applicable to the case where a written instrument has been altered without the assent of the party whose interests are affected by such alteration. This was an action of *assumpsit* on a guarantee brought against two defendants by the registered public officer of the Commercial Bank of England. One of the defendants (Brassington) pleaded *non assumpsit* only to the declaration; the other defendant (Cooper), in addition to the general issue, pleaded, *inter alia*, that after the said guarantee had been signed by the defendants, and whilst it was in the possession of the banking copartnership, it was, without the knowledge or consent of the defendant (Cooper), by some person or persons to him unknown, altered in a material particular, and its nature and effect materially changed by such unknown person or persons putting and affixing, and causing and procuring to be put and affixed, to the said guarantee, two seals by and near to the respective signatures of the defendants, and as and for the respective seals of the said defendants to the said guarantee, and thereby wrongfully causing the said guarantee to purport to have been respectively sealed by and to be the deed of each of the said defendants; and that the said guarantee, by reason of such alteration as aforesaid, was rendered void and of no effect. To this plea, the plaintiff replied that the guarantee was not altered *modo et formâ*, whereupon issue was joined. At the trial before Rolfe, B. a verdict was found for the plaintiff under the direction of the learned judge, leave being given to the defendants to enter a verdict for them on two grounds, the latter of which was that the affixing the seals to the guarantee after its execution, and whilst it was in the possession of the plaintiff, vitiated it altogether. On behalf of the plaintiff, it was contended, both before the Court of Exchequer and that of Exchequer Chamber, that the alteration in the guarantee had not the effect of making it a deed, because there was no delivery of it as such, and consequently that there was no material alteration; and with respect to the defendant Brassington, it was further urged that the defence relied on, if available at all, ought, at all events, to have been specially pleaded, and could not be given in evidence under *non assumpsit*; and this view of the case was adopted by the Court of Exchequer, on the authority of *Hemming* v. *Trenery*, above referred to. With respect to the first-mentioned objection, however, the Court decided that the alteration *was* in a material particular, and that the nature of the instrument was thereby materially changed. In affirming this judgment, Lord Denman, C. J. remarked that the rule in question can only be explained on the principle that a party who has the custody of an instrument made for his benefit is bound to preserve it in its original state; that it is highly important, for preserving the purity of legal instruments, that this principle should be borne in mind, and the rule adhered to; that in the particular case then under consideration, the addition of the seals gave a different legal character to the writing, and would, if made with the consent of all interested, completely change the nature of the relation towards each other of the parties to it and the remedies upon it; and that the argument grounded on the want of delivery was beside the real question, inasmuch as no addition to the instrument after execution could make its *legal effect* different from what it had originally been. The above case seems so clearly to

exemplify the rule of law to which we have sought to direct the attention of the reader, that we shall dismiss it without further comment; and in conclusion observe, that when a deed is destroyed by time or accident, the party entitled under it may nevertheless have his remedy, and will be excused from making profert of the deed, by alleging and proving that it has been so destroyed. In this case it will be a matter of fact for the jury whether there be or be not sufficient evidence that the deed did exist, and the defendant may raise this question by pleading that the deed is not his, or by traversing the allegation of its loss or destruction. (Per Ashurst, J., *Read* v. *Brookman*, 3 T. R. 158; *Dr. Leyfield's* case, 10 Rep. 92, a; see also 1 Wms. Saund. 6th ed. 9, a, note *c*.) "It does seem," remarks Lord Kenyon (3 T. R. 156), "to militate against every idea of reason and justice, to say that, because deeds which are in their nature perishable cannot always be preserved, a party who is to derive a benefit or title under them shall be bereaved of that title in the event of their being lost." So in *Dr. Leyfield's* case, *suprà*, it is said that, where a man's deeds and muniments are destroyed by fire, profert of the deed pleaded may be dispensed with; and we may observe that the case of fire is here only put by way of instance; and if the deed be destroyed by any other accident, the reason of the rule which excuses profert will equally apply (*Anon. case*, Palmer, R. 403, cited 4 T. R. 331, 339; 1 Chitty on Pleading, 7th ed. 379; *Hodgson* v. *Warden*, 2 Dowl. & L. 232; 1 Wms. Saunds. 6th ed. 9, a.)

Lastly, where a deed, at the time of execution, has blanks in it which are subsequently filled up by the party taking under the deed, or by a third person, in this case, if the blanks are such that the instrument, when executed, is incapable of having any operation, and is in fact no deed, it cannot afterwards become operative in consequence of being completed and delivered by a stranger in the absence of the party who executed it, and without an express authority under seal. (*Hibblewhite* v. *M'Morine*, 6 M. & W. 200, overruling *Texira* v. *Evans*, cited 1 Anstr. 228; and see the cases cited and distinguished per Parke, P. delivering judgment, 6 M. & W. 215.)

A note of *Davidson* v. *Cooper* may be made in 1 Smith's Lead. Cases, 490.

THE LAW AND PRACTICE OF PROCEEDING AGAINST A TRADER-DEBTOR

Under the Statute 1 & 2 *Vict. c.* 110, *s.* 8.

CHAP. III.

GENERAL REMARKS.

18. The provisions of this section of the statute afford creditors a very easy and expeditious way of either forcing their debtors to a settlement of their debts, or, in default of their so doing, of issuing a fiat against them, founded upon the act of bankruptcy created by this statute. This provision appears to have been substituted for that contained in the old Act, 6 Geo. 4, c. 16, s. 5, which enacted that traders subject to its provisions had committed an act of bankruptcy by lying in prison upon mesne process for the space of twenty-one days. Arrest upon mesne process, however, having been abolished generally by the statute 1 & 2 Vict. c. 110, the act of bankruptcy contained in the 8th section of the latter statute was created, in lieu of that in the old Bankruptcy Act. But however advantageous to the interests of the creditor its provisions have proved, it cannot be denied that they press with an undue severity upon the unfortunate debtor; for, supposing that the debt claimed was really due, what possible benefit could be gained by involving his sureties in a bond of so general and indefinite a character as that pointed out by the statute? Indeed, a debtor must be possessed of friends more than usually sincere if he could find two persons willing, on his account, to bind themselves to pay the amount of *any* debt for which judgment might be at *any* time obtained, in any action which might at *any* time thereafter be brought against him. This is, indeed, a bond, the obligations of which may possibly never be at an end! On the other hand, if the creditor had not in reality a valid claim upon his debtor, he would scarcely venture to issue a fiat which must, in such a case, be eventually superseded. The practice, however, has shewn that, in some instances, unfortunate traders have been declared bankrupts under this statute upon a claim of debt *altogether unfounded*, either through their unwillingness or inability to involve their friends in such an extensive obligation as the bond required. The provisions of this section, although they are not repealed, and still continue in full force, should a creditor choose to avail himself of them, are almost entirely superseded in practice by those contained in the New Bankruptcy Act (5 & 6 Vict. c. 122), the law and practice under which will be fully treated of in the second part of this work.

PART II.

Under 5 & 6 *Vict. c.* 122, *ss.* 11 *to* 20.

CHAPTER I.

STATUTE.

19. If any creditor of any trader within the meaning of this or any other statute relating to bankrupts, now or hereafter to be in force, shall file an affidavit in the court, authorized, as hereinafter provided, to act in the prosecution of fiats in bankruptcy in the district [to be described as hereinafter mentioned] in which such debtor shall reside, or in the Court of Bankruptcy, if such debtor shall not reside in any such district, in the form specified in the schedule hereunto annexed (A, No. 1). of the truth of his debt, and of the debtor, as he verily believes, being such trader as aforesaid, and of the delivery to such trader, personally, of an account in writing of the particulars of his demand, with a notice thereunder requiring immediate payment thereof, in the form specified in the schedule (A, No. 2), it shall be lawful for the Court in which such affidavit shall be filed, as the case may be, to issue a summons in writing, in the form specified in the said schedule (A, No. 3) calling upon such trader to appear before such Court, and stating in such summons the purpose for which such trader is called upon by such summons to appear, as hereinafter provided. (5 & 6 Vict. c. 122, s. 11.)

WHAT TRADERS ARE LIABLE.

20. The first step to be taken by the creditor in proceeding against his debtor under this statute is to satisfy himself that such debtor is a trader subject to the bankrupt laws. By 6 Geo. 4, c. 16, s. 2, it is enacted, "That all bankers, brokers, and persons using the trade or profession of a scrivener, receiving other men's moneys or estates into their trust or custody, and persons insuring ships or their freight, or other matters, against perils of the sea; warehousemen, wharfingers, packers, builders, carpenters, shipwrights, victuallers, keepers of inns, taverns, hotels, or coffee-houses; dyers, printers, bleachers, fullers, calenderers, cattle or sheep salesmen, and all persons using the trade of merchandize by way of bargaining, exchange, bartering, 'commission, consignment,' or otherwise, in gross or retail, and all persons who, either by themselves or as agents or factors for others, seek their living by buying and selling, or by buying and letting for hire, or by the workmanship of goods or commodities, shall be deemed traders liable to become bankrupt, provided that no farmer, grazier, common labourer, or workman for hire, receiver-general of the taxes, or member of, or subscriber to, any incorporated commercial or trading companies established by charter or Act of Parliament, shall be deemed, as such trader, liable by virtue of this Act to become bankrupt."

And in addition to the traders made liable to the bankrupt laws by the above statute, it is enacted by 5 & 6 Vict. c. 122, s. 10, "That all livery-stable keepers, coach proprietors, carriers, shipowners, auctioneers, apothecaries, market-gardeners, cow-keepers, brickmakers, alum-makers, lime-burners, and millers, shall be deemed traders, and liable as traders to this and the other statutes relating to bankrupts."

For the numerous decisions on this subject, the reader is referred to Montagu & Ayrton's Bankruptcy, 2nd ed. 1—17; and Archbold's Bankruptcy, by Flather, 10th ed. 45—56.

CHAPTER II.

THE PARTICULARS OF DEMAND AND NOTICE REQUIRING PAYMENT.

21. If the debtor fall within either of the classes of traders referred to above, the creditor's next step is to make out and deliver to such trader *personally* an account in writing of the particulars of his demand, with a notice thereunder, requiring immediate payment thereof.

PARTICULARS OF DEMAND.

22. By General Rules and Orders, Nov. 12, 1842, rule 20, it is ordered, that "the particulars of demand and notice, under the aforesaid Act (5 & 6 Vict. c. 122), shall, in cases where the debt demanded is claimed to be due to a partnership firm, be signed by or in the name of one of the partners on behalf of himself and partner or partners, adding, after such signature, the style or firm of partnership and place of business as follows; that is to say, 'John Thompson, for self and partners, trading under the style or firm of , at , in the county of and in cases where the debt demanded is claimed be due to any one person, or to two or more persons not being partners in trade, such particulars of demand and notice shall be signed by or in the name of every such person by his Christian and surname, and his or their residence or place of business as follows; that is to say, 'Edward Jones, residing at , in the county of .'"

By General Rules and Orders, Nov. 12, 1842, rule 21, it is ordered, that "such particulars and notice shall be directed to the party or parties intended to be summoned, by the Christian and surname of each of them (or when the Christian name is not known, then by the initial letter or letters or by some contraction of the Christian name and by the surname), and also by the place of residence, in the same form as mentioned in the last rule, and shall also contain in the body thereof a statement of the name or names of all the persons from whom the debt is claimed to be due, whether the whole of them shall be summoned or not, or (in the case of partners) the style or firm of partnership and place of business, in the same form as mentioned in the same rule." And by General Rules and Orders, Nov. 12, 1842, rule 22, it is ordered, that "the account in such particulars of demand shall be expressed with reasonable and convenient certainty, as to dates and all other matters, and where credit is given in such account to the debtor, the notice shall require payment of the difference or balance only which appears to be due on such account."

The following is the form of the particulars of demand and notice requiring payment as given by the statute (Schedule A, No. 2):—

To E F, of .

The following are the particulars of the demand of the undersigned A B, of , against you, the said E F, amounting to the sum of pounds [*here copy the account*].

Take notice that I, the said A B, hereby require immediate payment of the said sum of pounds Dated this day of , in the year of our Lord .

(Signed) A B.

The particulars of demand are the account as it stands between the parties, but they need not set out all the items of the account separately, with dates to each item. In *Ex parte Serle*, the particulars of demand were in the following form:—

		£	s.	d.
April	. To goods delivered as per monthly account . .			
May	. To goods			
June	. To goods			

On the traders appearing to the summons, they were objected to as not being sufficient, but the commissioner (Fane) held that they were sufficient. He said, "The account states, 'To goods delivered as per monthly account;' you have had that account, and must know what the goods were." (5 Law T. 153.)

CHAPTER III.

THE AFFIDAVIT AND SUMMONS.

23. The creditor having served his debtor with the particulars of his demand and notice requiring payment, he must next file an affidavit in the District Court of Bankruptcy, in which his debtor resides, or in the Court of Bankruptcy, if the debtor does not reside within the jurisdiction of any district court, of the truth of his debt, and of his debtor, as he verily believes, being such trader as aforesaid, and of the delivery to such trader *personally*, of an account in writing of the particulars of his demand, with a notice thereunder requiring immediate payment thereof, in the form specified in the schedule 5 & 6 Vict. c. 122, s. 11.—(Vide *suprà*.)

IN WHAT COURT THE AFFIDAVIT MUST BE FILED.

24. The affidavit must be filed in the Court of Bankruptcy of the district in which the debtor resides, or if he does not reside in any district, then in the Court of Bankruptcy in London.

By an Order in Council made in pursuance of the 5 & 6 Vict. c. 122, and gazetted 4th of November, 1842, it is ordered and directed, that the limit and extent of the several districts for the purpose of the said recited Act shall be as hereinafter described; that is to say,

MANCHESTER DISTRICT.

The Manchester district shall comprehend all places included within, or to be considered as forming parts

of, the northern division of the county of Chester, as the same is settled and described by a statute made at the parliament holden in the 2nd and 3rd years of the reign of his late Majesty King William the Fourth, intituled "An Act to settle and describe the divisions of counties and the limits of cities and boroughs in England and Wales, in so far as respects the election of members to serve in Parliament," and all places included within, or to be considered as forming parts of, the northern division of the county of Derby, as the same is settled and described by the said last-mentioned Act, and the following places in the county of Lancaster; that is to say,

Blackburn,	Manchester,
Clitheroe,	Oldham,
Lancaster,	Rochdale,
Preston,	Salford,
Ashton-under-Line,	Warrington, and
Bolton-le-Moors,	Wigan;
Bury,	

and also all other places locally situated in the said county of Lancaster, and which are on the eastern side of any of the several railways hereinafter mentioned, and commonly understood by the following names; that is to say,

The Grand Junction Railway,
The North Union Railway, and
The Lancaster and Preston Junction Railway

or which are northward, eastward, or westward of Lancaster aforesaid, or westward or northward of the river Lune.

And it is hereby further ordered and directed, that the several places in the said county of Lancaster hereinbefore expressly named shall include the place or places respectively which are comprehended within the boundaries of every such place, as such boundaries are settled and described by the said last-mentioned Act.

LEEDS DISTRICT.

The Leeds district shall comprehend all places locally situated in the county of York, and all the places included within, or to be considered as forming part of, the northern division of the county of Nottingham, as the same is settled and described by the said last-mentioned Act, and all places locally situate in the parts of Lindsey, in the county of Lincoln.

LIVERPOOL DISTRICT.

The Liverpool district shall comprehend all places included within, or to be considered as forming parts of, the southern division of the county of Chester, as the same is settled and described by the last-mentioned Act, and all such places locally situate in the county of Lancaster as will not be included in the Manchester district hereinbefore described, and all places locally situated in any of the several counties in Wales hereinafter next mentioned; that is to say, the counties of

Anglesea,	Flint,
Carnarvon,	Merioneth,
Denbigh,	Montgomery.

BIRMINGHAM DISTRICT.

The Birmingham district shall comprehend all places locally situated in any of the several counties hereinafter next mentioned; that is to say, the counties of

Warwick,	Salop,
Worcester,	Stafford,
Hereford,	Leicester,

and all places locally situated in the parts of Kesteven and Holland, in the county of Lincoln, and all places included within, or to be considered as forming parts of, the southern division of the county of Nottingham, as the same is settled and described by the said last-mentioned Act, and the town and county of the town of Nottingham, and all places included within, or to be considered as forming parts of, the southern division of the county of Derby, as the same is settled and described by the same Act.

BRISTOL DISTRICT.

The Bristol district shall comprehend all places locally situated in the county of Gloucester, and all places locally situated in the county of Monmouth, and all places included within, or to be considered as forming parts of, the northern division of the county of Wilts, as the same is settled and described by the said last-mentioned Act, and all places included within, or to be considered as forming parts of, the eastern division of the county of Somerset, as the same is settled and described by the same Act, and the county of the city of Bristol, and all places within the limits of the city of Bristol, as the same are described in the said last-mentioned Act, and all places locally situated in any of the several counties in Wales hereinafter next mentioned; that is to say, the counties of

Brecon,	Glamorgan,
Cardigan,	Pembroke,
Carmarthen,	Radnor.

EXETER DISTRICT.

The Exeter district shall comprehend all places locally situated in the county of Devon, and all places locally situated in the county of Cornwall, and all places included within, or to be considered as forming parts of, the western division of the county of Somerset, as the same is settled and described by the said last-mentioned Act, and all places locally situate in the county of Dorset, excepting the several places in the same county hereinafter next mentioned; that is to say—

Poole,	Sturminster,
Wimborn Minster,	Shaftesbury,
Blandford,	

and excepting also, all other places locally situated in the said county of Dorset, which are situated within the distance of 100 miles from the General Post Office, in the city of London, and the several places herein before and hereinafter next mentioned; that is to say Poole and Shaftesbury shall include such place or places respectively which are comprehended within the boundaries of each such place, as such boundaries are settled and described by the said last-mentioned Act.

NEWCASTLE-UPON-TYNE DISTRICT.

And the Newcastle-upon-Tyne district shall comprehend all places locally situated in any of the several counties hereinafter mentioned; that is to say, the counties of

Northumberland,	Westmoreland,
Durham,	And also the town of
Cumberland,	Berwick-upon-Tweed.

Provided always, and it is hereby further ordered and directed, that if any part of any county hereinbefore mentioned, which is detached from the main body of such county, but for which no sufficient provision is hereinbefore made, shall be surrounded by two or more counties or divisions, or ridings, or parts, then every such detached part shall be considered as forming part of the county or division, riding or parts, with which such detached part shall have the longest common boundary.

The London District will be as follows:—

Middlesex,	Oxfordshire,
Herts,	Berks,
Kent,	Buckingham,
Surrey,	Bedford,
Sussex,	Northampton,
Hampshire,	Huntingdon,
Wilts (southern division),	Rutland,
Dorset, all within 100 miles from London, and including the towns of Poole, Wimborn Minster, Blandford, Sturminster, and Shaftesbury.	Cambridge, Norfolk, Suffolk, Essex.

Form of affidavit for summoning a trader debtor.

A B, of , and C D, of , severally make oath and say; and, first, this deponent, A B, for himself saith, that E F is justly and truly indebted to this deponent in the sum of pounds, for [stating the nature of the debt with certainty and precision]; and this deponent further saith, that the said E F, as this deponent verily believes, is a trader within the meaning of the statutes relating to bankrupts, or some or one of them, and resides at , and that an account in writing of the particulars of the demand of the said A B, amounting to the said sum of pounds, with a notice thereunder written in the form prescribed by the statute in that case made and provided, purporting to require immediate payment of the said debt, is hereunto annexed; and this deponent, C D, for himself saith, that he did, on the day of instant [or last], personally serve the said E F with a true copy of the said account and notice.

Sworn, &c.

THE AFFIDAVIT DOES NOT REQUIRE TO BE STAMPED.

In an affidavit of debt by the indorsee against the maker of a promissory note, it must be stated that the note was made payable *to order*. (*Ex parte Goode, re Strousberg*, 5 Law T. 133.) See *Lewis* v. *Gompertz* (C. & J. 352, and 1 Dow. 319); *Woolley* v. *Escudier* (2 M. & Scott, 392), and *McTaggart* v. *Ellice* (4 Bing. 114), as to the certainty with which it must appear on the face of the affidavit how the liability of the defendant arises.

HOW INTITULED.

26. By General Rules and Orders, Nov. 12, 1842, rule 24, every affidavit under this Act shall be entitled of "The Court of Bankruptcy in London," or "The Court of Bankruptcy for the —— district;" and by rule 25 every affidavit for summoning a debtor under this Act shall state the nature of the debt with the same degree of certainty and precision as is now required in an affidavit to hold to bail by order of a judge in the superior courts at Westminster.

PROMOTIONS, APPOINTMENTS, ETC.

[Clerks of the Peace for Counties, Cities, and Boroughs, will oblige by regularly forwarding the names and addresses of all new Magistrates who may qualify.]

CROWN-OFFICE, Aug. 1.—Member returned to serve in this present Parliament.—City of Hereford Sir Robert Price, of Foxley, in the county of Hereford, bart. in the room of Edward Bolton Clive, esq. deceased.

REGISTRATION OF VOTERS.—The following gentlemen have been appointed to revise the lists of voters upon the Home Circuit:—Hertfordshire and the boroughs of St. Alban's and Hertford—J. Espinasse, esq. Essex and Colchester, Harwich, Maldon, and Greenwich—J. R. Bosanquet, esq. and Sir W. Riddell. Kent, and the cities and boroughs in Kent, except Greenwich—T. D. Chambers, esq. and —— Phillips, esq. Sussex, and the boroughs in Sussex—A. Ryland, esq. and R. Richmond, esq. Surrey, and the boroughs in Surrey—S. C. C. Fyshe, esq. and J. Deedes, esq.

COURT PAPERS.

SHERIFF'S COURT, MIDDLESEX.

Days appointed for the execution of Writs of Trial and Inquiry in Trinity Vacation.

Tuesday, Aug. 5	Thursday, Oct. 9
Thursday, Aug. 7	Thursday, Oct. 16
Tuesday, Aug. 12	Tuesday, Oct. 21
Thursday, Aug. 14	Thursday, Oct. 23
Thursday, Aug. 21	Tuesday, Oct. 28
Thursday, Sept. 18	Thursday, Oct. 30.

At 10 o'clock each day.

N.B. The writs must be lodged at the Sheriff's office two days prior to the day of trial.

CANDIDATES WHO PASSED THE EXAMINATION,

Easter Term, 1845.
(From the Legal Observer.)

Names of Candidates.	*To whom Articled, Assigned, &c.*
Borton, William Joseph	W. H. Hitchcock, Deddington
Boydell, George	F. Boydell, Chester
Bragg, William Nicholas	John Girdley, Exeter
Brine, Thos. Chas. Augustus	W. Dean, 107, Guildford st.
Brittan, Alfred	Mesbach Brittan, Bristol
Brown, Francis	T. Broughton, Whittlesey, Isle of Ely, and Peterborough; J. Broughton, Peterborough
Burman, Woollaston John	H. M. Griffiths, Birmingham
Capel, William	J. Sandford, Winchcomb, co. Gloucester; George E. Williams, Cheltenham
Clough, Charles	R. Tolson, Bradford
Cole, John	E. Coode, Great Austell
Cook, Charles	G. Gray, and H. Goodwin, Newbury
Coote, Frederick John	J. Eaden, jun. Cambridge
Cooper, George Halcott	G. Cooper, East Dereham
Crawford, Samuel	T. Mann, Leeds
Crust, Thomas	H. J. Shepherd and J. Myers, Beverley
De Carteret, Revoire Edward	J. E. Elworthy, Plymouth
Delmar, James Frederick	H. Kingsford, Canterbury
Eastlake, John	G. S. Eastlake, Plymouth
Edwards, Samuel	J. Archbould, Thrapston, co. Northampton; J. B. Millington, Boston, Lincoln; C. Talhourdin, Lincoln's Inn Fields
Edwards, Thomas Gold	Edw. H. Edwards, 1, Mitre Court Buildings, Temple; T. Evans, Denbigh
Fawdon, John Thomas	W. J. Carr, Alnwick, Northumberland
Farratt, Joseph	J. W. Danby, Lincoln
Gaunt, Thomas Foster	T. Gaunt, 18, Skinner street, Snowhill
Greenwell, Walpole Eyre	E. G. Randall, 56, Welbeck street, Cavendish square
Greves, Edwin Thompson	W. J. Beale, Birmingham
Hall, Isaac	J. W. Flower, 61, Bread street
Hamersley, Samuel	R. T. Brockman, Folkestone, Kent; C. Attwaters, Queen street
Hatton, Frederick	J. Parkes, Great George street
Hawkins, Christopher Stuart	S. and J. T. Savery, Modbury
Herring, Charles Thomas	H. R. Glaister, Bedale
Hird, Richard	T. Leadbeatter, Mirfield
James, Frank	W. Perkins, Merthyr Tydfil
Kellock, Thomas Creasy	C. Michelmore, Totnes; F. Benthall, Coleman street
King, James Pearce	J. R. N. Norton, Monmouth
Langham, Jas. George, jun.	J. G. Langham, sen. 1, High street, Hastings
Langham, Sam. Fred., jun.	S. F. Langham, sen. 10, Bartlett's Buildings
Last, Henry	Isaac Last, Hadleigh, co. Suffolk; Rob. Cheere, King's Bench Walk, Temple; Isaac Last, Hadleigh
Mackrell, John	H. Footner, Andover
Matthews, Edw. Dav. Thomas	E. Steward, Norwich
Mayhew, George Jeremiah	W. Howard, Colchester
Meynell, Gerard Coke	J. Gardiner, Whitehall Place
Molineux, Frederick	J. B. Freeland, Chichester
Moore, Walter Henry	E. C. Everitt, late of Woodbridge, now of Sidmouth; T. Churchyard, Woodbridge
Morgan, Alfred Fairfax	W. Morgan, Birmingham
Owen, William	S. Edwards, Denbigh
Paterson, Edward Alexander	W. Paterson, Old Broad st.
Paull, John Richard	J. Roberts, Truro; G. Faulkner, 1, Bedford row
Peter, Simon	B. H. and G. Lyne, Liskeard
Raimbach, Thomas Emmerson	T. Rodgers, 37, King street, Cheapside
Solomon, Joseph	E. Cole, 14, Great Charlotte street, Blackfriar's road; J. Beart, 6, Bouverie street,

	Fleet street, and 4, Chester terrace
Stringer, Samuel .	J. Harrop, Stockport; T. H. Bower, 46, Chancery lane
Travers, Marcus .	S. Amory, Throgmorton street
Tudge, John Williams	T. K. Stephens, Presteign
Tweed, John Thomas	T. Jones, jun. Millman place, Bedford row
Vansommer, James	R. R. Bayley, 4, Basinghall street
Veal, Henry James	Q. Veal, Great Grimsby
Walker, Edward .	R. Williams, Denbigh
Walter, William, jun.	W. Walter, sen. Kingston. A. Ellis, 48, Conduit street
Weller, George Henry	G. Weller, 8, King's road, Bedford row
Whitcombe, Robert Henry	E. R. Nicholas, Wribbenhall, near Bewdley
Wilders, John Warin	J. Broughton, Peterborough
Wilkinson, Joseph Edmund	W. M. Wilkinson, Market Drayton, co. Salop; Peter Haydock, Preston; E. Chester, Staple Inn
Wilson, Charles .	H. Charlewood, Manchester
Wilson, Thomas .	W. Dickson, Alnwick
Wodehouse, Charles	J. Green, Bury St. Edmunds; H. Goodford, New square, Lincoln's Inn
Wood, Frederick John	H. D. Warter, 1, Carey street, Lincoln's Inn

Trinity Term, 1845.

Aldham, George	W. Saunders, Worcester
Allen, Beaupré Philip Bell .	F. B. Bell, Downham Market, co. Norfolk
Bailey, Edward .	E. S. Bailey, 5, Berners street
Belfour, Edmund, jun.	E. A. Wilde, 21, College Hill
Bowyer, George James	J. N. Mounlyan, 2, Verulam buildings, Gray's Inn
Bradshaw, John .	J. Charge, Chesterfield
Brian, Thomas Cadwallader	C. V. Bridgman, Tavistock
Budd, Frederic .	T. W. Tumley, Bedford
Bull, Charles .	J. Lewis, Lewes
Charlton, Wm. Webb Beckett	R. Bloxham, New Boswell ct.
Churchill, George Cheetham	H. Enfield, Nottingham
Darlington, Ralph	H. Gaskell, Wigan
Davies, John Edmund	C. S. Clarke, Bristol
Diggles, Thomas, jun.	T. M. Siddall, formerly Thos. Mortimer, Manchester; J. B. Vickers, Manchester
Dunstan, William Roe	G. Thorley, Manchester
Dyott, John Philip, jun.	J. P. Dyott, sen. Lichfield
Elam, William .	C. Ford, 5, Bloomsbury square
Fisher, Thomas .	L. Moore, formerly of Warrington, now of Staveley; H. Terrell, Basinghall street
Fisher, John .	J. Fisher, Cleve Yatton, near Bristol
Gaby, Ralph Bignell	B. Gaby, Bath
Geary, John Thomas	S. S. Bagster, Atherstone; R. M. Bagster, Lincoln's Inn Fields
Gery, Thomas Lewis	T. O. Gery, Daventry
Gillam, John Flight	R. Gillam, Worcester
Grayson, James .	R. Walters, 6, Mosley street, Newcastle-upon-Tyne
Green, Octavius .	G. J. Twiss, Cambridge
Haigh, George .	W. Rawstore, Preston
Harrington, John Joseph	R. B. Armstrong, Staple Inn
Haynes, Benjamin	S. Danks, Birmingham; J. B. Brackenbury, Manchester
Holden, Thomas, jun.	T. Holden, Kingston-upon-Hull
Hood, John Kemp Jacomb	J. Duncan, 42, Lothbury; C. Walton, 42, Lothbury
Horner, Joseph Race	R. D'Ewes, jun. Knaresborough; T. Lee, Wakefield
Hoyle, Henry, A.B.	D. Robertson, Clitheroe Castle, and Blackburn
Jepson, Charles .	A. Story, Durham; G. T. Taylor, 18, Featherstone buildings, Holborn
Kirkpatrick, Edward Bruce	J. Eden, Liverpool
Lang, Herrmann	C. N. Wilde, 21, College Hill
Langford, Henry	R. Foreman, Tonbridge Wells, Kent
Lee, Thomas .	W. F. Patterson, Leamington Priors
Parrott, Joseph .	J. Rose, Aylesbury
Partington, Wm. Henry	T. Wheeler, Manchester
Peter, John .	S. B. Serjeant, Callington
Porter, Joshua Charles	J. Rees, 21, College Hill
Pring, John Thomas	T. Pring, Crediton
Randall, David .	W. Llewellyn, Neath
Ratcliff, Thomas Wrake	R. Walker, Canterbury
Reed, Herbert Adolphus	F. J. Reed, Friday street; F. Deacon, Bridgewater; F. J. Reed
Rees, William Hobart	T. W. Flavell, Bedford row
Reeve, William Ebenezer	T. Wenlove, and C. E. Sabine, Oswestry, co. Salop, W. Dean, Essex street; L. Bencraft, Barnstaple
Reynolds, Thomas John	C. Carter, jun. Bideford, co. Devon
Rhodes, Charles Henry Rownson	C. H. Rhodes, Chancery lane
Rooke, Richard Ludlam	Robert Barr, Leeds
Rowland, John Henry	D. Rowland, Threadneedle st.
Rowsell, Nicholas Henry	J. T. Rowsell, Billiter street; W. B. Bishop, 2, Verulam buildings; B. Hall, 2, Verulam buildings, and Baxter, Sussex
Schultz, Frederick	T. S. Watson, Wisbech
Seymour, George William	G. H. Seymour, York
Shaw, Charles Bingley	E. J. Rudd, Halifax
Shute, Edward Parker	J. A. Whitcombe, Gloucester
Smith, Henry George	G. Smith, Southampton buildings
Stone, William, jun.	W. Stone, sen. Winsley and Bradford
Thomas, William Morgan	E. M. Chaplin, 3, Gray's Inn square
Tilleard, Thomas .	J. Tilleard, 34, Old Jewry
Tapley, Edward	R. P. and W. Lee, Sandwich
Taylor, Thomas	H. J. N. Chase, 3, Raymond buildings, Gray's Inn, and 16, Tavistock place, Tavistock square; W. Watts, 5, Gray's Inn square, and Bedford row; E. M. Elderton 8, Lothbury
Ward, G. Leveson Gower	A. Story, Durham
Ware, Henry John	W. Richardson, York
Webster, Godfrey .	H. Symons, Axbridge
Whitehouse, Thomas Mott	T. Bolton, Wolverhampton
Whitlow, Thomas	R. Radford, Manchester
Wilson, Edward Shimells	W. Bunney, Kingston-upon-Hull.

LEGAL INTELLIGENCE.

The Wharton Barony.—The following is a *verbatim* report of the Committee of Privileges as to the case established on behalf of the claimants to the Wharton barony, which was decided upon and presented on Thursday evening to the House of Lords by the noble chairman, the Earl of Shaftesbury:—"Resolved, that the barony of Wharton is a barony created by writ and sitting, on the 26th of November, 2 Edw. 6, in the year 1548, and is descendable to heirs-general; that upon the death of Philip James, the sixth Lord Wharton, in 1731, without issue, the said barony fell into abeyance between his two sisters and co-heirs, Lady Jane Coke and Lady Lucy Morrice; that Lady Lucy Morrice died without issue in the year 1739, eight years after her brother; that upon the death of Lady Jane Coke (who survived her sister) without issue, in 1761 (30 years after her brother), the said barony fell into abeyance between the descendants of the three daughters of Philip, fourth Lord Wharton, Elizabeth, Mary, and Philadelphia Wharton; that the petitioner, Charles Kemeys Kemeys Tynte, is one of the co-heirs of the said barony, as being descended from, and sole heir of, Mary, one of the said daughters of Philip, fourth Lord Wharton; that the petitioner, Alexander Dundas Ross Cochrane Wishart Baillie, with Mrs. Matilda Anpore, are two other of the co-heirs of the said barony, as being descended from Philadelphia, the youngest daughter of Philip, the fourth Lord Wharton; that the Right Hon. Peter Roberts Lord Willoughby D'Eresby and the Most Noble George Horatio, Marquis of Cholmondeley, are two other of the co-heirs of the said barony, as being descended from Elizabeth, only daughter of the said Philip, fourth Lord Wharton, by his first marriage; and, consequently, that the said barony is now in abeyance between the said petitioners and the said noble lords."

The Law of France.—Another decision, upon the principle that *locus regit actum*, has been delivered by the tribunals of Paris in the following case:—Mr. Quartin, an English subject, has lived long at Lisbon, but Mr. Dillon Quartin, one of his sons, residing for many years at Paris, succeeded to the property of one of his aunts, and thereupon undertook the bringing up of two of his sisters, whom he placed in the convent of the Rue Pictus. Mr. Dillon Quartin died in Abyssinia, while on a scientific tour in that country, leaving a will, made at Paris on the 31st of January, 1839, in his own handwriting, and signed, but without being attested by any witnesses. Thereby he bequeathed one-half of his property to his two sisters in Paris, and the other half to his father and mother for their lives, and after their deaths to be divided between his brother and another sister. One of the sisters living in Paris also died after her brother Dillon, leaving by her will, also written with her own hand, and signed, but unattested, all her effects to her sister, then with her in the convent of the Rue Pictus. Mr. Quartin, however, claimed the whole of his deceased son's property, on the ground that he [was] an Englishman, and that, according to the English law, his will was invalid for the want of two witnesses; and he also claimed the guardianship of his daughter, she being only 19, and consequently under age. The case was, in the first instance, heard before the Civil Tribunal of Paris, which decided, upon the above-mentioned principle, that the will was valid, and, as Miss Quartin was to be educated in Paris, granted the administration of the property left by her brother to the surviving Miss Quartin to M. Morel d'Arleux, notary, until she should come of full age, and left that part which was bequeathed to her by her deceased sister in the hands of M. Rivain, an advocate, who was nominated her testamentary executor. Against this decision Mr. Quartin, the father, presented to the Cour Royale an appeal, which was heard on Monday last, and was very ably supported by M. Charles Ledru, as counsel for the father, who urged that, independently of English law, which he maintained ought in this case to prevail, the decision of the Civil Tribunal de Première Instance confined Miss Quartin to the convent of the Rue Pictus, although she had a parent able and willing to take the charge of her, and she was desirous of being under his protection, as was shewn by her appearing with him in the court. The Court, however, after deliberation, confirmed the judgment of the Tribunal de Première Instance, and upon the same grounds.—*Galignani's Messenger.*

Will of the late Mrs. Round.—Special letters of administration with the will annexed of Mrs. Susan Constantia Round, of Danbury Park, Chelmsford, wife of John Round, esq. M.P. (who lost her life in the recent fire in Dover-street, Piccadilly), have been granted to her husband, and her three sons, John Round, Frederic Peel Round, and Edmund Round, esqrs. the executors named in the will, which was made in August, 1843, and is of some length, containing many recitals. Amongst others, it recites that her mother, the late Mrs. Caswall, by power of appointment vested in her over a moiety of 104,000*l.* stock, left to her (Mrs. Round) 22,000*l.* and that she was also entitled to one-fourth of the residue under her late father's will, making together upwards of 50,000*l.*, which sums were invested in the names of trustees under her marriage settlement; also recites that by a deed executed by herself and husband, in 1840, the survivor is to receive the interest for life, and the principal on the death of the survivor is to be divided amongst their four children, as apportioned by them in the deed, the eldest son taking the residue of the trust moneys, as well as some freehold estates. The dispositions are confirmed by her will. The husband is entitled to the personal estate.

The Result of the Excise Prosecution of Messrs. Smith, the Distillers.—This pending case, which has occupied so much of public attention, in consequence of the immense interests involved, has at length been brought to a close. Several communications have passed between the law officers of the Crown and the Excise authorities, and numerous interviews have taken place. It appears that Messrs. Smith have paid into the hands of Mr. Goodall, chief collector of the Eastern division of the Excise department, the sum of 10,000*l.* with an understanding that all prosecutions pending on either side are to be withdrawn. Messrs. Smith, by their petition to the Lords of the Treasury, prayed their working implements and stock in trade may be restored to them, and that they will entirely remove or discontinue the use of the rectifying house, the primary cause of the prosecution. The settlement of this question is received with great satisfaction by a large body of persons, whose occupation has been suspended for a period of nearly twelve months, as well as entailing an almost ruinous loss upon the proprietors by the complete stoppage of their business.

CORRESPONDENCE.

MR. COUNSELLOR BIRD AND HIS POOR CLIENTS.

TO THE EDITOR OF THE LAW TIMES.

Sir,—I observe in your last week's paper an article headed "The Bar and the Attorneys," but I very much differ from you where you say (in the beginning of the article) that you are entirely convinced that Mr. Bird is actuated by no mercenary motives. I am at a loss how you can arrive at that conclusion, when Mr. Bird receives *his fee* however poor his client;—What are these but mercenary motives?

I will give you an instance of Mr. Bird's charity to the poor. In March 1845, the friends of *four paupers* applied to me to defend them on a charge of poaching; I accordingly prepared a brief for them, for which they paid me 2*l.* out of which sum I gave Mr. Bird one guinea with the brief, paid for a copy of the depositions, and the postage of the brief to Exeter. I wrote Mr. Bird with the brief, desiring him to defend them; he wrote to me in reply, saying that he could defend but two out of the four for the guinea sent, and desiring me to send him another guinea or inform him which two he should defend. I wrote him in reply, saying that the prisoners' relatives were very poor, and *could not raise another shilling*, and that I had prepared the brief for them almost for nothing, and telling him which two to defend. Now, if Mr. Bird had such charity towards the poor as he would wish the world to believe, he would, after receiving my letter, have defended the four; but no, "No fee, no defence;" and he only defended two.

I deny Mr. Bird's assertion when he says that if an attorney is asked what a defence will cost, the parties are told from 5*l.* to 10*l.* A guinea is the usual charge for a brief to poor prisoners, and I am certain that the attorneys possess as much charity as Mr. Bird—nay more for any respectable attorney would readily prepare a *brief gratis for the poor*, if applied to; but it appears from Mr. Bird's own statement that he does not take a brief without his guinea; so much for Mr. Bird's charity to the poor.

Mr. Bird may rest assured that no attorney will in future trouble him with a brief. We may expect shortly to see Mr. Bird in court surrounded with the friends of his poor clients; it is very fortunate that the space round the table has been enlarged. Has Mr. Bird been instrumental in getting this done for the purpose of accommodating them?

I perfectly agree with you in what you say in the latter part of the article in question, and

I am, &c.

South Molton, July 30. J. T. Shapland.

NOTICE TO SUBSCRIBERS.

The Indices to the fourth volume being now completed, the numbers for binding may be sent, through the post, in parcels open at the ends, with a mark by which they may be known, and of which the Publisher should be advised by letter, as also how, when bound, it is to be returned. If sent by parcel, advantage may be taken of the opportunity to inclose other books for the binder.

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THE LAW TIMES.

SATURDAY, AUGUST 2, 1845.

THE BAR AND THE PRESS.

A RESOLUTION of two circuits, the *Oxford* and the *Western*, condemnatory of the practice of reporting for the newspapers by the members of the circuit the proceedings of the circuit, has called forth from the journals a torrent of angry eloquence in reprobation of the resolution in question, and an attempt at retaliation by a formal and avowed omission of the names of the counsel engaged in the business reported from those two circuits.

An open war such as this is greatly to be regretted; it cannot but be inconvenient and disagreeable to both parties. But one of the belligerents only has yet been heard: the press has not been slow to vindicate its insulted dignity, and to put its own case in its best form before the public, whose ear it commands. The other party in the quarrel, wanting such an advantage, has been condemned unheard. It will be our duty, as the journal of the Profession, to submit their case calmly and fairly to the judgments of those who are just enough to hear both sides. We do so without expressing, because we really cannot arrive at, a decided opinion upon the question at issue; but we will shortly state the case of the Circuit Bar, and the reasons that seemed to influence the resolution that has lighted up such a flame.

In the first place, we must assert that the resolution was the result of feelings and arguments altogether different from those assumed by the newspapers, and upon which assumption their anger is based. It was not at all a question of *dignity;* the practice was not objected to as *degrading;* it was not treated as an unworthy occupation in a barrister to report for a newspaper. Had the resolution proceeded from any such feelings, or if it had been supported by any such arguments, it would have deserved the reprobation that has been lavished upon it. Yet have the newspapers chosen to assume that such was its purport, and they have treated a regulation, founded, as we shall presently shew, upon experience of particular inconveniences arising under special circumstances, as a resolution aimed against the newspaper press as being a connection derogatory to the Barrister.

The best *proof* that can be afforded of the error into which the editors of the newspapers have fallen in their comments upon the occurrence is, that the resolution does not affect reporting for a newspaper anywhere and at all times, but is expressly limited to *circuit* reporting. No objection is offered to a barrister reporting for a newspaper at Westminster, whether in Banc or Nisi Prius, nor to parliamentary or other reporting of any kind. It is distinctly limited to *circuit* reporting.

There are manifest reasons for this, without at all raising the question of *infra dig.*, which forms no part of the real objections offered. The Circuit Bar is a small social community, governed by certain traditionary laws of professional etiquette, which experience has proved to conduce to the ultimate comfort and advantage of all its members. To preserve the mutual good-feeling and harmony of the Bar of the circuit, a mess is established at which the members meet, where they conduct the private affairs of the circuit, and exchange personal kindliness and good-will. The mess is not exclusive in any shape; it is practically open to all who join the circuit, without respect of fortune or birth. By joining that mess a barrister virtually consents to abide by the regulations of the body with whom he is associated, in all matters deemed desirable by the majority for the regulation of the circuit. It is only when a man wilfully violates his implied pledge, or does something disgraceful to him as a barrister or as a gentleman, that he is, in the last resort, excluded from the mess, and as a consequence, from the society of his fellows upon the circuit.

The end and aim of this machinery is the preservation of a good understanding between those who are unavoidably thrown together so much, that not to be friendly would be a source of endless disquietude to themselves and inconvenience to their clients; and all will admit that an object so desirable should not be lightly sacrificed.

Now the single design of the resolution in question was the preservation of this important object. It had been found in practice that the reporting for the newspapers by members of the circuit had led to very great inconveniences, by breeding discords and disturbing the harmony of the circuit. It was deemed that, from the nature of things, no other result could be hoped for, and, as the least of two evils, it was considered desirable rather to declare the practice of reporting for the circuit an undesirable one for its members to follow, than that the peace, harmony, and good-feeling of the circuit should be disturbed for that which, after all, was not a necessary evil, inasmuch as such reports might be done equally well by others without producing the mischiefs complained of. The question was simply this—Is it desirable or right that, for the sake of some small gain by two men, at the most, on each circuit, the harmony of the whole circuit should be disturbed?

The argument was after this fashion:—

Newspaper reports, unlike law reports, are addressed to the whole public; consequently, they must be made to amuse. The facts only are required to be stated, and to be put in the most attractive form. This is work that may be as well or better done by an ordinary reporter, therefore there is no necessity nor special advantage in its being done by a barrister.

But if no advantage result, there is much palpable evil. The reporter is not dealing with strangers, but with his friends, associates, and professional rivals. Even if he were to be as just as ARISTIDES, he could not, in such a duty, escape reproach and suspicion. His business is to select cases for report that are likely to interest the public; he must exercise a discretion; he cannot report all; he must reject some. As every man attaches an exaggerated importance to his own case, all the rejected complain; they feel or fancy motives of rivalry, jealousy, or spite. They see some cases, trifling in themselves, filling half a column, while others they deem of more importance are dismissed in a sentence. It is natural to attribute this to the names of the counsel or attorneys engaged in them rather than to the relative merits of the cases themselves. Hence heart-burnings, jealousies, and disputes that disturb the harmony of the circuit. Let the reporter be ever so fair and faithful, so long as he has a choice to exercise, he will be suspected of partiality. It must be admitted on all hands that there is probability in this argument, and experience has proved its truth. The question for the members of the circuits was, therefore, how they should deal with it.

The newspapers have proposed that their reporters should send in their names to the mess, and so make themselves personally responsible for their reports, for the fairness of which some guarantee would thus be given. For our own part, we are inclined to prefer this suggestion to the larger resolution that has been adopted. But it would not have answered the end of the proposers, for we believe the effect would be to deter any man from taking upon himself avowedly, and with open responsibility, an office so invidious, in which no virtue could save him from reproach. The question, then, remains, is it worth while to have members of the Circuit placed in such invidious positions, subjected to such suspicions, and producing unavoidably such ill-feeling, for the sake of having that done by a barrister which might be done equally well by a penny-a-liner?

This, and nothing more than this, was the question decided by the resolution which has so agitated the press. The best proof that the evil was not imaginary was afforded by the conduct of the *Times* in suppressing the name of Mr. Serjeant TALFOURD. We put it to all our readers, whether it would be possible to maintain the harmony of any circuit where one of its members stood in the position of appearing to be guilty of such an indignity to another distinguished member of his circuit, with whom he was sitting daily at the same table; or if, in truth, it was no act of his, being compelled to submit as reporter to become responsible for the mutilations of his reports dictated by the vengeance or favouritism of a distant editor. The possibility of being placed in such a position would of itself deter any gentleman from openly undertaking an office liable to such indignities; and even the *Herald* and the *Chronicle* do not vindicate unavowed reporting, but propose that the names of the reporters should be given to the mess, that they may be responsible for what they do or leave undone.

Such is the argument by which the resolution of the Oxford and Western Circuits is supported. It is, we repeat, entirely unconnected with objections arising from notions of "dignity," as supposed by our newspaper contemporaries. It is applicable to circuit reports only, and supported on special grounds of circuit convenience alone, and in this light we hope it will be treated by those who have hitherto viewed it only on the assumption that it was a general objection to Barristers reporting for the press. No such monstrous proposition was ever made or contemplated.

Nor does it extend to reports of points of law for legal publications. They were of course deemed the peculiar and appropriate province of the barrister.

In conclusion, we call upon our contemporaries, in fairness to the Profession, to give a place to this reply, and so enable the public to hear both sides; especially as they have been written under a misunderstanding both of the resolution itself and the reasons by which it was supported.

THE SOCIETY FOR THE PUNISHMENT OF FRAUDULENT DEBTORS.

A CASE reported in the Bankruptcy Court, and a letter from a correspondent, whose respectability is a guarantee for accuracy, have, we must confess, not a little surprised us.

When the society was first formed, in pursuance of a suggestion in the LAW TIMES, we not only expressed approval of the plan, but our Publisher joined it, intending to avail himself of it for the investigation of some of the multitudinous frauds that have been practised upon him both in town and country. We then considered that the society was to be fairly, openly, and properly worked, as societies are usually, by a numerous committee, a treasurer, and a secretary, with accounts duly rendered, examined, and paid, and no business done on the part of the society without previous investigation and authority to that end formally given by the committee.

We are loath to believe all we hear; but if our correspondent be right, and our reporter has not erred, the society is not thus regularly conducted; it seems to be in reality no society at all, but a job, else what means the following printed circular, which has been placed in our hands?—

Re GEORGE RYE.

SIR,—Should you wish to oppose in the above matter as a non-subscriber, and will forward me an authority *for our solicitors* to act, together with a post-office order for one guinea, I will return you a *receipt in full discharge of all further costs*, and every attention shall be given to your interest.

I am, Sir, your very obedient servant,
JAS. M. CONSTABLE, Secretary.
To Mr. Bateman, Canterbury, Kent.

However, as is our practice in all matters of this sort, we will not prejudge. We state candidly what is the accusation. We wait patiently the explanation that must be given as to the system of management by which the affairs of the society are conducted, otherwise we shall feel it our duty to institute the strictest inquiry into the whole affair for the protection alike of the Profession and of the public.

THE BAR AND THE ATTORNEYS.

WE had intended to make some further comment on the occurrence reported from Exeter in the last LAW TIMES, but the question of more immediate moment that has arisen between the Bar and the Press, compels us to postpone the purposed inquiry into the allegations of Mr. BIRD, and the propriety of the course he has adopted.

THE CRITIC.

New Books.

A Manual of Equity Jurisprudence, as administered in England, founded on the Commentaries of Joseph Story, LL.D. &c. By JOSIAH W. SMITH, B.C.L. of Lincoln's Inn, Barrister-at-Law. London, 1845. Stevens and Norton.

THIS volume is, in fact, an abridgment of STORY'S famous *Equity Jurisprudence*, with the addition of a few original remarks, and notes of some of the more recent decisions. Indeed, the author avows as much in his preface, and therefore we do not state it by way of blame or objection. On the contrary, a judicious abridgment of a large and learned book is very preferable to an original treatise by an inferior author, and Mr. SMITH has done wisely in thus mounting upon the back of Mr. Justice STORY, and riding to fame upon his shoulders, in preference to trusting to his own feet.

The uses of such an abridgment are twofold. First, *before* the perusal of the treatise in its bulk, by way of bringing its scope and design within the reader's purview, and enabling him to understand the bearings and tendency of every page when he shall proceed to the study of the complete work; secondly, by way of refresher, *after* the original treatise has been mastered, to revive its more important contents, and to impress more forcibly upon the mind the principles developed and the more memorable cases and arguments presented. Mr. SMITH'S volume serves both of these purposes. He has made the abridgment of his great original with sound judgment, rarely failing to convey in few words the principle sought to be propounded; and, further to aid the reader, reference is given to the authority at the close of each paragraph.

Of course such a work is not one for elaborate review. STORY must be known by repute to all, by perusal to most, of our readers. They who know his worth will welcome a manual that will refresh their memories without the toil of reading anew his 1600 pages. To those who have not yet read him we recommend this volume as the best introduction —but in aid only, and not as a substitute.

NECROLOGY.

VISCOUNT CANTERBURY.

IT is with regret we have to announce the death of Viscount Canterbury, who expired on Monday, the 21st ult. at twenty-five minutes after three in the afternoon, at the Hon. Henry Manners Sutton's residence in Southwick-crescent, Hyde-park. The immediate cause of death was apoplexy, and after the attack he experienced on the Great Western Railway in coming to town from Devonshire, he lost all power of speech and consciousness up to the moment of his death.

The Hon. Henry Manners Sutton, the Under-Secretary of State for the Home Department, and Mr. Sanderson, M.P. and the Hon. Mrs. Sanderson, were the only relatives with his lordship at his dissolution. An express was forwarded as early as possible after the noble viscount's arrival at his son's house, to Viscountess Canterbury and family, who are at Rockbeare House, near Exeter, and another was sent to the Hon. Charles John Manners Sutton to Paris, in which capital the hon. gentleman has been residing for some time past.

The deceased Charles Manners Sutton, Viscount Canterbury, of the city of Canterbury, and Baron Bottesford, in the county of Leicester, in the peerage of the United Kingdom, was eldest son of Charles Manners Sutton, the late Archbishop of Canterbury. He was born the 29th January, 1780, and was therefore in his 66th year. His lordship was twice married, namely, first, the 8th of July, 1811, to Charlotte, eldest daughter of John Dennison; and, secondly, 6th December, 1828, to Ellen, daughter of Mr. Edmund Power, relict of Mr. John Hume Purvis. By his first marriage he leaves issue the Hon. Charles John Manners Sutton (now Viscount Canterbury), Registrar of the Faculty-office, born the 17th of April, 1812; the Hon. Henry Manners Sutton, M.P. Under-Secretary of State for the Home Department, born the 27th of May, 1814; and the Hon. Charlotte Matilda, born the 27th of May, 1814, and married to Mr. Richard Sanderson, M.P. By his second alliance he leaves an only daughter, the Hon. Frances Diana, born the 17th of December, 1829. The present Viscountess Canterbury is sister of the Countess of Blessington.

The late Viscount was Speaker of the House of Commons from 1817 to 1834. In 1834 his re-election was opposed by Mr. Abercromby (now Lord Dunfermline), being brought forward by the Whig party, and after one of the largest divisions on record the numbers were, for Mr. Abercromby, 316; Sir Charles Manners Sutton, 306.

Immediately after his defeat for the Speaker's chair, he was appointed by William IV. to perform the important and delicate office of commissioner for adjusting the claims of Canada; but, owing to the impaired health of his lady, he was compelled to resign.

The deceased was elevated to the peerage, by being created a Viscount of the United Kingdom, in 1835. He was a Civil Grand Cross of the Order of the Bath, a Governor of the Charterhouse, and a Commissioner of the Land-tax and for building Churches. His lordship enjoyed a pension of 4,000*l*. a year, which is continued to his successor.

JOHN ADOLPHUS, ESQ.

JOHN ADOLPHUS was born, we believe, in London, in the year 1764 or 1765. His father, who was a German Jew, had been attached to the household of the Great Frederick, in a chirurgical capacity, but left, as a far greater and abler man, Voltaire, had done, if not in disgrace, at least in dudgeon. No ruffian *sbirri* followed the elder Adolphus to claim "*le livre de Poëshée du Roi mon maître*," (a) and he settled down in quiet practice in London. Of the early history and school-boy days of John Adolphus, the subject of this sketch, nothing is known. The irregularities, however, of Adolphus's early life induced his father to avail himself of an eligible offer made by a great West India proprietor, and the young stripling, then in his sixteenth year, proceeded, in 1780, as factor or attorney to St. Christopher's. Towards the end of 1781 or the beginning of 1782 he returned to England. For some time he led an inactive and purposeless life, but after a while entered an attorney's office, where he was regularly articled in 1783. In 1790 he was admitted an attorney and solicitor. In 1792 and 1793 he was remarkable as a regular attendant at the spouting clubs, both in the west end and eastward of Temple Bar, and in a very short time, having a natural aptitude for speaking, distinguished himself by his readiness and fluency. In 1793 he married Miss Leycester, of White-place, Berks, with whom he obtained some considerable fortune. Antecedently to his marriage he had engaged in literary pursuits, and subsequent thereto continued to assist Archdeacon Coxe in preparing for the press the *Memoirs of Sir Robert Walpole*. It may not be amiss to state here, that his acquaintance with the archdeacon soon ripened into friendship—a friendship which uninterruptedly and harmoniously endured till it was severed by the death of one of the parties. Coxe had his faults, and among the most prominent was prolixity; but, to the credit of Adolphus be it spoken, to the day of his death he defended the memory and the literary labours of his friend the archdeacon, if not with a discreet, at least with a courageous and commendable zeal. In 1799 the subject of this sketch published *Biographical Memoirs of the French Revolution*, a work written here and there with strength, freshness, and spirit, but occasionally exaggerated in the tone, and far too vehement and one-sided to be considered a safe or impartial guide. But these are imperfections incident to all ephemeral party publications; and the very vices that disentitle Adolphus to credit as an historian, exalt him as a pamphleteer and a partisan. This was followed in the same year by *The British Cabinet, or Portraits of Illustrious Persons, with Memoirs*, a work written for the booksellers, and every way unworthy of the powers and talents of the man. But the best books are not always the most successful, and this inferior production met with a ready sale, and was published in a second edition in 1805. The party pamphleteer now essayed a bolder flight, and soared into the dominion of history. His *History of England, from the Accession of George III. to the Peace of* 1783, appeared in three volumes in 1802. Though this work is written in a narrow and party spirit, though its tone is occasionally arrogant, offensive, and dogmatical, yet the narrative is neat, lucid, and flowing.

In the following year, 1803, Adolphus published his *History of France from* 1790 *to* 1802, a work pronounced by so competent a judge as the late Lord Malmesbury, both as to facts and motives, singularly accurate. In compiling this work Mr. Adolphus, it is understood, had access to the chancery of more than one foreign embassy. The fame of Adolphus as a party pamphleteer and general author, was now wide spread and general. As a public speaker he had also distinguished himself both at Merchant Tailors'-hall, the British Forum, and the Eccentrics; and he was also understood to be no infrequent contributor to the periodical literature of the day. This renown, such as it was, procured him that species of business in his profession which perhaps he most desired, election business. He was engaged in more than one Westminster election, and also in "the great Middlesex election" case, in all of which he exhibited a tact, readiness, and aptness, oftener sought than found. Conscious, like all able men, of his own powers, he resolved to quit the subordinate branch of the profession, and to enter on a forensic career. With this view he entered himself of the Inner Temple in 1802 or 1803, and was called to the bar on the 20th November, 1807. He immediately commenced attendance at the Old Bailey; but though the court was not so hermetically sealed as it is now —though jobbing, and hugging, and humbug were by no means so rife—though the new aspirant had had the advantage of being in a subordinate branch of the profession—yet it was some time before Mr. Adolphus obtained business. At the Kent sessions he was more successful. Though known, however, for years as a ready, adroit, and capable man, it was not until April 1820, being then of thirteen years standing at the bar, and in the 55th year of his age, that he came before the public in the character of leading counsel for Arthur Thistlewood, and labouring under every disadvantage of a want of preparation, aggravated by the want of means of the prisoner, and the general horror with which his crime was regarded—he yet, without elaborate preparation, and sinking from bodily fatigue and the want of sleep, made as artful, as acute, and as ingenious a defence for the unhappy man as ever was heard in a court of justice. This speech, which may be found in the 33rd volume of *Cobbett's State Trials*, is distinguished, more especially in the opening part, by all that chaste felicity of diction for which Adolphus was always celebrated, and of which he was one of the first masters. It is well known that he sat up the whole of the night to prepare this speech, but, considering the mass of evidence he had to wade through, the effort is an extraordinary one. The speeches in defence of Ings, Brunt, Davidson, and Tidd, completed the measure of his fame, and from this moment he was regarded as a man combining all the superior qualities of Bearcroft, Garrow, and Gurney, with excellences peculiarly his own. In the following year, 1821, a competitor, in every way worthy of him, appeared at the Old Bailey—Mr. Charles Phillips—and these two men, with Mr. Brodrick and Mr. Curwood, may be said to have centred in their persons the eloquence, the astuteness, tact, and professional

(a) See the inimitable account of this passage in Voltaire's Life, in which the German accent of the agent of the King is successfully stereotyped *in æternum*.

learning of the Old Bailey Bar. For nearly twenty-two years Adolphus and Phillips were rivals; and though the excellences and merits of each were of a nature wholly distinct, yet it may be fairly said that all the mental power and energy of the Old Bailey were divided between them.

Adolphus was a man of acute and apprehensive, rather than of great or powerful faculties, but his capacity was clear, if not of the greatest comprehension, or of the highest order; and when he put forth his faculties strenuously he was often a powerful, and, generally, a formidable opponent. He was always clear without effort; and his idiom, purely and unaffectedly English, was never chargeable with a false or vicious taste. His attention was ever wakeful to the case before him; and whether in examination or cross-examination, no man was more "cunning of fence." His voice was clear, mellow, and flexible, though not of much compass; he had neither fancy nor imagination, nor were his argumentative powers of the highest order; but the clearness of his statements, the happy disposition of his topics, and the felicity of his epithets, were the objects alike of wonder and of hopeless imitation.

But though not gifted with the very highest powers of mind, he ran as close to the wind in his deductions as any man of his day. No man had a quicker or surer perception of a point, or pursued it with a keener scent of the game to be run down. He had a thorough knowledge of men, and had mixed with persons of all ranks and conditions. His reading was very varied and discursive—running into the drama, history, French memoirs, facetiæ, the last French novel, German theology, Scotch metaphysics, and the philosophy of Kant and Schelling; but withal, his understanding was purely and entirely legal, though he had never made himself a profound lawyer. But in sessions and parish law, and in the law of evidence, he was as apt and ready as any man of his time. He made no blunders, and he left no advantages unimproved. An erroneous idea has spread abroad that he was a man of a coarse and rugged nature. Nothing can be farther from the truth. He had to deal with men of coarse and brutal manners; and an eager, excitable nature, and a warm temper, often led him to retort in the strain in which he had been attacked; but treat him as a gentleman, and no man was more courteous or kindly in his practice.—*Morning Chronicle.*

BIRTHS, MARRIAGES, AND DEATHS.

[The charge for the insertion of the above is 5s.]

BIRTHS.

Ashmore.—On Wednesday, the 30th ult. in Upper Bedford-place, Russell-square, the wife of James Ashmore, esq. barrister-at-law, of a son.

Cox.—On Friday, the 1st inst. at Hamilton-terrace, St. John's Wood, the wife of Edward William Cox, esq. barrister-at-law, of a daughter.

Graham.—On the 28th ult. at Abingdon, the wife of Thomas Hedges Graham, esq. of a son.

MARRIAGES.

Chandler, Benjamin, esq. jun. of Sherborne, Dorset, to Elizabeth, eldest daughter of Richard Worsley, esq. of Blandford, on Tuesday, the 29th ult.

Hollams, John, esq. solicitor, Mincing-lane, London, to Rice, third daughter of the late Rev. Edward Mott Allfree, rector of St. Andrew, Canterbury, and vicar of Shorne, Kent, on the 30th ult. at St. Nicholas Church, Brighton.

Richards, Richard Meredyth, esq. of the Inner Temple, to Elizabeth Emma, only daughter of the late William Bennett, esq. of Faringdon House, Berks, on the 29th ult. at Faringdon.

Roper, Thomas Henry, esq. barrister-at-law, of Lincoln's-inn, eldest son of Thomas Roper, esq. of Vane-house, Hampstead, to Mary Emma, eldest daughter of Basil John Woodd, esq. of Hillfield, in the same place, on the 31st ult. at St. John's, Hampstead.

DEATHS.

Case, Thomas, esq. one of her Majesty's Justices of the Peace for the county of Lancaster and borough of Liverpool, at his residence, Thingwall-hall, on Friday, the 25th ult. aged 68.

Cooper, Jane, relict of William Cooper, esq. late of Grove-place, Camden-town, Middlesex, at the house of her nephew, Martin Coulcher, esq. in Downham-market, Norfolk, on the 23rd ult. aged 78.

Houson, Clay, son of Joseph Houson, esq. 19, Lincoln's-inn-fields, on Monday, the 28th ult. aged 18.

Mules, Agnes, wife of Henry Charles Mules, esq. of Honiton, Devon, on the 25th ult. at the rectory, Freston, Suffolk.

Wigzell, Attwood, esq. of the Middle Temple, for 16 years connected with the reporting department of the *Morning Herald*, universally esteemed and beloved by his colleagues and acquaintance, on Saturday, the 26th ult.

Public Sales.

By Mr. MASON, at Garraway's.

A neat house, No. 3, Elizabeth-street, Walworth-common, let at 26l. per annum, and held for 58 years unexpired, at 2l. 10s. ground-rent—187l. 10s.

Four respectable residences, Nos. 8, 9, 11, and 12, Congreve-street, Park-road, Lambeth, let to yearly tenants at rents amounting to 180l. per annum, and a ground-rent of 6l. 10s. arising from another house, held for 81 years, at 88l. for the whole—1,584l.

A leasehold estate, comprising seven residences of a similar description, let at 200l., and ground-rents of 13l. arising from two other houses, held for 80 years, at 56l. 10s.—2,415l.

Three genteel houses, Nos. 20, 21, and 22, Walcot-square, Lambeth, and a neat house, No. 36, St. Mary-street, let at 90l. per annum, held for 69 years, at a ground-rent of 12l.—787l. 10s.

Two inclosures of arable land, containing 18 acres and 27 perches, 4 acres of which are freehold and the remainder copyhold, situate at Chapel-end, Walthamstow—1,291l. 10s.

A copyhold estate, comprising an inclosure of meadow land, containing 13a. 1r. 18p.—714l.

6a. 2r. 28p. of freehold meadow land, opposite the Crooked Billet, on the high road to Chingford—840l.

Six allotments in Walthamstow Marsh, containing 4a. 1r. 20p.—136l. 10s.

By Mr. ROBERTS (Old Jewry), at the Mart.

Premises intended for a public-house, situate No. 1, Porter's-row, Highbury-place, Holloway, held for 21 years from Lady-day 1843, at 40l. per annum—100l.

A leasehold house, No. 11, Temple-st. Queen's-road, Dalston, let at 16l. Lease for 72 years from Christmas-day 1844, at a ground-rent of 2l. 10s.—120l.

A similar house, being No. 12—125l.

A ditto, being No. 13—135l.

A ditto, being No. 14—265l.

A leasehold semi-detached cottage, No. 3, in Laurel-st. Queen's-road, Dalston, let at 28l. per annum, held for 74 years, at 4l. ground-rent—265l.

A similar cottage, adjoining—290l.

A leasehold residence, No. 41, Holly-st. Dalston, of the value of 30l. per annum, held for 74 years, at 4l. ground-rent—295l.

A similar house, being No. 42, adjoining—290l.

A house and shop, No. 11, Hertford-terrace, Haggerstone, let at 25l. per annum, held for 94 years, at 4l. ground-rent—290l.

A residence, being No. 7, Oxford-street, New North-road, Islington, let at 30l. per annum, held for 99 years from Lady-day 1843, at a ground-rent of 6l. 5s.—315l.

A similar residence, being No. 8—320l.

A ditto, being No. 9—315l.

A ditto, being No. 10—325l.

A ditto, being No. 3, let at 30l. per annum, held for 99 years from Lady-day 1843, at 4l. 10s. ground-rent—320l.

A house and shop, No. 10, Gordon-st. Islington, value 35l. per annum, held for 86 years, from June 1840, at a ground-rent of 8l.—250l.

The following scale of charges, *reduced more than one-third*, has been adopted for Advertisements of Estates for Sale, &c. exceeding 10 lines in length:

For the first 70 words . . . . . 5s.
For every succeeding 30 words . 1s.

THE MONEY MARKET.

	Sat.	Mon.	Tues.	Wed.	Thurs.	Frid.
Three per Cents. Consols	98⅞	99⅛	99¼	98⅞	99¼	99¼
Three per Cents. Reduced	99¼	99¼	99½	99¼	99⅛	98⅞
New Three-&-a-quarter per Cts	101⅞	102	102¼	102¼	102⅛	102¼
Long Annuities..............	11½	11⅛	11⅛	11⅛	11⅛	11½
Bank Stock	210½	211¼	211	211⅛	211½	211
India Stock	279	279½	279	276½	276	272
India Bonds, prem...........	71	71	72	71	72	67
Exchequer Bills, prem.	54	55	56	55	56	54
FOREIGN.						
Spanish Five per Cents.......	26¼	26¼	26½	26⅞	26¾	26⅞
Spanish Three per Cents.	37¼	37½	37⅛	37⅛	37⅛	37⅞
Russian	118¾	118½	119¼	119½	119½	119¼
Peruvian....................	32½	31¾	31	36¾	31½	36¼
Portuguese	64⅛	64¼	64½	60⅛	65	65¼
Mexican	36⅞	36⅞	37	37	38	36⅞
——— Deferred	20½	20¼	19½	19¼	19½	20⅞
Dutch Two-and-a-Half per Cents..........	62½	62⅞	62⅛	62⅞	62¼	62⅛
——— Four per Cents.	99⅞	98½	99⅞	99¼	99⅛	99⅞
Danish	89½	89⅞	89¼	90¼	90	89½
Colombian..................	17⅛	17⅛	17⅛	17⅞	17⅛	17⅞
Chilian	100⅛	100½	100⅞	100¼	101	101⅛
Buenos Ayres	45½	45½	45⅞	45⅞	47½	46¼
Brazilian..................	90½	90⅞	90⅞	91	91⅛	91½
Belgian	99½	99⅞	99½	99½	100½	99⅞

THE GAZETTES.

AMOUNT OF DIVIDENDS DECLARED.

The sum stated as the Dividend means so much declared in the Pound. The Assignees, when chosen, follow this statement.

Monday, July 21.

Atkinson, T. chemist, div. next week. Groom, London.—*Barron*, G. builder, fin. div. next week. Groom, London.—*Filbey*, J. victualler, assignees, Aug. 11.—*Squiers*, J. fruiterer, last exam. Sept. 29.—*Stevens* and *Co.* road contractors, fin. div. Stevens, next week. Groom, London.—*Wood* and *Co.* tea dealers, last exam. Sept. 29.

Tuesday, July 22.

Beard, J. builder, div. next week. Whitmore, London.—*Kstall*, G. plasterer, last exam. passed.—*Gent* and *Co.* commission merchants, last exam. Aug. 12.—*Green* and *Green*, stationers, last exam. passed.

Wednesday, July 23.

Baldwin and Co. drapers, joint and sep. divs. next week. Bell, London.—*Page*, P. builder, last exam. passed.

Thursday, July 24.

Carter, G. J. carpenter, div. next week. Belcher, London.—*Currie* and *Co.* merchants, last exam. passed.—*Forth Marine Insurance Company*, underwriters, assignees, Aug. 1.

Friday, July 25.

Batt and *Batt*, silk dealers, joint div. next week. Penfold, London.—*Chrisp*, J. wine broker, div. next week. Alsager, London.—*Fish*, R. plumber, last exam. Aug. 14.—*Harman*, J. brewer, div. next week. Pennell, London.—*Hill*, J. victualler, last exam. Aug. 8.—*Underwood*, W. grocer, div. next week. Alsager, London.—*Wood*, H. draper, last exam. *sine die.*

Saturday, July 26.

Peters, J. fancy trimming manufacturer, last exam. passed.—*Tallent*, A. sen. provision dealer, last exam. bankrupt confined in gaol.

DIVIDENDS.

Bankrupts' Estates.

Official Assignees are given, to whom apply for the Dividends.

Armstrong, C. L. schoolmaster, 4d. Turner, Liverpool.—*Atkinson* and *Atkinson*, first, 1s. 9d. Wakley, Newcastle.—*Barham*, R. draper, 3½d. Follett, London.—*Booth*, J. cloth manufacturer, first and final, 2s. 5d. Fearne, Leeds.—*Botham*, E. innholder, 9d. Follett, London.—*Bright*, B. victualler, 2½d. Follett, London.—*Daly*, C. bookseller, final, 7d. and 29-32nd parts of 4d. Belcher, London.—*Dotesio*, C. hotel keeper, 1s. Follett, London.—*Graham*, J. jun. wine merchant, first and final, 1s. 1½d. to new proofs. Baker, Newcastle.—*Granger*, W. paper manufacturer, first and final, 1s. 3½d. Baker, Newcastle.—*Griffiths*, E. commission agent, 6d. Turner, Liverpool.—*Hart*, J. builder, first, 5s. Pennell, London.—*Handley*, S. coachmaker, 1s. 7½d. Follett, London.—*Hood*, W. grocer, second, 1d. Groom, London.—*M'Donell*, G. wine-broker, 7d. Follett, London—*Mills* and *Co.* cotton manufacturers, second 3ed 10d. and first and second, 1s. 7d. to new proofs. Fra. Manchester.—*Murray*, P. draper, 3s. 3½d. Pott, Manchester.—*Oliver*, W. printer, first, 4s. 6d. to new proofs, second, 2s. Wakley, Newcastle.—*Palmer*, B. W. wine merchant, 1s. 3d. Follett, London.—*Pim*, J. draper, first, 1½d. Belcher, London.—*Poynter*, W. warehouseman, first, 3s. Pennell, London.—*Pritchard*, E. wine merchant, second 1s. 5d. and 5s. 5d. to new proofs. Turner, Liverpool.—*Smith*, N. T. jun. shipowner, 1s. 8d. Follett, London.—*Thorpe*, H. linendraper, first, 2s. 4d. Groom, London.—*Tucker*, R. farrier, 8¼d. Follett, London.—*Ward* and *Co.* meat salesmen, 2s. Follett, London.—*Welch*, J. victualler, 1s. 10d. Follett, London.—*Wile*, J. ironmonger, final, 2d. Whit. Birmingham. *Williams*, H. grocer, 1d. Follett, London.—*Wilson*, J. bootmaker, first, 6s. 6d. Pennell, London.—*Wood*, J. F. surgeon, 8¼d. Follett, London.

Insolvents' Estates.

Burgess, P. superan. surveyor of assessed taxes, 1s.—*Colling*, G. publican, Ryton-lane-end, Durham, first, 4s. 8d.—*Longston* and *M'Knight*, stone masons, Whitfield, 20s.

ASSIGNMENTS

To Trustees for the benefit of Creditors.

Gazette, July 25.

Brereton, W. miller, Newhall-mill, Cheshire, June 30. Trusts. A. Davies, gent. Aston-park, Salop, and J. Stanyer, farmer, Acton. Sol. Jones, Whitchurch.—*Nunn*, W. oilman, Hackney-road, July 15. Trusts. J. and H. J. Houghton, wholesale oilmen, Bartholomew-close. Sol. Smith, Barnard's-inn.—*Shaw*, E. grocer, Chester, July 16. Trust. A. Sidebotham, tea dealer, Manchester. Sol. Baker, Manchester.—*White*, R. surgeon, Portsmouth, July 19. Trusts. J. S. Sayer, esq. J. M. Young, butcher, and J. Holmes, coal merchant, all of Portsmouth. Sol. Hellard, Portsmouth.—*Stean*, E. butcher, Long Itchington, Warwickshire, July 19. Trusts. R. Welchman and E. Russell, gents. both of Wappenbury. Sols. Messrs. Russell, Leamington-priors, and Wright and Welchman, Southam.—*Hodgson*, G. *Phillips*, J. and *Whitehead*, J. machine makers, Bradford, July 19. Trusts. F. Hattersley, machine maker, H. Read, tinner, and T. Dixon, ironmonger, all of Bradford. Sol. Cooper, Bradford.

Gazette, July 29.

Coats, J. farmer, Dore, Derbyshire, July 12. Trusts. E. Wardlow, farmer, Fullwood, and H. Armitage, gent. Mousehole Forge, Yorkshire. Sol. Broomhead, jun. Sheffield.—*Horne*, J. brewer, Brighton, July 3. Trusts. I. Sewell, gent. and T. Wisden, gent. both of Brighton, and R. Bullard, brewer, Norwich. Sol. Stevens, Queen-street.—*Oak*, G. builder, Southampton, July 14. Trusts. S. Bovill, and R. Driver, merchants, both of Southampton. Sols. Sharp and Harrison, Southampton.

Bankrupts.

DATE OF FIAT AND PETITIONING CREDITORS' NAMES.

Gazette, July 25.

Allen, Manning, butcher, St. Helen's, Lancashire, Aug. 6 and Sept. 2, at twelve, Liverpool, Com. Ludlow; Bird, off. ass.; Gregory and Co. Bedford-row, and Green, Liverpool, sols. Date of fiat, July 18. Bankrupt's own petition.

Brown, Thomas and **Donald**, ship and general agents, and manufacturers of gryll's whelp, No. 19, Billiter-st. City, Aug. 4 and Sept. 5, at twelve, Basinghall-st. Com. Holroyd; Edwards, off. ass.; Fawcett, Jewin-st. and Hockley, sols. Date of fiat, July 18. C. J. Redpath and J. Brown, ironmongers, Commercial-rd, West India Docks, pet. crs.

Dumbrill, John Nevill, jun. baker, Eastbourne, Sussex, Aug. 5, at half-past one, Sept. 2, at two, Basinghall-st. Com. Holroyd; Groom, off. ass.; White, Chancery-lane, sol. Date of fiat, July 17. T. Mockett, Eastbourne, pet. cr.

Harding, Edward Phillip, hosier, Gravesend, Aug 1, at half-past twelve, Sept. 5, at eleven, Basinghall-st. Com. Fonblanque; Pennell, off. ass.; Oldershaw, King's Arms-yd. sol. Date of fiat, July 18. R. Hughes and A. Nevill, warehouseman, Wood-st. pet. crs.

Holmes, Thomas Valentine, corn factor, Stokes-croft, St. Paul's, Bristol, Aug. 5 and Sept. 3, at eleven, Bristol, Com. Stephen; Hutton, off. ass.; Malpas and Co. Frederick's-pl. and Salman, Bristol, sols. Date of fiat, July 19. Bankrupt's own petition.

James, George, draper, Leamington Priors, Warwick, Aug. 13, at ten, Sept. 11, at eleven, Birmingham, Valpy, off. ass.; Moger, Paternoster-row, and Bartlett, Birmingham, sols. Date of fiat, July 8. J. Boyd, warehousemen, Friday-st. pet. cr.

Jaques, George, plumber, painter, and glazier, Tothill-st. Westminster, July 30, at half-past two, Sept. 2, at one, Basinghall-st. Com. Holroyd; Edwards, off. ass.; Leigh,

. Mansion-house, sol. Date of fiat, July 21. J. Dromgole and J. Linton, window-glass dealers, Barbican pet. crs.

NICHOLSON, RICHARD, bookseller, Stockton, Durham, Aug 6, at half-past twelve, Aug. 29, at one, Newcastle, Com Ellison; Baker, off. ass.; Freeman and Co. Coleman-st sols. Date of fiat, July 16. G. B. Whittaker and W. C Hood, wholesale booksellers, Ave Maria-lane, pet. crs.

Gazette, July 29.

DIXON, JOHN, innkeeper and coach proprietor, Deepea Ecclesfield, Aug. 12 and Sept. 2, at eleven, Leeds, Com. West; Young, off. ass.; Tattershall, Great James st., Chambers, Sheffield, and Dunning and Storr, Leeds sols. Date of fiat, June 5. J. Chambers, attorney, Sheffield, pet. cr.

MATTHEWS, BENJAMIN STEPHEN THOMAS, oil and colourman, 40, Cornwall-rd. Lambeth, Aug. 11, at eleven, Sept 9, at one, Basinghall-st. Com. Holroyd: Groom, off. ass.; Justice, Berners-st. sol. Date of fiat, July 24. Bankrupt's own petition.

SMETHURST, WILLIAM, jacquard machine maker, Manchester, Aug. 11 and Sept. 9, at twelve, Manchester; Fraser, off. ass.; Chester and Co. Staple-inn, and Chapman and Roberts, Manchester, sols. Date of fiat, July 21. M. Burnell, builder, Manchester, pet. cr.

THOMPSON, RALPH, watch and clock maker and jeweller, Newcastle-upon-Tyne, Aug. 13 and Sept. 23, at two, Newcastle, Com. Ellison; Wakley, off. ass.; Charter and Co. Newcastle, and Bell and Co. Bow Church-yard, sols. Date of fiat, July 22. Bankrupt's own petition.

VENTURA, ISAAC DE JOSEPH, merchant, 3, White Hart-ct Bishopsgate, Aug. 5, at half-past one, Sept. 9, at twelve, Basinghall-st. Com. Fane; Alsager, off. ass.; Lindo, Fenchurch-st. sol. Date of fiat, July 26. Bankrupt's own petition.

WRAKE, MICHAEL, jun. bricklayer and builder and dealer in coals, Canterbury, Aug. 8, at two, Sept. 9, at eleven Basinghall-st. Com. Fane; Whitmore, off. ass.; Messrs Scott, Southampton-buildings, and Walker, Canterbury sols. Date of fiat, July 19. Bankrupt's own petition.

PARTNERSHIPS DISSOLVED.

Gazette, July 22.

Barker, W. and *Renshaw*, C. millwrights, Mottram in Longdendale, July 18. Debts paid by Barker.—*Buckley*, J. and *Taylor*, R. general ironmongers, Liverpool, July 17.—*Bryne*, F. L. and *Porter*, H. estate agents, Liverpool, July 7. Debts paid by Porter.—*Carline*, J. and *Dodson*, R. stone masons, Shrewsbury, June 24. Debts paid by Carline.—*Colston*, M., M., E. and A., J B. and J. E. farmers, Whitchurch, April 26.—*Crossland*, J. and *Parkar*, T. farmers, Kirkheaton, July 17.—*Duck*, J. and *Henderson*, R. coach painters, Cleveland Mews, Cleveland-street, Saint Pancras, and Berwick-street, Westminster, July 18.—*Durden*, E. H. and *Barrett*, T. wood turners, Pitchcombe-mills, Gloucestershire. Jan. 1.—*Gibbons*, J. and J. ironmongers, Walworth-place, Walworth-road, July 19. Debts paid by James Gibbons.—*Gifford*, C. F. and *Bishop*, W. picture dealers, Plymouth, June 30. Debts paid by Bishop.—*Grierson*, J. and *Evarard*, J. stockbrokers, Huddersfield, July 7.—*Harvey*, J. and G. lamp-glass dealers, King William-street, June 30. Debts paid by J. Harvey.—*Hodge*, E. and *Johnston*, A. milliners, Great Russell-street, Bloomsbury, March 25.—*Lees*, A. and J. corn factors, Birmingham and Smethwick, June 28.—*Moyle*, M. and *Harvey*, R. grocers, Chacewater, Cornwall, July 4. Debts paid by Borlase, solicitor, Truro.—*Newton*, G. and *Trelvar*, W. coal and coke merchants, Bristol, July 19. Debts paid by Newton.—*Paine*, G. and *Quare*, J. paper manufacturers and oil crushers, Cheriton, Kent, July 17.—*Powell*, W. and W. H. brass-candlestick makers, Birmingham, July 1. Debts paid by William Powell.—*Seddon*, J. and *Dean*, J. earthenware manufacturers, Burslem, July 17.—*Simpson*, J. P. and *White*, W. Sunderland, June 30.—*Smith*, G. and *Bolton*, B. coal merchants, Blackburn, June 30. Debts paid by Bolton.—*Taylor*, E. and *Caldecott*, R. linen leech thread and twine manufacturers, Manchester, July 15. Debts paid by Caldecott.

Gazette, July 25.

Beaumont, H. and *Langworthy*, J. stock brokers, Exeter, July 5.—*Beddoe*, W. and *Brook*, R. linen drapers, Bradford, July 15.—*Brunies*, B. and *Dowling*, J. silk velvet manufacturers, Percy-circus, Clerkenwell, July 3. Debts paid by Dowling.—*Crawford* J. and *Hughes*, J. general ship chandlers, Liverpool, July 21. Debts paid by Hughes.—*Crookes*, J. sen. and jun. tailors, Regent-st. July 12. Debts paid by Crookes, sen.—*Dudson*, J. and C. china manufacturers, Stoke-upon-Trent, July 23. Debts paid by J. Dudson.—*Eades*, W. sen. and jun. lath manufacturers, Birmingham, July 2.—*Ellis*, J. and *Hardwick*, J. ironmongers, Sheffield, July 23.—*Farrell*, F. and *Thompson*, C. schoolmistresses, Dorchester, June 24.—*Harrison*, C. and *Banks*, D. drapers, Newcastle, July 15. Debts paid by Harrison.—*Hitchman*, W. S. *Beman*, J. and *Sotham*, F. wine merchants, Chipping Norton, July 1. Debts paid by Hitchman.—*Levy*, L. and *Moss*, L. segar manufacturers, Bishopsgate-st. July 24. Debts paid by Moss.—*Lloyd*, J. and *Weddell*, S. saddlers, Liverpool, July 19. Debts paid by Lloyd.—*Mangles*, F. *Price*, W. and *Moore*, H. T. merchants, New Broad-st. Wapping-wall, and at Perth, in Western Australia, June 30. Debts paid by Mangles and Moore.—*Norfolk*, J. F. and *Shaw*, J. F. veterinary surgeons, Cheltenham, June 30.—*Otter*, E. and J. joiners, Lincoln, July 12. Debts paid by Ward, of Lincoln, builder.—*Rea*, J. and S. butter merchants, Liverpool, June 30. Debts paid by J. Rea.—*Spurway*, W. G. and F. J. house decorators, Tottenham-cross and Bishopsgate-st. Without, June 30. Debts paid by W. G. and F. J. Spurway.—*Watkins*, H. D. and *Barlow*, G. lead merchants, at Manchester, July 23. Debts paid by Barlow.—*Willis*, M. and *Plaice*, J. ornamental plasterers, Edward-st. Lambeth, July 22. Debts paid by Willis.—*Wright*, W. and G. manufacturers, Fiskerton, July 23. Debts paid by G. Wright.

Insolvents

Petitioning the Courts of Bankruptcy.

PETITIONS TO BE HEARD AT BASINGHALL-STREET.

Gazette, July 29.

Clarke, W. attorney, Oxford, Aug. 7, at one.—*Hewitt*, C. D. cabinet hanger, Pollard's-row, Bethnal-green, Aug. 7, at twelve.—*Wall*, H. lieutenant in the navy, Upney-cottage, Southampton-st. Camberwell, July 29, at two.

COUNTRY.

Gazette, July 22.

Browne, S. widow, Bawdsey, Suffolk, Aug. 12, at half-past eleven, Bristol.—*Calkin*, E. J. professor of dancing, Hilderstone, Staffordshire, Aug. 1, at half-past ten, Birmingham.—*Howell*, G. butcher, Liverpool, July 29, at eleven, Liverpool.—*Jenkins*, J. livery stablekeeper and horse dealer, Gloucester, Aug. 11, at eleven, Bristol.—*Povall*, H. joiner and builder, Oxton, Cheshire, July 29, at eleven, Liverpool.—*Wade*, J. innkeeper and cloth manufacturer, Morley, Aug. 6, at eleven, Leeds.—*Willey*, T. printer, Cheltenham, Aug. 14, at half-past eleven, Bristol.

MEETINGS AT BASINGHALL-STREET.

Gazette, July 22.

Luson, J. B. clerk in the dock-yard, Sheerness, Aug. 14, at half-past eleven.

MEETINGS IN THE COUNTRY.

Gazette, July 22.

Copley, R. farmer, Sheffield, Aug. 18, at eleven, Leeds.—*Jepson*, G. victualler and steel roller, Nether Hallam, Aug. 18, at eleven, Leeds.—*Shepherd*, J. boot maker, Huddersfield, Aug. 18, at eleven, Leeds.—*Wood*, G. confectioner, Leeds, Aug. 18, at eleven, Leeds.

Gazette, July 25.

Britton, A. shoemaker, Chorley.

PETITIONS TO BE HEARD AT BASINGHALL-STREET.

Brooker, W. silversmith, Powell-st. East, Goswell-st. Aug. 7, at one.—*Clark*, F. coach maker, Salisbury, Aug. 6, at twelve.—*Coulson*, J. I. builder, King-st. New North-road, Aug. 16, at eleven.—*De Burgh*, W. tailor, Bedford-place, Commercial-road East, Aug. 16, at eleven.—*Doke*, A. J. doctor of medicine, Sherrard-st. Golden-sq. Aug. 6, at twelve.—*Gibbons*, R. brick maker, Brill, Aug. 6, at one.—*Hunt*, H. cabinet maker, Nicholas-st. Hoxton, and Evans-place, Hill-st. Finsbury, Aug. 6, at one.—*Joyce*, A. J. railway clerk, Guildford-st. Russell-sq. Aug. 2, at half-past eleven.—*Levings*, W. painter, Southampton-st. Pentonville, Aug. 16, at eleven.—*Marsden*, G. clerk, Gainsford-st. Barnsbury-road, Aug. 6, at twelve.—*Magarey*, T. coal merchant, Cloudsley-ter. Liverpool-road, Islington, of Fowkes'-bldgs. Great Tower-st. and of Jamaica-wharf, Upper Ground-st. Blackfriars, July 31, at one.—*Potts*, J. carpenter, Canterbury, Aug. 16, at eleven.—*Roper*, W. porter merchant, out of business, Norwich, July 31, at one.—*Stedman*, J. general commission agent, St. Mary-at-Hill and Lower Thames-st. Aug. 6, at twelve.—*Wills*, W. J. grocer, Crescent-st. Euston-sq. July 31, at two.—*Woodd*, G. L. lieutenant, Grafton-st. Tottenham-court-road, July 31, at twelve.

COUNTRY.

Gazette, July 25.

Barton, R. wheelwright, Hanley, Aug. 5, at eleven, Birmingham.—*Bentley*, G. fulling miller, Butterworth, Aug. 7, at twelve, Manchester.—*Booth*, J. S. undertaker, Halwood, near Liverpool, Aug. 8, at eleven, Liverpool.—*Cook*, S. out of business, Weston-super-Mare, Aug. 11, at half-past eleven, Bristol.—*Harrison*, R. hair dresser, Loughborough, Aug. 7, at eleven, Birmingham.—*Mitchell*, J. victualler, Eccleshill, Aug. 6, at eleven, Leeds.—*Mitchell*, J. green grocer, Pudsey, Aug. 6, at eleven, Leeds.—*Thomas*, W. labourer, Neath, Aug. 12, at twelve, Bristol.—*Whammond*, C. out of business, Liverpool, Aug. 8, at eleven, Liverpool.—*Wingyett*, J. out of business, Dartmouth, Aug. 5, at eleven, Exeter.—*Williams*, E. market toll collector, Merthyr Tydvil, Aug. 15, at half-past eleven.

From the Gazette of Friday, August 1.

Bankrupts.

Tunks, J. market gardener, Scardell-terrace, Kensington.—*Best*, W. and *Snowden*, J. printers, Southampton.—*Clark*, W. baker, Royston, Hertfordshire.—*Walker*, H. D. innkeeper, Eaton Socon, Bedfordshire.—*Curtis*, J. H. bookseller, Soho-square.—*Peake*, J. miller, Tolleshunt Knights, Essex.—*Waller*, J. H. ironmonger, Southampton-st. Camberwell, Surrey.—*Best*, J. dyer, Bradford, Yorkshire.—*Broadbent*, J. woollen manufacturer, Saddleworth, Yorkshire.—*Powell*, T. brick-maker, Kippax, Yorkshire.—*Jamson*, W. victualler, Spittlegate, Lincolnshire.—*South*, S. maltster, Spittlegate, Lincolnshire.—*Maddocks*, T. victualler, Longton, Stoke-upon-Trent.—*Pearson*, J. fell-monger, Newcastle-upon-Tyne.—*Aldcroft*, . licensed victualler, Manchester.

ADVERTISEMENTS.

Insurance Companies.

CONTENTS.

THE REPORTS.

Equity Courts.

LORD CHANCELLOR'S COURT.

Friday, July 18.

WILKINSON v. HORWOOD.

Guardianship of a person of full age and weak understanding, but whose mental imbecility does not render her a fit object for a commission of lunacy—Marriage of a ward of court—Nullity of marriage.

In 1838 a commission of lunacy was issued against the plaintiff, Miss Wilkinson, but it being obvious that, though of weak mind, she was not insane, that commission was not prosecuted; but in August of that year, she being then more than twenty-one years of age, a bill was filed with the permission of Lord Chancellor Cottenham, for the purpose of making her a ward of court. By an order in this suit, her father and three other persons were appointed her guardians, and she had ever since resided with a lady of the name of Revell, at Sudbury, in which town her father lived. Her fortune consisted only of a sum of 3,000*l.* Three-and-a-Half per Cents, and 1,200*l.* Three-and-a-Quarter per Cents stock. In May last, Miss Wilkinson being at Blackheath, at the house of the Rev. Mr. Penn, one of the guardians, her cousin, Watts Wilkinson, a young man of no property and a sailor, under pretence of taking her to visit an aunt at Hoxton, persuaded her to consent to a ceremony of marriage at Stepney Church. There was much hesitation on her part in making the responses during the ceremony, and, on going into the vestry to sign the register, she positively refused, saying, "that it was all a mistake; that she did not mean to be married; that she came out only to take a walk with her cousin, and that her papa would be very angry." She was, however, ultimately induced to sign the register, but on leaving the church she insisted on being taken to her aunt's, and Watts Wilkinson having removed the ring from her finger, then sent her home in a cab. He was so poor that he had not money sufficient to pay for the cab, and was a person of no property or expectations, his father being a curate with no property and a large family. Miss Wilkinson told her aunt all that had occurred, and she then stated, and still continued to affirm, that she had no intention of being married and did not wish to be married. The lady had ever since remained with her friends, and a suit had been instituted in the Ecclesiastical Court for a declaration of nullity of the marriage.

Anderdon and *Freeling* supported a petition by the guardians, praying the sanction of the Court for the continuance of the proceedings in the Ecclesiastical Court, to protect her person and property pending that suit, and to reserve all further consideration of the petition until after the determination of the Ecclesiastical Court. They read affidavits detailing the facts. Watts Wilkinson did not appear.

Parsons, for the trustees of her fortune.

The LORD CHANCELLOR.—The prayer of the petition must be granted. I hope care will be taken to prevent all communication between this lady and the person who thus claims to be her husband.

Friday and Saturday, July 25 and 26.

MARISH v. PRICE.

Taxation of costs—Moving for a new trial—Allowance of copies of short-hand writer's notes for counsel—Judge's and counsel's notes—Duty of counsel—Practice.

On motion for the new trial of an issue, the judge's notes and the notes of the counsel engaged upon the trial of the issue, form the materials upon which the determination of the Court, as to the granting or refusing a new trial, will be grounded; and copies of short-hand writer's notes for the use of counsel will not usually be allowed on the taxation of costs between party and party. In particular cases, however, such copies have been allowed upon motions for new trials at law, being a question of discretion in each case; and the practice of this Court upon the point will be made conformable to the practice at law.

In this cause it was moved, on the behalf of the plaintiffs, to discharge an order of Vice-Chancellor Knight Bruce, which had disallowed the sum of 90*l.* for brief copies of the short-hand writer's notes of the judge's charge and of the evidence, on the trial of an issue in Glamorganshire. The question between the parties relates to their respective rights in certain mines in Glamorganshire. The plaintiffs were lessees of the coal under certain lands, and the defendants were lessees of the ironstone under the same lands; and the present bill was filed to restrain the defendants from working their ironstone in such a way as to injure the plaintiffs. An issue had been directed, the trial of which lasted seven days, and a verdict had been given for the plaintiffs. On the plaintiffs then coming again for an injunction, they were met by a motion for a new trial; and upon the hearing of that motion, brief copies of the short-hand writer's notes of the judge's charge to the jury, and of the evidence, had been delivered to each of the three counsel of the plaintiff. It appeared that the judge's notes of the evidence of a scientific witness, Stutchfield, called by the plaintiffs, was imperfect; and in charging the jury, he used the short-hand writer's notes of that evidence. It was stated that it was impossible for either the judge or counsel to take any intelligible note of that evidence. The judge allowed a copy of his notes to be made out, for which the plaintiff paid his clerk a fee of 12*l.* 16*s.*

J. Russell, *K. Parker*, and *T. H. Palmer*, for the plaintiffs, contended that the Taxing Master having, in the due exercise of his discretion, allowed the sum, it was not competent to the Vice-Chancellor to disallow any of the items, but the most he should have done would have been to have directed the Master to review his taxation. They cited *May* v. *Tarn* (12 Meeson & Welsby, 730); *Allsop* v. *Lord Oxford* (1 Myl. & Keene, 564); *Stewart* v. *Steele* (11 Law Journ. N.S. 155; 4 Manning & Granger, 669).

Temple and *Heathfield* supported the Vice-Chancellor's order, and contended that the practice on motion for a new trial in this court was the same as at common law, where the counsel moves upon his own notes, if he was engaged upon the cause, or otherwise upon the notes of the counsel at Nisi Prius. The judge's notes are also then read, but short-hand writers' notes are never used, or if used, are never allowed in party and party costs. The Vice-Chancellor exercised his discretion upon full knowledge of the merits of the cause.

The LORD CHANCELLOR.—The short-hand writer's notes were used by the judge on the trial from necessity, his own note being imperfect, and it is so stated in the defendant's petition. It is the duty of the counsel attending at the trial to take correct notes of the evidence, and these notes are the foundation of a motion for a new trial. If counsel neglect to take an accurate note, and resort is obliged to be had to other sources, is the cost occasioned by that neglect to be thrown upon the opposite party? In this case the defendant states in his petition of appeal that the evidence of Sturchfield was given in such a way that neither the judge nor counsel could take an accurate note of it.

Temple.—The Vice-Chancellor said the use of that particular evidence made no difference.

Heathfield.—The note was used by consent of both parties; the evidence was that of a scientific witness, and assumed almost the character of a lecture. The Court was perfectly competent to correct each item improperly allowed by the Taxing Master.

The LORD CHANCELLOR.—The Court, it is clear, can review each item; but this is rather a question of principle. If allowed, it must be under the peculiar circumstances.

K. Parker.—If the cause is brought from another court, the copies are allowed.

The LORD CHANCELLOR.—It will be better to inquire into the practice of the Courts of Common Law upon motions for new trials. I think we ought to adopt the same practice here. Are the notes ever read there without consent? As a matter of right they only read the judge's notes, and the notes of the counsel, which form the materials. If there is a discretion, the fact that the learned judge in this case adopted the short-hand writer's notes because his own were imperfect, would have a material influence. The motion must stand over to make inquiries. The rule at common law is this, if the judge has not heard the cause, the rule nisi for a new trial is obtained on the counsel's own responsibility, from his own note, and his knowledge of the case; the Court then sends for the judge's notes, and on the final argument these notes are read in court, and the substance of the case is collected from such materials.

July 26.—The LORD CHANCELLOR.—I have inquired of the Taxing Masters of the courts of Queen's Bench, Exchequer, and Common Pleas, what is the practice in these courts, and answers have already been received from the Queen's Bench and Exchequer, but not from the Common Pleas. It appears from these returns that the practice of the Queen's Bench and Exchequer differs a little, but that in all cases much is left to the discretion of the Court and of the taxing masters. In this case, if the matter had come originally before me, after the Master had exercised a discretion, having had all the materials before him, and had allowed a sum for the copies of the short-hand writer's notes, I should have felt a difficulty in overruling the Master's decision. But that decision has been appealed from, and if the Court thinks proper to interfere and reverse that decision, it has undoubtedly full authority to do so. The Vice-Chancellor has exercised that authority, and, having abundant materials before him, and being fully acquainted with all the merits of the case, has overruled the Master's discretion and disallowed this item. If the question had come before me in the first instance, I certainly, under the circumstances, should have required a very strong case to induce me to overrule the decision of the Taxing Master, because it is obvious that that officer, having all the parties before him, had an opportunity of minutely investigating every item of the bill. The Vice-Chancellor, however, having had the matter brought before him, did think it was a case in which the discretion of the Master should be overruled; and he had ample materials for that purpose, as he had heard the whole case on the motion for the injunction, and for the new trial of the issues, and was therefore able to form a complete judgment on all the questions between the parties, much more, indeed, than I can, who have not heard these motions, nor know any thing of the merits of the case. I do not think, therefore, that, under these circumstances, I can overrule the discretion exercised by the Vice-Chancellor, who maintains that it is the general rule of the Court not to allow the copies of notes of a short-hand writer to be charged for as between party and party, on motions for new trials. The rule is no doubt a very good rule, but I think there are circumstances arising in particular cases that would justify a departure from such a general rule, and call on the Court to permit the costs of copies of the notes of evidence on a trial to be allowed. The case was a very complicated one, in which the notes had been used as in the present instance, and I repeat that if the question had come before me in the first instance, I should not have arrived at the same conclusion as the Vice-Chancellor has, or interfered with the Master's discretion. I will hear the plaintiff's counsel in reply if they wish it.

July 28.—His lordship this day read the certificates he had received from the Masters of the Queen's Bench, Common Pleas, and Exchequer, which stated that it is not the practice of any of those courts to allow the costs of short-hand writer's notes on motions for new trials. The Exchequer Master's certificate added, that in some instances he allows a copy or copies of such notes for the use of counsel, but only in extreme cases, and then seldom more than one copy for general reference.

July 31.—The LORD CHANCELLOR ultimately determined to allow two copies of so much of the short-hand writer's notes as the Master upon reviewing his taxation should deem necessary. The grounds upon which his lordship made this important decision will appear next week.

Saturday, July 26.

TRAIL v. BULL.

Petitions of appeal—Deposit—Exceptions—Cause petition—Special application—Practice.

Jas. Russell applied for an order on the Lord Chancellor's secretary that he should receive one petition of appeal in this cause, upon an appeal against the decision of the Vice-Chancellor upon exceptions, and upon a cause petition which had come on and been decided, together with the exceptions. There should be but one petition of appeal, and one deposit upon the exceptions, as the subject-matter of both was comprehended in the decision.

The LORD CHANCELLOR.—Which do you say should comprehend both?

Russell.—The exceptions; the exceptions have rendered a deposit necessary, but upon the cause petition no deposit is required. The cause petition is consequential upon the exceptions.

The LORD CHANCELLOR.—I do not see why you may not comprehend both in one petition, provided you do what is necessary with respect to the exceptions. But this must necessarily be done by a special application to me; because in ordinary cases the appeal on exceptions and the cause petition would, according to the ordinary arrangement of the business of the court, come on on different days.

VICE-CHANCELLOR OF ENGLAND'S COURT.

Saturday, June 7.

DAVENPORT *v.* POWELL.

Practice—Infancy—Guardianship—Objection in reference to religious principles in the appointment of guardian.

G. D. the father of an infant entitled to considerable property, was a lunatic at the birth of his child. A commission of lunacy having been issued against him, his wife, F. D. the mother of the infant (who was their only child), Rev. M. B. and J. A. C. were appointed his guardians during the minority. F. D. the mother, died in 1845; and after her decease, but before the funeral, a petition was hastily presented to the Court, praying that the guardianship and bringing up of the infant might be committed to the said M. B. and J. A. C. in conformity with the wishes of the deceased mother.

R. S., N. M. and A. his wife, the brother and sister of the deceased F. D. now presented their petition, complaining of the haste with which the former one had been obtained: that the sole ground why their deceased sister had approved of the said Rev. M. B. and J. A. C. was on account of their religious opinions, which were represented to be, as well as those of their deceased sister F. D. such as were contained in the "Tracts for the Times;" and that, with the exception of their sentiments in matters of religion, she had manifested great affection towards the present petitioners, and confidence in their integrity. The petition, therefore, praying that the petitioners might be appointed guardians to the infant, in the room of the said Rev. R. B. and J. A. C. or for a reference to the Master to appoint proper persons to be guardians of the infant during his minority — Held, that, the benefit of the minor being the only thing the Court had to consider, and it having always been the practice of the Court in making the appointment of guardians specially to have regard to the relations of the child, under the circumstances the matter ought to be referred back to the Master to appoint proper persons to be guardians, the former petition having been too inconsiderately presented.

This was a petition of a Mr. Richard Smith, and Mr. Nicholas Mason and Ann his wife, for the purpose of being appointed guardians of Edward Gershorn Davenport, an infant aged eight years, in the room of Rev. Robt. Brett and Mr. John Aubone Cook, or for a reference to the Master to appoint proper persons to be guardians of the infant during his minority. It appears, from the statements contained in the petition, that Mr. George Davenport, the father of the child, was entitled to a very considerable property under the will of his father, the late Samuel Davenport, esq. of the Stock Exchange, the whole of which would ultimately belong to the infant, who was his only child.

Under a commission of lunacy, issued in 1838, Mr. George Davenport, the father, was declared of unsound mind, and by a decree of the Court in the month of July 1844, Frances Davenport, the mother of the infant, and the Rev. Mr. Brett, and Mr. Cook were appointed his guardians during his minority. Mrs. Davenport died in April 1845, and immediately after her decease a petition was stated to have been hastily presented to the Court by Mr. Samuel Davenport, praying that the guardianship and bringing-up of the infant might be committed to Mr. Brett and Mr. Cook in conformity with the declared wishes of the deceased mother. The present petitioners were the brother and sister of the deceased Mrs. Davenport, and now complained that the petition of Mr. S. Davenport was presented and the order made thereon by the Court, without his having engaged in any previous communication with them, and even before the funeral of Mrs. Davenport had taken place; and that they were surprised to discover, upon a communication which was made a few days after for the purpose of ascertaining what arrangement was to be made respecting the future guardianship of the infant, that the appointment had already been made. The petitioner, Richard Smith, thereupon suggested the propriety of his being appointed guardian, either alone or conjointly with Messrs. Brett and Cook; Mr. Brett, however, rejected the proposal, and in a letter stated that such a proposition would have been met with the most decided disapprobation of Mrs. Davenport. Mr. Cook also suggested that, if a third guardian were necessary, Miss Surtees ought to be the person, as she was a near relative and held the same opinions as the late Mrs. Davenport and themselves upon the important subjects of religion and education. Mr. Cook also in a letter expressed himself to the same effect. The petitioners stated that they believed that their appointment to the guardianship was only objected to on the ground of their religious sentiments, as Mrs. Davenport had always expressed her most entire confidence in their honour and integrity. They declared, moreover, that they were all members of the Establishment, and were regular in their attendance upon divine service in their several parish churches, and that they had stood sponsors for the infant on his baptism according to the rites of the Church of England, but that their deceased sister, who had concurred with them in opinion and practice in matters of religion until some time after her marriage, had latterly imbibed the sentiments endeavoured to be enforced in the publications called *Tracts for the Times*, which were the opinions of Mr. Brett and Mr. Cook, but that the father of the infant was, previous to his present malady, wholly averse to those sentiments.

Bethell and *Rogers*, for the petitioners, submitted that it was never the practice of the Court to exclude the nearest relatives of an infant from the guardianship and education in favour of strangers, however unexceptionable, which would, moreover, be repugnant to all natural feeling. That the irregularity which characterized the appointment, which had been made without any notice to the present petitioners, and in a manner so hasty, was a sufficient reason for referring the matter back to the Master for his reconsideration. The petitioner was not desirous of casting any reflection upon the character and respectability of the gentlemen appointed to the guardianship. The only subject of difference between them being that of religion, and as the Rev. Mr. Brett and Mr. Cook were known to have adopted very strong Tractarian principles, and to have been selected solely on that account by Mrs. Davenport to the important office of bringing up and educating her infant son, it was the province of the Court to determine in a case where the mother, who had been jointly appointed to act with them as the guardians of the infant, was dead, and the father was a lunatic, whether the Court would entirely confide the education and nurture of the child to strangers whose religious opinions differed from those of the father previous to his insanity, and all the family of the infant except its mother now dead, and wholly exclude any of the members of that family from any share in bringing it up. To prove the confidence and affection with which Mrs. Davenport treated her brother, Mr. Smith, affidavits containing certain correspondence were read, in which some of the letters were subscribed by her in the following terms:—"Your affectionate and greatly obliged sister."

Wakefield and *Chandless* opposed the petition, and contended that, under the circumstances that had happened, it was the practice of the Court, where one of the guardians had died, to continue the guardianship to the survivors, and there was no reason to refer it back to the Master merely on the ground that some of the maternal relatives of the child wished to join in the guardianship. The father was a lunatic at the time of the infant's birth, which circumstance threw the obligation of education upon the mother. Mr. Brett was a clergyman of the Church of England, and had held the office of curate for the parish of St. Margaret, Westminster, for the last seven years, and that he "holds, believes, and teaches" (according to his own affidavit) "all the doctrines taught in the Book of Common Prayer." The affidavit of Mr. Cook went to the same effect, and set forth some correspondence between him and Mrs. Davenport after her recovery from a dangerous illness, and in her letters to him expressed the strongest wish that her child should be educated in those religious opinions which she held in common with himself and Mr. Brett, and that her own relatives should not participate in his education and bringing up. They insisted, moreover, that there had been no improper haste or any irregularity in obtaining the leave of the Court for the appointment of Mr. Brett and Mr. Cook.

Hoare, for the committee of the lunatic's estate.

The VICE-CHANCELLOR.—The only question for my consideration is, whether or not a set of circumstances had arisen which rendered it proper that the appointment of the guardians should be re-considered. At the time when they were appointed, the mother stood in a position with regard to the child which no other human being could stand in, and her appointment to the guardianship might make it right that the other two individuals should be appointed to act in conjunction with her, leaving it as a consequence that when she was removed they should continue to be the sole guardians of the infant; and although she might take the advice of other persons with respect to her child, yet, having regard to its tender years, she would in effect be considered the surviving parent. Now, as to the regularity of the order made upon the petition of Mr. S. Davenport, the thing was required to be done promptly; and as there really appeared at that time no reason against the appointment, the Court thought it better at once to appoint those gentlemen to continue in the guardianship who had been already elected to the office. This, therefore, amounted to a *primâ facie* presumption that they were fit and proper persons; but when the Court is informed that there are other circumstances which rendered it proper to consider why they ought not to be continued as guardians, those circumstances would of course be taken into consideration. To my mind it is manifest, from the correspondence which took place, and the letters which have been read, that Mrs. Davenport was a lady of a kind, affectionate, and soft spirit, easily led and prone to adopt, that was not unusual with persons whose minds are strongly biassed by a notion that they must be always absent from the society of those who were most closely connected with them in order to conduct their affairs and themselves with propriety. I cannot see that a sufficient reason has been shewn why this lady should keep the child so much apart, although there can be no doubt, from the letters she wrote, that she entertained strong opinions upon the subject of religion, and that formed the foundation of those notions. With reference to those publications called the *Tracts for the Times*, I may say that I have read every word of the last three of them, and cannot help thinking that it is difficult to state, in a clear set of articles, what are really the opinions they approve. There is certainly a vast variety of sentiment expressed by the different writers of those tracts; and, with the exception of one or two instances, I really do not know who the writers are. It is impossible, however, to peruse those writings without discovering that there is a tendency in them rather to raise questions than to settle them, and to excite the mind to rove rather than keep it fixed upon settled and acknowledged truths. Nor can one fail to observe a great effort to fix certain things in the form of mere definitions; and, by closely studying the language of the writers, an individual is apt to find himself more bewildered in the pursuit than enlightened by them. Notwithstanding all this, however, the writers are understood to be friends of the established church, and it cannot be denied that a great portion of the works are written in a beautiful spirit; but I very much doubt whether it can be considered as any recommendation to gentlemen who are put forward as the guardians of a very young child, that the distinguishing feature of their religious opinions is the adoption of the notions inculcated by the *Tracts for the Times*. There certainly are other religious books much better calculated to instruct children than those; but that is not now the main question before me. It is this, whether Mr. Smith, the brother of Mrs. Davenport, and Mr. Mason, who is the husband of that lady's sister, and both members of the Church of England, ought to be admitted in the guardianship, or whether Messrs. Brett and Cook shall remain the exclusive guardians of the infant. The benefit of the child is the main object the Court has to consider; and it has been the invariable practice in appointing guardians specially to have respect to the relatives of the child; and I really am of opinion, that if one of these gentlemen, who is a member of the Church of England, continue to be a guardian, the maternal uncle, who is also a member of the same church, ought to be proposed. It is true, they may differ on some points of faith; yet they may agree on the rest. And it may eventually turn out that the temper and disposition of mind of the one may prove to be a corrective of the other, which, if left alone, may be most prejudicial to the welfare of the child. I must therefore refer it back to the Master to appoint proper persons to be guardians, as the matter has not hitherto been sufficiently considered by the parties.

ROLLS COURT.

Thursday, July 3.

CANNING *v.* BELL.

Practice—Next friend—Re-taxation—Different suits. One of three infants who were suing by their next friend, having come of age, moved to be substituted as next friend for the other two, to act for herself and them, in the room of the next friend then deceased, and, a decree having been made in the suit, that the taxation of the costs which had been completed should be reviewed in the presence of her solicitor, it was directed that the suit should be first set right as to parties, and that the question of taxation should be considered afterwards.

This was a motion for a special order on behalf of Maria Canning, one of three infant plaintiffs, by their next friend, in a suit already instituted, but who had now come of age, that she might be permitted to adopt the proceedings in the suit, and might be made the next friend of the other two infants, her sisters, in the room of the person who was now, or late, acting as the next friend; that the plaintiffs might amend the bill by striking out the name of Richard Gordon, and substituting that of Maria Canning as next friend; that there might be a reference back to the Master to review his taxation of the costs, and that Mr. Sutton, the solicitor of Maria Canning, might be permitted to be present at the proceedings, and that the Rev. Thomas Canning might deliver up books, papers, &c. to Mr. Sutton, &c. It appeared that the suit was instituted on the 6th November, 1834, in the name of the three infants, by their uncle, the Rev. Thomas Canning, as their next friend, against the defendant, Mr. Bell, for the purpose of taking his accounts, and that Mr. Bell acted in the suit as the solicitor of the plaintiff, Mr. Canning. On the 28th April, 1837, another suit was instituted, in the name of the three infants, by one Greening, as their next friend, for the purpose of taking the accounts adversely; and on the 2nd November following, Greening obtained the usual reference to the Master to see which of the two suits was for the benefit of the infants. Before the Master, however, had taken any steps, an order was obtained on the 9th Febru-

ary, 1839, by Richard Gordon, that he should be substituted in the place of Greening, and thereupon Greening and his solicitor, Mr. Sutton, ceased to have any thing more to do with the cause. This arrangement then took place in the Master's office; Gordon, the next friend in the second suit, was to drop it and go on with the first suit, and he considered next friend in it; and his solicitor, Mr. Wilkinson, conducted the proceedings. On the 18th of March, 1844, a decree was made on further directions in the first suit, Sutton appearing by petition, and claiming his costs; and maintenance was ordered, and a reference as to costs, &c. On the 12th April, 1845, Gordon, the next friend, died, and the present motion was now made to supply his place, &c.

Kindersley, for the motion, said there was a proceeding, under the order of March 1844, to tax the costs of the suit, and there was nobody there to check it on the part of the infants, for Mr. Wilkinson was the solicitor for Mr. Gordon, who was allowed to conduct the suit as if he were next friend of the infants in it. This application is, therefore, that Miss Canning may attend the taxation of the costs to see that every thing is properly conducted. [The MASTER of the ROLLS.—The institution of the suit is approved, and Mr. Canning has wholly abandoned it.] Yes, and our application is for a new next friend, and some one to attend the taxation.

Malins, for Mr. Canning, said that he (Mr. Canning) had supposed the conduct of the cause was [en]tirely taken out of his hands, but he was ready to go on as next friend. The objection to the institution of the suit by him was, that it was done through Bell as his solicitor, he being the defendant and the accounting party.

Hardy, for the infant plaintiffs.

The MASTER of the ROLLS.—You must first arrange as to Maria Canning being appointed the next friend for her sisters; the uncle, perhaps, if co[n]tinued, and she might not agree; but, if it is she[wn] that she is a proper person to be appointed, you can have her appointed, and then, after the suit is pr[oper]ly constituted, you may apply again.

Saturday, July 12.—*Kindersley* now stated that it was agreed that Miss Canning's solicitor should be at liberty to attend the re-taxation; and as there was a decree, and nothing now to be done but to tax the costs, any further step was unnecessary.

The MASTER of the ROLLS.—Yes, but what about the infants? Who is their next friend?

Kindersley.—Strictly, there is none. All that is wanted is merely re-taxation.

The MASTER of the ROLLS.—It is better to put the suit in a proper form. Make the lady next friend in the first place; then apply.

Costs to be costs in the cause.

July 8 *and* 14.

OLDFIELD *v.* COBBETT.

Practice—Prisoner—Contempt—Suing in formâ [pau]peris to discharge contempt—Refusal of application for a purpose as to which an application had been refused by the Lord Chancellor.

A defendant was in custody for a contempt, and having made several unsuccessful applications to the Lord Chancellor to be discharged, was ordered to pay the costs; subsequently the plaintiff, by a particular act, waived the original contempt, and the defendant thereby became entitled to be discharged without payment of the costs of the contempt, but not of the subsequent costs. Under these circumstances, an application was made by the defendant to the Master of the Rolls for an order to enable him to defend in formâ pauperis to clear his contempt, on an affidavit that the application he intended to make was not the same as that previously made to the Chancellor; but his lordship refused to grant the order without being informed distinctly what the precise nature of the intended proceedings was; and on being furnished with an affidavit, stating what steps it was intended to take, he would not grant the motion, saying the defendant proposed making the same motion as he had done before.

This was a motion on behalf of Mr. Cobbett, the defendant in this suit, now a prisoner in the Queen's Prison, that he might be at liberty to defend the suit *in formâ pauperis*, and that a solicitor and counsel might be assigned him, to enable him to clear his contempt. The motion stood over from a former day, to enable the defendant to put in an affidavit that he did not intend to make an application similar to that already made to the Chancellor, and which he had refused. This case has been so much before the courts that it is unnecessary to say more than that Mr. Cobbett, having been in contempt, became entitled to be discharged without payment of costs, the contempt being waived by a subsequent act of the plaintiff; but, having made unsuccessful applications to the Lord Chancellor to be discharged, he had been ordered to pay the costs of them; and on application to the Chancellor to discharge him without paying those costs, his motion was refused. An application had been made subsequently at the Rolls for a like purpose, and was refused on that ground; and therefore, on making the present application, the defendant was required to make oath as to this not being an attempt to renew the former course of proceeding.

Addis, in support of the motion, disclaimed all intention of impugning the decision of his lordship in *Oldfield* v. *Cobbett* (3 Beav. 432), by which the common order to sue *in formâ pauperis*, which Mr. Cobbett had obtained, was discharged, on the ground of his being an executor, and which decision had been confirmed by the Lord Chancellor on appeal; but this was an application for a special order, in contradistinction to a common order. It was easy to see why an executor should be refused the common order which any one might obtain on swearing he was not worth five pounds in the world; for he may be in possession of property to any amount in his representative character; but it is said by the other side, that in no case can an executor, as such, obtain an order, even on special application, though he may have no means of defending himself. That cannot be the rule of the court. Here Mr. Cobbett is entirely destitute, individually considered, and the receiver in the cause has taken possession of the testator's assets: Mr. Cobbett, therefore, has no means at all. Being badly advised, he got into contempt, and cannot stir a step to relieve himself. The rules of the Court are not so stringent as to preclude it from granting the application; and even if so as to an order generally, at least it may be granted so far as to aid him in clearing his contempt. I rely on the case of *Oldfield* v. *Cobbett* (1 Coll. C. C. 169), where an application having been refused with costs, and the defendant being in contempt for not paying them, an application was made by him to Vice-Chancellor Knight Bruce, and it was objected that he was not entitled to be heard while in contempt; but his Honor held, that he was, to relieve himself from the contempt. The case was one of great commiseration, for the defendant had been six years in prison, and he had no means whatever of discharging himself. He cited *Wilson* v. *Bates* (3 Myl. & Cr. 197); *King* v. *Bryant* (3 Myl. & Cr. 191).

Kindersley, contrà.—If this were a *bonâ fide* application I should be the last person to oppose it. But, as far as this suit is concerned, the last decree has been made, and nothing more remains to be done; therefore an order to defend *in formâ pauperis* is useless. The object, however, of the application is to enable the defendant to come up time after time and make motions free of expense, so as to annoy the defendant and harass him with useless litigation; for, if the Court were to grant the order, it would not relieve the defendant from the payment of the costs, they are ordered to be paid conclusively. True, it is sworn that the application is to be different from that made to the Lord Chancellor; but though in terms it is not the same, yet the result, if the order be granted, would be to grant a portion of that application. In the case before the Vice-Chancellor, the object was to clear the contempt; here it is to make a motion to discharge the order to pay the costs. If the defendant promises not to bring any action against the plaintiff or sheriff's officer, we will most willingly let him off without paying the costs; or, if he likes, he can get discharged by taking the benefit of the Insolvent Act; but that he will not do; he wishes to vex the other party.

Addis, in reply, said, the plaintiff was the only creditor, and if the defendant took the benefit of the Act the plaintiff would be his assignee, and then he could not [bring an] action.

The MASTER of the ROLLS wished to know the first steps it was intended to take if the order were granted.

Addis hoped his lordship would not press for that information now, as he could not inform him; if so, he hoped he would allow the matter to stand over for an affidavit to be made.

The MASTER of the ROLLS thought he had every reason to know, and he would make no order till he was informed. What was asked was *primâ facie* reasonable. The defendant is in contempt and desires to clear it, but is not able to take the necessary steps to do so, and asks for an order to enable him to proceed *in formâ pauperis*. That is reasonable, and he was desirous therefore to grant the order. This, however, was not a case merely of that character; there had been a succession of applications, whether with or without a knowledge of the practice of the Court, which took it out of the rule of ordinary cases. In the first place, he (the Master of the Rolls) had a strong impression the defendant was asking him to do what the Lord Chancellor had refused. Besides, the past could not be forgotten, and regarding that, it is not an ordinary case, and the defendant must present a statement of what he intends to do, before any order can be made. That the suit is at an end and the decree finally made, is not enough; that may be the very strongest reason for granting such an order with a view of carrying the cause further.

Monday, July 14.—The MASTER of the ROLLS intimated to Mrs. Cobbett that the statement presented was not satisfactory; it was intended to make the same application as before, and therefore he refused the motion.

Saturday, July 12.

COULSTING *v.* COULSTING.

Practice—Married woman—Next friend—Suing in formâ pauperis.

If a plea be put in to a bill and allowed, and there is no undertaking at the time on the part of the plaintiff to reply, he must pay the costs of the suit and the plea before proceeding farther: and in such a case, if the cause be in a Vice-Chancellor's Court, the Master of the Rolls has no jurisdiction to grant a common order to sue in formâ pauperis, to a married woman or to any one else. A special application must be made to the judge in whose court the suit was instituted, or to the Lord Chancellor.

The next friend of a married woman may have an order to sue in formâ pauperis, but quære, whether it must not be always on special application?

This was an application in person to the Court, by Mrs. Mary Anne Coulsting, the plaintiff in the cause, for an order to enable her next friend to sue *in formâ paupe[ris]*. She had filed her bill in the Vice-Chancellor of England's Court, against her husband, from whom she was living apart, in reference to a deed of separation, but a plea of condonation had been put in and allowed. It appeared from her statement at first, that she contemplated an appeal; but on being questioned by the Court, it turned out that she intended to file a replication to the plea, and to enable her to do so applied for the order. She put in an affidavit expressly denying the plea.

James, contrà, contended that the motion could not be granted at all, for it was expressly laid down in two cases, *Pennington* v. *Alvin* (1 S. & St. 264), and *Drinan* v. *Mannix* (3 Dru. & War. 154), that a next friend of a married woman must be a person of substance.

The MASTER of the ROLLS.—You do not, perhaps, know that it has been here decided otherwise some days ago. The only question is, whether I have any jurisdictio[n], that is, whether it is to be the common [ord]er or an order on the special circumstances. If it be the latter, the application must be made in the other branch of the court. As to the order itself, having lately had occasion to inquire, I have found two manuscript instances of its being made, and one of them by Sir John Leach himself. One of the orders was on a special affidavit, the other I don't find to have been so; but it was evidently brought to the notice of the Court, and made on due consideration.

James.—At all events it must be made on the special circumstances. The plea was put in and allowed, and there was no undertaking at the time to file a replication; therefore, before any steps are taken by the plaintiff, she must pay the costs of the suit and plea.

The MASTER of the ROLLS.—The case stands thus:—A bill is filed by a married woman in reference to a deed of separation, and a plea is put in and allowed. When that is so, and no further step is taken to disturb the decision, the matter is at an end; but if the plaintiff is not satisfied, there are two steps which may then be taken; either to appeal or file a replication. In either case, if at the time the plea was allowed there was no undertaking by the plaintiff to proceed, he must pay the costs of the previous steps before he can be allowed to go on. The question then arises whether any one can be allowed to obtain the common order to sue *in formâ pauperis*, and if so, whether a married woman can; and I am of opinion that in either case it can only be obtained on the special circumstances. The plaintiff must, therefore, apply to the Vice-C[han]cellor or the Lord Chancellor. I refuse the motion.

VICE-CHANCELLOR KNIGHT BRUCE'S COURT.

June 9 *and* 26.

WARREN *v.* POSTLETHWAITE.

Specific legacies—Costs.

A married woman having a testamentary power over funds standing in different names, made a will appointing portions of the funds, which she described erroneously, in favour of different parties: Held, that the legacies were specific.

Costs of suit ordered to be paid rateably by the legatees whose interests rendered the suit necessary.

This case, which is reported *ante*, p. 235, upon one question which arose in the suit, was subsequently argued upon the remaining question. Mrs. Postlethwaite having, by her marriage settlement, a power of appointment by will of sums of stock and of shares in the Oxford Canal Navigation, standing in the names of trustees, and there also being a sum of 539*l*. 16*s*. 4*d*. Three per Cent. reduced Bank Annuities, standing in the names of her husband and herself, made her will, dated the 23rd of July, 1834, which, so far as is material for the present purpose, was in the following terms: "In conformity to an authority vested in me by the will of my father, and the power given in my marriage settlement with Mr. William Postlethwaite, I being this day, by the blessing of Almighty God, of sound understanding, proceed to make the following distribution of my property."

The testatrix afterwards bequeathed to her two sisters, in trust, 1,700*l.* now standing in the Three-and-a-Half per Cents, in the joint names of William and Elizabeth, or Eliza, Postlethwaite, for the following purposes. "1,500*l.* to accrue for the benefit and advantage of the orphan children of my deceased brothers Henry and Daniel, until they severally become of age, then 100*l.* Three-and-a-Half per Cents. to be paid to each, &c.; and I bequeath and give to the Rev. Henry [illegible] and William Warren, esq. 100*l.* each Three-and-a-Half per Cents, to be paid them free of legacy-duty;" and the testatrix gave also several legacies, of the value of 10*l.* each, and further bequeathed to her said sister, in trust, 500*l.* from moneys standing in the joint names of William and Elizabeth, or Eliza, Postlethwaite, being part of the legacy left me by my brother, the Rev. George Taunton, and standing in the Three per Cents Reduced, to accrue for the benefit of the five daughters of my above-named brothers, until they severally attain the age of twenty-one years, then each to receive 100*l.* I give and bequeath 1,000*l.* Three per Cents to my brother, the Honorable Mr. Justice Taunton, and I give and bequeath to the Rev. Dr. Radford and the Rev. Edmund Goodenough Bayly, in trust for the sole use and advantage of my sisters, Mrs. Henry Smith and Charlotte Warren, 1,800*l.* Three per Cents, now standing in the joint names of William and Elizabeth, or Eliza, Postlethwaite, to be equally divided, 900*l.* to Mrs. Henry Smith, and 900*l.* to Charlotte Warren; and I further give and bequeath to the aforesaid Dr. Radford and to the Rev. Goodenough Bayly, in trust, four canal shares, standing in the joint names of William and Elizabeth, or Eliza, Postlethwaite, for the sole use and advantage of my two sisters, Mrs. Henry Smith and Charlotte Warren." The testatrix then gave all her plate, &c. to her two sisters, and appointed them residuary legatees.

The testatrix died two days afterwards, and letters of administration, with the will annexed, were granted to her two sisters. The husband of the testatrix died in April 1843, and this suit was instituted in January 1844, for the purpose of administering the estate under the decree of the Court. The principal question which was now argued was as to the nature of the legacies, whether they were general or specific. The way in which the question [illegible] from the judgment.

Swanston and *D. Jones*, for the plaintiff.

Freeling, *Torreau*, *B[illegible]*, [illegible], *Fisher*, and *Willcock*, for the several defendants.

The following cases were cited: *Duke of Marlborough* v. *Godolphin* (2 Ves. sen. 7[illegible]); *Cottle* v. *Leger* (2 P. Wms. [illegible]); *O[illegible]* v. *Heath* ([illegible] Ves. sen. 3[illegible]); *Southby* v. *Stonehouse* (2 Ves. sen. [illegible]); *Benson* v. *Reed* (5 Madd. [illegible]); *Mackinley* v. [illegible] (8 Sim. 561); *Selwood* v. *Mildmay* (3 Ves. 306); *Bishop of Peterborough* v. *Mortlock* (1 Bro. Ch. C. [illegible]); *Simmons* v. *Vallance* (4 Bro. Ch. Ca. 345).

June 26.—The VICE-CHANCELLOR.—It having been already decided that the will of the testatrix in the cause was signed and published by her in the presence of two competent witnesses, and it being admitted that at the time she executed it she had, by virtue of her marriage-settlement, a power of appointment by such a will, subject to the life interest of her husband, who is now deceased, but who survived her, over five canal shares, and 1,[illegible] 1s. Three-and-a-Half per Cent. Consolidated Bank Annuities then standing in the joint names of four trustees; 2,530*l.* [illegible] Three per Cent. Consolidated Bank Annuities in the names of other trustees. [illegible] have collected the [illegible] canal shares then standing in the names of the trustees of one of the two settlements which I have mentioned. It is admitted that the marriage-settlement containing the power which I have mentioned is the settlement noticed in the will, and does not extend over any other property except that which has just been mentioned. The testatrix had [illegible] testamentary capacity or power; but there [illegible] joint names of her husband and herself [illegible] Three per Cent. Reduced Annuities [illegible] had been produced by a legacy left her by her brother, the Rev. George Taunton; but it [illegible] what I have already said, that she was not empowered to dispose of that sum, nor does she appear to have been interested in any property, except as I have stated. Considering these facts and the [illegible] language of the will, I think it must be [illegible] Three-and-a-Half per Cents, [illegible] 1s. Three-and-a-Half per Cents, [illegible] of the children of her brothers, Henry and Daniel Taunton; 100*l.* of the same stock [illegible] to the Rev. Henry Smith, and 100*l.* of the same [illegible] to Mr. Warren, and as [illegible] of the same stock with the remaining legacies of [illegible], these legacies affecting, I think, that [illegible]; which [illegible] conceive must further bear the legacy duty, so far as it is payable upon each of the bequests I have mentioned, including the 1,500*l.* Should the 1,853*l.* not be exhausted, I am of opinion the remainder of that fund must, as this will is worded, be considered as abated, and will be taken by Mrs. Smith and Mrs. Warren, whom the testatrix describes as residuary legatees. I think that by the 1,000*l.* Three per Cents, which she gives in general terms to Mr. Justice Taunton, and of the 1,800*l.* described as standing in the joint names of William and Elizabeth Postlethwaite, she must in the whole of the will, those facts being considered, which may be properly taken into consideration, be held to have meant the 2,530*l.* 3s. Three per Cent. Consols, which were subject to the power, and that there is accordingly a specific disposition of it between Mr. Justice Taunton and his two sisters, he or his estate taking ten twenty-eighths, and his two sisters the remaining eighteen twenty-eighths. The two sisters took the five canal shares, four of them for their separate use respectively, and also the fifth for their separate use, or under the appointment to them as residuary legatees, whether the one way or the other it is not, I suppose, material to them. As there has not been mentioned to me any authority for applying to a case of this kind, as to costs, the general rule for obtaining on that subject in the case of the ordinary administration suit, I must assume that there is no such authority; and so assuming, I think the costs of the present suit ought to be borne rateably between the 1,853*l.* 1s. Three-and-a-Half per Cents, and 2,530*l.* Three per Cent. Consols, and the five canal shares, and that the contribution of the 1,800*l.* must fall rateably on all entitled to participate in it, including the 10*l.* legacies and the residuary legatees. I think I may say that this is the mode of disposing of the costs in such a suit as the present, assuming my view in other respects to be correct, and my opinion has the concurrence of more than one of the other learned judges of this Court, to whom I have mentioned the matter. Whether or not the same or a similar point was argued in *Young* v. *Martin* (2 Cases in Chan. 582) or the case before me in 1813, I do not clearly remember.

Thursday, June 26.

HATFIELD *v.* PRYME.

Construction of will—Period of vesting.

Richard Weston, late of Yaxley, in the county of Huntingdon, schoolmaster, by his will dated the 16th of September, 1801, gave and devised unto his daughter, Elizabeth Carter, the wife of Wm. Hatfield the elder, all the estates, both freehold and copyhold, of him, the said testator, during her life, for her separate use; and by his said will he further gave and devised in the words following; that is to say, "And from and immediately after the decease of my said daughter, I give and devise the said estates to Wm. Child the younger, of Yaxley, in the said county of Huntingdon, gent. and Wm. Hatfield, the father of the children, and to the survivors of them, or the executor of such survivor, in trust for the following purposes: that they sell the estate as soon as they conveniently can, and what money it makes, together with 500*l.* in the Three per Cent. Annuities Consolidated, transferable at the Bank of England; and what money may be out elsewhere, I give and bequeath to the [illegible] in trust; and that they divide the whole sum amongst my grandchildren *that are living at my daughter's death, and by the present marriage*, in the following manner: I give and bequeath to my grandson, Wm. Hatfield, one-fifth part of the whole sum of money; to my grandson, Weston Hatfield, one fourth part; to my grandson, James Hatfield, one-fifth part of the whole, which will be thirteen parts of twenty; and the other seven parts to be *equally divided amongst the other children living at the death of my daughter*, by the present [illegible] and all that are of the age of twenty one years to receive their parts twelve months after my daughter's decease; and if any of them die before they come to age, without issue, their parts shall be equally divided amongst the survivors, share and share alike; and the minors' money, if there are any at the death of my said daughter, at the end of twelve months afterwards shall be put out to interest, to the trustees' names, in the public funds or other good securities, at the discretion of the said trustees, until they are of age; and the interest of the money shall be applied to the bringing them up in their minority; and the trustees shall settle with them or their certain attorney as they come to the age of twenty one years respectively, if it is twelve months after the death of my daughter. And my will is, that my daughter shall receive the interest of her money that is out at interest during her natural life for her own use and benefit." And the testator appointed the said Wm. Child and Wm. Hatfield, the elder, executors of his said will.

In the month of July 1806, the testator died, without having revoked his will, and leaving his daughter, Elizabeth Carter Hatfield, his only child and heiress-at-law and customary heiress, him surviving.

At the time of the testator's death, Elizabeth Carter Hatfield had the following children, viz. Wm. Hatfield the younger, and Weston Hatfield, both of whom subsequently died during the lifetime of their mother, E. C. Hatfield, and five other children, who survived her.

One of the questions which arose in this cause, which was now heard upon further directions, was, whether the representatives of William Hatfield the younger, and Weston Hatfield, took an interest in the testator's property according to the terms of the will.

Prendergast, for the plaintiff.

Russell and *Chandless*, for two of the daughters of Elizabeth Carter Hatfield.

G. Simpson, for the representatives of Wm. Hatfield the younger, and Weston Hatfield, contended, that as these two grandsons of the testator survived him, the shares in the property vested in them immediately upon the testator's death. In *Tawney* v. *Ward* (1 Bea. 563) it was held that there was no intestacy, though the words used were similar to those used in this will. The children mentioned take, not as members of a class, but as specific devisees. (*Boys* v. *Lechmere*, 12 Sim.)

The VICE-CHANCELLOR.—I think the condition was carried on. The will gives only to the grandchildren living at the daughter's decease; then he says, "in the following manner," and then states what shares the particular children shall take. I think they were only to take those shares if then living. Weston survived the testator and died in his mother's lifetime. This instance will apply to the other case. He died, and I think the share lapsed to the heir-at-law, who took it as personalty.

MONYPENNY *v.* MASCALL.

Evidence—Letters in possession of a deceased person, when to be received.

This suit was instituted for the purpose of enforcing an agreement made by epistolary correspondence for the purchase of an annuity. The person with whom the agreement was alleged to have been made died in 1828, having, by illness, been incapacitated for business some time before. Some letters found amongst his papers were offered as evidence.

Russell objected to their being received.

The VICE-CHANCELLOR.—The testator before his illness writes letters upon the subject in dispute in this suit, which letters are in evidence. Certain letters purporting to be written, and which no doubt, are written, by members of the same family, are found amongst the testator's papers. They also relate to the same matter as had been the subject of his own letters before his illness. The letters forming this correspondence cohere and fit together. To this it is added that there is evidence that they were seen in the possession of the testator during his lifetime. On the whole, I am of opinion that the letters were in the testator's possession when they ought to have been there, and therefore ought to be received as documents coming out of his possession.

Saturday, July 5.

MYNN *v.* HART.

Security for costs—Defendant.

A defendant residing in Ireland, having obtained the conduct of the suit after decree, is not liable to give security for costs to a larger amount than is ordinarily given.

This was a petition by one of the defendants to have the conduct of the suit, the plaintiff having absconded. A decree had been made in the suit. The defendant who presented the petition was resident in Ireland, and accordingly, after the petition was granted,

Russell, *Mylne*, *K. Parker*, and *Piggott*, for some of the defendants, applied for security for costs, which they required should, under the circumstances of the case, be for a greater amount than was ordinarily given. The cases of a change of next friend, and of a revival of a suit by a defendant, were alleged to be analogous to this.

Wigram, for another defendant.

Anderdon and *Miller*, for the petitioner.

The VICE-CHANCELLOR ordered that security in 100*l.* should be given, to abide such order as to costs as the Court should make.

VICE-CHANCELLOR WIGRAM'S COURT.

Wednesday, July 30.

ZIMMER *v.* ZIMMER.

Practice—Decree—Costs.

Where an estate sold under a decree is reported by the Master insufficient to pay the legacies charged on it, and the amount of those legacies is found, the Court, upon petition, will alter the decree, and order the purchase-money to be paid directly to the legatees, in order to save the costs of payment into court in pursuance of the decree.

This was a petition to have the mode of executing a decree altered, with a view to save costs. The bill in this case was filed by legatees against infant heirs of a devisee of real estate on which the legacies were charged, for a sale of the real estate and payment of their legacies, the amount of which had been ascertained; the Court decreed a sale, and ordered the purchase money to be paid into court; the sale is effected, and the Master reports the sale, the name of the purchaser, and that the produce of the sale was less than the amount of the legacies; whereupon the legatees present this petition, praying that the purchaser, instead of paying the purchase-money into court, in pursuance of the decree, should pay the costs when taxed, and the residue to the plaintiffs, they offering to accept the amount in full for their claim, and that,

if necessary, the infants may be declared trustees for the purchaser, and the grandfather and guardian of the infants may be ordered to convey to the purchaser in place of the infants. The petition was supported by affidavit, stating that the defendants were infants and out of the jurisdiction.

The cases of *Parker* v. *Burney* (1 Beavan), *Walter* v. *Jackson* (12 Sim.), and *King* v. *Leach* (2 Hare 47), were cited as authorities, and the Court made the order as prayed.

July 10, 11, and August 1.

PHENE v. GILLOW.

Mortgagor and Mortgagee—Shares—Liability—Indemnity.

A mortgagee of shares registered in his name in the books of a banking company, is liable to all calls and debts created during the time he appears the registered shareholder, notwithstanding the mortgage debt may have been paid.

In July 1841, the defendant borrowed 880*l.* from the plaintiff upon the security of his promissory-note, and a deposit in the hands of the plaintiff of certificates of shares in the Western Banking Company, and by an agreement, executed between the plaintiff and defendant at the same time, the plaintiff acknowledged the receipt and undertook to return them on repayment of the money, and the defendant undertook to indemnify the plaintiff against any call made upon him on account of those shares, and the security was completed by the rules of the company under a deed of transfer of the shares to the plaintiff, executed by the defendant and the directors of the company, and the shares were duly registered in the name of the plaintiff; the debt so secured was afterwards increased to 1,000*l.* and the shares remained, as before, as a security for the whole sum, under a new agreement in the same terms as the previous one; on the 4th of August, 1843, the defendant paid off the 1,000*l.* to the plaintiff, and in the same month the plaintiff procured from the secretary of the company a form of notice of retransfer of the shares, which he sent to the defendant, who signed it, and returned it to the secretary of the company, and at the same time the plaintiff, on the demand of the defendant, returned to him the certificates of the shares deposited with the plaintiff. The banking company failed before a retransfer of the shares is made into the name of the defendant in the books of the company, and Smith, a creditor of the company, recovered a judgment against the public officer of the company for 3,045*l.* when a call is made, and the attorney of Smith, demands from the plaintiff the sum of 350*l.* on account of the shares standing in his name, whereupon the plaintiff writes to the defendant, and states what had occurred, and calls upon the defendant to give him security for the liability arising from those shares. The defendant in his answer does not deny his liability, but desires the plaintiff not to pay the demand, and offers him a security to indemnify him, which the plaintiff refused from insufficiency. By the rules of the company no transfer of shares is allowed to be made until all calls are paid upon such shares; under these circumstances, the plaintiff being liable to the payment of this call of 350*l.* filed this bill, to have the assistance of the Court in compelling the defendant to indemnify him against the liabilities and expenses in respect to the shares which, he contended, he held merely as a trustee for the defendant.

Romilly, for the plaintiff.

Wood and *Grove*, for the defendant.

The cases cited were, *Humble* v. *Mitchell* (2 Nicholl, Hare, & Carron's Railway Cases, 70); *Balche* v. *Hyam* (2 Pr. Williams, 453); *March* v. *Wills* (2 Sim. & Stu.).

The VICE-CHANCELLOR considered the plaintiff had no right of action at law against the defendant in respect of the matters complained of in this suit. The plaintiff, by reason of the transfer of the shares, had become absolute owner of them at law, and had acquired all the rights, and had become subject to all the liabilities, of a shareholder, both as between himself and all the world, and as between himself and the other shareholders. In the absence of express contract, he could discover no principle upon which it could be contended that the defendant, under the circumstances of this case, could be required to indemnify the plaintiff against the consequences of the transfer of the shares; the question, therefore, in his opinion, was only whether the plaintiff had a right to such indemnity, there having been an agreement to accept the retransfer, the case of *Humble* v. *Mitchell* (2 Nicholl, Hare, & Carrow's Railway Cases, 70), applies to this case. The debt due from the public officer of the company may be viewed as of three characters or distinct debts, for the purpose of considering this case: one, which had been contracted before the transfer to plaintiff; another, which had been contracted subsequently to the transfer and before the payment of the debt; and the third, subsequently to the debt being paid. With regard to the first, the plaintiff could not be held liable to a judgment-creditor without a special contract, although, as between himself and the shareholders, or between himself and Gillow, he might have been liable as to the third debt, for he would reserve the consideration of the second, subject to the observations he had made.—The case appeared to be this: the loan was made in July 1841, the shares transferred in July 1842; the amount of loan was increased from 880*l.* to 1,000*l.* and upon that occasion the original transaction was confirmed. The debt was paid off in August 1843. On the 25th of August, 1843, the plaintiff applied to the directors of the company to transfer the shares in question to the defendant. In conformity with the deed of settlement he signed a notice requiring them to do so; this he sent to the defendant, who, having signed it, transferred it to the office. From that date, until September 1843, the question as to the retransfer of the shares to the defendant was pending before the company, who, it appeared, had power under the deed of settlement, and upon certain terms, to negative the transfer, which had been delayed, so far as appeared, only by the difficulties resting, not with the parties, but the directors of the company. During no part of the period had the defendant required the plaintiff to act otherwise in respect to the shares than by retransferring them to himself. In September 1843, a creditor of the company recovered three judgments against the public officer of the company, and was proceeding to enforce them against the plaintiff. The effect of this transaction would, in his opinion, entitle the plaintiff to an indemnity, so far as related to the debt accrued since the mortgage was paid off; for the defendant called for a retransfer of the shares under the right he had from the original transaction, and the defendant could not now retire from the position in which he had thus placed himself, merely because it might appear to be for his own benefit to repudiate the shares in question. The effect of the payment of the debt, combined with the subsequent transactions, was to make the plaintiff merely a trustee for the defendant. Matters had thus continued with the defendant's consent down to the time of the suit. The plaintiff's rights as against Gillow were those of a trustee between himself and the *cestui que trust*, and he could not doubt that a trustee so situated as the plaintiff was had a right to be indemnified by his *cestui que trust* from all liability he might have incurred in his character of trustee. He might take the analogous case of leasehold property: the trustee being under covenant for the benefit of his *cestui que trust*, it was quite clear he was entitled to indemnity for all money he had paid; therefore, for all liabilities incurred since the debt was paid the plaintiff was entitled to indemnity. The remaining debt, which, for the purpose of the judgment, he supposed to have been contracted after the shares were transferred, and before the debt was paid off, raised questions of some difficulty in deciding this part of the case: he would suppose the mortgage to have been in the common form, that is, an absolute transfer, subject to redemption, and nothing to have passed by which the defendant would have been bound to take the shares again; in that case it became material to consider whether the defendant was or would have been liable in a court of equity for all the engagements of the company in exoneration of the plaintiff in the same manner as he would have been had he continued the registered owner of the shares. in that simple ined to say the defendant ould have b liable: the question was ot v er the defendant could redeem the shares wi ifying the plaintiff, but whether he was er a personal liability to indemnify, it being admitted that the company was insolvent, and that th ... ... bee ... paratively valueless: the plaintiff had become a partner for his own benefit; he had acquired all the rights and some of the liabilities of a partne law he must assume that there was no implied tract for indemnity; his rights and liabilities d th time he held the shar for his own benefit must have been the same in equity as at law as far as regards the personal liability of the defendant; the position of the parties was different in equity and at law, inasmuch as at law the defendant had at that time no interest in the shares, although in equity he had a right to redeem them, and if he elected to redeem them he might be bound to indemnify the plaintiff against all expense and liabilities in respect to the shares in question; but, although the defendant might have a right to redeem, he might also waive that right and submit to be foreclosed if he should choose so to do; he could not think that the plaintiff had any personal demand against him for the expenses incurred in maintaining the mortgaged property which, upon his supposition, the defendant did not think fit to claim; this appeared to be the position of the defendant considered as a mere mortgagee; if that would be the case of a mortgagee with a common clause of redemption, he thought the form of the security in this case could make no difference; this question remained: the defendant had bound himself to accept a retransfer of the shares—in effect he had elected, and bound himself by the election, to redeem the mortgage, and this he had done, too, and might be supposed to have done with a full knowledge of the consequences; from the time he became so bound he became owner of the shares; the question was, whether he could have those shares without paying the plaintiff his expenses properly incurred in the management of them; he thought not; the profits, if any, would have been the defendant's, and he must also be a loser, if a loss was to be sustained; therefore, supposing the suit to have been properly framed, his opinion was, that the defendant having, under the original contract, elected to claim a right to have a retransfer of the shares, and having continued to treat with the plaintiff for such retransfer from the month of August 1843, when the money was paid off, down to September in the same year, when the action was brought against the officer of the company, the delay had been occasioned by the acts of the directors; the defendant never having repudiated the shares, or called upon the plaintiff to do otherwise than he did, the plaintiff would be entitled to an indemnity. A difficulty occurred in the suit, the directors not being parties; the plaintiff therefore making this demand against this defendant, was not upon this record in a position at once to give him the shares; and the difficulty he had to deal with was, whether he could require the directors to be made parties, or whether, without doing so, he could in the present form of the suit make such decree as he thought the plaintiff was entitled to. He had been left no very unsatisfactory information as to the deed of the company; it was admitted on both sides, as he understood, that the deed did give the directors power to refuse the transfer of the shares, but it was obligatory on them, if required by the shareholder who was desirous of selling, to take them at a price to be ascertained in a manner prescribed by the provisions of the deed: it appeared to him this was a case in which the plaintiff had no power to give the shares which formed the subject of the suit; that the Court had power to make a decree on this part of the case to this effect, viz.—that the defendant indemnifying the plaintiff, he might have leave to take such proceedings in his name as he might think fit for the purpose of compelling a retransfer of his shares. With regard to the other part of the case, all he could do was to declare that the defendant was bound to indemnify the plaintiff against all liabilities properly incurred by him as holder of the shares from the time at which they were transferred to him. He would not decide, in the present stage of the cause, what sums had been properly incurred; upon the other part of the case, the defendant indemnifying the plaintiff in respect to cost, he might take such proceedings as he might be advised, in the name of the defendant, in resisting those proceedings to which at present the plaintiff was liable at the suit of the shareholders who had recovered the judgment. It had been contended, that in the case of a trustee and his *cestui que* trust, the former could not come into court until he had been actually damaged; and if he had been compelled to make a payment, he might then and there only ask to be indemnified: he could not accede to that proposition: if there were pending liabilities, he was not bound to wait. In the case of a judgment recovered against the public officer of a company, the shareholder, who was *primâ facie* liable, had a right to come in at that stage of the proceedings to be indemnified in the way suggested. It would be for the defendant and his counsel, during the vacation, to consider the expediency of an inquiry before the Master, for the purpose of inquiring what liabilities had been properly incurred. And the case was ordered to stand over until the first day of causes in Michaelmas Term.

Common Law Courts.

COURT OF QUEEN'S BENCH.

Monday, June 9.

MAYFIELD v. ROBINSON.

An written agreement, unsealed, to lease a ferry, which is an incorporeal hereditament, cannot operate as a demise or a grant, and therefore is admissible in evidence although it be unstamped.

This was a motion for a new trial, on the ground that a certain document was admitted in evidence without a stamp, which consisted of a written agreement, dated April 14, 1801, to lease the Dog Dyke Ferry for 6*l.* per annum, payable at certain intervals, the last of which was in 1808, to which agreement a provision was attached that the lessee should purchase the ferry-boat for 20*l.*

Whitehurst, Q.C. shewed cause.—This agreement requires no stamp whatever. The contract about the boat is clearly within the Statute of Frauds; and where one part of a double agreement requires no stamp, there need be none. [Lord DENMAN, C.J.—Is there an authority for that, Mr. Whitehurst? We held otherwise lately in *Walton* v. *Wharton*.] The other agreement requires no stamp. It is an agreement to rent an incorporeal hereditament, for such is a ferry, and that can alone be demised by a deed, the agreement *quoad* the ferry therefore is void. (*Forsyth* v. *Jervis*, 1 Stark. 47; *Heron* v. *Granger*, 5 Espin. 269; *Marson* v. *Short*, 2 Bing. N. C. 118; *Maury* v. *Duke*, 2 M. & Ry. 121.)

Hall, Q.C. contrà.—It is clear there must be a

grant of an incorporeal hereditament, for there can be no feoffment. [Coleridge, J.—You cannot demise a right of way; it will not pass.] Here was an employment of the ferry under the agreement until the term expired, and therefore I submit that agreement operated as a demise, and must be so taken. The principal object of the instrument was the letting of the ferry; the other part is ancillary to it, for the boat belonged to the ferry. (*South* v. *Winch*, 3 Bing. N. C. 506; *Chanter* v. *Dickenson*, 5 M. & Gr.) Some stamp then was clearly requisite, and there being none, the document was inadmissible, and ought not to have been received in evidence.

Waddington.—This is an entire and a very special agreement. The primary object is to give the use of the ferry, to which is attached a provision that the party is to have the ferry-boat, and to pay for it by instalments. The grant of an incorporeal hereditament can alone be by deed under seal. This is not so, and is a mere agreement. Where there is an entire agreement, and the first part relates not to sale of goods, but the latter part does, which is ancillary to the other, the agreement is not within the exception of the Act. The case, therefore, falls within the principle of *South* v. *Winch*, and the other cases are all cited in *Chanter* v. *Dickenson*.

Cur. adv. vult.

JUDGMENT.

Lord Denman, C. J.—This case was tried before my Lord Chief Justice, at Lincoln. An exception was taken to the admission of an unstamped document. It was an instrument under seal, which purported to lease the tolls of a ferry, and the obligation was that they were to be leased from *year to year*, at six guineas a year; and the instrument also contained a memorandum of the sale of the ferry-boat for 20*l*. It was argued that this was lease requiring a stamp, being above 5*l*. a year; but we are clearly of opinion that it cannot be sidered as a lease so as to require a stamp, because it cannot operate as a lease, being a grant by an unsealed instrument, or an attempt to grant by any unsealed instrument of an incorporeal hereditament. We think, therefore, it is not liable as a lease; we also think that it is not liable as an agreement, because the boat which is said to be sold is wholly unimportant; in fact, the sale of the boat is a bygone transaction, and, besides, it is a sale of goods, and therefore exempt from all stamp whatever. It was argued that it was not a sale of goods, because it might be considered as ancillary to the ferry, and therefore is part of the grant; so that the value might be raised to eighteen guineas, three years' rent at six guineas a year, and to 20*l*. supposing that those two could be added together. We think they cannot; that it was not sold as ancillary to the grant of the ferry, which was a primary object of the undertaking, but that it was a distinct thing altogether; and that the instrument is not subject to a stamp as a lease, and therefore the Lord Chief Justice was right in admitting it, and the rule in that case will be discharged.

Friday, June 27.

Hanmer v. Eyton.

This was a motion for a new trial argued in Easter Term, by *Kelly*, Q. C. and *Butt*, Q. C. on one side, and *Jervis*, Q. C. contrà. The facts are sufficiently stated in the judgment delivered at the sittings after Trinity Term.

JUDGMENT.

Lord Denman, C.J.—In this case the question is, whether the plaintiff is entitled to recover damages as reversioners, in respect of coals under the river Dee, that might have been gotten, but for the act of the defendant in drowning the mine. Now the lease put in, made by the plaintiff to Howell and Company, clearly does not extend to these coals, for it demises only the coals under the land beneath the head of the river Dee, not covered by it. No evidence whatever was given as to the title of the plaintiff to the land covered by the river Dee, or to the coal under it. *Primâ facie* the title would be in the Crown, for it appears that the river Dee is in that part of it an estuary where the tide flows and reflows. But it appears that, under the plaintiff's lease, the defendant extended their working beyond the limits of the river and under the river, and the plaintiff had received rent for the coals gotten by those extended works. We are asked to consider these facts as being sufficient for the reversionary interest as against the defendants, who mere wrong-doers, and possibly there may be such evidence in respect of those coals which are already worked, and for which rent was paid, but we do not see how it can be any evidence of possession in the lessee, or the the reversionary interest in the plaintiff in respect of those coals which remained unworked on the part of the freehold. At the time the mine was drowned, there was no distinct demise of the mine as such, nor of the coal under the Dee; however, we cannot understand how the evidence of the plaintiff lessee having got the coal by trespass on the Crown, and the plaintiff's having received rent for the coals so gotten, can entitle the plaintiff to damages, for an act by which the plaintiff's lessee has been prevented continuing any trespass further, and paying a further sum as part of the fruits of such trespass. The damages were assessed at 4,613*l*. on one supposition; that is, they were given in respect of coals under the river, which were not gotten, not separated from the freehold, but which might have been gotten if the further working of the mine had not been prevented. There was another supposition made on which another sum was given, but we unfortunately do not see that it must be either the one or the other of those sums, and we do not find materials to fix what other sum might be the proper amount of the damages. Therefore, we see no other course to take than that there should be a new trial.

Friday, July 4.

Simons v. Peacock.

An attorney in the country employed by the solicitor of one of the departments of the Government (ex. gr. the Post Office) in carrying on a Government prosecution, is an agent to such solicitor, and his bill of costs is not therefore taxable under the 6 & 7 Vict. c. 73 s. 37.

Lush, in Trinity Term (June 11), applied in the Bail Court for a rule to rescind an order of Mr. Justice Wightman, referring the plaintiff's bill to taxation.

H. Hill shewed cause in the first instance.—The question was simply whether an attorney in the country employed by the solicitor of one of the Government departments to conduct a prosecution was an agent to such solicitor in such prosecution within the rule laid down in *Gedge* v. *Elgie*, decided in last Easter Term (May 8). As the facts and arguments are sufficiently set forth in the judgment, we omit them here.

JUDGMENT.

Coleridge, J. delivered judgment as follows:—There was a case of *Simons* against *Peacock* argued before me in the Bail Court. It was a rule to rescind an order for taking an attorney's bill on the prosecution of an individual in South Wales for forgery, in which the Postmaster-General was prosecutor. The defendant, Mr. Peacock, is an attorney, and as attorney for the Post Office he had appointed the plaintiff his agent. It appeared he had himself prepared the briefs, and in some other matters directly interfered with the conduct of the prosecution in those parts, as it was alleged, from which the greatest possible profit would be derivable to the attorney of the prosecution. The plaintiff's bill charged the defendant, not with the proportion merely of the whole charges, as usual with attorney and agent, but with the full amount. These are the facts. Upon this state of facts, the question is, whether this bill is taxable, under the 6 & 7 Vict. c. 73, s. 37. In Easter Term last, the case of *Gedge* v. *Elgie* was heard before me; I there determined that an agent's bill remained not liable to taxation since the passing of this statute, as it was before. The present case was brought before me, and Mr. Peacock and Mr. Hugh Hill distinctly stated there was no desire to question the law as I there laid it down. The case was argued on the assumption that an agent's bill was not taxable in the Common Law Courts, and the only question made was, whether the present was to be considered an agent's bill. I desired to state this distinctly; not as inviting reconsideration of that decision, but as wishing not in any way to interpose any difficulty to its examination by the full court on any future occasion. The question, therefore, now to be decided is one of fact; and it seems to me that whether Simons was agent only in that somewhat technical meaning of the word, as the principal attorney, cannot depend so much on the rate of his charges or the work he performed as upon the relation which Mr. Peacock bore to the prosecutor. If the prosecutor employed Mr. Peacock to conduct this prosecution, in the course of which this work was done, and if Mr. Peacock, residing in London, and doing himself such part of the work as could be performed in London, delegated to Mr. Simons, residing in the country, such part as could be performed there, because he does not choose to leave London to perform it himself, it seems to me, in the sense before mentioned, Mr. Peacock must be considered as the principal, and, by consequence, Mr. Simons Mr. Peacock's agent, and here that is clearly the case. The work was to be done literally for the Postmaster-General, and he is liable for the whole. Between him and Mr. Simons there was no contract whatever. Mr. Simons, therefore, worked as the servant; in other words, as the agent of Mr. Peac[illegible] Mr. Simons has, indeed, chosen to make the same charges upon Mr. Peacock as Mr. Peacock would make upon the Postmaster-General, therefore not sharing but absorbing the whole of the profits; and although this is unusual, this cannot alter the [illegible]aracter of the service. It may be only a reason why the jury may, upon trial, disallow some portion of his demand. Adopting, therefore, the construction of the statute laid down in the case I mentioned, I think this rule must be made absolute.

Belcher and Others, Assignees of Chapple, v. Campbell.

This was an action of trover for six bills of exchange, to which the defendants had pleaded, Not guilty and not possessed. The verdict was found for the plaintiff, with leave to move for a nonsuit, and subsequently the facts were turned into a special case. All the material points being stated in the judgment, we shall not give the argument. It was argued in Easter Term by *Willes* (with whom was the *Solicitor-General*), for the plaintiff, and *H. Hill*, for the defendant.

The following cases were cited: *Brind* v. *Hampshire* (1 M. & W. 365); *Williams* v. *Everett* (14 East, 596); *Dean* v. *James* (1 A. & E. 809); *Ex parte Munroe* (Buck, 300); *Ex parte Arkwright* (3 M. D. & D. 129); *Tibbits* v. *George* (5 A. & E. 107); *Burn* v. *Carralho* (1 A. & E. 883); *Gwinnell* v. *Herbert* (5 A. & E. 636). *Cur. adv. vult.*

At the sittings after Trinity Term, judgment was given as follows by

Lord Denman, C.J.—This was an action of trover brought by the assignees of George Chapple, a bankrupt, against the defendants, to recover six bills of exchange drawn by the bankrupt upon and accepted by W. F. Sweatland, payable to their order, and all but one indorsed by the bankrupt to the defendant. The pleas were, first, not guilty; secondly, the defendants were not possessed of the bills; and a verdict was given for the plaintiff, with leave for the defendants to move for a nonsuit. The facts were afterwards stated on a case. It appears the bankrupt being indebted to the defendants, and being pressed for security in the beginning of July 1842, delivered to them a promissory note made by Sweetland, dated 30th of June, 1840, for 1,000*l*. payable to the bankrupt only, by instalments, but less than 100*l*. on or before June 30, 1840, which note was not negotiable. The defendants, a few days afterwards, requested the bankrupt to persuade Sweetland to exchange the note for a negotiable bill, and gave him the note to get it so exchanged. Sweetland assented to the proposal, and on the 9th day of July, 1842, the bankrupt drew the bills in question in this case, which Sweetland accepted; and the bankrupt indorsed all but one, and left them with Sweetland, desiring him to hand them over. On the same day the bankrupt went to France, and thereby committed an act of bankruptcy, of his intention to do which he had informed Sweetland the day before, but the defendant knew nothing of it. Sweetland afterwards handed the bills over to the defendants, on having an indemnity given him; and on these facts the question is, whether the plaintiffs are entitled to recover the bills, or a nonsuit ought to be entered. We agree with the learned counsel for the plaintiff that Sweetland cannot be considered as an agent for the defendant; no communication took place between them prior to the bankruptcy, nor has Sweetland done any act by which he has engaged to deliver or hold to their use the bills in question. The case stands in the same position as if the bills had been in the actual possession of the bankrupt at the time of the bankruptcy, but we do not think the bills can on that account be said to be in the possession, order, or disposition of the bankrupt, by the consent of the defendants, the true owners, within the meaning of 6 Geo. 4, c. 16, s. 72, because they were substituted for the note of 1,000*l*., and any fact or argument applicable to that note is applicable to them. Now that note was placed in the possession of the bankrupt by the defendants for a specific purpose—that of being exchanged for the bills in question, which bills, or if not the bills then a note (if no such bills were given) was manifestly intended to be handed over to the defendant; therefore neither the note nor the bills would, by reason of their being in the hands of the bankrupt, come within the 72nd section. But it was argued that a note, being negotiable, is like a payment of a debt, and therefore it would come within that section, notwithstanding the delivery of the note to the defendant, unless it appear that Sweetland had notice of such delivery, and therefore that the plaintiffs would be entitled to have the note, even if it had remained in the defendants' hands at the time of the bankruptcy, and consequently they are entitled to substitute the bills under the circumstances stated in the case. It is argued, that no formal notice was given to Sweetland, and that the knowledge of the delivery of the note to the defendants is not brought home to him; but it seems hardly probable that he should not have been informed of that when the bankrupt was persuading him to give a negotiable security in lieu of the note; and we doubt whether that point was intended to be raised by the case, for there is no statement that it was. All the facts are consistent with the absence of such notice. We feel it therefore difficult, if not impossible, to say this objection must not prevail. If it be agreed by the parties that the notice was given, we are clearly of opinion the nonsuit ought to be entered. If, on the other hand, it is agreed no notice was given, we think that the verdict ought to stand for the plaintiff. We do not think this case is one that comes within the principle of *Gibson* v. *Overbury* (7 M. & W. 555); but if the fact of notice or no notice be not agreed on, we think there ought to be a new trial. It is highly

desirable that should be done, in order that what is now done may be final.

COURT OF COMMON PLEAS.

Wednesday, July 2.

COOK v. HENSON.

The statute 5 & 6 Vict. c. 116, s. 10, enables the defendant to plead generally his discharge under a final order for protection and distribution, without setting forth all the proceedings necessary to give jurisdiction.

The declaration in this action was in *assumpsit* against the defendant, as acceptor of two several bills of exchange, of which the plaintiff was indorsee.

The defendant, amongst other pleas, pleaded that before the commencement of this suit, to wit, on, &c. a petition for the protection of the defendant from process was duly, and according to the form of the statute in such case made, presented by the defendant to her Majesty's Court of Bankruptcy, and that afterwards, and before the commencement of this suit, to wit, on, &c. a final order for protection and distribution was made in the matter of the said petition by Joshua Evans, esq. then being a commissioner of the said Court of Bankruptcy, duly authorized in that behalf; and that the moneys and causes of action in the declaration mentioned, and every of them and every part thereof, were contracted before the date of filing the said petition.—*Verification.*

To this plea there was a special demurrer, assigning the following grounds:—That the same does not set forth with sufficient particularity the presenting of the said petition for such protection as therein mentioned, nor how the defendant prayed to be protected; nor does it state or in any way shew whether the defendant was a trader or not, or, if a trader, whether his debts amounted to less than 300*l.*; nor that the defendant had resided within the district of the London Court of Bankruptcy twelve months next before the presenting of the said petition, or next before the making of the said order or otherwise; nor where he ever resided; and also for that the said plea doth not allege or in any way shew that the defendant gave such notice as by the statute in such case made and provided is mentioned and required; and also for that the proceedings upon the said petition, until the giving of the said final order and the said order of the said commissioner, should have been stated and set forth with greater minuteness and particularity, and the Court thereby have been enabled to judge of its efficiency; and that the said plea does not shew that the said order was for the protection of the defendant or for the distribution of his effects; and that the said plea is in other respects too general and insufficient, &c.

Dowling, Serjt. in support of the demurrer contended that the 10th section of 5 & 6 Vict. c. 116, did not authorize the general form of plea which the defendant had pleaded. It should have been shewn that the petition presented was such as the first section of the Act required, and that the other requisites of that section had been complied with, and reliance was made on the case of *Leaf* v. *Robson* (2 Dow. & Lowndes, 646).

Channell, Serj. contrà, submitted that the plea was good. The plea in *Leaf* v. *Robson* was held bad, because it did not follow either the 4th or 10th section, and Parke, B. there said, "It should either follow the very words of the 10th section, or it must fully set out the proceedings, and so shew that the requisites of the statute have been complied with." That case therefore, it was submitted, was no authority that the 10th section had not given a general form of plea.

Dowling, Serjt. in reply, contended that there was nothing in the language of the 10th section to shew that a general form of plea might be pleaded, and that the 10th section in that respect essentially differed from the 126th section of the Bankrupt Act, 6 Geo. 4, c. 16, where it is enacted that the bankrupt "may *plead in general* that the cause of action accrued before he became bankrupt." The case of *Fisher* v. *Gibbon* (9 Jurist, 405) was also referred to as an authority that the Court of Exchequer had expressed an opinion that the 10th section did not give a general form of plea. *Cur. adv. vult.*

JUDGMENT.

TINDAL, C. J. now delivered the judgment of the Court.—When the question arising on this record was argued before us, we were informed that the Court of Exchequer had recently pronounced judgment on the very point in the case of *Fisher* v. *Gibbon*. We have made inquiry respecting the case, and find the same point was raised there as in the present case, and the Court having intimated an opinion, the defendant's counsel, without arguing the question, asked leave to amend; consequently the case in question cannot be considered as a decision on the point. It appears to us, the 10th section 5 & 6 Vict. c. 116, gives the right to plead generally in the manner adopted by the defendant in this case, for power is given to the commissioner by the early sections of the Act to inquire into the matters of the petition and adjudicate upon them, and to make a final order for protection and distribution if he thinks fit so to do; and it seems to us that it was the intention of the legislature to make his decision final, and not capable of being controverted in an action, especially as by the 12th section any creditor or assignee is enabled to petition the commissioner to rescind the final order so far as relates to the protection of the petitioner's person from process, and so far as relates to the effect of such order in bar of suits and actions. If, then, the decision of the commissioner is not to be controverted, there can be no reason for requiring the plea to set forth all the facts necessary to give jurisdiction, and it is reasonable to allow, under the section in question, the same form of plea as is given in somewhat more express terms by the Bankrupt Act, the 6 Geo. 4, c. 116, s. 126. The words there used are, that the bankrupt, having obtained a certificate, "may plead in general that the cause of action accrued before he became bankrupt, and may give this Act and the special matter in evidence; and such bankrupt's certificate and the allowance thereof shall be sufficient evidence of the trading, bankruptcy, commission, and other proceedings precedent to the obtaining such certificate." The section now in question enacts that "it shall be a sufficient plea in bar of the said suit or action, that such petition was duly presented, and a final order for protection and distribution made by [the com]missioner duly authorized, whereof the production of the order signed by the commissioner, with proof of his handwriting, shall be sufficient evidence;" and although the two sections are not identical in terms, we think the plea now under consideration contains all the latter statute requires in order to constitute a sufficient plea in bar of a suit; our judgment therefore must be for the defendant. *Judgment for defendant.*

STEADMAN *v.* DUHAMEL.

In an action by an indorsee against the acceptor of a bill of exchange which purports to be drawn abroad, the defendant may give evidence of its having been drawn in England to shew that it was void for want of an inland stamp.

This was an action by an indorsee against the acceptor of the following bill of exchange:—

"Vichy, 10 Octobre, 1843.

"Pour Liv. st. 58 8.

"A trois mois de date payez à mon ordre la somme de cinquante huit livres st. huit sch., valeur en marchandises et que passerez.

"A Messrs. Duhamel. "G. GUICHARD."

The bill was accepted by the defendant, and indorsed to Baron and Co. and, after several other indorsees, ultimately to the plaintiff. At the trial the defendant gave evidence of the bill, though purporting to be a foreign bill, having, in fact, been drawn in England, and then objected that the bill required an inland stamp. A verdict was found for the plaintiff for 58*l.* 8*s.* leave being given to the defendant to move to set the same aside, and enter instead a nonsuit. A rule *nisi* having been accordingly obtained to that effect,

Byles, Serjt. now shewed cause.—It is submitted that the defendant was estopped from setting up this objection, and that as the bill was, on the face of it, properly stamped, it was sufficient. (*Williams* v. *Jarrett*, 5 B. & Ad. 32.) The case of *Jordaine* v. *Lashbrooke and Another* (7 T. R. 601) is distinguishable from this, as it was not there found that the defendant knew of or was party to the fraud. In *Pickard* v. *Sears* (6 Ad. & Ell. 469), it is said by Lord Denman, "the rule of law is clear, that where one by [hi]s words or conduct wilfully causes another to believe the existence of a certain [state] of things [and in]duces him to act on that belief so as to alter his own previous position, the former is concluded from averring against the latter a different state of things existing at the same time;" and to the same effect are *Gregg* v. *Wells* (10 A. & E. 90) and *Pitt* v. *Chappelow* (8 M. & W. 617). The only reason here for holding a different rule can be on account of the revenue; but it is submitted that that would be better protected by not allowing than by permitting this defence to be set up.

Channell, Serjt. contrà, contended that the question was not at all as to estoppel, but entirely as to what the law had laid down for the protection of the revenue, and that the cases *Field* v. *Wood* (7 Ad. & E. 114) and *Jordaine* v. *Lashbrooke* were expressly in favour of the defendant raising the objection, notwithstanding his being a party to the fraud. *Cur. adv. vult.*

JUDGMENT.

TINDAL, C. J. now delivered judgment as follows:—In this case a verdict was given for the plaintiff for 58*l.* 8*s.* with leave reserved to the defendant to move to enter a nonsuit. The action was brought upon a bill of exchange, drawn by one Guichard in London, upon the defendant, who was also living in London, and who accepted it there; but it was dated at Vichy, in France, and appeared therefore upon the face of it to be a foreign bill of exchange. This date was put to it at the request of the defendant, and the plaintiff was the indorsee for value, without notice that the bill had been drawn in England, and the only point argued before us was whether, the bill being in the hands of an innocent indorsee with value, the defendant was estopped or not from setting up as a defence that it was an inland bill, and therefore was bad for want of the stamp. The objection is strictly and properly an objection to be made by the Court, whenever it should appear on the trial that the instrument was not properly stamped. By the statute 31 Geo. 3, c. 25, it is enacted that no bill or note liable to the duties imposed by the Stamp Act "shall be pleaded or given in evidence in any court, or admitted in any court to be good, useful, or available in law or equity," unless stamped, which principle is incorporated in the late Act. The doctrine of estoppel of the party is not therefore in strictness applicable to the present case. And in the case of *Field* v. *Woods* (7 A. & E. 114), [i]t was assumed by the Court that in an action against the maker of a forged cheque, though the person became the lawful bearer, it shall be competent to the defendant to avail himself of the objection, and treat what must be treated as useless, being without a [s]tamp. We are unable to see any ground, on principle [o]r authority, on which a defendant is prevented from [t]aking the objection, or the Court from giving effect to [i]t; we therefore think the rule for entering a nonsuit must be made absolute. *Rule absolute.*

RAWLINGS *v.* BELL and ANOTHER.

[T]he plaintiff, a broker, having incurred damage by distraining for rent under a warrant signed by a married woman, brought an action against the husband and wife for falsely representing that the wife had a right to distrain for the rent:—Held, that as there could be no retainer of the plaintiff by the wife, nor contract by her to indemnify, the action would not lie without proof of the representation being made by the wife with knowledge of its being false, or with an intention to deceive.

Action on the case.

The declaration stated that the defendants heretofore, to wit, on, &c. did represent and affirm to the plaintiff that the defendant, Jane, was lawfully and of right entitled to seize and distrain the goods and chattels then being in and upon a messuage, tenement, and premises, being the Rose and Crown public-house in Clare-court, Clare-market, in the county of Middlesex, for a certain sum of money, to wit, 39*l.* 7*s.* 6*d.* which the defendants then represented and affirmed to the plaintiff to be due from one James Augustus Lamb to the defendant Jane, for the rent of the said message, tenement, and premises, and the defendants then requested the plaintiff to seize and distrain the goods and chattels then being on the said messuage, tenement, and premises, as bailiff of the defendant, Ja[ne], for the said pretended arrears of rent, and then [re]tained and employed him as such bailiff; and the plaintiff avers that, confiding in the said representation and affirmation of the defendants, and believing the same to be true, and not knowing to the contrary, he, the plaintiff, did afterwards, to wit, on the day and year aforesaid, as bailiff of the defendant, Jane, under and by virtue of the said retainer and employment, seize and distrain as a distress for the said pretended arrears of rent, certain goods and chattels of Phillip E. Dover of great value, to wit, 150*l.* then found and being in and upon the said messuage, tenement, and premises; and the plaintiff relying on the said representation and affirmation, and believing the same to be true, and not knowing the contrary, as such bailiff, and under and by virtue of the said retainer and employment, then impounded the said goods and chattels so distrained [a]s aforesaid, and detained the same so impound[ed] from thence until afterwards, to wit, on the 22nd day of December, in the year aforesaid, when John Kinnersley Hooper, esquire, and Jeremiah Pilcher, esquire, then being sheriff of the county of Middlesex, as such sheriff, upon the complaint of the said Phillip E. Dover, and upon the said Phillip E. Dover giving bond to the said sheriff, conditioned to prosecute his suit of replevin against the plaintiff for taking and detaining the said goods and chattels, caused the said goods and chattels to be replevied and delivered to the said Phillip E. Dover; and the said Phillip E. Dover afterwards, to wit, on the day and year last aforesaid, in the county court of the said sheriff in and for the said county of Middlesex, levied his plaint against the now plaintiff in an action of replevin, for taking and unjustly detaining the said goods and chattels, and prosecuted the same against the now plaintiff, in the said county court, and in the court of our Lady the Queen, before her justices at Westminster, into which the same was duly removed, until afterwards, to wit, on the 24th day of April, in the year of our Lord 1844, when the said Phillip E. Dover, by the consideration and judgment of the last-mentioned Court, recovered against the now plaintiff, in the said action of replevin, 62*l.* 9*s.* which in and by the said Court were adjudged to the said Phillip E. Dover, for his damages which he had sustained, as well by reason of the taking and unjustly detaining the said goods and chattels, as for his costs and charges by him about his suit in that behalf expended; and the plaintiff further avers that he, relying on the said representation and affirmation of the defendants, and believing the same to be true, and not knowing to the contrary, with the authority, and at the request of the defendants, here-

tofore, to wit on the 22nd day of December, in the year of our Lord 1842, duly appeared to and defended the said action in the said county court, and afterwards, to wit, on the 12th day of June, in the year of our Lord 1843, believing as aforesaid, and at the like request of the defendants, duly appeared to and defended the said action in the said court of our lady the Queen, before her justices at Westminster, and pleaded and made divers cognizances therein for the said pretended arrears of rent, at the like request of the defendants, he, the plaintiff, during all the time aforesaid, believing and relying on the said representation and affirmation, whereas in truth and in fact, the defendants deceived the plaintiff in this, to wit, that the defendant Jane was not, at the time of making the said representation and affirmation, or at the time of the said distress, entitled to seize and distrain any goods or chattels in or upon the said messuage, tenement, or premises, for the said sum of money, or any part thereof, nor had she any right, title, or authority to distrain upon the said messuage, tenement, and premises, or any part thereof, or to authorize or direct the said distress; by means of which said several premises the plaintiff was forced and obliged to and did, afterwards, to wit on the 8th day of January, in the year of our Lord 1845, necessarily pay to the said Phillip E. Dover a large sum of money, to wit, 66*l.* for the damages recovered in the said action of replevin, and for interest thereon, and for the costs and expenses of issuing certain writs of execution against the goods and chattels of the plaintiff; and the plaintiff was also, by means of the premises, put to great inconvenience, and sustained great loss, and was unable for a long time to attend to his necessary affairs and business, the said Philip E. Dover having issued a writ of *capias ad satisfaciendum* against the plaintiff, upon the said judgment, and threatened and endeavoured to arrest and imprison him thereon, to the plaintiff's damage, &c. The defendants pleaded three pleas, the first being, Not guilty, and the only one necessary here to mention. At the trial before Alderson, B. at the last Kingston Spring Assizes, it appeared that the defendant, Mrs. Bell, requested the plaintiff, a broker, to distrain for arrears of rent due in respect of the Rose and Crown public-house, which she had let to Lamb. Mrs. Bell alone signed the warrant, but the other defendant, her husband, was present at the time. The warrant represented the rent to be due to the wife. The plaintiff accordingly, and in company with both the defendants, went to the premises and there distrained for the rent. Dover, who was an under-tenant, afterwards replevied, and the replevin suit was tried in February 1844, when a verdict was found for Dover against the now plaintiff for 62*l.* 9*s.* which he was afterwards compelled to pay. The present action was brought to recover damages for the injury the plaintiff had so sustained in making the distress. No evidence being given of any fraud on the part of the defendants, or knowledge that the representation in the warrant was false, the learned judge directed a verdict to be found for the defendants on the first issue, with liberty to the plaintiff to move to enter a verdict instead for 66*l.* if the Court should think that, under the circumstances, the action was maintainable. A rule *nisi* having been accordingly obtained,

Talfourd, Serjt. shewed cause.—Supposing the warrant to be taken to be a representation by the wife that she had a right to distrain, still she would not be liable unless she knew it to a false representation. In *Adamson* v. *Jarvis* (4 Bing. 66) there was an authority to sell given by the defendant; and in *Toplis* v. *Grane* (5 Bing. N. C. 136) the defendant gave an indemnity, and so there was one implied in *Humphreys* v. *Pratt* (5 Bligh, 154). Here there can be no such contract by the wife, and without fraud it is a tort so connected with contract that she cannot, it is submitted, be liable.

Channell, Serjt. (*Petersdorff* with him), contrà.—It is submitted that the evidence sufficiently shewed that the representation was made by both the defendants, and that there can be no objection to suing the husband and wife jointly, if it appears that they have jointly committed a tort. (*Lue* v. *Saunders*, 5 Scott, 359.) The principle on which *Humphreys* v. *Pratt* was decided was, that there the defendant had made the sheriff his mandatory (*Collins* v. *Evans*, 13 Law J. Q.B. 180); so here the two defendants made the plaintiffs their mandatory, if they can jointly commit a tort, and it was not therefore necessary that the representations should have been false to the knowledge of either. In *Evans* v. *Collins* cited in a note to *Wilson* v. *Fuller*, 3 Q.B. 79), Lord Denman says, "One of two persons has suffered by the conduct of the other. The sufferer is wholly free from blame; but the party who caused his loss, though charged neither with fraud nor with negligence, must have been guilty of some fault when he made a false representation." *Betts* v. *Gibbins* (2 A. & E. 57) was also cited. *Cur. adv. vult.*

JUDGMENT.

TINDAL, C.J. delivered the judgment of the Court. In this case the plaintiff declared against the defendants in an action upon the case for a tort, stating in the declaration that the two defendants had represented and affirmed to the plaintiff that the defendant Jane was lawfully and of right entitled to seize and distrain the goods and chattels then being on certain premises, for certain rent which the defendants falsely represented and affirmed to the plaintiff to be due to the defendant Jane, and that the defendants had employed the plaintiff as bailiff to distrain for the rent. The declaration then states an action of replevin, and that judgment had been given against the now plaintiff, who had paid the amount of damages recovered in replevin, and which he had been obliged to pay; and the declaration negatived the truth of the representations of the defendants. A plea of not guilty was pleaded, amongst other pleas. At the trial of the cause before Alderson, B. the evidence was that Rawlings got a blank warrant and filled it up, and Mrs. Bell signed and gave it to him, and that she made no representation of her right to distrain other than was to be inferred from her signing the warrant. On this state of facts the learned judge directed the jury not to find for the plaintiff on the first issue, unless they were satisfied that the statement that was given when the plaintiff was employed to distrain was a false and fraudulent representation, at the same time giving the plaintiff leave to move to enter a verdict for 66*l.* if the Court should be of opinion that the omission to state all the circumstances when signing the warrant made it a false representation, and a falsehood, without fraud, which was sufficient to support a verdict. On the part of the plaintiff it was contended that the falsehood of the statement was sufficient to maintain an action, although it was made without any intention to mislead, and without any knowledge it was false. But it seems to us that a statement false in facts, but not false to the knowledge of the party making it, nor made with any intention to deceive, will not support an action, unless, from the nature of the dealings between the parties, a contract to indemnify can be inferred. In this case the right to maintain an action results from the alleged assertion by the wife that she had a right to distrain; but there could be no retainer of the plaintiff to distrain given by the wife, nor any contract by her to indemnify the plaintiff, and her representation, therefore, being made honestly and without knowledge of its falsehood, was not sufficient to give a right to an action. The plaintiff has endeavoured to get out of the difficulty that existed as to his maintaining an action from the implied contract to indemnify, by the declaration of a tort; but, in the absence of any such contract, we think it was essential to the maintenance of the action in its present form, that the falsehood of the representation should have been known to the party making it. We are of opinion the direction of the learned judge was right, and that the verdict was also right, and the rule for entering a verdict for the plaintiff must be discharged.

Rule discharged.

Bankrupt and Insolvent Courts.

COMMISSIONERS' COURTS.

Friday, August 1.

(Before Mr. Commissioner FONBLANQUE.)

Re JACOB.

The Court will not discharge an insolvent out of custody on filing his petition, where it appears he has omitted several debts from his schedule.

This insolvent was in custody; he had filed his petition and schedule in this court, and given notice, as required by the rules of the court, to the detaining creditor of his intention to apply for his discharge.

Lucas, for the detaining creditor, opposed the discharge. The insolvent, at the time a portion of the debts in his schedule were contracted, was an auctioneer, and, as such, a trader within the meaning of the Bankrupt Laws. The debts set out in the insolvent's schedule amounted to 250*l.*; and it appeared upon the examination of the insolvent that there were several debts omitted from his schedule, amounting to more than 50*l.* which would make the aggregate of debts over 300*l.* and would therefore take this case out of the operation of the 7 & 8 Vict. c. 96.

His HONOUR said—I shall not make an order for the discharge of the insolvent. He must amend his schedule by inserting the debts he has omitted, and take care he inserts them correctly before he swears to his schedule. When he has amended his schedule and given fresh notice, he can come up again.

COUNTRY COMMISSIONERS' COURTS.

BRISTOL DISTRICT BANKRUPTCY COURT.

(Before Mr. Commissioner Serjt. STEPHEN.)

Thursday, July 24.

Re BUSH.

The Court will not punish an insolvent for immorality, unless it can be shewn that creditors have been injured by it.

Description of insolvent in petition.

This was the day for the first examination of insolvent, who was described in his petition as a tiler and plasterer and marine store dealer in Bristol, giving the number of his house and the street.

On his examination, he admitted that he was living as man and wife with a woman to whom he was not married, whilst his own wife was living within a few doors, in the same street, with another man, as his wife; that insolvent carried on the business of a tiler and plasterer, and that the woman who lived with him managed the marine store business, and *her name was over the door.*

Homes, for creditors, objected (amongst other matters) that so immoral a character as insolvent, who was living in open adultery with a woman whom he maintained, was not an object for the protection of the Court. He contended that his Honour was not limited to the grounds of opposition named in 7 & 8 Vict. c. 96, s. 24, but might punish for immorality. (*Re Davison*, 4 Law T. 232.)

His HONOUR.—Have the creditors been injured by the insolvent's immorality? Has he, by immoral means, incurred any debts which he cannot pay? If so, I might dismiss the petition; but I do not think we have any thing to do with conduct not affecting the creditors in any way.

Homes then objected that insolvent had not fully described his trade in the petition; the name of the woman with whom he lived was over the shop door, and insolvent should have described himself as carrying on such business under that name. Creditors of the insolvent's marine store may have been deceived, and are probably ignorant of this petitioner's coming to the court.

His HONOUR.—Are there such creditors? The insolvent appears to owe no debts besides two large ones for the costs of an action in which he was unsuccessful.

The insolvent then swore that he had not incurred any debts as a marine store dealer, and the woman who managed the business swore that there were no debts incurred in the business, every thing being paid for on delivery in cash.

His HONOUR.—There was no fraud in this case; the woman's name was put over the door to save insolvent's goods from liability on account of his wife, not to prevent seizure for any debt of his own—he has never incurred a debt in that name. The number of the house, the street, and the nature of the trade, are all given in the petition, and I think the requisites of the statute complied with.

Insolvent remanded on other grounds.

Re CROUCH.

Alteration in the form of petition.

In the form of petition prescribed by 7 & 8 Vict. c. 96, occurs the following allegation: "that he verily believes such estate is of the value of £ *at the least, unincumbered.*"

This insolvent had in his petition in the blank inserted the word "nothing," and had struck out the words "at the least, unincumbered."

Brooke Smith, solicitor, opposed the insolvent. The Act requires the petition to be in a certain form, and directs (sec. 2) that for any variation from the form prescribed, the petition must be dismissed. This insolvent's petition is not in the form prescribed, the words "at the least, unincumbered, property omitted. The petitioner may have some " being that is incumbered.

His HONOUR.—The words were properly omitted. How can *nothing* be incumbered?

Hearing adjourned.

Circuit Reports.

WESTERN CIRCUIT.

DEVON SUMMER ASSIZES, 1845.

Exeter, July 23.

(Before Mr. Baron PLATT.)

REG. *v.* KING and BRADDON.

Witness—Lord Denman's Act.

A prisoner jointly indicted with another, and pleading guilty, may be called as a witness for the prosecution.

Prisoners were indicted for sheep-stealing. Prisoner King pleaded guilty, and was removed from the bar without judgment being passed, to wait the result of the trial of his accomplice.

Tyrrel and *Greenwood*, for the prosecution, proposed to call the prisoner King, who had pleaded guilty, as a witness for the Crown. Until sentence passed, the prisoner was not infamous. This was expressly decided in the case of *Reg.* v. *George and Ford* (1 C. & M. 111), in which A and B were jointly charged, in the same indictment, with breaking into the house of J. H. and stealing his goods. A pleaded guilty, and the plea was recorded, but no sentence was passed. B wished to call A as witness for him, and it was held that he might do so. And even, if he should be deemed infamous, that objection is removed by Lord Denman's Act.

Slade, for the prisoner Braddon, contended that King was a party on the record, and as such was an incompetent witness. Stat. 6 & 7 Vict. c. 85, s. 1 (Lord Denman's Act) removed incapacity from crime or

interest "on the trial of any issue joined, or of any matter or question, or on any inquiry arising in any suit, action, or proceeding, civil or criminal, in any court, or before any judge, jury, sheriff, coroner, magistrate, officer, or person, being by law, or by consent of parties, authorized to hear, receive, and examine evidence; but that every person so offered may and shall be admitted to give evidence on oath or solemn affirmation, in those cases wherein affirmation is by law receivable; notwithstanding that such person may or shall have an interest in the matter in question, or in the event of the trial of any issue, matter, question, or inquiry, or of the suit, action, or proceeding in which he is offered as a witness, may have been previously convicted of any crime or offence; *provided that this Act shall not render competent any party to any suit, action, or proceeding individually named on the record,*" &c. The witness being expressly named on the record, was, previously to the statute, incompetent from interest; and although the incapacity from infamy is removed by the statute, the incapacity from interest, as being individually named upon the record, still remains expressly excepted by the statute.

Greenwood, in reply.—The witness is not incompetent on the ground of interest as being a party on the record, because an indictment against more prisoners than one for a joint offence is several as well as joint, and one prisoner may be convicted upon it, although the others be acquitted.

His LORDSHIP (having consulted Erle, J.)—This is a point of very great importance, and I have consulted my brother Erle upon it. He agrees with me that the witness is competent. This opinion is not ours only, but it is the result of a discussion of the point with the other judges, and it is their unanimous opinion that one prisoner may be called as a witness either for or against another charged in the same indictment with a joint offence, and this upon the common law, and in accordance with the case cited, and independently of the recent statute.

SOMERSET SUMMER ASSIZES.

Bridgwater, Aug. 6.

(Before Mr. Justice ERLE.)

REG. v. SIDNEY SMITH.

Infants.

If a child between the ages of seven and fourteen years be indicted for a crime, the law raises no presumption of guilty knowledge, but it must be distinctly proved by the evidence.

Indictment for maliciously setting fire to a hayrick.

It appeared that the prisoner was a boy of the age of ten years. There was no evidence of any malicious intention.

ERLE, J. (to the jury).—Where a child is under the age of seven years, the law presumes him to be incapable of committing a crime; after the age of fourteen, he is presumed to be responsible for his actions, as entirely as if he were forty; but between the ages of seven and fourteen, no presumption of law arises at all, and that which is termed a malicious intent—a guilty knowledge that he was doing wrong—must be proved by the evidence, and cannot be presumed from the mere commission of the act. You are to determine from a review of the evidence whether it is satisfactorily proved that at the time he fired the rick (if you should be of opinion he did fire it) he had a guilty knowledge that he was committing a crime.

Not guilty.

H. T. Cole, for the prosecution.

Slade, for the prisoner.

REG. v. BRIDGES and OTHERS.

Burglary—Ownership of dwelling-house.

A. an insolvent, lived in a house taken by his daughter, who carried on a business there, in connection with her mother, for the benefit of her parents, she residing at a distance: Held, to be rightly laid as the dwelling-house of A.

Prisoners were indicted for burglary in the dwelling-house of John West.

It appeared from the evidence of the prosecutor, that he had become insolvent, and that his daughter had taken the house in which the burglary was committed, and there he and his wife lived, the latter carrying on a business in connection with the daughter, who resided many miles distant. The furniture belonged to the daughter. The prosecutor paid the taxes.

Prideaux, for the prisoner, submitted that the dwelling-house was wrongly laid in John West. It was in law the dwelling-house of his daughter, and it was occupied by West and his wife only as her servants.

ERLE, J. held it to be rightly laid as the dwelling-house of John West, the father.

Stone, for the prosecution.

Prideaux, for the prisoners.

THE LEGISLATOR.

Summary.

THE session of Parliament closes to-day. It has produced very few measures of moment to our Profession; the Small Debts Bill is probably that which, more than any other, interests the great body of practitioners, for there are few attorneys, at least, who will not be continually called upon to enforce its wholesome provisions. The three Real Property Statutes will also deserve the anxious attention of all engaged in conveyancing. It will be seen by the advertisement that arrangements have been made to add these to the series of editions of Important Statutes which has been published by the LAW TIMES.

An intimation has been given that at least an attempt will be made during the next session to codify the criminal law. The establishment of a Court of Appeal in criminal cases must be a portion of any measure having the improvement of the criminal law for its object.

Imperial Parliament.

PUBLIC BUSINESS TRANSACTED.

ROYAL ASSENT.

Monday, August 4.

Mr. Speaker reported the Royal Assent to the following Bills:—Customs Laws Repeal—Customs Management—Customs Regulation—Smuggling Prevention—British Shipping—British Vessels—Customs Duties—Warehousing of Goods—Customs Bounties and Allowances—British Possessions Abroad—Isle of Man Trade—Stamp Duties, &c.—Compensations—Bills of Exchange, &c.—Court of Chancery—Real Property, No. 3—Militia Pay—Testamentary Dispositions, &c.—Bonded Corn—Lunatics—Masters and Workmen—Coal Trade, Port of London—Stock in Trade—Joint Stock Companies, Ireland—Railways, Selling or Leasing—Darby Court, Westminster—Land Revenue Act Amendment—Waste Land, Australia—Poor Law Amendment, Scotland—Criminal Jurisdiction of Assistant Barristers, Ireland—Grand Jury Presentments, Dublin—Leeds and Bradford Railway Mistake Rectifying—Glasgow Junction Railway—Birmingham and Gloucester Railway, Stoke Branch and Midland Railways Junction—Oxford, Worcester, and Wolverhampton Railway—Guildford Junction Railway—South Eastern Railway, Widening and Extension of the London and Greenwich Railway—Londonderry and Coleraine Railway—Oxford and Rugby Railway—Erewash Valley Railway, No. 2.—South Wales Railway—Monmouth and Hereford Railway—Glasgow, Barrhead, and Neilston direct Railway—Dublin Pipe Water, No. 2—Duddeston and Nechells Improvement, No. 2—Yoker Road, No. 2—White's Charity Estate—Ellison's Estate—Rochdale Vicarage, Molesworth's Estate.

BILLS READ A FIRST TIME.

Tuesday, August 5.

Bankruptcy and Insolvency—to amend the laws relating to bankruptcy and insolvency.

BILLS READ A SECOND TIME.

Friday, August 1.

Exchequer Bills, 9,024,900*l*.
Consolidated Fund
Silk Weavers.

BILLS READ A THIRD TIME AND PASSED.

Friday, August 1.

Slave Trade, Brazil
Real Property, No. 1
Assignment of Terms.

Saturday, August 2.

Waste Land, Australia
Fees, Criminal Proceedings.

Tuesday, August 5.

Exchequer Bills, 9,024,900*l*.
Consolidated Fund Appropriation.

PRIVATE BUSINESS TRANSACTED.

READ A FIRST TIME.

Friday, August 1.

Shuldham's Divorce.

Monday, August 4.

Marquis of Westminster's Estate.

BILLS READ A SECOND TIME.

Friday, August 1.

Earl of Powis's (or Robinson's) Estate

Monday, August 4.

Shuldham's Divorce
Marquis of Westminster's Estate.

BILLS READ A THIRD TIME AND PASSED.

Friday, August 1.

Naval Medical Supplemental Fund Society.

Monday, August 4.

Birmingham Blue Coat School
Severne's Estate
Lutwidge's (or Fletcher's) Estate
Molyneux's (or Follett's) Estate
Sampson's Estate
Duke of Bridgwater's Estate
Marsh's or Coxhead's Estate
Winchester College Estate
Bowes's Estate
Dick's Estate
Earl of Powis's (or Robinson's) Estate
Boileau's Divorce
London and York Railway
North Walsham School Estate
Marquis of Donegal's Estate.

Tuesday, August 5.

Marquis of Westminster's Estate.

SESSIONAL PRINTED PAPERS.

Par. Num.
597. Bill—Naval Medical Supplemental Fund Society (amended)
599. — Silk Weavers
601. — Slave Trade (Brazil) (amended by committee and on report)
605. — Waste Lands (Australia), amended
562. Sheriff Courts (Scotland)—Return
458. Greenwich Hospital Schools—Mr. Moseley's Report
388. Ships "The Queen" &c. &c.—Returns
565. Court of Common Pleas—Returns
598. Public Income and Expenditure—Account
691. Ships "The Queen," &c. &c. (Petty Officers, &c.)—Return
647. District Lunatic Asylums in Ireland—Returns
585. Vinegar Makers and Vinegar—Return
588. Coal Whippers (Port of London)—Paper
590. Insolvencies (Scotland)—Return
591. Reproductive Loan Fund Institution (Ireland)—Report
592. Army (Prize money)—Account
596. Spanish Vessels—Return
602. Game Laws—Report from Committee
603. New Churches—Account
Poor Law Commissioners—Appendices to 11th Annual Report

PARLIAMENTARY PAPERS.

INSOLVENCIES IN SCOTLAND.—A return of the number of insolvencies, bankruptcies, and sequestrations in Scotland, in each year since 1815 to the present time, has been printed, on the motion of Mr. J. Brotherton, M.P. The total number of sequestrations awarded in the Court of Session during that period (from 1815-1816 to 1844-1845) amounts to 5,450. There is no record of insolvencies and bankruptcies that do not result in sequestration. The number of sequestrations has been most numerous of late years.

EXTENT OF PARLIAMENTARY PRINTING.—Returns have just been laid before the House of Commons which show that the average number of Acts of Parliament printed by the Queen's publisher in Ireland, in each year, from 1831 to 1844, amounted to 13,000; and that the total number of sheets filled by those Acts amounted to 50,000. There were reprinted about 8,000 Acts in folio, containing 23,000 sheets, besides 9,000 Acts reprinted in octavo, consisting of as many as 17,000 sheets. The number of Acts of Parliament distributed amongst the public in the period ranging between 1831 and 1844 amounted to about 150,000; the number supplied under the promulgation order amounted to 1,787,068; and the number supplied to the public departments to 140,044.

ARMY PRIZE MONEY.—The account of unclaimed army prize-money (formerly made by the deputy-treasurer of the Royal Chelsea Hospital), from the 18th day of January, 1809, to the 31st day of December, 1844, directed to be annually laid before both houses of Parliament by the Act of the 2nd Wm. 4, c. 52, was recently published. The debtor side of the account gives a sum total of 1,302,372*l*., of which 1,081,312*l*. accrued by cash arising from forfeited and unclaimed shares of prize-money, grants, &c., and 221,060*l*. from the dividends or interest of moneys invested in the public funds or other Government securities. The creditor side of the account gives a grand total of 1,298,253*l*., of which 670,339*l*. consisted of cash refunded to claimants, 57,618*l*. of the expenses in executing Acts from 1809 to 1844, and 570,248*l*. of sums paid for the Royal Hospital in diminution of the annual vote. A balance remains of 4,129*l*. The secretary states in a memorandum, that, although the balance appears to be as above stated, yet there is in the Three per Cent. Consols 100,000*l*. stock, invested on account of army prize-money, the interest whereof is included annually in the Parliamentary estimates, and is applicable to the payment of prize claims; and when the amount thereof, in addition to other sums received on the same account during the year, exceeds the sums paid, the Paymaster-General takes the balance as an appropriation in his account. The difference between the above balance, 4,129*l*., and the 100,000*l*. stock in the Consols, arises from the investment in that stock having been made when the funds were very low, and from the sales thereout, as occasion required, having been from time to time effected when the prices were considerably higher.

HOUSE OF LORDS.

MONDAY, Aug. 4. Their lordships met at a quarter before four o'clock, when the Royal assent was given by commission to the following bills, viz.:—The Customs Laws Repeal Bill, the Regulation of Customs Bill, the Management of Customs Bill, the Prevention of Smuggling Bill, the British Shipping and Navigation Bill, the Registration of British Vessels Bill, the Duties of Customs Bill, the Warehousing of Goods Bill, the Bounties and Allowances of Customs Bill, the Trade of British Possessions (Abroad) Bill, the Trade of the Isle of Man Bill, the Stamp Duty on Licenses to Appraisers Bill, the Compensation Allowances Bill, the Bills of Exchange Bill, the Real Property Bill, the Administration of

Justice in the Court of Chancery Bill, the Militia Pay Bill, the Testamentary Disposition of Property Bill, the Bonded Corn Bill, the Treatment of Lunatics Bill, the Workmen and Masters Bill, the Coals (Port of London) Bill, the Stock in Trade Bill, the Joint Stock Companies Bill, the Railways (Selling or Leasing) Bill, the Daily Court (Westminster) Bill, the Land Revenues Act Bill, the Waste Lands (Australia) Bill, the Poor Law (Scotland) Bill, the Criminal Jurisdiction of Assistant Barristers (Ireland) Bill, the Grand Jury Presentment (Dublin) Bill, the Leeds and Bradford Railway Bill, the Glasgow Junction Railway Bill, the Birmingham and Gloucester Railway Extension Bill, the Oxford, Worcester, and Wolverhampton Bill, the London and South Western Amendment Bill, the London and Greenwich Widening of Railway Bill, the Londonderry and Coleraine Railway Bill, the Oxford and Rugby Railway Bill, the Erewash Valley Railway Bill, the South Wales Railway Bill, the Monmouth and Hereford Railway Bill, the Glasgow, Barrhead, and Neilston Railway Bill, the Dublin Pipe Water Bill, the Duddeston Paving and Lighting Bill, the Glasgow Roads Bill, Sir Thomas White's Estate Bill, Ellison's Estate Bill, and the Rochdale Vicarage Bill. Their lordships then adjourned till five o'clock, when the Commons Enclosure Bill, the County Rates Bill, and the Court of Chancery (Ireland) Bill, were severally read a third time and passed. The Removal of Paupers Bill passed through committee, and was reported to the house.

HOUSE OF COMMONS.

COURTS OF LAW.

FRIDAY, Aug. 1.—Mr. C. BULLER brought up the report from the select committee appointed in reference to courts of law, and presented several petitions, one of which was from the Incorporated Law Society, in favour of the removal of the law courts from Westminster to Lincoln's Inn-fields.

MURDER OF MR. PALMER.

MONDAY, Aug. 4.—Mr. CHRISTIE wished to ask a question on a point intimately connected with the proper construction of a treaty between Brazil and this country respecting the slave-trade. The seven men who had been found guilty of the murder of Mr. Palmer on board a slaver were (he found) to be executed on Friday next. He was aware of the objection that existed to answering questions in that house respecting the exercise of the prerogative of the Crown in extending mercy to criminals under sentence of death; but the refusal of Mr. Baron Platt, who tried the prisoners, to refer the point to the judges, whether the prisoners could legally be tried and convicted for murder under the circumstances of the case, and the consideration that seven fellow creatures were sentenced to death—that the point was new, and that consequently counsel at the trial were not prepared with authorities either one way or the other, led him to think that he was justified in asking the right hon. gentleman at the head of the Home-office whether the sentence had been respited, in order that the opinion of the fifteen judges might be taken on the point to which he had referred?—Sir J. GRAHAM said, that the question put by the hon. and learned gentleman was a question of very great importance, and he could not blame the hon. and learned gentleman for coming forward as he had done. He (Sir J. Graham) had heard from Mr. Baron Platt that morning, from whom he found that he (Mr. Baron Platt), after full consultation with Mr. Justice Erle, who went the same circuit, and considering all the circumstances, and that the lives of seven men were at stake, had determined to refer the question to the judges, and he (Sir J. Graham) had the pleasure to inform the hon. and learned gentleman that a respite of the sentence had been ordered until the question should be decided.

NEW STATUTES

Of the Sessions 8 Victoria.

[In this record of actual Legislation, we adopt the [illegible] of giving the titles alone of [illegible] statute [illegible] ral [illegible] professional interest; and analyses of the [illegible] impo[illegible] Lang[illegible] in the law, printing at length s[illegible] statute [illegible] pu[illegible] of statutes only as are of particular [illegible]st to [illegible] ulers.]

(*Continued from page 352.*)

CAP. XXXII.

An Act to alter and amend the Laws enabling Justices of the Peace in certain cases to Borrow Money on Mortgage of the County Rates, so far as the same relate to the county of Middlesex. (June 30, 1845.)

CAP. XXXIII.

An Act for Consolidating in one Act certain Provisions usually inserted in Acts authorizing the Making of Railways in Scotland. (July 21 1845.)

CAP. XXXIV.

An Act for Abolishing the separate Seal Office of the Courts of Queen's Bench and Common Pleas. (July 21 1845.)

CAP. XXXV.

An Act to simplify the form and diminish the expense of obtaining Infeftment in Heritable Property in Scotland. (July 21, 1845.)

CAP. XXXVI.

An Act to continue for Five Years, and to amend the Acts for authorizing a Composition for Assessed Taxes. (July 21, 1845.)

CAP. XXXVII.

An Act to regulate the Issue of Bank Notes in Ireland, and to regulate the Repayment of certain Sums advanced by the Governor and Company of the Bank of Ireland for the public service. (July 21, 1845.)

CAP. XXXVIII.

An Act to regulate the Issue of Bank Notes in Scotland. (July 21, 1845.)

CAP. XXXIX.

An Act to amend the law of Arrestment of Wages in Scotland. (July 21, 1845.)

CAP. XL.

An Act for amending an Act for making provision for Parish Schoolmasters in Scotland. (July 21, 1845.)

CAP. XLI.

An Act for amending the laws concerning Highways, Bridges and, Ferries, in Scotland, and the Making and Maintaining thereof by Statute Service, and by the Conversion of Statute Service into Money. (July 21, 1845.)

CAP. XLII.

An Act to enable Canal Companies to become Carriers of Goods upon their Canals. (July 21, 1845.)

1. *Enabling Canal Companies to carry Goods on their Canals, or Canals communicating therewith.*—Whereas by divers Acts of Parliament railway companies have been empowered to convey upon their railways all such goods, wares, merchandize, articles, matters, and things as may be offered to them for that purpose, and to make such reasonable charges for such conveyance as they may from time to time determine upon: and whereas greater competition for the public advantage would be obtained if similar powers were granted to canal and navigation companies which have from time to time been incorporated or established under the authority of parliament; but such beneficial purpose cannot be effected without the authority of parliament: be it therefore enacted, that from and after the passing of this Act, it shall be lawful for the company of proprietors, trustees, or the undertakers of any canal, river, or navigation, or their respective committees, directors, or managers, or their superintendents or other agents by them duly authorized, to carry as common carriers for their own profit upon their respective canals, rivers, or navigations, or upon any railways or tramways belonging thereto, and constructed under the powers of their respective Acts of Parliament, or upon any other canals, rivers, or navigations communicating therewith, either directly or by means of any intermediate canal, river, or navigation, all such goods, wares, merchandize, articles, matters, and things as may be intrusted to them for that purpose, and for the better enabling them so to do to purchase, hire, and construct, and to use and employ, any number of boats, barges, vessels, rafts, carts, waggons, carriages, and other conveniences, and also to establish and furnish such haulage, trackage, or other means of drawing or propelling the same, either by steam, animal, or other power, or for the purpose of collecting, carrying, conveying, warehousing, and delivering such goods, wares, merchandize, articles, matters, and things, as to any such company or undertakers shall seem fit, and to make such reasonable charges for such conveyance, warehousing, collection, and delivery as they may respectively from time to time determine upon, in addition to the several tolls or dues which any such company or undertakers are now authorized to take for the use of their said canals, navigations, or railways.

2. *Company to be subject to the bye-laws of any other company upon whose canal they may act as carriers.*—Provided always, and be it enacted, that any such company, commissioners, trustees, or undertakers using or employing any steam power for propelling by means of paddle-wheels, boats, barges, vessels, or rafts, upon any canal, river, or navigation (other than their respective canals, rivers, and navigations), shall use and employ the same, subject to such bye-laws, rules, and regulations touching the construction, dimensions, power, rate of speed, and otherwise, of such boats, barges, vessels, or rafts so propelled by steam as aforesaid, as the directors, commissioners, or undertakers of the canals, rivers, and navigations respectively on which such last-mentioned boats, barges, vessels, or rafts shall be used and employed shall see fit to make and publish in that behalf, and they are hereby authorized and empowered to make and publish such bye-laws, rules, and regulations, and from time to time to add to or amend the same, as need may require; but it is hereby expressly provided and enacted that any bye-laws, rules, and regulations so to be made and published shall be made equally applicable to and binding on all companies and persons so using such last-mentioned boats, barges, or other vessels.

3. *Canal companies may provide boats and power for hauling and tracking vessels of other persons.*—It shall also be lawful for any such company, trustees, or undertakers to purchase and provide and use boats and other vessels, and also horses steam, or other power, and machinery, for hauling, tracking, and towing upon their own canals, rivers, or navigations, or upon any other canals, rivers, or navigations communicating therewith, either directly or by means of any intermediate canal, river, or navigation, and to employ a sufficient number of competent persons for those purposes, and to demand and receive for the use of such boats, and for such hauling, tracking or towing, such reasonable hire or remuneration as shall be fixed by the respective committees, directors, or managers of such canals or navigations, or as shall be agreed upon between them and any person desiring the use of any such boats or vessels, or requiring such hauling, tracking, or towing.

4. *Tolls, &c. to be charged equally to all persons.*—Provided always, and be it enacted, that all charges to be made by any such company for the carriage of any such goods, wares, merchandize, articles, or things, or for the use of their boats and other vessels, or for the supply of haulage, trackage, or other power, shall be at all times charged equally to all persons, and after the same rate, whether per mile, or per ton per mile, or otherwise, in respect of all goods, wares, merchandize, articles, and things, of a like description, and conveyed or propelled in a like boat or vessel at the same rate of speed, and passing along the same portion of any such canal or navigation under the like circumstances, and no reduction or advance in any of such charges shall be made, either directly or indirectly, in favour of or against any particular company or person passing along or using, or sending goods, wares, merchandize, articles, or things along the same portion of any such canal or navigation under the like circumstances.

Company may sue and be sued as carriers, and [illegible] prefer indictments.—Any canal or navigation company exercising the powers by this Act granted shall have all the same powers and remedies for recovering any sum or sums of money which shall or may become due and owing to such company as carriers, or for the use of any boats or vessels, or for the supply of any haulage, trackage, or other power, by virtue of this Act, as are given to them respectively by their said several Acts of Parliament in reference to the tolls and duties thereby made payable, or they may, at their option, sue for and recover such charges, or any part thereof, in any of the superior courts; and such company may in like manner be sued for any loss sustained by any person or persons employing the said company as carriers, or for any neglect or misconduct of such company or their servants in respect of their conduct as carriers by virtue of this Act; and such company may prosecute any indictment or other proceeding at law in respect of any offence arising or being committed in the course of such carrying or other proceeding under this Act; and it shall be sufficient if any goods or other things which are set out in any indictment shall be described and laid to be the property of the said company.

6. *Provisions in force relating to common carriers to apply to such companies.*—Provided always, and be it enacted, that nothing herein contained shall in any case extend to charge or make liable any such company further or in any other case than where, according to the laws of this realm for the time being, common carriers would be liable; nor shall any thing herein contained extend to deprive such company of any protection or privilege which either now or at any time hereafter common carriers have or may be entitled to, but such company shall from time to time and at all times have and be entitled to the benefit of every such protection and privilege.

7. *Companies empowered to contract with other canal companies.*—And whereas, in order to facilitate the conveyance of goods and merchandize and other matters and things in manner aforesaid, it is expedient that canal and navigation companies should be empowered to enter into arrangements with each other in the way that railway companies are authorized, so as to avoid the necessity for a change of boats and other delays arising from a diversity of interest; be it enacted that, notwithstanding any thing in this Act or in any of the said Acts for establishing or incorporating the said companies contained, it shall be lawful for any such canal or navigation company as aforesaid, and they are hereby empowered from time to time to make and enter into any contract or agreement with any other canal or navigation company, or the commissioners or undertakers thereof respectively (and which contract or agreement such other company is hereby authorized to enter into), either for the division or apportionment of tolls, dues, and charges, or for the passage over or along their respective canals

or navigations, or any branches thereof, or any railways or tramways connected therewith and belonging thereto as aforesaid, of any boats, barges, or other vessels, or of any carriages or trucks drawn or propelled by steam, animal, or other power, of or belonging to any other company, or which shall pass along any other line of canal, navigation, or railway, or for the passage over or along any other line of canal, navigation, or railway of any such boats, barges, or other vessels, carriages, or trucks drawn or propelled as aforesaid, which shall belong to any such company, or which shall pass along their line of canal, navigation, or railway, upon the payment of such tolls and duties, and under such conditions and restrictions, as may be deemed advisable, and may be mutually agreed upon, and also to enter into any other contract with any other canal or navigation company that may be deemed advisable; and any such contract may contain such covenants, clauses, conditions, and agreements as the contracting parties may think advisable and mutually agree upon.

8. *Canal companies empowered to lease their tolls.*—It shall be lawful for any such canal or navigation company, from time to time, by lease, to take effect in possession within six months from the letting thereof, to let the tolls and duties, or any part thereof, upon the whole or any part of any such canal or navigation, or of any such railways or tramways, to any other canal or navigation company (and which lease such other canal or navigation company is hereby authorized to accept and enter into) for any period not exceeding twenty-one years from the commencement of any such lease: provided always, that no such letting shall take place unless public notice of the intention to let such tolls, or the part thereof intended to be let, shall have been given by the company proposing to let the same, by advertisement, at least fourteen days prior to the meeting of the directors or managers at which it shall be intended to let such tolls

9. *Lessees to be deemed collectors.*—During the continuance of any such lease, the respective lessees named therein, and also all persons appointed by them to collect the tolls so let, shall be deemed collectors of the tolls so let, and they shall have the same powers to collect and recover such tolls, and be subject to the same rules, duties, and penalties in reference thereto, as if they had been appointed for that purpo by the company demising the same.

10. *Lessee making default to be removed.*—If any such lease shall become void or voidable, according to any stipulations therein contained for that purpose, by reason of the failure on the part of the lessee to comply with any of the terms of such lease, or if all or any part of the rent thereby reserved shall be in arrear or unpaid for twenty-one days after the same shall become payable, then, upon application, made by the company who shall have demised the same, to a justice, it shall be lawful for such justice to order any constable, with proper assistance, to enter upon any toll-house, dwelling-house, office, weighing-machine, or other building, with the appurtenances, belonging to the lessors, and remove from the same the lessee or collector or other person found therein, together with his goods, and take possession thereof and of all property found therein, belonging to the lessors, and deliver the same to them or any person appointed by them for that purpose.

11. *Power to relet tolls.*—Upon such possession being obtained, it shall be lawful for the company having made such demise to determine the lease (if any) previously subsisting, and the same shall accordingly be utterly void, except as to the remedies of the lessors for payment of the rent due, or in respect of any unperformed or broken obligations or conditions on the lessee's part, all which remedies shall remain in full force; and in every such case, either during such proceedings or on the termination thereof, the company may again let the tolls to the same or any other person, or cause them to be collected in the same manner as if no such former lease had been made relative thereto.

12. *Act not to apply to canals vested in shareholders, until approved of at a meeting, or in other cases by proprietors, and notices inserted in Gazettes, &c.*—Provided always, and be it enacted, that this Act shall not apply to any canal or navigation the property wherein is vested in shareholders, nor shall the powers of leasing hereinbefore contained be exercised by any such canal or navigation company, until a meeting of the shareholders thereof shall have been duly convened in such manner as meetings are by their respective Acts of incorporation or settlement required to be called or are usually called, and it shall have been determined by a majority of two-thirds of the votes of the shareholders in such meeting assembled, either in person or by proxy, where by such Acts of incorporation or settlement voting by proxy is allowed, to adopt the powers and provisions hereby granted, or such and so many of them as it shall at such meeting be determined shall be adopted, or to grant or accept any such lease, nor to any canal or navigation the property wherein is vested in one or more owner or owners, proprietor or proprietors, unless the owner or owners, proprietor or proprietors thereof shall determine to adopt the powers and provisions hereby granted, nor in either case until public notice of any such determination and intention shall have been inserted in the *London Gazette* in respect of canals or navigations in England or Wales, in the *Edinburgh Gazette* in respect of canals or navigations in Scotland, and in the *Dublin Gazette* in respect of canals or navigations in Ireland, and in some newspaper circulating in the county or counties wherein such canal or navigation, or some part thereof, shall pass, one month at the least previously to the exercise of any such powers, whereupon, or immediately after the expiration of such notice, every such company, or their respective committees, directors, or managers, or their agents by them duly authorized in manner aforesaid, may from time to time put in force and exercise the said powers or any of them, in the manner by this Act authorized.

13. *Act not to exempt canal companies from any general Act.*—Nothing herein contained shall be construed to exempt any canal or navigation company who shall adopt the powers of this Act from the operation of any general Act regulating the manner of charging tolls and other charges upon canals or navigations in respect of passengers, goods, animals, articles, and things of a like description, which may be passed in the course of any future session of Parliament.

14. *Alteration of Act.*—This Act may be amended or repealed by any Act to be passed in this present session of Parliament.

CAP. XLIII.

An Act for encouraging the establishment of Museums in large towns. (July 21, 1845.)

1. *Town councils of certain municipal boroughs may purchase lands and erect thereon museums of a.t and science.*—Whereas it is expedient to promote the establishment and extension of museums of art and science in large towns, for the instruction and amusement of the inhabitants thereof: be it enacted, that it shall be lawful for the council of any municipal borough, the population of which, according to the last account from time to time taken thereof by authority of Parliament, exceeds ten thousand persons, if if such council shall think fit so to do, to purchase lands, and to erect thereon buildings suitable for museums of art and science, and to maintain and keep the same in good repair, and to accept any gifts, grants, or devises of lands, tenements, or hereditaments, for the purpose of establishing, improving, or maintaining such museums, or to contribute towards the establishment and maintenance of such museums in any neighbouring borough; and that the costs and charges of such lands and buildings, and the keeping of the same in good repair, and the payment of any principal money or interest borrowed under the authority of this Act, or of such contribution, shall be chargeable upon and paid for out of the borough fund of such municipal borough, and for that purpose the council may levy with and as part of the borough rate, or by a separate rate, to be levied in like manner as the borough rate, such sums of money as shall be from time to time needed, so that the whole amount of the borough rate be not increased in any one year for the purposes of this Act by more than one halfpenny in the pound, or, if a separate rate be levied, so that such rate do not in any one year amount to more than one halfpenny in the pound of the annual value of th property in the borough rateable to the borough rate.

2. *Town councils may borrow money for purchase of lands, &c.*—For the purchase of such lands, and for defraying the costs of such buildings as may be erected thereon, or for contributing to the cost of such purchase or building, it shall be lawful for the council of any such municipal borough as aforesaid, from time to time, with the approval of the commissioners of her Majesty's treasury, to borrow at interest the amount of money which may be required for the same, on the security of the borough rates as aforesaid, or the separate rate authorized by this Act.

3. *Such lands, &c. to vest in town council.*—The lands and buildings so purchased or erected as aforesaid, and also all specimens of art or science, and articles of every description which may be purchased for or presented to any such museum, and accepted by the council thereof, shall be vested in and held upon trust for ever by the mayor, aldermen, and burgesses of the borough in which such museum shall be situated, and shall be managed by the council of the borough, and kept in fit and proper order, for the benefit of the inhabitants of the borough, and others resorting thereto.

4. *Rates of admission to public; regulations for preserving contents, &c.*—The council of any such municipal borough may from time to time fix such rates of payment for admission to any such museum as the council may think expedient, not exceeding the sum of one penny for each person admitted, and the amount so raised shall be employed in defraying the salaries of the curators and other persons employed in charge of such museum, and in lighting, warming, cleaning, and otherwise supporting and improving the same; and that the council may also make such regulations for the preservation of the contents of such museum, and for the maintenance of order within it, as may to them seem expedient.

5. *Alteration of Act.*—This Act may be amended or repealed by any Act to be passed in this session of Parliament.

(*To be continued.*)

THE MAGISTRATE.

Summary.

ALTHOUGH much has been said of the determination to carry a measure for the amendment of the Law of Settlement during the next session, there is little probability of such a result. On few questions are there such differing opinions as upon this. The Bills that have agitated the Profession for two years past are still delayed, amid the mass of legislation attempted, but unperformed.

THE LAWYER.

Summary.

WE would recommend our readers to lose no time in getting rid of their railway shares in all lines that have obtained their Acts. Immediate calls must be made. Nineteen-twentieths of the present holders of shares will be either unable or unwilling to meet the calls, inasmuch as they hold their shares for the purpose of trafficking with them, and not by way of investment. The first call will bring all these into the market; they must sell or forfeit; they will endeavour to sell, but they will find every other person seeking to sell also. The fictitious value of the present mania cannot be maintained, and the law of reaction will assuredly reduce them below their real value. We advise our speculative readers to sell before the rush comes, and while any premium is to be realized, and those who look for investments, not to buy until one-third at least of the shares are paid up. Then they will be below par as much as, or more than, they are now above it. It will be seen that the remonstrances of the press have been successful, and that the interference of the authorities has procured a respite for the condemned foreigners in Exeter gaol, until the opinion of the judges shall be taken upon the curious and important points of law that have arisen in their case. We trust that civilization will be spared the barbarous and brutalizing spectacle of seven human beings deliberately killed in cold blood, under pretence of implanting a respect for human life by accustoming the populace to witness its extinction. We suspect that in this, as in other cases, the example is more powerful than the precept, and that the law that takes life away is likely to have more sway in rude minds than the law that commands that life shall not be taken away. We shall proceed as fast as possible to publish the important statutes of the last session.

REJECTION OF A QUEEN'S COUNSEL FROM THE BENCH.

(From the *Morning Chronicle.*)

It is with no small degree of reluctance that the press ever interferes in what appear to be the quarrels of individuals. But when public rights may be affected, and public principles appear to be disregarded, this becoming self restraint must be thrown off, and the task of interfering assumes the character of a duty which must be performed. For some time past the Bar and its concerns have forced themselves upon public observation; and, called upon to vindicate the honour of the Profession against the misconduct of some junior members of the bar, the benchers have acted with discretion and firmness. They have now a similar task to discharge with regard to themselves. Not that we desire to accuse them of wilful misconduct, since that phrase implies a bad motive, and we are ready to give every credit to the motives of the benchers, but we entertain no doubt that their conduct has been that they have mistaken their rights and their duties, and that they have applied in a particular manner a power which was never intended to be so employed. It is no small consolation to think that although the forms of speech compel us to use the phrase "the benchers," there is but a very inconsiderable minority of the benchers of one single inn of court to which our strictures can apply.

The office of bencher is one of dignity and importance. It constitutes the individual one of the

governing body of the inn of which he is a member, and thus places in his hands, among other privileges minor and less important, the really important power of calling persons to be bar, of watching over their conduct while there, and of censuring them, excluding them from hall or the inn, and even of disbarring them. The office, therefore, though exercised without show and in much apparent quiet, is one of public authority. It cannot, under any pretence, be placed within the class of private rights and privileges. From the bar of England must be taken its Lord Chancellors and its Judges, and no one man who can admit to or exclude another from admission to a body which furnishes such great and potent officials to the State, can be deemed to be merely in the enjoyment of a private and personal privilege. He has great public duties to perform, and his admission to an office bringing with it such power should depend on nothing but public reasons.

This very plain and proper rule of proceeding has been lately violated in a somewhat extraordinary manner, and a gentleman has been refused admission to the bench of one of the inns of court in much the same manner as he might have been refused admission to a private club. That he can rightly be so refused no one can seriously maintain. No arbitrary right to exclude, none depending on merely private reasons, can exist, for the office is, as we have shewn, one of public trust, to the exercise of which, duties much more than privileges attach. A man has a right, quietly and inoffensively, to avoid the company of another for any, even the most trivial reasons. His dress—his language—his manners—his habits of thought—nay, the tone in which his opinions are uttered, would excuse and justify any one man in not joining the company of another, except when the necessities of business or the rules of good behaviour compelled him to do so. And perhaps, as clubs were meant for social meetings, and as the bad language or bad manners of any one individual might destroy much of the pleasure of all the rest, the existence of those disqualifications in any one individual might warrant his being black-balled. But he must be wholly insensible to th plainest rules of business, and the most undoubted principles of right, who would say that any peculiarities of one individual, offensive though they might be to another, ought to justify exclusion from public office, provided that the individual seeking it was in other respects fitted for it, and had a good title to possess it. It may, perhaps, be said that the exclusion, in the instance now under consideration, was occasioned by a matter of more than mere peculiarity; that it was something which did affect character, and consequently fitness for office. If so, why was the exclusion consummated without calling on the individual for an explanation of his supposed misconduct? The allegation of misconduct gave the right and imposed the duty of calling for explanatio The fault —at all times a serious one—of punishing without inquiry, is doubly objectionable when committed by men of the law. What! are the Courts to insist on investigation before condemnation, as the very first and greatest of the fundamental principles of justice—are some Queen's Counsel (benchers of the different inns) to insist, on behalf of a prosecutor, that a *mandamus* to restore cannot be refused, because the party complaining was amoved without charge openly brought and defence fairly heard—are others, appearing for the defendant, to admit that they cannot contest the principle, whatever may be the alleged causes of removal, and to surrender their resistance to the issuing of the writ, if upon examination the Court shall think that there was not a fair hearing—is all this to be done to enforce on the people the necessity of hearing before condemning, and the belief that the law inexorably requires such a practice, and are the very men who so argue in the presence of the courts and the public to retreat to the privacy of a Parliament chamber, and there indemnify themselves for this word-homage to justice and fairness by an unqualified practical disregard of both? Lawyers should be regular men, for they enforce rules of law upon others; they should be men of fairness, for never do they more vigorously assail in their courts any transaction than when they charge it with unfairness; above all, they should be men who condemn not without full hearing, for in public at least they are ever proclaiming, that to hear patiently, attentively, honestly, is a high virtue; to decide without hearing is the greatest injustice. It is not possible in principle to distinguish between a case where the Court of Queen's Bench can be applied to for a *mandamus* to restore a man to an office, and that where a newly-appointed Queen's counsel claims a seat as a bencher; and should the distinction be attempted upon the ground that the officer has a settled right, while the Queen's counsel is only a claimant for one, the answer is obvious and decisive. Long settled usage is, by the law, in scores of instances, declared to be the best of all rights, for it presumes an original agreement or enactment, which is stamped and consecrated by repeated practical recognition. It has long been the settled usage to make gentlemen appointed to the rank of counsel to the Sovereign, benchers of the Inn of Court of which they are members. A gentleman appointed Queen's counsel has, therefore, an inchoate right to be a bencher of his inn. Now, that the law will, in other cases, enforce the completion of an inchoate right, is undoubted. The law is, in this respect, identical with common sense and justice. Lord Tenterden, in the case of *R.* v. *the Benchers of Lincoln's Inn* (4 B. & C. Rep. 858), said, "If the party now applying to the Court was an actually admitted member of the society, and had acquired an inchoate right capable of being perfected, it might then be fit for this Court to interfere by *mandamus* to perfect that right." And his lordship's doctrine was repeated by the other members of the Court. The rule of law upon this part of the subject may, therefore be taken as undoubted. We have said, that, by long settled usage, gentlemen appointed counsel to the Sovereign have as a consequence been apppointed benchers of their inn. In no other way could the ranks of these self-elected bodies be more gracefully and honourably filled up. If the Lord Chancellor nominates to the rank of Queen's counsel, and the Sovereign, accepting his advice, confers that rank, the party thus honoured may reasonably be assumed to be a fitting person to stand in all, as by the Sovereign's appointment he does in most, respects in the first class of his profession. For the benchers to reject as their equal in the Inn of court him whom the Keeper of the Sovereign's conscience has advised the Crown to make their equal in the courts of justice, is a strong measure; to reject him on a charge made against him by one of their number, without giving him the opportunity of meeting and refuting it, is a gross and palpable injustice. The rejection is a slur cast at the Sovereign and the chief law adviser of the Crown; the mode of rejecting is a brand of discredit on themselves—it is a violation of the very first principles of justice, which their profession declares itself created to defend and maintain.

We have hitherto abstained from noticing the subject-matter in respect of which this great error has been so very unadvisedly committed by the benchers of one of the inns of court. From all that has yet been made known to the profession, the cause of the exclusion appears to be quite an inadequate one. On this, however, we pronounce no positive opinion, desiring to abstain from imitating in this respect the conduct of the benchers. We condemn not without a hearing. To censure them for not hearing before condemning, though without calling on them for an answer, is no departure from the settled rule of justice, for such an act is wholly incapable of justification. The fact that they did so is indubitable—to affect to doubt it would be mere prudishness. That fact (quite regardless of the merits of the case) requires no argument to prove, and admits of none to palliate, its impropriety. The Court of Queen's Bench has, by the mouth of Lord Denman, recently condemned such conduct, in language at once so clear, temperate, and decisive, that we cannot resist the pleasure of quoting it.

The case of *Reg.* v. *Smith*, clerk (L. J. for 1844, 167), was one where an application was made for a *mandamus* to a vicar to restore a parish clerk. The return to the *mandamus* set out many acts of impropriety on the part of the clerk, that, if proved and left unexplained, would have justified the removal. But the vicar, in whose presence many of the acts were charged to have been committed, gave the clerk n opportunity for defence or explanation. The return was therefore held bad, and Lord Denman said—

"For the vicar it was contended that he had a right to remove the prosecutor on the mere view of the prosecutor's conduct—that any kind of process for the purpose of enabling him to disprove or explain it must be superfluous—that the law invests the minister with the power of exercising a supervision or control over his inferior officer, and of removing him for indecent conduct, publicly exhibited in his minister's presence. The necessity of acting on his own impression in such cases was exemplified by the punishment summarily inflicted in courts of justice for contempts, and by convictions, on the view, by magistrates, under the Highway Acts. We believe that the practice in the former of these supposed cases is for the Court to call on a party charged with contempt for his defence, and to give him an opportunity of denying or explaining it before any punishment is awarded. We apprehend, also, that a magistrate empowered to convict an offender upon the view ought first to call upon the offender for an answer."

The example of the Courts, and the lesson thus read to ministers and justices, seem to have been thought unworthy of the notice, or at all events of the imitation, of the benchers. They will do well to reconsider and to remedy the error they have thus committed. No practice of not taking a second or a third ballot ought to stand in the way of the performance of this piece of obedience to the rules of law and justice. Should it be allowed to do so, the judges ought to interfere, as visitors, to enforce the observance of these inestimable rules. But we cannot believe that the majority of the benchers of the inn in question will be so untrue to themselves, or to the principles which, as lawyers and gentlemen, they profess, as to permit any mere matter of form to prevent them from doing what is fair and proper. Whether the charge against the individual excluded was light or heavy, whether the practice not to hear was as old as the society itself, or was in this instance for the first time introduced, it is equally wrong, and equally requires correction. Unless something shall be done, public trust in the fairness and justice of these bodies will be shaken to the utmost; for who can believe that they will act fairly or justly to a humble member, when in their treatment of one of their own rank they disregard what the judges of the land declare to be the very first essential of justice? The privileges and powers of the benchers, anomalous as they are, have hitherto been respected, because they have been believed to be exercised with discretion and fairness; but should that belief cease, the public will require and obtain such an interference, by the authority of Parliament, as shall secure these advantages to the Profession and the country.

LEADING CASES.—No. VII.

Rogers v. Spence (in Error).

(13 M. & W. 571, affirming judgment in *Spence* v. *Rogers*, 11 M. & W. 191.) .

What rights of action pass to the assignees of a bankrupt—Where a personal injury to the bankrupt is the principal and substantive cause of action, the right to sue does not pass to the assignees.

The general effect of bankruptcy is to vest in the assignees all such real and personal estate as the bankrupt was equitably, as well as legally, possessed of or entitled to at the date of the act of bankruptcy. (See *Mogg* v. *Baker*, 3 M. & W. 195.) In *Smith* v. *Coffin* (2 H. Bla. 461), Eyre, C. J. declares it to be in accordance with the most express and plain spirit of the bankrupt laws, that every beneficial interest which the bankrupt has shall be disposed of for the benefit of his creditors; and Buller, J. in the same case, observes, "that the Court is bound to construe the bankrupt laws in the most liberal and beneficial manner for the creditors." Not only, then, are the assignees entitled to sue on choses in action accruing to them in right of the bankrupt, or for breach of any covenant made with him, but they may likewise maintain an action for unliquidated damages, the rights to which has accrued prior to the bankruptcy by reason of the non-performance of a contract entered into with the bankrupt. (*Wright* v. *Fairfield*, 2 B. & Ad. 727; *Porter* v. *Vorley*, 9 Bing. 93.) It has, indeed, been held that the assignees may elect either to adopt or reject contracts to which the bankrupt has become a party, and which are *in fieri* at the time of the bankruptcy, being, of course, guided in such election by considering whether such contracts are likely to prove onerous or beneficial to the estate (*Gibson* v. *Carruthers*, 8 M. & W. 321); but the decision referred to as establishing this proposition, and from which Lord Abinger, C. B. expressly dissented, is certainly open to much observation, and cannot be confidently relied on. (See, also, as to this right of election by assignees, *Lawrence* v. *Knowles*, 5 B. N. C. 399.) Notwithstanding, however, the general rule thus briefly stated, it is clear that where the gist of the action is a personal injury arising out of a breach of contract, as in the case of a contract to effect a cure or to marry, where undoubtedly there may be a damage to the personal estate consequential upon the injury to the person, but where such damage is altogether dependent upon and inseparable from the personal injury, no right to maintain an action in respect of such consequential damage will pass to the assignees of the bankrupt. In these cases the *primary* cause of action is, properly speaking, personal; it would die with the bankrupt, and cannot therefore pass to his assignees. (*Drake* v. *Beckham*, 11 M. & W. 319, reversing the judgment in *Beckham* v. *Drake*, 8 M. & W. 846; S. C. 9 M. & W. 79.) Where, however, a contract is entered into with the bankrupt in order to secure his personal skill and labour, and where, from the breach of such contract, no other injury would ensue to the bankrupt than the diminution of his personal estate, the right of action for that breach will pass to the assignees as part of the personal estate, it being a matter belonging to the bankrupt, whereof profit may be made. In this case the injury to the person, if any, is a consequence of the injury to the personal estate; and the latter, therefore, and not the former, must be considered as the primary cause of action. (Judgment, 11 M. & W. 319.)

The above remarks are applicable where the contract is made *prior* to the bankruptcy; with respect

to such contracts as are made *subsequently* thereto, the general rule is, that on these the bankrupt may maintain an action, subject, however, to the right of the assignees to interfere (see per Lawrence, J. 7 East, 63); and in one particular class of cases, viz. where an action has been brought by the bankrupt for the earnings of his personal labour since the bankruptcy, such action has been held maintainable (*Chippendale* v. *Tomlinson*, cited 7 East, 58; *Silk* v. *Osborne*, 1 Esp. N.P.C. 140; *Evans* v. *Brown*, Id. 170; *Crofton* v. *Poole*, 1 B. & Ad. 568; but *Coles* v. *Barrow* (4 Taunt. 754) cannot be considered as an authority (see per Best, J. 3 B. & Ald. 232)); although, as observed by Lord Kenyon with reference to *Chippendale* v. *Tomlinson*, the hardship of that case might perhaps have warped the opinion of the judges, when the evil might have been better remedied by statute (7 East, 62).

Having thus glanced at the respective rights of suit, vested in the assignees and bankrupt in respect of a *contract* entered into with the latter, we wish to direct attention to those cases more peculiarly in which a question arises as to the relative rights of these parties to claim and exact compensation for an injury sustained by the bankrupt. Now the rule with respect to these cases is, that where the injury complained of is to the personal feelings or reputation of the bankrupt, the right to sue does not pass to his assignees, but remains in and must be exercised, if at all, by the bankrupt. It has accordingly been held that the bankrupt alone can sue for an assault and battery, for slander, or for the seduction of a child or servant (per Park, J. *Hancock* v. *Caffyn*, 8 Bing. 368; *Howard* v. *Crowther*, 8 M. & W. 601; *Benson* v. *Flower*, Sir W. Jones, 215; Judgment, 11 M. & W. 319); and the assignees can maintain no action for libel, although the injury occasioned thereby to the man's reputation may have been the sole cause of his bankruptcy (per Alderson, B., 8 M. & W. 604). In *Howard* v. *Crowther* (*suprà*), it was held that the right of action for the seduction of a servant does not pass to the master's assignees on his bankruptcy, and Lord Abinger observed, that loss of service is only a *personal* inconvenience; it does not prejudice the estate. "Nothing," remarked his lordship, "is more clear than that a right of action for an injury to the property of the bankrupt will pass to his assignees, but it is otherwise as to an injury to his personal comfort. Assignees of a bankrupt are not to make a profit of a man's wounded feelings; causes of action, therefore, which are purely personal do not pass to the assignees, but the right to sue remains with the bankrupt." "There is no doubt," says Lord Denman, in *Drake* v. *Beckham*, "that a right of action for an injury to the body or feelings of a trader, arising from a *tort* independent of contract, does not pass to his assignees."

In *Clark* v. *Calvert* (8 Taunt. 742; see also *Topham* v. *Dent*, 6 Bing. 515), a bankrupt was held entitled to sue for a trespass to land of which he was yearly tenant, committed before the bankruptcy, the assignees having neither interfered nor taken to the premises, and this decision was expressly recognised and followed in the recent case of *Spence* v. *Rogers*, in the judgment of the Court of Exchequer, which was affirmed by that of the Exchequer Chamber. This was an action of trespass for breaking and entering the dwelling-house and garden of the plaintiff, and making a great noise and disturbance therein, &c. whereby the plaintiff and his family were greatly harassed, disturbed, and annoyed in the peaceable possession of the said dwelling-house and garden, &c. *Plea*,—that after the trespass, and after the commencement of the action, the plaintiff had become bankrupt, and one W. P. had been appointed his assignee; by virtue of which appointment, and by force of the statutes of bankruptcy, the causes of action in the declaration mentioned became absolutely vested in and transferred to the said W. P. To this plea the plaintiff demurred generally, stating as the point for argument that the declaration disclosed a variety of causes of action, which did not, according to law, pass to or vest in the plaintiff's assignees. In support of the plea, it was contended that this case was distinguishable from *Clark* v. *Calvert*, because it had arisen since the passing of the statute 6 Geo. 4, c. 16, and must be decided with reference to the 63rd and 64th sections of that Act; that the latter section had been held as operating to pass all the bankrupt's real property, and all rights in respect of it belonging to the bankrupt (*Michell* v. *Hughes*, 6 Bing. 689; *Smith* v. *Coffin*, 2 H. Bla. 444); that in the present case, a trespass having been committed upon property of which the bankrupt was possessed before his bankruptcy, and which passed to the assignee, the last-named party was entitled to recover damages for any deterioration which it might have sustained. It was further argued that the gist of the action was for breaking and entering the plaintiff's dwelling-house, garden, and premises, and making a great noise and disturbance therein; the allegation that the plaintiff and his family were disturbed and annoyed thereby being mere matter of aggravation, which could not be pleaded to; that the right to recover for the personal injury was consequent upon the injury to the real property, and that the right to recover damages for the latter injury would clearly pass to the assignees. Judgment, however, was given for the plaintiff, and it was observed by Parke, B. that this case was precisely the same as *Clark* v. *Calvert*, the only difference being, that there the assignment was pleaded instead of the appointment of the assignee, which has now the same effect; and in affirming this judgment of the Court of Exchequer, Lord Denman remarked as follows:—"The Act of 6 Geo. 4, c. 16, which does not in this respect substantially vary from those formerly in force, gives to the assignee, by sections 63, 64, and 68, all the personal and real estate of the bankrupt, and all debts due or to be due to him; and as the object of the law is manifestly to benefit creditors by making all the pecuniary means and property of the bankrupt available to their payment, it has, in furtherance of this object, been construed largely, so as to pass not only what in strictness may be called the property and debts of the bankrupt, but also those rights of action to which he was entitled, for the purpose of recovering *in specie*, real or personal property, or damages in respect of that which has been unlawfully diminished in value, withheld, or taken from him; but causes of action not falling within this description, but arising out of a wrong personal to the bankrupt, for which he would be entitled to remedy, whether his property were diminished or impaired or not, clearly not within the letter, and have never been held to be within the spirit, of the enactments, even in cases where injuries of this kind may have been accompanied or followed by loss of property; and to this class we think the action of trespass *qu. cl. fr.* and that of trespass to the goods of the bankrupt, must be considered to belong. These rights of action are given in respect of the immediate and present violation of the possession of the bankrupt, independently of his rights of property. They are an extension of that protection which the law throws around the person, and substantial damages may be recovered in respect of such rights, though no loss or diminution in value of property may have occurred; and even where such an incident has accompanied or followed a wrong of this description, the primary personal injury to the bankrupt being the principal and essential cause of action, still remains in him, and does not vest in the assignee either as his property or his debts."

In the above case, it will be borne in mind that the trespass complained of was committed *prior* to the bankruptcy, and this circumstance seems to afford an additional reason for upholding the decision at which the Court arrived. In *Smith* v. *Milles* (1 T. R. 480) it is said that, to entitle a man to bring *trespass*, he must, *at the time* when the act was done which constitutes the trespass, either have the actual possession in him of the thing which is the object of the trespass, or else he must have a constructive possession in respect of the *right* being actually vested in him; and this rule is illustrated by observing that trespass will lie at suit of the lord of the manor for an estray or wreck taken by a stranger before seizure by the lord; for the right is in the lord, and a constructive possession in respect of the thing being within the manor of which he is lord. Possession, then, either actual or constructive, seems essential to the maintenance of the action of trespass *qu. cl. fr.* and *Smith* v. *Milles* is a direct authority to shew that the assignees of a bankrupt cannot maintain this action for a trespass not committed in their own time. (See per Parke, B., 11 M. & W. 191; Com. Dig. Trespass, B. 2, 3; *Hey* v. *Moorhouse*, 6 B. N. C. 52, and cases there cited; and *Lutwich* v. *Milton*, Cro. Jac. 604.) Supposing, however, the trespass to be committed *after* the bankruptcy, and whilst the bankrupt retains possession of his dwelling-house and premises with the assent of the assignees, it is clear that trespass would be maintainable by the bankrupt, for there are many decisions which establish this position, viz. that as against persons who have no title at all, and who are mere wrongdoers, a bare possession, without allegation of title, is sufficient to sustain trespass *qu. cl. fr.* at suit of the party so in possession. (*Harper* v. *Charlesworth*, 4 B. & C. 591; *Holmes* v. *Newlands*, 11 A. & E. 44; *Malson* v. *Cook*, 4 B. N. C. 392.) In such a case it will, however, be necessary to consider whether there are any facts shewing that the assignees did in any way assent to the seizure, or that they subsequently ratified it, because if so, the party committing the alleged trespass cannot be considered in law a wrongdoer; for instance, the house of the plaintiff, an uncertificated bankrupt, was broken open, and effects acquired by him subsequently to the bankruptcy were taken by the defendants, who had become his creditors since the bankruptcy, and did not know who were the assignees appointed under the bankruptcy. The bankrupt having sued the defendants in trespass *qu. cl. fr.* they obtained a surrender of the assignees' interest in the effects seized, and this was held to be a ratification of the seizure by the assignees, so as to bar the plaintiff from recovering. (*Hull* v. *Pickersgill*, 1 Brod. & B. 282.)

Before dismissing the subject now under consideration, it seems desirable to observe that the action of trover is clearly maintainable by a bankrupt for chattels which have been acquired subsequently to the bankruptcy, and before the bankrupt has obtained his certificate, for he has in these "a defeasible property, which none but the assignees can defeat." (Per Heath, J. 1 B. & P. 48.) Where, therefore, the assignees have permitted the bankrupt to remain for a considerable time in possession of property acquired after his bankruptcy, although they may interfere and take it away, yet it is not competent to third parties to set up a claim which the assignees themselves do not think fit to insist upon, the principle applicable to this class of cases being that a possession by the consent of the true owner is a lawful possession as against a third party. (*Fyson* v. *Chambers*, 9 M. & W. 460; *Fowler* v. *Down*, 1 B. & P. 44; *Webb* v. *Fox*, 7 T. R. 391.) In *Nias* v. *Adamson* (3 B. & Ald. 225) it was held that an uncertificated bankrupt was not entitled to retain property against his assignees, although such property had been left in his possession under an agreement with a third person, and for a valuable consideration paid by him to the assignees. "It seems to me," observed Bayley, J. (3 B. & Ald. 230), "that the bankrupt can only obtain a defeasible property from the assignees, and that any creditor may put the assignees in motion for the purpose of reclaiming the property left in the bankrupt's possession. And there is no hardship in this, for it is clear that the goods cannot be purchased with money belonging to the bankrupt himself; and if purchased by money belonging to a friend, it is as easy for the friend to buy it, and to have the legal property transferred to him."

The above remarks, suggested by the case of *Rogers* v. *Spence*, will, of course, be considered as directing the reader's attention to *some* only of the more important points relating to the effect of the bankrupt laws in divesting the bankrupt of his property and right of action. For more detailed information on this important and very comprehensive subject, reference must be made to the standard treatises relative thereto, and the very numerous decisions there cited and abstracted.

REVIEW OF THE CASES DECIDED IN ALL THE COURTS OF COMMON LAW.

During Easter Term and Vacation, and Trinity Term and Vacation, 1845.

(*Continued from page* 375).

We left off last week with the consideration of what duress of goods would make a payment involuntary; but it is not every demand of more than is right which will justify the payment as under duress, and give a right of recovery in this form of action. For money had and received will not lie to recover a sum of money paid in order to obtain the release of cattle distrained damage feasant, though the sum paid exceed in demand the damage done, where the owner has not made a proper tender of the amount of damage actually done. (*Gulliver* v. *Cosens*, 5 Law T. 199.) This is different from the case of a payment to a carrier, because here, in consequence of the wrong done by the negligence of the owner, the duty of a tender is imposed upon him, and the injured party ought not to be called

upon to incur the risk of a mistake in the demand if they receive compensation. (See *Ashmole* v. *Wainwright*, 2 Q. B. 837.)

CONTRACTS.

Principal and agent.—One of the most important judgments delivered during the two Terms is that of the Exchequer Chamber, in *Dowman* v. *Jones* (5 Law T. 77), involving the consideration of the liability of a person apparently contracting as agent. The plaintiffs below sought to charge the defendant below as having incurred a personal liability; and the following extract from a letter, and the special case, will shew upon what grounds. He had been sent, at the request of Messrs. Esdaile, to wind up the affairs of a bank; and to the plaintiff, who had large claims, he wrote, "Your bill of charges in this matter, amounting to 527*l.* 5s. I also undertake (on behalf of Messrs. Esdaile) to have paid to you." The case found that he acted during all that time, as the plaintiff well knew, as the agent of Messrs. E. in the collection and settlement of several extensive claims which they had upon many other parties, arising out of their connection with the said bank. The Court of Queen's Bench considered that this did not shew authority to undertake as agent, and that his own declarations could not be taken as proof that he had authority, and that therefore the Esdailes were not liable, and he was. The Court of Exchequer had previously held that, *in the absence of evidence* to the contrary, it would be taken that he had such authority, and that the action would not lie against him personally. The special case was turned into a special verdict, and the Court of Error upheld the original position of the Court of Exchequer, and decided that *primâ facie* a letter purporting to be an "undertaking on behalf of Messrs. E." is an undertaking by an *agent*, and that, upon any undertaking so purporting, the party seeking to charge the agent is bound to shew clearly that there was no such agency or authority, or that it was exceeded, and that in the absence of such clear proof, in the principal case, the defendant was not personally liable, and the judgment of the Queen's Bench was accordingly reversed.

Liability of shareholder for contracts of branch banks.—*Crellin* v. *Brooke* (5 Law T. 75) illustrates the principle that persons may by their conduct become liable as partners, although the partnership deed has not been observed *inter se*. The defendant in that case was a shareholder in a joint-stock bank. By the deed of settlement, the directors were empowered, with the consent of the shareholders, to establish branch banks. A branch bank was established, and the defendant continued a shareholder. It was contended that the plaintiff, who sued the defendant in respect of a money deposit with the branch bank, was bound to shew that it was duly established. But the Court of Exchequer held that, from his continuing a shareholder, the jury might either presume that the deed had been complied with, or that he had assented to the establishment of the bank irrespective of the deed.

COPYRIGHT.

After long consideration, a most important judgment has been given by the Court of Exchequer on the subject of the right of copyright possessed by foreigners in England. The circumstances and arguments are stated at length in the judgment in *Chapple* v. *Purday* (5 Law T. 266). After shewing that at common law a foreigner residing abroad has no copyright in England, Pollock, C. B. proceeded to examine the statutes and cases, and continued:—

The result seems to be, that if a foreign author not having published abroad, first publishes in England, he may have the benefit of the statute; but that no case has decided that if the author first pu[illegible] abroad he can afterwards have the benefit of it by first publishing here. The 7th section of the 4 Geo. 3. c. 107 favours this construction, for it protect against piracy by importation from abroad those works only which are first composed, written, printed, or published in "this kingdom,"—probably it would include the whole of the United Kingdom; and this protection would seem to be co extensive with the rights to be thereby secured.

After referring to the International Copyright Act, the Lord Chief Baron proceeded:—

Upon the whole, then, we think it doubtful whether a foreigner, no resident here, can have English copyright at all, and we think he cannot if he has published his work abroad before any publication in England. It remains to be considered whether the plaintiff is in the situation of a foreign[illegible] who has first published. At the time of the assignment to him, no publication took place, but before he published in England, a publication had taken place by the assignor in France, therefore the work had been published before the plaintiff published it in England, and such publication was not by a wrongdoer, but by a person who was lawfully entitled to publish. It seems to us, therefore, that for this purpose the plaintiff and Auber and Frapenas must be considered the same person; and we think, as the publication in Paris by the composer or his assignee there prior to any publication in England, prevents a copyright from being acquired under the statutes, and there being no right at common law or under the statutes, the rule for a nonsuit must be made absolute.

COSTS.

There have been several new decisions as to costs during the period under review.

Affidavit of increase.—The expenses of witnesses in a cause must be actually paid before the affidavit of increase is made, or they will be ordered to be refunded. (*Trent* v. *Harrison*, 5 Law T. 98; 14 L. J. 210, Q. B.)

Demurrer.—Where a defendant pleads a payment into court and another plea, and the plaintiff takes the money out of court and demurs to the latter plea, when demurrer is decided in his favour and he then enters a *nolle prosequi* to the residue of the action, except the costs of the demurrer, he is entitled to those costs on taxation. (*Williams* v. *Vines*, 5 Law T. 221.)

In error—Of opposed rule in court below when judgment thereon is afterwards reversed.—Where upon argument in the court below on an opposed rule, the Court gives judgment which is reversed by a court of error, the plaintiff in error is entitled to his costs of the motion in the court below. (*Evans* v. *Collins*, 5 Law T. 79.)

Habeas corpus.—The care with which our laws protect the liberty of the subject is shewn by the decision in *Ex parte Cobbett* (5 Law T. 176), that the Court will not grant costs against the party suing out a writ of *habeas corpus* to a person whose interests compel him to appear in support of the commitment, and who had notice to do so. This is further important, as the opinion of each Court may be taken on behalf of any person imprisoned.

Issue under Tithe Act.—As a general rule, the Court will always give costs to the successful party in an issue under the Tithe Act, whether the ultimate decision be in support or opposed to the decision of the commission. The only exception to this will be where parties have disentitled themselves by some misconduct of their own. (*Stamford* v. *Warrington*, 5 Law T. 130; *Stokes* v. *Savage*, *ibid.* 176.)

Judgment under 20l.—In the exercise of the discretionary power which the Courts possess over costs in actions upon judgments, costs will be refused where an action is brought upon a judgment for less than 20*l.* in order to arrest the defendant where the conduct of the defendant has not been vexatious, although the original judgment was obtained before the passing of 7 & 8 Vict. c. 96, and the defendant had no goods whereon to levy. (*Bell* v. *Waldron*, 5 Law T. 220; 9 Jur. 510.)

Quo warranto.—We have often had occasion to observe that the right to recover costs springs from the statute law, and cannot exist independently of it. Of this, *Reg.* v. *Rowley* (5 Law T. 132) is another instance. It was there decided, although the practice of the taxing-masters had been different, that on a judgment for the relator in a writ of error on an information *quo warranto*, he is not entitled to costs.

Time to object to judge's order as to costs.—It is too late, a year after a judge's order respecting costs, to move to rescind it without explaining the cause of the delay satisfactorily. (*Keir* v. *Leman*, 5 Law T. 171.)

Witnesses.—From *R.* v. *Newton* (5 Law T. 98), it appears that where the commission-day is on Saturday, the cost of witnesses staying at the assize town on Sunday will be allowed, although in fact Monday is the first business day.

EJECTMENT.

Construction of 4 *Geo.* 2, *c.* 28, *s.* 4.—The case most worthy of notice under this head is that of *Doe dem. Wyatt* v. *Byron* (5 Law T. 128), in which the Court of Common Pleas were called upon to decide [illegible] a sub lessee of premises was within [illegible] words of the 4th section of 4 Geo. 2, c. 28, and entitled to stay proceedings in ejectment for nonpayment of rent, upon payment of all arrears and costs. They held, that although not specifically mentioned, yet, taking the 2nd section and the 4th together, they could not narrow the 4th section, which is a remedial one, in such a way as to exclude a person deriving title to the property from the benefit intended.

Proceedings under 1 *Geo.* 4, *c.* 87.—Although the case just mentioned shows that the words are not the only thing looked at in the construction of an Act of Parliament, yet it cannot be too often impressed upon the legal student that, as a general rule, the literal meaning of the words used will be adhered to. *Doe dem. Anson* v. *Roe* (5 Law T. 8, 9 Jur. 610) is an instance of this, which confirms what was said in *Doe dem. Holder* v. *Rushworth* (6 D. P. C. 712), that a landlord who seeks to take proceedings against his tenant under 1 Geo. 4, 287, s. 1, must give him notice to appear upon the "first day of the Term next following, as the statute directs," and that a notice to appear in the Term following will not suffice.

Notice to tenants.—It is said in Chitty's Archbold, p. 735, that although it is usual and advisable to fix the names of all the tenants to the notice to appear, yet that it is not absolutely requisite, and that it may be directed only to the tenant who is served. But it appears from *Doe dem. Musket* v. *Roe* (5 Law T. 173), that if the names of all the tenants are not affixed to each of the notices served, judgment can only be moved for against the tenant to whom the notice was directed.

EVIDENCE.

Account stated.—The cases have gone far in admitting evidence of an account stated; but it would have been carrying them still farther had *Frude* v. *Towell* (5 Law T. 214) been decided differently. That decision was that a letter, offering to pay a certain sum of money in discharge of a disputed account, followed by a tender of the sum, which is refused, is not evidence of an account stated.

Admissions under judge's order—Description of bills of exchange.—*Wilkes* v. *Hopkins* (5 Law T. 200) is a warning to the practitioner to examine even what appears to be done in the ordinary course of proceeding. There the bill sued upon was not accurately described in the notice to admit, and the defendants were held to be barred from disputing their liability, through the extent of their admission. It was described as "a bill drawn upon and directed to the above-named defendants, as the New Bridge Coal Company," and to be accepted by "one Henry Bishop for the defendants, as the New Bridge Coal Company, payable at Messrs. Jones, Lloyd, and Co. bankers, London," and being so admitted, it was held to be evidence that the defendants constituted such company, and that the bill was accepted by Bishop for the company, and that it was payable at a London banker's. The Court, however, upon affidavits of merits, and surprise, allowed new trial upon payment of costs.

Arbitration.—The production of a rule [illegible] court, making the agreement of reference a rule of court, is not proper evidence of the agreement; it must be proved like every other agreement. *Still* v. *Halford* (4 Camph. 17) is not contrary to this, for there it was a judge's order of reference made a rule of court, and was considered a judicial document.

Bill of exchange, proof of payment of.—In *Scoley* v. *Walsey* (Peake, 34), Lord Kenyon is reported to have said that, *primâ facie*, a receipt on the back of the bill imports that it was paid by the acceptor. However this may be—but that it is so is very doubtful—the receipt must be clear and express, for a bill produced with an *R* marked at the back, and not shewn to have been in the acceptor's possession, was held not to afford any *primâ facie* evidence of payment by the acceptor in an action against him by the indorsee. (*Phillips* v. *Warren*, 5 Law T. 267.)

Goods sold and delivered.—We have before remarked the eagerness to stretch a decision, however peculiar the circumstances upon which it was founded. *Littlechild* v. *Banks* (5 Law T. 263) is another instance. The Court of Exchequer, in *Bussey* v. *Barnet* (9 M. & W. 312), decided that where goods were immediately paid for upon delivery, the jury were right in saying that there was no contract, no sale on credit, and that the plea of payment was unnecessary. In the principal case, upon this authority, it was attempted to impose upon the plaintiff the duty of negativing such cotemporaneous payment as part of his case, but we need hardly say without success, and the verdict

given by the jury in consequence of this topic being urged by the defendant's counsel was set aside.

Interrogatories.—Where a commission to examine witnesses authorizes the commissioners to put, or cause to be put, additional questions to the witnesses, when they shall think necessary or proper, it does not give a power of general examination at the will of the commissioners, but requires them to exercise their discretion and judgment in putting the questions. Therefore, where it appeared from the return to a commission that the defendant, having relinquished the greater part of direct interrogatories to a witness produced by him, proposed to proceed with examining him upon additional questions, and that the plaintiff objected to this; but that, subject to such objection, the commissioners proceeded with the examination of the witness on such additional questions, it was held that, as the commissioners had not exercised any discretion of their own in putting these additional questions, the examination was inadmissible in evidence, as taken without authority. (*Williamson* v. *Page*, 5 Law T. 55.)

Malice not proved by a plea of justification.—*Warwick* v. *Foulkes* (12 M. & W. 507) shews the danger of putting a plea of justification which cannot be supported upon the record, for the jury may be directed to take it into account in estimating the damages; but it must not be inferred from this, that such a plea, although unsupported, would of itself be evidence of express malice to supersede the necessity of producing other evidence to prove it. (*Wilson* v. *Robertson*, 5 Law T. 49.)

Proof of judgment in court baron.—Upon an issue of *nul tiel* record, raised upon a judgment of a court baron, the judgment is sufficiently proved by the *vivâ voce* testimony of the officer of the court present at the trial, and the production of *levari facias* issued by him in the regular course, where there are no records in that court, and no form of judgment properly belonging to it. (*Dawson* v. *Gregory*, 5 Law T. 241.)

Secondary evidence.—The position laid down in the works on Evidence, that a notice to quit may be proved by a copy without any notice having been given to produce the original, has been confirmed and upheld in *Doe dem. Fleming* v. *Somerton* (5 Law T. 50; 14 L. J. 210, Q. B.). Where the probate of a will is shewn to be in the possession of the execution party to an action, notice to produce the probate will suffice to admit secondary evidence of the will; and an official copy of the will, purporting to be signed by the registrar of the Ecclesiastical Court, and annexed to which was what purported to be a copy of the act of the Ecclesiastical Court, is sufficient secondary evidence thereof. (*Waite* v. *Gale*, 11 L. J. 212, Q.B.).

Certificate of copy of record.—Where an officer is appointed by Act of Parliament to certify copies of records or other documents, he must certify them by the same description as that used in the Act, or they will be inadmissible in evidence. Thus a document, certified to be a "true extract from the original," is not admissible under an Act authorizing a copy of an award, or of any *part thereof*, to be given in evidence. (*Doe dem. Brise* v. *Brise*, 5 Law T. 36.)

FALSE REPRESENTATION.

We some time since brought under the notice of our readers the decision of the Exchequer Chamber in the case of *Collins* v. *Evans* (2 Law T. 446), which affirmed the important principle previously laid down by various judges, and especially by Mr. Baron Parke, that a representation false in fact, but made without fraud, is not actionable, although another party may have suffered injury by acting upon the faith of that representation. This question has again been raised and elaborately discussed in *Ormrod* v. *Huth* (5 Law T. 268). That was an action on the case for fraud, in representing certain samples of cotton to be fair samples, whereby the plaintiff was induced to make a large purchase, and the bulk turned out to be very inferior to the samples. The judge, at the trial, directed the jury that unless they could see grounds for inferring that the defendants or their brokers were acquainted with the fraud, or had acted against good faith or with some fraudulent purpose, the defendants were not liable. The point raised by the bill of exceptions thereupon tendered was as follows:—

That when a vendor, during the course of negotiating a sale, makes a representation to the purchaser which is likely to act as an inducement to the latter, who subsequently completes the bargain, the vendor not having made any communication as to the extent or means of his knowledge or ignorance, nor given any caution or explanation, and the representation turns out to be false, and an action upon the case is brought upon it, the jury is not precluded from finding in favour of the plaintiff by reason of knowledge of the falsehood, or of acting against good faith, or with fraudulent intent, not being brought home to the defendant.

The Court at once gave judgment that the direction was right, and Tindal, C. J. thus stated the law upon the subject:—

The rule which is to be observed from all the cases appears to us to be, that where, upon the sale of goods, the purchaser is satisfied without requiring a warranty, which is a matter for his own consideration, he cannot recover upon a mere representation of the quality by the seller, unless he can shew that the representation was bottomed in fraud. If, indeed, the representation was false to the knowledge of the party making it, this would in general be conclusive evidence of fraud; but if the representation was honestly made, and believed at the time to be true by the party making it, although not true in point of fact, we think this does not amount to fraud in law, but that the rule of *caveat emptor* applies, and the representation itself does not furnish a ground of action; and although the cases may in appearance raise some difficulty as to the effect of a false assertion or representation of title in the seller, yet it will be found on examination that in each of those cases there was either an assertion of title embodied in the contract, or a representation of title which was false to the knowledge of the seller. The rule we have drawn from the cases appears to us to be supported so clearly by the early as well as the more recent decisions, that we think it unnecessary to bring them forward in recital, satisfying ourselves with saying that the exception must be disallowed, and the judgment of the Court of Exchequer affirmed.

A spirited attack has been made in the last number of the *Law Magazine* upon the correctness of these decisions, and the learned writer seems to think that convenience as well as justice has been sacrificed to a "mindless allegiance to precedents." We shall not discuss the question of the degree of authority precedents ought to have; but the importance of the subject, and our belief that the principle would be upheld in the House of Lords, will excuse a few observations tending to strengthen the arguments which the learned author attacks, and weaken those he advances. It is admitted that the old authorities up to 1771 require that fraud should coexist with falsehood, to give a right of action, and that a mere statement of what afterwards turns out to be false is not actionable. Then what are the authorities of modern times? In *Pawson* v. *Watson* (Cowp. 785) Lord Mansfield no doubt said, that "it is equally false to undertake to say that which he knows nothing at all of, as to say that is true which he knows is not true." But this was a mere dictum, and the decision in the case was in favour of the assured, because no false statement was made. This doctrine was repeated in *Tollis* v. *Brutton* (Park, 250), and acted upon in *Macdowall* v. *Fraser* (Dougl. 260), where even Ashurst, J. concurred, and is become a part of the law of insurances. (*a*) But all these were cases of insurances, where the effect of the erroneous statement was distinctly to the advantage of the assured and the injury of the underwriter; and representations in insurance are almost equivalent to express warranties, because of the direct advantage of such representations to the party making them, and the protection which the law throws over all contracts of that class; *e. g.* the holding that a false representation made to the first underwriter will also discharge the others, although they were not aware of the statement. And Lord Mansfield's words are not an authority to shew that an action for false representation would lie against an uninterested party. Then comes *Pasley* v. *Freeman* (3 T. R. 51). It is remarkable that even where the *scienter* and the deceitful intention was admitted, Mr. Justice Grove should have thought that the action, *which was the first of the kind*, could not be maintained. What Lord Kenyon said about moral and social duties was wholly beside the question. And the fair inference from *Pasley* v. *Freeman* was that fraud, *i. e.* intention to deceive, must exist. (See judgment in *Haycraft* v. *Creasy*, 2 E. 92.) No doubt in the last case Lord Kenyon did give his opinion in favour of holding a person liable for a misstatement; but Grove, Lawrence, and Leblanc, JJ. differed, and a new trial was ordered, the judges expressing a strong wish that the point should appear upon the record, and the opinion of the Court above taken, which does not appear to have been done. The case was a strong one, as the defendant had repeatedly, and after suspicions had been roused as to the credit of Miss Robertson, *most positively* asserted, of his own knowledge, that she might be trusted with perfect safety. But "knowledge" was held to be taken *secundum subjectam materiam*, and on a matter of credit could only mean a strong belief upon what appeared to be probable points. Now, even in insurance, a false representation as to a material future fact made by a person having no control over the event, has been held not to vitiate the contract. (*Bowden* v. *Vaughan*, 10 East, 450.) In *Haycraft* v. *Creasy*, although no less men than Erskine, Garrow, Gibbs, and Lawes were counsel for the plaintiff, the dicta of Lord Mansfield, given as above cited, were never referred to. *Williamson* v. *Alison* (2 East, 446, cited by Lord Abinger, in *Cornfoot* v. *Fowke* (6 M. & W. 358) as an authority that a mere misstatement is fraudulent, was a case of express warranty, and that has been always considered to render proof of *scienter* unnecessary.

Both Lawrence and Leblanc, JJ. concurred, and no allusion was made to *Pasley* v. *Freeman*, or *Haycraft* v. *Creasy*, which last case had occurred only six months before. In *Early* v. *Garbett* (9 B. & C. 928), Littledale, J.—no mean authority—expressly says, "the *scienter*, or fraud, being the gist of the action *where there is no warranty*." In that case, Bayley and Parke, JJ. fully concurred in holding that, in the absence of fraud, an untrue statement by a vendor, that no rent had been paid by his predecessors, did not entitle the vendee to recover the purchase-money. *Dobell* v. *Stevens* (3 B. & C. 623) is said, sometimes, to be a direct authority for holding a person liable for a misstatement, though not laid as being known to be false in the declaration, and not embodied in a contract. But we apprehend this is not so. The jury found expressly there was fraud; and the question alone decided by the Court was, that evidence of a *fraudulent and deceitful representation* can be received, although not noticed in a written agreement, or in a conveyance of the property sold. (See the judgment.) And what is *Adamson* v. *Jarvis* (4 Bing. 66)? The plaintiff, an auctioneer, had been employed by the defendant to sell goods in his possession, and apparently belonging to him, and had paid the proceeds to the defendant, but afterwards had been compelled to pay the value of the goods to the rightful owner, and he then brought an action to recover the amount and expenses from the defendant. Best, C. J. in delivering judgment, shewed that the old cases established the principle that affirmation of ownership, by a person in possession as owner, is liable to an action at the suit of a buyer, if the buyer is damnified by the goods being proved not to be the vendor's. He then delivered the dictum, "that he who affirms either what he does not know to be true, or knows to be false, to another's prejudice and his own gain, is, both in morality and law, guilty of falsehood, and must answer in damages." But he immediately continued—"The above cited cases shew that a *scienter* is not necessary in this case, although it is necessary in the case of *Haycraft* v. *Creasy*, and the cases of that class. In these cases a party who had no interest was applied to for his opinion; if he gave an honest though mistaken one, it was all that could be expected." Thus, no doubt is thrown by this dictum upon the former decisions. But to proceed. In *Polhill* v. *Waller* (3 B. & Ad. 114), Lord Tenterden expressly guarded against being supposed to hold that a mis-statement would entail liability; for, giving as an instance, an allegation of authority under a power of attorney, afterwards proved to be a forgery, he says, he would have incurred no liability, for he would have made no statement *which he knew to be false*, a case very different from the present. *Freeman* v. *Baker* (5 B. & Ad. 797) is, however, a still stronger case, for it is a judgment by the same Court, whose later opinion in *Collins* v. *Evans* has given rise to so much discussion, and in each case with the concurrence of Lord Denman. There, an action of deceit was brought in consequence of a ship turning out of less value than was described. The questions were, first, whether there was not a fraudulent representation, because that made was false in fact, but not known to be so; and, secondly, whether a certain inventory, under circumstances which we need not detail, did not form part of the contract. Sir J. Campbell, then Solicitor-General, argued for the proposition that knowledge

(*a*) It cannot be said to have formed the basis of the judgment in *Schneider* v. *Heath* (3 Camp. 506), for there was actual fraud found, although no doubt Sir J. Mansfield laid down that knowledge or ignorance made no difference.

was immaterial; but Lord Denman said that the single point was, whether the inventory formed part of the contract, and why so, is explained by the judgment of Parke, J. "The question of deceit was disposed of by the jury when they found that the defect in the ship was *unknown* to the defendants." Patteson, J. expressly concurred in this view, and Taunton, J. impliedly, by his concurrence decided against the plaintiff. The same limitation is recognized by the Court of Exchequer, and by the Court of Error, when deciding, in *Levy* v. *Langridge* (2 M. & W. 519, 4 M. & W. 337), upon the liability *in tort* of persons selling goods with an affirmation of their fitness for a particular purp Up to this point, then, there seems to us to be no single decision against the correctness of the principle laid down in *Collins* v. *Evans* and *Ormerod* v. *Huth* by the Court of Exchequer Chamber. We shall not discuss *Cornfoot* v. *Fowke* and *Taylor* v. *Ashton* at length, for they do not militate against our view, except in respect of Lord Abinger's judgment; but *Smout* v. *Ilbrey* merits a few words. There, it was not necessary to decide the effect of a false statement made by an agent, for it was clear that both plaintiff and defendant had acted upon the assumption that the agency had not been put an end to by the principal, and no positive representation had been made upon the subject. Moreover, what was then said as to the personal liability of an agent *who contracts* with another person upon a mis-statement which prevents the principal being bound by the contract, is quite consistent with what the Court said in *Taylor* v. *Ashton*, that, "independently of any contract made between the parties, no one can be made responsible for a representation unless it be fraudulently made." We pass on to shew that the Scotch appeal case (*Railton* v. *Matthews*, 10 Cl. & Fin. 931) does not clash with the numerous dicta and decisions in support of the principle which we consider correct. The question was, whether a surety was not discharged from his liability, because the obligees had not communicated to him facts, *which they knew*, materially affecting the credit of the person for whom he was surety. At the trial, the judge had directed the jury that the concealment must have been of things known, or which the parties had grave reason to expect, *and that it must have been wilful and intentional, with a view to their own advantage.* A bill of exceptions to this ruling had been overruled by the words of the second decision, and the case came before the House of Lords. As it was clear from the evidence that the facts *were known* and concealed, it is not easy to see how the question we are now discussing could have been decided by it. But we say that in it there is not even a dictum to support the view contended for. Lord Cottenham said—

> There may be improper concealment by non-communication, although the non-communication is not wilful or intentional, and with a view to advantage.

Lord Campbell says:—

> If the defenders had facts *within their knowledge* which it was material that the surety should be acquainted with, and which the defenders did *not* disclose, in my opinion the concealment is undue concealment, and discharges the surety.

He subsequently says, the motive is wholly immaterial; and after stating the issue, and the mode in which it was put to the jury, he continues:—

> That is an entire misconception of it. According to his direction, although parties acquiring the bond had been aware of the most material facts, which it was their duty to disclose, and the withholding of which would avoid the bond, if they did not wilfully and intentionally withhold them; that is to say, if they had forgotten them, or if they thought, by mistake, that, in point of law or morality, they were not bound to disclose them, then, *according to the direction* of the learned judge, it would not be a concealment. But the learned judge does not stop here. He goes on, "with a view to the advantage they are to receive," introducing the "and" conjunctively, and in effect saying that it was not an undue concealment unless they had their own particular advantage in view.

It is therefore, we venture to think, manifest that here the sole question decided, and the sole principle intended to be established, was, that the motive for concealment of *known facts* was immaterial. In conclusion, the balance seems to be as follows:—All the old authorities; dicta by Buller, Ashurst, Grose, JJ. (*Pasley* v. *Freeman*); decisions by Grose, Laurence, and Le Blanc, JJ. (*Haycraft* v. *Creasy*); Bayley and Littledale, JJ. (*Early* v. *Garrett*); opinion of the Queen's Bench in *Polhill* v. *Walter*; decisions of Lord Denman, C. J. Parke, Patteson, and Taunton, JJ. (*Freeman* v. *Baker*); and the recent decision of the Court of Exchequer in *Cornfoot* v. *Fowke*, *Langridge* v. *Levi*, *Taylor* v. *Ashton*; and the Court of Error, in *Collins* v. *Evans* and *Ormrod* v. *Huth*, on the side and upon the other, *dicta* of Lord Mansfield and Sir James Mansfield, when insurance questions were under consideration; of Best, C.J. immediately followed by a recognition of *Haycraft* v. *Creasy*; and the judgment of Lord Abinger in *Cornfoot* v. *Fowke*; and that of the Queen's Bench in *Collins* v. *Evans* (contrary to *Freeman* v. *Baker*), and the opinion of Mr. Justice Story.

As to the comparative inconvenience of the two principles, we would remark, that in consequence of the extension of the law by *Pasley* v. *Freeman*, Lord Tenterden's Act expressly limited the liability of persons answering for the credit of another to cases in which they had done so in writing, a strong proof of what was the tendency of such action being allowable even when proof of knowledge of the falsehood was held necessary. But if any person is to be liable for a mis-statement of fact, upon which another acts and is injured, society could not go on, without the alteration of all our assertions to mere expressions of belief. It would not be safe to answer a question as to the time a train started, or any other matter of daily occurrence; for from such a principle being established, it would legitimately follow, as was put in the argument in *Haycraft* v. *Creasy*, that if, in consequence of your telling a witness that it was eight o'clock when it was nine, and he did not appear in time through this mis-statement, and had to pay the costs of the cause upon an attachment, you would be liable to an action for deceit. There would be misrepresentation and injury! We need hardly discuss further the convenience of such being the law. But in all cases of contract, such as *Ormrod* v. *Huth*, the remedy is clear and simple. "Take a warranty," and you are safe.

The law, as it is, seems both simple, just, and convenient. If with the *intention to deceive*, you state a fact, and injury ensues, you are liable, whether you profit or not by the statement. In plain language, a mistake is not a *lie*. E. W.

(*To be continued.*)

PROMOTIONS, APPOINTMENTS, ETC.

[Clerks of the Peace for Counties, Cities, and Boroughs, will oblige by regularly forwarding the names and addresses of Magistrates who ma

Crown-office, Aug. 1.—Member returned to serve in the present Parliament.—City of Hereford: Sir Robert Price, of Foxley, in the county of Hereford, bart. in the room of Edward Bolton Clive, esq. deceased.

Whitehall, July 29.—The Lord Chancellor has appointed W. H. Partington, of Manchester, in the county palatine of Lancaster, gent. to be a Master Extraordinary in the High Court of Chancery.

LEGAL INTELLIGENCE.

Removal of the Law Courts.—The Profession and the public will be pleased to hear that this very important subject is again under serious consideration. The public are, by the plan proposed, likely to obtain commodious courts for the administration of justice in the most convenient part of the metropolis. To carry out the design it will be necessary to clear away a large mass of property of the very worst description. Thus a grand metropolitan improvement will be effected, and a great public advantage will be secured. The proposed site will be contiguous to the Temples and Lincoln's-inn, and central to the city, west-end, and other parts of London; thus combining all the benefits of a fire-proof depository for many unprotected documents connected with proceedings in Chancery, relating to fifty millions sterling in value. The special and immediate attention of Government and the Profession is now highly necessary to render sufficient accommodation and well-ventilated offices for those who are unfortunately involved in litigation. Nothing can be worse than several of the present courts, which cause great injury to health by the limited space which they occupy, and are by no means equal to many of the local courts. By the adoption of the proposed plan a noble edifice can be formed to include all the law courts, surrounded by the law offices and inns of court, with the chambers of the Profession; also extensive accommodation to the larger portion of the members of the Bar, and a splendid ornament to the metropolis. The change would only interfere with a few leading barristers who are engaged before Parliamentary committees. We trust, therefore, that the convenience of a few leading members of the Profession will not prevail against the general benefit, but that these will withdraw their opposition and submit to a trifling inconvenience for the benefit of the public interests.—*Globe.*

The Dog Stealing Act.—This Act, which only came into operation on the 21st ult. has already been put in force by the commitment of an offender (as reported in the *Times* of Wednesday, under the head of "Worship-street") for six months with hard labour. There are eight clauses in the Act. On a conviction before two or more justices an offender may be committed for a period not exceeding six months, or forfeit a sum not exceeding 20*l*. For a second offence the offender is to be indicted, and may be committed for 18 months, and also fined. Limited penalties may be enforced against persons having possession of stolen dogs or their skins. In case a dog, advertised as stolen or lost, should be returned, the party may be sued for a penalty of 25*l*. for not seizing the person bringing back the dog or making inquiries after him. Offenders may now be apprehended without a warrant, and may be remanded or admitted to bail. In the event of penalties not being paid, the defaulters to be committed, with or without hard labour.

EPIGRAM.

THE PRESS AND THE BAR.

The bar bars the press from its travelling mess,
The press from the press bars the bar;
Which shall first be in need, the unfed or unfee'd—
Those who are not *in case*, or who are?—*Times.*

CORRESPONDENCE.

LONDON COMMERCIAL ASSOCIATION, AND CREDITORS' PROTECTION SOCIETY.

TO THE EDITOR OF THE LAW TIMES.

Sir,—In consequence of the article which appeared in the Law Times of last week, headed the "Society for the *Punishment* of Fraudulent Debtors," I am directed by the committee of the London Commercial Association to state, that it has for its object *not* the *punishment* of fraudulent debtors (which is the province of those who *administer* the law, and not of those who merely seek its protection), but rather the power of being able, at a *small cost*, to protect the interests of commercial men by opposing, when necessary, all such debtors of whose conduct the members (being creditors) may have reason to complain.

In pursuance of this plan, a meeting was held at the Guildhall Coffee House, when resolutions were drawn up that such a society be formed.

Prospectuses were printed (of which you received one) and put into general circulation. Gentlemen most interested were waited upon, who signified their approval of the plan by giving their signatures to it.

A second meeting shortly afterwards took place, when the acting committee was formed, consisting of three gentlemen, who kindly volunteered their services for the present promotion of the objects contained in the prospectus; a treasurer was elected, solicitors chosen, and two secretaries appointed. A circular prospectus was then agreed upon, with the rules and regulations for the government of the society, and *power given to the secretaries* to promote the interest and *increase* of the association in any way that seemed to them best calculated for the purpose.

The result of the canvass of the public at large on behalf of the association was such as led to the belief that the prejudice in reference to all modern societies could be best removed by complying *with the suggestions* of several creditors, not members, who wished to test the utility of the association before they joined it, by its assistance in reference to some particular cases in which they were interested as creditors; hence the adoption of the letter alluded to by you (which was not *printed*, as you state), and which appears to have excited so strong a feeling in your mind against the association.

The consequence of this course of proceeding has proved beneficial to the interests of creditors, and I am happy to say it has met with the *entire approval* of the subscribers, and has, by a resolution of the meeting held yesterday, become one of the rules of the society.

I enclose a copy of the first report, submitted to a meeting of the subscribers yesterday, and which I presume you will publish, in accordance with the statement that you are "patiently waiting for an explanation."

Any further information you may require will be cheerfully afforded.

I am, Sir, your obedient servant,
James M. Constable,
Secretary.

73, Basinghall-street, Aug. 7, 1845.

TO THE EDITOR OF THE LAW TIMES.

SIR,—The decision of Mr. Commissioner Fonblanque, in the matter of Rye, an insolvent, on Friday last, presents a fit opportunity for a few remarks on the subject of an association calling itself "The Society for opposing Fraudulent Bankrupts and Insolvents." This society, none of the members of which (if there are any), with the exception of Mr. Buchanan, the attorney, and Mr. Constable, the secretary, are known to the public; but these two gentlemen, as far as the public have any means of judging, form the entire *corpus* of the society. The practice of these gentlemen is, as soon as an insolvent has filed his petition for protection in this court, to which is annexed a schedule of the creditors of the insolvent, to inspect the schedule, or in some other way to get at a list of the creditors, and immediately send off a prospectus of the society to each of them, with a letter written at the end, signed by Mr. Constable, to the following effect:—

"SIR,—If you wish, as a non-subscriber, to oppose this insolvent, and will send me a post-office order for 1*l.* I will instruct the attorney of the society to oppose, and will guarantee you against any further costs, and that your interests shall have the best attention."

In the case before alluded to, Mr. Sturgeon, the counsel for the insolvent, stated that he was instructed that no less than nine of the creditors of this insolvent had received a similar application from this society. It is not at all an uncommon circumstance for the attorney of this society to be employed in one case on behalf of some ten or twelve creditors, from each of which, of course, he or the society have received a sovereign.

Mr. Commissioner Goulburn allowed this attorney, in a case a short time ago, to oppose an insolvent on behalf of the society; but Mr. Commissioner Fonblanque, in the same case as that now referred to, refused to hear the society.

At the top of the prospectus of this society is an extract from the LAW TIMES, recommending this society to the public. I feel convinced that this recommendation must have been inserted in the LAW TIMES under a misapprehension of the objects of the society, as there surely cannot be any thing praiseworthy in touting for business in the way before mentioned.

The inconvenience to the court from opposition so got up is very great. There being generally in these cases no definite or reasonable ground of opposition, some merely formal objection is usually made in the first instance, and that failing, every item in the schedule is usually gone through for the purpose of fishing out some objection. It frequently happens that objections are made on the score of debts contracted with creditors who are perfectly satisfied with the conduct of the insolvent, in defiance of and against the express wishes of such creditors. Supposing the case of a creditor who has had transactions with an insolvent which he may not wish to be made public, is another creditor, perhaps an enemy or rival of his, to be allowed to examine an insolvent as to such debts, and expose in a court of justice, against the wish of the former creditor, all the transactions between him and the insolvent? Surely, if the creditor himself does not object to the conduct of the insolvent with regard to his debt, no other creditor has any right to complain: yet such is constantly the practice in oppositions got up by this society; and in one case I well remember, before Mr. Commissioner Shepherd, all the creditors of the insolvent, with the exception of a bill discounter, who opposed by the society's solicitor, were anxious to accept a proposal made by the insolvent for the payment of his debts out of some property of his wife, but this creditor refused to come into the arrangement, and insisted upon opposing the insolvent, which opposition the commissioner ultimately decided to be groundless. What good can such a society do, except to the members of it who pocket the money they then wheedle out of the deluded creditors? Should you think this subject worth your notice, I may, perhaps, have occasion to write to you again on the same subject.

A LOOKER-ON.

TO THE EDITOR OF THE LAW TIMES.

SIR,—In p. 375, col. 1 of vol. 5 LAW T. it is stated: "It has not yet been decided whether a general notice to the creditor, that a party has committed an act of bankruptcy, is a sufficient notice to exclude the protection of the 2 & 3 Vict. c. 29." Now in *Udall and Others* v. *Walton*, reported in 9 Jur. 515, it was decided that such a general notice is sufficient; and in *Conway and Others* v. *Wall* (14 Law J. 165, C.P.) it was held that the act of bankruptcy must be complete at the time of giving such notice; and in *Rumsey and Others* v. *Euton* (10 M. & W. 22, and 2 D. N. S. 219) such a notice given to the sheriff or officer in possession was held not to be notice to the execution creditor; but in *Rothwell* v. *Turnbull* (1 D. N. S. 778) a notice given to the attorney of the execution creditor was, *under the circumstances*, held sufficient. The safest mode, therefore, where creditors hear of the effects of their debtor being seized under an execution, will in all cases be to give a general notice that the debtor has committed an act of bankruptcy, without specifying any particular act, and to serve such notice both on the execution creditor and his attorney; and then, should any act of bankruptcy have been committed, it will be available for the benefit of the general body of creditors against the particular creditor by issuing a fiat within twelve months. Yours, &c.

Sunderland, August 4, 1845. THOS. BURN, JR.

THE TAXING-MASTERS.

TO THE EDITOR OF THE LAW TIMES.

SIR,—It seems, by the debate in the House of Lords, that much stress is laid on the necessity of a taxing-master being either a barrister, attorney, or solicitor; now, the name of the gentleman who is acting as taxing-master in the Court of Bankruptcy (Mr. Winslow, a newly appointed registrar) does not appear in this year's Law List in any of those capacities. How is this? and how does it happen that, though the office has been vacant for many months, no regular successor has been appointed? There was a curiously worded clause on this subject in the Small Debts Bill, as it went down from the Lords, but it has disappeared in the Commons. Can you also inform me why it is that the registrars (as in the cases of Mr. Millar, a relation of Lord Brougham, and Mr. Winslow, said to be a relation of Lord Lyndhurst) are not persons of legal education?

I am; yours, &c.

VIGILANS.

NOTICE TO SUBSCRIBERS.

The Indices to the fourth volume being now completed, the numbers for binding may be sent, through the post, in parcels open at the ends, with a mark by which they may be known, and of which the Publisher should be advised by letter, as also how, when bound, it is to be returned. If sent by parcel, advantage may be taken of the opportunity to inclose other books for the binder.

The Volumes of the LAW TIMES, *handsomely and uniformly bound, at 5s. 6d. each, if forwarded to the Office; with the Solicitor's name and abode lettered on the cover, 1s. extra.*

An Alphabetical Index to the Cases in the current Volume of the LAW TIMES *always lies at the Office for the purpose of reference.*

To Readers and Correspondents.

A YOUNG STUDENT.—*Stephen's Blackston the best book to begin with.*

E. R. B. *may pass his examinati n, but cannot be admitted*

AN OLD SUBSCRIBER.—*Five ye*

TO SUBSCRIBERS.

It is proposed to publish an annual *Index Legum*, consisting of a digest of all the reported cases and statutes of the past year, under the title of the YEAR BOOK, to be bound with the volumes of the LAW TIMES, or separately, at option. It will be comprised in about six or seven numbers, at 1s. each, stamped, for transmission by post. It will not be commenced unless 1,000 subscribers order it. Persons desirous of having it are therefore requested to transmit their names as soon as possible.

THE LAW TIMES.

SATURDAY, AUGUST 9, 1845.

TO READERS.

OUR readers will probably have noticed that twelve important judgments in the Court of Exchequer, delivered at the Sittings after Term, have not yet appeared in our columns. The delay has been the result of misfortune. Our short-handwriter was, by an accident, prevented from attending; they were taken for him by another reporter, whose engagements would not permit him to transcribe them till now. The legal reporters of the cases were then on Circuit, and the judgments have been forwarded, that they may append the arguments, but they have not yet been returned. We hope that most, if *not* all, of them will appear next week. The rest of the Queen's Bench judgments will be then given.

THE BAR AND THE PRESS.

WE remarked last week that the daily newspapers had entirely mis-stated the terms and objects of the resolution recently passed by the Circuits, and upon that mis-statement had based anger and argument, which the fact did not call for, nor would have excited had it been rightly understood. We had hoped they would have exhibited their usual fairness, and published the explanation of the fact contained in the LAW TIMES of Saturday last.

This justice they have refused, although their attention was specially drawn to the remarks in our columns. We have no wish to enter into any controversy upon the question at issue, being unable, as we have already remarked, to come to a satisfactory conclusion upon it. But we love fairness and candour in all questions: we dislike one-sided statements; we object t misrepresentations for any purpose; errors, we are aware, are unavoidable in newspapers, but to continue them after they have been explained, or to refuse to publish a contradiction of a statement inserted under mistake as soon as the truth is intimated, is a violation of good faith which we are as surprised as we are sorry to see resorted to by our contemporaries, especially in relation to a matter affecting themselves.

In such circumstances we can but state *verbatim* the much misrepresented resolution, and leave it to the honour and honesty of the press to make known the truth as widely as they have promulgated the error.

This it is:—

That it is the opinion of this Circuit that the members of it ought not to furnish reports for the newspapers of cases that occur upon the circuit.

Not a word about "dignity" or "unworthiness," for such an objection was never contemplated. And it is limited to circuit reporting only, and for special reasons of circuit convenience which we set forth at length last week.

CREDITORS' PROTECTION SOCIETY.

IN reply to some observations which we deemed it our duty to make last week, we have received from the Secretary a letter, which appears among the correspondence, and a copy of the resolutions passed at a meeting of the Society held on Wednesday.

From this report it appears that twenty-three insolvents have been opposed during the last three months, the result being that seven petitions have been dismissed, seven adjourned *sine die*, three adjourned from time to time, for the whole debts to be paid in full, and six final orders granted. The total amount of moneys recovered for the benefit of the creditors was 2,468*l.* Nearly all of them were opposed for having contracted debts without having, at the time of contracting the same, any reasonable expectation of paying them.

One resolution recommends that no opposition should be made upon purely legal or technical grounds, but strictly upon the merits.

So far as it goes, this report is satisfactory; but it does not, nor does the letter of Mr. CONSTABLE, exactly meet the objection to which our attention has been drawn. What is the meaning of a circular invitation sent to creditors, not members of the Society, offering to oppose for them on payment of

1*l.* 1s.? How is this guinea applied? Is it carried into the funds of the Society, from which the general costs of the opposition are defrayed, or is it paid to the solicitors as a private speculation of their own? If the latter be the case, then we have this state of things. The solicitors are paid by the Society to oppose a certain insolvent. But they also apply to the other creditors offering to oppose for them for another guinea apiece. If a number, say ten, of these accept the proposition, the solicitors would first be paid by the Society, and then be paid by ten other creditors for the same opposition.

It is manifestly important that the precise application of these guineas, begged from creditors, should be known, because it is contrary to professional etiquette for an attorney to make application for business by circular, and it is equally wrong, if not rather more objectionable, to do so under cover of a society. And, if the guineas so obtained are pocketed by the Society, it is not a course which any society ought to sanction.

Again, it should be known whether insolvents are opposed by special vote of the committee in each case, or at the *mero motu* of those who have a palpable interest in promoting oppositions.

Until these queries are satisfactorily answered, it is impossible to say that the proceedings to which our attention has been directed by our correspondents do not call for very nice scrutiny, and if unexplained, for very severe censure.

Still we wait a more explicit reply to the questions propounded above.

LAW TIMES EDITION OF IMPORTANT STATUTES.

The Session just concluded has afforded very little fitting material for addition to this series of practical new Statutes. Two small volumes only will be required; viz.—

The Real Property Statutes of this Session, edited, with Notes, Forms, and Index, by G. S. Alluutt, esq. Barrister at-Law; and

The Small Debts Bill, edited, with Introducti Notes, and Index, by Edward W. Cox, esq. Barrister-at-law.

These, especially the latter, will be ready in a few days.

The new edition, being the fourth, of *Cox's Registration of Electors Acts*, containing notes of all the points decided on appeal to the Common Pleas, with Index, &c. is now ready.

THE CRITIC.

New Books.

The Law Magazine; or Quarterly Review of Jurisprudence. No. LXVIII. for August. Benning and Co.

The Law Review and Quarterly Journal of British and Foreign Jurisprudence. No. IV. for August. O. Richards.

Both of these periodicals contain matter that must interest every member of the Profession, and both are conducted with an ability extremely creditable to the lawyers, whose literature may not fear comparison with that devoted to the public generally, or to any other class or calling.

Turning to the eldest first, we find in the *Law Magazine* an article on "Joint Stock Projects," which offers the best warning against the speculating mania by a simple exposition of the law, and the consequences in which persons are involving themselves in utter ignorance of their liabilities.

The learned essay on the origin and progress of Ecclesiastical Law in England is continued; and that is followed by a very interesting paper on Captain Maconochie's proposed system of convict management. Of practical value to the lawyer is a treatise on the Liabilities of Infants in respect of Contracts and Torts; and "the Circuit Commission" is sensibly commented upon. The sixth article discusses one of the vexed questions of our law—being an inquiry how far misrepresentation not fraudulent vitiates a contract, suggested by the important case (as yet reported only in the Law Times) of *Ormerod* v. *Huth.* "The Business Arrangements of the Courts" are next examined, and many improvements are suggested. The same powerful hand that has already treated so ably of *Crime* has renewed the difficult subject in this number. "The Privilege Question" is astutely handled; and a brief memoir, or rather notice, of Sir William Follett, and Notes on Leading Cases, complete the first division; the second being devoted to a copious digest of the cases in the standard reports during the quarter.

The Law Review is, as usual, more discursive in its choice of themes than its elder brother. It treats more of legislation than of the practice of the law, but its objects are not the less important; it is not less useful, and assuredly it is not, therefore, the less interesting. This number opens with an article advocating the appointment of a minister of justice, in which there is no mistaking the pen of Lord Brougham." A short essay on *Heriots* follows, and then a very just commentary on "Lord Eldon as a Law Reformer." The fourth paper is "On the Proof of Handwriting," and will well reward careful study; it exhausts the subject. A collection of letters of Lords Camden and Northington, &c. is, we presume, from original sources. Then there is an excellent practical treatise "On the Lien of Solicitors." A memoir of Lord President Blair follows. Railways are the next subject, concerning which we have two papers, one on the Railway Board, the other containing practical suggestions to promoters of railways. The tenth article discourses on the Trial by Jury, and then we have a paper on *Conveyancing Reform*, suggested by the Acts of the session just closed. A biography of Sir W. Follett, containing some original information and correspondence, and a selection of adjudged points, complete the number, which is certainly the best that has yet appeared.

In both of these valuable periodicals we have marked for extract various passages that will exhibit their worth; but we must, as before we have done, give to them a place from time, to time as opportunity offers in the absence of more urgent claims upon our columns.

BIRTHS, MARRIAGES, AND DEATHS,

[The charge for the insertion of the above is 5s.]

BIRTHS.

La Coste.—On the 3rd inst. at the residence of her father, John Charles Constable, esq. Hyde-park-square, the wife of George La Coste, esq. judicial referee of Trinidad, of a son.

Winstanley.—On the 2nd inst. at North Brixton, the lady of James W. Winstanley, esq. barrister-at-law, of a daughter.

MARRIAGES.

Bennett, R. W. esq. solicitor, Manchester, to Helen, eldest daughter of Robert Garrod, esq. of Ipswich, on Saturday, the 2nd inst. at St. Botolph's, Aldersgate, London.

Grenside, Charles Knowlys, of the Inner Temple, esq. to Ellen, daughter of William Bromley, esq. of Fitzroy-square, on the 5th inst. at St. Pancras.

Milne, Frank, fourth son of the late Nathaniel Milne, esq. of the Inner Temple, to Augusta, third daughter of Henry Alexander, esq. of Cork-street, on the 6th inst.

Wigram, James Richard, esq. Coldstream Guards, eldest son of Vice-Chancellor Wigram, to Margaret Helen, fourth daughter of Peter Arkwright, esq. of Willersley, Derbyshire, on the 31st ult. at Matlock, by the Rev. Henry Arkwright.

DEATHS.

Andrews, Richard Bullock, esq. solicitor, on the 31st ult. at his residence, Epping, Essex.

Brown, Hon. Patrick, in the 77th year of his age. He was senior member of her Majesty's Council of Bahamas, and for many years held the offices of Registrar of the Court of Vice-Admiralty and Assistant Judge of the General Court, on the 15th of June, at Nassau, New Providence, Bahamas.

JOURNAL OF PROPERTY.

AUCTIONEERS' LICENSES.

TO THE EDITOR OF THE LAW TIMES.

Sir,—Under the new Act relating to auctioneers (8 Vict. c. 15), they are empowered to sell all exciseable articles whatever under their general license of ten pounds, but a question has arisen whether they can sell samples of wine and spirits by the single bottle.

You will much oblige many of your readers if you can enlighten them on this point.

I am, yours, &c.

Aug. 7, 1845. J. W.

[We submit this very important question to our experienced readers, and shall feel obliged if any of them can aid in its solution.]

Important Sale.—Part of Lord Saye and Sele's estates at Spalding and Pinchbeck, which have been advertised for sale, were put up by auction on Friday and Saturday last, at the White Hart Inn, Spalding, and realized enormous prices. Not a piece of land in the parish of Spalding fetched less than 110*l.* an acre, but on the average about 160*l.*; some realized considerably above 200*l.* Part of the Pinchbeck lands fetched over 100*l.* an acre.—*Local Paper.*

Public Sales.

By Messrs. MUSGROVE and GADSDEN, at the Mart.

The celebrated Vauxhall Gardens, universally acknowledged as the most attractive place of public amusement in England, comprising about 11 acres of land, close to the metropolis, nearly equal to freehold, together with the elegant and appropriate erections upon the estate of the royal gardens. The above highly distinguished and important property is copyhold of inheritance of the manor of her Majesty, as lady of the manor of Kennington in right of her duchy of Cornwall, subject to a very small quit-rent or quit-rents, which are understood to amount to 1*l.* 3s. 7d. a year, or thereabouts, and to the usual fine on death or alienation. The premises are now let to Mr. Robert Wardell, for a term of six months from Lady-day last, at a rent of 850*l.* per annum. The first lot was knocked down at 17,000*l.*

The second and third lots were withdrawn; they comprise a residence let at 100*l.* and a plot of building ground, called the Coach Field.

A sheep farm of 24,000 English acres of land, situated in the southern part of the division of Beaufort Field, Cornetcy of Fratra, called "Van Rooyen's Kraal," at Schoorstein, Cape of Good Hope—500*l.*

By Messrs. VENTOM and HUGHES.

A villa residence, being No. 4, Grove Villas Highbury-grove. A lease will be granted for 98 years from the 24th of June last, at a ground-rent of 5*l.* 15s.—900*l.*

Two freehold residences, Nos. 27 and 28, Duke-st., on the West side of Lincoln's Inn-fields, let at 84*l.*—1,110*l.*

Two freehold houses, Nos. 7 and 8, Princes-st. Little Queen-st. Holborn, let at 40*l.*—585*l.*

A freehold three-stall stable, let at 16*l.* in New-yard, Great Queen-st.—155*l.*

A freehold house opposite the Bear Inn, West Marling, Kent—225*l.*

One moiety of 30*l.* per annum arising out of a copyhold house in Shropshire—115*l.*

A residence, with stabling and garden, No. 11, in the Grove, Hackney, held for 50 years, at 6*l.* 6s.—535*l.*

Two residences, Nos. 1 and 2, Seymour-place, Holloway; held for 65 years at 8*l.*—530*l.*

A residence, No. 1, Somerset-place, Commercial road East, let at 36*l.*; held for 61½ years, at 4*l.* 10s.—320*l.*

By Mr SINGLE, at the Mart.

Two houses, four shops, Nos. 16 and 18, Bland-terrace, Southwark: held for 48 years, at a ground-rent of 15*l.*; let at 66*l.* per annum—550*l.*

An improved rent of 45*l.* per annum, secured on a house and warehouse, No. 17, Bland-terrace; held for 48 years, at 30*l.* per annum ground rent, let at 75*l.* per annum—720*l.*

Two houses, Nos. 2 and 3, Prince's-court, Leicester-square; held for 42 years, at a ground-rent of 21*l.* per annum—155*l.*

A leasehold estate, comprising East House, formerly East House Academy, East-lane, Walworth; the house adjoining, and four tenements in Hen and Chicken-lane, let at 110*l.* per annum; held for 18 years from Christmas last, at a ground-rent of 30*l.* per annum—215*l.*

A freehold house, No. 14, King-street, let at 18*l.* per annum—240*l.*

A ditto, No. 15—220*l.*

A house, No. 10, Single-grove, Single-street, Mile-end-road; held for 98 years, at a ground-rent of 2*l.* 15s. per annum, let at the yearly rent of 18*l.* 18s. per annum—160*l.*

A similar property, No. 9—140*l.*

A ditto, No. 8—170*l.*

A ditto, No. 7—140*l.*

A ditto, No. 6—125*l.*

By Messrs. FAREBROTHER, CLARK, and LYE, at Garraway's.

A freehold estate, called Cowgate Farm, at Kingsdown, Kent, by direction of the trustees under the will of the late John Goddard, esq. consisting of a residence erected by the deceased, called Oakland House, with stabling, garden, cottages, and sundry enclosures of meadow, arable, and wood lands, containing together 24a. 1r. 18p.—1,400*l.*

A freehold estate, called Knock Mill, divided from the preceding lot by the road, with farm-house and 45a. 3r. 17p. of hop garden, arable and wood land—1,290*l.*

A freehold cottage residence adjoining the first lot, with chaise house and garden adjoining the first lot—285*l.*

A noble mansion, No. 10, Hyde Park-gardens, let at 675*l.* per annum; held for 88 years, at a ground-rent of 65*l.* 2s. per annum—10,450*l.*

The lease, together with the goodwill of Will's Coffee-house and Hotel, Searle-street and Portugal-street, Lincoln's-inn, occupying three houses; Wills's Coffee-house, held for 31 years, from June 1837, at 130*l.* per annum; the house, No. 1, Portugal-street, held for 63 years, from June 1805, at 7*l.* 7s. per annum; the house adjoining, in Portugal-street, held for 21 years, from Christmas 1844, at 65*l.* per annum—890*l.*

By Mr. MASON.

Seven acres 1r. 27p. of freehold and copyhold land, at Chapel-end, Walthamstow—630*l.*

Ten acres 3r. of copyhold land adjoining—661*l.* 10s.

Thirteen acres 1r. 2p. of copyhold land adjoining—714*l.*

Six acres, 2r. 28p. of freehold land, called Robinson's Mead, opposite to the Crooked Billet public-house, on the road to Chingford—840*l.*

Four acres, 1r. 20p. of copyhold land, in Walthamstow Marsh—136*l.* 10s.

A house, No. 3, Elizabeth-street, Walworth, held for 58 years, at 5*l.*—157*l.* 10s.

Four houses, Nos. 9 to 12, Canterbury-street, Lambeth, let at 180*l.*; held for 81 years, from March, 1842, at 35*l.* per annum—1,500*l.*

Seven houses, Nos. 16, 18 to 23, Canterbury-st. let at

309*l.*; held for 80 years, from March, 1843, at 56*l.* 10*s.* per annum—2,415*l.*

Three houses in Walcott-square, Lambeth, and a house, No. 30, St. Mary-street, let at 96*l.*; held for 69 years, from June, 1838, at 13*l.* per annum—787*l.* 10*s.*

By Messrs. WINSTANLEY, at the Mart.

A residence, No. 1, Lamb's Conduit-place, Russell-square, held for 45½ years, at 14*l.* per annum—550*l.*

A policy, for 2,000*l.* effected with the Argus, on a life, aged 36, premium 45*l.* 16*s.* 8*d.* per annum—50*l.*

By Messrs. DANIEL SMITH and SON, at the Mart.

A compact estate, on the bank of the Thames, between Windsor and Maidenhead, Berks, comprising a residence, known as the Hatch, standing on a gentle elevation in park-like grounds, extending a considerable distance along a magnificent reach of the Thames, together with rich pasture and orchard land; the tenure is in the nature of a freehold, being held in ancient demesne, a tenure equally good, and has been exonerated of vicarial tithes and land-tax—4,560*l.*

A freehold and copyhold estate, long known as the Three Burrow Hills, situated in the neighbourhood of Chertsey, St. Ann's-hill, and Virginia Water, near Windsor-park, consisting of a little domain of 100 acres, including a small cottage and farm-buildings; the copyhold parts comprise about 21 acres; the estate is tithe and land-tax free—3,580*l.*

A freehold cottage residence, known as Stanwell Cottage, encircled by its various offices and grounds, with about four acres of garden, meadow, and lucerne grounds, situated in the village of Stanwell, Middlesex—1,090*l.*

By Messrs. HUMPHREY and WALLEN.

A freehold residence, No. 1, Albion-terrace, Limehouse—920*l.*

A freehold property, consisting of Nos. 54 and 55, Broad-street, Ratcliff, and a warehouse adjoining—990*l.*

A freehold property, consisting of No. 23, Cartwright-street, Rosemary-lane, and Nos. 1 to 5, in Walton's-court, adjoining, let at 72*l.*—710*l.*

By Messrs. HOGGART and NORTON.

A beautiful residence, known as Penge-place, an elegant and substantial Elizabethan structure, situate in park-like grounds, studded with forest timber, approached by an ornamental lodge, on the south-east bank of the hill, descending from Dulwich Woods, with attached and detached offices of every description; lawn and flower-garden, beautifully arranged conservatory, grapery, noble walled garden; the land to be attached to this lease is in rich pasture, and contains with the mansion and grounds, 19a. 3r. 24p.; a lease will be granted for 60 years, at a ground-rent of 150*l.* per annum—3,110*l.*

A freehold rental of 158*l.* 6*s.* 8*s.* per annum, being one-third part of an extensive property, known as Lavender Dock, Rotherhithe-street—5,470*l.*

By Messrs. ROBERTS and ROBY, at the Mart.

A freehold residence, with garden, &c. No. 1, Trimmer Villas, being in Windmill-lane, Brentford, of the estimated value of 36*l.* per annum—440*l.*

A similar residence, No. 2, of the value of 34*l.* per annum—400*l.*

A ditto, No. 3, of the value of 40*l.* per annum—500*l.*

A ditto, No. 4, ditto—500*l.*

A similar residence, No. 5, of the value of 32*l.*—460*l.*

A ditto, No. 6, ditto—440*l.*

Two copyhold houses, Nos. 1 and 2, Hampden-place, Ealing-lane, Brentford; let at 36*l.* per annum—510*l.*

A freehold estate, comprising a plot of ground of about half an acre, situate in Side Marsh-lane, Edmonton; also a frontage for wharfage on the River Lea, with warehouse, stabling, and two cottages—1,400*l.*

By Mr. W. W. SIMPSON.

Lot 1. A farm at Grundisburgh, containing 112a. 1r. 6p. occupied by Mr. H. Manby, about half freehold, the residue copyhold of three manors—3,220*l.*

Lot 2. A farm at Burgh and Clopton, containing 103a. 1r. 6p. occupied by Mr. John Woods, about two-fifths freehold, and the remainder copyhold of four manors—3,580*l.*

Lot 3. A small farm, at Burgh, containing 36a. 0r. 36p. occupied by Mr. Wm. Wright, principally copyhold of three manors—1,560*l.*

Lot 4. A farm at Debach and Charsfield, containing 52a. 3r. 38p. occupied by Mr. John Payne, about two-thirds freehold, the remainder copyhold of three manors—1,080*l.*

Lot 5. A farm at Bromeswell, containing 141a. 2r. 11p. occupied by Mr. T. Gross; about 107a. freehold, the residue copyhold of four manors—2,900*l.*

Lot 6. 11a. 3r. 34p. of land adjoining Hoo-lane, in Woodbridge, occupied by Mr. H. Fisk; 10a. freehold, the remainder copyhold of two manors—1,000*l.*

Lot 7. A small farm at Martlesham, containing 11a. 0r. 3p. entirely freehold—960*l.*

Lot 8. Not sold; reserve 400*l.*

Lot 9. A dwelling house and timber-yard in Cumberland-street, Woodbridge; copyhold—345*l.*

Lot. 10. A beer-shop and cottages in Pound-lane; copyhold—210*l.*

Lot 11. Not sold; reserve 80*l.*——Total amount of sale, 15,185*l.*

N.B. The whole of the lots sold are exonerated from land-tax, but the fines upon the copyholds are all arbitrary.

By Mr. FREDERICK CHINNOCK.

A profit rent of 48*l.* per annum, arising out of two houses, Nos. 148 and 150, Albany-st. Regent's park; held for 80½ years, from June 1827—760*l.*

An improved rental of 67*l.* 15*s.* per annum, for three years, from June 1845, and 77*l.* 15*s.* for 21 years from June 1848, secured upon business premises, No. 12, Curzon-street, May-fair—670*l.*

Two houses with shops, Nos. 71 and 72, Gray's inn-lane; and a tenement, No. 1, Little Gray's-inn-lane, producing a rental of 131*l.* per annum, held for a term expiring Lady-day, 1854, at the annual rent of 93*l.*—150*l.*

By Mr. HAMMOND.

Freehold farm lands, known as the Hill House estate, situate in the parishes of Ifield and Rusper, Sussex, consisting of 93 acres of arable and pasture land, together with a farm residence, agricultural buildings, &c.—1,080*l.*

Three houses, situated No. 7, Cromwell-place, and Nos. 12 and 13, Little Shire-lane, Strand; held for 60½ years from June last, at 36*l.* 18*s.* per annum, let at 94*l.* 18*s.*—190*l.*

A house, No. 16, Great Shire-lane, held for 61 years, at 13*l.* 3*s.* per annum, let at 26*l.* 13*s.* per annum—75*l.*

A freehold villa residence, with garden, orchard, and meadow land, situate near Shepperton, Lower Halliford, Middlesex, containing altogether above four acres—900*l.*

A rent charge or annuity of 13*l.* per annum; held for a term of 99 years, from August 5, 1797, secured by Act of Parliament upon the rates and assessments of the parish of St. Martin's Outwich, Threadneedle street—380*l.*

The following scale of charges, ***reduced more than one-third,*** has been adopted for Advertisements of Estates for Sale, &c. exceeding 10 lines in length:

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	Sat.			Wed.	Thurs.	
Three per Cents. Consols . . .	98⅞	99⅛	99¼	98⅞	99⅛	99
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New Three-&-a-quarter per Cts	101⅞	102	102¼	102¼	102⅛	102¼
Long Annuities.	11¾	11⅞	11⅞	11⅞	11⅞	11⅞
Bank Stock	210½	211¼	211	211⅛	211½	211
India Stock	279	279½	279	276½	276	272½
India Bonds, prem.	71	71	72	71	72	67
Exchequer Bills, prem.	54	55	56	55	56	54
FOREIGN.						
Spanish Five per Cents. . . .	26¼	26⅛	26⅛	26⅜	26⅞	26⅞
Spanish Three per Cents. .	37¼	37½	37⅜	37⅛	37⅛	38⅛
Russian	118¾	118⅞	119¼	119¼	119½	119⅜
Peruvian.	32½	31⅝	31	36½	31½	37½
Portuguese	64½	64½	64½	60½	65	61½
Mexican	36½	36½	37	37	38	36
Deferred	20½	20¼	19½	19¼	19½	19¼
Dutch Two-and-a-Half per Cents.	62½	62⅞	62½	62⅞	62¼	63
—— Four per Cents. . .	99⅛	98½	99⅛	99¼	99⅛	99⅜
Danish	89½	89⅞	89½	90¼	90	90¼
Colombian	17⅛	17⅛	17⅛	17¼	17½	17⅛
Chilian	100⅛	100½	100⅞	100⅞	101	101⅛
Buenos Ayres	45½	45½	45½	45½	47½	46½
Brazilian.	90½	90⅛	90½	91	91½	88½
Belgian	99¼	99¼	99½	99¼	100⅛	99¼

THE GAZETTES.

AMOUNT OF DIVIDENDS DECLARED.

The sum stated as the Dividend means so much declared in the Pound. The Assignees, when chosen, follow this statement.

Monday, July 28.

Haines, H. innkeeper, div. next week. Edwards, London.—*Hunt*, C. J. billiard-table maker, div. next week. Edwards, London.—*Libbis*, S. innkeeper, div. next week. Edwards, London.—*Mabbs*, J. jun. baker, last exam. passed. —*Simons*, J. sen. coal merchant, last exam. passed.—*Williams*, G. draper, div. next week. Edwards, London.—*Withers*, T. R. brewer, div. next week. Edwards, London.

Tuesday, July 29.

Bond, J. grocer, last exam. passed.—*Hill*, T. J. builder, last. exam. passed.—*Johnstone*, L. wine merchant, div. next week. Whitmore, London.—*Kohne*, H. stay manufacturer, last exam. Oct. 3.—*Pestell*, J. corn factor, last exam. passed. —*Slater*, G. grocer, last exam. passed.—*Solomon*, S. tailor, assignees, Aug. 7. *Thomas*, S. bullion merchant, last exam. Nov. 4.—*Wood*, T. wine merchant, div. next week. Groom, London.

Wednesday, July 30.

Connett, W. cabinet maker, last exam. Oct. 11.—*Samuel*, H. segar manufacturer, last exam. Sept. 17.—*Wilson*, C. D. builder, last exam. Oct. 14.

Thursday, July 31.

Barker, A. wine merchant, assignees, Sept. 1.

Friday, Aug. 1.

Danks, M. carpet warehouseman. div. next week. Pennell, London.—*Forth Marine Insurance Company*, underwriters, assignees, August.—*Lambert*, J. victualler, div. next week. Alsager, London.—*Smith* and *Hayes*, hotel keepers, last exam. Sept. 6.—*Thompson*, T. bill broker, last exam. Sept. 3.—*Wright*, F. builder, div. next week. Whitmore, London.

DIVIDENDS.

Bankrupts' Estates.

Official Assignees are given, to whom app'y for the Dividends.

Argent, I. victualler, 2s. 10d. Johnson, London.—*Armfield*, W. draper, final, 3s. 8½d. Belcher, London.—*Attwater*, W. dyer, 1s. Belcher, London.—*Austin*, W. carpenter, 3s. 6d. Alsager, London.—*Ayton*, J. J. draper, first, 1s. 10d. Baker, Newcastle.—*Baine*, H. C. grocer, 2s. Follett, London.—*Bancks* and *Co.* merchants, final joint, 1d. and 1-10th of 1d. Whitmore, Birmingham.—*Bartlett*, G. plaster ornament manufacturer, 5s. Johnson, London.—*Barton*, W. H. boot maker, 2s. 6d. Follett, London.—*Beard*, N. leather seller, fur. 1½d. Follett, London.—*Bear*, J. draper, fin. 1s. to new proofs. Green, London.—*Bellenger*, H. F. victualler, 3s. 8d. Belcher, London. *Blundell*, F. grocer, 20s. Johnson, London.—*Brecknels*, S. bedstead maker, final, 1s. 6d. Alsager, London.—*Bower*, W. cotton spinner, third, 8¾d. and first, second, and third, 2s. 10¾d. to new proofs. Fraser, Manchester.—*Bundey*, H. builder. 1s. 7d. Johnson, London.—*Burdekin*, E. banker, second, 2d. and 1-5th of 1d. and first and second, 6d. and 9-20ths of 1d. to new proofs. Fraser, Manchester.—*Carr* and *Co.* merchants, first, 6d. and 3-5ths of 1d. to new proofs. Baker, Newcastle.—*Collinson*, H. W. hat maker, none made. Alsager, London.—*Col ier*, W. grocer, 1s. Alsager, London.—*Cook*, H. P. victualler, first, 4s. 8d. Edwards, London.—*Cornish*, T. wine merchant, final, 3d. Johnson, London.—*Cox*, S. horse dealer, final, 3s. 6d. Groom, London.—*Creak* and *Co.* mast makers, final joint div. and sep. C. no further dividend.—*Crook*, C. livery stable keeper, 2s. 2d. Johnson, London.—*Crump*, J. corn dealer, 1s. 7½d. Hutton, Bristol.—*Curwen*, J. cheesemonger, 7d. Alsager, London.—*Davies* and *Co*, drapers, 2s. 5d. Bell, London.—*Dingley*, T. draper, 7s. 3d. Alsager, London.—*Dollman*, E. merchant, 1s. 1d. Alsager, London. *Elliott*, J. innkeeper, 1s. Alsager, London.—*Evans* and *Co.* bankers, 1s. 2d. Johnson, London. — *Fendall*, G. butcher, 4s. 2d. Bell, London.—*Finlayson*, J. grocer, 9½d. Belcher, London.—*Flintoft*, G. bookseller, 4s. Bell, London.—*Footner*, R. cabinet maker, 5s. 9d. Johnson, London. —*Francis* and *Co.* corn merchants, final joint, 5d. Graham, London.—*Gale* and *Gale*, rope makers, joint, 6d. Follett, London.—*Gatehouse*, C. brewer, 1s. 8d. Alsager, London. —*Gee* and *Gee*, drapers, first, 5s. Fraser, Manchester.— *Godwin* and *Lee*, shipowners, joint, 2s. sep. of Godwin, 3s. 7d. Alsager, London.—*Goldsbury*, E. draper, 3s. to new proofs. Bell, London.—*Good*, E. M. farmer, 8d. Alsager, London.—*Gorton*, T. jun. bookseller, fur. 5s. 9d. Belcher, London.—*Green*, E. tailor, 3s. 9d. Alsager, London.— *Green*, J. wine merchant, 1s. 3d. Alsager, London.—*Hagg*, I. tailor, 3s. 6d. Belcher, London.—*Halford* and *Co.* bankers, joint, 1s. 8d. Edwards, London.—*Harding*, J. builder, 2s. Johnson, London.—*Hart*, J. builder, 5s. Pennell, London. —*Haward*, C. S. grocer, 2s. 2¾d. Whitmore, London.— *Hawkes*, W. R. brewer, 6d. Belcher, London.—*Hay*, A. coachmaker, final, 3½d. Alsager, London.—*Herridge*, T. builder, 4s. Bell, London.—*Hewlings* and *Co.* bill brokers, first, 1s. 1d. Turquand, London.—*Hilton*, D. cotton spinner, second, 4½d. and first and second, 2s. 8½d. to new proofs. Fraser, Manchester.—*Hook*, J. contractor, *sine die*. Whitmore, London.—*Hopkins* and *Co.* bankers, 6d. Alsager, London.—*Isaac*, I. J. B. shipowner, final, 20s. Johnson, London.—*Jackson* and *Co.* woolstaplers, final joint, 1d. Green, London.—*Jackson*, G. jun. upholsterer, 4s. 9d. Alsager, London.—*Jackson*, G. upholsterer, first, 1s. 9d. Groom, London.—*James*, T. G. builder, 6d. Alsager, London.— *Jarrett*, A. hat manufacturer, 2½d. Whitmore, London.— *Jepson*, T. B. grocer, first, 10½d. Fraser, Manchester.— *Jones*, S. jeweller, 8d. Bell, London.—*Johnson*, J. C. merchant, further, 4d. Pennell, London.—*Johnson*, J. builder, final, 1s. 11d. Green, London.—*Kerr* and *Co.* army agents, first, Baugham, 3s. 4d. Turquand, London. —*Kilford*, T. cabinet maker, 11½d. Graham, London.— *Kirby*, T. oilman, final, 2½d. Whitmore, London.—*Lee* and *Co.* bankers, 1s. 4d. Belcher, London.—*Leefe* and *Co.* haberdashers, final joint, 1s. 6½d. Yates, 20s. Green, London.—*Maniglier*, J. watch maker, 9d. Alsager, London.—*Marshall*, R. H. draper, 8½d. Belcher, London.— *Marshall*, R. stone mason, 3s. 9d. Groom, London.— *Martin*, J. tallow chandler, 7s. 9d. Johnson, London.— *Martin*, T. G. wine merchant, 5d. Bell, London.—*Maynard*, J. bookseller, 5s. 3d. Johnson, London.—*Meek*, W. ironmonger, 3s. 1d. Turquand, London.—*Morrison*, P. R. merchant, none made. Johnson, London.—*Morrison*, W. cooper, none made. Johnson, London.—*Morris*, W. leather dresser, 1d. Johnson, London.—*Moutrie*, J. music seller, 6s. 6d. Green, London.—*Nash*, W. tea dealer, 5½d. Alsager, London.—*Newstead* and *Co.* lacemen, 11. 8d. Pennell, London.—*Nicolay*, L. J. draper, 7s. 6d. Pennell, London.—*Oglun*, H. victualler, 9½d. Belcher, London.— *Osborrow*, M. pawnbroker, final, 20s. Follett, London. —*Overton*, J. coach plater, 6d. Belcher, London.— *Parker*, T L. second and final, 4½d. Christie, Birmingham.—*Parson*, W. grocer, 4s. 10d. Johnson, London.— *Painter*, M. C. grocer. Alsager, London.—*Pearson*, T. builder, final, 1½d. Follett, London.—*Paulton*, J. mason, 3s. Whitmore, London.—*Pegler*, F. J. woollen draper, 1s. 1½d. Whitmore, London.—*Peters*, J. innkeeper, 3s. Green, London.—*Pugsley*, D. warehouseman, none made. Johnson, London.—*Reay* and *Reay*, wine merchants, joint, 1s. Pennell, London.—*Reynolds*, B. silk printer, 2s. Groom, London.—*Robertson* and *Co.* cabinet makers, 5s. 2d. Johnson, London.—*Robinson*, C. oil merchant, 4d. Johnson, London—*Robinson*, L. millwright, adjourned, Oct. 6. Johnson, London.—*Rowell*, T. linen draper, final, 3d. Alsager, London.—*Rucker* and *Co.* merchants, no further div.—*Rudge* and *Rudge*, japanned leather manufacturers, G. B. R. 9½d. Follett, London.— *Rule* and *Rule*, ship owners, 2d. Bell, London.—*Slade* and *Co.* rope manufacturers, 4s. 6d. Belcher, London.—*Smith*, G. C. builder, 9d. Alsager, London.—*Southy*, A. M. wine merchant, final, 1¾d. Green, London.—*Sparham*, J. miller, final, ½d. Follett, London.—*Spryer* and *Co.* tailors, final, S. 2s. Follett, London.—*Stacy* and *Stacy*, warehousemen, 6½d. Edwards, London.—*Stent*, W. hosier, final, ½d. Alsager, London.—*Stonebridge*, J. corn merchant, final, 13-16ths of a penny.—*Sturtevant*, R. L. soap manufacturer, 1s. Alsager, London.—*Teesdale* and *Co.* furniture warehousemen, final joint, 6d. Green, London.—*Thomson*, A. merchant, third and final, 4½d. Turquand, London.— London.—*Thompson*, A. grocer, 1s. 8d. Alsager, London.— *Todman*, J. G. victualler, 11s. 6d. Edwards, London.— *Turett*, F T. draper, 4s. Bell, London.—*Tupper*, W. C. grocer, 8s. 6d. Green, London.—*Turner*, H. cowkeeper, 6s 5d. Johnson, London.—*Vines*, B. grocer, *sine die*. Johnson, London.—*Vines*, J. miller, *sine die*. Johnson, London. *Warden* and *Co.* merchants, further, 2s. Morgan, Liverpool.—*Watson* and *Byers*, warehousemen, first sep. Watson, 20s.; first Byers, 3s. 1d. Turquand, London. —*Wehnert*, H. tailor, final, 11½d. Whitmore, London.— *Weston*, T. plumber, 4s. 6d. Bell, London.—*Westrup* and *Co.* biscuit bakers, 1s. 6d. Bell, London.—*White*, J. bootmaker, first, 1s. 9½d. Edwards, London.—*Williams*, H. grocer, 1d. Follett, London.—*Wilson*, J. bootmaker, 6s. 8d. Pennell, London.—*Winning*, G. upholsterer, final, 1d. Green, London.—*Wood*, H. woollen factor, 3d Whitmore, London.—*Woolcott*, G. builder, *sine die*. Johnson, London.

ASSIGNMENTS

To Trustees for the benefit of Creditors.

Gazette, Aug. 1.

Thomas, J. stonemason, Haverfordwest, July 29. Trusts. D. Clare, linen draper, and W. Allen, bootmaker, both of Haverfordwest. Sol. Matthias, Haverfordwest.

Gazette, Aug 5.

Bell, T. Sutton, Lancashire (surviving partner of H. Leadbetter and J. Barnes, both dec. as flint glass manufacturers, at Sutton, under the firm of the Ravenhead Flint Glass Company, July 14. Trusts. J. Haddock, coal merchant, and R. Baxter, overseer and collector of taxes, both of Sutton. Sol. Ansdell, St. Helen's.—*Butt*, J. formerly ironmonger, now out of business, Littlehampton, Sussex, July 15. Trusts. W. Read, gent. and W. Dyer, tailor, both of Littlehampton. Sol. French, Littlehampton.—*Bycroft*, B. High-st. Shad-

well, July 10. Trusts. J. Oldroyd, warehouseman, Bread-st. and H. Clark, warehouseman, Aldermanbury. Sols. Reed and Shaw, Friday-st.—*Fenn*, J. S. draper and grocer, Hadleigh, Suffolk, Aug. 1. Trusts. J. Bouch, warehouseman, Bread-st. and H. Simkin, wholesale grocer, Leadenhall-st. Sols. Sole and Turner, Aldermanbury.—*Guthrie*, R. ironmonger, Berwick-upon-Tweed, June 12. Trusts. A. Robertson, ironfounder, Tweedmouth, and W. Paulin, accountant, Berwick. Sol. Marshall, Berwick.—*Legg*, R. milliner, St. Paul's Church-yard, July 21. Trusts. C. Evans, warehouseman, Ludgate-st. and R. Willey, warehouseman, Ludgate-st. Sols. Reed and Shaw, Friday-st.—*Stone*, R. jun. oilman, Gibson-st. Waterloo-road, July 25. Trust. R. Stone, sen. oilman, Buckingham-st. Strand. Sol. Clarke, Featherstone-buildings, Holborn.

Bankrupts.

DATE OF FIAT AND PETITIONING CREDITORS' NAMES.

Gazette, August 1.

ALDCROFT, JOHN, licensed victualler, Longsight, Manchester, Aug. 15 and Sept. 5, at twelve, Manchester; Hobson, off. ass.; Appleby, Harper-st. and Oliver, Manchester, sols. Date of fiat, July 28. E. and J. Hepper, wine-merchants, Manchester, pet. crs.

BEST, JOHN, dyer and retailer of beer, Bradford, Aug. 12 and Sept. 2, at eleven, Leeds; Com. West.; Young, off. ass.; Yonge and Hancock, Tokenhouse-yard, Freeman, Halifax, and Sanderson, Leeds, sols. Date of fiat, July 28. Bankrupt's own petition.

BEST, WILLIAM, and SNOWDEN, JOHN, printers, librarians and stationers, Southampton, August 14, at twelve, Sept. 12, at two, Basinghall-st. Com. Fane; Alsager, off. ass.; Walker and Co. Southampton-st. and Deacon and Long, Southampton, sols. Date of fiat, July 25. T. Trew, manager of the Hants Banking Company, Southampton, and J. Tebbitts, stationer, Budge-row, trustees of J. Coupland.

BROADBENT, JOSEPH, woollen manufacturer and merchant, New Barn, Delf, Yorkshire, Aug. 11 and Sept. 1, at eleven, Leeds. Com. Boteler; Hope, off. ass.; Norris and Co. Rochdale, Heaton, Rochdale, and Courtenay, Leeds, sols. Date of fiat, July 9. J. Fielding, manufacturing chemist, Halifax, pet. cr.

CLARK, WILLIAM, baker, Royston, Hertfordshire, Aug. 8 and Sept. 12, at half-past ten, Basinghall-st. Com. Fonblanque; Belcher, off. ass.; Hensman, Basing-lane, sol. Date of fiat, July 30. Bankrupt's own petition.

CURTIS, JOHN HARRISON, bookseller, 2, Soho-square, Middlesex, Aug. 8, at two, Sept. 12, at eleven, Basinghall-st. Com. Fonblanque; Pennell, off. ass.; Lawrence and Plews, Bucklersbury, sols. Date of fiat, July 28. Bankrupt's own petition.

JAMSON, WILLIAM, victualler, Spittlegate, Grantham, Lincoln, Aug. 14 and Sept. 18, at twelve Birmingham; Valpy, off. ass.; Willan, Bedford-row, King, Grantham, and Bray, Birmingham, sols. Date of fiat, July 22. J. Kewney and E. Fillingham, bankers, Grantham, pet. crs.

MADDOCKS, THOMAS, otherwise called John Maddocks, victualler, late of Longton, Stoke upon Trent, Aug. 14 and Sept. 11, at half-past ten, Birmingham; Christie, off. ass.; Williams, Hanley, and Smith, Birmingham, sols. Date of fiat, July 14. J. Booth, innkeeper, Worc, Salop, and J. Meredith, hop merchant, Shrewsbury, pet. crs.

PEAKE, JAMES, miller, Tolleshunt Knights, Essex, Aug. 11 and Sept. 12, at half-past two, Basinghall-st. Com. Holroyd; Edwards, off. ass.; Loughborough, Austin-friars, sol. Date of fiat, July 23. C. W. Carwardine, clerk, Tolleshunt Knights, pet. cr.

PEARSON, JOHN, fellmonger and woolstapler, Newcastle-upon-Tyne, Aug. 15, at twelve, Sept. 24, at one, Newcastle, Com. Ellison; Baker, off. ass.; Hoyle, Newcastle, and Crosby and Compton, Church-court, sols. Date of fiat, July 23. Bankrupt's own petition.

POWELL, THOMAS, brick and tile maker, Allerton Bywater, Kippax, York, Aug. 11 and Sept. 1, at eleven, Leeds, Com. Boteler; Hope, off. ass.; Williamson and Hill, Gray's-inn, and Cariss, Leeds, sols. Date of fiat, July 3. Bankrupt's own petition.

SOUTH, SIMON, maltster and coal-dealer, Spittlegate, Grantham, Lincoln, Aug. 14 and Sept. 18, at twelve, Birmingham, Com. Daniell; Whitmore, off. ass.; White and Co. Grantham, and Bray, Birmingham, sols. Date of fiat, July 19. J. Kewney and E. Fillingham, bankers, Grantham, pet. crs.

TUNKS, JAMES, cowkeeper, dairyman, and market gardener, late of George-place, Newland-terrace, Kensington, Middlesex, but now of No. 19, Scardell-terrace, Kensington aforesaid, market gardener only, Aug. 14, at one, Sept. 12, at half-past twelve, Basinghall-st. Com. Fane; Alsager, off. ass.; Sudgrove, Mark-lane, sol. Date of fiat, July 29. Bankrupt's own petition.

WALKER, HENRY DECIMUS, innkeeper and coach proprietor, Eaton Socon, Bedford, Aug. 15, at two, Sept. 12, at twelve, Basinghall-st. Com. Fonblanque; Pennell, off. ass.; Hale and Co. Ely-place, and Day, St. Neots, sols. Date of fiat, July 25. Bankrupt's own petition.

WALTER, JOHN HENRY, ironmonger, Southampton-st. Camberwell, Surrey, Aug. 11, at two, Sept. 12, at twelve, Basinghall-st. Com. Holroyd; Groom, off. ass.; Elmslie and Preston, Moorgate-st. and Matthews and Co. Gravesend, sols. Date of fiat, July 26. J. Hills and D. M'Rea, bankers, Gravesend, pet. crs.

Gazette, Aug. 5.

BARNES, MARK, chemist, Woodbridge, Suffolk, Aug. 12 and Sept. 18, at eleven, Basinghall-st. Com. Holroyd, Edwards, off. ass.; Gregory and Co. Bedford-row, sols. Date of fiat, Aug. 1. Bankrupt's own petition.

BRYAN, JAMES, chemist and druggist, and tobacconist, Bristol, Aug. 21, at one, Sept. 16, at eleven, Bristol, Com. Stevenson; Miller, off. ass.; Irwin, King's-road, Gray's-inn, sol. Date of fiat, Aug. 2. R. Toleman, druggist and tobacconist, Bristol, pet. cr.

COATES, GEORGE, apothecary, No. 43, Hart-st. Bloomsbury, Middlesex, Aug. 14, at two, Sept. 19, at half past eleven, Basinghall-st. Com. Fane; Whitmore, off. ass.; Seard, North-crescent, Bedford-square, sol. Date of fiat, July 31. E. Sherrard, tailor, No. 35, Hart-st. Bloomsbury-square, and J. Seard, solicitor, 2, North-crescent, Bedford-square, pet. crs.

KEMP, JAMES COLQUHOUN, merchant, Liverpool, Lancaster, Aug. 20 and Sept. 10, at eleven, Liverpool, Com. Ludlow; Turner, off. ass.; Brookebank and Farn, Gray's-inn-square, Brown, Newcastle-upon-Tyne, and Snowball, Liverpool, sols. Date of fiat, July 25. G. Straker, shipowner, Newcastle-upon-Tyne, pet. cr.

LUCKIN, GEORGE, boot-maker, No. 327, High Holborn, Aug. 19, at one, Sept. 18, at two, Basinghall-st. Com. Holroyd; Groom, off. ass.; Wilkin, Furnival's-inn, sol. Date of fiat, July 30. Bankrupt's own petition.

LUXTON, JOHN PERKIN, linen-draper, Munster-st. Regent's-park, and Spring-st. Paddington, Aug. 12, at eleven, and Sept. 16, at two, Basinghall-st. Com. Fonblanque; Pennell, off. ass.; Lloyd, Milk-st. sol. Date of fiat, July 3. J. and F. Cowperf and H. Nash, warehousemen, St. Paul's Churchyard, pet. crs.

SMITH, JOHN AUGUSTUS GUSTAVUS, auctioneer and dealer in household goods and furniture, Chorlton upon Medlock, Manchester, Aug. 15 and Sept. 9, at twelve, Manchester; Pott, off. ass.; Makinson and Sanders, Temple, and Atkinson and Saunders, Manchester, sols. Date of fiat, July 31. Bankrupt's own petion.

PARTNERSHIPS DISSOLVED.

Gazette, July 29.

Aird, D. M. and *Burstall*, H. A. printers, Tavistock st. July 26.—*Arnold*, W. and *Hirsch*, A. merchants, Wood-lane, July 26.—*Brownrigg*, J. and *Harrison*, T. painters, Ulverston, July 26. Debts paid by Brownrigg.—*Cowie*, T. S. and *Davidson*, G. F. merchants, Hull, June 19.—*Daniell*, J. and H. W. mercers and grocers, Newent, July 24.—*Doring*, T. and *Turner*, J. cartwrights, Halifax, July 1.—*Greaves*, J. and T. veterinary surgeons, Manchester and Altrincham, June 30.—*Greenaway*, T. and E. hatters, Bishopsgate-st. Within, July 25. Debts paid by E. Greenaway.—*Haines*, P. and G. cheesemongers, Goodge-st. Tottenham-court-road, July 26. Debts paid by G. Haines. *Langley*, B. and *Ramsey*, T. silk dyers, Flower and Dean-st. Spitalfields, July 26. Debts paid by B. Langley. *Micklethwait*, H. and *Newbound*, J. stock brokers and law stationers, Sheffield, July 29. Debts paid by Micklethwait.—*Newbury*, C. and *Woodward*, J. drapers, Lichfield, July 1.—*Parry*, E. and B. ironfounders, Golden-lane, Old-st. June 30.—*Roberts*, T. and *M'Clumpa*, J. builders, Kirkdale and Liverpool, July 26. Debts paid by Roberts.—*Robinson*, W. and *Wood*, J. drapers, Wigton, July 21. Debts paid by Robinson.—*Schlencker*, W. and J. grocers, Gravesend, July 24.—*Tucker*, M. and A. booksellers, Bridport, July 28.—*Warren*, T. and *Barrett*, W. Q. bootmakers, Plymouth, July 16. Debts paid by Barrett.—*Whitbread*, G. and *Croson*, L. carriers, Ampthill, Bedfordshire, July 21.

Gazette, Aug. 1.

Amoore, A. and C. brewers, Titchfield, July 26. Debts paid by C. Amoore.—*Bigham*, J. and *Hall*, J. P. jun drysalters, Liverpool, July 30.—*Cusworth*, M. A. and E. J. schoolmistresses, Nottingham, June 21. *Davies*, J. and *Chinnes*, J. skip makers, Warrington, July 30. Debts paid by Chinnes.—*Davis*, J. H. and *Hasler*, J. printers, Crane-Court, Fleet-st. June 30. Debts paid by Hasler.—*Fargues*, F. P. and H. F. engravers, Berwick-st. Oxford-st. July 1. Debts paid by F. P. Fargues.—*Haslehurst*, C. and *Greaves*, W. brewers, Sheffield, July 29. Debts paid by Greaves.—*Hedley*, E. and *Moody*, W. coal masters, Wakefield, July 20. Debts paid by Hedley.—*Hendy*, W. and *Baker*, S. Oct. 25. *Hennessey*, J. and *Langley*, J. cabinet makers, Denmark-st. July 30.—*Hust*, W. and *Ward*, T. cloth finishers, Leeds, July 11.—*Jenkins*, J. and *Randle*, W. J. surgeons, Gosport, July 31.—*Mann*, J. and *Briggs*, W. corn dealers and grocers, Halifax, July 20. Debts paid by Mann.—*Moyes*, H. P. and *Barclay*, G. printers, Castle-st. Leicester-sq. July 11. Debts paid by Barclay.—*Newton*, J. W. and *Ward*, P. manufacturing chemists, Liverpool, Aug. 1.—*Peabody*, G., *Riggs*, S., *Jenkins*, H. T. and *Peabody*, A. W. London, New York, and Baltimore, June 1. Debts paid by G. Peabody, London, and Riggs and Jenkins, United States.—*Perrin*, J., W. L. and J. L. merchants, Liverpool, so far as regards J. L. Perrin, July 7. Debts paid by the remaining partners.—*Richardson*, M. and *Leach*, J. machine makers, Leeds, July 28.—*Satchell*, T. and *Robertson*, J. M'Leod, hatters, Fenchurch-st. June 24.—*Smith*, H. W. and H. J. spring manufacturers, Queen-st. Percival-st. Clerkenwell, Aug. 1. Debts paid by H. W. Smith.—*Sterry*, J. sen. and jun. and H. oilmen, 156, High-st. Southwark, July 12. Debts paid by Sterry and Co. 143, Southwark.—*Young*, A. and *Morton*, J. fish curers, Newton by the Sea, July 16. Debts paid by Morton.

Insolvents

Petitioning the Courts of Bankruptcy.

Gazette, July 29.

PETITIONS TO BE HEARD AT BASINGHALL-STREET.

Allbury, F. butcher, Sevenoaks, Aug. 13, at twelve.—*Barber*, B. hardwareman, Ipswich, Aug. 14, at twelve.—*Barry*, J. out of business, Loose, near Maidstone, Aug. 13, at twelve.—*Dodds*, E. blacksmith, Durham, Aug. 12, at one.—*Emery*, J. schoolmaster, Enfield, Aug. 13, at one.—*Hansill*, M. clerk, Spring-garden-terrace, Horsemonger-lane, Aug. 13, at eleven.—*Hayward*, T. wood carver, Wilmington-sq. Spa-fields, July 30, at twelve.—*Matthews*, O. managing clerk, Erith, Aug. 13, at two.—*Menne*, J. hair dresser, King's Lynn, Aug. 14, at twelve.—*Richardson*, W. labourer, West st. Hackney, Aug. 13, at twelve.—*Baughton*, S. out of business, Cambridge, Aug. 13, at eleven.—*Wood*, J. statuary, Kingston-upon-Thames, Aug. 16, at eleven.

COUNTRY.

Gazette, July 29.

Bate, P. out of business, Broughton, Aug. 26, at eleven, Birmingham.—*Hakwell*, A. W. architect, Axminster, Aug. 7, at one, Exeter.—*Hughes*, N. miller, Draycot Cerne, Aug. 25, at eleven, Bristol.—*Hulme*, P. out of business, Manchester, Aug. 13, at one, Manchester.—*Innes*, J. clerk, Manchester, Aug. 13, at one, Manchester.—*Huff*, R. labourer, Stan Lacy, Salop, Aug. 9, at one, Birmingham.—*Robson*, T. keelman, Monkwearmouth Shore, Aug. 12, at half-past two, Newcastle.—*Thacker*, A. nail maker, Chesterfield, Aug. 13, at one, Manchester.—*Watkins*, H. D. lead merchant, Manchester, Aug. 11, at one, Manchester.

MEETINGS AT BASINGHALL STREET.

Gazette, July 29.

Lason, J. B. clerk, Sheerness, August 15, at half-past eleven.

PETITIONS TO BE HEARD AT BASINGHALL-STREET.

Gazette, Aug. 9.

Copland, F. out of business, Park-place, Paddington, Aug. 7, at eleven.—*Dillon*, P. director of the Lough Carrib Commission, Phœnix-yard, Oxford-st. Aug. 7, at two.—*Sears*, J. coach proprietor, Wellingborough, Aug. 13, at twelve.—*Shuard*, W. carpenter, Harrow-road, Aug. 13, at twelve.

COUNTRY.

Gazette, Aug 1.

Best, E. boot and shoe maker, Halifax, Aug. 12, at eleven, Leeds.—*Bingham*, J. razor maker, Sheffield, Aug. 8, at eleven, Leeds.—*Davison*, R. stone mason, Bubnell, Derbyshire, Aug. 13, at one, Manchester.—*Kirby*, J. fancy wollen manufacturer, Kirkheaton, Aug. 13, at eleven, Leeds.—*Robson*, B. shopman, Newcastle, Aug. 13, at eleven, Newcastle.—*Robson*, W. farmer, Newcastle-upon-Tyne, Aug. 13, at eleven, Newcastle.—*Smith*, J. B. accountant, Lincoln, Aug. 12, at eleven, Leeds.

MEETINGS IN THE COUNTRY.

Gazette, Aug. 1.

Bibby, J. victualler, Wavertree, Aug. 12, at eleven, Liverpool.

From the Gazette of Friday, August 8.

Bankrupts.

Reeve, T. licensed victualler, Ann's-place, Hackney-road.—*Wood*, C. hotel keeper, Ryde, Isle of Wight.—*Winter*, J. plate-glass factor, Hatton-garden.—*Taylor*, T. wine merchant, Philpot-lane, City.—*Marland*, J. jun. roller maker, Todmorden.—*Law*, J. and *Hudson*, E. cotton spinners, Ramsden-wood, Lancashire.—*Banning*, J. stationer, Liverpool.—*Giles*, J. publican, Headless-cross, Worcestershire.—*Bennett*, J. cattle dealer, Little Birch, Herefordshire.—*Acton*, J. farmer, Lichfield.—*Watts*, W. R. chemist and druggist, Bath.

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THE REPORTS.

Equity Courts.

ROLLS COURT.

May 2, 5, and 26.

MATSON *v.* SWIFT.

Conversion of real estate—Probate duty.

A B conveys estates subject to mortgages to trustees on trust, by sale, &c. to raise such sums as they should think fit, and pay off the mortgages and other debts, and then to pay the surplus, if any, to A B, his executors, &c., and that without any claim or equity thereon by or in favour of the heirs or real representatives of A B, whether the estates should at his death be sold or not; the estates were sold after his death, and a claim by the Crown to probate duty on the surplus, after payment of the debts and mortgages, was refused.

Probate has a twofold character or operation; viz. granting administration, and also authenticating the will, and evidencing the character of the executor.

This was a suit originally instituted by John Matson and Hannah his wife, for the administration of the estate of John Swift, who died in 1837, having devised and bequeathed his real and personal estates to Sarah his wife, and two other persons (whom with his wife he appointed executors), upon the trusts mentioned in his will. The bill was filed in July 1837, and in the November following the usual decree was made to carry out the trusts of the will; but in the proceedings in the Master's office, it was found that the real estates had, by indentures of lease and release of the 12th and 14th November, 1836, been conveyed, subject to the mortgages, to trustees, to raise by sale, &c. such sums as they should think fit, to pay the mortgages and certain debts, and then to pay over the surplus (if any) to Mr. Swift, his executors and administrators, and *without any claim or equity thereon by or in favour of his heirs or real representatives*, whether the estates should be sold at his death or not. A supplemental bill was therefore filed in December 1839, praying that the trusts of the said indentures might be carried into effect, and on the 27th of January, 1841, a decree was made accordingly. The estates were ultimately all sold under the direction of the Court, and the surplus proceeds thereof, after payment of the mortgages and debts charged thereon, amounted to 10,830*l.* 1s. 8d. On this the Commissioners of her Majesty's Board of Stamps and Taxes claimed probate duty, inasmuch as though the estates were not actually sold till after Mr. Swift's death, yet, on the principle of equitable conversion, they were to be treated as personalty, and therefore were liable to the duty. The plaintiffs in the cause, therefore, with the consent of the Crown, now presented their petition fully setting forth the facts of the case, and praying that if the Court should be of opinion that, under the circumstances thereinbefore stated, probate duty was payable in respect of the said sum of 10,830*l.* 1s. 3d., that it might be referred to the Master to inquire the amount thereof, and that the sum so found due might be paid to the solicitor of the petitioners to be applied in payment of the duty.

Purvis (with him *Glasse*), for the petitioners, contended, first, that the doctrine of conversion was not established by the Court of Chancery for any fiscal purposes, but to regulate the descent and devolution of property among the representatives of deceased parties; and, secondly, that in no possible way of looking at the proceeds of the sale of the land could it be considered *bona notabilia;* from which it followed that no probate-duty was payable. They cited *Wright* v. *Rose* (2 Sim. & St. 323); *Clay* v. *Willis* (1 Barn. & Cr. 364); *Attorney-General* v. *Jackson* (8 Bligh, 15); *Attorney-General* v. *Hope* (8 Bligh, 44); *Platt* v. *Routh* (3 Beav. 257); S. C. in Dom. Proc. *Drake* v. *Attorney-General* (10 Clark & Fin. 257); *Barker* v. *May*, 9 Bar. & Cr. 493.

Kindersley and *Turner*, for other persons in the same interest, cited *Phillips* v. *Phillips* (1 Myl. & K. 649); *Du Hourmelin* v. *Sheldon* (1 Beav. 79); and referred to *Custance* v. *Bradshaw* (before Wigram, V.C.) in which duty was claimed on real property purchased and used by partners for the purposes of their trade; and in which judgment has since been given against the Crown (April, 1845).

Twiss (with him *Maule*) contended that the property was converted out and out, and was, therefore, in all respects to be treated as personalty; and that the property so converted was such, that probate is required to be taken out in respect of it. They cited *Van* v. *Barnett* (19 Ves. 102); *Stead* v. *Newdigate* (2 Meriv. 521); *Biggs* v. *Andrews* (5 Sim. 424); *Attorney-General* v. *Holford* (1 Price, 424); Bac. Ab. tit. Executors and Administrators, E. 11; *Smith* v. *Claxton* (4 Mad. 484); Williams on Executors, 192.

Purvis, in reply, cited *Attorney-General* v. *Mangles* (5 Mees. & Wels. 120).

Monday, May 26.—The MASTER of the ROLLS stated the facts, and observed, that a conveyance by the owner of real estate on trusts, such as those in the present case, may have, and frequently has, the effect of inducing the Court to apply to it, in whatever state it may be found, the rules of distribution applicable to personal estate. In such cases the owner is, in figurative or metaphorical language, said to have impressed on his real estate the character of personalty, and to have converted it out and out. But this is only where there has been no conversion by the owner, and only where the Court enforces trusts expressed or implied by him against those who have any legal estate interfering with his intention. After the conveyance, though binding claims to a portion of the purchase-money may have been created, the equity to the land remains with the owner, and he may require the trustees to convey either the whole or the surplus, after satisfying the claims; or he may by declaration take from it, without a conveyance, that personal character supposed to have been impressed upon it. If, however, he should not interfere, the Court will consider the person having the legal estate a trustee for the purposes appearing to be intended, but not for any other purpose; and the heir will be entitled to the surplus, though the land may have been actually converted. There is a difference between actual conversion and a conversion out and out; the latter is that which the Court has the jurisdiction to make in the execution of trusts, in accordance with the apparent intention of the owner. In such a case the real estate is not in fact converted at the owner's death, and equity acts upon the trusts required for the actual conversion at the instance of those who prove themselves entitled to the benefits of the trusts. Could the Crown, then, in such a case, enforce for its own purposes the equities between the parties? Supposing the parties to release each other, could the Crown, for purposes merely fiscal, be entitled to the benefit of trusts which were only for the purpose of giving effect to the intention of the parties? I am of opinion that it is not so entitled, though conversion has been made since the owner's death, because, in fact, the interest of the deceased in the property existed as an equitable interest in land of inheritance, and not in the form of personal estate, in which form alone the administration of it could be granted by probate. Probate, so far as relates to the grant of administration, has regard only to personal estate within the jurisdiction which the deceased had whilst living and at the time of his death. Goods, chattels, and credits constitute personal estate, in respect of which probate is granted. Equities founded solely on the right to land of inheritance, and attached to the ownership of land, do not constitute personal estate, though the owner may have so dealt with the land that he can receive the benefit of it only in the shape of money by means of conversion by this court under the trusts. The ordinary has no jurisdiction over such property, nor has the person to whom administration is granted any right by the grant only to the administration of it. Ambiguity may have arisen from the metaphorical language in which conversion is expressed, and from the twofold character of probate, which, besides granting administration, authenticates the will, and is evidence of the character of the executor. In the latter sense, probate may be required to prove the executor's title to personal estate not comprised in the grant of administration contained in the same probate; and in this case the money to arise from the sale of the estate was not personalty in respect of which probate was granted, and so probate duty is not payable upon it. This petition, however, is so framed as to preclude any order being made upon it. If it is desired to have an order, it may be so amended as to obtain it. I am of opinion that probate duty is not payable. If it is desired to have an order made, it can only be done upon amending the petition. His lordship suggested that the petition should be amended by introducing a prayer for distribution; and if he should order distribution without regard to the claims of the Crown, the Crown would have a right to appeal from his decision, and have it corrected if it was erroneous; all he was desirous of was, that the Crown should have an opportunity of carrying the matter elsewhere.

July 8 *and* 14.

MAXWELL *v.* DITCHBURN.

Trespass—Encroachment—Injunction—Jurisdiction—Remedy at law.

An injunction will not be granted unless for the purpose of preventing immediate injury, and there must be sufficient evidence of its necessity on the facts of the case. A possible future injury, which may or may not happen, will not form a sufficient ground for exercising the extraordinary jurisdiction of the Court, especially where there is relief at law.

A question of title will not be determined on affidavits.

This was a motion to restrain the defendants from using a sawing-frame, to the injury of the plaintiff, which, it was alleged, they had erected on his ground; also to restrain them from connecting their premises with his, so as to form a means of passing and repassing, and from permitting their workmen or any one else to trespass on the plaintiff's ground, either from the sawing-frame or by the bridge. The plaintiff is a grazier, and for the purposes of his trade became the lessee of 80 acres of land in Plaistow Level, in Essex. The defendants are ship-builders, and for the purposes of their trade had erected works at Bow Creek, on the river Lea, adjacent to, but divided from, the lands of the plaintiff by an inlet from the creek on one side, and by a ditch on another. The defendants, as it was alleged, being desirous of enlarging their works, in June last widened the inlet from the creek by cutting away a large portion of the plaintiff's land, and on their own side raised an embankment to facilitate the approach to their own premises. They then floated up logs of timber, and placed them so as to form a bridge from their own side to the plaintiff's; they then filled up the ditch which formed one of the boundaries, and erected thereon a sawing-frame on the plaintiff's land, as he alleged. There were thus two means of communication with the plaintiff's premises, one at the sawing-frame and the other at the bridge, and by both ways the defendants' workmen (to the number of 300) used to trespass on the plaintiff's grounds and commit sundry nuisances; so that the plaintiff had thereby lost about twenty-five acres of land, and was otherwise injured in his trade. There were affidavits on the one hand that the lands in question were in the undisputed possession of the plaintiff, or those under whom he claimed, for more than twenty years; and on the other hand, the defendants denied his title altogether, and also denied having permitted their workmen to trespass on his premises. There had also been some negotiations for a compromise, but without effect.

Roupell (with him *Craig*), for the motion.—There are three grievances complained of, of which the last, viz. the trespass, is the most important. As to the sawing-frame—[The MASTER of the ROLLS.—Why not bring ejectment?] We might proceed by ejectment, it is true; but we hoped to bring ourselves within the principle which has been acted on in restraining railway companies who have violently seized upon lands, till the question could be put in the way of being tried. Here there is no suggestion of title, whereas we shew that we, or those under whom we claim, have been in possession for twenty years, and the landmarks are known, and not disputed. Again, as to the bridge; they say it is no damage to us; but it is a grievance to have our lands taken forcible possession of by 300 workmen. As to bringing an action of trespass, in the first place we could not do so against the defendants themselves, but only against the men, and as they are unable to pay damages, and are so numerous, it would be quite useless to proceed in that way. If it were only a temporary trespass, an action might be brought, but it is permanent, and will be occurring constantly; the Court will therefore interfere. (*Coulson* v. *White*, 3 Atk. 21.) [The MASTER of the ROLLS.—They deny encouraging their men to trespass. Now suppose you got the injunction, and the men should disobey, would you put the defendants in contempt?] They would be at liberty to shew they had not given their permission.

Kindersley and *Bacon*, for the defendants, were not called on.

The MASTER of the ROLLS.—The plaintiff complains, whether with justice or not, of the circumstances in which he is placed. On the one side he complains of encroachment, on the other side he makes no complaint of encroachment, but only of the trespass, and he charges the defendants with being the cause. If so, there is a remedy at law. But it is said they have workmen who trespass; the defendants, however, deny they gave them any permission to do so. The extraordinary jurisdiction of this Court

is clothed with very great powers, but I will not extend them beyond what it has been usual to do on such occasions, especially in a case where there is legal remedy. The injunction which is asked for goes to an alarming extent; if it were granted, these defendants are open to have it said in every case of trespass, that, if done at all, it was done with their permission, and so are liable to be committed to the Queen's Prison, with the poor satisfaction of having it in their power to be released when they shall have shewn that they did not give permission. The Court never grants an injunction unless to prevent immediate injury at the time, and there must then be proof of its necessity; but in no case of possible future injury does it interfere. Even if I had jurisdiction, I could not grant the injunction on the evidence. The plaintiff says the sawing-frame is erected on his lands whereas the defendants deny that, and say the lands are theirs. I cannot, therefore, merely on affidavits, determine the title; I have no jurisdiction. But it is said I have jurisdiction, because the title is admitted by the negotiations for a compromise, and therefore the defendants have no claim. But that is mere surmise; the defendants may have thought it more prudent to do so than to enter into litigation, and may have been willing to sacrifice something of their extreme rights to avoid a legal warfare, and for the sake of peace; but when they found the plaintiff's demands greater than they were disposed to yield to, they may have then given up all thoughts of a compromise, and stood upon their full rights. I am not satisfied that the defendants may not have done some things which may deserve compensation, but I have no jurisdiction to act, and I cannot grant the present motion. Costs must be costs in the cause.

July 14 and 18.

TEMPLER *v.* SWEETE.

Practice — Opening biddings — Unconfirmed report — Notice.

A purchaser of property sold under the direction of the Court having died before the confirmation of the Master's report, and another person having applied to open the biddings upon an advance of price, the heir-at-law of the purchaser was not considered a necessary party to be served with notice.

George Templer having become the purchaser of three lots of property in the cause, sold under the direction of the Court, died before the confirmation of the Master's report. One of these lots was bought at the price of 480*l.* and the Duke of Somerset offering an advance of 50*l.* upon that sum, a motion was made to open the biddings. The executors of Mr. Templer were consenting parties, but his heir-at-law had not been served with notice.

Erskine, for the motion, contended that it was not necessary to serve the heir-at-law with notice, because the contract was imperfect, the Master's report not having been yet confirmed. The reason that the purchaser himself was served with notice in such cases was because he had a right to be reimbursed his costs; but even if he were present, he could not object to opening the biddings. The executors are consenting parties, and that was sufficient. He cited *Vesey* v. *Elwood* (3 Dru. & War. 74).

The MASTER of the ROLLS.—You wish me to make this order in the absence of the heir. Have you any direct authority? You do not know what the purchaser would do if he were present; and if notice was necessary to be served on him, it is a good reason why it should be served on the heir; if on the purchaser, why not on the person representing him? I will consider.

Friday, July 18.—The MASTER of the ROLLS intimated that the heir need not be served.

Common Law Courts.

COURT OF QUEEN'S BENCH.

Friday, June 27.

REG. v. The MAYOR and ASSESSORS of NEW WINDSOR.

A return to a mandamus to admit a burgess, stating that he was not duly qualified in the terms of the writ, is good: but that he was disqualified for non-payment of rate is bad.

A rule had been obtained to shew cause why a *mandamus* should not issue to compel the defendants to place Mr. Bedborough upon the burgess-roll of the borough of New Windsor. The *mandamus* issued, and to the return there was a demurrer.

Bramwell read the return. [PATTESON, J.—The people who draw demurrers seem to have lost all common sense.] The principal question is, whether the return is good for stating that the person was not duly qualified. The town council had appointed special overseers to levy a rate, within a parish which was partly within and partly without the borough. This was held to be illegal, and that the non payment of such rate did not disqualify a person from being on the burgess list. (*Reg.* v *New Windsor*, 1 Bit. & Sym. 72; 13 L. J. Q. B. 337.) The 3rd section of 1 Vict. c. 78, says, that where any person shall be partly within and partly without the parish some person shall be appointed to make new rate for watching and lighting. I assume the council have power to levy a fixed sum they have not done it. [*Peacock.*—On the question of the validity of the rate I shall not repeat the argument before taken; but the return states that the party was not qualified by property to appear on the roll; that point I rely on.] But they go on in the return and shew that he was duly qualified; for they say he was occupying a house, which shews he was a proper party to be put on the roll; and the first statement is an introductory allegation on the return.

Peacock cited *R.* v. *Mayor of York* (5 T. R. 66), and *Rex* v. *Williams* (8 B. & C. 681). The foundation of the right here is, that the party is duly elected. Here it is admitted that he is not qualified, and has never been on the burgess list. (11 sec. 5 & 6 Wm. 4, c. 76.) When a party comes for a *mandamus* he must shew his title to be put on the roll. The mayor and assessors shall not strike any one off the list, unless some one duly qualified shall object to it. Where he has never been on the list at all, the return is said to be doubly multifarious and repugnant. What is it repugnant to? It may say too much, but it is consistent. (*Rex* v. *Taunton* (*St. James's*), Cowper, 413.) The 15th sec. requires overseers to make out lists of all persons who shall be qualified by occupation of shop or house for three years, and have been rated. He cited in addition *Wright* v. *Fossett* (4 Burr. 2041); *Rex* v. *Cambridge* (2 T. R. 456); *R.* v. *Archbishop of York* (6 T. R. 495); *Charleton* v. *Alway* (11 A. & E. 994, note,); and 6 & 7 Vict. c. 69).

Bramwell, in reply.—It might have been that Mr. Bedborough had property in New Windsor, and yet not in that part of it which gives a qualification; therefore this is not a good traverse; it amounts to this, that he is not entitled to be on the burgess-roll because he was not entitled to be upon it. Here it is uncertain what the return means, and where by a few apt words it might have been made so, it is for the parties to do this, and not to render it necessary for the Court to speculate as to what it means. The return is not clear, or it would not have taken my learned friend so long to make it appear clear.

Cur. adv. vult.

JUDGMENT.

Lord DENMAN, C. J.—This case lies within the narrowest compass, and it admits of no doubt. It is a *mandamus* requiring that the prosecutor may be entered on the burgess-roll, being duly qualified. The return states that he is not duly qualified, which is unquestionably a good return to a writ framed, as this was, according to the case of the *King* v. *Williams* (8 B. & C. 681). The return states further, that he was disqualified by reason of his non-payment of the borough rate; but under the circumstances which we have already referred to, this amounts to no ground of disqualification. In this respect the return was not intended for as good, but the defendant's counsel asserted the right of the return by a general denial of the terms of the writ, and the prosecutor being duly qualified, and any other fact whatever which he chooses to set forth as an answer to the writ. (*Wright* v. *Fawcett*, 4 Bur. 2041.) The prosecutor demurred, on the ground, principally, that these two parts of the return must be blended into one, in the same manner as if the defendant had alleged the prosecutor was not duly qualified because he had not paid the rate, which is a question of construction. The two points of the return are entirely distinct, and we therefore hold, in conformity to the opinion formerly expressed, that the return is bad as far as relates to the non-payment of the rate, but that it is good as a return that the prosecutor was not duly qualified. The judgment will be accordingly.

ROSS *v.* BOWERS.

Award.

This was entirely a question of fact. The following is the

JUDGMENT

COLERIDGE, J.—In this case an application was made by Mr. James, who moved to set aside an award on the ground of alleged misconduct of the arbitrator, which was to be made out by a careful comparison of the abuttals of a close mentioned in the declaration, which was found to be in the possession of the plaintiff, and not to be freehold of the defendant, with a declaration in the award that the plaintiff had no right whatever to the said close, but that the defendant was entitled to it. I have examined the award, which is very carefully drawn, relating to the several actions, and disposing of them all, with great precision. Supposing the declaration and direction in the award to refer to the same close, there would be no necessary inconsistency where it refers to the different times; the former to the time of the trespass, the latter to the date of the order of reference; but it is by no means certain that they do refer to the same close. My examination leads me to a different conclusion; there will be, therefore, no rule.

Wednesday, July 9.

BIRD *v.* JONES.

It is not an imprisonment to obstruct a man's passage along a public bridge, and thus compel him to go in the opposite direction.

This was an action for the false imprisonment of the plaintiff, who is an attorney at Hammersmith, against the representative of the Suspension Bridge there, for preventing him from proceeding along a portion of that bridge boarded off for the sight-seers of a Thames regatta. The plaintiff climbed over the hoarding and got into the part which had been appropriated to the sight-seers. The defendant then commanded some policemen to place themselves in the way of the plaintiff, and to prevent him from continuing his way across the bridge, in the direction in which he was originally going. He claimed to be allowed to go on; the policemen placed themselves in his way and stopped him, and, when he persevered in trying to go on, took him into custody, and conveyed him to the station-house. There was a verdict for the plaintiff.

The grounds on which the motion was now made for a new trial were, that the mere preventing of a person from passing in a given direction, leaving him free to go in another, would not sustain an action for imprisonment. Upon this narrow ground the case entirely turned, and as the facts, arguments, and authorities are fully comprised in the following elaborate judgments, it is unnecessary to give more.

JUDGMENT.

COLERIDGE, J.—In this case, in which we have been unable to agree in our judgment, I am now to express the opinion I have formed, and I shall be able to do so very briefly, because I have had an opportunity of reading over the judgment of Mr. Justice Williams. Upon those facts which bring the case up to that point upon which his decision turns, we are all agreed, and the point with regard to which our difference exists is, whether certain facts which may be taken to be clear upon the evidence amount to an imprisonment. These facts, stated shortly and as I understand them, are as follows:—a part of the public highway was enclosed and appropriated for spectators paying a price for their seats. The plaintiff was desirous of entering this part, and was opposed by the defendant, but after the struggle, during which no permanent detention of his person took place, he succeeded in climbing over the enclosure; two policemen were then stationed by the defendant to prevent, and they did prevent, him from passing onwards in the direction in which he declared his wish to go, but he was allowed to remain unmolested where he was, and was at liberty to go, and was told he might go, in a certain direction, by which he could pass: this he refused to do for some time, and during that time he remained where he had thus placed himself. These are the facts, and setting aside those which are not properly brought in question, there will remain this, that the plaintiff, being on a public highway, and desirous of passing along in a particular direction, is prevented from doing so by the officers of the defendant, and that the defendant placed there policemen, from whom no unnecessary violence was to be anticipated, or such as would be unlawfully done, yet who might be expected to execute such commands as they deemed lawful with all necessary force; but although thus obstructed, the plaintiff was at liberty to move his person, and go in any other direction of his own free will and pleasure, and no actual force or strength was used unless the obstruction before mentioned amounts to so much. I leave out of consideration the question of right or wrong between these parties, and consider what would be an imprisonment, neither more nor less capable of justification; and I am of opinion that in this case there was no imprisonment. To call it so appears to confound partial obstruction and discharge with total obstruction and detention. A prison may have its boundary large or narrow, invisible or tangible, actual and real, and still in the conception only; it may in itself be movable or fixed, but a boundary it must have; from that boundary the party imprisoned must be prevented from escaping—he must be prevented from leaving that place within the limit of which the party imprisoned would be confined. Some confusion seems to me to arise from confounding the imprisonment of the body with mere loss of freedom; and it is no part of detention and loss of freedom to be able to go wheresoever one pleases. But imprisonment is something more than mere loss of freedom; it includes the notion of restraint within limits defined by a wall or any exterior barrier. In Comyn's Digest, "Imprisonment, G." it is said, "every restraint of liberty of freedom would be an imprisonment." To this the authorities cited are 2nd stat. 482, and Cro. Ch. 210; but when these are referred to, it will be seen that nothing was intended to be inconsistent with what I have ventured to lay down. In both these books it is clear the rule seems to point out that a prison was not necessarily what is commonly so called, a place locally defined and provided for the reception of prisoners. Coke comments on the statute of Westminster 2nd in these words:—"A restraint of liberty of a freeman is an imprisonment, although he may not be within

the walls of any common prison." The passage in Cro. Charles is a curious case, in which some person had escaped from the gate-house, to which he had been committed by the king, and the question was, whether, under the circumstances, he had been there imprisoned. Owing to the kindness of others, and through the favour of the keeper, he had not, except on one occasion, been ever within the walls of the gate-house. The decision, expressed somewhat singularly in the judgment of the Court, was, that his own voluntary return to the gate-house had made him prisoner. The resolution referred to is this—that the prison of the King's Bench is not any local prison confined to any one place; any place where any person is restrained of his liberty is a prison, and if one takes another and confines him, he is said to be in prison. In a case of this sort, where there may be some doubt, it is not necessary to enlarge, and I am unwilling to put any case hypothetically. I wish to meet one suggestion which was put for avoiding any difficulty that cases of this sort might seem to suggest. If it be good to hold the present case to amount to an imprisonment, it will turn any obstruction of the exercise of right of way into an imprisonment, and the answer would be, that there must be something like personal menace or force accompanying the act of obstruction, and with this it would amount to an imprisonment. I apprehend that is not so. If in the course of the night both ends of a street be walled up, and there is no egress from the houses but into the street, I should have no difficulty in saying the inhabitants were thereby imprisoned; but if only one end were walled up, and an armed force stationed outside to prevent any scaling of the wall, I should think it equally clear there would be no imprisonment; if there were, the street would obviously be a prison, yet it is obvious no one would be confined to it. Knowing that my Lord Denman entertained an opinion directly the contrary of this, I was under some serious apprehension, in a case of difficulty like this, in forming my own opinion, although, if a doubt exists, I have not been able to discover what it is; and I am bound to state that, according to my own view of the case, the rule should be absolute for a new trial. My brother Williams, being absent, has requested me to read his judgment. His judgment is this.

I also have had the benefit of seeing, and beg leave to refer to what my brother Patteson has written, explaining the manner in which the whole question is to be viewed, and shewing that it depends on whether the following facts constitute an imprisonment in point of law. A part of Hammersmith Bridge, that had been used as a public footpath, is appropriated to seats, and separated for that purpose; the plaintiff insisted on passing along the part so appropriated, and attempted to climb over the fence. The defendant, who is clerk of the Bridge Company, pulled him back, but he succeeded in climbing over the fence. The defendant then stationed two policemen, who prevented him going the way he wished to go, but the plaintiff was at the same time told he might go back into the carriage-way and proceed on the other side of the road if he pleased; the plaintiff refused to do so. If a partial restraint of the will be sufficient to constitute an imprisonment, such undoubtedly took place here; he wished to go in a particular direction, but was prevented, at the same time that another course was open to him. According to the meaning of the word imprisonment, and the usual definitions given, there can be little doubt, as far as I am aware, that none such exists upon the present occasion. The difficulty arises from the general rule applied to the facts of a particular case. Every confinement of the person is an imprisonment, whether he be confined to a prison, or part of a house, the stocks, or even by forcibly detaining one in the street, which may seem to imply the application of force more than is really necessary to constitute an imprisonment. Lord Coke speaks of imprisonment in law, as well as imprisonment in deed—that there may be a constructive, as well as an actual imprisonment, and that personal violence may not be needed. If a bailiff, as in the case in Buller's Nisi Prius, 62, says to a man, 'You are my prisoner; I have a writ against you;' on which he submits and goes with him, that is an arrest, although the bailiff never seized him, because he submitted to the other. So if a person should direct a constable to take another into custody, and that person should be taken into custody, and they walk together in the direction pointed by the constable, that is constructively an imprisonment of such stranger, although no actual force may have been committed. Such an act is perfectly understood, and the party arrested in the manner above supposed feels he has no option, no power but the power of going in any direction prescribed to him; and if the constable or bailiff have actually given him no return or deviation from the course prescribed as open to him, it is an undoubted restraint on the will, and I apprehend, constitutes an imprisonment. In the passage cited from Buller's Nisi Prius, it is remarked it would be no arrest unless the defendant actually laid hold of him, for obvious reasons: suppose (and the supposition is perhaps objectionable) any person created an obstruction across a public passage in any town, and another, who had a right of passage, to be opposed in his exercise of that right, and after some delay to be compelled to take a circuitous route to his place of destination, I do not think that during such detention such person was under imprisonment, or could maintain an action for false imprisonment, whatever other remedy might be open to him. I am desirous to illustrate my meaning, and to explain the reason why I consider the imprisonment in this case is not complete. The reason shortly is this; I am aware of no case of any definition that warrants the supposition of a man being in prison and having some escape open to him if he choses to avail himself of it.

PATTESON, J.—This is an action of trespass for an assault and false imprisonment. The pleas were, as to the assault, *son assault demesne;* as to the imprisonment, that the plaintiff, before the imprisonment, assaulted the defendant, and that the defendant gave him into custody; the replication is *de injuria* to each plea. This puts in issue, as to the first plea, who committed the first assault; as to the second, whether the imprisonment was before or after the assault, if any, committed by the plaintiff. Supposing the defendant to have made the first assault, and the plaintiff to have followed, and much continuous assaulting to have taken place, the plaintiff must succeed on the issue as to the first plea; and supposing a continuous imprisonment to have been established, or an assault by the plaintiff, and the assault was after and not before imprisonment, the plaintiff must succeed as to the issue on the second plea; if, on the other hand, the plaintiff did assault the defendant before the imprisonment, then he was entitled to the issue as to the second plea, even if the assault be justifiable, because in that case he should have pleaded justification; as, for instance, that he was in the exercise of the right of way, or other matter of justification. Now the facts of the case appear to be as follows:—A part of Hammersmith Bridge, *ordinarily used as a public highway*, was appropriated for seats to view a regatta on the river, and separated for the purpose by a temporary fence; the plaintiff insisted on passing along the part so appropriated, and attempted to climb over the fence; the defendant, being clerk of the Bridge Company, seized his coat and attempted to pull him back; the plaintiff, however, succeeded in climbing over the fence; the defendant then placed two policemen to prevent him, and he was told he might go back into the carriage-way and proceed on the other side of the bridge if he pleased; the plaintiff would not do so, but remained where he was about half an hour, one of them still requesting him to go forward; he endeavoured to force his way, and in so doing assaulted the defendant, and thereupon he was taken into custody. It is plain from the facts that the first assault was committed by the defendant when he tried to pull the plaintiff back as he was climbing over the fence; and as the jury have found the whole transaction to be continuous, the plaintiff will be entitled to retain the verdict as to the issue on the first plea. Again, if what passed when the plaintiff assaulted the defendant was in law an imprisonment of the plaintiff, that imprisonment was undoubtedly continuous, and the assault by the plaintiff would not be before the imprisonment, but during it, and the attempting to escape from it; and the plaintiff would in that case be entitled to maintain the verdict which has passed on the second issue; but if what passed is not in law an imprisonment, then the plaintiff ought to have replied, a right of footway and obstruction by the defendant; and not having so replied, he is not entitled to a verdict; so that the case is reduced to the question, whether what passed before the assault by the plaintiff was not or was an imprisonment of the plaintiff in point of law. I have no doubt that in general if a man compels another to stay in any house or place, against his will, he imprisons that other just as much as if he locked him up in a room; and I agree that it is necessary, in order to constitute an imprisonment, that a man's person should be touched: I also agree that compelling a man to go in a certain direction, against his will, may amount to an imprisonment; but I cannot bring my mind to the conclusion, if one man wilfully obstruct the passage of another in a particular direction, whether by threat of personal violence or otherwise, leaving him at liberty to stay where he is or go in any other direction, he can be said to imprison him; he does him wrong, undoubtedly; and if there was a right to pass in that direction, he would be liable to an action on the case for obstructing the passage, or for an assault if the party persisted in going in that direction, and he touched his person, or so treated him as to amount to an assault. Imprisonment is a total restraint of liberty of person, and partial obstruction of the will, whatever inconvenience may arise, falls very far short of this. The quality of the act cannot depend on the right of the opposite party. If it be an imprisonment to prevent a man passing along a public highway, it must be equally so to prevent his passing along the footway of a bridge, unless he be committing an act of trespass. A case is stated to have been tried before Chief Justice Tindal involving this question; but it appears the plaintiff in that case was compelled to stay and hear a letter read against his will, which was a total restraint of his liberty whilst the letter was read. The definition in Selwyn's Nisi Prius, title "Imprisonment," is, that false imprisonment is a restraint on the liberty of the person without lawful cause, or by confinement of the person to some house, or even by forcibly detaining the party in the street against his will. He cites 21st Assize, folio 104, p. 84. The word he there uses is *arêt*, which appears to me to include a confining, and Selwyn uses it not to mean merely preventing a person passing along. Upon the whole, I am of opinion the only imprisonment proved is that which occurred when the plaintiff was taken into custody after he assaulted the defendant, and that the second plea was made out. I think the rule for a new trial, therefore, should be made absolute.

Lord DENMAN, C. J.—I am extremely sorry to find I differ from my learned brothers. We have had a great deal of communication together, both by talking and by writing, and I really cannot find it possible for me to give up the opinion which I entertained in the first instance. I find it rather difficult to separate the notion of falsehood and illegality from the question of imprisonment, and I think it possible my mind may have been impressed in the first instance in some way, so as not to have been led to a proper view of the case. I really cannot doubt that I am wrong, and that my learned brothers are right; but on such a question as this, I feel bound to express the opinion I entertain. It appears to me, and I have listened really with a great hope of being converted by what I should hear—I have kept my mind open—I have not written an opinion in form—I have written a good deal of notes about it—it really seems to me, I confess, from the very language used by my learned brothers, and from the facts which are found in the case, that the imprisonment was made out in this case by the evidence, which was perfectly clear and satisfactory. I take it that the impression of my mind has been led wrong by a circumstance which I always look at with great disapprobation. The Hammersmith Bridge Company thought proper to raise money by obstructing the public footway, and the plaintiff chose to exercise his right over that footway; they thought proper to employ policemen to effect their object, so giving an appearance of lawful authority to an act which I think doubly unlawful—restraining the liberty of the subject and extorting money. That, I presume, may account in some degree for the delusion under which I labour. The party in question endeavoured to get into this inclosure, which he had a right to do, on either side of the road, and they endeavoured to pull him back by an assault, and the moment he got into it they stationed two policemen, with distinct information to tell him that he should move only in one direction. It appears to me that if he had moved in that direction, it would have been precisely the same thing as if those two policemen had taken the man by the collar, and driven him on in that direction, telling the individual he should go there and nowhere else, with a force capable of carrying into effect that which they were ready to act upon under their orders. This would, in truth, have been an act of restraint of his person, and I can find no legal definition of false imprisonment, except unlawful restraint, by force, on the part of one subject against another. Selwyn's definition has been stated; it is copied from Buller's Nisi Prius, and it particularly shews it is not by any technical description of the word imprisonment; and I certainly was unaware that any boundary was necessary to constitute an imprisonment, that the definition is made out. But it is said, in general terms, and I see no reason on earth for disputing it, that every restraint of a man's liberty, under the custody of another, in the stocks, or in the street, is, in law, an imprisonment, and wherever it is done without authority, it is false imprisonment, for which the law gives an action; and thus is the company guilty of assault and battery; for every imprisonment would be a battery, and every battery an assault. Therefore, the language is of very large construction, because an imprisonment is complete without touching the person, without locking him up in a room: where he neither touches the individual, nor the individual touches him, it was not only held, by law, imprisonment, but imprisonment including assault and battery. The language of Thorpe, J. in the Year Book, which is quoted, is, "Imprisonment is said to be in every case where a man is assaulted, or is arrested by force, or against his will, or by it, in a high street or elsewhere, though he be not imprisoned in a house, &c." It seems that, even in those early times, there was some doubt whether an imprisonment itself be technically within particular walls; but in those early times it was discovered that the restraint of a man's liberty by force is the only reasonable definition that can be given to an imprisonment at all. It is said that he was at liberty to go in some other direction. I do not know that he was so at liberty. If a man deprives me of my freedom, restraining me and compelling me to do something else, and does not give me a free passage through my own house, how can I tell he would not prevent me when I offer to exercise the right which he for a moment promises

to permit me to exercise. It appears to me a matter of perfect indifference, provided the restraint on my person is in the first instance made out. What does it signify to me if I am told to go, but not to exercise my right to go, in a particular direction? What is it to me to be told I may go another way? He may allow me to do every thing else in the world, yet if he, by direct means of force to be immediately exercised, prevent me doing that which I have a right to do, it seems to me that is in itself the application of direct force, and I can view it in no other light. I may be locked up in a room and told, "although I prevent you going out of the door, you are quite free to go out of the window, and you may subject yourself to the inclemency of the weather." I must admit this is doing a wrong, and it is a wrong without obstruction, yet it is a wrong by preventing my exercise of personal liberty. I am told I may have an action on the case for it. I cannot conceive it should be necessary to make a new writ for such an action on the case. Suppose this man prevents me going where I have a right to go, am I to sue *per quod* for an obstruction of my right of way only, and for that reason am I to have a special damage on the ground of action. I think the answer would be "You shall not have an action on the case. You shall not ground your right upon the special damage, because you may shew by the detention of your person an injury has arisen, and therefore, for that detention you shall have an action of trespass, assault, and false imprisonment, and not an action on the case, which implies some lawful proceeding producing unlawfully an injury to me. I think that all is unlawful —I think that all is continuous. I think that the object of detaining and preventing the person from exercising his right was clearly proved from the first, and it was proved that the attempt to get him into the enclosure was continued from the moment when he actually left the place, by the actual force of the policemen, who were there for that purpose. The imprisonment, such as it was, which he endeavoured to relieve himself from, was being taken to the station-house and confined there the whole of the night, and this circumstance appears to me a most outrageous violation of the liberty of the subject, for which I think the proper remedy was the present, and on which I consider the right of resistance to the policemen began, and that the defendant had no right to treat him as a criminal for exercising his personal freedom. On the other hand, I cannot but feel very sorry we have not been able to come to the same view of this case. I am sure we are all extremely desirous to agree where it is possible, and we are all sensible of the great value of unanimity in judicial decisions, because it is impossible for differences to take place without undermining in some degree the authority of judicial decisions. I have certainly in many instances not only been perfectly convinced by reasoning, but have been ready to admit myself wrong in my first impression. I have often sacrificed my own opinion to those opinions which I think better, and which I consider authorities on points which I have no right to judge upon, and upon which I have less right to judge than others. But in this case, it seems to me, we are quite upon first principles, or rather, I should almost say, upon the understanding of simple and distinct legal language; and I think that every unlawful restraint of the person of a man by direct force is an imprisonment. I therefore think the rule should be discharged; but as the rest of the Court are of a different opinion, it must be made absolute. *Rule absolute.*

DOE *dem.* EDNEY *v.* BENHAM.

DOE *dem.* EDNEY *v.* BILLETT.

Statute of Limitations—What is rent—Parish houses.

The office of sweeping a church and ringing a church bell being the conditions on which a tenement is held, they constitute such services as on failure of performance would support a distress, and, therefore, ejectment lies where they have been performed within the Statute of Limitations, 3 & 4 Wm. 4, c. 27, s. 8.

A lease between the mayor of W. and the churchwardens of the parish, of the one part, and B. a previous occupier, on the other part, by which the parties of the first part demise a messuage to B. for 21 years, in consideration of which B. covenanted and granted to and with the parties of the first part that he should toll the church bell, vests the legal estate in the parish officers, no former trust appearing to be created.

EJECTMENT.—It appeared that these actions had been brought by the parish officers of Whitchurch, to regain possession of two cottages, which they claimed as parish property. The defendant in the first action and the previous occupier of that cottage had been in the habit of sweeping the church within twenty years from the commencement of the action, and the defendant in the second action had tolled the church bell within the same period. It was contended for the defendants respectively that the lessors of the plaintiffs were barred by stat. 3 & 4 Wm. 4, c. 27, because the parish had not had any occupation of the house within twenty years, and that neither the sweeping of the church nor the tolling of the church bell were to be regarded as rent within sec. 8 of stat. 3 & 4 Wm. 4, c. 27. In the second action a lease of 1782 was put in, which appeared to be between the mayor and burgesses of the borough of Whitchurch and the churchwardens of the said parish, of the one part, and John Batchelor, of the other part, by which the parties of the first part, "in consideration of the covenants and services thereinafter mentioned, devised all that messuage, &c. situate, &c. to John Batchelor and his assigns for twenty-one years, and in consideration thereof the said John Batchelor did covenant and grant to and with the mayor and burgesses of the said borough, and to and with the churchwardens of the said parish, that he should and would at the hours of four in the morning and eight in the night perform the services of beadman in the ringing of the four and eight of the clock bell; with covenant by John Batchelor to yield up and surrender the messuage to the said mayor and burgesses and their successors, at the end or other sooner determination of the said term." Batchelor died in 1798, and was succeeded by the defendant. It was argued for the defendant in the second action that the property was corporation property, and it was admitted to be such by the churchwardens of Whitchurch from the fact that they were parties to the lease. This objection was overruled, on the ground that if the mayor and corporation were jointly interested with the parish officers, the property vested in the churchwardens and overseers for the time being, under stat. 59 Geo. 3, c. 12. The jury found that the mayor and corporation of Whitchurch had, in the year 1752, an interest jointly with the churchwardens, but as trustees for the parish; and that the defendant never had any thing to do with the mayor and corporation. The verdict in each action was accordingly entered for the lessor of the plaintiff, with leave to the defendant to move to enter a nonsuit if the sweeping of the church and ringing of the church bell were not rents within sect. 8 of stat. 3 & 4 Wm. 4, c. 27; and to the defendant in the second action, to move to reduce the verdict one-half, if a moiety only passed under stat. 59 Geo. 3, c. 12.

Bull, Q.C. shewed cause.—The sweeping and ringing are both rent-services, and the word rent comprises all heriots and all services and suits for which a distress may be made, according to sect. 1 of 3 & 4 Wm. 4, c. 27. The defendant is, therefore, clearly within the meaning of the Act. (*Turner* v. *Doe* v. *Bennett*, 9 M. & W. 643; Rog. Ecc. Law, 229.) The services were consistent with the parish property in the houses. They were ancillary to parochial rates, and thus the interest in the property vested in the parish officers under 59 Geo. 3, c. 12, s. 17. (See also *Doe dem. Hoggs* v. *Terry*, 4 Adol. & Ell. 274 and 478; and *Alderman* v. *Neate*, 4 M. & W. 704.) The property is not held for purposes foreign to the parish, as in *Allason* v. *Stark* (9 Ad. & Ell. 255).

Barstow, contrà.—These actions cannot be maintained. The services do not amount to or mean rent. "Rent service is where the tenant holdeth his land of his lord by fealty and certain rent, or by homage, fealty, and certain rent, or by other services and certain rent" (Litt. s. 213). This service is not to be done on the premises out of which the rent accrues, but elsewhere. No distress could be made at common law for such rent. [Lord DENMAN, C. J.—The process of distraining for rent service is certainly singular, because, at common law, the distress is a pledge for payment of the rent. Is the distrainor in this case to keep the distress till the time comes for the next performance of the act. If the church-bell is rung, or the church is cleaned the following morning, is there an end of the distress?] Secondly, in all the cases which have been cited in favour of the plaintiff, the parish officers were *cestui que trusts*. The statute was intended to apply to cases in which the legal estate was out of the parish, and was vested in trustees for them, where the surviving trustees could not be found. In *Allison* v. *Stark* (9 Ad. & El. 255) it was held that where there are feoffees, the legal estate does not vest under 59 Geo. 3, c. 12, in the parish, even though it benefitted by the trust. (*Gouldsworth* v. *Knights*, 11 M. & W. 337, 342.) In *Re Paddington Charities* (8 Sim. 629), it was held that the statute did not apply to lands held on special parish trusts. *Cur. adv. vult.*

JUDGMENT.

Lord DENMAN, C. J.—The sole question in the case of *Doe dem. Edney* v. *Benham*, is whether a tenant holding a house of the parish officers, upon condition of sweeping the church, is a tenant from year to year, within the 8th section 3 & 4 Wm. 4, c. 27. That section speaks of rent, and the first section or interpretation clause enacts that "the word 'rent' shall extend to all heriots and to all *services* and suits for which a distress can be made." Can a distress be made for omitting to sweep a church? It is laid down in Co. Litt. 142, a, "And the rent may as well be in the delivery of hens, capons, roses, spurres, bowes, shafts, horses, hawkes, pepper, comine, wheat, or other profit that lyeth in render, *office, attendance*, and such like, as in the payment of money, or for these things there may be a distress." So, in Co. Litt. 96, *a*, it is said, "A man may hold of the lord to show all the sheep depasturing in his lord's manor." So, in 96 B.S. 137, it is laid down, "If an abbot or prior holds of his lord by a certain divine service in certain to be done, as singing mass every Sunday, or to distribute in alms to an 100 poor men 100 pence on such a day; in this case, if such divine service be not done, the lord may distrain for not doing it." Lord Coke observes, "For this divine service certain the lord hath his remedy, and may distrain." We think these authorities sufficient to show a distress might be made for non-performance of the service of sweeping the church, and therefore this comes within the 8th sect. of 3 & 4 Wm. 4, c. 27. No question was made at the trial as to the sweeping being not at fixed times, and the rule must be discharged.

In the case of *Doe dem. Edney* v. *Billett*, a house was held by the service of ringing the church bells; this point is the same as in the last case. There was a further point, that the reversion was shewn to have been in the mayor and corporation of Whitchurch, and the mayor and churchwardens jointly; and it was contended that the property did not pass to the parish officers. The cases of *Allason* v. *Slark* (9 A. & E. 255); *Attorney-General* v. *Lewin* (8 Symons, 366); and the *Paddington Charity* case, in the same book, 629; and *Gouldsworth* v. *Knight* (11 M. & W. 337), were relied on for this purpose. We think that the finding of the jury was conclusive on the point; that was, that the mayor and corporation were trustees only for the parish, and as no special trust was found, they might have been trustees for general parochial purposes. If so, none of the above cited cases will apply, and the rule will therefore be discharged in this case. *Rule discharged in both cases.*

Wednesday, July 9.

STAMP *v.* SWEETLAND and ANOTHER.

Trespass and false imprisonment—Commitment—Tolls —Conviction under 4 Geo. 4, c. 95, s. 30; 3 Geo. 4, 126.

Words in a commitment under 4 Geo. 4, c. 95, s. 30, need not set out the exact words, "demand and take" a less toll, but words such as "suffer and permit to pass" will suffice; and the resolution of the commissioners of tolls need not be set out.

Trespass and false imprisonment.

The plaintiff collects tolls at a turnpike-gate in the county of Devon; on the 18th of July, 1842, his son, in charge of the gate, allowed a person driving a cart to pass through the gate on payment of the sum of 4d., the sum which he ought to have charged being 6d. Proceedings were thereupon taken against the plaintiff under the 30th section of 4 Geo. 4, c. 95, which imposes a penalty, not exceeding 5*l*., on a collector who "shall demand and take a greater or less toll from any person than he shall be authorized to demand and take, by virtue of the powers of any Act, or of the orders and resolutions of the trustees or commissioners made in pursuance thereof." He was convicted, and the commitment to prison was as follows:—

"County of Devon, to wit: To the constable of Chudleigh, in the said county, and to the keeper of the common gaol at Exeter in the said county.

"Whereas Joseph Stamp, of the parish of Chudleigh aforesaid, was, on the 10th day of October, 1842, convicted before us, John Sweetland and George Savage Curtis, esquires, two of her Majesty's justices of the peace in and for the said county, upon the oath of John Lee and James Palmer, two credible witnesses, for that he, the said Joseph Stamp, being collector of the tolls at the turnpike-gate, called Beggars Bush Gate, in the said parish of Chudleigh, did, on the 18th day of July, 1842, suffer and permit Owen Couley, John Lee, and James Palmer, to pass through the said turnpike-gate with a cart drawn by one horse, on payment of the sum of 4d. as toll for the said cart drawn by one horse, the legal toll due and payable in respect of the said cart drawn by one horse being the sum of 6d., contrary to the statute in that case made and provided, by reason whereof the said Joseph Stamp hath forfeited the sum of 5*l*. And whereas, on the 2nd day of January, 1843, we did issue our warrant to the constable of Chudleigh to levy the said sum of 5*l*. by distress and sale of the goods and chattels of the said Joseph Stamp, and to distribute the same according to the directions of the said statute; and whereas it duly appears to us, upon the oath of John Trueman, the constable aforesaid, that he hath used his best endeavours to levy the said sum on the goods and chattels of the said Joseph Stamp as aforesaid, but that no sufficient distress can be had whereon to levy the same; these are therefore to command you, the said John Trueman, constable of Chudleigh as aforesaid, to apprehend the said Joseph Stamp, and him safely to convey to the common gaol at Exeter, in the said county, and there deliver him to the keeper thereof, together with this precept. And we do also command you, the said keeper, to receive and keep in your custody the said Joseph Stamp for the space of six weeks, unless the said sum shall be sooner paid, pursuant to the said conviction and warrant, and for so doing this shall be your sufficient warrant. Given under our hands and seals the 11th day of January, in the year of our Lord 1843.

"Signed "JOHN SWEETLAND,
"G. S. CURTIS."

And the following is a copy of the conviction:—

"County of Devon, to wit: Be it remembered, that on the 10th day of October, in the sixth year of the reign of our sovereign lady Queen Victoria, and in the year of our Lord 1842, Joseph Stamp, of the parish of Chudleigh, in the county of Devon, collector of the tolls at a certain turnpike-gate called the "Beggars Bush Gate," situate in the parish of Chudleigh aforesaid, is convicted before us, John Sweetland and John Savage Curtis, esquires, two of her Majesty justices of the peace for the said county of Devon; for that he the said Joseph Stamp, on the 18th day of July, in the year of our Lord, 1842, at the parish of Chudleigh, in the said county of Devon, being then and there collector of tolls at a certain toll-gate there, called the "Beggars Bush Gate," upon a certain turnpike-road there situate, leading from Beggars Bush on Haldan, in the county of Devon, to Chudleigh, in the parish of Chudleigh, in the said county, did demand and take from one John Lee, at the said gate, a certain toll, to wit, the toll or sum of 4d. as and for a toll then and there payable by the said John Lee at such gate, for a certain horse then and there drawing a certain cart upon two wheels only, and which said cart was then and there drawn by such one horse only, and driven by him the said John Lee, in, along, and over the said turnpike-road, and for which said horse drawing such cart, a certain toll, to wit, the sum of 6d. was then and there payable by the said John Lee, the said toll or sum of 4d. so demanded and taken by the said Joseph Stamp as aforesaid then and there being a less toll than he, the said Joseph Stamp as aforesaid, then and there being, was then and there authorized to take for the cause aforesaid, by virtue of the powers of any Act, or of the orders and resolutions of the trustees or commissioners of the said turnpike-road, made in pursuance thereof, contrary to the form of the statute in the fourth year of the reign of his late Majesty King George the Fourth, intituled, 'An Act to explain and amend an Act passed in the Third Year of the reign of his present Majesty, to amend the General Laws now in being for regulating Turnpike Roads in that part of Great Britain called England.' And we do hereby declare and adjudge that the said Joseph Stamp hath forfeited for the said offence the sum of 5*l*. Given under our hands and seals the day and year first above written.

"JOHN SWEETLAND.
"G. S. CURTIS."

The trial took place at the Devon Assizes in 1843, when there was a verdict for the defendants.

On the 10th of May, 1844,

Cockburn, Q.C. (with whom were *Butt* and *Montague Smith*), shewed cause why a new trial should not be had on the grounds that the warrant of commitment did not disclose an offence; and that to "suffer and permit" a person to pass on payment of a sum less than that which ought to have been paid was not the same thing as to "demand and take a less toll" than ought to be demanded and taken, and that this defect is not cured by the conviction, because both the warrant and the conviction are open to the objection that the resolutions fixing the minimum toll are not sufficiently referred to. The jury were directed to consider, on the other hand, whether the magistrates acted *bonâ fide*; and if so, to find they were protected. They clearly were so, the subject-matter being within their jurisdiction. They cited *Meller* v. *Tooke* (7 East); *Beechy* v. *Simons* (9 B. & C. 609); *Davis* v. *Capper* (10 B. & C. 28); *Weekes* v. *Clutterbuck* (2 Bro. 483.) The commitment, if bad, moreover, is cured by the conviction. *R.* v. *Taylor* (7 D. & R. 722); *Paley* on Convictions, 255; *R.* v. *Rogers* (1 Dowl. P. C.), and the cases there cited; *Daniel* v. *Philipps* (1 C. M. & R.); *R.* v. *Neeld* (6 East, 417)); *Goff's* case (3 M. & S. 203); *Rogers* v. *Jones* (3 B. & C. 409); *Norris* v. *Smith* (10 A. & E. 888); *Wells* v. *Oddie* (2 C. M. & R. 128); *Carr* v. *Clapperton* (10 A. & E. 582). The variance between the commitment and the Act of Parliament is cured by the 3 Geo. 4, c. 126, s. 147; and the words used in the commitment are equivalent to those used in the conviction. Lastly, the resolutions of the commissioners are mere matters of evidence.

Rogers, Q.C. and *Cornish*, contrà.—*Bellinger* v. *Ferris* (1 M. & W. 628); *Jones* v. *Moody* (9 M. & W. 736); *Davis* v. *Gill* (1 A. & E. 852); *R.* v. *King* (5 Dowl. 281); *Newman* v. *Lord Hardwicke* (8 A. & E.

Cur. adv. vult.

JUDGMENT.

Lord DENMAN, C.J. now delivered the judgment of the Court.—This was an action tried before Coleridge, J. at the Summer Assizes for 1843. The defendants were magistrates of the county, and they pleaded the general issue. The cause of action was a commitment on an alleged offence against the Turnpike Act, 4 Geo. 2, c. 95, s. 30. The defendants relied, 1st, on the conviction, to which, as well as the commitment, objections were made; and, 2nd, on the 147th section of 3 Geo. 4, c. 126, which Act incorporates 4 Geo. 3, c. 95. The judge overruled the objections to the commitment and conviction, but he thought the defendants would be entitled at all events to a verdict, by virtue of the section above mentioned, if the jury thought they acted *bonâ fide* in putting in execution the first-mentioned Act. The jury found very properly they were so acting, and the verdict passed for them. A new trial was moved for on objections to both clauses, and we were willing to decide the case on the former point, as one of very general importance; but, after much consideration and long delay, we have found a difficulty in agreeing in a proper one; we therefore proceed to an examination of the other point. The conviction passed on the 30th section. The offence is thus described:—"Who shall demand or take a greater or less toll from any person than he shall be authorized to do by virtue of the powers of any Act, or the orders and resolutions of trustees or commissioners made in pursuance thereof." By the 37th section, it is provided no proceedings shall be quashed for want of form. The witness stated the offence thus:—"He did suffer and permit three persons to pass through the said turnpike-gate, with a cart drawn by one horse, on paying 4d.; the legal toll due and payable in respect of the said cart, drawn by one horse, being the sum of 6d. contrary to the statute." It was objected that this disclosed no offence against the statute, for that to suffer and permit one to pass on payment of a small toll was not to "demand and take" it. It may be doubted whether the words "demand and take" are to be referred to the greater or less toll, or whether they do not express the complete act of asking for and receiving; in either way, the word "take" implied no more than "receive." There is nothing to bind the magistrates to use the very words of the statute, although it is far better to use the very words of the statute, where they are sufficient to describe the offence, than it is to give a different word. We think the language of the commitment quite equivalent. A toll-keeper who suffers another to pass on payment of a smaller toll than a legal one does in effect ask for and receive that toll. But perhaps it is not necessary to decide this point, because the defect in question is cured by the conviction, if it be justifiable, for in that the words are followed; and the statement is, that he did "demand and take," &c. But then it is urged that both the warrant and conviction are open to another objection. The statute prohibits taking a greater or less toll than the collector shall be authorized to do by virtue of the powers of any Act, or orders and resolutions of the trustees and commissioners made in pursuance thereof;" and the warrant stated the toll taken was 4d. the legal toll due and payable being the sum of 6d. And assuming it is not enough in the warrant to state that the legal toll is 6d. here again it is clear the conviction, if sufficient, will cure the defect. The objection to the conviction was not very clearly put. We understood it to be that some reference should be made on the face of the instrument to the local Act, or to the resolution of the trustees who fixed the minimum toll due, so that it might be found 6d. was the minimum below which the plaintiff ought not legally to have taken. It is to be observed, if the resolution had been stated at length fixing the toll at 6d. still the nature of the offence described by the Act would have required something more. It would have been, in extreme strictness, necessary to negative the existence of any sum; because, however strong the words of the resolution, there might be some other resolution or some other statute allowing the taking of a less sum, of whatever class the travellers in question might be. This construction seems to shew the objection is not well founded. Where the offence, by the statute, is the taking a more or less toll than any statute authorizes, it is sufficient to state the sum taken and the sum legally payable, and to negative generally that any less sum than that had been sanctioned by the statute or resolution. It is matter of defence to produce such statute or resolution; but it cannot be produced. The question really is, whether the statute uses words that sufficiently describe the offence; for the conviction has used them and something more. We think it does; and on this ground we are of opinion the learned judge was right in overruling the objections taken to the conviction; and, consequently, the rule for a new trial must on that ground be discharged.

Ex parte HEMING.

A person is not entitled to inspect the books kept under the 11th section of 6 & 7 Vict. c. 73, more than once a day.

Copies or notes of the contents cannot be taken without payment of a fee, and one shilling is a reasonable sum to be demanded.

On the last day of Trinity Term, *Watson*, Q. C. applied for a rule calling upon one of the Masters to permit the applicant, at one or more convenient times of the day, to examine the book which, under sec. 11 of 6 & 7 Vict. c. 73, is directed to be kept, and to make copies thereof, without payment of any fee; and to return to him the sum of one shilling, which had been improperly demanded and obtained from him. It appeared from the affidavit, that after having referred to the book, the applicant wrote down notes of what was contained in the book, whereupon the Master demanded the sum of one shilling, which the applicant paid under protest. Subsequently, upon the same day, he applied to inspect the books a second time, which was refused, although no inconvenience to the course of business would have resulted from the application being granted. The sections 11, 20, and 23 of the Act expressly state that the books kept by the Master and by the registrar "shall be open to the inspection and examination of all persons, without fee or reward;" and "all persons shall and may have free access, without fee or reward." [COLERIDGE, J.—Do you maintain that you have a right to stay there any length of time?] Yes, if there is no obstruction of public business caused. The Masters say that a person is entitled to come only once a day, but there is no such restriction in the statute, and there is no fee given in any way by this Act, and they have no right to demand any. [Lord DENMAN, C. J.—We will consult the other judges, but I am disposed to think that the Master is right in both points.]

Cur. adv. vult.

At the sittings after Trinity Term judgment was delivered as follows:—

Lord DENMAN, C. J.—Mr. Watson applied for a rule for the Master to permit him to make certain copies without paying any fee. We have conferred with some of the other judges, and we think the Master was right. The question also was, whether the same party might come any number of times in the same day that he thought proper. We think there must be some limit; people must make up their minds, and come one day for one purpose and another day for another purpose. Also, we think the copies that are taken at each time are transcripts so as to fall within the rule, and require payment of the small sum set against the service to be done in the Master's office; therefore there will be no rule.

Rule refused.

ALLEN *v.* HAYWARD.

Case—Inundation.

Where a local Act required a certain number of commissioners of sewers to be present in passing any resolution for work to be done, and a contract was accepted by an insufficient number of their body, under which contract the contractor, by negligence, caused damage to the plaintiff's land:—Held, that the work having been done under the sanction of the commissioners, they were liable. But where the work thus improperly and unskilfully done was not the immediate cause of the injury, but some act of the contractor, there the commissioners are not liable.

Case.—This was an action to recover for damage done by the improper diversion made by the commissioners of the Dartford and Crayford sewers, whereby the plaintiff's orchard was inundated. There was a verdict for the plaintiff, with leave to move, on the ground that this action was improperly brought against the secretary, he not being a party to the resolution whereby the diversion was made within the terms of a local Act as set forth in detail in the judgment; and whether the body of the commissioners were bound by the act of those who informally executed it, and who were sub-contractors, who undertook the work.

Channell, Serjt. (with whom was *Shee*, Serjt.) now shewed cause.—The cause of action is, making a diversion in so careless a manner that inundation ensued. The point is, that we do not shew that the diversion was made by the order of the commissioners under the Act for improving sewers, &c., and that we must shew that all was done according to this Act; that although they made the diversion, that if the order was not made at a board *properly constituted*, and that the proper number were not present, they shall not be liable for their own acts because of this irregularity. This cannot be maintained without making them profit by their own wrong. If the words of the statute are held strictly, requiring the five commissioners to be always present, no spade could be used, and no act done, without a meeting to authorise it regularly summoned and held. In this case three persons were acting as a sub-committee to carry out the work; they gave the order, and that binds the body in common sense as well as in law. Whenever a man is in possession of fixed property, he must take care that he so uses it that his neighbour is not injured, whether such property be managed by himself, his servants, or those who contract with him to do work. (*Laugher* v. *Pointer*, 5 B. & C. 457; *Quarman* v. *Burnett*, 6 M. & Wel. 499; *Milligan* v. *Wedge*, 12 Ad. & Ell. 737.)

Wordsworth.—At the meeting of the commissioners, when the tender of the contractor was accepted, seven commissioners were present, but three only were named as present, and none signed it. The damage was done by Button under this contract, thus informally executed, and none others. Under these circumstances they are not liable. (*Rapson* v. *Cubitt*, 9 M. & W. 710.) The commissioners could not have sued under this contract, neither can they be sued. The badness of the work was less the cause of the injury than the improper admission of the water by the contractor, for which he alone is liable.

Cur. adv. vult.

JUDGMENT.

Lord DENMAN, C.J. now delivered judgment.—This case was tried before me at the last Assizes for

the county of Kent, and presented some questions of difficulty. A rule was obtained for a nonsuit, because the action was not properly brought against the clerk to the Commissioners of Sewers, the act not being committed and done in the exercise of the powers of the 12th section, requiring their clerk to be made a party in respect of the acts of the commissioners, it merely enacting that they shall and might sue in the name of their clerk, and a description given of the number of the acts for which he is to be sued. But it was found that they must be such as are performed by them in the execution of their powers, and therefore that construction must have reference to the 5th section, which enacts that no act shall be valid except not less than three be present. Now the things one of which the plaintiff complains grew out of the execution of a contract thus proved. A witness, the secretary of the company, stated some proceedings of the company in September, October, and November; a resolution that their engineer should make a specification with a view to a contract; that Button should be written to on the subject, and that Button's tender should be accepted. The contract was proved by the witness. There was no doubt about the authority, though he did not recollect how it was given: he was a subscribing witness to the subsequent execution by Button. At the meeting, when the resolution for accepting the tender passed, seven commissioners were present; three only were named in the contract as parties to it, and by none of those was it executed. The work was done by Button under this contract and no other. For want of signing the contract, it was urged that the commissioners were not liable on it to the contractor for any thing done under it, and could not be sued by their clerk. But we are of opinion, under the circumstances, that the work that was done under the contract was done under the sanction of the officer of the commissioners, and the plaintiff properly sued the representative, assuming in other respects they are liable. The grievance was for overflowing the plaintiff's orchard by drains improperly made, and a bank placed there too close to an extensive excavation; the bank was moved backwards, but was erected of insufficient materials, and the water therefore being prematurely admitted, it sunk the bank and went over and into the plaintiff's land. If a proper cesspool had been made, the evidence was that the water might have passed away without injury to the plaintiff at all. All this was then done by Button, and on the contract, and the defendants contended that it was not in the execution of the works contracted for. I directed the jury that the defendants could not be liable unless the damage was done in the execution of the contract, stating my opinion that there may have been want of skill and care in being taken by surprise by a bad vein of soil, and not making the banks sufficiently strong to resist the water; but if the improper introduction of the water by Button had caused the injury, that it was not done by their authority, and that they were not liable in an action. The jury found for the plaintiff, and we think properly upon that point, and that my observations were too favourable for the defendants. It now appears to us that if the bank itself was insufficiently and unskilfully constructed, the maker of it would be liable for the damage which may have been committed or caused by something wrong; hence the commissioners, who constructed the works insufficiently, we think, must be liable for the damage done by the water being improperly let in, whether by their own servant or by the contract from which the injury was occasioned. Supposing, then, that be true, we are then brought to the question whether the commissioners are responsible for this ill construction, where the contractor is to be regarded as their servant. On a careful reference to the case of *Laugher* v. *Poynter*, in which the opinion was delivered by Lord Tenterden and Littledale, J. who must be taken to have laid [illegible], and to *Randleson* v. *Murray* (8 [illegible] *nan* v. *Burnell* (6 M. & W. 499); [illegible] 2 A. & E.); and to *Roper* v. *Cubitt* (9 M. & W. 710), it seems perfectly clear that in the ordinary case, a contractor to do works of this description is not to be considered as a servant, but as a person carrying on an independent business. They are, as commissioners, fully justified in employing him to perform the work, which could not exist unknown to all the world as being performed for them. We find here none of the reasons which prevailed in the cases where one person has been held liable for the acts of another as his servant. The learned judges, who thought the defendants liable in *Laugher* v. *Poynter* might, without inconsistency, have held these defendants to be not to be liable. The doubt is raised by the contract, which expressly requires all such parts of the said work shall be done by Button, but not in the particular manner specified and described in the contract, "such plans and specifications shall be executed in such manner as the surveyor of the sewers for the time being (that is, the servant of the company) shall direct, in a good and workmanlike manner, as secured by the contract." This passage of the agreement, whatever may be its proper construction, has no application in the present case, as taking the control of the works from him, and placing it in the hands of the commissioners, or the surveyor, and their superintendents; for the work that failed is a part of the work so specified and described, and for which, if ill done, the contractor is liable, and the commissioners are not. We are of opinion, therefore, that the rule must be absolute for a nonsuit—that is, if leave was reserved, but we are not sure of that.

REG v. HAINES.

There is no appeal to the Quarter Sessions against a rate made under the local Act 11 Geo. 3, c. 14.

This was an indictment against the overseers and churchwardens of the parish of St. Mary's, Oxford, for disobedience to an order of the Quarter Sessions of the city of Oxford, upon an appeal against a poor rate on account of the omission of Exeter College. The order directed the rule to be amended in that respect, and that the appellant should receive his reasonable costs about the appeal, and fixed them at a certain sum. A copy of the order was duly served, and upon refusal to pay, a bill was presented and found against the defendants. The indictment was removed by *certiorari* into the Court of Queen's Bench, and went down for trial at the Summer Assizes in 1843. A verdict was found for two of the defendants and against the rest, but subject to the opinion of the Court upon several objections. The principal one was, that the Court of Quarter Sessions had no jurisdiction to entertain the appeal in consequence of the local Act 11 Geo. 3, c. 14. As the Court decided solely upon this objection, the arguments upon the others are omitted.

Pigott (with whom was *Kelly*, Q.C.), in support of the indictment.—The Recorder holding quarter sessions clearly had jurisdiction to try this appeal unless the local Act has taken it away. (*Reg.* v. *St. Lawrence Ludlow*, 11 A. & E. 170.) He then argued upon the local Act that it did not destroy the right of appeal. (*Rex* v *Vent*, 9 B. & C. 283; *Rex* v. *St. James*, 2 A. & E. 241, were cited as analogous cases.) This Act is to incorporate eleven parishes of Oxford. Appeal is given to a person who is taxed wrongfully. It does not take away the power of appeal under the statute of Elizabeth.

Whateley, contra.—The question is, whether the local Act, being very detailed, and giving an appeal in express terms to the commissioners, supersedes the power of appeal as given to the Recorder by the Municipal Corporation Act? The parties have appealed under the old Act. It is clear they could not do so, the local Act having superseded that power. [PATTESON, J.—Mr. Pigott, do you mean that though the local Act, s. 30, gives appeal, that as this rate was under the old law, there is an appeal under the general law?]

Pigott.—Certainly, because subsequent statutes do not take away the common law remedy. [COLERIDGE, J.—The present Act gave express power of appeal.] *Cur. adv. vult.*

JUDGMENT.

Lord DENMAN, C. J. now delivered judgment.—This case was reserved from the Oxford Assizes on several points, on one of which only it has been argued, and the opinion we have formed on that makes it unnecessary for us to hear the argument concluded upon the other points. The question is, whether the Court of Quarter Sessions for the city of Oxford have any jurisdiction to make the order upon the inhabitants, against whom this indictment was preferred, and that will depend on whether the appeal made to the Court is an appeal against the rate mentioned in the indictment. This rate is certainly in some sense a poor-rate, which was made under the special powers of a local Act, passed in 1771, for the better relieving the poor in the city of Oxford. That Act gave a certain specific mode of appeal, but does not give one to the Quarter Sessions. If, therefore, the rate is founded expressly on this statute, then as all appeals to Quarter Sessions must be of express statutory creation, this appeal cannot be justified: but if the rate can be considered as made under the statute of Elizabeth, modified only in its circumstances or application by the provisions of the local Act, then, as the appeal given by the former statute is not taken away it may, by implication, exist cotemporaneously, with the rate in this case. To clear this point, many sections of the local Act must be examined; the general scope of the statute is to consolidate a number of parishes into one, for the purpose of the maintenance and government of the poor, for which the overseers and churchwardens of the respective parishes are virtually subdivided. By the 25th section it is enacted, that the parish officers should not, by virtue of any law then in being, make (saving as hereafter to be noticed), and they were by the Act disabled to make, any rate within their parishes for the relief, maintenance, and employment of the poor, other than such rate for the maintaining, clothing, and employing, and otherwise providing for the poor of those parishes as shall and may be from time to time ordered and directed to be made by the said corporation, pursuant to the powers therein given, and for the purposes therein specified. This general prohibition excepted rates or sums of money which by any special law the parish officers are obliged to pay for the clothing and maintaining of the families, or for any other particular purposes arising within and forming part of any of the several parishes, and particularly directed by other Acts of Parliament. The special framing of this exception seems to shew that the ordinary rating of the poor under the statute of Elizabeth for the special purposes of such rating is within the general prohibition; we use the words general purposes advisedly, for the "saving" seems to keep it alive for the special purposes therein named. For example, the effect of this saving power is to authorise and compel the overseers to make a poor-rate in the ordinary way, requiring the ordinary allowance to be given, and the ordinary appeal for the purpose of discharge. Both these rates, the one under the statute of Elizabeth, and that under the local Act, may be in existence at the same time, which shews clearly they are separate and distinct; the former being made by the overseers on their own responsibility, they could determine the proportion of the individual assessments; with regard to the latter, they would exercise no discretion and incur no responsibity as to the necessity of the rate or the amount of the rate; they would only act under the orders of the guardians. It is observable that one of the earlier Acts, the 33 Geo. 3, passed apparently to meet the inconvenience of this double rate, makes a special provision for the payment of a rate to the treasurer of the guardians of the poor of Exeter, and that local Act, similar in many respects to the present, is now in force for the relief and maintenance of the poor generally. The case of Oxford seems to have escaped notice, at least at that time. The power of the guardians and the purposes of the rate are next to be considered. By the 30th section it is enacted, that a necessary sum shall be raised by a regular poundage, without distinction, through all the parishes. By the same section, the guardians are to ascertain the sum necessary to be raised for the employment of the poor and for other things for the corporation; and having so done, they are to issue a precept to the parish officers of each parish, commanding them to levy the rate, and the parish officers are, by the same section, empowered to proceed in obedience thereof. Thus it appears, without entirely abolishing the existence of the parishes or the functions of the parish officers, the rate is to be made equally on all, without regard to the aggregate property in each, or the charges that may be brought on the common fund; all, for this purpose, are rated as one parish. The same section requires certain things to be done with regard to the rate, yet they seem to be anologous to those required by that of Elizabeth and by that of Geo. 2. The ordinary poor-rate under this Act is not to be published, only the sum is intended to be raised and the allowance is to be made by two justices, which follows and does not precede its publication in the parish church. Particulars such as these are unimportant of themselves, but they concur with others in showing the rate under consideration to be the creature of a local Act, and not made under the powers of the general statute. But when thus made, what are the purposes to which it is to be applicable? To ascertain this, we must turn to the earlier sections of the Act. By the 13th section they may purchase and provide such goods, chattels, and provisions, &c. as they shall think proper for the purpose of setting to work the poor under their care and power. They have, besides, the care and power over, and are to provide for the maintenance and employment, according to the Act, of all the poor of Oxford wanting or seeking relief, and of such other poor as shall be taken into the house of industry, the same to be received and not compelled to come into the house; but idle and disorderly persons, who neglect and refuse to maintain their families, not being afterwards able to maintain them, and also all other idle persons who beg, ask, or court relief, or seek to be relieved and provided for by any of the parishes in Oxford, may be compelled to come in to work and dwell in the house, and to remain so long as the guardians are of opinion they are unable to maintain themselves, or else be otherwise specially provided for; they may be placed to work as idle and disorderly persons. By the 15th section, poor children, who at any time shall be maintained by the said guardians, are to be under their government until they are 14 years of age, and then may be bound apprentices to any creditable person, or to any two of the corporation and trustees for the benefit of the corporation, and employed in any trade or occupation. And the guardians have power to maintain or provide for every such apprentice by the Act; and they have power and authority over such apprentice who shall be so bound by two guardians.

Further, they may hire out any of the poor children from the age of 14, and also any other children in the said house, to work in time of hay and harvest, or at any other time, for the benefit of the corporation; and for such payments, and at such times, the poor persons are to labour to the best of their power and ability, and after the expiration of the work, to return to the house; if not, they may be apprehended, and are liable to such reasonable punishment, of such sort as the guardians shall direct; and in each and

every case which occurred whatever, wherein any of the poor shall not work and labour in fulfilment of the powers given by the Act and the rules and ordinances of the said corporation from time to time, the guardians, or any five or more, of them, shall have authority at any time to order such poor person or persons so misbehaving to be whipped, in case they refuse to do such task-work, and they may inflict such punishment on him or them so misbehaving as any such guardians shall think fit or reasonable. By the 18th section, in order to carry into execution the trusts reposed in them, the guardians are empowered to raise the sum of 10,000*l.* by sale of life annuities, which, by section 19th, are to be paid out of the rates. The rates made under the local Act are applicable to the payment of annuities insured thereby, among which may be mentioned the salaries of the officers to be appointed to any office or place, and further, as regards the poor themselves, the rate is made applicable to a variety of purposes, connected, indeed, with their relief and maintenance, yet going far beyond those to which the ordinary poor-rate is by law applicable. We have had occasion, in passing, to mention some extraordinary powers vested in the guardians; to these may be added the enactment of section 42, the main object of which is with regard to bastards, and which provides for the punishment of the parents, and enables any two of the guardians, if there be one of the poor under their care, to punish both father and mother by whipping, confining to hard labour, or by distinguishing by some brand or token of the offence, on some conspicuous part of the person. We notice powers such as these, not to pass any opinion on the wisdom or justice of such enactment, but because all these instances of unlimited confidence placed in the guardians makes it the more consistent interpretation of the general scope of the Act, that it was not intended there should be any appeal against the acts done under their authority beyond themselves. In the same, the 42nd section, the overseers and churchwardens are authorized to pursue the ordinary means against the father and mother for indemnity, and the means it authorizes are of the same sort as those noticed above in respect of the families that are deserted. The parochial law as to the poor prevails generally. The 41st section is very material to the present inquiry. By it the guardians and parish officers may contract for the maintenance and employment of the poor in the house of industry; in case this be done, the poor of such parish are compellable to go to this house, and cannot be otherwise relieved; and to indemnify themselves, the guardians and overseers of the parish may make a rate, in which case an appeal lies, not to the Quarter Sessions of the county, but to any two justices; and the decision of the two justices on an appeal is expressly declared to be final. We hardly know how a stronger indication to take the whole matter out of the general law could have been given. We now come to the appeal clause itself. Section 37 applies to any unequally taxed, charged, or rated persons. In this case the overseers are bound to show the precept or the rate itself, and permit copies or extracts to be made; any party aggrieved may, within a given time, complain to two justices of the city to issue their summons for the appearance of the parish officers before three justices, of whom the mayor or recorder must be one, and two other guardians joined with them, for the production of the precept. The three justices, and two guardians not being justices, form a court of appeal; they are to examine all parties, and have evidence taken on oath, and make a final order binding on the appellant, and all parties rated, or liable to be rated, in the same assessment, and also other persons. In case, therefore, of alleged inequality in rating, a court of appeal is expressly established, the decision of which is to be final. To this extent it seems clear there can be no appeal to the Court of Quarter Sessions. Unambiguous words would be required for the establishment of two concurrent and final courts of appeal on the same subject-matter, and whatever be the extent of the term "inequality" of rating, it is to be remarked that there is, by the local Act, a court of appeal established, such as shows that the subject of appeal was present in the minds of the framers of the Act, and considered to be within the scope of their intention. What the extent of the harm is was much discussed in the argument. We think a party appealing on this ground of inequality might object not only to the excess of one rating and the too limited rating of other individuals, but also to the total omission of rateable property; for this, as well as the above reason, occasions him to bear an unequal or too great a proportion of the county burthen, and it is part of the general objection that he was rated for property not properly in the rate. But that, it should be remarked, is not properly a subject of appeal, but of action. The unequal nature of the court of appeal was also made a subject of comment. It may be answered, first, that a court which must contain at least three justices of the peace, of whom one must be the mayor or recorder, was at the time at least as competent a tribunal as the Quarter Sessions, before one or other of which the appeal may have been brought against the rate; and it was not a less satisfactory mode of trial on a question of rating, because there was power to examine parties on oath. Secondly, it must be observed that the argument drawn either from the extent of the jurisdiction of the court or its competency, is but of a secondary nature, and must not be relied upon as really concluding the matter; we think the question would really have been the same if there were no court of appeal granted by the local Act; that is, if the makers of the rate alone acted under any authority given by the statute of Elizabeth. Therefore, the local Acts must be subject to an appeal given by that statute, and if they do not, this appeal clause does not apply, and cannot be made by implication to operate on what has been done under another statute. An examination of the local Act shows that the rate does not take its existence from the parish officers, who have no power to determine when it shall be made, or what is its amount, nor its employment; and when collected and paid over, it is appropriated not merely to parochial purposes, nor to such objects as an ordinary poor-rate is confined to by the statute of Elizabeth, nor subject to any collateral special purposes to which the rate must be made applicable by a subsequent statute, but it hath been the manifest object of the Act to take the city of Oxford out of the control of the general poor law itself, and to vest the management of the poor in the hands of certain officers specially created, in whom larger powers are vested, both original and continuous, than have been entrusted either to parish officers or to the Quarter Sessions generally. Lastly, we find on examination of the system there is at least no complaint that if the statute of Elizabeth had never existed, or were repealed, every thing would have gone on in the city of Oxford without the slightest difference, except that of the local Act, because the overseers and churchwardens and all other existing officers still perform the functions of their offices which were vested in them; but the statute of Elizabeth uses them for its own purposes, and deals with them as with justices of the peace, constables, and other officers, already known to the law; to this extent, no further, the statute of Elizabeth has been necessary for carrying on the system created by the local Act. The result of this examination leads directly to the conclusion that the Court of Quarter Sessions had no jurisdiction to entertain the appeal, and our judgment must be for the defendant.

COURT OF COMMON PLEAS.

Wednesday, July 2.

WRIGHT *v.* TALLIS and ANOTHER.

There is no copyright in a work falsely published as a translation from the work of a foreign author, and published with a fraudulent intention of deceiving the public in such respect.

This was an action on the case for the infringement of a copyright in a book of which the plaintiff was alleged in the declaration to be the proprietor, and entitled "Evening Devotions, or the Worship of God in Spirit and in Truth for every Day in the Year, from the German of C. C. Sturm, author of the Morning Devotions." The defendants, amongst other pleas, pleaded, that before the writing, composing, and publishing of the said book in the declaration mentioned, one Christopher Christian Sturm, a foreigner, to wit, a German, had written and published in the German language divers books on religious subjects, and had thereby obtained great celebrity as an author; and divers of the said books had been translated into the English language, and had been and were much valued and esteemed by the liege subjects of the Queen in this realm; and the defendants say that the plaintiff, well knowing the premises, employed a certain person, to wit, one Robert Huish, to compose and write the said book in the declaration mentioned, and the plaintiff also first published the said book; and the defendants say that the plaintiff wrongfully and injuriously intending to defraud and deceive the public, to wit, the liege subjects of the Queen, and to cause the said subjects to believe that the said book in the declaration mentioned was the translation of an original book written by the said Christopher Christian Sturm, and to cause the said liege subjects to purchase copies of the said book of and from the plaintiff, and to pay divers large sums of money to the plaintiff for such copies, under the belief that they were purchasing translations of an original work of the said Christopher Christian Sturm, and wrongfully and injuriously intending to obtain great profits by means of the false pretences and deceit hereinafter mentioned, before the committing of the said grievances by the defendants, to wit, on, &c. falsely, fraudulently, and deceitfully caused the said Robert Huish to compose and write the said book in the declaration mentioned for the plaintiff, and then falsely, fraudulently, and deceitfully published the said work to the public, to wit, to the liege subjects of the Queen, as and for a translation by the said Robert Huish of an original work written in the German language by the said Christopher Christian Sturm, and then falsely, fraudulently, and deceitfully caused to be printed upon, and published with, all and every the copies of the said book the following false, fraudulent, and deceitful title-page of and to such book, that is to say, "Evening Devotions, or the Worship of God in Spirit and in Truth for every Day in the Year, from the German of C. C. Sturm (meaning the said Christopher Christian Sturm), author of the Morning Devotions, by Robert Huish, Esquire, F.L.A. and H. Soc.;" and also then falsely, fraudulently, and deceitfully caused to be printed upon and published the following false, fraudulent, and deceitful preface of and to such book; that is to say,—"The unprecedented patronage which the *Morning Devotions* and the *Contemplations on the Sufferings of Christ*, by Sturm (meaning the said Christopher Christian Sturm), have deservedly received from every class of readers, and their consequent incorporation with the standard literature of this country, has operated as a flattering encouragement to the publisher of the above-mentioned works, to present to the public a translation of the *Evening Devotions for every day in the Year* (meaning the said book in the declaration mentioned), by the same inspired writer. To descant upon the merits of Sturm (meaning the said Christopher Christian Sturm), as a pious and moral author, would with the knowledge which we possess of his works be superfluous. It will therefore be merely necessary to state that in the *Evening Devotions* will be found the same tone of holy and pious feeling, the same purity and delicacy of thought, and the same unalterable love of the beauties and excellences of the Christian religion, by which all his other writings are so eminently distinguished. With the *Evening Devotions*, the entire works of Sturm (meaning the said Christopher Christian Sturm), with the exception of his sermons, may be said to be incorporated with our national literature, and it may be confidently affirmed that they will tend in a great degree to enhance the good opinion which the British public have already expressed of his works. It may however be necessary to state, in order to obviate any mistake which might very naturally arise regarding the different works of Sturm, that the *Evening Devotions* and the *Evening Reflections* are two distinct works, the former being a practical exposition of the duties of Christianity, embracing those subjects which could not be discussed within the *Morning Devotions*, whilst the latter is confined to the contemplation of the works of God as a guide to the knowledge of natural history." And then, and before, and at the time of publishing the said book, and before the committing, &c. falsely, fraudulently, and deceitfully stated and represented to the public, to wit to the said liege subjects of the Queen, and to all and every of the said liege subjects who then purchased copies of the said book, to wit, to 5,000 of those subjects who then purchased the same, that the same was a translation by the said Robert Huish of an original work written in the German language by the said Christopher Christian Sturm; whereas in truth and in fact the said book was not a translation by the said Robert Huish of an original work written in the German language, by the said Christopher Christian Sturm, nor was the same a translation of any work of the said Christopher Christian Sturm, nor had nor did the said Christopher Christian Sturm compose or write any such book as in the declaration and in the said false, fraudulent, and deceitful representations and statements mentioned and referred to. And whereas in truth and in fact the said book in the declaration mentioned was wholly composed and written in the English language by the said Robert Huish as the composer and author thereof, and there never was any original work of the said Christopher Christian Sturm, or of any foreign author, of which it was or could be a translation, as he, the plaintiff, at the time of his causing the said Robert Huish to compose and write the said book, and of his said publishing the same book, and of his causing the said title-page and preface to be printed and published, and of his making the said false, fraudulent, and deceitful statements and representations, well knew. That by means of the said deceit, and the said false pretences and representations, the plaintiff has made divers large and unlawful profits, to wit, &c. by the sale of the said book to divers, to wit, &c. and will, hereafter, by those means, make other large and unlawful profits by other sales of the said book to others of the said lieges, if the supposed copyright in the declaration mentioned was and is a subsisting copyright, to the great injury and scandal of her Majesty's liege subjects, and to the detriment of true religion and of the public morals.—*Verification.*

To this fourth plea there was a general demurrer.

Sir *Thomas Wilde* (*Barstow* with him), in support of the demurrer, contended, that although it had been decided by the cases of *Poplett* v. *Stockdale* (R. & M. 337), and *Stockdale* v. *Onwhyn* (5 B. & C. 173), that works of an immoral or libellous character could not be the subject of a copyright, and that the Court of Chancery would not grant an injunction in respect of a publication for which no action would lie (*Walcot* v. *Walker*, 7 Ves. jun. 1), yet there was no reason, either as regarded the public or otherwise, why there should not be a copyright in a work which was in itself unobjectionable, merely because it was falsely stated to be a translation, when in fact it was

an original work. The romance of the *Castle of Otranto*, and similar publications, were mentioned as instances in which works had been written as translations that were not so, or under assumed names, and which had become part of the standard literature of the country.

Channell, Serjt. (*Montague Smith* with him), contrà, submitted that the plea was good. The publication was stated in the plea, and admitted by the demurrer, to be of a fraudulent nature, and with the intention to deceive the public, and therefore it was a publication for any injury to which the plaintiff had no right to complain. It differed in that respect from such publications as those of the *Castle of Otranto*, and others of that nature, which professed to be works of fiction, and were not intended to defraud the public. It was also submitted that there had been here a piratical use of the name of another person, for which that person might, if alive, have maintained an action, and which, therefore, deprived the plaintiff of any legal interest in the property of the work. The following cases were also referred to:—*Walcot* v. *Walker* (7 Ves. 1); *Lawrence* v. *Smith* (Jacob, 471); and *Hogg* v. *Kirby* (8 Ves. 215).

Sir *Thomas Wilde*, in reply, contended that there had not been such a fraud as to prevent the plaintiff from maintaining this action. *Cur. adv. vult.*

JUDGMENT.

TINDAL, C. J. now delivered the judment of the Court.—The plaintiff declared in an action upon the case for an infringement of the copyright of a certain book, entitled, "Evening Devotions, or the Worship of God in Spirit and in Truth, for every Day in the Year, from the German of C. C. Sturm, author of the Morning Devotions," of which copyright the plaintiff alleged himself to be the proprietor; and the defendants, in one of their pleas to this declaration, allege that C. C. Sturm had written and published, in the German language, books on religious subjects, which had been translated into the English language, and had been and were much valued by the Queen's subjects; and that the plaintiff, well knowing the premises, employed one Robert Huish to compose and write the book mentioned in the declaration; and the plea then alleged that the plaintiff, wrongfully intending to defraud and deceive the public, and to make them believe that the book was a translation of an original book written by the said C. C. Sturm, and to purchase copies of it from the plaintiff, and to pay large sums of money to the plaintiff under the belief they were purchasing translations of the original work, falsely, fraudulently, and deceitfully caused the said Robert Huish to compose and write the said book, and falsely, fraudulently, and deceitfully published the same to the public as and for a translation of an original work written in German by the said C. C. Sturm. The plea then goes on to state that the plaintiff published the book with this fraudulent and deceitful pretence, and professes the object of it was to induce the public to believe thoroughly and entirely the book was really a translation of the work published by the said C. C. Sturm; and the plaintiff falsely and fraudulently represented such to be the case to all the subjects of the Queen who had purchased the same. The plea then goes on to allege that these statements and representations made by the plaintiff were false and fraudulent to his own knowledge. To this plea there was a general demurrer, and the question raised upon the record is, whether the plaintiff can have a right of action against the defendants for printing this work, or, in other words, whether the plaintiff has a true, valid, and subsisting copyright in this work. The question is one of first impression, and cannot be said to be free from considerable difficulty; but, upon the best considerations we can give it, and reasoning from principles which appear to us to have analogy to the present subject-matter of inquiry, we think the plaintiff has no ground of action. The plea alleges that the plaintiff made false representations to the public with respect to the work, for the object and purpose of imposing on the public, and inducing them to give large prices for the copies they purchased; and it further alleges that the plaintiff knew at the time, and it is obvious from the facts stated he must have known, such representations to be false. All these allegations are admitted by the demurrer to be true: the false assertions and representations on the plaintiff's part, and his knowledge that such assertions and representations were false, and that the act was done from base and unworthy motive, namely, that of obtaining money from the public by this false pretence; the first observation therefore that arises is, that the present case is perfectly distinguishable from those which have been referred to at the bar of books of amusement or instruction having been published as translations, whilst they have been, in fact, original works, or having been published in an assumed, instead of a true name; such was the instance given of the *Castle of Otranto*, professing to be translated from the Italian; and such was the case of innumerable works published under assumed names; such as books of fiction, voyages and travels, and copies of works of fiction or romance, or even works of science and instruction. For in all these instances the misrepresentation is innocent and harmless; there is not found in any one of those cases any serious design on the part of the author to deceive the purchaser, or to make gain and profit from it by a false representation. The purchasers, for any thing which appears to the contrary, would have purchased at the same price, if they had known the name of the author was an assumed, and not a genuine name, or had known the work was original, and not translated, and, indeed, in most of the cases which may be put, the statement is not calculated in its nature to deceive any one, but is on its very first glance apparent. In these cases, therefore, it was perfectly indifferent to the public whether the representation was true or not; and in all probability the book would have obtained an equal sale, whether it was a translation or an original work—whether the name of the author was assumed or genuine. But in the case before us no one of these observations will apply. The facts stated in the plea import a serious design on the part of the plaintiff to impose on the credulity of each purchaser by fixing on the name of an author who had a real existence, and who possessed a large share of weight and estimation in the opinion of the public. The object of the plaintiff is not merely to conceal the name of the genuine author, and to publish opinions to the world under an innocent disguise, but it is to practise on some of the best feelings of the public, namely, their religious feelings, and thus to induce them to believe the work is the original work of an author known and esteemed by the public, whom he names as the author, and at the same time knows it not to be so, and thereby obtains from the purchaser a greater price than he would otherwise have obtained. The transaction ranges itself under the head of *crimen falsi*, for it is a species of obtaining money under false pretences; and parties publishing works known by themselves to be under false names, in order that the work might become purchased, would be liable to the actions stated. We think the plaintiff cannot be considered as having a valid and subsisting copyright in a work the sale of which produces such consequences, or that he is capable of maintaining an action in respect of its infringement. Cases in which a copyright has been held not to exist were works that were subversive of good order, virtue, morality, or religion; they do not bear directly on the case before us, but they have so far an analogy with it that the rule which denies the existence of copyright in these cases is a rule established for the benefit and protection of the public. We think, for these reasons, the defendants are entitled to the judgment of the Court.

Judgment for defendants.

Bankrupt and Insolvent Courts.

COMMISSIONERS' COURTS.

Friday, August 8.
Before Mr. Commissioner FONBLANQUE.
Re JACOB.

Where a person carried on the business of an auctioneer previous to the passing of the 5 & 6 Vict. c. 122, and incurred debts in such business, but had not carried such business since the passing of that Act:
Held, that he was not a trader within the meaning of the 5 & 6 Vict. c. 116, so as to preclude him from the benefit of petitioning for protection under such Act.

Insolvent applied to this Court on the 1st of August instant, for his discharge from custody, but was then remanded in consequence of his having omitted from his schedule several debts (see 4 Law T. 302). Having now amended his schedule in that respect, he again applied for his discharge. Previous to the passing of the 5 & 6 Vict. c. 122, the insolvent had carried on the business of an auctioneer, but had discontinued such business some time before the passing of that Act.

Lucas, on behalf of a creditor, opposed the discharge of the insolvent. The debts due from the insolvent amount to more than 300*l.* and a great portion of those debts were contracted during the time the insolvent was carrying on business as an auctioneer. The 5 & 6 Vict. c. 122, expressly provides that auctioneers shall be deemed traders, and subject as such to the bankrupt laws. This insolvent being, therefore, a trader and subject to the bankrupt laws, does not come within the terms of the 5 & 6 Vict. c. 116, which only applies to persons not being traders, or being traders and owing less than 300*l.* This Court has, therefore, no jurisdiction to entertain this petition, which must be dismissed.

His HONOUR.—At the time the insolvent carried on the business of an auctioneer, the 5 & 6 Vict. c. 122 (which first constituted an auctioneer a trader subject to the bankrupt laws), had not passed. The insolvent is not a trader within the meaning of the Act of the 5 & 6 Vict. c. 116. He is, therefore, entitled to petition this Court under that Act.

Wednesday, Aug. 13.
Re FISH, a Bankrupt.

Where a bankrupt swells his balance-sheet to an unnecessary length, the Court will order the unnecessary matter to be taken off the file, and reprimand the accountant who prepared it.

This was a meeting for the last examination of the bankrupt, and for passing his accounts. This bankrupt was only in a small way of business. The balance-sheet presented by him to the Court consisted of *sixty-three pages*, fifty of which were mere copies of his books.

His HONOUR inquired who was the accountant who prepared the bankrupt's balance-sheet, and having reprimanded him, ordered the unnecessary sheets to be taken off the file of the Court.

COUNTRY COMMISSIONERS' COURTS.

BRISTOL DISTRICT BANKRUPTCY COURT.
(Before Mr. Commissioner Serjt. STEPHEN.)
Monday, Aug. 11.
Re SARAH BROWNE.

Is the residence within the district required to be during the twelve months next before the petition?
Practice on ordering an insolvent's pension to be set aside to pay creditors gradually.

On this case coming on, *Short*, attorney for the insolvent, reminded the Court that on filing the petition a doubt had arisen whether the Bristol Courts had jurisdiction in this case. The insolvent had formerly lived in Aberayon, in Cardiganshire, within the Bristol district, for twelve months and upwards, but had removed to Bawdsey, in Suffolk, *where she was residing at the time of her petition*, and where she had not resided a sufficient length of time to give her a right to petition the London Courts.

His HONOUR referred to the 5 & 6 Vict. c. 116, s. 1, reading the words "may present a petition for protection from process to the Court of Bankruptcy, if he has resided twelve calendar months in London, or within the London district, or to the Commissioner of Bankrupts in the county *within whose district he may have resided twelve calendar months*." The petition also requires a statement "that your petitioner has resided twelve calendar months within the district." Does not that mean that the *last* twelve months' residence has been within the district? It appears to me that when a person says, "I have resided twelve months at Bristol," that he means that he resided there during the last twelve months.

Homes referred to 1 Quarterly Law Review, 188, where a writer, referring to this point, says, "It is probable that the Legislature meant that the period of residence should be twelve months *next* before the filing of the petition; but as this intention, if it existed, is not expressed, it has been considered that any twelve months, though not consecutive, will be sufficient. There seems, therefore, to be no reason why a residence within the district during the first twelve months of the petitioner's existence should not be regarded as bringing him within the term of the enactment."

His HONOUR.—I cannot agree with that writer, and I certainly would not entertain a petition where the insolvent had not resided in my district for many years.

Short.—The petitioner would have no district, and would be unable to petition at all if not in Bristol, for she has not resided twelve months in any other district. Probably the Legislature intended that an insolvent might petition wherever he had a settlement.

Palmer, who appeared for some creditors, and *Homes*, for others, stated that the creditors were not hostile to the insolvent, and did not desire to dismiss her petition; they were anxious only to get a portion of her property (being pensions from the East India Company) set aside for her creditors. They would not, therefore, take any objection on the ground of jurisdiction.

His HONOUR.—Under these circumstances, the petition may go on; but if creditors objected, I should doubt whether I could proceed with this petition.

It then appeared that insolvent had two pensions, from the East India Company and Lord Clive's Military Fund, amounting to 273*l.* per annum.

Palmer asked that 200*l.* a year should be set aside for the creditors.

His HONOUR ordered that the insolvent might be allowed 100*l.* a year, and that the residue of her pensions should be set aside towards the gradual payment of her debts.

Thursday, August 14.
Re DAVID REES.

If the affidavit annexed to the petition be not sworn as affidavits are required to be sworn in bankruptcy, the petition will be dismissed.

The affidavit annexed to the petition in this case was sworn before a commissioner for taking affidavits in the Court of Queen's Bench, instead of being sworn as affidavits in bankruptcy are required to be sworn.

Homes, for a creditor, took the objection. The 7 & 8 Vict. c. 96, s. 2, requires that "such affidavit shall be sworn in like manner as affidavits in matter of bankruptcy may be sworn by any law now in force relating to bankrupts." Affidavits in bankruptcy may be sworn before the Court of Review, or before either of the subdivision Courts in bankruptcy, or any commissioner,

or the Master, or any registrar of the Court of Bankruptcy or Master ordinary or extraordinary in Chancery, 5 & 6 Vic. c. 122, s. 67. If the affidavit be not sworn as directed by the Act, the petitioner has failed to comply with one of the preliminary conditions requisite to give the Court jurisdiction over the petition. The same section which requires the affidavit states, that in its absence the petition must be dismissed.

Abbott, solicitor, who acted as agent for the insolvent's attorney, asked the Court to allow the insolvent to be re-sworn.

His HONOUR.—The words of the second section require such affidavit *so sworn* to be annexed to such petition *at the time of filing the same*: if it would be of any service, I would now allow a proper affidavit to be annexed, but it would not now avail the insolvent. The objection is, that *at the time of filing* the petition there was not annexed to it the adaffivit required by the statute; and in that case there is no other course open but to dismiss the petition. I shall allow the insolvent to petition the Court again.

Petition dismissed.

THE LEGISLATOR.

Summary.

THE importance of some of the new statutes will compel us to give them out of their order. The Small Debts Bill is presented to-day, and next week we will publish some more of the most immediate interest, with requisite comments. The legislation of the last session is large in bulk, but of no great interest to the Profession.

NEW STATUTES

Of the Sessions 8 *Victoria.*

[In this record of actual Legislation, we adopt the plan of giving the titles alone of the statutes of no general or professional interest; and analyses of the more important changes in the law, printing at length such statutes or parts of statutes only as are of particular interest to our readers.]

(*Continued from page* 395.)

In consequence of the immediate importance of this, the Small Debts Act, which is now in operation, we take it out of its place and present it now entire.

CAP. CXXVII.

An Act for the better securing the Payment of Small Debts. (August 9, 1845.)

1. *Creditor obtaining judgment or order in respect of a debt not exceeding* 20*l. may summon the debtor before a Commissioner of Bankrupts or Court of Requests, &c. On debtor appearing he may be examined by the commissioner or Court.—Creditor may also be examined.—If debtor fail to attend, or to make satisfactory answer, or shall appear to have been guilty of fraud, &c. he may be committed.*—Whereas it is expedient and just to give creditors a further remedy for the recovery of debts due to them: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, That if any person is or shall be indebted to any other in a sum not exceeding twenty pounds besides costs of suit, by force of any judgment obtained, or of any order for the payment thereof, or of any costs in any court, which judgment or order shall have been obtained from any court of competent jurisdiction in England, it shall be lawful for the creditor so having obtained a judgment or order to obtain a summons from any commissioner of the Court of Bankruptcy for the district in which such debtor shall reside or be, or from any court of requests or conscience, or inferior court of record for the recovery of debts, or other court for the recovery of small debts, within the jurisdiction of which such debtor shall reside or be, having a judge who shall be either a barrister-at-law, special pleader, or an attorney who shall have practised as an attorney for not less than ten years in one of her Majesty's superior courts of common law at Westminster, which summons such commissioner of the Court of Bankruptcy or such court shall be authorized and required to grant, according to the form in schedule (A) hereunto annexed, upon the application of such creditor by any petition or note in writing, according to the form in schedule (B) hereunto annexed; and the debtor appearing before such commissioner or court at the time to be appointed in such summons, shall be examined by the said commissioner or court, and shall, if the creditor think fit, be interrogated before such commissioner or court by the creditor summoning him, touching the manner and time of his contracting his debt, the means or prospect of payment he then had, the property or means of payment he still hath or may have, the disposal he may have made of any property since contracting such debt; and such creditor shall also, if such commissioner or court shall think fit, be examined by the said commissioner or court touching his claim against the said debtor, and shall, if the debtor think fit, be interrogated before such commissioner or court by the said debtor touching the said claim against him; and it shall be lawful for such commissioner or court to make an order on the said debtor for the payment of his debt by instalments or otherwise; and in case such debtor shall not attend as required by the said summons, and shall not allege a sufficient excuse for not attending, or shall, if attending, refuse to disclose his property, or his transactions respecting the same or respecting the contracting of the debt, or shall not make answer thereof to the satisfaction of the commissioner or court, or shall appear to such commissioner or court to have been guilty of fraud in contracting the debt, or of having wilfully contracted it without reasonable prospect of being able to pay it, or of having concealed or made away with his property in order to defeat his creditors, or if he appears to have the means of paying the same by instalments or otherwise, and shall not pay the same at such times as the commissioner or court shall order, or as the court shall have ordered in which the original judgment shall have been obtained or order made, then in any of the said cases it shall be lawful for such commissioner or the judge of such court to order such debtor to be committed, for any time not exceeding forty days, to the common gaol wherein the debtors under judgment and in execution of the superior courts of justice may be confined within the county, city, borough, or place in which such debtor shall be resident, or to any other gaol or debtors prison within the same county, city, borough, or place which shall by any declaration of one of her Majesty's principal Secretaries of State be allowed as a place of imprisonment under this Act, so long as such declaration shall remain in force and unrevoked.

2. *How order shall be executed.*—And be it enacted, That every bailiff and messenger to whom any such order shall be issued, or who shall be acting as an officer of the high bailiff of Westminster or Southwark in the execution of any such order issued to such high bailiff, shall be thereby empowered to take the body of the person against whom such order shall be made, and all constables and other peace officers within their several jurisdictions shall aid in the execution of every such order; and no protection, or interim or other order issuing out of any court of bankruptcy or for the relief of insolvent debtors, nor any certificate obtained after such order for imprisonment under this Act, shall be available to any debtor imprisoned under such order as aforesaid.

3. *Imprisonment not to extinguish the debt, but on payment thereof, or of the instalment payable, and the costs, &c. the debtor to be discharged.*—And be it declared and enacted, That no imprisonment under this Act shall in anywise operate as satisfaction or extinguishment of any debt or demand; but any person imprisoned under this Act, who shall have paid or satisfied the debt or demand, or the instalments thereof payable, and costs remaining due at the time of the order of imprisonment being made, and all subsequent costs, shall upon entry of such payment indorsed on the order of imprisonment, signed by the plaintiff or his attorney, be discharged out of custody by leave of a commissioner or judge of the court in which the order of imprisonment was made.

4. *Certain Courts to have the like powers in original suits.*—And be it enacted, That the judge of every court of requests or conscience, and of every inferior court of record for the recovery of debts, and of every other court for the recovery of small debts, of which the judge is a barrister-at-law or special pleader, or an attorney of ten years' standing of one of her Majesty's superior courts of common law at Westminster, in which court proceedings shall be had for the recovery of any debt or demand within the jurisdiction of the said court, shall have the like powers, in the suit instituted for recovery of such debt or demand, of examining the parties to the suit, and, upon occasion of pronouncing judgment therein, if judgment be given for the plaintiff, shall have the like powers of further examining the parties, and, in the several cases hereinbefore specified, of committing the defendant to prison, which he might exercise under the provisions hereinbefore contained, if judgment for such debt or demand had been obtained in his court, and the judgment creditor had obtained a summons for such defendant from the same court under this Act; and all the provisions of this Act shall be deemed to apply to such case as if such summons had been obtained.

6. *Where several courts exist in the same town, &c. business not to be transferred from one to the other.*—Provided always, and be it enacted, That in any city, town, or district wherein there are several courts for the recovery of small debts, neither of the said courts shall have any power under this Act in respect of any debt which shall have been sued for in the other of the said courts in the same city, town, or district, unless such other of the said courts shall not have a judge qualified as hereinbefore specified.

6. *Application to commissioners, &c. need not be made by counsel or attorney.* 5 & 6 Vict. c. 116.—And be it declared and enacted, That in making application to any commissioner or court as aforesaid, or taking any proceedings under this Act, or under the Act of the last session of Parliament, intituled an Act to amend the Law of Insolvency, Bankruptcy, and Execution, or under an Act made in the sixth year of the reign of her Majesty, intituled An Act for the Relief of Insolvent Debtors, it shall not be requisite for any party, whether creditor or debtor, to [...] either counsel or attorney or solicitor.

[...] *vits in bankruptcy and insolvency may be* [...] *keepers of prisons.*—And be it enacted, That any affidavit of any prisoner in any of her Majesty's prisons or gaols in England to be used in matters of bankruptcy or insolvency, or under or by virtue of any statute relating to bankrupts or insolvent debtors, or of this Act, may be sworn before the visiting or other justice, or if within twelve hours none such shall attend, then by the principal keeper or gaoler of such prisons or gaols respectively, and they and he shall be respectively authorized and required to administer the oath upon any such affidavit or affidavits.

8. *Actual necessaries of judgment debtors not to be seized.*—And whereas it is expedient to protect the actual necessaries of or belonging to judgment debtors from being seized in execution; be it enacted, That from and after the passing of this Act the wearing apparel and bedding of any judgment debtor or his family, and the tools and implements of his trade, the value of such apparel, bedding, tools, and implements not exceeding in the whole the value of five pounds, shall not be liable to seizure under any execution or order of any court against his goods and chattels.

9. *Jurisdiction of courts may be altered.*—And be it enacted, that it shall be lawful for her Majesty, with the advice of her Privy Council, to enlarge the jurisdiction of any such court of requests or conscience, or inferior court of record for the recovery of debts, or other court for the recovery of small debts, to all debts and demands, whether on balance of account or otherwise, or damage arising out of any express or implied agreement, not exceeding twenty pounds, and in such cases as her Majesty, with the advice aforesaid, may think fit, to enlarge the district of any such court, or, where any part of the district of such court is comprised within the jurisdiction of any other like court, to contract the same, and also to make any alteration or regulation for the holding or sitting of any such court, both as to time and place, any thing in any Act constituting any such court to the contrary notwithstanding; and all powers and authorities now vested in any such court, the jurisdiction or district whereof shall be so enlarged, or the district whereof shall be so contracted, shall apply and extend to the jurisdiction or district given or limited under the powers of this Act, and that as fully as if such jurisdiction or district had been given by the Act or Acts establishing or regulating such court and its proceedings; provided always, that no such order shall take effect in respect of any court which shall not have a judge who is either a barrister-at-law or special pleader, or an attorney of one of her Majesty's superior courts of common law at Westminster who shall have practised as an attorney for at least ten years; and in any court in which there shall be no judge qualified as aforesaid, the person or persons to whom the appointment of judge, or, if there be no judge, to whom the appointment of any clerk of the court, belongs, or the majority of such persons, who shall be present at a meeting called for the purpose, shall within three calendar months next after the making of any such order, and also within three calendar months next after any vacancy of the said office of judge, appoint a judge, qualified as aforesaid, subject to the approval of her Majesty, to be signified under the royal sign manual; and in default of any such appointment as aforesaid, it shall be lawful for her Majesty to appoint a judge, qualified as hereinbefore provided, for the court in which such default shall have been made; provided always, that no judge, clerk, or officer of any court whose emoluments shall be increased under this Act, nor any person or persons whose franchise or right of appointment to any office in any court shall become more valuable under this Act, shall be entitled to any compensation for any such increase of emoluments, or increased value of any such franchise or right of appointment, if the same, or the value of the same, shall be diminished or taken away by any alteration in the constitution of the said court, or otherwise, by Act of of Parliament: provided also, that notice of the intention of her Majesty, with the advice of her Privy Council, to take into consideration the expediency of making any such order, and of the time when the same will be considered, shall be given in the *London Gazette* one calendar month at least before the same shall be so considered.

10. *Removal of judges of inferior courts for misbehaviour or incapacity.*—And be it enacted, That every judge of any such court of requests or conscience, or inferior court of record for the recovery of debts, or other court for the recovery of small debts, shall be removable by the Lord Chancellor for misbehaviour or incapacity.

11. *Who shall be competent to hold the court.*—And be it enacted, That in all cases of debts and demands which were not within the jurisdiction of the court before the passing of this Act, and also whenever the number of commissioners present at any court shall not be sufficient for the trial of causes according to the constitution of the court before the passing of this Act, the judge shall act alone, with all the powers of the court, and shall determine all questions, as well

of fact as of law, in the causes which shall be brought before him.

12. *Appointing of a deputy to act during the absence of the judge.*—And be it enacted, That in all cases of illness or unavoidable absence, the cause whereof shall be entered in the minutes of the court, it shall be lawful for the judge, or, in case of the inability of the judge, for the commissioners, or the person or persons to whom the appointment of the judge belongs, to appoint a deputy, qualified as is hereinbefore provided in the case of the judge, to act for him during such illness or unavoidable absence; and it shall also be lawful for the judge, with the approval of the person or persons to whom the appointment of judge belongs, and of one of her Majesty's principal secretaries of state, to appoint a deputy, qualified as aforesaid, to act for him for any time or times not exceeding in the whole one calendar month in any consecutive period of twelve calendar months; and any deputy so appointed, while acting under such appointment, shall have all the powers and perform all the duties of such judge: provided always, that, independently of the power herein contained, every judge shall have the same power of appointing a deputy or deputies to hold this court for all cases of debts and demands within the jurisdiction of the court, as it was constituted before the passing of this Act, which he has under the Act or Acts according to which the court is now constituted, and that such deputy or deputies, if qualified as is hereinbefore provided in the case of the judge or in the case of any deputy appointed before the passing of this Act, if approved by one of her Majesty's principal secretaries of state, shall have in all cases within the extended jurisdiction of the court the powers and privileges, and be subject to the same liabilities, and perform all the duties of such judge while acting under such appointment.

13. *Execution of process in Westminster and Southwark.*—And be it enacted, That, until Parliament shall otherwise direct, the execution of all process issuing out of any of the last-mentioned courts, the jurisdiction of which shall include the city and liberty of Westminster or any part thereof, shall belong to the high bailiff of Westminster, and out of any court the jurisdiction of which shall include the borough of Southwark, or any part thereof, shall belong to the high bailiff of Southwark.

14. *Power for judge to frame a table of fees.*—And be it enacted, That the judge of any such court, the jurisdiction or district whereof shall be extended under the powers of this Act, shall, subject to the approval of one of her Majesty's principal secretaries of state, frame a table of fees to be payable by the suitors of such court or courts in respect of every proceeding therein; and a table of such fees shall be put up in some conspicuous place in the court-house and in the clerk's office; and the fees on every proceeding shall be paid, in the first instance, by the plaintiff or party on whose behalf such proceeding is to be had, on or before such proceeding; and all such fees shall be received by the clerk or clerks of such court, who shall account to the other officers of such court for the amount or proportion thereof which shall be payable to them respectively, and shall also in the month of March in every year render to one of her Majesty's principal secretaries of state an account of all such fees which shall have been received in the year ending on the last day of December then next preceding: provided always, that it shall be lawful for the Secretary of State to lessen the amount of the fees to be taken in any one or more of the courts the jurisdiction or district whereof shall be extended as aforesaid, in such manner as to him shall seem fit, and again to increase such fees, so that the scale of fees given in the schedule to this Act, marked (C), be not in any case surpassed: provided also, that in all cases where any judge, clerk, or other officer of any such court shall have been paid by salary instead of fees, such judge, clerk, or other officer shall continue to receive such salary in respect of the business now within the jurisdiction of such court, and, in respect of the business under the powers of this Act, such fees applicable thereto as are set out in the said schedule (C), or such additional salary instead of such fees as the Secretary of State shall direct; and all sums payable in the name of fees to any such judge, clerk, or other officer, over and above the amount of such salary, shall be applicable for such purposes and in the manner prescribed by the Act or Acts of Parliament under which such court is constituted; and that in awarding compensation to any judge, clerk, or officer of any such court under the provisions of the said Act of the last session of Parliament, account shall be taken of the fees and emoluments to which he shall become entitled under this Act, and any increase of his fees and emoluments under this Act shall go in diminution of the amount to be awarded to him for such compensation.

15. *Fees in courts of bankruptcy.*—And be it enacted, That the registrars of the Court of Bankruptcy shall be entitled to take the fees on every proceeding had under this Act before or under the authority of any commissioner of the Court of Bankruptcy in his district which are specified in the schedule marked (D) hereunto annexed, and the messengers and ushers of the Court of Bankruptcy shall be severally entitled to have the same fees which are provided as the bailiffs and serjeants' fees in the schedule (C) hereunto annexed, subject to such alterations as may be made in the said several fees by the Court of Bankruptcy, so as not to exceed the scales of fees herein provided.

16. *Fees, &c. payable under any existing Acts not to be affected.*—Provided always, and be it enacted, That nothing hereinbefore contained shall extend to or affect any fees or salary payable by virtue of any existing Act or Acts for business or proceedings in any court for the recovery of small debts, except such business or proceedings as shall be had under or by virtue of this Act; but it shall be lawful for the judge of any court, with the approval of one of her Majesty's principal secretaries of state, to alter the fees receivable under the Act or Acts under which his court is now constituted, but not so as to exceed the scale of fees given by such Act or Acts respectively.

17. *Poundage to be demanded from suitors upon sums claimed.*—And be it enacted, That for raising a fund for providing a court-house and offices for any court of requests, or other court for the recovery of small debts, and for other purposes hereinafter mentioned, the clerk or clerks of any such court in which and while it shall be necessary to raise such fund shall demand and receive from the plaintiff in every suit brought in that court, before he shall issue any summons in that suit, the sum of sixpence, when the debt or damage claimed shall not exceed twenty shillings, and for every claim exceeding twenty shillings, one fortieth part thereof (neglecting any sum less than threepence in estimating such fortieth part), or other such sum, in either case not exceeding the rates hereinbefore mentioned, as the Secretary of State from time to time shall order, which sum shall be paid in all cases in the first instance by the plaintiff upon suit brought in such court, and shall be considered as costs in the cause; and the clerk or clerks of the court shall keep an account of all moneys so paid to him or them, and shall account for the same to the judge of such court for the time being, and the amount thereof shall accumulate, to form a general fund for such court, and shall be applied in providing a court-house and offices, or in defraying the rent and taxes, stationery, and other necessary expenses of holding and carrying on the business of such court, in such manner as the Court for the time being, with the approval of the Secretary of State, shall direct.

18. *Summonses to witnesses.*—And be it enacted, That either of the parties to the suit, or any other proceeding before any such commissioner or in any such court, may obtain summonses to witnesses, to be served by a messenger or bailiff, with or without a clause requiring the production of books and writings in their possession or control, and in any such summons any number of names may be inserted; and every person on whom any such summons shall be personally served within the jurisdiction of the court, and to whom at the same time payment or tender of his expenses shall have been made, on such scale of allowance as shall be from time to time settled by the Court of Bankruptcy or judge of any such court as aforesaid, as the case may be, with the approval of one of her Majesty's principal secretaries of state, and who shall refuse or neglect, without sufficient cause, to appear, or to produce any books or writings required by such summons to be produced, and also every person present in court who shall be required to give evidence, and who shall refuse to be sworn and give evidence, shall forfeit and pay such fine not exceeding five pounds as the commissioner or judge shall set on him, and payment of such fine shall be enforced in like manner as payment of any debt recovered by judgment of any court of competent jurisdiction; and the whole or any part of such fine, in the discretion of the judge, after deducting the costs, shall be applicable toward indemnifying the party injured by such refusal or neglect, and the remainder thereof shall be applicable to the expenses of the court in which the fine was imposed.

19. *Lists of unclaimed suitors' money to be made out and put up in the court.*—And be it enacted, That the clerk or clerks of every such court shall in the month of March in each year make out a correct list of all sums of money belonging to suitors in the court which shall have been paid into court, and which shall have remained unclaimed for the space of twelve calendar months before the first day of the month of January, specifying the names of the parties for whom or on whose account the same were so paid into court; and a copy of such list shall be put up and remain during court hours in some conspicuous part of the court-house, and at all times in the clerk's office.

20. *All suitors' money paid into court and unclaimed for six years to go into the court fund.*—And be it enacted, That all sums of money which shall have been paid into any such court to the use of any suitor or suitors thereof, and which shall have remained unclaimed for the period of six years before the passing of this Act, and which are now in the hands of any commissioner, trustee, judge, or officer of such court, or otherwise held in trust for such suitors, and all further sums of money which shall hereafter be paid into any such court to the use of any suitor or suitors thereof, shall, if unclaimed for the period of six years after the same shall have been so paid into court, vest in and belong to the judge or judge and commissioners of such court for the time being, in trust for the general purposes of such court, and shall form a general fund, for the payment of all debts due on behalf of the court, and the necessary expenses of holding or carrying on the business of such court.

21. *Power to remove suits exceeding 10l. into superior courts.*—And be it enacted, That any suit to be instituted in any such court, wherein the claim or demand shall exceed the sum of ten pounds, shall be removable by *certiorari* or otherwise into any of her Majesty's superior courts of common law at Westminster, or into the Court of Common Pleas at Lancaster, by leave of a judge of any one of the said courts, and upon such terms as he shall order.

22. *Power to execute warrants and levy executions out of jurisdiction.*—And be it enacted, That in all cases where final judgment shall have been obtained in any such court, and a warrant or execution shall have issued against the goods and chattels of the defendant, or an order for his commitment shall have been made, under this Act, and the defendant, or his goods and chattels, shall be out of the jurisdiction of such court, it shall be lawful for the officer charged with such warrant, execution, or order of commitment, to apply to any justice of the peace acting for any county, division, or place in which the defendant, or his goods and chattels, shall then be, upon proof being made upon oath (which oath such justice shall be empowered to administer) that the person or goods and chattels of such defendant is or are believed to be within the county, division, or place where such justice of the peace shall act, such justice of the peace shall sign or indorse his name upon the said warrant, execution, or order of commitment, and thereupon the said officer charged therewith shall take and seize the person or the goods and chattels of the defendant, wheresoever the same shall be found within the county, division, or place for which such justice of the peace shall act, and all constables and other peace officers shall be aiding and assisting within their respective districts in the execution of the said warrants, executions, or orders.

23. *Powers of 7 & 8 Vict. c. 96, applicable to this Act.*—And be it declared and enacted, That all the enactments of the said Act of the last session of Parliament, and of the several Acts under which the said several courts are now held or constituted, shall within their several districts be deemed to apply to every proceeding under this Act, so far as the same are applicable, and not repugnant to the provisions of this Act.

24. *Interpretation of terms in the Act.*—And be it enacted, That in the construction of this Act the word "judge" shall be construed to include every person, being either a barrister at law or a special pleader, or an attorney of one of her Majesty's superior courts of common law at Westminster, who shall have practised as an attorney for at least ten years in one of her Majesty's superior courts of common law at Westminster, who, according to the constitution of the court, presides in any such court as aforesaid, or acts as judge or assessor therein, whether by the title of judge, or barrister, or county clerk, assessor, or steward or deputy steward, or by any other style or title whatsoever; and the word "person" shall include a body corporate; and every word importing the singular number or masculine gender, shall include also several persons or things, and females as well as males, unless the context shall require another construction.

25. *Act to apply only to England.*—And be it enacted, That this Act shall apply only to England.

SCHEDULES to which this Act refers.

SCHEDULE (A).

You are hereby required to appear before [*set forth the Court's style*] at [ ], on the day of next, to answer such questions as may be put to you touching the not having paid to *A. B.* of [ ] the sum of £ [ ] recovered in a certain judgment [*or* order] of [*set forth the style or other sufficient description of the Court that gave the judgment or made the order.*]

To *C. D.* of [ ].

By order of the Court, Signed,

SCHEDULE (B).

Be pleased to summon C D of [ ] to answer touching the debts due to me by the judgment [*or* order] of the Court of [*set forth the style or other sufficient description of the Court which gave the judgment or made the order*] on my behalf.

Signed [*party's name*] of [ ]

SCHEDULE (C).

Judge's Fees.	On Demands not exceeding 40s.	On Demands not exceeding 5l.	On Demands exceeding 5l. and not exceeding 10l.	On Demands exceeding 10l.
	s. d.	s. d.	s. d.	s. d.
For every Summons	0 6	1 0	2 0	3 0
For every hearing or Trial	2 0	2 6	7 6	10 0

SCHEDULE (C)—continued.

Clerk's Fees.	On Demands not exceeding 40s.	On Demands exceeding 40s. and not exceeding 5l.	On Demands exceeding 5l. and not exceeding 10l.	On Demands exceeding 10l.
	s. d.	s. d.	s. d.	s. d.
For entering every Plaint, Petition, or Note	0 6	1 0	1 6	2 0
Issuing every Summons or Subpœna	0 6	1 0	1 6	2 0
Every Hearing or Trial	1 0	1 6	2 0	2 6
Adjournment of any Cause or Hearing	0 3	0 4	0 6	0 8
Swearing any Witness, Plaintiff, or Defendant	0 4	0 6	0 8	1 0
Entering and drawing up every Judgment, Decree, or Order	0 6	1 0	1 6	2 0
Copy of every Order or Judgment	0 3	0 6	1 0	1 3
Every Nonsuit	0 6	1 0	2 0	2 6
Paying Money into Court, and entering same in Books	0 3	0 4	0 6	0 8
Every Receipt on Payment of Money out of Court, exclusive of Stamp	0 4	0 6	1 0	1 3
Issuing every Attachment, Precept, Order, or Execution	1 0	1 6	2 6	3 0
Taking Recognizance of Security for Costs	—	—	2 6	3 0
Taxing Costs	1 0	1 0	2 0	3 0

Bailiff's and Serjeant's Fees.	On Demands not exceeding 40s.	On Demands exceeding 40s. and not exceeding 5l.	On Demands exceeding 5l. and not exceeding 10l.	On Demands exceeding 10l.
	s. d.	s. d.	s. d.	s. d.
For calling every Plaintiff or Defendant	0 2	0 3	0 5	0 6
For serving every Summons, Order, or Subpœna, within one mile of the Court-house	0 4	0 6	0 10	1 0
If above one mile, then extra for every mile not exceeding seven miles from the Court-house	0 2	0 3	0 4	0 4
For the execution of any Warrant, Precept, or Attachment against the goods or body	1 0	1 6	2 6	3 0
If above one mile, then extra for every mile not exceeding seven miles from the Court-house	0 2	0 3	0 4	0 4
If an Assistant-Serjeant should be necessary, in the judgment of the Court, then for Assistant	0 6	1 0	2 0	2 6
If above one mile, then extra for every mile not exceeding seven miles from the Court-house	0 2	0 3	0 4	0 4
For carrying every Plaintiff, Defendant, or Delinquent to Prison (including all Expenses and Assistants) for every mile	0 6	0 6	0 6	0 6

SCHEDULE (D).

Fees to be taken by the Registrars of the Courts of Bankruptcy.	If Debt is under 5l.	If 5l. and under 10l.	10l. and not exceeding 20l.
	s. d.	s. d.	s. d.
On filing Application for Summons	0 6	0 9	1 0
For Summons	0 6	0 9	1 0
Order	1 0	1 6	2 0
For every Examination	0 6	0 9	1 0
For every Warrant	0 6	0 9	1 0
On filing Affidavits or other Documents	0 6	0 9	1 0
For every Search	0 6	0 9	1 0
For registering every Order	0 6	0 9	1 0
For Copies of any Documents filed, 1½d. per folio of Ninety Words.			

The late Session.—From the official records issued by order of both Houses of Parliament, it appears that no fewer than 666 different documents, either in the form of reports and blue books (some extending to upwards of 1,000 folio pages each), or returns, statistical or otherwise, have been directed to be printed by the House of Commons alone. By far the greater number of these have been already issued; but a long list of documents, including many of the utmost public importance and interest, still remain to be printed and distributed; and the like is the case with respect to the papers of the other branch of the Legislature. No fewer than twenty-two reports, returns, &c. were moved for or presented in the House of Commons only on the last day of the session, all of which will be some time before they are ready for publication. Indeed, these proofs of the labours of a session generally continue being afforded during a large portion of the recess: the more especially will it be so now, after a session of such unexampled labour and extensive investigation. The House of Lords sat during the late session 95 days, and the House of Commons 125. The official records of the proceedings of the former occupy 1,048 pages; those of the lower house of Parliament 2,078 pages, the last two of which contain 16 notices of motions which now stand in the order-book of that house "for the next session." There were altogether 170 divisions during the past session in the House of Commons.—*Globe.*

THE MAGISTRATE.

Summary.

The only subject of interest in this department is commented upon below.

THE LAWYER.

Summary.

We bring up to-day a large arrear of judgments, delayed through absence of the reporters and the railway occupations of short-hand writers. Still there will remain some eight or ten to be published in our next, when we shall have completed an undertaking pronounced to be impracticable when first we broached it, and of the success of which we certainly felt considerable doubt. The Law Times will then have given to the Profession *every* written judgment pronounced by the judges of the Common Law Courts during the preceding twelve months; a record to be obtained nowhere beside, and the value of which will be at once recognised. The delay that has occurred in the publication of the judgments delivered at the close of the sittings after Term has been the only imperfection in the practical working of the scheme we announced last November. This was, however, unavoidable under peculiar circumstances, which we hope next year, by other arrangements, to prevent altogether, or at least materially to hasten their appearance, the Circuits necessarily occasioning some delay.

REVIEW OF THE CASES DECIDED IN ALL THE COURTS OF COMMON LAW,

During Easter Term and Vacation, and Trinity Term and Vacation, 1845.

(*Concluded from page* 400.)

Before proceeding with this review, we have to thank a correspondent for drawing attention to *Udal* v. *Walter*, in which the Court of Exchequer decided that a general notice of an act of bankruptcy was sufficient. When the argument *ab inconvenienti* was used, Alderson, B. observed, that it was a communication from the bankrupt himself. We discovered the case after our first article was in type, and should have mentioned it in a note at the conclusion of the Summary; but our readers are already made aware of it from another quarter. The impression to be derived from *Conway* v. *Nall* was decidedly the other way

We also wish to supply another omission which we cannot account for, in the concluding part of the comments upon the question of False Representation. In summing up the balance of authorities, we did not mention Lord Kenyon amongst the authorities against our view and the recent decisions. We were of course fully aware of it, as may be seen in the early part of the article, and indeed had inserted his name in our first manuscript, but the mistake was inadvertently made, we suppose, in a subsequent copy.

GAMBLING AND LOTTERIES.

The curious question whether the 18 Geo. 2, c. 34, s. 8 (see Law T. 47), which has apparently been overlooked in most of the cases that have arisen, does not render any bet, however small the amount, illegal, has again been mooted in *Thorpe* v. *Coleman* (5 Law T. 308). It became, however, unnecessary to decide it, as in that case the bet was for the sum of 10*l.* and came therefore within the express words of 9 Anne, c. 14. The confusion which ensues from the system of expediency Acts for a particular object, which infests our legislative senators, is shewn by the difficulties attending the construction of 6 & 7 Vict. c. 3, and 7 & 8 Vict. c. 58, as hinted in the judgment. It is indeed a most enormous evil to the country, that no systematic mode has been adopted to secure something approaching to good sense, knowledge, and judgment, in those who draw and pass the countless Acts of Parliament which load our statute-book, encumber justice, and bring the law into disrepute.

Lotteries.—Allport v. *Nutt* (5 Law T. 308) decides that the "Derby sweeps" are altogether illegal, and that any treasurer to such schemes may quietly pocket the money without any of the subscribers having any remedy against him, or they may decide just as they please which horse is the "winning horse." The legal meaning of this term is decided to be not the horse that comes in first, but the horse that is declared the winner, and to the owner of which the stakes are awarded; *e. g.* that Running Rein was not the winning horse, but Orlando was. (*Williams* v. *Wentworth*, 5 Law T. 52.)

INTERPLEADER.

A writ of error does not lie upon a feigned issue under the Interpleader Act.—This important point has been decided, after full consideration, by the Exchequer Chamber, composed of the Courts of Common Pleas and Exchequer, in the case of *King* v. *Simmons* (5 Law T. 131). The course to adopt when a writ of error is sued out improperly is, to move the Court of Error that the writ be quashed. In the course of the argument it was stated, that in *Whitmore* v. *Robertson* an action was directed, to enable the parties to bring error; but it may not, perhaps, be hypercritical to observe, that some doubt may be suggested as to the power to bring error, even in an action directed under the Interpleader Statute. Sec. 1 gives the judge power to order the third party to make himself defendant *in the same or some other action*, or to proceed to trial, &c. Sec. 2 enacts that the judgment in *any such action* or issue as may be directed by the Court or Judge, and the decision of the Court or Judge in a summary manner, *shall be final and conclusive* against all parties, &c. So far, it seems that the same finality is to be result of an action or of an issue. And sec. 7 may be said to contemplate

an action being ordered; for it provides that all rules in pursuance of this Act "may, together with the declaration in the cause (if any), be entered of record, and then the force and effect of a judgment, with certain qualifications, is given to such order," &c. We have thought it right to make this observation, although the whole of Mr. Pashley's argument in favour of a writ of error upon an issue, would apply with still more force to an action ordered to be brought. But it may be ultimately held that the *sic volo sic jubeo* of the legislature has overridden all the arguments and old authorities. However this may be, as it is quite certain that a writ of error does not lie upon the usual feigned issue, that course must never be adopted or submitted to, if there is already a decision of one of the Courts against the view of the client.

LANDLORD AND TENANT.

Notice to quit.—As a case constantly referred to upon the validity of notices to quit has been expressly overruled last Term, a note should be made to that effect, that the practitioner may not be misled by it. In *Doe dem. Huntingtower v. Culleford* (4 D. & R. 249) a notice dated Sept. 27, and served Sept. 28, requiring the tenant to quit "at Lady-day next, or at the end of your current year," was held to be a good six months' notice, although the current year, in fact, expired Sept. 29. But, in *Mills* v. *Goff* (5 Law T. 96), and *Doe* v. *Morphett* (5 Law T. 196), similar notices were held to be of no avail for the following year of the tenancy. The safer form would be that used in *Doe* v. *Smith* (5 A. & E. 350), and referred to by Patteson, J. in *Doe* v. *Morphett*,—"at such other time or times as the current year shall expire after the expiration of half a year from the delivery of this notice."

LEGACY DUTY.

An important decision has been given by the Court of Exchequer upon the construction of the 45 Geo. 3, c. 28, s. 4. (*Attorney-General* v. *Marquis of Hertford*, 5 Law T. 266.) After time taken to consider, it was held, that where the donee of a power had an option to charge certain real estate with annuities, the amounts of which were not specifically defined by the power, such annuities were within the provision of the 4th sec. 45 Geo. 3, c. 78, which exempts from the duties imposed by the Act "any specific sum or sums of money appointed by any will, &c. under any power."

PRACTICE.

As usual, there are a great many technical points of practice to be noted during the last two Terms, which we proceed to mention as before in an alphabetical arrangement.

Acknowledgment under 3 & 4 *Wm.* 4, *c.* 74.—A commission may be issued to take the acknowledgment of a married woman abroad, although her Christian name is not known, care being taken that her identity is duly proved by affidavits at the place where the acknowledgment is taken. (*Re Atherton*, 5 Law T. 51.)

Amendment of record.—Proof of a judgment in debt does not support an issue of *nul tiel* record, where the judgment is described to be in an action on promises; but when, after judgment by default, the error had been discovered, the Court allowed an amendment of the record in the second action to meet the real facts. (*Field* v. *Williams*, 5 Law T. 59.)

Amendment of judgment.—The Court has power to correct any judgment during the same term that it was delivered; and this power they will exercise when a judgment has been given through absence of counsel, which is subsequently accounted for to their satisfaction. They did this in *Vyse* v. *Bird* (5 Law T. 239). The curious result was, that, on the case coming on to be argued a second time, judgment was then given for the plaintiff, the defendant's counsel in his turn being absent. In *Hall* v. *Lack*, however (5 Law T. 238), an error of a previous term was amended. (See *suprà*, 371.)

Certiorari.—Applications to remove indictments by *certiorari* are not grantable as a matter of course, and it is therefore useful to observe the grounds upon which they are refused or granted in particular cases. Thus, it is insufficient that the defendant is a reputable tradesman, and believes the prosecution to have been instituted from malicious motives (*Reg.* v. *Jeffs*, 5 Law T. 79); but it is sufficient if the prosecution is an unusual one, and instituted at the immediate instance of the Crown, and to be prosecuted by the high crown officers. (*Ibid.*) If the usual suggestion is made, that difficult points of law are likely to arise, the specific points should be stated. (*Reg.* v. *Hodges*, 5 Law T. 78.) The rule is not necessarily absolute in the first instance in misdemeanors, as is said in *R.* v. *Spencer* (8 D. P. C. 127); *R.* v. *Bird* (5 Law T. 39).

Demurrer books.—When Monday is fixed for the argument of a demurrer, neither party is entitled to deliver demurrer books for the other, under Reg. G. Hil. T. 4 Wm. 4, reg. 7, until Thursday morning. (*Hodgins* v. *Cook*, 5 Law T. 176.)

Points of demurrer in paper books.—In *Harris* v. *Reynolds* (5 Law T. 53), *Peake* v. *Schreech* and (5 Law T. 173), the Court of Queen's Bench strongly condemned the practice of omitting to state in the paper books what the points of demurrer are, and struck out both cases from the paper, although in one counsel wished to waive the objection. They further intimated that in future they would not allow the cases to be replaced, but would give judgment against the party in fault. It will not suffice to refer to the special demurrer, but the points must be distinctly set out.

Distringas.—The Courts are not very favourable to the writ of *distringas*, and as in *Russell* v. *Knowles* (2 D. & L. 595, *suprà*, 4, 222) a service at a defendant's office was held insufficient, although it seemed that the fact had been communicated to the defendant; so in *Watson* v. *Orme* (5 Law T. 58), an omission to leave a copy of the writ was held fatal to a motion for a *distringas*, although the defendant had put his house into a state of siege, and the only means that could be suggested to effect the purpose was to attach the writ to a stone, and throw it over the wall. Coleridge, J. said, when this was done the *distringas* might be granted. In the Queen's Bench, as well as the other courts, the affidavit in support of a motion for a *distringas* to compel an appearance, must state where the residence of the defendant at which the service was made is situated. A subsequent statement by the defendant, that he would upset the *distringas*, on the ground that the writ was served on his brother, and not upon himself, does not amount to an admission of personal service. (*Crofts* v. *Brown*, 5 Law T. 125; 9 Jur. 169.)

Judgments.—The scope of a judgment was much extended by 1 & 2 Vict. s. 110, but there are still some sources of income which it does not touch, for it was held in *Morris* v. *Manasty* (5 Law T. 240), that a pension granted for services rendered to the East-India Company by resolution of the directors, is not liable to be charged with the payment of a judgment debt by a judge's order under that statute.

Judgment as in case of nonsuit.—It was not long since that the Courts found it necessary to lay down a general rule as to the period for moving for judgment as in case of nonsuit (see 2 D. N. S. 118; 10 M. & W. 76); and the diversity of the late decisions as to what is a fulfilment of a peremptory undertaking seems to require that a uniform rule should also be established on that point. According to the decisions of *Ward* v. *Turner* (5 D. P. C. 22), recognized in *Petrie* v. *Cullen* (2 D. & L. 601), the nature of the undertaking is that the plaintiff will try, at all events, and that although the cause is made a *remanet*, from press of business or other unavoidable cause, as the illness of the judge, yet the defendant is entitled to judgment. But in *Lumley* v. *Dubourg* (5 Law T. 211; 9 Jur. 510), the Court of Exchequer dissented from this, and held the meaning to be, that he will try according to the practice of the Court; and as the practice of the Court defines no particular day for entering the cause for trial, it is sufficient if it is entered, although it should be subsequently made a *remanet*. And Alderson, B. expressly said that the period of delay was to be measured in the same way as it have been prior to the peremptory undertaking, and that the cases had clearly decided that the plaintiff, having brought down to trial once, was sufficient. This, no doubt, is borne out by *Gilbert* v. *Kirkland* (2 D.P.C. 153); *Brown* v. *Rudd* (1 D.P.C. 371); but it must, we think, be taken with this qualification, that a subsequent default would give the defendant a right to move for judgment as in case of nonsuit. This was the decision in *M'Intyre* v. *Severy* (5 Law T. 76; 14 L. J. 228, Ex.), which calls for some notice, as the reports above cited appear to contradict each other. We have been favoured by one of the counsel engaged with an explanation of this contradiction, which will shew that the above qualification is correct. At first, Alderson, B. decided, as he is reported to have done in the LAW TIMES, that the plaintiff, having once taken the cause down to trial, the defendant was not entitled to move for judgment, although the plaintiff withdrew the record at the next sittings; but Mr. Barstow, feeling dissatisfied with this decision, his lordship kindly allowed the opinion of the Court to be taken, although his decision was in form that of the Court, as he was sitting in Banc to hear motions. The result was, that the decision finally given was as reported in the *Law Journal*, that the defendant *was* entitled to move for judgment, and the usual peremptory undertaking was given. (See *Gadd* v. *Bennett*, 2 B. & A. 709; and also *Ham* v. *Grey*, 6 B. & C. 125; *Garven* v. *Birch*, 11 M. & W. 544.)

Jurymen, affidavits of.—The general rule is, that statements of jurymen as to what passed prior to the delivery of the verdict cannot be received (*Shaker* v. *Graham*, 4 M. & W. 721), however great the misconduct which such statement might disclose; but the recent cases have established an exception to this rule in favour of affidavits to deny charges of misconduct brought against the jury, for it would be against all justice to deprive a man of the opportunity of defending himself. (*Cornish* v. *Daykin*, 5 Law T. 130; see *suprà*, vol. 4, 160; and 14 L. J. 16, Q.B.)

Judgment after notice of declaration.—If the defendant admits, after a service of notice of declaration, that he received it, he cannot set aside judgment signed eight days after the day of the service, unless he shews positively that he did not receive it in fact upon the day of the service. (*Wassall* v. *Scarisbrook*, 5 Law T. 96.)

New trial.—A new trial cannot be granted as to one of the defendants alone, but if moved for on behalf of one or more, it should be drawn up to set aside the verdict as to all, and should either shew the consent of those for whom a verdict has been given, or it should call upon them, as well as upon the plaintiff, to shew cause why such new trial should not be had. (*Belcher* v. *Magnay*, 5 Law T. 177; 9 Jur. 175; see *Doe dem. Dudgeon* v. *Martin*, 14 L. J. 128, Ex., and 4 Law T. 480.)

New trial on account of mistake by the associate.—Where the judge, at trial, delegated his authority to the associate, to take the finding of the jury, and directed him to do so upon several specific issues, and, in the absence of the judge, the associate asked the jury to give a general verdict for the plaintiff or defendant, and omitted to put to them the issues specifically, the Court granted a new trial. (*Bentley* v. *Fleming*, 5 Law T. 73.)

Production of agreement for the purpose of being stamped.—It sometimes happens that a party wishes to give evidence of an agreement to which he is not a party, and which, being unstamped, and in the hands of the opposite party, they are unable to do. *Hall* v. *Bainbridge* (5 Law T. 152; 9 Jur. 450) is an important decision, as shewing that, under such circumstances, the party may be compelled to produce the document at the Stamp Office, to be stamped at the expense of the other party, although no inspection will be allowed or copy granted. This extends the case of *Veale* v. *Swind* (1 D. P. C. 311), and should be noted in Chitty's Archbold, p. 1024.

Quo warranto.—Where proceedings on a *mandamus* were pending in consequence of the alleged improper erasure of voters from the burgess-list, and the twelve months allowed by the 6 & 7 Vict. c. 89, s. 1, would otherwise have expired, the Court allowed a *quo warranto* information to be filed against the persons whose election was said to have been gained by the alleged improper erasure of the voters. (*Reg.* v. *Clarke*, 5 Law T. 215.)

Right to begin.—The numerous and contradictory decisions that are to be found in the Nisi Prius reports upon this important question will now cease to have much interest, as we may consider the principle to be thoroughly well established by the decision of the Court of Queen's Bench in *Mercer* v. *Wall* (5 Law T. 304; 9 Jur. 576), after time taken to consider, for the express purpose of making the practice uniform. The rule, then, clearly is, that wherever the plaintiff has any thing to prove, either to obtain a verdict, or to fix the amount of damages, he is entitled to begin, although the affirmative of the issues may in form be upon the defendant. The instance there was, a plea of justification to an action for wrongful dismissal, and it was held at Nisi Prius, and also by the full Court, that the plaintiff was to begin. E. W.

(*To be continued.*)

COURT PAPERS.

COURT OF COMMON PLEAS.

APPEALS FROM THE DECISIONS OF THE REVISING BARRISTERS.

The following is from a return to the House of Commons of the decisions of the Court of Common Pleas, on the appeals from the revising barristers in the last year:—

I.—COUNTIES.

No.	Name of County, or Division of County.	Places of Courts of Revision.	Names of the Appellants and Respondents.	Decision of Court of Appeal.
1	Southern Division of the County of Lancaster	Manchester .	John Gadsby, Appellant; Samuel Warburton, Respondent	For Appellant
2	Same . .	Same .	John Gadsby, Appellant; Jas. Burrow, Respondent	For Appellant
3	Same . .	Oldham .	William Eckersley, Appellant; John Barker, Respondent	For Respondent
4	West Riding of the County of York	Bradford .	Robert Baxter, Appellant; Edward Newman, Respondent	For Respondent
5	Same . .	Doncaster .	Robert Baxter, Appellant; the Overseers of Doncaster, Respondents	For Respondents
6	Northern Division of the County of Northampton	Kittering .	Thomas Davis, on behalf of himself and others, Appellant; Thos. Waddington, on behalf of himself and twenty-four others, Respondents	For Respondent
7	Same . .	Peterborough .	J. D. Simpson, Appellant; Nelson Wilkinson, Respondent	For Respondent.

General statement as to counties.

No. 1.—The question in this case arose upon the sufficiency of the description of the place of abode of the objector, in a notice of objection given under 6 Vict. c. 18, s. 7; and the Court held it to be sufficient, where it was the same as the description of his name in the register; and that at all events it is sufficient if he has not changed his abode since the publication of such register.

No. 2.—In this case the question arose upon the proper construction of the 20th section of the statute 2 Wm. 4, c. 45, the clause which confers the right of voting, for the first time, "on any person who shall occupy as tenant any lands or tenements for which he shall be *bonâ fide* liable to a yearly rent of not less than 50*l.*;" and the Court held, that, in order to satisfy those words, the tenant must occupy land to that amount of rent, under a single taking, and that premises held under different landlords cannot be joined together to make up the qualification.

No. 3.—In this case the question was upon the sufficiency of the description of the qualification of a voter for a county, in the list of county voters published by the overseers, pursuant to the 6 Vict. c. 18, s. 5; and the Court held, that if such qualification is a house, situate in a street, lane, or other like place, it is sufficient to give the name of the street or lane, and the number of the house (if any), and that it is unnecessary to add the name of the property, or the name of the occupying tenant.

No. 4.—This was a case in which land had been bought, and a fulling-mill erected thereon, and fitted up with the requisite machinery, out of moneys contributed by a large number of persons, of whom thirty-seven on the present occasion claimed the right of voting for the county, in respect of their freehold interest in the land and mill. The land had been conveyed to trustees and their heirs, and was vested in them for the purpose of the conduct and management of the trade, in which all the shareholders were jointly concerned as copartners; and the trusts of the deed were such, that in certain events the trustees might have the power of dealing with this real property as if it had been personal property only. But nevertheless, as there was no trust which was absolutely incompatible with the existence of the present equitable freehold interest in the premises in the several shareholders, the Court of Common Pleas held, that such equitable interest might be considered as vested in them, and the amount in value of each claimant's interest in the real property being sufficient, that the several claimants had the right to vote.

No. 5.—This was a consolidated case of four persons, whose right to vote was objected to under sec. 1 of 22 Geo. 3, c. 41, on the ground "that they were persons employed in collecting, managing, or receiving the duties on windows." Joseph Marshall and William Workman, at that time filling the office of collectors of the taxes in different parishes, John Nicholson and William Gill, that of assessors of those taxes in two different parishes. But the Court was of opinion, that notwithstanding the Act of 43 Geo. 3, c. 99, the collector of window duties is still to be considered as appointed by the Land Tax Commissioners, and not by the Commissioners of Assessed Taxes, and that the case therefore fell under sec. 2 of 22 Geo. 3, and the claimants were qualified thereby.

No. 6.—In this case, the governors of Jesus Hospital, Rothwell, incorporated by charter of Queen Elizabeth, were empowered "to appoint and remove 24 poor men, as often as and when it should seem fit;" and upon the objection being taken that the claimant took no freehold interest under these letters-patent, the Court of Appeal held the objection to be valid, and that there could be no right of voting in the persons so appointed.

This objection applied to twenty-four other persons appointed in the same manner, whose cases were consolidated with this.

No. 7.—This was a case in which an hospital was founded by Lord Burleigh, before the statute 39 Eliz. c. 5; at a time, therefore, when it was necessary that there must be either a royal license, or letters patent, in order to make the incorporation valid in law; and the only question was, whether the revising barrister was justified in presuming, as he had done, from the evidence before him, that such hospital was founded either by license or letters-patent. And the Court thought he was justified, and that, consequently, the bedsmen of the hospital took equitable estates for life, being appointed during good behaviour, and had the right to vote.

The claims of twelve other persons were consolidated with this.

II.—CITIES AND BOROUGHS.

No.	Name of City or Borough.	Places of Courts of Revision.	Names of the Appellants and Respondents.	Decision of Court of Appeal.
1	City of Westminster .	Westminster .	Pitts, Appellant; Smedley, High Bailiff of Westminster, Respondent	For Respondent, with costs
2	Same . .	Same . .	Score, Appellant; Huggett, Respondent	For Respondent, with costs
3	City of London .	London .	Wansey, Appellant; Perkins, Respondent	For Respondent, with costs
4	Borough of Tewkesbury .	Tewkesbury .	Whethorn, Appellant; Thomas, Town Clerk of Tewkesbury, Respondt.	For Respondent, with costs
5	Borough of Totnes .	Totnes .	Cuming, Appellant; Toms, Respondent	For Appellant
6	Same . .	Same . .	Toms, Appellant; Cuming, Respondent	For Respondent
7	City of London .	London .	Wansey, Appellant; Perkins, Respondent	For Respondent
8	Borough of Taunton .	Taunton .	Allen, Appellant; House, Respondent	For Respondent, with costs
9	Borough of Bury St. Edmund's	Bury St. Edmund's	Nunn, Appellant; Denton, Respondent	For Respondent, with costs
10	City of Bristol . .	Bristol .	Daniel, Appellant; Coulsting, Respondent	For Respondent, with costs
11	City of Lichfield .	Lichfield .	Moss, Appellant; Overseers of St. Michael's, Lichfield, Respondent	For Respondents
12	City of Bristol . .	Bristol .	Daniel, Appellant; Camplin, Respondent	For Respondent,
13	Borough of Blackburn .	Blackburn .	Dewhurst, Appellant; Fielden, Respondent	For Appellant
14	City of Lichfield .	Lichfield .	Marshall, Appellant; Brown, Respondent	For Respondent
15	Borough of Northampton	Northampton .	Jeffery, Appellant; Kitchener, Respondent	For Appellant
16	Same . .	Same . .	Stanton, Appellant; Jeffery, Respondent	For Respondent
17	Borough of Cambridge .	Cambridge .	Cooper, Appellant; Harris, Town Clerk, &c. Respondent	For Appellant
18	Same . .	Same . .	Cooper, Appellant; Harris, Respondent	For Respondent
19	Borough of Westbury .	Westbury .	Dyer, Appellant; Gough, Respondent	For Appellant
20	City of London .	London .	Wansey, Appellant; Perkins, Respondent	For Respondent, with costs
21	Borough of Wenlock .	Wenlock .	Hinton, Appellant; Hinton, Town Clerk, Respondent	Dismissed
22	City of London .	London .	Bage, Appellant; Perkins, Respondent	For Respondent, with costs, no counsel appearing for the Appellant
23	Borough of Lambeth .	Lambeth .	Crocker, Appellant; Overseers of St. Mary, Lambeth, Respondent	Same as the case above.

General statement as to Cities and Boroughs.

No. 1.—In the case No. 1, it was held by the Court that a lodger in a house does not occupy premises either "as owner or tenant," within the meaning of the 2 Wm. 4, c. 45, s. 27; and that a man is a lodger only where the owner of the house resides therein and has the control over the outer door.

No. 2.—In No. 2 it was decided, that a man who had the separate and exclusive occupation of apartments in a house, of which apartments he had the key, and had also a separate key for his own use of the outer door, the landlord of the house not residing therein, nor occupying any part of the house, was an occupier as tenant of a house within the meaning of the 2 Wm. 4, c. 45.

No. 3.—In this case the question also was one of occupation as tenant. One Hill, the claimant, exclusively occupied the whole of the second floor of the house; but the landlord also resided in the house, the outer door of which was kept closed, both the landlord and Hill having a key of such door. The Court held, under these circumstances, he was a lodger only, and did not occupy as tenant of the house within the meaning of the 2 Wm. 4, c. 45, s. 27.

No. 4.—In the case No. 4, the Court held, that the residence of a burgess or freeman for six calendar months in the borough, or within seven statute miles thereof (as required by the 32nd section of the statute), must either be an actual occupation of a place of residence within the borough for some part of the time by the party himself, or an occupation by his family or servants, there being an *animus revertendi* on his part; and therefore, in the particular case where the claimant, a freeman of the borough of Tewkesbury, resided with his wife and family, and carried on his business of wine merchant at Gloucester, more than seven miles distant, but paid 9d. a week for the use of a furnished bed-room and dark closet in a friend's house at Tewkesbury, of which closet he kept the key, and put some wine samples in it, sleeping in the bed-room between January and July twelve times only; the Court held this not to be such a residence as was intended by the statute.

No. 5.—The case No. 5 related to the proof of the notice of objections against the vote of one of the persons whose name was on the list. The objector himself brought to the revising barrister a paper writing, purporting to be a duplicate of the notice of objections, regularly stamped with the post-office stamp; but it appeared that the objector himself had not taken the duplicate notices to the post-office and procured the stamp to be put thereon, but that he had employed his clerk for that purpose, who had brought the stamped duplicate back to him; and the objection taken was, that the service of the notice was not duly proved, inasmuch as the clerk who had actually posted the notices was not called before the revising barrister. But the Court held the proof of service sufficient; on the principle that the posting of the duplicate by the objector's clerk was virtually and substantially a posting by the objector himself; and that the whole faith and credit attached to the post-office stamp, and not to the person by whose hand it was obtained.

The cases of eleven other parties were consolidated with this case.

No. 6.—No. 6 was a case also arising out of an objection made to the validity of the notice of objection given under the 100th section of the statute 6 Vict. c. 18. The objection was, that the statute required the notice and the duplicate to be signed by the objector himself; and such we held to be the necessary construction of the section above referred to, and consequently decided the notice to be bad.

Twelve other cases were consolidated with this case.

No. 7.—In this case also, which related to the claim of one Quigley to vote in the election of members for the city of London, the question arose upon the notice of objection to his vote, which had been served upon the overseers of the parish in which he resided, and also upon himself; and it was contended, that the notice of objection was not sufficient, because, as there were several lists made out for the city of London, in respect of the several qualifications of a freeman of the city, or in respect of property, the notice of objection ought to specify in respect of which list the objection arose. But we thought the objection sufficient within the 6 Vict. c. 18, taking into consideration the forms of notices given in the schedule thereto.

The cases of 372 other parties were consolidated with this case.

No. 8.—This case also turned on the sufficiency of the notice of objection. The notice was, that the objection related to the right of the party "to vote as householder in the election." In the borough of Taunton the overseers make out two lists, one of parties entitled to vote under the 27th section of the statute 2 Wm. 4. c. 45, the other of potwallers. The objection taken was, that the form of notice given in the schedule to the statute 6 Vict. c. 18, did not use the words "as householders." But the Court, nevertheless, thought the notice of objection sufficient, it not appearing that the claimant was misled by the introduction of those words.

No. 9.—The question in this case was, whether the premises in respect of which the right of voting for the borough of St. Edmund's was claimed, were "a house or building," within the meaning of the 27th section of the 2 Wm. 4, c. 45. It was substantially built of brick and stone, with a tiled roof; part of the ground-floor being a cow-house and stable, the other part a room with a fire-place, and the upper story having a fire-place and window in which a person slept who was employed by the lessee of the adjoining land to look after the cattle upon the land; and it was held, that it was "a house" within the meaning of the 27th section of the statute.

No. 10.—The question was, whether a building constructed and calculated for a dwelling-house, and which had been used as a dwelling-house, but which was then occupied by the tenant partly for warehousing goods, partly for a sale room, and some of the up-stairs apartments as workshops, was properly described in the shareholders' list of voters, as "a house," within the 27th section of the statute 2 Wm. 4; and the Court held the description proper.

No. 11.—The point raised in this case was, whether the two joint occupiers of a building and land had been duly rated to the parish for the time of their joint occupation; and the Court held, that as the name of the claimant had been omitted in the rate, he had not been duly rated within the 27th section of the 4 Wm. 4, c. 45; and that as his name was altogether omitted, the case was not within the 6 Vict. c. 18, s. 75, which only cured a misnomer, or an inaccurate or insufficient description, not a total omission. The Court therefore held the appellant not to be entitled to vote.

No. 12.—The question in this case was, whether it was necessary where the claimant occupied a house and shop, which formed his qualification to vote, jointly with another person, that upon the 10*l.* householders' list it should appear that he claimed in respect of a joint occupation; and the Court of Appeal held, that upon the proper construction of the 6 Vict. c. 18, no such description was necessary, and consequently that the objection in this case against the right to vote must be overruled.

This case determined a similar objection in the case of 121 other claimants, whose cases were consolidated with the present.

No. 13.—This case determined the point, that a claimant cannot join together two separate buildings, in order to make up the requisite value, so as to confer a borough franchise under the 27th section of 2 Wm. 4, c. 45.

No. 14.—This was a case which turned upon the construction of the statute 7 & 8 Wm. 3, c. 25, declaring all conveyances, in order to multiply voices, or to split and divide the interest in any houses or lands among several persons, to enable them to vote at elections of members should be void. In the case before the Court of Appeal, it appeared that the owner of a house had contracted to sell it for a valuable consideration to another. The person who had contracted to buy the house, sold it *boná fide* to six other persons, and caused the conveyance to be made from the original owner to the six other vendees. The object of the intermediate contractor was to increase the number of voters for the city of Lichfield; but the object of the six purchasers was a *boná fide* investment of their monies. The court held this conveyance was not void under the statute, and that the vendees were entitled to vote.

No. 15.—This was a case as to the right of a person claiming to have the right, as a six months' inhabitant householder within the borough of Northampton, to vote for that borough. It appeared that the claimant possessed such qualification at the time of the passing of the statute 2 Wm. 4, c. 45; but that in October 1832, he ceased to reside at Northampton, and went to reside at Bedford, where he remained for fourteen weeks. The Court held the 23rd section of that statute, which allowed the voter to retain his vote so long as he should be qualified according to the customs of the borough, meant that the qualification should be a continuous one; and that as the claimant had once ceased to reside, and thereby lost the right to vote, he could not acquire a new qualification by returning to Northampton, and becoming again an inhabitant householder.

The cases of five other persons under the same circumstances, were consolidated with this.

No. 16.—This was the case of another person claiming to vote for the borough of Northampton under the same qualification, as a six months' inhabitant householder, which right the claimant possessed at the time of the passing the statute 2 Wm. 4, c. 45. The claimant had ceased to reside at Northampton for nine months from Christmas, 1842, and had resided elsewhere, so that on the 31st July, 1843, he had no right to have his name on the list. The Court held, upon the same principle as in the last case, that the qualification must be continuous, and that having been once lost, it could not be gained again *de novo*, by a subsequent return to, and residence in Northampton.

The cases of thirteen other claimants were governed by this decision.

No. 17.—The decision in this case was, that a letter-carrier in the post-office, who had resigned his situation within twelve months before the 31st July, was entitled to have his name on the list of voters, under the statute 22 Geo. 3. c. 41.

No. 18.—The decision here was, that a person employed in the capacity of clerk to a receiving inspector of taxes was entitled to have his name on the list of voters, upon the proper construction of the same statute of 22 Geo. 3.

No. 19.—In this case the question was whether the assessors and collectors of the window-tax were entitled to vote; and the Court held that they had such right, for that they were in fact appointed by land-tax commissioners, and therefore exempted by the 2nd section of the 22 Geo. 3 from the qualification created by section 1.

No. 20.—This was a case in which one Lockey claimed to be entitled to vote at the election of members for the city of London. The objection to his name being retained was, that he was not rated to the poor-rate, and that he had not made any proper claim to be rated under 2 Wm. 4, c. 45, s. 30; and the Court held, that although he had claimed to be put upon the rate in July 1837, yet that such claim was only good for the rate then in existence; and that, as there were subsequent rates in respect of which he made no claim, he was not to be deemed to be rated during the continuance of those rates, and had no right to vote.

The principle so laid down governed the cases of twelve other persons.

No. 21.—In this case the Court decided a point of practice only; namely, that they had no authority, under 6 Vict. c. 18, s. 65, to send back a case to the revising barrister, to procure the insertion of a fact which the appellant thought to be material; but only in those cases where it appeared to the Court the statement was not sufficient to enable them to give judgment in law.

PROMOTIONS, APPOINTMENTS, ETC.

[Clerks of the Peace for Counties, Cities, and Boroughs, will oblige by regularly forwarding the names and addresses of all new Magistrates who may qualify.]

DOWNING-STREET, Aug. 12.—The Queen has been pleased to appoint Andrew Clarke, esq. late a Lieutenant-Colonel in the Army, to be Governor and Commander-in-Chief in and over the territory of Western Australia and of its dependencies.

Her Majesty has also been pleased to appoint Sir James Emerson Tennent, knt. to be Colonial Secretary for the Island of Ceylon.

WHITEHALL, Aug. 9.—The Queen has been pleased to appoint the Hon. Charles Hope to be Lieutenant-Governor of the Isle of Man, in the room of Colonel John Ready, deceased.

The Queen has conferred the honour of Knighthood upon Fitzroy Kelly, esq. her Majesty's Solicitor-General.

The Hon. James Stuart Wortley, Q.C. has been appointed Attorney-General for the county palatine of Lancaster, in the room of the late Mr. Serjeant Atcherley.—*Morning Post.*

WHITEHALL, June 12. The Lord Chancellor has appointed Ralph Darlington, of Wigan, in the county palatine of Lancaster, gent. to be a Master Extraordinary in the High Court of Chancery.

CROWN OFFICE, Aug. 15.—Members returned to serve in this present Parliament.—City of Chichester: Arthur Lennox, esq. commonly called Lord Arthur Lennox, Clerk of the Ordnance.

Borough of Warwick: Sir Charles Eurwicke Douglas, knt. one of the Commissioners of Greenwich Hospital.

LEGAL INTELLIGENCE.

MANSION-HOUSE.—A SOLICITOR.—On Tuesday, *George Potter*, who was several days ago charged by Mr. Charles Fosbrook Mackenzie with having misappropriated a bill of exchange for 100*l.* given to him to get discounted, appeared for the purpose of undergoing another examination. Mr. Mackenzie, it will be remembered, employed the defendant as an agent for negotiating the bill, but never received a farthing, nor the bill, nor any thing else except promises from Potter, who studiously avoided him. At last he received a letter from a person named Wood, stating that he held the bill, having advanced 25*l.* in cash and goods upon it, and ultimately he was sued by a Mr. Chisholm, solicitor, of No. 3, Cook's-court, Carey-street, to whom the bill was indorsed by one George Colson, to whom it was indorsed by one Clarkson, to whom it was indorsed by Wood. Mr. Chisholm stated on a former examination that the only person he knew in the matter was Colson, who collected debts for him, and brought him cases upon which he sued; that he had given valuable security for the bill, and that there was a long account between him and Colson, in which the latter was his debtor. Efforts were made to bring forward by means of summonses the several parties whose names were on the back of the bill, but nobody appeared except Mr. Chisholm, who attended with the bill, upon which he said he had been instructed by Wood to sue. Mr. Peter Chisholm produced the bill for 100*l.* He had received it from Colson, and it was made payable at Ransom's, in Pall-mall. It was in consideration of a long account between them. Mr. Wontner then proceeded in his examination of the witness. Mr. Wontner—"Is Colson your clerk?" Witness—"He is not." Mr. Wontner—"Is not his name on your door?" Witness—"Yes; but I do not call him my clerk." Mr. Wontner—"Is he your partner?" Witness—"No; he brings me business." Mr. Wontner—"Is he not your clerk?" Witness—"You may call him my clerk, if you please." Mr. Wontner—"Do you pay him a salary?" Witness—"No. If he brings me business, I generally make him a present." Mr. Wontner—"Does he take share of the profits of your business?" Witness—"No; I give him what I please. I give him, perhaps, 5*l.* if he brings me what produces 20*l.*" Mr. Wontner—"If he do not bring you business which produces a profit, do you not give him any thing?" Witness—"Nothing." Mr. Wontner—"Has he not entered appearances, and done other things as your clerk?" Witness—"He may have done so in the cases he has brought me himself, but not in any other business." Mr. Wontner—"Have you seen any affidavits, or other documents, to which he has sworn as your clerk?" Witness—"No." Mr. Wontner—"Did you swear, in the case of Hutchinson and Co. that Colson was your clerk?" Witness—"No." Mr. Wontner—"Did you not swear, in a case of fraudulent bankruptcy, that he was your clerk?" Witness—"I might have done so, but in the opinion of the judge, the case was not one of fraudulent bankruptcy." Mr. Wontner—"Do you know who Mr. Clarkson is?" Witness—"No; but Colson told me he was a very respectable man. Colson indorsed the bill for me, as a matter of course, to sue upon." Mr. Wontner—"What passed at the time?" Witness—"Nothing passed." Mr. Wontner—"Can you tell me when it was indorsed to you?" Witness—"No." Mr. Wontner—"Had you any settlement of accounts at the time?" Witness—"No." Mr. Wontner—"Did you enter the transaction in your books?" Witness—"No; the bill was indorsed to me before it was due." The Lord Mayor—"When the bill was dishonoured, had the parties on the back of the bills notice of the fact?" Witness—"They had." The Lord Mayor—"Where do the indorsers live?" Witness—"I do not know. I never knew any but Colson." Mr. Wontner—"When were the notices of dishonour sent?" Witness—"I do not know. I heard from Colson that they had been sent." Mr. Wontner—"How many persons do business in this way with you?" Witness—"I decline answering that question; I consider it a very impertinent one." Mr. Wontner—"How many persons practise in your name?" Witness—"No person practises in my name." Mr. Wontner—"And you do not know Mr. Clarkson?" Witness—"I do not." Mr. Wontner—"Who presented the bill for payment?" Witness—"One of my clerks presented it." Mr. Wontner—"Do you not know Potter?" Witness—"I never saw him before I saw him here in this transaction." Here the name of Colson was called three times, but no answer was returned; neither did any of the indorsers appear, although pains had been taken to find out

their places of abode. Mr. Wontner thanked the Lord Mayor for the readiness with which facilities had been afforded him in tracing the nefarious transaction, in which a gentleman had been deprived of his bill, without having received a single farthing for it, and said that it was the intention of the complainant to proceed against Potter and Wood by indictment at the Central Criminal Court for conspiracy. Potter was then discharged, the Lord Mayor being prevented from committing him by the neglect of Mr. Mackenzie to give a written notice to the defendant with the bill, intimating that he was to return it if he did not succeed in getting it cashed. The bill was then returned to Mr. Chisholm. The whole of the case attracted a great deal of curiosity and attention.

Accident to Mr. Justice Cresswell.—On Saturday night last, as Mr. Justice Cresswell was proceeding from Appleby to Lancaster, his carriage was overthrown in descending a steep hill on the north side of Borrowbridge, Westmoreland, but we are happy to say that neither his lordship nor his attendants sustained any injury beyond a trifling shock in the fall.

The Small Debts Act.—The difficulties in either understanding or following out this incomprehensible and hasty piece of legislation are only just beginning to develope themselves. The other day, at the Bankruptcy Court, Mr. Sturgeon applied for a summons against a debtor, who resided at Hatfield, some seventeen miles from London; but a difficulty arose as to the party who was to serve the summons, and the amount of remuneration for his labour, and for his own part he was free to confess that he did not understand the Act. Mr. Commissioner Fonblanque said he should much wish to know who either did or could understand it; but, with respect to the service of the summonses, that must be done by the officers of the court, and the 3s. 4d. (only) allowed for such service must be increased upon taxation of costs. [A journey to Hatfield and back to be performed for 3s. 4d.!]

The Drainage Bill.—Sir J. Graham's Bill for the improvement of the sewerage and drainage of towns and populous districts, for making provision for a more ample supply of water, and for otherwise promoting the health and comfort of the inhabitants, has been printed for the purpose of being circulated throughout the country during the approaching parliamentary vacation. Like most such Bills, it is very bulky and diffuse; the heads of the clauses of themselves occupy a space of seven pages. Ample provision is made for the election of commissioners by the ratepayers and for the appointment of inspectors, &c. Towns are to be provided with an effective system of sewerage, and the inspector of the district is required to furnish the commissioners with an estimate of the cost of the sewerage works. All sewers are to be vested in the commissioners, and to be placed under their control. The commissioners are required to construct new sewers where required, and to purchase and remove all obstructions to drainage. Private drains are to be made from houses, to communicate with the sewers, and no houses must be built without drains. The level of new houses to be fixed by the commissioners. Vaults and underground cellars must not be constructed without the consent of the commissioners, and drains, privies, and cesspools must all be kept in good order, and subject to inspection by the officers of the commissioners. The latter functionaries are also empowered to cause streets to be cleansed, highways to be watered, and dust and ashes to be removed. A medical officer is to be appointed, subject to the approval of the Secretary of State, to inquire into and report upon the sanatory condition of towns and districts; such officer to make *post mortem* examinations when required by the coroner. The commissioners may further order filthy and unhealthy houses to be cleansed and whitewashed. An "inspector of nuisances" is to be appointed for the superintendence of the general execution of the provisions of the Act, and for receiving complaints and laying informations when necessary. Slaughter-houses and knackers' yards are to be registered, and regulations made for their cleanliness, &c. The inspector is to make a report on the sufficiency of the supply of water, and to state the best means of increasing that supply, if necessary. The commissioners are also empowered to contract with water companies for a supply of water. Power is likewise given to purchase springs of water by agreement, under the provisions of the Lands Clauses Consolidation Act. Sewers-rates, paving and general rates, are to be made for the purposes of the measure, to be levied upon occupiers of houses, &c.

Billiard and Bagatelle Tables.—In the new Act to amend the law concerning games and wagers, which has just been printed (having received the royal assent on Friday week), there are several provisions respecting the regulations to be enforced as to the keeping of billiard and bagatelle tables. Persons keeping inns, ale-houses, and victualling houses, are to apply to the justices at licensing sessions to grant licenses at their discretion to keep billiard and bagatelle boards, or instruments used in any game of the like kind. The licenses are to be annual, for which a sum of 6s. on each is to be charged. With regard to places other than those mentioned, and which abound in the metropolis, licenses in Middlesex and Surrey are to be taken out after the 5th of April last, and elsewhere after the 10th of October next; and during the continuance of such licenses the words "Licensed for billiards" shall be conspicuously exhibited. Persons keeping such places without licenses are to be considered as keepers of common gaming-houses, and proceeded against accordingly; and, on conviction, in a summary manner to pay or be committed to prison. Billiards are not to be played "after 1 o'clock, and before 8 of the clock in the morning of any day," nor on Sundays, or other days appointed to be kept as a public fast or thanksgiving. All constables and officers are empowered to enter places where billiards or bagatelle are played as often as they think proper, and on refusal to be admitted, the keepers to be deemed guilty of an offence against the tenor of their licenses.

Nice Calculation.—One of the official assignees at the Bankruptcy Court has lately declared two dividends upon an estate, the first being to the amount of eleven-sixteenths of a penny in the pound, and the second a farthing and half-farthing in the pound.—*Evening paper.*

Documentary Evidence.—The Act to facilitate the admission in evidence of certain official and other documents, which was issued yesterday, contains seven provisions. Its operation is to commence in November next, and not to extend to Scotland. Official documents are to be received in evidence without proof of the seal or signature affixed. All courts are to take judicial notice of the signatures of equity and common law judges. Judicial notice is likewise to be taken of private Acts, proclamations, and other matters issued by the Queen's printers. Persons forging a seal or signature to be tried for a felony, and, on conviction to be either imprisoned or transported. The documents forged are to be impounded on application by the party against whom they were admitted, or by the order of the presiding authority.

Palaces and Poor's Rates.—The question whether the inhabitants of Royal palaces are liable to be rated for the support of the poor is again to be contested. At the petty sessions at Staines, on Tuesday, application was made on behalf of the parish of Hampton for distress-warrants against the inhabitants of Hampton-court Palace for enforcing the payment of poor's-rate. In 1839 the matter was tried, and a *mandamus* was obtained from the judges of the Queen's Bench, ordering the magistrates to issue warrants for the rate, which, after a long delay, had been paid. Since then, however, no other rate had been paid by the occupants of the palace, as the question, it was alleged, had not been properly tried, and there are arrears due to the amount of 3,000*l.* It is now intended to raise the question again, but the granting the warrants was postponed for further consideration.

The late Sir William Follett.—We are glad to find that the proposal to erect a monument to the memory of our late distinguished representative, in this his native city, has been taken up in earnest, and under auspices which can leave no doubt of its being satisfactorily accomplished. A preliminary meeting was held at the Guildhall, yesterday, at which the mayor presided, and which was attended by the Right Hon. the Earl of Devon, S. T. Kekewich, esq., Montague B. Bere, esq., Dr. Shapter, J. Carew, esq., H. Hooper, esq., J. Gidley, esq., and other influential gentlemen of the city and neighbourhood. Resolutions in favour of the proposed object were unanimously adopted—a committee was appointed—and a subscription amounting to 100*l.* was entered into on the spot.—*Western Luminary.*

Will of the late Mr. Balfour.—The will of James Balfour, esq. late of Whittingham-house, Haddington, North Britain, and Grosvenor-square, London, lately deceased, has just been proved in England. The personal estate within the province of Canterbury, sworn under 80,000*l.*; that in Scotland sworn to as exceeding 100,000*l.* The executors are Dame Eleanor Balfour, the widow; James Maitland Balfour and Charles Balfour, the sons; the Right Hon. the Earl of Lauderdale, the Hon. Sir Anthony Maitland, Edward Stanley, esq. and John Balfour, esq. the nephew of the deceased. The will was made in February 1844, and there are four codicils, the two last were made in February 1845. The testator has bequeathed to his wife, Lady Eleanor (third daughter of the late Earl of Lauderdale), an annuity of 3,760*l.* charged upon the estates; also a legacy of 31,000*l.* with full permission to reside at any of the mansions, Whittingham, Balgonie, or Grosvenor-square. To his eldest son, James Maitland Balfour, he has devised the lands and barony of Whittingham; and to his son Charles he has devised the Balgonie estate, and has bequeathed to him a legacy of 47,000*l.* and the sum of 20,000*l.* to rebuild the mansion at Balgonie and to refurnish the same. His daughters are provided for under their respective marriage settlements. He has left pecuniary bequests to his grand-children, nephews, nieces, and others, and legacies and annuities to his servants, and has appointed his eldest son residuary legatee.

CORRESPONDENCE.

THE LONDON COMMERCIAL ASSOCIATION AND CREDITORS' PROTECTION SOCIETY.

TO THE EDITOR OF THE LAW TIMES.

Sir,—I am directed by the committee of the above society to say that they regret neither you nor your publisher could with convenience attend the meeting of subscribers on Wednesday last; they feel that had you have done so, much gratuitous scandal and falsehood would have been spared, as you would have had the advantage of your own observation, unprejudiced by the questionable motives of envious correspondents and interested reporters.

In answer to the queries of your last number, I am desired to inform you that this association has for its object the *cheapest* and most effectual mode of redress for commercial men against the present easy and reckless mode of insolvency. The prospectus of the society has been sent to creditors, they being most immediately interested in its advancement. In several instances an objection has been made to the payment of yearly subscription, and it was suggested *originally* by some *creditors themselves* that they would not object to pay one guinea for the single opposition of a debtor, of whose conduct they had reason to complain, if others would join them. As this course would not compromise the object for which the society is established, but rather forward it, the letter complained of has been adopted by me, and written on the prospectus which contains the names of the acting committee, the officers, and a numerous list of names of gentlemen well recognised by the trading world.

The animus of this letter has been quite misunderstood by you; it was not for the purpose of "begging opposition," or of putting money into the solicitors' pockets, but by publicity to intimate to creditors *who wish to oppose a fraudulent man*, that they might do so through the aid of the society, rather than suffer him to escape through the great expense of opposing in the usual course; and the committe have thought it so important a feature, that they have adopted it as one of their rules and regulations.

Every shilling as yet received has gone to the funds of the society, *and has been accounted for* to the treasurer, and applied towards defraying its expenses.

The solicitors hitherto employed have nothing whatever to do with the society beyond their professional attention to its business in court; they are employed by and under the control of the committee of management, who are at liberty to employ any other solicitor or counsel, if they think proper. As yet the solicitors have not received any thing. Insolvents are opposed upon the request of creditors, and not by direction of the committee.

The writer of the letter signed "A Looker On" also requires notice from me. This person, whoever he is, has unhappily chosen a wrong designation, as he must have been *wilfully blind* to the facts, in asserting that Mr. Buchanan and myself were "the only persons forming the entire *corpus* of the society," when the very prospectus to which he alludes contains the names and addresses of the acting committee! The falsehood of the assertion must be evident to you, for the copy of the report, signed by *four* gentlemen, was in your possession two days prior to the publication of your last number. This "Looker On" can, it appears, coolly inform you that he has seen things that never occurred! The attorney has never opposed any case for ten creditors, "who, *of course*, paid him a guinea a-piece." I dare say there is no attorney in the kingdom who would not be glad to do so, if he could get the chance, and I am quite certain, from my own experience, no *barrister* would object to a fee of ten guineas from ten combined creditors. I beg to add, in conclusion, that this society was not projected or established to please any portion of the legal Profession.

If the lawyers choose to object, we cannot help it; but the commercial public will, I trust, know how to appreciate our exertions.

I am, Sir, yours, &c.

James M. Constable, Secretary.

73, Basinghall-street, 13th August, 1845.

CREDITORS' PROTECTION SOCIETY.

TO THE EDITOR OF THE LAW TIMES.

Sir,—In an article in your last number on the Creditors' Protection Society, we were not a little astonished at these words:—"The solicitors are paid by the society to oppose a certain insolvent. But *they* also apply to the other creditors, offering to oppose for them for another guinea a-piece." If the words "they" is to apply to us, we beg to say distinctly that the assertion is untrue, and we regret to add we think it *wilfully* so! We have issued *no* circular letter!—We have *not* violated professional etiquette!—We have not interfered, or been allowed to interfere, in the *conduct* or *management* of the society in question!—We have received not even *one* guinea directly or indirectly for any opposition for the society, as our bill is at present unpaid. It is really much to be lamented that such sweeping attacks should be made

in your paper, without first inquiring into the facts. We beg to add, that we have had nothing more to do with the association than simply to oppose when instructed.

We understand that you and your publisher had an invitation to attend a meeting on Wednesday last, but it appears the opportunity to see, hear, and judge for yourself was declined!

We are, Sir, your obedient servants,
BUCHANAN and GRAINGER.

8, Basinghall-street, Aug. 11, 1845.

THE LOST WILLS FROM DOCTORS' COMMONS.

TO THE EDITOR OF THE LAW TIMES.

SIR,—A country client of mine has good reason to know that one of the wills lost from the Prerogative Registry (respecting which a petition has lately been presented to the House of Commons from Mr. John Thomas Scott, formerly a clerk in that office), is a will of an ancestor of his, and under which he holds a very considerable *real* estate; he has written to me to inform him in what way he is to proceed, such will being required to be produced at the assizes before one of the judges on a trial as to title, or if such judge can accept the *registered copy*, that being the *next* best evidence in existence; or must the Government pass an Act to authorise such copies to be admitted in place of the originals? It is a question that my legal knowledge does not enable me to answer, but perhaps some of your learned correspondents may take the subject under their consideration, as it appears to me to be a question of some importance.

I am, Sir, yours, &c.
AN OLD SUBSCRIBER.

P.S.—The above is not to answer a *legal* question, but simply one of the deepest importance to every practitioner in both branches of the profession.

ATTORNEYS' CERTIFICATE DUTY.

TO THE EDITOR OF THE LAW TIMES.

SIR,—I observed in your paper some little time since that Sir Thomas Wilde was going to present a monster petition to the House of Commons for a repeal of the duty on attorneys' certificates; has he done so?—if not, what has been done with the petition, and what steps have been taken in the matter?

I am, Sir, yours, &c.
J. T. SHAPLAND.

South Molton, Aug. 11, 1845.

NOTICE TO SUBSCRIBERS.

The Indices to the fourth volume being now completed, the numbers for binding may be sent, through the post, in parcels open at the ends, with a mark by which they may be known, and of which the Publisher should be advised by letter, as also how, when bound, it is to be returned. If sent by parcel, advantage may be taken of the opportunity to inclose other books for the binder.

The Volumes of the LAW TIMES, *handsomely and uniformly bound, at 5s. 6d. each, if forwarded to the Office; with the Solicitor's name and abode lettered on the cover, 1s. extra.*

An Alphabetical Index to the Cases in the current Volume of the LAW TIMES *always lies at the Office for the purpose of reference.*

To Readers and Correspondents.

AN APPRENTICE OF THE LAW.—*Such a practice is decidedly unprofessional.*

A NOVICE.—*The answer is so obvious, that it will be unnecessary to put the question.*

E. R. B.—*We are unable to answer the questions just received.*

TO SUBSCRIBERS.

It is proposed to publish an annual *Index Legum*, consisting of a digest of all the reported cases and statutes of the past year, under the title of the YEAR BOOK, to be bound with the volumes of the LAW TIMES, or separately, at option. It will be comprised in about six or seven numbers, at 1s. each, stamped, for transmission by post. It will not be commenced unless 1,000 subscribers order it. Persons desirous of having it are therefore requested to transmit their names as soon as possible.

THE LAW TIMES.

SATURDAY, AUGUST 16, 1845.

THE SMALL DEBTS BILL.

THIS measure has not only become a law, but is already in operation. It appears in its proper place, out of order of chapters, but claiming precedence because of its importance.

As the LAW TIMES was the parent of the plan, it is natural that we should take in it a more than common interest. It is therefore with very great regret that we observe the many and grievous imperfections with which a scheme, admitted to be so excellent in substance, has been matured by those who undertook the task of moulding it into a statute. These imperfections, amounting almost to impracticabilities, will be set forth specifically in subsequent articles, of which the first appears below. Our business here is only to complain that the experience of the Profession was not listened to in its progress, and to protest emphatically against the local courts scheme, which has been so insidiously carried under cover of a measure having upon the face of it no such design, and therefore virtually an imposture upon the Profession and the public, who received almost at the same moment the news of the proposition made and of its being made law, without discussion had upon it, or opinion taken from any of those whom it most affected and by whom its tendencies are best understood.

The provision enabling the Privy Council to enlarge the jurisdiction of all local courts to 20*l*. is a change far more extensive than any ever before proposed by the most enthusiastic supporters of local courts.

To those who are acquainted with the practical working of local courts this transference to them of all debts under 20*l*.—that is to say, of four-fifths of all the debts sued for in the kingdom—is fraught with so much evil, that it is to be hoped the Privy Council will not use the power vested in them, at least until another law shall have improved the constitution and regulated the proceedings of these courts.

Much as the Small Debts Act was required, and excellent as is its principle, far rather would we have seen it abandoned altogether than that it should have passed with so many imperfections of its own, and with such a mountain of mischief as, by a manœuvre more ingenious than creditable, has been piled upon its back.

But the deed is done, and lament is useless. As there is no hope of its repeal, endeavour should be directed to its improvement. This must be the subject of frequent discussion in the LAW TIMES, as experience shall exhibit its working. A statute so defective in machinery, so loose in its language, will afford infinite scope for judge-made law. It is impossible to predicate what constructions will be put upon it. The only citable authorities by whom it will be judged will be the Commissioners of Bankrupts, for the judges of the Local Courts will scarcely be deemed admissible. Instructions have therefore been given to our reporters to pay special attention to the decisions of the Bankruptcy Commissioners on this statute, as they will necessarily determine the practice in all the minor courts. For some time to come this must be a very large and very important feature of our reports, and we shall be obliged by authenticated decisions from those of the country Commissioners' Courts where we have not yet been able to find a legal reporter.

SHAM LAWYERS.

THE following is a production of one of this tribe:—

Accountant Office, Butcher's Row,
Banbury, Aug. 6, 1845.

SIR,—I am instructed by Mr. Edward Leatherbarrow, of Nelthrop, to apply to you for the sum of 2*l*. 2*s*. 8½*d*. in which you stand indebted, and I am further instructed to inform you, that unless the above amount, together with 2*s*. the cost of this letter, is paid to me at my office on or before Thursday, the 14th Aug. inst. legal proceedings will be forthwith instituted against you.

I am, Sir, yours respectfully,
J. HOWELL.

Mr. Dixon, Glazier.

CREDITORS' PROTECTION SOCIETY.

THE letter of Mr. CONSTABLE, the Secretary, replying to the queries submitted last week, will be found among our correspondence. We are bound to say that the explanation is, in all respects, perfectly satisfactory. It appears that the circular to creditors emanates from the Society, and that their contributions to the opposition are paid to the treasurer, and form a portion of the funds of the Society. This removes altogether the suspicion that attached to the form of this application, and relieves the solicitors, Messrs. BUCHANAN and GRAINGER, from the doubts which the circular in question had excited in the minds of so many of our correspondents. As now explained, there is nothing in the matter that can be deemed either unprofessional on their parts, or censurable on the part of the Society.

We would, however, recommend that no opposition to any debtor be made without an order from the committee. Such a sanction is necessary to secure the confidence of the public. The principle of the Society is admirable, and it needs only to be well conducted to command extensive support and do incalculable good.

TO READERS.

MR. COX'S *Small Debts Act*, with notes and a copious index, is now ready. It has been added to the series of the *Law Times Edition of Important Statutes*.

MR. ALLNUTT'S edition of the important *Real Property Statutes* of the late Session, with forms and index, is in active preparation. It will be published in about a fortnight. As these statutes do not come into operation until October, we have preferred to have them got up with the care and completeness necessary for the practitioner, to a hasty, and probably imperfect, publication.

VERULAM SOCIETY.

THE 14th and 15th numbers of *Real Property and Conveyancing Cases*, and the 10th and 11th numbers of *Practice Cases*, are published.

The *Registration Cases*, to the present time, are complete in one part, price 5s.

A number of new forms have been added to the list. Among others, a series of the Common Trustee Clauses in Wills; the Power of Sale and Common Covenants in a Mortgage; the Common Covenants in a Conveyance of Personalty.

A complete list of the Office Forms and other Publications of the Verulam Society is now ready, and will be forwarded to any applicant post free.

THE SMALL DEBTS ACT.—HASTY LEGISLATION.

WE have often heard of the superior aptitude of the Lords' House of Parliament for the business of legislation, and especially for that branch which relates to forensic jurisprudence; but we must confess that we have seen little proof of this excellence. Now and then, a blunder which has escaped the Commons has been detected by the Peers; and more frequently, errors, discovered in the course of

discussion by the press and by the public, beyond the boundaries of the mystic walls, have been corrected in those last stages of parliamentary progress which usually take place in the Lords. The true test, however, of legislative aptitude, the entire preparation and completion of a great measure, seems to be wanting to that noble house. We have looked in vain for one, and were about to give up the search, when we heard a hawker crying, —"LORD BROUGHAM'S SMALL DEBTS BILL, only one penny!" Here should have been our "ευρηκα"—here was a bill, rendered necessary by an error in a former measure of that noble and learned lord; a Bill which had passed through a select committee of titled sages, and which had received the tacit approval of the Lord Chancellor, and, therefore, by implication, of her Majesty's Government. We say tacit, for though we traced from time to time, in the newspapers, that the Small Debts Bill had passed through its various stages, we saw no debate—nothing that could lead us to any knowledge of its principles or enactments. That some such measure was imperiously called for we well knew, but how the blunder of the previous Act was to be explained, excused, justified, or corrected, remained, and we must add, still remains, a mystery. A measure involving the interests of trade to an enormous amount—involving a change of jurisdiction throughout England—involving totally new principles of law, and reversing or disregarding established principles of jurisprudence—has passed through both Houses with as little discussion as a turnpike Act or common inclosure Bill. But though we have not found that of which we were in search—the philosopher's stone of legislation!—a perfect measure, emanating from, and completed by, the wisdom of the Lords, we have been led to a very useful inquiry; to one in which, if we can induce our readers to join us, results are likely to arise much more important than the perfection or imperfection of this or that specimen of legislation. *How are laws made?*

Let us then pursue this Small Debts Act through its causes, concoction, and completion; and let us consider with what degree of confidence it ought to inspire the public, in the wisdom, foresight, deliberation, diligence, and discretion of those who, by the fictions of the constitution, are supposed to be responsible for the enactment of our laws.

Towards the close of the session 5 & 6 Vict. two bills were suddenly laid on the table of the House of Lords by Lord Brougham, and were read a first time, as is the custom of that house, without notice or observation. With one of these, entitled "An Act for facilitating Arrangements between Debtors and Creditors," and which did not pass till 7 & 8 Vict. we have no present concern; the other was "An Act for the Relief of Insolvent Debtors," the avowed object of which was to give to unfortunate persons who, without any glaring misconduct, had become unable to meet their pecuniary engagements, an easier mode of relief than that already afforded by the Insolvent Debtors Court; and as it was supposed to be in contemplation to abolish that court, in pursuance of the recommendation of the commission of inquiry of 1839, by which means from twelve to fifteen thousand pounds a year would be saved to the public, it was not unreasonable that this new jurisdiction should be transferred to the Court of Bankruptcy. This bill passed almost *sub silentio* in the Lords; and if any debate did take place in the Commons, it escaped public attention amid the usual hurry of the close of the session. The ostensible object of the measure was to adopt the principle of *cessio bonorum*, and to save from the *squalor carceris* the very few who might be denominated meritorious debtors. That the bill had not been very deliberately prepared, was obvious on the face of it; and it had not been in practical working for many weeks (we might almost say days) before it became obvious that it must quickly add to the number of instances in which a considerable part of the business of every session has been to correct the errors of its predecessors. We had therefore, in the 7th & 8th Victoria, "An Act to amend the Law of Bankruptcy, Insolvency, and Execution;" but as it is the practice of certain travelling artists never to mend one hole without at least preparing the advent of another, to be botched in the like manner at their next visit, this bill contained a clause which filled the legal world with astonishment and the trading world with dismay. It abolished execution against the person for debts under twenty pounds! and provided no remedy, either for the discovery of property, or the punishment of fraud or improvidence in the contraction of such debts. This clause was inserted in the Bill at an advanced stage, without notice or explanation (at least as far as we can learn), and, as in the case of other measures relating to bankruptcy and insolvency, at the very close of the session, and when the common lawyers, who might be supposed most conversant with such a subject, were absent on the circuits. Now the history of the clause is said to be this. A noble and learned lord, from whose high position and *conservative* principles we should expect the coolest caution in reform, and the sternest resistance to unconsidered innovation, being greatly shocked at the description of some borough prison, in which numerous debtors were confined in crowds, and in filth shocking to decency and to humanity, could find no better remedy for this evil than a general and sweeping confiscation of all debts under twenty pounds. "Everybody was ordered to discharge everybody;" that is, everybody owing no more than twenty pounds, exclusive of costs, to any one creditor, however large might be the collective amount of his debts. No one thought of inquiring how many thousands, or hundreds of thousands, of his debts were due under this amount—no one thought of inquiring how many traders there were, the whole of whose book debts were in small sums, and who must be brought to ruin by this *ex post facto* sentence of forfeiture; no one thought of the shock to credit which this sudden change was likely to produce—no one thought of the effect which this denial of a remedy for the recovery of small debts was calculated to produce on the poor man, who might have occasion to contract them. One image only was presented to the eye of the legislator—the crowded cell of ———! Would it not have been easier,—would it not have been more consistent with general principles of jurisprudence, to have applied a direct remedy to the evil? Had it escaped the memory of the learned lord that there were such persons as inspectors of prisons? Might he not have enacted that no Court should imprison except in a place reported fit for the reception of prisoners? and even, that, till proper places could be provided, the Small Debt Courts should have the power of committing to the county or other public gaol? We have, indeed, heard that suggestions to this effect were made; but *sic volo* is the rule in high places; and towards the end of a session, reason is seldom heard and argument is deemed impertinent. There is no time for public remonstrance, and perhaps before next February individual opposition, like Sir Abel Handy's fire, "may go out of itself."

And this is no bad calculation. It requires no ordinary portion of wrong to excite such a movement as will force the attention of Parliament to a by-gone subject unconnected with party politics. Pheasant's eggs, dog-stealing, or horse-racing might stand a chance of reiterated discussion; but small debts, very small debts, such as peers and members of Parliament can easily pay; bankruptcy of vulgar traders, or insolvency of little shopkeepers, are uninviting subjects, on which forty members in the Commons, or three in the Lords, can seldom be collected in cool deliberation or earnest debate.

But we must continue this topic next week.

THE CRITIC.

New Books.

The Law of Railways, including the three General Consolidation Acts, 1845, *and the other general Acts for regulating Railways in England and Ireland, with copious Notes thereon; also the Standing Orders of Parliament as to proceedings on Railway Bills, with Forms, &c.* By LEONARD SHELFORD, Esq. of the Middle Temple, Barrister-at-Law. London, 1845. Butterworth.

THE mania for railway speculation has produced a very flood of literature dedicated to the same all-engrossing theme. Within the last month four daily and half-a-dozen weekly railway journals have started into existence, to perish as rapidly as they have risen, when shall come the turning of that tide of madness which has been flowing unchecked with ever-widening sweep.

The lawyers have reaped the full share of the golden harvest which the folly of the many has poured into the laps of the few. They are largely concerned in railway enterprise as well as in railway speculation. Railways have become in themselves an important branch of our national establishments. Although of recent introduction, they have engaged the special notice of our Legislature, and the Courts are constantly engaged in matters that have grown out of them. It may be readily supposed that so large a field for aspirants to legal authorship would not long remain unoccupied. But writers have partaken the mania of the speculators. One good treatise would have been sufficient; but a dozen at least are announced, and it was a struggle which should make his first appearance. Mr. SHELFORD has succeeded in getting the start of his rivals, and his portly volume proves that the time *has* arrived when a distinct work upon the subject is justified by the bulk of law already dedicated to railways.

But Mr. SHELFORD has by no means exhausted the subject. His book is not a treatise, nor a substitute for a treatise; it is simply a collection of the statutes relating to railways, with notes. These notes, however, are copious, and arranged so as to form brief essays on the topic under discussion. They conveniently follow in the body of the text, but in a different type from the section of the statute to which they respectively belong. All the most important appear to be noted up, and although there is nothing in the volume for which the compiler can claim the merit of originality or the title of author, he has shewn himself a diligent and judicious collector. The notes classify themselves under such headings as the Construction of Statutes; Agreements before the Act is obtained; the Provisional Formation of the Company; the Incorporation of the Company; the Transfer of Shares; Compulsory Purchase or taking of Lands; the Crossing of Roads and Construction of Bridges; of Proceedings by Mandamus against Railway Companies; of Indictments against them; of the Writ of *Certiorari*; of Proceedings by Injunction. Such a work affords no matter for extract, but we can recommend it as an excellent manual to serve until the appearance of a formal treatise.

The Orders of the High Court of Chancery from Hilary Term 1828, *to Trinity Term* 1845, *as at present applicable to the practice, with the Cases decided under each Order.* By R. LEVINGE SWIFT, Esq. of the Middle Temple, Barrister-at-Law. London, 1845. O. Richards.

THE utility of this work will be apparent from a perusal of its title-page. The orders now in force are collected and arranged according to their subjects in alphabetical order, and appended to each are all the reported decisions upon them. A copious index affords a further means of reference. Mr. SWIFT has executed his task with diligence.

A Review of the principal Facts connected with the Rise, Progress, Conclusion, and Character of the recent State Prosecutions in Ireland. By a Barrister. London, 1845. Longman and Co.

THE Irish state trials appear to have been destined to display, in an exaggerated shape, all the absurdities that yet infest our jurisprudence and its forms of procedure. The monster indictment, the monster trials, the monstrous law of juries, of conspiracy, of evidence, therein propounded, the judgment passed, and the judgment reversed, must have astonished civilized Europe, and perplexed Englishmen, accustomed to boast so largely the perfection of wisdom with which their laws were framed. But if it should have directed public attention to the subject, and so promoted the reform of barbarities and absurdities hitherto known only to lawyers, the trials that have agitated our own time, and which will lower us in the estimation of an unprejudiced posterity, will not have been without their value.

Presented, as were the facts at the time of their occurrence, from day to day, and one by one, it was impossible to have an adequate notion of the character of the whole affair. It is not until they are viewed in combination, that an estimate can be formed of the huge mass of faults and follies comprised in that proceeding. The purpose of the curious and amusing volume before us is, to review the entire trial, to point out its bad laws and bad arguments; to examine the decisions of the judges both in Ireland and in England, and try, by reference to the authorities, how far those judgments were in accordance with the principles of our common law and the dictates of common sense.

This task has been performed by the author with excellent temper, rare research, and singular as-

tuteness. No disputable point escapes his vigilance; no judge can trip for a moment unnoticed by him: he tracks the counsel and the judges through all the windings and doublings of their arguments, detecting every fallacy and exposing every error. He revels in the work of destruction, demolishing the logic of the Bench and the Bar, with an evident enjoyment of his work, and with the perfect ease of one confident alike of his own capacities and the weakness of his opponents. The law of conspiracy, as laid down by Mr. Attorney-General SMITH, and sanctioned by the judges, is the especial object for attack. Its absurdities are mercilessly exposed; its consequences are shewn with telling effect; its errors are quietly detected; its principles vehemently denounced.

It would not be exactly within our province to follow the author through his elaborate review; enough to say, that it is singularly powerful, learned, and eloquent, and, as containing a great deal of constitutional law, will instruct as well as amuse the reader. It should go down to posterity by the side of the volumes that will contain the record of the extraordinary trials whose proceedings it reviews.

BIRTHS, MARRIAGES, AND DEATHS.

[The charge for the insertion of the above is 5s.]

BIRTHS.

WELCH.—On the 11th inst. at Charles-street, Westbourne-terrace, Hyde-park, the wife of John Welch, esq. of the Inner Temple, of a son.

BURR.—On the 9th inst. at Luton, Bedfordshire, the lady of Charles Burr, esq. of a son.

MARRIAGES.

CRAIG, R. D. esq. barrister-at-law, of Lincoln's-inn, to Eliza Louisa Maria Jane, eldest daughter of the late Lieutenant-Colonel Forsteen, 12th Regiment, on the 12th inst. at the parish church of Cheltenham.

WILLMORE, G. esq. barrister-at-law, of the Middle Temple, to Josephine, younger daughter of the late Lieutenant-Colonel Selden, of the army of the United States, Virginia, on the 14th inst. at Highgate.

KENNION, R. W. esq. barrister-at-law, of Lincoln's-inn, to Jessy Frederica, younger daughter of Frederic Lane, esq. of Lynn, on the 13th inst. at St Nicholas' Chapel, Lynn.

REILLY, J. esq. eldest son of James Miles Reilly, esq. of Cloon Eavin, in the county of Down, to Augusta, youngest daughter of the Right Hon. Sir Edward Sugden, Lord Chancellor of Ireland, on the 14th inst. at Thames Ditton.

DEATHS.

WOODHOUSE, Christopher, esq. a magistrate of Coventry, on the 6th inst. at Coventry.

Public Sales.

By Messrs. FULLER and MARSH.

The absolute reversion to one fourth part of 1,580*l.* West India Dock Stock, on the death of two gentlemen now in the 91st and 51st years of their ages—180*l.*

A ditto to twenty fourth parts or one sixth part of 1,580*l.* of West India Dock stock, upon the death of the above-named gentlemen 140*l.*

The contingent reversion to one twelfth part of 1,580*l.* West India Dock stock—30*l.*

The absolute reversion to one fourth part of 2,000*l.* Three per Cents. on the death of a lady who was baptised in July 1780, and who was then two or three years of age—290*l.*

A ditto to one third part of the moiety of 1,535*l.* 17*s.* Three and a Quarter per Cents. and 109*l.* 16*s.* 4*d.* on the decease of a lady now in the 54th year of her age—115*l.*

A contingent reversion to a similar share of the above sums—20*l.*

The reversion to one-eighth part of 8,633*l.* Three per Cents. and 9*l.* 19*s.* Long Annuities, and to one-eighth part of a freehold house, No. 125, High-street, Portsmouth, and the right to a policy for 500*l.*—450*l.*

A freehold estate, situate in the parishes of Mayfield and Heathfield, in the most picturesque district of the weald of Sussex, distinguished as Bungehurst Farm, with farm residence, garden, farm-yards, cottages, and 325a. 28p. of arable, meadow, pasture, brook land, hop-ground, and wood land; the land-tax is redeemed—4,120*l.*

Bungehurst freehold Brick-yard, containing one acre, and an arable field of 5a. 23p.—310*l.*

Freehold property, situate in the parish of Mayfield, Sussex, and consists of an ancient farm-house, and 241a. 1r. 6p. of arable, meadow, pasture, and wood land—2,140*l.*

A villa residence, distinguished as Essex Lodge, Brixton Rise, Surrey, with pleasure and kitchen gardens, stabling, &c., held for 92 years at 32*l.* 10*s.* per annum—2,090*l.*

A copyhold residence, with stabling, pleasure, and kitchen garden, situate in High-street, Putney 1,600*l.*

A freehold house and garden, No. 59, Paradise-street, Rotherhithe, let at 18*l.* per annum—265*l.*

Three houses, Nos. 3, 4, and 8, Factory-row, near the silk mills, Tottenham, let at 36*l.*, held for 51½ years, from March 1829, at a ground rent of 3*l.*—280*l.*

A leasehold estate, comprising a brick and timber-built house, large yard, containing stabling and smith's shop, with lofts and a shoeing shed; held for 45 years, from December, 1841, subject to the ground rent of 15*l.* per annum—200*l.*

A house, No. 4, Bryan-street, Caledonian-road, Pentonville, let at 28*l.*; held for 99 years from Dec. 1842, at 3*l.* 10*s.* per annum—255*l.*

A ditto, No. 5, ditto—260*l.*

A ditto, No. 6—250*l.*

By Messrs. SHUTTLEWORTH and SONS, at the Mart.

A freehold estate, comprising Witherhurst Farm, in the parish of Burwash, Sussex, comprising 120a. 3r. 2p. of arable, meadow, pasture, and wood land, with a farm-house and agricultural buildings; the timber at a valuation—1,780*l.*

A villa residence, situate at Herne-hill, Camberwell, with pleasure-grounds and paddock, containing 3a. 2r. 3p.; held for 52 years, at an annual ground-rent of 57*l.* and 1*l.* per annum in lieu of land-tax—sold for 2,500*l.*

By Mr. W. W. SIMPSON, at the Mart.

Three houses, Nos. 85, 86, and 87, Kennington-street, Walworth; held for 61½ years, at a ground-rent of 10*l.* 10*s.* per annum; let at 87*l.*—800*l.*

A valuable property, designated the North Cove Hall Estate, on the high road from Beccles to Lowestoft, Suffolk; it consists of a residence seated on a lawn, with coach-houses, stabling, and walled-in kitchen-garden; also 921a. 2r. 38p. of arable, pasture, and marsh land, including about 70a. of woods, &c. forming excellent preserves for the game. The estate is divided into desirable farms, and let at rents (including the estimated rental of the mansion and lands in hand), amounting to 1,564*l.* 7*s.* per annum. The above property, which is nearly all freehold, lies within a ring-fence. The above property was offered for sale by order of the executors of the late John Cooper, esq.—it was bought in at 40,000*l.*

By Messrs. DRIVER, at the Mart.

The manors of Hempstead and Woodhall, and sundry valuable Freehold Farms. This property is all freehold (except about two acres) and situate in the several parishes of Hempstead, Great and Little Sampford, Finchingfield, and Radwinter, in the county of Essex, only seven miles from Saffron Walden, fourteen from Braintree, twelve from Clare, and forty-five from London. The estate lays very compact in an excellent agricultural district, surrounded by capital roads, and is divided into compact farms, with excellent farm-houses and homesteads, in the occupation of a highly respectable yearly tenantry, at annual rents producing 2,031*l.* per annum, exclusive of about 282 acres of luxuriant and thriving wood lands, &c. in hand. There is abundance of game, and the woods have roads and rides cut through them for the purpose of affording every facility for shooting. The tithes have been all commuted for rent-charges, and the apportionments have been confirmed by the Tithe Commissioners,

Lot 1. Hempstead Hill and Gray's farms, all in the parish of Hempstead, at the annual rent of 370*l.*, 382a. 3r. 39p.—11,750*l.*

Lot 2. House's Farm, in the parishes of Hempstead and Great Sampford, with other lands in Lots 1, 3, and 4, rent apportioned, 293*l.* 271a. 0r. 36p.—8,550*l.*

Lot 3. Old Jaspers, arable, 3a. 2r. 27p; rent apportioned, 3*l.*—170*l.*

Lot 4. Meadow, mead, 1a. 3r. 12p.; the rent apportioned for this lot is 2*l.*—130*l.*

Lot 5. Church farm, Hardy's farm, Borcham and Lewsey's, and part of French's farm, in the parish of Hempstead excepting 5a. 0r. 27p in the parish of Great Sampford), under a lease for 8 years from Oct. 11. 1844, with other lands described in Lot 6, at the annual rent of 265*l.* rent apportioned, 240*l.* 237a. 0r. 17p.—7,500*l.*

Lot 6. Rent apportioned, 25*l.* 21a. 1r. 30p.—700*l.*

Lot 7. Windmill and Lands, in the parish of Hempstead. Rent apportioned, 30*l.* 14a. 2r. 11p.—880*l.*

Lot 8. Prentice's Farm. The lands extend to 58a. 0r. 16p.—2,200*l.*

Lot 9. A timber-built barn, lath and plaster, and underpinned, with shed at the end. 7a. 3r. 32p.—1,000*l.*

Lot 10. Pollin's Cross, in the parish of Hempstead. Rent apportioned, 90*l.* 87a. 0r. 13p.—2,800*l.*

Lot 11. Ruse's Farm, and Hop House Farm, in the parish of Hempstead. Rent apportioned, 124*l.* The lands of Hop House Farm, 246a. 2r. 28p.; making, with Ruse's Farm, a total of 376a. 2r. 28p.—8,400*l.*

Lot 12. Hempstead Hall-farm, and the manor of Hempstead-hall, containing 235a. 2r. 20p. in the parish of Hempstead, at annual rent of 211*l.* 10*s.* 6*d.*—10,000*l.*

Lot 13. Boarded Barn-farm and Wood or Shore Hall-farm, and the manor, or reputed manor, of Wood-hall, containing 237a. 2r. 35p. in the parishes of Finchingfield and Great and Little Sampford, at the annual rent of 211*l.* 10*s.*—7,500*l.*

Lot 14. Laker's Farm, containing 214a. 0r. 36p. in the parishes of Hempstead, Finchingfield, and Great Sampford. Rent apportioned, 139*l.*—4,500*l.*

By Messrs. FOOKS and JOHNSON, at the Auction Mart.

The following property went off as follows:—

Lambeth Leaseholds.

Lots 1 and 2 disposed of before the sale.

Lot 3. No. 78, Princes-road—250*l.*

Lot 4. No. 77, ditto—275*l.*

Lot 5 No. 76, ditto—260*l.*

Lot 6. No. 75, ditto—275*l.*

Lot 7. Improved rental of 22*l.* per annum—345*l.*

THE NEW RAILWAYS OF THE SESSION.—Now that the most eventful session of Parliament recorded in railway history has reached its close, we are enabled to announce, from our official returns, the following as the great results of its legislation. Parliament has sanctioned the construction of 2,090 miles of new railways in England and Scotland, and of 560 miles in Ireland. This is in effect to double the extent of the railways of Great Britain, exclusive of Ireland. The capital authorized to be raised in shares for this purpose amounts to 31,680,000*l.* exclusive of 6,800,000*l.* required for the Irish lines, making in all 38,480,000*l.* to be applied in England within the next two or three years for our own railways. The cost of the new railways per mile will be thus very much less than that of existing lines. The average of the new is nearly 15,000*l.* per mile, and that of the old exceeds 30,000*l.* per mile. It will thus be seen that the amount to be provided for the new railways is not so enormous as has been supposed from the number of bills before Parliament. At the same time it is sufficiently large to require serious consideration, and to arrest the progress of reckless speculation. 10,000,000*l.* a year for the next three years can be easily spared by a nation whose annual savings are calculated to exceed 50,000,000*l.* By an investment of these 30,000,000*l.* profitably, the country will be enriched, and multitudes benefited both at present and permanently. At the same time the demand for money, when the calls for these works come to be made, will be sufficient to put a check upon all idle and foolish schemes, such as those against which we have warned our readers. The expected revenue from these new lines considerably exceeds 2,000,000*l.* sterling per annum.—*Railway Chronicle.*

THE MONEY MARKET.

	Sat.	Mon.	Tues.	Wed.	Thurs.	
Three per Cents. Consols	98⅞	99¼	99¼	98⅞	99¼	
Three per Cents. Reduced	99¼	99¼	99⅜	99¼	99⅛	
New Three-&-a-quarter per Cts	101⅞	102	102¼	102¼	102⅛	102⅛
Long Annuities..............	11¼	11⅛	11½	11⅛	11½	11⅛
Bank Stock	210½	211	211	211½	211¼	210½
India Stock	279	279½	279	276½	276	272½
India Bonds, prem...........	71	71		71	72	67
Exchequer Bills, prem.	54	55				53
FOREIGN.						
Spanish Five per Cents.......	26¼	26¼	26¼	26⅜	26¾	27⅛
Spanish Three per Cents.	37¼	37½	37½	37½	37½	38⅜
Russian	118⅞	118½	119¼	119¼	119½	119¾
Peruvian....................	32½	31⅞	31	36½	33⅛	37½
Portuguese	64½	61¼	61½	60½	65	64½
Mexican..................	36½	36⅞	37	37	38	34⅜
——— Deferred	20½	20¼	19½	19¼	19½	19¼
Dutch Two-and-a-Half per Cents..................	62¼	62⅜	62½	62⅜	62¼	63
—— Four per Cents.	99⅛	98¾	99⅛	99¼	99⅛	99⅞
Danish	89½	89⅞	89½	90¼	90	90¼
Colombian................	17½	17½	17½	17½	17½	17⅛
Chilian	100½	100½	100⅞	100⅞	101	101½
Buenos Ayres	45½	45½	45½	45½	47¼	46½
Brazilian................	90½	90½	90½	91	91½	88½
Belgian	99½	99¼	99½	99½	100½	100¼

THE GAZETTES.

AMOUNT OF DIVIDENDS DECLARED.

The sum stated as the Dividend means so much declared in the Pound. The Assignees, when chosen, follow this statement.

Monday, Aug. 4.

Black and *Co.* merchants, last exam. Black *sine die.*—*Mossman*, W. stationer, last exam. Aug. 29.

Tuesday, Aug. 5.

Goodere, W. S. brickmaker, div. next week. Whitmore, London.—*Kipling* and Co. warehousemen, fur. joint div. and final K. next week. Edwards, London.—*Morton*, W. gas fitter, last exam. *sine die.*—*Paine*, C. plumber, last exam. Nov. 5.—*Rudge* and *Co.* bankers, joint div. next week. Whitmore, London.—*Smith*, E. auctioneer, last exam. Aug. 14.—*Warwick* and *Co.* merchants, final div. Clagett next week. Whitmore, London.

Wednesday, Aug. 6.

Brown, T. grylls whelp manufacturer, last exam. *sine die.*

Forrester, J. baker, last exam. passed.—*Miller* and *Co.* sail-cloth manufacturers, joint div. and sep. C. next week. Edwards, London.

Friday, Aug. 8.

Carr, R. cheesemonger, last exam. passed.—*May* and *Mottram*, drapers, last exam. Dec. 4.—*Slater*, E. cabinet maker, last exam. passed.

Saturday, Aug. 9.

Greenwell, W. wheelwright, last exam. Oct. 11.—*Lejeune*, W. R. corn merchant, last exam. Oct. 4.—*Shefford*, J. hay merchant, last exam. passed.—*Wolton*, J. C. ironmonger, last exam. passed.

DIVIDENDS.

Bankrupts' Estates.

Official Assignees are given, to whom apply for the Dividends.

Atkinson and *Co.* colour manufacturers, first, A. 10s. Wakley, Newcastle.—*Bakewell*, J. size manufacturer, first, 11d. and 15-16ths of 1d. Pott, Manchester.—*Blunden*, R. plumber, second, 9d. Turquand, London.—*Cawthorn*, W. jun. wine merchant, first, 3s. 4d. Groom, London.—*Clarke*, J. and G. second, 7d. Christie, Birmingham.—*Coupland* and *Co.* merchants, fifth, 6d. Cazenove, Liverpool.—*Dale*, W. bootmaker, first, 2s. 8d. Belcher, London.—*Gardner*, G. tavern keeper, first, 1s. Groom, London.—*Greenwood*, R. bookseller, 4s. to new proofs. Young, Leeds.—*Hamblen*, W. corn agent, first, 2s. 6d. Turquand, London.—*Isherwood*, G. F. S. engraver, first, 6½d. Pott, Manchester.—*Kettel*, C. brewer, final, 9¼d. Belcher, London.—*Mardall*, J. W. insurance broker, first, 1s. 2½d. Belcher, London.—*Martyn*, C. draper, first, 2s. 6d. Baker, Newcastle.—*May*, S. watch manufacturer, first, 7s. Groom, London.—*Metcalf*, J. grocer, final, 5½d. Cazenove, Liverpool.—*Myers*, J. K. victualler, first and final, 2s. 1½d. Baker, Newcastle.—*Payne*, G. tailor, first, 2s. 6d. Belcher, London.—*Radford* and *Co.* ironfounders, third, 2s. 0¾d. and a first, second, and third, 6s. 0¾d. to new proofs. Fraser, Manchester.—*Rogers*, S. earthenware manufacturer, fourth, 3s. Vulpy, Birmingham.—*Swan*, W. merchant, third, 4½d. Bird, Liverpool.—*Waller* and *Co.* cotton spinners, first, 1d. and 43-64ths of 1d. Pott, Manchester.—*White*, T. merchant, fifth, 3d. Bird, Liverpool.—*Wood* and *Co.* bankers, further joint, 2d. Groom, London.—*Wood*, N. P. one of the partners of the

Imperial Bank, first and final, 25-32nd parts of 1d. Pott, Manchester.—*Wood*, N. P. banker, final, 11d. Pott, Manchester.

Insolvents' Estates.

Fitzmaurice, W. lieutenant, Gosport, 10s. 2½d. (in addition to a former of 1s.9½d.)—*Greasley*, J. joiner, Nottingham, 1s. 6d.—*Poole*, W. G. accountant, Liverpool, first, 3s.

ASSIGNMENTS

To Trustees for the benefit of Creditors.

Gazette, Aug. 8.

Avery, J. and W. linendrapers, Whitechapel-rd. and Church-lane, July 19. Trusts. J. F. Pawson, St. Paul's Churchyard, and T. W. Elstob, warehouseman, Wood-st. Sol. Jones, Sise-lane.—*Constable*, W. draper, Tottenham-ct.-rd. July 22. Trusts. W. H. Holyland, gent. St. Paul's Church-yard, and J. Crocker, warehouseman, Watling-st. Sol. Jones, Sise-lane.—*Goulding*, H. W. draper, Hawley-place, Kentish Town, Aug. 4. Trusts. W. H. Holyland, gent. St. Paul's Church-yard, and T. W. Elstob, gent. Wood-st. Sol. Jones, Sise-lane.—*Martin*, T. farmer, Warbleton, Sussex, June 28. Trusts. T. White, gent. Hailsham, J. Farncs, gent. Lewes, and S. Martin, farmer, Hellingley. Sol. Sinneck, Hailsham.

Gazette, Aug 12.

Brady, E. merchant, Manchester, July 16. Trusts. R. E. Allison, merchant, New Broad-st. and W. Ellett, merchant, Manchester. Sol. Sale, Manchester.—*Gillard*, J. grocer and tea dealer, Plymouth, Aug. 8. Trusts. J. D. Tuckett, merchant, Plymouth, A. Rowe, commission agent, Stonehouse, and G. Gillard, grocer and tea dealer, Plymouth. Sol. Cross, Plymouth.—*Searle*, R. woolstapler, Tavistock, Devonshire, July 18. Trusts. C. Tanner, esq. Plymouth, and J. Lewarn, gent. Probus, Cornwall. Sols. Cross, Plymouth, and Messrs. Bridgman and Scobell, Tavistock.

Bankrupts.

DATE OF FIAT AND PETITIONING CREDITORS' NAMES.

Gazette, August 8.

ACTON, JOHN, farmer and market gardner, Stowe-st. parish of St. Chad, Lichfield, Aug. 26, at eleven, Sept. 23, at half-past twelve, Birmingham, Christie, off. ass.; Hodgson, Lichfield, and Motteram and Knowles, Birmingham, sols. Date of fiat, July 28. S. Winter, farmer, Argrave-hall, Staffordshire, pet. cr.

BANNING, JESSE, stationer and dealer in musical instruments, Liverpool, Aug. 20 and Sept. 19, at twelve, Liverpool, Com. Ludlow; Bird, off. ass.; Norris and Co. Bartlett's-bldgs. and Toulmin, Liverpool, sols. Date of fiat, Aug. 4. Bankrupt's own petition.

BENNETT, JAMES, cattle dealer, New-mills, Little Birch, Herefordshire, Aug. 26 and Sept. 1, at half-past eleven, Birmingham, Valpy, off. ass.; Underwood, Hereford, and Motteram and Knowles, Birmingham, sols. Date of fiat, July 31. Bankrupt's own petition.

GILES, JOHN, publican, Headless-cross, near Redditch, Worcestershire, Aug. 23 and Sept. 20, at eleven, Birmingham, Com. Daniell; Whitmore, off. ass.; Hodgson, Birmingham, and Vincent and Sherwood, Temple, sols. Date of fiat, July 29. J. F. Tyler, wine merchant, Birmingham, pet cr.

LAW, JOHN, Ramsden-wood, near Todmorden, Lancashire, and HUDSON, ELI, Gale, near Littleborough, Lancashire, cotton spinners and manufacturers, Aug. 18 and Sept. 11, at twelve, Manchester, Hobson, off. ass.; Johnson and Co. Temple, and Hitchcock and Co. Manchester, sols. Date of fiat, Aug. 5. Bankrupt's own petition.

MARLAND, JOHN, the younger, roller-maker, of Sun-vale Roller works, Todmorden, Lancashire, Aug. 22 and Sept. 15, at twelve, Manchester, Fraser, off. ass.; Johnson and Co. Temple, and Blair, Manchester, sols. Date of fiat, Aug. 5. J. F. Moore, iron merchant, Manchester, pet. cr.

REEVE, THOMAS, licenced victualler, Carpenters' Arms, Hackney-rd. and Rising Sun, Castle-st. Long-acre, Aug. 15, at half-past one, Sept. 19, at one, Basinghall-st. Com. Fane; Whitmore, off. ass.; Futvoye, John-st. Bedford-row, sol. Date of fiat, Aug. 7. Bankrupt's own petition.

TAYLOR, THOMAS, wine and bottled beer merchant, late of No. 23, Philpot-lane, City, and of Nicholl's-sq. Hackney-rd. and now residing at the Bell, Addle-hill, Doctors' Commons, Aug. 15, at half-past one, and Sept. 25, at twelve, Basinghall-st. Com. Fonblanque; Pennell, off. ass.; Swan, Great Knightrider-st. sol. Date of fiat, Aug. 5. Bankrupt's own petition.

WATTS, WILLIAM REED, chemist and druggist, Argyle-st. Bath, Aug. 22, at twelve, Sept. 23, at eleven, Bristol, Com. Stephen; Hutton, off. ass.; Hale and Co. Ely-pl. and Maule, Bath, sols. Date of fiat, Aug. 4. C. Greville, M.D. Walcott, pet. cr.

WINTER, JOHN, plate glass factor, polisher, and silverer, No. 99, Hatton-garden, Aug. 19, at half-past one, Sept. 18, at one, Basinghall-st. Com. Fonblanque; Belcher, off. ass.; Hughes, Chapel-st. Bedford-row, sol. Date of fiat, Aug. 5. Bankrupt's own petition.

WOOD, CONSTANTINE, hotel and boarding house keeper, formerly of Ryde, Isle of Wight, Southampton, now of Lewisham, Kent, out of business, Aug. 15, at half-past twelve, Sept. 19, at at twelve, Basinghall-st. Com. Fane; Whitmore, off. ass.; Rhodes and Lane, Chancery-lane, sols. Date of fiat, July 14. E. P. Reddett, S. Reddett, and A. Reddett, tea-dealers, Ryde, pet. crs.

Gazette, Aug. 12.

ALLEN, CHARLES, maltster, beer retailer, and farmer, Tadley, Southampton, Aug. 22, at half-past twelve, Sept. 26, at eleven, Basinghall-st. Com. Fane; Alsager, off. ass.; Johnson and Co. Temple, and Messrs. Cole and Co. Basingstoke, sols. Date of fiat, Aug. 6. G. Lamb, banker, Basingstoke, J. Cole, J. G. Seymour, and J. Brooks, bankers, Odiham, pet. crs.

CROFTS, GEORGE CHARLES, corn merchant, Liverpool, Lancashire, Aug. 26 and Sept. 19, at eleven, Liverpool, Com. Ludlow; Turner, off. ass.; Vincent and Sherwood, Temple, and Littledale and Bradwell, Liverpool, sols. Date of fiat, Aug. 6. Bankrupt's own petition.

KNYVETT, EDMUND, teacher of music and music seller, Buckingham-cottage, Great Stanmore, Middlesex, Aug. 19, at two, Sept. 25, at one, Basinghall-st. Com. Fonblanque; Belcher, off. ass.; M'Duff, Castle-st. Holborn, sol. Date of fiat, Aug. 7. G. Richmond, painter, 10, York-st. Portman-square, pet. cr.

MURPHY, MATTHEW, haberdasher, Shrewsbury, Salop, Aug. 23 and Sept. 20, at eleven, Birmingham, Com. Daniel; Bittleston, off. ass.; Clarke and Co. Wolverhampton, and Capes and Stuart, Gray's-inn, sols. Date of fiat, Aug. 7. J. Cuttell, haberdasher, Birmingham, pet. cr.

MALLAN, EDWARD, dentist, Brook-st. Bond-st. and Oxford-st. Middlesex, Aug. 19, at eleven, Oct. 1, at twelve, Basinghall-st. Com. Evans; Bell, off. ass.; Pain and Co. Basinghall-st. and Great Marlborough-st. sols. Date of fiat, Aug. 9. Bankrupt's own petition.

WAKE, JOHN, timber merchant, Silverstone, Northampton, Aug. 19, at half-past eleven, Sept. 25, at two, Basinghall-st. Com. Fonblanque; Pennell, off. ass.; Weller, King's-road, Bedford-row, sol. Date of fiat, Aug. 9. Bankrupt's own petition.

YOUNG, JAMES, tobacconist and tea dealer, Bury Saint Edmunds, Suffolk, Aug. 19, at half-past twelve, Sept. 18, at twelve, Basinghall-st. Com. Fonblanque; Pennell, off. ass.; Taylor, Featherstone-buildings, Holborn, sol. Date of fiat, Aug. 4. Bankrupt's own petition.

PARTNERSHIPS DISSOLVED.

Gazette, Aug 5.

Alexander, J. *Thompson*, J. and A., *Thomson*, G., *Mather*, T. and J., *Garston*, J. H., *Thomson*, C., *Walker*, O. O., W., and S. G. proprietors of certain lead mines, called Nant y Palma Mines, Llanarmon in Yale, Denbighshire, and a certain slate quarry, near Llauberris, Carnarvonshire, so far as regards G. and J. Thompson. June 30. Debts paid by the continuing partners.—*Branston*, J., J. W., and H. grocers, Newark-upon-Trent, July 20. Debts paid by J. W. and H. Branston.—*Brown*, W. and *Preston*, T. jun. cotton spinners, Manchester, July 31. Debts paid by Preston, jun.—*Cooper*, W. and *Read*, J. grocers, Wellingborough, Aug. 1. Debts paid by Read.—*Downs*, W. and *Martin*, R. drapers, Nottingham, July 31. Debts paid by Downs.—*Farrer*, R. and *Duckworth*, W. coffee merchants, Liverpool and Rio de Janeiro, April 5, 1841, at Liverpool, and July 23, 1841, at Rio de Janeiro.—*Fynney*, F. A. and F. B. muslin manufacturers, Manchester, July 31. Debts paid by F. B. Fynney.—*Nettle*, W. G. and S. H. linen drapers, St. Austell, Jan. 23, 1841. Debts paid by W. G. Nettle.—*Preedy*. T. F. and F. E. cigar merchants and tea dealers, Weymouth and Melcombe Regis, July 26.—*Reed*, M. and *Bradley*, G. sail cloth manufacturers, Sunderland, July 30. Debts paid by Reed.—*Rowett*, W. and *Titherington*, J. ship brokers, Liverpool, Aug. 2. Debts paid by Titherington. *Smith*, S. M. and *Dorrell*, G. sewed muslin warehouseman, Watling-street, Aug. 4. Debts paid by Smith.—*Warren*, T. and E. B. chymists, Carmarthen, Aug. 7.—*White*, F. B. and *Williams*, J. B. surgeons, Tetbury, June 30.—*Williams*, J. and J. rectifiers, Worcester, July 1, 1839.

Gazette, Aug 8.

Brice, J. and *Hobbs*, C. B. corn merchants, Liverpool, Aug. 1.—*Bunney* W. and *Preston*, C. attorneys, Hull, July 19.—*Campbell*, J., *Macfie*, J., *Ryan*, T. T., *Woods*, A., *Alston*, G., and *Hadwen*, C. J. merchants, Mexico, so far as regards Woods and Alston, April 17. Debts paid by J. Campbell, J. Macfie, T. T. Ryan, and C. J. Hawden.—*Campbell*, J., *Macfie*, J., *Campbell*, C., *Woods*, A. and *Alston*, G. merchants, Kingston, in Jamaica, so far as regards Woods and Alston, April 17. Debts paid by J. Campbell, J. Macfie, and C. Campbell.—*Crowdy*, R. W. and G. F. attorneys, Faringdon, Aug. 5. Debts paid by G. F. Crowdy.—*Dale*, J. and *Hulme*, J. hat manufacturers, Manchester, July 30. Debts paid by Dale.—*Dale*, J., *Johnson*, R., G. G., C. W. and A. R. boarding school keepers, North-end Fulham, so far as regards Dale, July 28. Debts paid by the remaining partners.—*De Baste*, E. and *Sutherland*, P. schoolmasters, Darlington, June 19. Debts paid by De Baste.—*Duff*, J., *Tellet*, D. J. and *Regane*, E. wine merchants, Douglas, Isle of Man, so far as regards Duff, July 28. Debts paid by Duff.—*Halse*, S. and *Ford*, M. Manchester, July 25.—*Hannon*, W. and *Durham*, R. G. omnibus proprietors, Brentford and Hammersmith, Aug. 2nd. Debts paid by Hannon.—*Hyde*, T. and *Umfrey*, T. woollen drapers, Oxford, July 29.—*Lean*, T. and J. merchants, Marazion, and St. Michael's Mount, Cornwall, Aug. 4.—*Linfield*, W. and H. farmers, Storrington, June 6.—*Noblett*, J. and *Oastler*, J. tanners, Drury-lane, and at Grange-rd. Bermondsey, July 1.—*Poole*, E., *Russell*, W. and *Alderton*, C. ironmongers, Dover, so far as regards Russell, Aug. 1. Debts paid by the remaining partners.—*Room*, F. and *Armstrong*, W. sail makers, Liverpool, July 26. Debts paid by Room.—*Shipman*, T. sen. and jun. and *Birks*, W. lace manufacturers, Nottingham, Aug. 5.—*Wilson*, E. and *Tavernor*, S. manufacturers of plated wares, Birmingham, July 31.—*Withers*, H. and *Roberts*, W. H. auctioneers, Southampton, Aug. 1. Debts paid by Roberts.

Insolvents

Petitioning the Courts of Bankruptcy.

PETITIONS TO BE HEARD AT BASINGHALL-STREET.

Gazette, Aug. 5.

Abraham, B. carpenter, Winter-terrace, Trinity-square, Newington, Aug. 20, at one.—*Edwards*, E. H. jockey, Exning-road, near Newmarket, Aug. 13, at half-past two.—*Escudier*, S. commission agent, Davies-st. Berkeley-square, Aug. 13, at twelve.—*Guy*, J. schoolmaster, Cambridge-place, Praed-st. Paddington, Aug. 13, at half-past two.—*Hodgson*, W. currier, Lewisham, Aug. 20, at twelve.—*Jackson*, C. carpenter, Foster-st. Bishopgate-street-without, Aug. 20, at one—*Kimmins*, J. baker, out of business, Gillingham, Aug. 13, at one—*Mardlin*, J. cookshopkeeper, High-street, Shadwell, Aug. 13, at half-past two.—*Ryland*, T. piano-forte pin maker, Broadwall, Lambeth, Aug. 20, at one.

COUNTRY.

Gazette, Aug. 5.

Arern, T. miller, Solihull, Aug. 19, at half-past ten, Birmingham.—*Crabtree*, J. wheelwright, Burnley, Aug. 21, at twelve, Manchester.—*Duke*, A. baker, Ashton-under-Lyne, Aug. 18, at twelve, Manchester.—*Lister*, T. auctioneer, Thorne, Aug. 20, at eleven, Leeds.—*Senior*, T. grocer, Almondbury, Aug. 20, at eleven, Leeds.—*Simister*, T. confectioner, Manchester, Aug. 19, at twelve, Manchester.—*Singer*, W. grocer, Trowbridge, Aug. 21, at eleven, Bristol.—*Strong*, S. carpenter, Radway, Aug. 12, at eleven, Birmingham.

MEETINGS IN THE COUNTRY.

Gazette, Aug 5.

Black, J. brewer, Leeds, Aug. 27, at eleven, Leeds.

PETITIONS TO BE HEARD AT BASINGHALL-STREET.

Gazette, Aug. 8.

Burgess, J. C. stone mason, Moscow-road, Bayswater, Aug. 25, at half-past eleven.—*Carley*, R. tailor and draper, Stoke Terry, Norfolk, Aug. 25, at eleven.—*Crosse*, J. (otherwise J. Fletcher) soap maker, out of business, High-st. Whitechapel, Aug. 25, at eleven.—*Fellows*, F. out of business, Redman's-row, Mile-end, Aug. 25, at half-past eleven.—*Percival*, J. foreman in the East County Dock, Russell-st. Rotherhithe, Aug. 25, at half-past eleven.—*Stevenson*, F. fish merchant, Great Yarmouth, Aug. 25, at eleven.—*Wainwright*, H. M. esq. Aldbury, Surrey, Aug. 20, at one.

MEETINGS AT BASINGHALL-STREET.

Gazette, Aug. 8.

Stallbrass, J. victualler and butcher, Hoddesdon, Aug. 29, at half-past eleven.

COUNTRY.

Gazette, Aug. 8.

Britton, A. shoemaker, Chorley, Aug. 21, at twelve, Manchester.—*Edwards*, J. beer seller, Chard, Aug. 14, at one, Exeter.—*Evans*, J. out of business, Derby, Aug. 21, at half-past ten, Birmingham.—*Lewis*, J. glover, St. Thomas-the-Apostle, Aug. 14, at one, Exeter.—*Parkes*, F. clerk, Sutton Coldfield, Aug. 23, at half-past ten, Birmingham.—*Smith*, W. livery stable keeper, Lower Berkeley-place, Clifton, Aug. 29, at eleven, Bristol.

From the Gazette of Friday, August 15.

Bankrupts.

Lazarus, J. clothes dealer, Marylebone-lane.—*Parsons*, W. corn dealer, Wood-st. Princes-road, Lambeth.—*Davis*, D. dealer in regimental and court dresses, Jermyn-st. St. James's.—*Taylor*, J. T. and *Watkinson*, T. P. plumbers, York-terrace, Regent's-park.—*Kerschner*, G. F. victualler, Castle Inn, Holloway.—*Marsh*, J. grocer, Brewood, Staffordshire. *Cadogan*, J. jun. warehouseman, Brecon.—*Owen*, J. R. sharebroker.

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THE REPORTS.

Equity Courts.

LORD CHANCELLOR'S COURT.

THE LORD CHANCELLOR, ASSISTED BY THE MASTER OF THE ROLLS.

Wednesday, July 30.

Re The Suitors of the Court.

Re Whiting.

Distribution of the duties in the Master's office—Master's clerks—Act of 3 & 4 Wm. 4, c. 94.

Whether the Act of 3 & 4 Wm. 4, c. 94, or the course of practice in the Masters' offices, has so defined the respective duties of the Masters' chief and junior clerks, that the Master cannot properly make any other arrangement or distribution of such duties.

Whether the Master's chief clerk is a permanent and judicial officer, irremovable by the Master except for misconduct, or whether he is the mere clerk of the Master, who may be removed at pleasure.

Although the Lord Chancellor and the Master of the Rolls have not fully heard the arguments on this petition, or pronounced any opinion upon its merits, yet as the substance of the case on both sides has been so completely stated in the arguments of Mr. Romilly and Mr. Stuart, and the question is one which excites an unusual degree of interest in the Profession, we report it so far as it has proceeded.

This case came before the Court upon a petition of thirty-two of the solicitors of the Court, which complained of an alleged irregularity in the performance of the duties of the chief clerk in the office Master Lynch. The petition is as follows:—"That the petitioners are, and for many years have been, solicitors duly admitted to practise, and actually practising, in this honourable court, and in the course of their said practice the said petitioners have the conduct and management of suits in progress through the offices of the Masters in ordinary, and divers of the petitioners have now the conduct and management of suits in progress through the offices of the Masters in ordinary, and divers of the petitioners have now the conduct and management of suits in which references have been directed to Mr. Lynch, one of the said Masters, and which references are still pending.

"That the officers in the said Master's offices consist of the Masters themselves and their chief clerks, a copying or junior clerk being attached to the separate office of each of the said Masters.

"That, according to the usual course and practice of the said offices, it is the duty of the chief clerk to assist in the prosecution of all inquiries and accounts referred to the Master to whose office he is attached, in which the exercise of the personal discretion of the Master is not involved; and it is likewise, according to the same practice, the duty of the said chief clerk to prepare the drafts of the reports of such Master, and to settle such reports in the presence of the solicitors concerned.

"That a very large amount of the business of this honourable Court is, in fact, transacted by attendance before the chief clerks of the said Masters, and that in the prosecution of suits in the said Master's offices, the solicitors of this honourable Court have to attend before the chief clerk more frequently than before the Master, and that it is of the highest importance to the interests of the suitors of the Court, as well as due to the solicitors of the Court, individually and as a body, that an officer before whom such solicitors have to lay statements, and to whose judgment they are called upon to defer, should not be selected from a lower rank in society than themselves, and should be qualified by his station to attain their respect and confidence.

"That from the earliest time the said office of the chief clerk to any of the said Masters in ordinary has been executed by the holder thereof for the time being in person, and not by deputy.

"That the copying or junior clerk in the office of each of the said Masters is usually a person who was clerk to the Master while at the bar, and that the duty of such copying or junior clerk is to wait personally upon the Master, and to receive the fees in the office, and to make the appointments for attendance before the Master and the chief clerk respectively, and to enter and copy accounts, reports, and proceedings.

"That by an Act of Parliament passed in the session of the third and fourth years of the reign of his late Majesty, King William the Fourth intituled, 'An Act for the Regulation of the Proceedings and Practice of certain Officers of the High Court of Chancery in England,' it was, among other things, enacted, that no person should be appointed to be chief clerk of any Master in ordinary of this honourable Court, unless he should have been admitted on the roll of solicitors or attorneys in one of the courts of Westminster-hall, for not less than five years, or should have been a junior clerk in the office of one of the said Masters for a term of ten years. And it was thereby, among other things, further enacted, that each and every of the Masters in ordinary, registrars, and clerks of the said registrars, masters of reports and entries, clerk of affidavits, and examiners of this honourable Court, should hold their said offices during their good behaviour, and so long as they should personally give their attendance upon their respective duties, and should conduct themselves honestly and faithfully in the due execution of the duties of their said offices respectively; and that the officers and clerks in the several offices of this honourable Court should give their personal attendance in their respective offices during the times they should so be directed to attend, as by the said Act provided, unless otherwise engaged in the business of their respective offices, or prevented by sickness or other unavoidable cause. And it was further enacted, that there should be paid by the Accountant-General of this honourable Court, out of the fund to be placed to his account, to be entitled 'The Suitors' Free Fund Account,' to the several officers named in the schedule thereunder written, the several salaries or yearly sums set opposite to their respective names or titles in such schedule, being (among other things), the salary or yearly sum of 1,000*l.* to the chief clerk of each of the said Masters in ordinary, other than the Accountant-General, and the salary or yearly sum of 150*l.* to the junior clerk of each of the said Masters; and it was further thereby enacted, that it should be lawful for the copying or writing clerk of the said Masters to receive and take the sum of $1\frac{1}{2}$d. per folio of 90 words, and no more, for every copy of every document or writing, or a part of any document or writing, made in the Master's offices, from the parties requiring the same, and also for the transcript of every report, and that such sum of $1\frac{1}{2}$d. per folio should be retained by the said writing or copying clerks to be employed by the said Masters in their respective offices; and that no part thereof should be received or retained by, or applied to the use or benefit of, any other person or persons, on any pretence whatsoever.

"That in the month of December 1843, Andrew Henry Lynch, esq. one of the said Masters in ordinary, appointed Thomas Whiting, who had then been copying or junior clerk in the office of another of the said Masters for more than ten years, to be chief clerk of him, the said Master Lynch; and in the month of June 1844, the Lord Chancellor was pleased to order that the salary of 1,000*l.* provided for persons filling the said office of chief clerk, should be paid to the said Thomas Whiting, since which time the said Thomas Whiting has annually received such salary.

"That notwithstanding such appointment of the said Thomas Whiting, and such receipt by him of the said salary, he has never performed, or in any manner attempted to perform, and does not now perform, the important duties belonging to the said office of chief clerk to the said Master Lynch, but that such duties have been ever since his said appointment performed by, and the same are now continuing to be performed by, Edward Wright, the junior or copying clerk in the said office of the said Master Lynch, who is not himself qualified according to law for the office of such chief clerk, and by such means the duties of chief clerk to the said Master Lynch are, in fact, performed by a deputy and an unqualified person; and the said Thomas Whiting has ever since his said appointment performed the duties of copying or junior clerk, and no other duties, in the said offices of the said Master Lynch; and the petitioners believe that the said Thomas Whiting is, in fact, incompetent to discharge the duties of chief clerk to the said Master.

"That the petitioners are advised, and humbly submit to the Lord Chancellor, that an office of so much trust and importance as that of chief clerk to one of the said Masters ought not to be executed by deputy, and that to permit the same to be so executed would be establishing a principle injurious to the interests of the suitors of this court, and contrary to the true intent and meaning of the said Act of Parliament, and would have the effect of depriving the said suitors of the security intended to be given to them by the said Act, for the performance of the the duties of the said office by persons possessing the experience and legal attainment indispensable for the efficient discharge thereof; and the petitioners, in their character of solicitors to this honourable Court, and also as representing the interests of the suitors of this honourable Court confided to their care, feel aggrieved by the premises.

"That the petitioners therefore pray your lordship to cause inquiry to be made into the matters aforesaid, and into the manner in which the duties of the office of chief clerk to the said Master Lynch are now, and have been since the appointment of the said Thomas Whiting thereto, been executed and performed. And that your lordship will be pleased to order that henceforth the duties of the said office may be performed by the said Thomas Whiting while he shall continue such chief clerk in person, and not by the copying or junior clerk of the said Master, or by any other deputy; and that in case the said Thomas Whiting shall neglect personally to perform such duties, or shall be found incompetent thereto, that he, the said Thomas Whiting, may be removed from being such chief clerk of the said Master Lynch, and that in such case your lordship will be pleased to make an order for the due appointment of some other proper qualified person to the said office of chief clerk in the place and stead of the said Thomas Whiting."

Romilly (with *R. Palmer*) supported the petition.—They stated that the late chief clerk in the office of Master Lynch died in November 1843. By the statute of the 3 & 4 Wm. 4, the necessary qualifications for a person obtaining the situation of chief clerk to the Master, is either that he should have been a solicitor of five years' standing or have been a junior or copying clerk in the Master's office of ten years' standing. At that time Mr. Thomas Whiting was employed as an assistant clerk to the junior or copying clerk in Master Lynch's office. Mr. Whiting had been junior or copying clerk in the office of Master Cross for a period of nineteen years. Upon Master Cross's resignation, Mr. Whiting became an assistant clerk to the junior or copying clerk in Master Lynch's office, he receiving such payment for his services as was agreed between him and the junior clerk, being under the control of the latter.

The Lord Chancellor.—Are assistant clerks to the junior or copying clerks recognised by the Act of Parliament?

Romilly.—They are not. Mr. Whiting at this time having a qualification of ten years' service as junior or copying clerk in Master Cross's office, he was appointed to the situation of chief clerk in Master Lynch's office. There are three rooms in the Master's office. The outer room, wherein the junior clerk sits; an inner room, in which the chief clerk sits; and a third, or more remote room, is that of the Master. Mr. Whiting occupies the first office, and performs the duties of junior, or copying clerk, while Mr. Wright, who is not qualified to be chief clerk, sits in the second room, and performs the chief clerk's duties. The duties of chief and junior clerks are not altered by the recent Act 3 & 4 Wm. 4, c. 94, although their relation towards the public has been materially varied. The Commissioners for inquiring into the salaries and emoluments of officers of courts of justice, who made their report in 1816, have entered fully into the duties of the Masters' clerks. Under the head of the Court of Chancery, they say:—

Clerks to the Masters in Ordinary.

"There are attached to each office two clerks; one is the chief clerk, and who, as stated in the report of 1740, ought to be a person of good ability and knowledge in the practice of the court; the other is the copying clerk. We have called for returns from the principal clerks only, because they alone appear to us to be '*officers, clerks or ministers of justice*,' within the meaning of the commission. They receive fees given to them directly by the order of 1743, and have the general superintendence of the business under

the Master; but the copying clerks have no emolument whatever, except what they derive from a salary allowed by the Master, or a proportion of the fees belonging to him or the principal clerk, and seem to have no other duty but what their description imports —that of making copies for the use of the suitors. The duties of the principal clerks are to keep a register of the warrants or summonses issued from the office, and of the names of the clerks in court and solicitors who attend the returns thereof, by which register the costs are afterwards taxed; to arrange and preserve the records, deeds, books, and other documents in the office, so that they may at all times be readily found and produced when wanted; to attend the court with deeds, books, and papers; to draw and transcribe all certificates to be signed by the Master, and to draw and transcribe all reports after wards to be settled and signed by the Master, and to prepare the schedules to be annexed to the report. This duty of drawing the certificates and reports requires that the principal clerk should be not only familiar with the usual course of business, so as to prepare the certificates and reports, for which there are established forms, but he must know enough of the general law and practice of the Court of Chancery to understand the orders and decrees pronounced by it, differing almost in every case; he must make himself particularly acquainted with such of these orders and decrees as are referred to his office; with the proceedings before the Master, and with his decisions on the points before him; and he ought to be able to arrange the whole in the form of a report, in order to be ultimately settled by the Master.

"The principal clerks are also employed in making calculations, for which purpose they ought to be ready accountants. These duties shew, that the principal clerks should be persons of education, and of great skill and experience in business.

"It is also the duty of the chief clerk generally to assist the Master in the execution of the various duties of his office.

"It is represented to us that many of the solicitors, not being familiar with the practice of the Master's office, advise with the principal clerks as to the mode of prosecuting the suits and other matters depending there, and occupy by that means a considerable portion of their time; and, upon the whole, that their business requires them to be fully occupied in office hours, and the employment of a considerable portion of their time beyond such hours, and also on holidays and vacations."

Romilly.—Such is the statement of the duties of the chief clerks to the Masters.

The LORD CHANCELLOR. The report designates the principal clerks to the Masters officers, clerks, or ministers of justice."

Romilly.—I will undertake to shew they are such. They are in the nature of judicial officers, for they have to decide from time to time upon the periods to be allowed to different parties to pass their accounts.

The LORD CHANCELLOR. Does Mr. Whiting receive the salary of chief clerk to his own use, without accounting for it, or allowing any thing to the junior clerk?

Jas. Parker (for Mr. Whiting).—He make no allowance, directly or indirectly.

The LORD CHANCELLOR.—You state, Mr. Romilly, that there is no dispute about the facts. Is that so? The question seems to turn on what the duties are; whether the Master can regulate the duties.

Romilly.—There is no dispute about the facts that Mr. Whiting is the chief clerk in Master Lynch's office, and that the duties of that situation are performed by Mr. Wright, the junior or copying clerk.

The LORD CHANCELLOR.—Are those facts admitted?

Stuart.—I appear in this case for Master Lynch. The controversy is, whether the Master has power over the appointment and distribution of the various duties of the office of the Master amongst his clerks.

Romilly.—The defence raised to this petition is that the Master h[illegible] be performed by the chief clerk and junior clerk in his office.

The LORD CHANCELLOR. The office of chief clerk is a known office, because the Act of Parliament recognises it, and gives a salary for the performance of distinct duties. It requires a certain qualification for the situation. If the facts are such as they are stated to be, it is not right that a person should be performing the duties of the office who is not qualified according to the regulations of the Act of Parliament.

Romilly.—The office is not only a known one, but an old one. In the time of Richard the Second, there was an order that there should be six clerks to the Master of the Rolls, which is, no doubt, the origin of the office of the Six Clerks in Chancery. In the reign of Henry the Fifth there was an order that the Master should have only one clerk. From the very earliest period the clerks to the Masters were considered to be officers of the Court. In the time of Elizabeth there was a custom, now obsolete, that clerks to the Masters should have seats at the table in the hall of the Lord Chancellor. By an order of Lord Chancellor Jefferies, in 1688, it was directed, that the Masters' clerks should not examine witnesses, which shewed that at that time the Masters' chief clerks were encroaching on the duties of the Masters themselves. At the time when Sir John Trevor was Master of the Rolls, an order was made that the clerks of the Masters should not solicit business as solicitors upon pain of suspension from their office, which proves that they were treated as officers under the control of the Court. (Sanders, 405.) In 1743, Lord Hardwick made a table of fees which were to be taken by them, distinct from the fees payable to the Masters. So in the Orders of 21st December, 1833, certain fees are directed to be taken by the Master's clerk; and by the 24th of those Orders it is directed that certain special applications "shall be entered, in a book to be kept for that purpose in the office of the Master, and shall be then marked by the said Master, *or his chief clerk*, as entered," &c. This shews them to be recognised officers of the Court, having the performance of defined duties. In the evidence given before a committee of the House of Commons in 1833, Master Farrer, in answer to the question whether the second clerks do business for the chief clerks sometimes, said, "No, I believe not; I think they are not competent to it." From this short statement, then, of their history, it will appear that the Masters' clerks are officers of this Court, over whom the Lord Chancellor has control, and that they are always subject to the control of the Lord Chancellor, although appointed by the Masters. It is clear that the Master cannot impose on the chief clerk the performance of any other duties than those for which he receives a salary and fees, under the provisions of 3 & 4 Wm. 4, c. 94. Since that Act, the Masters hold their offices by patent, but the Masters' clerks are now in the same position as the Masters themselves were before that Act; they are still appointed by the Masters; but are practically irremovable, except for misconduct. Before that Act, the Masters were appointed by the Lord Chancellor, and could be removed by him; now they are appointed under the authority of an Act of Parliament, and hold their offices during good behaviour. Upon the impeachment of Lord Macclesfield for the sale of the Masters' offices, the answer to that charge was, that the office of Master is not a judicial office within the meaning of the words of the statute of Richard 2; but that they were only clerks of the Lord Chancellor, as the chief judge of the Court of Chancery; that they are not "officers and ministers of justice" (the words used in the statute of Richard 2); but Lord Macclesfield was found guilty, which could have only been upon the ground that the office of Master was that of a minister of justice. It is impossible to say that they are not officers and ministers of justice, for the purpose of performing the duties required of them in their office as Masters. The Act of Wm. 4 requires them (the chief clerks) to be solicitors of five years' standing, or to have been in the situation of junior clerk for ten years. I ask this question, as to the appointment of these clerks, What is the qualification for? Is it merely that they should take and enjoy their salaries, and not perform the duties of the office? Is it that a person should receive the salary attached to the office who is a solicitor of five years' standing, or had been a junior clerk for ten years? The qualification in the Act forbids a Master in Chancery to allow any person to fill the office and perform the duties of chief clerk who was not so qualified; and if a separate qualification for the performance of the duties is to be permitted other than that which is required for appointment to the situation, the whole intention of the Act will be defeated and abolished. It is clear those duties cannot be performed by a deputy, from the language of the 21st section of the Act, which is as follows:—

"That the several offices of the High Court of Chancery shall be and continue open for despatch of business during such hours in the day, and that the officers and clerks belonging thereto *shall attend in such* offices in the discharge of their several duties, during such times, &c. as the Lord Chancellor, &c. [illegible] y orders direct; and that the officers and clerks in the said respective offices shall *give their personal attendance in their respective offices* during the time they shall be so directed to attend, unless otherwise engaged in the business of their respective offices, or prevented by sickness or other unavoidable cause."

It is quite clear that that clause in the Act of Parliament is intended to enforce the personal attendance of the chief clerks to the Masters in the performance of the duties they are bound to perform. The clerks are to give their attendance in their respective offices. The Master has no power to appoint the copying clerk to perform the duties of the chief clerk, he not having the proper qualification for that purpose directed by the statute. There is no qualification necessary for the appointment of copying clerk in the Master's office; the persons appointed to that situation are generally those who have been clerks to the Masters when at the bar, and who, neither by their education nor a knowledge of the practice of the Court, are competent to perform the duties of the chief clerk of the Master. In the *Earl of Shrewsbury's* case (9 Coke, 49), it is stated to be a presumption of law, that a judicial officer cannot perform his duties by deputy. The onus lies on the officer to shew he can do it. In the matter of *Bligh* (4 Term Reports, 717), it is held there that the marshal of the King's Bench Prison should reside within the prison. That officer was not appointed by patent, but in the same way as the Masters' clerks are appointed.

The LORD CHANCELLOR.—The question here is, whether the Master has a right to distribute or apportion the duties to be performed in his offices between his clerks.

Romilly.—I am contending that the Master cannot do that, for the duties of the clerks are defined by ancient usage and the Act of Parliament. It is quite impossible that the duties can be performed by the junior clerk, having regard to the qualification in the Act as to the office of chief clerk, for they are duties which no one but the chief clerk can perform.

The MASTER of the ROLLS.—What is the ultimate order propose

Romilly.—The petitioners ask the Court for an order referring this matter to the consideration of the three senior Masters of the Court to inquire and state what is the practice as to the duties of the chief clerk's office, and to report generally to the Court what are circumstances under which the duties of the chief clerk are performed in Master Lynch's office, and to state any special circumstances. I do not, in the first instance, ask your lordship to do any thing in the matter; I only at present propose that your lordship may obtain a full account of the whole transaction, and that, upon ascertaining the state of the case, your lordship should interfere in such a manner as you may think fit to meet the views of the petitioners. The ultimate order may be to enjoin any person from performing the duties of chief clerk who is not qualified according to the provisions of the Act of Parliament; and if the chief clerk in Master Lynch's office be found incompetent to perform his duties, that the office should be declared vacant.

The LORD CHANCELLOR.—By what tenure does the chief clerk hold his office?

Romilly.—That does not appear to be settled.

The MASTER of the ROLLS.—There is no express provision in the Act on that point. There is an omission in the Act as to that.

Romilly.—That is so. There never has been an instance of the dismissal of a chief clerk of a Master. I believe the right to dismiss exists; it has been claimed by the Masters, but never exercised. It is impossible to doubt, from the facts of this case, but that there is some arrangement between these two clerks, for Mr. Wright, who performs the duties of the chief clerk, is not qualified under the statute.

The LORD CHANCELLOR.—When will Mr. Wright be qualified?

Romilly.—In two years and a half.

The LORD CHANCELLOR.—Is there any suggestion that it is arranged to give Mr. Wright the chief clerk's situation in two years and a half?

Romilly.—It is not suggested that there is any such arrangement, but it is obvious that there must be some arrangement between them for the performance of the duties of chief clerk by Mr. Wright. Serious consequences might arise from this state of things if permitted to continue, for the Court may hereafter have, perhaps, to decide some dispute between these parties as to which of the claimants is legally entitled to the situation and its salary. There is another consideration in this case, namely, that it is impossible not to see that the Master himself takes a very great interest in this matter.

The LORD CHANCELLOR.—The Master, I suppose, takes this kind of interest in the matter, namely, to do what is right for the public benefit.

Romilly.—That gentleman performs the duties of his office with the greatest ability, diligence, and despatch; but still the petitioners feel bound to ask the Court whether it is right that the duties of the office of chief clerk should be performed by an unqualified person, and if it is not the bounden duty of the Master to appoint to the office the best qualified man he can, without favour or affection. It does not appear whether Mr. Whiting is competent or not to perform the duties of chief clerk, but it is a matter of inference that he is not a competent person, from his not performing the duties of the office himself. The Master has a trust to perform in the appointment of his chief clerk, and if an unqualified person is appointed, the office is *ipso facto* void. The authorities on that point are conclusive. (Coke, 1st Institute, 234 A; *Dorrington's* case, Hardress's Rep.; *Ex parte Devereux*, 2 Anstr. 483; and on re-hearing, p. 616, Lord Hobart's Rep.)

The LORD CHANCELLOR. The cases you have cited have reference to permanent offices. The Masters' clerks are removable.

Romilly.—The Masters' clerks are in practice irremovable.

The LORD CHANCELLOR.—If that is so, it is remarkable that the Masters' clerks should have been omitted in the clause of the Act of Parliament, which directs certain officers to hold their offices during good behaviour.

Romilly.—I admit the right to remove them has been claimed, but never exercised.

The LORD CHANCELLOR.—It is stated in the report of the time of Lord Hardwicke, that the chief clerk holds his office at the will of the Master. When the Master dies or resigns, does the new Master appoint a new chief clerk?

Romilly.—That case has never occurred. The right to remove has been claimed, but never exercised. By the common practice they hold their office irremovable by the Master.

The LORD CHANCELLOR.—I feel satisfied that if we should be of opinion that there is an irregularity in this mode of performing the duties of the office of chief clerk, and we intimate our opinion on the matter to Master Lynch, he will readily act upon it.

Stuart.—I need not say that there is nobody who would be more ready to act upon any intimation of your lordship's opinion than Master Lynch.

The LORD CHANCELLOR.—The question, then, is, whether this is a proper state of things consistently with the nature of the office and its duties.

Romilly.—One of the points of defence is, that there is no evil yet arising out of this proceeding.

The LORD CHANCELLOR.—If the thing is an irregularity, it ought not to exist, even if there is no actual evil at present.

Romilly.—The duties at present are very well performed, chiefly through the personal assistance afforded by the Master, who desires to support his own appointment. The income of the junior clerk is 700*l.* or 800*l.* a year; he divides the copy money of three-halfpence per folio allowed by the statute with his assistants.

The LORD CHANCELLOR.—The Legislature presumed that 150*l.* a year and what he could copy himself would be a sufficient compensation for his services.

The MASTER of the ROLLS.—Does the chief clerk receive the copy money?

The LORD CHANCELLOR.—The Act says that no person shall receive or retain any fees for his own use, except the copying clerk of the Master, who shall be entitled to three-halfpence per folio. The Act expressly says, neither to be received nor retained.

The MASTER of the ROLLS.—In this case the copy money is received by the chief clerk and paid over to the junior clerk.

Romilly.—This shews the anomalies to which the mode of transacting business in this office leads. The duties are distinct, and the performance of them cannot be apportioned at the Master's discretion. In 1 Sander's Orders, 359, there is an authority for such a reference to the three senior Masters to inquire into allegations of irregularity. Lord Eldon made a reference to the three senior Masters to inquire as to the mode of taking evidence in the Examiner's office. The matter is brought forward very unwillingly and reluctantly by the petitioners. They hoped the matter would have been prevented by some legislative enactment.

The LORD CHANCELLOR.—Has any application been made to the Legislature on the subject?

Romilly.—There have been steps taken in the last two years to obtain some legislative enactment on the subject. The petitioners never thought this was the proper mode of bringing the matter before the Court. I beg to say that there is not the slightest intention in this case to cast any, the least, personal imputation on the conduct or character of Master Lynch—a gentleman for whom I, from long experience and knowledge of him, have the highest respect and esteem. All that is attributed to Master Lynch in the matter is, a want of judgment on the point.

The LORD CHANCELLOR.—No one performs the duties of a Master better than Master Lynch.

Romilly.—I now ask your lordship to make the order the petitioners pray.

Roundell Palmer followed on the same side.—He referred to various sections of the Act 3 & 4 Wm. 4, c. 94, and cited *Lane's* case (2 Coke Rep. 16); *Sparrow* v. *Reynolds* (6 Bacon's Abridgment, 22).

Stuart (*Campbell* with him).—I appear in this case for Master Lynch, upon whom a copy of the petition has been served. If the complaint in the petition is well grounded, it is of a very serious character. The general scope of the petition is a complaint that the duties of the office of chief clerk are now separated by the Master; that the office is a freehold not held by the will of the Master; that the duties of the office are now exercised by a deputy, and that the person who holds that office is incompetent to perform its duties. This latter charge, although made on a former occasion, is this day abandoned. [*Romilly.*—No.] Then if it is not abandoned, the imputation of incompetency remains on this gentleman's character; and yet, although this is the petition of thirty-two solicitors of the court, not one of them has ventured to make an affidavit stating that this gentleman is incompetent. The only person who made an affidavit in reference to the petition is a gentleman, a solicitor, but who is not one of the petitioners. I deny the whole groundwork of the petition. There is no ground for the complaints that are made; they are of a trivial character, and they ought not to have been brought forward. If complaints of this sort are to be brought forward, involving serious allegations against highly important judicial officers of the court, and they fail in establishing them, nothing can be more improper or mischievous, and at the same time injurious to the interest of justice, and derogatory to the dignity of the Court. The Act of 2 Hen. 6 declares that judges and other judicial officers are responsible for the performance of the duties of their respective offices, for which they shall answer at their peril. Master Lynch is a judicial officer of the court, and will be responsible for the mode in which the duties of his office are conducted by his chief clerk. The Master has the right of appointing or discharging his chief clerk, who only holds his office during pleasure. I need not say how willingly Master Lynch will attend to any suggestions which your lordships might feel disposed to make to him on the subject, knowing as you do that gentleman's anxiety to perform the duties of his office with all due despatch, and with all talent and ability with which it is admitted he discharges the duties of his office. I hope that if your lordships make any suggestions to the Master on this matter, you will do it by an order upon this petition. None of the petitioners have attempted to say that the business in Master Lynch's office is not well discharged and performed by the distribution he has made of the business between his clerks. According to the argument for the petitioners, the Master is to be responsible for the performance of the duties of his office; and yet he is not to have a discretion in allotting the duties of his clerks, and the method of doing the business of the office as he should think fit. If he has not that discretion, the business of his office cannot go on. If the Master's discretion is fettered, his responsibility is thereby diminished. It is clear the Master has, and ought to have, the right to dictate from time to time to his chief clerk what duties he should perform in the office. Mr. Whiting, in answer to these complaints, has made two affidavits, in the first of which he states that since the time of his appointment as chief clerk, except prevented by sickness or unavoidable cause, he has duly and regularly given his personal attendance at the Master's office, during such times and days as have been directed by general orders of the Lord Chancellor and the other equity judges; that he has always been willing and ready, during the whole of such period, and, in fact, has duly and regularly performed all such duties of the office as the Master from time to time required and directed him to perform; that he never performed any of the duties assigned to him by the Master by deputy; that for twelve years he has been assistant-clerk in the offices of the different Masters, and nineteen years junior clerk in Master Cross's offices; and that after Master Cross's decease he was assistant-clerk in Master Lynch's office for three years. That the actual difference between the salary of the chief clerk and the junior clerk is not great, as the salary and emoluments of the junior clerk often exceed 700*l.* and sometimes 800*l.* in the year. He believes that the whole of the business depending in Master Lynch's office is as efficiently, regularly, and expeditiously performed as in any other of the Masters' offices. In his second affidavit Mr. Whiting states that, among the duties he has regularly performed by the direction of the Master, as stated in his former affidavit, are to keep a copy and register of all warrants and summonses issued from the office; the names of the solicitors who attend the returns thereof; the arranging and preserving the records, deeds, books, and other documents of the office, and to be ready to find them and produce them when necessary; to receive and keep accounts of all fees payable to the fee-fund, and he has been informed and believes that in some of the other Masters' offices, these duties are performed by the junior clerks; and the deponent has also to prepare reports of receivers' accounts, certificates of allowance of interrogatories, certificates for commissions, orders for further time to answer, amend bills, and enlarging publication. These are most of the duties which have been referred to in the report of 1816; and although the Master's chief clerk is mentioned by name in the Act of Parliament, it is only for the purpose of modifying the fees payable by the suitors, and for payment of certain salaries out of those fees.

The LORD CHANCELLOR.—The Act of Parliament states a qualification for the chief clerks; it does make them removable, but only declares that they should have a certain qualification.

Stuart.—One of the material allegations of the petition is, that, according to the course of practice, it is the duty of the chief clerk to assist in inquiries and accounts in which the personal discretion of the Master is not involved; and to settle reports in the presence of solicitors. Now, according to the commissioners' report of 1816, the duties are not described as undeviatingly performed in precisely the same manner. One of the commissioners who made that report was Chief Baron Alexander, who had himself been for many years a Master. The petitioners' description of the duties divides them into five classes, and of these four are regularly performed by Mr. Whiting. I propose to read a paper upon the duties of the Masters' clerks by the late Master Stephen, which states that the Master distributes the business amongst his clerks.

Romilly.—The distinction between the chief and junior clerk is, that the former hears arguments in which cases are cited, and allows or disallows various disputed items in the presence of the solicitors.

Stuart.—That is not one of his enumerated and alleged duties. The effect of the success of the petitioners' application would be to cripple the authority of the Masters by exalting their subordinates. The evidence given by Master Farrer in 1833 was referred to on the other side; but the most important part of that evidence with reference to the Masters' clerks was omitted. That evidence shews the chief clerk's duties to be merely ministerial, and done as the mere assistant of the Master. Mr. Farrer's examination was this:—

"Is there a great proportion of the business done by the chief clerk without the intervention of the Master himself, except for the purpose of affixing his signature, or doing something to give authenticity to the instrument?—The chief business of that kind is, passing receivers' accounts, and going through discharges; a great part *of them are merely ministerial—merely checking the items* with the receipts, and unless a difficulty arises, the chief clerk goes through them. *If there is any question of allowance, the chief clerk always refers to the Master; he never determines questions to any amount, where a right is concerned,* without referring to the Master.

"With regard to reports, is it the practice for the Master to draw the report, or the material part of it, or is that left to the clerk?—Generally speaking, that duty is left to the clerk; sometimes the Master draws the report, where it is of a special nature, where he thinks he can draw it from what passed before him with more facility.

"Is that done upon receiving short minutes from the Master?—States of facts are laid before the Master, answering certain directions of the Court, and the Master indorses upon them 'allowed,' with such notes and observations as he thinks may be useful for preparing the report; and I believe the Master usually, where the matter is litigated, states shortly the ground of his decision. The Master goes through the whole decree in that way; the chief clerk takes up the papers and sees what the Master has done, and from the Master's notes and minutes he draws the report, answering each order, with each state of facts before him. If any difficulty arises upon preparing the report, the parties come before the Master to settle it."

This is only just what is done by clerks in private offices. For expediting business, much of the mere labour of drafting is done by a clerk. Then in that part of Mr. Farrer's evidence which was read on the other side, they should have gone further.

Mr. Farrer's examination proceeds—

"The chief clerks have either been solicitors or managing clerks to solicitors?—Yes, generally; my own chief clerk was advanced from the situation of second to chief clerk. My former answer should be qualified, *for he certainly for some time did great part of the business of the chief clerk.* I speak of the time of my predecessor: I found him in the situation of chief clerk.

"Do you think it would be a proper provision to make, as now stated in the bill, that the chief clerks of the Masters in Chancery should hold their offices during good behaviour, and thereby be independent of the principal, the Master?—*I think not.*

"Do you think, if he were left dependent upon the Master, as heretofore, that the 13th clause, that requires that such chief clerk should have been an admitted solicitor for not less than five years, or have been a junior clerk in the office for not less than ten years, could fairly be brought into operation?—You would have equally respectable men accept the office, though they were dependent upon the Master; I do not think it would make any difference; *there has been no instance of a Master dismissing his clerk, but I believe one, and that was for repeated drunkenness.* The independence of the chief clerks might destroy the good understanding that has uniformly existed between them and the Masters. I believe the power of dismissal is a subject that never occurs to Masters or clerks; *but the power ought to exist, and it ought to reside with the Master;* if he is unworthy of being trusted with it, he is unworthy of his office.

"In that case he would be dismissable by the Chancellor?—Yes; the chief clerk has always been considered, *and is in fact, as much the clerk of the Master as the clerk of any great banking establishment.*

"Do you think, supposing the Master is put upon salary, independent of fees, in the character of a judge, and the clerk is still to be paid by fees, derived of course from the solicitors, that it would be necessary that there should be that dependence upon the principal kept up, in order to prevent any evil practices that might arise between him and the solicitor, through the payment of fees, if he were an officer wholly independent of the judge?—I think that is a material point of view, and would tend to keep the clerk more correct in his conduct."

The qualification required by the Act of Parliament, of ten years' service as a junior clerk, implies that the

duties of the two clerks are analogous. In urgent cases the junior clerk is ordered to prepare the report.

The LORD CHANCELLOR.—The question is, what are the precise duties which Mr. Whiting has to perform, and what does he perform? It is important that we should know that, in order to be able to come to a proper consideration of the case.

Stuart.—He performs all such duties as the Master, from time to time, directs him to do. I rest my case on the discretion of the Master, and I claim that right absolutely for him. The Master, in his discretion, has a right to direct his clerk to perform such duties as he requires of him, so that the business may be well done.

The LORD CHANCELLOR.—We cannot hear the case any further to-day, nor can it be fixed for further discussion to-morrow, as there is a good deal of business in the paper to be disposed of, and I have determined to put an end to the sittings of the Court to-morrow. However, I will state to-morrow when it will be convenient for the Master of the Rolls to attend again in court with me to resume and conclude this discussion.

The case was not again mentioned during the sittings.

VICE-CHANCELLOR OF ENGLAND'S COURT.

Thursday, May 29.

JONES *v.* GEDDES.

Practice—Bankruptcy—Scotch heritable bond—Want of consideration—Injunction.

A bond had been given by a party charged upon his instrument was voluntary, and executed in contemplation of bankruptcy, the Court granted an injunction to restrain proceedings by the obligees upon a summons of ranking and sale until the hearing of the cause.

This was a bill which prayed that Charles Johnson and Sigismund Rucker might be restrained by injunction from proceeding with the summons of ranking and sale in the Court of Session in Scotland, and from instituting or prosecuting any such action or process in England, Scotland, or elsewhere, for the recovery of the moneys secured by the heritable bond for 5,000*l.* and for the sale of Belnageith until the defendants should have answered the bill. Archibald Leslie and William Smith were co-partners as provision-merchants in London, from 1st of September, 1840, until the 7th of September, 1843, when a fiat in bankruptcy was issued against them. Under this fiat the plaintiffs, E. Jones and T. Nesbitt, were appointed assignees, and Geo. Green official assignee. A certificate of the appointment of the plaintiffs as assignees was registered and recorded in the New General Registry of Sasines for Scotland, on the 15th of the same month of September. The bill stated that the joint estate of the bankrupts was greatly inadequate to meet the joint debts; that Archibald Leslie was at the time of the bankruptcy seised in fee of an estate of freehold in Scotland, called Belnageith, which was subject to divers incumbrances, including a heritable bond, and disposition in security, under the hand and seal of the said Archibald Leslie, dated the 9th of May, 1843, which recited that by the marriage contract between Archibald Leslie and Eleanor Atlee, the daughter of J. F. Atlee, on the 7th of July, 1823, J. F. Atlee settled a sum of 10,000*l.* upon his daughter, which was by the marriage contract vested in certain persons, and upon certain trusts therein mentioned, for the benefit of the said Eleanor Atlee and the children of the marriage; that some time after the date of the contract, J. F. Atlee lent the said A. Leslie the sum of 5,000*l.* for which A. Leslie gave his personal bond

the express condition that A. Leslie should, whenever he was possessed of sufficient means, settle the sum of 5,000*l.* upon the children of the marriage; and on this occasion the solicitor wrote and addressed a letter to A. Leslie's spouse, stating that he had, at her request, handed the marriage settlement to J. F. Atlee, who, in his (the solicitor's) presence, had cancelled the bond given by A. Leslie, and requesting him to inform her that A. Leslie should settle the amount for the benefit of the children; and that, on the 28th of November, 1834, A. Leslie wrote on the back of this letter that he would fulfil the wishes expressed in it the first opportunity; and also reciting that A. Leslie's father died in 1838, and that the said A. Leslie, having then an opportunity of fulfilling his obligation, he, at the request of his wife and the trustees of the settlement, in consideration of the said sum of 5,000*l.*, thereby became bound and obliged himself to pay the 5,000*l.* to the defendants, Arthur Geddes, J. F. Atlee the younger, Chas. Johnson, and S. Rucker, the acting trustees under the settlement, for the purposes mentioned therein. And for further security and more sure payment of the money, A. Leslie thereby sold, alienated, and disposed, to and in the favour of their aforesaids, a heritable bond, but redeemable always in manner therein mentioned, all and whole the towns and lands of Belnageith, with the stock and teird, parsonage and vicarage, and that in real security and for payment to the defendants of the principal and interest of the bond. That, by virtue of the bond, and disposition and security and precept of sasine, the defendants were infeft and seised in the said lands in security for the said principal and interest. The bill, moreover, alleged that the personal bond stated to be cancelled was irrespective of the marriage contract, and bore date long after, and that it was not the fact that a condition was made on the cancellation thereof that A. Leslie should, whenever he was possessed of sufficient means, settle the said sum of 5,000*l.* upon the children of the marriage, but that the statement in the heritable bond of the 10th May, 1843, that such a condition was made on the cancellation of the said personal bond, was invented in the year 1843, and untruly stated, for the purpose of giving colour and an appearance that the heritable bond was granted for a valuable consideration. That such personal bond, if it ever in fact existed, was cancelled by J. F. Atlee, in order to release and extinguish the debt thereby secured, and without any condition or promise that A. Leslie should at any time, or under any circumstances, settle or secure the sum of 5,000*l.* upon his wife or the children of the marriage; and that the bond was voluntary, and executed by Arch. Leslie without any valuable consideration, while he was in *insolvent circumstances, and in contemplation of bankruptcy*: and by the law of Scotland, as well as by the law of England, was void as against the plaintiffs. That the

on the 1st day of November last, to prove their debt, and have the hereditaments sold for the payment of the alleged debt. The plaintiffs alleged that they could not effectually oppose the proceedings of the defendants in the Court of Session in Scotland, unless the heritable bond was declared fraudulent and void by the Court; and therefore the present proceedings were instituted for that purpose.

Bethell and *Shapter*, in moving for the injunction, contended that all the real estate of the bankrupt both in Scotland and England was, by the 6 Geo. 4, c. 16, s. 61, and the 1 & 2 Wm. 4, c. 56, transferred to the assignees; and that, therefore, the estate in Scotland falling under the provisions of the statute, must, as a necessary consequence, be administered and distributed in this country. This being the case, it followed that no process in any other country, which would affect the bankrupt's property according to the law of that country, can be carried on when the estate had become vested in the assignees. By the 73rd section of the Act it is declared, that if any bankrupt, being at the time insolvent, shall have conveyed to his children or any other person any lands or hereditaments, the commissioners shall have power to sell, and the sale shall be valid against the bankrupt, the children, or other person; and those claiming under him. According, therefore, to the rule here laid down, every person having an interest in the property of the bankrupt must submit and must resort to the only tribunal where the estate can be sold. The whole of the suggestion as to the valuable consideration that was given for the bond rests only upon information and belief, which is entirely rebutted by the circumstance of the bankrupt's insolvency at the very time, which is not denied.

Cases cited: *Sill* v. *Worswick* (1 H. Bl. 665); *Phillips* v. *Hunter* (2 ib. 402); *Beckley* v. *Monday* (5 Madd. 297); *Selkrig* v. *Davis* (2 Rose, 291); *Bunbury* v. *Bunbury* (2 M. & K. 318); *Ex parte Pollard* (3 Mon. & Ayr. and Mon. & Ch. 239).

Jas. Parker and *Colville*, for the defendants, con-

passed to the assignees, it was their duty to ascertain what were the rights to which the property was subject, and that it was impracticable to ascertain the rights affecting the real estate in Scotland except in the Scotch courts. The cases of *Sill* v. *Worswick* and *Selkrig* v. *Davis* were neither of them applicable to the present case, as they merely decided that claims upon the personal estate of the bankrupt should not be prosecuted abroad, and that no rights can be obtained after the bankruptcy against the assignees by means of a foreign suit. The present claim, however, was upon the real, and not on the personal estate, and it was a lien upon the property anterior to the bankruptcy against the assignees, and thus it differed from *Pollard's* case, where the incumbrancer came in under the fiat, and submitted to the jurisdiction of the Court. The question is not merely between the defendants and the assignees, but between the defendants and all persons claiming against the real estate of the bankrupt in Scotland; and if the defendants are restrained from prosecuting their summons of ranking and sale, the other incumbrancers on the real estate can pursue their remedies, and divide the property among themselves, and thus shut out the defendants. They submitted, therefore, that the Court would not interfere by injunction, except for the sake of preserving to a — the benefit of a judgment to which he may be at the hearing.

Bethell, in reply.—The principle is universally admitted that, with regard to the personal estate of the bankrupt, the assignment under the Bankrupt Act has an ubiquitous operation. The assignees are vested with the property, and it is to their forum, therefore, that the *concursus* of all creditors must be; not that the creditors, by so doing, are bound by the law of that forum; but thither they must resort in the first instance for a decision of their rights. Whatever may be the practice of other countries in this respect, the right of the creditor, generally speaking, who comes to this forum, must be determined by the statute law. The estate of the bankrupt, by force of the statute, vests in the assignees; and all persons claiming to participate in it must resort here, the domicile of the bankrupt, to have their rights determined under the authority of the statute; and the Court will not, therefore, permit a rival suit to proceed in another country in respect to the estate which the statute has vested in the assignees. The proceedings in Scotland are in the nature of a suit for general administration; and whether it extends to all the creditors of the bankrupt, or those only who claim on the Belnageith estate, is immaterial. The defendants have no portion of the estate, but merely seek to establish a charge on it; and, even should they obtain a judgment, the result would not be to withdraw the estate from the jurisdiction of bankruptcy.

The VICE-CHANCELLOR.—The only difficulty that presents itself to my mind is, to what extent, under

such as to give the obligees of the heritable bond the estate of the obligor, it could not be the estate of two persons at one and the same time; but if the only effect of that law were to make the bankrupt's estate liable to pay certain creditors in proportion, the estate is the estate of the bankrupt, subject only to that liability. Were it a question as to whom the estate belongs, that is a question which the Court cannot determine. The commissioners themselves cannot determine it, but it must be decided only by the law of that country having jurisdiction over it. The only doubt in my mind is, whether the real nature of the law of Scotland is to give to creditors of a given character a right to be paid their demand out of the real estate of the bankrupt. Looking at the words of the statute, it seems to me that the estate has passed to the assignees, notwithstanding it was a real estate, and that it vests in them in the same manner that every particle of the personal estate belonged to them before the statute 6 Geo. 4; the effect of the estate would therefore be, to give the administration of the estate to the commissioners under the fiat; but in a case where certain persons became obligees for a bond in Scotland, and there was a contest respecting their rights, that is a point to be determined by the Scotch law in the manner which that law directs; but I think it is a case in which the Court will interfere and grant an injunction.

ROLLS COURT.

Feb. 24, April 17, June 3, 10, 11, July 23 and 31.

DAVENPORT *v.* STAFFORD.

Insertion of a clause by consent in a decree—Rehearing—Acquiescence.

A suit having been instituted against an executor for the administration of his testator's estate, and being revived, on the death of the executor, against his executors, they by their answer deny assets of their testator; but the decree, as drawn up, being for the usual accounts, payments of balances, &c. "the executors, by counsel, admitting assets for that purpose," a petition of re-hearing, to relieve the petitioners from the admission, was refused, after the decree had been acquiesced in for a long time, and the suit had been subsequently prosecuted by the petitioners so as to make it probable they knew of the admission, though the evidence was clear that no admission was made by counsel at the hearing, and no such admission appeared on the register's minutes in the court, but only on the minutes as drawn up afterwards in the register's office, and stated to be by consent of parties.

Properly, all such additions or alterations should be made by order, on application to the Court, and it is irregular to do otherwise; but convenience requires that the registers themselves should make, and they accordingly do make, if all parties agree, such alterations as their experience tells them the Court would in such cases make; but no register would do so without the consent of all parties, nor so as to be inconsistent with the decree.

In such a case of alteration by introducing the clause respecting admission of assets, if it was done without the consent of all parties, which is not probable, it must have been so done by fraud or accident, much

more probably the former, and, under the circumstances, redress can only be had, if at all, by bill, and not on petition of re-hearing.

Edward Manners, the testator in the cause, by his will, made in 1807, gave his property to Ann Stafford for life, with remainder to his ten children, and appointed Ann Stafford his executrix. In 1815, Mrs. Frisby, one of the children, and her husband, instituted a suit against Mrs. Stafford, &c. for the administration of the testator's estate. In 1819, Mr. Frisby died, and in 1820, Mrs. Frisby married Mr. Davenport, who, in 1826, revived the suit which had abated by Mr. Frisby's death, and also the death in 1821, of Arthur Manners, one of the defendants. In 1827, Ann Stafford died, having by her will appointed Edward Manners and Roger Manners (two of the testator's sons), and James Lowe, her executors, of whom the two former proved her will, and thereby became the legal personal representatives of their father also. In 1828, Davenport and wife filed a bill of revivor and supplement against the executors to Mrs. Stafford, for an account of what she and they had received of her testator's estate, and if they did not admit assets, for an account of her own estate. They, by their answer, denied there was enough of assets to pay her specialty debts. In June 1830, the cause was set down for hearing, and the decree was made which is now in question, and which, as drawn up, ordered that what should be found to have come to the hands of Ann Stafford or of her executors, in respect of her testator's estate, should be answered by her executors, they by counsel admitting assets for that purpose. In November 1830, Edward and Roger Manners purchased the plaintiffs', Davenport and wife's, interest in the property, and Mr. Montrion, their solicitor, handed over all papers, &c. to the Messrs. Lowe, the purchasers' solicitors, and Davenport and wife thenceforth ceased to have any thing to do with the suit, which, however was then prosecuted in their name by Edward and Roger Manners; and various steps were taken up to the year 1835, when, by the death of Fursan Manners, the suits once more abated. Mr. and Mrs. Charlesworth and Mr. and Mrs. Calvert, who had been defendants in the previous proceedings, now became active in the management and prosecution of the suits, and various orders were made to revive, all of which, by a series of blunders, were irregular, and the suit was at last properly constituted only by an order of the 8th May, 1843. The admission of assets by the executors now became important, for there were none belonging to Ann Stafford's estate, and it was liable on the account to the payment of several thousands. They accordingly obtained a common order to rehear, and presented a petition of rehearing; and the respondents having moved to discharge the common order so obtained, the petition and motion came on to be heard together.

Teed and *Freeling*, for the respondents, and in support of the motion, contended that the question of admission could not be tried in the way proposed, for a rehearing is on the pleadings and evidence. The decree having stated that the admission was made, the parties cannot escape from that admission on which the decree is founded. A petition for re-hearing is not the proper mode of trying the question, and the common order ought to be discharged. They cited *Moss* v. *Baldock* (1 Phill. 118); *Booth* v. *Creswicke* (1 Cr. & Phill. 361); Anon. (1 Ves. Jr. 93); *Bradish* v. *Gee* (Ambler, 229); *Wood* v. *Griffith* (19 Ves. 550; 1 Meriv. 35-721); *Nevison* v. *Stables* (4 Russ. 210); *East India Company* v. *Boddam* (13 Ves. 421); *Mousley* v. *Carr* (3 My. & K. 205, 291); *Deerhurst* v. *Duke of St. Albans* (2 Russ. & Myl. 702); *Byfield* v. *Provis* (3 Myl. & Cr. 437); *Boys* v. *Morgan* (3 Myl. & Cr. 661); *Vowles* v. *Young* (9 Ves. 172); *Peachay* v. *Vintner* (1 Rep. C. 252); *Lincoln* v. *Wright* (4 Beav. 166, 427).

Roupell and *Busk* for the representatives of Fursan Manners.

Turner and *Renshaw* for Walter Manners, contended that the only method of proceeding and the only remedy was by original bill to set the admission aside. They cited *Bradish* v. *Gee* (Ambler, 229); *Furnival* v. *Bogle* (4 Russ. 142).

Kindersley (with him *Roe*) for the petitioners, contended that a re-hearing was the proper and only course to pursue. There was no indorsement of any such admission on the briefs of any of the counsel engaged in the cause. [The MASTER of the ROLLS.—The motion is to discharge the order for a re-hearing; there is nothing said against the petition for a re-hearing, and the only question now is, was the order regularly obtained?] It was then arranged that the matter should stand over to allow the petitioners to present another petition of a more precise nature, and putting the matter properly in issue. They accordingly did present another petition praying a re-hearing, and that they might be relieved from the admission of assets contained in the decree, and be heard as if no such allegation were contained therein.

Kindersley and *Roe* for the petitioners.

Teed (with him *Freeling*) hoped the petition would be dismissed. It was fifteen years since the decree for an account was made; and in 1834 Mr. Gary, a partner in the firm of Messrs. Lowe, the solicitors for the petitioners, knew of the mistake, if mistake it was, and it is only now they come to have it corrected. There were various steps taken in and about the cause by the petitioners, or their solicitors, which must have drawn their attention to the decree; and in 1833 there was a petition presented which set out the decree and omitted the interpolation, so that they must have known it. An original bill was the proper mode, the thing having been acquiesced in so long. They cited Mitf. Pl. 92, 4th ed.; *Mussell* v. *Morgan* (3 Br. C. C. 74); *Bennett* v. *Hamill* (2 Sch. & Lef. 566).

Roupell and *Busk*, for the representatives of Fursan Manners, contended that if there had not been an admission of assets, an account of Mrs. Stafford's estate would have been taken, which had not been done. Interrogatories had been carried into the Master's office by Messrs. Lowe as to the receipts of Ann Stafford and of her executors, &c., and they must therefore have known of the admission.

Turner and *Renshaw* for Walter Manners, contended that it was now asked to alter the decree on the affidavit of Mr. Gary, which was not right. (*Whalley* v. *Whalley*, 3 Bligh 1.) They also insisted that acquiescence and lapse of time precluded any remedy now.

Tillotson for other parties.

Kindersley, in reply, said the briefs of counsel engaged in the cause for several of the parties had not been produced; several of the solicitors also were dead, and the bills of costs were not forthcoming, though they might throw light upon the subject.

On a subsequent day it was stated that the briefs of most of the counsel had been produced, and on none of them was there an indorsement of admission of assets. The bills of costs of the solicitors had also been found, and though, there were charges for attendance in the register's office upon drawing up the decree, that was attempted to be explained, and it was alleged that attendances might be charged and yet no attendance actually have taken place, for it is customary for the clerk making out the bills of costs to a charge for every thing incidental to any particular step he finds to have been taken, whether the service was actually performed or not. As to the register, he of course would not have drawn up the minutes containing the admission of assets without the consent of all parties; and, if such consent was not given, which was not so probable as that it was, there must have been fraud more probably than accident.

The MASTER of the ROLLS, after stating the facts, observed that, on the part of the respondents, it was said that all parties consented, and that they did so was to be inferred from the circumstances; that no relief should be given in the form in which it was asked; that a simple re-hearing would be on the matters at the first hearing, and that it should not be allowed on petition, but should, if at all, be sought by original bill for that purpose. On mature consideration, he (the Master of the Rolls) had thought it right to have the evidence produced and the case gone into. On the evidence, it was clear there was no admission of assets at the hearing; that appeared from the minutes of the register and counsels' briefs. But, before the decree is passed, there are proceedings before the register, and if the parties consent to any addition or alteration not inconsistent with the decree, the register permits it to be made, and delay is thereby avoided. The course is not regular, for strict regularity requires every thing to be done or ordered by the Court; but the pressure of business renders that course inconvenient and impracticable, and therefore the register, with consent of parties, does what, from his experience, he thinks the Court would do, in several cases, and among others, in this of the admission of assets; and in such cases justice requires that parties should be bound by the consent of their solicitors. In cases in which the minutes are agreed upon by the parties, there is less strictness, and great confidence is reposed in the solicitors, and there is certainly an opportunity for fraud; and the whole course of proceedings in this case shews that if the consent of the petitioners was not given, the insertion of the disputed clause was the result of fraud rather than accident. The minutes were drawn up soon after the decree, and on the 6th of August, Messrs. Lowe applied for a copy of them. This shews they were attending to the business, and knew a copy of the minutes might be obtained; they did obtain it, and it contains the clause in question. From that time, Messrs. Lowe knew what the decree, as drawn up, was, for they must have read the minutes; and therefore, if they had not assented, they would not have submitted; they would have waited for no notice, but would have gone to the register. Their quiescence shews they consented. But in the bill of costs, they charged for attendance to settle the minutes; and on the other hand it is said, the charge for attendance is no proof of attendance. Now, that solicitors should charge for what may not be necessary, and yet will not be taxed off, on the ground that other charges are inadequate to remunerate them, is a course of conduct which it is easier to blame than to sanction. The only remedy is to be found by the true mode of remunerating solicitors by the amount of service performed. If Lowe had meetings with the other parties, his attendance on the register may have been unnecessary; but there is no evidence whatever of this. It is said the question is to be determined by probability. In his (the Master of the Rolls') opinion, the probability of consent having been given in the registrar's office was greater than that that it was not; and, on the whole, he was of opinion that there was a consent, and an admission of assets, and that it was binding on the parties. It was clear, however, that if there was fraud or mistake, relief would be given; if the application was made soon, and the evidence was clear, a re-hearing would be sufficient; if, after a lapse of years, it would be unjust to put the parties in the same position as at the original hearing, and a re-hearing would not be sufficient. Again, in case of fraud and mistake, an original bill might be filed for relief, for which, in this case, his lordship was of opinion that the ground, if any, was fraud, not mistake. The petition must be dismissed with costs.

VICE-CHANCELLOR KNIGHT BRUCE'S COURT.

Tuesday, July 15.

BURNHAM *v.* BENNETT.

Husband and wife—Chose in action—Reduction into possession.

A married woman, who at the time of her marriage was entitled to money due upon a promissory note to her, and to stock standing in her name, joins with her husband in executing a settlement of the property, and in lieu of the promissory note a bond is given to the trustees, and the stock is transferred into their names. The trusts of the settlement were for the husband and wife, and the children of the marriage. The husband having died in the lifetime of the wife, it was held, that the property had been reduced into possession by him.

By a post-nuptial settlement, dated the 17th of March, 1813, and made between William Stephens and Susanna his wife, of the one part, and two trustees of the other part, after reciting that, at the time of the marriage of Stephens and his wife, she was entitled to 500*l.* secured by the promissory note of John Ward, and to 700*l.* Four per Cent. Bank Annuities; and that it had been agreed that J. Ward should give a bond to the trustees for the 500*l.* and that the stock should be transferred to the same trustees, upon the trusts thereinafter declared; and further reciting that the wife had, with the privity of the husband, so transferred the 700*l.* it was witnessed that it was agreed that the promissory note should be given up and cancelled, and that a bond should be given to the trustees in lieu thereof. And it was declared that the bond was intended to be given, and the 700*l.* stock had been transferred to the trustees upon certain trusts for William Stephens for his life, if he and his wife should so long live together, and after his decease or their separation, for the wife for her life, and after her decease, for William Stephens for his life, and after the decease of the survivor of them, upon trust for the children of the marriage as the wife should appoint, and in default of appointment, for the children equally; and in default of children, for such persons as the wife should by deed or will appoint, and in default of such appointment, for the husband absolutely. The bond was given to the trustees by J. Ward, and the stock was transferred into their names. William Stephens died in 1819. Susanna Stephens made a will in her husband's lifetime, and in 1840 executed a codicil, and subsequently died. Conflicting claims having been made to the money secured by the bond, and to the stock, this suit was instituted. The principal question was, whether the settlement, and the arrangements consequent thereon, constituted a sufficient reduction into possession by the husband to bar the wife's right by survivorship.

Teed and *Fooks*, for the representatives of the wife, cited *Ryland* v. *Smith* (1 Myl. & Cr. 53); *Wornbwell* v. *Larer* (2 Sim. 300); *Scarren* v. *Blunt* (7 Ves. 294); and *Wall* v. *Tomlinson* (16 Ves. 413).

Chandless, for a party in the same interest, cited *Holland* v. *Calhford* (2 Vern. 662).

The VICE-CHANCELLOR.—The facts of this case are these:—A woman, being the payee of a promissory note, or at least holding a promissory note, and having a legal title to receive the money, and having a legal title to stock, or having stock standing in her name, marries without any settlement being executed. After the marriage, the husband determines on this course: that a settlement of both the promissory note and the stock shall be made, and that the person from whom the money on the note was due should give a bond in lieu of it, and that such bond should be given to certain trustees, the money secured by it to be held upon the trusts of the settlement, and that the stock should be transferred for those trusts. This is done. The bond is given to the trustees. The husband also transfers, or causes to be transferred, the stock into the names of the same trustees: the

settlement is executed, and the trustees accept the trust. I am of opinion, from the whole of the facts of this case, the circumstances must be considered as forming one entire transaction; and treating them as forming one transaction, I consider that it is a complete reduction into possession as against the wife's right by survivorship. It is stated that the note has not been destroyed; but I think that circumstance is immaterial. The bond was given in satisfaction of the note, and no action could afterwards be sustained upon the note, because if, in one sense of the term, it was not gone or extinguished by merger, it was gone by satisfaction. The fact, if it be one, that the mere paper is undestroyed, is nothing, if it does not exist as a promissory note. It can hardly be said that the husband, having a right to receive the money and to transfer it into his own name, could not effectually cause the money to be transferred to another person. Such a proposition could scarcely be advanced, and has not been advanced. The mere hand to receive the money is immaterial,—the mere transfer is immaterial. I quite agree that a woman having a *chose in action*, the mere legal title being changed, that does not affect her; as, for instance, if in the case of an agreement for a settlement, the husband had had in his mind an uncertain and floating idea of making a settlement, or intending at some time or other to make a settlement, and with this view had caused the debtor to give the bond to A B and C D, and before any trust was declared, had died, the wife's right by survivorship would not be defeated, because only the legal title, and not the beneficial ownership, had been affected, and possibly a case of difficulty might have arisen, such as that mentioned by Mr. Fooks. For instance, if the husband had changed the legal title without changing the beneficial ownership, nothing changed, nothing affected but the legal title; and then, by a totally distinct transaction, had made a declaration of trust, there being a plain, sensible chasm between the two transactions, then the wife's title would not be affected. But that is not this case. Here the whole of the circumstances form one certain, single, and complete and entire transaction. The husband might have released the debt, but he did not; he determined to have a bond in lieu of the promissory note, and he had it. All this is done, and there is a declaration of trust, and I am of opinion that it is a complete, binding, and effectual transaction, as much so as if he had received the money himself. With the case and judgment of *Scawen* v. *Blunt* I entirely agree. With the mode in which the cases of *Wall* v. *Tomlinson* and *Ryland* v. *Smith* were decided, I also agree; whether with every thing reported to be said by the Court on either occasion I need not say; with the substantial result I agree. I agree with the judgment as far as I understand those cases. Property had been made to change hands with a view to an intended settlement; and the circumstances which happened were such that, if the settlement is treated as effectual, the wife was entitled, if not, there was no settlement—no trust, and nothing but the legal title changed; and therefore, in that view, the wife was entitled. With reference to *Wombwell* v. *Lacer*, it is not necessary to express any opinion; I decide this case as if *Wombwell* v. *Lacer* had never existed.

Schomberg and *Sidebotham*, for other parties, were not heard upon this point.

Saturday, July 19.

ROSS *v.* ROSS.

Will—Construction.

A testator gave to his three nieces 3,000*l. stock, in equal shares, under the same conditions and restrictions as were mentioned respecting the several bequests thereinafter mentioned to them respectively given. He then gave to trustees* 12,000*l. stock, upon trust as to third parts, for the three nieces respectively and their respective children; and it was held that the* 3,000*l. was subject to the same limitations as the* 12,000*l.*

Thomas Gally, by his will dated in 1807, gave to his nephew, George Ross, 3,000*l.* Three per Cent. Consols, and also, from and after the death of the testator's sister, 1,000*l.* part of his stock of Four per Cents; and in case of his death in the testator's lifetime, without lawful issue, the two sums were to be equally divided amongst the testator's three nieces, "under the same conditions and restrictions as were thereinafter mentioned respecting the several bequests thereinafter mentioned to them respectively given." After a further bequest to George Ross, the testator gave to trustees 12,000*l.* Three per Cent. Consols, upon trust to pay one-third of the dividends for the benefit of the testator's niece Christian Ross, for her life, for her separate use, and not to be subject to the control of her then present or any after-taken husband; and after her decease, upon trust as to 4,000*l.* one-third part of the said 12,000*l.* for the benefit of the child and children of the said Christian Ross, living at the time of her decease, and the issue, if any, then living of such of her children as might have died in her lifetime. The testator then declared trusts to the same effect of the other two third parts of the 12,000*l.* in favour of his other nieces, and their respective children and issue. It was then provided by the will, that, on the death of one niece without leaving any child or issue of a child surviving, the dividends of her one-third should be paid to the other nieces for their lives equally; and that if two of the nieces should die without leaving any child or issue of a child surviving, the dividends of their respective thirds should be paid to the other niece during her life; and it was declared that such accruing or surviving dividends should be paid to such surviving nieces or niece during their or her lives or life, for their or her separate use, &c. as directed respecting their original shares or share of the dividends of the 12,000*l.* It was further provided, that, in the event of the death of all the nieces without leaving a child or issue of a child surviving, the fund should become part of the testator's residuary estate. The testator appointed the same persons he had named as trustees, to be executors, and died in 1810. George Ross died in the lifetime of the testator, but the three nieces survived. The trustees paid the dividends on the 3,000*l.* and the 12,000*l.* equally among the three nieces until the death of one leaving children, when they transferred 1,000*l.* part of the 3,000*l.* and one-third of the 12,000*l.* to the children of the deceased niece; and on the death of the second niece leaving children, similar sums of 1,000*l.* and 4,000*l.* were transferred to such children. Christian Ross, the surviving niece, then claimed to be entitled absolutely to the remaining part of the 3,000*l.* and, as the administrator of the surviving executor of the testator, claimed to have the sum for her own benefit. This bill was filed by one of her children against her, and prayed a declaration that the 1,000*l.* the third of the 3,000*l.* was subject to the same trusts as the third of the 12,000*l.* &c. The bill was demurred to.

Wigram and *Toller*, for the demurrer.

Russell and *Montague*, for the bill.

The VICE-CHANCELLOR.—If the will, in bequeathing the 3,000*l.* had stopped at the words "be equally divided amongst my three nieces hereinafter named," it would have been equivalent to the gift of a fee-simple, and out of that no limitation could have been made. The will, however, proceeds—"under the same conditions and restrictions as are hereinafter mentioned, respecting the several bequests hereinafter mentioned to them respectively given." The words "conditions and restrictions" place the former gift under the same limitations as are declared of the 12,000*l.* The word "bequests" means the whole bequest of the absolute interest, and that absolute interest in the 12,000*l.* is subject not only to the conditions and restrictions, but to the limitations mentioned in the will, which equally apply, therefore, to the 3,000*l.* It is impossible to know how any difference in the language of the parts of the will occurred; but it seems probable that the contingency occurred to the testator's mind after the will was prepared, and additional words were then inserted. However this may be, I am of opinion that the 1,000*l.* is subject to all the same provisions as relate to the 4,000*l.* one-third of the 12,000*l.* and that Mrs. Ross is not absolutely entitled. The demurrer must be overruled.

VICE-CHANCELLOR WIGRAM'S COURT.

July 21 *and* 23.

DEAN *v.* HICKINBOTTOM.

Practice—Amendment—Construction of 13*th order of* 3*rd of April*, 1828.

The answer mentioned in the 13*th order of April*, 1828, *as amended by the order of November*, 1831, *means the answer to an original bill and not to an amended bill; and the six weeks mentioned in the above order, to be counted from the time of the last answer to the original bill, shall be deemed sufficient.*

When the time limited by the 13*th order above mentioned for amending a bill has expired, it is in the discretion of the Court to allow further amendment or not. When such an application is made, it should be supported by an affidavit of the nature directed by that order.*

This was a motion for leave to re-amend a bill upon affidavit of materiality (in the form directed by the 13th order of April 1828, as amended by the orders of November 1831), after six weeks had expired from the time the answer to the original bill had been deemed sufficient, but within six weeks from the time the answer to the amended bill would be deemed sufficient.

The facts were as follows.—The original bill was filed on the 9th of June, 1843; the answer to that was filed in June 1844; an order to amend was obtained as of course, and the bill was amended on the 27th of January, 1845. The first answer to the amended bill was filed on the 24th of April, 1845, and two subsequent answers were filed on the 5th and 8th of May, 1845. The words of the 13th order above referred to are, "that after an answer has been filed, the plaintiff shall be at liberty, before filing a replication, to obtain, upon motion or petition, without notice, one order for leave to amend the bill; but no further leave to amend shall be granted after an answer and before replication, unless the Court shall be satisfied by affidavit that the draft of the intended amendments has been settled, approved, and signed by counsel, and that such amendments are not intended to be made for the purpose of delay or vexation, but because the same are considered to be material to the case of the plaintiff; such affidavit to be made by the plaintiff, or one of the plaintiffs, where there is more than one, and his or their solicitor, or by such solicitor alone, in case the plaintiff or plaintiffs, from being abroad or otherwise, shall be unable to join therein; but no order to amend shall be made after answer and before repli[illegible] either without notice or upon affidavit, in manner hereinbefore mentioned, unless such order be obtained within six weeks after the answer, if there be only one defendant, or after the last of the answers, if there be two or more defendants, is to be deemed sufficient.

Campbell, for the motion, contended that the answer referred to in the order meant the last answer in an amended bill, where the bill had been amended.

Shapter, contrà, argued that the order referred to the last answer to the original bill only, and the six weeks having long expired since the first answer was deemed sufficient, this motion could not be granted; and even though the Court should be of opinion against such a construction of the order, the motion was irregular, for the six weeks from the last answer to the amended bill had not expired, and this, being a special motion, ought to have been made before the Master and not the Court.

The cases cited were: *Wimburn and Cranburn Union* v. *Masson* (8 Jurist, 370); *Wilson* v. *Wilson* (8 Jurist, 328); *Bartalotzi* v. *Johnstone* (2 Hare, 632); *Hadlesaye* v. *Nevill* (4 Beavan, 28); *Attorney-General* v. *Nethercote* (2 Mylne & Craig, 604); *Wharton* v. *Swan* (2 Mylne & Keen, 262); *Evans* v. *Hughes* (5 Sim. 666); *Phillips* v. *Gooding* (1 Hare, 40).

The VICE-CHANCELLOR.—This is an application to amend after the time, in my view of the order, has expired; the bill was filed on the 9th of June, 1843; the answer was not put in until June 1844; the defendant therefore took a year to answer that which was merely an account of the testator's estate; the plaintiff had after that an order to amend, and in six months the bill was amended; the last answer to the amended bill was put in on the 9th of May, and consequently could not be deemed sufficient until the 3rd of July, being within the six weeks required by the order; one question arises upon the construction to be put upon the word "answer" used in the order; another, whether, under the facts of this case, the plaintiff is entitled to have leave to amend, and if so, whether this application should be made to the Court or the Master, on the authority of *The Attorney-General* v. *Netherrote*, which Lord Langdale afterwards followed in *Hadlesaye* v. *Neville*, and my own decision in *Bartalotzi* v. *Johnstone*. I consider that the answer mentioned in the 13th order is an answer to the original bill; for to construe it as applying to the answer to an amended bill would be making the order a nullity, as in that case the plaintiff, by omitting necessary parties to his bill in the first instance, or by the colourable addition of a friendly party, might acquire a right to amend over and over again, and thus bring back the old practice which it was the object of this order to correct. If this motion to amend be proper, there is no impropriety in the present application; it may not in strictness be right, but it is in the discretion of the Court; and if it did not appear from the beginning the plaintiff had the same power he had now, I should be very reluctant to allow him to amend. In this case, however, it appears no injustice can be done to the parties by giving leave to amend; it will merely cause a little delay, and the subject matter of this suit is not of that nature that time is very material. You may, therefore take leave to amend within a week. I have decided against two cases, though I have three in my favour; I hope, however, the parties will appeal to the Lord Chancellor against my decision, to have the point finally settled, for, in a matter of every day's practice, the point should not be left in doubt from conflicting decisions.

Common Law Courts.

COURT OF EXCHEQUER.

Wednesday, May 14.

SITTINGS AFTER EASTER TERM.

KYN[illegible]TON *v.* CROUCH.

A foreman of a business, in the absence of his employer, paid certain wages and trade and household expenses out of the proceeds of the business, in accordance with his usual duty and authority: before these payments were made, the employer had, unknown to the foreman, committed an act of bankruptcy: Held, that these payments were not protected, and that the money could be recovered from the foreman in an action for money had and received.

This was a rule obtained by *Crowder*, Q. C. for a new trial, or to reduce the damages.

Cockburn, Q. C. and *Greenwood* now showed cause against the rule, citing *Bearson* v. *Graham* (6 A. & E. 8), and *Harwood* v. *Bartlett* (6 Bing. N. C.)

and distinguishing *Coles* v. *Wright* (4 Taunt. 198), and *Vernon* v. *Hanley* (2 Term Rep. 113).

Crowder, Q.C. was heard in support of his rule, but the facts of the case and the arguments are so fully set out in the judgment, that it is not necessary to give them here. In the course of his argument, he cited *Gales* v. *Robins* (2 Comp. 182); *Tape* v. *Hockin* (7 B. & C. 101); and *Coles* v. *Wright* (4 Taunt. 198). *Cur. adv. vult.*

JUDGMENT.

PARKE, B. now delivered the judgment of the Court.—This case was argued before my brothers Alderson, Rolfe, Platt, and myself, at the sittings after Easter Term, and we agree with my brother Patteson in holding that the plaintiff was entitled to recover; and we are of opinion that the rule which has been obtained to enter a nonsuit or reduce the damages must be discharged. The action was brought by the plaintiff, as assignee of one Bates, the bankrupt, for money had and received to their use. The pleas were, Never indebted, and a set-off for work and labour done by the defendant for the plaintiff, money lent, and an account stated. The assignee sought to recover 153*l.* 13*s.* received by the defendant after the 23rd of October, 1843, on which day Bates committed an act of bankruptcy, and a fiat was issued on the 14th of November in the same year. The bankrupt was a tradesman carrying on business at Bristol, and the defendant was his foreman, and attended in his shop and managed his business for him, and after the bankrupt had left home, which was the act of bankruptcy, the defendant received in the shop various sums of money, some for shop-goods sold by him after the act of bankruptcy, the rest from debtors to the bankrupt, who paid the amount of their respective debts to him. The defendant made various payments to persons in the course of carrying on the business of the bankrupt during his absence; some to creditors and some for the expense of housekeeping, and the smaller sums he retained for wages due to himself, and those payments altogether are 153*l.* 13*s.* received by him; a part of these payments, amounting to 25*l.* plaintiff paid after the defendant had notice of the act of bankruptcy, namely, on the 9th of November. The jury found that all were *bonâ fide* made, and upon these facts the learned judge thought the defendant liable to the assignees for all the money received by him after the act of bankruptcy, and was not entitled to take credit for any of the payments; and we are all of the same opinion. The sums received by the defendant after the bankruptcy for the sale of the goods by him, and those received from debtors, stand on the same footing; as to the former, the goods were the property of the assignees by relation, for we must still think the relation did exist, although it is remarkable that the legislature, by the 6 Geo. 4, s. 16, repealed the statute 13 Eliz. c. 7, on which the relation depended, and without expressly re-enacting its provision. The defendant, by selling the goods, was, *primâ facie*, guilty of a conversion, and was liable in an action of trover, although he was merely a servant of the bankrupt; and if liable in trover, the assignees may sue him for money had and received, instead of that form of action; and by so doing they would only sue for the net proceeds of the value of the goods, subject to the consequence of treating the demand as a debt, or in the light of a set-off, where there is a liquidated cross demand, but no more. They do not thereby ratify and confirm any subsequent application of the proceeds by the defendant, and the implied authority previously given by the bankrupt was determined by the act of bankruptcy, and does not bind the assignees. A set-off was pleaded, but was not proved; but as to this part of the demand, the plaintiff was certainly entitled to recover on the present pleadings, if the defendant was liable in trover. But if a title had vested in the purchaser by a debt, he would have been protected by the provision of the statute 6 Geo. 4, c. 16, 3 & 4 Vict. c. 22, as *bonâ fide* purchaser, so that the action of trover could not have been maintained against him; and it seems to follow, the defendant would not have been liable in a like action of trover, for an act that vested a valid title in another could not well be termed a conversion. It was not left to the jury, in the present case, whether a purchaser of the goods had notice of the act of bankruptcy, and consequently whether the sale to him was valid or not. Believing that it was valid, an action of trover could not have been supported against him, nor, consequently, against the defendant; still we think an action for money had and received would lie, because the moment the money was received, it was money by relation received for the assignees by the defendant at the time it was received, but subsequently misapplied by the defendant; so that, though the money was not in his hands at the time of the appointment of the assignees, he would still be liable in that form of action. At the time, therefore, the defendant was indebted for money had and received, and whether he was ever indebted, was the only question on these proceedings. The claim for the residue of the money, namely, that received from the debtors of the bankrupt, is differently situated, and requires full consideration. If the debts due from the debtor at the time of the act of bankruptcy, which were themselves assigned by the operation of the Bankrupt Act to the plaintiff, were not discharged by payment made to the bankrupt or his servant, so that the debtors would still be liable to the assignees, even if the moneys paid by the debtors were paid under such circumstances as that they would be still treated as their own, and be recovered back from the defendant (and such circumstance was very likely to occur) there would be a great difficulty in holding the plaintiff can recover the amount against the defendant as money had and received to their use as assignees; and if a payment to the defendant discharges the debts which originally were the debtors', they are said to be such as, being received on account of the bankrupt after the act of bankruptcy, would pass to the assignees, for the assignment operates on all property existing at the time of the act of bankruptcy, and all subsequent property, just as if a fresh assignment was made at the time, and such portion of the property was so appropriated. If the payment vested the money in the bankrupt, although the debt was not discharged, that consequence would follow on referring to the facts in question. If no payment discharged the debt, no doubt the payment would not have been made if the debtors had notice of the act of bankruptcy, and if they had not, the money paid vested in the bankrupt; and in either case the plaintiff was entitled to recover the amount of property acquired after the act of bankruptcy, which belongs, by virtue of the assignment, to the assignees, and which, therefore, when received, was money received to their use. We think, therefore, an action for money had and received to the use of the assignees will lie in this case. Whether the defendant could not have protected himself by a plea as to part of the money received, or whether for the sale of goods or payment of goods, having been paid in the payment of disbursements without notice of the act of bankruptcy, so being entitled to the protection of the statute 6 Geo. 4, c. 16, 4 & 5 Vic. c. 29, is a different question, on which it is unnecessary to give an opinion, as it must not be inferred the defendant would have been liable to refund the whole of the money received, if he had pleaded so as to avail himself of the protection which the statute gives. On the part of the defendant, it was contended he was not liable, because he was merely the means of carrying the money from the hand of one person to another messenger or receiver, and it fell within the case of *Coles* v. *Wright* (4 Taunt. 198), which was also adopted in *Tape* v. *Hockin* (7 B. & C. 101). It is clear that that principle is wholly inapplicable to the case of shop-goods sold, and the defendant was a wrongdoer by relation. We think that also the defendant cannot be considered as a mere channel of conveyance with respect to the moneys received for the goods which are paid by the debtors. They were payments to him as agent of the bankrupt; but they were general payments, without any direction, express or implied, to pay them over to his master. The moment the money got into the hands of the defendant, the debtor was discharged, and he had no interest in any subsequent application of it, and therefore he could not be considered as having made it upon a special trust or direction to pay the money. As between the debtor and the bankrupt, it was a payment to the latter; but as between the assignees, who represent the bankrupt, and the defendant, it was money paid to him as money had and received to their use, and the defendant cannot plead specially that he has paid it to the bankrupt without notice of the bankruptcy, or in any other way so as to avail himself of the protection of the statute.

Rule discharged.

Bankrupt and Insolvent Courts.

COMMISSIONERS' COURTS.

(Before Mr. Commissioner FONBLANQUE.)

Monday, Aug. 18.

BUCHANAN *v.* FORSTER.

Where a defendant, against whom a judgment had been obtained for a sum of money under 20l. had been taken in execution on such judgment previous to the passing of the 7 & 8 Vict. c. 96, but had been subsequently discharged out of custody by order of a judge under that Act.

Held, that the imprisonment under such execution was a satisfaction of the debt, and that the defendant could not be proceeded against under the 8 & 9 Vict. c. 127, upon such judgment.

A summons had been issued in this case under the 8 & 9 Vict. c. 127, in the form given in that Act, requiring the defendant to appear before a commissioner of the Court of Bankruptcy this day, to answer such questions as should be put to him touching the not having paid to the plaintiff the amount recovered in a certain judgment against him. The plaintiff having proved the judgment recovered, by an office copy of the judgment roll, and having stated that the defendant had been taken in execution upon the judgment before the passing of the 7 & 8 Vict. c. 96; but had been subsequently discharged, by order of a judge, under the 58th section of the last mentioned Act, was about to examine the defendant as to the non-payment of the said debt, when

His HONOUR said, you must first shew that the debt was not extinguished by the imprisonment.

Plaintiff.—The 58th section of the 7 & 8 Vict. c. 96, the clause under which the defendant was discharged out of custody, provides that, notwithstanding such discharge, the judgment shall remain in full force.

His HONOUR.—The well-known doctrine of law is, that imprisonment, if only for a day, satisfies the debt. It is similar to a certificate in bankruptcy. The words of the 58th section of the 7 & 8 Vict. c. 96, are, that "the judgment shall nevertheless remain and continue in full force to the *intent and purpose*, that the creditor may have judgment and execution *against the goods of the debtor.*" The legislature, by providing that the judgment shall remain good for the particular purpose mentioned in the above clause, have clearly recognized the general doctrine I have before mentioned. The third section of the Act under which this summons was issued also recognizes the same doctrine, otherwise where was the use of the enactment contained in that clause, that "no imprisonment under that Act should operate as a satisfaction or extinguishment of any debt or demand." *Summons dismissed.*

BUCHANAN *v.* SMITH.

Jurisdiction of the Court.

Where a defendant who had been summoned under the 8 & 9 Vict. c. 127, consented to waive the formal proof of the judgment recovered against him. The plaintiff not being prepared to prove it, the Court refused to act on such consent.

This defendant appeared upon a summons issued under the 8 & 9 Vict. c. 127. The plaintiff not being prepared with an office copy of the judgment against the defendant, but only with the incipitur of the judgment, the defendant consented to waive the production of an office copy, and to admit the judgment.

His HONOUR.—The jurisdiction of this court, in these cases depends upon the fact of a judgment having actually been obtained out of a court of competent jurisdiction. Possibly the defendant's consent might be an answer to any objection raised by him hereafter to the jurisdiction of this court; but, as one consequence of such consent may be that I may be called upon hereafter to deprive the defendant of his liberty, I shall decline to act upon such consent.

ROBERTS *v.* JENKINS.

Practice.

Where a defendant has been summoned under the 8 & 9 Vict. c. 127, and does not appear, the plaintiff must be prepared with an affidavit of service.

Where a plaintiff is not prepared with all his evidence in support of his summons when it is called on, the case will be struck out of the list.

If the defendant does not appear the Court will adjudicate in his absence.

It is not sufficient for the plaintiff or defendant to appear at the hearing of the summons by attorney, but they must both be present in person.

This defendant had been summoned under the 8 & 9 Vict. c. 127. When the case was called on,

Mr. Duncan said he was instructed by the attorney of the defendant (who had accidentally heard that a summons had been issued against the defendant), to oppose the hearing of the summons. The defendant had not been served with a copy of the summons and knew nothing of it. He was not now present. The plaintiff was not in court, but had instructed an attorney to appear for him, who stated that the summons had been placed in the hands of the messenger of the Court for service, and the fact of the service could be ascertained from him.

His HONOUR.—I shall not call the messenger to prove the service, you should have been prepared with an affidavit of service. Let it be understood when these cases are called on, if the plaintiff is not ready with all the evidence necessary to support his summons, the case will be struck out of the paper. If the plaintiff is prepared and the defendant is not here, I shall adjudicate in his absence. I should further remark, that it is necessary that the plaintiff as well as the defendant should be present in person at the hearing, as the Act directs that they are both to be examined touching the judgment, if required.

BUCHANAN *v.* GREEN.

Practice.

Order for payment of judgment debt by instalments, under the 8 & 9 Vict. c. 127.

This was a summons issued by one of the commissioners of the Court of Bankruptcy, under the 8 & 9 Vict. c. 127, founded upon a judgment of the Court of Queen's Bench, for a sum less than 20*l.*

An office copy of the judgment having been put in, the defendant, who was a journeyman tailor, was examined. The debt for which the judgment had been signed amounted to 9*l.* 12*s.* and the costs to 5*l.* 14*s.* It appeared that when the defendant was in full work he was able to earn 1*l.* 10*s.* per week.

HIS HONOUR.—The defendant must pay 1*l.* per month, until the debts and costs are paid.

Order accordingly.

JONES v. KEAN.

Evidence of judgment—Adjournment.

The entry of an incipitur of the judgment on the judgment paper and on the roll is not sufficient evidence under the 8th and 9th Vict. cap. 127, of a judgment recovered.

Quære, has the Court any power to adjourn the hearing of a summons issued under the before-mentioned Act, the plaintiff not being prepared with his evidence in support of the summons?

Defendant had been summoned to appear in the Court of Bankruptcy this day, under the 8 & 9 Vict. cap. 127, to be examined touching a judgment recovered against him at the suit of the plaintiff.

Hughes for the plaintiff.—In order to prove the judgment recovered, put in the judgment roll, with the incipitur of the proceedings entered thereon, and also the judgment paper, with a like entry thereon, sealed with the seal of the Court, and with the Master's allocatur written in the margin.

HIS HONOUR. This is not sufficient evidence for me that a judgment has been signed. It shews me nothing of the proceedings; how am I to tell from this that judgment has been signed.

Hughes.—The Master's allocatur on the judgment paper shews that the judgment has been signed. It also shews the amount of the debt and the taxed costs. These documents in the state they are now in, are all that is required to enable the plaintiff to issue execution. Upon producing these documents to the proper officer of the court, he is satisfied that the judgment has been signed, and thereupon issues the writ of execution; in point of fact, he has issued a writ of execution upon these very documents.

HIS HONOUR, having consulted with Mr. Commissioner Fane on the subject, said:—I see no reason to alter my opinion that the documents produced are not sufficient to prove the judgment, but that the only proper method of proving it under this Act is by an office copy of the judgment roll. In bankruptcy the practice is otherwise; but there, the Court usually inquires into the consideration for the judgment, and the consequences of an error in such case is not so serious as it may be under this Act. I cannot make an order upon such loose evidence. Such evidence may be sufficient to justify an officer of the same court in which the judgment is signed to issue execution. The practice of the superior courts may justify such a proceeding; but if I make an order on the defendant and he disobeys it, I may be called upon hereafter to commit him to prison for disobedience of my order, and it may then be necessary to set out the judgment in the warrant of committal; and how can this be done without a copy of the judgment?

Hughes then applied to have the summons adjourned, to give the plaintiff time to obtain an office copy of the judgment.

HIS HONOUR. I do not know that I have any power to adjourn the summons, unless it be under the general power which all Courts have of adjourning their sittings; but I am not sure that doctrine will apply in this case.

Note.—There being twelve other summonses under similar circumstances, and these being the first under the recent Act of Parliament, it was arranged, at the suggestion of the registrar of the court, that fresh summonses should be issued in all the cases without any further charge.

Circuit Reports.

NORFOLK SPRING CIRCUIT.

Huntingdon, March, 1845.

(Before Mr. Baron PARKE.)

REG. v. BRETT and OTHERS.

Principal and receiver—Evidence.

A robbery having been committed at H. on Tuesday, on the following Thursday the prisoner was found in possession of some of the stolen property at W. forty miles off. When taken into custody he said that he got drunk in company with the party charged as principal on the night before, and that he found the cheque when going to bed.—Held, that the possession of the cheque and the prisoner's statement would not support a charge of feloniously receiving it, as the latter ought to be taken as a whole, and as such would be evidence rather of a larceny than of felonious receiving.

The indictment charged that Bridget Brett feloniously stole a cheque for ten guineas, and some notes; that William Brett received the same knowing them to have been so stolen, and that William Ralph received the cheque, knowing the same to have been stolen.

It appeared in evidence that Bridget Brett having stolen the property mentioned in the indictment at Huntingdon, immediately went to William Brett, her father, at Godmanchester, and that they both went into a field, where they broke open the box containing the stolen property. Leaving the box behind them, the two prisoners went with Mrs. Brett to St. Ives, and thence to Wisbeach, where they fell in with the third prisoner, Ralph, at a lodging-house. On that night the whole party got drunk, and a quarrel ensued between William Brett and Ralph. On the following day Ralph tendered the stolen cheque to a banker, who refused to change it, and ultimately caused the apprehension of Ralph. On his person was found a letter addressed to Mrs. Brett at Huntingdon, bearing the postmark of Boston; and there, after search, the two Bretts were found in possession of the rest of the missing property. When informed that Ralph had been taken up in consequence of his presenting the cheque, Wm. Brett avowed that he could only have obtained it by robbing him or his wife on the night at Wisbeach, when they were all drunk. When before the magistrate, Ralph made a statement, to the effect that he met the Bretts by accident at Wisbeach, and that after drinking some time they had all quarrelled; that all he knew of the cheque was, that he picked it up in the room after the Bretts had gone to bed, and that not knowing whose it was, he had tried to change it, and had afterwards burnt it.

Gunning, for the prosecution, proved these facts, and put in the statement of Ralph, and thereupon,

Wells, for the prisoner Ralph, objected that there was no case to go to a jury against him on this indictment.

PARKE, B.—That is so. He is indicted here for feloniously receiving a cheque, well knowing it to have been stolen, and the only evidence against him is the possession of the cheque and his own statement. Now the recent possession of a stolen article would, under ordinary circumstances, be strong evidence of a man's being the principal thief; but that must be regulated by other circumstances in the case. Here the prisoner appears to have got possession of this cheque at a place forty miles distant from the scene of the robbery, which shews that he could not be the principal thief. What then is the case against him as a receiver? Nothing but his own statement, and that being used by the prosecution, must be taken as a whole. He there says, that he found it, not that he received it from any one under circumstances which ought to have induced any reasonable man to believe it to have been stolen. There is, moreover, nothing in the case to contradict this statement, while the observation by Brett, that if he had got the cheque, he stole it from him or his wife, corroborates the story to a certain extent. Altogether, therefore, I do not think there is any evidence here of a felonious receipt. If the case amounts to any thing, it shews a larceny to have been committed, which is an improbable case. There is, however, another view of the evidence, which would make it a felonious act in Ralph to appropriate this cheque at Wisbeach, if found by him under certain circumstances; but that is not the offence charged here against him, and he must be acquitted accordingly.

The two other prisoners were therefore convicted and sentenced, and Ralph acquitted.

Cambridge, March, 1845.

NISI PRIUS COURT.

(Before Mr. Baron PARKE.)

FLETCHER v. CALTHORPE and ANOTHER.

Trespass—Justices—Illegal warrant—Special damages—Costs of habeas corpus.

Where a party has been convicted summarily by justices under 9 Geo. 4, c. 69, and committed to prison, under an illegal warrant, he is entitled to recover the costs of procuring his discharge by writ of habeas corpus as special damage in an action of trespass against such justices.

Where a party has been illegally imprisoned, he is entitled to recover as damages all costs reasonably necessary to reinstate him in his status quo ante bellum. Where, therefore, he obtains his discharge under a writ of habeas corpus in London, he can recover the costs of returning home.

Where there has been judgment for the plaintiff on a demurrer, and the cause goes down to assizes to try issues in fact, and also to assess the damages on the issue in law, the pleadings whereon the issue in law arose may be referred to, but not in establishing the facts there set forth.

Trespass for an assault and false imprisonment.

The declaration complained that the defendants, on the 26th of October, 1843, with force and arms, assaulted the said plaintiff at Chippenham, in the county of Cambridge, and there apprehended, seized, and laid hold of him, and forced and compelled him to go from Chippenham aforesaid, to a gaol situate and being in the parish of Chesterton, in the county of Cambridge, and unlawfully imprisoned, and kept and detained him in prison in the said gaol for a long space of time, to wit, from thence until a certain day, to wit, the 21st day of November, in the year aforesaid. And by means of the said plaintiff being imprisoned and kept and detained in the said gaol as aforesaid, and in order to procure his release and discharge from imprisonment in the said gaol, the said plaintiff was forced and obliged to, and necessarily did, to wit, on the 15th day of November in the year aforesaid, cause and procure to be issued a certain writ of *habeas corpus*, and did also afterwards, to wit, on the 21st day of November in the year aforesaid, cause and procure himself to be, and be accordingly was, carried and conveyed in custody under and by virtue of the said writ of *habeas corpus*, from the said gaol, to a certain other gaol situate and being in the county of Surrey, and commonly called Horsemonger-lane gaol, and afterwards, to wit, on the 22nd day of November, in the year aforesaid, and from and out of the last-mentioned gaol, to Westminster, in the county of Middlesex, when and where the said plaintiff was, by the court of our Lady the now Queen, before the Queen herself, discharged from the said imprisonment. And by means of the premises the said plaintiff was not only greatly bruised, wounded, and hurt, and whilst he was imprisoned as aforesaid was prevented from earning moneys to a large amount, to wit, 50*l.* which but for the premises he might and would have earned and become entitled to, but also by means of the premises the said plaintiff was forced and obliged to and necessarily did become subject and liable to pay divers sums of money, together amounting to a large sum of money, to wit, 100*l.* for, in, about, and relative to causing and procuring the said writ of *habeas corpus* to be issued as aforesaid, and causing and procuring himself to be carried and conveyed in custody under and by virtue of the said writ of *habeas corpus* as aforesaid, and causing himself to be discharged from imprisonment as aforesaid, and otherwise in, about, and relative to procuring and obtaining his release and discharge from the said imprisonment. And by means of the premises the said plaintiff has been and is otherwise greatly injured; and other wrongs to the said plaintiff the said defendants did, against the peace of our said Lady the Queen, and to the damage of the plaintiff of 1,000*l.*

Pleas.—1st. That the plaintiff was guilty of an offence against the provisions of a certain Act of Parliament made and passed in the 9 Geo. 4, c. 69, entitled, "An Act for the more effectual Prevention of Persons going armed by night for the Destruction of Game," and that the defendants, being justices of Cambridgeshire, the plaintiff was charged therewith, on oath before them, and the said offence being duly proved before them on oath, he was convicted thereof, and sentenced to three calendar months' imprisonment. That afterwards the defendants, as such justices, in pursuance of the said conviction of the said plaintiff of his said offence, made and issued under their hands and seals a certain warrant of commitment, under and by virtue of which the plaintiff was taken into custody and committed to prison.—*Verification.*

2nd. Tender of 25*l.* by way of amends.

The plaintiff demurred to the 1st plea, and on argument the Court of Queen's Bench gave judgment for the demurrer. Issue being taken on the sufficiency of the amends pleaded, secondly, the case now come down for trial, the jury being summoned as well to assess the damages sustained by the plaintiff on the issue in law, as to try the second issue in fact.

Gunning and *O'Malley*, for the plaintiff, proved that he was taken to the Castle at Cambridge, by virtue of the defendants' warrant, on the 26th November, 1843, and there confined and kept to hard labour for seventeen days, at the expiration of which time he was taken to London, and discharged by Mr. Justice Patteson on a writ of *habeas corpus*, on the ground that the warrant omitted to state a date. It further appeared that a bill of costs was created by this proceeding to the amount of 33*l.* 13s. 6d.; and that, *inter alia*, there was a charge therein for the cost of serving the original prosecutor with a copy of the writ of *habeas corpus*, and another of 1*l.* for cash advanced in London to the plaintiff for coach-hire and conveyance home. The plaintiff had not paid this bill of costs, nor did it appear that any signed bill had been delivered to him by his attorney. At the close of the plaintiff's case,

Byles, Serjt. (*Worlledge* was with him) objected that the plaintiff could not include in his claim for damages the bill of costs. There was special damage laid in the declaration indeed, and it included the costs and expenses of the plaintiff in and about obtaining his discharge; but he ought to have given evidence to shew that he was legally bound to pay what he claimed. He might be morally bound to pay these costs to his attorney, but he was not legally so until a signed bill had been delivered. Even, however, if he should be considered to be legally bound to pay them at some time, then it is submitted that the plaintiff cannot recover them at all from the defendants. They are not so for the necessary consequence of the plaintiff's imprisonment by the defendants as to render the latter liable to him for them. It was held in *Harman* v. *Tappenden* (3 Esp. 278), that where a party has been removed from being a member of a corporation, and has been restored by *mandamus*, that he could not maintain an action for damages against the members of the corporation who removed him by an act done in their corporate capacity, nor recover the costs of the *mandamus* which he had claimed as special damage. There Lord Kenyon nonsuited the plaintiff, and as to the last point said, "he had no doubt" that as the plaintiff was not liable to the costs of the *man-*

damus, so he was not entitled to them in an action. Neither was this plaintiff liable to the costs on the *habeas corpus*; and that being so, he ought not to be allowed to recover them in this form of proceeding.

Gunning, contrà.—As to the right to recover these costs at all as special damage, the case cited against it is no authority, for Lord Kenyon's opinion proceeded on a particular statute (9 Anne, c. 20), which had given costs in *mandamus* only in one case, namely, where there was a traverse.

Parke, B.—The case in Espinasse was decided on the question whether the defendants were liable personally for an act done in their corporate capacity; but I confess it seems to me reasonable that a person situated as the plaintiff is, through the illegal conduct of another, should recover the costs incurred by him in seeking redress from that illegality. As to the liability of the plaintiff to recover the bill of costs, it is clearly a debt contracted by him with his attorney, and though no signed bill has yet been delivered, I think that as he is or may be made liable to pay it, he may recover it as special damage in this action.

Byles, Serjt. then addressed the jury on the merits, and contended that, on the authority of *Gregory* v. *The Duke of Brunswick* (1 C. & K. 30), he was at liberty to recur to the pleadings connected with the demurrer in support of his assertion that the plaintiff came before the jury as a "convicted poacher." The defendants had pleaded the fact, and the information and conviction, in a plea to which the plaintiff had thought fit to demur, and by so doing he had admitted those facts. Lord Chief Justice Tindal, in the case just quoted, had given his sanction to this course of argument.

Parke, B.—The jury being sworn to try the issue in fact as well as to inquire what damages have been sustained by the plaintiff on the issue in law, on which he has had the judgment of the Court, those pleadings are open to the defendants in argument here; but though a demurrer admits facts demurred to, that is only in so far as the same are well pleaded. I cannot prevent my brother Byles from referring to the facts pleaded; but he is not at liberty to assume them to be true, as if proved in the case. That is no more open to him than it is to the plaintiff to assert that the judgment on the demurrer has proved him to be an innocent man. All that *Gregory* v. *The Duke of Brunswick* decides is, that such pleadings raising the issue of law may be referred to in the trial of the issue of fact.

Byles, Serjt.—The plaintiff is not entitled to the cost of the service of the copy of the writ on the prosecutor, which has been proved to be an unnecessary proceeding; nor can he recover from the defendants the item of 1*l.* charged for money advanced to enable him to return home from London after his discharge.

Parke, B. in summing up the case to the jury, said that in such an action the just and proper measure of damages would be the sum to which the plaintiff had been fairly and reasonably put by the illegal conduct of the defendants. The question here was, whether the bill of costs was a proper one under the peculiar circumstances of the case. The plaintiff could not be entitled to recover all his attorney might choose to charge him, but only such sums as were reasonably necessary to procure his discharge. The jury would therefore say whether the sum of 25*l.* was sufficient for that purpose. It had been said that the costs of serving the prosecutor with the copy of the bill were not to be allowed; but it did appear to him that the step was a reasonable one, for it was difficult to say that it was not a necessary precaution. Then again, as to the allowance of the 1*l.* for travelling home, the plaintiff had a right to receive all that was necessary to reinstate him in his *status quo ante bellum*, and if he could not be so reinstated after his discharge without the expenditure of that sum in travelling home, he was justly entitled to it, though it was advanced to him by his attorney.

The jury retired for three hours, and not being able to agree, were ultimately discharged, the parties having agreed to a compromise.

Jury discharged.

Cambridge, March 10.

(Before Patteson, J.)

Reg. *v.* Connor and Another.

Depositions—Additional evidence—Committal.

Where additional evidence has been obtained on the part of the prosecution, after the return of the depositions and committal of the prisoner, he is not entitled either to copies of such evidence or a list of the witnesses. He may, however, look at the bill in court.

A true bill having been returned against the prisoners for arson,

Gurdon applied on their behalf to the Court for an order under the following circumstances:—Since the committal of the prisoners, and the return of the depositions, copies of which they had been supplied with in the usual manner, it was understood that a great body of additional evidence had been obtained against them, on which, no doubt, the bill had been found by the grand jury. Of the value of this evidence the prisoners were wholly ignorant, and as it was out of their power to take copies of the statements in question under the Act, as there had not been any depositions returned, the present application was adopted, its object being to get at the additional evidence by means of an order of the Court, which, under the peculiar circumstances of the case, it was submitted there could not be any hesitation to grant. It was manifest that great injustice might be inflicted on prisoners if this course were to be pursued as a general rule. The recent Act had provided that they might have access to the evidence intended to be brought forward against them on certain terms; but its provisions might be altogether evaded by the prosecutor, who might keep back the most important witnesses when before the magistrate, and obtain a committal on wholly insufficient testimony, if he were not to be compelled by the Court to furnish them with copies of all the evidence on which the bill was found.

Prendergast, on the part of the prosecution, opposed the application, and on the short ground that the Court had no power at all over the matter. The case was an ordinary one, in which fresh evidence had been obtained after the charge had been instituted before the magistrates, and there was no jurisdiction to make any such order as that now prayed for by his learned friend.

Patteson, J.—It certainly appears to me that I have no power to interfere. It is certainly very desirable that the whole evidence should be supplied to the prisoners, but I do not understand that any complaint is made here of any undue withholding of evidence before the magistrates. It is then the ordinary case of fresh evidence being adduced before the grand jury, returns of which cannot of course be made by the magistrates. I have no authority to interfere in such a case, for the Act does not empower a judge to order the prosecutor to furnish the prisoner with all the evidence. The Act, indeed, says nothing about prosecutors; it only provides that the prisoner may have copies of the depositions from the clerk of the peace.

Gurdon then applied to his lordship to order the prosecutor to furnish his client with a list of the witnesses in question, which would answer his purpose.

Prendergast objected to this likewise.—The witnesses might be tampered with before the case was called on.

Gurdon then requested permission to look at the back of the bill himself.

Prendergast.—No: you can look at the face of the bill, but the list of witnesses on the back is no part of the bill, and you cannot look at that.

Patteson, J.—The counsel for the prisoner may look at the bill, but if it be objected that he cannot look at the list of witnesses indorsed thereon, I am bound to say that I have no power to enforce compliance with that request. At the same time, I think there ought not to be any opposition offered to that application.

Prendergast.—If your lordship thinks that ought to be done, I will consent to it.

The bill was then given to the learned counsel, who took a list of the witnesses' names.

WESTERN CIRCUIT.

SOMERSET SUMMER ASSIZES.

Bridgwater, August 8.

(Before Mr. Justice Erle.)

Reg. *v.* James Williams.

An unstamped banker's promissory note may be given in evidence, without any proof by the party tendering it that the bankers by whom such note was issued have complied with those rules which must be observed to enable bankers to issue their notes unstamped.

The prisoner was indicted for receiving two promissory notes of the respective value of 5*l.* The notes were described generally in the indictment, without any mention of the party by whom they were drawn, or by what bank they were issued.

Evidence was given by the prosecutor that he had been robbed on the highway of certain moneys, and among these of two 5*l.* notes of Stuckeys' Bank, by two persons, one of whom was the son of the prisoner, and who, with his accomplice, had been tried the day before, and convicted of the robbery. It was then proved that the prisoner, on the day after the robbery, had changed two 5*l.* notes under suspicious circumstances, and the prosecutor said that these two notes were the two notes of which he had been robbed. On the counsel for the prosecution tendering them in evidence,

Edwards, on behalf of the prisoner, objected to their reception, upon the ground that they were not stamped. He argued that, by the 55 Geo. 3, c. 184, schedule, part 1, a promissory note for 5*l.* requires a one shilling and threepenny stamp. It is true, by a subsequent statute, the legislature has empowered bankers, under certain conditions, to compound for their stamps, which having done, they are then authorized to issue their notes unstamped. It is possible the Messrs. Stuckeys have done this; but if they have, it lies on the party who tenders the note in evidence to shew their compliance with the provisions of the latter statute, so as to make these instruments legal evidence.

Erle, J.—I shall receive these notes in evidence. I think I am bound to presume that the Messrs. Stuckeys have complied with the provisions of the latter statute, and have not incurred a penalty of 50*l.* by issuing those notes. Besides, as this is a stamp objection, the party who makes it is bound to prove all the facts necessary to constitute the objection a good one. It is the same as where a cheque is tendered in evidence, which is always presumed to be drawn within the distance limited by the statute. If it was not, the onus of proving that fact lies on the party making the objection, and not on the party who tenders the cheque.(*a*)

The notes were thereupon read, and the prisoner was convicted.

Stone and *Fitzherbert*, for the prosecution.

Edwards, for the prisoner.

Reg. *v.* Tucker.

Indictment for embezzlement.

Quære, whether proof of a servant's absconding be sufficient to sustain an indictment for embezzlement?

It appeared, from the evidence, that the prisoner, a farm labourer, was sent by his master to deliver two sacks of potatoes, and to receive 10*s.* 6*d.* the price of them, and that, having delivered the potatoes and received the money, *he never returned to his master, or accounted to him for the money so received. Six months* afterwards, having in the interim kept out of the way, he was apprehended on this charge, and he then stated to the constable that he had received the money and spent it.

Erle, J. doubted whether this was sufficient evidence to sustain the indictment for embezzlement, inasmuch as it did not appear that the prisoner had ever *denied the receipt* of the money, or made any *false statement* respecting it.

H. Leigh, for the prosecution, cited *R.* v. *Williams* (7 C. & P. 338; 2 Russ. 181), in which, under similar circumstances, Coleridge, J. held that the fact of the prisoner's absconding was evidence of an intention to appropriate the money.

Phinn (*amicus curiæ*) mentioned a case (*R.* v. *Norman*, 9 C. & P.) in which Coleridge, J. had subsequently acted upon his decision in *R.* v. *Williams*.

Erle, J. still thought the offence, as proved, did not clearly amount to a felony, but, on the authority of the cases cited, he left the case to the jury, who returned a verdict of *Not guilty.*

H. Leigh, for the prosecution.

The prisoner was undefended.

WILTS SUMMER ASSIZES, 1845.

Devizes, August 11.

(Before Mr. Justice Erle.)

Reg. *v.* Dredge.

In a charge of larceny, if the prosecutor cannot swear to the loss of the article said to be stolen, the prisoner must be acquitted.

The prisoner, a little boy, was indicted for stealing a doll and other toys.

It was proved, on the part of the prosecutor, that the prosecutor kept a large toy-shop at Tunbridge. On a day named in the indictment, the prisoner came into the shop dressed in a smock frock, and after remaining there some time, from some suspicion that was excited, he was searched, and under this smock-frock were found concealed a doll, six toy-houses, and other such things. The prosecutor swore that he believed the toy-houses to be his property, because they exactly resembled other toys of the same sort, which he had in his shop; and he gave the evidence with regard to all the other articles except the doll. With respect to that, his evidence went still further, as he swore the doll had been his, as he found upon it his private mark. But he could not say that he had not sold it, and he had not missed, and could not miss, from the nature of his stock, any of the articles which the prisoner was charged with stealing.

Erle, J.—It seems to me that you have failed to establish in this case the *corpus delicti*. It is true the prosecutor swears that the doll was once his, but he cannot state that it was taken from him: and for aught that appears to the contrary, the prisoner may have come by it in an honest manner.

Sewine, on the part of the prosecution, contended that it must be presumed the prisoner had taken the articles. From the mode in which the prosecutor kept his stock, it was impossible for him to miss them; but, looking at the prisoner, and the place where these articles were taken from him, it becomes a natural presumption that he had taken them.

Erle, J.—I can make no other presumption in this case than I should be justified in doing if the most respectable person were charged with the

(*a*) *Sed quære.* In the case put by the learned judge, the affirmative is upon the party objecting, which, by the ordinary rules of evidence, he is bound to establish. In this case, on the contrary, he would have to prove a negative. We are informed that this same objection was taken before Mr. Justice Coleridge, on this circuit, who appeared to consider it a valid one. But the prisoner in that case had received other moneys or goods, with respect to which the objection did not apply. The case was therefore allowed to proceed in respect of those unobjectionable things, so that no formal judgment was given by that learned judge as to this objection.

offence. I think you have failed to make out your case.

His lordship then directed the jury to acquit the prisoner, which they accordingly did.

Swaine, for the prosecution.

Prisoner undefended.

Reg. v. Eleanor May.

Evidence of another felony will be received, when it is necessary to establish the charge on which the prisoner is being tried.

The prisoner was indicted for stealing a halfpenny.

The prisoner was a servant in the employ of the prosecutor. Having some suspicion, he marked a quantity of pence and halfpence, and put them in a bureau, which he locked and took the key. On the 9th of July he missed one halfpenny, and on the 13th of the same month others were taken. When the prosecutor had proved the loss of the one halfpenny, he was going on to prove the loss of the others.

Hodges, on the part of the prisoner, objected to this, contending that, having proved all that was laid in the indictment, the prosecutor could not give evidence of another taking, at another time, as that must form the subject-matter of a separate charge.

Ball, for the prosecution, stated that the latter evidence was necessary for the support of the charge on which the prisoner was then being tried.

Erle, J.—If that be the case, I shall admit the evidence, since it matters not that it may apply to another charge, if it be relevant and necessary for the support of this.

The prosecutor then gave evidence of his second loss on the 13th, after which the prisoner was searched, and all the marked pence found upon her. He could not say which of these was stolen on the 9th, but he said it must be one of them.

Erle, J. told the jury, if they were of opinion that all the halfpence found on the prisoner were properly identified by the prosecutor, they would convict her; but if they had any doubts in reference to either of the halfpence (as the prosecutor could not say which was taken on the 9th), they must acquit her.

One halfpenny not being so plainly identified as the others, the jury acquitted her.

Ball, for the prosecution.

Hodges, for the prisoner.

Devizes, August 13.

(Before Mr. Justice Erle.)

Reg. v. Shepherd.

The jury cannot inspect writings which are not writings in the cause, for the purpose of ascertaining if the handwriting of a paper in issue is the same as in such writings.

A scientific inspector of writings will not be allowed to inspect such paper, and other writings in the cause, for the purpose of proving by the comparison that they are both written by the same person.

The prisoner was indicted under the 4 Geo. 4, c. 54, s. 3, for sending a threatening letter to Sir Francis Astley, threatening to burn down his house, &c.

There was no direct evidence of the prisoner sending the letter. This fact was, therefore, attempted to be made out, on the part of the prosecution, by proving the letter to be in the prisoner's handwriting. For this purpose a witness was called who had belonged to a club of which the prisoner was the secretary, and who, in that capacity, had frequently been seen to write by the witness. The book in which the prisoner had made the entries for the club was produced, and the witness was allowed to refresh his memory of his handwriting by an inspection of these entries. He was then shewn the letter which formed the subject-matter of this indictment, and was asked if he considered it to be in the handwriting of the prisoner. The witness, after examining the letter, replied, that, judging from the character of the writing, he should be of opinion that it was not.

Merewether, for the prosecution, then proposed that the entries in the book produced, and the letter in question, should be put into the hands of the jury, and that they should make a comparison of the handwriting and form their own conclusion.

Erle, J.—No. I cannot allow that. The judge and jury are at liberty to look at any papers in the cause; they may inspect them and compare them, and form such a conclusion as the comparison is calculated to lead to, without saying any thing to any person on the subject. But I cannot permit an inspection, for this purpose, of papers or writings which are not material for the proof of the case, and which therefore are not properly papers or writings in the cause. If this were allowed, particular entries may be selected for the purpose, differing materially from the prisoner's general handwriting, and a wrong impression be thereby produced.

Merewether then called a gentleman from Doctors' Commons, whose duty it was to inspect wills for the purpose of detecting any fraud or forgery appearing on them. He proposed to put the letter, for writing which the prisoner was indicted, into the hands of this witness; and also another writing, proved to be the prisoner's, and which was given in evidence as a part of the prosecutor's case; and to ask the witness, looking at them both, whether he was of opinion that they were both written by the same person.

Erle, J.—The rules of evidence, as applicable to this case, will not allow you to do this. You may call a scientific witness to disprove by comparison the writing at issue from being the writing of the party whose writing it is said to be, but not to affirm it. All that you are authorized to ask this witness, as a scientific witness, is, as to his belief of the writing being in a natural or feigned hand; but if he says it is in a feigned hand, you cannot go further, and ask him as to his belief of its being written by the same party as wrote another piece of writing shewn to him.

The witness was then asked whether he considered the handwriting of the letter a feigned or natural one. He replied, there could be no doubt it was a feigned one. The prosecutor not being able to carry his evidence further, to shew that this feigned handwriting was the handwriting of the prisoner, he was acquitted.

Merewether, for the prosecution.

The prisoner was undefended.

Bristol, Aug. 18.

Gegg v. Perrin and Another.

Where two defendants in trespass have joined in pleading, and pleaded a justification, a verdict cannot be taken for either defendant at the close of the plaintiff's case, although the plaintiff has offered no evidence whatever against such defendant.

This was an action of trespass for taking certain goods.

The defendants had joined in their pleading, and among other pleas had pleaded "Not Guilty," and a justification.

The defendant Perrin was the owner of a house, which had been rented by B. (a brother of plaintiff) for some time. Rent was in arrear, after which B. moved certain goods from his own house, which he occupied under the defendant Perrin, to his brother's, the plaintiff's house, where they were seized by the defendants for the rent due, and it was for this seizure that the present action was brought, in which the goods were alleged to be the goods and chattels of the plaintiff. The plaintiff gave no evidence at all affecting the defendant Perrin, as shewing that he had any thing to do in the matter.

Kinglake, Serjt. at the close of the plaintiff's case, applied to the learned judge, that a verdict should at once be taken for the defendant Perrin, upon the ground that no evidence whatever had been given against her.

Crowder objected to this. He admitted that he had offered no evidence against the defendant in question, but contended, that an application of this sort would not be granted, unless the judge trying the case was of opinion that the defendant, for whom a verdict was sought to be taken, had been fraudulently or improperly made so, for the purpose of preventing each defendant from giving evidence for the others. He cited *White* v. *Hill*, reported in 14 L. J. 79, Q. B. In that case all the previous decisions upon the matter had been reviewed, and the Court had laid down the rule he had referred to, as that which was to govern learned judges in such cases for the future. Besides, in this case the defendants had joined in their pleading, and had put upon the record a plea of justification, by which they admitted, so far as that issue is concerned, that they did both take the goods, justifying such taking by the facts set up in the plea.

Erle, J.—This is so. I am clearly of opinion, if two defendants join in their pleading in this way, that the case against either should not be stopped, as prayed for by my brother Kinglake, but should go to the jury.

The learned serjeant, therefore, proceeded in his defence with regard to both of the defendants.

Crowder and *Stone*, for the plaintiff.

Kinglake and *Prideaux*, for the defendants.

Reg. v. Hannah Banks.

Where goods are found in the house of a married man, and such possession is proved as evidence of a larceny, they must be considered in his possession, and not in possession of his wife, unless she says any thing implicating herself, in which case it must be left to the jury to decide in whose possession they were.

The prisoner was indicted for a larceny.

There was no evidence given to shew how the goods had been taken, but they were found in the house of the prisoner's husband, he being a blind man. When they were discovered, the prisoner said she had purchased them a long time before.

Slade, for the prisoner, contended that there was no evidence to go to the jury as against the prisoner. The goods were found in the house of the prisoner's husband, who was living there, and in whose possession therefore they must be considered to have been, and not in the possession of the prisoner. He cited *R.* v. *Archer* (1 Mood. C.C. 143), and a passage from Dalton, c. 157, p. 353, where it is thus laid down:—"Where stolen goods are received by a married woman in the absence of her husband, and are concealed in his house without his knowledge, she alone may be indicted and punished for the offence; *but if the husband's ignorance be not satisfactorily proved, the law will, in most cases, impute the receiving to him.*"

Erle, J.—I quite agree with that, and if the prisoner had said nothing, and the goods had simply been found in the house of the husband, I should think there was no evidence to go to the jury. But as she said she bought the goods, I think it must be left to the jury to decide whether the goods were in her possession or the possession of her husband.

The learned judge then left this question to the jury, telling them if they were of opinion that the goods were in the possession of the wife, and were so without the consent and control of the husband, they must find her guilty; but if they had any doubt of this, they must acquit her.

The jury acquitted her.

Merewether, for the prosecution.

Slade, for the prisoner.

THE LEGISLATOR.

Summary.

We give below the Real Property Statutes of the present session, and the Bill for facilitating the Admission in Evidence of Official and other Documents out of their natural order, that our readers may have the benefit of earlier information on these subjects than they otherwise would.

Imperial Parliament.

PUBLIC BUSINESS TRANSACTED.

ROYAL ASSENT.

Friday, August 8.

Mr. Speaker reported the Royal Assent to the following Bills:—Apprehension of Offenders—Documentary Evidence—Granting of Leases—Outstanding Terms—Fees in Criminal Proceedings—Conveyance of Real Property (No. 2)—Removal of Paupers—Games and Wagers—Commons' Inclosure—County Rates—Irish Taxing Masters.

Saturday, August 9.

Small Debts.

NEW STATUTES

Of the Sessions 8 *Victoria.*

[In this record of actual Legislation, we adopt the plan of giving the titles alone of the statutes of no general or professional interest; and analyses of the more important changes in the law, printing at length such statutes or parts of statutes only as are of particular interest to our readers.]

(*Continued from page* 415.)

The subjoined Real-Property statutes and the Documentary Evidence Bill being of immediate interest, we insert them at once, instead of withholding them until the number of the respective chapters comes round.

Cap. CVI.

An Act to amend the Law of Real Property. (August 4, 1845.)

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows: (that is to say,)

1. *Repeal of so much of 7 & 8 Vict. c. 76, as abolishes contingent remainders as from the commencement; and the residue as from 1st October,* 1845.—That so much of an Act passed in the last session of Parliament, intituled "An Act to simplify the Transfer of Property," as enacted that, after the time at which that Act should come into operation, no estate in land should be created by way of contingent remainder; but that every estate which, before that time, would have taken effect as a contingent remainder should take effect (if in a will or codicil) as an executory devise, and (if in a deed) as an executory estate of the same nature, and having the same properties as an executory devise; and that contingent remainders existing under deeds, wills, or instruments, executed or made before the time when that Act should come into operation, should not fail, or be destroyed or barred, merely by reason of the destruction or merger of any preceding estate, or its determination by any other means than the natural effluxion of the time of such preceding estate, or some event on which it was in its creation limited to determine, shall be and is hereby repealed, as from the time of the commencement and taking effect thereof; and that the residue of the said Act shall be and is hereby repealed, as from the first day of October One thousand eight hundred and forty-five.

2. *The immediate freehold of corporeal tenements to lie in grant as well as in livery—Stamp-duty on grants thereof.*—That, after the said first day of October One thousand eight hundred and forty-five, all corporeal tenements and hereditaments shall, as regards the conveyance of the immediate freehold thereof, be deemed to lie in grant as well as in livery; and that every deed which, by force only of this enactment,

shall be effectual as a grant, shall be chargeable with the stamp-duty with which the same deed would have been chargeable in case the same had been a release, founded on a lease or bargain and sale for a year, and also with the same stamp-duty (exclusive of progressive duty) with which such lease or bargain and sale for a year would have been chargeable.

3. *Feoffments, partitions, exchanges, leases, assignments, and surrenders required (subject to certain exceptions) to be by deed.*—That a feoffment, made after the said first day of October One thousand eight hundred and forty-five, other than a feoffment made under a custom by an infant, shall be void at law, unless evidenced by deed; and that a partition, and an exchange, of any tenements or hereditaments, not being copyhold, and a lease, required by law to be in writing, of any tenements or hereditaments, and an assignment of a chattel interest, not being copyhold, in any tenements or hereditaments, and a surrender in writing of any interest in any tenements or hereditaments not being a copyhold interest, and not being an interest which might by law have been created without writing, made after the said first day of October One thousand eight hundred and forty-five, shall also be void at law, unless made by deed: Provided always, that the said enactment, so far as the same relates to a release or a surrender, shall not extend to Ireland.

4. *Feoffments not to operate by wrong, nor exchanges or partitions to imply any condition, or give and grant any covenant.*—That a feoffment, made after the said first day of October One thousand eight hundred and forty-five, shall not have any tortious operation; and that an exchange, or a partition, of any tenements or hereditaments, made by deed, executed after the said first day of October One thousand eight hundred and forty-five, shall not imply any condition in law; and that the word "give" or the word "grant," in a deed, executed after the same day, shall not imply any covenant in law, in respect of any tenements or hereditaments, except so far as the word "give" or the word "grant" may, by force of any act of Parliament, imply a covenant.

5. *Strangers may take immediately under an indenture, and a deed purporting to be an indenture shall take effect as such.*—That, under an indenture, executed after the first day of October One thousand eight hundred and forty-five, an immediate estate or interest, in any tenements or hereditaments, and the benefit of a condition or covenant, respecting any tenements or hereditaments, may be taken, although the taker thereof be not named a party to the same indenture; also, that a deed, executed after the said first day of October One thousand eight hundred and forty-five, purporting to be an indenture, shall have the effect of an indenture although not actually indented.

6. *Contingent and other like interests, also rights of entry, made alienable by deed, saving estates in tail; and as regards married women enjoining conformity to 3 & 4 Wm. 4, c. 74.—4 & 5 Wm. 4, c. 92.*—That, after the first day of October, One thousand eight hundred and forty-five, a contingent, an executory, and a future interest, and a possibility coupled with an interest, in any tenements or hereditaments of any tenure, whether the object of the gift or limitation of such interest or possibility be or be not ascertained, also a right of entry, whether immediate or future, and whether vested or contingent, into or upon any tenements or hereditaments in England, of any tenure, may be disposed of by deed, but that no such disposition shall, by force only of this Act, defeat or enlarge an estate tail; and that every such disposition by a married woman shall be made conformably to the provisions, relative to dispositions by married women, of an Act passed in the third and fourth years of the reign of his late Majesty King William the Fourth, intituled, "An Act for the abolition of Fines and Recoveries, and for the Substitution of more simple Modes of Assurance," or in Ireland of any Act passed in the fourth and fifth years of the reign of his said late Majesty, intituled, "An Act for the Abolition of Fines and Recoveries, and for the Substitution of more simple Modes of Assurance, in Ireland."

7. *Capacity of married woman to disclaim estates or interests by deed extended to England.*—That, after the first day of October, One thousand eight hundred and forty-five, an estate or interest in any tenements or hereditaments in England, of any tenure, may be disclaimed by a married woman by deed; and that every such disclaimer shall be made conformably to the said provisions of the said "Act for the Abolition of Fines and Recoveries, and for the substitution of more simple Modes of Assurance."

8. *Contingent remainders protected as from Dec. 31, 1844, against the premature failure of a preceding estate.*—That a contingent remainder, existing at any time after the thirty-first day of December, One thousand eight hundred and forty-four, shall be, and, if created before the passing of this Act, shall be deemed to have been, capable of taking effect, notwithstanding the determination, by forfeiture, surrender, or merger, of any preceding estate of freehold in the same manner, in all respects, as if such determination had not happened.

9. *When the reversion on a lease is gone the next estate to be deemed the reversion.*—That when the reversion expectant on a lease, made either before or after the passing of this Act, of any tenements or hereditaments, of any tenure, shall, after the said first day of October, one thousand eight hundred and forty-five, be surrendered or merge, the estate which shall, for the time being, confer as against the tenant under the same lease the next vested right to the same tenements or hereditaments, shall, to the extent and for the purpose of preserving such incidents to, and obligations on, the same reversion, as but for the surrender or merger thereof, would have subsisted, be deemed the reversion expectant on the same lease.

10. *Act not to extend to Scotland.*—That this Act shall not extend to Scotland.

Cap. CXII.

An Act to render the Assignment of satisfied Terms unnecessary. (August 8, 1845.)

On 31st December, 1845, satisfied terms of years attendant on inheritance, &c. of land, to cease, except, &c.—Whereas the assignment of satisfied terms has been found to be attended with great difficulty, delay and expense, and to operate in many cases to the prejudice of the persons justly entitled to the lands to which they relate: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons in this present Parliament assembled, and by the authority of the same, That every satisfied term of years which, either by express declaration or by construction of law, shall upon the thirty-first day of December, One thousand eight hundred and forty-five be attendant upon the inheritance or reversion of any lands, shall on that day absolutely cease and determine as to the land upon the inheritance or reversion whereof such term shall be attendant as aforesaid, except that every such term of years which shall be so attendant as aforesaid by express declaration, although hereby made to cease and determine, shall afford to every person the same protection against every incumbrance, charge, estate, right, action, suit, claim, and demand as it would have afforded to him if it had continued to subsist, but had not been assigned or dealt with, after the said thirty first day of December One thousand eight hundred and forty-five, and shall for the purpose of such protection be considered in every court of law and of equity to be a subsisting term.

2. *Satisfied terms now subsisting, &c. to cease on becoming attendant upon inheritance, &c. of lands.*—And be it enacted, that every term of years now subsisting or hereafter to be created, becoming satisfied after the said thirty-first day of December, One thousand eight hundred and forty-five, and which, either by express declaration or by construction of law, shall after that day become attendant upon the inheritance or reversion of any lands, shall immediately upon the same becoming so attendant absolutely cease and determine as to the land upon the inheritance or reversion whereof such term shall become attendant as aforesaid.

3. *Construction of Act.*—And be it enacted, That in the construction and for the purposes of this Act, unless there be something in the subject or context repugnant to such construction, the word "lands" shall extend to all freehold tenements and hereditaments, whether corporeal or incorporeal, and to all such customary land as will pass by deed, or deed and admittance, and not by surrender, or any undivided part or share thereof respectively; and every word importing the singular number only shall extend and be applied to several persons or things as well as one person or thing; and every word importing the masculine gender only shall extend and be applied to a female as well as a male.

4. *Not to extend to Scotland.*—And be it enacted, That this Act shall not extend to Scotland.

Cap. CXIII.

An Act to facilitate the Admission in Evidence of certain official and other Documents. (August 8, 1845.)

1. *Certain documents to be received in evidence without proof of seal or signature, &c. of person signing the same.*—Whereas it is provided by many statutes that various certificates, official and public documents, documents and proceedings of corporations and of joint-stock and other companies, and certified copies of documents, bye-laws, entries in registers and other books, shall be receivable in evidence of certain particulars in courts of justice, provided they be respectively authenticated in the manner prescribed by such statutes: And whereas the beneficial effect of these provisions has been found by experience to be greatly diminished by the difficulty of proving that the said documents are genuine; and it is expedient to facilitate the admission in evidence of such and the like documents: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that whenever by any Act now in force or hereafter to be in force, any certificate, official or public document, or document or proceeding of any corporation or joint-stock or other company, or any certified copy of any document, bye-law, entry in any register or other book, or of any other proceeding, shall be receivable in evidence of any particular in any court of justice, or before any legal tribunal, or either House of Parliament, or any committee of either House, or in any judicial proceeding, the same shall respectively be admitted in evidence, provided they respectively purport to be sealed or impressed with a stamp, or sealed and signed, or signed alone, as required, or impressed with a stamp and signed, as directed by the respective Acts made or to be hereafter made, without any proof of the seal or stamp, where a seal or stamp is necessary, or of the signature, or of the official character of the person appearing to have signed the same, and without any further proof thereof in every case in which the original record could have been received in evidence.

2. *Courts, &c. to take judicial notice of signature of equity or common law judges, &c.*—And be it enacted, That all courts, judges, justices, masters in Chancery, masters of courts, commissioners judicially acting, and other judicial officers shall henceforth take judicial notice of the signature of any of the equity or common law judges of the superior courts at Westminster, provided such signature be attached or appended to any decree, order, certificate, or other judicial or official document.

3. *Copies of private Acts, printed by Queen's printer, Journals of Parliament and Proclamations, admissible as evidence.* And be it enacted, That all copies of private and local and personal Acts of Parliament not public Acts, if purporting to be printed by the Queen's printers, and all copies of the journals of either House of Parliament, and of royal proclamations, purporting to be printed by the printers to the Crown, or by the printers to either House of Parliament, or by any or either of them, shall be admitted as evidence thereof by all courts, judges, justices, and others, without any proof being given that such copies were so printed.

4. *Persons forging seal, stamp, or signature of certain documents, or print any private Act with false purport, guilty of felony.*—Provided always, and be it enacted, That if any person shall forge the seal, stamp, or signature of any such certificate, official or public document, or document or proceeding of any corporation or joint stock or other company, or of any certified copy of any document, bye law, entry in any register or other book, or other proceeding as aforesaid, or shall tender in evidence any such certificate, official or public document, or document or proceeding of any corporation or joint stock or other company, or any certified copy of any document, bye law, entry in any register or other book, or of any other proceeding, with a false or counterfeit seal, stamp, or signature thereto, knowing the same to be false or counterfeit, whether such seal, stamp, or signature be those of or relating to any corporation or company already established, or to any corporation or company to be hereafter established, or if any person shall forge the signature of any such judge as aforesaid to any order, decree, certificate, or other judicial or official document, or shall tender in evidence any order, decree, certificate, or other judicial or official document, with a false or counterfeit signature of any such judge as aforesaid thereto, knowing the same to be false or counterfeit, or if any person shall print any copy of any private Act or of the journals of either House of Parliament, which copy shall falsely purport to have been printed by the printers to the Crown, or by the printers to either House of Parliament, or by any or either of them, or if any person shall tender in evidence any such copy, knowing that the same was not printed by the person or persons by whom it so purports to have been printed, every such person shall be guilty of felony, and shall upon conviction be liable to transportation for seven years, or to imprisonment for any term not more than three nor less than one year, with hard labour: provided also, that whenever any such document as before mentioned shall have been received in evidence by virtue of this Act, the Court, judge, commissioner, or other person officiating judicially, who shall have admitted the same, shall, on the request of any party against whom the same is so received, be authorized, at its or at his own discretion, to direct that the same shall be impounded, and be kept in the custody of some officer of the court or other proper person, until further order touching the same shall be given, either by such Court, or the court to which such Master or other officer belonged, or by the persons or person who constituted such court, or by some one of the equity or common law judges of the superior courts at Westminster on application being made for that purpose.

5. *Not to extend to Scotland.*—And be it enacted, That this Act shall not extend to Scotland.

6. *Alteration of Act.*—And be it enacted, That this Act may be repealed, altered, or amended during this present session of Parliament.

7. *Commencement of Act.*—And be it enacted, That this Act shall take effect from the first day of November next after the passing thereof.

Cap. CXIX.

An Act to facilitate the Conveyance of Real Property. (8th August, 1845.)

1. *Where the words of Column 1 of the second schedule are employed, the deed to have the same effect as if the words in Column 2 were inserted.*—Whereas it is expedient to facilitate the sale and conveyance of real property: Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That whenever any party to any deed, made according to the forms set forth in the first schedule to this Act, or to any other deed which shall be expressed to be made in pursuance of this Act, or referring thereto, shall employ in any such deed respectively any of the form of words contained in Column 1 of the second schedule hereto annexed, and distinguished by any number therein, such deed shall be taken to have the same effect and be construed as if such party had inserted in such deed the form of words contained in Column 2 of the same schedule, and distinguished by the same number as is annexed to the form of words employed by such party; but it shall not be necessary in any such deed to insert any such number.

2. *Deed to include all houses, &c. and the reversion and all the estate.*—That every such deed, unless any exception be specially made therein, shall be held and construed to include all houses, outhouses, edifices, barns, stables, yards, gardens, orchards, commons, trees, woods, underwoods, mounds, fences, hedges, ditches, ways, waters, watercourses, lights, liberties, privileges, easements, profits, commodities, emoluments, hereditaments, and appurtenances whatsoever to the lands therein comprised, belonging, or in anywise appertaining, or with the same demised, held, used, occupied, and enjoyed, or taken or known as part or parcel thereof, and also the reversion or reversions, remainder or remainders, yearly and other rents, issues, and profits of the same lands, and of every part and parcel thereof, and all the estate, right, title, interest, inheritance, use, trust, property, profit, possession, claim, and demand whatsoever, both at law and in equity, of the grantor, in, to, out of, or upon the same lands and every part and parcel thereof, with their and every of their appurtenances.

3. *Stamp duty on deed to be same as on lease, &c. for a year.*—That every such deed under this Act shall be chargeable with the stamp duty with which the same would have been chargeable in case it had been a release founded on a lease or bargain and sale for a year, and also with the same stamp duty (exclusive of progressive duty) with which such lease or bargain and sale for a year would have been chargeable.

4. *Remuneration for deed under the Act not to be by length only.*—That in taxing any bill for preparing and executing any deed under this Act, it shall be lawful for the taxing-officer, and he is hereby required, in estimating the proper sum to be charged for such transaction, to consider not the length of such deed, but only the skill and labour employed and responsibility incurred in the preparation thereof.

5. *Deed failing to take effect by this Act to be as valid as if Act not made.*—That any deed or part of a deed which shall fail to take effect by virtue of this Act shall nevertheless be as valid and effectual, and shall bind the parties thereto, so far as the rules of law and equity will permit, as if this Act had not been made.

6. *Construction of Act.*—That in the construction and for the purposes of this Act and the schedules hereto annexed, unless there be something in the subject or context repugnant to such construction, the word "lands" shall extend to all freehold tenements and hereditaments, whether corporeal or incorporeal, and to such customary land as will pass by deed, or deed and admittance, and not by surrender, or any undivided part or share thereof respectively; and every word importing the singular number only, shall extend and be applied to several persons or things, as well as one person or thing, and the converse; and every person importing the masculine gender only, shall extend and be applied to a female as well as a male; and the word "party" shall mean and include any body politic, or corporate or collegiate, as well as an individual.

7. *Schedules, &c. to form part of Act.*—That the schedules, and the directions and forms therein contained, shall be deemed and taken to be parts of this Act.

8. *Commencement of Act.*—That the Act shall commence and take effect from and after the first day of October next.

9. *Not to extend to Scotland.*—That this Act shall not extend to Scotland.

SCHEDULES to which this Act refers.

THE FIRST SCHEDULE.

This indenture, made the day of one thousand eight hundred and forty- , *or other year*] in pursuance of an Act to facilitate the Conveyance of Real Property, between [*here insert names of parties, and recitals, if any*], witnesseth, that in consideration of sterling now paid by the said [*grantee*] or [*grantees*] to the said [*grantor*, or *grantors*] (the receipt whereof is hereby by him or them acknowledged), he or they the said [*grantor*] or [*grantors*] doth or do grant unto the said [*grantee*] or [*grantees*], his or their heirs and assigns for ever, all, &c. [*parcels.*] [*Here insert covenants or any other provisions.*] In witness whereof the said parties hereto have hereunto set their hands and seals.

THE SECOND SCHEDULE.

Directions as to the Forms in this Schedule.

1. Parties who use any of the forms in the first column of this Schedule may substitute for the words "Covenantor" or "Covenantee," or "Releasor" or "Relea[see]" any name or names, and in every such case corresponding substitutions shall be taken to be made in the corresponding forms in the second column.

2. Such parties may substitute the feminine gender for the masculine, or the plural number for the singular, in any of the forms in the first column of this schedule, and corresponding changes shall be taken to be made in the corresponding forms in the second column.

3. Such parties may introduce into, or annex to, any of the forms in the first column any express exceptions from, or other express qualifications thereof respectively, and the like exceptions or qualifications shall be taken to be made from or in the corresponding forms in the second column.

4. Such parties may add the name or other designation of any person or persons, or class or classes of persons, or any other words, at the end of form 2 of the first column, so as thereby to extend the words thereof to the Acts of any additional person or persons, or class or classes of persons, or of all persons whomsoever; and in every such case the covenants 2, 3, and 4, or such of them as shall be employed in such deed, shall be taken to extend to the Acts of the person or persons, class or classes of persons so named.

Column I.—1. The said [*covenantor*] covenants with the said [*covenantee*].

Column II. 1. And the covenantor doth hereby, for himself, his heirs, executors, and administrators, covenant, promise, and agree with and to the said covenantee, his heirs and assigns, in manner following (that is to say):

Column I.—2. That he has the right to convey the said lands to the said [*covenantee*] notwithstanding any act of the said [*covenantor*];

Column II. 2. That for and notwithstanding any act, deed, matter, or thing by the said covenantor done, executed, committed, or knowingly or wilfully permitted or suffered, to the contrary, he the said covenantor now hath in himself good right, full power, and absolute authority to convey the said lands and other the premises hereby conveyed, or intended so to be, with their and every of their appurtenances, unto the said covenantee, in manner aforesaid, and according to the true intent of these presents.

Column I.—3. And that the said [*covenantee*] shall have quiet possession of the said lands.

Column II.—3. And that it shall be lawful for the said covenantee, his heirs and assigns, from time to time and at all times hereafter, peaceably and quietly to enter upon, have, hold, occupy, possess, and enjoy the said lands and premises hereby conveyed, or intended so to be, with their and every of their appurtenances, and to have, receive, and take the rents, issues, and profits thereof and of every part thereof to and for his and their use and benefit, without any let, suit, trouble, denial, eviction, interruption, claim, or demand whatsoever of, from, or by him the said covenantor or his heirs, or any person claiming, or to claim by, from, under, or in trust for him, them, or any of them.

Column I.—4. Free from all incumbrances.

Column II.—4. And that free and clear, and freely and absolutely acquitted, exonerated, and for ever discharged, or otherwise by the said covenantor or his heirs well and sufficiently saved, kept harmless, and indemnified of, from, and against any and every former and other gift, grant, bargain, sale, jointure, dower, use, trust, entail, will, statute, recognizance, judgment, execution, extent, rent, annuity, forfeiture, re-entry, and any and every other estate, title, charge, trouble, and incumbrance whatsoever, made, executed, occasioned, or suffered by the said covenantor or his heirs, or by any person claiming, or to claim by, from, under, or in trust for him, them, or any of them.

Column I.—5. And the said [*covenantor*] covenants with the said [*covenantee*] that he will execute such further assurances of the said lands as may be requisite.

Column II.—5. And the said covenantor doth hereby, for himself, his heirs, executors, and administrators, covenant, promise, and agree with and to the said covenantee, his heirs and assigns, that he, the said covenantor, his heirs, executors, or administrators, and all and every other person whosoever having or claiming, or who shall or may hereafter have or claim, any estate, right, title, or interest whatsoever, either at law or in equity, in, to, or out of the said lands and premises hereby conveyed or intended so to be, or any of them, or any part thereof, by, from, under, or in trust for him, them, or any of them, shall and will from time to time, and at all times hereafter, upon every reasonable request, and at the costs and charges of the said covenantee, his heirs or assigns, make, do, execute, or cause to be made, done, or executed, all such further and other lawful acts, deeds, things, devices, conveyances, and assurances in the law whatsoever, for the better, more perfectly, and and absolutely conveying and assuring the said lands and premises hereby conveyed or intended so to be, and every part thereof, with their appurtenances, unto the said covenantee, his heirs and assigns, in manner aforesaid, as by the said covenantee, his heirs and assigns, his or their counsel in the law, shall be reasonably devised, advised, or required, so as no such further assurances contain or imply any further or other covenant or warranty than against the acts and deeds of the person who shall be required to make or execute the same, and his heirs, executors, or administrators only, and so as no person who shall be required to make or execute such assurances shall be compellable for the making or executing thereof to go or travel from his usual place of abode.

Column I.—6. And the said [*covenantor*] covenants with the said [*covenantee*] that he will produce the title deeds enumerated hereunder, and allow copies to be made of them, at the expense of the said [*covenantee.*]

Column II.—6. And the said covenantor doth hereby, for himself, his heirs, executors, and administrators, covenant, promise, and agree with and to the said covenantee, his heirs, and assigns, that the said covenantor and his heirs shall and will, unless prevented by fire or other inevitable accident, from time to time and at all times hereafter, at the request, costs, and charges of the said covenantee, his heirs or assigns, or his or their attorney, solicitor, agent, or counsel, at any trial or hearing in any action or suit at law or in equity or other judicature, or otherwise, as occasion shall require, produce all and every or any deed, instrument, or writing hereunder written, for the manifestation, defence, and support of the estate, title, and possession of the said covenantee, his heirs or assigns, in or to the said lands and premises hereby conveyed, or intended so to be, and, at the like request, costs and charges, shall and will make and deliver, or cause to be made and delivered, true and attested or other copies or abstracts of the same deeds, instruments, and writings respectively, or any of them, and shall and will permit and suffer such copies and abstracts to be examined and compared with the said original deeds by the said covenantee, his heirs and assigns, or such person as he or they shall for that purpose direct and appoint.

Column I.—7. And the said [*covenantor*] covenants with the said [*covenantee*] that he has done no act to incumber the said lands.

Column II.—7. And the said covenantor, for himself, his heirs, executors, and administrators, doth hereby covenant, promise, and agree with and to the said covenantee, his heirs and assigns, that he hath not at any time heretofore made, done, committed, executed, or wilfully or knowingly suffered, any act, deed, matter, or thing whatsoever whereby, or by means whereof, the said lands and premises hereby conveyed, or intended so to be, or any part or parcel thereof, are, is, or shall or may be in anywise impeached, charged, affected, or incumbered in title, estate, or otherwise howsoever.

Column I.—8. And the said [*releasor*] releases to the said [*releasee*] all his claims upon the said lands.

Column II.—8. And the said releasor hath remised, released, and for ever quitted claim, and by these presents doth remise, release, and for ever quit claim, to the said releasee, his heirs and assigns, all and all manner of right, title, interest, claim, and demand whatsoever, both at law and in equity, into and out of the said lands and premises hereby granted, or intended so to be, and every part and parcel thereof, so as that neither he, nor his heirs, executors, administrators, or assigns, shall, nor may at any time hereafter, have, claim, pretend to, challenge, or demand the said lands and premises, or any part thereof, in any manner howsoever; but the said releasee, his heirs and assigns, and the same lands and premises, shall from henceforth for ever hereafter be exonerated and discharged of and from all claims and demands whatsoever which the said releasor might or could have upon him in respect of the said lands or upon the said lands.

Cap. CXXIV.

An Act to facilitate the granting of certain leases. (8th August, 1845.)

1. *Where the words of Column I. of the second schedule employed, the deed to have the same effect as if words of Column II. were inserted.*—Whereas it is expedient to facilitate the leasing of lands and tenements: be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that whenever any party to any deed made according to the forms set forth in the first schedule to this Act, or to any other deed which shall be expressed to be made in pursuance of this Act,

shall employ in such deed respectively any of the forms of words contained in Column I. of the second schedule hereto annexed, and distinguished by any number therein, such deed shall be taken to have the same effect and be construed as if such party had inserted in such deed the form of words contained in Column II. of the same schedule, and distinguished by the same number as is annexed to the form of words employed by such party; but it shall not be necessary in any such deed to insert any such number.

2. *Deed to include all houses, &c.*—That every such deed, unless any exception be specially made therein, shall be held and construed to include all outhouses, buildings, barns, stables, yards, gardens, cellars, ancient and other lights, paths, passages, ways, waters, watercourses, liberties, privileges, easements, profits, commodities, emoluments, hereditaments, and appurtenances whatsoever, to the lands and tenements therein comprised belonging or in anywise appertaining.

3. *Remuneration for deed under the Act not to be by length only.*—That in taxing any bill for preparing and executing any deed under this Act, it shall be lawful for the taxing officer, and he is hereby required, in estimating the proper sum to be charged for such transaction, to consider, not the length of such deed, but only the skill and labour employed, and responsibility incurred, in the preparation thereof.

4. *Deed failing to take effect by this Act to be as valid as if Act not made.*—That any deed or part of a deed which shall fail to take effect by virtue of this Act shall nevertheless be as valid and effectual, and shall bind the parties thereto, so far as the rules of law and equity will permit, as if this Act had not been made.

5. *Construction clause.*—That in the Construction and for the purposes of this Act, and the schedules hereto annexed, unless there be something in the subject or context repugnant to such construction, the word "lands" shall extend to all tenements and hereditaments of freehold tenure, and to such customary lands as will pass by deed, or deed and surrender, and not by surrender alone, or any undivided part or share therein respectively; and every word importing the singular number only shall extend and be applied to several persons or things as well as one person or thing, and the converse; and every word importing the masculine gender only shall extend and be applied to a female as well as a male; and the word "party" shall mean and include any body politic or corporate, or collegiate, as well as an individual.

6. *Schedules, &c. part of Act.*—That the schedules, and the directions and forms therein contained, shall be deemed and taken to be parts of this Act.

7. *Commencement of Act.*—That this Act shall commence and take effect from and after the first day of October.

8. *Act not to extend to Scotland.*—That this Act shall not extend to Scotland.

SCHEDULES to which this Act refers.

THE FIRST SCHEDULE.

This indenture made the day of one thousand eight hundred and forty [*or other year*], in pursuance of an Act to facilitate the granting of certain leases, between [*here insert the names of the parties, and recitals, if any*] witnesseth, that the said [*lessor*] *or* [*lessors*] doth *or* do demise unto the said [*lessee*] *or* [*lessees*], his [*or* their] executors, administrators, and assigns, all, &c. [*parcels*], from the day of for the term of thence ensuing, yielding therefore during the said term the rent of [*state the rent and mode of payment.*]

In witness whereof the said parties hereto have hereunto set their hands and seals.

The SECOND SCHEDULE.

Directions as the forms in this schedule.

1. Parties who use any of the forms in the first column of this schedule may substitute for the words "lessee" or "lessor" any name or names, and in every such case corresponding substitutions shall be taken to be made in the corresponding forms in the second column.

2. Such parties may substitute the feminine gender for the masculine, or the plural number for the singular, in the forms in the first column of this schedule, and corresponding changes shall be taken to be made in the corresponding forms in the second column.

3. Such parties may fill up the blank spaces left in the Forms 4 and 5 in the first column of this schedule so employed by them, with any words or figures, and the words or figures so introduced shall be taken to be inserted in the corresponding blank spaces left in the forms embodied.

4. Such parties may introduce into or annex to any of the forms in the first column any express exceptions from or express qualifications thereof respectively, and the like exceptions or qualifications shall be taken to be made from or in the corresponding forms in the second column.

5. Where the premises demised shall be of freehold tenure, the covenants 1 to 10 shall be taken to be made with, and the proviso 11 to apply to, the heirs and assigns of the lessor, and where the premises demised shall be of leasehold tenure the covenants and proviso shall be taken to be made with and apply to the lessor, his executors, administrators, and assigns.

Column I.—1. That the said [*lessee*] covenants with the said [*lessor*] to pay rent.

Column II.—1. And the said lessee doth hereby, for himself, his heirs, executors, administrators, and assigns, covenant with the said lessor, that he, the said lessee, his executors, administrators, and assigns, will during the said term pay unto the said lessor the rent hereby reserved, in manner hereinbefore mentioned, without any deduction whatsoever.

Column I.—2. And to pay taxes.

Column II.—2. And also will pay all taxes, rates, duties, and assessments whatsoever, whether parochial, parliamentary, or otherwise, now charged or hereafter to be charged upon the said demised premises, or upon the said lessor, on account thereof (excepting land-tax, and excepting, in Ireland, tithe, rent-charge and such portion of the poor-rate as the lessor is or may be liable to pay, and excepting also all taxes, rates, duties, and assessments whatsoever, or any portion thereof, which the lessee is or may be by law exempted from).

Column I.—3. And to repair.

Column II.—3. And also will during the said term well and sufficiently repair, maintain, pave, empty, cleanse, amend, and keep the said demised premises, with the appurtenances, in good and substantial repair, together with all chimney pieces, windows, doors, fastenings, water-closets, cisterns, partitions, fixed presses, shelves, pipes, pumps, pales, rails, locks, and keys, and all other fixtures and things which at any time during the said term shall be erected and made, when, where, and so often as need shall be.

Column I.—4. And to paint outside every year.

Column II.—4. And also that the said lessee, his executors, administrators, and assigns, will in every year in the said term paint all the outside wood-work and iron-work belonging to the said premises, with two coats of proper oil colours, in a workmanlike manner.

Column I.—5. And to paint and paper inside every year.

Column II.—5. And also that the said [*lessee*], his executors, administrators, and assigns, will in every year paint the inside wood, iron, and other works now or usually painted with two coats of proper oil colours in a workmanlike manner; and also re paper with paper of a quality as at present, such parts of the premises as are now papered; and also wash, stop, whiten, or colour such parts of the said premises as are now plastered.

Column I.—6. And to insure from fire in the joint names of the said [*lessor*] and the said [*lessee*]; to shew receipts; and to rebuild in case of fire.

Column II.—6. And also that the said lessee, his executors, administrators, and assigns, will forthwith insure the said premises hereby demised to the full value thereof, in some respectable insurance office, in the joint names of the said lessor, his executors, administrators, and assigns, and the said lessee, his executors, administrators, or assigns, and keep the same so insured during the said term; and will, upon the requests of the said lessor, or his agent, shew the receipt for the last premium paid for such insurance for every current year; and as often as the said premises hereby demised shall be burnt down or damaged by fire, all and every the sums or sum of money which shall be recovered or received by the said [*lessee*], his executors, administrators, or assigns, for or in respect of such insurance, shall be laid out and expended by him in building or repairing the said demised premises, or such parts thereof as shall be burnt down or damaged by fire as aforesaid.

Column I.—7. And that the said [*lessor*] may enter and view state of repair, and that the said [*lessee*] will repair according to notice.

Column II.—7. And it is hereby agreed, that it shall be lawful for the said lessor, and his agents, at all seasonable times during the said term, to enter the said demised premises to take a schedule of the fixtures and things made and erected thereupon, and to examine the condition of the said premises; and further, that all wants of reparation which upon such views shall be found, and for the amendment of which notice in writing shall be left at the premises, the said lessee, his executors, administrators, and assigns, will, within three calendar months next after every such notice, well and sufficiently repair and make good accordingly.

Column I.—8. That the said [*lessee*] will not use premises as a shop.

Column II.—8. And also that the said lessee, his executors, administrators, and assigns, will not convert, use, or occupy the said premises or any part thereof into or as a shop, warehouse, or other place for carrying on any trade or business whatsoever, or suffer the said premises to be used for any such purpose, or otherwise than as a private dwelling-house, without the consent in writing of the said lessor.

Column I.—9. And will not assign without leave.

Column II.—9. And also that the said [*lessee*] shall not nor will during the said term assign, transfer, or set over, or otherwise by any act or deed procure the said premises or any of them to be assigned, transferred, or set over, unto any person or persons whomsoever, without the consent in writing of the said [*lessor*], his executors, administrators, or assigns, first had and obtained.

Column I.—10. And that he will leave premises in good repair.

Column II.—10. And further, that the said [*lessee*] will, at the expiration or other sooner determination of the said term, peaceably surrender and yield up unto the said lessor the said premises hereby demised, with the appurtenances, together with all buildings, erections, and fixtures now or hereafter to be built or erected thereon, in good and substantial repair and condition in all respects, reasonable wear and tear, and damage by fire, only excepted.

Column I.—11. Proviso for re-entry by the said lessor on non-payment of rent or non-performance of covenants.

Column II.—11. Provided always, and it is expressly agreed, that if the rent hereby reserved, or any part thereof, shall be unpaid for fifteen days after any of the days on which the same ought to have been paid (although no formal demand shall have been made thereof), or in case of the breach or non-performance of any of the covenants and agreements herein contained on the part of the said lessee, his executors, administrators, and assigns, then and in either of such cases it shall be lawful for the said lessor, at any time thereafter, into and upon the said demised premises, or any part thereof in the name of the whole, to re-enter, and the same to have again, re-possess, and enjoy as of his or their former estate, any thing herein-after contained to the contrary notwithstanding.

Column I.—12. The said [*lessor*] covenants with the said [*lessee*] for quiet enjoyment.

Column II.—12. And the lessor doth hereby, for himself, his heirs, executors, administrators, and assigns, covenant with the said lessee, his executors, administrators, and assigns, that he and they, paying the rent hereby reserved, and performing the covenants herein-before on his and their part contained, shall and may peaceably possess and enjoy the said demised premises for the term hereby granted, without any interruption or disturbance from the said lessor, his executors, administrators, or assigns, or any other person or persons lawfully claiming by, from, or under him, them, or any of them.

THE MAGISTRATE.

Summary.

There is nothing of interest to report or comment upon in this department of our journal this week.

The following buildings have been duly registered for the solemnization of marriages, pursuant to the Act of the 6 & 7 Wm. 4, c. 85. The Baptist Chapel, situated in Newhall-street, in the parish of Birmingham, in the county of Warwick, in the district of Birmingham. Ebenezer Chapel, situated at Brotherton, in the parish of Brotherton, in the west riding of the county of York, in the district of Pontefract.

THE LAWYER.

Summary.

The following Law Bills have been either withdrawn from the House of Commons during the session, with the intention of re-introduction next year, or were postponed at the rising of Parliament to the ensuing session. The list, it will be seen, embraces some very important measures, which deserve the consideration of the Profession, that it may be prepared for change, and ready to resist any encroachments upon its rights which the framers of the measures may intend.—Granting of Leases; Ecclesiastical Courts; Charitable Trusts; Debtor and Creditor; Courts of Common Law Process; Clerks of the Peace and Justices' Clerks; Actions of Debt Limitation: Divorce (Privy Council); Civil Actions; Declaratory Suits; Real Property Deeds Registration; Death by Accidents; Deodands Abolition; Administration of Criminal Justice; City of London Trade; Elective Franchise Extension; Independence of Parliament; Marriage Law Amend-

ing; Church Discipline Act Repeal; Drainage of Lands; Chattel Interests.

Several interesting commentaries upon the laws and their administration, and on practice, will be found subjoined.

ON TAKING INSTRUCTIONS FOR WILLS.

There are few of the duties of the solicitor which, by people in general, are considered more easy to perform than that of preparing a will; and yet the duty involves more responsibility and difficulty than is commonly supposed. Every village schoolmaster who is capable of writing a letter is supposed to have sufficient capacity and education to draw a will; and from such a person, as a *cheaper* assistant than the solicitor, many have sought advice and aid in this most important and difficult transaction; and the persons who were intended to benefit by the testator's bounty have had cause to rue the ill-advised parsimony of their deceased friend. The testator lives not to witness the ruinous consequences of his folly, but the objects of his bounty find themselves in possession of a costly chancery suit, instead of the enjoyment of that which the testator intended should readily pass to them. This may not be the case where the will consists merely of a series of simple gifts to the legatees of the testator; but how seldom is it that a testator is satisfied with the simple transfer of the property to his legatees. Endeavouring to exercise a right of ownership over his property after he has ceased to enjoy it, he seeks to fetter his gift with conditions and limitations, of the effects of which he is so ignorant, that he appears often to have intentionally obscured his meaning, if, indeed, he may be said to have had any meaning at all. "Testators," recently observed an eminent judge, "seem inexhaustible in their devices for puzzling courts of justice:" and so they will continue to be so long as, without any knowledge of the legal effect of their words and intentions, they prepare their own wills, or intrust the preparation of them to individuals as ignorant of the subject as themselves.

It becomes, then, the duty of solicitors, when called upon to prepare a will, not only to draw the will so as to effect the testator's intention as nearly as the rules of law will allow, but also to explain the ultimate consequences of the testator's wishes being carried into effect, and to advise him to adopt a better course if such should appear necessary. A solicitor is not to be a mere instrument to effectuate as nearly as possible a testator's intention, but a higher and a moral duty devolves upon him in the matter; viz. that of an adviser for the benefit of the testator's family, or any other objects of the testator's bounty.

In considering in detail this duty of advising, we would divide the subject into the four following particulars; viz. 1st, the condition of the testator himself; 2nd, the position of the testator's family; 3rd, the nature of the testator's property; and 4th, the limitations proposed by the testator.

And 1st, as to the condition of the testator himself. A solicitor, before proceeding to take instructions for preparing a will, should satisfy himself that the party is not incapacitated from making it. The principal difficulty which will arise in this case will be as to the mental capacity of the testator; and therefore we will shortly state the other incapacitating circumstances, and afterwards proceed to consider more at length the degree of mental imbecility which will render a will made under its influence void.

By the 1 Vict. c. 26, no will made by any person under the age of 21 years shall be valid; and in connection with this it will be useful to remember that the day of a person's birth is included in the computation of his age, and there being in law no fraction of a day, a will may be made at any time on the day before that which is usually considered the 21st anniversary of his birth.

A *feme covert* is incapable of making a will except of that property over which a disposing power is expressly given to her, notwithstanding her coverture, by the instrument through which the interest is derived; and in all cases this exception from the incapacity of coverture appears rather to give a mere power of appointment in this particular form, than a power to make a will, though in effect the two things may be the same. An exception to the general incapacity of a married woman occurs when the husband has, by Act of Parliament, been banished for life, as the wife, in that case, may in all things act as a *feme sole*, and as if her husband were dead. (*Countess of Portland* v. *Prodgers*, 1 Ver. 104.) It would appear also, that where a husband is transported as a felon for a term of years, the legal disabilities of his wife are for that term suspended. (Vide *Ex parte Franks*, 1 M. & Scott, 11.)

The will of an alien devising lands is voidable, as he has only a defeasible title in the lands, which, however, it appears he may by will pass to a devisee.

A traitor is unable to make a will; this is also the case with a felon against whom sentence of death is recorded.

It remains, then, to state the rule as to those persons whose incapacity to make a will arises from *mental* inability. "An idiot, *i.e.* such a one as cannot number twenty, or tell what age he is, or the like, cannot make a testament or dispose of his lands or goods; and albeit he do make a wise, reasonable, and sensible testament, yet is the testament void. But such a one as is of a mean understanding only, that hath *grossum caput*, and is of the middle sort, between a wise man and a fool, is not prohibited to make a testament." (Shep. Touchstone, 403.) Mental imbecility, by reason of great age, or occasioned by drunkenness, will incapacitate a man from making a will.

A person who is born deaf, dumb, and blind cannot make a will, though blindness or deafness alone will not render a person incapable.

A mad or lunatic person cannot make a will; but there is some difficulty attending those cases in which a doubt may be raised as to the testator's sanity at the time of making his will. No general rule can be laid down for the guidance of the solicitor, but he will be careful particularly to note the circumstances of the case, lest the will should be subsequently disputed. He will also clearly satisfy *himself* of the testator's competency.

A person found lunatic by commission may make a will during a lucid interval, but the burden of proof of his sanity at the time will fall upon the parties who set up the will. (*Hall* v. *Warren*, 9 Ves. 605; *Re Watts*, 1 Curt. 591; *Cartwright* v. *Cartwright*, 1 Phil. 100.)

If the testator should be in a state of intoxication, the solicitor will of course decline to take instructions while the testator is in such a state of incompetency to attend properly to his affairs. If, however, the will proposed be a reasonable one, and such as the solicitor might suppose would be the will the testator would make if in his sound mind, the solicitor might perhaps be advised to take the instructions, but he should seek an opportunity of submitting them to the party again, *before the will is prepared*; for the fact of the will being prepared and ready for the testator's signature, might deter him from having those alterations made which his sounder state of mind might dictate.

The solicitor should also take care that the testator is not under the undue influence of others, for in *Lord Donegal's* case (2 Ves. sen. 407), Lord Hardwick said, that where imposition had been practised upon a man's weakness of understanding, relief might be obtained in cases of deeds or wills, although a commission on the ground of such weakness might be denied. (See also the case of *Mountain* v. *Bennett*, 1 Cox, 355.)

The mind of the testator may also be under some erroneous impression or bias, as in the remarkable case of Mr. Greenwood, mentioned by Lord Eldon in *White* v. *Wilson* (13 Ves. 89), (see also *Dew* v. *Clarke*, 3 Addams, 79), and here the solicitor should use his utmost endeavours to remove such impression, though, if his efforts prove ineffectual, he may fairly take instructions, and prepare the will according to the testator's wishes.

If the testator is in a dying state, it will be the anxious duty of the solicitor to satisfy himself that the party is in a competent state of mind to make a will, and then carefully to secure such testimony as may prove important in case the will be disputed. The medical attendant upon the testator may, in all such cases, be properly and usefully consulted as to the competency of his patient, and it would be desirable to provide that his evidence upon the subject may be given up to the time of the actual execution of the will.

2nd. With regard to the position of the testator's family, a delicate and important duty devolves upon the solicitor when advising the testator in the preparation of his will. The disunion which frequently arises in families gives too often a bias to the testator's mind, which, if permitted to have its full sway, works an irreparable injustice where a temporary punishment is all which the testator would, if acting upon dispassionate reason, wish to inflict. The misconduct of a child is visited by a total omission of all provision for that child, when, probably, the misconduct arose from improvidence or thoughtlessness, and a sparing provision doled out so as to guard against the evil which is feared, might effect more nearly the real wishes of the testator.

The solicitor should, therefore, in any case of a testator's desiring to omit all provision for any one of his children, place before him the real effect of such omission, and, if the circumstances justify it, should endeavour to induce him to provide for the child in such manner as may prevent the repetition of the fault of which the testator complains. Thus, if it be the case of a spendthrift, or a speculating, extravagant, or improvident person, the evil may be met by providing a weekly or monthly allowance; and in case of an attempt to assign or mortgage it, or of the party's becoming bankrupt or insolvent, that the allowance shall revert to the other objects of the testator's bounty, or shall form a provision for the wife and children of the assignor. It is important, however, to recollect here that the provision should not be given over for the benefit of the assignor himself, as such a gift over would be void in case of bankruptcy or insolvency, and the property would pass to the assignees.

The above illustration will suffice to shew the duty of the solicitor under this head. Many other cases will probably suggest themselves to the reader, but they will be found only to exemplify this general rule, *that the solicitor should, to the extent that circumstances will allow, endeavour to prevent the testator's carrying into effect any contemplated injustice towards those for whom he is bound by natural or moral duty to provide.*

3rd. As to the nature of the property the solicitor should make careful inquiry, so that the whole of the property intended by the testator to pass under his will should do so. This remark is of course primarily applicable to that property over which the testator has a power of appointment. The nature of the power and the intended objects of it should be ascertained by the solicitor, as the testator's wish might otherwise be defeated by including improper objects in the exercise of the power. It will be desirable that in every instance the exercise of a power should be kept distinct from the residuary or any other bequest or devise, unless it is perfectly clear that such bequest or devise is exclusively in favour of those persons and for those objects which are within the scope of the power. By the late Act it is not necessary that any other formalities should be observed in the execution of a power by will than those required by the Act for wills in general.

The recent Wills Amendment Act has prevented any questions arising as to joint or contingent estates, rights of entry, &c. as the will is made to operate in all cases, as if executed immediately before the death of the testator. It will be needless, therefore, under this head, to discuss the various questions which have arisen as to those interests under the old law.

If the property be renewable leaseholds, placed in the hands of trustees, a power to sell or mortgage *the whole* or a part, for the purpose of renewing the lease, should be given; as otherwise, if the property be small, or the fines upon renewal be heavy, much difficulty may arise in obtaining money to preserve the property for the benefit of the *cestuis que trust*. Although the intended *cestuis que trust* may be all *sui juris*, yet such a power is at all times desirable, as it can never be assumed that infants will not become parties interested, and then such a power will be absolutely necessary.

The solicitor will carefully consider and direct the attention of the testator to any inconveniences or disadvantages which may attend the gifts or limitations he may propose to make. Thus if a testator should desire to leave a small copyhold estate to several persons, as tenants in common, his attention should be called to the fact that separate fees on admission would be payable from each person. (1 Watkins on Copyholds, 299; 1 Pr. Wms. 21; Lord Raym. 631.) In such a case a testator might be advised to leave the whole of the estate to one, charged with the payment of a definite sum to each of the other persons he intended to benefit.

The latter observation may, perhaps, properly belong to the next head of remark, viz. as to the limitations proposed by the testator.

Testators are very frequently desirous of extending to the utmost their power over the property they leave, and, as in Mr. Thelusson's case, endeavour to create extraordinary provisions for that purpose; it should in all such cases be considered whether the advantage to be gained will be an equivalent for the disadvantages always attending such dispositions, and this should be pointedly brought under the consideration of the testator, and the position of the case clearly explained to him.

Upon this subject much prudent foresight and careful consideration will be necessary on the part of the solicitor. In the ordinary, as well as the extraordinary, cases of limitations, it will be the solicitor's duty to provide for every conceivable alteration of the circumstances under which the property, or the persons intended to be the partakers of it, may subsequently be placed. These are provisions which seldom enter into the contemplation of a testator, who too often treats the subject as if the property and its beneficial possessors would always remain in circumstances similar to those in which they are placed at the time of making the will.

The alterations, then, to which the various properties which form the subject of the devise or bequest,—the deaths, succession, substitution, infancy, and marriage of the *cestuis que trust*, or devisees, or legatees—must all be carefully provided for, and it will therefore be well for the solicitor, when taking instructions for a will, carefully to trace out to the testator, in these several particulars, the possible alterations of the property, or of the position of the parties, and to take his particular instructions in every one of these conceivable alterations; advising him, as may be necessary, as to the best and most practicable mode of carrying his wishes into effect.

It is too frequently the habit of solicitors to have a mere general outline furnished them by the testator of his will, and then, without any further consultation with him, to follow out in detail the various possible devolutions of the property according to their own scheme. Though this may be advantageously done in some circumstances, as a general rule it may be said that it is improper. It gives rise frequently to much discrepancy in wills, for a testator, it may be, having a scheme of his own which is full of specialties, the solicitor is too apt to fill up the details providing for ulterior circumstances, according to some general precedents which he may have by him, but which will be found not to work properly with the original scheme. Such a difficulty is not sufficiently met by submitting the will when entirely drawn to the consideration of the testator, for too frequently, in such a case, his mind will not be alive to his own intentions, but will be led away by that which, having been reduced into something of shape, appears to effect such intentions as he would have had if they were yet to be formed, but which, as he finds them ready formed for him, he does not much trouble himself to consider.

The more proper course then will be, as was before stated, for the testator, subject to the advice and suggestions of his solicitor, to state, step by step, his wishes, and by that means to preserve such an uniformity in the limitations and provisions as may be attainable. G. S. A.

MORAL OBLIGATION—HOW FAR A CONSIDERATION.

The doctrine that a moral obligation is a sufficient consideration to support an action of assumpsit is one which has been received with so much caution by the Courts in latter times, and adopted with so much readiness in earlier decisions, that between the two we have well-nigh lost all guide to the practical application of the rule. Let it be our present task to lay before the reader a concise, and we hope correct, summary of the decisions on the subject.

We may at once premise that a moral obligation is undoubtedly insufficient to raise an *implied* promise, and the reason is obvious and conclusive, for the very term "moral obligation" conveys the idea of a duty binding in conscience, though not for certain reasons enforceable in law; and how could any promise be *implied* in law, so as to compel a man to do or perform that which the law does not consider binding upon and enforceable against him? An implied promise must always arise from some liability enforceable at law *per se*, and from the existence of which the law at once infers the undertaking which is the groundwork of the action on an implied assumpsit. In a word, the implied promise is a convenient fiction invented for the purposes of suit, but which must be founded on a pre-existing enforceable duty.

We may also, without prejudice to our argument, admit that a moral obligation is not a sufficient consideration to support even an express promise, unless the party promising has received an actual pecuniary benefit, or been saved from an actual pecuniary loss, and that though a party may consider himself in conscience bound to perform a duty and make an express promise accordingly, yet this *alone* is not sufficient.

The true doctrine, then, we take to be as follows: and in the cases hereinafter quoted, we shall have occasion to shew in what respects they support, and how far they deviate from the true standard. "It is quite true," in the words of Lord Tenterden, in *Littlefield* v. *Shee* (2 B. & Ad.), that "the doctrine that a moral obligation is a sufficient consideration for a subsequent promise is one which should be received with some qualification;" but that qualification is well expressed in a note to an earlier case, viz. *Wennall* v. *Adney* (3 B. & P.), and which is referred to by the reporters of *Littlefield* v. *Shee*, with reference to Lord Tenterden's observation. In this note we find it thus observed:—"Lord Mansfield" (alluding to a decision of that eminent judge, to which we shall presently have occasion to refer) "appears to have used the term moral obligation, not as expressive of any vague or undefined claim, &c. but of those *imperative* duties which would be enforceable at law, were it not for some positive rule, which, with a view to general benefit, exempts the party in that particular instance from legal liability. On such duties, so exempted, an express promise operates to revive the liability and take away the exemption; an express promise, therefore, it should seem, can only revive a precedent good consideration, which might have been enforced at law through the medium of an implied promise had it not been suspended by some positive rule of law, but can give no original right of action if the obligation upon which it is founded never could have been enforced at law, though not barred by any legal maxim." We shall now take a critical survey of the several cases on this subject, first, however, taking into our consideration how far Mr. Selwyn's position (Sel. N. P. 10th ed. p. 51), that not a trace of the doctrine of moral obligation is to be found in the old cases, is tenable, and if we can shew that it was a recognised principle at the time of Lord Mansfield, and propounded then as *no novelty*, but as a well-known and received doctrine, we think we shall have somewhat advanced our case. We, indeed, admit that the *term* moral obligation is of recent date, but the *principle* is ancient. We have already adverted to the qualification with which Lord Mansfield's words in *Hawkins* v. *Saunders* (Cowp. 290), that "where a man is under a moral obligation, which no Court of law or equity can enforce, and *promises*, the honesty and rectitude of the thing is a consideration," must be received; and, indeed, this qualification is implied by an instance afterwards cited by his lordship in the same case, viz. that of an infant's liability to pay for things not necessaries supplied during infancy, on an express promise after full age. Now this case of an infant is one of moral obligation in the strictest sense, there being a duty enforceable at law, but for the intervention of a positive rule, viz. the non-liability of infants on their contracts for things not necessaries. Is there, then, no trace of such a moral obligation supporting an express promise in the old books? The case of *Lampleigh* v. *Braithwait*, reported in Hobart's Reports, p. 105, and decided in Michaelmas Term 13 Jac. 1, and cited by Mr. Selwyn, was as follows:—Anthony Lampleigh brought an assumpsit against Thomas Braithwait, and declared "that whereas the defendant had feloniously slain one Patrick Mahume; the defendant, after the said felony done, instantly required the plaintiff to labour and do his endeavours to obtain his pardon from the king; that plaintiff did so endeavour, and that afterwards defendant promised;" and it was agreed that mere voluntary courtesy will not have a consideration to uphold an assumpsit. This doctrine is quite consistent with our argument: and, as far as our judgment goes, the above case is an authority neither for nor against our position.

We shall next advert to the case of *Rogers* v. *Stevens* (2 T. R.), in which a party, defendant, objected that he had had no notice of the non-acceptance of the bill of exchange (a foreign bill) which was the subject of the action; and the judges held that a subsequent express promise to pay made the defendant liable, though he otherwise would not have been; Ashhurst, J. observing, "At all events, the other ground affords a satisfactory answer to this application." The defendant's subsequent acknowledgment, "that the bill must be paid," amounts in point of law to a promise that "it shall be paid," and does away with the necessity of considering the question relative to the want of notice.

Here, then, we have an imperative duty, which would be enforceable at law, were it not for a positive rule which, with a view to general benefit, exempted the party in that particular instance from legal liability. The express promise herein operated to revive the liability and take away the exemption; in a word, the moral *obligation supported the subsequent express promise.*

(*To be continued.*)

THE LAW AND PRACTICE OF PROCEEDING AGAINST A TRADER-DEBTOR.

Under the Statute 1 & 2 Vict. c. 110, s. 8.

CHAP. III.

BEFORE WHOM TO BE SWORN.

27. All affidavits to be made or used in matters of bankruptcy, or under or by virtue of any statute relating to bankrupts, or of this Act, shall and may be sworn before the Court of Review, or before either of the subdivision courts in bankruptcy, or any commissioner, or the master, or any registrar or deputy registrar of the Court of Bankruptcy, or master in ordinary, or extraordinary, of the High Court of Chancery; or in Scotland or Ireland, before a magistrate of the county, city, town, or place where any such affidavit shall be sworn; or elsewhere, before a magistrate, and attested by a notary, or before a British minister, consul, or vice-consul. (5 & 6 Vict. c. 122, s. 67.)

WITHIN WHAT TIME TO BE FILED.

28. By General Rules and Orders, Nov. 12, 1842, rule 23, if the affidavit for summoning a debtor under this Act shall not be filed within one calendar month after service of the particulars of demand and notice, the plaintiff (or creditor) shall not afterwards be at liberty to proceed without serving new particulars of demand and notice.

WHERE TO BE FILED.

29. By Lord Brougham's order, all affidavits and other documents directed to be filed in the Court of Bankruptcy are to be filed with the registrars of the court; and by General Rules and Orders, Nov. 12, 1842, rule 42, "all affidavits used in court shall be filed."

The creditor having now filed his affidavit, must apply to the Court in which it is filed, "to issue a summons in writing, in the form specified in the said schedule, calling upon such trader to appear before such Court, and stating in such summons the purpose for which such trader is called upon by such summons to appear, as hereinafter provided. (5 & 6 Vict. c. 122, s. 11.)

The following is the form given by the schedule A., No. 3, of

The Summons of Trader-Debtor.

30. These are to will and require you to whom this warrant is directed, personally to be and appear before the Court of Bankruptcy, to be holden in Basinghall-street, in the city of London (or at , in the county of), on the day of , at o'clock; and you are hereby informed that the purpose for which you are summoned to appear before the said Court, is to ascertain, in manner and form prescribed by the statute in that case made and provided, whether or not you admit the demand of A B, of (who claims of you the sum of pounds for a debt), or any and what part thereof, or whether you verily believe that you have a good defence to the said demand, or to any and what part thereof; and hereof you are not to fail at your peril. Given under my hand the day of , in the year of our Lord

(Signed) J K, Commissioner.

By General Rules and Orders, Nov. 12, 1842, rule 26, every summons of a debtor under this Act, shall describe the parties, in the same manner as they were described in the particulars of demand and notice (*ante*).

And by rule 27 of the General Rules and Orders, Nov. 12, 1842, every summons shall be indorsed with a notice as follows:—

Notice to the party summoned.

31. This summons is served upon you pursuant to the provisions of the 5th and 6th Vict. c. 122, intituled, "An Act for the Amendment of the Law of Bankruptcy," and is founded upon an affidavit of debt, which was filed in the Court of Bankruptcy in London (or the Court of Bankruptcy for the district, on the day of , 184 .

If you fail to appear in person to this summons, at the time and place within specified (having no lawful impediment made known to and proved to the satisfaction of the said Court at the said time, and allowed); and if you also fail, within fourteen days after service of this summons, or within such enlarged time as the said Court may grant, to pay, secure, or compound for the demand within mentioned, to the satisfaction of the summoning creditor, or enter into a bond with two sureties, to be approved of by the said Court, to pay such sum as shall be recovered in any action which shall have been brought, or shall thereafter be brought for recovery of the same, together with such costs as shall be given in such action, you will be deemed to have committed an act of bankruptcy on the fifteenth day after the service of this summons, provided a fiat in bankruptcy shall issue against you within two calendar months from the filing of the above-mentioned affidavit.

If you shall appear, and on appearance shall refuse to sign an admission of the said demand in the form required by the said Act, and shall not make a deposition on your oath, in the form required by the said Act, that you believe you have a good defence to such demand, and shall also fail, within fourteen days after service of this summons, or within such enlarged time as aforesaid, to pay, secure, or compound, as above mentioned, or to enter into such bond as above mentioned, the same consequence will follow as in the case first supposed, subject to the same proviso as regards the issuing a fiat in bankruptcy.

If you shall appear, and on appearance shall sign an admission of the said demand, and shall not, within fourteen days next after the filing of such admission, pay or tender, and offer to pay to the said creditor the amount of such demand, or secure or compound for the same to the satisfaction of such creditor, you will be deemed to have committed an act of bankruptcy on the fifteenth day after the filing of such admission, subject to the same proviso as before mentioned with regard to the issuing a fiat in bankruptcy.

If you shall appear, and on appearance shall sign an admission for part of the said demand, and shall not make a deposition on your oath, in form required by the said Act, that you believe you have a good defence to the residue, then if, as to the sum so admitted, you shall not, within fourteen days next after the filing of such admission, pay, or tender, and offer to pay, to the said creditor the sum so admitted, or secure or compound for the same to the satisfaction of such creditor, and as to the residue of such demand, shall not, within fourteen days from the service of this summons, or such enlarged time as may be granted by the said Court in that behalf, pay, secure, or compound for the same to the satisfaction of such creditor, or enter into a bond with two sureties, to be approved of by the Court, to pay such sum as shall be recovered in any action which shall have been brought, or shall thereafter be brought for the recovery of the same, together with such costs as shall be given in such action, you will be deemed to have committed an act of bankruptcy on the fifteenth day after service of this summons, subject to the same proviso as before mentioned with regard to the issuing the fiat in bankruptcy.

If you shall appear, and on appearance shall, as to the whole of the said demand, or part of it, make a deposition on your oath in the form required by the said Act, that you believe you have a good defence to the same, you will be entitled to a discharge from the summons.

You are moreover to observe that an admission made by you, after service of this summons, though signed out of court, may afterwards be filed in court, and will be as effectual as if you had appeared and signed it in court, provided there be present at the time of the signature an attorney of one of her Majesty's superior courts of law on your behalf, expressly named by you, and attending at your request, to inform you of the effect of such admission before it is signed by you; and provided also, that such attorney do subscribe his name to the admission as a witness, and in such attestation declare himself to be attending for you, and state therein that he subscribes as such attorney; and provided also, that the admission be in the following form:—

> I, the undersigned E F, of , in the county of , do hereby confess that I am indebted to A B, of , in the sum of
>
> (Signed) E. F.
>
> Dated this day of , 184
>
> Witness G H, attorney for the said E F, and subscribing witness to the execution hereof as such attorney.

And by General Rules and Orders, November 12, 1842, rule 28, it is further ordered, that every summons of a debtor under the said Act shall be indorsed with the name and place of residence (according to the form of specifying name and place directed by rule 20, *ante*) of the attorney actually suing out the same; and in case such attorney shall not be an attorney of the Court of Bankruptcy, then also with the name and residence (according to the same form) of the attorney of such court in whose name the summons shall be sued out; but in case no attorney shall be employed for the purpose, then with a memorandum, expressing that the same has been sued out by the summoning creditor "in person."

When the summons is issued, the creditor must make and the commissioner will sign the following

Memorandum of issuing Trader-Debtor Summons.

> In the Court of Bankruptcy, London.
>
> (*Or*, in the District Court of Bankruptcy.)
>
> At the Bankruptcy Court the day of , 184 . In the matter of summons of E F, of , at the suit of A B, of before Commissioner (Mr. Serjeant Stephen), under the statute 5 & 6 Vict. cap. 122, sec. 11.
>
> *Memorandum*, the above-named plaintiff having this day filed an affidavit in this court in the above matter, pursuant to the 11th section of the Act of 5 & 6 Vict. cap. 122, the Court issued a summons, calling on the above named defendant to appear before the Court, at the suit of the above-named plaintiff, on , the day of , at o'clock in the noon.
>
> HENRY J. STEPHEN,
> Commissioner.

SUMMONS, HOW AND WHEN TO BE SERVED.

32. The service must be on the debtor in person. By General Rules and Orders, Nov. 12, 1842, rule 29, every such summons shall be served *four days at least* before the time for appearance therein mentioned; and by General Rules and Orders, Nov. 12, 1842, rule 30, every such summons shall be served between the hours of nine o'clock in the forenoon and nine o'clock in the evening.

33. *Form of Affidavit of Service of Summons.*

> the Court of Bankruptcy (for the Bristol district).
>
> In the matter of E F, of , a trader-debtor. C D, of , maketh oath and saith, that he, this deponent, did, on the day of instant [*or* last], between the hours of nine of the clock in the forenoon and nine of the clock in the evening, personally serve E F, of , mercer (debtor), with a summons, dated the day of , instant [*or* last], signed by (Henry John Stephen, esq. serjeant-at-law) one of the Commissioners the said District Court of Bankruptcy [*or*, of the Court of Bankruptcy in London, *as the case may be*], and an indorsement thereon (a true copy of which summons and indorsement thereon is hereunto annexed), calling upon and requiring the said E F to appear before the said Court upon the day of , one thousand eight hundred and forty-five, and stating in such summons the purpose for which the said E F is called upon by such summons to appear, according to the statute in that case made ded.
>
> Sworn at (Bristol) this day of 184 ,
>
> Before

By General Rules and Orders, Nov. 12, 1842, rule 33, "any want of compliance, on the part of the plaintiff, with these rules and orders, in the particulars of demand and notice, and in the affidavit for summoning the defendant, and in the summons and service thereof, or in any or either of such matters, may be waived by the defendant, or if made known to and proved to the satisfaction of the Court, at the time required by the summons for the appearance of the defendant, shall be deemed and taken to be a good objection to requiring the defendant to state whether or not he admits the demand sworn to by the plaintiff, or any part thereof; and in such case, if want of compliance be not waived, the defendant shall be entitled to his discharge from the summons, and a memorandum of such discharge shall be indorsed on the summons."

CHAPTER II.

THE APPEARANCE TO THE SUMMONS, AND PROCEEDINGS THEREON.

34. Upon the appearance of any such trader so summoned as aforesaid, it shall be lawful for such Court to require such trader to state whether or not he admits the demand of such creditor, so sworn to as aforesaid, or any and what part thereof; and if such trader shall admit such demand, or any part thereof, to reduce such admission into writing, in the form specified in the schedule hereunto annexed, and such admission so reduced into writing, such trader is hereby required to sign, and the same is thereupon to be filed in such court: and it shall also be lawful for such Court to allow such trader, upon his said appearance, to make a deposition upon oath, in writing under his hand, to be filed in such court, in the form specified in the said schedule, that he verily believes he has a good defence to such demand, or to some and what part thereof. (5 & 6 Vict. c. 122, s. 12.)

By the above section the Court is empowered, on the appearance of the trader-debtor, to require him to state whether or not he admits his creditor's demand, or any and what part of it, and to reduce such admission into writing, and file it in court, after it has been signed by the trader. The Court has also power to allow the trader to make a deposition upon his oath, in writing, that he believes he has a good defence, either to the whole or to any and what part of the creditor's demand.

CONSEQUENCE OF CREDITOR'S NOT APPEARING.

35. If the debtor appears to the summons, but the creditor does not appear, then, by General Rules and Orders, Nov. 12, 1842, rule 31, it is ordered, "If the plaintiff (creditor) shall make default in appearance at the time appointed in that behalf, the defendant (debtor) shall be entitled to his discharge from the summons, and a memorandum of such discharge shall be indorsed on the summons.

IRREGULARITY IN THE CREDITOR'S PROCEEDINGS HOW TAKEN ADVANTAGE OF BY DEBTOR.

36. When both the creditor and debtor appear to the summons, if there has been any irregularity in the previous proceedings of the plaintiff (creditor), (vide *ante*), the debtor may either waive the objection, or take advantage of it before he is called upon to admit his creditor's demand; and if the debtor substantiate his objection as to the irregularity of the plaintiff's proceedings to the satisfaction of the Court, "he shall be entitled to his discharge from the summons, and a memorandum of such discharge shall be indorsed on the summons." (General Orders, 33.)

POWER OF COURT TO ENLARGE TIME FOR ADMISSION OF DEMAND.

37. By 5 & 6 Vict. c. 122, s. 16, it is enacted, "that it shall be lawful for such Court, upon reasonable cause shewn, to enlarge the time for calling upon such trader to state whether or not he admits such demand or any part thereof;" and by General Rules and Orders, Nov. 12, 1842, rule 34, "every application to enlarge the time for calling on the defendant to state whether or not he admits the demand, or any part thereof, shall be supported by affidavit."

DEPOSITION OF TRADER TO GOOD DEFENCE.

38. If the debtor take an objection to the plaintiff's proceedings, or, having taken it, fail to establish it to the satisfaction of the Court, or make no application for enlargement or adjournment, he is then called upon to state whether or not he admits his creditor's demand, or any part of it, or has a good defence to the whole demand, or any part of it. If he states that he has such defence to the demand, or any part of it, he must make an affidavit in the following form, given in schedule B, No. 2, of this statute:—

Deposition by Trader-Debtor of belief of good Answer to Creditor's Demand, or some part thereof.

> Court of Bankruptcy, Basinghall-street, London.
>
> (*Or*, at , in the county of .) day of A.D.
>
> E F, of , being sworn, on the day and year and at the place aforesaid, upon his oath saith, that he verily believes he has a good defence to the demand [*or* to pounds, part of the demand] hereinafter mentioned of A B, of , who claims of the said E F the sum of pounds, for a debt alleged to be due and owing from the said E F to the said A B, as stated in the affidavit of the said A B, filed in this Honourable Court, and bearing date the day of
>
> (Signed) E F.
>
> Sworn before me,
> J K, Commissioner.

If a trader who has been summoned under 5 & 6 Vict. c. 122, s. 11, does not file an affidavit as required by the said Act, he will not be entitled to have his summons dismissed. (*Ex parte Lawrence and Co.* 5 Law T. 203.)

This affidavit must be filed in the court, and has the effect of discharging the trader-debtor from the summons; for by General Rules and Orders, Nov. 12, 1842, rule 32, it is ordered that, "if the defendant shall appear at the time appointed in that behalf, and shall refuse to admit such demand, but shall, as to the whole of such demand, or part of it, make a deposition on oath in the form required by the said Act, that he believes he has a good defence to the same, the defendant shall be entitled to his discharge from the summons, and a memorandum of such discharge shall be indorsed on the summons.

Under this order the defendant, in order to entitle himself to be discharged upon filing an affidavit that he has a good defence *to a part of the demand, must also admit the remainder of the demand.*

In *Ex parte Rea, re Rangecroft* (5 Law T. 153), John Rangecroft, a trader, appeared to the summons, and filed a deposition that he had a good defence to a part of the demand. He then applied to the Court to dismiss the summons under the 32nd general order (*suprà*). This application was opposed by Rea's solicitor, on the ground that the deposition was not sufficient alone to entitle him to his discharge, as, under the 12th sec. 5 & 6 Vict. c. 122, he was bound to admit in his deposition that portion of the demand to which he had not deposed he had a good defence. The commissioner (Evans) held "that he must make the admission. The object of the Act is to afford the plaintiff conclusive evidence of his debt."

ADMISSION OF DEBT BY TRADER-DEBTOR.

39. If, on the other hand, the debtor is willing to admit the whole or part of his creditor's demand, he must make such admission in writing, and afterwards sign it. By Schedule B, No. 2, of this statute, the following form is given of—

Admission of Debt by Trader-Debtor.

Court of Bankruptcy, Basinghall-street.
(Or, at , in the county of .)
day of , A.D. .

Whereas I, the undersigned E F, of , am summoned to appear before this Honourable Court, for the purpose of stating, in manner prescribed by the statute in that case made and provided, whether or not I admit the demand of A B, of (who claims of me, the said E F, the sum of pounds for a debt), or any and what part thereof, or whether I verily believe that I have a good defence to the said demand, or to any, and what part thereof: Be it known, that I, the said E F, hereby confess that I am indebted to the said A B in the said sum of pounds (or in part of the said sum of pounds, that is to say in the sum of pounds).
(Signed) E F.

The above is the form of admission when made by the trader in court; but it may also be made out of court, for by 5 & 6 Vict. c. 122, s. 17, it is enacted, that "an admission of any debt made after such summons as aforesaid, and signed by any such trader elsewhere than before such Court, may be filed in such court, and shall be of the same force and effect, to all intents and purposes, as an admission signed by such trader so summoned as aforesaid, on his appearance in such court, provided there be present some attorney of one of her Majesty's superior courts of law on behalf of such trader, expressly named by him, and attending at his request, to inform him of the effect of such admission before the same is signed by such trader: and provided also, that such attorney do subscribe his name thereto as a witness to the due execution thereof, and in such attestation declare himself to be attorney for the said trader, and that such admission shall be made in the form of Schedule C, hereunto annexed."

40. *Admission of Debt by Trader-Debtor signed out of court.*

I, the undersigned E F, of , do hereby confess that I am indebted to A B, of in the sum of pounds.
(Signed) E F.
Dated this day of , A.D. .
Witness, G H, attorney for the said E F, and subscribing witness to the execution hereof as such attorney.

REVIEW OF THE CASES DECIDED IN ALL THE COURTS OF COMMON LAW,

During Easter Term and Vacation, and Trinity Term and Vacation, 1845.

(*Concluded from page* 416.)

PRACTICE.

Rule to discontinue.—Where a rule has been obtained by the defendant with a stay of proceedings, the plaintiff cannot obtain a rule to discontinue, until the defendant's rule is disposed of. (*Murray* v. *Silver*, 5 Law T. 129; 14 L. J. 118, C. P.)

Rule to reply.—Where the defendant, after replication, has obtained leave to amend his plea, with a stay of proceedings and the usual permission to the plaintiff to reply *de novo*, he is entitled to rule; the plaintiff to reply as soon as he has delivered his amended plea. (*Lampart* v. *Newton*, 5 Law T. 76.)

Short notice of trial.—The term of "taking short notice of trial if necessary," does not entitle the plaintiff to neglect to give full notice of trial, if there is sufficient time for him to do so after issues joined. (*Hitchings* v. *Farrow*, 5 Law T. 178.)

Scire facias.—The Reg. Gen. H. T. 2 Wm. 4, 279, requiring a motion in term, or judge's order in vacation, to precede the issuing of a *sci. fa.* to revive a judgment, applies to all writs of *sci. fa.* when the judgment is more than ten years old; and an appearance entered without authority is no waiver of the objection that that rule has not been complied with. (*Levi* v. *Levi*, 5 Law T. 126.)

Smallness of damages.—A new trial is not usually granted, in actions of tort, on the ground of the damages being too small; and certainly will not be so, if the judge who tried the cause is not dissatisfied. (*Gibbs* v. *Tunaley*, 5 Law T. 197.) In *Armytage* v. *Haley* (1 Q. B. 917) a rule for new trial was granted in an action for an injury by the defendant's negligence, where the jury gave only a farthing damages, which Lord Denman said was no damages at all.

Staying proceedings.—In our Summary of Hilary Term (*suprà*, 4 L. T. 180), we noticed the singular case of *Wait* v. *Simeon*, in which a judge's order for stay of proceedings upon payment of the sum claimed, interest, and costs, was set aside upon the application of the defendant, after the discovery of evidence to support the plea of gaming, which had been put upon the record. The plaintiff, however, did not choose to go to trial, but instead, commenced another action in the Common Pleas upon an alleged agreement which formed the groundwork of the judge's order. The defendant then applied to stay the proceedings in this action, but the Court declined to interfere, as it purported to be brought upon an agreement distinct from, and independent of, the judge's order, and the fact that that order had been subsequently set aside did not necessarily affect the validity of the former agreement, or afford a reason for summary interference. (5 Law T. 95; 9 Jur. 172.) The plaintiff, we believe, subsequently obtained a verdict, but further proceedings will probably be taken next Term.

Writ of summons.—Even this subject is not yet exhausted, the ever-varying changes of circumstances giving rise to new points as to what is a compliance with the statute. In *Walker* v. *Perkins*, (5 Law T. 99; 14 L. J. 214, Q. B.) the writ was at the suit of Henry Walker and Co. with a notice that, in default of appearance being entered, the said Henry Walker and Co. would enter the appearance. The writ was indorsed, "the plaintiff claims 20*l.* 1s." Coleridge, J. (sitting in the Bail Court) rescinded an order of Rolfe, B. setting aside the above writ, and held that the writ was good, inasmuch as the Court could not infer that there were more plaintiffs than one. A writ of summons served in Middlesex, describing the defendant as "of Wellington, in the county of Salop, but now in the county of Middlesex," is irregular, as it does not give the place in the county of Middlesex where the defendant is supposed to be. (*Downes* v. *Garbett*, 5 Law T. 98; 14 L. J. 216.) The probable fate of many railway schemes renders any decision relating to this new branch of practice useful. Such is *Evans* v. *Drogheda Railway Company* (5 Law T. 97; 14 L. J. 214). There an Act for making a railway from Dublin to Drogheda enacted, that service of a writ upon a secretary of the company, or at the company's office, or by delivering it to some inmate at such office, or at the abode of the secretary, or in case the same respectively should not be found or known, then service on any other agent of the company, or on any one director of the said company, should be deemed a good service. The company had an office in Dublin; a writ had been served upon a director in London, and an appearance subsequently entered, declaration filed, and judgment signed; but the Court of Exchequer set this judgment aside, as there could be no service under the Act except in Ireland. If an appearance has been irregularly entered by the plaintiff, the motion should be to set aside the appearance, and not the declaration. (*Brooks* v. *Roberts*, 5 Law T. 128; 14 L. J. 168, C. P.)

Rennie v. *Bruce* (5 Law T.; 14 L. J. 207, Q.B.) as a peculiar case, must here be noticed. The facts were, that the defendant was arrested under a writ of *capias*, the copy served of which contained no direction to the sheriff, and no day or year in the *teste*. The defendant was served with a copy of the writ of summons, by which the action was commenced, directed to the defendant in the wrong county, and tested in 1840, but which was not served until 1844. On application to discharge the defendant out of custody, for irregularity, it was held that it was not necessary to apply to set aside the writs or copies, and that the grounds of the irregularity need not be stated in the rule. It was further held, that it was necessary that a summons should have issued before proceeding to the arrest, under 1 & 2 Vict. c. 110, s. 5; and the writ of summons and copy being defective, the Court had no power to render them valid by amendment, as there was nothing by which to amend the writ itself; and even if the Court had power to deal with the copy, it could only be by permitting a fresh copy to be served, which would not remedy the defect in the original service. It should be borne in mind, however, that the affidavit for a *capias* may be made before writ issued, and in that case need not be entitled. (*Schletter* v. *Cohen*, 7 M. & W. 389; 9 D. P. C. 277.)

SLANDER.

Privileged communication.—The legal rules as to slander coincide in a very great degree with what morality would dictate, and it would be well if the liabilities which parties incur by circulating slanderous reports were more accurately known by those who indulge in this amusement. To repeat even a privileged communication may in many cases expose the person to an action (*Twogood* v. *Spyring*, 1 C. M. & R. 181), and, in a case that occurred in Easter Term, the Court of Queen's Bench laid down the correct and broad principle, that the originator of a slanderous report is not privileged in repeating the slander in answer to any questions from the person slandered. In Lord Denman's words, a person cannot by uttering a slander once gain the privilege of uttering it again. (*Griffiths* v. *Lewis*, 5 Law T. 52, 9 Jur. 370.) He also threw out a practical observation which should always be followed. It is the constant practice, said his lordship, for persons who have been slandered to take with them some friend, and ask the person who uttered the words whether he used the words, and whether he will abide by them. Indeed, an action for establishing a person's character does not stand well without such a previous inquiry.

STAMP.

Account stated.—A memorandum—"I owe J. G. the sum of two hundred pounds, *value* received," does not require a stamp. (*Gould* v. *Coombs*, 5 Law T. 93. 9 Jur. 494.) The first count in the declaration was upon a promissory note, and it appeared at the trial that the note had been altered by the addition of the name of another maker. The Court of Common Pleas declined to give an opinion as to the effect of this alteration upon the note, but held, that inasmuch as the I O U was made before the alteration, the note was admissible to shew the circumstances under which the I O U was given. (Ibid.)

Agreement.—Where an agreement which imposes penalties is added to a lease, it requires a separate stamp, though connected with and ancillary to the demise. Thus, by an agreement purporting to be made on the 31st January between plaintiff and J. W.; but signed on the 1st of February by defendant J. W. and plaintiff; plaintiff let a public-house to J. W.; J. W. agreed to buy from plaintiff all the liquor which should be sold on the premises; defendant agreed to hold himself responsible for any amount of money which might become due from J. W. to plaintiff, viz. to the amount of 36*l.* It was held that this was a guarantee requiring a stamp. (*Wharton* v. *Walton*, 5 Law T. 171, 9 Jur. 638.) *Chadwicke* v. *Clarke*, (5 Law T. 174) should also be noted. It shows that a document, if intended to be an agreement, must be stamped, although unsigned.

Balance of account.—The case most useful in respect of its frequent occurrence, is *Burt* v. *Leigh* (5 Law T. 176), where the Court of Exchequer held that a receipt for "2*l.* 2s. being the balance account up to this day," is within the meaning of the schedule of 55 Geo. 3, c. 184, relating to balance of account, and requires a 10s. stamp. At Nisi Prius it had been held not to require a stamp. (See 1 Car. & K. 611.)

Indictment.—We may here mention that a document, inadmissible for want of a stamp, may still form the subject of a larceny, if it be described as a piece of paper; thus, on an indictment for stealing a banker's cheque, described in another count as a piece of paper, value one penny, the prisoner was

convicted on the latter count, although, as a cheque, the instrument could not be received in evidence for want of a stamp. (*Reg.* v. *Perry*, 5 Law T. 150.)

Indorsement on deed.—A statement, indorsed on a mortgage-deed by the mortgagee, from which it appears that the consideration-money was partly advanced by himself, and partly by another person, does not make it necessary, for the admission of the deed in evidence, that it should bear a stamp for each sum instead of one stamp only on the aggregate sum. (*Doe dem. Downe* v. *Gorier*, 5 Law T. 37.) The reason is, we apprehend, that the indorsement is not part of the deed; and accordingly, upon oyer, the defendant would not be entitled to have a copy of it. (*Smith* v. *Goldworthy*, 1 D. N. S. 288.) But an indorsement upon the back of a promissory note, shewing the nature of the advance, and the time from which interest is to be paid, requires an agreement stamp. (*Cholmondley* v. *Daley*, 5 Law T. 267.)

TITHES.

Award of commissioners.—We will only refer here to the important case of *Reg.* v. *Tithe Commissioners* (5 Law T. 329), upon the form of an award under the 7 Wm. 4 & 1 Vict. c. 69, in which numerous points were decided, and amongst them that the decision of Ystradgunlais (13 L. J. 287) was wrong as to the exclusion of 7 Wm. 4 & 1 Vict. c. 69. A ludicrous instance of the systematic blundering of our legislature is afforded by these Acts, for there can be little doubt that the clause as to the effect of *certiorari* was drawn by a person wholly ignorant of the nature of that writ. It conferred the strange power upon the Court of entering into the merits of a question of boundary, and was supposed to have been intended to deprive them of the power of examining the form of the award. We cannot refrain from noticing instances of this kind, as the evil inflicted upon the whole community, and the disgrace brought upon our judicial system by blunders of the statute-book, are most serious. We suspect the Small Debts Act will be no exception.

Decision of commissioner.—Where exemption from tithes is claimed by reason of several moduses, if the yearly value of the tithes in respect of the land covered by each modus does not exceed 20*l*. the decision of the Tithe Commissioner thereon is final, although the aggregate value of the tithes in respect of the land covered by all the moduses may exceed 20*l*. (*Tomlinson* v. *Bourhey*, 5 Law T. 173.)

WARRANTS OF ATTORNEY.

Green v. *Wood* (14 L. J. 217, Q. B.; 5 Law T. 72) is another illustration of the no-meaning of Acts of Parliament. Under the 3 Geo. 4, c. 39, s. 2, it has been customary to file warrants of attorney, and also to sign judgment within twenty-one days; but as soon as, from an accidental omission to file, the point was raised as to the necessity of doing so, it was discovered that the statute, taken literally, was satisfied by judgment being signed, without any execution issued or any filing at all, and that the statute as it is was no doubt a mistake, but that the Court could not supply what had been intended by the Legislature. So that, in fact, what no one would think of omitting to do, viz. signing judgment within twenty-one days, renders any warrant of attorney valid against assignees. Nor is it a fatal defect that a defeasance contains an erroneous statement as to the amount due from the bankrupt, as suggested in Chitty's Archb. 683 (*Robinson* v. *Robinson*, 5 Law T. 172.)

WRIT OF TRIAL.

Amount indorsed must be less than 20l.—We ventured to doubt the correctness of *Frodsham* v. *Round* (4 D. P. C. 569), where the indorsement upon a writ was allowed to be amended by reducing it to 20*l*. to bring it within the Writ of Trial Act (*suprà*, vol. 2, p. 241); and that our view was quite right is shewn by the recent cases of *Gosling* v. *Cotterell* (5 Law T. 761; *Hitchings* v. *Farrow* ibid. 178). E. W.(a)

LEADING CASES.—No. VIII.

SURPLICE *v.* FARNSWORTH.

(8 Scott, N. R. 307.)

Liability of tenant to payment of rent where there has been no beneficial occupation of the demised premises.

Whether or not a tenant is relieved from his liability in respect of rent, by reason of the demised premises being rendered uninhabitable by fire, tempest, unavoidable accident, or by the landlord's default in doing the necessary repairs, is a question not merely interesting to the legal reader, but of manifest importance to very many of the community at large. This question we now propose to consider in a manner which may be, as far as the prescribed limits will allow, commensurate with its interest and practical importance.

It is well known, as a general rule, that a tenant holding under a lease can only quit the demised premises at the expiration of the term therein agreed upon, and that a yearly tenant, by verbal agreement, must determine the tenancy by a regular notice to quit at that quarter, or other period of the year, at which he originally became tenant of the premises. "Where there is a tenancy from year to year subsisting, it can only be put an end to by a notice to quit, which may be given by either party, and must be given six months previously to the expiration of the current year of tenancy, so as to expire at the same period of the year in which the tenant entered upon the premises. This rule is to be invariably followed in all cases except where there is some special agreement between the parties to a different effect, or it would seem where a particular local custom intervenes." (Woodfall, L. & T. 5th ed. 250.)

Where the tenancy is for a less period than a year, the general rule requiring six months' notice of course does not apply, *ex. gr.* to determine a monthly or weekly taking, a month's or week's notice will be sufficient. (*Doe dem Parry* v. *Hasell*, 1 Esp. 94; *Doe dem. Campbell* v. *Scott*, 6 Bing. 362.) "Where," it has been observed, "a lease is determinable on a certain event, or at a particular period, no notice to quit is necessary, because both parties are equally apprised of the determination of the term. If there be a lease for a year, and by consent of both parties the tenant continue in possession afterwards, the law implies a tacit renovation of the contract; they are supposed to have renewed the old agreement, which was to hold for a year. But then it is necessary for the sake of convenience, that if either party should be inclined to change his mind, he should give the other half a year's notice before the expiration of the next or any following year. As to the case of lodgings, that depends on a particular contract, and is an exception to the general rule. The agreement between the parties may be for a month or less time, and there to be sure much shorter notice would be sufficient, where the tenant has held over the time agreed upon, than in the other case." (Per Lord Mansfield, C. J. *Right d. Flower* v. *Darby*, 1 T. R. 162.) The rule then, with respect to the necessity of giving due notice to quit, admits of easy application in ordinary cases; but there are exceptions to this rule, under peculiar circumstances, which we propose, in the course of these remarks to consider somewhat minutely. It seems quite clear, that where a lessee covenants to pay rent, he will be bound by that covenant, notwithstanding any injury which may happen to the demised premises; for where the party, by his own contract, creates a duty or charge upon himself, he is bound to make it good, if he may, notwithstanding any accident by inevitable necessity, because he might have provided against it by his contract. (*Paradine* v. *Jane*, Aleyn R. 27, cited per Lord Ellenborough, C. J. *Atkinson* v. *Ritchie*, 10 East, 533.) The best course for the tenant to take in order to free himself from liability, would perhaps be to tender to his landlord an abandonment of his lease, upon the refusal or neglect of the latter to rebuild. That such a course may be taken by the tenant seems to result from the case of *Pindar* v. *Ainsley* (cited 1 T. R. 312), which was an action of ejectment by the tenant against his landlord, to recover possession of some houses which had been burned down during the term, and had been rebuilt by the landlord. The lease contained an express covenant on the part of the tenant to pay rent, but he had paid none subsequent to the date of the fire. Lord Mansfield, before whom the cause was tried, said, "The consequence of the house being burnt down is, that the landlord is not obliged to rebuild, but the tenant is obliged to pay the rent during the whole term;" and his lordship left it to the jury to say whether it was not to be presumed that the tenant *had abandoned the lease* at the time of the fire, and accordingly the defendant had a verdict. In cases, likewise, where no special contract has been entered into by the parties, the tenant will continue liable to the payment of rent until the tenancy has been regularly determined, although in point of fact he has held during the latter period of the tenancy *no beneficial enjoyment* of the demised premises. *Re Izon* v. *Gorbon* (5 Bing. N.C. 501), recognized *Arden* v. *Pullen* (10 M. & W. 321), the defendants occupied as tenants from year to year a second floor, which during their occupation was consumed by an accidental fire. It was held that, notwithstanding the destruction of the premises, they were liable to an action for use and occupation for the period which elapsed between the fire and the regular determination of their tenancy. "If," observed Tindal, C. J. delivering the judgment of the Court of Common Pleas in this case, "there had been an agreement in writing between the parties for a term of years, no question could have been made but that the term of years still existed; and a tenancy from year to year, until it is determined by a notice to quit, is, as to its legal character and consequences, the same as a term for years. Upon the facts stated in this case, it must stand admitted that the tenancy was not determined by any regular notice to quit; and the case of *Baker* v. *Holtpzaffell* (4 Taunt. 45) is a direct authority that a tenancy for a term under an agreement, not being an instrument under seal, is not determined by a fire during the continuance of the tenancy." Besides the question as to the liability or non-liability of the tenant for rent, another point which it is important to advert to was decided in *Izon* v. *Gorton*, viz. that the action for "use and occupation" would well lie under the circumstances of that case. Now this count for use and occupation is founded on the statute 11 Geo. 2, c. 19, s. 14, which enacts that "it shall be lawful for a landlord, where the agreement is *not by deed*, to recover a reasonable satisfaction for the lands, tenements, or hereditaments held or occupied by the defendant, in an action on the *case*, for the use and occupation of what was so held or enjoyed; and if, in evidence on the trial of such action, any parol demise, or any agreement (not being by deed) whereon a certain rent is reserved, shall appear, the plaintiff shall not therefore be nonsuited, but may make use thereof as an evidence of the *quantum* of the damages to be recovered." It may hardly be necessary to observe that the action of *assumpsit*, which is included in the general class of actions on the *case*, is the remedy provided by the above section, and that the object of the statute was to obviate and avoid the difficulties of suing on the demise, according to which only could the landlord previously recover his rent. (Per Holroyd, J. *Hall* v. *Burgess*, 5 B. & C. 333.) It was argued in *Izon* v. *Gorton* that the plaintiff could only recover on the count for use and occupation where there had been an occupation in fact or a use; and that, in order to raise the question of liability under the given circumstances, the plaintiff ought to have declared specially against the defendants as tenants from year to year; it was, however, decided that the action was maintainable if there be an actual *holding*, and if the power to occupy and enjoy is given by the landlord to the tenant so far as depends on the landlord. In *Surplice* v. *Farnsworth* (8 Scott, N.R. 307), both the propositions laid down in *Izon* v. *Gorbon* were fully recognised and established. This was *assumpsit* for use and occupation of certain premises held under a parol agreement. It was proved at the trial that the repairs had always been done by or at the charge of the landlord; and assuming, therefore, that there was a specific agreement, on the landlord's part, to do the repairs during the term, the question arose whether, on the breach of that agreement, the tenants became entitled to quit without notice, the premises being in an untenantable state, and the defendants consequently not having any actual beneficial enjoyment of them. This question was decided by the Court of Common Pleas in the negative. "Taking it," observed Tindal, C. J. "that there was an agreement on the landlord's part to do the repairs during the term, there is nothing to shew this to be a *condition* as well as an agreement. It therefore seems to me, that whatever remedy the tenants may have against the landlord for his breach of contract, the relation of landlord and tenant still subsists;" and Cresswell, J. remarked as follows:—"The action for use and occupation is founded upon an agreement to hold for a term not yet expired. It has been contended, on the part of the defendants, that the agreement here has been put an end to by the failure of the landlord to perform a condition on his part. Now it seems to be admitted, that where the tenancy is by deed, no such condition as is suggested can

(a) For former Summaries, see 2 Law T. 892, 446; 3 Law T. 286, 330; 4 Law T. 219, 458, 478.

be implied. I do not see why we should import such a condition into a parol demise rather than into a demise by deed. Indeed, it is the less necessary, seeing that in the former case the tenant has the remedy in his own hands. The cases referred to are clear authorities to shew that use and occupation is maintainable, though there has not been, and could not be, actual beneficial occupation." The cases to which the learned judge here more particularly alludes are those of *Sutton* v. *Temple* (12 M. & W. 52), and *Hart* v. *Windsor* (12 M. & W. 68). In the former of these it was held that, on a demise of the use and vesture of land (as the herbage of a field) for a specific term at a certain rent, there is no implied obligation on the part of the lessor that the land shall be fit for the purpose for which it is taken; and in the latter, the Court held that there is no implied warranty on a lease of a house or of land that it is or shall be reasonably fit for habitation, occupation, or cultivation and further, that there is no contract, still less a condition implied by law, on the demise of *real property only*, that it is fit for the purpose for which it is let. As we wish on this occasion to confine our attention to the liability of the tenant of a dwelling-house, and to exclude from consideration that of the occupier of land generally, we shall content ourselves with citing one passage from the judgment in *Hart* v. *Windsor*, which bears directly on our present subject. "Though," observes Parke, B. "in the case of a dwelling-house taken for habitation there is no apparent injustice in inferring a contract of this nature (viz. that it is fit for habitation and tenantable), the same rule must apply to land taken for other purposes—for building upon or for cultivation; and there would be no limit to the inconvenience which would ensue. It is much better to leave the parties in every case *to protect their interests themselves by proper stipulations*; and if they really mean a lease to be void by reason of any unfitness in the subject for the purpose intended, they should express that meaning." It is certainly difficult to reconcile in a satisfactory manner the decision in *Smith* v. *Marrable* (11 M. & W. 5), with the two cases just cited, and with the rule of law as laid down by Parke, B. in the preceding passage; it was there held that a person who lets a *ready-furnished* house at a weekly rent, does so under the implied condition or obligation that the house is in a fit state to be inhabited; and the only mode of upholding this case, after the subsequent decisions, is, by assuming it as a true proposition that a party engaging to take a ready-furnished house does so on the implied contract that the house and furniture shall be *fit for immediate occupation*. In *Smith* v. *Marrable* the house was infested with bugs, and consequently uninhabitable, and the tenant having accordingly quitted without notice, gave the above fact in evidence under *non assumpsit*, in an action brought against him for use and occupation, and it was held that the defence was valid, and might be given in evidence under the above plea. Whether this decision be maintainable or not, it seems, at all events, merely to have *extended* the application of a principle which had been recognised as correct in several cases previously decided at Nisi Prius, and which, we apprehend, is perfectly consistent with the dictates of common sense, viz. that a yearly tenant will be justified in quitting where the non-repair of the premises by the default of the landlord is productive of immediate danger to life, or where the existence of a nuisance, which it is the duty of the landlord to abate, produces a similar consequence. The authorities on this subject will be found collected in Woodfall's Landlord and Tenant, 5th edit. pp. 308, 652, and receive additional weight from the remarks of Coltman, J. in 8 Scott, N. R. 316. If the law be as here suggested, the tenant who has thus been compelled to quit will not be liable to the payment of rent after he has ceased to occupy; and this proposition is quite in accordance with the law as laid down by Pothier in his treatise on the *Contrat de Louage*, part iii. chap. i. art. 2, s. 2. "If," he observes, "a tenant is obliged to quit the demised premises before the expiration of the term, because the house, by reason of its ruinous state, is likely to fall, *the rent will cease to run*, and the tenant will be free from liability from the day on which he quitted the premises." In order to justify the tenant in quitting, he must, according to Pothier, have *reasonable grounds* for apprehending danger, in which case he will be discharged from liability, if the landlord does not provide him with other accommodation. We may further observe, that the principle here advocated is by no means irreconcileable with the case of *Izon* v. *Gorton* above cited, which must certainly be considered as a binding authority. In that case Tindal, C. J. concludes his judgment thus:—"The cases in which the tenant has been allowed to withdraw himself from the tenancy, and to refuse payment of rent, will be found to be cases where there has been either error or fraudulent misdescription of the premises which were the subject of the letting, or where the premises have been found to be *uninhabitable* by the wrongful act or default of the landlord himself." This passage is expressly recognised in *Arden* v. *Pullen*, *suprà*, where, moreover, one of the Nisi Prius cases above alluded to (*Collins* v. *Barrow*, Mood. & Rob. 112) is distinguished and held maintainable upon this very ground, viz. that there *was* some wrongful act or default on the part of the landlord.

The case of *Arden* v. *Pullen* (10 M. & W. 321) will not be found to be opposed to the view which we have taken of this question, because, although the tenant was there held liable to payment of the rent, notwithstanding he had quitted on account of the dangerous state of the house under demise to him, it must be remarked that he held under a *written agreement*, in itself perfectly good and valid, and that we have been latterly considering the law applicable to a tenancy from year to year under a *verbal* agreement only. If there be a demise in writing, such writing ought to contain an express stipulation that the rent shall cease if, by non-repair or other default of the landlord, by fire or unavoidable accident, the premises are rendered uninhabitable. A note of *Surplice* v. *Farnsworth* may be made in Woodfall's Landlord and Tenant, 5th ed. 307.

PROMOTIONS, APPOINTMENTS, ETC.

[Clerks of the Peace for Counties, Cities, and Boroughs, will oblige by regularly forwarding the names and addresses of all new Magistrates who may qualify.]

WHITEHALL, July 26.—The Lord Chancellor has appointed William Mathews the younger, of the city of Gloucester, gent., to be a Master Extraordinary in the High Court of Chancery.

CROWN OFFICE, Aug. 19.—*Members returned to serve in this present Parliament.* Borough of Cirencester: William Cripps, esq., one of the Lords Commissioners of her Majesty's Treasury. Borough of Sunderland: George Hudson, of the city of York, esq., and an alderman of the same city, in the room of the Right Hon. Henry Grey, commonly called Lord Howick, now Earl Grey, called up to the House of Peers.

WHITEHALL, Aug. 21.—Sir James Robert George Graham, baronet, one of her Majesty's Principal Secretaries of State, has been pleased to appoint William Blamire, esq. and George Darby, esq. Inclosure Commissioners for England and Wales.

LEGAL INTELLIGENCE.

ACCIDENT TO MR. JUSTICE MAULE.—On Tuesday evening, between 8 and 9 o'clock, having liberated himself from a tedious day's business at St. Mary's Hall, Mr. Justice Maule, while passing down the stairs from the magistrates' room, as he approached the bottom, met with a sudden and rather violent fall, caused by his foot slipping. An officer in attendance immediately raised his lordship, who was at first considerably alarmed by the shock he had received, from the awkward position in which he fell. Happily, however, he sustained no serious hurt, and soon recovered his self-possession, shortly afterwards proceeding to Warwick for the night. The fall was purely accidental, the staircase and passages being well lighted at the time it occurred. We understand that, on the learned judge's alighting at the official lodgings at Warwick, he found them fireless and cheerless, and altogether presenting a very "barrack-like" appearance, partly in consequence of his arrival a day earlier than expected.—*Coventry Herald.*

BANKRUPTCY COURT, LIVERPOOL.—CHARGES OF THE OFFICIAL ASSIGNEES.—On Wednesday, the 12th inst. in the case of Messrs. Brocklehurst, Dirks, and Co.'s bankruptcy, Mr. Lowndes, solicitor, brought before the notice of Mr. Serjeant Ludlow a question as to the charges made by the official assignees of the Court of Bankruptcy for receiving the proceeds on the sale of bankrupts' property. In the case before the Court the official assignee had received a sum of about 2,800*l.* in one payment, and he claimed to break this into parts, and to charge a graduated scale of commission upon the parts of this sum so broken; namely, 2½ per cent. on the first 500*l.*; 1 per cent. on the next 1,000*l.*; and ½ per cent. on the remainder. This Mr. Lowndes contended was indefeasible in principle; that the amount received, coming to the official assignee in one sum, ought to have one uniform commission, as it could not be said that there was more difficulty in the receipt of one part than any other of the same sum; that the rule which might fairly apply to the collection of outstanding debts of differing amount was not applicable to the proceeds of sale. He then referred to a case lately reported, from a note on which it appeared that the commission ought to be 1 per cent. on collections like the present, and 2 per cent. on the sum remaining for division. But the official assignees then present declared that this scale of remuneration had been found quite inadequate, and had been long exploded. Mr. Lowndes went on to observe, that it was exceedingly desirable some fixed principle should be adopted, and things put on a different footing, as if such expenses are paid unwillingly, it must tend to lessen the amount of business. The commissioner observed that the principle, he believed, was, in all ordinary cases, to charge according to the amount of trouble given to the official assignee. Mr. Turner, Mr. Cazenove, and Mr. Morgan, official assignees, were present, and the two first-named gentlemen spoke of the difficulties which were sometimes encountered in collecting an insolvent's accounts, and stated that the charges were not unreasonable. The Commissioner remarked that the situations of official assignees were those of great responsibility and trust; that they had to give bonds to a large amount in London, which bonds he knew, from his own personal knowledge, were closely scrutinised by the Lord Chancellor, and they were not permitted to carry on any other business; therefore gentlemen holding such offices ought to be properly remunerated; although he had a decided objection to any thing in the shape of what might be considered an exorbitant demand. Allusion had been made to the charges allowed by commissioners of other courts; he did not consider himself bound by them. At all events, although they might be a guide, they could not be a fetter. It did not appear to him that any general scale for all purposes would answer, and he believed the charges varied in all the Bankruptcy Courts. Mr. Follett, the official assignee of the Bankruptcy Court, in London, happening to be present, gave his opinion, which was to the effect that the charge must depend in a great measure on the sum collected; he believed that in most of the courts it was charged in parts, as Mr. Turner had done it; the matter, however, rested with the commissioner. A long discussion then ensued, from which it appeared the more general opinion was that the present scale was not a good one. Mr. Turner expressed his willingness to meet the parties in the case before them in any way that might be considered desirable. The Commissioner thought it desirable that an arrangement should be come to between the parties themselves. Mr. Turner, he felt assured, would do what was necessary. He did not consider himself in a position to lay down any rule on the subject; but if a case were submitted to him, he should have no objection to consider it on its own merits. The parties then retired, and an arrangement was, we understand, effected.

PERQUISITES OF THE COURT OF COMMON PLEAS.—A return recently printed for the use of members of Parliament shews that the gross amount of fees received by the Senior Master of the Court of Common Pleas, at Westminster, under the Acts 1 & 2 Vict. c. 110, from the date of the passing of that Act (for registering judgments, decrees, &c. at 5s. each, and for searches, at 1s. each), was altogether in 1838, 244*l.*; in 1839, 785*l.*; in 1840, 914*l.*; in 1841, 1,310*l.*; in 1842, 1,293*l.*; in 1843, 1,319*l.*; and in 1844, 1,366*l.* The return of the disbursements out of these fees amounted in 1844 to 549*l.* The gross amount of fees received under the 2 & 3 Vict. c. 11, for registering *lites pendentes*, re-registering judgments, &c. amounted in 1839 to 25*l.*; in 1840, to 222*l.*; in 1841, to 436*l.*; in 1842, to 318*l.*; in 1843, to 315*l.*; and in 1844, to 336*l.* The gross amount of fees received by the officer appointed in the Court of Common Pleas, under the Act 3 & 4 Wm. 4, c. 74, for registering the certificates of the acknowledgment of deeds by married women, &c. from the date of the passing of that Act, was in 1834, 2,262*l.*; in 1835, 2,032*l.*; in 1836, 2,182*l.*; in 1837, 2,360*l.*; in 1838, 2,520*l.*; in 1839, 2,508*l.*; in 1840, 2,548*l.*; in 1841, 2,396*l.*; in 1842, 2,424*l.*; in 1843, 2,243*l.*; and in 1844, 2,329*l.* The disbursements paid out of the said fees for rent, clerks, &c. amounted in 1834 to 350*l.*; in 1835, to 321*l.*; in 1836, to 332*l.*; in 1837, to 357*l.*; in 1838, to 398*l.*; in 1839, to 415*l.*; in 1840, to 460*l.*; in 1841, to 467*l.*; in 1842, to 670*l.*; in 1843, to 464*l.*; in 1844, to 471*l.*

GAMBLING TRANSACTIONS.—By the new Act concerning games and wagers, it is provided that every person who shall by any fraud or unlawful device or ill practice in playing at or with cards, dice, tables, or other games, or in bearing a part in the stakes, wagers, or adventures, or in betting on the sides or hands of them that do play; or in wagering on the event of any game, sport, pastime, or exercise,

win from any other person to himself or any other or others, any sum of money or valuable thing, shall be deemed guilty of obtaining such money or valuable thing from such other person by a false pretence, with intent to cheat or defraud such person of the same; and being convicted thereof, shall be punished accordingly. Wagers are not to be recoverable by law, but the enactment is not to apply to any subscription, or contribution, or agreement to be awarded to the winner or winners of any lawful game, sport, pastime, or exercise. In future, proceedings under feigned issues are to be abolished, and matters tried under a writ of summons. Proceedings under this Act are not to be *commenced* without a month's notice, and are to be brought within three months of the alleged offence of omission or commission.

THE LATE MR. ADOLPHUS.—It is somewhat remarkable that so many of our great lawyers die without leaving a will; as is the case with this distinguished barrister, whose personal effects have been administered to under 5,000*l*.

THE JUDGESHIPS UNDER THE NEW LOCAL COURT ACT.—A large part of both branches of the Profession is in commotion regarding the election of judges for the enlarged local courts. In Westminster, where there is a vacancy to be filled by the commissioners of the court, there are 150 candidates, including barristers as well as solicitors. We observe that rather large fees are to be paid on trials, so that if the causes are numerous the emoluments will be considerable.

FEES IN CRIMINAL MATTERS.—By an Act of last session, persons charged with felony or misdemeanour, against whom no bill shall be found, or who shall be acquitted, are in no case to be charged with any fees. The Act is the 8 & 9 Vict. c. 91, which was passed to explain and amend the 55 Geo. 3, c. 50.

WILL OF THE LATE SIR WILLIAM FOLLETT.—Probate of the will of Sir William Webb Follett, late of the Inner Temple, London, and of Park-street, Westminster, Knt. was granted on the 2nd instant to his brothers, Robert Bayly Follett, Brent Spencer Follett, and John Follett, esqrs. and to his brother-in-law, Edward Gifford, esq. the executors; they are also appointed guardians to the children. The testator devises his real estates to his executors, in trust for his eldest son George, and on failure of issue, to his other sons and their issue male. He bequeaths to Lady Follett 2,500*l*. a year, and a legacy of 1,000*l*. for immediate use; to his sister, Mrs. Synge, 200*l*. a year, and a legacy of 500*l*.; to his sister, Mrs. Bright, 3,000*l*. for her own use, and to her husband, Dr. Bright, 500*l*.; to the four sisters of his wife, 1,000*l*. each; and legacies to his nephews, and a year's wages to his servants. He leaves his law books to his brother Brent Spencer Follett, his brother Robert Bayly Follett first making a selection for his own use; and to his brother Robert the watch he usually wore; he devises to his brother John the messuage, &c. at Topsham; and bequeaths to each of his said three brothers a legacy of 1,500*l*. He bequeaths to Lady Follett the carriages, horses, and all the household furniture, &c. for her life, but expresses a wish that she should give to his son inheriting the real estate such of the plate as was received by him as presents. The residue of his personal estate (the sworn under 160,000*l*.) he leaves to be divided among all his children. The will is dated July 11, 1844, and is of some length, the last sheet, in his own handwriting, containing several bequests. Sir William died on the 28th of June, in his 47th year.—*Morning Post.*

THE LATE MR. JOSEPH SOMES.—The will of this extensive shipowner has been proved by the executors, Messrs. J. and F. Somes, the nephews, and Thomas Collyer and Edward Saxton. The personal estate is sworn under 500,000*l*. He bequeaths a sum of 70,000*l*. to be invested for the benefit of his wife, 30,000*l*. part thereof, to be at her own disposal. It is the testator's particular wish that she should not re-marry within two years. He bequeaths to his daughter, Mrs. Collyer, 70,000*l*. and to her children at her decease, and to Mr. T. Collyer, 10,000*l*. He bequeaths to his sister, Mrs. Harriet Docker, 6,000*l*. and to her daughter Harriet, at her decease; and leaves to his said niece, Harriet Docker, a legacy of 10,000*l*. To his sister, Mrs. Sarah Briant, 15,000*l*. 10,000*l*. at her death to her daughter Harriet, and 5,000*l*. to her son William; to his sister, Mrs. Ellen Holloway, 20,000*l*. and at her decease to her children; a legacy to her daughter Ellen. He bequeaths many other legacies to his relatives. He leaves to his wife's mother, Mrs. Saxton, 4,000*l*. and 500*l*. to each of his executors. The residue being undisposed of, the widow and daughter take the same under the statute for distribution of intestates' estates. The will, which is in draft, is in the deceased's handwriting, signed by him, and dated 22nd January, 1844, but was not executed until the day of his death, the 25th of June last. It was intended as instructions, and sent to his solicitor as a groundwork for his will, from which a draft was prepared and shewn to deceased, but owing to his sudden illness there was no time to have it fairly copied. The testator, on the day on which he died, the 25th, made a cross below his signature thereto, and acknowledged the said will or instructions to be his last will in the presence of his physician, H. J. Little, M.D. and Norman M'Leod.—*Morning Post.*

PROCEEDINGS OF LAW SOCIETIES.

THE INCORPORATED LAW SOCIETY.

FROM the Annual Report of the Council of the Incorporated Law Society, we are enabled to state some of the proceedings which have taken place during the past year, for promoting as well the objects of the society as the interests of the Profession.

Among other subjects, the council have bestowed their best attention on the several *Bills before Parliament affecting the law* and the practice of the courts, and have taken such steps relative thereto as they deemed expedient for the interests of the Profession.

Numerous cases of alleged *mal-practice* have been brought to the notice of the council: of accountants and other unqualified persons assuming to act in part of the usual business of attorneys; of attorneys practising without having obtained their annual certificates; and of others who were alleged to have neglected their client's interests, or otherwise have failed to discharge their duty. In all these cases the council have taken such measures as the circumstances appeared to require.

The applications for the *renewal of certificates* by attorneys who have ceased to practise, have each Term been carefully watched, and opposed where the circumstances seemed to the council to require their interference.

In several instances the council have felt it their duty to oppose applications for *examination and admission*, and have successfully done so.

The council have also had under their consideration various matters affecting the practice of solicitors and the convenient despatch of business. Amongst other subjects they have attended to the new rule laid down by the present *Registrar of Deeds in Middlesex*, requiring one of the witnesses to the memorial to be an attesting witness to the execution of the deed by a granting party, on which subject the council were prepared to adopt such measures as might be necessary; but they are given to understand that the registrar has now consented to return to the old and convenient practice of registering a deed on a memorial executed by any one of the parties.

The objectionable nature of the *Lease for a Year Stamp* has also been considered, and a communication made to the authorities thereon: and the council ...son to believe the ... will be ...and an alteration made when the ...w stamp Act is introduced.

The ...ient mode of transacting *business at C...mbers* has again been under consideration, and representations made in the proper quarters with a view of delegating the administration of oaths and matters of routine practice to the masters of the several common law courts, and particularly in term time, when the judges do not sit at chambers till three o'clock, and during the pressure preceding trials at the assizes, and on other occasions.

The council have also made several efforts to have the statutory qualification of the *Chief Clerkship to the Masters in Chancery* altered and placed upon a proper footing, namely, that none but solicitors of a certain standing should be eligible for the office; and as the propriety of altering the law seems to be generally admitted, the council trust that an opportunity will soon be afforded of accomplishing this object.

Many points have been submitted to the council relating to the *Usages of the Profession*, to which they have given their best attention. Amongst others they particularly notice, that it having been reported that practitioners in certain parts of the country stipulate in conditions of sale and in contracts that the vendor's solicitor shall prepare the conveyance to the purchaser, and, in some instances, that the purchaser shall pay to the vendor's solicitor a stipulated sum (exclusive of stamps) for the conveyance, the council came to the resolution

"That such custom is contrary to the general usage and practice of the profession, and is objectionable in principle, and dangerous to the purchasers, by rendering them liable to be affected with constructive notice of incumbrances or defects of title, and to other disadvantges."

A copy of this resolution, signed by the president, was sent to every Law Society throughout the kingdom, and the council have reason to believe that it has had a good effect, and they recommend the members of this society to adhere strictly to the general usage, and so far as they can, prevent any deviation from it.

The old grievance of the *Annual Certificate Duty* has not been lost sight of. On the proposed renewal of the income tax, a petition from the society was again presented for the repeal or reduction of this impost; and the council intend to continue their endeavours to get rid of this unequal and unreasonable tax on the profession.

The exertions for the *erection of more convenient Courts of Justice*, and in a more central part of the metropolis, have been renewed this session. Petitions from the society collectively, and from a very large proportion of the London solicitors, and many others, have been presented to Parliament, and a motion in the House of Commons having been made by Mr. C. Buller, at the instance of the society, the Government acquiesced in the appointment of a committee of the House to consider of a proper site.

Numerous questions have arisen in the discharge of the duty intrusted to the society as *Registrar of Attorneys and Solicitors*, and the council have endeavoured in the performance of this duty to consult the advantage and convenience of the profession.

The new *Rules and Orders* of Court during the past year have been printed and sent to the members, and now, at the end of fourteen years since the opening of the institution, the council have deemed it useful to reprint the orders of all the courts, as well for the use of the new as the old members, and the volume will shortly be ready for delivery.

The *Lectures* have been continued by Mr. Cayley Shadwell on Conveyancing, by Mr. Stephens on Common Law and Criminal Law, and by Mr. Adams on Equity and Bankruptcy; and to these have been recently added a Course of Lectures on the Law of Nations, by Mr. Graves.

Several donations of books have been received, and a valuable fresco painting by Mr. Selous, of King Alfred delivering his Laws, has been presented by Mr. Lewis Pocock, and placed in the library.

The *Examinations of Articled Clerks* applying to be admitted on the Roll of Attorneys have been conducted as usual in the Hall of the Society, and the council hope much to the advantage of the Profession and the public.

In consequence of the prosperous state of the funds of the society, the annual subscription of the country members was some years ago reduced from 2*l*. to 1*l*. and in the present year the town subscription has been reduced from 3*l*. to 2*l*.

QUALIFICATION OF CHIEF CLERK TO THE MASTERS IN CHANCERY.

THE following petition has been presented to the Lord Chancellor, in the matter of *Thomas Whiting*, the chief clerk of Andrew Henry Lynch, Esq. one of the Masters of the Court of Chancery.

It is signed by thirty-two of the solicitors of the Court of Chancery, whose respective names and residences are thereunto subscribed.

It states that the petitioners are, and for many years have been, solicitors duly admitted to practise and ...ally practising in this honourable court, and in the course of their said practice the petitioners have the conduct and management of suits in progress through the offices of the Masters in ordinary, and divers of the petitioners have now the conduct and management of suits in which references have been directed to Mr. Lynch, one of the said Masters, and which references are still pending.

That the offices in the said masters' offices consist of the masters themselves and their chief clerks and copying or junior clerks, one chief clerk and one copying or junior clerk being attached to the separate office of each of the said masters.

That according to the usual course and practice of the said offices, it is the duty of the chief clerk to assist in the prosecution of all inquiries and accounts referred to the master to whose office he is attached, in which an exercise of the personal discretion of the master is not involved; and it is likewise, according to the same practice, the duty of the said chief clerk to prepare the drafts of the reports of such master, and to settle such reports in the presence of the solicitors concerned.

That a very large amount of the business of this honourable court is, in fact, transacted by attendance before the chief clerks of the said masters, and that, in the prosecution of suits in the said masters' offices, the solicitors of this honourable court have to attend before the chief clerk more frequently than before the master, and that it is of the highest importance to the interests of the suitors of the court, as well as due to the solicitors of the court, individually and as a body, that an officer before whom such solicitors have to lay statements, and to whose judgment they are called upon to defer, should not be selected from a lower rank in society than themselves, and should be qualified by his station to attain their respect and confidence.

That, from the earliest time, the said office of chief clerk to any of the said masters in ordinary has been executed by the holder thereof, for the time being, in person and not by deputy.

That the copying or junior clerk in the office of each of the said masters is usually a person who was clerk to the Master while at the bar, and that the duty of such copying or junior clerk is to wait personally upon the Master, and to receive the fees in the office, and to make the appointments for attendance before the Master and the chief clerk respectively, and to enter and copy accounts, reports, and proceedings.

That by an Act of Parliament, passed in the session of the third and fourth years of the reign of his late Majesty King William the Fourth, intituled "An Act for the Regulation of the Proceedings and Practice of certain Offices of the High Court of Chancery in England," it was among other things enacted, that no person should be appointed to be chief clerk of any Master in Ordinary of this honourable Court, unless he should have been admitted on the roll of solicitors or attorneys in one of the Courts of Westminster Hall, for not less than five years, or should have been a junior clerk in the office of one of the said Masters for a term of ten years. And it was thereby, among other things, further enacted, that each and every of the Masters in Ordinary, registrars, and clerks of the said registrars, master of reports and entries, clerk of affidavits, and examiners of this honourable Court, should hold their said offices during their good behaviour, and so long as they should personally give their attendance upon their respective duties, and should conduct themselves honestly and faithfully in the due execution of the duties of their said offices respectively; and that the officers and clerks in the several offices of this honourable Court should give their personal attendance in their respective offices during the times they should be so directed to attend, as by the said Act provided, unless otherwise engaged in the business of their respective offices, or prevented by sickness or other unavoidable causes. And it was further enacted, that there should be paid by the accountant-general of this honourable court, out of the fund to be placed to his account, to be entitled "The Suitors' Fee Fund Account," to the several officers named in the schedule thereunder written the several salaries or yearly sums set opposite to their respective names or titles in such schedule, being (among other things) the salary or yearly sum of one thousand pounds to the chief clerk of each of the said masters in ordinary other than the accountant-general, and the salary or yearly sum of one hundred and fifty pounds to the junior clerk of each of the said masters; and it was further thereby enacted, that it should be lawful for the copying or writing clerk of the said masters to receive and take the sum of one penny halfpenny per folio of 90 words, and no more, for every copy of every document or writing or a part of any document or writing made in the masters' offices, from the parties requiring the same, and also for the transcript of every report, and that such sum of one penny halfpenny per folio should be retained by the said writing or copying clerks to be employed by the said Masters in their respective offices, and that no part thereof should be received or retained by, or applied to the use or benefit of, any other person or persons on any pretence whatsoever.

That in the month of December 1843, Andrew Henry Lynch, esq. one of the said Masters in Ordinary appointed Thomas Whiting, who had then been copying or junior clerk in the office of another of the said Masters for more than ten years, to be the chief clerk of him the said Master Lynch, and in the month of June 1844, the Lord Chancellor was pleased to order that the salary of one thousand pounds, provided for persons filling the said office of chief clerk, should be paid to the said Thomas Whiting, since which time the said Thomas Whiting has annually received such salary.

That, notwithstanding such appointment of the said Thomas Whiting, and such receipt by him of the said salary, he has never performed, or in any manner attempted to perform, and does not now perform, the important duties belonging to the said office of chief clerk to the said Master Lynch, but that such duties have been ever since his said appointment performed by, and the same are now continuing to be performed by, Edward Wright, the junior or copying clerk in the said office of the said Master Lynch, who is not himself qualified according to law for the office of such chief clerk, and by such means the duties of chief clerk to the said Master Lynch are in fact performed by a deputy and an unqualified person. And the said Thomas Whiting has, ever since his said appointment, performed the duties of copying or junior clerk, and no other duties, in the said office of the said Master Lynch; and the petitioners believe that that the said Thomas Whiting is, in fact, incompetent to discharge the duties of chief clerk to the said Master.

That the petitioners are advised, and humbly submit to the Lord Chancellor, that an office of so much trust and importance as that of chief clerk to one of the said masters, ought not to be executed by deputy, and that to permit the same to be so executed would be establishing a principle injurious to the interest of the suitors of this court, and contrary to the true intent and meaning of the said Act of Parliament, and would have the effect of depriving the said suitors of the security intended to be given to them by the said Act for the performance of the duties of the said office by persons possessing the experience and legal attainment indispensable for the efficient discharge thereof; and the petitioners, in their character of solicitors of this honourable court, and also as representing the interests of the suitors of this honourable court confided to their care, feel aggrieved by the premises.

The petitioners therefore pray his lordship to cause inquiry to be made into the matters aforesaid, and into the manner in which the duties of the office of chief clerk to the said Master Lynch are now, and have been since the appointment of the said Thomas Whiting thereto, executed and performed. And that his lordship will be pleased to order that henceforth the duties of the said office may be performed by the said Thomas Whiting, while he shall continue such chief clerk, in person, and not by the copying or junior clerk of the said Master, or by any other deputy; and that in case the said Thomas Whiting shall neglect personally to perform such duties, or shall be found incompetent thereto, that he, the said Thomas Whiting, may be removed from being such chief clerk of the said Master Lynch, and that in such case his lordship will be pleased to make order for the due appointment of some other properly qualified person to the said office of chief clerk, in the place and stead of the said Thomas Whiting.

CORRESPONDENCE.

THE LOST WILLS FROM DOCTORS' COMMONS.

TO THE EDITOR OF THE LAW TIMES.

SIR,—Several professional gentlemen have informed me that your journal is the emporium of every passing event affecting the best interests of the profession and their clients, and have shewn me a letter last week, whereby you have drawn attention to this national loss, laid open by me, through Parliament. From my knowledge of the facts after thirty years' service in the Prerogative Will office, Doctors'-commons, I will at once answer your last week's query, and give further information to the profession and the public, through your pages, by now stating *that an Act of Parliament must be obtained to make the registered copies of the lost wills evidence in a court of law from the fact of the wills having been proved.* It would appear by the discussions upon this very important subject in the metropolitan, daily, weekly, and also provincial press, that great and increased interest and anxiety is felt regarding this public loss, which has, at last, driven the authorities at Doctors'-commons (in order, if possible, to allay the strong fears universally entertained) to state that they made an entry of these lost wills *in some "private" memorandum-book, but they decline to shew the entries so made containing the names of the many testators,* with the real and personal estates conveyed!! These *are not made public!* nor is there any notice given regarding them! The result is, that searches are frequently made for a will *supposed* to be among the lost ones, and, upon finding such name in the calendar or index, reference is immediately made to the *registry copy, and no information given,* whether the original will, of which such copy is made, is one of the lost wills or not; *so that a party who wishes to find the name of any one of such lost wills, cannot obtain it without the knowledge of the name of such individual will, and which is alone contained in the withheld index or "memorandum-book," in the possession of the heads at Doctors'-commons.* I myself, as the agent of 294 applicants (stated by me before through the public press), having applied, not only to the deputy-registrar, but also to four clerks in the Prerogative Registry, for a list of the names of such lost wills, in order to enable Mr. Duncombe, who presented my petition to the House of Commons, to put the House in full possession of the case for the benefit of the profession at large; I also applied to the Judge-Advocate-General, but they all declined; the ground assigned by the Judge-Advocate-General being *"that such information ought not to be given, fearing that it might make the public uneasy.* This letter so sent to me, by one of her Majesty's Government, I will with pleasure send you a copy of, if you require it, along with the correspondence on the subject between me and the Lord Chancellor, and the heads of the Prorogative-office, pending the presental of my petition also to the House of Lords by his lordship; a subject altogether, I can without contradiction assert, to be of the first as well as the last importance to the profession, as well as to every proctor or other official connected with the 300 provincial civil courts trying to be *"metropolitanized,"* under the forthcoming *precious* "Ecclesiastical Courts Bill," so prejudicial to a host of country solicitors throughout England and Wales, whose powerful influence has, at present, effectually overturned the measure, although three times within reach of the goal, *and who will now be additionally on the alert from this letter,* knowing your unflinching advocacy to every thing like professional abuse, or the just rights of the public through the profession. I rejoice, with hundreds of others, that you have opened your columns to this important subject; as you will hear again from me shortly, and trusting that in the meantime, the 12,000 attorneys will be actively exerting themselves to press, both in and out of Parliament, a thorough disclosure of the extent or amount of this national loss out of Doctors'-commons.

Let me advise every attorney whose client may be suffering by a loss of one of these wills, to cause a public discussion through the court by a *mandamus*, where the estate of the testator will bear it—this will FORCE the disclosure.

I remain, &c.

Aug. 20, 1845. J. T. SCOTT,
Bell-yard, Doctors'-commons.

OMISSIONS IN SMALL DEBTS ACT.

TO THE EDITOR OF THE LAW TIMES.

SIR,—I have looked carefully through this Act, and am unable to discover what fees are to be taken for filing application for summons,—*order*, examination, warrant, &c. in cases before *inferior courts of record*, under section 1; or for examination, order, &c. under section 4. I shall be glad of the opinion of some of your able correspondents on this head.

My difficulties do not end here. In fact the fees *given*, which may be taken as a sample of those *intended*, are so trivial, as not to be of much moment, being nothing like a sufficient remuneration in those courts where but few cases are likely to occur. It is to these courts that every facility therefore ought to be provided by the legislature, when their officers are called upon to carry the laws into execution. Hence it is that I complain of the want of proper forms of order and commitment. The immaterial and simple forms of application and summons are given in schedules A and B; but as if it was intended to mock the courts which are expected to carry out this piece of extraordinary legislation, the material forms which I speak of are wholly omitted. Thus the functionaries of such courts are left to frame some order and warrant of commitment of their own, which, most probably, will be visited with a writ of *habeas*, and the Lord Chancellor's compliments, under sec. 10; for all "unfortunate debtors" can find the funds for such a process; or if not, there are others quite ready to do it for them, where there is good game to fire at—or in return for some *sixpence or a shilling* (supposing the fees in Schedule D to be receivable in all courts) to pay two guineas to counsel to settle the forms of order and warrant or commitment. To any one who knows the difficulty there is in making a good conviction where no form is given, and how much greater difficulty there is in framing an order which cannot be amended, it seems almost incredible that a public Act (which may be said to belong to the Solicitor-General) should be passed without these indispensable requisites. Unless such forms are given in the "LAW TIMES Edition" of this statute, you will be conferring one more to the many valuable boons which you have already given to the Profession, to have the forms in question forthwith settled by counsel and printed for sale.

Yours respectfully,

AN ATTORNEY of 16 years' standing, and Judge of an Inferior Court of Record.

Aug. 19, 1845.

[There can be no doubt that the Act was framed with the usual precipitancy and negligence which characterize of late years our legislation. The omission of which our correspondent complains is an obvious one. Difficulties will undoubtedly attend the settling of forms of order and commitment, but it is a matter for consideration whether we shall undertake the publication of forms settled by counsel as our correspondent proposes.—ED. L. T.]

ATTORNEYS' GOWNS.

TO THE EDITOR OF THE LAW TIMES.

SIR,—There was discussed in many of your valuable numbers of the LAW TIMES, of last year, the propriety of the legal profession resuming the gown, when professionally engaged at the Assizes, &c. Your correspondent wishes to know what has been done in this matter?—why nothing more is said on the subject?

I am, Sir, yours, &c.
AN OLD SUBSCRIBER.

Cambridge, Aug. 20, 1845.

[Some gentlemen at the time informed us that they had appeared in court in gowns, but whether the practice is continued or grows in favour, owing to want of information on the subject, we are unable to say.—ED. LAW T.]

SMALL DEBTS ACT.

TO THE EDITOR OF THE LAW TIMES.

SIR,—I think the question whether other parties than attorneys-at-law can be employed to conduct proceedings under this statute, where a party does not conduct his own, needs not harrass the Profession.

The word "attorney," it is well known, received its legitimate construction by the Commissioners of Bankrupts, and unless there be something in this Act

repugnant to that construction, it must of course continue to receive its technical meaning of attorney-at-law.

In the first section, we have the words "*attorney* who shall have practised as an *attorney* for not less than ten years in one of her Majesty's superior courts," &c. In sec. 3, the words "signed by the plaintiff, or his *attorney*," occur. In sec. 4, the words "attorney of ten years' standing" again occur. In sec. 6 it is enacted, that it shall "not be necessary for any party, whether creditor or debtor, to employ either counsel or *attorney*, or solicitor." In the interpretation clause of the word "judge," we find in combination "barrister-at-law, special pleader, and *attorney* of ten years' standing."

Thus the word *attorney* is in all these cases used in the same sense, and that its technical sense.

The tables of fees, however, contain no allowance whatever for any attorney; therefore it is evident that none is contemplated to be necessary, and if an attorney be engaged, he must of course be paid by his own client.

The rich man will do this in every case.

That the statute, therefore, virtually enacts that a party may conduct his own cause, which is his ancient undoubted common law birthright, proves nothing but the ignorance of the draughtsman, and is no argument in the absence of express words enabling him to do so, that he may employ other persons than those ancient officers specially set apart by the law for this purpose.

By the first section it is enacted, that the "*debtor shall be interrogated by the creditor summoning him*, &c., and "*the creditor shall be interrogated by the said debtor*," &c., *not by or on the behalf*.

The duty, then, of these parties will be either to conduct their own causes or to employ those who have a legal right to appear as "counsel, or *attorney*, or solicitor" in courts of law, and those alone, for there is not within the four corners of this Act any one word that authorizes any *previously unauthorized* person to step forward and claim a right of audience. Indeed, the terms of the third section, as to the signing of a prisoner's liberator, clearly prove that, where signed by other than the plaintiff, it must be "his attorney;" and no one can be his attorney unless he be an attorney-at-law, the word being used in every place in the same sense. And the course for any attorney to adopt who should come in contact with a judge who would hear a person on the behalf of a party not an attorney-at-law, as I think, would be to advise his client to refuse answering any questions put directly by such a person, and not by the party himself or the Court, and leave the Court to exercise its power of imprisoning for contempt if it thought proper to do so, or else proceed against such under the Attorney and Solicitors Act.

I am, yours, &c.

Ashton-under-Lyne, Aug. 19, 1845. J. LORD.

ATTORNEYS' CERTIFICATE DUTY.

TO THE EDITOR OF THE LAW TIMES.

SIR,—In reply to the inquiry of Mr. J. T. Shapland, of South Molton, made through the medium of the LAW TIMES of last week, I beg to state that Sir Thomas Wilde presented the petitions from the attorneys and solicitors of England and Wales and of Ireland, for the repeal of the annual duty on their certificates, and that they were ordered to lie on the table.

I am, Sir, yours, &c.

GEO. FITCH.

Metropolitan and Provincial Legal Association,
Aug. 19, 1845.

TO THE EDITOR OF THE LAW TIMES.

SIR,—I beg to call your attention to a very odd coincidence. The Editor of the *Times* thinks it "unseemly and undignified" in a barrister to canvass for the office of judge; but not one word does he say about the fit predicates for such conduct in an attorney. The Editor of the *Times* has a great deal to say about the office of judge to the *Westminster* Court of Requests, not one word about the office of judge to any other Metropolitan Court. Now there is an attorney putting up for the office of judge to the Westminster Court of Requests; that attorney is most intimately connected with very influential persons in the public press, and with the Editor of a journal which the *Times* praises, because it fears it *Punch* namely. What is the inference?

I am, &c.

COM. DIG. TIT. PLEADER.

To Readers and Correspondents.

A SOLICITOR (Peterborough).—*We are quite satisfied that Mr. Bird is actuated by the purest motives, and therefore the comments of our correspondent are undeserved in this case.*

T. W. (Cheltenham).—*The advertiser in question has been already exhibited in the* LAW TIMES.

F. B. T. (Oxford).—*Thanks. The letter has been sent to the author of the treatise.*

A SOLICITOR (City).—*The fact was duly noticed last week.*

AN ARTICLED CLERK.—*Mr. Goldsmith's Treatise will supply the information he needs.*

AN ATTORNEY *is not of sufficient general interest to occupy so much space.*

W. H. (Ilsley).—*We fear the labour and time which the proposed summary would occupy would not be compensated for by its interest to the Profession. The Railway Bills which passed during the last session may be known by running through the lists of Bills which have received the royal assent, as given in the Parliamentary Proceedings in this journal.*

A CITY ATTORNEY.—*The communication arrived too late for the attention the subject requires, to be treated of in this number.*

W. B. (8, Basinghall-st.)—*The case will be found duly reported by the gentleman to whom we have intrusted that duty in the Courts of Bankruptcy.*

NOTICE TO SUBSCRIBERS.

The Indices to the fourth volume being now completed, the numbers for binding may be sent, through the post, in parcels open at the ends, with a mark by which they may be known, and of which the Publisher should be advised by letter, as also how, when bound, it is to be returned. If sent by parcel, advantage may be taken of the opportunity to inclose other books for the binder.

The Volumes of the LAW TIMES, *handsomely and uniformly bound, at 5s. 6d. each, if forwarded to the Office; with the Solicitor's name and abode lettered on the cover, 1s. extra.*

An Alphabetical Index to the Cases in the current Volume of the LAW TIMES *always lies at the Office for the purpose of reference.*

TO SUBSCRIBERS.

It is proposed to publish an annual *Index Legum*, consisting of a digest of all the reported cases and statutes of the past year, under the title of the YEAR BOOK, to be bound with the volumes of the LAW TIMES, or separately, at option. It will be comprised in about six or seven numbers, at 1s. each, stamped, for transmission by post. It will not be commenced unless 1,000 subscribers order it. Persons desirous of having it are therefore requested to transmit their names as soon as possible.

THE LAW TIMES.

SATURDAY, AUGUST 23, 1845.

THE JUDGESHIP OF THE COURTS OF REQUESTS.

THE hatred with which the *Times* regards the members of the Bar, owing to their independence in the dispute with the Press, and their obstinacy in persisting in the c

think safest and most honourable to pursue, has found vent in an attack on certain barristers who are candidates far the new Judgeships established under the Small Debts Bill. Some of these, it seems, have been guilty of the heinous crime of issuing circulars to the Commissioners in whose hands the Legislature has vested the power of appointment to the newly created offices; to others is imputed a yet more glaring offence, the article going so far as to assert that there was evidence before the writer that "these members of an exclusive profession are capable of resorting to all the expedients employed at Cirencester, Southwark, or Sunderland." The meaning of this is intelligible enough. It was not our intention to have moved in this affair, nor should we refer to it now, had not allusion been made o us personally in an article on the subject in the *Times* of Thursday, and did not justice to a gentleman of high character (to whom we gave a simple testimonial that he was competent to discharge the duties of the office he sought) require it. Whether a Barrister or an Attorney be appointed is equally a matter of indifference to us; we have expressed no opinion as to which of the two is best adapted for the office, nor is it necessary we should do so. The Legislature has vested in certain Commissioners the power of appointing whom they choose, and the integrity of their choice shall receive neither bias nor prejudice from us.

In giving a simple certificate of competency to a gentleman whom we had long known, and who had justified our expressions by a sound and useful treatise on the jurisdiction of the Courts of Requests, a man, moreover, of ten years' standing at the Bar, and of unexceptionable private character, we did simply that which it were not merely ungracious, but unjust, to refuse to any one who might, to our knowledge, be entitled to such a courtesy. And here let us remark, that where an act of brotherly charity, such as this, can be made the subject of a sneer, we may be as sure there is a deficiency of solid grounds for censure as there is malice in the heart and venom in the pen of him who writes it.

The *gravamen* of the charge against this gentleman is, that he has sent circulars to the Commissioners, with the view of securing their votes. Now, whether or not it is degrading to a barrister to solicit the suffrages of those in whose disposal an office has by law been placed, we need not at present discuss; not that precedent is wanting, for it is the custom to canvass for the offices of Recorder and Common Serjeant. We have every reason to believe, though we cannot at this moment substantiate our belief by distinct reference, that Messrs. M. D. HILL and MIREHOUSE canvassed personally for the office of Common Serjeant. Either way, it is most degrading to the press—for in this its champion we take *a part* for the whole, on the same principle as he identifies the Bar with a single member of it—we repeat, it is most degrading to the Press when it descends to misquote (as we shall shew it has done), for the purpose, we fear, of insinuating ignorance, vulgarity of style, and deficient education, against a man to whom none of these peculiarities apply—and that simply because the Bar is at present obnoxious to the Press—other reason for it we can find

The *Times* imputes to a barrister, a gentleman, and a Cambridge-man to boot, the following language, marking in italics the words so given below:—"For the last five years I have reported all the decisions on orders, convictions, prohibitions, *certioraris*, and *habeas corpuses;*" whereas the words he used (we extract them from his circular, which lies before us) were these—"For the last five years I have reported for a legal work all the cases decided in the Court of Queen's Bench, on the subject of orders, convictions, writs of prohibition, *certiorari*, and *habeas corpus*."

Now, it is difficult to suppose that the *Times* fell inadvertently into this misquotation, for one would suppose that the simple penning of such stuff would have awakened the attention of the writer, and induced him to refer to the circular for authority. The presumption, therefore, is, that the misquotation was intentional.

We regret to find the Press descending to such meannesses as these. Had the quarrel with the Bar never arisen, we should not, in all probability, have heard a syllable of censure on the subject of Barristers canvassing for this office of Judge; nor, indeed, has the writer of the article in the *Times* the audacity to claim for himself purity of motive; his only intention is clear enough—to vilify and cast odium on the Bar. Happily, however, with all whose opinion is to be coveted, such an attempt

defeats the purpose of its maker, and recoils with a blow to his own head.

VERULAM SOCIETY.

It is with pleasure we announce to the members of the Verulam Society, and indeed to the subscribers to the LAW TIMES generally, that an arrangement has been concluded with Messrs. KNIGHT and Co. by which the extensive series of *Magistrates', Poor Law, and Parochial Forms*, already published, or in rapid progress by them, will be immediately added to the Society's list, and supplied to the members at the Society's prices. The series will ultimately embrace upwards of 1,500 of these practical forms, of which some three or four hundred are now ready, and may be had by order transmitted to the LAW TIMES Office. Prospectuses, with lists of these forms, are in preparation, and now may be had all those relating to *Poor Law, Settlement Law, and Parochial Law.*

The above, added to the extensive series of Common Law and Conveyancing Forms, issued by the society, will make the largest and most perfect set of forms for office use which has been ever offered to the Legal Profession.

LAW TIMES EDITION OF IMPORTANT STATUTES.

THE LAW TIMES Edition of the Real Property Statutes, edited by G. S. ALLNUTT, Esq. Barrister-at-Law, with copious Notes, *Forms*, and a complete Index, is now at press, and may be had in the early part of the week.

SHAM LAWYERS.

A RICH specimen of this Protean genus has reached us in the shape of the following circular. We give the party the full benefit of his announcement:—

95, Goswell-road, Islington, London,
18th August, 1845.

SIR,—I apply to you by the authority and on the behalf of Mrs. Nisbett, of Goswell-house, Goswell-road, for payment of an account due to her, amounting to 4*l.* 5*s.* as per bill, which has been delivered.

One of my collecting clerks will wait on you *once* for the same in the course of two or three days, unless the amount is previously sent to my offices, or to my client, or a prior arrangement entered into with me.

If there are any inaccuracies in the above-mentioned account, either in the total sum, in any item, or otherwise, please advise me of the same immediately you receive this. Otherwise, should this application not be fully attended to as above requested, your silence hereto will be deemed a reply that the said claim is in every respect correct, and I shall then feel it my duty immediately to resort to the stringent powers given by the clauses, provisions, enactments, and penalties of the new Debtor and Creditor Act, 8 & 9 Victoria, chapter 127.—I am, Sir, yours respectfully,

JOHN BRADLEY.

Agent and Collector to Mrs. Nisbett.

Office Hours, 9 to 9 to the minute, from the 1st of January to the 31st of December.

PUNCTUALITY IS THE SOUL OF BUSINESS.

What is the use of a thing being done well, if it is not done to time?

MR. JOHN BRADLEY,

Estate,	Commission,
House,	Loan and Investment,
General Agency,	Law Charge Responsibility,
Address,	Public Accommodation, and
Registry,	Caleb Quotem Offices,
Collecting,	&c. &c. &c. &c. &c. &c. &c.

No. 95, Goswell-road, Islington, London.

Rents and Debts Collected, and, contrary to the general practice, paid over immediately they are received.

For still further particulars, see the 4th edition of my Circular; on which a leisure half-hour will be profitably spent.—Price Nothing.

The subjoined too has been widely circulated by the press in the neighbourhood of Bristol:

PERSONS IN DIFFICULTIES may obtain Advice and Assistance on application to Mr. JOHN OLAND, Accountant, Small-street-court, Small-street, Bristol.

Several small sums, from 10*l.* to 50*l.* ready to be advanced on good and approved security.

THE SMALL DEBTS ACT.—HASTY LEGISLATION.

(*Continued from page* 431.)

THE twenty-pound debt Confiscation Act therefore passed both Houses with the smallest possible discussion that could be decently bestowed on a public measure. It was to come into operation immediately; and before the judges and commissioners, who were to give effect to its enactments, could get a copy of it from the Queen's printer, they were called upon to carry it into execution. This occurring in the midst of the Long Vacation, when judges, and even commissioners, are supposed to be entitled to some relaxation, was in itself a considerable inconvenience. The Act, too, provided that the Court of Bankruptcy should frame rules and orders for the better carrying it into execution, and also to frame a table of fees. This would necessarily require time, and, in point of fact, many months elapsed before these, which should have been preliminary measures, were effected. To augment, or with the effect of augmenting, the confusion, which the mere desire of liberation would necessarily occasion, by the number of simultaneous applications at the most inconvenient season, Lord Brougham deemed it expedient to issue a sort of proclamation from Brougham Hall, directing the mode of proceeding, and, among other things, asserting that the words "attorney in the matter of this petition" in the form of attestation, did not mean an attorney-at-law. The commissioners of the Court of Bankruptcy came to a contrary conclusion; and a feud immediately arose between these judicial functionaries and their *ex-officio* patron, who did not hesitate to denounce them as neglecting their duty, and giving the most *perverse* interpretations to the Act of Parliament. The accusation, however, did not produce much impression on the public mind; a solitary petitition of a solitary attorney was presented by the noble lord, served for the foundation of a speech, and was then withdrawn!

We should not have adverted to these matters, but that they are necessary to the proper understanding of certain clauses in the Bill now before us, which would be utterly inexplicable without this clue.

We will proceed at once to the examination of these points. Lord Brougham was at issue with the commissioners on three principal heads:—

1st. That the petition and schedule of an insolvent need not be attested by an attorney-at-law. It was contended, on the one hand, that anybody appointed to do an act for another was his attorney or agent; on the other side it was urged that the uniform interpretation of the term, when used in reference to legal proceedings, had been in a more restricted sense; that the practice of the Insolvent Debtors' Court, *pari materia*, was to require the attestation of one of its own attorneys, and that such practice secured the regularity of proceedings, and though, in the first instance, involving a trifling expense, generally induced an ultimate saving by avoiding the risks of dismissals or adjournment fo informalities. Sec. 6 of the present Act not only enacts but declares that, in making any application, or taking any proceedings, &c., it shall not be requisite to employ counsel, attorney, or solicitor. Now, on the general proposition that a party might conduct his case in person, there never had been any question; the whole of this clause, therefore, is to operate as a Parliamentary judgment against the commissioners; but as the noble appellant has never set forth his case or his arguments, and the judges have been equally silent, though the law is declared, the reason is unsatisfied. It was supposed by some that this clause was to have a greater range, and that it would enable any person to act as an attorney or agent in the matter of a petition, though not an attorney of the court. This was obviously an error, as we have demonstrated on a former occasion, and we are happy to observe that though they fight against odds—*Jupiter hostis*—the commissioners show no disposition to let down the character of their proceedings by letting in unprofessional agents.

The second head of dispute was the discharge of prisoners without notice to the detaining creditor. At first the commissioners thought themselves bound to pursue this course; but, after a few instances of the absconding of petitioners, as soon as they had obtained their liberation and protection, the subject was re-considered, and the practice established which called forth the seventh clause of the Bill, as it went down from the Lords. Instant discharge was to be the rule—no postponement "for two days, or for any other period of time, upon the ground of enabling the detaining creditor to shew cause against granting such order, *or upon any other ground whatever.*" The petitioner might be notoriously a trader owing thousands! he might avow that he had sent all his property to Philadelphia, and was about to follow it by the next morning's steam-packet! The commissioner must give the discharge, and grant the protection! In a less serious case, if a petitioning prisoner were inclined to amuse himself by playing with the Court and his creditors, he would ask, and, under some pretence very probably obtain, a long day—the day arrived—the Court sitting—the creditors assembled—Jeremy Diddler called—no appearance! The petition is dismissed; but on the following day another may be filed, and so on *toties quoties*. In bankruptcy there is a remedy for this; the non-surrendering bankrupt commits a felony, not so the non-surrendering insolvent—he is under no liability, under no restriction. The twin Bill of 5 & 6 Vict. (afterwards 7 & 8 Vict.) afforded a remedy for this inconvenience, as it enacted that the commissioner "may grant to such petitioning debtor a temporary and limited protection from arrest," "for such time and within such *limits* and *conditions* as shall be specified," or to require bail; and such petitioner, though so protected, may be arrested at the suit of any creditor whose debt is not truly specified in the schedule, or whose debt has been contracted in fraud, or if the debtor is about to abscond beyond the jurisdiction, or has concealed, or is concealing, any part of his estate. With such precautions there might be less evil in the indiscriminate discharge of prisoners; without them the evil is obvious. In fact, the clause had no argument in the Lords, and could bear none in the Commons; it disappeared.

The third of the perverse interpretations was, that where a trader had previously taken the benefit of the Insolvent Act, the amount of his then debts must be added to his present liabilities, so that if the whole exceeded 300*l.* he would be disqualified from the new mode of relief, and be compelled to resort either to the Court which had previous cognizance of his case, or become bankrupt, which he might now be on his own petition. The latter part of the 5th clause, as it went from the Lords, was framed with a view to the reversal of this judgment; but it shared the fate of clause 7, and we suppose for the same reason.

As these were all the perverse interpretations to which a practical remedy was proposed, and as two out of the three remedies have been rejected, and as none of the perverse interpretations have been argued, none of the six perverse judges exposed to the odium to which a conspiracy to pervert the law ought to have subjected them, we may congratulate these functionaries on their acquittal of the very serious charges brought against them by their noble accuser. We once knew a father (a reasonable man in other respects) who could not bear the slightest contradiction, or difference of opinion from his own children, though they were grown men, and by the rest of the world looked upon as of competent ability. By the parent they were always viewed as in a state of pupilage, and every indication of independence was resented as an overt act of rebellion. And thus our great reformer regards his commissioners—his, *quos genuit quos eduxit*, and seems to have resented the disregard of his proclamation as a flagrant mark of filial ingratitude.

We will now pass to the general progress of the bill. A very few words will suffice for its passage through the Lords—there was no debate—even Lord Campbell did not make a speech; and Lord Cottenham probably thought it best to allow his adversaries to work out their own blunders, occasioned, as they were, by the unceremonious defeat of his own large and well-considered measure. But though they passed in silence, the mutations of the measure were curious, and any one who will take the trouble of comparing the bill, as first read, with that which passed the third reading, and was sent down to the Commons, will find that the imperfection of execution was only equalled by the infirmity of purpose.

The course in the Commons was a little less silent, and yet more curious.

On Wednesday, the 23rd, the Bill was, in committee under the conduct of the Attorney-General.

On the following day it was reported, and ordered to be printed; that print is now before us, headed, "As amended by the Committee on re-commitment and on Report." At the conclusion of the first clause is the proviso, which the Lord Chancellor was so anxious to repudiate, and in respect of which he imputes some unfairness ... ...e person or persons unknown, for having introduced it in the absence of the Solicitor-General. Was the Attorney-General present? Was the Home Secretary present? Was the draftsman of the Home-office under the gallery? What was he doing there? This, according to the Chancellor, was not a Government measure, yet members of the Government appear to have taken an extraordinary interest in it. Do we blame them? Far from it. Few subjects could be more worthy their attention. Our complaint is, that their interest was not more early, more continuous, and more effective.

The Bill as reported contained twenty-four clauses, the Act as passed contains twenty-five. One clause, therefore, the eighth, must have been added at the third reading; this we believe is not an unusual, though certainly an inconvenient practice. But how, of the remaining twenty-four clauses, no less than eighteen should have been altered, without any re-commitment of the Bill, somewhat puzzles our notions of Parliamentary proceedings; and more especially as Sir James Graham, on the 28th of July, seems to have urged the same difficulty in answer to some suggestions of Captain Berkeley. The Chancellor, in moving that the Lords should agree to the amendments of the Commons, adverts to some verbal alterations; by this might be understood the correction of clerical errors; but we doubt whether, under such general words, alterations, materially affecting the measure, would have been made, due regard being had to the usage of Parliament. The second clause, for instance, contains one of the most extraordinary innovations on the law and practice of bankruptcy, the history of which would assuredly be quite as curious as that of the repudiated proviso. As it originally stood it would have made the order of a judge of a court of conscience superior to the Lord Chancellor's certificate under the Great Seal—did the Solicitor-General see this clause? It is now partially amended as affects certificates obtained before making of the order for imprisonment, but how or when this amendment was made we have been unable to ascertain.

In clause 2, the words "or the instalments thereof payable" inserted, and the word "the" changed into the word "a," materially alter the sense.

In clause 9, "Her Majesty, with the advice of her Privy Council," is substituted for the Secretary of State, &c.

In clause 10. the judges of the courts of requests or conscience are made removable by the Lord Chancellor; in the Bill as reported in the Commons, they were subjected to the more formal judgment of the Judicial Committee of the Privy Council on the petition of the Attorney-General, directed by the Secretary of State.

In clause 13, the substitution of the words "last-mentioned" for the word "said" removes an ambiguity.

In clause 14, the Treasury is substituted for the Secretary of State; in compensation for which, in clause 17, the secretary is substituted for the Treasury; and a material proviso, for increased salary for increased business, is omitted.

In short, sections 1, 2, 3, 4, 7, 9, 10, 12, 13, 14, 15, 16, 17, 18, 20, 23, and 24 have been more or less altered since the report in the Commons; that is, since the last opportunity the public had of being informed of the impending legislation. Section 8 has been added, and sections 5, 6, 11, 19, 21, and 25, most of which are merely formal, are left unaltered.

Again, we ask, is this a mode of legislation calculated to command the respect and confidence of the country? Is it parliamentary? Is it conservative? Is it constitutional? If induced by an urgent necessity, we might have understood it, if there were pressure for time against an immediately-impending calamity, we might have excused it. There appears to be no such apology. The Lord Chancellor still defends the clause in the former statute, which was the root of the evil; he actually presents a petition from 1,800 merchants, bankers, and traders against the Bill, and then admits the pressure from without of a committee of Delegates as a reason for passing it. He admits that the regular course would have been to put the establishment of new tribunals into a separate Bill—why was it not done? it was late in the session, and yet a whole week was lost between the third reading in the Commons on Tuesday, the 29th of July, and the consideration of the amendments in the Lords on Tuesday, the 6th of August. We do not pretend to know (though we may venture to guess,) how this interval was actually employed—we complain that it was not employed more profitably. The Chancellor says that the twenty new clauses were all consequent on one (the 9th); our analysis is different. We find four clauses as they passed from the Lords; nine clauses which relate to the establishment of the new tribunals; ten clauses which would have been equally necessary to the old or new courts; one clause quite new, and one clause merely formal.

Not a single peer justified the passing of the Bill; but all agreed "*under circumstances*" (a most convenient salvo) that it should pass. And here we leave it for the present. Our observations have hitherto been principally directed to the mode and not to the matter; our text was "*how are laws made?*" But we shall very shortly revert to the subject of the particular statute which has induced this inquiry for the purpose of discussing its merits or demerits as it is made."

LECTURES ON MEDICAL JURISPRUDENCE.

By Alfred S. Taylor.

Delivered at Guy's Hospital, 1844.

Lecture XIII.

Poisoning by lead and its salts—Symptoms—Post mortem appearances—Treatment—Colica pictonum—Chemical analysis—Detection of lead in organic substances.

We have now to say a few words on poisoning by *lead*. The salts of this metal are classed among the irritant poisons; but they differ from the other irritant poisons in producing the most intense pain, similar to colic. It has been said that the salts of lead are not poisonous. Those which have been generally found to be poisonous are the acetate, the sub-acetate, the chloride, the carbonate, and the oxide; but Dr. Thompson says that the carbonate is the only poisonous salt of this metal. It does not appear that this assertion is well founded on experiment or observation; because in giving the chloride, which is not easily converted into the carbonate, serious effects have been produced on animals. It is sufficient to say that the acetate of lead is not a very active poison, yet when taken in doses of half an ounce to one ounce it is capable of producing very violent effects. A case is recorded in which 30 grains of acetate of lead were given daily for 30 days, and then slight symptoms of colic were produced. It is undoubtedly capable of acting as a poison when taken in sufficient quantity. When the quantity taken has been from one to two ounces, then the following symptoms have been produced: a burning pricking pain in the throat, with dryness and thirst; vomiting supervenes; there is uneasiness in the epigastrium, which is sometimes followed by violent colic, like common colic, felt about the navel; the abdomen is tense, and the parietes have been occasionally drawn in. The pain is relieved by pressure, and differs from most cases of irritant poisoning by the pain having intermissions. The bowels are obstinately constipated, and this is also another variation from the general effects of irritant poisons. The skin is cold, and there is great prostration of strength, and the patient sometimes expires suddenly. Death is preceded by giddiness, torpor, and coma, cramps in the calves of the legs, pain in the thighs, and paralysis of the extremities. The *post mortem* appearances, of which we have very little means of judging with regard to man, have been observed in animals to be, inflammation of the mucous coat of the stomach and the intestines, which have been found contracted. In many cases of poisoning by this substance, the facts have been proved, and the coroner has not allowed the medical witnesses to examine the body.

The treatment consists in the free exhibition of the alkaline sulphates, either of soda or magnesia; but not the carbonates, otherwise a carbonate of lead will be formed, which is poisonous. Supposing no vomiting to take place, then emetics must be administered, and the stomach-pump may be used. Albumen has been used as an antidote. It precipitates the oxide of lead. Milk may be given, the albuminous principle of which, *casein*, precipitates the oxide of lead.

Sub-acetate of lead, or Goulard's extract, produces effects very like those of the acetate.

Carbonate of lead is a very active poison, and gives rise to *colica pictonum*. It diffuses in a fine powder, and enters the body through the lungs. The manufacture of white lead has been, until lately, the source of much mischief, from the respiration of the powder through the lungs; but recently this great evil has been partially remedied by the practice of grinding the white lead with water. Among the diagnostic symptoms of *colica pictonum* are blueness about the gums and the borders of the teeth. Lead has not been found in this part of the body, so far as I am aware; and sometimes, it ought to be stated, a similar appearance has been found in cases where no lead has been supposed to exist. *Colica pictonum* often kills the patient, and after death the intestines are found contracted, especially the colon. No traces of lead have ever been discovered in any of the secretions, excretions, or soft organs of the body. Carbonate of lead gives rise to many serious accidents. Water becomes poisoned by it, and produces symptoms that would often embarrass medical men, unless they were aware of the cause of the change. Lead is used for transferring water through pipes or cisterns; and in these cases carbonate of lead is formed in large quantities and diffused through the water. We now know pretty clearly the condition on which this depends, and it is worth while to explain the fact. If you take new lead and introduce it into distilled water, in a few minutes (on a bright summer's day, in the light of the sun) you may see a film of the carbonate formed in the water around it, and the purer the water the more rapidly the change takes place. The water that produces it in the greatest abundance is pure distilled water. This change does not occur with old lead, which is covered with a crust of the oxide to which the carbonate adheres; it is thus protected from the action of the water. Other kinds of water, besides distilled water, will produce this change, particularly water obtained from chalky soils, which is strongly impregnated with carbonic acid. Persons may go on drinking water impregnated with carbonate of lead for weeks and months without experiencing any ill effects; but after a time, pains in the bowels, pricking sensations in the limbs, and paralysis of the extremities occur, which would appear altogether inexplicable unless medical men had their attention directed to these points. The water of the Thames is an excellent water for resisting the action of lead. What is the difference between this water and distilled water? One has been distilled, and the other has not. The Thames water contains the 7,000th part of its weight of saline matter, while in the other there is no saline matter. It is the presence of the saline matter that prevents the action of water on lead. I have kept in some Thames water, for five years, a mass of lead, so that air could freely get to it, yet no carbonate has been produced. This is an interesting fact, because it leads to the question, what is the sort of water that prevents the change in the lead of which I have been speaking? Many experiments have been performed with the view of ascertaining this point, and we are deeply indebted to Dr. Christison for his able services in this matter. From the experiments I have made, it would appear that sulphate of lime is the salt which, by its presence in most kinds of hard water, prevents this action on lead. If you put a piece of new lead into equal parts of distilled water, and a solution of sulphate of lime, there will be no action on the lead. Sulphate of lime is therefore the best test for carbonate of lead, because it is quite tasteless and produces no unpleasant effects. Rain water distilled is very bad, and possesses some of the same properties as water impregnated with carbonate of lead. When the sulphate of lime forms only the 5,000th part of the weight of water, no carbonate of lead is formed, and the sulphate of lime dissolved in this proportion in distilled water, will render it very much like river water. Sulphate of lead is slowly formed: it closely fixes itself to the lead, and prevents the production of any carbonate of lead. Water which is abundantly precipitated by a salt of barytes, and by oxalate of ammonia, is not very likely to give rise to lead colic by passing through lead pipes, or being preserved in leaden cisterns. The way in which the sulphate acts appears to be this; oxygen is absorbed by the water, and oxide of lead and subsequently sulphate of lead, are found. There are some other cases in which lead has given rise to ac-

cidents. Shot are used for cleaning wine-bottles, and are liable to be left in them; accidents have been said to arise from this cause; but it does not seem likely that with good wine any accident can occur. Home-made wines, containing acetic acid, are liable to this danger when shot are left in the bottles. I have found that, when the shot were in much larger proportion than could ever be left by accident in a wine-bottle, good wine, whether port or sherry, became slowly impregnated with lead. After two or three months, a white sediment had formed but no lead was dissolved. After thirteen months, the port wine retained its colour, and scarcely any portion of lead was dissolved in it; the sherry had become darker in colour, and the presence of lead was very evident in it. I commenced this experiment in 1839: the port wine still has a dull red colour, and gives only faint traces of lead; while the sherry has acquired a pale straw-colour, and is pretty strongly impregnated with lead. In the course of a short time the tartaric acid in home-made wines will form tartrate of lead, which destroys the colour of the wine; but hydro-sulphuret of ammonia will detect the presence of the lead.

Litharge, which is much used in the arts, has sometimes given rise to accidental poisoning. Liquids used for culinary purposes are liable to become impregnated with oxide of lead, derived from the glaze of the vessel in which they are kept, and to form poisonous salts. If vinegar be used, acetate of lead may be the result, by dissolving the glaze. Litharge glaze is also dissolved by alkaline or fatty substances. When joints of meat are baked in newly-glazed dishes, the dripping is impregnated with oxide of lead, and is liable to produce symptoms of colic.

The salts of lead are characterized by presenting no differences of colour- they are all white they have a sweet astringent taste. There are four soluble salts—the acetate, the sub-acetate, the nitrate, and the chloride; and two insoluble—the sulphate and the carbonate. Sugar of lead is by far the most common form of poison. It is presented in the form of a white powder, or else in crystalline masses, resembling white sugar, for which it has been very often mistaken. The tests for the salts of lead are applicable to all salts.

The acetate of lead is very soluble in cold water, and four parts of water will dissolve one part of the salt. One remarkable property of this salt in solution is that the liquid is both acid and alkaline, which appears quite paradoxical. No clear explanation has been given of this, but no doubt the oxide of lead is capable of combination with vegetable acids, and preserving its alkaline reaction. A very good way of testing it is to place a small quantity of iodide of potassium in a glass, and add a few grains of the suspected substance, and a brownish-yellow deposit is obtained, which is the iodide of lead. The acetate of lead is also turned black by adding a little of the powder to hydro-sulphuret of ammonia. The tests for this salt in solution are several; *i.e.* potass, sulphuric acid, iodide of potassium, and the hydro-sulphuret of ammonia, or sulphuretted hydrogen. Potash gives a white precipitate with oxide of lead. This will throw down an immense number of bodies, but oxide of lead is entirely soluble in potash, whereby we distinguish it from magnesia, lime, and many other bodies. Iodide of potassium gives a bright yellow deposit of a gamboge colour, which preserves these two remarkable properties; that it is entirely soluble in caustic potash, and forms a colourless solution, like water. Iodide of lead ought to be entirely soluble in muriatic acid. Sulphuric acid gives a white precipitate with oxide of lead. Sulphate of lead is insoluble in strong nitric acid, like barytes; but it differs from the sulphate of barytes in being entirely soluble in caustic potash, and also in strong muriatic acid. Hydro-sulphuret of ammonia, or sulphuretted hydrogen, gives a dense black precipitate of sulphuret of lead, and by this test we discover lead in the proportion of 1-500,000th part. There is another point important to notice in relation to the precipitates of lead, from whatever source, that they are all turned black by the hydro-sulphuret of ammonia. We have therefore the power of applying three different tests to one proportion of the liquid; and these tests taken together are entirely free from objection, which, when taken separately, they are liable to, especially the hydro-sulphuret of ammonia, because it deposits many bodies black. The salts of lead are easily reduced to the metallic state by fusion, by chemical affinity, or by galvanism. The acids of lead are also very easily distinguished. The acetate melts when heated, resembling tartar emetic in this respect, and the vapour of acetic acid is given off. Nitrate of lead melts and gives off red acid vapour, which is nitrous acid; and a yellow residue is left, which is the protoxide of lead. Chloride of lead melts, but gives off no acid vapour; but it leaves a yellowish greenish mass. Carbonate of lead (the other insoluble salt) is a substance that has given rise to many cases of accidental poisoning. It is called white lead, and many other names, and presents itself in chalky uncrystallized masses. This is the body that gives the poisonous properties to water. It is identified by muriatic acid, which dissolves it with effervescence. It is also soluble in caustic potash, and is blackened by hydro-sulphuret of ammonia. It is easily reduced to the metallic state. Carbonate of lead is extensively used in the manufacture of glazed cards, now much in use, and from the introduction of which many accidents have arisen. Within the last week or ten days a case of poisoning by lead occurred under the form of glazier's putty. Now, in the proper state, glazier's putty has no lead in it. It was proved, however, that the boy had some putty in his possession, and that his death was caused by eating it.

The last point we have to consider is with regard to the detection of lead in organic matters. This is a matter of some difficulty, unless the poison happens to be in pretty large quantities. The oxide of lead combines with tannin, albumen, and almost all organic substances rendered by them. In order to examine an organic liquid suspected to contain oxide of lead, the liquid should be separated into small portions. If a piece of filtering-paper be dipped in one portion until it is saturated, and then exposed to the action of sulphuretted hydrogen, should lead be present, a brown stain is produced. The gas may now be passed into the liquid; a black precipitate falls, which may be converted into a soluble salt of lead by boiling it with diluted nitric acid. The filtered liquid may be tested with sulphuric acid, then by potash and the hydro-sulphuret of ammonia, when the usual effects will be produced. There are also many other ways of reducing the lead; as, for instance, by calcining the dried stomach or intestines with three or four parts of black flux, metallic globules will be formed in the carbonaceous residue.

LAWS OF FRANCE.

No. X.

OF THE COURS ROYALES, OR COURTS OF APPEAL.

The Roman law defines the appeal thus:—*Appellatio est iniquitatis sententiæ querela.*

We have already stated in our preceding articles, that in France we have two degrees of jurisprudence; that is to say, two classes of tribunals before which the same case can be successively carried.

The object of the legislation being to secure to citizens the most entire possible justice, it was thought that, by placing above one court another court superior in numbers, and generally more enlightened, it would be difficult for error to escape the revisal; but, in order that lawsuits should not be perpetuated, the law has limited to two the degrees of jurisprudence; for we shall find that the Court of Cassation does not form a third. The first degree of jurisprudence is fulfilled by the Civil District Courts and Courts of Commerce, in all matters which come under their jurisdiction. All cases, except those judged without appeal, as we have already explained, are carried before the Cours Royales when an appeal has been lodged; these form the second degree of jurisprudence.

France is divided into twenty-seven Cours Royales, which take cognizance of the appeals of a certain number of tribunals of First Instance; these courts united form the district (*ressort*) of the jurisdiction of each Cour Royale.

The judges of these superior courts are called "Counsellers of his Majesty at the Cour Royale of ———." Their number varies from 24 to 60, according to the number of cases to be judged with appeal.

The Cours Royales are divided into chambers, which cannot sit with less than seven counsellors. Certain important cases, such as state affairs, that is, those concerning the civil rights (*l'état civil*) of individuals, are judged in *audience solennelle*, a court composed of two chambers, and where the judges wear their red robes.

These courts have a head recorder (*greffier en chef*) and as many recorder clerks as there are chambers, and a fixed number of attorneys and vergers (*huissiers*), who have the exclusive right of acting and drawing up deeds for these courts.

The delay allowed for lodging an appeal is three months; for contradictory judgments it begins from the day of the personal signification, or of the signification at domicile; for judgments by default, from the day the opposition can no longer be received.*

The party who has gained at the Court of First Instance can also bring in an appeal.

At the expiration of these delays all rights are forfeited: they are in full force against all parties, save those who have redress against them; but they only begin for the minor not emancipated from the day the judgment is signified to the second trustee, as well as to the guardian, although the former had not appeared in the cause. For those residing out of continental France, the delay for lodging an appeal, beyond the term of three months after the signification of the judgment, shall be—

1st. Two months for those residing in Corsica, Elba, or Capraia, in England, or in those states bordering upon France.

2nd. Four months for those residing in other parts of Europe.

3rd. Six months for those residing out of Europe, on this side the Cape of Good Hope.

4th. A year for those residing beyond it.

And those who are absent from the European territory of the kingdom, on service by land or by sea, or otherwise employed in outward negotiations for the state, are allowed the delay of a twelvemonth beyond the term of three months after the signification of the judgment.

The delays for the appeal are suspended by the death of the condemned party.

They only take their course after the signification of the judgment at the domicile of the deceased, with the formalities prescribed by Art. 61, and beginning only from the expiration of the delays allowed the heirs for taking the inventory or for deliberating on the acceptance or the renunciation of the inheritance, if the judgment has been signified before the expiration of these delays.

The signification can be made to the heirs collectively, and without designation of names and titles.

In the case of a judgment being given on a false document, if the party has been condemned for want of shewing a decisive document in the hands of his adversary, the delays for the appeal will only take their course after the error has been recognized and legally proved or the deed recovered, provided that in the latter case there is proof by writing of where the document has been recovered, and not otherwise.

Litigants are compelled to a week's calm; they cannot lodge an appeal during the eight days which follow the announcement of the judgment.

Appeals lodged during this delay are not received, but the appealing party can reiterate them within the allowed delay.

The execution of judgments which are not provisionally executory is suspended during the said week.

The appeal of a preparatory judgment cannot be lodged until after the definitive judgment, and conjointly with the appeal of this judgment, and the delay for the appeal only commences from the day of the signification of the definitive judgment: the appeal can be received even although the preparatory judgment has been unreservedly executed.

The appeal against an interlocutory judgment can be lodged before the definitive judgment has been rendered.

Preparatory judgments are those given for the information of the case, and which assist in preparing it for the reception of the definitive judgment.

Interlocutory judgments are those given before the definitive judgment, and by which the Court ordains a proof, a verification, or an information which prejudges the main point (*fond*).

Judgments called without appeal are submitted to appeal when they are given by judges, who can only pronounce in first instance.

But appeals are not admitted against judgments given on cases, the judgments without appeal of which belong to the first judges who have omitted

* The opposition is the means of reforming a judgment by which a person has been condemned without having presented himself or offered any defence. See Arts. 20, 113, and 149 of the Code of Civil Procedure.

to qualify them as such, or who have called them judgments with appeal.

Whenever it is for cause of incompetency, the appeal is always admitted, the competency of the courts being the law of France.

The appeal must contain an assignation within the delays allowed by the law, and must be signified personally or at domicile, under penalty of invalidity.

The appeal suspends the execution of the judgment, excepting in cases where the law authorizes the judges to pronounce the provisional execution, independent of opposition or appeal.

If the provisional execution has not been pronounced in cases where it is authorized, the defendant in the appeal can, on demand, compel the Court to ordain it before the judgment of the appeal.

If the provisional execution has been ordained in cases not admitted by the law, the appealing party can obtain a prohibition from the Court upon a short assignation.

In no other case can a prohibition be granted or a judgment rendered tending directly or indirectly to stop the execution of a judgment, under penalty of invalidity.

In the week during which a lawyer is provided by the defendant of the appeal, the appealing party signifies his objections against the judgment; the defendant replies the following week, and the Court takes proceedings without further procedure.

In the appeal, no additional demand must be made, unless a compensation is the object, or unless the demand is the defence of the principal action. Parties can also demand the interest, arrears, rents, and other payments arising since the judgment in First Instance, also damages for loss or injury sustained since the said judgment.

In the above-mentioned cases, the additional demands are made by the simple statement of the defendant's reasons, as also in cases where the parties wish to alter or modify their conclusions.

Where more than two opinions are formed, the judges weakest in number are compelled to unite themselves to one of the two opinions expressed by the largest number, and in case of a division of the Cour Royale, to decide it, one or several judges who have not had knowledge of the case, and always in uneven numbers, are called in, and the affair is tried again.

The loser in the appeal is condemned to a fine of five francs, if it be an appeal against the judgment of a justice of peace; to ten francs, if the appeal is against a judgment of a Court of First Instance, or a Commercial Court.

If the judgment is confirmed, the execution of it belongs to the court which first pronounced it: if the judgment is annulled, the execution of the one rendered belongs to the Cour Royale, which pronounces it on to another court indicated by the decree.

When there is an appeal against an interlocutory judgment, if the judgment is annulled and the case ready to receive a final judgment, the Cours Royales and other courts of appeal can pronounce their decision at the same time they annul the first judgment.

The same thing is done in cases where the Cours Royales and other courts of appeal annul definitive judgments for a flaw in the formality (*vice de forme*), or any other cause.

Such are the principal tenets which regulate the procedure of the courts of appeal, the highest of which is the Court of Cassation, of which we shall treat in our next article.

N. Trelier,

Avocat à la Cour Royale.

Paris, June 19, 1845.

THE CRITIC.

New Books.

The Law of Fixtures, with reference to Real Property and Chattels of a personal nature. To which is also added, the Law of Dilapidations, ecclesiastical and lay. By Standish Grove Grady, Esq. of the Middle Temple, Barrister-at-Law. London, 1845. O. Richard

Although the Law of Fixtures is treated at some length in *Chitty's Contracts*, and in the best works on the Law of Landlord and Tenant, a volume specially devoted to the subject will probably be a useful addition to the library.

Mr. Grady has exhibited considerable industry in the composition of his treatise. He has diligently collected all the cases and arranged them under appropriate divisions, so as to present to the reader the entire law upon the subject in its proper order, and copiously indexed.

Having treated of fixtures in general, he reviews the right to fixtures possessed by various parties, according to their several interests; then of the right to remove them; of their sale and transfer, and of the rights, liabilities, and exemptions of parties in respect of fixtures. A distinct chapter is devoted to the law relating to heirlooms and chattels in nature thereof—charters, deeds, &c. The first book closes with a consideration of the time when fixtures should be removed, and the liability to repair injury caused by their removal The second book treats of the legal and equitable remedies in respect of fixtures, and of the time within which the action must be brought; of the application of the criminal law to fixtures, and of their survey and valuation.

The third book is dedicated to the subject of dilapidations, both lay and ecclesiastical, the liabilities of different parties, and the remedies in law and equity.

The first chapter, "Of Fixtures in General," will favourably shew the manner in which Mr. Grady has performed his undertaking, and will interest and instruct our readers.

OF FIXTURES IN GENERAL.

Definition.—Fixture is a word of ambiguous signification: it is, however, used to denote chattels of a personal nature which have been affixed to land.

In this work "fixtures" is considered with reference to such inanimate things of a personal nature as have become affixed or annexed to the realty, but but which may be severed, disunited, or removed by the party, or his personal representative, who has so affixed them without the consent of the owner of the freehold.(*a*) (Per Parke, B. 1 C. M. & R. 276.)

Exception to general rule.—This definition is to be considered as an exception to the general rule, *quicquid plantatur solo, solo cedit*. Whatever is affixed to the realty is thereby made parcel of it, and partakes of all its incidents and properties. (See Hardwick, C. in *Dudley* v. *Ward*, Ambl. 113; Lord Ellenborough, in *Elwes* v. *Maw*, 3 East, 57; Parke, B. in *Hallen* v. *Runder*, 1 C. M. & R. 275; *Minshall* v. *Lloyd*, 2 M. & W. 459; *Lee* v. *Risden*, 7 Taunt. 191.)

What sufficient annexation.—The question naturally arises, What particular species of annexation will confer upon goods the character of fixtures within the above definition? The merely *laying* and *resting* upon the earth, without *letting* and *imbedding* them into it, goods, or even buildings, of whatsoever description, will not confer upon them the right to become fixtures. The article must be *fixed in or to the ground*, or some substance already become a portion of the freehold, in order to deprive it of its personal nature. Thus, in the case of *Elwes* v. *Maw* (3 East, 38), where a tenant in agriculture, who erected at own expe and for the mere necessary and nt occupation of his farm, a beast-house, carpenter's shop, fuel-house, cart-house, pump-house, and fold-yard wall, which buildings were of brick and mortar and tiled, *and let into the ground*, it was held that he could not remove them, even during his term, and although he left the premises in the same state as when he entered. So also in *Horne*, Exr. v. *Baker*, Ass. (9 East, 215), which involved the question as to the right of assignees of a bankrupt to goods and chattels which were in his order and disposition under the 21 Jac. 1, c. 19, ss. 10. 11. The property in question consisted of certain stills, which were set in brick-work *and let into the ground*, also some vats or worm-tubs which were supported by and rested upon brick-work and timber, but were not fixed in the ground; and also some other vats which stood on horse frames made of wood, which were not let into the ground, but stood upon the floor; and the Court held that those vats which were fixed to the freehold did not pass to the assignees under the words *goods and chattels* in the statute.

So, where the tenant had erected a verandah, the lower part of which was attached to posts fixed in the ground, Abbott, J. held that the tenant could not it. (*Penry*, Admix. v. *Brown*, 2 Stark. N. P. C. 403.)(*b*)

The foregoing cases shew distinctly what will be considered a sufficient annexation to the soil, to prevent the removal therefrom of a chattel which has been affixed thereto.

What is not a sufficient annexation.—But should this complete annexation to the freehold not take place, the articles are not within the class of cases already cited, and are not what are usually called fixtures; they remain mere personal chattels, and may be removed by the party who brought them upon the premises. Thus, in the case of *Culling* v. *Tuffnall* (Buller's N. P. 34), where it was held that the tenant who had erected *a barn* upon the premises, and put it *upon pattens and blocks of timber lying upon the ground, but not fixed in or to the ground*, might, by the custom of the country, take them away at the end of his term; but as Lord Ellenborough, in *Elwes* v. *Maw* (3 East, 38), said, "To be sure he might, for the terms of the statement exclude them from being considered as *fixtures*, they were not *fixed in or to the ground*." (See also *Nayler* v. *Colling*, 1 Taunt. 21.) So in *Horn* v. *Baker* (*ante*),(*c*) those vats, &c. which were not fixed to the freehold were held to pass to the assignees, as being in the order and disposition of the bankrupt. So in *Davis et al.* v. *Jones et al.* (2 B. & Al. 165), certain parts of a machine which had been put up by the tenant during his term, and which were capable of being removed without either injuring the other parts of the machine or the building, and had been usually valued between outgoing and incoming tenant, were held to be the goods and chattels of the outgoing tenant, for which he might maintain trover, the Court of King's Bench was of opinion that, at least between landlord and tenant, the question depended on a conclusion of facts to be drawn from the matters stated in the case, and not upon any point of law; and therefore, that the jibs (which were certain uprights that were placed in certain caps or steps of timber fixed into a building, and which turned round the work in these caps or steps), from their mode of construction, were not properly fixtures at all, but mere personal chattels.

Where resting on brick foundation.—It should seem, also, that if goods or buildings are merely *placed* and *rest upon*, without being let into, a brick or other foundation, and can be taken away without injury to such foundation, they may legally be removed, although the *foundation* itself be in a solid manner rendered part of the freehold, and cannot be severed therefrom, and were constructed for the express purpose of supporting the superincumbent weight. *Rex* v. *Otley*, Inhabs. (1 B. & Ad. 161), in which case it was held, that a wooden windmill placed upon, but not let into, a brick foundation, was removable by a tenant. So in the case of *Wansbrough* v. *Maton* (4 Ad. & E. 884, 6 N. & M. 367),(*d*) where a wooden barn had been erected on a foundation of brick and stone, the foundation being let into the ground, but the barn resting upon it by weight alone. So where a tenant had built upon part of the land a post windmill, constructed upon cross traces laid upon brick pillars, but not attached or affixed thereto, it was held that this windmill was a mere chattel, and not to be considered as connected with the land. (*Rex* v. *Londonthorpe*, 6 T. R. 377.)

It follows from the foregoing cases, therefore, that wherever a chattel is perfectly connected with the freehold, either by being let into the earth itself, or by being cemented or otherwise united to some erection previously attached to the ground, it becomes part of the freehold itself, and cannot be removed by the tenant or his representative.

Tenant may make erections removable.—And that a tenant may so construct any erection he may make, as to avoid the application of the above rule: thus, he may erect barns, granaries, sheds, and mills upon blocks, rollers, pattens, pillars, or plates resting on brickwork, so as to reserve to himself the right of removal.

Exceptions to general rule.—To the general rule, *quicquid plantatur solo, solo cedit*, many exceptions have been made. The question therefore suggests itself, what particular rules or exceptions regulate the right of removal between persons standing in different relative situations towards each other, in respect to the premises to which the goods have been united? It has been stated, that whenever any thing is affixed to the freehold, neither the party annexing it nor his personal representative can ever again sever it, without the consent of the reversioner; the property, by being annexed to the land, immediately belongs to the freeholder, and the tenant, by making it a part of the freehold, is considered to abandon all future right to it, so that it would be waste in him to remove it afterwards; it therefore falls in with the term, and comes to the reversioner as part of the land. (*Herlakenden's* case, 4 Rep. 64; Co. Litt. 53; *Cooke* v. *Humphrey*, Moore, 177; *Darby* (Lord) v. *Asquith*, Hob. 234.)

(*a*) See the case of Sheen v. Richie 5 M. & W. 175, where the declaration was in trover for goods, chattels, and fixtures (enumerating, amongst other moveable articles, stoves, shelves, &c.), and it was held, after verdict (general damages having been assessed on the whole declaration), that the "fixtures" would not necessarily be taken to mean things affixed to the freehold; and therefore the judgment ought not to be arrested.

(*b*) In this case the tenant covenanted to repair, and keep in repair, the premises and all erections, buildings, and improvements which might be erected thereon during the term, and yield up the same in good and sufficient repair.

(*c*) In confirmation of this decision, see Clark v. Crownshaw (3 B. & Ad. 804); Coombs v. Beaumont (5 B. & Ad. 72); Boydell v. Mitchell (1 C. M. & R. 177; 3 Tyrwh. 970); Rufford v. Bishop (5 Russ. 346); Hubbard v. Bagshaw (4 Sim. 326).

(*d*) Trover lies for the conversion of such an erection, though it does not lie for fixtures (id.); and see Mackintosh v. Trotter (3 M. & W. 184).

On this general rule, certain exceptions have been engrafted with reference to the purpose and object for which the article has been annexed to the land.

1st. In favour of *trade*, of *agriculture*, of *ornament* and *convenience*, or of *general improvement* of the estate. It is upon these grounds generally that the Courts have upheld the doctrine of property in fixtures; but they are not the only considerations on which the question has turned.

Custom.—For we find that *custom*, as in *Culling* v. *Tuffnell* (Bull. N. P. 34); *Davis* v. *Jones* (2 B. & Ald. 165); and see *Wetherell* v. *Howells* (1 Campb. 227); *Trapps* v. *Harter* (3 Tyrwh. 603); Went. Off. Exrs. 61.

Nature of fixture.—The nature of the article affixed. (See Lord Hardwick, in *Lawton* v. *Lawton*, 3 Atk. 14; and see *Thresher* v. *East London Water-Works Company*, 2 B. & C. 608.)

Intention.—The intention of the party in attaching to the freehold, as in *Lawton* v. *Lawton* (*supra*); *Salmon* v. *Lawton* (1 H. Bl. 260). (See *Buckland* v. *Butterfield*, 2 B. & B. 56.)

Injury.—Injury to the freehold in case of removal. (21 H. 7, 26; *Cooke* v. *Humphrey, supra; Lawton* v. *Lawton, supra; Dudley* v. *Warde*, 1 Amb. 113; *Davis* v. *Jones, supra; Every* v. *Cheslyn*, 3 Ad. & E. 75.)

Advantage to estate.—The advantages derivable to the estate. *Lawton* v. *Lawton* (*ante*); *Dudley* v. *Warde* (*ante*); *Lawton* v. *Salmon* (*ante*), have been respectively relied on.

Few decisions, therefore, can be considered absolute authorities in other instances, even of fixtures of a similar denomination. Every case of this sort must depend upon its own special and peculiar circumstances. (Per Dallas, C. J., *Buckland* v. *Butterfield*, 1 B. & B. 58.)

BIRTHS, MARRIAGES, AND DEATHS.

[The charge for the insertion of the above is 5s.]

BIRTHS.

HARDCASTLE.—On the 16th inst. at Norwood, the wife Joseph Hardcastle, esq. of the Inner Temple, of daughter.

MARRIAGES.

BUCKLEY, J. A. esq. of Gray's-inn, to Sophia, eldest daughter of William Edward Fiddison, esq. of Euston-square and Golder's-green, Hendon, on the 19th inst. at Hendon church.

BINSTEED, C. H. esq. solicitor, to Philadelphia Sarah, second daughter of the Rev. Dr. Morgan, of North-end-lodge, and chaplain of her Majesty's Dockyard, on Thursday week, at Portsmouth.

CONYERS, Thomas Gooden, esq. to Jane Julia, second daughter of the late William Tebbs, [illegible] of Doctors' Commons, and of Church-street, Chel[illegible] on the 19th inst. at St. Luke's, Chelsea.

DALTON, the Rev. Charles Browne, chaplain of Lincoln's-inn, to Mary Frances, second daughter of the Lord Bishop of London, on the 21st inst. at Fulham.

GODLEE, Rickman, of New square, Lincoln's-inn, and of the Middle Temple, barrister-at-law, to Mary, eldest daughter of Joseph Jackson Lister, of Upton H[illegible] Essex, on the 21st inst. at the Friends Meeting House, Plaistow.

HENNELL, Charles Tidd, esq. of the Inner Temple, to Barbara Ann, only daughter of the late W. E. Burke, esq. of New-inn and Blackheath-park, on the 14th inst. at St. Mary Abbott's, Kensington.

PANTER, John Edward, esq. of the Inner Temple, barrister-at-law, to Elizabeth Lucy, youngest daughter of the late Charles Wrench, esq. of Denmark-hill, on the 13th inst. at St. Paul's Church, Herne-hill.

DEATHS.

CLARKE.—On Tuesday, the 12th inst. at No. 2, Cambridge-place, Hyde-park, Mary, the wife of Mr. J. S. Clarke, solicitor, Leeds.

FARHILL, George, esq. formerly magistrate for the county of Sussex, and Major in the Sussex Militia, at his residence in Albion-terrace, Southampton, on the 10th inst. in the 70th year of his age.

NICOLL, Henry, esq. solicitor, of the Middle Temple, on the 13th inst.

JOURNAL OF PROPERTY.

AN EXAMPLE FOLLOWED.

MR. RAINY'S example has been speedily followed. His attacks upon the solicitors have found an echo in a country town. From the town of Derby comes the following unique circular, a second edition of Mr. RAINY:—

G. H. HOPKINS,
Auctioneer, Surveyor, and Valuer,
Belper, near Derby,

Respectfully returns his acknowledgments for the favours he has received since his commencement in business, and trusts that the recent alterations in the "Law on Public Sales" will in future greatly facilitate the disposal of property.

*** *The general dependance of Auctioneers on Solicitors, engaged in the disposal of Estates;* whose professional commands were not unfrequently obtained by the auctioneer at a sacrifice of part of the "commission" charged on such occasions; together with the inconveniences of a serious "tax," which all parties were equally anxious to avoid; have unquestionably been the cause of much delay, and a most serious expense to the seller; which the "enlightened views," and "real liberality" of our present Government have now rendered it unnecessary to incur, by the absolute repeal of the "Auction Duty," thereby enabling individuals to realize the "full value" of property with expedition, and at a "moderate expense."

Mr. H. submits to his friends and the public; that he will be found fully prepared, and qualified to secure to the "sellers of property" the advantages of the late enactment, by strict attention to their interest in the "price" and to the exclusion of the *many charges and expenses" heretofore incidental to the "transfer of estates."*

Orders for the "Sale or Purchase" of any description of property by private contract; will also be executed with that *fidelity, dispatch*, and *attention* to the interest of his "principals" which *has* during eleven years practice (on his own account) secured to him on every occasion the unlimited approbation of his employers; and he earnestly assures his friends and the public, that in all "Sales and Valuations," of real or personal property; it will ever be his study to use the best of his judgment; and to endeavour to merit a continuation of that patronage with which he has hitherto been honoured: *than whom, no man of the like standing in business ever received a greater share, and (with the many recent proofs of unabated public confidence) which he is proud to acknowledge with sentiments of gratitude*, and *equally anxious in future to deserve.*

Estates Surveyed and Plans executed with neatness and accuracy.

Partnership or Bankruptcy accounts arranged and written up.

Valuations between in-coming and off-going tenants of lands, public houses.

*** *Probate or Letters of Administration: Agreements drawn, Deeds abstracted, &c. &c.*

A Registry kept of public-houses, and premises to let.

Furniture, &c. purchased, where parties objected to a sale on the premises.

Bridge-st. Belper, July, 1845.

Public Sales.

By Mr. W. W. SIMPSON, at the Mart.

A freehold estate, called Little Moatlands, at South Ockendon, Essex, comprising a residence and cottage, together with 213a. 22p. of arable and pasture land, on lease until Sept. 1865, at 320*l*. per annum—8,600*l*.

A freehold residence, being a seminary for young ladies, situate near the church at South Ockendon, with stable, play-ground, and happit—500*l*.

A freehold tenement, used as a beer-shop, and two cottages, on South Ockendon-green, let at 23*l*. 6s.—355*l*.

Four freehold cottages, with gardens, situate in South Ockendon-street—170*l*.

A freehold residence, called Platts, situate near South Ockendon Hall Farm, in Essex, with stabling, garden, and small happit, let at 16*l* 16s.—140*l*.

A piece of freehold building ground, containing a frontage of 104 feet adjoining—105*l*.

A copyhold farm, called Blatches, situate at Eastwood, Essex, comprising a farm-house, farm buildings, and 101a. 28p. of superior land, let for nine years, at 159*l* per annum; quit rents 1*l*. 19s. subject to heriots, and to a customary fine on death or alienation 3,250*l*.

The above property was offered for public competition, pursuant to an order of the High Court of Chancery, in the causes of Millbank v. Stevens, and Millbank v. Collier.

By Mr. JACOBS.

A freehold property, known by the name of Spring Grove Park, in Somersetshire, comprising a mansion and 165 acres of land—17,900*l*.

By Mr. MOORE, at the Mart.

Two leasehold houses, 8 and 10, Ocean-street, Stepney, let at 34*l*. per annum, vendor paying rates; term 61 years; ground-rent, 6*l*.—165*l*.

Two ditto, 11 and 21, Ocean-street, let at 25*l*. per annum, vendor paying rates; term 61 years; ground-rent, 4*l*. 10s.—100*l*.

An improved rent of 48*l*. per annum, arising out of eleven houses in Lower Keate-street, Spitalfields; term 35 years—495*l*.

An improved rent of 28*l*. secured on premises No. 2, Lower Keate-street, Spitalfields; term 35 years—295*l*.

Two freehold houses, 5 and 6, Baron-row, Lower Mitcham, Surrey, each containing six rooms and long gardens; let at 39*l*. per annum, vendor paying rates—300*l*.

A six-roomed dwelling-house, 13, Flood's-terrace, Kennington-street, Walworth-road, let at 21*l*.; term 63 years; ground-rent, 8*l*.—140*l*. Fixtures at a valuation.

A ditto, No. 14, Flood's-terrace, let at 26*l*—160*l*.

A freehold five-roomed house, No. 1, King-street, Cambridge-road, let at 18*l*. 4s. vendor paying rates—185*l*.

A ditto, No. 2—185*l*. A ditto, No. 3—190*l*.

An eight-roomed residence, with garden and stable, 23, Gloucester-terrace, New-road, Whitechapel, let at 30*l*. per annum; term 44 years; ground-rent, 3*l*. 18s. 9d.—300*l*. Fixtures at a valuation.

A nine-roomed cottage residence, with garden and offices, in Mount Pleasant-lane, Warwick-road, Clapton, commanding extensive views; fitted up with fixtures. In hand; presumed annual value 43*l*.; term, 58 years; ground-rent 5*l*.—410*l*.

A ditto—380*l*.

The lease of business premises, 58, Lucas-street, and house adjoining, let at 51*l*.; term 11 years; reserved rent, 32*l*.—unsold.

By Mr. JOHN HAWORTH, at the Rose and Crown Inn, Clithero, in the county of Lancaster.

Freehold and copyhold estates in Slaidburn, Newton-in-Bowland, and Easington, in the West Riding of the county of York. Advertised in LAW TIMES, vol. 5, No. 121, App. 81.

Lot 1. The Gamble-hole estate—3,010*l*. Timber—300*l*. Rental 108*l*. purchased by J. Peel, esq. Accrington-house.

Lot 2. Bungill Choor—1,590*l*. Rental, 56*l*. J. Peel, esq.

Lot 3. Brownhills—800*l*. Rental, 28*l*. J. Peel, esq.

Lot 4. New Close—3,020*l*. P. E. Townley, esq. Townley-park.

Lot 5. Colly-house—2,020*l*. Timber—150*l*. P. E. Townley, esq.

Lot 6. Corn mill. Bought in, reserved bid—600*l*.

Lot 7. A dwelling-house and shop—141*l*. Leo. Wilkinson, esq. Blackburn.

Lot 8. A cottage and garden—96*l*. ditto.

Lot 9. A cottage and garden—41*l*. Leo. Wilkinson, esq. Slaidburn.

Lot 10. A cottage, garden, and croft—103*l*. Edward Parker, esq. Browsholme-hall.

THE following scale of charges, *reduced more than one-third*, has been adopted for Advertisements of Estates for Sale, &c. exceeding 10 lines in length:

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THE GAZETTES.

AMOUNT OF DIVIDENDS DECLARED.

The sum stated as the Dividend means so much declared in the Pound. The Assignees, when chosen, follow this statement.

Monday, Aug. 11.

Davenport, J. hosier, last exam. passed.—*Filbey*, J. victualler, last exam. passed.—*Haycock*, J. jun. corn factor, last exam. Sept. 22.—*Phillips* and *Co.* silk dressers, joint div. next week. Edwards, London.—*Soul*, C. grocer, div. next week. Edwards, London.—*Thorn*, J. paperhanger, last exam. Nov. 5.

Tuesday, Aug. 12.

Bentall, T. stock broker, outlawed.—*Bowles* and *Co.* meat salesmen, last exam passed.—*Burton*, W. upholsterer, div. next week. Whitmore, London.—*Clarkson*, T. jun. warehouseman, last exam. passed.—*Flynn*, W. G. merchant, last exam Sept. 13.—*Hook*, J. brickmaker, div. next week. Whitmore, London.—*Shotter*, F. grocer, div. next week. Whitmore, London.—*Wakefield*, C. victualler, last exam. Sept. 13.—*Wyatt*, T. H. brewer, last exam. Nov. 7.

DIVIDENDS.

Bankrupts' Estates.

Official Assignees are given, to whom apply for the Dividends.

Anton and *Co.* corn factors, second, 7¾d. Whitmore, London.—*Bellenger*, H. F. victualler, 3s. 8d. Bell, London.—*Berrill*, B. merchant, final, 6d. Cazenove, Liverpool.—*Brown* and *Co.* carpet dealers, first, joint, 7s. 6d., first of Brown, 5s. 3d. Pott, Manchester.—*Carter*, G. J. carpenter, first, 3s. 6d. Belcher, London.—*Edwards*, J. grocer, first, 2d. Cazenove, Liverpool.—*Emmett* and *Co.* market gardeners, third and final, 2s. 6d. Groom, London.—*Gibb*, W. currier, first, 2s. 3d. Baker, Newcastle.—*Gotborne* and *Co* wine merchants, Dobbs, 20s. Follett, Liverpool.—*Hill*, J. hatter, first, 2s. 6d. Miller, Bristol.—*Hunt* and *Co.* merchants, first, Messrs. Hunt, 1s. 9¼d. sep. of Smith, 3s. 11d. Whitmore, London.—*Laurier* and *Lock*, importers, second and final, 2⅛d. Turquand, London.—*Lewis*, C. innkeeper, first, 1s. 9d. Miller, Bristol.—*Mottram* and *Co.* wool brokers, second, Mottram, 10¼d. Cazenove, Liverpool.—*Parr*, T. plumber, second, 2d. Cazenove, Liverpool.—*Rowlands*, D. wine dealer, second, 4d. Cazenove, Liverpool.—*Shepherd*, R. bootmaker, second, 7d. Cazenove, Liverpool.—*Stevens* and *Co.* road contractors, second, Stevens, 1¾d. Groom, London.—*Vandean* and *Co.* artificial florists, first, 1⅛d. Whitmore, London.—*Williams*, W. wheelwright, first, 4s. 9d. Groom, London.—*Willis* and *Co.* merchants, fourth joint, 1s. 3d. second sep. Willis, 1s. 9d. Follett, Liverpool.—*Wood*, T. wine merchant, first, 4s. 9d. Groom, London.

Insolvents' Estates.

Grant, S. widow, Woolwich, and Union-place, New-road. 1s. 6d. (in addition to 6s. 6d.)—*Freeman*, W. farmer and attorney, Hedon, Yorkshire, 3s. 6d.—*Kerschner*, A. H. victualler, New Church-st. Strand, 7s. 7½d.—*Pym*, F. L. attorney, Plymouth, 3s. 11½ (in addition to a former of 6s).—*Sutcliffe*, A. clock maker, Oundle, 1s. 7½d.

ASSIGNMENTS

To Trustees for the Benefit of Creditors.

Gazette, Aug 15.

Blake, J. fellmonger, Mill-lane, Deptford, Aug. 9. Trusts. T. Powell, jun. leather and hide factor, Lime-st. and W. Palmer, builder, George-st. Harmood-st. Hampstead-rd. Sols. Jones and Dunster, Great Marylebone-st.—*Jarvis*, H bookbinder, Bartlett's-passage, Aug. 13. Trusts. J. L. Wilson, linen draper, St. John-st. and C. Martyr, stationer, Farringdon-st. Sol. Watson, Falcon-sq.

Gazette, Aug. 19.

Carter, G. grocer, Brighton, July 31. Trusts. R. Lowcock, wholesale tea dealer, Queen-st.-place, and T. Hicks, wholesale grocer, Mincing-lane. Sol. Low, Chancery-lane.

Bankrupts.

DATE OF FIAT AND PETITIONING CREDITORS' NAMES.

Gazette, August 15.

CADOGAN, JOHN, the younger, hat, shoe, and stay warehouseman, High-st. Inferior, Brecknockshire, Aug. 29 and Oct. 2, at eleven, Bristol, Com. Stevenson; Acraman, off. ass.; Adamson, Ely-place, sol. Date of fiat, Aug. 11. J. Sammell, wholesale boot manufacturer, Ironmonger-lane, pet. cr.

DAVIS, DAVID, dealer in regimental and court dresses and wearing apparel, 23, Jermyn-st. St. James's, Aug. 22, at half-past eleven, Sept. 25, at eleven, Basinghall-st. Com. Fonblanque; Belcher, off. ass.; Lewis and Lewis, Ely-place, sol. Date of fiat, Aug. 11. Bankrupt's own petition.

KERSCHNER, GEORGE FREDERICK, victualler, Castle-inn, Holloway, Aug. 22, at half-past ten, Sept. 30, at twelve, Basinghall-st. Com. Holroyd; Edwards, off. ass.; Fisher, Queen-sq. sol.

LAZARUS, JOSEPH, dealer in new and second-hand clothes, 10, Marylebone-lane, and 27, Wigmore-st. Cavendish-sq. Aug. 22, at two, Sept. 26, at half-past eleven, Basinghall-st. Com. Fane; Whitmore, off. ass.; Lewis and Lewis, Ely-place, sols. Date of fiat, Aug. 11. Bankrupt's own petition.

MARSH, JOHN, grocer, Brewood, Staffords. Aug. 27 and Sept. 20, at eleven, Birmingham, Com. Daniell; Bittleston, off. ass.; Robinson, Wolverhampton, sol. Date of fiat, July 25. T. Bittleston, off. ass. Birmingham, J. Barrow, cheese factor, Wolverhampton, and T. Jones, pork butcher, Wolverhampton, pet. crs.

OWEN, JACOB RICHARD, stock and share broker, Manchester, Aug. 25 and Sept. 5, at twelve, Manchester; Hobson, off. ass.; Gregory and Co. Bedford-row, and Hitchcock and Co. Manchester, sols. Date of fiat, Aug. 9. Bankrupt's own petition.

PARSONS, WILLIAM, corn dealer, 6, Wood-st. Prince's-rd. Lambeth, Aug. 26, at half-past one, Sept. 25, at eleven, Basinghall-st. Com. Fane; Alsager, off. ass.; M'Leod and Stenning, London-st. sols. Date of fiat, Aug. 4. E. Hales, J. L. Butler, F. Prior, and C. Butler, corn factors, Bush-lane, pet. crs.

TAYLOR, JOHN TEMPLE, and WATKINSON, THOMAS PANTRY, plumbers, York-terrace, Regent's-park, and Watling-st. City, Aug. 26, at eleven, Oct. 2, at twelve, Basinghall-st. Com. Fonblanque; Pennell, off. ass.; Grimaldi and Co. Copthall-ct. sols. Date of fiat, Aug. 1. J. Eaton and C. E. Amos, engineers, Grove, Southwark, pet. crs.

Gazette, Aug. 19.

DAMES, DANIEL, paper stainer, Liverpool, Sept. 5, at eleven, Sept. 19, at twelve, Liverpool, Com. Ludlow; Bird, off. ass.; Walker, Furnival's-inn, and Bradley, Liverpool, sols. Date of fiat, Aug. 14. Bankrupt's own petition.

JACKSON, FRANCIS, licensed victualler, 25, Marylebone-st. Golden-sq. Aug. 30 and Sept. 26, at one, Basinghall-st. Com. Fane; Whitmore, off. ass.; Sherreff, Lincoln's-inn-fields, sols. Date of fiat, Aug. 16. E. W. Wyon, sculptor, 48, Gower-st. Bedford-sq. pet. cr.

MALLINSON, HUGH, manufacturer of fancy worsted and cotton goods, Almondbury, Huddersfield, 2nd and 25th Sept. at eleven, Leeds, Com. West; Freeman, off. ass.; Lever, King's-road, Bedford-row, and Achers, Manchester, sols. Date of fiat, Aug. 8. T. B. Crompton, cotton spinner and paper manufacturer, Farnworth Mills, Dean, Lancashire, pet. cr.

MARKWICK, MARK, builder, late of Harpur-st. Red Lion-sq. Aug. 26, at two, September 26, at one, Basinghall-st. Com. Holroyd; Edwards, off. ass.; Messrs. Lake, New-square, Lincoln's-inn, sols. Date of fiat, Aug. 4. C. Cove, builder, Hornchurch, Essex, pet. cr.

POWELL, JAMES CHASE, apothecary, 47, Chiswell-st. Finsbury, Aug. 26, at half-past eleven, Oct. 2, at one, Basinghall-st. Com. Fonblanque; Belcher, off. ass.; Jerwood, Walbrook-buildings, sol. Date of fiat, Aug. 14. Bankrupt's own petition.

WHITE, RICHARD, surgeon-apothecary, 13, High-street, Portsmouth, Aug. 29, at two, Sept. 26, at twelve, Basinghall-st. Com. Fane; Bostholme, New-inn, sol. Date of fiat, Aug. 14. Bankrupt's own petition.

PARTNERSHIPS DISSOLVED.

Gazette, Aug. 19

Bradbury, F. *Sugden*, E. M. and S. drapers and grocers, Haslingden and Rawtenstall, Aug. 8. Debts owing by the drapery concern paid by Bradbury and E. M. Sugden, and debts owing by the grocery concern at Rawtenstall, paid by S. Sugden.—*Barford*, J. and *Cox*, F. dealers in plait, Wood-st. Aug. 4. Debts paid by Barford.—*Cruse*, M., J., and L. newsvenders, Little Britain, so far as regards L. Cruse, June 24.—*Evans*, W. O. and *Cleverton*, F. W. P. solicitors, Plymouth, Aug. 1. Debts paid by Cleverton.—*Guden*, T. *Adey*, W. L. C., and C. A. coal merchants, Poole, paid by W. L. C. Adey.—*Gibbon*, S. *Huddimon*, J. *Hennell*, J. ribbon manufacturers, Coventry, so far as regards Hennell, July 31.—*Green*, R. and *Arrowsmith*, J. brewers, Salford, Aug. 7. Debts paid by Green.—*Kronheim*, J. M. *Shepherd*, W. and *Sutton*, F. W. patent stereotype founders, Earl-st. Blackfriars, so far as regards Kronheim, Aug. 11. Debts paid by the remaining partners.—*Lehenheim*, H. and *Mulber*, J. dealers in wool mosaic tapestry, Regent-st. March 25. Debts paid by Lehenheim.—*Lucas*, S. H. and S. June 30.—*Ridsdale*, T. W. and *Cooper*, M. H. mercers and drapers, Darlington, July 17.—*Shaw*, W. F. and *Bradnack*, S. W. schoolmasters, Bath, July 21.—*Smith*, J. and B. merchants, Manchester, May 21. Debts paid by B. Smith.—*Spooner*, R. and *Smyth*, F. piano-forte makers, Gloucester-st. Bayham-st. Camden-town, Aug. 9. Debts paid by Spooner.—*Thompson*, J. and E. hosiers, Manchester, Oct. 5, 1843. Debts paid by J. Thompson.—*Turner*, R. and *Kirwood*, tailors, Old Cavendish-st. Aug. 12.—*Young*, M. A. and *Kent*, E. milliners, Birmingham, Dec. 31. Debts paid by Kent.

Gazette, Aug. 15.

Antrum, R. and *Ridgers*, S. farmers, Sandhurst, Berkshire, July 23.—*Astrop*, J. and *Caley*, W. jun. stockbrokers, Hull, Aug. 9.—*Badger*, T., *Worrall*, W. and *Armitage*, J. silver platers, Sheffield, Aug. 13. Debts paid by Badger.—*Badger* T. and W. scissor manufacturers, Sheffield, Aug. 13. Debts paid by Badger.—*Barningham*, J. C. and W. and *Smith*, J. W. ironfounders, Collyhurst foundry, near Manchester, as regards Smith, Aug. 4.—*Beliaers*, J. and W. farmers, Stretton, Rutlandshire, May 14.—*Burch*, J. and *Wellen*, N. horse dealers, Charsfield and Bedfield, May 29. —*Gatehouse*, R., *Birch*, J. and *Darch*, J. timber merchants, Upper Lisson-street, Marylebone, so far as regards Birch, Aug. 14.—*Hellewell*, T. I., *Nortcliffe*, J. and *Hellewell*, J. B. dyers, Brighouse and Manchester, Aug. 13. Debts paid by T. I. Hellewell and Nortcliffe.—*Hill*, R. J. deceased, and A. Plymouth, iron works, Merthyr Tydvil, July 19. Debts paid by A. Hill.—*Hunter*, J. and *Hardy*, J. C. tailors, Chancery-lane, Aug. 7. Debts paid by Hardy.—*Jackson*, J. G., *Clementson*, C. and *Ollier*, J. ship brokers, New East-India-chambers, Aug. 8. Debts paid by Clementson and Ollier.—*Knight* W. and *King*, W. booksellers and printers, Witham, Essex, Aug. 13.—*Laing*, M. and D. G. painters, Villiers-st. Aug. 8. Debts paid by D. G. Laing.—*Lee*, W. H. and *Bromsgrove*, J. steel pen manufacturers, Birmingham, July 28.—*Meredith*, H. and *Heap*, J. engineers, Liverpool and Brierly-hill, Aug. 13. Debts paid by Meredith. *Milner*, J., *Stephenson*, T. and *Hanson*, W. printers and booksellers, Leeds, Aug. 7. Debts paid by Hanson and Milner.—*Pratt*, J. M. and *Stanborough*, T. C. wine merchants, Berners-st. Aug. 13. Debts paid by Stanbrough.—*Reed*, A., *Powell*, S. J. and *Richards* Edwin, coffin furniture manufacturers, Tottenham-court-rd. Aug. 12. Debts paid by Reed and Powell.—*Watt*, J. and *Woodgate*, Stephen, electro platers, Bartlett's buildings, Holborn, Aug. 7.—*Wheeler*, W. and E. livery-stable keepers, Oxford, Aug. 5. —*Wilders*, T. and H. and *Hoskins*, R. brewers, Burton-upon-Trent, July 26.—*Wilford*, H. and *Davey*, A. G. boot manufacturers, Great Chapel-st. Westminster, Aug. 6.—*Wood*, H. and *Hoggs*, J. B. wood carvers, Henrietta-st. Covent-garden, and Ranelagh, St. Pimlico, Aug. 14.—*Wright*, F. E. and H. drapers, Kettering, Aug. 11. Debts paid by F. E. Wright.

Insolvents

Petitioning the Courts of Bankruptcy.

PETITIONS TO BE HEARD AT BASINGHALL-STREET.

Gazette, Aug. 12.

Clark, J. schoolmaster to the Portsea Branch National School, Portsea, Aug. 27, at two.—*Crowley*, D. dealer in skins and general dealer, Magdalen-st. Bermondsey, Aug. 26, at eleven.—*Jacobs*, J. appraiser, Shepperton, Aug. 21, at two.—*Jones*, S. assistant to a wholesale stationer, Hill-st. Peckham, Aug. 27, at two—*Law*, G. baker, East-st. Greenwich, Aug. 27, at one.—*Morgan*, J. baker, Globe-road, Mile-end, Aug. 27, at eleven.—*Orridge*, S. W. out of business, East-st. Red Lion-square, Aug. 26, at eleven.—*Ronketti*, J. G. H. optician, out of business, Mary's-terrace, Camden-town, Aug. 27, at two.—*Smith* S. assistant to a grocer and cheesemonger, Church-st. Chelsea, Aug. 27, at eleven.—*Smith*, W. H. formerly a clerk to a banker, but since occasionally engaged as a share broker, King's-row, Cambridge-road, Aug. 27, at eleven.

COUNTRY.

Gazette, Aug. 12.

Barnsdall, J. joiner, Nottingham, Aug. 28, at half-past eleven, Birmingham.—*Clark*, J. carpenter, dealer in timber, and shopkeeper, Butcombe, Sept. 2, at eleven, Bristol.—*Jones*, F. out of business, Mold, Aug. 26, at eleven, Liverpool.—*Oldfield*, J. lead miner, Great Hucklow, Aug. 25, at twelve, Manchester.

MEETINGS IN THE COUNTRY.

Gazette, Aug 12.

Croughton, the Rev. R. F. vicar, Melton Mowbray, Sept. 4, at eleven, Birmingham.—*Foster*, G. innkeeper and bookbinder, Carlisle, Aug. 20, at half-past two, Newcastle.

PETITIONS TO BE HEARD AT BASINGHALL-STREET.

Gazette, Aug. 15.

Blanch, J. leather cutter and boot and shoe maker, Green-st. Bethnal-green, Sept. 4, at eleven—*Bayly*, F. upholsterer, West Cowes, Isle of Wight, Sept. 5, at two.—*Capper*, J. out of business, High st. Lambeth, Sept. 5, at half-past two.—*Child*, D. piano-forte maker, Chester-place, Old Kent-road, Sept. 4, at half-past eleven.—*Cockbill*, W. blacksmith, Filkins, Oxfordshire, Sept. 5, at two.—*Collis*, E. sadler, Winchester, Sept. 5, at two.—*Coward*, J. turnkey, gaol, Winchester, Sept. 4, at half-past eleven.—*Fagg*, J. baker, Canterbury, Sept. 5, at two.—*Heath*, R. J. cabinet maker, Woolwich, Aug. 25, at eleven. —*Lee*, S. A. spinster, formerly a lodging-house keeper, but now out of business, late of East Sheen, Surrey, but now of Queen-st. Edgware-rd. Sept. 4, at half-past eleven.—*Mallan*, J. M. dentist, 19, Bouverie-st. 58, Fleet-st. and 160, Quadrant, Regent.-st. Sept. 4, at eleven.—*Martin*, A. cabinet maker, King-st. Soho, and George-st. Macclesfield-st. Sept. 4, at eleven.—*May*, P. baker, North Cray, Aug. 28, at twelve.—*Mills*, G. late a victualler, now out of business, Southampton-buildings, Holborn, Aug. 28, at twelve.—*Rouse*, W. camp stool maker, Kent-st. Southwark, Aug. 28, at twelve.—*Steggles*, W. corn and coal merchant, Sept. 4, at twelve.—*Turner*, G. A. out of business, Tabernacle-sq. Aug. 27, at two.—*Violette*, J. B. importer of boots and shoes, Little Newport-st. Leicester-sq. Aug. 28, at twelve.

COUNTRY.

Gazette, Aug. 15.

Blackett, J. , late of Hartlepool, out of business, Aug. 21, at past one, Newcastle.—*Cohen*, J. furniture er and general dealer, Llangattock, Sept. 2, at eleven, Bristol.—*Edwards*, W. out of business, Liverpool, Aug. 29, at twelve. Liverpool.—*Gould*, T. commission agent and provision dealer, Bristol, and Dublin, Sept. 4, at 11, Bristol.—*Oldham*, J. eating housekeeper, Liverpool, Aug. 20, at 11, Liverpool.—*Plowright*, M. late dealer in bread, cheese, and bacon, Nottingham, out of business, Aug. 28, at eleven, Birmingham.—*Sanderson*, grocer, Hartlepool, out of business, Aug. 21, at half-past one, Newcastle.—*Stayer*, W. B. commissioned officer of Her Majesty's Customs, Gloucester, Sept. 4, at one, Bristol.—*Vaughan*, J. S. esq. St. Ishmael, Carmarthenshire, Sept 9, at eleven, Bristol.

From the Gazette of Friday, August 22.

Bankrupts.

Sims, J. wheelwright, Tollard Royal, Wiltshire.—*King*, B. timber dealer, Fore-st. Limehouse.—*Kirkman*, J. butcher, Lupus-st. Pimlico.—*Hogg*, E. T. and *Walton*, W. N. wine merchants, Duke-st. Adelphi.—*Pratt*, J. M. wine merchant, Berners-st. Oxford-st.—*Howell*, T. hotel keeper, Queen's Head-passage, Newgate-st.—*Solomons*, N. and E. shoemakers, Church-lane, Whitechapel.—*Sugden*, R. worsted manufacturer, Bogthorne, Yorkshire.—*Suckling*, J. H. ironmonger, Birmingham.

CONTENTS.

THE REPORTS.

Equity Courts.

VICE-CHANCELLOR OF ENGLAND'S COURT.

Wednesday, July 23.

Practice—Taxation of costs—Retaining fee.

Where one of the parties in a suit had employed a counsel from the Common Law Bar, and had given him a special retaining fee for coming into the Court of Chancery in addition to the fee endorsed upon his brief, both which the Taxing Master allowed, Held, upon a petition of the defendants, that such special fee ought to be disallowed; that the Court could not interfere to restrain a party in the choice of counsel, and that therefore the petition must be refused with costs.

In this suit the defendants presented their petition, praying that a fee of fifty guineas, given as a special retainer to the then Attorney-General, Sir F. Pollock, might be declared to have been improperly allowed, and that the Taxing Master ought to have disallowed the same; and that it might be referred back to the Master to review his certificate of taxation.

This was an injunction suit, commenced in the year 1843, to restrain the infringement of a patent. On the 28th July, a notice of motion for the 10th of August was served on the petitioners. The motion was made on the 23rd August following, when an arrangement was entered into between the counsel on both sides, that an order should be taken for a trial at law, the petitioners keeping an account in the mean time. A trial was accordingly had, and a verdict was found for the plaintiff. This was followed by a decree in the suit, dated the 14th February, 1845, for an injunction, and for the usual accounts; and it was ordered to be referred to the Taxing Master in rotation to tax the plaintiff's costs of the suit; and when so taxed, the same should be paid by the defendant. The Taxing Master, by his certificate, bearing date the 10th May, 1845, allowed, as part of the costs of the motion, a fee of fifty guineas, also a further fee of 32*l.* 10*s.* to Sir F. Pollock and his clerk.

The Petitioners stated that Sir F. Pollock, the then attorney-general, was not in the habit of practising in the Court of Chancery, and that the fee of fifty guineas so allowed was stated by the plaintiff's solicitor to have been a special retaining fee required by the then Attorney-General for coming into the Court of Chancery on occasion of the motion. They submitted, that they were advised that it was not in accordance with the practice of the Court, upon taxing the costs of a suit as between party and party, to allow a fee as a special retainer to counsel practising in another court for coming into the Chancery Courts, in addition to an adequate fee upon his brief. That it had been objected before the Master, that it was not according to the practice of the Court to allow such special fee, but that the Master did allow it on an affidavit made by the managing clerk of the plaintiff's solicitor, in which he deposed that, in consequence of the then advanced state of the vacation, he was unable to secure the services of any leading gentleman at the Chancery Bar to make the motion, and that in consequence thereof, and of the petitioners having secured the services of the late Solicitor-General, the plaintiff had no alternative but to retain the then Attorney-General to appear on the motion on his behalf.

On behalf of the petitioners, the affidavit of their solicitor's managing clerk deposed, that he had made inquiry at the chambers of Mr. Wakefield, and had been informed by his clerk, and verily believed that Mr. Wakefield was in town on the 23rd of August, 1843, and would have accepted a brief to argue a motion for an injunction, if the same had been tendered to him, without the payment of the special fee of fifty guineas. That he had also inquired of Mr. Oliver Anderton's clerk, of Mr. Kenyon Parker's clerk, and of Sir Charles Wetherell's clerk, and received similar answers from each.

Stuart and *Follett*, in support of the petition, contended that the case was one of ordinary merits, and might have been argued by any Queen's Council at the Chancery bar,—there was therefore no necessity for travelling into the common law courts simply to gratify the capricious fancy of the plaintiff by obtaining the services of a common law counsel who required a fifty guinea fee in addition to the other fee marked on his brief. By such conduct the petitioners, together with the loss of this suit, were mulcted in a fine of fifty guineas. The affidavit made on behalf of the petitioners shewed that there was no lack of eminent Queen's Council practising at the Chancery bar, who could have been found at their chambers, and whose services the plaintiff might have secured; and that, therefore, the objection that there was no leading member of the Chancery bar at the time in town was untenable. Moreover, if it were necessary to the success of the motion that a crown lawyer should be retained, the plaintiff might have been accommodated, even among the Queen's Counsel practising at the Chancery bar, in the person of Sir Charles Wetherell, who had some years ago occupied the distinguished post of his Majesty's Attorney-General. Under these circumstances no necessity had arisen for the course which the plaintiff had pursued, and if he must needs indulge his humour at the extra cost of fifty guineas, the expense of so doing ought not to fall upon the petitioners.

Bethell, to oppose the petition, was not called upon by the Court.

The VICE-CHANCELLOR.—It appears to me that the objection is not raised on account of the fee being excessive; but merely because some eminent counsel in this court had not been retained, the taxing master ought not to have allowed the fee. Now if the objection was made to the counsel, it ought to have been raised at the time. My opinion upon the subject is this; namely, that a serious blow would be given to the liberties of the people of England, as represented by the body of counsel, if I were to interfere in the manner sought for in this petition, and to declare that every suitor who may come into this court shall not exercise his liberty of choosing his own counsel.

Petition refused with costs.

ROLLS COURT.

May 26 and Aug. 9.

LOVE *v.* GAZE.

Will—Construction—Stat. 11 Geo. 4, & 1 Will. 4, c. 40, operation of—Residue, express disposition of. A testator bequeathed certain houses to J. G. "and all rents due at my death of all my houses I will and bequeath G. G. and C. G. my two executors, to them I do give all my money on mortgage, &c. all my, &c. all I am worth at my death, for you to pay all as follows," and then bequeathed several legacies. It was held that the residue after payment of legacies, did not belong to the executors beneficially, but that they must be deemed trustees of it for the next of kin, under the 11 Geo. 4, c. 40, there being no manifestation of intention by the testator to give it to the executors beneficially.

William Wiseman duly made his will, bearing date the 1st day of April, 1842, as follows:—"St. Pancras, Middlesex, April 21st, 1842, in the year of Lord. I, William Wiseman, being of a sound disposing mind and memory, God be praised for it. I do make and ordain this to be my last will and testament, in manner and form as following; that is to say, I do consecrate and appoint George Gaze and Charles Gaze to be my two executors of this my last will and testament; I will and bequeath 20*l.* a year to be paid to my nephew Kelah Love, out of the rents of my houses in York-place, Ossulston-street, Somers Town, Middlesex, as long as he lives; I will and bequeath all my houses in York-place to my nephew John Gaze, and all rents that are due at the time of my death of all my houses in York-place, &c. I will and bequeath George Gaze and Charles Gaze my two executors; to them I do give all my money on mortgage-bond on houses or lands; all my money, close [clothes], all I am with [worth], at my death; that is to say, for you to pay all as follows; and I will and bequeath" several legacies to different persons; among others, 10*l.* to his nephew Kelah Love, the plaintiff; and then he adds: "I wish all this to be paid in six months after my death. I here declare this my last will and testament in all our presents" [presence]. In September 1842, the testator died, and on the 20th of April, 1843, the executors, George and Charles Gaze proved the will, and after paying expenses, legacies, &c. there remained a balance of only 322*l.* 7*s.* 8*d.* to which they claimed to be beneficially entitled under the will. It appears that Kelah Love, the plaintiff, had been the testator's agent, and had received his rents for him for some time previously to his death; but on the 1st of October, 1842, he ceased to do so, and John Gaze, the devisee, entered into possession of the houses with the consent of the executors. On the 5th of December, 1842, a meeting was appointed by the executors for the 23rd of the same month, to have a settlement of the plaintiff's accounts; but the plaintiff wrote to say he could not attend, stating, however, that the balance due by him, after deducting his legacy of 10*l.* was only 16*l.* 9*s.* 4*d.* whereas it was said to be a larger sum. Nothing more was done till the 26th of March, 1844, when the plaintiff filed his bill against the executors, George and Charles Gaze, and against Elizabeth Wiseman and Charles Smith and Susanna his wife, Elizabeth Wiseman and Susanna Smith being nieces and next of kin of the testator. The bill stated the will and death of the testator, and alleging that the plaintiff and Elizabeth Wiseman and Susanna Smith were entitled, as next of kin of the testator, to the residue of his estate, after payment of expenses, legacies, &c. prayed for an account of the personal estate, including leasehold houses, &c.; also an account of what was received by the first two defendants; that the plaintiff should be declared to be entitled to an annuity of 20*l.* and a legacy of 10*l.* and, as one of the next of kin, to one-third of the residue; that the construction of the will should be declared, and that a receiver should be appointed, and for an inquiry, &c. The defendants, the executors, by their answer, submitted that by the true construction of the will, they were themselves beneficially entitled to the residue. Several witnesses, also, deposed to having heard the testator say, "he had left all his money, &c. and every thing he was possessed of, to George and Charles Gaze, whom he had made his executors, for them to pay all bills, &c. and legacies, and what was left would be for them; he intended they should have more than than the others, because they would have more trouble." But there was no corresponding allegation in the answer. The executors were the sons of John Gaze, the devisee, who was not really the nephew of the testator, though by him so called. The cause now came on to be heard, and it appearing that there had been (by the consent of the parties) no inquiry as to who were the next of kin, the Court, nevertheless, though reluctantly, allowed it to be proceeded with, as the fund in question was so small.

Turner (with him *G. L. Russell*), for the plaintiff, contended that the executors were trustees for the next of kin, under the statute 11 Geo. 4 & 1 Will. 4, c. 40, which enacts that executors shall be deemed to be trustees for the next of kin "in respect of any residue not expressly disposed of," unless it should appear by the will that the testator intended them to take beneficially. He also insisted that parol evidence was not admissible to shew the intention, as well because that must "appear by the will," according to the Act, as that there was no corresponding allegation in the answer. He cited *Braddon* v. *Furd* (4 Russell, 87); *Robinson* v. *Taylor* (2 Bro. C. C. 589); *Mullen* v. *Bowman* (1 Coll. C. C. 197).

Moore, for the other next of kin.

Kindersley (with him *Terrell*), for the executors, contended that the residue was expressly disposed of, and the case was therefore not within the statute. He cited *Lynn* v. *Beaver* (1 Tur. & Russ. 66).

Turner, in reply.

The MASTER of the ROLLS.—Whatever may be the extent of the operation of the statute, it will be very small indeed, and its application very narrow, if the construction contended for by the defendants, the executors, be established. The statute says, executors shall be deemed trustees for the persons entitled under the Statute of Distributions, in respect of any residue not expressly disposed of, unless an intention appear by the will that they should take beneficially. What is meant by an express disposition of the residue? It is said that a gift of all the testator's property, after certain payments to be made thereout, imports and involves a gift of the residue: and no doubt it indirectly does so. Here the testator gives an annuity of 20*l.* and the sum of 10*l.* to his nephew, the plaintiff; then he gives the houses to John Gaze; and then he bequeaths all he is worth at his death to his two executors, "for you to pay all, &c.;" and then he bequeaths legacies to several persons. Is, then, that disposition "an express disposition of the residue?" It is said, the Act is confined to cases where the executor takes only by his appointment as executor, and by virtue of his office. If that be so, the legislature has not saved much of the public time in cases of this sort. I will consider.

Saturday, August 9.—The MASTER of the ROLLS,

after stating the case, observed that the intention of the testator, that the executors should take beneficially, must necessarily appear before they could be entitled to do so under the Act; and that he was unable to discover such manifestation of intention in this case. He was of opinion, therefore, that the case came clearly within the operation of the Act; and the executors must be held not to be entitled beneficially, and consequently they were to be deemed trustees of the residue for the next of kin.

Wednesday, June 25.

BAINBRIDGE v. BLAIR.

Practice—Trustee who is a solicitor—Compensation for time and trouble—Bills of costs for suits conducted in regard to the trust property—General rule respecting, and when relaxed.

A trustee, who is a solicitor, and in such capacity conducts suits for himself and co-trustees in respect of the trust property, is entitled only to actual disbursements, and not to such costs, charges, &c. as he would be entitled to in his professional capacity, if he was merely employed as solicitor in the cause, and was not a trustee.

This general rule, however, admits of exceptions, and may be deviated from for the benefit of the trust, where, in particular cases, the deviation may be safely allowed, without breaking through the authority of the rule.

But such deviations must be authorized by the Court, on a proper application, on its being satisfied that the time and trouble of the trustee are of so much consequence to the trust-fund that it is better to pay for them than lose them, or the testator may himself order compensation.

The trustee, however, in such a case, ought to apply before taking any steps, and not wait to have the costs allowed under the just allowances clause in the decree for an account.

Mr. Blair was the solicitor of the testator in the cause for a long time previously to his death, and was intimately acquainted with his affairs, and his confidential agent and adviser. The testator died in June, 1818, having by his will bequeathed and devised his real and personal estate for the benefit of certain *cestui que* trusts, as therein mentioned, and having appointed Mr. Blair and two other persons executors and trustees to carry out the trusts of the will. All the three proved the will, but Mr. Blair was the acting trustee, and took upon himself the entire management and direction of the property, and of the various suits and other matters relating thereto. The testator by his will gave Mr. Blair 200*l*. by way of compensation, and allowed him the use of a house, for himself and an infant *cestui que* trust, together with an annuity for keeping the infant, and the liberty to kill game, &c. The real estate produced upwards of 2,000*l*. a year, and Mr. Blair continued to receive the rents from 1818 till 1829, when a receiver in a suit then instituted was appointed. At the time of his death the testator was engaged in a foreclosure suit, which Mr. Blair subsequently brought to a successful issue, and had entered into a contract as to certain property, which ended in a suit also favourably concluded by Mr. Blair. In 1829 the heir-at-law set up a claim to the real estate, impeaching the will, on the ground of the insanity of the testator, but the bill was dismissed. It became necessary, however, in 1830, to institute a suit to establish the will, which was accordingly done, and in 1835 a decree was made that the will should be established and the trusts of it carried into execution; and a reference was accordingly ordered to be made to the Master to take the accounts, &c. making all just allowances. In this suit, as well as in several other suits and actions at law (amounting to about ten in number), Mr. Blair was the acting trustee, and the solicitor for the trustees, and, it was alleged, mainly contributed to preserve the property for the *cestui que* trusts, who would have been left entirely destitute but for h[illegible] extraordinary exertions in conducting the suits, in all of which he was successful. It was also alleged that he had raised money to assist in carrying on the suits, &c. which could not otherwise have been raised, and that the testator's estate was indebted to him to a large amount, he having now for seven years received nothing. On the other hand it was alleged that Mr. Blair's disbursements were made entirely out of the rents and profits of the estates, of which he had received over 20,000*l*. and that he was indebted to the testator's estate. Though the decree for an account, &c. had been made so long as 1835, yet it appeared that it was not yet determined how the balance stood; but the order of reference being carried in before Sir William Horne, and, under the head of all just allowances, claims being made for certain bills of costs in respect of the suits and actions at law, Sir William Horne applied to one of the taxing-masters for his opinion as to the just allowances to be made. The taxing-master refused to allow any thing more than actual disbursements, inasmuch as, being a trustee, Mr. Blair was not entitled to any remuneration for his professional services, which it was his duty to give gratuitously. Mr. Blair having become bankrupt, the assignees (by agreement of the parties, it appeared) now presented a petition for an inquiry as to whether the suits, &c. were proper or not, and for the advantage of the testator's estate, and that the Master might be directed to consider what allowance should be made in respect of the costs, charges, &c. of Mr. Blair, and for general relief. The petition now came on to be heard.

Turner (with whom was *Wright*), for the petition, contended that Mr. Blair was entitled to the costs. He had succeeded in saving the estate, had been out of pocket large sums for twenty-seven years, and the interest of that money would be equal to the whole costs asked. Besides, the rule against trustee-solicitors receiving costs, &c. is of modern introduction, and one admitting of relaxation in proper cases, such as where the estate is greatly benefited, as in this case. They cited *Marshall* v. *Holloway* (2 Swanst. 432); *Carmichael* v. *Wilson* (2 Molloy, 537); *York* v. *Brown* (1 Coll. C. C. 260); *Ayliff* v. *Murray* (2 Atk. 58); *New* v. *Jones* (9 Jarm.); Byth. Conv. 731, 3rd ed.

Kindersley and *Daniell*, contrà, for the infant plaintiff, the *cestui que* trust, contended that the decree being for an account, the Master making all just allowances, there was no occasion for any such direction as was asked, to make inquiries, &c. They cited *Moore* v. *Frowd* (3 Myl. & Cr. 45); *Fraser* v. *Palmer* (4 Younge & Coll. 515); *Collins* v. *Carey* (2 Beav. 128).

Turner, in reply.

The MASTER of the ROLLS, after stating the case, observed that the circumstances of the case were not usual, but he was clear in his opinion as to what he ought to do under the circumstances. The parties come before me by agreement to ask whether the general rule existed as the taxing-master had alleged, and whether it ought to be acted on in the present case. It has been urged by counsel for the petition that it is not a general rule. But in *New* v. *Jones* it was distinctly declared by Lord Lyndhurst to be a general rule, and that for reasons not disputed since. Next Lord Cottenham, in *Moore* v. *Frowd*, has held, with equal precision and force, that such was the general rule; and Mr. Baron Alderson has also acknowledged it, and for good reasons, in *Fraser* v. *Palmer*. After, then, three decisions solemnly and deliberately given, it would be too much to suppose that I can treat them as of no authority. A case decided in Ireland prior to those cases has been cited for the petitioners, in which it was reported that Lord Manners had said he consulted Lord Eldon on the point, and that he (Lord E.) had denied such was the rule. This must have been some mistake of the reporter, or of Lord Manners, for I have often heard Lord Eldon say things totally different. I cannot acknowledge that case as any authority, and even if I did, I should feel absolutely bound by the three more recent cases. The next question is, is it a rule which does not admit of exception? I think not; the Court will deviate from its own rules for the benefit of a trust, when, in particular cases, the deviation may be safely allowed without breaking through the authority of the rule. No case or dictum has been referred to in which the solicitor, being a trustee was allowed to charge as a solicitor. *Marshall* v. *Holloway* was not a petition to allow a bill of costs, but to consider the propriety of giving some remuneration in that way. I must therefore say that I cannot consider that the Court, even if it deemed it proper to make some allowance, could make it in the way proposed, viz. permitting the gentleman who acted as solicitor for himself and his co-trustees to make out a bill of costs against himself. This would be putting the trustee in too delicate a position with his duty on the one side and his interest on the other. But it is said the case might be one of annual account, and the prayer is for general relief. Suppose so; what is there in the case to induce me to make an order to inquire if the suits were beneficial? It is alleged on one side, that Mr. Blair is out of pocket, and on the other, that he is indebted to the estate; I cannot give credit to either. It is extraordinary that in 1835 an order for an account had been made, and now, in 1845, it was not ascertained on which side the balance really was. It was assumed that, because there is a *primâ facie* case of benefit, therefore an inquiry ought to be directed. But suppose so, how was it acquired. By the exertions of a trustee; and is he not bound to exert himself? Surely; it is only in strict performance of his duty. It is a very different case where trusts are in the course of being performed, and the services of a particular trustee become necessary to perform them beneficially. If he comes into court and alleges that he cannot devote his time gratuitously to the business, it is competent to the Court to consider whether it is worth while to employ and remunerate him. There are various analogous cases in which the same thing may be done. Mr. Blair, in making the will, might have made a special provision, [or] have omitted the legacy or refused it. Again, when the bill became necessary to establish the will, what hindered Blair from coming to the Court and shewing he was a necessary person to conduct the suit, and that it would be a loss to him to go on without remuneration, and the Court would then have determined the matter; or, at the hearing, he might have petitioned for remuneration, &c. and the Court might have made a special order, instead of the usual direction that all just allowances shall be made. I, therefore, dismiss the petition without costs.

VICE-CHANCELLOR WIGRAM'S COURT.

July 28th, Aug. 1st.

LLOYD v. MASON.

Husband and wife—Wife's equity to a settlement as against the rights of her husband.

Children's equity to a settlement in right of their mother after her death.

A decree in a suit upon petition on further directions, declaring the wife's equity to a settlement out of a fund coming to her husband in her right, and an order of reference to settle the amount, which reference is afterwards made, under special agreement, to counsel instead of the Master, will be sufficient to establish the right of her children to all the benefit of the award, even though their mother should die before the settlement is completed.

This was a petition of the children of Sarah Mason, the wife of Horatio Mason, a bankrupt, to have their mother's equity to a settlement secured to them after her death, which she had been declared entitled to during her life; the suit in which the petition arose was for the administration of the estate of Ralph Pasington, under whose will Sarah Mason was entitled to one-ninth part of his residuary estate absolutely; during the progress of the suit her husband, Horatio Mason, became a bankrupt, and all his estate and interest in right of his wife was sold by his assignees to Sir Wm. Heygate, and on the cause coming before the Court upon further directions, Sir Wm. Heygate presented a petition to have the whole of Mrs. Mason's share paid to him; Mrs. Mason also appeared by counsel, and asked to have her right to a settlement declared in favour of herself and children; it was ordered that the whole share of Mrs. Mason should be carried to a separate account, to be entitled, the separate account of Mr. and Mrs. Mason, and Sir Wm. Heygate was declared entitled to this share, subject to the right of Mrs. Mason to have a settlement out of it for herself and children, and it was referred to the Master to inquire what would be a proper amount to settle upon Mrs. Mason and her children. The decree for a reference to the Master was not acted upon, in consequence of an amicable proposal which was acceded to by the solicitors for Mrs. Mason and Sir Wm. Heygate, whereby it was referred to the junior counsel on both sides to settle the amount Mrs. Mason was entitled to, and, after consideration, they decided she was entitled to have a moiety of the share settled upon herself and children, and in that decision the solicitors on both sides agreed to, as did also Mrs. Mason. Before the award was finally carried out, Mrs. Mason died, whereupon Sir Wm. Heygate declared the award as void, and claimed the whole fund, upon which the present petition was presented, when the question as to what act of a wife was sufficient to fix her equity to a settlement out of a fund coming to her after marriage gave rise to much discussion, in consequence of the conflicting decisions of Sir John Leach in *Sheinmoly* v. *Hallier* (1 Glyn. & Jameson's Rep. 64); and Lord Langdale's in *De la Garde* v. *Lampriere* (6 Beavan, 344), in addition to which the cases of *Murray* v. *Ellibank* (10 Ves. 84); and *Adams* v. *Lavender* (1 M'Clelland & Young, 41), were cited.

Holt, for the petitioners, the children of Mrs. Mason.

Tripp, for Sir Wm. Heygate and other defendants.

His HONOUR.—The circumstances of this case relieve me from the necessity of deciding here between the conflicting decisions of Sir John Leach and Lord Langdale in the cases which have been cited. The question whether the children of Mrs. Mason are entitled to have her equity to a settlement declared in their favour, depends upon whether the husband was bound by the proceedings which have occurred. The facts of the case are these. [His Honour here states the case.] Now it is clear the assignment of the 12th June, 1840, in which the husband joins the assignees, merely assigns the husband's interest in the fund to Sir William Heygate; for the words used are, "all the right, title, and estate of Horatio Mason in and to one-ninth part or share of his wife Sarah Mason;" from which it is clear Mrs. Mason's equity to a settlement was not included in that assignment. Afterwards, upon the cause coming on upon further directions, Sir William Heygate presents his petition, and Mrs. Mason also appears by counsel, and petitions to have her equity to a settlement declared; and the Court decreed Sir William Heygate entitled to the fund, subject to Mrs. Mason's equity to a settlement in favour of herself and children out of it; and the fund was ordered to be carried to the separate account of Mr. and Mrs. Mason. That was enough to decide the question of her right to a settlement. The fund was carried over, and notice was there served to have a reference to settle the wife's equity before the Master, whereupon a negotiation is entered upon between the solicitors for Mrs. Mason and Sir Wm. Heygate, when it was

agreed to refer the fixing the amount Mrs. Mason was entitled to out of the fund to the junior counsel in the cause. The reference is made, and Mrs. Mason is awarded one moiety of the fund, subject to the costs. All parties consent to the award; but a few days after, and before the award could be finally carried out, Mrs. Mason died, when Sir Wm. Heygate again claims the whole fund. It is clear the decree would have bound the husband, for the fund was carried over subject to her equity to a settlement, and Sir Wm. Heygate was also bound by the same decree, and also by the agreement for the reference; so that the equity of the wife, being established, vests in her children, and their title is complete, and they are entitled to have one moiety of the fund settled upon them under the award, notwithstanding the death of their mother; but there must be a reference to the Master to inquire who are the children.

Holt produced an affidavit stating who were the children, which satisfied the Court without a reference; and the moiety of the fund was directed to be carried to the separate account of the children, with liberty to apply. One of the children, it appeared, was of unsound mind: the Court allowed his share to be paid to his father on his undertaking to account.

Common Law Courts.

COURT OF EXCHEQUER.

THOMAS *v.* HUDSON.

A commissioner of bankruptcy ought not to grant to a prisoner, in custody for damages in an action for assault and false imprisonment, an interim order of protection under the statutes 5 & 6 Vict. c. 116, and 7 & 8 Vict. c. 96; but such an order having been made, the gaoler in whose custody the prisoner is, is justified in obeying it, and is not liable for an action for an escape for discharging him in pursuance of the order.

Action on the case.

The declaration stated, that the plaintiff, having recovered judgment in this court against one Thomas Foulkes in an action for assault and false imprisonment, with 175*l.* 3s. 7d. damages and costs, sued out a *fi. fa.* under which he obtained only 5*l.* 5s.; and afterwards sued out a *ca. sa.* for the residue of his said damages and costs, under which *ca. sa.* Foulkes was taken by the Sheriff of Middlesex, and having afterwards, on the 8th of July, 1844, been brought up by *habeas corpus*, was regularly committed by the late Mr. Baron Gurney to the Queen's Bench prison, in execution for the residue of the sum of 150*l.* 3s. 7d. so recovered. There is then an averment in the declaration, that the defendant, being keeper of the said prison, received the said Foulkes and had him in custody on the said commitment, and afterwards wrongfully suffered him to escape.

Plea.—That Foulkes, after the said commitment in execution, on the 30th day of September, 1844, presented his petition to the Court of Bankruptcy praying relief under the 5 & 6 Vict. c. 116, and 7 & 8 Vict. c. 96, with a schedule of his debts annexed to the petition, such schedule including the sum due to the plaintiff; that, at the time of the presenting the said petition, Foulkes was not, nor ever had been, a trader, and that he was at the time a prisoner in execution on a judgment obtained by one Richard Croft for a debt of 1,200*l.*; that after the petition was presented, Joshua Evans, one of the commissioners of the Court of Bankruptcy, gave the petitioner an *interim* order of protection, and afterwards, and while Foulkes was in defendant's custody, namely, on the 1st of September, 1844, made an order on defendant to discharge Foulks, and Foulks was, in obedience to such order, discharged by the defendant. The plea then avers that the defendant had no notice of the nature of the plaintiff's action, save as it appeared from the *habeas corpus*, by which the sheriff stated that he had Foulkes in custody, under a writ of *ca. sa.*, to satisfy the plaintiff of the sum of 14*l.* 6s. 6d., residue of 150*l.* 3s. 7d. damages in the said writ mentioned.

General demurrer.

The case was argued very fully during last term by Martin, Q. C. for the plaintiff, and Unthank for the defendant.

The Court took time to consider its judgment, which raises all the points, and states very fully all the material part of the argument. It was now delivered by Parke, B. as follows.

JUDGMENT.

The question raised for our decision is, whether the order of Mr. Commissioner Evans affords a good justification to the defendant for his discharge of Foulkes; and this depends upon the question, what powers were conferred on the commissioners by the recent statute of the 5 & 6 Vict. c. 116, and the 7 & 8 Vict. c. 96. Sec. 1, of the former statute, enacts that any person not being a trader, or being a trader, and not owing debts to the amount of 300*l.*, may, after giving certain notices, present a petition to the Court of Bankruptcy, praying for protection from process; and a schedule containing a full statement of his debts and assets of every description is to be annexed to the petition. On the presentation of such petition, the commissioner is empowered to give to the petitioner a protection from all processes either against his person or his property, until his appearance in court for examination at a certain day to be appointed for that purpose; and on such presentation of the petition all the property of the petitioner becomes vested in the official assignee. The order so given was in pursuance of certain rules framed under the authority of the Act, and is called an interim order, and is in force only until the petitioner appears for examination, but if the examination is not concluded at one sitting, it may be re-issued from time to time until the final examination, on the completion of which if the commissioner is satisfied of the truth of the allegations contained in the petition, and that no fraud has been practised by the petitioner, in contracting other debts, or any breach of trust committed, or any criminal prosecution, or without a reasonable prospect of being able to discharge them, or by reason of any judgment for breach of the revenue laws, or in certain enumerated actions of a criminal nature, including actions for an assault; and if he is also satisfied that the petitioner has not parted with any of his property since his petition, he may then give the petitioner a final order for protecting his person from all processes, and vesting his estate in assignees for the benefit of his creditors. By a subsequent statute, 7 & 8 Vict. c. 96, s. 1, it is enacted that the petition may be presented without the notices originally required, and by the 6th section it is declared and enacted that every prisoner in execution on any judgment obtained in any action for the recovery of a debt, not being a trader, or being a trader, not owing debts under 300*l.* may be a petitioner for protection from processes, and every such petitioner to whom an interim order shall have been given, shall not only be protected from processes, but also from being detained in prison in execution on any judgment obtained in any action for the recovery of any debt mentioned in the schedule, and it shall be lawful for the commissioner to order any officer having any such petitioner in custody on any execution on any judgment to discharge him, and such officer shall not be liable to any action for any escape by reason of his so doing. These are the sections of the two acts on which the question before us mainly turns. It was argued for the plaintiff that it did not warrant the order of the commissioner, for that the only detainer in execution which the interim order of protection can reach is the detainer in execution on a judgment for a debt; whereas in the present case, the judgment is a judgment in an action of assault and false imprisonment. The defendant, on the other hand, contended that the order extends to all sums mentioned in the schedule of debts; or if not, that, at all events the defendant, the gaoler, was bound to obey the order whether warranted by the statute or not, it being an order made by a judge in a matter over which he had jurisdiction. With regard to the first point as to what are judgment debts, from a detention on account of which the legislature meant that the interim order should be a protection, there is certainly some difficulty. Supposing a petition to be presented under the first statute by a party not in custody, it is clear the interim order would, during its subsistence, have been a protection from all processes, not only in actions of debts, and on contract, but also in actions of tort; and it is equally clear that where a petitioner came before the commissioner for examination he would have been unable to obtain a final order under the 4th section unless he could satisfy the commissioner that his debts were not contracted (which must mean that none of his debts were contracted) by reason of any judgment in, amongst other actions, an action of assault, and as in this case one of his debts, namely, that which he owes to the plaintiff, arises from the damages recovered in an action of assault, it would have been the duty of the commissioner to refuse the final order, and the present plaintiff would have been entitled to execute a *ca. sa.*, the interim order being no longer in force. The policy, therefore, of the Legislature in the first statute appears to have been to relieve the petitioner, in the first instance, from all apprehension of arrest immediately on his presenting a petition, and so giving up all his property; though at the same time, if, on a subsequent investigation of his affairs, it should turn out that any of his debts were of a nature leading to the inference that his conduct had been criminal or fraudulent, then he was no longer to be entitled to the protection. Such being the scheme of the first Act, the second Act, in the sixth section, extends to the right of petitioning for protection from process to any prisoner in execution upon any judgment obtained in any action for the recovery of any debt, and it proceeds to enact that the interim order shall not only protect the petitioner from process, but also from being detained in person, in execution upon any judgment obtained in any action for the recovery of any debt mentioned in his schedule, and the commissioner is authorized to order the gaoler to discharge him out of custody. The argument of the defendant was that the Legislature meant by this section to *declare* (for this clause is declaratory as well as enactive), and the circumstance of the petition not being his, should, in this respect, make no difference, and he would not have been temporarily protected from process if he had been at large, so he should be temporarily set at large if in confinement. Though this reasoning is not without its weight, yet, on the other hand, the words of the 4th section are very strong in favour of the plaintiff. The section enacts that that the interim order shall protect the petitioner from being detained in prison in execution upon any judgment obtained in any action for recovery of any debt mentioned in his schedule. Had this been the only part of the section in which these words had occurred, we might perhaps have been inclined to do some violence to the language, and to say that the provision applied to all sums due or judgments mentioned in the schedule as debts; but the same words, "action for the recovery of any debt," occur in the beginning of the clause; and we think in that first part of the clause they are certainly meant to apply exclusively to the judgment debts recovered in actions of debt; not perhaps confining their meaning to actions of debt, properly so called, but extending them also to judgments in actions on contracts for sums properly called debts, certainly, however, excluding the case of parties against whom judgments have been recovered in actions of debt. If this narrower construction be that which is to be adopted in the early part of the section, where the words are used for shewing to what class of judgment-debtors in execution the right of petitioning is given, it is very difficult to say that a different and wider sense is to be attributed to them in the subsequent sentence of the same section, where they are used to shew the debts against detention for which the interim order is to be a protection. The 7th, and 23rd and 24th sections of the second Act, to which we shall presently advert for another purpose, tends to confirm the construction contended for by the plaintiff; and on the whole, if it was necessary to decide the point, we should probably feel bound to say that the plaintiff was right, and that the judgment against Foulkes was not one which the statute intended the interim order to affect. It is not, however, absolutely necessary for us to come to any laborious decision on this point, inasmuch as we are clearly of opinion that on the second point the argument of the defendant is right, and that, whatever be the true construction of the Act, the defendant was bound to obey the order of the Commissioner as that of a judge acting in a matter over which he had jurisdiction. The argument of the plaintiff was, that although the court of the commissioner is now, for certain purposes, a court of record, yet that, in cases under the two statutes in question, he is acting, not as a single judge in discharge of his ordinary functions, but as a party exercising a special authority conferred on him by the Act of Parliament, and which authority, therefore, fails altogether, if attempted to be exercised in any case not directly within the terms of the statute conferring it. It is said the former is only to discharge the party petitioning from imprisonment on any such judgment, looking to the context, from a judgment obtained in an action for the recovery of a debt, and the commissioner, as to any judgment obtained in any other action than for the recovery of a debt, has no more power to order a prisoner's discharge than he would to order the discharge of a party who had not petitioned. This argument goes a great deal further than merely limiting the quality of the debts as to which the interim order shall be available. If good at all, it certainly shews that the order will be available only to any such petitioner,—that is, looking to the context, to a petitioner who either was not a trader, or who being a trader, did not owe so much as 300*l.*, and under the first Act who had given certain notices thereby required. Now, although the gaoler might perhaps be able to ascertain whether the petitioners are in custody on a judgment obtained in an action of debt or an action of tort, yet it would be obviously impossible for him to ascertain whether any prisoner in his custody, being a trader, owed debts exceeding 300*l.* The argument of the plaintiff must go the full length of contending that if a party in custody in execution on any judgment for a debt should present a petition, alleging that he was not a trader, or being a trader, that his debts were under 300*l.* and should obtain an interim order of protection, and an order for his discharge, the gaoler, if the allegations of the petition were true, would be bound to discharge him, if false, to detain him; and that, in the first case, if he did not discharge his prisoner he would be liable to an action for false imprisonment, and in the second, if he did discharge him, he would be liable to an action for escape. The course to be pursued by the gaoler is thus made to depend on the truth or falsehood of certain allegations, the truth or falsehood of which he has no means of ascertaining, so that without any default on his part, he may become liable to actions to any amount, and find himself ruined without the possibility of redress. This appears to me so nearly a *reductio ad absurdum*, that if there be any construction of the Act by which such a consequence may be avoided, we feel bound to

adopt it. Mr. Martin contended that there was no such absurdity in the construction to which his reasoning necessarily led, and at all events, that if it be an absurdity, it is only an absurdity which the law tolerates in many analogous cases, and he referred to the case of messengers, assignees, and others acting under the commissioners of bankruptcy, all of whom act on the faith of the adjudication, and who, except in so far as modern statutes have protected them, are certainly responsible for all they do if it should turn out that the party was erroneously adjudged to be a bankrupt. There, however, appears to us to be a clear distinction between the two cases. In the cases suggested by Mr. Martin, the parties acting are all volunteers; they may act or not as they see fit, whereas, in the case before us, the defendant has no choice. The debtor is in his custody by the act of the law, and the gaoler is bound to keep him unless discharged by a competent authority. The law, therefore, which should impose on him the obligation of acting at his peril as to the facts, would be very different from that which applies to the ordinary case of bankruptcy; in the one case the party must act, in the other he may act or abstain from acting as he thinks fit. It only remains, therefore, to see whether the language of the statutes is such as to justify us in saying that the legislature meant, in a case like the present, to make the judgment of the commissioners conclusive. Now, construing the two Acts together, the petition, it is to be observed, must be accompanied on affidavit verifying its truth, and it must contain a statement that the petitioner is not a trader, or, if a trader, that his debts are under 300*l*. It must also contain a full account of his debts, stating their date and nature, and other particulars. This petition so verified being thus before the petitioner, the first section of the first statute enacts, that it shall be, thereupon, lawful for the commissioner to give an interim order of protection; and the second statute, if any such petition shall be in execution on any such judgment, it shall be lawful for the commissioner to order the gaoler to discharge him; the words are, "it shall be lawful for the commissioners, &c.," and we think this sufficiently shews that the commissioner is to act, not ministerially, but judicially; he is to come to a decision as to whether the petitioner, having complied with the requisites of the Act, shall or shall not have an interim order or an order of discharge—for to this he is, in such case, clearly entitled; but whether he has or has not done what the statute imposes as the condition on which he should become entitled to those privileges; if the petition should shew on the face of it that the petitioner was a trader, and it should appear by the schedule that his debts amounted to 300*l*. it would certainly be the duty of the commissioner to withhold the interim order; and if the petitioner, being in custody, should become entitled to his interim order, it would yet be the duty of the commissioner to withhold the order of discharge, in respect of any judgment, if such trade should not come within the description of a judgment obtained in any action for the recovery of any debt mentioned in the schedule. The commissioner, it is true, has but a very imperfect means of enabling him to come to a decision this matter; notwithstanding this, he has the petition and the affidavit, and on these he must exercise his judgment, and by that judgment all parties must be bound. The decision may be wrong, but it is a decision by a proper authority; and if wrong, it comes within the principle laid down in the marshalsea case. The strictness of this view of the statute seems to us to be strongly confirmed by some subsequent clauses. Section 7 enacts, that where any petitioner is a person in execution, and entitled to the discharge under section 6, the commissioner may by warrant, cause him to be brought up for examination. This shews that the commissioner is, on the facts before him, to decide whether the execution is or is not one in respect of which the petitioner is entitled to discharge. Again, after the examination the commissioner is, by sec. 23, to order the petitioner to be discharged from custody in respect of all debts to which the final order shall extend; that is, all debts whatever, except those which the commissioner shall decide to come within the exceptions contained in the 24th section. Now, here it is clear the commissioner was intended to exercise functions strictly judicial, and no one can doubt that his adjudication as to the final order is conclusive; and it appears to us, independently of all other considerations, to the last degree probable, that the legislature intended to give to one class of the commissioners' acts a character and effect different to that which is given to the others, to compel third persons to obey the final adjudication, and to protect them in the obedience to it, but in the meantime to leave them to act at their peril as to intermediate proceedings. The provisions referred to in the argument of the latter part of the 24th section, and hereby the commissioner is directed to remand to custody any person who, on examination, shall turn out to have have been erroneously discharged under section 6th, tends strongly to confirm us in the view we have taken of the statute. Upon these grounds, therefore, being strongly inclined to go along with the plaintiff in his first proposition, namely, that the deed was not one from which Foulkes ought to have been discharged by the commissioner, we yet think he has no right of action against the defendant, he having only obeyed the order of a judge in a matter over which he had jurisdiction, and our judgment must, therefore, be for the defendant.

PIPE *v.* CHAPPELL.
Special demurrer.

Action of debt.

Declaration, for penalties upon the bye-laws of the Plumbers' Company. The declaration extended to a prodigious length.

Special demurrer, assigning a great number of causes of demurrer purely special.

The case was argued last Term by *Bovill* for the plaintiff, and *Peacock* for the defendant.

JUDGMENT.

PARKE, B. now delivered judgment.—This case was argued in Easter Term last, before the Chief Baron, my brother Alderson, my brother Rolfe, and myself. The questions arose upon a demurrer to a declaration in debt, upon the bye-laws of the Plumbers' Company. The bye-laws provide that the master and wardens, &c. may call, choose, elect, and admit into the livery or clothing of the company, such person, free of the art or mystery of plumbing, as they should think fit, meet, and able; and every person so called shall, immediately upon notice thereof given by the said masters and wardens, or any of them, or by their beadle or other officer for the time being, prepare himself to serve the same place, at the then next meeting of the said master and wardens, in such seemly and decent manner, and in such sort, as formerly by such persons at that place and sort has been used; and moreover, that every person is called and chosen into the same livery and clothing, and accepting the same on him, shall so wear and keep the said clothing according to the usage or custom amongst the same fellowship used, and also according unto warning or summons given unto him from the master and wardens for the time being, for that purpose; and further also, the same person and persons so called and chosen into the said livery and clothing as aforesaid, and accepting the same, shall severally bring in and pay to the said next meeting unto the said master and wardens, for the time being, to the use, maintenance, and relief of the Company of the said art or mystery, and to the officers of the said company for entering the same into their books of remembrance, and for the warning given, such fees and duties as formerly by the said company or fellowship hath been paid in the cases; and which of them soever so called or chosen into the same livery or clothing, refuseth to pay the said fees or duties, or any of them, or what person or persons called and chosen to be of or in the same livery or clothing and refuses the same, shall forfeit and pay to the same master and wardens for the time being, for every such default, to such uses as aforesaid, the sum of five pounds of lawful money of England, or less, at the pleasure and discretion of the said master and wardens for the time being, so to be not under forty shillings. And the declaration avers, that the defendant was a freeman of the art or mystery of the company, but not of the city of London, and was duly elected; and assigns, as a breach of the bye-laws, that, although the defendant was, and continued such freeman as aforesaid, he did not, and would not, prepare himself to serve the said place to which he had been so duly called, chosen, and elected in manner and form aforesaid, and did not and would not attend to serve the place as aforesaid, at the then next meeting, to wit, at the time and place in that behalf aforesaid, or at any subsequent meeting of the said master and wardens; and the defendant therein made default, and then wholly neglected and refused, and hath always hitherto neglected and refused to prepare himself to serve the same place at which he was so duly called, chosen, and elected, in manner, and form aforesaid. The declaration then states, that the defendant was adjudged to be fined five pounds, the master and wardens having declared it to be their will and pleasure that that sum should be paid, and then states the non-payment by the defendant. On the part of the defendant several objections were taken. First, that the bye-laws were bad, because it did not appear that the Plumbers' Company was a company that had a livery; secondly, that it was bad because the penalty was not certain but arbitrary; thirdly, that the defendant was not admissible into the livery, because none but freemen of the city were admissible, and there was no averment that the defendant was a freeman of the city; fourthly, that the breach was defectively assigned, inasmuch as there was no proper averment that the defendant had refused, so as to be liable to the penalty. We think that none of these objections ought to prevail. The first was grounded on the authority of the case of the *Innholders' Company (Sayer v. Godhill*, 274), in which the Court of Queen's Bench held that as it was not alleged that the Company had a livery, the Court could not intend it. For the plaintiff it was said that this case was overruled in that of the *Vintners' Company* v. *Passey* (1 Lord Kenyon's Reports, 500; 1 Burrough's, 235). But this statement is not correct. The point was mentioned in that case by the defendant's counsel, and that of the *Innholders' Company* was cited. But the defendant's own plea admitted the fact that the company was entitled to a livery, and therefore he could not take any objection. But we think that the present case is distinguishable, because, by the charter set out in the declaration, the King evidently contemplated that there should be a livery of the company, and for some person or persons wearing it, because he directs that the persons of the livery of the company should have a voice in the election of wardens; and we cannot construe a bye-law to be unreasonable, and illegal, and void, which is to carry into effect the charter and secure the completion of the body which the crown intends to exist. The second objection was, that the penalty was arbitrary, and whereas it ought to be certain, not varying at the will and pleasure of the persons who were to receive it. The only case which we have been able to find bearing upon this question is that cited in the argument for the plaintiff, namely, *Wood* v. *Searls* (Bridg. 139), in which the penalty was such sum as the master and wardens, &c. should assess, not exceeding forty shillings. But this case is no authority either way, for the bye-law was held to be bad, and it might have been held so upon other objections as upon this. In the absence of any authority to the contrary, we do not see any objection to this mode of fixing the penalty. It is a certain penalty of five pounds, with the power of mitigation not below two pounds, and we do not think this is unreasonable. We therefore think the second objection ought not to prevail. The third is, that there is no averment that the defendant was a freeman of the city; and it is said to be recognized law, that no one can be admitted to the livery of the company who is not free of the city. It has been held that the Court of Queen's Bench will take notice of the nature of a liveryman's office, and Mr. Justice Denison appears to have acted on that authority in the case in Sayers, 275, in giving his opinion that the declaration ought to have contained the averment that the defendant was a freeman of the city. In the case of *The Wardens of the Company of Leather Sellers* v. *Beacon* (Sir Thomas Jones's Reports, 149), the custom of the city was pleaded that one must be a freeman of the city to be admitted to the livery of the company, and the traverse of the custom concluded with a verification; and rightly, because the Court said the custom must be proved by the recorder, *ore tenus;* and it is not improbable that between the date of that case 33 Charles 2, and in which the Court did not take notice of the custom; and that in Salkeld, 8 Wm. 3, in which it did, the custom was so certified in the King's Bench, and when once there has been a certificate by the recorder to the Court, that Court always afterwards takes notice of the custom. (Lord Mansfield, *Blagmore* v. *Hawkins*, Douglas, 384). But there is no authority that one court can take notice of such a record in another. The Court of Common Pleas, it is true, having heard the admission of the custom from the counsel on both sides, adopted it *obiter;* but it did not in any way affect the propriety of the judgment, which was quite correct, whether such was the case or not. (*Poulterer's Company* v. *Philips*, 6 Burroughs, 321.) This case, therefore, is no authority upon this point. We think, therefore, this objection ought not to prevail. First, because we are not called upon to presume that the livery mentioned in the charter, is a livery entitling to vote in any city election with its incidents; it is enough that it is *primâ facie* legal for some purposes: and secondly, because, if this livery means a city livery, this Court cannot take notice of the custom of the city with respect to the livery; for it does not appear that it has ever been certified to this Court in the mode in which the city charter directs that it should, namely, *ore tenus* by the Recorder. The last objection is, as to the form of the breach. We are satisfied a refusal to which the penalty is attached, is the refusal to prepare to serve, and to serve at the next court; and consequently, the breach is well assigned; therefore out judgment must be for the plaintiff.

Bankrupt and Insolvent Courts.

COMMISSIONERS' COURTS.

Wednesday, August 20.
(Before Mr. Commissioner HOLROYD.)
Re CHAMBERS, the elder, and CHAMBERS, the younger, Bankrupts.
Joint estate.

Where two partners carried on business as bankers, and certain properties had been purchased with the moneys of the firm in the name of one only of the partners, but which property had been dealt with by the firm as the joint property of the partnership, Held, that such partner was only a trustee for the firm with respect to such property, and that the property was divisible under the bankruptcy amongst the joint creditors.

***Held, also**, that such trust need not be created by writing, but might be proved from subsequent writings, or might arise from the evident intention of the parties.*

***Held, also**, that freehold property may be considered in bankruptcy as partnership property, and treated as a chattel interest between partners.*

JUDGMENT.

In this case a question arises, whether certain property which has come to the assignees of the bankrupts is to be administered under the bankruptcy as the joint estate of the two bankrupts, or as the separate estate of A. H. Chambers, the elder.

Swanston, Q. C. and *Amphlett* argued the case on the part of the assignees for the creditors on the joint estate.

Russell, Q. C. supported the claim on behalf of the creditors on the separate estate of A. H. Chambers, the elder.

There are four different properties upon which the question arises:—

1. The Queen's Theatre, or Opera House.
2. Chettle Estate.
3. Windsor Estate.
4. Northam Estate.

On the part of the joint creditors, it was contended that the property in question had been obtained by investments of moneys of the firm, and of previous partnerships in the house, and that the whole had been dealt with and treated as partnership property by the bankrupts; that the annual balance-sheets shewed the property to be the assets of the partnership; and the cases of *Ex parte Hunter* (2 Rose, 382) and *Ex parte Muston* (1 M. D. & G. 261, per Sir G. Rose) were cited.

On the part of the separate creditors, it was urged that the principle in the cases cited did not apply to the present case; that the property in question was real estate, and the ownership in Chambers, the elder, and that nothing had been done which would have the effect of converting it into joint estate; that the Opera House had been claimed by the assignees, as assignees of Chambers, the elder; and that by the result of the suit establishing the title of the assignees, it must be administered as the separate estate of Chambers, the elder. It was further contended, that the sums set against the different estates in the annual balance-sheets never became joint estates; but that if the sums so set down were to be deemed joint estate, the property did not necessarily become so; that it would be upsetting the provisions of the Statute of Frauds; and that, under any circumstances, the assignees of the joint estate could only claim as mortgagees. Upon the statement submitted to me, on behalf of both the joint and separate creditors, I am clearly of opinion that the property in question must be administered in bankruptcy as the joint estate of Chambers and Son. There are many authorities that freehold estate may be considered partnership property (*Thornton* v. *Dixon*, 3 Bro. C. C. 199; *Smith* v. *Smith*, 5 Ves. jun. 189; *Bateman* v. *Shore*, 9 Ves. jun. 500), and treated as a chattel interest between partners. (*Bell* v. *Phyna*, 7 Ves. jun. 453.) Looking, then, to the provisions in the articles of partnership of Chambers and Son, and to the annual accounts made out in pursuance thereof, together with the entries in the Bank books relating to the money and property in question, and the circumstances mentioned in the statement with regard to the prior partnerships, and the mode of dealing with the property, I think sufficient evidence is adduced of a trust for the partnership, and that the several properties in question are liable to be charged, for the benefit of the joint creditors, to the amount of the sums which appear to have been advanced for or on account of these different estates. It is not necessary that a trust should be created by writing, it may be manifested and proved by writing shewing that there was such a trust; and a trust may also arise from the evident intention of the parties; and in either way, the case would be taken out of the Statute of Frauds. For what purpose were accounts kept in the partnership books with the properties in question, and why were those properties entered in the annual accounts, shewing the state of the partnership, unless they were considered by the parties as partnership property to the extent charged against them? Then as to the point urged by Mr. Russell, that to make the Opera House joint estate would be interfering with the decree of the House of Lords, I think that was satisfactorily answered by Mr. Swanston. The dispute there was between Chambers and Waters; it was necessary to establish the right of Chambers the elder, to found the equitable right of the assignees of the joint estate.

Thursday, Aug. 21.

(Before Mr. Commissioner FONBLANQUE.)

Re JUSTIN.

Costs.

Where an insolvent has made a proposal for payment of his debts by instalments, which was agreed to by his creditors, but no creditors' assignee was appointed, the Court will allow a creditor who resides out of town, out of the insolvent's estate, his travelling expenses of coming up to London to ascertain whether the instalments are regularly paid.

Where no creditors' assignee had been appointed under the 5 & 6 Vict. c. 116, by the commissioner, according to the provisions of that Act before the passing of the 7 & 8 Vict. c. 96, the commissioner has no power now to appoint, but such assignee must be chosen by the creditors at a meeting called for that purpose.

This insolvent had presented his petition under the 5 & 6 Vict. c. 116. The petition contained a proposal for payment of the insolvent's debts by instalments, which proposal had been accepted by the creditors, and the granting of the final order was adjourned, upon the understanding that if the insolvent paid the instalments as they became due, he was to have his protection continued from time to time, but otherwise, it was not to be renewed. No creditors' assignee having been appointed, one of the creditors, who lived a short distance from London, came to London as the instalments became payable, to see if they were paid, and he now applied to the Court either to be himself appointed by the Court creditors' assignee, under the power contained in the 5 & 6 Vict. for that purpose, in which case he would be entitled to his expenses, or else, as his attendance in London was for the benefit of all the creditors, that his expenses might be allowed him without being appointed assignee.

His HONOUR.—As no appointment of creditors' assignee took place under the 5 & 6 Vict. previous to the passing of the 7 & 8 Vict. c. 96, which took the appointment out of the hands of the commissioner and placed it in the hands of the creditors, I have no power now to appoint. The appointment, if made, must be under the latter Act; but I should think it would hardly be worth while to incur the expense in this case of calling a meeting for the choice of an assignee. I will allow, in this case, the creditor's travelling expenses.

Monday, Aug. 25.

SMALL v. FRENCH.

Where a defendant had obtained a final order for protection in this court, but had omitted to insert the plaintiff, who was the indorsee of a promissory note made by the defendant, as a creditor in his schedule, such order will not protect the defendant from having an order made upon him for payment, under the 8 & 9 Vict. c. 127.

This was a summons under the recent Act for the recovery of small debts.

The plaintiff was indorsee, and the defendant maker, of a promissory note for 12*l*. 6*s*. Subsequently to the indorsement of the note to the plaintiff, and after it became due, the defendant presented a petition to this Court for protection from process, and obtained his final order thereon. The plaintiff had not any notice of the filing of the petition of the insolvent, his name was not inserted in the schedule of the defendant filed in this court with the petition as a creditor. The plaintiff had since brought an action against the defendant upon the note, and had obtained a judgment against him by default. The judgment having been proved, and the defendant, who stated himself to be a notary public, having been examined as to his ability to pay,

His HONOUR said, There is nothing in this case to prevent an order being made. The defendant must pay 1*l*. per month.

(Before Mr. Commissioner FAST.)

Re SMITH, a Trader.

Where a petition had been presented to this Court by a debtor under the 7 & 8 Vict. c. 70, and a meeting of creditors convened by the commissioner, but at such meeting the creditors refused to assent to the proposal of the petitioning debtor, this Court will not, upon a second petition being filed, direct another meeting of creditors to be convened.

This was an application to a commissioner of this Court, under the 7 & 8 Vict. c. 70, "An Act for facilitating Arrangements between Debtors and Creditors," to direct a meeting of the creditors of the petitioning debtor to be convened, for the purpose of taking into consideration the proposal of such debtor, set forth in his petition, for payment of his debts. The petition was signed by more than one-third (the number required by the Act) of the creditors of the debtor.

This was a second petition by this debtor. On the former petition a meeting of creditors had been convened by the direction of the commissioner, but at such meeting of creditors it was discovered that the debtor had not inserted in his petition all his creditors, as required by the Act. No further proceeding consequently took place under that petition. The debtor had since been sued by one of his creditors, who had recovered a judgment against him.

The COMMISSIONER.—I do not think I can proceed upon a second petition under this Act. A meeting of creditors was convened under the first petition, and the creditors refused their assent to the debtor's proposal. I have no right to harass the creditors by convening another meeting. The debtor should have inserted all his creditors in his first petition.

Application refused.

Tuesday, August 26.

RICHARDSON *v.* WARD.

Summons of debtor under 8 & 9 Vict. c. 127.

A commissioner has no jurisdiction where the judgment recovered is in form above 20l. unless it be shewn to his satisfaction that it was, in fact, for no greater sums.

This was an application for a summons under the 8 & 9 Vict. c. 127.

The plaintiff in this case had brought an action of debt in the Court of Common Pleas against the defendant for 15*l*. 1*s*. and had obtained a judgment against him by default. To prove the judgment, an office copy of the judgment-roll was put in. The judgment-roll was in the usual form; it contained a copy of the declaration; then followed an allegation that the defendant had said nothing in bar of the said action, and it concluded, "Therefore it is considered that the plaintiff do recover against the defendant *his debt aforesaid*." The sum demanded in the commencement of the declaration, and to which these words refer, was, as is usual, the aggregate of the sums mentioned in the different counts of the declaration, and amounted in this case to 60*l*.

His HONOUR.—Before I grant a summons under this Act, I must be satisfied by legal evidence that a judgment has been recovered in a court of *competent jurisdiction*, according to the terms of the Act, and that the judgment is for a sum *not more than 20l.* exclusive of costs. In this case the judgment is a judgment of the Court of Common Pleas, which I am bound to take notice of as a court of competent jurisdiction, but the judgment, upon the face of it, appears to be for 60*l*. If that is the case, I have no jurisdiction under this Act. But if you mean to say that it is the practice of the superior courts to sign judgment for a larger sum than the debt sought to be recovered, I must have an affidavit of that fact, and of the real amount of the debt recovered, and of the costs, either from the plaintiff or his attorney, or I must be satisfied by other legal evidence of such facts, before I can grant the summons you ask for.

Summons refused.

COUNTRY COMMISSIONERS' COURTS.

BRISTOL DISTRICT BANKRUPTCY COURT.

(Before Mr. Commissioner Serjeant STEPHEN.)

Thursday, August 28.

DENISON *v.* HAWKES.

The production of the judgment paper and roll containing merely the incipitur, but bearing the seal of the Court, and the writ of execution for the debt also sealed, is sufficient proof of the judgment under 8 & 9 Vict. c. 127.

The Court will not make an order for payment by instalments or otherwise in the absence of the debtor. The Court has merely a power of committal on the non appearance of the debtor.

T. G. Philpotts, attorney for the plaintiff, produced the *incipitur* of the judgment-roll, the judgment-paper (merely containing the *incipitur*), and a writ of execution in this case, all under the seal of the Court of Queen's Bench, and submitted that they were sufficient evidence of *a judgment* to give jurisdiction to the Court to proceed under 8 & 9 Vict. c. 127.

His HONOUR (after having his attention called to the case of *Jones* v. *Keen*, p. 432, *ante*), said he would construe the Act liberally, and receive the evidence as sufficient to satisfy him of the existence of the judgment.

The defendant did not appear, but a clerk of Philpotts' produced an affidavit of service of the summons, and a letter from Phelps, the defendant's attorney, which had been given to him by the defendant himself. The letter stated that defendant would consent to an order for the payment of 1*l*. per month.

Philpotts requested the Court to make such an order.

His HONOUR.—I have no power to make the order in the absence of the defendant. The clause runs, "in case such debtor shall not attend as required by the said summons," &c. "it shall be lawful for such commissioner, or the judge of such court, to order such debtor *to be committed*." The power to order *payment* by instalments or otherwise can only be exercised *in the presence of the debtor*, and the Court has merely a power of *committal*, on the non-appearance of the debtor.

JONES v. WILLIAMS.

If the judgment-debtor does not appear, and there is no affidavit of service produced, the summons will be dismissed.

In this case the defendant did not appear, and the plaintiff was called upon to prove the service of the summons. He admitted that he could not do so, and had no affidavit of service.

His HONOUR.—The summons must be dismissed.

Re CROUCH.

One who trades on account of and for the benefit of another is a trader himself within the 7 & 8 Vict. c. 96.

The omission of the words, " but owing debts amounting in the whole to less than 300l." in a trader's petition is fatal.

An insolvent's petition cannot be amended.

This insolvent came up on his interim order, when *Brooke Smith* opposed, on the ground that the insolvent was described in his petition as a trader, but the words " but owing debts amounting in the whole to less than 300l." were omitted.

Bevan, attorney for the insolvent.—The insolvent is not a general trader, but only a limited one, selling and not buying, and that not on his own account; he does not, therefore, come within the direction of the form required by the statute. He is described in his petition as "conducting his business as a trader in Host-street in his own name, but on account, and under the authority of Joseph Crouch, his employer." This is not a trading on his own account within the description of the Act of Parliament.

His Honour.—The insolvent's former petition was dismissed because he appeared to be a trader, and was not described as such. This Court considers the man who trades for the benefit of another party is a trader himself; to hold otherwise would be a contradiction in terms. The whole of this branch of the law has reference to the interest of other parties. He is a trader to the public, and, except from his own account, I do not know that he does not trade for his own benefit. The petition is not in the form required by the Act of Parliament, and must be dismissed.

Bevan asked leave to amend the petition.

His Honour.—There is no power to amend petitions, nor was it intended that the petition should be amended. The petition and schedule are two different things, and the power of amendment only applies to the latter. *Petition dismissed.*

NEWCASTLE-UPON-TYNE DISTRICT BANKRUPTCY COURT.

Wednesday, August 27.

(Before Mr. Commissioner Ellison.)

Re Inwood.

Evidence of the amount of debt recovered will not be received contradictory to the judgment.

Chater, attorney for the summoning creditor, produced an office copy of a judgment in the Queen's Bench, by which it appeared that the defendant had suffered judgment by default in an action of debt. The damages in the declaration had been laid at the nominal sum of 300l. and the judgment entered up (as is very usual) for the full amount of the damages so laid in the declaration. *Chater* proposed to prove, by production of the writ of summons in the action and evidence of the amount of the plaintiff's particulars of demand, that the sum actually recovered in the action was only 18l. and so bring the matter within the jurisdiction of the Court.

Cowper, the defendant's attorney, contended that the Court could not receive the extrinsic evidence proposed to be adduced, and that the office-copy judgment was required to be produced by the Act for two purposes only; first, to shew that a judgment had been recovered; and, secondly, to shew the amount recovered thereby; and as it appeared on the face of the office-copy judgment produced that the debt recovered was upwards of 20l. the recent Small Debts Act did not apply.

His Honour was of opinion that he could not receive evidence which in effect falsified the judgment.

Summons dismissed.

Circuit Reports.

NORTHERN CIRCUIT.

LIVERPOOL SUMMER ASSIZES, 1845.

Wednesday, August 20.

(Before Mr. Baron Rolfe.)

Reg. v. James William Ferguson.

Forgery—Warrant for payment of money—11 Geo. 4 and 1 Wm. 4, c. 66, s. 3.

Any document requesting the payment of money, which, if genuine, would give to the person paying the money in pursuance of it a right of action against the writer, is, if forged, a forged warrant for the payment of money within the meaning of the above statute.

Forgery.

The first count of the indictment charged that the prisoner forged a certain " warrant for the payment of money, to wit, 20l." with intent to defraud one Joseph Roberts.

The second count charged the forging of a certain " order for the payment of money, to wit, 20l. " with the like intent.

The third count charged the uttering of a forged warrant for the payment of money, describing it as in the first count, and with the like intent.

The fourth count charged the uttering of a forged order describing it as in the second count, with the like intent.

The instrument was not set forth in any of the counts.

The following is a copy of it:—

" Sir,—You will please to comply with my wish, if possible, in sending a messenger with the bearer of this note; he is acting paymaster, but waiting for his commission; he is the total dependence whom the contract depends on. I want of you 20l. in change. 10l. in gold, 5l. in silver, and 5l. in copper; and I shall send you four 5l. notes Bank of England.

" Thomas Paisley,

" Quartermaster-sergeant."

It appeared in evidence that Mr. Joseph Roberts was a flour-dealer at Manchester, who, under contract, supplied bread to the troops at the infantry barracks there. On the night of Saturday, the 3rd of May, the prisoner presented to him the letter of which the above is a copy; that Mr. Roberts had on many occasions lent sums of money to the quartermaster-serjeants of the different regiments stationed in the barracks, but had never lent money to Thomas Paisley, the quartermaster-sergeant of the regiment in barracks on the 3rd of May, that regiment having only been stationed there about a week. He refused to lend the money, but did so only because he suspected from the terms of the letter that it was not a genuine one.

It was also proved that the quartermaster-sergeant frequently paid small accounts for the quartermaster, whose duty it was to discharge them.

The letter was proved to be a forgery.

The learned judge having expressed a doubt whether the instrument was either a " warrant " or an " order " for the payment of money within the meaning of the 11 Geo. 4 & 1 Wm. 4 c. 66, s. 3,

Monk, for the prosecution.—The question is, whether this document is not properly described as a warrant for the payment of money. A warrant for the payment of money is a written authority from the party signing it to the party to whom it is addressed to pay the amount mentioned on it, and this document is such an authority. It is not necessary that the person to whom it is addressed should be under any legal obligation to pay. In this case Mr. Roberts had been in the habit of accommodating the quartermaster serjeants of the regiments, for the time being, in those barracks with money, and this document purported to authorise the payment of the money on the credit of the Quartermaster Serjeant Thomas Paisley. Mr. Roberts refused to send this money, but that was only because he suspected it was not genuine. Had the order been a genuine one, and the money paid, Thomas Paisley would have become liable upon it to Mr. Roberts for the amount advanced. He cited *Reg.* v. *Raake* (2 Moo. C. C. 66, 8 Car. & P. 627); *Reg.* v. *Rogers* (9 Car. & P. 41); *Reg.* v. *Vivian* (1 Car. & Ker, 719).

Rolfe, B. having cited from his note-book in MS. the case of *Reg.* v. *Thomas Carter*, argued in Serjeants-inn Hall on the 14th of February last, reported 1 Cox, C. C. 170.—I think if this be a request to Roberts to pay 20l. to bearer on writer's account, it is a warrant for the payment of money. The test is, if this were a genuine letter, and the money had been paid to the bearer, would Roberts have a right of action against Paisley the writer? I think he would. Roberts had been in the habit of lending money to quartermaster-serjeants of regiments in those barracks who were in the habit of making payments for the quartermasters. This regiment had then recently come, and Roberts had never advanced money to this quartermaster-sergeant; but if the meaning of this document be that Roberts was to send that money by the bearer on Paisley's credit and account, it is, I think, a warrant within the meaning of the statute.

The prisoner was convicted.

On the following morning his lordship stated, that on looking again at the document, he thought that it did not authorise the payment of the money *to the bearer*, but only desired that a messenger of Robert's might be sent with it. He should, therefore, communicate with the Secretary of State. The principle was, as he had stated it yesterday, but the document did not come within it.

Irish Reports.

QUEEN'S BENCH, 1845.

January 22 and 25, April 29, and May 2 and 8.

Edmond Conway and Patrick Lynch in Error v. The Queen.

In a capital case, in the absence of any fatality or evident necessity, a judge has no discretionary power of discharging a jury without their giving a verdict, because, after a long deliberation, they state that they cannot agree.(a)

It is no sufficient reason, per se, for their discharge, that, in the judge's opinion, more than a reasonable and sufficient time has elapsed to enable them, if they could at all, to agree.

Where a judge discharges a jury in such case without their giving a verdict, the reasons which have induced him to consider it necessary so to do should be set out upon the record, in order to their being reviewed, if necessary, by a superior court.

The prisoners were tried before Jackson, J. at the county of Limerick Spring Assizes, on the 4th of March, 1843, upon an indictment charging them with the murder of the Rev. Charles Dawson. The jury, after having been locked up for a considerable time without being able to agree upon a verdict, and having informed the learned judge that they could not agree upon a verdict, were at length discharged, and the prisoners detained in custody.

Upon the 10th of October in the same year, at the adjourned Summer Assizes for the same county, the prisoners were again tried for the same offence, and the jury having on this occasion also been unable to agree, were, after having been confined for a considerable number of hours, this being the last case to be tried upon the circuit, discharged by Jackson, J. who presided, and the prisoners were remanded.

At the ensuing Spring Assizes in March 1844, the prisoners having been again placed upon their trial, they each pleaded to the indictment the two following pleas:—

" And afterwards, to wit, on the 2nd day of March, in the year of our Lord 1844, to wit, at Limerick aforesaid, in the county of the city of Limerick aforesaid, before the Right Hon. Maziere Brady, Chief Baron of her Majesty's Court of Exchequer in Ireland, and the Hon. Joseph Devonsher Jackson, one of her Majesty's Justices of the Court of Common Pleas in Ireland, being the justices of our said lady the Queen duly assigned to hold the assizes in and for the said county of Limerick, comes the Right Hon. Thomas Berry Cusack Smith, her Majesty's Attorney-General, to prosecute for and on behalf of our said lady the Queen; and the said Edmond Conway, (*b*) also, then and there, comes in his own proper person, and the said Edmond Conway says that our said lady the Queen ought not further to prosecute the above-mentioned indictment against him, the said Edmond Conway, because he says that heretofore, to wit, on the 2nd day of March, in the year of our Lord 1843, at Limerick aforesaid, in the county aforesaid, at an assizes then and there holden, in and for the said county of Limerick, before the Right Hon. Nicholas Ball, one of the justices, &c. and the said Joseph Devonsher Jackson, one other of her Majesty's justices, &c. being then and there the justices duly assigned to hold the assizes in and for the said county of Limerick, the jurors of the jury whereof mention is within made, being then and there called, did then and there come, and thereupon (setting out the names of the jury) twelve of the jurors last aforesaid were then and there duly called, and did then and there answer to their names respectively, and were then and there duly sworn and empannelled to try the said issue above, to wit, between our said sovereign lady the Queen and the said Edmond Conway, as above mentioned; and the said last-mentioned jurors so sworn and empannelled as last aforesaid were then and there duly charged with the said Edmond Conway, who was then and there duly given in charge to the said last-mentioned jurors so sworn and empannelled as aforesaid, and the said Right Hon. Thomas Berry Cusack Smith, Attorney-General, as aforesaid, on behalf our said lady the Queen, did then and there produce divers, to wit, ten witnesses, for and on behalf of our said lady the Queen, who were then and there duly sworn, and who then and there gave evidence to the said Court and to the said jury so sworn and empannelled, and charged with the said Edmond Conway, touching the said supposed felony of murder aforesaid. And the said Edmond Conway further says, that the said jurors so sworn and empannelled as last aforesaid, were then and there, and after they were so charged with the said Edmond Conway, as last aforesaid, discharged of him, the said Edmond Conway, not by reason of any fatality of him, the said Edmond Conway, or for or by reason of any fatality of them, the said jurors, so sworn and empannelled as last aforesaid, or any of them, or for or by reason of any other sufficient or legal cause whatsoever; and this he, the said Edmond Conway, is ready to verify; wherefore he prays judgment; and that he may be dismissed by the Court here from the premises in the said indictment above mentioned, and that the same may not be further prosecuted against him, the said Edmond Conway.

" And thereupon, the said Edmond Conway again says, that our said lady the Queen ought not further to prosecute the said indictment against him, the said Edmond Conway, because he says that, heretofore, to wit, on the 10th day of October, in the year of our Lord 1843, to wit, at Limerick, in the county of Limerick, at an adjourned assizes," &c.

The plea here sets out the trial of the prisoner on the 10th of October as in the first plea, the only difference being that the names of the witnesses for the prosecution on the latter trial are given, and then proceeds as follows:—

" And the said Edmond Conway says that the jurors last aforesaid, so sworn and empannelled as aforesaid, and after they were so charged with the said Edmond Conway as aforesaid, and after they had heard the evidence as aforesaid, were then and there discharged of him, the said Edmond Conway,

(a) Crampton, J. dissentient.

(b) The pleas and replications and subsequent proceedings in *Lynch's* case were precisely the same as those put in in *Conway's* case.

not by reason of any fatality of him, the said Edmond Conway, or for or by reason of any fatality of or to them, the said jurors, so sworn and empannelled as aforesaid, or of any of them, or for or by reason of any accident to, or infirmity or illness of, them the said jurors sworn and empannelled as aforesaid, or any of them, or for or by reason of any other sufficient or legal cause whatsoever, and this the said Edmond Conway ready to verify; wherefore he prays judgment, and that he may be dismissed by the Court here from the premises in the said indictment mentioned; and that the same may not be further prosecuted against him, the said Edmond Conway."

To these pleas the following replications were put in:—

"And the Right Honourable Thomas Berry Cusack Smith, the Attorney-General of our said lady the Queen, &c. comes, and protesting, &c. nevertheless, to the said plea, he, the said Attorney-General, &c. &c. says that our said lady the Queen ought not to be barred from further prosecuting the said indictment, nor ought the said Edmond Conway to be discharged or go without a day, for or by reason of any thing in said plea alleged, because he, the said Attorney-General, &c. says, that at and after the said time of the said swearing and empannelling of the said jurors in the said plea mentioned and named, and at and after the said time of the giving in charge of the said Edmond Conway, to wit, on the day and year in said plea mentioned, at the assizes in the said plea mentioned, divers, to wit, thirteen witnesses; that is to say (here their names were set out), then and there, in the presence of the said justices, and of the said jurors, and of the said Edmond Conway, in open court, were duly sworn upon their oaths respectively, true evidence to give between our said lady the Queen and the said Edmond Conway, touching and concerning the felony and matters in the said indictment contained; and the said several witnesses being so sworn, were then and there examined, and gave evidence upon their oaths respectively, in the presence and hearing of the said justices and of the said jurors and of the said Edmond Conway, in said open court, then and there being at the assizes aforesaid, in said plea mentioned, and said several witnesses then and there gave evidence, upon their oaths respectively, for and on behalf of our said lady the Queen, in said open court, in the presence and hearing of the said justices and of the said jurors in said plea mentioned, and in the presence and hearing of the said Edmond Conway, then and there in said open court being present, touching and cf and concerning the said felony in the said indictment mentioned."

The replication then, after stating, in similar manner, the production and examination of divers witnesses on behalf of the prisoner, and that they were the only witnesses tendered on behalf of the prisoner, went on to say:—

"That all the evidence then and there, or at any time, produced or tendered or offered by or on the part or behalf of the said Edmond Conway, &c. was duly heard and received by the said justices, then and there presiding, &c. and by the said jurors; and was by the said justices afterwards then and there duly left and submitted to the consideration of the said jurors; and that the said Edmond Conway then and there declared, in the said open court, in the presence of the said justices and of the said jurors so empannelled as aforesaid, that he, the said Edmond Conway, had not any further or other evidence to offer or produce to or before the said Court, or the said justices, or the said jurors, touching, or of or concerning said felony and matters in said indictment, or any of them.

"And the said Attorney-General, &c. further saith, that after all the said several witnesses, being so as aforesaid duly sworn and examined in said open court, had then and there given their evidence as aforesaid, and in the presence of the said justices and of the said jurors so empannelled as aforesaid, and in the presence of the said Edmond Conway, and after the said Edmond Conway had so as aforesaid declared that he had not any further or other evidence to produce or offer to or before the said Court, or the said justices, or the said jurors, to wit, on the same day and year in said plea mentioned, the said jurors being so charged, and having heard the said evidence, were then and there, in the presence and hearing of the said Edmond Conway, duly charged by the said justices, then and there presiding in the said open court, touching and concerning the felony and matters in the indictment aforesaid mentioned, and the issue joined thereon between our said lady the Queen and the said Edmond Conway; and afterwards the said jurors then and there, by the directions of the said justices, retired from the said public court into their private jury-room, adjoining the said public court, for the purpose of considering and deliberating in private upon their said verdict; and the said Attorney-General further saith, that the said jurors then and there, and from thenceforth, remained and continued in their said private jury-room, and without meat, drink, or fire, or other refreshment being had or received by the said jurors or any of them, for a long space of time, to wit, for twenty-four hours, thence next ensuing; and that afterwards, and after the said jurors had so retired, and after the lapse of much more than a sufficient and reasonable time for enabling the said jurors to consider and fully deliberate upon their verdict touching the said felony and matters in the said indictment mentioned, and to agree upon their verdict in case they could have at all agreed together touching or respecting the same, to wit, after twenty-four hours had elapsed from the time of their so retiring from the said public court into their said private jury-room as aforesaid, to wit, on the 3rd day of March, in the said year of our Lord 1813, being the day next after the said day on which the said Edmond Conway was so given in charge to the said jurors as in said plea mentioned, the said jurors then and there came from their said private jury-room into said open court, and then and there, in said open court, at said assizes, there declared, to and before and in the presence and hearing of the said justices, and in the presence and hearing of the said Edmond Conway, then and there being present in said open court, that they, the said jurors, had not agreed upon their verdict, and that they, the said jurors, could not agree together upon any verdict upon or touching or concerning the said indictment or issue, or any of the matters therein contained; and that they, the said jurors, had not agreed together, nor found, and could not agree together or find, or say, upon their oaths whether or not the said Edmond Conway was guilty of the said felony, or matters in the said indictment mentioned, or any of them.

And the said Attorney-General further saith, that afterwards, and after the lapse of the said time, being more than a reasonable time as aforesaid for the said jurors, considering and deliberating upon their said verdict, and after the said jurors had so declared to the said justices, in open court at said assizes, and the presence of the said Edmond Conway as aforesaid, that they, the said jurors, had not agreed to their verdict, and that they could not agree together upon any verdict on the said indictment, the said justices then and there presiding at the said trial at said assizes, then and there, without any objection being made by or on behalf of the said Edmond Conway to the discharge of the said jurors, of their the said justices' own authority, and in the exercise of the discretionary power and authority by law in them the said justices vested, in that behalf, and without the consent of our said lady the Queen, or of the said Attorney-General, or of any other person on behalf of our said lady the Queen, in that behalf released and discharged them, the said jurors, from finding any verdict on said indictment, and then and there allowed the said jurors to separate and go at large as they lawfully might for the cause aforesaid, and thereupon the said jurors then and there separated and went at large without finding any verdict upon the said indictment or the matters therein contained, or any of them, and this the Attorney-General is ready to verify. Wherefore he prays judgment if the said Edmond Conway ought to be discharged from the said indictment or go without a day, or if our said lady the Queen ought to be barred from further prosecuting the same.

The replication to the second plea, after the same prefatory averments as were contained in the first, was as follows.—"And the said Attorney-General further saith, that the said jurors then and there and from thenceforth remained and continued in their said private jury-room, and without meat, drink, or fire or other refreshments being had or received by the said jurors or any part of them, for a long space of time, to wit, for twelve hours, thence next ensuing; and that afterwards, and after the said jurors had so retired, and after the lapse of much more than a sufficient and reasonable time for enabling the said jurors to consider and fully deliberate upon their verdict touching the said felony and matters in said indictment mentioned, and to agree upon their verdict in case they could have at all agreed touching or respecting the same, to wit, after twelve hours had elapsed from the time of their so retiring from the said public court into their said private jury-room as aforesaid, and after all the other business of the said adjourned assizes had finished and been concluded, and when the Sabbath-day was drawing near, to wit, on the 11th day of October, 1843, being the day next after the said day on which the said Edmond Conway was given in charge to the said jurors as in said last-mentioned plea stated, the said jurors then and there came from their said private jury-room into the said open court, and then and there, in the said open court, at said adjourned assizes, there declared to and before and in the presence of the justices, and in the presence and hearing of the said Edmond Conway, then and there being present, that they, the said jurors, had not agreed upon their verdict, and that they, the said jurors, could not agree together upon any verdict upon or touching or concerning the said indictment or issue, or any of the matters therein contained; and that they, the said jurors, had not agreed together or found, and could not agree together or find, or say upon their oaths, whether or not the said Edmond Conway was guilty of the said felony or matters in the said indictment mentioned, or any of them." The replication then stated, in the same terms as the preceding one, the discharge of the jurors by the justices, and prayed judgment, &c.

To these replications, the prisoner's counsel demurred (see 3 Law T. 23), and contended that they disclosed no valid ground for the discharge of the jurors. The counsel for the Crown having joined in demurrer, the learned judge (Jackson, J.) considering the question too important to be decided in a summary way, said he would overrule the demurrer, and in case of a conviction, reserve the question for the twelve judges. The trial, accordingly, was proceeded with, and the prisoners, having been found guilty, were sentenced to be hanged on the 8th May following. But having sued out a writ of error upon the record, assigning as grounds the insufficiency of the replication, and that the demurrer ought to have been allowed, in last Hilary Term they were brought up to the bar of the Court, and the case was argued on two different days (the 22nd and 25th January). The sole question raised by the prisoner's counsel was, whether the judge below had, as averred in the replication, a discretionary power to discharge the jury, without the consent of the parties, and without the occurrence of any fatality or evident necessity for their discharge.

Christopher Copinger and *John Waller* (with whom was Sir *Colman O'Loghlen*), for the prisoners, cited or distinguished the following cases and authorities: 1 Instit. 227, b; 3 ib. 110; Vin. Ab. 338, pl. 4, tit. Trial, x. c. 4; 2 Hawk. P. B. 2, c. 47, s. 1; 4 Blacks. C. 360, *R.* v. *Edwards* (4 Taunt. 311); 22 Vin. Ab. 341, tit. Trial, y. c.; *Ferrar's* case (Sir T. Raym. 84; Kel. 26); 2 Hales, P. C. 294-5, and note ib.; *Whitbread's* case (7 St. Tr. 311); *R.* v. *Jeff* (2 St. Tr. 984); *Chedwick* v. *Hughes* (Carthr. 465); *Lord Delamere's* case (11 St. Tr. 510); *Rookwood's* case (13 St. Tr. 139, 161, and 165); *R.* v. *Wade* (Mood. C. C. 86); Dick, Qr. Se 553; *R.* v. *Stokes* (6 C. & P. 151); *R.* v. *Kell* (1 Cr. & Dix, 151; and Hayes, Cr. L. 880); *Kinloch's* case (Fost. Cr. L. and cases there collected, 17, 22, and 31); Bac. Ab. tit. Juries, G.; Trials per Pais, 629; Stat. 55 Geo. 3, c. 42, s. 34; Deac. Cr. L. 705; Dick, Qr. Sess. 535; 1 Chitt. Cr. L. 634; *R.* v. *Scalbert* (Leach, C. C. 620); *R.* v. *Edwards* (4 Taunt. 311); *R.* v. *Shields* (28 St. Tr. 647; 2 Gab. Dig. 521); *R.* v. *Leary and Cook* (3 Cr. & D. 213); and *R.* v. *Lecken* (ib. 374); *R.* v. *Oulahan* (Jebb's Cr. C. 270); *Ferrar's* case (Sir T. Raym. 84); 1 Reeve's Hist. C. L. 85; Glanville, lib. 11; Bracton, lib. 4, cap. 19, sec. 4; 22 Viner's Ab. 445, tit. trial; *R.* v. *Wardle* (1 Car. & Marsh, 647); *R.* v. *Wolff and Othe* 1 Chit. Rep. 401).

Greene, S. G. and *Keller*, Q.C. for the Crown, cited also *Horne Tooke's* case (25 St. Tr. 129-30); *Hardy's* case (24 St. Tr. 414-15); *R.* v. *Wolff and Others* (421, per Abbott, C. J. and 426-7, per Best, J.); *Lord Delamere's* case (4 St. Tr.); 3 Burn's Just. 974, and *R.* v. *Cobbett*, there cited; *R.* v. *Wardle* (1 Car. & Marsh, 647); *R.* v. *Oulahan* (Jebb's Cr. C. 270); *Stone's* case (6 T. R. 527); *Rex* v. *Scalbert* (Leach's C. C. 620); *R.* v. *Dunn* (1 Cr. & D. 535).

Tuesday, April 29.

Mr. Justice Burton having been absent during the argument of this case in Hilary Term, the Court directed that it should be again spoken to by one counsel at each side, and accordingly, now,

Sir *Colman O'Loghlen* opened the case again on behalf of the prisoners, citing 1 Reeve's Hist. C. L. 85; Glanvil. lib. 11; Bracton, lib. 4, cap. 19, sec. 4; Fleta, 52; 2 Reeve's Hist. C. L. 268; 3 ib. 105; Vin. Ab. tit. Trial, y. c.; Co. Litt. 227, b; 3 Inst. Mirror, c. 4, s. 24; Wingate's Maxims, 607; *Perkin's* case (Fost. C. L. 24); *Chedwick* v. *Hughes* (Carthr. 465); *R.* v. *Morgan* (Fost. C. L. 24); *R.* v. *Jeffs* (2 Str. 984); *R.* v. *James Wade* (1 Mood. C. C. 86); *R* v. *Oulahan* (Jebb's Cr. C. 270): *R.* v. *Wardle* (1 Car. & Marsh, 647); *R.* v. *Kell* (1 Cr. & D. 151; and Hayes, Cr. L. 850); *Stoke's* case (6 C. & P. 151). Hales, P. C. p. 294, is cited contra; but as to his authority on this point see Foster's Crim. Law, preface, p. 20, and seq. Doctor and Stud. p. 272, is cited, but the language is only, "I think," &c.; *Whitbread's* case (7 St. Tr. 315), condemned in Fost. C. L. pp. 25 and 30; *Rookwood's* case (13 St. Tr. 163); *Ferrar's* case (Sir Thos. Raym. 84), one of the bad precedents mentioned by Hawk. P. C.; as also *R.* v. *J. D.* (Ventr. 69); *Maunsell's* case (1 Anders. 103), overruled in Fost. C. L. 31; *R.* v. *Segar and Potter* (Comb. 401); *Shield's* case (28 St. Tr. 617); *R.* v. *Barrett* (Jebb's Cr. C. 103); *R.* v. *Delaney* (ib. 106); *R.* v. *Edwards* (3 Campb. 207; Rus. & R. 224; 4 Taunt. 211); *R.* v. *Scalbert* (Leach, C. C. 620); *R.* v. *Stevenson* (ib. 546); *R.* v. *Steck* (2 C. & P. 413); Lib. Ass. 41, 11; 16 Ass. 6; Mirror, c. 4, s. 24; Bro. Ab. tit. Verdict. pl. 49; 2 Hales, P. C. 297; *R.* v. *Ledingham* (1 Ventr. 97); Viner's Ab. tit. Trial; Foster's C. L. 24; Salk. 201; *Wright* v. *Crump* (7 Mod. 1); Bac. Ab. tit. Juries, 8; Toml. L. Dict. J...., 111; Trials per Pais, 252; Emlyn's pref. to State Tr. 29; Bolton's Just. of P.; *Sir J. Wedderbourne's* case (Fost. C. L.); Hawk. P. C. bk. 11, c. 47; 4 Bl. Com. 360; Bullingbrooke's J. P. for Ireland, 473; Deac. Cr. L. tit. Jury, 11, s. 60; 1 Chitt. Cr. L. 634; 3 Burn's J. P. 972, edit. of

1845; Bro. Ab. tit. Judges pl. 25, and Jurors; Bac. Ab. tit. Juries, G.; 3 Blackst. C.; *Morris* v. *Davies* (3 C. & P. 429); *Ashford* v. *Thornton* (1 B. & Ald. 460). In Scotland, to remedy evil of disagreement, stat. 55 Geo. 3, c. 42, was introduced. Morgan's Rep. of the Carrickshock Trials.

Bennett, Q.C. replied. *Cur. adv. vult.*

Friday, May 2

PERRIN, J. after recapitulating the pleadings and facts of the case, and commenting on the circumstance of there not having been a proper entry of the continuances made upon the record, and that the rule of court directing the discharge of the jurors was not entered thereon as it ought, proceeded to say: "I shall proceed to consider the only question, then, which is, as I have before stated, not whether, upon the facts as disclosed, that order for the discharge of the jury could not be legally made, nor is it whether this matter might not be pleaded in bar for another offence; but the only question is, whether the jury were legally discharged, and there could have been a fresh trial. That the old rule has varied from time to time, either as qualified, corrected, or differently understood, is unquestioned. *Kinloch's* case (Fost. C. L. 16)—where that general rule was expressed, and seems to have been adopted, but not to have been admitted to be universally binding—is in my mind a very weighty authority; and it is to be observed that there was no allegation there that the opinion was not questionable; the judges agreed that 'admitting the rule laid down by Lord Coke to be a good general rule, yet it cannot be universally binding, nor is it easy to lay down any rule that will be so.' I agree with that opinion, and in the very letters in which it is expressed; and if you apply the expression to this particular case, it does appear to me that this opinion is well founded, and the rule ought to be varied only in cases of evident necessity; and it therefore must depend on the facts of the case whether there be a necessity or not. The rule cannot bind where it would produce a hardship to the prisoner. It does appear to me that this opinion warrants the alteration of the old rule, and is adopted in the rule expressed by Blackstone, which has ever since been acted on. The qualification of the rule by Blackstone, which appears a legitimate adoption of the opinion of the judges in *Kinloch's* case, has been since followed in the cases of *Rex* v. *Edwards* (3 Campb. 207; Russ. & R. 224; and 4 Taunt. 211); *Rex* v. *Delany* (Jebb's Cr. C. 103), and *Rex* v. *Burrell* (Jebb's Cr. C. 104). The authority which I referred to as having been decided in this country, and of which I myself took a note at the time, is the case of *Rex* v. *Kelis* (1 Cr. & D. 151, and Hayes, Cr. L. 880), decided in 1829 at Carrick, where the opinion which the twelve judges had expressed was stated by Judge Fox, and he adopted the same reasoning and the same rule. I think that an authority of great weight. The objection was not taken by the counsel for the prisoner at the trial; but Judge Daly, who tried the case, reported it to the judges, who considered it; and Judge Fox, when the case came on again for trial, interrupted the proceedings, and stated the opinion of the judges, and that the prisoner ought not again to be put upon his trial. The soundness of the exception in the case of necessity is sustained by a number of authorities. The maxim *quod necessitas cogit defendit*, was adopted in *Hardy's* case, *Tooke's* case, and in *Stone's* case." [His lordship here adverted to the statement of the law in that case by Eyre, C. J. and of the necessity of having the facts duly entered upon the record, that it might appear that every thing was done according to law, and that the acts might be capable of being reviewed by a superior Court.] "If so long a time had elapsed that they (the jurors) require refreshments, and cannot deliberate without them, then, accordingly, that might be a reason why they should have refreshments; but does that render it necessary that they should be discharged? It may be said that it is equally invalid giving refreshments without the discharge of the jury, and that if you may do the one you may do the other. Now, I cannot believe it equally invalid to give them refreshment; for taking the old cases to be law, that judges brought juries round to the end of the circuit, it impossible to suppose they did not get refreshment. therefore, if that rule had been adopted, it is to be inferred that they must have had refreshment to enable them, not merely to give a verdict, but, as the old cases say, to continue inclosed. Now, the record here states that the Court below discharged the jury upon the bare ground that they had time, and more than time enough, to enable them to agree. It has been very properly observed that the judge below could see more of the circumstances than we could, and he must have seen that the men were in such a condition, and that it was a question between their losing their lives and giving a verdict, but it is enough to say that this has not been put upon the record, and we cannot go out of it on a question of this being a case of necessity. There is a further difficulty, namely, how can any person fix a time for twelve men to agree in? I think that there is a very considerable difficulty in any person recording as a matter of fact, his judgment that more than a reasonable time for those men to come to a sound conclusion had elapsed. The whole of the reason for their discharge is that they did not agree within the time the judge considered enough for them to find their verdict, and that that was a necessity for their discharge, which I cannot admit, there being nothing to shew that the jury were not in health and in full possession of their faculties. I know of no authority for such a position as that a judge of his mere discretion may discharge a jury and that that must be admitted to be a compliance with the rule; none such is alluded to in the arguments of counsel or reasoning of the Judges Foster and Wright in *Kinloch's* case. I recollect, even in civil cases, when juries remained in a considerable time and it has been considered that a juror could not be withdrawn except by consent." [After observing upon the method of withdrawing a juror, the learned judge went on to say], "It was a ridiculous fiction, but it showed that the judge could not of his own authority discharge him; and in the absence of any authority, civil or criminal, I am slow to be of opinion that the judge of his own discretionary power may do it. I do not acknowledge the existence of any discretionary power to act on his own notion; it would be inconsistent with justice, without grounds shewn for the act, which may be considered by a superior Court. A judge must determine, not by the crooked cord of discretion,(c) but by the golden mete-wand of the law. I admit that corruption is not to be imputed or supposed in any judge, but fallibility must be admitted—*humanum est errare*, neither would I subject the opinion of a judge upon matters of fact to be canvassed before, or submitted to the consideration of, juries. What the record states is not to be averred against, nor is the propriety of a judge's conduct to be submitted to the consideration of juries; but whether the rule be right or not ought to be considered, if necessary, by a superior Court; and it is no degradation to a judge to have his rule submitted to the consideration of a superior or other courts. In all cases the judge ought to consider his acts reviewable, and the errors in his judgment, if any, to be amended. And as upon this record there does not appear a case of necessity set forth by the prosecutor; and as it does not appear that the jury charged with the prisoners, and who were discharged of them, were so discharged from an evident necessity, I think there cannot be judgment for the Crown upon this record, and that the judgment ought to be reversed."

CRAMPTON, J. after referring to the pleadings, and to the informal manner in which the continuances were entered upon the record, went on to say: "However unusual or irregular the course which has been taken may be, still the Court has to decide upon the main question which is raised by this record—that is, whether or not the judge below should have allowed the demurrer and pronounced a judgment of acquittal for the prisoners, for the power of awarding a *venire de novo* does not apply to the present case; the main question is, whether the judge, having discharged the jury under the circumstances stated upon the record, amounts to error. There is a very important principle of the law, that a prisoner's life is not twice to be put in jeopardy; but, in the language of the law, the prisoner in this case never was tried before the assizes of March 1844. In popular language, he was tried before, but not in the language of the law; and can a prisoner in any case rely for his defence on a previous abortive trial? It appears to me, that the vice in the argument of the prisoner's counsel arises from confounding the distinction between the existence of a discretionary power in the judge below, and the exercise of that power. It must be admitted on all hands, that the old rule of refusing to discharge a jury in any event until they agreed to a verdict, and the restrictions from fire, candle-light, &c. have been departed from; and the rule laid down by Blackstone, that a jury may be discharged in a case of evident necessity, is a very decided departure from the previous practice. In many cases which have been cited, juries have been discharged without any physical or moral necessity for taking such a course; as where a juror was intoxicated, which is only a temporary cause, or where a juror takes ill, but is not so much affected as to be incapable, after a time, of resuming his duties; and yet the discharge of a jury in such cases has never been held to amount to error. Then, as it is admitted that juries can be discharged without finding a verdict in cases of evident necessity, it is my opinion that a discretionary power is vested in the judge below to discharge a jury when it appears to him that they cannot agree, and that this discretion cannot be questioned by another Court. He may act on facts coming within his own observation, and if he does discharge the jury, and makes an entry to that effect on the crown book, there can be no appeal from that order, in my opinion. The exercise of a discretion has been characterized as odious; but where the necessity exists for its exercise, a judge is bound not to shrink from the responsibility devolving on him. Let me suppose the case of an unreasonable sentence of imprisonment by a judge, and that he departed from the principles of Magna Charta by sentencing a prisoner to ten years' imprisonment for a common assault. That would be an abuse of authority which Parliament might punish, but no writ of error would lie in such a case. Look to the consequences arising from the doctrine contended for by the prisoner's counsel. Suppose the judge below had no power to discharge the jury without finding a verdict except in a case of evident necessity, what should he have done in this particular instance? How much longer were the jurors to have been kept in custody? Was it until one of the jury became incapable of acting? Was he to have brought them to the bounds of the county? or, as the old authorities go, to the last town on the circuit? It would be, in my mind, an alarming doctrine to lay down that a jury could not be discharged unless they agreed to a verdict, until some one became so ill that his life was in danger. If the jurors are to be locked up for weeks, at whose expense are they to be maintained?" [The learned judge, after a very elaborate review of *Sir Wm. Witnipole's* case (Cro. Car. 147), *Keat's* case (Skinner, 667), *R.* v. *Wildey* (1 M. & S. 183), *Vaux's* case (4 Co. Rep. 44 a.), *Wrote* v. *Wigges* (4 Co. Rep. 47 n. p. 407 edit. of 1826), *Bushell's* case and *Shield's* case (28 St. Tr. 619), and *Sam. Gray's* case (3 Law T. 449, and 8 Jur. 878), declared his opinion to be that the judgment of the Court below ought to be affirmed.]

BURTON, J.—I apprehend the whole question upon this case is whether he (the learned judge who tried the case) acted erroneously, as appears upon the record; and if he did act erroneously, it is the same as if he discharged the jury without any reason whatever; I have only to see whether the facts are sufficient to authorize the exercise of his discretion in the way he has done. Now, upon that view, except the authority goes much beyond what of late years has been considered, the grounds stated were not sufficient; and if he had other grounds (for discharging the jury) they ought to have been put upon the record; and where a judge exercises a jurisdiction of that kind, he ought to have it recorded in such a way as that the grounds of his judgment may appear. I am of opinion that a judge has not, of his own will and his own discretion, a right to discharge a jury, I think it must be the exercise of a sound discretion; the question must be, whether there are sufficient circumstances to warrant this judicial act on his part. [The learned judge, after stating that in his opinion there did not appear upon the record any sufficient reason to warrant the discharge of the jury, and commenting on the want of sufficient particularity in the averments upon the record, and that an examination into the facts which arose to induce the judge to consider it necessary to discharge the jury, proceeded to observe:] "If a jury remained in so long as to be in a condition which might endanger their health, that might be ground upon which they might be discharged; and I dare say it may be very probable that was the ground upon which the judge exercised his discretion in the present case. It may have been that there was a sufficient ground for their discharge; but he should have stated an examination into the facts, in order to be reasonably certain; and these were important facts to be stated, and ought always to be stated, and I think they have not been sufficiently stated. What I would wish to impress is not that I would yield to the old common law doctrine in all its particulars; I am well disposed to discountenance and disapprove of it; yet the reason of it ought to be acted upon, and therefore, when we act upon our authority to discharge a jury, we ought to confine it to a certain ground upon which there could be no mistake for the proper exercise of our judgment; but in this case there have not been sufficient grounds stated for the exercise of that discretion. When a jury are sworn to find a verdict between the Crown and the prisoner, he has a right to insist upon that verdict from that jury; the prisoner has as good a right to strictness on his trial as the Crown has in getting a verdict, and upon that ground I feel that it is so necessary to consider whether the jury were discharged upon right grounds or not. Whether a new indictment may be prepared against the prisoner or not, is a question it is not necessary for the Court to enter into. The question is, has this man been properly tried on the indictment as it now stands? What may be the result of our order is another question, which we have nothing to do with; but I am of opinion, with all due regard to the opinion of my brother Crampton, from whom I differ, that upon this record there is error, and an error sufficient to vitiate the judgment, and that the judge was not warranted in exercising his discretion upon the subject, as has been stated, and that this judgment ought to be reversed."

PENNEFATHER, C. J. after adverting to the facts of the case, and the objections raised by Mr. Justice Crampton, and to the dangerous consequences which might result from the doctrine that an absolute discretion was reposed in the judge without any power existing of reviewing it, and stating that he could not conscientiously say there was any evident necessity in the present case to warrant the discharging the jury

(c) See the case of *R.* v. *Walcott*, 4 Mod. 401.

without finding a verdict, said that in his opinion judgment must be given in favour of the prisoners.

Judgment reversed accordingly.

Coppinger moved that the prisoners be now discharged from custody; but

Greene, S. G. on the part of the Crown, having objected to their immediate discharge, in order that the law officers of the Crown might have an opportunity of considering the expediency of suing out a writ of error to the House of Lords,

The COURT remanded the prisoners to the custody of the marshal, directing them to be brought up again on Wednesday, the 7th instant, on which day the prisoners were brought up to the bar of the court and discharged, *Bennett*, Q. C. having intimated that the counsel for the Crown did not intend to proceed any further in the case.

Counsel for the Crown: *Smith*, A. G., *Greene*, S. G., *Bennett*, Q.C., the Hon. *John Plunket*, Q.C., *Keller*, Q. C. and *Daniel M'Dermot*.

For the prisoners: *Christopher Coppinger*, *John Waller*, and Sir *Colman O'Loghlen*.

Attorneys: *M. Barrington*, Crown Solicitor for the Munster Circuit, and *Henry Synan*.

April 22 and 25.

MEEHAN in Error *v.* THE QUEEN.

Where a judgment obtained at assizes is reversed in the Queen's Bench upon writ of error, but the record upon which judgment has been entered below has never formed a part of the Records of the Queen's Bench, that Court will not award a venire de novo, but will simply remand the prisoner to his former custody.

In this case the prisoner had been convicted of a felony at the Spring Assizes for the county of Clare, in the year 1844; but having at his trial been denied the right of peremptorily challenging the jurors, a writ of error was brought in the Queen's Bench on that ground, and also on the ground that he had been sentenced to transportation for life without its having been defined where he was to be transported to, and whether beyond the seas or not.

Greene, S. G. with whom was *Brewster*, Q. C. for the Crown, admitted that this case was governed by the case of *Gray in error v. The Queen* (3 Law T. 449), and submitted that the same course should be adopted as in that case, namely that the judgment should be reversed, and a *venire de novo* awarded.

Smyly for the prisoner contended, that though the principal question in this case was exactly the same as that raised in *Gray's* case, yet that the circumstances were different. *Gray's* case was removed into the Queen's Bench by *certiorari*, and thereby became a record of the court; so that the House of Lords, in reversing the judgment of the Queen's Bench, merely sent back the record into that court, with directions to amend it by issuing a *venire de novo*. The present case, on the other hand, came before the Court on a writ of error from an inferior Court, and as the case formed no part of the records of the Queen's Bench, the Court could not award a *venire de novo*, and the judgment against the prisoner being reversed, the Court could not commit him to custody again, and he ought not to be detained.

Greene, S. G.—The judgment against the prisoner may be reversed, but the indictment against him for felony stands, and he is therefore legally in custody. You may bring a *habeas corpus* if you like.

Brewster.—The prisoner in the eye of the law has never been tried; and, therefore, as an indictment for felony has been found against him by a grand jury, he ought still to remain in custody.

CRAMPTON, J.—Perhaps the best course would be to reverse the judgment and remand the prisoner for trial, without awarding a *venire de novo* at all.

Smyly.—There is another point in this case; the prisoner has been sentenced to be transported for life, without defining where he is to be transported to, or whether he is to be transported beyond the seas or not.

BURTON, J.—Yes; but if he has not been tried at all, you cannot rely on a defect in the terms of the sentence. *Cur. adv. vult.*

THE LEGISLATOR.

Summary.

AS LARGE a portion of the actual Legi lation of last session as our c[illegible] number admit, is given below, of interesting Parliamentary R newly-issued Standing Orders, which will regulate in future all Private Bills in their introduction to and passage through the House.

PRIVATE BILLS IN THE HOUSE OF COMMONS.

The following standing orders have been lately published:—

"That no private Bill be brought into this House but upon a petition first presented, with a printed copy of the proposed Bill annexed; and that such petition be signed by the parties, or some of them, who are suitors for the Bill.

"That all petitions for private Bills be presented within 14 days after the first Friday in every session of Parliament.

"That a declaration in writing, signed by the agent for the proposed Bill (or some one of such agents), shall be annexed to such petition, stating to which of the three classes of Bills such Bill in his judgment belongs; and if the proposed Bill shall give power to effect any of the following objects, that is to say:—

"Power to take any lands or houses compulsorily, or to extend the time granted by any former Act for that purpose.

"Power to levy tolls, rates, or duties, or to alter any existing tolls, rates, or duties; or to confer, vary, or extinguish any exemption from payment of tolls, rates, or duties, or any other right or privilege.

"Power to interfere with any crown, church, or corporation property held in trust for public or charitable purposes.

"Power to make a burial-ground.

"Power to relinquish any part of a work authorized by a former Act.

"Power to divert into any intended cut, canal, reservoir, aqueduct, or navigation, or into any intended variation, extension, or enlargement thereof respectively, any water from any existing cut, canal, reservoir, aqueduct, or navigation, whether directly or derivatively, and whether under any agreement with the proprietors thereof, or otherwise.

"Power to make, vary, extend, or enlarge any cut canal, reservoir, aqueduct, or navigation.

"Power to make, vary, extend, or enlarge any railway.

"The said declaration shall state which of such powers are given by the Bill, and shall indicate in which clauses of the Bill (referring to them by their number) such powers are given, and shall further state that the Bill does not give power to effect any of the objects enumerated in this order other than those stated in the declaration.

If the proposed Bill shall not give power to effect any of the objects enumerated in the preceding order, the said declaration shall state that the Bill does not give power to effect any of such objects.

"And that a copy of such declaration be deposited at the office of the Board of T[illegible]

"That all petitions for private Bills, with their annexed bills and agents' declarat[illegible] and all petitions for additional provisions in private Bills, with the proposed clauses annexed, and all estate Bills brought from the House of Lords, after having been read a first time, shall be referred to a select committee on petitions for private Bills.

"That there be seven clear days between the day on which the petition for any private Bill relating to England shall be presented and the day on which the sub-committee shall sit thereupon; and ten da[illegible] case such Bill shall relate to Scotland or Ireland.

"That all reports of the Select Committee on Petitions for Private Bills, in [illegible] shall report that the standing orders have not been complied with, be referred to the Select Committee on Standing Orders.

"That all petitions for leave to dispense with any of the sessional orders of the House relating [illegible] private Bills be referred to the Select Committee on [illegible]tanding Orders.

"That every private Bill, printed on paper of a size to be determined upon by Mr. Speaker, be presented to the House, with a cover of pa[illegible]ent attached to it, upon which the title of the Bill [illegible] to be written; and the short title of the Bill, as first entered on the votes, shall be in accordance with the subject-matter of the Bill, and shall not be changed, unless by special order of the House.

"That the proposed amount of all rates, tolls, and other matters heretofore left blank in any private Bill, when presented to the House, be inserted in italics in the printed Bill.

"That every private Bill (except name and naturalization Bills) be printed; and printed copies thereof delivered to the doorkeepers, for the use of the members, before the first reading.

"That there be three clear days between the first and second reading of every private Bill.

"That this House will not receive any petition complaining solely of a non-compliance with the standing orders, unless such petition be presented within [illegible] the Bill.

"That on every petition presented to this House relating to any private Bill before the House, the name or short title by which such Bill is entered in the votes be written at the beginning thereof, and whether such petition be in favour or against the Bill, or relating to the non-compliance with the standing orders.

"That no private Bill be read a second time until after the expiration of two calendar months from the day the last notice shall have been given in the newspaper.

"That a breviate of every private Bill (except divorce, name, naturalization, and estate Bills, brought from the House of Lords, and not relating to Crown, church, or corporation property, or property held in trust for public or charitable purposes) be prepared under the direction of Mr. Speaker, and that such breviate shall contain a statement of the object of the Bill, and a summary of the proposed enactments, and shall state any variation from the general law which will be effected by the Bill.

"That no private Bill be read a second time until three clear days after the breviate thereof shall have been laid on the table of the House, and have been printed.

"That no private Bill, or clause, for the particular interest or benefit of any person or persons, county or counties, corporation or corporations, or body or bodies of people, be read a second time, unless fees be paid for the same.

"That every private Bill, not being a divorce Bill, after having been read a second time and committed, shall be referred to the Committee of Selection; and every divorce Bill shall be referred to the Select Committee on Divorce Bills.

"That there be seven clear days between the second reading of every private Bill and the sitting of the committee thereupon.

"That in the case of railway Bills, if any report made under the authority of the Board of Trade upon any Bill, or the objects thereof, be laid before the House, such report shall be referred to the committee on the Bill.

"That the report upon every private Bill ordered to be printed as amended in committee shall lie upon the table.

"That a breviate of the amendments made in every committee on a private Bill be submitted to the chairman of the Committee of Ways and Means, and also laid upon the table of the House, at least the day previous to the consideration of the report on such Bill.

"That every private Bill, as amended in committee, excepting in the cases wherein the committee shall report the amendments to be merely verbal or literal, be printed at the expense of the parties applying for the same, and be delivered to the doorkeepers for the use of the members three clear days at least before the consideration of the report.

"That when any clause or amendment is offered upon the report, [illegible] the consideration of the report, or the third readin[illegible] [illegible]f any private Bill, such clause or amendment [illegible] referred to the Select Committee [illegible]tanding Orders, that such clause shall be printed. And when any clause is proposed to be amended, it shall be printed *in extenso*, with every addition or substitution in different type, and the omissions therefrom included in brackets.

"That when any clause or amendment upon the report, or the consideration of the report, or the third reading of any private Bill, shall have been referred to the Select Committee on Standing Orders, no further proceeding on either of such stages shall be had until the report of the said select committee shall have been brought up.

"That in order to afford opportunity for the proper discussion of the reports on railway Bills included in the second class, this House will upon every Tuesday and Thursday proceed to the consideration of reports on such Bills.

"That no private Bill shall pass through two stages on one and the same day without the special leave of the House.

"That (except in cases of urgent and pressing necessity) no motion be made to dispense with any sessional or standing order of the House without due notice thereof.

"Order applicable to such railway Bills as shall have been ordered to be engrossed in session 1845.

"That the time between the second reading of any such Bill which shall be brought in in the session of 1846 and the meeting of the committee thereon be shortened to three clear days, the parties giving the regular notices in the Private Bill-office."

PARLIAMENTARY PAPERS.

PUBLIC PETITIONS.—The 11th report of the Select Committee gives a grand total of 466 petitions for encouragement of schools in connection with the Church Education Society, signed by 63,596 persons; [illegible] a change of policy with regard to New Zealand, signed by 1,145 persons: 595 petitions for relief from agricultural burdens, signed by 43,135 persons; 194 petitions for a repeal of the malt duty, signed by 24,896 persons; 236 petitions against the Colleges (Ireland) Bill, signed by 343,826 persons; 94 petitions for the establishment of county courts, signed by 14,750 persons; 462 petitions for a Ten Hours' Factory Bill, signed by 13,918 persons; and 895 petitions for diminishing the number and nuisance of public-houses and grog-shops, signed by 196,501 persons.

COPYHOLDS.

Copy of the Fourth Report of the Copyhold Commissioners to Her Majesty's principal Secretary of State for the Home Department, pursuant to the Act 4 & 5 Vict. c. 35, s. 3.

PRESENTED TO BOTH HOUSES OF PARLIAMENT BY COMMAND OF HER MAJESTY.

Copyhold Commission, June 22, and July 8, 1845.

Sir,—In presenting to you our Fourth Report, we have to state that there has been again a considerable, and it is a gradually extending increase, both in the number of enfranchisements effected during the year, and in the value of the lands enfranchised, and this as well in lay as in ecclesiastical manors, though principally in the latter.

We find that we are enabled to settle the cases which are brought before us both cheaply and expeditiously, nor have we any difficulty in arranging the terms of enfranchisements when there is a fair disposition in parties to effect them.

We have also reason to believe that the terms we have laid down in enfranchisements which have passed through this office, have been adopted in similar cases by other persons who have not found it necessary to come to us, being either seized in fee or having powers to enfranchise.

In both these cases, however, parties have sometimes preferred procuring the sanction of this office by passing their deeds through it, to the letting their bargains rest on their own estimates.

We beg to add a list of the enfranchisements, which have either been completed (since our last Report), or which are now nearly ripe for completion. Some progress has also been made towards enfranchisement in many other manors. We have the honour, &c.

WILLIAM BLAMIRE.
T. WENTWORTH BULLER.
RICHARD JONES.

To the Right Hon. Sir James Graham, Bart. M.P. &c. &c.

Manor.	County.	Lord	Nature of Copyholds.	Incidents of the Manor.	Terms for Enfranchisement.	Progress made in Enfranchisement.
Windsor Old, Rectory of	Berks	Rev. Geo. Isherwood	Copyholds of Inheritance	Finesarbitrary,heriots and quit-rents	Five years' annual value	Signed and sealed
Ely, Barton	Cambridge	Bishop of Ely	Ditto	Fines arbitrary, and quit-rents	Ditto	Draft received
Wratting, West	Ditto	Dean & Chapter of Ely	Ditto	Ditto	Three years' annual value, the tenant also paying two years' annual value as a fine	Signed and sealed
Feering	Essex	Bishop of London	Ditto	Ditto	Five years' annual value; quit-rents 26 years	Ditto
Milton Hall	Ditto	Messrs. Boone and Scratton	Ditto	.. .. ..	.. ..	Draft received
Paul's Walden	Hertford	Bishop of London	Ditto	Fines arbitrary, and quit-rents	Five years' annual value; quit-rents 30 years	Signed and sealed
Barnsbury	Middlesex	Hen. Tuffnell, esq.	Ditto	Ditto	One-sixth of the value of the property was taken for the consideration, a private Act having been previously passed, reducing the ground originally intended to be built upon to one-third of the annual value of the building erected	Ditto
Ditto	Ditto	Ditto	Ditto	Ditto		Ditto
Ditto	Ditto	Ditto	Ditto	Ditto		Ditto
Ditto	Ditto	Ditto	Ditto	Ditto		Ditto
Ditto	Ditto	Ditto	Ditto	Ditto		Ditto
Ditto	Ditto	Ditto	Ditto	Ditto		Draft received
Ealing	Ditto	Bishop of London	Ditto	Fines certain, and quit-rents	One year's annual value; quit-rents 28 years	Signed and sealed
Ditto	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
Ditto	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
Finchley	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
Fulham	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
Ditto	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
Hanwell	Ditto	Ditto	Ditto	Fines arbitrary, and quit-rents	Five years' annual value; quit-rents 28 years	Ditto
Ditto	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
Hornsey	Ditto	Ditto	Ditto	Fines certain, and quit-rents	One year's annual value; quit-rents 28 years	Ditto
Ditto	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
Islington, Preb. of	Ditto	Prebendary of Islington	Ditto	Ditto	Two years' annual value of ground-rents; quit-rents 28 years	Ditto
Ditto	Ditto	Ditto	Ditto	Ditto	One-twelfth of the land enfranchised; two years' annual valueof the ground-rents on houses enfranchised; quit-rents twenty-five years	Referred to the Master Chancery to report
Ditto	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
Knightsbridge-cum-Westbourn Green	Ditto	Dean & Chapter of Westminster	Ditto	Fines arbitrary, and quit-rents	.. ..	Draft received
Paddington	Ditto	Bishop of London	Ditto	Fines certain, and quit-rents	One year's annual value; quit-rents 28 years	Signed and sealed
Ditto	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
Ditto	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
Headington	Oxford	Rev. Thos Hen. Whorwood	Ditto	Finesarbitrary,heriots and quit-rents	.. ..	Draft agreement and Schedule of apportionment received
Bishop's Lydyard	Somerset	Dean & Chapter of Wells	Copyholds for five lives	Fines arbitrary, and quit-rents	Eight years' annual value	Signed and sealed
Bleadon-cum-Priddy	Ditto	Dean & Chapter of Winchester	Copyholds for three lives	Finesarbitrary,heriots and quit-rents	Rent-charge about one-sixth of annual value	Draft received
Ditto	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
Compton Martin, Rectory of	Ditto	The Rector of Compton Martin	Ditto	Heriots and quit-rents	Land given in exchange upon the basis of five and a half years' annual value	Signed and sealed
Barton with Budlesgate	Southampton	Dean & Chapter of Winchester	Ditto	Finesarbitrary,heriots and quit-rents	Rent-charge about two-sevenths of annual value	Ditto
Ditto	Ditto	Ditto	Ditto	Ditto	Rent charge about one-fifth of annual value	Ditto
Ditto	Ditto	Ditto	Ditto	Ditto	Five years' annual value	Draft received
Manydown	Ditto	Ditto	Ditto	Ditto	Rent-charge about one-fourth of annual value	Signed and sealed
Ditto	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
Ditto	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
Ditto	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
Byfleet	Surrey	Edw. H. Ball Hughes, esq	Copyholds of Inheritance	Fines arbitrary, and quit-rents	Five years' annual value	Ditto
Croydon	Ditto	Archbishop of Canterbury	Ditto	Finesarbitrary,heriots and quit-rents	Three and a half years' annual value; three heriots at 10*l*. each; quit-rents 28 years	Ditto
Epsom	Ditto	J. I. Briscoe, esq & Anna M. his Wife	Ditto	Ditto	Six years' annual value	Draft received
Ditto	Ditto	Ditto	Ditto	Ditto	Five and a half years' annual value	Ditto
Ditto	Ditto	Ditto	Ditto	Ditto	Six and three-quarter years' annual value	Ditto
Lambeth	Ditto	Archbishop of Canterbury	Ditto	Ditto	Three and a half years' annual value; eight heriots at 20*l*. each; quit-rents 28 years	Signed and sealed
Ditto	Ditto	Ditto	Ditto	Ditto	Three and a half years' annual value; one heriot at 20*l*.; quit-rents 28 years.	Ditto
Ditto	Ditto	Ditto	Ditto	Ditto	Three and a half years' annual value; 1st heriot at 20*l*.; 2ndheriot at 10*l*.; quit-rents 28 years	Ditto
Ditto	Ditto	Ditto	Ditto	Ditto	Three and a half years' annual value; three heriots at 10*l*. each; quit-rents 28 years	Ditto
Ditto	Ditto	Ditto	Ditto	Ditto	Three and a half years' annual value; two heriots at 10*l*. each; quit-rents 28 years	Ditto
Brighton	Sussex	Fred. Shakerly Kemp, esq.	Ditto	Fines certain, heriots and quit-rents	.. ..	Draft received
Ditto	Ditto	Ditto	Ditto	Ditto	.. ..	Ditto
Ditto	Ditto	Ditto	Ditto	Ditto	.. ..	Ditto
Oglebird	Westmorland	The Earl of Thanet	Ditto	.. .. ..	.. ..	Ditto
Ditto	Ditto	Ditto	Ditto	.. .. ..	.. ..	Ditto

THE FINANCES OF GREAT BRITAIN.

From the important Parliamentary paper recently published, containing an account of the public income and expenditure of the United Kingdom for the years 1843, 1844, and 1845, a few interesting facts may be collected.

It appears from a survey of the figures in the return thus printed, that the national income has been gradually increasing every year, whilst the concurrent expenditure has remained comparatively stationary. In 1842 the income amounted to 51,120,040*l.* and the expenditure to 55,195,159*l.* shewing a deficiency of 4,075,119*l.*; in 1843 the income amounted to 56,935,022*l.* and the expenditure to 55,501,740*l.* shewing a surplus of 1,433,282*l.*; and in 1844, the income of the country amounted to 58,590,217*l.* and the expenditure to 55,103,647*l.* leaving a surplus of 3,486,570*l.* which, together with the former surplus of 1,433,282*l.* formed an aggregate surplus of 4,919,852*l.* which more than covered the large deficiency of 4,075,119*l.* noticed in 1842. At that period we were suffering from the effects of Whig mismanagement and financial blundering. At present, notwithstanding the unpalatableness of the income-tax to the nation at large, the financial policy of the Peel ministry has the merit, in a great degree, of having retrieved the Treasury from its embarrassments, and restored the balance of income and expenditure to the right side of the account.

The sources whence our enormous revenue is derived chiefly consist of the following items. We select the component parts of the income received in 1844-45 (58,590,217*l.*). Customs and Excise figure for 38,576,684*l.* the relative portions of each being 23,000,000*l.* and 15,000,000*l.* in round numbers; stamps for 7,327,803*l.*; assessed and land taxes for 4,429,870*l.*; the property and income-tax for 5,329,601*l.*; the Post-office for 1,705,068*l.*; Crown lands for 441,583*l.*; ordinary revenues for 394,598*l.*; and Chinese ransom money (an extraordinary and special item) for 385,008*l.*

The expenditure is also divided into a variety of items. Last year, the cost of collecting the customs and revenue amounted to a sum of 1,406,486*l.* and with the preventive service charges amounted to 1,967,584*l.* The expenses of collecting the stamps and assessed taxes amounted to 2,860,536*l.* Thus the mere expense of collecting the revenue amounted to nearly five millions sterling, or about 1-12th.

The civil Government costs the country 1,618,265*l.* This includes a sum of 371,800*l.* from which the Queen's privy purse is supplied, and the salaries and expenses of the royal household are defrayed; a sum of 277,000*l.* for allowances to the royal family; 26,440*l.* for the Irish viceroyalty; 100,646*l.* for the salaries and expenses of both Houses of Parliament, including the printing of the vast mass of papers and documents which now lie accumulated on our tables, the growth of only one session; 538,593*l.* for "civil departments," including superannuation allowances; 277,501*l.* for other annuities; and 6,285*l.* for pensions charged on the civil list. It may be proper to state, for the information of those ignorant of the fact, and especially foreigners, that the civil list formerly included all the heads of public expenditure, except those of the army, navy, and other military departments, but is confined at present (9 Wm. 4, c. 25) to "the expenses proper for the maintenance of his Majesty's household." The Queen's privy purse does not exceed, we believe, an annual sum of about 60,000*l.* or 70,000*l.* out of the whole 371,800*l.* Under the expenses of justice is included a sum of 559,782*l.* for courts of justice, 594,312*l.* for police and criminal prosecutions, and 703,111*l.* for houses of correction, &c. The diplomatic expenses amount to 380,609*l.* annually, including 181,186*l.* for the salaries and pensions of foreign ministers, plenipotentiaries, and ambassadors; 129,303*l.* for consuls' salaries, and superannuation allowances; and 70,120*l.* for expenses of outfits, &c. The above sums are charged on the "Consolidated fund." Of those raised by annual votes of supply, there are 6,178,714*l.* for the maintenance of the army, 5,858,219*l.* for that of the navy, and 1,924,312*l.* for the expenses of the Ordnance.

NEW STATUTES

Of the Sessions 8 *Victoria.*

[In this record of actual Legislation, we adopt the plan of giving the titles alone of the statutes of no general or professional interest; and analyses of the more important changes in the law, printing at length such statutes or parts of statutes only as are of particular interest to our readers.]

(*Continued from page* 394.)

CAP. XLIV.

An Act for the better Protection of Works of Art, and Scientific and Literary Collections. **(July 21, 1845.)**

Punishment for malicious injury to works of art, &c. **—Whereas it is expedient to provide for the better protection of works of art, and of scientific and literary collections, and also of public statues and monuments, from wanton injury; be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal and commons in this present Parliament assembled, and by the authority of the same, that from and after the passing of this Act every person who shall unlawfully and maliciously destroy or damage any thing** kept for the purposes of art, science, science, or literature, or as an object of curiosity, in any museum, gallery, cabinet, library, or other repository, which museum, gallery, cabinet, library, or other repository is either at all times or from time to time open for the admission of the public, or of any considerable number of persons, to view the same, either by permission of the proprietor thereof, or by the payment of money before entering the same, or any picture, statue, monument, or painted glass in any church or chapel or other place of religious worship, or any statue or monument exposed to public view, shall be guilty of a misdemeanor, and, being duly convicted thereof, shall be liable to be imprisoned for any period not exceeding six months, and if a male, may, during the period of such imprisonment, be put to hard labour, or be once, twice, or thrice privately whipped, in such manner as the Court before which such person shall be tried shall direct.

2. *Malice to be implied.*—And be it enacted, that every punishment imposed on any person for an offence against this Act shall apply and be enforced, whether the offence shall be committed from malice conceived against the owner of the thing damaged or destroyed or not.

3. *Apprehension of offenders.*—And be it enacted, that any person found committing any offence against this Act may be immediately apprehended, without a warrant, by any other person, and forthwith taken before some neighbouring justice of the peace, to be dealt with according to law.

4. *Act not to affect the right to recover damages.*—Provided always and be it enacted, that nothing herein contained shall be deemed to affect the right of any person to recover by action at law damages for the injury so committed.

5. *Accessories punishable as principals.*—And be it enacted, that every person who shall abet, counsel, or procure the commission of any offence against this Act shall be punished as a principal offender.

6. *Act not to extend to Scotland.*—And be it enacted, that this Act shall not extend to Scotland.

7. *Alteration of Act.*—And be it enacted, that this Act may be amended or repealed by any Act to be passed in this session of Parliament.

CAP. XLV.

An Act to make perpetual, and amend an Act of the fifth and sixth years of the reign of her present Majesty, for preventing ships clearing out from any Port in British North America or in the Settlement of Honduras from loading any part of their cargo of timber upon deck. (July 21, 1845.)

CAP. XLVI.

An Act for the appointment of additional Constables for keeping the Peace near Public Works in Ireland. (July 21, 1845.)

CAP. XLVII.

An Act for the further Prevention of the Offence of Dog Stealing. (July 21, 1845.)

1. 7 & 8 G. 4, c. 29. *Certain provisions of recited Act repealed.*—Whereas by an Act passed in the seventh and eighth years of his Majesty King George the Fourth, intituled "An Act for consolidating and amending the Law in England relative to Larceny, and other offences connected therewith," certain provisions were made for the prevention of dog stealing: and whereas it is expedient, for the further prevention of the said offence, that the provisions of the said recited Act, so far as relates to dog stealing, and to dealing with the offenders in respect to the said offence, shall be repealed: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that from and after the passing of this Act, the said provision so far as aforesaid, shall be repealed.

2. *Punishment for stealing dogs: first offence second offence.*—And be it enacted, that if any person shall steal any dog, every such offender shall be deemed guilty of a misdemeanor, and being convicted thereof before any two or more justices of the peace, shall for the first offence, at the discretion of the said justices, either be committed to the common gaol or house of correction, there to be imprisoned only, or be imprisoned and kept to hard labour, for any term not exceeding six calendar months, or shall forfeit and pay, over and above the value of the said dog, such sum of money, not exceeding twenty pounds, as to the said justices shall seem meet; and if any person so convicted shall afterwards be guilty of the said offence, every such offender shall be guilty of an indictable misdemeanor, and being convicted thereof, shall be liable to suffer such punishment, by fine or imprisonment, with or without hard labour, or by both, as the court in its discretion shall award, provided such imprisonment do not exceed eighteen months.

3. *Penalty for having possession of stolen dogs, or of their skins: first offence: second offence.*—And be it enacted, that if any dog, or the skin thereof, shall be found in the possession, or on the premises of any person, by virtue of any search warrant, to be granted as is hereafter in that behalf provided, the justice by whom such search warrant was granted may restore the same to the owner thereof, and the person in whose possession or on whose premises the same shall be found, such person (knowing the dog has been stolen, or that the skin is the skin of a stolen dog) shall, on conviction before any two or more justices of the peace, be liable for the first offence to pay such sum of money, not exceeding twenty pounds, as to the justices shall seem meet; and if any person so convicted shall be afterwards guilty of the said offence, every such offender shall be deemed guilty of a misdemeanor, and punishable accordingly.

4. *Penalty for compounding for offences against this Act.*—And be it enacted, That if any person shall publicly advertise or offer a reward for the return or recovery of any dog which shall have been stolen or lost, and shall in such advertisement use any words purporting that no questions will be asked, or shall make use of any words in any public advertisement purporting that a reward will be given or paid for any dog which shall have been stolen or lost without seizing or making any inquiry after the person producing such dog, every such person shall forfeit the sum of twenty-five pounds for every such offence to any person who will sue for the same, by action of debt, to be recovered with full costs of suit.

5. *Apprehension of offenders.*—And be it enacted, That any person found committing any offence punishable either upon summary conviction or upon indictment by virtue of this Act may be immediately apprehended without a warrant by any police officer, or by the owner of the dog, with respect to which the offence shall be committed, or by his servant or any person authorized by him, and forthwith taken before some neighbouring justice of the peace to be dealt with according to law; and if any credible witness shall prove upon oath before a justice of the peace a reasonable cause to suspect that any person has in his possession or on his premises any stolen dog, such justice may grant a warrant to search for such dog; and any person to whom any dog shall be offered to be sold or delivered, if he shall have reasonable cause to suspect that such dog has been stolen, is hereby authorized, and, if in his power, is required to apprehend, and forthwith to convey before a justice of the peace the party offering the same, together with such dog, to be dealt with according to law.

6. *Penalty for receiving money to restore stolen dogs.*—And be it enacted, That any person who shall corruptly take any money or reward directly or indirectly [illegible]ler pretence or upon account of aiding any person to recover any dog which shall have been stolen, or which shall be in the possession of any person not being the owner thereof, shall be guilty of a misdemeanor, and punishable accordingly.

7. *Offenders may be remanded, or admitted to bail.*—And be it enacted, That any justice may, if he shall think fit, remand for further examination, or may suffer to go at large, with or without sureties, upon his personal recognizance, any person who shall be charged before him with any offence or misdemeanor punishable by this Act, whether the same be punishable by summary conviction or as an indictable misdemeanor.

8. *If penalties not paid justices to commit offenders.*—And be it enacted, That in every case of summary conviction under this Act where the sum which shall be forfeited for the value of any dog as is herein-before provided, or which shall be imposed as a penalty by the justices, shall not be paid either immediately after the conviction, or within such period as the justices shall at the time of the conviction appoint, it shall be lawful for the convicting justices to commit the offender to the common gaol or house of correction, there to be imprisoned only, or imprisoned and kept to hard labour, for any term not exceeding two calendar months where the amount of the sum forfeited, or of the penalty imposed, or of both (as the case may be), together with the costs, shall not exceed five pounds, and for any term not exceeding four calendar months where the amount, with costs, shall not exceed ten pounds, and for any term not exceeding six calendar months in any other case, the commitment to be determinable in each of the cases aforesaid upon payment of the amount and costs.

CAP. XLVIII.

An Act to Substitute a Declaration for an Oath in Cases of Bankruptcy. (July 21, 1845.)

1. *Bankrupts may be examined after making and signing declaration.*—Whereas it is highly desirable that oaths shall not be administered unnecessarily by public authority, and there is reason to believe that the examination of a bankrupt or of the wife of a bankrupt before commissioners in bankruptcy will be equally effectual for obtaining a disclosure of the truth, and a full discovery of all that can be useful for the benefit of creditors, when such examination is conducted without oath: be it therefore enacted by the Queen's most excellent Majesty, by and with the

advice and consent of the Lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that all persons who are now or shall be hereafter declared bankrupts under any fiat, or the wives of such persons respectively, shall and may be hereafter examined before such commissioners without being sworn, but after making and signing the declaration contained in the schedule hereunto annexed.

2. *Penalty for making false declaration.*—And be it enacted, That if any such person so to be examined shall, in the course of the examination, wilfully make any false statement, such person may be thereupon convicted of a misdemeanour, and shall be, at the discretion of the Court before which the conviction shall take place, liable to undergo the pains and penalties now by law imposed upon persons guilty of wilful and corrupt perjury.

3. *Not to affect right of commissioners to commit for unsatisfactory answers, &c.*—Provided always, and be it enacted, That nothing herein shall in anywise affect the right of the commissioners of bankrupt to judge how far the answers to be made are satisfactory, or to commit to prison in case they shall hold such answers to be unsatisfactory, nor the right of any commissioner or creditor to withhold his signature from the certificate of conformity.

SCHEDULE.

Form of Declaration to be made by the bankrupt or the bankrupt's wife.

I, *A. B.* the person declared a bankrupt under a fiat in bankruptcy [*or* I, *C. D.* the wife of, &c.] do solemly promise and declare, that I will make true answer to all such questions as may be proposed to me respecting all the property of the said *A. B.*, and all dealings and transactions relating thereto, and will make a full and true disclosure of all that has been done with the said property, to the best of my knowledge, information and belief.

(Signed) *A. B.*
[*or C. D.*, the wife of the said *A. B.*]

CAP. XLIX.

An Act to settle an annuity on Sir Henry Pottinger, Baronet, in consideration of his eminent services. (July 21, 1845.)

CAP. L.

An Act to facilitate the recovery of loans made by the West India Companies. (July 21, 1845.)

CAP. LI.

An Act to enable Archbishops and Bishops in Ireland to charge their sees with the costs incurred by them in defence of their rights of patronage in certain cases; also to enable tenants for life and other persons having limited interests in estates in Ireland to charge the said estates with the costs incurred by them in asserting their rights to Ecclesiastical patronage in certain cases. (July 31, 1845.)

CAP. LII.

An Act for the Relief of Persons of the Jewish Religion elected to Municipal Offices. (July 31, 1845.)

1. (9 *Geo.* 4, *c.* 17.)—*Persons professing the Jewish Religion, on accepting the office of mayor, &c. to make a declaration.*—Whereas the declaration prescribed by an Act of the ninth year of the reign of King George the Fourth, intituled "An Act for repealing so much of several Acts as imposes the necessity of receiving the sacrament of the Lord's Supper as a qualification for certain offices and employments," upon admission into office in municipal corporations, cannot conscientiously be made and subscribed by persons of the Jewish religion: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That, instead of the declaration required to be made and subscribed by the said recited Act, every person of the Jewish religion be permitted to make and subscribe the following declaration within one calendar month next before or upon his admission into the office of mayor, alderman, recorder, bailiff, common councilman, councillor, chamberlain, treasurer, town clerk, or any other municipal office in any city, town corporate, borough, or cinque port, within England and Wales or the town of Berwick-upon-Tweed.

Declaration.—I A. B. being a person professing the Jewish religion, having conscientious scruples against subscribing the declaration contained in an Act passed in the ninth year of the reign of King George the Fourth, intituled "An Act for repealing so much of several Acts as imposes the necessity of receiving the sacrament of the Lord's Supper as a qualification for certain offices and employments," do solemnly, sincerely, and truly declare, That I will not exercise any power or authority or influence which I may possess by virtue of the office of to injure or weaken the Protestant Church as it is by law established in England, nor to disturb the said church, or the bishops and clergy of the said church, in the possession of any right or privileges to which such church or the said bishops and clergy may be by law entitled.

2. *Declaration to be valid as that of* 9 *Geo.* 4, *c.* 17.—And be it enacted, That such declaration shall, with respect to any such office, be of the same force and effect as if the person making it had made and subscribed the declaration aforesaid contained in the said Act of the ninth year of the reign of King George the Fourth.

CAP. LIII.

An Act to continue to the First day of October 1846, and to the end of the then next session of Parliament, certain Turnpike Acts. (July 31, 1845.)

Continuance of Acts. 7 & 8 Vict. c. 91, s. —Whereas it is expedient that the several Acts hereinafter specified should be continued for a limited time: be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, That every Act now in force for regulating, making, amending, or repairing any turnpike-road in Great Britain, which will expire on or before the end of the next session of Parliament, shall be continued until the first day of October in the year one thousand eight hundred and forty-six, and to the end of the then next session of Parliament; except such Acts for making, repairing, or regulating any turnpike-road or roads as shall be sooner repealed under the provisions of Act passed in the last session of Parliament, intituled "An Act to consolidate and amend the laws relating to Turnpike Trusts in South Wales."

2. *Alteration of Act.*—And be it enacted, That this Act may be amended or repealed by any Act to be passed in this session of Parliament.

CAP. LIV.

An Act to amend the Laws in force in Ireland for Unions and Divisions of Parishes, for the settlement of the patronage thereof, and the celebration of Marriages in the same. (July 31, 1845.)

CAP. LV.

An Act to continue for two years, and to the end of the then next session of Parliament, and to amend an Act of the second and third years of the reign of her present Majesty, intituled, "An Act to extend and render more effectual for five years an Act passed in the fourth year of his late Majesty George the Fourth, to amend an Act passed in the fiftieth year of his Majesty George the Third, for preventing the administering and taking unlawful oaths in Ireland. (July 31, 1845.)

CAP. LVI.

An Act to alter and amend an Act passed in the third and fourth year of the reign of her present Majesty Queen Victoria, intituled, "An Act to enable owners of settled estates to defray the expenses of draining the same by way of mortgage. (July 31, 1845.)

CAP. LVII.

An Act to extend Indemnity of Members of Art-Unions against certain penalties. (July 31, 1845.)

CAP. LVIII.

An Act to suspend till the First Day of October, 1846, the making of Lists and the Ballots and Enrolments for the Militia. (July 31, 1845.)

CAP. LIX.

An Act to continue to the First Day of October, 1846, and to the End of the then next Session of Parliament, an Act for authorising the application of Highway Rates to Turnpike Roads. (July 31, 1845.)

CAP. LX.

An Act to continue to the First Day of October, 1846, and to the end of the then next Session of Parliament, the Act to amend the Laws relating to Loan Societies. (July 31, 1845.)

CAP. LXI.

An Act to make certain further Provisions for the Consolidation of Turnpike Trusts in South Wales. (July 31, 1845.)

1. 7 & 8 *Vict. c.* 91. *Certain roads to become county roads.*—Whereas an Act was passed in the last session of Parliament, intituled "An Act to consolidate and amend the Laws relating to Turnpike Trusts in South Wales;" and whereas in pursuance of the said Act certain commissioners have been appointed to execute the powers and authorities thereby conferred, and to carry the same into execution; but the powers of the said commissioners will cease and determine by virtue of the said Act on the twenty-ninth day of September next; and whereas it is necessary that provision should be made for carrying certain parts of the said Act into effect after such commission shall have expired, and also that some further enactments should be made for more fully accomplishing the objects of the said Act; be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that from and after the passing of this Act the pieces of road in the schedule marked (A.) to this Act annexed shall become and shall respectively be managed and maintained as part of the county roads of the counties in which they are respectively situate.

2. *Provision for roads partly situated in different counties.*—And whereas the several pieces of road mentioned in Schedule (B.) to this Act annexed have heretofore been repaired and maintained as parts of certain turnpike trusts which extend respectively into two or more counties; and whereas it is expedient that such pieces of road should continue to be repaired and maintained under one uniform management, as heretofore; be it therefore enacted, That the several pieces of road mentioned in the schedule marked (B.) to this Act annexed, shall be and shall respectively be managed and maintained, and for the purposes of this Act and the above-recited Act be considered, as part of the county roads of the several counties therein specified respectively.

3. *Power to make new branch road in Brecknockshire, authorized by* 11 *Geo.* 4 *and* 1 *Wm.* 4 *c.* xxviii. *to be made by certain trustees therein named.*—And whereas by an Act passed in the eleventh year of the reign of King George the Fourth, intituled "An Act for more effectually repairing and improving several Roads in the Counties of Brecon, Radnor, and Glamorgan, and for making and maintaining several new Branches of Road to communicate therewith," the trustees for carrying the said Act into execution were empowered, amongst other things, to make and construct a certain line or branch of road commencing at or near Tavern-y-Prydd, on the turnpike-road leading from Builth to Llandovery, and thence crossing the rivers Dulas and Irvon, to Pontrhydverre, and from thence to the turnpike-road leading from the confines of the county of Caermarthen to Llandovery, and which said new line of road would extend through the several parishes of New Church, Llangammarch, and Llanwrtid, subject to the provisions and regulations of the said Act; and whereas the said line of road has not yet been made, but the same, if now constructed, would afford a complete communication between Builth and Llandovery, and would be otherwise beneficial to the said county of Brecknock; be it therefore enacted, That, subject to the provisions and restrictions contained in the said first-recited Act, all the powers conferred upon the said last-mentioned trustees by the said last-recited Act, so far as relates to the construction of the said last-mentioned line of road, shall be and the same are hereby vested in the County Roads Board of the said county of Brecknock, provided that such last-mentioned powers be exercised and the said line of road be constructed and made within five years from the passing of this Act; and such road, when completed, shall be managed and maintained as part of the county roads of the county of Brecon.

4. *Awards and charges made by Commissioners under former Act confirmed.*—And whereas the aforementioned commissioners have made certain apportionments by the said recited Act directed to be made, and have also made various awards and reports to her Majesty's Secretary of State for the Home Department, and the monies by the said awards directed to be paid have been paid or are in the course of payment; and to avoid any doubts as to whether in all respects the forms and directions by the said Act prescribed have been complied with, or as to whether the mode or terms of making the said apportionments, awards, and reports, on the matters contained therein, or the manner of the execution thereof, are in exact conformity with the provisions of the said Act, and to give full force and validity to the charges made or to be made in pursuance of the said Act, be it enacted that all charges made or to be made by the said commissioners, or by one or her Majesty's principal Secretaries of State, as the case may be, and purporting to be made in pursuance of the said recited Act, or of the said Act, and this Act, shall after the making thereof be good and effectual in all respects whatsoever, and according to the true intent and meaning thereof, and notwithstanding that in certain cases the said commissioners may not in all respects have complied, or may not hereafter comply with the precise forms and directions in the said Act contained, or may not have apportioned, or may not hereafter apportion, on different counties, parts of the debts of any turnpike trust, in any case in which the said commissioners have given or shall hereafter give in any report to such Secretary of State their reasons for not having made or for not making such apportionment, and such reports have been or shall be approved by such Secretary of State.

5. *Provision for facilitating payments by Exchequer Loan Commissioners. Former Payments confirmed.*—And be it enacted that the Public Works Loan Commissioners may pay any monies by the said awards or by any future awards directed to be paid to any

parties whom it shall be made to appear to their satisfaction are the persons or bodies beneficially entitled thereto, and notwithstanding any error or omission in the aforesaid awards or reports, or the awards or reports hereafter to be made, as to the parties, or the names, or descriptions of the parties entitled thereto; and further, that all payments already made, and which the said last-mentioned commissioners would have been entitled to make, and which would have been effectual if this Act had passed previously to the making of such payments, shall be and the same are hereby confirmed.

6. *Interest at Three per Cent. may be charged by Exchequer Loan Commissioners from time of payment until accounts are made up.*—And be it enacted, that all charges so made, or to be paid as aforesaid, shall be valid, notwithstanding interest after the rate of three pounds per cent. per annum has been or may be charged by the said Public Works Loan Commissioners on the amount of monies paid or to be paid by them, from the date of payment thereof up to the time of making up the accounts, as by the said Act is directed, and from which period the several annuities charged or to be charged upon the said counties respectively are to become payable, although the rate of interest charged or to be charged upon such monies is not specified in the aforesaid Act.

7. *Commissioners appoint trustees of monies secured upon charitable and religious trusts.*—And whereas the interest of and in divers sums of money charged or secured upon the tolls of certain turnpike trusts has been heretofore conveyed to or vested in trustees, in trust to apply the proceeds thereof to certain charitable and other purposes of a public nature: and whereas in some cases the trustees of turnpike roads have heretofore acted as the trustees of such sums of money so secured, and in some cases the deeds by which such trusts were constituted have been lost, or the trustees originally appointed have died, and no new appointment of trustees has since been made, or the person in whom the legal interest in such monies is now vested have become incapacitated, or are desirous to be relieved from the burden of such trusts; and it is expedient that provision should be made for the better securing of such moneys to the uses and purposes to which the same were intended and of right ought to be applied; be it therefore enacted, That, subject to the provisions of any general Act which may hereafter be passed for the regulation of charitable trusts in England and Wales, it shall be lawful for the commissioners acting in execution of the said recited Act, in any case in which they shall find that moneys have been secured upon the tolls of any turnpike trust in South Wales upon any such charitable or public trust as aforesaid, for the execution of which trust no trustees, or no persons legally qualified or competent to act as trustees, or no sufficient number of such legal and competent trustees, exist, by order under their hands and seal to appoint or substitute such fit and proper persons as they shall determine to be the trustees, either alone or jointly with any former or existing trustees, for the purpose of receiving and applying such moneys as aforesaid to the several charitable or public purposes to which the same were intended to be and have heretofore been applied, such purposes in each case to be specified in such order of the said commissioners, and also by such order to relieve and discharge any persons now being trustees of any such trusts as aforesaid, and who shall be desirous to be so relieved and discharged from the same, and to appoint other fit and proper persons in their stead; and in every such case the order of the said commissioners so made as aforesaid shall be a good and valid appointment or discharge, as the case may be, of such trustees, without any deed or instrument whatsoever.

8. *Trustees to invest the moneys awarded to them for the benefit of the trust.*—And be it enacted, That such trustees so appointed as aforesaid, so soon as they shall have received such moneys as shall be awarded to them by the said Commissioners, shall forthwith invest the same in the best and most advantageous manner for the uses and purposes of such trusts respectively, regard being had as well to the nature of the security by which such principal moneys may be assured as to the rate of interest payable on the same.

9. *Secretary of State empowered to extend or vary the limits of towns after the commission has terminated.*—And whereas by the said first-recited Act it is amongst other things enacted, that no toll shall be taken, and that no money arising from tolls on any turnpike roads shall be laid out in paving, repairing, or cleansing any street, road, or highway within the limits of any city or market or borough town for which there shall not be any local Act, and which said limits shall be fixed and determined, for the purposes of this Act, with respect to every such city or market or borough town respectively, by the said commissioners, upon the report and recommendation of the County Roads Board acting in and for the county to which any such city or market or borough town shall belong: and whereas the limits of the several cities and market and borough towns which are subject to the powers and provisions of the said Act have been fixed and determined by the said commissioners in the manner by the said Act prescribed; but it is expedient that power should be vested in some competent authority to vary or extend such limits in any particular case, from time to time, as circumstances may require; be it enacted, That after the termination of the said commission it shall be lawful for one of her Majesty's principal secretaries of state, if he shall think fit, by order under his hand, upon the recommendation of the County Roads Board acting in and for the county to which any such city or market or borough town shall belong, from time to time to vary or extend the limits which shall have been fixed and determined for the same respectively by the said commissioners as aforesaid.

10. *Repeal of part of 7 & 8 Vict. c. 91, s. 52, respecting toll for passing or repassing through any gate within a mile from boundary of county.*—And whereas by the said recited Act it is enacted, that from and after the repeal of the said local Acts respectively, when any toll shall have been once taken in respect of any horse or other animal not drawing, or of any horse or other animal drawing any carriage or vehicle, at any toll-gate or bar within any of the said counties, no toll shall be thereafter taken in respect of the same horse or other animal, or in respect of the same carriage or other vehicle, on the same day (to be computed from twelve of the clock of the night to twelve of the clock in the next succeeding night), for repassing through the same gate or bar, or for passing or repassing through any other gate or bar in the same county within the distance of seven miles from the gate or bar at which such toll shall have been taken, such distance being measured along turnpike roads only, nor for passing or repassing through any gate or bar in any other of the said counties adjoining within the distance of two miles from the gate or bar at which such toll shall have been taken, to be measured as aforesaid, along and in respect of turnpike roads within either of such counties, nor within one mile, measured as aforesaid, from the boundary of such counties; be it enacted, that so much of the said recited Act enacts, that no such toll as last mentioned shall be taken for passing or repassing through any gate or bar within one mile, measured as aforesaid, from the boundaries of such counties, shall be and the same is hereby repealed.

11. *Waggons on springs not to be liable to toll as caravans.*—And whereas doubts have arisen as to the description of carriages which may be liable to toll according to the provisions of the said-recited Act under the denomination of caravans; be it enacted, that no waggon, wain, cart, or other such like carriage shall be liable to toll as a caravan by reason of its being constructed on springs, unless the same shall be customarily employed in the conveyance of passengers for hire.

12. *County Roads Board for Carmarthen may carry out a certain agreement under 11 Geo. 4, and 1 Wm. 4, c. 16.*—And whereas under and by virtue of an Act passed in the eleventh year of the reign of King George the Fourth, intituled "An Act for Inclosing Lands within the several parishes of Kidwelly, St. Mary Kidwelly, Saint Ishmael, and Pembrey, in the county of Carmarthen," a certain agreement was entered into between the commissioner for carrying out the said inclosure and the trustees of the Kidwelly trust, for constructing a line of turnpike-road along a certain embankment across the Gwendraeth Fawr river in the said county: and whereas such agreement has been only partially carried into effect: and whereas the Act constituting the said Kidwelly trust has been recently repealed under the powers conferred by the herein-before first-recited act: and whereas it is expedient to vest in the County Roads Board of the said county power to complete and carry out the said agreement in like manner as it might have been had the said Kidwelly trust continued to exist; be it therefore enacted, that the said County Roads Board of the said county may, if they shall think it expedient so to do, complete and carry out the said agreement with the commissioner acting under the Kidwelly Inclosure Act, in like manner as the trustees of the Kidwelly Turnpike Trust might have done; and that such road along the said embankment, when completed, shall become and be a part of the county roads of the said county of Carmarthen.

13. *County roads boards may dispose of their vested interest in toll-houses.*—And whereas the carrying into execution the said recited Act will cause several of the toll-houses now or lately vested in the trustees of the several turnpike trusts in South Wales to become useless for the purpose of toll-houses: and whereas the pulling down and disposing of the same, according to the provisions of general turnpike Acts, would be attended with great loss to the several counties in which the same are situate, and many of the said toll-houses may be disposed of and left standing without injury to any parties; be it therefore enacted, that the several County Roads Boards in South Wales in whom any freehold or other interest in such toll-houses may have become vested may make sale of or otherwise dispose of such interest, any thing in the said general turnpike Acts or in any other Act to the contrary notwithstanding: provided always, that the said County Roads Boards, before they shall proceed to dispose of any such toll-house, shall cause their interest in the same to be valued by some indifferent surveyor; and in case their interest in the same shall be any interest less than freehold such interest shall be first offered, at the price which the said surveyor shall have put upon the same, to the person to whom such freehold shall belong, or if their interest in the same shall be a freehold interest, then to the owner of the lands surrounding such toll-house, or to the lord of the manor, in case such toll-house shall have been built upon the waste; and in case any of the said parties respectively to whom such right of pre-emption may belong shall not within one month after such offer made consent to purchase the same, or in case such toll-house shall adjoin the lands of two or more owners, or shall not stand upon the waste of any manor, then the Country Roads Boards may proceed to dispose of the same by auction, or in such other manner as they shall deem most expedient.

14. *As to interpretation of Act.*—And be it enacted, that the words used in this Act shall be construed according to the same rules of interpretation as are prescribed in the said-recited Act.

15. *Alteration of Act.*—And be it enacted, that this Act may be amended or repealed by any Act to be passed in this session of Parliament.

SCHEDULES to which the foregoing Act refers.

SCHEDULE (A).

1. A piece of road leading out of the present turnpike-road from Llandowror to Haverfordwest, at or near a place called Tavernspite, in the county of Pembroke, and joining a certain other turnpike-road leading from Llandowror to Hobbs Point, at or near a place called the Red Roses, inthe county of Carmarthen.

2. A piece of road lying between Carmarthen-bridge and the toll-gate now called Pensarn-gate.

3. A piece of road lying between the northern end of the bridge over the Towey at or near Llangathen and the main road from Carmarthen to Llandilo Fawr near the Broad Oak.

4. So much of the road leading from Carmarthen to Lampeter as lies between the main turnpike-road from Carmarthen to Llandilo and Glangwilly Bridge.

SCHEDULE (B).

1. A portion of the turnpike-road between the towns of Brecon and Hay, of the length of half-a-mile or thereabouts, and lying within the county of Radnor, as part of the county roads of the county of Brecknock.

2. All those parts of the turnpike-road leading from Neath to Merthyr Tydvil towards Abergavenny, as far as Rhydyblew, which lie in the counties of Brecknock and Monmouth respectively, as part of the county roads of the Glamorgan.

3. Two several portions of turnpike-road lying in the county of Hereford, and situate respectively between the termination of the Mortimer's Cross Trust and New Radnor, and also so much of the turnpike-road between Knighton and Walton as lies in a certain detached part of the county of Hereford, as parts of the county of Radnor.

THE MAGISTRATE.

Summary.

No incident calling for especial notice has offered since our last.

COST OF THE POOR IN MIDDLESEX.—The appendix to the 11th Annual Report of the Poor Law Commissioners contains, among other returns, one relating to the amount of money levied and expended for the relief and maintenance of the poor in each union, and for parishes not united under the Poor Law Amendment Act in England and Wales for the year ended the 25th of March, 1844, &c. It thence appears that, during that year, the amount levied by assessment for the poor-rate in Middlesex (consisting of the Finsbury, Holborn, and Tower divisions of the Ossulston Hundred, and the city and liberty of Westminster) was 348,130*l.* There was, in addition to that sum, a further amount of 19,147*l.* received from other sources in aid of the poor-rate; thus making a total received for the relief, &c. of the poor of 367,277*l.* The amount expended during the above-mentioned period in relief, &c. of the poor, in the said parishes was 175,740*l.* 19*s.*; the sum of 3,850*l.* was expended in law charges; a further amount of 508*l.* was paid to the various vaccinators, under the Vaccination Exten[illegible] Act, besides an outlay of 20*l.* for register and certificate books; 2,593*l.* was paid in way of fees to clergymen and registrars, and 65*l.* as outlay for register, offices, books, forms, and other incidental expenses, under the provisions of the Registration Act. The payments under the Parochial Assessment Acts (for survey's valuations, &c.) and loans repaid under the same, amounted to 528*l.* The payments towards the county-rate amounted to 50,846*l.*; and those towards the county and local police forces, 92,319*l.* The money expended for all

other purposes amounted to 31,250*l*.; and the total parochial rate, &c. expended, to 857,721*l*. For medical relief there was an outlay, during the same period of twelve months, of 6,273*l*. in the above-mentioned parishes, which are not in union under the Poor Law Amendment Act.—*Globe*.

The following building is certified as a place duly registered for solemnizing marriages, pursuant to an Act of 6 & 7 Wm. 4, c. 85:—Wesleyan Chapel, " nington, Lancashire. John Hayes, superintendent registrar.

THE LAWYER.

Summary.

The only subjects of interest we have this week to offer will be found subjoined.

PRACTICAL NOTES.—No. IV.

PAYMENT INTO COURT.

(*Concluded from page* 158.)

As before explained, payment into court operates as an admission of the allegations in the declaration or count, to which, if traversed, the plaintiff would have been bound to prove, and we proceed now to apply this principle to cases of payment into court upon special counts.

Where the declaration is upon a special contract, the payment into court admits not only the contract as alleged, but also that the plaintiff is entitled to some damages upon each breach, although the plea be pleaded to one breach only. (*Dyer* v. *Ashton*, 1 B. & C. 3; *Wright* v. *Goddard*, 8 A. & E. 144; 3 Nev. & P. 361.) It follows, from the very nature of this admission, that the non-performance by the plaintiff of a condition precedent is waived by it, for if evidence of such non-performance could be received, the plaintiff would have no right of action contrary to the defendant's admission upon the record. So also it is a waiver of an objection that the action was brought too soon. *Harrison* v. *Douglas* (3 A. & E. 396; 5 Nev. & Man. 180), will afford an apt illustration of this part of the subject. That was an action upon a policy of assurance which declared that certain rules should be deemed a component part of the policy. By one of these rules the assured was not entitled to be paid, in case of a loss, till a period which was made contingent upon certain events. Money was paid into court on two of the counts, one of which was on the policy averring generally a performance by the plaintiff of all things in the policy continued to be performed on his part, and a compliance with all the conditions, &c. thereby referred to and subjoined thereto. The Court held a particular statement as to testing the tables to be a direction, and not a condition precedent, but said that, had it been a condition precedent, the payment of money into court would have been a waiver of its performance. The evidence further shewed that the period named had not arrived before the commencement of the action, but left it uncertain whether the whole payment was to be made at once or by instalments. The Court said, "There is no doubt but the action is brought too soon, and it would be a cause of nonsuit, if it was not for the paying of money into court. That admits, to some extent at least, that the plaintiff was entitled to recover. * * If the whole was to be paid at once as one entire sum, in which no distinction could be made between one part and the rest, then as the payment of money into court admitted part to be due, it would constitute an admission of the whole; but not so if it was to be paid by instalments. It lay upon *the defendant* to have this distinctly ascertained, because the admitting of part unexplained would operate as an admission of the whole."

Wright v. *Goddard* (8 A. & E. 144; 3 Nev. & P. 361), was a decision to the same effect. The declaration was in covenant for nonrepair of demised premises. It would have been bad upon demurrer, for treating the covenant to repair as an absolute one, and not noticing the exception of reasonable wear and tear, and also for not shewing that the notices to repair were in writing, and also for mixing a claim for damages on the breach of covenant to repair after notice, with the claim for breach of the covenant to repair generally. But all these defects were held to be cured after verdict by the effect of payment into court generally, which must be taken to admit some damage upon every part of the breach of covenant.

In strict accordance with this principle, in an action for wrongfully discharging the plaintiff from the defendant's service, the defendant was not allowed, after payment into court, to give in evidence, even in mitigation of damages, that the plaintiff was discharged for misconduct. This, if true, would have been an answer to the action altogether, and therefore could not be received when the record contained an admission that the plaintiff had some right of action. (*Speck* v. *Philips*, 5 M. & W. 279.)

But an important qualification of the extent of the admission must be carefully observed. Upon the same principle which decides the effect of payment into court upon the general *indebitatus* counts, a defendant does not admit the allegations in a special count more precisely than the plaintiff has bound himself to prove them, if put in issue by non assumpsit. *Cooper* v. *Blick* (2 Q. B. 915) is the case which best illustrates this; and, in the course of the argument, all the principal previous cases were quoted. The declaration there stated, that in consideration that plaintiff would enter into defendants employ, to wit, in the capacity of editor of a newspaper, *at and for a certain salary, to wit, at the rate of* 400*l. per annum*, and would continue in their service till the expiration of three months after notice to determine the contract, defendants promised to employ him in the said capacity at the said salary, and to continue him in the service till the expiration of three months after notices, &c., or to pay him a proportionate part of the salary for three months, but that plaintiff had been dismissed without notice or the three months' salary. Defendant paid 37*l*. 10s. into court generally. On the trial, plaintiff did not prove the contract for 400*l*. but relied on the payment into court as an admission of the amount. The judgment then delivered by Patteson, J. is so much to the point that we give it at length. He said:—"There was no proof in this case of a specific contract to serve as editor, but it is contended that the payment into court admits that contract, and I agree that it does. The *videlicet* as to that has no operation; the averment must be material. But the amount of salary also is laid under a *videlicet*. As to the effect of that averment, the true test is whether, if *non assumpsit* had been pleaded, the plaintiff would have been bound to prove the amount as laid. The payment admits a contract, but only to that extent to which the plaintiff is bound to prove it. The admission cannot tie the defendants where the plaintiff would be loose. The strongest case cited for the plaintiff was *Preston* v. *Butcher* (1 Stark. N.P.C. 3), but it does not go the length the argument here would carry it. The ruling shews that the plaintiff there was bound, notwithstanding the *videlicet*, to prove a specific contract, an agreement for some given amount, but not that he was obliged to prove the precise amount named in the declaration. None of the cases shew that in a declaration of this kind a particular sum is material. In declaring on a bill of exchange the sum is so, but there (as Mr. Whitehurst observed) it is matter of description. The amount of salary here was not so. As the plaintiff lays it under a *videlicet* for his own safety he must take the consequence, namely, that the defendants were not bound to the allegation so made. Had the *videlicet* been omitted, the same test would have been applied, the plaintiff would have been bound to the precise statement, and the defendant's admission, by paying into court, would have bound him in the same manner. The sum is not in its nature material, and is not made so by these pleadings."

The effect of a *videlicet* was stated by the same learned judge, in the course of an argument, thus tersely and clearly: "A *videlicet* cannot make that immaterial which is in its nature material, though the omission of it may render that material which would otherwise not be so."

Effect of payment into court upon the costs.—The plaintiff does not, by taking the sum paid into court, and discontinuing the action, bring himself within the operation of the Acts relating to Courts of Request, and lose his costs; but at the same time the defendant is not precluded from entering a suggestion to deprive him of the costs, if the action was really brought for less than the sum required by the particular Act to give the plaintiff costs. (*Jordan* v. *Berwick*, 9 M. & W. 3; 1 D.N.S. 102.) So the acceptance of the sum paid in does not bring the plaintiff within the operation of 43 Geo. 3, c. 46, s. 3, which gives the defendant costs where the plaintiff arrests him without probable cause for a sum greater than is afterwards *recovered*. Recovery means recovery by judgment. *Davey* v. *Renton* (2 B. & C. 711; *Brooks* v. *Rigby* (2 A. & E. 21; 2 Nev. & M. 3.) The reason is that the plaintiff may have been induced to accept the smaller sum to avoid further expense in litigation. But this probability was disregarded by the judges in framing the rules for taxation of costs, as it is expressly provided, that where the sum recovered or paid into Court, and accepted by the plaintiff in satisfaction of his demand, does not exceed 20*l*. the costs are to be taxed upon the lower scale. (R. G. T. T. 7 Vict.) In actions upon securities bearing interest, care should be taken to pay in a sufficient sum to cover the interest to the time of paying in the money, for if this is not done, the plaintiff may proceed and will recover the amount of interest left unpaid. *Kidd* v. *Walker* (2 B. & Ad. 705). We have now touched on the most practical points connected with the payment of money into Court, and in conclusion we shall merely refer to some other cases which it would be necessary to insert, if we proposed to give a complete view of the subject in all its bearings. These cases are *Jones* v. *Gooday* (9 M. & W. 736); *Handcock* v. *Foulkes* (9 M. & W. 131); *Gould* v. *Oliver* (2 M. & Gr.); *Bulwer* v. *Horne* (4 B. & Ad. 132); *Bailey* v. *Sweeting* (12 M. & W. 616); *Fischer* v. *Aide* (3 M. & W. 486); and other cases cited in 1 Wms. Saund. 33 *l*. 6th edit. *Henry* v. *Earl* (8 M. & W. 228); *Brune* v. *Thompson* (4 Q. B. 543). E. W.

THE LAW AND PRACTICE OF PROCEEDING AGAINST A TRADER-DEBTOR.

Under the Statute 1 & 2 *Vict. c.* 110. *s.* 8.

(*Continued from page* 441.)

Chap. V.

THE BOND.

41. If the trader, upon his appearance in Court, (not having established any objection to his creditors' proceedings) shall refuse to admit the demand, and shall not make a deposition that he has a good defence to it, "then and in either of the said cases, it such trader shall not, within fourteen days after personal service of such summons, or within such enlarged time as may be granted to him in that behalf, pay, secure, or compound for such demand to the satisfaction of such creditor, or enter into a bond in such sum, and with two sufficient sureties as such Court shall approve of, to pay such sum as may be recovered in any action which shall have been brought, or shall thereafter be brought, for the recovering of the same, together with such costs as shall be given in such action," (5 & 6 Vict. c. 122, 11), he will render himself liable to be made a bankrupt.

WITHIN WHAT TIME THE BOND MUST BE GIVEN.

42. The trader must enter into the bond within fourteen days after personal service of the summons, or such enlarged time as the Court may think fit to grant for that purpose.

NOTICE OF TRADER'S INTENTION TO GIVE BOND

43. By General Rules and Orders, November 12, 1842, Rule 35, it is ordered that "before any defendant shall be allowed to enter into a bond with sureties, according to the provisions of the said Act, he shall give to the plaintiff, or his attorney, a notice in writing, signed by the defendant, or his attorney, of the defendant's intention so to proceed." *This must be a six days' notice.* (General Orders, No. 41). And by Rule 36, such notice of sureties shall be accompanied with a true copy of the affidavit of sufficiency, which affidavit shall be in the following form, viz.:

In the Court of Bankruptcy, London.
(*Or*, in the Court of Bankruptcy for the District).
Between A B and E F.

L M of , in the, &c. and N O of, &c. , (adding their places of residence respectively, according to the particulars set forth in Rule 21,) severally make oath and say, and first the said L M for himself saith, that he is one of the proposed sureties for the above-named defendant, and that he, the said L M, resides at , aforesaid, and that he is worth property to the amount of £ , over and above what will pay and satisfy all his just debts and incumbrances. "*That he is not surety in any manner for the above-named defendant or any other person except on the present occasion*, (or if he is surety on any other occasion, substitute for the the words *in italic* the following:—"*and every other sum for which he is now surety*"). That his, the said L M's, property, to the amount aforesaid, consists of. [here specify the nature and value, according to the circumstances of the

case, as follows:] stock in trade in his business of a , carried on by him at , of the value of £ ; of good book-debts owing to him to the amount of £ ; of furniture in his house at of the value of £ ; of a freehold [or, leasehold] farm of the value of £ situate at , occupied by , or of a dwelling-house of the value of £ , situate at , occupied by ; or of other property [particularizing each description of property, with the value thereof]; and the said L M further saith, that for the last six months he has resided at aforesaid [or, if he has resided at several places, then say, "at the following places," particularizing them according to the form of describing place directed by rule 21]. And the above-named deponent N O, for himself, saith [here pursue the same form as with respect to the former surety]. And by rule 37, the amount of property so sworn to shall be the same demanded, fractional parts of a pound excepted, and one-fourth more.

This affidavit of sufficiency must be filed in court. The notice may be in the following form:—

44. In the Court of Bankruptcy [Bristol].
In the matter of E F, of , a trader-debtor.
I hereby give you notice, that, in pursuance of the provisions of the statute 5 & 6 Vict. c. 122, intituled, "An Act for the Amendment of the Law of Bankruptcy," I intend to enter into a bond, with two sufficient sureties, for the payment of any sum which A B, of (who has filed an affidavit of debt, and served me with a true copy of the same, according to the said statute), may recover against me in any action which shall have been brought, or may hereafter be brought, against me, by the said A B, for the recovery of the same, together with the costs thereof; and I hereby further give you notice, that the said sureties will be L M, esq., residing at , and N O, merchant, residing at , and carrying on the business of a merchant at ; and that the said L. M. and N. O. have made the required affidavit of their sufficiency, a true copy of which affidavit is hereunto annexed; and I also further give you notice that I shall attend, together with the said sureties, before the commissioner (Stephenson), on the day of , at 11 o'clock in the forenoon, for the purpose of obtaining his approval of the said bond.

(Signed) E F.
[or, V W, attorney for the said E F.]
To X Y, attorney for A B, of ; or,
To A B, of .

By General Rules and Orders, Nov. 12, 1842, rule 38, "The plaintiff shall be at liberty, within four days after service of notice of sureties, to except to the proposed sureties, or either of them, by delivering a written notice to the defendant, or his attorney, to the effect generally, that he excepts to such surety" [or sureties, as the case may be].

40. *Form of Notice of Exception to Sureties.*
45. In the Court of Bankruptcy (Bristol).
In the matter of E F, of , a trader-debtor, I hereby give you notice that I shall except to the sufficiency of L M and N O, the proposed surety (or sureties) for the said E F.

(Signed) A B.
[Or X Y, attorney for A B.]
To E F, of
[or Mr. V W, attorney for E F.]

SURETIES, WHERE AND HOW TO BE OPPOSED.

46. By General Rules and Orders, Nov. 12, 1842, rule 39, it is ordered that "Two days after the service of such notice of exception, the defendant or his attorney, shall attend, at eleven o'clock in the forenoon, in open court, with the bond duly stamped, and with an affidavit by the subscribing witness of the execution of such bond; and the plaintiff, or his attorney, shall be at liberty to oppose the sureties, or either of them, upon affidavit, or on the ground of any defect appearing on the face of the proceedings."

By General Rules and Orders, Nov. 12, 1842, rule 41, it is ordered, that "Where no notice of exception is served, the defendant, or his attorney, shall attend in open court on the sixth day after the service of notice of sureties, at eleven o'clock in the forenoon, with the bond and affidavit of execution as aforesaid, and also with an affidavit of the service of notice of sureties, and an office copy of the affidavit of sufficiency.

The following is the form of the affidavit of service of notice:—

In the Court of Bankruptcy (Bristol).
In the matter of E F, of a trader-debtor.
V W, of maketh oath and saith, that he, this deponent, did, on the day of inst. [or last] serve A B, of [or X Y, the attorney acting for A B in this matter], with a notice in writing signed by the said E F [or by this deponent, as the attorney acting for the said E F in this matter], a true copy of which notice is annexed hereto (marked 1), and also with an office copy of an affidavit of L M and N O (the sureties for the said E F), mentioned in the said notice, as to their sufficiency, and which affidavit was sworn in the Court of Bankruptcy (Bristol), on the day of , 184 , by personally delivering the said notice and office copy of affidavit to the said A B [or by delivering to and leaving the same with the said X Y, the attorney for the said A B in this matter].
Sworn, &c. (Signed) V W.

THE AMOUNT IN WHICH THE BOND IS TO BE TAKEN, AND THE CONDITION.

47. By General Rules and Orders, Nov. 12, 1842, rule 40, it is ordered, that "the bond shall be taken in a penal sum, to be the amount of double the sum demanded, and shall be executed by the defendant and both sureties to the plaintiff, and the form of the condition shall be as follows:—

Condition of Bond.

48. Whereas the said [plaintiff] and one C D, by their affidavit sworn and filed in the Court of Bankruptcy [or in the District Court of Bankruptcy at], on the day of , 184 , according to an Act passed in the session of Parliament, holden in the 5 & 6 years of the reign of Queen Victoria, intituled, &c., severally deposed as follows; that is to say, the deponent [plaintiff] for himself said [here set forth the affidavit for summons], and whereas the said court did, upon the filing of such affidavit, issue a summons according to the said Act, which was duly served on the said [defendant], on the day of , in the year 184 . And whereas the said [defendant] upon his appearance to the said summons [or at an enlargement or adjournment of the said summons, as the case may be], refused to admit such demand, and made no deposition according to the said Act, that he believed he had a good defence to such demand [or signed an admission for part only of such demand, viz. the sum of £ , and did not make a deposition according to the said Act, that he believed he had a good defence to the residue of such demand]. And whereas the said defendant has requested the said [sureties], [as sureties for him], to join him in the present obligation conditioned as hereinafter appearing, to which they have consented; and the said defendant has given notice thereof to the said plaintiff. *And whereas the said plaintiff hath brought an action at law for recovery of the said demand [or of the residue of the said demand, as the case may be].* (a)

Now the condition of the above-written obligation is such, that if the said [defendant], his executors or administrators, shall pay such sum or sums to the said [plaintiff], his executors, administrators, or assigns, as shall be recovered *in the said action*, or any *other* action *which may have been brought*, or shall hereafter be brought for the recovery of the said demand [or the residue of the said demand, as the case may be], together with such costs as shall be given in the same, then the present obligation shall be void, otherwise shall remain in full force and virtue.

Form of Affidavit of Execution of Bond.

In the Court of Bankruptcy (in Bristol).
In the matter of E F, of , a trader-debtor, V W, of , maketh oath and saith, that he, this deponent was present on the day of 184 , and did see E F, of (debtor), and and L M and N O (sureties for the said E F), severally and duly sign, seal, and deliver as their several acts and deeds, a certain bond or obligation bearing date the day of , 184 , whereby the said E F, and also the said L M, and the said N O, became bound to A B, of (creditor), his executors, administrators, and assigns, in the penal sum of £ , conditioned as thereunder written, and that the several names E F, L M, and N O, set and subscribed against the seals of the said bond, as the parties subscribing and executing the same, are in the proper handwriting of the said E F, L M, and N O, and that the name V W, set and subscribed to the said bond as the witness attesting the execution thereof, is in the proper handwriting of the said V W, this deponent.

Signed V W.

If the Commissioner approves of the bond, he endorses his approval on it, and when he has once done so he is *functus officio*, and cannot revoke it. (*Ex parte Neale*, 11 Law J. Rep. N. S. Bankruptcy, p. 22.)

(a) If no action be brought, omit the part in *italic*.

The approval of the Commissioner may be by parol. (*Ex parte Neale, supra.*)

The bond is then handed to the Registrar, who makes an entry of the particulars of it in the register, after which it is given to the creditor or his solicitors.

Chap. VI.

THE ACTS OF BANKRUPTCY.

50. *Trader not appearing to summons, or appearing and not admitting demand, shall not, within fourteen days, pay, secure, compound, or give bond.* By 5 & 6 Vict. c. 122, s. 13, it is enacted, "That if any such trader so summoned as aforesaid, shall not come before such Court at the time appointed (having no lawful impediment made known to and proved to the satisfaction of the Court, at the said time, and allowed), or if any such trader upon his appearance to such summons as aforesaid, or at any enlargement or adjournment thereof (as the case may be), shall refuse to admit such demand, and in either of the said cases, if such trader shall not, within fourteen days after personal service of such summons, or within such enlarged time as may be granted to him in that behalf, pay, secure, or compound for such demand to the satisfaction of such creditor, or enter into a bond in such sum, and with two sufficient sureties, as such Court shall approve of, to pay such sum as shall be recovered in any action which shall have been brought, or shall thereafter be brought, for the recovering of the same, together with such costs as shall be given in such action, every such trader shall be deemed to have committed an act of bankruptcy on the fifteenth day of the service of such summons, provided a fiat in bankruptcy shall issue against such trader within two months from the filing of such affidavit."

The above section points out two several cases in which the trader-debtor may commit an act of bankruptcy:—

1st. If the trader shall not appear to the summons (having no lawful impediment made known to, and proved to the Court at the said time, and allowed);

And 2ndly, If upon his appearance to the summons, or at any enlargement or adjournment thereof (as the case may be), he shall refuse to admit his creditor's demand, *and* shall not make a deposition that he has a good defence to any action that may be brought against him to recover the same, then in either of the above cases, if such trader-debtor shall not, within fourteen days after personal service of the summons, pay or secure, or compound for the demand, to his creditor's satisfaction, *or* enter into a bond, with two sufficient sureties, for the payment of any sum which his creditor may recover against him in any action brought for the recovering of his demand, together with costs, he shall be deemed to have committed an act of bankruptcy on the fifteenth day after personal service of the summons, provided a fiat shall issue against him within two calendar months from the filing of such affidavit.

WHAT SHALL BE DEEMED A REFUSAL TO ADMIT.

51. Provided that, if any such trader so summoned as aforesaid, shall, upon his appearance before such court, refuse to sign the admission in that behalf required as aforesaid, *whatever may be the nature of his statement, or whether he makes any statement or not*, it shall be deemed for the purpose of this Act that every such trader thereby refuses to admit such demand: provided always, that it shall be lawful for such Court, upon reasonable cause shewn, to enlarge the time for calling upon such trader to state whether or not he admits such demand, or any part thereof. (5 & 6 Vic. 122, s. 16.)

TIME, HOW COMPUTED.

52. By General Rules and Orders, Nov. 12, 1842, Rule 43, it is ordered that, "In all cases in which any particular number of days is above-described, or shall be mentioned in any of these Rules and Orders, or any other rule or order of Court, for the doing of any Act, the same shall be reckoned in the absence of any expression to the contrary, exclusive of the first and inclusive of the last day, unless the last day shall happen to fall on a Sunday, Christmas-day, Good Friday, or a day appointed for a public fast, or thanksgiving, in which case the time shall be reckoned exclusive of that day also."

In a case in the Common Pleas where the plaintiff had proceeded as well by action as by summoning the defendant under 5 & 6 Vict. c. 122, ss. 11 and 13, before the Court of Bankruptcy, for the purpose of having the debt admitted, and the defendant had, in consequence of such proceedings in

Bankruptcy, paid the debt:—it was held that defendant could not stay the proceedings in the action without, at the same time, paying the costs. (*Covington* v. *Hogarth*, 4 Law T. 157).

The fiat must issue within two months from the filing of the creditor's affidavit.

(*To be continued.*)

PROMOTIONS, APPOINTMENTS, ETC.

[Clerks of the Peace for Counties, Cities, and Boroughs, will oblige by regularly forwarding the names and addresses of all new Magistrates who may qualify.]

WHITEHALL, Aug. 21.—Sir James Robert George Graham, bart. one of her Majesty's Principal Secretaries of State, has been pleased to appoint William Blamire, esq. and George Darby, esq. Inclosure Commissioners for England and Wales.

SCOTCH POOR-LAW BILL.—We understand that Sir John Macneill, G.C.B. is to be First Commissioner under the Scotch Poor-law Amendment Act, and William Smythe, esq. advocate, secretary to the Board.—*Scotch Reformers' Gazette.*

CROWN OFFICE, Aug. 26.—Member returned to serve in the present Parliament.—Stewartry of Kirkcudbright: Thomas Maitland, esq. of Dundrennan in the room of Alexander Murray, esq. deceased.

WHITEHALL, August 19.—The Right Hon. N. C. Tindal, knt. Lord Chief Justice of her Majesty's Court of Common Pleas, has appointed John Owen, of Manchester, in the county of Lancaster, gent. to be one of the Perpetual Commissioners for taking the acknowledgments of deeds to be executed by married women, under the Act for the abolition of fines and recoveries, in and for the county of Lancaster.

The Right Hon. Sir N. C. Tindal, knt. Lord Chief Justice of her Majesty's Court of Common Pleas, has appointed Thomas Burn, jun. of Sunderland, in the county of Durham, gent. to be one of the Perpetual Commissioners for taking the acknowledgments of deeds to be executed by married women, under the Act for the abolition of fines and recoveries, in and for the county of Durham.

The Right Hon. Sir N. C. Tindal, knt. Lord Chief Justice of her Majesty's Court of Common Pleas, has appointed William Wood, of Pontefract, in the county of Yorkshire, gent. to be one of the Perpetual Commissioners for taking the acknowledgments of deeds to be executed by married women, under the Act for the abolition of fines and recoveries, in and for the West Riding of the county of York.

The Right Hon. Sir N. C. Tindal, knt. Lord Chief Justice of her Majesty's Court of Common Pleas, has appointed Copleston Lopes Radcliffe, esq. of Plymouth, in the county of Devon, gent. to be one of the Perpetual Commissioners for taking the acknowledgment of deeds to be executed by married women, under the Act for the abolition of fines and recoveries, in and for the county of Devon.

LEGAL INTELLIGENCE.

POWER OF THE CORONER TO HOLD AN INQUEST TOUCHING FIRES.—The late extensive fire in Aldermanbury, having induced Mr. Payne, the city coroner to revive the ancient practice of inquiry into the cause of all burnings within his district, we think it advisable to give a full report of this, the first inquest of the kind, since the old custom had fallen into disuetude.

On Friday last a jury of the inhabitants of the ward of Cripplegate Within were empanelled before Mr. W. Payne, the City coroner, at the school-house, Philip-lane, Aldermanbury, to inquire into the cause of the late fire on the premises of Messrs. Bradbury and Co., Manchester warehousemen, of Aldermanbury.

The investigation, from its novelty, ited considerable interest, several of the common council of the ward, together with the civic authorities, being present.

The Coroner, on taking his seat, said he would take the liberty of stating, as the present was rather a novel proceeding, why he had called them together. Latterly the number of fires in London had considerably increased, and when they took into consideration that nothing was so fearful as fire, they would be of opinion with him, that when they had the power to inquire into the causes of such fires, nothing could be more important to the public at large than that the cause should be closely investigated. The ancient authorities showed that in olden times it was the practice of the coroner to inquire into all burnings within his district, and that power still belonging to the coroner, although grown into disuetude, he thought they would be of opinion with him that it was most important that it should be again brought into force. In Horne's Mirror of Justice, the duties of a coroner were clearly laid down, and among those duties the coroner was to inquire of all burnings, whether they were caused by felony or mischance. If they were of opinion that they had been set on fire with a felonious intent, then it was their duty to inquire and ascertain what party was guilty of that felony. It was clear, therefore, in the olden time, that part of the coroner's duty was to inquire into all burnings, and he need not say how necessary it was to revive it at the present time. No one had the power to inquire into the causes of a fire, not even a magistrate, unless a party was in custody charged with causing it. The persons living in the neighbourhood of a fire were always most anxious to know how it occurred, and he thought the public would consider that he had done no more than his duty in causing a jury to be summoned to inquire into the circumstances of the late fire, who also might, by any suggestions thrown out, prevent, in a great measure, fires being so numerous. He had directed a number of persons to be summoned to give evidence as to the cause of the recent fire in Aldermanbury, so that they might come to a proper verdict whether it was caused by accident or otherwise.

The following is the form of oath administered to the jury:—"You shall well and truly inquire, on behalf of our Sovereign Lady the Queen, how a certain house and premises in Aldermanbury were lately burnt, and a true verdict give, according to the evidence, so help you God." Asher Cousins, a packer in the service of Messrs. Bradbury, Greatorex, and Beall, discovered the fire about twenty minutes before eight o'clock on Monday night, in the cellar under the packing room. The smoke was coming up through an iron grating, and on his going into the cellar, which was used for keeping boxes and papers in, he saw a pile of paper on fire. He tried to put the fire out, but was unable. No one was in the cellar when he went down. The witness at great length explained the relative positions of various gas lights on the premises, and stated that it was usu. to light them by means of wax-tapers, and paper.

Several witnesses employed upon the firm, whose evidence went to shew that the fire originated beneath the grating, in the packing-room, and immediately underneath a gas-light in that room, but no one could tell who lit that gas light on the evening of the fire, having been examined,

Mr. Braidwood said, having heard the evidence, he was of opinion that the fire originated from a light dropping through the grating amongst the paper in the cellar.

Mr. Beall, one of the partners, said he recollected that about half an hour before the fire occurred, he lit one of the gas lights with a piece of paper, which he th w upon the floor, and placed his foot upon. After a most patient investigation into all the circumstances of the case, the jury returned a verdict—"That the fire was caused by accident."

PROCLAMATIONS OF OUTLAWRY.—Thursday being County-Court day, Mr. Hemp, the officer to the sheriff, made proclamation in the usual manner against the following at the suit of their several creditors:—William le Poer Trench; Alexander Dalgleish; John R. Brinckman, otherwise Broadhead Gilbert Ainslie Young; Sir Henry Wyatt; H. C. S Irving; Charles Irving; the Rev. George Bridges Lee Warner (clerk); Hon. Percy Drummond, at the suit of three several creditors; William Randall; Joseph Ferdinand Count Taaf; Richard Fulke Greville, commonly called the Hon. R. F. Greville; Sir C. E. Grey, Bart.; Richard Gay; Patrick Leonard O'Rielly; Charles White; John Hunter; Henry Whitaker; Alexander Roper; and B. L. Vulliamy.

ELECTION OF A JUDGE.—A meeting of the Commissioners of the Westminster Court of Requests was held at the court on Monday, to nominate the candidates for the office of judge or assessor to the court, agreeably to the provisions of the Small Debt Act. There was a full attendance of commissioners. Mr. Green, of Soho-square, was elected chairman; and Mr. Cuff, the clerk, proceeded to read over the applications from the various barristers and solicitors, candidates for the appointment. Most of the candidates were backed by a long list of testimonials from judges and gentlemen of the legal profession among them were Mr. Keane, Mr. Moylan, M.. Horry, Mr. Thomas, and Mr. Campbell, all barristers. The solicitors are Mr. Le Breton, clerk to the parish of St. Martin-in-the-Fields; Mr. A'Beckett, of Golden-square; and Mr. Howorth, of High-street, Camden-town. Monday next is the day for the election. The contest will be very close. The number of commissioners for the nine parishes of Westminster is 288; but not more than half have qualified so as to entitle them to vote.

THE GAME LAWS IN WILTS.—It is a remarkable fact, that there is not, at the present time, one individual confined in either of the prisons in this county for offences against the Game Laws; nor has there been one of this description of offenders in confinement for six week past, although the county abounds with preserves and coursing-grounds as much, probably, as any shire in the kingdom, and although there are petty sessions held weekly in about twenty places within the county.

CAPRICES OF JUSTICES.—It appears that it is much safer to shoot a man in a duel than to chastise him for an insult. On the Northern Circuit, Mr. Potter, the son of the mayor of Newcastle, was convicted of an assault on Mr. Hernaman, the editor of the *Newcastle Journal.* The provocation, we have have been informed, was very great, the family of Mr. Potter having been attacked in a series of personal articles. The judge, Mr. Justice Cresswell, in passing sentence of two month's imprisonment, admonished the defendant as follows:—"I find in your affidavit, that after complaining of the paragraphs appearing you state, that 'under these distressing circumstances, and seeing every probability of a continuance of these attacks, and being satisfied that no legal remedy existed in such a case—deeply sensible of the injury, with your feelings intensely excited, you determined to inflict public chastisement on the writer.' See what you have stated,—that you, the son of the chief magistrate of the town, who is bound to maintain the peace, and the person who, of all others, should set an example of obedience to the law, contemplated that which you have done, for we find you thinking over and gravely deciding what the law forbids, and that not in anger; knowing the law, you would not do that which the law required, but you then proceeded wilfully and deliberately to violate that law. It is impossible I can, sitting in this place, for one moment sanction that paragraph in your affidavit. What system of things would exist in this country, if men in a state of anger and excitement, should on insufficient grounds take the law into their own hands? The bonds of society would be broken asunder, and the strongest arm would prevail. It is necessary that this sort of feeling should be put down, and the majesty of the law vindicated." Had Mr. Potter called out Mr. Hernaman and shot him, the majesty of the law would have required no vindication. You may with impunity take the law into your own hands in the shape of pistols, but not in that of a cane or whip. When the House of Lords tried Lord Cardigan for shooting Mr. Tuckett, none of the judicial members of the House saw occasion to make the reflection, "What system of things would exist in this country if men, in a state of anger and excitement, should on insufficient grounds take the law into their own hands?" There was no apprehension that the bonds of society would be broken asunder, and that the truest aim would prevail; and no sort of necessity was felt for the vindication of the majesty of the law. On the contrary, the Chief Justice Denman complimented Lord Cardigan on his acquittal of the charge of which he was notoriously guilty. If the noble lord had struck a gentleman with anything but lead, the case would have been different, and the whole frame and constitution of society, together with the majesty of the law, would have been jeopardized. The judge's lesson to the son of the mayor as to the peculiar duty of one so related to maintain the peace, and set an example of obedience to the law, was very becoming; but it is a pity that all magistrates do not, on similar occasions, hold the same language. Not very long ago the son of a judge, Mr. Bruce, who took the law into his own hands, and committed an outrage, was exceedingly complimented by that most judicious magistrate, Mr. Jardine. We do not dispute or question the propriety of a syllable of Mr. Justice Cresswell's sentence; but it seems odd that the same doctrine is not applied to graver offences of the next class, and that the duel has impunity while the minor offence of assault is so differently treated.—*Examiner.*

THE REBECCAITE CONVICTS.—Active measures are now in progress in the town of Neath for the purpose of petitioning her Majesty, praying for a remission, or at least an amelioration, of the punishment now being undergone by the individuals who were engaged in the Rebeccaite disturbances.—*Welshman.*

THE CONVICTED FOREIGNERS.—A letter has been received by E. S. Drewe, esq. high sheriff of Devon, from the Secretary of State, directing that the seven condemned, but respited foreigners, shall be treated as other convicted felons, but not allowed to hold communications with each other in the airing-grounds.

LAW CHANGES.—During the present week it has been rumoured that the Right Hon. David Boyle is about to resign his high situation as Lord Justice-General of Scotland, and to be succeeded by Duncan M'Neil, esq., Lord Advocate. Should the event take place, we consider it will be another unprecedented leap from the bar to the highest station on the Bench, over the heads of more deserving men.

BOROUGH AND WATCH RATES.—An Act was passed on the 8th ult. for the better collecting borough and watch rates. By the Municipal Corporations Act, authority was given to the councils of boroughs in certain cases to levy borough-rates and also watch-rates; but it seems that the powers given have been found insufficient for the purpose. It is now provided that overseers for parts of parishes and places within boroughs may raise district rates, which are to be allowed and published. There is authority given to recover the rates so made, and persons on account of their poverty may be excused from payment.

THE WHITECHAPEL DISTILLERY CASE.—We are informed that although the cause with respect to this affair has been concluded, and the penalty inflicted on Messrs. Smith, on account of the Excise authorities, for the imputed irregularities with which they were charged has been paid, yet the firm are not permitted to transact the smallest amount of business, either in the shape of manufacturing operations, or of the disposal of any portion of their stock, until that part of the establishment appropriated to rectifying purposes has been entirely removed. We do not vouch for the correctness of this statement, but we have reason to believe that it is perfectly so. It is understood that if the firm think proper to remove the said stock to the premises of another distiller, the Excise will make no objection to its being permitted, at the pleasure of the owners, into the stocks of retail dealers; but they will not issue permits for any portion of it to be delivered from the Whitechapel premises until the conditions beforementioned shall have been complied with. It is further understood that the firm object to this, on the ground of the immense expense which would attend its removal, independently of the inconvenience of such a proceeding, and therefore they are exposed to the enormous expense of sustaining the greater portion of their extensive establishment until the whole of the rectifying house shall be entirely removed.

A suit which has been pending between the French gilders and Mr. Elkington, of Birmingham, has been finally decided by the Court of Cassation. The question was, whether a patent obtained in France by Mr. Elkington for a process of gilding by immersion was or was not valid. The Tribunal de Première Instance decided that it was bad; but the Cour Royale, on an appeal to it by Mr. Elkington, declared it to be good. The gilders resorted to the Court of Cassation, which has confirmed the judgment of the Cour Royale, and established the patent

A VETERAN LEGISLATOR. — Count Viennot de Vaublanc, one of the most distinguished members of the Legislative Assembly, and a member of the Council of Five Hundred, and Minister of the Interior under Louis XVIII. died at Paris on the 22nd inst. aged 89.

The Chief Baron stood on the platform with Father Mathew, at Cork, whilst administering the pledge on Sunday last, and warmly congratulated the reverend gentleman on the great success of his mission.—*Limerick Paper.*

CORRESPONDENCE.

THE LOST WILLS FROM DOCTORS' COMMONS.

TO THE EDITOR OF THE LAW TIMES.

SIR, -The Profession generally, and in that term I include the highly respectable 200 metropolitan proctors, will have read with much gratification my *exposé* of the doings and sayings in the Prerogative Registry, Doctors' Commons, and as I have again set my hand to the work, viz. to enlighten the public through the Profession, and thereby effect a clearance in the antiquated civil rookery of Doctors' Commons, I now trouble you with additional particulars on this truly important subject, and thus fulfil my last week's promise that you should again hear from me shortly. I beg, therefore, to state, that whilst I give publicity to the details of the various steps taken by me throughout this important disclosure, I hold it as a sacred duty, that every fact should be properly *authenticated*, and so relieve your journal from all responsibility, and preserve that character for integrity with the Profession and the public, that I have for the last half-century fully maintained as a public servant; and, as I have further important communications to make on this matter, and am desirous of stating each one as shortly as possible, consistently with a view of enabling the Profession thoroughly to understand the subject, and yet save your pages, as far as I can, conformably with the deep interest that you, Sir, and the various legal branches, now take in this affair,—I herewith inclose the copy-petition presented by Mr. Duncombe, and, by the order of the House of Commons, laid on its table for future consideration. After the due circulation of this petition, through your columns, I will address you further on the subject. The Profession will see by the prayer of the undermentioned petition, that had Mr. Dyneley and myself been called to its bar and *examined*, as therein prayed, *the* NAMES *of the lost wills must have been disclosed.* I am, Sir, yours, &c.

J. T. SCOTT,
Doctors' Commons.

(Copy.)

To the Right Honourable the House of Commons of the United Kingdom of Great Britain and Ireland in Parliament assembled,

The humble petition of John Thomas Scott, of Bell-yard, Doctors' Commons, in the city of London, gentleman,

Sheweth,—That her Majesty's Government have had a plan under consideration for an alteration and amendment of the Ecclesiastical Courts, and for the better security and custody of their public documents.

That your petitioner was for thirty years a clerk in the Prerogative Will Office, Doctors' Commons, when he was suddenly dismissed by the senior deputy-registrar, Mr. Dyneley.

That your petitioner believes the ground of such dismissal arose from his knowledge of the facts hereafter mentioned, viz.:—

The loss of a whole bundle of original wills out of the office, conveying real and personal estates to an immense amount, and involving interests divisible amongst a numerous class of persons, which happened a short time before the appointment of the said Mr. Dyneley.

That shortly after Mr. Dyneley entered upon his appointment, he exercised all the patronage of the said establishment, and, in particular, *promoted* the gentleman who was the cause of the loss of the said original wills.

That the person who so lost the said wills, with the knowledge of the said Mr. Dyneley, communicated to your petitioner the circumstances under which the said public documents were lost, and, with the full knowledge of the said Mr. Dyneley, your petitioner has resorted to every means for their recovery, but without effect.

That your petitioner was bound down by a solemn oath not to disclose the said loss, and promised faithfully not to do so, unless your petitioner *survived* the said gentleman who lost them.

That, in consequence of the death of the beforementioned gentleman, and the alterations contemplated by her Majesty's Government with regard to the said office, your petitioner has been advised to come forward and make the present disclosure, in order that a better means of public security may be provided for the said public documents, and that her Majesty's Government may authorize a proper investigation of the present system of management, with a view to amendment.

And your petitioner therefore humbly prays that your Honourable House will institute a parliamentary inquiry of the above facts, by summoning to the bar of your Honourable House not only your petitioner, but the said Mr. Dyneley, and such other persons that will be named by your petitioner, as well as with a view to an alteration of the said law as regards the custody of wills, as also for the public service, and the benefit of the various parties interested in the lost documents mentioned in this petition, or for the adoption of such other means as your Honourable House may deem necessary.

And your petitioner, as in duty bound, will ever pray. JOHN THOMAS SCOTT

LEGAL EDUCATION.

TO THE EDITOR OF THE LAW TIMES.

SIR.—I lately saw some remarks respecting legal education in one of the public journals, after reporting an address got up and presented by a deputation from one of the legal societies to the Lord Chief Justice; and, permit me to add, that if some such plan was carried out, it would not only benefit the public, but ourselves likewise, and greatly tend to aggrandise our Profession; but allow me to suggest some observation the hope of promoting the advancement of the Profession, as regards the character of Attorneys and Solicitors.

The thoughtless system of our education of young men generally is deeply to be lamented. What can a boy fifteen or sixteen years of age be expected to know when sent from the boarding-school, under such tuition as is generally prevalent among most of the minor schools, partly for want of knowledge and ability in those whose duty it should be to promote the requisite education, and partly for want of encouragement or the means among those who send their children to be educated. Let me not be misunderstood; I do not forget to draw the distinction between some youths whose ability alone pushes them over great obstacles; but there is a large majority who slumber for want of better teachers and better parents; all must not rest with either one or the other. This is called an improving age; we see and experience innumerable changes in all things, but the principle of our laws will ever remain the same; and if we wish to uphold them, and the respectability of our position in society, we must not lose sight of the groundwork on which they are based, and that is, an efficient and suitable education for those who are intended to be introduced into the Profession.

In the first place it is a sad, mistaken, and ill-judged notion in us, to say that one son shall be a lawyer and another a parson, and so on, without waiting till that period arrives in which we may be better able to form a notion of the ability of the boy, and what it indicates. And then, again, how highly injudicious it is, to bring a boy from school at the early age of sixteen, with the meagre education which in general he possesses, and so greatly inadequate for so responsible a station in life as that of a legal adviser. He scampers through arithmetic, perhaps begins Euclid, and runs through Virgil a few pages, at the same time knowing his Latin Grammar very imperfectly: then he is snatched away most probably at the very time he first *feels* a liking for letters, and is just beginning to *think*; he is then, I repeat, at this very critical time, taken away from school, placed in an attorney's office, and very often against his inclination, either because its the most *gentlemanly* profession or else the most money-making one, and then the first book put before him is Blackstone, as if it were the mere spelling-book of our laws, instead of deeply digested lectures upon them, fit only for the study of a previously well-trained mind.

Many will say we cannot afford to go to so great an expense with our children's education; then why think of putting them to the law? I need not tell many of my readers the why and the wherefore such presumption exists. Young men in general enter a solicitor's office under one serious and prevailing evil that they are titled "gentlemen," and beyond the mere distinction, they do not give themselves any further trouble to think about the matter. They soon see the difference, and too quickly, between the "gentleman-clerk" and the efficient working-clerk, and this glaring difference, so unwisely supported and encouraged, is what creates a vast deal of unpleasant radical feeling (if I may be allowed to use the phrase) between the two classes of clerks, and, what is worse than all, a great deal of idleness in both.

I have many more observations I could wish to lay before your readers, many of whom have families, or the care of others' children, to train up in our profession; but, before I proceed further, it may be as well to see whether you think these few preliminary remarks worth insertion; and it also becomes me to submit them with due deference to you and your readers, and as they are submitted, you will best be able to judge of their merit; at all events, many things I say I am sure will not prove unacceptable, especially if placed with earnest sincerity before those now treading the green path of our profession, and learning the way, as they should do, to become an ornament to it, and not a jest and a scorn for those whose imprudence and misfortunes bring them under the painful pangs and infliction of the law.

Trusting to your patience,
I am, Sir, your most obedient servant,
August 1845. VIRTUTIS.

TO THE EDITOR OF THE LAW TIMES.

SIR,—Not so hard upon the daily *Times! it is longs its duty.*

Has it never struck you how hard that journal fought to save the degrees and status of every University-man. *Re Ward* and *The University of Oxford?* Remember its benign object was defeated, and thus the rank of University-men are periled.

This is not all; the Rev. Mr. Ward's case is virtually decided by Mr. Pyke's a month or two since.

Can you wonder at the *Times* being sore?

Both University-men and barristers are no longer the *free men* they were!

The *Times* paper is largely read by the attorneys. That body to a man know *they* have now no chance at the Bar, having been warned, through the side of Mr. Pyke, who was *a solicitor* prior to his becoming a student, and before his call to the Bar, as well as a reporter when at the Bar; both reporters and solicitors, therefore, know the meaning of forthcoming events by the shadows that have recently gone before.

I am, Sir, yours, &c.
A SOLICITOR.
Temple, August 27, 1845.

To Readers and Correspondents.

A. A. (Manchester).—*In our opinion Serjeant Stephens's work is the best for the required purpose; and we find this belief backed by the expressed authority of Mr. Warren, in the second edition of his "Law Studies" just published.*

A SUBSCRIBER.—*The letter has been handed to the Reporter of the Lord Chancellor's Court, who will give it due attention.*

NOTICE TO SUBSCRIBERS.

The Indices to the fourth volume being now completed, the numbers for binding may be sent, through the post, in parcels open at the ends, with a mark by which they may be known, and of which the Publisher should be advised by letter, as also how, when bound, it is to be returned. If sent by parcel, advantage may be taken of the opportunity to inclose other books for the binder.

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THE LAW TIMES.

SATURDAY, AUGUST 30, 1845.

CONVEYANCING ACT.

THE Act of the last session for abbreviating the language of conveyances has excited needless alarm in some quarters. This is being over-sensitive, and will weaken the influence of the lawyers when they have a real grievance to complain of. The provisions of the Act are not compulsory, but optional. Substantially, it does no more than that which common sense would dictate—namely, that a certain short formula should bear the same meaning in law as a certain long formula. They who prefer the long one are still permitted to use it; but it was manifestly fair to those who required or preferred a shorter form, that they should be able to employ it with safety.

We appeal to the experience of every member of the Profession, whether his greatest difficulty in dealing with small properties has not always been the verbosity of the conveyance, occasioning needless cost in stamps—whether he would not continually have welcomed a *safe* short form as the most valuable boon that could have been presented to him. In proof of this, we have the fact, that Precedents of Concise Conveyances, from COVENTRY'S downwards, have been the most eagerly sought, the most largely purchased, the most generally used. The Act of last session gives to that which was before a dangerous experiment, the sanction of the law. It legalizes the concise forms of COVENTRY and other curt conveyancers. Small properties may now be transferred at less cost—a cost not desired by the solicitor, which does not profit him, which he was ever seeking to avoid, though he feared to depart from established precedent.

For these reasons, and speaking, not from conjecture, but from practical experience, we are of opinion that the Act in question is really a boon to the Profession, and will be welcomed by them as a relief from one of their greatest difficulties—how to draw a short conveyance of a small property.

THE BAR AND THE ATTORNEYS.

IT will be remembered by our readers, that, in an article under this head, some four weeks ago, we combated the arguments used by Mr. BIRD, for taking instructions and fees from prisoners without the intervention of an attorney. In that article we gave Mr. BIRD credit for purity of motive and for manliness in openly avowing his intention, though the practice was directly opposed to our views

By the merest accident, a copy of TREWMAN'S *Exeter Flying Post*, of the 21st inst. fell into our hands on Monday last, in which, to our surprise, we found a letter on this subject, addressed, not to the Editor of that journal, according to the usual custom of newspaper correspondence, but directly to us. No copy of this letter, nor any intimation of its existence, had been forwarded to us. Had Mr. BIRD applied for the insertion of his letter in this journal, he would have found our columns open to him. As it is, he shall have the benefit of our circulation. The readers of the LAW TIMES, especially those who have been acquainted with it from the first number, will know right well how to appreciate such a letter as Mr. BIRD'S.

TO THE EDITOR OF THE LAW TIMES.

MR. EDITOR,—Your youth and inexperience entitle you to indulgence at my hands; for adherence to rules, in disregard of principles, so far from being confined to juveniles, is the prevailing, predominant error of age. I, too, have sinned in having so long sacrificed sense to sound, substance to shadow, common sense and common honesty to the cold, ... lling cant of a false honour and a figurative dignity. Duty dictates an atonement, and weak and despicable should I be, if, in leading a forlorn hope against a citadel defended by you, Sir, and others, my learned friends, acting by and with the advice of a Devon Sessions Bar, I was not equally prepared to fall as to fight in the breach. If my cause be just, my consolation is, that others will carry the fortress o'er my corse.

You, Sir, contend for a rule, which ought, in my opinion, to be an EMANATION from, not an EXTINCTION of a principle. I contend for the principle itself, which admits of neither concession nor compromise From the representative of my Sovereign, in the face of my country, at the risk of ruin, I respectfully, but firmly demanded a right, with a view to elevate in public estimation every branch of our profession; to rouse the Bar to a keen sense of its servility and degradation; to shame them out of the abasing apostasy from their once independent, honourable character of patrons, to the abject condition of patronized, and to sliver asunder the chain which converts them into participants in the infliction of both private and public wrong; but you, Sir, with others, impelled by the indiscretion and inexperience of youth, in your misguided emulation, rush to rivet their self-forged fetters. Our country and posterity will judge us. Their judgment I decline not, but demand, and will stand or fall by their award.

Meaning fairly by your country, the columns of your paper will be open to my defence. I ask it not, but only "A FAIR FIELD, AND NO FAVOUR;" and if the Exeter or England's Press do not abandon me, hope to evince sufficient moral firmness to shape my destiny as duty shall direct.

As that defence will be addressed through you to a reasoning, reflecting, a rapidly enlightening people, I must not deceive them nor suffer you, Sir, to seduce them into a false estimate of my character. Your protest against my principle I with pleasure accept; your panegyric, I, in courteous candour, reject. For what purpose, Sir, do you raise such a hecatomb of UNWORTHIES, to make such a pompous parade of my purity? Read my proscribed Letter to the Attorney-General! I therein declare that "professional and personal INTERESTS I have, and will defend them; that personal resentments I have none. That the affectation of superiority o'er our common nature I despise, and the cant of patriotism shews to me rather the lust than the love of fame." These my INTERESTS are identified with a GE... PUBLIC PRINCIPLE, in defending one I defend all. Look, Sir, "THROUGH NATURE UP TO NATURE'S GOD," and you will see that by [illegible] purp[illegible] ...complished,

From seeming evil still educing good.

The frailties, the frivolities of the Bar I deeply deprecate and deplore. It were inanity to deny, impiety to defend them. Still with that Bar, as a national safeguard, to preserve the purity of power, without which there is no peace nor prosperity for the people; regulated by rul... based on a ...rential recognition of, not on the abrogation of principle, ...ivil institution, ancient or modern, can bear a comparison. Do you know, Sir, the sacrifice you demand? It i... that law, justice, and truth, a people's rights, a nation's freedom, shall be silently surrendered, and to what? to professional ETIQUETTE. This ... ur own language!

Calm reason's holy laws,
The voice of God within th' attentive mind

forbid it. Oh

Thought young men
Of these, and all the thousand nameless ills
That constantly beset fair freedom's path,
Pride in his high career would stand appall'd,
And headless rambling impulse learn to think.

Correction, I, in good faith, seek; and fair confutation will, in grateful cordiality, hail; for my prayer is, "MAY GOD PRESERVE THE RIGHT," whether maintained by one man or the million, by you, Sir, or

Exeter, 18th August, 1845. CHARLES BIRD.

PROFESSIONAL MALPRACTICES.

WE have received from an unknown correspondent the following letter, on the highly censurable and unprofessional conduct of some barristers at the Central Criminal and Bankruptcy Courts, in taking briefs from non-professional persons:—

SIR,—The members of the Profession expect *impartial justice* at your hands. The conduct of the barristers at the Bankruptcy Court, Central Criminal Court, &c. in accepting briefs from non-professional persons, ought to be specially noticed.

Several solicitors are waiting to see if you intend to take the matter up.

I am, Sir, yours, &c.
A CITY ATTORNEY.

26th of August, 1845.

It is nearly twelve months since similar conduct on the part of Messrs. CROUCH, PYKE, and others, was severely commented upon in this journal; and we certainly had hoped that, after the emphatic censure pronounced upon this most indecorous and pernicious practice by the Common Serjeant, and the repeated exposures and denunciations it received at our hands, the custom would thereafter have been repudiated and abandoned. It appears, however, that such has not been the case, that the practice is still continued, though, we hear, less openly than before.

The readiness we have always shewn to expose malpractices and breaches of etiquette committed in either branch of the Profession (to which every volume of this journal bears frequent testimony), ought to be an assurance to our correspondent that an impropriety such as he alludes to, if made known to us, will neither be connived at nor overpassed in silence. We only require to be furnished with *facts*—with clear evidence which shall saddle this misconduct on any one, and we will hold him up fearlessly to the reprobation of the Profession.

The following circular, which has been forwarded to us, is in direct violation of the rules of strict professional conduct, therefore we give it a place among the exceptionable addresses we consider it our duty to reprehend:—

Windy Bank, Colne, 9th July, 1845.

SIR,—Having taken the offices and succeeded to the practice of the late James Baldwin, Esqr., Solicitor, and finding your name amongst the number of his clients, I beg leave to solicit the continuance of your business at my office, and hope, by unremitting attention to your interests, to merit your confidence.—I address you by the permission and recommendation of Mr. Baldwin's executors.

I am, Sir, yours obediently,
GEO. JONES.

THE VERULAM SOCIETY.

THE *eleventh* number of Practice Cases, and the *fifteenth* of Real Property and Conveyancing Cases, are now ready, and, with number *twelve* of Magistrates Cases, which is forward at press, will be delivered to the members early in the week.

LAW TIMES EDITION OF IMPORTANT STATUTES.

Mr. ALLNUTT'S edition of the Real Property Statutes of Session 8 Victoria, with Introduction, Copious Notes, Forms, and Index, is now ready.

LAWS OF FRANCE.

No. XI.

A foreign manufacturer has the right of taking proceedings for damages, before the French courts, against natives who have pirated his name and have attached it to goods fabricated by them, although he may not have been authorized to enjoy the civil rights of France, and although no treaty exists between France and the country to which he belongs, permitting the manufacturers of both nations reciprocally to exercise their rights for injuries occasioned them by the piracy of their names.

For the third time I return to this subject, (*a*) but its importance must be my apology; and I now send you the exact judgment, such as it was given by the Cour Royale of Rouen, and its reasons seem to me so admirable, that I doubt if the Cour de Cassation could annul it were the case again to be brought before that tribunal.

Your readers may remember that Rowland and Son, inventors of the Macassar Oil, had, in 1839, summoned Messrs. Gueland and others before the Tribunal of Commerce of the Seine for the piracy of their name, marks, and labels, which the French perfumers had affixed to bottles of Macassar Oil manufactured by them in Paris. The house of Rowland demanded 10,000f. damages, which was

(*a*) For the previous judgment, and as to the mode of proceeding to obtain a final decision upon this subject, see 4 Law T. 82.

granted by the Commercial Court of the Seine, and confirmed by a decree of the Cour Royale of Paris, given the 30th November, 1840.

An appeal having been lodged against this judgment, the Court of Cassation annulled it, August 14, 1844, referring the case to the Cour Royale of Rouen.

The judgment of this Court is as follows:—

The COURT.—Inasmuch as the object of the action brought before the French courts by Rowland and Son, foreigners, and their grantees, is to claim damages for reparation of injury occasioned them by the piracy of their name and signature affixed by French manufacturers on French manufactured goods, similar to the goods manufactured in England and exported by the plaintiffs.

Inasmuch as Rowland and Son have not been admitted by the king's authority to the enjoyment of the civil rights of France, and that no treaty between France and England reciprocally admits the manufacturers of the two countries to exercise in both their rights against the piracy of their names and signatures.

That accordingly, suitably to Art. 11 & 13 of the Civil Code, the action of Rowland and Son cannot be admitted unless it is merely considered as a simple civil right.

That although foreigners may be excluded from civil rights the creations only of French laws, they ought nevertheless to enjoy rights which have their source from natural rights or the law of nations, which is recognized, and the exercise of which is regulated by the French laws.

Inasmuch as one of the first precepts of natural equity is, that any damage occasioned to others, requires a reparation from the person who has caused it.

That if this principle is positively consecrated by the French laws, they did not create it, they have only proclaimed and sanctioned it, and that consequently, although comprehended in our civil laws, it retains, nevertheless, its primitive character, which renders it applicable at all times and in all countries to the foreigner as well as to the denizen.

Inasmuch as this maxim of natural equity cannot be annulled, because in the case it is a question of damage caused by the piracy of a name and of its use on manufactured goods, the possession of which could only be established and regulated by the civil law.

Accordingly, that inasmuch as the respect due to the property of others is not an obligation derived from civil rights, but from natural rights or the law of nations; that the property of a manufacturer's name may be of a grand value; that, at all events, no one has a right to injure it; that this property, the most personal of any which can belong to man, is not created by the civil law, and is independent of it.

That if the French laws intervene to protect this property from injuries which may be directed against it, they do not alter its nature by recognizing and defending it, for they only lend their support to a property which is founded on the law of nations recognized by all civilized countries.

Inasmuch as none of the special laws appealed to in the case have formed an exception to the general principles just laid down.

Adopting, moreover, the reasons which decided the first judges.

Confirms. N. TREITT,
Avocat à la Cour Royale.(b)

Paris, June 26, 1845.

THE CRITIC.

New Books.

The Doctrine and Practice of Equity, or a concise Outline of Proceedings in the High Court of Chancery. By GEORGE GOLDSMITH, Esq. A.M., of the Middle Temple, Barrister-at-law. Third edition. London, 1845. Benning and Co.

WE noticed this useful work at some length on the appearance of the second edition. The speedy call for a third is the best proof that can be given that it has found that most unquestionable of testimonials, a crowd of purchasers. This new edition is considerably enlarged and improved, and has the great advantage of being adapted to the altered practice of the new orders. It is a book for the student as well as for the practitioner.

The Registration of Electors Act, incorporating the unrepealed portions of the Reform Act and other Election Statutes, with Introduction, Index, and Notes of all the Cases, decided upon appeal to the Common Pleas. By EDWARD W. COX, Esq. Barrister-at-law. *The Fourth edition.* London, 1845. Crockford.

THREE large editions having been exhausted, advantage was taken of the call for a fourth to introduce in their proper places notes of all the points decided by the Court of Common Pleas upon the appeals from the decisions of the revising barristers. The peculiar feature of this publication, and to which it is probably indebted for its large circulation, is the plan adopted by the editor of incorporating with the Registration Act the unrepealed portions of the Reform Act; thus practically carrying out the enactment of the former that the latter, so far as it was not expressly repealed, should be taken to be a portion of this Act, "as if it had been incorporated therewith." The new statutes are distinguished by different types, but the sections of each are arranged according to the proper order of their subject matter, under the heads of "the Registration," "the Revision," "the Franchise," and "the Election." The cases are noted in their proper places at the foot of the page, so that amid the hurry of an office or a court, the information required may be found in a moment. Such is a description of the work. Of its merits others must judge.

The New Rules and Orders in the High Court of Chancery. With Practical Notes and copious Index. By G. S. ALLNUTT, Esq. Barrister-at-Law. London, 1845. Crockford.

THE Orders come into operation at the beginning of next Term. It is, therefore, of great importance that every practitioner should, before that time, well acquaint himself with their provisions. The design of this edition is to aid him, as well the student, in this needful labour, for which purpose Mr. ALLNUTT has introduced a great number of notes tending to explain doubtful passages, and to exhibit the changes effected in the practice, and the points that will require the attention of the solicitor. A copious index affords ready access to any portion of the Orders and notes that may be sought in haste.

The Small Debts Act, with Introduction, Notes, and Index. By EDWARD W. COX, Esq. Barrister-at-Law. London, 1845. Crockford.

THIS is another of the *Law Times' Editions of Important Statutes.* It is truly observed in the Introduction, that the strictly "Small Debts" portion of the Act was originally suggested by the LAW TIMES; but it has not been much improved in its passage. It is in some respects an unjust, in many, a very defective measure, and the tacking to it of another and different measure at the latest moment, when discussion was impossible, was a proceeding so unconstitutional, and a precedent so dangerous that it cannot be too much reprobated and protested against. The proper and original design of the measure is unquestionably good, and has met with universal approval. But there will be great difficulties in its practical working, and the editor thinks that amendments will be required next session. In the meanwhile, he has sought to give the Profession and the public for present use an edition of the Act in a convenient form, with notes, and a most copious index, purposing to collect the decisions from time to time, and add them to future editions.

JOURNAL OF PROPERTY.

Public Sales.

By Messrs. FOOKS and JOHNSON.

A house, shop, and premises, No. 80, Prince's-road, Lambeth; held for 37 years, at 17*l*. 10s. per annum, let at 30*l*.—910*l*.

A house and premises, No. 79; ditto, let at 26*l*.—155*l*.

A house, No. 78, let at 28*l*. 12s.; held for 37 years, free of rent—250*l*.

A ditto, No. 77; ditto—275*l*.

A ditto, No. 76; ditto—275*l*.

A house, shop, and premises, No. 75; held for 37 years, free of rent—276*l*.

A rental of 22*l*. per annum, for 37 years, secured on a house, workshops, and premises, in Tyers-street, Lambeth—345*l*.

An improved rental of 55*l*. per annum, secured upon a house, shop, and premises, being No. 107, Upper East Smithfield; held for 19½ years—165*l*.

By Messrs. DAVIS and VIGERS, at the Mart.

Two residences, Nos. 1 and 2, Holland-crescent, Barrington-road, with a large piece of garden-ground, let at 80*l*.; held for 80 years from December 1842, at a ground-rent of 10*l*.—650*l*.

Two ditto, Nos. 3 and 4—495*l*.

Two ditto, Nos. 5 and 6—495*l*.

Two ditto, Nos. 7 and 8—495*l*.

Two ditto, Nos. 9 and 10—500*l*.

Two similar residences, being Nos. 11 and 12, Holland-crescent, East Brixton, 550*l*.

A newly-erected cottage residence, situate No. 8, Claremont-place, Loughborough-road, Brixton; held for 80 years, from December 1842, at a ground-rent of 5*l*. per annum, let at 35*l*. per annum—240*l*.

A ditto, No. 9, ditto, land-tax redeemed—240*l*.

By Messrs. ELLIS and SON, at Garraway's.

A freehold residence, situate No. 3, Highbury-grove, Islington, with suitable offices and good garden, let at 70*l*. per annum—1,260.

A policy of assurance for 2,000*l*. in the London Life Association, upon the life of a gentleman now aged 75; reduced annual premium 27*l*. 6s.—1,400*l*.

A freehold villa residence, situate at Tanners-end, between Southgate and Edmonton, with capital offices, pleasure-grounds, gardens, and land, about five acres—2,700*l*,

A capital freehold residence, with extensive premises, carriage-house, stabling, and capacious vaults, situate No. 42, Trinity-square, Tower-hill—5,300*l*.

Six 20*l*. shares in the British Gas Light Company, present dividend 28s. per share; sold for 26*l*. per share—156*l*.

Fifteen 40*l*. ditto, present dividend 25s. per share; sold for 20*l*. per share—300*l*.

Five 10*l*. shares in the City of London and Tower Hamlets Cemetery Company; sold for 8*l*. per share—40*l*.

By Mr. PEISLEY, at Garraway's.

A freehold and copyhold estate, and nine acres of land at Crauford, Middlesex; let at 130*l*. furnished; timber, &c., included—1,370*l*.

A plot of building land between Hounslow and Crauford, containing four acres—410*l*.

A ditto—290*l*.

A ditto—350*l*.

Feltham-place estate—Lots 1 and 2.—The mansion and gardens; timber at a valuation—1,075*l*.

Lot 3.—Cottage, let at 10*l*. per annum—250*l*.

Lots 4 to 11.—Eight copyhold building frontages—536*l*.

Lots 12 to 15.—Four copyhold meadows, comprising about eight acres, timber at a valuation—794*l*.

Lot 16.—A freehold plantation of two acres, timber 30*l*.—245*l*.

Lot 30.—Eleven acres of freehold and copyhold meadow, timber at a valuation—880*l*.

The other land belonging to this estate was sold by private contract before the sale.

The whole estate sold.

WASTE LAND IN THE AUSTRALIAN COLONIES.—A bill has been printed (for consideration during the recess) to amend the Act of 5 & 6 Vict. c. 36, for regulating the sale of waste land belonging to the Crown in the Australian colonies, and to make further provision for the management thereof. There are sixteen provisions in the measure. It seems that doubts have arisen whether, under the Act mentioned, her Majesty, or any person acting in the name and on behalf of her Majesty, can convey or alienate any waste lands of the Crown in any such colony by lease or demise, reserving an annual rent or payment for the same. It is by the present Bill proposed to be enacted, that the Governor of the colony may grant leases of waste land for seven years. The minerals of the land are to be reserved to the Crown. The Governor may grant short leases for felling and removing the timber on waste lands, and there are penalties prescribed against persons who shall occupy land without being duly authorized. The Act (when it is passed) is to take effect in each of the Australian colonies from and after a day to be specified by the Governor of each of the colonies in a proclamation to be issued for that purpose.

Mr. George Robins, who it may be remembered purchased Brandeston-hall, in Suffolk, purely as an investment, in June last, for 30,000 guineas, has this week been tempted, for sundry very weighty reasons, to transfer his contract to Mr. Austin, the eminent counsel. The *on dits* state the purchase-money at 35,000 guineas, but, we believe, it is not quite so much. The whole purchase-money will be but a few weeks' work in the next session of Parliament for the learned counsel.

THE "RAILWAY KING" OF FRANCE.—The railway king of France, the French Hudson, is an odd-looking but keen-observing individual, of the name of M'Kenzie. He is a great favourite of Louis Philippe, at whose numerous and promiscuously-attended *soirées*, M'Kenzie cuts a droll and conspicuous figure. If not a native of Liverpool, he was at no distant date a "navie" there, working—and no shame to him—in high-lows, ankle-deep, at the docks, in mud and clay. This gentleman, though entirely uneducated and of *brusque* manners, is remarkable for his practical knowledge of engineering; and it is proved by the flattering fact that M'Kenzie is consulted by the Government authorities of France, touching the practicability of the various railway lines either in progress or contemplated; and this in preference to the engineers of Paris, who have long been celebrated for their knowledge in the science or art, for it partakes of both. M'Kenzie has a partner, named Barry,

(b) The recent case of *Chapple v. Purday* (5 Law T. 266), upon the analogous question of the right of a foreigner to a copyright in England, affords a good example of the difference between the principles of English and French jurisprudence.—ED. LAW T.

once—he may be so still—a gentleman connected with the Manchester newspaper press. These facts are highly honourable to all parties. M'Kenzie's oddity of manner and appearance presents a curious contrast to that of the Parisians, *malgré* he carries all before him, whether on *les Champs Elysées*, where the railway shareholders, jobbers, &c. "most congregate," or in the gilded *salons* of the Tuileries.—*Liverpool Chronicle.* [The Mr. M'Kenzie named above was a considerable dock contractor for public works in this country for many years. He was the contractor for the junction dock at Hull, and other works there. Mr. J. D. Barry, who is stated to be his partner, was, subsequently to his connection with the Manchester press, editor of the *Chester Chronicle.*]

THE MONEY MARKET.

	Sat.	Mo.	Tues.	Wed.		
Three per Cents. Consols	98¾	99⅛	99¼	99⅛	99¼	
Three per Cents. Reduced	99⅝	99½	99¼	99¼	99¼	99⅜
New Three-&-a-quarter per Cts	102¼	102	102¾	102¾	102½	102⅞
Long Annuities	11½	11⅜	11½	11½	11½	11½
Bank Stock	210½	211½	211	212½	211½	212½
India Stock	274	275½	275	273½	276	272½
India Bonds, prem.	68		70	71	72	67
Exchequer Bills, prem.	52		52	51	51	
FOREIGN.						
Spanish Five per Cents.	27¾	27½	27½	27⅜	27⅜	27⅞
Spanish Three per Cents.	38¼	38½	38¼	38½	38½	38½
Russian	118½	118½	119½	119½	119½	119½
Peruvian	30	31½	31	30½		
Portuguese	64½	64½	64½	65½		65
Mexican	35¼	37½	36	35	38	35
——— Deferred	19½	18½	18½	19¼	19½	18¼
Dutch Two-and-a-Half per Cents.	63⅛	63¼	63½	63¼	62¼	63
——— Four per Cents.	99¼	98¼	99⅛	100⅛	103⅛	99¼
Danish	89½	89½	89¼	90¼	90	90¼
Colombian	17½	17½	17½	18½	18½	18½
Chilian	102	102¼	102½	103	102	102½
Buenos Ayres	49½	49½	48½	49½	49½	46½
Brazilian	90	90½	90½	90	90½	89½
Belgian	100¾	99½	99½	100½	103½	100¼

THE GAZETTES.

AMOUNT OF DIVIDENDS DECLARED.

The sum stated as the Dividend means so much declared in the Pound. The Assignees, when chosen, follow this statement.

Monday, Aug. 18.

Harris, H. hide salesman, last exam. passed.—*Jones*, C. salesman, last exam. passed. *Rawe*, W. H. currier, last exam. passed.

Tuesday, Aug. 19.

Tinson, J. innkeeper, last exam. Aug. 29.—*Mallan* E. dentist, assignees, Oct. 1.—*Winter*, J. plate glass factor, assignees, Sept. 18.

Thursday, Aug. 21.

Batt and *Batt*, silk dealers, sep. J. Batt, div. next week. Pennell, London.

Friday, Aug. 22.

Burleigh, W. scrivener, last exam. Dec. 11. *Dow*, J. A. draper, last exam. Oct. 4.—*Elphick*, S. victualler, last exam sine die.—*Furrow*, J. draper, last exam. Nov. 5.—*North Marine Insurance Company*. underwriters, last exam. Dec. 2.—*Harrard*, J. lamp maker, last exam. Nov. 5.—*Parsley*, W. hat manufacturer, last exam. passed.

Saturday, Aug. 23.

Eastwood, T. grocer, last exam. passed.—*Wright*, A. grocer, last exam. Oct. 11.—*Salabert*, M F. hatter, last exam. passed.

DIVIDENDS.

Bankrupts' Estates.

Official Assignees are given, to whom apply for the Dividends.

Atkinson, T. chymist, second, 1d. Groom, London.—*Batt* and *Batt*, silk dealers, first 4s. Pennell, London. *Forrest*, J. A. glass merchant, first, 10s. Bird, Liverpool.—*Golborne* and Co. wine merchants, third, 6d. Follett Liverpool.—*Priddey*, H. upholsterer, 3s. 9d Whitmore, Birmingham.—*Tomkinson*, M. linen draper, 3s. Whitmore, Birmingham.—*Wilkinson*, J. ironmaster, third, 6½d. Bird, Liverpool.—*Williamson*, W. H. tobacconist, first, 1s. 10d. Groom, London.

Insolvents' Estates.

Cooper, S. dyer, Meltham, near Huddersfield, 2s. 3d *Hoar*, J. E. innkeeper. Plymouth, 4s 10d.—*Stewart*, R master in the navy, Charter-house-square, 6s. 10d. (in addition to 1s. 6d.)

ASSIGNMENTS

To Trustees for the benefit of Creditors.

Gazette, Aug. 22.

Harrison, J. stone-mason, Devizes, Aug. 2. Trusts. J. Young, builder, and J. Abrahams, coal merchant, Devizes. Sols. Tugwell and Meek, Devizes.—*Walker*, T. sen. farmer, Sutton cum Lound, Notts. July 26. Trusts. J. Beale, gent. Bawtry, and T. Walker, jun. corn merchant, Hull (and by a subsequent deed, G. Johnson, Mattersley, Notts). Sols. Messrs. Mee & Co. East Retford.

Gazette, Aug. 26.

Sykes, J. hosier, Doncaster, Aug. 22. Trusts. J. Hithersay, wholesale hosier and h[illegible] Derby, and W. Illingworth, coal merchant, Doncaster. Sol. Fisher, Doncaster.

Bankrupts.

DATE OF FIAT AND PETITIONING CREDITORS' NAMES.

Gazette, August 22.

HOGG, EDWARD THOMAS, and WALTON, WILLIAM NEALE, wine merchants, 14, Duke-st. Adelphi, Aug. 29, at half-past eleven, Oct. 2, at two, Basinghall-st. Com. Fonblanque; Belcher, off. ass.; Shirreff, Lincoln's Inn-fields, sol. Date of fiat, Aug. 16. E. G. Cuff, wine merchant, Crutched-friars, pet. cr.

HOWELL, THOMAS, hotel and tavern keeper, Dolly's Chop-house, Queen's Head-passage, Newgate-st. Aug. 29, at eleven, Oct. 9, at twelve, Basinghall-st. Com. Fonblanque; Belcher, off. ass.; Treherne and White, Bucklersbury, sols. Date of fiat, Aug. 20. R. W. Morris and V. Morris, wine merchants, St. Mary at Hill, pet. crs.

LING, BENJAMIN, timber dealer, Fore-st. Limehouse, Aug. 28, at twelve, Sept. 26, at half-past one, Basinghall-st. Com. Fane; Alsager, off. ass.; Norton and Son, New-st. Bishopsgate, sols. Date of fiat, Aug. 18. Bankrupt's own petition.

PRATT, JAMES MANTLE, wine merchant, 13, Berners-st. Oxford-st. Aug. 29, at half-past two, Oct. 9 at two, Basinghall st. Com. Fonblanque; Pennell, off. ass., Lawrence and Plews, Bucklersbury, sols. Date of fiat, Aug. 21. Bankrupt's own petition.

SIMS, JOHN, wheelwright and ironfounder, Tollard Royal, Wilts. Sept. 1, at half-past twelve, Oct. 8, at eleven, Basinghall-st. Com. Fane; Whitmore, off. ass. Ashley, Shoreditch, sol. Date of fiat, Aug. 18 Bankrupt's own petition.

SOLOMONS, NATHAN and ELEAZER, boot and shoe makers, No. 2, Church-lane, Whitechapel, and No. 32, Sydney-place, Commercial-road East, and also of No. 67, Farringdon-street, City, Aug. 29, at two, Oct. 9, at one, Basinghall-street, Com. Fonblanque; Pennell, off. ass., Watson, Worship-street, sol Date of fiat, Aug. 18. T. Perkins, Northampton boot and shoe manufacturer, Wood street, pet. cr.

SUCKLING, JOHN HOLMAN, ironmonger, Birmingham, Sept. 11, at eleven, Oct. 7, at twelve, Birmingham; Christie, off. ass.; Smith, Birmingham, and Jackson, Gray's-inn, sols. Date of fiat, Aug. 11. Bankrupt's own petition.

SUGDEN, ROBERT, manufacturer of worsted goods, Bogthorne, Keighley, Yorkshire, Sept. 2 and 25, at eleven, Leeds; Com. West, Freeman, off. ass.; Williamson and Hill, Gray's-inn, Rudd and Co. Halifax, and Bond, Leeds, sols. Date of fiat, Aug. 11. J. and J. Hordsworth, woolstaplers, Halifax, pet. crs.

Gazette, Aug. 26.

CLARKE, ROBERT BLOOMFIELD, plumber and glazier, Gower-street North, St Pancras, Middlesex, Sept. 4, at half-past one, Oct. 10, at eleven, Basinghall-street; Com. Fane; Whitmore, off ass.; Malim, South-square, Gray's-inn, sol. Date of fiat, Aug. 15. Bankrupt's own petition.

HANSARD, WILLIAM MATTHEW, florist, late of Westbourne-rd. Paddington, afterwards of 30, Beaufoy-terrace, St Marylebone, and now of Park-rd. Holloway, and also of Highgate, Sept. 9, at half-past ten, Oct. 9, at eleven, Basinghall-st. Com. Fonblanque; Belcher, off. ass.; Messrs. Chamberlayne and Meaden, Great James-st. Bedford row, Date of fiat, Aug. 18. Bankrupt's own petition.

LINDES, ABRAHAM, and TH[illegible]SON, JOHN, stock and share brokers, Leeds, Yorkshire Sept. 6 and Oct. 3, at eleven, Leeds, Com. Boteler, Fearne, off. ass.; Williamson and Hill, Gray's-inn, and C[illegible]ss, Leeds, sols. Date of fiat, Aug. 18. Bankrupt's own petition

LODGSON, JOHN, scrivener, Liverpool, Sept. 12 and 30, at eleven, Liverpool, Com Ludlow; Turner, off. ass.; Gregory and Co. Bedford-row, and Frodsham, Liverpool, sols. Date of fiat, Aug. 18. Bankrupt's own petition.

MARKHAM, JOHN, butcher, late of Great Warley, Essex, and now of Lupus-st. Pimlico, Sept. 1, at half-past one, Oct. 3, at half-past two, Basinghall-st. Com. Fane; Alsager, off. ass.; Turner, Mount-pl Whitechapel-rd. sol. Date of fiat Aug. 19. J. Hullam, builder, Great Warley, pet. cr.

EELY, WILLIAM, licensed victualler, Black Bull Inn, High-st. Kingsland, Sept. 4, at half-past one, Oct. 7, at eleven, Basinghall-st. Com. Fane; Alsager, off. ass.; Kingdon and Co. Clifford's-inn, sols. Date of fiat, Aug. 21. Bankrupt's own petition.

PARTNERSHIPS DISSOLVED.

Gazette, Aug. 19

Abbott, J. and *Bowman*, T. H. share brokers, Liverpool, Aug. 15.—*Brereton*, R. and *Robinson*, J. woollen drapers, Liverpool, Aug. 15.—*Bottomley*, J. and T. D. and *Evans*, T woollen and fustian manufacturers and merchants, Manchester, Aug. 1. Debts paid by J. Bottomley.—*Carrington*, R W., F. G. and W. M. newspaper proprietors, Devonport, July 28. Debts paid by R. W. and F. G. Carrington. *Cartwright*, S. and *Lowe*, T silk manufacturers, Manchester, Jan. 25 *Chapman*, W. F. and *Collis*, S. coach builders, July 30.—*Cookson*, G. and *Singleton*, G. joiners, Poulton in the Fylde, Lancashire. Aug. 13.—*Denton*, N *Redfern*, C. and *Howarth*, J. hat manufacturers, Gorton, [illegible] and Bolton, Lancashire, Aug. 12. *Halliley*, A. and R. and *Donaldson*, J. calico printers, Wigton, July 25. Debts paid by Messrs. Halliley.—*Hirst*, W. H. and *Brooke*, J. stock and share brokers, Leeds, Aug. 14. Debts paid by Hirst.—*Jenks*, T. R. and *Marp*, J. tea-dealers, Liverpool, Aug. 11. Debts paid by Jenks.—*Jennings*, T. and *Ford*, J. carriers, Blossoms-inn, Laurence-lane, so far as regards Ford, February last.—*Kent*, R. *Adams*, J. and *Kent*, . potters, Burslem, so far as regards Adams, July 19.—*Marsh*, T. and *Symons*, W. M. printers, New Bridge-st. Vauxhall, Aug. 11. Debts paid by Symons.—*Nixon*, M. and *Goode*, H. hat manufacturers, Rugby, Aug. 11.—*Skillicorn*, J. *Pinkess*, D. and *Bailey*, J. W. painters, Liverpool, April 14.—*Thompson*, J. and *Marshall*, S. jun. commission agents, Manchester, June 30. Debts paid by Thompson.—*Turner*, C. and P. C. coal merchants, Preston, July 30.—*Wainman*, B. and *Binks*, B. cloth merchants, Leeds, Nov. 1.

Gazette, Aug. 22.

Batten, N. and A. cheesemongers, Ship Tavern-passage, Leadenhall-market, Aug. 31. Debts paid by A. Batten.—*Brown*, M. and L. schoolmistresses, Sheffield, Aug. 18. Debts paid by L. Brown.—*Brown*, J. and *Colson*, J. architects, Norfolk-st. Strand, Aug. 19. Debts paid by Brown.—*Butler*, W. H. and H. mercers, Newark-upon-Trent, July 18.—*Chinner*, W. and *Brooks*, J. brass founders, Dudley, June 24.—*Cruse*, M. and J. newsvenders, Little Britain, Aug. 11.—*Curnock*, T. Norwood, *Curnock*, A. Perivale, *Curnock*, J. North Wharf-road, Paddington, and *Curnock*, G. Hawley-wharf, Camden-town, Aug. 21. Debts paid by T. Curnock.—*Draper*, H. and E. pattern drawers, South Island-place, North Brixton, May 4, 1843. Debts paid by E. Draper.—*Farrington*, T. and A. grocers, Bewdley, Aug. 6. Debts paid by T. Farrington.—*Fudge*, T. jun. and R. and *Canning*, T. grocers, Bristol, June 24.—*Gwynn*, T. and *Legh*, S. surgeons, Ellesmere, Aug. 19. Debts paid by G. Salter, solicitor, Ellesmere—*Holmes*, G. and E. farmers, Barlow, Aug. 12.—*Ingoldby*, T. *Tabor*, C. and *Clarks*, W. lace manufacturers, Nottingham, Aug. 20. Debts paid by Ingoldby.—[illegible]es, J., *Plumstead*, W. H. and *Paul*, J. A. printers, Fore-[illegible], August 16.—*Langford*, W. sen. and jun. cabinet makers, Hitchin, Aug. 14.—*Loveri[illegible]*, T. and J. haberdashers, Brighton, Aug. 19. Debts paid by J. Loveridge.—*Millit*, S. and *Daniels*, F. wine merchants, Lower King-st. and Water-st. Manchester, Aug. 14. Debts to be paid at each establishment.—*Owen*, J. B. and W. linen drapers, Sunderland, Aug. 18. Debts paid by W. Owen. *Richardson*, T. *Coxon*, J. and *Shield*, G. R. drapers, Newcastle-upon-Tyne, Aug. 16. Debts paid by Richardson and Coxon.—*Smith*, J. and *Blake*, R. lath renders, Manchester, Aug. 20.—*Smith*, W. and T. worsted manufacturers, Kildwick, Aug. 12. Debts paid by J. Anderton, Bingley.—*Stanley*, J and *Cheetham*, T. commission merchants, Manchester, Aug. 16. Debts paid by Cheetham.—*Stiles*, G. and J. soda water manufacturers, Wells-st. Oxford-st. Aug. 18. Debts paid by J. Stiles.—*Tyler*, W., *Vizetelly*, J. T. G. and *Vizetelly*, H. R. printers, Peterborough-court, Fleet-st. July 1.—*Wall*, J. W. and *Hanbury*, O. L. attorneys, Devizes, Aug. 21. Debts paid by Wall.—*Wood*, S. and A. colour merchants, Hanley, July 31. Debts paid by S. Wood.—*Wren*, T. sen., J., J. H., T. jun. and B. corn merchants, Boston, so far as regards B. Wren, Aug. 14. Debts paid by the remaining partners.

Insolvents

Petitioning the Courts of Bankruptcy.

PETITIONS TO BE HEARD AT BASINGHALL-STREET.

Gazette, Aug. 19.

Brown, G. dried fish merchant, North-street, Spitalfields, and Billingsgate-market, Sept. 3, at twelve.—*De la Mare*, J. attorney, Child's-place, Temple-bar, Sept. 3, at twelve.—*Drage*, J. watch and clock maker, Leighton Buzzard, Sept. 3, at half-past eleven.—*Lanfossi*, R. confectioner, Arlington-st. and Swallow-st. St. James, Sept. 3, at twelve.—*Macfarlane*, W. lieutenant in the royal navy, Mausemore-sq. Park-rd. New Peckham, Sept. 3, at one.—*Merry*, J. S. printer, Market-hill, Bedford, Sept. 3, at one.—*Poole*, G. carpenter and builder, Leighton Buzzard, Sept. 3, at one.—*Prior*, T. F. chemist and druggist, Hemmingford-rd. Barnsbury-park, Sept. 3, at half-past eleven.—*Poulton*, J. jun. assistant to a warehouseman or merchant, Luton, Bedfordshire, Sept. 3, at twelve.—*Shaw*, C. H. formerly an auxiliary clerk in her Majesty's Customs, and since a newspaper reporter, Coburn-st. Bow, Sept. 3, at twelve.—*Woodman*, J. H. late clerk in the employ of the Great Western Railway Company, now out of business, Hereford-rd. Bayswater, Aug. 26, at eleven.

COUNTRY.

Gazette, Aug. 19.

Dale, T. licensed victualler and boot and shoe maker, Cullompton, Sept. 4, at one, Exeter.—*Hughes*, R. butcher, Liverpool, Aug. 26, at eleven, Liverpool.—*Laycock*, J. stallion master and labourer, Kendal, Westmoreland, Aug. 29, at half-past two, Newcastle.—*Meikle*, A. late inspector of the County Police Force, but now out of employment, Enville, Staffordshire, Sept. 5, at half-past ten, Birmingham.—*Oaton*, J. plumber and glazier, Taunton Saint Mary Magdalen, Sept. 4, at one, Exeter.—*Oulton*, J. yeoman, Monks Coppenhall, Aug. 26, at twelve, Liverpool.—*Pickering*, R. servant and auctioneer, Birmingham, Sept. 5, at half-past ten, Birmingham.

MEETINGS IN THE COUNTRY.

Gazette, Aug 19.

Bland, G. H. dancing master, Leicester, Sept. 16, at eleven, Birmingham.—*Goodfellow*, J. schoolmaster, Stoke-upon-Trent, Sept. 16, at eleven, Birmingham.—*Hamnett*, J. hatter, Grantham, Sept. 16, at eleven, Birmingham.—*Powell*, G. Sept. 12, at twelve, Liverpool.

PETITIONS TO BE HEARD AT BASINGHALL-STREET.

Gazette, Aug. 22.

Bird, G. B. painter, Edward's-place, Balls-pond, Sept. 6, at half-past twelve.—*Orton*, W. file cutter, Darlaston.

COUNTRY.

Gazette, Aug. 22.

Hill, A. hair dresser and dealer in cigars, Nottingham, Aug. 28, at eleven, Birmingham.—*Lucas*, J. farmer and ale retailer, Manchester, Sept. 5, at twelve, Manchester.

MEETINGS IN THE COUNTRY.

Gazette, Aug. 22.

Rogers, J. rope maker, Leek, Sept. 18, at eleven, Birmingham.—*Wrigley*, E. out of business, Eccles, near Manchester, Sept. 9, at eleven, Manchester.

From the Gazette of Friday, August 29.

Bankrupts.

Chennell, G. carpenter, Capel, Surrey.—*Guy*, J. surgeon, Bury-st. Westminster.—*Bigmore*, S. C. straw plait manufacturer, Haveril, Suffolk.—*Redden*, J. coach builder, Cambridge.—*Hutchinson*, R. leather seller, Jewry-st. Aldgate.—*Joplin*, J. draper, Bishop Wearmouth, Durham.—*Owen*, J. R. stock and share broker, Manchester.—*Harley*, W. S. hatter, Penzance.—*Curtis*, J. linen and woollen draper, Liskeard, Cornwall.

CONTENTS.

THE REPORTS.

Equity Courts.

VICE-CHANCELLOR OF ENGLAND'S COURT.

Monday, June 9.

MACKERELL *v.* FISHER.

Practice—Irregularity—New Orders of the 3rd of April, 1828.

An application being made that the defendant's answer, which had been filed after the plaintiff had served an order to amend, might be taken off the file for irregularity, refused with costs.

In this case the defendant filed his answer after the plaintiff had obtained and served an order to amend the bill, and he now moved that the answer might be taken off the file for irregularity.

Bethell and *Bird*, in support of the motion.—The plaintiff obtained the usual order to amend on the 7th of May, and served it on the 24th of the same month. The three weeks from the date of such service would, therefore, expire on the 14th of June. After service, however, of the order, and while the bill was, in the eye of the Court, deemed to be taken off the file, the defendant, on the 30th of May, filed his answer to the original bill. It is a rule in practice to consider every proceeding in a cause to be suspended by an order to amend. Supposing the plaintiff had issued process of contempt against the defendant, or is in a condition to demand an answer, the service of an order to amend amounts to a waiver of all such advantage he might have against the defendant. There is not, that we are aware of, any express authority upon this point; the case of *Livingstone* v. *Cooke* (9 Sim. 468) being the only one which in any respect involves the principle. There the defendant was brought up on an attachment for want of an answer; and the principal question was, whether or no the order to amend did not constitute a waiver, but the Court was of opinion that it did not; your Honour observing, that the order to amend created no obstacle to the defendant putting in his answer. The general impression, however, among the Profession, and the unanimous opinion of the Clerks of Records and Writs, is, that the dictum attributed to your Honour upon that occasion is not in accordance with the practice. The case of *Price* v. *Webb* (2 Hare, 515) went no further than to decide that the order to amend did not, before service upon the defendant, prevent a demurrer; and that it only operates from the time of such service. The old practice, as laid down in Wyatt, p. 67, is stated to have been as follows; namely, where the plaintiff has obtained an order to amend his bill, but neglected to act upon it, for the defendant to move the Court that the plaintiff might amend pursuant to such order, or that the order be discharged. Sometimes, in order to keep an injunction in force or otherwise, the plaintiff would except to the defendant's answer, and then move to amend, and that the defendant might answer the exceptions and amendments together. If, however, the plaintiff did not amend within a reasonable time, the defendant was in a position to move that the plaintiff be ordered within a certain time to amend, or that such order be discharged, and the defendant be allowed to answer the original bill. But the necessity for so doing no longer exists; for the 14th New Order, 3rd April, 1828, declares that "every order for leave to amend the bill shall contain an undertaking by the plaintiff to amend the bill within three weeks *from the date of the order*, and in default thereof, such order *shall become void*." If, therefore, the defendant be allowed, pending the three weeks, to put in his answer, this new order is of no utility whatever.

Jas. Parker, for the defendant, was not called upon by the Court.

The VICE-CHANCELLOR.—I will not trouble the counsel for the defendant. I distinctly remember having expressed the opinion attributed to me in the case of *Livingstone* v. *Cooke*, and it is clearly right. I can well understand this fact, namely, that where the plaintiff has obtained an order, to amend it may operate to his own disadvantage; but how it can do so against the interests of the defendant, who has no certainty that the plaintiff will ever act upon it, for the life of me I cannot comprehend.

The motion refused with costs.

Thursday, June 26.

GREEN *v.* BARCLAY.

Settlement—Construction—Grandchildren—Issue.

In a marriage settlement, a gift is declared after the decease of T. A. G. and E. L. and the survivor of them, to "all and every such son or sons, daughter or daughters of T. A. G. and E. L. and the children of such son and sons, daughter and daughters, in case any of them should be dead, leaving lawful issue, equally to be divided between them, share and share alike;" "and in case there should happen to be no child or children of the said T. A. G. and E. L. living at the death of either of them, or born in due time after the death of the said T. A. G. then upon trusts for the survivor, &c." T. A. G. and E. L. had three children, but they all died in the lifetime of T. A. G. and E. L.; but two of them left issue, who survived T. A. G. and E. L. Held, the limitation to the grandchildren was good, and therefore such issue took.

Under the marriage-settlement of Mr. T. Abbott Green and Elizabeth Lamport, bearing date the 12th day of January, 1782, certain real estates therein described were conveyed to trustees upon trust, to raise and invest the sum of 2,000*l.* and permit the dividends to be received in manner therein mentioned, during the lives of the said T. A. Green and E. Lamport, his intended wife, and from and immediately after the decease of the said Elizabeth Lamport and T. A. Green, and the survivor of them, then upon certain trusts for the benefit of their children, as the said Thos. A. Green should appoint in manner therein mentioned, and in default of such appointment, in trust to convey, assign, transfer, pay, and apply the said 2,000*l.* stocks, or funds and securities, and all the dividends and interest thereof, unto, between, and amongst all and every such son or sons, daughter or daughters of the said Thomas A. Green, by the said Elizabeth, his intended wife, and the children of such son or sons, daughter or daughters, in case any of them should be dead, leaving lawful issue, equally to be divided between them, share and alike; but the child or children of the said sons and daughters as should then happen to be dead should be entitled only to the share which his, her, or their father or mother would have been entitled unto if then living, equally to be divided among such children, if more than one, and if but one, then wholly to that one child. And in case there should happen to be no child or children of the said T. A. Green by the said Elizabeth, his intended wife, living at the death of either of them, or born in due time after the death of the said T. A. Green, then upon trusts for the survivor of the said T. A. Green, and Elizabeth, his intended wife, his and her executors, administrators, or assigns.

The marriage was duly solemnized, and the sum of 2,000*l.* raised and invested. There were three children of the marriage. One died without issue in the lifetime of both parents. The other two, John and Henry, married and had children; but both John and Henry died in the lifetime of their parents. Thomas A. Green, survived his wife, and died in 1844, leaving several children of John and Henry him surviving. No appointment had been made in pursuance of the powers given by the settlement; and the question was one raised between the children of John and Henry and the persons claiming under the will of T. A. Green.

Bethell and *Stevens*, for the legatees of T. A. Green.—According to the true construction of the settlement, the class entitled is to comprise persons, some in one position, some in another, and unless there really does exist such a class, no one can take. The class is to be composed of either sons or daughters of the testator. The Court is not now called upon to construe a will, but a deed, as in the late case of *Youde* v. *Jones* (8 Jur. 547). The words of the settlement are, "all and every such son or sons, daughter or daughters, and the children of such son and sons, daughter and daughters." Now the class to which the word "such," applies is a class which must be in existence at the death of the survivor of Thos. A. Green and Elizabeth his wife. But this class did not come into existence. Besides, the ultimate limitation, "in case there shall happen to be no child or children," settles every doubt. We submit that the ulterior limitation takes effect, and that the fund goes over in the event that has happened.

J. Parker and *James*, for the issue of John and Henry, were not called upon.

The VICE-CHANCELLOR.—I must admit there is a slight error in the use of the word "such" in that passage, where it occurs, "and the children of such son and sons, daughter and daughters, in case any of them shall be dead, leaving issue," because the word "such" there in effect is made to apply to a person who is dead at the death of the survivor. Now, this is impossible. It strikes me that the language in the first clause is quite sufficient to give to the grandchildren in the event of all the children of the marriage being dead. I certainly admit that the expression is "in case any of them shall be dead;" but one cannot say that there will be any of them dead when all of them are dead. The term "any" might, at first sight, seem to imply some, and not all; that, however, is not the necessary meaning of the words; and it seems to me rather that the true meaning of these words is to give, in the first place to the children living at the death of the survivor; and if there were some children living at the death of the survivor, and some had died before that, in such an event the children who are living and the children of the pre-deceased children would take collectively; but when there is a limitation to a class to consist of possible children, and, in a certain event, to consist of grandchildren, the gift is not less valid because some of the persons designated by the testator by possibility do not take at all if the others take, so that I feel inclined to think that, in the event that has happened, it was a good limitation to the grandchildren; that is, to the children of John and the children of Henry living at a certain time. Here, therefore, there is a complete gift to them, and the only question remains upon a proper construction of this instrument, namely, whether that which constitutes a gift to them in an event precisely and denominated is to be void because there happens to be an evident blunder in the subsequent limitation over. I think not.

NICKELLS *v.* HASLAM.

By an accident, the name of this case, reported in our last number in page 453, col. 1, was omitted. Our subscribers are therefore requested to remedy the deficiency by noting the name at the head of the case in their respective numbers.

ROLLS COURT.

Monday, July 14.

WILKIN *v.* NAINBY.

Practice—Order of course—Irregularity.

It is irregular to obtain an order of course, without stating every thing which is material to be considered in reference to it, and accordingly, where a defendant in contempt for want of an answer filed a plea, and thereupon applied for the common order to clear his contempt, but did not state that he had been served with a notice of motion to take the plea off the file, but which notice of motion was ineffectual because of its being served at an improper time, the common order was discharged for irregularity.

In this case the defendant had obtained two months to answer, which expired on the 27th of March. On the 11th of April an attachment issued, and on the 24th a *habeas corpus*, on which the defendant was brought up on the 1st of May, and turned over to the Queen's Prison. On the 12th of June the defendant filed a plea to the plaintiff's bill, and on the 19th the plaintiff gave notice of motion to take the plea off the file; but the notice was served at half-past eight o'clock on Thursday evening for the following Monday. On the 20th of June, the defendant treating the plaintiff's notice of motion as a nullity, because of the irregularity of service, gave notice of an application to be discharged from his contempt on payment of costs, and obtained an order of course for that purpose without, stating in his petition the fact of the service of the plaintiff's notice of motion.

Terrell now moved to discharge for irregularity the common order so obtained by the defendant, on the ground, in the first place, of the suppression of the fact of the plaintiff's notice of motion; secondly, it was not regular to file a plea without first paying the costs of the contempt; and thirdly, the plea could not be filed by the defendant, in the stage of the contempt he then was, without leave of the Court. [The MASTER OF THE ROLLS.—What have I to do with any thing but the mere irregularity in obtaining the order? I will listen to nothing else.] Well, then, I fall back on the first, and will not rely on the other objections.

Craig, contrà.

The MASTER of the ROLLS.—On motions to discharge the common order for irregularity, I take into consideration all matters respecting the mere irregularity itself, and I consider it is irregular to omit any fact which ought to be stated in reference to

the order at the time it is obtained. In this case the notice which had been served on the defendant ought to have been communicated to the officer, and if so, the order would not have been obtained. The reason for requiring a full statement of every particular is obvious, for no one is allowed to be a judge in his own case, as to what he should state, or what he should suppress; he must state every thing fully. The defendant in this case had no right to treat the motion as a nullity, but he ought to have stated it in his petition when he applied for the order. On the ground of his suppression of that fact, which was material to be known, I grant the motion.

Tuesday, July 15.

Re BENNETT.

Taxation by third parties—Payment of bill—Special circumstances—Allegations of overcharges not specific—Stat. 6 & 7 *Vict. c.* 73, *ss.* 39, 41.

A petition presented within the year by parties interested in a trust fund, to tax a bill of costs paid by their trustees, alleging generally erroneous and extravagant items, but not stating any specific items or other special circumstances (though specific overcharges were verified by affidavits), will be dismissed.

This was a petition by parties beneficially interested in a trust fund, for the taxation under section 39, of the Solicitor's Act, of the bill of costs of Mr. Bennett, the solicitor employed by the trustees. The trustees had paid the bill in or about February last and the application was therefore made within the time allowed by sect. 41 of the Act, but no special circumstances were alleged in the petition, nor were there any specific items of erroneous or extravagant charges stated in it, but only general allegations to that effect. It appeared, however, by the affidavits that in a suit for discovery, which had been instituted against the trustees, the costs as between plaintiff and defendant had been taxed, and the Master had disallowed several items (*inter alia* a charge for preparing receipts for legatees under the will amounting to 26*l.* 3s. 4d.); but these very items the solicitor had inserted in another bill, which he sent in, and which the trustees paid, and this last bill was that of which taxation was now sought. Another charge of 16 guineas for sending up from the country the trustees' answer in the suit was complained of.

Bird, for the petition, being asked by the Court what was the ground of the application, said, no special circumstances were alleged; but he contended that it was not necessary for a party applying for taxation of a bill of costs, paid by trustees, to prove special circumstances. There are, however, in this case improper charges. [The MASTER of the ROLLS.—Which are they; have you alleged them?] No, but we have verified them by affidavits. [The MASTER of the ROLLS.—It will not do; read the Act, what says it?] The reason why it is necessary to allege and prove special circumstances is because payment of a bill is proof of its being correct, and therefore there must be special circumstances alleged to remove that presumption. At all events, as the practice under the Act is not certain, allow us to amend and state the special circumstances.

The MASTER of the ROLLS.—The argument is, that a solicitor who gets payment is not to be protected, but that third parties may open the bill if they think proper. But a solicitor is not to be exposed to any such annoyance, and therefore it is said that payment of a bill shall not preclude taxation if the judge before whom the application is made shall consider that there are special circumstances justifying an order for taxation; and this applies to all bills, whether paid by trustees or not. Now there are several circumstances which may be treated as special; one is where, upon payment of the bill, you state distinctly what is objected to; but here there is only a statement that there are overcharges, but nothing specific. Another instance occurs sometimes in paying off a mortgage, when the attorney of the mortgagee produces his bill and says, pay me now, or go about your business; that is a special circumstance. But, without a special circumstance, I cannot order the bill to be opened. I will dismiss the petition with costs, but without prejudice to another petition being presented, if the parties should be advised so to do.

Thursday, July 31.

Re WATTS.

Practice—Taxation—Interest on sum taxed off.

If, after payment, a solicitor's bill be referred for taxation, and more than one-sixth is taxed off, interest will not be allowed on the sum so taxed off, and to be refunded by the solicitor.

This was an application for a reference to tax the costs of taxation of certain bills of costs of Mr. Watts, and also the costs of this application; and for an order directing Mr. Watts to pay interest on the sum taxed off his bills, as well as to refund it, the bills having been satisfied. The Taxing Master had made his certificate on the 26th of May last, and it appeared that he had taxed off 76*l.* 14s. 11d. the bills referred to him for taxation amounting to 393*l.* 10s. 10d. and therefore more than one-fifth was taxed off.

Kindersley, for the petition, said the only point of importance was the interest.

Elmslie, contrà.—There had been five bills of costs for business done by Mr. Watts for a firm of ten persons, of whom the petitioner was one. There had been two fiats taken out, one against some of the partners, and the other against the remainder. The first two bills were for business done in respect of these fiats; the third for proceedings after the fiats; the fourth was for a mortgage transaction; and the fifth was for business done in reference to an arrangement subsequent to the fiat. In the mortgage transaction there was only one item taxed off. Mr. Watts had carried in a claim to be allowed sums omitted. The costs of this application, at all events, ought not to be given.

The MASTER of the ROLLS made the order as prayed, with the exception of payment of interest.*

VICE-CHANCELLOR KNIGHT BRUCE'S COURT.

July 17 *and* 24.

TWINING *v.* POWELL.

Will—Construction—Ademption.

A testatrix gave to A for life her "house at C, and all therein," and, after her death, gave "the house, &c. &c. to D."

Held, that all that was in the house at the testatrix's death passed to A for life, and afterwards to D.

A testatrix by her will gave to A B, an adopted child, 10,000*l. and directed that if A B should leave no children at her death, the property so left to her should be given in charity. After the date of the will the testatrix transferred* 12,000*l. stock into the joint names of herself and A B.*

Held, that the legacy was adeemed or satisfied, and that it fell into the residue absolutely.

Elizabeth Welch, by her will, dated the 6th of October, 1841, after giving certain pecuniary legacies and appointing executors, gave "to her dear adopted child Lydia Mosse, if residing with her at her death or not permanently absent, 10,000*l.* money, the house in Camden-place, and all therein, to hold for her life;" and at her death the testatrix "gave and bequeathed the house, &c. &c. to her nephew and godson, Richard Twining, and his heirs." The testatrix gave several legacies to specified charities, and then proceeded, "To all the rest of my real and personal property, to my brother and niece, James and Mary Powell; and should Lydia Mosse or Mary Powell leave no children at their death, I wish the property I have so left to be given in charity." The testatrix died in 1843, and the will was proved by the executors. After the date of the will, the testatrix, at different times, purchased sums of stock, and had them transferred into the names of herself and Lydia Mosse, and at the time of her death the sums standing in the joint names amounted to 12,000*l.* The first question which arose was, whether the legacy of 10,000*l.* given to Lydia Mosse, was adeemed, and as to the consequence of such ademption. At the time of the testatrix's death, there were various articles of furniture, books, &c. of considerable value in the house at Camden-place, and a question was raised whether the terms "&c. &c." in the gift over of the house carried such articles and books. Another question was upon the effect of the residuary devise and bequest as to "charity."

Wigram and *C. Hall*, for the plaintiff.

Russell and *Toller*, for Miss Powell, who was the representative of James Powell.

Simpkinson, *Swanston*, *Temple*, *Haldane*, *Wray*, and *Hood*, for other parties.

The VICE-CHANCELLOR said that he was of opinion that it was perfectly clear, upon the construction of the words "the house, &c." that they meant the house in Camden-place and all therein.

July 24. The VICE-CHANCELLOR.—In this case I have already stated my opinion during the argument, that the residuary personal estate of the testatrix belongs to Miss Powell absolutely, either in her own right, or both in her own right and that of Mr. James Powell, whose personal representative she is, subject to this, that a moiety of it, so far as it is capable of being given for charitable purposes, will, in the event of Miss Powell dying without leaving children, be applicable for charitable purposes, and subject to the question relating to the 10,000*l.* of which I am now to dispose. The claim of the Attorney-General in respect of the 10,000*l.* is one which created some difficulty in my mind. I have stated my opinion as to Miss Mosse, that the legacy was adeemed or satisfied, and that Miss Mosse, surviving the testatrix, was intended by her to become, and accordingly is absolutely entitled to the stock, by means of which it was adeemed or satisfied. The question is, whether the stock, being exempt from any provision in favour of charitable purposes, and Miss Mosse being dispossessed of the interest claimed under the will as to 10,000*l.* there is still an effectual testamentary provision in favour of charity as to that sum, in the possible event of her dying without leaving a child, as I think there would have been had there been no ademption or satisfaction. This question appeared to me one of some embarrassment; but I have come to the conclusion that the testatrix cannot be held to have intended that, in the event of the legacy of 10,000*l.* being in her lifetime adeemed or satisfied (she having placed herself before the will, and considered herself at the date of the will, as *in loco parentis* towards Miss Mosse), it should not be held as extinguished for every purpose, and as falling into the residue. I think I decide in conformity with the intentions of the testatrix, and that I am not contravening any rule of law when I say, that the legacy of 10,000*l.* as a legacy, is extinguished, and has fallen into the residue.

Declare that Miss Mosse is entitled for her life to the house in Camden-place, and to the furniture and household effects therein at the time of the death of the testatrix; that Miss Powell is entitled to the residuary personal estate of the testatrix absolutely, and that in the event of her death without leaving a child, one moiety of the residuary estate will from that time be applicable to charitable purposes.

Declare that the legacy of 10,000*l. is to be considered as extinguished and fallen into the residue.*

The charity will have an interest in it as to a moiety, because it is part of the residue.

July 22 *and* 31.

Ex parte MOLYNEUX.

Railway Act—Costs.

Where purchase-money had been paid into court under a Railway Act (which in such case provided that the costs of a purchase of other lands, and of the petition to obtain such purchase, should be paid by the company), and the trustee and cestuis que trust of the land joined in a petition for the payment out of court of part of the purchase-money, and the investment in stock of the remainder, it was held that the provision of the Act as to costs did not apply to the costs of such a petition.

This was a petition under the Liverpool and Manchester Railway Act (7 Geo. 4, c. 49), for the payment out of court of a portion, and the investment in the purchase of stock of the remainder, of a sum of money paid into court by the railway company, under the 61st section of the above Act. The petitioners were the trustee and the *cestuis que trust*, under the will of David Ellison, who were entitled in equal fourth parts to the land, the purchase-money for which had been so paid by the company, and the petition prayed the payment of three of the fourth parts to the persons entitled to them, and the investment in the purchase of stock of the remaining fourth part, for the benefit of the other *cestui que trust*. By the 66th section of the above Act it is enacted that where, by reason of any disability or incapacity of the person or persons, or corporation entitled to any lands, tenements, or hereditaments to be taken, purchased, or used under the authority of this Act, the purchase-money for the same shall be required to be paid into the Bank of England, or to be applied in the purchase of other lands, tenements, or hereditaments, to be settled to the like uses, in pursuance of this Act, it shall be lawful for the said Court to order the expenses of all purchases from time to time to be made in pursuance of the said Act, or so much of the said expenses as the said Court should deem reasonable, together with the necessary costs and charges of obtaining such order, to be paid by the said company." As this petition prayed that the costs should be paid by the company,

Follett, on behalf of the company, submitted that, under the terms of the Act, the costs of such a petition as this ought not to be borne by the company, and cited *Ex parte Cook* (7 Jurist, 639).

C. Barber, for the petitioners, cited *Ex parte Trafford* (2 Y. & C. Exch. Ca. 522); *Ex parte Northwick* (1 Y. & C. Exch. Ca. 166); *Ex parte Bishop of Durham* (3 Y. & C. Exch. Ca. 690); *Ex parte Bishop of Ely* (3 Y. & C. Exch. Ca. 691 n.); *Re Isaac* (4 Myl. & Cr. 11); and *Ex parte Madden* (9 Jurist, 74).

July 31. The VICE-CHANCELLOR.—The only point reserved upon this case was as to the costs. Upon the moral portion of the case merely, the railway company seem to me the parties that ought wholly to bear them; nor am I sure that, had the decisions bearing on the question which have taken place in courts of equity not taken place, were precedents out of the way, I should not have thought it judicially right so to deal with the question. On this point, however, I give no opinion, for I should, as it appears to me, be acting inconsistently with the letter and spirit of a series of decisions that have been pronounced in this court, were I to order the company to pay the petitioner's costs of the petition, upon the ground of those cases, from which (without saying or intimating whether in their absence I should or should not have come to the same conclusion) I think that I ought not to depart. I give no costs on either side, either as to so much of the petition as seeks to have a portion of the money in question paid out of court, or as to so much of it as seeks to have a portion of the money invested in the purchase of bank annuities.

Thursday, July 31.
BELLING *v.* ELLISE.
Will—Construction—Servants.
Under a general bequest to servants, a farm bailiff was held to be entitled.

This was a suit instituted by the plaintiff, who had been a farm bailiff of the home farm at Holkam, belonging to the late Earl of Leicester, for the payment of the amount of one year's wages, which it was alleged was given to the plaintiff, by the late earl's will. By that will the earl bequeathed to each of his servants who had lived with him for five years a twelvemonth's wages. The plaintiff had held the situation for a period of twenty-eight years, and received a salary for his services of 350*l.* per annum. He had no interest in the farm beyond his salary, and he had been in the habit of receiving pupils in farming. The executors opposed the claim, on the ground of the plaintiff's not being within the designation of a servant.

Swanston and *Pitman* for the plaintiff, cited *Chilcot* v. *Bramley* (12 Ves. 114); and *Townshend* v. *Windham* (2 Vern. 546).

Russell and *J. Bailey*, for the executors.

The VICE-CHANCELLOR.—It is perfectly clear that this servant was a servant of Lord Leicester, living with him at the time of his death and having lived with him for five years before his death. He is therefore entitled to his year's wages of 350*l.* and interest at four per cent. from the time when the legacy is directed by the will to be paid.

Saturday, August 2.
GRISSALL *v.* STELFOX.
Practice—Presumption of death.
A reference having been made to the Master to inquire whether a certain person was dead, the Master, after finding certain facts shewing that nothing had been heard of the person for nine years and upwards, reported that he was unable to state whether the person was living or dead, and the Court, upon reading the evidence, considered that the death must be presumed.

By a decree made in the suit it was referred to the Master to inquire, amongst other things, whether a William Stelfox was living or dead, and if dead, when he died. The Master found that Stelfox had been a person of very dissolute and profligate habits, and that he was in the habit of associating with gypsies and vagrants, and that for some years previous to the year 1832, he had deserted his family, and abandoned his home, and led a wandering and unsettled life, never remaining beyond a few days in one place, and having no settled or fixed habitation. By affidavits it appeared that members of his family had, for a period of nine years and upwards, been making diligent inquiries for him, but had not heard any thing of him. Carter, one of the parties to the cause, had in July 1832, seen Stelfox, at which time Stelfox was about fifty years of age, and appeared to be in in a very weak and infirm state of health, and Stelfox on that occasion promised that he would communicate with Carter within a short time, but he had never since been heard of. The Master also found that advertisements had been inserted in several of the English and American newspapers, offering a reward for information respecting Stelfox, but no information had been obtained. Under these circumstances the Master found "that he was unable to state to the Court whether the said William Stelfox was living or dead."

C. P. Cooper and *Metcalfe* submitted that, under the evidence mentioned in the Master's report, the death of Stelfox might be presumed. They cited *Dixon* v. *Dixon* (2 Bro. Ch. Ca. 510); *Lee* v. *Willock* (6 Ves. 605), and *Wilcock* v. *Purchase* (*a*) (before the Vice-Chancellor of England, 27th June, 1845).

The VICE-CHANCELLOR.—I have read the affidavits, and consider that the death may be presumed.

Common Law Courts.

COURT OF QUEEN'S BENCH.

Monday, June 9.
SITTINGS IN BANCO.
(Before Lord DENMAN, C. J., PATTESON, J., WILLIAMS, J., and COLERIDGE, J.)
COLLIER *v.* CLARKE and ANOTHER.
Replevin—A distress for rent upon a warrant signed by one who has only an equitable interest in the land, cannot be rendered valid by a ratification subsequently given by the legal owner—Payment of rent to the mortgagor.

This was an action of replevin, tried before Coleridge, J. at Chester.

Cognizance by the defendants as plaintiffs to James Hulme.

Pleas in bar:—1st. That the defendants were not bailiffs to James Hulme. 2nd. Rien in arrears. 3rd. The Statute of Limitations (3 & 4 Wm. 4, c. 27, s. 2).

Upon the trial it was proved that the distress had been levied for a fee-farm rent of 31*l.* 4s. 7d. accruing from some land in Moseley, in the county of Chester; that the legal interest of the property was in James Hulme, as heir-at-law of the mortgagee; and that the equitable interest was in one Clarke, who had devised the rents to the defendant, Clarke, and others. The heir-at-law of the mortgagee had not been in the habit of receiving payment of the rent, which had always been paid to the mortgagor; and to him, it appeared, that the last half-year's rent due from the plaintiff had been paid. The distress which gave rise to the present action was levied in October 1843. The warrant was signed by Clarke, who had no legal, but merely an equitable, interest in the land; but it was proved in evidence that, subsequently to the distress, but previously to the action, the equitable holder obtained the consent of the legal holder (James Hulme), who signed a ratification of the distress. These facts are sufficient to raise the points taken upon the two first issues; and as no decision was pronounced by the Court upon the third (as to the effect of the Statute of Limitations), it is unnecessary to enter into it.

A verdict, by consent, was entered for the plaintiff under the direction of the learned judge, at the trial, who reserved to the defendants leave to move to enter a verdict for them on all or any of the issues, as the Court above should think fit.

Jervis, Q. C. having obtained a rule, accordingly, to enter the verdict for the defendants upon all the issues,

Welsby now shewed cause.—The first issue was rightly found for the plaintiff; the facts proved did not justify this distress on the part of the defendants as bailiffs of James Hulme. The notice shewed that they did not levy the distress as his bailiffs. It was admitted that Clarke, by whom the warrant was signed, had no such interest in the land as to justify a distress by him. Would, then, the subsequent ratification by Hulme, in whom was the legal interest, give validity to the distress? Clearly not. If the defendants had, in the first instance, merely acted as the bailiffs of Hulme, but without his express authority, that authority, subsequently given, might relate back to the prior act, and justify it. But here they, in the first instance, acted in altogether a different character, and represented altogether a different interest, and they could not afterwards alter the complexion of their wrongful act by obtaining the consent of the mortgagee or of him in whom the legal interest rested. This distinction was recognised in a long list of authorities. (*Guardians of the Bristol Poor* v. *Waite*, 1 Ad. & El. 265; 1 Raym. 466; Year Book, 7 Hen. 4; 2 M. & S. 487; Godbolt, 109; Carth. 44; Bacon's Abr.; Viner's Abr. tit. "Replevin.") On the second issue also, the plaintiff was entitled to the verdict. The rent due had been paid to the mortgagor, who had always received the rent. The fact of his doing so raised the necessary presumption that he did so under the authority of the mortgagee, and was his agent for the purpose. If this were so, no rent was, in fact, in arrear. [He also contended that the third plea in bar was rightly pleaded, and that upon that issue likewise judgment must be entered for the plaintiff. He referred to *Doe* v. *Oxenham* (7 M. & W.), and *Doe* v. *Langton* (9 M. & W.), upon which the rule had been moved, as inapplicable.]

V. Williams, in support of the rule, briefly contended that though the third issue must be found for the plaintiff, that plea was bad. On the second issue, as to the arrears being satisfied, the rent due had not been paid to him who was in law entitled to it, and the verdict on that issue should be entered for the defendants. But, upon the first and main issue, were or were not these parties to be regarded as the agents of the mortgagee? If they were armed with a good defence, they would be justified if they did not set it up at the time the distress was made. They could only be regarded as the bailiffs of James Hulme, and that position justified the distress complained of. Besides, the subsequent assent carried back validity to the prior act. The ordinary rule of relation applied to this case. If it did not, the greatest difficulty would prevail in large estates, where the steward or agent was frequently called upon to distrain before the authority of the legal owner of the estate could be obtained. (*Wilson* v. *Tremmen*, 6 Scott, N. R. 894.)

Cur. adv. vult.

Lord DENMAN, C. J. now delivered

JUDGMENT.

The case of *Collier* v. *Clarke* was tried at Chester, in which by consent nothing was left to the jury, but a verdict was found by the direction of the learned judge for the plaintiff in replevin on all the issues, and leave was reserved to the defendants to move to enter a verdict for them on all, or any, as the Court might decide whether any cognizance was made in the name of James Hulme. The first plea in bar was, that the defendants were not his bailiffs. A distress had been made under a warrant signed by Clarke, and it was admitted that he had no such interest in the rent as would entitle him to make a distress for it; but it was proved that, subsequently, and before the action was brought, James Hulme, in whom the legal interest was, had signed a ratification; and the argument turned on the *effect of* the ratification. For the defendants it was argued this was a ratification to which the ordinary rule of relation applied, and the legal interest being in Hulme, the distress must be taken to be for his benefit; and the plaintiff did not deny the general rule, but its application, and we think properly. Two grounds were made for the defence; the one that the distrainer is not bound to make a ratification different from that upon which he proposes to act at the time the distress is made; and this is true, with this limitation; if a right or authority is set up as a justification, he must have been in possession up to the time the act was done. No case lays down the rule without expressing or implying this qualification. Secondly, that by a subsequent ratification, the distrainer has an authority in him at the time; but this will only apply where the authority was put forward at the time, and the act was manifestly done under it, for the ratification can only operate on the act as it was; it adopts the act as actually done by or for the benefit of him for whom it was alleged at the time it was so done; but if it does more, it changes the nature of the act, which he alleged to be done in his own right and for his own benefit, and turns it into an act alleged to be done in the right of another, since adopted. This was, in effect, decided in *Trevilian* v. *Pyne* (1 Salk. 107), where it was held that the command is traversable in replevin or trespass for taking goods, on the principle that if the defendant justifies as bailiff to J. S. in whom he lays a title to take as for a distress, there it may be material to traverse the command or authority, for though J. S. had a right to take, yet a stranger, without authority from him, had not, and must be liable. There can be no distinction as to this between the two forms of action, and the cases cited from the Year-book, 7 Hen. 4, and Godbolt, 109, are all expressly in point. A further authority has been often cited and relied upon, that of *Wilson* v. *Tremmen* (6 Scott, N. R. 894). The result is, that a party cannot fix on a right different from that which he proposes to distrain upon, unless he had the same right, or can be considered to have had it, at the time, by virtue of any subsequent consent, unless he set it up. This issue was therefore rightly found for the plaintiff. The second issue was upon *rien in arrear*; and no doubt the jury would be fully justified in finding this also for the plaintiff. It appeared that Hulme, the legal owner and heir-at-law of the mortgagee, had not interfered by receiving payment of the rent, which had been always paid to the mortgagor. The jury would have been bound, under all the circumstances, to presume authority for that purpose, so as to make the payment to him a payment to himself. So it was here proved that a payment had been made of the last half-year's rent, and in the usual mode. The present representatives of the mortgagor, having become interested as devisees, had quarrelled as to their proportion of the half-year's rent. Nothing, however, appears, as we think, to interfere with the effects of the payment made. The third issue it is not disputed must be found for the plaintiff. But it was objected that the plea was bad. An interpleader rule might have been applied for, but as no such motion has been made, the rule will be discharged.

Bankrupt and Insolvent Courts.

COMMISSIONERS' COURTS.

Wednesday, August 20.
(Before Mr. Commissioner HOLROYD.)
Re GIBBS, a Bankrupt.
Fraudulent bankrupt—Scrivener—Attorney.

Where a trader carried on business as a scrivener for several years after he had the means of knowing he was in a hopeless state of insolvency, receiving other men's money for investment, applying it to support an insolvent concern, and raising money at an exorbitant discount for the same purpose, and neglecting to keep proper books, Held to be such misconduct as to disentitle him from being allowed his certificate, and to come within the meaning of the term "fraudulent bankrupt."

Where a bankrupt, subsequent to his bankruptcy, received a sum of money for another party, which he paid over to him immediately, such party being at the time a debtor to the bankrupt's estate, Held that the bankrupt could not be considered as having received the money as trustee for his assignees, and was not bound to retain it for their use.

It is no reason why the Court should grant a bankrupt his certificate, that the parties supposed to be injured by his conduct do not complain; the object of withholding from a bankrupt his certificate being the

(*a*) The case of *Wilcock* v. *Purchase*, above referred to, was decided upon a petition presented by a party entitled to a fund upon the death, in the petitioner's lifetime, of a person named Wilcock, and it prayed that the fund might be transferred to her. It appeared by the affidavits filed in support of the petition, that Wilcock was last seen in 1831, standing in the market-place in Guernsey, in conversation with a stranger, since which time he had not been heard of. The pilots and fishermen, who were well acquainted with Wilcock, declared that he had never sailed from Guernsey in any of the only three vessels then lying in the harbour—that the stranger with whom Wilcock was in conversation was totally unknown to the pilots, fishermen, and inhabitants of the island, and that from that time nothing had been heard of Wilcock or the stranger. Upon this evidence the Court ordered a transfer of the fund to be made to the petitioner.

Lloyd appeared for the petition.

suppression of fraud and other misconduct in trade, and not for the satisfaction of any particular creditors.

The fact that the bankrupt (an attorney) would also be liable to the summary jurisdiction of the superior courts for misconduct in transactions, as scrivener and attorney, is no objection to the infliction of punishment by the Court of Bankruptcy for the same transactions.

Acting both as scrivener and attorney in the same matter is highly improper.

This was an application made on behalf of the bankrupt to this Court for the allowance of his certificate.

M. Chambers appeared for the bankrupt.

James, for creditors; and

Phinn, for the assignees.

His Honour now delivered the judgment of the Court.—The trading of the bankrupt under which he seeks the benefit of the bankrupt law was that of a scrivener. In this case it is material first to consider what is the business of a scrivener. The statutory description of this class of traders is, persons using the trade or profession of a scrivener, receiving other men's moneys or estates into their trust or custody. The clearest exposition of the particular nature of this trade or business is to be found in the judgment of Lord Chief Justice Gibbs, in the case of *Adams* v. *Malkin* (3 Camp. 539):—"It appears from the old cases, that before bankers and brokers were so easy to be found, the scrivener was the person with whom people were accustomed to deposit their money, in order that he might lay it out for them when he should find a proper opportunity. The scrivener in the meantime had the use of it, and could not be questioned for the profit he made of it till he laid it out; he was trusted as a banker. It was not a specific sum which in moneys numbered he was to keep in his chest; he gave credit for it to the party who had sufficient confidence in him that he would lay it out to advantage as soon as an opportunity offered." It was seen to be of great importance that this description of persons should be subject to the bankrupt laws, for through them the property of others was exposed to the risks of trade. They were trusted with other men's property, as traders now are, and therefore it was of consequence to the public that if any calamity happened to them, there should be the same summary means which had been before devised with respect to other persons in trade, of getting at their effects, and making an equal distribution among all their creditors. But the bankrupt in this case was not only a scrivener, for with that business he united the profession of an attorney. I will now proceed to consider the charges made against the bankrupt.

The first charge is for general misconduct, in having carried on his business of a scrivener for many years after he knew, or had full means of knowing, that he was in a state of hopeless insolvency, and during that period continuing to receive the money of other persons for investment, and applying such moneys to support an insolvent concern, and for the same purpose raising money at a rate of discount which no course of trading could justify. That the bankrupt was insolvent for many years previous to his bankruptcy is clearly shewn by an extract from his books and balance-sheet, made out by the accountant on behalf of the creditors' assignees. This analysis exhibits the result of the bankrupt's trading in each year, from 1823 to 1836, between 1,300*l*. and a fraction and 10,200*l*., and during the remainder of the period, that is from 1837 to 1843, between 13,521*l*. and 38,965*l*. In each successive year of the latter period up to the time of the bankruptcy in March 1843, the amount of the bankrupt's insolvency gradually increased; for although, in the year 1840, and also in the year 1843, there appears a profit (exclusive of bad debts), the result shews a loss in 1840 of above 20,400*l*. and in 1843 of above 35,800*l*. At the time of the bankruptcy, the amount of debts owing by the bankrupt was 116,174*l*. and liabilities 81,474*l*. The assets realized are about 5,000*l*., and but little more is expected, and, after meeting the expenses of the bankruptcy, it is not probable that the dividend will exceed 1s. in the pound. Seven or eight years ago the amount of his insolvency doubled what it had been in previous years, notwithstanding the extent of the bankrupt's dealings. I think nothing more strongly marks the improvident and reckless system of the bankrupt's trading and his own low credit than his discount transactions, raising money on bills at a rate of discount which a fair and honest trader must have at once rejected as obviously calculated to involve him in inevitable ruin. The amount paid by the bankrupt for discount and interest on bills during his twenty years of trading was about 90,000*l*. and of that sum more that 78,000*l*. was paid during the last seven years. In each of the years 1839, 1840, 1841, and 1842, the sum paid for discount was above 12,000*l*.; in 1842 it was close upon 15,000*l*. The rate of discount paid for very considerable sums during that time realized between 25 and 60 per cent. per annum, and most of the money obtained on the discount of bills was for the bankrupt's own purposes. To give one or two instances of the money raised by discount in January and February 1843, the two months previous to the bankruptcy, bills were discounted with a Mr. Rutledge, a law stationer, and formerly a clerk of the bankrupt's, amounting to 8,762*l*. at a discount of 60 per cent. per annum; between November 1842 and July 1843, Mr. Ford discounted bills to 9,844*l*. at 25 per cent. per annum. Bills were also discounted by Smith at 40 per cent. per annum, out of which he allowed the bankrupt 8 per cent. Whitcombe's proof was on bills discounted for above 16,000*l*, at 40 and 46 per cent. per annum.

Then as to the misuse and misappropriation of money intrusted to the bankrupt for investment, I think the specific charges for this conduct established against the bankrupt, leave no doubt on the mind of such misappropriation of moneys. [His Honour then, after adverting to the case of *Goddard*, and several other cases, in all of which he considered that the misuse and misappropriation of money by the bankrupt had been established, and also to the case of *Youle*, in which his Honour remarked that the *suggestio falsi* and the *suppressio veri* were manifest throughout the whole of the bankrupt's letter to that gentleman, said], There were some further cases adduced, in which I think it may be said that money was raised by the bankrupt nominally for other parties, but in truth for his own use; I refer to the transactions with Mr. Trevanion and Lord Kensington. There are other objections which applied to the conduct of the bankrupt since his bankruptcy, in having received a sum of money (about 600*l*.) for Sir W. G. Todd, which the bankrupt paid over to that gentleman. Sir W. Todd was a debtor to the bankrupt's estate, and under these circumstances it is said that the bankrupt ought to have retained this sum for the assignees. I think there is no weight in this objection. The bankrupt cannot, I think, be considered to have received the money as agent for the assignees. Before I conclude the case of the opposing creditors, I cannot omit to refer to the conduct of the bankrupt in the mode of keeping his books, and in entering various transactions without names to what he calls a profit and loss account—the necessity thereby of a supplemental set of books after the bankruptcy—the various mis-entries in the cash-book, of the destruction of the yearly balance account, and of some papers relating to Pine's account, and the omission to keep a bills receivable book, and the not having taken or failing to preserve vouchers for many important items in his accounts; and it must be remembered, and more particularly in conection with the mode of book-keeping and want of vouchers, that this is a second bankruptcy of this trader. [illegible] now make a few observations upon the address of the of the learned counsel for the bankrupt. It was urged on the part of the bankrupt that the parties who were said to be injured by his conduct did not complain or appear against him. If the judgment on the question of certificate were for the satisfaction of those individual creditors, this argument might avail something; but the object of witholding or suspending the certificate is the suppression of fraud and other misconduct in trade. The end of punishment is amendment and example; with this view any creditor may lay open the conduct of the bankrupt as a trader towards others as well as himself; and a case may be established against a bankrupt either by the evidence of the parties concerned, or through the examination of the bankrupt himself, or by his books, letters, and accounts. It was also strongly urged by the learned counsel for the bankrupt, that many of the objections made to the allowance of the certificate related to matters in which the bankrupt was acting as an attorney, and for which, if in fault, he was amenable to another tribunal. I think this argument has more of plausibility than weight; much may be done by an attorney which is within the province of the business of a scrivener; but in this inquiry all business which might have been transacted by a scrivener must be considered as performed by the bankrupt in that character. It is necessary, therefore, again to advert to some of the duties of a scrivener. Now it is a most essential part of the business of a scrivener to negotiate loans between borrower and lender, and he is also the depositary of the money of either persons who come to him, not simply in his character of attorney, but as a money agent. He is intrusted with the money of other persons, to lay it out generally at his own discretion. (See 3 Mar. & Gr. 56; *Lott* v. *Melville and Holls*, N. P. R. 509; *Hutchinson* v. *Gascoigne*, per Wood, B.) A scrivener, then, who combines with that business the profession of an attorney, cannot, on becoming bankrupt, divest himself of the obligations arising from the trust reposed in him as a scrivener. By virtue of his character of attorney, he may draw the necessary deeds and conveyances, and the investigation of titles may more properly come within his duty in that profession; but having as a scrivener to lay out the money of other persons at his discretion, the circumstance of his being the attorney also, so far from exonerating him from any responsibility, makes it the more inexcusable if he has laid out, without due care and caution, any money intrusted to him for investment; for in transactions where the same person is both the scrivener and the attorney, the scrivener does not trust to the representations of a third person, but before he parts with any money left in his hands he has within himself the knowledge, or full means of knowledge, of the attorney to guide his discretion in making the investment. To allow such a person, upon becoming bankrupt, to shift any part of the duty belonging to the character of a scrivener to his character of an attorney, would be transgressing a principle of law that an offender shall not be permitted to apportion his own wrong. I may here add that in the present case the extreme impropriety of acting as attorney and scrivener in the same matters has been fully exemplified. Attorneys who also exercise the calling of scriveners should bear in mind the remark of Lord Eldon in *Ex parte Malkin* (2 V. & B. 31). His lordship said, "I very much doubt whether the policy of the law will allow a person to be both attorney and scrivener in the same transaction." It was further argued for the bankrupt, that the parties who dealt with him must have known that the nature of his business was the same as under the former firm of Howard and Gibbs, and that it was a perilous business; that Mr. Goddard and others must have known that they adventured their money upon dangerous speculations, and that there was greater risk than on ordinary occasions; as to this, I think there are no grounds to justify the conclusion, that any parties intrusted their money with the bankrupt, to be advanced upon any other than what the bankrupt assured them was good security. Then it was said by the learned counsel (Mr. Chambers), that the good conduct of the bankrupt, for a number of years, ought to weigh in his favour, as well as the circumstance of his having paid debts after his former bankruptcy, which he was not, by law, bound to pay. In his first transactions with Mr. Goddard, the bankrupt is described by that gentleman as having been most regular in his dealings; but I cannot agree that such was his conduct through a series of years. The conduct of the bankrupt as a scrivener is necessarily open to this question,—Has he exercised the best of his judgment upon the occasion that called fo rit? Reviewing the several cases adduced against the bankrupt, and the facts elicited upon his own examination, as also from his books and letters, I feel bound to say that he has not. I think the discretion vested in the bankrupt as a scrivener was governed not by rule, but by humour and his own want of money, and on many occasions wilfully abused. He appears to me to have acted for many years in his money transactions for others according to his own arbitrary will and private affection; of a discretion thus exercised, it has been laid *talis discretio discretionem confundit* (*Rooke's* case, 5 Co. 100 a); and it is not discretion *cum ratione insanire* (Hob. 158). Whether it be necessary or desirable that the business of a scrivener should exist at all in the present day I am not now called upon to give an opinion; but so long as it is a trade recognised by the law, I know of none in the right conducting of which the public is more deeply interested. The business of a scrivener, like that of a banker, supposes entire confidence and trust. It is a business in which confidence is unavoidable, and in which, therefore, frauds may be easily perpetrated; and upon this consideration the ends of justice require that the punishment for misconduct in such a trade should be the more severe. After a mature consideration, then, of all the circumstances of this case, being clearly of opinion that the bankrupt, by a long course of dealing, exhibiting many instances of gross misconduct and fraud, has forfeited all title to his former character for honour and integrity, and has brought himself within the definition of the term "fraudulent bankrupt," the judgment of the Court is, that the allowance of the certificate be refused. *Certificate refused.*

Monday, Sept. 1.

(Before Mr. Commissioner Fane.)

Ex parte Eaton, *re* Eaton v. Osborne.

Upon an application for a summons under 8 & 9 *Vict. c.* 127, *the Court will receive an affidavit shewing that the judgment recovered was in reality under* 20*l. although it appeared by the judgment itself to be above that sum.*

This was an application for a summons under & 9 Vict. cap. 127. In support of the application the plaintiff produced an office copy of a judgment by default in an action of debt. The sum demanded in the declaration was 51*l*. 19s. which was the aggregate of the sums mentioned in all the counts, and the judgment had been signed nominally for that amount. An affidavit made by the plaintiff's attorney was put in and read; it stated, that the sum originally sought to be recovered in the action was 6*l*. 6s. 4d. which sum had, since the judgment, been reduced, by payment, to 6*l*. 19s. 8d. That the only sum for which the plaintiff would have been entitled to issue execution against the defendant, by virtue of the judgment, was the before-mentioned sum of 16*l*. 6s. 4d. and costs.

His Honour thought the affidavit sufficient to justify him in ordering a summons to be issued. The amount for which judgment was nominally signed is mere form. The affidavit clearly shews that the amount which was sought to be recovered under the

judgment was a sum not more than 20*l*. The legislature must have intended to give the Court jurisdiction in a case like the present. *Summons granted.*

COUNTRY COMMISSIONERS' COURTS.

NEWCASTLE-UPON-TYNE DISTRICT BANKRUPTCY COURT.

Wednesday, August 27.
(Before Mr. Commissioner ELLISON.)
DIXON *v.* LUNWOOD.

Parol evidence cannot be received to vary the amount in the judgment.

The defendant was summoned under the late Act, and a copy of the judgment-roll produced, upon which *Cooper*, for the defendant, objected that the plaintiff was not in court, which Mr. Commissioner Fonblanque had decided was requisite, and the she was immediately sent for.

Chater, for the plaintiff, then read the office copy of the judgment-roll, and stated that the action was brought to recover 12*l*. 18*s*. 9*d*. as he would prove by Mr. Dixon, the plaintiff's son and attorney in the action, and also by production of the original writ of summons.

Cooper objected to any parol evidence being adduced, especially to falsify the judgment-roll, from which it appeared a judgment had been obtained for 300*l*. which being above 20*l*. the Commissioner had no jurisdiction.

Chater replied that it was the usual practice in actions of debt to lay the damages at large nominal sums, and this judgment having been obtained by default, it was not altered to the proper sum.

The objection was argued at great length, and ultimately his Honour held the objection good, and dismissed the summons.

Ecclesiastical Courts.

PREROGATIVE COURT.

Monday, March 17.
(Before Sir H. JENNER FUST.)
BARNES *v.* VINCENT.

A power was reserved to A by marriage settlement to dispose of certain property by will, " SIGNED AND PUBLISHED,*" in the presence of two or more credible witnesses. The attestation clause of the will purported that it had been "signed and sealed," but the word "* PUBLISHED*" did not appear.*

Held, not to be a sufficient execution of the power, and that parol evidence was not admissible to explain.

Sir H. JENNER FUST now delivered sentence in this case, which was an allegation propounding the will of Mrs. Ireland, the lady of the late Dean of Westminster, made under a power reserved to her by her marriage settlement, which gave her the disposal of certain property by deed or will, to be "signed and published" in the presence of two or more credible witnesses. The attestation clause of the will purported that it had been signed and sealed in the presence of the subscribed witnesses, the word "published" not appearing in the clause. The case was argued in the beginning of Hilary Term (January 16), and the learned judge now expressed his opinion that there had not been a sufficient execution of the power, and that parol evidence was not admissible. The Court had held this opinion in a similar case, that of *Allen* v. *Bradshaw* (2 Cart. 110), where he (the learned judge) had gone through all the preceding cases. Since then the case of *Burdett* v. *Spilsbury* had been decided, which was a very important authority with respect to this class of cases. In that case, however, there was no attestation clause in the will, merely the word "witness;" and the House of Lords, reversing a decision of the Exchequer Chamber, which had reversed a decision of the Court of Queen's Bench, held that the word "witness" must be taken to refer to neither act, or to all the acts, including publication, and that in such a case parol evidence was admissible to supply the deficiency. Here, however, there was an exclusion of the word "published," which was required by the power. The only case since that of *Allen* v. *Bradshaw* which seemed to go the other way was that of *M'Inlay* v. *Sison* (8 Sim. 567), in which the Vice-Chancellor of England appeared to have held that the words "signed and sealed," under the circumstances of that case, were equivalent to delivery, and as "delivered" had been held to be equivalent to "published," signing and sealing was equivalent to publication. But as this decision, though brought to the attention of the judges who gave their opinion in *Burdett* v. *Spilsbury*, in the House of Lords, had not been noticed by any one but Mr. Baron Rolfe, who had not expressed his entire approbation of it, and as no subsequent decision had gone the same way, he (the learned judge) thought he should not be justified in departing from his former opinion, and adopting this isolated decision, in opposition to the stream of authorities. He must, therefore, reject the allegation, though it was a very unfortunate case, as the intentions of this lady would be entirely defeated.

(Before Sir JENNER FUST.)
HOOK and OTHERS *v.* DAVIE.

Circumstances under which a will was deemed not to have been properly understood by the testator at the time of his executing it.

Sir H. JENNER FUST delivered his sentence in this case, which related to a paper propounded as the will of Mr. D. Hook, of Great Yarmouth, who died on the 2nd of October, 1842, at the age of 77 or 78. He left a widow and two daughters, one by a former marriage, and his personal property amounted at his death to 9,000*l*. or 10,000*l*. besides a real estate of about 4,000*l*. value.* He had made a will in 1839, and another in 1841, by both of which he appeared to have made a provision for his widow by way of annuity, and for widowhood, and to have disposed of the residue equally between his two daughters, Mrs. Sego and Mrs. Jay, which was the principle he seems to have adhered to in all his testamentary declarations. In 1842 he intimated an intention to make a new will, but took no step for that purpose before the 19th of September, 1842, when he had an attack of a paralytic or apoplectic character. On the following day he recovered from this attack, but the extent of his recovery was a point upon which the witnesses differed. On that day (the 20th of September) Mr. Jay, the deceased's son-in-law, sent for a solicitor, Mr. Cory, to whom he gave instructions for a will, in which the disposition was greatly in favour of his wife (Mrs. Jay), himself, and the widow, and to the prejudice of Mrs. Sego, the other daughter. A will was drawn by Mr. Cory from those instructions, without any knowledge of the previous testamentary acts of the deceased. It was, however, read over by him to the deceased (though in the presence of Mr. and Mrs. Jay and the widow, the parties interested), approved, and executed by him. From the whole tenor of the deceased's testamentary acts; from the state of his affections towards his daughters, for whom he entertained an equal regard; from the declarations he made, down to June 1842, of his intention to make an equal distribution of his property between them, from which the contents of this paper were an entire departure; and from what had transpired since deceased's death, it was evident, in the opinion of the learned judge, that he had not understood the nature of the disposition read to him; and the learned judge observed, that had Mr. Cory taken a more correct view of his duty as a solicitor, he would not have received instructions solely from Mr. Jay, but would have had a previous communication with the deceased himself, and would have taken care that he fully understood every part of the will, and that it was so material a departure from his former disposition. He was therefore clearly of opinion that the evidence was inadequate to the support of the paper, and he pronounced against its validity. As Mr. Davie had unnecessarily entered into evidence which had occasioned considerable delay and expense, in order to prove the general incapacity of the deceased, he should not condemn the party propounding the paper in the costs, but he should order the costs of Mr. Davie, who had been admitted as contradictor, to be paid out of the estate.

Irish Reports.

COURT OF QUEEN'S BENCH.

FEELY in Error *v.* THE QUEEN, CUMING in Error *v.* THE QUEEN, DALY and OTHERS in Error *v.* THE QUEEN.

Writs of error had been sued out in these cases also, on the ground of non-allowance of the right of challenge, as also upon various other grounds, which it is unnecessary to enumerate, as the Court pronounced no opinion upon them.

April 25*th*.—PENNEFATHER, C.J. in delivering the judgment of the Court, proceeded to say,—In the case of *Meehan in error* v. *The Queen* and two other cases, the members of the Court have frequently met to take into consideration the several arguments addressed to them by the different counsel on Tuesday last, and it is the opinion of the Court that they are in fact ruled and decided by the order of the House of Lords in *Gray's* case (3 Law T. 449).

The Court considers itself bound by that decision, and will therefore adopt the language of the House of Lords in that case in the judgment it is now about to pronounce; and as *Gray's* case has been decided by the very highest authority, and is, of course, conclusive upon all persons engaged in the administration of justice, it is unnecessary to enter any further into or review the arguments of the counsel. The Court is bound by the judgment of the House of Lords, and consequently the judgment which the Court have come to, and which I am about to read, is copied from the order in the case to which I have referred; that judgment is the decision of the Court in *Meehan's* case, and is also to be entered in all the other cases, namely, the cases of *Reynolds, Cummings, Daly, Kennedy*, and some others whose names I have not taken down. In many of these cases other questions have been raised and argued; but the Court does not think it necessary to enter upon a discussion of them, because they become of no avail, in consequence of the judgment already pronounced. One common error is apparent in them all, to which the present judgment of the Court applies, viz. the non-allowance of peremptory challenges in the cases of the several prisoners. The House of Lords have decided in *Gray's* case that this Court has erred in the judgment it formed relative to the right of peremptory challenge, and such being the case, and that decision being now binding upon the Court, the cases before us are all decided by the rule made and pronounced in *Gray's* case. The Court has therefore only in a formal manner to pronounce its opinion, which is, that "these judgments should be reversed, and that the verdicts should be set aside, vacated, and annulled, as if they never had existed."

Bourne (clerk of the Crown).—What is to be done with the prisoners, my lord?

PENNEFATHER, C.J.—Let them be remanded and sent to their respective gaols.

For the Crown, *Greene*, S. G. and *Brewster*, Q. C.

For the several prisoners, *Napier*, Q. C., *Smyly, Rollestone, Hassard*, and *F. Meagher*.

THE LEGISLATOR.

Summary.

WE invite attention to a useful abstract from a Parliamentary paper, giving a return of the number of railways for which Acts have passed in the last Session, the length of each line, number of shares, amount of capital subscribed, the number of new shares each line is empowered to create, with other serviceable information. As large a quantity of actual legislation of last session as our columns this number will admit is given below.

NEW STATUTES

Of the Sessions 8 *Victoria.*

[In this record of actual Legislation, we adopt the plan of giving the titles alone of the statutes of no general or professional interest; and analyses of the more important changes in the law, printing at length such statutes or parts of statutes only as are of particular interest to our readers.]

(*Continued from page* 394.)

CAP. LXII.

An Act to make further provisions as to stock and dividends unclaimed. (July 31, 1845.)

1. *When any dividends on stock have remained unclaimed for ten years, the same to be paid to the commissioners for the reduction of national debt. Payment of such dividends to claimants to be directed as in other cases.*—Whereas, by an Act passed in the fifty-sixth year of the reign of his late Majesty King George the Third, intituled "An Act to authorize the transferring Stock upon which Dividends shall remain unclaimed for the Space of at least Ten years at the Bank of England, and also all Lottery Prizes or Benefits and Balances of Sums issued for paying the Principals of Stocks or Annuities which shall not have been demanded for the same period, to the Commissioners for the reduction of the National Debt," provision is made for transferring all capital stock in respect of which any annuities constituting part of the national debt are payable at the Bank of England, and upon or in respect of which the dividends shall be due and remain unclaimed for the space of ten years, and the balances of sums issued for paying the principals of stocks or annuities which shall not have been demanded for the same period, to the commissioners for the reduction of the national debt; and by the said Act provision is made for enabling parties entitled thereto to procure a re-transfer of such stock, and payment of the dividends due thereon; and it is necessary to make further provisions in relation thereto: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, That in every case in which any dividends or dividend accrued due on any stocks, funds, or annuities, constituting any part of the national debt, and transferrable at the Bank of England, shall not have been demanded for the period of ten years or upwards preceding the last day upon which any dividend shall have become due or payable upon or in respect of the same stocks, funds, or annuities, such dividends or dividend, and all other dividends since accrued in respect of the same stocks, funds, or annuities, shall immediately after the expiration of such period of ten years be paid to the account of the commissioners for the time being for the reduction of the national debt, and shall be by them invested in the manner directed by the said recited Act with respect to the dividends upon stocks, funds, and securities transferred to the said commissioners in the manner therein mentioned; and it shall be lawful for the governor or deputy governor for the time being of the Bank of England, or for the High Court of Chancery, to direct the payment of such dividends to any persons or person claiming to be en-

titled thereto, in the same manner in all respects as is by the said Act directed with respect to the stocks, funds, and securities transferred to the said commissioners as therein mentioned.

2. *Notice to be given by advertisement before re-transfer or payment of any stock or dividends to any claimant.*—And be it enacted, That no re-transfer of any capital stock exceeding the sum of twenty pounds, or of any terminable annuities exceeding one pound per annum, shall be made from the account of the said commissioners, under the authority of the said recited Act, to any persons or person, nor shall payment be made under the authority of the said recited Act, or of this Act, of any dividends or dividend exceeding twenty pounds in the whole, until three calendar months after application shall have been made for the same, nor until such notice shall have been given thereof as the said governor and company are hereinafter authorized to require; and it shall be lawful for the said governor and company to require the person or persons making such application to give such public notice by advertisements in one or more newspapers circulating in London and elsewhere, as the said governor and company shall think fit; s id every such notice shall state the name, description, and addition of the person in whose name the unclaimed stock or dividends stood when transferred to the said commissioners, and the amount thereof, and the name of the claimant, and the time at which such re-transfer or payment will be made if no other claimant shall sooner appear and make out his claim; and when and so often as any such stock shall be directed to be transferred, or such dividends to be paid, by any order of the high Court of Chancery, such notice shall also state the purport or effect of such order.

3. *Application may be made to Court of Chancery to rescind order for transfer, &c.*—And be it enacted, That it shall be lawful for any persons or person, at any time before the actual re-transfer of any such capital stock or annuities, or before payment of any such dividends to any such claimant as aforesaid, to apply to the Court of Chancery by motion or petition to rescind, alter, or vary any order made for such transfer or payment.

4. *The sum of 3,663l. 13s. 8d. arisen from unclaimed dividends on East-India Annuities to be paid to commissioners for the reduction of the national debt.*—And whereas, under and in pursuance of an Act passed in the thirty-third year of the reign of his late Majesty King George the Third, intituled "An Act for placing the Stock called East-India Annuities under the Management of the Governor and Company of the Bank of England, and ingrafting the same on the Three Pounds per Centum Reduced Annuities, in redemption of a Debt of Four millions two hundred thousand Pounds owing by the Public to the East-India Company; and for enabling the said Company to raise a Sum of Money by a further Increase of their Capital Stock, to be applied in discharge of certain Debts of the said Company," certain annuities payable out of the public revenue, and theretofore granted to the East-India Company, and then held partly by the said East-India Company, and partly by various persons to whom the last-named company had assigned the same, were converted into Three Pounds per Centum Reduced Annuities, transferrable at the Bank of England, and the dividends then remaining unclaimed in respect of such East-India Annuities were paid over to the said Governor and Company of the Bank of England: And whereas the said governor and company have now in their hands the sum of three thousand six hundred and sixty-three pounds thirteen shillings and eightpence, part of such last-mentioned unclaimed dividends, which have continued unclaimed for upwards of forty years; be it enacted, That the said governor and company shall forthwith after the passing of this Act pay the said sum of three thousand six hundred and sixty-three pounds thirteen shillings and eightpence to the account of the said commissioners for reduction of the national debt; and the same shall thenceforth be and remain subject to the claims and demands of the proprietors of the stock in respect whereof the said dividends accrued, in such and the same manner as if the same had been paid over under the provisions of the said recited Act of the fifty-sixth year of King George the Third; and the said governor and company shall be indemnified from all claims and demands in respect thereof.

5. *Lords of the treasury may authorize inquiries into the circumstances of unclaimed stocks and dividends. Payment of expenses, &c.*—And be it enacted, That it shall and may be lawful to and for the Lord High Treasurer, or the Commissioners of her Majesty's Treasury for the time being, from time to time, and at any time, to authorize and empower the said Governor and Company of the Bank of England to inquire into and investigate the circumstances of any stocks, funds, annuities, or dividends remaining unclaimed for the time being, with a view to ascertain the owners thereof, and to allow to the said governor and company such compensation as the said Lord High Treasurer, or the Commissioners of her Majesty's Treasury, shall seem just, for their trouble and expenses to be incurred in and about such inquiries and investigation, and also from time to time to allow to the said governor and company a reasonable compensation for all costs and expenses to be incurred by them in and about the notices and advertisements hereby directed, and other the services required or authorized by this Act, which compensation may be deducted rateably from the stocks and dividends to be from time to time re-transferred or paid, and with reference to which such trouble, costs, and expenses shall have been incurred, and such services performed respectively, or the same may be paid by the said commissioners for the reduction of the national debt out of the stocks and dividends to be received by them under and by virtue of the said first-recited Act or this Act, and which shall not be claimed.

6. *Interpretation of Act.*—And be it enacted, That the word "stocks" in this Act shall extend to any stocks, funds, or annuities which now are or at any time hereafter shall be transferrable at the Bank of England; and that, except where the sense or context is repugnant to such construction, the plural number in this Act shall be construed to include the singular, and the masculine gender to include the feminine.

7. *Alteration of Act.*—And be it enacted, That this Act may be amended or repealed by any Act to be passed in this present session of Parliament.

Cap. LXIII.

An Act to facilitate the completion of a Geological Survey of Great Britain and Ireland, under the direction of the First Commissioner, for the time being, of her Majesty's Woods and Works. (July 31, 1845).

Cap. LXIV.

An Act to amend certain regulations respecting the Retail of Spirits in Ireland. (July 31, 1845.)

Cap. LXV.

An Act to determine the countervailing Duties payable on Spirits of the nature of plain British Spirits, the manufacture of Guernsey, Jersey, Alderney, or Sark, imported into the United Kingdom, and to prohibit the Importation of Rectified or Compound Spirits from the said Islands. (July 31, 1845.)

Cap. LXVI.

An Act to enable her Majesty to endow New Colleges for the advancement of learning in Ireland (July 31, 1845.)

Cap. LXVII.

An Act for making further regulations for more effectually securing the correctness of the jurors' books in Ireland. (July 31, 1845.)

Cap. LXVIII.

An Act to stay Execution of Judgment for Misdemeanors upon giving Bail in Error. (July 31, 1845.)

1. *Execution on judgments for misdemeanors stayed or suspended by writ of error and bail thereon.*—Whereas it is expedient to make provision for staying the execution of judgment upon prosecution for misdemeanor while a writ of error is depending to reverse such judgment: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That in every case of judgment, whether given before or after the passing of this Act for a misdemeanor, where the defendant or defendants shall have obtained a writ of error to reverse such judgment, execution thereupon shall be stayed until such writ of error shall be finally determined; and in case the defendant or defendants shall be imprisoned under such execution, or any fine shall have been levied, either in whole or in part, in pursuance of such judgment, the said defendant or defendants shall be entitled to be discharged from imprisonment, and to receive back any money levied on account of such fine from the person or persons in whose possession the same shall be, until such final determination as aforesaid: Provided always, that no execution upon any such judgment shall be stayed unless and until the defendant or defendants shall become bound by recognizance, to be acknowledged before one of the judges of her Majesty's Court of Queen's Bench, or one of the commissioners appointed to take special bail in actions depending in the superior courts, with two sufficient sureties, to be approved of by such judge or commissioner, in such sum as such judge or commissioner shall direct, to prosecute the writ of error with effect, and in case the judgment shall be affirmed, forthwith to render the said defendant or defendants to prison, according to the said judgment, where imprisonment shall have been adjudged; and every such recognizance shall, after justification of bail, be filed of record in the said Court of Queen's Bench, in like manner and upon payment of the like fees as in the case of other recognizances filed in the Crown Office in that court; and the judge of the said Court of Queen's Bench, and the said commissioner, shall have the like powers in respect of the justifying such bail in error, and the examination of the sureties, and the like rules shall apply, as in respect of special bail in actions depending in such court: Provided always, that in the case of any defendant under legal disability it shall be sufficient if two persons, to be approved of by such judge or commissioner, shall become bound by recognizance on the behalf of such defendant, to be acknowledged and conditioned as aforesaid.

2. *Certificate of recognizance being duly filed.*—And be it enacted, That the Clerk of the Crown in the said Court of Queen's Bench shall for the purposes herein-after mentioned make out and deliver to the defendant or defendants, or his or their lawful attorney, certificates in writing under his hand that such recognizance is duly filed of record in such court, upon payment of the like fee as for other certificates delivered at the Crown Office; and any such certificate, when duly verified by affidavit to be made before one of the judges of the superior courts of common law, or a commmissioner duly authorized, shall be a sufficient warrant to every gaoler or other person having custody of such defendant or defendants in execution of such judgment to discharge him or them out of custody, and also to every person having in his possession the whole or any part of any fine levied in execution of such judgment, to authorize and require the repayment thereof to the defendant or defendants; but no person who shall have received any such money, and have paid it over to any other person, according to the course of the Exchequer, shall be liable to repay to the defendant or defendants any part of the money so paid over.

3. *Time of imprisonment, how reckoned.*—And be it enacted, that where judgment upon such writ of error shall be affirmed, and imprisonment shall have been adjudged, the period for its continuance in pursuance of such judgment, if such imprisonment shall not have commenced under such execution, shall be reckoned to begin from the day when such defendant or defendants shall be in actual custody under such judgment; and if the defendant or defendants shall have been discharged from imprisonment in manner hereinbefore provided, such defendant or defendants shall be liable to be imprisoned for such further period as, with the time during which such defendant or defendants may already have been imprisoned under such execution, shall be equal to the period for which such defendant or defendants was or were so adjudged to be imprisoned as aforesaid.

4. *Payment and recovery of a fine not to prevent imprisonment till fine again paid.*—And be it declared and enacted, that when the judgment shall have been for payment of a fine, and imprisonment until such fine be paid, either with or without imprisonment for a certain time, and the defendant or defendants shall have paid the fine, or the same or any part thereof shall have been levied, and shall have been received back, under the provisions hereinbefore contained, and the judgment upon writ of error brought shall be affirmed, the defendant or defendants shall not be entitled, by reason of such payment as aforesaid, to be discharged from imprisonment, notwithstanding the expiration of any certain time of imprisonment for which the original judgment shall have been given, until the fine shall be again paid.

5. *Writ of error to be quashed in case of delay or neglect to prosecute it.*—And be it enacted, that if the Court in which any such writ of error shall be pending shall, upon motion in that behalf, decide that the defendant or defendants by whom it shall be brought has or have wilfully delayed or neglected to prosecute the same with effect, it shall be lawful for such Court to order the writ of error to be quashed, and thereupon the defendant or defendants who brought such writ of error shall be liable to execution upon the judgment.

6. *Act not to extend to Scotland.*—And be it enacted, that this Act shall not extend to Scotland.

7. *Alteration of Act.*—And be it enacted, that this Act may be amended or repealed by any Act to be passed in this session of Parliament.

Cap. LXIX.

An Act to amend an Act of the Sixth Year of her present Majesty, for promoting the Drainage of Lands, and Improvements of Navigation and Water-power in connexion with such Drainage, in Ireland. (July 31, 1845.)

Cap. LXX.

An Act for the further Amendment of the Church Building Acts. (July 31, 1845.)

Cap. LXXI.

An Act to extend certain Provisions in the Act for consolidating and amending the Laws relating to Highways in England. (July 31, 1845.)

1. *5 & 6 Wm. 4, c. 50. Extending provisions of recited Act.*—Whereas by an Act passed in the sixth year of the reign of his late Majesty, intituled "An Act to consolidate and amend the Laws relating to Highways in that part of Great Britain called England," after reciting that under Acts of Parliament theretofore made, and which might thereafter be

made, for the inclosing of waste land, parcels of land had been and might be expressly allotted to parishes, or to the surveyor of the highways, for the purpose of obtaining materials for the repair of the highway in such parish, and the materials in such parcels of land had been and might be exhausted, it was enacted, that in such cases it should and might be lawful for the surveyor of such parish for the time being by and with the consent of the vestry, and he was thereby authorized and required, with the consent in writing of the justices of the peace at a special sessions for the highways, to sell and convey to some person whose lands adjoin thereto, or, if he should refuse to purchase, to any other person, the said parcels of land from which the said materials had been so exhausted as aforesaid, at and for such price as the said justices might deem fair and reasonable, and with the money arising therefrom, and with such consent as aforesaid, to purchase other lands in lieu thereof: and whereas it is desirable to extend the provisions herein-before recited to other cases than those mentioned in the said Act: be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal and Commons, in this present Parliament assembled, and by the authority of the same, that, from and after the passing of this Act, the recited Act, and all the provisions therein contained, shall apply and extend not only to the lands in the said Act specified, but to all lands belonging or which hereafter may belong to parishes, or to the surveyor of the highways, for the purposes aforesaid, which have been or hereafter shall be lawfully used for the purpose of obtaining materials for the repair of the highways in such parish, the materials in which lands have been or hereafter may be exhausted.

2. *Recited Act and this Act to be as one.*—And be it enacted, That the said Act and this Act shall be construed together as one Act.

3. *Alteration of Act.*—And be it enacted, That this Act may be amended or repealed by any Act to be passed in this session of Parliament.

Cap. LXXII.

An Act to render it unnecessary to keep up Rothwell Gaol, in the honour of Pontefract, in the West Riding of the county of York. (July 31, 1845.)

Cap. LXXIII.

An Act to enable her Majesty's Commissioners of Woods and Works to apply certain moneys, now in their hands, towards discharging the Incumbrances affecting the Shrewsbury and Holyhead Road. (July 31, 1845.)

Cap. LXXIV.

An Act to amend an Act of the seventh year of King William the Fourth, for preventing the advertising of foreign and other illegal Lotteries; and to discontinue certain Actions commenced under the provisions of the said Act. (July 31, 1845.)

1. 6 & 7 *Wm.* 4, *c.* 66. *Persons sued before the passing of this Act for penalties incurred under the recited Act may apply to the Court or a judge to stay proceedings on certain conditions.*—Whereas by an Act passed in the seventh year of the reign of his late Majesty King William the Fourth, intituled "An Act to prevent the advertising of foreign and other illegal Lotteries," it is enacted, that if any person shall print or publish, or cause to be printed or published, any advertisement or other notice of or relating to the drawing or intended drawing of any foreign lottery, or of any lottery or lotteries not authorised by some Act or Acts of Parliament, or if any person shall print or publish, or cause to be printed or published, any advertisement or other notice of or for the sale of any ticket or tickets, chance or chances, or of any share or shares of any ticket or tickets, chance or chances, of or in any such lottery or lotteries, as aforesaid, or any advertisement or notice concerning or in any manner relating to any such lottery or lotteries, or any ticket, chance, or share, tickets, chances, or shares, thereof or therein, every person so offending shall for every such offence forfeit the sum of fifty pounds, to be recovered, with full costs of suit, by action of debt, bill, plaint, or information in any of his Majesty's courts of record in Westminster or Dublin respectively, or in the Court of Session in Scotland, one moiety thereof to the use of his Majesty, his heirs and successors, and the other moiety thereof to the use of the person who shall inform or sue for the same: And whereas the printers, publishers, and proprietors of divers newspapers have inadvertently printed and published some advertisements or notices of or relating to the matters in the said Act mentioned, or some of them, and many actions, suits, informations, and prosecutions have been brought and commenced against such printers, publishers, and proprietors, or some of them, by persons who sue, inform, and prosecute, as well on their own behalf as on behalf of her Majesty, to recover various penalties incurred or alleged to have been incurred under the provisions of the said Act; and it is expedient that all further proceedings in such actions, suits, informations, and prosecutions should be prevented, and such other provision made in relation thereto and otherwise as is hereinafter mentioned: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That immediately from and after the passing of this Act it shall be lawful for any person or persons against whom any original writ, suit, action, bill, plaint, or information shall have been sued out, commenced, or prosecuted, on or before the day of the passing of this Act, for the recovery of any pecuniary penalty or penalties incurred under the said Act, except in the cases hereinafter provided, to apply to the court in which such original writ, suit, action, bill, plaint, or information shall have been sued out, commenced or prosecuted, if such court shall be sitting, or, if such court shall not be sitting, to any judge of either of the superior courts at Westminster or Dublin respectively, or to any judge of the Court of Session in Scotland (as the case may have arisen in England, Ireland, or Scotland respectively) for an order that such writ, suit, action, bill, plaint, or information shall be discontinued, upon payment of the costs incurred to the time of such application being made, such costs to be taxed according to the practice of such courts respectively; and every such court aforesaid is hereby authorised and required, upon such application, and proof that sufficient notice has been given to the plaintiff or plaintiffs, or to his or their attorney, of the application, to make such order as aforesaid; and upon the making of such order, and payment or tender of such costs as aforesaid, such writ, suit, action, bill, plaint, or information shall be forthwith discontinued.

2. *Not to extend to actions in which judgment has been obtained, &c.*—Provided always, and be it enacted, That nothing herein contained shall extend or be construed to extend to any action, suit, bill, plaint, or information in which any judgment or conviction shall have passed on or before the day of the passing of this Act, or to any action, suit, bill, plaint, or information which shall have been or shall be commenced, prosecuted, entered, or filed by or in the name of her Majesty's Attorney-General or Solicitor-General in that part of Great Britain called England, or her Majesty's Attorney or Solicitor-General for Ireland, or her Majesty's Advocate for Scotland, for or on behalf of her said Majesty.

3. *Penalties incurred under said Act to go wholly to her Majesty.*—And be it enacted, That from and after the passing of this Act all fines, penalties, and forfeitures imposed by or incurred or which may be incurred under the said recited Act shall go and be applied to the use of her Majesty, her heirs and successors.

4. *Fines, &c. may be sued for in the name of the Attorney or Solicitor-General in England or Ireland, or her Majesty's Advocate for Scotland, &c.*—Provided always, and be it enacted, That from and after the passing of this Act every such fine, penalty, or forfeiture may be sued or prosecuted for, in the name of her Majesty's Attorney-General or Solicitor-General in England or Ireland, or of her Majesty's Advocate-General or Solicitor-General in Scotland, or of the Solicitor of Stamps and Taxes in England or Scotland, or of the Solicitor of Stamps in Ireland, or of any person to be authorized to sue or prosecute for the same by writing under the hands of the Commissioners of Stamps and Taxes, or in the name of any officer of stamp duties, by action of debt, bill, plaint, or information in the Court of Exchequer at Westminster in respect of any fine, penalty, or forfeiture incurred in England, and in the Court of Exchequer in Dublin in respect of any fine, penalty, or forfeiture incurred in Ireland, and in the Court of Exchequer in Scotland in respect of any fine, penalty, or forfeiture incurred in Scotland; and, except as is herein-before provided, it shall not be lawful for any person other than as aforesaid to inform, sue, or prosecute for any such fine, penalty, or forfeiture as aforesaid: Provided always, that in no such proceeding as aforesaid shall any essoign, protection, wager at law, nor more than one imparlance, be allowed.

5. *Alteration of Act.*—And be it enacted, That this Act may be amended or repealed by any Act to be passed in this present session of Parliament.

Cap. LXXV.

An Act to amend an Act passed in the Session of Parliament held in the Sixth and Seventh Years of the Reign of her present Majesty, intituled "An Act to amend the Law respecting defamatory Words and Libel." (July 31, 1845.)

1. 6 & 7 *Vict. c.* 96; 3 & 4 *Wm.* 4, *c.* 42; 3 & 4 *Vict. c.* 105. *In cases of action for libel in Ireland, where defendant shall plead matters allowed by* 3 & 4 *Wm.* 4, *c.* 42, *and pay money into court, such payment to be of same effect as if required by said Act.*—Whereas by an Act passed in the session of Parliament held in the 6th & 7th years of the reign of her present Majesty, intituled "An Act to amend the Law respecting defamatory Words and Libel," it is, amongst other things, enacted and provided, that the defendant in an action for a libel contained in any public newspaper or other periodical publication may plead certain matters therein mentioned, and may upon filing such plea be at liberty to pay into court a sum of money by way of amends for the injury sustained by the publication of such libel; and it is thereby further enacted, that such payment into court shall be of the same effect, and be available in the same manner and to the same extent, and be subject to the same rules and regulations as to payment of costs and the form of pleading, except so far as regards the pleading the additional facts therein before required to be pleaded by such defendant, as if actions for libel had not been excepted from the personal actions in which it is lawful to pay money into court, under an Act passed in the session of Parliament held in the fourth year of his late Majesty, intituled "An Act for the further Amendment of the Law, and the better Advancement of Justice;" and whereas the said Act of the fourth year of the reign of his late Majesty relates only to proceedings in the superior courts in England, but by an Act passed in the session of Parliament held in the third and fourth years of the reign of her present Majesty, intituled "An Act for abolishing Arrest on Mesne Process in Civil Actions, except in certain Cases, for extending the Remedies of Creditors against the Property of Debtors, and for the further Advancement of Justice in Ireland," a like provision is made for payment of money into court in all personal actions pending in any of the superior courts in Ireland as is contained in the said Act of the fourth year of the reign of his late Majesty in regard to actions pending in the superior courts in England, with a like exception of actions for libel; and it is expedient to prevent any doubts as to the application of the said recited Act of the sixth and seventh years of the reign of her present Majesty to actions pending in the superior courts in Ireland, which may be created by reason of the omission of a reference in the last-mentioned Act to the said Act of the third and fourth years of the reign of her present Majesty: be it therefore enacted and declared by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that when in any action pending in the superior courts in Ireland for a libel contained in any public newspaper or other periodical publication the defendant shall plead the matters allowed to be pleaded by the said first-mentioned Act, and shall on filing such plea pay money into court as provided by such Act, such payment into court shall be of the same effect, and be available in the same manner and to the same extent, and be subject to the same rules and regulations now in force or hereafter to be made as to payment of costs and the form of pleading, except so far as regards the pleading of the additional facts so required to be pleaded by such defendant, as if actions for libel had not been excepted from the personal actions in which it is lawful to pay money into court under the said recited Act of the third and fourth years of the reign of her present Majesty.

2. *Defendant not to file such plea without paying money into court by way of amends.*—And be it declared and enacted, That it shall not be competent to any defendant in such action, whether in England or in Ireland, to file any such plea, without at the same time making a payment of money into court by way of amends as provided by said Act, but every such plea so filed without payment of money into court shall be deemed a nullity, and may be treated as such by the plaintiff in the action.

Cap. LXXVI.

An Act to increase the Stamp Duty on Licenses to Appraisers; to reduce the Stamp Duties on Registry Searches in Ireland; to amend the Law relating to the Duties on Legacies; and also to amend an Act of the last session of Parliament, for regulating the issue of Bank Notes in England. (Aug. 4, 1845.)

1. 55 Geo. 3, c. 184; 5 & 6 Vict. c. 82; 8 & 9 Vict. c. 2. *Stamp duty on appraisers' licences repealed, and an increased duty thereon granted in lieu.*—Whereas under and by virtue of an Act passed in the fifty-fifth year of the reign of King George the Third, intituled "An Act for repealing the Stamp Duties on Deeds, Law Proceedings, and other written or printed Instruments, and the Duties on Fire Insurances, and on Legacies and Successions to Personal Estate upon Intestacies, now payable in Great Britain, and for granting other Duties in lieu thereof," certain stamp duties specified and contained in a schedule to the said Act annexed were granted and made payable in Great Britain, and (amongst others) the duty of ten shillings for and in respect of a licence to use and exercise the calling or occupation of an appraiser, to be taken out yearly by every person who shall exercise the said calling or occupation, or make any appraisement or valuation charged by the said Act with a duty, for or in expectation of any gain, fee, or reward, except licensed auctioneers; and whereas under and by virtue of an Act passed in the fifth and sixth years of her present Majesty's reign, intituled, "An Act to assimilate the Stamp Duties in Great Britain and Ireland, and to make regulations for col-

lecting and managing the same until the tenth day of October, One thousand eight hundred and forty-five," the stamp duties granted and then payable in England under or by virtue of the said first-recited Act were extended to and made payable in Ireland for a term limited by the said last-recited Act, in lieu of certain stamp duties thereby repealed, and the same duties have been granted and continued and are now payable in Ireland for a further term, under and by virtue of an Act passed in this present session of Parliament, intituled "An Act to continue for Three Years the Stamp Duties granted by an Act of the Fifth and Sixth Years of her present Majesty, to assimilate the Stamp Duties in Great Britain and Ireland, and to make regulations for collecting and managing the same until the tenth day of October, One thousand eight hundred and forty-five:" and whereas it is expedient to increase the duty in respect of licences to be taken out by appraisers in Great Britain and Ireland respectively: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That from and after the passing of this Act the said duty now payable in Great Britain and Ireland respectively, under or by virtue of the said several recited Acts or any of them, for or in respect of a licence to use and exercise the calling or occupation of an appraiser, shall cease and determine, and the same is hereby repealed; and that in lieu thereof there shall be granted, raised, levied, collected, and paid in Great Britain and Ireland respectively, into and for the use of her Majesty, her heirs and successors, the duty of two pounds.

For and in respect of a licence to use and exercise the calling or occupation of an appraiser, to be taken out yearly by every person (except a licensed auctioneer) who shall exercise the said calling or occupation of an appraiser, or who, for or in expectation of any gain, fee, or reward, shall make any appraisement or valuation chargeable by law with any stamp duty.

2. *Stamp duties payable in Ireland on registry searches repealed, and reduced duties granted in lieu thereof.*—And whereas under and by virtue of the said several recited Acts certain duties have been granted and are now payable in Ireland in respect of searches in the office for the registry of deeds, and it is expedient to repeal the same, and to grant other and reduced duties in lieu thereof; be it therefore enacted, that from and after the passing of this Act the several and respective stamp duties now payable under or by virtue of the said several recited Acts or either of them, in respect of seaches in the office for the registry of deeds (that is to say) for or in respect of "any copy or extract of any memorial, or of the registry of any memorial, registered pursuant to any Act of Parliament made for the public registering of deeds and conveyances" for or in respect of "every piece of vellum, parchment, or paper upon which any such copy or extract shall be written after the first," shall cease and determine in Ireland, save and except such of the said duties or so much or such part or parts thereof as have become due and payable and now remain in arrear and unpaid; and that in lieu of the said duties so hereby repealed as last mentioned there shall be granted, raised, levied, collected, and paid in Ireland, unto and for the use of her Majesty, her heirs and successors, the several duties next hereinafter mentioned; (that is to say)

For and in respect of extracts or abstracts from deeds or other Acts issued from the office for registry of deeds and so forth, called the registry-office, and commonly called a common search, and whether such search shall contain the extract from any deeds or deed or not, and whether the same be signed by or on behalf of any officer or clerk belonging to such office or not,

For each sheet or piece of paper on which such search, extract or extracts, abstract or abstracts, shall be written, the sum of three shillings:

And for and in respect of searches for deeds, or abstracts or extracts from deeds, or other Acts, issued from the office for registering deeds, called the registry-office, commonly called a negative search:

For each copy of any deed or memorial, or for each extract or abstract from any deed or memorial, which such negative search shall give or contain, the sum of three shillings;

And on the officer's certificate on such search over and above all other duties, the sum of ten shillings.

3. *Powers and provisions of former Acts to be applied to the duties granted by this Act.*—And be it enacted, That the said several duties by this Act granted shall be denominated and deemed to be stamp duties, and shall be under the care and management of the Commissioners of Stamps and Taxes for the time being; and that all the powers, provisions, clauses, regulations, and directions, fines, forfeitures, pains, and penalties, contained in or imposed by the several former Acts of Parliament relating to any prior duties of the same kind or description in Great Britain and Ireland respectively, and in force at the time of the passing of this Act, shall respectively be of full force and effect with respect to the duties by this Act granted, and to the vellum, parchment, and paper, articles, matters, and things, charged and chargeable therewith, and to the persons liable to the payment of the said duties, and shall be observed, applied, enforced, and put in execution for the raising, levying, collecting, and securing of the said duties hereby granted, and otherwise in relation thereto, as fully and effectually, to all intents and purposes, as if the same had been herein repeated and specially enacted with reference to the said duties by this Act granted.

4. *Certain gifts by will or testamentary instrument to be deemed legacies.*—And whereas under or by virtue of the said several recited Acts certain duties have been granted and are now payable in Great Britain and Ireland respectively upon legacies, and doubts have been entertained whether certain gifts by will or testamentary instrument are legacies liable to the said duties, and it is expedient to remove such doubts; be it therefore enacted, that from and after the passing of this Act every gift by any will or testamentary instrument of any person, which by virtue of any such will or testamentary instrument is or shall be payable, or shall have effect or be satisfied out of the personal or movable estate or effects of such person, or out of any personal or movable estate or effects which such person hath had or shall have had power to dispose of, or which gift is or shall be payable or shall have effect or be satisfied out of or is or shall be charged or rendered a burden upon the real or heritable estate of such person, or any real or heritable estate, or the rents or profits thereof, which such person hath had or shall have had any right or power to charge, burden, or affect with the payment of money, or out of or upon any moneys to arise by the sale, burden, mortgage, or other disposition of any such real or heritable estate, or any part thereof, whether such gift shall be by way of annuity or in any other form, and also every gift which shall have effect as a donation *mortis causâ*, shall be deemed a legacy within the true intent and meaning of all the several Acts granting or relating to duties on legacies in Great Britain and Ireland respectively, and shall be subject and liable to the said duties accordingly: provided always, that no sum of money which by any marriage settlement is or shall be subjected to any limited power of appointment to or for the benefit of any person or persons therein specially named or described as the object or objects of such power, or to or for the benefit of the issue of any such person or persons, shall be liable to the said duties on legacies under the will in which such sum is or shall be appointed or apportioned in exercise of such limited power.

Provision for recovery and application of penalties under 7 & 8 Vict. c. 32.—And whereas an Act was passed in the last session of Parliament, intituled "An Act to regulate the Issue of Bank Notes, and for giving to the Governor and Company of the Bank of England certain Privileges for a limited Period," and certain penalties are thereby imposed for offences against the provisions of the same Act, and it is expedient to provide for the recovery and application of such penalties: be it therefore enacted, That from and after the passing of this Act all pecuniary penalties imposed by or incurred under the said last-recited Act may be sued or prosecuted for and recovered, for the use of her Majesty, in the name of her Majesty's Attorney-General or Solicitor-General, or of any person authorized to sue or prosecute for the same, by writing under the hands of the Commissioners of Stamps and Taxes, or in the name of any officer of stamp duties, by action of debt, bill, plaint, or information in the Court of Exchequer at Westminster, in such and the same manner as any penalties imposed by any of the laws now in force relating to the duties under the management of the said commissioners; and it shall be lawful in all cases for the said commissioners, either before or after any proceedings commenced for the recovery of any such penalty, to mitigate or compound any such penalty as they shall think fit, and to stay any such proceedings after the same shall have been commenced, and whether judgment may have been obtained for such penalty or not, on payment of part only of any such penalty, with or without costs, on payment only of the costs incurred in such proceedings, or of any part thereof, or on such other terms as such commissioners shall judge reasonable: Provided always, that in no such proceeding as aforesaid shall any essoign, protection, wager of law, .. more than one imparlance, be allowed; and all pecuniary penalties imposed by or incurred under the said last-recited Act, by whom or in whose name soever the same shall be sued or prosecuted for or recovered, shall go and be applied to the use of her Majesty, and shall be deemed to be and shall be accounted for as part of her Majesty's revenue arising from stamp duties, any thing in any Act contained, or any law or usage, to the contrary in anywise notwithstanding: Provided always, that it shall be lawful for the said commissioners, at their discretion, to give all or any part of such penalties as rewards to any person or persons who shall have detected the offenders, or given information which may have led to their prosecution and conviction.

6. *Alteration of Act.*—And be it enacted, That this Act may be amended or repealed by any Act to be passed in this present session of Parliament.

Cap. LXXVII.

An Act to make further Regulations respecting the Tickets of Work to be delivered to Persons employed in the Manufacturing of Hosiery in certain cases. (August 4, 1845.)

Cap. LXXVIII.

An Act to provide for the Payment of Compensation Allowances to certain Persons connected with the Courts of Law in England, for Loss of Fees and Emoluments. (August 4, 1845.)

1. *Commissioners of her Majesty's Treasury to investigate claims of certain officers, and award compensation to them out of the Consolidated Fund.*—Whereas the lawful fees and emoluments of the clerks of dispensations and faculties in Chancery, the registrar of the Cinque Ports, the clerks of the petty sessions at Deptford and Clapham, who respectively held or do now hold their offices for life, have been either wholly abolished or greatly diminished by the operation of certain Acts of Parliament, and advances on account of compensation have heretofore been made to some of them out of the grants of Parliament for civil contingencies: and whereas it is reasonable and just that compensation should be permanently allowed to the said persons for the loss which they have sustained, out of the Consolidated Fund of the United Kingdom of Great Britain and Ireland: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that the Commissioners of her Majesty's Treasury for the time being shall investigate the claims of the said officers respectively by such means and in such manner as they may think proper; and if any such claim shall be established to the satisfaction of the said commissioners or any three of them, they are hereby authorized and empowered to award to the claimant, by warrant under their hands, such compensation by way of annuity as they shall, under all the circumstances of the case, think him entitled to for the loss sustained; and such compensation shall commence in each case at such time as the said commissioners shall think proper, and shall be issued and paid and be payable out of and be charged and chargeable upon the Consolidated Fund of the United Kingdom of Great Britain and Ireland: provided always, that an account of such compensation shall be laid before the Commons House of Parliament within fourteen days after the date of the warrant, if Parliament shall be then assembled, and if not, then within fourteen days after the meeting of Parliament then next following.

Cap. LXXIX.

An Act to continue until the First Day of October, 1846, and to the end of the then Session of Parliament, the exemption of Inhabitants of Parishes, Townships, and Villages from liability to be rated as such, in respect of Stock in Trade, or other property, to the relief of the Poor. (August 4, 1845.)

Cap. LXXX.

An Act for regulating the Criminal Jurisdiction of Assistant Barristers as to certain Counties of Cities and Counties of Towns in Ireland. (August 4, 1845.)

Cap. LXXXI.

An Act to amend an Act of last Session, for consolidating and amending the Laws for the Regulation of Grand Jury Presentments in the County of Dublin. (August 4, 1845.)

Cap. LXXXII.

An Act to defray until the First Day of August, 1846, the Charge of the Pay, Clothing, and contingent and other Expenses of the disembodied Militia in Great Britain and Ireland; to grant Allowances in certain Cases to Subaltern Officers, Adjutants, Paymasters, Quartermasetrs, Surgeons, Assistant Surgeons, Surgeons'-mates, and Serjeant Majors of the Militia; and to authorize the employment of Non-commissioned Officers. (August 4, 1845.)

Cap. LXXXIII.

An Act for the Amendment and better Administration of the Laws relating to the Relief of the Poor in Scotland. (August 4, 1845.)

Cap. LXXXIV.

An Act to repeal the several Laws relating to the Customs (August 4, 1845.)

Cap. LXXXV.

An Act for the Management of the Customs. (August 4, 1845.)

Cap. LXXXVI.

An Act for the general Regulation of the Customs. (August 4, 1845.)

CAP. LXXXVII.
An Act for the Prevention of Smuggling. (August 4, 1845.)

CAP. LXXXVIII.
An Act for the Encouragement of British Shipping and Navigation. (August 4, 1845.)

CAP. LXXXIX.
An Act for the Registering of British Vessels. (August 4, 1845.)

CAP. XC.
An Act for granting Duties of Customs. (August 4, 1845.)

CAP. XCI.
An Act for the Warehousing of Goods. (August 4, 1845.)

CAP. XCII.
An Act to grant certain Bounties and Allowances of Customs. (August 4, 1845.)

CAP. XCIII.
An Act to regulate the Trade of British Possessions abroad. (August 4, 1845.)

CAP. XCIV.
An Act for the regulating the Trade of the Isle of Man. (August 4, 1845.)

CAP. XCV.
An Act to exempt Van Diemen's Land from the provisions of an Act, intituled "An Act for regulating the Sale of Waste Land belonging to the Crown in Australia." (August 4, 1845.)

CAP. XCVI.
An Act to restrict the powers of Selling or Leasing Railways contained in certain Acts of Parliament relating to such Railways.

No railway company to grant or accept a lease or transfer of any railway unless under a distinct provision of an Act specifying the parties.—Whereas provisions have been introduced in various Acts of Parliament, during the present session of Parliament, relating to railways, giving to railway companies general powers of granting or accepting a lease, sale, or transfer of their own or other lines of railway: and it is expedient that such powers should be restrained: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That it shall not be lawful for the company of proprietors of any railway, by virtue of any powers contained in any Act passed in the present session, to make or grant, or for any other railway company or party, by virtue of any such powers, to accept, a sale, lease, or other transfer of any railway, unless under the authority of a distinct provision in some Act of Parliament to that effect specifying by name the railway to be so leased, sold, or transferred, and the company or party by whom such lease, sale, or transfer may be respectively made, granted, or accepted.

PARLIAMENTARY PAPERS.

CURED PROVISIONS AND CATTLE.—A return of cured provisions imported in the half-year, to the 5th of July, 1845, and of live cattle imported in the last three years, has been printed by order of the House of Commons, on the motion of Mr. Grogan, M.P. for Dublin city. It hence appears that the total quantity of cured provisions imported into the United Kingdom in the period above mentioned was—of salted beef, 46,347 cwt.; of salted pork, 23,860 cwt.; of hams of all kinds, 2,423 cwt.; and of bacon, 16 cwt. only. A very insignificant portion of these cured provisions was retained for home consumption, namely, 2,363 cwt. of beef, realizing a revenue (in the shape of duty) amounting to 401*l.*; 1,191 cwt. of salt pork, producing a revenue of 459*l.*; 1,349 cwt. of ham, producing a duty of 992*l.*; and 13 cwt. of bacon, yielding an amount of duty of 20*l.* The total quantities re-exported as merchandize was, of beef, 4,304 cwt.; of pork, 6,341 cwt.; and of ham, 470 cwt. The rest was taken for ships' stores, including 44,672 cwt. of salt beef (junk), 12,563 cwt. of salt pork, and 525 cwt. of ham. The greater portion of the salted beef was imported from the Cape of Good Hope, and the Hanseatic towns figure for 2,650 cwt. The larger portion of the salted pork came from the Cape of Good Hope, the Hanse Towns, and Prussia, and half of the ham from the Hanseatic towns, the rest being distributed for the most part between Hanover, Oldenburg, Holland, and the Peninsula (including both Portugal and Spain). Of live cattle and other animals there were imported into the United Kingdom in the year ended (July 5, 1845), 6,466 oxen and bulls, 2,503 cows, 118 calves, 3,969 sheep, 42 lambs, and 411 swine and hogs. In 1843-44 there were imported 1,294 oxen and bulls, 531 cows, 60 calves, 220 sheep, 12 lambs, and 322 swine and hogs. In 1842-43 there were imported 3,578 oxen and bulls, 1,193 cows, 86 calves, 757 sheep, 12 lambs, and 563 swine and hogs. From which figures it results that the importation of oxen and bulls has nearly doubled since the year 1842-43; that the import of cows has more than doubled itself during the same period; that sheep have increased from 729 to 3,969; that calves have remained steady; and that, lastly, swine and hogs have fallen off. Such are the effects of the new tariff, as illustrated by the return before us.

NEW RAILWAYS.

The following is a Return made to the House of Commons of the number of Railways for which Acts passed in the last session, the length of each line, the number of shares and the amount of capital subscribed for each, the number of new shares that each line is empowered to create, and the sum of money each line is empowered to borrow:—

NAME OF RAILWAY.	Length of Line.	Number of Shares subscribed for.	Amount of Capital subscribed.	Number Shares empowered to be created.	Sum of Money empowered to be borrowed.
	F.		£.		£.
Aberdare	8 5 2	1,000	50,000	1,000	16,600
Aberdeen	58 0 0	12,925	646,250	16,000	276,000
Ashton, Staleybridge, and Liverpool Junction (Ardwick and Guide Bridge Branches)	1 6 6		68,000		20,666
Bedford and London and Birmingham	15 7 4	2,187	109,350	2,500	41,650
Belfast and Ballymena	37 7 0	7,700	385,000	7,700	128,333
Berks and Hants	39 0 0	6,000	300,000	8,000	133,333
Blackburn and Preston	3 4 3				10,000
Blackburn, Burnley, Accrington, and Colne	24 0 7	19,013	475,325	21,200	176,666
Blackburn, Darwen, and Bolton	14 0 0	12,000	300,000	12,000	100,000
Brighton and Chichester (Portsmouth Extension)	22 0 0	4,800	240,000	6,100	100,666
Brighton, Lewes, and Hastings (Keymer Branch)	1 2	2,100	105,000	2,800	46,666
Brighton, Lewes, and Hastings (Hastings, Rye, and Ashford Extension)	0	7,500	375,000	10,000	166,000
Bristol and Exeter Branches	0	2,850	265,000	5,000	166,000
Birmingham and Gloucester (Gloucester Extension, Stoke Branch and Midland Junction)	6	none	none	none	none
Caledonian	2	34,460	1,723,000	42,000	700,000
Chester and Birkenhead Extension	7		225,000		100,000
Chester and Holyhead	4				—
Clydesdale Junction	2	4,393	219,650	6,666	110,000
Cockermouth and Workington	6	3,113	62,260	4,000	26,666
Cork and Bandon	0	4,000	200,000	4,800	80,000
Dublin and Belfast Junction (Branch to Kells)	4	18,146	907,300	19,000	316,666
Dublin and Drogheda	5	....	30,000	....	50,000
Dundalk and Enniskillen	6	13,560	678,000	15,000	250,000
Dundee and Perth	5	7,899	197,475	8,000	66,600
Dunstable, and London and Birmingham	0	119	2,392	2,500	16,600
Eastern Counties (Cambridge and Huntingdon Line)	3		113,000		50,000
Eastern Counties (Ely and Whittlesea Deviation)	6		—		—
Eastern Union and Bury St. Edmund's	6	12,680	317,000	16,000	133,333
Edinburgh and Glasgow	0		216,000		33,000
Edinburgh and Hawick	45 2 8	32,000	400,000	32,000	133,333
Edinburgh and Northern	41 6 0	19,830	495,750	26,000	216,666
Ely and Huntingdon	22 0 6	8,729	157,125	10,800	64,800
Erewash Valley	13 6 0	2,920	146,000	3,800	63,000
Exeter and Crediton	5 6 0	2,800	70,000	2,800	23,333
Epping	1 6 0	750	18,750	8,000	66,600
Glasgow, Barrhead, and Neilston Direct	8 7 8	5,142	128,550	6,000	50,000
Glasgow Junction	2 2 0	... *	221,000	....	50,000
Glasgow, Paisley, Kilmarnock, & Ayr (Cumnock Branch)	18 3 6	.... *	....	....	68,000
Gravesend and Rochester	6 7 1	....	127,500	....	56,666
Great Grimsby and Sheffield Junction	59 4 5	12,000	600,000	12,000	200,000
Great North of England (Clarence & Hartlepool Junction)†	....	*	....	....	7,000
Great North of England and Richmond			242,340		50,000
Great Southern and Western (Ireland)			1,181,400		400,000
Great Western, Ireland (Dublin to Mullingar & Athlone)		18,060	903,000	20,000	333,000
Huddersfield and Manchester Railway and Canal	22 7	700	506,130	21,000	210,000
Huddersfield and Sheffield Jun.	15 4	9,220	461,000	10,600	177,333
Hull and Selby (Bridlington Branch)	31 0	6,612	165,300	8,640	72,000
Kendal and Windermere	10 2	152	3,821	5,000	40,000
Lancaster and Carlisle	4 2 4	... *	—	—	—
Leeds and Bradford Extension (Shipley to Colne)	30 1 5	... *	382,500	....	166,666
Leeds and Thirsk	46 1 1	17,362	868,100	17,800	290,000
Leeds, Dewsbury, and Manchester Junction	20 3 5	9,727	486,850	14,000	166,000
Liverpool and Bury	34 1 2	13,978	698,900	18,240	301,000
London and Croydon Enlargement	12 4 0	... *	140,000	....	60,000
London and South Western (Metropolitan Extension, No. 1)	2 0 0	.... *	739,180	....	233,000
Lowestoft Railway and Harbour	11 5 0	5,196	103,920	6,000	40,000
Lynn and Dereham	26 5 1	10,510	262,750	10,800	90,000
Lynn and Ely	37 5 6	11,629	290,720	12,000	100,000
Londonderry and Coleraine	38 8 3	.... *	380,000	.... *	166,666
Londonderry and Enniskillen	56 1 4	7,600	380,000	10,000	166,666
London and Brighton (Horsham)	0	.... *	75,000	....	33,333
Liverpool and Manchester					
Manchester and Birmingham (Ashton Branch)†					
Manchester and Leeds (Burnley Branch, and Oldham and Heywood Branches Extension)			340,000		120,000
Manchester South Junction and Altrincham			100,000		133,333
Middlesborough and Redcar		569	28,450	720	12,000
Midland (Nottingham to Lincoln)	33				130,000
Midland (Syston to Peterborough)	15		109,550		41,650
Monmouth and Hereford		8,250	412,500	11,000	183,333
Newcastle and Berwick		39,725	993,125	56,000	466,666
Newcastle and Darlington (Brandling Junction)			130,000		210,000
Newcastle-upon-Tyne and North Shields (Tynemouth Extension, &c.)	1	1,000	50,000	1,000	16,666
Newport and Pontypool	13	900	90,000	1,191	78,153
Newry and Enniskillen	71	284	14,210	18,000	300,000
North British	1				53,333
North Wales	28	10,620	265,500	12,000	100,000
North Woolwich		900	22,500	1,200	10,000
Norwich and Brandon Deviation (and Diss and Dereham Branches)	17		176,210		73,300
North Wales Mineral	12	11,415	114,150	15,000	50,000
Oxford and Rugby	50	9,000	450,000	12,000	200,000
Oxford, Worcester, and Wolverhampton	101	22,500	1,125,000	30,000	500,000
Preston and Wyre Branches	8	9,401	37,606	12,000	33,000
Richmond, Surrey	6	8,715	174,300	11,000	86,000
Scottish Central	47	26,311	657,775	31,000	283,330
Scottish Midland Junction	33	10,740	268,100	12,000	100,000
Sheffield and Rotherham	0			*	
Shrewsbury, Oswestry, and Chester Junction	23	17,371	317,120	20,500	136,000
Southampton and Dorchester	62	7,625	381,250	10,000	166,666
South-Eastern (Branch to Deal, and Extension of the South-Eastern, Canterbury, Ramsgate, and Margate)	9 2		140,250		62,300
South-Eastern (Tonbridge to Tonbridge Wells)			135,000		60,000
South-Eastern (Widening and Extension of the London and Greenwich)					47,560

* In these cases the number of shares subscribed for is not stated in the Act.

† The object of the Bill is to effect certain deviations in the line of Railway as at present authorised, and the Company do not take power to raise any money by shares, loan, or mortgage.

Name of Railway.	Length of Line.	Number of Shares subscribed for.	Amount of Capital subscribed.	Number of Shares empowered to be created.	Sum of Money empowered to be borrowed.
(continued.)	M. F. C.		£.		£.
South Wales	183 0 4	42,000	2,100,000	56,000	933,333
Trent Valley	49 3 4	57,442	1,148,810	62,500	416,666
Ulster Extension	11 0 0	....*.......	—	—	—
Wakefield, Pontefract, and Goole	28 6 0	7,300	365,000	7,300	121,666
Waterford and Kilkenny	37 3 0	10,000	200,000	12,500	83,000
Waterford and Limerick	77 7 0	11,806	590,300	15,000	250,000
Wear Valley	11 6 0	1,300	65,000	1,610	27,300
Wilts, Somerset, and Weymouth	33 2 6	23,016	1,152,300	30,000	500,000
Whitehaven and Furness	34 0 8	14,237	284,740	17,500	116,000
West London	1 5 1	...*......	....	....	20,000
Yarmouth and Norwich	0 2 5	....*......	....	....	13,000
York and North Midland (Bridlington Branch)	19 6 3	....*......	70,000	....	29,000
York and North Midland (Harrogate Branch	18 2 4	...*......	180,000	....	76,666
	2746 6 8	723,819	31,990,474	927,697	13,678,038

Return of the Prothonotary of the Court of Common Pleas of the County Palatine of Lancaster.

Name of the Officer, by whom appointed, and the date of the appointment.	How paid.	Name of the Deputy, the date of his appointment, and amount of Salary.	Gross amount of Fees received in each of the Years 1841, 1842, and 1843.	Clear amount of Fees received by the Prothonotary in each of the years 1841, 1842, and 1843, after paying all Expenses.	Amount of Compensation.
Chas. Cecil Cope, Earl of Liverpool, Prothonotary; appointed by grant or letters patent of his late Majesty King George the Third, in right of his Duchy of Lancaster; dated the 17th day of Dec. 1791. The duties of the office are performed by deputy.	By fees.	John Forrest, appointed by the Prothonotary, the 14th of July 1827, and continued by another appointment, dated the 14th Jan. 1830 Salary, 750*l*.	d. 1841—3581 12 10 1842—3445 16 2 1843—3072 6 10	s. d. 1841—2351 3 2 1842—2257 14 1143—1835 12	The sum fixed by the Commissioners appointed under the statute 1 Wm. 4, c. 58, to be paid to the Prothonotary, as compensation, is 2704*l*. 13s. 4d.

Return of the Registrar of the Court of Chancery of the County Palatine of Lancaster.

The Registrar of the Court of Chancery of the County Palatine of Lancaster is appointed by the Crown, in right of the Duchy and County Palatine of Lancaster, by letters patent under seal of the Duchy and County Palatine of Lancaster; and the present registrar has executed the duties of the office in person, and not by deputy; and he is wholly paid by fees, without any salary; and he pays the expenses of conducting the office out of the fees received by him.

No compensation has been granted to the registrar at any time since his appointment in the year 1820.

Name of the Officer.	By whom appointed.	Date of Appointment.	Amount of Fees for the Year 1841.	Amount of Fees For the Year 1842.	Amount of Fees for the Year 1843.
			£ s.	s. d.	£ s. d.
Wm. Shawe	By the Crown, in right of the Duchy and County Palatine of Lancaster.	By letters patent, dated 6th October, 1820, and subsequently renewed by letters patent, dated respectively the 17th Nov. 1830, and the 1st Aug. 1837.	983 6	628 3 10	668 2 8

2nd March, 1814. (Signed) William Shawe.

A Return by the Clerk of the Crown for the County Palatine of Durham.

Name of the only officer—John Wetherell Hays.

Date of Appointment—20th Nov. 1815.

By whom appointed, &c.—The Lord Bishop of Durham. The officer is wholly paid by fees, and the duties of the office are performed by him personally.

	Fees received.	Expenses.	Retained pursuant to Stat. 1 Wm. 4, c.58.	Paid to Government.
	£ s. d.	£ s. d.	£ s. d.	£ s. d.
In 1841	224 8 4	7 17 2	216 11 2	— — —
1842	296 17 3	7 12 2	245 5 4	43 19 9
1843	240 16 6	22 0 2	245 5 4	153 11 0

Title to the office—Clerk of the Crown.

Nature of the Office—To frame, read, and record indictments against public offenders within the County Palatine of Durham.

Durham, 24th Feb. 1814. John W. Hays, Clerk of the Crown.

Trade and Navigation.—A Parliamentary paper has just been issued containing returns relative to trade and navigation for the five months ending June 5, 1845. The whole range of trade is embraced, but we have room at present for a few articles only—butter, for instance. In 1843, the quantity imported was 54,604 cwt.; in 1844, the quantity was 69,053 cwt.; in 1845, 93,433 cwt. Cheese has increased in the same proportion. The quantity of wheat imported in 1845 was 71,089 quarters—a very small amount compared with the imports of the preceding two years. Flax also fell off materially. In fruits, the imports increased more than two-fold. Silk, skins, spices, rum, and brandy also increased. Sugar imported in 1843 was 1,639,792 cwt.; in 1844, 1,286,470 cwt.; in 1845, 1,926,036 cwt.; and all for home consumption. Tobacco has doubled in the last two years. Wine has also doubled in quantity since 1843, the quantity in 1845 being 2,720,344 gallons. Cotton wool from the British possessions is also on the increase, but foreign has fallen off. Sheep's and lamb's wool has increased from 11,234,621 lb. in 1843, to 18,421,323 lb. in 1845. The exports of coffee from the British possessions in 1843 were 31,246 lb. only; in 1844, 38,802 lb.; in 1845, 263,421 lb. The declared value of exports, coal, cotton manufactures, yarn, cutlery, earthenware, hardware, linens, linen yarn, metals, salt, silk manufactures, refined sugar, sheep's wool, woollen yarn, woollen manufactures, in 1843, was 17,027,190*l*.; in 1844, 19,490,719*l*.; in 1845, 20,482,579*l*. With regard to shipping, the tonnage entered inwards in the five months ending the 5th of June, 1843, was 1,244,186; in 1844, 1,180,286; in 1845, 1,532,748. Cleared outwards, in the same periods respectively, 1,521,936, 1,412,694, 1,593,008. In the coasting trade, the tonnage entered inwards in the same periods was, including the trade with Ireland, 4,174,439, 4,326,334, 5,225,932. Cleared outwards, 4,360,984, 4,507,848, 5,393,419. The number of ships has increased in the ratio of the augmentation of the tonnage.

Tithe Commutation.—Returns of all agreements and of all awards for the commutation of tithes which have been confirmed by the tithe commissioners of England and Wales, and also of all appointments confirmed from the 1st of July, 1844, to the 1st of January, 1845, have been printed, on the motion of Mr. H. Manners Sutton, M.P. From the summary it appears that the total composition and rates in England and Wales amounted to 12,071*l*. the total rent-charges to 12,489*l*.; increase of rent-charges to 669; the decrease of rent-charges to 250*l*.; the rent-charges, for which the compositions cannot be ascertained, to 2,769*l*.; the rent-charges of the present return to 12,259*l*.; the rent-charges of former returns to 2,425,959*l*.; and the total rent-charges to 2,441,218*l*.

East-India.—Further returns have been laid before Parliament relative to the financial affairs of India. From these we find that the gross total revenue of that empire amounted in 1843-44 to the sum of 21,809,182*l*. against 21,190,259*l*. in the preceding year, and that the total net revenue, after deducting all allowances, assignments, and charges, amounted to 14,844,222*l*. in 1843-44, against 15,307,064*l* in 1842-43. The ordinary and extraordinary charges of India and its dependencies amounted to 14,844,222*l*. and the payments in England on account of the Indian territory, to 2,944,073*l*. making a grand total charge (exclusive of collection), amounting to the sum of 17,788,295*l*. against 17,765,25?*l*. in 1842-43, and thus leaving a net deficiency of 773,156*l*. The net deficiency in the year preceding was 1,346,011*l*.; in 1841-42, it was 1,771,603*l*.; and in 1840-41, 1,754,825*l*.; and in 1839-40, no less than 2,138,713*l*. The total cash balances in the treasuries of India, on the 30th of April, 1844, amounted to 10,944,021*l*, against 4,431,141*l*. in the Bengal Presidency; 2,287,921*l*. in the Madras Presidency; and 3,205,955*l*. in the Bombay Presidency. The total amount of registered debt on the 30th of April, 1843, was 31,934,096*l*.; and the total amount of Treasury notes, 719,372*l*. The total amount of money advanced from 1839-40 to 1844 on account of her Majesty's Government for the expenses of the expedition to China was 2,179,022*l*. The gross total value of the imports into the three Presidencies in 1842-43 amounted to 11,148,126*l*. and that of the exports to 15,517,499*l*. The imports of stores for the Government of India, not included in the reports of external and internal commerce, amounted in 1842-43 to 467,157*l*. The total amount of the home debt on the 1st of May last past, was 2,321,392*l*. bearing 3 per cent. interest per annum, with the exception of a sum of 21,792*l*. on which interest has ceased. The total amount of the Guarantee or Security Fund of the East-India Company, formed under the provisions of the 3 & 4 Wm. 4, c. 85, was, on the 30th of April last, 2,878,821*l*. The amount of capital stock in the public funds, purchased by the Commissioners for the Reduction of the National Debt on account of the Security Fund, amounted, last May, to 188,267*l*. Consols, and 2,994,631*l*. Three per Cents. The cost of the stock so purchased was 2,878,821*l*. The total receipts of the Home Treasury of the Company from May 1, 1834, to April 30, 1845, amounted to 4,918,937*l*. and the total disbursements to 3,628,149*l*. leaving a balance in favour of the Treasury of 1,290,787*l*. The estimate for the ensuing year gives a total revenue of 5,376,788*l*. and a total expenditure of 4,372,051*l*. leaving a balance of 1,004,737*l*. in favour of the Treasury. The debts and credits in England of the Government of India on the 1st of May amounted, respectively, to 3,618,402*l*. and 2,855,982*l*. leaving an excess of debts amounting to 762,420*l*. The expense of the several establishments of the Company in England amounted, on the 1st of May last, to 115,468*l*. for 425 persons engaged.

Post in Russia.—The receipts of the Post-office department in Russia amounted in 1843 to 16,000,000f., being about 1,000,000f. more than in 1842. The expenses amounted to about 7,000,000f., so that the net produce was 9,000,000f. From the 1st of July, 1843, to the 1st of July, 1844, the number of private letters despatched from all the post-offices of Russia amounted to 9,249,000, being 600,000 more than in the preceding twelve months. In the despatches were included 7,221,000 letters, 1,812,000 letters remitting money, and 216,000 packets. The facility with which

the Post-office undertakes the conveyance of money is the consequence, in a certain degree, of the want of banks or other houses of credit. In 1843, the amount of money in metallics transmitted through the post was 1,000,000,000f. In 1823, the remittances amounted to only 600,000,000f. The amount sent in 1844 is not yet ascertained, but during the first eight months there was an increase of 20 per cent. At the St. Petersburg office only the mass amounted to 260,000,000f. The government money in these remittances amounted to 650,000,000f. in the gross amount of 1843, leaving 350,000,000f. sent from private individuals. In these sums, bank notes and commercial bills and notes are not comprised. It is thus seen that the Post-office in Russia brings in about one-third of the same service in France, and that the circulation of letters is comparatively to that of this country not more than one-tenth, and consequently that it is the transmission of money that forms in Russia a large portion of the receipts. If, however, there be taken into account the great distances between the towns, the paucity of the population, and the insufficiency of the modes of communication, it will be found that the posted service in Russia is not badly organized, and that it is in general adequate to the wants of the people. In certain directions, it is true, it is more particularly instituted to meet the necessity of the Government, but trade and commerce do not fail to profit by it, and taking all things into consideration, the means of circulation answer private as well as public interests.—*Constitutionnel.*

THE CITY FINANCES.—The following is an abstract statement of the produce and expenditure of the city's estate for the year 1844 :—Receipts.—Balance in hand the 31st of December, 1843, 18,674*l*. 10s. 2¾d.; rents and quit-rents, 59,375*l*. 0s. 2d.; renewing fines, 2,361*l*. 19s. 8d.; markets, 19,027*l*. 2s. 2d.; tolls and duties, 6,450*l*. 9s. 5d.; offices, 53,475*l*. 10s. 10¾d.; bequests, 140*l*. 3s. 4d.; brokers' rents and fines, 4,063*l*.; admissions to the freedom of the city, &c., 3,568*l*. 9s. 10d.; interest on Government securities 2,394*l*. 3s. 2d.; casual, sundry, and incidental receipts, 3,540*l*. 6s. 6d.; loan, 50,000*l*.; total 223,070*l*. 15s. 4½d. Payments.—Charge in aid of the improvement fund, 11,568*l*. 12s. 3d.; ditto, on the corporation rental, including expenses of management of estates, 8,307*l*. 1s. 10d.; ditto on markets 8,163*l*. 2s. 11¼d.; ditto on tolls, duties, offices, &c. 21,456*l*. 5s. 6d.; ditto on brokers' rents and fines 482*l*. 17s. 10d.; expenses of magistracy of the city of London, 6,945*l*. 19s. 1d.; proportion of police expenses borne by the corporation, 11,713*l*. 17s. 6d.; ditto of prisons, viz. Newgate, 8,531*l*. 0s. 11d.; House of Correction, 5,034*l*. 17s. 6d.; Debtors' Prison, 6,388*l*. 13s. 8d.; general prison expenses, 59*l*. 5s. 8d.; expenses of administration of justice, 9,342*l*. 10s. 11d.; ditto of office of coroner 895*l*. 18s. 6d.; expenses of conservancy of the Thames and Medway, 3,464*l*. 17s. 8d.; ditto of the civil government of the city, 28,107*l*. 11s. 11d.; ditto of the magistracy of Southwark and Borough Compter, 1,193*l*. 6s. 4d.; charitable donations, pensions and honorary rewards, 5,473*l*. 9s. 4d.; bequests 161*l*. 2s. 11d.; interest and annuities payable on moneys borrowed, 861*l*. 5s.; sundry miscellaneous and incidental expenditure, 4,422*l*. 5s. 5d.; purchase of securities, 1,290*l*. 19s. 11d.; contra loan carried to separate account, 50,000*l*.; balance in hand on the 31st of December, 1844, 29,205*l*. 12s. 9d.: total, 223,070*l*. 15s. 4½d.

INCOMES OF ARCHBISHOPRICS AND BISHOPRICS.—A return, just published by order of the House of Commons, gives the following as the net incomes of these dignitaries for 1844, the last year to which it is made up:—

	£	s.	d.		£	s.	d
Canterbury..	20969	16	5	Exeter	341	10	5
York	19064	12	4	Gloucester & Bristol ...	3989	13	3
London	12481	8	0	Hereford ...	5042	3	4
Durham....	6791	16	4	Lincoln	4639	3	8
Winchester .	9103	12	0	Llandaff....	706	8	0
St. Asaph .:	5749	2	3	Norwich....	7567	13	4
Bangor	5210	15	7	Oxford.....	1601	7	6
Bath & Wells	4002	16	7	Peterborough	3784	17	7
Carlisle	1585	0	8	Ripon.......	4123	18	5
Chester	1584	1	6	Rochester..	794	8	1
Chichester..	6381	5	9	Salisbury...	12142	5	0
St. David's.	4076	11	1	Worcester..	4673	19	2
Ely........	3686	7	10				

Great fluctuation exists in these revenues from year to year. The lowest amount set down in any of the years over which the return extends, is in the case of the Bishop of Exeter, whose revenue last year, it will be seen, was only 341*l*. 10s. 5d. The average revenue of the see, however, exceeds 1,200*l*. per annum.

THE DUTY ON POST-HORSES.—Returns of the annual produce and gross receipts of the duty on post-horses have been published by order of the House of Commons, on the motion of Sir Robert H. Inglis, M.P. It hence appears that the gross total annual produce of the post-horse duties, according to the Excise collections, amounted, in the year 1839, to 224,374*l*.; in 1840, to 212,633*l*.; in 1841, to 196,131*l*.; in 1842, to 175,284*l*.; in 1843, to 162,202*l*.; and in 1844, to 163,160*l*. The gross total receipt of duty on post-horses in the London district, during the six months ended the 5th day of January, 1845, amounted to 7,730*l*.; and the gross receipt of the corresponding half-year, ended 5th of January, 1844, to 8,154*l*. The six months' duty on post-horses in the Excise collections on the line of the London and Birmingham Railway amounted, in the half-year ended 5th of January, 1845, to 5,325*l*. being an increase of 104*l*. on the half-year ended 5th of January, 1844, when the receipts were 5,221*l*. The six months' receipts of the post-horse duty in the eastern, south-eastern, and western parts of England amounted, in the latter half-year to 5,738*l*. 4,373*l*. and 5,620*l*. respectively, against 5,616*l*. 4,792*l*. and 5,573*l*. in the half-year ended 5th of January, 1844. The eastern parts of England include the Excise collections of Cambridge, Lynn, Norwich, and Suffolk. The south-eastern include the collections of Canterbury and Rochester; and the western parts of England, the collections of Barnstaple, Cornwall, Exeter, Plymouth, and Wellington. The total receipts of post-horse duty for the district within which the county of Kent is included, for the 12 years ending the 31st of Dec. 1842, when steam-power was first generally applied to locomotion on water, amounted from 19,540*l*. to 23,200*l*. annually. Since that period, up to the year 1836, the annual amount has fluctuated between 22,240*l*. and 17,220*l*. it having gradually declined, year after year, as steam power progressed, and thus usurped the place of horse power. In 1837 the duty in Kent was transferred to the Excise, from which further accounts are rendered up to 1844-45. The amount received on post-horses in the Kentish district was, in 1837, 19,901*l*.; in 1838, 21,256*l*.; in 1839, 20,605*l*.; in 1840, 19,686*l*.; in 1841, 18,927*l*.; in 1842, 15,447*l*.; in 1843, 13,664*l*.; and in 1844, 12,973*l*. This includes the collections of Canterbury, Rochester, and Sussex. The post-horse duty for the district within which the county of Lancaster is included (comprising Lancashire, the city of Chester, Derbyshire, Staffordshire, with the city of Lichfield and the whole of Tamworth), amounted in 1829 to 19,260*l*.; in 1830, to 18,100*l*.; and in 1831 to 18,100*l*. In the Excise collections of Manchester, Liverpool, Northwich, Halifax, and Wigan, the amount of post-horse duty was, in 1842, 10,706*l*.; in 1843, 10,258*l*.; and in 1844, 11,094*l*.

NEW CHURCHES.—The 25th annual report of the Commissioners for Building New Churches (which was presented to Parliament) has been printed. It extends to 15 pages. It appears that 343 churches have been now completed, and provision has therein been made for 402,259 persons, including 225,217 seats appropriated to the use of the poor. There are 36 churches now in the course of building, to the erection of which the commissioners have contributed pecuniary aid from the funds placed at their disposal. The commissioners state that plans for 23 churches have been approved to be built at the places mentioned in the report. Applications have been made for further church accommodation to the commissioners from 74 places, which are detailed in the annual statement.

THE MAGISTRATE.

Summary.

NOTHING requiring comment has offered for this department of our journal this week.

THE LAWYER.

Summary.

WE beg to direct attention to the elaborate and valuable judgment of Mr. Commissioner HOLROYD, in the case of *Gibbs*, a bankrupt, which will be found among our reports of the Bankruptcy Courts in this day's number. In the midst of this *saturnalia* of speculation, it comes opportunely. It is satisfactory to see that, however the dictates of honesty which should direct and control the exertions for honourable gain may be forgotten or wilfully unheeded by many hitherto respectable members of society, the voice of justice is heard reading them a lesson of reproof,—of warning, that neither their temporary success, nor the frequency of the crime among men of business, will be looked upon as any palliation when the end shall come.

LEADING CASES.—No. IX.

EDWARDS v. BATES.
(8 Scott, N.R. 406.)

The count for money had and received, when inapplicable.

One of the simplest and most useful remedies which the law provides for the recovery of money due, is by the common count for "money had and received by the defendant for the use of the plaintiff;" and where, as frequently happens, the defendant, in answer to this count, pleads a set-off, and thereby seeks to establish a counter claim, which, by virtue of the statute 2 Geo. 2, c. 22, s. 13 (made perpetual by 8 Geo. 2, c. 24, s. 4), may in this manner be brought under the notice of the Court, very complicated accounts may be adjusted, and the balance, if any, really due to the plaintiff ascertained. The plea of set-off is, in fact, in the nature of a cross-action, the statute above cited enacting that where there are mutual debts between the plaintiff and defendant, "one debt may be set against the other;" and the reason for allowing this plea is clearly to avoid circuity of action, or the necessity of filing a bill in equity.

The gist of the action for money had and received has been stated by Lord Mansfield to be, "that the defendant, upon the circumstances of the case, is obliged by the ties of *natural justice and equity* to refund the money" sought to be recovered. (2 Burr. 1012.) "This kind of equitable action," observed his lordship, "to recover back money which ought not in justice to be kept, is very beneficial, and therefore much encouraged. It lies only for money which *ex æquo et bono* the defendant ought to refund;"(a) and, accordingly, where a man has actually paid what the law would not have compelled him to pay, but what in equity and conscience he ought to pay, the money so paid cannot be recovered back in an action for money had and received. Thus, where a man has paid a debt which would otherwise have been barred by the Statute of Limitations, or a debt contracted during his infancy, which in justice he ought to discharge, or where money due in point of honour and conscience, although not recoverable by any legal process, has been paid—in all these cases the action for money had and received will not lie to compel the payee to refund the amount paid, although the law would not have lent its aid to enforce payment. (Per Lord Mansfield, C. J., *Bize* v. *Dickson* (1 T. R. 286); *Farmer* v. *Arundel* (2 W. Bla. 824); judgment, *Moses* v. *Macferlan* (2 Burr. 1012).

Without attempting to enumerate, still less to consider minutely the various classes of cases in which the action for money had and received is the appropriate remedy, we propose to consider under what circumstances this action will lie where money has been paid into the hands of a trustee for a specific purpose, and also whether this count can be used where a payment has been made under the provisions of *a deed* entered into between the parties; and, first, it may be laid down as a general rule that an action for money had and received will *not* lie to recover back a sum paid upon trust for a specific purpose, unless it be shewn that the *trust is closed*, and that a balance remains in the hands of the trustee. In *Case* v. *Roberts* (Holt, N.P.C. 500), Burrough, J. observed as follows: "If money is paid into the hands of a trustee for a specific purpose, it cannot be recovered in an action for money had and received until that specific purpose is shewn to be at an end. The action for money had and received must not be turned into a bill in equity for the purpose of discovery. If the plaintiff shew that the specific purpose has been satisfied, that it has absorbed a certain sum only, and left a balance, such balance (the trust being closed) becomes a clear and liquidated sum, for which an action will lie at law. Whilst the matter remains in account, and is charged with the specific trust, the action for money had and received will not lie." The law thus laid down by Mr. Justice Burrough is adopted by Tindal, C.J. and Cresswell, J. in *Edwards* v. *Bates* (8 Scott, N. R. 415-418); the former very learned judge observing, that he cannot state the principle in question more concisely, correctly, and intelligibly than in the words above cited. In that case, by a deed of assignment to which the plaintiff, one B. (the plaintiff's late partner), and the defendants were parties, the plaintiff and B. assigned to the defendants a debt due to the firm upon certain trusts specified in the deed, and the defendants having received a sum of money under the deed, the plaintiff, without waiting for any performance of the trusts or settlement of accounts, sued them in debt for money had and received. It was held, however, that the action would not lie, the trust being *still open*, and the balance unascertained. "This," remarked Tindal, C. J. "is an action of debt for money had and received by the defendants to the use of the plaintiff. The ground upon which an action of this

(a) See Leading Cases, No. IV, 5 Law T. p. 318.

description is maintainable is, that the money received by the defendants is money which *ex æquo et bono* ought to be paid over to the plaintiff. Such is the principle upon which the action has rested from the time of Lord Mansfield. Where money has been received without consideration, or upon consideration that has failed, the recipient holds it *ex æquo et bono* for the plaintiff. But here, after the money has come to the hands of the defendants they have something to do with it before the plaintiff can be entitled to any portion of it; for it appears that they entered into a covenant to receive the money upon certain trusts. * * * Now this action is brought before it has been ascertained that any thing is due to the plaintiff under the trusts of this deed. * * * In truth, the plaintiff has brought this action instead of adopting the ordinary course of filing a bill in equity." In the previous case of *Roper* v. *Holland* (3 A. & E. 99), the action of debt for money had and received was likewise brought against a *trustee*, and was there held to be maintainable, because the defendant appeared upon the evidence to have *admitted* a certain balance as being in his hands to the plaintiff's use, and was consequently precluded from availing himself of his character of trustee, and thereby driving the plaintiff into equity for the recovery of the money so held by him as trustee. We may add that, where money has been paid under a contract which *still remains open*, the remedy must be upon the special contract, until rescinded, and the action for money had and received will not lie. (*Weston* v. *Downes*, Dougl. 23, cited 2 B. & Ad. 462; *Power* v. *Wells*, Cowp. 818, recognised per Tindal, C. J., 8 Scott, N. R. 415).

The second point on which the defendant relied in *Edwards* v. *Bates* was, that inasmuch as there was a deed between the parties, the plaintiff ought to have declared upon the deed, and could not succeed on the common count; and this objection seems also to be fatal to the maintenance of the action. In fact the learned judge (Mr. Justice Maule) at the trial nonsuited the plaintiff, on the authority of *Atty* v. *Parish* (1 N. R. 104), expressly on the ground that he ought to have sued in covenant, and that debt for use and occupation would not lie. That was an action of debt for the carriage of goods, the hire of certain vessels, and for demurrage. At the trial, the plaintiffs, after proving the carriage of the goods and the detention of their vessel, gave in evidence a charter-party, entered into between themselves and the defendants' testator, in order to fix the amount agreed upon for freight and demurrage. A verdict having been found for the plaintiffs, the defendants moved to enter a nonsuit, pursuant to leave given for that purpose, and the Court in banc made the rule absolute, on the ground that the foundation of the contract between the parties on which the action was brought was in fact the deed of charter-party, and that it would be overturning all the precedents in pleading to allow the use of the common counts in such a case, and thereby to deprive the defendants of the advantage of having profert made of the very deed which formed in truth the groundwork of the action. The decision in *Atty* v. *Parish* does not appear to have been overruled by the subsequent case of *Tilson* v. *The Warwick Gas Light Company* (4 B. & C. 962), and is certainly countenanced by the remarks of Cresswell, J. in *Edwards* v. *Bates*. In this latter case, as already intimated, the action was founded upon a deed, and the learned judge observed as follows:- "If there were a valid contract by parol between the parties, and a deed was afterwards executed, it might not follow as a necessary consequence that the plaintiff would be bound to declare upon the deed. But what simple contract is there between these parties, distinct and independent of the deed? The defendants have received the money under the provisions of a deed, by which they expressly contract for something to be done with it. Where there is an *express* contract between the parties, we cannot *imply* one; that would be contrary to the general principles of law." The same learned judge made a further remark, which is likewise worthy of consideration, in answer to the objection that the defence relied upon could not, at all events, be given in evidence under the plea of *nunquam indebitatus*. "If," he observed, "there had originally been a simple contract, which, it is alleged, is merged in a specialty, you may be bound to set out the deed in which the simple contract is merged. But here the production of the deed *takes away the very foundation of the action*: it shews that there never was such a simple contract as that which the plaintiff is relying on." (*Filmer* v. *Burnby*, 2 Scott, N. R. 689.) It seems, therefore, clear, that where money has been received by trustees under a deed, the trusts of which are still open, the action for money had and received will not lie; and this it is of some importance to bear in mind, because a party might naturally be inclined, if he could safely do so, to proceed at law rather than in equity, the former being in general a simpler and more expeditious, as well as a less expensive, course to adopt; and we may further remark, that where in such a case the action is in fact grounded upon the deed, the declaration ought to be specially framed accordingly, and that the common count in *assumpsit* for money had and received will not suffice.

A note of *Edwards* v. *Bates* may be made in 1 Selwyn N. P. 10th ed. 600.

THE LAW AND PRACTICE OF PROCEEDING AGAINST A TRADER-DEBTOR,

Under the Statute 1 & 2 Vict. c. 110, s. 8.

(*Concluded from page 468.*)

TRADER APPEARING TO SUMMONS, AND ADMITTING DEMAND, SHALL NOT PAY A TENDER, OR SECURE, OR COMPOUND FOR DEMAND, WITHIN FOURTEEN DAYS.

53. By 5 & 6 Vict. c. 122, s. 14, it is enacted, that "if any trader so summoned as aforesaid, upon his said appearance, shall sign an admission of such demand in the form aforesaid, and shall not, within fourteen days next after the filing of such admission, pay, or tender, and offer to pay, to such creditor the amount of such demand, or secure or compound for the same to the satisfaction of the creditor, every such trader shall be deemed to have committed an act of bankruptcy on the fifteenth day after the filing of such admission, provided a fiat shall issue against such trader within two months from the filing of such affidavit."

This section provides for the case of the trader-debtor's appearing to the summons, and signing an admission of his creditor's demand in the form prescribed by the statute, and enacts that, if he shall not, within fourteen days from the time of filing the admission, pay, or tender and offer to pay, to his creditor the amount of his demand, or secure or compound for the same to his creditor's satisfaction, the act of bankruptcy shall be complete upon the fifteenth day after the filing of the admission.

The fiat must issue within two months from the filing of the creditor's affidavit, as under the last section.

Under this section, the "*fourteen days*" which are allowed to the trader must be reckoned from the day on which he files the admission of his creditor's demand, and not from the service of the summons, as under the last section.

In *Ex parte Richard Musgrove* (3 M., D. & D. 387), and ———, the trader had been summoned before the Birmingham District Court of Bankruptcy, under 5 & 6 Vict. c. 122, s. 11. He appeared and admitted the debt, and the creditor, by mistake, conceiving that the fourteen days mentioned in the Act were to be reckoned from the issuing of the summons, instead of from the filing of the admission of the debt, struck a docket on the nineteenth day after the date of the summons which [was on]ly twelve days from the filing of the admission. This fiat was afterwards annulled. Held, that the existence of this fiat was such an obstruction to the payment of the petitioning creditor's debt, that if he sued out a new fiat, founded on the adm[ission and non-]pay, &c. according to the provisions of the 11th section of the statute, the Court would annul such new fiat.

If a creditor makes himself a party to his debtor's default, in paying or securing for the debt admitted, beyond the time allowed by the statute, he cannot afterwards take advantage of it as an act of bankruptcy. (*Ex parte Brown*, Mont. & Ch. 177; see also *Ex parte Budd*, 1 Mont., D. & D. 436, 5 Jur. 272.)

But in *Re Lubbock* (2 Law T. 500), a trader appeared to a summons issued against him under 5 & 6 Vict. c. 122, s. 11, in respect of a debt of 70*l*. The summons was heard before Sir C. F. Williams, and the trader signed and filed an admission of the demand; but, on a suggestion from the commissioner that the money should be paid out of the proceeds of some property about to be sold by the trader (the payment to be guaranteed by the purchaser), the further hearing was adjourned; but no one appearing to support the summons, it was dismissed. In the meantime, the purchaser of the property refused to guarantee the payment of the 70*l*. upon which the trader offered a judge's order to pay in a month; but at the expiration of the fourteen days from the admission, a fiat was issued on the admission, the trader not having paid or secured the debt according to the statute. The adjudication was opposed, on the ground that, as the summons had been dismissed, no further steps could be taken under it. Mr. Commissioner Merivale (without entering into the question of the summons) decided that an act of bankruptcy had been committed by the trader neglecting "to pay, or tender and offer to pay, or secure, or compound for the demand," in the manner required by the statute.

Where the petitioning creditor kept out of the way for the purpose of avoiding receiving payment of the admitted demand, and, during his absence, the debtor made a tender of the whole debt to the petitioning creditor's managing clerk, who refused to receive it, it was held, under these circumstances, that the petitioning creditor must be considered to have concerted the act of bankruptcy, and that he could not support a fiat upon it. (*Ex parte Gratton*, 2 M., D. & D. 401; 11 Law Journal, N. S. Bankruptcy, 10.) *Semble*, that where the proceedings are taken under the statute by the petitioning creditor, not for the purpose of obtaining payment of his own debt, but to compel the bankrupt to satisfy the alleged debt of a third person, the fiat cannot be supported. (*Ex parte Gratton, ut supra.*)

TRADER APPEARING TO SUMMONS, AND ADMITTING PART ONLY OF DEMAND, AND NOT DEPOSING TO A GOOD DEFENCE AS TO THE RESIDUE, SHALL NOT, WITHIN FOURTEEN DAYS, PAY, OR OFFER TO PAY, OR SECURE, OR COMPOUND FOR THE SUM ADMITTED, OR GIVE BOND, &c.

54. By 5 & 6 Vict. c. 122, s. 15, if any trader so summoned as aforesaid shall, upon his said appearance, sign an admission for part of such demand in the form aforesaid, and shall make a deposition in the form hereinbefore required, that he believes he has a good defence to the residue of such demand, then and in such case, if such trader, as to the sum so admitted, shall not within fourteen days next after the filing of such admission, pay, or tender and offer to pay, to such creditor the sum so admitted, and as to the residue of such demand, shall not, within fourteen days after personal service of such summons, or within such enlarged time as may be granted to him in that behalf, pay, secure, or compound for the same to the satisfaction of such creditor, or enter into a bond in such sum, and with two sufficient sureties, as such Court shall approve of, to pay such sum as shall be recovered in any action which shall have been brought, or shall thereafter be brought, for the recovery of the same, together with such costs as shall be given in such action, every such trader shall be deemed to have committed an act of bankruptcy on the fifteenth day after service of such summons, provided a fiat in bankruptcy shall issue against such trader within two months from the filing of such affidavit.

This section provides for the case in which a trader appears to the summons and admits a part of the creditor's demand, but does not make the necessary deposition that he has a good defence to the residue of such demand, and enacts that if he shall not pay, or tender and offer to pay, to his creditor the sum so admitted, or secure or compound for the same to his creditor's satisfaction, *within fourteen days from filing such admission, and also*, as to the residue of such demand, shall not, within fourteen days *from the service of summons* (or within any enlarged time which the Court may allow), pay, or secure, or compound for its payment to the creditor's satisfaction, or enter into a bond, with two sureties to be approved by the commissioner, to pay any sum which his creditor may recover against him by action for the recovery of the same, together with the costs, he shall be liable to be made a bankrupt on the fifteenth day after service of such summons.

The fourteen days under this action must be reckoned from the day of the service of the summons, and the fiat, as in the case of the two preceding acts of bankruptcy, must issue within two months from the filing of the creditor's affidavit.

55. The following is the form of the memorandum of the act of bankruptcy on trader summons:—

In the Bristol District Court of Bankruptcy.

At the Bankruptcy Court, Bristol. the day of 184

In the matter of E F, against whom a fiat, bearing date the day of , 184 , hath been issued, before Commissioner Mr. Serjeant Stephen, A B, of , and C D, of , being severally sworn and examined at the time and place above mentioned, upon their oaths say, and first this deponent A B for himself saith, that he has inspected the paper now shewn to him marked with the letter (A), remaining upon a certain file of proceedings in this court, and purporting to be a summons issued by this Court on the day of last, against the said E F, and also the paper writing now shewn to him marked with the letter (B), now remaining upon the said file, and purporting to be an affidavit sworn by him, this deponent A B, and C D, on the day of last. That he, this examinant A B, is the same creditor at whose suit such summons was issued, and that E F, the person against whom the above fiat has been issued, is the same trader-debtor against whom that summons was issued. And this examinant further saith, that at the time of the filing of the said affidavit marked with the letter (B), he, this examinant, was a creditor of the said E F, as and to the amount in that affidavit set forth, the said E F, then being, to the best of this examinant's knowledge and belief a trader within the meaning of the statutes in this behalf made and provided, and then to the best of this examinant's knowledge and belief residing in the district in and for which this Court acts. And this examinant further saith, that from thenceforth he hath continued to be, and still is, a creditor of the said E F, and to the amount aforesaid. And this examinant, the said A B, for himself further saith, that the said E F did not come before the Court at the time appointed by such summons, or make known, or prove to the satisfaction of the Court, any lawful impediment for his not appearing before such Court as required by the said summons; but that he, the said E F, has not yet paid, secured, or compounded for such demand as in the said summons mentioned, to the satisfaction of him, this examinant, or, "as he this examinant believes," entered into any bond in respect to any action brought or to be brought for the recovery of such demand, although this Court has not, as this examinant believes, granted any enlarged time in that behalf. And the said C D for himself saith, that he has inspected the paper writing now shewn to him, inserted with the letter (C), remaining upon the said file, and purporting to be an affidavit sworn by this examinant, the said C D, on the day of last, and that he is the same person in that affidavit mentioned as having served such summons, and that he did make such personal service as in that affidavit set forth.

CHAP. VII.

COSTS.

56. By 5 & 6 Vict. c. 122, s. 18, it is enacted, "That where any trader against whom an affidavit of debt is filed as aforesaid, shall be summoned to appear before the Court in which such affidavit shall be filed as the case may be, every such trader shall have such costs and charges as such Court in its discretion shall think fit.

"If a trader who has been summoned under 5 & 6 Vict. c. 122, s. 11, does not file an affidavit as directed by the said Act (vide *suprà*), he will not be entitled to have the summons dismissed, *or be allowed the costs of appearance.*" (*Ex parte Lawrence and Co.* 5 Law T. 203 (Shepherd, Com.).)

Where a summons is dismissed on a technical ground, it is in the discretion of the Court to allow or refuse the costs of the defendant's appearance to the summons. (*Ex parte Goode*, 5 Law T. 133 (Shepherd, Com.).)

By 5 & 6 Vict. c. 122, s. 19, it is enacted, "That in every action brought after the commencement of this Act, wherein any such creditor is plaintiff and any such trader is defendant, and wherein the plaintiff shall not recover the amount of the sum for which he shall have filed an affidavit of debt under the provisions of this Act, such defendant shall be entitled to costs of suit, to be taxed according to the custom of the court in which such action shall have been brought, provided that it shall be made to appear to the satisfaction of the Court in which such action is brought, upon motion to be made in court for that purpose, and upon hearing the parties by affidavit that the plaintiff in such action had not any reasonable or probable cause for making such affidavit of debt in such amount as aforesaid; and provided such Court shall thereupon, by a rule or order of the same Court, direct that such costs shall be allowed to the defendant, and the plaintiff shall, upon such rule or order being made as aforesaid, be disabled from taking out any execution for the sum recovered in any such action, unless the same shall exceed the amount of the taxed costs of the defendant in such action; and in case the sum recovered in any such action shall be less than the amount of the costs of the defendant to be taxed as aforesaid, that then the defendant shall be entitled, after deducting the sum of money recovered by the plaintiff in such action from the amount of his costs so to be taxed as aforesaid, to take out execution for such costs in like manner as a defendant may now by law have execution for costs in other cases."

The provisions of these sections of the statute which give the trader costs if he be improperly summoned by his creditor, or if his creditor shall, in his affidavit, depose to a greater amount of debt than he afterwards recovers by action, are entirely of a new character, and cannot fail to attain the object for which they were framed, namely, that of protecting honest but unfortunate debtors from having claims made upon them by designing creditors for a greater amount of debt than is really and justly due.

Where the creditor avails himself of the double remedy of proceeding as well by action as by summoning his debtor before the Court of Bankruptcy, and the trader in consequence of the proceedings in bankruptcy, pays his creditor's demands, the trader cannot stay the proceedings in the action without at the same time paying costs. (*Covington* v. *Hogarth*, 4 Law T.)

57. *The following is the table of costs of summoning Trader-Debtor under 5 & 6 Vict. c. 122, s. 11.*

	£	s.	d.
Attending creditor taking instructions for affidavit of debt, and to summon debtor	£0	6	8
Making copy account and drawing notice for payment	0	6	8
If account exceeds three folios, extra per folio	0	0	4
Service thereof (as to distance, see General Rule, No. 3)	0	5	0
Drawing and copying affidavit of debt	0	6	8
Copy account to annex	0	2	6
If exceeding three folios, extra per folio	0	0	4
Attending to get same sworn	0	6	8
Paid oath			
Attending to file the same and for office copy, and for summons	0	6	8
Paid filing	0	1	0
Paid for office copy, per folio	0	0	1
Preparing summons and copy	0	5	0
Paid for summons	0	1	0
Service thereof (as to distance, see General Rule, No. 3)	0	5	0
Copy affidavit and notice to annex to affidavit of service	0	6	8
Affidavit of service	0	6	8
Paid oath			
Attending to file same, and for office copy	0	6	8
Paid for office copy, per folio	0	0	1½
Attending Court on return of summons, when, &c.	0	10	0

58. *If Debtor admits Debt and gives Sureties,*

	£	s.	d.
Having received notice that sureties would join in bond, with copies of their affidavit, inquiring into their sufficiency	0	13	4
If in the country, or at a distance, letter to agent to inquire	0	3	6
Paid his charges			
Drawing exception to sureties	0	3	4
Service thereof on defendant's attorney	0	5	0
Attending court when sureties allowed or disallowed	0	10	0
Costs of affidavits in opposition to the allowance of the bond for want of sufficiency of sureties—the same allowances as for other special affidavits (if made)			

59. *Costs of Trader summoned where the Court gives costs.*

	£	s.	d.
The trader's personal travelling expenses from his residence to the court, and allowance for loss of time, according to the scale allowed to witnesses			

60. *If attended by a solicitor, his costs, as follows, in addition:—*

	£	s.	d.
Attending you on being served with a debtor's summons from Court of Bankruptcy at the suit of A B, conferring and advising on the dealings between you, and taking instructions to attend the court with you	0	6	8
Attending the sitting when the commissioner determined, &c. (according to the facts) and ordered debtor's costs to be paid to him	0	10	0
Attending Registrar for order of costs	0	3	4
Paid for same			
Attending for appointment to tax			
Copy and service of order and appointment	0	5	0
If served at a distance, according to general rule.			
Bill of costs and copy to file			
Copy for summoning creditor			
Attending taxing			

61. *Subsequent costs, if unpaid on demand.*

	£	s.	d.
Attending demanding costs	0	6	8
Affidavit of service of rule and allocatur, and of demand of payment and refusal	0	6	8
Paid oath	0	1	6
Writ of attachment	0	8	0
Attending for same	0	3	4
Paid for same	0	2	6
Attending instructing officer	0	3	4
Paid him	1	1	0
Letters, &c.	0	2	0

CHAP. VIII.

GENERAL REMARKS.

Although, upon the whole, the statute 5 & 6 Vict. 122, affords to creditors more expeditious means of proceeding against their debtors than the earlier statute 1 & 2 Vict. c. 110, yet it must also be admitted that the provisions of the 5 & 6 Vict. c. 122, are less disadvantageous to the debtor. It may, however, be sometimes a matter worthy of consideration to creditors, to determine under which statute they should proceed against a trader-debtor residing within the district of the London Court of Bankruptcy. It is true that, under 1 & 2 Vict. c. 110, the amount of debt required is, in the case of a single creditor, or of two or more creditors, *being partners*, 100*l.*; in the case of two creditors *not being partners*, 150*l.*; and in the case of three or more creditors, 200*l.*; whereas, under 5 & 6 Vict. c. 122, *any creditor for any amount* may file his affidavit and proceed against his debtor. The time, also, under the latter statute, for paying the debt, &c. is limited to *fourteen days*, whereas under the former it extends to *twenty-one days*; yet it must also be remembered that, under the latter Act, the creditor must issue a summons calling upon his debtor to appear, to which, on his appearance, he may take technical objections, and, if he succeed in substantiating them, thereby cause considerable delay to his creditor; or the commissioner has power, upon reasonable cause being shewn, of enlarging the time for the debtor's complying with the requisitions of the summons. Under the former Act, none of these delays are likely to occur. The debtor commits an act of bankruptcy *absolutely* on the *twenty-second day* after service of the creditor's affidavit, if he does not comply with the requisitions of the statute. We would, therefore, once more urge upon creditors of traders residing within the London district the propriety of pausing to consider of which remedy they should avail themselves against such debtors.

PROMOTIONS, APPOINTMENTS, ETC.

[Clerks of the Peace for Counties, Cities, and Boroughs, will oblige by regularly forwarding the names and addresses of all new Magistrates who may qualify.]

The Lord Chancellor has been pleased to appoint Dr. James Cowles Prichard, of Bristol, a physician, to be one of the Medical Commissioners in Lunacy, under the Act of 8 & 9 Vict. c. 100, in the place of Dr. Henry Herbert Southey, resigned.

By order of the Commissioners in Lunacy,
R. W. S. LUTWIDGE, Secretary.

WHITEHALL, AUG. 19.—The Right Hon. Sir N. C. Tindal, knt. Lord Chief Justice of her Majesty's Court of Common Pleas, has appointed John Saxelbye, of the town of Kingston-upon-Hull, gent. to be one of the perpetual Commissioners for the taking the acknowledgments of deeds to be executed by married women, under the Act passed for the abolition of fines and recoveries, in and for the town and county of the town of Kingston-upon-Hull, and also in and for the East Riding of the county of York.

AUG. 19.—The Right Hon. Sir N. C. Tindal, knt. Lord Chief Justice of her Majesty's Court of Common Pleas, has appointed Charles Sharood, of Hurstpierpoint, in the county of Sussex, gent. to be one of the Perpetual Commissioners for taking the acknowledgments of deeds to be executed by married women, under the Act passed for the abolition of fines and recoveries, in and for the county of Sussex.

The Right Hon. Sir N. C. Tindal, knt. Lord Chief Justice of her Majesty's Court of Common Pleas, has appointed John Crews Dudley, of the city of Oxford, gent. to be one of the Perpetual Commissioners for taking the acknowledgments of deeds to be executed

by married women, under the Act passed for the abolition of fines and recoveries, in and for the city of Oxford, also in and for the counties of Oxford, Berks, and Bucks.

The Right Hon. Sir N. C. Tindal, Knt. Lord Chief Justice of her Majesty's Court of Common Pleas, has appointed William Salmon, of Bury St. Edmunds, in the county of Suffolk, gent., to be one of the Perpetual Commissioners for taking the acknowledgment of deeds to be executed by married women, under the Act for the abolition of fines and recoveries in and for the county of Suffolk.

Poor-Law Commission-office, Somerset House, Aug. 27.—This is to notify that, in pursuance of an Act passed in the session of Parliament held in the first and second years of the reign of her Majesty Queen Victoria, intituled "An Act for the more effectual Relief of the destitute Poor in Ireland," the Poor-Law Commissioners have directed the Hon. Charles Skeffington Clements, Assistant Poor-Law Commissioner, to carry the provisions of the said Act into execution.

By order of the Board,
W. G. Lumley, Assistant Secretary.

Aug. 28.—This is to certify that, under the provisions of the 7th section of the 4 & 5 Wm. 4, c. 76, the Poor-Law Commissioners have appointed Edward Turner Boyd Twisleton, esq. to be an Assistant Commissioner of the Poor Laws. And this is further to notify, that the said Edward Turner Boyd Twisleton did, on Monday the 25th inst., take the oath required by the 11th section of the said Act, before the Hon. Mr. Justice Cresswell, one of the judges of her Majesty's Court of Common Pleas, at Liverpool, in the county of Lancaster. W. G. Lumley, Assistant Sec.

Crown-Office, Aug. 29, 1845. — *Member returned to serve in this present Parliament.*—Borough of Belfast: John Ludford Chichester, esq. of St. George's-place, Hyde-park, in the county of Middlesex.

Judgeship to the Westminster Court of Requests.—On Monday last the election for this office took place at the Court-House in Castle-street. The choice of the Commissioners fell upon Mr. Moylan, who was declared duly elected. The unsuccessful candidates were Messrs. Keane, Le Breton, A'Beckett, and Campbell.

LEGAL INTELLIGENCE.

CANVASSING FOR A JUDICIAL OFFICE.

The subjoined letter from Lord Denman to Jelinger C. Symons, esq. contradicts the rumour circulated in some of the papers, that his lordship had ever canvassed for the office of Common Serjeant. As it furthermore expresses the noble lord's opinion on the propriety of a canvass for a judicial office, the publication of it just now must be of service. We should add that the letter was in reply to one from Mr. Symons, whose articles on magisterial law in this journal have given such unmixed satisfaction, and who, being a candidate for the judgeship to the Court of Requests for the Tower Hamlets, very properly consulted his lordship on the propriety of a personal canvass for a judicial situation:—

"Middleton, Aug. 22, 1845.

"Dear Sir,—On subjects such as that on which you ask my opinion, I always feel bound to answer as explicitly as my state of knowledge permits me. My personal opinion, indeed, is clearly in accordance with yours, and I acted upon it at some hazard, to an important object, when I was a candidate for the office of Common Serjeant. It was then intimated, on the part of my excellent opponent, Baron Bolland, that he should wait on the electors (the Common Council) at the earliest opportunity. I immediately issued a printed circular, stating that I could not take that course, thinking it derogatory to one seeking a judicial station. On this Baron Bolland immediately made a public retractation in the same manner of the intention which had been announced in his name.

"I have reason, however, to believe that ... subsequent vacancies the candidates canvassed in person, and these were gentlemen of high character.

"What may have been done with respect to the office you wish for, I know not, nor have I the means of ascertaining what my brother judges hold to be right.

"I should consider it more desirable that all the candidates should agree to abstain from personal solicitation; but perhaps it has already commenced, nor can it be deemed improper, if conformable with the practice which has prevailed and the conduct of respectable members of our profession. Whether the electors would not be more likely to favour one who should decline this practice, with a clear and res... ful statement of his reasons, is a merely prudential question.—I am, dear Sir, faithfully yours,

(Signed) "Denman.

"To J. C. Symons, esq. &c."

REVISING BARRISTERS.

Mr. Baron Rolfe has appointed the following gentlemen to revise the lists of county and borough voters in the Northern Circuit:—

West Riding of Yorkshire and Borough of Ripon.—William Blanshard, J. W. Harden, and Benjamin Boothby, esqrs.

West Riding Boroughs (except Ripon, Pontefract, and Knaresborough).—William Gray, esq.

North Riding of Yorkshire and Boroughs (except York).—Stephen Temple, esq.

East Riding of Yorkshire, and its Boroughs, with York, Knaresborough, and Pontefract.—Robert Wharton, esq.

South Lancashire, with the Boroughs of Warrington and Bury.—Thomas Horncastle Marshall, William Walker, and P. A. Pickering, esqrs.

North Lancashire and Westmoreland.—T. J. Hogg, esq.

Liverpool, Wigan, Bolton, Preston, and Blackburn.—T. S. Brandreth, esq.

Lancashire Boroughs (except Liverpool, Wigan, Bolton, Bury, and Warrington).—Hon. Richard Denman.

Durham County and Borough.—R. Matthews, esq.

Northumberland County and Borough.—W. Greig, esq.

Cumberland Borough, and Kendal, in Westmoreland.—F. Pollock, esq.

Millbank Prison.—On Thursday, the second report of the Inspectors of Millbank Prison, as presented to Parliament in pursuance of the Act 6 & 7 Vict. c. 26, was issued. The prison is now used as a depôt for prisoners until they are transported or otherwise disposed of. Since the last report, a large ward has been erected for boys who were too young to be sent to the Pentonville Prison and too old for Parkhurst, and when practicable they have the advantage of separate confinement; they are instructed in religious and moral duties, trained to industrious habits, and taught trades calculated to render them useful servants in the colonies to which they are sent. It seems that of 242 boys who have been placed in the juvenile ward during the eight months which have elapsed since its commencement, but three have received corporal punishment; a considerable number have never been reported for a single violation of the prison rules. Matrons have been appointed to convict-ships, and materials for work are now supplied to the female prisoners during the voyages. Last year 4,140 prisoners were sent from the prison, who have been sentenced to transportation. There were 3,778 males, and 362 females; of the number 685 were sent to Norfolk Island, 2,241 to Van Diemen's Land, 150 to Bermuda, 102 to the invalid hulk at Woolwich, 239 to Pentonville, 361 to Parkhurst, and the females (362) to Van Diemen's Land. The inspectors report that the prisoners in Millbank have generally enjoyed good health, the mortality among them has been small, and the number of sick at no time in the year considerable. There were seventeen deaths—a less proportion than the average of former years—and three cases of insanity, one of which was disallowed, and the convict (Dalmas) transported.

Rebuilding of the New Prison, Clerkenwell, upon the Solitary Principle.—It is understood that the demolition of the New Prison, Clerkenwell, will shortly commence, for the purpose of the erection of a new and considerably enlarged place of confinement in the county of Middlesex, on the solitary principle, after the plan of the Model Prison, at Pentonville, the magistrates of the county assembled in quarter sessions having resolved to do so on account of the great increase of late years in the number of commitments, and the crowding of the present prisons which has resulted therefrom. The period occupied by the erection of the intended new prison will, it is anticipated, be about eighteen months.

Our attention has been invited to a new Life Assurance Company (whose advertisement may be found in our columns), called "The Sovereign Life Assurance Company." The list of officers, we perceive, embraces many well-known and substantial names, and is calculated to give confidence to the public. The scheme presents some new features in Life Assurance, into which we have neither leisure nor space to justify our entering just now; we may however add, that the novelties appear to be based upon sound principles, and we see no reason why they should not equally benefit the policy-holders and the office itself.

CORRESPONDENCE.

ATTORNEYS' GOWNS.

TO THE EDITOR OF THE LAW TIMES.

Sir—I observed in your paper of the 23rd ult. a letter on this subject, signed "An Old Subscriber," who wishes to know what has been done in the matter, and why nothing more is said on the subject.

Being one of the first that brought the matter before the attorneys in the Law Times, I beg to inform your correspondent that I am not aware that any thing further has taken place, except what has appeared in your paper; and I suppose the reason why nothing more was said on the subject was, on account of the business of Michaelmas Term having called off the attention of the attorneys from it.

If your correspondent will refer to the Law Times of the 26th Oct. 1844, he will find the *names* of six gentlemen, beside myself, who highly approved of the wearing of the gown when attending Court, and who were ready to assist in carrying the same into execution.

A host of correspondents who have withheld their names, for what reason I know not, have also approved of the plan. Why do they not come forward, and give their names and assistance, as an example to their brethren? as it must have been observed by the readers of your paper that the majority of the Profession are in favour of wearing the gown, nay, I do not remember that any one has written against it, except an *anonymous correspondent* or two.

If "An Old Subscriber" will give his name and assistance, I should be glad to join him in again bringing the matter before the Profession (during the long vacation), with a view, if possible, to adopt some plan to get the gown universally worn by them when attending Court.

I have the names of several gentlemen, beside those mentioned in my letter before referred to, as ready to join in endeavouring to carry the matter into execution. I am, Sir, yours truly,

J. T. Shapland.

South Molton, Sept. 3, 1845.

THE LOST WILLS FROM DOCTORS' COMMONS.

TO THE EDITOR OF THE LAW TIMES.

Sir,—I now proceed to address you in this, my third letter, inclosing further details regarding this extraordinary transaction, with additional remarks on the expensive, ill-adapted, and cobweb system still carried on in the public offices of Doctors' Commons.

This system, you are aware, has existed for many centuries with increasing accumulation of business, carried on in an official establishment, with the self-same machinery and narrow line of policy existing centuries back, the cream of the office finding its way into the pockets of the head officials, whilst the blood, bone, sinews, and nerves of the unfortunate under-workers are starved down upon slender incomes. The enormous income netted from this department, the Prerogative Registry, with its judicial addenda, realize to one family alone, it is computed, upwards of 100,000*l.* per annum; and although I myself find no fault with that family having such an enormous income out of a system so grossly wanting in its essentials for the public service, whilst many other public departments are in a similar condition, yet the nation and the public, through both branches of the Profession, must feel that it is high time a radical change should take place in the crying monopoly in this one spot, or that better services should be rendered for the enormous sums *paid by the public* into the civil treasury of Doctors' Commons.

It will be seen by you, Sir, and the extensive body of readers of your journal, that the above observations are not misplaced, when I inform you that they, in effect, so strongly pressed upon the minds of the leading members of both branches of the legislature, that in the year 1830, a commission of inquiry was issued to investigate this office and the other official departments in Doctors' Commons; the report, now lying before me, I see is signed by one archbishop and five bishops, with four common law and two civil judges, and by my Lord Brougham as Chancellor; but, Sir, that report is, like numerous other reports made by the Government, quietly returned, neatly bound up in pleasing blue covers, laid upon the table of both Houses of Parliament, then thrown under the table, ultimately finds its way to sundry rolls of butter, in the provision-shops of the metropolis.

The *Times* paper felt this to be so in the various Irish commission inquiries, and you evidently feel the same, as you have opened your columns to censure these abuses. By this means, at a comparatively small cost, a spirited editor and widely-circulated journal can effect more by the force of public opinion, wielded through his columns, than the heavy outlay drawn from the pocket of John Bull for an expensive parliamentary commission, read by no one.

Anxious not to make this letter too long, and to keep up the interest in the further disclosures I have to make, I will shortly state that the result of the commission of 1830 has ended in smoke, *nothing has come of it* save a costly alteration suggested by the ingenuity of the officials in Doctors' Commons to take away the simple machinery of the 300 provincial courts, thus withholding the bread now supplied to several hundred professional men, transfer it to

Doctors' Commons, and there add to the already over-pampered Heads of the present much-to-be-condemned system.

Sir, so little are the sayings and doings of Doctors' Commons known to the Profession, that I think it advisable to tread slowly and safely, as I further proceed, and shall therefore again trouble you with other facts in my ensuing letters respecting the "Report" above alluded to, and upon which I intend next to treat, and shall thus continue *to travel under authority.*

I am, yours, &c.
2nd Sept. 1845. J. T. SCOTT,
Doctors' Commons.

THE REAL PROPERTY STATUTES.

TO THE EDITOR OF THE LAW TIMES.

SIR,—I beg, through your columns, to submit to the Profession the following questions, which I do not find to have been noticed in any published observations on these statutes.

Can a corporation make a valid grant *without livery of seisin*, for lives, of any of their freeholds? And if so, would not such a grant (now exempt from *ad valorem* stamp-duty) be chargeable with *ad valorem* stamp-duty on the amount of the fine, as on a conveyance by lease and release? (8 & 9 Vict. c. 106, s. 2.

Same statute, ss. 6 & 7.—Will it be necessary, under these sections, that a married woman should acknowledge a deed, in conformity with the provisions of the Fines and Recoveries Act, by which she passes or disclaims her interest in tenements and hereditaments of *any other than freehold tenure*; the general practice having hitherto been *not* to require such acknowledgment, when the tenements and hereditaments in which she is interested are *not* of freehold tenure?

8 & 9 Vict. c. 112, s. 2.—Supposing the owner of the fee to create a term by way of mortgage, and, after the day of redemption has passed, to pay off and satisfy the principal and interest, would that term, immediately on the satisfaction of principal and interest, so effectually cease and determine as to preclude the necessity of a re-conveyance by the mortgagee, and the possibility of its being legally dealt with afterwards?

8 & 9 Vict. c. 119, s. 3.—Would not a deed, made in pursuance of this Act, although it should consist of less than 2,160 words actually written on the parchment, be deemed, for the purposes of stamp duty, to comprise the general words in sec. 2, and such of the covenants in full as should correspond with the short forms used in the deed, and be chargeable with progressive duty, if the whole amount of words actually comprised in the deed, together with the words in the Act, should exceed 2,160?

The idea may, perhaps, seem absurd, but if the Legislature have expressly retained the *ad valorem* and progressive duty on the lease for a year, a document now no longer in existence, and which, after the 1st of October, need not be even mentioned or referred to, it is no very great stretch of imagination to suppose, that although they have given to certain short forms of words the legal operation and effect of longer ones, yet they did not intend that the adoption of the short forms should tend in any wise to diminish the amount of stamp-duty which would have been payable had the longer forms been used.

Would it be prudent to use the forms given in this statute in any case where the vendor's title is by *devise* or *descent*, inasmuch as the covenants given in the Act extend only to the rights, acts, deeds, incumbrances, &c. of the vendor *himself and his heirs*, and persons claiming under *him and them*, and not to those of his *testator* or *ancestor*, as is usual where the vendor is devisee or heir-at-law?

If there is any thing in the points to which I have referred, some observations on them from some correspondent who has turned his attention to the subject, would I think be useful to the Profession, before the Acts come into operation.

I am, yours, &c. H. B.

TO THE EDITOR OF THE LAW TIMES.

SIR,—As many practitioners may rely on *Denison* v. *Hawkes*, reported in the last number of your valuable journal, as to evidence of a judgment, allow me to remind the Profession, through your columns, that the 8 & 9 Vict. c. 127, does not come into operation until the 1st day of November next.

Southampton, I am, Sir, yours, &c.
Sept. 3, 1845. JAS. SHARP, jun.

SMALL DEBTS ACT.

TO THE EDITOR OF THE LAW TIMES.

SIR,—In many instances there is no *judge* to the courts of request in the country, but there are commissioners who act as judges.

By sec. 9, power is given for the Queen, with the advice of her Privy Council, to enlarge the jurisdiction of any courts of request; but the section at the same time denies effect to any *such* order (the order of the Privy Council, I presume) in respect of any court which shall not have a judge who is either a barrister-at-law, &c. By the same section, the commissioners of the court where there shall be no judge, or the persons to whom the appointment of any judge, or, if no judge, to whom the appointment of any clerk belongs, are empowered to call a meeting three calendar months next after the making of any *such* order to appoint a judge.

It appears, therefore, that, according to the strict interpretation of the Act, where there are commissioners who act, and no judge, that *the jurisdiction cannot be extended, and no judge can be appointed.*

For they are not empowered to call a meeting *till three calendar months after obtaining the order of the Privy Council*; and this order *is of no effect* unless the court shall have a *barrister* or an *attorney acting as judge.*

Can any of your readers explain to me the *real meaning* of this most extraordinary clause?

Yours, &c.
A SOLICITOR.

LEGAL EDUCATION.

TO THE EDITOR OF THE LAW TIMES.

SIR,—It was with great pleasure that I read in the last number of your journal, a letter signed "Virtutis," on the subject of legal education. I have a few suggestions to offer on the subject, and I send them to you, in the hope that they may find insertion in your journal, and so be brought before those persons whose duty it is to look to the education of the young men brought up to the law. I would, in the first place, make it imperative that all articled clerks, at the time of their examination, should undergo a satisfactory examination in Latin, Greek, French, History, the first four books of Euclid, and in Arithmetic; by such an examination those persons would, to a great extent, be shut out from the profession, whose minds and honour are narrowed by the want of a liberal education; secondly, I would suggest the propriety of revising the mode on which the present examinations are carried on. It is well known that the same questions are asked over and over again, so that an idle clerk may, by three months' study and perusal of the old questions, be enabled to pass his examination and get admitted without perhaps knowing a word more of law than is contained in a few questions; whilst, on the other hand, one who has read well and industriously throughout the whole term of his articles, but who has not stooped to cram with old questions, may not be able to answer nearly all the questions, and be very probably turned back, though much more fit to conduct an office and advise a client than one who only knows what he has learnt by cramming. The alteration I would suggest is to have the examination last two days instead of two hours, and that the questions should relate more to principles than they do at present; I would, moreover, suggest the propriety of classing the candidates according to the efficiency they display in answering the questions; for by such a classification the public would be benefited, the clerk obtain justice, which is, by the present mode, denied him, and the Profession brought to a standing which it ought to enjoy. I could say more on this neglected though very important subject, but that I fear I have already trespassed too much on your columns. Hoping the matter will not rest here, I am, yours, &c.

JUSTITIA.

PROFESSIONAL MALPRACTICES.

TO THE EDITOR OF THE LAW TIMES.

SIR,—Under this head I find my name mentioned and coupled with Mr. Crouch.

I have to inform you that when at the bar I *never* held a brief at the Middlesex Sessions, or at the Central Criminal Court, without being *regularly* retained. Yours, &c.

H. H. PYKE.

87, Chancery-lane, September 1, 1845.

[We have omitted some portions of Mr. Pyke's letter, because they referred neither to us nor to the subject of his disclaimer, but needlessly alluded to the conduct of one who, when Mr. Pyke was at the Bar, was his compeer.—ED. L. T.]

To Readers and Correspondents.

W. H. (Ilsley).—*The abstract suggested we have pleasure in giving. It may be found under the head of "Legislator" in this number.*

J. B. (Gloucester).—*We are obliged for the suggestion, which will receive consideration, and the alteration, if thought advisable, will be adopted.*

R. F. A. (Honiton).—*Our next number will contain some remarks on the subject.*

A SOLICITOR and AN OLD STANDING MEMBER OF GRAY'S-INN.—*We have neither space to devote to such a subject, nor the wish to revive a discussion which cannot have the effect of recalling the sentence on the individual alluded to, or be in any way of service in allaying the feud between the Bar and the Press.*

A SOLICITOR (Beford-row).—*The purport of the letter is identical with that declined above; the same reply is, therefore, applicable.*

THE LAW TIMES.

SATURDAY, SEPTEMBER 6, 1845.

SHORT CONVEYANCES.

WE have already noticed the alarm which has been excited in some quarters by Lord BROUGHAM'S Act for abbreviating the common Covenants in Conveyancing. The more we consider the subject, the more do the objections which at the first glance presented themselves melt into thin air. They have proceeded rather from the apprehension than the reason. The lawyers have been so vexed of late years by legislation, and still more by legislation threatened in a spirit of hostility, which has evidently proceeded more from personal spite than patriotism, that they may be excused for being a little too sensitive in imagining mischief where none is meant, more especially in a measure having an object so suspicious as the shortening of conveyances, and thus indirectly abbreviating their fees. But practically the evil is not so great as it seems. Indeed, we are inclined, after careful consideration of the measure, to deem it rather beneficial than otherwise to the Profession, as undoubtedly it is a boon to the public.

The project of Lord CAMPBELL was received by the LAW TIMES with unqualified reprobation, and the able exposure of its inconsistencies and its impracticabilities which appeared in our columns, from the pen of a conveyancer so well qualified for the task of criticism, materially aided in the signal defeat which not merely postponed but annihilated it. The recent statute, however, is altogether different in its aim and provisions. It does not pretend to pare down all conveyances to the same pattern, and to compress every complication of interests into half-a-dozen lines; it limits itself to the very rational purpose of shortening those parts in a conveyance which in practice were inserted in every deed in almost

the same words, and those words tediously and needlessly multiplied according to an ancient formula, a verbosity which, if it sometimes added a few shillings to the fees, more frequently was a source of annoyance to the conveyancer, by extending his draught beyond the skin, and adding to his charge the cost of another stamp, thus swelling the apparent amount of his bill with little profit to himself.

Every practitioner knows, that in fact nothing is so difficult as to regulate the charges for conveyancing. The trouble can never be measured by the length of the deed, nor can the charge be proportioned to the work. Practically, the costs are regulated, rudely indeed, but still with some approach to the principle, by the value of the property conveyed. The actual labour of conveying a freehold of 50*l.* has been hitherto as great as for one of 5,000*l.*; but what solicitor could or would charge as much for the one as for the other? or what client would be satisfied with such an apparently unjust claim upon his purse? Yet though compelled to curtail his charges for the small conveyances, the solicitor could not curtail his work. He was obliged to insert the same verbose forms in both, and to fill half a skin of parchment to express that which, in plain English, might be as well expressed in half-a-dozen lines. Now the new statute has enabled the solicitor to do that which in such cases he was always desirous but dared not to do. It has *permitted* (not compelled) him in some measure to regulate his work and charges; to convey small properties by a shorter form, and consequently at less cost, than large ones. This it has effected by the simple process of enacting that the common covenants inserted in every deed shall be equally valid if expressed in a certain brief formula prescribed by the Act, as if they had been set out in the verbose form hitherto in use.

It cannot be denied that this is a great improvement, a real reform, a boon to the public, and a convenience to the Profession. But it suggests another change, which, we think, t be adopted with advantage, if made with due deliberation, not framed by inexperienced jurists, or senators playing at law-making, but by members of the Profession, whose practice would enable them to anticipate difficulties and provide for contingencies never dreamed of by the amateur reformers of our law. We throw out the suggestion for the serious consideration of our readers, whether it might not be practicable, as certainly it would be desirable, to regulate the costs of conveyancing almost if not altogether by a scale proportioned to the value of the property conveyed. In this we of course refer only to the cost of the conveyance itself, not to the investigation of title, which must vary so vastly in every case, that the application of any such scale would be an impossibility. We leave the subject in the hands of our readers for the present, hoping that it will have their attention, for the recent change must lead to others in the same direction, and it seems to us that the only method of securing justice to the solicitor as well as to the client will be to make some such arrangement as we have suggested.

THE VERULAM SOCIETY.

Three numbers (being Nos. XV. and XVI. of Real Property, and No. XI. of Practice Cases) have this week been forwarded to the members. No. XII. of Practice Cases, and No. XVII. of Real Property, are in a forward state, and will shortly be delivered, with No. XII. of Magistrates' Cases, which is now ready.

A COURSE OF LECTURES ON THE LAW OF CONTRACTS,

By Professor Carey.

Delivered at the University College.

LECTURE IV.

I mentioned in the last lecture the difference between an *executed contract* and an *executory contract*. A contract is said to be executed where that which is to be done on one side is already performed, and it only remains for that which is contracted for on the other side to be also performed. The terms *executed* and *executory* are most frequently used with reference, not so much to the state of the transactions themselves, as to the form of pleading. If A agrees to change horses with B, and they do it immediately, this is termed by Blackstone an *executed* contract; by which he means the contract has performed its office—every thing contracted for is done, and the contract is over. This is not the sense in which an executed contract is sued upon; for though the agreement is performed on one side, it is left unperformed on the other, else no action for non-performance could be brought upon it. A contract, after it has been duly performed on both sides, has done its office—no action is likely to be brought upon it. So far it is executed. But when, in talking of contracts, it is said that one is an *executed contract*, it is meant that it is performed on one side, and only wants performance on the other. If A and B agree to exchange horses next week, this is termed by Blackstone, rightly, an *executory contract*; but he makes no reference to the case in which A delivers his horse to-day and B promises to deliver his to-morrow. Looking at the terms themselves, this might appear to be an *executed contract*; and so it is in a certain sense, because A has performed his part, and the consideration is executed. Strictly speaking, that is an *executed contract*; but you must observe, here, that the agreement is of such a nature as not to create a debt. If it had been to deliver my horse to-day, to be paid for in money a week hence, it would have been, in every sense of the term, an *executed contract*; and, on the expiration of the week, the money might have been recovered as a debt.

Every contract, expressly made, is in its origin *executory*: but when, on the performance on one side, a *debt* is created, the creditor sues for the debt, without being obliged to set out the terms of the original agreement. A man purchases goods for 50*l.* Then, the 50*l.* not being paid, the creditor sues him, and states that the defendant was indebted to him in 50*l.* for goods sold and delivered, without setting out the original contract; still the contract was in its origin executory, and, if no delivery of the goods had taken place according to the contract, it would have been necessary to set out that there was such a contract made, that the defendant promised to deliver the goods, and did not deliver them. Where, if a debt is not created, the party complains of the non-performance of the agreement, and seeks to recover damages in respect thereof, he is in general required to set out the agreement in its executory form, and he sues in special *assumpsit*. (1 Wilson, 117.) "If a man agrees to build for another a house, to be paid for it, and he afterwards builds the house, in this case he has two ways of declaring, either upon the original executory agreement as to be performed *in futuro*, or upon an *indebitatis assumpsit*, when the house is actually built, and the agreement executed,"—that is to say, he may either treat it as an *executed contract*, suing for the *debt* incurred by the performance of his part, or as an executory contract, suing for a breach on the part of the other. In the one case he would allege that the defendant, in consideration that he would build a house, agreed to pay for it; but nevertheless, though he had performed his promise by building the house, the fendant has not paid the money. That would setting out the contract in its executory form. the other case—which is the one usually adopted—he would not do so; the contract would only come out inferentially, the declaration stating merely that the defendant was indebted to the plaintiff in so much for a house built for him at his request, &c. When an *executory contract* has been entered into, until one party has performed his part, the contract is said to be open; as long as it remains thus open, there is a promise on each side, and each of these promises is the consideration of the other. Where goods have been sold and not yet delivered, the seller is under an obligation to deliver the goods, and the buyer is under an obligation to pay for them. The undertaking to deliver the goods is the consideration for the promise of payment, and the undertaking to pay for the goods is the consideration for the promise to deliver them. In all such contracts as this, the thing to be forborne or done on the one part, is the consideration for the thing to be done or forborne on the other part.

If the agreement between the parties is that one of them shall do anything from which the other derives a profit, or from which a third person derives a benefit, or that one of them shall undertake any labour, or sustain any detriment or inconvenience, or forego any right, this is on one part a sufficient undertaking to constitute a consideration for the thing to be done or forborne on the other. Thus, if it is agreed between A and B that A shall deliver his horse to B; that A shall lend his horse to X Y, a third person; that A shall endeavour to procure a situation for B; that A shall forbear to sue B for payment (if he has a cause of action against him); that A shall practise a trade within a certain limited district; all these are things that A might promise or undertake, and in consideration of which B would promise in return, "If you will try to procure such and such a situation, I will give you 20*l.*" You are not bound to *procure* the situation; you have fulfilled your engagement if you "*endeavour* to procure." There is a case of this kind in Hobart, 105; and also in Smith's Leading Cases. (*Lampleigh* v. *Braithwaite.*) There it was held that the plaintiff, having, at the defendant's request, *endeavoured* to procure a pardon for him, an action would lie, though his endeavouring had failed. Again, that A shall forbear to sue B, provided he has a cause of action against him; for if he has no cause of action, his forbearance to sue is no forbearance at all. If a man says, "I will sue you if you do not pay me 20*l.*" and thereupon I promise to pay him the money, that is no consideration, unless he has a right of action. Again, were he to obtain such a promise, without having any legal claim upon me, it would be in the nature of extortion. But if he has a right of action, or if he has a reasonable ground for supposing that he has a ground of action, it is good. (*Longridge* v. *Dorville*, 5 B. & Ald. 117.) The giving up a suit instituted to try a question respecting which the law is doubtful, is a good consideration for consenting to pay a stipulated sum. In this case the question was doubtful, and the judgment of Holroyd was, "If a person is about to sue another for a debt for which the latter is not answerable, the mere consideration of forbearance is not sufficient to render him liable for that debt. Any act of the plaintiff, however, from which the defendant derives a benefit or advantage, or any labour, detriment, or inconvenience sustained by the plaintiff, is a sufficient consideration to support a promise. Now the consideration of forbearance is a benefit to the defendant, if he be liable, but it is not any benefit to him if he be not liable. The authorities cited proceed on that ground. This case differs materially from those; for here a suit actually commenced is given up, and a suit, too, the final success of which is involved in some doubt;" and there is a case of *Edwards* v. *Baugh* (11 M. & W. 641). That was on a demurrer, and the declaration was held bad, for not averring that there was a cause of action. Provided a consideration exist, the amount of it is immaterial; thus, in *Bainbridge* v. *Firmstone* (8 A. & E. 743), the contract declared on was this: "You have certain boilers; if you allow me to weigh them, I will undertake to return them safe." The question was, whether there was a good consideration to support the promise of returning them safe, and it was held that there was. The owner's allowing the other man to weigh them was a good consideration—the contract was a valid one. It is not necessary that the thing to be done on the one side should be for the advantage of the other. If a man undertakes that which is a labour or detriment to himself, he is entitled to a recompense, as if he gives up a claim on consideration to be paid so much. (*Doctor and Student*, Dig. 2, ch. 12.)

In order to constitute a consideration, the thing to be done or forborne must be of some value, and the mere doing it, if the person is already bound in law to do it, is not sufficient; for the other party gains nothing by the contract to which he is not already entitled. A has done an act from which B derives an advantage. If the act is not the result of any agreement, and A has done it without the knowledge or authority of B—unasked, voluntarily, and officiously—here there is no contract. What A has done, he did of his own head, and therefore cannot impose any liability on B; he cannot make B pay for it. Hence it is a rule in pleading, that if a man sues another in respect of any consideration that is executed and past, he must aver that the consideration was performed at the request of the other party. If a man sues another for money expended for his use, he must aver that it was so

expended *at his request*. You will find that laid down in 1 Williams's Saunders, 264, note 1, and also 1 M. & G. 265; the point of which note is, that when the thing done is one which in its nature implies consent and request, it is not necessary there to aver the request. For instance, if you sue for goods sold and delivered to a man, it is not necessary there to say that they were delivered at his request, because the notion of a sale and delivery necessarily implies the consent of both parties (12 M. & W. 759); but if A were to sue B for work done; if he sued in debt, and stated in the declaration that B was indebted to him 20*l*. for work done by him for B, whereby and by reason of the non-payment an action accrued to him; or if he sued in assumpsit, and stated in the declaration that B was indebted to him 20*l*. for work done by him for B, and that being so indebted, B promised to pay, but hath disregarded his promise; in such case if he fail to allege that the work was done at the request of B, the declaration would be bad on demurrer, as not setting forth a sufficient cause of action. (*Hunt* v. *Bate*, Dyer, 272.) A servant was arrested and bailed, and after he was out on bail the master promised one of the persons who bailed him that he would bear him harmless. It was held that the action would not lie. The declaration stated, as the fact was, that the master, in consideration that a certain person *had become* bail for the servant, promised to bear him harmless. The Court held that action did not lie, for there was no consideration for which the defendant should be charged with the debt of the servant. But in another case, brought for a promise of 20*l*. to be paid to the plaintiff by the defendant, in consideration that the plaintiff, *at the special instance of the defendant*, had taken to wife the cousin of the said defendant, this was a good cause of action. In these cases we learn that no past consideration is good, if a previous request be not averred; the request, however, may be *expressed* or *implied*. As where an act has been done by one man from which another derives a benefit, any subsequent *recognition* of that would be considered *evidence of a previous request*. A has done work for the benefit of B. It is not reasonable that one man should do any thing voluntarily for the benefit of another, and then charge him with it. This would be forcing on him a liability without his concurrence. B is at liberty to adopt the act of A or not as he sees fit: if he does not adopt it, he incurs no liability; it cannot be averred that the thing was done at his request, and therefore he cannot be called upon to pay for it. If he does adopt it, and avails himself of what has been done, such adoption is evidence to support the averment of request, and his liability will be the same as if he had actually requested it. Suppose that, although he has the benefit of what A has done, the circumstances are such as to negative the possibility of actual previous request; then it would appear that he is not liable. (11 A. & E. 451.)

It is sometimes said that a moral obligation is a sufficient consideration for a promise; that if one person is under a moral obligation to pay another, and expressly promises to pay him, this promise is binding in law. It was said by Lord Tenterden, C. J. in *Littlefield* v. *Shee* (2 B. & A. 811), that this doctrine is one to be received with some limitation; at all events, where a claim exists in the nature of a legal or equitable debt, which, however, cannot be enforced, in consequence of some personal privilege of the debtor, or by the operation of an Act of Parliament, a subsequent promise to pay will be binding. Thus, in the case of a debt the recovery of which is barred by the Statute of Limitations, the debt itself exists, and a promise to pay it will be binding. So, when a bankrupt has obtained a certificate, he cannot be sued for debts due at the time of the bankruptcy; but if the debts are not satisfied in full, that which remains unpaid is still a debt, though the remedy is barred, and a subsequent promise to pay it will be binding. (*Trueman* v. *Fenton*, 2 Cooper, 554.) The result is the same if a man, after he comes of age, promises to pay a debt contracted during his minority. In all these cases a debt existed, which, if not barred by some positive rule of law, might have been enforced. Under such circumstances, the existence of the debt is a sufficient consideration to support a promise to pay it. When the claim which a man undertakes to satisfy is one which, under no circumstances, could be enforced against him, his promise has no effect, as in the case of *Eastwood* v. *Kenyon*. (11 A. & E. 438.)

This may be applied to the case of a beneficial act officiously done. If A has done an act, which ultimately is for the benefit of B, without being previously requested by B to do so, and, under such circumstances that a request cannot be inferred, there is no legal obligation to pay for it, and even an express promise to pay for it will be without consideration. Eastwood was appointed by a person executor of his will and guardian of his daughter. Eastwood, during the minority of his ward, managed her landed property, and laid out money upon it, which he raised by a promissory note. The ward, on coming of age, approved of and sanctioned the conduct of her guardian. After this she was married to Kenyon, who is the defendant in the suit. Eastwood brought the action against Kenyon to recover the money that had been raised in order to be expended on the estate.

In the declaration it was averred that the defendant had promised to pay, but it was not averred that the money had been raised or expended *at his request*. It therefore appeared that the promise relied on was made without consideration, from the nature of the thing. "Taking the promise of the defendant, as stated on this record, to have been an express promise, we find that the consideration for it was passed and executed long before, and yet it is not laid to have been at the request of the defendant, nor even of his wife while sole (though if it had, the case of *Mitchinson* v. *Hewson* shews that it would not have been sufficient), and the declaration really discloses nothing but a benefit voluntarily conferred by the plaintiff and received by the defendant, and an express promise by the defendant to pay the money. If the subsequent assent of the defendant could have amounted to a *ratihabitio*, the declaration should have stated the money to have been expended at his request, and the ratification should have been relied on as matter of evidence; but this was obviously impossible, because the defendant was in no way connected with the property or with the plaintiff when the money was expended." The point precisely decided in this case is, that as the money was not alleged to have been advanced at the request of the defendant, the declaration was bad. The judgment, however, goes on to say that it could not have been truly alleged to have been at his request, because the circumstances were such that he could not have requested it. In this case no intimation is made how an action might have been brought. It appears, however, that an action against Kenyon and *his wife* might have been supported, supposing the ratification by the wife to have been complete—*i. e.*, supposing that on her coming of age she had assented to what was done, and promised to pay; if she had assented, and promised to pay for that which had been done for her during her minority, that, probably, would have been binding, and would have created a debt due from her, in respect of which the husband and wife would have been jointly liable after the marriage.

All agreements are void at common law where the thing agreed to be done on either side is immoral or fraudulent; contrary to the sound policy or the spirit of the law. An agreement entered into for any such purpose is invalid, and cannot be enforced; and if an illegal thing is performed according to the agreement, still no right is thereby conferred. For instance, in the case of an agreement between a publisher, who engages a printer to print an immoral work; this agreement is not binding, and cannot be enforced. Supposing the printer, having entered into the contract, refuses to perform it, the publisher cannot maintain an action against him for a breach of contract. (*Popelot* v. ———, 2 C. & P. 198.) I have already adverted to the effect of fraud as far as regards the case of one of the parties to a contract being deceived by the other. All that we have to consider here, is not whether it is on the ground of one of the parties being deceived, but on the ground of its being immoral or fraudulent as far as regards other persons. I shall have occasion to notice hereafter the effect of the 13 Eliz. by which all assignments made in the favour of creditors are made void, where two parties enter into an agreement to defraud a third party. There is the case of *Coxshot* v. *Bennet* (2 T. R. 763). The debtor was insolvent. All the creditors consented to accept seven shillings in the pound, but one of the creditors refused to sign the deed of assignment unless the debtor would give him a promissory note for the remaining thirteen shillings in the pound, and the debtor gave him a note. It appeared that unless this creditor signed the deed, the rest would also have refused. In course of time the note was sued on, and was held void, it being a fraud on the rest of the creditors; for, as they had all bargained for an equality of benefit, there was a clear understanding that they should all share alike; and although the creditor in question executed the deed, he did so on the faith of an implied agreement, whereby he secured to himself a further advantage. The general principle is stated by Buller, J. in 4 Taunton, 170, that secret agreements of this kind, made between an insolvent and one of the creditors, in order to induce the rest of the creditors to agree to a composition, are void. On the same principle, if a debtor takes the benefit of the Insolvent Debtors' Act, any agreement to give any one creditor a preference over the rest, is void, and cannot be enforced. (*Jackson* v. *Davison*, 4 B. & Ald. 691.) So it is by the Bankruptcy Act, and contracts in contravention of the policy of the Bankruptcy Act are void, even in matters not made void by the statute itself. M. ——— v. *Wallis* (3 T. R. 17). From the case first cited (*Coxshot* v. *Bennet*), it appears that where a contract is wholly void on account of fraud, such a contract cannot become the consideration of a subsequent promise.

If the subject-matter of the agreement constitutes what is termed *maintenance of suit*, or *champerty*, it is void. Maintenance is termed by Blackstone, "an officious intermeddling in a suit that no way belongs to one, by maintaining or assisting either party with money or otherwise to prosecute or defend it." There is a case *Findon* v. *Parker* (11 M. & W. 675, T. T. 1843), in which the rector of a parish claimed tithes in kind. The party liable to the tithe set up a *modus*. The landlords in the parish joined to resist the claim of the rector, and it was held they were not guilty of maintenance. It did not follow, in point of law, that though there was no modus over one field, there might not be over another; the right was not necessarily the same; and the landlords were not the persons primarily interested in the amount of the tithe, it properly falling on the tenant: still they were interested in it more or less, and they conceived themselves to be directly interested in the question relating to the tithe on that particular piece of land. *Champerty* (*campi partitio*) is "a bargain with the plaintiff or defendant to divide the land, or other matter sued for, between them, if they prevail at law; whereupon the champetor is to carry on the party's suit at his own expense." There is a case in the nature of champerty, *Sturge* v. *Jones* (7 Bing. 170).

Agreements are in like manner void, if they are against public policy; such as agreements for an unseasonable restraint of trade: thus an agreement for general restraint is illegal. As where a party undertakes not to exercise a particular trade at all. But an agreement for a partial and reasonable restraint is binding, if made on an adequate consideration. (*Mitchell* v. *Reynolds*, 1 P. W. 181; *Horner* v. *Graves*, 7 Bing. 743.) Where a tradesman takes an assistant into his service at a yearly salary, on certain conditions, one of which is, that the assistant shall not afterwards set up for himself, in the same trade, within so many miles of the town where the master carries on his business. In such cases a fair test cannot be applied without considering whether the restraint is such only as to afford a fair protection to the interests of the party in favour of whom it is given, and not so large as to interfere with the interests of the public. Whenever the restraint is larger than is necessary for the protection of the party on whose part it imposed, it can only be oppressive; and if oppressive, it is in the eye of the law unreasonable. Great difficulty may attend the application of the test; but it is clear the law will not enforce any agreement curtailing the rights both of the public and of the contending party, without it being necessary for the protection of him in whose favour it is made. If the restraint from carrying on a trade is larger than is consistent with the protection of the party, it must be clearly unreasonable in law; and a contract to enforce it is void. Even where the constraint is reasonable, there must be a consideration for it. Whether the agreement be by parol contract, or by deed, the consideration must in all cases be of some value. The Court cannot enter into the question whether it is equal, but it must be adequate. For the meaning of the word adequate, see *Young* v. *Timmins* (1 Tyr.), and *Hitchcock* v. *Coker* (6 A. & E. 438). The Queen's Bench had held, that the restraint was unreasonable, because it was unlimited in point of time;

and that it could only be a reasonable restraint if it restrained one party from setting up as long as the other party carried on business; but, on the ground which I have stated, the Exchequer Chamber overruled the judgment of the Queen's Bench, holding the agreement in this case to be reasonable. There is another case, *Mallan* v. *May* (11 M. & W. 653). In these cases it is immaterial whether the agreement be by parol or specialty. Even if it is by specialty, and there is no consideration sufficient to support the contract, then the contract is not binding.

JOURNAL OF PROPERTY.

Public Sales.

By Messrs. SHUTTLEWORTH and SONS.

An extensive freehold landed estate in Sussex, comprising the ancient and interesting remains of Herstmonceux Castle, the park-grounds, gardens, orchards, preserves, numerous farms, and many detached lands; the whole including a beautiful domain of 2,072 acres; together with the manors of Herstmonceux, Gotham, and Old Court, the hundred of Foxearle, producing a revenue of 2,843*l.* 7s. 1d. per annum, in 17 lots, as follows, viz.:—The spacious, elegant, modern mansion, distinguished as Herstmonceux place, with attached and detached offices, also a lawn, with carriage-drive, an extensive grove of fine timber, forming a rural walk of six furlongs to the beautiful parish church, in which are appropriated seats for the family of the mansion and domestics, from hence crossing a beautiful meadow, a path conducts to the venerable ruins of Herstmonceux Castle, together with the park and several farms adjoining, comprising altogether, with the lands in hand, a splendid domain of 1,240a. 1r. 10p. of meadow, pasture, marsh, arable, and wood land; in this lot will also be included the Hundred of Foxearle and the Manors of Herstmonceux, Old Court, and Gotham—54,000*l.*

Mill Land Farm, situate on the road-side, near the church, containing 51a. 21p.—450*l.*

A meadow, called the Cherry Croft, containing 7a. 11p. —400*l.*

An elegant villa residence, also a farm, the whole comprising 126a. 2r. 14p. of land, also a double cottage and garden—400*l.*

Butler's farm, with farmhouse and 42a. 3r. 24p. of land —1,940*l.*

Pope's farm, containing 39a. 3r. 17p. with farmhouse, also the Rook Farm adjoining, containing 8a. 1r. 24p.— 2,290*l.*

Brickhouse Farm, situate in Gardner-street, containing 18a. 1r. 36p.—690*l.*

Chilsham farm, in Herstmonceux, containing 66a. 3r. 5p. —1,750*l.*

New Barn Farm, containing 42a. 1r. 5p.—1,310*l.*

Ginger's Green Farm, containing 13a. 22p.—490*l.*

Magham down Farm, with farmhouse, buildings, and 71a. 7p.—2,170*l.*

Clippingham Farm, with farm-house and 105a. 3r. 9p.— 2,290*l.*

Carter's Corner Farm, with farm-house, and 46a. 34p. of land—1,340*l.*

Rookland's Farm, containing 45a. 1p.—1,850*l.*

19a. 1r. 17p. of marsh land in Herstmonceaux and Hailsham—3,450*l.*

Mullin's marsh land in Westham, containing 41a. 28p.— 3,550*l.*

Virgin's marsh land, in Pevensey, containing 15a. 39p.— 1,190*l.*

A residence, No. 17, Gloucester-place, Park-road, New Peckham; held for 78 years from June 1813, at a ground-rent of 6*l.* 5s. per annum—310*l.*

By Messrs. HOGGART and NORTON.

A freehold residence, known as Penge-place, an elegant Elizabethan structure, situate in park-like grounds, ornamented with stately forest timber, approached on either side by ornamental lodges, near Sydenham, with attached and detached offices of every description, gardens, &c.; and containing together upwards of 104a.—19,950*l.*

By Messrs. VENTOM and Hughes, at the Mart.

A house, No. 21, Nassau-place, Commercial-road East, let at 22*l.*; held for 26½ years, at 12*l.* per annum—50*l.*

A ditto, No. 22, ditto, let at 25*l.*—65*l.*

A house, No. 35, Baker-street, Commercial-road East; also a house in the rear, known as Reed's Cottage, and plot of ground in front, let at 25*l.*; held for 50½ years, at a ground-rent of 10*l.* per annum—70*l.*

Two houses, Nos. 8 and 16, Sidney-street, let at 38*l.*; held for 50½ years, at a ground-rent of 13*l.* 10s.—190*l.*

Two ditto, Nos. 14 and 15, let at 36*l.*; held for 47¼ years, at 21*l.*—110*l.*

Three houses, Nos. 36, 37, and 38, West-street, Mile-end, let at 35*l.* 11s.; held for 67¼ years—90*l.*

By Messrs. ROBERTS and ROBY.

A freehold residence, with large walled garden, situate overlooking Byfron's Park, Barking, Essex—190*l.*

Four houses, Nos. 1 to 4, South-row, Kensall-green, held for 40 years, from December 1843, at 15*l.* per annum—225*l.*

Twenty plots of freehold building ground, suitable for the erection of villa residences, situate in front of Annerly-road, Norwood, produced from 42*l.* to 80*l.* a lot; sum total—861*l.*

By Messrs. ELLIS and SON, at Garraway's.

Forty-six acres of copyhold land, situate in the common field, Epsom, Surrey, part lying contiguous to the town of Epsom, adjoining the park of Woodcote-grove, part in cultivation as garden ground, the remainder arable land, divided into seventeen lots, produced from 21*l.* to 175*l.* a lot; sum total—1,244*l.*

A freehold estate, consisting of a residence, being No. 42, Trinity-square, Tower-hill; attached are extensive premises, with carriage-house, stable, and lofts, a spacious covered yard and arched vaults—5,300*l.*

A freehold villa, the residence of J. A. T. Smyth, esq. situate between Southgate and Edmonton, placed on a gentle eminence in the centre of its own grounds, with offices, gardens, and land, in all about five acres; also, two meadows of land of about 11½ acres—2,700*l.*

A freehold residence, with offices and garden, situate No. 3, Highbury-grove, Islington—1,260*l.*

A policy for 2,000*l.* effected in the London Office, dated July 5, 1811, upon the life of a gentleman, now aged 75 years; annual premium, 26*l.* 6s.—1,400*l.*

Six shares of 20*l.* each in the British Gas-light Company, upon which 19*l.* has been paid—156*l.*

Fifteen shares in the British Gas-light Company, of 40*l.* each, upon which 18*l.* has been paid—300*l.*

Five shares in the East London Cemetery—40*l.*

By Messrs. MUSGROVE and GADSDEN, at the Mart.

A house and business premises, No. 2, New Farringdon-street, the corner of Snow-hill, let at 200*l.* per annum; held for 58½ years, at a ground-rent of 35*l.* per annum— 2,460*l.*

A leasehold estate, consisting of the Brown Bear, wine and spirit establishment, being Nos. 61, 62, and 63, Broad-street; No. 61, let at 75*l.*; No. 62, let at 73*l.* 10s.; No. 63, the Brown Bear, let for 16½ years, at 70*l.*; the whole of the property is held for 25½ years, at a ground-rent of 70*l.* per annum—1,640*l.*

Four residences, with gardens, situated in Dalston-terrace, near Kingsland, let at 121*l.* 10s.; held for 35½ years, at a ground-rent of 24*l.* per annum—855*l.*

A freehold estate, situated at Hackney Wick, near Homerton, Hackney, comprising a residence with gardens and meadow land, let at 100*l.* per annum—2,300*l.*

A freehold estate, consisting of a flour mill, with a powerful supply of water, with house, buildings, and paddock, let on lease at 100*l.* per annum, adjoining the preceding lot— 490*l.*

6a. 2r. 22p. of freehold pasture land adjoining the preceding lot, extending to the road leading from Well-street to Homerton, let at 30*l.* per annum—1,090*l.*

A meadow, containing 9 acres, let for 8¼ years, at 35*l.* per annum—1,210*l.*

By Messrs. FULLER and MARSH, at the Mart.

The absolute reversion to one-seventh part of 1,502*l.* 4s. Three-and-a-Quarter per Cent. Consols, receivable on the death of a person, aged 67—120*l.*

A similar reversion, on the death of a person aged 62— 110*l.*

A similar share—110*l.*

A contingent reversionary interest in one-seventh part of 5,214*l.* 13s. 2d. Three-and-a-Quarter per Cent. Reduced Annuities, on a death of a gentleman, 79 years of age, provided the vendor, aged 36, shall be then living—430*l.*

A ditto—435*l.*

The life interest of the bankrupt, aged 45, arising from a freehold house, situate in Holly Bush-gardens, Bethnal-green—150*l.*

A policy for 500*l.*, effected with the Asylum the 25th October, 1838, on the life of a gentleman now aged 66; annual premium 24*l.* 15s.—70*l.*

A similar policy—80*l.*

Forty-one shares in the old-established Greenwich Steam-packet Company of 5*l.* each, 4*l.* 5s. called and paid—7s. per share.

A policy of 2,300*l.*, effected with the Argus August 27, 1840, on the life of a gentleman now in his 45th year; annual premium 61*l.* 16s. 3d.—90*l.*

Two villa residences, Nos. 3 and 4, Carlton-grove, Peckham-lane, let at 61*l.*; held for 86½ years from September, 1843, at 8*l.* per annum. On this property nine shares have been advanced by the Borough of Greenwich Building Society, the annual payments of which amount to 75*l.* 12s. per annum, which it is expected will terminate in eight years— 170*l.*

By Mr. FREDERICK CHINNOCK.

A residence, No. 43, Hans-place, Brompton; held for 20½ years, at 5*l.* per annum, let at 60*l.*—470*l.*

A residence, No. 7, Cornwall-crescent, Camden-town; held for 99 years, at a ground-rent of 8*l.* 10s.—770*l.*

A freehold house and shop, No. 348, Oxford-street, let at 105*l.*—2,240*l.*

A residence, No. 7, Southampton-place, St. Pancras; held for 99 years from September, 1786, at 5*l* 5s. per annum, let at 70*l.*—630*l.*

A ditto, No. 12, ditto—610*l.*

A ditto, No. 13, ditto—620*l.*

A house, No. 4, Tottenham-court, near Tottenham-court-road; held for 99 years from September, 1789, at 7*l.* 7s. per annum—710*l.*

A ditto, No. 7—760*l.*

A house, No. 13, Frederick's-place, Hampstead-road; held for 99 years from September, 1787, at 6*l.* 6s. per annum —720*l.*

A residence, No. 35; held for 76¾ years, at 6*l.* per annum, let at 45*l.*—760*l.*

A house, No. 36, ditto, let at 40*l.*—780*l.*

A ditto, No. 37; held for the same term at 6*l.* 10s.— 1,010*l.*

Two houses, Nos. 1 and 2, Edward-street, Hampstead-road; held for 76¾ years at 3*l.* 8s. per annum, let at 40*l.* 15s. —310*l.*

A house, No. 8, Providence-place, Limehouse; held for 99 years from March, 1805, at 5*l.* 18s. 6d. let at 30*l.*—260*l.*

Armathwaite Castle and Estate, Cumberland.—The Right Hon. the Earl of Lonsdale has become the purchaser of Armathwaite Castle, estate, and manorial rights and appurtenances, beautifully situated on the river Eden, in Cumberland, consisting of about 700 acres of excellent land, and is about eleven miles N.E. of Penrith, and about eight miles S.E. of Carlisle. In the parish of Ainstable there are two manors, namely, the manor of Armathwaite and the manor of Ainstable. The manor of Armathwaite is a manor paramount; it has rents, services, ward, and fines, both certain and arbitrary, with the further privilege that, not only the demesne itself, but all the customary estates held of it, are toll free all over England.

An important sale by auction of an estate in Lincolnshire took place at the Mart, London, on Thursday last, by Mr. W. W. Simpson, who, after an introductory speech of considerable length, proceeded to describe the situation and advantages of the property (comprising nearly 2,200 acres of freehold land and advowson, situate in the parish of Broughton, near Brigg), the sale of which opened by a bidding of 55,000*l.*; and after a spirited competition between Lord Worseley and other influential capitalists, the estate was knocked down and sold for the sum of sixty thousand pounds to John Coupland, esq. of Skellingthorpe, near Lincoln.

THE MONEY MARKET.

Three per Cents. Consols	98¼	99⅛	99¼	99⅛	99¼	98⅞
Three per Cents. Reduced	99⅞	99½	99¾	99¾	99⅝	99⅝
New Three-&-a-quarter per Cts	102¼	102	102¼	102⅛	102⅛	101⅝
Long Annuities.........	11⅝	11⅞	11⅝	11⅝	11⅝	11⅝
Bank Stock	210½	211¼	211	212½	211⅛	212⅝
India Stock	274	275½	275	273½	276	272
India Bonds, prem.....	68	70	70			67
Exchequer Bills, prem.	52	52	52			48

FOREIGN.

Spanish Five per Cents.......	27¾	27⅛	27⅛	27⅛		27⅞
Spanish Three per Cents.	38¼	38½	38¼	38⅛		8½
Russian	118¾	118½	119¼	119½	119½	119¾
Peruvian................	39	31½	31	36¾	38⅛	
Portuguese	64½	64½	64⅛	65½	65	
Mexican..	35⅞	35⅛	36	35	36	
- Deferred	19½	18½	18½	19½	19½	
Dutch Two-and-a-Half per Cents..................	63¼	63⅞	63½	63½	62¼	62
——— Four per Cents.	99¼	98¼	99⅛	100¾	103¼	99⅞
Danish	89½	89¾	89¼	90¼	90	90¼
Colombian	17½	17½	17½	18½	18⅛	18⅛
Chilian	102	102⅜	102¾	103	102	02½
Buenos Ayres	49¼	49½	48¾	49¾	49½	46½
Brazilian...............	90	90⅛	90½	90	90½	89⅛
Belgian	100½	99¼	99½	100½	100⅛	00¼

BIRTHS, MARRIAGES, AND DEATHS.

[The charge for the insertion of the above is 5s.]

BIRTHS.

Middleton.—On Saturday, the 30th ult. at Grove-house, Leeds, the lady of Joseph Middleton, esq. barrister-at-law, of a daughter.

MARRIAGES.

Cameron, Ewen Henry, esq. barrister-at-law, to Mary Eugenia, only daughter of the late William Taylor Money, M.P. Knight of the Guelphic Order, and formerly her Majesty's Consul-General at Venice, on the 21st ult. at Cheltenham.

Lawrence, Harry Hauslip, esq. of Gray's-inn, to Emma Mary, only daughter of W. P. Gray, esq. of 3, Abbey-place, St. John's-wood, on the 2nd inst. at Marylebone Church.

Lennard, Henry, youngest son of John Barrett Lennard, esq. of the Privy Council Office, to Elizabeth, second daughter of George Barrett Lennard, esq. of the Temple, on the 30th ult. at Aveley, Essex.

Moore, Reigner, W. esq. of Lincoln's-Inn, barrister-at-law, to Eliza, only child of the late Henry Thomas Willatts, esq. of Chertsey, on the 30th ult. at St. Pancras.

Ray, Rev. Robert, of Camden-town, to Caroline, daughter of the late Thomas Bignold, esq. of Norwich and Philipines, Kent, on the 29th ult. at St. Pancras New Church.

Vigurs, Louis, esq. of the Inner Temple, barrister-at-law, to Wilmot Arundel, eldest daughter of George Dennis John, esq. of Penzance, on the 1st inst. at St. Mary's Chapel, Penzance.

Welch, Montagu Suart, esq. of the Middle Temple, to Augusta, eldest daughter of Edward William Morse, esq. of Drayton-lodge, Ealing, on the 28th ult. at Ealing.

Wilde, Sir Thomas, to Augusta Emma d'Este, daughter of his late Royal Highness the Duke of Sussex, on the 13th ult.

DEATH.

Rawlinson, Abram Tyzack, esq. for many years an active magistrate and deputy-lieutenant of Oxfordshire, on the 1st inst. at Chadlington, Oxfordshire.

THE GAZETTES.

AMOUNT OF DIVIDENDS DECLARED.

The sum stated as the Dividend means so much declared in the Pound. The Assignees, when chosen, follow this statement.

Tuesday, Aug. 26.

Powell, J. C. apothecary, assignees, Oct. 2.—*Robson*, W. grocer, last exam. passed.—*Taylor*, T. D. oilman, last exam. Sept. 9.

Friday, Aug. 29.

Collyer, J. W. victualler, last exam. passed.—*Kedyard*, S. R. victualler, last exam. Sept. 18.—*Thurnell*, W. upholsterer, div. next week. Alsager, London.—*White*, R. surgeon, assignees, Sept. 24.

Saturday, Aug. 30.

Alden, H. stationer, div. next week. Alsager, London.— *Goodeve*, A. warehouseman, div. next week. Alsager, Lon-

don.—*Hardley*, J. miller, div. next week. Alsager, London. —*Minister*, E. tailor, div. next week. Alsager, London.— *Rossiter*, G. jeweller, div. next week. Alsager, London.— *Bunting*, and *Co.* bookbinders, joint div. next week. Alsager, London.—*Thompson*, A. grocer, div. next week. Alsager, London.—*Yandle* and *Co.* coach makers, joint div. next week. Alsager, London.

DIVIDENDS.

Bankrupts' Estates.

Official Assignees are given, to whom apply for the Dividends.

Heron, E. shipowner, second and final, 6d. and 3-fifths of 1d. Baker, Newcastle.—*Heron*, J. shipowner, second and final, 4½d. Baker, Newcastle.—*Wetherherd*, C. merchant, seventh, 1½d. Turner, Liverpool.

Insolvents' Estates.

Haddon, W. C. measure maker, Hurst-green, Sussex, 1s. 10½d. (in addition to 6s. 2d.)—*Hatch*, J. P. cabriolet proprietor, King's-terrace North, Bagnigge-wells-road, 7s. 8d.—*Lidston*, R. bricklayer, Old Kent-road, 16s. 2¼d.— *Lovett*, W. victualler, Enderby, 8s.

ASSIGNMENTS

To Trustees for the benefit of Creditors.

Gazette, Sept. 2.

Akers, C. plumber, Chatham, July 22. Trust. E. L. Hayward, glass and lead merchant, St. Dunstan's-hill. Sol. Gregson, Angel-court, Throgmorton-st.

Bankrupts.

DATE OF FIAT AND PETITIONING CREDITORS' NAMES.

Gazette, August 29.

BIGMARE, SAMUEL CULLUM, straw plait manufacturer, printer, and stationer, late of Haverill, Suffolk, Sept. 5, at half-past ten, and Oct. 10, at two, Basinghall-street; Com. Fane; Whitmore, off. ass.; Hare, Gray's-inn, sol. Date of fiat, Aug. 11. G. Knott, merchant, King-street, Snow-hill, pet. cr.

CHENNELL, GEORGE, carpenter and builder, Capel, Surrey, Sept. 5, at half-past ten, Oct. 10, at twelve, Basinghall-street; Com. Fane; Alsager, off. ass.; Blake and Tamplin, King's-road, sols. Date of fiat, Aug. 21. M. Walker, ironmonger, Horsham, and C. W. Waterlow, joiner, Bunhill-row, pet. crs.

CURTIS, JOSEPH, linen and woollen draper, and hatter, Liskeard, Cornwall, Sept. 9, at eleven, Oct. 9, at one, Exeter; Com. Bere; Hernaman, off. ass.; Sowton, Great James-street, Anstis, Liskeard, and Stogdon, Exeter, sols. Date of fiat, Aug. 22. S. Elliott, grocer, Liskeard, Somersetshire, pet. cr.

GUY, JOHN, publisher, surgeon, and apothecary, No. 30, Bury-street, St. James's, Westminster, Sept. 5, and Oct. 10, at one, Basinghall-street; Com. Fane; Whitmore, off. ass.; Austin, St. Swithin's-lane, sol. Date of fiat, Aug. 26. Bankrupt's own petition.

HARLEY, WILLIAM STOFFORD, hatter and clothier, Chapple-st. Penzance, Cornwall, Sept. 9, at eleven, Oct. 10, at one, Exeter; Com. Bere; Hernaman, off. ass.; Jacobs, Winchester-bldgs. and Stogdon, Exeter, sols. Date of fiat, Aug. 12. M. L. and E. L. Green, wholesale clothiers, Houndsditch, pet. crs.

HUTCHINSON, ROBERT, leather seller and leather merchant, No. 4, Jewry-st. Aldgate, City, Sept. 15 and Oct. 25, at eleven, Basinghall-st. Com. Goulburn; Follett, off. ass.; Lawrence and Plews, Bucklersbury, sols. Date of fiat, Aug. 26. Bankrupt's own petition.

JOPLIN, JOHN, draper, High-st. Bishop Wearmouth, Durham, Sept. 23, at half-past two, Oct. 21, at two, Newcastle; Com. Ellison; Wakley, off. ass.; Harle, Newcastle, Marshall, Durham, and Soles and Turner, Aldermanbury, sols. Date of fiat, Aug. 16. W. Wreford and R. H. Pugh, warehousemen, Aldermanbury, pet. crs.

OWEN, JACOB RICHARD, stock and share broker, Manchester, Sept. 18, at twelve, Manchester, Hobson, off. ass.; Gregory and Co. Bedford-row, and Hitchcock and Co. Manchester, sols. Date of fiat, Aug. 9. Bankrupt's own petition.

REDDEN, JOHN, coach builder, Cambridge, Sept. 9, at half-past one, Oct. 9, at half-past twelve, Basinghall-st. Com. Fonblanque; Belcher, off. ass.; Nicholls and Co. Bedford-row, and Hunt, Cambridge, sols. Date of fiat, Aug. 26. Bankrupt's own petition.

Gazette, Sept 2.

BARON, GEORGE STONE, money scrivener, Plymouth, Sept. 12 and Oct. 9, at one, Exeter, Com. Bere; Hutsel, off. ass.; Surr, Lombard-street, Gibson and Moore, Plymouth, and Luxmore, Plymouth, sols. Date of fiat Aug. 20. J. King, distiller, Plymouth, pet. cr.

BICKERTON, WILLIAM, timber merchant and sawyer, Kingston-upon-Hull, Sept. 17 and Oct. 20, at eleven, Leeds, Com. Boteler; Fearne, off. ass.; Brooke, Featherstone-buildings, Lightfoot and Earnshawe, Hull, and Bulmer, Leeds, sols. Date of fiat, Aug. 25. A. and J. Wade, timber merchants, Kingston-upon-Hull, pet. crs.

JENKINS, EDWARD WILLIAM, wine, spirit, and beer merchant, Hungerford Market, Sept. 15, at half-past one, Oct. 10, at half-past eleven, Basinghall-st. Com. Fane; Alsager, off. ass.; Lewis, Lyon's-inn, sol. Date of fiat, Aug. 29. W. Kirkwood, tailor, 2, Old Cavendish-st. and Rowland Turner, pet. crs.

SMITH, WALTER, innkeeper and victualler, Abergavenny, Sept. 16, at one, Oct. 14, at eleven, Bristol, Com. Stephen; Kynaston, off. ass.; Messrs. Bevan, Bristol, sols. Date of fiat, Aug. 21. J. Dowle, wine merchant, Chepstow, J. Lewis and G. Williams, coach builders, Abergavenny, and J. and P. Morgan, drapers, Abergavenny, pet. crs.

PARTNERSHIPS DISSOLVED.

Gazette, Aug. 26.

Ashmore, J. and *Smith*, R. carriers, Birmingham, Dec. 31.—*Butler*, W. B. and H. mercers and drapers, Newark-upon-Trent, Nottinghamshire, July 18.—*Fuller*, W. and *Timms*, G. carmen, Hoxton, Aug. 22.—*Hall*, J. and *Gordon*, J. brokers, Liverpool, Aug. 18. Debts paid by Gordon.— *Hill*, A. and *Bates*, J. July 12.—*Hills*, H. and *Dickinson*, W. Freeschool-st. Southwark, Aug. 9.—*Long*, E. H. and *Sanderson*, W. T. ironmongers, Wigton, Aug. 20. Debts paid by Long.—*M'Turk*, T. *Puckering*, S. and *Makins*, W. T. woollen drapers, Hull, so far as regards M'Turk, Aug. 22. Debts paid by the remaining partners.—*Magennis*, J. and *Gibson*, J. miners, Pool-quay, Montgomeryshire, June 12.—*Marshall*, T. and H. drapers, Steyning, Aug. 23. —*Miller*, E. and *Selkirk*, C. glass dealers, Spring-st. Paddington, Aug. 20. Debts paid by Miller.—*North*, T. and *Wise*, W. zinc manufacturers, Blackfriars-rd. Aug. 21 Debts paid by North.—*Phillips*, P. A. and *Boulter*, E. D. cotton manufacturers, Queen-st. Cheapside, Aug. 19.— *Reeve*, J. R. and *Cracknell*, T. brewers and wine merchants, Halesworth, Suffolk, Feb. 1.—*Shotter*, T. and *Johnstone*, J. B. tailors, Jermyn-st. Aug. 22.—*Smith*, W. and *Collins*, W. grocers, Bridport, Dorsetshire, Aug. 18.—*Stewart*, J. *Appleby*, R. and *Gibson*, W. builders, Newcastle-upon-Tyne, Aug. 20.—*Tooth*, W. and *Taylor*, T. glass manufacturers, Gateshead, Aug. 23.—*Trewaras*, W. R. and *Crabb*, J. provision and ships' stores dealers, Liverpool, July 31. Debts paid by Crabb.—*Waddy*, T. C. and *Gooch*, T. upholsterers, Norwich, Aug. 20. Debts paid by Smith, at Messrs. Chamberlain's, Market-place, Norwich.—*Weston*, R. and *Fairthorne*, E. F. attorneys, Brackley, Northamptonshire, July 1. Debts owing to the partnership are to be paid to Fairthorne, and debts incurred by Fairthorne will be paid by Fairthorne, and debts incurred by Weston will be paid by Weston.

Gazette, Aug. 29.

Beckford, I. R. and *Netten*, R. brewers, East Stonehouse, Aug. 20. Debts paid by Netten.—*Bacon*, J. *Braham*, J. and *Hewitt*, B. as workers of the pat. pump and fire engine trade together for one year, July 17, 1844.—*Clarke*, M. and J. silk mercers, Norwich, Aug. 6.—*Dany*, E. and H. merchants, Crediton, Aug. 21. — *Eaglesfield*, G. and W. A. share brokers, Leicester, March 8.—*Goode*, H. P. and *Philpott*, T. land surveyors, Haverfordwest, Aug. 7.—*Hancock*, J. and *Gull*, J. W. ship brokers, Saint Dunstan's-hill, Aug. 26. Debts paid by Hancock.—*Hutton*, J. and *Thorpe*, F. linen manufacturers, Knaresborough, Aug. 26.—*Ireland*, T. and *Bowker*, W. potato dealers, Manchester and Liverpool, Aug. 27.—*Kettle*, G. M. and *Thomas*, W. cheese factors, Burton-upon-Trent, Aug. 26.—*Oswin*, E and *Goode*, W. East India merchants, Leadenhall-st. June 30.—*Paris*, T. and C. S. merchants, Aug. 1.—*Simpson*, T. *Langdon*, W. G. and *Young*, J. S. calico printers, Fox-hill-bank and Manchester, so far as regards W. G. Langdon, Aug. 27.— *Smith*, W. and G. M. printers, Ironbridge, Broseley, and Much Wenlock, Jan. 1.—*Trulock*, T. and *Schroder*, A. corn factors, Mark-lane, Aug 27.—*Wilkinson*, F., *Whitaker*, C. and C. jun. merchants, Hull, so far as regards Whitaker, jun. Aug. 27.—*Wilson*, T. and *Neave*, H. cabinet makers, Colchester, Aug. 5.—*Woodmansey*, W. and *Boyden*, J. coopers, Hull, Aug. 1. Debts paid by Boydon.

Insolvents

Petitioning the Courts of Bankruptcy.

Gazette, Aug. 26.

Orton, W. file cutter, Darlaston.

PETITIONS TO BE HEARD AT BASINGHALL-STREET.

Griffin, E. paymaster and purser, Hunter-st. and Henrietta-st. Brunswick-sq. Sept. 4, at half-past ten.—*James*, J. H. omnibus proprietors' time-keeper, Chichester-place, King's-cross, Sept. 15, at eleven.—*Marlay*, D. lieutenant-colonel in the marines, Hoddesdon, Sept. 15, at half-past eleven.—*Mathers*, J. tailor, Davies-st. Berkeley-sq. Sept. 15, at twelve.—*Oakes*, J. carrier, Downham-market, Sept. 15, at eleven.—*Thatcher*, T. R. butcher, Brixton, Sept. 15, at half-past eleven.—*Waldegrave*, S. surgeon, Sun-st. Sept. 5, at twelve.—*Wood*, J. grocer, Woolwich, Sept. 4, at half-past ten.

COUNTRY.

Bowen, W. labourer, Neath, Sept. 10, at twelve, Bristol. *Charlesworth*, T. accountant, Allerton, Sept. 10, at eleven, Leeds.—*Smith*, J. B. accountant, Lincoln, Sept. 9, at eleven, Leeds.

MEETINGS IN THE COUNTRY.

Gazette, Aug. 26.

Bertinchamp, G. J. Sept. 19, at eleven, Liverpool.—*Doran* watchman, Liverpool, Sept. 2. at eleven, Liverpool.— *M'Ritchie*, A. landing waiter, Liverpool, Sept. 5, at eleven, Liverpool.—*Pritchard*, M. Sept. 19, at eleven, Liverpool.— *Robinson*, C. B. commission agent, Dudley, Sept. 5, at half-past ten, Birmingham.— *Williams*, M. grocer, Merthyr Tydfil, Sept. 26, at twelve, Bristol.

PETITIONS TO BE HEARD AT BASINGHALL-STREET.

Gazette, Aug. 29.

Cleaver, W. junior, coachmaker, Havering-atte-Bower, Essex, Sept. 15, at half-past twelve.—*Dawson*, F. blacksmith, Wandsworth, Surrey, Sept. 10, at one.—*Doney*, E. out of business, Kingston, late of Rosoman-street, Clerkenwell, model steam-engine maker, Sept. 10, at one.— *Fisher*, H. cheesemonger, out of business, Dean-st. Holborn, Sept. 10, at eleven.—*Fogden*, H. watchmaker, Chichester, Sept. 15. at half-past twelve.—*Frost*, H. worker in metals, Stockbridge-terrace, Pimlico, Sept. 10, at eleven.— *King*, G. clerk, Claremont-place, Grange-road, Bermondsey, Sept. 15, at one.—*Le Brun*, J. H. teacher of languages, Maidstone, Sept. 10, at eleven.—*Lewthwaite*, R. schoolmaster, Church-street, Rotherhithe, Sept. 10, at eleven.—*Perkins*, H. whitesmith and ironmonger, Margaret-terrace, Paddington-green, and Newcastle-place, Edgeware-road, Sept. 15, at eleven.—*Pike*, R. upholsterer, Mary-st. Hampstead-road, Sept. 10, at twelve.—*Saunders*, J. out of business, New Brompton, Sept. 10, at one.—*Simpson*, W. C. clerk, Waterloo-road, Sept. 10, at twelve.—*Shelton*, T. coachmaker, Church-st. Bermondsey, Sept. 10, at two.

COUNTRY.

Gazette, Aug. 29.

Deacon, P. jun. shopman, Market Drayton, Sept. 11, at twelve, Birmingham.—*Hoyle*, J. tea dealer, Rochdale, Sept. 1, at twelve, Manchester.—*Lynham*, P. fruit seller, Manchester, Sept. 11, at twelve, Manchester.—*Plummer*, G. tailor, near Abergavenny, Sept. 18, at eleven, Bristol.

From the Gazette of Friday, September 5.

Bankrupts.

Bigmore, S. C. printer, Haverill, Suffolk.—*Starbuck*, R. shipwright, Gravesend.—*Menzies*, W. draper, Gloucester.— *Parry*, R. flour dealer, Bangor.—*Dalton*, J. *Burn*, J. and *Turpin*, R. earthenware manufacturers, Newcastle-upon-Tyne.—*Mayer*, R. dealer in ale, Stoke-upon-Trent.

PROVISIONALLY REGISTERED.

Sovereign Life Assurance Company,

No. 5, ST. JAMES'S-STREET, LONDON.

TO BE ESTABLISHED BY ACT OF PARLIAMENT,

FOR

THE ASSURANCE OF LIVES,

AND FOR EFFECTING ALL OTHER CONTRACTS DEPENDING UPON LIFE CONTINGENCIES, AND ALSO FOR GRANTING LOANS, UPON A NEW AND HIGHLY BENEFICIAL SYSTEM.

CAPITAL, £1,000,000, in 100,000 Shares of £10 each. Deposit, £1 10s. per Share.

Note.—In pursuance of the Act of Parliament, 10s. per Cent. only (or 1s per Share) will be received until the Company obtains a Certificate of complete Registration, when notice will be given for the payment of the residue of the Deposit, and the Company will commence its operations.

This Company will transact all the usual business of Assurance Companies, and in so doing will take advantage of the modern improvements which have been engrafted into the systems of Assurance, the result of the long-tested experience of old-established Offices for the Assurance of Lives.

Thus, Assurances will be granted upon the payment of one single Premium, or of Annual Premiums, or upon a limited number of payments, on a gradually decreasing or increasing scale, all of which payments may be made half-yearly, or quarterly, if more convenient.

Assurances will likewise be granted from 5,000*l.* downwards to any amount, thus opening the door of Assurance to many persons who have hitherto found it inaccessible.

The Company will also undertake the purchasing of contingent and reversionary Property, the granting of immediate Survivorships and Deferred Annuities, as also, the endowment of Widows and Children. It will, likewise, advance money on annuity, mortgage, or other security.

The multifarious operations connected with Life Assurance; for instance, the opportunities afforded to Husbands and Fathers of making a provision, after their death, for their Widows and Children; to Creditors, to compensate the loss which the death of their Debtors might occasion; in Marriage Contracts, to secure the terms of Settlement; to the possessors of Entailed Estates, to provide for the younger branches of their families; to persons possessed of Life Interest in Property, to provide for their relatives in case of their decease; to expectants of Property in Reversion, to insure a portion of it against contingencies; together with many other instances which might be enumerated, seem, of late years, to be better understood than formerly. It is with a view to facilitate these operations that the SOVEREIGN LIFE ASSURANCE COMPANY has been formed; and it will be found that it offers to the public a new system of Loans, more beneficial to the Borrower, and yielding a better return to the Shareholder, than any system at present in use.

Thus, any person effecting an Assurance with this Company, can borrow THE FULL AMOUNT of the sum secured by the Policy, upon giving collateral security for the payment of the Premium, and interest on the loan, *for a limited number of years*, and will not, as in ordinary cases, be liable to be called upon to repay, in one sum and by a given day, the principal money lent.

In order to effect this, the Borrower will pay an increased rate of premium, beyond what would be required for the ordinary Assurance of his Life, which increased rate, together with the accumulations by way of interest, which the operations of the Company will enable it to realize, will, in effect, repay the principal sum to the Company in any given number of years, at the option of the borrower, who will, at the expiration of such period, be relieved from all further payments in respect of the Loan, and will, moreover, hold a Policy with the Company, of some years' duration; which he can, if he chooses, continue for the benefit of his family, or for the purpose of raising a future Loan, at the ordinary rate at which he would have been entitled to it at the time of the commencement of the original Loan.

In case the Borrower should die during the continuance of the Loan, he will not leave his property encumbered with a debt; but, on the contrary, his representatives will be entitled to receive the amount secured by the Policy, after deducting a sum equal to the unliquidated portion of the Loan. Or if, at any time, he should wish to pay off the Loan to the Society, he can do so upon advantageous terms.

* For example, a person aged twenty-five, who wishes to borrow 100*l.* to be liquidated in fifteen years, will have to insure in the Society to the amount of the Loan, and will pay an Annual Premium for such Assurance of 7*l.* 9s. 10d. in addition to 5 per cent. interest upon the Loan, making a total annual payment of 12*l.* 9s. 10d. *for fifteen years only.* It is obvious that the longer the period during which the Premiums are payable, the smaller will they be in amount.

Should the Borrower survive the period for which the Loan is contracted, he will, by these payments, have liquidated the principal sum lent, and will possess a Policy of some years' duration for 100*l.* which he can, if he chooses, continue at the ordinary rate of Premium.

If, on the other hand, the Borrower should die within the period assigned for the continuance of the Loan, say in the tenth year, he will not leave his property incumbered with a debt of 100*l.*; but, on the contrary, his representatives will be entitled to receive 61*l.* 12s. 9d. the then value of his Policy.

Or again: if at the same time (during the tenth year), he should desire to pay off his Loan, he will have to pay to the Society no more than 38*l.* 7s. 3d. and, still retaining his interest in the Policy, will be discharged from all further payments beyond the ordinary rate of Assurance.

The examples above given are deduced from the Tables of the Society, a reference to which will shew the relative Premiums payable at different ages for Loans of different durations.

It may be observed, also, that persons who have no desire to retain an interest in their Policies for the benefit of their relations, can insure at a much lower rate than persons who, as in the above examples, retain an interest in their Policies, both during the continuance, and after the termination of the period for which the Loans are contracted.

The advantages which this system offers to persons requiring temporary Loans, or wishing to pay off existing charges on their property are numerous, and only require to be fully known to be duly appreciated. First of all, the Borrower in this Society will be saved the expense of frequent transfers, as is the case with those who borrow from the usual sources; for he can in no case be required to pay off the Loan, except in the manner proposed, although, if he chooses, he can do so upon most advantageous terms to himself. Secondly, he has no apprehension in case of his death, of leaving a sum to be paid by his surviving relations, or to remain as a charge upon his property, for the Policy repays that portion of the Loan remaining unpaid in case of death; and, whenever that event may happen, he is certain that his family will reap some, and perhaps great, advantages from the Policy which he holds in the Society. And lastly, this system enables the Company to accept securities which would not be available for the purpose of ordinary Loans, inasmuch as the only security required is for the punctual payment of the Premium and Interest, and not for the principal sum lent. It is needless to remark, that many persons can furnish security, in the manner proposed, who could not provide it for repayment of the whole principal money by a given day.

For example a person desirous of entering into business, but deficient in the funds wherewith to do so, can, by effecting a loan for a given number of years,—paying in the meantime a premium out of his profits, which the loan from the company has been the means of realizing,—supply himself with the necessary capital to commence with, and thus lay a foundation for a prosperous business and an ultimate independency. Again, a person desirous of purchasing the house in which he resides, or one more suitable to him, can borrow of the Company the purchase-money, and by paying a Premium for a limited time, instead of rent to his landlord, will after the termination of such limited period, be the absolute owner of the property free from rent. And lastly, in all cases of settlements on marriage, compositions of debts, arrangements with creditors, &c., a person can avail himself of the advantages offered by this Company, to obviate the first great difficulty attendant in many cases upon such transactions, viz.—the want of ready money,—which deficiency, the experience of many can prove, has often rendered nugatory those efforts, which, in all probability, would otherwise have been crowned with success.

In addition, however, to the large number of Assurances which may be expected for the immediate purpose of raising loans, an equal inducement is held out to persons desirous of effecting Assurances, whose object is to provide for their relatives, and who may not, at the time they effect the Assurance, require a Loan.

By assuring with this Company persons will not only effectually provide for their families in case of death, but, at the same time, will furnish themselves with the means at any period of life, on any emergency or reverse of circumstances, of raising a Loan to the amount of their Policy, at the rate of Premium, in respect of their Life Assurance, at which the Policy was originally granted; thus securing to those who effect Assurances unconnected with Loans, the whole of the advantages of the system of Loan proposed by this Company, whenever they have occasion to avail themselves of it.

The profits of the Company will appertain to two classes of members, the proprietors of shares, and the assured. The profits arising from the Loan Department, and the policies connected therewith, together with a small proportion of the profits arising out of the Assurances unconnected with Loans by way of remuneration to the Shareholders for guaranteeing out of their capital, in case of need, the payment of Assurances falling due), will, after paying interest upon the paid-up Capital of the Company, be divided amongst the holders of shares in the Company. Three-fourths of the profits arising from the Assurance Department, unconnected with Loans, will be divided amongst the parties, either originally effecting Assurances, or who shall hold Assurances after the liquidation of their Loans. This distribution holds out to the Shareholder, in addition to interest upon the capital invested in shares, the prospect of a *large remuneration*; as also to the assured, *an ample participation* in the profits arising from the payment of premiums; which must necessarily be augmented, by the falling in of Policies into the Assurance Department, after the liquidation of the Loans originally granted upon them. The Assured, also, will have the security of a large *subscribed guarantee Capital,* to meet their claims upon the Company.

Prospectuses containing specimens of the Tables and every information can be obtained from, and applications for shares, in the annexed Form, made to, the Secretary, at the Company's Offices, No. 5, St. James's-street, London; Messrs. Davies and Son, Solicitors, 21, Warwick-street, Regent-street; Messrs. Tucker, Barnett, and Ellis, Brokers, 'Change Alley, Cornhill, London; Messrs. D. and J. B. Neilson, Brokers, Liverpool; Robert M'Ewen, Esq. Broker, Manchester; J. B. Mundy, Esq. Broker, Bath; Messrs. John Robertson and Co. Brokers, Messrs. Gordon, Stuart, and Cheyne, W. S., and John R. Calvert, Esq. W. S. Edinburgh; Messrs. Mein and Cunningham, Brokers, Glasgow; W. N. Fish, Esq., North British Exchange Company, Aberdeen; and George Gatherer, Esq., Solicitor, Elgin.

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THE REPORTS.

Equity Courts.

LORD CHANCELLOR'S COURT.

Hills v. Croll.

January 11, 23, 31, *and July* 22.

Specific performance—Unilateral agreement—Mutual remedy—Injunction.

Where the court of equity cannot carry the whole of an agreement into execution, and the effect of a partial specific performance, which was sought to be enforced would be to bind one party only to a performance, or where an agreement cannot be performed once for all, the Court will not make a decree for a performance of the agreement in specie.

Upon a motion for injunction in a suit for the specific performance of an agreement, if the Court sees that no decree can be made at the hearing, it will not in the meantime grant an injunction.

By an agreement dated the 22nd of March, 1841, made between the defendant A. A. Croll and F. C. Hills, a manufacturing chemist, which recited that the defendant Croll had obtained two patents for manufacturing and purifying gas, and that he had agreed with the plaintiff Hills, in consideration of 200*l*. to grant unto the plaintiff, for the term of fourteen years from the date of the patents, "*the exclusive right, at the option of him, the said F. C. Hills*, of supplying him, the said A. A. Croll, and all and every other person or company of persons whomsoever, within ten miles of London, to whom, under this agreement, he, the said A. A. Croll, might during the said term of fourteen years grant any license to use the said patent processes, *all the acids* necessary for the manufacture of muriate of ammonia and sulphate of ammonia, on the principle of the said patent processes, or either of them, the said F. C. Hills supplying the acids at the average price of the day on which the same should be sold by Brandram, Farmer, and Groves, or the most respectable manufacturers thereof in or near London. And that the said A. A. Croll had agreed to grant unto the said F. C. Hills (*subject to the option of the said F. C. Hills*) the exclusive right of purchasing the whole of the muriate of ammonia and sulphate of ammonia that might be produced by the said patent processes, at the prices thereinafter mentioned. *It was witnessed* that, in consideration of the premises, and of 200*l*. to Croll paid by Hills, the defendant Croll did covenant with the plaintiff Hills, his executors, administrators, and assigns, that he (Croll) would for fourteen years from the date of the letters patent, *purchase of the said F. C. Hills, and of no other person or persons whomsoever*, without the consent in writing of the said F. C. Hills first obtained, all the acid that he, the said A. A. Croll, and all and every other persons and person, or company of persons within ten miles of St. Paul's Cathedral, whom he, the said A. A. Croll, might during the said term of fourteen years permit, or authorize, or grant license or licenses to use the said patent processes or either of them, might require, or might be necessary for the manufacture by him or them of muriate of ammonia, or sulphate of ammonia, in pursuance of the said patent processes. That Croll should pay for the same in the regular course of trade, at the average price as before stated; and the said Croll covenanted that he would, during the like period of fourteen years (*unless the said Hills should refuse to purchase the same*), sell and deliver unto the said Hills, and to no other person or persons whomsoever, without the consent in writing of Hills first obtained, the whole of the muriate of ammonia and sulphate of ammonia which might be, during the said term of fourteen years, produced by the said patent processes or either of them by the said Croll, and by all and every person and persons, and company of persons, within the distance of ten miles from St. Paul's, to whom the said Croll should during the term permit or authorize or grant license or license to use the said patent processes or either of them, at the following prices; that is to say, if from two to four tons per week only, then at the rate of 3*l*. 10s per ton below the market price; if from four to eight tons a week, then at the rate of 3*l*. per ton below the market price; if from eight to ten tons a week, then at the rate of 2*l*. 10s. per ton below the market price and if any quantity above ten tons a week, then at 2*l*. per ton below the market price. But if from any cause whatever the said A. A. Croll should at any time during the said term, not be able to obtain a like sum of 3*l*. 10s. per ton, 3*l*. per ton, 2*l*. 10s. per ton, and 2*l*. per ton, then and in that case, and as often as it should so happen, the said F. C. Hills should be entitled to purchase all the said muriate of ammonia and sulphate of ammonia at the same sum per ton below the market price as would leave to the said A. A. Croll an equal sum per ton benefi thereon.

The agreement then stipulated that Hills might supply either muriatic or sulphuric acid as he should think fit, and as he should consider muriate of ammonia or sulphate of ammonia to be most in demand. Croll was to deliver the salts of ammonia as Hills should direct, and Hills agreed to supply to Croll or his licensees all the acids they might require for the manufacture of muriate or sulphate of ammonia. The agreement then contained stipulations that Hills would pay for the salts of ammonia in the regular course of trade at the average price of the day; that Croll would not purchase acids of any other person than Hills, or sell any of the salts of ammonia to any other person; that Croll would not dispose of the letters patent; that both parties would promote the use of the patent processes; and that, in consideration of Hills's endeavours to promote the use of the processes amongst the gas companies, Croll agreed that Hills should be a party to all licenses granted; and that in such licenses the persons and companies should be bound to purchase all their acids of Hills and to sell to him their ammoniacal salts, upon the terms before agreed on as between Hills and Croll. There was also a stipulation that Croll would grant licenses to any persons at the request of Hills.

The patent process, so far as it is necessary to be described for the purpose of this report, consisted of a plan for passing the gas used for illumination over a weak solution of sulphuric or muriatic acid, whereby the ammonia contained in the gas combined chemically with the acid, and produced the neutral salt sulphate of ammonia or muriate of ammonia, according as the one acid or the other was used. The liquor thus produced was afterwards evaporated, and the sulphate or muriate of ammonia obtained in crystallized form.

Mr. Croll, a scientific chemist, being at the time of the agreement the manager of the works of the Chartered Gas Company, was induced to enter into the agreement above stated, with a view to procure the sulphate liquor evaporated, and the salts disposed of, for which the plaintiff, a manufacturing chemist at Deptford, was believed to have considerable facilities. Croll obtained his acids, and sent all his ammoniacal liquor to Hills, from the date of the agreement up to May 1842, when, being dissatisfied with Hills's account, he commenced to evaporate the liquor himself, and to dispose of the products; still, however, continuing to obtain the chief portion of his acids from Hills. From May to Sept. 1842, there were many differences between the parties, and several meetings and much correspondence occurred with respect to the terms of the arrangement between them, but, in fact, the agreement was not strictly acted upon; and after several attempts to arrange other terms, without success, the plaintiff Hills, on the 5th of Sept. 1842, wrote the following letter or proposal to the defendant Croll:—"Without intending to recede from our agreement, otherwise than I may do by this letter, as you seem to consider it has not turned out sufficiently beneficial to you, I have no objection, as you desire it, to permit you to make contracts with the gas companies in and near London, for the use of your patent processes, without my being a signing party to such contracts, you taking care that such companies are bound to use no other acid in the carrying out of your patent processes than what I supply, and that as you have given me to understand that you only mean to use sulphuric acid in the said processes, in consideration of your paying to me, when sulphate of ammonia is under 15*l*. per ton, 25 per cent. above the market-price, for my sulphuric acid, and when sulphate of ammonia is above 15*l*. per ton, then 30 per cent. above the market-price for my sulphuric acid, and I have no objection to recede to you my right of purchase, by our said agreement, of all the sulphate of ammonia, on the terms mentioned in such agreement. The market-price of the sulphate of ammonia shall be the average price at which the Chartered Gas Company, Mr. Grove, of Stratford, and I am selling at, and which shall now be fixed at 16*l*. per ton for the last twelve months, and the price of my sulphuric acid shall be the average price at which the same is sold by Farmer, of Kennington-common, and Brandram, of Size-lane, and which shall now be fixed at one penny per pound, with 20 per cent. discount, for the next twelve months; the acid to be paid for in the following manner; that is to say, what is had in one month shall be paid for in the course of the next following month. This proposition is of course made by me without prejudice to our agreement; and if you deviate from it in any respect, our original agreement is to remain as it is, notwithstanding any thing I have proposed to you herein to the contrary." This plan of paying an extra price for the acids had been adopted before the above letter of the 5th of September, 1842, was written by Hills, and was continued subsequently, though not upon the same terms in all respects as proposed in that letter, until 8th of December, 1843, when the plaintiff wrote to the defendant the following letter:—"As you have taken no notice of my letters, and I find you continue to have acid of other parties contrary to the agreement existing between us; and in your agreement with the Phœnix Gas Company you have not bound them to have acid of no one but myself, which by our last agreement you were bound to do; I therefore beg that you will consider this as notice to you (as you have broken your agreement above referred to of the 5th of September, 1842), that I shall insist on my right, under our original agreement, of being a signing party to any agreement you may make with any gas companies, that I may see that my interests are taken care of in pursuance of the agreement in my letter to you of the 5th of September, 1842. As the price of sulphate of ammonia has not been below 5*l*. per ton, I shall charge you for the last quarter thirty per cent. on the acid I have supplied; and I also hold you liable for the same per-centage on all the acid you have had of other parties during the last quarter; and I have left a blank in the inclosed account for you to fill up the quantities, which, if you refuse to do, I shall immediately get an injunction to stop your proceedings altogether."

In consequence of the last letter a meeting took place between the parties, when the defendant, Croll, stated that he would continue to purchase acids from other persons, and the plaintiff threatened to enforce the agreement. The defendant had granted several licenses without making the plaintiff a party, or paying any regard to the stipulations of the agreement of March 1841 in that respect. The defendant and his servants had also complained of irregular supplies of acids furnished by the plaintiff. The plaintiff, on the 12th of March, 1844, filed his bill against the defendant, and thereby prayed "that the agreement of the 22nd of March, 1841, or the same agreement as varied or modified by the said letter dated the 5th of September, 1842 (if the same was in fact thereby varied or modified), might be specifically performed; and that an account might be taken, under the direction of the Court, of all quantities of the aforesaid acids supplied by the plaintiff to the defendant or his order, or for his use, from the 22nd day of March, 1841; and the like account of all quantities of the said acids supplied by manufacturers other than the plaintiff to the defendant or his order, or for his use, or to any person or persons using the said patented processes, or either of them, under any licenses granted by the defendant since the agreement of the 22nd of March, 1841, and for other consequential directions, and for an injunction to restrain the defendant from violating, infringing, or evading the aforesaid agreement, dated the 22nd day of March, 1841, or the same agreement as varied or modified in manner aforesaid, and in particular from entering into any contract or contracts, agreement or agreements, with or for granting any license or licenses, permission or permissions, to any persons or companies, in violation of the terms of the said agreement; and from granting any license or licenses to any persons or companies to use, exercise, or vend the said inventions, or either of them, and from purchasing or receiving any quantity of the said acids, or either of them, from any person or persons other than the plaintiff, and from selling, disposing, or delivering, unto any person or persons, company or companies, other than the plaintiff, any quantities of muriate of ammonia, or sulphate of ammonia, produced by the said patented processes, or either of them. The plaintiff, on the 28th of March, moved upon notice for an injunction in the terms of the prayer of the bill. The defendant, by his answer, insisted that the agreement of the 22nd of March, 1841, did not embody the real arrangement between the parties; that it was never strictly acted upon, and that, after May 1822, it had been waived and abandoned by both parties.

Upon the original motion for an injunction, the Vice-Chancellor of England refused the application, with costs, and from that decision the plaintiff appealed to the Lord Chancellor.

Wakefield, *James Parker*, and *Torriano*, for the motion, contended that the plaintiff was entitled, at

all events, to an injunction to restrain the defendant from purchasing acids from any other persons; they cited and referred to *Wearer* v. *Sessions* (6 Taunton, 153); *Morris* v. *Coleman* (18 Ves. 437); *Kemble* v. *Kean* (6 Sim. 333); *Barrett* v. *Braggave* (5 Ves. 555); *Clarke* v. *Price* (2 John Wilson's C. C. 157); *Kimberly* v. *Jennings* (6 Sim. 304); *Baldwin* v. *Useful Knowledge Society* (9 Sim. 393); *Rankin* v. *Huskisson* (4 Sim. 13); *Keppel* v. *Bailey* (2 Myl. & K. 517); *Bryson* v. *Whitehead* (1 Sim. & Stu. 74); *Whittaker* v. *Howe* (3 Beav. 383; 10 Barn. & Cres. 849); *Wiggins* v. *Evans* (1 Younge & Jerv. 385); *Davis* v. *Mason* (5 Term Rep.); *Robinson* v. *Lord Byron* (2 Bro. C. C. 587).

Bethell, *Romilly*, and *Welford*, for the defendant, contended that the agreement was unilateral, and such as a court of equity would not enforce. They cited the following cases:—*Bell* v. *Hull and Selby Railway* (1 Railway Cases, 160); *Harnett* v. *Yeilding* (2 Sch. & Lefr. 556); *Flight* v. *Bolland* (4 Ru. 298); *Jervis* v. *Edwards* (2 Drury & Warr. 80); *Ripon* v. *Hobart* (3 Myl. & Keen, 169); *Smith* v. *Fromont* (2 Swanst. 330); *Clark* v. *Price* (suprà); *Baldwin* v. *Useful Knowledge Society* (suprà); *Hooper* v. *Broderick* (11 Sim. 47); *Kimberly* v. *Jennings* (6 Sim. 304); *Shackle* v. *Baker* (14 Ves. 468); *Young* v. *Timmins* (1 Tyrw. 226).

Wakefield, in reply, cited *Pall* v. *Coons* (1 Bro. C. C. 140); *Martin* v. *Nutkin* (2 P. Wms. 266); *Robinson* v. *Capes* (2 Barn. & Cres.); *Duke of Norfolk* v. *Myers* (4 Mad. 92); *Walmsley* v. *Marshall* (cited 4 Mad. 105); *Lady Petre* v. *Clarkson* (in notes, same case, 4 Mad. 105); *Moor* v. *Maltby* (2 Swanst. 277); *Williams* v. *Williams* (2 Swanst. 253).

Bethell replied on the new cases cited.

JUDGMENT.

July 22, 1845.—The LORD CHANCELLOR.—In this case, Croll had obtained two patents for the purpose of purifying gas, and the result of the purification of gas was the manufacture of muriate of ammonia and sulphate of ammonia. He entered into a contract with Hills, who is the plaintiff in this suit, and the contract was to this effect: Mr. Croll was to purchase all the acids that he was to use in his process under his patent from Mr. Hills; Mr. Hills on his side was to have the right of purchasing all the ammonia that should be produced as the result of those processes, at certain prices as to the one and as to the other. In addition to this, there was a stipulation that in all the licenses that were granted for using those patents, the parties to whom these licenses were to be granted should be bound to purchase all the acids which were used in the processes from Mr. Hills; and that Mr. Hills should have the same option that he had in the case of Crolls, of purchasing from them all the ammonia that should be produced in the course of the processes. It was also stipulated that Mr. Hills should have the option to supply either muriatic acid or sulphuric acid, as he should think proper, regulating his option by the market prices of muriate of ammonia and the sulphate of ammonia. I think this is the substance of the original agreement between these parties. The agreement was entered into the month of March 1841. It was found on the part of Mr. Croll that the mode of payment and other arrangements with respect to this agreement were inconvenient, in consequence of which a correspondence takes place between him and Mr. Hills in the month of September 1842, and the agreement was modified according to the terms of a letter, dated, I think, in September, written by him. One of the stipulati[ons of the original] agreement was that Mr. Hills should be a signing party in all the licenses that were granted by Mr. Croll for the use of the patent. The first stipulation in the letter of September was, that he should not be required to be a signing party, but it provided that there should be [a c]ovenant in all those [agreem]ents, to the effect stated [in] the original agreement, namely, that the parties to whom the licen[ses w]ere granted should purchase their acids from Hills and give Hills the right to purchase the ammonia. R[eg]ulations were also made altering the terms on which the acids were to be purchased and the ammonia to be sold. There were some other subordinate stipulations to which it is not necessary at present to advert. The lett[er, h]owever, concluded with a stipulation to this effect, that if Mr. Croll was in any particular to depart from the agreement so modified, the original agreement was to be enforced. I think those two documents, the original agreement and the letter of September, formed the substance of the contract between the parties as it existed after September 1842. Some doubt was expressed as to whether or not the contract so modified has been acted upon in that shape. But it appears beyond all doubt that it was so acted upon, because the accounts were from time to time rendered on the footing of the modified agreement, and it is also clear from the letter of Mr. Hills, of the 8th of December, 1843, in which he refers expressly to the prices that were regulated by the letter of September 1842.

Another question arose in the course of the discussion as to whether or not that second agreement, the modified agreement, had been put an end to by the operation of the clause by which it was stipulated, as I have already said, that in case of any deviation from the agreement, the original agreement should be enforced. It was said that considerable deviations had taken place, and that Mr. Hills had availed himself of those deviations to put an end to the agreement, and the letter of the 8th of Dec. was relied on for that purpose; but I think the letter of the 8th of Dec. cannot be relied on entirely for that purpose, for this reason; it only gave notice to put an end to one term of the modified agreement, namely, that which related to its being required that Mr. Hills should be a signing party to the agreement for the licenses. Now Hills had no right to put an end to or depart from that modified agreement; therefore I consider that notice in December as not having the effect of putting an end to the modified agreement of September. But however at a period subsequent to September 1842, it appears by a letter from Croll that he refused to act upon the footing of that agreement, he insisted on paying for the acids at the market prices, and there is a letter from Mr. Hills' solicitor, in which he insists on the agreement of March, the original agreement of March 1841. Now taking all these documents together, if it was necessary for me to come to any conclusion upon the subject, I should conclude the substituted agreement had been put an end to before the institution of this suit, that is, provided there has been a deviation from the original agreement; but it would be a question of fact to be decided. However, it is unnecessary for me, for the purpose of the present question, as I apprehend, to come to any conclusive decision on that point; it will be material on the hearing of the [caus]e, because, on taking the accounts, if there should be a decree in favour of the plaintiff on those accounts, they will be regulated according to the conclusion as to whether or not the subsequent agreement had been binding or not. Those are the facts of the case necessary for the purpose of raising the narrow question, as it appears to me, which the Court has to de[cide].

The bill was filed for the purpose of calling on the Court to declare that that agreement should be specifically performed. Now there is no principle of this court which I understand to be more clearly established than this, that the Court will not decree an agreement to be performed, unless it can execute the whole of the agreement. The question, therefore, in this case will be, whether the Court has power, from the nature of this agreement, to execute the whole of it—every part of it. Part of the prayer, which is consequent upon a specific performance, is, that the defendant should be restrained from purchasing acids from any one but Mr. Hills; and also that he should be restrained from granting licenses according to the agreement that was in force between the parties. Now, then, with respect to the first of these points, there is a stipulation on the part of Hills that he will supply the acids; there is a stipulation on the part of Mr. Croll that he will purchase from Hills, and from no other person. Has the Court any power to compel Mr. Hills to comply with that? Can the Court order Mr. Hills to continue the manufacture of acids for the purpose of supplying Mr. Croll? Can the Court call upon him, if he should not manufacture acids, and require him to purchase acids for th[e] purpose of supplying Mr. Croll? It is clear, I apprehend, that the Court has no such power. The[re] are cases where the Court will do indirectly wha[t] it cannot do directly. A case commonly cite[d] for that purpose is the case of a nuisance. The Court would not compel a party who ha[d] erected a wall to the nuisance of another, b[y] any direct order to pull down that wall, but the Cour[t] can make an order requiring him not to continu[e] the nuisance, which would have the effect of com[]pelling him to pull down the wall. In the case of *Morris* v. *Coleman*, the Court restrained Mr. Colema[n] from writing for any other theatre than the Haymarket, inferring from that that the order of the Court would compel Mr. Coleman, or have the tendency to compel him, to write for the Haymarket Theatre. But in this case the Court has no power to compel Mr. Hills to supply acids by ordering him not to supply acids to any other person; that is not the agreement, nor was it ever intended that it should be the agreement. Therefore, unless the Court can compel him by a direct order to supply Mr. Croll from time to time with the acids that he requires, it is quite clear that this Court cannot execute all the parts of this contract; the Court cannot therefore compel the party specifically to perform the contract.

It was thrown out in the course of the argument, that this Court might compel one party to perform his part of the contract and leave the other party to his remedy at law; but no such principle has ever been acted on in this Court, and it has been so laid down over and over again. And in a recent case, before Sir Edward Sugden, that was cited at the bar, it was decided that unless this Court can execute every part of the contract, it will not compel a specific performance of a part. When this cause, therefore, comes to a hearing, I am of opinion, according to the facts as they at present stand, and according to the statement of the principle I have mentioned, this Court cannot restrain Mr. Croll from purchasing acids elsewhere, because it cannot compel Mr. Hills, on his side, to furnish all the acids that may be necessary for the manufacture carried on by Mr. Croll. If the Court cannot do this, it cannot restrain the parties at the hearing. It is quite clear that, upon this interlocutory application, the Court cannot restrain Mr. Croll from purchasing acids elsewhere; I apprehend therefore, the decision of the Vice-Chancellor, which was shortly stated, proceeded upon that principle, and rightly, upon the grounds I have stated; and that which is the principle of this Court. And the principle on which the Vice-Chancellor acted with respect to the other part of the case is correct, and equally applies to that part of the notice of motion with respect to the licenses, because that forms a part of the general contract; and if the Court cannot execute the whole of the contract, it cannot execute the contract in part; therefore I am of opinion, that in this case the motion must be refused, and refused with costs.

VICE-CHANCELLOR KNIGHT BRUCE'S COURT.

Wednesday, June 25.

CORNFIELD *v.* WYNDHAM.

Construction of will—"Legacies."

The word "legacies," used in a will, held not to include annuities.

George Wright made his will, dated the 17th of March, 1794, which, so far as relates to the question in this cause, was as follows:—"I direct my funeral expenses, and the charges of proving this my will, and all debts owing by me at the time of my decease, and all legacies which I give by this my will, or shall give by my codicil or codicils thereto, or by any writing or writings signed by me or in my handwriting, and whether witnessed or not, shall, unless I expressly direct the contrary, be paid immediately upon or after my decease out of my personal estate; but if that shall be insufficient to answer the same, I charge my real estate with the deficiency." The testator then gave annuities to each of his servants who should have lived with him a certain time before his death. The testator, after making a codicil not affecting the matter in question, executed a second codicil, which was in the following terms:—"To John Crawley and Samuel Crawley, my executors, I direct the underwritten annuities by me granted to the names inclosed may be paid half-yearly out of my personal or from the income of my estates. George Cornfield, 30*l.*; Jane Smith, 50*l.*; R. Smith, 30*l.*; William Hammond Hovell, 20*l.*; Ann and Mar Roberts, 60*l.*; ditto to Ann Roberts, 25*l.*; Mrs. Mary Cook, interest on 300*l.* and annuity, 60*l.*; Ann Nash, 60*l.*; Thomas Wright Steward, 50*l.*; 385*l.* All the above annuities I leave to be paid as above directed." This bill was filed by one of the annuitants, and prayed a declaration that the real estates of the testator were charged by the will with the payment of the annuities given by the second codicil. To this bill a demurrer was filed, and by arrangement the cause was set down to take the opinion of the Court upon the question raised.

Hodgson and *J. Bailey*, for the demurrer, cited *Shepherdson* v. *Tower* (1 Y. & C. C. C. 441), and *Rose* v. *Cunynghame* (12 Ves. 29).

Swanston and *W. R. Ellis*, for the bill, cited *Buckeridge* v. *Ingram* (2 Ves. jun. 652); *Chiquin* v. *French* (1 Ambler, 41); *Swift* v. *Nash* (2 Keen, 20); *Stubbs* v. *Sargon* (2 Keen, 255); and *Nannock* v. *Horton* (7 Ves. 390).

The VICE-CHANCELLOR.—The instruments are not fully before the Court. The case arising upon demurrer, they cannot properly be so, but they are sufficiently before the Court. The testator begins by directing as follows. [His Honour then read the part of the will and the second codicil before set forth.] The question is, whether, upon this will, the word "legacies" is to be read as including annuities. The word "legacies" is a term under which annuities bequeathed may, without impropriety, be described; familiarly and colloquially, it has a more restricted meaning; legally it may, according to circumstances, receive a larger interpretation. How this case would have stood if the will had not contained any thing explanatory of the sense in which the testator meant to use the term, it is unnecessary to say. The language of the will appears to demonstrate that he did not use it as including annuities. The words "paid immediately after my decease;" the specific charge which the will contains of the annuities given to the servants upon the real estate; the mode of payment which he prescribes; the omission of any repetition in the expression of a charge upon the real estate as to the mere pecuniary legacies, satisfy me of the construction; nor if the first codicil had been stated in the bill would my opinion have been different.

Demurrer allowed, without costs; liberty to amend the bill.

Wednesday, July 9.

CLARK *v.* BURGH.

[*Mortgage—Chattels leasehold—Right of wife by survivorship.*

An assignment by a husband and wife of chattels leasehold, to which he was entitled in right of his wife,

reserving the right of redemption to the husband, his heirs, executors, or administrators, and providing that, upon payment of the mortgage-money, the assignment should be void, was held, under the circumstances of the case, not to have affected the wife's right by survivorship.

This case came on upon exceptions to the Master's report. The suit was instituted by the creditors of James Burgh, deceased, and upon a reference to the Master he was directed to inquire whether the widow of James Burgh had any interest in certain leasehold property. James Burgh being entitled, in right of his wife, to an undivided share in some chattels leasehold, he and his wife assigned the share, by an indenture dated the 3rd of August, 1831, to Edwards, and by the same indenture, the wife executed a power of appointment over other property in favour of Edwards, to hold to Edwards, his executors, administrators, and assigns; and it was provided, that in case James Burgh, his heirs, executors, or administrators, should pay to Edwards, his executors, administrators, or assigns, the mortgage-money with interest, by a certain day, the assignment and appointment should cease and be void. The money was not paid at the day appointed, and shortly afterwards the wife acquired another share in the leaseholds, which share was for her separate use.

On the 24th of November, 1834, James Burgh assigned (among other things) the shares to which he was entitled in right of his wife, to Houseman, subject to the mortgage to Edwards, &c.; and it was provided, that on payment of the mortgage-money, with interest, on a certain day, the assignment should be void. Before these mortgages were made, the leaseholds had been assigned to Mr. Pocock, for the purpose of making a division among the persons entitled to the different shares. After the execution of the mortgages, Mr. Pocock made his award, and allotted certain houses to Burgh and his wife, in right of the wife in severalty, in lieu of their shares. By indenture dated the 23rd day of February, 1838, and indorsed on Edwards's mortgage-deed, all the parties interested assigned to Edwards the property which had been allotted to Burgh and his wife, in right of his wife, and Sophia Bishop Burgh exercised her power of appointment in favour of Edwards, subject to a proviso for reassignment upon repayment of the mortgage-money and interest on a certain day, by Burgh and his wife, or either of them, their, his, or her executors or administrators, or any person or persons on their, his, or her behalf. This deed was in substitution for the former mortgage to Edwards, and a similar substituted assignment was made to Houseman on the following day. The Master having found these facts, and that James Burgh died in 1843, intestate, indebted in various sums besides those due on the said securities, he found that Sophia Bishop Burgh had not any interest in the leasehold estates comprised in the mortgage securities or any part thereof.

To this report exceptions were taken by Sophia Bishop Burgh.

Swanston and *Lloyd*, for the exceptions, cited *Pitt* v. *Pitt* (Turn. & Russ. 180); *Bates* v. *Dandy* (2 Atk. 207); *Watts* v. *Thomas* (2 P. Wms. 364); *Purdew* v. *Jackson* (1 Russ. 33 n.) and Coke upon Littleton, 46 b.

Russell and *Speed*, for the report, cited *Druce* v. *Denison* (6 Ves. 394).

Roll and *Trower*, for defendants in the same interest, cited *Donne* v. *Hart* (2 Russ. & Myl.) and *Oglander* v. *Barton* (1 Vern. 396).

The VICE-CHANCELLOR.—When a mortgage is made by an instrument not containing a recital of any intention of doing more than making a mortgage, the Court regards the instrument with an inclination to believe that nothing more was intended than that which was necessary to make the estate a security to the mortgagee for the money advanced; and the mere circumstance that the proviso for redemption points in terms to a mode of reconveyance of the interest not in conformity with the title, is generally not sufficient to induce the Court to depart from that presumption. The general rule is sufficiently established by *Innes* v. *Jackson* (1 Bligh, 127), as well as various other decisions. Now the present case stands thus: Various members of a family were equitably entitled in undivided interests in certain chattels leasehold. One of these was a married woman. Part of her interest belonged to her for her separate use, and part absolutely, and not for her separate use and benefit, and therefore, as to the latter, it was her husband's, in her right, in the sense in which the law uses that term in the case of chattels leasehold. All the parties interested in this leasehold property joined in vesting the property in a trustee, Mr. Pocock, a gentleman who was intrusted with the duty of making a division and allotting it in proportion to the several interests of the parties. At this time the husband, Mr. Burgh obtains a loan on the two parts of that portion of this property which belonged to him in right of his wife, and there is the mortgage to Edwards in which she joins, and which contains property that the husband could effectually dispose of without her, and property which could not be effectually alienated without her concurrence; and the proviso for redemption is, that if the husband or his executors, &c. should pay, the assignment should become void. Then the second mortgage is made by the husband, the wife not joining, which, whether it comprises property which he could dispose of without her consent or not, it is not material to consider. It comprises only property which he could alienate without her consent, and the proviso for redemption is the same as in the first instance, namely on the payment of the money by the husband, his heirs, executors, &c. the assignment shall become void. Then after this transaction Pocock makes the allotments for the division of the property, and then other deeds are made in favour of the two mortgagees, with respect to which, whether or not they included other property, is now immaterial. The wife joins in each of these, as does the trustee and the husband, and the proviso for redemption in the mortgage in favour of Edwards is then in a different form; not that on the payment of the money the assignment shall become void, which would have had this inconvenient effect, and this might have been the result, if it did touch the legal estate, of vesting it in Pocock. This may be the reason for a change in the form. The form is on payment by the husband, wife, or either of them, or his or her heirs, executors, &c. or the heir, executor, &c. of either of them, the property shall be assigned to him, her, or them. That was correct. There is also a power of sale, and after the usual direction as to appropriation, the clear surplus is to be paid to the husband or wife, their heirs, executors, &c. according to their respective interests. The mortgage to Houseman, in which she did not join before, is made in the same form as if she had joined, and this may be accounted for by the circumstance that in the second mortgage was included property which could not be alienated without her concurrence; and the proviso for redemption and the trust for sale were in the same words as in the first mortgage. Now, that these alienations were absolute at law one can doubt, for the money was not paid in either case at the time appointed. It is quite clear, from the argument on both sides, as far as the mortgagees were concerned, the assignment had never become absolute in equity. The mortgages are still redeemable by some person or persons; but the question is, whether alienations of the nature which I have mentioned have or have not become absolute in equity in favour of the husband or his alienees, or any of them, against the wife who has survived the husband. This depends upon the intentions of the husband, which are to be collected from all, or some, or one of the several instruments executed by him. As I read the instruments, not one of them exhibits such an intention against the wife on the part of the husband as would affect her rights further than to give the alienees security for the money advanced. It does not appear to me that her rights in equity are more prejudiced than if the mortgages had ly been deposits of the deeds by him to secure money; and in such a case the legal estate would not have been affected. The mortgages were mere pledges, and were intended to be nothing more. But it was said that there was some argument against the wife, from the circumstance that property to which she was entitled for her separate use was included. I see nothing in that argument against her. I differ, with great respect, from the conclusion to which the learned Master has come; but it appears to me that he did not have before him *Pitt* v. *Pitt*, and the other cases now cited. But however this may be, I feel myself bound to allow the exception.

Common Law Courts.

COURT OF EXCHEQUER.

RUSSELL *v.* LEDSAM.

A patent for an invention of welding iron pipes by continuous circumferential pressure is not vitiated by a prior patent for welding such pipes by circumferential pressure not continuous, but intermittent.

The specification having described the invention to consist in passing pipes through a fixed hole, Held, that the passing such pipes through grooved rollers in motion was an infringement of the patent. (*Russell* v. *Cowley, Pat. Ca.* 467; 1 *Cr. M. & R.* 864, *confirmed.*)

An improvement upon the precise mode described in the specification may be an infringement of the patent.

The adoption of a material part of the process described is an infringement.

The day of the date of the letters patent is inclusive, and not exclusive, so that the term of 14 years, granted by letters patent dated the 26th of February, 1825, would expire at midnight on the 25th of February, 1839; aliter as to the enrolment of the specification.

The term "prosecute with effect" in the 4th section of the statute 5 & 6 Wm. 4, c. 83, relates to the obtaining the report of the Judicial Committee, and not to the actual issuing of the letters patent.

The Crown may grant new letters patent under the statute after the expiration of the original letters patent.

New letters patent having been granted upon the condition that an annuity should be secured to the original inventor, whether such annuity is secured before or after the granting of the new letters patent is immaterial.

The Crown has authority under 5 & 6 W. 4, c. 83, s. 4, to grant new letters patent to the assignee of the original letters patent.

The case of Spilsbury v. Clough (2 G. & D. 17) explained.

The 7 & 8 Vict. c. 69, ss. 4 & 7, confirming prior grants of letters patent to assignees, with certain exceptions, is not declaratory of the statute 5 & 6 Wm. 4, c. 83, s. 4, which must be construed by its own provisions.

J. Jervis, Q. C., *M. Smith*, and *Webster*, for the plaintiff.

Kelly, Q. C., *W. H. Watson*, Q. C., *Rotch*, and *J. Henderson*, for the defendants.

The material part of the argument, which was extremely long, appears from the judgment.

JUDGMENT.

PARKE, B. now delivered the judgment of the Court as follows:—Several questions of importance arose and were discussed in this case, which was argued during the last Term. It was an action for an infringement of a patent, in which the plaintiff had a verdict, subject to a question reserved by my brother Alderson on the 7th and 9th pleas. A motion for a new trial was also made, on the ground that the verdict was against evidence, on the issues on the novelty and on the infringement of a patent. These two questions are of much importance, and were very fully and ably discussed; we have considered them, and are of opinion that the invention was new; and we have also come to the conclusion that the defendant has been guilty of an infringement. In order to decide whether the invention was new, it will be necessary, first, to define what the nature of the invention was. In the case of *Russell* v. *Cowley*, this Court had already decided that the principle of the invention was, the welding of iron pipes, in a state of welding heat, without a *maundrill* or internal support, and with circumferential pressure; and that the absence of a maundrill was sufficient to distinguish the plaintiff's patent from that of James and Jones in which the maundrill was used, where the welding of the skelp or incomplete pipe was performed by hammer and by a pair of grooved rollers, both modes being made use of under that patent. On the trial of that case, however, the patent granted in 1824 to Mr. James Russell was not given in evidence by the defendants. This patent was for welding iron pipes, in a similar state of heat, placed in a semi-cylindrical recess in an anvil, by means of a tilt-hammer with a similar recess; and by a succession of blows the edges were beaten together with or without a maundrill. After this process, the pipe was passed through rollers that made a cone, and passed a maundrill, over which the inside of the tube passed, by which means the inside was rendered smooth and the outside was finished. This patent, it was contended, was for circumferential pressure, and without a maundrill, and therefore was the same in principle as the plaintiff's, and consequently the latter could not be supported. It appears to us, however, that the principle of the two inventions is not the same; for James Russell's does not operate .. continuous equal circumferential pressure, as plaintiff's does, but by the repetition of violent .tact of short duration; the impact by hollow grooves striking on each other does not become equal continuous circumferential pressure until the close of the operations; it does not cause an equal continuous circumferential pressure throughout the whole operations, and in effect, as was well observed by the learned counsel for the plaintiff, James Russell's invention ends where the plaintiff's begins. We therefore think that the jury have not come to a wrong conclusion on the question of the novelty of the invention. It is then said that, in order to carry the plaintiff's invention into effect, the drawing of the pipe through a fixed hole, and that of a conical or bell-shaped form, is necessary; that it is an essential part of the plaintiff's patent; and that the defendant has not infringed it, for his apparatus does not move the pipe through a fixed hole. There is no relative motion between the pipe and the rollers, and that it does not draw out or stretch the pipe. It is on this part of the case that some of us have entertained doubts, more than on the others; but after much consideration we do not see any reason to differ in opinion with the jury, and we think that the defendant's mode, though it is an improvement in some respects on the plaintiff's patent, is the same in others, and that therefore it is an infringement of it. In order to carry Whitehouse's invention into effect, it is clear that the pipe must be moved through a fixed hole: it is not to remain stationary, or the operation of continuous circumferential pressure on the whole tube could not be performed. In the specification, the mode of accomplishing this is by instruments which draw; but the invention is expressly stated not to be confined to the employment of the precise apparatus described, but the principle is said to be, to heat the tubes of iron, to pass them in a state of welding heat through dies or holes, and so unite the edges together; in order to effect which the dies or holes are of a bell-mouthed shape, and thereby

the joint becomes firmly welded; and this principle the defendant seems to us to have infringed. In his mode of operating, the skelp, or unfinished pipe, is received into an irregular conical or bell-shaped space (not that in the guard, but formed by the rollers), and passes along with the surface of the rollers to a hole formed by them, and to a point where the circumferences are in contact; and this hole is of a fixed definite size, and always in the same place though its sides are moving, and are continually formed of a different material. Through this bell shaped hole the pipe is passed, and the same sort of pressure in the orifice of the bell mouth, and the same sort of pinch at the narrowest part take place as at the plaintiff's bell-mouth hole. In that respect it is the same as the plaintiff's patent. There is a continued equal or circumferential pressure without a maundrill; but in other respects no doubt there is a difference, and, on the whole, perhaps, an improvement. There may not be the same injury to the fibre of the iron as by the drawing process, which weakens and attenuates the tube, and the method of operating is more convenient than that by which the plaintiff carries his principle into effect. But if the process is, as we think it is in a material part, the same, the defendant has been guilty of an infringement. There ought, therefore, to be no new trial. The next question arises on a point reserved at the trial on the evidence in support of the seventh plea. The plea was, that the second or renewed letters patent were granted after the expiration of the term of fourteen years, granted by the first letters patent. The replication took issue on that allegation, and the proof was, that the original letters patent were dated on the 26th of February, 1825, the second on the 26th of February 1839; and the question to be considered is, whether the day of the date of the first letters patent was inclusive or exclusive. The usual course in recent times seems to construe it to be exclusively whenever any thing was to be done in a certain time after a given event or date; and consequently the time for enrolling the specification within the six months given by the proviso is reckoned exclusively of the day of the date and many other instances are re-collected in the cases of *Webb* v. *Fairmaner* (3 M. & W. 473), and *Young* v. *Hagan* (6 M. & W. 49). But in this case the question is, when the term given by the patent commences; and the same rule would apply as to the commencement of a term, which, if it is to run from the date of the lease, equally runs from the day of the deed. It was asked by Mr. Kelly whether, if there should be an imitation of the invention on the day the patent was dated, it would be an infringement of it; and we have no doubt the answer ought to be that it would, and, if so, the day of the date would be included, and the patent would expire at midnight on the 25th of December, 1839 (for the law never takes notice of the fraction of a day, except where there are conflicting rights between subjects). Our opinion therefore is, that the verdict on the issue on the 7th plea must be entered for the defendant, pursuant to leave reserved. The plaintiff then avails himself of the liberty given to move for judgment *non obstante veredicto*, on his plea, on the ground that, under the 5 & 6 Wm. 4, c. 83, renewed letters patent are not void, if dated after expiration of the former term. This question depends on the construction of the section, which admits of some doubt. The use of the term prolongation and extension would seem to indicate one continuous term without an interval, while on the other hand, the remainder of the clause appears not to require it. It enacts that the Judicial Committee may on petition consider and report that the extension should take place, and the King may grant new letters patent for a term not exceeding seven years after the expiration of the first term; and then follows the proviso that no such extension shall be granted, that is by the Crown, if the application by petition shall not be made and prosecuted with effect before the expiration of the term. The prosecuting with effect, which is to warrant the Crown to grant, means, according to the ordinary construction of the sentence, a prosecuting with effect prior to or independent of that grant, and not the grant itself, and that must be the obtaining the report of the Judicial Committee, or the approbation of it by the Crown, and if so, there is no necessity for the new letters patent to be actually issued before the expiration of the old. It is asked, then, may the Crown grant at any interval after the expiration of the term, so that the new term do not exceed seven years from the end of the old one, and what will be the condition of the persons who make use of the invention between the end of the old and the beginning of the new patent. It seems to us that there is no limit except the discretion of the Crown, and it is to be presumed that the grant will not be made after a long interval, or at least without protecting those who have invested their capital in order to use the invention, and such, if any, who have done so before the expiration of the first patent will always have an opportunity of being heard in the Judicial Committee against the petition for an extension. With respect to those persons who use it in the interval, there is no doubt they are not responsible. The conclusion at which we have arrived is, that the legislature did not intend to restrict the Crown as to the actual date of the grant, if all the preliminaries were completed before the expiration of the term; and therefore it appears to us that the 7th plea is bad. The defendant, in order to have availed himself of the proviso, should have pleaded that the petition was not prosecuted with effect within the meaning of the terms of the first patent; and compliance with this condition, which is introduced in the form of the proviso, need not be averred by the plaintiff in his declaration, but the non-compliance should have been pleaded by the defendant. The next question is, whether the issue raised by the traverse of the 9th plea ought to be found for the plaintiff; and we think it ought. There is an allegation in the declaration that her Majesty granted new letters patent to the plaintiff upon his securing to Cornelius Whitehouse, the original inventor, an annuity of 500*l.* so long as it should last; and the declaration contains an averment that, from the making of the new letters patent hitherto, the annuity has been duly secured to Cornelius Whitehouse. As to the new letters patent, it appeared on the trial that, before the day of the new patent, namely on the 1st of June, 1836, the plaintiff and Whitehouse had covenanted by indenture that Whitehouse should petition for new letters patent, and should assign them to Whitehouse; that he should work in the manufacture of tubes for Russell and his partners, and serve them in their trade during the term, and give them the benefit of all improvement that he might effect in the manufacture of tubes according to the invention; and the plaintiff did thereby covenant, during the new term, to pay 300*l.* per annum, and allow Whitehouse to live rent-free in a house of his, with a proviso to deduct a sum not mentioned for every day he might be absent or not working. Afterwards, on the 17th of December, 1838, by another indenture, reciting the petition of the plaintiff for an extension of the patent, and that the petition had been heard before the Judicial Committee and that an extension of the patent was expected to be granted, the plaintiff covenanted to pay Whitehouse 500*l.* per annum instead of 300*l.*, and to exonerate him from the obligation of working for and serving the plaintiff during the new term or otherwise, and stipulated that the 500*l.* annuity should not be subject to deductions. The defendant contended that the stipulation to secure the annuity of 500*l.* was a condition precedent to the validity of the new patent, and that the averment in the declaration, that it was secured, was not proved, for two reasons: first, because the grant of annuity was not executed after the grant of the new letters patent, the condition of requiring the future . . . . late one, which was clogged with a covenant on the part of Whitehouse, contained in the deed of July 1836, to give the benefit of future discoveries during the new term, and therefore was not to receive the annuity absolutely, which covenant was not released by the new deed, although the covenant to work and serve was. We think, that neither of these objections ought to prevail. As to the first, we think that the averment in the declaration, that the annuity was at the date of the new letters patent secured, is certainly proved, and that the objection ought to be in arrest of the judgment; that the declaration was insufficient, as it did not aver the security given for the first term subsequently to the date of the new patent. In that shape, however, we think the objection equally unavailing; because the meaning of the condition is, that there should be a security to Whitehouse for the annuity; and whether given before or after the letters patent, is immaterial. With respect to the second objection, we think that the covenant in the indenture of June 1836, to give the benefit of any improvements, is only incidental to the working of the plaintiff in the manufacture of tubes during the term, and is part of the service therein stipulated to be performed, and consequently was released by the second indenture; so that, under the two indentures together, Whitehouse has the benefit of an absolute unconditional covenant to be paid 500*l.* a year. Besides, the second indenture, at all events, contains such a covenant; and this appears to be sufficient, though a part of the covenant is in the first instance obligatory on Whitehouse, especially as it must be taken on the evidence that Whitehouse was satisfied with the security. The verdict, therefore, must stand for the plaintiff on the 7th issue. The only remaining question is, whether the declaration is bad on a motion in arrest of judgment. The defendant insists that, under the statute of 5 & 6 Wm. 4, c. 83, new letters patent cannot be granted to the assignee of original letters patent, and the objection, if it be one, appears on the record. This depends on the construction of the 4th section of the Act, which provides that if any person who now hath, or shall hereafter, obtain any letters patent as aforesaid, shall advertise, &c. and petition, the Crown may grant an extension of the patent. The words "as aforesaid" may mean such patent as aforesaid, and refer to the previous description of the patent only, that is, "a patent for the sole making, &c. of a new invention," or they may mean to refer to a description of the title of the person obtaining the patent,—the grantee, assignee, or otherwise. On the former definition, the plaintiff would be entitled, because he has, at the time of passing of the Act, the letters patent. But it is argued, if this construction be admitted, the possessor, as assignee of a patent at the time of passing the Act, could obtain an extension, and the possessor, as assignee of a future patent, could not. This, it is said, is unreasonable, and therefore it is argued that the words should be slightly altered, and the enactment read as if it had provided that any one who had obtained, or should thereafter obtain, letters patent, should be entitled to an extension. This would be a proper construction, and necessary to make the construction consistent with the first supposition, as meaning a patent for a new invention only; but if we act on the second supposition, and hold that these words mean to bring down by reference the words, "as grantee or assignee," or otherwise, and these words mean to include the assignee of the patent, there is no occasion for any alteration of the sentence, and inconsistency is obviated. The possessors by the assignment of an existing and of a future patent are both on one footing, and both entitled to petition for the prolongation of the term, and this is a good reason for admitting the construction of making the whole reasonable, without any alteration of the language. The ordinary sense of the words "obtaining which" alone would probably be taken to mean the original obtaining from the Crown, as we think explained by the context to mean the becoming possessed either by original grant, by assignment, or by any other title. We feel a difficulty in admitting the explanation of these words, "as assignee," given by some of the judges in the case of *Spilsbury* v. *Clough* (2 Gale & Davidson; 2 Q. B. 466). We suppose that they are meant to refer to an assignee of a borrowed invention, who obtains a patent here, for the assignee is distinguished from the grantee, and one who obtains letters patent as assignee is distinguished from the grantee, and must take by assignment the letters patent, not the invention. Besides, the proprietor, who is not necessarily the assignee of a foreign invention, and now seldom is, may have letters patent granted to him. The Act, it is true, is so penned as to leave the construction open to doubt; but our opinion is, that the power of renewal is not confined to grantees, but extends to assignees; and the legislature may reasonably be supposed to compensate the assignee as well as the patentee, for labour bestowed and capital expended, without adequate remuneration, in bringing a useful invention to perfection, as they certainly have done by a subsequent statute. It is no doubt true that the legislature have by that statute, 7 & 8 Vict. c. 69, s. 4, expressly extended the benefit of having a renewed patent to an assignee, and expressly confirmed existing terms, with an exception (in section 7), which applies to the present case; but this leaves the case as it stood before, and as this provision is not declaratory, it has no other effect than that of raising a surmise as to the opinion of the legislature as to the construction of the clause; but the province of the legislature is not to construe, but to enact; and their opinion, not expressed in the form of law, as a declaratory provision would be, is not binding on courts, whose duty it is to expound the statutes they have enacted. A strong instance is this, found in the case of *Doe* v. *Grey* (2 T. R.), which was referred to during the argument. This clause we consider to have been introduced for the sake of removing all doubt as to the title of an assignee to a renewed patent, leaving the question as to the title then in litigation exactly as it stood before. Our opinion, therefore, is, that the judgment ought not to be arrested, and that, on the whole, the plaintiff is entitled to succeed.

Thursday, July 10.

BRADBURNE *v.* BOTFIELD.

The rule laid down in James v. *Emery, as to the construction of joint and several covenants, is the correct one, when taken with the qualification added by Mr. Preston.*

The Court of Exchequer, in their judgment in Sorsbie v. *Park (12 M. & W.), intended to lay down no doctrine at variance with that of Anderson* v. *Martindale, as supposed by the Court of Queen's Bench in Hopkinson* v. *Lee* (14 *L. J.* 106, *Q. B.*; *see* 4 *Law T.* 395).

Quære, Whether one of several tenants in common, lessors could sue on a covenant with all?

Unthank, in support of the demurrer.

J. W. Smith, contrà.

The judgment fully explains the arguments and facts in this case.

JUDGMENT.

PARKE, B.—In this case a lease has been made of certain coal and iron mines to the defendant and others. By the indenture of demise, Sir Edward Vinnington and John Hay Addenbroke, who, as it appears by the recital, were seised in fee of an undivided fourth part of the demised property in trust for Mrs. Foley; Edward, Elizabeth, and Maria Foley, and Mary Whitby, who were seised in fee of another undivided fourth part; William Townsend, who was

seised in fee of half; George Townsend and Sarah Townsend, who had equitable interests in that half, all joined in demising, according to their several and respective existing estates, rights, and interests in the tenements, to the defendants and others, yielding and paying certain rents to Edward Foley, Elizabeth and Maria Foley, Sir T. Winnington, John Hay Addenbroke, Mary Whitby, Sarah Townsend, and William Townsend respectively, and to their respective heirs and assigns, according to their several and respective estates, rights, and interests in the premises; and the defendant a[illegible] others did thereby covenant to and with Edward Foley, Elizabeth and Maria Foley, and each and every of them, their, and each and every of their heirs, executors, administrators, and assigns, in manner following; and the declaration proceeds to state covenants to repair the premises, the furnaces, and buildings, and to surrender in good repair to the lessors, their heirs and assigns respectively, at the end of the term, and to work mines properly, &c. It then deduces a title to William Townsend's moiety to the plaintiff, and alleges breaches. There is a plea which states John Hay Addenbroke to be the survivor of all the covenantees, and to this there is a demurrer, raising the question whether the covenants declared upon are covenants with all the parties demising, or are or may be treated as several covenants with the legal owners of each undivided part. When the argument upon the demurrer arose before us, we expressed our opinion that, on the face of the declaration, the covenants were such as all the covenantors or covenantees must have jointly sued upon, for the name of no one covenantor could have been rejected; there must be some covenant upon which all could sue; and all stated in the declaration were of the same character. If they related to the separate legal interest of such tenants in common, still the other covenantees must join, on the principle of the case of *Anderson* v. *Martindale* (1 East, 497). But it was suggested the lease ought to have been set out in oyer, and that, had it been so set out, it would have appeared that there were other covenants in gross, in which all must join; and then, the covenants running with the land, those declared on might be construed to be several covenants with each legal tenant; and the case stood over that we might be furnished with a copy of th[e] lease. On this being done, Mr. Unthank cited several authorities, establishing, as he contended, the proposition that this covenant declared upon might be treated as "several covenants," and the Court took time to look into these authorities. There is no occasion to refer to the cases as to the rule of construction as to covenants being joint or several, according to the interests of the parties, which rule is perfectly well established. In the case of *Sorshie* v. *Park* (12 M. & W. 146), Lord Abinger and myself, on referring to the established rule as laid down by Lord Chief Justice Gibbs, in the case of *James* v. *Emery* (8 Taunt. 245), approve of Mr. Preston's qualification and explanation of it, in his edition of Touchstone, 166; namely, that if the language of the covenant was capable of being so construed, it was to be taken to be joint or several, according to the interests of the parties to it. It is added by Mr. Preston, that the general rule proposed by Sir Vicary Gibbs, and to be found in several books, would establish that there was a rule of law too powerful to be controlled by any intention, however expressed. But the above qualification is perfectly correct, and is not at variance with any decided case, as it surely is competent for a person, by express joint words strong enough to make a joint covenant, to do one thing for the benefit of one of the covenantees and another for the benefit of another, as it is to make it joint where it is for the benefit of one. I mention this, because the Court of Queen's Bench, in the case of *Hopkinson* v. *Lee* (14 Law Journal, 106), have supposed that Lord Abinger and myself had sanctioned some doctrine at variance with the case of *Anderson* v. *Martindale* (1 East, 497), and *Slingsby's* case (5 Reports), which was far from my intention to do, it being now fully established. I conceive, by the cases, that one and the same covenant cannot be made both joint and several with the covenantors and covenantees. It is to be observed, a part of Mr. Preston's explanation is, that, by express words, a covenant may be joint and several to or with the covenantors or covenantees, notwithstanding the interests are several, is inaccurately expressed; it is true only of covenantors, and the case cited from Salkeld, 393, relates to them. Probably Mr. Preston intended no more. I never meant to assent to the doctrine that the same covenant might be made by any words, however strong, joint and several, where the interest was joint. And it is to this part I apprehend of Mr. Preston's doctrine, that the Court of Queen's Bench objects. I give this explanation in order that it may not be supposed that there is any difference on this point with the Court of Queen's Bench. We looked since the argument into the lease now set out in oyer, and into all the authorities cited for the plaintiff, and we still entertain the opinion that he cannot recover on the covenants stated in the declaration. It is impossible to remove the name of any covenantee, and all the covenantees must necessarily sue upon some covenant; and it appears to us there are no covenants in the lease of a joint nature, if those declared upon are not, or which would be in gross, if the person entitled to the legal estate had alone demised; for all relate to and affect the quality of the subject of the demise, or the mode of enjoying it, and could have been sued upon by the assignees of the reversion in such lease before breach. The covenant relied upon as being in gross was, that the lessors should be at liberty to use the ropes, &c. to descend into the mines, in a special covenant relating to the entry to view, and would, we think, go to the assignee of the reversion in such lease. If all the covenantees could not sue on the covenant declared upon, they could sue upon some; and therefore, in their lives, and after the death of any of them, the survivors are the proper plaintiffs. It is unnecessary to decide whether one of several tenants in common lessors could sue on a covenant with all to repair, as to which there is no decisive authority either way. The case of *Kitchen* v. *Buckley* (Sir Thomas Raymond, S. C. 1 Siderfin, 157, and Levens, 109) establish it as perfectly clear that all may sue. Our judgment must therefore be for the defendant.

Judgment for defendant.

There are six cases in which judgment was delivered last Term, and in the sittings after, of which the short-hand notes were all taken by one reporter, who having left town without furnishing copies of them, they cannot therefore be given till his return, which will be in about a fortnight. The following are the names of the cases:

Richards v. Macey.	Midge v. Richardson.
Phillips v. Smith.	Wiggins v. Johnston.
Hogarth v. Penny.	Gilbert v. Schwenneck.

THE LEGISLATOR.

Summary.

Legislators as well as lawyers are for the most part recreating themselves in the country; no rumours of proposed alterations in the existing law, or of projected new measures, have reached us.

NEW STATUTES

Of the Sessions 8 Victoria.

[In the record of actual Legislation, we adopt the plan of giving the titles alone of the statutes of no general or profes[illegible] ange in the law, printing at length such statutes or parts of statutes only as are of particular interest to our readers.

(*Continued from page 481.*)

Cap. XCVII.

An Act to amend the Law respecting Testamentary Dispositions of Property in the Public Funds, and to authorize the Payment of Dividends on Letters of Attorney in certain Cases. (August 4, 1845.)

1 *Geo.* 1, *c.* 19. *All shares of public stocks standing in the books of the Bank of England in the name of any deceased person may be transferred by the executors notwithstanding any specific bequests. Bank may require all the executors to join in the transfer of stock.*—Whereas by an Act passed in the first year of his late Majesty King George the First, intituled "An Act for raising Nine hundred and ten thousand Pounds for Public Services, by Sale of Annuities after the Rate of Five Pounds per Centum per Annum, redeemable by Parliament, and to authorize a Treaty concerning private Rights claimed by the Proprietors of the Sugar Houses in Scotland," and by divers Acts since passed for creating stocks, funds, and annuities payable out of the public revenue, and for the consolidation, regulation, and management of such stocks, funds, and annuities respectively, it is enacted, that any person or persons possessed of any estate or interest in the public stocks or funds, and annuities by the same Acts respectively created, may devise the same by will in writing, attested by two or more credible witnesses, but that no such devisee shall receive any payment thereupon until so much of any such will as shall relate to such stock or annuity respectively shall be entered or registered in the office of the chief accountant for the time being of the Governor and Company of the Bank of England, and that in default of any such devise such stocks or funds respectively, and the respective annuities attending the same, shall go to the executors or administrators of the person or persons dying entitled thereto: And whereas doubts have arisen as to the true construction and effect of the provisions aforesaid; and the registration of specific devises or bequests of property in such stocks, funds, and annuities as aforesaid has been found in practice to be unnecessary and inconvenient; and it is expedient that such doubts should be removed, and that the provisions made by the said Acts respectively for such registration should be repealed: And whereas it hath been the practice of the Governor and Company of the Bank of England to require that all the executors of any person entitled to any share or interest in any stocks, funds, or annuities transferable at the Bank of England, should join in the transfer thereof, and it is desirable that the same should be confirmed by law: be it therefore enacted and declared by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That all the share or interest in any public stocks now standing in the books of the Governor and Company of the Bank of England in the name of any deceased person, and all the share and interest of any person who shall hereafter die possessed of any such stocks standing in his name as aforesaid, shall and may be assigned and transferred by the executors or administrators of such person, notwithstanding any specific bequest or disposition thereof in the will of such person contained: provided always, that the said Governor and Company of the Bank of England shall not be required to permit or allow the executors or administrators of any such person to transfer any such stocks, or to receive any dividend thereon, until the probate of the will or the letters of administration of the goods, chattels, and credits of such person shall have been first left at the Bank of England for registration thereof; and that it shall be lawful for the said governor and company to require all the executors who shall have proved the will of any deceased person in whose name any such stocks are now or at any time hereafter may be standing to join and concur in every transfer thereof or of any part thereof.

2. *Bank not to register specific bequests.*—And be it enacted, That so much and such respective parts of any and every Act now in force as require all or any part of any will or codicil devising or bequeathing or purporting to devise or bequeath any estate, property, or interest in any public stocks, or in any dividends arising therefrom, to be entered or registered in the office of the chief accountant of the Governor and Company of the Bank of England, or in any other office, or in any book of the Governor and Company of the Bank of England, shall be and the same are hereby respectively repealed, and that from and after the passing of this Act it shall be sufficient for the said governor and company, before permitting the transfer of any stocks, or the receipt of any dividends upon any stock standing in the name of any deceased person, to register the names of the deceased party, and of his executors or administrators respectively, as the case may be.

3. *Powers of attorney to be given for receipt of dividends in certain cases.*—And whereas it frequently happens that stock is standing in the names of infants or persons of unsound mind, jointly with persons not under any legal disability to act, and such last-mentioned persons are not able to attend personally to receive the dividends thereon, and no power of attorney can be granted for the receipt of such dividends; be it therefore enacted, that whenever it shall happen that any stock shall be standing in the name of any infant or person of unsound mind, jointly with any person not under any legal disability to act, it shall be lawful to and for such last-mentioned person, by letter of attorney under his hand and seal, attested by two or more credible witnesses, to authorize some other person to receive the dividends due and to accrue due on such stock; and the payment of any such dividend to any person so appointed shall discharge the said Governor and Company of the Bank of England in respect thereof; provided always, that it shall be lawful for the said Governor and Company, before acting on any such letter of attorney, to require proof to the satisfaction of the said Governor and Company of the age of such infant, or of the unsoundness of ...ind of such persons, by the declaration of competent persons, to be made in pursuance of the Act passed in the sixth year of the reign of his late Majesty authorizing the substitution of a declaration in lieu of an oath in certain cases.

4. *Interpretation of Act.*—And be it enacted, that the word "stocks" in this Act shall extend to any stocks, funds, or annuities which now are or at any time hereafter shall be transferable at the Bank of England; and that the plural number in this Act shall be construed to include the singular; and that the masculine gender in this Act shall be construed to include the feminine.

Alteration of Act.—And be it enacted, that this Act may be amended or repealed by any Act to be passed in this present session of Parliament.

Cap. XCVIII.

An Act for facilitating the Winding-up the Affairs of Joint Stock Companies in Ireland unable to meet their pecuniary engagements. (August 4, 1845.)

Cap. XCIX.

An Act to amend an Act of the Tenth Year of his late Majesty King George the Fourth, for consolidating and amending the Laws relating to the Management and Improvement of his Majesty's Woods, Forests, Parks, and Chases; and

for other Purposes relating to the said Land Revenue. (August 4, 1845.)

Sec. 1 repeals 10 Geo. 4, c. 50; 2 & 3 Wm. 4, c. 1; and 3 & 4 Wm. 4, c. 69. Commissioners of Woods, &c. may demise or lease any portion of the shore of the sea or navigable rivers or lands derelict or gained from the sea, or hereafter to become so, for any term not exceeding ninety-nine years, where lessee shall covenant to embank or to construct docks, &c. thereon.

2. That when any leases shall be granted or agreements entered into after the passing of this Act, in pursuance of the powers in the said recited Acts or this Act contained, of any land or ground, and whereon or on any part whereof any person or persons to whom any such l may be granted, or with whom any such agreements may be entered into, may have erected any buildings which in the opinion of the said commissioners were erected in ignorance of the Crown's title to such land, then such leases may be granted or agreements entered into in all respects as by the said recited Acts is provided, but without reference to or taking into consideration the value of the buildings so erected, and with reference only to the value of the land for building-ground, either at the time of the erection of such buildings, or at the time of granting the said lease, or of entering into the said agreement, as the said commissioners may think fit.

3. Leases heretofore granted of ground intended to be applied for building purposes, reserving different rents for different portions of the term, instead of one uniform rent, confirmed.

4. Commissioners, in future exercise of powers given of granting leases for ninety-nine years, to reserve either one uniform rent, or separate rents for separate parts of the term.

5. That where any license or waiver of any forfeiture or power of re-entry reserved in any lease heretofore granted or hereafter to be granted of the possessions or land revenues of the Crown shall at any time after the passing of this Act be given by the said commissioners or any two of them (which they are hereby authorized to do, by any memorandum in writing, without stamp), every such license or waiver shall, unless otherwise expressed, only extend to the actual breach of the particular covenant or condition in respect of which the same is given, or to any specific breach of any proviso or covenant made or to be made, but not so as to prevent any proceeding for any subsequent breach or omission (unless otherwise specified in such license), or to the actual assignment, underlease, or other matter thereby specifically authorized to be done; and all rights under covenants and powers of forfeiture and re-entry in the lease contained shall remain in full force and virtue, and shall be available as against any subsequent breach of covenant or condition, assignment, under-lease, or other matter not specifically authorized or made dispunishable by such license or waiver, in the same manner as if no such license or waiver had been given; and the condition or right of re-entry shall be and remain in all respects as if such license or waiver had not been given, except in respect of the particular matter waived or authorized to be done or omitted.

6. Commissioners may accept a surrender of any lease, and grant separate leases of the hereditaments so surrendered, and apportion the rent reserved by the surrendered lease.

7. And whenever a surrender shall be made for the purpose of taking a new lease, the new lease shall be taken to be a renewal of the surrendered lease.

8. Commissioners may relieve tenants from forfeiture by reason of non-compliance with their covenants to insure buildings in names of the commissioners for the time being; and may designate in writing any persons in whose names such insurance is to be made, instead of the names of the commissioners; or any such insurance may be made in name of Commissioners of Woods, &c. as if they were a corporation, or jointly in such name and the names of any other persons; and such an insurance shall be deemed a compliance with th covenant.

9. Where a tenant of Crow lands has transferred or may hereafter transfer any stock for redemption or purchase of land-tax on such lands in ignorance of the exception in 38 Geo. 3, the commissioners may transfer to such tenant so much stock as shall be a compensation for the stock transferred by such tenant.

10. Such parts of an estate near Millbank, Westminster, now vested in her Majesty, as have not been required for purposes of the Penitentiary to be under the management of Commissioners of Woods, as part of the land revenues of the Crown, and grants, &c. already made confirmed.

11. Commissioners of Woods, &c. empowered to purchase the Grapes Tavern at Kensington, for the purpose of improvements.

12. Powers in 10 Geo. 4, c. 50 (as far as applicable) to extend to the said premises.

13. All moneys paid by the commissioners for said premises, and for purchase of houses in High-street, Kensington, described in schedule to 5 & 6 Vict. c. 19, and costs of forming roads, &c. to be repaid to commissioners before any surplus shall be applicable for purposes of that Act.

Cap. C.

An Act for the Regulation of the Care and Treatment of Lunatics. (August 4, 1845.)

Sec. 1 repeals 2 & 3 Wm. 4, c. 107; 3 & 4 Wm. 4 c. 64; 5 & 6 Wm. 4, c. 22; 1 & 2 Vict. c. 73; 3 Vict. c. 4; and 5 & 6 Vict. c. 87, except so far as the repeal other Acts, and provides that present visitors and clerk shall act under this Act till new ones are appointed; and that licenses heretofore granted shall remain in force, unless, &c.

Secs. 2 to 16 provide for the appointment, the jurisdiction, and the duties of the Commissioners in Lunacy.

Sec. 17 enacts, That in all places not being within the immediate jurisdiction of the commissioners the justices for the county or borough assembled in general or quarter sessions shall have the same authority within their respective counties or borough to license houses for the reception of lunatics as the commissioners within their immediate jurisdiction and that the said justices shall, at the Michaelmas general or quarter sessions in every year, appoint three or more justices, and also one physician surgeon, or apothecary, or more, to act as visitors of every or any house or houses licensed for the reception of lunatics within the said counties or boroughs respectively; and such visitors shall at their first meeting take the oath required by this Act to be taken by the commissioners, *mutatis mutandis*; such oath to be administered by a justice.

18. That in case at any time of the death, inability disqualification, resignation, or refusal to act of any person so appointed a visitor as aforesaid, it shall be lawful for the justices of the county or borough, at any general or quarter sessions, to appoint a visitor in the room of the person who shall die, or be unable or be disqualified, or resign, or refuse to act a aforesaid.

19. That a list of the names, places of abode, occupations, or professions of all visitors appointed as hereinbefore is directed shall, within fourteen days from the date of their respective appointments, be published by the clerk of the peace of the county or borough for which they shall be respectively appointed in some newspaper commonly circulated within the same county or borough, and shall, within three days from the date of their respective appointments, be sent by the clerk of the peace to the commissioners and every clerk of the peace making default in either of the respects aforesaid shall for every such default forfeit a sum not exceeding two pounds.

20. That every such visitor as aforesaid, being a physician, surgeon, or apothecary, shall be paid out of the moneys or funds hereinafter mentioned for every day during which he shall be employed in executing the duties of this Act such sum as the justices of the county or borough shall in general or quarter sessions direct.

21. That the clerk of the peace, or some other person to be appointed by the justices for the county or borough in general or quarter sessions, shall act as clerk to the visitors so appointed as aforesaid, and such clerk shall summon the visitors to meet at such time and place, for the purpose of executing the duties of this Act, as the said justices in general or quarter sessions shall appoint; and every such appointment, summons, and meeting shall be made and held as privately as may be, and in such manner that no proprietor, superintendent, or person interested in or employed about or connected with any house to be visited shall have notice of such intended visitation; and such clerk to the visitors shall, at their first meeting, take the oath required by this Act to be taken by the secretary of the commissioners, *mutatis mutandis*, such oath to be administered by one of the visitors, being a justice; and the name, place of abode, occupation, and profession of the clerk to the visitors (whether the same shall be the clerk of the peace or any other person) shall within fourteen days after the appointment be published by the clerk of the peace for the county or borough in some newspaper commonly circulated therein, and within three days from the date of the appointment be communicated by the said clerk of the peace to the commissioners, and every clerk of the peace making default in either of the respects aforesaid shall for every such default forfeit a sum not exceeding two pounds; and every such clerk to the visitors shall be allowed such salary or remuneration for his services (to be paid out of the moneys or funds hereinafter mentioned) as the justices for the county or borough shall in general or quarter sessions direct.

Sec. 22 enacts that the clerk of the visitors may, with consent of one of the visitors, being a justice, at his own cost, employ an assistant.

23. That no person shall be or act as a commissioner, or visitor, or secretary, or clerk to the commissioners, or clerk or assistant clerk to any visitors, or act in granting any license, who shall then be, or shall within one year then next preceding have been, directly or indirectly interested in any house licensed for the reception of lunatics, or the profits of such reception; and no physician or surgeon (being a commissioner), and no physician, surgeon, or apothecary (being a visitor) shall sign any certificate for the admission of any patient into any licensed house or hospital, or shall professionally attend upon any patient in any licensed house or hospital, unless he be directed to visit such patient by the person upon whose order such patient has been received into such licensed house or hospital, or by the Lord Chancellor, or her Majesty's principal Secretary of State for the time being for the Home Department, or by a committee appointed by the Lord Chancellor; and if any such commissioner, or visitor, or secretary or clerk to the commissioners, or clerk or assistant clerk to any visitors, shall after his appointment be or become so interested in any house licensed for the reception of lunatics, or the profits of such reception, such commissioner, visitor, secretary, or clerk, or assistant clerk, as the case may be, shall immediately thereupon be disqualified from acting, and shall cease to act in such capacity; and if any person, being disqualified as aforesaid, shall take the office of commissioner, visitor, secretary, clerk, or assistant clerk or being a commissioner, visitor, secretary, clerk, or assistant clerk, shall become disqualified as aforesaid, and shall afterwards continue to act in such capacity, such person shall be guilty of a misdemeanor; and if any physician or surgeon (being a commissioner), or any physician, surgeon, or apothecary (being a visitor), shall sign any certificate for the admission of any patient into any licensed house or hospital, or shall professionally attend any patient in any licensed house or hospital (except as aforesaid), such physician, surgeon, or apothecary (as the case may be) shall for each offence against this provision forfeit the sum of ten pounds.

24. That every person who shall desire to have a house licensed for the reception of lunatics shall give a notice, if such house be situate within the immediate jurisdiction of the commissioners, to the commissioners, and if elsewhere, to the clerk of the peace for the county or borough in which such house is situate, fourteen clear days at the least prior to some quarterly or other meeting of the commissioners, or to some general or quarter sessions for such county or borough, as the case may be; and such notice shall contain the true Christian and surname, place of abode, and occupation of the person to whom the license is desired to be granted, and a true and full description of his estate or interest in such house; and in case the person to whom the license is desired to be granted does not propose to reside himself in the licensed house, the true Christian and surname and occupation of the superintendent who is to reside therein; and such notice, when given for any house which shall not have been previously licensed, shall be accompanied by a plan of such house, to be drawn upon a scale of not less than one-eighth of an inch to a foot, with a description of the situation thereof, and the length, breadth, and height of and a reference by a figure or letter to every room and apartment therein, and a statement of the quantity of land, not covered by any building, annexed to such house, and appropriated to the exclusive use, exercise, and recreation of the patients proposed to be received therein, and also a statement of the number of patients proposed to be received into such house, and whether the license so applied for is for the reception of male or female patients, or of both, and if for the reception of both, of the number of each sex proposed to be received into such house, and of the means by which the one sex may be kept distinct and apart from the other; and such notice, plan, and statement, when sent to the clerk of the peace, shall be laid by him before the justices of the county or borough at such time as they shall take into their consideration the application for such license: provided always, that it shall be lawful for any person to whom a license shall be granted to remove the superintendent named in the notice, and at any time or times to appoint another superintendent, upon giving a notice containing the true Christian and surname and occupation of the new superintendent to the commissioners or the visitors of the house, as the case may require: provided always, that all plans heretofore delivered shall be deemed sufficient for the purposes of this Act, if the commissioners or justices, as the case may be, shall so think fit.

25. That no one license shall include or extend to more than one house; but if there be any place or building detached from a house to be licensed, but not separated therefrom by ground belonging to any other person, and if such place or building be specified, delineated, and described in the notice, plan, and statement hereinbefore required to be given, in the same manner in all particulars as if the same had formed part of such house, then such detached place or building may be included in the license for the house, if the commissioners or justices, as the case may be, shall think fit, and if so included, shall be considered part of such house for the purposes of this Act: provided always, that no person hereafter receiving a license for the first time shall receive any license for the reception of lunatics in any lunatic asylum who shall not reside on the premises for which he is licensed.

26. That no addition or alteration shall be made to, in, or about any licensed house, or the appurtenances, unless previous notice in writing of such proposed

addition or alteration, accompanied with a plan of such addition or alteration, to be drawn upon the scale aforesaid, and to be accompanied by such description as aforesaid, shall have been given by the person to whom the license shall have been granted to the commissioners or to the clerk of the peace, as the case may be, and the consent in writing of the commissioners, or of two of the visitors, as the case may be, shall have been previously given.

27. That if any person shall wilfully give an untrue or incorrect notice, plan, statement, or description of any of the things hereinbefore required to be included in any notice, plan, or statement, he shall be guilty of a misdemeanor.

28. That in every case in which a license for the reception of lunatics shall after the passing of this Act be granted by any justices, the clerk of the peace for the county or borough shall, within fourteen days after such license shall have been granted, send a copy thereof to the commissioners; and any clerk of the peace omitting to send such copy with n such time shall for every such omission forfeit a sum not exceeding two pounds.

29. That in every case in which any person shall apply for the renewal of a license already granted or hereafter to be granted, such person, if applying to the commissioners, shall with such application transmit to the commissioners, and if applying to any justices shall with such application transmit to the clerk of the peace for the county or borough, and also at the same time to the commissioners, a statement signed by the person so applying, containing the names and number of the patients of each or either sex then detained in such house, and distinguishing whether such patients respectively are private or pauper patients; and any person who shall hereafter obtain the renewal of a license without making such return or returns shall for every such offence forfeit the sum of ten pounds; and any person who shall make any such return untruly shall be guilty of a misdemeanor.

30. That every license shall, as nearly as conveniently may be, be according to the form in the schedule (A) annexed to this Act, and shall be stamped with a ten-shilling stamp, and shall be under the seal of the commissioners, if granted by them, and if by any justices, under the hands and seals of three or more such justices in general or quarter sessions assembled, and shall be granted for such period, not exceeding thirteen calendar months, as the commissioners or justices, as the case may be, shall think fit.

31. That no license shall be granted or visitor or clerk appointed by the justices for any borough without the consent in writing of the recorder of such borough to such grant or appointment.

Secs. 32 to 38 relate to the payments for the licenses and the application of the moneys.

39. That if any person to whom a license shall have been granted under this Act, or under any of the Acts hereinbefore repealed, shall by sickness or other sufficient reason become incapable of keeping the licensed house, or shall die before the expiration of the license, it shall be lawful for the commissioners or for any three justices for the county or borough, as the case may be, if they shall respectively think fit, by writing indorsed on such license, under the seal of the commissioners or under the hands of such three justices, to transfer the said license, with all the privileges and obligations annexed thereto, for the term then unexpired, to such person as shall at the time of such incapacity or death be the superintendent of such house, or have the care of the patients therein, or to such other person as the commissioners or such justices respectively shall approve, and in the meantime such license shall remain in force and have the same effect as if granted to the superintendent of the house; and in case a license has been or shall be granted to two or more persons, and before the expiration thereof any or either of such persons shall die, leaving the other or others surviving, such license shall remain in force and have the same effect as if granted to such survivors or survivor.

40. That if any licensed house shall be pulled down or occupied under the provisions of any Act of Parliament, or shall by fire, tempest, or other accident, be rendered unfit for the accommodation of lunatics, or if the person keeping such house shall desire to transfer the patients to another house, it shall be lawful for the commissioners (if the new house shall be within their immediate jurisdiction), at any quarterly or other meeting, or for any two or more of the visiting justices for the county or borough within which the new house is situate, as the case may be, upon the payment to the secretary of the commissioners, or the clerk of the peace, as the case may be, of not less than one pound for the license (exclusive of the sum to be paid for the stamp) to grant to the person whose house has been so pulled down, occupied, or so rendered unfit, or who shall desire to transfer his patients as aforesaid, a license to keep such other house for the reception of lunatics, for such time as the commissioners or the said justices, as the case may be, shall think fit: provided always, that the same notice of such intended change of house, and the same plans and statements and descriptions of and as to such intended new house, shall be given as are required when application is first made for a license for any house, and shall be accompanied by a statement in writing of the cause of such change of house; and that, except in cases in which the change of house is occasioned by fire or tempest, seven clear days' previous notice of the intended removal shall be sent, by the person to whom the license for keeping the original house shall have been granted, to the person who signed the order for the reception of each patient, not being a pauper, or the person by whom the last payment on account of such patient shall have been made, and to the relieving officer or overseer of the union or parish to which each patient, being a pauper, is chargeable, or the person by whom the last payment, on account of such payment shall have been made.

41. That if a majority of the justices of any county or borough in general or quarter sessions assembled shall recommend to the Lord Chancellor that any license granted by the justices for such county or borough, either before or after the passing of this Act, shall be revoked, it shall be lawful for the Lord Chancellor to revoke the same by an instrument under his hand and seal, such revocation to take effect at a period to be named in such instrument, not exceeding two calendar months from the time a copy or notice thereof shall have been published in the *London Gazette*; and a copy or notice of such instrument of revocation shall be published in the *London Gazette*, and shall, before such publication, be transmitted to the person to whom such license shall have been granted, or to the resident superintendent of the licensed house, or be left at the licensed house: provided always, that in case of any such revocation being recommended to the Lord Chancellor, notice thereof in writing shall, seven clear days previously to the transmission of such recommendation to the Lord Chancellor, be given to the person the revocation of whose license shall be recommended, or to the resident superintendent of the licensed house, or shall be left at the licensed house.

Sec. 42 contains similar provisos as to recommendations of the commissioners.

Sec. 43 enacts that hospitals receiving lunatics shall have their regulations printed, and a resident medical attendant, and to be registered, upon pain of a penalty of a sum not exceeding twenty pounds.

44. That after the passing of this Act it shall not be lawful for any person to receive two or more lunatics into any house, unless such house shall be an asylum or an hospital registered under this Act, or a house for the time being duly licensed under this Act, or one of the Acts hereinbefore repealed; and any person who shall receive two or more lunatics into any house other other than a house for the time being duly licensed as aforesaid, or an asylum or an hospital duly registered under this Act, shall be guilty of a misdemeanor.

45. That no person (not a pauper), whether being or represented to be a lunatic, or only a boarder or lodger, in respect of whom any money shall be received or agreed to be received for board, lodging, or any other accommodation, shall be received into or detained in any licensed house, and no person (not a pauper) shall be received into or detained as a lunatic in any hospital, without an order under the hand of some person according to the form and stating the particulars required in schedule (B) annexed to this Act, nor without the medical certificates, according to the form in schedule (C) annexed to this Act, of two physicians, surgeons, or apothecaries who shall not be in partnership, and each of whom shall separately from the other have personally examined the person to whom it relates, not more than seven clear days previously to the reception of such person into such house or hospital, and shall have signed and dated the same on the day on which such person shall have been so examined; and every person who shall receive or detain any such person as aforesaid in any such house or hospital as aforesaid, without such order and medical certificates as aforesaid, and any physician, surgeon, or apothecary who shall knowingly sign any such medical certificate as aforesaid which shall untruly state any of the particulars required by this Act, shall be guilty of a misdemeanor.

46. Provided always, and be it enacted, That every physician, surgeon, or apothecary signing such certificate shall specify therein any fact or facts (whether arising from his own observation or from the information of any other person) upon which he has formed his opinion that the person to whom such certificate relates is a lunatic or an insane person, or an idiot, or a person of unsound mind.

47. Provided always, nevertheless, and be it enacted, That any person (not a pauper) may, under special circumstances, be received into any such house or hospital as aforesaid, upon such order as aforesaid, with the certificate of one physician, surgeon, or apothecary alone, provided that such order state the special circumstances which have prevented the person from being examined by two medical practitioners; but in every such case another such certificate shall be signed by some other physician, surgeon, or apothecary, not being connected with any such house or hospital, who shall have especially examined such person within three days after his reception into such house or hospital; and every person who, having received any person into any house or hospital as aforesaid upon the certificate of one medical practitioner alone, as aforesaid, shall keep or permit such person to remain in such house or hospital beyond the said period of three days without such further certificate as aforesaid, shall be guilty of a misdemeanor.

48. That no pauper shall be received into or detained in any licensed house, or any hospital, without an order and statement according to the form and stating the particulars required in schedule (D) annexed to this Act, under the hands of one justice or an officiating clergyman, with the relieving officer or one of the overseers of the union or parish from which such pauper shall be sent (which said justice or which said clergyman and relieving officer or overseer, as the case may be, shall have personally examined such pauper previously to signing such order), nor without a medical certificate according to the form in the said schedule (D) annexed to this Act, and dated not more than seven clear days previously to the reception of such pauper into such house or hospital; and every such certificate shall be signed by a physician, surgeon, or apothecary (not being the medical officer of such parish or union) on the day whereon he shall examine such pauper; and every person who shall receive any pauper into any such house or hospital as aforesaid without such order and medical certificate as last aforesaid shall be guilty of a misdemeanor.

49. That no physician, surgeon, or apothecary who, or whose father, brother, son, or partner, is wholly or partly the proprietor of or a regular professional attendant in a licensed house or an hospital, shall sign any certificate for the reception of a patient into such house or hospital; and no physician, surgeon, or apothecary who, or whose father, brother, son, or partner, shall sign the order hereinbefore required for the reception of a patient, shall sign any certificate for the reception of the same patient; and any physician, surgeon, or apothecary who shall sign any certificate contrary to any of the provisions hereinbefore contained, or without having complied with all the provisions hereby required in the case of the patient to whom the same shall relate, or who shall in such certificate describe his medical qualification untruly, or shall untruly state any thing therein, shall be guilty of a misdemeanor.

50. That every proprietor or superintendent who shall receive any patient into any licensed house or any hospital shall, within two days after the reception of such patient, make an entry with respect to such patient in a book to be kept for that purpose, to be called "The Book of Admissions," according to the form and containing the particulars required in schedule (E) annexed to this Act, so far as he can ascertain the same, except as to the form of the mental disorder, and except also as to the discharge or death of the patient, which shall be made when the same shall happen; and every person who shall so receive any such patient, and shall not within two days thereafter make such entry as aforesaid (except as aforesaid), shall forfeit a sum not exceeding two pounds; and every person who shall knowingly and willingly in any such entry untruly set forth any of the particulars shall be guilty of a misdemeanor.

51. That the form of the mental disorder of every patient received into any licensed house or any hospital shall within seven days after his reception be entered in the said book of admissions by the medical attendant of such house or hospital: and every such medical attendant who shall omit to make any such entry within the time aforesaid shall for every such offence forfeit a sum not exceeding two pounds.

52. That the proprietor or resident superintendent of every licensed house (whether licensed by the commissioners or by any justices), and the superintendent of every hospital, shall, after two clear days, and before the expiration of seven clear days from the day on which any patient shall have been received into such house or hospital, transmit a copy of the order and medical certificates or certificate on which such person shall have been received, and also a notice and statement according to the form in schedule (F) annexed to this Act, to the commissioners; and the proprietor or resident superintendent of every house licensed, within the jurisdiction of any visitors, shall also, within the same period, transmit another copy of such order, and certificates or certificate, and a duplicate of such notice and statement, to the clerk of the visitors; and every proprietor or superintendent of any such house or hospital who shall neglect to transmit such copy, notice, or statement to the commissioners, or (where the same is required) to the clerk of the visitors, shall be guilty of a misdemeanor.

53. That whenever any patient shall escape from any licensed house or any registered hospital, the proprietor or superintendent of such house or hospital shall, within two clear days next after such escape, transmit a written notice thereof to the commissioners, and if such house be within the jurisdiction of any visitors, then also to the clerk of such visitors; and such notice shall state the Christian and surname of the patient who has so escaped, and his then state of mind, and also the circumstances connected with such escape; and if such patient shall be brought back to such house or hospital, such proprietor or resident

superintendent shall, within two clear days next after such person shall be so brought back, transmit a written notice thereof to the commissioners, and also, if such house be within the jurisdiction of any visitors, to the clerk of such visitors; and such notice shall state when such person was so brought back, and the circumstances connected therewith, and whether with or without a fresh order and certificates or certificate; and every proprietor or resident superintendent omitting to transmit such notice, whether of escape or of return, shall for every such omission forfeit a sum not exceeding ten pounds.

54. That whenever any patient shall be removed or discharged from any licensed house, or any hospital, or shall die therein, the proprietor or superintendent of such house or hospital shall, within two clear days next after such removal, discharge, or death, make an entry thereof in a book to be kept for that purpose according to the form, and stating the particulars in schedule (G 1) annexed to this Act, and shall also within the same two days transmit a written notice thereof, and also of the cause of his death, to the commissioners, and also, if such house shall be within the jurisdiction of any visitors, to the clerk of such visitors, according to the form and containing the particulars in schedule (G 2) annexed to this Act: and every proprietor or superintendent of any such house or hospital who shall neglect to make such entry or transmit such notice or notices, or shall therein set forth any thing untruly, shall be guilty of a misdemeanor.

55. That in case of the death of any patient in any licensed house or any hospital, a statement of the cause of the death of such patient, with the name of any person present at the death, shall be drawn up and signed by the medical attendant of such house or hospital, and a copy thereof, duly certified by the proprietor or superintendent of such house or hospital, shall by him be transmitted to the commissioners, and also to the person signing the order for such patient's confinement, and to the registrar of deaths for the district, and if such house be within the jurisdiction of any visitors, then also to the clerk of such visitors, within forty-eight hours after the death of such patient; and every medical attendant, proprietor, or superintendent who shall neglect or omit to draw up, sign, certify, or transmit such statement as aforesaid shall for every such neglect or omission forfeit and pay a sum not exceeding fifty pounds.

56. That if any superintendent, officer, nurse, attendant, servant, or other person employed in any licensed house or registered hospital shall in any way abuse or ill-treat any patient confined therein, or shall wilfully neglect any such patient, he shall be deemed guilty of a misdemeanor; and that in the event of the release of any person from confinement in any asylum or private house who shall consider himself to have been unjustly confined, a copy of the certificates and order upon which he has been confined shall at his request be furnished to him or to his attorney by the clerk to the commissioners, without any fee or reward for the same; and it shall be lawful for the Home Secretary, on the report of the commissioners or visitors of any asylums, to direct her Majesty's Attorney General to prosecute on the part of the Crown any person who shall have been concerned in the unlawful taking or confinement of any of her Majesty's subjects as an insane patient, and likewise any person who shall have been concerned in the neglect or ill-treatment of any patient or person so confined.

Sec. 57 enacts that houses having 100 patients must have a resident medical attendant, and houses having less are to be visited by a medical attendant.

Sec. 58 enacts that the commissioners and visitors, in houses licensed for less than eleven persons may lessen the number of medical visits.

Secs. 59 and 60 provide for certain medical case-books to be kept.

61. That every licensed house shall, without any previous notice, be visited by two at least of the commissioners (one of whom shall be a physician or surgeon, and the other a barrister) four times at the least in every year, if such house shall be within the immediate jurisdiction of the commissioners, and if not, twice at least in every year, and every hospital in which lunatics shall be received shall, without any previous notice, be visited by two at least of the said commissioners (one of whom shall be a physician or surgeon, and the other a barrister) once at least in every year; and every such visit shall be made on such day or days, and at such hours of the day, and for such length of time, as the visiting commissioners shall think fit, and also at such other times and days as the said commissioners in lunacy shall direct, and such visiting commissioners, when visiting such house or hospital, may and shall inspect every part of such house or hospital, and every outhouse, place, and building communicating with such house or hospital, or detached therefrom, but not separated by ground belonging to any other person, and every part of the ground or appurtenances held, used, or occupied therewith, and see every patient then confined in such house or hospital, and inquire whether any patient is under restraint, and why, and inspect the order and certificates or certificate for the reception of every patient who shall have been received into such house or hospital since the last visit of the commissioners, and in the case of any house licensed by justices shall consider the observations made in the visitors book for such house by the visitors appointed by the justices, and enter in the visitors book of such house or hospital a minute of the then condition of the house or hospital, and of the patients therein, and the number of patients under restraint, with the reasons thereof, as stated, and such irregularity (if any) as may exist in any such order or certificates as aforesaid, and also whether the previous suggestions (if any) of the visiting commissioners or visitors have or have not been attended to, and any observations which they may deem proper as to any of the matters aforesaid or otherwise, and also, if such visit be the first after the granting a license to the house, shall examine such license, and, if the same be in conformity with the provisions of this Act, sign the same, but if it be informal, enter in such visitors book in what respect such license is informal: provided also, that it shall be lawful for the Lord Chancellor, on a representation by the commissioners setting forth the expediency of such alteration, by any writing under his hand, to direct that any house licensed by justices shall (during such period as he shall therein specify, or until such his direction shall be revoked) be visited by the commissioners once only in the year, and also to direct that any house licensed by the commissioners, and not receiving any pauper patients therein, shall (during such period as he shall therein specify, or until such his direction shall be revoked) be visited by the commissioners twice only in the year.

Sec. 62 enacts that licensed houses, not within the immediate jurisdiction of the commissioners, are to be inspected four times a year at least by the visitors.

Secs. 63 to 69 relate to the visits and inquiries of the visiting commissioners.

70. That it shall be lawful for the commissioners, or any five of them, at any quarterly or special meeting, by any resolution or resolutions under their common seal, or to be entered in a book to be kept for that purpose, and signed by five at least of the commissioners present at such meeting, from time to time to make such orders and rules as they shall think fit for regulating the duties of the commissioners or any of them, or of their secretary, clerks, and servants, or for the due or better performance of the business of the commission: provided nevertheless, that the secretary of the commissioners shall give to every commissioner, so far as circumstances will admit, not less than seven days' notice of every such special meeting, and shall in the summons for such special meeting state the purposes for which the same is intended to be held.

Sec. 71 gives power in certain cases to visit by night.

Sec. 72. The person who signed the order for the reception of a private patient may order his discharge or removal.

73. That if the person who signed the order on which any patient (not being a pauper) was received into any licensed house or into any hospital be incapable by reason of insanity or absence from England, or otherwise, of giving an order for the discharge or removal of such patient, or if such person be dead, then and in any of such cases the husband or wife of such patient, or if there be no such husband or wife, the father of such patient, or if there be no father, the mother of such patient, or if there be no mother, then any one of the nearest of kin for the time being of such patient, or the person who made the last payment on account of such patient, may by any writing under his or her hand give such direction as aforesaid for the discharge or removal of such patient, and thereupon such patient shall be forthwith discharged or removed as the person giving such direction shall direct.

74. That the guardians of any parish or union may by a minute of their board, or an officiating clergyman of any parish not under a board of guardians, and one of the overseers thereof, or any two justices of the county or borough in which such last-mentioned parish is situate, may by writing under the hands respectively of such clergyman and overseer or of such justices direct that any pauper patient belonging to such parish or union, and detained in any licensed house or any hospital, shall be discharged or removed therefrom, and may direct the mode of such discharge or removal; and if a copy of such minute or such writing be produced to the proprietor or superintendent of such licensed house or such hospital, he shall forthwith discharge or remove such patient, or cause or suffer such patient to be discharged or removed accordingly.

Sec. 75 provides that no patient be removed under any of the preceding powers, if certified to be dangerous, unless the commissioners or visitors consent, or for the purpose of transfer to some other asylum.

Sec. 76 enacts that commissioners may discharge any patient confined in a house licensed by themselves.

Sec. 77. That two commissioners may make special visits to discharge any patient confined in a house licensed by justices or in an hospital.

Sec. 78 gives similar powers for two visitors as to houses within their jurisdiction.

79. That every such order by any commissioners or visitors for the discharge of a patient from any house licensed by justices, or from any hospital, shall be signed by them, and that each of such special visits shall be by the same commissioners or visitors; and that it shall not be lawful for such commissioners or visitors to order the discharge of any patient from any such last-mentioned house or hospital without having previously, if the medical attendant of such house or hospital shall have tendered himself for that purpose, examined him as to his opinion respecting the fitness of such patient to be discharged; and if such commissioners or visitors shall, after so examining such medical attendant, discharge such patient, and such medical attendant shall furnish them with any statement in writing containing his reasons against the discharge of such patient, they shall forthwith transmit such statement to the commissioners or to the clerk of the visitors, as the case may require, to be kept and registered in a book for that purpose.

80. That not less than seven days shall intervene between the first and second of such special visits; and that such commissioners or visitors shall, seven days previously to the second of such special visits, give notice thereof, either by post or by an entry in the patients book, to the proprietor or superintendent of the house licensed by justices or of the hospital in which the patient intended to be visited is detained; and that such proprietor or superintendent shall forthwith, if possible, transmit by post a copy of such notice, in the case of a patient not being a pauper, to the person by whose authority such patient was received into such house, or by whom the last payment on account of such patient was made, and in the case of a pauper, to the guardians of his parish or union, or if there be no such guardians, to one of the overseers for the time being of his parish, and also in the case of any patient detained in a house licensed by justices, to the clerk of the visitors of such house.

Sec. 81. The preceding powers not to extend to persons found lunatic by inquisition, or confined under authority of Secretary of State.

Sec. 82 gives power for visitors and visiting commissioners to regulate the dietary of pauper patients.

83. That if any person shall apply to any visitor in order to be informed whether any particular person is confined in any licensed house within the jurisdiction of such visitor, the said visitor, if he shall think it reasonable to permit such inquiry to be made, shall sign an order to the clerk of the visitors, and the said clerk shall, on receipt of such order, and on payment to him of a sum not exceeding seven shillings for his trouble, make search amongst the returns made to him in pursuance of this Act whether the person inquired after is or has been within the then last twelve calendar months confined in any licensed house within the jurisdiction of such visitor; and if it shall appear that such person is or has been so confined, the said clerk shall deliver to the person so applying a statement in writing, specifying the situation of the house in which the person so inquired after appears to be or to have been confined, and of the name of the proprietor or resident superintendent thereof, and also the date of the admission of such person into such licensed house, and (in case of his having been removed or discharged) the date of his removal or discharge therefrom.

84. That if any person shall apply to any commissioner in order to be informed whether any particular person is confined in any licensed house, or in any hospital, asylum, or other place by this Act made subject to the visitation of the commissioners, such commissioner, if he shall think it reasonable to permit such inquiry to be made, shall sign an order to the secretary of the commissioners, and the secretary shall, on the receipt of such order, and on payment to him of a sum not exceeding seven shillings (to be applied as hereinbefore provided), make search amongst the returns made in pursuance of this Act, or of any of the Acts hereby repealed, whether the person inquired after is or has been within the last twelve calendar months confined in any house, hospital, asylum, or place by this Act made subject to the visitation of the commissioners; and if it shall appear that such person is or has been so confined, the secretary shall deliver to the person so applying a statement in writing, specifying the situation of the house, hospital, asylum, or place in which the person so inquired after appears to be or to have been confined, and also (so far as the said secretary can ascertain the same from any register or return in his possession) the name of the proprietor, superintendent, or principal officer of such house, hospital, asylum, or place, and also the date of the admission of such person into such licensed house, hospital, asylum, or other place, and (in case of his having been removed or discharged) the date of his removal or discharge therefrom.

85. That it shall be lawful for any one of the commissioners, as to patients confined in any house, hospital, or other place (not being a gaol) hereby authorized to be visited by the commissioners, and also for any one of the visitors of any licensed house as to

patients confined in such house, at any time to give an order in writing under the hand of such one commissioner or visitor for the admission to any patient of any relation or friend of such patient (or of any medical or other person whom any relation or friend of such patient shall desire to be admitted to him), and such order of admission may be either for a single admission, or for an admission for any limited number of times, or for admission generally at all reasonable times, and either with or without any restriction as to such admission or admissions being in the presence of a keeper or not, or otherwise; and if the proprietor or superintendent of any such house, hospital, or place shall refuse admission to, or shall prevent or obstruct the admission to any patient of, any relation, friend, or other person who shall produce such order of admission as aforesaid, he shall for every such refusal, prevention, or obstruction forfeit a sum not exceeding twenty pounds.

Sec. 86 empowers proprietor or superintendent, with consent of two commissioners or visitors, to take or send a patient to any place for his health.

Sec. 87. In case of the removal of a patient, or of his escape and recapture within fourteen days, the original order for his reception to remain in force.

Sec. 88. Commissioners must report to the Lord Chancellor periodically.

Sec. 89 constitutes the private committee.

90. That no person (unless he be a person who derives no profit from the charge, or a committee appointed by the Lord Chancellor) shall receive to board or lodge in any house, other than an hospital registered under this Act, or an asylum, or a house licensed under this Act, or under one of the Acts hereinbefore repealed, or take the care or charge of any one patient as a lunatic or alleged lunatic, without the like order and medical certificates in respect of such patient as are hereinbefore required on the reception of a patient (not being a pauper) into a licensed house; and that every person (except a person deriving no profit from the charge, or a committee appointed by the Lord Chancellor) who shall receive to board or lodge in any unlicensed house, not being a registered hospital or an asylum, or take the care or charge of any one patient as a lunatic or alleged lunatic, shall, within seven clear days after so receiving or taking such patient, transmit to the secretary of the commissioners a true and perfect copy of the order and medical certificates on which such patient has been so received, and a statement of the date of such reception, and of the situation of the house into which such patient has been received, and of the Christian and surname and occupation of the occupier thereof and of the person by whom the care and charge of such patient has been taken; and every such patient shall at least once in every two weeks be visited by a physician, surgeon, or apothecary not deriving, and not having a partner, father, son, or brother who derives, any profit from the care or charge of such patient; and such physician, surgeon, or apothecary shall enter in a book, to be kept at the house or hospital for that purpose, to be called "The Medical Visitation Book," the date of each of his visits, and a statement of the condition of the patient's health, both mental and bodily, and of the condition of the house in which such patient is, and such book shall be produced to the visiting commissioner on every visit, and shall be signed by him as having been so produced; and the person by whom the care or charge of such patient has been taken, or into whose house he has been received as aforesaid, shall transmit to the secretary of the commissioners the same notices and statements of the death, removal, escape, and re-capture of such lunatic, and within the same periods, as are hereinbefore required in the case of the death, removal, escape, and re-capture of a patient (not being a pauper) received into a licensed house; and that every person who shall receive into an unlicensed house, not being a registered hospital nor an asylum, or take the care or charge of any person therein as a lunatic, without first having such order and medical certificates as aforesaid, or who, having received any such patient, shall not within the several periods aforesaid transmit to the secretary of the commissioners such copy, statement, and notices as aforesaid, or shall fail to cause such patient to be so visited by a medical attendant as aforesaid, and every such medical attendant who shall make an untrue entry in the said Medical Visitation Book, shall be guilty of a misdemeanor.

91. That the secretary to the commissioners shall preserve every copy transmitted as aforesaid of the order and certificates for the reception of any patient as a lunatic into an unlicensed house, and every statement and notice which may be transmitted to such secretary with respect to any such patient as aforesaid, and shall enter the same (in such form as the private committee shall direct) in a book to be kept for that purpose, to be called "The Private Register," and such private register shall be kept by such secretary in his own custody, and shall be inspected only by the members for the time being of the said private committee, and by such other persons as the Lord Chancellor shall by writing under his hand appoint.

Sec. 92 empowers members of the private committee to visit unlicensed houses receiving a single patient and report.

Sec. 93. The Lord Chancellor, on such report and the representation of the private committee, may order a lunatic to be removed.

Sec. 94. Commissioners to report if property of lunatics be not duly protected or applied.

Sec. 95 provides that the Lord Chancellor shall direct the Master in Lunacy to report as to the lunacy of any person detained as a lunatic, and to appoint guardians of his person and estate, and direct the application of his income; but the Lord Chancellor may still issue a commission *de lunatico inquirendo*.

Secs. 96 to 98 relate to Masters in Lunacy, and orders and regulations, fees to be fixed by Lord Chancellor, and payment of Master's expenses.

99. That every proprietor and superintendent of a licensed house or registered hospital, and every other person hereby or by any of the Acts hereinbefore repealed authorized to receive or take charge of a lunatic upon an order, and who shall receive or has received a proper order, in pursuance of this Act or any of the said repealed Acts, accompanied with the required medical certificates or certificate, for the reception or taking charge of any person as a lunatic, and the assistants and servants of such proprietor, superintendent, or other person, shall have power and authority to take charge of, receive, and detain such patient until he shall die, or be removed or discharged by due authority, and in case of the escape at any time or times of such patient, to retake him at any time within fourteen days after such escape, and again to detain him as aforesaid; and in every writ, indictment, information, action, and other proceeding which shall be preferred or brought against any such proprietor, superintendent, or other person authorized as aforesaid, or against any assistant or servant of any such proprietor, superintendent, or authorized person, for taking, confining, detaining, or retaking any person as a lunatic, the party complained of may plead such order and certificates or certificate in defence to any such writ, indictment, information, action, or other proceeding as aforesaid, and such order and certificates or certificate shall, as respects such party, be a justification for taking, confining, detaining, or retaking such lunatic or alleged lunatic.

100. That it shall be lawful for the commissioners, or any two of them, and also for the visitors of any licensed house, or any two of such visitors, from time to time, as they shall see occasion, to require, by summons under the common seal of the commission, if by the commissioners, and if by two only of the commissioners or by two visitors, then under the hands and seals of such two commissioners or two visitors as the case may be (according to the form in schedule (I) annexed to this Act, or as near thereto as the case will permit), any person to appear before them to testify on oath the truth touching any matters respecting which such commissioners and visitors respectively are by this Act authorized to inquire (which oath such commissioners or visitors are hereby empowered to administer); and every person who shall not appear before such commissioners or visitors pursuant to such summons, or shall not assign some reasonable excuse for not so appearing, or shall appear and refuse to be sworn or examined, shall, on being convicted thereof before one of her Majesty's justices for the county or borough within which the place at which such person shall have been by such summons required to appear and give evidence is situate, shall for every such neglect or refusal forfeit a sum not exceeding fifty pounds.

101. That it shall be lawful for any commissioners or visitors who shall summon any person to appear and give evidence as aforesaid to direct the secretary of the commissioners or the clerk of such visitors, as the case may be, to pay to such person all reasonable expenses of his appearance and attendance in pursuance of such summons, the same to be considered as expenses incurred by such commissioners and visitors respectively in the execution of this Act, and to be taken into account and paid accordingly.

102. That every complaint or information of or for any offence against this Act, where any pecuniary penalty is hereby imposed (except when hereby otherwise provided for), may be made before one justice; and when any person shall be charged upon oath before a justice for any such offence against this Act, such justice may summon the person charged to appear at a time and place to be named in such summons, and if he shall not appear accordingly, and upon proof of the due service of the summons (either personally or by leaving the same at his last or usual place of abode), any two justices may either proceed to hear and determine the case, or may issue their warrant for apprehending such person and bringing him before any two justices; and any two justices shall and may, upon the appearing of such person pursuant to such summons, or upon such person being apprehended with such warrant, or upon the non-appearance of such person, hear the matter of every such complaint or information, and make any such determination thereon as such justices shall think proper; and, upon conviction of any person such justices may, if they shall think fit, reduce the amount of the penalty by this Act imposed for such offence to any sum not less than one fourth of the amount thereof, and shall and may issue a warrant under their hands and seals for levying such penalty or reduced penalty, and all costs and charges of such summons, warrant, and hearing, and all incidental costs and charges, by distress and sale of the goods and chattels of the person so convicted; and it shall be lawful for any such two justices to order any person so convicted to be detained and kept in the custody of any constable or other peace officer until return can be conveniently made to such warrant of distress, unless the said offender shall give security, to the satisfaction of such justices, by way of recognizance or otherwise, for his appearance before such justices on such day as shall be appointed for the return of such warrant of distress, such day not being more than seven days from the time of taking any such security; but if upon the return of such warrant of distress it shall appear that no sufficient distress can be had whereupon to levy the said penalty and such costs and charges as aforesaid, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such justices, either by the confession of the offender or otherwise, that the offender hath not sufficient goods and chattels whereupon the said penalty, costs, and charges may be levied, such justices shall and may, by warrant under their hands and seals, commit such offender to the common gaol or house of correction for any term not exceeding three calendar months, unless such penalty, and all such costs and charges as aforesaid, shall be sooner paid; and all such penalties, when recovered, shall be paid, when the complaint or information shall be laid or brought by, or by the direction of, the commissioners, to the secretary of the commissioners, to be by him applied and accounted for as hereinbefore directed with respect to moneys received for licenses granted by the commissioners; and when the complaint or information shall be laid or brought by the direction of any visitors, to the clerk of the peace for the county or borough, to be by him applied and accounted for as hereinbefore directed with respect to moneys received for licenses granted by the justices of such county or borough; and the overplus (if any) arising from such distress and sale, after payment of the penalty, and all costs and charges as aforesaid, shall be paid, upon demand, to the owner of the goods and chattels so distrained.

103. That the justices before whom any person shall be convicted of any offence against this Act for which a pecuniary penalty is imposed may cause the conviction to be drawn up in the following form, or in any other form to the same effect, as the case may require; and that no conviction under this Act shall be void through want of form:

Be it remembered, that on the day of , in the year of our Lord , at in the county [*or* borough] of , A B was convicted before us of her Majesty's justices of the peace for the said county [*or* borough], for that he the said did , and we the said adjudge the said for his offence to pay the sum of .

104. That any person who shall think himself aggrieved by order or determination of any justices under this Act may, within four calendar months after such order made or given, appeal to the justices at general or quarter sessions, the person appealing having first given at least fourteen clear days' notice in writing of such appeal, and the nature and matter thereof, to the person appealed against, and forthwith after such notice entering into a recognizance before some justice, with two sufficient sureties, conditioned to try such appeal, and to abide the order and award of the said court thereupon; and the said justices at general or quarter sessions, upon the proof of such notice and recognizance having been given and entered into, shall in a summary way hear and determine such appeal, or, if they think proper, adjourn the hearing thereof until the next general or quarter sessions, and, if they see cause, may mitigate any penalty to not less than one-fourth of the amount imposed by this Act, and may order any money to be returned which shall have been levied in pursuance of such order or determination, and shall and may also award such further satisfaction to be made to the party injured, or such costs to either of the parties as they shall judge reasonable and proper; and all such determinations of the said justices at general or quarter sessions shall be final, binding, and conclusive upon all parties to all intents and purposes whatsoever.

105. That if any action or suit shall be brought against any person for any thing done in pursuance of this Act or of any of the Acts hereby repealed, the same shall be commenced within twelve calendar months next after the release of the party bringing the action, and shall be laid or brought in the county or borough where the cause of action shall have arisen, and not elsewhere; and the defendant in every such action or suit may, at his election, plead specially or the general issue not guilty, and give this Act and the special matter in evidence at any trial to be had thereupon, and that the same was done in pursuance and by the authority of this Act; and if the same shall appear to be so done, or that such

action or suit shall be brought in any other county or borough than as aforesaid, or shall not have been commenced within the time before limited for bringing the same, then the jury shall find a verdict for the defendant; and upon a verdict being so found, or if the plaintiff shall be nonsuited, or discontinue his action or suit after the defendant shall have appeared, or if upon demurrer judgment shall be given against the plaintiff, then the defendant shall recover double costs, and have such remedy for recovering the same as any defendant hath or may have in any other cases by law.

106. That it shall be lawful for the secretary of the commissioners, on their order, to prosecute any person for any offence against the provisions of this Act, and to sue for and recover any penalty to which any person is made liable by this Act; and all penalties sued for and recovered by such secretary shall be paid to him, and be by him applied and accounted for as hereinbefore directed with respect to moneys received for licenses granted by the commissioners; and that it shall be lawful for the clerk of any visitors, on their order, to prosecute any person for any offence against the provisions of this Act committed within the jurisdiction of such visitors, and to sue for and recover any penalty to which any person within the jurisdiction of such visitors is made liable by this Act; and all penalties sued for and recovered by any such clerk shall be paid to him, and be by him paid to the clerk of the peace for such county or borough, and be by such clerk of the peace applied and accounted for as hereinbefore directed with respect to moneys received for licenses by such clerk of the peace; and it shall not be lawful for any one to prosecute any person for any offence against the provisions of this Act, or to sue for any penalty to which any person is made liable by this Act, except by order of the commissioners or of visitors having jurisdiction in the place where the cause of prosecution has arisen or the penalty been incurred, or with the consent of her Majesty's Attorney-General or Solicitor-General for England for the time being.

Sec. 107. Offenders against the provisions of any of the repealed Acts may be prosecuted under this Act.

108. That when any person shall be proceeded against, under the provisions of this Act, for omitting to transmit or send any copy, list, notice, statement, or other document hereinbefore required to be transmitted or sent by such person, and such person shall prove by the testimony of one witness upon oath that the copy, list, notice, statement, or [illegible] in respect of which such proceeding is taken [illegible] put into the post in due time, or in case of d[illegible] required to be transmitted or sent to the commissioners or a clerk of the peace left at the office of the commissioners or of the clerk of the peace, and shall have been properly addressed, such proof shall be a bar to all further proceeding in respect of such omission.

109. That the costs, charges, and expenses incurred by or under the authority or order of the commissioners in proceedings under this Act shall be paid by the secretary of the commissioners, and included by him in the account of receipts and payments hereinbefore directed to be kept by him [illegible] that the costs, charges, and expenses incurred [illegible] under the order of any visitors in proceedings un[der] this Act shall be paid by the clerk of the peace [of] their county or borough, and included by him in [his] account of receipts and payments hereinbefore directed to be kept by him.

Sec. 110. Commissioners are to visit asylums and gaols once, or oftener, in each year, and make inquiries.

Sec. 111. Commissioners are to visit workhouses, and report in writing thereon to the Poor Law Commissioners for England and Wales.

Sec. 112 provides for the visitation of lunatics under the care of committees, and also of [pr]ivate and criminal lunatics, and other lunatics not comprised in the preceding provisions.

Sec. 113 gives power to the Lord Chancellor or Secretary of State for the Home Department to [au]thorize a special visitation [illegible] lunatic is represented to be [illegible]

Sec. 114 is the interpretat[ion clause.]

Sec. 115 enacts that boro[ughs] [illegible] are to comprise all places them[illegible] [n]ot h[illegible] [se]parate commission of the peace.

Secs. 116, 117. Act not to extend [to] [Be]thlehem Hospital, and to be confined to England.

Sec. 118. Usual attesta[tion]

Schedules are added of [illegible] of the reception of a private patient; form of me[dical] certificate in the case of private patients; order [for] the reception of a pauper patient; and of m[edical] certificate. Also forms of registry of admission; notice of admission; register of discharges [and] deaths; form of notice of discharge or death; form of medical journal and weekly report and form of summons.

THE MAGISTRATE.

Summary.

There is so much of truth, of wholesome though bitter truth, in the following remarks contained in an article in the *Spectator*, and it is so desirable that the discontinuance of a system of convict government at Norfolk Island, which, based on good sense, was found to work well, should be widely known, that we transcribe them with pleasure to our columns.

TRANSPORTATION.

Never a day passes but something in the papers shews the great humanity of the English heart. If a cheap schoolmaster beat a boy, sent to him because incorrigible at home, or if a policeman insist somewhat harshly on taking a disorderly girl to the station-house, a host of indignant advocates of all classes, from noblemen downwards, are found ready to do battle for the sufferers and to enlist the sympathies of reporters and police magistrates. But our humanity, like our friendship, usually requires the presence of its object; it lacks the spirituality that annihilates space. We all know very well that at the Antipodes, where they have been sent to be out of the way, exists a mighty congregation of human beings, speaking our own language, bearing familiar names, and still remembering our towns and villages and old-world customs, towards whom, sunk as they were in the depths of crime, we were bound to exercise such benevolence as man can afford his fellow in time of greatest need. We all know, too, how this duty has been performed; how we have demoralized these very felons, annihilating every vestige of the better nature that rendered them akin to us, and causing the "hearts of beasts" to lodge within them in place of the "hearts of men." And not only is there no cry raised on behalf of these miserable beings, but, with the fact of their condition broadly admitted, new ship-loads of those who, in comparison, may be spoken of as uncontaminated, are sent out [mo]nth after month to be absorbed in the corrupt[ion]. This is the effect of mere indifference, and not of any doubt as to the possibility of a better course. There is scarcely a man among the active spirits of the middle and lower classes but could tell us that the system adopted in our penal colonies must necessarily fail. It is founded in the same ignorance of human nature, or at least of the aberrations of human nature, as that which for centuries maintained the unglazed cell, the chain, and the strait-waistcoat, as the appropriate lodging and apparatus for the insane. Hanwell and its results have settled the question betwixt physical and moral force, and the only reliance of the advocates of the old system must now be on the apathy of mankind. An experiment, in fact, equally startling with that of Hanwell, and promising a like success, is known to have taken place, not long back, at Norfolk Island. The plans adopted on that occasion have been detailed in several papers printed for private circulation by Captain Maconochie, the superintendent; but although they develope a system which at once strikes the reason as calculated to form an universal basis for criminal discipline, they appear to have been suffered to drop, probably from a want of courage on the part of the home authorities to adopt them on a comprehensive scale. The chief feature of the system is the substitution of a labour-sentence for a time-sentence; thus giving a constant incentive to industry, since, in such case, a step towards freedom is the reward of every toil. It requires that for the amount of labour performed from day to day a proportionate number of marks should be given, and that an accumulation of a certain number of these marks should entitle the labourer to freedom—a substitution, in fact, of work performed with all the ardour of a strong motive for that which is now obtained, or sought to be obtained, by a merely coercive system, depressing (as slavery in any form always must be) to every moral and physical power. At the same [time,] in order to place the convict entirely in a position to prevent his returning to the world before he has acquired su[ffici]ent self-control, it is a condition that for every article of food or luxury supplied payment is to be received from him in marks; a forfeiture of marks [is] also a consequence of misconduct; so that just in proportion as he may prove improvident and unable to resist ordinary temptations, will the time of his restraint be lengthened. That these plans are sound in principle will readily be seen; and the knowledge that, as far as tested, they have been successful in practice, m[ust th]row a heavy reproach on those [wh]o permit th[e] present system to continue. It is not denied in any quarter that this system inevitably results in degrading even the worst that come within its scope, and none will contend but that the accountability for the additional depravity thus engendered must rest with its upholders and not with its victims. "And because," says Jeremy Taylor, "very many sins are sins of society and confederation, it is a hard and weighty consideration what shall become of those who have tempted a brother or sister to sin and death."

Regulations for Transportation.—In the last report of the Inspectors of Millbank prison, the following information is afforded on the subject of transportation:—After a careful personal examination of the prisoners, and of the documents transmitted with them, the inspectors recommend such disposal with reference to the age, crime, sentence, and previous convictions of each prisoner, as is in accordance with the general principles of the system of convict discipline which has been established by Lord Stanley in the penal colonies, under which the convicts have to pass through certain stages of detention and discipline before they become free. The following is an outline of the mode of disposal of male transports under the instructions of the Secretary of State:—Adult male prisoners sentenced to transportation for life; the more aggravated cases of convicts sentenced for any term not less than 15 years; all prisoners sentenced to transportation for any term for burglary, arson, rape, forgery, or for robberies attended with personal violence; and prisoners sentenced to transportation for any offence or term who have been previously transported—are sent to Norfolk Island for terms of not less than two nor more than four years. After the prescribed period of detention in Norfolk Island, they have to pass through certain terms in Van Diemen's Land, first in the probationary gang, afterwards as probation pass-holders, and, finally, as holders of tickets of leave before they obtain their freedom. Other adult male prisoners, with the exception of those selected for Pentonville prison, are sent to Van Diemen's Land for a term of detention in the probationary gangs of not less than one year, nor, except in cases of misconduct, of more than two [years;] these prisoners afterwards pass through the stages of probationary pass and ticket of leave holders before they obtain their freedom. It appears that other prisoners are sent to Gibraltar and Bermuda and Pentonville prison before they are sent to the Australian colonies or Van Diemen's Land; others, who are unfit for active labour, to the invalid hulk at Woolwich. Juvenile male prisoners under sentence of transportation, who are deemed fit subjects, are sent to Parkhurst prison, and the remainder are sent to Point Puer, in Van Diemen's Land, where there is an establishment for convict boys.

The New Metropolitan Asylums.—At a special meeting of the Vestry of Marylebone, on Saturday last, it was determined to uphold the guardians in resisting the orders of the Poor-law Commissioners.

The following buildings have been duly registered for the solemnization of marriages, pursuant to the Act of the 6 & 7 Wm. 4, c. 85:—The English Wesleyan Chapel, situated at Chapel-street, in the parish of St. Peter, in the county of the borough of Carmarthen, in the district of Carmarthen Union. The New Jerusalem Church, situated at Bath, in the county of Somerset, in the district of the Bath Union. Independent Chapel, Great Berkhampstead, Hertfordshire George Locton Faithfull, superintendent registrar.

THE LAWYER.

Summary.

All that we have of interest this week to offer will be found below. We invite attention to the subjoined *Note on Leading Cases*, which will be found of practical value.

LEADING CASES.—No. X.

Carr *v.* Smith.

(5 Q. B. 128.)

What actions lie at law by a partner against his co-partner—The action of account.

"It is a general rule," observes Abbott, C. J. in *Bovill* v. *Hammond* (5 B. & C. 151), "that between partners, whether they are so in general or for a particular transaction only, *no account* can be taken at law;" and the observance of this rule is rendered necessary by reason of the difficulty which would attend the adjustment of complicated accounts, and, in fact, the impossibility of explaining them to a jury in a clear and satisfactory manner, and likewise, because it is extremely important, on account of the confidence usually reposed by partners in each other, that the truth should be elicited by an examination upon oath, which can only be effected in a court of equity.

It must be borne in mind, however, that the

above general rule applies only where the partnership has been actually formed and set a going (per Holroyd, J. 3 B. & C. 823), and that there is a marked distinction between an actual partnership and *an inchoate right* of partnership; the reason which dictated the rule in the former case not holding in the latter; and this distinction is peculiarly important to be observed at the present time, when so many trading companies and partnerships on an extensive scale are either in course of formation or actually established and perfected. Whether in any given case the defence that a partnership existed can be successfully maintained, will depend on the facts submitted, and may often be a question of no very easy solution. (See *Fox* v. *Frith*, 10 M. & W. 131, 136.) A person may have acquired the right to become a partner in an undertaking, and yet may never have enforced that right, as by paying the preliminary instalment, by signing the partnership deed, or by the performance of any other act constituting a condition precedent to the assumption by him of the character, the rights and liabilities of a partner.

Having in any given case satisfied ourselves that the defendant really is a co-partner with plaintiff, it will, in the next place, be advisable to consider what are the exceptions to the general rule above laid down, and whether the particular case falls within any one of such exceptions. Now it seems quite clear, that if there be an express covenant or special agreement between partners independent of the partnership accounts, an action will be maintainable in a court of law upon such covenant or agreement. Thus an action will lie on a covenant in co-partnership articles by one partner to pay another a certain sum if the partnership assets should prove deficient, and a special count in *assumpsit* will lie on a contract for the payment of instalments from time to time between parties similarly situated. (*Brown* v. *Tapscott*, 6 M. & W. 119, per Parke, B. id. 123; *Bedford* v. *Brutton*, 1 B. N. C. 399.) "There are," said Lord Ellenborough, C. J. in *Venning* v. *Leckie* (13 East, 8), "many deeds of copartnership in which the partners covenant each to advance a certain sum at first; and can it be said that no action would lie by one to enforce that covenant against another, because there are accounts between the afterwards which require unravelling in a court of equity?" Both from this passage and from other cases which will be found in the books, it is evident that a court of law will be reluctant to drive partners into equity when it can itself administer effectual relief, by awarding damages for a breach of contract altogether independent of the current partnership accounts.

There are likewise many authorities to shew that an action will lie on a *final balance* of accounts struck between partners; and a state of circumstances may exist in which a debt arising out of partnership transactions may be due to and recoverable by one partner from his co-partner. (Per Lord Abinger, C.B. *Worrall* v. *Grayson*, 1 M.&W. 168.) In *Jackson* v. *Stopherd* (2 Cr. & M. 361), which is usually cited with reference to this branch of our subject, A and B had entered into partnership to work a coal-mine, and after the coal-mine had been worked out and the coal-pit filled up, A said he would join in no more coal-pits, and A and B agreed to divide the materials and utensils used for working the coal-mine, taking each an article alternately, until the whole had been divided according to a valuation to be made. After the valuation had been made, however, B agreed to take the whole at such valuation, and accordingly took possession thereof. It was held that A had an immediate right of action for a moiety of the value of the materials and utensils. "Upon the general rule of law," observed Bayley, B. in this case, "there is no difficulty. One partner cannot maintain an action for a balance on the partnership account until the accounts have been settled and adjusted, and until it is ascertained what is the balance due from the partner against whom the claim is made. But there may be special bargains, by which particular transactions are insulated and separated from the winding up of the concern, and are taken out of the general law of partnership. When we consider the circumstances of this case, the plaintiff's right of action may be put upon the footing of a separate transaction;" and Vaughan, B. remarked thus: "It is no doubt a general rule, that one partner cannot maintain an action on a partnership transaction so long as the partnership concerns remain unadjusted; but if any subject be withdrawn, and made the foundation of a distinct settlement, it is then no objection that *other accounts* remain unadjusted." (See also *Wray* v. *Milestone*, 5 M. & W. 21.) In *Carr* v. *Smith*, which we have placed at the head of these remarks, the proprietors of a stage-coach arranged amongst themselves that each should horse the coach for certain stages, and receive the payments and make the requisite disbursements on such stages. The practice appeared to be for one or more of the partners every month to make up and send round to the other partners a written account from the way-bills, shewing the receipts and disbursements of each proprietor, the share of net profits, if any, due to each, and also the proprietors by and to whom the ascertained shares should be paid; and, according to this written account so made up, the payments were regularly made. In *assumpsit* by one partner against another for a balance so adjusted and not paid, *the partnership still continuing*, the plaintiff rested his case upon a written account made out as above. After verdict for the plaintiff, the defendant moved, pursuant to leave reserved, to enter a nonsuit, on this ground, amongst others, that a claim could not be maintained by one partner against his co-partner on a single adjustment of accounts made as above stated during the continuance of the partnership, inasmuch as such claim could not be conclusive while the partnership was [illegible]. For the plaintiff, it was contended in answer to this objection, that a statement which is final *quoad* the accounts stated, is a good ground of action, as much as if the whole partnership was at an end. The point here raised was not decided by the Court in banc, but Lord Denman, C. J. in delivering judgment, remarked as follows:—"The case of *Fromont* v. *Coupland* (2 Bing. 170), and other similar [illegible] seem to limit the action to a settlement of accounts [illegible] *final close* of all partnership transaction [illegible] but thi[illegible] de[illegible] [nec]essarily raise that question, for [illegible] all events, the settlement, in order to ground [an] action, must be one which is b[illegible] and conclusive upon the partners." The above passage from his lordship's judgment certainly favours the position that a court of law will only assist in enforcing the payment of a final balance, and that a court of equity is the tribunal to which resort should be had in other [illegible]. We may observe that, in *Brierley* v. *Cripps* (7 C. & P. 709), although an action was held to be maintainable for a balance of accounts, the pra[ctice] being to strike such balances *monthly*, yet in that case the balances were kept quite distinct from each other, and were not carried forwards so as to form a running account, whereas in *Fromont* v. *Coupland*, where the accounts were made up *weekly*, they must be taken to have been, as remarked by Burrough, J. "only *preparatory* to a final account." Perhaps the distinction here noticed will go far towards reconciling the different decisions on this subject with each other, and with that qualification of the general rule which obtains in the case of a transaction which has been by special agreement insulated and separated from the current partnership concerns.

The preceding observations will suffice to direct the reader's attention to the nature of the exceptions engrafted on the legal rule respecting the right to sue on partnership accounts and transactions. We must further remark that, where the partnership has terminated prior to the commencement of the action on a contract, it is necessary to ascertain whether such contract was first entered into between the plaintiff and [illegible] during the continuance of the partnership, or after it had ceased, since in the former case only [illegible] the defence which we have been considering available. Without attempting to lay down rules which may guide to a right conclusion on this subject, we shall merely call to mind that the question whether or not the partnership exists as between the original parties thereto, is quite distinct from the question whether it so exists with respect to third parties; with the latter question [illegible] have now no [conc]ern, and with reference to the former we shall only observe that it must be answered after a careful consideration of the peculiar facts which may appear in evidence. In the case of a public company, attention must especially be paid to the provisions of the deed of settlement, and to such resolutions as may have been passed at any meeting held for the avowed purpose of dissolving the company. The mere fact that the process of winding up the company's affairs has been intrusted to the directors, and that for this purpose they have found it necessary partially, at least, to continue the business, will not *per se* prevent the partnership from having ceased and terminated in the eye of the law *quoad* the other shareholders. (*Lyon* v. *Haynes*, 6 Scott, N. R. 371, 409.)

In the course of the preceding remarks we have not referred to one remedy at common law, which, although in practice almost obsolete, is still available at suit of a partner against his co-partner; that, viz. by action of account. "The proceedings in this action," it is observed in Bacon's Abr. title Accompt, "being difficult, dilatory, and expensive, it is now seldom used, especially if the party have other remedy, as debt, covenant, case, or if the demand be of consequence, and the matter of an intricate nature, for in such case it is now advisable to resort to a court of equity, where matters of accompt are more commodiously adjusted, and determined more advantageously for both parties." An instance in which the action of account seems, however, to have been an effectual remedy, and one attended with more expedition than proceedings in equity, occurs in *Godfrey* v. *Saunders* (3 Wils. 94), where we are assured that the plaintiff, before bringing this action, had exhibited his bill in Chancery against the defendant for an account, which had been "fruitlessly depending there for more than twelve years," and where it appears that the matter was finally determined by an action of account in [a] comparatively short period of two years, which circumstance occasioned the then Chief Justice, Wilmot, to express his satisfaction that such form of action was revived in the Court of Common Pleas, over which he presided. The proceedings in this action will be found explained in Bacon's Abr. title Accompt, and the curious reader may also refer to *Wheeler* v. *Horne* (Willes, 208), and to the very recent case of *Sturton* v. *Richardson* (13 M. & W. 17), which was an action of account by one tenant in common against his co-tenant, charging him as bailiff under the statute 4 & 5 Anne, c. 16, s. 27, and in which Alderson, B. expressed an opinion very different from that of Wilmot, C. J. above noticed. "The action," says his lordship, "is so inconvenient that it has been long discontinued, and parties have gone into a court of equity in preference;" and according to Mr. Chitty, in his work on the General Practice of the Law, vol. i. 869, "Although between joint tenants and tenants in common, an action of account at law is sustainable, yet a court of equity has a more perfect jurisdiction by compelling discovery on oath, and avoiding the difficulty and delay where the account comes before auditors in an action of account." (See also the note to *Smith* v. *Smith*, 2 Chitt. R. 10; Bull. N. P. 127.) We may remark, in conclusion, that although the common remedy, where an account has been stated, is by an action of *assumpsit* on such account (*Foster* v. *Allanson*, 2 T. R. 479), and although this remedy, as we have seen, is in some cases available by a partner against his co-partner, yet where no account has been made up, the only remedy at common law (or under the stat. of Anne) is by the action of account. The writ in this action commands the defendant to render a just account to the plaintiff, or shew the Court good cause to the contrary, and the judgment is twofold, 1st, that the plaintiff do account before auditors appointed by the Court; and 2ndly, when such account has been taken, that the defendant do pay to the plaintiff the amount of the balance thus ascertained to be due from the former to the latter. (See 3 Bl. Com. 164.)

A note of *Carr* v. *Smith* may be made in Chitt. jun. on Contracts, 3rd ed. 236, 238.

DECISIONS ON THE SMALL DEBTS ACT.

The commissioners sitting at Basinghall-street have not yet exercised the coercive powers with which they have been invested under the recent Act, by ordering any party to be committed to prison. During the past fortnight several orders were made by Mr. [illegible] Fonblanque, directing the payment of [sm]all [sums] by instalments. Several summonses [retu]rnable before the learned Commissioner fell to the ground because the parties at whose instances they issued were not able to effect a personal service upon the debtors. In one of those cases, it was strongly pressed upon the commissioner that the Act of Parliament did not in express terms require a personal service of the summons, and that it ought to be considered sufficient if the summons was left at the residence of the debtor with some member of his family. The learned commissioner, however, was [illegible]lly of opinion, that as disobedience to the summons was followed by a committal to prison, by analogy to the practice of the courts of common law in cases of attachment, proof of personal service of

the summons could not be dispensed with, in any case in which the debtor did not appear; if he held otherwise, it might happen that a party would be committed to gaol for disobeying a summons he had never seen or heard of.

All the applications made to the commissioners hitherto, with a single exception, have proceeded upon judgments obtained in the superior courts. In the solitary instance adverted to, an application was made to Mr. Commissioner Fane for a summons, upon an order made under the City of London Court of Requests Act, for payment of a sum not exceeding two pounds. The officer of the Court of Requests attended with the books of the court, containing an entry of the order made by the Court. The learned commissioner, however, after looking into the Act of Parliament under which the court is constituted, declined to issue any summons. He thought that the recent Act, 8 & 9 Vict. c. 127, only gave him jurisdiction when an order was made by "a court of competent jurisdiction." In looking into the London Court of Requests Act, he observed that the court had a very special jurisdiction, and that many cases were expressly excepted from that jurisdiction. He could not safely assume that a Court of Requests might not have made an order in a case in which it was not competent for such court to adjudicate, and without entering fully into the details of the case he could not say whether the present case did or did not fall within any of the exceptions pointed out by the Act. Upon these grounds, he refused the application for a summons.—*Legal Observer.*

PROMOTIONS, APPOINTMENTS, ETC.

[Clerks of the Peace for Counties, Cities, and Boroughs, will oblige by regularly forwarding the names and addresses of all new Magistrates who may qualify.]

Whitehall, Aug. 19.—The Right Hon. Sir N. C. Tindal, knt. has appointed John Hawkey Bingham Carslake, of Bridgewater, in the county of Somerset, gent. to be one of the Perpetual Commissioners for taking the acknowledgments of deeds to be executed by married women, under the Act for the abolition of fines and recoveries, in and for the county of Somerset.

The Right Hon. Sir N. C. Tindal, knt. has appointed Henry Cawdron Stenton, of Southwell, in the county of Nottingham, gent. to be one of the Perpetual Commissioners for taking the acknowledgments of deeds to be executed by married women, under the Act for the abolition of fines and recoveries, in and for the county of Nottingham.

The Right Hon. Sir N. C. Tindal, knt. has appointed Thomas Houghton Hodgson, of Carlisle, in the county of Cumberland, gent. to be one of the Perpetual Commissioners for taking the acknowledgments of deeds to be executed by married women, under the Act for the abolition of fines and recoveries, in and for the county of Cumberland.

The Right Hon. Sir N. C. Tindal, knt. has appointed William Henry Reece, of Birmingham, in the county of Warwick, gent. to be one of the Perpetual Commissioners for taking the acknowledgments of deeds to be executed by married women, under the Act for the abolition of fines and recoveries, in and for the county of Warwick, also in and for the counties of Stafford and Worcester.

The Right Hon. Sir N. C. Tindal, knt. has appointed Richard Lambert, of Newcastle-upon-Tyne, gent. to be one of the Perpetual Commissioners for taking the acknowledgments of deeds to be executed by married women, under the Act for the abolition of fines and recoveries, in and for the town and county of the town of Newcastle-upon-Tyne, and also in and for the county of Northumberland.

The Right Hon. Sir N. C. Tindal, knt. has appointed F. F. Francklin, gent. of Attleburgh, in the county of Norfolk, to be one of the Perpetual Commissioners for taking the acknowledgments of deeds to be executed by married women, under the Act passed for the abolition of fines and recoveries, in and for the county of Norfolk.

The Right Hon. Sir N. C. Tindal, knt. has appointed Alfred John Beeching, of Tonbridge Wells, in the county of Kent, gent. to be one of the Perpetual Commissioners for taking the acknowledgments of deeds to be executed by married women under the Act passed for the abolition of fines and recoveries, in and for the county of Kent, also in and for the county of Sussex.

The Right Hon. Sir N. C. Tindal, knt. has appointed James Wood, of Bradford, in the county of York, gent. to be one of the Perpetual Commissioners for taking the acknowledgments of deeds to be executed by married women, under the Act passed for the abolition of fines and recoveries, in and for the West Riding of the county of York.

The Right Hon. Sir N. C. Tindal, knt. has appointed Anthony Adey, of Wotton-under-Edge, in the county of Gloucester, gent. to be one of the Perpetual Commissioners for taking the acknowledgments of deeds to be executed by married women, under the Act passed for the abolition of fines and recoveries, in and for the county of Gloucester.

The Right Hon. Sir N. C. Tindal, knt. has appointed Thomas Henry Morgan, of Chepstow, in the county of Monmouth, gent. to be one of the Perpetual Commissioners for taking the acknowledgments of deeds to be executed by married women, under the Act passed for the abolition of fines and recoveries, in and for the county of Monmouth, also in and for the county of Gloucester.

The Right Hon. Sir N. C. Tindal, knt. has been pleased to appoint William Merrick, of Bradford, in the county of Wilts, gent. to be one of the Perpetual Commissioners for taking the acknowledgments of deeds to be executed by married women, in and for the counties of Wilts and Somerset.

LEGAL INTELLIGENCE.

Westminster Court of Requests.—On Wednesday a general meeting of the Commissioners of the Westminster Court of Requests was summoned, for the purpose of considering the fees to be paid to the newly-elected assessor. The 19th section of the Act, which regulates the Court (6 & 7 Wm. 4, c. 137), enacts "that no business shall be done at such general meeting until forty commissioners, at least, are present." As forty commissioners did not attend the meeting, no business was done. From the circumstance that forty-four commissioners voted for the gentleman who has been elected, the miscarriage of the meeting on Wednesday has been much talked of.

Railway Club.—Amidst the many projects under the head of "railways," we find one now in course of formation for the establishment of a club-house, where gentlemen of all ranks connected with railway projects may daily meet for the interchange of information. A mansion has been taken at the west end. —*Globe.*

Escheat to the Crown.—An inquiry of a novel kind was gone into last Saturday afternoon, at the Royal York Hotel, Brighton. A commission was opened by letters patent, under the great seal, constituting Horatio Waddington, George Maule, and Robert Upperton, esqrs. commissioners to ascertain whether one Maurice Alfred Barrow, deceased, who had been a solicitor at Brighton and East Grinstead, had been possessed of certain freehold property in Brighton which, in default of a devise, and for want of heirs, devolved to the Crown, as an escheat on Mr. Barrow's death. A jury was empanelled to assist the commissioners in their inquiry; and evidence was afterwards called to prove the necessary facts. From this evidence, it appeared that the deceased, by his will dated the 17th of March, 1831, devised the residue of his estate and effects to his wife. On the 22nd of June, 1841, being at that time in possession of a great number of very small houses at the top of North-street, part of which were freehold and part copyhold, he enfranchised the copyhold, for a consideration paid to the lord of the manor; and in the following October he died, without making a new will or re-publishing the old one. Consequently this property did not pass by will. In order to prove that the property was an escheat, it was next necessary to prove that the deceased died without heirs. His widow was called to prove that they had no children; and in order to shew that there could be no collateral heirs, documentary and other evidence was produced, shewing that the deceased was the illegitimate son of Maurice Barrow, formerly of Horsham, by a married woman named Thompson, with whom he had cohabited for several years up to the time of his decease. In the will of the old gentleman the deceased was described as "Maurice Alfred Barrow, my son, whom I have had by Mary Thompson," which Mary Thompson had afterwards some legacies left to her on condition that she did not cohabit with her husband or marry again. The parentage of the deceased being thus established, the commissioners explained to the jury that by the law of England a person of illegitimate birth had, in the eye of the law, no father, or mother, brothers, sisters, or other collateral relations; and the jury thereupon agreed to a verdict that the property in question had devolved to her Majesty as her escheat by virtue of the prerogative royal. The houses in question formerly formed a cluster of small filthy residences at the top of North-street, and they have been recently removed in order to form an approach to the railway. Portions of the site are about to be sold as building ground, and it was found necessary to resort to these proceedings in order to get a title to the property, it being customary for the party most interested in property thus situated to procure a declaration of the forfeiture to the Crown, in which case he ...... s it back as a grant from the sovereign. The proceedings in this case were instituted by the widow.

The late Mrs. Lawrence.—It is now ascertained that the vast landed estates of the late munificent Mrs. Lawrence, of Studley-park, are bequeathed as follows:—the Studley and Ripon property, including Fountains Abbey and Hackfall, to Earl de Grey; the Hutton, Sharrow, and Kirkby Malzeard estates, with the Moors, to the Earl of Ripon; the Leicestershire estates to Sir Cornwallis Ricketts, bart. and the manor and estate of Kirkby Fleetham to Mr. H. E. Waller, who, in case the deceased lady had died intestate, would, it is said, have been heir-at-law to the landed property. Legacies to large amounts have been left to several useful public charities and for religious purposes, as well as to many distant relatives and private friends.

CORRESPONDENCE.

SHORT CONVEYANCES.

TO THE EDITOR OF THE LAW TIMES.

Sir,—I regret that I cannot concur in your encomiums on the two Acts for shortening conveyances and leases; not on account of any anticipated reduction of fees, but for the following reasons:—

1. It is doubtful whether the Acts will make deeds much shorter than they might have been made without them. Take for instance Coventry's and Hayes's concise forms; I have lately had a draft prepared by counsel, for a special purpose, quite as short as the parliamentary form.

2. If not, it is a false principle of legislation to interfere to *enable* parties to do what they might do without legislation. It should compel, or abstain from interference in such cases.

3. It is especially faulty to alter the meaning of language; to attach a parliamentary sense to be interpreted only by the aid of the parliamentary glossary. In reading a conveyance, and especially a lease, few professional men without the Act at their elbow, and no common person with it, will understand the extent of the obligations. Leases, of all deeds, ought to be plain, and easy to be understood.

4. I think great difficulty will be found in adapting the forms of the Act to special cases not mentioned in it. Your correspondent "H. B." has adverted to one case, and others will quickly present themselves.

It is my intention to keep to my present forms, or to shorten them further if possible, and not to adopt the provisions of the Act; and to charge for the business done according to the trouble or the importance of the transaction, often reduced according to the ability of the parties.

If the Legislature had adopted the principle of the Wills Act, and enacted that a conveyance to a man should pass the estate to his real or personal representatives as the case might require, and that covenants by deed should bind the heirs and assigns of the covenanter, and be sued upon by the heirs and assigns of the covenanter, although *not named*, as well as the executors and administrators, it would have rendered unnecessary the frequent repetition of those words which perplex as well as excite the ridicule of non-professional persons. The covenants might be introduced thus—"The grantor covenants with the grantee;" "the lessor with the lessee;" "the mortgagor with the mortgagee," &c. If an enactment of this kind were made, I think the two Acts of last session would fall into desuetude, even if they do not without it. Indeed, they cannot be universally adopted, for they do not extend to *mortgages*, the most frequent transactions of all, and between parties the most requiring relief.

I am, Sir, your obedient servant,

J. R.

BENEFIT BUILDING SOCIETIES.

TO THE EDITOR OF THE LAW TIMES.

Sir,—My attention has lately been called to the subject of these societies, and a question has occurred to me which I should be obliged to the legal officer of one of them to answer.

Upon what authority do they receive money for the purpose of *investment*?

They all profess to be based exclusively on the 6 & 7 Wm. 4, c. 32, which enacts that it shall be lawful for any number of persons to form themselves into ...ties for raising by monthly or other subscription, shares not exceeding 150*l.* each, such subscriptions not to exceed 20*s.* per month, [to constitute(a)] a fund to enable each member to receive out of the funds the value of his share, *to erect or purchase a house or other real or leasehold estate, to be secured by mortgage to the society*, until the value of his share, with interest and fines, shall have been realized. Not a word is said about subscriptions for investment.

The fourth section declares, that the provisions of former Friendly Society Acts (10 Geo. 4 and 4 & 5 Wm. 4) shall, so far as applicable, extend to benefit building societies; but I apprehend that would not enlarge the *objects* of those societies, but merely supply the machinery for carrying them into operation.

I am aware that the 4 & 5 Wm. 4 permits, in terms, the formation of friendly societies for any purpose not unlawful; but the building societies do not profess to be founded even partly upon that Act; and if they did, I should doubt whether the *ejusdem generis* rule of construction would not restrict the purposes, so far as to exclude investment societies.

(a) These words appear to have been inadvertently omitted in the Act.

These societies having been certified by Mr. Tidd Pratt, convinces me that I am wrong; but I wish to be shewn the source of my error.

Yours, &c. J. R.

Re DENISON *v.* HAWKES.

TO THE EDITOR OF THE LAW TIMES.

SIR,—In the last number of the LAW TIMES, p. 487, appears a letter from Mr. James Sharp, jun. of Southampton, referring to my report of *Denison* v. *Hawkes* (see p. 457, *ante*), according to which report it may be remembered that Mr. Serjt. Stephen received the *incipitur* of the judgment on the roll and judgment-paper, and a writ of *fi. fa.* all under the seal of the Queen's Bench, as sufficient evidence of a judgment in proceeding on a summons under the 8 & 9 Vict. c. 127. Your correspondent Mr. Sharp then reminds the Profession that the 8 & 9 Vict. c. 127 (I presume he means the 8 & 9 Vict. c. 113), does not come into operation until November.

From Mr. Sharp's letter, it may possibly be presumed that the decision in *Denison* v. *Hawkes* was given under the erroneous impression that the 8 & 9 Vict. c. 113, the Official Documents Evidence Act, was already in operation; this, however, was not the case; that Act was mentioned by the plaintiff's attorney, Mr. Philpotts, who was then informed by Mr. Serjt. Stephen that the 8 & 9 Vict. c. 113, did not come into operation till the 1st November next. The grounds of the learned Serjeant's decision appeared to me *not* to be because the evidence tendered was, in his opinion, the strict legal evidence of a judgment, which it clearly was not, but because, in his opinion, the new Small Debts Act did not require the judgment to be formally proved according to the strict rules of evidence; that this Act should have a liberal construction, and that the evidence tendered, coupled with the writ of execution, which shewed the amount recovered, was *sufficient to satisfy him* that such a judgment had been recovered.

Yours truly, J. ANGUS HOMES.

Guildhall Chambers, Bristol,
Sept. 9th, 1845.

SMALL DEBTS ACT.

TO THE EDITOR OF THE LAW TIMES.

SIR,—My attention has been called to a letter, signed "A Solicitor," which appeared in the LAW TIMES of the 6th instant, requesting to be informed whether any of the readers of your excellent publication can explain the real meaning of the 9th section of the 8 & 9 Vict. c. 127. It would be great presumption on my part to answer in the affirmative; but I must beg leave, with the greatest deference, to differ with your correspondent as to the strict interpretation of the Act. It appears to me that, *immediately* on the enlargement of the jurisdiction of a court of requests, where commissioners act, they have the power of appointing a judge. The words of the Act are, "And in any court in which there shall be no judge qualified as aforesaid, the person or persons to whom the appointment of judge, or, if there be no judge, to whom the appointment of any clerk of the court belongs, or the majority of such persons who shall be present at a meeting called for the purpose, shall WITHIN three calendar months next *after the making of any such order* appoint a judge," and not "TILL three calendar months after," &c. And I have no doubt, if the commissioners memorialize her Majesty to extend the jurisdiction of any court, an order to that effect would be granted. It does not strike me, that where there are commissioners and no judge, the jurisdiction *cannot be enlarged*, but that a judge *cannot be appointed* until the jurisdiction of the court *be extended*.

There is a court of requests in this borough for the recovery of debts under 40s. in which commissioners act; and I understand these gentlemen have refused to appoint a judge until the jurisdiction of the court is extended to 20*l*.; but they intend to petition immediately, and on receiving the order of the Privy Council, will *at once* appoint a judge.

I am, Sir, yours, &c.
JOHN EWING JEFFERY.

King's Lynn, 9th Sept. 1845.

SMALL DEBTS BILL.

TO THE EDITOR OF THE LAW TIMES.

SIR,—Till the local courts are duly organized, so as to meet the exigences of the present day, the working of the Small Debts Act will be sadly impeded, and those solicitors who do attempt to put its machinery in motion will be heartless enough as to the result. The inaptitude of these jurisdictions, however, will soon unfold, remedies will be applied, and then we may hope to see that exercise of vigour and judgment which will make the law to be respected.

Meanwhile there is enough to be done in endeavouring to comprehend the Act itself; no explorer into the language of hieroglyphics had a harder task. Sentences piled upon sentences, involution within involution, call for the utmost penetration and ingenuity to shape them into harmony—some parts more than the utmost; they cannot be comprehended; and all that one has left is to sigh for some ingenious fellow to read aright the signs of the draughtsmen of the Houses of Parliament. No wonder, then, that a "Solicitor" in your last asks if any of your readers can explain the real meaning of one of the "most extraordinary" clauses. *I* cannot. I have only to give "a Rowland for an Oliver," and refer him to the 12th section.

One or two ideas occur to me after looking through this Act. I see that the creditor may obtain a summons by "*any*" petition or note in writing according to the scheduled form. This looks like contradiction, first giving "any" or "every sort of" petition, and then confining it to a given form; however, it would not be safe to depart from the schedule. It seems certain that the summons must be served by a bailiff or messenger of the court, so that if you desire the presence of a debtor residing perhaps ninety-nine miles from the district court, and very likely next door to you, it is the "law" to invite one of these gentlemen down, in order to serve the debtor with the summons. Really one cannot help thinking that these messengers, when the Act was passing, put in "summut" for themselves. The order of imprisonment may be made on the non-attendance of debtor, and where he "shall not allege a sufficient excuse for not attending." Will poverty or inability to pay the expenses of journey be a sufficient excuse?

Sec. 4 gives the local courts the like powers as in sec. 1, of examining the parties during the progress of the suit, and upon occasion of giving judgment; the attendance of the parties on these occasions is, however, not compulsory. I suppose, then, that this section will only operate in the rare occurrence of both parties being voluntarily present.

Sec. 7 substitutes the principal keeper or gaoler for the Master Extraordinary in Chancery, as the person before whom affidavits are to be sworn. Their lordships, after a feeble resistance, allowed this disgraceful section to remain, thus permitting a turnkey of a gaol—for he may be the "principal gaoler"—to administer a solemn oath ("bribing the Deity," as Bentham would say) to a person who, lying in a cell, may be there for deeds little short of felony. Truly, if as the preamble of another Act of the session says (cap. 48), "it is highly desirable that oaths shall not be administered unnecessarily by public authority," it is at least as desirable that they should be administered when necessary with decency and due decorum.

There is no specific enactment as to wages; however, the 18th section, which empowers the i[illegible]g of summons to witnesses, thus enabling the master, &c. to be examined, may have the same effect.

The 22nd is one of the best of the 25 sections: the process of executing warrants and levying executions out of jurisdiction has long been required in civil cases; frequently defiance has been thrown at the officer, *just* out of the jurisdiction.

The provincial attorneys are watching the working of this Act by the Commissioners of the Bankruptcy Courts. I hope that, besides the ability and industry which procure us the reports of their sayings and doings in your journal, gentlemen in the country will shew their desire for the unanimous well-working of this Act, by forwarding statements of facts, &c. occurring in the local courts to which they have access. With these few words, I am, Sir, yours, &c. X.

THE LOST WILLS FROM DOCTORS' COMMONS.

TO THE EDITOR OF THE LAW TIMES.

SIR,—In this my fourth letter, allow me to premise, that although solicitors hold the desirable appointments of principals, registrars, proctors, &c. in the provincial civil courts and will business, and in such courts act as advocates, yet an attorney or solicitor is not to be found holding the slightest appointment in or about Doctors' Commons or its civil appurtenances; the usual cant words being, "They know too much for us." The real secret of the opposition of the Government, through the Right Hon. John Nicholl, the Judge Advocate-General, was *to prevent barristers and solicitors from walking the halls of Doctors' Commons*, although I am bound to say, there is more liberality on the part of the practising proctors, who would have no objection to admit solicitors to a share of their practice if the proctors were entitled to equal privileges.

The Government inquiry, amongst other evils, had laid before it the system of official taxation, and the blending of *private and official business*; but either the fact was too startling for the commissioners, or the abuse was considered by them as *sure to fall* beneath the alterations introduced; either way, they did not suggest, as they should have done, the annihilation of the objectionable system at once.

To explain what I mean by the previous paragraph, I will state that the system admits that A shall hold an official appointment, in which, if he acts according to the letter *of civil etiquette*, he is not allowed to practise as a *proctor*, and certainly not, upon every principle of justice, to tax, or look over, and settle the amount of the business bills that may be found in *his own office*. Now, Sir, the following *artful* plan is resorted to. A, the official before mentioned, takes into partnership other proctors *not holding* official appointments; a suit is generally conducted in the name of the *junior* proctor, who, when the business is at an end, makes out the bill and politely hands it over to the *senior* partner holding the official appointment, who, with a very liberal air, casts his eye over the sum total of the said bill of proctorial costs, which is then handed up to the judge of the court, who of course knows *nothing* of the matter; his signature is affixed, and then woe betide the debtor if it is not paid. There is no appeal, nor is there any thing said but simply, *Pay, Sir!* There is not a proctor who reads this but knows full well that it applies to the sayings and doings of *several officials*, as all the proctors who are not blessed with similar privileges know too well to their cost.

The excuse for this mode of practice, and which no doubt operated upon the minds of the Ecclesiastical Court Commissioners, mainly rested on the ground of the great respectability and honour of these well-paid officials; their lordships stating in the 46th page of their general report, that "the regular charges are, however, so well known and established, and the registrars of the several courts who are acting under the sanction of an oath of office, are so experienced and respectable, being *generally selected* out of the body of proctors on the ground of their high character and professional knowledge, that an exception to their report as to costs rarely occurs."

Under this report I have now selected *one* abuse, and when contrasted with the system of taxation, both in Chancery and Common Law, it is quite clear the Profession of the Law in all its departments should get rid of this as soon as possible.

You shall hear from me again next week regarding the *depository* of the lost wills, &c. &.

Yours obediently,

Doctors' Commons, J. T. SCOTT.
Sept. 9, 1845.

CORONERS' INQUESTS.

TO THE EDITOR OF THE LAW TIMES.

SIR,—Upon a canal in the county of A, and in the jurisdiction of the county coroner, a man meets with an accident and is killed. There being no place or house nearer than the borough of B, the body is conveyed thither. B is a corporate town, and the coroner thereof, finding the body in his jurisdiction, considers himself entitled to hold the inquest under 6 & 7 Victoria, c. 112, but which the county coroner insists he has no right to do.

The question in dispute, affecting as it does such of your readers as may be coroners, will, I doubt not, by them as haply by others not so particularly interested, be kindly and readily canvassed in your columns. I am, &c.

ONE OF THE DISPUTANTS.

To Readers and Correspondents.

LEX.—*The subscription to the Index Legum is not confined to the subscribers to the* Law Times, *but open also to the Profession.*

F. W. H. *inquires whether a gentleman who is out of his articles, but an infant, can apply to be examined; and, if examined, what would be the consequences, if the examiners discovered the circumstance of his infancy after his examination? Perhaps some of our readers may be able to answer him.*

A STUDENT OF THE PROFESSION (York). *The letter, though containing some useful remarks, is too long to be available just now.*

A SUBSCRIBER.—*The first of Professor Carey's Lectures on the Law of Contracts was published in No. 102, and the second in No. 104 of this Journal.*

LECTOR.—*The letter is too long for insertion in this Number. Should the condition of our columns admit of it, we will give a place t[illegible]t week.*

J. F[illegible]allham'.—*We were quite unaware of the omission a[illegible]ded to in the Gazette of April 1st. There can be no c[illegible]e for it other than accident.*

NOTICE TO SUBSCRIBERS.

The Indices to the fourth volume being now completed, the numbers for binding may be sent, through the post, in parcels open at the ends, with a mark by which they may be known, and of which the Publisher should be advised by letter, as also how, when bound, it is to be returned. If sent by parcel, advantage may be taken of the opportunity to inclose other books for the binder.

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It is proposed to publish an annual *Index Legum*, consisting of a digest of all the reported cases and statutes of the past year, under the title of the Year Book, to be bound with the volumes of the Law Times, or separately, at option. It will be comprised in about six or seven numbers, at 1s. each, stamped, for transmission by post. It will not be commenced unless 1,000 subscribers order it. Persons desirous of having it are therefore requested to transmit their names as soon as possible.

THE LAW TIMES.

SATURDAY, SEPTEMBER 13, 1845.

THE JUSTICES AND THE CORONERS OF DEVON.

A serious difference, it appears, has arisen between the justices and coroners of Devonshire, in consequence of the former disallowing the customary fees to these officers where the verdict was "Natural Death." The facts as they have reached us are as follows:—

At the Epiphany Sessions, 1845, the justices appointed a committee to consider the provisions of the Act 7 & 8 Vict. c. 92, to amend the law respecting the office of county coroner. The committee met, deliberated, and framed a report, in which they state that "whenever the jury return a verdict of 'Natural Death' or 'Died by the Visitation of God,' it is *primâ facie* a case in which the expenses ought not to be allowed." Furthermore, they recommend that the Court should order the coroners' accounts to be sent to the Committee of Accounts, with other bills; that the treasurer be ordered not to pay them unless signed by the chairman of the Appeal Court, and countersigned by the officer of the Court; and that the said chairman do not pass such accounts unless previously signed by the chairman of the Committee of Accounts. Lastly, that the Committee of Accounts be instructed not to pass the expense of any inquest, unless the finding be attached to it, and not to pass any inquest where the verdict is *Natural Death* or *Visitation of God*, unless reasons be shewn them that suspicion fairly arose that such death was not natural.

At the Easter Sessions this report was presented and adopted, and a copy sent to the coroners, the overseers of every parish, and all the magistrates of Devon. Up to the receipt of this circular, the coroners were equally uninformed of the steps which had been taken, and the resolution of the committee; no inquiry was made of them; nor were they offered the opportunity of a hearing.

At the Midsummer Sessions, the coroners were called in before the Committee of Accounts, and, instead of being merely required to produce vouchers and swear to their accounts, as before, the committee, acting on the recommendation above given, went into a rigorous examination of their inquests, and disallowed the fees where the verdict was *Natural Death*; and this on the authority of Lord Ellenborough's decision in *Rex* v. *Justices of Kent* (11 East, 229), and that of Lord Denman in *Reg.* v. *Great Western Railway*.

The result has virtually been to deprive the coroner of the discretion and authority vested in him by the laws; as the overseers and constables of each parish, since receipt of the justices' circular, decide on which is, and which is not, a proper subject for an inquest; and the coroner, apprehending his fee may be disallowed, does not always venture to interfere. This, there can be no doubt, is an insecure and undesirable state of things. If the power of calling an inquest or not be left in the hand of parish officers, who have local and family interests to bias them, the protection which the Legislature has thrown with such studied care about human life is really annulled.

The magistrates ought, therefore, to reconsider their determination, and avoid any step which shall remove from the coroner the responsibility of determining what are fit cases for the empanelling of a jury. The inquest is a part of the English constitution, proven by long usage to be highly conducive to the safety of the subject; and no one who is aware of the number of bodies found dead in foreign countries, and over which no inquiries are made, can doubt that the absence of such an institution, or the vesting of it in improper persons, is most injurious and dangerous.

At the same time, it is the coroner's duty to make proper inquiries, and to avoid putting the county to unnecessary expense. And this is a trust which we think must unavoidably be delegated to him; the discharge of it conscientiously must ever depend on his respectability. The 21st sec. of 7 & 8 Vict. cap. 92, expressly provides that where the coroner *has* made such inquiries, and thereby obviated the necessity for an inquest, the magistrates may, if they think fit, pay him the expenses he has incurred. By this it is clear that it is in the coroner, and neither in overseers nor constables, that the Legislature has vested the power of determining what is and what is not a fit case for inquest. Lord Denman, certainly, and we believe the other judges in the Queen's Bench, entertain very strong opinions in favour of the utility of coroner's inquests. The language used by the learned Chief Justice, in *Reg.* v. *The Great Western Railway Company*, does not, we opine, bear the construction put upon it by the magistrates of Devon; for one of the duties of a coroner unquestionably is to discover if the death was *per infortunium*; and the power of a jury to inflict a deodand shews that inquests ought to be held in many cases besides those of suspected murder or manslaughter. According to the tables and calculations of the Registrar-General, the number of deaths annually is nineteen in a thousand, and of these one person in twenty dies a sudden or violent death. The proportion of inquests in Devon, we learn, does not exceed this ratio; so that there appears no just grounds for supposing that the coroners have exceeded the strict limits of their duty.

At the time when this measure of the justices of Devon was under consideration, the authorities at Somerset-house were devising fresh means to provide for the protection of life and the detection of crime. From a circular on this subject, addressed to coroners by the Registrar-General, we extract the following passage:

It is believed that, although deaths by personal violence have diminished, poisoning, the violence called accidental, and the resulting dangers, have increased within the present century, which may be ascribed to the number of deadly poisons now so accessible in every chemist's shop, the introduction of the new force of steam, the redoubled activity of traffic, travelling, navigation, agriculture, manufactures, and mining operations. Science itself creates new instruments of death. But if these instruments be brought to light by your inquests, described accurately, and placed fully before the public, science will find no difficulty in discovering remedies, or rendering less harmful the new and striking, as well as the old and obscure, causes of violent death, which have made little noise, but have been in operation from time immemorial in every county of the kingdom.

It is to discover the dangers attendant on the occupations, pursuits, and various circumstances in which the population is placed, that I request your aid, in the hope that, if the causes of death are ascertained, additional security may be thrown around human life, and thus the great object of the coroner's inquest be promoted by the Registration Act.

We repeat our belief that it is highly dangerous to fetter the coroner in the manner which this step of the Devonshire magistrates has a tendency to do, and that we hope the latter will reconsider their determination.

VERULAM SOCIETY.

The seventeenth number of *Real Property Cases*, and the twelfth of *Practice Cases* are at press, and with the twelfth number of *Magistrates' Cases*, now ready, will shortly be delivered.

The following new members have been enrolled since our last report:—

Yarker, Robert Francis, Ulverstone.
Babington, Wm. St. Leger, Barrister-at-Law, 91, Middle Abbey-street, Dublin.
Ambrose, T. H. 89, Chancery-lane.
Aldous, A. U. Swindon.
Darlington, Ralph, Wigan.
Williams, Wm. Hanley Castle.

LECTURES ON MEDICAL JURISPRUDENCE.

By Alfred S. Taylor.

Delivered at Guy's Hospital, 1844.

Lecture XIV.

The next metal which we have to consider is copper. The two principal salts of copper which have attracted attention are the sulphate and the subacetate. The sulphate of copper has been known to act as a powerful irritant in doses of half an ounce and upwards. It has a strong metallic taste, and no person can take it unknowingly. It induces vomiting of a most violent kind, and this sometimes effectually expels the poison from the stomach, and the person recovers. The vomited matters are remarkable in this point of view, that they are of a blue or green colour, and broken crystals of blue vitriol have been sometimes discovered in them, where the poison was taken in a loosely pulverulent state. There is pain in the abdomen, with diarrhœa; and in aggravated cases, spasms of the extremities. Paralysis, insensibility, and sometimes tetanus, have preceded death. The subacetate of copper (artificial verdigris) is a very irritant poison, producing symptoms similar to the sulphate. A case is recorded of a female, aged 24, who took half an ounce of this poison, and died, after violent symptoms of gastric irritation, in sixty hours. Sulphate of copper (blue vitriol) is supposed by the vulgar to have an abortive effect, and it is frequently employed for this purpose. It generally acts by exciting irritation in the system, under which the uterus may occasionally expel its contents. With regard to the *post mortem* appearances, where this poison has been taken, the mucous membrane of the stomach and intestines has been found more or less inflamed, and the lining membrane of the alimentary canal is often of a greenish colour. In a case of poisoning by carbonate of copper (natural verdigris), some time ago, the mucous membrane was of a green colour. As to the treatment in a case of poisoning by copper, all we have to do is to excite vomiting by warm water, or milk and water. Antidotes cannot be much relied upon. Sugar was formerly employed, but it has been found that the stomach has not a temperature high enough for it to be of any effect as a chemical antidote; it has no more effect a counter-poison than charcoal. Iron filings were also recommended, on the principle that iron separates the copper from the secretions, and precipitates it in a metallic state. There is no particular harm in administering them, except that when the iron filings are once coated with copper, their action is suspended, and therefore an enormous quantity must be given. Albumen is a better antidote, provided it be given in a large quantity, but in small quantities it has no effect at all. However, we should chiefly rely on the means to promote vomiting.

The salts of copper are generally known by their blue or green colour. The salts of nickel are also green, but this colour is not presented by the salts of any other metal. The soluble salts of copper are three; the *sulphate*, the *nitrate*, and the *per-muriate*; the sulphate and nitrate are blue, and the per-muriate is green. The insoluble salts are the *subacetate*, the *carbonate*, the *arsenite*,

and the *subchloride*. The tests for copper are three in number; the first, ammonia, in small quantity, gives, in a solution of copper, a bluish white precipitate, which is dissolved, and forms a beautiful violet-blue solution when the ammonia is added in larger quantity. Secondly, ferrocyannate of potash, which gives a sort of coppery-red precipitate; thirdly, sulphuretted hydrogen, or hydrosulphuret of ammonia, either of which gives a brownish-black precipitate. These last, taken together, are free from objection. No other metal gives a precipitate like copper with ferrocyannate of potash; but there is one that gives a blue colour with ammonia, and that is nickel. There is, however, a difference in the tint, the blue colour of the nickel being paler; but nevertheless a person might be easily mistaken. How do we distinguish one from the other? A very simple method is to take the nitrate or other suspected solution of nickel, and dilute it with water, and then add ferrocyannate of potash, which gives a sort of apple-green precipitate. The reduction of copper to the metallic state may be produced by chemical affinity or by galvanism. If you introduce an iron spatula into a solution of salt of copper, slightly acidulated, a red layer of metallic copper is instantly deposited on the surface of the iron. There will appear to be no change effected on the iron while it remains in the liquid, but the moment it is taken out, the copper-red colour of copper is apparent. The reduction of copper by galvanism is very simple; you have only to place some of the solution of copper in a platina capsule, and then add a piece of zinc, and an abundant deposit of copper takes place. The salts of copper may be known by their different colours. The *sulphate* may be known from the nitrate by the difference of colour; it is of a rich blue colour, and is precipitated by nitrate of barytes, while the nitrate is red. The *ammonia sulphate* is of a rich violet-blue tint, and when a solution of arsenious acid is added, it gives a precipitate of Scheele's green. The *nitrate* is of a deep blue colour, and very deliquescent, and, with carbonate of potash, nitrate of potash is formed. The *chloride*, or *per-muriate*, is of an emerald-green colour, and is precipitated by nitrate of silver. It is very soluble in water, forming a deep green solution if concentrated; but becoming blue when diluted. This diluted solution has the remarkable property of becoming green when heated to 212°, and again becoming blue on cooling, at 60°. There is no explanation of this circumstance as far as I know. The test for the acid of this salt of copper is nitrate of silver, with which it yields an abundant white precipitate. All the insoluble salts of copper, the *subchloride*, the *subacetate*, the *carbonate*, and the *arsenite*, are used in the arts, and are also employed to give colour to confectionary in a most improper way, since, when thus used, they give rise to many serious accidents. The identification of these insoluble salts is very simple; all we have to do is to put a little ammonia into a saucer, and drop into it a portion of one of the salts, say the carbonate, and in an instant an intense violet-blue colour is brought out. The same result takes place with all the salts. When these insoluble salts are rubbed on an iron spatula with diluted sulphuric acid, metallic copper is immediately deposited. The subchloride of copper frequently gives rise to accidents in cookery, occasioned by boiling food in vessels of copper. The carbonate, when heated on a platina foil evolves carbonic acid, and black oxide of copper is left. The arsenite, when gently heated in a reduction-tube, forms a deposit of arsenious acid, and when heated with charcoal powder, it forms a ring of metallic arsenic. The subacetate possesses the property, when heated in tubes, of depositing copper in the metallic state, and of giving out acetic acid vapour which reddens litmus-paper.

Now it will be necessary here to consider the means of analysing copper in the contents of the stomach, or in organic liquids. A person may have the poison administered in articles of food, and therefore it becomes important to know what are the means of detecting it when it has been so administered. The oxide of copper is liable to be precipitated by certain organic principles, as albumen, fibrin, and mucous membrane; but some of these organic compounds are either dissolved by acids or an excess of the salt. We may have the copper dissolved and not precipitated, and whenever that is the case, we know it by the fact that the liquid is always of a green colour. In order to find out whether there is much or little copper present, a very good test is oxalic acid, which forms a bluish-white precipitate in a salt of copper—the oxalate of copper. Oxalic acid is a good test when the quantity of copper is small, but when it is diluted, it does not throw it down. Oxalic acid also precipitates other bodies, and therefore it is not a test to be solely relied upon in this instance. Another very good trial test is to put a quantity of the suspected solution on a steel plate, when a deposit of metallic copper instantly takes place. The copper may be separated from the liquid by passing into it a current of sulphuretted hydrogen gas, when a precipitate of sulphuret of copper comes down in the form of a black powder. How do we know this to be sulphuret of copper? We may ascertain this by washing the powder and drying it, and then boiling it in equal parts of nitric acid and water; decomposition takes place, and both nitrate and sulphate of copper are formed and dissolved, a fact which is indicated by the liquid becoming blue, and been rendered of a rich violet-blue colour by the addition of ammonia. There is no reliance to be placed on the action of ferrocyannate of potash in such cases, until the acid solution has been neutralized.

It is a common practice for people to colour their preserved gooseberries and other green fruit by adding to them a quantity of the sulphate or the acetate of copper, and the presence of either may easily be tested by introducing into it a needle, which in a very short time will be coated with metallic copper. Copper may also be detected in such substances by galvanism, by the aid of a platina capsule and a piece of zinc. A short time since some preserved gooseberries were sent to me for examination, as it was suspected from circumstances that they were contaminated with copper. The liquid in which they were preserved was of a pale yellow colour, and had an acid reaction. The tests I have before described were employed, and the result was, that the liquid was proved to be strongly impregnated with sulphate of copper. Copper is said to be a natural constituent in the animal organs, and to enter into the composition of the mucous membrane of the stomach; but this is very doubtful, and no trace of it has been discovered in the blood. You may be consulted on a point of this kind: How far is it safe to use copper vessels for culinary purposes? It is to be observed that these vessels are liable to become impregnated with the poison, and if common salt be present, the chloride of copper is readily formed. But there is this important fact to be considered; any liquid boiled in copper vessels is only liable to be poisoned if it is allowed to cool in the vessels; otherwise no injury is created. Copper vessels are sometimes lined with tin, but it is far better to keep them untinned, for this reason: unless they be well tinned, and kept in a proper condition, if a portion of the surface of the copper becomes exposed, the tin and the copper together will exert a galvanic action, and any acid liquid will displace the salt of copper formed. If soups be boiled in copper vessels, it is necessary, in order to prevent any accident, to pour the soup out while hot, and allow it to cool in another vessel. Such are the principal facts connected with poisoning by copper, and in the next lecture we shall pass on to consider poisoning by tin and some other metals.

THE CRITIC.

New Books.

A Popular and Practical Introduction to Law Studies, and to every Department of the Legal Profession: with an account of the state of the Law in Ireland and Scotland, and occasional Illustrations from American Law. By Samuel Warren, Esq., of the Inner Temple, Barrister-at-Law. *Second Edition.* London: Maxwell and Co. 1845.

Although in name a second edition of a book published by Mr. Warren some ten years since, so numerous are the alterations, so great the additions, that it is virtually a new work. Its bulk has swollen to considerably more than double its original size; fresh topics have been introduced, and altogether, the interest and utility of the treatise have been much increased. The author informs us in his preface that "he has had ten years of additional experience, both as a pleader and at the bar," with "more extensive opportunities than he had previously enjoyed of becoming practically acquainted with the profession in all its departments."

With the original design of an introduction to law studies has been incorporated another one, intended to be a distinct work; an elementary and popular outline of the leading doctrines and practice of each of the three great departments of the law. Some of these chapters "have cost him much labour." Moreover he tells us, that with reference to the chapters devoted to the *general* education of persons designed for the legal profession, "the author has bestowed great pains upon them." Once again, "the author has taken the trouble of collecting together much practical information concerning all branches of the profession." Lastly, we are told that "this work has cost its author the severe and unremitting labour, during every moment which he could spare from business, of the last twelve months.

When we look at the size of the volume, and observe that the pages have swollen from about four hundred to upwards of a thousand, we must confess to considerable perplexity, how any time spared from business could suffice for the product of a labour so enormous, as the preface, by its reiteration of the fact, would seem to intimate: for a law book is not to be written with the onward flowing pen that produced *Ten Thousand a Year*, and the *Diary of a late Physician*. But this is a matter of small moment to the reader, who cares nothing, how or when, or why, a book was written, whether in the intervals of business, or as a task of professed authorship, provided only that it please his taste or supply his needs. If Mr. Warren can turn from romance to law, amusing at one moment, and instructing the next, we can recognize no reason why he should not do so; nor why excellence in the one walk should be held to imply inferiority in the other.

The subjects treated of in this volume are sufficiently important to justify the attention they have received. It opens with a preliminary view of the present state of the Bar, its students and practitioners. In this Mr. Warren notices the enormous crowding into that branch of the Profession which has lately taken place, and which must be attended with widely-spread misery to hundreds, who cannot possibly live by it, and who have thus precluded themselves from other callings, where fortune is more lavish of her favours. The number of Barristers in 1832 was 1130; in 1843 it was 2484. Such an increase is unprecedented in any employment; and this is accompanied by a *decrease* of business to be divided among them. It would be well if men would calmly consider this, before they stake their fortunes upon so hazardous a die, unless well assured that they have the means of living, in case of probable failure in the peculiar abilities that will ensure success. In this chapter Mr. Warren eloquently vindicates the study of the law from the absurd notion that it narrows the mind.

Trust us, however, if even this "mere" lawyer moves all his days like a horse in a mill, his round is a pretty extensive one! Consider, for a moment, what he must know, and what he has to do. If supposed to be in what is called "good practice at the Bar," he must be, to a very considerable extent, acquainted with the leading details of the arts and sciences, of trade, commerce, and manufactures; of the sister professions; even of the amusements and accomplishments of society—for in all of these, questions are incessantly arising which require the decision of a court of justice, for which purpose their most secret details must be laid bare before the eyes of counsel, who is expected to come into court quite *au fait* at them! A knowledge of constitutional history, also, and the many important topics subsidiary to it, can hardly be dispensed with.—The barrister, moreover, who aspires after *eminence* should possess a keen insight into character, and strong powers of eliciting truth, detecting falsehood, and unravelling intricate tissues of sophistry. His mind should be in such a state of health and discipline as to render him capable of deep abstraction, of long and patient application, and, in short, give him effectual control over his well-tempered faculties, so that he may *concentrate* them upon any subject he chooses, passing rapidly from one to another of the most opposite character. Take a sample of the every-day employment of the higher class of counsel. His "opinion" is sought upon a "*case*," which discloses numerous commercial or other relations, deranged by the sudden death, marriage, bankruptcy, or separation of one of the parties concerned. Mark the apparently inextricable confusion into which extensive interests, rights, and liabilities are precipitated—cross accounts of many years to be mastered—probably an immense fortune at stake. Is it nothing, now, to answer such a case as this, with rapidity and skill—to adjust these conflicting claims with a precision which often satisfies

the most clamorous contendants, preventing, perhaps, a long course of ruinous litigation? See the comprehensive grasp of thought—the accurate analysis—the rapid generalisation—the perfect mastery over details—the extensive research—the decision—exhibited on such occasions by the well-trained legal intellect! This is no highly-wrought picture: many of its features will be found displayed, more or less, in the daily business of a well-employed chamber or court practitioner. What, again, is to be said of the large emoluments to be derived, by such a man as we have been describing, from his honourable and responsible toils—the station he occupies, the influence he exerts, in society—the rank he attains both in the senate and on the Bench?

The second chapter treats of the choice of the Legal Profession. It is addressed to those who are hesitating whether they shall come to the Bar; and it abounds in wholesome truths. He states the prizes, but describes also the difficulties that lie in the way of ambition. Greatest of these is the vast increase of numbers, which distributes the *favour-business* among so many that it is of little worth to each one, while it diminishes the chances of decided success for those who are qualified. The consequences of a mistake in the choice of this profession are fearful:—

The keen competition—the, too frequently, bitter and unfriendly rivalry to be encountered—the publicity of the struggle,—the obstacles impeding the acquisition of the necessary knowledge,—the harassing nature of business to the successful practitioner, and of responsibility, with scarce any intermission or alleviation: these are a few of the considerations which imperiously call for the most searching self-examination, before such a "warfare is undertaken." For of what avail is the most perfect intellectual aptitude, if united to physical incompetency, of which many mournful instances have fallen under the author's personal notice! What, on the other hand, are a melodious voice, a commanding appearance, an iron constitution—

——robur et æs triplex,
Circa pectus,—

if not conjoined with intellectual adequacy? Or shining talents, if not of the *kind* practically suitable for our profession?

What are the requisites, wanting any one of which no prudent man should go to the Bar? Physical strength to endure hard work; hot court, little sleep, irregular meals, the abandonment of social pleasures. The mind must be peculiarly constituted.

Have you a capacity and *disposition* for persevering application? Are you conscious of a logical and argumentative turn of mind? Are your perceptions quick and clear? Is your memory capacious and retentive? Your judgment sound? Are you—aspiring after eminence—capable of extensive or deep research? Not only of acquiring learning, but *using* it? Do you believe that you are, or can become, equal to the "occasion SUDDEN,—the practice dangerous"—spoken of by Lord Coke? Have you, or do you think that you can acquire, the collectedness, presence of mind, self-reliance, and self-control, which this will require? That ductility, elasticity, activity: that expansive and contractile power of mind which can adapt itself to everything, and pass in a moment from one engagement to another, of the most different character—from labyrinth to labyrinth—with unwearied energy, with a mind unconfused? Are you capable of fixed attention? Are you gifted with natural powers of persuading and convincing, equally, superior and inferior minds—cultivated and uncultivated? Of publicly detecting and confounding artful falsehood and imposture in the witness-box?

Lastly, he must have pecuniary resources to fall back upon, or his lot will be miserable indeed. His expenses are certain and great: his gains dubious, and, even with the most fortunate, for years trifling. He has to maintain the position of a gentleman, and the independence essential to the preservation of that character. Without a sufficient income fr other sources, he must submit to terrible privations, or fall under the strong temptations by which he will be surrounded. In reply to many applications, Mr. WARREN thus states the expenses of going to the Bar, and the income necessary to keep him there; and wanting which, no prudent man will venture upon a course so likely to involve him in a future of poverty and wretchedness.

To begin with the beginning *First*, an outlay of about 35*l.* is requisite to pay the fees, stamps, &c. attending the admission into any of the four Inns of Court. *Secondly*, 100*l.* must be deposited with the treasurer, by way of security (unless the applicant shall produce a certificate of his having kept two years' Terms in any of the Universities of Oxford, Cambridge, or Dublin, or—at Lincoln's Inn—of his being a member of the Faculty of Advocates in Scotland), to be returned on his either quitting the profession or being called to the Bar (in the latter instance, however, only nominally returned, for it is nearly all swallowed up in the expenses of being called to the Bar), or refunded to his personal representative, in the event of his death. *Thirdly*, except in very rare cases of unusual intellectual power, and aptitude for the acquisition of legal learning, it is impossible for a student to do justice to himself without at least two years' pupilage, which will be 210*l.* There *may* be instances of persons successfully dispensing with one of these years, but the author knows of only one. If it can possibly be done, *three* years should be devoted to pupilage. *Fourthly*, the annual charge for purchasing law books during the period of pupilage is about 6*l.* or 8*l.* while the cost of "keeping commons" amounts to about 5*l.* or 7*l.* a year, if he choose to dine barely a sufficient number of times to keep the Te *Fifthly*, there are the expenses of board, lodging, clothes, &c. &c. which, with the most severe economy, cannot, it is conceived, be reduced under 150*l.* a year, in the case of an unmarried man, during the period of pupilage or chamber practice. *Sixthly*, on commencing practice, at the very least, 80*l.* or 100*l.* will be requisite to purchase a library wi (the sum usually laid out is about 200*l.*), and from 15*l.* to 20*l.* a year will be requisite for ntinuing the Reports &c. *Seventhly*, being called to the Bar, a wig and gown cost usually 8*l.* 8*s.* *Eighthly*, the expense of going to sessions and circuit (all of which is saved by a student going to the Equity Bar) cannot possibly be less than 90*l.* or 100*l.* a year. *Cæteris paribus*, it may be said generally, that an immediate command of at least 300*l.* and a continuing income of 250*l.* a year, constitute a *sine quâ non* to a successful and comfortable entrance into the legal profession. Let it not be lost sight of, that a man, after six, eight, ten, or more years' experience at the Bar, *may fail*, at a period of his life when he may be unable to turn advantageously to another calling; and what if he have then *no reserve fund to fall back upon!*

The third chapter is devoted to students, their characters, objects, pretensions, and prospects. He divides the students into three classes; the nominal or amateur st lent, the gentleman student seeking knowledge to help him as a legislator or magistrate and not as a practitioner, and the veritable student, looking for a livelihood and honour.

The next chapter is entitled, "On the Formation of a Legal Character," and treats of the first portion of this subject, the general conduct of the student; and this is followed by a statement of the general knowledge and mental discipline required. These chapters cont much good practical advice, and should be read attentively by all who are entering upon the profession.

The author then treats of the practical study of the [illegible] al history of England, and the different departments of the legal profession, civil, criminal, and ecclesiastical. The 11th chapter shews how the practical study of the common law should be commenced and prosecuted; this is followed by a sketch of the history and character of special pleading. Then there is an outline of a course of law reading, principally designed for the common law student; and, as this is a subject upon which we receive continual applications for advice, we will briefly state the books and their order suggested by Mr. WARREN.

He insists that the student should first address himself to pleading; using the admirable treatise on Pleading of Mr. Serjeant STEPHEN, and this to be followed by Chitty's Archbold's Practice.

Having thus obtained a general knowledge of pleading and practice, he should address himself to *evidence*, and for this purpose should read STARKIE's masterly treatise. The *machinery* of the law being in this manner learned, the student may enter upon the general body of the law, consisting of civil rights and liabilities, in respect of persons and property: the two grand divisions being mercantile law and real property law. To master mercantile law he should read

Chitty on Contracts not under seal,
The Treatises of Mr. Justice Story,
Byles on Bills of Exchange,
Collyer on Partnership,
Smith's Mercantile Law,
Selwyn's Nisi Prius,
Abbot on Shipping,
Park on Insurance.

For the study of Real Property Law, he recommends,

Wright's Tenures,
Williams's Principles of the Law of Real Property,
The 2nd vol. of Blackstone's Commentaries,
Sanders on Uses and Trusts,
Shepherd's Touchstone,
Jarman on Wills,
Breston on Estates and Abstracts of Title,
Sugden on Powers,
Sugden on Vendors and Purchasers,
Pruell on Mortgages,
Fearne on Contingent Remainders,
Cruse's Digest,
Coke upon Lyttelton.

For general heads of the Law, should be studied with attention—

Woodfall's Landlord and Tenant,
Williams on Executors and Administrators,
Burges's Colonial and Foreign Law,
Saunders's Reports,
Smith's Leading Cases,
Stephens's Blackstone,
Chitty's General Practice of the Law.

The Methods and Objects of Law Reading are considered in the following chapter. For these we refer the reader to the volume itself, and we pass on to the next, which consists of "practical suggestions, designed to facilitate both the study and practice of the law." We select a passage from the section entitled "How to acquire the art of effectively stating *viva voce* facts and arguments.

Acquire this habit, good student, if you have it not—anxiously cultivate it if you have—or save the stamps and other expenses of a call to the Bar—or make a present of your wig and gown, if you have precipitately purchased them, to some one who may make a better use of them. How lamentable is it to see a man of talent and learning, unable to acquit himself, even creditably, in this respect—possibly on the most trivial occasions rising embarrassed—confused—stuttering and stammering uttering "vain and idle repetitions," with the agonising accompaniments of "a—a—a," and sitting down, overwhelmed with vexation and disappointment! However clear may be a man's conceptions, however consecutive his thoughts, however thorough and extensive his knowledge, he may yet exhibit this sorry spectacle, unless he be either naturally gifted with powers of eloquence, or have struggled early and successfully to supply his natural deficiencies. "There is an important distinction," remarks Dugald Stewart, "between the intellectual habits of men of speculation, and of action. The latter, who are under a necessity of thinking and deciding on the spur of the occasion, are led to cultivate, as much as possible, a quickness in their mental operations; and sometimes acquire it in so great a degree, that their judgments seem almost intuitive." Bearing in mind, then, this observation, let it be the student's first step towards the attainment of so desirable an object as that now under consideration, to become a practical man—*to accustom himself to the sudden marshalling of his thoughts for action.* Let him often think aloud—often state suddenly the substance of what has been engaging his attention, and under the impression that he is doing it publicly. The more vividly he can imagine himself in such circumstances—can people his room with imaginary auditors—the better, the more vigorous will be his efforts to acquit himself well. Let him imagine his judge severe, his audience learned and critical; this will stimulate him to a rigid adherence to his subject. He will aim at as simple a style of expression—as close and succinct a statement, as possible, of facts and reasonings; turning not for a moment to the right hand or the left, nor encumbering himself with needless details. Let him resolutely reject all surplusage of thought or expression—keeping his object constantly in view, and going direct to it. Nothing but this will protect him hereafter from the painful and disheartening mischance of *suddenly losing, when engaged in public, the connection of his thoughts*—or will, at all events, put him in the way of quickly recovering it. The student must learn not only to think, but to *express* himself, consecutively. He must not for a moment forget the object with which he set out, *or cause his hearers to forget it*, by wandering into irrelevant matter, or undue amplification. Let him, therefore, in such solitary exercitations as those now recommended, throw himself entirely into his case—be as much in earnest as though he were actually engaged in public debate—suffering no incident—no sudden suggestion—no momentary interruption, to put him off his guard. Having thus, as it were, broken the ice, let him next practise similarly before some judicious friend, who will try him with a few interruptions—press him with questions—check his redundancies, and recal him from digressions. This will be found an invaluable expedient. His next step may be to enter one of the legal debating societies.

Mr. WARREN objects to the system of laborious transcription and common-placing, so much in vogue with students, and we think rightly, for too often it is a mere labour of the pen, not of the mind.

It is by no means the author's wish, however, to express an unqualified disapprobation of this system;

it is against the *abuse* of it that he would guard his younger readers; against the fatal facility with which they may fall into habits destructive, not to the memory only, but all the other powers of the mind. If a common-place book is to be kept let it be kept judiciously, and be appropriated to the reception of those passages only, met with in the course of reading, which are either rare, or very striking in point of argument or expression. Does the student happen to stumble upon a few sentences which, in an instant, clear up difficulties that have haunted him for months—it may be years—*they* are worthy of an entry in his common-place book—or at least of a reference; and, if they be altogether passed by, he may not be able to meet with them again, however great may be his emergency. How many choice passages in the judgments of a Hardwicke, a Mansfield, a Kenyon, an Ellenborough, an Eldon, or a Tenterden, and other distinguished judges, have charmed him for a moment, and then been lost, for want of being entered, or referred to, in his common-place book! The late Sir Samuel Romilly has left on record his testimony in favour of the prudent mode of common-placing here recommended. "As I read, I formed a common-place book, which has been of great use to me even to the present day. It is, indeed, the *only way* in which law reports can be read with much advantage."

The chapter on Attorneys and Solicitors contains much useful suggestion. The hints to a young articled clerk as to his course of reading will be useful.

At present, he would recommend that a youth, on first entering an office, should content himself, for a month or two, with getting an insight into the routine of business. Then Smith's Elementary View of the Proceedings in an Action at Law may be put into his hands, followed by Stephen on Pleading, of which only the first part is to be read. Then select portions of Mr. Maugham's General Principles of the Law of England, of Mr. Williams' Principles of the Law of Real Property, and of Mr. Smith's Mercantile Law, and of Selwyn's Nisi Prius, may be read with great advantage by an industrious pupil, under his master's direction. The author also would venture to recommend for perusal the chapters in this work devoted to the subjects of Equity, Common Law, Conveyancing, and Criminal Law, in which will be found a plain account of the existing mode of administering these great branches of the law. But his main object should be to master the general run of business in the office—the practical mode of enforcing or resisting rights, in the different courts—the ordinary conveyances and pleadings which are continually passing under his eye—endeavouring, at the same time, to refer for the full explanation of them to the works above-mentioned. He should also make a point of studying the opinions and drafts of pleaders, conveyancers, and barristers; and, whenever he has an opportunity, should make a copy of them, together with a short abstract of the facts to which they relate. He will soon find himself reaping great benefit from such a practice.

And equally sensible is the advice to young attorneys, for the practical conduct of their business.

When you have received instructions to commence an action, beware lest, in your praiseworthy desire to save expense to your client, you plunge him into much greater, and peril the success of his cause, by acting upon your own judgment, in choosing the form of action, and framing the Declaration and Particulars. Unless the case be really of the plainest kind, do not undertake the responsibility of preparing the pleadings—nor think seven and sixpence or half a guinea ill-spent, in having them prepared by a pleader. When, however, you think it right to draw your declaration and particulars of demand, pay special attention to the framing of the latter, especially with reference to what *credits* you will give to the defendant. It is often prudent to give him none at all—but leave him to exonerate himself from the *debit*, as best he may. Though such a course may occasion you the costs of a plea of payment, it may secure you several advantages: *e. g.* the defendant may be forced to call some one to prove it, from whom *you* may obtain valuable evidence, and secure your counsel the reply. Be *very* careful how you rely in your particulars, upon a "balance" of accounts, and beware of pleas of payment, set-off, or of payment of money into court, in such a case. If you be not on your guard, you may be quietly jockied—and not find out your fatal error till consultation—or even till the trial; or, at all events, you may have to amend your particulars, pay the costs of the defendant's pleas, and be too late to try your cause at the sittings or assizes at which you had intended to try it. (Refer to *Eastwick* v. *Harman*, 6 Mee. & W. 13; *Price* v. *Rees*, 11 Mee. & W. 576; *Kenningham* v. *Alison*, 2 D. N. S. 651; and *Lamb* v. *Meckelthwaite*, 9 Dow. 531. If you resolve to instruct a pleader, do so *before issuing out your writ*; and let your instructions to him, in the first instance, be as full and accurate as if you were preparing rather *your brief* than instructions for drawing the declaration. Get out all the facts from your client in the first instance, and not piecemeal—and only in consequence of the expensive suggestions of your opponent!—Whenever the defendant is an executor or administrator, if he be *your client*, lose not a moment in laying instructions before your pleader, in order that you may not be compelled to ask for time, which you cannot obtain (if your opponent understand his business), except on condition that you will not in the mean time, confess a judgment to other creditors, as you might otherwise have done; and if you be concerned for a *plaintiff*, when the defendant is an executor or administrator, and he be obliged to ask for time to plead, be sure that you impose on him the terms of not confessing any judgment in the mean time; this a judge will do, on your application. (Anon. 8 Mod. 308; *Hugh* v. *Pellet*, Barnes, 330; 1 Arch. Pr. 162 (7th edition). It is by no means clear that an attorney, omitting to take such a precaution, would not be held guilty of actionable negligence.

Lose not a moment, especially in cases of difficulty and importance, in laying a declaration or other pleading before your pleader or counsel, within the time limited, in order, that, if deemed advisable (and it frequently *is* very desirable), you may demur specially. This you would be prevented from doing, if forced to obtain time for pleading, which would be granted only on the terms of your pleading issuably. Most important advantages are constantly sacrificed by inattention to this suggestion. Counsel have the mortification of seeing, not till after time has been obtained, a manifest *technical* flaw in a declaration, which would have secured him the costs of a demurrer, on which he might have also tried the substantial sufficiency of the declaration, where the point was too doubtful to have warranted incurring the risk, or expense, of demurring generally. Always deliver your briefs, if you can possibly do so, in sufficient time for counsel really to master them. Do not push off everything to the last moment—the consequence of doing so are often fatal to your case. Fix a consultation, too, at a reasonable period before the cause comes on, in order that you may have time to avail youself of counsel's suggestions—often of vital importance—to obtain additional evidence, or make some application to a judge for leave to amend, or otherwise. Where you have taken a preliminary opinion upon the merits of your case, generally, especially from experienced pleaders or counsel, insert a copy of it in your brief, with some such heading as—"The following is Mr. ——'s opinion, on the strength of which this action was brought (or defended)." If your leader be in large practice, and severely pressed for time, a glance at this opinion will often enable him to seize, in a moment, the true points of the case, which otherwise be could not have done.

In drawing up your "proofs," take pains to insert, under the name of each witness, full details of his expected evidence, with distinct reference to the issues to which such evidence is applicable. Some are as prolix in doing so, as others sparing. Bear in mind that your junior, who may be young and comparatively inexperienced, will probably have to examine the *first* witness. Be therefore careful to let *that* proof, in such a case, be as full and distinct as you know how to make it.

See witnesses yourself; take their evidence deliberately, and read it over to them distinctly, so that counsel may be able, in conducting the case, to rely upon being able to establish their statement to the jury.

We now close this volume, from which we have gathered much instruction, and no small degree of pleasure, and with our respect for the author greatly enhanced by its perusal. It is sensible and practical as well as eloquent and elegant; and the number and beauty of the quotations with which it is studded, give to it an additional value and, combined with its other recommendations, make it by far the best work of its kind that has yet been offered to the profession.

JOURNAL OF PROPERTY.

RAILWAY SPECULATIONS.

(From the *Spectator.*)

On a moderate estimate, the railways already in existence and to be executed may be taken to cost	£150,000,000
The gross profit on that capital, at 8 per cent. would be	12,000,000
From which a deduction of 35 per cent. for expenses (the lowest expenditure of any large company) would amount to	4,200,000
Leaving the net profit of . . .	7,800,000

or not quite 5¼ per cent. upon the capital.

In other words, to afford the shareholders in all our completed and projected railways a return of rather less than 5¼ per cent. upon their outlay, the public must annually expend 12,000,000*l.* in railway travelling alone.

The word "million" comes glibly from the tongue, but conveys no tangible image to the mind. An effort is required to realize to the imagination the magnitude of the sum which must be annually spent on railway travelling to yield our speculators a moderate profit on their capital. Let any one attempt distinctly and articulately to count aloud from one to a million; he will find it hard work to enunciate on the average one thousand numbers in the hour, and would consequently require 100 days for 10 hours a day to count the million. The mechanical operation of telling over a million of sovereigns piece by piece would occupy a full month, at the rate of 3,600 an hour for 10 hours a day. The joint earnings of 1,830 agricultural labourers with their 7s. a week for 30 years each, not a working-day left out, would be less than a million of pounds sterling. The joint earnings of 640 mechanics at 20s. a week, toiling each as unremittingly during the same period, would not amount to a million of pounds sterling. The pay of 90 British general officers at 1*l.* a day would not in 30 years amount to a million of pounds sterling. So much of toil and danger, and exposure to the elements—so much of patient, persevering, and more or less skilful industry—so much of valour, and accomplishment, and high spirit, as represented by money—may be bought for a million of pounds sterling.

And our railway projectors and speculators calculate upon drawing twelve of these millions annually from the pockets of the public. In other words, they expect that 12,000,000 of people—half the population of the three kingdoms, men, women, and children (at 1½d. per mile)—will each travel 160 miles by railway every year, and pay them 20s. a head. Or they expect that 1,000,000 people will travel 1,920 miles each in the course of the year, and pay them 12*l.* a head. Or they expect that 120,000 people will each travel 16,000 miles by railway every year, and pay them 100*l.* per head. Be it remembered, too, that railway travelling constitutes but a fraction of the whole annual travelling of the nation. Our railways, existent and in projection, embrace not one-half of the surface and population of Great Britain; and even in the railway districts there is active competition from steam-boats, omnibuses, cabs, vans, spring-carts, &c. The steam-boats of the Thames and the Clyde carry more passengers than the Greenwich Blackwall, and Glasgow and Greenock Railways. In the great towns, not only the wealthier classes as a badge of station and for amenity, but tradesmen for professional purposes, keep vehicles, which, when travelling on business or for pleasure they from sheer economy generally employ in preference to other modes of conveyance. In the rural districts, landowners and farmers do the same. Again, the price of a railway ticket is only part of the outlay of the railway traveller on conveyances. In most cases it implies the additional expense of short stage, cab, or omnibus, to convey him to and from the railway, or from one railway to another.

Our sanguine projectors and speculators pay little heed to these considerations; though the brokers, who are agents in the transfer of shares, often ask each other in wonderment, where all the travellers are to come from? Put the question to any dabbler in railway stock, and he replies with an "Oh, with the increase of locomotive facilities, travelling will increase indefinitely." It may be so; hitherto the theory has held good; yet there must be some natural limit to the activity of the principle. Men do not travel for travelling's sake, but on business or for pleasure—to earn money, or to spend it; and what possible facility will set men in motion where these motives are wanting? The enormous amount of money invested in railways would seem to imply that some classes of Englishmen are expected to *live* on railways, as some classes of Chinese live on their canals. To render these undertakings remunerative, a numerous portion of society would need, like the fabled birds of paradise, to keep always on the wing—to spend their lives darting from town to town with the velocity of swallows in a summer evening. The boldness and extent of these aggregate undertakings convey a magnificent idea of the resources and enterprise of Britain; but their very magnitude lies like a load on the imagination, while the incessant restlessness and swift movements they presuppose in such a numerous class of the community make the head giddy only to think of.

WESTMINSTER BRIDGE.—From 1810 to 1838 this bridge cost in repairs 83,097*l.* 6s. 9½d. From 1838 to 1844 the amount was 82,661*l.*, and a further sum of 52,879*l.* was required for further works. The property belonging to the bridge only realizes 7,464*l.* 11s. 8d. a year.

SPECULATION IN RAILWAY SHARES.—It is rumoured that the committee of the Stock Exchange are about to make a resolution that all scrip transactions (excepting, of course, registered shares) shall be dealt in only for money—one of the wisest means yet suggested to cure the evils of rash speculations in railway shares.

Mr. Alderman Farebrother, the auctioneer of London, has inspected the prisons and barracks at Dartmoor, by the direction of the Government, previous to their being submitted for sale, which we understand will be in less than a fortnight.

Tithes Commutation.—A return has just been issued of agreements made for the commutation of tithe and of awards, with their amounts to be paid in lieu of tithes. It appears that the total rent charges, in lieu of tithes, amounted on the 1st of July last to as much as 1,088,282*l.* 8s. 11½d.

Bath.—We hear that the justly-admired tower on Lansdown, erected by the late W. Beckford, esq and the lands adjoining, are to be sold by order of his executors.

Public Sales.

By Messrs. MUSGROVE and GADSDEN, at the Mart.

A freehold estate, known as the Manor House, on the Ilford-road, adjoining the forest, near the six-mile-stone; the residence is surrounded with lawns and pleasure-grounds, the gardens are productive, and there is an orchard stocked with the choicest trees, a greenhouse, &c. also a lodge, meadow and plantations, and the ornamental water adds much to the character of the estate, which occupies altogether 24a. 3r. 39p —5,500*l.*

A copyhold property, situate at Windmill-hill, Hampstead comprising three houses, with gardens, a coach-house, and four-stall stable; let at rents amounting to 85*l.* per annum—850*l.*

Two freehold houses, Nos. 16 and 17, Hereford-place, Mile end Old Town; let at 37*l.* per annum - 430*l.*

A house, No. 49, Wynyatt-street, Goswell-street-road; let at 32*l.*; held for 32 years, at a ground-rent of 3*l.* per annum —620*l.*

By Mr. WILLIAM MARSHALL.

A semi-detached villa residence, being No. 7, St. John' Villas, Acacia-road, with garden; held for 99 years, from Christmas 1835, at a ground-rent of 5*l.* per annum—770*l.*

A ditto, being No. 8—730*l.*

A residence, No. 1, Dunkeld Villas, Townshend-road, near the Avenue-road; held for 78 years, from September 1841, at a ground-rent of 9*l.* per annum—210*l.*

A ditto, No. 2, ditto—210*l.*

A ditto, No. 3, let at 35*l.* held for the like term, at 10*l.* per annum—210*l.*

A residence, being No. 4, of the value of 40*l.* per annum—235*l.*

A house, No. 7, Henry-street, Portland Town, let at 26*l.* held for 81 years from April 1835, at a peppercorn-rent—225*l.*

By Mr. BELTON, at Garraway's.

The Carpenters' Arms public house, situate in Ann's-place, Hackney-road, held for 54¾ years, at 60*l.* per annum, sold for 1,190*l.*

The Mail Coach, at the corner of Alexander-street, Old Kent-road, now open as a beer-shop; a lease will be granted for 97¾ years, at 10*l.* per annum - 400*l.*

A house, No. 2, Church-street, Old Kent-road, held for 90 years, at 5*l.* per annum - 190*l.*

Three houses, Nos. 18, 19, and 20, Ferdinand-place, Hampstead-road, let at 62*l.* 8s. per annum, held for 97 years, at 2*l.* 10s. each house—295*l.*

Two ditto, Nos. 14 and 15, let at 41*l.* 12s. ditto—215*l.*

By Mr. MULLETT, at Garraway's.

The ground lease of the White Swan public-house, in the Mile-end-road, adjoining to which is a house and shop; also 10 tenements, in White Swan-place, which 11 houses are let at 64*l.*; the whole held for 60 years, at 80*l.* per annum—1,180*l.*

The Farnham Castle, in Little Trinity-lane, City; held for 18½ years, at 100*l.* per annum, including six tenements, let at rents amounting to considerably more than the original rent, leaving the public-house free from rent and taxes—150*l.*

By Messrs. HARVEY and GEORGE, at the Mart.

The estates of the late Edmund Moore, esq. deceased, at Great Ilford, Essex, in four lots, as follows:—

A copyhold residence, with chaise-house and stable, and a large piece of garden ground, of the estimated value of 50*l.* per annum—550*l.*

A piece of copyhold garden-ground adjoining the preceding lot—140*l.*

A copyhold residence, abutting upon the High-street, at Great Ilford, with smith's shop, sheds, large yard, and premises of the estimated value of 30*l.* per annum 350*l.*

A copyhold house, with grocer's shop and premises, let at 22*l.* per annum—250*l.*

By Mr. ROBERTS.

Two semi-detached cottage residences, situate Nos. 1 and 2, Halliford-street, Lower road, Islington; held for 99 years from June 1843, at a ground-rent of 11*l.* per annum—950*l.*

Two residences, Nos. 13 and 14 Suffolk-street, leading out of Halliford-street, of the value of 35*l.* each house; held for 99 years from March 1843, at a ground rent of 5*l* each house—600*l.*

A residence, No. 12, Suffolk street; held for the same term, at a ground-rent of 8*l.* per annum—400*l.*

A freehold house, No. 53, Mansfield-street Kingsland-road; let at 23*l.*—280*l.*

A ditto, No. 54, adjoining—285*l.*

A ditto, No. 55—285*l.*

A house and baker's shop, No. 74, Mansfield-street, let at 25*l.*; also two houses, Nos. 75 and 76, let at 46*l.*; held for 76 years from June 1843, at 5*l.* 5s. per annum—735*l.*

Three houses, with gardens, Nos. 6 7, and 8, York-street, near the Prince Albert Tavern, let at 66*l.*; and two houses, Nos. 9 and 10, let for the whole term, at 6*l.* per annum; held for 78 years from June 1841, at a ground-rent of 15*l.* per annum—570*l.*

Three ditto, Nos. 12, 13, and 14, let at 66*l.*; also No. 15, let for the whole term, at 3*l.* per annum; held for the same term at 12*l.* ground-rent—565*l.*

Two houses and shops, Nos. 51 and 52, Barbican, together with the premises in the rear of No. 51, let at 121*l.* per annum; held for a term of 61 years from Lady-day 1839, at the ground-rent of 20*l.* per annum—940*l.*

THE MONEY MARKET.

	Sat.	Mon.	Tues.	Wed.	Thurs.	Frid.
Three per Cents. Consols	98¾	99⅛	99¼	99⅛	99¼	98⅞
Three per Cents. Reduced	99⅞	99½	99½	99½	99½	99⅞
New Three-&-a-quarter per Cts	102⅜	102	102¼	102⅛	102⅛	101⅞
Long Annuities	11⅛	11⅛	11¼	11⅛	11⅛	11⅛
Bank Stock	210½	211½	211	212½	211½	212⅛
India Stock	274	275¼	275	273½	276	272
India Bonds, prem.	68	70	70	—	—	—
Exchequer Bills, prem.			52	50		
FOREIGN.						
Spanish Five per Cents.	27¾	27½	27½	27⅛	27⅛	27⅞
Spanish Three per Cents.	38¼	38½	38½	38½	38½	38½
Russian	118¾	118½	119¼	119¼	119½	119¾
Peruvian	39	31¾	31	36¼	38½	39
Portuguese	64½	64½	64½	65½	65	
Mexican	35⅞	35½	36	35	36	
Deferred	19½	18½	18½	19½	19½	
Dutch Two-and-a-Half per Cents.	63⅛	63⅞	63½	63¼	62¼	62⅛
- Four per Cents	99¼	98½	99⅛	100⅜	103½	99⅞
Danish	89½	89¾	89¼	90¼	90	90¼
Colombian	17½	17½	17½	18½	18⅛	18⅛
Chilian	102	102⅞	102⅞	103	102	102½
Buenos Ayres	49½	49½	48¾	49¾	49¼	46½
Brazilian	90	90⅛	90½	90	90½	89½
Belgian	100½	99¼	99½	100½	100½	100¼

BIRTHS, MARRIAGES, AND DEATHS.

[The charge for the insertion of the above is 5s.]

BIRTH.

Power.—On Wednesday, the 4th inst. at Chelsea, the wife of Edward Power, esq. of the Middle Temple, of a son.

MARRIAGES.

Barnwell, Frederick Lowry, of Gray's-inn, esq. to Mary Ann, second daughter of the late Rev. Charles J. Chapman, of Norwich, on the 5th inst. at Ashdon, Essex.

Goldsworth, John Eastabrooke, esq. barrister-at-law, of the Hon. Society of the Inner Temple, to Emma Hill, eldest daughter of Thomas Harrison, esq. Commissioner of Excise, Alpha-place, Regent's-park, on the 10th inst. at Christchurch, Marylebone.

Littledale, Henry Anthony, of Bolton-hall, Yorkshire, esq. and of the Inner Temple, barrister-at-law, to Mary Elizabeth, eldest daughter of the late John Armytage, esq. and sister of Sir George Armytage, of Kirklees, Yorkshire, Bart. on the 4th inst. at Sandal, near Wakefield.

Smythies, Rev. Edward, youngest son of the Rev. J. R. Smythies, of Lynch-court, Herefordshire, to Elizabeth March, eldest daughter of the Rev. E. T. March Phillips, rector of Hathern, and Chancellor of the diocese of Gloucester, on the 9th inst. at Hathern, Leicestershire.

Gregg, Henry Poole, esq. son of the late William Gregg, esq. of the city of Cork, solicitor, to Elizabeth, second daughter of the late Richard Rogerson, esq. of Bamburgh, and niece of John Calthrop, esq. of Stanhoe-hall, Norfolk, on the 9th inst. at Bamburgh, Lincolnshire.

DEATHS.

Blower, John, esq. of Old-square, Lincoln's-inn, only surviving son of Joseph Blower, esq. of Cumming-street, Pentonville, of consumption, on the 6th inst. aged 31.

Watson, Horace, esq. late of Gray's-inn, London, and Hendon, Middlesex, on the 6th inst. at Boulogne-sur-Mer, aged 72.

THE GAZETTES.

AMOUNT OF DIVIDENDS DECLARED.

The sum stated as the Dividend means so much declared in the Pound. The Assignees, when chosen, follow this statement.

Monday, Sept. 1.

Barker, A. wine merchant, last exam. Nov. 8.—*Dousbery*, boot factor, last exam. Oct. 14.—*Miller*, A. merchant, last exam. Nov 7. - *Solomon*, S. tailor, last exam. Oct. 2.

Tuesday, Sept. 2.

Brown, G. clothier, last exam. Nov. 7.—*Dumbrill*, J. N. baker, last exam. Nov. 11.—*Jacques*, G. plumber, last exam. passed.—*Wood*, H. tanner, last exam. passed.

Friday, Sept. 5.

Bigmore, C. S. plait manufacturer, assignees, Sept. 13.—*Brown* and *Brown*, manufacturers of Gryll's whelp, last exam Nov. 6.—*Guy*, J. surgeon, assignees, Oct. 11.—*Harding*, F. P. hosier, last exam. Dec. 2.

DIVIDENDS.

Insolvents' Estates.

Allpress, G. carpenter, Ramsey, 16s. 8d.

ASSIGNMENTS

To Trustees for the benefit of Creditors.

Bankrupts' Estates.

Gazette, Sept. 5.

Millman, T. linen draper, St. Helier, Jersey, Aug. 22. Trusts. W. Hitchcock, Wood-street, and A. Caldecott, Cheapside warehousemen. Sols. Sole and Turner, Aldermanbury.—*Wicken*, W. draper, Margate, Sept. 4. Trusts. H. W. Castle, Love-lane, and W. H. Holyland, S. Paul's Church-yard, warehousemen. Sols. Sole and Turner, Aldermanbury.—*Young*, R. L. glass dealer, Upper Thames-street, Aug. 21. Trusts. W. Pilkington, glass manufacturer, St. Helens, Lancashire, and B. Attwood, glass dealer, Bridge-street, Blackfriars. Sols. Crosby and co. Church-ct. Old Jewry.

Gazette, Sept. 9.

Bryant, J. G. leather dealer, Chepstow, Aug. 23. Trusts. F. Tuckett, leather factor, Bristol, and J. R. Fisher, leather merchant, London. Sol. Haberfield, Bristol.—*Cope*, H. grocer, Manchester, July 30. Trusts. P. Roylance, butter merchant, and E. Robinson, tea dealer, both of Manchester. Sol. Petty, Manchester.—*Mince*, E. general shopkeeper, Clifton, Aug. 8. Trusts. G. Hill, gent. Bristol, and H. Williams, bacon factor, Bedminster. Sol. Baynton, Bristol.—*Read*, C. smith, Ventnor, Isle of Wight, Aug. 30. Trusts. J. Matthews, iron merchant, and R. Read, victualler, both of Newport. Sol. Rice, Newport.—*Targett*, W. builder, Shirley, Hants, Aug. 30. Trusts. R. Coles, merchant, and R. Driver, timber merchant, Southampton. Sol. Newman, Southampton.

Bankrupts.

DATE OF FIAT AND PETITIONING CREDITORS' NAMES.

Gazette, September 5.

Bigmore, Samuel Cullum, straw plait manufacturer, printer, and stationer, Haverill, Suffolk, Sept. 13, at half-past twelve, Oct. 10, at two, Basinghall-st. Com. Fane; Whitmore, off. ass.; Hare, Gray's-inn, sol. Date of fiat, Aug. 11. G. Knott, merchant, King-st. Snowhill, pet. cr.

Dalton, Joseph, Burn, Joseph, and Turpin, Robert, earthenware manufacturers, Newcastle-upon-Tyne, Sept. 23, at twelve, Oct. 21, at two, Newcastle. Com. Ellison; Baker, off. ass.; Clayton and Cookson, Lincoln's-inn, and Clayton and Dunn, Newcastle, sols. Date of fiat, Sept. 1. E. Latimer and C. Porter, coal-owners, Newcastle-upon-Tyne, pet. crs.

Mayer, Richard, dealer in ale and porter, Longton, Stoke-upon-Trent, Staffordshire, Sept. 16, and Oct. 16, at eleven, Birmingham. Com. Daniell; Bittleston, off. ass.; Young, Longton, and Smith, Birmingham, sols. Date of fiat, Aug. 21. Bankrupt's own petition.

Menzies, William, draper, mercer, grocer, and tea dealer, Gloucester, Sept. 18, at one, Oct. 16, at eleven, Bristol, Com. Stevenson; Miller, off. ass.; Jones, Sise-lane, sol. Date of fiat, Aug. 30. J. S. Smith and J. Richardson, Irish linen manufacturers, Watling-st. pet. crs.

Parry, Rowland, flour dealer, Bangor, Carnarvonshire, Sept. 23 and Oct. 7, at eleven, Liverpool, Com. Ludlow; Bird, off. ass.; Chester and Co. Staple-inn, and Mallaby and Co. Liverpool, sols. Date of fiat, Aug. 27. J Brown, gent. Liverpool, a partner and one of the registered public officers of a certain joint-stock banking copartnership, called the North and South Wales Bank, pet. cr.

Starbuck, Robert, shipwright, West-st. Gravesend, Kent, Sept. 13, at twelve, Oct. 16, at eleven, Basinghall-st. Com Fonblanque; Pennell, off. ass.; Southgate, Gray's-inn, and Southgate and Son, Gravesend, sols. Date of fiat, Aug. 19. J. Pain, grocer, Gravesend, pet. cr.

Gazette, Sept. 9.

Cox, George, victualler, Frankfort-st. Plymouth, Sept. 19 and Oct. 10, at one, Exeter; Hernaman, off. ass.; Penkivile, West-st. Finsbury, Beer and Rundle, Devonport, and Stogdon, Exeter, sols. Date of fiat, Sept. 4. Bankrupt's own petition.

Davies, Stephen, coal merchant, Somerset-wharf, Bankside, Southwark, and Tunc's-wharf, Wilton-road, Pimlico, Sept. 23, at eleven, Oct. 21, at twelve, Basinghall-st. Com. Fane; Alsager, off. ass.; Husband and Wyatt, Gray's-Inn-square, sols. Date of fiat, Sept. 4. T. Smith and B. Bell, coal factors, Water-lane, pet. crs.

Ramsden, James, sen. cloth manufacturer and worsted spinner, Armley, Leeds, Yorkshire, Sept. 24 and Oct. 22, at eleven, Leeds, Com. Boteler; Fearne, off. ass.; Sudlow and Co. Chancery-lane, and Naylor, Leeds, sols. Date of fiat, Sept. 4. Bankrupt's own petition.

Savage, John, victualler and tavern keeper, Old Compton-street, Soho-square, Sept. 18, at half-past one, Oct. 23, at twelve, Basinghall-st. Com. Fonblanque; Pennell, off. ass.; Springall and Co. Raymond-buildings, sols. Date of fiat, Aug. 29. R. J. Hastings, victualler, Old Compton-st. Soho, pet. cr.

Ward, Frederick, oilman, late or Rosoman-st. St. James, Clerkenwell, Sept. 18, at half-past eleven, Oct. 17, at eleven, Basinghall-st.; Com. Fane; Whitmore, off. ass.; Keighley, Basinghall-st. sol. Date of fiat, Sept. 4. Bankrupt's own petition.

PARTNERSHIPS DISSOLVED.

Gazette, Sept. 2.

Amis, J. jun. *Hatton*, J. and *Marshall*, S. mercers and haberdashers, Bishopsgate-st. Within, so far as regards Hatton (deceased), Feb. 12. Debts paid by Marshall.—*Bamford*, W. and N. farriers, Bell-bar, near Hatfield, Jan. 1, 1841. Debts paid by J. P. Bamford, Essenden, Herts.—*Barnett*, E. and M. schoolmistresses, Great Prescot-st. Goodman's-fields, Aug. 29. Debts paid by Mrs. Barnett.—*Calvert*, J. and *M'Intyre*, T. woollen drapers, Leeds, Aug. 28. Debts paid by M'Intyre.—*Carkeet*, J. M. and W. general merchants, Plymouth, Aug. 29. Debts paid by J. M. Carkeet.- *Dennis*, C. and *Quy*, J. D. size and oil manufacturers, White's-grounds, Bermondsey, July 1. Debts paid by Dennis.—*Dixon*, J. and *Neve*, J. coal and iron masters, trading under the firm of the Wolverhampton Colliery Company, July 8. Debts paid by Dixon.—*Granville*, E. and *Warne*, W. merchants, Cheapside, Aug. 30. Debts paid by Warne.—*Hall*, J. and *Moreton*, J. H. meat salesmen, Leadenhall-market, Aug. 19. Debts paid by Moreton.—*Hunt*, E. and *Tyndale*, G. T. merchants, Liverpool, Aug. 27. Debts paid by Hunt.—*Harrison*, A., *Stevenson*, J., *Tennant*, J. and C. J., *Brown*, G., *Stevenson*, W. and *Williamson*, J. C. manufacturers of alkalies and other chemicals, South Shields, so far as regards A. Harrison, July 8.—*Irwin*, T. H. and *Aspinall*, J. stock brokers, Liverpool, Aug. 30.—*Kirton*, T. J. and *Newman*, J. white lead manufacturers, Bankside, Southwark, Aug. 30. Debts paid by T. J. Kirton.—*Lawson*, W. and *Horne*, J. hat manufacturers, Wellington-street, London-bridge, and Tottenham-court-road, Aug. 29.—*Leaker*, H. and *Trudell*, T. ironmongers, Leadenhall-street, Aug. 30.—*May*, S. and *Mottram*, P. drapers and mercers, Shrewsbury, Aug. 11.—*Meltzer*, C. R. and *Wadsworth*, J. flax merchants, Leeds, Aug. 12. Debts paid by Meltzer.—*Reed*, W. B. and *Baker*, W. builders, Bristol and Horfield, Aug. 29.—*Roller*, F. W. and *Wirsing*, A. C. merchants, Union-court, Old Broad-street, Aug. 30. Debts paid by Roller.—*Roy*, R. *Blunt*, J. *Johnstone*, D. G. and *Walton*, C. attorneys, Lothbury, so far as regards Walton, Sept. 1.—*Smith*, S. and S. tailors, Manchester, Aug. 29.—*Stawpert*, W. and *Pannett*, R. grocers, Willington, Aug. 28.

Debts paid by Stawpert.—*Stevens*, W. *Wilkinson*, J. and *Satchell*, J. attorneys, Queen-street, so far as regards Wilkinson, Aug. 25.—*Taylor*, J. and *Dronsfield*, W. cotton spinners, Royton, near Oldham, Aug. 28.—*Taylor*, J., E. and H. W. cabinet makers, Colchester, so far as regards J. Taylor, June 24.—*Thorpe*, J. and J. curriers, Nottingham, or elsewhere, Aug. 22.—*Wade*, J. *Hargreaves*, W. and *Wade*, J. worsted spinners, Bradford, so far as regards Hargreaves, Jan. 1. Debts paid by the remaining partners.—*Wills*, F. and *Gadd*, H. mercers, Chichester, Sept. 2. Debts paid by Gadd.—*Wilson*, W. N. and *Barton*, J. Mousseline de Laine and calico printers, Pendleton, Manchester, and Cheapside, June 3.

Gazette, Sept. 5.

Barnes, J. R. and T. cotton-spinners, Farnworth, June 30. Debts paid by T. Barnes.—*Burton*, R. and *Fisher*, T. curriers, Liverpool, Aug. 5. Debts paid by Fisher.—*Cross*, W. B. and H. H. and *Ash*, W. attorneys, Bristol and Plymouth, so far as regards H. H. Cross, Aug. 30.—*Campling*, A. jun. and *Ives*, J. C. hosiers, Norwich, Sept. 3. Debts paid by Campling.—*Cooper*, J. and *Turner*, D. grocers, Sheffield, Sept. 2. Debts paid by Cooper.—*Croudace*, T. and *Meeson*, T. coal factors, Cross-lane, London, and High-st. Wapping, Sept. 1.—*Davids*, M. and *Dutch*, W. fishmongers, Paternoster-row, Aug. 28. Debts paid by Davids.—*Deeley*, W. and W. H. platers, Birmingham, Sept. 2. Debts paid by W. H. Deeley.—*Hawley*, J. A. and G. earthenware manufacturers, Rawmarsh, Sept. 2. Debts paid by A. and G. Hawley.—*Henry*, D. J. and *Gaze*, M. Liverpool, Aug. 29.—*Hindley*, R. and W. brewers, Toxteth-park, June 30. Debts by R. Hindley.—*Holdsworth*, W. B., *Barrett*, J. C. and *Fowler*, J. flax spinners, Leeds, so far as regards Fowler, August 30. Debts paid by the remaining partners.—*Lapage*, J. and *Dawson*, T. stock brokers, Leeds, Sept. 1. Debts paid by Lapage.—*Liddell*, J., H., T., and J. boot makers, Huddersfield and Manchester, so far as regards J. Liddell, Sept. 1. Debts paid by the remaining partners.—*Milner*, M. A. and A. milliners, Thirsk, Aug. 25. Debts paid by A. Milner.—*Nicholson*, M. (now M. Freeman), and *Morris*, A. Manchester, March 21.—*Pember*, G. and *Davies* J. linen drapers, Hereford, Sept. 1.—*Porter*, D. Fartown, near Huddersfield, and *Porter*, G. Austonley, near Holmfirth, contractors for public works and undertakings, Aug. 30.—*Sparrow*, W. H. and C. iron masters, Wolverhampton, June 30, 1844.—*Taylor*, J. and *Robinson*, J. fish curers, Liverpool, Sept. 2.—*Thompson*, J. and *Rawson*, J. jun. cotton spinners, Salford & Manchester, July 3. Debts paid by Thompson.—*Vandersteen*, C. and *Parry*, H. carpenters, Church-row, Bethnal-green-rd. Sept. 3. Debts paid by Vandersteen.—*Walton*, Thomas, Joseph, John, Jacob, Robert, Jonathan, and Thomas, *Heatherington*, J. and *Burlinson*, J. miners, Witton-le-Wear, and clay workers, Shipley Fell, near Wolsingham, July 31.—*Wathen*, G., *Bassett*, T. and *Gurney*, J. attorneys, Stroud, Sept. 2. Debts paid by Wathen and Bassett.—*Weatherburn*, L. sen. and jun. tobacconists, Huddersfield, Jan. 1.—*Williamson*, G., *Liversedge*, S. and *Crossley*, W. fancy manufacturers, Almondbury, July 28. *Woodward*, R. and R. T. corn merchants, Liverpool, so far as regards R. T. Woodward, June 30.

Insolvents

Petitioning the Courts of Bankruptcy.

Gazette, Sept. 2.

PETITIONS TO BE HEARD AT BASINGHALL-STREET.

Beaver, C. E. gent. Penton Mews, Sept. 22, at half-past twelve.—*Currell*, J. L. tobacconist, Winchester, Sept. 22, at half-past one.—*Hamer*, S. B. attorney, Upper Albany-st. Sept 22, at twelve.—*Harris*, W. clerk, Gravesend, Sept. 22, at half-past twelve.—*Messum*, E. jun. out of employment, Romsey-infra, Southampton, Sept. 10, at one.—*Millson*, W. J. architect, Hunter-st. Dover-road, Parliament-st. Whitehall, and Warwick-chambers, High Holborn, Sept. 22, at twelve.—*Norton*, E. out of business, Wellington-terrace, Clapham-rise, Sept. 22, at one.—*Papworth*, E. G. sculptor, Harland-cottages, Kentish-town, Sept. 22, at one.—*Worley*, I. victualler, Fish-street-hill, Sept. 10, at one.—*Wyatt*, J. out of business, Farley Castle, Reading, Sept. 11, at one.

COUNTRY.

Arrowsmith, J. S. upholsterer, Richmond, Sept. 17, at eleven, Leeds.—*Atkinson*, J. cloth weaver, Calverley, Sept. 17, at eleven, Leeds.—*Brook*, E. clothier, Choppards, Sept. 17, at eleven, Leeds.—*Jones*, D. grocer, Merthyr Tydvill, Sept. 19, at twelve, Bristol.—*Moore*, B. commission agent, Nottingham, Sept. 27, at half-past twelve, Birmingham.—*Mynn*, A. out of business, Thurnham, Sept. 9, at eleven, Exeter.—*Nelson*, J. dealer in horns, Sheffield, Sept. 17, at eleven, Leeds.—*Wyatt*, P. victualler, Taunton Saint James, Sept. 5, at one, Exeter.

MEETINGS AT BASINGHALL-STREET.

Brown, J. M. green grocer, Lambeth-walk, Oct. 1, at eleven.

MEETINGS IN THE COUNTRY.

Evans, J. Sept. 23, at half-past eleven, Birmingham.

PETITIONS TO BE HEARD AT BASINGHALL-STREET.

Gazette, Sept. 5.

Tingey, W. labourer, Penny-fields, Poplar, Sept. 12, at eleven.

COUNTRY.

Barrett, J. painter, Bradford, Sept. 16, at eleven, Leeds.—*Bury*, W. corn dealer, Blackburn, Sept. 16, at twelve, Manchester.—*Butler*, J. brick maker, Bradford, Sept. 16, at eleven, Leeds.—*Collingwood*, A. potato dealer, Low Shaw-hill, near Halifax, Sept. 9, at eleven, Leeds.—*Fleming*, J. baker, Bishopwearmouth, Sept. 23, at half-past two, Newcastle.—*Howe*, J. out of business, Sowerby-bridge, near Halifax, Sept. 16, at eleven, Leeds.—*May*, E. button maker, Newcastle-upon-Tyne, Sept. 23, at twelve, Newcastle.—*Nash*, T. inn-keeper and farmer, Stansfield, Sept. 16, at eleven, Leeds.—*Robinson*, I. stone mason and weaver, Silkstone, Sept. 16, at eleven, Leeds.

From the Gazette of Friday, September 12.

Bankrupts.

Adamson, J. grocer, Stockport.—*Coombes*, N. G. coal-merchant, Craven-st. Strand.—*Soffe*, W. publisher, Strand.—*Sharp*, R. J. victualler, Liverpool.—*Sutcliffe*, J. rectifier, Halifax.

Sovereign Life Assurance Company,

(PROVISIONALLY REGISTERED)

No. 5, ST. JAMES'S-STREET, LONDON.

TO BE ESTABLISHED BY ACT OF PARLIAMENT,

FOR

THE ASSURANCE OF LIVES,

AND FOR EFFECTING ALL OTHER CONTRACTS DEPENDING UPON LIFE CONTINGENCIES, AND ALSO FOR GRANTING LOANS, UPON A NEW AND HIGHLY BENEFICIAL SYSTEM.

CAPITAL, £1,000,000, in 100,000 Shares of £10 each. Deposit, £1 10s. per Share.

Note.—In pursuance of the Act of Parliament, 10s. per Cent. only (or 1s. per Share) will be received until the Company obtains a Certificate of complete Registration, when notice will be given for the payment of the residue of the Deposit, and the Company will commence its operations.

Trustees.

The Right Hon. Lord ROSSMORE.
Sir AUGUSTUS BRYDGES HENNIKER, Bart. Hawley, Stowmarket, Suffolk.
BENJAMIN BOND CABBELL, Esq. F.R.S. F.S.A. Temple.
HENRY POWNALL, Esq. Russell-square, and Spring-grove, Hounslow.
CLAUDE EDWARD SCOTT, Esq. Cavendish-square.

Provisional Directors.

Lord ARTHUR LENNOX, M.P. Chesham-place, Belgrave-square.
The Right Hon. Lord MACDONALD.
HENRY BROADWOOD, Esq. M.P. Whitehall-yard.
THOMAS COLPITTS GRANGER, Esq. M.P. Temple.
CHARLES FAREBROTHER, Esq. Alderman, Lancaster-place.
JOHN ASHBURNER, Esq. M.D. Wimpole-street.
WILLIAM TULLOH FRASER, Esq. Manchester-square, and Crosby-square.
JOHN GARDINER, Esq. Avenue-road, Regent's-park.
ALEXANDER OGILVIE, Esq. Northumberland-street.
AARON ASHER GOLDSMID, Esq. Cavendish-square.
PHILIP PATTON BLYTH, Esq. Austin Friars, and Sion House, Clapton.
HENRY WILLIAM POWNALL, Esq. Russell-square.

Auditors.

JAMES FRASER, Esq. Park-square West, Regent's-park.
JAMES GERNON, Esq. Conduit-street.
WILLIAM WALLACE, Esq. Austin-friars.
EDWARD WATSON, Esq. St. Helen's-place, and Frognal, Hampstead.

Bankers.—Sir CLAUDE SCOTT, Bart. and CO. Cavendish-square.

Standing Counsel.—Mr. Serjeant MANNING, Serjeants'-inn. W. H. ROUGH, Esq. Middle Temple.

Solicitors.—Messrs. DAVIES and SON, Warwick-street, Regent-street.

Consulting Physician.—JOHN POWER, Esq. M.D. Great Queen-street, Westminster.

Medical Referees.—EDWARD DUKE MOORE, Esq. Arlington-street. FRANCIS GRAYDON JOHNSTON, Esq. Saville-row.

Consulting Actuary.—J. J. SYLVESTER, Esq. M.A. F.R.S.

Surveyors.—ARTHUR MEE, Esq. Carlton Chambers, Regent-street. FREDERICK C. J. PARKINSON, Esq. Sackville-street.

Secretary.—GEORGE CUMMING, Esq.

This Company will transact all the usual business of Assurance Companies, and in so doing will take advantage of the modern improvements which have been engrafted into the systems of Assurance, the result of the long-tested experience of old-established Offices for the Assurance of Lives.

Thus, Assurances will be granted upon the payment of one single Premium, or of Annual Premiums, or upon a limited number of payments, on a gradually decreasing or increasing scale, all of which payments may be made half-yearly, or quarterly, if more convenient.

Assurances will likewise be granted from 5,000*l.* downwards to any amount, thus opening the door of Assurance to many persons who have hitherto found it inaccessible.

The Company will also undertake the purchasing of contingent and reversionary Property, the granting of immediate Survivorships and Deferred Annuities, as also, the endowment of Widows and Children. It will likewise advance money on annuity, mortgage, or other security.

The multifarious operations connected with Life Assurance; for instance, the opportunities afforded to Husbands and Fathers of making a provision, after their death, for their Widows and Children; to Creditors, to compensate the loss which the death of their Debtors might occasion; in Marriage Contracts, to secure the terms of Settlement; to the possessors of Entailed Estates, to provide for the younger branches of their families; to persons possessed of Life Interest in Property, to provide for their relatives in case of their decease; to expectants of Property in Reversion, to insure a portion of it against contingencies; together with many other instances which might be enumerated, seem, of late years, to be better understood than formerly. It is with a view to facilitate these operations that the SOVEREIGN LIFE ASSURANCE COMPANY has been formed; and it will be found that it *offers to the public a new system of Loans, more beneficial to the Borrower, and yielding a better return to the Shareholder, than any system at present in use.*

Thus, any person effecting an Assurance with this Company, can borrow THE FULL AMOUNT of the sum secured by the Policy, upon giving collateral security for the payment of the Premium, and interest on the loan, *for a limited number of years*, and will not, as in ordinary cases, be liable to be called upon to repay, in one sum and by a given day, the principal money lent.

In order to effect this, the Borrower will pay an increased rate of premium, beyond what would be required for the ordinary Assurance of his Life, which increased rate, together with the accumulations by way of interest, which the operations of the Company will enable it to *realize*, will, in effect, *repay the principal sum to the Company in any given number of years*, at the option of the borrower, who will, at the expiration of such period, be relieved from all further payments in respect of the Loan, and will, moreover, hold a Policy with the Company, of some years' duration, which he can, if he chooses, continue for the benefit of his family, or for the purpose of raising a future Loan, at the ordinary rate at which he would have been entitled to it at the time of the commencement of the original Loan.

In case the Borrower should die during the continuance of the Loan, he will not leave his property encumbered with a debt; but, on the contrary, his representatives will be entitled to receive the amount secured by the Policy, after deducting a sum equal to the unliquidated portion of the Loan. Or if, at any time, he should wish to pay off the Loan to the Society, he can do so upon advantageous terms.

For example, a person aged twenty-five, who wishes to borrow 100*l.* to be liquidated in fifteen years, will have to insure in the Society to the amount of the Loan, and will pay an Annual Premium for such Assurance of 7*l.* 9s. 10d. in addition to 5 per cent. interest upon the Loan, making a total annual payment of 12*l.* 9s. 10d. *for fifteen years only*. It is obvious that the longer the period during which the Premiums are payable, the smaller will they be in amount.

Should the Borrower survive the period for which the Loan is contracted, he will, by these payments, have liquidated the principal sum lent, and will possess a Policy of some years' duration for 100*l.* which he can, if he chooses, continue at the ordinary rate of Premium.

If, on the other hand, the Borrower should die within the period assigned for the continuance of the Loan, say in the tenth year, he will not leave his property incumbered with a debt of 100*l.*; but, on the contrary, his representatives will be entitled to receive 61*l.* 12s. 9d. the then value of his Policy.

Or again: if at the same time (during the tenth year), he should desire to pay off his Loan, he will have to pay to the Society no more than 38*l.* 7s. 3d. and, still retaining his interest in the Policy, will be discharged from all further payments beyond the ordinary rate of Assurance.

The examples above given are deduced from the Tables of the Society, a reference to which will shew the relative Premiums payable at different ages for Loans of different durations.

It may be observed, also, that persons who have no desire to retain an interest in their Policies for the benefit of their relations, can insure at a much lower rate than persons who, as in the above examples, retain an interest in their Policies, both during the continuance, and after the termination of the period for which the Loans are contracted.

The advantages which this system offers to persons requiring temporary Loans, or wishing to pay off existing charges on their property are numerous, and only require to be fully known to be duly appreciated. First of all, the Borrower in this Society will be saved the expense of frequent transfers, as is the case with those who borrow from the usual sources; for he can in no case be required to pay off the Loan, except in the manner proposed, although, if he chooses, he can do so upon most advantageous terms to himself. Secondly, he has no apprehension in case of his death, of leaving a sum to be paid by his surviving relations, or to remain as a charge upon his property, for the Policy repays that portion of the Loan remaining unpaid in case of death; and, whenever that event may happen, he is certain that his family will reap some, and perhaps great, advantages from the Policy which he holds in the Society. And lastly, this system enables the Company to accept securities which would not be available for the purposes of ordinary Loans, inasmuch as the only security required is for the punctual payment of the Premium and Interest, and not for the principal sum lent. It is needless to remark, that many persons can furnish security, in the manner proposed, who could not provide it for repayment of the whole principal money by a given day.

For example a person desirous of entering into business, but deficient in the funds wherewith to do so, can, by effecting a loan for a given number of years,—paying in the meantime a premium out of his profits, which the loan from the company has been the means of realizing,—supply himself with the necessary capital to commence with, and thus lay a foundation for a prosperous business and an ultimate independency. Again, a person desirous of purchasing the house in which he resides, or one more suitable to him, can borrow of the Company the purchase-money, and by paying a Premium for a limited time, instead of rent to his landlord, will after the termination of such limited period, be the absolute owner of the property free from rent. And lastly, in all cases of settlements on marriage, compositions of debts, arrangements with creditors, &c., a person can avail himself of the advantages offered by this Company, to obviate the first great difficulty attendant in many cases upon such transactions, viz. the want of ready money,—which deficiency, the experience of many can prove, has often rendered nugatory those efforts, which, in all probability, would otherwise have been crowned with success.

In addition, however, to the large number of Assurances which may be expected for the immediate purpose of raising loans, an equal inducement is held out to persons desirous of effecting Assurances, whose object is to provide for their relatives, and who may not, at the time they effect the Assurance, require a Loan.

By assuring with this Company persons will not only effectually provide for their families in case of death, but, at the same time, will furnish themselves with the means at any period of life, on any emergency or reverse of circumstances, of raising a Loan to the amount of their Policy, at the rate of Premium, in respect of their Life Assurance, on which the Policy was originally granted; thus securing to those who effect Assurances unconnected with Loans, the whole of the advantages of the system of Loan proposed by this Company, whenever they have occasion to avail themselves of it.

The profits of the Company will appertain to two classes of members, the proprietors of shares and the assured. The profits arising from the Loan Department, and the policies connected therewith, together with a small proportion of the profits arising out of the Assurances unconnected with Loans (by way of remuneration to the Shareholders for guaranteeing out of their capital, in case of need, the payment of Assurances falling due), will, after paying interest upon the paid-up Capital of the Company, be divided amongst the holders of shares in the Company. Three-fourths of the profits arising from the Assurance Department, unconnected with Loans, will be divided amongst the parties, either originally effecting Assurances, or who shall hold Assurances after the liquidation of their Loans. This distribution holds out to the Shareholder, in addition to interest upon the capital invested in shares, the prospect of a *large remuneration*; as also to the assured, *an ample participation* in the profits arising from the payment of premiums; which must necessarily be augmented, by the falling in of Policies into the Assurance Department, after the liquidation of the Loans originally granted upon them. The Assured, also, will have the security of a large *subscribed guarantee Capital*, to meet their claims upon the Company.

Prospectuses containing specimens of the Tables and every information can be obtained from, and applications for shares, in the annexed Form, made to, the Secretary, at the Company's Offices, No. 5, St. James's-street, London; Messrs. Davies and Son, Solicitors, 21, Warwick-street, Regent-street; Messrs. Tucker, Barnett, and Ellis, Brokers, 'Change Alley, Cornhill, John Ekyn, Esq. Broker, 'Change Alley, Cornhill, London; Messrs. D. and J. B. Neilson, Brokers, Liverpool; Robert M'Ewen, Esq. Broker, Manchester; J. B. Mundy, Esq. Broker, Bath; Messrs. John Robertson and Co. Brokers, Messrs. Gordon, Stuart, and Cheyne, W. S., and John R. Calvert, Esq. W. S. Edinburgh; Messrs. Main and Cunningham, Brokers, Glasgow; W. N. Fish, Esq. North British Exchange Company, Aberdeen; and George Gatherer, Esq. Solicitor, Elgin.

[For "*Form of Application for Shares*," see following page.

CONTENTS.

THE REPORTS.

Equity Courts.

LORD CHANCELLOR'S COURT.

Thursday, June 5.

SWALLOW *v.* DAY.

Practice—Supplemental answer—Swearing answer—Time.

Prendergast, by the direction of Vice-Chancellor Knight Bruce, applied to the Lord Chancellor that the defendant might be permitted to swear to his supplemental answer in open court, under these circumstances:—The defendant had obtained an order permitting him to put in a supplemental answer to correct a mistake made in his first answer, and the supplemental answer was to be put in within a week. In consequence of delay in the office, the order had not been passed, and although the time expired that day, the officer of the court held that he had no power to swear the defendant to his supplemental answer until the order had been passed and entered. The Vice-Chancellor, on application made to him to swear the defendant in open court, thought that, under the particular circumstances, the defendant might be so sworn; but as there was no precedent for such a course, his Honour required the authority of the Lord Chancellor on any course which might be adopted.

The LORD CHANCELLOR at first said he could not establish a new practice; but, subsequently, on the suggestion of Mr. Colville, the registrar, allowed the order to be passed in court, and directed that the proper officer should then swear the defendant and receive the supplemental answer on the order so passed.

Monday, July 21.

GACHES *v.* WARNER.

Practice—Dismissal of bill for want of prosecution—Order to enter an order nunc pro tunc—Undertaking to speed.

After the cause is at issue, no motion to dismiss the bill for want of prosecution can be made, but the defendant must take the necessary steps to bring the cause to a hearing in case the plaintiff should neglect so to do.

When a subpœna to rejoin has been served, the cause is at issue, and no motion to dismiss can consequently be made.

The original bill in this suit was filed on the 30th of August, 1836, and various proceedings were had in the cause up to Hilary Term 1838. On the 13th of January, 1838, the plaintiffs filed a bill of revivor and supplement, and in March following the defendants, Charles Warner, George Platel, and Henry Freeman, put in their answers to the last-mentioned bill.

In July, 1838, the plaintiffs obtained an order for the defendant Platel to produce, for the plaintiffs' inspection, certain documents; but some difference having arisen between the parties upon the minutes of that order, a motion was made by Platel on the 29th of November, 1838, to rectify the minutes, when the minutes were settled by the Court, and the order directed to be dated as of that day. The documents were deposited, and the plaintiffs having taken no step in the cause, a motion was made on the 22nd o Dec. 1842, on the part of the defendants Warner, Platel, and Freeman, to dismiss the bill as against them; but the plaintiff having filed a replication subsequently to the notice of motion, the application to dismiss the bill was refused. The plaintiffs having taken no other step in the cause, the same defendants, on the 1st of July, 1843, served another notice of motion to dismiss the bill for want of prosecution. On the 5th of July the plaintiffs' counsel gave an undertaking to speed the causes, and the order usual in such cases was made by the Vice-Chancellor of England. This order was not then entered; but the plaintiff served subpœnas to rejoin, and also an order for a commission to examine witnesses. The plaintiffs had not sued out any commission, or taken any further step in the causes; and on the 11th of November, 1844, the same defendants again served a notice of motion to dismiss the bill for want of prosecution. On the 12th of November the order of the 5th July, 1843, was entered, but no copy of an order to enter the same *nunc pro tunc* was served upon the plaintiffs' agents. That motion was heard before the Vice-Chancellor of England on the 22nd of Nov. 1844, and was refused, with costs. From that order the defendants appealed to the Lord Chancellor.

Anderdon, for the defendants, in support of the appeal, contended that the plaintiff having filed the replication within time, and paid the costs of the first motion to dismiss, had got rid of that motion altogether. The defendants were therefore now entitled to move to dismiss the bill for want of prosecution. The order *nunc pro tunc* cured any irregularity caused by the delay in entering the order of 5th July, 1843. He cited *Dixon* v. *Shelm* (18 Ves. 520); 2 Daniell's Chancery Practice, 366; 1 Smith's Chancery Practice, 332; *Findlay* v. *Wood* (1 Ves. & Bea. 499); *Wilson* v. *Simpson* (2 Mad. 123); *Skip* v. *Warner* (*ib.* 558).

Wakefield and *G. L. Russell*, for the respondent (the plaintiff), contended that no order to speed existed on the 11th of November, when the notice of motion was given, inasmuch until an order is passed and entered it has no effect, and that the order to enter the order of the 5th of July, 1843, *nunc pro tunc*, not having been served upon the plaintiff, it was not complete. The 16th and 17th of the new orders did not apply, therefore all the proceedings were under the old practice, and that, under that practice no motion to dismiss for want of prosecution can be made after the service of a subpœna to rejoin. They cited and referred to *Tozer* v. *Tozer* (1 Cox, 188); *Anon.* (5 Sim. 497); *Lewis* v. *Hinton* (8 Jur. 153); 1 Newland's Harrison, 315, ed. 1808; 1 Smith's Ch. Prac. 24[illegible]; *Smith* v. *Thompson* (4 Mad. 179); Harrison Ch. Pr. 240.

Anderdon, in reply.

The LORD CHANCELLOR.—I am of opinion this case does not come within the new orders (16th and 17th orders of 1831). In this case a motion to dismiss the bill for want of prosecution was made, and an undertaking to speed the cause to a hearing was given, and before any thing had been done subpœnas to rejoin were served. The cause was then at issue. A second motion to dismiss the bill for want of prosecution having been made, the question is, whether such a motion could properly be made. I am of opinion that such a motion cannot be made. The decision of the Vice-Chancellor is quite consistent with the case of *Tozer* v. *Tozer*, and that case is not disputed. What, then, is the effect of a subpœna to rejoin, but to put the cause at issue, and after the cause is at issue, the defendant cannot move to dismiss the bill for want of prosecution after the cause is at issue. The case of *Tozer* v. *Tozer* is an express decision to that effect, and that case is not disputed. That is a direct authority. There is also the certificate of Mr. Jackson as to the practice of the Court. It appears, therefore, as well upon principle as upon the authority of the case of *Tozer* v. *Tozer*, and the certificate of Mr. Jackson, that such an application to dismiss as the present cannot be made. I am of opinion that the Vice-Chancellor has come to a correct conclusion, and the application must be refused with costs.

Thursday, July 31.

MALINS *v.* PRICE.

Taxation of costs—New trial—Copies of short-hand writer's notes—Costs—Practice.

Where a motion is made for a new trial by counsel not present at the trial, one copy of the short-hand writer's notes of the trial will be allowed in the taxation of costs. Statement of the course of practice in that respect adopted by the Courts of Common Law.

This case, with the first opinion expressed thereon by the Lord Chancellor, is reported in the LAW TIMES of the 9th of August, but a pressure of engagements has prevented an earlier report of the judgment finally pronounced.

JUDGMENT.

July 31.—The LORD CHANCELLOR.—In this case a report has been made to me by Mr. Follett, one of the most able and experienced officers of the court, and he thinks the expense to the parties will, in most cases, be less by allowing the costs of a copy of the short-hand writer's note for counsel upon a motion for a new trial than by disallowing as of course such costs. I think where the counsel who move for a new trial were not present at the trial, one copy of the short-hand writer's notes of what occurred upon that trial should be allowed, otherwise the solicitor must state to the Court what took place, which is not a convenient course; and I think, therefore, one copy of the shorthand writer's notes should be allowed. I think in this case that a copy of the judge's charge should also be allowed. The judge used part of these notes in summing up, his own notes being very imperfect, and it is necessary that the parties should be correctly informed of what took place. Two copies were allowed by the taxing-master; it was a case of considerable complexity, and, I think, it should go back to the Master in this shape; to say how much of the evidence given on the trial was merely formal, and the Master should inquire what part of the short-hand writer's notes, in a fair view of the case, ought to be allowed for use on the motion for a new trial.

I have now received replies from the taxing-masters of the Courts of Queen's Bench, Common Pleas, and Exchequer, in answer to the further inquiries I directed to be made.

The practice of the Queen's Bench generally appeared to be not to allow copies of short-hand writer's notes on motions for new trials; it being considered that some of the counsel in the cause knew what took place upon the trial. But where notes had been taken in peculiar cases, copies have been allowed. The matter was, however, deemed to be within the discretion of the taxing-master.

In the Common Pleas there is no uniform practice as to the allowance on motions for new trials of the cost of copies of the short-hand writer's notes; sometimes a copy of a portion of the evidence upon the trial was allowed as a part of the brief of counsel in any important question.

In the Exchequer, the copies of the short-hand writer's notes are not usually allowed; but on motions for new trials the Master exercises a discretion as to the allowance of copies of such of the evidence as he deems proper.

The report by the officer of this court, to which I have referred, is as follows: "I consider it to be the practice, on application for new trial of an issue at law, to allow, as between party and party, the costs of employing three counsel; that is to say, the two counsel in the cause in equity, and to allow for the use of the counsel in equity and one of the counsel engaged at law, copies of any notes which have been made, whether by counsel or by the attorney, or by a short-hand writer, of the evidence and other proceedings of the trial. I understand that there was formerly a good deal of difference of opinion as to what were the proper costs upon such occasions; but that about twelve or fourteen years ago a case arose, in which Mr. Wainwright was clerk in court on one side, and Mr. Sydney Smith on the other; that they referred the case to Mr. Mills, who, after communicating with the solicitors, and consulting with Mr. Jackson and others, decided the practice to be as above stated, and the costs were settled accordingly. These cases are not of frequent occurrence, and I do not myself recollect any instance of such a taxation occurring to me, either while I was in practice or since; but I understand from several of my colleagues, to whom such cases have occurred, that the practice since the period above mentioned has been uniformly acted upon; and I find, by reference to the bill of costs in *Ansdell* v. *Gomperts*, taxed in 1837, which I have procured from Sir Giffin Wilson's office, that the costs of the short-hand writer's notes were there allowed, on the taxation, between party and party. The reason of the rule of allowance I take to be this; the common law counsel engaged on the trial would have his own brief, on which he must be presumed to have made sufficient notes for his own use. But the counsel who was not engaged on the trial would have no brief, nor any knowledge whatever of the case, except the brief delivered to him for the motion. This brief must necessarily contain either a statement, prepared for the purpose, of what took place on the trial, or a copy of some document already existing containing that information. The practice is, therefore, to deliver to the equity counsel copies of any notes which may be in existence of the proceedings on the trial, such notes, as the case may be, being taken by the counsel or by the attorney, or, as more frequently happens, by a short-hand writer; of course the costs of employing a short-hand writer are not allowed, but only the same charge of 3s. 4d. a sheet for copying his notes, as would be charged for copying the notes of the counsel, or of any other document. And it should be borne in mind that if, instead of copies of notes of evidence, the solicitor had to prepare a statement by way of brief for his counsel, the charge would be 6s. 8d. a sheet for drawing such statement, over and above the charge of 3s. 4d. for copying it. I have spoken to all the other taxing-masters on the subject, and I may add that we are unanimous in opinion that, assuming the case to be one properly requiring that the counsel should be instructed as to the proceedings on the trial, the costs of the copies of the short-hand writer's notes, for the counsel not one

gaged on the trial, ought, according to the practice of this court, to be allowed."

I cannot help thinking there is a great deal of good sense in the reason given for the allowance of such copies of evidence in a court of equity. It is the duty of the attorney to lay before counsel the most perfect statement he can of the whole of the evidence, and he would most naturally resort to the short-hand writer's notes, exercising, of course, a discretion as to the parts which he inserts being essential to the support of his client's case.

I observed on a former occasion that the question at issue on the trial was a peculiar and complicated one, and I think this is a case in which it is proper that some allowance should be made for copies of the short-hand writer's notes of the evidence on the trial, and if so, to what extent. After the above certificate as to the practice, the matter must go back to the taxing-master, to inquire whether this is such a case as, in his opinion, would be proper to use copies of short-hand writer's notes, and to what extent, and to tax the costs accordingly. My experience has led me to know that it is most important for a judge of this court to know what the question and answer were with a view to a full understanding of the effect of the evidence as taken by the judge, in whose notes the question and answer are generally incorporated. In this case two copies should probably be allowed; but two copies cannot be necessary in all cases. A motion for a new trial must be on a question of law; and some times copies of such notes can only be partially necessary, at other times not at all. The allowance must be a matter of discretion in each case. In this case a part of the short-hand writer's notes was used by the judge, and it is quite clear that counsel must have been furnished with that part of it.

The costs of the present application must be reserved.

The order of the Vice-Chancellor was overruled.

ROLLS COURT.

January 21, 27, and April 17.

ATTORNEY-GENERAL *v.* THE CORPORATION OF LONDON.

Construction of stat.* 5 *Vict. c.* 5—*Jurisdiction—Privilege of the Crown.

The operation of the stat. 5 Vict. c. 5, is to transfer from the Court of Exchequer to the Court of Chancery all the jurisdiction of the former (sitting as a court of revenue or otherwise) which was exercised or exercisable by it as a court of equity, and to leave every thing to the Court of Exchequer which was not exercised or exercisable by it as a court of equity.

The Crown had, for matters of revenue, a right to sue on either the equity or law side of the Court of Exchequer; and the equity jurisdiction being now transferred to the Court of Chancery by the 5 Vict. c. 5, the Crown may sue in the latter court as it might have done in the equity side of the former.

A demurrer for want of equity to an information by the Attorney-General, claiming a right to the soil and bed of the river Thames, to which the Corporation of London considered themselves entitled, was overruled.

This was an information filed *ex officio* by her Majesty's Attorney-General against the Corporation of London and others; and it prayed that the rights of her Majesty and the corporation respectively in the matters in the information mentioned might be ascertained, if necessary, by directing issues to be tried at law, and until they should be ascertained, the defendant, Cubitt, should be restrained from making the embankments in the information mentioned; and if the corporation had no good title to the bed and soil of the river Thames, that the making of the said embankments should be perpetually restrained, and those made be abated as nuisances; that an account of the rents, fines, &c. received by the corporation should be taken, and the balance, after all just allowances, be paid to her Majesty; and that, to avoid multiplicity of suits, the right to the bed and soil of the river be declared to be in her Majesty. The information stated that, by the royal prerogative, the ground and soil of the coasts and shores of the seas round this kingdom, and of every port, &c. and navigable river into which the sea ebbs and flows, and the shore lying between high water and low water mark at ordinary tides, belong to her Majesty; and that her Majesty, and her progenitors time out of mind, is and have been seised, in right of the Crown of England, of and in the port and haven of London and of the river Thames; and that the same river is also, and from time immemorial has been, an ancient royal and navigable river and king's highway for all purposes, with their ships, &c. to pass and repass, and navigate at their free will and pleasure, and to moor their vessels in convenient parts of the river not impeding the navigation. It then stated, that the mayor or corporation of London, by prescription, or some grant from the Crown, held and exercised the office of bailiff or conservator of the Thames from above Staines to a certain place called Yealand, otherwise Yeuleet or Yantleet, towards the sea, for the purpose of preventing the raising of obstructions and nuisances in the river; but had no right to the bed or soil of the river; but that they had of late claimed to be entitled not only to exercise the office of bailiff or conservator, but to be seised or otherwise well entitled to the freehold of the ground, bed, and so of the river, and of the shores thereof between high and low water-mark, within the above-mentioned limits, and had assumed to exercise acts of ownership not warranted by their office of bailiff. The information then stated in particular, that by an indenture of the 3rd of May, 1843, made between the corporation and William Cubitt, they granted to Cubitt, for a consideration, their license to embank a portion the soil of the north side of the river in front of the Isle of Dogs, and that Cubitt was preparing to execute the embankment. It further stated, that by an indenture of the 20th of April, 1843, the corporation granted Sir Thomas Turton and others a license to raise an embankment in front of Durland's wharf, in Rotherhithe, and that he had commenced to embank accordingly. It also stated an indenture of the 16th of May, 1843, whereby the corporation granted to John Cornelius Park a license to embank in front of a piece of land of his own, in the parish of Battersea and that he was proceeding to make an embankment accordingly. These embankments were stated to be detrimental to the river Thames, and a nuisance and injury to her Majesty's subjects navigating the same, inasmuch as they created eddies, and caused a deposit of mud at each end, and were also injurious to the river below their locality, by excluding a portion of the tidal water requisite for the scour of the river. The information charged that no charter or letters patent given by any of her Majesty's predecessors contained any grant of the soil or bed of the river Thames, or of the shores thereof between high and low water mark. To this information, which contained the usual claim to discovery, and prayed to the effect before mentioned, the defendants, the corporation of London put in a demurrer and answer. The latter in effect denied that any of the embankments were a common nuisance, or in any way tended to the injury of the river, to the hurt or damage of her Majesty's subjects navigating the same; and so much of the bill as was not founded on such alleged injury hurt, or damage, was demurred to for want of equity.

Bethell and *Randell*, for the demurrer.

Turner and *Maule*, contrà.

The following cases were cited: *Magdalen College* case (11 Coke, 68, b.); *Walsingham* v. *Baker* (Hardres, 49); *Reg.* v. *The Countess Dowager of Arundel* (Hob. 109); *The Attorney-General of the Prince of Wales* v. *Sir John St. Aubyn* (Wightw. 167); *The Mayor of York* v. *Pilkington* (1 Atk. 282); *Ewelme Hospital* v. *The Corporation of Andover* (1 Vern. 266); Mitf. Pl. 147, 4th ed.; 1 Com. Dig. 189, 194; 4 Coke Inst. 17; *Attorney-General* v. *Philpott* (Hale, 265-6); *Attorney-General* v. *Samuel Mico* (Hardres, 37); *Churchman* v. *Tunstall* (Hardres, 162); *Attorney-General* v. *Corporation of Galway* (1 Molloy, 95, 18); *Lord Tenham* v. *Herbert* (2 Atk. 483); *Attorney-General* v. *Johnson* (2 Wils. C. C. 87); Hale, de Port. Mar. p. 2, c. 2, pp. 46, 47, 48; 11 Coke, 74 b.; *Attorney-General* v. *Parmeter* (10 Price, 378); *Attorney-General* v. *Mayor of Plymouth* (10 Price, 134; and 3 Car. 2, 21st Nov.); *Attorney-General* v. *Burridge* (10 Price, 350); *Attorney-General* v. *Richards* (2 Anstr. 603); Rolle, Ab. Prerog. le Roi B. en la Mer; Rolle, Ab. Prerog. le Roi Accompt, M.

JUDGMENT.

April 17.—The MASTER OF THE ROLLS stated the facts of the case, and proceeded:—In the view which I take of this case, it does not appear to me to be necessary very accurately to inquire whether or no any part of that which, according to the admissions of the defendants, ought to be answered, is covered by the demurrer. I will assume that the demurrer and the answer are properly framed, so as to bring the question really in agitation between the parties fairly under consideration. In support of the demurrer it was argued that, as between the Crown and the City of London, the right to the ground, bed, and shores of the river Thames is a matter which ought to be tried in a court of law, and ought not to be brought into a court of equity. It is said that the matter of this information, where we exclude all that relates to the alleged nuisance which is denied by the answer, would not have been a proper subject of jurisdiction on the equity side of the Court of Exchequer; but if that should seem otherwise, it is still said not to be a proper subject of the jurisdiction of this Court, because in such a matter as this, the equity jurisdiction of the Court of Exchequer has not been effectually transferred to this court by the stat. 5 Vict. c. 5, s. 1. By that statute it is enacted, "that all the power, authority, and jurisdiction of her Majesty's Court of Exchequer at Westminster, as a court of equity, and all the power, authority, and jurisdiction which shall have been conferred on or committed to the said Court of Exchequer by or under the special authority of any Act or Acts of Parliament (other than such power, authority, and jurisdiction as shall then be possessed by or incident to the said Court of Exchequer as a court of law, or as shall then be possessed by the said Court of Exchequer as a court of revenue, and not heretofore exercised or exercisable by the said Court sitting as a court of equity), shall be transferred to her Majesty's high Court of Chancery to all intents and purposes;" and I think that the almost unavoidable construction of the Act makes it so operate as to leave to the Court of Exchequer every thing that was not exercised or exercisable by that Court as a court of equity, and to transfer to the Court of Chancery all that was exercised or exercisable by the said Court of Exchequer as a court of equity. As the Act was first framed, and as it passed the House of Lords in the year 1840, the words within the parenthesis are these,—"Other than such power, authority, and jurisdiction as shall then be possessed by or incident to the said Court of Exchequer, as a court of law or as a court of revenue;" and if those words had remained unaltered, the Court of Exchequer would, as a court of revenue, have retained an equity jurisdiction. But the other words, which were added in the year 1841, and which are now found in the Act, confine the jurisdiction excepted from the operation of the Act to that jurisdiction which was not exercised or exercisable by the same Court sitting as a Court of equity. The jurisdiction of the Court of Exchequer as a court of revenue remains, except as to that part of it which was exercised or exercisable by the same Court as a court of equity. I confess that I am unable to construe the Act so as to give it any other effect or operation. If this operation is different from the intention, or if it be productive of inconvenience, it appears to me that the Legislature alone can afford a remedy. The Courts can only deal with the words of an Act as they stand; they have nothing to do with the object and intentions of the persons by whom a statute was first proposed or introduced into Parliament. They must collect the objects and intentions of the Legislature from the words of the statute; and upon those words, in the present case, I think that if the Court of Exchequer, sitting in equity, had jurisdiction, the same jurisdiction is now vested in this Court. If this be so, the real question in the case is whether that part of the information which is demurred to is such as would, before the statute, have been decreed to be within the jurisdiction of the Court of Exchequer on the equity side thereof. The question is not whether there was any such jurisdiction in cases between subject and subject; it may be admitted that there was not. But this is the case of an information affecting the rights, property, and revenue of the Crown; and the question is, whether the Court of Exchequer, sitting on the equity side, had not jurisdiction, although the Crown might have a legal remedy, or have been entitled to maintain an information at law for the same matters; for the question will be whether the Crown, having a remedy by legal information, might not also have a remedy by information in equity addressed to a Court having jurisdiction and authority to provide that all questions of legal right should be put into a proper train of legal investigation and decision. Or again, the question may, perhaps, be stated thus, whether, in a revenue cause necessarily or properly brought to the Court of Exchequer as a court of revenue, the Crown had or had not the option to inform the Court of the matters in question either on the law side or on the equity side of the court. If the Crown had such an option, I am of opinion it is not extinguished by the Act transferring the equity jurisdiction to this Court. It cannot, indeed, be exercised in the same way between the legal and equitable sides of the same court of revenue, but it appears to me that it still remains, and has to be exercised between the legal jurisdiction of the Court of Exchequer, as a court of revenue, and the jurisdiction of this Court as transferred to it by the Act, in consequence of its having been possessed by the Court of Exchequer, and exercised or exercisable by the same Court, sitting as a court of equity. Upon the question whether this jurisdiction was exercised by the Court of Exchequer sitting as a court of revenue, I own that, after examining the authorities, I conceive myself to be bound by them. After the case of *The Attorney-General of the Prince of Wales* v. *Sir John St. Aubyn*, decided against the learned and able, though somewhat warm argument of Mr. Baron Wood, which was so much relied on, and the two cases of *Sutton Pool*, which were there commented upon, besides other authorities there referred to, I think I am not entitled, upon any fancy or notion of my own, to say that the Queen, having her Court of Exchequer as a court of revenue, and at the same time a court both of law and of equity, had not, for matters of revenue, a right to sue on either side of the court. Upon the authority of those cases, and some others which were cited in the argument, and which I have read, I am of opinion that for the matters now in question her Majesty had a right to sue on the equity side of the Court of Exchequer, and that the jurisdiction of that Court being transferred to this, her Majesty has now a right to sue here. In the case of *The Attorney-General of the Prince of Wales* v. *Sir John St. Aubyn*, Mr. Baron Graham relied not only on authority, but stated some reasons worthy of consideration why, in such cases, the Queen ought to

have the right to inquire, by the oath of the party, into his adverse title, and also endeavoured to shew that, whether distinctly alleged or not, there must necessarily be, in cases of this nature, a confusion of boundaries, which would of itself give a jurisdiction to a court of equity. I do not, however, enter into these considerations, being satisfied that I could not allow this demurrer without either acting in contradiction to the cases I have mentioned, which I think I have no authority to do, or deciding that the equity jurisdiction which the Court of Exchequer had in this matter has not been transferred to this Court; and I am unable to give that construction to the words of the Act of Parliament. For these reasons I think that this demurrer must be overruled.

Friday, July 25.

RICABE *v.* GARWOOD.

Will—Construction—Taking per stirpes or per capita.

A bequest was made after a certain event, "to, between, or among E. P. if she should be then living, but if she should be then dead, then to, between, or among the children of E. P. and the children of T. R. share and share alike." E. P. was living when the event happened.

Held, that E. P. and the children of T. R. took the bequest equally among them, and that E. P. should have only as much as one of T. R.'s children.

This was a petition for the payment out of court of certain moneys to parties entitled thereto; but in reference to one sum, the opinion of the Court was taken as to the construction of the will of the testatrix in the cause. After having given a sum on trust for Elizabeth Smith, for life, and after her death to Thomas Ricabe, the plaintiff, for life, then, after the death of the survivor, the testatrix gave the same sum "to, between, or among Elizabeth Pye, the wife of H. Pye, if she should be then living, but if she should be then dead, then to, between, or among the children of Elizabeth Pye and the children of Thomas Ricabe, share and share alike." Elizabeth Pye survived Elizabeth Smith and Thomas Ricabe, and the sum in question was now claimed by Elizabeth Pye and the children of T. Ricabe.

Chandless, for the children of Thomas Ricabe, contended that it should be divided between E. Pye and the children of T. Ricabe, equally, so as to give each of the children as much as E. Pye, and not to allow a division *per stirpes*, so as to give E. Pye a moiety of the fund. He cited *Dowding* v. *Smith* (3 Beav. 541).

Temple, for Mrs. Pye, contended that Mrs. Pye took the whole sum. The testatrix gave the sum "to, between, and among E. Pye, if she should be then living." The preposition "to" is absolute; but the words "between and among" are difficult to deal with; but she was about to make the bequest to her sister's children and Thomas Ricabe's children, and applied the words "between or among" to them, while she used the word "to" as applying to Mrs. Pye herself. But the children of Thomas Ricabe, in that view of the matter, take nothing, if Mrs. Pye survive the life tenants, as she has done, the word "to" applying to E. Pye absolutely. But it is desired to give the fund to E. Pye and the children of T. Ricabe; if so, let her represent her children as Thomas Ricabe does his, and let her take half the fund. The words "share and share alike" only apply in the case of E. Pye and T. Ricabe being set aside. He cited *Brett* v. *Horton* (4 Beav. 239).

Chandless, in reply.

The MASTER of the ROLLS.—The first thing to be done in these cases is to try to find out the intention of the testator, which it is sometimes not an easy matter to do. There is a difficulty in construing the sentence giving the bequest; but, however, I cannot construe it as asked by the counsel for Mrs. Pye. The words are "to, between or among," &c. Now, the words "to, between," &c. seem to imply restriction; and I cannot do otherwise than think that the testatrix meant distribution between E. Pye and some one, and that she intended distribution between E. Pye and the children of Thomas Ricabe; or if E. Pye should be dead, between the children of the two. Now, the most direct way of effecting that intention would have been to express it; but though she has not, I cannot help thinking she meant it. She does not finish the sentence, but resumes and uses the same words. The plain intention is to substitute the children of E. Pye, if she should be dead, to share with those of T. Ricabe. The fund must go between E. Pye and the children of T. Ricabe equally, so as to take *per capita.*

Common Law Courts.

COURT OF COMMON PLEAS.

Wednesday, July 2.

HAMMOND *v.* COLLS.

To a plea setting forth a breach of a covenant in a lease not to assign without license, it was alleged that the plaintiff did set over and part with the indenture and the term thereby created, and his, the plaintiff's interest therein, within the true intent and meaning of the said lease, to wit, by pawning, pledging, and mortgaging the said indenture of lease, to and with certain creditors of him, the plaintiff, to wit, one R. W. and one F. B. without the special license of the defendant. The plaintiff replied that he did not set over or part with the said indenture of lease, or the term thereby created, or his, the plaintiff's, interest therein, within the true intent and meaning of the said lease, by pawning, pledging, or mortgaging the indenture of lease to and with the said supposed creditors of the plaintiff or either of them, modo et formâ.

Held, that the replication was bad, as being too large a traverse.

The plaintiff covenanted in a lease not to take more than two crops of grain in succession, and that he would, amongst other things, plant with potatoes, or sow with peas or beans twice well hoed. The defendant pleaded, as a breach of this covenant, that the plaintiff took more than two crops of grain successively, and did not nor would plant with potatoes, nor sow with peas which were twice well hoed. The replication traversed that the plaintiff took more than two crops of grain successively, and alleged that the plaintiff did plant part of the land, consisting of, &c. with potatoes, and did sow another part, consisting of, &c. with peas, and the residue, consisting of, &c. with beans which were twice well hoed.

Held, that as the plea shewed no breach of the latter part of the covenant, the replication was a sufficient answer to the material matter alleged in the plea.

The pleadings are fully set forth in the judgment of the Court.

The case was argued in Trinity Term last by *Channell* and *Shee*, Serjts. for the defendant, and *Manning*, Serjt. for the plaintiff, when the following authorities were cited:

For the defendant,—Comyn's Digest, Pleader, G, 15; *Regil* v. *Green* (1 M. & W. 328); *Stubbs* v. *Lainson* (1 M. & W. 728); *Moore* v. *Boulcott* (1 Bing. N. C. 323); *Turnley* v. *M'Gregor* (1 Dowl. & L. 506).

For the plaintiff,—Sir *Francis Leake's* case (Dyer, 365); *Robinson* v. *Turner* (6 Jurist, 368).

Cur. adv. vult.

JUDGMENT.

TINDAL, C. J.—This was an action of trespass, for breaking and entering into a certain field, demised to the plaintiff by James Esdaile for a term of twenty-one years, from Michaelmas 1839, and cutting and carrying away the crops, &c. The defendant pleaded several pleas, in one of which is set out a lease by James Esdaile to the plaintiff, which lease contained a covenant by the plaintiff that he would not at any time during the said term of twenty-one years, sow, crop, or take off or from the said arable land demised, or any part thereof, more than two crops of any sort of corn or grain in succession, but would every third year summer fallow or lay the said arable lands down with rye-grass and clover-seeds in husband-like manner, or would *plant* with potatoes, or sow with peas or beans twice well hoed; and also that he, the plaintiff, his executors or administrators, should not at any time during the said term of twenty-one years, by the said indenture demised, let, set, demise, lease, assign, or set over or otherwise part with the premises thereby demised, or any part thereof, to any person or persons whomsoever, without the special license and consent of the said James Esdaile, his heirs and assigns, in writing; and there was a power of re-entry for breach of any covenant in the lease. The plea then set out the release and reversion to the defendant. The eighth plea, after referring to the lease granted to the plaintiff, and the release and reversion to the defendant, averred that, after the making of those several indentures, and long before the said several times, when, &c. the plaintiff did set over and part with the said indenture of lease, and the term thereby created, and his, the plaintiff's, interest therein, within the true intent and meaning of the said indenture of lease, and the proviso and condition for re-entry therein contained, to wit, by pawning, pledging, and mortgaging the said indenture of lease to and with certain creditors of him, the plaintiff, to wit, one Robert Watson and one Francis Broughton, without the special license or consent in writing of the said James Esdaile, or of the defendant. Lastly, the defendant pleaded that, during the said lease of twenty-one years, he, the plaintiff, did sow, receive, and take off and from divers, to wit, fifty acres of the arable lands demised, and off and from every part thereof, more than two crops of corn successively, to wit, three crops of wheat successively; and the plaintiff did not, nor would, every third year, or at any other time, or in any other manner, summer fallow or lay the said arable lands, or any part thereof, down with rye-grass and clover-seeds in a husband-like or in any other manner, nor would plant with potatoes, nor sow with peas which were twice, or at all, well or in any other manner hoed, contrary to the covenant in the said indenture of lease, &c. The plaintiff replied to the eighth plea, that he did not set over or part with the said indenture of lease, or the term thereby created, or his, the plaintiff's, interest therein, within the true intent and meaning of the said lease, by pawning, pledging, or mortgaging the indenture of lease to and with the said supposed creditors of him, the plaintiff, in that behalf mentioned, or either of them, in manner and form as in the eighth plea is alleged. To the last plea the plaintiff replied that he did not, at any time during the said term of twenty-one years, sow, crop, receive, or take off or from the said arable lands, or any or either of them, or any part thereof, more than two crops of any sort of corn or grain successively; and did every third year summer fallow a part, consisting of divers, to wit, fifty acres of the said arable lands; and did lay down with rye-grass and clover-seeds, in a husband-like manner, another part, consisting of divers, to wit, fifty other acres of the said arable lands; and did plant another part, consisting of divers, to wit, fifty other acres of the said arable lands, with potatoes; and did sow another part, consisting of divers, to wit, fifty other acres of the said arable lands, with peas; and divers, to wit, the residue of the said arable lands, consisting, to wit, of fifty other acres of the said arable lands, with beans which were twice well hoed, &c. The defendant demurred to the replication to the eighth plea, on the ground that it ought to have denied generally that the plaintiff had in any manner set over or parted with the indenture of lease, instead of confining the issue to the mode of parting with it alleged in the plea. The defendant demurred also to the replication to the last plea, on the ground that the plea did not deny or attempt to raise any issue upon the sowing of beans by the plaintiff; whereas the plaintiff by the replication sought to involve that question in issue; also that the replication did not shew that the potatoes and peas said to have been planted were twice, or in any manner hoed. After the case had been argued, it stood over, that the parties might consider whether they would amend; but as neither party has thought fit to do so, we must pronounce our judgment on the demurrer in its present state; and we are of opinion on the demurrer to the replication to the eighth plea, that the defendant must succeed. It is a general rule of pleading, that a traverse more large than necessary is bad (Comyn's Digest, Pleader, G, 15), where, as instances of traverses, may be mentioned a case cited from Yelverton:—"Traverse of the surrender of a copyhold to such a steward such a day is bad; for the day and steward ought not to be part of the issue, but the traverse ought to be of the surrender *modo et formâ.*" And again: "So in trover, if the plaintiff alleges conversion by the sale of the goods, traverse of the conversion by sale is too large." The case of *Stubbs* v. *Lainson* (1 M. & W. 728) was decided on the same principle. Several other cases are cited from Mr. Stephen's work on Pleading (5th edit. 281), where the rule is clearly laid down and explained; and in the next page he states and explains the rule upon which the argument in support of this replication is based, namely, that a party may in general traverse a material allegation of title or estate to the extent to which it is alleged. It appears to us, however, that the allegation under the *videlicet*, that the indenture of lease was parted with by mortgaging to Watson and Broughton, was not a material allegation of title, and that the plaintiff could not properly put it in issue by a traverse. In deciding upon the replication to the last plea, it is necessary to mention what the plea therein alleged. The covenant set out is twofold; that the tenant will not take more than two crops of grain in succession, and will do certain other things. The plea then avers correctly a breach of the first branch of the covenant, but does not shew a breach of the second: it does not state the tenant did not sow with beans, but that he did not sow with peas, which was the mode in which he was alleged to have committed the breach of the second branch of the covenant. The replication contains a traverse of the breach, well alleged, in a mode which would not have been a sufficient answer to the plea as to the breach of the second branch of the covenant, if it had been shewn. But we are of opinion the averments in the plea following the good breach are merely surplusage, for they do not amount to a defective statement of the breach of the second branch of the covenant which is stated, and sufficiently stated, but that which is necessary to shew the second branch of the covenant is broken, is not stated at all. The replication, therefore, which answers the only material part of the last plea, is good, notwithstanding the introduction of immaterial matter, and is an answer to the material matter contained in the plea. The judgment of the Court, therefore, must be for the defendant on the demurrer to the replication to the eighth plea, and for the plaintiff on the demurrer to the replication to the last plea. *Judgment accordingly.*

THE LEGISLATOR.

Summary.

SUBJOINED are some interesting Parliamentary Papers and Returns. As much of the legislation of last session as our columns this number will admit is here presented.

At the Court at Osborne-house, Isle of Wight, the 13th day of September, 1845, present, the Queen's most excellent Majesty in Council.—It is this day ordered by her Majesty in Council, that the Parliament, which stands prorogued to Thursday, the 2nd day of October next, be further prorogued to Thursday, the 27th day of November next.

Crown-Office, Sept. 16.—Member returned to serve in this present *Parliament*. Borough of Southwark.—Sir William Molesworth, Bart., of No. 1, Lowndes-square, in the county of Middlesex, and of Pencarrow, in the county of Cornwall, in the room of Benjamin Wood, esq. deceased.

Revision of the Lists of Voters.—Monday week, the 15th inst. (the first day allowed) has been appointed for the commencement of the revision of the lists of voters in the cities and boroughs of England and Wales. The revision must be concluded before the end of October. The barristers are now paid by salaries of 210*l.* each, which amounts to 14,700*l.* a year, instead of so much per day and their travelling expenses. The expense of the first revision, after the passing of the Reform Act, exceeded 30,000*l.* Last year several revisions were finished in one day, and the longest period occupied was 39 days. There were only seven appeals from counties last year, of which two were decided in favour of the appellants, and five for the respondents. There were 23 appeals from cities and boroughs, of which number 17 of the decisions were for the respondents (some with costs), and 5 for the appellants. One appeal was dismissed. The Court of Common Pleas awarded costs for the first time last year to several cities and boroughs, as respondents. The whole costs awarded amounted to about 100*l.* The city of London, in a case where no one appeared to support the appeal, was ordered to be paid 16*l.* and in a similar case the borough of Lambeth was decreed 13*l.* 1s. 9d.

The late Mr. E. B. Clive, M.P.—The will of the late Mr. Edward Bolton Clive, of Whitfield, in the county of Hereford, has been proved by his son, the Rev. Archer Clive, clerk, the sole executor. He bequeaths to his son, Mr. George Clive, 20,000*l.* in addition to any sum that may be payable to him out of his estates; bequeaths to his daughter, Mrs. Wetherell, an annuity of 600*l.* a year, to be paid out of his estates in England; leaves liberal legacies to his servants; and bequeathes all the residue of his real and personal estates to his eldest surviving son, the Rev. Archer Clive. He desired by his will that he might be buried in the family vault at Wormbridge, without parade, and like any private gentleman. The will is dated the 24th of April, 1845, and his death occurred on the 22nd of July.—*Morning Post.*

PARLIAMENTARY PAPERS.

QUEEN'S BENCH FEES.

A Return of all the Moneys received by the Masters on the plea side of Her Majesty's Court of Queen's Bench, in the years 1841, 1842, and 1843, and of the application or appropriation of the moneys so received; also of all salaries, compensation, and other payments made out of such moneys, together with the persons to whom paid; also a return of all officers paid in part by fees, and the amount.

1841.		£ s. d.	£ s. d.
Amount received			33,905 10 4
Paid thereout as follows:—			
Five Masters, 1200*l.* each		6000 0 0	
Twenty-three Clerks		5040 0 0	
Compensation:			
Thomas Le Blanc, esq.	£1326 1 0		
Lewis, Ward, and Collett, tipstaves	229 7 1		
		1555 8 1	
Rent, taxes, tradesmen's bills, and other office expenses		969 3 2	
			13,564 11 3
Balance paid over to the Treasury....			19,340 19 1

Note.—N. Aldridge, master's clerk, paid in part by fees, amounting to 92*l.* 10s. pursuant to 1 Vict. c. 56.

1842.		£ s. d.	£ s. d.
Amount received			31,860 4 4
Paid thereout as follows:—			
Five Masters, 1200*l.* each		6000 0 0	
Twenty-three Clerks		5590 0 0	
Compensation:			
Thomas Le Blanc, esq.	£1326 1 0		
Lewis, Ward, and Collett, tipstaves	165 16 0		
		1491 17 0	
Rent, taxes, tradesmen's bills, and other office expenses		1439 13 3	
			14,521 10 3
Balance paid to the Treasury....			17,338 14 1

Master's clerk paid in part by fees, amounting to 91*l.* 5s. pursuant to 1 Vict. c. 56.

Note.—In this amount is included the Stationery-office account for the years 1838, 1839, 1840, and 1841.

1843.		£ s. d.	£ s. d.
Amount received			28,857 7 0
Paid thereout as follows:—			
Five Masters, 1200*l.* each		6000 0 0	
Twenty-three Clerks		5705 0 0	
Compensation:			
Thomas Le Blanc, esq.	£ 83 9 11		
A. Aulsebrook	229 10 0		
Lewis, Ward, and Collett, tipstaves	265 6 11		
		578 6 10	
Rent, taxes, tradesmen's bills, and other office expenses		1176 6 11	
			13,459 13 9
Balance paid to the Treasury....			15,397 13 3

Master's clerk paid in part by fees, amounting to 126*l.* pursuant to 1 Vict. c. 56, and 6 & 7 Vict. c. 73.

MASTERS.

Sir Fortunatus Dwarris | Richard Goodrich, esq.
Sir Archer Denman Croft, bart. | James Bunce, esq.
Charles Robert Turner, esq.

CLERKS IN 1841 AND 1842.

Alexander Aulsebrook	Thomas James Waters
Thomas Barlow	John Davis
Napoleon Aldridge	James Flood
John Rose	William R. Kemp
Samuel Platt	Edward J. Boddy
Samuel Hill	Walter Kerton
William Walker	Fortunatus William Dwarris
George A. Le Maire	Charles Crowne
William M. Hansard	William H. Southwell
Richard Edmund Goodrich	John Osman
Matthew Covens	Thomas H. Stoneham.
Charles Thomas Sansom	

1843.—The same clerks, with the exception of A. Aulsebrook, who had retired upon compensation, and E. H. Aldridge was appointed to the vacancy occasioned by his retirement.

Fortunatus Dwarris
A. D. Croft
R. Goodrich
James Bunce
C. R. Turner.

It will thus be seen that the surplus fees paid to the Treasury in three years are as follow:

	£ s. d.
In 1841	£19,340 19 1
1842	17,338 14 1
1843	15,397 13 3
	£52,077 6 5

COMMON PLEAS FEES.

A Return made by the Masters of the Court of Common Pleas, of all moneys received on account of the fees in the years 1841, 1842, and 1843, in the Courts of Queen's Bench, Common Pleas, and Exchequer, or of any of the officers thereof; of the application or appropriation of moneys so received, and of all salaries, compensations, and other payments made out of such moneys, stating the names of the persons to whom paid, and the office, or abolished or reduced office, in respect of which such payments are made; and also of all officers of such of those courts who are paid in whole or in part by fees, stating the names of the persons so paid, and the office in respect of which they are so paid, and the amount of fees paid to or received by any officer so paid in part or in whole by fees in each of those years, so far as the same relates to the Court of Common Pleas.

From Jan. 1st to December 31st, 1841, inclusive:—	£ s. d.	£ s. d.
Amount received for fees		12,463 17 7
Amount of salaries paid—		
To the five Masters, viz.:—		
H. B. Ray, esq. (late one of the Prothonotaries), his compensation under statute 11 Geo. 4 and 1 Wm. 4. c. 58, in which his salary as one of the Masters is merged	2005 11 4	
A. A. Park, esq.	1200 0 0	
J. H. Cancellor, esq.	1200 0 0	
E. Griffith, esq.	1200 0 0	
E. R. Porter esq.	1200 0 0	
	6805 11 4	
To the eleven Clerks	3040 0 0	
To the Messenger	100 0 0	
Amount of rent of chambers, tradesmen's bills, office expenses, &c. paid	673 12 11	
		10,619 4 3
Balance paid into Her Majesty's Exchequer to the account of the Consolidated Fund		1,844 8 4

Names of the Clerks, viz.:—

Thomas Sherwood	Thomas Bulgin
Charles John Tootel	Thomas Howard
Henry John Hodgson	John Goody
Charles J. Coote	Thomas A. Bulgin
George Jeffreys	James Malyon

John Bullivant.

Name of the Messenger—John Currall.

From Jan. 1st to Dec. 31st, 1842, inclusive:—	£ s. d.	£ s. d.
Amount received for fees		12,575 18 3
Amount of salaries paid—		
To the five Masters, viz.—		
H. B. Ray, esq. (as in 1841)	2005 11 4	
A. A. Park, esq.	1200 0 0	
J. H. Cancellor, esq.	1200 0 0	
Edward Griffith, esq.	1200 0 0	
Ed. Rob. Porter, esq. to 7th March	220 0 0	
H. Methold, esq. from 18th March	946 13 4	
	6772 4 8	
To the eleven Clerks	3040 0 0	
To the Messenger	100 0 0	
Amount of pension paid to a retired Master	220 5 0	
Amount of rent of chambers, tradesmen's bills, office expenses, &c. paid	630 11 5	
		10,763 1 1
Balance paid, as in the year 1841		1,812 17 2

Name of the retired Master—E. R. Porter, esq.

Names of the Clerks and Messenger—The same as in the year 1841.

From Jan. 1st to Dec. 31st, 1843, inclusive:—	£ s. d.	£ s. d.
Amount received for fees		12,108 1 9
Amount of Salaries paid—		
To the five Masters, viz.—		
H. B. Ray, esq. as in 1841	2005 11 4	
A. A. Park, esq.	1200 0 0	
J. H. Cancellor, esq.	1200 0 0	
Ed. Griffith, esq.	1200 0 0	
H. Methold, esq.	1200 0 0	
	6805 11 4	
To the eleven Clerks	3040 0 0	
To the Messenger	100 0 0	
Amount of pension paid to a retired Master	270 0 0	
Amount paid to the five Ushers of the court, to make up the amount of their compensation, pursuant to an order from the Lords Commissioners of Her Majesty's Treasury, dated Jan. 11th, 1843	169 0 0	
Amount of rent of chambers, tradesmen's bills, office expenses, &c. paid, including a sum of 52*l.* 11s. 8d. for stationery supplied for the use of the court, in the years 1840, 1841, and 1842	647 15 11	
		11,031 7 3
Balance paid, as in the year 1841		1,072 14 6

Name of the retired Master—E. R. Porter, esq.

Names of the Clerks—The same as in the year 1841.

Names of the Messengers—John Currall, to the 30th September; C. Cliff, from the 30th of September to the 31st October; G. Brown, from the 31st October to the 31st December.

H. B. Ray.
A. A. Park
Edward Griffith
Henry Methold
John H. Cancellor.

REMOVAL OF PAUPERS.

A Return of the sums paid by counties, cities, boroughs, towns corporate, divisions, or liberties, for the removal of poor persons born in Scotland and Ireland, and chargeable to parishes in England, under the provisions of the Act 3 & 4 Wm. 4, c. 40, for three years, ending the 31st day of December, 1844, distinguishing the amount paid in each year.

COUNTIES.	1842.	1843.	1844.	SIGNATURES.
	£ s. d.	£ s. d.	£ s. d.	
Chester	189 6 11½	110 7 11	206 19 3	Henry Potts, Treas.
Cornwall	18 17 6	nil.	nil.	Edward Coote, Treas.
Cumberland	9 4 6	24 10 10	8 5 10	John Jameson, Treas.
Devon	30 13 11	12 9 11	21 16 7	Edward W. Paul, Treas.
Durham	66 18 2	39 14 1	— — —	G. O. Trotter, Treas.
Essex, West Division	nil.	5 7 3	nil.	T. M. Gepp, Dep. Treas.
Gloucester*	38 19 4	nil.	23 16 11	H. H. Wilton, Treas.
Hants	nil.	nil.	11 17 11	Charles Bridger, Treas.
Hereford	nil.	nil.	6 17 6	F. L. Bodenham, Treas.
Kent	16 10 0	21 15 0	39 8 8	John Mercer, Treas.
Lancaster†	1306 9 1	1459 14 5	1853 9 3	W. A. Hulton, Treas.
Leicester	21 10 0	18 3 0	nil.	Wm. Cooke, Treas.
Lincoln	26 12 8	nil.	nil.	B. Kenrick, Treas.
Middlesex	2619 9 11	3119 13 2	2851 14 9	Charles P. Allen, Treas.
Northumberland	51 0 3	41 18 11	29 17 0	W. F. Blackett, Treas.
Nottingham	11 12 0	nil.	nil.	W. Soulthorpe, Treas.
Salop	2 17 2	7 12 10	6 11 0	Joshua J. Peele, Treas.
Somerset	nil.	8 19 6	5 2 7	U. Messiter, Treas.
Stafford	nil.	21 4 3	17 16 10	Thos. Sale, Treas.
Surrey	238 15 4	319 4 10	344 14 0	J. Smallpiece, Treas.
Warwick	4 8 10	nil.	nil.	W. O. Hunt, Cl. Peace
Westmoreland	13 17 0	nil.	nil.	Geo. Kirkby, Treas.
Wilts	7 16 0	1 3 2	nil.	Alex. Meek, Treas.
Worcester	53 0 0	58 0 0	35 0 0	Thos. Weston, Dep. Tr.
York, E. R.	nil.	1 11 9	nil.	H. J. Shepherd, Treas.
York, N. R.	nil.	12 16 3	nil.	Wm. Croft, Treas.
York, W. R.	710 7 5	621 11 7	374 7 2	E. Hodgson, Treas.
Denbigh	nil.	2 11 8	nil.	E. H. Griffith, Treas.
Glamorgan	56 10 6	22 2 3	13 11 0	E. P. Richards, Treas.
CITIES AND BOROUGHS, &c.				
Bath	nil.	nil.	3 4 1	B. Peach, Treas.
Berwick-upon-Tweed	nil.	nil.	1 4 0	D. Murray, Treas.
Bridgnorth	3 10 0	nil.	nil.	John Trevoo, Treas.
Bristol	90 8 0	73 0 0	41 12 0	Josias Downing, Master
Cambridge	18 10 0	nil.	nil.	W. H. Smith, Treas.
Chester	1 1 6	1 2 2	4 6 9	Ed. Roberts, jun. Treas.
Doncaster	2 14 0	nil.	nil.	Chas. Jackson, Treas.
Kingston-upon-Hull	nil.	nil.	59 4 10	Wm. Drant, Governor
Leeds‡	98 11 11	71 8 1	31 19 3	John Smith, Treas.
Leicester	nil.	nil.	10 15 6	Samuel Kirby, Treas.
Northampton	nil.	§6 2 6	nil.	C. Wickens, Cl. Bo. Mag.
Reading	nil.	9 4 6	nil.	T. J. Curties, Treas.
Shrewsbury	nil.	nil.	12 18 6	Henry Pidgeon, Treas.
Walsall	6 18 2	nil.	nil.	P. P. Pratt, Treas.
Wigan	32 11 9	1 3 0	2 18 3	J. Woodcock, Treas.

* Made up to Easter in each year.
† Made up to the 25th June in each year.
‡ Made up to the 31st Aug. in each year.
§ Paid by the parish of St. Giles.

SOUTH AUSTRALIA.—A Parliamentary paper was issued on Saturday, containing copies of the correspondence on the subject of the colonial land fund of South Australia. There are fifteen letters and despatches in the correspondence. Several holders of special surveys in South Australia complained, in August 1844, to Lord Stanley, as Colonial Secretary, that they had purchased land under the 4 & 5 Wm. 4, c. 95, on the faith that the whole of the purchase-money would be applied to the giving a free passage to labouring emigrants, which promise the Government had not fulfilled. The reply was to the effect that South Australia having become insolvent, the resources of that settlement did not supply any means of sending out emigrants in respect of the previous purchases of land, and that no vote was taken of British funds for the purpose. The memorialists again urged their claims on Lord Stanley, remarking that, however, as individuals, they regretted the insolvency of the colony, their money was paid under the guarantee of an Act of Parliament; and trusted that his lordship would bring their claims before Parliament. Lord Stanley, by his secretary (Mr. Hope, M.P.), repudiated the construction put on the Act, and refused to make any application to Parliament. The holders again addressed his lordship in January last, which called forth a reply without relief. In February another letter was sent by the holders of special surveys, in which the following passage appears:—"We beg to assure your lordship we feel most honoured and fortified in the justice of our claims by the consideration that at one time you regarded them favourably; and we trust we may be excused expressing our ignorance of aught which may have occurred since to alter your views. Our patient endurance of delay, and our urging our claims at a period when the fulfilment of them would be most beneficial to all parties, we trust give us an increased demand for a favourable consideration." His lordship merely referred, in answer, to his former letter. It seems that during the time the correspondence was pending Governor Grey recommended an advance of 2,000*l.* for the purposes of emigration, in consequence of the purchase of waste land, and by the concluding document in the correspondence, bearing date the 7th of July last, Lord Stanley stated that, under all the circumstances, and adverting to the satisfactory progress of the land fund, the advance of the 2,000*l.* would be made for the purposes of emigration.

AGENTS FOR COLONIES.—A parliamentary document has just been published containing the names, salaries, and duties of agents for the colonies acting in Great Britain, &c. There are 33 colonies mentioned in the return, of which Mr. George Baillie, Joint Agent-General for Crown colonies, has 12 allotted to him, and Mr. E. Barnard, Joint Agent-General, has 10 assigned to him. They were appointed, in 1838, by the Secretary of State for the Colonies, at a salary of 800*l.* a year, and a joint allowance of 500*l.* a year for office, rent, &c. They are paid out of the colonial funds, and act in England generally for the colonies. Mr. W. Burge is the agent for Jamaica, appointed under the Colonial Act of 1830 by the Legislature of Jamaica, by whom he is paid 1,000*l.* a year to attend to the interests of the colony. Mr. J. P. Mayers is agent for Barbadoes, appointed by the Colonial Act of 1829 by the Legislature of Barbadoes, at a salary of 500*l.* a year, paid by the colony. Mr. J. Colquhoun is agent for six colonies, for three of which he acts gratuitously, and for the others he is paid 200*l.* a year and contingent expenses, and 100*l.* each for two others. Mr. E. L. Nugent is agent for Antigua, appointed by the Assembly at 400*l.* a year, with 30*l.* for expenses. Mr. P. M. Stewart, M.P. is agent for Tobago, appointed by the act of the Legislature and the Crown. The agent was paid 150*l.* a year from 1832 to 1838, when the salary was given up. Mr. J. Marryat is agent for Grenada, without salary, appointed by a colonial Act in 1831. The duties of the agents, with the exception of those appointed by the Colonial Secretary, are defined by Acts of Parliament. Mr. Trelawny, the member for Tavistock, obtained the return.

NEW STATUTES

Of the Sessions 8 Victoria.

[In this record of actual Legislation, we adopt the plan of giving the titles alone of the statutes of no general or professional interest; and analyses of the more important changes in the law, printing at length such statutes or parts of statutes only as are of particular interest to our readers.]

(*Continued from page 502.*)

CAP. CI.

An Act to continue until the Fifth Day of July, 1862, *the Acts for the Vend and Delivery of Coals in London and Westminster, and in certain parts of the adjacent Counties; and to alter and amend the said Acts.* (August 4, 1845.)

CAP. CII.

An Act to continue until the First Day of January, 1851, *an Act for exempting certain Bills of Exchange and Promissory Notes from the operation of the Laws relating to Usury.* (August 4, 1845.)

CAP. CIII.

An Act to continue until the Thirty-first Day of August, 1848, *and to the end of the then next Session of Parliament, and to amend an Act of the Fifth and Sixth Years of her present Majesty, for permitting Wheat to be delivered from the Warehouse or the Vessel Duty Free, upon the previous substitution of an equivalent quantity of Flour or Biscuit in the Warehouse.* (August 4, 1845.)

CAP. CIV.

An Act to empower the Commissioners of her Majesty's Woods to appropriate to Building Purposes the Area of Darby-court, in the Parish of St. James, Westminster. (August 4, 1845.)

CAP. CV.

An Act for amending certain Acts of the Fourth and Fifth Years of the Reign of her Majesty, for facilitating the Administration of Justice in the Court of Chancery; and for providing for the Discharge of the Duties of the Subpœna Office after the Death, Resignation, or Removal of the present Patentee of that Office. (August 4, 1845.)

1. Whereas an Act was passed in the fourth year of the reign of her present Majesty, intituled "An Act for facilitating the Administration of Justice in the Court of Chancery," whereby power was given to the Lord Chancellor, with the advice and consent of the Master of the Rolls and the Vice-Chancellor, or one of them, to make, from time to time, and at any time within five years from the passing of the said Act, any rules, orders, and regulations for the purposes of the said Act mentioned; and it was thereby enacted, that all such rules, orders, and regulations should be laid before both Houses of Parliament, if Parliament should be then sitting, immediately upon the making or issuing of the same, or if Parliament should not then be sitting, then within five days after the next meeting thereof: and whereas another Act was passed in the fifth year of the reign of her present Majesty, whereby it was enacted, that every such rule, order, or regulation made in pursuance of the said recited Act should, from and after the time in that behalf to be appointed by the Lord Chancellor, with such advice and consent as aforesaid, and if no time should be so appointed, then from and after the making thereof, be binding and obligatory on the said Court, and be of like force and effect as if the provisions therein contained had been expressly enacted by Parliament; and it was thereby provided, that if either of the Houses of Parliament should, by any resolution passed at any time before such House of Parliament should have actually sat thirty-six days after such rules, orders, and regulations should have been laid before such House of Parliament, resolve that the whole or any part of such rules, orders, or regulations ought not to continue in force, in such case the whole, or such part thereof as should be so included in such resolution, should, from and after such resolution, cease to be binding and obligatory on the said Court; and it was thereby also provided, that no such rule, order, or regulation as aforesaid should, by virtue of the said Act, be of the like force and effect as if the provisions therein contained had been expressly made by Parliament, unless the same should be expressed to be made in pursuance of the said Act, and of the now-reciting Act; and that every such rule, order, or regulation so expressed to be made in pursuance of the said Act, and of the now-reciting Act, which should not be laid before both houses of Parliament within the time by the said recited Act limited for that purpose, should, from and after the expiration of such time, be absolutely void and of no effect: and whereas an Act was passed in the fifth year of the reign of her present Majesty, intituled "An Act to make further Provision for the Administration of Justice," under the authority of which two additional Vice-Chancellors have been appointed; and it was thereby enacted, that from and after the appointment of the Vice-Chancellors, under the said now-reciting Act, it should be lawful for the Lord Chancellor, with the advice and consent of the Master of the Rolls and Vice-Chancellors for the time being, or any two of them, and he was thereby authorized and empowered, to do all such acts, and to make and issue all such rules and orders, as by any Act or Acts of Parliament then in force the Lord Chancellor, with the advice or consent of the Master of the Rolls and the Vice-Chancellor for the time being, or one of them, was empowered to do, make, or issue: and whereas rules, orders, or regulations have from time to time been made in pursuance of the said two first-recited Acts, but it is expedient to extend the time limited by the said first-recited Act for the making thereof in manner hereinafter mentioned: be it therefore enacted, by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That the term of five years, which, under and by virtue of the said first-recited Act, now stands limited as the time within which any rules, orders, or regulations thereby, or by the said two other Acts, authorized and required to be made, must be so made, shall be and the same is hereby extended to ten years from the passing of the said first-recited Act, as if such term of ten years had been originally contained in that Act.

2. That all rules, orders, and regulations made, and to be hereafter made under the provisions of the said recited Acts and this Act, or any of them, shall for all purposes be deemed and taken to be general rules and orders of the High Court of Chancery.

3. And whereas by another Act passed in the fourth year of the reign of his late Majesty King William the Fourth, intituled "An Act for the

Regulation of the Proceedings and Practice of certain Offices of the High Court of Chancery in England," it was enacted, that from and after the death, resignation, or removal from his office of the present patentee of the Subpœna Office all the duties of such office should be performed by the clerk of the affidavits, who should thereupon receive and account for, in manner thereinafter mentioned, all the fees then receivable by the said patentee: and whereas since the passing of the last-mentioned Act four clerks of records and writs have been appointed, by whom the business of issuing writs on the equity side of the Court of Chancery, other than such writs as are issuable by the patentee of the Subpœna Office, is now discharged: and whereas it is expedient that the duties of the patentee of the Subpœna Office, should be performed and the fees payable to him should be received by the said clerks of records and writs; be it therefore enacted, That so much of the said Act of the fourth year of the reign of his said late Majesty as provides for the execution of the duties and the receipt of the fees of the Subpœna Office by the clerk of the affidavits shall be and the same is hereby repealed; and that after the death, resignation, or removal from his office of the present patentee of the Subpœna Office the said clerks of records and writs, or any one of them, shall, in place and instead of the said clerk of the affidavits, perform all the duties of the Subpœna Office, and shall receive all the fees now receivable by the said patentee of that office, and shall pay such parts thereof as the said patentee is now by the said last-mentioned Act required to pay to the several officers named in that Act for that purpose, and shall pay the residue of such fees into the Bank of England, to be placed to the account there standing in the name of the Accountant-General of the High Court of Chancery, intituled "The Suitors' Fee Fund Account," at such times and under such regulations as the Lord Chancellor, with the advice and consent of the Master of the Rolls and the Vice-Chancellors for the time being, or any two of them, shall by any order direct: provided always, that it shall be lawful for the Lord Chancellor, with such advice and consent as last aforesaid, by any rule or order to be made under the provisions of the said two first-recited Acts, to fix such earlier time for transferring the execution of the duties of the Subpœna Office to the clerks of records and writs as he shall think fit.

4. That this Act may be amended or repealed in the present session of Parliament.

Cap. CVI.

This statute will be found *verbatim* at page 434 of the present volume, its great importance making it necessary to print it out of its proper place. Thither we refer the reader.

Cap. CVII.

An Act for the Establishment of a Central Asylum for Persons charged with Offences in Ireland; and to amend an Act relating to the prevention of Offences by Insane Persons, and the Acts respecting Asylums for the Insane Poor in Ireland; and for appropriating the Lunatic Asylum in the City of Cork for the purposes of a District Lunatic Asylum (August 8, 1845.)

Cap. CVIII.

An Act for the further Amendment of an Act of the sixth year of her present Majesty, for regulating the Irish Fisheries. (August 8, 1845.)

CAP. CIX.

An Act to amend the Law concerning Games and Wagers. (August 8, 1845.)

Sec. 1 repeals part of 33 Hen. 8, c. 9.

Sec. 2 determines what shall be sufficient evidence that a house is a common gaming-house.

3. That in every case (except within the metropolitan police district) in which the justices of peace in every shire, and mayors, sheriffs, bailiffs, and other head officers within every city, town, and borough, within this realm, now have by law authority to enter into any house, room, or place where unlawful games shall be suspected to be holden, it shall be lawful for any justice of the peace, upon complaint made before him on oath that there is reason to suspect any house, room, or place to be kept or used as a common gaming-house, to give authority, by special warrant under his hand, when in his discretion he shall think fit, to any constable, to enter, with such assistance as may be found necessary, into such house, room, or place, in like manner as might have been done by such justices, mayors, sheriffs, bailiffs, or other head officers, and, if necessary, to use force for making such entry, whether by breaking open doors or otherwise, and to arrest, search, and bring before a justice of peace all such persons found therein as might have been arrested therein by such justice of peace had he been personally present; and all such persons shall be dealt with according to law, as if they had been arrested in such house, room, or place by the justice before whom they shall be so brought; and any such warrant may be in the form given in the first schedule annexed to this Act.

4. That the owner or keeper of any common gaming-house, and every person having the care or management thereof, and also every banker, croupier, and other person who shall act in any manner in conducting the business of any common gaming-house, shall, on conviction thereof, by his own confession, or by the oath of one or more credible witnesses, before any two justices of the peace, beside any penalty or punishment to which he may be liable under the provisions of the said Act of King Henry the Eighth, be liable to forfeit and pay such penalty, not more than one hundred pounds, as shall be adjudged by the justices before whom he shall be convicted, or, in the discretion of the justices before whom he shall be convicted, may be committed to the house of correction, with or without hard labour, for any time not more than six calendar months; and on nonpayment of any penalty so adjudged, and of the reasonable costs and charges attending the conviction, the same shall be levied by distress and sale of the goods and chattels of the offender, by warrant under the hand and seal of one of the convicting justices: provided always, that nothing herein contained shall prevent any proceeding by indictment against the owner or keeper or other person having the care or management of a common gaming-house; but no person who shall have been summarily convicted of any such offence shall be liable to be proceeded against by indictment for the same offence.

Sec. 5 enacts, that proof of gaming for money, &c. is not necessary in support of informations for gaming.

Sec. 6. Commissioners of police may authorize superintendent and constables to enter gaming houses and seize all instruments of gaming, and take into custody all persons found therein.

Sec. 7. Police superintendent may search for instruments of gaming.

8. That where any cards, dice, balls, counters, tables, or other instruments of gaming used in playing any unlawful game, shall be found in any house, room, or place suspected to be used as a common gaming house, and entered under a warrant or order issued under the provisions of this Act, or about the person of any of those who shall be found therein, it shall be evidence, until the contrary be made to appear, that such house, room, or place is used as a common gaming house, and that the persons found in the room or place where such tables or instruments of gaming shall have been found were playing therein, although no play was actually going on in the presence of the superintendent or constable entering the same, under a warrant or order issued under the provisions of this Act, or in the presence of those persons by whom he shall be accompanied as aforesaid; and it shall be lawful for the police magistrate or justices before whom any person shall be taken by virtue of the warrant or order to direct all such tables and instruments of gaming to be forthwith destroyed.

9. And for the more effectual prosecution of the keepers of common gaming houses, be it enacted, that every person who shall have been concerned in any unlawful gaming, and who shall be examined as a witness by or before any police magistrate or justice of the peace, or on the trial of any indictment or information against the owner or keeper or other person having the care or management of any common gaming house, touching such unlawful gaming, and who upon such examination shall make true and faithful discovery to the best of his or her knowledge of all things as to which he or she shall not be so examined, and shall thereupon receive from the magistrate or justice of the peace or judge of the court by or before whom he or she shall be so examined, a certificate in writing to that effect, shall be freed from all criminal prosecutions, and from all forfeitures, punishments, and disabilities, to which he or she may have become liable for any thing done before that time in respect of such unlawful gaming.

10. That the justices in every division, district, and place in England for which a special session of the justices of the peace (called the General Annual Licensing Meeting) is holden annually for granting licenses to persons keeping or being about to keep inns, alehouses, and victualling houses to sell exciseable liquors by retail, to be drunk or consumed on the premises therein specified, shall have authority at such general annual licensing meeting, or at any adjournment thereof, to grant billiard licenses to such persons as the said justices shall in their discretion deem fit and proper to keep public billiard tables and bagatelle boards, or instruments used in any game of the like kind, and at the special sessions holden for transferring licenses to keep inns shall have authority to transfer such billiard licenses to such other persons as they in their discretion shall deem fit and proper to continue to hold the same, and who in each case shall be required to give the like notice of their intention to apply for such billiard license, and entitled to receive the like notice of the licensing days as is required in the case of persons intending to apply for a license or the transfer of a license to sell exciseable liquors by retail to be drunk or consumed on the premises, or as near thereto as the case will allow; and every such billiard license shall be in the form given in the third schedule annexed to this Act, and shall continue in force in the counties of Middlesex and Surrey from the fifth day of April, and elsewhere from the tenth day of October, after the granting thereof, for one whole year thence respectively next ensuing, and no longer; and the clerk of the justices shall be entitled to demand and receive from every person licensed under this Act, for the petty constable or other peace officer, for serving notices and other services required of him, the sum of one shilling, and for the clerk of the justices, for the license, the sum of five shillings; and every clerk who shall demand or receive from any person for such fees more than the said sums, being together six shillings, shall for every such offence, on conviction before one justice, forfeit and pay the sum of five pounds.

11. That after the fifth day of April, one thousand eight hundred and forty-six, in the counties of Middlesex and Surrey, and elsewhere after the tenth day of October next after the passing of this Act, every house, room, or place kept for public billiard playing, or where a public billiard table or bagatelle board, or instrument used in any game of the like kind, is kept, at which persons are admitted to play, except in houses or premises specified in any license granted under an Act passed in the ninth year of the reign of king George the Fourth, intituled "An Act to regulate the granting of Licenses to Keepers of Inns, Alehouses, and Victualling Houses in England," hereinafter called a victualler's licence, shall be licensed under this Act; and after the said fifth day of April in Middlesex and Surrey, and elsewhere after the said tenth day of October, every person keeping any such public billiard table or bagatelle board, or instrument used in any game of the like kind for public use, without being duly licensed so to do, and not holding a victualler's license for the house or premises where such billiard table, bagatelle board, or other instrument as aforesaid is kept or used, and also every person licensed under this Act who shall not during the continuance of such billiard license put and keep up the words "licensed for billiards," legibly printed in some conspicuous place near the door and on the outside of the house specified in the license, shall be liable to be proceeded against as the keeper of a common gaming house, and, beside any penalty or punishment to which he may be liable if convicted of keeping a common gaming house, shall, on conviction of keeping such unlicensed billiard table, bagatelle board, or other instrument as aforesaid, by his own confession, or by the oath of one or more credible witnesses before any police magistrate or any two justices of the peace, be liable to pay such penalty, not more than ten pounds, for every day on which such billiard table, bagatelle board, or instrument as aforesaid shall be used, as shall be adjudged by the magistrate or justices before whom he shall be convicted, or, in the discretion of the magistrate or justices, may be committed to the house of correction with or without hard labour, for any time not more than one calendar month; and on nonpayment of any penalty so adjudged, and of the reasonable costs and charges of the conviction, the same shall be levied by distress and sale of the goods and chattels of the offender, by warrant under the hand and seal of the magistrate or one of the convicting justices; but no person who shall have been summarily convicted of any such offence shall be liable to be further proceeded against by indictment for the same offence.

Sec. 12. Penalties for offences against tenor of licenses.

Sec. 13. When billiard playing shall not be allowed.

Sec. 14. Empowering constables to visit licensed houses.

Sec. 15. Repeal of 16 C. 2, c. 7; 10 W. 3 (I.); 9 Anne, c. 14; 11 Anne (I.); 5 & 6 Wm. 4, c. 41; and part of 18 G. 2, c. 34.

Sec. 16. Pending actions and informations to be discontinued.

Sec. 17. Cheating at play to be punished as obtaining money by false pretences.

18. That all contracts or agreements, whether by parole or in writing, by way of gaming or wagering, shall be null and void; and that no suit shall be brought or maintained in any court of law or equity for recovering any sum of money or valuable thing alleged to be won upon any wager, or which shall have been deposited in the hands of any person to abide the event on which any wager shall have been made: provided always that this enactment shall not be deemed to apply to any subscription or contribution, or agreement to subscribe or contribute, for or toward any plate, prize, or sum of money to be awarded to the winner or winners of any lawful game, sport, pastime, or exercise.

19. And whereas many important questions are now tried in the form of feigned issues, by stating that a wager was laid between two parties interested in respectively maintaining the affirmative and the negative of certain propositions; but such questions may be as satisfactorily tried without such form; be it therefore enacted, That in every case where any court of law or equity may desire to have any question of fact decided by a jury, it shall be lawful for such Court to direct a writ of summons to be sued out, by such person or persons as such Court shall think ought to be plaintiff or plaintiffs, against such person

or persons as such Court shall think ought to be defendant or defendants thereto, in the form set forth in the second schedule to this Act annexed, with such

is now practised in proceedings under a feigned issue.

20. That any person who shall be summarily convicted under this Act may appeal to the next general or quarter session of the peace to be holden for the county or place wherein the cause of complaint shall have arisen, provided that such person at the time of the conviction, or within forty-eight hours thereafter, shall enter into a recognizance, with two sufficient securities, conditioned personally to appear at the said session to try such appeal, and to abide the further judgment of the Court at such session, and to pay such costs as shall be by the last-mentioned Court awarded; and it shall be lawful for the magistrate or justices by whom such conviction shall have been made to bind over the witnesses who shall have been examined in sufficient recognizances to attend and be examined at the hearing of such appeal; and that every such witness, on producing a certificate of being so bound, under the hand of the said magistrate or justices, shall be allowed compensation for his or her time, trouble, and expenses in attending the appeal, which compensation shall be paid in the first instance by the treasurer of the county or place, in like manner as in cases of misdemeanor, under the provisions of an Act passed in the seventh year of the reign of King George the Fourth, intituled "An Act for improving the Administration of Criminal Justice in England;" and in case the appeal shall be dismissed, and the order or conviction affirmed, the reasonable expenses of all such witnesses attending as aforesaid, to be ascertained by the Court, shall be repaid to the said treasurer by the appellant.

21. That when any distress shall be made for any money to be levied by virtue of the warrant of any justice under this Act, the distress shall not be deemed unlawful, nor shall any party making the same be deemed a trespasser, on account of any defect or want of form in the information, summons, warrant of apprehension, conviction, warrant of distress, or other proceeding relating thereto, nor shall such party be deemed a trespasser from the beginning on account of any irregularity which shall be afterwards committed by him, but all persons aggrieved by such defect or irregularity may recover full satisfaction for the special damage by an action on the case in any of her Majesty's courts of record.

Sec. 22. Plaintiff not to recover after tender of amends.

Sec. 23. Limitation of actions within three calendar months.

Sec. 24. Construction of terms.

Sec. 24. Conviction, &c. not to be quashed for informality, &c.

Schedules follow.

Cap. CX.

An Act for the better Collecting Borough and Watch Rates in certain Places. (Aug. 8, 1845.)

Sec. 1 repeals 5 & 6 Wm. 4, c. 76. Overseers for parts of parishes and places within boroughs to raise district rates.

Sec. 2. District rates to be allowed and published.

Sec. 3. Persons aggrieved may appeal.

Sec. 4. District rates to be sufficient to raise the amount required. Collectors to account. Surplus of district rate to be paid to the treasurer. Separate rate made by overseers for raising watch-rates to be accounted for, and surplus paid to the treasurer.

Sec. 5. Persons rated may be excused on account of poverty.

Sec. 6. Watch rates to be charged only upon persons liable thereto.

7. That it shall be lawful for the person or persons appointed or to be appointed to act as overseer or overseers for making, levying, and collecting borough rates and watch rates in the parts of parishes or places situate within the limits and jurisdiction of any city or borough as aforesaid, or any of them, and for the overseers of the poor making any separate rate or assessment, for the purpose of raising the amount of any watch-rate, by warrant from any two justices of the peace usually acting in and for the borough wherein the parishes, parts of parishes or places, in or for which any district rate or rate for raising a watch rate, may be made, shall be situated, to levy upon every person who shall refuse to pay the amount assessed or charged upon him or her by any such district rate, or rate for raising a watch rate, according as they shall be assessed, the amount so assessed or charged upon him, her, or them, together with the costs and charges of recovering and enforcing payment of the same, to be ascertained by such justices, by distress and sale of the offender's goods, rendering to the parties the overplus; and in default of such distress, it shall be lawful for any two such justices of the peace to commit him or them to the common gaol of or used for the same borough, there to remain, without bail or mainprize, until payment of the said amount and arrearages.

Sec. 8. Overseer may be appointed for two or more parts of parishes.

9. That this Act may be amended or repealed by any Act to be passed in this session of Parliament.

Cap. CXI.

An Act to Amend the Laws relating to the Assessing of County Rates. (August 8, 1845.)

1. Whereas it is expedient to amend the Laws in being relating to the assessing of county rates: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons in this present Parliament assembled, and by the authority of the same, That from and after the passing of this Act it shall be lawful for her Majesty's justices of the peace of every county in England, assembled at their general or quarter sessions of the peace, or at any adjournment thereof, from time to time, as often as they may deem it necessary, to appoint any number of justices, not exceeding eleven in number nor less than five, to be a committee for the purpose of preparing fair and equal county rates, or of altering and amending such rates, from time to time, as circumstances may require.

2. And be it enacted, That the committee so appointed shall hold their first meeting after their appointment at such time and place as shall be fixed by the said Court of Quarter Sessions, and their subsequent meetings at such times and places as they shall themselves appoint for carrying this Act into execution; and at every meeting of the said committee, if three or more members thereof are present, they shall be competent to act as fully and effectually as if all the members of the said committee were present.

Sec. 3. Committee may appoint a clerk.

4. That for the purpose of preparing such fair and equal county rates the said committee, by their order in writing, to be signed by their clerk, may, from time to time, as often as they may deem it necessary, direct the overseers of the poor, constables, assessors, and collectors of public rates of or for any parish, township, or place within the county, and all other persons having the custody or management of any public or parochial rates or valuations of any such parish, township, or place, to make returns in writing to the said committee, at such times and places as they may appoint, of the amount of the full and fair annual value of the whole or of any part of the property within the parish, township, or place liable to be assessed toward the county rate, together with the date of the last valuation for the assessment of such parish, and the name of the surveyor by whom the valuation was made; and the overseers of the poor required to make any such return in respect of any parish, township, or place maintaining its own poor, and the constable or other person required to make any such return in respect of any place not maintaining its own poor, shall, before they present the same to the said committee, lay the same before a vestry meeting of the parish, township, or place for which they act, or where no vestry meeting is held, before some other meeting of the inhabitants of such place, if any such there be, at which the public business of such place is commonly transacted.

5. That the property liable to be assessed towards the county rate shall be taken to be the property which in any parish or place maintaining its own poor is liable to be rated to the relief of the poor, or which in any place not maintaining its poor would be liable to be rated for the relief of the poor if such place were a parish.

6. That for the purposes of assessing any county rate the words "full and fair annual value" shall be taken to mean the net annual value of any property as the same is or may be required by law to be estimated for the purpose of assessing the rates for the relief of the poor.

Sec. 7. Committees empowered to inspect rates, assessments, valuations, &c.

8. That every overseer of the poor, constable, assessor, collector, or other person so required to make returns, or to appear as aforesaid, who shall, without any reasonable excuse, neglect to make such returns in writing as aforesaid, or wilfully make any false return, and every person who shall neglect or refuse to appear when required so to do as aforesaid, or to be sworn or examined, or to produce such documents as hereinbefore provided, shall forfeit a sum not exceeding twenty pounds, to be prosecuted and recovered by order of the said committee before any two of her Majesty's justices of the peace.

Sec. 9. Committees may cause new valuations to be made.

Sec. 10. Allowances and compensation to persons employed in the execution of this Act.

Sec. 11. If parish officers neglect or make false returns, expenses of valuations to be paid by parishes.

Sec. 12. When committee have prepared a county rate differing in value from the preceding, they shall cause it to be printed and distributed to the acting justices and overseers of the poor. Overseers to submit the rate to a vestry meeting.

Sec. 13. Objections made to the proposed rate to be sent to the overseers within one calendar month.

Sec. 14. Notice to be given when rate will be taken into consideration by Court of General Quarter Sessions.

Sec. 15. Rate to be deemed valid after confirmation by Court of General or Quarter Sessions.

16. That if at any time after the said rate has been made as aforesaid any overseer or overseers of the poor, constable, or other person charged with the collection and levy of county rate in any parish or place, or other inhabitant or inhabitants thereof, have reason to think that such parish, township, or place is aggrieved by any such rate, whether it be on account of some one or more of them being without sufficient cause omitted altogether from the rate, or on account of such parish, township, or place being rated on a sum beyond the full and fair annual value of the property therein liable to be assessed toward the county rate, or on account of some other parish, or parishes, township or townships, place or places, being rated on a sum less than the full and fair annual value of the property therein liable to be assessed toward the county rate, such overseer or overseers of the poor, constable, or other person, or inhabitant or inhabitants, may appeal to the justices of the peace for the county, at the general or quarter session to be holden next after the session at which such rate was allowed and confirmed, against such part of the rate only as may affect the parish or parishes, township or townships, place or places which appear to be over-rated or under-rated, or omitted altogether from the rate as aforesaid (subject to the provisions hereinafter contained); and if in any case where any overseer or overseers, constable, or other person as aforesaid, of one parish or place, appeals against the rate on any other parish or place, on account of the same being altogether omitted from such rate, or on account of the same being rated at less than the full and fair annual value thereof as aforesaid, such overseer or overseers, constable, or other person shall give twenty-one days' previous notice in writing of the intention to appeal, and of the cause and matter thereof, to the overseers of the poor, or where there are no such overseers, to the constable or other person charged with the collection and levy of county rate in such other parish or place; and if in any case where any such overseer or overseers, constable, or other person appeal against the rate on the ground that any parish, township, or place is rated on a sum beyond the full and fair annual value of the rateable property therein, such overseer or overseers, constable, or other person shall give twenty-one days' notice thereof in writing, with the cause and matter thereof, to the clerk of the peace of the county, the said justices shall be empowered to hear and determine such appeal in manner by this Act directed, and either to confirm such parts of the rate as have been appealed against, or to correct such inequalities or omissions as shall be proved to exist therein, in such manner as to them the said justices may appear fair, just, and equitable; but no such rate shall upon any appeal be quashed or destroyed, in regard to any other parish, township, or place, unless in cases where the justices of the peace in general or quarter session assembled, or the major part of them, deem it necessary to proceed to the making of an entire new rate, and when they proceed therein according to the provisions of this Act.

17. That it shall be lawful for the Court of General or Quarter Session of the Peace, upon any such appeal, instead of hearing the said appeal, to order, upon the application of the appellant or respondent in such appeal, a survey and valuation of their respective parishes, townships, or places, and shall fix the next or some subsequent session for receiving such survey and valuation, and for hearing and determining the said appeal, and such Court shall also thereupon appoint a proper person or persons to make such survey and valuation; and the person or persons so appointed shall for that purpose have full power, with or without assistants, to enter upon, view, and examine, survey, measure, and value, all and any lands, houses, and property liable to be assessed toward the county rate within the parishes, townships, and places mentioned in such order; and such survey and valuation shall be reported to the general or quarter session fixed as aforesaid for receiving the same; and the Court then and there assembled shall hear and determine the said appeal in the manner hereinbefore set forth.

Sec. 18. Penalty on persons obstructing overseers, &c.

Sec. 19. Penalties and forfeitures, costs and charges, may be levied by distress and sale of offender's goods.

Sec. 20. Sessions to determine costs of appeal and of valuation ordered by sessions.

Sec. 21. Costs of valuations directed by committee.

22. That all the powers, authorities, provisions, clauses, and regulations contained in any former Act or Acts relating to the assessment, collection, and levying of county rates (save and except such parts thereof respectively as are hereby varied, altered, or repealed) shall be good, valid, and effectual for the purposes of assessing, levying, collecting, and enforcing the payment of the rate or rates hereafter to be made in pursuance of this Act, and for carrying this Act into execution.

Sec. 23. County rate shall not be assessed otherwise than as directed by 5 & 6 Wm. 4, c. 76.

Sec. 24. The Act extended to all places having separate commission of the peace, and to all rates of the nature of county rates.

25. That this Act may be amended or repealed by any Act to be passed in this session of Parliament.

CAPS. CXII. and CXIII.

These statutes will be found *verbatim* at page 435 of the present volume, their great importance making it necessary to print them out of their proper place. Thither we refer the reader.

CAP. CXIV.

An Act for the Abolition of certain Fees in Criminal Proceedings. (August 8, 1845.)

1. Whereas an Act was passed in the fifty-fifth year of the reign of King George the Third, intituled "An Act for the Abolition of Gaol and other Fees connected with the Gaols in England," and doubts have been entertained as to the extent and meaning of the said Act, and it is expedient that the same be explained and amended: be it declared and enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That the provisions of the said Act respecting the discharge of certain prisoners without payment of any fee do and shall extend to all persons who now are or hereafter shall be charged with or indicted for any felony, or as an accessory thereto, or with or for any misdemeanor, before any court of criminal jurisdiction in England, against whom no bill of indictment shall be found by the grand jury, or who on his, her, or their trial shall be acquitted, or who shall be discharged by proclamation for want of prosecution; and that it is not and shall not be lawful to demand or take from any such persons any fee for their appearance to the indictment or information, or for allowing them to plead thereto, or for recording their appearance or plea, or for discharging any recognizance taken from any such persons, or any surety or sureties for them.

2. And whereas by the said Act it was provided that the clerks of assize, clerks of the peace, or clerks of the court, and their deputies, should receive the amount of the fees theretofore payable to them respectively, which were abolished by the said Act, out of the rates of the county, district, hundred, riding, or division, or out of the public stock of the city, town corporate, cinque port, liberty, franchise, or place of which they were severally the officers; be it enacted, That no such payment shall be made out of any such rate or stock, in satisfaction of any of the fees abolished by the said Act, to any clerk of assize, clerk of the peace, or clerk of the court appointed after the passing of this Act, or to their or any of their deputies.

CAP. CXV.

An Act for the Appointment of a Taxing Master for the High Court of Chancery in Ireland. (August 8, 1845.)

Sec. 1. The taxation of costs in the Court of Chancery, Ireland, to be conducted by one taxing-master, who shall discharge the duties in person.

Sec. 2. Lord Chancellor to appoint the taxing-master.

Sec. 3. Appointment of deputy in case of absence.

Sec. 4. Taxing-master may administer oaths and take affirmations.

Sec. 5. Persons swearing before taxing-master subject to penalties for perjury.

Sec. 6. Salary of taxing-master. Taxing-master may appoint and remove clerks and fill up vacancies.

Sec. 7. Taxing-master and clerks not to take gratuities.

Sec. 8. Persons employed under this Act not to practise as barristers, &c. Solicitors, &c. accepting office to be struck off the rolls.

Sec. 9. Orders may be made for carrying Act into execution.

Sec. 10. Orders under this Act may be varied.

11. Provided always, and be it enacted, That nothing in this Act contained shall be construed to affect the general powers vested in the Lord Chancellor, either solely or otherwise, under any former Act.

Sec. 12. Offices to be procured for the taxing-master in the King's Inns, or to be rented or hired.

Sec. 13. The stamp duties imposed by the 4 Geo. 4, c. 78, in respect of taxation of costs in Chancery to be paid as heretofore.

Sec. 14. Salaries, &c. to grow due from day to day, but to be payable quarterly out of the Consolidated Fund.

15. That in the construction of this Act the expression "the Lord Chancellor" shall mean and include the Lord Chancellor of Ireland, the Lord Keeper and Lords Commissioners for the custody of the Great Seal of Ireland, for the time being.

16. That this Act may be amended or repealed by any Act passed in this present session of Parliament.

CAP. CXVI.

An Act for the Protection of Seamen entering on board Merchant Ships. (August 8, 1845.)

CAP. CXVII.

An Act to amend the Laws relating to the Removal of poor Persons born in Scotland, Ireland, the Islands of Man, Scilly, Jersey, or Guernsey, and chargeable in England. (August 8, 1845.)

Sec. 1 repeals 11 Geo. & 1 Wm. 4, c. 5, ss. 1, 2; 3 & 4 Wm. 4, c. 40; 7 Wm. 4 & 1 Vict. c. 10; 3 & 4 Vict. c. 27; and 7 & 8 Vict. c. 42.

Sec. 2 makes provision for removal of natives of Scotland, Ireland, and the Isles of Man, Scilly, Jersey, and Guernsey.

Sec. 3. Persons executing warrants of removal to have the authority of constables.

Sec. 4. Justices of the peace to make new regulations for removal of Scottish and Irish poor, &c. to their respective places of birth or residence.

Sec. 5. Expenses of certain parishes to be paid out of county rates.

Sec. 6. Appeals against such removals may be lodged at the instance of boards of guardians in Ireland, and of kirk session, heritors, or borough magistrates in Scotland.

Sec. 7. The Poor Law Amendment Act and this Act to be construed as one Act.

8. That in all proceedings under this Act it shall be sufficient in the law to use, with such changes only as the facts of each case may require, the forms contained in a schedule to this Act annexed, for the purposes in the titles to such forms respectively specified.

9. That this Act may be amended or repealed by any Act to be passed in this session of Parliament.

Schedules annexed.

THE MAGISTRATE.

Summary.

AMONG the Parliamentary Papers under the head "Legislator," may be found a useful return of the sums paid by counties, cities, boroughs, &c. for the removal of paupers born in Scotland and Ireland, and chargeable to parishes in England, during the last three years.

FRANCE AND ENGLAND.—The *Siècle* has a long article on the state of crime in England and France, as shewn by the returns of the two countries. The writer says that the increase of crimes and offences in Great Britain was, between the years 1835 and 1842, when it was more remarkable than at any other period, 50 per cent.; but comparing the number of accused in 1844 with that in 1835, he finds the increase to be 26 per cent. This is certainly a sad state of things, and we are not surprised that our contemporary should attribute it in a great measure to the influence of poverty in the masses of the labouring population: but in speaking of the increase of crime, that of population should not be overlooked. The latter did not reach 26 per cent. in the period alluded to, but we believe it was nearly equal to half that amount. The writer observes that in England in 1840 the female offenders amount to 23 7-100 of the total number, and adds that such is the proportion at the present time. The English writers on statistics, says he, conclude that females who have once erred are not so easily brought back to honest habits as men; but, according to him, this is not the case in France. It is the case in all countries, he adds, where habit rather than principle is the basis of probity. This is not very clearly expressed. As far as education goes, there ought to be more principle in the females of England than in those of this country, for education is more general there than it is here. But we are not prepared to declare that education in England amongst the lower classes is what it ought to be. They are indeed taught religion and morality at an early age, but the mode of teaching is not such as to leave any very lasting impression. One of the great evils in the education of the lower classes in England is the low rate at which the teachers are paid. It cannot be expected that men who are paid for this duty at a lower rate than daily labourers can be well fitted for the occupation. They may be able to teach according to certain rules laid down for national schools, but for the cultivation of mind it is necessary that there should be mind of a superior calibre in those who teach; and this, as a general rule, is far from being the case. We have, for instance, seen in a Manchester paper an advertisement from the directors and guardians of a parochial workhouse, requiring a light porter and a schoolmaster, the former with 20*l.* a year and his board, and the latter 10*l.*; and we fear this is but too common an estimate of the respective value of body and mind. It is hardly to be expected that the education of the poor in England should be a good one when teachers are remunerated on such a scale; for what man fitted for the task of tuition would accept an office to which such a mark of degradation is attached? The real cause of the greater proportion of crime in the English women of the labouring class, as compared with the same class in France, arises, we have no doubt, from habits of sobriety of the French women. This habit, not principle. Girls at school in France are not cautioned against drunkenness; it is unnecessary, for the habits of those with whom they will have to associate when they are women are sober, and corruption in this respect is not feared. In concluding his article, the writer of the *Siècle* says:—"England, with a population which is equal to half that of France, has each year 90,000 persons accused of crime, whereas we have only 60,000. If comparisons of this nature had a scientific rigour, I should say that for one crime committed in France, three are committed in England; but I prefer, in so grave a question, the view of humanity to that of national feeling. The sores of our neighbours do not console one for the wounds of civilization." We approve of the sentiment here expressed; but we think the writer has greatly exaggerated the proportion of crime in the two states.—*Galignani's Messenger.*

The following building has been duly registered for the solemnisation of marriages, pursuant to the Act of the 6 & 7 Wm. 4, c. 85:—The Wesleyan Chapel, situated in Stafford-street, at Longton, in the parish of Stoke-upon-Trent, in the county of Stafford, in the district of Stoke-upon-Trent.

THE LAWYER.

Summary.

WE invite attention to an article extracted from the *Manchester Guardian,* on the question of the legality of the sale of railway shares in companies that are but provisionally, and others that are completely registered. It may be found under the head "Journal of Property." From this it will be seen that the Attorney-General and other counsel, to whom the case had been submitted, are unanimously of opinion that sales of letters of allotment in railway companies established since 1st November last, after provisional, but before complete registration of the company, are illegal; but that sales of scrip after complete registration, and before an Act of Parliament is obtained, are clearly legal. The opinions given are of double value just now, since they materially tend to remove the doubts in which the question was involved. Another of "The Leading Cases," which have elicited from many of our subscribers, spontaneously, the highest approval, is given below.

CRIMINAL LAW.

THE EIGHTH REPORT OF HER MAJESTY'S COMMISSIONERS ON CRIMINAL LAW.

This Report, issued on 5th July last, is of such extreme value, both for its strictures on the laws as existing at present and the suggestions it throws out for their improvement, that we propose to give it *at full length;* and we are the more disposed to do this seeing that the paragraphs are, for the most part, so succinct and compressed that without injury they will not admit of abridgment.

To the Queen's Most Excellent Majesty, in her High Court of Chancery.

We, your Majesty's Commissioners, appointed by your Majesty's Commission, bearing date the 22nd day of February, in the eighth year of your Majesty's reign, having, in obedience to your Majesty's Commission, completed our Digest of the Law of Procedure in respect of Indictable Offences, with a Report thereon, do humbly submit the same to your Majesty. We have distributed the subject into chapters, which are subdivided into sections and articles, in conformity with our Digest of Crimes and Punishments; and we have, in performing this branch of our duty, adopted nearly the same course which we observed in relation to crimes and punishments; we have referred to the principal authorities upon which we have relied, and have stated our reasons for what we have done in all cases where the authorities have been liable to doubt, or where it has appeared to us expedient that any alteration should be adopted which we deemed ourselves competent to make of our own authority. It is proper, however, to observe, that we have made some deviation from our former course, in having frequently stated our reasons for the alterations which we have deemed it expedient to make, as well as our suggestions in respect of proposed alterations, in the notes to the proper articles of the Digest, instead of specifying them in detail in the body of the Report; and that in order to execute our duty as nearly as might be within the limit prescribed to

us, we have, in many instances, adhered strictly to the rules of the existing law, in preference to the preparing and suggesting of new ones. Although many alterations might, we think, be made with advantage, they are frequently of such a nature as to involve the preparation of a number of new rules, the substitution of which for those at present existing would, if the reasons for alteration were to be disapproved, be so much useless labour. Such observations are particularly applicable to the suggestions made, with a view to substitute a more simple and compendious process of outlawry.

The question has necessarily occurred, to what extent the law of procedure should detail the *praxis* of each criminal court. It has appeared to us that the Digest should not enter into such particularities, but deal only with the more general provisions, leaving the minute details of practice to be provided for by their own peculiar rules, to be sanctioned and approved of in the mode prescribed by the Legislature. To pursue a contrary course would be attended with much difficulty and inconvenience. Many of the merely practical rules, especially those of the inferior courts, are unsettled and imperfect; and were it otherwise, the adding to the Digest several distinct appendages containing the minutiæ of practice belonging to each of such courts would enlarge it to an inconvenient extent. Another obstacle presents itself, particularly as regards the practice of the Court of Queen's Bench. By virtue of the Act of the sixth year of your Majesty's reign, intituled "An Act for Abolishing certain Offices on the Crown side of the Court of Queen's Bench, and for regulating the Crown Office," many excellent rules have been framed.(*a*) If these were to be embodied in the Digest, and made permanent by the Legislature, the spirit of this statute would be defeated, which leaves to the Court itself the framing its own rules of practice. This we think would be highly disadvantageous, deeming the principle to be a good one that such a Court is best able to ascertain what rules of this kind will best answer the ends of justice. The same principle applies to the practice of inferior courts, subject to the condition that their rules should be sanctioned by the superintendence and authority of some higher court.

Although we have, as a general rule, abstained from entering upon the discussion of suggested alterations in the body of our Report, our observations on the subject of criminal pleading constitute an exception, which rests on peculiar grounds.

The adoption of a digest of defined crimes is so intimately connected with the rules of criminal pleading, as to render the consideration of the latter highly expedient; those rules are, in truth, when connected with such a digest, much more capable of a simple, concise, and systematic form than they could possibly be were the law to be left indefinite.

Before we proceed to make some observations on the subject of the following Digest, and then to submit some matters connected with it for consideration, we think it right to express our acknowledgments for the assistance which we have received from many persons of high eminence and great legal acquirements. It is especially incumbent upon us to mention those due to Lord Denman, Lord Chief Justice of England, for several important suggestions; and also to William Samuel Jones, esq. of the Crown Office, relating to the practice on the Crown side of the Court of Queen's Bench.

We have also to acknowledge our obligations to many members of the legal profession who have favoured us with answers and opinions on several most important points for consideration; amongst them are many persons of extensive information derived from practice in the courts of criminal law, including recorders, magistrates, barristers, clerks of the peace, and attorneys, some of whom are clerks to magistrates in populous districts. We have, in order to facilitate the reference to their suggestions, stated in the appendix the names of those who have given their opinions on each particular question. Their observations are worthy of the most attentive consideration, and we regret that we cannot notice them in detail.

The division of the Digest is naturally regulated by the course of procedure in order of time, beginning with the earliest step which can be taken against a suspected offender, down to the execution of the sentence; to these are added the incidental proceedings by writs of *habeas corpus* and *certiorari*, and provisions as to costs and matters which could not well be introduced before without interrupting the order already proposed.

The 1st chapter includes proceedings of a preliminary nature, which occur previously to the framing or finding of the principal accusation or charge on which the suspected party is to be tried. Such preliminary proceedings are necessary for the purpose of securing the person of a suspected party, in order that he may be forthcoming to answer the demands of justice, and who might escape if a step were to be taken before a formal charge by grand jury, or other competent authority were to be made against him. Whilst, however, such a proceeding is, in numerous instances, absolutely essential to the administration of justice, yet being frequently founded on suspicion only, it is one which is not to be resorted to on slight grounds without inquiry as to its necessity; nor even after such inquiry, if reasonable security can be given for the appearance of the suspected party to answer the charge, except, indeed, in cases of great enormity, where the trusting to such security might seem to be hazardous.(*b*) Such are the general principles on which the numerous provisions to be found in the first chapter rest. These regard principally the granting of summonses and warrants, the arresting of suspected offenders, either with or without warrants the preliminary inquiry before magistrates, to ascertain whether there be sufficient ground for ulterior proceeding, and if so, whether it be further necessary, in cases where the law, *proprio vigore*, does not make the distinction, to deprive the suspected party of his liberty *ad interim*. This division of procedure is marked by a striking change from the course which once prevailed. In very ancient times, even during the Saxon dynasty, the practice prevailed which yet subsists in the form and proceedings of a grand jury In the reign of King Ethelred, in each hundred, the *præpositus*, with twelve men, charged upon oath all whom they knew to be guilty of any crime. This was the *jurata delatoria*, or jury of accusation, on which proceedings were founded, and by virtue of which the suspected parties were subjected to various modes of trial, including those by the ordeal and compurgation. In the reign of King Henry II. the ancient mode of proceeding, where there was no certain accuser, was, by the common fame, upon which presentments, such as are above alluded to, were made; and this continued to be the case when Bracton, Britton, and Fleta wrote. For a considerable period after this such presentments were regarded as the commencement of the prosecution, and to this day a record of the criminal prosecution, that is, the formal history of the proceedings, commences with the finding of the indictment, without any reference to the previous and preliminary inquiry; and the technical term "process" is applicable only to proceedings which occur after the indictment found, and which are used for bringing the suspected party into court to answer the charge. As well before as after the time when the present system of magistracy was established, it was competent to any person to apprehend a felon and carry him to gaol, where he was dealt with by the justices of gaol delivery. That course, however, was, after the passing of the Habeas Corpus Act, no longer efficacious. The natural consequence of the establishment of a local magistracy was, the taking preliminary cognizance of crimes, and statutable provisions became necessary, in order to regulate the course of proceeding as to examination, admission to bail, and other circumstances essential to the due administration of such powers, according to the increased exigences of society, and particularly for the purpose, in many instances, of extending the local and circumscribed powers of magistrates, so as to enable them the better to execute the power of preliminary inquiry.(*c*)

It will be seen from an inspection of the first chapter how much inconvenience has been experienced from the locally circumscribed economy of criminal jurisdiction. This inconvenience has been partially remedied by a host of statutes applicable in particular cases, and which have been found to be necessary in order to prevent serious and frequent failures in the administration of the penal laws. It would, we conceive, be a much more simple and efficacious course to enlarge generally the bounds of local jurisdiction than to retain such a multitude of particular provisions, which, after all, merely palliate, but do not entirely remedy the mischief, and which unnecessarily enlarge the volume of this branch of the law. We should, however, have far exceeded our powers in suggesting rules upon the mere speculation of so great a change in the system of local jurisdiction as the application of such rules would involve.

We have also to observe, that the numerous provisions contained in the mass of statutes affecting criminal jurisdiction are at present confused and perplexed; they have been passed at various times, and vary so much in their terms as frequently to leave it in doubt whether they were meant to extend to the indictment and trial only, or only to preliminary inquiry before magistrates. It has appeared to us to be desirable that, in all cases where jurisdiction is given to justices of the peace, or to commissioners of oyer and terminer, or gaol delivery, to take an indictment and proceed to trial upon it within a county or other local division, it would be expedient that the magistrates of the county or division should also have authority to make preliminary inquiry concerning the same offence; and acting upon this principle, we have reduced the enactments on this subject to a form more systematic than that which they now exhibit.

Although the seal as well as the signature of the magistrate who grants a warrant is required by some statutes, in other cases a warrant under his hand is sufficient. As it appears to us that no greater degree of authority or notoriety is attained by using a seal in addition to the mere signature, we think that it would be a more simple and expedient rule to require the signature only.

A warrant of arrest is not to be granted but on oath made of facts which shew a reasonable cause for the restraint of liberty. The question whether the circumstances of the case do afford such cause, is, however, one which must be left to the discretion of the magistrate, it being impossible to devise any other practicable test of decision.

The primitive course of raising the hue and cry in order to apprehend an offender has rarely been resorted to in modern times. Provisions for raising a posse of horse and foot for pursuing a malefactor from vill to vill, and from county to county, to the coast of the sea, are now of little use; as the ancient law still, however, exists, we conceived that we should not be justified in treating it as obsolete, and that our proper course would be to state the rules to be found in the authorities, the better to enable the legislature to judge of the propriety of retaining them.

The 2nd chapter relates to the finding and framing of the formal charge against a suspected offender, on which he is to be condemned or acquitted, a step which, as we have before stated, was, in ancient times, usually the first that was taken in a criminal prosecution by indictment, and is even yet the first which is set forth upon the record or formal history of the proceedings.

Several general rules necessarily result from the peculiar constitution of a criminal system which delegates the duty of framing a criminal charge to one class of persons, the deciding upon the truth of that charge to a second, and frequently that of adjudication to a third class. Such a distribution renders it indispensably necessary that the charge should contain such a distinct allegation of some precise offence committed, as will, if it be true, enable the judge to pronounce a sentence warranted by the law, and such statement of facts as is sufficient to shew that those concerning which inquiry is made, and evidence given, are the same with those on which the charge, if true, is founded; and also such as may serve to protect the accused against a future charge in respect of the same offence.

The first object to be attained by an indictment is certainty in law, or that certainty as to the *corpus delicti* which, assuming the allegations to be true, enables the Court to pronounce the proper judgment. Certainty in this respect is indispensable. The charge, as stated in the indictment, when proved to be true by the verdict of the jury, or admitted to be true by the defendant, is the legal warrant for the sentence of the Court. The sufficiency of the indictment in this respect necessarily depends on its allegation of every thing which by definition is essential to the offence. No words can more certainly describe the offence than those used in the definition; and those, or equivalent ones, the indictment must contain. With a view to other objects, it is requisite that the description of the particular offence should not be confined to the precise words of the definition, but should be amplified by a statement of particular facts and circumstances. It is, however, absolutely essential that the allegations, if true, should shew distinctly that an offence has been committed by the defendant; and if this be shewn, the indictment, as concerns its *legal certainty*, is substantially valid.

(*a*) See Corner's Practice on the Crown side.—We deem it but proper to express our opinion of this excellent work, to which frequent reference is made in our Digest: it contains, we believe, a very accurate and valuable detail of the practice on the Crown side of the Court of Queen's Bench.

(*b*) The propriety of admitting a prisoner charged with felony to bail ought, it has been held, to be determined with reference to the probability of his appearing to take his trial, and not with reference to the probability of the guilt or innocence of the party. (*R.* v. *Scaife and Wife*, 9 D.P.C 553.)

(*c*) It was not till long after the institution of justices of the peace that they were deemed to possess the authority, previous to the finding of an indictment, of issuing warrants for arresting any party on a suspicion of felony. Lord Coke (4 Inst. 77) delivers a decided opinion that a justice of the peace possesses no such power. Lord Hale, on the other hand, not only alleges that a constant practice had prevailed to the contrary, but also combats Lord Coke's opinion with much earnestness, and states, in strong terms, the inconvenience which would result from such a doctrine, and the great encouragement which it would afford to malefactors. (1 Hale, P. C. 579.) Yet, important as a certain rule in such matters must be deemed to be, none such appears to have been fully warranted by authority, even at the time when Mr. Serjeant Hawkins wrote. "It seems probable," he says, "that the practice of justices on this matter has *now* become a law, and that a justice may justify the granting of a warrant for the arrest of any person upon strong grounds of suspicion for a felony or other misdemeanor before any indictment hath been found against him; yet insomuch as justices claim this power rather by *connivance* than any express warrant of law, and since the undue execution of it may prove so highly prejudicial to the reputation as well as the liberty of the party, a justice cannot well be too tender in his proceedings of this kind." (Haw. P. C. b. 2, c. 13, s. 18.) The legality of such a procedure has been long settled, not merely by judicial decisions, but by Acts of the Legislature. The practice itself stands on the plain and obvious ground of necessity, for the purpose of securing malefactors, who would otherwise be likely to escape before they could be reached by the slow process of indictment; the principles by which it ought to be modified and limited, to prevent unnecessary injury to the reputation and liberty of individuals, are expressed as above by Mr. Serjeant Hawkins.

Another species of certainty in an indictment consists in setting forth the facts on which the charge is founded with such *circumstantial* particularity as may identify the offence which is the subject of trial with that submitted by the grand jury, may notify to the accused the facts and circumstances on which the legal charge is founded, and so identify the offence alleged with that to which the proof relates as to protect him against any subsequent charge in respect of the same offence. Such statistical or circumstantial certainly consists in describing the specific acts or omissions essential to the offence, with persons, motives, and intentions; with time, place, things, names, dimensions, magnitudes, quantity, and other particulars.

Certainty of this description may perhaps be sufficiently attained by means of general rules, but, with a view to general practice, more efficaciously, by specifying what particulars it is essential to state as regards each distinct species of crime.

Whilst, for the reasons alluded to, circumstantial particularity within certain limits is essential, great inconvenience and even mischief would result from the enforcement of rigid rules for the attainment of the objects proposed.

The main and obvious difficulty in the way of inflexible peremptory rules for the enforcement of circumstantial certainty results from the consideration that the jurors who find the bill may not themselves have had information on the subject. They may have had such evidence laid before them as shews sufficient grounds for finding a true bill, but without such a minute knowledge of the facts as enables them truly to state the numerous particulars of time, quantity, &c. and other circumstances of the transaction. It may and frequently does happen, that even the very name of the person, with the murder or robbery of whom the accused is charged, may be unknown, although the offence itself be most certain. So it may happen that in respect of circumstances, as, for instance, the time of committing an offence, a witness examined before the grand jury may have mistakenly stated the offence to have been committed on a wrong day, and on his examination upon the trial may correct himself. It is, therefore, apparent that to require minute circumstantial description, requiring to be satisfied by precise proof, would be dangerous and frequently impracticable. On the other hand, to exact a minute and circumstantial description, on the face of the indictment, altogether formal and unmeaning, would be plainly nugatory and absurd.

It would, for the reasons stated, be inconvenient and impolitic to require even the time of committing an offence, either to be proved precisely as alleged, or, on the other hand, to consider it to be merely formal and insignificant; it ought to be regarded as an inviolable principle, that nothing should be required to be stated on the record which is not truly stated. It is, we conceive, consistent with the object to be attained by circumstantial certainty, and also with the difficulties which we have suggested, that the rules as to mere circumstantial certainty should be regarded as directory only, that grand juries should be directed to state such circumstances only, and with no greater degree of precision than accorded with the evidence. Jurors no doubt, acting under the sanction of an oath, would attend to such instructions; circumstantial allegations, especially those of time and place, would cease to be unmeaning, and it would rarely happen that the accused was not sufficiently apprized of the particulars of the charge, to be enabled to meet it and afterwards avail himself of the verdict, should a second prosecution be instituted in respect of the same offence. In order to exclude the possibility of surprise, the Court ought to possess the power, where the exercise of it was necessary for the purposes of justice, to order the prosecutor to deliver a statement of particulars essential for the purpose of defence.

It cannot as a principle be doubted, that no certainty in circumstances ought to be required which is not to be regarded as truly made, and for a legal object; the requiring a formal degree of precision which may be wholly disregarded, cannot but be looked upon as matter of vain affectation, unworthy of the dignity of the law.

Another kind of certainty, which may be termed certainty in law and fact, consists in such a description of the charge as, independently of the use of any general technical terms, shews on the face of the indictment that the crime has been committed. This involves both the kinds of certainty,—that is of legal and circumstantial certainty as already described, and also the further certainty by which the Court is enabled to see not only that an offence has been committed, and that the facts are sufficiently detailed for the purposes of defence and identification, but *also* that the very facts detailed constitute the offence in point of law. An indictment for a theft, which had been accomplished by getting possession of a horse under pretence of borrowing it for a journey, but with the secret intent of selling it in fraud of the owner, and which stated all the particulars, with time, place, name, &c. would exhibit this species of certainty, because it would combine legal with mere circumstantial certainty. If, on the other hand, the indictment in the ordinary form alleged simply that the prisoner feloniously stole, took, and carried away the horse of A B, of the value of 20*l*. the indictment would not want either sufficient legal or circumstantial certainty, but it would want the certainty on which we are now observing; because the Court could not pronounce that the real circumstances of the case warranted the use of the general and technical terms "feloniously did steal," and satisfied their legal exigency. The Court pronouncing judgment, which may be a different court from that in which the offender has been tried, must, in such case, trust to the legal discretion of the latter, in requiring sufficient proof of some mode of the offence sufficient to satisfy the technical allegations. It is manifest that this kind of certainty is not absolutely essential to the attainment of justice; and it is to be observed that not only considerable inconvenience would result, but that even frequent failure of justice might be apprehended from requiring a strict detail of facts to the exclusion of general technical averments. It is further to be remarked, that the inconvenience which might otherwise result from not requiring this third kind of certainty,—that is, from not requiring such an exposition of detailed facts without the use of general technical expressions as would shew a completed crime, may be remedied when it becomes necessary by a special verdict, which will enable the Court to judge whether they are sufficient to support the charge.

The description of any offence necessarily involves that of some act done or omitted, either simply or as qualified by collateral facts, and of the circumstances and of the subject-matter in respect of which such act is done or omitted, with particulars of time, place, persons, intentions, and things; with names, number, quantities, dimensions, and other identifying circumstances. Where the act essential to a crime is described by technical words, it can rarely happen that an allegation by means of those terms .. ..ot sufficient, even although they may embrace several modes of committing the offence. Such an allegation necessarily possesses that degree of legal certainty which is essential to an indictment. For although the term be technical, yet if its meaning be accurately defined, the effect is the same as concerns the legal certainty of the charge as if the more enlarged description of the criminal act had been used. The real objection, if any exist, to the use of such an averment, must consist in the want of such a degree of particularity as is essential to the second kind of certainty which has been noticed, and the observance of which is necessary with a view to the information and protection of the accused. The objection, however, is answered, provided such a description of the subject-matter be required as is sufficient to satisfy the latter rule as to this kind of certainty. And as the description of the subject-matter is in truth amply adequate to the attainment of this object, and as the excluding the use of general abridged expressions for describing acts would be attended with a considerable degree of inconvenience and danger of failure, it follows that they ought to be permitted. By the definition of burglary, the act of breaking into a dwelling-house is essential to the offence; breaking, however, is a technical and general term which requires definition, and which, by virtue of definition, must include many distinct particular modes of breaking. Now, although it be alleged, only generally, that the prisoner broke into a dwelling-house, without specifying whether he broke open a door or descended down a chimney, either of which acts, by definition, constitutes a breaking, yet is it just as certain if he be convicted on legal evidence, that he is guilty of a breaking within the definition as if the particular mode had been specified. Neither is particularity in this respect required for the purposes of identity and information; these objects are sufficiently attained by requiring particularity as to the name of the owner of the dwelling-house, its situation, and the time of committing the offence. The transaction being thus marked and distinguished, there can be no room for doubting that the charge on which the prisoner is tried is the same with that of which he stands accused by the grand jury; and he has sufficient information given to enable him to meet the charge, and afterwards to avail himself of the verdict.

Where the definition of the offence includes an act, but one limited or qualified by *defined facts*, such qualifications must of course be alleged, for otherwise there would be no certainty as to the offence. When, however, the only qualification of the defined act is by negative circumstances, it seems to be generally true that they may be negatived in terms as general as those contained in the definition. If, for instance, it were part of the definition of an offence that a particular act had been unlawfully done, legal certainty would be attained by means of the allegation that the act stated to have been done was *unlawfully* done; it would afford no substantial information to the accused to negative specially and particularly all the lawful modes of such action; and if the act were in fact lawful, the allegation and proof would more properly be made and given on the part of the accused. On the charge of unlawfully wounding A B, the prisoner might be justified, if he could shew that what he did was in self-defence, or in various ways for the advancement of justice; but it is obviously consonant with justice and convenience that the accused, if he had any excuse for doing an act apparently unlawful, should be bound to establish his defence by allegation and proof, and that it should be sufficient on the part of the Crown to allege generally in the terms of the definition that the act was unlawful.

(To be continued.)

LEADING CASES.—No. XI.

GREEN *v*. PRICE.

(13 M. & W. 695.)

Covenant in restraint of trade, when divisible—Distinction between a penalty and liquidated damages.

The general rule respecting covenants or agreements in restraint of trade is laid down in the well-known case of *Mitchel* v. *Reynolds* (1 P. Wms. 181), in these words:—"In all restraints of trade, *where nothing more appears*, the law presumes them bad; but if the circumstances are set forth, that presumption is excluded, and the Court is to judge of those circumstances and determine accordingly; and if upon them it appears to be a just and honest contract, it ought to be maintained." "Contracts in restraint of trade," observes Tindal, C. J. in *Horner* v. *Graves* (7 Bing. 744), "are in themselves, if nothing more appears to shew them reasonable, bad in the eye of the law;" and again, in a very recent case, on this subject, that, viz. of *Mallan* v. *May* (11 M. & W. 665), Parke, B. in delivering the judgment of the Court of Exchequer, lays down the law thus: "If there be simply a stipulation, though in an instrument under seal, that a trade or profession shall not be carried on in a particular place, without any recital in the deed, and without any averments shewing circumstances which rendered such a contract reasonable, the instrument is void. But if there are circumstances recited in the instrument (or probably if they appear by averment), it is for the Court to determine whether the contract be a fair and reasonable one or not; and the test appears to be, whether it be prejudicial or not to the public interest; for it is on grounds of public policy alone that these contracts are supported or avoided. Contracts for the partial restraint of trade are upheld, not because they are advantageous to the individual with whom the contract is made, and a sacrifice, *pro tanto*, of the rights of the community, but because it is for the benefit of the public at large that they should be enforced." In the case of *Mallan* v. *May*, just referred to, which has been twice before the Court of Exchequer (11 M. & W. 653; 13 Id. 511), several points arose which are well worthy of attentive consideration. It there appeared, that by articles of agreement under seal, entered into between the plaintiffs and defendant, it was agreed that the defendant should become assistant to the plaintiffs in their business of surgeon-dentists for four years; that the plaintiffs should instruct him in the business of a surgeon-dentist, and that after the expiration of the term the defendant should not carry on that business in London, or in any of the towns or places in England or Scotland where the plaintiffs might have been practising before the expiration of the said service. The declaration alleged as breaches: 1st, that after the term the defendant carried on the said business in London; 2nd, that the plaintiffs had, during the said term, carried on business in great Russell-street, Bloomsbury, yet the defendant, after the term, carried on the said business in the same place. The defendant pleaded to the first breach, that London was a large and populous district, containing 1,500,000 inhabitants, and that the stipulation in the agreement was an undue, unreasonable, and unlawful restriction of trade; and the plea to the second breach stated that before the expiration of the service, the plaintiffs had practised in very many towns in England, and, amongst others, London, Preston, Oswestry, &c.; and that divers of the said towns were distant from each other 150 miles, wherefore the said stipulation was an unreasonable restriction of trade, and the said agreement as to so much was wholly void. With respect to the first of the above pleas, the Court held the same to be bad, on the ground that the covenant not to practise in London was valid, and that the question as to the reasonableness or unreasonableness of the contract being a question of law, ought not to have been raised in the above manner on the record; the second plea was, however, held to be good. "According to the terms of this

covenant," observed Parke, B. "the defendant is prohibited from carrying on his business, not merely at such place or places as the plaintiffs might be practising in at the time of the expiration of the service, but at any place where they might have been practising before, though for ever so short a time. This covenant goes much beyond what the protection of any interests of the plaintiffs could reasonably require, and it puts into their hands the power of preventing the defendant from practising any where; we are therefore of opinion that it is an unreasonable restriction, and that the defendant is entitled to our judgment on the demurrer to the plea to the second breach, for the insufficiency of the declaration in that respect." Besides the above point, another arose in the same case, which is worthy of remark. It was contended for the defendant, that if the covenant entered into between the parties was bad in part, it was so altogether. The Court, however, decided, on the authority of *Chesman* v. *Nainby* (2 Lord Raym. 1456), that the stipulation as to not practising in London, which was valid, was not in any way affected by the illegality and consequent invalidity of the other part of the covenant. Subsequently to the above decision in *Mallan* v. *May*, a question was submitted for the opinion of the Court of Exchequer by the Vice-Chancellor Knight Bruce, which arose in the course of proceedings before his Honour in the same case, and this question was whether the term "London," which, in its strict and legitimate sense, means the city of London only, could be taken to include Great Russell-street, which is not within the boundaries of the city. The present Lord Chief Baron, in stating the opinion which the Court had formed on this question, made the following important remarks with reference to one of the principal rules which must be observed in construing a written instrument. "We must," said he, "apply the ordinary rules of construction to this instrument, and though, by so doing, we may, in some instances, probably in this, defeat the real intention of the parties, such a course tends to establish a greater degree of certainty in the administration of the law. One of these rules is, that words are to be construed according to their strict and primary acceptation, unless from the context of the instrument, and the intention of the parties to be collected from it, they appear to be used in a different sense, or unless, in their strict sense, they are incapable of being carried into effect; and subject always to the observation that the meaning of a particular word may be shewn by parol evidence to be different in some particular place, trade, or business from its proper and ordinary acceptation. In applying this rule to the present case, we find nothing in the context to prevent us from construing the word 'London' in its proper sense as the city of London." (13 M. & W. 517-18.)

In *Green* v. *Price* (13 M. & W. 695) the general doctrine respecting covenants in restraint of trade, which had been so clearly expounded and applied in *Mallan* v. *May*, was confirmed and acted upon. That was an action of covenant, brought by the plaintiff, as surviving executor of one A, against the defendant, on a deed, which recited that A and B carried on business as perfumers in co-partnership, and that it had been agreed between them that B, in consideration of 2,100*l.* should assign to A his moiety of the good-will, stock in trade, &c. of the co-partnership, and by which deed B, in consideration of the premises, covenanted that he would not, at any time during his life, carry on the trade of a perfumer within the cities of London and Westminster, or within the distance of 600 miles from the same respectively; and for the observance of this covenant he bound himself, his heirs, &c. to A, his executors, &c. in the sum of 5,000*l.* *by way of liquidated damages, and not of penalty.* It was held that, although that part of the above covenant which restricted the defendant from practising within 600 miles of London was bad, as being a contract injurious to the public, and unduly restraining trade; yet the other part, relating to London and Westminster, was good, and that damages might be recovered for a breach of such last-mentioned part. In the course of the argument, Pollock, C. B. remarked that, "in later times the Courts have thought that *reasonable* restraints of trade are good, and that commerce is benefited thereby, because they make the trade valuable to those who carry it on;" and, in answer to the argument founded on *Mitchel* v. *Reynolds*, *supra*, that the *reasonableness* of the consideration for a bond or covenant in restraint of trade must be taken into consideration, Parke, B. observed thus: "All that doctrine about the *adequacy* of the consideration has been upset by *Hitchcock* v. *Coker* (1 Scott N.R. 123). The true question is, *whether the contract is injurious to the public or not?* If it be, it is void, if it be not, the parties may ract for what consideration they please."

Without dilating upon the topics above touched upon, we shall conclude our remarks with a reference to the distinction which exists between a sum named as *a penalty* and one which is agreed upon between parties as *liquidated damages*. In the former case, that is, where the sum is named merely as a penalty, although the jury in awarding damages cannot exceed the amount named, yet they may find a less sum as the measure of damage which the plaintiff has sustained; but where it clearly appears that the sum named is the precise sum fixed and agreed upon between the parties as liquidated damages for the non-performance of the contract, the jury are confined to that sum, and cannot award either greater or less damages. (1 Chitt. Arch. Pr. 7th ed. 325.) The leading case on this subject is that of *Kemble* v. *Farren* (6 Bing. 141), in which the parties expressly stipulated that a sum named should be liquidated and ascertained damages, and not a penalty or penal sum, or in the nature thereof, and the Court had to decide whether, in the face of this clear and express stipulation, they could hold the plaintiff entitled only to the damages actually sustained by him, in consequence of breaches of the agreement which were in their nature *certain*, and for which there was, consequently, a distinct remedy by the verdict of a jury. The Court held that they could do so, and by their judgment established the following rules: 1st. That in respect of breaches of an agreement which are of an uncertain nature and amount, the parties to such agreement may settle the amount of damages at any sum upon which they may agree, because in many cases such an agreement fixes that which is almost impossible to be accurately ascertained, and in all cases it saves the expense and difficulty of bringing witnesses to that point. 2ndly. That where there are clauses in the agreement relating to fixed and certain pecuniary payments, and where, in case of breach of such clauses, the damages are at once ascertainable, the sum named by the parties must be held to be a penal sum only, and not liquidated damages; for if this were not so, a very large sum might become immediately payable in consequence of the non-payment of a very small one; a case involving hardship, against which courts of equity have always relieved, and against which courts of law have, in modern times, endeavoured to relieve by directing juries to assess the real damages sustained by the breach of the agreement. (See also *Astley* v. *Weldon*, 2 B. & P. 346.)

By applying the above rules to the covenant entered into by the parties in *Green* v. *Price*, we should decide that the damages agreed upon in that case were liquidated damages, and not merely a penal , for the agreement was made on a good consideration, by which the defendant engaged not to carry on a particular trade within certain limits, and 5,000*l.* was to be paid for any breach of this engagement; the parties having thus voluntarily fixed the amount of the damages which might be sustained, and which must be, from the nature of the breach, uncertain in amount. We may observe, however, that the learned reporters of the case under consideration have, in their marginal note, stated that this point was actually decided by the Court, whereas, in fact, it was not so; Parke, B. expressly observing, "We are not now to determine whether the plaintiff is entitled to recover the stipulated damages of 5,000*l.* but only whether there has been a breach of the covenant; whether he is to recover the 5,000*l.* or only such damages as he can prove, will be a question hereafter." We mention this slight inaccuracy together with the above expression of our own opinion on this part of the case, in order that the reader, instead of placing too much reliance on the marginal note (13 M. & W. 695), may refer to the body of the report, and decide according to his judgment.

A note of *Green* v. *Price* may be made in 1 Smith's Leading Cases, 171.

PROMOTIONS, APPOINTMENTS, ETC.

Whitehall, Sept. 18.—The Queen has been pleased, by and with the advice of her Privy Council, to appoint John Richard Corballis, esq. LL.D., to be one of the Commissioners of Charitable Donations and Bequests for Ireland, in the room of the Right Hon. Anthony Richard Blake, resigned.

CORRESPONDENCE.

THE SMALL DEBTS ACT AND THE COUNTY COURT.

TO THE EDITOR OF THE LAW TIMES.

"He (the framer of the Small Debts Act) thinks proper to construct new machinery entirely, which nobody else can understand, and of which this Court in particular knows nothing."—*Judgment of Mr. Commissioner Fane in Re Huggins.*

Sir,—After the volleys of inquiries and objections discharged at this unlucky Act of Parliament—this scarecrow of modern legislation—I am only surprised that any thing remains of it, except what may be termed the pole on which it was hung, namely, the preamble that "it is expedient and just to give creditors a further remedy for the recovery of debts due to them," which certainly remains a truism quite intact, a necessity as whole and entire as ever.

But, notwithstanding the pitiless pelting it has received from judges, commissioners, barristers, attorneys, and *Punch*, there is a rag of the Act remaining which seems deserving comment.

Sections 1 and 4, by force of general phraseology, seem to have brought within their operation *the county court of course*, as notice is taken of the peculiarity of the procedure therein, and no provisions applicable thereto vouchsafed; and, although about the most ancient court in the kingdom, it is not even mentioned by name.

In some counties (see Sweet's Practice, p. 50) the under-sheriff *presides* in this court; in others (as in Essex), an officer called the *county clerk;* both are appointed by the sheriff, and are his officers.(*a*)

But the freeholders are the real judges of the county court, and the sheriff is the ministerial officer. (3 Comm. 36, c. 4.)

Now, to bring any court within the powers of the Small Debts Act, it must be a court having *a judge*, who shall be either a barrister, special pleader, or an attorney of ten years' standing. An obvious difficulty here suggests itself; but on referring to the *interpretation* clause, we find that in the construction of this Act the word "judge" is to mean "*every person*" who *presides or acts* as judge in "*any*" such court as aforesaid, whether by the title of judge, county clerk, &c. &c. or by "*any*" other title *whatsoever*. So that, by the help of a little more general phraseology, the county court seems sufficiently *hooked on* to the train of consequences flowing from the Act. But the want of congruity in the language of sec. 1 raises another point. The summons to debtors, it is declared, shall be lawfully issued by any *commissioner* of the Court of Bankruptcy, or any *court* of requests or conscience, or other *court* for the recovery of small debts. Can the *county clerk* issue a summons, or must it be done *sedente curiâ* under this clause? The practice is for the county clerk to issue process on plaints, *out of court*, bearing teste as of the then *last court*. On which Greenwood remarks, "He (the county clerk) ought to enter no plaints (except on writs of justices and in case of *replevins*) out of court, but in full county (*sedente curiâ*); yet the use is otherwise at this day, and (as it seems) good enough, verifying the proverb, *Communis error facit jus.*" Supposing, for a moment, that the meaning of the Act is ambiguous, will the *communis error* be *good enough* when carried further in a matter *ejusdem generis?*

I think the framer of this "ingenious device" to puzzle people could never have intended that the county clerk, the *quasi* judge of the county court, should not have the power of *summoning*, because before we get to the *end of the section*, we find that "it shall be lawful for such commissioner *or the judge of such court*" to *commit* the debtor. This construction is strengthened by the fact that in the same section one cause of committal is to be, if the debtor "shall not make answer to the satisfaction of the commissioner or *court*," in which instance the word "court" must be taken to mean (if it mean any thing) the county clerk, who is the party authorized to commit, and with whom the responsibility of such committal rests.

The mischievous consequences of a contrary construction to that for which I contend may not be obvious to all, as it is not to be expected that every reader, any more than the *Act of Parliament-maker*, should be intimately acquainted with the constitution of the county court; I beg, therefore, to quote the 2 Edw. 6, c. 25, by which it is enacted that after that session of Parliament "no county court or courts thereafter to be kept within this realm shall be longer deferred but one month from court to court, *and so the said courts from thenceforth shall be kept every month, and none otherwise.*" The delay arising from

(*a*) As to the county clerk, see Greenwood on Courts, p. 5.

a necessity of being obliged to obtain a summons *sedente curiâ*, and which can only be made returnable at the *next court*, will be now very apparent.

I shall be glad to see any additional topic urged in confirmation of my view, that the intention of the Act is to vest the power of *summoning*, like that of *committal*, in the judge or *quasi* judge of courts of requests and county courts, in the same way as it is vested in the commissioners of the Court of Bankruptcy.

I cannot leave the subject without recommending to the concoctor of this Act "six lessons (by *William Cobbett*), intended to prevent statesmen from using false grammar, and from writing in an awkward manner."

O Ephraim Jenkinson! you of the *Vicar of Wakefield*, the "Law of Bankruptcy and Insolvency" is evidently to one *Brougham and Vaux* what the "cosmogony or creation of the world" was to thee! You both quoted *Greek*—you both pretended to *know every thing*, and *deceived every body!* I wish that you, O Vaux! would imitate Ephraim in his repentance, and say candidly to the commercial public, as Jenkinson in prison did to the worthy Doctor Primrose, "I am heartily sorry, Sir, that I ever deceived you, or, indeed, any man, for you see what my tricks have brought me to." How affecting this would sound in the mouth of Vaux, pointing with outspread hand to *Punch's* merciless caricatures, and *Punch's edition of the Small Debts Act*.

I am yours, &c.
GEORGE JOHN DURRANT.
Chelmsford, Sept. 16, 1845.

LEGAL EDUCATION.

TO THE EDITOR OF THE LAW TIMES.

SIR,—Observing, on perusing the last two numbers of the LAW TIMES, that this subject is likely again to be discussed, allow me to offer the following observations, in the hope that, through the intervention of your widely-circulated columns, some method will be devised by which an improvement may be effected.

The examination in its present shape is by no means a sufficient criterion of the candidate's ability, albeit he may answer satisfactorily the whole of the questions put to him; the repetition of many, at each succeeding examination, having rendered them familiar to all. This repetition, it is obvious, cannot be avoided without increasing the difficulty of the examination by the adoption of fresh ones at each; to obviate this, I would suggest that the questions in future should not, as heretofore, be published; this I think would prevent the system of *cramming*, by compelling the candidates to devote more time to *serious reading*, a course infinitely more beneficial than "a three months' study and perusal of the old questions." Knowledge so rapidly acquired is generally as rapidly forgotten.

The inequality on which the clerks are placed speaks plainly against the justice of classing them or awarding distinctions. If, as at the Universities, all were prepared by a similar course of study, the case would be altered. What chance, I would ask, has a youth going up for examination immediately on the expiration of his articles against a person who may have acted for ten years as a managing clerk since the expiration of his? Or, again, of one coming direct from the country as opposed to another who has spent one year of his articles in the office of an agent, and probably passed another in counsel's chambers? Unless the mode of conducting the examination be totally changed, the candidates can never, with justice, be classed, or distinctions awarded. To effect this desirable object, I would suggest the following alteration:—By the rules for conducting the examination a candidate is required to give one term's notice of his intention to apply for examination; on such notice being received, let each be furnished with a list of books from which the questions, practical and theoretical, will be framed, such list to be chosen by the examiners, and the questions to be therefrom selected on no account to be published after the examination. I would further propose that the three candidates who give the most satisfactory answers in each of the five branches be classed accordingly, making it imperative that to obtain such distinction a certain number of the questions in each shall be answered. By the adoption of this or a similar plan, whilst it would entail little additional trouble upon the examiners, to whom the Profession are already sufficiently indebted, each candidate would be placed upon an equal footing, and the idle very properly prevented acquiring that undeserved honour they could (should distinctions be given under the present mode) so easily obtain to the exclusion of those far more worthy of it.

Of the inexpediency of a *classical* examination I could say much, but I feel, Sir, that I have already trespassed too far upon your pages. Hoping, therefore, that this important subject will not be lost sight of, but rather that abler pens may be enlisted in the cause,

I am, Sir, yours, &c.
Sept. 9, 1845. LECTOR.

PROFESSIONAL IMPROPRIETIES.

TO THE EDITOR OF THE LAW TIMES.

SIR,—Allow me to call your attention to a system which has recently been, on more than one occasion, adopted by a party practising the profession of the law for the purpose of obtaining the business consequent on his client's death, when the executors and trustees of his client are those of another practitioner. Thus, after the death of the testator, the solicitor concerned for him in his lifetime applies to one of the executors, who is known to be the client of another, for the business of the executorship, and produces a paper writing (drawn up by himself, and unconnected with the will) to the effect that such were the wishes of the testator. The existence of such retainer (if it may bear that term) is unknown to the executors, as likewise to the friends and relatives of the deceased, till produced, for the purpose I mention, after the testator's death. On one occasion the solicitor thus claiming employment declined to give up the will to the executor when twice requested to do so (the reason for which is obvious). I shall feel obliged by the free canvass of this question of professional etiquette in your columns, and the opinion of any of your readers whether such a course can be sanctioned as coming within the pale of strict professional propriety.

I am yours, &c.
A SOLICITOR.

LOCAL COURTS.

TO THE EDITOR OF THE LAW TIMES.

SIR,—Permit me to call the attention of the members of the Profession to the Schedule of Fees, under the 8 Vict. c. 127, by which it will be perceived those payable to the clerks are considerably more than those payable to the judges; consequently, as regards emolument, the clerk has the advantage of the judge; and in some instances it will operate in a singular manner. Thus in this town there is a court of requests having local jurisdiction over the whole island for the recovery of debts not exceeding 5*l.* presided over by a body of commissioners (without a judge), having a clerk and subordinate officers, and this clerk is nothing more or less than a clerk in an attorney's office (not articled); yet he will, provided the commissioners allow him to continue in office, receive a higher salary than the chief officer of the court; however, there are several members of the Profession candidates for the appointment, and it is to be hoped the commissioners (looking at the responsible duties attached to the office by virtue of the above Act) will remove their present clerk, having power so to do under the existing local Act; the words being, after specifying several causes for removal, "or any other sufficient cause;" and it is contended that the extension of jurisdiction as to amount; the receiving of all fees of the court and of all moneys paid into the court; the paying the judge and other officers; the communicating with the Secretary of State; the working of the whole machinery of the Act, and the increase of emolument, which cannot be less than 300*l.* per annum, ought to be considered a sufficient cause for removal, and the appointment of a member of the Profession to fill the situation.

I am, Sir, yours, &c.
Newport, I. of Wt. Sept. 17, 1845. A. Z.

ATTORNEYS' GOWNS.

TO THE EDITOR OF THE LAW TIMES.

SIR,—In reply to the letter on this subject in your paper of the 6th inst. I beg to inform your correspondent that I am willing to join those gentlemen who so highly approve of the wearing of the gown when attending court, &c. and am ready to assist whenever called upon to carry the same into execution.

I am, Sir, yours, &c.
THOMAS PARKER, Jun.
Cambridge Sept. 17, 1845.

TO THE EDITOR OF THE LAW TIMES.

SIR,—A friend of mine has sent me an extract from the LAW TIMES of the 30th of August last, containing a copy of a circular which I issued on coming to this place, with your animadversions upon it, as being "a direct violation of the rules of strict professional conduct," and as such deserving to be ranked "among the exceptionable addresses which you consider it your duty to reprehend." Now, Sir, I must beg to be allowed to say that this is the first time I have ever heard that there was any thing either *irregular* or *unprofessional* for one professional gentleman, on succeeding to the office and business of another, to issue circulars to *the clients of the latter*, informing them of that fact, and soliciting a continuance of their business; on the contrary, I believe it to be the daily practice of solicitors of undoubted respectability. My circular was *not publicly advertised* in the papers, or by handbills, or otherwise, but was wholly confined to such persons whose names appeared as *clients* on the books of my late predecessor; and as it stated on the face of it that it was "*by the permission and recommendation of his executors*," I cannot but think that it *ought* to have been *exempted* from the publicity and animadversions which (no doubt with the best motives) you have given to it. I can assure you, Sir, I am as jealous of the honour and respectability of the profession to which I belong as you or your informant can possibly be. Trusting to your impartiality to insert this in your next number,

I am yours, &c.
Colne, Sept. 13, 1845. GEO. JONES.

[We readily give place to our correspondent's letter; but repeat our remark that to issue a printed circular of the nature indicated is an irregularity. Mr. Jones, however, states that till he read our reprehension of his act he was unaware that the course he had adopted was not strictly within professional etiquette, which is a sufficient apology for the act itself.—ED. L. T.]

To Readers and Correspondents.

J. R. (Bideford).—*We have been unable to obtain the information our correspondent seeks. The suggestion as to Common Pleas Action of Appeals (Registration Cases) will be submitted to the proper party, who will give to it due consideration.*

J. T. SCOTT (Doctors' Commons).—*We have not space for the communication (which indeed contains more matter of personal, and less of public, interest than the former letters) in this number.*

ERRATA.—IRISH REPORTS.—In the case of *Conway and Lynch, in error*, v. *The Queen*, p. 458, for "*the said issue above, to wit*," read "*the said issue above knit;*" and in p. 461, 3rd col. for "*and that an examination into the facts that arose*," read "*and of an averment that an examination had been made into the facts which arose.*"

MEEHAN, IN ERROR, v. THE QUEEN.—*The judgment of the Court, which is omitted in the report in p. 461, will be found in p. 477, post, in the report of Fahey and Others v. The Queen, which case involved the same point, and was decided at the same time by the Court, and the report of which should have immediately followed and formed a part of the report of Meehan, in error, v. The Queen.*

NOTICE TO SUBSCRIBERS.

The Indices to the fourth volume being now completed, the numbers for binding may be sent, through the post, in parcels open at the ends, with a mark by which they may be known, and of which the Publisher should be advised by letter, as also how, when bound, it is to be returned. If sent by parcel, advantage may be taken of the opportunity to inclose other books for the binder.

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N. B.—*For Scale for Estate Advertisements, see* JOURNAL OF PROPERTY.

THE LAW TIMES.

SATURDAY, SEPTEMBER 20, 1845.

UNCERTIFICATED ATTORNEYS.

A CUSTOM has prevailed too long at the police-offices and minor courts, of permitting uncertificated attorneys, and indeed others who have even less right than they, to practise and

discharge those duties which strictly belong, and should therefore be confined, to the regularly-constituted members of the Profession. Because this custom has had its origin in one of the most amiable of principles—toleration—because it is common, and has long usage to plead as justification, it is not the less injurious, nor is the necessity abated that the evil should be removed.

It may be well for old-established and respectable practitioners to rely on their own high character, and to say,—which by implication they do,—that if the public is silly enough to employ such men, it must bear the consequences of its own imprudence. But it is no less a duty of each member of the Legal Profession to protect the public, by making every effort to provide for it proper persons, and proper persons only, to whom to confide its interests, than to discharge his own functions with integrity and zeal. The man who practises without a certificate, and he who has never held one, are just the men to resort to personal application for employment; and of the success which follows such a course every one at all acquainted with human nature, and the unwillingness of people to say "No," is familiar. We repeat, then, that equally for the sake of the public as for the respectability of the Profession, every effort should be made to weed out from the courts characters who bring upon lawyers all the odium they bear.

We were led to throw together these hasty remarks from having seen in a daily paper a report of certain proceedings at the Worship-street Police-court; where, at the instance of a solicitor named VANN, who deserves the thanks of the Profession for his services on this occasion, the magistrate, Mr. BINGHAM, determined to give a hearing to no "Sham-Lawyer" for the future; adding at the same time, that, having received instructions to that effect from the Secretary of State, he would take every means in his power to put an end to their interference, and exterminate race. We give a report of the proceedings on this occasion, and hope that the becoming example of Mr. VANN in objecting to, and Mr. BINGHAM in refusing to hear, parties who, practising as attorneys, are uncertificated, will be widely imitated throughout the country:

WORSHIP-STREET.—SHAM ATTORNEYS.—Mr. Vann, the solicitor, addressing Mr. Bingham, said he had an application to make upon a subject of great public importance, one which materially affected the respectability of the court and the character of the profession to which he had the honour to belong.

He stated that the complaint to which he invited the magistrate's attention referred to the conduct of certain individuals, who had been allowed to practise in the capacity of attorneys at that court without the slightest legal qualification or a shadow of pretension to that character. The persons to whom he alluded might be comprised under two distinct classes, the first of whom, though they had received a professional education, had been unable to take out their annual certificates of qualification; and the second consisting of persons who, although wholly ignorant of the principles and practice of the law, and generally of disreputable character, were in the habit of passing themselves off as clerks to gentlemen actually on the rolls, and accepting such paltry retainers for their doubtful services as could never be offered to respectable members of the Profession. The injurious effect of such practices upon the public interest required no comment, and the detriment inflicted upon qualified practitioners would be manifest when he stated that the aggregate cost of their certificates alone amounted to no less a sum than 85.000*l.* per annum. In reference to the persons last mentioned, he begged to draw the magistrate's attention to the 6 & 7 Vict. c. 73, by a section in which all persons practising without being duly qualified by certificate, were held incapable of recovering any fees; and the 32nd section enacted that "any attorney or solicitor who shall wilfully and knowingly permit or suffer his name to be in any way made use of in any action or suit, upon the account or for the profit of an unqualified person, shall, upon proof thereof upon oath, to the satisfaction of any superior court, be struck off the rolls, and for ever after be disabled from practising as an attorney or solicitor. And further, it shall be lawful for the said Court to commit such unqualified person to the prison of such court, without bail or mainprize, for any term not exceeding one year." The learned gentleman then referred to the conduct of several persons who had acted as described, and with respect to one of whom he had received a communication from Mr. Timm, the solicitor to the Board of Stamps and Taxes, which officially notified that his certificate had expired in November 1842, and had not since been renewed, although the magistrate must be well aware that he had been constantly engaged up to the present time in the prosecution and defence of cases of every description at that court.

Mr. Bingham said that he entirely concurred in the views expressed by the learned gentleman, and was most desirous of furthering them; as he himself received express directions from the Secretary of State for the exclusion of all unqualified practitioners. The facts just disclosed by the applicant had not been previously brought under his notice, and he had not been aware of their existence in that court; but henceforth he should certainly take the most effectual means in his power for their suppression.

In the course of the day, one of the persons referred to having presented himself to conduct the defence in a trivial case of footway obstruction,

Mr. Vine, the chief clerk, communicated to him the subject of the complaint before stated, and formally required the production of his certificate, before he entered upon the matter in dispute.

After some evasive and irrelevant observations, the *psuedo* solicitor, who appeared completely confounded at the unexpected demand, ultimately declined to accede to it, and abruptly quitted the court, greatly disconcerted, and to the evident chagrin and astonishment of the client who had "retained" him.

SHAM LAWYERS.

THE following comprehensive catch-client circular has been pretty extensively circulated in Bath and its neighbourhood. We strongly recommend Mr. JOYCE to the attention of the nearest Law Association, which, for the protection of the Profession and for the sake of its respectability, should not overlook a case flagrant as this.

MR. G. JOYCE,
20 years Managing Clerk to respectable Solicitors),
Law Stationer, Accountant, Appraiser, and
General Commission Agent,
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VERULAM SOCIETY.

THE twelfth number of *Magistrates' Cases*, the seventeenth of *Real Property*, and the twelfth of *Practice Cases*, are printed, and will be delivered in the course of the week. The thirteenth number of *Magistrates' Cases* is forward at press.

A COURSE OF LECTURES ON THE LAW OF CONTRACTS,

By PROFESSOR CAREY.

Delivered at the University College.

LECTURE V.

IF the subject-matter of an agreement is illegal in itself, it is immaterial whether the agreement be by parol or by specialty. In either case the contract is, as between the parties cognizant of the transaction, absolutely void *ab initio*. Nothing becomes due upon the contract, no right of action is created by it; and if an action is brought upon the agreement, it will be a sufficient answer by the defendant to plead the illegality of the agreement or the consideration. This is not only the case with parol contracts, in which a consideration is necessary, but even in specialties, though without a consideration. It may be otherwise good, yet, if the consideration is illegal, the contract is void. See *Collins* v. *Blantern* (2 Wilson, 347); and there is another case to the same effect, *Stanley* v. *Jones* (7 Bing. 369). The case of *Collins* v. *Blantern* was this. A bond was given conditioned for the payment of 350*l.* It was given under these circumstances. There were five indictments for perjury to be tried against five persons; and in all of these prosecutions a man of the name of Rudge was the prosecutor. An agreement was entered into between the five persons indicted, and Rudge did not appear to give evidence in any of the prosecutions. The consideration was, that Collins should give him a promissory-note for 350*l.* and three of the persons indicted entered into a bond to indemnify Collins for giving the note; Collins paid Rudge the 350*l.* upon the note, and he sued one of the parties to the bond for the indemnity thereby secured; he called upon one of the parties who had escaped from the indictment by his means to pay him the indemnity. The defendant relied upon the illegality of the consideration, and the Court held that the agreement was utterly void, as being made upon a contract to tempt a man to transgress the law, and to do that which is injurious to the community. If the illegality is not apparent on the face of the instrument, it may be proved afterwards by parol evidence, of which there is a more recent case of the *Gas-light Company* v. *Turner* (5 Bing. N.C. 666). It was the case of the lease of a house for illegal purposes. It was an action of covenant against the defendant for rent of demised premises; the plea alleging that the contract was entered into between the parties to violate the 25 Geo. 3, c. 77, making preparations from tar in greater quantities than was allowed by the statute. It was held that it made no difference to the legality whether the contract was by parol or deed under seal. Here, then, was an action for rent secured by deed, and the illegality of the contract was set up as a defence.

Having made these observations on such contracts as are void at common law, I shall now proceed to those made so by express enactments of the legislature. Under this head are included such gaming transactions as fall within the statute 6 Chas. 2, c. 9, and stock-jobbing transactions in the British funds (10 Geo. 2, c. 8). Also contracts made on a Sunday in the way of ordinary dealing; (simoniacal contracts) (29 Chas. 2, c. 7); illegal charges on benefices, and contracts against the usury laws.

With respect to contracts on a Sunday, the rule is, as I have stated, that contracts made on a Sunday, in the way of a man's ordinary calling, are bad. And then, in the case of a farmer who hires a labourer for a year, the hiring taking place on a Sunday, the question is, whether that is a valid hiring. The way in which this was set up was, as to whether he was settled in the parish; and it was held that the hiring was good. If the enactment

had been intended to be general, the legislature would have used general terms, instead of enumerating certain particular things.

There is the case of *Smith* v. *Sparrow* (4 Bing. 84), in which the contract was held bad. An action was brought for the breach of a contract in not accepting certain nutmegs which the defendants were alleged to have agreed to purchase for 4,600*l.* It was held the action would not lie, because the bargain was made on a Sunday.

With respect to usurious contracts, by the statute of 12 Anne, st. 2, c. 16, s. 1, all contracts are prohibited whereby any person shall take, directly or indirectly, for the loan of any monies, more than the rate of 5 per cent. per annum; besides which it is enacted, that all bonds, contracts, and assurances for the payment of interest on money borrowed at the rate of more than 5 per cent. shall be utterly void. If the contract is in its nature a usurious loan, it does not signify under what form it is disguised. It was said in *Floyer* v. *Edwards* (Cowper, 114) by Lord Mansfield, "We must get at the nature and substance of the transaction, the view of the parties must be ascertained, to satisfy the Court that there is a loan and borrowing, and that the substance was to borrow on the one part, and lend on the other; and where the real truth is a loan of money, the wit of man cannot find the shift to take it out of the statute." There is a case in Campbell frequently referred to, wherein the nature of the transaction was endeavoured to be concealed by a fictitious sale of ostrich feathers to the borrower, for a sum of money returned some time in the same day, so that the party paid in money 5 per cent. upon 90*l.* instead of 100*l.*; paying 10*l.* for the ostrich feathers This was a case of the same kind as that in which goods were given as part of the money transaction. The plaintiff discounted a bill for the defendant, and required him to take the whole or part of the amount in goods; and when that is the case, the *onus* lies on the plaintiff to prove that the goods were of the value represented, and that the transaction was not for the purpose of evading the laws of usury. Then there is the case of *Floyer* v. *Edwards*, where goods were sold and delivered. A gold refiner sold gold at three months' credit, with an agreement that if the money remained unpaid after that time, the purchaser should allow him a halfpenny an ounce per month, till the debt was discharged. The gold refiner not being paid, sued the purchaser, and the defence relied on was, that the contract was usurious. On the other side it was shewn that this was the general usage of the trade, and the Court held that it was a *bonâ fide* sale, and not a borrowing under a colouring; and that it was not a usurious contract. In the other case of the sale of the feathers, it was clearly a lending of the money under the cover of that sale; but here the real transaction was substantially a buying, and then the party created a debt in respect of the sale; but it does not appear that it was a loan, and it was not therefore usurious. By the statute of Anne, all securities for the performance of a usurious contract are made utterly void. If a promissory note, or a bill of exchange, or a bond, was given upon a usurious consideration, it was a complete nullity. If I receive 100*l.* loan, and give a promissory note for the payment a year hence of 110*l.* this will be giving 10 per cent. and is therefore usurious; the note itself is utterly void, a mere piece of waste paper; and the contract cannot be enforced under any circumstances; not even if it were put in circulation, and comes, for a valuable consideration, into the possession of a person altogether ignorant of the original transaction. (1 Williams's Saunders, 225, note 1.) By the statute 58 Geo. 3, c. 93, it is enacted that no bill of exchange or promissory note to be given for a usurious contract, shall be put in the hands of an indorsee who has received for a valuable consideration, without notice of the contract. If a bill of exchange is indorsed to a man, and he becomes the holder as a matter of business, if he give value for it, and does not know any thing of the usurious contract, he is entitled to recover against the person who is liable upon the bill. If he did not give value for it, he is in the same position as the person who took it. By a subsequent Act, 5 & 6 Wm. 4, c. 41, notes, bills, mortgages, and the like, given for a consideration arising out of gaming, usurious, and certain other illegal transactions, which under former statutes would have been absolutely void, are held to have been made for an illegal consideration; that is to say, they cannot be enforced as between the parties, and they confer no right on any one who is cognizant of the original transaction: but as to an innocent party, who has given value for them, they are available. The laws against usury have within a few years been greatly relaxed. The statute 3 & 4 Wm. 4, c. 98, and that which is now in operation, 2 & 3 Vict. c. 37, continued by the 6 & 7 Vict. c. 45, till the 1st of January, 1846, whereby bills of exchange, and promissory notes, payable within twelve months, and contracts for loans of money, not being on landed securities, are exempt from the usury laws; and in these cases any amount of interest stipulated for may be taken. For usurious contracts, words of express prohibition are contained in the statute. But besides this, every contract made for or about any matter or thing prohibited or made unlawful by the statute, is a void contract, though the statute does not mention that it shall be so; but only inflicts a penalty on the holder, because a penalty implies a prohibition. There is the case of *Bartlett* v. *Vinor* (Carthew, 252). By the statute 17 Geo. 3, it is required that bricks for sale shall be of a certain size, and a penalty is given for the breach of that regulation. A brickmaker made and sold bricks of less size than that specified by the statute. It is not said that the bricks shall be "made," but it is bricks "shall be of a certain size." The purchaser received and used the bricks, and an action was brought against him for the price. It was urged that he had used the bricks, and the contract was executed, and that he was liable to pay a reasonable price for the articles. It was ruled by Lord Ellenborough that this was a fraud upon the part of the buyer, as it turned out to be that the bricks were not of the proper size. See also *Law* v. *Hodson* (11 East, 300). Then there is another recent case (*Forster* v. *Taylor*, 5 B. & Ad. 887, and 3 L. & M. 211). Forster supplied Taylor with butter, and sued him for the price. Taylor's defence was, "Your barrels were not branded." It is required that there shall be a brand put upon every barrel of butter, denoting the name of the maker, and so forth. No such brands had been put upon these barrels, and this was held to be an answer to the action; the penalty being to protect the public against fraud; therefore all dealings contrary to the provisions of the Act were deemed to be prohibited. If goods for importation, which no enactment has prohibited, are sold and delivered abroad, this in itself is a valid transaction, though the goods be afterwards smuggled into England. (*Holman* v. *Johnson*, 1 Cowper, 341.) The mere selling them abroad is not illegal, even though the goods shall be afterwards smuggled; but if the seller had undertaken to deliver them in England, or if he had any concern in the bringing them to England, he would have been an offender against the laws of this country, and the contract could not be enforced. (*Clarges* v. *Peneluma*, 4 T. R. 466.) And there is another case (*Pellecat* v. *Angell*, 5 Tyr. 945).

This part of the subject may be summed up in the words of Parke, B. in *Cope* v. *Rowlands* (2 M. & W. 149):—"It is perfectly settled that where the contract which the plaintiff seeks to enforce, be it express or implied, is expressly or by implication forbidden by the common or statute law, no Court will lend its assistance to give it effect. It is equally clear that a contract is void if prohibited by a statute, though the statute inflicts a penalty only, because such a penalty implies a prohibition."

Upon which point the case I have already quoted to you bears. (*The London Gas-Light Company* v. *Turner*.)

A voyage undertaken against the smuggling laws of this country is illegal; every contract relating to such a voyage is therefore void. Where goods are sold and delivered abroad, the sale is valid, though the goods be afterwards smuggled into England; and an action lies in England to re-[illegible] the price, though the party knew that the goods were to be smuggled; at least, if he be a foreigner. (*Pellecat* v. *Angell.*) If a party take part in these illegal transactions, the sale is void, and he cannot recover, whether an Englishman or a foreigner. So that if goods for exportation, which are prohibited, are smuggled into the country, an insurance made upon them is void. (*Biggs* v. *Lawrence*, 3 T. R. 454; *Waymell* v. *Reid*, 5 T. R. 599; also *Parkin* v. *Dick*, 11 East, 502; and a case in 2 Campbell, 291.) But a voyage undertaken against the smuggling laws of another country is not illegal here; any contract relating to such a voyage is valid, and may be enforced in this country. "For many years," says Lord Abinger (5 Tyr. 948), "we ourselves made extensive foreign exports in direct violation of the laws of the continental powers for their exclusion. If, indeed, the seller take an actual efficient share in the illegal adventure, by packing of the goods in packages of a prohibited size, or otherwise, he must take the consequences of his own act; but the mere sale by a foreigner to a person who intends to break our fiscal law is not void as an illegal contract." See the case of *Barber* v. *Fletcher* (Douglas, 305); and in the Cases temp. Lord Hardwick, p. 183. The same law is held in 3 Kent's Commentaries, 262.

I have hitherto supposed a contract to be made between one person on one side, and one person on the other. It may happen that one person may be interested in a good right, or may be presumed to have some liability. If A and B enter into a contract to pay 200*l.* to X, so that each is to pay 100*l.* A is liable separately for 100*l.* and B liable separately for 100*l.* In this case A and B are separately liable, each for their share of it. If A and B enter into a contract to pay 200*l.* to X, each himself undertaking to pay the whole, then A may be sued for the whole, or B may be sued for the whole. In this case A and B are severally liable, each for the whole debt. (*Lee* v. *Nixon*, 1 A. & E. 201.) If A and B jointly enter into a contract with X for the purchase of certain goods to be supplied by X, they must both be sued together for the debt incurred; they are jointly liable for the whole debt. In the following case, the liability is both joint and several. X lets a house for a year to Y, at a rent of 200*l.*; A and B covenant for themselves, and all of them each for himself, to pay the rent. A and B covenant for themselves by a joint covenant, and each of them for himself by a separate covenant. If the rent is in arrear and unpaid, the landlord may at his option sue both together, or either of them separately, for the whole; they are jointly liable for the whole, and they are severally liable for the whole. In case of a joint liability, there is only one debt: in the case of a several liability, there are as many separate debts as there are persons bound by the contract—as many separate and distinct debts as there are debtors. When covenants are several, the several debts are written on one and the same parchment. (*Lee* v. *Nixon.*) In a joint and several liability, it is at the option of the creditor either to treat it as constituting one debt, for which all are jointly liable; or to treat it as many debts, each party being individually liable for the whole. He may treat it as a joint debt, and sue all the parties; or he may treat it as a separate debt, and sue any one of them by himself. If he sues them all, he treats it as one debt, which they are jointly liable to pay. If he treats it otherwise, he must treat it as a debt which each is severally liable to pay, and then he must not sue them jointly. If he sues two, it is not upon their separate liability. If it was a joint liability, it would be a liability to which the three are liable, and that may be pleaded in abatement. Much of this matter, which does not appear easy at first sight, will be clear if you recollect that where there is a joint liability there is one debt; and where there are several liabilities it may be considered as two debts. Where the liability is joint, the discharge of one is a discharge of the liability as to all. (*Matthew's case*, 5 Coke, 22, and Cro. Eliz. 407.) If there are two persons jointly liable, and you give a release to one of them, the other is released also. (2 Williams's Saunders, 47, and *Todd* v. *Emly*, 9 M. & W.) In the last case, a wine-merchant had supplied wine to a client. He brought an action in order to prove Emly's liability in connection with another person. There was no question that if Emly was liable he would have been jointly liable with him; but a release was executed and given to him, in order to make him a good witness, and it was held that, by his being released from the debt, all the parties were released from the debt, and therefore it was a discharge of Emly, the defendant. They said, as in a case of joint and several liability, if there is a liability joint and several, the release of one is the release of all; but not so if it is merely a several liability, because there are two debts, and each one is liable distinctly and separately from the other. A several liability is often created by some express contract, wherein the liability of the parties is denoted by the terms that are employed. The rule is, a person contracting together with the same parties for one and the same account, we may regard it as joint, unless express words are used to shew that a

distinct, as well as an entire, liability was intended to be created. These contracts made in the ordinary course of business are joint. In all cases in which a debt is incurred by persons in partnership, or in a joint interest or subject-matter of the contract, the liability is joint; and this is only the case in respect to implied contracts. If several persons make up a party to dine together at a tavern, they are all jointly liable for the general expense. (3 Campb. 49.) It may be that the table was ordered by one who made himself simply answerable for the whole; or it may be that the landlord may have entered into a contract to supply as many as should come at so much a head, so as to make it a contract between him and the individuals.

The doctrine of joint liability appears to be peculiar to the English law, and it has been raised, not so much on any principle belonging to the law of contracts, as on the rule by which legal proceedings in an action are regulated. If two men assault another, they are, in a certain sense, jointly and severally liable for the damages. The person assaulted may sue both together, or he may sue either separately, and the damages ascertained in one case may be a compensation for the injuries done to him. If he sues one, that one must alone pay the damages; if he sues both together, they are each liable to pay the whole, and he may take out execution against either or both, at his pleasure. If he receives payment from one, that discharges the other from his liability; but the one who has paid cannot come upon the other for his share, as it is a general rule that among wrong-doers there is no contribution. (*Merewether* v. *Nixon*, 8 T. R. 36.) In an action founded on contract, the case is different. If two persons are sued as on a joint liability, the creditor may issue execution against one party, and levy the whole on him, as in the case of assault; but when he has paid, the one can call on the other to contribute his share. What the amount of it is will depend on the nature of the transaction between themselves.

Where the liability is joint, both parties must be joined in one action. This very frequently occurs where one of the parties liable is originally and personally interested in the contract, and the other enters into a liability to answer for the performance of his agreement; the one being called principal, and the other surety. Two persons entering into a bond; one is not satisfied that the other may be able to perform his engagement, or he may not choose to rely on his character, and requires a third person to join in it, the extent of the liability depending on the terms of the agreement. In *Collins* v. *Prosser* (1 B. & C. 682), one J. B. Mainwaring was appointed receiver of the county of Middlesex. He entered into a bond for the due performance of his engagements, in which he was bound in 12,000*l*., and three sureties, each binding himself for 1,000*l*. That is an instance which does not very often occur; a several liability, each for the amount of obligation; and every one of these sureties was ruled to be separate, as though they were several debtors responsible for separate debts. The bond had been cancelled as to one of the three sureties. Now, if the obligation had been joint, that is, if there had been but one deed, it being cancelled as to one, it would have been cancelled as to all; just as if, being one debt, it had been made by one debtor. The debt would have been extinguished as to the rest. If the contract had been joint and several, it would have been extinguished; but the liability being merely several, the cancelling of the bond as to one left it in force as to the others; just as the payment of his share by one would have left the other liable to pay his share. Then there is the case of *Lee* v. *Nixon*. If there are in the same instrument the names of two sureties, then they are each of them liable for the same sum; so that if the sum due by the principal is 100*l*. and two sureties are made liable severally for 100*l*.; that is to say, each for the whole, if one of the sureties is sued alone, he may not only look for indemnity to his principal, as to the whole sum, but come on the other surety for his contribution. If in the last case (*Lee* v. *Nixon*) there had been two sureties for the payment of the rent, each of them severally liable for the sum, the trustees might have recovered from either of the two, and that one might have sued his principal for the whole, or his co-surety for one-half; both being bound in the same penalty, and owing one and the same debt. (*Davies* v. *Humphries*.) This claim is not founded on a contract, but on a principle of equity. The sureties may have never seen one another; though they have both undertaken to answer for another person, their undertaking may have been perfectly independent. This action is, in the language of the Roman law, *quasi ex contractu*. In the language of Lord Eldon, the right depends on a principle of equity rather than on a contract. When any surety makes any payment on behalf of his principal, whether as to the whole sum or any part of it, whatever he has paid it may be recovered from the principal; but in the case of a co-surety it is different; he can only recover what he has paid over and above his own proportion. (*Pitt* v. *Purrsford*, 8 M. & W. 538.) In *Davies* v. *Humphries*, it was contended that where one party has paid the sum, he then has a claim on his co-surety to recover one-half of that sum, supposing them each to be separately liable. The question arising in *Davies* v. *Humphries* was with regard to the running of the Statute of Limitations. Some payments had taken place more than six years before, and some of them had not. The question was, whether the Statute of Limitations began from the time of the first payment made, or whether it only began to run from the time that one-half was paid. It was held that it only began to run from the time one-half was paid

LINCOLN'S INN NEW HALL AND LIBRARY.

THE subjoined description of the magnificent pile of buildings recently erected in Lincoln's-inn, we extract from the *Athenæum* The *acumen* displayed by the writer, the truth and justice of his remarks on the architectural taste of the Lawyers and his graphic pencilling of the [illegible] buildings will be fully relished by our readers:—

The lawyers have not shewn themselves to be patrons of architecture, at least not in those localities where they congregate professionally, for the Inns of Court contribute as little as may be to the embellishment of London. In fact, those inns have scarcely any sort of sign externally to indicate their presence to the stranger; and, when entered, are found to possess very little of positive architectural character, being chiefly remarkable for courts and alleys, whose air of sullen seclusion contrasts forcibly with the bustle of the adjacent streets. Though some of the courts—Gray's-inn-square, for instance—are spacious enough, and regularly built, yet they are quite destitute of all nobleness of appearance. Their physiognomy is neither antique nor modern; [illegible]ed of a venerable, they have a strangely haggard look; and instead of being picturesque, they are merely [illegible] shabby, and dismal. These last epithets cannot, indeed, be applied to some of the newer ranges of buildings, for they are at present spruce and jaunty, but of very plebeian, not to say Cockney expression. Even the new part of what is called Paper-buildings in the Temple, and Harcourt-buildings on the opposite side of the garden, scarcely form an exception, since, if not actually faulty, they are at best only respectably decent and monotonously dull. The same may be said of Serjeant's-inn, which has been metamorphosed from grotesque ugliness into smirking insipidity. If the merely forlorn-looking be the picturesque, our Dr. Syntaxes may find it in St[illegible] Inn; which, however, can now shew a tolerably goodly piece of Elizabethan architecture, erected about two years ago; though as to being shewn, it may almost as well be said to be put out of sight. On the opposite side of Holborn we have what is by courtesy called an [illegible] to wit, Furnival's Inn—which rejoices in its [illegible]omplete modern character; it having [illegible]n entirely re-erected just before the present [illegible]ry went out of its teens; and a curious [illegible]ample it is of what was then considered to be architectural taste. There is, too, if the truth may be spoken, a dash of Pecksniffian taste in the range of modern Gothic buildings of the Temple—the Library, &c. on the terrace-walk facing the garden.(*a*) The same remark applies, and in even stronger degree, to the modern Gothicizings in Lincoln's-Inn; but the stigma they inflicted upon the generation which perpetrated them is, if not effaced, forgotten in the noble architectural achievement just accomplished by the erection of the new pile of building, which challenges a critical scrutiny by its merits, and commands general admiration by its magnitude and imposing *ensemble*.

In addition to its own intrinsic merit, the new structure, containing hall and library, is so happily situated as to form one of the most conspicuously placed architectural objects in the metropolis; one that shews itself advantageously from every point of view, and from whose windows a most enviable *rus-in-urbe* prospect may be enjoyed of "trim garden," bounded by the handsome range of Stone-buildings on one side, and of the park-like inclosure of Lincoln's Inn-fields on the other. What adds not a little to its nobleness of appearance is, that the new building stands upon a raised terrace; which is attended with this further advantage, that the basement floor is sunk only a very few feet lower than the general level of the ground; and what shews itself externally as a basement for the offices is a low ground-floor, or mezzanine, between them and the hall and other upper rooms. So well is the building laid out, that although regular and even symmetrical in plan in the direction of its length, the exterior is marked by great variety of outline, at the same time free from any little finical tricks of the picturesque; it being thrown into well-contrasted and well-balanced masses, as is naturally dictated by the disposition of the principal parts of the interior. We have here that kind of grouping which is one distinctive characteristic of the style itself—at least of the class of buildings which afford the best examples of the style, namely, collegiate ones. Mr. Barry would probably have treated the subject differently—would have shewn us *singleness* of composition in one continuous line of building from end to end, with very little external articulation of the plan; nor do we pretend to say that such treatment would have been unsuccessful in his hands. Still we are well content with what we here behold; and are of opinion that the placing the Library transversely to, instead of a continuation of, the main line of building, is highly favourable, not only occasioning a certain piquantness of *ensemble*, but also giving the extent in regard to depth. From this circumstance the building acquires considerable importance as seen obliquely in a north-west view of it, which satisfies us better than that of the other end, although the latter is evidently marked out as the principal one. For our own part, however, we cannot help feeling that what is there intended for a handsome architectural accessory and a completing feature in the general design, is the poorest part of all—nay, quite unworthy of the rest. We allude to the entrance gateway at the south-west angle, or rather what ought to be a gateway, and therefore disappoints when, on being approached, it is found to be a mere arched opening through a wall, instead of a gate-house forming a covered passage. In one sense of the term it may be called scenic, for it smacks strongly of the theatre, being like a paste-board arch upon the stage; nor is this its only defect, as besides having a flimsy lock, it is otherwise poor in design and rather insignificant in appearance. Fortunately, the mistake is one that easily admits of correction, little more being required to be done than now to add a gate-house to the gateway; and were it to be one of considerable depth, it might be attended with the further good effect of somewhat screening and breaking the now too blank-looking lower part of the end of the Hall, beneath the great south window.

After this brief interruption of it, we may resume our tone of commendation, though we cannot stop to particularize the various merits of the exterior, but conduct our readers within the building. We say conduct: because, instead of rushing at once into the Hall, we wish to lead them into it by that line of approach which presents a striking and well-combined succession of architectural parts, all increasing in importance, and terminating in an impressive climax. There are two entrances to the building from the terrace on the east side; which, however, do not communicate with the ground or terrace floor, but lead immediately to the upper one by means of broad flights of steps; consequently no internal staircase is required, that is, no principal or state staircase; for others there are of course, and one of them will come [illegible]ice presently. Taking the northernmost of [illegible] entrances, or that appropriated for the [illegible] after passing through a handsome porch, [illegible]e up a vestibule or short corridor, which [illegible] next the Library) of an inner vestibule or central hall, which connects the other chief apartments with the great dining-hall. This part of the interior is striking, far more so than it would be were it entered immediately from the porch, or were it so placed as to be in a line with that and the first vestibule. It does not disclose itself to view until actually entered, when it bursts upon the eye with brilliant effect, at the same time that it is sufficiently spacious for its purpose (being 22 feet by 58). There is no pretence or obtrusiveness about it, as is too frequently the case in the entrance-halls of large buildings; yet although for the greater part sober in character, it is not a little piquant in arrangement, and in the combined result of *plan* and *section*. The first of these is laid out in three divisions, the middle one of which is a square (of 22 feet), divided from the north and south ends by three open arches on pillars; and the angles of this square compartment of the plan are cut off by four other arches, converting it into an octagon; over which is carried up a clerestory lantern of the same form and diameter, having a window ornamented with painted glass on each of its sides. The combination and transition of forms, and the effect of the stream of light from above, tinging with flickering hues the pale walls and pillars, render this a singularly pleasing

(*a*) Mr. Pugin has not failed to hurl his bolt at this specimen of bastard perpendicular Gothic, calling it by way of derision "the modern square style," by giving an elevation of Inner Temple Hall; &c. in his last work, which looks even worse, if possible, on paper than in stone.—ED. LAW T.

architectural picture. The ribs of the vaulting of the octagon are partly relieved by gilding, and have gilded bosses at their intersections. The lower part, however, is by no means so satisfactory as the upper, the pillars and arches being somewhat tame in character, and reminiscent of "James Wyatt" Gothic. One novelty, which must not pass unnoticed, is, that in the ceiling, the soffits of the spandrel spaces cut off by the octagon are left open as triangular sky-lights, consisting of a single plate of glass, in order to throw down light directly upon corresponding spaces in the floor, which are *paved* with thick *glass slabs*, and thereby serve in turn to admit light into the vestibule beneath, on the lower floor; and to their answering that purpose we can speak with some confidence, for we found that lower vestibule, which would else be nearly dark, better lighted than is usual with places of the kind. Well satisfied as we are, upon the whole, with the principal vestibule, we think it would have been an improvement had the octagon form been defined upon the floor beneath the lantern, by a border of a different colour from the rest of the pavement (which is entirely white), between the pillars. We conceive, too, that it would have been a further improvement if, of the three open arches from either end, the two narrower side ones had been closed up below to the height of between five and six feet by open-work screens; whereby that central division of the plan would have been in a manner marked out as being *en suite* with the drawing-room, on the west side of it, and the council-room on the opposite one. While the passage across from the one to the other would thus have been less exposed, that from end to end, and the vista from the Library to the Great Hall would have been just the same; and instead of seeming at all to confine or interrupt space, low screens of the kind suggested would have tended to fill up what now strikes too much as blankness in the lower part of the walls. Few architects seem to understand or care for the effect to be produced by partial concealment, or to agree with the poet, that "half the art is skilfully to hide." At the south-west angle of this vestibule is an open recess or bay, lighted by a lofty handsome window, and forming the upper part of a staircase to the lower floor, which is carried down between a massive and solid square newel. This newel forms a pedestal to the parapet of the staircase, which is also solid; and the hand-rail is cut out of the wall with a deep and boldly moulded hollow. The whole of this staircase bay is in excellent taste—perfectly simple and charmingly effective. Few, however, will linger to examine it, but eagerly pass on into the Great Hall—lucky if their eagerness does not trip them up, by causing them to overlook a very awkward step at the entrance to it.

The folding doors from the vestibule open upon the dais at the north end of the hall; and the *coup d'œil* which here presents itself may challenge that afforded by any other apartment of the kind, although, in its dimensions, this noble banqueting-room falls short of the one at Christ's Hospital. It is in every other respect greatly its superior,—very much so both in actual loftiness and in loftiness of proportion. In spaciousness, it rather exceeds the largest of the collegiate halls at the Universities; and though it cannot boast of the same extent as to length, it altogether eclipses St. George's Hall, in Windsor Castle, which, to say the truth, answers more to the character of a gallery than a hall, and is besides neither in the most correct taste nor of the most dignified character. The noble oak timber roof, designed on the principle of that at Westminster Hall, gives to this new hall of Lincoln's Inn an air of magnificence that is well kept up in other respects, and to which the windows conduce in no small degree. There are five windows on each side, exclusive of that in the oriel or bay at each end of the dais, and of the large window at the south end, above the screen and gallery over it; and in their upper half, all these windows consist almost entirely of stained glass, displaying various armorial bearings and similar devices. The pendants, and some other parts of the roof, are also emblazoned or picked out in colours and gilding; which being the . we think that some decoration of the kind, however subdued in degree, ought to have been extended to the screen and gallery. The front of this last is, to us, the most questionable, not to say most unsatisfactory feature of all. In style, it hardly seems of a-piece with the rest; and the low and wide open arches into which it is divided shew, to our eyes, little better than so many vacant gaps—too much like a row of boxes in a theatre.

The passage behind the screen, whose openings are filled with plate glass, forms the common entrance into the hall from the south porch on the east side of the building; at the other end of this passage is the staircase leading from the kitchen. Although not belonging to the "show" apartments of the edifice, this last is worth being visited, it being a spacious vaulted room, whose ceiling is supported on massive pillars and bold arches, after the manner of a crypt; and it is about twenty feet in height, it being carried from the basement through the terrace-floor story. Hardly need we say that it is fitted up with every imaginable convenience, and with every improvement in culinary apparatus. Yet, as if this were no sufficient, there is another kitchen on the terrace floor, at the other end of the building, adjoining th sub-vestibule, which, we suppose, is to be devoted t the preparation of the more *recherché* dishes for th tables on the dais.

As yet, we have mentioned the Drawing-room an Council-room only *en passant;* nor can we now sa much, since they offer so very little for descriptio that we have only to express our admiration of the for their noble proportions and dignified simplicity and for that sort of charm which, however it may b felt, can hardly be expressed in words. Yet one circumstance there is which deserves to be noted, viz that the ceilings, which are ribbed and panelled, a of deal, unpainted but stained, and then varnished, s as to rival, in depth of tone and beauty of appearanc many of the richest woods. Both these rooms ar now not only finished, but furnished. The Library, on the contrary, is as yet only in a state of progress, and by no means so far advanced as to enable us t judge of it satisfactorily. In its dimensions, it wil rtainly be a very noble apartment, 80 feet in lengt from east to west, by 40 in breadth, and 35 high. Th breadth will be contracted on the floor to about feet, the book-cases being brought out at right angle to the walls, so as to form seven recesses on eac side, thus converting the room into a gallery 80 fee by 18 in the clear, terminating at each extremity in lofty oriel of the same width, and forming three side of an octagon. These two oriels are of admirable de sign; their enriched soffits, pillar-shafts, and mould ngs, all in superior style, and the windows them selves magnificent. The pattern of the glazing in th ower part of the windows, which are filled in with small circular panes, is of pleasing effect, and th glass being slightly embossed or moulded, a sort o flickering brilliancy is produced that is exceedingl agreeable to the eye, partaking, as it does, rather o soberness rather than of garishness.

Having extended our remarks to such length, w shall only add, that this new structure is entitled t our astonishment as well as our admiration, for the first stone of it was laid no longer ago than Apri 1843. The whole of it has risen up in little more than two years, just about the time which it has taken to erect the row of dwelling-houses which is to be one of the wings of the British Museum, and put up a few columns that are to form the façade of that national edifice!

NECROLOGY.

SIR WILLIAM FOLLETT.

A GREAT light of our legal firmament has unhappily gone out, and the event seems to impose upon us the duty of recording its splendour, and tracing its course while it continued to shine forth.

Sir William Follett was among the most able and most successful members of the profession; and he united, with an extraordinary capacity for its prosecution, talents of a very high order as a senator;—talents rarely found in combination with those of the lawyer, how closely soever the two provinces may, to superficial observers, appear to touch. In truth, if there is much to qualify an able and popular advocate for parliamentary exertion, there is also much to disable him. The niceties of legal arguments are not very level to the comprehension of the multitude, either within or without the walls of the senate, and the subtle argumentation in which lawyers are prone to indulge is therefore very little suited to the popular taste. An advocate, too, representing his client is apt to be somewhat careless how sorely he fatigues the judge, in urging all points that may, by any possibility, serve his cause. Even when he addresses a jury, he makes sure of their attention, for they have no choice, because they are sworn to determine, and must therefore hear; besides that, only coming now and then into the box, they are much more patient than men who are doomed daily to hear debate. He is also a good deal above his audience in understanding, generally their superior in station,—and thus it happens that the advocate, always secure of a hearing, takes little pains to gain attention, nor at all dreads losing it by his prolixity. Add to this that he generally enters the House of Commons after his station is established in Westminster Hall, and he is not disposed to court favour in order to set his new position on a line with that which he has already attained. All these considerations tend to make lawyers somewhat careless both of being interesting and of being brief, when they address the House; and all of these considerations are apt to make them abandon the attempt at rising there, in some disgust at finding themselves undervalued or overlooked. These astute personages find the meed of popular applause vain and idle, and run back to the chase of surer game, among their natural prey. The failure of lawyers in Parliament is thus not difficult to account for. But nothing can surpass the gross ignorance of some who on the present occasion have handled this subject. It has actually been said by some one of a class manifestly wholly unacquainted with both the Bar and the Senate, that only two exceptions have been known of men succeeding in Parliament after establishing their reputation at the bar; as if Sir Samuel Romilly were no lawyer; as if Lord Lyndhurst and Lord Brougham had never been known as leaders of the bar; as if Lord Plunket had not held the very first place in both courts and parliaments; as if Lord Denman had failed either in the one scene or the other. The list might be lengthened by going back to the Dunnings, the Thurlows, the Leeds, the Wedderburns, the Floods, the Murrays; but the thoughtless writers we allude to, of course are still more ignorant of the times before their own, than of the most universally known facts of the present day. We, however, admit the general rule to be the other way, and that Sir William Follett is to be mentioned only as augmenting by one remarkable instance the considerable number of the exceptions. This is calculated to lend his history an additional interest, an interest not confined to the circle of professional men.

He was the son of Captain Follett, by Miss Webb, an Irish lady of Kinsale. In 1790, the health of this gallant officer having been broken by serving in the West Indies, he left the army, and engaged in mercantile pursuits in Devonshire, where he lived, and where he died in his seventy-first year. William was then the eldest surviving son, having been born the 2nd December, 1798, at Topsham. His elder brother, a lieutenant in the 43rd regiment, was killed before San Sebastian, in September, 1813, on the very day after he landed in Spain.

William, contrary to the positive but most gratuitous assertion of other periodical writers, had no constitutional weakness in early life, and no want of the very earliest indications of great talents. His own family had formed the highest opinion of his capacity, and in consequence educated him for the bar. He was first sent to the Exeter Grammar School, then under Dr. Lempriere, author of the well-known classical dictionary; and he was afterwards placed under the private tuition of Mr. Hutchinson, curate of Heavitree, near the same city. In 1814 he went to Trinity College, Cambridge, where he remained till 1818, when he took his bachelor's degree, but he took it with no academical honours, nor did the sciences chiefly cultivated there ever prove attractive to him; though he was sufficiently conversant with classical literature, and his general reading was extensive. It has been said by the same inaccurate dealers in ephemeral history, that at Cambridge he was a Whig. This rests upon insufficient authority, at least it is coupled with a very gross mis-statement,—for the writer says that on meeting a college friend soon after he entered Parliament, he said, in answer to a charge of having changed his principles, that his conversion was at least disinterested, the Whigs being then in the zenith of power and popularity. Now, here is an anachronism of some years, for he entered Parliament in 1835, when the Whigs were in opposition, and he entered it as Solicitor-General. He had three years before contested Exeter on Tory principles, and failed; and the fact is certain that from the moment of his coming to London in 1818 he was, and continued steadily to be, a Tory or Conservative; all his friendships, and most of his connections, being with that party. Another equally groundless mis-statement accompanies the same assertion: it is said to be well known that vertures were made to him by the Whig government, and rejected. We affirm upon the most unquestionable authority, that for this there is not the least foundation. We state this as well upon the express authority of the Whig ministers as upon that of Sir William Follett's family, and his most intimate friends. The Chancellor (Lord Brougham) offered him a silk gown in 1831, having known him intimately at the bar, and formed very early a high estimate of his talents; but the offer was expressly made upon the footing of his being a political adversary, and certain to take an active and powerful position against the government of his lordship's friends in the House of Commons. The refusal of professional rank was made after full deliberation, both in conference with the Chancellor and with Sir William's near connection and attached friend Mr. Croker, and it was refused solely upon the ground of professional prudence.

In 1818 he became a pupil of Mr. Godfrey Sykes, and afterwards of Mr. Robert Bayly, then eminent special pleaders, having been two years before entered of the Inner Temple, and after very diligent and successful study for three years under these learned men, he began himself to practise as a pleader below the bar, and obtained a fair share of business. In the summer of 1824 he was called to the bar, and the year after joined the Western Circuit, to which also his master, Mr. Bayly, belonged. He was now in his twenty-seventh year, and it may safely be affirmed that very few men have ever entered the profession with more abundant qualifications for rapidly and greatly succeeding in its arduous rivalry. His understanding was naturally penetrating, and it was solid, so that with extraordinary quickness of perception he had a sound and mature judgment, never at fault. At the happy age, especially, when all the active powers are in full vigour, and lend force and

quickness to the intellectual faculties, other men may be found of equal acuteness, of equal subtlety, of equally rapid apprehension, but in combination with such sure and accurate judgment, that capacity has rarely if ever been found. As genius is of universal application, we must suppose that had the accidents of position or of taste directed his studies to the severer sciences, his successful prosecution of those studies would have been as remarkable. But still his legal studies had never suffered any such interruption, and as the law is a jealous mistress, nor easily pardons even any passing infidelity, never any divided affection, it was among the favourable circumstances in which he entered the forum, that his mind had been wholly given to jurisprudence, and was entirely filled with the solid fruits of many years' study. Accordingly his rise was rapid. The very first time that he addressed the Court of King's Bench, every one who heard him was struck with the excellence of his argument, both in the matter and in the manner, nor entertained the least doubt that the greatest success was his certain portion: his confidence too was unhesitating, unfaltering, because it was founded on a ground which he felt to be solid: but his outward manner made no unbecoming disclosure of this feeling, and was firm, without being presumptuous. But his entire confidence in his own opinion was not even at his first entrance upon the duties of the profession to be shaken by the contrary decision of the judges themselves, and some who sat next him in court, when they determined in opposition to his first argument, well remember his saying in an audible whisper, addressed to himself, "They are going to decide quite wrong—as wrong as it is possible for men to decide." This made full as great an impression on those who heard or rather overheard it, as the able argument itself which he had just delivered. The judges whom he thus judged were not inferior men; they were the very first in the profession.—Abbott, Bayley, Holroyd, and Littledale. The friend, as he afterwards became, who heard him, said, "that whether he or the Court was right, he would ensure Follett a thousand a-year." This anecdote Sir W. Follett was fond of repeating.

The rapid success of one so singularly gifted, and devoting himself so exclusively to his profession, was little to be wondered at, but to all admirers of talent was greatly to be rejoiced in; for, as there is nothing so painful to the generous mind as the sight occasionally exhibited of merit deprived, by accident, of its just distinction, and men of known capacity pining in obscurity, so is there no spectacle more pleasing to contemplate than that of genius reaping without any delay, almost without a struggle, its appropriate reward. To say that Sir William Follett presented himself at the first as fully fitted for his professional duties as he ever after appeared, might perhaps savour of exaggerated admiration; and he certainly derived from practice the improvement which it must always afford, and most to those who from natural ability may seem the least to need it. Yet no one can doubt that in this, as in some other respects, he strongly resembled Mr. Pitt, for there was greater maturity displayed, both of faculties, of acquirements, of legal habits, almost of an advocate's habits, in the young lawyer on his very first appearance, than had ever before been seen in Westminster Hall; as the statesman is well known to have started into public life at a still earlier age, an accomplished orator, whose after-exhibitions could hardly be said to have surpassed his first display. There is, indeed, this marked diversity between the two cases,—that Follett was an accomplished jurisconsult as well as a highly-gifted speaker, and accomplished from the beginning; while Pitt's rhetoric so far exceeded his statesmanship from first to last, that it left the latter far behind during all his long life of power nearly uncontrolled.

The practice of Sir William Follett soon became very extensive, both in London and on the circuit. (*a*) He was the favourite junior in all causes, whether important or trifling. He gave the most entire satisfaction, because the most valuable and unobtrusive assistance to his leaders. His business was not confined to the courts of law, for he was eagerly sought after as counsel in parliamentary committees; and he afforded perhaps the solitary instance of a great Nisi Prius practitioner, and one full of practice in Banc, gaining also an ample income from parliamentary business, without in the least suffering it to interfere with the regular duties of his profession either on circuit or in Westminster Hall. It is well known that they who devote themselves to that most lucrative line of the profession give up the more exalted and thorny for the humbler and more gainful path; and that he who would line his purse by treading in the one, must not aspire to the honours which are only to be approached by the other.

In committees he first became distinguished as a leader before his standing at the bar had placed him in the front rank; and in all probability that committee practice was of service in making his powers of command known; for it is certain that a lawyer may be highly qualified to fill and to shine in the second place, according to the well-known French proverb (*b*), who would be eclipsed in the first, of which the most eminent pleaders, the Wallaces, the Holroyds, the Richardsons, the Littledales, the Abbotts, afford striking instances.

Sir William Follett, when he became a leader, at once fully answered every expectation that had been formed of him. In the first place he was thoroughly master of his profession; that is, of the principal tools wherewithal he had to work. Then the others he could handle as easily and skilfully, for he had an extraordinary power of speaking with clearness, with perfect self-possession, with abundant energy where energy was required, with a most pleasing tone of voice, that filled the ear, never tired, and perfectly suited the solid matter and the delicate texture of his discourse. Again, he had absolute command over both his temper and his faculties; could make the one submit to his purpose, and use the other at will, in that extraordinary process, without which there is hardly any real and certainly no practical business-like eloquence, the thinking, and reasoning, and refining, and calculating, while going on, and, as it were, on his legs. Thus his attention was ever wide awake, and as if his whole soul were concentrated in each cause, and in each successive step of it. His circumspection was also perfect, and served to provide against all attacks, as against all snares. From his quickness, as well as his entire self-reliance, and his perfect command of himself, he was of singular prudence and discretion, never to be taken off his guard, nor ever hurried into any proceeding of hazard. The faculty so essential to a leader of causes as of armies, a sudden and piercing glance through the adversary's plans, from a rapid view of his movements, the coup d'œil, as it is termed, he possessed, in an eminent degree, like all great advocates who conduct business. If he was not to be over-reached or out-manœuvered by his antagonist, so did that antagonist run no small risk from him. He was a person not to be slumbered near, and also being somewhat apt to press on the vanquished, he was, as Mr. Grattan once said of Lord Clare, though in another sense, "a dangerous man to run away from." The judge, too, required to be as much on his guard as the adverse counsel. No one's arguments in law required to be more closely watched, more especially in his reply, when the judge was left to himself without any comment or explanation of the opposite party; for so extremely skilful, so dexterous was he—so gradually, by such imperceptible steps, did he glide on, insinuating himself rather than moving, that you could not tell he was making any progress, but suffered him by unseen steps to advance, by minute fragments to beg the question, till at last you found yourself entangled in the web so artistically woven and so cunningly thrown around, and had to go back to the part from which the first *petitio principii* had been made.

'Ηὕτ' ἀράχνια λεπτὰ, τά κ' οὐ κέ τις οὐδὲ ἴδοιτο
Οὐδὲ θεῶν μακάρων· περὶ γὰρ δολόεντα τέτυκτο.(*c*)

It happened that during Sir William Follett's time no state prosecutions for libel or for treason, nor indeed any other *causes célèbres*, occurred after he succeeded to the lead. He had not, therefore, any of those comparatively rare opportunities of distinguishing himself before all the world, and his great fame was confined to Westminster Hall until he came into Parliament. It was in 1835 that this important event in his life happened; but far less important to his fame than to that of others, for his reputation being established at the Bar was of a kind that left no man the least room for doubting his great success also in the senate; and it is perhaps the only instance in which this could so certainly be foreseen. He was appointed Solicitor-General during Sir Robert Peel's short administration, and was returned for Exeter by a great majority, having three years before been defeated in contesting that city. No sooner did he take his seat than the expectations of all men were amply fulfilled, and the predictions justified of those who had marked his progress at the Bar. His matter was seen to be pregnant and pertinent; but it is in manner that lawyers are apt to fail before the assembled Commons, and his manner was perfect—calm, yet not cold—firm, but unassuming—perfectly self-possessed, though without the least presumption; every one admitted it to be about the most recommending manner that ever had clothed logical argument, clear statement, and powerful appeal. The voice, too, was of peculiar sweetness, as well as great compass, and it reminded the hearer of Mr. Pitt, to whom indeed in his whole manner he bore a great resemblance. His resemblance in the early maturity of his faculties and his fame has already been pointed out. He was, moreover, an accomplished debater, which many great speakers never were, including certainly Burke, probably Chatham, undoubtedly Windham, and perhaps Romilly also. The reliance which the government or the party he was with reposed on his assistance in every emergency was unbounded, like the confidence of his clients, and it was amply justified. It was a common observation, that he was less indifferent than some others to the gains of the Profession, but never did he leave the least ground of complaint to his parliamentary allies, that he preferred his briefs to his duties in the House of Commons. It is no exaggeration to say that the solidity of his matter, the charms of his manner, and his judicious use of the public ear, "using it as not abusing," made him more certain of a hearing, and more sure to retain it while he pleased, than almost any lawyer who ever addressed the House. Besides, his command over their attention was not confined by any wit that sparkled in his speech, the surest remedy for any popular assembly's flagging spirits, nor yet by any lively imagination of which he poured forth the stores, nor by impassioned or pathetic appeals, nor even by any rare power of vehement declamation; but it was derived from a rare combination of most lucid statement, singular aptness of argument, and of homely illustration, a forcible expression of contempt for the adversary or the argument he was exposing, mingled with a very sparing but not unhappy use of sarcasm, and by a voice of which it would be difficult to speak too highly, whether its smoothness, or its richness, or its sweetness be considered. He took part more rarely and more sparingly than all desired he should, fearful of wearying his audience by frequently appearing before them, and long demanding their attention. He was found quite equal to grappling with the largest as with the most ordinary questions; and though moderately provided with political knowledge, he never was deficient in the supply required by the exigency of the occasion, whether the subject of discussion was foreign or domestic policy, economical and financial science, or the learning of constitutional law; for he had the happy facility possessed by the Nisi Prius advocate, of gaining information for the special emergency—the artist who must make himself acquainted with the machinery of a patent one day, the nature of a chemical process another, the tackle and steerage of a ship a third, that he may explain these matters clearly to a jury as ignorant of them when he begins his lecture as he was himself two days before, and will again be two days after the cause has been tried.

On Sir Robert Peel's second accession to office in 1841 he became again Solicitor-General; and in 1844, on Sir Frederick Pollock being raised to the Exchequer as Chief Baron, he succeeded him as Attorney-General, which office he held till his decease.

As there were no celebrated causes to display his talents at the bar during his time, so were there no cases of very great distinction to make his parliamentary appearance more memorable than their intrinsic merit was calculated to render them. But a mixed case of criminal law and parliamentary exhibition was afforded by the trial of Lord Cardigan, for fighting a duel, and no member of the House of Lords who was present on that occasion will easily forget the immeasurable superiority which, throughout the day's proceeding, he shewed over all his competitors in every branch of the cause.

During the last five or six years of his brilliant career, he was a frequent practitioner in courts of equity, and he shewed a familiar acquaintance with the law of these tribunals, and, above all, with the law of real property, which they so often administer, the most recondite, difficult, and scientific branch of our jurisprudence. It is probable that his frequenting the Court of Chancery was mainly owing to his having the prospect before him of one day succeeding to its chair. No one doubts that had he survived, the Great Seal must have been his portion, and with a more than ordinary assent of the whole Profession over which he would so worthily have been called to preside.

But the decrees of an All-wise Providence forbade. As early as the summer of 1838, symptoms were perceivable of a serious malady having made a lodgment in his constitution, and it was feared that his lungs were affected. In 1841, while attending the Privy Council, he was seized with an attack of erysipelas, which retreated inwards, and alarmingly affected the alimentary canal. He hardly regained good health after that illness. Two years later the spine was supposed to be affected, for he certainly had an extreme feebleness in the lower limbs, almost amounting to paralysis. At length, in 1844, this increased, and seemed complicated with a return of pulmonary weakness. He was obliged to leave off all practice; and on the rising of Parliament to go abroad with the intention of wintering in the south, should his health not be sufficiently restored by the autumnal repose to justify a return in November, the beginning of the judicial year. It was ultimately found necessary to make for Italy before the cold of winter approached, and he went to Rome and Naples, which he did not quit before February. His attached friend Lord Brougham had hopes of his benefiting by the delightful and agreeable climate of Provence, and for some weeks expected him at Cannes, where he had urged him to occupy his villa. He went however by sea to Marseilles, and

(*a*) The best test of his success was the rapid annual increase of his fees: they amounted, as we have heard it confidently stated, to 300 guineas in the first year; and in the fourth year they reached nearly 3,000. This was a success, we conceive, wholly without example in the Profession.

(*b*) Tel brille au second, qui s'éclipse au premier.

(*c*) "Fine as the gossamer, which e'en deceives,
The eyes of gods, his cunning web he weaves."

after passing a few days at Paris, returned to England early in March. The proverbial deceitfulness of consumption, which soon after plainly declared itself, flattered his friends with hope that the blow might be stayed, if not averted, with which they were now threatened. But he felt unequal to any business except that of consultations, and giving opinions, nor could he attend Parliament, except on two or three occasions, on one of which he spoke, and with his accustomed power and felicity. In the month of May, however, finding his illness increase, he distinctly tendered the *resignation* of his office of attorney-general, which, however, was not accepted.

For better air he removed from his house in Park-street to the house of a kinsman in the Regent's-park. The disease now made rapid progress; but his mind remained unclouded within a few hours of his decease, which took place at three o'clock in the afternoon of Saturday, the 28th of June, 1845. How far the consumption which proximately caused his death was itself the result of another malady it is not easy with certainty to determine. But certainly, although the chest was in 1838 the seat of illness, a tendency to palsy was perceived long before the pulmonary complaint which proved fatal had appeared. That he suffered from severe labour has frequently been said, but without any foundation. The mischief was seated far deeper than any devotedness to hard work could reach, or any relaxation from hard work could cure. In truth, no man ever went through his labour of any kind, whether in chambers or in court, with greater ease to himself. That labour never fatigued his understanding or damped his spirits, and his body suffered accordingly no wear and tear from the work which could only affect it through the mind.

He had married in 1830 the eldest daughter of the late Sir Harding Giffard, Chief Justice of Ceylon, by whom has left two daughters and four sons, the youngest only thirteen months old.

His death in the zenith of his fame, the fulness of prosperity, the certain prospect of the highest public station under the crown which the country knows, the unimpaired vigour of his great faculties, the possession of universal esteem, such as no successful lawyer but Lord Erskine ever before possessed, an esteem that seemed to lay all envious feelings asleep, as if where there was no rivalry there could be no jealousy, was calculated to produce a great effect upon the minds of all; it was regarded as a singularly affecting spectacle, one which exhibited in a striking way the vanity of sublunary enjoyments, of mortal powers and worldly prospects—it was deeply felt as a public and above all as a professional loss. The funeral was rendered still more solemn by the spontaneous attendance of the heads of the law, the ministers of state, many distinguished members of both Houses of Parliament, and the most eminent members of the Bar. The Chancellor, the Prime Minister, the Chief Justice of the Common Pleas, were among those who bore the pall. The funeral service was rendered impressive by all these extrinsic circumstances, and it was only lamented that its singular and touching beauty should have been in a great degree sacrificed to the music—admirable music it is true, but a most inadequate substitution for the noble and mournful simplicity of the service, as it is read, and ought ever so to be. A subscription has been formed for erecting a statue to his memory.

In relating the history of this eminent person's life the best description of his character has been presented to the reader. It remains only to say that he was peculiarly amiable in all the relations of domestic and of private life. To this the sweetness of his equable temper, and the known purity, as well as firmness, of his principles contributed, with a certainty and a power that must needs have produced their natural effect. His genius having always been directed towards law, and law alone, his general ... formation was not extensive, and he disappointed all who expected from his conversation the same pleasure that they derived from his public exhibitions. But he loved the relaxation of society, and took his part with sense, and intelligence, and uniform good-humour, though all desired it should be a larger share. His composition was clear and pure, though he had only the habits of writing acquired by professional correspondence or opinions. Though law was the study of his life, he was well versed in classical literature, and retained to the last his relish for its study. Indeed, his taste in speaking was pure enough to shew that he drew his principles of oratory from the only pure sources. In Italy he enjoyed the pleasure of such associations as much as the state of his enfeebled health would allow. That he was a competent Greek scholar has been doubted from the occurrence at Guildhall of a book being mentioned with the name of *Αγωγος* (leader), for the author, and his not remarking the meaning till the Chief Justice said—"You, Sir William, are meant, among others." But we happen to know that within a few weeks of his decease, a dispute arising upon a Greek passage, and the sense of a particular idiom, he differed firmly with the company, and on examination was found to be right. This leaves no doubt on the point; but other proofs exist.

In his conduct as a professional man there have been attempts made by the uninformed, or the prejudiced, to point out one flaw; he is sometimes charged with having disappointed clients by taking briefs while he could not attend to the business. No accusation can be more unfair, and it is not the less to be repelled and reproved because it is made against every man in full practice—we might almost say unavoidably made, as well as infallibly groundless. The first practitioners are always beset with applications from clients for their assistance. They cannot possibly tell whether on any occasion they shall be able to attend the court unless they confine themselves to a single court, which no great leader can do, and which the business of such occasional courts as the Lords and the Privy Council, having no Bar of their own, would never permit. Consequently, clients must run the risk in question; but as they run it with their eyes open, they have no right to blame the advocate when the chance which they were aware of has deprived them of his aid. It was once said by Bearcroft, when much employed in committees, and seen walking about in the court of requests, unmoved by the many calls of his name in all quarters, that he was there to avoid giving undue preference to any of his clients. But a man whose conduct in other respects was so bad deserves not to be cited as an example. Sir W. Follett did only what all leaders do; his clients suffered only as all clients do that insist upon retaining a man of whose services they cannot be assured. The answer to their complaints is—"Go to inferior counsel, of whose attendance you can be assured." But this they never will do; and for why? Because every one feels that if he does not take the only effectual means of securing Sir W. Follett, his adversary will retain him, and then, peradventure, he may appear against him. Therefore every one takes the chance of having him, with the risk of losing him, in order to insure himself against the risk of having to meet him on the opposite side. Nothing can be more plain than this. Many instances might be given during Sir W. Follett's greatest popularity, of clients insisting upon delivering briefs, though formally and distinctly told that he could not attend. Why did they so? Because some unforeseen accident might intervene to make his attendance possible; at all events to prevent his being retained by the other side.

Undoubtedly, a person with so many engagements must occasionally have found himself unable to perform some of them; but we know that when such an event unfortunately occurred, no party concerned was more distressed at it than himself. While preparing this article, we have been told of a case by a most respectable solicitor in which he had specially retained Sir William to conduct an important cause for him at the assizes. When the time arrived he was prevented by a family affliction from attending; but not only did he attend at a subsequent assize without a second fee, which was quite a matter of course, but he pressed upon his client, who had been vexatiously made to pay the costs of the day, the full amount thus paid, amounting to 400*l.*, which the client as peremptorily refused to accept. A fact like this is worth a thousand surmises, and puts them all to flight; but we may confidently add our belief, that the items of fees returned or refused, from kindness and other voluntary motives, would be found to form a much larger head in his books than persons unacquainted with such matters would readily imagine. In one half-year, we believe, he returned 800*l.* and in the course of a few years, 4,000*l.*

JOURNAL OF PROPERTY.

Sale of Railway Shares in Companies not completely Registered.—It has been a question much debated amongst respectable stockbrokers, and others deeply interested in railway stock, whether the sale of shares represented by letters of allotment, bankers' receipts, or scrip, in companies only provisionally registered, is or is not legal, under the new Joint Stock Companies Act, which came into operation on the 1st of November last. It is very much to the credit of the Manchester Stock Exchange, which, as a body, we believe, stands high for the careful conduct of its business, that they should have taken the best possible course to set this question at rest. Through their solicitors, Messrs. Sale and Worthington, the Manchester Stock Exchange prepared a case for legal opinion, and we have been favoured by these gentlemen with a copy of the queries, and of the answers thereto, given by the authorities consulted. When we state that these authorities are amongst the leading counsel at the English bar—namely, Sir Frederick Thesiger, the attorney-general; Mr. Ogle, of the Western, and Mr. Cowling, of the Northern Circuit—we need say no more to recommend their deliberate opinions (for we understand that the Attorney-General had the case before him some time, for the express purpose of giving it his most careful consideration) to the serious attention of all connected with railways, and especially to the boards of provisional directors of companies established since the 1st of November last. The following is a copy of the case:—

"1st. Whether as to the companies established before the 1st of November last, and therefore not within the provisions of the new Act (7 & 8 Vict. c. 110), the sale of letters of allotment, bankers' receipts, or scrip, or any of them, is legal?

"We are of opinion that sales of letters of allotment, bankers' receipts, and scrip, issued by companies established before the 1st of November last, are not within the provisions of the stat. 7 & 8 Vict. c. 110, and that, consequently, the sales of such documents are legal.

"2nd. Whether railway companies are within the restrictions as to sale or transfer of shares, or other restrictive clauses of the above Act; and if so, whether, after provisional registration, and before complete registration, the sale of letters of allotment, bankers' receipts, or scrip, is legal, or illegal?

"We are of opinion that railway companies, established after the 1st of November last, are within the restrictions contained in the 26th section of the 7 & 8 Vict. c. 110, and we think that sales of letters of allotment, bankers' receipts, and scrip, attempted to be made after the provisional, but before the complete registration of the company, are illegal.

"3rd. Whether, after complete registration, but before obtaining an Act of Parliament, the sale of such scrip (as scrip will then have been issued, and then of scrip only) is legal or illegal?

"We are of opinion that sales, after complete registration of scrip, issued by railway companies established subsequently to the 1st of November last, are legal. It is evident from the latter portion of the 25th section, that the legislature intended that railway companies, on complete registration, and before the act of incorporation, or other Act giving authority for executing the works, should have all those powers conferred by the first part of the section, which are most qualified or retained by the latter part; and we do not find any thing either in that, or in the preceding section, from which it is to be collected that the legislature intended to render illegal sales of scrip by such companies, until their acts of *incorporation should be* obtained.

"4th. If the sale of scrip, after complete registration, be legal, whether it is not the duty of the provisional directors to lodge the subscription contracts, and other requisite documents, at the registry office, so as to obtain a certificate of complete registration, and thus enable scripholders to sell scrip?

"We consider it to be the duty of the provisional directors to lodge the subscription contracts, and other requisite documents, at the office, for the purpose of obtaining a certificate of complete registration.

"5th. If the restrictive clauses of the Act do not apply to railway companies, whether the sale of letters of allotment, bankers' receipts, or scrip, be or be not illegal, notwithstanding they are so excluded?

"Being of opinion that the restrictive clauses of 7 & 8 Vict. c. 110, apply to railway companies formed after the 1st of November last, it only remains for us to observe, that as to companies established before the 1st of November, we do not think, independently of the statute, that the sale of letters of allotment, bankers' receipts, or scrip, would be legal.

"Fred. Thesiger.

"Richd. Ogle.

"Inner Temple, 12th Sept. 1845."

The same queries have been submitted to Mr. Cowling, who has given a similar opinion.—*Manchester Guardian.*

Stock-jobbing in Paris.—For some days past all Paris has been deafened with a noise of shares; on all sides one hears but these phrases, "Have you any shares in the northern railroads?" "How many shares has Rothschild sent you?" "I have applied, but have yet received no reply." "He has been most gracious to me; he has sent me some without my asking for them." "He has not treated me so well; I have written for 100, and he has sent me but 10." "I have no reason to complain; I have had 25 out of those he sent to my journal." "I have been less fortunate; our editor has kept all to himself, and I have great pains to get four out of the 200 he has received." "The Court people, peers, and deputies are crammed with them." "I know that well enough; the Duke Pasquier has had 300, the Duke Decazes 400; but this is nothing to Count de Montalivet, who has obtained 500." All this is certain, or it is at least certain that it is said openly and everywhere. M. Rothschild has, for a fortnight past, distributed his favours with a generosity our modern financiers had not accustomed us to. He showers the manna of his shares on the Luxembourg and Institute, the Palais-Bourbon, and the Tuileries; the newspaper offices have, above all, been inundated with them; but only the ministerial and dynastic prints of all shades. Very laughable comedies have been played in all this affair, with which it would be scarcely possible to find any

thing to be compared in the scandalous doings of the Rue Quincampoix, in Law's days. Among the very curious things that have just taken place we shall mention the unheard-of fact of a well-known individual, who, having received 200 shares from M. Rothschild, has proudly returned them. If he were named, nobody would believe it, but everybody would most surely exclaim, "*Où diable la délicatesse va telle se nicher?*"—*Quotidienne.*

Public Sales.

By Mr. W. W. SIMPSON, at the Mart.

A valuable freehold property in Surrey, known as the Biggen Hall Estate, situate at Norwood, three miles from Croydon.

Lot 1. Biggen Hall, with 104 acres of land—5,200*l*.

Lot 2. A plot of freehold meadow land, containing 6a. 1r. 17p.—650*l*.

Lot 3. A plot of freehold building ground, containing 6a. 2r. 13p.—530*l*.

Lot 4. A desirable plot of freehold land, in two closes, containing 14a. 2r. 36p.—1,140*l*.

Lot 5. A valuable plot of freehold building ground, containing 2a. 1r. 7p.—670*l*.

Lot 6. A desirable plot of freehold land, containing 1a. 0r. 4p.—290*l*.

Lot 7. A plot of freehold land, containing 10a. 1r. 37p.—1,060*l*.

By Messrs. WINSTANLEY, at the Mart.

A freehold residence, known as West Lodge, situate on Clapham-common, with attached and detached offices of every description, and meadow land, comprising altogether about eight acres; this estate was *bond fide* sold for 6,950*l*.

By Messrs. DANIEL SMITH and SON.

About 51 acres of freehold marsh land, lying westward of Dymchurch, in Romney Marsh, Kent; apportioned rent, 100*l*. on this lot—2,920*l*.

About 31 acres of freehold marsh land, lying eastward of Dymchurch, apportioned rent 75*l*.—2,010*l*.

Several grazing farms and detached parcels of marsh land lying in the several parishes, and near the towns of New Romney, Lydd, and Ivy Church, in Romney Marsh. Sold in lots, as follows, viz.:—

A freehold estate, known as Derings, it comprises altogether about 154½a. of land—6,600*l*.

The Bird Kitchen Lands, containing 40a. 1r. 6p.—1,730*l*.

2a. 2r. 14p. of meadow land—135*l*.

143½a. of meadow, pasture, and beach land, near the Farm of Lydd, adjoining the Old Race Course—2,980*l*.

4a. 2r. 10p. of marsh land—235*l*.

8a. 2r. 10p. of arable land—480*l*.

6a. 5p. of marsh land—370*l*.

43a. 2r. 19p. of marsh land in the parish of Old Romney—2,700*l*.

An estate known as Barn Fillet, containing 116a. 1r. 35p.—5,100*l*.

Nearly 50 acres of marsh land near the town of New Romney—3,150*l*.

By Messrs. FOOKS and JOHNSON.

A leasehold estate, consisting of 5 houses, being Nos. 1 to 5, Pleasant-place, Manor-street, Clapham, producing a rental of 155*l*. per annum; held for 73 years, from March 1842, at 4*l*. 12s. per annum each house—1,600*l*.

Three houses and shop, situate in Prince's-road, Lambeth, being Nos. 75, 76, and 78, producing a rental of 85*l*. per annum; held for 37 years, free of ground-rent—690*l*.

By Mr. LEIFCHILD, at Garraway's.

The important and valuable estates, situate in a rich and fertile district near the borough town and port of Harwich, and containing nearly 1,100 acres of the finest land in the county of Essex, in five lots as follows, viz.:—

A freehold estate, great tithe free, called South Hall, situate in the parishes of Ramsey and Dovercourt, comprising a residence, pleasure-ground, gardens, and 380a. 1r. 9p. of land; let at 600*l*. per annum—13,400*l*.

A freehold farm, great tithe free, formerly held with South Hall Farm, situate in the parish of Ramsey, comprising 153a. 2r. 30p. of land; let at 200*l*. per annum—5,210*l*.

A freehold estate, consisting of Roydon Hall Manor and Roydon Hall Farm, situate by the side of the road leading from Colchester to Harwich, comprising a residence, pleasure-grounds, gardens, farm-buildings, and 276a. 1r. 2p. of corn and meadow land; let at 450*l*. per annum—14,550*l*.

A freehold estate, known as Stour Wood Farm, situate in the parish of Ramsey, with farmhouse and 167a. 0r. 18p. of land; let at 250*l*. per annum—7,700*l*.

A freehold and copyhold estate, known as Fox's Farm, situate in the parish of Wrapness, near Harwich, comprising a farm-house and buildings, cottage and garden, and 59a. 1r. 14p. of land; let at 90*l*. per annum—2,340*l*.

A freehold estate, known as Milkhurst Toll Farm, situate in the village of Heathfield, Sussex, near Tunbridge Wells, comprising a farm-house, farm buildings, and 150 acres of arable, pasture, hop garden, and wood land, in a ring fence, 60 acres of which are productive wood land—1,320*l*.

The tithe rent-charge, arising out of certain lands in the parish of Dover-court, Essex, producing 300*l*. 16s. 10d. per annum—5,500*l*.

A copyhold estate, known as Panthill Farm, comprising a farm-house, buildings, and 54a. 15p. of arable, pasture, and wood land, 800*l*.

A copyhold estate, called Spithurst, opposite to the preceding lot, comprising a cottage residence and two inclosures of meadow land, containing 7a. 1r. 27p.—600*l*.

By Mr. MOORE, at the Mart.

Two copyhold houses, Nos. 14 and 15, John-street, Limehouse—365*l*.

A house, No. 95, Murray-street, New North-road; held for 96¾ years, at 4*l*. 4s. per annum—370*l*.

A ditto, No. 96, ditto—365*l*.

A ditto, No. 97, ditto—370*l*.

A house and shop, No. 25, East-road, City-road; held for 89¾ years at 6*l*. per annum—305*l*.

A house, No. 21, Arbour-street, Commercial-road; held for 67 years at the ground-rent of 4*l*. per annum—240*l*.

Four cottages in Francis-street, Stratford; held for 88 years at 5*l*. per annum—140*l*.

Four houses, Nos. 18, 19, 20, and 21, John-street, held for 25 years at 10*l*. per annum—135*l*.

A house, No. 1, Wallbrook-street, City-road; held for 60 years at a ground-rent of 3*l*. 10s. per annum—360*l*.

A ditto, No. 2, ditto—265*l*.

A ditto, No. 3, ditto—270*l*.

A ditto, No. 4, ditto—260*l*.

A house and shop, No. 1, Eagle-wharf-road, New North-road, held for 60 years at 3*l*. per annum—450*l*.

By Messrs. VENTOM and HUGHES.

An annuity of 100*l*. per annum, settled on a gentleman after the death of his wife, both in their 44th year—80*l*.

By Messrs. NEWTON and APPLETON, at the Mart.

A freehold estate, comprehending a large residence, standing back from the line of houses, and divided so as to form three separate residences, being Nos. 63, 64, and 65, in Red Lion-street, Clerkenwell; let at 90*l*. 19s. per annum—1,300*l*.

A freehold ground-rent of 58*l*. per annum, issuing out of 15 houses in Red Lion-mews, Clerkenwell, and vacant ground sufficient to erect four more dwellings; on lease for 37 years—1,310*l*.

A leasehold estate, eligible for building purposes; held for 64 years from Christmas, 1844, at a ground-rent of 1*l*. per annum; the premises are situated at the end of Chapel-place, Deptford, and consist of two houses, a cottage, and a carrier's yard, let at 43*l*. 16s. per annum—390 guineas.

THE MONEY MARKET.

	Sat.	Mon.	Tues.	Wed.	Thurs.	Frid.
Three per Cents. Consols	98¼	99½	99½	99¼	99¼	98¾
Three per Cents. Reduced	99¾	99½	99½	99½	99½	98¾
New Three-&-a-quarter per Cts	102½	102	102¼	102½	102¼	101¾
Long Annuities..............	11½	11¾	11½	11½	11½	11½
Bank Stock	210½	211¼	211	212½	211½	212½
India Stock	274	275½	275	273½	276	272
India Bonds, prem.....	68	70	70	71	72	67
Exchequer Bills, prem.	51	51	50	49	48	47½
FOREIGN.						
Spanish Five per Cents..	27¾	27½	27½	27½	27½	27¾
Spanish Three per Cents.	38½	38½	38½	38½	38½	38½
Russian	118¾	118½	119¼	119¼	119½	119¾
Peruvian..............	39	31¾	31	36¾	38½	39
Portuguese	64½	64½	64½	65½	63	62½
Mexican...............	35⅞	35½	36	35	36	32⅞
Deferred	19½	19½	18½	19½	19½	18¾
Dutch Two-and-a-Half per Cents..........	63½	63¾	63½	63¼	62¼	61½
——— Four per Cents.	99¼	98½	99½	100¾	103½	99¾
Danish	89½	89¾	89¼	90¼	90	90¼
Colombian	17½	17½	17½	18½	18½	18½
Chilian	102	102¾	102¾	103	102	102½
Buenos Ayres	49½	49½	48¾	49¾	49¼	46½
Brazilian..............	90	90½	90½	90	90½	90⅞
Belgian	100½	99¼	99½	100½	100½	100½

THE GAZETTES.

AMOUNT OF DIVIDENDS DECLARED.

The sum stated as the Dividend means so much declared in the Pound. The Assignees, when chosen, follow this statement.

Tuesday, Sept. 9.

Matthews, B. S. T. oilman, last exam. passed.—*Ventura*, I. de J. merchant, last exam. sine die.—*Wrake*, M. jun. bricklayer, last exam. passed.

Wednesday, Sept. 10.

Solly and *Solly*, merchants, div. S. sen. next week. Pennell, London.

Friday, Sept. 12.

Best and *Snowden*, printers, last exam. Oct. 13.—*Clark*, W. baker, last exam. passed.—*Curtis*, J. H. bookseller, last exam. passed.—*Peake*, J. miller, last exam. passed.—*Tunks*, J. market-gardener, last exam. Oct. 13.—*Walker*, H. D. innkeeper, last exam. passed.—*Walter*, J. H. ironmonger, last exam. Nov. 14.

DIVIDENDS.

Bankrupts' Estates.

Official Assignees are given, to whom apply for the Dividends.

Baldwin and *Co.* drapers, 8s. Bell, London.—*Batt* and *Batt*, silk dealers, sep. J. Batt, 4s. Pennell, London.—*Beard*, J. builder, 15s. 8¼d. Whitmore, London.—*Burton*, W. upholsterer, 7s. 10d. Whitmore, London.—*Colt*, W. H. grocer, 1s. 5d. Follett, London.—*Cook*, H. P. victualler, 4s. 8d. Edwards, London.—*Crossfield*, A. scrivener, 1s. 4d. Edwards, London.—*Fowler* and *Green*, merchants, no further div. of Fowler. Graham, London.—*Goodere*, W. S. brickmaker, 1d. Whitmore, London.—*Gorton*, T. jun. bookseller, final, 5s. 9d. Belcher, London.—*Halford* and *Co.* bankers, none made. Edwards, London.—*Hall*, T. butcher, first, 4s. 9d. Bittleston, Birmingham.—*Hook*, J. brickmaker, 2s. 6d. Whitmore, London.—*Izon*, T. merchant, final, 5-6ths of a penny. Bittleston, Birmingham.—*Jolley*, J. builder, final, 6d. Follett, London.—*Lakin*, T. builder, second and final, 1¼d. Bittleston, Birmingham.—*Lamb* and *Lamb*, engineers, first, 2s. 6d. Bittleston, Birmingham.—*Leceane*, L. C. merchant, 1s. 10¾d. Graham, London.—*Libbis*, S. innkeeper, 2s. 1d. Edwards, London.—*M'Donell*, G. wine broker, 7d. Follett, London.—*Mills*, W. H. wine merchant, *sine die*. Pennell, London.—*Morris* and *Co.* drapers, first, 18s. 6d. Bittleston, Birmingham.—*Poynter*, W. warehouseman, 3s. Pennell, London.—*Roberts*, W. K. grocer, 6s. Green, London.—*Robinson*, E. B. grocer, first, 3s. Bittleston, Birmingham.—*Scott*, W. wine merchant, 6d. Johnson, London.—*Shotter*, F. grocer, 1s. 3d. Whitmore, London.—*Solly* and *Solly*, ironmasters, second and final, 6d. and 1-38th. Bittleston, Birmingham.—*Southern*, J. grocer, second and final, 5¼d. Bittleston, Birmingham.—*Stevens* and *Co.* road contractors, joint, 1¾d. Groom, London.—*Symonds*, S. Blackwell-hall factor, 1d. Johnson, London.—*Tarver*, J. ironfounder, none made. Edwards, London.—*Underhill* and *Co.* linen drapers, further joint, 1s. 9¼d. Pennell, London.—*Underwood*, W. grocer, 20s. Alsager, London.—*Williams*, G. draper, none made. Edwards, London.—*Woollett*, J. merchant, 0¾d. Alsager, London.—*Young*, W. nurseryman, *sine die*. Bell, London.

Insolvents' Estates.

Edrich, B. corn dealer, Gorleston, 8s. 6d.—*Edwards*, R. F. grocer, Chapel-st. Grosvenor-sq. 1s. 7d.

ASSIGNMENTS

To Trustees for the benefit of Creditors.

Gazette, Sept. 12.

Buckland, J. yeoman, Hamble, Southampton, July 19. Trusts. H. Middleton, esq. Nutshalling, and W. H. Newman, gent. Southampton. Sol. Patterson, Southampton.—*Fitton*, C. draper, Plymouth, Aug. 13. Trusts. J. Bradbury, warehouseman, Aldermanbury, and W. White, warehouseman, Cheapside. Sols. Hardwick and Davidson, Weavers'-hall.—*Hunt*, J. grocer and draper, Thetford, July 17. Trusts. J. Everitt, jun. grocer, East Harling, and R. Butcher, grocer, Norwich. Sols. Faux and Colman, Thetford.—*Richards*, H. zinc worker, Manchester, Sept. 6. Trust. W. Burr, lead merchant, Shrewsbury. Sol. Foster, Manchester.

Bankrupts.

DATE OF FIAT AND PETITIONING CREDITORS' NAMES.

Gazette, September 12.

ADAMSON, JOHN, grocer and tea dealer, Stockport, Sept. 25 and Oct. 16, at twelve, Manchester; Hobson, off. ass.; Coppock, Cleveland-row, St. James's, and Coppock and Woollam, Stockport, sols. Date of fiat, Sept. 8. G. Crosfield, W. Crosfield, J. Crosfield, jun. and H. Crosfield, wholesale grocers, Liverpool, pet. crs.

COOMBES, NATHANIEL GEORGE, coal merchant, No. 20, Craven-st. Strand, Sept. 23, at two, Oct. 28, at twelve, Basinghall-st. Com. Holroyd; Groom, off. ass.; Manning, Craven-st. sol. Date of fiat, Sept. 8. Bankrupt's own petition.

SHARP, ROBERT JOHNSON, victualler, Liverpool, Sept. 23 and Oct. 21, at eleven, Liverpool, Com. Ludlow; Turner, off. ass.; Vincent and Sherwood, Temple, and Jones, Liverpool, sols. Date of fiat, Sept. 8. Bankrupt's own petition.

SOFFE, WILLIAM, print seller and publisher, No. 380, Strand, Sept. 22, at half-past eleven, Oct. 21, at one, Basinghall-st. Com. Fane; Whitmore, off. ass.; Sanger, Essex-st. Strand, sol. Date of fiat, Sept. 8. Bankrupt's own petition.

SUTCLIFFE, JOHN, rectifier and spirit merchant, Halifax, Sept. 23 and Nov. 4, at eleven, Leeds, Com. West; Young, off. ass.; Emmett and Allen, Bloomsbury-square, Messrs. Alexanders, Halifax, and Courtenay, Leeds, sols. Date of fiat, Aug. 28. L. Ames, J. Ames, and T. Harris, malt distillers, Bristol, pet. crs.

Gazette, Sept. 16.

COOK, ELIJAH, grocer and tea dealer, No. 11, Little Newport-street, Soho, Sept. 26 and Oct. 23, at two, Basinghall-st. Com. Fane; Whitmore, off. ass.; Elkin, Fenchurch-st. sol. Date of fiat, Sept. 12. F. Baillie, grocer, 50, Newington-causeway, pet. cr.

MACKENZIE, RODERICK, commission agent, Hunter-st. Brunswick-sq. and Bond-court, Walbrook, Sept. 23, at one, and Oct. 23, at half-past one, Basinghall-st. Com. Fane; Alsager, off. ass.; Kinsey, Bloomsbury-sq. sol. Date of fiat, Sept. 11. Bankrupt's own petition.

OWEN, HUGH JONES, surgeon and apothecary, Madeley, Shropshire, Oct. 7, at ten, Oct. 25, at twelve, Birmingham; Christie, off. ass.; Motteram and Knowles, Birmingham, sols. Date of fiat, Sept. 8. Bankrupt's own petition.

STEVENSON, JOHN, china and glass dealer, 26, Frederick-place, Hampstead-road, Sept. 23, at half-past twelve, Oct. 23, at one, Basinghall-street, Com. Fane; Alsager, off. ass.; Long, Clarendon-sq. sol. Date of fiat, Sept. 12. J. Stevenson, pianoforte maker, 63, Great Titchfield-st. pet. cr.

TAYLOR, JAMES, ADSHEAD, ADAM, GARNER, SILAS, WARREN, JOSEPH, and HULME, WRIGHT, all of the borough of Stockport, and BARNES, WILLIAM, of Ratcliffe-bridge, Lancashire, cotton manufacturers, carrying on business at Stockport, Lancashire, Sept. 30 and Oct. 21, at twelve, Manchester; Pott, off. ass.; Coppock, Cleveland-row, St. James's, and Coppock and Woollam, Stockport, sols. Date of fiat, Sept. 2. R. Harlow, brass founder, Heaton Norris, pet. cr.

PARTNERSHIPS DISSOLVED.

Gazette, Sept. 9.

Duckett, D. and *Palmer*, H. drapers, Brighton, Sept 5. Debts paid by Duckett.—*Faircloth*, C. and *Armstrong*, A. accountants, Lad-lane, Sept. 8.—*Haimes*, W. and T. lace glove manufacturers, Melbourne, Derbyshire, Aug. 29. Debts paid by Thomas Haimes.—*Henderson*, J. sen. and jun. mercers and drapers, Taunton, Sept. 2. Debts paid by Henderson, jun.—*Hews*, R. F. and G. tailors, Storrington, Sussex, Sept. 3.—*Hodgson*, M. and A. J. boot makers, Liverpool, Aug. 7. Debts paid by M. Hodgson.—*Holbeck*, J. and *Jennens*, J. gold lacemen, Princes-street, Hanover-square, Sept. 5. Debts paid by Holbeck.—*Hyde*, W. W., *Dutchman*, J. H. and *Johnson*, C. auctioneers, Hull, Aug. 30.—*Johnstone*, R. baker-st. Pentonville, *Fockton*, W. Rotherhithe, and *Brooke*, J. W. Baker-st. Pentonville, owners of a patent for the manufacturing of lamps for the combustion of naphtha, Sept. 5.—*Kennedy*, H. and J. drapers, Taunton and elsewhere, Aug. 16.—*Lloyd*, J. and *Parker*, R. K. builders, Lower Homerton, Aug. 1.—*Pearce*, P. and *Chater*, W. grocers and drapers, Haverhill, Suffolk, Sept. 4. Debts paid by Pearce.—*Smith*, T., *Bell*, B. and *Coutts*, C. J. ship-brokers, Water-lane, Great Tower st. so far as regards Coates, April 30.—*Tilby*, T. M. I. and *Clover*, G. R. metal merchants, Liverpool, Sept. 5.—*Walker*, W. surgeon, and *Walker*, H. chemist, St. John-st. Jan. 1.—*Webster*, J. and *Staley*, T.

grocers, Stockport, Aug. 18. Debts paid paid by Thomas Staley.

Gazette, Sept. 12.

Dart, R., G. P. and J. H. of Terceira and St. Michael, June 30. Debts paid by G. P. Dart at Terceira, and J. H. Dart of St. Michael.—*Ellis*, C. and *Stimson*, G. whitesmiths, Sheffield, Aug. 16.—*Firmstone*, J. P. and J. iron merchants, Highfields Iron Works, near Bilston, and Warnford-court, Throgmorton-st. Sept. 2. Debts paid by J. P. Firmstone.—*Hyndman*, J. and *M'William*, W. tea dealers, Swansea, Sept. 8. Debts paid by M'William.—*Jones*, G. and *Hughes*, R. D. slate merchants, Pimlico, Sept. 9.—*Lowe*, G. and *Burt*, C. decorative paper hanging manufacturers, High-st. Stoke Newington, Sept. 9.—*Laycock*, W. and *Boothroyd*, H. dyers, Lepton, Sept. 8.—*Metford*, J. jun. and *Jennings*, R. ironmongers, Southampton, Sept. 11. Debts paid by Metford.—*Naylor*, C. T. and *Clegg*, C. merchants, Liverpool, Sept. 6.—*Newman*, J. G. and *Lambert*, R. de, iron merchants, Kendal, Sept. 10. Debts paid by Newman.—*Ridgway*, J. and *Fararger*, F. commission merchants, Valparaiso, Sept. 10.—*Pickup*, R. and *Ormerod*, J. cotton spinners, Bury, Sept. 10. Debts paid by Ormerod. —*Rylands*, J. jun. and *Jones*, W. boiler makers, Warrington, Sept. 10. Debts paid by Jones.—*Silby*, T. and J. F. ship owners, Poole, Sept. 5. Debts paid by J. F. Silby.—*Spiring*, W. M. *Wilson*, J. and *Clift*, S. manufacturing chemists, Westbromwich, Sept. 10.—*Wright*, T. and *Green*, W. coal miners, Little Hulton, March 25, 1843. Debts paid by Wright.

Insolvents

Petitioning the Courts of Bankruptcy.

Gazette, Sept. 9.

PETITIONS TO BE HEARD AT BASINGHALL-STREET.

Smith, M. ginger-beer manufacturer, Providence-place, Kentish-town, Sept. 13, at one.

COUNTRY.

Bate, T. farmer, Broughton, Oct. 2, at half-past ten, Birmingham.—*Beddall*, W. miner, Kingswinford, Oct. 2, at eleven, Birmingham.—*Craig*, J. surgeon, Liverpool, Sept. 12, at eleven, Liverpool. — *Perren*, A. victualler, Coldhorn, Sept. 30, at eleven, Bristol.—*Orphin*, C. out of business, Aston, Oct. 4, at half-past ten, Birmingham.- *Orion*, C. assistant to a butcher, Liverpool, Sept. 18, at half-past eleven, Liverpool.—*Read*, S. shoemaker, Cheltenham, Oct. 3, at half-past eleven, Bristol.

MEETINGS IN THE COUNTRY.

Brigham, Rev. C. Roman Catholic clergyman, Dodden, near Kendal, Oct. 1, Newcastle.—*Taylor*, E. cooper, Bradford, Oct. 1, at eleven, Leeds —*Taylor*, H. A. artist, Whitkirk, Oct. 1, at eleven, Leeds.

Gazette, Sept. 12.

PETITIONS TO BE HEARD AT BASINGHALL-STREET.

Friend, R. painter, Lyminge, near Canterbury, Sept. 30, at eleven.— *Goodburn*, E. stationer, Great Carter-lane, Sept 30, at half-past eleven.—*Myers*, S. no trade, Great St. Andrew's-street, Sept. 30, at half-past twelve.—*Perry*, M. A. teacher of music, Colchester, Sept. 25, at half-past twelve.—*Sturgeon*, C. excise officer, Stanstead, Sept. 30, at half-past one.

COUNTRY.

Gazette, Sept. 12.

Barber, W. cloth maker, Holme, Sept. 23, at eleven, Leeds.—*Cohen*, J. furniture broker, Llangattock, Sept. 30, at half-past eleven, Bristol.- *Dickinson*, J. farm labourer, Garton, near Driffield, Sept. 24, at eleven, Leeds.—*Mirls*, J. butcher, Manchester, Sept. 25, at twelve, Manchester — *Potter*, W. farmer, Ardwick-upon-Dearne, Sept. 24, at eleven, Leeds.—*Rhodes*, J journeyman shopkeeper, Huddersfield, Sept. 24, at eleven, Leeds.—*Rushton*, J. butcher and cattle dealer, Manchester, Sept. 22, at twelve, Manchester.

From the Gazette of Friday, September 19.

Bankrupts.

Robinson, W. M. draper, Burnham, Buckinghamshire.—*Blow*, G. F. currier, Great Dover-street, Newington.—*Harness*, R. L. spirit dealer, Dulverton, Somersetshire.—*Cannell*, J. F. bookseller, Liverpool.—*Meek*, J. coal proprietor, Ruardean, Gloucestershire.

LIST OF SUBSCRIBERS

To the LAW TIMES, *whose names have been received since the publication of the last Supplementary List on the 22nd of March last.*

London.
Asprey, F. 6, Furnival's-inn
Blenkarn, Mr. Law Bookseller, Chancery-lane
Bonner, G. 19, James-street, Buckingham-gate
Burbidge, Edward, 88, Hatton Garden
Burrell, W. F. 33, York-place, City-road
Coles, C. 61, Russell-square
Constable, James M. 50, Threadneedle-street
Cox, Edward, Auctioneer, 106, New Bond-street
De Medina, H. A. 10, Argyle-square, New-road
Duke, T. W. 88, York-road, Lambeth
Fletcher, A. P. 10, Serle-street, Lincoln's-inn
Hall, Frederick, 4, Frederick's place, Old Jewry
Kemp, T. C. 2, Carter-street, Walworth-road
Loat, W. J. Builder, Clapham Common
Mason, Thomas, Auctioneer, Norton Falgate
Matthews, Marmaduke, Auctioneer, 2, Spital-square
Melvin, W. M. Auctioneer, 47, Thornton-street, Brunswick-square
Nettleship, William, 24, Liverpool-street, New-road
Norman, J. O. 89, Chancery-lane
Palmer, William, 7, Gray's-inn-square
Parry, John H. esq. Barrister-at-law, 35, Southampton-buildings
Peachey, James, 17, Salisbury-square, Fleet-street
Pesley, Mr. Auctioneer, Hounslow
Richardson, J. M. Bookseller, Cornhill
Roberts, C. P. 29, Stockbridge-terrace, Pimlico
Stevens, Henry, esq. Barrister-at-law, 30, Chancery-lane
Surrage, John, esq. Barrister-at-law, 77, Chancery-lane
Talfourd, Mr. Serjt. Serjeant's-inn
Thornton and Son, Auctioneers, Fenchurch-street
Toplis and Son, Auctioneers, 16, St. Paul's Churchyard
Trist, George, Auctioneer, 60, Old Bond-street
Turner, Joseph, 2, St. Mary-at-Hill
White and Borrett, 35, Lincoln's-inn-fields
Wilson, C. B. 13, Furnival's-inn.

Alnwick.
Spours and Carr.
Ashton-under-Lyne.
Buckley, Wm.
Audlem.
Machin, W.
Bala.
Williams, William.
Banbury.
Hunt, William
Judge, Thomas J.
Betley.
Grantham, Wilkinson.
Birkenhead.
Fisher, Henry.
Birmingham.
Wright, E.
Birstal, near Leeds.
Battye and Firth.
Blackburn.
Clough, Thos.
Neville and Ainsworth.
Bolton.
Rushton and Armistead.
Brentwood.
Landon, F. N.
Bridgnorth.
Hardwick, Thos. Bell.
Brighton.
Parsons, Jos. Auctioneer.
Bristol.
Parnell, T. S.
Williams, George.
Bromsgrove.
Scott, Thomas.
Burnley.
Pinder, Baynes.
Chard.
Clarke and Co.
Chelmsford.
Gepp, T. M.
Chertsey.
Cole, Richard John.
Chipping Campden.
Cooper, Robert, jun.
Colchester.
Sparling, Turner, and Deane.
Congleton.
Vaudrey, Thomas.
Crewkerne.
Fidcombe, J. James
Lowman, Robert.
Demerara.
Gurnett, P. F.
Dolgelley.
Pugh, David.
Dublin.
Kennedy, Tristram, esq. (Barrister-at-law.)
Durham.
Bignall, William
Hays, John William.
Exeter.
Kingdon, James S.
Fenton in the Potteries.
Mason, Charles Spode.
Glastonbury.
Bullard, J. G. L.
Gloucester.
Dowling, J. H.
Hanley, Staffordshire.
Williams, William.
Hartlepool.
Barker, Peter
Overham, John.
Hereford.
Gwillim, John
Underwood, R.
Honiton.
Guppy, Alfred.
Horbury, near Wakefield.
Rayner, Joseph Bayldon.
Jersey, St. Heliers.
Wilson, Charles Carus.
Keighley.
Hull and Waterworth.
Leamington.
Forder, A. T.
Leeds.
Frankland, William.

Leicester.
Cape, Thos.
Lincoln.
Palethorpe, Thomas.
Liverpool.
Brabner and Haigh
Croft, Henry, at Messrs. Littledale & Bardswell's.
Llandovery.
Harries, Henry Lloyd.
Llanelly.
Grove, Edward E. D.
Loddon.
Brown, Martin.
Lynn.
Archer, T. G.
Manchester.
Ambler, William
Cobbett, R. B. B.
De Lara, M. C.
Fisher, Thomas M. Auctioneer
Nicholls, R. B.
Janion, Jos.
Wheeler, James.
Marshfield.
Beaton, Charles.
Mayfield.
Buss, Benjamin.
Middleborough.
Myers, William.
Middlewich.
Vawdrey, B. J.
Midsomer-Norton.
Mogg, J. F. Y.
Modbury.
Kelly, Thomas.
North Shields.
Tinley, John.
Nottingham.
Cann, Abraham.
Otley.
Smith, W.
Plymouth.
Fauing and Weymouth, law stationers.
Ringwood.
Johns, Henry Tremenheere.
Rochdale.
Sellers, James H.
Ross.
Adams, Francis Hamp.
Shelton, Staffordshire.
Bishop, W. and F.
Soham.
Slack, T. W.
Southwell.
Falkner, Richard M.
Stamford.
Evans, James Eaton.
Stoke Newington.
Corss, Mr. Auctioneer.
Stone.
Dickinson, Edward Tayleur.
Sudbury.
Ransom, Robert, jun.
Sutton Coldfield.
Holbech, Vincent.
Swansea.
Beer, R. W.
Taunton.
Hitchcock, W. J.
Street, J. W.
Thatcham.
Barfield, John.
Thorne.
Beckett, William.
Tonbridge.
Carnell and Graham.
Tring, Herts.
Brown, W. Auctioneer.
Uttoxeter.
Middlewich, J.
Wakefield.
Sykes, Edward.
Walsall.
James, Joseph Green.
Whittlesey.
Peed, John.
Winchcomb.
Trenfield, Dennis.
Winchester.
Waters, Thomas.
Witham, Essex.
Banks, E. W.
Wokingham.
Soames, Francis.
Wolverhampton.
Gough, Ralph
Phillips, Thos. Moss.
Worcester.
Stallard, George
Wintle, A.
Wrexham.
Hughes, Thomas
Jones, William.
York.
Walker, William.

CONTENTS.

THE REPORTS.

Equity Courts.

LORD CHANCELLOR'S COURT.

April 15 *and* 18.

LEWIS *v.* LORD TANKERVILLE.

Practice—Transfer of cause in which costs had been reserved.

A motion had been made in this cause before Vice-Chancellor Knight Bruce, upon which his Honour made an order that the motion should stand over, with liberty for the party to apply to the Lord Chancellor to hear the motion; and that if such an application should not be made, or be refused, the motion to stand dismissed, reserving the costs. In this state of the cause the motion and cause had been transferred to the court of the Vice-Chancellor of England, there being in that court two other causes between the same parties, involving the same question.

James Russell and *Craig*, for the defendant, objected that this would in effect be an appeal from one of the Vice-Chancellors to another, which is contrary to the practice of the Court.

Follett, for the plaintiff.

The LORD CHANCELLOR.—I might hear the motion, and dispose of the costs; and if I direct a transfer of the cause to the Vice-Chancellor of England's Court, I can make it a part of the order that the Vice-Chancellor of England may dispose of the costs reserved.

Craig insisted that the party who had failed in his application before Vice-Chancellor Knight Bruce, which was now admitted to be irregular, ought to pay the costs of that motion.

The LORD CHANCELLOR.—Let the Vice-Chancellor of England decide the question of costs, which has been reserved on that motion, and his decision in point of form shall be ratified by me.

May 1 *and July* 31.

WOOD *v.* ROWCLIFFE.

Misdescription of plaintiff—Security for costs—Practice—Amendment of bill.

Where a person, resident abroad, comes to this country for the purpose of filing a bill in Chancery, and describes himself as of the temporary residence he has here, that is not a proper description of his residence, which is in fact abroad, and he will be compelled to give security for costs.

But when, after such an erroneous description, the plaintiff comes to reside in England, and in an amended bill still continues that erroneous description upon the advice of his solicitor, that it is proper to retain the description contained in the original bill, that will not subject the plaintiff to liability to give security for costs, at the instance of a new defendant, introduced by the amendment, on the ground of wilful misdescription.

Query, whether a plaintiff, having changed his residence since the filing of the original bill, ought in his amended bill to adhere to the original description?

This was an appeal from the decision of Vice-Chancellor Wigram upon an application made on the part of the defendant, that the plaintiff's bill should stand dismissed for not having given security for costs. That application had been refused. The circumstances were these. The plaintiff Wood, who had been residing with his family at Boulogne, came over to this country for the purpose of instituting this suit, and remained in London about a fortnight, during which time he resided with a friend lodging in Great Carter-lane. In the bill, the plaintiff was described as of No. 1, Great Carter-lane. The original bill was filed in November 1843, against the defendant Rowcliffe, and it was amended in November 1844, when Buchanan was also made a defendant. In the amended bill, the plaintiff's place of residence was still described as "Great Carter-lane." In December, 1843, the defendant Rowcliffe had obtained an order that the plaintiff should give security for costs, on the ground that he was in fact resident abroad. On the 19th of December 1844, the defendant Buchanan also moved the Court that the plaintiff should be ordered to give security for costs upon the ground that he was misdescribed in the mended bill. In a support of the application, it was sworn that a person had called at every house in Great Carter-lane to inquire for the plaintiff, and was told that he did not reside there. At No. 1, the landlady said he had slept there for a few nights, about a year previously, with a Mr. ——, who was then her lodger, and that both of them had left one morning early to go to a railway station, and had not been there since. An order that the plaintiff should give security for costs having been made on Rowcliff's application, it was served on his solicitor, but no security had been given. On the 11th of January, 1845, a motion was made by the defendants that the bill should be dismissed, because the order directing security for costs had not been complied with. Upon the hearing of that motion, the plaintiff's counsel stated that he had long been resident in England, and that if his actual residence at the time of the amendment ought to have been stated, it was an omission from a mere mistake of the practice. The Vice-Chancellor then ordered the motion to stand over; and in the following Term the plaintiff moved that the order of the 19th of December, 1844, requiring him to give security for costs, should be discharged, and the two motions came on together. The plaintiff stated that he had been resident in England since the 14th of February, 1844. The plaintiff also stated the various places in England, and the different lodgings and hotels at which he had lived since that time, and that he was then permanently settled at Churton-street, Blackfriars.

Romilly, for the plaintiff.

Kenyon Parker and *H. Clarke*, for the defendant.

The LORD CHANCELLOR.—What is the consequence if, after order that a plaintiff resident abroad should give security for costs, he afterwards come over and reside here?

K. Parker.—The order is not discharged.

Romilly.—The plaintiff finding it necessary, trustee, to file the bill, came over and lodged in Great Carter-lane, and was properly then described as of that place. When the bill was amended, the plaintiff said to his then solicitor, Mr. Nias, "I am not now living at Great Carter-lane, but at Churton-street;" to which Nias replied, that the plaintiff having been described as of Great Carter-lane in the original bill, he must be so described in the amended bill. Upon this, the Vice-Chancellor said the misdescription was a mere error of the solicitor, and that under such circumstances the order for security for costs should not have been made nor should the bill be dismissed; and he directed that the plaintiff should pay the costs of setting the matter right, and that the defendant should have six weeks' time to answer the amended bill.

K. Parker contended that the original bill contained a misdescription of the plaintiff's residence, and cited *Sandys* v. *Long* (2 Myl. & K. 487).

The LORD CHANCELLOR.—I do not consider that the plaintiff's description of his residence in the original bill was a misdescription; but that the residence in Great Carter-lane was not such a residence within the jurisdiction as is required by the practice of the Court, and that, in fact, he was resident abroad. Then he explains the way in which the mistake in the description of his residence in the amended bill was made, and that, in fact, he was then resident in Churton-street. He has given his successive residences in England, and the periods during which he lived at each place. Supposing that statement to be true, it appears to be a satisfactory explanation. Now let us see whether it is true.

K. Parker.—The plaintiff was at hide and seek. The defendant's solicitor had written to Mr. Nias, the late solicitor of the plaintiff, who, in reply, had said that the plaintiff had usually kept him (Nias) in the dark as to his residence. Nias also denied in that correspondence that he had made any such statement as to the necessity of continuing the description of the residence as in the original bill, to which the plaintiff had deposed. Mr. Nias had, however, refused to make an affidavit to that effect, alleging that he did not think it proper to do so against his late client.

The LORD CHANCELLOR.—The affidavit you have read sets out the information received from Mr. Nias, but the deponent does not say that he believes it to be true. I see, however, this is a case of suspicion; that the Court should call upon Mr. Nias to make an affidavit. Altogether, there is so much of suspicion in the case, that I think I ought to hear what Mr. Nias has to say. I shall reserve the costs. The Vice-Chancellor has acted upon the reason assigned by the plaintiff why he was misdescribed; now I have reason to suspect that the fact upon which the Vice-Chancellor proceeded was mis-stated. If Mr. Nias makes an affidavit, I shall attend to it.

On a subsequent day it was stated that Mr. Nias still declined to make an affidavit, and his lordship said, that the plaintiff's explanation was then uncontradicted.

Thursday, July 31.—On the case being again mentioned, the LORD CHANCELLOR said—I thought I had disposed of the whole case. The question is, whether there is any intentional misrepresentation by the plaintiff of his place of residence; and his explanation is contradicted by no affidavit. Mr. Nias has refused to make an affidavit.

K. Parker and *Clarke*, for the defendant, contended that even if the plaintiff's affidavit of his residences in England must be taken as true, he was keeping himself out of sight in consequence of embarrassments; and they compared it to the case of a commercial traveller and a pedlar, who had been made to give security for costs by the Court of Exchequer. (2 Younge & Col. 217.)

Romilly, for the plaintiff, did not deny that the plaintiff had been flitting about, and that he had been in distress. He had been a bankrupt, but had since obtained his certificate. It is not the practice to alter the plaintiff's description on amending the bill.

The LORD CHANCELLOR.—It is clear Mr. Nias knew that the plaintiff did not reside in Great Carter-lane, and that an order that he should give security for costs as to one of the defendants had been made in consequence of his description in the original bill being incorrect. Yet it is said that it was still his duty to adhere to that erroneous description in his amended bill. In the amended bill the plaintiff might be correctly described, adding, "in the original bill, described as of so and so."

Wakefield, amicus curiæ.—That would be to make a new rule of pleading.

Romilly.—The Vice-Chancellor did not decide this point, which is one of great nicety.

The LORD CHANCELLOR.—The whole ground of the motion was on wilful misrepresentation by the plaintiff; and it is not necessary to go into the practice, for the plaintiff has not made an intentional mistake. He was told by his solicitor that he was bound to adhere to the original mistake.

K. Parker.—The new defendant, made so by the original bill, had a right to ascertain the plaintiff's residence. As to the new defendant, the misdescription in the amended bill was plainly wilful.

The LORD CHANCELLOR.—It is not a wilful misdescription, so far as the new defendant is concerned. The plaintiff resides now within the jurisdiction, and in his affidavit he states that he has also brought his family to England. There is nothing to shew that he intends to go back to France. I think there is no ground for supposing he had wilfully misdescribed his residence. Mr. Nias has refused to make an affidavit to contradict the plaintiff's statement, and it is not necessary to follow up the inquiry whether that conversation did take place. He resided within the jurisdiction when the amended bill was filed, and up to the time of the application on this motion. The defendant's motion must be refused, with costs. The defendant may have eight weeks' time to answer.

VICE-CHANCELLOR OF ENGLAND'S COURT.

Saturday, June 28.

ATTORNEY-GENERAL *v.* CORPORATION OF BRISTOL.

Practice—Information and bill—Petition by a person not a party to suit—Sir Samuel Romilly's Act.

A decree had been pronounced and a reference to the Master to settle a scheme on behalf of a charitable foundation, upon an information and bill to administer the charity. Subsequent to the decree, the schoolmaster, with the sanction of the Attorney-General presented his petition, in the information and bill to which he had not been made a party, wherein he complained of having been dismissed by the trustees several years before the date of the decree, and praying the Court to determine the rights, as between himself and the trustees, in reference to the tenure of his office. Held, that the petition, having been presented by an individual who was no party to the record, and raising as it did important questions of right between the petitioner and the trustees, could not be entertained by the Court.

Held also, that the Court possesses no jurisdiction in such a petition, even if presented under Sir Samuel Romilly's Act, but that an original information ought to have been filed.

An information and bill had already been filed in this case by the Attorney-General, at the relation of several persons, inhabitants of Bristol, against the

corporation of that city and the trustees, lately appointed by the Court, of the charities which formed the subject of the suit, and the Court had pronounced a decree on the 28th of January, 1842, establishing the charity and declaring that the property mentioned in the information had become vested in them in trust for the purposes of the charity, and referring it to the Master to ascertain of what the lands consisted, and to take an account of the rents and profits received by the corporation, and, after several consequential directions, the Master was ordered to settle a scheme for the future management and administration of the premises, school, and charity, and the application of the rents and income of the property. The Master had made his report, and the charity estate had been conveyed to the trustees, but no scheme had been approved of for the future administration of the charity, and no proposal had been carried in. In this state of affairs Dr. Goodenough, who had received a notice from the trustees in August 1837, that his engagement as master of the grammar-school was at an end, presented his petition in the information and bill, setting forth the different instruments of conveyance and devise by the several founders of the charities, the letters patent of Hen. 8, the devolution of the trust estates, &c. together with a general history of all the proceedings which had taken place affecting the charity; his own appointment as master in 1812, and the circumstances relating to his attempted dismissal from his office by the trustees; the decree pronounced on the present information, and the subsequent proceedings thereon, and stating that there had been no misconduct or violation on his part of any of the ordinances of the foundation which justified his displacement by the trustees, who had assigned no reason for so doing; and that, having been appointed before the passing of 3 & 4 Vict. c. 77, he could not be removed against his own consent; but that he was willing to surrender his office upon having the arrears of his salary paid, and a pension secured to him under the provisions of 3 & 4 Vict., and praying that it might be declared that, as head master of the grammar-school, he was now entitled to the salary and emoluments, &c.; that the arrears due to him might be paid out of the rents of the charitable estates, and that it might be referred to the Master to inquire whether it would be for the benefit of the charity that he should resign the mastership of the school on being allowed any and what allowance out of the rents and profits as a retiring pension, he thereby offering, on such pension being granted, to retire from his office.

James Parker and *Bigg* appeared to support the petition, but

Bethell and *Blunt*, for the trustees, raised an objection to its merits being gone into, it having been presented on behalf of an individual who was no party to the record, and the Court was now called upon to determine, as between the trustees of the charity and the master of the school, whether he had or had not a freehold in his office, or whether the trustees had a power to remove him from that office. This raised a question which could not be determined except upon an original information; certainly not in its present shape, namely, a petition to an information to which the petitioner himself was not a party. The application was not even made to the Court under Sir Samuel Romilly's Act. (a)

Parker and *Bigg* contended that the objection by the trustees had been taken against good faith, as it was understood between the several parties out of court that the master's right to his office should come before the Court by a petition in the information; but, independently of such arrangement, the Attorney-General had sanctioned the petition, and that, therefore, the Court had jurisdiction to hear it.

Wray, for the Attorney-General, submitted his interests to the Court.

The Vice-Chancellor.—This is a petition presented in the information and bill of the Attorney-General, at the relation of a Mr. Pyle and several other persons, against the Corporation of Bristol and the trustees of the charity; and the object of the information and bill seems to be, in fact, to settle the charity upon a proper footing, and to refer it to the Master to settle a scheme. Dr. Goodenough is himself no party to it, and now he presents a petition praying that the Court will determine a question which in no manner seems to have been determined by the decree made in 1842. But which, if there had been no such decree, must have been determined by an original suit by an information. The Corporation of Bristol, as I understand, do not mean to concede any thing; and all that I have got is this, that the Attorney-General consents to be bound by any thing that may be done upon the petition. The only question, therefore, is, how have I got a jurisdiction constituted as against the corporation?

Bigg.—The case of *Chipping Sodbury School*, as reported in 8th Law Journal, is a sufficient authority for your Honour's jurisdiction.

The Vice-Chancellor.—Was not that a petition under Sir Samuel Romilly's Act?

Bigg.—I suppose it must have been; although, upon searching the registrar's book, I do not find the Act referred to. The petition is only intituled in the matter of the charity.

The Vice-Chancellor.—This petition is presented for the purpose of determining with reference to a past transaction, namely, whether or not the Corporation of Bristol have that power which they profess they have.

Parker.—The *Ludlow Charity* case is exactly in point. What took place was as follows:—An information had been filed for the administration of the Ludlow charities; pending that information the relators and the defendants think of a compromise, and they are about to obtain an Act for that purpose. The schoolmaster, who was no party to the suit, presents a petition, and, having obtained the Attorney-General's sanction, comes in most adversely, and procures a reference to the Master to inquire as to the propriety of such compromise. At every stage he is fought, and was admitted by the Court as a party *litigant* in that suit, because the Court had, by means of the information, the whole administration of the charity property.

The Vice-Chancellor.—I am not now referring to the particular circumstances, but to the general point which was decided. It was this, that though Sir Samuel's Act gave jurisdiction for the regulation of a charity already constituted, yet, that it offered to the Court no power whatever to determine, as it were, originally what the constitution of the charity should be; that is the point.

Parker.—We do not profess to come here under Sir Samuel Romilly's Act; it is merely a proceeding in the information, this Court having the full administration of the charity by means of the decree which has been pronounced.

The Vice-Chancellor.—This petition, it strikes me, is not presented merely for the purpose of determining what ought to be done in the current course of management; but it is presented in such a manner as must necessarily involve the question as to what was the right of the trustees by law in the year 1837.

Bigg.—If that be your Honour's opinion, I should submit that, rather than drive Dr. Goodenough to file an information, the Court will follow the case of the *Chipping Sodbury School*, wherein your Honour decided that it being a grammar-school, a schoolmaster has *primâ facie*, in the absence of any thing else, a freehold office, or an office during good behaviour; that he cannot be dismissed without a good cause shewn; and that he was entitled not only to be retained in his office, but to be protected by an injunction against the proceedings in the ejectment which the trustees had instituted against him. That case was heard upon an appeal to the Lord Chancellor, who confirmed your Honour's judgment; but if the Court is of opinion that the technical difficulty is so great that it cannot be got over, your Honour will allow this petition to be instituted under Sir Samuel Romilly's Act, and to allow the Attorney-General to sign it.

The Vice-Chancellor.—It rather appears to me, that if the petition had been presented under Sir Samuel Romilly's Act, even that form of proceeding would not have afforded me jurisdiction over the question upon the abstract right. It is true I do not remember all the particulars of the *Chipping Sodbury* case, but I rather think that there the question was not respecting the abstract right or the constitution of the school, but it fell within the second part of Sir Samuel Romilly's Act, which empowers the Court to make regulations.

Bethell.—It is precisely the same which Lord Redesdale pointed out, where there exists no question among the persons interested in the trust; and the Court has acted upon it a dozen times.

Parker.—You refer to a case where the question arises with a party out of the charity. Surely, under the Act, a question between the schoolmaster claiming as an object of the charity and the trustees can be adjudicated upon.

The Vice-Chancellor.—I admit that in those cases wherein the rule is clear, and the only question is, whether the parties have acted according to the rule or not, that might be determined upon petition; but where the question is on what I would call the original constitution of the charity, whether certain persons called governors or trustees have a given authority; that is a question touching the original constitution of the school, to be decided only upon an information. I am quite satisfied in my mind that in the petition of the Chipping Sodbury school the point did not arise, because there had been so much talk about it. It was a matter known to all the Profession. The very fact that the objection was made by Sir Anthony Hart in the way that it was, was sufficient to call the attention of the Profession to the circumstance, and I do not believe any one had the least doubt what the question really was; and if there had been no such solemn decision in the House of Lords, every one would have acquiesced in that which ultimately was the decision. Therefore I am satisfied that no such point ever did or could have arisen.

Bigg.—We are not at present under the Act of Sir Samuel Romilly, and we thought that the Court would adjudicate as between the trustees and the schoolmaster where there was an authority for so doing.

The Vice-Chancellor.—The Court might adjudicate upon the question whether a given course of conduct, which was to be maintained by the rule, was in pursuance of the rule.

Bigg.—The Lord Chancellor in the case referred to entered into the question, whether, upon looking into the original deeds on the endowment of the school, it was a free grammar-school; and having ascertained the fact, he arrives at that important conclusion, that where it was a grammar-school the office of the master was freehold.

The Vice-Chancellor.—As I best recollect the *Chipping Sodbury* case, the circumstance of which the master complained made a considerable impression upon me at the time, because it appeared to have been one wherein there was a most tyrannical and arbitrary exertion of power. The question was, had there been any abuse of an acknowledged power. But the question now here raised is, whether the trustees have the power at all. It may be true that a certain transaction took place in the year 1610, in the shape of a decree, which might be held, as it partly appears to have been held by the decree, unavailing. But if part of the case only is made to rest upon it, how is it to be determined upon a petition? It really does seem to me that what has been acknowledged to be the rule respecting proceedings under what is commonly called Sir Samuel Romilly's Act is a rule which shews me that I have no jurisdiction even under his Act. As a petition in the case, it is perfectly certain that the cause does not authorize me to enter into this question, which relates to certain transactions which took place five years before the decree was made.

Petition dismissed, with costs.

ROLLS COURT.

July 8 and 15.

Sturge *v.* Dimsdale.

Practice — Unopposed petition — Fees to senior and junior counsel, allowance of — Appointment of new trustees — Payment of money out of court.

Both senior and junior counsel's fees on the taxation of a solicitor's bill of costs may be allowed, though given for their appearance in support of an unopposed petition, which often requires as much care and attention as an opposed petition.

The general principle of such allowance rests upon the ground of the assistance which the Court is entitled to have from counsel, and which it cannot have entirely from those of either the junior or senior bar.

Experience, knowledge, and skill are required in counsel to find out what is necessary to be stated to the Court, and a junior counsel is not always able to give that assistance.

Ann Dimsdale, by her will, bearing date the 21st of March, 1834, gave the residue of her property to ten charitable institutions (of which the British and Foreign Bible Society and the Moravian Missionary Society were two), and appointed Martha Young, Young Sturge, and Peter Challacombe executors and trustees. The testatrix died in July 1836, and soon after a suit was instituted for the administration of her estate, in which a final order was made on further directions on the 9th of June, 1843. Martha Young being the only surviving trustee, and being desirous of being discharged from the office, presented a petition on the 25th of May, 1844, for the appointment of new trustees, stating the will, the suit, and all the proceedings consequent thereon; and also stating that the trust fund was then standing vested partly in the name of the petitioner, partly in the name of the testatrix, partly in the name of Young Sturge, and partly in the names of the petitioner and Young Sturge; the amount of the fund being over 25,000*l.* On the 24th of June, 1844, an order was made on the petition, referring it to the Master; and on the 26th of July the Master made his report. On the 27th of the same month a petition was presented to confirm the Master's report, and on the 30th an order was made thereon, directing the appointment of the trustees according to the report; that the Master should have a good deed of trust prepared; and that there should be a reference to the Master to tax the petitioner and all parties appearing their costs of the order of reference of the 24th of June, 1844, and those relating to the petition to confirm. On the taxation the Master disallowed the item of the bill of costs of the petitioner's solicitor, which related to the fees and other expenses attendant upon the briefs delivered to senior counsel, both as to the petition to appoint new trustees and the petition to confirm the Master's report, on the ground, as was alleged, that it was sufficient to employ a junior counsel alone in the case of an unopposed petition. On the 31st of May the Taxing Master issued his certificate; the bill of costs, amounting to 215*l.* 3*s.* 3*d.* being taxed at 180*l.* 9*s.* 5*d.* The item which was objected

(a) The 52 G. 3, c. 101, intituled "An Act to provide a summary remedy, in cases of abuses of trusts created for charitable purposes," under which Act any two or more persons may present a petition in respect of the charity, provided they have a direct interest in the (*Re matter of Bedford Charity*, 2 Swan. 518.

to only amounted to 10*l.* 7s. 8d. The petitioner now applied for an order to the Master to review his taxation; and after stating at length the whole of the proceedings, the petition prayed that the Taxing Master be ordered to review his taxation, and to allow all or such items as the Court should think fit; or that the petitioner might be at liberty to file exceptions to the certificate of the Master, &c.; and that the costs of this application might be paid out of the same fund as the other costs ordered to be paid by the order of the 30th of July, 1844. The senior counsel employed by the petitioner to support the two petitions in reference to the appointment of new trustees had not been the counsel of the petitioner and her co-plaintiff, Young Sturge, in the prosecution of the suit, but had acted all along on behalf of the remaining eight charities, other than the two already mentioned.

Turner, for the petitioner, contended that the Taxing Master ought to have allowed the item in question, because the case was one of sufficient importance to render it necessary to have the assistance of a senior as well as a junior counsel; inasmuch as the proceeding was to affect the administration and disposal of funds over 25,000*l.* being the remainder as yet undisposed of, and as the funds were standing in different names. The senior counsel, also employed by the petitioner, had been employed in the cause all through, and the junior was the counsel who had settled the pleadings, and therefore it was right to have the aid of both to protect the petitioner and the other parties not before the Court. The petition was that of a trustee to be discharged from the trust; and therefore, unless that was properly done, the trustee would continue liable always to the *cestui que* trust, and the trusts being complicated, the petitioner was entitled, at the expense of the estate, to have for her protection both a senior and a junior counsel in all applications to the Court, but especially that for the appointment of new trustees. Besides the benefit of retainer to the senior counsel would have been lost if he were not employed in support of the petition. In *Cooke* v. *Turner* (12 Sim. 649), the ground for allowing the double fee was in order to instruct the junior bar.

Bacon, for the British and Foreign Bible Society and the Moravian Missionary Society, did not not think it was necessary to controvert the proposition of the other side, that on most occasions it was proper to have more than one counsel; nor had the Master done so, but had merely said that, in the exercise of his discretion in the particular case, he considered one counsel sufficient, as there was no question to be argued which would render the employment of two necessary. The cause had been heard, and a final order made, and therefore there was nothing more to be done. No grounds had been laid, except the general principle, for the employment of more than one counsel, unless the allegation that petitioner, having retained counsel, would lose the benefit of the retainer by not employing the senior counsel, can be considered a ground. But there was nothing for him to do, and the Master had in his discretion, therefore, disallowed the charge. The case of *Cooke* v. *Turner* is not in point; for this is the case of a suit ended, and all that is needed is to tell the Court the progress of it up to the present time, for which purpose there was no use for two counsel. If there was any prospect of litigation, such a course might be proper; but when nothing of that kind is or can be contemplated, it was unreasonable to burden the fund with large costs. The petition also complaining of the taxation, sets out the will and the subsequent proceedings at length; but it was useless to rehearse the circumstances on every occasion, particularly in petitions which were merely of course.

Turner, in reply, contended that the petitioner had a right to be discharged at the expense of the testator's estate, and to have the benefit of the retainer. The case required great care, and the trustee must be duly discharged, and the funds duly transferred to the new trustees, else the petitioner would remain liable. The fund remaining unadministered is of large amount, and standing in different names, and the assistance of counsel in making the transfer, &c. was therefore necessary. Unopposed petitions require great care, and the rule contended for would be prejudicial to the course of business. The length of the petition was rendered necessary because of the course pursued by the Master. It would have been useless to make a simple statement of the Master's refusing to allow the item in question; it was absolutely necessary to state all the facts and dealings with the trust-fund.

The MASTER of the ROLLS.—I shall not make any order on this petition till I have had some communication with the Taxing Master. This is the case of proceedings on an unopposed petition. These petitions are of the utmost importance, and by them large sums of money are disposed of; and they are frequently of great complication, and are therefore not to be understood without the application to them of a well-experienced mind, nor without the most careful attention; and if I had not the assistance of able counsel, I could not in many cases come to a satisfactory conclusion. The cases depend on a variety of circumstances, not only to be considered out of court, but occurring during the course of proceedings, and the assistance of experienced leading counsel is necessary to be had to dispose of them properly. No case was less safe in which to lay down a general rule than that of unopposed petitions. Their complication is often great, and not to be understood without much care; and payments of money out of court are made upon them to the enormous amount of 4,000,000*l.* in the year, not to speak of transfers to an equal amount; the notion, therefore, of depriving the Court of the assistance of able and experienced counsel was entirely out of the question. But cases may and do occur so plain and simple, that the assistance of counsel is not required at all, and in such cases I am desirous, if I can accomplish it, to render a simple application by the solicitor to one of the officers of the court sufficient, without the intervention of counsel. The present is not a case of that kind. There is a new trustee to be charged with the trusts, and an old one to be released from the duty, and therefore the proceeding is one of much importance; and as there may be reason to do as the Master has done, I shall inquire what were his grounds. There is no difficulty about the general principle, it does not rest on the doctrine of retainer, nor upon the other grounds put forward, but the true ground is, the assistance the Court is entitled to have, and which it cannot have entirely from counsel of either the one or the other class. I mean no disrespect to the junior bar, but it is matter of experience that, where assistance is wanted from counsel, I cannot rely on the junior bar, and that many times I am unable to dispose of petitions in which they appear, and which it is often necessary to let stand over till the assistance of senior counsel be obtained. Experience, knowledge, and skill are required to find out what is necessary to be stated to the Court; and from concealment of this necessary information a judgment is obtained, and a petition unopposed, and property paid over to persons who have no right to it, to the prejudice of others, and justice fails to be done, and an injury inflicted which cannot be repaired. I shall see the Master on the subject.

His Lordship, on a subsequent day, intimated that he had seen the Master, who had informed him that he had asked for the vouchers for the payment of the sum in question, and that they had not been produced to him, which was a sufficient reason in itself for the disallowance.

Turner, on a subsequent day, applied for leave to put in an affidavit to explain what took place in the Master's office, but his Lordship refused the application, at which he expressed himself surprised.

Monday, July 21.

TUCK *v.* RAYMENT.

Practice—Master in rotation—Irregularity—Reference and application.

When the clerk of records and writs (formerly a six clerk) gives his certificate as to the state of a cause, if the Master has not been already fixed for attending to the business in the cause, the practice is to carry the certificate to the sitting Master to have marked upon it the Master in rotation to whom the reference or application is to be made, and then to return it to the clerk of records and writs. but it is irregular so to do, if by any proceeding the Master to take charge of the business in the cause has been already fixed, for then every application should be made to him. but, under the circumstances of the case, indulgence was granted.

Any application in the cause is a reference to satisfy the Orders of 21st December, 1833.

This was an application by the plaintiff to the Court to order that one of two Masters, who both repudiated the jurisdiction, should hear exceptions taken to the answer of a defendant in the cause.

Addis, for the plaintiff, said that the plaintiff had, on the 9th of June, 1845, excepted to the answer of one of the defendants for insufficiency, and that, on the 20th of the same month, an order of reference was obtained, which was, accordingly, carried to the Master's office (public) first, and marked with the name of Master Brougham, as the Master in rotation. A warrant was then, on the 23rd of June, taken out for the 2nd of July, and on the parties attending on that day, an objection was taken to Master Brougham's hearing the exceptions, and he thereupon refused to do so. They say, on the other side, that they applied to a vacation Master (Sir W. Horne) to enlarge the time to answer, and that therefore he was the proper Master to apply to here; but he refuses to take cognizance of the matter, because he is not the Master in rotation. The plaintiff is, therefore, deprived of the benefit of his exceptions, the fortnight having expired. But it is clear that Master Brougham was the proper person to apply to, and it does not follow, because the vacation Master gave time to answer, that he is, therefore, the person to proceed with the other business in the cause. The 16th order of the 21st December, 1833 (Beav. Ord. 48), says, that as to all bills where a reference is made, the name of the Master, &c.; shewing that where there has been only an application, but not a reference, the order applies, and therefore Master Brougham is the Master to hear these exceptions. The 25th of the same orders provides for an application to the vacation-Master; but it does not follow, therefore, that if such an application be made, all the rest of the business must necessarily go to the same Master. [The MASTER of the ROLLS.—You say the first was not a reference, but only an application. The question depends upon whether you should have got an order for the Master in rotation or a special order to Sir Wm. Horne.]

Greene, contrà.—I cannot recognise my own case in the description of it just given. The affidavit does not state the fact where it says there had been no previous reference; there was a reference to Sir Wm. Horne, not as vacation Master, but as Master in rotation. The certificate of the clerk of the records and writs is to that effect, which certificate is dated 3rd February, 1845, and was made in consequence of an application for a month's time to answer. On the 2nd of March, a warrant was taken out for the 6th for further time before Sir Wm. Horne, and on the 17th another warrant for the 20th, when time was granted by the same Master. Their reference was in June, after all these orders for time, and what do they do then? They go not to the clerk of the records and writs, to whom the duty is now transferred from the six clerks, but to the Masters' public office, and get Master Brougham marked down as the Master in rotation. The affidavit calls Sir William Horne the vacation Master, but he was not. The substance of the application is to obtain an enlargement of the time to except. They had no business in the Masters' public office at all, unless on the occasion of the first attendance on the 3rd February, to ascertain the Master in rotation, who was the Master for every subsequent application. They therefore misled the officer.

Addis was unwilling that the error should be fastened on his client, and not on the Master. It is said that the order of reference should not have been dealt with as we have done. [The MASTER of the ROLLS.—The clerk of records and writs gives his certificate as to the state of the cause, and it is carried to the Master's office, and there marked, and then carried back to the clerk of records and writs.] No application was ever made by us. [The MASTER of the ROLLS.—What about the orders for time?] They were made by the defendants; the first order of reference we obtained was this one. The sitting Master altered the name of Master Brougham to that of Sir William Horne. He cited *Burrell* v. *Nicholson* (6 Sim. 213).

The MASTER of the ROLLS said he had a strong disposition to set the matter right, if there was a proper case made out for doing so; but the case set up was not one of *peccavi* on the part of the plaintiff, but an attempt to shew the Master was wrong. The notice of motion had reference entirely to an application for an order to the Master to hear the exceptions, and the usual general relief is asked; and now I wish to hear what are the merits on which to found it.

Addis said he relied on the fact of the plaintiff being a pauper, and that the defendant, having got three delays to answer, now attempts to prevent the plaintiff from being heard on circumstances connected with that indulgence to himself. The certificate of the 3rd of February, 1845, was never seen by us. [The MASTER of the ROLLS.—Yes, it was at the first attendance. Shew me it is necessary to the justice of the case that the motion be granted.] Oh! it is sworn that it is material and essential to the ends of justice.

Greene, contrà.—The suit is a suit to redeem, and my client is the assignee of an insolvent debtor; and, for the saving of expense and the satisfaction of the plaintiff, I recommend my client to answer and give an account rather than demur, which he might have done. The security, moreover, is insufficient.

Addis, in reply.

The MASTER of the ROLLS.—That a pauper case is often the most vexatious, no one who has had any experience in the business of the court can have any doubt; and, from blunders of the parties who are ignorant, there often arises vastly more vexation than is intended. However, in this case there was occasion, in February last, to make application to the Court to obtain time to answer, and a certificate was given in the clerk of the records and writs' office as to the state of the cause, which was carried to the sitting Master, and marked with the name of the Master in rotation, and returned; and the then Master in rotation was Sir William Horne. It is admitted that there were attendances on that application, and the plaintiff knew who was Master in rotation for the business in the cause. The answer was then put in, and exceptions being taken to it, they were referred. Now, nobody who has read the orders of the 21st of December, 1833, and knows the practice of the Court, can have any doubt that the order of reference of the exceptions should have been to the former Master, to whom the application of the 3rd February had been made. But it was to the Master in rotation, and it was taken to the public office to ascertain who was Master in rotation, and Master Brougham's name was inserted. The attendance was accordingly on the 2nd July, and

it was objected that Master Brougham was not the Master in rotation, as he had been fixed by the prior proceeding. It having been ascertained that the former application had been before Sir Wm. Horne, his name is inserted at the p.. .... office by the sitting Master, and that of Master Brougham erased. Now, Sir Wm. Horne was not the Master in rotation *then*, but was so at the time of the former application. However, the name being altered, Sir Wm. Horne at first entertained the application, and wasted time precious to the plaintiff before he satisfied himself that he was not then the Master in rotation. A mistake has been make, and I am anxiously looking for grounds for indulgence. ot act on the motion to order the Master to consider the exceptions—it is a mistake enough. The attorney' clerk says it is essential to the ends of justice, but some better evidence is wanted. If I have a *bonâ fide* certificate, and that no vexatious or harassing proceeding is intended, I will grant indulgence. It is fairly said on the part of the defendants, that they wished to save expense, and to satisfy the plaintiff. Let there be an affidavit by the plaintiff and his solicitor.

July 21 and 31.

DODD *v.* GOODWIN.

Practice—Exceptions for impertinence—Orders of April 1828—Abandonment of old and filing of new exceptions.

The time allowed by the orders of 1828 for setting down exceptions for impertinence having expired, they cannot be abandoned, and new exceptions to the same effect and by the same parties filed in lieu of them.

In this case the answer was filed on the 17th of June last, and exceptions for impertinence were filed on the 9th July, but not being set down by some oversight in time, on the 16th July new exceptions of the same kind were taken in by the same parties, but the clerk of the records and writs refused to enter them for that reason.

Bilton now applied for an order for leave to file them, and read the 11th and 12th orders of April 1828. Amendments might be abandoned and new ones made. [The MASTER of the ROLLS.—It is in effect getting the time extended for taking the exceptions. What will you do with the other exceptions?] Take them off the file.

The MASTER of the ROLLS.—You can move to do so, and give notice to the other side. I will speak to the clerk of records and writs.

Thursday, July 31.—His Lordship intimated his opinion that the motion could not be granted.

Thursday, July 24.

WINCKWORTH *v.* WINCKWORTH.

Will, construction of—Vesting, subject to be divested.

A gift by a testator of his residuary estate to trustees for the benefit of his children, share and share alike, with a direction to them to pay only one moiety of their shares to daughters at twenty-one or marriage, and the interest of the other moiety to them for life, and at their decease to pay that moiety to their children, confers upon a daughter a vested absolute interest in that moiety, subject to be divested on there being children: therefore the will of a daughter who had arrived at twenty-one, but had never been married, gave to her legatees both moieties of her share.

John Winckworth, by his will of the 17th of October, 1801, gave the residue of his personal estate to the trustees of his will, upon trust for the benefit of all his children, share and share alike, their shares to be paid to sons at twenty-one, and a moiety of the shares of daughters to be paid to them at that age or marriage, and the interest of the other moiety to be paid to them for life, and the moiety itself to go to their children at their death. The testator appointed his wife, Margaret Winckworth, his son, Edward Winckworth, and John Soward, his executors and trustees; but by a codicil he revoked the appointment of the latter, and substituted Thomas Dawson and James Hugo Greenwell in his stead. In 1803 the testator died, leaving his widow and seven children, Edward, Henry, James, John, Henrietta, Lucy, and Eliza him surviving. The will was proved, and an administration suit (*Winckworth* v. *Greenwell*) was instituted, the children, who were all infants, being plaintiffs. In August 180: the cau was heard and the usual reference ordered. Various proceedings were afterwards taken, and an apportionment of the residuary estate which had been realized was ultimately, on the 8th of July, 1826, ordered, and the sum of 2,436*l*. 7s. 10d. Consols was entered to "the account of the plaintiff, Henrietta Winckworth." In 1829, Margaret Winckworth died, having by her will of the 27th of May, 1827, appointed the petitioner, John Winckworth, her sole executor. On the 27th of December, 1844, Henrietta Winckworth died unmarried having by her will of the 29th July, 1829, and codicil of January 11, 1838, appointed the petitioner, John Winckworth, her executor. James Hugo Greenwell and Thomas Dawson having also died, Edward Winckworth became the sole trustee and executor of his father. On the death of Henrietta, the question arose whether the moiety which on her decease was to go to her children, passed by her will, she not having any children, or whether it was undisposed of by the original testator, and must go to his executor. To ascertain this, John, the executor of Henrietta, presented his petition in the cause, praying that the Accountant-General might be directed to transfer to him the said sum of consols apportioned to Henrietta, and certain dividends accrued due on January 5, 1845, and any other dividends which, previous to the transfer, should accrue.

Kindersley (with him *Renshaw*).—The point to be decided in this case is whether the moieties given to the daughters for life, and afterwards to the children, were vested interests, liable to be divested in the event of the birth of children, or whether they had only life interests in those moieties, and the testator died intestate as to them, in the event which has happened, of a daughter dying unmarried, but having attained twenty-one. It is clear it is an absolute gift to daughters, after attaining twenty-one, if there are no children: but it is said to be absolute in the children; but unless the event happens as the testator mentions, it does not divest an absolute gift previously given, as in the case of a gift to two, and the death of either to go to the survivor; if both die, there is no survivor, and so the gift over does not take effect. They cited *Sturgess* v. *Pearson* (4 Man. 411); *Locker* v. *Bradley* (5 Beav. 593).

Turner, contrà.

The MASTER of the ROLLS.—There can be no doubt that an absolute interest in the first instance is given in the whole residue to the children, share and share alike. So far the words of the will give a vested interest; the other words that follow are to the effect of divesting the already vested interest. As to the daughte share, there is a special provision; one-half only is to be paid to them on attaining twenty-one, or marriage; the other half is to be settled and paid to the daughters for life, and at their death to their children. If there be no child, there is no direct mention of what is to be done; we must therefore fall back on the first clause, giving the absolute interest. It is plain, then, that the gift is that of a vested interest, subject to be divested only in the events pointed out, and therefore the moiety in question passes to the executor of Henrietta.

July 28, 31, and Aug. 9.

Re JONES.

Taxation of solicitor's bill after payment—Mortgagor and solicitor of mortgagee—Pressure—Payment under protest—Stat. 6 & 7 Vict. c. 73.

A mortgagor having paid the bill of the solicitor of the mortgagee, on the occasion of paying off the mortgage, is not entitled to have the bill taxed as against the solicitor, on the ground of alleged improper charges not payable by the mortgagee, unless there be other circumstances. Merely alleging that the bill is paid "under protest," without more, is not enough.

The petitioners, C. T. Thurston and T. B. Brown, were the surviving devisees and trustees of certain lands belonging to Edward Scott, which had been mortgaged by him for 3,000*l*. to one James Turner. In September 1844, the mortgage had become vested Edward Humphrey the surviving executor of Turner, and the title-deeds to the estate were in the hands of Messrs. Jones, Yearsley, and Howell, who were the solicitors to the Rev. Mr. Davies, who, as the husband of Turner's daughter, was beneficially interested in the mortgage. The petitioners also owed 400*l*. to Humphrey being the amount of a bond debt of their testator. Mr. Loughborough, the solicitor of the petitioners, having, at their request, offered to pay the principal sums due on the mortgage and bond, with interest thereon and reasonable costs as between mortgagor and mortgagee, and Messrs. Jones and Co. having refused to deliver up the title-deeds unless their own bill of costs, amounting to 107*l*. 11s. 7d. were paid, Loughborough on the 18th of September, 1844, paid their demand under protest. Several items of the bill, however, were objected to as unreasonable and unjust; as, for instance, a charge of 13*l*. incurred by Messrs. Jones and Co. in negotiating a loan from the Rev. C. T. C. Luxmore to pay off the mortgage, but which loan was not obtained. There was also a charge for drawing and another for copying an abstract of title, though an abstract was in existence down to the mortgage, and there was no need of a new one. There were also charges for perusing the release given by Humphreys to the petitioners, both by the solicitors of Davies and Messrs. Drew and Woosman, the private solicitors of Humphreys, and also a demand for interest and commission on money borrowed by Davies from bankers in Welchpool, after the expiration of the notice (22nd of June, 1844) to pay off the mortgage, and before the payment in September following. The petitioners offered to submit the whole matter to any solicitor in London, but Messrs. Jones and Co. would only agree to submit it to any attorney in Shropshire. Under these circumstances the petition was presented, and it was thereby alleged that the sum of ten guineas, part of the charge of 13*l*. which was paid to David Jones for surveying the property on which Mr. Luxmore was to lend the money, was not to be paid by the petitioners unless the negotiation went on; but it was broken off because Luxmore could not advance the money (being trust money) without the consent of his co-trustees; and, besides the charge could not be retained by them on the part of Davies, as it did not come within the description of mortgagee's costs. It was also said that the charge for interest, &c. to the bankers was only occasioned by Mr. Davies having to remit from place to place for his own convenience. None of the other disputed items, it was said, came within the principle of mortgagee's costs, and the offer to submit to arbitration was pressed. On the other hand, Messrs. Jones and Co. said that the negotiation with Luxmore was proceeding when, in February, T. B. Brown, one of the petitioners, who had been abroad, came home, and put an end to it. They also stated that the valuation by D. Jones was to be at the expense of the petitioners, and that Luxmore could advance the money himself. They also controverted the other statements of the petitioners, and stated that the arbitration was to be not by a London attorney, but by an indifferent person, and that Loughborough, on the part of the petitioners, had at first acceded to the offer made by Messrs. Jones and Co. Their bill of costs, they further stated, had been delivered to Loughborough, at his own request, early in August 1844, and a sufficient length of time previous to its payment.

Turner (with him *Clarke*), for the petitioners, contended that the petitioners were entitled to have the bill taxed, on the ground of their being obliged to pay it to get the deeds delivered, and as they had protested both at the payment of the bill and by letter afterwards. Besides, the charges themselves were very objectionable. Charging for a new abstract when they had an old one in their possession could not be permitted. They say, to be sure, that the abstract we speak of was given up to Luxmore, and the one they had was imperfect.

Kindersley (with him *Giffard*), for the Messrs. Jones and Co.—The sum in dispute is so small that but for the principle of the thing it would not be worth while to resist taxation. The Court has often said that where pressure exists taxation will be allowed; but in this case it is simply a question whether mortgagor or mortgagee is to bear the costs. Besides the survey of D. Jones, which was not to be charged, there is the charge to Drew and Woosman, the solicitors of Humphreys, which is not a charge against the mortgagee. [The MASTER of the ROLLS.—It is a nice question; the mortgagee may have to pay his solicitor costs not payable by the mortgagor, then what is the mortgagor to do?] Well, then it comes to a question between mortgagor and mortgagee. The present case involves more than merely the items. It is not merely the case of a payment of the bill, and then a petition for taxation; it is more; it is a taxation as between mortgagor and mortgagee. There could have been no taxation before the late Act, and the object of the Act was only to make the mortgagor, or the party who was chargeable, stand, after payment of the bill, in the shoes of the mortgagee or other party. The Messrs. Jones and Co. had Davies and Luxmore both as clients, and if they had themselves paid the bill of costs, they might or not have had it over against the mortgagor; but here it is whether the mortgagor shall be allowed to tax as against the solicitor.

Turner, in reply.

The MASTER of the ROLLS was of opinion that the mortgagor could not have taxation as against the solicitor, on the ground of the charges not being mortgagee's charges, that being a question entirely between the mortgagor and mortgagee; neither could taxation be allowed on the score of pressure, as that ground failed, the bill having been delivered long before payment. The petition must, therefore, be dismissed, and with costs.

VICE-CHANCELLOR KNIGHT BRUCE'S COURT.

Thursday, July 17.

DU PRE *v.* DUNCOMBE.

Demurrer—Statute of Limitations.

A bill was filed alleging that a receiver in a suit had not paid the sums due to the plaintiff, and that he had since passed his accounts, and it appeared from the statements in the bill that the sums had been due more than six years. To this bill a demurrer was held to be sustainable.

Whether the plaintiff had any remedy by petition in the suit in which the defendant was receiver, quære?

By letters patent, dated the 14th of October, 1531, a school was established at Berkhampstead, in the county of Hertford, over which there were to be a master and an usher. By an Act of 2 & 3 Edward 6, the master and usher, and their successors, were incorporated to hold lands, &c. and to pay certain stipends to the master and usher, &c. In 1774 a suit relating to the said school was instituted in this court, and by a decree in that suit the salary of the usher was fixed at 125*l*. 5s. 4d. per annum, and it

was ordered that a receiver of the estates should be appointed, who should pay that salary. On the 30th of January, 1834, the plaintiff was appointed usher, and he continued in the office until his resignation in January, 1839. Before the appointment of the plaintiff to the office, during his holding it, and beyond the time of his resignation, the defendant was receiver of the estates under an order of the Court. The defendant received the rents, but did not pay the plaintiff, who was a relative, his salary, or any part thereof. The plaintiff having no immediate occasion for the money, permitted the salary to remain in arrear, confiding in the integrity of the defendant. At the time of his resignation, there was due to the plaintiff 626*l.* 6s. 8d. The bill, after stating these facts, proceeded thus:—"That various applications had been made to the defendant for payment, which he refused, pretending that he had paid to, or accounted with, the plaintiff for the said salary, and as evidence thereof, he alleges that in the accounts which he has passed in the said suit, as such receiver as aforesaid, in respect of the period during which the plaintiff was the usher of the said school, he has claimed and been allowed in each year the plaintiff's said salary of 125*l.* 5s. 4d. whereas the plaintiff charged the contrary, except as to one quarter's salary, and that if the payments had been allowed, they were obtained by fraud and by false representations." The bill then charged "that the said defendant will at times admit he has not paid to the plaintiff, or accounted with him for the said salary, or any part thereof, but then he pretends that he has passed his accounts, and been duly and regularly discharged from being receiver in the said cause, and that he is not now liable at the suit of the plaintiff to pay or make good the said several sums of money so retained by him as aforesaid." The bill then prayed an account and payment to the plaintiff of what should appear due, &c.

To this bill a demurrer was filed.

J. Parker and *D. James*, for the demurrer, cited *Foster* v. *Hodgson* (19 Ves. 180), and *Foley* v. *Hill* (1 Phillips, 399).

Russell and *Osborne*, for the bill, cited *Sheldon* v. *Fortescue* (3 P. Wms. 104), and *Glossop* v. *Harrison* (Coop. 61).

The Vice-Chancellor.—Whether in this case, on the facts alleged, the plaintiff has any remedy by petition in the cause of *Attorney-General* v. *Du Pre*, or has any remedy by action, I give no opinion. The question is whether he has a remedy by original bill, independent of the suit to which I have referred. Now, whether he would have had such a remedy by independent bill, notwithstanding the Statute of Limitations, and if the Statute of Limitations were out of the case, I give also no opinion. My impression is that, as against an original bill (this not being an application in the suit in which the receiver is or was appointed), the Statute of Limitations may be a good defence, because it is impossible for me to consider the receiver stands in the situation of a trustee, or that there are allegations in the bill which state him to be a trustee. The question then is whether such a case as is obnoxious to the Statute of Limitatio[ns is] here stated. I think there is. The statement made by the bill is this: "That by the means aforesaid, there became and was due to the plaintiff from the said defendant, as such receiver as aforesaid, on the — day of January 1839, and in respect of the plaintiff's said salary, as usher of the said school, the principal sum of 626*l.* 6s. 8d. which still remains due and owing to him from the said defendant." So that the statement is that the money was due in January 1839, and still remains due in July 1845. As it is now established that the Statute of Limitations may be made a good ground of demurrer, and as the bill states a case obnoxious to the Statute of Limitations, without alleging any facts to take it out of the statute, I think the demurrer must be allowed,—a decision quite independent of, and consistent with this, that there may be a remedy by petition, or there may be a remedy by action, of which I do not give any opinion.

Common Law Courts.

COURT OF EXCHEQUER.

M'Intosh v. Midland Counties Railway Company.

A railway contractor having by deed contracted with a railway company for the construction of a portion of their railway for a certain price: after he had commenced the works, the company becoming anxious to open the railway by a certain day to the public, entered by deed into a second contract with him, by which the company covenanted to pay him the additional sum of 15,000l. for the expedition, he on his part undertaking that he, being allowed to make such railway, and being furnished with such materials, &c. as thereinafter covenanted were to be furnished by the company, would, on or before the 1st of June, 1840, so well and substantially as before mentioned complete the said railway by the said day. Then followed covenants by the company to provide him with certain materials, and it was then provided that in case he should not complete the said railway by the said day, then he should, on demand, pay to the company 300l. on the said day, and the like sum for every succeeding day till the said railway should be completed. The contractor having declared upon these deeds, and averred performance by himself generally, and nonpayment by the company, the defendants pleaded, as to parcel of the amount, that the plaintiff did not complete the railway by the day, and that in consequence of his failing to do so for a certain number of days, the defendants had the right of deducting 300l. a day, amounting to 7,500l. The replication denied that the defendants had such right modo et formâ. The jury at the trial having found that the plaintiff had not been supplied with the proper materials in due time by the company, Held, that the finding of such materials was not a condition precedent to their right of deduction, but was the subject of another action by the contractor against them, in which, if the failure on their part had been such as to prevent him from completing the railway in time, he would be entitled to recover as damages whatever sum they had become entitled to deduct in consequence of such non-completion.

This was an action brought by a railway contractor against a railway company, upon certain deeds of covenant. It was argued at great length, and both the arguments and the covenants are fully set out in the

JUDGMENT.

Alderson, B.—In the case of *McIntosh* v. *The Midland Counties Railway Company*, which was argued before the Lord Chief Baron, my brother Rolfe, my brother Platt, and myself, we think there should be a new trial. The action is founded on two deeds of covenant, by the first of which, after various recitals, it was witnessed, "that, in consideration of the sum of 258,639*l.* 10s. 6d. agreed to be paid by the defendants, the plaintiff undertook to complete the said railway from a certain point in the borough of Leicester to its junction with the Birmingham Railway at Rugby." The declaration contains an averment, "that after the making of that first deed of covenant, and during the progress of the works under it, the defendants, by a second indenture of covenant, dated the 23rd day of March, 1839, after reciting among other things that the defendants were desirous that the permanent way should be completed on or before the 1st of June, 1840, so that the railway might be opened for the use of the public on that day, and that the plaintiff had agreed to expedite the last-mentioned works, and also to lay and complete the permanent line of railway, so that the whole line of railway might be opened to the public on the 1st of June, 1840, and also to maintain and keep in repair such permanent line of railway for such term as therein mentioned, in consideration of the defendants paying him the further sum of 15,000*l.* as a further consideration for the works in the first contract, and for such expedition, and completing the same as aforesaid. Then it was witnessed that, in pursuance of that agreement, he undertook that, he being allowed to make such further side-cuttings and spoil-banks, and being found and provided with such railway-bars, or rails, chairs, backs, sleepers, and spikes, for temporary and permanent use, as thereinafter mentioned, should, on or before the 1st day of June, 1840, so well and substantially and in a good and workmanlike manner, make and complete in all things the said portion of the said railway, in the original contracts contracted and agreed to be made by him. Then it specifies how it was to be completed on or before the first day of June, and then goes on to set out certain covenants and agreements by the company with Mr. McIntosh, that they would supply the different articles, the rails, spikes, chairs, and other materials, on given days and in given proportions. And then the second agreement contained a proviso, which is also set forth in the declaration, which is to this effect: 'Provided nevertheless, and it was thereby expressly agreed and declared between and by the said parties thereto, and particularly by and on the part of the said David McIntosh, that in case the said David McIntosh, his executors or administrators, should not so make, complete, and finish the whole of the said railway and works so contracted to be made and completed by him as aforesaid, together with said permanent line and all the works connected therewith, and deliver over the same unto the said company on or before the 1st day of June, so that the said railway might be capable of being opened by the said company for the use of the public at any hour on that day, on which the said company might be so desirous of so opening the same as aforesaid, then, and in such case, the said David McIntosh, his heirs, executors, and administrators, should and would, on demand, pay to the said company the sum of 300*l.* on the said 1st day of June, and the like sum for every succeeding day, Sundays only excepted, until the whole of the said railway should have been so made and completed, and delivered over to the said company, capable of being opened by them to the public at such hour as aforesaid." The declaration then proceeded generally to aver that Mr. McIntosh completed all the covenants which it was incumbent on him to comply with, and that the defendants had not paid him the money. To this declaration the fifth plea of the defendants, which is pleaded only as to 7,500*l.* part of the sum demanded, states, in substance, that the plaintiff did not complete the railway on the 1st day of June, 1840, according to the terms of the second indenture, and that in consequence of his failing to do so for the space of twenty-four days, exclusive of Sundays, the defendants had the right of deducting from the sum to be paid to him certain sums amounting altogether to the sum of 7,500*l.* The replication to this plea denies only that the plaintiff was liable to pay in manner and form as in the plea is alleged. The question is, what is the issue thereby raised. The Lord Chief Baron at the trial thought the defendants were bound, as a condition precedent to their right of deducting any part of the 15,000*l.* to furnish the plaintiff with the materials stipulated for, in the manner and at the time mentioned in the second indenture, and that as they had not done so (which question the jury had found for the plaintiff), the failure of the plaintiff to complete on the 1st of June, 1840, did not make him liable to the deduction on which the defendants insisted; but after fully considering this question, we think the true construction of the deed, and the true question raised by the pleadings is only whether the railway was completed on the 1st of June, 1840, and that if not so completed, the plaintiff became liable to allow the daily deduction of 300*l.* for the non-completion; and that the fifth plea was in truth made out, if the number of days for which the deduction was claimed was established. The covenant on the plaintiff's part is absolutely to complete on a given day, or to pay 300*l.* a day if he does not. Any other construction would lead to this conclusion (which we think an unreasonable one), that the non-supply of a single rail or chair at the time specified for its delivery, although in the result wholly immaterial to the facilities for completion, would entitle the plaintiff to receive the 15,000*l.* given as expedition money, without his giving the expedition for it. On the other hand, by treating the covenants as independent, it is open to the plaintiff, if he has really been prevented from completing the railway in due time by the defendants' neglect, to bring his action against them for the breach of their covenant. In such an action it would be open to the jury to give a full redress for all the damages, including those deductions caused by the defendants' neglect which the plaintiff may have sustained; and in this way equal justice would be done to both parties. On the whole, we have come to the conclusion that this is the proper construction to be put on the covenant in the second indenture, and that this is the issue raised in the replication to the fifth plea; and we think, therefore, there should be a new trial.

Rule absolute.

Bankrupt and Insolvent Courts. (a)

COMMISSIONERS' COURTS.

(Before Mr. Commissioner Shepherd.)

On Saturday last several summonses were returnable under the last new Act, and the commissioner, upon inspecting the office copies of the judgment-rolls, expressed his doubts as to his jurisdiction,—the judgments having been signed for much larger sums than 20*l.*

The attorneys in the respective cases then tendered the judgment-papers in the actions, and also affidavits or declarations from the plaintiffs stating the true amounts of the debts claimed by them from the defendants; but the commissioner said he could only look at the amount for which the judgments were signed, and which were the records of the superior courts, by which he could alone be guided, and the office copies of which were then before him.

Buchanan addressed the Court, and stated that the judgment papers bore the seal of the Court, and also the Master's allocatur, and which was sufficient to prove the amount of the costs as taxed.

Clarke begged to observe to the Court, that it would be very desirable that some uniform principle and practice should be acted upon; for as the matter now stood, upon many points one commissioner decided one way one day, and another directly opposite the next day, so that there was no knowing what to do; however, to obviate all difficulties in such cases as the present, if attorneys would do as he did, no question could arise. Mr. Clarke then explained to the commissioner that in drawing a declaration for even 15*l.* it might be necessary to have three or four counts, and each count might be laid at 20*l.*; and therefore, if judgment should be signed by default, the clerk of the judgments would sign the judgment for the whole penalty, covering all the counts unless a *remittitur* was entered in the roll for such part of the penalty as the plaintiff did not seek to recover, leaving the residue the exact amount of the debt due to the plaintiff.—The Commissioner thanked Mr. Clarke

(a) We are indebted for the following to a Correspondent, our Reporter being absent from town for a few days.

for this explanation; and Mr. Buchanan said (ironically) that no doubt the Profession would feel obliged to Mr. Clarke.

Clarke said, what he had stated was done with no desire to create trouble and work to the Profession, but quite the reverse; for it was much harassing and troublesome to have matters as they now stood, and every thing to remain a matter of uncertainty and chance; and he would respectfully submit to the Court that it would be for the convenience of the commissioners, the Profession, and their clients, that the question of jurisdiction should be ascertained *before summonses were granted*, otherwise, as to day, attorneys, with their clients, are brought before the Court to no purpose.

The learned Commissioner said it would no doubt be very desirable that some uniform practice should be come to.

Two cases were adjudicated upon, in which sums of 2s. and 2s. 6d. weekly were ordered to be paid by the respective defendants, and the subject dropped—several attorneys, plaintiffs, and defendants leaving the court, the former having no *locus standi* on account of the amounts in the office copies of the judgments appearing to be above 20*l.* and for which judgment had been signed.

Ecclesiastical Courts.

PREROGATIVE COURT.

Wednesday, August 6, 1845.
(Before Sir J. Jenner Fust, Bart.)
Powell *v.* Powell.

will made previously to the Wills Act, not signed, though having the testimonium clause, and without the day of the month, by which property was given to A. M. P. who was reputed to be the daughter of the testator, no other will having been made, and he having been proved to have declared his intention of providing for the said A. M. P.—Held to be a valid will.

This was a question as to the validity of the will of Capt. Francis Powell, who died suddenly on the 12th of January, 1844. The will, which was propounded by Anna Maria Powell, represented to be his daughter, legitimate or illegitimate, a fact of which, however, there was not positive proof, was in the d[illegible] handwriting, and written in 1827, but was not signed, sealed, or attested; although it had an attestation clause. Its validity was opposed by Mr. John Powell, nephew of the deceased, alleging himself to be his only next of kin.

Curties, on behalf of Miss Anna Maria Powell, contended that the evidence rebutted the presumption of law against the will, which the deceased (who had a notion that, as a military man, his testament, without any formalities would be valid) intended to have effect and operation, although not signed. The deceased had treated Miss Powell as his daughter.

Addams, for the nephew, on the other hand, argued that there was no proof to rebut the presumption against the paper, and characterized this as a case of as gross fraud as had ever come before the Court. The conduct of Anna Maria Powell was inconsistent with her belief that she was the deceased's daughter; for, in writing to Ireland to announce his death, she called him "her dear lamented uncle."

The learned judge gave judgment in this case, which related to a paper pronounced as the will of Captain F. Powell, bachelor, who died on the 12th of July, 1844. The paper, which was dated so long ago as July, 1827, bequeathed the property of the deceased to Anna Maria Powell, spinster. It was, however, not signed, though it had what is termed a *testin*[illegible] "In witness whereof I have hereto set my hand and seal," nor was the day of the month inserted. Under the old law, which applied to this case, such a paper, if proved to be final and to have been intended by the deceased to operate, would, nevertheless, be sufficient to pass personal estate. The validity of the paper was disputed by Mr. John Powell, nephew and only next of kin of the deceased. It appeared that Miss Anna Maria Powell had been brought up and educated by the deceased, with whom she lived, and was considered by his acquaintance and friends to be his daughter, legitimate or illegitimate; but he did not call her his daughter, nor did she call him father, but uncle, and even in the paper in question she was only [illegible] P., spinster." After his death, Miss Powell was advised that the paper in question was invalid, and therefore she obtained letters of administration of the effects of the deceased, as his legitimate daughter, having [illegible] able to procure a certificate of her baptism, [illegible], it appearing that she was the daughter of Francis and Hannah Powell. [illegible] he inferred her legitima[illegible]. At the suit of the nephew, this administration was called in, and it appeared from the evidence (though some mystery hung over the question) that she was the illegitimate daughter of the deceased. The learned judge observed that, *primâ f*[illegible] such a paper as this was not entitled to probate. [illegible] could it be proved without extrinsic evidence t[illegible] that the deceased intended that it should have [illegible] and operation in its then state. Now, there was evidence to shew his affection and regard for Miss Powell; declarations from him that "he had made his will" (and no other will could be traced); that he had made his will in 1827 (the actual date of the will in question); and that he had provided for Miss Powell; and, under all the circumstances, especially considering that the paper had been preserved by the deceased, he thought the Court was at liberty to pronounce for the validity of the paper. It was a question of considerable difficulty; but, there being a balance of evidence in favour of its being the intention of the deceased that the paper should operate, notwithstanding its imperfect state, he thought he was bound to pronounce for its validity, and decree administration with the will annexed (the executor having renounced) to Miss P[illegible] costs to be paid out of the estate.

CENTRAL CRIMINAL COURT.

June 21.
Reg. *v.* Gruby and Viner.

Indictment for obtaining money under false pretences. The words "unlawfully did falsely pretend" are sufficient, without any further allegation of a scienter. Where the pretence on which the money was obtained is properly negatived and proved to be false, the negation in the indictment of other facts which are proved to be true, will not vitiate.

The jurors for our Lady the Queen upon their oath present, that James Gruby, late of the parish of Saint Martin in-the-Fields in the county of Middlesex, labourer, and Lee Viner, late of the parish aforesaid, in the county aforesaid, labourer, on the 27th day of September in the eighth year of the reign of our Sovereign Lady Queen Victoria, at the parish aforesaid, in the county aforesaid, and within the jurisdiction of the Central Criminal Court, *unlawfully did falsely* pretend to one Mary Price, that a certain paper writing then produced by the said James Gruby and Lee Viner to the said Mary Price, was a lease of a certain messuage and dwelling-house situate No. 2, White Hart-street, in the parish and county aforesaid, from the said James Gruby to the said Mary Price, for the term of nine years from the day and year aforesaid; by means of which said false pretences the said James Gruby and the said Lee Viner did then and there, and within the jurisdiction of the said Central Criminal Court, unlawfully obtain from the said Mary Price one promissory note of the Governor and Company of the Bank of England, commonly called a bank-note, for the payment of 100*l.* of the value of 100*l.*; one other promissory-note, &c.; the said several bank notes then and there being the bank-notes, goods and chattels, property and money of the said Mary Price, with intent to cheat and defraud her, the said Mary Price, of the same, whereas in truth and in fact the said paper writing then and there produced to the said Mary Price by the said James Gruby and Lee Viner was not a lease of the said messuage and dwelling-house from the said James Gruby to the said Mary Price for the term of nine years, *or for any other term, nor was the same a lease of the said messuage and dwelling-house or of any messuage or dwelling-house*, to the great damage and deception of the said Mary Price, to the evil example of all others in the like case offending, against the form of the statute in such case made and provided, and against the peace of our lady the Queen, her power and dignity.

The prisoners were charged by the above indictment with having obtained money by false pretences; that on which the prosecutrix swore she parted with her money, being the representation that the lease was a valid one for nine years. On being produced, it appeared to be a valid lease for three years, but the figure 3 had been erased by a pencil and 9 substituted.

Ballantine, for the prisoners, contended that the indictment was bad on the face of it, and that it was not supported by the evidence. In the first place, there was no allegation of a *scienter*, and without this there could be no offence. *R.* v. *Henderson* (1 C. & Mar. 328) is an authority to shew the necessity of averring knowledge of the pretence being false. A man may very innocently make an untrue statement. Secondly, the negation of the truth of the pretences is too large. The pretence itself is that the lease was for nine years, and afterwards it is alleged that the lease was not a lease for nine years or for any other time, [illegible] the same a lease of any messuage or dwelling[illegible] Now, as the prosecutor has chosen to make [illegible] the [illegible] rms, he must prove it to its full extent. But the lease is clearly good for three years, and the allegation being bad in part is bad altogether. What is the nature of the issue between the parties? The indictment starts with a certain proposition; the plea denies it; the proposition turns out to be fa[illegible] the plea must therefore be true. If I state that a book and an inkstand are on this table, and my statement is denied, if in fact th[illegible] [inks]tand is here, but the book is not, I am wrong, and my opponent is right.

R. C. Robinson, for the prosecution.—First with regard to the *scienter*. The word *unlawfully* appears in the indictment, and that is sufficient. Unless the pretences were made knowingly, they would not be unlawful. It is merely the use of a more comprehensive word. The case of *R.* v. *Henderson* is no authority, because there the word unlawfully was omitted. All that the case decides therefore is that the word "*falsely*" is of itself insufficient. There must be an allegation of knowledge or something equivalent, and it is impossible to say that in the word "*unlawfully*," knowledge is not implied. 2nd. The negation of the truth of the pretences is sufficient. It is divisible into several propositions, separated by the conjunction "*or*," and as the first fully denies the truth of the pretence alleged, the rest may be rejected. If fifty other pretences were alleged and negatived, still if that was the one which alone induced the prosecutrix to part with her money, though the others were proved never to have been made, the prisoners might still be convicted. Suppose then that in the early part of the indictment, after the allegation of the pretence that the lease was for nine years, such other pretences had been stated as are denied to be true in the latter part: on the evidence as here given, they might be rejected. But if that is so with some of the pretences themselves, still more clear is it that we may reject the mere negation of pretences that have never been alleged. The plea of "not guilty" does not put in issue all that is alleged in the indictment. It merely traverses that which is material to sustain the charge alleged; otherwise where a man was indicted for stealing twenty different articles, he would be entitled to an acquittal unless all were proved to have been stolen.

Ballantine, in reply.—The word "*unlawfully*" is not a sufficient substitute for the *scienter*. Many things may be done unlawfully which are not done knowingly, and still more which may not be done criminally. Again, the proposition in the latter part of the indictment is not divisible. At least the words "*for the term of nine years, or for any other term,*" is one single allegation, even although the rest should be looked upon as distinct.

Mr. Commissioner Bullock thought the points were well worthy of mature consideration, and if the prisoners were convicted, he would consult the judges on the subject. *The prisoners were convicted.*

Friday, July 11.—The learned commissioner now stated that he had spoken to two of the judges on the subject, and they were of opinion with him that the indictment was good, and supported by the evidence.

Wednesday, Sept. 16.
Reg. *v.* North.

Where the attorney of a defendant on a criminal trial holds, as attorney for another person, a document which he admits to have with him in court, and the production of which is requisite for the purposes of the trial, he is bound to produce it, although he has not been served with a subpœna duces tecum.

The prisoner was indicted for perjury, committed on a trial in which one Parsons was plaintiff, and a person named Cox defendant. The perjury consisted in swearing that a certain cheque was paid by Cox to Parsons. For the purposes of the present trial, it was necessary on the part of the prosecution that the cheque should be produced, and being proved to have been in the possession of Cox, and his attorney being the attorney of the defendant, he was called upon to produce it.

Ballantine, for the defendant, refused to do so until the prosecutors had proved the service of a *subpœna duces tecum.*

Clarkson, for the prosecution, then put the following question to the attorney—Have you now in your possession, and in court, the cheque, the subject-matter of the action of Parsons against Cox?

Ballantine submitted that the attorney was not bound to answer. If he held the cheque at all, it was as attorney for Cox, and as this cheque was now the subject of another action, in which Cox was interested, its production might materially affect the client's interest.

The Recorder.—I think the attorney cannot refuse to answer the question. It is a matter quite distinct from his right to produce.

The question was answered in the affirmative.

Clarkson then contended that the cheque, being in court, must be produced, and that the *subpœna duces tecum* was dispensed with.

The Recorder.—I think the cheque must be forthcoming. The attorney has had no notice to produce, but then he is not the attorney for the defendant here. He holds it on the part of Cox. If this were a civil proceeding, it might be that the attorney would not be compellable to produce the document, but as far as the Crown is concerned, he has no greater privilege than his client would have, who would be compelled, if he had it in court, to exhibit it for the purposes of the trial. But care shall be taken that it is seen by no other persons than by the Court, the counsel, and the jury.

THE LEGISLATOR.

Summary.

ONLY one statute remains to be given, but it is a long and important one—the Commons Inclosure Act. A portion of it will appear in our next. We hope then to have published every statute of any utility to the practitioner; and it would be unwise to burden our columns with such as are not likely to be generally referred to, so as to displace more valuable matter. Again we ask our readers to peruse with care the report of the Criminal Law Commissioners. W trust that next session will witness the perfecting of their valuable labours in the achievement of that which will be the noblest legal work of our age—the Codification of the Criminal Law.

THE MAGISTRATE.

Summary.

ALL our contributors are taking holiday, and we are therefore compelled to leave this division of the LAW TIMES shorn of its usual commentaries upon matters relating to Magistrates' Law. This is, however, the less to be regretted, since legitimate subjects for discussion have been scant, no question of interest having arisen for some weeks past. We hope shortly to resume th running notes on this branch of practice.

REPORT OF COMMITTEE ON GAME LAWS.

Our readers may not object to be furnished with the proceedings of the committee on these laws as far as the proceedings have been published. A great mass of evidence has been taken (answers to 10,000 questions); but the inquiry being as yet unfinished, the publication thereof has been delayed. The following is the intermediate report from the select committee on these laws:—

Thursday, February 27.

Ordered, that a select committee be appointed to inquire into the operation of the game laws, and to report their observations and opinion thereupon to the House.

Monday, March 10.

Committee nominated:—Mr. Bright, Mr. Burroughes, Lord George Bentinck, Mr. Milner Gibson, Mr. Bouverie, Mr. Cripps, Mr. Clive, Mr. Forbes Mackenzie, Mr. Villiers, Mr. Baukes, Mr. Etwall, Mr. Grantley Berkeley, Mr. Manners Sutton, Mr. George Cavendish, Mr. Trelawny.

Ordered, that the committee have power to send for persons, papers, and records.

Ordered, that five be the quorum of the said committee.

REPORT.

THE SELECT COMMITTEE appointed to inquire into the operation of the GAME LAWS, and to report their observations and opinion thereupon to the House—

Have made certain progress in the matter to them referred; but owing to the advanced period of the session, have not been able to bring the inquiry intrusted to them to a close, but recommend the reappointment of the committee next session.—*30th July*, 1845.

PROCEEDINGS OF THE COMMITTEE.

Wednesday, 12th February.

Present:—Mr. Bright, Mr. Milner Gibson, Mr. G. Bankes, Mr. Trelawny, Mr. M. Sutton, Mr. Bouverie, Lord Clive, Mr. Forbes Mackenzie, Lord G. Bentinck, Mr. Burroughes, Mr. Cripps.

Mr. MANNERS SUTTON called to the chair.

Friday, 18th April.

Mr. MANNERS SUTTON in the chair.

Mr. J. Smith Nowlson examined.

On the following questions being asked by Mr. F. Mackenzie:—

Q. Who are those persons who preserve their game, whose tenants have complained to you of the inconvenience of being watched by the keepers?—*A.* It would injure the tenants.

Motion made (Mr. *Bright*), that this question and answer be expunged.

Question put. The committee divided:

Ayes, 7.	Noes, 5.
Mr. Bright	Mr. G. Bankes
Mr. Trelawny	Mr. Forbes Mackenzi
Mr. Bouverie	Lord G. Bentinck
Lord Clive	Mr. Burroughes
Mr. Cripps	Mr. G. Berkeley.
Mr. Villiers	
Mr. Cavendish.	

So it was resolved in the affirmative.

Monday, July 21.

Motion made (Mr. *G. Berkeley*), "That the committee do report to the House that they have made certain progress in the matter referred to them, and recommend the reappointment of the committee next session."

Amendment proposed (Mr. Villiers), "to leave out all the words after the word 'that,' in order to insert the words following: 'The committee do report to the House the evidence already taken, and recommend the re-appointment of the committee at the commencement of next session.'"

Question, "That the words proposed to be left out stand part of the question," put.

The committee divided:

Ayes, 5.	Noes, 3.
Mr. G. Berkeley	Mr. Villiers
Lord Clive	Mr. Bouverie
Mr. Forbes Mackenzie	Mr. Etwall.
Mr. Cripps	
Lord G. Bentinck.	

Main question put.

The committee divided:

Ayes, 6.	Noes, 2.
Mr. G. Berkeley	Mr. Villiers
Lord Clive	Mr. Bouverie.
Mr. Forbes Mackenzie	
Mr. Cripps	
Lord G. Bentinck	
Mr. Etwall.	

So it was resolved in the affirmative.

The following buildings have been duly registered for the solemnization of marriages, pursuant to the Act of the 6 & 7 Wm. 4, c. 85:—The Wesleyan Chapel, situated in Union-street, in the borough of Rochdale, in the county of Lancaster, in the district of Rochdale; Brunswick Chapel, situated in Skate-lane, n Whitby, in th parish of Whitby, in the county of York, in the district of Whitby Union.

THE LAWYER.

Summary.

AT this dull season we have nothing to note, save the numerous elections of legal udges for the local courts, in accordance with the provisions of the Small Debts Act. Advertisements to this effect will be found in our columns, and we hear that many more are contemplated. Half of our readers are engaged in the railway speculations. May we ask those of them who have the power to send their prospectuses to the LAW TIMES? Where could they find a better medium for advertisements addressed to the wealthy than in a journal which has been made the medium for the publication of sales of property, and which is therefore generally looked to for such announcements

The following abstract of the provisions of Mr. HAWES's Bill for the amendment of the Law of Bankruptcy and Insolvency is taken from the *Times*. We extract it because it will interest the Profession to learn what are the views of mercantile men upon this branch of legislation. But the Law of Debtor and Creditor must not thus be tinkered by amateur jurists. It must be dealt with as one large subject by the Government, and codified. By no lesser means can it be adapted to the altered wants and views of society:—

All alterations in the laws relating to bankruptcy and insolvency are of erious importance in our trading community, that we lose no time in inviting attention to the provisions of the bill introduced by Mr. Hawes and Mr. Masterman shortly before the closing of the session, and which has just been printed. The object of the Bill, as stated in the preamble, is to afford a greater protection to creditors.

By the Bankruptcy Act of 1842 (5 & 6 Vict. c. 122), it was requisite that, in order to bring a trader before the Court, he should have been *personally* served with an account in writing of the particulars of the creditor's demand, and a notice requiring payment in the form described by the Act. In lieu of this, the present Bill proposes to simplify the form of particulars of demand and of notice, and also to dispense with the necessity of *personal* service, allowing the demand and notice to be left at the trader's last known place of abode, or to be sent to him by post. The following is the new form:—

"SCHEDULE (A).

"Account of Particulars of Demand and Notice requiring payment.

"[Here copy the account.]

"Mr. A. B. [Insert trader's name and place of business or residence.]

"The above account being due, you are requested immediately to pay the same to, &c.

"C. D.

"[Insert the name of the creditor, or of the firm under which he is trading, and his place of business or residence.]"

Under the existing law, the trader has the power to stop the proceedings by a deposition on oath that he verily believes he has a good defence to the demand. It is true he must do this at his peril, and under the liabilities of the consequences of perjury; but it does not follow that, because one jury might negative his defence, another jury should convict him of not having been sincere in his belief of its validity. The new Bill proposes to transfer the decision of this matter of opinion to the Court of Bankruptcy, and the third section empowers the Court to require the trader "to prove to the satisfaction of the Court, by *other means, in addition* to a deposition upon oath, in writing, under his hand, that he has a good defence to such demand, or to some and what part thereof." If he fails to do this, the Court may take charge of his property, and may place a person upon his premises for its safe keeping, according to the provisions of the fourth section:—

"And be it enacted, that if any trader so summoned as aforesaid shall not come before such Court within four days from the date of the said summons (having no lawful impediment made known to and proved to the satisfaction of the Court, at the said time, and allowed); or if any such trader, upon his appearance to such summons as aforesaid, or at any enlargement or adjournment thereof (as the case may be), shall not prove to the satisfaction of the Court, in manner hereinbefore mentioned, that he has a good defence to the demand of such creditor, it shall be lawful for the said Court, upon the request of any such creditor, and upon proof being given to the satisfaction of such Court of the validity of his demand, and of the delivery or the leaving of such summons, and that fourteen days have elapsed since the delivery of the aforesaid account and notice, to issue a warrant in the form specified in schedule B hereunto annexed, directing a person, to be named by such creditor, and approved by the Court; and such person is hereby empowered to enter the place of abode or business, warehouse or other premises, of such trader, and to take such charge of the goods, securities, moneys, and property thereupon, as shall prevent the removal thereof from the said premises, unless a correct account shall be kept and rendered to him, if required, of the person to whom and the place to which the ame are respectively about to be removed; and also to require a daily account to be kept of all the moneys which shall be received and paid by such trader; and such person shall continue on the said premises until the fifteenth day from the day of appearance named in the said summons, or such enlarged time as may be granted by the said Court in that behalf, unless such trader shall have before such last-mentioned day paid, secured, or compounded for the demand of such creditor to his satisfaction, or have entered into a bond, with two sureties, to be approved by the said Court, to pay such sum as shall be recovered in any action which may have been brought or may thereafter be brought for recovery of the same, together with such costs as shall be given in such action."

The sixth section of the Bill gives the Court a discretion to suspend or withdraw its protection from arrest at any time; and the seventh section positively requires the withdrawal of this protection, when the bankruptcy or insolvency has arisen from fraud, wilful misconduct, extravagance, or gambling, or if there has been concealment of property or fraudulent assignment thereof, or if there has been any falsification of accounts or obtaining credit by false pretences. By section the eighth the assignees and creditors are enabled to sue out execution against the bankrupt or insolvent at once on the withdrawal of protection, their debts being put upon the footing of judgments.

The twelfth and following sections make provision for the registering of bills of sale, agreements, and mortgages on goods. It is not imperative that all such transfers should be registered, but, unless they are registered within twenty-one days of their execution, they are to have no effect as against the assignees, and the assignees are to be entitled to recover for the use of the creditors the goods or their value. The memorial of the mortgage on the goods, bill of sale, or agreement, is to be registered with the Senior Master of the Court of C non Pleas, who is to be allowed 7s. for the entry ach memorial upon his register, and for every search of such register, the sum of 1s. The memorial must be signed by one of the parties to the deed, bill of sale, mortgage, or agreement, and must be attested by the witness who attested the execution of the original document; and this witness must attend the Master (or his deputy), and prove on oath the signing of the memorial and the execution of the original document or instrument of transfer. The mode of registry is pointed out in the 15th section:—

"And be it enacted, that every such memorial shall

contain the date of such deed, bill of sale, mortgage, or agreement, and the names and additions of all the parties and witnesses to the same, and the places of their abode, and shall specify the goods, chattels, and effects contained therein, and the place where the same shall be, as the same are specified in such deed, bill of sale, mortgage, or agreement; and that every such deed, bill of sale, mortgage, or agreement, shall be produced to the said Master, or his deputy, at the time of registering such memorial, who shall indorse and sign a certificate upon every such deed, bill of sale, mortgage, or agreement, of the day and time on which such memorial is so registered, expressing also in what book, page, and number the same is registered; which certificate shall be taken as evidence of such registry in all courts of record whatsoever; and that every page of such register-books, and every memorial that shall be entered therein, shall be mentioned, and the year, month, and time of day when every such memorial is registered shall be entered in such books and on such memorial; and that such Master, or his deputy, shall duly file every such memorial, in order of time as the same shall be brought to him, and register the same in the order in which they shall respectively come to his hands; and that the said register-books shall be open to inspection by every person requiring to search the same."

The Bill also contains a provision for the distribution of the effects of a deceased trader, if no executor, administrator, or personal representative appears; and the Court is empowered to authorize a person to enter upon the premises, take charge of the effects, and distribute them in like manner as if a fiat of bankruptcy had issued.

Before the reassembling of Parliament there is ample opportunity for all parties interested to express their opinions, or offer suggestions to the gentlemen who have introduced the Bill upon all or any of its provisions, as well as to convey their sentiments to their representatives, whether in its favour or against it.

The following temperate letter appears in the *Morning Herald*.

TO THE EDITOR OF THE MORNING HERALD.

Sir,—I seldom remember so much unanimity, or greater perseverance, in the newspaper press, as that which it has shewn in the one-sided controversy which it has lately carried on with the Bar. The indignant assertion of their own claims which the London journalists have put forth has been echoed by the provincial papers, and even taken up, with a total ignorance of the question at issue, by the French pre[ss] [u]ntil editors and reporters seem to have [convinced themselves, as they have no doubt convinced the] public, that a part of the Bar has declared, in the words quoted by you from the *Morning Post*, "that it is a very disgraceful thing" for a barrister "to be in any way connected with the London press." I am induced by the strong language which you have used in an article on the subject in your paper of Thursday, the 18th instant, to call your attention to the real state of the case. I should certainly not think of appealing to the ear[s] [or] fairness of the *Times*, a paper, which, by its conduct on this and on much more important occasions, has shewn that it is a disgrace to the press to which it belongs, and to the country which supports it. It would be less absurd, even, to apply to its servile followers, down to the simple and credulous *Punch*, who week after week repeats with implicit faith the statements of its versatile leader, for the purpose of deducing from them some well-meant moral of cockney sentiment or cockney politics. It seems to me, however, that the *Morning Herald*, and some other journals, have been actuated in their conduct by a jealousy for the honour of their own profession, which would be justifiabl[e] [o]r laudable if the occasion called for it. It is not without reason that I have called the dispute one-sided. The Press asserts that the repudiation of any connection with it by certain circuits is offensive and insulting. I have nothing to say to the contrary, except that the repudiation never took place. Any member of any circuit is still at liberty to edit, or write for, or report for any newspaper with which he may think proper to connect himself. Neither the Bar nor any part of it has assumed any right to control him. The Oxford Circuit determined that no member of the bar mess should report the circuit proceedings, not because reporting was a degrading occupation, but solely because it was considered undesirable that friends, rivals, opponents, and daily companions, should have the power of dispensing to each other publicity and its real or supposed advantages. Not only unfairness was to be guarded against, but, much other cases assume the duties, the newspaper reporters, who, I believe, are perfectly competent to undertake it, although from some strange misconception they now consider themselves insulted by the preference. There was, however, a natural unwillingness to disturb a long-continued arrangement, which might have led probably to entire inaction in the matter, if it had not been for the well-known conduct of the *Times* in garbling its reports, and meeting the remonstrances of its own injured reporter by a letter to him from the editor, filled with such vulgar insolence to the circuit, that it was evident that in future any connection with the *Times* must be at the expense of discontinuing any connection with the Circuit Bar. The disagreeable feeling which had been excited strengthened the general impression that it was better for the future to remove all responsibility for circuit reports from the Bar to the professional reporters, a measure adopted without a motive or an expression which need have given offence to the most sensitive member of the public press. The Bar resigned the office of reporting, not as below their rank, but as inconvenient with reference to their relation to one another, just as they have subjected themselves to restrictions with reference to their modes of travelling and living when on circuit, which certainly involve no imputation either on coach proprietors or innkeepers, and no assumption of superiority over those who travel in coaches and sleep at inns. If a body of directors were to resolve that their proceedings should be reported only by professional reporters, it would surely be considered rather a proper security against partiality and one-sidedness, than an undue assumption of superiority. The resolution of the Oxford Circuit stands on exactly similar grounds. After this resolution was passed, the London press for some months almost unanimously reprobated the fraudulent malignity of the *Times*; and it was not till the Oxford Circuit adopted the painful, but necessary, and indeed merely formal measure, of excluding from its body, in pursuance of the existing rule, two gentlemen who had thought fit to fill the vacancies left by the resignation of the former reporters, that the press in general attacked the Bar. Yet the course adopted by the Circuit was unavoidable, and quite unconnected with the merits of the rule, which must equally have been enforced if it had been intended to rescind it the next day. I do not know the exact terms of the resolution adopted by the Western Circuit; but I have good reason to know that it was founded on exactly similar grounds. It is singular that the same rule has been established for many years on the Home Circuit without exciting the indignation of the press. Much sentiment has been wasted on the hardship inflicted on young and deserving barristers, by the withdrawal of their means of support a consideration not very important to the Profession, when the small salary attached to the office can only be received by two or three individuals out of a body of from 100 to 200. I wish, however, to leave the controversy as I found it—one-sided. The Press has a perfect right to discuss the wisdom of the rule. The Bar, I think, will not take part in the discussion. I am not, however, without some hope that the respectable and rational portion of the press will, if they find it desirable to assert their own rank and claims, abstain from accusing a portion of the Bar of having either treated those claims with contumely, or shewn the bad taste to assert any comparative position on their own behalf. I inclose my name and address (which, however, I do not wish to have published), and remain,

Your obedient servant,

Sept. 20, 1845. A. B.

We also extract from the *Times* a letter containing a very just complaint.

TO THE EDITOR OF THE TIMES.

Sir,—Will you do me the favour of calling attention, through the medium of your columns, to the following case, in order that before next long vacation some one may be found to take steps with a view to remedying the system of which I complain?

Having this morning received instructions to sign a judgment on a judge's order due last Saturday, and to issue execution immediately for the amount, as the defendant was in the act of making away with his property, and the writ going down by to-night's post was the only means of making it available, I hastened to comply with my instructions, but, on presenting myself at the Master's office to get my costs taxed, I was informed that there was no Master in attendance, and, further, that there would not be one until the 24th of October. I must therefore issue my execution for the amount of the debt alone (which personal remedy against his debtor, is fated also to lose his remedy against his goods. Surely, Sir, this is not according to either law or justice. But where is the remedy? Perhaps one of your readers will inform me. Apologizing for trespassing on your valuable space, I am, Sir, yours obliged,

A Solicitor

Gray's-inn, Sept. 25.

PRACTICAL NOTES.—No. V.

DISABILITIES OF OUTLAWS.

It falls naturally within the scope of our Series of Practical Notes to notice any qualifications of old-established principles, introduced by recent decisions, although the necessity of this knowledge may not be of very frequent occurrence. We therefore wish now to draw attention to the legal disabilities of outlaws. So recently as the case of *Aldridge* v. *Buller* (2 M. & W. 412), Lord Abinger said—"The principle is clearly laid down in the authorities that an outlaw cannot appear in court *for any purpose but to reverse his outlawry*. That is a rule so long settled that we ought not now, for the first time, to create exceptions to it." And Lord Denman, C.J. in the subsequent case of *Hamlin* v. *Crossley* (8 Ad. & El. 677); *Reg.* v. *Insolvent Debtors Court* (3 Nev. & P. 513), spoke of

in numerous cases and text-books." We shall, however, presently shew that more recent cases have materially qualified this rule; but first of all we may briefly refer to the old authorities upon it. It has sometimes been said that originally an outlaw might be put to death by any man, because he had "*caput lupinum*." Thus, in the Mirror, cap. 6, sect. 4, we have the following curious passage:—

Utlage pur felonie teigne leu pur loup, et est criable woolfeshered, pur ceo que loup est beast haye de touts gents, et de ceo en urant list al ascun de le occider al foer del loup, dont custome solont estre de porter les testes al chiefe lieu del county, ou de la fraunchise et solont la avoire demy mark del countie pur chescun teste de utlage et de loupe.

But it has been often overlooked that this applied solely to outlaws for felony, punishable by death, who were looked upon as guilty because they would not stand their trial, upon the same principle that those who refused to plead were liable to the *peine forte et dure*. It does not, however, appear that an outlaw in a civil action was ever considered "*caput lupinum*;" and the lives even of felon-outlaws were protected by statute in the reign of Edward the Third.

Glanvil says, "*Utlagatus legem terræ amittit*," and Britton "*Respondra a touts, mais nul respondra a luy*." These are passages often quoted, and it follows from them that an outlaw cannot sue in any court. But where he is only the nominal plaintiff, or where he sues *en auter droit* as executor or administrator, the disability ceases. (Bac. Abridg. Outlaw, D. 4.) But it attaches even where the King is interested in the suit, as in a *qui tam* action (*Atkins* v. *Baylis*, 2 Mod. 267), for the plaintiff would receive a portion of the penalty.

The extent of this disability was much considered in *Loukes* v. *Holbeach* (4 Bing. 419). There, in accordance with the established principle, and the case of *Griffith* v. *Middleton* (Cro. Jac. 425), an outlaw was held as incapable of taking advantage of the law through the medium of a rule to shew cause as by an actual suit. The defendant had been outlawed in an action for the arrears of an annuity, and then sought to set aside the annuity; and Mr. Justice Park delivered the judment of the Court at some length, and concluded as follows:—

But it is said that persons, by coming in, may be put to great personal inconvenience, even to imprisonment. With that we can have nothing to do. We think, as matters are now situated, the applicant has no *locus standi in judicio*, except for one purpose; and as this applicant has not that purpose in view, therefore this rule must be discharged.

We are not aware of any case in which this was infringed upon or qualified prior to *Hawkins* v. *Hall*; for *Castelman's* case (4 Bur. 2119); *Dixon*

execution for the costs of nonsuit. But, in *Hawkins* v. *Hall* (1 Beav. 73), an important qualification was grafted upon this rule, supposed to be so clear and explicit. The facts were, that the plaintiff's bill having been dismissed with costs, which were taxed at the sum of 161*l*. 18s. a *subpœna* for costs to that amount was issued against him, and he was served with the *subpœna*, and demand for payment was made upon him at Boulogne, out of the jurisdiction of the Court. The plaintiff afterwards came to England, and was subsequently arrested under the attachment, and, being in custody, several detainers were lodged against him. Three days afterwards a motion was made to set aside the attachment and discharge the plaintiff. It was objected that the plaintiff, being an outlaw and in contempt, could not be heard in a court of justice. The Master of the Rolls admitted the principle, but held that a complaint of irregular proceedings was not within its scope, and that an outlaw is entitled to the benefit of the law for his personal protection.

In consequence of this decision, various motions have been made by outlaws, and exceptions to the old principle established. In *Walker* v. *Thellusson* (1 D. N. S. 277), Wightman, J. held that an outlaw arrested on a *ca. sa.* issued upon a judgment more than a year old, and not revived by *scire facias*, was entitled to set aside the *ca. sa.*; and Williams, J. in a subsequent proceeding between the same parties, supported this view, on the ground that an effort of an outlaw to recover his personal liberty was not an enforcement of a right, but a matter purely defensive. He was therefore entitled to set aside a *scire facias* which did not recite a previous *scire facias* on the same judgment, although it had not been returned and filed. (Ib. 578.)

Now, undoubtedly, a distinction may be suggested between these cases and that of *Loukes* v. *Holbeach*, and it may be said, that these are exceptions in favour of the liberty of the subject. And this seems to have occurred to Patteson, J. in *Byrne* v. *Manning* (2 D. N.S. 403). There it became unnecessary to decide whether an outlaw could set aside a warrant of attorney and judgment thereon, because it appeared, that when the motion was made, he had not been outlawed; and as the application was in respect of the very same debt as the outlawry, the defendant was allowed to be heard to support the motion, which he was clearly entitled to make in the first instance. And that very learned judge said, "If *Hawkins* v. *Hall* is distinguishable from the case of *Loukes* v. *Holbeach*, very well; but if it is meant to overrule that case, it certainly would require some consideration before I decide by which I should be bound."

But a reference to the passage quoted above from the judgment in *Loukes* v. *Holbeach* will shew, that even the distinction suggested in favour of personal liberty was plainly brought to the minds of the judges; and the language there used is against any such distinction. If, therefore, the cases had rested here, we might still doubt whether *Hawkins* v. *Hall* would be supported. But two other cases have occurred which support the exception, that in matters purely defensive, and to protect himself from irregular proceedings, and claims which have not a legal foundation, an outlaw may be heard.

In *Davis* v. *Trevanion* (14 L. J. 138, Q. B.; 4 Law T. 341) an outlaw had obtained a rule calling on the plaintiff to shew cause why the judgment, signed upon a warrant of attorney, and a *scire facias* issued to revive the judgment, should not be set aside, on the ground that the warrant of attorney, which had been executed in France, was not duly attested under 1 & 2 Vict. c. 110. Wightman, J. held that the statute applied to all warrants of attorney sought to be enforced in this country, and that the application could be made by an outlaw. The personal liberty of the outlaw was not here immediately in issue, and the distinction before suggested is therefore so far unsupported. Again, in *Re Mander* (Prac. Cas. Ver. Rep.130, 4 Law T. 355), the full Court of Queen's Bench, while deciding that an outlaw could not take the initiative step of referring a bill to taxation under 6 & 7 Vict. c. 73, yet intimated their opinion that, if an action was brought without any previous taxation, then he might be heard on motion. The difference is clear, for *non constat* that any improper claim would be made; and a reference to taxation would not be a defensive proceeding, but an initiative proceeding merely to protect himself by the machinery of the law from a claim which may hereafter be made. To have allowed this, would have been a still greater infringement upon the old principle than the cases of *Hawkins* v. *Hall* and the others commented upon. That exception, however, we now consider established; and as no distinction can be suggested between *Loukes* v. *Holbeach* and *Davis* v. *Trevanion*, the former case must be held to be overruled.

Before concluding this article, we would observe that *Somers* v. *Holt* (8 D. P. C. 506) must not be looked upon as a conclusive authority that the objection of the plaintiff's outlawry could be taken in any other way than by a plea in abatement. There the defendant in an action for libel did not know of the plaintiff's outlawry till after plea pleaded and notice of trial; and the Court under these circumstances, after verdict, reluctantly granted a rule to stay proceedings. The rule was not argued, as the outlawry was reversed. Several authorities were cited, and it was said to be in the nature of a plea in bar; but the following passage in Co. Litt. 128 b. was not quoted, and it would seem to have been conclusive against the application.

If the ground or the cause of the action be forfeited by the outlawry, then may the outlawry be pleaded in barre in the action, as in actions of debt, detinue, &c. But in real actions or personal, where damages be uncertain (as in trespass, of battery, of goods, of breaking his close, and the like), and are not forfeted by the outlawry, their outlawry must be pleaded in disability of the person. E. W.

MORAL OBLIGATION—HOW FAR A CONSIDERATION.

Continued from page 439.

The next case is that of *Mitchenson* v. *Hewson* (7 T. R. 349); and here the question of moral obligation is introduced by counsel *arguendo*, and *not disputed* by the Court, whose judgment is, however, very brief, and given, for ought that appears, upon other grounds.

We now come to the case of *Atkins* v. *Banwell and Another* (2 East, 505), which was an action against the overseers of the parish of Toddington for the care of a pauper, founded on an implied promise, and a nonsuit was entered on the ground of there being no express promise. *Watson* v. *Turner* (Bull. N.P. 129, 147, 281), where an apothecary recovered against parish officers for cure of a pauper on a special promise to pay, was cited by counsel. Lord Ellenborough said—"That last circumstance makes all the difference. A moral obligation is a good consideration for an *express* promise, but it has never been carried further, so as to raise an implied promise in law."

In the note to *Derbyshire* v. *Parker* (6 East, 16), the case of *Hopes* v. *Alder* (Mich. 40 G. 3, B. R.) is quoted, where the defence was want of notice to dishonour; but it appeared that, after the bill became due, the defendant said he would see it paid. *Gibbs*, for defendant, admitted that this promise was decisive. The case of *Lundie* v. *Robertson* (7 East, 236) is precisely similar, which was an action against the indorser of a bill, and the same defence as in the last case, but a subsequent promise to pay. Defendant held liable, and a similar case, decided by Lord Raymond, is quoted in the notes, viz. *Haddock* v. *Bury* (Trin. 3 G. 2, MS. Burnet, J.)

We come to the case of *Wennall* v. *Adney* (3 Bos. & P. 217), where a master was held not liable, upon an *implied assumpsit*, to pay for medical attendance on a servant who had met with an accident in his service. The very learned note of the reporters of this case is well worthy of perusal, more especially as the doctrines there laid down have since received the sanction of judicial authority (see *Eastwood* v. *Kenyon*, 3 P. & D. 282; 11 A. & E. 438), and appear to us to give a very clear and satisfactory statement of the law as to moral obligations. Their conclusions have been already alluded to, and have not been in the slightest degree affected by subsequent decisions.

In *Lamb* v. *Bruce* (1 M. & S. 275) the doctrine of moral obligation was alluded to, but Lord Ellenborough thought the case might be decided on another ground, viz. that the defendant had done that which was in law equivalent to a previous request. We shall next advert to the case of *Wing* v. *Mill* (1 B. & A. 104), where it was decided that, where a pauper, residing in the parish of A, received, during illness, a weekly allowance from the parish of B, where he was settled: Held, that an apothecary who had attended the pauper might maintain an action on his bill against the overseers of B, who *expressly* promised to pay. Lord Ellenborough says—"In this case both the legal and moral obligation prevail."

Tomlinson v. *Bentall* (5 B. & C. 738) does not in any degree invalidate our position, for there were circumstances in this case which amounted to an express previous authority from defendants for plaintiff (an apothecary) to attend the patient; but the doctrine propounded by Bayley, J. in this case may be open to some dispute. He says, "I do not put the case upon the ground of moral obligation (it was not a case coming under that category), *or upon the ground of the constable having sent for and employed plaintiff*: but I put it upon the ground that the law imposed a *legal* obligation upon the parish officers of Heybridge to employ a surgeon for the cure of the pauper." Now there is a legal obligation to pay taxes; but if A were to go and voluntarily pay the taxes of B, we doubt much whether that fact *alone* could make B the debtor of A; at all events, the overseers would not have been liable, in the absence of an express promise, if they had reasonable ground for believing that the pauper was provided for, or there was no possibility of his being otherwise cured. Thus in *Urmston* v. *Newcombe* (4 A. & E.), it is a question whether a father deserting an infant child is liable for necessaries supplied to it, there being no further proof of a contract.

The case of *Littlefield* v. *Shee* (2 B. & Ad.) has been already adverted to, and we shall satisfy ourselves by referring the reader to the following case, reported in 3 G. & D. viz. *Eastwood* v. *Kenyon*, decided by the Court of Queen's Bench; and we do so the more readily, inasmuch as many cases on the subject are there quoted which (because they are there cited) we have hitherto designedly omitted, and, although this case might, on a casual perusal, appear to militate against our position, yet we hope to shew that in fact it confirms and strengthens us. The declaration stated that plaintiff had expended money in maintaining an infant and improving her property, and for that purpose borrowed a sum of money of another, to whom he had given his promissory note; that the infant, after she came of age and before her marriage, promised payment, and that defendant, her husband, who had derived a benefit from the expenditure, promised plaintiff *to pay the note*, and had not done so. Motion was made in arrest of judgment, on the ground that there was no sufficient consideration for the promise. Lord Denman says, "Most of the older cases on this subject (moral obligation) are collected in a learned note to the case of *Wennall* v. *Adney*, and the conclusion there arrived at seems to be correct in general." The learned judge then cites, as instances of the doctrine, the case of confirmation of contracts by infants—debts of bankrupts revived by subsequent promise after certificate. He then proceeds to examine the case of *Barnes* v. *Hedley* (2 Taunt. 184), which decided that a promise to pay a sum of money with legal interest, which sum had been originally lent on usurious terms, but in taking the account of which all usurious items had been by agreement struck out, was binding. Again, *Lee* v. *Muggridge* (5 Taunt. 36) upheld an *assumpsit* by a widow, that her executors should pay a bond given by her while covert, to secure money then advanced to a third person at her request. The Chief Justice goes on to observe,

It is remarkable that in none of these cases was there any allusion made to the learned note in 3 Bos. & P. which has been very generally thought to contain a correct statement of the law. With this doctrine *Lee* v. *Muggridge* must be allowed to be decidedly at variance. It should be observed, however, that there was in that case an actual request during coverture, though one not binding in law; and though the grounds of decision in the above case were equally applicable to *Littlefield* v. *Shee*, yet Lord Tenterden, in the latter case, dissented from *Lee* v *Muggridge*." His lordship then goes on to animadvert against the too great extension of the doctrine of moral obligation, and then proceeds to hold the declaration to be bad, *as shewing a "consideration executed long before, and yet not laid to have been at defendant's request*, and disclosing nothing more than a voluntary benefit conferred. *The subsequent assent of defendant could not be a ratihabitio, since he was in no way connected with the property when the money was expended.* If the ratification of the wife when sole was relied on, then a debt from her would have been shewn, and *defendant could not have been charged*

in his own right without some further consideration, as forbearance after marriage." He concludes by saying that, "the doctrine of moral obligation does not make its appearance till the time of Lord Mansfield, and then under circumstances not inconsistent with the ancient doctrine, when properly explained."

Now we conceive that *Eastw[illegible]d* v. *Kenyon* is an authority rather in our favour than against us, and, taking the objections raised by the Court in that case to be conclusive against the declaration, we may well infer that, had it been framed otherwise, the doctrine of moral obligation would have been *distinctly*, as it is *in effect*, admitted by the Court. The declaration, being special, ought certainly to have stated the consideration to have been at defendant's request, otherwise no valid consideration could have appeared on the face of it; but even that would not have cured the defect; for as a right of action accrued to plaintiff against the wife while sole, immediately on her express ratification of the expenditure the action should not have been against the husband *in his own right*, but the husband and wife should have been joined, there not appearing to have been any consideration so as to charge him alone. The doctrine of ratihabitio of course would not apply, because there could have *been, by no possibility*, a mandatum from *defendant* at the time of the original contract, and the law will not infer what is impossible—*nemo tenetur ad impossibile*.

Had, then, the declaration been grounded on a suit against husband and wife, on a ground of action which had accrued to plaintiff against the wife *dum sola*, the plaintiff might, as we conceive, have declared with the common counts, and given the wife's subsequent ratification in evidence, just as, in an action against an infant, who, after age has ratified a contract entered into when under age, the pleader invariably declares with a common count, and if infancy be pleaded, *replies* the ratification (1 M. & S. 721; 3 M. & S. 481.) Here, then, the doctrine of ratihabitio would apply, the *mandatum* being a possible supposition, arising from the fact of the wife being privy to the proceedings, and interested in them from the very first. We hope we have now shewn from the judgment itself the true grounds for the decision of *Eastwood* v. *Kenyon*, and that it does not at all invalidate our general argument as to the doctrine now in question. *Williams* v. *Paul* (6 Bing. 653), where goods were bought on a Sunday, in contravention of 29 Car. 2, c. 7, s. 1, and the purchaser afterwards, while they were in his possession, promised to pay for them, it was held that the seller might recover on a *quantum meruit*, is another authority for our position.

We will lastly proceed to examine Mr. Selwyn's assertion, that of the doctrine of moral obligation not a trace is to be found in the older cases, backed, as at first view it appears, by Lord Denman's [illegible]mark, "that it does not appear till the time of Lord Mansfield, and then under circumstances not inconsistent with the ancient doctrine when properly explained." Now, if Mr. Selwyn means the same as the Court of Queen's Bench, we admit the correctness of his position, and agree with him. We admit that the *te[illegible]* [illegible]al obligation" does not occur till Lord Mansfield's time, but the *principle* (and terms are nothing [illegible] themselves) is, *when properly explained*, as old as our law itself, and for this proper explanation we refer to and adopt the note in *Wennall* v. *Adney*, with the judgment in *Eastwood* v. *Kenyon* to support it. We claim no more latitude, nor do we believe that Lord Mansfield himself ever thought of the doctrine otherwise than as thus restricted. This [illegible] moral obligation," so explained, is, we repeat, [illegible] antiquity. The confirmation by an infa[illegible] of his contracts, after full age; by a bankrup[illegible] of his debts, barred by certificate; of a subsequ[illegible] express promise to pay a physician his fees, are [illegible] former a very old, the latter *more modern* instan[illegible] principle, though the two last [illegible] found [illegible] same ground as the former, and [illegible] equally illustrative of the antiquity of the doctrine. The principle is further illustrated in *Thornton* v. *Illing-worth* (2 B. & C. 826), per Bayley, J. "If he makes a promise after he comes of age, that binds him, on the ground of his taking upon himself a new liability, upon a *moral consideration* existing before."

The apparent discouragement which in [illegible] sions has been given to the principle which has been the subject of our discussion has, we fear, deterred many from its due application within legitimate bounds; but if we bear well in mind the case of *Wennall* v. *Adney*, and remember that an express subsequent promise is sufficient to revive what would have been of itself a sufficient consideration without such promise, were it not for the intervention of some rule of law, and that such subsequent promise requires (unlike cases which would not have been so enforceable) no new consideration to support it, we shall gain no inconsiderable advantage from the rule, and encounter none of the mischiefs apprehended by the Court of Queen's Bench in *Eastwood* v. *Kenyon* as likely to arise from its too unguarded adoption and application to facts not strictly within its scope. We may here conveniently add, that, in the recent case of *Kirkpatrick* v. *Tattersall* (reported in 11 Law Journal, p. 7, Ex.), the Court held that a debt due from a bankrupt which would be barred by certificate is a good consideration for a promise by the bankrupt to pay it, whether the promise be before or after certificate; the promise must, however, be in writing, and distinct, and must bind the person, and not the estate—a mere acknowledgment, though implying a promise, is insufficient, as it would amount only to an account stated.

LEADING CASES.—No. XII.

Gore v. Gibson.

(13 M. & W. 623.)

Drunkenness, whether an excuse for a crime—Under what circumstances it avoids a contract.

According to the law of England, drunkenness is no excuse for the commission of a crime. As for a drunkard," says Sir E. Coke, "who is *voluntarius dæmon*, he hath no privilege thereby; but what hurt or ill soever he doth, his drunkenness doth aggravate it - *omne crimen ebrietas et incendit et detegit*." And in the 4th Book of Sir William Blackstone's Commentaries, p. 25, we find it laid down that our law looks upon intoxication as an aggravation of any crime committed whilst under its influence, rather than as an excuse for any criminal misbehaviour. So in *Beverley's* case (4 Rep. 125), wh[illegible] the liability of persons *non compotes mentis* [illegible]sidered, the same rule is mentioned in these words: "Although he who is drunk is for the time *non compos mentis*, yet his drunkenness does not extenuate his act or offence, nor turn to his avail; but it is a great offence in itself, and therefore aggravates his offence, and doth not derogate from the act which he did during that time," &c. And, lastly, we may refer to the authority of Lord Bacon in support of the same principle: "If," he observes, "a madman commit a felony, he shall not be excused because his imperfection came by his own default." (Bac. Works, vol. 4, p. 36.) The Roman law seems in some measure to have differed from our own with regard to the degree of punishment which should be inflicted for an offence committed by a drunken man. In the 48th Book of the Pandects, title XVI. sect. 6, § 7, in treating *De Re Militari*, and of the punishments to be enforced on soldiers for the purpose of preserving martial discipline, we find that great allowance was made for the vice of inebriety—*per vinum lapsis capitalis pœna remittenda est*—capital punishment shall not be inflicted on those who have committed an offence whilst under the influence of wine. And in Dr. Wood's Treatise on the Civil Law, 3rd edit. p. 265, after stating that by that law madmen could not be guilty of an offence, the learned author observes, that this excuse cannot extend to men drunk, because their acts are voluntary, and they themselves are the cause of their own misfortunes; but in *some cases*, if the circumstances allow it, a milder punishment may be inflicted; and again, at p. 287 [illegible] work, it is laid down, that "drunken[ness] may extenuate or excuse a *verbal* injury, if the offender does not get drunk on purpose, and is not [s]ensible of his abusive temper under that disorder."

It must not, however, be supposed that even in our own law, where an act of violence has been committed, the question whether the person committing it was at the time drunk or sober, is immaterial; on the contrary, it was observed by Patteson, J. in a recent case, that "although drunkenness is no excuse for any crime whatever, yet it is of very great importance in cases where it is a question of intention. A person may be so drunk as to be utterly unable to form any intention at all, and yet he may be guilty of very great violence." (*Reg.* v. *Cruse*, 8 C. & P. 546.) In like manner, where a question arises as to whether the accused was actuated by *malice* or not, it will in many cases be necessary for the jury to take into consideration the fact that the party was drunk at the time of committing the act alleged against him (see the cases collected 1 Russ. on Crimes, 3rd edit. 7, 8), and the verdict may be materially influenced by such consideration. In criminal cases, then, we may sum up the law thus—that drunkenness does not furnish any excuse for a crime, but is often material with reference to the intent with which the act charged as the offence was done.

In the case where a *contract* was entered into by a person in a state of drunkenness, it was formerly held that such contract was binding, and could not be subsequently invalidated by the party who had thus entered into it, according to a maxim laid down in *Beverley's* case already cited, and elsewhere, viz. that a person of full age shall not be allowed to stultify himself, and to gainsay his own act. But this maxim cannot with propriety be applied to the case under consideration; and the true principle which is now recognised by our law, and is manifestly consistent with reason, is that laid down by Pothier in his treatise on contracts (*Traité des Obligations*), pt. 1, c. 1, s. 1, art. 4, as follows:—"It is clear that drunkenness, when it exists to such a degree as to occasion a temporary loss of the reasoning powers, renders a person incapable of contracting whilst thus affected, because such affection renders him incapable of consenting." The principle here enunciated is based on sound philosophy, and seems, indeed, to follow at once from the definition usually given of the word "agreement, which is, *aggregatio mentium*, i.e. an assent of the will on either side to that which is the subject of the contract between the parties. This remark, however, is applicable to an *express* rather than an *implied* contract; and, as we shall presently see, a distinction may probably exist between the two species of contracts which should be considered before determining as to the liability of a party who has contracted during a state of intoxication.

In *Pitt* v. *Smith* (3 Camp. 33) the agreement which formed the groundwork of the action had been signed by a person whilst in a state of *complete* intoxication; and Lord Ellenborough held it to be void, observing that "such a person had no agreeing mind." (See also *Fenton* v. *Holloway*, 1 Stark. N. P. C. 126; *Gregory* v. *Frazer*, 3 Camp. 454.) And in the very recent case of *Gore* v. *Gibson* (13 M. &.W. 623), the same rule was adhered to, and the law on the subject under consideration very clearly explained. That was an action of *assumpsit* by the indorsee against the indorser of a bill of exchange. Plea, that before and at the time when the defendant indorsed the said bill of exchange, he was so drunken, intoxicated, and under the influence of liquor, and thereby so entirely deprived of sense, understanding, and the use of his reason, as to be unable to comprehend the meaning, object, nature, or effect of the said indorsement, or to contract or promise thereby, of all which premises the plaintiff before, and at the time when, he the defendant so indorsed the said bill of exchange, and always since, had full knowledge and notice; on demurrer to this plea, it was contended on behalf of the plaintiff, that it was no answer to the declaration for the defendant to say that he indorsed the bill when in a state of intoxication; but that to make the plea good, he ought to have shewn that the intoxication was procured by the plaintiff, or that he took advantage of it: and in support of this argument was cited the rule as laid down by Sir Joseph Jekyll, M. R. in *Johnson* v. *Medlicott* (3 P. Wms. 130, note A.), thus: "The having been in drink is not any reason to relieve any man against any deed or agreement gained from him when in those circumstances, for this were to encourage drunkenness; *secus* if through the management or contrivance of him who gained the deed, the party from whom such deed has been gained was drawn into drink." As observed, however, by Parke, B. in the course of the argument, neither the above nor the other authorities which were relied upon state the *degree* of drunkenness of the party who had contracted, and against whom a remedy was subsequently sought upon the contract. "If," observed the learned judge, "the party was only *partially* drunk, so that he nevertheless knew what he was about, equity would not relieve; but here the plea states that the defendant was so entirely deprived of the use of his reason that he could not comprehend the meaning or effect of the indorsement." Precisely to the same effect are the remarks of Pollock, C.B. who, in the first place, referred to the law as laid down

in Chancellor Kent's Commentaries, p. 45, thus:—"Although formerly it was considered that a man should be liable upon a contract made by him when in a state of intoxication, on the ground that he should not be allowed to stultify himself, the result of the modern authorities is, that no contract made by a person in that state, *when he does not know the consequences of his own act*, is binding upon him." "This doctrine," continued the Lord Chief Baron, "appears to me to be in accordance with reason and justice. With regard, however, to contracts which it is sought to avoid on the ground of intoxication, there is a distinction between *express* and *implied* contracts. Where the right of action is grounded upon a specific distinct contract, requiring the assent of both parties, and one of them is incapable of assenting, in such a case there can be no binding contract; but in many cases the law does not require an actual agreement between the parties, but implies a contract from the circumstances; in fact the law itself makes the contract for the parties. Thus, in actions for money had and received to the plaintiff's use, or money paid by him to the defendant's use, the action may lie against the defendant even though he may have protested against such a contract. So a tradesman who supplies a drunken man with *necessaries* may recover the price of them, *if the party keeps them when he becomes sober*, although a count for goods bargained and sold would fail." "Here," observed Alderson, B. "the action is necessarily brought upon the contract itself, and when it is shewn that the contract by indorsement was made when the defendant was in such a state of drunkenness that he did not know what he was doing, and especially when it appears that the plaintiff knew it, I cannot doubt that the contract is void altogether." The general rule to which we have on this occasion thought it desirable to call attention is clearly enforced in the preceding extracts, and from them it seems likewise to result, first, that a man to whom *necessaries* are supplied whilst in a state of complete drunkenness will be liable, for the price of such necessaries, according to the general doctrine on which the law respecting necessaries depends, viz. that such contract is held valid because it is for the benefit of the party that he should obtain credit for necessaries; and, secondly, that when goods which do not come within the definition of necessaries are supplied under similar circumstances, the party to whom they are supplied may, on recovering his senses, repudiate the contract, and by so doing prevent that liability from attaching which he would clearly incur by keeping the goods. This latter proposition it was not, however, requisite for the Court of Exchequer to lay down in deciding the principal case, and the reader may, on that account, receive it with less confidence than the former.

A note of *Gore* v. *Gibson* may be made in Chitt. junr. on Contracts, 3rd edit. 110.

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Where, however, the definition of an offence makes not simply an act, but the *accomplishment of an act* under specified limitations essential, it is also essential to the legal certainty of the charge that the act should be shewn to be so qualified, by allegations as to the means used, or other limitations, as to be included within the definition. Similar observations are applicable where not merely an act, but also a result from the act, is an essential part of the definition; and also to those where not merely a particular result, but the means by which it has been effected are also essential.

With respect to the mode of charging accessories before the fact, the first question which presents itself is, whether there ought to be any distinction as regards the degree of the offence? It seems to be impossible to make any. Then, as to the description of the offence, the main, and as it seems the only reason for charging the procurement or participation of the offence, specially, seems to be the giving to the party charged more accurate and circumstantial information as to the mode of participation intended to be proved. If this be essential to justice in case of felony, it must also be so in case of misdemeanor, and also on charges of treason. If no such distinction can justly be made, the question arises, whether, in all cases, the procurement should be specially charged, or the general allegation should be deemed to be sufficient. If the distinction were of easy practical application, it would, we think, be desirable to adopt it, in order to prevent the possibility of a party being misled by being induced to suppose that evidence would not be adduced to prove him to be a procurer or promoter of the crime, but only to shew him to be a principal in the first degree. The distinction is, however, attended with practical inconvenience; it is in many instances very difficult to determine whether a *particeps criminis* was an accessory before the fact or a principal in the second degree. The adoption of this restriction would, consequently, be attended with danger of a failure of justice; were a special allegation necessary, the grand jury might in such cases come to one conclusion, the petty jury to another, and the criminal might escape altogether. There seem to be three modes of obviating these difficulties; by admitting the general charge to be sufficient, but requiring the prosecutor, on application by the accused, and under the direction of the Court, to supply the accused with the names of the principals in the first degree, and such particulars as should be necessary with a view to his defence; or, secondly, by allowing the charge to be stated in both ways, by means of different counts; thirdly, by allowing the charge to be made in the alternative.

With a view to the objects of *identity* and *notice*, circumstantial description of the time and place of doing the act, with a description of the particular persons or things so appertaining to the act as to constitute the offence, are obviously material. Such a description is conclusive as to identity, and complete as to notice, even although the act itself should be averred in general terms. It is plain, however, that to exact certainty of this description in allegation and proof would be inconvenient, and that strict compliance with the rule would often be impracticable. A grand jury or other tribunal of accusation may very frequently found the charge upon full conviction that a crime has been committed, and yet be unable, even after laborious exertion, to state all the circumstances of time, place, persons, and things with certainty. It seems to be plain, that such a tribunal ought not to be required to find that upon oath of which they may have had no evidence whatever.

The force of this observation, and the necessity for allowing great latitude to a grand jury in preferring their charge, is strongly illustrated by the instances of indictments for murder and robbery, which are valid although the jurors are unable to state, and allege their inability to state, the name of the party ered or robbed. And, independently of the mischief and absurdity of imposing such a restraint on justice as would result from treating an indictment as invalid because it did not contain particulars which the grand jury had no means of stating, or obliging them to state on oath matters of which they had no evidence, a further inconvenience would arise, even in cases where the grand jury had evidence to guide them, if proof were to be required of the particulars averred. It might, for instance, happen that a witness, in giving his evidence before a grand jury, might make a mistake as to the day, or even month, or year of the doing of the Act which he attested, and correct his testimony on the trial in chief. Whilst the requiring strict circumstantial certainty would be highly inconvenient, if not impracticable, to insist upon circumstantial certainty for mere form's sake, would be objectionable, not only as involving a mere show and pretence of certainty, which, as has already been observed, would be unworthy of the dignity of the law, but as tending to obstruct the course of justice by encouraging formal objections.

As the objects of circumstantial certainty are the identification and notification of the offence in fact, it is reasonable that any objection founded on any alleged defect of such certainty should be required to be made before any plea is pleaded to the merits, or at all events before the trial; for by pleading and going to trial without calling for further information, the accused declines to stand on the objection, and admits that the charge is sufficiently certain to enable him to plead and to defend himself on the trial. After conviction, circumstantial evidence is requisite principally in order to protect the offender against a second charge for the offence already expiated by punishment, and for this purpose the very evidence given on the trial of the first indictment must usually be more conclusive than any circumstantiality of statement on the face of the first indictment.

Where an indictment shews with sufficient certainty and precision that an offence has been committed if the allegations be true, but be defective in some point of mere circumstantial description, it is neither reasonable nor convenient that the whole proceeding should fail when the defect can be supplied from certain sources and means of information which the jurors who found the indictment did not possess. It is for this purpose useful to recognise the distinction between *legal* and *circumstantial* certainty: to allow additions, even on oath, to be made with a view to the former object, would be, in truth, to charge a new offence, at least to make a charge not before made, to allow further particulars as to a charge already made, would be free from any such objection; it would be to afford to the accused the information of the want of which he complains, and which may tend to his advantage, not only by affording him better means of defence, but also of protecting him against a second charge, at the least possible sacrifice of time and expense. This proposed alteration is not, it may be observed, a mere innovation; according to the existing law, circumstances which may be necessary for the purposes alluded to are, in some cases, required to be stated in particulars supplied by the prosecutor.

From such considerations the following inferences appear to be deducible:—

That grand juries ought to find no circumstances which are not warranted by the evidence.

That they should find such circumstances as may be material with a view to identify and notify the offence.

That with these objects, and subject to this condition, a very considerable degree of latitude ought to be allowed to a grand jury in affording such a degree of circumstantial certainty as the nature of the case may admit of.

That for this purpose such circumstances as afford approximations to certainty should not be excluded; and that although where it is certain that an offence has been committed, justice ought not to be defeated by mere uncertainty in circumstances, it is still desirable, with a view to the identifying and notifying the grounds of accusation, to make such reasonable approximation to certainty as the evidence will permit.

That the rule as to mere circumstantial certainty should be directory only.

That it s
direct particulars to be given.

That no objection on the mere ground of uncertainty in circumstantial description should be admitted after verdict

Where an offence is committed in respect of a written instrument, as in forging a note, or publishing a libel, it is a rule of convenience that the terms of the instrument should be stated, as by this means circumstantial certainty is best attained. Such particularity is not essential where, although a written instrument, such as a bond or note be a thing in respect of which the offence has been committed, as in case of theft, yet the particular words and expressions are not material to the offence.

The object of repeating the description of the same transaction in different counts is the avoiding of variances. The necessity for this arises from the condition imposed of stating particulars which cannot be known with certainty, and which frequently cannot be proved upon the trial, and, in some instances also, is referable to the uncertain state of the law as applicable to the particular transaction. The inconvenience arising from exacting so great a degree of particularity has been partially palliated by an Act (9 Geo. 4, c. 15), allowing amendments to be made in the indictment in order to adapt it to the evidence given. It appears to us that the principle and expediency of these remedies, or rather palliations, is very doubtful, and that the more simple and efficacious remedy would consist in permitting such a generality of description as would, with a moderate degree of attention, avoid the danger of variance, which is necessarily incident to a minute and formal detail of particulars.

The practice of multiplying counts is not only troublesome and expensive, but even inconsistent with a finding of the charge on oath, each count professing to be founded on a distinct transaction, although the evidence shew but one. The alteration of facts in a charge found on the oath of a grand jury, and then making that to appear as having been found which has not been so found, is also objectionable as being inconsistent with truth, and a departure *pro tanto* from principle.

We proceed to make a few observations on the inconvenience which has resulted from the practice of multiplying counts. The charge presented by a grand jury, in their mere statement on oath, is to be drawn by the officer of the Crown, but is more usually, in cases of difficulty, drawn by a skilful pleader. The legal practice of including several different charges in the same indictment gave rise to the admission of several charges apparently distinct, but in reality founded on the same transaction; and the practice, although, perhaps, not strictly warranted by the ancient and simple principles of the Criminal Law, or quite consonant with the duty of jurors, was sanctioned, no doubt, for the sake of its utility in excluding failures from variance in proof. The pleader, in making the most skilful use of his materials, with a view to conviction, has two main objects to attend to, the law which governs the case and the facts which are to be alleged. Supposing the law to be clear, he endeavours to satisfy it, at the least possible expense, in the allegation of facts necessary to shew a violation of the law. The less he alleges, the less danger is there of variance; he has therefore one or more counts, exceedingly sparing in allegation; but in order to avoid the danger of too strict an economy, other counts contain more liberal statements, oftentimes at the risk of inability to prove them. But, again, it often happens that there may be a doubt as to some material fact, in which case also, for the avoiding of variance, it may be necessary to state it in various modes. Counts then are multiplied, even when the law is clear, for the sake of avoiding any variance in fact. But the law itself may be uncertain; counts then are advisable—adapted to the sim-

plest possible hypothesis in point of law, so as not to risk the necessity of having to prove too much; but this hypothesis may be erroneous, and therefore counts are also advisable to meet one, or more than one, of greater complexity. The course not unfrequently adopted by the pleader, to meet such difficulties in a complicated case is this,—to frame one count containing all the facts which can possibly be material, another exceedingly general and economical in the statement of fact; these being accomplished, intermediate counts are framed, varying as to the extent and manner of allegations, so as to suit the objects to which we have adverted. Such being the artificial manner in which, as we know from experience, indictments are constructed, it may sometimes be a matter of difficulty at an assizes or sessions to determine on which counts the verdict ought to be entered when such verdict is generally given. The criminal courts in which the judges of the superior courts have presided have lately adopted the precaution of passing a distinct sentence on each several count of the indictment, but so as not, in reality, to subject the party convicted to more than one penalty for the same actual offence. By this means, the danger of a total reversal of the judgment upon a writ of error, in case any count turned out to be insufficient, is avoided.

One inconvenience may (we make the observation with great deference) arise from the adoption of this course, that bad counts may possibly derive from it the sanction of legal judgment; further, that the practice encourages the insertion of a multiplicity of counts, and still leaves it doubtful on which the prosecutor really means to rely. There cannot, we apprehend, be any great difficulty in selecting the count on which the verdict might most safely be entered, when the verdict warrants such a selection. The exertion of that ingenuity which has suggested many counts, for the sake of avoiding variance from fact or deficiency in fact, can no longer be necessary when the power of selection is given by the verdict; and although the artist be not present who has skilfully provided against numerous contingencies, his opinion may be acted upon when the matter has been reduced to certainty.

When a verdict has been given, on which, of course, all facts stand proved or disproved, no apprehension on the score of variance in proof any longer exists; the only question, as regards selection, is, which of the established counts is safest in point of law. This can seldom be doubtful, for of two established counts, that which is most copious in fact must usually be best adapted to sustain the charge in point of law. If all the facts contained in such count be essential, the others which omit any of those facts must be bad in law, and though some of the facts in such count be superfluous, they do no harm.

Whilst the allowing a more general statement of an offence would greatly diminish the danger of variance in fact, and the more certain definition of offences would obviate the risk of failure from uncertainty as regards the law, we believe that the necessity for multiplying counts would be greatly diminished, if not altogether superseded, and therefore, that in case no objection should be allowable after verdict, except for want of legal certainty, there would be no difficulty in at once entering the verdict on a single count.

In conclusion of these observations, it may, we think, admit of doubt whether it be quite consistent with the character of the law for certainty, that so many sentences should be passed in respect of one and the same offence as agree with the number of counts which the special pleader has chosen to insert in the indictment, and that this should be done upon the ground that it does not appear which of them really charges such an offence as warrants the judgment. An indictment not unfrequently contains as many as a dozen counts, charging the facts of the same transaction differently. The passing twelve different sentences leaves it wholly uncertain for which of the twelve offences the defendant is really punishable, and the practice strongly indicates that the law is uncertain. A degree of laxity in the administration of criminal justice is thus sanctioned, which, to say the least, is not creditable to justice, and which tends much to increase an existing evil, by rendering laws already indefinite still more indefinite.

Whilst inconvenience results from having recourse to a multiplicity of counts for the purpose of avoiding an apprehended variance, nothing is gained from them with a view to real certainty. Mere formal particularity, not requiring any proof, is but an useless affectation of certainty; if proof be required, the multiplying formal and circumstantial descriptions does not make the charge in reality at all more certain, either in law or fact, than a single charge would have been, framed in terms sufficiently general to embrace all the variations of the charge. Though each distinct charge may appear to be more certain and precise, the accusation which the party is called upon to meet is not more certain. If, for instance, upon a charge founded on one transaction of taking a watch, an indictment contained three counts, one alleging the stealing of the watch of A, another alleging it to be the watch of B, and another stating it to be the property of C, the prisoner would only know that he was charged with stealing a watch, which it was proposed to prove to be the property either of A, or B, or C, and he would derive precisely the same information if the indictment contained but one charge of the taking of the watch, being the property of A, or B, or C. It is plain that the objection to alternative allegations, viz. that the charge is uncertain, is not at all removed by substituting alternative counts for alternative allegations in the same count.

The objection to amendments is still greater. If the substituted allegation be one which might have been included within some general allegation, no advantage in point of certainty is gained as regards the accused; for although a precise and particular allegation be used, yet if it may be changed at the trial to any other which might have been included under a more general count, he has not more efficient notice of the real charge than he would have possessed had the general allegation been used at first; if greater latitude were to be permitted, by allowing an allegation to be substituted although not included with that used under a general one, the charge would be less certain than it would have been if that general allegation had been used. Information to the defendant is not, however, the object of permitting such amendments when made at the trial; they are too late to serve the great object of circumstantial certainty,—that is, to notify to the accused the particular grounds of the charge: they are made to prevent the defeat of justice by a technical objection on the ground of variance from prescribed rules of technical description; in such case particularity of expression is not essential to the purposes of justice; it is therefore more consistent with reason and convenience to reject such a precise and unnecessary degree of precision, than to require it without any corresponding advantage, at the risk of misleading the party charged, and at the expense of passing laws to prevent that failure of justice which would otherwise result, and of the strange anomaly that new averments should be introduced on the record as sanctioned by the oath of a grand jury, when they have in fact been inserted at the discretion of the judge.

The general position, that the accused ought not to be convicted of any offence other than that charged by the grand jury, and expressed in the indictment, is plain and undeniable; it is therefore essential to determine what constitutes such identity. Two offences cannot be identical if the subject-matter or facts be different, or even if any one material and essential fact be different; on the other hand, there can be no inconvenience in distinguishing material facts or circumstances from such facts or descriptions as are unnecessary. There can be no difficulty in at once declaring that no variance in proof from the allegation of any superfluous or immaterial fact ought to be regarded as destructive of the identity of the charge. It is, however, apparent that such a variance from an essential fact or thing as shews that the alleged fact or thing is not that which is proved, must necessarily destroy the identity of the charge. If the prisoner were accused of robbing A B in a corn-field, in the parish of A, and the robbing were proved to have occurred in a meadow, the allegation might well be rejected, the variance being in respect of a merely superfluous and immaterial fact. And so, if the prisoner were charged with robbing A B, with an allegation that A B was at the time dressed in black, the latter allegation might be rejected as being not only immaterial to the charge, but also immaterial to the identity of A B. But if, on a charge of robbing A B, the proof were of a robbery committed on C D, the allegation of the name could not be rejected; for if it could, then the very object of requiring circumstantial certainty would be defeated; it would be nugatory to compel the description of the person robbed by his name, and if the name could not be rejected, the offence charged could not be the same with that proved.

It seems, however, that an allegation, descriptive of a material thing, ought not to be rejected, even although such description were not essential, or were even superadded to one already sufficient. For the grand jury may have deemed such further description to be essential with a view to the identity of the fact, and if it be so, then in the particular case the description is material in order to distinguish between two transactions, to which a more general description, and such as would, in ordinary cases, be sufficient, might apply.

If, for instance, A, having borrowed several horses from B, were charged with having stolen one of them, a white horse, the rest being black, then although the allegation that A stole a horse, the property of B, would be in itself sufficient, as containing a complete charge, yet in the particular case supposed this would leave it doubtful whether the jury meant to charge the stealing of the white horse or one of the black ones, it might, therefore, be doubtful whether the taking, of which evidence was offered on the trial, was the same with that on which the charge by the grand jury was founded. Upon a second indictment, couched also in general terms, doubts might arise whether such second indictment related to the same horse with that on which the first indictment was founded. Such doubts would be excluded by the more special allegation, on the first indictment, that A stole a white horse, the property of B; and under such an allegation to admit evidence of stealing a black horse would, if it appeared that there had been several transactions, one relating to a white, others to black horses, be to inquire into a case different from that charged by the grand jury; and although it did not appear that there were in fact two transactions to which the more general description was applicable, the fact would be properly presumable from the very circumstance of the grand jury having deemed it to be necessary to insert the more special description. To allow such a presumption to be removed by evidence would be inconvenient, as involving a collateral inquiry, the result of which would often be unsatisfactory without an examination of the grand jurors themselves, who might have founded the special description upon their own knowledge. The disregarding such a variance might also be attended with a strange incongruity on the face of a judicial record. A, being acquitted on a charge of stealing a white horse, on a second charge of stealing a black one, the property of the same person, might plead his acquittal on the former charge, averring that the white horse of the former indictment was the same with the black horse of the latter, and not only might it be alleged that a white horse and a black one were the same animal, the fact might be found by the record to be true.

As the object of circumstantial description is to give notice to the defendant and to identify the offence, the sufficiency of the indictment in this respect ought obviously to be provided for previously to the trial. And where a defendant has had the means afforded him, before the trial, of requiring further particulars as to the details of the charge, it is to be presumed that he had sufficient notice to enable him to prepare for his defence; and his having neglected to use those means can furnish no reasonable ground for holding the charge itself to be invalid, provided it exhibited such facts as, if true, are a warrant for the judgment. Where, in truth, the defendant had been misled or surprised in any material point, the proper mode of relief would seem to be by a new trial. After the trial it must also be presumed that the charge which was then entered into was the same with that inquired into by the grand jury; the circumstances proved on the trial afford ample means for identifying the charge, or distinguishing it from one subsequently made, in the case of a plea of the former acquittal or conviction. It has been assumed that the accused has had opportunity afforded him for objecting to the want of particularity, and that the Court had power to remedy the defect, so far as it was remediable, either by ordering the prosecutor to state such particulars as might be requisite, with a view to identify and notify the offence charged, so far as was practicable, or to quash the indictment altogether, either for not shewing such a complete and distinct charge as would determine and warrant the judgment in case of conviction, or for want of particulars which might have been stated, or the statement of them in too vague or uncertain a manner to answer the double purpose of identifying and notifying the matter charged.

In conclusion, as regards indictments, we think it desirable that forms of indictments should be inserted in a schedule to the Act. As we cannot, however, assume that the rules and principles which we have suggested as the proper foundation for the preparation of such forms will be approved of, the introduction of a set of precedents at present would, we conceive, be premature.

The 3rd chapter embraces the proceedings from the time of presenting a formal charge against the accused with a view to his trial, to that of his being brought or compelled to appear to make his answer to it. Formerly, as has been seen, such a charge was the original primary proceeding, and upon this writs were and still may be issued in order to compel the appearance of the accused; and this portion of criminal procedure was, and still is, technically denominated *process*. These writs consist of the *venire facias ad respondendum*, which is in the nature of a summons, and is issuable where the party is charged with a mere misdemeanor; the *distringas*, which operates against the property of the offender, and must be used where the charge is against a body corporate, or the inhabitants of a district; and if none of these is successful, the process is continued by writs of *exigent* with proclamations to outlawry, which operate as a complete judgment of conviction in all cases of treason or other felony. With respect to this branch of procedure, great changes have been wrought in more modern times. It now happens, in most cases, that by virtue of the preliminary proceedings, the subject of Chapter I., the supposed offender is at the time when the indictment is found either already in actual custody, or bound by his recognizance to appear and answer the charge. And even where this is not the case, and the party indicted is at large at the time when the indictment is found, and not already bound by recognizance to answer it, the process by writ is

seldom resorted to, the practice having been superseded by the more modern one, supported and facilitated by many statutes of great convenience, of proceeding against the party, and arresting him on a bench warrant, or a judge's or magistrate's warrant. The proceeding, however, by the writ of *venire* is still necessary in some instances already alluded to, where it is against a body corporate, the inhabitants of a county, parish, or other district, or, in some instances, where it is intended to proceed to outlawry. As this is a process to which it may still be necessary to resort where a party charged with a crime by indictment or otherwise withdraws himself from justice, it is, of course, essential that the ancient forms should be adopted, or that others more convenient and efficacious should be substituted. We should transgress our powers in framing new provisions of this description, but we think it right to suggest that the object of the process of outlawry would be more easily and satisfactorily attained by substituting for the present laborious and expensive process, attended as it is with many useless niceties, which might almost seem to have been devised for subverting the outlawry when completed, a more summary and effectual method of notifying to the accused that he is required to surrender himself to answer the demands of justice. We think that after the unsuccessful issuing of one or two writs of *capias*, it should be sufficient, previously to the judgment of outlawry, to give such notice in the *Gazette*, or otherwise, as in the somewhat analogous case of proceeding in bankruptcy, in order to warrant the presumption that the party wilfully and contumaciously evaded inquiry.

(*To be continued.*)

THE PROPERTY LAWYER.

NOTES ON CONVEYANCING CASES.

LANDLORD AND TENANT—AGRICULTURAL LEASES.

THERE are, perhaps, no instruments affecting landed property which are framed with less consideration of the real contract between the parties than agricultural leases. They are often either copied from an old lease, many of the stipulations of which may have been suited to the condition of agriculture a century ago, but are entirely inconsistent with the more improved husbandry of the present day, or they omit altogether all provision for many events which, from the nature of the contract, must or may occur during the term, or at its determination. Both methods lead occasionally to consequences not foreseen or intended. Now, what is the contract which is intended to be entered into between the landlord and the tenant by an agricultural lease?

The owner of the land contracts that the tenant shall, in consideration of an annual rent, have the possession of the land for a definite term, for the purposes of cultivation, with a view to profit; the tenant contracts for such a possession of the land as will enable him, by the application of capital and judgment, to obtain the ordinary rate of remuneration for his industry and outlay. A farming tenant usually looks but little at the particular stipulations of the lease, which is always prepared by the landlord's advisers, and he seldom consults any professional person on his own behalf as to the legal effect and consequences of those stipulations. In this way a form of lease which has been in use upon the estate or in the district for a century may be adopted; and if the tenant should point out that some of its provisions are unsuited to present practices in husbandry, he is told that those particular stipulations are not intended to be enforced. Or should the tenant's objections to the obsolete stipulations of the old forms be insuperable, an agreement is probably made, omitting nearly all stipulation with respect to the management, or the entry upon, or the giving up the lands; consequently, much that is left unprovided for will be regulated by the custom of the country. In neither case is such a position safe for either of the parties. In the first case, the tenant habitually disregards the express stipulations of his obsolete lease, and is continually open to damages for breach of covenant, and perhaps to eviction for doing that which it was the real intention of both parties he should do. In the second case, the tenant is bound by that practically uncertain and ill-defined code called "the custom of the country," and which, when it has been defined, is commonly found to be in a great degree inconsistent with good husbandry, in the present state of that art.

Of the evil consequences of obsolete forms of agricultural leases, the very recent case of *Sir James Graham* v. *Tweddle*, set down for trial at the late Cumberland Assizes, and afterwards referred to arbitration, affords a forcible example. The outline of that case, which has been much commented upon by the public journals, was this: the tenant's father, nineteen years ago, had taken from the landlord's father some twenty acres of land near Longtown; it was accommodation land, not intended to be cultivated in precisely the same way as a larger farm, nevertheless the lease adopted was the common form in use upon the estate for farms in general, and it bound the tenant to the performance of several physical impossibilities, and not a few absurdities. For instance, the tenant was required to reside on the land, upon which there was not, nor had there ever been, the vestige of a house. Some of the farming stipulations, also, when examined, appeared to be utterly inconsistent with and directly contradictory to others; yet the tenant was bound to perform both classes of covenants. Some offence having been taken by the landlord at the political opinions of his tenant, an attempt was made by means of these obsolete covenants to punish the tenant, as was distinctly avowed by the plaintiff's counsel, for his political independence. The attempt did not succeed, a verdict for the tenant having been awarded; but that was the result of the peculiar circumstances of the case, for, under such an agreement, the tenant of a regular farm would unquestionably have been made liable to damages of some amount.

And, perhaps, few of our professional readers are completely aware of the extent to which the value of landed property is depreciated by these restrictive and obsolete stipulations. At the present day there are numerous persons of capital, intelligence, and enterprise, who are prepared to embark in the business of farming, with much of that energetic purpose which has characterized the mercantile and manufacturing undertakings of this country, but they are estopped at the commencement by the covenants they are required to enter into for the regulation of their cultivation. These are the tenants who will not only give the best rents, and pay them most punctually, but their example will have the effect of improving the systems of husbandry practised by those who have been termed the "jog-trot" farmers of the country; and this latter class is at present in an immense majority.

It is impossible to avoid, seeing that a great change is now coming over the management of the landed property of the country. Gentlemen and their agents have been for some years past urging their tenants to adopt improved systems of husbandry, and to conduct their business upon a more enterprising scale than has hitherto been common; and the most intelligent of the tenantry in all parts of England have responded to such exhortations, that it is the want of leases, or the obsolete or unreasonable stipulations of the leases and agreements in almost universal use, by which all the tenants' efforts to improve are cramped and impeded. We know that in this complaint there is much truth. The first step a landowner or his agent, desirous of improving his property, and of keeping up or increasing his rental—and we are convinced the rentals of most of the great properties of the country might be increased by a different system of management, not only without injury, but with positive advantage to the tenantry — ought to adopt is, to frame a simple and rational form of lease, adapted to the peculiarities of his district, and calculated to attract men of skill and capital to undertake the cultivation of his farms. And to this object we would draw the attention of our professional friends, especially country practitioners, as the means by which some of that respectable branch of the country solicitor's business, *land agency*, may be recovered to the profession. The rigid adherence to antiquated forms on the part of lawyer agents, and the events of the last thirty years which have rendered farming a fluctuating and uncertain business, have been the chief causes for the transfer of so many land agencies into the hands of surveyors and valuers. The time is now come when the profession, especially the country practitioners, if equal to the emergency—and who can doubt that they are equal to it?—must again recover the management of landed properties. Surveyors and valuers are useful agents enough when each half-year brings demands for abatement of rent, or an opportunity for withholding abatements previously made; but that system is now virtually at an end. All intelligent landlords and tenants are agreed on this point, that permanent arrangements for considerable periods of time are necessary for the mutual benefit of both parties, and the great problem of the day is, by how little restriction on the tenant can the fair rights of the landlord be secured? An extensive and long-continued course of observation has satisfied us that a few simple and effective provisions, which would not impede the operations of the tenant, would amply secure the landlord. It must never be forgotten that all unnecessary restriction on the tenant is the loss of so much of rent to the landlord. If our readers deem this question worthy of attention, we may possibly again advert to it. R. G. W.

PROMOTIONS, APPOINTMENTS, ETC.

[Clerks of the Peace for Counties, Cities, and Boroughs, will oblige by regularly forwarding the names and addresses of all new Magistrates who may qualify.]

FOREIGN-OFFICE, Sept. 18.—The Queen has been pleased to approve of Mr. Raphael Ferro, as consul at Malta for his Majesty the King of Prussia; of Mr. Saul Salomon, as consul at St. Helena, for the Free Hanseatic Republic of Lubeck; also of Mr. Thomas W. Gilpin, as consul at Belfast; of Mr. Joseph Cowdin, as consul at Glasgow; and of Mr. Stewart Steel, as Consul at Dundee, for the United States of America.

DOWNING-STREET, Sept. 23.—The Queen has been pleased to appoint William Cayley, esq. to be Inspector-General of Public Accounts for the province of Canada.

Her Majesty has also been pleased to appoint Edward P. Gribbon, esq. to be Colonial Surveyor and Engineer for the Colony of Sierra Leone.

Her Majesty has also been pleased to appoint the Rev. James Leith Moody to be Colonial Chaplain for her Majesty's settlements in the Falkland Islands.

Her Majesty has also been pleased to appoint the Rev. Edward Thomas Scott to be Chaplain at George, in the settlement of the Cape of Good Hope.

WHITEHALL, Sept. 16.—The Lord Chancellor has appointed Cresswell Tayleur Pigot, gent. of Market Drayton, in the county of Shropshire, to be a Master Extraordinary in the High Court of Chancery.

WHITEHALL, August 19.—The Right Hon. Sir N. C. Tindal, knt. has appointed George Messeter, esq. of Frome, in the county of Somerset, gent. to be one of the Perpetual Commissioners for taking the acknowledgments of deeds to be executed by married women under the Act for the abolition of fines and recoveries, in and for the county of Somerset.

The Right Hon. Sir N. C. Tindal, knt. has appointed John Whidborne, of Teignmouth, in the county of Devon, gent. to be one of the Perpetual Commissioners for taking the acknowledgments of deeds to be executed by married women, under the Act for the abolition of fines and recoveries, in and for the county of Devon.

The Right Hon. Sir N. C. Tindal, knt. has appointed Peter Barker, of Hartlepool, in the county of Durham, gent. to be one of the Perpetual Commissioners for taking the acknowledgments of deeds to be executed by married women, under the Act for the abolition of fines and recoveries, in and for the county of Durham.

The Right Hon. Sir N. C. Tindal, knt. has appointed David Manser, of Rye, Sussex, gent. Thornton Fenwick, of Stockton, Durham, gent. and John Taunton, of Oxford, gent. to be Perpetual Commissioners for taking the acknowledgments of deeds to be executed by married women, and for the substitution of more simple modes of assurance.

The Right. Hon. Sir N. C. Tindal, knt. has appointed Charles Cowdery, of Newport, in the Isle of Wight, gent. to be one of the Perpetual Commissioners for taking the acknowledgments of deeds to be executed by married women, under the Act passed for the abolition of fines and recoveries, in and for the county of Hants.

The Right Hon. Sir N. C. Tindal, knt. has appointed Francis Higgins, of Ledbury, in the county of Hereford, gent. to be one of the Perpetual Commissioners for taking the acknowledgments of deeds to be executed by married women, under the Act passed for the abolition of fines and recoveries, in and for the county of Hereford, also in and for the counties of Worcester and Gloucester.

SEPT. 16.—In pursuance of an Act passed in the 8th and 9th years of her present Majesty, entitled "An Act to facilitate the inclosure and improvement of commons and lands held in common, the exchange of lands, and the division of intermixed lands; to provide remedies for defective or incomplete executions, and for the non-execution of the powers of general and local inclosure Acts; and to provide for the limit of such powers in certain cases;" notice is hereby given, that the Right Honourable Henry Pelham Pelham Clinton, commonly called Earl of Lincoln, the First Commissioner of her Majesty's Woods, Forests, Land Revenues, Works, and Buildings, William Blamire, esq. and George Darby, esq. "the Inclosure Commissioners for England and Wales," did, on the 12th day of September, 1845, severally make the declaration required by the said Act before the Hon. Mr. Baron Platt, at his chambers, in Rolls-gardens, Chancery-lane.

LEGAL INTELLIGENCE.

The New Judge of the Westminster Court of Requests.—Notwithstanding the election of Mr. D. C. Moylan to the office of Judge of the Court of Requests, in Castle-street, Leicester-square, the several parishes in Westminster on Saturday proceeded to the election of Commissioners of the Court for the ensuing year, under the Parochial Act. This has led to some remark in Westminster, as it was generally supposed the judge was appointed in the place of those gentlemen, and the question is asked, what part are they to take in the decisions of the Court? If simply as a jury under the directions of the judge, it is expected that many will not serve, as the qualification required is a high one, and confines the selection to the higher classes of tradesmen. And, again, it is said if the commissioners are to decide irrespective of the judge, his office will be a useless one. It seems that the learned gentleman cannot take his seat until approved of by her Majesty at the next Privy Council. The salary is estimated at about 1,200*l.* a year, and it is expected that under this new arrangement a more commodious court will be erected in the place of the present inconvenient office.—*Globe.*

Capital Punishment.—Edinburgh, Aug. 26.—The discussion on Councillor Russell's motion in favour of the total repeal of the laws which inflict capital punishments was resumed this day in our town-council, and carried by a majority of 12 to 5.

Bankruptcy Statistics.—The following is an analysis of the bankruptcies in England and Wales, gazetted for the quarter ending June 30, 1845:—Metropolis, 96; Bedfordshire, 1; Berks, 2; Bucks, 1; Cambridgeshire, 1; Cheshire, 2; Cornwall, (nil); Cumberland, 1; Derbyshire, (nil); Devonshire, 3; Dorsetshire, 5; Durham, 2; Essex, 5; Gloucestershire, 5; Hants, 7; Herefordshire, (nil); Hertfordshire, 2; Huntingdonshire, (nil); Kent, 7; Lancashire, 36; Leicestershire, 4; Lincolnshire, 2; Middlesex (exclusive of the metropolis), 3; Monmouthshire, (nil); Norfolk, (nil); Northamptonshire, 2; Northumberland, 7; Nottinghamshire, 1; Oxfordshire, 1; Rutlandshire, (nil); Salop, 8; Somersetshire (including Bristol), 11; Staffordshire, 9; Suffolk, 3; Surrey (exclusive of the metropolis), 1; Sussex, 4; Warwickshire, 8; Westmoreland, (nil); Wilts, 2; Worcestershire, 5; York (East Riding), 1; North Riding, (nil); West Riding, 19; Wales, 7.—Total, 274.

French Criminal Jurisprudence.—"We have repeatedly," observes the *National*, "expressed our disapprobation of the manner of summing up adopted by the Presidents of Assize. The *resume*, as the word itself indicates, ought simply to be a recapitulation of the principal arguments *pro* and *con.* and nothing more nor less. Unfortunately at the present day many of the Presidents of Assize no longer confine themselves to the limits prescribed by the law, and of this fact the *Droit* of the 30th of August furnishes us with a melancholy example: it says, 'An individual yesterday appeared before the Court of Assize at Versailles, accused of a capital offence. The President concluded his summing up with the following words.—You will bear in mind, gentlemen, how the bringing in extenuating circumstances has been the object of criticism of the press and public in general.' Is not a remark of this nature in the summing up of a judge contrary to what the law authorizes, and is it not of a nature to leave upon the minds of the gentlemen of the jury a strong and lasting impression? The result was that the jury did not in that instance bring in extenuating circumstances, and the accused was consequently condemned to death. We do not wish to be understood to find fault with the verdict of the jury, but simply with the manner of summing up adopted by the judge, which we conceive to be diverging from the path prescribed by law. This is what we would wish to demonstrate."

CORRESPONDENCE.

REAL PROPERTY STATUTES.—SHORT CONVEYANCES.

TO THE EDITOR OF THE LAW TIMES.

Sir,—Your rational and temperate views on the probable working of the new Act, introducing authorized brief forms in conveyancing will, I believe, be approved by a great majority of the Profession.

In short, notwithstanding the exaggerations and high colouring of Lord Campbell's and Lord Brougham's accounts of modern conveyancing, which produced such dramatic effect in the house, it is a notorious fact that, during the last ten or twelve years, particularly amongst the younger members of the Profession, great efforts have been made (principally with a view to benefit the poorer class of clients) to cultivate brevity and perspicuity in conveyancing, and, in many attorneys' offices, before the Act passed for abolishing the lease for a year, it had already been voluntarily dispensed with, and the expense both of preparation and stamp thereof saved to the client, by the constant adoption of appointments to uses—a course, with many others of like intention, suggested several years back by a respected member of the bar, and regular contributor to the Law Magazine (*a*).

The statement made by one of those noble lords, that the cost of a conveyance frequently equalled that of the freehold itself," was too disgracefully false to have been passed over in silence, had there been any [illegible] the House of Peers at all acquainted with practical conveyancing at the present day. Claiming some little experience in that department, after twelve years' practice, I venture to assert, in contradiction to the noble lords, that in small purchases the cost of the conveyance seldom exceeds *ten per cent.* on the purchase-money, and even of that nearly *one-half* goes to government for stamps—and may add that for many years I have used a form of mortgage, with power of sale, and covenant to insure all, included in a single skin; and, to my knowledge, a similar form is widely adopted in offices in the north of England. This course, in future, will be rendered nugatory, I fancy, by the terms of the new Act. Their lordships would have been wiser had they somewhat curtailed the flowers of speech when exaggerating the length of modern conveyances, and exerted themselves to relieve the poor client from that absurd injustice of having to pay stamp duty on a nonentity; viz. the abolished lease for a year.

In answer to one of the queries of your correspondent, H. B. I should humbly submit that there is no danger of short deeds under the new Act being chargeable to stamp duty in respect of the long forms in Column 2. Such words will not be *referred to* by the deed, and a stamp can hardly be required upon a mere case of abstract construction or operation laid down by a statute.

In reply to another of the queries, I should suppose that the new form [illegible] added as the practitioner may find requisite to suit the circumstances of the title (see section 5), and therefore that in the covenant for quiet enjoyment, encumbrances, &c. by ancestors and others may be provided for by the addition of the few words necessary for the purpose.

I am glad to see your suggestions as to the adoption of some new criterion of charges for conveyancing. In spite of vulgar sneers, I will give it as my sincere opinion that attorneys are often inadequately remunerated in this branch of the Profession, especially considering the responsibility they frequently take upon themselves in investigating titles, rather than put their clients to expense of having abstracts perused and drafts settled by counsel. It will be a difficult matter to adopt some fair and adequate basis of charge, and would be a good subject for discussion at the different Law Institutions. A per-centage is not a bad idea but how would the rich like it? I am, Sir, yours, &c.

Halifax. M. H. Rankin.

NON-PROFESSIONAL ADVOCATES AT PETTY SESSIONS.

TO THE EDITOR OF THE LAW TIMES.

Sir,—I am glad to observe, by an article in your last paper, that the above-mentioned subject is beginning to attract the attention of the magistracy and the profession; and as the irregularities complained of are very general, I would strongly impress upon all Law Societies the necessity of applying to the magistrates acting in the localities of such societies, to make orders for excluding all persons, except regularly admitted and *certificated* attorneys or solicitors, from acting as advocates in cases at Petty Sessions. Some objections are made to the exclusion of experienced clerks, on account of the inconvenience which their principals may sustain by being obliged to attend personally in every trifling case which they may happen to be consulted about; but if such an objection were allowed, it would be impossible to draw a line of distinction, for every non-professional advocate commences his case by saying, "I appear for the defendant on behalf of Mr. X., the attorney, who is unable to attend," &c. It must also be evident that *mere inconvenience* should not be allowed to prevail when it is compared with the loss of *respect* in the minds of the public which the members of the profession, as a body, *must* sustain by the conduct and demeanour of that class of persons who are generally found putting themselves forward at Police Courts and Petty Sessions as "*apres stuluies*" *of attorneys*.

The subject was discussed at the last meeting of our Denbighshire and Flintshire Law Association, and the members resolved to use their individual exertions to put an end to the system. The magistrates in this division have, upon the application of some of the attorneys here, made the following order:—"That no one but a regularly admitted and certificated attorney or solicitor be in future allowed to appear and act as an advocate before the magistrates in Special or Petty Sessions for this division; and that notice of this order be given to all the attorneys and [illegible] practising in this division."

I trust that the profession generally will follow the matter up, and that similar orders may be obtained at every Petty Sessions in the kingdom.

I remain, Sir, yours, &c.

J. Lewis,

Clerk to the Magistrates.

Wrexham, September 23, 1845.

(*a*) William Clayton Walter, esq.

THE SMALL DEBTS ACT AND THE COUNTY COURT.

TO THE EDITOR OF THE LAW TIMES.

Sir,—I have noticed that the typography of the Law Times is usually remarkably correct, but in the third paragraph of my letter on the above subject in your last, there is an error, which makes the sense the contrary of what I intended to convey. The paragraph in question (instead of as printed) should read thus:—"Sections 1 and 4, by force of general phraseology, seem to have brought within their operation the County Court. Of course no notice is taken of the peculiarity of the procedure therein, and no provisions applicable thereto vouchsafed; and, although about the most ancient court in the kingdom, it is not even mentioned by name."

I take this opportunity to observe further on the Act, that (as I think) an injudicious obstacle to its working is thrown in the way by requiring the summons to a debtor to be granted, and the matter of it heard, by the Commissioner or Court, "within the jurisdiction of which such *debtor* shall reside or be." Supposing a creditor to obtain a judgment in the County Court of Essex against a party who afterwards goes to reside in London, the creditor must apply to a commissioner there, who informs him that "he has no authority under the statute unless the judgment has been obtained in a court of '*competent*' jurisdiction; that he (the commissioner) is personally responsible for his acts, and as he knows nothing of the County Court of Essex, or, at any rate, whether the circumstances of the case were such at the time the action was brought that that Court had jurisdiction, he cannot assist applicant, *for whom he is very sorry*."

I think, therefore, that the creditor should have the power to summon the debtor (reside where he may) in the local court wherein judgment was had. And, since warrants may be executed and executions levied out of the jurisdiction of such Court (sec. 12), I can [illegible] no reason why the summons to debtors should not be so served, and also the summons to witnesses (sec. 18). *Cæteris paribus*, if any inconvenience is to be suffered or expense incurred, the debtor, and not the creditor, should be the subject of it; but according to the provisions of this Act, it is the contrary.

The practical result of requiring a creditor to summon the debtor in the district where such *debtor* resides, and of declaring that in making any application under the Act it shall not be *requisite* to employ either counsel or attorney, sec. 6 (the operation of which last-mentioned clause I suppose to be—if enacting that a thing *shall* be law which *was equally* law before, can be held to have *any* effect—that if the creditor employs counsel or attorney, the costs must come out of his own pocket), is, that in all cases of judgments under the circumstances instanced the Act is a nullity, or—similar to that will-o'-the-wisp-like emanation of the same legal genius, the "Act to Simplify the Transfer of Real Property,"—a *mockery*, a *delusion*, and a *snare*.

Reason has established in all men's minds the soundness of the principle of the Act under consideration, but the plan on which it has been attempted to carry out that principle seems to have been literally one of *perversity*—protecting the debtor at the expense of the creditor,—"suppressing the legal adviser for the sake of the client,"—ordering a man to be committed and no officer to carry him to gaol; (*a*) but if any man be found bold enough to seize and carry the debtor there, remunerating him at a rate insufficient to satisfy his reasonable expenses, (*b*) to say nothing of his time and the responsibility—promoting morality in prisons by a *swearing-made-easy* clause (s. 7), &c. &c., a perversity which altogether can only be likened to the first rule of the grammar of the Somersetshire dialect, determining that "every thing be called *he*, except a tom-cat, which is to be called *she*."

An English writer once said of a certain person's public career, that he went up like a rocket, and came down like a stick. And of you, O Vaux! what shall be said? Considering the "eccentric flights," the "balloon-like ascents" of your imagination, 7,000 feet at least above the level of your own or the understanding of any one else; your "Protean transformations," and remarkable facility in performing, almost simultaneously, two entirely different characters, and generally the extreme versatility of your in-

(*a*) Although the commissioner *might*, it seems, send *his own footman if he pleased*. Mr *Huggins*, before Mr. Commissioner Fane.

(*b*) For *carrying* every plaintiff, defendant, or delinquent, to prison (including *all expenses* and *assistants*), for every mile 6d., Schedule C.; upon reading which, Mr. Commissioner Fane ejaculates from the judgment-seat,—"*How absurd!*"

vention in catering for the amusement of the public; it may certainly be a question whether you would have missed your vocation and a livelihood at *Vauxhall?*

Brougham——Vaux! Taking these terms to represent, one the healthy grasp of thought which distinguished *Brougham*, the young advocate, and fitted him to occupy a pedestal in that temple of severe intellectuality, the Queen's Bench; the other, that hunt-after-notoriety-fever which induces those unreasoned impulses that characterize *Vaux's* recent politico-legal masquerading; what a gulf of incongruity does the hyphen between typify!—I am, Sir, yours, &c. GEORGE JOHN DURRANT.

Chelmsford, Sept. 22, 1845.

SHAM LAWYERS.

TO THE EDITOR OF THE LAW TIMES.

Honiton, Devon, Sept. 25, 1845.

SIR,—I herewith send you copy of a letter received by a client of mine from a Mr. Wm. Hy. Isaac. I give you the copy *verbatim et literatim*. I have nothing extenuated, nor set down aught in malice. My client took no notice of Mr. Isaac's application, and he has since been served with a copy of a writ of summons to appear in the Common Pleas, which is tested the 1st September, and is endorsed us having been issued by John Barber, of No. 11, Furnival's Inn, in the county of Middlesex, as attorney for John Hooper, who, however, declares he knows nothing of Mr. Barber, nor ever employed him. I need scarcely add, that Mr. Isaac is not an attorney. He has long been resident in this town, and has had much employment in former times from the attorneys here in serving writs, notices, &c. and levying distresses; of late, I believe, he has found more profitable employment from acting on his own account. Who the Mr John Barber, of No. 11, Furnival's Inn, who co-operates with Mr. Isaac, may be, I cannot say, but perhaps you or some of your readers can supply the necessary information.—I am, Sir, your obedient servant,

R. H. ABERDEIN.

COPY.

1845, Honiton, Aug. 26.

SIR,—I Am Instructed by M. John Hooper, Gardener & Seedsman, of Honiton, to Apply to you for A Debt you owe him of 3*l*. 2s. 9*d*. and to Acquaint you that Unless the Same, togather with the Cost of this Application, be paid at my Office on or before Saturday Next, Legal proceedings will be commemced Against you for recovery thereof, without Further *Notice*.—I Am yours Ob. St. "W. H. ISAAC."

Mr. E . . . G . . . . Esq.

SELECTIONS FROM CORRESPONDENCE.

"SPECTATOR" thus comments on a subject which has been often discussed in these columns:—

Some of your correspondents appear to have imbibed a taste for distinctions in dress, which might have been expected from the disciples of my namesake, a century and a half ago. I am by no means confident in the opinion which I hold, but I am disposed to think that our rank in society is sufficiently secured to us by the Legislature of days which all classes unite now in respecting, and that nothing can become "us" more than the dress of an English gentleman simply. If any of your readers really have felt inconvenience, when attending the courts, from a want of distinction from the "vulgar crowd," I may, perhaps, be permitted to suggest to them the unostentatious use, in their button-hole or hat-ribbon, of a few inches of *red tape*. From experience I am enabled to say that, with the assistance of it and a smiling countenance, the "crowd" will separate for "us," and the "surly porter" will unbend his brow.

PHILOS submits the following question:—

Permit me to inquire, through your journal, what rule prevails in the Profession as to the fees of the Clerical Commissioner taking the oaths of executors and administrators in the country? In some cases, a guinea is taken, in others, but half a guinea. It seems that some uniform scale should be adopted; and if it were the practice throughout the kingdom to give half a guinea where the effects are under 1,000*l*. and a guinea in other cases, it would, I believe, give general satisfaction. But disseminated knowledge alone can produce uniformity.

"G. M. S." thus notes an error in Mr. CAREY'S Lectures:—

In referring to the case from Campbell, in Carey's Law of Contracts (No. 129, p. 526) you state that the nature of the transaction was endeavoured to be concealed by a fictitious sale of ostrich feathers to the borrower, for a sum of money returned some time in the same day, so that the party paid in money 5 per cent. upon 90*l*. instead of 100*l*. I think in this there must be some mistake; for if the party paid 5 per cent. upon 90*l*. he but paid legal interest.

Do you not mean, that the party paid five pounds, instead of five per cent? This would make the usury apparent.

To Readers and Correspondents.

J. T. SCOTT.—*On further consideration of his last letter, we are reluctantly compelled to decline its insertion. We shall be happy to give circulation to any facts interesting to the Profession, but we have nothing to do with personalities.*

J. S. S. *The simple ground is, that unless an attorney or barrister be the judge, the jurisdiction cannot be larged.*

JUSTITIA VIRTUS.—*We are unable to find space for his letter.*

ERRATUM.—*In Mr. Hawkes's letter in p. 487 of this Journal, the reference to the Act of Parliament should have been "8 & 9 Vict. cap. 113," and not "8 & 9 Vict. c. 127," as there given.*

NOTICE TO SUBSCRIBERS.

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It is proposed to publish an annual *Index Legum*, consisting of a digest of all the reported cases and statutes of the past year, under the title of the YEAR BOOK, to be bound with the volumes of the LAW TIMES, or separately, at option. It will be comprised in about six or seven numbers, at 1s. each, stamped, for transmission by post. It will not be commenced unless 1,000 subscribers order it. Persons desirous of having it are therefore requested to transmit their names as soon as possible.

THE LAW TIMES.

SATURDAY, SEPTEMBER 27, 1845.

CONVEYANCING.

THERE is a provision in the Act of the last Session for abbreviating certain common forms in conveyances, to which we omitted to refer in the brief notice that had been suggested by the complaints of many correspondents. As this provision is a partial accomplishment of the proposition we had previously suggested for the payment of conveyancing by some other scale than mere length, we are induced again to direct to it the special attention of the Profession.

It is provided by the fourth section of this Act:—

That in taxing any bill for preparing or executing any deed under this Act, it shall be lawful for the taxing officer, and he is hereby required, in estimating the proper sum to be charged for such transaction, to consider, not the length of such deed, but only the skill and labour employed, and responsibility incurred in the preparation thereof.

Our proposition was that, *as a general rule*, (subject of course to exceptions under special circumstances), the charges for conveyancing should be regulated by the value of the property conveyed. The advantages of such an arrangement would be found in the ease and rapidity with which the charge would be calculated, in uniformity of charge among practitioners, and the satisfaction which its apparent justice would afford to the client. We are of course alive to the ready objection that the labour and skill required are not in fact proportionate with the value of the property; that as long a deed (and often a much longer one) is needed for this conveyance of an estate of 500*l*. as for one of 5,000*l*. But we contend that, practically, the conveyancer is now compelled rudely to regulate his charges more by value than by length, and that for the most part the labour does increase with the value. The question, like almost all other questions that arise in the business of life, is not whether a perfect system could be framed, but which of the plans proposed presents the greater number of advantages and the fewest evils. The old system of charges by length alone has been formally abolished by an Act of the legislature; henceforth it will be impracticable, and the serious matter for the consideration of the Profession now is, what shall be the rule to regulate for the future the charges for conveyancing. It is to this that we ask the instant and serious attention of its members.

When first we considered the subject, we were inclined to jump at the conclusion that the Act itself had supplied a solution of the difficulty; but further reflection shewed that it was not so. The Act provides that the taxed costs for conveyancing shall be regulated, not by the length, but by "*the skill and labour employed and responsibility incurred.*" In cases of taxation, reference being had to a competent judge to determine, under all the circumstances of the case, the result will be attained without much difficulty. But how in the numberless transactions that never come before the taxing-master? By what scale are the skill, labour, and responsibility to be measured? Is it to be left to the individual judgment of each practitioner to set his own value on his own work? Certainly this will be no easy matter for him, and it is a difficulty which is very likely indeed to lead to differences with his client.

Besides, there is another objection to this plan of leaving the charge wholly to the mere self-estimate of the conveyancer. In an inquiry intended to be practical, it would be folly to affect a confidence in a virtue and a wisdom which does not belong to ordinary human nature. Solicitors, in common with other men, are not likely to be the best judges in a matter affecting their own interests; they, equally with their fellows, may be apt to set very different values upon their own labours, and take different views of their skill and responsibility. It is because of this natural bias of the judgment that experience, in all ages and countries, has established scales of fees by which professional services are to be rewarded. Thus only could uniformity be assured, and none will question the advantage, nay, the necessity, of as near an approach as possible to uniformity of charge in the Legal Profession.

Now this is the point to which we desire to draw the urgent attention of the Profession. The old scale of charges by length is virtually abolished by the new Act, which substitutes payment proportioned to skill, labour, and responsibility. But although these are ingredients which may be readily determined by the taxing-master, they do not supply a satisfactory standard for charges in bills untaxed, because of the very different values which would be set upon those ingredients by different persons, and the consequent difficulty which the practitioner will find in making out his charges, the dissatisfaction he is likely to give to his client, and the entire absence of that uniformity of charge throughout the Profession which is so essential to its harmony and respectability. The statute has not supplied a proper substitute for the scale abolished; but that which the statute has not done, the Profession, by a self-made regulation, should attempt to do. The law societies should consider well what scale of charges they should recommend to the adoption of the Profession. We are sure that any such recommendation would be received with respect, and find ready acquiescence with all the members of the Profession whose assent would be desirable. As we have already stated, the plan which appears to us to offer the greatest conveniences with the least disadvantages, is that of a scale of fees regulated by the value of the property conveyed; or, per-

haps, as a nearer approach to equity, by the amount of the stamps, which would indicate length as well as value. In this we include, as does the Act, the conveyance only; all the charges for investigating title, &c. will of course remain as now. We throw out the suggestion with much deference, and merely in aid of the general fund of opinion upon a subject of grave and urgent importance, and which must speedily force itself in a practical form upon the attention of every solicitor who is called upon to make out a bill for conveyancing.

THE SMALL DEBTS ACT.

This measure is working precisely as we had anticipated; nothing can be more perfect and satisfactory than its principle, nothing more incomplete than its machinery. The great purpose of the plan, that of subjecting insolvent debtors to the rigorous examination of their creditors, and their summary punishment in case of fraud in the contraction, or evasion of the payment of their debts—is so effectively accomplished, that in the large majority of cases brought before the Courts the end has been at once attained; the debtor has submitted to the order of the Court, regulated by his means, and payment has been made accordingly. In very few instances indeed has it been found necessary to enforce the punishment prescribed by the Act, and never has it been awarded save when there was manifest proof of roguery on the part of the defendant.

We need not say, after the interest we have taken in this measure, how cordially we congratulate our readers and our countrymen generally on this result. How changed is now the position of creditors from that which it was at this period of last year. Just then the law had virtually deprived them of all remedy for the recovery of debts under 20*l.* Our table was daily loaded with letters from all parts of the country, detailing cases of grievous injury resulting from the sudden withdrawal of the protection of the law from unlucky creditors. Among the multitudes of dishonest debtors there was a great rejoicing. The law had given them an indemnity; they were free from fears of punishment for defrauding their creditors, and they were not slow to avail themselves of the liberty thus allowed to them. While the rogue was rejoicing, the honest man was threatened with ruin: when he demanded payment of his debts, he was received with a laugh; all debts under 20*l.* were virtually confiscated.

How different the picture now. Thanks to the Small Debts Act, a debt under 20*l.* is now more easily and sooner recoverable than a larger debt. Instead of laughing at his creditor and telling him to get his money if he can, the debtor hastens to pay or compromise, because he dreads the examination into his doings and affairs to which this law subjects him, even more than he fears the punishment it awards. He is assured that evasion is no longer possible, unless he is prepared to submit to continual imprisonments. If he have property anywhere, or can by any labour procure it, pay he must, or shew good reason why he cannot. Brief has been the saturnalia of the rogues; their short respite has been succeeded by a punishment quite as severe and vastly more certain.

Still, as was observed, would defects have been already developed in the machinery of this excellent measure. The defects which were frequently and ably pointed out by so many of our correspondents, while it was passing through the Legislature and when they might have been easily supplied, are now provokingly apparent, and will demand the further labours of the Parliament in the next session. It was from no negligence on our part that these objections were disregarded. Besides publishing them in the columns of the Law Times, where they were sure to be seen by the lawyers in both Houses, we took the pains to collect them in a formal memorial, which we submitted to the quarter most concerned in the management of the Bill; but the lateness of the session, and a fear lest any delay might prevent the measure from passing, were pleaded as the reason for throwing it into the world with all its imperfections on its head. We have scarcely seen one difficulty which has arisen in practice which was not anticipated in these columns and might have been avoided,—another proof of the danger of hasty legislation.

A defect has just occurred to us which should be noted as one of the faults to be corrected when opportunity offers. It is this:—

As some of the judges have construed the Act (though, we think, wrongly), the presence of the plaintiff in person is required. What a hardship will this work! Suppose a creditor in London summoning a debtor in Yorkshire. He must, according to this rule, incur the cost of a journey to Yorkshire before he can procure justice. We trust this decision will be reconsidered. It will strip the Act of half its worth. Besides, it is contrary to the general practice of our law, which permits all but persons criminally charged to appear by attorney.

We shall continue to watch the proceedings under this useful measure, and give to our readers the earliest and best information of all decisions by competent authorities. Let us add that we shall feel greatly obliged if attorneys practising in any of the Commissioners' Courts in the country, where we have not already regular reporters, will send us accurate reports of any important points that may arise, authenticating them with their names, for our private satisfaction that they are to be relied upon.

It will be seen, by the advertisements in this day's Law Times, that in various parts of the country advantage will be taken of the provisions of the statute to enlarge the jurisdiction of the local courts, for which purpose attorneys of ten years' standing or barristers must be appointed as judges. Many such elections are already in progress.

VERULAM SOCIETY.

Much confusion having arisen from complication of accounts and transfer of payments and of subscriptions from one account to another, it has been arranged for the future that, instead of subscription, a bill will be sent half-yearly to the members for all publications of the Society had by them, such account to be paid within a month after delivery, otherwise the reduction of price to members not to be allowed. It is hoped that thus will be avoided the complaints now made. Under this arrangement, nothing more will be required than payment of the entrance-fee. The member will then be entitled to any of the publications of the Society at the reduced prices, on condition only of payment for such as he purchases within one month after delivery of the half-yearly account.

In a few days will be ready for delivery the common forms prescribed by the Conveyancing Acts of last session.

As [a] few more decisions will permit them to be drawn with safety, we propose to supply a series of forms required under the Small Debt Act.

Let us again repeat, that we have made an arrangement with Messrs. Knight and Co. by which the members of the Verulam Society can be supplied with any of their extensive series of Magistrates' and Parochial Forms at the reduced prices of the Society. A complete list of these is in preparation, and will be soon ready for delivery.

Again, let us say, that suggestions of Practical Forms will oblige.

As soon as the lawyers return to town, an endeavour will be made to bring out some practical text-books; the difficulty lies in procuring competent writers. We propose a continuation of Chitty's Practical Statutes, and a Dictionary of Mercantile Law. The latter was suggested by an admirable work of the same kind we saw in Belgium; and we are informed that the practitioners in France have found the form of a dictionary so useful for *books of practice*, that they prefer it to any other.

LECTURES ON MEDICAL JURISPRUDENCE.

By A. S. Taylor.

Delivered at Guy's Hospital.

Lecture XV.

Zinc—Salts—Chemical analysis—White vitriol—Tests. Antimony—Chemical analysis—Tests.

Another metal which possesses, in certain forms, poisonous properties, is *tin*. There are two poisonous salts of tin, the chloride and the muriate, which are employed under the name of Dyer's spirit. This compound is used for the purpose of dyeing, and gives rise to many serious, though seldom fatal, accidents. The symptoms produced by this substance are like those produced by all the other irritant poisons, and where it has been administered the best antidote that can be employed is milk. With regard to the chemical analysis of this poison, the oxide of tin is very easily detected by hydrosulphuret of ammonia, which gives, in a solution of the salt of tin, a yellowish precipitate of sulphuret of tin. Now, cadmium, tin, and arsenic give a yellow precipitate with sulphuretted hydrogen gas, and therefore it becomes necessary to distinguish between them. The sulphuret of tin is distinguishable from an arsenical liquid by its being insoluble in ammonia, while the sulphuret of arsenic is soluble; and it differs from cadmium in this, that it is quite insoluble in muriatic acid. Cadmium is quite soluble in muriatic acid, because chloride of cadmium is formed by it. This is very important to know. The protochloride of tin is easily detected by being precipitated brown by hydrosulphuret of ammonia or sulphuretted hydrogen. But many poisons give a brown precipitate with hydrosulphuret of ammonia, and this offers an objection to any inference from the colour. How, then, do we know it to be protochloride of tin? The experiment for determining this question is very simple. If we add to a solution of the protochloride of tin a drop or two of chloride of gold, a deep purple brown, and almost black, precipitate is formed.

Another metal which may be ranked with the irritant poisons, though in a medico-legal point of view it is not very important, is *zinc*. You may be asked, What are the poisonous salts of zinc? The salts of zinc are the sulphate, the carbonate, and the oxide of zinc. The sulphate of zinc (white vitriol) is well known in commerce. It is seen in enormous white crystals, closely resembling sulphate of magnesia, or Epsom salts. It is a powerful emetic in doses of from one to two scruples; from this circumstance, therefore, it demands attention, since it is often present in the stomach when a person has taken poison. It possesses a very strong metallic taste, and can scarcely be taken by a rational person, ignorantly, in any quantity sufficient to destroy life. The best antidotes are those substances containing caseum, such as split-peas, and milk, and infusions containing tannin: pea-soup is often exhibited. There is, however, but little fear of an adult person dying from the effects of zinc; and its effects are most apparent in young children. In the analysis of zinc, one point is to distinguish the crystals from those of oxalic acid. Now oxalic acid is known to be quite volatile, while the sulphate of zinc is fixed. Sulphate of zinc is also very readily dissolved in water, taking up about one-third of its weight at common temperatures. The tests for zinc are three in number; first, sesqui-carbonate of ammonia, which gives a white precipitate. This test is not a very delicate one, and in fact we are rather in want of a satisfactory delicate test for this metal. The sesqui-carbonate of ammonia precipitates many other substances white; such as magnesia, lead, cadmium, tin, barytes, strontia, and others; but there is no other substance which is thrown down by the sesqui-carbonate of ammonia, and which is redissolved by it when added in excess, but zinc. Secondly, ferrocyanate of potash, which gives a white precipitate of ferrocyanate of zinc.

A great many bodies are thrown down by this substance also, and so far it is no criterion: lead and silver are thus precipitated by it. Common alum is likely to be mistaken for sulphate of zinc, and ferrocyanate of potash is a good means of distinguishing it from sulphate of zinc, for alum is not precipitated by it. Thirdly, hydrosulpheret of ammonia or sulphurretted hydrogen. This gives a white precipitate with a solution of zinc, and zinc is the only metal which is precipitated white by sulphuretted hydrogen. If the solution be much acidulated, sulphuretted hydrogen gas produces no effect whatever; and here we come to the practical means of separating arsenic from zinc in a person's stomach. If the sulphate of zinc be dissolved, we may pass in a current of sulphuretted hydrogen, and its presence is immediately indicated by a milky-white froth. The sulphuret of zinc may then be decomposed by muriatic acid. The white sulphuret of zinc is apt to conceal faint traces of arsenic, where it has been given as an emetic in cases of arsenical poisoning. The sulphuret of arsenic is soluble in ammonia, and may be separated from the sulphuret of zinc. By very strongly acidulating the mixed liquid with muriatic acid before passing into it a current of sulphuretted hydrogen, arsenic alone will be precipitated, but the zinc will remain suspended. Again, in a solution of sesqui-carbonate of ammonia containing carbonate of zinc dissolved, the zinc is precipitated by hydrosulphuret of ammonia or sulphuretted hydrogen. The only other point to be noticed in connection with sulphate of zinc relates to the means to be adopted for discovering the acid of the salt. This is done by means of nitrate of barytes. The tests for zinc may not be satisfactory where the white vitriol of commerce has been used, because it often contains iron. A preliminary test, therefore, to be employed in the case is ferrocyanate of potash, and if iron be present, the precipitate will be of a bluish-white colour. Allowance must therefore be made for the presence of this impurity.

The insoluble compounds of zinc are easily known. The oxide is soluble in acids, and when heated it becomes yellow. It is known in that way from magnesia, barytes, lime, and many other white powders. The chloride of zinc is very soluble, and it is easily detected by nitrate of silver. The acetate of zinc, which may be mistaken for the sulphate, is detected by boiling it in diluted sulphuric acid, when the acetic acid is separated, and is easily distinguished by its odour.

The next substance to be considered is *antimony*. This metal has produced serious effects in the form of the two compounds, *tartar emetic*, and the *chloride*, or butter of antimony. Although death is very rarely caused by it, it has produced alarming effects in doses of from half an ounce to an ounce. It occasions violent vomiting, and in that case there is a chance of its being expelled from the stomach. A case is related by Orfila, in which forty grains of tartar emetic killed an adult in four days.

The tests for antimony are very simple. Tartarised antimony is soluble in about fifteen parts of cold water and three of boiling water. If a small quantity of the solution be evaporated on a plate of glass, you will obtain most beautiful crystals, which we know from all others by their being tetrahedral. If you drop the powdered tartar emetic into hydrosulphuret of ammonia, you will see that there is a reddish-brown colour brought out, and by this it is known from other metallic salts, which all turn black. When the powder is washed, it becomes as red as brick-dust. When heated in a reduction-tube, it becomes charred, but it does not melt before charring, like acetate of lead. The antimony is partially reduced by the carbon of the vegetable acid, and the decomposed mass has a greyish-blue lustre. Many years ago, on a trial for arsenical poisoning, a witness was asked by one of the counsel whether tartarised antimony, when heated in a tube, would give a metallic sublimate; and he said he was not aware that it would. You will observe, therefore, that antimony gives no sublimate, but it is reduced and presents a greyish-blue colour. Supposing we have antimony in solution, there are two tests which we may use for its detection. This solution is remarkable for being precipitated by nitric acid, the sublimate of antimony being thereby formed. This is soluble in an excess of nitric acid; and another remarkable property which it possesses is, that it is perfectly soluble in tartaric acid. It possesses another character, that it is one of the few metallic solutions not precipitated by ferrocyanate of potash. That is an exception to the general rule. Sulphuretted hydrogen produces in the solution a reddish orange-coloured precipitate; and in this respect it has been supposed that even a practical chemist is likely to mistake it for arsenic. But there is a distinction in the colour; arsenic is of a bright golden colour, while the colour of antimony is that of a brick red. The hydrosulphuret of ammonia gives a reddish-brown tint, and the sulphuretted hydrogen a rich orange. The sesqui-sulphuret of antimony is entirely soluble in potash, and in this respect it differs from the sulphuret of cadmium, but resembles that of arsenic. It is partially soluble in ammonia, but the ammonia must be very strong, and the quantity precipitated very little, in order that it may be re-dissolved. The sulphuret of arsenic is quite soluble in ammonia, but sulphuret of antimony is not. When boiled in strong muriatic acid, it is soluble; in which respect it differs from the sesqui-sulphuret of arsenic. When collected and dried, it is decomposed; by boiling muriatic acid, sulphuretted hydrogen is evolved, and a solution of chloride of antimony is thus formed; and in this way the sulphuret of antimony is separated from that of the arsenic.

With respect to the detection of antimony in organic liquids, tartar emetic is precipitated by tannin in all its forms; it is decomposed by many organic substances; by albumen, caseum, and all kinds of food, and by the mucous membrane of the stomach. The suspected liquid must therefore be filtered, and the sulphuretted hydrogen test applied. Having ascertained the presence of antimony by passing into the liquid sulphuretted hydrogen, the sulphuret may be collected, and it will be found to have the usual orange-red or brown colour, and to be soluble in muriatic acid and forming a chloride. This will be decomposed by water; and antimony and bismuth are the only metals that are decomposed by water. How, then, do we distinguish antimony from bismuth? The most important difference between these two substances is that the precipitated sub-chloride of antimony is soluble in tartaric acid, while that of bismuth is not soluble in tartaric acid. There is a further difference, that with hydrosulphuret of ammonia antimony is precipitated red, but bismuth is precipitated black. Iron may be detected in the solution of antimony by the ferrocyanate of potash, which gives a blue precipitate with a salt of iron, and a white precipitate when the salt of antimony is not mixed with iron.

THE CRITIC.

New Books.

The Law Review, No. IV.

We were able only to give a short notice of this excellent publication, unaccompanied by extract, but we promised a specimen of its rich variety of contents when the leisure of the Long Vacation should permit. We now avail ourselves of the opportunity.

We take an interesting

MEMOIR OF LORD PRESIDENT BLAIR.

Few members of the legal profession in either country have left behind them a higher or a purer fame than the distinguished personage f whom we are now to speak. To talents of an exalted order as a lawyer and a judge, he added the gift of a masculine understanding, powerful over whatever subject its strength might be exercised; and though deficient in the portion of an advocate's qualifications which connects itself with the mere acting graces of manner, and even the more ordinary and easily acquired gifts of eloquence, he yet shewed his great powers even as an advocate, surpassed though these were by the extent of his learning and the weight of his opinion. His success, too, was commensurate with these endowments and acquirements; his station might always have been far higher had he chosen to sacrifice his ease, or been actuated by a more vulgar and bustling ambition; and he nevertheless closed his life in the first legal station on the Bench, after having for several years been placed by the unanimous choice of his brethren at the head of the Bar. To record the history of such a man is performing the duty of a work like ours.

Robert Blair was the third son of the Rev. R. Blair, well known as the author of a very popular poem, *The Grave*, a clergyman of learning as well as genius, and son of David Blair, King William's chaplain at the Hague, while yet stadtholder only, afterwards one of the ministers of Edinburgh, grandson of Robert Blair, chaplain of Charles I. a distinguished leader of the Covenanters, in which capacity the ghostly warrior bore the standard of the Scottish host at the famous battle of Marston Moor, where he joined his brethren in employing "the king's authority against his person." This remarkable individual had been some time settled at Bangor in Ireland, where he was the founder of the Ulster Synod. In Baillie's letters frequent mention is made of him, and from his high attainments, polite accomplishments, and dignified deportment, he was deemed a fit person to superintend the education of the royal children, in case the extremity of the struggle had been delayed, or it had ended in a compromise. It is not improper to note these particulars, because they enable us to trace through a succession of forefathers, not every capacity, but the peculiar species of capacity by which the subject of this memoir was distinguished; for it is easy to perceive the lineaments of the same masculine and lofty character both in the chaplain of William, evidently settled in Holland in order to escape the compliances required by the Charleses and the Jameses; and in the covenanting chief, who could both fill the pulpit and wield the sword in defence of his cherished principles.

The poet was settled at Athelstonford, in East Lothian, by a singular coincidence the same cure which was afterwards held by John Home, author of *Douglas*. He married Isabella Law, of Elvanston, one of the celebrated family of Law of Lawriston. The great lawyer had thus an hereditary title to the decision of character and firmness of purpose which ever marked him, whether we regard his paternal or his maternal descent.

He was born in 1742. His father died three years after his birth; and he was at first placed in the grammar-school of Haddington with the celebrated Henry Dundas, first Lord Melville, an accident which laid the foundation of an intimate friendship that continued with unabated affection through both their lives, both ending within a few days of each other; for Lord Melville died the night before his ancient comrade's remains were consigned to the grave. From Haddington he was removed to the High School at Edinburgh, and became Dux, or head by merit, of the Rector's class, at the time of his leaving that celebrated seminary.

That he pursued his studies, both at school and college with assiduity and with success, we have irrefragable proof in those tastes for classical learning which ever remained with him, and those habits of learned reading which he intermingled with his professional studies, though somewhat less continually indulged than his inclination would naturally have prompted, in consequence of an indolent turn of mind and body, which led him, when the fatigues of the day were past, to indulge a good deal in what the Italians term the *dolce far niente*, elevated in their sultry and exhausting climate to the dignity of a saint.(a) But the style of his speeches often betokened that his eloquence was drawn from pure sources, and formed upon antique models.

He was admitted an advocate in 1764, and obtained a considerable share of practice from the first. When Mr. Dundas was made Lord Advocate, he was, with Messrs. Craig and Abercromby, afterwards judges, appointed one of his deputies, termed depute advocates, important officers, especially in the absence of their chief on his parliamentary duties, as on them are devolved the duties of the great and most beneficial office of public prosecutor; the institution for which we of England have daily occasion to envy our Scottish neighbours. Indeed, when we say most beneficial, we use a feeble expression. The necessity of this office is quite apparent to all who bestow a thought on the most important branch of our jurisprudence, the administration of criminal justice. Any thing more barbarous than the state of the English procedure in this respect cannot well be figured. We have already more than once had occasion to call the attention of our readers to it, that so great a defect may at length be supplied, and the duty of enforcing the law may no longer be left to mere haphazard, but confided to fit and to responsible hands; a change all the more necessary, now that we have allowed every prisoner to be defended by the skill and the eloquence and the learning of counsel.

The successor to Lord Melville as Solicitor-General, when he was made Lord Advocate, was, as a matter of course, to be looked for in the sacred family—that of Dundas,—not Mr. Blair, though an experienced advocate and eminent lawyer—not Mr. Blair, though the Lord Advocate Dundas's most ancient and chosen friend, was ever thought of for his successor; but a young gentleman of fair talents, excellent character, and pleasing manners, was pitched upon, in the person of Mr. Robert Dundas, Lord Melville's son-in-law by marriage, and nephew by birth, and he, at the early age of four-and-twenty, was first made Solicitor-General, and afterwards, at the somewhat more mature age of twenty-seven, Lord Advocate, public prosecutor, and minister for Scotland. Thus, however, were things in those days managed among our northern neighbours, who, inured to the family propensities so cherished by the feudal system, never marvelled at any advantage conferred by relationship to a great man, nor concerned themselves in solving the indeterminate

(a) Sacro-santo far niente.

problem of comparing merit with birth, which they were taught to regard as incommensurate quantities, and no more dreamt of comparing them together, than of subtracting pounds sterling from pounds avoirdupois.

In 1789, Mr. Blair, not at the Dundas—solicitor age of twenty-four, or even at the Dundas—advocate age of twenty-seven, but at the more mature age of forty-seven, was at length made Solicitor-General, and was then in the height of favour both with the country and the courts. His practice was extensive; his learning varied, accurate, and profound; his judgment sound as well as penetrating; so that his opinion had weight, not only with the Profession, but with the judges, who seemed, when they felt reluctantly compelled to decide against him, to feel afraid, and almost to apologise for the liberty they took. His official rank of course increased his already ample share of business, and his retiring nature leading him to feel abundantly contented with the eminence which he had attained, he more than once refused to be made a judge. This occurred in 1795, when pressed to it by the Government, especially by the Chancellor, Lord Loughborough, on which occasion the Secretary of State communicated in very flattering terms the King's regret, but also his Majesty's full sense of the motives which had governed the refusal, "and which had rather raised than lowered him in the King's opinion." The same occurrence was repeated in 1801, when the office of Justice Clerk, chief criminal judge, was vacant by Lord Braxfield's decease. This, the second station in the profession, and leading surely to the first, was refused by the high-minded individual whose history we are recording, and on a ground as rare as it is noble. He felt apprehensive, though not above threescore years of age, that he might not have strength of body to sit out, in the requisite vigour of mind, a long criminal trial. "Therefore," said he, "I cannot think of accepting an office of such importance, with the prospect before my eyes of being obliged, in any important occurrence, to allow the duty to be discharged by others. You may be assured," he adds, "it is not a pleasant reflection for me to think that I am thus excluded from any promotion in the line of my profession to which I might otherwise have been thought entitled. But I have seriously considered the matter over and over again, and my mind has long been made up to it. The only situation I can look to when I quit my present office, is that of an ordinary Judge of the Court of Session, and that I shall accept when you desire me to do it." —This letter was addressed to Lord Melville, and we may add, that an ordinary judge of the Court of Session has no criminal business to transact. Another illustrious lawyer, Mr. Cranstoun, afterwards Lord Corehouse, always declined taking the promotion and emoluments of a criminal judge, upon somewhat of the same high sense of honour and feeling of public duty. We rather hope than believe that the Bar of either country can afford other instances of public virtue to place by the side of those two great men—the lights of the Scottish Bar, and the just objects of universal veneration. (b)

In 1802, when Mr. Dundas became Chief Baron, he was succeeded as Lord Advocate by Mr. Charles Hope, Mr. Blair declining to fill an office which would have entailed upon him the necessity of parliamentary attendance, to which his own modesty, far rather than any real deficiency, pronounced him inadequate. In like manner he allowed Sir James Montgomery to go over his head when Mr. Hope succeeded Lord Eskgrove, as Justice Clerk in the winter of 1805.

Mr. Blair thus continued from 1789 to 1806 in the office of Solicitor-General. On Mr. Pitt's death at the beginning of the latter year, the Grenville administration was formed, and Mr. John Clerk was appointed Solicitor-General, Mr. Henry Erskine in like manner superseding Sir James Montgomery as Lord Advocate. Upon the dissolution of the Grenville ministry in 1807, the division of the Court of Session into two branches being resolved upon, and the new bill being to take effect in 1808, it was known that Sir Ilay Campbell intended to resign upon that event, and therefore Mr. Blair did not resume his office of Solicitor-General. He was in 1808 raised to the high office of Lord President, which he filled till his lamented death in June 1811. We have noticed the melancholy coincidence of that event with the decease of his oldest and most intimate friend Lord Melville. In fact, the suddenness of the President's death gave a shock to his friend which, operating on an organic complaint of the heart, proved fatal. He went to bed on Friday, the 11th of June, intending to attend the President's funeral the day after, but he was found dead in his bed on that morning. The President himself had been in perfect health till the preceding Sunday when he felt somewhat indisposed, but so slightly that he walked out as usual before dinner. In returning home his gait was observed to be less firm than usual. He reached his house however, when he fell into the servant's arms, and in a quarter of an hour expired. Lord Melville's complaint, apparently of the same class, had for eight or nine years been known to exist, and with his wonted firmness of mind, he had drawn up an account of the symptoms, exceedingly detailed and accurate, and almost learned, which he was accustomed to shew any medical man that might beset him with inquiries, directed, as the veteran politician and experienced Scotchman was prone to suspect, partly to improving the inquirer's knowledge of the disease, partly to improving his acquaintance with the minister.

The President's funeral was attended by all the judges, by the heads of the Bar, by the professors of the University, and by a deputation of the General Assembly, then in session. The ceremonial is said to have been solemn and imposing, as far at least as the funerals of our northern neighbours can reach that pitch; for, instead of our noble and affecting service, it is well known that they only stand, covered and silent, by the grave, till the earth is put on the coffin, and then, taking off their hats as a last token of respect, disperse.

Mr. Blair was married to Miss Isabella Hackett, youngest daughter of Colonel Hackett Craigie of Lawhill, representative of one of the ancient families in Fifeshire. By her he had one son, now member of the Supreme Court of Corfu, and three daughters, the eldest of whom is married to Mr. Maconochie, who, after filling the offices of Solicitor-General and Lord Advocate, was afterwards a judge by the title of Lord Meadowbank.

The preceding account of the President's rare disinterestedness in respect of professional advancement will have prepared the reader for the statement that he left an exceedingly limited fortune to his family. It will also prepare him to approve entirely of the just distribution of royal favour by which Mr. Perceval conferred on the widow and daughters an adequate pension, Lord Meadowbank, however, refusing, though not then in office, any portion of that liberality to his wife. There is great satisfaction in dwelling upon such traits both in the President, his son-in-law, and the government, all having well performed their parts upon the melancholy occasion. We may add that no man could be more spotless in his whole private as well as public character. In every relation of life he was blameless and sincere; for, beside being a most kind member of his own family, his generosity to his friends, when required for their relief, was far from being always limited by a prudent regard to his own means. He more than once made himself liable for their losses, and relieved them from embarrassment by incurring their responsibilities.

In approaching the task of estimating his merits, while at the Bar or on the Bench, we must remark that the indolence already referred to was far indeed from being the listless idleness of empty and frivolous minds, whose inaction leaves little to regret, inasmuch as their negligence would be as fruitful of good (possibly more fruitful) as their impotent acting or their *prava libertate*. Blair's was rather the *vis inertiæ* of great faculties than the aversion of little men to labour. He had been a steady and a diligent student; the whole principles of our jurisprudence were known to him with familiarity, and applied by him with an ease that proved this familiar acquaintance; nor did he ever, on any occasion, shew the least disposition to withdraw from work when the interests of his client or his public duty required it. Nay, it is very possible, that when ordinary observers thought they perceived him sitting inactive and unoccupied, his mind was like that of Mr. Fox, who loved the like relaxation, both from work and from talk, could but the lovers of talk leave him to his enjoyment, and who certainly was not lost in a wool-gathering reverie all the while, but generally occupying his great faculties with the exercise he most loved—the pursuing trains of reasoning, and forging, as it were, chains of argumentation without any definite object on which to use them—a peculiarity which made Lord Brougham apply to him the lines in Homer upon the labours of Vulcan's forge. As an instance at once of Blair's industry as well as of his conscientious nature, the fact may be mentioned, that, upon being raised to the bench, he actually read through, with care and diligence, the whole of Erskine's and of Stair's Institutes. We recollect Sir V. Gibbs being very much edified when calling on Sir James Mansfield, and finding him in bed, to see that he was reading Coke Littleton.

The genius of Blair was eminently fitted for legal pursuits. Of a bold and masculine understanding, a penetrating sagacity, and profound reflection, without the subtlety of Matthew Ross,—with little of the penetrating acuteness, almost preternatural, of William Tait, who was occasionally the dupe of his own quickness,—with little fancy in inventing topics, and no great nimbleness in meeting or escaping objections,—he yet always brought to bear upon his subject a plain and homely vigour, to which almost all difficulties yielded, and before which almost all antagonists gave way. His style, too, both of reasoning and of diction, bore the impress of his nature; they were plainly suited to the man; they were racy and they were apposite. The hearer never for a moment doubted that the speaker thoroughly understood the whole matter in hand, and was perfect master of it. Despising the vulgar arts of ordinary advocates, he unfolded the subject to all exactly as he saw it himself; and his comments had so much force, were so plain, yet so strong, and clothed with so much dignity of expression, as well as presented with so much gravity and yet earnestness of manner, that his discourse seemed rather judicial than forensic, and he appeared to decide the cause he was pleading. So earnest a manner is generally an abatement of dignity; yet in this speaker it proved not so; his vehemence, even though sustained by little fluency, and set off by less felicity of diction, never for an instant led the hearers or the spectators to undervalue him, and withhold respect, as is wont to happen when, in the fervour of declamation, the orator, seeming to lose the command of himself, is nearly sure to lose the sway over his audience. We have spoken of his fluency as inconsiderable; but this had no bad effect; for, as you saw a mind struggling with the topic, you perceived that the ideas were too many to find easy utterance: there was none of the unpleasant anxiety attending a hesitating speaker, and which is unpleasing because it gives alarm. The thoughts were there, and struggling for birth, and, in one way or another, were sure to reach the audience. Occasionally he rose to a higher pitch than merely the height of argumentation—if, indeed, any higher pitch there be. No one who had the advantage of hearing his noble speech in the case of Heriot, the descendant of the founder of the hospital, will easily forget the fine burst of impassioned and indignant eloquence with which he denounced the cruel injustice of disputing the founder's wish for his kindred. "What avails it, my lords, that a great benefactor of his species should generously devote the hard earnings of a long life to the sacred uses of charity, if no sooner he is laid in his grave than all he most fondly favoured are repudiated, all his cherished objects cast into oblivion, all his darling plans scorned? &c." From what has been said of his manner of reasoning, it must not me supposed that the contrast with Matthew Ross and William Tait implies any admission of his having been either at all wanting in the quickness wherewith the latter was so singularly gifted, or in the capacity for handling the greatest subtleties of the law which so eminently distinguished the former of those great masters of legal dialectics. The reference was rather made to the manner than to the matter of their disceptation—for there was no man of more clear and swift apprehension in dealing with a case, how obscure and complicated soever. This he owed to his extraordinary power of fixing his attention undivided on his subject. Nor was there any subtlety of the law, however refined and remote from ordinary apprehension, which he was not at all times prepared to embrace and to pursue. To say this of him is only saying what no one could doubt, that he had an eminently legal and logical understanding.

In one particular it might be, perhaps, expected that a person who, albeit of high poetical descent, had never cultivated the powers of imagination, should yet be no mean master of sarcasm, and even of ordinary ridicule. It is true he rarely indulged in this, and chiefly brought its force to bear upon the absurdity of an adverse position. But a most accurate observer, and who had long and closely watched him (Baron Hume), has said that he "was noted for a command of sarcastic wit and raillery, though he never left the case to seek for opportunities of indulging in this vein, his wit being ever to the point, and, as it were, wit and argument in one." The same excellent judge has also said, in praise, as well of his honesty as his good sense and severe taste, that he "was remarkable for never stooping to make use of a frivolous or futile argument."

At the advanced age of sixty-six he ascended the bench, and then was seen in all its great glory the first quality of his nature, an innate love of justice and abhorrence of iniquity, "without which," a celebrated writer, Professor Playfair, tells us, "the President was accustomed emphatically to declare all other qualities in a judge avail nothing, or rather are worse than nothing." This shone conspicuously through his whole life, but more especially when he sat on the bench. He had, indeed, intuitively (as Baron Hume has observed) a generous contempt of any thing low or disingenuous." His patience was equally eminent; and as the same high authority has well said, extended "both to parties and their advocates; while his endowments were graced by an earnest and vivid elocution, and by a natural dignity of manner, and an animated majesty of countenance, which struck the evil-doer with awe, and gave assurance of the native worth and energy of the spirit that reigned within."

The same high authority has told us that he had a most admirable quality for a judge, proceeding from the manly and honest nature of his understanding. He took liberal and enlarged views of law, but abstained, as he disdained it, from hunting after novelties, and making discoveries in the law he was bound to administer. He was thus wholly free from the great vice of clever and ingenious men, what in Westminster Hall is termed a love of crotchets, a most fruitful parent of error and misdecision, and which

(b) When Lord Corehouse had been made [illegible] by the former government, a discussion (in 1810) arose in the House of Lords, redounding to the high honour, and [illegible], of this distinguished person

thus makes judges unjust. In like manner was he slow to interrupt or anticipate counsel, a habit proceeding from petty conceit, and greatly to be repressed on the Bench. "Quantum (says Lord Bacon, discoursing of this love of crotchets) ad advocatos qui causas agunt, patientia et gravitas in causis audiendis, justitiæ est pars essentialis; et judex nimis interloquens minime est cymbalum bene sonans. Non laudi est judici si primus aliquid in causâ inveniat et arripiat quod ab advocatis, suo tempore, melius audiri potuisset; aut acumen ostentet in probationibus vel advocatorum perorationibus nimis cito interrumpendis; aut anticipet informationes quæstionibus, licet ad rem pertinentibus." (*Fideles Sermones*, art. 54, *De Officio Judicis.*) We have already noticed his exemplary patience; and his reproofs, being most rarely administered, produced extraordinary effect. But it was in nowise for the sake of this effect that he proved so sparing of them; his mingled sense of justice and feeling of humanity induced him to keep in mind the same wise man's maxim: "Etiam reprehensiones de loco superiore graves esse debent non contumeliosæ." (*Ib.* art. 11, *De Magistratibus.*)

It is said that he was somewhat dilatory in the execution of the judicial office, and that an arrear was springing up in his court. But the advanced age at which he came to the chair may be one cause of this, and the novelty of the system he was called to administer, after the division of the court, was another. Take him for all in all, it may be safely affirmed that he presented one of the most perfect examples of forensic and judicial capacity combined in the same person which the annals of either Bar afford. Therefore, before all judges in all countries he is to be held constantly up to admiration and to imitation, and his memory by all lawyers must be borne in lasting remembrance.

BIRTHS, MARRIAGES, AND DEATHS.

[The charge for the insertion of the above is 5s.]

MARRIAGES.

BROWNE, Henry Edwards, esq. to the Hon. Catharine Georgiana, daughter of the Right Hon. Lord Decies, on the 25th inst.

COLE, William Robert, esq. of the Middle Temple, barrister-at-law, to Mary, eldest daughter of William Crookes, esq. of Montagu-place, Russell-square, on the 25th inst. at St. George's, Bloomsbury.

CHAMPION, Charles, solicitor, of Ely-place, to Mary Anna Goble, only daughter of Mr. Iden Goble, of Surrey-square, on the 23rd inst. at St. Mary's, Newington.

GODDEN, Henry James, esq. of John-street, Bedford-row, solicitor, to Eleanor Anne Suttrell, only daughter of the Rev. Charles West, A.M. of Northampton, on the 23rd inst. at St. Peter's, Northampton.

JONES, Thomas, esq. of the Middle Temple, to Ellen, daughter of the Rev. William Carmalt, on the 23rd inst. at Putney.

PARRY, Mr. J. Hummffreys, barrister-at-law, to Margaret, widow of the late Mr. Henry M. New, on the 28th ult.

WARD, Richard, of Tuffnell-park, Holloway, Middlesex, merchant, to Letitia, second daughter of Mr. E. B. Garey, of Southampton-buildings, and 9, Powis-place, Hampstead-road, solicitor, on the 24th inst. at St. John's, Holloway.

DEATHS.

CHARNOCK, John, second son of R. Charnock, esq. of the Inner Temple, on the 20th inst. at Crown Lodge, Hampstead, aged 23.

LONGLEY, Mrs. relict of the late John Longley, esq. formerly Recorder of Rochester, on the 25th inst. at Putney, aged 92.

ROBINS, Mr. Matthew, of the Accountant-General's Office, Court of Chancery, and of Elm-grove, Peckham, on the 19th inst.

JOURNAL OF PROPERTY.

SALE OF RAILWAY SHARES IN COMPANIES NOT COMPLETELY REGISTERED.

IN our last number we gave the opinions of the Attorney-General and Mr. Ogle on a case embracing four points of this question. We are now enabled to give a fifth question, and their opinion thereon.

"Fifth.—If the restrictive clauses of the Act 7 & 8 Vict. c. 110, do not apply to railway companies, whether the sale of letters of allotment, bankers' receipts, or scrip, be or be not illegal, notwithstanding they are so excluded?"

"Being of opinion that the restrictive clauses of 7 & 8 Vict. c. 110, apply to railway companies formed after the 1st of November last, it only remains for us to observe, that as to companies established before the 1st of November last, we do not think, independently of the statute, that the sale of letters of allotment, bankers' receipts, or scrip, would be illegal." "FRED. THESIGER,
Inner Temple. "RICH. OGLE."

LIABILITIES OF JOINT-SOCK COMPANIES.—Associations of capitalists with limited responsibility encourage enterprise and experiment. When the possible loss is to be divided among a number, new channels of trade and new inventions of machinery have a better chance of obtaining a fair trial. On the other hand, associations of capitalists with limited responsibility are apt to be rash in their undertakings, negligent and slovenly in prosecuting them. The loss to each is not great, and risks are run which no man would venture upon were a considerable sum at hazard. The fractional share of the possible gain is too inconsiderable to stimulate to persevering attention. There is an association in Scotland, instituted more for beneficent than for moneymaking purposes, but which we notice at present because it has been led, apparently by the pressure of external circumstances, to adopt a mode of action combining to a considerable extent the advantages of limited with those hitherto derived from unlimited responsibility only. The West of Scotland Guarantee Association was instituted principally, we believe, with a view to assist deserving young men by providing bonds of security, at inconsiderable risk to its wealthy members, for the "actings and intromissions" of persons in situations of trust. There is a similar association in London; but in the case of savings banks, Government declined to accept the bonds of any society as security. The West of Scotland Association obviates this difficulty, by some of the directors, according to an arrangement at a meeting of the board, giving their names as private individuals. A special minute is made of the transaction, and, under a clause in the company's deed of constitution, the entire body of shareholders are bound to relieve the directors. The individual has thus a sufficient motive to act warily, and becomes a guarantee to the public for the company of which he is a member. His responsibility is unlimited as to the special business devolved upon him; limited as to the general operations of the association.—*Spectator.*

CAUTION TO AUCTIONEERS.—There is a provision in an Act of last session (8 Vict. c. 15), which seems to have escaped attention. By the 8th section it is provided (and the provision extends to the whole of the United Kingdom), That any person acting as an auctioneer, who shall not at the time of any sale by auction, on demand of any officer of excise or customs, or any officer of stamps and taxes, produce his license, or does not at once deposit with the officer 10*l.* he may be taken before a magistrate, and committed to the county gaol or house of correction, for any time not exceeding a month, which imprisonment shall not prevent other proceedings; but in case of the deposit as mentioned, if a license in existence at the time of the sale shall be produced within a week, the money is to be returned, otherwise to be accounted for to the Commissioners of Excise.

CAUTION TO AUCTIONEERS.—At a sale on Saturday last, in Russell-mews, Mr. Dixon, the celebrated horse auctioneer, was accosted by a person who stated that he was an excise officer, and demanded to see his license. Fortunately Mr. Dixon was provided with the necessary document, or there is no doubt he would have been fixed with the penalty. We cannot believe that the Commissioners of Excise sanction such proceedings.

THE MONEY MARKET.

	Sat.	Mon.	Tues.	Wed.	Thurs.	Frid.
Three per Cents. Consols	98¼	99⅛	99¼	99⅛	99¼	98¾
Three per Cents. Reduced	99¾	99⅜	99⅞	99⅞	99⅜	99⅛
New Three-&-a-quarter per Cts	102¼	102¼	102¼	102⅜	102⅜	101½
Long Annuities...............	11⅜	11⅞	11⅜	11½	11½	11⅜
Bank Stock	210¾	211¼	211	212¾	211¾	212⅜
India Stock	274	275¼	275	273¾	276	272
India Bonds, prem..........	68	70	70	71	72	67
Exchequer Bills, prem.	42	48	47	49	49	49
FOREIGN.						
Spanish Five per Cents...	27⅞	27½	27¾	27⅜	27⅝	27⅞
Spanish Three per Cents.	38¼	38¼	38¼	38½	38¾	38½
Russian	118¾	118¼	119¼	119¼	119½	119⅞
Peruvian..............	39	31⅞	31	30½	38¾	39
Portuguese	60⅜	60¼	60¾	60⅜	60	60
Mexican	32⅞	32½	33	33	33	32⅜
Deferred	19½	18½	18½	19¼	19½	18⅞
Dutch Two-and-a-Half Cents..............	63⅜	60⅞	61½	61¼	61¼	61⅛
——— Four per Cents. ...	99¼	98¼	99⅜	100⅞	103⅜	99⅝
Danish	89¾	89⅞	89¼	90¼	90	90¼
Colombian............	17¼	17⅜	17⅜	18⅜	18⅜	18⅜
Chilian	102	102⅞	102⅞	104	104	104½
Buenos Ayres	49	48½	49⅞	49½	50	50
Brazilian............	89	90	90¼	90¼	90¼	89⅜
Belgian	100	99¼	99⅜	100	100¼	100⅜

THE GAZETTES.

AMOUNT OF DIVIDENDS DECLARED.

The sum stated as the Dividend means so much declared in the Pound. The Assignees, when chosen, follow this statement.

Tuesday, Sept. 16.

Luxton, J. P. draper, last exam.

Wednesday, Sept. 17.

Jacobs, S. furrier, div. next week. Johnson, London.—*Williams* and *Co.* warehousemen, joint and sep. divs. next week. Belcher, London.

Thursday, Sept. 18.

Barnes, M. chemist, last exam. Nov. 14.—*Leader*, J. M. coach maker, div. next week. Graham, London.—*Luckin*, G. bootmaker, last exam. Nov. 14.—*Lucas*, T. F. coach proprietor, fin. div. next week. Bell, London.—*Seddon*, and *Seddon*, upholsterers, div. T. S. next week. Graham, London.—*Ward*, F. Oilman, assignees, Oct. 17.—*Winter*, J. plate glass factor, last exam. Dec. 18.—*Young*, J. tobacconist, last exam. passed.

Friday, Sept. 19.

Chandler, B. ironmonger, div. next week. Graham, London.—*Church*, F. H. surgeon, last exam. passed.—*Coates*, G. apothecary, last exam. Oct 30.—*Jones*, H. coach lace manufacturer, div. next week. Bell, London.—*Reeve*, T. victualler, last exam. Oct. 3.—*Tapp* and *Tapp*, coach makers, joint div. next week. Bell, London.—*Wood*, C. hotel keeper, last exam. Oct 10.

DIVIDENDS.

Bankrupts' Estates.

Official Assignees are given, to whom apply for the Dividends.

Batt and *Batt*, silk dealers, joint 4s. Pennell, London.—*Lorden* and *Hadley*, builders, 20s. Edwards, London.—*Robinson*, B. 6s. 6d. Christie, Birmingham.—*Stevens* and *Co.*, road contractors, sep. Stevens, 1⅝d. Groom, London.

Insolvents' Estates.

Hills, G. carpenter, Kennington-street, Walworth-road, 2s. 9⅝d.—*Hills*, H. carpenter, Kennington-street, Walworth-road, 1s. 3⅛d.

ASSIGNMENTS

To Trustees for the benefit of Creditors.

Gazette, Sept. 19.

Hird, R. woolcomber, Bedale, Yorkshire, Sept. 16. Trusts. J. Cummins, woolcomber, Masham, D. W. Hird, fellmonger, Bedale, and T. Hewson, saddler, Bedale. Sol. Glaister, Bedale.—*Minett*, T. and J. millers, Morda, Salop, Sept. 12. Trusts. E. Croxon, Trefarclawdd, J. Hayward, Weston, and E. Ward, Bloodwell-hall. Sol. Sabine, Oswestry.

Gazette, September 23.

Hunt, W. W. draper, Hastings, Sept. 6. Trust. H. W. Castle, warehouseman, Love-lane. Sols. Soles and Turner, Aldermanbury.

Bankrupts.

DATE OF FIAT AND PETITIONING CREDITORS' NAMES.

Gazette, Sept. 19.

BLOW, GEORGE FOODHAM, currier, 21, Great Dover-st. Newington, Oct. 1, at two, Nov. 5, at twelve, at Basinghall-st. Com. Evans; Bell, off. ass.; Rhodes and Lane, Chancery-lane, sols. Date of fiat, Sept. 15. W. Mortimore, W. Buckler, and R. Vicary, leather factors, New Leather Warehouse, Bermondsey, pet. crs.

CANNEL, JAMES FLEETWOOD, bookseller and stationer, Liverpool, Oct. 6 and 28, at eleven, Liverpool. Com. Ludlow; Turner, off. ass.; Gregory and Co. Bedford-row, and Gaskill, Wigan, sols. Date of fiat, Sept. 12. The Earl of Balcarres, Haigh Hall, Lancashire, pet. cr.

HARNESS, ROBERT LUDGATE, spirit dealer, Dulverton, Somersetshire, Sept. 30, at eleven, Oct. 21, at one, Exeter. Com. Bere; Hirtzel, off. ass.; Brisley, Pancras-lane, Cheapside, sol. Date of fiat, Sept. 11. E. R. Swain and J. Boord, distillers, Bartholomew-close, pet. crs.

MEEK, JAMES, coal proprietor and quarryman, Ruardean, Gloucestershire, Sept. 30, at twelve, Nov. 4, at eleven, Bristol. Com. Stephen; Hurten, off. ass.; Beeke, Lincoln's inn, and Whatley, Mitchel Dean, Gloucestershire, sols. Date of fiat, Sept. 8. Bankrupt's own petition.

ROBINSON, WILLIAM MILLS, draper and grocer, Burnham, Buckinghamshire, Sept. 30, at eleven, Oct. 30, at half-past eleven, Basinghall-st. Com. Fonblanque; Pennell, off. ass.; Jacobs, Winchester-buildings, Great Winchester-st. sol. Date of fiat, Sept. 8. E. Davis, D. Moses, and S. Moses, clothiers, Aldgate, pet. crs.

Gazette, Sept. 23.

BEST, CHARLES, printer, 5, St. James's-walk, Clerkenwell, Oct. 7 and Nov. 5, at one, Basinghall-st. Com. Evans; Johnson, off. ass.; Jackson, St. Helen's-place, sol. Date of fiat, Sept. 19. J. Wheelton, esq. Bath-st. Newgate-st. pet. cr.

GALE, JAMES, candle manufacturer, Little Albany-st. Regent's-park, Sept. 30 and Nov. 4, at eleven, Basinghall-st. Com. Shepherd; Graham, off. ass; Hillcary, Fenchurch-st. sol. Date of fiat, Sept. 16. H. Weston and C. A. Young, bankers, Wellington-st. Southwark, pet. crs.

LOCKHART, THEODORE and CHARLES, florists and seedsmen, 156, Cheapside, and Fulham, Oct. 2, at eleven, Nov. 4, at half-past eleven, Basinghall-st. Com. Shepherd; Turquand, off. ass.; Durrant and Co. Gray's-inn-square, sols. Date of fiat, Sept. 18. Bankrupt's own petition.

SANDERSON, THOMAS, coal merchant, Liverpool, Oct. 3 and 24, at eleven, Liverpool, Com. Ludlow; Bird, off. ass.; Rogerson, Lincoln's-inn-fields, and Davies, Liverpool, sols. Date of fiat, Sept. 11. Bankrupt's own petition.

MEETINGS AT BASINGHALL-STREET.

Gazette, Sept. 19.

Adlington, T. corn merchant, Kingsland, Oct. 13, aud.—*Furnival*, J. corn dealer and baker, Kettering, Oct. 13, aud.—*Mabbs*, J. jun. baker, Chichester, Oct. 13, aud.—*Macdonald*, A. merchant, Leadenhall-st. but now on a voyage to Hong-kong, Oct. 13, aud.—*Searle*, F. W. cheesemonger, Upper Gloucester-pl. Chelsea, Oct. 13, aud.—*Smith*, J. ship and insurance broker, St. Dunstan's-hill, Oct. 13, aud.—*Wright*, A. grocer, Kettering, Oct 11, aud.

MEETINGS FOR ALLOWANCE OF CERTIFICATES

Eastwood, T. grocer, Brighton, Oct. 11.—*Searle*, F. W. cheesemonger, Upper Gloucester-pl. Chelsea, Oct. 13—*Smith*, J. ship and insurance broker, St. Dunstan's-hill, Oct. 13.

Gazette, Sept. 23.

Dow, J. A. draper, Romford, Oct. 4, at two (adj. Aug. 29), last ex.—*Lejune*, W. R. ccra merchant, Southampton, Oct. 4, at half-past twelve (adj. Aug. 9), last ex.—*Piper*, T. F. wholesale stay manufacturer, 94, Cheapside, Oct. 14, at two, div.—*Poole*, W. sen. shopkeeper, Horton-lock, Oct. 4, at one (adj. July 5), last ex.—*Salmon*, G. timber merchant, 15, Wharf, City-road Basin, Oct. 4, at eleven (adj. June 5), last ex.—*Ventura*, I. de J. merchant, White Hart-court, Bishopsgate-st. Oct. 6, at eleven, to choose assignees.

MEETINGS FOR ALLOWANCE OF CERTIFICATES.

Cann, J. bricklayer, Woolwich, Oct. 6, at half-past eleven.—*Church*, F. H. surgeon, Southampton, Oct. 15, at one — *Piper*, T. F. wholesale stay manufacturer, Cheapside, Oct. 14, at two—*Pri* H. stationer, Sise-lane, Oct. 14, at ... *Sims*, T. victualler, Whitechapel-road, Oct. 16, at twelve.—*Walker*, P. builder, Quickset-row, New-road, Oct. 16, at twelve.—*Young*, J. tobacconist, Bury St. Edmunds, Oct. 14, at twelve.

MEETINGS IN THE COUNTRY.

Gazette, Sept. 19.

Brea, J. J. tailor and draper, Chester, Oct. 10, at eleven, Liverpool, aud.—*Burbury*, J. maltster, Leek Wootton, Oct. 23, at half-past twelve, Birmingham, aud.—*Cooke*, H. painter, Liverpool, Oct. 10, at twelve, Liverpool, aud.—*Creigh*, B. and T. R. cartwrights and builders, Newcastle-upon-Tyne, Oct. 10, at twelve, Newcastle, div. of T. R. Creigh—*Forster* W. tailor, Liverpool, Oct. 10, at eleven, Liverpool, aud. — *Hansen*, P. ship owner, Newcastle-upon-Tyne, Oct. 7, at half-past twelve, Newcastle (adj. Aug. 26), last exam.—*Haselden*, J. cotton spinner, Bolton le-Moors, Oct. 13, at twelve, Manchester, aud.—*Holroyd*, J. cotton warp maker, Wheatley, Yorkshire, Oct. 14, at twelve, Manchester (adj. Sept. 17), fur. div.—*Loraine*, F. bookseller and stationer, Newcastle-upon-Tyne, Oct. 8, at two, Newcastle (adj. Aug. 20), last ex.—*Milne*, J. High Crompton, Oct. 14, at twelve, Manchester, aud.—*Nell*, W. brewer, Ardwick and Manchester, Oct. 13, at twelve, Manchester, aud. *Newnes*, E. brewer, Newton-by-Middlewich, Oct 10, at eleven, Liverpool, aud.—*Nicholson*, R. bookseller, Stockton, Oct. 2, at two, Newcastle (adj. Aug. 29), last exam.—*Rowe*, J. S. draper, Newcastle-under-Lyme, Oct. 25, at twelve, Birmingham. aud.—*Sharratt*, C. saddlers' ironmonger, Walsall Oct. 21, at half-past eleven, Birmingham, aud. and Oct. 21, at half-past twelve, fin. div.—*Sill* and *Watson*, merchants, Liverpool, Oct. 13, at twelve, Liverpool, aud.

MEETINGS FOR ALLOWANCE OF CERTIFICATES.

Braithwaite, J. innkeeper, Morpeth, Oct. 10, at one, Newcastle —*South*, S. maltster, Grantham, Oct. 15, at eleven, Birmingham.

Gazette, Sept. 23.

Bowen, W. grocer and tallow chandler, Merthyr Tydvil, Glamorganshire, Oct. 14, at twelve, Bristol, div. *Brea*, J. J. tailor and draper, Chester, Oct. 14, at twelve, Liverpool, div. —*Byford*, G. wholesale grocer, Liverpool, Oct 14, at half-past eleven, Liverpool, to aud. and Oct. 15, at eleven, div.—*Cooke*, H. painter and paper hanger, Liverpool, Oct. 14 at half-past twelve, Liverpool, div.—*Forster*, W. tailor and woollen draper, Liverpool, Oct. 14, at half-past twelve, Liverpool, div.—*Franklin*, A. L. bullion merchant, Liverpool, Oct. 14, at eleven, Liverpool, aud.—*Franklin*, E. W. merchant, Liverpool, Oct. 14, at eleven, Liverpool aud.—*Haselden*, J. cotton spinner and manufacturer, Bolton le-Moors, Oct. 14, at twelve, Manchester, first div.—*Irving*, J. linen draper, Blackburn, Oct. 10, at twelve, Manchester, and *Milne*, J. High Crompton, Lancashire, Oct 14, at twelve, Manchester, fur. div.—*Nell*, W. common brewer and wine and spirit merchant, Ardwick, Oct. 22, at twelve, Manchester, div.—*Owen*, J. stock broker, Manchester, Oct. 2, at twelve, Manchester, (adj. Sept. 18), last exam.

MEETINGS FOR ALLOWANCE OF CERTIFICATES

Bryan, J. chemist, Bristol, Oct 16 at twelve, Bristol.—*Warren*, J. merchant, Bristol, Oct. 15, at eleven, Bristol.

CERTIFICATES.

Gazette, Sept. 19.—*To be allowed Oct* 10

Herbert, R. M. tea dealer, Reading. *Hodges*, W. hide dealer, Duke-st. Bloomsbury. *Smith*, J. corn merchant, Southampton.—*Wood*, J. S. wine merchant, Liverpool.

Gazette, Sept. 23.—*To be allowed Oct.* 14.

Crabtree, J. and *Burnley*, W. woollen manufacturers Tunstead.—*Gardner*, J. M. wine merchant, Liverpool *Johnson*, W. wine merchant, West Smithfield. *Lepine*, L. watch maker, Alfred-st. River terrace, Islington, and St. Michael's-alley, Cornhill.—*Parry*, D. currier, Ruthin.—*Rance*, W. H. currier, Portsea.—*Smith*, E. and R. and *Sweeting*, J. provision dealers, Woodhead.—*Walters*, W. silk mercer, Crawford-st.

Insolvents

Petitioning the Courts of Bankruptcy.

PETITIONS TO BE HEARD AT BASINGHALL-STREET.

Gazette, Sept. 19.

Caswell, S. carpenter, wheelwright, and ... Swanswick, Oct. 9, at twelve, Bristol.—*Coleman* ... rier, Cranoe, near Market Harborough, Sept. 27 at Birmingham.—*Crouch*, E. traveller, Upper ... tershire, Oct. 9, at eleven, Bristol.—... and publican, Lanchester, Sept. 26, at ... *dale*, J. P. journeyman tailor, Blackburn, ... Manchester.—*Togmeri*, J. A. modeller, jew... dealer, Bath, Oct. 7, at eleven, B... collector of the land tax, Ashton, Oct. 7 at ... ham. *Young*, J. huckster, mason, and builder, ... Oct. 2, at two ... Bristol.

MEETINGS IN THE COUNTRY

Page, G. A. Oct. 23, at half-past twelve, Birmingham. *Strong*, S. Oct. 21, at half-past twelve, Liverpool.

Gazette, Sept. 19

PETITIONS TO BE HEARD AT BASINGHALL-STREET.

Palmer, S. L. teacher of ..., Canterbury, Sept. 29, at two.

COUNTRY.

Hopwood, G. farmer, Ashley, Sept. 27, at half-past eleven, Birmingham.

PARTNERSHIPS DISSOLVED.

Gazette, Sept 16.

Bass, I. and *Bennett*, J. corn chandlers, Ipswich. Sept. 4.—*Berry*, B. and *Billcliffe*, I. cotton dyers and bleachers, Huddersfield, Sept. 11. Debts paid by Billcliffe.—*Champness*, J. S. and *Gaugues*, E. printers on leather, Sept. 13.—*Clegg*, A. and *Hinchliffe*, T. painters, Huddersfield, April 10. Debts paid by Hinchliffe.—*Cunha*, J. S. d'A. and *Shearman*, J. H. merchants, St. Clement's-lane, July 29. Debts paid by Cunha.—*Darby*, H. and *Lee*, J. H. woollen drapers and tailors, Derby, Sept. 3. Debts paid by Lee.—*Day*, W. S. and *Ross*, W. F. ship agents and merchants, Cowes and Portsmouth, Sept. 15.—*Futroye*, C. F. and *Mudge*, W. dealers in medical sundries, West Smithfield, Sept. 4.—*Nalder*, F. H. and *Symonds*, W. T. glove warehousemen, Wood-street, Sept. 15. Debts paid by Symonds.—*Newbery*, G. J. and *Tate*, G. manufacturers of waterproof and other articles, Deptford, Cripplegate, King William-street, and Pall-mall, July 31. Debts paid by Newbery.—*Newton*, R. and *Burrow*, J. silk dressers, Halifax, Aug. 20. Debts paid by Newton. *Prater*, C. sen. and jun. army clothiers and accoutrement makers, Charing-cross, Sept. 13. Debts paid by Prater, jun. —*Price*, B. and *Graham*, J. attorneys, Moorgate-street, Sept. 16.—*Tomlin*, T. and *Pemberton*, R. W. plate engravers, Oxendon-street, Haymarket, June 30.—*Wright*, C. and *Wright*, W. hoymen, as joint and equal owners of the barge or vessel called the Elizabeth, belonging to the port of Rochester, Sept. 13. Debts paid by W. Wright.—*Yorke*, H. A. and *Cooke*, W. printers, South Shields, Aug. 12. Debts paid by Yorke.

Gazette, Sept. 19.

Barber, J. and *Harness*, C. packers, Coleman-st. Sept. 11 Debts paid by Barber.—*Butterworth*, J. and *Beates*, J. E. drysalters, Manchester, Sept. 18. Debts paid by Butterworth. *Collins*, J. and *Greaves*, T. J. commission agents, Manchester, Sept. 13 Debts paid by Collins.—*Flash* H. P. and *Ford*, A. soda-water manufacturers, Lower Belgrave-place, Pimlico, Sept. 15.—*Gibbs*, T. and *Cornforth*, W. H. ship brokers, Liverpool, Sept. 17. Debts paid by Gibbs. *Knireton*, J. and F. woollen drapers, Stoke upon-Trent and Lane-end, Sept. 15. Debts paid by F. Kniveton. —*Lockwood*, W. and W. T. J. commission agents, Manchester, Feb. 28.—*Masters*, W. and F. painters, Reading June 21.—*Nussey*, B. and J. and the executors of G. deceased, dyers, Leeds, June 17.—*Rackstraw*, S. P. and *Atkinson*, F. Victoria-road, Pimlico, Sept. 15. Debts paid by Atkinson.—*Smith*, W. and *Kimber*, E. bookbinder lane, June 30. Debts paid by Smith.

From the Gazette of Friday, Sept.

Bankrupts.

Jones, E. sen. paste-board manufacturer, Queen Bloomsbury.—*Colsworth* T. builder, Salisbury ... *Cor* ... under-burner, South Shields *Howls*, B. innkeeper ..., Cheshire. *Burton* S and J. chemists Ki... upon-Hull.—*Charity*, builder, Alford, Lincolnshire.

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AND JOURNAL OF PROPERTY,

FOR

The Legislator, the Magistrate, and the Lawyer.

VOL. V. No. 105.] SATURDAY, APRIL 5, 1845.

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Particulars will be ready in due time, and may be obtained of E. Clark, esq. 5, Chancery-lane, or at the offices of Mr. SINGLE, Surveyor and Land Agent, 34, Coleman street, near the Bank of England.

Mount-street, Grosvenor-square. A ... proving Investment.

MR. SINGLE will SELL by AUCTION, at the Mart, unless previously disposed of by PRIVATE CONTRACT, on Tuesday, April 15, the rebuilt and most valuable Residence, No. 113, Mount-street between Grosvenor and Berkeley squares, a most valuable property, from its public and first-rate situation, and the excellent manner in which it is erected! It contains ground-floor, two sitting-rooms and dining-rooms about 21 feet by 17 feet; first floor, two drawing rooms, library, al... 21 feet by 17 feet; second and third floor, excellent bed rooms basement, kitchen, and sundry domestic conveniences.

Particulars are now ready, and may be obtained of T. Wright, esq. Solicitor, 7, Rathbone-place, Oxford-street, and at the Offices of Mr. SINGLE, Surveyor and Land Agent, 34, Coleman street, near the Bank of England.

Famous Shop in the Hosiery Business, Newgate-street, City.

MR. SINGLE will SELL by AUCTION, at the MART, on TUESDAY, April 15, at twelve ... unless previously disposed of by private contract, a ... valuable HOUSE with famous SHOP, Parlour, eight Bed rooms, and excellent Kitchen situate No. 125, Newgate-street, on the best side of the way, and a first-rate situation for business. The purchaser will have the benefit of an excellent business attached, in the fringe and hosiery trade; business returns on the fringe trade alone, averaging about 9,000l. per annum. Fixtures to be taken at a valuation. Particulars may be obtained, three weeks prior to the Sale of Mr. SINGLE, Surveyor and Land Agent, 34, Coleman-street, near the Bank of England.

Alterations generally as to Sales of House ... Landed Property.

MR. SINGLE begs respectfully to inform the public that in consequence of the abolition of the Auction Duty, and the extent of his connection amongst vendors and purchasers of Estates, he is enabled to carry out his system for submitting them to public Auction at the Mart, London, at a much less expense than that usually incurred and in ... r which renders the sale either by private contract ... fore the day of sale or at the Auction ... The classification, arrangements, and other things necessary, render early instruction very desirable.

Offices, 34, Coleman street, near the Bank of England.

Freehold, eight Acres ... ar Gravesend; House, &c.—Improving Inve...

MR. SINGLE will SELL by AUCTION, at the Mart, on Tuesday, May 6, at Twelve for One o'clock, the undivided moiety of about eight acres of highly valuable FREEHOLD LAND, with small FARM-HOUSE and Homestead, situated in Sott's Hole, Longfield, near Gravesend, Kent, let yearly to Mr. West, at 20l. per annum. It off...

... ticular ... ll be ready in ... be obtained of Mr. H... Clark, Solicitor ... of Mr. Pier... ... Cr... nb... and at the offices ... Mr. SINGLE, Surveyor and Land Agent, 34, Coleman-street, near the Bank of England.

Highly I... In... Houses and Bethnal green road, &c. ... of the Execu... the late Mrs. Sarah A...

MR. SINGLE will SELL by AUCTION, at the Mart, on Tuesday, July 17, at Twelve for One in Lots, the following improvable LEASEHOLD PROPERTY, term about forty years; ground rent, about 9l. per house. It comprises a corner Shop or Potato Warehouse being 182, Bethnal-green road corner of North Conduit street let at 40l. per annum; a Pawnbroker's Shop 184 Bethnal green-road, adjoining the above let at 2... but enlarged and improved since let, by th... a Leatherseller's Shop, 186, adjoining, let on lease ... forty-one years, at 24l. per annum, also 37 and ... Conduit street, let at 13l. per annum each, to old ... and 39, North Conduit-street, with stabling shed ... house at the side, let at 27l. per annum, 15 and 2... same street, each let at 16l. per annum to tenants ... twelve years' standing; and 12 Wolverley street, Bethnal-green-road, in the adjoining street, let at 16l. per annum to a tenant of above fifteen years' standing. The whole of the property is built in an excellent manner, and is in the occupation of old and respectable tenants.

Particulars will be ready in due time, and may be obtained at the Auctioneer's, 34, Coleman-street, near the Bank of England; and of Henry Nethersole, esq. solicitor, New Inn, Strand; who is also authorized to treat for sale by private contract. This property is for the present withdrawn.

Vauxhall and Westminster—Improving Property.

MR. SINGLE will SELL by AUCTION, at the Mart on Tuesday, April 15, at Twelve for One, FOUR IMPROVABLE HOUSES situate Nos. 2, 9, 10, and 11, King's-head-court, Broadway, Westminster, let at rentals amounting to about 38l. 7s., ground-rent, 10l. on the whole lease, about 30 years. Also, 10, Devonshire-place, Vauxhall, let at 16l. per annum, ground-rent, 2l. 15s., term ...

Particulars may be obtained of Henry Nethersole, esq. Solicitor, New Inn, Strand; and at the office of Mr. SINGLE, Surveyor and Land Agent, 34, Coleman street, near the Bank of England.

Capital Public House, and 12 private Hou... crowded Neighbourhood.

MR. SINGLE will SELL by PUBLIC AUCTION, on WEDNESDAY, June 11, at GARRAWAY'S, City, a PUBLIC HOUSE, known as the Angel, Back-road, Shadwell, in which many have realized large fortunes, and capable still of great improvement. Lease, until 1869. Ground Rent, 50l. After Michaelmas, 1846, FIVE COTTAGES in rear will fall in with the Lease, which produce as much as the 50l. a year. FIVE COTTAGES, south side Sun-court, Parish of St. George's East, Rental 39l. Ground Rent 9 guineas, leased about 78 years. Also, TWO COTTAGES, 5 and 6, Globe court, 7, Star-alley, Ratcliffe, let at 4s. a week, each. Ground, 4l. the two; term, 21 years, from December 1839.

Particulars in due time. Office, 34, Coleman-street, near the Bank of England.

High Road, Turnham-green.—Residence, copyhold, let on Lease.

MR. SINGLE will SELL by AUCTION, at the Mart, on Tuesday, May 6, a delightfully ... ate COPYHOLD RESIDENCE, 5, King's-row, Turnham-green, commanding picturesque and lovely views over the grounds of the Duke of Devonshire and the Horticultural Society; comprising two parlours, kitchen, drawing-room, and four bed-rooms, garden, coach-house, stabling for two horses, loft, and out-houses, &c.; let on lease for 21 years from 1838, at 25l. first nine years, 30l. the remainder of the term.

May be viewed with the permission of the tenant, and the particulars obtained on the premises; of Mr. H. B. Clark, solicitor, 22, Chancery-lane; of Mr. Pierpoint, 17, Cromhie's row, Commercial-road East; and at the offices of Mr. SINGLE, Surveyor and Land-agent, 34, Coleman-street, near the Bank of England.

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TO BE SOLD.—London: a very desirable piece of BUILDING GROUND freehold containing 64 feet in length, and 28 feet in depth, situate in Field-lane, Holborn, in the line of the improvements now progressing in the neighbourhood.

TWICKENHAM-COMMON. Four semi detached VILLAS, in pairs, beautifully situated in a square adjoining the high road to Staines with large gardens attached Held on lease for 60 years, renewable at the expiration thereof for another 60 years. Ground-rent, 10*l.* per pair of houses. PAYNTER and OLLARD, 14 South-square, Gray's Inn.

Periodical Sales established in the year 1803, of Reversions, Life Interests, Annuities, Policies of Assurance Advowsons, Next Presentations, Rent Charges in lieu of Tithes, Post-obit Bonds, Tontin Del Rents, Improved Rents, Shares in Docks, Canals, Mines, Railways, Insurance Companies, and all Public Undertak-

MESSRS. SHUTTLEWORTH and SONS respectfully inform the public, that upwards of 40 years' experience having proved the classification of this species of property to be extremely advantageous and economical to vendors, and equally satisfactory and convenient to purchasers, the PERIODICAL SALES of reversionary interests, policies of insurance, tontines, debentures, advowsons, next presentations, all securities dependent upon human life, shares in docks, canals, mines, railways, and all public undertakings, will be continued through 1845, as follow:—

Friday, April 11.	Friday, Sept. 5.
„ May 2.	„ Oct. 3
„ June 6.	„ Nov. 7.
„ July 4.	„ Dec. 5.
„ Aug. 1.	

Particulars may be had Ten days previous to each sale, at the Royal Hotel, Manchester; the Adelphi Hotel, Liverpool; Dee's Royal Hotel, Birmingham; the Angel, Oxford; the Eagle and Child, Cambridge; at the Mart; and of Messrs. SHUTTLEWORTH and SONS, 28, Poultry.

Periodical Sale.—Postponed to April the 11th.

MESSRS. SHUTTLEWORTH & SONS respectfully inform the public their PERIODICAL SALE being unavoidably POSTPONED to the second Friday in April, on account of the expected repeal of the auction duties. The sale will commence on that day at 2 o'clock precisely, instead of 1 as heretofore, to admit of the disposal of other property, previously advertised for the same day. Particulars are now ready for delivery.—28, Poultry, April 2, 1845.

SUSSEX.—Extensive and Valuable Freehold Farms on the high road from Lewes to Seaford and Eastbourne.

MESSRS. SHUTTLEWORTH and SONS are instructed to SELL by AUCTION, at the Mart, on Friday, May 23, at twelve, in lots, the following FREEHOLD ESTATES—viz. Little Sutton Farm, situate wholly in the parish and village of Seaford, 13 miles from Brighton, 7 from Eastbourne, 13 from Lewes, and 10 from Hailsham, in the county of Sussex, consisting of 249 acres of fine wheat, barley, turnip, meadow, and pasture land, in the occupation of Messrs. John and Charles Waters, most unexceptionable tenants, at a low rent of 245*l.* per annum. And Frog's Firle, otherwise Burnt House Farm, situate in the several parishes of Alfreston, Littlington, and Arlington, 7 miles from Hailsham, 10 from Lewes, 3 from Seaford, and 17 from Brighton, consisting of 471 acres of fine wheat, barley, turnip, meadow, and pasture land, with a very neat farm-house and agricultural buildings, agreeably placed upon an eminence, commanding extensive prospects, and possessing the advantage of water carriage; in the occupation of Mr. C. S. Brooker, a highly respectable tenant, at a very low net rent of 202*l.* 10*s.* per annum. May be viewed with permission of the tenants, and particulars had, twenty-one days previous to the sale, at the Old Ship Hotel, Brighton; the New Inn and Hotel, Seaford; the Star, Lewes; the Crown, Hailsham; of Messrs. Lawford, Solicitors, Drapers' Hall, Throgmorton-street; at the Mart; and of Messrs. SHUTTLEWORTH and SONS, 28, Poultry.

Important Leasehold Investments, including 73 substantial private Residences and Dwelling-houses, situate in Frederick-street, Frederick-place, and Ampton-place, St. Pancras, and in College-place and King-street, Camden-town, producing a clear annual income of 3,227*l.* each house being held under a separate lease, at a low ground-rent, and the whole presenting an unusual opportunity for the secure investment of capital in large or small sums and the increase of income.

MESSRS. SHUTTLEWORTH and SONS have received instructions from the proprietor, Mr. W. Cubitt, to submit to public AUCTION, at the Mart, on Friday, April 18, a ... ing ... xtensive and valuable ESTATES; and i ... r the ... ale of this important property, the auctione ... ul themselves of the opportunity it affords the ... of earnestly drawing the attention of trustees and private individuals desirous of improving income by a transfer from the Government stocks to investments of an undeniable character, and by which their annuities may be at least doubled, independent of an accumulating surplus adequate to replace the amount of the purchase-money at the expiration of the respective leases, a material consideration, usually unappreciated by the buyers of leasehold estates. This extensive property consists of the following superior premises, erected under the immediate direction of Messrs. Cubitt and Co. the whole being in the very best condition of repairs, substantial and ornamental, and not requiring any outlay thereon whatsoever. Each house is held under a separate lease for a long term unexpired, at a low ground-rent, the gross rental being 3,661*l.* per annum, and the aggregate ground-rents only 434*l.* most amply secured upon 73 private residences and dwelling-houses, eligibly situate, as follows:—Eleven in Frederick-street, seven in Frederick-place, and 18 in Ampton-place, Gray's inn-road, in the parish of St Pancras; and 27 College-place, and 10 in King-street Camden-town. The principal portion let, under leases and agreements, to very respectable tenants (clear of sewers rates and every other ... nent without exception), and a small part, recently finished, remains in hand. May be viewed with leave of the tenants, and particulars had, 14 days prior to the sale, of Mr. John Evans, solicitor 51, Lincoln's-inn-fields; at the Auction Mart; and of Messrs. SHUTTLEWORTH and SONS, 28, Poultry

MANOR OF CULMINGTON, SALOP.—Sale P... ed till 24th April, 1845.

Important Freehold Estate (consisting of nearly 1,800 acres and Manor, in the county of Salop. By Messrs. WINSTANLEY, at the Auction Mart, on Thursday, April 24, at Twelve o'clock in One Lot,

THE MANOR of CULMINGTON, with its Appurtenances; and all that highly valuable and important FREEHOLD ESTATE situate in the several parishes of Culmington, Diddlebury, and Stanton-Lacy, in the county of Salop, containing together 1,786 acres or thereabouts, of exceedingly rich arable, meadow, pasture, and wood land, in a ring fence, in a high state of cultivation, divided into convenient farms with excellent homesteads, and suitable agricultural buildings, eligibly arranged and in complete repair; together with a good Water Corn Mill; all now in the several occupations of Messrs. James Williams, John Downes, Edward Instone, Francis Bach, and others.

The estate is equally eligible for residence or investment, being most desirably situate in the best part of the county of Salop, 5 miles from Ludlow, 14 from Wenlock, 16 from Bridgenorth, 20 from Shrewsbury, and 148 from Lond... It is in the immediate vicinity of the Ludlow Hunt, abounds with game, and the beautiful trout river, Corve, runs through the centre thereof The Land Tax is redeemed, and the Tithes are commuted. The arable Lands are peculiarly adapted for the growth of turnips, barley, clover, and wheat, the meadow and pasture Lands are rich and productive, and the Woods and Plantations are so situate as to be highly ornamental to the Estate.

The several Tenants will shew the Premises in their respective occupations, and descriptive printed particulars and conditions of sale may be had, six weeks previous to the day of sale, of Charles Powell, esq. of Sutton, near Ludlow, Shropshire; of Messrs. Garbutt, Fawcett, and Hick, solicitors, Yarm, Yorkshire; at Ludlow of Messrs. Lloyds, Solicitors; of Messrs R. T. and R. Tench, Land A... nts; and at the Angel and Crown Inns; the Lion, Shrewsb... ry; the Star ... d Garter, Worcester; Messrs. Thomas Winstanley and Sons, Auctioneers, Liverpool; and in London of Messrs. Baxendale, Tatham, Upton, and Johnson, Solicitors, 24, Lincoln's-inn Fields, & 7, Great Winchester-street; Messrs. Bell, Brodrick, and Bell, Solicitors, 9, Bow Church-yard; a. the Auction Mart; and of Messrs. WINSTANLEY, Paternoster-row.

Rapidly improving and valuable Freehold Estate, Maze-hill, Greenwich, overlooking the park, desirable for investment or occupation, near to the pier and railway station.

MESSRS. FULLER and MARSH have received instructions to SELL by AUCTION, at the Mart, on Thursday, April 10, at Twelve, a valuable FREEHOLD ESTATE, comprising a commodious brick-built dwelling-house, and extensive premises in the rear, situate at the south end of East-street, Greenwich, contiguous to the pier and the railway station. May be viewed, and particulars obtained on the premises; at the Greyhound, Greenwich, Dover Castle, Deptford; of Messrs. Bristow and Tarrant, solicitors, 24, Walbrook, and London-street, Greenwich; and of Messrs. FULLER and MARSH, Auctioneers and Surveyors, 2, Charlotte-row, Mansion-house, and Croydon, Surrey.

Long Leasehold Estate, Wellington-street, Shacklewell.

MESSRS. FULLER and MARSH have received instructions to SELL by AUCTION, at the MART, on THURSDAY, April 10, at 12 o'clock, a valuable long LEASEHOLD ESTATE, consisting of a newly-erected brick-built residence, with garden in the rear, being No. 19, Wellington-street, in the parish of St. John's, Hackney, of the estimated value of 25*l.* per annum. The property is held for an unexpired term of 70 years from Michaelmas, 1843, at the low ground rent of 3*l.* per annum. The property may be viewed, and particulars obtained on the premises; of H. F. Richardson, esq. solicitor, 36, Coleman-street; at the Mart; and of Messrs. FULLER and MARSH, auctioneers and surveyors, 2, Charlotte-row, Mansion-house, and Croydon, Surrey.

In Lincolnshire.—The Advowson of the Parish of Ulceby-cum-Fordington, about five miles from Spilsby, three and a half from Alford, and twelve from Louth, with early possession.

MESSRS. FULLER and MARSH have been favoured with instructions to SELL by AUCTION, at the Mart, on Thursday, April 10, at Twelve, the PERPETUAL ADVOWSON and RIGHT of PRESENTATION to the valuable RECTORY of ULCEBY CUM-FORDINGTON, most desirably situate in one of the best neighbourhoods in the north-eastern part of the county of Lincoln, comprising a convenient Residence and about 460 acres of fertile Land, in the occupation of a highly respectable tenant, at a rental of 620*l.* per annum. The land is of the best quality, and in a high state of cultivation. The population of the parish does not exceed 250, and the locality is remarkably healthy. The above Advowson will be sold subject to the life of the present incumbent, now in the 73rd year of his age. Further particulars may be obtained on application at the ... ffices of Messrs. Heaton, Brackenbury, and Guy, Solicitor ... Gainsborough; of Messrs. Capes and Stuart, Solicitors, Field court, Gray's-inn; and of Messrs. FULLER and MARSH, Land Agents, 2, Charlotte-row.

To Insurance Offices and other Public Institutions.—Valuable long Leasehold Premises, most eligibly situate in the heart of the city of London, within a few minutes' walk of the Exchange.

MESSRS. FULLER and MARSH have received instructions to submit to public COMPETITION, at the Auction Mart, on Thursday, April 10, at twelve, the very extensive and important PREMISES, comprising Nos. 37 and 38, Gracechurch-street, consisting of two substantial modern brick-built houses, most admirably adapted to public business. No. 37, Gracechurch-street, a substantial house, in perfect repair, containing noble double-fronted shop, fitted up with plate glass windows, entrance-hall, elegant dining and drawing rooms, numerous bed-rooms, and all requisite domestic offices No. 38, Gracechurch-street, a substantial house in perfect repair, containing extensive counting-houses and entrance-hall, well-proportioned dining and drawing rooms, sleeping apartments, and well-arranged domestic offices. The estate is held on lease for an unexpired term of 70 years, subject to a reserved ... on the pre... at the Auction Mart; of Mr. Freeland, Solicitor, S... x; and of Messrs. FULLER and MARSH, 2 ... otte-row, Mansion-house.

Valuable ...ong L... old E... tate ... prising the Eagle Brewer... and Be... Shop eligible Building Land and six Dwelling houses situate in Neate-street, Peckham.

MESSRS. FULLER and MARSH have received instructions to SELL by AUCTION, at ... Mart on Thursday, May 1, at twelve o'clock, in one lot, ... rder of the Mortgagee and with the consent of the ...signee, a brick-built RESIDENCE, the Eagle Brewery ... Beer Shop, valuable Building Land, and six Cottages, ...uate on the road leading from the Lord Nelson public-... use, in the Kent-road, towards Peckham, to a newly-made ... eet called Neate-street, in the parish of St. Giles, Cam-... well The above property is held for an unexpired term ... 50 year ... the very low ground-rent of 37*l.* 12*s.* per an-... n. May be viewed. Particulars obtained on the pre-... es; of Messrs. Bennett, Bolding, and Pope, solicitors, 9, Scot's-yard, Bush-lane, Cannon-street; of J. F. Groom, ...q. Official Assignee, Abchurch lane; at the Mart; and at the Offices of Messrs. FULLER and MARSH, Auctioneers and Land Agents, 2, Charlotte-row, Mansion-house.

Valuable Freehold Estate, Red Lion-street, Clerkenwell.

MESSRS. FULLER and MARSH have been favoured with instructions from the Exe... of the late W. Baldwin, esq. to SELL by AUCTION, at the Mart, on Thursday, April 10, at Twelve, a desirable FREEHOLD INVESTMENT, comprising a capital brick-built Residence, No. 28, Red Lion-street, Clerkenwell, in the occupation of a respectable tenant, at the very inadequate rent of 40*l.* per annum. May be viewed on application to the tenant. Particulars obtained on the premises; at the Mart; of Stephen Walters, esq. solicitor, 56, Basinghall-street; and at the offices of Messrs. FULLER and MARSH, auctioneers and land agents, 2, Charlotte-row, Mansion-house, and Croydon, Surrey.

In Herefordshire.—The Sugwas Court Estate, an important Freehold Landed Investment, extending over upwards of 600 acres of sound arable, pasture, and meadow land, productive orchard and fruit plantations, with its mansion and offices.

MESSRS. FULLER and MARSH have been favoured with instructions to submit to public COMPETITION, early in May ... s in the meantime an ...ceptable offer be made by private contract), a first-rate FREEHOLD LANDED INVESTMENT, comprising the valuable property distinguished as the SUGWAS COURT ESTATE, with an excellent Residence, suitable to a large family, and offices, situate in the centre of the property, surrounded by about 600 acres of very superior land, beautifully timbered and bounded by the river Wye, together with the manorial rights, fisheries, and other immunities. Detailed particulars will appear i... future advertisements, and in the meantime any application for sale by private contract to be made to Messrs. FULLER and MARSH, Surveyors and Land-agents, 2, Charlotte-row, Mansion-house.

A Sideboard of about 600 Ounces of modern and ancient Plate, Plated Articles, a few Cabinet and Gallery Pictures, and Effects.

MESSRS. FULLER and MARSH have received instructions from the Executrix of the late J. B. Wood, Esq. to SELL by AUCTION, at the Mart, on Wednesday, April 16, at 12, about 600 ounces of ancient and modern PLATE, and plated articles; comprising tea and coffee services, waiters, table, dessert, salt, and marrow spoons, salad knives and forks, dessert forks, soup, sauce, and punch ladles, wine strainer, butter and cheese knives. The plated articles comprise bottle stands, handsome branch candlesticks, snuffers and tray, tea-urns, cruet frames; a few cabinet and gallery pictures, and miscellaneous effects. May be viewed the morning of sale, and catalogues obtained at the Mart; of C. W. Cobby, Esq. solicitor, Paternoster-row; and at the offices of Messrs. FULLER and MARSH, 2, Charlotte-row, Mansion-house.

Periodical Sale of Reversions, Life Interests, Annuities, Life Policies, Advowsons, Next Presentations and all descriptions of Securities dependent upon human Life, Shares in Railways, Mines, and all other undertakings.

MESSRS. FULLER and MARSH respectfully inform the public, that by their system of periodical sales by Auction they are enabled to offer to persons expectant or otherwise interested in the above description of property the most prompt, economical, and factory mode of disposing thereof, as by classifying these descriptions of interests and properties in the same particular and for the same day, much expense is avoided, and a far greater competition is secured. Their periodical sales of reversions, life int annuities, life policies, advowsons, next presentations, and all description of ties dependent upon human life, shares in rail mines, and all other undertakings, will be continued throughout the present year as follows:—

Thursday, April 10	Thursday, September 4
Thursday, May 1	Thursday, October 2
Thursday, June 5	Thursday, November 6
Thursday, July 3	Thursday, December 4.
Thursday, August 7	

Notice of Sales intended to be effected by the above means should be forwarded to Messrs. Fuller and Marsh a fortnight prior to each date, in order that they may have the full benefit of publicity. Messrs. Fuller and Marsh beg to call the attention of the public to the economy and expedition of this system of business, as they are thereby enabled to include each property for the sum of two guineas and a half, including all expenses, should a sale not be effected. Particulars of the next period cal sale may be obtained ten days previous to the sale, at the Star Hotel, Oxford; University Arms, Cambridge; Hen and Chickens, Birmingham; Plough, Cheltenham; Bush, Bristol; New London Hotel, Exeter; Pierce's Hotel, Truro; Adelphi, Liverpool; Royal Hotel, Manchester; Cuff's Midland Hotel, Derby; Black Swan, York; Tontine Hotel, Sheffield; Royal Hotel, Leeds; Tontine Hotel, Glasgow; M'Gregor's Hotel, Princes-street Edinburgh; Gresham's Hotel, Dublin; and at the Offices of Messrs. FULLER and MARSH, 2, Charlotte-row, Mansion-house, London.

Periodical Sale.—Policies of Assurance, and Absolute Reversions to several Sums of Money.

MESSRS. FULLER and MARSH have received instructions to include in their Periodical Sale, appointed to take place at the Auction Mart, on Thursday, April 10, at Twelve, in lots, a CONTINGENT REVERSION to the SUM of 500*l.*; the Absolute Reversions to the sums of 1,629*l.* 7s 11d., 208*l.* 6s. 8d., and 100*l.*; Policies of Assurance in the Eagle Life office; and Forty Shares in the Bude Light Company. Particulars may be obtained, ten days prior to the sale, of C. W. Cobby, esq solicitor, 10, Paternoster-row; of Mr George Drew, solicitor, Bermondsey-street; and at Messrs. FULLER and MARSH'S offices for the sale of reversions, shares, &c. 2, Charlotte-row, Mansion-house.

Periodical Sale.—Policy for 1,000*l.* effected with the Atlas Assurance Company, in the year 1819, on the life of a gentleman now in the 70th year of his age.

MESSRS. FULLER and MARSH have been favoured with instructions to include in their Periodical Sale appointed to take place at the Auction Mart on Thursday, April 10, at twelve, in lots, a POLICY of ASSURANCE for the sum of 1,000*l.* effected with the Atlas Assurance Company the 30th June, 1819, on the life of a gentleman now in the 70th year of his age: annual premium, 37*l.* 17s 6d. A bonus will be declared in June next. Particulars may be obtained at the Mart; of Messrs Thompson, Field, and Debenham, solicitors Salters'-hall, St Swithin's lane; of Mr. H. Edwards, St. Alban's; and at the offices of Messrs. FULLER and MARSH, 2, Charlotte-row, Mansion house.

Periodical Sale.—Copland's Patent Right for Improvements in Water Wheels.

MESSRS. FULLER and MARSH have been favoured with instructions from the Administrator of the late Mr Robert Copland to include in their Periodical Sale, appointed to take place at the Auction Mart, on Thursday, April 10, at twelve, in lots, COPLAND'S PATENT RIGHT for IMPROVEMENTS in WATER WHEELS, secured by Royal letters patent for the sole use benefit, and advantage of the ad invention within England and Wales and the town of Berwick-upon-Tweed, and also in all our colonies and plantations abroad, for the term of fourteen years. Particulars may be obtained at the Mart, of John H. Fitch, esq Solicitor, 17, Union street, Southwark; and of Messrs FULLER and MARSH, 2, Charlotte-row, Mansion house

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Periodical Sale.—Shares in the Hungerford Market Company.

MESSRS. FULLER and MARSH have received instructions from the Executors of the late Thomas Nixson, esq. to include in their Periodical Sale of Reversions, Shares, Policies, &c. appointed to the Auction Mart, on Thursday, April 10, a in lots, TEN SHARES of 100*l.* each 30*l.* called an HUNGERFORD MARKET COMPANY may be obtained at the Mart; of Messrs Hamilton and Fewa, solicitors, Henrietta street, Covent at the offices of Messrs. FULLER and MARSH of shares in all public undertakings &c. 2, Charlotte-row, Mansion-house.

Periodical Sale.—Policy for 700*l.* in the Pelican Life Assurance Company, effected in the year 1819.

MESSRS. FULLER and MARSH have been favoured with instructions to include in the next Periodical Sale of Reversions, Life Policies, Shares & appointed to take place at the Auction Mart, on THURSDAY, April 10, at twelve, in several lots, a POLICY of ASSURANCE for the sum of 700*l.* effected with the Pelican Life Assurance Company, the 7th of May, 1819, on a gentleman now in the 69th year of his age; premium 27*l.* 9s. 4d. Particulars may be obtained White, Kewneyt, and White, Solicitors, Grantham; of Mr. W. G. Taylor, Solicitor, 14, John rd-row, and at Messrs FULLER and MARSH for the sale of life policies, reversions, &c. 2 Ch Mansion-house.

Periodical Sale.—Valuable Old Policy for 3,000*l.* in the London Life Association, effected in the year 1819, on the life of a gentleman now in the 70th year of his age.

MESSRS. FULLER and MARSH have been favoured with instructions to include in their Periodical Sale of Reversions, Life Policies, &c. appointed to take place at the Auction Mart, on Thursday, April 10, at Twelve, in lots, a POLICY of ASSURANCE for the sum of 3,000*l.* effected with the London Life Association, No. 81, King William-street, the 2nd July, 1819, on the life of a gentleman now in the 70th year of his age: reduced annual premium 41*l.* 0s. 9d. Particulars may be obtained at the Mart; of Messrs. Thompson, Field, and Debenham solicitors, Salters'-hall, St. Swithin's-lane; of Mr. H. Edwards, St. Alban's; and at the offices of Messrs. FULLER and MARSH for the sale of reversions, life policies, annuities, &c. 2, Charlotte-row, Mansion-house.

Periodical Sale.—Absolute Reversion to the Sums of 39 105*l.* 10s. 4d. Three and a Quarter per Cent. Consols, and 5 000*l.* Three per Cent. Reduced.

MESSRS. FULLER and MARSH have been favoured with instructions to include in their Periodical Sale, appointed to take place at the Auction Mart on Thursday, April 10, the ABSOLUTE REVERSION in and to ONE-TWELFTH PART or SHARE of the Moiety of the Sum of 39,105*l.* 10s. 4d. Three-and-a-Quarter per Cent. Consols, and One-Twelfth Part Share of the Moiety of 5 000*l.* Three per Cent. Reduced able on the death of the survivor of a gentleman and his wife—the former aged 55, the latter aged 48. Particulars may be obtained at the Mart; of Mr. George Drew, solicitor, 185, Bermondsey-street; and at Messrs. FULLER and MARSH'S Offices, 2, Charlotte-row, Mansion-house.

Periodical Sale.—Absolute Reversion in the sums of 1,535*l.* 17s Three and a Quarter per Cents. and 115*l.* sterling.

MESSRS. FULLER and MARSH have been favoured with instructions to include in their next Periodical Sale of Reversions, Policies, Shares, &c. appointed to take place at the Auction Mart on Thursday, April 10, at twelve o'clock, in lots, the ABSOLUTE REVERSION in and to one-third part or share of a moiety of the sum of 1,535*l.* 17s. Three and a Quarter per Cents. and 115*l.* sterling, and to which reversion the purchaser will become entitled on the decease of a lady now in the 54th year of her age; the lady has long been an incurable lunatic, and is now in an asylum. Also the Contingent Reversion in and to the moiety of the above sums, receivable the death of the of the before-mentioned lady, provided she dies without i Particulars may be obtained at the Mart, of Mr Montague G sett, Solicitor, 30, Old Jewry and at Messrs FULLER and MARSH'S Offices for the Sale of every description of Reversionary Property, Shares, &c. 2, Charlotte row, Mansion house.

Periodical Sale.—Valuable old Policy for 1,000*l.* effected with the Equitable Life Assurance Company in the year 1810.

MESSRS. FULLER and MARSH have been favoured with instructions from the executors of a gentleman, deceased, to include in their Periodical Sale appointed to take place at the Auction Mart, on Thursday, April 10, at Twelve, a POLICY of ASSURANCE for the sum of 1,000*l.* with the accumulation thereon, amounting to 1,725*l.* in October last, making together the sum of 2,725*l.* and with all prospective advantages thereon, effected with the Equitable Society March 15, 1810, on the life of a gentleman now in the 65th year of his age. Annual premium 26*l.* 6d. Particulars may be obtained of Mr. James Matthews, olicitor, Lant-street, Southwark; and at Messrs. FULLER and MARSH'S offices for the sale of policies, reversions, life annuities, shares, &c. 2, Charlotte-row, Mansion-house.

Periodical Sale—A well-secured Annuity of 100*l.* per annum, Policies of Assurance in old-established offices, and Life Interests arising from Money in the Funds and valuable Leasehold Property

MESSRS. FULLER and MARSH have received instructions from the Agents to prepare for SALE by AUCTION, in their Periodical Sale for May, an ANNUITY of 100*l.* per annum, well secured, several Policies of Assurance, and Life Interests arising from money in the funds and valuable leasehold property. Detailed particulars will appear in future advertisements.—2, Charlotte-row, Mansion house, March, 1845.

Periodical Sale. Valuable Life Interest of a gentleman 72, in the annual produce of the sum of 1,000*l.* payable on the decease of a lady aged 72.

MESSRS. FULLER and MARSH have instructions to include in their next Periodical Sale of Reversions, Life Interests, &c. appointed to take place at the Auction Mart on Thursday, April 10, at Twelve, in lots, the LIFE INTEREST of a gentleman, aged 72, in the annual produce of the sum of 1,000*l.* payable upon the decease of a lady aged 72; the trustees are highly respectable parties, and the estates charged with the principal sum are of ample value. Particulars may be obtained at the Mart, of Mr Thomas Hill, solicitor, 16, Union-street, Union street, Birmingham and of Messrs. FULLER and MARSH'S offices, Charlotte-row, Mansion-house.

Periodical Sale.—Absolute Reversions to a Moiety of the sum of 2,000*l.* and a Freehold Dwelling-house, Alban's.

MESSRS FULLER and MARSH have been favoured with instructions to include in their Periodical Sale at the Mart, the ABSOLUTE REVERSIONS in and to a the Sum of 2 000*l.* Consols, and a Freehold Dwelling-house, at St Alban's, Herts, producing a rental of 20*l.* per annum, and to which the absolute reversion the purchaser will become entitled on the death of a lady now in the 80th year of her age. Detailed particulars will appear in future advertisements, and in the meantime any information may be obtained of Mr. H. Edwards, St. Alban's; or at Messrs. FULLER and MARSH'S offices, Charlotte-row, Mansion-house.

Periodical Sale.—An Improved Rental of 5*l.* per annum, with prospective Reversionary Interest, well secured on a genteel Family Residence, most eligibly situate on Shacklewell-green, Hackney.

MESSRS. FULLER and MARSH have been favoured with instructions from the administrator of the late Mr. Thomas Sharpe to include in their next Periodical Sale appointed to take place at the Auction Mart, on Thursday, April 10, at Twelve, in lots, an IMPROVED RENT of 5*l.* per annum, issuing out of a genteel compact family residence, with pleasure and extensive kitchen gardens, coach-house, stabling, &c. most pleasantly situate on Shacklewell-green, in the parish of St. John's, Hackney, in the occupation of and on lease to Mr. John Cooper, for an unexpired term of 21 years from Michaelmas, 1823, at the low rent of 50*l.* per annum. The estate is held on lease for an unexpired term of 45 years from 1829. Also the prospective Reversionary Interest in and to a considerably Improved Rental at the expiration of the present tenant's lease. The house and premises may be viewed by cards only, which, with particulars, may be obtained of Messrs. Bristow and Tarrant, Solicitors, 21, Walbrook, and London-street, Greenwich; and at Messrs. FULLER and MARSH'S offices, 2, Charlotte-row, Mansion-house.

Postponement of Sale.

MESSRS. FULLER and MARSH respectfully announce that they have received instructions from the Committee of the Cardigan United Mines to POSTPONE the SALE of the valuable MINING PROPERTY, situate near to Aberystwith, Cardiganshire, until early in June.—2, Charlotte-row, Mansion-house, March 28.

To small capitalists.—Valuable long Leasehold Estate, in the immediate neighbourhood of Fitzroy-square.

MESSRS. FULLER and MARSH have received instructions to SELL by AUCTION, at the Mart, on Thursday, April 10, at 12, a genteel brick-built DWELLING-HOUSE, being No. 10, Warren-street, Fitzroy square, in the occupation of and on lease to a most respectable tenant at the low rent of 42*l.* per annum. The property is held for an unexpired term of 41 years, at a ground rent of 4*l.* per annum. The property may be viewed on application to Mr. Lidstone, the tenant, and particulars obtained on the premises; at the Mart; of Messrs. Bristow and Tarrant, solicitors, 21, Walbrook, and London-street, Greenwich; and at the offices of Messrs. FULLER and MARSH, Auctioneers and Land Agents, 2, Charlotte-row, Mansion-house.

Freehold Water Corn Mill, and 15 acres of Hop and Meadow Land, Speldhurst, Kent.

MESSRS. FULLER and MARSH have received instructions from the Trustees to offer for unreserved SALE, at the Auction Mart, London (unless previously disposed of by private treaty), on Thursday, June 1, at twelve, a very desirable FREEHOLD ESTATE, comprising a water corn mill driving three pair of stones, together with a substantial dwelling house, cottage, and 15 acres of superior hop and meadow land, situate at Speldhurst, and near to the excellent market-town of Tunbridge, Kent. The property may be viewed on application to Mr. Holland, and particulars obtained, ten days prior to the sale, at the Sussex Hotel, Tunbridge-wells; Crown, Seven-oaks; Star, Maidstone; Crown, Tunbridge; on the premises; at the Mart, of Messrs. Faithful, Solicitors, Ship-street, Brighton; Mr. John Gainsford, 4, London-road, Brighton, Sussex; of Mr. Robert Ford, Oxted, Surrey; and of Messrs. FULLER and MARSH, Auctioneers and Land Agents, 2, Charlotte-row, Mansion-house, London, and Croydon, Surrey.

1,200 dozen of fine old crusted Port, lying in Hungerford-market cellars.

MESSRS. FULLER and MARSH have received instructions to SELL by AUCTION, without reserve, at No. 60 cellar, under the great hall of Hungerford-market, on Tuesday, April 8, at Twelve, 1,200 dozen of fine old crusted PORT, of Ormerod's and other first shipping houses. Catalogues may be obtained at the cellars, and of the Auctioneers, 2, Charlotte-row, Mansion-house.

Valuable Freehold Estate, situate in the city of London.

MESSRS. FULLER and MARSH have been favoured with instructions from the Executors of the late W. Baldwin, esq. to SELL by AUCTION, at the Mart, on Thursday, April 10, at twelve, in lots, an eligible FREEHOLD ESTATE, comprising four commodious and substantial brick built houses, forming Nos. 1, 2, 3, and 4, Cherry-tree-court, Aldersgate-street, within a few yards of J. in street, and nearly opposite the Albion Tavern, in the occupation of respectable tenants, at very inadequate rents, amounting to 161*l.* 12s. per annum. The several premises may be viewed on application to the tenants, and particulars obtained on the respective premises; at the Mart; of Stephen Walters, esq. Solicitor, 36, Basinghall-street; and at the offices of Messrs. FULLER and MARSH, auctioneers and land agents, 2, Charlotte-row, Mansion-house, and Croydon, Surrey.

Valuable Leasehold Property, in the immediate neighbourhood of important contemplated city improvements.

MESSRS. FULLER and MARSH have been favoured with instructions to SELL by AUCTION, without reserve, at the Mart, on Thursday, April 10, at Twelve, THREE DWELLING-HOUSES, Nos. 13, 14, and 15, Bear-alley, Farringdon-street, in the city of London, and extensive premises adjoining, well adapted for a factory or warehouse, in the occupation of respectable tenants, at rentals amounting to 82*l.* per annum, held for a long term at a low ground-rent. Particulars may be obtained on the premises; at the Mart; of John Henry Fitch, esq. Solicitor, 17, Union-street, Southwark; and at Messrs. FULLER and MARSH'S Offices, 2, Charlotte-row, Mansion-house.

LONDON:—Printed by HENRY MORRELL COX, of 74, Great Queen Street, in the Parish of St. Giles in the Fields, in the County of Middlesex, Printer, at his Printing Office, 74 & 75, Great Queen Street aforesaid, and published by JOHN CROCKFORD, of 29, Essex Street, Strand, in the Parish of St. Clement Danes, in the City of Westminster, Publisher, at the Office of the LAW TIMES, No. 29, Essex Street aforesaid, on Saturday, the 5th day of April, 1845.

THE LAW TIMES,

AND JOURNAL OF PROPERTY,

The Legislator, the Magistrate, and the Lawyer.

VOL. V. No. 106.] SATURDAY, APRIL 12, 1845.

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Legal Notices.

WIGAN BOROUGH SESSIONS.—NOTICE is HEREBY GIVEN, that the next GENERAL QUARTER SESSIONS of the PEACE for the Borough of Wigan, in the County of Lancaster, will be held before Robt. Segar, esq. Recorder of the said borough, at the MOOT HALL, within the said borough, on MONDAY, the 28th day of April instant, at half-past nine o'clock in the forenoon, at which time and place all Jurors, Prosecutors, Witnesses, Persons bound by Recognizances, and others having business at the said Sessions, are required to attend.

RA. LEIGH,
Clerk of the Peace for the said Borough.

Dated the 9th day of April, 1845.

New Publications.

TO ALL BAD WRITERS.—Mr. CARSTAIRS, of 81, Lombard-street, City, Inventor of the celebrated System of Writing, - Mr CARSTAIRS continues to give LESSONS to Ladies and Gentlemen of all ages, so that the worst writers, and even those who cannot write at all, may be enabled to obtain a superior style and command of the pen in the shortest possible time. Arithmetic and Bookkeeping taught on a very superior plan.—"Mr Carstairs is acknowledged to be the first systematic writing-master in the kingdom." *Despatch* Aug 18, 1844.

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JAMES PERRY and CO. have the pleasure to announce that they have succeeded in Perfecting their Patent Filter Inkstand, by introducing a Moveable Disc. It is durable and faultless, and will be found superior to any other inkstand in the trade. The price is also considerably reduced. N. B. The Moveable Disc can be applied to any of the former Filter Inkstands at a moderate charge.

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This ink is most suitable for all kinds of Metallic Pens, and exceedingly good for pens made from quills. It is also suitable for the copying machine. Also in Powders, at 6d, and 1s. per packet, the latter sufficient to make a wine bottle full of ink.

*** The above articles are sold by all Stationers, Dealers in Metallic Pens. Wholesale and for Exportation at the Manufactory, No. 37, Red Lion square, London.

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FOR STOPPING DECAYED TEETH. Price 1s. 6d. Patronized by her Majesty, his Royal Highness Prince Albert, and her Royal Highness the Duchess of Kent.—Mr THOMAS'S SUCCEDANEUM, for stopping decayed teeth however large the cavity. It is placed in the tooth in a soft state, without any pressure or pain, and will remain firm in the tooth for many years rendering extraction unnecessary, arresting the further progress of decay. All persons can use Mr. Thomas's Succedaneum themselves with ease, as full directions are enclosed. Prepared by Mr. THOMAS Surgeon Dentist, price 1s 6d. Sold by Savory and Moore, 220, Regent street, and 143, Bond-street; Sanger, 150 Oxford-street; Butler, 4, Cheapside; Prout, 229, Strand; Johnston, 68, Cornhill, and all Medicine venders.

Mr Thomas continues to supply the loss of Teeth on his new system of self-adhesion, without springs or wires. This method does not require the extraction of any teeth or roots, or any painful operation whatever. At home from 11 till 4. 64, Berners street, Oxford street.

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This day is published, price 8s. the Third Edition of the

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N.B. The names of the reporters of such important points as may arise upon Circuit will be announced as the arrangements for each are completed.

The Written Judgments are reported verbatim in Shorthand by Mr. H. GREGORY, Short hand Writer.

BIRTHS, MARRIAGES, AND DEATHS.

[The charge for the insertion of the above is 5s.]

BIRTHS.

EVEREST.—On the 5th inst. at the Cedars, Epsom, the wife of William Everest, esq. of a daughter.

MARRIAGES.

BURR, Thomas William, esq. 25, Sun-street, Bishopsgate, Solicitor, to Mary Anne, second daughter of Robert Greenwood, esq. Haberdashers-place, Hoxton, on Thursday, the 10th inst. at St. John's, Hoxton.

DEATHS.

CHETWYND, Viscountess Dowager, at her house, 35, Upper Brook-street, on the 7th inst. aged 73.

COOPER, Ensign William George, of the 19th Madras Native Infantry, only son of Mr. Frederick Cooper, Solicitor, Brighton, at Paulghautcherry, East Indies, on the 24th of January last, aged 20.

DOUGLAS, Helen Elizabeth, daughter of W. H. Douglas, esq. Barrister-at-Law, at Baden Baden, on the 31st ult. aged 6.

FALCON, Elizabeth, wife of the Rev. William Falcon, and daughter of Nicholas Simons, of Lincoln's Inn, esq. at Buxted, Sussex, on Saturday, the 5th inst.

ROBERTS, Ann, widow of Edward Roberts, esq. late Clerk of the Pells in her Majesty's Receipt of Exchequer, at Ealing, on the 6th inst. aged 87.

The following building is certified as a place duly registered for solemnizing marriages, pursuant to an Act of 6 & 7 William 4, cap. 85:—Bethel Chapel, Newtown, Lancashire. George Frederick Mandley, superintendent registrar.

Sales by Auction.

Periodical Sales (established in the year 1803) of Reversions, Life Interests, Annuities, Policies of Assurance, Advowsons, Next Presentations, Rent Charges in lieu of Tithes, Post-obit Bonds, Tontines, Debentures, Ground Rents, Improved Rents, Shares in Docks, Canals, Mines, Railways, Insurance Companies, and all Public Undertakings.

MESSRS. SHUTTLEWORTH and SONS respectfully inform the public, that upwards of 40 years' experience having proved the classification of this species of property to be extremely advantageous and economical to vendors, and equally satisfactory and convenient to purchasers, the PERIODICAL SALES of reversionary interests, policies of insurance, tontines, debentures, advowsons, next presentations, all securities dependent upon human life, shares in docks, canals, mines, railways, and public undertakings, will be continued through 1845, follow.—

Friday, April 11.	Friday, Sept. 5.
„ May 2.	„ Oct. 3.
„ June 6.	„ Nov 7.
„ July 4.	„ Dec. 5.
„ Aug. 1.	

Particulars may be had Ten days previous to each sale, at the Royal Hotel, Manchester; the Adelphi Hotel, Liverpool; Dee's Royal Hotel, Birmingham; the Angel, Oxford, the Eagle and Child, Cambridge; at the Mart, and of Messrs. SHUTTLEWORTH and SONS, 28, Poultry.

SUSSEX.—Extensive and Valuable Freehold Farms on the high road from Lewes to Seaford and Eastbourne.

MESSRS. SHUTTLEWORTH and SONS are instructed to SELL by AUCTION, at the Mart, on Friday, May 23, at twelve, in lots, the following FREEHOLD ESTATES viz. Little Sutton Farm, situate wholly in the parish and village of Seaford, 11 miles from Brighton, 7 from Eastbourne, 13 from Lewes, and 10 from Hailsham, in the county of Sussex, consisting of 249 acres of fine wheat, barley, turnip, meadow, and pasture land, in the occupation of Messrs. John and Charles Waters, most unexceptionable tenants, at a low rent of 245*l.* per annum And Frog's Firle, otherwise Burnt House Farm, situate in the several parishes of Alfriston, Litlington, and Arlington, 7 miles from Hailsham, 10 from Lewes, 3 from Seaford, and 17 from Brighton, consisting of 471 acres of fine wheat, barley, turnip, meadow, and pasture land, with a very neat farmhouse and agricultural buildings, agreeably placed upon an eminence, commanding extensive prospects, and possessing the advantage of water carriage, in the occupation of C. S. Brooker, a highly respectable tenant, at a very low net rent of 202*l.* 10*s.* per annum. May be viewed with permission of the tenants, and particulars had, twenty-one days previous to the sale, at the Old Ship Hotel, Brighton; the New Inn and Hotel, Seaford, the Star, Lewes, the Hailsham, of Messrs. Lawford, Solicitors, Draper's Hall, Throgmorton-street; at the Mart; and of Messrs. SHUTTLEWORTH and SONS, 28, Poultry.

Excellent Family Residence and Farm, Little Berkhampstead, commanding rich and unlimited prospects o the most picturesque districts of the county of Hertford

MESSRS. SHUTTLEWORTH and SONS are instructed to bring to public SALE, on Friday, May 23, a most desirable FREEHOLD and COPYHOLD ESTATE, beautifully situate on the commanding eminence, identified by the rural village spire of Little Berkhampstead, and the richly wooded scenery around, only four miles from the town and railway stations of Hertford, four from Broxbourne and the station there, and only twenty miles from London, in the county of Herts, a neighbourhood eminent for all the field sports, society of the first distinction, the most skilful and enterprising cultu and land of the highest quality. The mansion, upon the verge of a lawn, pleasure grounds, rubbe and a finely undulated park meadow of 40 acres, contains 16 bed chambers with dressing-rooms and water-closets, handsome lofty drawing and dining rooms, each 30 feet by 20 feet, library, school-room morning-room, and study domestic offices of every description, excellent coach-houses and stabling, brewhouse, bakehouse, and every necessary appur tenance Also a most superior kitchen-garden of nearly two acres, having an admirable south wall productive of the choicest fruits, with greenhouses, forcing houses, melon and pine pits, and twenty-five acres of rich turnip land nearly adjoining the whole comprising upwards of sixty-seven acres, in a high state of cultivation, with a convenient home stead, suitable agricultural buildings, and four neat cottages May be viewed, and particulars had in due time of Messrs. Allan and Son, solicitors, 1, Frederick's-place, Old Jewry, at the Mart, and of Messrs. SHUTTLEWORTH and SONS, Poultry.

County of Sussex, near Rye.—Dew Hookers, Great and Little Tillingham Farms, comprising together superior Corn, Hop, and rich Meadow Land

MESSRS. SHUTTLEWORTH and SONS have received instructions from the of Richard Styleman, esq. deceased, to SELL by AUCTION, at the Mart, the latter end of May, the several FREEHOLD and COPYHOLD ESTATES, comprising Dew Hookers and the Great and Little Tillingham Farms, very desirably situate in the parishes of Peasmarsh and Iden a most beautiful, undulating, and fine sporting part of the county of Sussex, consisting altogether of 305 acres of superior corn, hop, rich meadow and wood land, lying compactly together, and approached by good roads, with suitable farm-houses, homesteads, and every necessary agricultural building in good order. The whole are in hand, having been superintended with great judgment by the late proprietor. The country is of a sporting character, and is richly ... with the parks and residences of opulent landowners. May be viewed by application to the bailiff, Mr. ... at Dew Farm, of whom particulars may be had, also at the principal inns in Rye, Winchelsea, Tenterden; the hotel at Hastings and Brighton; of Messrs. Dawes and Sons, Solicitors, 9, Angel-court, Throgmorton street; at the Mart and of Messrs. SHUTTLEWORTH and SONS 28, Poultry.

Important Leasehold Investments, including 73 substantial private Residences and Dwelling-houses, situate in Frederick-street, Frederick-place, and Ampton-place, St. Pancras, and in College-place and King-street, Camden-town, producing a clear annual income of 3,227*l.* each house being held under a separate lease, at a low ground-rent, and the whole presenting an unusual opportunity for the secure investment of capital in large or small sums and the increase of income.

MESSRS. SHUTTLEWORTH and SONS have received instructions from the proprietor, Mr. W. Cubitt, to submit to public AUCTION, at the Mart, on Friday, April 18, at Twelve, in numerous lots, the following extensive and valuable ESTATES; and in announcing the sale of this important property, the auctioneers avail themselves of the opportunity it affords them of earnestly drawing the attention of trustees and private individuals desirous of improving income by a transfer from the Government stocks ... tments of an undeniable character, and by which their annuities may be at least doubled, independent of an accumulating surplus adequate to replace the amount of the purchase-money at the expiration of the respective leases, a material consideration, usually unappreciated by the buyers of leasehold estates. This extensive property consists of the following superior premises, erected under the immediate direction of Messrs. Cubitt and Co. the whole being in the very best condition of repairs, substantial and ornamental, requ any outlay thereon whatsoever. ... held ... a separate lease for a long term unexpired, ... a low ground- ... ntal ... ing 3,661*l.* ... and the aggregate ground-rents only 434*l.* most ... secured upon 73 pr ... residences and dwelling- ... follows:—Eleven in Frederick-street, seven in Frederick-place, and 18 in Ampton-place, Gray's-inn ... d, in the parish of St. Pancras; and 27 in College-place, and 10 in King-street, Camden town. The principal ... on let, under leases and agreements, to very respectable tenants clear of sewers rates and every other assessment without exception, and a small part, recently finished, remains in hand. May be viewed with leave of the tenants, and particulars had, 14 days prior to the sale, of Mr. John Evans, solicitor, 51, Lincoln's-inn-fields; at the Auction Mart; and of Messrs. SHUTTLEWORTH and SONS, 28, Poultry.

The Fr ..., Winchelsea, in the county of Sussex; comprising ... lern Mansion, a small but beautiful Park, ... eresti ... Ruin of the Grey Friars Chapel, the entire ... Cliff, delightful Pleasure-grounds, nume... Te... ments, and out lying Enclosures ... singularly ... ch Lands ... that ancient ... of the Cinque Ports

MESSRS. SHUTTLEWORTH and SONS have received instructions from the Executors to SELL by AUCTION at the Mart, the latter end of May, in several lots, the beautiful RESIDENCE, distinguished as the Friars, an elegant stone edifice, erected by the late Richard Styleman, esq. within the past twenty five years, and presenting a pleasing elevation in a simple Gothic style. It is pl... d near the verge of a verdant plateau or promontory forming the park, and extending from the Strand-gate in the approach from Rye from which it is distant about three miles to the New-gate on the road leading to Pett Fair Light and Hastings; from the former five, and from the latter about ... miles The face of the cliff, which is planted with fine ... own forest timber valuable copp... ... d hrubs, is intersected by ... alks, which fr... natural alcoves and rocky recesses command extensive views over the sea and the rich undulations of the landward scenery, including the splendid remains of the once celebrated monastery. The gardens are very productive The pleasure-grounds are disposed in groves and avenues in which a fine rookery has accumulated, terraces and lawns, in the centre of which stand the interesting ruins of the Grey Friars' Chapel and in connection with the neighbouring antiquities, forming a coup d'œil of great attraction. The several tenements and outlying enclosures will form distinct lots they are distributed through the town and suburbs of Winchelsea, and offer desirable investments for moderate capitalists. The estate is freehold, and under its present character is adapted for the marine residence of a nobleman or opulent commoner, but the peculiarity of the site will suggest an appropriation that with judicious management may lead to more important advantages The entire property includes upwards of 80 acres. Particulars and cards to view will be issued in due time, and further information obtained during the interval of Messrs. Dawes and Sons, Solicitors, 9, Angel-court, Throgmorton-street, and of Messrs. SHUTTLEWORTH and SONS, 28, Poultry.

GROUND RENTS and HOUSES, ST. PANCRAS, PECKHAM, COMMERCIAL ROAD, and FREEHOLD, MILE-END.

MESSRS. ROBERTS and ROBY will SELL at the Auction Mart, on Thursday, April 17, at Twelve, well-secured NET IMPROVED GROUND-RENTS of 77*l.* 7*s.* per annum, arising from thirteen Houses and Shops in Chalton-street, New-road, Somers Town, and eight Hou... held for 40 years direct fr... Earl Somers A... und-rent of 28*l.* per annum, issuing out of six pr... H. nover-street, Rye-lane, Peckham, Surrey, near Dr. Collyer's Chapel; held of the freeholder for 81 years, with reversion of 26 years to about 200*l.* per ... The ground-rents of 16*l.* per annum, arising from ... es in Henry-street, York-square, Commercial-road East, and two houses, Nos. 7 and 8, adjoining, let at 42*l* per annum, held of the Mercers' Company for 48 years. A gen... teel leasehold house, eligible for investment or occupation, No. 23, York-street, East, near Brunswick-square, let to a respectable tenant at a low net rent of 20*l.* per annum, held for 48 years at a peppercorn. Two houses and shops, Nos. ... and 21, Chalton street, New-road, let to respectable tenants at ... 72*l* per annum; held for 40 years at a ground-rent of 8*l.* 8*s.* each, and a freehold house, No. 6, Globe-terrace, Mile-end ... a coach-house and stable in Willow-street, adjoin... at 2*l.* 10*s.* per annum.

To be ... d particulars had of Messrs. Frankham and Dixon, Solicitors, 70, Basinghall-street; of Messrs. Da... and Son, Warwick-street, Regent-street; of J. Mills, esq. Brunswick-place, City-road; Auction Mart; and at ROBERTS and ROBY'S Offices, 24, Moorgate-street, Bank.

Periodical Sale of Reversions, Life Interests, Annuities, Life Policies, Advowsons, Next Presentations, and all descriptions of Securities dependent upon human Life, Shares in Railways, Mines, and all other undertakings.

MESSRS. FULLER and MARSH respectfully inform the public, that by their system of periodical sales by Auction they are enabled to offer to persons expectant or otherwise interested in the above description of property the most prompt, economical, and satisfactory mode of disposing thereof, as by classifying these descriptions of interests and properties in the same particular and for the same day, much expense is avoided, and a far greater competition is secured. Their periodical sales of reversions, life interests, annuities, life policies, advowsons, next presentations, and all descriptions of securities dependent upon human life, shares in railways, mines, and all other undertakings, will be continued throughout the present year as follows:—

Thursday, April 10	Thursday, September 4
Thursday, May 1	Thursday, October 2
Thursday, June 5	Thursday, November 6
Thursday, July 3	Thursday, December 4.
Thursday, August 7	

Notice of Sales intended to be effected by the above means should be forwarded to Messrs. Fuller and Marsh a fortnight prior to each date, in order that they may have the full benefit of publicity. Messrs. Fuller and Marsh beg ... ll the attention of the public to the economy and expedition of this system of business, as they are thereby enabled to include each property for the sum of two guineas and a half, including all expenses, should a sale not be effected. Particulars of the next periodical sale may be obtained ten days previous to the sale, at the Star Hotel, Oxford; University Arms, Cambridge; Hen and Chickens, Birmingham; Plough, Cheltenham; Bush, Bristol; New London Hotel, Exeter; Pierce's Hotel, Truro; Adelphi, Liverpool; Royal Hotel, Manchester; Cuff's Midland Hotel, Derby; Black Swan, York; Tontine Hotel, Sheffield; Royal Hotel, Leeds; Tontine Hotel, Glasgow; M'Gregor's Hotel, Princes-street, Edinburgh; Gresham's Hotel, Dublin; and at the Offices of Messrs. FULLER and MARSH, 2, Charlotte-row, Mansion-house, London.

MANOR OF CULMINGTON, SALOP.—Sale Postponed till 24th April, 1845.

Important Freehold Estate (consisting of nearly 1,800 acres) and Manor, in the county of Salop.—By Messrs. WINSTANLEY, at the Auction Mart, on Thursday, April 24, at Twelve o'clock, in One Lot,

THE MANOR of CULMINGTON, with its Appurtenances; and all that highly valuable and important FREEHOLD ESTATE situate in the several parishes of Culmington, Diddlebury, and Stanton-Lacy, in the county of Salop, containing together 1,786 acres or thereabouts, of exceedingly rich arable, meadow, pasture, and wood land, in a ring fence, in a high state of cultivation, divided into convenient farms with excellent homesteads, and suitable agricultural buildings, eligibly arranged and in complete repair; together with a good Water Corn Mill; all now in the several occupations of Messrs. James Williams, John Downes, Edward Instone, Francis Bach, and others.

The estate is equally eligible for residence or investment, being most desirably situate in the best part of the county of Salop, 5 miles from Ludlow, 14 from Wenlock, 16 from Bridgenorth, 20 from Shrewsbury, and 148 from London. It is in the immediate vicinity of the Ludlow Hunt, abounds with game, and the beautiful trout river, Corve, runs through the centre thereof. The Land Tax is redeemed, and the Tithes are commuted. The arable Lands are peculiarly adapted for the growth of turnips, barley, clover, and wheat, the meadow and pasture ... ds are rich and productive, and the Woods and Plan... so situate as to be highly ornamental to the Estate.

The several Tenants will shew the Premises in their respective occupations, and descriptive printed particulars and conditions of sale may be had, six weeks previous to the day of sale, of Charles Powell, esq. of Sutton, near Ludlow, Shropshire; of Messrs. Garbutt, Fawcett, and Hick, solicitors, Yarm, Yorkshire; at Ludlow of Messrs. Lloyds, Solicitors; of Messrs. R. T. and R. Tench, Land Agents; and at the Angel and Crown Inns; the Lion, Shrewsbury; the Star and Garter, Worcester; Messrs. Thomas Winstanley and Sons, Auctioneers, Liverpool; and in London of Messrs. Baxendale, Tatham, Upton, and Johnson, Solicitors, 24, Lincoln's-inn Fields, & 7, Great Winchester-street; Messrs. Bell, Brodrick, and Bell, Solicitors, 9, Bow Church-yard; at the Auction Mart; and of Messrs. WINSTANLEY, Paternoster-row.

Eligible Investments in Freehold Ground Rents, Copyhold and Leasehold Property, producing 1,200*l.* per annum.

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AND JOURNAL OF PROPERTY,

The Legislator, the Magistrate, and the Lawyer.

VOL. V. No. 107.] SATURDAY, APRIL 19, 1845.

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TO PREVENT ALL FUTURE QUESTIONS AS TO THE VALIDITY OF POLICIES, this Company are prohibited by their deed of constitution from disputing any claim, unless they take upon themselves to prove that the policy upon which the claim arises was obtained by fraudulent misrepresentation.

The Company are further bound to give effect to every policy, although the debt for which it may have been originally procured, or at any time held, may have been paid off before the claim arises.

And that the value of policies may not be lessened or destroyed by parties going beyond the limits usually prescribed, the Company grant, upon payment of a small extra premium, general or whole world leave, which subsists during the currency of the policy.

By these [illegible] the policies of the London, Edinburgh, and Dublin Life Co[illegible] [illegible] have come to be considered as forming securities more [illegible]mplete and more easily negotiable than any other similar d[illegible]

Assurances are granted either with or without participation in profits, and the utmost facility is given in regard to the payment of the premiums, by the assured having the option of payment by a progressive ascending scale, or according to the half premium system, continued for seven years.

COMMISSION.—The Solicitor who transacts a Policy with this Company is considered as the Agent during its whole currency, and receives commission upon all future premiums, by whomsoever they may be paid.

Prospectuses and Schedules are forwarded to applicants free of expense, by the Manager and Agents.

ALEX. ROBERTSON, Manager.

THE following are specimens of the low rates of Premium charged by the AUSTRALIAN COLONIAL AND GENERAL LIFE ASSURANCE AND ANNUITY COMPANY.

Age.	[illegible]	60
Annual Pr[illegible]	£1 10 3 £2 0 7 £2 15 3 £4 1 [illegible]	£6 3 [illegible]

Peculiar facil[illegible] afforded for the assurance of the lives of persons proceeding t[o] or residing in Australasia and the Ea[st] Ind[ies].

Immediate and Deferred Annuities are granted by the Company on very favourable terms, and it [is] peculiar fe[a]ture in its constitution, that Annuitants participate in the profits.

DIRECTORS.

E. Barnard, esq. F.R.S.	Gideon Colquhoun, esq.
Robert Brooks, esq.	C. E. Mangles, esq.
Henry Buckle, esq.	Richard Onslow, esq.
John Henry Capper, esq.	William Walker, esq.

SECRETARY.—E. RYLEY, Esq.

For Prospectuses and other Particulars apply at the Offices, No. 126, Bishopsgate-street, corner of Cornhill.

EUROPEAN LIFE INSURANCE and ANNUITY COMPANY. Established January, 1819. Empowered by special Act of Parliament, 7 & 8 Victoria, cap. 48.

Office—No. 10, Chatham-place, Blackfriars.

BOARD OF DIRECTORS.

JOHN ELLIOT DRINKWATER BETHUNE, Esq. 89, Chester-square, Chairman.

Thos. Henry Call, esq. 1, Mount-street, Grosvenor-square.
John Rivett Carnac, esq. 46, Devonshire-street, Portland-place.
John Greathed Harris, esq. 2, Old Palace-yard.
Henry H. Harrison, esq. 1, Percy-street, Bedford-square.
Thomas Hunt, esq. 11, Manchester-square.
William Paxton Jervis, esq. 59, Cadogan-place, Sloane-st.
Alexander H. Macdougall, esq. 44, Parliament-street.
William Sargent, esq. Treasury Chambers, Whitehall.
Frederick Silver, esq. 10, James-street, Buckingham-gate.
John Stewart, esq. 22, Portman-square.
George James Sullivan, esq. 1, Arlington-street, and Ditcham Grove, Petersfield, Hants.
John Thoyts, esq. 71, Wimpole-street.

PHYSICIANS.

Thomas Thompson, M.D. Chatham-place.
Henry Davies, M.D. 18, Sackville-row, London.

This old-established Society has recently received additional powers, by special Act of Parliament, and affords facilities in effecting Insurances to suit the views of every class of insurers.

Premiums are received yearly, half-yearly, or quarterly, or upon an increasing or decreasing scale.

Two-thirds of the profits are added septennially to the policies of those insured for life; one-third is added to the guarantee fund for securing payment of the policies of all insurers.

Those who are insured to the amount of 500*l.* and upwards for the whole term of life, are admitted to vote at the half-yearly general meetings of the proprietors.

Premiums for Insuring 100*l.* on a Single Life.

Age	For 1 Year	For 7 Years	Whole Life.
Next Birthday—20	£0 19 11	£1 2 2	£1 18 1
.. .. 30	1 6 10	1 8 7	2 8 1
.. .. 40	1 13 11	1 16 8	3 2 6
.. .. 50	2 6 9	2 11 3	4 5 6
.. .. 60	3 12 6	4 4 10	6 5 8

DAVID FOGGO, Secretary.

THE REPORTS.

The following are the names of gentlemen who favour the LAW TIMES with the Reports:—

PRIVY COUNCIL by THOMAS CAMPBELL FOSTER, of the Middle Temple, Esq. Special Pleader.

HOUSE of LORDS by WILLIAM PATERSON, Esq. of Gray's-inn, Barrister-at-Law.

EQUITY COURTS.

LORD CHANCELLOR'S COURT by RICHARD GRIFFITHS WELFORD, Esq. of the Inner Temple, Barrister-at-Law.

VICE-CHANCELLOR of ENGLAND'S COURT, by GEORGE GOLDSMITH, Esq. of the Middle Temple, Barrister-at-Law.

ROLLS COURT, by J. MACAULAY, Esq. of the Inner Temple, Barrister-at-Law.

VICE-CHANCELLOR KNIGHT BRUCE'S COURT by GEO. S. ALLNUTT, Esq. of the Middle Temple, Barrister-at-Law.

VICE-CHANCELLOR WIGRAM'S COURT, by HENRY BAKER, Esq. of Lincoln's Inn, Barrister-at-Law.

COMMON LAW COURTS.

The QUEEN'S BENCH, by J. C. SYMONS, Esq. of the Middle Temple, Barrister-at-Law, and EDWARD WISE, Esq. of the Middle Temple, Barrister-at-Law.

The COURT of COMMON PLEAS, by HENRY TINDAL ATKINSON, Esq. of the Middle Temple, Barrister-at-Law, and W. PATERSON, Esq. of Gray's-inn, barrister-at-law.

The COURT of EXCHEQUER by JOHN BRIDGE ASPINALL, Esq. of the Middle Temple, Barrister-at-Law, and H. T. COLE, Esq. of the Middle Temple, Barrister-at-Law.

The BAIL COURT by T. W. SAUNDERS, Esq. of the Middle Temple, Barrister-at-Law.

The EXCHEQUER CHAMBER by A. A. FRY, Esq. of Lincoln's-inn, Barrister-at-Law.

BANKRUPT AND INSOLVENT COURTS.

The COURT of REVIEW by GEO. S. ALLNUTT, Esq. of the Middle Temple, Barrister at-Law.

LONDON COMMISSIONERS' COURTS and the INSOLVENT COURT, by T. B. HUGHES, Esq. of the Inner Temple, Barrister-at-Law.

BRISTOL DISTRICT COURT by J. ANGUS HOMES, Esq. Barrister-at-Law.*

NISI PRIUS, CIRCUITS, AND CROWN CASES.

CENTRAL CRIMINAL COURT, by B. C. ROBINSON, Esq. of the Middle Temple, Barrister-at-Law.

CROWN CASES (before all the Judges) by H. TINDAL ATKINSON, Esq. of the Middle Temple, Barrister at-Law

NORTHERN CIRCUIT, York, and Liverpool, by J. B. ASPINALL, Esq. Barrister at-Law The other parts of the Circuit, by G. F. H. OLIPHANT, Esq. Barrister-at-Law

WESTERN CIRCUIT, by EDWARD W. COX, Esq. of the Middle Temple, Barrister at Law.

OXFORD CIRCUIT, by JOHN LANE, Esq. D.C.L. of the Inner Temple, Barrister-at-Law.

NORFOLK CIRCUIT by JNO. B. DASENT, Esq. Barrister-at-Law.

SITTINGS AT NISI PRIUS AFTER TERM, by JOHN LANE, Esq. D.C.L. of the Inner Temple, Barrister-at-Law.

ELECTION LAW.

REGISTRATION APPEALS in the COMMON PLEAS by EDWARD W. COX, Esq. of the Middle Temple, Barrister-at-Law; and HENRY TINDAL ATKINSON, Esq. of the Middle Temple, Barrister-at-Law.

ELECTION COMMITTEES by EDWARD W. COX, Esq. of the Middle Temple, Barrister-at-Law.

REGISTRATION COURTS, collected and edited by EDW. W. COX, Esq. of the Middle Temple, Barrister-at-Law.

IRISH REPORTS.

The LORD CHANCELLOR'S COURT by WILLIAM DUGGAN, Esq. Barrister-at-Law.

QUEEN'S BENCH and CRIMINAL COURTS by WM. ST. LEGER BABINGTON, LL.D. Barrister-at-Law.

N.B.—The names of the reporters of such important points as may arise upon Circuit will be announced as the arrangements for each are completed.

The Written Judgments are reported verbatim in Short-hand by Mr. H. GREGORY, Short-hand Writer.

NECROLOGY.

THE EARL OF ABERGAVENNY.

We have to announce the death of the Right Hon. Henry John Nevill, Earl of Abergavenny, which took place at his seat, Eridge Castle, near Tunbridge Wells, in the fifty-sixth year of his age, having succeeded to the title and estates but two years and seventeen days.

The family of Nevill is of the highest antiquity, having descended from Gilbert de Nevill, a Norman chieftain, who is said to have been admiral to William the Conqueror. Its members have been distinguished for their prowess in the field, their talents in the senate, and their eloquence in debate. They have occupied the highest stations in England, six having been Lords Chancellor, two Archbishops of York, and one Archbishop of Durham, and their names are associated with the brightest periods of our history.

The late earl was never married, and consequently his only surviving brother, the Hon. and Rev. William Nevill, vicar of Frant and Birling, Kent, succeeds to the title and estates. The late earl had been labouring under a very delicate state of health for the last two or three years, which precluded his appearing in public, or even to visit and receive visits, and he never sat in the House of Lords but one night after his accession to the peerage.

William, the present Earl of Abergavenny, was baptized on the 5th of August, 1792, and married on the 7th of September, 1824, to Caroline, daughter of the late Ralph Leek, of Langford Hall, in the county of Salop, esq. by whom he has seven children still living.

THE MARQUIS OF DOWNSHIRE.

A fit of apoplexy has caused the sudden death of the Marquis of Downshire, who was in the 57th year of his age, having been born on the 8th of October, 1788. His lordship's father was the second marquis, and his mother was Mary, Baroness Sandys, who was niece and heir of Edwin, the last Lord Sandys. The deceased, Arthur Blundell Sandys Trumbull Hill, received his school education at Eton, and from that celebrated school proceeded, at the usual age, to Oxford. The father of the noble marquis died on the 7th of September, 1801, so that his lordship succeeded to his titles at the early age of thirteen, and a minority of eight years sufficed to clear off any incumbrances affecting the family estates, and at the same time to place at his lordship's disposal a considerable amount of ready money. When he had just completed the 23rd year of his age, he married Lady Maria Windsor, eldest daughter of Other-Hickman, fifth Earl of Plymouth, her ladyship being then in the 22nd year of her age.

The noble marquis having been by inheritance the possessor of more than one English peerage, took his place in the House of Lords on coming of age, and always cordially supported the administrations of Mr. Perceval, Lord Liverpool, the Duke of Wellington, and Sir Robert Peel. He was accustomed occasionally to speak in the House of Lords, always with much good sense and accurate information; but he was less distinguished by the part which he took in public affairs than by the amiable qualities and many virtues which adorned his private life. He was a man of large possessions; but the good-feeling and ability with which his estates were managed reflected credit alike upon the honesty of his intentions and the soundness of his understanding.

The ancestors of the noble marquis were of Norman descent, and anciently bore the name of De la Montagne. In the reign of Edward III. they were for the first time styled Hill *alias* De la Montagne, and in modern times Hill alone. Previous to the fifteenth century members of this family filled judicial offices in England, but the founder of their fortunes in Ireland went over with the Earl of Essex, in 1573, to suppress O'Neill's rebellion. From that time to the present we find this eminent and prosperous family filling high offices in the state, and acquiring in rapid succession almost all the honours of the peerage, and an amount of wealth fully commensurate with the highest aristocratic dignity. As the circumstances of his Lordship's death have been already detailed, it will not be necessary to repeat them here. The present peer is Arthur Wills Blundell Sandys Trumbull Windsor Hill, marquis of Downshire, Earl of Hillsborough, Viscount Fairford, Baron Harwich, and Viscount Kilwarlin. He was born in 1812, and married in 1837 the eldest daughter of Viscount Combermere. His lordship has sat for the county of Down since 1836, and his elevation to the peerage will of course create a vacancy in the representation of that county.

TEMPLE CHURCH.—The following notice appears on the Temple Church:—"Divine service will be performed daily in this church, at nine o'clock, until further notice."

Sales by Auction.

Periodical Sale of Reversions, Life Interests, Annuities, Life Policies, Advowsons, Next Presentations, and all descriptions of Securities dependent upon human Life, Shares in Railways, Mines, and all other undertakings.

MESSRS. FULLER and MARSH respectfully inform the public, that by their system of periodical sales by Auction they are enabled to offer to persons expectant or otherwise interested in the above descriptions of property the most prompt, economical, and satisfactory mode of disposing thereof, as by classifying these descriptio[illegible] interests and properties in the same particular and [illegible] he same day, much expense is avoided, and a far greater competition is secured. Their per[illegible] sales of reversions, life interests, annuities, life policies, advowson, next presentations, and all descriptions of securities dependent upon human life, shares in railways, mines, and all other undertakings, will be continued throughout the present year as follows:—

Thursday, June 5	Thursday, October 2
Thursday, July 3	Thursday, November 6
Thursday, August 7	Thursday, December 4.
Thursday, September 4	

No[illegible] of Sales intended to be effected by the ab[illegible] means should be forwarded to M[illegible] Fuller and Marsh a fortnight prior to each date in order that they may have the full benefit of publicity. Messrs. Fuller and Marsh b[illegible] to call the attention of the public to the economy and exp[illegible] ditio[illegible] of this system of business, as they are thereby enabled to [illegible] each property for the sum of two guineas and a half, including all expenses should a sale not be effected. Particulars of the next periodical [illegible] may be obtained ten days previous to the sale at the Star Hotel, Oxford, University Arms, Cambridge, Hen and Chickens Birmingham, Plough, Cheltenham, Bush, Bristol, New London Hotel, Exeter, Pearce's Hotel, Truro, Adelphi, Liverpool, Royal Hotel, Manchester, Cox's Midland Hotel, Derby; B[illegible] Swan, York; Tontine Hotel, [illegible] Hotel, Leeds; Tontine Hotel, Glasgow; M[illegible] Hotel, Princes-street, Edinburgh; Gresham's Hotel, Dublin; and at [illegible] Offices of Messrs. FULLER and MARSH, 2, Charlotte-row, Mansion-house, London.

[illegible] odical Sale — Valuable Patent Rush [illegible]

MESSRS. FULLER and MARSH have been favoured with instructions from the Assignee of Mr. Walter Hancock, an insolvent, to submit to public COMPETITION, at the Auction Mart, on Thursday, May 1, at twelve, in lots, the following important PATENT RIGHTS, secured by letters patent, viz. For a sub-divided boiler, patent steady boiler and valve, improvements in fire-bars, improvements in the mode for manufacturing India-rubber, for preventing accidents on railway-signals, improvement in paddle-wheels, registration for improved umbrellas and ventilating hats. Detailed particulars will appear in future advertisements, and in the meantime any information may be obtained of Wm. Turquand, esq. official assignee, Old Jewry chambers; of Mr. Kukman, Solicitor, 2, Laurence Pountney-lane, Cannon-street; and at the offices of Messrs. FULLER and MARSH for the sale of reversions, shares, &c. 2, Charlotte-row, Mansion-house; and Croydon, Surrey.

Periodical Sale.—Re John Mandeno's Bankruptcy.—Valuable Life Interests, arising from Money in the Funds, Freehold P[illegible] Re[illegible] Prope[illegible] and Polic[illegible] of Insurance.

MESSRS. FULLER and MARSH have been favoured with instructions from the Assignees of Mr. J. Mandeno, a bankrupt, to SELL by AUCTION, at the Mart, on Thursday, May 1, at Twelve, in several lots, the LIFE INTEREST of t[illegible] Bankrupt, aged [illegible], in and to a Freehold Messuage, situate in Hollybush [illegible] Bethnal-green, in the occupation of Mr. John Byford, on an agreement for a lease, about three years of which were unexpired at Christmas last, at the low rental of 21l. per annum. The Life Interest of the Bankrupt, aged 45, arising from the sum of 911l. 4s. 7d. Three per Cent. Consols, standing in the name of the Accountant-General of the Court of Chancery; Two Policies of Assurance, on the Life of the Bankrupt, for 600l. and 100l. effected with the Victoria Life Assurance Company. The Contingent Reversion to a moiety of a piece or parcel of Freehold Ground, situate in Hollybush gardens, Bethnal-green, on which has been erected a white lead manufactory, in the occupation of, and on lease to, a respectable tenant, at 90l. per annum, to which reversion the bankrupt will be entitled on the decease of his brother, aged 38, and his wife, aged 37, should they die without issue. The Contingent Reversion to a moiety of sundry Freehold Tenements, Gardens, &c. (now partially built upon), situate [illegible] Hollybush gardens, to which reversion the bankrupt will be entitled on the death of his brother, aged 38, unmarried, subject to a life interest of any wife who may be living at his decease without issue. Particulars may be obtained ten days prior to sale at the Mart, of Mr. Bugenden, solic[illegible] [illegible]brook; and at Messrs. FULLER and MARSH's [illegible] the sale of reversions, life interests, policies, &c. [illegible] lotte-row, Mansion-house.

In Herefordshire.—The Sugwas Court Estat[illegible] [illegible] Freehold Landed Investment [illegible] [illegible]nding over [illegible] 600 acres of sound arable, pastu[illegible] and meadow [illegible] productive orchard and fruit plantations, with its mansion and offices.

MESSRS. FULLER and MARSH have been favoured with instructions to submit to public COMPETITION, early in June (unless in the meantime an acceptable offer be made by private contract), a first-rate FREEHOLD LANDED INVESTMENT, compris[illegible] valuable property distinguished as the SUGWAS COURT ESTATE, with an excellent Residence, suitable to a large family, and offices, situate in the centre of the property, surrounded by about 600 acres of very superior [illegible] [illegible] beautifully timbered and bounded by the river Wye, together with the manorial rights, fisheries, and other immunities. Detailed particulars will appear in future advertisements, and in the meantime any application for sale by private contract to be made to Messrs. FULLER and MARSH, Surveyors and Land-agents, 2, Charlotte-row, Mansion-house, and Croydon, Surrey.

Periodical Sale.—Absolute Reversions to a Moiety of the Sum of 2,000l. Consols, and a Freehold Dwelling-house, St. Alban's.

MESSRS. FULLER and MARSH have received instructions to include in their Periodical Sale of Reversions, &c. appointed to take place at the Mart, on Thursday, May 1, at 12, in lots, ABSOLUTE REVERSIONS in and to a Moiety of the Sum of 2,000l. Consols, and a Freehold Dwelling-house, at St. Alban's, Herts, producing a rental of 20l. per annum, and to which absolute reversions the purchaser will become entitled on the decease of a lady now in the 80th year of her age. Detailed particulars will appear in future advertisements, and in the meantime [illegible] [illegible]ation[illegible] may be obtained of Mr. H. Edwards, St. Alban's; [illegible] at Messrs. FULLER and MARSH'S offices, Charlotte[illegible], Mansion-house.

Periodical Sale.—Shar[illegible] in the Hungerford Market Company.

MESSRS. FULLER and MARSH have rece[illegible] [illegible]ns from the Executors of the late Thomas Nixon, esq. to include in their Periodical Sale of Re[illegible] [illegible]ns, Shares, Policies, &c. appointed to take place at the [illegible] [illegible]tion Mart, on Thursday, May 1, at Twelve, in lots, TEN SHARES of 100l. each, 100l. called and paid, in the HUNGERFORD MARKET COMPANY. Particulars may be obtained at the Mart; of Messrs. Few, Hamilton, and Few, Solicitors, Henrietta-street, Covent-garden; and at the offices of Messrs. FULLER and MARSH for the sale of shares in all public undertakings, reversions, annuities, &c. [illegible], Charlotte-row, Mansion-house.

Periodical Sales established in the year 1804 of R[illegible]sions, Life Interests, Annuities, Policies of Assurance, Advowsons, Next Presentations, Rent Charges in lieu of Tithes, Post-obit Bonds, Tontines, Debentures, Ground Rents, Improved Rents, Shares in Docks, Canals, Mines, Railways, Insurance Companies, and all Public Undertak[illegible] [illegible]

MESSRS. SHUTTLEWORTH and SONS [illegible] respectfully inform the public, that upwards of 40 year[illegible] experience having proved the classification of this species of property to be extremely advantageous to [illegible] [illegible]al to vendors, and equally satisfactory and [illegible] purchasers, the PERIODICAL SALES of reversions, policies of insurance, tontines, debentures, advowsons, next presentations, all securities dependent upon human life, shares in docks, canals, mines, railways, and all public undertakings, will be continued through 1845, as follow:—

Friday, May 2.	Friday, Sept. 5.
„ June 6.	„ Oct. 3.
„ July 4.	„ Nov. 7.
„ Aug. 1.	„ Dec. 5.

Particulars may be had Ten days previous to each sale, at the Royal Hotel, Manchester, the Adelphi Hotel, Liverpool, Dee's Royal Hotel, Birmingham, the Angel, Oxford, the Eagle and Child, Cambridge, at the Mart, and of Messrs. SHUTTLEWORTH and SONS, 28, Poultry.

LAW BOOKS, IRON SAFE, and BOOKSHELVES

MR. HODGSON will SELL by AUCTION, at his Great Room, 192, Fleet-st[illegible] corner of [illegible] on To[illegible] next, Apr[illegible] and follow[illegible] day, at half-past twelve, Valuable LAW BOOKS, the library of a barrister retired from the profession, including the Statutes at Large, Viner's, Bacon's and Petersdorff's Abridgments, Jarman's Conveyancing, third edition, by Sweet, Hansard's Parliamentary History of England, Statutes of the Realm, Complete Sets of the Modern Reports, Treatises, a[illegible] Books of Pr[illegible]

To be [illegible]d, and Catalogu[illegible]

MANOR OF CULMINGTON, SALOP.—Sale Postpo[illegible]d till 24th April, 1845.

Important Freehold Estate, consisting of nearly 1,800 acres and Manor, in the county of Salop. By Messrs. WINSTANLEY, at the Auction Mart, on Thursday, April 24, at Twelve o'clock, in One Lot,

THE MANOR of CULMINGTON, with its Appurtenances; and all that highly valuable and important FREEHOLD ESTATE, situate in the several parishes of Culmington, Diddlebury, and Stanton-Lacy, in the county of Salop, containing together 1,780 acres or thereabouts, of exceedingly rich arable, meadow, pasture, and wood land, in a ring fence, in a high state of cultivation, divided into convenient farms, with excellent homesteads and suitable agricultural buildings, eligibly arranged and in complete repair; together with a good Water Corn Mill; all now in the several occupations of Messrs. James Williams, John Downes, Edward Instone, Francis Bach, and others.

The estate is equally eligible for residence or investment, being most desirably situate in the best part of the county of Salop, 6 miles from Ludlow, 11 from Wenlock, 16 from Bridgenorth, 20 from Shrewsbury, and 148 from London. It is in the immediate vicinity of the Ludlow Hunt, abounds with game, and the beautiful trout [illegible] Corve, runs through the centre thereof. Th[illegible] [illegible]d [illegible]d the Tithes [illegible] [illegible]muted. The [illegible] Arable Lands are peculiarly adapted for the growth of turnips, barley, clover, and wheat, the meadow and pasture lands are rich and productive, and the Woods and Plantations situate as to be highly ornamental to the Estate.

The [illegible] [illegible]al [illegible] will shew the Pre[illegible] in their respective occupations, and descriptive printed particulars and conditions of sale may be had, six weeks previous to the day of sale [illegible] Powell, esq. of Sutton, near Ludlow, Shropshire; of Messrs. Garbutt, Fawcett, and Hick, solicitors, Yarm, Yorkshire; at Ludlow of Messrs. Lloyds, Solicitors; of Messrs. R. T. and R. Tench, Land Agents; and at the Angel and Crown Inns; the Lion, Shrewsbury; the Star and Garter, Worcester; Messrs. Thomas Winstanley and Sons, Auctioneers, Liverpool; and in London of Messrs. Baxendale, Tatham, [illegible]pton, and Johnson, Solicitors, 24, Lincoln's-inn Fields, & 7, Great Winchester-street; Messrs. Bell, Brodrick, and Bell, Solicitors, 9, Bow Church-yard; at the Auction Mart; and of Messrs. WINSTANLEY, Paternoster-row.

HARTLEPOOL.—To be SOLD by AUCTION, at the King's Head Hotel, in Hartlepool, in the county of Durham, on Thursday, the 1st day of May next, at Two o'clock in the afternoon, in one or more lots, as may be agreed on at the time of sale, and subject to such conditions as shall be then and there produced. All those valuable and extensive FREEHOLD IRON WORKS, situate at Middleton, near Hartlepool, together with the machinery and workmen's cottages belonging thereto.

The buildings comprise foundry, fitting-up shops, engine-room, turning and planing rooms, smith's shops, and attached thereto are store-rooms and clerks' offices; on the premises are cinder ovens, the whole occupying an area of 5,000 square yards.

Adjoining are other vacant 5,000 square yards, suitable for the erection of a forge or glass works, &c.

The machinery is of the first-rate description, and consists of a steam engine of 20-horse power, turning, planing, and screwing machines, in fact, of every kind used in the manufacture of iron machinery. The whole works are in the most perfect order, and no expense has been spared to render them complete and efficient.

A considerable trade in locomotive and colliery engines and in castings has been carried on here.

The above affords an investment rarely to be met with in the iron trade, for in addition to the perfection of the works, the situation cannot be surpassed. They are placed on the edge of the finest coal field in the county, and midway between the old harbour and the west harbour and dock, from either of which they are only a few yards distant. At the rear of the premises is the terminus of the Stockton and Hartlepool Railway, and there is also a communication with the railway of the Hartlepool Dock and Railway Company. The front is bounded by the German Ocean. The facilities therefore of carriage both by land and water cannot be excelled.

The works are now in full operation, and a trade to any tent may be carried on.

At the same time and place will also be sold a new Locomotive Engine and Te[illegible]

Further particulars may be had on application to Mr. BELK, Solicitor, Hartlepool.

Hartlepool, March 28, 1845.

VALUABLE TITHES, Freehold and Copyhold ESTATES in Upholland, near Wigan, Lancashire.—To be SOLD by AUCTION, at the Royal Hotel in Wigan, in the county of Lancaster, on Thursday, the twenty-second day of May, 1845, at three o'clock in the afternoon, subject to such conditions as will be then produced, the CORN TITHES, extending over the greater portion of the township of Upholland, in the parish of Wigan, lately agreed to be commuted at a rent-charge of 641l. 11s. 4d.

This rent-charge, being the first charge upon the land, is the best investment which can be obtained.

Also several Freehold and Copyhold Estates and Houses in Upholland, which will be offered in lots.

Upholland is situated on the road leading from Wigan to Ormskirk, distant from Wigan and the North Union Railway four miles, from Ormskirk eight miles, and from Liverpool sixteen miles.

Further information may be had on applying to Mr. Jame[illegible] Morris, Hall green; Mr. Richard T. Morris, surgeon; or Mr. William Rigby, Pimbo-lane, Upholland; or at the office of RALPH LEIGH, Attorney-at-Law, Wigan, from all of whom particulars and lithographic plans may be had fourteen days before the day of sale.

New Publications.

On Saturday next, price 1s. 6d.

A LETTER to the Right Honourable Sir JAMES GRAHAM, Bart. on the POOR LAWS, with SUGGESTIONS for an Alteration of the Laws relating to the Relief of the Poor.

By J. ROSCOE.

London: LAW TIMES Office, 29, Essex-street, Strand.

The following Works of J. F. ARCHBOLD, esq. Barrister-at-law, are recently published:

SECOND Volume of ARCHBOLD'S NISI PRIUS, just published, by RICHARDS, Law Bookseller, Fleet-street, price 18s.

ARCHBOLD'S JUSTICE OF THE PEACE, 3 vols. 12mo. price 3l. This is a new Edition, recently published by SHAW and SONS, Fetter lane.

ARCHBOLD'S PRACTICE OF THE CROWN OFFICE, with Forms. 1 vol. 12mo. price 12s. Published by SHAW and SONS.

ARCHBOLD'S PRACTICE OF ATTORNEYS in the COURTS of LAW at WESTMINSTER, with Forms. Price 1l. 12s. Published by SHAW and SONS.

The whole of the above works are edited by the Author.

Just published,

A TABLE of the ABBREVIATIONS by which the REPORTS are usually cited, and a CHRONOLOGICAL TABLE of the same, on a large sheet, to be hung in Offices and Chambers for ready reference. Price, 1s.; or mounted on Pasteboard, 2s.

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THE LAW TIMES,

AND JOURNAL OF PROPERTY,

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Brentwood, Essex.—Peremptory sale of exceedingly valuable Building Ground, in a beautiful and commanding situation.

MR. LEIFCHILD has received instructions to offer for unreserved SALE by AUCTION, at the White Hart Inn, Brentwood, on Wednesday, the 14th day of May, at 12 o'clock, a very important and valuable PROPERTY, comprising 80 lots of very desirable Freehold Building Ground, land-tax redeemed, most eligibly situate in and near the capital and improving town of Brentwood, contiguous to the station of the Eastern Counties Railway, and abutting on and intersected by capital roads, leading to Chelmsford, Warley, Shenfield, &c. The great beauty of the situation, which presents the most delightful views of this highly popular neighbourhood, and its extreme salubrity, offer admirable sites for the erection of villa or cottage residences, and render the property worthy of the enterprising builder or capitalist. Full descriptive particulars, with plans, may be had of Messrs. Copland, solicitors, Chelmsford; at the usual inns; at the place of sale; at Garraway's; and at Mr. LEIFCHILD'S offices, 62, Moorgate-street, Bank.

Chelmsford, Essex.—Important Sale of very valuable Building Ground, in first-rate situations.

MR. LEIFCHILD is instructed unreservedly to SELL by AUCTION, at the Bell Inn, Chelmsford, on Thursday, May 15, at 1, in 61 lots, an exceedingly valuable PROPERTY; comprising parts of the Primrose-hill and Burgess Well Estates, and the most desirable portions of the Town-fields, all of which are very eligibly situate in and near the town of Chelmsford; part immediately adjoining the Eastern Counties Railway Station, and the whole within a very convenient distance. It is intersected and approached by capital roads and streets, it offers great choice of situation, either for residence or business, and the lots include the most preferable sites in the improvements and extensions of the town of Chelmsford. The lots will be carefully marked out, and particulars and conditions, with plans, may be had at the usual inns the place of sale, of Messrs. Copland, solicitors, Chelmsford; at Garraway's; and at Mr. LEIFCHILD'S offices, 62, Moorgate-street, Bank.

Gaston House, Little Hallingbury, Essex—a delightful and gentlemanly Residence, with beautiful Grounds, capital Stabling and Offices, and forty-two acres of Land.

MR. LEIFCHILD has received instructions to OFFER by public AUCTION, at Garraway's, on Wednesday, May 28, at 1, the above valuable and truly desirable ESTATE; comprising an elegant and substantial mansion, containing handsome dining and drawing rooms, breakfast and gentleman's rooms, noble hall and oak staircase, six principal bed rooms with dressing-rooms and boudoir, six secondary chambers, with linen-rooms, closets, &c.; the kitchen and servants' department is ample and well arranged, the cellarage is excellent, and the whole is in the most perfect state of substantial and ornamental repair. The court yard incloses superior stabling for six horses, double coach house, and all other convenient and requisite offices. The grounds are very beautiful and park-like, and are adorned by lofty timber trees and ornamental shrubs. There are also several inclosures of rich arable and meadow land containing forty-two acres, with sufficient homestead, of farm buildings, and five labourers' cottages. Gaston House is most delightfully situate on a healthy and elevated site; it is twenty six miles from London, and within a mile and a half of the Sawbridgeworth Station, and two miles of the Bishop's Stortford Station of the Northern and Eastern Railway, it is surrounded by numerous gentlemen's seats, is in the immediate vicinity of the best meets of the Puckeridge and Mr. Conyer's hounds, and is admirably suited for any establishment which may require a country residence of the first class. Cards to view may be had of Mr. Leifchild, and particulars and conditions of sale may be had at the principal inns at Bishop's Stortford, Sawbridgeworth, Harlow, and Dunmow; of Messrs. Gee, Taylor, and Furman, solicitors, Bishop's Stortford; and at Mr. LEIFCHILD'S offices, 62, Moorgate-street, City.

Hubborne Lodge.—A very elegant Freehold Residence, with beautiful Pleasure Grounds and Land, in the whole about 20 acres, near Christchurch, Hampshire.

MR. LEIFCHILD has received instructions from the Proprietor, Captain Henry Hopkins, to SELL by public AUCTION, at Garraway's, on Wednesday, the 28th of May next, at twelve for one o'clock, that justly-admired and very gentlemanly FREEHOLD RESIDENCE, known as Hubborne Lodge, approached by a handsome lodge entrance and carriage-drive, through beautiful and thriving plantations, and commanding most delightful views, surrounded by good roads and drives in all directions. The house is of handsome elevation, and approached by a flight of stone steps to the entrance-hall, dining-room, breakfast-room, and library, and an elegant bow-window drawing-room, with conservatory and green-house, nine best and secondary sleeping-rooms, dressing-rooms, and water-closets. The domestic offices are perfect and complete in every respect. Properly detached in a court yard is capital stabling for six horses, double coach-house, hay, straw, and harness rooms, with servants' rooms over an excellent bailiff's dwelling-house, farm yard, and all suitable agricultural buildings. The pleasure grounds, plantation walks, and shrubberies are laid out with great taste, and capital walled kitchen-garden well stocked with choice fruit-trees of every description in full bearing. The house is placed on a lawn in the centre of the grounds, which are beautifully timbered and watered. This very eligible property, which is in the most perfect order throughout, and fit for immediate reception, is situate on the borders of the New Forest, and within two miles of the borough town of Christchurch, and in the immediate neighbourhood of Lymington and the attractive watering places of Muddiford and Bournemouth, and presenting altogether one of the most beautiful and complete properties of this description in the county of Hants. May be viewed with tickets only, every Tuesday, Wednesday, and [illegible] previous to the sale, which, with particulars [illegible] and plans of the property, may be had of Messrs. White, Blake, Tylee, and Fawkes, solicitors, Essex-street, Strand; and at Mr. LEIFCHILD'S offices, 62, Moorgate-street, Bank; particulars may also be had on the premises, and at all the principal inns in the neighbourhood of the estate.

Very eligible and safe Investment.—Capital Freehold Dwelling-houses, Shops, and Warehouses, Fenchurch-street and Church-row, City.

MR. LEIFCHILD has received instructions from the Chairman and Board of Directors of the London and Blackwall Railway Company to SELL by public AUCTION, at Garraway's, on Tuesday, May 18, at 12 for 1 o'clock, those very desirable PREMISES, admirably situate in the best part of Fenchurch-street, immediately contiguous to the Blackwall Railway Station; comprising three capital freehold dwelling-houses, with shops and warehouses, situate and being Nos. 65 and 66, Fenchurch-street, and No. 1, Church-row, with valuable frontage to Railway-place, which are now let on lease to most respectable tenants at low rents, amounting to 157*l.* per annum. The important local advantages of this property make it an exceedingly eligible and secure investment. May be viewed till the sale by applying at the premises, and particulars and conditions of sale may be had of Messrs. Stokes, Hollingsworth, Tyerman, and Johnston, 24, Gresham-street, late Cateaton-street; of Messrs. Pearse, Phillips, and Winkworth, 10, St. Swithin's-lane; at Mr. Tite's offices, St. Helen's-place, Bishopsgate street; at Mr. R. L. Jones's offices, Little Moorfields; at Garraway's; and at Mr. LEIFCHILD'S land and timber offices, 62, Moorgate-street, City.

South Shields, in the county Palatine of Durham.—Extremely valuable and very extensive Freehold Premises, with an important frontage and quay on the river Tyne, and adjoining the terminus of the Brandling Railway.

MR. LEIFCHILD has received positive instructions from Messrs. Shortridge, Sawyer, and Co. to SELL by public AUCTION, on Wednesday, the 21st day of May next, at the Turk's Head Hotel, Newcastle-upon-Tyne, at two for three precisely, in one or more lots, an important and extensive FREEHOLD PROPERTY of established character and reputation, admirably situate in the most preferable part of South Shields, adjoining the river terminus of the Brandling Junction Railway, consisting of all those established flint-glass works now in full operation, iron foundry, whiting and paint manufactory, &c. comprehending the substantial well-built glasshouse and works, with warehouses four stories high, counting-houses and offices, spacious glass cutting shop, engine-house, gasometer, and retort-house, with extensive warehouses, cooper's shop, staining kiln, furnace, and all necessary appurtenances, dwelling house for superintendent, a large iron foundry, with work shops and yards. The buildings appropriated to the manufactory of whiting, paint and colour, &c. include a large whiting-house, and two whiting kilns with crane and quay and suitable warehouses. There are four convenient and desirable dwelling-houses, with well-established shops and domestic offices, a valuable free public-house with brew house, stabling, and yard, and several smaller dwelling houses. The above important property offers peculiar advantages to capitalists and manufacturers, there being [illegible] room for the erection of additional glass-works; or the premises are admirably adapted for the shipment of coals, for the iron business, or for any other purpose where extent, cheap fuel, or easy conveyance may be requisite. The quay on the river Tyne is 244 feet in length, at which vessels can load and deliver afloat. Early possession may be had of the whole property with the exception of the foundry, which is let on lease. 10,000*l.* of the purchase-money may remain on mortgage. May be viewed at any time previous to the sale. Full descriptive particulars, with ground plans of the property, may be had on application at the flint glass works; Messrs. Crosby and Compton, Solicitors, 3, Church-court Old Jewry, London; and at Mr. LEIFCHILD'S Offices, 62, Moorgate-street, London, who is fully authorized to treat for the whole or portions of the Property by private contract.

Devonshire-place, Regent's-park.—A very superior Residence, with large garden, for occupation or investment.

MR. FLETCHER is favoured with instructions by the executor, to SELL by AUCTION, at the Auction Mart, on Tuesday, May 6, at Twelve, a capital FAMILY RESIDENCE, with a double coach-house and six-stall stable, situate at the corner of Devonshire-place and the New-road, No. 20, in good repair, and in every respect suitable for the reception of a family of distinction. These excellent premises are held by lease for an unexpired term of forty-three years, at a low ground rent.—To be viewed by cards only, which may be had of the Auctioneer. Descriptive particulars are preparing, and may be had, fourteen days previous to the sale, of Messrs. Bray, Warren, and Harding, 57, Great Russell-street, Bloomsbury, solicitors; at the Auction Mart; and at Mr. FLETCHER'S offices, 191, Piccadilly.

Periodical Sales (established in the year 1803) of Reversions, Life Interests, Annuities, Policies of Assurance, Advowsons, Next Presentations, Rent Charges in lieu of Tithes, Post-obit Bonds, Tontines, Debentures, Ground Rents, Improved Rents, Shares in Docks, Canals, Mines, Railways, Insurance Companies, and all Public Undertakings.

MESSRS. SHUTTLEWORTH and SONS respectfully inform the public, that upwards of 40 years' experience having proved the classification of this species of property to be extremely advantageous and economical to vendors, and equally satisfactory and convenient to purchasers, the PERIODICAL SALES of reversionary interests, policies of insurance, tontines, debentures, advowsons, next presentations, all securities dependent upon human life, shares in docks, canals, mines, railways, and all public undertakings, will be continued through 1845, as follows:—

Friday, May 2.	Friday, Sept. 5.
	„ Oct. 3.
„ July 4.	„ Nov. 7.
„ Aug. [illegible]	„ Dec. 5.

Particulars may be had Ten days previous to each sale, at the Royal Hotel, Manchester; the Adelphi Hotel, Liverpool; Dee's Royal Hotel, Birmingham; the Angel, Oxford; the Eagle and Child, Cambridge; at the Mart; and of Messrs. SHUTTLEWORTH and SONS, 28, Poultry.

A Portion of the Surplus Estates of the Grand Surrey Canal Company.

MESSRS. SHUTTLEWORTH and SONS beg leave to announce that they have received instructions from the Board of Directors to make arrangements for the immediate SALE by AUCTION of a portion of the SURPLUS ESTATES of the Grand Surrey Canal Company, which will consist of numerous well-secured ground-rents, valuable plots of building land, reversionary interests, and other properties, in the parishes of Deptford, Camberwell, and Lambeth, in the counties of Kent and Surrey.

Further particulars will be shortly announced.—Poultry, April 16, 1845.

Periodical Sale.—Absolute Reversionary Interest in 17,371*l.* 4s. 5d. Government Stocks.

MESSRS. SHUTTLEWORTH and SONS are instructed to include in the Periodical Sale of Reversionary Interests, &c. appointed to take place at the Auction Mart, on Friday, May 2, at Twelve, the ABSOLUTE REVERSION to one-fourth of 10,626*l.* 3s. 3d., 1,111*l.* 2s. 6d., and 2,433*l.* 18s. 8d. Three per Cent. Consolidated Bank Annuities, and 3,200*l.* Three-and-a-Half per Cent. now Three-and-a-Quarter per Cent. Bank Annuities, to which the purchaser will be entitled upon the decease of a gentleman aged 66, and a lady aged 61. Particulars may be obtained in due time; at the Auction Mart; and of Messrs. SHUTTLEWORTH and SONS, 28, Poultry.

Periodical Sale: established in 1803.—Valuable Absolute Reversion in 5,000*l.* East India Stock.

MESSRS. SHUTTLEWORTH and SONS are instructed to include in the Monthly Sale of Reversionary Interests, &c. appointed to take place at the Auction Mart, on Friday, May 2, at Twelve, the ABSOLUTE REVERSION to ONE-SEVENTH Share of and in the Sum of 5,000*l.* East India Stock, to which the purchaser will be entitled upon the decease of a lady now aged 66.—Further particulars may be had of Messrs. Dodd, Grueber, Rowsell, and Dodd, solicitors, No. 5, Billiter-street; at the Auction Mart; and of Messrs. SHUTTLEWORTH and SONS, 28, Poultry.

SUSSEX.—Extensive and Valuable Freehold Farms on the high road from Lewes to Seaford and Eastbourne.

MESSRS. SHUTTLEWORTH and SONS are instructed to SELL by AUCTION, at the Auction Mart, on Friday, May 23, at 12, in lots, the following FREEHOLD ESTATES—viz. Little Sutton Farm, situate wholly in the parish and village of Seaford, 13 miles from Brighton, 7 from Eastbourne, 13 from Lewes, and 10 from Hailsham, in the county of Sussex, consisting of 249 acres of fine wheat, barley, turnip, meadow, and pasture land, in the occupation of Messrs. John and Charles Waters, most unexceptionable tenants, at a low rent of 245*l.* per annum. And Frog's Firle, otherwise Burnt House Farm, situate in the several parishes of Alfreston, Littlington, and Arlington, 7 miles from Hailsham, 10 from Lewes, 3 from Seaford, and 17 from Brighton, consisting of 471 acres of fine wheat, barley, turnip, meadow, and pasture land, with a very neat farm-house and agricultural buildings, agreeably placed upon an eminence, commanding extensive prospects, and possessing the advantage of water-carriage; in the occupation of Mr. C. S. Brooker, a highly respectable tenant, at a very low net rent of 202*l.* 10s. per annum. May be viewed with permission of the tenants, and particulars had, twenty-one days previous to the sale, at the Old Ship Hotel, Brighton; the New Inn and Hotel, Seaford; the Star, Lewes; the Crown, Hailsham; of Messrs. Lawford, Solicitors, Drapers' Hall, Throgmorton-street; at the Auction Mart; and of Messrs. SHUTTLEWORTH and SONS, 28, Poultry.

Broom Hall, Shooter's-hill, Kent, with Pleasure Grounds, Gardens, and Meadows, comprising 12 acres.

MESSRS. SHUTTLEWORTH and SONS have received instructions to SUBMIT to AUCTION, at the Auction Mart, on Friday, June 13, at Twelve (unless a private treaty is previously concluded), BROOM HALL, an excellent Family residence, recently placed in perfect substantial and ornamental repair, beautifully situate near the summit of Shooter's-hill, and commanding extensive and beautiful prospects over the river Thames and rich surrounding country; containing large and well-proportioned dining, drawing, and breakfast rooms, library, eleven bed-chambers, capacious offices and cellaring, double coach-house, stabling for seven horses, suitable outbuildings, wash-house and laundry, and in every respect adapted for a numerous family of the first respectability; with pleasure-grounds, having lodges of entrance, extensive walled garden, lawn, shrubbery, orchard, cottages, ice-house, and rich meadow land; the whole comprising 12 acres. The premises are well supplied with water, and have the advantage of steamboat and railroad accommodation from the metropolis every fifteen minutes through the day. The property is leasehold, at a very moderate rent; and may be viewed, and particulars had of Messrs. Maples, Pearse, Stevens, and Maples, solicitors, Frederick-place, Old Jewry; at the Auction Mart; and of Messrs. SHUTTLEWORTH and SONS, No. 28, Poultry, where tickets to view may be obtained.

VALUABLE TITHES, Freehold and Copyhold ESTATES in Upholland, near Wigan, Lancashire.—To be SOLD by AUCTION, at the Royal Hotel in Wigan, in the county of Lancaster, on Thursday, the twenty-second day of May, 1845, at three o'clock in the afternoon, subject to such conditions as will be then produced, the CORN TITHES, extending over the greater portion of the township of Upholland, in the parish of Wigan, lately agreed to be commuted at a rent-charge of 64*l.* 11s. 1½d.

This rent-charge, being the first charge upon the land, is the best investment which can be obtained.

Also several Freehold and Copyhold Estates and Houses in Upholland, which will be offered in lots.

Upholland is situated on the road leading from Wigan to Ormskirk, distant from Wigan and the North Union Railway four miles, from Ormskirk eight miles, and from Liverpool sixteen miles.

Further information may be had on applying to Mr. James Morris, Hall-green; Mr. Richard T. Morris, surgeon; or Mr. William Rigby, Pimbo-lane, Upholland; or at the office of RALPH LEIGH, Attorney-at-Law, Wigan, from whom particulars and lithographic plans may be had fourteen days before the day of sale.

Small Leasehold Property for Investment, at Kennington.

MESSRS. DAVIS and VIGERS will SELL by AUCTION, at the Mart, on Wednesday, April 30, at Twelve for One, two substantial brick-built MESSUAGES, or Tenements, situate and being Nos. 6 and 7, St. Mark's-road, Kennington; held for a long term, and producing a clear profit rental of 34*l.* per annum. To be viewed until the sale. Particulars to be had of John Kempster, esq., solicitor, Kennington-lane, Lambeth; at the Mart; on the premises; and at the Auctioneer's Offices, 3, Frederick's-place, Old Jewry.

For Investment. — Lawn House, Hanwell, Middlesex, a Leasehold and Copyhold Estate, close to the Railway Station, and only eight miles from London, on the Uxbridge and Oxford-roads.

MESSRS. DAVIS and VIGERS will SELL by AUCTION, at the Mart, on Wednesday, April 30, at Twelve for One o'clock, in one lot, all that very desirable PROPERTY comprising the noble family mansion called Lawn House, and nearly 12 acres of land, let on lease for the whole term of the original lease of Lawn House at a clear profit rental of 36*l.* per annum. Also, the Reversionary Interest in the Copyhold Portion of the Estate, rendered valuable for building purposes by the formation of the Great Western Railway. Particulars, conditions, and plans to be had of Messrs. J. C. and H. Freshfield, New Bank-buildings, City; of Mr. C. Batty, builder, Hanwell; at the Mart; and Auctioneers' offices, 3 Frederick's-place, Old Jewry.

Long Leasehold Ground-rents, East-street, Kent-road

MESSRS. DRIVER are instructed by the Executors of the late Edward Neale, esq. to offer to AUCTION, at the Mart, on Friday, May 9, at Twelve, in One Lot.

THREE LEASEHOLD GROUND-RENTS, amounting together to 70*l.* per annum, payable for a desirable Leasehold Estate, held for unexpired terms of thirty-seven years, in respect of the Bedford Arms Leasehold Public-house and sundry Leasehold Dwelling Houses and Premises in East-street, Kent-road, in the parish of St. Mary's, Newington, Surrey.

Printed specifications may be had at the King's Arms, Kent-road; at the Mart, near the Bank; of J. R. RUSH, Esq. Solicitor, Austin Friars; and of Messrs. DRIVER, Surveyors and Land Agents, 8, Richmond Terrace, Parliament-street.

Buckinghamshire.—The Manor, or reputed Manor of Stantonbury, on the turnpike-road between Newport Pagnell and the Wolverton Station on the Birmingham Railway.

MESSRS. DRIVER have received instructions to offer to PUBLIC COMPETITION, at the Auction Mart, on Tuesday, the 27th of May, at Twelve o'clock, in one lot, the above desirable and valuable ESTATE, comprising 760 acres of very rich grazing and productive arable land, producing above 1,434*l.* per annum, most conveniently arranged into two very excellent farms; one of them with a complete genteel farm residence and excellent homestead, in perfect order and condition, and 459 acres of arable and pasture land, including 16 acres of woodland, in the occupation of Messrs. Scrivener; and the other a superior grazing farm, containing 203 acres of the richest fatting land, with farm-house and homestead, in the occupation of — Bailey, esq., and sundry other lands (including some ozier-beds in hand), containing about 86 acres, in the occupation of Mrs. Higgins, together with the Manor, or reputed Manor of Stantonbury, comprising the whole parish, in the county of Bucks, most conveniently situate, adjoining the turnpike-road leading from Newport Pagnell to Stony Stratford, two miles from the former, and four miles from the latter, both excellent market-towns, and within two miles of the Wolverton Station on the London and Birmingham Railway. The above property is held by the vendor under a lease granted by the late John, Earl Spencer, to Richard Harrison, esq. for a term of 200 years, from the 2nd November, 1831, provided three lives therein named, of the then ages of 49, 33, and 14, should so long live, at the reserved annual rent of 148*l.* Printed specifications may be had at the Cock, Stony Stratford; the Swan, Newport Pagnell; Cobham Arms, Buckingham; of Messrs. Chatfield, Wingate, and Hart, solicitors, 16, Austin Friars; at the Auction Mart, near the Bank; and of Messrs. DRIVER, surveyors and land agents, 8, Richmond-terrace, Parliament-street, London.

Freehold Copper Rolling Mills, Hammer Mills, Furnaces, Refinery, Foundry, and Factory, with very valuable Water Power, with a fall of about 5 feet 8 inches, on the River Wandle, in Garrett-lane, Wandsworth, Surrey, fully equal to between 70 and 80-horse power, all well inclosed, with a Manager's Dwelling House, good Garden, numerous Workmen's Cottages with Gardens, and several valuable parcels of Meadow Land, containing altogether nearly twenty acres, most eligibly situate within one mile and a half of Wandsworth, in the county of Surrey, and about seven miles from London.

MESSRS. DRIVER have received instructions to offer to PUBLIC COMPETITION, at the Mart, on Tuesday, May 27, at twelve,

The above most valuable and desirable FREEHOLD PREMISES, exonerated from Land-tax, which are now, and have for nearly a century and a half, been worked by the Governor and Company of Copper Miners in England.

The Premises comprise a convenient small dwelling-house for a manager, with a most excellent garden; a building, about 98 feet by 70 feet, called the Rolling Mill, and a very capital iron water wheel, 18 feet diameter by 14 in width; a hammer mill, about 70 feet long, with two other water wheels, one 15 feet and the other 12 feet diameter; a new building called the Refinery and Foundry, about 85 feet by 42 feet, with three furnaces; stabling, sundry workshops, and a counting-house; an artesian well, 165 feet deep, with 5-inch copper pipes; 12 workmen's cottages, and sundry Parcels of most desirable and valuable Meadow Land, containing altogether about twenty acres.

To be viewed on application to Mr. Bashford, residing on the premises, of whom printed specifications with plans annexed may be had. Specifications and plans may also be had at the Spread Eagle, Wandsworth; at the Offices of the Company, Old Broad-street; of Messrs. Roy, Blunt, and Co. Solicitors, Lothbury; at the Auction Mart, near the Bank; and of Messrs. DRIVER, surveyors and land agents, 8, Richmond Terrace, Parliament-street, London.

Freehold Villa Residence, Garden, and Seventy Acres of Meadow Land, at Harlesdon Green, near Willesden, Middlesex.

MESSRS. DRIVER are instructed to submit to PUBLIC COMPETITION, at the Auction Mart, Bartholomew-lane, on Friday, May 9, at Twelve, in Six Lots,

A FREEHOLD VILLA RESIDENCE and about 11a. 2r. 16p. of excellent rich Meadow Land, in the occupation of Mr. J. B. Brown, most eligibly situate at Harlesdon Green, in the parish of Willesden, within five miles of Connaught-place, Oxford-street, and sundry other very valuable parcels of Meadow Land, containing about 60 acres, situate next the five mile stone on the road to Harrow, all in the parish of Willesden, in the occupation of Messrs. Vale, of St. John's Wood-road.

The whole is now held by William Marmaduke Sellon, esq. at the annual rent of 225*l.* under an old lease for twenty-one years, which will expire at Michaelmas 1846.

Printed specifications, with plans annexed, may be had at the Crown Inn, Harlesdon Green; of Philip Hardwicke, esq. Russell-square; of Messrs. Lawford, solicitors, Drapers' Hall, Throgmorton-street; at the Auction Mart, Bartholomew-lane; and of Messrs. DRIVER, surveyors and land-agents, 8, Richmond-terrace, Parliament-street.

Herts.—Important Freehold Property; comprising an excellent Mansion House, called Albury Hall, the residence of the late John Calvert, esq. with extensive Park; also the Manors of Albury Hall, Patmore Hall, and Furneux Pelham, and sundry Farms, containing in the whole nearly One Thousand Six Hundred and Fifty Acres, most eligibly situate in the most preferable part of the County, and only about five miles from Bishop Stortford.

MESSRS. DRIVER are favoured with instructions from the Trustees of the late John Calvert, esq. to offer to PUBLIC COMPETITION, at the Auction Mart, on Tuesday, May 27, at twelve, in one or more lots, the above important and valuable FREEHOLD PROPERTY; comprising the Manors of Albury Hall, Patmore Hall, and Furneux Pelham, together with an excellent Mansion House, called Albury Hall, extensive Park, and sundry desirable Farms, with capital homesteads, in the several occupations of Mr. Thomas P. Clark, Mr. John Feast, Mr. Geo. Scales, Mr. W. Clark, and others, most eligibly situate in the parishes of Furneux Pelham, Albury, and Brent Pelham, only about five miles from the capital market town of Bishop Stortford, where there is a principal Station on the Northern and Eastern Railway, the whole Estate containing nearly One Thousand Six Hundred and Fifty Acres, producing about 2,000*l.* per annum, including the Mansion House, Park, and Lands in hand, and admirably adapted either for occupation or investment.

The above fine Property will be offered in the first instance in one lot; but in the event of no acceptable bidding being made, it will be immediately thereafter submitted to the assembled company in three lots, viz.:—Lot One, comprising the Mansion House, Park, and other lands in hand, with High Farm, Hole Farm, and sundry Lands, containing in the whole Eight Hundred and Thirty-one Acres, together with the Manor of Albury Hall.

Lot Two, comprising Patmore Hall Farm, and sundry Woods and other Lands, and Cottages, containing in the whole above Five Hundred and Sixty five Acres, together with the Manor Hall, and

Lot Three will comprise St. John's Farm in the parishes of Furneux Pelham and Brent Pelham, containing above Two Hundred and Fifty-one Acres, together with the Manor of Furneux Pelham.

To be viewed on application to Mr. George Scales, at High Farm, and printed specifications with plans annexed may be had at the George Inn, Bishop Stortford; Saracen's Head, Ware, the Bull, Hertford; of Messrs. Western and Sons, Solicitors, 7, Great James-street, Bedford-row; at the Auction Mart, Bartholomew-lane; and of Messrs. DRIVER, Surveyors and Land Agents, 8, Richmond-terrace, Parliament-street, London.

New Publications.

THE LITERARY JOURNAL OF YOUNG ENGLAND.

This day No. 30 of

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Periodical Sale.—Valuable Patent Rights.

MESSRS. FULLER and MARSH have been favoured with instructions from the Assignee of Mr. Walter Hancock, an insolvent, to submit to public COMPETITION, at the Auction-Mart, on Thursday, M... 1, at twelve, in lots, the following important PA... ...ENT RIGHTS, secured by letters patent, viz.:—For a sub-divided boiler, patent safety boiler and valve, improvements in fire-bars, improvements in the mode for manufacturing India-rubber, for preventing accidents on railways, for signals, improvements in paddle-wheels, registration for improved umbrellas and ventilating hats. Detailed particulars will appear in future advertisements, and in the meantime any information may be obtained of Wm. Turquand, esq official assignee, Old Jewry-chambers; of Mr. Kinkman, Solicitor, 27, Laurence Pountney-lane, Cannon-street; and at the offices of Messrs FULLER and MARSH for the sale of reversions, shares, &c. 2, Charlotte-row, Mansion-house, and Croydon, Surrey.

Periodical Sale.—Absolute Reversions to a Moi... of the Sum of 2,000l. Consols, and a Freehold Dwelling-h... St. Alban's.

MESSRS. FULLER and MARSH have received instructions to include in their Periodical Sale of Reversions, &c. appointed to take place at the Mart, on Thursday, May 1, at 12, in lots, ABSOLUTE REVERSIONS in and to a Moiety of the Sum of 2,000l. Consols, and a Freehold Dwelling-house, at St. Alban's, Herts, producing a rental of 20l. per annum, and to which absolute reversions the purchaser will become entitled on the decease of a lady now in the 80th year of her age. Detailed particulars will appear in future advertisements, and in the meantime any information may be obtained of Mr. H. Edwards, St. Alban's; or at Messrs. FULLER and MARSH'S offices, Charlotte-row, Mansion-house.

Periodical Sale.—Shares in the Hungerford Market Company.

MESSRS. FULLER and MARSH have received instructions from the Executors of the late Thomas Nixson, esq. to include in their Periodical Sale Reversions, Shares, Policies, &c. appointed to take place at the Auction Mart, on Thursday, May 1, at Twelve, in lots, TEN SHARES of 100l. each, 100l. called and paid, in the HUNGERFORD MARKET COMPANY. Particulars may be obtained at the Mart, of Messrs. Few, Hamilton, and Fews, solicitors, Henrietta-street, Covent-garden; and at the offices of Messrs. FULLER and MARSH for the sale of shares in all public undertakings, reversions, annuities, &c. 2, Charlotte-row, Mansion-house.

Periodical Sale.—Contingent Life Interest in 40l. per an...

MESSRS. FULLER and MARSH have received instructions from the Assignees to include in their next Periodical Sale of Reversionary Property, Life Interests, &c. appointed to take place at the Mart, on Th... day, May 1, at Twelve, in lots, a CONTINGENT LIFE INTEREST in the SUM of 1,000l. at present lent on mortgage at four per cent. interest, which, if paid off the same is directed to be invested in the Three and a Quarter per Cent. Annuities, and to which life interest the purchaser will become entitled on the decease of a lady now aged 45, provided her husband, who is now aged 37, survives her. Particulars may be obtained at the Mart; of Messrs. J. and W. Meymott, solicitors, 86, Blackfriars-road; and at Messrs. FULLER and MARSH'S, 2, Charlotte-row, Mansion-house.

Periodical Sale.—Valuable Old Policy for 3,000l. in the London Life Association, effected in the year 1819.

MESSRS. FULLER and MARSH have been favoured with instructions to include in their next Periodical Sale of Reversions, Life Policies, &c. appointed to take place at the Auction Mart, on Thursday ... Twelve, in lots, a POLICY of ASSURANCE for the sum of ...00l. effected with the London Life As... ...on the 2nd July, 1819, on the life of a gentleman now in the 70th year of his age, reduced annual premium 41l. 0s. 3d. Particulars may be obtained at the Auction Mart, and at the office of Messrs. FULLER and MARSH for the sale of reversions, life policies, annuities, &c. 2, Charlotte-row, Mansion-house.

Periodical Sale.—Re John Mandeno's Bankruptcy.—Valuable Life Interests, arising from Money in the Funds, Freehold Estates, Reversionary Property, and Policies of Insurance.

MESSRS. FULLER and MARSH have been favoured with instructions from the Assignees of Mr. J. Mandeno, a bankrupt, to SELL by AUCTION, at the Mart, on Thursday, May 1, at Twelve, in several lots, the LIFE INTEREST of the Bankrupt, aged 45, in and to a Freehold Messuage, situate in Hollybush-gardens, Bethnal-green, in the occupation of Mr. John Byford, on an agreement for a lease, about three years of which were unexpired at Christmas last, at the low rental of 24l. per annum. The Life Interest of the Bankrupt, aged 45, arising from th... of 911l. 5s. 7d. Three per Cent. Consols, standing in the name of the Accountant-General of the Court of Chancery. Two Policies of Assurance, on the Life of the Bankrupt, for 600l. and 400l. effected with the Victoria Life Assurance Company. The Contingent Reversion to a moiety of a piece or parcel of Freehold Ground, situate in Hollybush-gardens, Bethnal-green, on which has been erected a white lead manufactory, in the occupation of, and on lease to, a respectable tenant, at 90l. per annum, to which reversion the bankrupt will be entitled on the death of his brother, aged 38, and his wife, aged 37, should they die without issue. The Contingent Reversion to a moiety of sundry Freehold Tenements, Gardens, &c. now partially built upon), situate in Hollybush-gardens, to which reversion the bankrupt will be entitled on the death of his brother, aged 36, unmarried, subject to a life interest of any wife who may be living at his decease without issue. Particulars may be obtained ten days prior to sale at the Mart; of Mr. Biggenden, solicitor, Walbrook; and at Messrs. FULLER and MARSH'S offices for the sale of reversions, life interests, policies, &c. 2, Charlotte-row, Mansion-house.

Periodical Sale.—The Absolute Reversion to the Sum of 1,090l. 10s. 3½ per Cent. Consols, age 74.

MESSRS. FULLER and MARSH have received instructions to include in their Periodical Sale of Reversions, &c. appointed to take place at the Mart, on Thursday, May 1, at Twelve, in lots, the ABSOLUTE REVERSION to the SUM of 1,090l. 10s. 3½ per Cent. Consols, standing in the names of Trustees of high respectability, and to which the purchaser will be entitled on the decease of a lady now in the 74th year of her age. Particulars may be obtained at the Mart, and of Messrs. FULLER and MARSH, 2, Charlotte-row, Mansion-house, and Croydon, Surrey.

Pentonville, near the White Conduit-house.

MESSRS. FULLER and MARSH have received instructions to SELL by AUCTION, at the Mart, on Thursday, May 1, at twelve, an eligible LEASEHOLD INVESTMENT, comprising a genteel dwelling-house, with garden in the front and rear, being No. 25, Penton-street, Pentonville; in the occupation of a respectable tenant, at the low rental of 60l. per annum; held for an unexpired term, at a low ground rent. May be viewed. Particulars obtained on the premises; at the White Conduit-house; at the Mart; and at the offices of Messrs. FULLER and MARSH, auctioneers, surveyors, and land agents, 2, Charlotte-row, Mansion-house.

Vote for the Eastern Division of the County of Surrey.—Valuable Freehold Investment, Paradise street, Rotherhithe.

MESSRS. FULLER and MARSH have ...d instructions to SELL by AUCTION, at the Mart, on Thursday, May 1, at twelve, a desirable and improving FREEHOLD PROPERTY, comprising a brick-built dwelling-house, No. 59, Paradise-street, in the parish of St Mary, Rotherhithe, with large garden in the rear, in the occupation of a respectable tenant, at the low rent of 18l per annum. Particulars may be obtained on the premises; at the Mart; and of the auctioneers, 2, Charlotte-row, Mansion-h... ...d Croydon, Surrey.

Extensive long Leasehold Premises, situate in Brook and and Bere streets, Ratcliff-cross.

MESSRS. FULLER and MARSH have received instructions from the Mortgagees, under a power of sale, to SELL by AUCTION, at the Mart, Thursday, May 1, at Twelve, a long LEASEHOLD ESTATE, comprising a brick-built dwelling-house, a large yard, with extensive range of stabling, and Smith's-shop, with lofts over, and a shoeing shed, situate between Brook-street and Bere-street, in the parish of St. James, Ratcliff-cross; held for an unexpired term of 48 years, from the 26th March, 1840, at a low ground rent. May be viewed, and particulars obtained at the Mart; of Messrs. Hill and Mathews, solicitors, 1, Bury-court, St. Mary-axe; and of Messrs. FULLER and MARSH, 3, Charlotte-row, Mansion-house.

Periodical Sale.—Shares in the London, Westminster, and Vauxhall, and the Sons of the Thames London and Gravesend Iron Steam-Packet Companies.

MESSRS. FULLER and MARSH have been favoured with instructions from the assignees of Mr. Daniel Basely to include in their next Periodical Sale, appointed to take place at the Auction Mart, on Thursday, May 1, at twelve, in lots, TWENTY SHARES in the Sons of the Thames London and Gravesend Iron Steam-Packet Company, and five shares in the London, Westminster, and Vauxhall Steam-Packet Company. Particulars may be obtained, ten days prior to the sale, at the Mart; of Messrs. Stevens, Wilkinson, and Satchell, Solicitors, 6, Queen-st. Cheapside; and at the offices of Messrs. FULLER and MARSH for the sale of shares, reversions, &c. 2, Charlotte-row, Mansion-house.

Periodical Sale.—Absolute Reversion to the Moiety of 666l 13s. 4d. Three per Cent Consolidated Bank Annuities.

MESSRS. FULLER and MARSH are instructed to include in their next Periodical Sale of Reversions, appointed to take place at the Auction Mart, Thursday, May 1, at Twelve, in lots, the ABSOLUTE REVERSION to a Moiety of 666l. 13s. 4d. Three per Cent. Consolidated Bank Annuities, payable on the death of a lady in the 58th year of her age. Particulars may be obtained at the Mart; of Mr. Ness, solicitor, Dyer's-buildings, Holborn; and of Messrs. FULLER and MARSH, 2, Charlotte-row, Mansion-house, and Croydon, Surrey.

Buckinghamshire.—The Hardwick Estate, in the Vale of Aylesbury.

MR. W. BROWN has received instructions to offer for SALE by AUCTION, at the Mart, on Friday, May 9, at twelve, in one lot, an important and truly valuable ESTATE, the greater part freehold, and the remainder leasehold, under New College, Oxford, adapted either for occupation or permanent investment; comprising a highly respectable farm-house, and all necessary agricultural buildings, warm and convenient yards for cattle, and 180 acres of first-rate feeding ground, with a small portion of arable land, in the occupation of Mr. Thomas Dover, a yearly tenant. A farm residence, with two convenient homesteads, and 240 acres of superior feeding land, in the occupation of Mrs. Flowers, also a yearly tenant. A commodious residence, with offices attached, and a close of pasture land, about eight acres, in the village of Hardwick, occupied by Mr. John Holdham. A substantial residence, with numerous convenient offices attached. A newly erected brick, tile, and lime kiln, with extensive range of buildings for carrying on the trade. A convenient malting, with necessary offices and buildings attached. The Bell public-house and sundry labourers' cottages, in the village of Hardwick. Forming together a valuable and compact property, the rental, with the premises in hand, amounting to upwards of 1,000l. per annum; the whole tithe free and the parochial burdens merely nominal. The land partakes of the quality of the richest portion of the Vale of Aylesbury, and is within a short distance of the town. The turnpike-road adjoins the property, and railway communication is most convenient. Printed particulars, with a lithographic plan attached, will shortly be published, and may be obtained of Mr. Holland, at Hardwick, who will shew the estate; also at the Mart; the George Inn, Aylesbury; of Messrs. Hearn and Nelson, Solicitors, Buckingham; and of Mr. W. BROWN, Land Agent, Tring.

Freehold, Copyhold, and Leasehold Estates, giving Votes for East Kent and Middlesex, producing 170l. per annum. In Eight lots, including a Marine Freehold Residence at Margate, Kent, commanding beautiful sea and land views. By order of the Executors of Mr. J. Rayner, deceased.

MR. MOORE will SELL by AUCTION at the Mart, on Thursday, May 8, at Twelve, a well-built nine-roomed FREEHOLD DWELLING-HOUSE, No. 2, Lower Grosvenor-place, Margate, let to F. C. Cobb, esq at 35l. per annum; two small FREEHOLD HOUSES in North-street, Whitechapel-road, London, seventeen small LEASEHOLD HOUSES in Bath-place, nearly adjoining, Term, fifty-two years; ground-rent, 3l. 3s. each. Two plots of Copyhold BUILDING GROUND, near the Ben Jonson, at Stepney. Five LEASEHOLD HOUSES, White Horse-street, Ratcliff, let at 87l.; term, 25 years; ground rent, 5l. 10s. each; and an IMPROVED RENT of 57l. arising out of a leasehold estate of twelve houses in and near Back-road, St. George's East. Particulars at the Mart, London; of Mr. Prentice, Solicitor, 13, Bedford-square, Commercial-road; Mr. Humphreys, Solicitor, East-India Chambers; Creed's, White Hart, Margate; Hudson's, Bull and George, Ramsgate; Royal Oak, Dover; and at the Auctioneer's offices (where plans may be seen), Mile End-road, London

TO CAPITALISTS.—Carmarthenshire and Glamorganshire, South Wales.—The Agent of an extensive Estate calls the attention of Iron Masters, Colliers, Manufacturers, Farmers, and Capitalists in general to this announcement. He is prepared to enter into engagements with respectable parties for the leasing, on long terms, of various descriptions of property, now the objects of public attention, Anthracite, Bituminous, and Steel Coal, Culm, Iron Stone, Lime Stone, Marble, Flag, and other QUARRIES, Fire Clay and Brick Earth, Sites for building at and near a flourishing and fast rising Commercial Town, Sea Port and Floating Dock, for Manufactories, Ship-building Yards, Wharfs, Store and Dwelling Houses; and in the Coal and Iron District, sites for works joining a Rail-road and Canal, leading by their main trunks and branches to three sea-ports—water power is almost general. Situations for rural and marine residences in the most beautiful parts of the country, commanding views of Swansea and Carmarthen Bays, and the Black Mountain, with good roads, cheap markets, and daily communication with Bristol, Gloucester, and the metropolis. The sportsman will find his pursuits rewarded with woodcock, snipe, and other game in winter; and in summer, trout, salmon, and the much esteemed sewin, a fish peculiar to the principality.

The Estate, containing twelve thousand acres, is situated in twenty-four parishes, offering every variety of soil and scenery to the admirer of the picturesque, and numerous objects of interest to the geologist.

As an inducement to capitalists to embark in such agricultural improvements as draining, planting, erection of proper homesteads, &c., which now so deservedly occupy public attention, leases of ninety-nine years (a term usually confined to building leases) will be granted for these purposes. Cheap food, cheap labour, cheap fuel, and cheap raw material of every description, will give the manufacturer an advantage over every other part of Great Britain; while the large and still increasing trade in coal affords an intercourse with all parts of the world, for the transmission of raw materials from other localities at cheap back freights, and for forwarding to their destination the manufactured articles. This more particularly applies to those undertakings where the consumption of coal forms a principal ingredient.

The South Wales Railway will pass through the town and the three sea-ports, and through and near a large proportion of the estate near the sea coast: while the contemplated Welsh Midland Railway will bring the collieries, iron-stone, lime-stone, and other Quarries within an easy distance of the agricultural counties of Hereford and Worcester, and the great chain of railway communication connecting Birmingham, Liverpool, Manchester, and all the important manufacturing districts of England.

For further particulars apply to Mr. F. L. BROWN, Solicitor, Llanelly, Carmarthenshire, or to Mr. JOHN WILLIAMS, Solicitor, 1, Verulam-buildings, Gray's-Inn, London.

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THE LAW TIMES,

AND JOURNAL OF PROPERTY,

FOR

The Legislator, the Magistrate, and the Lawyer.

Vol. V. No. 109.] SATURDAY, MAY 3, 1845.

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Devonshire-place, Regent's-park.—A very superior Residence, with large garden, for occupation or investment.

MR. FLETCHER is favoured with instructions by the executor, to SELL by AUCTION, at the Auction Mart, on Tuesday, May 6, at Twelve, a capital FAMILY RESIDENCE, with a double coach-house and six-stall stable, situate at the corner of Devonshire-place and the New-road, No. 20, in good repair, and in every respect suitable for the reception of a family of distinction. These excellent premises are held by lease for an unexpired term of forty-three years, at a low ground rent.—To be viewed by cards only, which may be had of the Auctioneer. Descriptive particulars are preparing, and may be had, fourteen days previous to the sale, of Messrs. Bray, Warren, and Harding, 57, Great Russell-street, Bloomsbury, solicitors; at the Auction Mart; and at Mr. FLETCHER'S offices, 191, Piccadilly

MANGOTSFIELD, GLOUCESTERSHIRE.—Land, Country Residence, and Brewery. To be SOLD by AUCTION, with immediate possession, at the Full Moon Inn, Bristol, on Thursday, the 22nd day of May, 1845, at Five for Six in the evening, by Mr. JOHN TAYLOR,

The under-mentioned commodious COUNTRY RESIDENCE, containing entrance-hall, parlour, and dining-room, six chambers, and two large attics, with suitable kitchens, and offices, gardens and orchards, lands and brewery, most desirably situate at Moorend, in the parish of Mangotsfield, in the county of Gloucester, five miles from the city of Bristol, in the following lots, or such others as shall be agreed upon at the time of sale, and subject to such conditions as shall be then and there produced and read.

Late the property of Mr. Samuel Rutter, deceased.

Lot 1. All that convenient and well-built DWELLING-HOUSE, with yard, stables, coach-house, and offices adjoining and belonging, with the flower-garden and large walled-in kitchen garden, well stocked with choice fruit trees now in full bearing, together with all that compact seven-quarter brewery, substantial and newly-erected malt-house, calculated for wetting twelve quarters, and excellent cellerage for 1,500 barrels, with suitable stabling, and every other requisite convenience, containing altogether by admeasurement 1a. 2r. 3p. and numbered 718 on the Tithe Commutation Map of the said parish.

Also all that piece or parcel of rich Meadow Land adjoining the dwelling-house, with a shrubbery, containing by admeasurement 3a. 1r. 11p. and numbered 717 on the said map; also all those two Orchards adjoining the last-mentioned piece or parcel of meadow land, well stocked with choice trees in full bearing, with two fish-ponds, having a never-failing supply of pure soft water, containing together by admeasurement 1a. 3r. 17p. and numbered 733 and 734 respectively on the said map.

The premises comprised in the above lot are within a ring fence, and present an unusually eligible opportunity for advantageously investing a moderate capital either in a country residence or in a lucrative business. As a brewery, the property offers unusual attractions, there being no other brewery in the district. It was established about thirteen years since by the present occupier, who has carried on an extensive business, and is now desirous of retiring. He will be willing to dispose of the plant and utensils to a purchaser at a fair valuation.

The dwelling-house and lands would form a delightful residence for a private family, being detached from the brewery, which in no way interferes either with the land or prospect.

Lot 2. All that piece or parcel of ARABLE LAND called the Ridings, containing by admeasurement 7a. 1r. 2p. and numbered 701 on the said map; and also all that productive Quarry adjoining the above, the stone from which is well adapted either for building or paving; and also all that piece of Copse-wood well covered with timber, containing together by admeasurement 1a. 1r. 7p. and numbered 700 *a* on the said map.

The whole of the above premises are tithe free, and are now in the occupation of Alfred Tuckett, esq. by whose permission they may be viewed

A map of the premises may be inspected, and full particulars obtained of Messrs. J. P. W. & J. Y. Sturge, surveyors, Bristol; Messrs. Riddle and Dew, of the same city; Richard Ball, esq. Taunton; or at the office of

JOHN RUTTER, Solicitor, Shaftesbury.

Dated Shaftesbury, April 24, 1845.

N.B. Two-thirds of the purchase-money may remain on mortgage of the same premises.

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MR. MOORE will SELL by AUCTION at the Mart, on Thursday, May 8, at Twelve, a well-built nine-roomed FREEHOLD DWELLING-HOUSE, No. 2, Lower Grosvenor-place, Margate, let to F. C. Cobb, esq. at 35*l.* per annum; two small FREEHOLD HOUSES in North-street, Whitechapel-road, London; seventeen small LEASEHOLD HOUSES in Bath-place, nearly adjoining. Term, fifty-two years; ground-rent, 3*l.* 3s. each. Two plots of Copyhold BUILDING GROUND, near the Ben Jonson, at Stepney. Five LEASEHOLD HOUSES, White Horse-street, Ratcliff, let at 87*l.*; term, 25 years; ground rent, 5*l.* 10s. each; and an IMPROVED RENT of 57*l.* arising out of a leasehold estate of twelve houses in and near Back-Road, St. George's East. Particulars at the Mart, London; of Mr. Prentice, Solicitor, 13, Bedford-square, Commercial-road; Mr. Humphreys, Solicitor, East-India Chambers; Creed's, White Hart, Margate; Hudson's, Bull and George, Ramsgate; Royal Oak, Dover; and at the Auctioneer's offices (where plans may be seen), Mile End-road, London.

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NECROLOGY.

THE EARL OF STAMFORD AND WARRINGTON.

We have to record the demise of the venerable Earl of Stamford and Warrington, who expired on Saturday last, after a declining illness of some months, at Enville Hall, the ancient family seat, near Stourbridge, Staffordshire.

The deceased George Harry Grey, Earl of Stamford, county Lincoln, and of Warrington, county Lancaster, Baron Grey of Groby, county Leicester, and Delamer of Dunham Massey, county Chester, in the Peerage of England, was eldest son of George Harry, fifth earl, by Lady Henrietta Cavendish Bentinck, second daughter of William, second Duke of Portland. He was born Oct. 31, 1765, so that the lamented deceased was within a few months of completing his 80th year. The earl succeeded to the title on the death of his father in May 1819.

His lordship married, December 23, 1797, Lady Henrietta Charlotte Elizabeth, eldest daughter of Francis, late Lord Elcho, and sister of the present Earl of Wemyss and March, by whom, who died in January 1838, his lordship had issue Lady Henrietta Charlotte, born Sept. 13, 1791, and married, Dec. 16, 1820, the Rev. James William Law, son of the Bishop of Bath and Wells, and cousin of the Earl of Ellenborough; Lady Mary, born in December 1800, and died in May 1821; George Henry, the late Lord Grey, of Groby, to whom we shall hereafter allude; Lady Jane, born March 21, and married, Nov. 8, 1825, Sir John B. Walsh, Bart. M.P.; and the Hon. Henry Booth Grey, born Jan. 29, 1807.

The late Lord Grey of Groby, the deceased earl's eldest son, was born April 5, 1802, and was summoned to the House of Lords by the title of Baron Grey of Groby, in 1832. He married, Dec. 20, 1824, his cousin Lady Katherine Charteris, fourth daughter of the Earl of Wemyss and March. His lordship did not survive his marriage eleven years, having died in October 1837, and her ladyship died Jan. 4, 1843, leaving issue an only son and a daughter—namely, the Hon. (now Lady) Margaret Henrietta Maria, born Dec. 12, 1825; and George Harry, Lord Grey of Groby, born Jan. 7, 1827, who now succeeds to the honours and extensive family estates by the death of his noble grandfather.

The deceased nobleman was lord lieutenant and custos rotulorum of Cheshire, chamberlain of that county, and vice-admiral of the coast of the county palatine of Chester, which offices revert to the gift of the Premier.

By the noble lord's demise the families of the Earl and Countess of Wemyss and March, Lord Elcho, the Rev. J. W. and Lady Henrietta Law, Sir John and Lady Jane Walsh, the Hon. E. W. and Lady Caroline Stewart, Lady Amelia Kaye, Mr. Booth and Lady Sophia Grey, the Hon. W. Booth and the Hon. Mrs. Grey, Lord Rossmore, &c., are placed in mourning.

The ancient lustre and numerous branches which formerly enjoyed the peerage of the family of Grey cannot be unknown to any historian or genealogist. The immediate stock of the present house was that which enjoyed the marquisate of Dorset and the dukedom of Suffolk. Lord John Grey, of Pergo, in Essex, youngest son of Thomas, second Marquis of Dorset, and uncle of the unfortunate Lady Jane Grey, married Mary, sister of Anthony Browne, Viscount Montagu, and left issue Sir Henry Grey of Pergo, who, as the honours of his family were under attainder, was created Lord Grey of Groby in 1603, and, dying in 1614, was succeeded by his grandson Henry, second Lord Grey, whom Charles I. created Earl of Stamford, in 1628. But that did not content either him or his son, whose family had enjoyed much higher honours, and who, it is considered, from disappointment, subsequently took an active part against that sovereign in the rebellion, and commanded a large military force in the army of the Parliament against the royalist army, and eventually signed the warrant for that king's execution. His eldest son died before him in 1657; and, on his death, in 1673, he was succeeded by his grandson Thomas, second earl, who was engaged in the Duke of Monmouth's futile attempt at rebellion. He died in 1720 without issue, on which the honours belonging to the family devolved on his nephew Harry, third earl, a very eccentric nobleman, who died in 1739, having married a daughter of Sir Nathan Wright, lord keeper, by whom he left Harry fourth earl, who, by Lady Mary, daughter of George Booth, last Earl of Warrington, was grandfather of the deceased earl.

The earldom of Warrington was conferred on the late earl's father in 1796, as he had inherited the large landed property of his maternal grandfather.

The Salford Charter.—By a defect in this charter, the mayor and chief magistrate of Salford cannot either *hear* or *issue* warrants or summonses.—*Liverpool Standard.*

Circuits of the Judges.—A copy of the commission for inquiring into the expediency of altering the circuits of the judges in England and Wales has been printed. The commission is dated on the 14th February last, appointing as commissioners Baron Parke, Mr. Justice Alderson, Mr. Justice Coleridge, J. S. Wortley, F. Kelly, W. Whateley, and John Greenwood, esqrs. and Sir W. Heathcote, E. Denison, and T. Grimston B. Estcourt, esqrs. The object of the commission, which may be pursued by any five of the commissioners, is "for inquiring and considering whether it would be expedient, with a view to the more convenient and better administration of justice, that any and what alterations should be made in the division of England and Wales into circuits for judicial business, and in the periods for holding such circuits; and whether it would be necessary or proper that any change should be made in the law terms, for the purpose of such alterations; and also for considering in what manner such alterations may be best effected."

Periodical Sales (established in the year 1803) of Reversions, Life Interests, Annuities, Policies of Assurance, Advowsons, Next Presentations, Rent Charges in lieu of Tithes, Post-obit Bonds, Tontines, Debentures, Ground Rents, Improved Rents, Shares in Docks, Canals, Mines, Railways, Insurance Companies, and all Public Undertakings.

MESSRS. SHUTTLEWORTH and SONS respectfully inform the public, that upwards of 40 years' experience having proved the classification of this species of property to be extremely advantageous and economical to vendors, and equally satisfactory and convenient to purchasers, the PERIODICAL SALES of reversionary interests, policies of insurance, tontines, debentures, advowsons, next presentations, all securities dependent upon human life, shares in docks, canals, mines, railways, and all public undertakings, will be continued through 1845, as follow:—

Friday, May 2.	Friday, Sept. 5.
" June 6.	" Oct. 3.
" July 4.	" Nov. 7.
" Aug. 1.	" Dec. 5.

Particulars may be had Ten days previous to each sale, at the Royal Hotel, Manchester; the Adelphi Hotel, Liverpool; Dee's Royal Hotel, Birmingham; the Angel, Oxford; the Eagle and Child, Cambridge; at the Mart; and of Messrs. SHUTTLEWORTH and SONS, 28, Poultry.

Periodical Sale of Reversions, Life Interests, Annuities, Life Policies, Advowsons, Next Presentations, and all descriptions of Securities dependent upon human Life, Shares in Railways, Mines, and all other undertakings.

MESSRS. FULLER and MARSH respectfully inform the public, that by their system of periodical sales by Auction they are enabled to offer to persons expectant or otherwise interested in the above description of property the most prompt, economical, and satisfactory mode of disposing thereof, as by classifying these descriptions of interests and properties in the same particular and for the same day, much expense is avoided, and a far greater competition is secured. Their periodical sales of reversions, life interests, annuities, life policies, advowsons next presentations, and all descriptions of securities dependent upon human life, shares in railways, mines, and all other undertakings, will be continued throughout the present year as follows:—

Thursday, May 1	Thursday, September 4
Thursday, June 5	Thursday, October 2
Thursday, July 3	Thursday, November 6
Thursday, August 7	Thursday, December 4.

Notice of Sales intended to be effected by the above means should be forwarded to Messrs. Fuller and Marsh a fortnight prior to each date, in order that they may have the full benefit of publicity. Messrs. Fuller and Marsh beg to call the attention of the public to the economy and expedition of this system of business, as they are thereby enabled to include each property for the sum of two guineas and a half, including all expenses, should a sale not be effected. Particulars of the next periodical sale may be obtained ten days previous to the sale, at the Star Hotel, Oxford; University Arms, Cambridge; Hen and Chickens, Birmingham; Plough, Cheltenham; Bush, Bristol; New London Hotel, Exeter; Pearce's Hotel, Truro; Adelphi, Liverpool; Royal Hotel, Manchester; Cuff's Midland Hotel, Derby; Black Swan, York; Tontine Hotel, Sheffield; Royal Hotel, Leeds; Tontine Hotel, Glasgow; M'Gregor's Hotel, Princes-street, Edinburgh; Gresham's Hotel, Dublin; and at the Offices of Messrs. FULLER and MARSH, 2, Charlotte-row, Mansion-house, London.

Herts.—Important Freehold Property, comprising an excellent Mansion House, called Albury Hall, the residence of the late John Calvert, esq. with extensive Park; also the Manors of Albury Hall, Patmore Hall, and Furneux Pelham, and sundry Farms, containing in the whole nearly One Thousand Six Hundred and Fifty Acres, most eligibly situate in the most preferable part of the County, and only about five miles from Bishop Stortford.

MESSRS. DRIVER are favoured with instructions from the Trustees of the late John Calvert, esq. to offer to PUBLIC COMPETITION, at the Auction Mart, on Tuesday, May 27, at twelve, in one or more lots, the above important and valuable FREEHOLD PROPERTY; comprising the Manors of Albury Hall, Patmore Hall, and Furneux Pelham, together with an excellent Mansion House, called Albury Hall, extensive Park, and sundry desirable Farms, with capital homesteads, in the several occupations of Mr. Thomas P. Clark, Mr. John Feast, Mr. Geo. Scales, Mr. W. Clark, and others, most eligibly situate in the parishes of Furneux Pelham, Albury, and Brent Pelham, only about five miles from the capital market town of Bishop Stortford, where there is a principal Station on the Northern and Eastern Railway, the whole Estate containing nearly One Thousand Six Hundred and Fifty Acres, producing about 2,000l. per annum, including the Mansion House, Park, and Lands in hand, and admirably adapted either for occupation or investment.

The above fine Property will be offered in the first instance in one lot; but in the event of no acceptable bidding being made, it will be immediately thereafter submitted to the assembled company in three lots, viz.:—Lot One, comprising the Mansion House, Park, and other lands in hand, with High Farm, Hole Farm, and sundry Lands, containing in the whole Eight Hundred and Thirty-one Acres, together with the Manor of Albury Hall.

Lot Two, comprising Patmore Hall Farm, and sundry Woods and other Lands, and Cottages, containing in the whole above Five Hundred and Sixty-five Acres, together with the Manor Hall, and

Lot Three will comprise St. John's Farm in the parishes of Furneux Pelham and Brent Pelham, containing above Two Hundred and Fifty-one Acres, together with the Manor of Furneux Pelham.

To be viewed on application to Mr. George Scales, at High Farm, and printed specifications with plans annexed may be had at the George Inn, Bishop Stortford; Saracen's Head, Ware; the Bull, Hertford; of Messrs. Western and Sons, Solicitors, 7, Great James-street, Bedford-row; at the Auction Mart, Bartholomew-lane; and of Messrs. DRIVER, Surveyors and Land Agents, 8, Richmond-terrace, Parliament-street, London.

Long Leasehold Ground-rents, East-street, Kent-road.

MESSRS. DRIVER are instructed by the Executors of the late Edward Neale, esq. to offer to AUCTION, at the Mart, on Friday, May 9, at Twelve, in One Lot.

THREE LEASEHOLD GROUND-RENTS, amounting together to 70l. per annum, payable for a desirable Leasehold Estate, held for unexpired terms of thirty-seven years, in respect of the Bedford Arms Leasehold Public-house and sundry Leasehold Dwelling Houses and Premises in East-street, Kent-road, in the parish of St. Mary's, Newington, Surrey.

Printed specifications may be had at the King's Arms, Kent-road; at the Mart, near the Bank; of J. R. RUSH, Esq. Solicitor, Austin Friars; and of Messrs. DRIVER, Surveyors and Land Agents, 8, Richmond Terrace, Parliament-street.

Freehold Copper Rolling Mills, Hammer Mills, Furnaces, Refinery, Foundry, and Factory, with very valuable Water Power, with a fall of about 5 feet 8 inches, on the River Wandle, in Garratt-lane, Wandsworth, Surrey, fully equal to between 70 and 80-horse power, all well inclosed, with a Manager's Dwelling House, good Garden, numerous Workmen's Cottages with Gardens, and several valuable parcels of Meadow Land, containing altogether nearly twenty acres, most eligibly situate within one mile and a half of Wandsworth, in the county of Surrey, and about seven miles from London.

MESSRS. DRIVER have received instructions to offer to PUBLIC COMPETITION, at the Mart, on Tuesday, May 27, at twelve,

The above most valuable and desirable FREEHOLD PREMISES, exonerated from Land-tax, which are now, and have for nearly a century and a half, been worked by the Governor and Company of Copper Miners in England.

The Premises comprise a convenient small dwelling-house for a manager, with a most excellent garden; a building, about 98 feet by 70 feet, called the Rolling Mill, and a very capital iron water wheel, 18 feet diameter by 14 in width; a hammer mill, about 70 feet long, with two other water wheels, one 15 feet and the other 12 feet diameter; a new building called the Refinery and Foundry, about 85 feet by 42 feet, with three furnaces; stabling, sundry workshops, and a counting-house; an artesian well, 165 feet deep, with 5-inch copper pipes; 12 workmen's cottages, and sundry Parcels of most desirable and valuable Meadow Land, containing altogether about twenty acres.

To be viewed on application to Mr. Bashford, residing on the premises, of whom printed specifications with plans annexed may be had. Specifications and plans may also be had at the Spread Eagle, Wandsworth; at the Offices of the Company, Old Broad-street; of Messrs. Roy, Blunt, and Co. Solicitors, Lothbury; at the Auction Mart, near the Bank; and of Messrs. DRIVER, surveyors and land agents, 8, Richmond Terrace, Parliament-street, London.

Residence, Garden and Seventy Acres Meadow Land, at Harlesdon Green, near Willesden, Middlesex.

MESSRS. DRIVER are instructed to submit to PUBLIC COMPETITION, at the Auction Mart, Bartholomew-lane, on Friday, May 9, at Twelve, in Six Lots,

A FREEHOLD VILLA RESIDENCE and about 11a. 2r. 16p. of excellent rich Meadow Land, in the occupation of Mr. J. B. Brown, most eligibly situate at Harlesden Green, in the parish of Willesden, within five miles of Connaught-place, Oxford-street, and sundry other very valuable parcels of Meadow Land, containing about 60 acres, situate next the five mile stone on the road to Harrow, all in the parish of Willesden, in the occupation of Messrs. Vale, of St. John's Wood-road.

The whole is now held by William Marmaduke Sello esq. at the annual rent of 225l. under an old lease for twenty-one years, which will expire at Michaelmas 1846.

Printed specifications with plans annexed, may be had at the Crown Inn, Harlesdon Green; of Philip Hardwicke, esq. Russell-square; of Messrs. Lawford, solicitors, Drapers' Hall, Throgmorton-street; at the Auction Mart, Bartholomew-lane; and of Messrs. DRIVER, surveyors and land-agents, 8, Richmond-terrace, Parliament-street.

Buckinghamshire.—The Hardwick Estate, in the Rich Vale of Aylesbury.

MR. W. BROWN has received instructions to offer for SALE by AUCTION, at the Mart, Bartholomew-lane, London, on Friday, May 9, 1845, at Twelve, in one lot, an important and truly valuable ESTATE, the greater part freehold, and the remainder leasehold, under New College, Oxford, adapted either for occupation or permanent investment; comprising a highly respectable farm-house, and all necessary agricultural buildings, warm and convenient yards for cattle, and 180 acres of first-rate feeding ground (with a small portion arable land), in the occupation of Mr. Thomas Dover, a yearly tenant. A farm residence, with all necessary agricultural buildings, and 218 acres of superior feeding land, in the occupation of Mrs. Flowers, also a yearly tenant. Another convenient farm homestead, and about 20 acres of arable land, in the occupation of Mrs. Flowers. A commodious residence, with offices attached, and a close of pasture land (about eight acres), in the village of Hardwick, occupied by Mr. John Holdham. A substantial residence, with numerous convenient offices attached, in the village of Hardwick, occupied by Mrs. Holland. A newly erected brick, tile, and lime kiln, with extensive range of buildings for carrying on the trade. A convenient malting, with necessary offices and buildings attached. The Bell public-house, in the occupation of Mr. Thomas Tattam, and sundry labourers' cottages dispersed in the village of Hardwick, forming together a valuable and compact property, the rental, with the premises in hand, amounting to upwards of 1,100l. per annum; the whole tithe free and the parochial burdens merely nominal. The land partakes of the quality of the richest portion of the Vale of Aylesbury, and is within a short distance of the town. The turnpike-road adjoins the property, and railway communication is most convenient. Printed particulars, with a lithographic plan attached, may be obtained of Mr. Holland, at Hardwick, who will shew the estate; also at the Auction Mart, London; the George Inn, Aylesbury; of Messrs. Hearn and Nelson, solicitors, Buckingham; and of Mr. W. BROWN, Land Agent, Tring.

INVESTMENTS for SMALL CAPITALISTS, producing an income of near [illegible]00l. per annum.

MESSRS. ROBERTS and ROBY will SELL by AUCTION, at the Mart, on Wednesday next, May 7, at twelve, in ten lots, eligible LEASEHOLD ESTATES, chiefly held for long terms, at very low ground-rents, situate in Barnsbury-park, Islington; Retreat-place, Hackney; John, James, and Richard streets, Salmon's-lane, Limehouse, near the Commercial-road; Ernest-street, White Horse-lane, Stepney, close to the Mile-end-road; Southville-road; Wandsworth-road; Hunter-street, near the Bricklayers' Arms, Old Kent-road; also an annuity of 14l. per annum, amply secured upon a house and shop, Earl-street, Lisson-grove, Marylebone; and two old policies of 500l. and 200l. in the Asylum Office, on the life of a gentleman aged 66. The above desirable property offers an excellent opportunity to capitalists for safe and profitable investments.

To be viewed till the sale; and particulars had of Messrs. Davies and Son, solicitors, Warwick-street, Regent-street; Mr. F. Harrison, 44, Bloomsbury-square; Mr. Mills, 3, Brunswick-place, City-road; Mr. Scarborough, Tokenhouse-yard, Lothbury; at the Mart; and at Messrs. ROBERTS and ROBY'S Offices, 24, Moorgate-street, Bank.

Very desirable property in the Vale of Clwyd.

TO be peremptorily SOLD by AUCTION by Mr. E. OWEN (by order of the trustees of the late Mr. John Williams), on Monday, the 2nd day of June, 1845, between four and six o'clock in the afternoon, at the Cross Foxes Inn, Ruthin, two very desirable FREEHOLD FARMS in the far-famed Vale of Clwyd, being six miles from Ruthin, the same distance from Corwen, and adjoining the turnpike road between those two market-towns. It is within a convenient distance of the North Wales mineral, and the Chester and Holyhead Railways, and containing about sixty acres of rich arable and pasture land.

The buildings are in good condition, and the well-known river Clwyd, so renowned for its angling facilities, runs through this admired property, which abounds with oak and other young timber in a most thriving state. It adjoins property belonging to Lord Vivian, Colonel Vaughan, W. P. Jones, esq. Mrs. Mostyn, and others, and is most eligibly adapted for the erection of a country villa, being on a small eminence close to the river.

Lithographic plans and all particulars may be had on application to Mr. Peers, solicitor, or Mr. E. OWEN, Auctioneer, Ruthin.

Ruthin, May 1, 1845.

Essex.—In the beautiful and picturesque village of Lexden, within two miles of Colchester.—Family Residence, with excellent offices, lawn, pleasure-grounds, and garden, containing together upwards of three acres; also a desirable Cottage Residence, with garden, &c. adjoining.

MR. W. W. SIMPSON has received directions from the Executors of J. De Horne, esq. to SELL by AUCTION, at the Auction Mart, on Tuesday, May 6, at Twelve, in Two Lots, a desirable FAMILY RESIDENCE, of substantial and handsome structure of white brick, containing entrance-hall, spacious breakfast, drawing, and dining rooms, butler's pantry, kitchen, scullery, and ample cellarage, several best bed-rooms and servants' chambers, detached brewhouse, coachhouse, and stalled stabling for four horses, the whole conveniently arranged and in excellent repair. The residence is pleasantly seated on a lawn, which, with the garden and ornamental pleasure-grounds, is secluded from the high road by a lofty brick wall. Also a Cottage Residence adjoining, containing dining and drawing rooms, four bed-rooms, kitchen, scullery, cellars, &c.; stable for two horses, coachhouse, and excellent garden, in the occupation of Mr. Henry Frederick Cliffe, a respectable yearly tenant, at a rent of 50l. per annum. The property is delightfully situate in the pleasant village of Lexden, two miles only from Colchester, which is about two hours' journey of the metropolis from the terminus on the Eastern Counties Railway.—The property may be viewed; and particulars, with plans annexed, may be obtained on application to John Vaizey, esq. solicitor, 2, South-square, Gray's-inn; the Cups, Colchester; at the Auction Mart; and of Mr. W. W. SIMPSON, 18, Bucklersbury.

Essex, twelve Miles from Brentwood, which is about three quarters of an hour's journey of the Metropolis, from the terminus on the Eastern Counties Railway.—Valuable Freehold Estate, containing 308 acres of powerful Grazing and Arable Land, with a small Farm-house and convenient Outbuildings.

MR. W. W. SIMPSON has received instructions from the devisees in trust under the will of William Williams, esq., deceased, to OFFER for SALE by AUCTION, at the Auction Mart, on Tuesday, May 6, at Twelve, an exceedingly valuable FREEHOLD ESTATE, called CORRINGHAM MARSH FARM, situate in the parish of Corringham, in the county of Essex, distant nine miles from the market-town of Billericay, and twelve from Brentwood. It comprises a small farm-house, with convenient agricultural buildings, and about 308 acres of highly productive land, of exceedingly uniform staple and quality, including about 200 acres of fine forcing bullock and sheep feeding surface, and the remainder (exclusive of waste, &c.) of deep staple arable land of great fertility. Corn and produce are shipped for London and other markets from a creek on the estate, which is in the occupation of Henry Anthony Long, esq., a very extensive landed proprietor in the neighbourhood, and an occupying tenant also of the highest class, who holds under a lease for seven years, from Michaelmas, 1844, at the very moderate rent of 450l. per annum.—The property may be viewed on application to the tenant or his looker, who resides on the estate, of whom particulars may be had; as also of Mr. Wm. Blewitt, of Raynham; of Messrs. Druce and Sons, solicitors, Billiter-square; at the Auction Mart; and of Mr. W. W. SIMPSON, 18, Bucklersbury.

LONDON:—Printed by HENRY MORRELL COX, of 74, Great Queen Street, in the Parish of St. Giles in the Fields, in the County of Middlesex, Printer, at his Printing Office, 74 & 75, Great Queen Street aforesaid, and published by JOHN CROCKFORD, of 29, Essex Street, Strand, in the Parish of St. Clement Danes, in the City of Westminster, Publisher, at the Office of the LAW TIMES, No. 29, Essex Street aforesaid, on Saturday, the 3rd day of May, 1845.

THE LAW TIMES,

AND JOURNAL OF PROPERTY,

FOR

The Legislator, the Magistrate, and the Lawyer.

Vol. V. No. 110.] SATURDAY, MAY 10, 1845.

SUBSCRIPTION.
For One Year, paid in advance.. £2 0 0
For Half Year, paid in advance 1 1 0
Single Numbers, or on credit .. 0 1 0

KENSINGTON.—Two well-built Leasehold Residences, within 300 yards of Hyde Park, eligible for investment or occupation, by Mr. MASON, on Thursday, May 15th, at Garraway's, in two lots,

A RESPECTABLE RESIDENCE desirably situate in Hill-street, just out of the Kensington-road, opposite the Knightsbridge Barracks, containing 14 rooms, handsomely finished, and fitted with every requisite fixture, of the annual value of 70*l*. Another GENTEEL HOUSE, No. 4, nearly adjoining, of the value of 50*l*. per annum. Held by separate leases for 92 years, at low ground-rents. Land-tax redeemed. Particulars may be had at No. 21, Motcomb-street, Belgrave-square, and of the AUCTIONEER, *Norton Folgate.*

CHESHUNT.—Net secure Rent of 23*l*. per annum, arising from a Copyhold Estate in front of the high road, the property of Mr. Smartt, deceased.—By Mr. MASON, at Garraway's, on Thursday, May 15,

A Substantial COPYHOLD HOUSE, with yard, stable, &c. desirably situate at Turner's-hill, the corner of Windmill-street, having a depth of 150 feet; let on lease to Mr. Linington, a respectable tenant, and held of the manor of Cheshunt. –Particulars may be had of Messrs. Clark, solicitors, Bishopsgate Church-yard; and of Mr. MASON, auctioneer, Norton-folgate.

ELIGIBLE INVESTMENT.—By Mr. MASON, at Garraway's, on Thursday, May 15, in three Lots, without reserve, by order of the Executors of the late Mr. Howell Davies.

A RESPECTABLE RESIDENCE, No. 8, Lincoln-place, in front of the New North-road, near St. John's schools, with stable, chaise-house, and entrance from Gloucester-street; let to Mr. Lawrence, a highly respectable tenant, at 35*l*. per annum, term unexpired 42 years; ground-rent, 7*l*. A genteel House, No. 22, Vaughan-terrace, in front of the road leading from the Eagle Tavern, City-road, to Islington; let to Mr. Jones, at 30*l*.; held for 48 years at 5*l*. A neat House, No. 12, Princes-street, Perceval-street, Clerkenwell; let to Mr. Maydon, at 18*l*., ground-rent, 3*l*.; term 36 years. Particulars may be had of Mr. MOSS, Solicitor, 4, Cloak-lane, City; and of the Solicitor, Norton-folgate.

TRIANGLE, HACKNEY. — Valuable Freehold Estate, Land-tax Redeemed, eligible for Investment or Occupation.—By Mr. MASON, at Garraway's, on Thursday, May 15, pursuant to the directions in the Will of the late Mrs. Hickling, unreservedly, by order of her Executors,

A Capital FREEHOLD RESIDENCE, possessing every accommodation for a family of respectability, approached by a carriage drive inclosed with handsome iron railing, situated in Mare-street (the corner of King Edward's-road), containing on the upper stories seven excellent bed-rooms and water-closet, ground floor four sitting-rooms, china closet, &c. The basement is conveniently arranged; there is a well of fine water, excellent drainage, and the garden is walled all round. This desirable property has a frontage of 53 feet by a depth of 250 feet.—Particulars may be had on the premises; of S. Walters, esq. solicitor, 36, Basinghall street; and of the Auctioneer, Norton-folgate.

PEMBROKESHIRE.

TO be SOLD by AUCTION, at the MARINERS' HOTEL, in the town and county of Haverfordwest, on Tuesday, the 3rd day of June, 1845, by Mr. H. P. GOODE, the MANSION-HOUSE and DEMESNE, FARMS, LANDS, and PREMISES, called ROSEPOOL, situate in the parish of Walwyn's Castle, in the county of Pembroke, containing by admeasurement 283a. 2r. 59p. more or less, of good arable, pasture, and meadow land, in a ring fence, now in the occupation of Mr. George Phillips.

The house and extensive out-offices are all in perfect repair, and of good and solid construction. Distant from Haverfordwest, six miles; from M[illegible]rd, four miles; from Hobb's Point (the intended terminus of a branch of the projected South Wales Railway), about eight miles; from Dale, at the mouth of Milford Haven, seven miles; and from the sea-bathing resorts of Broad and Little Havens, one mile.

The house contains, on a lofty ground-floor, three family rooms, housekeeper's room, butler's pantry, two kitchens, boot room, and various other conveniences, with excellent underground wine and beer cellars; on the first floor are five excellent bed-rooms, and upon the second floor five bed-rooms, superior to ordinary servants' rooms.

The homestead comprises a spacious farm-yard and frontage, well watered and wooded; a large and excellent walled garden, kitchen garden, and orchard, all adjoining the excellent high-road from Haverfordwest to Dale.

The House, &c. stands upon a gentle eminence, commanding an extensive landscape, and from a field adjoining it may be seen a panoramic view, embracing from thirty to forty parishes of the county of Pembroke—the mouth of Milford Haven—the whole of the beautiful Bay of St. Bride (nearly a land-locked view)—the Islands off the Coast—the Lighthouses of St. Ann's—the South Bishops, and the Smalls (half-way across the St. George's Channel)—parts of the counties of Cardigan, Carmarthen, Glamorgan, Brecon, and Devon.

Observe—About 160 acres of the poorest part of the lands are within the South Wales Coal-field, and beneath the surface (ascertained by engineers and surveyors in 1840, expressly employed for the purpose) are valuable Veins of Anthracite Coal and Culm, for upwards of thirty years to come; and from the extremity of the land there is nearly a dead level of two miles to an available inlet of Milford Haven, and one mile of gentle declivity to St Bride's Bay.

The present tenant, Mr. George Phillips, will shew the Premises, and every information may be obtained of Mr. William Cosens, solicitor, Haverfordwest.

Maps of the Estate may be seen at the Offices of Messrs. Norriss, Allen, and Simpson, solicitors, 19, Bartlett's-buildings, Holborn, London; at the Royal Western Hotel, Bristol; at the Offices of Messrs. H. P. GOODE and PHILPOTT, land-agents and surveyors, &c. Haverfordwest; and forwarded, upon application to Mr. Cosens, by post, to respectable professional men at a distance.

Haverfordwest, April 4, 1845.

BEESTON.—Excellent Freehold Family Residence, with Stabling, Offices, and Gardens, accommodation Land with eligible Building Frontages, and several Cottages in the village of Beeston, three miles from the county town of Nottingham, and close to the station of the Midland Counties Railway, and other Land near thereto, the property of Miss Richards.

MESSRS. RUSHWORTH and JARVIS have been favoured with instructions from the proprietor to SELL by AUCTION, at the George IV. Inn, Nottingham, on Saturday, May 24th, at three o'clock in the afternoon, in seven lots, the capital and spacious FAMILY RESIDENCE, late in the occupation of Thomas Adams, esq. situate in a pleasant part of the village of Beeston. The house partakes of the character of a mansion, presenting a distinguished elevation, and the interior combines every arrangement for domestic comforts, a very large sum of money having been expended in additions and improvements a short time since. The chimney-pieces and other decorations are of a most expensive description, and the whole is in perfect order. The stabling and out-offices are conveniently placed, and the gardens are tastefully laid out and well planted; and it altogether offers a desirable residence for a gentleman or a manufacturer whose avocations require his daily attendance in Nottingham, being within a few minutes' walk of the railway station, which is only five minutes' ride of the town. There are some inclosures of rich Meadow Land, which would form desirable appendages to the residence, and also having some valuable frontages available for building purposes, without encroaching upon the house and grounds, and in addition are several Cottages and valuable inclosures of Meadow Land, let to good tenants, and presenting favourable opportunities for investment.

The property may be viewed, and printed particulars had at the residence; at the place of sale; at the Bell Inn, Leicester; Cuff's Railway Hotel, Derby; and in London of Messrs. Fielder, Johnson, and Master, 22, Duke-street, Grosvenor-square; and of the Auctioneers, Saville-row, Regent-street, and 19, Change-alley, Cornhill.

LITHOGRAPHIC PRINTING OFFICE, 276, STRAND.—SWINFORD, Brothers, have every facility for the execution of MAPS, PLANS, RAILWAYS, machinery, drawings, fac-similes, or any description of lithographic writing, drawing, and printing in the best style of the Art. Every branch is executed by writers and artists of first-rate talent on the premises, thereby insuring the strictest punctuality; and they beg to submit the following reduced list of prices for circular letters, &c. :—1,000 4to. post circulars, fly-leaf, 1*l*. 10s.; 1,000 do. half-sheet, 1*l*. 4s.; 500 do. fly-leaf, 1*l*.; 500 do. half-sheet, 15s.; 1,000 note circulars, fly-leaf, 1*l*. 3s.; 500 do. do. 13s. 6d.; 1,000 4to. post circulars, fly-leaf, blue wove paper, 1*l*. 16s.; 1,000 do. half-sheet do. 1*l*. 8s.; 500 do. fly-leaf do. 1*l*. 1s.; 500 do. half-1,000 note circulars, fly-leaf, 1*l*. 6s.; 500 do. do. 17s.; drapers' bill-heads, 10,000, 1*l*. 15s.; 20,000, 3*l*. 5s. Engraving and copper-plate printing. Window and door plates made and engraved.

Insurance Companies.

NORTH BRITISH INSURANCE COMPANY,
Established 1809.

Protecting Capital, 1,000,000*l*. fully subscribed.

His Grace the Duke of Sutherland, K.G. President.
Sir Peter Laurie, Alderman, Chairman of the London Board.
Francis Warden, Esq. (Director H.E.I.C.) Vice Chairman.
John Webster, M.D., F.R.S. 24, Brook-street, Physician.

THIS Institution is incorporated by Royal Charter, and is so constituted as to afford the benefits of Life Insurance in their fullest extent to Policy-holders combined with perfect security in a fully subscribed Capital of One Million Sterling, besides an accumulated Premium Fund, exceeding 412,000*l*. and a Revenue, from Life Premiums alone, of upwards of 90,000*l*. per annum.

Eighty per cent. or four-fifths of the total profits of the Company, are septennially divided among the Assured.

At the last investigation, ending 31st December, 1844, a Bonus of 1*l*. 10s. per cent. on the sums assured, was declared for every Annual Premium paid during the septennial period. Thus on a Policy for 5,000*l*. which had been in force upwards of six years, and on which consequently seven Annual Premiums had been paid, the Bonus declared was 525*l*.

A Prospectus, containing Tables of Premiums, with the names of the President, Vice-Presidents, Directors, and Managers, who are all responsible PARTNERS, may be obtained of Messrs. B. and M. Boyd, Resident Members of the Board, 4, New Bank Buildings; or of the Actuary, 10, Pall-mall East.

JOHN KING, Actuary.

ENGLISH and SCOTTISH LAW LIFE ASSURANCE and LOAN ASSOCIATION,
12, Waterloo-place, London; 119, Princes-street, Edinburgh.
(Established in 1839.)

SUBSCRIBED CAPITAL, ONE MILLION.

This Association embraces—

Every description of risk contingent upon *Life:*

Immediate, Deferred, and Contingent Annuities and Endowments.

A comprehensive and liberal system of Loan, on undoubted personal security, or upon the security of any description of assignable property or income of adequate value, in connection with Life Assurance:

A union of the English and Scotch systems of Assurance, by the removal of all difficulties experienced by parties in England effecting Assurances with offices peculiarly Scotch, and vice versâ:

An extensive Legal connection, with a Direction and Proprietary composed of all classes:

A large protecting Capital, relieving the Assured from all possible responsibility:

The admission of every Policy-holder, assured for the whole term of life, to a full periodical participation in two-thirds of the profits.

J. BUTLER WILLIAMS, Resident Actuary and Secretary,
12, Waterloo-place.

CLERICAL, MEDICAL, and GENERAL LIFE ASSURANCE SOCIETY. Instituted 1824.

In addition to Assurances on Healthy Lives, this Society continues to grant Policies on the Lives of Persons subject to Gout, Asthma, Rupture, and other Diseases, by their paying a Premium in proportion to the increased risk. The plan of granting Assurances on Unhealthy Lives originated with this office in the early part of 1824.

Every description of Assurance may be effected with this Society, and Policies are granted on the Lives of Persons of ALL AGES.

TABLE OF PREMIUMS FOR ASSURING 100*l*. ON A HEALTHY LIFE.

AGE.	For One Year only.	For 7 Years, at an Annual Payment of	For 14 Years, at an Annual Payment of
	£ s. d.	£ s. d.	£ s. d.
25	1 1 0	1 2 2	1 3 8
30	1 2 1	1 4 1	1 6 1
35	1 5 2	1 7 2	1 9 3
40	1 8 9	1 10 4	1 13 6
45	1 12 2	1 14 8	2 1 0
50	1 16 11	2 3 10	2 13 11
55	2 8 8	3 0 4	3 13 3
60	3 10 6	4 2 8	5 1 8
65	4 13 6	5 16 3	6 19 11

The Rates for Life Policies are also LOWER than those of most other Offices.

The Sum accumulated and invested, for the security and benefit of the ASSURED, already exceeds HALF A MILLION STERLING; and the income, which is steadily INCREASING, is now 101,500*l*. per annum.

BONUSES.

The two first Divisions averaged 22*l*. per Cent. on the Premiums paid. The THIRD Bonus, declared in January 1842, averaged 28*l*. PER CENT. and the future Bonuses are expected to EXCEED that amount.

The Accounts and Balance-sheets of this Society are at all times open to the inspection of any of the Assured.

A liberal commission allowed to Solicitors.

Further information may be obtained of GEORGE H. PINCKARD, Actuary, 78, Great Russell-street, Bloomsbury, London.

UNITED KINGDOM LIFE ASSURANCE COMPANY.
TEMPORARY OFFICES DURING THE ALTERATIONS, No. 28, REGENT-STREET, WATERLOO-PLACE, LONDON.
Established by Act of Parliament in 1834.

DIVISION OF PROFITS AMONG THE ASSURED.

HONORARY PRESIDENTS.

Earl of Errol.	Earl Somers.
Earl of Courtown.	Lord Viscount Falkland.
Earl Leven and Melville.	Lord Elphinstone.
Earl of Norbury.	Lord Belhaven and Stenton.
Earl of Stair.	

DIRECTORS.

James Stuart, Esq., Chairman.
Hananel De Castro, Esq., Deputy Chairman.

Samuel Anderson, Esq.	Charles Graham, Esq.
Hamilton Blair Avarne, Esq.	F. Charles Maitland, Esq.
Edw. Boyd, Esq., Resident.	William Railton, Esq.
E. Lennox Boyd, Esq., Asst. Resident.	John Ritchie, Esq.
Charles Downes, Esq.	F. H. Thomson, Esq.

Surgeon—F. Hale Thomson, Esq., 48, Berners-street

This Company, established by Act of Parliament, affords the most perfect security in a large paid-up Capital, and in the great success which has attended it since its commencement in 1834,

Its Annual Income being upwards of £72,000.

In 1841, the Company declared an addition to the Shareholders of one-half of their Stock, and also added a Bonus of 2*l*. per cent. per annum on the sum insured to all policies of the participating class from the time they were effected.

The Bonus added to policies from March, 1834, to the 31st Dec. 1840, is as follows:—

Sum Assured.	Time Assured.	Sum added to Policy.
£5,000	6 Yrs. 10 Months.	£683 6s. 8d.
5,000	6 Years	600 0 0
5,000	4 Years	400 0 0
5,000	2 Years	200 0 0

The Premiums nevertheless are on the most moderate scale, **and only one-half need be paid for the first Five Years,** where the Insurance is for Life.

Every information will be afforded on application to the Resident Directors, EDWARD BOYD, Esq., and E. LENNOX BOYD, Esq., at the Temporary Offices during the Alterations, No. 28, Regent-street, Waterloo-place, London.

THE following are specimens of the low rates of Premium charged by the AUSTRALIAN COLONIAL AND GENERAL LIFE ASSURANCE AND ANNUITY COMPANY.

Age.	20			50	60
Annual Prem.	£1 10 3	£2 0 7	£2 15 3	£4 1 8	£6 3 0

Peculiar facilities are afforded for the assurance of the lives of persons proceeding to or residing in Australasia and the East Indies.

Immediate and Deferred Annuities are granted by the Company on very favourable terms, and it is a peculiar feature in its constitution, that Annuitants participate in the profits.

E. Barnard, esq. F.R.S.	Gideon Colquhoun, esq.
Robert Brooks, esq.	C. E. Mangles, esq.
Henry Buckle, esq.	Richard Onslow, esq.
John Henry Capper, esq.	William Walker, esq.

SECRETARY.—E. RYLEY, Esq.

For Prospectuses and other Particulars apply at the offices, No. 126, Bishopsgate-street, corner of Cornhill.

SUFFOLK, near Stowmarket.—A very desirable Estate containing 161 acres, let on lease, at a rent of 194*l.* per annum.

MR. W. W. SIMPSON has received directions from the Proprietor to offer for SALE by AUCTION, at the Mart, in the ensuing month, a very desirable ESTATE, called Eastwood Farm and Lloyds, situate in the parish of Hitcham, only four miles from Stowmarket, eight from Hadleigh, and three from Bildeston; comprising a suitable farm-house, two cottages, and ample agricultural buildings, together with 161 acres of excellent arable, pasture, and wood-land, lying within a ring fence, 130 of which are freehold, and the remainder is copyhold. The estate is in the occupation of highly respectable tenants, to whom it is let on lease for a term of eight years from Michaelmas 1844, at a rent of 194*l.* per annum. The estate may be viewed. Particulars may shortly be had of J. B. Ransom, esq. solicitor, Stowmarket; at the Mart; and of Mr. W. W. SIMPSON, 18, Bucklersbury.

Barrington-road, Loughborough-road, Brixton. Two genteel Residences (exonerated from land-tax), forming a desirable property for investment.

MR. W. W. SIMPSON will SELL by AUCTION, at the Mart, by order of the Assignee of Mr. Elijah Brentnall, a bankrupt, in the present month, in two lots, TWO substantial, newly built, genteel RESIDENCES, pleasantly situate, Nos. 5 and 6, Barrington-road, Loughborough-road, Brixton, in a most respectable and improving neighbourhood, nearly opposite the intended new church, and within three miles of the city. They contain entrance-halls, three parlours, eight bed-rooms, water-closets, &c. two kitchens, housekeeper's room, pantries, store closets, and excellent walled gardens in the rear; held under an agreement for a term of 80 years, from Christmas, 1842, at a ground-rent of 10*l.* each house. The property may be viewed, and particulars may be had of William Pennell, esq. official assignee, 30, Basinghall-street, Messrs. Barker, Rose, and Norton, 50, Mark-lane; Messrs. C. F. and A. Jenkinson, solicitors, 76, Cannon-street, city; at the Mart; and of Mr. W. W. SIMPSON, 18, Bucklersbury.

DANBURY PARK and MANSION, ESSEX.

MESSRS. HOGGART and NORTON beg to acquaint the public that the above PROPERTY, advertised for Sale by Auction, is DISPOSED OF by PRIVATE CONTRACT.—Broad-street, May 2, 1845.

SOUTHGATE, MIDDLESEX.—Capital Freehold Residence, with Offices, Pleasure Grounds, Gardens, and rich Meadow Land; a Freehold Cottage Residence contiguous, and a Freehold Ground-rent.—By Messrs. HOGGART and NORTON, at the Mart, on Friday, May 30, at Twelve, in Three Lots, by order of the Executors of Mrs. E. S. James, deceased.

A MOST DESIRABLE and SUBSTANTIAL WELL-BUILT FREEHOLD DETACHED RESIDENCE, of handsome uniform elevation, placed upon about 16 acres of meadow land, gardens, and plantations, delightfully situated, a short remove from the village of Southgate; on lease to Isaac Solly, esq. for an unexpired term of four years, when possession may be had. The house contains every accommodation for a large family; the bedrooms lofty and well-proportioned, with elegant dining and drawing-rooms, library, breakfast parlour, and offices of every description, detached coach-houses, stabling, farm-yard, and outbuildings, productive kitchen-gardens, lawns, shrubbery walks, and plantations of evergreens and forest trees. Southgate is about ten miles from the City, and within four miles of the Edmonton Railway, with three coaches from the village to London daily.

Lot 2. A compact, brick-built, convenient COTTAGE RESIDENCE, in the village, with garden, coach-house, and stabling; let to Mr. Taylor.

Also a FREEHOLD GROUND-RENT of 8*l.* 8*s.* per annum, issuing out of a dwelling-house, with offices and gardens, in the village, containing upwards of half an acre, formerly occupied by Mr. Lawson; let on a building lease, which expires in about twenty years.

May be viewed by permission of the respective tenants, and particulars will shortly be ready, and may be had of Mr. Bannister, solicitor, John-street, Bedford-row; at the Cherry Tree, Southgate; at the Mart; and of Messrs. HOGGART and NORTON, 62, Old Broad-street, Royal Exchange.

Capital and very valuable Freehold Estates, near Daventry, Southam, and Leamington, in the County of Warwick, part extra-parochial.—By Messrs. HOGGART and NORTON, at the Mart, on Friday, June 13 (instead of May 23, as previously advertised), at Twelve, the following important and valuable Freehold Estates, in the Parishes of Ladbroke, Bishop's Itchington, and Burton Dassett, a fine part of the County of Warwick, about 12 miles from Rugby, 8 from Leamington, and 10 from Banbury, containing together 1,409 acres of fine land, let at rentals amounting to 1,700*l.* per annum, lying as follows:—

THE MANOR FARM, and ESTATE of HODNELL, lying well together, and abutting upon the high road from Southam to Banbury, comprising 311 acres of capital arable and pasture land, in a high state of cultivation, having been considerably improved by drainage and a separation of the buildings, the whole tithe-free, and land-tax redeemed, let to Mr. Thomas Russell, a responsible tenant, on lease at a low rental of 700*l.* per annum.

Also RADBOURNE FARM, adjoining, and containing 262 acres of fine land, land-tax redeemed and tithe-free, let to Mr. John Pearson, at a rent of 330*l.* per annum.

Also, a FARM at Bishop's Itchington, comprising about 286 acres of fine land, land-tax redeemed, let to Mr. Daniel Knib, tenant-at-will, at a rent of 320*l.* per annum.

Also, a FARM contiguous to the preceding, in the occupation of Mr. Thomas Norton, at a rent of 80*l.* per annum, containing altogether about 122 acres; and a Farm at Knightcote, in the parish of Burton Dassett, comprising about 227 acres of fine land, in the occupation of Messrs. Keyte, as yearly tenants, at a low rental of 250*l.* per annum.

These estates may be viewed, on application to the tenants, and printed particulars, with plans ready for delivery twenty days prior to the sale, on application to Messrs. Western and Son, solicitors, Great James-street, Bedford-row; also at the principal Inns at Leamington, Rugby, Banbury, and Southam; Dee's Hotel, Birmingham; at the Mart; and of Messrs. HOGGART and NORTON, 62, Old Broad-street, Royal Exchange.

Valuable Freehold and Tithe-free Estate, about three miles from the Danbury-park Property.—By Messrs. HOGGART and NORTON, at the Mart, on Friday, May 23, at Twelve.

THE LODGE FARM, in the parish of Woodham Walter, three miles from the Park of Danbury, and on the same line of road, within three miles of the capital market of Maldon, an easy distance from Chelmsford, in the county of Essex, comprising a very compact Farm of about three hundred acres of arable and pasture land, a portion in marsh, with an additional right of pasturage. The soil adapted for barley and wheat and in excellent cultivation, with farmhouse, barns, and out-buildings, on lease to Mr. John Snow for fourteen years, at 370*l.* per annum.

This estate may be purchased with the Danbury Park property, if required.

May be viewed on application to the tenant; and particulars had of Messrs. Poole and Gamlen, solicitors, 3, Gray's-inn-square, and of Mr. J. O. Parker, Woodham Mortimer; also at the Black Boy, Chelmsford; Cups, Colchester; White Hart, Brentwood; at the Mart; and of Messrs. HOGGART and NORTON, 62, Old Broad-street, Royal Exchange.

Family Residence, with Gardens, Offices, and 31 Acres of fine Meadow Land, near Weld Chapel, Southgate. By Messrs. HOGGART and NORTON, at the Mart, on Friday, May 30, at Twelve,

A LEASE for upwards of 40 years now unexpired, of an excellent Family Residence, placed upon a fine elevation, and commanding the beautiful scenery of the contiguous parks and woods, within three minutes' walk of Weld Chapel, and in front of Beevor Hall. The house contains every accommodation for a family, with superior offices, and the whole well supplied with water; excellent kitchen-garden, green-house, and graperv, lawns, shrubbery walks, productive orchard full of young trees, stabling and boxes for hunters, double coach-house, lofts, farmyard, barns, cattle-lodges, and outbuildings, all in the most neat and perfect order; and also two roomy brick-built cottages contiguous, with large gardens. The land attached is subdivided into five paddocks, in a high state of cultivation, and produces in moist seasons the most abundant crops of superior hay. The whole containing upwards of 31 acres; held at a moderate rent.

May be viewed by tickets, which, with particulars, may be had at the Mart; and of Messrs. HOGGART and NORTON, 62, Old Broad-street, Royal Exchange.

UPTON, near Stratford, Essex.

MESSRS. HOGGART and NORTON have received instructions from the Executors of the late Mrs. Wackerbath to offer for SALE, at the Mart, on Friday, May 30, at Twelve, a capital and substantially built FAMILY RESIDENCE, with pleasure-grounds, gardens, and meadow-land, containing together upwards of five acres and a half, most delightfully situate at Upton, near Stratford, a fine dry healthy spot, and in all respects adapted for the immediate reception of a respectable family. It contains 10 bed-chambers, dressing-rooms, water-closet, excellent entrance-hall, noble dining-room 27 feet long, breakfast-room or library, two drawing-rooms communicating by folding doors and opening into a conservatory, butler's pantry, housekeeper's room, capital servants' offices, binned wine, beer, and coal cellars; detached are stabling for five horses, coach-houses, cart-stable, barn, piggeries, and various outbuildings; the lawn and grounds are beautifully laid out, and lead to the ornamental paddocks; in the rear there is a very productive kitchen-garden, principally walled, and a thriving orchard; the whole containing between five and six acres.

Particulars may be had at the Mart; and of Messrs. HOGGART and NORTON, 62, Old Broad-street, Royal Exchange.

VALUABLE TITHES, Freehold and Copyhold ESTATES in Upholland, near Wigan, Lancashire.—To be SOLD by AUCTION, at the Royal Hotel in Wigan, in the county of Lancaster, on Thursday, the twenty-second day of May, 1845, at three o'clock in the afternoon, subject to such conditions as will be then produced, the CORN TITHES, extending over the greater portion of the township of Upholland, in the parish of Wigan, lately agreed to be commuted at a rent-charge of 84*l.* 11*s.* 1½*d.*

This rent-charge, being the first charge upon the land, is the best investment which can be obtained.

Also several Freehold and Copyhold Estates and Houses in Upholland, which will be offered in lots.

Upholland is situated on the road leading from Wigan to Ormskirk, distant from Wigan and the North Union Railway four miles, from Ormskirk eight miles, and from Liverpool sixteen miles.

Further information may be had on applying to Mr. James Morris, Hall-green; Mr. Richard T. Morris, surgeon; or Mr. William Rigby, Pimbo-lane, Upholland; or at the office of RALPH LEIGH, Attorney-at-Law, Wigan, from all of whom particulars and lithographic plans may be had fourteen days before the day of sale.

Very desirable property in the Vale of Clwyd.

TO be peremptorily SOLD by AUCTION by Mr. E. OWEN (by order of the trustees of the late Mr. John Williams), on Monday, the 2nd day of June, 1845, between four and six o'clock in the afternoon, at the Cross Foxes Inn, Ruthin, two very desirable FREEHOLD FARMS in the far-famed Vale of Clwyd, being six miles from Ruthin, the same distance from Corwen, and adjoining the turnpike road between those two market-towns. It is within a convenient distance of the North Wales mineral, and the Chester and Holyhead Railways, and containing about sixty acres of rich arable and pasture land.

The buildings are in good condition, and the well-known river Clwyd, so renowned for its angling facilities, runs through this admired property, which abounds with oak and other young timber in a most thriving state. It adjoins property belonging to Lord Vivian, Colonel Vaughan, W. P. Jones, esq. Mrs. Mostyn, and others, and is most eligibly adapted for the erection of a country villa, being on a small eminence close to the river.

Lithographic plans and all particulars may be had on application to Mr. Peers, solicitor, or Mr. E. OWEN, Auctioneer, Ruthin.

Ruthin, May 1, 1845.

Valuable Leasehold Ground Rents, amounting to 80*l.* per annum.

MR. FREDERICK CHINNOCK will SELL by AUCTION, by order of the Assignees of Jacob Connop, with the consent of the Mortgagees, at the Auction Mart, on Thursday, May 15, GROUND RENTS, amply and abundantly secured upon first-class houses, situated in Kensington Park, and amounting to 80*l.* per annum.

Particulars may be obtained of T. B. Hudson, esq. solicitor, 4, Old Jewry; of Messrs. Humphrys, Keightley, and Parkin, solicitors, 43, Chancery-lane; of J. Lucas, esq. solicitor, 8, Gray's-Inn-square; of H. Sturmy, esq. solicitor, 8, Wellington-street, London-bridge; of T. Mawe, esq. solicitor, 4, New Bridge-street, Blackfriars; at the Mart; and at Mr. F. CHINNOCK'S Auction and Estate Offices, 28, Regent-street, Waterloo-place.

KENSINGTON PARK ESTATE.—NOTTING-HILL.—Highly important and valuable Building Land, embracing nearly one-half of this most eligible and rapidly improving Property.

MR. FREDERICK CHINNOCK has been favoured with instructions from the Assignee of Jacob Connop, with the concurrence of the Mortgagees, to submit for SALE by AUCTION, at the Auction Mart, on Thursday, May 15, in lots, the above most desirable PROPERTY. It comprehends about 50 acres of land, presenting sites for the erection of upwards of 300 detached and other houses, upon which an immense outlay has been made in building sewers, forming squares, draining the land, laying out and ornamenting the grounds; it embraces that portion of the estate nearest to London, and is situated on a commanding eminence, from which views of the most pleasing and delightful kind are obtained of the surrounding country. The situation is beyond doubt one of the most healthy and desirable in the environs of London for building purposes, affording to the builder, capitalist, or speculator, a rare opportunity for the investment of money.

Plans and particulars of the estate may be obtained of T. B. Hudson, esq. solicitor, 4, Old Jewry; of Messrs. Humphrys, Keightley, and Parkin, solicitors, 43, Chancery-lane; of Joseph Lucas, esq. solicitor, 8, Gray's-inn-square; of H. Sturmy, esq. solicitor, 8, Wellington-street, London-bridge; of T. Mawe, esq. solicitor, 4, New Bridge-street, Blackfriars; of E. M. Elderton, esq. solicitor, 3, Lothbury; at the Mart; and at Mr. FREDERICK CHINNOCK'S Auction and Estate Offices, 28, Regent-street, Waterloo-place.

KENSINGTON PARK, NOTTING-HILL.—THREE FIRST-CLASS DETACHED VILLAS, with large Gardens, and back Entrance for Coach-house and Stables, designed with the greatest taste, and most substantially built.

MR. FREDERICK CHINNOCK has been instructed to SELL by AUCTION, at the Mart, on Thursday, May 15, the above desirable RESIDENCES, each presenting different styles of architecture of the Swiss, Italian, and Gothic, in the highest style of art, not only with regard to the elevation, but to the interior arrangements, decoration, and finish, inclosed by ornamental brick walls, in the centre of grounds tastefully laid out with trees, shrubs, and plants. They are most delightfully situated, commanding extensive views of the surrounding country, and every way adapted for the occupation of families of the highest respectability. Held for long terms at exceedingly low ground-rents.

Descriptive particulars are now ready, and may be obtained of Joseph Lucas, esq. solicitor, 8, Gray's-inn-square; of Frederick Harrison, esq. solicitor, 44, Bloomsbury-square; at the Mart; and at Mr. FREDERICK CHINNOCK'S Auction and Estate Offices, 28, Regent-street, Waterloo-place.

In the West Riding of Yorkshire. — Important Freehold Estates, Mansions, Farms, Woods, and Lands, in the parishes of Rotherham and Whiston, extending to nearly Eight Hundred Acres.

MESSRS. BARDWELL and SONS are instructed to SELL by AUCTION, at their Rooms in Sheffield, on Tuesday, the 3rd day of June, 1845, at Two o'clock in the afternoon, in forty-eight lots, and subject to conditions of sale, the following highly valuable FREEHOLD ESTATES, the property of Henry John Hirst, esq. In the parish of Rotherham—The Clough Hall Estate, comprising the mansion of Clough-hall, now occupied by G. Wilson Chambers, esq., with shrubberies, extensive pleasure grounds, gardens, stables, coach-houses, and farm-buildings, one hundred and thirty-six acres of land, in convenient inclosures; a recently erected homestead; and numerous lots of building and occupation lands at Masbro and Bradgate; a farm-house, very extensive out-buildings, and various closes of land, containing sixty-seven acres, at Kimberworth; a comfortable farm residence and convenient premises; a capital dwelling-house, with garden and out-offices; several cottages, and one hundred and thirty-five acres of lands and woods at Catcliffe; the ancient mansion of Howarth-hall, and the comfortable farm-house and buildings of Howarth-lodge, with the lands appurtenant thereto, containing about two hundred acres. In the parishes of Rotherham and Whiston—The Gilthwaite-hall Estate, consisting of Gilthwaite-hall, with substantial outbuildings, and one hundred and twenty acres of land, conveniently divided. In the parish of Whiston—The Gilfit Farm, comprising a commodious farm-house and outbuildings, and various closes of land, containing in the whole ninety-six acres, or thereabouts; two farm-houses, outbuildings, and premises, coppice and lands, at Upper Whiston, containing fifty-two acres. The present rentals, which are capable of revision and considerable improvement, approach one thousand seven hundred pounds per annum. The lands are capital grazing, turnip, and corn soils, and the situation of the several properties is highly eligible, being contiguous to the excellent markets of Rotherham, Doncaster, and Sheffield, bounded by good turnpike-roads, and adjoining and near to important railways and canals. Capitalists and trustees for minors will find these estates to be solid and improving investments.

Printed particulars, describing the lots, and lithographed plans, will be ready for delivery fourteen days previous to the sale, and may be had, and other information obtained, on application to Messrs. Dufaur and Blakeney, solicitors, No. 25, Lincoln's-inn-fields, London; to Mr. Russell, solicitor, Rotherham; or to Messrs. BARDWELL and SONS, auctioneers, Sheffield.

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THE LAW TIMES,

AND JOURNAL OF PROPERTY,

The Legislator, the Magistrate, and the Lawyer.

VOL. V. No. 111.] SATURDAY, MAY 17, 1845.

SUBSCRIPTION.
For One Year, paid in advance.. £2 0 0
For Half Year, paid in advance 1 1 0
Single Numbers, or on credit .. 0 1 0

TONG CASTLE, Shropshire, adjoining the Turnpike-road leading from Wolverhampton to Newport.

MESSRS. DRIVER are instructed to LET the above magnificent CASTLE for a term of Five Years, either Furnished or Unfurnished, with the valuable right of shooting and fishing over the estate, comprising about 8,000 acres, including 80 acres of lakes and meres well stocked with fish; and the tenant may be accommodated with some of the park and arable lands if he pleases.

TONG CASTLE constitutes a very superior Residence, well adapted for any large family of the first distinction. It is well furnished, and embellished with a great number of choice and valuable pictures, besides numerous rich bronze and china articles of ornamental furniture. It presents an elegant front, in length about 180 ft. and in depth 68 ft.; built with stone, of superb Gothic architecture, with a grand staircase, and on the principal floor is a small dining room, 17 ft. by 16 ft. 6 in.; winter drawing room, 32 ft. by 17 ft.; principal dining-room, 33 ft. 10 in. by 21 ft.; state bed-room, 21 ft. by 22 ft.; principal drawing-room, 26 ft. 6 in. by 23 ft. 9 in.; exclusive of the bow, which is 19 ft. wide, and projects 7 ft. 6 in.; breakfast-parlour, ft. 10 in. by 20 ft. The whole of the rooms on this floor are ft. in height; and a saloon, 41 ft. 9 in. by 26 ft. 9 in. exclusive of the bow, 21 ft. wide. On the principal story is a library, the green or gold room, and numerous large, airy, capital bed rooms, dressing-rooms, long gallery, and various other apartments, besides a large number of chambers on the upper [illegible] [illegible] domestic and other offices; and wine and [illegible] [illegible] the basement; several coach-houses, and stables [illegible], a walled garden of 4 acres besides [illegible], [illegible] trees in full bearing, pleasure-ground, and shrubberies [illegible] delightfully situate in a park, and [illegible] of the parish church of Tong, a noble, venerable [illegible] a most beautiful object and an admired piece [illegible] antiquity and some very rich ancient monuments.

Tong is distant 3 miles from Shiffnal, and [illegible] from Wolverhampton, where there is a station on the London and Liverpool Railway, thereby affording [illegible] [illegible] facility for transit to the metropolis or any other [illegible] of the kingdom.

The Castle to be viewed with tickets only, which, with further particulars, may be had on application to Messrs. DRIVER, Surveyors and Land Agents, 8, Richmond Parliament-street, London; and Mr. Hempenstall, at Tong, will shew the property.

Furnished Ma[illegible] House, Garden [illegible] Land, to be Let for three years.

MESSRS. DRIVER are instructed to LET for three years a very capital well-[illegible] [illegible] MANSION HOUSE, within thirty miles of London, and less than two miles from a railroad station, [illegible] suited for a sportsman, being within easy reach of a pack of fox-hounds as well as a pack of stag-hounds, and well adapted for any family of respectability; containing two halls, an ante-room connecting the library and drawing room, a good dining-room, and water-closet; and on the principal floor is a ladies' boudoir, or morning room, five best bed rooms, three dressing-rooms, and a water-closet, and on the [illegible] there are five excellent bed-rooms for bachelors or single [illegible] excellent kitchen [illegible] dairy, larder, cellar, and all requisite domestic offices, capital walled kitchen-garden, a forcing-house and a greenhouse, stabling for six horses, and loose boxes, with three coach-

To be viewed with tickets only, which, with further particulars, may be had on application to Messrs. DRIVER, Surveyor and Land Agents, 8, Richmond-terrace, Parliament-street.

Herts.—Important Freehold Property, comprising an excellent Mansion House, called Albury Hall, the residence of the late John Calvert, esq. with extensive Park, also the Manors of Albury Hall, Patmore Hall, and Furneux Pelham, and sundry Farms, containing in the whole nearly One Thousand Six Hundred and Fifty Acres, most eligibly situate in the most preferable part of the County, and only about five miles from Bishop Stortford.

MESSRS. DRIVER are favoured with instructions from the Trustees of the late John Calvert, esq. to offer to PUBLIC COMPETITION, at the Auction Mart, on Tuesday, May 27, at twelve, in one or more lots, the above important and valuable FREEHOLD PROPERTY; comprising the Manors of Albury Hall, Patmore Hall, and Furneux Pelham, together with an excellent Mansion House, called Albury Hall, extensive Park, and [illegible] desirable Farms, with capital homesteads, in the several occupations of Mr. Thomas P. Clark, Mr John Feast, Mr. Geo. Scales, Mr. W. Clark, and others, most eligibly situate in the parishes of Furneux Pelham, Albury, and Brent Pelham, only about five miles from the capital market town of Bishop Stortford, where there is a principal Station on the Northern and Eastern Railway, the whole Estate containing nearly One Thousand Six Hundred and Fifty Acres, producing about 2,000l. per annum, including the Mansion House, Park, and Lands in hand, all [illegible] admirably adapted either for occupation or investment.

The above fine Property will be offered in the first instance in one lot; but in the event of no acceptable bidding being made, it will be immediately thereafter submitted to the assembled company in three lots, viz.:—Lot One, comprising the Mansion House, Park, and other lands [illegible], with High Farm, Hole Farm, and sundry Lands [illegible] lying in the whole Eight Hundred and Thirty one [illegible] ther with the Manor of Albury Hall.

Lot Two, comprising Patmore Hall Farm, and sundry Woods and other Lands, and Cottages, containing in the whole above Five Hundred and Sixty-five Acres, together with the Manor Hall, and

Lot Three will comprise St. John's Farm in the parishes of Furneux Pelham and Brent Pelham, containing above Two Hundred and Fifty-one Acres, together with the Manor of Furneux Pelham.

To be viewed on application to Mr. George Scales, at High Farm, and printed specifications with plans [illegible] may be had at the George Inn, Bishop Stortford; [illegible] Head, Ware, the Bull, Hertford; of Messrs. Westen and Sons, Solicitors, 7, Great James-street, Bedford-row, at the Auction Mart, Bartholomew-lane; and of Messrs. DRIVER, Surveyors and Land Agents, 8, Richmond-terrace, Parliament-street, London.

Freehold Copper Rolling Mills, Hammer Mills, Furnaces, Refinery, Foundry, and Factory, with very valuable Water Power, with a fall of about 5 feet 8 inches, on the River Wandle, in Garrett-lane, Wandsworth, Surrey, fully equal to between 70 and 80-horse power, all well inclosed, with a Manager's Dwelling House, good Garden, numerous Workmen's Cottages with Gardens, and several valuable parcels of Meadow Land, containing altogether nearly twenty acres, most eligibly situate within one mile and a half of Wandsworth, in the county of Surrey, and about seven miles from London.

MESSRS. DRIVER have received instructions to offer to PUBLIC COMPETITION, at the Mart, on Tuesday, May 27, at twelve,

The above most valuable and desirable FREEHOLD PREMISES, exonerated from Land-tax, which are now, and have for nearly a century and a half, been worked by the Governor and Company of Copper Miners in England.

The Premises comprise a convenient small dwelling-house for a manager, with a most excellent garden; a building, about 98 feet by 70 feet, called the Rolling Mill, and a very capital iron water wheel, 18 feet diameter by 14 in width; a hammer mill, about 70 feet long, with two other water wheels, one 15 feet and the other 12 feet diameter; a new building called the Refinery and Foundry, about 85 feet by 42 feet, with three furnaces; stabling, sundry workshop and a counting-h[illegible] artesian well, 105 feet deep, with 5-inch copper pipes; 12 workmen's cottages and sundry Parcels of most desirable and valuable Meadow Land, containing altogether about twenty acres.

To be viewed on application [illegible] Mr Bashford, residing on the premises, of whom printed specifications with plans annexed may be had. Specifications and plans m[illegible] had at the Spread Eagle, Wandsworth; at the Offices of the Company, Old Broad-street; of Messrs. Roy, Blunt, and Co. Solicitors, Lothbury; at the Auction Mart, near the Bank; and of Messrs. DRIVER, surveyors and land agents 8, Richmond Terrace, Parliament-street, London.

⁎ The Purchaser may or may not (as he pleases) take the Machinery at a Valuation; and in the event of his not taking it, the Vendors reserve to themselves the power of selling the same by Auction or otherwise, on the premises, as per inventory thereof to be produced on the day of sale.

[illegible] reehold, Copyhold, and Leasehold Estates, giving Votes for West Kent and Middlesex, in lots, eligible as small investments or for occupation, the whole producing a rental 33l. p[illegible]

MR. MOORE will SELL by AUCTION, at the Mart, on Monday, June 9, at Twelve, a Freehold semi-detached COTTAGE, delightfully situate Windmill-hill, Gravesend, Kent, containing every convenience for a small family, at present let at the inadequate rent of 28l. per annum. Three plots of Freehold Ground nearly adjoining, adapted for building purposes. A detached twelve-roomed COTTAGE RESIDENCE, with an acre of garden and paddock, at Broad-green, Croydon, Surrey, let on lease at 50l.; and an eight-roomed house, three doors from the same, both held for 70 years, at low rents. Five six-roomed HOUSES, with gardens, newly built, and fit for immediate occupation, respectably situated on the Mercers' Estate at Stepney, term 60 years; ground-rent, 1l.; annual value each 25l. Seven HOUSES in Oxford-street, Mile-end of a similar description. Two HOUSES, Union-place, Stepney-green, and one, Friendly-place, Mile-end; term 60 years; ground-rent, 25s. A small Freehold HOUSE at Poplar. Three plots of Copyhold Ground and a Carcass, near the Ben Jonson Stepney; and a Leasehold Shop, Birdcage-walk, Hackney road; term, 60 years; ground-rent, 2l.; let at 18l.—Particulars at the inns at Gravesend and Croydon, Auction Mart and Mercers'-hall, London; J. Ellerthorp, esq. Colet-place Commercial-road East; Mr Burford, Temple; Mr. Davies 1, Devonshire-square, Bishopsgate; Mr. Gellatly, Lime house; and at the Auctioneer's offices, Mile-end road.

In the West Riding of Yorkshire.—Important Freehold Estates, Mansions, Farms, Woods, and Lands, in the parishes of Rotherham and Whiston, extending to nearly Eight Hundred Acres.

MESSRS. BARDWELL and SONS are instructed to SELL by AUCTION, at their Room in Sheffield, on Tuesday, the 3rd day of June, 1845, at Two o'clock in the afternoon, in forty-eight lots, and subject to conditions of sale, the following highly valuable FREEHOLD ESTATES, the property of Henry John Hirst, esq. In the parish of Rotherham—The Clough Hall Estate, comprising the mansion of Clough-hall, now occupied by G. Wilton Chambers, esq., with shrubberies, extensive pleasure grounds, gardens, stables, coach-houses, and farm-buildings [illegible] hundred and thirty-six acres of land, in convenient inclosures; a recently erected homestead; and numerous [illegible] of building and occupation lands at Masbro and Bradgate; a farm-house, very extensive out-buildings, and various closes of land, containing sixty-seven acres, at Kimberworth; a comfortable farm residence and convenient premises; a capital dwelling-house, with garden and out-offices; several cottages, and one hundred and thirty-five acres of lands and woods at Catcliffe; the ancient mansion of Howarth-hall, and the comfortable farm-house and buildings of Howarth-lodge, with the lands appurtenant thereto, containing about two hundred acres. In the parishes of Rotherham and Whiston—The Gilthwaite-hall Estate, consisting of Gilthwaite-hall, with substantial outbuildings, and one hundred and twenty acres of land, conveniently divided. In the parish of Whiston—The Gilfit Farm, comprising a commodious farm-house and outbuildings, and various closes of land, containing in the whole ninety-six acres, or thereabouts; two farm-houses, outbuildings, and premises, coppice and lands, at Upper Whiston, containing fifty-two acres. The present rentals, which are capable of revision and considerable improvement, approach one thousand seven hundred pounds per annum. The lands are capital grazing, turnip, and corn soils, and the situation of the several properties is highly eligible, being contiguous to the excellent markets of Rotherham, Doncaster, and Sheffield, bounded by good turnpike-roads, and adjoining and near to important railways and canals. Capitalists and trustees for minors will find these estates to be solid and improving investments.

Printed particulars, describing the lots, and lithographed plans, will be ready for delivery fourteen days previous to the sale, and may be had, and other information obtained, on application to Messrs. Dufaur and Blakeney, solicitors, No. 25, Lincoln's-inn-fields, London; to Mr. Russell, solicitor, Rotherham; or to Messrs. BARDWELL and SONS, auctioneers, Sheffield.

Kent, near Dover.—Valuable Freehold Investment.

MESSRS. BROOKS and GREEN have received instructions from the Proprietor to SELL by AUCTION, at Garraway's, in June next, a first-rate and perfect FARM of 200 acres, with superior house, buildings, and every agricultural convenience. It is desirably situate, exempt from land-tax, and held by a responsible tenant at 200l. per annum, under lease, of which 12 years have to run. —Full particulars may be had of Messrs. BROOKS and GREEN, estate agents, surveyors, and auctioneers, 28, Old Bond-street.

Buckinghamshire and Middlesex.—Denham-place Estates, and Manor Farm, Greenford.

MESSRS. BROOKS and GREEN will SELL by AUCTION, by order of the Proprietor, at their Estate Auction Gallery, 28, Old Bond-street, on Thursday, June 5, 1845, at One, a most Important FREEHOLD DOMAIN, land-tax redeemed, and partly tithe-free, known as the DENHAM-PLACE ESTATE, being one of the most desirable for residence and investment in Buckinghamshire. (The possessor of this estate may with confidence look forward to become one of the county members.) It consists of the noble Mansion, called Denham-place, replete with accommodation for a Family of Distinction, with extensive Lawns, Pleasure Grounds, Wilderness, and Ornamental Water of great beauty; and surrounded by park-like grounds of 28 acres. The property consists of nine most excellent Farms, extensive Beech and Oak Woods, various accommodation Meadows near to, and Wharfs, Public-houses, and premises in Uxbridge town and Denham village; fifty-seven Cottages, Garden Ground, Water-cress Beds, and comprising in the whole between 3,000 and 4,000 acres, of which about 400 acres are remarkably thriving Woods, unequalled for fineness of growth; and the remainder rich arable, dairy, and grazing lands, with capital Farm-houses and Homesteads in most excellent repair, and let to highly respectable tenantry. The Estate possesses an inexhaustible store of the finest brick earth, immediately adjacent to water carriage; has a valuable frontage on the high-road from Uxbridge to Oxford, of upwards of three miles. The MANOR of DENHAM, abounding with game, together with its Royalties, Quit Rents, and all other Rights thereunto belonging. The trout river Colne partly bounds, and the trout river Misbourne runs upwards of three miles through the Estate. Also, the valuable MANOR FARM, GREENFORD, in the county of Middlesex. The whole producing upwards of 6,000l. per annum (including the Mansion and Lands held therewith, and the Woods and Plantations in hand).

Printed particulars and maps of the Estate may shortly be obtained at the Red Lion, Wycombe; Red Lion, Slough; White Hart, Windsor; White Hart, Uxbridge; Saracen's Head, Beaconsfield; Midland Counties Herald Office, Birmingham; the George, Aylesbury; of Mr. Walford, Solicitor, Uxbridge; Messrs. Springall, Thompson and Powell, [illegible]itors, Raymond's-buildings, Gray's-inn, and of Messrs. BROOKS and GREEN, Estate Agents, Surveyors, and Auctioneers, 28, Old Bond-street.

Branches Park Estate, Suffolk.

MESSRS. BROOKS and GREEN have received instructions from the executors of the late Henry Usborne, esq. to SELL by AUCTION, at their Estate Auction Gallery, 28, Old Bond-street, on Thursday, the 5th of June, at One, the highly important and valuable FREEHOLD PROPERTY, principally situate in the preferable part of the county of Suffolk, eight miles from Newmarket, fourteen from Bury, and sixty-five from London, comprising the splendid Mansion called BRANCHES, seated in an extensive and finely timbered Park; together with Thirteen FARMS, containing in the whole about 1,591 acres of remarkably productive arable, meadow, pasture, and wood lands, with excellent Farm Houses, and Homesteads. Let upon agreements for leases to a most respectable and contented tenantry, at moderate rents. The MANOR of COWLINGE, with quit rents, royalties, and all other rights thereunto belonging, containing about 3,000 acres, abounding with game; the whole producing a rent of nearly 2,280l. per annum.

Printed particulars and plans will shortly be ready, and may then be had at the Angel Inn, Bury St. Edmunds; Black Lion, Long Melford; Rose and Crown, Sudbury; Suffolk Hotel, Ipswich; of Mr. Oliver, Solicitor, 16, NewBridge-street, Blackfriars; and of Messrs. BROOKS and GREEN, Estate Agents, Surveyors, and Auctioneers, 28, Old Bond-street, at whose gallery a cosmoramic view of the mansion may be seen.

Important Investment.—Near Stowmarket, Suffolk.—Valuable Rent Charges in lieu of Tithes.

MESSRS. BROOKS and GREEN have received instructions to SELL by AUCTION, at their Estate Auction Gallery, 28, Old Bond-street, on Thursday, June 5, 1845, at 2 o'clock, the PERPETUAL RENT CHARGE, in lieu of the rectorial, or great tithe, commuted at 414l. per annum, arising from the parishes and hamlets of Old Newton and Dragworth (except two farms), containing nearly 1,900 acres of excellent land, of which about 1,100 acres are arable, in the occupation of twenty-five respectable tenants.

Printed particulars may be obtained at the King's Head, Stowmarket; the Angel, Bury St. Edmund's; Suffolk Hotel, Ipswich; J. S. Weekens, esq. solicitor, Chandos-street, Cavendish-square; and of Messrs. BROOKS and GREEN, estate agents and auctioneers, 28, Old Bond-street.

DEEDS FOR EXECUTION ABROAD.—Messrs. J. and R. M'CRACKEN, Foreign Agents, No. 7, Old Jewry, beg to inform the Legal Profession, that they undertake to forward Deeds for Execution by Parties abroad, through their correspondents on the Continent, for the costs of transmission, and a simple Commission.

List of Correspondents, and for further information, apply above.

Messrs. J. and R. M'CRACKEN are also Agents to the ROYAL ACADEMY, and devote their attention to the receipt of Works of Art, Baggage, &c. sent home by travellers on the Continent for passing through the Custom-House. They also undertake to ship goods to all parts of the world.

Norland-square, Notting-hill.—Two conve nt Family Houses, held direct from the freeholder for years, producing a net rental of 165*l*. per annum.

MR. FREDERICK CHINNOCK will SELL by AUCTION, at the Mart, on Wednesday, May 21, at Twelve, TWO well-built FAMILY HOUSES, situate and being Nos. 46 and 48, Norland-square, acknowledged to be the most healthy and pleasant outlet in the environs of London, with ornamental public grounds in the front, in which is a fountain of water. The premises are severally finished in uniformity with the square, which is generally admired as being chaste and appropriate. They are let to tenants of the highest respectability, at rents amounting to 135*l*. per annum, and are held for a term of 96 years, at ground-rents. The premises may be viewed previously to the sale by permission of the tenants, between twelve and four; and particulars may be had of W. F. Dolman, esq. solicitor, 27, Carey-street, Lincoln's-inn; at the Mart; and at Mr. FREDERICK CHINNOCK'S Auction and Estate Offices, 28, Regent-street, Waterloo-place.

Capital Freehold Public-house, St. James's-place, Aldgate.

MR. FREDERICK CHINNOCK is instructed to SELL by AUCTION, at the Mart, on Wednesday, May 21, at twelve, a capital modern brick-built FREEHOLD PUBLIC-HOUSE, situate in the centre of St. James's-place, Aldgate, in the city of London, well known by the sign of the Fishmongers' Arms, admirably arranged for carrying on an extensive business, which is now being conducted in a most spirited and enterprising manner by Mr. Solomons. The premises are let on lease to Messrs. Courage and Donaldson, which will expire at Christmas, 1848, at the exceedingly low rent of 63*l*. per annum, when the valuable reversion will fall in, the estimated value of the same being about 130*l*. per annum. The house may be viewed any day prior to the sale, and particulars had of Messrs. Gregory, Faulkner, and Co. solicitors, Bedford-row; at the Auction Mart; and at Mr. FREDERICK CHINNOCK'S Estate Office, 28, Regent-street, Waterloo-place.

Pelham-crescent, Brompton.—Excellent Family Residence, held at a ground-rent of only 6*l*. for a long term.

MR. FREDERICK CHINNOCK will SELL by AUCTION, at the Mart, on Wednesday, May 21, at Twelve, a modern well-built RESIDENCE, situate and being No. 12, Pelham-crescent, having a southern aspect towards the ornamental gardens in the centre, finished in uniformity with the surrounding houses, and possessing accommodation for the reception of a family of the first respectability. It is in the occupation of Lady Jephson, at an annual rent of 80*l*. and is held for a term of 77 years from Lady-day 1836, at a ground-rent of 6*l*. per annum. The premises may be viewed by permission of the tenant, between one and five o'clock, and particulars had of Samuel Haines, esq. solicitor, 21, Montagu-street, Russell-square; and at Mr. FREDERICK CHINNOCK'S Auction and Estate Offices, 28, Regent-street, Waterloo-place.

THE HANWORTH HALL ESTATE, NORFOLK.

MR. BUTCHER respectfully announces to the public, that on Saturday, the 14th of June next, he will have the honour to offer for SALE by AUCTION, at the Royal Hotel, Norwich, the HANWORTH HALL ESTATE, abutting on the turnpike from Aylsham to Cromer, containing a capital mansion, delightfully situated on a rising ground in the centre of a beautifully timbered park, several farm-houses, cottages, and 1,465 acres of exceedingly good arable, pasture, and plantation land, lying very convenient for occupation, in the several parishes of Hanworth, Roughton, Alby, Thurgarton, Sustead, Bassingham, and Gresham, and nearly surrounded by the domains of Felbrigg and Gunton. Hanworth is situate in the most beautiful part of the county of Norfolk, 18 miles from Norwich, six miles from Aylsham, and five miles from the renowned and fashionable bathing-place of Cromer. It is in the immediate vicinity of the Right Hon. Lord Suffield's estate at Gunton, and of W. H. Windham's, esq. at Felbrigg. The seats of the Dowager Lady Suffield, at Blickling; the Earl of Orford, at Wolterton; and that of Lord Hastings, at Melton Constable, are also within a short distance. The estate will be peremptorily sold in 18 lots, unless an acceptable offer should be made for the same in one lot.

Particulars, with plans, are preparing, and in due time may be had of Messrs. Repton and Scott, solicitors, Aylsham; Messrs. R. M. and C. Baxter, solicitors, 48, Lincoln's-inn-fields, London; the inns at Aylsham, Holt, Cromer, and North Walsham; at the Royal Hotel, and Mr. BUTCHER'S offices, Theatre-street, Norwich. The mansion, offices, and gardens may be viewed, by ticket only, to be had of Messrs. Repton and Scott, and of Mr. BUTCHER. The tenants will shew their several holdings.

Periodical Sales (established in the year 1803) of Reversions, Life Interests, Annuities, Policies of Assurance, Advowsons, Next Presentations, Rent Charges in lieu of Tithes, Post-obit Bonds, Tontines, Debentures, Ground Rents, Improved Rents, Shares in Docks, Canals, Mines, Railways, Insurance Companies, and all Public Undertakings.

MESSRS. SHUTTLEWORTH and SONS respectfully inform the public, that upwards of 40 years' experience having proved the classification of this species of property to be extremely advantageous and economical to vendors, and equally satisfactory and convenient to purchasers, the PERIODICAL SALES of reversionary interests, policies of insurance, tontines, debentures, advowsons, next presentations, all securities dependent upon human life, shares in docks, canals, mines, railways, and all public undertakings, will be continued through 1845, as follow:—

Friday, May 2.	Friday, Sept. 5.
„ June 6.	„ Oct. 3.
„ July 4.	„ Nov. 7.
Aug. 1.	Dec. 5.

Particulars may be had Ten days previous to each sale, at the Royal Hotel, Manchester; the Adelphi Hotel, Liverpool; Dee's Royal Hotel, Birmingham; the Angel, Oxford; the Eagle and Child, Cambridge; at the Mart; and of Messrs. SHUTTLEWORTH and SONS, 29, Poultry.

CLERMONT LODGE ESTATE, Norfolk.—To be SOLD, by Private Contract, an important FREEHOLD ESTATE, called Clermont Lodge, including the manor of Little Cressingham, and 2,437 acres of land. This estate is two miles distant from the market-town of Watton, and about five from Swaffham. The Northern and Eastern Railway (when completed to Norwich) will run a few miles to the south of the estate, and present a ready and easy access to the metropolis. The nucleus of this noble estate was formed by William Henry, Earl of Clermont, and it has been since enriched by large additions by his nephew and heir Wm. Charles Viscount Clermont and the subsequent owners. It now incloses, in a ring fence, 2,437 acres, comprising nearly the whole of the parish of Little Cressingham, with much excellent land in the adjoining parishes of Threxton and Saham Toney. The land is parcelled into farms, and let to substantial tenants, and produces a net rental of 1,915*l*. 13s. making with the estimated yearly rental of the house, and the shooting during the season, an annual value of 2,100*l*. The estate is the most compact and perfect sporting domain in the kingdom. The game preserves are unrivalled. The mansion of Clermont Lodge is spacious and convenient, and adapted to the accommodation of a family of rank. The home grounds and gardens are laid out with much taste, comprising a variety of delightful strolls and promenades. Fine belts of plantation intersect the estate in every direction. To the north-east of the mansion is a fine oak wood, unrivalled in the quality of its timber; to the south is a valuable warren. The estate has 38½ common rights for cattle on the commons of Little Cressingham. On the Low-common is the mill, one of the finest and most complete in the county, and which is worked both by wind and water. For further particulars apply to Samuel Beazely, esq. architect, Soho-square; Wm. Murray, esq. solicitor, London-street, London; or E. R. Grigson, esq. solicitor, Watton, Norfolk. The mansion may be viewed on application to George Buckenham, the gamekeeper.

South Shields, in the county Palatine of Durham.—Extremely valuable and very extensive Freehold Premises, with an important frontage and quay on the river Tyne, and adjoining the terminus of the Darlington Junction Railway.

MR. LEIFCHILD has received positive instructions from Messrs. Shortridge, Sawyer, and Co to SELL by public AUCTION, on Wednesday, th 21st da of May, at the Turk's Head Hotel, Newcastle-upon-Tyne at two for tl precisely, in one or more lots, an important and extensive FREEHOLD PROPERTY of established character and reputation, admirably situate in the most p ferable part of South Shields, adjoining the river terminus of the Darlington Junction Railway, consisting of all those established flint-glass works now in full operation, iron-foundry, whiting and paint manufactory, &c. comprehending the substantial well-built glasshouse and works, with warehouses four stories high, counting-houses and offices, spacious glass-cutting shop, engine-house, gasometer, and retort-house, with extensive warehouses, cooper's shop, staining kiln, furnace, and all necessary appurtenances, dwelling-house for superintendent, a large iron foundry, with workshops and yards. The buildings appropriated to the manu facture of whiting, paint, and colour, &c. include a large whiting-house, and two whiting kilns, with crane on quay, and suitable warehouse. There are four convenient and desirable dwelling-houses, with well-established shops and domestic offices, a valuable free public-house with brew-house, stabling, and yard, and several small dwelling-houses. The above important property offers peculiar advantages to capitalists and manufacturers, there being ample room for the erection of additional glass-works; or the premises are admirably adapted for the shipment of coals, for the iron business, or for any other purpose where extent, cheap fuel, and easy conveyance may be requisite. The quay on the river Tyne is 211 feet in length, at which vessels can load and deliver afloat at low water, and on which staith might be erected for the shipment of coals, there being easy access to it from the Darlington Junction Railway. Early possession may be had of the whole property with the exception of the foundry, which is let on lease. Should the property be sold altogether, 10,000*l*. of the purchase-money may remain on mortgage; or, it disposed of in lots, such portion may rest as may be agreed on. May be viewed at any time previous to the sale. Full descriptive particulars, with ground-plans of the property, may be had on application at the flint-glass works; of Messrs. Crosby and Compton, Solicitors, 3, Church-court, Old Jewry, London; and at Mr. LEIFCHILD'S Offices, 62, Moorgate-street, London, who is fully authorized to treat for the whole or portions of the property by private contract. In consequence of the abolition of the glass duties, the present affords a most favourable opportunity for extending the works; and as the premises are, in every respect, well adapted for carrying on any or all the branches of the glass trade, on a very extended scale, they are worth the notice of parties (or a company) desirous of engaging in the business. The flint-glass trade having been carried on on the premises for nearly half a century, there is a valuable home and foreign connection, and the proprietors will give every information to purchasers.

FENDERS, STOVES, and FIRE-IRONS.—The largest Assortment of STOVES and FENDERS, as well as GENERAL IRONMONGERY in the World, is now on Sale at RIPPON and BURTON'S extensive Warehouses, 39, Oxford-street, corner of Newman-street (just removed from Wells-street). Bright steel fenders, to 4 feet, from 30s. each; ditto ditto, with ormolu ornaments, from 60s.; rich bronzed scroll ditto, with steel bar, 10s. 6d.; iron fenders, 3 feet, 4s. 6d.; 4 feet, 6s.; ditto bronzed, and fitted with standards, 3 feet, 9s.; 4 feet, 11s.; wrought iron kitchen fenders, 3 feet, 4s. 6d.; 4 feet, 6s.; bright register stoves, with bronzed ornaments and two sets of bars, from 5 guineas; ditto ditto, with ormolu ornaments, from 9*l*. 10s.; black dining-room register stoves, 2 feet, 20s.; 3 feet, 30s.; bed-room register stoves, 2 feet, 16s.; 3 feet, 24s. The new economical Thermio stove, with fender and radiating hearthplate, from 8*l*. 5s.; fire-irons for chambers, 1s. 9d. per set; handsome ditto, with cut heads, 6s. 6d.; newest pattern, with elegant bronzed heads, 11s. A variety of fire-irons, with ormolu and richly-cut heads, at proportionate prices. Any article in furnishing ironmongery 30 per cent. under any other house, while the extent and variety of the stock is without any equal. The money returned for every article not approved of.—Detailed catalogues, with engravings, sent (per post) free. Established (in Wells-street) 1820.

Periodical Sale of Reversions, Life Interests, Annuities, Life Policies, Advowsons, Next Presentations, and all descriptions of Securities dependent upon human Life, Shares in Railways, Mines, and all other undertakings.

MESSRS. FULLER and MARSH respectfully inform the public, that by their system of periodical sales by Auction they are enabled to offer to persons expectant or otherwise interested in the above description of property the most prompt, economical, and satisfactory mode of disposing thereof, as by classifying these descriptions of interests and properties in the same particular and for the same day, much expense is avoided, and a far greater competition is secured. Their periodical sales of reversions, life interests, annuities, life policies, advowsons, next presentations, and all descriptions of securities dependent upon human life, shares in railways, mines, and all other undertakings, will be continued throughout the present year as follows:—

Thursday, June 5	Thursday, September 4
Thursday, July 3	Thursday, October 2
Thursday, August 7	Thursday, November 6

Thursday, December 4.

Notice of Sales intended to be effected by the above means should be forwarded to Messrs. Fuller and Marsh a fortnight prior to each date, in order that they may have the full benefit of publicity. Messrs. Fuller and Marsh beg to call the attention of the public to the economy and expedition of this system of business, as they are thereby enabled to include each property for the sum of two guineas and a half, including all expenses, should a sale not be effected. Particulars of the next periodical sale may be obtained ten days previous to the sale, at the Star Hotel, Oxford; University Arms, Cambridge; Hen and Chickens, Birmingham; Plough, Cheltenham; Bush, Bristol; New London Hotel, Exeter; Pierce's Hotel, Truro; Adelphi, Liverpool; Royal Hotel, Manchester; Cuff's Midland Hotel, Derby; Black Swan, York; Tontine Hotel, Sheffield; Royal Hotel, Leeds; Tontine Hotel, Glasgow; M'Gregor's Hotel, Princes-street, Edinburgh; Gresham's Hotel, Dublin; and at the Offices of Messrs. FULLER and MARSH, 2, Charlotte-row, Mansion-house, London.

NEW BOOKS for SALE.—The following New Books may be had at the prices affixed, on application to the Publisher of the LAW TIMES, at the Office. They are quite clean and perfect, and the price of each is 30 per cent. below the published price. A Post-office order should be sent for any wanted.

	s.	d.
Ellis, Mrs., Look to the End, 2 vols. ..	9	0
———— Young Ladies' Reader ..	3	0
Hildyard's Whitehall Sermons	5	0
Elective Polarity	2	6
Zoe, by Miss Jewsbury, 3 vols.	10	6
Gambler's Wife, by Mrs. Gray, 3 vols. ..	9	0
Manzoni's Betrothed Lovers, 3 vols. ..	15	0
Collier's Lectures on Ecclesiastical History	6	0
Fourrier's Model Book	3	0
Claims of Labour (2nd edition)	4	0
Waldegrave, 2 vols.	4	0
Cock and Anchor, a Novel, 3 vols. ..	12	0
Edwards's Elementary Education ..	2	6
Tales of the Colonies, new edit. 1 vol. ..	3	6
Ainsworth's Old Saint Paul's, 3 vols. ..	9	0
Rodenhurst, 3 vols.	9	0
Mrs. Postans' Fact and Fiction, 3 vols. ..	10	6
Wilson's Martyr of Carthage	2	6
Howitt's History of Priestcraft 7th edition)	4	0
Wilson's Martyr of Carthage, a Tale ..	3	0
Welsford on the English Language ..	5	0
Haweis's Sketches of the Reformation ..	4	6
Osborne's Guide to the Madeiras, &c. ..	3	0

THE WEEKLY LITERARY JOURNAL OF YOUNG ENGLAND.

This day is published, No. 20, Vol. II. of

THE CRITIC, a Weekly Journal of British and Foreign Literature and Art, Guide to the Library and Book-club, and Booksellers' Circular, published every Saturday, price 4d. only, or 5d. stamped for post. It will be regularly forwarded, by post, for half a year, to any Subscriber transmitting 8s. 6d. in penny postage stamps.

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Published at THE CRITIC Office, 20, Essex-street, Strand, where Orders, Advertisements, and Books, Music, and Works of Art for Review are to be sent.

A Specimen Copy will be sent upon the receipt of Threepence in Postage Stamps.

CIRCULAR NOTES and LETTERS of CREDIT.—The LONDON and WESTMINSTER BANK has commenced the issue of Circular Notes, for the use of travellers and residents on the continent. These notes are payable at every important place in Europe, and thus enable a traveller to vary his route without inconvenience. No expense is incurred except the price of the stamp, and when cashed no charge is made for commission. For the convenience of the public, these notes may be obtained either at the head office of the London and Westminster Bank in Lothbury, or at the branches of the bank, viz.:—

1, St. James's-square
4, Stratford-place, Oxford-street
87, High-street, Whitechapel
213, High Holborn
3, Wellington-street, Borough.

By order of the Board,
JAMES WM. GILBART,
General Manager.

Freehold Ground Rents, with an early Reversion.—Several Freehold Houses and long Leasehold Property, situate at Vauxhall, Brixton, Pimlico, Euston-place, Newington, and Rotherhithe; the whole exceeding 1,000l. per annum.

MESSRS. MUSGROVE and GADSDEN have received instructions to SELL by AUCTION, at the Mart, on Friday, June 6, at twelve, in lots, a valuable FREEHOLD PROPERTY, comprising Belmont-house, Vauxhall, with its gardens, buildings, wharfage, &c. occupying nearly three acres, possessing desirable frontages, and presenting speculating features of an important character. Freehold Ground Rents of 36l. 10s. per annum, arising from Nos. 1, 2, 3, 4, 6, and 8, Belmont-place, Vauxhall, to the rack rentals of which the purchaser will be entitled in about nine years. Two Freehold Houses, Nos. 5 and 8, Belmont-place. Freehold Ground Rents of 39l. per annum, arising from six houses in Nine Elms-lane. A Freehold House, No. —, Nine Elms-lane. A Freehold Ground Rent of 16l. per annum, amply secured upon two houses, Nos. 4 and 47, Trinity-street, Rotherhithe; and three others in Trinity-court, at the rear. Also, the following first-class Leasehold Estates:—Nine excellent houses and shops, being Nos. 17 to 25, inclusive, Commerce-place, Brixton, let upon leases (partly at ground rents) at moderate rentals, amounting to 395l. per annum, and held for a long time at a low ground rent. Nos. 28 and 29, Shaftesbury-terrace, Pimlico, let on leases at 150l. per annum; held for nearly 80 years, at 1s. a year. No. 26, Euston-place, Euston-square, a residence of the estimated annual value of 70l.; held for upwards of 60 years at a ground rent. And Nos. 4, 5, 6, and 7, Union-row, Newington, now producing 60l. per annum; held at a ground rent of 4l. 10s. The whole of the above property is moderately let, and is most eligible for the secure investment of capital.—To be viewed by permission of the respective tenants, and full particulars had of Messrs. Barron and Cullen, solicitors, 29, Bloomsbury-square; at the Mart; and at Messrs. MUSGROVE and GADSDEN'S Offices, 18, Old Broad-street.

Tottenham-park, Middlesex.

MESSRS. MUSGROVE and GADSDEN have received instructions to SELL by AUCTION, at the Mart, on Thursday, May 29, at twelve, a valuable LEASEHOLD PROPERTY, exonerated from great and small tithes and church rates, comprising a superior family residence, known as Tottenham-park, situate in White Hart-lane, about six miles from town; containing a laundry, four bed-rooms, and a secondary staircase, five principal bed-chambers, four dressing-rooms, and a water-closet, a noble entrance hall, drawing-room, dining-room, library, gentleman's dressing-room, and domestic offices, bakehouse, dairy, larder, and ample cellarage; also a detached coach-house, stabling for eight horses, and loft over; farm-yard adjoining, with shed, cowhouse, piggeries, and a poultry-house. The premises altogether include a domain of about 30 acres of park-like appearance, with fine timber trees, and a beautiful sheet of water and carriage drive through the park to the house, productive kitchen gardens, extensive pleasure grounds, and shady walks. At an easy distance stands conspicuously the village church, where the lessee of this property has the privilege of two pews in the chancel. Held under the Dean and Chapter of St. Paul's for 21 years, subject to a nominal rent, and renewable, according to custom, on payment of the usual fine.—To be viewed until the sale.—Printed particulars on the premises; at the Angel, Edmonton; at the Auction Mart; and at Messrs. MUSGROVE and GADSDEN'S Office, Old Broad-street, City.

Valuable Leasehold Ground Rents, Building Ground, Houses, Cottages, and Brick Earth, Stoke Newington-road.

MESSRS. MUSGROVE and GADSDEN are instructed by the Executrix of Mr. John Ross, deceased, to SELL by AUCTION, at the Mart, on Tuesday, May 20, at twelve, an important LEASEHOLD PROPERTY, land-tax redeemed, held for 66 years unexpired, exceedingly eligible for investment and building purposes, comprising the ground-rent of 42l. a year, arising from the Caledonian public-house and wine-vaults, in the Stoke Newington-road; a ground-rent of 45l. per annum, arising from the houses and shops adjoining; several other ground-rents, varying from 20l. to 5l. per annum, from premises contiguous to the above; houses and gardens and plots of ground on the north side of Wellington-place, leading from Stoke Newington-road to Shacklewell; several thousand feet frontage of building ground, formerly the Caledonian Nursery, containing brick earth of a superior quality, possessing many local advantages, whereby an increase of ground-rent may be immediately realized. Printed descriptive particulars, with plans annexed, may be obtained on the premises; of Messrs. Parnell and Tanqueray, solicitors, 34, New Broad-street; at the Mart; and at Messrs. MUSGROVE and GADSDEN'S offices, 18, Old Broad-street, City.

Stamford-hill.—Detached Residence, with Pleasure Grounds, Shrubberies, Gardens, and Land, terminated by a sheet of ornamental water, and commanding extensive and park-like views; the whole containing about five acres, and held for a term at a ground-rent.

MESSRS. MUSGROVE and GADSDEN have been favoured with instructions from the Proprietor, who is moving to town, to SELL by AUCTION, at the Mart, on Thursday, May 29, at 12, a very desirable and substantial RESIDENCE, on the west-side of that justly admired situation Stamford-hill, placed at an agreeable distance from the road, approached by a carriage drive, and surrounded by lawns, pleasure-grounds, and gardens, with meadows at the rear, sloping down to a beautiful piece of running water, and belted by a delightful shrubbery walk. The house contains 10 bed-chambers, spacious landings, and other conveniences, a suite of elegant drawing-rooms, a dining parlour handsomely finished with recess for side-boards and carved pillars, hall with double entrance, library, conservatory, butler's pantry, and on the basement domestic arrangements of the first character; there are also a double coach-house, good stabling, gig-house, brewhouse, and every other desirable appendage. The property is in the most perfect order, a large sum of money having recently been expended upon it, and it possesses all the attributes of a gentleman's residence, in a select neighbourhood, and within a moderate drive of the city and west-end. To be viewed by cards only, which with particulars may be had at Messrs. MUSGROVE and GADSDEN'S offices 18, Old Broad-street, City.

Capital Freehold Residence, Offices, and Gardens, London-fields, Hackney.

MESSRS. MUSGROVE and GADSDEN have received instructions from the trustees of Mrs. Holland, deceased, to SELL by AUCTION, at the Mart, on Thursday, May 29, at Twelve, a FREEHOLD ESTATE; consisting of an excellent residence, pleasantly situate in the preferable part of the London-fields, Hackney, containing accommodation adequate to the requirements of a respectable family, with offices, garden, greenhouse, and vineries, and all necessary appendages; let on lease to and in the occupation of Michael Banger, esq. at the moderate rent of 95l. per annum. To be viewed by permission of the tenant, and with cards only, which with particulars may be had of Messrs. Lawford, solicitors, Drapers' Hall; at the Mart; and at Messrs. MUSGROVE and GADSDEN'S offices, 18, Old Broad-street, City.

The Caledonian Tavern and Public-house, with possession, in the Stoke Newington-road, near West Hackney Church.

MESSRS. MUSGROVE and GADSDEN are instructed by the Executrix of Mr. John Ross, deceased, to SELL by AUCTION, at the Mart, on Tuesday, May 20, at Twelve, a valuable LEASE for 66 years, at a ground-rent of 40 guineas per annum, of those distinguished Premises known as the CALEDONIAN TAVERN and WINE VAULTS, with ground behind and entrance from Wellington-place, most eligibly situate for conducting a business of considerable extent. The interior is fitted up with all the essential requirements for the trade, including an excellent bar, tap-room, parlour, suitable domestic arrangements, and ample cellarage. Printed particulars may be obtained on the premises; of Messrs. Parnell and Tanqueray, solicitors, 34, New Broad-street; at the Mart; and at Messrs. MUSGROVE and GADSDEN'S offices, 18, Old Broad-street, City.

Excellent Leasehold Estate, Liverpool-road, Islington.

MESSRS. MUSGROVE and GADSDEN have received instructions to SELL by AUCTION, at the Mart, on Tuesday, May 20, at Twelve, in lots, FOUR newly erected RESIDENCES, being Nos. 14, 15, 16, and 17, St. George's Terrace, Liverpool-road; each containing four bed-chambers, a drawing-room, two parlours communicating, entrance-hall, kitchen, and offices, with iron palisades in front, and garden at the rear. The houses have been built in a very superior and substantial manner, and are finished and fitted up with much taste. They are let to respectable tenants at rents amounting to 180l. per annum, and are held for a long term at low ground-rents. To be viewed, and full particulars had of Mr. Boulton, solicitor, 21, Southampton-square; at the Mart; and at Messrs. MUSGROVE and GADSDEN'S offices, 18, Old Broad-st. City.

A small Leasehold Property, near Stamford-hill, Middlesex.

MESSRS. MUSGROVE and GADSDEN will SELL by AUCTION, at the Mart, on Tuesday, May 20, at Twelve, in one lot, FOUR LEASEHOLD HOUSES, with inclosed fore-courts and good gardens, being Nos. 6, 7, 8, and 9, at the commencement of Hanger-lane, Stamford-hill; let to good tenants at a rent amounting to 59l. per annum, and held for 99 years, at a small ground-rent. Printed particulars on the respective premises; at the Mart; and at Messrs. MUSGROVE and GADSDEN'S offices, 18, Old Broad-street, City.

A Leasehold Property near Portman-market, Paddington.

MESSRS. MUSGROVE and GADSDEN will SELL by AUCTION, at the Mart, on Tuesday, May 20, at 12, in one lot, THREE LEASEHOLD HOUSES and Appurtenances, being Nos. 19, 22, and 28, Little Exeter-street, Salisbury-street, Paddington; let to tenants at rents amounting to 67l. 12s. per annum, and held for a term of 77 years, at a ground-rent. To be viewed. Particulars on the premises; at the Mart; and at Messrs. MUSGROVE and GADSDEN'S offices, 18, Old Broad-street, City.

Four Freehold Houses, Greenwich, affording votes for the county of Kent.

MESSRS. MUSGROVE and GADSDEN have received instructions from the Executors to SELL by AUCTION, at the Mart, on Thursday, May 29, at Twelve, in one lot, FOUR FREEHOLD HOUSES, being Nos. 1, 2, 3, and 4, John-street, Grove-place, Blissett-street, Greenwich, near the Good Intent, each containing three rooms and a washhouse, with garden behind, in the several occupations of Smith, Moore, Kent, and Smith, at rents of 10 guineas per annum each house. To be viewed till the sale, and full particulars had at the Mitre Tavern, Greenwich; of Messrs. Sutton, Ewens, Ommaney, and Prudence, solicitors, Basinghall-street; at the Mart; and at Messrs. MUSGROVE and GADSDEN's offices, 18, Old Broad-street.

Very desirable property in the Vale of Clwyd,

TO be peremptorily SOLD by AUCTION by Mr. E. OWEN (by order of the trustees of the late Mr. John Williams), on Monday, the 2nd day of June, 1845, between four and six o'clock in the afternoon, at the Cross Foxes Inn, Ruthin, two very desirable FREEHOLD FARMS in the far-famed Vale of Clwyd, being six miles from Ruthin, the same distance from Corwen, and adjoining the turnpike road between those two market-towns. It is within a convenient distance of the North Wales mineral, and the Chester and Holyhead Railways, and containing about sixty acres of rich arable and pasture land.

The buildings are in good condition, and the well-known river Clwyd, so renowned for its angling facilities, runs through this admired property, which abounds with oak and other young timber in a most thriving state. It adjoins property belonging to Lord Vivian, Colonel Vaughan, W. P. Jones, esq. Mrs. Mostyn, and others, and is most eligibly adapted for the erection of a country villa, being on a small eminence close to the river.

Lithographic plans and all particulars may be had on application to Mr. Peers, solicitor, or Mr. E. OWEN, Auctioneer, Ruthin.

Ruthin, May 1, 1845.

Valuable Freehold Estate in the City of London.

MESSRS. THORNTON and SON will SELL by AUCTION, at Garraway's Coffee House, Change-alley, Cornhill, on Friday, May 30, at Twelve o'clock, by direction of the Proprietor (unless previously disposed of by private contract), a desirable detached Freehold Mercantile RESIDENCE, No. 3, Gould-square, Crutched-Friars, with paved yard and railway arch, to which there is a side entrance. The house, which is admirably adapted as a residence or offices, from its contiguity to the corn and coal markets, Custom House, and Docks, contains four light attics, four neat chambers, drawing-room, and three sitting-rooms, four rooms or offices on the ground-floor, with entrance-hall and two water-closets; good basement kitchen, wash-house, arched wine, coal, and beer cellars.—May be viewed by application on the premises, where particulars may be obtained ten days prior to sale of Mr. Pryer, solicitor, 17, Pavement, Finsbury; at Garraway's; and of Messrs. THORNTON and SON, and Mr. DAVENPORT, Auctioneers, Brentwood, Stratford, and 58, Fenchurch-street.

Freehold Estate, Brentwood, Essex, let on lease at the low old rent of 22l. per annum.

MESSRS. THORNTON and SON will SELL by AUCTION, at Garraway's, on Friday, May 30, at Twelve, by order of the Proprietor, an excellent brick-built DWELLING-HOUSE, with bow-fronted shop, cutting and reading rooms, numerous sleeping apartments, and the customary domestic offices, a detached workshop, large walled garden, chaise-house and stable, with entrance from the lane in the rear. The premises are advantageously situate on the north side of the above improving town, near the railway station, and within 45 minutes' ride per rail from London. May be viewed till the sale, by permission of the tenant.—Particulars at the inns at Chelmsford, Romford, and Ilford; and of Messrs. THORNTON and SON, auctioneers, land and estate agents, Brentwood, Stratford, and 58, Fenchurch-street.

Plaistow, Essex.—An excellent detached Freehold Family Residence, with Meadow Land, Gardens, and Out-buildings.

MESSRS. THORNTON and SON respectfully inform the public that they have received peremptory instructions from the Executors to SELL by AUCTION, at Garraway's, on Friday, May 30, at twelve, a substantial brick-built RESIDENCE, land-tax redeemed, lately occupied by Mrs. Lack, deceased, possessing a considerable frontage to the high road, with carriage approach and shrubbery, and portico entrance; containing handsome lofty drawing and dining rooms, breakfast parlour, numerous bed chambers, domestic apartments, and basement offices; four-stall stable, coach-house, out-buildings, gardener's cottage; flower, fruit, and vegetable grounds, expensively laid out, and four and a half acres of sound meadow land: the whole desirable for occupation or investment. The premises may be viewed until the sale by cards only. —Particulars may be had 14 days previous, at the Inns at Plaistow, Barking, and Ilford; Swan, Stratford; of Messrs. Dickson and Overbury, solicitors, 4, Frederick-place, Old Jewry; and of THORNTON and SON, auctioneers, Brentwood, Stratford, and 58, Fenchurch-st.

CHESHUNT.—Net secure rent of £23 per annum, arising from a Copyhold Estate in front of the high road, the property of Mr. Smartt, deceased.—By Mr. MASON, at Garraway's, on Thursday, May 15,

A Substantial COPYHOLD HOUSE, with yard, stable, &c., desirably situate at Turner's-hill, the corner of Windmill-street, having a depth of 150 feet; let on lease to Mr. Linington, a respectable tenant, and held of the manor of Cheshunt.—Particulars may be had of Messrs. Clark, solicitors, Bishopsgate Church-yard; and of Mr. MASON, auctioneer, Norton-folgate.

ELIGIBLE INVESTMENTS.—By Mr. MASON, at Garraway's, on Thursday, May 15, in three lots, without reserve, by order of the Executors of the late Mr. Howell Davies.

A RESPECTABLE RESIDENCE, No. 8, Lincoln-place, in front of the New North-road, near St. John's Schools, with stable, chaise-house, and entrance from Gloucester-street; let to Mr. Lawrence, a highly respectable tenant, at 35l. per annum, term unexpired forty-two years, ground rent 7l. A genteel House, No. 22, Vaughan-terrace, in front of the road leading from the Eagle Tavern, City-road, to Islington; let to Mr. Jones, at 30l. held for forty-eight years at 5l. A neat House, No. 12, Princes-street, Perceval-street, Clerkenwell; let to Mr. Maydon, at 18l. ground rent 3l. term thirty-six years.—Particulars may be had of Mr. Moss, solicitor, 4, Cloak-lane, City, and of the auctioneer, Norton-folgate.

TRIANGLE, HACKNEY. — Valuable Freehold Estate, Land Tax Redeemed, eligible for Investment or Occupation.—By Mr. MASON, at Garraway's, on Thursday, May 15, pursuant to the directions in the Will of the late Mrs. Hickling, unreservedly, by order of her Executors,

A Capital FREEHOLD RESIDENCE, possessing every accommodation for a family of respectability, approached by a carriage drive, inclosed with handsome iron railing, situated in Mare-street (the corner of King Edward's-road), containing on the upper stories seven excellent bed-rooms and water-closet; ground floor, four sitting rooms, china closet, &c. The basement is conveniently arranged; there is a well of fine water, excellent drainage, and the garden is walled all round. This desirable property has a frontage of 53 feet, by a depth of 250 feet.—Particulars may be had on the premises; of S. Walters, Esq., solicitor, 36, Basinghall-street; and of the Auctioneer, Norton-folgate.

LONDON:—Printed by HENRY MORRELL COX, of 74, Great Queen Street, in the Parish of St. Giles in the Fields, in the County of Middlesex, Printer, at his Printing Office, 74 & 75, Great Queen Street aforesaid, and published by JOHN CROCKFORD, of 29, Essex Street, Strand, in the Parish of St. Clement Danes, in the City of Westminster, Publisher, at the Office of the LAW TIMES, No. 29, Essex Street aforesaid, on Saturday, the 17th day of May, 1845.

THE LAW TIMES,

AND JOURNAL OF PROPERTY,

The Legislator, the Magistrate, and the Lawyer.

Vol. V. No. 112.]

SATURDAY, MAY 24, 1845.

(DOUBLE NUMBER.)

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For One Year, paid in advance .. £2 0 0
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Single Numbers, or on credit .. 0 1 0
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Houses in the Regent's-park, St. Marylebone, Disposed of.

MR. ELGOOD begs leave to announce that the HOUSES, 20, Cornwall-terrace, 22 and 24, Park-square, and 11, Sussex-place, Regent's-park, advertised, have been DISPOSED OF by Private Negotiations.—Wimpole-street, May 18.

Notice.—No. 42, Harley-street, Disposed of.

MR. ELGOOD respectfully acquaints the public, that the SALE by AUCTION of the MANSION, 42, Harley-street, ... idence of the Ru... Embassy), advertised for the 29th instant, WILL NOT TAKE PLACE, having sold the same by Private Contract. —Wimpole-street, May 19.

Very eligible Investments on the Eyre Estate, Marylebone.

MR. ELGOOD is instructed by the Mortgagees and Administrator of Mr. George Leigh, deceased, to SELL, at the Auction Mart, on Thursday next, May 29, in separate lots, the FOUR substantial, brick-built, detached HOUSES, on the east side of the new Finchley-road, St. John's Wood, with portico entrances and stone steps, front and back gardens, &c. They require only a trifling outlay to finish them for the immediate reception of respectable medium-sized families, and are held for 75 years at peppercorn and low ground rents, forming a uniform and compact property for investment, in a situation to command good tenants, at rents of about 80 guineas each. May be viewed and printed particulars had, also at the Auction Mart; of Mr. Nation, 4, Orchard-street; of Mr. Randall, 56, Welbeck-street; and at Mr. ELGOOD'S office, 98, Wimpole-street.

A superior Residence and Furniture in the best part of Harley-street.

MR. ELGOOD is favoured with instructions from the executors of the late Samuel Cunningham, esq. to SELL by AUCTION, on Tuesday, June 17 unless an acceptable proposal is made by private contract, the capital FAMILY HOUSE, No. 11, Harley-street equally near to Cavendish square and the Regent's park, fitted up in a superior manner and in good condition, with the advantage of an additional story of bed-rooms and capital equally well suited for a moderate or a large establishment, with a laundry, double coach-house, and four-stall stable Held for a term of 26 years, at a trifling ground-rent of 10*l*. —On the same and following day, the excellent furniture, glasses, lustres, clocks, bookcases, carriages, and effects. The premises may be viewed by tickets, and printed particulars had of F. Cutler, esq. of Furnival's inn; of Mr. Jackson, 15, Piccadilly, and at Mr. ELGOOD'S office, 98, Wimpole-street

Two good Houses and Furniture, 60 and 61, Welbeck-street.

MR. ELGOOD is instructed to SELL by AUCTION, in the month of June unless previously disposed of by private contract, all the genuine and appropriate FURNITURE and EFFECTS of the above two convenient houses, and to dispose of the premises, unfurnished, together or separately. They are of very respectable appe... the ... fo any pursuit requiri... ood address and central p... with the advantages ... ept' stables in the rear, opening into Lasley's Mews, Wigmore street. May be viewed, and treated for, by application at Mr. ELGOOD'S office, 98, Wimpole-street.

An elegant Residence, with capital Stabling, in Hyde-park-place.

MR. ELGOOD has the honour to announce that he is instructed to OFFER for SALE, the very valuable LEASE, for eighty years, at a ground rent of only 36*l*. of a singularly elegant RESIDENCE, in Hyde park-place West. The house is replete with accommodation for a small family of fashion, desirous of residing in this matchless situation, opposite Hyde-park, with a capital basement story, and superior stabling for four horses, two coach-houses, three rooms over, harness-room, &c. The enviable position, substantial character of the property, and long tenure under the Bishop of London, are advantages too obvious to require any further comment. The elegant modern furniture and fittings may be purchased.—May be viewed by tickets, to be had, with particulars, at Mr. ELGOOD'S office, 98, Wimpole-street, Cavendish-square.

The late Sir George Farrant's capital Residence, Furniture, and Effects, 53, Upper Brook-street.

MR. ELGOOD is instructed to SELL by AUCTION, on the HOUSEHOLD FURNITURE and effects, of Taprell and Holland's manufacture, some ornamental items and clocks, books, pianoforte, &c. of which further particulars will be announced Also, to Let on lease, the excellent Residence, built within the last twenty years for the proprietor's own occupation, and containing ten bed-rooms having the extra stor, with good drawing-rooms, dining-room, and library, compact offices, ample supplies of spring and soft water, capital wine cellar, laundry, and stables adjoining, of a superior description, for four horses, two carriages, &c.—The premises may be viewed by tickets, and Mr. ELGOOD is authorized to treat for the immediate letting of them 98 Wimpole-street.

Delightful Residence in a Garden 2, Chester-terrace Regent's-park.

MR. ELGOOD has the pleasure to announce that he is instructed to SUBMIT to SALE the valuable LEASE, at a Ground-rent, of the singularly desirable RESIDENCE, No. 2, in Chester-terrace, one of the two projecting houses overlooking the Park, with the peculiar and exclusive advantage of an entrance direct into the pleasure garden, extending the whole length of the terrace; it is arranged for a family, having three or four rooms on each principal floor, of moderate size, with ten bed and dressing rooms, and suitable offices, without stables; held for 70 years, at a ground-rent of 50 guineas ... the excellent Furniture, glasses, lustres, and eff ... —May be viewed, by tickets only, to be had, with particulars, at Mr. ELGOOD'S Office, 98, Wimpole-street; to whom any offer may be made by Private Contract.

Notice.—56, Montagu-square, Disposed of.

MR. ELGOOD respectfully informs the public that the intended SALE by AUCTION of the HOUSE, Furniture, and Effects, No. 56, on the west side of Montagu-square, will NOT NOW TAKE PLACE as advertised, having sold the whole by Private Contract. — Wimpole-street, May 15.

Eligible small Investments on the Bishop's Estate, Paddington.

MR. ELGOOD is directed by the Mortgagees and Assignees of Mr. William Preston to SELL at the Auction Mart, on Thursday next, May 29, without reserve, in lots, the LEASES, for very long terms, at low ground-rents, of TWO neat substantial HOUSES, Nos. 1 and 2, Inverness-road, close to the Bishop's-road; and two ditto, Nos 11 and 12, Albert terrace, adjoining the Bishop's-road; also a semi-detached residence, Monmouth-road, Westbourne-grove; healthy, cheerful, and convenient situations, and advantageous for investment of small capitals, with the opportunity of finishing the houses to each purchaser's own taste, and of the annual value of about 50 guineas each. The premises may be viewed and printed particulars had, also at the Auction Mart; of Mr. Nation, 4, Orchard-street; Mr. Hooker, 8, Bartlett's buildings; and at Mr. ELGOOD'S office, 98, Wimpole-street.

Beautiful Residence, with 25 acres of Park, within 12 miles of Town and two of Harrow Station, and less than three-quarters of an hour of the metropolis.

MESSRS. HEDGER will SELL by AUCTION, at the Mart, on Tuesday, June 17, at Twelve, that very beautiful FREEHOLD RESIDENCE, called the Hermitage, at Harrow Weald. It is a singularly elegant structure, delineating in great perfection the choice beauties of the castellated Gothic, built at an extravagant expense, with a remarkable combination of comfort and beauty; indeed a more graceful structure has been rarely modelled. Is approached by a Gothic lodge of sweet design, and placed in a very charming small park of 25 acres, environed by the splendid woods of the seat of the Marquis of Abercorn, at Stanmore. The Hermitage contains on an elegant scale very accommodation for a family of the first respectability. The apartments are of very handsome proportions, with altogether twelve bed chambers, and every attached and detached office. The whole in high order. If even the limits of an advertisement were to permit a full description of this very charming property, the enumeration of its just attractions might tend to the belief that it was of very extravagant pretensions, it is therefore preferred parties should visit the property, which will better than any description impress its remarkable eligibility as a recherché abode for a man of taste and comfortable fortune. Further particulars may be had of Messrs. Gatty and Turner 1, Red Lion square; and at the offices of Messrs. HEDGER, Land-agents, 10, New Bond-street, opposite the Clarendon.

Important Freehold Estate, within three miles of Hyde-park-corner, comprising a beautiful Residence, with valuable Market-garden Grounds, altogether upwards of 40 acres.

MESSRS. HEDGER will SELL by AUCTION, at the Mart, on Tuesday, June 17, at 12, unless previously disposed of by private treaty, that elegant and distinguished RESIDENCE, known as Peterborough-house, Fulham. It is a mansion of most commanding elevation, beautifully placed in park-like grounds of 11 acres, approached by handsome lodge entrance, and is in every feature perfect for the abode of a family of distinction; is now in the temporary occupation of the Dowager Countess of Listowel. The apartments are of beautiful proportions, superbly decorated, the arrangement of the whole a model of elegance and comfort, with warm and cold baths, the offices in every way excellent. The pleasure grounds charmingly disposed, capital gardens, &c., indeed, Peterborough-house, for a family of opulence, is unquestionably the choicest residence within its distance of town, and combines, in perfection, the advantages of town and country.

Also with the above, or in separate lots, will be sold, the surrounding unequalled Fruit Gardens, in the occupation of Messrs. Fitch, extending to thirty acres. This estate possesses an almost unparalleled advantage, for the parish of Fulham being all freehold, the remainder nearly all Bishop's land, and is so disposed, that without inconvenience to the mansion, a considerable portion, with valuable frontage, may be laid out for the erection of villas, for which it presents ...derful facilities. As a whole this property offers the most enviable residence with an investment of daily increasing value. Special permission to view, with all further particulars, may be had of Messrs. Addis and Guy, 10, Great Queen-street, Westminster; and of Messrs. HEDGER, Land-agents, 10, New Bond-street, opposite the Clarendon.

Bucks.—Valuable Freehold Estate, 20 miles from town, comprising a commodious Family Residence, placed in a small park, with a secondary Residence, and sundry Copy- ... with investment.

MESSRS. HEDGER will SELL by AUCTION, at the Mart, on Thursday, July 17, at Twelve o'clock, unless previously sold by private treaty, the desirable FREEHOLD ESTATE called the GRANGE, situate at Chalfont St. Peter's, about 20 miles from town, in a proverbially salubrious and delightful district, in the midst of the best society and good sporting. The Grange is a handsome and commodious residence, seated on the acclivity of a hill, in a pleasing small park, altogether about 30 acres, approached by neat lodges. It contains every comfort and accommodation for a family of the first respectability the reception-rooms are of handsome proportions, dining, drawing, and billiard rooms, and library, &c. most excellent and well-arranged bed-chambers, and ample domestic accommodation. The pleasure-grounds are ornamented by some noble timber, with excellent walled gardens, stabling, &c. Likewise will be sold, Gold Hill Cottage, a residence on a moderate scale, with good garden, and seven acres, with various cottages, &c. To be viewed, and particulars had of Messrs. Dendy and Morphett, Bream's-buildings, Chancery-lane; Royal Hotel, Slough, the various inns at Uxbridge, Aylesbury, &c., and of Messrs. HEDGER, Land Agents, 10, New Bond-street, opposite the Clarendon.

Bucks.—Freehold Residence, in a beautiful part of the country, about 30 miles from Town, and for a man of business contemplating retirement, or for any moderate family, one of the most perfect and cheerful retreats imaginable.

MESSRS. HEDGER will SELL by AUCTION, at the Mart, on Thursday, July 17, at 12, a desirable RESIDENCE called Fennell's Lodge, situate in a beautiful valley at Loudwater, about two miles from Wycombe, with coaches constantly passing to and from London. The house is placed on the slope of a hill, and commands a very pleasing view, is backed by the graceful woods of Lord Carrington's seat. Through the valley runs a trout river, and all field sports may be enjoyed in perfection. It contains dining and drawing rooms, and study and bath-room, six bed chambers, dressing-room, capital kitchen, coach-house, stabling, poultry-house, &c. A well-stocked garden and small pleasure-ground, ornamented with handsome shrubs, in the whole about one acre, combining in that small space every thing that is comfortable, and in a manner elegant. Particulars may be had of Mr. Simmons, Wycombe; at the Mart; the inns in the neighbourhood; and of Messrs. HEDGER, Land-agents, 10, New Bond-street, opposite the Clarendon.

Very beautiful Gothic Residence and twenty-five acres of rich and valuable Freehold Land, within four hours' of London, three miles of Clifton and Bristol, in a most salubrious and delightful district.

MESSRS. HEDGER will SELL by AUCTION, at the Mart, London, on Thursday, July 17, at Twelve, BURFIELD PRIORY, an abode of very superior attractions, constructed upon the designs of the late Mr. Rickman, of the best material, in the most substantial manner. Burfield Priory is an elegant edifice, each front being rich in the varied beauties of the castellated or monastic Gothic, so harmoniously blended as exteriorly to produce the choicest design, with interiorly unusual style of elegance and comfort, and is a perfect abode for a family of the first respectability. It is approached from the high road by a lodge of much beauty, and placed on an elevated site, within highly pleasing and varied park grounds, commanding extensive and interesting views of this rich and favoured district; is entered by a Gothic stone hall 32 ft. by 18, 28 ft. high, lighted by a costly marigold window of rich coloured glass, excellently adapted for a music-hall, having galleries around, with a fine-toned organ concealed by rich tracery of a Gothic window, drawing-room 25 by 16, dining-room 25 by 16, library 28 by 17, breakfast-room, &c. five best bed-chambers, dressing and bath rooms, four other bed-rooms. The offices are excellent, with coach-houses for three carriages, stabling for four horses, harness-room, lofts, and men's room; excellent walled gardens, kitchen garden, and within the priory walls about 12 acres, four of which are beautifully disposed in pleasure-grounds, with two other paddocks, also 12 acres. The residence, now in the occupation of the Ladies Boyle, may be viewed by order, which with particulars may be obtained of Messrs. Hayman, Fowler, and Sons, Clifton; and of Messrs. HEDGER, Land Agents, 10, New Bond-street, London, opposite the Clarendon, at whose offices a cosmorama drawing may be seen.

CLERMONT LODGE ESTATE, Norfolk.

To be SOLD, by Private Contract, an important FREEHOLD ESTATE, called Clermont Lodge, including ... of land. This estate is two miles distant from the market-town of Watton, and about five from Swaffham. The Northern and Eastern Railway (when completed to Norwich) will run a few miles to the south of the estate, and present a ready and easy access to the metropolis. The nucleus of this noble estate was formed by William Henry, Earl of Clermont, and it has been since enriched by large additions by his nephew and heir Wm. Charles Viscount Clermont and the subsequent owners. It now incloses, in a ring fence, 2,137 acres, comprising nearly the whole of the parish of Little Cressingham, with much excellent land in the adjoining parishes of Threxton and Saham Toney. The land is parcelled into farms, and let to substantial tenants, and produces a net rental of 1,915*l*. 13*s*. making with the estimated yearly rental of the house, and the shooting during the season, an annual value of 2,100*l*. The estate is the most compact and perfect sporting domain in the kingdom. The game preserves are unrivalled. The mansion of Clermont Lodge is spacious and convenient, and adapted to the accommodation of a family of rank. The home grounds and gardens are laid out with much taste, comprising a variety of delightful strolls and promenades. Fine belts of plantation intersect the estate in every direction. To the north-east of the mansion is a fine oak wood, unrivalled in the quality of its timber; to the south is a valuable warren. The estate has 38½ common rights for cattle on the commons of Little Cressingham. On the Low-common is the mill, one of the finest and most complete in the county, and which is worked both by wind and water. For further particulars apply to Samuel Beazely, esq. architect, Soho-square; Wm. Murray, esq. solicitor, London-street, London; or E. R. Grigson, esq. solicitor, Watton, Norfolk. The mansion may be viewed on application to George Buckenham, the gamekeeper.

Eligible LEASEHOLD PROPERTY for Investment or Occupation, Battersea.

MESSRS. BEADEL and FOULKES are directed to SELL by AUCTION, at Garraway's, on Tuesday, June 3rd, at Twelve, in lots, unless previously disposed of by Private Contract, of which notice will be given, A PAIR of VILLAS, very substantially built, situate on the road leading to Vauxhall, about a quarter of a mile from Battersea-bridge, containing eight rooms each, conveniently arranged (size of drawing-room 18ft. 6in. by 16ft.), front and back Garden, and a well of good water. Also the CARCASS, far advanced, of a handsome VILLA, with 18 Rooms of large dimensions, and front and back Garden. Also a PLOT of GROUND adjoining, suitable for building. The above Property is held on Lease, at a small ground-rent, for a term of about 92 years; and, considering the extensive improvements already made and now in progress in the neighbourhood, there can be little doubt of its maintaining a high and increasing market value.

Particulars and Conditions may be obtained of Messrs. Vizard and Leman, solicitors, 51, Lincoln's Inn-fields; at Garraway's Coffee-house; and of Messrs. BEADEL and FOULKES, 25, Gresham-st. City.

Periodical Sale.—The absolute Reversionary Interest to a valuable long Leasehold Estate, Woolwich, Kent.

MESSRS. FULLER and MARSH have received instructions from the Assignees of Mr. Robert Cann to include in their next Periodical Sale of Reversions, &c. appointed to take place at the Auction Mart on Thursday, June 5, at Twelve, in lots, the ABSOLUTE REVERSION in and to a valuable and improving long LEASEHOLD ESTATE, consisting of five houses, Nos. 79, 80, 81, 82, and 83, King-street, Woolwich, in the occupation of respectable tenants, at rentals amounting to 58l. per annum; held on lease for a term, 68 years of which were unexpired at Michaelmas last, at a ground-rent of 10l. 4s. per annum, and to which reversionary property the purchaser will be entitled on the death of a lady now in the 62nd year of her age. Particulars may be obtained at the Mart; of Mr. Biggenden, solicitor, Walbrook; and at 2, Charlotte-row, Mansion-house.

The Priory, Bedford-hill, Streatham, Surrey.—An elegant detached Residence, Pleasure and Kitchen Gardens, and about six Acres of park-like Meadow Land.

MESSRS. FULLER and MARSH have been favoured with instructions to submit to PUBLIC COMPETITION, at the Mart, on Thursday, June 5, at Twelve (unless in the meantime disposed of by private contract), a valuable and desirable long LEASEHOLD ESTATE, either for investment or occupation; comprising a spacious detached family residence, distinguished as the Priory, replete with every accommodation for a family of the highest respectability, most delightfully situate on the borders of Tooting-common, in the parish of Streatham, about six miles from the bridges, surrounded by pleasure and productive kitchen-gardens, and about six acres of park-like meadow land, all requisite domestic offices, coach-houses, and stabling, &c. Detailed particulars will appear in future advertisements. The residence may be viewed by cards only, which, with particulars and lithographic plans, may be obtained of D. Foggo, esq. Chatham-place, Blackfriars; of W. Spike, esq. solicitor, 15, Clifford's-inn, Fleet-street; and of Messrs. FULLER and MARSH, 2, Charlotte-row, Mansion-house, who are authorized to treat for sale by private contract.

Star-street, Edgeware-road.—Valuable long Leasehold Property, in the immediate neighbourhood of Hyde park.

MESSRS. FULLER and MARSH have received instructions to SELL by AUCTION, at the Mart, on Thursday, June 5, at Twelve, a genteel brick-built DWELLING-HOUSE, and extensive Premises in the rear, known as the Southwick Dairy, most eligibly situate, being 39, Star-street, Edgeware-road, within a short distance of St. John's Church, in the parish of St. Mary, Paddington, in the occupation of and on lease to Mr. George Spring, a most respectable tenant, at the low rent of 50l. per annum; the estate is held for a term of 95 years from Midsummer, 1835, at a ground-rent of 7l. 10s. per annum - improved rental 18l. 10s. May be viewed, and particulars obtained on th[illegible] of Messrs Harbin and Wa[illegible]d, solicit[illegible] 12 and 13, Clement's-inn; and of Messrs. FULLER and MARSH, Auctioneers, 2, Charlotte-row, Mansion-house, and Croydon, Surrey.

IN HEREFORDSHIRE.—The Sugwa[s] Court Estate, an important Freehold Landed I[illegible]t, extending over u[pwa]rds of 600 acres of sound arable, pasture, and meadow land, productive orchard and fruit plantations, with its mansion and offices, most beautifully situate on the banks of the Wye, amidst luxuriant scenery, about three miles from the ancient city and county town of Hereford, and forty from Cheltenham.

MESSRS. FULLER and MARSH have been favoured with instructions to submit to PUBLIC COMPETITION, at the Auction Mart, on Tuesday, the 10th day of June, at twelve o'clock (unless in the meantime an acceptable offer be made by private contract), a first-rate FREEHOLD LANDED INVESTMENT, comprising the Sugwas Court Estate, together with a very superior residence, well adapted for a family of distinction, standing in park-like meadows, most beautifully timbered pleasure-grounds and plantations, kitchen-gardens, &c. and most complete and judiciously arranged domestic offices, coach-houses, stabling, and about 560 acres of sound rich arable, pasture, and meadow land, in the highest state of cultivation, including several orchards and fruit plantations, lying in a ring fence. The estate is partly bounded by the river Wye, which affords salmon fishery of the best description. At a short remove from the mansion is an excellent farm residence, and all requisite agricultural buildings, many of which have been erected within a few years at a great outlay, together with the manorial rights, fisheries, ferryage, &c. The Sugwas Court Estate is about three miles from the ancient city of Hereford. The Hereford and Brecon mail daily passes the estate, and the Cheltenham and Aberystwith mail within about half a mile, and the intended railway extension to Hereford will bring the estate within about six hours' journey of the metropolis. Particulars, with conditions of sale, and lithographic plans, may be obtained of Mrs. Jones, who resides on the estate; of John Cleave, esq. solicitor, Hereford; and of Messrs. FULLER and MARSH, Surveyors and Land-agents, Charlotte-row, Mansion-house.

TUNBRIDGE-WELLS.—Eligible Leasehold Estate, situate in the centre of this fashionable watering-place; held for 46 years at a low ground-rent.

MESSRS. FULLER and MARSH have been favoured with instructions from the Executors of the late John Ranger, esq. to SELL by public AUCTION, at the Mart, on Tuesday, June 10, at Twelve (unless an acceptable offer is previously made by private contract), a LEASEHOLD stone-built FAMILY RESIDENCE, delightfully situate, and numbered 3, Clarence-terrace, nearly opposite to Trinity Church, Tunbridge-wells, possessing uninterrupted views of the common, Mount Ephraim, and the surrounding picturesque country: let on lease to Mr. Wicking, for an unexpired term of 10 years from December, 1844, at a very inadequate rental of 68l. 5s. leaving an improved rental of 60l. 5s. per annum. Particulars may be obtained of Mr. Ranger, surveyor and valuer, 15, Duke-street, Adelphi; of Messrs. Stone and Wall, solicitors, Tunbridge-wells; and of Messrs. FULLER and MARSH, Surveyors and Land-agents, 2, Charlotte-row, Mansion-house, and Croydon, Surrey.

Essex Lodge, Brixton, Surrey, the much admired Residence of the late Daniel Higley Richardson, Esq.; possession may be had on the completion of the purchase.

MESSRS. FULLER and MARSH have been honoured with instructions from the Executors of the above deceased gentleman, to prepare for SALE by AUCTION at the Mart, on Tuesday, the 10th day of June, at twelve o'clock (unless in the meantime an acceptable offer be made by private contract), the above singularly attractive VILLA RESIDENCE, most delightfully situate, a short distance from the road, on the most preferable part of Brixton-hill, nearly opposite the church, erected within a few years, at a considerable outlay, and regardless of expense, and much ingenuity and taste have been displayed in its exterior and interior arrangements. The house is of handsome elevation, and most conveniently and admirably adapted for the reception of a gentleman's family: it contains two attic rooms for female servants, and closets on the first floor; four best bed-rooms and a dressing ditto, an occasional summer room or conservatory; on the ground floor, a cheerful entrance hall, an elegant drawing-room, a well proportioned dining-room, and library; and on the basement, the most complete domestic offices; coach-house, stabling, pleasure-grounds, and kitchen-garden. This eligible estate, either for occupation or investment, is held for an unexpired term of 92 years, at a low ground-rent. Particulars may be obtained of H. F. Richardson, esq. solicitor, 36, Coleman-street; at the Mart; and cards to view of Messrs. FULLER and MARSH, Surveyors and Land-agents, 2, Charlotte-row, Mansion-house.

HENDON, MIDDLESEX.—Brook Lodge, a spacious detached Family Residence, Pleasure and Kitchen Gardens, and about 19 acres of prettily timbered Meadow Land, most beautifully situate on the river Brent, and about three miles from the Regent's-park.

MESSRS. FULLER and MARSH have been favoured with instructions to submit to public COMPETITION, at the Auction Mart, on Tuesday, June 10, at Twelve (unless in the meantime disposed of by pr[ivate] contract), a valuable FREEHOLD PROPERTY, distinguished as Brook Lodge, comprising a spacious detached family residence, containing, on the second floor, four secondary sleeping-rooms; on the first floor, six bed-rooms and a dressing-room; on the ground floor, well-proportioned dining and drawing-rooms, library, and all requisite d[omestic] offices; pleasure and kitchen gardens, orchard, stabling, &c. and about 19 acres of rich meadow land, possessing ext[ensive] frontages to the high road from London to St. Alban's. Particulars, with lithographic plans, are preparing, and may shortly be obtained on the premises; at the principal inns in the neighbourhood; and at the Offices of Messrs. FULLER and MARSH, Surveyors and Land Agents, 2, Charlotte-row, Mansion-house.

Periodical Sales (established in the year 1803) of Reversions, Life Interests, Annuities, Policies of Assurance, Advowsons, Next Presentations, Rent Charges in lieu of Tithes, Post-obit Bonds, Tontines, Debentures, Ground Rents, Improved Rents, Shares in Docks, Canals, Mines, Railways, Insurance Companies, and all Public Undertakings.

MESSRS. SHUTTLEWORTH and SONS respectfully inform the public, that upwards of 40 years' experience having proved th[e] classificat[i]on of this sp[e]cies of property to be extremely advantageous and economical to vendors, and equally satisfactory and convenient to purchasers, the PERIODICAL SALES of reversionary interests, policies of insurance, tontines, debentures, adv[owsons], next presentations, all securities dependent upon human life, shares in docks, canals, mines, railways, and all public undertakings, will be continued through 1845, as follow:—

Friday, June 6.	Friday, Oct. 3.
„ July 4.	„ Nov. 7.
„ Aug. 1.	„ Dec. 5.
„ Sept. 5.	

Particulars may be had Ten days previous to each sale, at the Royal Hotel, Manchester; the Adelphi Hotel, Liverpool; Dee's Royal Hotel, Birmingham; the Angel, Oxford; the Eagle and Child, Cambridge; at the Mart; and of Messrs. SHUTTLEWORTH and SONS, 28, Poultry.

Periodical Sale: established 1803.—Several valuable old Policies, with large accumulations, effected in the Equitable and Guardian Life Assurance offic[es].

MESSRS. SHUTTLEWORTH and SONS are instructed to include in the next Monthly Sale of Reversionary Interests, &c. appointed to take place at the Mart on Friday, June 6, at Twelve, a POLICY of ASSURANCE, amounting, with accumulations, to 4,312l. 10s. effected with the Equitable Assurance Society June 21, 1810, life 45; a ditto, in the same office, amounting, with accumulations, to 1,275l. effected June 5, 1818, life 35; a ditto, in the same office, amounting, with accumulations, to 1,275l. effected June 25, 1818, life 37; a ditto, in the same office, amounting, with accumulations, to 1,200l. effected July 8, 1821, life 32; a ditto, in the same office, amounting with accumulations, to 1,650l. effected October 8, 1825, life 45; a ditto, in the same office, amounting, with accumulations, to 1,100l. effected October 8, 1825, life 45; a ditto, in the same office, amounting, with accumulations, to 2,562l. 10s. effected October 3, 1831, life 20; a ditto, in the Guardian Assurance Company, for 2,500l. effected September 7, 1823, life 48; a ditto, in the same office, for 1,500l. effected June 17, 1831, life 45.—Particulars may be had in due time of Mr. Cole, solicitor, 4, Adelphi-terrace; at the Mart; and of Messrs. SHUTTLEWORTH and SONS, 28, Poultry.

Periodical Sale: established in 1803.—Reversion to 3,402l. 5s. 1d. Consols.

MESSRS. SHUTTLEWORTH and SONS are instructed to include in the Monthly Sale of Reversionary Interests, &c. appointed to take place at the Mart on Friday, June 6, at 12, the ABSOLUTE REVERSION to two seventh Shares in 3,402l. 5s. 1d. 3 per Cent. Consol Bank Annuities, standing in the name of the Accountant-General of the Court of Chancery, to which the purchaser will be entitled upon the decease of a lady aged 60. Particulars may be had in due time of Mr. J. Tucker, solicitor, 35, John-street, Bedford-row; of Mr. T. P. Turner, solicitor, 2, Field-court, Gray's-inn; at the Mart; and of Messrs. SHUTTLEWORTH and SONS, 28, Poultry.

Periodical Sale: established 1803.—225 Shares in the Britannia Life Assurance-office.

MESSRS. SHUTTLEWORTH and SONS are instructed to include in the Monthly Sale of Reversionary Interests, &c. appointed to take place at the Mart on Friday, June 6, at Twelve, 225 SHARES of 100l. each, in the Britannia Life Assurance Office. Particulars may be had in due time of Mr. Puddicombe, solicitor, Furnival's-inn; at the Mart; and of Messrs. SHUTTLEWORTH and SONS, 28, Poultry.

Mansion and Park, Kent.

MESSRS. SHUTTLEWORTH and SONS are instructed by the Executors to announce for SALE by AUCTION, the latter end of June, the distinguished RESIDENCE of the late George Stone, esq. replete with every accommodation for the establishment of a nobleman, or a family of the first respectability; with beautiful lawns, pleasure-grounds, conservatories, sheets of water, and extensive kitchen-gardens; most delightfully situate, within a finely-timbered park of about 120 acres, chiefly rich meadow land, distant only about twelve miles from London, near the church, on the border of Chislehurst-common, in the county of Kent, and in a highly-esteemed neighbourhood, presenting a delightful domain, agreeably undulated, and commanding views of great extent, beauty, and interest. Particulars and arrangements for viewing will be announced in future advertisements.—Poultry, May 15.

Broom Hall, Shooter's-hill, Kent, with Pleasure Grounds, Gardens, and Meadows, comprising 42 acres

[M]ESSRS. SHUTTLEWORTH and SONS have received instructions to SUBMIT to AUCTION, at the Auction Mart, on Friday, June 13, at Twelve (unless a private treaty is previously concluded), BROOM HALL, an excellent Family residence, recently placed in perfect substantial and ornamental repair, beautifully situate near the summit of Shooter's-hill, and commanding extensiv[e] and beautiful prospects over the river Thames and rich surrounding country; containing large and well-proportioned dining, drawing, and breakfast rooms, library, eleven bed-[ch]ambers, capacious offices and cellaring, double coach-house, stabling for seven horses, suitable outbuildings, wash-house and laundry, and in every respect adapted for a [illegible] first respectability; with pleasure-grounds, having lodge [o]f entrance, extensive walled garden, lawn, shrubbery, orchard, cottages, ice-house, and rich meadow land, the whole comprising 42 acres. The premises are well supplied with water, and have the advantage of steamboat and railroad accommodation from the metropolis every fifteen minutes through the day. The property is leasehold, at a very moderate rent; and may be viewed, and particulars had of Messrs. Maples, Pearse, Stevens, and Maples, solicitors, Frederick's-place, Old Jewry; at the Auction Mart; and of Messrs. SHUTTLEWORTH and SONS, No. 28, Poultry, where tickets to view may be obtained.

A portion of the surplus Estates of the Grand Surrey Canal Company, consisting of numerous well-secured Freehold Ground-rents, valuable Plots of Building Land, Reversionary Interests, and other Property

MESSRS. SHUTTLEWORTH and SONS have received instructions from the Board of Directors of the Grand Surrey Canal Company to SELL by AUCTION at the Mart, on Friday, May 30, at Twelve, in many lots, the following very valuable FREEHOLD ESTATES, &c. viz.:—A Ground-rent of 60l. per annum, secured upon 60 dwelling-houses and premises in and near the Lower-road, Deptford. A Ground-rent of 22l. 10s. secured upon 12 dwelling-houses and premises, near the Black Horse-bridge, Lower-road, Deptford. A Ground-rent of 12l. 10s per annum, secured upon five dwelling-houses and premises at the foot of the Black Horse-bridge, in the Lower-road, Deptford. A Ground-rent of 15l. per annum, secured upon three dwelling-houses, yards, and premises, in the High-street of Peckham. A Ground-rent of 10l. 10s. per annum, secured upon two dwelling-houses, yards, and premises in the High-street, Peckham. Also numerous Plots of Building Land, commanding advantageous frontages, with suitable depths, and extending 2,000 feet upon several roads and avenues, contiguous to the banks of the Grand Surrey Canal, at Black Horse-bridge, West Post-lane, Deptford, and the foot-bridge and the Commercial-road, in Peckham. And an important Reversionary Interest in a Freehold Estate, near Kennington-common and Camberwell New-road; consisting of upwards of four acres and a half of land, upon which ha[ve] erected 130 neat and substantial dwelling-houses, with large gardens and outbuildings, in Smith-street, Great and Little Bolton-street, and James-street; let upon a lease, which will expire at Christmas, 1866, at a small agricultural rent of only 11l. 14s. per annum, to which the purchaser will be entitled until the falling-in of the entire improved rents, amounting to upwards of 1,300l. per annum. Particulars and plans will be ready for delivery 21 days previous to the sale, at the Grand Surrey Canal Company's office, 2, White Lion-court, Cornhill; at Messrs. Chisholme, Hall, and Gibson's, solicitors to the Company, 64, Lincoln's-inn Fields; at the Mart; and of Messrs. SHUTTLEWORTH and SONS, 28, Poultry.

Eligible Leasehold Estates and Ground Rents, Maida-hill, Park-lane, and Park-street, Marylebone, and Alfred-place, Newington-causeway.

MESSRS. SHUTTLEWORTH and SONS have received instructions to SELL BY AUCTION, at the Mart, on Friday, May 30, at Twelve, the following LEASEHOLD PROPERTY, highly eligible for investment; comprising a very convenient detached residence, in perfect repair, with a four-roomed cottage, stabling, and good garden in the rear, desirably situate, No. 1, Maida-hill West, let on lease at an annual rent of 100l. Three Leasehold Ground-rents of 4l. 4s. each, secured upon three houses in Park-lane and Park-street, Marylebone. Five Leasehold Ground-rents, amounting together to 28l. 6s., amply secured upon Nos. 8, 9, 11, 12, and 13, Alfred-place, Newington-causeway; and a Dwelling-house, No. 10, Alfred-place, let on lease at a low rent of 40l. 10s. per annum. The whole held for long terms unexpired, at low ground-rents. May be viewed with leave of the tenants. Particulars may be had, fourteen days previous to the sale, of Mr. Paine, solicitor, 69, Lincoln's-inn-fields; at the Mart; and of Messrs. SHUTTLEWORTH and SONS, 28, Poultry.

TONG CASTLE, Shropshire, adjoining the Turnpike-road leading from Wolverhampton to Newport.

MESSRS. DRIVER are instructed to LET the above magnificent CASTLE for a term of Five Years, either Furnished or Unfurnished, with the valuable right of shooting and fishing over the estate, comprising about 3,000 acres, including 80 acres of lakes and meres well stocked with fish; and the tenant may be accommodated with some of the park and arable lands if he pleases.

TONG CASTLE constitutes a very superior Residence, well adapted for any large family of the first distinction. It is well furnished, and embellished with a great number of choice and valuable pictures, besides numerous rich bronze and china articles of ornamental furniture. It presents an elegant front, in length about 180 ft. and in depth 68 ft.; built with stone, of superb Gothic architecture, with a grand staircase; and on the principal floor is a small dining-room, 17 ft. by 16 ft. 6 in.; winter drawing-room, 32 ft. by 17 ft.; principal dining-room, 33 ft. 10 in. by 24 ft.; state bed-room, 24 ft. by 28 ft.; principal drawing-room, 26 ft. 6 in. by 23 ft. 9 in.; exclusive of the bow, which is 19 ft. wide, and projects 7 ft. 6 in.; breakfast-parlour, 23 ft. 10 in. by 20 ft. The whole of the rooms on this floor are 17 ft. in height; and a saloon, 41 ft. 9 in. by 26 ft. 9 in. exclusive of the bow, 21 ft. wide. On the principal story is a library, the green or gold room, and numerous large, airy, capital bed-rooms, dressing-rooms, long gallery, and various other apartments, besides a large number of chambers on the upper floor, with capital domestic and other offices; and wine and beer cellars in the basement; several coach-houses, and stabling for 18 horses, a walled garden of 4 acres besides side slips, with choice fruit-trees in full bearing, pleasure-ground, and shrubberies, most delightfully situate in a park, and within 600 yards of the parish church of Tong, a noble, venerable pile, being a most beautiful object and an admired piece of antiquity, and some very rich ancient monuments.

Tong is distant 3 miles from Shiffnal, and 10 from Wolverhampton, where there is a station on the London and Liverpool Railway, thereby affording the greatest facility for transit to the metropolis or any other part of the kingdom.

The Castle to be viewed with tickets only, which, with further particulars, may be had on application to Messrs. DRIVER, Surveyors and Land Agents, 8, Richmond-terrace, Parliament-street, London; and Mr. Hempenstall, of Tong, will shew the property.

Furnished Mansion House, Gardens, and Land, to be Let for three years.

MESSRS. DRIVER are instructed to LET for three years a very capital well-furnished MANSION HOUSE, within thirty miles of London, and less than two miles from a railroad station, well suited for a sportsman, being within easy reach of a pack of fox-hounds as well as a pack of stag-hounds, and well adapted for any family of respectability; containing two hall ... ante-room connecting the library and drawing ... al dining-room, and water-closet, and on the principal floor ... s a ladies' boudoir, or morning room, five best bed-rooms, three dressing-rooms, and a water-closet; and upon the next floor are five excellent bed-rooms for bachelors or single ladies, excellent kitchen, dairy, larder, cellar, and all requisite domestic offices, capital walled kitchen-gardens, a forcing-house and a greenhouse, stabling for six horses, and loose boxes, with three coach-houses.

To be viewed with tickets only, which, with further particulars, may be had on application to Messrs DRIVER, Surveyors and Land Agents, 8, Richmond-terrace, Parliament-street.

Herts.—Important Freehold Property, comprising ... lent Mansion House, called Albury Hall, the residence of the late John Calvert, esq. with extensive Park also the Manors of Albury Hall, Patmore Hall, and Furneux Pelham, and sundry Farms, containing in the whole nearly One Thousand Six Hundred and Fifty Acres, most eligibly situate in the most preferable part of the County and only about five miles from Bishop Stortford.

MESSRS. DRIVER are favoured with instructions from the Trustees of the late John Calvert, esq. to offer to PUBLIC COMPETITION, at the Auction Mart, on Tuesday, May 27, at twelve ... more lots, the above important and valuable FREEHOLD PROPERTY; comprising the Manors of Albury Hall, Patmore Hall, and Furneux Pelham, together with an excellent Mansion House, called Albury Hall, extensive Park, and ... dry desirable Farms, with capital homesteads, in the several occupations of Mr. Thomas P. Clark, Mr John Feast, Mr. Geo. Scales, Mr. W. Clark, and others, most eligibly situate in the parishes of Furneux Pelham, Albury, and Brent Pelham, only about five miles from the capital market town of Bishop Stortford, where there is a principal Station on the Northern and Eastern Railway, the whole Estate ... ng nearly One Thousand Six Hundred and Fifty Acres, producing about 2,000*l*. per annum, including the Mansion House, Park, and Lands in hand, and admirably adapted either for occupation or investment

The above fine Property will be offered in the first instance in one lot; but in the event of no acceptable bidding being made, it will be immediately thereafter submitted to the assembled company in three lots, viz:—Lot One, comprising the Mansion House, Park, and other Lands in hand, with High Farm, Hole Farm, and sundry Lands containing in the whole Eight Hundred and Thirty-one Acres, together with the Manor of Albury Hall.

Lot Two, comprising Patmore Hall Farm, and sundry Woods and other Lands, and Cottages, containing in the whole above Five Hundred and Sixty five Acres together with the Manor Hall, and ...

Lot Three will comprise St. John's Farm in the parishes of Furneux Pelham and Brent Pelham, containing above Two Hundred and Fifty-one Acres, together with the Manor of Furneux Pelham.

To be viewed on application to Mr. George Scales, at High Farm, and printed specifications with plans annexed may be had at the George Inn, Bishop Stortford; Saracen's Head, Ware; the Bull, Hertford; of Messrs. V... and Sons, Solicitors, 7, Great James-street, Bedford-row; at the Auction Mart, Bartholomew-lane; and of Messrs. DRIVER, Surveyors and Land Agents, 8, Richmond-terrace, Parliament-street, London.

Freehold Copper Rolling Mills, Hammer Mills, Furnaces, Refinery, Foundry, and Factory, with very valuable Water Power, with a fall of about 5 feet 8 inches, on the River Wandle, in Garratt-lane, Wandsworth, Surrey, fully equal to between 70 and 80-horse power, all well inclosed, with a Manager's Dwelling House, good Garden, numerous Workmen's Cottages with Gardens, and several valuable parcels of Meadow Land, containing altogether nearly twenty acres, most eligibly situate within one mile and a half of Wandsworth, in the county of Surrey, and about seven miles from London.

MESSRS. DRIVER have received instructions to offer to PUBLIC COMPETITION at the Mart, on Tuesday, May 27, at twelve,

The above most valuable and desirable FREEHOLD PREMISES, exonerated from Land-tax, which are now, and have for nearly a century and a half, been worked by the Governor and Company of Copper Miners in England.

The Premises comprise a convenient small dwelling-house for a manager, with a most excellent garden; a building, about 98 feet by 70 feet, called the Rolling Mill, and a very capital iron water wheel, 18 feet diameter by 14 in width; a hammer mill, about 70 feet long, with two other water wheels, one 15 feet and the other 12 feet diameter; a new building called the Refinery and Foundry, about 85 feet by 12 feet, with three furnaces; stabling, sundry workshops, and a counting-house; an artesian well, 165 feet deep, with 5-inch copper pipes; 12 workmen's cottages, and sundry Parcels of most desirable and valuable Meadow Land, containing altogether about twenty acres.

To be viewed on application to Mr. Bashford, residing on the premises, of whom printed specifications with plans annexed may be had. Specifications and plans may also be had at the Spread Eagle, Wandsworth; at the Offices of the Company, Old Broad street; of Messrs. Roy, Blunt, and Co. Solicitors, Lothbury; at the Auction Mart, near the Bank; and of Messrs. DRIVER, surveyors and land agents, 8, Richmond Terrace, Parliament-street, London.

*** The Purchaser may or may not (as he pleases) take the Machinery at a Valuation; and in the event of his not taking it, the Vendors reserve to themselves the power of selling the same by Auction or otherwise, on the premises, as per inventory thereof to be produced on the day of sale.

Hatcham, Surrey.—Three miles from London-bridge, and near the New-cross Station.—Commodious detached Residence, with Pleasure-grounds, Gardens, and 17 acres of Land, suitable for Building purposes, having a considerable Frontage to the high road.

MESSRS. WINSTANLEY have received instructions to SELL by AUCTION, at the Mart, on Wednesday, the 18th of June, a valuable LEASEHOLD PROPERTY, held for nearly 70 years, at a trifling ground-rent; consisting of a capital family residence, known as Hatcham-grove, Surrey, little more than three miles from London-bridge, on the Kent road, and a short distance from the New-cross Railway-station. The house contains ample accommodation for a numerous family. The eating and drawing rooms are each 30 feet by 18, having French sashes opening to a balcony, and both commanding a beautiful home view; the other apartments are also of good proportions; the offices are conveniently arranged and fully adequate; the coach-houses and stabling include standing for four carriages, stalls for six horses, loose box, harness-room, coachman's rooms, &c. with a neat entrance-lodge and approach, productive garden, and extensive pleasure-grounds. The land comprises about 17a. 1r. 20p. and, from its having a very considerable frontage to the high road, offers to an enterprising capitalist an excellent opportunity for creating a safe and handsome return by letting off a large portion ... ground rents. To be viewed, between the hours of 1 and 5, by tickets, to be had, with descriptive particulars, of Messrs. WINSTANLEY, Paternoster-row; particulars also at the Mart.

...ble Freehold Estate, about 125 acres, with possession, ...ate at Brightling, in the county of Sussex, two miles from Robertsbridge, and 14 from Tunbridge-wells.

MESSRS. WINSTANLEY have received directions to offer for SALE by AUCTION, at the Mart, on Thursday, the 10th of July, in one lot, a very compact and desirable FREEHOLD ESTATE, with possession, called Old and New House Farms, situate in the parish of Brightling, in the county of Sussex, abutting on the turnpike road to Robertsbridge, from which it is distant about two miles, 14 from Tunbridge-wells, and 50 from London; consisting of a farm-house, barns, and outbuildings, capital new-built oast house, with two kilns, two cottages, and sundry parcels of meadow, pasture, arable, hop, and wood land, containing about 125a. 2r. 24p. To be viewed by application on the premises or to Mr. Frederick Smith, at Robertsbridge, of whom printed particulars with plans may be had particulars also at the libraries, at Tunbridge-wells, Hastings, and Brighton; the George at Battle; Rose and Crown, Tunbridge; of Mr. Matthews, solicitor, Lant-street, Southwark; at the Mart; also of Messrs. WINSTANLEY, Pat...

Desirable Leasehold Estate, at a ground-rent, producing ...58*l*. per annum.

MESSRS. WINSTANLEY have received instructions to SELL by AUCTION, at the Mart, on Thursday, May 29, the LEASE, for about 30 years, at a ground-rent of 7*l*. 10s. per annum, of the convenient RESIDENCE, No. 3, Fitzroy-street, Fitzroy-square, containing comfortable accommodation for a moderate-sized family; let upon lease to and in the occupation of S. A. Eyre, esq. at 58*l* per annum. To be viewed by permission of the tenant. Printed particulars may be obtained of Mr. Fourdrinier, solicitor, 1, Scott's-yard; at the Mart; and of Messrs. WINSTANLEY, Paternoster-row.

Small Leasehold Investment.

MESSRS. WINSTANLEY have received directions from the Executors of the late Mr. Moreland to SELL by AUCTION, at the Mart, on Thursday, May 29, the GROUND LEASE of 24, Lamb's Conduit-street, held of the Trustees of the Rugby Charity. The premises are situate in the best part of this great thoroughfare, and are now occupied by Mr. Black in the bread and biscuit trade, but let on lease to Mr. William Norwood, at a rent of 100*l*. per annum. To be viewed by permission of the tenant. Printed particulars may be obtained of Mr. Paine, solicitor, 69, Lincoln's-inn-fields; at the Mart; and of Messrs. WINSTANLEY, Paternoster-row.

Steam Oil Mills, ... Rochester, with Engine of ... 30 h... ..., fixed Presses, Cisterns, &c.

MESSRS. WINSTANLEY have received directions from the Mortgagee to offer for SALE by AUCTION, at the Mart, on Thursday, June 4, without any reserve, in one lot, a most valuable LEASEHOLD ESTATE, held under the Dean and Chapter of Rochester for a term of 21 years, customary to be renewed every seven years upon payment of a small fine and an annual quit rent of 4s.; consisting of all those capital and substantially erected oil-mills, most advantageously situate on the bank of the river Medway, with convenience of inland water-carriage, spacious wharf, extensive granaries, yard, cooperage, and smithy, and every suitable accommodation for conducting a large stroke of business, together with the fixed plant, including a steam-engine, with high pressure, equal to 30 horses, and low pressure equal to 15 horses, either of which can be used as occasion may require, driving two pair of stones, two pair of rollers, four hydraulic presses, with force-pump, and iron and other cisterns, tanks, pipes, &c. The surplus power might be most profitably employed for a flour-mill, saw-mill, or any other manufacturing business. To be viewed by tickets only, which, with particulars, may be had 20 days previous to the sale, of Messrs. WINSTANLEY, Paternoster-row; and of Messrs. Willis, Bower, and Willis, solicitors, Token-house-yard, London; particulars also of Mr. Anthony Ryott, Quarry-house, Frindsbury, near the mill; at the Old and New Corn Exchange Coffee-houses, Mark-lane; the Angel, Stroud; at the Crown, Rochester; the Pier, the Falcon, and Wayte's Hotel, Gravesend; and at the Mart.

... absolute power of sale, on Wednesday, the 18th of June, in one lot, a valuable LEASEHOLD ESTATE for 70 years, producing at low rents 114*l*. per annum, after deducting the ground-rent, consisting of a convenient residence in Wilmington-square, and four well-built houses in Tysoe-street, in the several occupations of Messrs. Mills, Thacker, Pemeller, Bossam, and Watkins, yearly tenants, with the exception of Mr. Watkins, who has a lease of his house at a ground-rent of 14*l*. per annum. To be viewed by permission of the tenants. Printed particulars may be obtained, 21 days previous to the sale, of Mr. F. Child, solicitor, 24, Cannon-street, City; at the Mart; and of Messrs. WINSTANLEY, Paternoster-row.

Plaistow, Essex.—Freehold Pasture Land.

MESSRS. WINSTANLEY are directed to SELL by AUCTION, at the Mart, on Thursday, May 29, in two lots, TWO ENCLOSURES of rich PASTURE LAND, consisting of about 11 acres, situate near Greengate-street, Plaistow, in the occupation of Messrs. Curtis and Son, at 47*l*. per annum. Printed particulars may be had at the George, at Barking and Ilford; Abbey Arms, and Green Gate, Plaistow; at the Mart; of Messrs. Bischoff and Coxe, solicitors, 19, Coleman-street; and of Messrs. WINSTANLEY, Paternoster-row.

TO CAPITALISTS.—Carmarthenshire and Glamorganshire, South Wales.—The Agent of an extensive Estate calls the attention of Iron-masters, Colliers, Manufacturers, Farmers, and Capitalists in general, to this announcement. He is prepared to enter into engagements with respectable parties for the leasing, on long terms, of various descriptions of property, now the objects of public attention: Anthracite, Bituminous, and Steel Coal, Culm, Iron-stone, Limestone, Marble, Flag, and other QUARRIES, Fire Clay and Brick Earth, Sites for building at and near a flourishing and fast rising Commercial Town, Seaport, and Floating Dock, for Manufactories, Ship building Yards, Wharfs, Store and Dwelling-houses; and in the Coal and Iron District, sites for Works joining a Railroad and Canal, leading by their main trunks and branches to three seaports—water power is almost general. Situations for rural and marine residences in the most beautiful parts of the country, commanding views of Swansea and Carmarthen Bays, and the Black Mountain, with good roads, cheap markets, and daily communication with Bristol, Gloucester, and the Metropolis. The sportsman will find his pursuits rewarded with woodcock, snipe, and other game in winter; and in summer, trout, salmon, and the much-esteemed sewin, a fish peculiar to the Principality.

The estate, containing twelve thousand acres, is situated in twenty-four parishes, offering every variety of soil and scenery, to the admirer of the picturesque, and numerous objects of interest to the geologist.

As an inducement to capitalists to embark in such ... cultural improvements as draining, planting, erection ... per homesteads, &c. which now so deservedly occupy public attention, leases of ninety-nine years (a term usually confined to building-leases) will be granted for these purposes. Cheap food, cheap labour, cheap fuel, and cheap raw material of every description, will give the manufacturer an advantage over every other part of Great Britain; while the large and still increasing trade in coal affords an intercourse with all parts of the world, for the transmission of raw materials from other localities, at cheap back-freights, and for forwarding to their destination the manufactured articles. This more particularly applies to those undertakings where the consumption of coal forms a principal ingredient.

The South Wales Railway will pass through the town and the three seaports, and through and near a large proportion of the estate near the sea-coast; while the contemplated Welsh Midland Railway will bring the collieries, iron-stone, limestone, and other quarries within an easy distance of the agricultural counties of Hereford and Worcester, and the great chain of railway communication connecting Birmingham, Liverpool, Manchester, and all the important manufacturing districts of England.

For further particulars apply to Mr. F. L. BROWN, Solicitor, Llanelly, Carmarthenshire, or to Mr. JOHN WILLIAMS, Solicitor, 1, Verulam-buildings, Gray's-inn, London.

LONDON:—Printed by HENRY MORRELL COX, of 74, Great Queen Street, in the Parish of St. Giles in the Fields, in the County of Middlesex, Printer, at his Printing Office, 74 & 75, Great Queen Street aforesaid, and published by JOHN CROCKFORD, of 29, Essex Street, Strand, in the Parish of St. Clement Danes ...

THE LAW TIMES,

AND JOURNAL OF PROPERTY,

FOR

The Legislator, the Magistrate, and the Lawyer.

Vol. V. No. 113.] SATURDAY, MAY 31, 1845.

SUBSCRIPTION.
For One Year, paid in advance...
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Single Numbers, or on credit...
Double Numbers...

THE REPORTS.

[These are usually brought down to the Wednesday preceding publication. Where *Cur. adv. vult.* the case is not reported till judgment given. All written judgments are taken in shorthand, and reported *verbatim*. Rules *nisi* are reported.]

The following are the names of gentlemen who favour the LAW TIMES with the Reports:—

PRIVY COUNCIL by THOMAS CAMPBELL FOSTER, of the Middle Temple, Esq. Special Pleader.

EQUITY COURTS.

LORD CHANCELLOR'S COURT by RICHARD GRIFFITHS WELFORD, Esq. of the Inner Temple, Barrister-at-Law.

VICE-CHANCELLOR of ENGLAND'S COURT, by GEORGE GOLDSMITH, Esq. of the Middle Temple, Barrister-at-Law.

ROLLS COURT, by J. MACAULAY, Esq. of the Inner Temple, Barrister-at-Law.

VICE-CHANCELLOR KNIGHT BRUCE'S COURT by GEO. S. ALLNUTT, Esq. of the Middle Temple, Barrister-at-Law.

VICE-CHANCELLOR WIGRAM'S COURT, by J. VESEY DAWSON, Esq. of the Middle Temple, Barrister-at-Law.

COMMON LAW COURTS.

The QUEEN'S BENCH, by J. C. SYMONS, Esq. of the Middle Temple, Barrister-at-Law, and EDWARD WISE, Esq. of the Middle Temple, Barrister-at-Law.

The COURT of COMMON PLEAS, by W. PATERSON, Esq. of Gray's-inn, Barrister-at-law.

The COURT of EXCHEQUER by JOHN BRIDGE ASPINALL, Esq. of the Middle Temple, Barrister-at-Law, and H. T. COLE, Esq. of the Middle Temple, Barrister-at-Law.

The BAIL COURT by T. W. SAUNDERS, Esq. of the Middle Temple, Barrister-at-Law.

The EXCHEQUER CHAMBER by A. A. FRY, Esq. of Lincoln's-inn, Barrister-at-Law.

BANKRUPT AND INSOLVENT COURTS.

The COURT of REVIEW by GEO. S. ALLNUTT, Esq. of the Middle Temple, Barrister-at-Law.

LONDON COMMISSIONERS' COURTS and the INSOLVENT COURT, by B. TALBOT, Esq. of the Middle Temple, Barrister-at-Law.

BRISTOL DISTRICT COURT, by J. ANGUS HOMES, Esq. Barrister-at-Law.

NISI PRIUS, CIRCUITS, AND CROWN CASES.

CENTRAL CRIMINAL COURT, by B. C. ROBINSON, Esq. of the Middle Temple, Barrister-at-Law.

CROWN CASES (before all the Judges) by A. BITTLESTONE, Esq. of the Inner Temple, Barrister-at-Law.

NORTHERN CIRCUIT, York and Liverpool, by J. B. ASPINALL, Esq. Barrister-at-Law. The other parts of the Circuit, by G. F. H. OLIPHANT, Esq. Barrister-at-Law.

WESTERN CIRCUIT, by EDWARD W. COX, Esq. of the Middle Temple, Barrister-at-Law.

OXFORD CIRCUIT, by JOHN LANE, Esq. D.C.L. of the Inner Temple, Barrister-at-Law.

NORFOLK CIRCUIT by JNO. B. DASENT, Esq. Barrister-at-Law.

SITTINGS AT NISI PRIUS AFTER TERM, by JOHN LANE, Esq. D.C.L. of the Inner Temple, Barrister-at-Law; E. WISE, Esq. Barrister-at-Law; and others.

ELECTION LAW.

REGISTRATION APPEALS in the COMMON PLEAS by EDWARD W. COX, Esq. of the Middle Temple, Barrister-at-Law; and HENRY TINDAL ATKINSON, Esq. of the Middle Temple, Barrister-at-Law.

ELECTION COMMITTEES by EDWARD W. COX, Esq. of the Middle Temple, Barrister-at-Law.

REGISTRATION COURTS, collected and edited by EDW. W. COX, Esq. of the Middle Temple, Barrister-at-Law.

IRISH REPORTS.

The LORD CHANCELLOR'S COURT by WILLIAM DUGGAN, Esq. Barrister-at-Law.

QUEEN'S BENCH and CRIMINAL COURTS by WM. ST. LEGER BABINGTON, LL.D. Barrister-at-Law.

N.B.—The names of the reporters of such important points as may arise upon Circuit will be announced as the arrangements for each are completed.

The Written Judgments are reported verbatim in Shorthand by Mr. H. GREGORY, Short-hand Writer.

SALE POSTPONED.—Messrs. BROOKS and GREEN beg to give notice that the SALE by AUCTION of the RENT-CHARGE of Old Newton and Dagworth, in the county of Suffolk, announced to take place on Thursday, the 5th of June, is postponed until further notice.

Estate Agency Offices, 28, Old Bond-street, May 30, 1845.

Kent, near Dover.—Valuable Freehold Investment.

MESSRS. BROOKS and GREEN have received instructions from the Proprietor to SELL by AUCTION, at Garraway's, in June next, a first-rate and perfect FARM of 280 acres, with superior house, buildings, and every agricultural convenience. It is desirably situate, exempt from land-tax, and held by a responsible tenant at 200l. per annum, under lease, of which 12 years have to run.—Full particulars may be had of Messrs. BROOKS and GREEN, estate agents, surveyors, and auctioneers, 28, Old Bond-street.

POSTPONED TO THE 19TH OF JUNE.

Buckinghamshire and Middlesex.—Denham-place Estates and Manor Farm, Greenford.

MESSRS. BROOKS and GREEN will SELL by AUCTION, by order of the Proprietor, at their Estate Auction Gallery, 28, Old Bond-street, on Thursday, June 19, 1845, at One, a most important FREEHOLD DOMAIN, land-tax redeemed, and partly tithe-free, known as the DENHAM-PLACE ESTATE, being one of the most desirable for residence and investment in Buckinghamshire. The possessor of this estate may with confidence look forward to become one of the county members. It consists of the noble Mansion, called Denham-place, replete with accommodation for a Family of Distinction, with extensive Lawns, Pleasure Grounds, Wilderness, and Ornamental Water of great beauty; and surrounded by park-like grounds of 28 acres. The property consists of nine most excellent Farms, extensive Beech and Oak Woods, various accommodation Meadows near to, and Wharfs, Public-houses, and premises in Uxbridge town and Denham village; fifty-seven Cottages, Garden Ground, Water-cress Beds, and comprising in the whole between 3,000 and 4,000 acres, of which about 400 acres are remarkably thriving Woods, unequalled for fineness of growth; and the remainder rich arable, dairy, and grazing lands, with capital Farm-houses and Homesteads in most excellent repair, and let to highly respectable tenantry. The Estate possesses an inexhaustible store of the finest brick earth, immediately adjacent to water carriage; has a valuable frontage on the high-road from Uxbridge to Oxford, of upwards of three miles. The MANOR of DENHAM, abounding with game, together with its Royalties, Quit Rents, and all other Rights thereunto belonging. The trout river Colne partly bounds, and the trout river Misbourne runs upwards of three miles through the Estate. Also, the valuable MANOR FARM, GREENFORD, in the county of Middlesex. The whole producing upwards of 6,000l. per annum, including the Mansion and Lands held therewith, and the Woods and Plantations in hand.

Printed particulars and maps of the Estate may shortly be obtained at the Red Lion, Wycombe; Red Lion, Slough; White Hart, Windsor; White Horse, Uxbridge; Saracen's Head, Beaconsfield; Midland Counties Herald Office, Birmingham; the George, Aylesbury; of Mr. Walford, Solicitor, Uxbridge; Messrs. Springall, Thompson, and Powell, Solicitors, Raymond-buildings, Gray's-inn; and of Messrs. BROOKS and GREEN, Estate Agents, Surveyors, and Auctioneers, 28, Old Bond-street.

Branches Park Estate, Suffolk.

MESSRS. BROOKS and GREEN have received instructions from the executors of the late Henry Usborne, esq. to SELL by AUCTION, at their Estate Auction Gallery, 28, Old Bond-street, on Thursday, the 5th of June, at One, the highly important and valuable FREEHOLD PROPERTY, principally situate in the preferable part of the county of Suffolk, eight miles from Newmarket, fourteen from Bury, and sixty-five from London, comprising the splendid Mansion called BRANCHES, seated in an extensive and finely timbered Park; together with Thirteen FARMS, containing in the whole about 1,394 acres of remarkably productive arable, meadow, pasture, and wood lands, with excellent Farm Houses and Homesteads. Let upon agreements for leases to a most respectable and contented tenantry, at moderate rents. The MANOR of COWLINGE, with quit rents, royalties, and all other rights thereunto belonging, containing about 3,000 acres, abounding with game; the whole producing a rent of nearly 2,280l. per annum.

Printed particulars and plans will shortly be ready, and may then be had at the Angel Inn, Bury St. Edmunds; Black Lion, Long Melford; Rose and Crown, Sudbury; Suffolk Hotel, Ipswich; of Mr. Oliver, Solicitor, 16, NewBridge-street, Blackfriars; and of Messrs. BROOKS and GREEN, Estate Agents, Surveyors, and Auctioneers, 28, Old Bond-street, at whose gallery a cosmoramic view of the mansion may be seen.

ESSEX and HERTS, within a few miles of the Railway Station near Saffron Walden, a most desirable FARM, with possession at Michaelmas next, all Freehold, inclosed in a ring fence, and land-tax redeemed, containing 110 acres. Another FARM adjoining this, nearly all Freehold, containing 100 acres, let on lease for five years to come. A Freehold MEADOW close to the last, containing 1a. 2r. A FIELD of nine acres, very near, and a small Freehold Pasture at a short distance, all let for the same term. Also a Freehold CLOSE, containing 2a. 0r. 16p. and three acres of Freehold Land, not far from the above, let for the same term; these two are in Herts, the rest in Essex. A most desirable LITTLE FARM, in Herts (about twenty acres) near the Railway Station at Sawbridgeworth, let on lease for nine years to come. The two largest Farms will be sold to pay 4 per cent.; and the other lots, including the little Farm, 5 per cent. These are all the property of one individual, and any one of them may be purchased.

Address Messrs. THURGOOD and SONS, Saffron Walden.

TO THE PROFESSION.—Charge for submitting Estates and other Properties to Public Competition, including bills, advertisements, and p[illegible] TWO GUINEAS and a HALF when bought in

AUCTION and ESTATE AGENCY.—Offices, 36, Southampton-street, Strand. Periodical Sale of Reversions, Life Interests, Annuities, Mortgages, Landed and House Property, Securities, Public Shares, &c.

MR. HENRY COLLINS solicits the attention of Gentlemen of the Profession to his PERIODICAL SALE of the above description of PROPERTY. An experience of fifteen years devoted to the transfer of Property by Auction, convinces Mr. Collins that competition is always increased in proportion to the variety to be competed for, a larger audience secured, and consequently the vendor has a fair chance of obtaining to the fullest value of his interest. Communications fourteen days previous to the day of Sale will secure attention. Mr. C.'s NEXT SALE will take place the THIRD WEEK in JUNE.

Periodical Sale.—Established in 1803.—Life Interests, Reversions, several valuable Old Policies of Assurance in the Equitable and other Offices, and 225 Shares in the Britannia Life Assurance Society, paying large dividends.

MESSRS. SHUTTLEWORTH and SONS are instructed to include in the Periodical Sale of Reversionary Interests, &c. appointed to take place at the Auction Mart, on Friday, June 6, at Twelve, in several lots, the LIFE INTEREST of a gentleman, age 31, in the dividends and interests arising from 870l. 13s. Three per Cent. Consols; 100l. Three-and-a-Quarter per Cent. Anns; 100l. Sterling Bond of the Delaware and Raratan Canal, and the Camden and Amboy Railroad and Transportation Companies; a reversionary interest to one-sixth of 2,223l. 9s. 11d. Three per Cent. Consols, and 1,124l. 12s. 9d. Reduced Bank Annuities, life 30 against 81 and 72; a ditto in the like sum and stock, life 32 against 81 and 72; a reversionary interest in two-sevenths of 3,102l. 5s. 1d. Three per Cent. Consols, life 60; a policy of assurance for 2,500l. with the accumulations thereon, amounting together to 6,812l. 10s. effected in the Equitable, June 21, 1810, life 45; a ditto for 1,000l. with the accumulations thereon, amounting together to 1,275l. effected with the Equitable, June 25, 1818, life 35; a ditto for 1,000l. with the accumulations thereon, amounting together to 1,275l. effected with the Equitable, June 25, 1818, life 37; a ditto for 1,000l. with the accumulations thereon, amounting together to 1,200l. effected with the Equitable, July 8, 1821, life 32; a ditto for 1,500l. with the accumulations thereon, amounting together to 1,650l. effected with the Equitable Oct. 8, 1825, life 45; a ditto for 1,000l. with the accumulations thereon, amounting together to 1,100l. effected with the Equitable Oct. 8, 1825, life 45; a ditto for 2,500l. with the accumulations thereon, amounting together to 2,562l. 10s. effected with the Equitable, Oct. 3, 1831, life 20; a ditto for 2,500l. effected with the Guardian, Sept. 7, 1823, life 48; a ditto for 1,500l. effected with the Guardian June 17, 1831, life 45; a ditto for 700l. effected with the London Life Association July 31, 1840, life 31; a ditto for 500l. with accumulations thereon, amounting together to 537l. 15s. 3d. effected with the Norwich Union February 25, 1828, life 65; two ditto of 500l. each, effected with the Licensed Victuallers, life 31; and 225 shares of 100l. each in the proprietary capital of the Britannia Life Assurance Company. Particulars may be had of W. Whitmore, esq. official assignee, 2, Basinghall-st.; of Mr. Taylor, solicitor, 2, Castle-st. Holborn; of Mr. Jackson, solicitor, 9, New Inn, Strand; of Messrs. J. T. and H. Baddeley, solicitors, 12, Leman-st. Goodman's fields; of Mr. J. Tucker, solicitor, 25, John-st. Bedford-row; of Mr. S. P. Turner, solicitor, 2, Field-court, Gray's-inn; of Mr. Cole, solicitor, 4, Adelphi-terrace; of Messrs. Newbon and Evans, solicitors, Wardrobe-place, Doctors'-commons; of Mr. Puddicombe, solicitor, Furnival's-inn; of Messrs. Lane and Prideaux, solicitors, Goldsmiths'-hall; at the Auction Mart; and of Messrs. SHUTTLEWORTH and SONS, 28, Poultry.

SLOUGH, BUCKS.

TO CAPITALISTS AND BUILDERS.—To be SOLD by AUCTION, by Mr. TEBBOTT, at the Crown Inn, Slough, on Tuesday, June 17th, 1845, at Two for Three o'clock precisely, in nineteen lots, a second portion of a valuable parcel of FREEHOLD BUILDING GROUND (Land Tax redeemed), near the Great Western Railway Station at Slough, the property of William Bonsey, Esq. The Land is divided into nineteen lots, varying from 156 to 160 feet in depth, and from 52 to 60 feet in frontage to the New Road, called "Wellington-road," leading (from the principal entrance of the station) to the Langley, Wexham, and Uxbridge roads. The Ground is suitable for the erection of Villas or business premises; it has the advantage of an elevated and dry situation, pure air, and a plentiful supply of fine water. It commands a rich and extensive scenery, is immediately contiguous to Eton College and Windsor (with which omnibuses communicate almost hourly), and is in the midst of the Royal Hunt; it is also near the Post-office, whence two deliveries of letters take place daily. This combination of advantages renders the property a most desirable and safe investment for capital, and well worthy the attention of the public.

The lots are staked out, and can be viewed at any time; printed particulars, with conditions, and a lithograph plan annexed, may be had 14 days previous to the sale, at Hatchett's Hotel, Piccadilly; Chequers, Uxbridge; Bear, Reading; White Hart, Maidenhead; Clarence Hotel, Staines; place of sale; of Mr. W. H. Bonsey, solicitor, St. Leonard's-place, Slough; Mr. C. Barrett, Estate Agent, High-street, Eton; and at Mr. TEBBOTT'S Office, Sheet-street, Windsor; or forwarded by post on application by letter.

FREEHOLD ESTATE for SALE by PRIVATE CONTRACT.—A valuable FREEHOLD ESTATE of 190 acres, of rich meadow and pasture land, with good farm-house and buildings, producing a rental of 286l. per annum; land-tax redeemed, and partly tithe-free. The estate is situate within a mile and a half of the borough of Cricklade, Wilts, and four miles from the Great Western Railway station, and is bounded by the river Thames.

For particulars apply to Messrs. SEWELL and NEWMARCH, Solicitors, Cirencester.

Periodical Sale of Reversions, Life Interests, Annuities, Life Policies, Advowsons, Next Presentations, and all descriptions of Securities dependent upon human Life, Shares in Railways, Mines, and all other undertakings.

MESSRS. FULLER and MARSH respectfully inform the public, that by their system of periodical sales by Auction they are enabled to offer to persons expectant or otherwise interested in the above description of property the most prompt, economical, and satisfactory mode of disposing thereof, as by classifying these descriptions of interests and properties in the same particular and for the same day, much expense is avoided, and a far greater competition is secured. Their periodical sales of reversions, life interests, annuities, life policies, advowsons, next presentations, and all descriptions of securities dependent upon human life, shares in railways, mines, and all other undertakings, will be continued throughout the present year as follows:—

Thursday, June 5	Thursday, September 4
Thursday, July 3	Thursday, October 2
Thursday, August 7	Thursday, November 6

Thursday, December 4.

Notice of Sales intended to be effected by the above means should be forwarded to Messrs. Fuller and Marsh a fortnight prior to each date, in order that they may have the full benefit of publicity. Messrs. Fuller and Marsh beg to call the attention of the public to the economy and expedition of this system of business, as they are thereby enabled to include each property for the sum of two guineas and a half, including all expenses, should a sale not be effected. Particulars of the next periodical sale may be obtained ten days previous to the sale, at the Star Hotel, Oxford; University Arms, Cambridge; Hen and Chickens, Birmingham; Plough, Cheltenhma; Bush, Bristol; New London Hotel, Exeter; Pierce's Hotel, Truro; Adelphi, Liverpool; Royal Hotel, Manchester; Cuff's Midland Hotel, Derby; Black Swan, York; Tontine Hotel, Sheffield; Royal Hotel, Leeds; Tontine Hotel, Glasgow; M'Gregor's Hotel, Princes-street, Edinburgh; Gresham's Hotel, Dublin; and at the Offices of Messrs. FULLER and MARSH, 2, Charlotte-row, Mansion-house, London.

On Thursday next.—Periodical Sale.—Absolute Reversion to the sum of 1,000l. Three per Cent. Consols.

MESSRS. FULLER and MARSH have been favoured with instructions to include in their next Periodical Sale of Reversions, &c. appointed to take place at the Auction Mart, on Thursday next, June 5, at Twelve, in lots, the ABSOLUTE REVERSION in and to the sum of 1,000l. Three per Cent. Consolidated Bank Annuities, standing in the names of trustees of high respectability, and receivable on the death of a gentleman and lady aged respectively 16 and 50.—Particulars may be had at the Auction Mart; and at Messrs. FULLER and MARSH'S offices for the sale of all descriptions of reversionary property, &c. 2, Charlotte-row, Mansion-house.

On Thursday next.—Periodical Sale.—A well-secured Life Interest of 24l. per annum.

MESSRS. FULLER and MARSH have received instructions from the Assignees of Mr. John Mandeno, a bankrupt, to include in their next Monthly Sale of Reversions, &c. appointed to take place at the Auction Mart, on Thursday next, June 5, at Twelve, in lots, the LIFE INTEREST of the bankrupt, aged 45, arising from a freehold messuage and premises, situate in Holly-bush-gardens, Bethnal-green, in the occupation of a respectable tenant, under an agreement for a lease, at a rental of 24l. per annum, and to which present rental, as well as all prospective advantages, the purchaser will be entitled during the life of the aforesaid Mr. John Mandeno.—Particulars may be obtained at the Auction Mart; of Mr. John Biggenden, solicitor, Walbrook; and at Messrs. FULLER and MARSH'S offices, Charlotte-row, Mansion-house.

On Thursday next.—The Absolute Reversion to the sum of 1,646l. 1s. 10d. Consols, age 64.

MESSRS. FULLER and MARSH have received instructions to include in their next Periodical Sale of Reversionary Interests, Shares, &c. appointed to take place at the Auction Mart, on Thursday next, June 5, at Twelve o'clock, in lots, the ABSOLUTE REVERSION in and to the sum of 1,646l. 1s. 10d. 3½ per cent. Consols, standing in the names of trustees of the highest respectability, and payable on the death of a lady aged 64 years.—Particulars may be obtained at the Mart; of Mr. Alfred Russell, solicitor, Dartford, Kent; of John Nokes, esq. solicitor, 74, Guildford-street, Russell-square; and at Messrs. FULLER and MARSH'S offices for the sale of all descriptions of Reversionary Property, Shares, &c. 2, Charlotte-row, Mansion-house, City.

On Thursday next.—Periodical Sale.—The absolute Reversionary Interest to a valuable long Leasehold Estate, Woolwich, Kent.

MESSRS. FULLER and MARSH have received instructions from the Assignees of Mr. Robert Cann to include in their next Periodical Sale of Reversions, &c. appointed to take place at the Auction Mart, on Thursday next, June 5, at Twelve, in lots, the ABSOLUTE REVERSION in and to a valuable and improving long LEASEHOLD ESTATE, consisting of five houses, Nos. 79, 80, 81, 82, and 83, King-street, Woolwich, in the occupation of respectable tenants, at rentals amounting to 58l. per annum; held on lease for a term, sixty-eight years of which were unexpired at Michaelmas last, at a ground rent of 10l. 4s. per annum, and to which reversionary property the purchaser will be entitled on the death of a lady now in the sixty-second year of her age.—Particulars may be obtained at the Auction Mart; of Mr. Biggenden, solicitor, Walbrook; and at 2, Charlotte-row, Mansion-house.

On Thursday next.—Periodical Sale.—To small Capitalists.—Absolute Reversion to the sum of 230l. age 77.

MESSRS. FULLER and MARSH have received instructions to include in their next Monthly Sale of Reversions, &c. appointed to take place at the Auction Mart, on Thursday next, June 5, at Twelve, in Lots, the REVERSION to the sum of 230l. Three per Cent. Consols, standing in the names of trustees of high respectability, and receivable on the death of a lady now in the 77th year of her age.—Particulars may be obtained at the Auction Mart; of Mr. Morgan, solicitor, Birmingham; of Messrs. Nicholson and Parker, solicitors, 23, Throgmorton-street; and at Messrs. FULLER and MARSH'S offices, 2, Charlotte-row, Mansion-house.

On Thursday next.—Periodical Sale.—Hancock's Insolvency.—Important and valuable Patent Rights.—Post-poned from May 1.

MESSRS. FULLER and MARSH have been favoured with instructions from the Assignee of Mr. Walter Hancock, an insolvent, to SUBMIT to PUBLIC COMPETITION, at the Auction Mart, on Thursday next, June 5, at Twelve, in lots, the following important PATENT RIGHTS, secured by letters patent, viz.:—A patent for an improvement upon steam boilers, date January, 1828, specification duly enrolled. A patent for improvements in steam boilers and condensers, date March, 1830, specification duly enrolled. A patent for an improved arrangement and combination of certain mechanical means of propelling vessels through water, date March, 1836, specification duly enrolled. A patent for certain improved means of preventing accidents on railways, specification duly enrolled. Patent for improvements in the manufacture of caoutchouc, and in combination with other substances in machinery, of apparatus for preparing the same, date November 9, 1844, specification duly enrolled, two licenses for the full term granted. Certificate of the registration of a design for an improved ventilating hat, July 6, 1844. Certificate of the registration of a design for an improved umbrella and parasol.—Particulars may be obtained of William Turquand, Esq. official assignee, Old Jewry-chambers; of Mr. Kirkman, solicitor, 27, Laurence Pountney-lane, Cannon-street; and at the offices of Messrs. FULLER and MARSH, for the sale of reversions, shares, &c. 2, Charlotte-row, Mansion-house, and Croydon, Surrey.

On Thursday next.—Periodical Sale.—Contingent Life Interest in 40*l.* per annum.

MESSRS. FULLER and MARSH have received instructions from the Assignees to include in their Periodical Sale of Reversionary Property, Life Interests, &c. appointed to take place at the Auction Mart, on Thursday next, June 5, at Twelve, in lots, a CONTINGENT LIFE INTEREST in the sum of 1,000*l.*, at present lent on mortgage at 4 per cent. interest, which, if paid off, the same is directed to be invested in the Three-and-a-Quarter per Cent. Annuities, and to which life interest the purchaser will become entitled on the decease of a lady now aged 45, provided her husband, who is now aged 37, survives her.—Particulars may be obtained at the Auction Mart; of Messrs. J. and W. Meymott, solicitors, 96, Blackfriars-road; and at Messrs. FULLER and MARSH'S, 2, Charlotte-row, Mansion-house.

On Thursday next.—Shares in the Old Greenwich and Woolwich Steam-Packet Companies.

MESSRS. FULLER and MARSH have received instructions to include in their next Periodical Sale, appointed to take place at the Auction Mart, on Thursday next, June 5, at Twelve, in lots, SIX SHARES in the old-established GREENWICH STEAM-PACKET COMPANY, and Twenty Shares in the Woolwich Steam-Packet Company.—Particulars may be obtained of Messrs. FULLER and MARSH, Auctioneers and Surveyors, 2, Charlotte-row, Mansion-house.

On Thursday next.—Periodical Sale.—A Life Interest of 57*l.* 8*s.* 3*d.* per annum, arising from Funded Property.

MESSRS. FULLER and MARSH have been favoured with instructions from the Assignees to include in their next Periodical Sale of Reversionary Property, Life Interests, &c. appointed to take place at the Auction Mart, on Thursday next, June 5, at Twelve, in lots, a LIFE INTEREST of 57*l.* 8*s.* 3*d.* per annum, being the dividend arising from the one-third part of 5,300*l.* Three-and-a-Quarter per Cent. Consols, receivable during the life of a gentleman now in the 70th year of his age.—Particulars may be obtained of William Turquand, esq. official assignee, Old Jewry-chambers; of A. R. Belcher, esq. official assignee, King's Arms-yard; of J. H. Watson, esq. solicitor, 2, Winchester-buildings, Old Broad-st.; and at Messrs. FULLER and MARSH'S offices, 2, Charlotte-row, Mansion-house.

On Thursday next.—Long Leasehold Estates, Stamford Villas, Walham-green, Fulham, Middlesex, presenting to small capitalists eligible investments.

MESSRS. FULLER and MARSH have received instructions to SELL by AUCTION, at the Auction Mart, in lots, on Thursday next, June 5, at Twelve, Two Brick-built VILLA RESIDENCES, being Nos. 17 and 18, Stamford Villas, Walham-green, in the rapidly improving vicinity of Brompton-square; one let to a respectable tenant at will, and the other fit for immediate occupation, producing an improved rental of 52*l.* per annum.—May be viewed by permission of the tenants, and full particulars obtained, a week prior to the sale, on the premises; of Messrs. Few, Hamilton, and Fews, solicitors, Henrietta-street, Covent-Garden; and of Messrs. FULLER and MARSH, 2, Charlotte-row, Mansion-house.

On Thursday next.—Star-street, Edgware-road.—Valuable long Leasehold Property, in the immediate neighbourhood of Hyde-park.

MESSRS. FULLER and MARSH have received instructions to SELL by AUCTION, at the Auction Mart, on Thursday next, June 5, at Twelve, a genteel brick-built DWELLING HOUSE, and extensive premises in the rear, known as the Southwick Dairy, most eligibly situate, being 39, Star-street, Edgware-road, within a short distance of St. John's church, in the parish of St. Mary, Paddington, in the occupation of, and on lease to, Mr. George Spring, a most respectable tenant, at the low rent of 56*l.* per annum. The estate is held for a term of ninety-five years from Midsummer, 1835, at a ground-rent of 7*l.* 10*s.* per annum—improved rental 48*l.* 10*s.*—May be viewed, and particulars obtained on the premises; of Messrs. Harbin and Ward, solicitors, 12 and 13, Clement's-inn; and of Messrs. FULLER and MARSH, Auctioneers, 2, Charlotte-row, Mansion-house, and Croydon, Surrey.

Margate and Herne Bay.

MESSRS. FULLER and MARSH have received instructions to prepare for SALE by AUCTION, in the latter end of June or early in July, a valuable FREEHOLD ESTATE, situate in the most [illegible] part of Herne Bay; and a rapidly improving property, Ramsgate.—Detailed particulars will appear in future advertisements, and in the meantime any information may be obtained at Messrs. FULLER and MARSH'S offices, Charlotte-row, Mansion-house.

On Thursday next.—The Priory, Bedford-hill, Streatham, Surrey.—An elegant detached Residence, Pleasure and Kitchen Gardens, and about Six Acres of park-like Meadow Land.

MESSRS. FULLER and MARSH have been favoured with instructions to SUBMIT to PUBLIC COMPETITION, at the Auction Mart, on Thursday next, June 5, at Twelve (unless in the meantime disposed of by private contract), a valuable and desirable long LEASEHOLD ESTATE, either for investment or occupation, comprising a spacious detached family residence, distinguished as the Priory, replete with every accommodation for a family of the highest respectability, most delightfully situate on the borders of Tooting-common, in the parish of Streatham, about six miles from the bridges, surrounded by pleasure and productive kitchen gardens, and about six acres of park-like meadow land, all requisite domestic offices, coach-houses and stabling, &c.—The residence may be viewed by cards only, which, with particulars and lithographic plans, may be obtained of D. Foggo, esq. Chatham-place, Blackfriars; of W. Spike, esq. solicitor, 15, Clifford's-inn, Fleet-street; and of Messrs. FULLER and MARSH, 2, Charlotte-row, Mansion-house, who are authorised to treat for sale by private contract.

Freehold Water Corn Mill, and 15 acres of Hop and Meadow Land, Speldhurst, Kent.

MESSRS. FULLER and MARSH have received instructions from the Trustees to offer for unreserved SALE, at the Auction Mart, London (unless previously disposed of by private treaty), on Tuesday, June 10, at Twelve, a very desirable FREEHOLD ESTATE, consisting a water corn mill driving three pair of stones, together with a substantial dwelling-house, cottage, and 15 acres of superior hop and meadow land, situate at Speldhurst, and near to the excellent market-town of Tunbridge, Kent. The property may be viewed on application to Mr. Holland, and particulars obtained, ten days prior to the sale, at the Sussex Hotel, Tunbridge-wells; Crown, Seven-oaks; Star, Maidstone; Crown, Tunbridge; on the premises; at the Mart; of Messrs. Faithfull, solicitors, Ship-street, Brighton; Mr. John Gainsford, 4, London-road, Brighton, Sussex; of Mr. Robert Ford, Oxted, Surrey; and of Messrs. FULLER and MARSH, Auctioneers and Land Agents, 2, Charlotte-row, Mansion-house, London, and Croydon, Surrey.

In the most favourite and picturesque part of the county of Kent.—Important and valuable Freehold Estates, situate near to Maidstone, and a Leasehold Dwelling-house at Tunbridge-wells.

MESSRS. FULLER and MARSH have been honoured with instructions from the Executors of the late John Ranger, esq. to prepare for SALE by AUCTION, at the Mart, on Tuesday, the 10th of June, at twelve o'clock, unless in the meantime acceptable offers be made by private contract, a remarkably compact and valuable FREEHOLD PROPERTY, distinguished as the Cheveney Estate, situate in the parishes of Hunton and Yalding, about four miles from the Marden and Paddock-wood stations on the London and Dover Railway, one and a quarter mile from the Wateringbury and Yalding station on the Maidstone branch, and about five miles from the county town of Maidstone, and nine from Tunbridge, comprising about 143 acres of highly cultivated land, including an excellent hop garden of about 26 acres (protected by a luxuriant quickset hedge, 20 feet in height), scarcely ever known to have sustained injury from blight when the hop crops of the surrounding neighbourhood have failed, together with other valuable hop grounds, arable, meadow, orchard, and pasture land, underwood plantations, a good farm-house, four cottages, and ample agricultural buildings, all of which are in a substantial state of repair; four cottages, and about 2½ acres of freehold land, commanding eligible building sites, near the upper part of the village of Yalding; and a long leasehold estate, comprising a substantial, recently erected, stone-built residence, situate in Clarence-terrace, near to Trinity Church, Tunbridge Wells; held for an unexpired term of 46 years, at a nominal ground rent. Particulars, with lithographed plans, are preparing, and may shortly be obtained of Mr. R. Apsley Ranger, surveyor and valuer, 15, Duke-street, Adelphi; of Mr. H. Ranger, Tovil, near Maidstone; Mr. R. C. S. Ranger, on the Cheveney Estate; Mr. Brooke, Buckington, near Margate; Messrs. Stone and Wall, solicitors, Tunbridge Wells; and of Messrs. FULLER and MARSH, Surveyors and Land-agents, 2, Charlotte-row, Mansion-house. ,000*l.* of the purchase-money may remain on mortgage.

IN HEREFORDSHIRE.—The Sugwas Court Estate, an important Freehold Landed Investment, extending over upwards of 600 acres of sound arable, pasture, and meadow land, productive orchard and fruit plantations, with its mansion and offices, most beautifully situate on the banks of the Wye, amidst luxuriant scenery, about three miles from the ancient city and county town of Hereford, and forty from Cheltenham.

MESSRS. FULLER and MARSH have been favoured with instructions to submit to PUBLIC COMPETITION, at the Auction Mart, on Tuesday, the 10th day of June, at twelve o'clock (unless in the meantime an acceptable offer be made by private contract), a first-rate FREEHOLD LANDED INVESTMENT, comprising the Sugwas Court Estate, together with a very superior residence, well adapted for a family of distinction, standing in park-like meadows, most beautifully timbered pleasure-grounds and plantations, kitchen-gardens, &c. and most complete and judiciously arranged domestic offices, coach-houses, stabling, and about 560 acres of sound rich arable, pasture, and meadow land, in the highest state of cultivation, including several orchards and fruit plantations, lying in a ring fence. The estate is partly bounded by the river Wye, which affords salmon fishery of the best description. At a short remove from the mansion is an excellent farm residence, and all requisite agricultural buildings, many of which have been erected within a few years at a great outlay, together with the manorial rights, fisheries, ferryage, &c. The Sugwas Court Estate is about three miles from the ancient city of Hereford. The Hereford and Brecon mail daily passes the estate, and the Cheltenham and Aberystwith mail within about half a mile, and the intended railway extension to Hereford will bring the estate within about six hours' journey of the metropolis. Particulars, with conditions of sale, and lithographic plans, may be obtained of Mrs. Jones, who resides on the estate; of John Cleave, esq. solicitor, Hereford; and of Messrs. FULLER and MARSH, Surveyors and Land-agents, Charlotte-row, Mansion-house.

Twenty Acres of valuable Meadow Land, within four miles of the Royal [illegible], adapted for Building purposes.

MESSRS. FULLER and MARSH have been favoured with instructions to prepare for SALE by AUCTION, early in June, about TWENTY ACRES of important FREEHOLD MEADOW LAND, situate in an improving neighbourhood, and presenting to the capitalist an eligible investment, and to builders a spot well adapted for building purposes.—Detailed particulars will appear in future advertisements; and in the meantime any information may be obtained at Messrs. FULLER and MARSH'S offices, 2, Charlotte-row, Mansion-house.

Between the Cemetery and the celebrated Beulah Spa, Norwood, Surrey.—Important Copyhold Estates, with great prospective reversionary interests, valuable building and accommodation Land, Ground Rents, &c.

MESSRS. FULLER and MARSH have been favoured with instructions to offer to SALE by AUCTION, at the Mart, on Thursday, July 3rd, 1845, at Twelve o'clock, in one lot, an IMPORTANT PROPERTY, comprising the Tivoli Gardens, and King's Head Hotel, several Private Residences, Dwelling-houses and Shops, numerous Cottages, Ground-rents, and about 14 acres of valuable Building and Accommodation Land, offering to the capitalist and speculator safe investments, with great prospective advantages, eligibly situated in the most preferable part of Norwood. Detailed particulars will appear in future advertisements. Particulars of Sale, with lithographed Plans, are preparing, and may shortly be obtained on the several premises; at the Inns in the neighbourhood; of Messrs. Wiltshire and Parris, architects and surveyors, Wolsingham-place, Lambeth; of Mr. Owston, solicitor, Brigg, Lincolnshire; and of Messrs. FULLER and MARSH, Surveyors and Auctioneers, 2, Charlotte-row, Mansion-house.

TUNBRIDGE-WELLS.—Eligible Leasehold Estate, situate in the centre of this fashionable watering-place; held for 46 years at a low ground-rent.

MESSRS. FULLER and MARSH have been favoured with instructions from the Executors of the late John Ranger, esq. to SELL by public AUCTION, at the Mart, on Tuesday, June 10, at Twelve (unless an acceptable offer is previously made by private contract), a LEASEHOLD stone-built FAMILY RESIDENCE, delightfully situate, and numbered 3, Clarence-terrace, nearly opposite to Trinity Church, Tunbridge-wells, possessing uninterrupted views of the common, Mount Ephraim, and the surrounding picturesque country; let on lease to Mr. Wicking, for an unexpired term of 10 years from December, 1844, at a very inadequate rental of 60*l.* 5*s.* leaving an improved rental of 60*l.* 5*s.* per annum. Particulars may be obtained of Mr. Ranger, surveyor and valuer, 15, Duke-street, Adelphi; of Messrs. Stone and Wall, solicitors, Tunbridge-wells; and of Messrs. FULLER and MARSH, Surveyors and Land-agents, 2, Charlotte-row, Mansion-house, and Croydon, Surrey.

Essex Lodge, Brixton, Surrey, the much admired Residence of the late Daniel Higley Richardson, Esq.; possession may be had on the completion of the purchase.

MESSRS. FULLER and MARSH have been honoured with instructions from the Executors of the above deceased gentleman, to prepare for SALE by AUCTION at the Mart, on Tuesday, the 10th day of June, at twelve o'clock (unless in the meantime an acceptable offer be made by private contract), the above singularly attractive VILLA RESIDENCE, most delightfully situate, a short distance from the road, on the most preferable part of Brixton-hill, nearly opposite the church, erected within a few years, at a considerable outlay, and regardless of expense, and much ingenuity and taste have been displayed in its exterior and interior arrangements. The house is of handsome elevation, and most conveniently and admirably adapted for the reception of a gentleman's family: it contains two attic rooms for female servants, and closets on the first floor; four best bed-rooms and a dressing ditto, an occasional summer room or conservatory; on the ground floor, a cheerful entrance hall, an elegant drawing-room, a well-proportioned dining-room, and library; and on the basement, the most complete domestic offices; coach-house, stabling, pleasure-grounds, and kitchen-garden. This eligible estate, either for occupation or investment, is held for an unexpired term of 92 years, at a low ground-rent. Particulars may be obtained of H. F. Richardson, esq. solicitor, 36, Coleman-street; at the Mart; and cards to view of Messrs. FULLER and MARSH, Surveyors and Land-agents, 2, Charlotte-row, Mansion-house.

HENDON, MIDDLESEX.—Brook Lodge, a spacious detached Family Residence, Pleasure and Kitchen Gardens, and about 19 acres of prettily timbered Meadow Land, most beautifully situate on the river Brent, and about three miles from the Regent's-park.

MESSRS. FULLER and MARSH have been favoured with instructions to submit to public COMPETITION, at the Auction Mart, on Tuesday, June 10, at Twelve (unless in the meantime disposed of by private contract), a valuable FREEHOLD PROPERTY, distinguished as Brook Lodge, comprising a spacious detached family residence, containing, on the second floor, four secondary sleeping-rooms; on the first floor, six bed-rooms and a dressing-room; on the ground floor, well-proportioned dining and drawing-rooms, library, and all requisite domestic offices; pleasure and kitchen gardens, orchard, stabling, &c. and about 19 acres of rich meadow land, possessing extensive frontages to the high road from London to St. Alban's. Particulars, with lithographic plans, may be obtained on the premises; of Messrs. Shearman and Evans, Solicitors, Gray's-inn; at the principal inns in the neighbourhood; and at the Offices of Messrs. FULLER and MARSH, Surveyors and Land Agents, 2, Charlotte-row, Mansion-house.

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THE LAW TIMES,

AND JOURNAL OF PROPERTY,

FOR

The Legislator, the Magistrate, and the Lawyer.

VOL. V. No. 114.] SATURDAY, JUNE 7, 1845. (DOUBLE NUMBER.)

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Legal Notices.

BOROUGH OF KINGSTON-UPON-HULL.—NOTICE is hereby given, that the GENERAL QUARTER SESSIONS of the PEACE for the Borough of Kingston-upon-Hull for the trial of prisoners committed and held to bail on charges of felony and misdemeanor, will be holden at the Town-hall in the said Borough, before Matthew Talbot Baines, esq. Recorder of the said Borough, on Thursday the 26th day of June, inst., at Ten o'clock in the forenoon, when and where all persons bound by recognizances, and others having business at the said sessions (except as hereinafter next mentioned) are requested to attend. And in all cases where the parties accused are out on bail, the prosecutors and witnesses must be in readiness to attend the grand jury at Ten o'clock on Friday morning, the second day of the sessions.

And NOTICE is hereby also given, that all appeals must be entered with the Clerk of the Peace before the sitting of the Court on Thursday morning, the 26th day of June inst. and the hearing of Appeals and Motions will be taken at Nine o'clock on the morning of Saturday following (if the criminal business should then have terminated; if not, immediately after the termination thereof); and Solicitors are requested to take notice, that in appeals against removal orders, copies of the notice and grounds of appeal and examination of the pauper must be filed along with the removal order.

J. H. GALLOWAY,
Office of the Clerk of the Peace, Clerk of the Peace.
Kingston-upon-Hull,
June 4, 1845.

BRIXTON.—Stafford-terrace, Loughborough-road.—Neat Cottage Residence, with garden, producing a rental of 31*l.* per annum, land-tax redeemed.

MR. W. W. SIMPSON will SELL by AUCTION, at the Mart, on Tuesday, July 1, at Twelve o'clock, a substantial brick built COTTAGE RESIDENCE, with a garden, pleasantly situate, No. 5, Stafford-terrace, Loughborough-road, Brixton, within three miles of the City, and containing two parlours, two bedrooms, kitchen, store-closet, &c. It is let to Mr. Johnson Bartlett, a most respectable tenant for a term of three years from Lady-day 1843, at a rent of 31*l.* per annum. A lease will be granted for a term of 80 years, from Christmas 1842, at a ground rent of 7*l.* per annum.

The property may be viewed, and particulars may shortly be obtained on application to Messrs. Barker, Rose, and Norton, solicitors, 50, Mark-lane; at the Mart; and of Mr. W. W. SIMPSON, 18, Bucklersbury.

[illegible] the Loughborough-road, Brixton, and Denmark-street, Camberwell.—Two Plots of Building Ground, adapted for the erection of Six genteel Residences, exonerated from Land tax.

MR. W. W. SIMPSON has received directions from the assignee of Mr. Elijah Brentnall, bankrupt, to SELL by AUCTION at the Mart, on Tuesday, July 1, at Twelve o'clock, a valuable PLOT of BUILDING GROUND, situate nearly opposite the intended new church in the Barrington-road, Loughborough-road, Brixton, containing a frontage of about 200 feet on the east side, by a depth of 200 feet. Also, a Plot of Building Ground, situate fronting a new road in Denmark street, Camberwell, possessing a frontage of 31 feet by a depth of 177 feet. Leases will be granted for the respective terms of 80 years, from Christmas 1842, at a ground-rent of 15*l.* 8s. per annum, and 67 years from Lady-day 1842, at a ground rent of 1*l.* 7s. 6d. per annum. The situation is very pleasant, and is adapted for the erection of six genteel residences.

The property may be viewed; and particulars may shortly be obtained of William Pennell, esq. official assignee, 31, Basinghall street; of Messrs. Barker, Rose, and Norton, Mark-lane; of Messrs. C. J. and A. Jenkinson, solicitors, 76, Cannon-street, City; at the Mart; and of Mr. W. W. SIMPSON, 18, Bucklersbury.

Barrington-Road, Loughborough-Road, Brixton.—Two genteel Residences, exonerated from Land Tax, forming a desirable Property for Investment.

MR. W. W. SIMPSON will sell by AUCTION, at the Mart, by order of the assignee of Mr. Elijah Brentnall, bankrupt, on Tuesday, July 1, at Twelve o'clock, in Two Lots, Two substantial, newly built GENTEEL RESIDENCES, pleasantly situate, Nos. 5 and 6 Barrington road, Loughborough-road, Brixton, in a most respectable and improving neighbourhood, nearly opposite the intended new church, and within three miles of the City. They contain entrance-halls, three parlours, eight bed-rooms, water-closets, &c.; two kitchens, house keeper's-room, pantries, store closets, and excellent walled gardens in the rear. A lease will be granted for a term of 80 years from Christmas 1842, at a ground rent of 10*l.* each house.

The property may be viewed; and particulars may be had of William Pennell, esq. official assignee, 31, Basinghall-street; Messrs. Barker, Rose, and Norton, 50, Mark-lane; Messrs. C. J. and A. Jenkinson, solicitors, 76, Cannon-street, City; at the Mart; and of Mr. W. W. SIMPSON 18, Bucklersbury.

STOCKWELL.—Two genteel Cottages, Nos. 22 and 23, Park crescent, let at rents amounting to 61*l.* per annum, exonerated from land tax.

MR. W. W. SIMPSON will SELL by AUCTION, at the Mart, on Tuesday, July 1, at Twelve o'clock, in Two lots:

Lot 1. A desirable Cottage Residence, containing two parlours, two kitchens, and four bed-rooms, with a lar[illegible] in the rear, pleasantly situate No. 22, Park-crescent, Stockwell, within three miles of the City, and let to Mr. Hopper, yearly tenant, at 32*l.* per annum. A lease will be granted, direct from the freeholder, for a term of 83 years from Lady-day 1844, at a ground-rent of 5*l.* 5s. per annum.

Lot 2. A desirable Cottage Residence, situate No. 23, adjoining the last, and of a similar description, in the occupation of Mr. Key, for three years, from Michaelmas 1844, at a rent of 29*l.* per annum, held on the same terms as No. 22.

The property may be viewed by leave of the tenants; and particulars may be shortly obtained on application to Messrs. Collier, Hedges and Steele, solicitors, Carey-street, L[illegible] Inn; at the Ma[illegible] of Mr. W. W. SIMPSON, 18, Bucklersbury.

Valuable Flour Mills, Residence, Cottages, &c. situate on the River L[illegible] BROMLEY, Middlesex.

MR. W. W. SIMPSON has received directions to OFFER by AUCTION at the Mart, on Tuesday, July 1, at Twelve o'clock, unless previously disposed of by Pr[illegible] FREEHOLD FLOUR MILLS, situate at Brom[ley], near Bow, and on the River Lea, which commands th[e] counties of Essex and Hertford, with the London m[ar]kets by water carria[ge], comprising two very substant[ial] [illegible] buildings, in excellent repair, fitted up [illegible] water-wheels, twelve pair of French burr stones, wheat-cleaning and flour-dressing machines, bolting [illegible], sack tackles, and all the requisite machinery to drive the same, [illegible] adjoining (with wire plate and patent furnace), [and] millwright's shop. The mills are capable of grinding 15,000 quarters of wheat annually, and contain stowage for 8,000 quarters of corn and meal. Detached is [a] comfortable residence, garden, yard, and boat-houses, four cottages and a piece of ground adapted for the erection of [illegible] houses. The property has been in the occupation of Messrs. Currie, malt-distillers, for nearly half a century but who have lately, in consequence of extensive alterations being made to their property adjoining, surrendered their lease.

The property may be viewed on application at the lock-house; and particulars, with plans, may shortly be had of Messrs. Hicks and Marris, solicitors, 5, Gray's-Inn square; at the Mart; and of Mr. W. W. SIMPSON, 18, Bucklersbury.

ELIGIBLE INVESTMENT.—WARREN-STREET, FITZROY-SQUARE.

MR. W. W. SIMPSON has received instructions to OFFER for SALE by AUCTION, at the Mart, on Tuesday, July 1, at Twelve o'clock, a LEASEHOLD HOUSE, with Shop and extensive Premises in the rear, situate No. 19, Warren street, Fitzroy-square; held on lease for an unexpired term of 11 years from Michaelmas, 1844, at a ground-rent of 12*l.* 12s. per annum. It is let to Mr. Thomas James, a respectable yearly tenant, at a rent of 60*l.* per annum, but who underlets it at a very considerable increase.

The property may be viewed by permission of the tenant; and particulars may shortly be obtained of Messrs. Blower, Vizard, and Parson, solicitors 61, Lincoln's Inn fields; at the Mart, and of Mr. W. W. SIMPSON, 18 Bucklersbury.

In the CITY of LONDON.—Valuable Freehold Public[-hous]e, Love-lane, Lo[we]r Thames-street.

MR. W. W. SIMPSON has received instructions from the Devisees in Trust under the will of the late Edward Rose, esq. to SELL by AUCTION, at the Mart on Tuesday July 1, at Twelve o'clock, a valuable FREEHOLD PROPERTY, comprising the Rose and Cock public house, advantageously situate in Love-lane, Lower [T]hames-street, in the City of London. It contains bar, parlour, sitting, and several sleeping rooms, is doing a good trade in beer and spirits, and is in the occupation of Mrs. Mary Ann Marshal[l] [a re]spectable te[nant, un]der a y[early] tenancy, at a clear rent of 50*l.* per annum who at present deals with Messrs. Barclay and Co. The situation of the property is very commanding, being in one of the principal thoroughfares to the London-bridge Steam Packet Wharf, [illegible] Coal Exchanges, [an]d in the imme[illegible]

The premises may be viewed by permission of the tenant; and particulars may shortly be obtained of Messrs. Bartlett and Beddome, solicitors, 27, Nicholas-lane, City; at the Mart, and of Mr. W. W. SIMPSON, 18, Bucklersbury.

ESSEX, near MALDON.—An important and very valuable Estate, containing 156 acres of deep-surfaced fertile arable and superior grazing Land.

MR. W. W. SIMPSON has the pleasure [illegible] that he has received instructions from the Trustees under the will of the late Henry Coape, esq. to OFFER for SALE by AUCTION at the Mart, London, in the ensuing month that valuable FREEHOLD ESTATE, exonerated from land-tax, called Bridge Marsh Farm, situate in the parishes of Latchendon and Althorne. It comprises a convenient bailiff's house, with appropriate agricultural buildings, and 156 acres of highly productive arable and grazing land. On this estate the late Mr. Coape several years since bored to a vast depth, and after a great outlay he succeeded in obtaining in two instances a constant supply of fine fresh water, which rises on the surface, and has never failed to give that abundant quantity which is so essential to the stock, and without which they cannot thrive. This farm is in the occupation of Mr. James Purkis, a highly respectable tenant, under an agreement for a lease for fourteen years, from Michaelmas 1841, at a rent of 315*l.* per annum.

More descriptive advertisements will shortly appear; and particulars may in due time be obtained of William Lawrence, esq. solicitor, Maldon; of Messrs. Teesdale, Symes, Weston, and Teesdale, solicitors, 31, Fenchurch-street; at the Mart; and of Mr. W. W. SIMPSON, 18, Bucklersbury.

ESSEX, Seven Miles from Maldon, and about the same distance from Chelmsford.—A very desirable Farm, Freehold, and exonerated from Land-tax, containing 176 Acres of superior Land.

MR. W. W. SIMPSON is instructed by the Trustees under the will of the late Henry Coape, esq. to OFFER by AUCTION, at the Mart London, in the ensuing month, an exceedingly desirable FREEHOLD FARM (a small part only being copyhold), exonerated from land-tax, called Plomes and West Wicks, in the parish of North Fambridge. It inclu[des a convenie]nt farm-house, with adequate agricultural buil[dings, an]d 176 acres of very productive arable and pasture-land, l[ying within] a ring fence, in the occupation of Mr. Isaac Foster, a first-class tenant, and therefore in a high state of cultivation; on lease for an unexpired term of two years from Michaelmas 1844, at a rent of 150*l.* per annum. The farm is contiguous to a wharf, which affords every facility for the shipment of corn and landing manure.

A more detailed description will appear in future advertisements; and particulars in due time may be obtained of William Lawrence, esq. solicitor, Maldon; Messrs. Teesdale, Symes, Weston, and Teesdale, solicitors, 31, Fenchurch-street; at the Mart; and of Mr. W. W. SIMPSON, 18, Bucklersbury.

NOTTINGHAMSHIRE.—E[as]t Bridgford.—Desirable Freehold and Tithe-free Estate, comprising 67 Acres of Land, with an excellent Mansion.

MR. W. W. SIMPSON has received di[rections] fr[om] [illegible] M'Do[nn]ell, esq. [to] offer for SALE by AUCTION, at the Mart, in the ensuing month, [a] desirable Freehold and Tithe-free ESTATE, situate at East Bridgford, ten miles from the towns of Nottingham and Newark, and the proposed railway from Nottingham to [illegible] Bingham, will pa[ss] [illegible] Vale of Trent. It comprises a complete mansion, in excellent repair, [cont]aining dining and drawing rooms, study, kitchens, and [illegible] offices; several convenient bed-rooms, with dr[essing rooms], nursery, and servants' rooms; pleasure [gro]unds, tastefully laid out; picturesque walks, extending two miles through the plantations, and cliff overhanging the Trent; summer and boat houses, large walled-in and [illegible]ing, barn, and other requisite buildings; together with 67 acres of superior meadow, [ara]ble, [an]d wood land, lying within a ring fence, and extending from the road in Bridgford town to the Trent river, in which the proprietor has the right of fishing to the extent of the boundary next the estate.

The property may be viewed; and particulars are in preparation, which may be had in due time of John Hassall, esq. Shelford Lodge, or Messrs. Percy, Smith, and Percy, solicitors, Nottingham; of Messrs. Tennant, Harrison, and Tennant, solicitors, 2, Gray's-inn-square; at the Mart; and of Mr. W. W. SIMPSON, 18, Bucklersbury.

MALDON, ESSEX.—Valuable Property, exonerated from Land-tax.

MR. W. W. SIMPSON has received instructions from the Trustees, under the will of the late Henry Coape, esq. to OFFER for SALE by AUCTION, in Lots, at the Mart, London, in the ensuing month, a highly valuable FREEHOLD and small part COPYHOLD PROPERTY, consisting of several inclosures of exceedingly fertile pasture and arable land, called Great and Little Portlands, Great and Little Winterslade, Friars and Tainter Fields, containing in the whole 35 acres, the larger portion of which immediately joins the flourishing, agreeably situated, and ancient borough town and port of Maldon, 10 miles from the county town of Chelmsford and the Eastern Counties Railway, added to which a branch line is contemplated (and, no doubt, will be very shortly carried out) to Maldon, the effect of which must be greatly to enhance the value of property in Maldon and Dengie hundred, of which Maldon may truly be designated the capital town.

The lands are at present let to Mr. W. Dawson, Mr. W. Hockford, and Mr. A. May, highly respectable and opulent tenants, as accommodation fields, at rents amounting together to 128*l.* per annum (exclusive of three acres which are in hand), and from their locality they must always command remunerative accommodation rents of great stability. This property is not only valuable viewed as accommodation surface, but a large portion of it possesses frontages and building sites of a most eligible description, and will be sold in such divisions as may be considered desirable for purchasers.

A more detailed description will be given in future advertisements, and particulars in due time may be had of William Lawrence, esq. solicitor, Maldon; Messrs. Teesdale, Symes, Weston, and Teesdale, solicitors, 31, Fenchurch-st.; at the Mart; and of Mr. W. W. SIMPSON, 18, Bucklersbury.

ESSEX, near MALDON.—Valuable and most desirable Freehold and part Copyhold Estate, consisting of nearly 250 Acres of superior Arable and Pasture Land, &c.

MR. W. W. SIMPSON has been directed by the trustees under the will of the late Henry Coape, esq. to OFFER by AUCTION, at the Mart, London, in the ensuing month, that well-tenanted, deep-stapled, and highly-cultivated ESTATE, exonerated from land-tax, designated Purleigh Barns and Tobyes Farm. It [comprise]s an excellent farm-house and suitable agricultural buildings, all in a superior state of repair, together with nearly 250 acres of land, in a ring fence, and bounded by the high road from Maldon through Dengie hundred. It is in the occupation of Mr. Thomas Davey, under an agreement for a lease for 21 years from Michaelmas 1844 at a rent of 300*l.* per annum. The Maldon coach passes the farm daily to the port of Burnham, in Dengie hundred. The estate possesses great advantages as to roads and markets, and is conveniently situated as to water-carriage.

Detailed descriptions will be given in future advertisements; and in due time particulars may be obtained on application to William Lawrence, esq. solicitor, Maldon; Messrs. Teesdale Symes, Weston, and Teesdale solicitors, 31, Fenchurch-street; at the Mart; and of Mr. W. W. SIMPSON, 18, Bucklersbury.

NORFOLK.—Dunham Lodge, together with 400 acres of superior Arable, Pasture, and Wood Land; also the Manor of Little Dunham, extending over 1,800 acres.

MR. W. W. SIMPSON has received directions from Sir Chas. M. Clarke, Bart. to OFFER for SALE by AUCTION, at the Mart, in the ensuing month, a very valuable FREEHOLD ESTATE, exonerated from land-tax, situate at Little Dunham, five miles from Swaffham, and eight from East Dereham, in the county of Norfolk, within two hours' drive of the Brandon Station, on the Eastern Counties Railway, and the projected railway from Lynn to Norwich (which no doubt will be carried through) will pass close to the estate. It comprehends a capital Mansion of modern erection, called Dunham Lodge, containing accommodation for a family of the highest respectability, in the centre of a small park, with pleasure-grounds tastefully laid out, and walks of great length, pleasingly varied with evergreens and flowering shrubs, garden planted with the choicest fruit-trees in full bearing, together with nearly 300 acres of very superior land, in the highest state of cultivation, lying within a ring fence, 160 of which are arable, 98 pasture, and the remainder wood, abounding with game; barn, granary, and all other requisite agricultural buildings, and cottages. Also the Manor of Little Dunham, extending over 1,890 acres, with the fines and quit-rents thereto belonging.

Particulars, with plans annexed, may shortly be obtained of Messrs. Goodwin, Partridge, and Williams, solicitors, Lynn; at the Mart; and of Mr. W. W. SIMPSON, 18, Bucklersbury.

LINCOLNSHIRE.—Splendid, Extensive, and highly Valuable Freehold Estate, containing nearly 2,200 Acres, Manor and Advowson, situate near Brigg.

MR. W. W. SIMPSON has received instructions from the Proprietor to OFFER for SALE by AUCTION, at the Mart, in the course of the ensuing month, an extensive and highly valuable FREEHOLD ESTATE, late the property of Ellys Anderson Stephens esq. eligibly situate in the parish of Broughton, about two miles from Brigg, in the county of Lincoln. It comprehends [illegible] farms, containing altogether nearly 2,200 acres of [produ]ctive land of which 900 acres are arable, 800 rich grazing and pasture, and the remainder car and plantation, with good farm-houses and agricultural buildings, in the occupation of a highly respectable tenantry.

At the same time will be sold the valuable Advowson and Next Presentation to the Rectory of Broughton, consisting of a capital residence, buildings, &c. the tithe commutation rent-charge on which amounts to upwards of 1,000*l.* per annum. Also, the extensive Manor of Broughton, with the rights, royalties, and privileges belonging thereto. The estate is bounded by the properties of Sir John Lelthorpe, and also Lord Yarborough, whose foxhounds are kennelled in the neighbourhood. There are excellent covers for game, and the estate is particularly adapted for any gentleman fond of field sports.

More descriptive advertisements will shortly appear; and particulars, in due time, may be obtained on application to Messrs. Sperling and Harris, solicitors, Halstead; Messrs. Longmore and Sworder, solicitors, Hertford; and of Mr. W. W. SIMPSON, 18, Bucklersbury.

SUFFOLK.—Freehold Estate between Beccles and Lowestoffe, consisting of a very complete Family Residence, excellent Farm-houses, Cottages, and Agricultural Buildings, together with about 1,000 Acres of rich Arable and Pasture, and productive Wood and Plantation Land, abundantly stocked with Game, lying within a ring-fence.

MR. W. W. SIMPSON has received instructions from the Executors of the late — Cooper, esq. to OFFER for SALE by AUCTION, at the Mart, London, in July next, the following valuable and desirable PROPERTY, designated the North Cove Hall Estate situate on the high road from Beccles to Lowestoffe. It consists of an excellent residence (with ample accommodation for a family of a high class), coach-houses, stabling, and complete domestic offices; a productive walled-in kitchen garden, and about 1 000 acres of arable, pasture and marsh land; including also about 50 acres of wood and cars, forming excellent preserves for the game, which abounds on the estate in great variety. The arable and pasture surfaces are generally of a deep staple and highly productive. The estate (with the exception of the mansion, lawn, and woods, which are in hand) is divided into desirable farms, and let to a most respectable and improving tenantry.

The mansion is seated on a lawn, approached by a carriage drive in front, and surrounded by grounds of park-like appearance, studded with ornamental timber, and the pleasure grounds are tastefully laid out, and pleasingly varied with plantations of trees, evergreens, and flowering shrubs. The above property forms one of the most perfect and best-circumstanced estates (for its extent) in this country. The mansion, farm-houses, cottages, and buildings are all in an excellent state of repair. The estate is distant three miles from Beccles, six from Lowestoffe, and 21 from Norwich, which is within half an hour's ride from Yarmouth by the railway, and the navigable river Waveny, from Beccles to the sea, bounds the estate for nearly a mile, and affords excellent fishing.

Descriptive particulars will in due time be published, and may then be obtained of Messrs. Margetson and Hartcup solicitors, Bungay; Messrs. Stevens, Wilkinson, and Satchell, solicitors, 6, Queen-street, Cheapside; at the Mart; and of Mr. W. W. SIMPSON, 18, Bucklersbury.

SUFFOLK, in the Town and Port of Woodbridge — Desirable Residences and Land.

MR. W. W. SIMPSON has received directions from the Proprietor to SELL by AUCTION at the Bull Inn, Woodbridge, in the month of July, in Six Lots, the following desirable Property:—

Lot 1. Four valuable Enclosures of highly productive Pasture and Arable Accommodation Land, lying close to the town, containing about 12 acres, and let on lease to Mr Fiske for an unexpired term of five years from October 1844, at a rent of 40*l*. per annum.

L[illegible]

[illegible] berland-street, fitted up with every convenience and detached office, with back entrance in the occupation of Samuel Gissing esq. solicitor, yearly tenant, at the low rent of 30*l* per annum.

Lot 3. A Residence, adjoining lot 2, with yard, stabling, and an excellent walled in garden, in the occupation of Mr. Thos. Peake, surveyor, a first rate tenant, at the remarkably low rent of 18*l*. per annum

Lot 4. A Beer Shop, yard, and large gardens, with mill house for manufacturing oatmeal, situate in Theatre-street, and let to Mr. Charles Bedwell, a highly respectable tenant, at the very low rent of 12*l*. per annum

Lot 5 Three Cottages, adjoining the last lot, in the occupation of Messrs. Reed, Joyce, and Driver, at rents amounting to 12*l* per annum.

Lot 6. Two Cottages, situate at Hollesley, about five miles from Woodbridge, let at annual rents amounting to 6*l*. 16s. 6d

The above property is (with the exception of Lot 6 [illegible]) sirably situate in the town and port of Woodbridge which will be [illegible] the [illegible] pla ed ext [illegible] lin of the Eastern Counties Railway to Yarmouth.

The property may be viewed: and particulars may shortly be obtained of John Wood, jun. Esq. Solicitor, Woodbridge; John Richard Wood, Esq. Solicitor 1, Hare-court, Temple; at the Mart; and of Mr. W. W. SIMPSON, 18 Bucklersbury.

SUFFOLK, within two miles and a half of Woodbridge, a valuable Estate, comprising 141 acres of excellent Land, with Farm-house, &c.

MR. W. W. SIMPSON has received directions from the Proprietor to SELL by AUCTION, at the Mart, in the ensuing month, a desirable ESTATE, situate in the parish of Bromeswell, about two miles and a half from the market-town and port of Woodbridge. It comprises a convenient farm-house, large garden, and suitable agricultural buildings, together with 141 acres of land, of which 85 acres are arable, and the remainder meadow and pasture. The farm is in the occupation of Mr. Thomas Gross, tenant from year to year, at the low rent of 100*l*. per annum, The estate, of which 118 acres are free, hold, and the remainder copyhold, is surrounded by excellent roads, and affords partridge shooting in abundance.

The property may be viewed, and particulars, with plans annexed, may shortly be obtained on application to John Wood, jun. esq., solicitor, Woodbridge; John Richard Wood esq solicitor, 1, Hare-court, Temple; at the Mart; and of Mr. W. W. SIMPSON, 18, Bucklersbury.

SUFFOLK, near WOODBRIDGE.—Compact and desirable FARM, comprising 53 Acres of superior Land.

MR. W. W. SIMPSON has received directions from the Proprietor to SELL by AUCTION, at the Mart, in the month of July, a compact ESTATE, eligibly situate in the parishes of Debach and Charsfield, about 4½ miles from the market-town and port of Woodbridge. It comprises a small farm-house, barn, and agricultural buildings, together with 53 acres of land, of which 43 are arable and the remainder pasture; in the occupation of Mr. John Payne, a very respectable and industrious tenant, at a rent of 73*l*. 10s. per annum.

The estate may be viewed, and particulars, with plans annexed, may be obtained, on application to John Wood, jun. esq. solicitor, Woodbridge; John Richard Wood, esq. solicitor, 1, Hare-court, Temple; at the Mart; and of Mr. W. W. SIMPSON, 18, Bucklersbury.

SUFFOLK.—Three miles from the port and Market-town of Woodbridge.—Desirable Freehold and Copyhold Estates producing 353*l*. per annum.

MR. W. W. SIMPSON has received directions from the Proprietor to SELL by AUCTION, at the Mart, in the course of the ensuing month, in Three Lots, the following valuable PROPERTY:—

Lot 1. A desirable Farm, situate in the parish of Grendisburgh. It comprises 114 acres of superior arable and pasture land, a convenient farm-house, and appropriate agricultural buildings, in the occupation of Mr. Henry Manby, a highly respectable yearly tenant, at the low rent of 140*l* per annum.

Lot 2. A desirable Farm, situate in the parishes of Burgh and Clopston, a short distance from the last lot, comprising an excellent farm house, garden, two cottages, and conveniently arranged agricultural buildings together with 103 acres of productive arable and meadow land, in the occupation of Mr. John Wood, a most respectable tenant, at a rent of 150*l* per annum.

Lot 3. A desirable small farm, in the parish of Burgh, nearly adjoining the last containing 38 acres of fertile arable, pasture, and meadow land together with a cottage and farm buildings, &c. in the occupation of Mr William Wright, a very respectable tenant, at a rent of 6*l*. per annum

The farms may be viewed, and particulars, with plans annexed may shortly be obtained on application to John Wood, jun, esq. solicitor, Woodbridge, John Richard Wood, esq. solicitor, 1, Hare court, Temple; at the Mart; and of Mr. W. W. SIMPSON, 18, Bucklersbury.

IRELAND.—In the Counties of Galway and Mayo Valuable FEE SIMPLE ESTATES, comprising 2,170 statute Acres, in the occupation of a respectable tenantry, at a very low rental.

MR. W. W. SIMPSON has received directions to SELL by AUCTION, at the Commercial buildings, Dublin in lots the following exceedingly desirable FEE SIMPLE ESTATES. The lands of Coolbally, Blaney eligibly situate midway between the excellent [illegible]

[illegible] in each town, containing 670 statute acres, of productive arable and pasture land, including a considerable tract of turlough or bottom, yielding excellent herbage for black cattle and sheep There are only seven tenants on the estate, who hold chiefly on leases. The lands of Cahernaboon, situate near the last, but a mile nearer to the town of Galway, comprising 175 statute acres of equally productive [illegible]

[illegible] advantageously situate within a mile of Kilconnell, only five from the great town of Ballinasloe (where the largest cattle fair in the kingdom is held and 26 from Galway. They consist of 345 statute acres of excellent tillage and grazing land, chiefly in the occupation of one tenant, who has a lease, and farms the land remarkably well.

[illegible] and six from Dunmore; comprising 970 statute acres of excellent arable and pasture land including about 100 acres of bog, in the occupation of good tenants, who hold chiefly on leases. The soil of the above estates is of a kindly description, being on a limestone substratum, and produces excellent corn and green crops. The lands are surrounded by good roads and markets and occupied by an unex[illegible]

[illegible] punctuality.

The estates may be viewed; and particulars, with plans annexed, may shortly be had of Thomas Bermingham, [illegible]

[illegible] of sale, and of Mr. W W. SIMPSON, Bucklersbury, London

IRELAND [illegible] ounty of Antrim.—One of the [illegible] st impo[illegible] and exten[illegible] fee simple estates in the Un[illegible] [illegible] er part [illegible] tuate in th[illegible] [illegible] ufacturing district of the county.

[illegible]R. W. W. SIMPSON has received instructions from the Right Hon. the Earl of Mountcashel to SUBMIT to PUBLIC COMPETITION, at Belfast several extensive and exceedingly valuable FEE SIMPLE ESTATES, containing in the whole a surface of 50 000 acres, a large portion of which consists of productive meadow, pasture, and arable land, and the remainder fuel and reclaimable bog, mountain, &c.; the greater part is situate in the manufacturing district of the county Antrim, and in the occupation of an opulent, respectable, and chiefly Protestant tenantry, many of whom hold under old leases at head rents, on the falling in of which a very large increase of rental will accrue. The rents at present amount to between 11,000*l* and 12 000*l* per annum, exclusive of the castle and demesne, which is in hand.

Descriptive particulars will, after a survey has been made by Mr. Simpson, be published, and may then be obtained of Messrs. Reeves and Sons, solicitors, Merrion-sq. Dublin, and of Mr. W. W. SIMPSON, 18, Bucklersbury.

Mr. Simpson, while drawing the attention of capitalists to the above valuable estates, wishes to state, that a second edition of his pamphlet has been published, on which the *Times* newspaper made the following review:—

"Mr. W W. Simpson, the well-known and deservedly respected auctioneer and land valuator, has recently published a pamphlet, entitled 'A Defence of the Landlords of Ireland, with Remarks on the Relation between Landlord and Tenant.' The *Dublin Evening Packet*, in reviewing this work, gives the following character of its author: 'Mr Simpson, we scarcely need remind our readers, is an Englishman of vast experience in matters relating to the improvement and value of land in his own country. He is, moreover, a gentleman of most comprehensive views, and possesses an understanding naturally strong, and a stock of practical knowledge and sterling sense which falls to the lot of very few persons in his own or any other rank of life. With the social condition of Ireland he has made it his business, almost as a matter of necessity, to make himself thoroughly acquainted. He feels for her wants, and has contributed as much, perhaps, as any man in his time, to improve her resources, by encouraging the investment of British capital in every department of Irish industry. Such a witness as this we therefore hold to be beyond the reach of suspicion on the score either of interest or partiality. His testimony must be regarded as invaluable as it is unquestionably unimpeachable.'"

SUFFOLK.—Near Stowmarket.—A very desirable Estate, containing 161 Acres, let on Lease at a rent of 191*l*. per Annum.

MR. W. W. SIMPSON has received directions from the Proprietor to OFFER for SALE by AUCTION, at the Mart, in the ensuing month, a very desirable ESTATE, called Eastwood Farm and Lloyds, situate in the parish of Bitcham, only four miles from Stowmarket, eight from Hadleigh, and three from Bildeston, in the county of Suffolk, comprising a suitable farm-house, two cottages, and ample agricultural buildings, together with 161 acres of excellent arable, pasture, and wood land, lying within a ring fence, 130 of which are freehold (the land-tax on 112 acres of which is redeemed); and the remainder copyhold. The estate is in the occupation of highly respectable tenants, to whom it is let on lease, for a term of eight years from Michaelmas, 1841, at a rent of 191*l*. per annum. A coach passes daily within a mile of the property to the Colchester terminus of the Eastern Counties Railway.

The estate may be viewed, and particulars may shortly be had of J. B. Ransom, esq., solicitor, Stowmarket; at the Mart; and of Mr. W. W. SIMPSON, 18, Bucklersbury.

POSTPONED TO THE 19TH OF JUNE.

Buckinghamshire and Middlesex.—Denham-place Estates and Manor Farm, Greenford.

MESSRS. BROOKS and GREEN will SELL by AUCTION, by order of the Proprietor, at their Estate Auction Gallery, 28, Old Bond-street, on Thursday, June 19, 1845, at One, a most Important FREEHOLD DOMAIN, land-tax redeemed, and partly tithe-free, known as the DENHAM PLACE ESTATE, being one of the most desirable for residence and investment in Buckinghamshire. The possessor of this estate may with confidence look forward to become one of the county members. It consists of the noble Mansion, called Denham-place, replete with accommodation for a Family of Distinction, with extensive Lawns, Pleasure Grounds, Wilderness, and Ornamental Water of great beauty; and surrounded by park-like ground of [illegible] acres. The property consists of nine most excellent Farms, extensive Beech and Oak Woods, various accommodation Meadows near to, and Wharfs, Public-houses, and premises in Uxbridge town and Denham village; fifty-seven Cottages, Garden Ground, Water-cress Beds, and comprising in the whole between 3,000 and 4 000 acres, of which about 400 acres are remarkably thriving Woods, unequalled for fineness of growth; and the remainder rich arable, dairy, and grazing lands, with capital Farm-houses and Homesteads in most excellent repair, and let to highly respectable tenantry. The Estate possesses an inexhaustible store of the finest brick earth, immediately adjacent to water carriage; and has a valuable frontage on the high-road from Uxbridge to Oxford, of upwards of three miles. The MANOR of DENHAM, abounding with game, together with its Royalties, Quit Rents, and all other rights thereunto belonging. The trout river Colne partly bounds, and the trout river Misbourne runs upwards of three miles through the Estate Also, the valuable MANOR FARM, GREENFORD, in the county of Middlesex. The whole producing upwards of 6 000*l*. per annum, including the Mansion and Lands held therewith, and the Woods and Plantations in hand.

Printed particulars and maps of the Estate may be obtained at the Red Lion, Wycombe, Red Lion, Slough; White Hart, Windsor, White Hart, Uxbridge; Saracen's Head, Beaconsfield; Midland Counties Herald Office, Birmingham, the George, Aylesbury; of Mr. Walford, Solicitor, Uxbridge; Messrs. Springall, Thompson, and Powell, Solicitors, Raymond-buildings, Gray's-inn; and of Messrs. BROOKS and GREEN, Estate Agents, Surveyors, and Auctioneers, 28 Old Bond-street.

Important Investment.—Near Stowmarket, Suffolk.—Valuable Rent Charges in lieu of Tithes.

MESSRS. BROOKS and GREEN have received instructions to SELL by AUCTION, at their Estate Auction Gallery, 28, Old Bond-street, during the present month, the PERPETUAL RENT CHARGE, in lieu of the rectorial, or great tithe, commuted at 414*l*. per annum, arising from the parishes and hamlets of Old Newton and Dragworth (except two farms), containing nearly 1,600 acres of excellent land, of which about 1,100 acres are arable, in the occupation of twenty-five respectable tenants.

Printed particulars may be obtained at the King's Head, Stowmarket, the Angel, Bury St. Edmund's, Suffolk Hotel, Ipswich, J. S. Weekens, esq. solicitor, Chandos-street, Cavendish square; and of Messrs BROOKS and GREEN, Estate Agents and Auctioneers, 28, Old Bond-street.

SLOUGH, BUCKS.

TO CAPITALISTS AND BUILDERS.—To be SOLD by AUCTION, by Mr. TEBBOTT, at the Crown Inn, Slough, on Tuesday, June 17th, 1845, at Two for Three o'clock precisely, in nineteen lots, a second portion of a valuable parcel of FREEHOLD BUILDING GROUND (Land Tax redeemed), near the Great Western Railway Station at Slough, the property of William Bonsey, Esq. The Land is divided into nineteen lots, varying from 156 to 180 feet in depth, and from 52 to 60 feet in frontage to the New Road, called "Wellington-road," leading (from the principal entrance of the station) to the Langley, Wexham, and Uxbridge roads. The Ground is suitable for the erection of Villas or business premises; it has the advantage of an elevated and dry situation, pure air, and a plentiful supply of fine water. It commands a rich and extensive scenery, is immediately contiguous to Eton College and Windsor (with which omnibuses communicate almost hourly), and is in the midst of the Royal Hunt; it is also near the Post-office, whence two deliveries of letters take place daily. This combination of advantages renders the property a most desirable and safe investment for capital, and well worthy the attention of the public.

The lots are staked out, and can be viewed at any time; printed particulars, with conditions, and a lithograph plan annexed, may be had 14 days previous to the sale, at Hatchett's Hotel, Piccadilly; Chequers, Uxbridge; Bear, Reading; White Hart, Maidenhead; Clarence Hotel, Staines; place of sale; of Mr. W. H Bonsey, solicitor, St. Leonard's-place, Slough; Mr. C. Barrett, Estate Agent, High-street, Eton; and at Mr. TEBBOTT'S Office, Sheet-street, Windsor; or forwarded by post on application by letter.

Periodical Sale of Reversions, Life Interests, Annuities, Life Policies, Advowsons, Next Presentations, and all descriptions of Securities dependent upon human Life, Shares in Railways, Mines, and all other undertakings.

MESSRS. FULLER and MARSH respectfully inform the public, that by their system of periodical sales by Auction they are enabled to offer to persons expectant or otherwise interested in the above descriptions of property the most prompt, economical, and satisfactory mode of disposing thereof, as by classifying these descriptions of interests and properties in the same particular and for the same day, much expense is avoided, and a far greater competition is secured. Their periodical sales of reversions, life interests, annuities, life policies, advowsons, next presentations, and all descriptions of securities dependent upon human life, shares in railways, mines, and all other undertakings, will be continued throughout the present year as follows.—

Thursday, June 5	Thursday, September 4
Thursday, July 3	Thursday, October 2
Thursday, August 7	Thursday, November 6

Thursday, December 4.

Notice of Sales intended to be effected by the above means should be forwarded to Messrs. Fuller and Marsh a fortnight prior to each date, in order that they may have the full benefit of publicity. Messrs. Fuller and Marsh beg to call the attention of the public to the economy and expedition of this system of business, as they are thereby enabled to include each property for the sum of two guineas and a half, including all expenses, should a sale not be effected. Particulars of the next periodical sale may be obtained ten days previous to the sale, at the Star Hotel, Oxford; University Arms, Cambridge; Hen and Chickens, Birmingham; Plough, Cheltenham; Bush, Bristol; New London Hotel, Exeter; Pearce's Hotel, Truro; Adelphi, Liverpool; Royal Hotel, Manchester; Cuff's Midland Hotel, Derby; Black Swan, York; Tontine Hotel, Sheffield; Royal Hotel, Leeds; Tontine Hotel, Glasgow; M'Gregor's Hotel, Princes street, Edinburgh; Gresham's Hotel, Dublin; and at the Offices of Messrs. FULLER and MARSH, 2, Charlotte-row, Mansion-house, London.

On Tuesday next.—Freehold Water Corn Mill, and 15 acres of Hop and Meadow Land, Speldhurst, Kent.

MESSRS. FULLER and MARSH have received instructions from the Trustees to offer for unreserved SALE, at the Auction Mart, London (unless previously disposed of by private treaty), on Tuesday, June 10, at Twelve, a very desirable FREEHOLD ESTATE, comprising a water corn mill driving three pair of stones, together with a substantial dwelling-house, cottage, and 15 acres of superior hop and meadow land, situate at Speldhurst, and near to the excellent market-town of Tunbridge, Kent. The property may be viewed on application to Mr. Holland, and particulars obtained at the Sussex Hotel, Tunbridge-wells; Crown, Seven-oaks; Star, Maidstone; Crown, Tunbridge; on the premises; at the Mart; of Messrs. Faithfull, solicitors, Ship-street, Brighton, Mr. John Gunsford, 4, London-road, Brighton, Sussex; of Mr. Robert Ford, Oxted, Surrey; and of Messrs. FULLER and MARSH, Auctioneers and Land Agents, 2, Charlotte-row, Mansion-house, London, and Croydon, Surrey.

On Tuesday next.—TUNBRIDGE-WELLS.—Eligible Leasehold Estate, situate in the centre of this fashionable watering-place; held for 46 years at a low ground-rent.

MESSRS. FULLER and MARSH have been favoured with instructions from the Executors of the late John Ranger, esq. to SELL by public AUCTION, at the Mart, on Tuesday, June 10, at Twelve unless an acceptable offer is previously made by private contract, a LEASEHOLD stone-built FAMILY RESIDENCE, delightfully situate, and numbered 3, Clarence-terrace, nearly opposite to Trinity Church, Tunbridge-wells, possessing uninterrupted views of the common, Mount Ephraim, and the surrounding picturesque country: let on lease to Mr. Wickting, for an unexpired term of 40 years from December, 1841, at a very inadequate rental of 68*l.* 5s. leaving an improved rental of 60*l.* 5s. per annum. Particulars may be obtained of Mr. Ranger, surveyor and valuer, 15, Duke-street, Adelphi; of Messrs. Stone and Wall, solicitors, Tunbridge-wells; and of Messrs. FULLER and MARSH, Surveyors and Land-agents, 2, Charlotte-row, Mansion-house, and Croydon, Surrey.

On Tuesday next.—IN HEREFORDSHIRE.—The Sugwas Court Estate, an important Freehold Landed Investment, extending over upwards of 600 acres of sound arable, pasture, and meadow land, productive orchard and fruit plantations, with its mansion and offices most beautifully situate on the banks of the Wye, amidst luxuriant scenery, about three miles from the ancient city and county town of Hereford and forty from Cheltenham.

MESSRS. FULLER and MARSH have been favoured with instructions to submit to PUBLIC COMPETITION, at the Auction Mart, on Tuesday, the 10th day of June, at twelve o'clock unless in the meantime an acceptable offer be made by private contract, a first-rate FREEHOLD LANDED INVESTMENT, comprising the Sugwas Court Estate, together with a very superior residence, well adapted for a family of distinction standing in park-like meadows, most beautifully timbered pleasure-grounds and plantations, kitchen gardens, &c. and most complete and judiciously arranged domestic offices, coach houses, stabling, and about 500 acres of sound rich arable, pasture, and meadow land, in the highest state of cultivation, including several orchards and fruit plantations being in a ring fence. The estate is partly bounded by the river Wye, which affords salmon fishery of the best description. At a short remove from the mansion is an excellent farm residence, and all requisite agricultural buildings, numerous cottages have been erected within a few years at a great outlay, together with the manorial rights, fisheries, ferriage, . . The Sugwas Court Estate is about three miles from the ancient city of Hereford. The Hereford and Brecon mail daily passes the estate, and the Cheltenham and Aberystwith mail within about half a mile, and the intended railway extension to Hereford will bring the estate within about six hours' journey of the metropolis. Particulars with conditions of sale, and lithographic plans, may be obtained of Mrs Jones, who resides on the estate; of John Cleave, esq. sol. . . Hereford; and of Messrs. FULLER and MARSH, Surveyors and Land-agents, Charlotte-row, Mansion-house.

On Tuesday next.—In the most favourite and picturesque part of the county of Kent.—Important and valuable Freehold Estates, situate near to Maidstone, and a Leasehold Dwelling-house at Tunbridge-wells.

MESSRS. FULLER and MARSH have been honoured with instructions from the Executors of the late John Ranger, esq. to SELL by AUCTION, at the Mart, on Tuesday, the 10th of June, at twelve o'clock, unless in the meantime acceptable offers be made by private contract, a remarkably compact and valuable FREEHOLD PROPERTY, distinguished as the Cheveney Estate, situate in the parishes of Hunton and Yalding, about four miles from the Marden and Paddock-wood stations on the London and Dover Railway, one and a quarter mile from the Wateringbury and Yalding station on the Maidstone branch, and about five miles from the county town of Maidstone, and nine from Tunbridge, comprising about 143 acres of highly cultivated land, including an excellent hop garden of about 26 acres (protected by a luxuriant quickset hedge, 20 feet in height), scarcely ever known to have sustained injury from blight when the hop crops of the surrounding neighbourhood have failed, together with other valuable hop grounds, arable, meadow, orchard, and pasture land, under-. . . l plantations, a good farm-h. . . four cottages, and ample agricultural buildings, all of wh. . .h are in a substantial state of repair; fo. . . ttages, and about 2½ acres of . . .ld lan l, commanding eligible building sites, near the upper part of the village of Yalding; and a long leasehold . . . rising a substantial, recently erected, stone-built residence, situate in Clarence-terrace, near to Trinity Church, Tunbridge Wells; held for an unexpired term of 46 years, at . . .nal ground rent. Particulars, with lithographed . . .ns, and may be obtained of Mr. R. Apsley Ranger, su. . .or and valuer, 15, Duke-street, Adelphi; of Mr. H. . . .nger, Tovil, near Maidstone; Mr. R. C. S. Ranger, on . . . Cheveney Estate; Mr. Brooke, Buckingh. . . Mar- . . . Messrs. Stone and Wall, solicitors, Tunbridge Wells; and of Messrs. FULLER and MARSH, Surveyors and Land-agents, 2, Charlotte-row, Mansion-house. 5.000*l.* of the purchase-money may remain on mortgage.

On Tuesday next. HENDON, MIDDLESEX.—Brook Lodge, a spacious detached Family Residence, Pleasure and Kitchen Gardens, and about 10 acres of prettily timbered Meadow Land, most beautifully situate on the river Br. . . and about three miles from the Regent's-park.

MESSRS. FULLER and MARSH have been favoured with instructions to submit to public COMPETITION, at the Auction Mart, on Tuesday, June 10, at Twelve unless in the meantime disposed of by private contract, a valuable FREEHOLD PROPERTY, distinguished as Brook Lodge, comprising a spacious detached family residence, containing, on the second floor, four secondary sleeping-rooms, on the first floor, six bed rooms and a dressing-room; on the ground floor, well-proportioned dining and drawing rooms, library, and all requisite domestic offices; pleasure and kitchen gardens, orchard, stabling, &c. and about 10 acres of rich meadow land, possessing extensive frontages to the high road from London to St. Alban's. Particulars, with lithographic plans, may be obtained on the premises; of Messrs. Shearman and Evans, Solicitors, . . .ray's-inn; at the principal inns in the neighbourhood; and at the Offices of Messrs. FULLER and MARSH, Surveyors and Land Agents, 2, Charlotte-row, Mansion-house.

On Tuesday next.—To Builders and Capitalists.—20 acres of rich Meadow Land, Hendon, Middlesex, well adapted for building purposes, of which immediate possession can be had if requisite, producing a net rental of 50*l.* per annum.

MESSRS. FULLER and MARSH have been favoured with instructions from the Executors of the late Mr. George Willis peremptorily to SELL by AUCTION, at the Mart, on Tuesday, the 10th of June, at Twelve, in one lot, an important COPYHOLD PROPERTY, comprising about twenty acres of meadow land of a superior and valuable description, most advantageously situate at Hendon, Middlesex, possessing a considerable frontage to Burroughs-lane, and about five miles from the Edgeware-road. This desirable estate presents to the capitalist and trustee a most eligible investment, and to builders and others eligible sites for building purposes. May be viewed on application to Mr. Josiah Hill, the tenant, and particulars obtained at the Grayhound, Hendon; of Messrs. Lucas and Cutts, solicitors, Chesterfield; of Messrs. Parkinson and Hayton, solicitors, 4, Raymond's-buildings, Gray's-inn; and of Messrs. FULLER and MARSH, Surveyors and Land-agents, Charlotte-row, Mansion-house.

Between the Cemetery and the celebrated Beulah Spa, Norwood, Surrey.—Important Copyhold Estates, with great prospective reversionary interests, valuable building and accommodation Land, Ground Rents, &c.

MESSRS. FULLER and MARSH have been favoured with instructions to offer to SALE by AUCTION, at the Mart, on Thursday, July 3, at Twelve . . . important and rapidly improving PROPERTY, comprising the Tivoli Gardens, and King's Head Hotel, several Private Residences, Dwelling-houses and Shops, numerous Cottages, Ground-rents, and about 14 acres of valuable Building and Accommodation Land, offering to the capitalist and speculator safe investments, with great prospective advantages, eligibly situated in the most preferable part of Norwood. Detailed particulars will appear in future advertisements. . . . s of Sale, with lithographed Plans, are preparing, . . . shortly be obtained on the several premises; at the Inns in the neighbourhood; of Messrs. Willshire and Parris, architects and surveyors, Walsingham-place, Lambeth; of Mr Owston, solicitor, Brigg, Lincolnshire; and of Messrs. FULLER and MARSH Surveyors and Auctioneers, 2, Charlotte-row, Mansion-house.

Ramsgate and Herne Bay.

MESSRS. FULLER and MARSH have received instructions to prepare for SALE by AUCTION, at the latter end of June or early in July, a valuable FREEHOLD ESTATE, situate in the most preferable part of Herne Bay; and a rapidly improving property, Ramsgate. Detailed particulars will appear in future advertisements, and in the meantime information may be obtained at Messrs. FULLER and MARSH'S offices, Charlotte-row, Mansion-house.

On Tuesday next.—Essex Lodge, Brixton, Surrey, the much admired Residence of the late Daniel Higley Richardson, esq.; possession may be had on the completion of the purchase.

MESSRS. FULLER and MARSH have been honoured with instructions from the Executors of the above deceased gentleman, to prepare for SALE by AUCTION at the Mart, on Tuesday, the 10th day of June, at twelve o'clock (unless in the meantime an acceptable offer be made by private contract), the above singularly attractive VILLA RESIDENCE, most delightfully situate, a short distance from the road, on the most preferable part of Brixton-hill, nearly opposite the church, erected within a few years, at a considerable outlay, and regardless of expense, and much ingenuity and taste have been displayed in its exterior and interior arrangements. The house is of handsome elevation, and most conveniently and admirably adapted for the reception of a gentleman's family: it contains two attic rooms for female servants, and closets on the first floor; four best bed-rooms and a dressing ditto, an occasional summer room or conservatory; on the ground floor, a cheerful entrance hall, an elegant drawing-room, a well-proportioned dining-room, and library; and on the basement, the most complete domestic offices; coach-house, stabling, pleasure-grounds, and kitchen-garden. This eligible estate, either for occupation or investment, is held for an unexpired term of 92 years, at a low ground-rent. Particulars may be obtained of H. F. Richardson, esq. solicitor, 36, Coleman-street; at the Mart; and cards to view of Messrs. FULLER and MARSH, Surveyors and Land-agents, 2, Charlotte-row, Mansion-house.

Twenty Acres of valuable Freehold Meadow Land, within four miles of the Regent's-park, admirably adapted for Building purposes.

MESSRS. FULLER and MARSH have been favoured with instructions to prepare for SALE by AUCTION, early in June, about TWENTY ACRES of important FREEHOLD MEADOW LAND, situate in an improving neighbourhood, and presenting to the capitalist an eligible investment, and to builders a spot well adapted for building purposes.—Detailed particulars will appear in future advertisements; and in the meantime any information may be obtained at Messrs. FULLER and MARSH'S offices, 2, Charlotte-row, Mansion-house.

THE REPORTS.

PRIVY COUNCIL, by THOMAS CAMPBELL FOSTER, of the Middle Temple, Esq. Special Pleader.

EQUITY COURTS.

LORD CHANCELLOR'S COURT by RICHARD GRIFFITHS WELFORD, Esq. of the Inner Temple, Barrister-at-Law.

VICE-CHANCELLOR of ENGLAND'S COURT, by GEORGE GOLDSMITH, Esq. of the Middle Temple, Barrister-at-Law.

ROLLS COURT, by J. MACAULAY, Esq. of the Inner Temple, Barrister-at-Law.

VICE-CHANCELLOR KNIGHT BRUCE'S COURT by GEO. S. ALLNUTT, Esq. of the Middle Temple, Barrister-at-Law.

VICE-CHANCELLOR WIGRAM'S COURT, by J. VESEY DAWSON, Esq. of the Middle Temple, Barrister-at-Law.

COMMON LAW COURTS.

The QUEEN'S BENCH, by J. C. SYMONS, Esq. of the Middle Temple, Barrister-at-Law, and EDWARD WISE, Esq. of the Middle Temple, Barrister-at-Law.

The COURT of COMMON PLEAS, by W. PATERSON, Esq. of Gray's-inn, Barrister-at-law.

The COURT of EXCHEQUER by JOHN BRIDGE ASPINALL, Esq. of the Middle Temple, Barrister-at-Law, and H. T. COLE, Esq. of the Middle Temple, Barrister-at-Law.

The BAIL COURT by T. W. SAUNDERS, Esq. of the Middle Temple, Barrister-at-Law.

The EXCHEQUER CHAMBER by A. A. FRY, Esq. of Lincoln's-inn, Barrister-at-Law.

BANKRUPT AND INSOLVENT COURTS.

The COURT of REVIEW by GEO. S. ALLNUTT, Esq. of the Middle Temple, Barrister-at-Law.

LONDON COMMISSIONERS' COURT and the INSOLVENT COURT, by B. TALBOT, Esq. of the Middle Temple, Barrister-at-Law.

BRISTOL DISTRICT COURT, by J. ANGUS HOMES, Esq. Barrister-at-Law.

NISI PRIUS, CIRCUITS, AND CROWN CASES.

CENTRAL CRIMINAL COURT, by B. C. ROBINSON, Esq. of the Middle Temple, Barrister-at-Law.

CROWN CASES (before all the Judges) by A. BITTLESTONE, Esq. of the Inner Temple, Barrister-at-Law.

NORTHERN CIRCUIT, York and Liverpool, by J. B. ASPINALL, Esq. Barrister-at-Law. The other parts of the Circuit, by G. F. H. OLEPHANT, Esq. Barrister-at-Law.

WESTERN CIRCUIT, by EDWARD W. COX, Esq. of the Middle Temple, Barrister-at-Law.

OXFORD CIRCUIT, by JOHN LANE, Esq. D.C.L. of the Inner Temple, Barrister-at-Law.

NORFOLK CIRCUIT by JNO. B. DASENT, Esq. Barrister-at-Law.

SITTINGS AT NISI PRIUS AFTER TERM, by JOHN LANE, Esq. D.C.L. of the Inner Temple, Barrister-at-Law; E. WISE, Esq. Barrister-at-Law; and others.

ELECTION LAW.

REGISTRATION APPEALS in the COMMON PLEAS by EDWARD W. COX, Esq. of the Middle Temple, Barrister-at-Law; and HENRY TINDAL ATKINSON, Esq. of the Middle Temple, Barrister-at-Law.

ELECTION COMMITTEES by EDWARD W. COX, Esq. of the Middle Temple, Barrister-at-Law.

REGISTRATION COURTS, collected and edited by EDW. W. COX, Esq. of the Middle Temple, Barrister-at-Law.

IRISH REPORTS.

The LORD CHANCELLOR'S COURT by WILLIAM DUGGAN, Esq. Barrister-at-Law.

QUEEN'S BENCH and CRIMINAL COURTS by WM. ST. LEGER BABINGTON, LL.D. Barrister-at-Law.

N.B.—The names of the reporters of such important points as may arise upon Circuit will be announced as the arrangements for each are completed.

The Written Judgments are reported verbatim in Short-hand by Mr. H. GREGORY, Short-hand Writer.

CORRESPONDENCE.

PRACTICE IN BANKRUPTCY.

TO THE EDITOR OF THE LAW TIMES.

SIR,—The great importance of the subject-matter of this letter will, I trust, excuse my trespassing upon your valuable columns.

On Friday last I attended professionally in support of a bankrupt before a certain District Court of Bankruptcy, and, as is both customary and absolutely necessary, in the discharge of my duty towards my client, I took ample notes of the proceedings.

At the conclusion of the business I was surprised by the registrar applying to me for my notes, which (at the moment) I gave up to him.

I demanded his authority for thus acting, when he informed me that, inasmuch as I was not entitled to a copy of the bankrupt's examination, I was not entitled to my own notes.

The consequences of such a rule as this (if any such there be) are so apparent in reference to our professional employment and the interests of our clients in general, that I appeal to some of your numerous readers, and ask whether there is any authority, either in principle or practice, for so monstrous an infringement of our privileges

Perhaps some of your subscribers will be kind enough to favour me with a reply, and in the meantime, I am yours, &c.

AARON WILLS GAY

Cheltenham, 4th June, 1845.

LORD BROUGHAM'S CONVEYANCE.

TO THE EDITOR OF THE LAW TIMES.

SIR,—By section 1, a person interested in land may convey a fee-simple; will this enable a person not having a fee to convey one? If so, and the preamble says it is expedient to facilitate the sale and conveyance of freehold lands, the Act will be a great desideratum; but is it intended that, under the word "interested," a person having only a power of appointment may exercise it by means of the deed in Schedule 1? And if the Act is intended to have such a construction, could it operate where the power is to appoint by a deed sealed and delivered in the presence of and attested by certain witnesses? And if such is intended, why does not the Act say in terms that a general power of appointment may be exercised by the form of deed given? But supposing a person having a general power of appointment, and in default of appointment a seizin in fee, were to convey by this form, is the purchaser to be considered to be in by virtue of the power in order to avoid all mesne incumbrances, or by means of the conveyance of the seizi Surely it is important that such doubts as these should not be left for judicial determination before vendors can rely upon their own construction of the Act.

Section 2 does not say that it shall *not* be necessary to insert in the deed made pursuant to the Act any of the forms set forth in the first column of the second schedule to the Act, but that is left to inference, like many more things; and would there not be room to doubt whether a deed made in the form prescribed, but containing the common covenants for title, &c. and none of the forms above referred to, would be considered to be a good and effectual deed under th Act? Again, if a person makes a deed in the required form, only omitting the words "in pursuance of the Act," &c. and nothing can be collected from the instrument to shew that it was intended to operate by virtue of the Act, would extraneous evidence be received to explain a document which, by sec. 4, is to have such and the same force and effect, and be construed as a lease and release?

By sec. 3 it is enacted that whenever any party to such deed shall employ therein any of the forms of words contained in column 1 of the second schedule, and distinguished by any number therein, such deed shall be taken to have the same effect, and be construed as if such party had inserted in such deed the form of words contained in col. 2 of the same schedule, and distinguished by the same number; and by sec. 9, where the grantor in any such deed has acquired by descent or by devise the lands thereby conveyed the covenants contained in the second schedule, and so employed by him, shall also extend to the acts, &c. of the person from whom he so acquired, the same. In the covenant No. 1, in the second column of the second schedule, the covenantor covenants "that for and notwithstanding any act, &c. by *him*" done, &c. he has power to convey. Now you will perceive that ss. 3 and 9 are clearly inconsistent; sec. 3 saying, that the words in col. 2, when employed by the words in col. 1 of the second schedule, are to be construed as if the same had been inserted in the deed; and sec. 9 saying that in certain cases other words are to be considered as also inserted in the deed which are *not* in col. 2 of the second schedule. But the above-mentioned inconsistency is not the only one; for even if the second column is to be considered as including, when necessary, the words of the 9th section, still the covenantor is not made to covenant against the acts of persons, other than himself, claiming under th grantor or devisor; nor does the covenant extend tc the acts of persons from whom the grantor's intestat or devisor acquired the estate intended to be conveyed nor to the acts of persons under whom the granto claimed by virtue of a voluntary conveyance. In al these cases it is the universal practice of conveyancers t extend the covenants to the last purchaser and person claiming under him. In many cases, therefore, would not be safe to rely upon the boasted efficacy the concise—so called—conveyance; as in case eviction, a purchaser would have no remedy, either a law or in equity.

By sec. 4, the deed is to have the effect and be con strued as a lease and release, but by sec. 11, if the dee should fail to take effect by virtue of the Act, it shal nevertheless be as valid, so far as the rules of law an equity will permit, as if the Act had not been made Then, supposing the deed to be void, no very impro bable supposition, what effect could it have at law It is not to be sealed, and therefore, if the Act wer not made, it would be considered an agreement t convey, and nothing more, upon which an action might be maintained for damages for non-perform ance: and in equity the remedy would be similar t proceedings by bill for a specific performance of a agreement. If that be so, sec. 11 is entirely a piece o humbug, not worth the paper it is written on. Hi lordship knew very well that now such a deed as he proposes to palm upon the public could not quiet purchaser's possession at law; but having anticipate the downfal of this efficacious deed, and scarcely knowing how to apologize, he says in effect, "Go int a court of equity, and they will set you right." It must be admitted that his lordship displays great tact in an emergency, but I am certain that he wil utterly fail in his attempt to bring his machinery int operation. He may rest assured that his labour have been in vain.

My Lord has no good opinion of his deed, other wise he would have made it compulsory; but in that respect he has been uncommon wise, for he ha avoided a mighty opposition and rendered it only necessary or prudent to shew the danger of grasping the proffered boon. If you think I have exposed any fallacy which it is desirable should be generally known by the Profession, that end cannot be better attained than by your favouring me with the insertion of this letter in your widely circulated paper.

I am, Sir, yours, &c.

J. GARRATT.

SMALL DEBTS BILL.

TO THE EDITOR OF THE LAW TIMES.

SIR,—Your attention is requested to the new Bill introduced by Lord Brougham for the recovery of small debts, particularly the 4th section, which is intended to injure the attorneys and to convert the Commissioners' Courts in Bankruptcy into a beargarden for the "pot-house accountants and agents" to play their pranks in.

The Bill is very defective in containing a clause relative to the landlord's claim for rent, which judgment creditors find to be the "monster evil" at the present day.

We presume you have a copy of the Bill, and remain Your most obedient servants,

BUCHANAN & GRAINGER.

8, Basinghall-street, 3rd June, 1845.

TO THE EDITOR OF THE LAW TIMES.

SIR,—Will you have the goodness to allow a note to be introduced into the next number of the LAW TIMES, that Messrs. Pinder and Co. have appealed against the decision of the Master of the Rolls, in the case *Re Pinder*, reported in the LAW TIMES of Saturday last, p. 170. Messrs. Pinder and Co. have appealed against the decision on both points, viz. the right to tax the bills, and as to the delivery of the papers. We are, Sir, yours, &c.

CLAYTON & SQUARE.

3, Hare Court, Inner Temple, 6th June, 1845.

SELECTIONS FROM CORRESPONDENCE.

A COUNTRY SUBSCRIBER suggests an existing evil and proposes a remedy.

Your columns bear so many just complaints and exposures of the interference of sham lawyers with business which should be ours alone, by virtue of our payments for privileges, and of the disreputable practices of many who are legally-qualified attorneys, that I need only allude to the grievance. Bearing it in mind, however, let me now call attention to the fact that nearly every advertisement for a clerk or manager declares a preference for one *who has not been articled*. I think there is some connection between these two matters, and conceive the preference I have mentioned to be in a great measure the relative cause of the former, by introducing to the working management of law business subordinates, many of them, doubt, worthy men, but not generally with an education or class to reflect credit on the Profession in the after-practice they often attain to; while, at any moment, if discharged and thrown upon their wits, their acquaintance with the law and want of *status* as gentlemen, make them the very persons likely to figure as sham lawyers. And I think it further likely that many of the advertising attorneys would be found to be men not *originally* articled to the Profession.

Surely the having been articled, or the possession of a certificate, with the other probable advantages of education and character, should not (*cæteris paribus*) disqualify, or make a man less trustworthy and valuable, as a superior clerk or manager! On the contrary, why should it not be the highest recommendation? One objection which may be started, viz. the danger of such a person getting hold of and running away with the clients of the business, might be easily obviated by taking in every case a covenant to pay a liquidated damage in case of practising in the vicinity. Another, and the only remaining one that I am aware of, viz. that of the uncertainty of duration of such services, might, so far as it may exist, be met by agreement to serve for a stipulated time; while I think gentlemen would not prevent any person so employed from taking advantage of a good opening or partnership elsewhere, if it occurred.

Perhaps the Profession would do well to consider the matter, and almost universally to reverse what appears to be too nearly a general rule.

REPEAL OF THE CERTIFICATE DUTY.—Sir Thomas Wilde has promised to present the petitions from the attorneys of England and Wales and Ireland for repeal of the certificate duty, on Monday evening

SCOTTISH WIDOWS' FUND and LIFE ASSURANCE SOCIETY.—Notice is hereby given, that the INVESTIGATION into the AFFAIRS of this Society, as provided for by the Articles of Constitution, will take place on the 31st of December, 1845, and that all who effect Insurances on their Lives before that day, which closes the current septennial period, will secure a certain greater benefit than will be obtained by those who delay doing so till the commencement of the following year.

Copies of the last Annual Report, and all necessary information, may be had on application at the Head Office, or at any of the Society's Agencies.

HUGH M'KEAN, London Agent.

London Office, 7, Pall-mall.

NORTH BRITISH INSURANCE COMPANY,

Established 1809.

Protecting Capital, 1,000,000*l.* fully subscribed.

His Grace the Duke of Sutherland, K.G. President.
Sir Peter Laurie, Alderman, Chairman of the London Board.
Francis Warden, Esq. (Director H.E.I.C.) Vice Chairman.
John Webster, M.D., F.R.S. 24, Brook-street, Physician.

THIS Institution is incorporated by Royal Charter, and is so constituted as to afford the benefits of Life Insurance in their fullest extent to Policy-holders, combined with perfect security in a fully subscribed Capital of One Million Sterling, besides an accumulated Premium Fund, exceeding 412,000*l.* and a Revenue, from Life Premiums alone, of upwards of 90,000*l.* per annum.

Eighty per cent. or four-fifths of the total profits of the Company, are septennially divided among the Assured.

At the last investigation, ending 31st December, 1844, a Bonus of 1*l.* 10*s.* per cent. on the sums assured, was declared for every Annual Premium paid during the septennial period. Thus on a Policy for 5,000*l.* which had been in force upwards of six years, and on which consequently seven Annual Premiums had been paid, the Bonus declared was 525*l.*

A Prospectus, containing Tables of Premiums, with the names of the President, Vice-Presidents, Directors, and Managers, who are all responsible PARTNERS, may be obtained of Messrs. R. and M. Boyd, Resident Members of the Board, 4, New Bank Buildings; or of the Actuary, 19, Pall-mall East.

JOHN KING, Actuary.

UNITED KINGDOM LIFE ASSURANCE COMPANY.

TEMPORARY OFFICES DURING THE ALTERATIONS, No. 28, REGENT-STREET, WATERLOO-PLACE, LONDON.

Established by Act of Parliament in 1834.

DIVISION OF PROFITS AMONG THE ASSURED.

HONORARY PRESIDENTS.

Earl of Errol.	Earl Somers.
Earl of Courtown.	Lord Viscount Falkland.
Earl Leven and Melville.	Lord Elphinstone.
Earl of Norbury.	Lord Belhaven and Stenton.
Earl of Stair.	

DIRECTORS.

James Stuart, Esq., Chairman.
Hananel De Castro, Esq., Deputy Chairman.

Samuel Anderson, Esq.	Charles Graham, Esq.
Hamilton Blair Avarne, Esq.	F. Charles Maitland, Esq.
Edw. Boyd, Esq., Resident.	William Railton, Esq.
E. Lennox Boyd, Esq., Assist. Reside	John Ritchie, Esq.
Charles Downes, Esq.	F. H. Thomson, Esq.

Surgeon—F. Hale Thomson, Esq., 48, Berners-street.

This Company, established by Act of Parliament, affords the most perfect security in a large paid-up Capital, and in the great success which has attended it since its commencement in 1834,

Its Annual Income being upwards of £72,000.

In 1841, the Company declared an addition to the Shareholders of one-half of their Stock, and also added a Bonus of 2*l.* per cent. per annum on the sum insured to all policies of the participating class from the time they were effected.

The Bonus added to policies from March, 1834, to the 31st Dec. 1840, is as follows:—

Sum Assured.	Time Assured.	Sum added to Policy.
£5,000	6 Yrs. 10 Months.	£683 6s. 8d.
5,000	6 Years	600 0 0
5,000	4 Years	400 0 0
5,000	2 Years	200 0 0

The Premiums nevertheless are on the most moderate scale, **and only one-half need be paid for the first Five Years,** where the Insurance is for Life.

Every information will be afforded on application to the Resident Directors, EDWARD BOYD, Esq., and E. LENNOX BOYD, Esq., at the Temporary Offices during the Alterations, No. 28, Regent-street, Waterloo-place, London.

FARMS, on a small scale, near Tring and Aylesbury, presenting a most desirable opportunity to Small Capitalists of becoming their own Landlords.

MR. W. BROWN has been favoured with directions to SELL by AUCTION, at the Commercial Hall, in Tring, on Friday, June 20th, 1845, in convenient Lots, a Farm Homestead and about seven acres of Arable and Pasture Land. Another Farm Homestead, and about fifteen acres of highly productive Arable and Pasture Land. Two handsome Inclosures of Arable Land, together about twenty-five acres, all situated at Little Tring, about one mile from the town, partly Freehold and the remainder Copyhold, at trifling quit-rents and nominal fines. —A Cottage and Garden at Gubblecote, near Tring.—A Freehold Estate, adjoining the high-road at Aston Clinton, Bucks, between Tring and Aylesbury, consisting of Three Cottages, a productive Meadow, and an Inclosure of Arable Land, together about nine acres, occupied by Mr. Thomas Fowler.

Printed particulars will shortly be published, and may be obtained at the Auction Mart, London; at the principal Inns in the vicinity; of Messrs. Smith and Grover, solicitors, Hemel Hempstead; at the Offices of Mr. W. BROWN, Land Agent, Tring, where Plans of the Estates may be inspected.

Periodical Sales (established in the year 1803) of Reversions, Life Interests, Annuities, Policies of Assurance, Advowsons, Next Presentations, Rent Charges in lieu of Tithes, Post-obit Bonds, Tontines, Debentures, Ground Rents, Improved Rents, Shares in Docks, Canals, Mines, Railways, Insurance Companies, and all Public Undertakings.

MESSRS. SHUTTLEWORTH and SONS respectfully inform the public, that upwards of 40 years' experience having proved the classification of this species of property to be extremely advantageous and economical to vendors, and equally satisfactory and convenient to purchasers, the PERIODICAL SALES of reversionary interests, policies of insurance, tontines, debentures, advowsons, next presentations, all securities dependent upon human life, shares in docks, canals, mines, railways, and all public undertakings, will be continued through 1845, as follow:—

Friday, July 4.	Friday, Oct. 3.
„ Aug. 1.	„ Nov. 7.
„ Sept. 5.	„ Dec. 5.

Particulars may be had Ten days previous to each sale, at the Royal Hotel, Manchester; the Adelphi Hotel, Liverpool; Dee's Royal Hotel, Birmingham; the Angel, Oxford; the Eagle and Child, Cambridge; at the Mart; and of Messrs. SHUTTLEWORTH and SONS, 28, Poultry.

Residence and Land, Lower Edmonton, Middl.

MESSRS. SHUTTLEWORTH and SONS are instructed by the Proprietor to SELL by AUCTION, at the Mart, on Friday, July 11, at 12, in one lot, a desirable COPYHOLD RESIDENCE, called Nightingale-hall; containing numerous sleeping apartments, excellent drawing and dining room, library, attached and detached offices, capital stabling, lawns, fish-pond, kitchen-garden, and several inclosures of meadow land; the whole comprising about nine acres, pleasantly situate seven miles from London, about half a mile from the high North-road, and one mile from the station on the Northern and Eastern Counties Railway, at Marsh-side, Lower Edmonton, in the county of Middlesex. May be viewed with tickets only, which, with particulars, may be had, 14 days previous to the sale, of Messrs. Roy, Blunt, and Co. solicitors, 43, Lothbury; at the Mart; and of Messrs. SHUTTLEWORTH and SONS, 28, Poultry.

Northaw, Herts.

MR. LEIFCHILD has received instructions from the Assignees of Messrs. Chambers and Son to SELL by AUCTION, at Garraway's, on Wednesday, the 23rd day of July, at 12 for 1 o'clock, the valuable FREEHOLD BRICK-GROUND, Limekilns, Dwelling-houses, Cottages, and other buildings, most eligibly situate for carrying on an extensive business, in the parish of Northaw, in the county of Hertford, near Enfield, Barnet, Potter's-bar, Cheshunt, and Hatfield; to all of which places there are good roads. Full particulars, with plans, are in preparation, and may be had in due time at Mr. Leifchild's land and timber offices, 62, Moorgate-street.

Brentwood, Essex.—Peremptory sale of exceedingly valuable Building Ground, in a beautiful and commanding situation.

MR. LEIFCHILD has received instructions to offer for unreserved SALE by AUCTION, at the White Hart Inn, Brentwood, on Wednesday, the 11th day of June, at Twelve o'clock, a very important and valuable PROPERTY; comprising eighty lots of very desirable freehold building-ground, land-tax redeemed, most eligibly situate in and near the capital and improving town of Brentwood, contiguous to the station of the Eastern Counties Railway, and abutting on and intersected by capital roads, leading to Chelmsford, Warley, Shenfield, &c. The great beauty of the situation, which presents the most delightful views of this highly-popular neighbourhood, and its extreme salubrity, offer admirable sites for the erection of villa or cottage residences, and render the property worthy the attention of the enterprising builder or capitalist. Full descriptive particulars, with plans, may be had of Messrs. Copland, solicitors, Chelmsford; at the usual Inns; at the place of sale; at Garraway's; and at Mr LEIFCHILD'S offices, 62, Moorgate-st Bank.

The Shurrenden Estate, a desirable freehold property exonerated from land-tax and partly tithe free, with very gentlemanly residence, Park-like Grounds, Woods, and land most delightfully situate near the admired village of Horsmonden, in the county of Kent, in the vicinity of Tunbridge Wells.

MR. LEIFCHILD has received positive instructions from the Trustee for Sale, and with the consent of the Mortgagees, to SELL by AUCTION, at Garraway's, on the 9th day of July, at Twelve for One o'clock, in one or more lots, the above valuable and extremely desirable FREEHOLD PROPERTY; comprising a most excellent and gentlemanly residence, of handsome elevation, finished with great taste in the cottage style, with pleasure-grounds, shrubbery walks, walled kitchen garden, double coach-house and stabling, and every other appendage. Beautifully situate on a gentle eminence in a rich paddock of park-like appearance, highly ornamented with full-grown timber, and a magnificent sheet of water stocked with the finest fish, surrounded by handsome inclosures of hop garden, arable, meadow, pasture, and woodland, which is full of thriving oak and other timber.

At a convenient distance from the residence is a comfortable farm-house, with suitable agricultural buildings, with orchard, fruit, and wood land, and sundry dwelling-houses and cottages, containing in the whole nearly 200 acres. The mansion and premises are in excellent order, the lands are in a high state of cultivation, and the whole presents a most desirable opportunity for investment or occupation, being delightfully situate near the village of Horsmonden, abutting the turnpike-road from London to Brenchley and Cranbrook. Distance from London, 21 miles; Tonbridge Wells, 9; Hastings, 27; Maidstone, 13; and within half an hour's drive through a richly diversified country from Paddock-wood station on the Dover Railway. Descriptive particulars and plans are in preparation, and may be had by application to E. M. Hunt, esq. solicitor, 8, New Boswell-court, Carey-street, Lincoln's-Inn-fields, London; and to Mr. LEIFCHILD, at his land and timber offices, 62, Moorgate-street, who will give tickets to any gentleman desirous of viewing the property.

Chelmsford, Essex.—Important Sale of very valuable Building-ground, in first-rate situations.

MR. LEIFCHILD is instructed unreservedly to SELL by AUCTION, at the Bell Inn, Chelmsford, on Thursday, June 12, at One, in 61 lots, an exceedingly valuable PROPERTY; comprising parts of the Primrose-hill and the Burgess Well Estates, and the most desirable portions of the Town-fields, all of which are very eligibly situate in and near the town of Chelmsford; part immediately adjoining the Eastern Counties Railway Station, and the whole within a very convenient distance. It is intersected and approached by capital roads and streets; it offers great choice of situation either for residence or business, and the lots include the most preferable sites in the improvements and extensions of the town of Chelmsford. The lots will be carefully marked out, and particulars and conditions, with plans, may be had at the usual inns; at the place of sale; of Messrs. Copland, solicitors, Chelmsford; at Garraway's; and at Mr. LEIFCHILD'S offices, 62, Moorgate-street, Bank.

Very eligible and safe Investment.—Capital Freehold Dwelling houses, Shops, and Warehouses, Fenchurch-street and Church-row, City.

MR. LEIFCHILD has received instructions from the Chairman and Board of Directors of the London and Blackwall Railway Company to SELL by public AUCTION, at Garraway's, on Monday, June 16, at 12 for 1 o'clock, those very desirable PREMISES, admirably situate in the best part of Fenchurch-street, immediately contiguous to the Blackwall Railway Station; comprising three capital dwelling-houses, with shops and warehouses, situate and being Nos. 65 and 66, Fenchurch-street, and No. 1, Church-row, with valuable frontage to Railway-place, which are now let on lease to most respectable tenants at low rents, amounting to 157*l.* per annum. The important local advantages of this property make it an exceedingly eligible and secure investment. May be viewed till the sale by applying at the Premises, and particulars and conditions of sale may be had of Messrs. Stokes, Hollingsworth, Tyerman, and Johnston, 24, Gresham-street (late Catcaton-street); of Messrs. Pearce, Philips, and Winckworth, 10, St. Swithin's-lane; at Mr. Tite's offices, St. Helen's-place, Bishopsgate-street; at Mr. R. L. Jones's office, Little Moorfields; at Garraway's; and at Mr. LEIFCHILD'S land and timber offices, 62, Moorgate-street, City.

Hubborne Lodge.—A very elegant Freehold Residence, with beautiful Pleasure Grounds and Land, in the whole about 20 acres, near Christchurch, Hampshire.

MR. LEIFCHILD has received instructions from the Proprietor, Captain Henry Hopkins, to SELL by public AUCTION, at Garraway's, on Monday, the 16th of June, at Twelve for One o'clock, that justly admired and very gentlemanly FREEHOLD RESIDENCE, known as Hubborne Lodge, approached by a handsome lodge entrance and carriage-drive through beautiful and thriving plantations, and commanding most delightful views, surrounded by good roads and drives in all directions. The house is of handsome elevation and approached by a flight of stone steps to the entrance-hall, dining-room, breakfast room, and library, and an elegant bow-window drawing-room, with conservatory and greenhouse, nine best and secondary sleeping-rooms, dressing-rooms, and water-closets. The domestic offices are perfect and complete in every respect. Properly detached in a court-yard are capital stabling for six horses, double coach-house, hay, straw, and harness rooms, with servants' rooms over; an excellent bailiff's dwelling-house, farm-yard, and all suitable agricultural buildings.

The pleasure-grounds, plantation walks, and shrubberies are laid out with great taste, and capital walled kitchen garden well stocked with choice fruit-trees of every description in full bearing. The house is placed on a lawn in the centre of the grounds, which are beautifully timbered and watered. This very eligible property, which is in the most perfect order throughout, and fit for immediate reception, is situate on the border of the New Forest, and within two miles of the borough town of Christchurch, and in the immediate neighbourhood of Lymington and the attractive watering-places of Muddiford and Bournemouth, and presenting altogether one of the most beautiful and complete properties of this description in Hampshire. May be viewed, with tickets only, every Tuesday, Wednesday, and Friday previous to the sale, which, with particulars, elevations, and ground plans of the property, may be had of Messrs. White, Blake, Tylee, and Fawkener, solicitors, Essex-street, Strand; and at Mr. LEIFCHILD'S offices, 62, Moorgate-street, Bank; particulars also may be had on the premises, and at all the principal inns in the neighbourhood of the estate.

Notice of Sale.—The Chettle Estate.—An important and valuable Freehold Property, comprising the whole parish of Chettle, with Manor and Advowson, most delightfully situate within a ring fence, between Salisbury and Blandford, in the county of Dorset.

MR. LEIFCHILD has been favoured with instructions from the Assignees of Messrs. Chambers and Son, to SELL by public AUCTION, at Garraway's, on Wednesday, the 23rd day of July, at Twelve for One o'clock, the above well-known and much-admired ESTATE, consisting of the ancient spacious mansion called Chettle-house, situate on a fine commanding eminence, embracing views of great extent and beauty, an excellent farm-house, and all requisite farm buildings, handsome dwelling-house, with capital stabling, and numerous other houses and cottages, all in good repair; also the manor, or reputed manor or lordship of Chettle, with its rights, privileges, and immunities, together with the perpetual advowson and right of presentation to the rectory and parish church of Chettle, comprising the parsonage-house, with offices, gardens, and glebe land, and the tithes of a great part of the parish, the whole surrounded by numerous handsome inclosures, and the most productive arable, meadow, pasture, and wood land in the very highest possible state of cultivation, containing nearly 1,200 acres. The estate is finely timbered, and well stocked with game; several packs of hounds are kept in the immediate neighbourhood, and there are excellent roads and drives in all directions. Full descriptive particulars and plans are in preparation, and may be had in due time at Mr. LEIFCHILD'S land and timber offices, 62, Moorgate-street.

Capital and very valuable FREEHOLD ESTATES, near Daventry, Southam, and Leamington, in the county of Warwick, part extra-parochial. By Messrs. HOGGART and NORTON, at the Mart, on Friday, June 13 (instead of May 23, as previously advertised), at twelve, the following important and valuable Freehold Estates, in the parishes of Ladbroke, Bishop's Itchington, and Burton Dassett, a fine part of the county of Warwick, about twelve miles from Rugby, eight from Leamington, and ten from Banbury, containing together 1,409 acres of fine land, let at rentals amounting to 1,790*l*. per annum, lying as follows:

THE MANOR, FARM, and ESTATE of HODNELL, lying well together, and abutting upon the high road from Southam to Banbury, comprising 511 acres of capital arable and pasture land, in a high state of cultivation, having been considerably improved by drainage and a separation of the buildings, the whole tithe-free, and land-tax redeemed, let to Mr. Thomas Russell, a responsible tenant, on lease at a low rental of 700*l*. per annum.

Also RADBOURNE FARM, adjoining, and containing 262 acres of fine land, land-tax redeemed and tithe-free, let to Mr. John Pearson, at a rent of 350*l*. per annum.

Also, a FARM at Bishop's Itchington, comprising about 286 acres of fine land, land-tax redeemed, let to Mr. Daniel Knib, tenant-at-will, at a rent of 320*l*. per annum.

Also a FARM contiguous to the preceding, in the occupation of Mr. Thomas Norton, at a rent of 80*l*. per annum, containing altogether about 122 acres; and a farm at Knightcote, in the parish of Burton Dassett, comprising about 227 acres of fine land, in the occupation of Messrs Keyte, as yearly tenants, at a low rental of 280*l*. per annum.

These estates may be viewed, on application to the tenants, and printed particulars, with plans ready for delivery 20 days prior to the sale, on application to Messrs. Western and Son, solicitors, Great James-street, Bedford-row; and of Messrs. Clutton, surveyors, Whitehall-place; also at the principal inns at Leamington, Rugby, Banbury, and Southam; Dee's Hotel, Birmingham; at the Mart; and of Messrs. HOGGART and NORTON, 62, Old Broad-street, Royal Exchange.

In the COUNTY of HERTS.—Capital Freehold Estate near Amwell, Bury, and Ware.—By Messrs. HOGGART and NORTON, at the Mart, on Friday, June 27, at Twelve,

THE MANOR FARM of NEW HALL, together with Sibthorpe and Dicers Farms, a very complete and beautiful property, in a fine healthy and sporting part of the county, within one hour's journey from London, two miles and a half from Ware, and five from Hertford, both market towns; comprising the capital and ancient substantial manor house of New Nall, with all requisite outbuildings, the farm-house of Sibthorpe, with outbuildings, and the newly-built capital bullock-lodges and buildings attached to Spicers; 12 cottages and gardens, and 370 acres of superior arable, pasture, and wood land, including some thriving plantations. The soil congenial to the growth of wheat, barley, and turnips. The estate possesses many advantages in point of situation, neighbourhood, and beauty of scenery; it is close to the New Church at Wareside, and adapted for uniting the advantages of residence with investment. It is let to a first-rate agriculturist, Mr. Maxwell, on lease, at a low rent of 500*l* per annum.

May be viewed on application at New Hall, where Mr. Izard, the bailiff, will be found; and particulars had of Messrs. Wartnaby, Dampier, and Westbrook, solicitors, Ware; also at the Bull, Hertford; at the Mart; and of Messrs HOGGART and NORTON, 62, Old Broad-street, Royal Exchange.

Nine Freehold Houses in Hatton garden, and two Leasehold Houses in Great Ormond-street, Queen-square, let at low rentals, producing together about 650*l*. per annum.—By Messrs. HOGGART and NORTON, at the Mart, on Friday, July 11, at Twelve, in eleven lots.

THE following very valuable Freehold and Leasehold Properties, offering an exceedingly desirable opportunity for investment; comprises nine substantial DWELLING HOUSES in Hatton-garden, and two LEASEHOLD HOUSES in Great Ormond-street producing together an income of about 650*l*. per annum. They [illegible] be subdivided into eleven lots.

Lots 1 to 9 will comprise the nine houses, situate Nos. 102 to 110, Hatton-garden, let to respectable tenants, at rentals producing together 477*l*. per annum.

Lot 10. A capital Leasehold Residence, situate No. 18, Great Ormond-street, Queen-square, in the occupation of a respectable tenant, at a low rental of 55*l*. per annum; held on lease for an unexpired term of 19 years, at a ground-rent of 8*l*. per annum.

Lot 11. An excellent Family Residence (nearly equal to a freehold), situate No. 8, Queen-square, let on lease to a highly respectable tenant, at a rental of 105*l*. per annum, and held for an unexpired term of 869 years, at a ground-rent of 12*l*. per annum.

May be viewed by leave of the respective tenants, and particulars had of Messrs. Lake, Wilkinson, and Lake, New-square, Lincoln's-inn; at the Mart; and of Messrs. HOGGART and NORTON, 62, Old Broad-street, Royal Exchange.

Valuable Freehold and Tithe-free Estates, within Five Miles of the County Town of Bedford.—By Messrs HOGGART and NORTON, at the Swan Inn, Bedford, on Tuesday, June 24, at One for Two precisely, in two lots, by direction of the trustees of John Parry Crooke, esq. deceased.

Lot. 1. A VALUABLE FREEHOLD and TITHE-FREE FARM, a short distance from the turnpike-road between Shefford and Bedford, and about five miles from Ampthill, in the parish of Wil[illegible]stead, comprising a most desirable farm, containing together 189 acres of fine arable and meadow land, with a farm-house, barns, and all requisite out-buildings; in the occupation of Mr. William Armstrong, a yearly tenant, who has held the farm for many years, at a rent of 230*l*. per annum.

Lot 2. A compact Freehold and tithe-free Estate, a short distance from Lot 1; comprising four pieces of meadow and one piece of wood land, containing together ab[illegible] acres, let to Mr. Newman at 40*l*. per annum.

May be viewed, and particulars had of Messrs. Barker and Bowker, solicitors, Gray's-Inn-square; at the Mart; and of Messrs. HOGGART and NORTON, 62, Old Broad-street, Royal Exchange. Particulars, also, at the Swan, Bedford; Sun, Hitchin; King's Arms, Ampthill; and George, Shefford.

First-rate freehold Investments, arising out of a very Valuable and Extensive Property, situate near the Church at Clapham, occupying an area of upwards of 16 Acres, and of the estimated Value of 1,500*l*. per annum.—By Messrs. HOGGART and NORTON, at the Mart, on Friday, June 27, at Twelve, in Lots,

A VERY VALUABLE and EXTENSIVE FREEHOLD PROPERTY, situate near the Church at Clapham, consisting of Nine Shops, with Dwelling-houses attached, in the occupation of Messrs. Terry, Dowsett, Barton, Baker, and others; an excellent private Dwelling-house, with offices, stabling, and garden, in the occupation of Mrs. Phelps; Two capital Residences, with offices, lawn, gardens, pleasure-grounds, and meadow land in the rear, in the occupation of — Sturt and — Pickering, esqrs.; the Independent Chapel, a most substantial building, of neat elevation, and enclosed by ornamental iron-railing; the extensive Premises, with stabling, sheds, and coach-houses, in the occupation of Messrs. Heathcote; and the Cock Public-house, with the numerous offices and large garden in the rear, carrying on an excellent business, and in a first-rate situation. This portion of the property is let on lease for an unexpired term of only eight years, at rentals producing together 338*l*. per annum, and at the expiration of those leases the value will be upwards of 1,000*l*. per annum. A substantially built old family Mansion, with stabling, coach-houses, and outbuildings, pleasure-grounds, shrubbery-walks, and upwards of five acres of meadow land, lately producing 250*l*. per annum, but now in hand; and Four Freehold Ground-rents, producing together 43*l*. 15*s* per annum, amply secured upon the British School; and Seven genteel Houses, with gardens in the rear, worth at least 250*l*. per annum. Also a Cottage Residence, with garden, let to Mr. West at 52*l*. per annum. The property will be subdivided into lots as nearly as possible according to the present occupations, giving to the tenants the opportunity of purchasing, or for the purposes of first-rate and secure investments.

May be viewed by permission of the respective tenants; and particulars will shortly be ready, and may be had of Messrs. Kinderley, Denton, and Kinderley, solicitors, New-square, Lincoln's-inn; at the Plough, Clapham; at the Mart; and of Messrs. HOGGART and NORTON, 62, Old Broad-street, Royal Exchange.

Valuable and well-secured Freehold Investments, arising out of Thirteen capital Houses and Premises, situate in Great Ormond-street, Gloucester-street, and Queen-square; also an extensive range of Coach-houses and Stabling, producing together and of the estimated value of 1,160*l*. per Annum.—By Messrs. HOGGART and NORTON, at the Mart, on Friday, July 4, at Twelve, in Nineteen Lots.

THIS VALUABLE and IMPORTANT FREEHOLD PROPERTY comprises thirteen substantial dwelling-houses, situate in Great Ormond-street, Gloucester-street, and Queen-square, let to highly respectable tenants at moderate rentals, and offering first-rate investments for capitalists; also an extensive range of coach-houses and stabling in the rear, the whole property producing and of the estimated value of nearly 1,200*l*. per annum. It will be subdivided into 19 Lots.

Lots 1 to 5 will comprise five excellent dwelling-houses, with offices and large gardens, situate Nos. 42 to 46, G[illegible] Ormond-street, let to most respectable tenant[illegible]ntals producing together 127*l*. per annum; but in a fe[illegible]rs that rental will be increased. N.B.—These houses a[illegible]pitally and most substantially built, and ha[illegible]nodation for highly respectable families.

Lots 6 to 13 will comprise seven substantial dwelling-houses, situate Nos. 25 to 31, Gloucester-street, Que[illegible] square, let to respectable tenants at ground-rentals now producing 97*l*. 10*s*. per annum, but on the expiration of the leases in 1846 and 1847 the rental may be fairly estimated at 400*l*. per annum.

Lot 14. A capital house, situate No. 44, Queen-square, let at a rental of 65*l* per annum.

The remaining Lots will consist of an extensive range of coach-houses, stabling carpenter's shop, workshops, &c. in Great Ormond-yard, t[illegible]l rental of which may be taken at 132*l*. 10*s*. per annum.

May be viewed by permission of the tenants, and particulars had of Messrs. Lake, Wilkins[illegible], and Lake, New-square, Lincoln's-Inn; at the Mart; and of Messrs. HOGGART and NORTON, 62, Old Broad-street, Royal Exchange.

Very beautiful Gothic Residence and twenty-five [illegible]s of rich and valuable Freehold Land, within four hours of London, three miles of Clift[illegible]d Bristol, in a most salubrious and delightful distri[illegible]

MESSRS. HEDGER will SELL by AUCTION, at the Mart, London, on Thursday, July 17, at Twelve, BURFIELD PRIORY, a[n] abode of very super[ior] attractions, constructed upon the [des]igns of the late Mr. Rickman, of the best material, in the most substantial manner. Burfield Priory is an elegant edifice, each front being rich in the varied beauties of the castellated or monastic Gothic, so harmoniously blended as exteriorly to produce the choicest design, with interiorly unusual style of elegance and comfort, and is a perfect abode for a family of the first respectability. It is approached from the high road by a lodge of much beauty, and placed on an elevated site, within highly pleasing and varied park grounds, commanding extensive and interesting views of this rich and favoured district, [illegible] entered by a Gothic stone hall 30 ft. by 18, 28 ft high, lighted by a costly marigold window of rich coloured glass excellently adapted for a music hall, having galleries around, with a fine-toned organ concealed by rich tracery of a Gothic window, drawing room 25 by 16, dining-room [illegible]5 by 16, library 28 by 17, breakfast-room, &c. five best bed-chambers, dressing and bath rooms, four other bed rooms. The offices are excellent, with coach-houses for three carriages, stabling for four horses, harness-room, lofts, and men's room; excellent walled garden, kitchen garden, and within the priory walls about 12 acres, four of which are beautifully disposed in pleasure-grounds, with two other paddocks, also 12 acres. The residence, now in the occupation of the Ladies Boyle, may be viewed by order, which with particulars may be obtained of Messrs. Hayman, Fowler, and Sons, Clifton; and of Messrs. HEDGER, Land Agents, 10, New Bond-street, London, opposite the Clarendon, at whose offices a cosmoramic drawing may be seen.

BUCKS.—Valuable Freehold Estate, 20 miles from town, comprising a commodious Family Residence, placed in a small park, with a secondary residence and sundry Copyhold Cottages, as a whole combining desirable residence with investment.

MESSRS. HEDGER will SELL by AUCTION, at the Mart, on Thursday, July 17, at Twelve o'clock, unless previously sold by private treaty, the desirable FREEHOLD ESTATE called the Grange, situate at Chalfont St. Peter's, about 20 miles from town, in a proverbially salubrious and delightful district, in the midst of the best society and good sporting. The Grange is a handsome and commodious residence, seated on the acclivity of a hill, in a pleasing small park, altogether about 30 acres, approached by neat lodges. It contains every comfort and accommodation for a family of the first respectability; the reception rooms are of handsome proportions, dining, drawing, and billiard rooms, and library, &c.; most excellent and well-arranged bed-chambers, and ample domestic accommodation. The pleasure-grounds are ornamented by some noble timber, with excellent walled gardens; stabling, &c. Likewise will be sold, Gold Hill Cottage, a residence on a moderate scale, with good garden, and seven acres, with various cottages, &c. To be viewed, and particulars had of Messrs. Dendy and Morphett, Bream's-buildings, Chancery-lane; Royal Hotel, Slough; the various inns at Uxbridge, Aylesbury, &c., and of Messrs. HEDGER, Land-agents, 10, New Bond-street, opposite the Clarendon.

Secure Investment, City.

MR. ROBERTS (of Old Jewry) has received directions to SELL by AUCTION, at the Mart, on Monday, June 16, at twelve, those commanding BUSINESS PREMISES, 51 and 52, Barbican, together with the extensive brick buildings in the rear (part let on lease for 37 years), producing 121*l*. per annum; held direct from the parish of Cripplegate, at the low ground rent of 20*l*. per annum, for a term of 55 years unexpired. To be viewed, and particulars had at the Mart; of Mr. Scarborough, solicitor, Tokenhouse-yard; and of the Auctioneer, 7, Old Jewry, Cheapside.

Two very superior residences, Islington.

MR. ROBERTS (of Old Jewry) is directed to SELL by AUCTION, at the Mart, on Monday, June 16, at Twelve, TWO very superior COTTAGE RESIDENCES, with spacious fore-courts and noble portico entrances, situate Nos. 1 and 2, Halliford-street, Lower-road, Islington, in a very respectable neighbourhood. They are built in the most substantial manner, regardless of expense, and are exquisitely finished for domestic comfort. One is let to a highly respectable tenant, at 47*l*. 5*s*. per annum; the other is in hand for the accommodation of the purchaser. Held for a term of 99 years, at a very low ground rent. Particulars had at the Thatched House, Lower-road, Islington; of G. Pope, esq. solicitor, 12, Gray's-inn-square; at the Mart; and of the Auctioneer, 7, Old Jewry.

Votes for South Essex.—Freehold Ground, Stratford, and Leasehold House, near Dorset-square.

MR. ROBERTS (of Old Jewry) will SELL by AUCTION, at the Mart, on Monday, June 16, at Twelve, several PLOTS of FREEHOLD GROUND situate a short distance beyond the limits of the New Buildings Act, near the Eastern Counties Railway station at Maryland point, Stratford; each lot giving a right of common and a vote for the county. Also a very neat Leasehold House, containing seven rooms, wash-house, and yard, situate No. 18, Edward-street, Upper Park-place, Dorset-square; let to a respectable tenant, at 27*l*. per annum; held direct from the freeholder, for 81 years, at 7*l*. 16*s*. ground-rent. Particulars had at the Cart and Horses, Maryland-point, and George Inn, Stratford; Yorkshire Stingo, Paddington; at the Mart; of Mr Scarborough, 19, Tokenhouse-yard; and of the Auctioneer, 7, Old Jewry, Cheapside.

To Building Societies and others requiring Houses for investment or occupation.

MR. ROBERTS (of Old Jewry) will SELL by AUCTION, at the Mart, on Monday, June 16, at Twelve, in five lots, a substantially-built LEASEHOLD COTTAGE RESIDENCE, with slated roof, fore-court, chaise entrance, and walled garden, cheerfully situate, Downham-road, leading out of Kingsland-road, called Belinda Cottage, approached by a handsome flight of stone steps, containing seven rooms, larder, coal and wine cellars, in hand for the accommodation of the purchaser, but of the value of 35*l*. per annum. A lease will be granted direct from the freeholder for a term of 75 years, at 4*l*. 10*s*. ground rent. Four very neat Dwelling-houses, pleasantly situate near the Regent's-canal, 18 to 21, Baden-place, leading out of Goldsmith's row, Hackney-road, containing each five excellent rooms, fore-courts, and gardens, held for a long term at a low ground-rent each.—Particulars had at the Nag's Head, Hackney-road; Ion Arms, Baden-place; Fox, Kingsland-road; the Mart; of Mr. Scarborough, Tokenhouse-yard; and of the Auctioneer, 7, Old Jewry, Cheapside.

Two very neat Cottages, Dalston.

MR. ROBERTS (of Old Jewry) will SELL by AUCTION, at the Mart, on ——, TWO excellent COTTAGE RESIDENCES, of very neat elevation, with slated roofs, fore-courts, side entrances, and large gardens, situate Laurel-street, Queen's-road, Dalston, in a respectable and improving neighbourhood. They contain six excellent rooms, wash-house, wine and coal cellars. They are ornamentally finished, and fitted for the immediate reception of small families of respectability; of the value of 60*l*. per annum. Held for 74 years, at a very low ground-rent. Particulars had at the King's Arms, Kingsland-green; of Mr. Scarborough, Tokenhouse-yard; and of the Auctioneer, 7, Old Jewry, Cheapside.

LONDON:—Printed by HENRY MORRELL COX, of 74, Great Queen Street, in the Parish of St. Giles in the Fields, in the County of Middlesex, Printer, at his Printing Office, 74 & 75, Great Queen Street aforesaid, and published by JOHN CROCKFORD, of 29, Essex Street, Strand, in the Parish of St. Clement Danes, in the City of Westminster, Publisher, at the Office of the LAW TIMES, No. 29, Essex Street aforesaid, on Saturday, the 7th day of June, 1845.

THE LAW TIMES,

AND JOURNAL OF PROPERTY,

FOR

The Legislator, the Magistrate, and the Lawyer.

VOL. V. No. 115.] SATURDAY, JUNE 14, 1845.

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Situations Vacant.

LAW.—A Solicitor, in extensive practice in a large corn-market and assize town, situate in one of the richest and most populous agricultural counties of England, has now a VACANCY for a young gentleman of quiet and domestic habits, as an IN-DOOR ARTICLED CLERK. The advertiser holds a first-rate public appointment, and the practice is a very old-established one, in a healthy locality, about ninety miles from London. A moderate premium would be taken, and he would be in every respect as one of the family.

Address, for further particulars (pre-paid), J. A. LAW TIMES office, Essex-street, Strand, London.

LAW.—A young Solicitor in a small country town WANTS an active CLERK who thoroughly understands Conveyancing, and is also fully competent to undertake the sole Management of Magisterial and Petty Sessions Practice. No one need apply but persons of very active habits, and disposed to exert themselves for the increase of the advertiser's practice. A preference will be given to a person who has not been articled.

Apply by letter, stating full particulars, references, and amount of salary required for the first year, to "Lex," care of Charles Stronghill, esq. 7, Coleman-street, London.

LAW.—WANTED for a Permanency, in a Country Office, a steady CLERK, who will copy and engross neatly and expeditiously. One accustomed to magisterial business will be preferred. Salary 50 guineas a year. No one need apply whose character will not bear strict inquiry.—Apply N. Law Times Office, 29, Essex-st. Strand, London.

Situations Wanted.

LAW.—WANTED, by a young Gentleman who passed his examination last Hilary Term, the SITUATION of MANAGING COMMON LAW and CONVEYANCING CLERK, in a respectable Attorney's office in the country. Salary required not so much an object as the acquirement of further knowledge of his Profession. Testimonials of the highest respectability can be given.

Address, prepaid, to A. Z. Post-office, Southam, Warwickshire.

LAW.—The Advertiser, a Gentleman of liberal education, of about 40 years of age, wishes to procure employment in a Country Solicitor's office. He writes a good hand, and understands cash accounts and the mode of copying in general.

The Advertiser's chief object is employment; and, being possessed of an independency, a small salary would be accepted.

Address U. X. Post-office, Huntingdon.

A YOUNG MAN, at present engaged in a leading mercantile house in the city, is desirous of a Situation as COPYING CLERK or BOOK-KEEPER, for either of which he can be highly recommended as perfectly competent. The advertiser's object in seeking to change his present situation is to obtain one where he could be allowed a portion of each day to attend the University classes, and which he would earn again by diligence in after-hours. A moderate salary will be accepted for permanent employment.

To any Professional Gentleman requiring such an assistant, please address to P. P. care of Mr. Wood, Stationer, 24, Milk-street, Cheapside, which shall have his immediate and respectful attention.

LAW.—A GENTLEMAN, occupied many years in the Profession, is desirous of a permanent engagement, either in Town or Country; he has been accustomed to draw Abstracts and ordinary Deeds, and assist in general business, and keep the books, and is a good penman. Satisfactory references can be furnished.

Address to L. M., Mr. HUNNARD'S, Law Stationer, Inner Temple-lane.

LAW COSTS.—Wanted by an active middle-aged person, who is thoroughly competent to make out Parliamentary and General Costs, a situation as BILL CLERK. The advertiser has been occupied for upwards of twenty years in offices of great practice and respectability (and who are concerned for several corporate bodies), in drawing out Costs in every department of the profession; would have no objection to make out Costs which might be heavily in arrear. Most respectable references will be given. Address L. J. at Messrs. Witherby, Law Stationers, No. 34, Parliament-street, Westminster.

12th June, 1845.

Partnership for Sale.

LAW PARTNERSHIP.—A Solicitor in practice in a midland county town is desirous of meeting with an active and intelligent PARTNER; the business is miscellaneous, and will include a valuable appointment. Premium for a moiety 1,000*l*.

Letters, with real name and address, to T. A. LAW TIMES Office, Essex-street, Strand, only attended to.

Legal Notices.

LANCASHIRE MIDSUMMER SESSIONS.—NOTICE IS HEREBY GIVEN, that the GENERAL QUARTER SESSION of the PEACE for the county palatine of Lancaster will be held at the Castle of Lancaster on MONDAY, the 30th day of June instant, at Ten o'clock in the forenoon, and, by adjournment, at the following places and times, viz.:—

At the Court House in Preston, on WEDNESDAY, the 2nd day of July next, at Ten o'clock in the forenoon.

At the New Bailey Court House in Salford, near Manchester, on Monday, the 7th day of July next, at Ten o'clock in the forenoon.

And at the Court House in Kirkdale, near Liverpool, on WEDNESDAY, the 16th day of July next, at Ten o'clock in the forenoon.

And that all business relating to the assessment, application, or management of the county stock or rate will commence at such sessions respectively at Eleven o'clock in the forenoon of the first day thereof.

All business arising within the hundred of Lonsdale is transacted at Lancaster, within the hundreds of Amounderness, Blackburn, and Leyland, at Preston; within the hundred of Salford at Salford; and within the hundred of West Derby at Kirkdale.

All appeals are entered with the Clerk of the Peace, and motions made to the Court respecting them on the first morning of the sessions at each of the above-named places, and the trial of such appeals takes place at Lancaster on the first day; at Preston and Kirkdale not earlier than Friday, the third day; and at Salford on Wednesday, the third day.

GORSTS and BIRCHALL,
Deputy Clerks of the Peace.

Clerk of the Peace's office, Preston, June 9, 1845.

WEST RIDING OF YORKSHIRE.—MIDSUMMER SESSIONS.—NOTICE IS HEREBY GIVEN, that the MIDSUMMER GENERAL QUARTER SESSIONS of the PEACE for the West Riding of the County of York, will be opened at SKIPTON, on TUESDAY, the 1st Day of July next, at Ten of the clock in the forenoon; and by adjournment from thence will be holden at BRADFORD, on WEDNESDAY, the 2nd day of the same month of July, at Ten of the clock in the forenoon; and also, by further adjournment from thence, will be holden at ROTHERHAM, on MONDAY, the 7th day of the same month of July, at half-past Ten of the clock in the forenoon, when all Jurors, Suitors, Persons bound by Recognizances, and others having business at the said several Sessions, are required to attend the Court on the several days, and at the several Hours above mentioned

Solicitors are required to take Notice, that the Order of Removal, copies of the Notice of Appeal, and Examination of the Pauper, are required to be filed with the Clerk of the Peace on the entry of the Appeal, and that no Appeals against Removal Orders can be heard unless the Chairman is also furnished by the Appellants with a copy of the Order of Removal, of the Notice of Chargeability, of the Examination of the Pauper, and of the Notice and grounds of Appeal.

C. H. ELSLEY, Clerk of the Peace.

Clerk of the Peace's office, Wakefield,
9th June, 1845.

BOROUGH OF KINGSTON-UPON-HULL.—NOTICE is hereby given, that the GENERAL QUARTER SESSIONS of the PEACE for the Borough of Kingston-upon-Hull for the trial of prisoners committed and held to bail on charges of felony and misdemeanor, will be holden at the Town-hall in the said Borough, before Matthew Talbot Baines, esq. Recorder of the said Borough, on Thursday the 26th day of June, inst., at Ten o'clock in the forenoon, when and where all persons bound by recognizances, and others having business at the said sessions (except as hereinafter next mentioned) are requested to attend. And in all cases where the parties accused are out on bail, the prosecutors and witnesses must be in readiness to attend the grand jury at Ten o'clock on Friday morning, the second day of the sessions.

And NOTICE is hereby also given, that all appeals must be entered with the Clerk of the Peace before the sitting of the Court on Thursday morning, the 26th day of June inst. and the hearing of Appeals and Motions will be taken at Nine o'clock on the morning of Saturday following (if the criminal business should then have terminated; if not, immediately after the termination thereof); and Solicitors are requested to take notice, that in appeals against removal orders, copies of the notice and grounds of appeal and examination of the pauper must be filed along with the removal order.

J. H. GALLOWAY,
Clerk of the Peace.

Office of the Clerk of the Peace,
Kingston-upon-Hull,
June 4, 1845.

JUSTICES' CLERKS' SOCIETY.—The HALF YEARLY MEETING of this SOCIETY will be held at the Secretary's House on Croom's Hill, Greenwich, Kent, on Friday the 20th inst. at Twelve o'clock at noon, precisely.

By order,
CHARLES AUGUSTIN SMITH, Secretary.

N.B.—The Members will afterwards dine together at the Ship Tavern, in Greenwich, at Five o'clock, punctually.

MR. W. J. WHYTE'S Offices REMOVED from Vernon-place, Bloomsbury-square, to No. 61, RUSSELL-SQUARE.

11th June, 1845.

TO SOLICITORS' PARTNERSHIPS.—Just published, post folio bound, A PARTNERSHIP ACCOUNT BOOK on a new and very convenient plan, to exhibit at a glance at any moment the precise state of the Partnership Accounts, which may thus be kept with simplicity and certainty. May be had in any number of quires. Published at the LAW TIMES Office, 29, Essex-street, and may be had by order of all booksellers.

LAW BOOKS, &c.—Solicitors may have their LAW and other BOOKS bound in the best style of the Art, at moderate Prices, by the BINDER for the LAW TIMES, if transmitted to the Publisher of the LAW TIMES, 29, Essex-street.

N.B. If Forms or other Publications of the VERULAM SOCIETY or LAW TIMES, to the amount of 2*l*. be ordered to be inclosed in a parcel with Books sent for Binding, they will be sent carriage free.

TO CAPITALISTS.—A Gentleman, who has just completed an INVENTION calculated to prove of great importance and utility to vessels in distress, desires to meet with a respectable party who would advance the capital necessary to take out a Patent, and meet incidental expenses, receiving in return a proportion of the profits derived from the invention. No letter will be attended to which does not contain a satisfactory reference.

Address, "INVENTOR," care of the Editor of the LAW TIMES, 29, Essex-street, Strand.

POSTPONED TO THE 19TH OF JUNE.

Buckinghamshire and Middlesex.—Denham-place Estates and Manor Farm, Greenford.

MESSRS. BROOKS and GREEN will SELL by AUCTION, by order of the Proprietor, at their Estate Auction Gallery, 28, Old Bond-street, on Thursday, June 19, 1845, at One, a most important FREEHOLD DOMAIN, land-tax redeemed, and partly tithe-free, known as the DENHAM-PLACE ESTATE, being one of the most desirable for residence and investment in Buckinghamshire. The possessor of this estate may with confidence look forward to become one of the county members. It consists of the noble Mansion, called Denham-place, replete with accommodation for a Family of Distinction, with extensive Lawns, Pleasure Grounds, Wilderness, and Ornamental Water of great beauty; and surrounded by park-like grounds of 28 acres. The property consists of nine most excellent Farms, extensive Beech and Oak Woods, various accommodation Meadows near to, and Wharfs, Public-houses, and premises in Uxbridge town and Denham village; fifty-seven Cottages, Garden Ground, Water-cress Beds, and comprising in the whole between 3,000 and 4,000 acres, of which about 460 acres are remarkably thriving Woods, unequalled for fineness of growth; and the remainder rich arable, dairy, and grazing lands, with capital Farm-houses and Homesteads in most excellent repair, and let to highly respectable tenantry. The Estate possesses an inexhaustible store of the finest brick earth, immediately adjacent to water carriage; and has a valuable frontage on the high-road from Uxbridge to Oxford, of upwards of three miles. The MANOR of DENHAM, abounding with game, together with its Royalties, Quit Rents, and all other rights thereunto belonging. The trout river Colne partly bounds, and the trout river Misbourne runs upwards of three miles through the Estate. Also, the valuable MANOR FARM, GREENFORD, in the county of Middlesex. The whole producing upwards of 6,000*l*. per annum, including the Mansion and Lands held therewith, and the Woods and Plantations in hand.

Printed particulars and maps of the Estate may be obtained at the Red Lion, Wycombe; Red Lion, Slough; White Hart, Windsor; White Hart, Uxbridge; Saracen's Head, Beaconsfield; Midland Counties Herald Office, Birmingham; the George, Aylesbury; of Mr. Walford, Solicitor, Uxbridge; Messrs. Springall, Thompson, and Powell, Solicitors, Raymond-buildings, Gray's-inn; and of Messrs. BROOKS and GREEN, Estate Agents, Surveyors, and Auctioneers, 28, Old Bond-street.

LAW BOOKS.—Mr. HODGSON will SELL by AUCTION, at his Great Room, 192, Fleet-street (corner of Chancery-lane), on Tuesday next, June 17th, and following day, at Half-past Twelve, the Valuable LAW LIBRARIES of a Provincial Barrister and two respectable Country Solicitors; including Runnington's Statutes at Large; Viner and Bacon's Abridgments; Treatises and Books of Practice; the Reports of Dickens, Peere Williams, Atkyns, Strange, Ambler, Brown, Eden, Cox, Vesey, Vesey, jun. second edition, Vesey and Beames, Merivale, Swanston, Jacob and Walker, Jacob, Turner, Russell, Russell and Mylne, Mylne and Keen, Mylne and Craig, Craig and Phillips, Keen, Beavan, Maddock, Simons and Stuart, Simons, Dow, Bligh, Clark and Finelly, Anstruther, Price, Meeson and Welsby, Blackstone, Bosanquet and Puller, Taunton, Broderip and Bingham, Bingham, Manning and Granger, Dyer, Coke, Croke, Saunders, Shower, Burrow, Cowper, Douglas, Durnford and East, East, Maule and Selwyn, Barnewall and Alderson, Barnewall and Cresswell, Barnewall and Adolphus, Adolphus and Ellis, &c. &c. To be viewed, and Catalogues had.

Periodical Sale of Reversions, Life Interests, Annuities, Life Policies, Advowsons, Next Presentations, and all descriptions of Securities dependent upon human Life, Shares in Railways, Mines, and all other undertakings.

MESSRS. FULLER and MARSH respectfully inform the public, that by their system of periodical sales by Auction they are enabled to offer to persons expectant or otherwise interested in the above description of property the most prompt, economical, and satisfactory mode of disposing thereof, as by classifying these descriptions of interests and properties in the same particular and for the same day, much expense is avoided, and a far greater competition is secured. Their periodical sales of reversions, life interests, annuities, life policies, advowsons, next presentations, and all descriptions of securities dependent upon human life, shares in railways, mines, and all other undertakings, will be continued throughout the present year as follows:—

Thursday, July 3 — Thursday, October 2
Thursday, August 7 — Thursday, November 6
Thursday, September 4
Thursday, December 4.

Notice of Sales intended to be effected by the above means should be forwarded to Messrs. Fuller and Marsh a fortnight prior to each date, in order that they may have the full benefit of publicity. Messrs. Fuller and Marsh beg to call the attention of the public to the economy and expedition of this system of business, as they are thereby enabled to include each property for the sum of two guineas and a half, including all expenses, should a sale not be effected. Particulars of the next periodical sale may be obtained ten days previous to the sale, at the Star Hotel, Oxford; University Arms, Cambridge; Hen and Chickens, Birmingham; Plough, Cheltenhma; Bush, Bristol; New London Hotel, Exeter; Pierce's Hotel, Truro; Adelphi, Liverpool; Royal Hotel, Manchester; Cuff's Midland Hotel, Derby; Black Swan, York; Toutine Hotel, Sheffield; Royal Hotel, Leeds; Tontine Hotel, Glasgow; M'Gregor's Hotel, Princes-street, Edinburgh; Gresham's Hotel, Dublin; and at the Offices of Messrs. FULLER and MARSH, 2, Charlotte-row, Mansion-house, London.

Periodical Sales (established in the year 1803) of Reversions, Life Interests, Annuities, Policies of Assurance, Advowsons, Next Presentations, Rent Charges in lieu of Tithes, Post-obit Bonds, Tontines, Debentures, Ground Rents, Improved Rents, Shares in Docks, Canals, Mines, Railways, Insurance Companies, and all Public Undertakings.

MESSRS. SHUTTLEWORTH and SONS respectfully inform the public, that upwards of 40 years' experience having proved the classification of this species of property to be extremely advantageous and economical to vendors, and equally satisfactory and convenient to purchasers, the PERIODICAL SALES of reversionary interests, policies of insurance, tontines, debentures, advowsons, next presentations, all securities dependent upon human life, shares in docks, canals, mines, railways, and all public undertakings, will be continued through 1845, follow:—

Friday, July 4.	Friday, Oct. 3.
„ Aug. 1.	„ Nov. 7.
„ Sept. 5.	„ Dec. 5.

Particulars may be had Ten days previous to each sale, at the Royal Hotel, Manchester; the Adelphi Hotel, Liverpool; Dee's Royal Hotel, Birmingham; the Angel, Oxford, the Eagle and Child, Cambridge; at the Mart; and of Messrs. SHUTTLEWORTH and SONS, 28, Poultry.

Periodical Sale, established in 1803.—Absolute and contingent Reversions.

MESSRS. SHUTTLEWORTH and SONS are instructed to include in the Monthly Sale of Reversionary Interests, &c. appointed to take place at the Auction Mart, on Friday, July 4, at twelve, the ABSOLUTE REVERSION to the sum of 5,353*l.* 6s 6d Three per Cent. Consols, receivable on the decease of two lives, aged respectively 57 and 55; the ditto to one-third of 250*l.* life 71, and the contingent reversion to one-eighth of 2,000*l.* life—against 76 and 81. Particulars may be had in due time of Mr. F. N. Devey, solicitor, Ely-place; of Mr. Hudson, 23, Bucklersbury; at the Auction Mart; and of Messrs. SHUTTLEWORTH and SONS 28, Poultry.

ISLINGTON.—Freehold Investment.

MESSRS. WINSTANLEY have received instructions from the Executors of the late James Ware, Esq. to SELL by AUCTION, at the Mart, on Wednesday, the 18th of June, a very convenient FREEHOLD RESIDENCE, desirably situate, No. 16, Colebrook-row, Islington, and containing six bed-rooms, three sitting-rooms, with kitchen and offices, and a garden in the rear; in the occupation of Mr. Richards, a yearly tenant, at fifty guineas per annum.

To be viewed by permission of the tenant. Printed particulars may be obtained of Mr. Giraud, solicitor, 7, Furnival's-inn; at the Angel at Islington; at the place of sale; and of Messrs. WINSTANLEY, Paternoster-row.

UPPER DEAL, KENT.—In the month of JULY next, will be SOLD by AUCTION, in lots, of which the particulars will appear in future advertisements, by order of the Devisee in Trust, under the will of Capt John Baker, R.N. deceased, all that very commodious and desirable Freehold Messuage or MANSION HOUSE, replete with every convenience requisite for the reception of a family of distinction, with the extensive and beautiful Lawn, Shrubberies, Garden, and Pleasure-grounds, laid out with considerable taste, Orchards well stocked with trees, and Meadow Land, the whole containing about nine acres, completely inclosed, and a great part with an excellent wall, flanked on the north and east sides with a fine row of ornamental trees, situate and being in the picturesque village of Upper Deal, within a short mile of the town of Deal, and also of Walmer Castle, and for many years past and now the residence of James Cooper, esq.; and likewise about twelve acres of first-class Arable and Meadow Land contiguous, and in the highest state of cultivation. In the meantime for particulars apply at the offices of Messrs. MERCER and EDWARDS, Solicitors, Deal, where a map of the Estates may be seen; or at the offices of Mr. Mercer, solicitor, Ramsgate; or of Messrs. Austen and Hobson, solicitors, 4, Raymond-buildings, Gray's-inn, London.

VERY VALUABLE ESTATES forming most desirable Investments, near Boston and Spalding, to be SOLD by AUCTION, at the latter end of the present month or early in July. In Swineshead, the Manor of Swineshead Abbey, with its members, and a capital Mansion-house, called Swineshead Abbey, with stables, coach-houses, barns, and other appropriate buildings and offices, all in perfect repair; and 160 acres of extraordinary rich Land, of which about 70 acres are first-rate old feeding land, the whole being in the occupation of Richard Calthrop, esq., the owner. The mansion is suited to the accommodation of a gentleman's family, the apartments being numerous, and of good dimensions. The gardens attached are planted with the best fruit-trees, both standard and trained, and in full bearing. The grounds are within a ring-fence, ornamented with fine old oak and other timber, and in great part belted with thriving plantations.—In Quadring Fen, a Farm-house with extensive and well-arranged barns, stables, hovels, and other agricultural buildings, and 212 acres of highly productive Land in the best state of cultivation, situate in Quadring Fen, and also in the occupation of Mr. Calthrop. This farm is extremely compact in form, divided into convenient closes well fenced, and chiefly with thriving quick hedges; and at the west end adjoins the bank of the Fort foot or Black Sluice main drain, navigable to the Port of Boston.

More detailed particulars, with plans, will be forthwith published, and any further information may in the meantime be obtained from Messrs. CHARLES BONNER and SON, Solicitors, Spalding.

June 1845.

SLOUGH, BUCKS.

TO CAPITALISTS AND BUILDERS.—To be SOLD by AUCTION, by Mr. TEBBOTT, at the Crown Inn, Slough, on Tuesday, June 17th, 1845, at Two for Three o'clock precisely, in nineteen lots, a second portion of a valuable parcel of FREEHOLD BUILDING GROUND (Land Tax redeemed), near the Great Western Railway Station at Slough, the property of William Bonsey, Esq. The Land [illegible] divided into nineteen lots, varying from 156 t[o] 180 feet in depth, and from 52 to 60 feet in frontage to the New Road, called "Wellington-road," leading from the principal entrance of the station to the Langley, Wexham, and Uxbridge roads. The Ground is suitable for the erection of Villas or business premises; it has the advantage of an elevated and dry situation, pure air, and a plentiful supply of fine water. It commands a rich and extensive scenery, is immediately contiguous to Eton College and Windsor (with which omnibuses communicate almost hourly), and is in the midst of the Royal Hunt; it is also near the Post-office, whence two deliveries of letters take place daily. This combination of advantages renders the property a most desirable and safe investment for capital, and well worthy the attention of the public.

The lots are staked out, and can be viewed at any time; printed particulars, with conditions, and a lithograph plan annexed, may be had 14 days previous to the sale, at Hatchett's Hotel, Piccadilly; Chequers, Uxbridge; Bear, Reading; White Hart, Maidenhead; Clarence Hotel, Staines; place of sale; of Mr. W. H. Bonsey, solicitor, St. Leonard's-place, Slough; Mr. C. Barrett, Estate Agent, High-street, Eton, and at Mr. TEBBOTT'S Office, Sheet-street, Windsor; or forwarded by post on application by letter.

EXCELLENT FAMILY MANSION and ESTATE, at Stapleton, Gloucestershire, two miles from Bristol.—To be SOLD by PRIVATE CONTRACT, by order of the Trustees of the will of the late Michael Hinton Castle, esq. deceased, the STAPLETON GROVE ESTATE, consisting of an excellent Family Mansion, approached by a rustic entrance lodge, through ornamental grounds, finely timbered, skirted by the demesnes of his Grace the Duke of Beaufort and Sir John Smyth, bart. and divided by the turnpike-road from the palace and grounds of the Lord Bishop of Gloucester and Bristol. The house [is] modern, substantially built, and in excellent repair; it comprises a handsome entrance hall, two large drawing-r[ooms] communicating by folding doors, a dining-room, 30 ft. by 20; library, school-room, housekeeper's-room, servants' hall, kitchens, &c. on the ground floor; bath-room and numerous convenient offices in the basement; five spacious bed-rooms, with dressing-rooms to each, two nurseries, and four other bed-rooms on the first floor; besides six attics and the usual domestic offices, containing every possible convenience.

Detached are a six-stall stable and loose box, coachhouse for four carriages, harness-room, men-servants'-room, and convenient agricultural buildings, and an ornamental tower in the grounds. There are two large and well-stocked kitchen gardens, with hot-house, grape-house, pinery, &c. The principal apartments have a southern aspect, towards a lawn, tastefully laid out with flower gardens and plantations adjoining which are three closes of very rich meadow land, the whole containing about thirty acres. Also, two convenient Dwelling Houses, with gardens, coachhouses, and stables, adjoining the above, and advantageously situated, to be held therewith. Also, a small detached Close of meadow land, containing about two acres: and another, with hanging wood, containing about three acres, adjoining the river Frome. The mansion and appurtenances have never been occupied by any one but the proprietor for the time being, and will be found to comprise every requisite for the residence of a family of distinction.

To be viewed by tickets only, for which, and for further particular application should be made to Messrs. J. P., W., and J. Y. Sturge, land surveyors, Broad-street; or to Mr. Brooke Smith, solicitor, Small-street, Bristol.

New Publications.

THE NEW FRENCH PATENT LAW
Will be shortly given as an Appendix to the sixth edition of the

CONCISE DIGEST of the Law, Usage, and Custom affecting the Civil and Commercial intercourse of the subjects of Great Britain and France.

By C. H. OKEY, Chevalier of the Legion of Honour, Legal Adviser to her Majesty's Embassy at Paris.

Sold by SPETTIGUE, 67, Chancery-lane; SAUNDERS and BENNING, 43, Fleet-street; DALTON, 22, Cockspur-street; and at the Author's, 35, Rue Faubourg, St. Honore, Paris.

NEW WORK BY G. P. R. JAMES, ESQ.
On the 31st inst. with the Magazines, Part I. price One Shilling, of

THE CASTLE OF EHRENSTEIN;
A Romance,
By G. P. R. JAMES, Esq.
To be completed in THREE monthly parts.

On the same day, Part I. price One Shilling,
THINGS OLD AND NEW;
By the author of "The Subaltern," &c.; to be completed in THREE monthly parts. And part I. price 1s. 3d.

LETTERS FROM THE ORIENT;
By the Countess Hahn-Hahn, translated from the German by the author of "Caleb Stukeley." To be completed in FOUR monthly parts.

Also, Part I. price 5½d. by post, 1s.
THE PENNY POST;
Containing five original Tales, besides numerous Essays, Sketches, Extracts, Poetry, &c. &c. &c. &c. Subscriptions received by the Publisher, free by post for one quarter, 2s.

J. C. MOORE, 12, Wellington-street North, Strand.

On Saturday next,
THE NEW ORDERS in CHANCERY, with Practical Notes and a copious Index for Office Uses. By G. S. ALLNUTT, Esq. Barrister-at-Law. Price 3s. 6d. boards.

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MESSRS. NEWTON and APPLETON very respectfully announce that they are favoured with the instructions of the Trustees under the Will of the late Thomas Dunston, esq. deceased, peremptorily to SELL by AUCTION, at the Mart, on Wednesday, June 25, at twelve, in 26 lots, the several GROUND-RENTS of 24l. 4s., 22l. 10s., 22l., 20l., 20l., 18l., 14l., 12l., 10l., 9l. 10s., 8l. 10s., 8l., and 6l. 10s. most amply secured on numerous substantial houses. Also, 15 capital Residences, Acton-place, let to responsible old tenants, at rents from 35l. to 42l. a year each, and subject only to a trifling ground-rent for 63 years. And 13 other Houses, each let at 18l. a year, held for same term, at a small ground-rent, offering most eligible investments for capital in large or small amounts.—To be viewed by leave of the tenants, and full descriptive particulars, with plans annexed, obtained of Mr Hodgson, solicitor, 12, Broad-street-buildings; and of NEWTON and APPLETON, estate agents, 7, Mansion-house-street, City.

Mansion, with Land and Building Ground, together 11 acres.—An important Freehold Estate, Wandsworth, Surrey, land-tax redeemed.

MESSRS. NEWTON and APPLETON are instructed by the Proprietor to SELL by AUCTION, at the Mart, on Monday, June 30, at Twelve, peremptorily, in 24 lots, the ORCHARD ESTATE, comprehending a modern-built mansion, in good order, equal to all the requirements for the immediate accommodation of a large highly respectable family, or eligible for a public institution, or easily divided into two good houses. It stands on an eminence, commanding extensive views of the Thames and all the beautiful surrounding country, with gardens, pleasure-grounds, and rich paddock, about seven acres; also, without interfering with the above, about four acres, divided into lots for building purposes, desirable for the erection of detached villas, which are much wanted to meet the demand in this locality, being highly recommended by the faculty for the salubrity of its air and supply of the celebrated Coomb-wood water. Full descriptive particulars, with plans, may be obtained of Mr. Newton, Rosebank, Hampton-court; and at Messrs. NEWTON and APPLETON'S offices, 7, Mansion-house-street, City.

NORFOLK.—ELIGIBLE INVESTMENT.

TO BE SOLD BY AUCTION, By Mr. WILLIAM WRIGHT, at the King's Arms Hotel, East Dereham, on Friday, the 11th day of July, 1845, at four o'clock in the afternoon—A very valuable and compact ESTATE at Beeston, near Mileham and Great Fransham, in the county of Norfolk, comprising an excellent Farm-house with convenient offices and garden adjoining, suitable farm-yards, stables, and barns, 3 cottages, and 183 acres, 1 rood 19 poles of superior meadow, pasture, and arable land in a high state of cultivation, and now let on lease to Mr. Robert W. Godfrey, at an annual rent of 330l. The house and premises were most substantially built, and all the farm buildings put into a thorough state of repair by the present proprietor only six years since. This property is within 7 miles of the market towns of Dereham and Swaffham, 16 miles of Lynn, 24 miles of Norwich, and lies within a ring fence, and offers a most safe and eligible investment to capitalists.

To view the estate, apply to Mr. Godfrey, the tenant; and for further particulars (with plans) to Messrs Sewell and Newmarch, solicitors, Cirencester; Mr. J. O. Beetham, Lynn; or to Messrs. Allen and Holmes, 21, Bedford-row, London.

BUCKS.—Valuable Freehold Estate, 20 miles from town, comprising a commodious Family Residence, placed in a small park, with a secondary Residence, and sundry Copyhold Cottages, as a whole combining desirable residence with investment.

MESSRS. HEDGER will SELL by AUC- TION, at the Auction Mart, on Thursday, July 17, at Twelve, unless previously sold by private treaty, the desirable FREEHOLD ESTATE called the GRANGE, situate at Chalfont St. Peter's, about 20 miles from town, in a proverbially salubrious and delightful district, in the midst of the best society and good sporting. The Grange is a handsome and commodious residence, seated on the acclivity of a hill, in a pleasing small park, altogether about 30 acres, approached by neat lodges. It contains every comfort and accommodation for a family of the first respectability: the reception-rooms are of handsome proportions, dining, drawing, and billiard rooms, and library, &c. most excellent and well-arranged bed-chambers, and ample domestic accommodation. The pleasure-grounds are ornamented by some noble timber, with excellent walled gardens, stabling, &c. Likewise will be sold, Gold Hill Cottage, a residence on a moderate scale, with good garden, and seven acres, with various cottages, &c. To be viewed, and particulars had of Messrs. Dendy and Morphett, Bream's-buildings, Chancery-lane; Royal Hotel, Slough; the various inns at Uxbridge, Aylesbury, &c; and of Messrs. HEDGER, Land Agents, 10, New Bond-street, opposite the Clarendon.

Very beautiful Gothic Residence and twenty-five acres of rich and valuable Freehold Land, within four hours of London, three miles of Clifton and Bristol, in a most salubrious and delightful district

MESSRS. HEDGER will SELL by AUCTION, at the Auction Mart, on Thursday, July 17, at Twelve, BURFIELD PRIORY, an abode of very superior attractions, constructed upon the designs of the late Mr. Rickman, of the best materials, in the most substantial manner. Burfield Priory is an elegant edifice, each front being rich in the varied beauties of the castellated or monastic Gothic, so harmoniously blended as exteriorly to produce the choicest design, with interiorly unusual style of elegance and comfort, and is a perfect abode for a family of the first respectability. It is approached from the high road by a lodge of much beauty, and placed on an elevated site, within highly pleasing and varied park grounds, commanding extensive and interesting views of this rich and favoured district; is entered by a Gothic stone hall 32 ft. by 18, 28 ft. high, lighted by a costly marigold window of rich coloured glass, excellently adapted for a music-hall, having galleries around, with a fine-toned organ concealed by rich tracery of a Gothic window, drawing-room 25 ft. by 16, dining-room 25 ft. by 16, library 28 ft. by 17, breakfast-room, &c. five best bed-chambers, dressing and bath rooms, four other bed-rooms. The offices are excellent, with coach-houses for three carriages, stabling for four horses, harness-room, lofts, and men's rooms; excellent walled garden, kitchen garden, and within the priory walls about 12 acres, four of which are beautifully disposed in pleasure-grounds, with two other paddocks, also 12 acres. The residence, now in the occupation of the Ladies Boyle, may be viewed by order, which with particulars may be obtained of Messrs. Hayman, Fowler, and Sons, Clifton; and of Messrs. HEDGER, Land Agents, 10, New Bond-street, London, opposite the Clarendon, at whose offices a cosmoramic drawing may be seen.

BUCKS.—Freehold Residence, in a beautiful part of the country, about 30 miles from Town, and for a man of business contemplating retirement, or for any moderate family, one of the most perfect and cheerful retreats imaginable.

MESSRS. HEDGER will SELL by AUC- TION, at the Auction Mart, on Thursday, July [illegible], at 12, a desirable RESIDENCE called Pennell's Lodge, situate in a beautiful valley at Loudwater, about two miles from Wycombe, with coaches constantly passing to and from London. The house is placed on the slope of a hill, and commands a very pleasing view, is backed by the graceful woods of Lord Carrington's seat. Through the valley runs a trout river, and all field sports may be enjoyed in perfection. It contains dining and drawing rooms, and study and bath-room, six bed chambers, dressing-room, capital kitchen, coach-house, stabling, poultry-house, &c. A well-stocked garden and small pleasure-ground, ornamented with handsome shrubs, in the whole about one acre, combining in that small space every thing that is comfortable, and in a manner elegant. Particulars may be had of Mr. Simmons, Wycombe; at the Auction Mart, the inns in the neighbourhood, and of Messrs HEDGER, Land-agents, 10, New Bond-street, opposite the Clarendon.

No. 20, Pudding-lane, Eastcheap, City.

MESSRS. DAVIS and VIGERS will SELL by AUCTION, on the Premises as above, by order of the Executrix, on Thursday, June 19, at Twelve, without reserve, the genuine STOCK IN TRADE of the late Mr. Samuel Graffey, a wine merchant; comprising 247 dozen of Port, 40 dozen of Sherry and Marsala, one butt and three quarter-casks of Sherry, counting-house fittings, tools, crates, hampers, wine-carriage, &c. Catalogues and Samples may be had.—Auction offices, 3, Frederick's-place, Old Jewry.

WORCESTERSHIRE.—To be SOLD by PRIVATE CONTRACT, a desirable and compact FREEHOLD ESTATE, called Lockeridge, situate near the town of Upton-on-Severn, and within three miles of the Malvern Hills, comprising a farm-house, with requisite farm buildings, and about one hundred and twelve acres, of rich meadow, pasture, arable, and orchard land, nearly in a ring fence, and now occupied, at the low rent of 171l per annum, by Mr. John Hill, whose tenancy will expire on the 2nd of February next. The tenant will depute a person to shew the estate.

For further particulars, and to treat, apply to Mr. HAMMOND, Solicitor, Leominster, Herefordshire. All letters to be postage paid.

LONDON:—Printed by HENRY MORRELL COX, at 74, Great Queen Street, in the Parish of St. Giles in the Fields, in the County of Middlesex, Printer, at his Printing Office, 74 & 75, Great Queen Street aforesaid, and published by JOHN CROCKFORD, of 29, Essex Street, Strand, in the Parish of St. Clement Danes, in the City of Westminster, Publisher, at the Office of the LAW TIMES, No. 29, Essex Street aforesaid, on Saturday, the 14th day of June, 1845.

THE LAW TIMES,

AND JOURNAL OF PROPERTY,

FOR

The Legislator, the Magistrate, and the Lawyer.

VOL. V. No. 116.] SATURDAY, JUNE 21, 1845. (DOUBLE NUMBER.)

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Legal Notices.

BOROUGH of COLCHESTER, 1845.—NOTICE is HEREBY GIVEN, that the next GENERAL COURT of QUARTER SESSION of the PEACE of the said Borough will be holden at the Moot Hall there on FRIDAY, the Twenty-seventh day of June, inst. at the hour of ELEVEN o'clock in the Forenoon, when and where the Grand and Petty Jurors, persons bound by Recognizances to appear, prosecute, and give evidence, and all others who have business to transact, are hereby directed to give their attendance accordingly.
Dated this 12th day of June, 1845.
BARNES, Clerk of the Peace.

WARWICKSHIRE SESSIONS.—NOTICE IS HEREBY GIVEN, that the GENERAL QUARTER SESSIONS of the PEACE for the WARWICK division of the said county will be held at Warwick, on MONDAY, the 30th day of June inst. at eleven o'clock in the morning, and will commence with the county business; and at two o'clock the trial of prisoners will be proceeded with; and on TUESDAY, the 1st day of July, at ten o'clock in the morning, appeals will be heard.
The said Quarter Sessions will be held by adjournment for the COVENTRY division of the said county, at Coventry, on WEDNESDAY, the 2nd day of July, at twelve o'clock at noon, for the trial of prisoners; and on THURSDAY, the 3rd day of July, at ten o'clock in the morning, appeals will be heard.
W. O. HUNT,
Stratford-upon-Avon, Clerk of the Peace.
June 18, 1845.

LANCASHIRE MIDSUMMER SESSIONS.—NOTICE IS HEREBY GIVEN, that the GENERAL QUARTER SESSION of the PEACE for the county palatine of Lancaster will be held at the Castle of Lancaster on MONDAY, the 30th day of June instant, at Ten o'clock in the forenoon, and, by adjournment, at the following places and times, viz.:—
At the Court House in Preston, on WEDNESDAY, the 2nd day of July next, at Ten o'clock in the forenoon.
At the New Bailey Court House in Salford, near Manchester, on Monday, the 7th day of July next, at Ten o'clock in the forenoon.
And at the Court House in Kirkdale near Liverpool, on WEDNESDAY, the 16th day of July next, at Ten o'clock in the forenoon.
And that all business relating to the assessment, application, or management of the county stock or rate will commence at such sessions respectively at Eleven o'clock in the forenoon of the first day thereof.
All business arising within the hundred of Lonsdale is transacted at Lancaster, within the hundreds of Amounderness, Blackburn, and Leyland, at Preston; within the hundred of Salford at Salford; and within the hundred of West Derby at Kirkdale.
All appeals are entered with the Clerk of the Peace, and motions made to the Court respecting them on the first morning of the sessions at each of the above-named places, and the trial of such appeals takes place at Lancaster on the first day; at Preston and Kirkdale not earlier than Friday, the third day; and at Salford on Wednesday, the third day.
GORSTS and BIRCHALL,
Deputy Clerks of the Peace.
Clerk of the Peace's office, Preston, June 9, 1845.

BOROUGH OF KINGSTON-UPON-HULL.—NOTICE is hereby given, that the GENERAL QUARTER SESSIONS of the PEACE for the Borough of Kingston-upon-Hull for the trial of prisoners committed and held to bail on charges of felony and misdemeanor, will be holden at the Town-hall in the said Borough, before Matthew Talbot Baines, esq. Recorder of the said Borough, on Thursday the 26th day of June, inst., at Ten o'clock in the forenoon, when and where all persons bound by recognizances, and others having business at the said sessions (except as hereinafter next mentioned) are requested to attend. And in all cases where the parties accused are out on bail, the prosecutors and witnesses must be in readiness to attend the grand jury at Ten o'clock on Friday morning, the second day of the sessions.
And NOTICE is hereby also given, that all appeals must be entered with the Clerk of the Peace before the sitting of the Court on Thursday morning, the 26th day of June inst. and the hearing of Appeals and Motions will be taken at Nine o'clock on the morning of Saturday following, if the criminal business should then have terminated; if not, immediately after the termination thereof; and Solicitors are requested to take notice, that in appeals against removal orders, copies of the notice and grounds of appeal and examination of the pauper must be filed along with the removal order.
J. H. GALLOWAY,
Office of the Clerk of the Peace, Clerk of the Peace.
Kingston-upon-Hull,
June 4, 1845.

THE REPORTS.

[These are usually brought down to the Wednesday preceding publication. Where *Cur. adv. vult.* the case is not reported till judgment given. All written judgments are taken in shorthand, and reported *verbatim*. Rules *nisi* are reported.]

The following are the names of gentlemen who favour the LAW TIMES with the Reports:—

PRIVY COUNCIL by THOMAS CAMPBELL FOSTER, of the Middle Temple, Esq. Special Pleader.

EQUITY COURTS.

LORD CHANCELLOR'S COURT by RICHARD GRIFFITHS WELFORD, Esq. of the Inner Temple, Barrister-at-Law.

VICE-CHANCELLOR of ENGLAND'S COURT, by GEORGE GOLDSMITH, Esq. of the Middle Temple, Barrister-at-Law.

ROLLS COURT, by J. MACAULAY, Esq. of the Inner Temple, Barrister-at-Law.

VICE-CHANCELLOR KNIGHT BRUCE'S COURT by GEO. S. ALLNUTT, Esq. of the Middle Temple, Barrister-at-Law.

VICE-CHANCELLOR WIGRAM'S COURT, by J. VESEY DAWSON, Esq. of the Middle Temple, Barrister-at-Law.

COMMON LAW COURTS.

The QUEEN'S BENCH, by J. C. SYMONS, Esq. of the Middle Temple, Barrister-at Law, and EDWARD WISE, Esq. of the Middle Temple, Barrister-at-Law

The COURT of COMMON PLEAS, by W. PATERSON, Esq. of Gray's-inn, Barrister-at-law.

The COURT of EXCHEQUER by JOHN BRIDGE ASPINALL, Esq. of the Middle Temple, Barrister-at-Law, and H. T. COLE, Esq. of the Middle Temple, Barrister-at-Law.

The BAIL COURT by T. W. SAUNDERS, Esq. of the Middle Temple, Barrister-at-Law.

The EXCHEQUER CHAMBER by A. A. FRY, Esq. of Lincoln's-inn, Barrister-at-Law.

BANKRUPT AND INSOLVENT COURTS.

The COURT of REVIEW by GEO. S. ALLNUTT, Esq. of the Middle Temple, Barrister-at-Law.

LONDON COMMISSIONERS' COURTS and the INSOLVENT COURT, by B. TALBOT, Esq. of the Middle Temple, Barrister-at-Law.

BRISTOL DISTRICT COURT, by J. ANGUS HOMES, Esq. Barrister-at-Law.

NISI PRIUS, CIRCUITS, AND CROWN CASES.

CENTRAL CRIMINAL COURT, by B. C. ROBINSON, Esq. of the Middle Temple, Barrister-at-Law.

CROWN CASES (before all the Judges) by A. BITTLESTONE, Esq. of the Inner Temple, Barrister-at-Law.

NORTHERN CIRCUIT, York and Liverpool, by J. B. ASPINALL, Esq. Barrister-at-Law. The other parts of the Circuit, by G. F. H. OLEPHANT, Esq. Barrister-at-Law.

WESTERN CIRCUIT, by EDWARD W. COX, Esq. of the Middle Temple, Barrister-at-Law.

OXFORD CIRCUIT, by JOHN LANE, Esq. D.C.L. of the Inner Temple, Barrister-at-Law.

NORFOLK CIRCUIT by JNO. B. DASENT, Esq. Barrister-at-Law.

SITTINGS AT NISI PRIUS AFTER TERM, by JOHN LANE, Esq. D.C.L. of the Inner Temple, Barrister-at-Law; E. WISE, Esq. Barrister-at-Law; and others.

ELECTION LAW.

REGISTRATION APPEALS in the COMMON PLEAS by EDWARD W. COX, Esq. of the Middle Temple, Barrister-at-Law; and HENRY TINDAL ATKINSON, Esq. of the Middle Temple, Barrister-at-Law.

ELECTION COMMITTEES by EDWARD W. COX, Esq. of the Middle Temple, Barrister-at-Law.

REGISTRATION COURTS, collected and edited by EDW. W. COX, Esq. of the Middle Temple, Barrister-at-Law.

IRISH REPORTS.

The LORD CHANCELLOR'S COURT by WILLIAM DUGGAN, Esq. Barrister-at-Law.

QUEEN'S BENCH and CRIMINAL COURTS by WM. ST. LEGER BABINGTON, LL.D. Barrister-at-Law.

N.B.—The names of the reporters of such important points as may arise upon Circuit will be announced as the arrangements for each are completed.

The Written Judgments are reported verbatim in Short-hand by Mr. H. GREGORY, Short-hand Writer.

This day, 2 vols. royal 8vo. 3l. 3s.

THE PRACTICAL STATUTES relating to the ECCLESIASTICAL and ELEEMOSYNARY INSTITUTIONS of England, Wales, Ireland, India, and the Colonies; with the decisions thereon. By ARCHIBALD JOHN STEPHENS, M.A. F.R.S. Barrister-at-Law.

The object of this publication is to supply the Clerical and Legal professions with a complete collection of the Statutes relating to Ecclesiastical and Eleemosynary Institutions in a form convenient for reference, and rendered the more useful for that purpose by notes of the decisions upon the various enactments.

London: John W. Parker, West Strand.

FOR STOPPING DECAYED TEETH. Price 4s. 6d. Patronized by her Majesty, his Royal Highness Prince Albert, and her Royal Highness the Duchess of Kent.—Mr. THOMAS'S SUCCEDANEUM, for stopping decayed teeth, however large the cavity. It is placed in the tooth in a soft state, without any pressure or pain, and will remain firm in the tooth for many years, rendering extraction unnecessary, arresting the further progress of decay. All persons can use Mr. Thomas's Succedaneum themselves with ease, as full directions are inclosed. Prepared by Mr. THOMAS, Surgeon Dentist, price 4s. 6d. Sold by Savory and Moore, 220, Regent-street, and 143, Bond-street; Sanger, 150, Oxford-street; Butler, 4, Cheapside; Prout, 229, Strand; Johnston, 68, Cornhill; and all Medicine venders.

Mr. Thomas continues to supply the loss of Teeth on his new system of self-adhesion, without springs or wires. This method does not require the extraction of any teeth or roots, or any painful operation whatever. At home from 11 till 4. 64, Berners-street, Oxford-street.

TO SOLICITORS.—CAPITAL OFFICES to be LET on the First-floor at 7, Old Jewry; they are light and lofty, and are well adapted for a Solicitor. Rent very moderate.

Apply to Mr. ROBERTS, Auctioneer and Valuer, 7, Old Jewry, Cheapside.

WANTED to PURCHASE an ESTATE, consisting of a Gentleman's Residence, situate in a well-timbered park of from two to five hundred acres, and with or without a thousand or fifteen hundred acres immediately adjoining.

Messrs. MUSGROVE and GADSDEN are instructed to negotiate for an eligible property of the above description within a day's journey of London, and a sporting country will be preferred. Communications, with detailed information (which will be treated as of a confidential nature), to be addressed to Messrs. MUSGROVE and GADSDEN, 18, Old Broad-st. London.

Ground Rents, Improved Rents, &c. amounting to 1,000l. a year, secured on 72 Houses on the Acton Estate, Kingsland-road, Leasehold, for 63 years, at trifling ground-rents.

MESSRS. NEWTON and APPLETON very respectfully announce that they are fav... red with the instructions of the Trustees under the Will of the late Thomas Dunston, esq. deceased, peremptorily to SELL by AUCTION, at the Mart, on Wednesday, June 25, at twelve, in 26 lots, the several GROUND-RENTS of 24l. 4s., 22l. 10s., 22l., 20l., 20l., 18l., 14l., 12l., 10l., 9l. 10s., 8l. 10s., 8l., and 6l. 10s. most amply secured on numerous substantial houses. Also, 15 capital Residences, Acton-place, let to responsible old tenants, at rents from 35l. to 42l. a year each, and subject only to a trifling ground-rent for 63 years. And 13 other Houses, each let at 18l. a year, held for same term, at a small ground-rent, offering most eligible investments for capital in large or small amounts. To be viewed by leave of the tenants, and full descriptive particulars, with plans annexed, obtained of Mr. Hodgson, solicitor, 32, Broad-street-buildings; and of NEWTON and APPLETON, estate agents, 7, Mansion-house-street, City.

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WORCESTERSHIRE.—To be SOLD by PRIVATE CONTRACT, a desirable and compact FREEHOLD ESTATE, called Lockeridge, situate near the town of Upton-on-Severn, and within three miles of the Malvern Hills, comprising a farm-house, with requisite farm buildings, and about one hundred and twelve acres, of rich meadow, pasture, arable, and orchard land, nearly in a ring fence, and now occupied, at the low rent of 178l. per annum, by Mr. John Hill, whose tenancy will expire on the 2nd of February next. The tenant will depute a person to shew the estate.

For further particulars, and to treat, apply to Mr. HAMMOND, Solicitor, Leominster, Herefordshire. All letters to be postage paid.

Deal and Great Mongeham, Kent.

TO be SOLD by AUCTION, by Mr. E. SPAIN, at the "Walmer Castle" Inn, in Deal, on Thursday, the 10th day of July, 1845, between one and two o'clock in the afternoon (by order of the devisees in trust under the will of Mr. Israel Wellard, late of Upper Deal, yeoman, deceased), the following valuable and very desirable FREEHOLD and other PROPERTY, in seven lots.

Lot 1.—All that commodious and very convenient Freehold Messuage or Dwelling-house, with the yards, fore-court, extensive out-buildings and domestic offices, and capacious walled-in garden, well laid out and stocked with thriving wall and other trees, containing altogether by admeasurement 2 roods and 34 perches and a half of land, little more or less, situate and being in the best part of the pleasant village of Upper Deal, adjoining the turnpike-road leading from Deal to Sandwich, and for many years the residence of the deceased proprietor, and now of his widow, Mrs. Wellard.

The dwelling-house is of modern construction, and placed at a convenient distance from the road, with a forecourt or garden in front; the premises are replete with every comfort, and from their extent and situation offer advantages rarely to be met with—presenting an excellent opportunity to a purchaser, either for a good genteel family residence or for investment.

Lot 2.—All that compact and also modern-built Messuage or Dwelling-house, with the out-houses, yard, garden, and appurtenances thereunto belonging (including a small additional piece of ground in the rear, extending back to an out-house belonging to Lot 1), situate and being in Upper Deal aforesaid, adjoining Lot 1 and the said turnpike-road, containing altogether 12 perches and a half of land, and (with the exception of the said small additional piece of ground), now in the occupation of George Hughes, Esq.; together also with a triangular piece of Ground in front, containing about 5 perches and a half of land, and inclosed with an iron railing.

This lot is very pleasantly situated, and is replete with all necessary conveniences, and well adapted for the residence of a small family.

Lot 3.—All that piece or parcel of Freehold Meadow Land, of first-rate quality, containing by admeasurement 1a. 1r. 15p. little more or less, also lying and being at Upper Deal aforesaid, adjoining the before-mentioned turnpike-road, and late also in the occupation of the deceased proprietor.

This lot, in addition to its great advantages as first-rate meadow land, is admirably adapted for building purposes, having an extensive frontage next the turnpike-road.

Lot 4.—All that Freehold Messuage or Tenement, with the outhouses, yard, ground, and appurtenances thereunto belonging, situate and being No. 5, in Nelson-street, in the town of Deal, and now in the occupation of John O'Brien.

Lot 5.—All that the Interest of the deceased Mr. Wellard in a piece or parcel of Freehold Arable Land, containing by admeasurement 2a. 3r. 7p. little more or less, lying and being in the parish of Great Mongeham, held for a term of 60 years, commencing the 10th October, 1808, in case a female now of the age of 77 years shall so long live.

Lot 6.—A similar Interest on a piece or parcel of Arable Land, containing by admeasurement 3r. 1p. little more or less, also lying and being in the parish of Great Mongeham.

Lot 7.—A like Interest on another piece or parcel of Arable Land, ... ing by admeasurement 2r. 37p. little more less, also lying and being in the parish of Great Mongeham. The last three lots were all late in the occupation of Mr. Wellard.

To view Lots 1 and 2, apply to Mrs. Wellard, at her residence, Upper Deal, and for further particulars apply to Messrs. MERCER and EDWARDS, solicitors, Deal, at whose offices a map of Lots 1, 2, 5, 6, and 7 may be seen. Particulars can also be obtained by applying to Mr. Lott, solicitor, Bow-lane, Cheapside, London.

THREE VOTES for the COUNTY of SOUTHAMPTON.—Important to Capitalists, Merchants, Manufacturers, and others.—Fareham, Hampshire.—EDWARD KNIGHT has been instructed by the proprietors to DISPOSE OF, by PUBLIC COMPETITION, on Thursday, the 26th day of June next, at 6 o'clock in the evening, at the Red Lion Inn in Fareham, all those large and well-known BUILDING PREMISES, occupied for the last century and upwards as a tobacco-pipe manufactory, commanding an immense trade for some years, and still continuing to outvie any manufactory of this business in the county; together with other buildings and meadow land: the whole well adapted either for investment, for building, or other lucrative speculations, being freehold property and land-tax redeemed. An arm of Portsmouth harbour runs within a short distance of the premises, capable of conveying vessels of 400 tons burden, and the railway station is within five minutes' walk thereof. The large market is held every fortnight. For particulars and plans apply to John W. Hewett, esq. Solicitor, Fareham; Messrs. Walker and Gridley, 5, Southampton-street, Bloomsbury-square, London; and at the offices of the auctioneer, Fareham.

NORFOLK.—ELIGIBLE INVESTMENT.

TO BE SOLD BY AUCTION, By Mr. WILLIAM WRIGHT, at the King's Arms Hotel, East Dereham, on Friday, the 11th day of July, 1845, at four o'clock in the afternoon—A very valuable and compact ESTATE at Beeston, near Milcham and Great Fransham, in the county of Norfolk, comprising an excellent Farm-house with convenient offices and garden adjoining, suitable farm-yards, stables, and barns, 3 cottages, and 183 acres, 3 roods 19 poles of superior meadow, pasture, and arable land in a high state of cultivation, and now let on lease to Mr. Robert W. Godfrey, at an annual rent of 330l. The house and premises were most substantially built, and all the farm buildings put into a thorough state of repair by the present proprietor only six years since. This property is within 7 miles of the market towns of Dereham and Swaffham, 18 miles of Lynn, 24 miles of Norwich, and lies within a ring fence, and offers a most safe and eligible investment to capitalists.

To view the estate, apply to Mr. Godfrey, the tenant; and for further particulars (with plans) to Messrs. Sewell and Newmarch, solicitors, Cirencester; Mr. J. O. Swetham, Lynn; or to Messrs. Allen and Holmes, 31, Bedford-row, London.

PRELIMINARY ADVERTISEMENT.—Shortly to be SOLD by Public AUCTION, pursuant to a Decree of the High Court of Chancery made in a cause "Broadbent v. Broom," with the approbation of John Edmund Dowdeswell, esq. one of the Masters of the said Court, in lots, the following valuable FREEHOLD ESTATES, situate at Whitle, in the parish of Glossop, in the county of Derby; viz. the Whitle Estate, comprising capital mansion-house, with suitable out-buildings, and about 49 statute acres of excellent land, in the occupation of Mr. James Broom; and the Tan-pits Estate, comprising two several messuages, with outbuildings, and about 19 statute acres of excellent land, in the occupation of Jesse Wild and another; and also Two Cottages near thereto, late in the occupation of Enoch Bridge and another.

Further particulars and conditions of sale will shortly be issued, and, when issued, may be had (gratis) in London, at the Master's office, Southampton-buildings, Chancery-lane; of Messrs. Mayhew and Son, 26, Carey-street, Lincoln's-inn; Mr. John Spinks, jun. Great James-street, Bedford-row; Messrs. Milne, Parry, Milne, and Morris, Temple; Mr. Redfern, solicitor, Oldham; Mr. Walmsley, solicitor, Marple, near Stockport; and at the offices of Mr. Halsall, solicitor, Middleton, near Manchester; and of Mr. John Taylor, land surveyor, of New Mills, in the county of Derby, where a plan of the estates may be seen, and a proper person directed to show the property.

TO CAPITALISTS.—Carmarthenshire and Glamorganshire, South Wales.—The Agent of an extensive Estate calls the attention of Iron-masters, Colliers, Manufacturers, Farmers, and Capitalists in general, to this announcement. He is prepared to enter into engagements with respectable parties for the leasing, on long terms, of various descriptions of property, now the objects of public attention: Anthracite, Bituminous, and Steel Coal, Culm, Iron-stone, Limestone, Marble, Flag, and other QUARRIES, Fire Clay, and Brick Earth, Sites for Building at and near a flourishing and fast rising Commercial Town, Sea-port, and Floating Dock, for Manufactories, Ship-building Yards, Wharfs, Store and Dwelling-houses; and in the Coal and Iron District, sites for Works joining a Railroad and Canal, leading by their main trunks and branches to three sea-ports—water power is almost general. Situations for rural and marine residences in the most beautiful parts of the country, commanding views of Swansea and Carmarthen Bays, and the Black Mountain, with good roads, cheap markets, and daily communication with Bristol, Gloucester, and the Metropolis. The sportsman will find his pursuits rewarded with woodcock, snipe, and other game in winter; and in summer, trout, salmon, and the much-esteemed sewin, a fish peculiar to the Principality.

The estate, containing twelve thousand acres, is situated in twenty-four parishes, offering every variety of soil and scenery to the admirer of the picturesque, and numerous objects of interest to the geologist.

As an inducement to capitalists to embark in such agricultural improvements as draining, planting, erection of proper homesteads, &c. which now so deservedly occupy public attention, leases of ninety-nine years (a term usually confined to building-leases) will be granted for these purposes. Cheap food, cheap labour, cheap fuel, and cheap raw material of every description, will give the manufacturer an advantage over every other part of Great Britain; while the large and still increasing trade in coal affords an intercourse with all parts of the world, for the transmission of raw materials from other localities, at cheap back freights, and for forwarding to their destination the manufactured articles. This more particularly applies to those undertakings where the consumption of coal forms a principal ingredient.

The South Wales Railway will pass through the town and the three sea-ports, and through and near a large proportion of the estate near the sea-coast; while the contemplated Welsh Midland Railway will bring the collieries, iron-stone, limestone, and other quarries within an easy distance of the agricultural counties of Hereford and Worcester, and the great chain of railway communication connecting Birmingham, Liverpool, Manchester, and all the important manufacturing districts of England.

For further particulars apply to Mr. F. L. Brown, Solicitor, Llanelly, Carmarthenshire; or to Mr. John Williams, Solicitor, 1, Verulam-buildings, Gray's-inn, London.

Periodical Sale. Absolute Reversion to one sixth part of the sum of 2,745l. 10s.—age 63.

MESSRS. FULLER and MARSH have been favoured with instructions to include in their next Periodical Sale of Reversionary Property appointed to take place at the Mart, on Thursday, July 3rd, at Twelve, in several lots, the ABSOLUTE REVERSION in and to the sum of 2,745l. 10s. Three-and-a-Quarter per Cent. Reduced Annuities, receivable on the decease of a gentleman, now aged sixty-three.

Particulars may be obtained at the Mart, of Mr. E. Richardson, 12, Leigh-street, Red Lion-square, and at Messrs. FULLER and MARSH'S Offices, Charlotte-row.

Important and valuable Copyhold Estates, near the Cemetery, the Church, and the celebrated Beulah Spa, Norwood, Surrey, comprising several acres of eligible Building and Meadow Land, possessing extensive Frontages, Garden-ground, numerous Residences, Cottages, and Gardens, and well-secured Ground-rents, with great Reversionary Interests.

MESSRS. FULLER and MARSH have received instructions peremptorily to SELL by AUCTION, at the Auction Mart, on Thursday, July 3, at Twelve, in one lot, a very desirable and important ESTATE, comprising ten acres of most eligible building land, possessing considerable frontages to the Elder and Gipsey-house roads; plots of valuable garden ground; three residences and gardens, producing the very inadequate rental of 87l. 19s. per annum, and several well-secured ground-rents, amounting to 190l. 2s. arising from the King's Head Tavern and Tivoli Gardens; fourteen residences and gardens, six cottages and gardens, with great prospective reversionary interests.—May be viewed, and particulars obtained on the several premises; at the Auction Mart; of Mr. Owston, solicitor, Brigg, Lincolnshire; of Messrs. Wilshire and Parris, architects and surveyors, Wolsingham-place, Lambeth; and of Messrs. FULLER and MARSH, 2, Charlotte-row, Mansion-house.

Periodical Sale of Reversions, Life Interests, Annuities, Life Policies, Advowsons, Next Presentations, and all descriptions of Securities dependent upon human Life, Shares in Railways, Mines, and all other undertakings.

MESSRS. FULLER and MARSH respectfully inform the public, that by their system of periodical sales by Auction they are enabled to offer to persons expectant or otherwise interested in the above description of property the most prompt, economical, and satisfactory mode of disposing thereof, as by classifying these descriptions of interests and properties in the same particular and for the same day, much expense is avoided, and a far greater competition is secured. Their periodical sales of reversions, life interests, annuities, life policies, advowsons, next presentations, and all descriptions of securities dependent upon human life, shares in railways, mines, and all other undertakings, will be continued throughout the present year as follows:—

Thursday, July 3	Thursday, October 2
Thursday, August 7	Thursday, November 6
Thursday, September 4	

Thursday, December 4.

Notice of Sales intended to be effected by the above means should be forwarded to Messrs. Fuller and Marsh a fortnight prior to each date, in order that they may have the full benefit of publicity. Messrs. Fuller and Marsh beg to call the attention of the public to the economy and expedition of this system of business, as they are thereby enabled to include each property for the sum of two guineas and a half, including all expenses, should a sale not be effected. Particulars of the next periodical sale may be obtained ten days previous to the sale, at the Star Hotel, Oxford; University Arms, Cambridge; Hen and Chickens, Birmingham; Plough, Cheltenham; Bush, Bristol; New London Hotel, Exeter; Pierce's Hotel, Truro; Adelphi, Liverpool; Royal Hotel, Manchester; Cuff's Midland Hotel, Derby; Black Swan, York; Tontine Hotel, Sheffield; Royal Hotel, Leeds; Tontine Hotel, Glasgow; M'Gregor's Hotel, Princes-street, Edinburgh; Gresham's Hotel, Dublin; and at the Offices of Messrs. FULLER and MARSH, 2, Charlotte-row, Mansion-house, London.

Periodical Sale.—A well-secured Life Interest of 98*l.* 4*s.* 10*d.* per annum, arising from Funded Property.

MESSRS. FULLER and MARSH have been favoured with instructions to include in their next Monthly Sale of Reversions, Life Interests, &c. appointed to take place at the Mart on Thursday, July 3, at Twelve, in several lots, the ONE-THIRD PART of the DIVIDENDS and ANNUAL PRODUCE of the Sum of 9,824*l.* 16*s.* 4*d.* Three per Cent. Consols Bank Annuities, receivable during the life of a gentleman now aged 60. The stock is standing in the name of the Accountant-General. - Particulars may be obtained at the Mart; of Messrs. Scrivens and Young, solicitors, Ha[illegible] and Messrs. FULLER and MARSH'S Offices for the Sale of Reversions, Policies, &c. Charlotte-row, Mansion-house.

Periodical Sale.

MESSRS. FULLER and MARSH have been favoured with instructions to include in their next Periodical Sale of Reversions, &c., appointed to take place at the Mart on Thursday, July 3, at Twelve, a MOIETY of the sum of 2,065*l.* Three per Cent. Consolidated Bank Annuities, standing in the names of trustees of high respectability, and payable on the death of a gentleman of advanced age.—Particulars may be obtained of Messrs. FULLER and MARSH, 2, Charlotte-row, Mansion-house.

Periodical Sale—Absolute Reversion to the sum of 1,031*l.* 10*s.* Three per Cent. Consolidated Bank Annuities.

MESSRS. FULLER and MARSH have received instructions to include in their next Monthly Sale of Reversions, &c. appointed to take place at the Mart, on Thursday, July 3, at Twelve, in Lots, the ABSOLUTE REVERSION in and to the sum of 1,031*l.* 10*s.* Three per Cent. Consolidated Bank Annuities, standing in the names of trustees of high respectability, and receivable on the death of a gentleman in the 64th year of his age.—Particulars may be obtained at the Mart; of Messrs. Thompson, Field, and Debenham, solicitors, Salter's-hall, St. Swithin's-lane; and at Messrs. FULLER and MARSH'S Offices for the Sale of Reversions, &c. Charlotte-row, Mansion-house.

Periodical Sale.—The Reversionary Share or Interest to One-Sixth part of the sums of 2,223*l.* 9*s.* 11*d.* Three per Cent. Consolidated Bank Annuities; and 1,121*l.* 12*s.* 9*d.* Reduced Bank Annuities.

MESSRS. FULLER and MARSH have received instruction[s to in]clude in their [next] Monthly Sale of Reversionary Property, appointed to take place at the Mart, on Thursday, July 3, at Twelve, in lots, the REVERSIONARY SHARE or INTEREST derived under a will, to ONE-SIXTH part or share of and in the sums of 2,223*l.* 9*s.* 11*d.* Three per Cent. Consolidated Bank Annuities, and 1,121*l.* 12*s.* 9*d.* Reduced Bank Annuities, standing in the names of two highly respectable trustees, and receivable on the death of the survivor of two ladies now respectively in their 81st and 72nd years, provided a life of 50 survives her. Also the contingent prospective benefit of the share being increased by the decease of one or more of five other lives, previous to the death of the survivor of such ladies. Also, a Policy of Insurance, effected with the Licensed Victuallers' Fire and Life Assurance Company for 500*l.*, upon the life of the legatee in remainder, payable in the event of his dying before such survivor. - Particulars may be obtained at the Mart; of Messrs. J. T. and H. Baddeley, solicitors, 12, Leman-st. Goodman's-fields; and at Messrs. FULLER and MARSH'S Offices, Charlotte-row.

Periodical Sale.

MESSRS. FULLER and MARSH have received instructions to include in their next Periodical Sale of Reversions, &c. appointed to take place at the Mart on Thursday, July 3, at Twelve, a similar REVERSIONARY SHARE and INTEREST in the SUMS mentioned in the preceding advertisement, the legatee in remainder being thirty-two years old, and with a similar Life Policy effected as a protective security.—Particulars may be obtained at the Mart; of Messrs. J. T. and H. Baddeley, solicitors, 12, Leman-street, Goodman's-fields; and at the offices of Messrs. FULLER and MARSH, Charlotte-row, Mansion-house.

Periodical Sale.—A Policy in the Guardian Life Assurance Company for 1,200*l.*

MESSRS. FULLER and MARSH have been favoured with instructions to include in their next Periodical Sale of REVERSIONS, &c. appointed to take place at the Mart on Thursday, July 3, at Twelve, in lots, a Policy of Insurance for 1,200*l.* effected with the Guardian Office, in January, 1828, on the life of a gentleman referred to in the preceding advertisement. Annual premium, 39*l.* - Particulars may be obtained at the Mart; of Messrs. Scrivens and Young, solicitors, Hastings, Sussex; and at Messrs. FULLER and MARSH'S Offices, Charlotte-row, Mansion-house.

Periodical Sale.—The Absolute Reversion to the sum of 5,000*l.* Consols.

MESSRS. FULLER and MARSH have received instructions to include in their next monthly Sale of Reversions, &c., appointed to take place at the Mart on Thursday, July 3, at Twelve, in lots, the ABSOLUTE REVERSION to the sum of 5,000*l.* Three per Cent. Consols, standing in the name of the Accountant-General, and receivable on the decease of two ladies, aged respectively 72 and 51.—Particulars may be obtained at the Mart; of Messrs. Thompson, Field, and Debenham, solicitors, Salter's-hall, St. Swithin's-lane; and at Messrs. FULLER and MARSH'S Offices, Charlotte-row, Mansion-house.

Periodical Sale. - The Reversionary Interest to the sum of 344*l.* 8*s.* 4*d.*

MESSRS. FULLER and MARSH have received instructions from the Executors to include in their next Periodical Sale of Reversions, &c. appointed to take place at the Mart, on Thursday, July 3, at Twelve, in lots, the ABSOLUTE REVERSIONARY INTEREST to the sum of 344*l.* 8*s.* 4*d.* receivable on the death of a Gentleman now aged 50, which said Reversionary Interest is secured by a Policy of Assurance effected with the Globe Assurance Company, July 5, 1830, on the life of a Gentleman now aged 51, the premiums of which are guaranteed by a gentleman of high respectability.—Particulars may be obtained at the Mart; of Messrs. Baylis and Drewe, solicitors, Basinghall-street; and at Messrs. FULLER and MARSH'S Offices, Charlotte-row, Mansion-house.

Periodical Sale.—Absolute Reversion to the sum of 1,000*l.* Three per Cent. Consols.

MESSRS. FULLER and MARSH have been favoured with instructions to include in their next Periodical Sale of Reversions, &c. appointed to take place at the Mart, on Thursday, July 3, at Twelve, in lots, the ABSOLUTE REVERSION in and to the sum of 1,000*l.* Three per Cent. Consolidated Bank Annuities, standing in the names of trustees of high respectability, and receivable on the death of a gentleman and lady aged respectively forty-six and fifty.—Particulars may be had at the Mart; and at Messrs. FULLER and MARSH'S Offices for the sale of all descriptions of reversionary property, &c. 2, Charlotte-row, Mansion-house.

Periodical Sale. - Valuable Reversionary Interests.

MESSRS. FULLER and MARSH have been favoured with instructions to include in their [ne]xt Periodical Sale of Reversionary Property appointed to take place at the Mart on Thursday, July 3, at Twelve, in lots, three fifth parts or shares of the following REVERSIONARY PROPERTY, viz. a redeemable Annuity of 40*l.* per annum, valued at 500*l.*; 384*l.* Three-and-a-Quarter per Cents. Reduced, and the sum of 1700*l.* at present lent on mortgage, and secured on valuable freehold and leasehold property; and to which three fifth parts or shares of the before-mentioned sums and annuity the purchaser will become entitled on the decease of a lady now aged 53.

Particulars may be obtained at the Mart; of Messrs. Bridger and Blake, solicitors, 68, London Wall; and at Messrs. FULLER and MARSH'S, Charlotte-row, Mansion-house.

Periodical Sale.—Valuable Old Policies in the Asylum.

[M]ESSRS. FULLER and MARSH have been favoured with instructions to include in their next Periodical Sale of Reversions, Policies of Assurance, &c. appointed to take place at the Auction Mart, on Thursday, July 3, 1845, at Twelve, in lots, several POLICIES of ASSURANCE in the ASYLUM LIFE ASSURANCE SOCIETY.

Particulars may be obtained at the Mart, and at Messrs. FULLER and MARSH'S Offices, Charlotte-row, Mansion-house.

HERNE BAY, KENT.—Two pleasantly situated Marine Residences.

MESSRS. FULLER and MARSH have been favoured with instructions to SELL by AUCTION, at the Mart, on Thursday, July 3, at Twelve, in Two Lots, with consent of the mortgagee, under a power of sale, a valuable FREEHOLD ESTATE, distinguished as East Cliffe House, comprising two cheerful residences of uniform elevation, situate in the most preferable part of this improving watering-place, commanding bold and uninterrupted views of the sea. The intended North Kent Railway, it is confidently expected, will considerably enhance the value of property in this neighbourhood. Both residences are respectably tenanted, and produce a rental of 65*l.* per annum. May be viewed and particulars obtained on the premises; of Mr. Homersham, house agent; the Pier Hotel, Herne Bay; of Messrs. Sankey and Sladden, solicitors, Canterbury; of Mr. J. H. Watson, solicitor, Winchester-buildings, Old Broad-street; and at Messrs. FULLER and MARSH'S Offices, 2, Charlotte-row, Mansion-house.

On Monday, June 30. - To Small Capitalists. - Desirable Leasehold Investment, Commercial-road East.

MESSRS. FULLER and MARSH have received instructions to SELL by AUCTION, at the Mart, on Monday, June 30, at Twelve, a desirable LEASEHOLD INVESTMENT, comprising a brick-built dwelling-house, No. 97, York-street, Commercial-road East, in the occupation of a respectable tenant, at the low rent of 24*l.* per annum.—May be viewed, and particulars obtained on the premises, and at Messrs. FULLER and MARSH'S Offices, 2, Charlotte-row, Mansion-house.

On Monday, June 30.—Sandwich and Tonbridge-streets, Burton-crescent, St. Pancras.—Desirable long Leasehold Investments, held under the Skinners' Estate.

MESSRS. FULLER and MARSH have received instructions to SELL by AUCTION, at the Mart, on Monday, June 30, at Twelve, in lots, TWO capital brick-built RESIDENCES, No. 25, Sandwich-street, Burton-crescent, and No. 35, Tonbridge-street, New-road, in the occupation of respectable tenants, at rentals amounting to 65*l.* per annum, held direct from the Skinners' Company, for an unexpired term of 99 years, from September 1807, at low ground-rents. May be viewed, and particulars obtained on the premises; of John Bishop, esq. solicitor, 14, Lincoln's-inn-fields; and at Messrs. FULLER and MARSH'S Offices, Charlotte-row, Mansion-house.

On Monday, June 30.—To small Capitalists.—A well-secured Ground-rent of 9*l.* 15*s.* per annum.

MESSRS. FULLER and MARSH have received instructions to SELL by AUCTION, at the Mart, on Monday, June 30, at Twelve, a well-secured GROUND-RENT of 9*l.* 15*s.* per annum, arising from a brick-built dwelling-house, No. 27, Perry-street, Somers-town, held direct from the Brewers' Company, for the unexpired residue of a term of 70 years from September 1821.—May be viewed, and particulars obtained at Messrs. FULLER and MARSH'S offices, Charlotte-row, Mansion-house.

On Monday, June 30.—Regent-place, Regent-square, St. Pancras. Valuable Long Leasehold Property, presenting safe and advantageous Investments in a rapidly improving locality, held for long terms, at low ground-rents, pr[oducing] 180*l.* per annum.

MESSRS. FULLER and MARSH have received instructions from the Administrator to SELL by AUCTION, at the Mart, on Monday, June 30, at Twelve, in two lots, a most eligible and compact LEASEHOLD ESTATE, comprising three genteel Residences, Nos. 1, 2, and 3, Regent-place West, Regent-square, St. Pancras, in the occupation of respectable tenants, at rentals amounting to 180*l.* per annum, held for an unexpired term of 78 years, from June 1821, at low ground-rents.—May be viewed by permission of the respective tenants, and particulars obtained on the premises; of John Bishop, esq. solicitor, 14, Lincoln's-inn-fields; and of Messrs. FULLER and MARSH, Surveyors and Land-agents, Charlotte-row, Mansion-house.

On Monday, June 30.—Bryan-street, Caledonian-road, Pentonville. - Secure Investments, apportioned in Lots, to meet the convenience of small capitalists.

MESSRS. FULLER and MARSH have received instructions to SELL by AUCTION, at the Mart, on Monday, June 30, at Twelve, in several Lots, a valuable and rapidly improving LONG LEASEHOLD PROPERTY, consisting of nine new substantially erected and well finished residences, Nos. 1, 2, 3, 7, 8, 9, 13, 14, and 15, Bryan-street, Chalk-road, Pentonville, in the occupation of very respectable tenants, at rentals amounting to 244*l.* per annum, held direct from the freeholder for a term of 99 years, from December 1842, at low ground-rents. May be viewed and particulars obtained on the several premises; of John Bishop, esq. solicitor, 14, Lincoln's-inn-fields; and of Messrs. FULLER and MARSH, No. 2, Charlotte-row, Mansion-house.

On Monday, June 30.—Tottenham, Middlesex.—Eligible and Valuable Freehold Investments.

MESSRS. FULLER and MARSH have received instructions to SUBMIT to PUBLIC COMPETITION, at the Auction Mart, on Monday, June 30, at Twelve, an improving FREEHOLD ESTATE, comprising a capital brick-built dwelling-house, with double-fronted shop, eligibly situate in High-street, Tottenham, in the occupation of Mr. W. Beaton, a most respectable tenant, at a rental of 30*l.* per annum; also sixteen Freehold Cottages, with gardens, situate in Brunswick-court, immediately opposite to the Roebuck, Tottenham, producing a rental of about 120*l.* per annum.—May be viewed on application, and particulars obtained on the premises; of John Bishop, esq. solicitor, 14, Lincoln's-inn-fields; and at Messrs. FULLER and MARSH'S Offices for the sale of estates, reversions, &c. 2, Charlotte-row, Mansion-house.

On Monday, June 30.—Pentonville.—Leasehold Investment.

MESSRS. FULLER and MARSH have received instructions to SELL by AUCTION, at the Mart, on Monday, June 30, at Twelve, a desirable LEASEHOLD INVESTMENT, comprising a genteel brick-built Dwelling-house, No. 25, Penton-street, Pentonville, in the occupation of a most respectable tenant, at a rental of 60*l.* per annum. May be viewed, and particulars obtained on the premises; and of Messrs. FULLER and MARSH, Charlotte-row, Mansion-house.

Valuable Copyhold Estate, High-street, Putney. - Comprising a spacious Family Residence, with Pleasure and Kitchen Gardens, contiguous to the intended Station on the [L]ondon and Richmond Railway, desirable for occupation or investment.

MESSRS. FULLER and MARSH have received instructions to SELL by AUCTION, at the Mart, early in July, a spacious detached FAMILY RESIDENCE, with coach-house, stabling, pleasure and kitchen gardens. May be viewed and particulars obtained of Messrs. Clayton and Cookson, solicitors, No. 2, New-square, Lincoln's-inn; Red Lion, Putney; and of Messrs. FULLER and MARSH, Auctioneers and Surveyors, 2, Charlotte-row, Mansion-house.

LONDON:—Printed by HENRY MORRELL COX, of 74, Great Queen Street, in the Parish of St. Giles in the Fields, in the County of Middlesex, Printer, at his Printing Office, 74 & 75, Great Queen Street aforesaid, and published by JOHN CROCKFORD, of 29, Essex Street, Strand, in the Parish of St. Clement Danes, in the City of Westminster, Publisher, at the Office of the LAW TIMES, No. 29, Essex Street aforesaid, on Saturday, the 21st day of June, 1845.

THE LAW TIMES,

AND JOURNAL OF PROPERTY,

FOR

The Legislator, the Magistrate, and the Lawyer.

VOL. V. No. 117.] SATURDAY, JUNE 28, 1845.

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THE REPORTS.

[These are usually brought down to the Wednesday preceding publication. Where *Cur. adv. vult.* the case is not reported till judgment given. All written judgments are taken in shorthand, and reported *verbatim.* Rules *nisi* are reported.]

The following are the names of gentlemen who favour the LAW TIMES with the Reports:—

PRIVY COUNCIL by THOMAS CAMPBELL FOSTER, of the Middle Temple, Esq. Special Pleader.

EQUITY COURTS.

LORD CHANCELLOR'S COURT by RICHARD GRIFFITHS WELFORD, Esq. of the Inner Temple, Barrister-at-Law.

VICE-CHANCELLOR of ENGLAND'S COURT, by GEORGE GOLDSMITH, Esq. of the Middle Temple, Barrister-at-Law.

ROLLS COURT, by J. MACAULAY, Esq. of the Inner Temple, Barrister-at-Law.

VICE-CHANCELLOR KNIGHT BRUCE'S COURT by GEO. S. ALLNUTT, Esq. of the Middle Temple, Barrister-at-Law.

VICE-CHANCELLOR WIGRAM'S COURT, by J. VESEY DAWSON, Esq. of the Middle Temple, Barrister-at-Law.

COMMON LAW COURTS.

The QUEEN'S BENCH, by J. C. SYMONS, Esq. of the Middle Temple, Barrister-at-Law, and EDWARD WISE, Esq. of the Middle Temple, Barrister-at-Law.

The COURT of COMMON PLEAS, by W. PATERSON, Esq. of Gray's-inn, Barrister-at-law.

The COURT of EXCHEQUER by JOHN BRIDGE ASPINALL, Esq. of the Middle Temple, Barrister-at-Law, and H. T. COLE, Esq. of the Middle Temple, Barrister-at-Law.

The BAIL COURT by T. W. SAUNDERS, Esq. of the Middle Temple, Barrister-at-Law.

The EXCHEQUER CHAMBER by A. A. FRY, Esq. of Lincoln's-inn, Barrister-at-Law.

BANKRUPT AND INSOLVENT COURTS.

The COURT of REVIEW by GEO. S. ALLNUTT, Esq. of the Middle Temple, Barrister-at-Law.

LONDON COMMISSIONERS' COURTS and the INSOLVENT COURT, by B. TALBOT, Esq. of the Middle Temple, Barrister-at-Law.

BRISTOL DISTRICT COURT, by J. ANGUS HOMES, Esq. Barrister-at-Law.

NISI PRIUS, CIRCUITS, AND CROWN CASES.

CENTRAL CRIMINAL COURT, by B. C. ROBINSON, Esq. of the Middle Temple, Barrister-at-Law.

CROWN CASES (before all the Judges) by A. BITTLESTON, Esq. of the Inner Temple, Barrister-at-Law.

NORTHERN CIRCUIT, York and Liverpool, by J. B. ASPINALL, Esq. Barrister-at-Law. The other parts of the Circuit, by G. F. H. OLEPHANT, Esq. Barrister-at-Law.

WESTERN CIRCUIT, by EDWARD W. COX, Esq. of the Middle Temple, Barrister-at-Law.

OXFORD CIRCUIT, by JOHN LANE, Esq. D.C.L. of the Inner Temple, Barrister-at-Law.

NORFOLK CIRCUIT by JNO. B. DASENT, Esq. Barrister-at-Law.

SITTINGS AT NISI PRIUS AFTER TERM, by JOHN LANE, Esq. D.C.L. of the Inner Temple, Barrister-at-Law; E. WISE, Esq. Barrister-at-Law; and others.

ELECTION LAW.

REGISTRATION APPEALS in the COMMON PLEAS by EDWARD W. COX, Esq. of the Middle Temple, Barrister-at-Law; and HENRY TINDAL ATKINSON, Esq. of the Middle Temple, Barrister-at-Law.

ELECTION COMMITTEES by EDWARD W. COX, Esq. of the Middle Temple, Barrister-at-Law.

REGISTRATION COURTS, collected and edited by EDW. W. COX, Esq. of the Middle Temple, Barrister-at-Law.

IRISH REPORTS.

The LORD CHANCELLOR'S COURT by WILLIAM DUGGAN, Esq. Barrister-at-Law.

QUEEN'S BENCH and CRIMINAL COURTS by WM. ST. LEGER BABINGTON, LL.D. Barrister-at-Law.

N.B.—The names of the reporters of such important points as may arise upon Circuit will be announced as the arrangements for each are completed.

The Written Judgments are reported verbatim in Short-hand by Mr. H. GREGORY, Short-hand Writer.

BRISTOL BANKRUPTCY DISTRICT SOCIETY, for the Protection of Creditors against Fraud committed by Debtors, and for the Opposition of Fraudulent Bankrupts and Insolvents.

Acting Committee.
Mr. Francis Grevile Prideaux,
Mr. Augustus Phillips,
Mr. John Nutting,
Mr. John Jones,
Mr. Hattil Foll,
Mr. Zachariah Cartwright, jun.
Mr. William Peck.

Treasurer.
John Maningford, esq.

Bankers.
Messrs. Stuckey's Banking Company, Bristol.

Joint Solicitors.
Messrs. Prideaux and Son, Albion Chambers, Bristol;
And
Mr. William Harrington Bush, 10, St. John-street, Bristol.

Accountants.
Messrs. Bradley Barnard, and Co. Albion Chambers, Bristol.

From the late Acts of Parliament affecting the law of debtor and creditor, and abolishing all imprisonment for debts under 20*l.* so great facilities are afforded to debtors to evade proceedings against them in courts of law, that it has become necessary for tradesmen to unite together to watch the proceedings of bankrupts, and of parties petitioning the Courts of Bankruptcy and Insolvency, and rigorously to oppose the certificates or petitions of those who have fraudulently incurred their debts or secreted their property.

From the large expense attending every individual opposition (and which expense is greatly increased by the wide extent of the Bristol Bankruptcy District), but few creditors can be expected to come forward singly and fight the battle of the whole body; consequently the interests of all are sacrificed: whereas if a number of creditors unite to share the expense of opposition, they may reasonably hope to secure some valuable advantages for the whole body, amply compensating them for the small expense of contribution.

It is a matter of certainty that, since the passing of the Insolvent Act of 1842, such has been the reluctance of single creditors to bear individually the whole expense of opposing their debtors' petitions, that a great number of fraudulent debtors (many with ample means of payment) have succeeded in obtaining from the Bankruptcy Courts orders of protection, in cases where, if any opposition had been offered, their petitions would have been summarily dismissed, or their property secured for the benefit of their creditors.

By the Act of 1844, commonly called Lord Brougham's Act, parties are enabled to petition for fiats in bankruptcy against themselves; and so extensively have insolvent parties already availed themselves of this power, that out of the fifty-six bankrupts advertised in the six Gazettes previous to and inclusive of the 10th of June, 1845, twenty-four of the fiats were issued on the bankrupts' own petitions, and not at the desire of their creditors.

From feeling the necessity of co-operation in tradesmen to protect their interests under the present state of the law, this Society has been formed for the purpose of examining into the affairs of persons (debtors to members of the Society) passing through the Bankruptcy or Insolvent Courts; of opposing such as, upon inquiry, it may be deemed necessary or proper to oppose; and of preventing, as far as may be, any fraudulent disposition of property, or fraudulent preference.

It is considered advisable that the duties of this Society shall not extend beyond the Bristol district, which comprehends the counties of Gloucester and Monmouth, the northern division of the county of Wilts, the eastern division of the county of Somerset, the county of the city of Bristol, and the counties of Brecon, Cardigan, Carmarthen, Glamorgan, Pembroke, and Radnor, embracing, as is apparent, a large mercantile and trading community; and it is intended that agents shall be appointed for the purposes of the Society in every town throughout this extensive district. But it is not intended to exclude from the Society any parties because they reside out of the district, the object of the Society being to include among its members all those parties, wherever resident, who may, from their dealings with tradesmen residing within the district, find it advantageous to join the Society.

The salutary dread of so powerful a combination must tend materially to prevent fraud; and the earnest determination of the Society to prosecute, to the utmost extent of its ample means, all persons guilty of any manner of fraudulent dealing with any member of the Society, must insure a more safe and wholesome system of trade between the members of this Society and the public than at present exists.

It is proposed that the annual subscription shall be two guineas; and regarding the estimated number of subscribers, and the number of bankrupts and insolvents passing through the courts, it is confidently anticipated that this small subscription will be amply sufficient to meet the expenses of the Society.

Persons who approve of the important objects of this Society, and are desirous of becoming subscribers, are requested to forward their names, with their subscriptions, to the solicitors or accountants of the Society, from any of whom every information can be obtained.

BOYS could WRITE as well as MEN, if they use WILLIS'S fine PEN and SPRING HOLDER; sold in cases, containing 100 pens and 12 spring holders, 2s. 6d.; or 100 pens, 1s. 6d. These pens last longer than any other, if used with the spring holder, being light as a quill. The name and address on pen and holder, WILLIS, 8, Newgate-street, London.

Upper Holloway, Seven Sisters'-road.—Five Acres of Freehold Building Ground.

MR. SINGLE will SELL by AUCTION, at the Mart, on Tuesday, July 15, at 12 for 1 (unless previously disposed of by private contract), about Five Acres of FREEHOLD BUILDING GROUND, land tax [illegible]d, situate in the preferable part of Upper Holloway, about three miles from the City, on the high road known as the Seven Sisters'-road, which leads direct from the West-end to Tottenham. The estate is laid out as a square, called Holloway-square, and wide roads are already made up, so that it is at once eligible for the erection of houses. Particulars will be ready in due time, and may be obtained of Mr. Thomas Pryer, solicitor, 17, Pavement, Finsbury; and of Mr. SINGLE, 34, Coleman-street, City.

First Sale of a Portion of about 80 Acres of Freehold Building Ground, Peckham, in the centre of a complete neighbourhood; and Freehold Ground Rents.

MR. SINGLE has the pleasure to announce that he is authorised to SELL by AUCTION, at the Mart, on Tuesday, July 22, at Twelve, in lots, or to let upon building leases, or to dispose of by private contract, Five or Six Acres of invaluable FREEHOLD BUILDING GROUND, land-tax redeemed, presenting considerable frontages on the Commercial-road, James's-street, &c. Peckham, near the Rosemary Branch Tavern. The estate possesses fine rich brick earth, and is surrounded by a large and highly respectable neighbourhood. The healthfulness, pleasantness, and convenience for the City, for which it is peculiar, will cause it to be built over as rapidly as have been the various estates around it. Also Freehold Ground Rents, amply secured. Mr. Single has just surveyed it, designed roads, &c. throughout the whole property, and strongly recommends it for those desirous of making ground-rents or building for investment. In twelve months it will realize probably double its present value. Particulars of Messrs. Gregson and Kewell, solicitors, 8, Angel-court, Throgmorton-street; at the Rosemary Branch Tavern, Peckham; and of Mr. SINGLE, 34, Coleman-street, near the Bank.

HANTS.—110 Acres Freehold, improvable, in Five-Acre Lots.

MR. SINGLE will SELL by AUCTION, at the Auction Mart, on Tuesday, July 15, at Twelve for One, a most improvable FREEHOLD ESTATE, land-tax redeemed, desirably situate in the parish of Crondale, in the county of Hants, near the Oat Sheaf Inn, alongside the South Western Railway, about three and a-half miles from the Winchfield Station. As villas with a few acres of ground to each are much wanted in the neighbourhood, the estate, which comprises about 110 acres, will be sold in lots of about five acres each.—Particulars will be ready in due time, and may be obtained of Mr. Thomas Pryer, solicitor, 17, Pavement, Finsbury; and at the offices of Mr. SINGLE, 34, Coleman-street.

South of Devon.—Pitt Estate, Mansion, and Grounds (33 acres), delightful Farm Residence and capital Farm (137 acres): one of the most picturesque spots in England.

MR. SINGLE has now surveyed PITT ESTATE, and feels much pleasure in giving a more detailed description than heretofore. The SALE will take place at the Auction Mart, London, on Tuesday, the 15th day of July, at 12 for 1 o'clock, and particulars, with plans and a sketch of the residence, are ready for applicants. It is situate in the Parish of Hennock, about one mile from Chudleigh (a post town), in the county of Devon, and ten from Exeter. After a drive from Exeter, almost unparalleled for picturesque beauty, crossing the river Teign, which winds in meandering beauty contiguous to the land, affording famous trout and salmon fishing, you approach the mansion through a park of rising ground adorned with ornamental timber, and belted with luxuriant plantations. The elevation of the mansion-house is most attractive and handsome, commanding views of indescribable beauty in endless variety, cheered and bounded by the hanging woods on Lord Clifford's estate. The seats of the Duke of Somerset, Lord Clifford, Lord Viscount Exmouth, Sir David Dunn, Alexander Adair, esq. Arthur Chichester, esq. late M. P. for Honiton, and other distinguished noblemen and gentlemen, are close at hand, so that, although secluded from almost every thing but highly picturesque beauty, it is amidst first-rate society. The residence is newly-built on a moderate scale, and planned with good judgment, and does great credit to the eminent architects, Messrs. Scott and Moffat, of London. The land comprises about 33 acres, and possession can at once be obtained. At an agreeable distance stands a farm residence, with about 137 acres of most thriving orchards, capital arable and pasture land, admirably suited for a gentleman farmer, to one of which excellent members of society it is let on lease for a term of fourteen years from Lady-day 1843, determinable the first seven or ten years. The luxuriance of growth of both the crops and trees, and the prettily wooded park-like appearance of the whole estate, beautified as it is with hill and dale, give it a strong claim to all who are lovers of the picturesque beauty and salubrious air for which the south of Devon is proverbial. The whole lies in a ring fence, is freehold, and will be offered first in one lot, and if not sold, in five lots. It is only about one mile from Chudleigh, five and a half hours' distant from London; and the station at Newton Abbott, one of the best market-towns in the county, only about four miles distant from the property, will soon be completed. The estate may be viewed on application to Mr. Flood, of Chudleigh, and Mr. Tosswill, the tenant of the farm; and printed particulars, with a map annexed, may be obtained of Messrs. Scott and Moffat, architects, Spring-gardens, London; Mr. Robert H. Terrell, solicitor, 14, Gray's-inn-square, London; of Messrs. Watts and Whidborne, solicitors, Teignmouth, Devon; of Mr. John H. Terrell, solicitor, St. Martin's-lane, Exeter; and at the offices of Mr. SINGLE, 34, Coleman-street, London, near the Bank of England.

Valuable Freehold Estate, about 125 acres, with possession, situate at Brightling, in the county of Sussex, two miles from Robertsbridge, and 14 from Tunbridge-wells.

MESSRS. WINSTANLEY have received directions to offer for SALE by AUCTION, at the Mart, on Thursday, the 10th of July, in one lot, a very compact and desirable FREEHOLD ESTATE, with possession, called Old and New House Farms, situate in the parish of Brightling, in the county of Sussex, abutting on the turnpike road to Robertsbridge, from which it is distant about two miles, 14 from Tunbridge-wells, and 50 from London; consisting of a farm-house, barns, and outbuildings, capital new-built oast-house, with two kilns, two cottages, and sundry parcels of meadow, pasture, arable, hop, and wood land, containing about 125a. 2r. 24p. To be viewed by applying on the premises, or to Mr. Frederick Smith, at Robertsbridge; of whom printed particulars with plans may be had: particulars also at the libraries, at Tunbridge-wells, Hastings, and Brighton; the George at Battle; Rose and Crown, Tunbridge; of Mr. Matthews, solicitor, Lant-street, Southwark; at the Mart; and of Messrs. WINSTANLEY, [illegible]

Valuable Leasehold Property, held of the Duke of Dorset, for an unexpired term of 65 years, at a low ground-rent, producing a rental of 277*l.* per annum.

MESSRS. WINSTANLEY are directed by the Executors to SELL by AUCTION, at the Mart, on Thursday, July 10, in one lot, a desirable ESTATE for investment, consisting of the ground lease of two convenient dwelling-houses, situate Nos. 6 and 7, Red Lion-square, the former in hand, and the latter let on lease at 80*l.* per annum; two houses with shops, Nos. 57 and 58, Eagle-street, and workshops behind, in the occupation of respectable yearly tenants, at 117*l.* per annum. The houses can be viewed by permission of the tenants.—Printed particulars may be obtained at 6, Red Lion-square; of Mr. Sutcliffe, solicitor, New Bridge-street, Blackfriars; at the Mart; and of Messrs. WINSTANLEY, Paternoster-row.

In Staffordshire, on the Borders of Derbyshire.—The remaining Portion of the Swinscoe Estate, consisting of about 400 acres, with convenient Farm-houses and Agricultural Buildings.

MESSRS. WINSTANLEY have received directions from the surviving Trustee under the Will of Brian Hodgson, esq. deceased, to SELL by AUCTION, at the Green Man, Ashbourn, in the county of Derby, on Thursday, the 31st of July, in lots, the remaining PORTION of the SWINSCOE ESTATE, consisting of about 400 acres of excellent pasture and arable land, let to respectable tenants, at moderate rents. The estate is intersected by the high road between Derby and Manchester, and will be divided into small farms, with suitable farm-houses and agricultural buildings, situate in the township of Swinscoe and parish of Blore, in the county of Suffolk, about four miles from Ashbourn, ten from Leek, sixteen from Derby, and contiguous to the demesnes of the Earl of Shrewsbury, and H. F. O'keover, esq. and in a country abounding with game. To be viewed by applying to the respective tenants. Printed particulars may be obtained at the Green Man, Ashbourn; the George, Leek; Red Lion, Calton Moor; Swan, Stafford; Angel, Macclesfield; King's Head and Midland Counties Hotel, Derby; Lion and Flying Horse, Nottingham; Bulkeley Arms, Stockport; the Hen and Chickens, and at the offices of the Midland Counties Herald, at Birmingham; King's Head, Coventry; Three Crowns and Bell, at Leicester; Bridgewater Arms, Manchester; Royal Hotel, Chester; of Thomas Fellows, esq. solicitor, at Rickmansworth, Herts; of Messrs. Littledale and Bardswell, solicitors, Messrs. Thomas Winstanley and Sons, at Liverpool; and of Messrs. WINSTANLEY, Paternoster-row, London.

Deal and Great Mongeham, Kent.

TO be SOLD by AUCTION, by Mr. E. SPAIN, at the "Walmer Castle" Inn, in Deal, on Thursday, the 10th day of July, 1845, between one and two o'clock in the afternoon (by order of the devisees in trust under the will of Mr. Israel Wellard, late of Upper Deal, yeoman, deceased), the following valuable and very desirable FREEHOLD and other PROPERTY, in seven lots.

Lot 1.—All that commodious and very convenient Freehold Messuage or Dwelling-house, with the yards, forecourt, extensive out-buildings and domestic offices, and capacious walled-in garden, well laid out and stocked with thriving wall and other trees, containing altogether by admeasurement 2 roods and 34 perches and a half of land, little more or less, situate and being in the best part of the pleasant village of Upper Deal, adjoining the turnpike-road leading from Deal to Sandwich, and for many years the residence of the deceased proprietor, and now of his widow, Mrs. Wellard.

The dwelling-house is of modern construction, and placed at a convenient distance from the road, with a forecourt or garden in front; the premises are replete with every comfort, and from their extent and situation offer advantages rarely to be met with—presenting an excellent opportunity to a purchaser, either for a good genteel family residence or for investment.

Lot 2.—All that compact and also modern-built Messuage or Dwelling-house, with the out-houses, yard, garden, and appurtenances thereunto belonging (including a small additional piece of ground in the rear, extending back to an out-house belonging to Lot 1), situate and being in Upper Deal aforesaid, adjoining Lot 1 and the said turnpike-road, containing altogether 12 perches and a half of land, and (with the exception of the said small additional piece of ground), now in the occupation of George Hughes, Esq.; together also with a triangular piece of Ground in front, containing about 5 perches and a half of land, and inclosed with an iron railing.

This lot is very pleasantly situated, and is replete with all necessary conveniences, and well adapted for the residence of a small family.

Lot 3.—All that piece or parcel of Freehold Meadow Land, of first-rate quality, containing by admeasurement 1a. 1r. 15p. little more or less, also lying and being at Upper Deal aforesaid, adjoining the before-mentioned turnpike-road, and late also in the occupation of the deceased proprietor.

This lot, in addition to its great advantages as first-rate meadow land, is admirably adapted for building purposes, having an extensive frontage next the turnpike-road.

Lot 4.—All that Freehold Messuage or Tenement, with the outhouses, yard, ground, and appurtenances thereunto belonging, situate and being No. 5, in Nelson-street, in the town of Deal, and now in the occupation of John O'Brien.

Lot 5.—All that the Interest of the deceased Mr. Wellard in a piece or parcel of Freehold Arable Land, containing by admeasurement 2a. 3r. 7p. little more or less, lying and being in the parish of Great Mongeham, held for a term of 60 years, commencing the 10th October, 1808, in case a female now of the age of 77 years shall so long live.

Lot 6.—A similar Interest on a piece or parcel of Arable Land, containing by admeasurement 3r. 1p. little more or less, also lying and being in the parish of Great Mongeham.

Lot 7.—A like Interest on another piece or parcel of Arable Land, containing by admeasurement 2r. 37p. little more or less, also lying and being in the parish of Great Mongeham. The last three lots were all late in the occupation of Mr. Wellard.

To view Lots 1 and 2, apply to Mrs. Wellard, at her residence, Upper Deal, and for further particulars apply to Messrs. MERCER and EDWARDS, solicitors, Deal, at whose offices a map of Lots 1, 2, 5, 6, and 7 may be seen. Particulars can also be obtained by applying to Mr. Lott, solicitor, Bow-lane, Cheapside, London.

Freehold and Leasehold Estates at Stepney, by order of the Executors and Trustees of Mr. Wm. Peat, Newington, deceased, in two lots, at the Mart, on Monday, July 7, at 12.

MR. MOORE will SELL by AUCTION as above, a compact FREEHOLD Eight-roomed DWELLING-HOUSE, with garden, desirably situate in front of the Commercial-road, nearly opposite the Eastern Institution, and well adapted for occupation, or to be converted into a shop, being exactly opposite the new street in continuation of Totten-street, Stepney, now in progress; also a compact Leasehold House and Shop, 2, Whitehorse-terrace, near Stepney Church, on the Mercers' Estate—term 46 years—ground-rent, 4*l.*—let at 26*l.* tenant paying rates. Particulars may be had of Messrs. Ware, solicitors, Kingsland-road; Mr. Gellatly, solicitor, Commercial-road, Limehouse; and at the Auctioneer's Offices, Mile-end-road.

Very desirable Leasehold Estates at Mile-end, producing a rental of 584*l.* per annum, by order of the Administrator of Andrew Anderson, esq. deceased, without the slightest reservation.

MR. MOORE will SELL by AUCTION at the Mart, on Monday, July 7, at Twelve, in 3 lots, FIVE handsome RESIDENCES, eligibly situate, 4, 5, 10, 11, and 12, Montague-terrace, in the preferable part of the Mile-end-road, about two miles from the City. Each house contains 10 rooms, washhouse, cellarage, and the usual conveniences, a fore-court and back garden, with entrance to coachroad in the rear, and are well adapted for the occupation of a respectable family. The property is at present let to responsible tenants, and produces 242*l.* per annum held for 57 years, at the low ground-rent of 14*l.* each. Also, in 3 lots, Three well-built Cottage Residences, with good gardens, situate 8, 9, and 10, Coborn-road, Mile-end-road, producing 81*l.* per annum; held for 57 years, at a low ground-rent. And, in 11 lots, Twelve six-roomed Houses, with gardens, pleasantly situate on the Mercers' Estate, in Totten-street, opposite Stepney Church, producing 261*l.* per annum; held for a long term, at a low ground-rent. The property is lotted suitable either for investment or occupation. May be viewed, between eleven and two, by permission of the tenants, and particulars had of W. H. Clifton, esq. Romford, Essex; at the Mart; Mercers' Hall, Cheapside; Angel, Ilford; and at the Auctioneer's Offices, Mile-end-road.

WHEREAS, by an ORDER of the HIGH COURT OF CHANCERY, made in a Cause *Chalmers* v. *Watmough*, it is, amongst other things, referred to James William Farrer, esq. one of the Masters of the said Court, to inquire and state who was, at the time of the death of JOSEPH HAMPSON, formerly of Wavertree, in the county of Lancaster, and late of Liverpool, in the said county, Farmer and Cowkeeper, deceased, the testator in the pleadings of the said cause mentioned (which took place on or about the 11th day of May, 1827), and who is now his HEIR-AT-LAW, or who now represents the said Testator in respect of his real estate, if any, which did not pass by his will and codicil in the pleadings of the said cause also mentioned: Therefore, any person or persons claiming to be such Heir or Heirs-at-law, or representative or representatives, are, by their solicitors, on or before the 19th day of July next, to come in before the said Master, at his Chambers in Southampton-buildings, Chancery-lane, London, and prove his, her, or their Descent or Representation; or, in default thereof, they will be peremptorily excluded the benefit of the said Order. JOHN F. ISAACSON,
40, Norfolk-street, Strand,
Plaintiff's Solicitor.

Periodical Sale of Reversions, Life Interests, Annuities, Life Policies, Advowsons, Next Presentations, and all descriptions of Securities dependent upon human Life, Shares in Railways, Mines, and all other undertakings.

MESSRS. FULLER and MARSH respectfully inform the public, that by their system of periodical sales by Auction they are enabled to offer to persons expectant or otherwise interested in the above description of property the most prompt, economical, and satisfactory mode of disposing thereof, as by classifying these descriptions of interests and properties in the same particular and for the same day, much expense is avoided, and a far greater competition is secured. Their periodical sales of reversions, life interests, annuities, life policies, advowsons, next presentations, and all descriptions of securities dependent upon human life, shares in railways, mines, and all other undertakings, will be continued throughout the present year as follows:—

Thursday, July 3	Thursday, October 2
Thursday, August 7	Thursday, November 6
Thursday, September 4	

Thursday, December 4.

Notice of Sales intended to be effected by the above means should be forwarded to Messrs. Fuller and Marsh a fortnight prior to each date, in order that they may have the full benefit of publicity. Messrs. Fuller and Marsh beg to call the attention of the public to the economy and expedition of this system of business, as they are thereby enabled to include each property for the sum of two guineas and a half, including all expenses, should a sale not be effected. Particulars of the next periodical sale may be obtained ten days previous to the sale, at the Star Hotel, Oxford; University Arms, Cambridge; Hen and Chickens, Birmingham; Plough, Cheltenham; Bush, Bristol, New London Hotel, Exeter; Pearce's Hotel, Truro; Adelphi, Liverpool; Royal Hotel, Manchester; Cuff's Midland Hotel, Derby; Black Swan, York; Tontine Hotel, Sheffield; Royal Hotel, Leeds; Tontine Hotel, Glasgow; M'Gregor's Hotel, Princes-street, Edinburgh; Gresham's Hotel, Dublin; and at the Offices of Messrs. FULLER and MARSH, 2, Charlotte-row, Mansion-house, London.

MESSRS. FULLER and MARSH respectfully invite the attention of Trustees, Capitalists, and others to their SALE of several well-secured GROUND-RENTS, amounting to 190*l.* 2*s.* per annum, arising from a desirable and compact property, advantageously situate near the church, Norwood, Surrey, which will be offered peremptorily to public competition, at the Mart, on Thursday, July 3, at Twelve, in one lot.—Particulars, with lithographed plans, may be obtained on application at their offices, 2, Charlotte-row, Mansion-house.

On Monday, June 30.—Regent-place, Regent-square, St. Pancras.—Valuable Long Leasehold Property, presenting safe and advantageous Investments in a rapidly improving locality, held for long terms, at low ground-rents, producing 180*l.* per annum.

MESSRS. FULLER and MARSH have received instructions from the Administrator to SELL by AUCTION, at the Mart, on Monday, June 30, at Twelve, in two lots, a most eligible and compact LEASEHOLD ESTATE, comprising three genteel Residences, Nos. 1, 2, and 3, Regent-place West, Regent-square, St. Pancras, in the occupation of respectable tenants, at rentals amounting to 180*l.* per annum, held for an unexpired term of 78 years, from June 1824, at low ground-rents.—May be viewed by permission of the respective tenants, and particulars obtained on the premises; of John Bishop, esq. solicitor, 14, Lincoln's-inn-fields; and of Messrs. FULLER and MARSH, Surveyors and Land-agents, Charlotte-row, Mansion-house.

On Monday, June 30.—Bryan-street, Caledonian-road, Pentonville.—Secure Investments, apportioned in Lots, to meet the convenience of small capitalists.

MESSRS. FULLER and MARSH have received instructions to SELL by AUCTION, at the Mart, on Monday, June 30, at Twelve, in several Lots, a valuable and rapidly improving LONG LEASEHOLD PROPERTY, consisting of nine new substantially erected and well finished residences, Nos. 1, 2, 3, 7, 8, 9, 13, 14, and 15, Bryan-street, Chalk-road, Pentonville, in the occupation of very respectable tenants, at rentals amounting to 244*l.* per annum, held direct from the freeholder for a term of 99 years, from December 1842, at low ground-rents. May be viewed and particulars obtained on the several premises; of John Bishop, esq. solicitor, 14, Lincoln's-inn-fields; and of Messrs. FULLER and MARSH, No. 2, Charlotte-row, Mansion-house.

On Monday, June 30.—Tottenham, Middlesex.—Eligible and Valuable Freehold Investments.

MESSRS. FULLER and MARSH have received instructions to SUBMIT to PUBLIC COMPETITION, at the Auction Mart, on Monday, June 30, at Twelve, an improving FREEHOLD ESTATE, comprising a capital brick-built dwelling-house, with double-fronted shop, eligibly situate in High-street, Tottenham, in the occupation of Mr. W. Beaton, a most respectable tenant, at a rental of 30*l.* per annum; also sixteen Freehold Cottages, with gardens, situate in Brunswick-court, immediately opposite to the Roebuck, Tottenham, producing a rental of about 120*l.* per annum.—May be viewed on application, and particulars obtained on the premises; of John Bishop, esq. solicitor, 14, Lincoln's-inn-fields; and at Messrs. FULLER and MARSH'S Offices for the sale of estates, reversions, &c. 2, Charlotte-row, Mansion-house.

On Monday, June 30.—Pentonville.—Leasehold Investment.

MESSRS. FULLER and MARSH have received instructions to SELL by AUCTION, the Mart, on Monday, June 30, at Twelve, a desirable LEASEHOLD INVESTMENT, comprising a genteel brick-built Dwelling-house, No. 25, Penton-street, Pentonville, in the occupation of a most respectable tenant, at a rental of 60*l.* per annum. May be viewed, and particulars obtained on the premises; and of Messrs. FULLER and MARSH, Charlotte-row, Mansion-house.

On Monday, June 30.—To Small Capitalists.—Desirable Leasehold Investment, Commercial-road East.

MESSRS. FULLER and MARSH have received instructions to SELL by AUCTION, at the Mart, on Monday, June 30, at Twelve, a desirable LEASEHOLD INVESTMENT, comprising a brick-built dwelling-house, No. 97, York-street, Commercial-road East, in the occupation of a respectable tenant, at the low rent of 20*l.* per annum.—May be viewed, and particulars obtained on the premises, and at Messrs. FULLER and MARSH'S Offices, 2, Charlotte-row, Mansion-house.

On Monday, June 30.—To small Capitalists.—A well secured Ground-rent of 9*l.* 15*s.* per annum.

MESSRS. FULLER and MARSH have received instructions to SELL by AUCTION, at the Mart, on Monday, June 30, at Twelve, a well-secured GROUND-RENT of 9*l.* 15*s.* per annum, arising from a brick-built dwelling-house, No. 27, Perry-street, Somers'-town, held direct from the Brewers' Company, for the unexpired residue of a term of 70 years from September 1821.—May be viewed, and particulars obtained at Messrs. FULLER and MARSH'S offices, Charlotte-row, Mansion-house.

HERNE BAY, KENT.—Two pleasantly situated Marine Residences.

MESSRS. FULLER and MARSH have been favoured with instructions to SELL by AUCTION, at the Mart, on Thursday, July 3, at Twelve, in Two lots, with consent of the mortgagee, under a power of sale, valuable FREEHOLD ESTATE, distinguished as East Cliffe House, comprising two cheerful residences of uniform elevation, situate in the most preferable part of this improving watering-place, commanding bold and uninterrupted views of the sea. The intended North Kent Railway, it is confidently expected, will considerably enhance the value of property in this neighbourhood. Both residences are respectably tenanted, and produce a rental of 65*l.* per annum. May be viewed and particulars obtained on the premises; of Mr Homersham, house agent; the Pier Hotel, Herne Bay; of Messrs. Sankey and Sladden, solicitors, Canterbury; of Mr. J. H. Watson, solicitor, Winchester-buildings, Old Broad-street; and at Messrs. FULLER and MARSH'S Offices, 2, Charlotte-row, Mansion-house.

Periodical Sale.—Policy in the Asylum for 500*l.*

MESSRS. FULLER AND MARSH have received instructions to include in their next Periodical Sale of Reversions, &c. appointed to take place at the Mart, on Thursday next, July 3rd, at Twelve, in several lots, a POLICY of ASSURANCE for the sum of 500*l.* effected with the Asylum Life Office, the 26th Oct. 1837, on the life of a Gentleman now in the 66th year of his age. Particulars may be obtained at the Mart, and at Messrs. FULLER and MARSH'S Offices, No. 2, Charlotte-row, Mansion-house.

Periodical Sale of Reversions, Life Interests, Annuities, Life Policies, Advowsons, Next Presentations, and all descriptions of Securities dependent upon human life. Ground and improved Rents, Post Obit Bonds, Shares in Railways, Mines, Insurance Companies, and all other Public Undertakings.

MESSRS. FULLER and MARSH have been favoured with instructions to include in the next Periodical Sale appointed to take place at the Mart, on Thursday, July 3, in lots, the ABSOLUTE REVERSION to the SUM of 5,000*l.* 3 per Cent. Consols, standing in the name of the Accountant-General, and receivable on the decease of two ladies, ages respectively 72 and 54. The Absolute Reversion to one-sixth part of the sum of 2,745*l.* 10*s.* 3½ per Cent. Reduced Annuities, receivable on the decease of a gentleman aged 63. The Absolute Reversion in and to the sum of 1,000*l.* 3 per Cent. Consolidated Bank Annuities, receivable on the death of a gentleman and lady aged respectively 46 and 50. The Absolute Reversion in and to the sum of 1,031*l.* 10*s.* 3 per Cent. Consolidated Bank Annuities, receivable on the death of a gentleman in the 64th year of his age. The Absolute Reversionary Interest to the sum of 344*l.* 8*s.* 4*d.* receivable on the decease of a gentleman now aged 50, secured by a policy of assurance effected with the Globe Assurance Company, July 1830. The Absolute Reversion to three fifth shares of the following Reversionary Property—a redeemable Annuity of 40*l.* per annum, valued at 500*l.*; 384*l.* 3½ per Cent. Reduced; and the sum of 1,700*l.* at present lent on mortgage, and secured on valuable freehold and leasehold property, and to which three fifth parts or shares of the before-mentioned annuity the purchaser will become entitled on the decease of a lady now aged 53. A Reversionary interest of and in so much of a capital sum of 588*l.* 9*s.* Bank Stock, now standing in the names of trustees of a marriage settlement, as at the decease of the survivor of two parties, now respectively in their 67th and 68th years, shall be of the value of 900*l.* sterling, and which the purchaser will become entitled to upon the decease of the survivor, provided the son of the above parties, now aged 38 years, or any of his issue, shall be living at the decease of the survivor of them: the son is married, and has issue three children. The Reversionary Share, derived under a will, to one sixth part or share of and in the sums of 2,223*l.* 9*s.* 11*d.* Three per Cent. Consolidated Bank Annuities, and 1,124*l.* 12*s.* 9*d.* Reduced Bank Annuities, standing in the names of two highly respectable trustees, and receivable on the death of the survivor of two ladies, now respectively in their 81st and 72nd years, provided a life of 30 survives her; also the contingent respective benefit of the share being increased by the decease of one or more of five other lives previous to the death of the survivor of such ladies. Also a similar Share, the legatee being 32 years old. The Absolute Reversion to a moiety of the sum of 2,063*l.* Three per Cent. Consolidated Bank Annuities, payable on the death of a gentleman of an advanced age. A well-secured Life Interest of 98*l.* 4*s.* 10*d.* per annum, arising from funded property. Fifteen 5*l.* Shares in the Woolwich Steam Packet Company. And a Policy of 1,200*l.* effected with the Guardian Assurance Company, in January 1825, on the life of a gentleman now aged 60.—Particulars may be obtained at the Mart, and at Messrs. FULLER and MARSH'S Offices, Charlotte-row, Mansion-house.

Periodical Sale.—By order of the administrator of the late Mr. Thomas Samuel Ballard, without reserve.

MESSRS. FULLER and MARSH have received instructions to include in their next MONTHLY SALE of SHARES, &c. appointed to take place at the Mart, on Thursday, July 3, at Twelve, in lots, Three SHARES in the Kennett and Avon Canal Navigation Company; Five Shares in the Diamond Gravesend Steam-packet Company, and Five Half-Shares in the same undertaking. Particulars may be obtained at the Mart, and at FULLER and MARSH'S offices, Charlotte-row, Mansion-house.

Periodical Sale.—Shares in the Herne Bay, the Sons of the Thames, and Waterman's Steam-packet Companies.

MESSRS. FULLER and MARSH have received instructions to include in their next Monthly Sale of Reversionary Property, Shares, &c. appointed to take place at the Mart on Thursday next, at Twelve o'Clock, in lots, Five 20*l.* Shares in the Herne Bay Steam-packet Company, and Fifty 2*l.* 10*s.* Shares in the Waterman's Greenwich and Woolwich Steam-packet Company, and Ten 10*l.* Shares in the Sons of the Thames London and Gravesend Steam-packet Company. Particulars may be obtained at the Mart; of Mr. Thompson, solicitor, George-st. Minories; and at Charlotte-row, Mansion-house.

Important and valuable Copyhold Estates, near the Cemetery, the Church, and the celebrated Beulah Spa, Norwood, Surrey, comprising several acres of eligible Building and Meadow Land, possessing extensive Frontages, Garden-ground, numerous Residences, Cottages, and Gardens, and well-secured Ground-rents, with great Reversionary Interests.

MESSRS. FULLER and MARSH have received instructions peremptorily to SELL by AUCTION, at the Auction Mart, on Thursday, July 3, at Twelve, in one lot, a very desirable and important ESTATE, comprising ten acres of most eligible building land, possessing considerable frontages to the Elder and Gipsey-house roads; plots of valuable garden ground; three residences and gardens, producing the very inadequate rental of 83*l.* 10*s.* per annum, and several well-secured ground-rents, amounting to 190*l.* 2*s.* arising from the King's Head Tavern and Tivoli Gardens; fourteen residences and gardens, six cottages and gardens, with great prospective reversionary interests.—May be viewed, and particulars obtained on the several premises; at the Auction Mart; of Mr. Owston, solicitor, Brigg, Lincolnshire; of Mr. Charles Bell, solicitor, Bedford-row; of Messrs. Willshire and Parris, architects and surveyors, Wolsingham-place, Lambeth; and of Messrs. FULLER and MARSH, 2, Charlotte-row, Mansion-house.

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THE LAW TIMES,

AND JOURNAL OF PROPERTY,

FOR

The Legislator, the Magistrate, and the Lawyer.

VOL. V. No. 118.]

SATURDAY, JULY 5, 1845.

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MONEY.—WANTED, 12,000*l*. at 4 per cent. upon an ample freehold land and building security in Staffordshire.

Apply to Mr. THOMAS BOLTON, Solicitor, Wolverhampton.

TO SOLICITORS.—LOAN.—A young Solicitor, of the highest respectability, who can furnish the best references as to character and integrity, requires the loan of 100*l*. or 150*l* for 12 months As the security he can give is only personal, he would not object to pay a liberal interest

Apply (free) to LEX, at Mr Beckford's, Law Stationer, Chancery-lane.

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ARTICLED CLERK WANTED —A VACANCY occurs in a highly respectable solicitor's office in a healthy market town, about fifty miles from London The advertiser would take a gentlemanly and well disposed youth into his house, treat him as his own son, and give him every opportunity of learning his profession.

Address B LAW TIMES Office, 29, Essex-street Strand

LAW.—WANTED in an Office in a Midland County Town, a CLERK, competent to take the entire MANAGEMENT of the business of the office (which is principally Conveyancing), in the occasional absence of and generally without the aid of the Principal Salary 200*l* per annum and situation permanent None need apply who cannot find security, to be approved of, for 2,000*l* and whose private and professional character will not bear the strictest scrutiny

Applications must be addressed to Y Z, Messrs Reed and Phillips's, law stationers, Bishops court, Chancery lane and must be accompanied with proper references and testimonials. The Principal will attend in London on the 22nd day of July instant, for the purpose of entering into an engagement with the most eligible applicant Such of the applicants as are considered at all eligible will have previous notice to attend personally at the office of the London agents of the advertiser on that day, as without a personal interview no engagement will be made

Situations Wanted.

LAW.—WANTED by a Gentleman who has been some years in the Profession a SITUATION in a country Solicitor's office, in England or Wales He is capable of Managing; is a Freemason and a total abstinence man, but not a pledged teetotaller Immediate employment is the chief object and security would be given against practising, and for good and orderly conduct, if required.

Address, P. L. R Post-office Taunton, Somerset

Partnerships Wanted.

LAW PARTNERSHIP—WITHOUT PREMIUM!—WANTED by an elderly Gentleman who has for many years been carrying on a respectable and lucrative Practice in a delightful town in the country, a PARTNER of active and industrious habits, to assist him in the more arduous duties of the Profession No premium required, but strict attention to business expected as an equivalent; and as an additional inducement (for which there might be a premised understanding) the whole of the Practice eventually relinquished to him without purchase Prompt attention is desirable, as assistance is required in the preparation of several causes for trial at the ensuing Assizes, and which will form an early portion of emolument for participation.

Address (by letter, prepaid, stating age, qualifications &c.) L. N. at the LAW TIMES Office, 29, Essex-street, Strand.

TO SOLICITORS.—A Gentleman of gentlemanly habits and experience is desirous of a PARTNERSHIP with a Solicitor of honourable principles and good repute, and practice chiefly Conveyancing, who may be desirous of shortly RETIRING from the Profession The sea-coast would be preferred. Address X Y, care of C Coten, esq. 19, Michael's-place, Brompton, Middlesex.

Practice for Sale.

LAW.—A small PRACTICE in the Country to be DISPOSED OF, the party having received an appointment in London. Apply by letter, post-paid, to J. H. G. RUSSELL, Esq 8, Gray's-Inn-square

TO SOLICITORS, SURVEYORS, RAILWAY PROJECTORS, and OTHERS —SWINFORD, BROTHERS, LITHOGRAPHIC DRAUGHTSMEN and PRINTERS, 276, Strand, have every faculty for the execution of any description of Railways, Maps, Plans, Sections, &c. in the best style of the art. Every branch is executed by writers and artists of first-rate talent, thereby ensuring the utmost despatch with the strictest punctuality.

CHAMBERS or OFFICES in the immediate vicinity of Lincoln's Inn —To be LET a suite of Three lofty, spacious, and commodious ROOMS on the Ground Floor, with a strong room, and other accommodations completely independent of the house which is one of the first respectability, and occupied by the proprietor as a private residence

For terms and cards to view, apply to Messrs VENIOM and HUGHES, Angel court, Throgmorton street City

LONDON.—For SALE, by PRIVATE CONTRACT, a FREEHOLD HOUSE situate in Bartlett's-buildings, recently put into thorough repair and let on lease for an unexpired term of about five years at the low rent of 60*l* per annum, free of taxes Price 1 200*l*

For further particulars apply to Mr HUBBARD, Solicitor, 1, Queen street place City

Legal Notices

WIGAN BOROUGH SESSIONS —NOTICE IS HEREBY GIVEN that the next GENERAL QUARTER SESSIONS of the PEACE for the Borough of WIGAN in the County of LANCASHIRE will be held before ROBERT SEGAR Esq Recorder of the said borough, at the Moot Hall within the said borough on MONDAY, the 21st day of July instant, at half past Nine o'clock in the forenoon, at which time and place all jurors, prosecutors witnesses, persons bound by recognizances and others having business at the said Sessions, are required to attend RA LEIGH,

Clerk of the Peace for the said Borough

Dated the 3rd day of July, 1845

Sales by Auction

In Chancery —Between Jane Calvert, widow and Others, Plaintiffs Edward Godfrey and Others Defendants —Kneller Hall and Estate of 103 acres, at Whitton, in the County of Middlesex

MESSRS. DRIVER have been favoured with instructions, pursuant to an Order of the High Court of Chancery and the provisions of an Act of Parliament, and with the approbation of Samuel Duckworth esq one of the Masters of the said Court to offer to PUBLIC COMPETITION, at the Auction Mart Bartholomew lane on FRIDAY, 25th July, at Twelve in one lot,

A highly valuable improvable ESTATE free of great tithes and exonerated from the land tax part Freehold and part Copyhold but being held under the Manors of Isleworth Sion and Isleworth Rectory may be considered equal to freehold the fines and quit rents being small fixed sums most eligibly situate at Whitton a short distance from Twickenham in a beautiful part of the county of Middlesex and only 11 miles from London comprising a capital and noble Mansion known as Kneller Hall replete with every accommodation for a family of the first respectability, most delightfully seated in park like grounds with ornamental pleasure grounds beautiful lake luxuriant plantations lawn, parterres gravel walks conservatory green house grapery, capital kitchen gardens gardener's cottage farm house and homestead and sundry parcels of rich meadow land containing in the whole including about seven acres of productive arable and garden ground, nearly 103 acres

To be viewed by applying on the premises Printed specifications, with plans annexed may be had at the Master's Chambers, Southampton buildings Chancery lane of Messrs Vandercorn, Comyn Cree Law and Comyn solicitors, 23 Bush lane, at the King's Head Twickenham, Pigeons Brentford, Star and Garter, Richmond; at the Auction Mart, near the Bank of England, and of Messrs DRIVER surveyors and land agents, No 8, Richmond terrace, Parliament-street

ESSEX —Sundry valuable compact Freehold Farms, comprising together nearly 2 400 acres —To be sold in separate lots, including the valuable Manors of Hempstead and Woodhall, otherwise Spaine's End desirably situate about miles from Saffron Walden, 14 from Braintree, and only 42 from the Metropolis By Messrs Driver, at the Auction Mart, London, on Friday, the 1st of August, at Twelve o'clock, in 15 Lots

MESSRS. DRIVER have received directions to SUBMIT the above FREEHOLD ESTATE in sundry Lots for the convenience of purchasers who are desirous of making eligible investments in freehold land The farms are very compact, and are now in the occupation respectively of Mr Samuel Mihill, Mrs. Rutland, Mrs. Horner, Mr Mark Major, Mrs Green, and other very respectable yearly tenants, and there are some very valuable woods in hand together with two manors This property is situate adjoining excellent roads, within the parishes of Hempstead, Great and Little Sampford, and Finchingfield, in the county of Essex

Printed specifications, with plans annexed, will be ready for delivery after the 7th of July and may then be had at the White Hart, Braintree; Black Boy, Chelmsford; Rose and Crown, Saffron Walden, Crown, Hockrell, Red Lion Great Sampford, at the Auction Mart, near the Bank, of Messrs. Clarke, Fynmore, and Fladgate, solicitors, Craven street, Strand, and of Messrs DRIVER, Surveyors and Land Agents, 8, Richmond-terrace, Parliament-street, London.

Sales by Auction.

SUSSEX and HANTS —The extensive Freehold Manors of Prinsted and Nutbourne, in the Parish of Westbourne, County of Sussex with all rights, members, and appurtenances thereto belonging; also two Freehold Dwelling Houses, Land-tax redeemed, delightfully situate in Norfolk crescent, Hayling Island, Havant.

MESSRS. DRIVER are instructed to offer to PUBLIC COMPETITION at the Auction Mart, Bartholomew-lane, on Friday, the 25th of July, at Twelve o'clock, in Three Lots, sundry important FREEHOLD ESTATES, comprising the valuable and extensive MANORS of PRINSTED and NUTBOURNE, in the parish of Westbourne, county of Sussex, with Courts Baron, fines arbitrary, heriots, royalties, rights, members and other appurtenances thereto belonging contiguous to each other, near Emsworth, about five miles from Chichester and thirteen from Portsmouth, producing in quit rents, fines, and heriots, on the average, nearly 130*l* per annum. Likewise TWO FREEHOLD DWELLING HOUSES, land-tax redeemed, most delightfully situate in Norfolk-crescent, in front of the Esplanade, on the south beach of that fashionable watering-place, Hayling Island, near Havant, on the Hampshire coast, sheltered from the strong gales from the south west by the Isle of Wight and commanding very rich and interesting land and sea views of that delightful island, as well as Spithead Cumberland Fort, and other beautiful scenery

Printed specifications may be had at the Royal Hotel, Hayling the Bear, Havant, Dolphin, Chichester, George, Portsmouth, of William Padwick, esq Hayling Island; of Messrs Downes, Gamlen, and Scott, 7, Furnival's-inn; at the Auction Mart, near the Bank of England, and of Messrs. DRIVER Surveyors and Land Agents, 8, Richmond-terrace, Parliament street, London

HAMPSHIRE —A highly valuable and delightful Freehold Estate called Sopley Park, comprising a commodious Mansion house environed with plantations, with its beautiful park and other lands containing in the whole about eighty two acres, most eligibly situate in the Valley of the Avon contiguous to the New Forest, and a short distance from the sea

MESSRS DRIVER are favoured with instructions to offer to PUBLIC COMPETITION, at the Auction Mart, Bartholomew lane, on Friday the 25th of July at twelve o'clock, in one lot, a very valuable FREEHOLD ESTATE known as SOPLEY PARK most eligibly situate in a remarkably genteel and select neighbourhood, and surrounded with excellent roads, only five miles distant from Mudiford, seven from Bournemouth, three from Christchurch, six from Ringwood twenty three from Southampton, and within a few hours' ride of London, and which will be further reduced when the projected railway to Dorchester is completed The Mansion house is situate on an eminence in the centre of a park of about forty-six acres, commanding most extensive views of the rich forest and other scenery, containing good entrance-hall, dining room, 20 feet by 17 feet; drawing room 20 feet 3 inches by 17 feet 3 inches, library, 18 feet by 15 feet, study 13 feet by 11 feet, and a gentleman's room and water closet, four principal airy bed-chambers, and a dressing room, and four servants' rooms. The domestic offices comprise a servants' hall, kitchen, scullery china closet, pantry, capital arched cellaring, and a well of excellent water lawn, with parterres and plantations, excellent kitchen garden, stabling for five horses, coach-house and other requisite outbuildings The park and other lands comprise in the whole about eighty-two acres of rich arable, meadow, and pasture land, which for richness of soil is not to be surpassed in this luxurious valley The New Forest Hounds are within an easy distance and immediate possession may be had of the house and thirteen acres The remaining seventy acres being let to yearly tenants at rents producing about 220*l* per annum, that the whole estate may be fairly estimated at 300 guineas per annum

To be viewed on application to Anthony Brent, the gardener; and printed specifications, with plans annexed, may be had at Matcham's Hotel, Southampton, the Hotel, Christchurch, the Bath Hotel, Bournemouth, of Robert Davy esq Solicitor Ringwood; at the Auction Mart near the Bank of England, and of Messrs DRIVER, Surveyors and Land Agents, 8, Richmond-terrace, Parliament-street, London

MIDDLESEX.—A Valuable Grass Farm of 86 acres most delightfully situate at Roxeth-green, near Harrow

MESSRS. DRIVER are instructed to offer to PUBLIC COMPETITION, at the Auction Mart, near the Bank of England on Friday, the 1st of August, at Twelve o'clock in one lot a very desirable and valuable GRASS FARM, part freehold and part copyhold, and the principal portion free from land-tax, most desirably situate at Roxeth green, near Harrow in the county of Middlesex, only about ten miles from London, and within two miles of the London and Birmingham Railway station at Harrow, comprising 86 acres of productive meadow land, with a newly-erected farm house and all requisite agricultural buildings, in the occupation of Mr John Hill under an agreement for a lease at the moderate rent of 150*l* per annum

Printed specifications, with plans annexed, may be had at the King's Head, Harrow, Red Lion, Southall, Crane, Edgware, of Messrs Allen, Gylby, and Allen, solicitors, 17 Carlisle-st Soho square, and of Messrs. DRIVER, Surveyors and Land Agents, 8, Richmond terrace, Parliament-street, London.

THE REPORTS.

[These are usually brought down to the Wednesday preceding publication. Where *Cur. adv. vult.* the case is not reported till judgment given. All written judgments are taken in shorthand, and reported *verbatim*. Rules *nisi* are reported.]

The following are the names of gentlemen who favour the LAW TIMES with the Reports:—

PRIVY COUNCIL by THOMAS CAMPBELL FOSTER, of the Middle Temple, Esq. Special Pleader.

EQUITY COURTS.

LORD CHANCELLOR'S COURT by RICHARD GRIFFITHS WELFORD, Esq. of the Inner Temple, Barrister-at-Law.

VICE-CHANCELLOR of ENGLAND'S COURT, by GEORGE GOLDSMITH, Esq. of the Middle Temple, Barrister-at-Law.

ROLLS COURT, by J. MACAULAY, Esq. of the Inner Temple, Barrister-at-Law.

VICE-CHANCELLOR KNIGHT BRUCE'S COURT by GEO. S. ALLNUTT, Esq. of the Middle Temple, Barrister-at-Law.

VICE-CHANCELLOR WIGRAM'S COURT, by J. VESEY DAWSON, Esq. of the Middle Temple, Barrister-at-Law.

COMMON LAW COURTS.

The QUEEN'S BENCH, by J. C. SYMONS, Esq. of the Middle Temple, Barrister-at-Law, and EDWARD WISE, Esq. of the Middle Temple, Barrister-at-Law.

The COURT of COMMON PLEAS, by W. PATERSON, Esq. of Gray's-inn, Barrister-at-law.

The COURT of EXCHEQUER by JOHN BRIDGE ASPINALL, Esq. of the Middle Temple, Barrister-at-Law, and H. T. COLE, Esq. of the Middle Temple, Barrister-at-Law.

The BAIL COURT by T. W. SAUNDERS, Esq. of the Middle Temple, Barrister-at-Law.

The EXCHEQUER CHAMBER by A. A. FRY, Esq. of Lincoln's-inn, Barrister-at-Law.

BANKRUPT AND INSOLVENT COURTS.

The COURT of REVIEW by GEO. S. ALLNUTT, Esq. of the Middle Temple, Barrister-at-Law.

LONDON COMMISSIONERS' COURTS and the INSOLVENT COURT, by B. TALBOT, Esq. of the Middle Temple, Barrister-at-Law.

BRISTOL DISTRICT COURT, by J. ANGUS HOMES, Esq. Barrister-at-Law.

NISI PRIUS, CIRCUITS, AND CROWN CASES.

CENTRAL CRIMINAL COURT, by B. C. ROBINSON, Esq. of the Middle Temple, Barrister-at-Law.

CROWN CASES (before all the Judges) by A. BITTLESTON, Esq. of the Inner Temple, Barrister-at-Law.

NORTHERN CIRCUIT, York and Liverpool, by J. B. ASPINALL, Esq. Barrister-at-Law. The other parts of the Circuit, by G. F. H. OLIPHANT, Esq. Barrister-at-Law.

WESTERN CIRCUIT, by EDWARD W. COX, Esq. of the Middle Temple, Barrister-at-Law.

OXFORD CIRCUIT, by JOHN LANE, Esq. D.C.L. of the Inner Temple, Barrister-at-Law.

NORFOLK CIRCUIT by JNO. B. DASENT, Esq. Barrister-at-Law.

SITTINGS AT NISI PRIUS AFTER TERM, by JOHN LANE, Esq. D.C.L. of the Inner Temple, Barrister-at-Law; E. WISE, Esq. Barrister-at-Law; and others.

ELECTION LAW.

REGISTRATION APPEALS in the COMMON PLEAS by EDWARD W. COX, Esq. of the Middle Temple, Barrister-at-Law; and HENRY TINDAL ATKINSON, Esq. of the Middle Temple, Barrister-at-Law.

ELECTION COMMITTEES by EDWARD W. COX, Esq. of the Middle Temple, Barrister-at-Law.

REGISTRATION COURTS, collected and edited by EDW. W. COX, Esq. of the Middle Temple, Barrister-at-Law.

IRISH REPORTS.

The LORD CHANCELLOR'S COURT by WILLIAM DUGGAN, Esq. Barrister-at-Law.

QUEEN'S BENCH and CRIMINAL COURTS by WM. ST. LEGER BABINGTON, LL.D. Barrister-at-Law.

N.B.—The names of the reporters of such important points as may arise upon Circuit will be announced as the arrangements for each are completed.

The Written Judgments are reported *verbatim* in Shorthand by Mr. H. GREGORY, Short-hand Writer.

Very desirable Freehold and Leasehold Estates at Mile-end, producing a rental of 586*l.* per annum, by order of the Administrator of Andrew Andersen, esq. deceased, without the slightest reservation.

MR. MOORE will SELL by AUCTION, at the Auction Mart, on MONDAY, July 7, at Twelve, in three lots, FIVE HANDSOME RESIDENCES, eligibly situate, Nos. 4, 5, 10, 11, and 12, Montague-terrace, in the preferable part of the Mile-end-road, about two miles from the City; each house contains ten rooms, wash-house, cellarage, and the usual conveniences, a fore court and back garden, with entrance to coach road in the rear, and are well adapted for the occupation of a respectable family. The property is at present let to responsible tenants, and produces 242*l.* per annum, held for fifty-seven years, at the low ground-rent of 14*l.* each. Also in three lots, three well-built Cottage Residences, with good gardens, situate Nos. 8, 9, and 10, Coborn-road, Mile-end-road, producing 81*l.* per annum, held for fifty-seven years at a low ground-rent; and in eleven lots, twelve six-roomed Houses with gardens, pleasantly situate on the Mercers' estate in Totten-street, opposite Stepney Church, producing 261*l.* per annum, held for a long term at a low ground-rent. A freehold eight-roomed House, in the front of the Commercial-road, near the Eastern Institution, suitable for a shop; and a House and Shop, No. 2, White Horse-terrace, near Stepney Church, term forty-six years, ground-rent 4*l.*; let at 26*l.* each. The property is lotted suitable either for investment or occupation.—May be viewed between eleven and two, by permission of the tenants; and particulars had of W. H. Clifton, esq. Romford, Essex; at the Auction Mart; Mercers'-hall, Cheapside; Angel, Ilford; and at the Auctioneer's Offices, Mile-end-road.

Desirable Freehold and Leasehold Estates, producing 252*l.* per annum, in Lots, eligible for Investment and Occupation.

MR. MOORE will SELL by AUCTION, at the Mart, on WEDNESDAY, July 16, at Twelve, FIVE BRICK-BUILT DWELLING-HOUSES, in a good situation for letting, being 6 to 10, Robert-street, Jubilee-place, Mile-end, each contains five rooms and garden, well let at 85*l.* per annum, term 55 years, ground-rent for the whole only 6*l.* per annum; also a brick-built Dwelling-house, 4, Robert-street, let at the inadequate rent of 16*l.* per annum, term 55 years, ground-rent 4*l.*; a 6-roomed Dwelling-house with garden, 4, North-street, Jubilee-place, near the preceding, let to a respectable tenant at 21*l.* 12*s.* per annum, term 55 years, ground-rent only 2*l.* 5*s.* per annum; Two newly-built Freehold Houses, 33 and 34, Eastfield-street, back of Stepney Church, containing five rooms and garden, let at 31*l.* 4*s.* per annum; Two Leasehold Houses, 37 and 38, Eastfield-street, one is a beer-house, the other a private house, let at 32*l.* per annum, term 66 years, ground-rent 2*l.* each; a small Freehold House and Shop, 1, St. Ann-street, Limehouse, opposite the church, and one door out of the Commercial-road, let at 13*l.* per annum; and a Leasehold Estate, comprising an old-established grocer's and cheesemonger's shop, situate, 1, Ducket-street (corner of John-street, White Horse-lane, Stepney); and Two Private Houses adjoining, let at 55*l.* per annum, all held at a long term, at a ground-rent.—May be viewed by leave of tenants, and particulars had of A. K. Hutchinson, esq. Crown-court, Threadneedle-street; S. Prentice, esq. solicitor, Bedford-square, Commercial-road; J. Ellethorp, esq. Colet-place, Commercial-road; Messrs. Hillcary, solicitors, Fenchurch-street, City; at the Mart; and at the Auctioneer's Offices, Mile-end-road.

Valuable Freehold Estate, about 125 acres, with possession, situate at Brightling, in the county of Sussex, two miles from Robertsbridge, and 14 from Tunbridge-wells.

MESSRS. WINSTANLEY have received directions to offer for SALE by AUCTION, at the Mart, on Thursday, the 10th of July, in one lot, a very compact and desirable FREEHOLD ESTATE, with possession, called Old and New House Farms, situate in the parish of Brightling, in the county of Sussex, abutting on the turnpike road to Robertsbridge, from which it is distant about two miles, 14 from Tunbridge-wells, and 50 from London; consisting of a farm-house, barns, and outbuildings, capital new-built oast-house, with two kilns, two cottages, and sundry parcels of meadow, pasture, arable, hop, and wood land, containing about 125a. 2r. 24p. To be viewed by applying on the premises, or to Mr. Frederick Smith, at Robertsbridge; of whom printed particulars with plans may be had: particulars also at the libraries, at Tunbridge-wells, Hastings, and Brighton; the George at Battle; Rose and Crown, Tunbridge; of Mr. Matthews, solicitor, Laut-street, Southwark; at the Mart; and of Messrs. WINSTANLEY, Paternoster-row.

In Staffordshire, on the Borders of Derbyshire.—The remaining Portion of the Swinscoe Estate, consisting of about 400 acres, with convenient Farm-houses and Agricultural Buildings.

MESSRS. WINSTANLEY have received directions from the surviving Trustee under the Will of Brian Hodgson, esq. deceased, to SELL by AUCTION, at the Green Man, Ashbourn, in the county of Derby, on Thursday, the 31st of July, in lots, the remaining PORTION of the SWINSCOE ESTATE, consisting of about 400 acres of excellent pasture and arable land, let to respectable tenants, at moderate rents. The estate is intersected by the high road between Derby and Manchester, and will be divided into small farms, with suitable farm-houses and agricultural buildings, situate in the township of Swinscoe and parish of Blore, in the county of Suffolk, about four miles from Ashbourn, ten from Leek, sixteen from Derby, and contiguous to the demesnes of the Earl of Shrewsbury, and H. F. O'Keover, esq. and in a country abounding with game. To be viewed by applying to the respective tenants. Printed particulars may be obtained at the Green Man, Ashbourn; the George, Leek; Red Lion, Calton Moor; Swan, Stafford; Angel, Macclesfield; King's Head and Midland Counties Hotel, Derby; Lion and Flying Horse, Nottingham; Bulkeley Arms, Stockport; the Hen and Chickens, and at the offices of the Midland Counties Herald, at Birmingham; King's Head, Coventry; Three Crowns and Bell, at Leicester; Bridgewater Arms, Manchester; Royal Hotel, Chester; of Thomas Fellows, esq. solicitor, at Rickmansworth, Herts; of Messrs. Littledale and Bardswell, solicitors, Messrs. Thomas Winstanley and Sons, at Liverpool; and of Messrs. WINSTANLEY, Paternoster-row, London.

Valuable Leasehold Property, held of the Duke of Dorset, for an unexpired term of 55 years, at a low ground-rent, producing a rental of 277*l.* per annum.

MESSRS. WINSTANLEY are directed by the Executors to SELL by AUCTION, at the Mart, on Thursday, July 10, in one lot, a desirable ESTATE for investment, consisting of the ground lease of two convenient dwelling-houses, situate Nos. 6 and 7, Red Lion-square, the former in hand, and the latter let on lease at 80*l.* per annum; two houses with shops, Nos. 57 and 58, Eagle-street, and workshops behind, in the occupation of respectable yearly tenants, at 117*l.* per annum. The houses can be viewed by permission of the tenants.—*Printed particulars* may be obtained at 6, Red Lion-square; of Mr. Sutcliffe, solicitor, New Bridge-street, Blackfriars; at the Mart; and of Messrs. WINSTANLEY, Paternoster-row.

VALUABLE FREEHOLD ESTATE, situate in Warwickshire, tithe-free and land-tax redeemed, to be SOLD by AUCTION, by Mr. GEORGE AGG, on WEDNESDAY, the 30th of July, 1845, at Four o'clock in the afternoon, at the house of Mrs. Mary Hughes, known by the name or sign of the New Inn, and lying midway between Evesham and Alcester, by order of the trustees and executors of the will of the late Mr. John Masefield, and subject to conditions then to be produced, all that very valuable FREEHOLD ESTATE, situate in the parish of Salford Priors, in the county of Warwick (adjoining the turnpike-road leading from Evesham to Alcester, and situate at the distance of five miles or thereabouts from each of those places), called or known by the name of the Pitchell Estate, with two good and substantial messuages, and several cottages standing thereon; the whole containing 201 acres and upwards, which will be offered in the following or such other lots as may be agreed upon at the time of sale.

Lot 1 will comprise the principal part of this very desirable Estate, consisting of luxuriant arable, meadow, and pasture land, and orcharding, with 7 acres or thereabouts of wood-land; and containing altogether upwards of 172 acres: together with the substantial and commodious residence and out-offices conveniently situated thereon.

Lot 2 will consist of a modern and very genteel residence with convenient offices and outbuildings thereto belonging, in the occupation of Mr. Benjamin Bomford; and also a small cottage situate near to the same, in the occupation of John Simmonds; together with about 20 acres of valuable arable and pasture land, immediately connected with the residence, and adjoining lot 1.

Lot 3 will comprise four good and substantial newly-erected cottages, with gardens thereunto belonging; the whole consisting of 1¼ acres of land, and upwards, and adjoining the next lot.

Lot 4. A piece of very fertile arable land adjoining the last lot and lot 2, and containing about 7¼ acres.

It is supposed that the Salt Spring, referred to in "Dugdale's Antiquities of Warwickshire," under the head "Salford Priors," was and is upon this Estate; and that Limestone and Paving-stone abundantly exist. In fine, to those ambitious of a delightful and healthy spot for residence and occupation, or to the capitalist desirous of a profitable investment, such an opportunity as the present is rarely to be met with.

The Estate is Tithe-free, and the Land-tax redeemed. The only outgoings are trifling annual payments amounting together to 18*s.* 6*d.* and payable to the Vicar of Salford Priors aforesaid, for the time being, which are intended to be wholly chargeable on Lot 1.

Descriptive particulars, with lithographed plans, will be ready for distribution twenty-one days prior to the Sale, and may be had on application at the principal Inns in Evesham, Alcester, Warwick, Stratford, and the neighbourhood. In the meantime further information may be obtained on application to Mr. Smith, of Rushford, in the parish of Salford Priors aforesaid, Mr John Haywood, of Salford Priors, or Mr. Hall, of Bretforton, in the county of Worcester, the Trustees and Executors of the late Mr. Masefield; to Mr. Charles Bell, solicitor, 36, Bedford-row, London; Mr. Oswald Cheek, solicitor, Evesham; Mr. Lovegrove, solicitor, Gloucester; Mr. W. H. Davies, Land Surveyor, Abingdon; or to the AUCTIONEER, Evesham; of each of whom also the descriptive particulars and lithographed plans may be obtained when ready for distribution.

Periodical Sale of Reversions, Life Interests, Annuities, Life Policies, Advowsons, Next Presentations, and all descriptions of Securities dependent upon human Life, Shares in Railways, Mines, and all other undertakings.

MESSRS. FULLER and MARSH respectfully inform the public, that by their system of periodical sales by Auction they are enabled to offer to persons expectant or otherwise interested in the above description of property the most prompt, economical, and satisfactory mode of disposing thereof, as by classifying these descriptions of interests and properties in the same particular and for the same day, much expense is avoided, and a far greater competition is secured. Their periodical sales of reversions, life interests, annuities, life policies, advowsons, next presentations, and all descriptions of securities dependent upon human life, shares in railways, mines, and all other undertakings, will be continued throughout the present year as follows:—

Thursday, August 7	Thursday, November 6
Thursday, September 4	Thursday, December 4.
Thursday, October 2	

Notice of Sales intended to be effected by the above means should be forwarded to Messrs. Fuller and Marsh a fortnight prior to each date, in order that they may have the full benefit of publicity. Messrs. Fuller and Marsh beg to call the attention of the public to the economy and expedition of this system of business, as they are thereby enabled to include each property for the sum of two guineas and a half, including all expenses, should a sale not be effected. Particulars of the next periodical sale may be obtained ten days previous to the sale, at the Star Hotel, Oxford; University Arms, Cambridge; Hen and Chickens, Birmingham; Plough, Cheltenham; Bush, Bristol; New London Hotel, Exeter; Pierce's Hotel, Truro; Adelphi, Liverpool; Royal Hotel, Manchester; Cuff's Midland Hotel, Derby; Black Swan, York; Tontine Hotel, Sheffield; Royal Hotel, Leeds; Tontine Hotel, Glasgow; M'Gregor's Hotel, Princes-street, Edinburgh; Gresham's Hotel, Dublin; and at the Offices of Messrs. FULLER and MARSH, 2, Charlotte-row, Mansion-house, London.

Upper Holloway, Seven Sisters'-road.—Five Acres of Freehold Building Ground.

MR. SINGLE will SELL by AUCTION, at the Mart, on Tuesday, July 15, at 12 for 1 (unless previously disposed of by private contract), about Five Acres of FREEHOLD BUILDING GROUND, land tax redeemed, situate in the preferable part of Upper Holloway, about three miles from the City, on the high road known as the Seven Sisters'-road, which leads direct from the West-end to Tottenham. The estate is laid out as a square, called Holloway-square, and wide roads are already made up, so that it is at once eligible for the erection of houses. Particulars will be ready in due time, and may be obtained of Mr. Thomas Pryer, solicitor, 17, Pavement, Finsbury; and of Mr. SINGLE, 34, Coleman-street, City.

First Sale of a Portion of about 30 Acres of Freehold Building Ground, Peckham, in the centre of a complete neighbourhood; and Freehold Ground Rents.

MR. SINGLE has the pleasure to announce that he is authorised to SELL by AUCTION, at the Mart, on Tuesday, July 22, at Twelve, in lots, or to let upon building leases, or to dispose of by private contract, Five or Six Acres of invaluable FREEHOLD BUILDING GROUND, land-tax redeemed, presenting considerable frontages on the Commercial-road, James's-street, &c. Peckham, near the Rosemary Branch Tavern. The estate possesses fine rich brick earth, and is surrounded by a large and highly respectable neighbourhood. The healthfulness, pleasantness, and convenience for the City, for which it is peculiar, will cause it to be built over as rapidly as have been the various estates around it. Also Freehold Ground Rents, amply secured. Mr. Single has just surveyed it, designed roads, &c. throughout the whole property, and strongly recommends it for those desirous of making ground-rents or building for investment. In twelve months it will realize probably double its present value. Particulars of Messrs. Gregson and Kewell, solicitors, 8, Angel-court, Throgmorton-street; at the Rosemary Branch Tavern, Peckham; and of Mr. SINGLE, 34, Coleman-street, near the Bank.

HANTS.—110 Acres Freehold, improvable, in Five-Acre Lots.

MR. SINGLE will SELL by AUCTION, at the Auction Mart, on Tuesday, July 15, at Twelve for One, a most improvable FREEHOLD ESTATE, land-tax redeemed, desirably situate in the parish of Crondale, in the county of Hants, near the Oat Sheaf Inn, alongside the South Western Railway, about three and a-half miles from the Winchfield Station. As villas with a few acres of ground to each are much wanted in the neighbourhood, the estate, which comprises about 110 acres, will be sold in lots of about five acres each.—Particulars will be ready in due time, and may be obtained of Mr. Thomas Pryer, solicitor, 17, Pavement, Finsbury; and at the offices of Mr. SINGLE, 34, Coleman-street.

South of Devon.—Pitt Estate, Mansion, and Grounds (33 acres), delightful Farm Residence and capital Farm (137 acres): one of the most picturesque spots in England.

MR. SINGLE has now surveyed PITT ESTATE, and feels much pleasure in giving a more detailed description than heretofore. The SALE will take place at the Auction Mart, London, on Tuesday, the 15th day of July, at 12 for 1 o'clock, and particulars, with plans and a sketch of the residence, are ready for applicants. It is situate in the Parish of Hennock, about one mile from Chudleigh (a post town), in the county of Devon, and ten from Exeter. After a drive from Exeter, almost unparalleled for picturesque beauty, crossing the river Teign, which winds in meandering beauty contiguous to the land, affording famous trout and salmon fishing, you approach the mansion through a park of rising ground adorned with ornamental timber, and belted with luxuriant plantations. The elevation of the mansion-house is most attractive and handsome, commanding views of indescribable beauty in endless variety, cheered and bounded by the hanging woods on Lord Clifford's estate. The seats of the Duke of Somerset, Lord Clifford, Lord Viscount Exmouth, Sir David Dunn, Alexander Adair, esq. Arthur Chichester, esq. late M. P. for Honiton, and other distinguished noblemen and gentlemen, are close at hand, so that, although secluded from almost every thing but highly picturesque beauty, it is amidst first-rate society. The residence is newly-built on a moderate scale, and planned with good judgment, and does great credit to the eminent architects, Messrs. Scott and Moffat, of London. The land comprises about 33 acres, and possession can at once be obtained. At an agreeable distance stands a farm residence, with about 137 acres of most thriving orchards, capital arable and pasture land, admirably suited for a gentleman farmer, to one of which excellent members of society it is let on lease for a term of fourteen years from Lady-day 1843, determinable the first seven or ten years. The luxuriance of growth of both the crops and trees, and the prettily wooded park-like appearance of the whole estate, beautified as it is with hill and dale, give it a strong claim to all who are lovers of the picturesque beauty and salubrious air for which the south of Devon is proverbial. The whole lies in a ring fence, is freehold, and will be offered first in one lot, and if not sold, in five lots. It is only about one mile from Chudleigh, five and a half hours' distant from London; and the station at Newton Abbott, one of the best market-towns in the county, only about four miles distant from the property, will soon be completed. The estate may be viewed on application to Mr. Flood, of Chudleigh, and Mr. Toswill, the tenant of the farm; and printed particulars, with a map annexed, may be obtained of Messrs. Scott and Moffat, architects, Spring-gardens, London; Mr. Robert H. Terrell, solicitor, 14, Gray's-inn-square, London; of Messrs. Watts and Whidborne, solicitors, Teignmouth, Devon; of Mr. John H. Terrell, solicitor, St. Martin's lane, Exeter; and at the offices of Mr. SINGLE, 34, Coleman-street, London, near the Bank of England.

EXAMINATION QUESTIONS in TRINITY TERM are now ready, with full Answers and References to Cases and Authorities. By the Editors of "The Law Students' Magazine." Price 1*s.* 6*d.* or sent free on receipt of 24 postage stamps. Series 1, 3, 4, 5, 6, 7, 8, and 9 may still be had.

KELLY and Co. 20, Old Boswell-court, Temple-bar; and all Booksellers.

Secure Investment.—Valuable Long Leasehold Property, Downham-road and Clarence-terrace, New North-road, Islington, producing a rental of 239*l*. 10*s*. per annum.

TO BE SOLD by AUCTION, by Messrs. VENTOM and HUGHES, at the Auction Mart, on Wednesday, July 23, 1845, at Twelve o'clock, in three lots, by order of the proprietor, the following truly desirable and substantial brick-built houses, peculiarly adapted for the residences of genteel families; they have been erected without regard to expense, are finished in a style of modern neatness, and are replete with accommodation:—

Lot 1. A New Brick-built RESIDENCE with slated roof, being No. 42, Downham-road, New North-road, held for ninety-five years at a ground-rent of 5*l*. 10*s*. and of the annual value of 40*l*.

Lot 2. FIVE SUBSTANTIAL RESIDENCES, with slated roofs, being Nos. 29, 30, 31, 32, and 33, Clarence-terrace, Rotherfield-street, Lower-road, Islington; they are seated at a pleasant distance from the road, from which they are divided by fore-courts and iron railing, and approached by stone steps. The are let to respectable tenants at rents amounting to 156*l*. Held on lease for ninety-five years, at the apportioned ground-rent of 5*l*. each house.

Lot 3. THREE HOUSES, of a similar description, being Nos. 22, 23, and 24, in the same terrace, let at rents amounting to 93*l*. 10*s*. per annum. Held for the like term as lot 2, at the apportioned ground-rent of 5*l*. for each house.

May be viewed, by permission of the tenants, ten days prior to the sale; printed particulars had of Mr. Beckingham, No. 28, Clarence-terrace; the Rosemary Branch, Hoxton; Angel, Islington; Messrs. Overton and Hughes, solicitors, 25, Old Jewry; Mr. Brown, auctioneer, Herne Bay, Kent; of Messrs. VENTOM and HUGHES, Auctioneers and Estate Agents, Angel-court, Throgmorton-st.; and at the Auction Mart.

CONTINGENT REVERSIONARY INTEREST receivable on the decease of a gentleman in his 59th year, in two fourth parts, with the benefit of survivorship in one other fourth part, of 861*l*. New 3*l*. 5*s*. per Cent. Annuities, and in the money to arise from the sale of an important freehold property, occupying a spacious plot of ground, in a situation invaluable to the speculator, being adjoining Messrs. Elliott's brewery, and close to Buckingham Palace and St. James's Park. It comprises Isabella-row, and part of Castle-lane, Castle-place, and Pine-apple-court, in the parish of St. Margaret's, Westminster, of the estimated value of 300*l*. per annum. Also, Two POLICIES of ASSURANCE, effected in the Economic Life Assurance Company, for 500*l*. and 500*l*. which will be SOLD by AUCTION, by Messrs. VENTOM and HUGHES, at the Auction Mart, opposite the Bank, on Wednesday, 23rd of July, 1845, at Twelve o'clock, in one lot.

Printed particulars may be had of Messrs. Overton and Hughes, solicitors, 25, Old Jewry; at the Auction Mart; of Messrs. VENTOM and HUGHES, Auctioneers, Angel-court, Throgmorton-street; and of Mr. Brown, auctioneer, Herne Bay, Kent.

Freehold Ground-rent of 25*l*. per annum.

TO BE SOLD by AUCTION, by Messrs. VENTOM and HUGHES, at the Auction Mart, on Wednesday, the 23rd of July, 1845, at Twelve o'clock, a FREEHOLD GROUND-RENT of 25*l*. per annum, arising out of twelve brick-built houses, Nos. 1 to 12, Edmund's-place, next to Osborne-place, Great Arthur-street, Golden-lane, in the parish of St. Luke, land-tax redeemed.

May be viewed; printed particulars had of Messrs. Overton and Hughes, solicitors, 25, Old Jewry; of Messrs. VENTOM and HUGHES, Estate and Land Agents, Angel-court, Throgmorton-street; at the Auction Mart; and of Mr. Brown, auctioneer, Herne Bay, Kent.

KENTISH TOWN.—Copyhold Residence, with large Garden, Chaise-house, and Stabling. By VENTOM and HUGHES, at the Auction Mart, on WEDNESDAY, 23rd July, 1845, at Twelve, by order of the proprietors, with the concurrence of the mortgagees. A very desirable, substantial, brick-built RESIDENCE, possessing ample accommodation for a family of respectability, eligibly situate in Willow-walk, Kentish Town, with large garden, stabling for three horses, coach-house, and various out-buildings, let to Mr. Wood, a highly respectable tenant, at 57*l*. 15*s*.—May be viewed; printed particulars had at the Baker's, opposite; the Mother Red Cap, Kentish Town; Messrs. Overton and Hughes, solicitors, 25, Old Jewry; VENTOM and HUGHES, Angel-court, Throgmorton-st.; and at the Auction Mart.

NOTE.—The above is subject to a trifling quit rent and nominal fine on death or alienation.

Nett Rental of 33*l*. 6*s*. 8*d*. with a Reversionary Interest to one-third part of a Freehold House, No. 12, corner of Castle-street, Holborn.

MESSRS. VENTOM and HUGHES will SELL by AUCTION, at the Mart, on WEDNESDAY, July 23, 1845, at Twelve, one undivided third part or share of 100*l* per annum, being 33*l*. 6*s*. 8*d*. derivable from those substantially freehold brick-built premises, No. 12, corner of Castle-street, Holborn, consisting of a respectable residence with glazed-fronted shop, spacious warehouse, and large show-room, in the occupation of and on lease to Mr. Evans, which will expire in 1856; together with one undivided third part or share of the freehold, at the termination of such lease in 1856, the same being of the present annual value of 250*l*.

Printed particulars may be had of Messrs. Overton and Hughes, solicitors, 25, Old Jewry; VENTOM and HUGHES, Angel-court, Throgmorton-street; and at the Auction Mart.

Desirable Freehold Property, Tottenham-court-road.

MESSRS. VENTOM and HUGHES have been favoured with directions to SELL by PUBLIC AUCTION, at the Mart, on WEDNESDAY, 23rd July, 1845, at Twelve, in one lot, by order of the proprietors, with the concurrence of the mortgagees, five substantial brick-built HOUSES, numbered 1 to 5, Donaldson's-buildings, Tottenham-court-road, on lease to Mr. John Lansdall, of No. 2, Tottenham-court-road, whereof 13 years are unexpired, at the very low rent of 25*l*. per annum.—May be viewed, and printed particulars had of Messrs. Overton and Hughes, solicitors, 25, Old Jewry; VENTOM and HUGHES, Angel-court, Throgmorton-street; and at the Auction Mart.

Claremont House, Kentish Town.

MESSRS. VENTOM and HUGHES have received instructions from the proprietors, with the concurrence of the mortgagees, to sell by Auction at the Mart, on WEDNESDAY, July 23, 1845, at Twelve, a commodious and spacious Copyhold brick-built Family Residence, known as "CLAREMONT HOUSE," Willow Walk, Kentish Town, in good repair. It contains numerous chambers, drawing and dining rooms, breakfast parlour, superior domestic offices, and good garden; is in hand, and of which immediate possession may be had, and was recently let at 45*l*. per annum. The above is subject to a trifling quit rent and nominal fine.—May be viewed on application at the Baker's opposite, of whom printed particulars may be obtained; also at the Mother Red Cap, Kentish Town; Messrs. Overton and Hughes, solicitors, 25, Old Jewry; VENTOM and HUGHES, Angel-court, Throgmorton-street; and at the Auction Mart.

Freehold Ground Rent of 121*l*. per annum.

MESSRS. VENTOM and HUGHES are favoured with instructions from the proprietor, with the concurrence of the mortgagees, to submit to PUBLIC COMPETITION, at the Auction Mart, on WEDNESDAY, July 23, 1845, at Twelve, a well-secured GROUND-RENT of 121*l*. arising from the following extremely valuable property, formerly No. 4 and 5, which have been pulled down, and within the last eight years a substantial brick-built modern residence, spacious glazed-fronted shop and warehouses, have been erected, being No. 5, Tottenham-court-road, the corner of Hanway-street, with a separate entrance from the same, occupied by Mr. James Franklin, as a silversmith and pawnbroker; also, two brick-built Houses with shops, Nos. 1 and 15 in Hanway-street, in the tenure of Messrs. Swan and Stone. The whole of the above are on lease to Mr. James Franklin for a term of 60 years, whereof 51 are unexpired, at a ground-rent of 121*l*.

NOTE.—The reversionary interest in the above is very valuable, the whole being of the annual value of 400*l*.

Printed particulars may be had of Messrs. Overton and Hughes, solicitors, 25, Old Jewry; Messrs. VENTOM and HUGHES, Angel-court, Throgmorton-street; and at the Auction Mart.

Donaldson's Buildings, in the rear of Hanway-street, Tottenham-court-road. Freehold Houses, producing 32*l*. per annum.

MESSRS. VENTOM and HUGHES have received directions from the proprietors, with the concurrence of the mortgagees, to SELL by AUCTION, at the Mart, on WEDNESDAY, 23rd July, 1845, at Twelve, TWO FREEHOLD BRICK-BUILT HOUSES, formerly 6 and 7, Donaldson's Buildings, Tottenham-court-road, forming the rear of the two houses numbered each 14 in Hanway-street, on lease to Mrs. Rees, whereof 14 years are unexpired, at a rent of 32*l*.—May be viewed. Printed particulars may be had of Messrs. Overton and Hughes, solicitors, 25, Old Jewry; VENTOM and HUGHES, Angel-court, Throgmorton-street; and at the Auction Mart.

FREEHOLD HOUSE, and glazed-fronted OIL and COLOUR WAREHOUSE, Tottenham-court-road. By VENTOM and HUGHES, at the Auction Mart, on WEDNESDAY, 23rd July, 1845, at Twelve, by order of the proprietors, and with the concurrence of the mortgagees, a desirable Freehold brick-built House, with stuccoed and glazed-fronted Shop, warehouse behind, with side entrance from the court, on lease to Mr. David Bowman, oil and colourman (who paid a premium for the granting of the same), whereof 6 years are unexpired, at the low rent of 60*l*. but of the annual value of 100*l*.—May be viewed by permission of the tenant; printed particulars had of Messrs. Overton and Hughes, solicitors, 25, Old Jewry; Messrs. VENTOM and HUGHES, Angel-court, Throgmorton-street; and at the Auction Mart.

FREEHOLD BAKER'S SHOP and RESIDENCE, No. 2, Tottenham Court-road. By VENTOM and HUGHES, at the Auction Mart, on WEDNESDAY, July 23, 1845, at Twelve, by order of the proprietors, and with the concurrence of the mortgagees, a substantial brick-built Residence, in excellent repair, with a glazed-fronted shop, and separate entrance, with flour store and bakehouse, being No. 2, Tottenham Court-road, the Oxford-street end, on lease to Mr. John Lansdall (who paid a premium), whereof thirteen years are unexpired, at the low rent of 60*l*. but of the presumed annual value of 100*l*.—May be viewed by permission of the tenant, and printed particulars had of Messrs. Overton and Hughes, solicitors, 25, Old Jewry; VENTOM and HUGHES, Angel-court, Throgmorton-street; and at the Auction Mart.

TOTTENHAM COURT ROAD.—Freehold Brick-built House, with glazed-fronted shop. By VENTOM and HUGHES, at the AUCTION MART, on WEDNESDAY, July 23, 1845, at Twelve, by order of the proprietors, and with the concurrence of the mortgagees, a desirable brick-built RESIDENCE and BUSINESS PREMISES, being No. 1, Tottenham-court-road, in the occupation of Moore and others; on lease to Mr. Barnes, whereof 14 years are unexpired, at the low rent of 73*l*. 10*s*. but of the annual value of 100*l*.—May be viewed by permission of the tenants; printed particulars had of Messrs. Overton and Hughes, solicitors, No. 25, Old Jewry; Messrs. VENTOM and HUGHES, Angel-court, Throgmorton-street; and at the Auction Mart.

FREEHOLD FACTORY, RESIDENCE, and BUILDINGS, St. Bartholomew-close, West Smithfield. By VENTOM and HUGHES, at the Auction Mart, on WEDNESDAY, 23rd July, 1845, at Twelve, by order of the proprietors, and with the concurrence of the mortgagees, a very desirable and extensive FREEHOLD ESTATE, being Nos. 41 and 42, St. Bartholomew-close, comprising a respectable brick-built residence, spacious factory, small residence, stable, workshop, and large fore-court inclosed by iron railing. Let on two leases to Mr. Robert Burgh, frieze and lace [illegible], which will expire in 1851 and 1863, at very low rents, amounting to 92*l*. and of the annual value of 150*l*.—May be viewed by permission of the tenant; printed particulars had of Messrs. Overton and Hughes, solicitors, 25, Old Jewry; VENTOM and HUGHES, Angel-court, Throgmorton-street; and at the Auction Mart.

THE MANOR HOUSE, KENTISH-TOWN. Eligible COPYHOLD ESTATE. By VENTOM and HUGHES, at the Mart, on WEDNESDAY, 23rd July, 1845, at Twelve, by direction of the proprietors, with consent of the mortgagees, the "MANOR HOUSE," being a brick-built residence, seated within its own grounds, containing five chambers, drawing and dining rooms, breakfast parlour, domestic offices, large-size garden and green-house, delightfully situated in the rear of Willow-walk, Kentish-town, in the occupation of Mrs. Tharratt, a yearly tenant, at the low rent of 30*l*. The above is subject to a trifling quit rent and nominal fine.

May be viewed by permission of the tenant; printed particulars had at the Mother Red Cap, Kentish-town; Messrs. Overton and Hughes, solicitors, 25, Old Jewry; VENTOM and HUGHES, Angel-court, Throgmorton-street; and at the Auction Mart.

[illegible] art, on THURSDAY, July 24, at Twelve, the above highly important and distinguished PROPERTY, universally acknowledged as the most attractive place of public amusement in England; comprising about eleven acres of land close to the metropolis, together with the numerous erections thereon, including the pavilion, handsome supper and ball rooms, ballet theatre, spacious rotunda, elegant orchestra, noble range of covered walks, with temples, extensive firework gallery, gasometer, engine-house, workshops, and other appendages; also, two residences, with the hotel and business premises, stabling, coach-house, &c. The property is nearly equal to freehold, being copyhold of inheritance under the Duchy of Cornwall, subject to the usual fine on death or alienation, and to a trifling quit rent. It is admirably adapted for a building operation on an extensive scale, whereby ground-rents of several hundred pounds per annum may be secured, in addition to the large annual rental that may be immediately commanded for the portion devoted to public amusements.—Printed particulars, with plans, may be had of Messrs. Crosse and Sons, solicitors, Hatton-court, Threadneedle-street; at the Auction Mart; and at Messrs. MUSGROVE and GADSDEN'S Offices, 18, Old Broad-street, City.

A Reversionary Interest to House Property, producing nearly 1,200*l*. a year, at the expiration of twenty-eight years, for a period of fifteen years from that time.

MESSRS. MUSGROVE and GADSDEN are directed to SELL by AUCTION, at the Auction Mart, on Wednesday, July 9, at Twelve, in one lot, a LEASEHOLD ESTATE, in the parish of St. Marylebone, presenting a favourable opportunity for a speculative or family investment, consisting of numerous houses and shops in Crawford-street, Homer-row, Homer-street, Circus-street, Quebec-street, Thornton-place, and Salisbury-mews, with a factory and other buildings, yards, and appurtenances; let by various under leases, expiring in 1873, 1876, and 1877. The property is altogether held under E. B. Portman, Esq. until Lady-day, 1888.—Printed particulars, with plans annexed, of E. and B. Harrison, solicitors, Southampton-buildings, Holborn; at the Auction Mart; and at Messrs. MUSGROVE and GADSDEN'S Offices, 18, Old Broad-street, City.

FAMILY MANSION and LANDS, Upper Deal, Kent. For SALE by AUCTION, by Messrs. SPAIN and CASTLE, at the Royal Hotel in Deal, on the 31st July, 1845, between one and two o'clock in the afternoon, in nine lots.

Lot 1. A singularly desirable FREEHOLD ESTATE, at Upper Deal, consisting of a substantial family mansion, known as Upper Deal House, comprising handsome entrance-hall, with marble floor in mosaic, fine old staircase, excellent dining-room and breakfast parlour opening on the lawn, good drawing-room, very superior bed-rooms, and dressing-rooms attached, servants' rooms, laundry, spacious kitchen, butler's pantry, water-closet, and all other necessary domestic offices, coach-house, stabling, dovecote, and poultry-yard, and numerous out-buildings. Together with two very productive kitchen gardens, large fruit garden, beautiful lawn and pleasure grounds, surrounded with a profusion of evergreen shrubs, interspersed with fine clipped holly, laurel, and yew hedges, in the old style, and the whole laid out with considerable taste. Likewise a large inclosure of paddock or meadow land and orchard ground in park style, dotted with trees, and belted on two sides with a fine row of thriving forest trees, and on the other two sides by lofty walls. The mansion-house and the lands, which contain by admeasurement 8a. 3r. 2p. little more or less, are in one inclosure. The house, which opens on the lawn, has a fine view in that direction over the property, and commands from other parts extensive land and sea-views. The land is of the best quality, and the estate is adapted for the reception of a family of the first respectability, and, although retired, is within a short mile of the town of Deal, and the same distance from Deal and Walmer Castle, in a neighbourhood the most respectable, and in a place remarkable for its salubrity. The estate is now, and has been for many years, the residence of James Cooper, esq.

Lots 2, 3, 4, 5, 6, 7, 8, and 9, comprise several pieces of very superior Arable and Meadow Land, adjoining and contiguous to Lot 1, containing altogether about 12a. 2r. 26p. and all freehold except about 2a. 3r. 39p. which is leasehold, and held under his Grace the Archbishop of Canterbury.

The above estates produce a clear rental of 149*l*. per annum, and present a very desirable opportunity for investment.

For further particulars apply to Messrs. Mercer and Edwards, solicitors, Deal; or to Mr. Mercer, solicitor, Ramsgate; or Messrs. Austen and Hobson, solicitors, Raymond-buildings, Gray's-inn, London; at whose offices maps of the estates can be seen, and of whom particulars, with plans, can be obtained seven days prior to the sale.

LONDON:—Printed by HENRY MORRELL COX, of 74, Great Queen Street, in the Parish of St. Giles in the Fields, in the County of Middlesex, Printer, at his Printing Office, 74 & 75, Great Queen Street aforesaid, and published by JOHN CROCKFORD, of 29, Essex Street, Strand, in the Parish of St. Clement Danes, in the City of Westminster, Publisher, at the Office of the LAW TIMES, No. 29, Essex Street aforesaid, on Saturday, the 5th day of July, 1845.

THE LAW TIMES,

AND JOURNAL OF PROPERTY,

The Legislator, the Magistrate, and the Lawyer.

Vol. V. No. 119.] SATURDAY, JULY 12, 1845. (GRATIS DOUBLE NUMBER.)

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LAW.—WANTED for a permanency, in a Country office, a steady CLERK, who can copy and engross neatly and expeditiously. No one need apply who cannot produce high testimonials as to character.
Apply to Mr. BENSON, Bookseller, Weymouth, Dorset.

WANTED in an Attorney's Office, a NOTARY PUBLIC, to act also as a Clerk in the Office.
Apply, by letter, to A. B., Mr. W. P. Mitcham's, 5, Red Lion Passage, Red Lion-square, Holborn.

LAW.—A CLERK of unexceptionable character, fully competent to the management of the Conveyancing department, Common Law, and Chancery, in an Office of limited practice in the country. One who has not been articled would be preferred.
Applications, stating age, salary, qualifications, where last employed, and whether articled, to be made by letter, addressed J. B. at the Office of the LAW TIMES.

Situations Wanted.

LAW.—A Gentleman who has had the Management of the Conveyancing department in an office of the first respectability in London, wishes to obtain a similar APPOINTMENT in an office of extensive practice in the country, and, if required, to take the general conduct of the business in the absence of the principal. Satisfactory testimonials will be given.
Address to A. B. care of Mr. Gregory, law stationer, 7, Cook's-court, Lincoln's-inn.

Partnerships Wanted.

TO SOLICITORS.—A Gentleman of gentlemanly habits and experience is desirous of a PARTNERSHIP with a Solicitor of honourable principles and good repute, and practice chiefly Conveyancing, who may be desirous of shortly RETIRING from the Profession. The sea-coast would be preferred. Address X.Y. care of C. Cotes, esq. 19, Michael's-place, Brompton, Middlesex.

LAW PARTNERSHIP.—A Gentleman who served his Clerkship in the country, has since been in the chambers of a conveyancer, and recently admitted, is desirous of purchasing a share of a respectable business in the county of Kent. The most satisfactory references will be given. Terms are not so much a consideration as a desirable engagement.
Address A. A. Messrs. Butterfield and Venour, 5, Gray's-inn-square.

LAW PARTNERSHIP.—A Solicitor of about four years' standing, desirous of being actively engaged in the conduct of a well-established Practice in the country, wishes to negotiate for a PARTNERSHIP. The Advertiser is prepared to pay a Premium.
Address G., Mr. Showler, Law Stationer, Cursitor-street, Chancery-lane.

TO SOLICITORS, SURVEYORS, RAILWAY PROJECTORS, and OTHERS.—SWINFORD, BROTHERS, LITHOGRAPHIC DRAUGHTSMEN and PRINTERS, 276, Strand, have every facility for the execution of any description of Railways, Maps, Plans, Sections, &c. in the best style of the art. Every branch is executed by writers and artists of first-rate talent, thereby ensuring the utmost despatch with the strictest punctuality.

CHAMBERS or OFFICES in the immediate vicinity of Lincoln's Inn.—To be LET, a suite of Three lofty, spacious, and commodious ROOMS on the Ground Floor, with a strong room, and other accommodations completely independent of the house, which is one of the first respectability, and occupied by the proprietor as a private residence.
For terms and cards to view, apply to Messrs. VENTOM and HUGHES, Angel-court, Throgmorton-street, City.

Eligible small investment.—Rent-charge in lieu of Tithes.
TO BE SOLD by PRIVATE CONTRACT, a Perpetual RENT-CHARGE, in lieu of Tithes; Great Tithes commuted under the Tithe Commutation Act, at 35*l*. 10*s*. arising from a farm in North Essex.
For further particulars apply to Mr. ARCHER, Solicitor, Stowmarket, Suffolk.

SOUTHAMPTON DOCKS.—The Company are receiving LOANS on DEBENTURE, secured on mortgage, under the provisions of the Company's Act, in sums of not less than 200*l*. and for the term of five or seven years, on interest at the rate of 4*l*. per cent. per annum, payable half-yearly at the London and County Bank, 71, Lombard-street, London. Tenders to be addressed to the Secretary.
By order of the Court of Directors,
GEO. SAINTSBURY, Sec.
Southampton Dock-office, 19, Bishopsgate within,
London, June 26, 1845.

DEEDS FOR EXECUTION ABROAD.—Messrs. J. and R. M'CRACKEN, Foreign Agents, No. 7, Old Jewry, beg to inform the Legal Profession, that they undertake to forward Deeds for Execution by Parties abroad, through their correspondents on the Continent, for the costs of transmission, and a simple Commission.
List of Correspondents, and for further information, apply as above.

In Chancery.—Between Jane Calvert, widow, and Others, Plaintiffs; Edward Godfrey and Others, Defendants.—Kneller Hall, and Estate of 103 acres, at Whitton, in the County of Middlesex.

MESSRS. DRIVER have been favoured with instructions, pursuant to an Order of the High Court of Chancery and the provisions of an Act of Parliament, and with the approbation of Samuel Duckworth, esq., one of the Masters of the said Court, to offer to PUBLIC COMPETITION, at the Auction Mart, Bartholomew-lane, on FRIDAY, 25th July, at Twelve, in one lot,
A highly valuable improvable ESTATE, free of great tithes and exonerated from the land-tax, part Freehold and part Copyhold, but being held under the Manors of Isleworth Sion and Isleworth Rectory, may be considered equal to freehold, the fines and quit-rents being small fixed sums, most eligibly situate at Whitton, a short distance from Twickenham, in a beautiful part of the county of Middlesex, and only 11 miles from London; comprising a capital and noble Mansion, known as Kneller Hall, replete with every accommodation for a family of the first respectability, most delightfully seated in park-like grounds, with ornamental pleasure grounds, beautiful lake, luxuriant plantations, lawn, parterres, gravel walks, conservatory, green-house, graperv, capital kitchen gardens, gardener's cottage, farm-house and homestead, and sundry parcels of rich meadow land, containing in the whole, including about seven acres of productive arable and garden ground, nearly 103 acres.
To be viewed by applying on the premises. Printed specifications, with plans annexed, may be had at the Master's Chambers, Southampton-buildings, Chancery-lane; of Messrs. Vandercom, Comyn, Cree, Law, and Comyn, solicitors, 23, Bush-lane; at the King's Head, Twickenham; Pigeons, Brentford; Star and Garter, Richmond; at the Auction Mart, near the Bank of England; and of Messrs. DRIVER, surveyors and land agents, No. 8, Richmond-terrace, Parliament-street.

ESSEX.—Sundry valuable compact Freehold Farms, comprising together nearly 2,400 acres.—To be sold in separate lots, including the valuable Manors of Hempstead and Woodhall, otherwise Spaine's End, desirably situate about miles from Saffron Walden, 14 from Braintree, and only 42 from the Metropolis. By Messrs. Driver, at the Auction Mart, London, on Friday, the 1st of August, at Twelve o'clock, in 15

MESSRS. DRIVER have received directions to SUBMIT the above FREEHOLD ESTATE in sundry Lots for the convenience of purchasers who are desirous of making eligible investments in freehold land. The farms are very compact, and are now in the occupation respectively of Mr. Samuel Myhill, Mrs. Rutland, Mrs. Horner, Mr. Mark Major, Mrs. Green, and other very respectable yearly tenants, and there are some very valuable woods in hand, together with two manors. This property is situate adjoining excellent roads, within the parishes of Hempstead, Great and Little Sampford, and Finchingfield, in the county of Essex.
Printed specifications, with plans annexed, will be ready for delivery after the 7th of July, and may then be had at the White Hart, Braintree; Black Boy, Chelmsford; Rose and Crown, Saffron Walden; Crown, Hockrell; Red Lion, Great Sampford; at the Auction Mart, near the Bank; of Messrs. Clarke, Fynmore, and Fladgate, solicitors, Craven-street, Strand; and of Messrs. DRIVER, Surveyors and Land Agents, 8, Richmond-terrace, Parliament-street, London.

BROOK-GREEN, HAMMERSMITH.—Desirable Dwelling-house, with Coach-house, Stabling, Gardens, Cottages, Buildings and Paddock of about 5 acres, presumed to contain superior Marle and Brick Earth.

MESSRS. DRIVER are instructed by the Devisees in Trust of the late Edward White, esq. to OFFER to PUBLIC COMPETITION at the Auction Mart, Bartholomew-lane, on Friday, the 25th of July, at Twelve o'clock, in One Lot,—A very valuable COPYHOLD ESTATE, Land-tax redeemed, held of the manor of Fulham, but nearly equal to Freehold, being subject only to a small fine certain of 9*s*. 6*d*. on death or alienation, comprising a commodious Dwelling house, with Coach-house, Stabling, Barn, Outbuildings, Gardens, four Cottages, and a Paddock, the whole comprising above 5 acres, most eligibly situate at Brook-Green, in the hamlet of Hammersmith, county of Middlesex, with a valuable Building Frontage, of above 337 feet towards the Green, and only about four miles from London. The above premises are now in the occupation of Messrs. Strong, under a lease for 21 years, which will expire at Michaelmas, 1845, when possession may be had on completion of the purchase.
To be viewed by permission of the tenants, and printed specifications, with plans annexed, may be had of Messrs. Young, Vallings, and Young, solicitors, St. Mildred's-court, Poultry; of Mr. Thomas Long, 48, Little Britain; at the Auction Mart, near the Bank of England; and of Messrs. DRIVER, Surveyors and Land Agents, 8, Richmond-terrace, Parliament-street.

Sales by Auction.

SUSSEX and HANTS.—The extensive Freehold Manors of Prinsted and Nutbourne, in the Parish of Westbourne, County of Sussex, with all rights, members, and appurtenances thereto belonging; also two Freehold Dwelling Houses, Land-tax redeemed, delightfully situate in Norfolk-crescent, Hayling Island, Havant.

MESSRS. DRIVER are instructed to offer to PUBLIC COMPETITION, at the Auction Mart, Bartholomew-lane, on Friday, the 25th of July, at Twelve o'clock, in Three Lots, sundry important FREEHOLD ESTATES, comprising the valuable and extensive MANORS of PRINSTED and NUTBOURNE, in the parish of Westbourne, county of Sussex, with Courts Baron, fines arbitrary, heriots, royalties, rights, members, and other appurtenances thereto belonging, contiguous to each other, near Emsworth, about five miles from Chichester and thirteen from Portsmouth, producing in quit rents, fines, and heriots, on the average, nearly 150*l*. per annum. Likewise TWO FREEHOLD DWELLING HOUSES, land-tax redeemed, most delightfully situate in Norfolk-crescent, in front of the Esplanade, on the south beach of that fashionable watering-place, Hayling Island, near Havant, on the Hampshire coast, sheltered from the strong gales from the south-west by the Isle of Wight, and commanding very rich and interesting land and sea views of that delightful island, as well as Spithead, Cumberland Fort, and other beautiful scenery.
Printed specifications may be had at the Royal Hotel, Hayling; the Bear, Havant; Dolphin, Chichester; George, Portsmouth; of William Padwick, esq. Hayling Island; of Messrs. Downes, Gamlen, and Scott, 7, Furnival's-inn; at the Auction Mart, near the Bank of England; and of Messrs. DRIVER, Surveyors and Land Agents, 8, Richmond-terrace, Parliament-street, London.

HAMPSHIRE.—A highly valuable and delightful Freehold Estate called Sopley Park, comprising a commodious Mansion-house, environed with plantations, with its beautiful park and other lands, containing in the whole about eighty-two acres, most eligibly situate in the Valley of the Avon, contiguous to the New Forest, and a short distance from the sea.

MESSRS. DRIVER are favoured with instructions to offer to PUBLIC COMPETITION, at the Auction Mart, Bartholomew-lane, on Friday, the 25th of July, at twelve o'clock, in one lot, a very valuable FREEHOLD ESTATE, known as SOPLEY PARK, most eligibly situate in a remarkably genteel and select neighbourhood, and surrounded with excellent roads, only five miles distant from Mudiford, seven from Bournemouth, three from Christchurch, six from Ringwood, twenty-three from Southampton and within a few hours' ride of London, and which will be further reduced when the projected railway to Dorchester is completed. The Mansion-house is situate on an eminence in the centre of a park of about forty-six acres, commanding most extensive views of the rich forest and other scenery, containing good entrance-hall; dining-room, 20 feet by 17 feet; drawing-room, 20 feet 3 inches by 17 feet 5 inches; library, 18 feet by 15 feet; study, 13 feet by 11 feet, and a gentleman's room and water-closet; four principal airy bed-chambers, and a dressing-room, and four servants' rooms. The domestic offices comprise a servants' hall, kitchen, scullery, china-closet, pantry, capital arched cellaring, and a well of excellent water; lawn, with parterres and plantations, excellent kitchen garden; stabling for five horses, coach-house, and other requisite outbuildings. The park and other lands comprise in the whole about eighty-two acres of rich arable, meadow, and pasture land, which for richness of soil is not to be surpassed in this luxurious valley. The New Forest Hounds are within an easy distance, and immediate possession may be had of the house and thirteen acres. The remaining seventy acres being let to yearly tenants at rents producing about 220*l*. per annum, that the whole estate may be fairly estimated at 300 guineas per annum.
To be viewed on application to Anthony Brent, the gardener; and printed specifications, with plans annexed, may be had at Matcham's Hotel, Southampton; the Hotel, Christchurch; the Bath Hotel, Bournemouth; of Robert Davy, esq. Solicitor, Ringwood; at the Auction Mart, near the Bank of England, and of Messrs. DRIVER, Surveyors and Land Agents, 8, Richmond-terrace, Parliament-street, London.

MIDDLESEX.—A Valuable Grass Farm of 86 acres, most delightfully situate at Roxeth-green, near Harrow.

MESSRS. DRIVER are instructed to offer to PUBLIC COMPETITION, at the Auction Mart, near the Bank of England, on Friday, the 1st of August, at Twelve o'clock, in one lot, a very desirable and valuable GRASS FARM, part freehold and part copyhold, and the principal portion free from land-tax, most desirably situate at Roxeth-green, near Harrow, in the county of Middlesex, only about ten miles from London, and within two miles of the London and Birmingham Railway station at Harrow, comprising 86 acres of productive meadow land, with a newly-erected farm-house and all requisite agricultural buildings, in the occupation of Mr. John Hill, under an agreement for a lease, at the moderate rent of 150*l*. per annum.
Printed specifications, with plans annexed, may be had at the King's Head, Harrow; Red Lion, Southall; Crane, Edgware; of Messrs. Allen, Gylby, and Allen, solicitors, 17, Carlisle-st. Soho-square; and of Messrs. DRIVER, Surveyors and Land Agents, 8, Richmond-terrace, Parliament-street, London.

BERKSHIRE.—Valuable Estate, called Oakley Place, comprising a very commodious Family Residence and desirable Farm, of about 182 acres, most eligibly situate in the parish of Bray, only 2¼ miles from Windsor and within a short distance of the Great Western Railway stations at Slough and Maidenhead.

MESSRS. DRIVER are favoured with instructions to offer to PUBLIC COMPETITION, at the Auction Mart, Bartholomew-lane, on Friday, the 25th of July, at Twelve o'clock, in one lot, a very desirable ESTATE, comprising a commodious FAMILY RESIDENCE, called OAKLEY PLACE, with a productive Farm of 182 acres of rich arable and meadow land, most eligibly situate in the parish of Bray, in an excellent neighbourhood, and contiguous to the frequent meets of her Majesty's stag-hounds and to a pack of fox-hounds, only 2¼ miles from Windsor, 3 from Maidenhead, 16 from Reading, and 10 from Uxbridge, all capital market-towns, and only a short distance from the Great Western Railway stations at Slough and Maidenhead. The house is very pleasantly situate in the centre of the estate, commanding most extensive views of the rich surrounding scenery, and contains good entrance-hall, dining-room, drawing room, and breakfast-room, 7 bed-chambers, excellent paved kitchen, back kitchen and scullery, with man-servant's room over, and in the basement is a good dairy, and coal, beer, and wine cellars, paved domestic yard, stabling for three horses, a loose box and a coach-house; the lawn and pleasure-grounds are tastefully displayed, and there is an excellent walled kitchen garden. The agricultural buildings are very complete, and comprise stabling for five cart-horses, sundry barns, cow-houses, cattle-sheds, and other useful buildings, with cottage and gardens in two tenements, the whole forming a most desirable estate either for occupation or investment. The estate is ancient demesne or suit-hold of the Manor of Bray, and is equal to freehold. It is subject to a heriot of the best beast on death, but not on alienation.

To be viewed by applying on the premises, and printed particulars, with plans annexed, may be had at the Bear Inn, Maidenhead; White Hart Inn, Windsor; the Hotel at the Slough station; of W. J. Ward, ... itor, Maidenhead; William Trumper, esq. Dorney, near Maidenhead; at the Auction Mart, Bartholomew-lane; and of Messrs. DRIVER, Surveyors and Land Agents, 8, Richmond-terrace, Parliament street, London.

Freehold Estate, land-tax redeemed.—A modern-built Mansion and 11 acres of Land, Wandsworth, Surrey, many parts of which are very eligible for building purposes.

MESSRS. NEWTON and APPLETON are favoured with the instructions of the respected proprietor peremptorily to SELL by AUCTION, at the Mart, on WEDNESDAY, July 16, at Twelve, in 22 lots, a highly desirable and every way important FREEHOLD ESTATE of 11 Acres of Land, with a modern-built Mansion thereon comprehending all the requirements for a large respectable family ... erlo ... ng the ... guished as the Orchard Estate; a site of unparalleled beauty, inviting the erection of detached villas, &c. for occupation or letting, or the realizing of a secure permanent income in freehold ground-rents. The above mansion may easily be converted into two family residences, or suitable for a public establishment. Full descriptive particulars, with plans, at the several inns named in the posting bills; of Mr Newton, Rosebank, Hampton court; Messrs. Robinson and Barlow, solicitors, 20, Essex-street, Strand; and Messrs. NEWTON and APPLETON, Auctioneers and Estate Agents, 7, Mansion-house-street City.

CLIFF HOUSE, Warwick. To be LET on Lease, for five and a quarter, twelve and a quarter, or nineteen and a quarter years, from the 29th of September next, with or without the furniture, a most genteel modern Family Villa, the residence of Robert Wheeler, esq. replete with every possible convenience, and delightfully situated within a mile and a half of the celebrated Royal Leamington Spa, and within ten minutes' walk of the pleasant town of Warwick, commanding a beautiful picturesque view of the towers of Warwick Castle and the churches. It comprises entrance-hall, breakfast, dining, and drawing rooms, and ante-room; four best chambers, with three dressing-rooms, ladies'-maid's room, back staircase, and servants' apartments, store-room, &c.; excellent wine and beer cellars, most convenient domestic offices, spacious stabling for five horses, with lofts over; yard, with double coach-house, harness-room, and excellent coachman's-room; extensive pleasure and kitchen gardens, in a high state of cultivation, containing about three and a half acres, vinery, with vines in full bearing, and a greenhouse, with choice flowers and shrubs. Twelve acres of excellent grass land on rental.

The house is a short distance from the road, and is approached by a carriage drive, with a convenient and handsome lodge; is centered in the middle of the Warwickshire Hunt, and is within ten minutes' walk of the Railway Station.

For further particulars, and for cards to view apply at the offices of Mr LOVEDAY, Solicitor, Warwick.

HAMPSTEAD.—Two excellent Residences, with Gardens and Meadow Land, situate on the rise of Hampstead-hill, held under the Dean and Chapter of Westminster, at a merely nominal rent.

MESSRS. RUSHWORTH and JARVIS are directed by the Executors of Edward Whiteside, esq. to SELL by AUCTION, at Garraway's, FRIDAY, August 15, at Twelve, in one lot, a PAIR of substantial FAMILY RESIDENCES, standing at an agreeable remove from the road, one of which, with garden and stabling, at present in the occupation of Mrs. Wellaston, with whom arrangements are made for immediate possession if required; the other having the additional advantage of more than two acres of pleasure grounds and meadow land, will be sold, subject to a lease at a peppercorn rent, which expires at Lady-day next, and is at present in the occupation of John Innes, esq. The property is held for three lives, and, being renewable in the customary manner, it is nearly equal to freehold, and affords a favourable opportunity for securing a very desirable residence or a good investment.

The house may be viewed by permission of the tenants, and particulars had at the Red Lion, Hampstead; of Messrs. Burgoynes, Thrupp, and Clark, solicitors, 160, Oxford-street; and at the offices of Messrs. RUSHWORTH and JARVIS, Saville-row, Regent-street, and 19, 'Change-alley, Cornhill.

FAMILY MANSION and LANDS, Upper Deal, Kent. For SALE by AUCTION, by Messrs. SPAIN and CASTLE, at the Royal Hotel in Deal, on the 31st July, 1845, between one and two o'clock in the afternoon, in nine lots.

Lot 1. A singularly desirable FREEHOLD ESTATE, at Upper Deal, consisting of a substantial family mansion, known as Upper Deal House, comprising handsome entrance-hall, with marble floor in mosaic, fine old staircase, excellent dining-room and breakfast parlour opening on the lawn, good drawing room, very superior bed-rooms, and dressing-rooms attached, servants' rooms, laundry, spacious kitchen, butler's pantry, water-closet, and all other necessary domestic offices, coach-house, stabling, dovecote, and poultry-yard and numerous out buildings. Together with two very productive kitchen gardens, large fruit garden, beautiful lawn and pleasure ground surrounded with a profusion of ... ersed with fine clipped holly, laurel, and yew hedges, in the old style, and the whole laid out with considerable taste. Likewise a large inclosure of paddock or meadow land and orchard ground in park style, dotted with trees, and belted on two sides with a fine row of thriving forest trees, and on the other two sides by lofty walls. The mansion-house and the lands, which contain by admeasurement 8a. 3r. 2p. little more or less, are in one inclosure. The house, which opens on the lawn, has a fine view in that direction over the property, and commands from other parts extensive land and sea views. The land is of the best quality, and the estate is adapted for the reception of a family of the first respectability, and, although retired, is within a short mile of the town of Deal, and the same distance from Deal and Walmer Castle in a neighbourhood the ... respectable, and in a place remarkable for its salubrity. The estate is now, and has been for many years the residence of James Cooper, esq.

Lots 2, 3, 4, 5, 6, 7, 8, and 9, comprise several pieces of very superior Arable and Meadow Land, adjoining and contiguous to Lot 1, containing altogether about 12a. 2r. 26p. and all freehold except about 2a. 2r. 20p. which is leasehold, and held under his Grace the Archbishop of Canterbury.

The above estates produce a clear rental of 150*l.* per annum, and present a very desirable opportunity for investment.

For further particulars apply to Messrs. Mercer and Edwards, solicitors, Deal; or to Mr. Mercer, solicitor, Ramsgate; or Messrs. Austen and Hobson, solicitors, Raymond-buildings, Gray's-inn, London; at whose offices maps of the estates can be seen, and of whom particulars, with plans, can be obtained seven days prior to the sale.

Upper Holloway, Seven Sisters'-road.—Five Acres of Freehold Building Ground.

MR. SINGLE will SELL by AUCTION, at the Mart, on Tuesday, July 15, at 12 for 1 (unless previously disposed of by private contract), about Five Acres of FREEHOLD BUILDING GROUND, land tax redeemed, situate in the preferable part of Upper Holloway, about three miles from the City, on the high road known as the Seven Sisters'-road, which leads direct from the West-end to Tottenham. The estate is laid out as a square, called Holloway-square, and wide roads are already made up, so that it is at once eligible for the erection of houses. Particulars will be ready in due time, and may be obtained of Mr Thomas Pryer, solicitor, 17, Pavement, Finsbury; and of Mr. SINGLE, 34, Coleman-street, City.

South of Devon.—Pitt Estate, Mansion, and Grounds (33 acres), delightful Farm Residence and capital Farm (137 acres), one of the most picturesque spots in England.

MR. SINGLE has now surveyed PITT ESTATE, and feels much pleasure in giving a more detailed description than heretofore. The SALE will take place at the Auction Mart, London, on Tuesday, the 15th day of July, at 12 for 1 o'clock, and particulars, with plans and a sketch of the residence, are ready for applicants. It is situate in the Parish of Hennock, about one mile from Chudleigh (a post town) in the county of Devon, and ten from Exeter. After a drive from Exeter, almost unparalleled for picturesque beauty, crossing the river Teign, which winds in meandering beauty contiguous to the land, affording famous trout and salmon fishing, you approach the mansion through a park of rising ground adorned with ornamental timber, and belted with luxuriant plantations. The elevation of the mansion-house is most attractive and handsome, commanding views of indescribable beauty in endless variety, cheered and bounded by the hanging woods on Lord Clifford's estate. The seats of the Duke of Somerset, Lord Clifford, Lord Viscount Exmouth, Sir David Dunn, Alexander Adair, esq. Arthur Chichester, esq. late M. P. for Honiton, and other distinguished noblemen and gentlemen, are close at hand, so that, although secluded from almost every thing but highly picturesque beauty, it is amidst first-rate society. The residence is newly-built on a moderate ... and planned with good judgment, and does great credit to the eminent architects, Messrs. Scott and Moffat, of London. The land comprises about 33 acres, and possession can at once be obtained. At an agreeable distance stands a farm residence, with about 137 acres of most thriving orchards, capital arable and pasture land, admirably suited for a gentleman farmer, to one of which excellent members of society it is let on lease for a term of fourteen years from Lady day 1844, determinable the first seven or ten years. The lu ... wth of both the crops and trees, and the prettily w ... d park-like appearance of the whole estate, beautified as it is with hill and dale, give it a strong claim to all who are lovers of the picturesque beauty and salubrious air for which the south of Devon is proverbial. The whole lies in a ring fence, is freehold, and will be offered first in one lot, and if not sold, in five lots. It is only about one mile from Chudleigh, five and a half hours' distant from London; and the station at Newton Abbott, one of the best market-towns in the c ... nly about four miles distant from the property, will soon be completed. The estate may be viewed on application to Mr Flood, of Chudleigh, and Mr. Tosswill, the tenant of the farm; and printed particulars, with a map annexed, may be obtained of Messrs. Scott and Moffat, architects, Spring-gardens, London; Mr. Robert H. Terrell, solicitor, 14, Gray's-inn square, London; of Messrs. Watts and Whidborne, solicitors, Teignmouth, Devon; of Mr. John H. Terrell, solicitor, St. Martin's lane, Exeter; and at the offices of Mr. SINGLE, 34, Coleman-street, London, near the Bank of England.

HANTS.—110 Acres Freehold, improvable, in Five-Acre Lots.

MR. SINGLE will SELL by AUCTION, at the Auction Mart, on Tuesday, July 15, at Twelve for One, a most improvable FREEHOLD ESTATE, land-tax redeemed, desirably situate in the parish of Crondale, in the county of Hants, near the Oat Sheaf Inn, alongside the South Western Railway, about three and a-half miles from the Winchfield Station. As villas with a few acres of ground to each are much wanted in the neighbourhood, the estate, which comprises about 110 acres, will be sold in lots of about five acres each.—Particulars will be ready in due time, and may be obtained of Mr. Thomas Pryer, solicitor, 17, Pavement, Finsbury; and at the offices of Mr. SINGLE, 34, Coleman-street.

First Sale of a Portion of about 30 Acres of Freehold Building Ground, Peckham, in the centre of a complete neighbourhood; and Freehold Ground Rents.

MR. SINGLE has the pleasure to announce that he is authorized to SELL by AUCTION, at the Mart, on Tuesday, July 22, at Twelve, in lots, or to let upon building leases, or to dispose of by private contract, Five or Six Acres of invaluable FREEHOLD BUILDING GROUND, land-tax redeemed, presenting considerable frontages on the Commercial-road, James's-street, &c. Peckham, near the Rosemary Branch Tavern. The estate possesses fine rich brick earth, and is surrounded by a large and highly respectable neighbourhood. The healthfulness, pleasantness, and convenience for the City, for which it is peculiar, will cause it to be built over as rapidly as have been the various estates around it. Also Freehold Ground Rents, amply secured. Mr. Single has just surveyed it, designed roads, &c. throughout the whole property, and strongly recommends it for those desirous of making ground-rents or building for investment. In twelve months it will realize probably double its present value. Particulars of Messrs. Gregson and Kewell, solicitors, 8, Angel-court, Throgmorton-street; at the Rosemary Branch Tavern, Peckham; and of Mr. SINGLE, 34, Coleman-street, near the Bank.

Capital Freehold Residence at Limehouse, for Investment or Occupation.

MESSRS. HUMPHREYS and WALLEN have received instructions to SELL by AUCTION, at the Mart, on THURSDAY, July 24, at Twelve (pursuant to the Will of the late Van H. Christie, esq.), the substantial brick-built RESIDENCE, 1, Albion-terrace, Commercial-road, for many years occupied by the testator. The house is one of the best in the vicinity, and possesses all the requisites for the accommodation of a respectable family, whilst as an investment it recommends itself from the circumstance of houses in Albion-terrace being much sought after by principals in the numerous manufacturing and mercantile establishments in the neighbourhood, a fact which is attested by none of them having ever remained many days unoccupied. It is considered that the house in question would immediately let on lease at 65*l.* per annum.—To be viewed till the sale, and particulars had on the premises; of Robert Ellis, esq. solicitor, Cowper's-court, Cornhill; and at the offices of Messrs. HUMPHREYS and WALLEN, Auctioneers Surveyors, and Estate-agents, 68, Old Broad-street.

Profitable Freehold Investment, near the London and St. Katharine's Docks, with Votes for Middlesex.

MESSRS. HUMPHREYS and WALLEN have received instructions to SELL by AUCTION, at the Mart, on THURSDAY, July 24, at Twelve, in one lot, SIX FREEHOLD HOUSES, in excellent repair, being 23, Cartwright-street, Rosemary-lane, and 1 to 5, Walton's-court adjoining, in the several occupations of Messrs. M'Carthy, Hume, Crocker, Moore, and others, at yearly and monthly rents amounting to 72*l.* 2*s.* per annum. The situation of these houses, close to the Docks, will always ensure a regular class of tenants. Mr. Blake, of the King of Prussia Public-house, in Cartwright-street, will shew the houses, and particulars may be had of him; at the Mart; of James Mander, esq. solicitor, 9, New-square, Lincoln's-inn; and at the offices of Messrs. HUMPHREYS and WALLEN, 68, Old Broad-street.

RATCLIFF.—Two Freehold Houses with Shops, and a Warehouse.

MESSRS. HUMPHREYS and WALLEN ... at the Mart, on THURSDAY, June 24, at Twelve, in one lot, a desirable FREEHOLD PROPERTY, in a commanding situation at Ratcliff-cross (facing Butcher-row), consisting of the house No. 55, Broad-street, let to Mr. Fulluck, on a three years' tenantcy, at the very low rent of 40*l.*; No. 54, at present unlet, but of the like value of 40*l.*; and a warehouse at the rear, let on lease to Mr. Ray, coal owner, at 10*l.*; making together a secure income of 90*l.* per annum.—To be viewed by leave of the tenants, and particulars had at No. 54; of George Henderson, Esq. solicitor, 28, Mansell-street; at the Mart; and at the offices of Messrs. HUMPHREYS and WALLEN, auctioneers, surveyors, and estate agents, 68, Old Broad-street.

Freehold Building Land, Homerton, Middlesex, near the College and intended new Church, and in the vicinity of Victoria Park.

MESSRS. ROBERTS and ROBY will SELL by AUCTION at the Mart, on FRIDAY, July 18, at Twelve o'clock, valuable FREEHOLD BUILDING GROUND, divided into Forty-one Lots, for the convenience of small capitalists, builders, and others; most desirably situate as above, being only about two miles from London, seated on a gravelly soil, and surrounded by a populous and thriving neighbourhood, and exonerated from land tax.—To be viewed, and particulars with plans had at the Lamb and Flag, near the property of Mr. Scarborough, Tokenhouse-yard, Lothbury; Mr. Lambert, surveyor, No. 40, Coleman-street; Mr. C. Anderson, 7, Laurie-terrace, Westminster-road; Mr. Ball, Queen's Arms Tavern, Newgate-street; Auction Mart; and at ROBERTS and ROBY'S Offices, 24, Moorgate-street, Bank.

Periodical Sales (established in the year 1803) of Reversions, Life Interests, Annuities, Policies of Assurance, Advowsons, Next Presentations, Rent Charges in lieu of Tithes, Post-obit Bonds, Tontines, Debentures, Ground Rents, Improved Rents, Shares in Docks, Canals, Mines Railways, Insurance Companies, and all Public Undertakings.

MESSRS. SHUTTLEWORTH and SONS respectfully inform the public, that upwards of 40 years' experience having proved the classification of this species of property to be extremely advantageous and economical to vendors, and equally satisfactory and convenient to purchasers, the PERIODICAL SALES of reversionary interests, policies of insurance, tontines, debentures, advowsons, next presentations, all securities dependent upon human life, shares in docks, canals, mines, railways, and all public undertakings, will be continued through 1845, as follow:—

Friday, Aug. 1.	Friday, Nov. 7.
„ Sept. 5.	„ Dec. 5.
„ Oct. 3.	

Particulars may be had Ten days previous to each sale, at the Royal Hotel, Manchester; the Adelphi Hotel, Liverpool; Dee's Royal Hotel, Birmingham; the Angel, Oxford; the Eagle and Child, Cambridge; at the Mart; and of Messrs. SHUTTLEWORTH and SONS, 28, Poultry.

The venerable Castle of Herstmonceux, modern Mansion, Park, Manors, and Domain of nearly 2,300 acres, Sussex.

MESSRS. SHUTTLEWORTH and SONS have received instructions to announce for SALE by AUCTION, at the Mart, on FRIDAY, August 8, at Twelve, in several lots, the extensive and highly valuable FREEHOLD LANDED ESTATE; comprising the ancient and interesting remains of Herstmonceux Castle, the modern mansion, beautifully timbered park, pleasure-grounds, gardens, orchards, numerous eligible farms and detached lands, comprising in the whole a beautiful domain of nearly 2,300 acres of superior meadow, pasture, marsh, arable, and wood land; also the manors of Herstmonceux, Gotham, and Old Court, with the hundred of Foxearle, and the rights, royalties, and immunities thereto belonging; producing altogether a yearly revenue of about 2,700*l*. exclusive of the mansion and premises in hand. The situation is most agreeable, distant from Battle nine miles, Uckfield 15, the sea-coast five, Eastbourne 10, Hastings 15, Brighton 25, and London 59, in a finely undulated, picturesque, and sporting part of the county of Sussex, through which is now constructing the railway from Brighton to Hastings, which will add the advantages of two stations, each within six mile of this important property.

The Castle of Herstmonceux presents one of the most elaborate specimens of the Moated Palace, or Feudal Manor House, of the period of Henry VI. and constitutes an imposing feature in the surrounding scenery, and an object of general attraction. The park is well diversified by hill and vale, finely wooded and well watered, and the views from various parts embrace the adjacent rich level of Pevensey, the sea, the romantic hills towards Hastings, and the Southern Downs. The modern mansion is adapted for a family of distinction and opulence, and the church is approached within six furlongs through beautiful shrubberies and belts of timber. The manors are not only extensive and well stocked with game, but productive in fines, reliefs, quitrents, and heriots. The farms are 16 in number, cultivated with much attention to modern improvement, of which the Lime Farm, the Mill Land Farm, and other small holdings and isolated lands, will be arranged in separate lots, still leaving an ample domain, including all the wood-lands, as an appendage to the mansion. The garden of the ancient castle has also been preserved, and remains rich in fruit and the finest vegetables; there are several fish-ponds, and the preserves for game are extensive. May be viewed by application to James Young, esq. Windmill-hill, Herstmonceux, of whom in due time particulars and plans may be obtained; also of P. Gordon, esq. solicitor, Symond's-inn, London; at the George Inn, Battle; the Crown, Hailsham; the Woolpack, Herstmonceux; the Star, Lewes; the Castle, Hastings; the Old Ship, Brighton; at the Mart; and of Messrs. SHUTTLEWORTH and SONS, 28, Poultry, London.

Burwash, Sussex.—Freehold Farm and Wood Lands, Sussex.

MESSRS. SHUTTLEWORTH and SONS are instructed by the Executors of John Parkinson, esq. deceased, to SELL by AUCTION, at the Mart, on FRIDAY, August 8, a FREEHOLD ESTATE, comprising Witherhurst Farm, in the parish of Burwash, four miles from Hurst-green, six from Ticehurst, and 16 from Tunbridge-wells, in the county of Sussex, consisting of 120 acres of land, whereof about 81 are arable and pasture, and 40 acres timber and coppice, with a farm-house and agricultural buildings. The open lands are in the occupation of Mr. W. Barrow, but the wood lands are in hand. May be viewed, and particulars obtained in due time at the inns in the neighbouring towns; at the Mart; and of Messrs. SHUTTLEWORTH and SONS, 28, Poultry.

GLOUCESTERSHIRE.—Excellent Freehold Grass Farm, within two miles of Cheltenham.

MESSRS. SHUTTLEWORTH and SONS have received instructions to SELL by AUCTION, at the Mart, on FRIDAY, August 15, at Twelve, in two lots, a valuable FREEHOLD PROPERTY, comprising Ham Dairy Farm, consisting of 91 acres — roods, and — perches of most productive pasture and wood land, lying in a ring-fence, with two farm-houses and the requisite agricultural buildings; very eligibly situate in the parish of Charlton Kings, about two miles from Cheltenham, on the high London road from thence to Witney and Oxford. The estate is beautifully undulated, and possesses many fine sites for the erection of villas, commanding the most picturesque and extensive prospects, including the Malvern and Leckhampton hills, Gloucester Cathedral, and the Welsh mountains in the distance; also an inclosure of pasture land, comprising about six acres, situate a short distance from the above. The whole, with the exception of the wood-land, is in the occupation of old and respectable tenants, at rents amounting to 265*l*. per annum. May be viewed with leave of the tenants, and particulars had at the Plough, Cheltenham; the Bell, Gloucester; of Messrs. Bubb and Lingwood, solicitors, Cheltenham; at the Mart; and of Messrs. SHUTTLEWORTH and SONS, 28, Poultry.

Herne-hill, Camberwell.

MESSRS. SHUTTLEWORTH and SONS will SELL by AUCTION, at the Mart, on FRIDAY, August 8, by order of the Executors of Thomas Crosse, esq. an elegant detached VILLA RESIDENCE, beautifully situate at Herne-hill, about four miles from the several bridges, in the county of Surrey, and late in the occupation of the deceased; containing suitable apartments for a respectable family, dressing-rooms, library, elegant reception-rooms, conservatory, entrance-hall and staircase, domestic offices of every description; coach-house, stable, and other external offices, in excellent order, lawn, pleasure and kitchen gardens, shrubberies, plantations, and a paddock of rich meadow land; the whole comprising about three acres and a half. The estate is held on lease for a long term unexpired, at a low reserved rent. May be viewed, with tickets only, 14 days previous to the sale, when particulars may be had of Messrs. Crosse and Son, solicitors, Hatton-court, Threadneedle-street; at the Mart; and of Messrs. SHUTTLEWORTH and SONS, 28, Poultry.

GLOUCESTERSHIRE.—Extensive Freehold Residence, within seven acres of Land, within two miles of Cheltenham.

MESSRS. SHUTTLEWORTH and SONS have received instructions to announce for SALE by AUCTION, at the Mart, on FRIDAY, August 8, at Twelve, a valuable FREEHOLD ESTATE, comprising Ham House, a spacious residence with extensive premises, play ground, gardens, and orchards, comprising together seven acres, very eligibly situate in the rural village of Charlton Kings, within two miles of Cheltenham, for many years occupied as a scholastic establishment of the first respectability, under the direction of the Rev. Mr. Tucker, and in the occupation of that gentleman at an annual rent of 120*l*. —May be viewed with leave of the tenant, and particulars had at the Plough, Cheltenham; the Bell, Gloucester; of Messrs. Bubb and Lingwood, solicitors, Cheltenham; at the Mart, and of Messrs. SHUTTLEWORTH and SONS, 28, Poultry.

[illegible]rable Freehold and Leasehold Estates, producing 252*l*. per annum, in lots eligible for investment and occupation.

MR. MOORE will SELL by AUCTION, at the Mart, on WEDNESDAY, July 16, at Twelve, FIVE brick-built DWELLING-HOUSES, being 6 Robert street, Jubilee-place, Mile-end, each containing five rooms and garden, well let at 85*l*. per annum; term, 55 years; ground-rent for the whole, only 6*l*. per annum. Also, a brick-built Dwelling house, 4, Robert-street, let at 16*l*. per annum; term, 55 years; ground-rent, 4*l*. A six-roomed Dwelling-house, with garden, 1, North-street, Jubilee-place, near the preceding, let at 21*l*. 12*s*. per annum; term, 55 years; ground-rent, only 2*l*. 5*s*. per annum. Two newly-built Freehold Houses, 33 and 34, Eastfield-street, back of Stepney-church, containing five rooms and garden, let at 31*l*. 4*s*. per annum. Two Leasehold Houses, 37 and 38, Eastfield-street (one is a beer house), let at 32*l*. per annum, term, 66 years; ground-rent, 2*l*. each. A small Freehold House and Shop, 1, St. Ann-street, Limehouse, opposite the church, at 13*l*. per annum. And a Leasehold Estate, comprising an old-established Grocer's-shop, situate 1, Ducket-street, corner of John-street, White Horse-lane, Stepney, and two private houses adjoining, let at 55*l*. per annum; held for a long term, at a ground-rent.

May be viewed, and particulars had of A. K. Hutchison, esq. Crown-court, Threadneedle-street; S. Prentice, esq. Bedford-square, Commercial-road, J. Ellerthorp, esq. Colet-place, Commercial-road; Messrs. Hillcary, Fenchurch-street, City; at the Mart; and at the Auctioneer's Offices, Mile-end-road.

WEST DEVON.—Capital Freehold Estates, Mansion, Park, Plantations, Manors, Fisheries, together with the entire Royalty to the whole of the village or town of Lifton, four miles from Launceston, and 40 from Exeter, on the mail coach road; the property of W. A. Harris Arundell, esq.—By Messrs. HOGGART and NORTON, at the Mart, in August.

A Highly important and most valuable FREEHOLD PROPERTY, comprising the Lifton Estate, with the beautiful mansion called Lifton house, seated in a park, and surrounded by a rich domain of about 5,000 acres, lying nearly within a ring fence, intersected only by the beautiful rivers Tamar and Lead, which runs through the property, within nine hours' reach of London, forming altogether one of the finest estates in West Devon; contiguous to the parks and mansions of the noble Dukes of Northumberland and Bedford, and in the midst of the finest scenery in the county. These estates are now chiefly free from life-leases, those existing are upon advanced ages. The present income is upwards of 6,000*l*. per annum, and when the life leases drop it will exceed 9,000*l*. per annum. The mansion is approached from the mail coach road by an ornamental lodge, exclusive of other approaches, placed upon a lawn and park, sheltered by extensive and thriving plantations, through which are carriage turf drives of great extent. The mansion contains every accommodation, the principal apartments consisting of noble saloon, drawing-room, library, and dining parlour, each of the dimensions of 30 feet by 24 and 16 feet high, with offices of every description, capital kitchen gardens with walls clothed with the finest fruit trees, graperies, and greenhouse. The farms attached to this most magnificent estate are chiefly upon a strata of lime, producing the most abundant crops of corn and turnips, with a proportionate quantity of the finest feeding pastures upon each side of the rivers Tamar and Lead. There are also upon the estate two important and most extensive lime works from which the tenantry derive considerable advantage. These works supply the agriculturists of West Devon for many miles round, the limestone being of the finest quality and in great request. The particulars and plans, which are in course of preparation, will fully go into all the detail, and may be had 20 days prior to the sale of W. H. Cotterell, esq. solicitor, Throgmorton-street; at the New London Inn, Exeter; White Hart, Launceston; Inn at Oakhampton; London Inn, Lifton; at the Auction Mart; and of Messrs. HOGGART and NORTON, 62, Old Broad-street, Royal Exchange.

BERKSHIRE.—Valuable and Important Freehold Estate in the county of Berks, consisting of sundry Farms, large and small, near to the Farringdon-road Station, in the parishes of East Hanney, Goosey, Stanford, Faringdon, Lambourne, and Great Coxwell, containing altogether about 1,240 acres of land.—By Messrs. HOGGART and NORTON, at the Bear Inn, Wantage, on THURSDAY, August 28, at Twelve, in 23 lots, by order of the Devisees in Trust of the late E. P. Bastard, esq.

THESE Estates are situate in the several parishes of East Hanney, Stanford, Lambourne, Great Coxwell, Goosey, and Faringdon, comprising altogether about 1,300 acres of fine arable and rich dairy land, part in the rich Vale of White Horse, celebrated for the productiveness of its soil, and highly esteemed by agriculturists. The estates offer first-rate investments for large or small capitalists, and will be subdivided into lots as follows:—East Hanney Farm, in the parish of East Hanney, with farm-house, farm buildings, and 279*a*. 1*r*. 7*p*. of arable and pasture land, in the occupation of Mrs. Dormer. Millaway Farm, in the parish of Goosey, with farm-house, farm buildings, and 30*a*. 0*r*. 4*p*. of arable and meadow land, in the occupation of Mr. A. Barnes. Stanford Farm, in the parish of Stanford, in the Vale of White Horse, with a fine old manor-house near the church, farm buildings, and 110*a*. 1*r* 28*p*. of arable and pasture land, in the occupation of Mr. William Farrant. Stanford-park Farm, in the parish of Stanford, in the Vale of White Horse, a capital dairy farm, with a good house, farm buildings, and 310*a*. 1*r*. 1*p*. of arable, pasture, and meadow land, in the occupation of Mr. William Tarrant. Mr. Charles Hunter, and others. An excellent house in the village of Great Coxwell, with barn, stable, &c. and 79*a*. 2*r*. 15*p*. of arable, meadow, and pasture land, in the occupation of Mr. James Foreman. 66 acres, 2 roods, and 19 perches of arable and pasture land, in Eastbury-field, in the parish of Lambourne, in the occupation of Mr. Spicer. Beckhampton Farm, in the parish of Lambourne, with farm-house, farm buildings, and 92*a*. 2*r*. 9*p*. of arable and pasture land, in the occupation of Mr. Spicer. Hill's Farm, in the parish of Lambourne, with farm-house, farm buildings, 111*a*. 3*r*. 28*p*. of arable, pasture, and wood land, in the occupation of Mr. Mildenhall. The remaining lots will consist of accommodation plots of fine productive arable, meadow, and pasture land, in Bradfield, near the village of East Hanney, Goosey green, in the parish of Great Coxwell. Lambourne, and in Eastbury-field, in quantities varying from one to twenty acres. These estates may be viewed, and particulars with plans had, twenty days prior to the sale, of Messrs. Karslake and Crealock, solicitors, 4, Regent-street; Mr. Ormond, solicitor, Wantage; of Charles Bailey, esq. 5, Stratford-place; and Messrs. Phillips and Westbury, Andover. particulars also at King's Head, Abingdon; Inn at Faringdon; Bear, Reading; at the Mart; and of Messrs. HOGGART and NORTON, 62, Old Broad-street, Royal Exchange.

Eligible Investment.—Dover, Kent, four miles from the town and Railway Station, and five miles from the Folkestone Station.

MESSRS. BROOKS and GREEN will SELL by AUCTION, at the Auction Mart, on WEDNESDAY, July 23, a truly desirable and valuable FREEHOLD ESTATE, land-tax redeemed; comprising an excellent residence, with every requisite office and outbuilding productive garden and common right of pasturage, together with 180 acres of arable, meadow, and pasture land; let on lease to a very respectable tenant, at a rent of 200*l* per [illegible] printed particulars may be had at the Ship, Dover; the Pavilion, Folkestone; Messrs. Rooper, Birch, and Ingram, 1, Lincoln's inn fields; and of Messrs. BROOKS and GREEN, estate agents, surveyors, and auctioneers, 28, Old Bond-street.

UNITED KINGDOM LIFE ASSURANCE COMPANY.
TEMPORARY OFFICES DURING THE ALTERATIONS, No. 28, REGENT-STREET, WATERLOO-PLACE, LONDON.
Established by Act of Parliament in 1834.

DIVISION OF PROFITS AMONG THE ASSURED.

HONORARY PRESIDENTS.

Earl of Errol.	Earl Somers.
Earl of Courtown.	Lord Viscount Falkland.
Earl Leven and Melville.	Lord Elphinstone.
Earl of Norbury.	Lord Belhaven and Stenton.
Earl of Stair.	

DIRECTORS.

James Stuart, Esq., Chairman.
Hananel De Castro, Esq., Deputy Chairman.

Samuel Anderson, Esq.	Charles Graham, Esq.
Hamilton Blair Avarne, Esq.	F. Charles Maitland, Esq.
Edw. Boyd, Esq., Resident.	William Railton, Esq.
E. Lennox Boyd, Esq., Asst. Resident.	John Ritchie, Esq.
	F. H. Thomson, Esq.
Charles Downes, Esq.	

Surgeon—F. Hale Thomson, Esq., 48, Berners-street.

This Company, established by Act of Parliament, affords the most perfect security in a large paid-up Capital, and in the great success which has attended it since its commencement in 1834,

Its Annual Income being upwards of £72,000.

In 1841, the Company declared an addition to the Shareholders of one-half of their Stock, and also added a Bonus of 2*l*. per cent. per annum on the sum insured to all policies of the participating class from the time they were effected.

The Bonus added to policies from March, 1834, to the 31st Dec. 1840, is as follows:—

Sum Assured.	Time Assured.	Sum added to Policy.
£5,000	6 Yrs. 10 Months.	£683 6s. 8d.
5,000	6 Years	600 0 0
5,000	4 Years	400 0 0
5,000	2 Years	200 0 0

The Premiums nevertheless are on the most moderate scale, **and only one-half need be paid for the first Five Years,** where the Insurance is for Life.

Every information will be afforded on application to the Resident Directors, EDWARD BOYD, Esq., and E. LENNOX BOYD, Esq., at the Temporary Offices during the Alterations, 28, Regent-street, Waterloo-place, London.

To Readers and Correspondents.

Messrs. BANCROFT (Barnstaple.—*The note has been forwarded to the reporter. The fact is, that in consequence of the Courts sitting so unwontedly late, we have been deprived of all our regular reporters, who are at their sessions, and are obliged to get such imperfect notes as can be procured anywhere, and many cases cannot be obtained at all. The proposed new arrangements of the Terms will, we hope, remove this difficulty, which, at present, is perfectly unavoidable, and is the cause of the errors and omissions noticed by our correspondents.*

TYRO.—*There is a series of Books of Questions varying from 4s 6d. to 6s. each.*

We have received some printed resolutions of the Hull Law Society, which, for obvious reasons, we cannot publish, but we may congratulate the Society on its unflinching discharge of the painful duty of promptly vindicating the honour of the Profession. This is indeed making the Law Societies subserve the purposes for which they are established.

A SOLICITOR *stands over for next week.*

BIRTHS, MARRIAGES, AND DEATHS.

[The charge for the insertion of the above is 5s.]

BIRTHS.

WARDROPER.—On the 3rd instant, at Epsom, the wife of John Wardroper, esq. of a daughter.

MARRIAGES.

SHEA, Alexander, jun. esq. of the Middle Temple, barrister-at law, to Juana Blanca Maria Francisca, only child of the late J. M. Boschetti, esq. of Gibraltar, on the 3rd instant, according to the rites of the Catholic Church, and afterwards at St. James's church, Westminster, by the Lord Bishop of Gibraltar.

DEATHS.

ATCHERLEY, Mr. Serjeant, attorney-general for the county palatine of Lancaster, on Sunday, the 6th instant, at his house in Bedford-square, to the inexpressible regret of his family and friend.

HOPE, George, of Rugby School, eldest son of the Lord Justice Clerk of Scotland, on the 3rd instant, at Dalblair-house, Ayr, aged 14.

TOPPING, Mrs. widow of the late James Topping, esq. of Whatcroft Hall, in the county of Chester, King's counsel, on Tuesday, the 8th instant, at the Fryth, near Wrexham.

TOTTON, Stevens Dineley, esq. of Lincoln's-inn, barrister, son of the late Stevens Totton, esq. of Totton, in Hampshire, on the 4th instant, at the advanced age of 84. He was prothonotary to the court at Madras just 20 years, highly esteemed there for his knowledge of the law, and ...ster of the Malabar and ...

NECROLOGY.

LORD SEAFORD.

We regret to learn that Lord Seaford expired suddenly on Tuesday last, at Wood-lodge, near Chichester. The noble earl only ... appeared to be in the possession of excellent health, and his sudden death proved a severe shock to her ladyship and family.

Charles ..., Baron Seaford, of Seaford, county Sussex, in the peerage of the United Kingdom, was second son of Mr. John Ellis. He was ... Lady Hardy, widow of Admiral Sir Thomas Hardy, the late Governor of Greenwich Hospital.

The late lord, when Mr. Ellis, represented Seaford in the House of Commons, and from his extensive estates and property in the West Indies, was in Parliament considered as the leader of the West India interest.

In 1826, the deceased, who was a great friend of the late Mr. Canning, was raised to the peerage. By his first marriage he leaves issue Charles Augustus, Lord Howard de Walden in right of his mother, born 3rd June, 1799, and married to Lady Lucy Cavendish Bentinck, fourth daughter of the Duke of Portland, who now succeeds to the additional peerage and family estates. His lordship is envoy and minister plenipotentiary at the court of Lisbon. And the Honourable Lieutenant-Colonel Augustus Frederick Ellis (60th foot), born 17th September, 1800, and married 25th June, 1828, Miss Mary Thurlow Cuninghame, eldest daughter of Sir David Cuninghame, Bart.

His lordship was a Whig in politics, and was a constant supporter of Earl Grey and Viscount Melbourne in the late administrations, as well as the Right Hon. George Canning, during his short career of office.

THE LATE MR. SERJEANT ATCHERLEY.—The late Mr. Serjeant Atcherley, who died on Sunday, was Attorney-General of the County Palatine of Lancaster. He was called to the bar in 1810, and was made a serjeant in 1827; he had a patent of precedency. He was frequently in the habit of trying prisoners on the Northern Circuit.

THE REPORTS.

The following are the names of gentlemen who favour the LAW TIMES with the Reports:—

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EQUITY COURTS.

LORD CHANCELLOR'S COURT by RICHARD GRIFFITHS WELFORD, Esq. of the Inner Temple, Barrister-at-Law.

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NORTHERN CIRCUIT, York and Liverpool, by J. B. ASPINALL, Esq. Barrister-at-Law. The other parts of the Circuit, by G. F. H. OLEPHANT, Esq. Barrister-at-Law.

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SITTINGS AT NISI PRIUS AFTER TERM, by JOHN LANE, Esq. D.C.L. of the Inner Temple, Barrister-at-Law; E. WISE, Esq. Barrister-at-Law; and others.

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REGISTRATION APPEALS in the COMMON PLEAS by EDWARD W. COX, Esq. of the Middle Temple, Barrister-at-Law; and HENRY TINDAL ATKINSON, Esq. of the Middle Temple, Barrister-at-Law.

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May be viewed by permission of the tenant; printed particulars had at the Mother Red Cap, Kentish town; Messrs. Overton and Hughes, solicitors, 25, Old Jewry; VENTOM and HUGHES, Angel-court, Throgmorton-street; and at the Auction Mart.

Donaldson's Buildings, in the rear of Hanway-street, Tottenham-court-road. Freehold Houses, producing 32l. per annum.

MESSRS. VENTOM and HUGHES have received directions from the proprietors, with the concurrence of the mortgagees, to SELL by AUCTION, at the Mart, on WEDNESDAY, 23rd July, 1845, at Twelve, TWO FREEHOLD BRICK-BUILT HOUSES, formerly 6 and 7, Donaldson's Buildings, Tottenham-court-road, forming the rear of the two houses numbered each 14 in Hanway-street, on lease to Mrs. Rees, whereof 14 years are unexpired, at a rent of 32l.—May be viewed. Printed particulars may be had of Messrs. Overton and Hughes, solicitors, 25, Old Jewry; VENTOM and HUGHES, Angel-court, Throgmorton-street; and at the Auction Mart.

Claremont House, Kentish Town.

MESSRS. VENTOM and HUGHES have received instructions from the proprietors, with concurrence of the mortgagees, to sell by Auction at the Mart, on WEDNESDAY, July 23, 1845, at Twelve, a commodious and spacious Copyhold brick-built Family Residence, known as "CLAREMONT HOUSE," Willow Walk, Kentish Town, in good repair. It contains numerous chambers, drawing and dining room, breakfast parlour, superior domestic offices, and good garden; is in hand, and of which immediate possession may be had, and was recently let at 45l. per annum. The above is subject to a trifling quit rent and nominal fine.—May be viewed on application at the Baker's opposite, of whom printed particulars may be obtained; also at the Mother Red Cap, Kentish Town; Messrs Overton and Hughes, solicitors, 25, Old Jewry; VENTOM and HUGHES, Angel-court, Throgmorton street; and at the Auction Mart.

Freehold Ground Rent of 121l. per annum.

MESSRS. VENTOM and HUGHES are favoured with instructions from the proprietor, with the concurrence of the mortgagee, to submit to PUBLIC COMPETITION, at the Auction Mart, on WEDNESDAY, July 23, 1845, at Twelve, a well-secured GROUND RENT of 121l. arising from the following extremely valuable property, formerly No. 4 and 5, which have been pulled down, and within the last eight years a substantial brick-built modern residence, spacious glazed-fronted shop and warehouses, have been erected, being No. 5, Tottenham court-road, the corner of Hanway-street, with a separate entrance from the same, occupied by Mr. James Franklin, as a silversmith and pawnbroker, also, two brick-built Houses with shops, Nos. 1 and 15 in Hanway-street, in the tenure of Messrs. Swan and Stone. The whole of the above are on lease to Mr. James Franklin for a term of 60 years, whereof 51 are unexpired, at a ground-rent of 121l.

NOTE. The reversionary interest in the above is very valuable, the whole being of the annual value of 400l.

Printed particulars may be had of Messrs. Overton and Hughes, solicitors, 25, Old Jewry; Messrs. VENTOM and HUGHES, Angel-court, Throgmorton-street; and at the Auction Mart.

CASTLE-STREET, HOLBORN.

MESSRS. VENTOM and HUGHES are instructed to SELL by AUCTION, at the Mart, on WEDNESDAY, July 23, 1845, at Twelve, by order of the proprietors and trustees for sale, and with the ...rence of the mortgagees, an UNDIVIDED THIRD-PART or SHARE of those BRICK-BUILT PREMISES, No 12, the corner of Castle-street, Holborn, held for the residue of the term of 99 years, from the 18th day of September, 1791, containing on the third floor, two chambers; second floor, sitting-room and kitchen; first floor, large show-room; principal floor, a glazed fronted shop fronting Holborn, with long down Castle-court show-room over, and side entrance; basement, spacious dry cellar. The above-mentioned premises are let on lease to Mr. Josiah Widnell, for a term which will expire at Michaelmas, 1854, at a clear yearly rent of 100l. one-third of which will be payable to the purchaser of this lot. N. B. The premises are not subject to any ground rent.

Printed particulars may be had of Messrs. Overton and Hughes, solicitors, 25, Old Jewry; at the Auction Mart; VENTOM and HUGHES, Angel-court, Throgmorton-street; and of Mr. Brown, auctioneer, Herne Bay, Kent.

Valuable Freehold and Copyhold Property, Lincoln's-inn-Fields; West Malling, Kent; an undivided Moiety of a Copyhold House, Malting, Pasture and Arable Land at Little Wenlock, near Shrewsbury—the whole producing 174l. per an.

MESSRS. VENTOM and HUGHES have received instructions from the Trustees under the will of the late William Rowley, to SELL by AUCTION, at the Auction Mart, London, on THURSDAY, July 24, at Twelve, in Five Lots, without reserve, the following valuable PROPERTY.

Lot 1. Two spacious Freehold substantial brick-built Dwelling-houses, Nos. 27 and 28, Duke-street, the west side of Lincoln's-inn-fields; let to Messrs. Cable and Alder, at rents amounting to 84l. per annum.

Lot 2. Two Freehold brick-built Dwelling-houses, Nos. 7 and 8, Princes-street, Little Queen-street, Holborn, let to Messrs. Davis and Bealby, at rents amounting to 40l per annum.

Lot 3. A Freehold brick-built Three stall Stable, with loft ... the corner stable in the centre of New-yard, Great Queen-street ... hand, but of the annual value of 15l.

Lot 4. A Freehold brick-built Dwelling-house, opposite the ... the preferable part of the ... of West Malling, Kent ... the occupation of Mr. Allsh... at 16l.

Lot 5. The undivided Moiety of a Copyhold Dwelling-house, Malt House, Buildings, Gardens, and Hempbutt, with several pieces or parcels of Land, situate in the township of Enchmarsh, in the parish of Cardington, near Shrewsbury, heretofore in the occupation of Mr. Joseph Mannox, and now of Mr. Wm. Norris, at a rent of 30l.

May be viewed; and printed particulars had at the Bell Inn, Maidstone; the Lion, Shrewsbury; of Messrs. Allan and Son, solicitors, 1, Frederick's-place, Old Jewry, Messrs. Bridger and Blake, solicitors, Carpenter's Hall, London-wall, Mr. Harper, solicitor, Kennington-cross; VENTOM and HUGHES, Angel-court, Throgmorton-street; at the Auction Mart; and of Mr. Brown, Auctioneer, Herne Bay, Kent.

TOTTENHAM COURT ROAD.—Freehold Brick-built House, with glazed-fronted shop. By VENTOM and HUGHES, at the AUCTION MART, on WEDNESDAY, July 23, 1845, at Twelve, by order of the proprietors, and with the concurrence of the mortgagees, a desirable brick-built RESIDENCE and BUSINESS PREMISES, being No. 1, Tottenham-court-road, in the occupation of Moore and others; on lease to Mr. Barnes, whereof 14 years are unexpired, at the low rent of 73l. 10s. but of the annual value of 100l.—May be viewed by permission of the tenants; printed particulars had of Messrs. Overton and Hughes, solicitors, No. 25, Old Jewry; Messrs. VENTOM and HUGHES, Angel-court, Throgmorton-street; and at the Auction Mart.

FREEHOLD FACTORY, RESIDENCE, and BUILDINGS, St. Bartholomew-close, West Smithfield. By VENTOM and HUGHES, at the Auction Mart, on WEDNESDAY, 23rd July, 1845, at Twelve, by order of the proprietors, and with the concurrence of the mortgagees, a very desirable and extensive FREEHOLD ESTATE, being Nos. 41 and 42, St. Bartholomew-close, comprising a respectable brick-built residence, spacious factory, small residence, stable, workshop, and large fore-court inclosed by iron railing. Let on two leases to Mr. Robert Burgh, frieze and lace maker, which will expire in 1851 and 1863, at very low rents, amounting to 92l. and of the annual value of 150l.—May be viewed by permission of the tenant; printed particulars had of Messrs Overton and Hughes, solicitors, 25, Old Jewry; VENTOM and HUGHES, Angel-court, Throgmorton-street; and at the Auction Mart.

FREEHOLD HOUSE, and glazed-fronted OIL and COLOUR WAREHOUSE, Tottenham-court-road. By VENTOM and HUGHES, at the Auction Mart, on WEDNESDAY, 23rd July, 1845, at Twelve, by order of the proprietors, and with the concurrence of the mortgagees, a desirable Freehold brick-built House, with ...-roofed and glazed-fronted Shop, warehouse behind, with side entrance from the court, on lease to Mr. David Bowman, oil and colourman (who paid a premium for the granting of the same), whereof 6 years are unexpired, at the low rent of 60l but of the annual value of 100l.—May be viewed by permission of the tenant; printed particulars had of Messrs. Overton and Hughes, solicitors, 25, Old Jewry; Messrs. VENTOM and HUGHES, Angel-court, Throgmorton-street; and at the Auction Mart.

FREEHOLD BAKER'S SHOP and RESIDENCE, No. 2, Tottenham Court-road. By VENTOM and HUGHES, at the Auction Mart, on WEDNESDAY, July 23, 1845, at Twelve, by order of the proprietors, and with the concurrence of the mortgagees a substantial brick-built Residence, in excellent repair, with a glazed-fronted shop, and separate entrance, with flour store and bakehouse, being No. 2, Tottenham Court-road, the Oxford street end, on lease to Mr. John Lansdall (who paid a premium), whereof thirteen years are unexpired, at the low rent of 60l. but of the presumed annual value of 100l.—May be viewed by permission of the tenant, and printed par... had of Messrs. Overton and Hughes, solicitors, 25, Old Jewry; VENTOM and HUGHES, Angel-court, Throgmorton-street; and at the Auction Mart.

HIGHBURY-GROVE.—Elegant detached Villas at low ground-rents.

VENTOM and HUGHES are honoured with instructions from the proprietor to SELL by AUCTION, at the Mart, on THURSDAY, July 24, at Twelve, in Three Lots, FOUR SPLENDID brick-built detached VILLAS, most delightfully situate and known as Grove Villas, Highbury-grove; they contain each airy chambers, drawing-room 22 feet by 15 feet, two dining-rooms communicating and opening to a conservatory, noble entrance hall and portico, geometrical stone staircase, with iron balustrades, and Spanish mahogany hand-rail, bath room, breakfast-room, study, patent water-closet, housekeeper's room, store-room, butler's pantry, kitchen, wash-house, amplitude of cellaring, and large garden. The above are held on leases direct from the freeholder for ninety-eight years, at ground-rents of 5l. 15s. for each house; one is let for the whole term to Dr Brien at a ground-rent of 5l. 15s., another to the Rev. Mr. James, for three years, at the low rent of 70l. but worth 80l. Let to Mr. Shirley for 3 years, at 80l. The other in hand, and of the same value. They are divided from the road by spacious fore courts, iron railing, and stone steps, are elegantly fitted, and finished in a modern style, regardless of expense, and are particularly deserving the attention of the capitalist for investment or occupation.

May be viewed; printed particulars had on the premises; Angel, Islington; Messrs. Overton and Hughes, solicitors, 25, Old Jewry; VENTOM and HUGHES, Angel-court, Throgmorton-street; at the Mart; and Mr. Brown, Auctioneer, Herne Bay, Kent.

THE GROVE, HACKNEY.—Family Residence, with Stabling, Chaise-house, and good Garden, at a low ground-rent.

MESSRS. VENTOM and HUGHES have been favoured with instructions from the administrators of the late Mr. Joseph Spurrell to SUBMIT to PUBLIC COMPETITION, at the Auction Mart, on THURSDAY, July 24, at Twelve, without reserve, a substantial and modern brick-built RESIDENCE, with slated roof, being No. 11, on the south side of the Grove, Hackney, the corner of Grove-lane; it contains five airy chambers, drawing and dining-rooms, breakfast parlour, superior domestic offices, good garden, walled in, a two-stall stable, and chaise-house. It is divided from the road by a neat fore-court, inclosed by iron railing, and approached by stone steps; is in hand, and immediate possession may be had, and is of the presumed value of 50l. per annum; held on lease, whereof 56 years are unexpired, at a ground-rent of 6l. 6s.

May be viewed from twelve to six; printed particulars had on the premises; of Messrs. Gregory, Faulkner, and Co. solicitors, 1, Bedford-row; Messrs. Loveland and Brekitt, solicitors, 6, Symond's-inn, Chancery-lane; Mr. Spyer, solicitor, 3, Copthall-buildings; at the Auction Mart; of Messrs. VENTOM and HUGHES, Angel-court, Throgmorton-st.; and of Mr. Brown, auctioneer, Herne Bay, Kent.

CHARLES-SQUARE, HOXTON.—Genteel Family Residence.—By Messrs. VENTOM and HUGHES, at the Auction Mart, on THURSDAY, July 24, at Twelve,

A substantial brick-built RESIDENCE, containing four chambers, two parlours, kitchen, scullery, and garden, in the occupation of Mr. Cubitt, on an agreement for five years, at the annual rent of 25*l.*; held on lease, whereof 15 years are unexpired, at a ground rental of 4*l.* 5*s.* thereby creating a rental of 25*l.* per annum.

May be viewed by permission of the tenant; printed particulars had of Messrs. Overton and Hughes, solicitors, 25, Old Jewry; at the Auction Mart; of Messrs. VENTOM and HUGHES, Angel-court, Throgmorton-street; and of Mr. Brown, auctioneer, Herne Bay, Kent.

Genteel Family Residence, New-road, St. George's East.

MESSRS. VENTOM and HUGHES are favoured with instructions from the Executors of late Joseph Baker, Esq. deceased, to SUBMIT to PUBLIC COMPETITION, at the Mart, on THURSDAY, July 24, at Twelve, a substantial brick-built genteel RESIDENCE, eligibly situate and being No. 4, Somerset-place, opposite Gloucester-terrace, New-road, Cannon-street-road, St. George's East: it contains airy chambers, good size drawing and dining rooms, two kitchens, washhouse, and garden; is in hand, immediate possession may be had, and is of the value of 36*l.* per annum [illegible] ground-rent of 4*l.* 10*s.*

May be viewed; and printed particulars had on the premises; of Messrs. Baddeleys, solicitors, No. 12, Leman-street, Goodman's-fields; of Messrs. VENTOM and HUGHES, Estate and Land Agents, Angel-court, Throgmorton-street; at the Auction Mart; and of Mr. Brown, auctioneer, Herne Bay, Kent.

Note.—In the early part of August will be sold the modern furniture, plate, linen, wine, and effect[illegible]

Downham-road, New North-road, Islington. — Valuable Leasehold newly Brick built Houses, at low ground-rents.

MESSRS. VENTOM and HUGHES are favoured with instructions from the Mortgagees to SELL by AUCTION, without reserve, at the Auction Mart, on THURSDAY, July 24, at Twelve, the following highly valuable PROPERTY, particularly eligible for investment—viz. Four substantial brick-built Houses, desirably situate and being Nos. 54, 55, 56, and 57, Downham-road, containing three chambers, two parlours, kitchen, wash-house and garden, and every necessary accommodation for genteel families; are divided from the road by neat fore-courts and iron railing. Held on lease for 95 years, at a ground-rent of 20*l.* 10*s.* for the whole.

May be viewed, printed particulars had at the Rosemary-branch, Hoxton; Messrs. Overton and Hughes, solicitors, 25, Old Jewry; Messrs. Linklaters, solicitors, Leadenhall-street; of Messrs. VENTOM and HUGHES, Angel-court, Throgmorton-street; at the Mart; and of Mr. Brown, auctioneer, Herne-bay, Kent.

UPPER HOLLOWAY.—Four substantial brick-built Houses, at low Ground-rents.—By Messrs. VENTOM and HUGHES, at the AUCTION MART, on THURSDAY, July 24, at Twelve, in Two Lots, by Order of the Proprietors.

FOUR newly-erected and substantial Brick-built HOUSES, with Slated roofs, divided from the road by fore-courts and iron railing, and numbered 1, 2, 6, and 7, Seymour-place, John-street, near the Crown, Upper Holloway, containing each four airy chambers, parlour, kitchen, wash-house, and neat garden, of the annual value of 30*l.* each; held for a term of 66 years, at a ground-rent of 4*l.* each. The houses have been built under the superintendence of the proprietors, present a neat and uniform elevation, and commanding extensive views of the surrounding country.

May be viewed: printed particulars had of Mr. Lawrence, No. 6; the Rosemary Branch, Hoxton; of John Scarborough, Esq., 19, Tokenhouse-yard; the Auction Mart; of Messrs VENTOM and HUGHES, Angel court, Throgmorton-street, and of Mr. Brown, Auctioneer, Herne Bay, Kent.

Reversion to Valuable Freehold Property, Holborn.

MESSRS. VENTOM and HUGHES are instructed to SELL by AUCTION, at the Mart, on WEDNESDAY, July 23, at Twelve, by order of the proprietors and trustees for sale, and with the concurrence of the mortgagees, the REVERSION in FEE in the entirety of those valuable freehold brick-built premises, No. 12, the corner of Castle-street, Holborn, consisting of a respectable residence, with a double glazed fronted shop, warehouse behind, extending down Castle-street, and spacious show-room over, in the occupation of Messrs. Evan and Co. The above property is sold subject to a term of ninety-nine years, from the 18th day of September, 1793, now let at the yearly rent of 100*l.* on a lease which will expire in 1854, but is of the presumed annual value of 250*l.*

Printed particulars may be had of Messrs. Overton and Hughes, solicitors, 25, Old Jewry; at the Auction Mart; of Messrs. VENTOM and HUGHES, Angel-court, Throgmorton-street; and of Mr. Brown, auctioneer, Herne Bay, Kent.

THE DERBYSHIRE MOORS.—GROUSE SHOOTING.

TO be SOLD by AUCTION, by Messrs. BARDWELL and SONS, at their Rooms, in Sheffield, on TUESDAY, the 5th day of August next, at Three o'clock in the afternoon, subject to conditions (unless an acceptable offer shall be previously made by private contract), the MOORS of DERWENT EDGE, GREEN SITCHES, MOSCAR, and STRINES, the property of John Read, esq. extending to nearly One Thousand Seven Hundred Acres, now forming part of the Moors of the Bradfield Game Association, and lying in the centre of the strictly preserved moors of the Dukes of Norfolk and Devonshire.

The above adjoin the Sheffield and Glossop road, and are within one mile of Ashopton Inn, and nine miles of Sheffield.

The property will be sold in four lots, to each of which will be attached a ticket for shooting for the ensuing season over the moors of the Bradfield Game Association, comprising upwards of nine thousand acres.

A sketch of the Moors, shewing the lots and descriptive particulars, may shortly be had, on application to Messrs. Fowler and Son, land agents; to the Auctioneers; or Messrs. BROOKFIELD and GOULD, Solicitors, Sheffield.

Sheffield, July 16th, 1845.

Periodical Sale of Reversions, Life Interests, Annuities, Life Policies, Advowsons, Next Presentations, and all descriptions of Securities dependent upon human Life, Ground and Improved Rents, Post Obit Bonds, Shares in Railways, Mines, Insurance Companies, and all other public undertakings.

MESSRS. FULLER and MARSH respectfully inform the public, that by their system of periodical sales by Auction they are enabled to offer to persons expectant or otherwise interested in the above description of property the most prompt, economical, and satisfactory mode of disposing thereof, as by classifying these descriptions of interests and properties in the same particular and for the same day, much expense is avoided, and a far greater competition is secured. Their periodical sales of reversions, life interests, annuities, life policies, advowsons, next presentations, and all descriptions of securities dependent upon human life, shares in railways, mines, and all other undertakings, will be continued throughout the present year as follows:—

Thursday, August 7. Thursday, November 6
Thursday, September 4 Thursday, December 4.
Thursday, October 2

Notice of Sales intended to be effected by the above means should be forwarded to Messrs. Fuller and Marsh a fortnight prior to each date, in order that they may have [illegible] dition of this system of business, as they are thereby enabled to include each property for the sum of two guineas and a half, including all expenses, should a sale not be effected. Particulars of the next periodical sale may be obtained at the Offices of Messrs. FULLER and MARSH, 2, Charlotte-row, Mansion-house, London.

Periodical Sale.—The absolute Reversion to the one-fourth part or share of the sum of 2,000*l.* Three per Cent. Consolidated [illegible]k Annuities.

MESSRS. FULLER and MARSH have received instructions to include in their next Monthly Sale of Reversionary Property, Policies, &c. appointed to take place at the Auction Mart; on THURSDAY, August 7, 1845, at Twelve o'clock, in several lots, the absolute reversion to the one-fourth part or share of the sum of 2,000*l.* Three per Cent. Consolidated Bank Annuities, receivable on the death of a lady who was baptized in July, 1780, and who, it is believed, was then two or three years of age. Particulars may be obtained of Joseph Peers, esq. solicitor, Ruthin; of Messrs. Few, Hamilton, and Fews, solicitors, Henrietta-street, Covent-garden, and at Messrs. FULLER and MARSH'S Offices, Charlotte-row, Mansion-house

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Secure In estments apportioned in Lots, to meet the conveni[illegible] of small capitalists.

MESSRS. FULLER and MARSH have received instructions to SELL by AUCTION, at the Mart, on THURSDAY, August 7, at Twelve, in 3 Lots, a valuable and rapidly improving LONG LEASEHOLD PROPERTY, consisting of three new, substantially erected, and well-finished residences, Nos. 1, 2, and 3, Bryan-street, Chalk-road, Pentonville, in the occupation of very respectable tenants, at rentals amounting to 84*l.* per annum, held direct from the freeholder for a term of 99 years, from December 1812, at low ground-rents.—May be viewed and particulars obtained on the premises, of John Bishop, esq. solicitor, 14, Lincoln's-Inn-fields, and at Messrs. FULLER and MARSH'S Offices, No. 2, Charlotte-row, Mansion-house.

Freehold Estate, Paradise-street, Rotherhithe, entitling to a Vote for the Eastern Division of the county of Surrey.—To Builders and Others.

MESSRS. FULLER and MARSH have received instructions to SELL by AUCTION at the Mart, on THURSDAY, August 7, at Twelve o'clock, a valuable FREEHOLD PROPERTY, comprising spacious brick-built dwelling-house, No. 59, Paradise-street, Rotherhithe, with a large garden in the rear, capable of being converted into valuable building land, in the occupation of a respectable tenant, at the low rent of 18*l.* per annum.

May be viewed, and particulars obtained on the premises; of Mr. G. Drew, solicitor, Bermondsey-street; and at Messrs. FULLER and MARSH'S Offices, Charlotte-row, Mansion-house.

Essex Lodge, Brixton Rise, Surrey, the much admired residence of the late Daniel Higley Richardson, Esq. Possession may be had on the completion of the purchase.

MESSRS. FULLER and MARSH have been honoured with instructions from the executors of the above deceased gentleman to SELL by AUCTION, at the Mart, on THURSDAY, August 7, at Twelve (unless in the meantime an acceptable offer be made by private contract), the above singularly attractive VILLA RESIDENCE, most delightfully situate a short distance from the road, on the most preferable part of Brixton-Rise, nearly opposite the church, erected within a few years at a considerable outlay and regardless of expense, and much ingenuity and taste have been displayed in its exterior and interior arrangements. The house is of handsome elevation, and most conveniently and admirably adapted for the reception of a gentleman's family; coach-house, stabling, pleasure-grounds, and kitchen garden. This eligible estate, either for occupation or investment, is held for an unexpired term of 92 years, at a low ground rent.—Particulars may be obtained of H. F. Richardson, esq. solicitor, 36, Coleman-street; at the Auction Mart, and cards to view, of Messrs. FULLER and MARSH, Surveyors and Land Agents, 2, Charlotte-row, Mansion-house.

Leasehold Investments, Somers'-town and Tottenham, Middlesex, adapted to a small Capitalist.

MESSRS. FULLER and MARSH have received instructions to SELL by AUCTION, at the Mart, on THURSDAY, August 7, 1845, at Twelve o'clock, TWO LEASEHOLD DWELLING-HOUSES, Nos. 63 and 64, Brill-row, Somers'-town, and THREE HOUSES, Nos. 3, 4, and 8, Factory-row, Tottenham, Middlesex, in the occupation of respectable tenants, and held at low ground-rents.

May be viewed, and particulars obtained of J. Bishop, esq. solicitor, 14, Lincoln's Inn-fields; and at Messrs. FULLER and MARSH'S Offices, 2, Charlotte-row, Mansion-house, and Croydon, Surrey.

TO be PEREMPTORILY SOLD, pursuant to an Order of the High Court of Chancery, made in a cause "Savory *v.* Barber," with the approbation of John Edmund Dowdeswell, esq. one of the Masters of the said court, by Mr. FRANCIS FULLER, at the Auction Mart, in the city of London, on THURSDAY, the 25th day of July, 1845, at Twelve o'clock at noon, in two lots, certain LEASEHOLD ESTATES, late of Jas. Rix Hoffmann, the testator, in the pleadings of the said cause named, consisting of a Leasehold Mansion, being No. 15, York-terrace, Regent's-park, with a detached coach-house and stabling, held under a lease, of which seventy-six years were unexpired on the 5th July, 1845, at a ground-rent of 36*l.* 15*s.* And of a Leasehold House, situate and being No. 4, Bishopsgate-street, within the city of London, immediately opposite the London Tavern, held under a lease for a term of which fourteen years are unexpired from the 24th day of June, 1845, at a rent of 70*l.* per annum, and underlet for a term, of which five years were unexpired on the 29th day of September, 1844, at a peppercorn rent, leaving a reversion of nine years and three-quarters at the expiration of such under-lease.

Printed particulars whereof may be had (gratis) at the said Master's Office, in Southampton-buildings, Chancery-lane; of Messrs. Downes, Gamlen, and Scott, solicitors, 7, Furnival's-inn; of Mr. Henry Josh. Barber, solicitor, No. 2, Clement's-lane, Lombard-street; of Mr. John Kirkman, solicitor, 27, Laurence Pountney-lane; and of Messrs. FULLER and MARSH, Auctioneers, Charlotte-row, Mansion House, of whom may also be had cards to view the premises.

Valuable Copyhold Estate, High-street, Putney.—Comprising a spacious Family Residence, with Pleasure and Kitchen Gardens, contiguous to the intended Station on the London and Richmond Railway, desirable for occupation or investment.

MESSRS. FULLER and MARSH have received instructions to SELL by AUCTION, at the Auction Mart, early, a spacious detached FAMILY RESIDENCE, with coach-house, stabling, pleasure and kitchen gardens.—May be viewed, and particulars obtained of Messrs. Clayton and Cookson, solicitors, No. 2, New-square, Lincoln's-inn; Red Lion, Putney; and of Messrs. FULLER and MARSH, Auctioneers and Surveyors, 2, Charlotte-row, Mansion-house.

Valuable Freehold Estates, Mayfield and Heathfield, in the County of Sussex.

MESSRS. FULLER and MARSH have received instructions from the respective Trustees for sale under the wills of the Rev. John Kirby and Mr. Taylor, deceased, to offer by AUCTION, at the Mart, opposite the Bank of England, on MONDAY, the 28th day of July, 1845, at Twelve o'clock, in three lots, the following valuable property, situate in the parishes of Mayfield and Heathfield, in the most picturesque district of the Weald of Sussex, and a few miles from Tonbridge-wells.

Lot 1. An excellent FREEHOLD FARM, called Bungehurst, with a farm residence, oasthouse, two barns, cattle lodges, and all necessary farm buildings; two substantial cottages, forming three dwellings, well placed on different parts of the farm, and about 325a. 1r. 11p. of good productive land, 101a. 2r. 18p. of which are arable, 78a. 2r. 14p. pasture, meadow, and brook-land, 10a. 3r. 38p hop-ground, and the remainder wood-land of a good description. Of the above, 268a. 1r. 7p. are in Mayfield, and 57a. 0r. 4p. in Heathfield.

Lot 2. A FREEHOLD BRICKYARD, in Mayfield, adjoining, and formerly part of Bungehurst Farm, with a brick-kiln, tile-sheds, and the other requisite conveniences; and a field of about 6 acres, containing good brick and tile earth.

The land-tax on the above two lots is redeemed.

Lot 3. A valuable FARM, called Sharnden and Upper Barn Land; comprising a substantial farm-house, with oast-house, two barns, hay barns, cattle lodges, and all requisite farm buildings, and about 269 acres of excellent land, whereof 88a. 3r. 36p. are arable, 101a. 2r. 4p. meadow and pasture, 6 acres hop-ground, 5 acres orchard, and the remainder wood-land, situate in Mayfield. Of this lot, about 231a. 1r. 6p. are held under a lease for lives of the Vicars of Chichester, and the remainder is freehold.

Mayfield is 9 miles from Tonbridge-wells, 24 from Hastings, and 24 from Brighton.—Descriptive particulars and conditions of sale may be had, 14 days prior to the sale, of Messrs. Barclay and King, solicitors, Mayfield, Sussex; Messrs. Palmer, France, and Palmer, 24, Bedford-row, Holborn, London; and of the Auctioneers, Charlotte-row, Mansion-house, London, and Croydon, Surrey.

In Staffordshire, on the Borders of Derbyshire.—The remaining Portion of the Swinscoe Estate, consisting of about 400 acres, with convenient Farm-houses and Agricultural Buildings.

MESSRS. WINSTANLEY have received directions from the surviving Trustee under the Will of Brian Hodgson, esq. deceased, to SELL by AUCTION, at the Green Man, Ashbourn, in the county of Derby, on Thursday, the 31st of July, in lots, the remaining PORTION of the SWINSCOE ESTATE, consisting of about 400 acres of excellent pasture and arable land, let to respectable tenants, at moderate rents. The estate is intersected by the high road between Derby and Manchester, and will be divided into small farms, with suitable farm-houses and agricultural buildings, situate in the township of Swinscoe and parish of Blore, in the county of Suffolk, about four miles from Ashbourn, ten from Leek, sixteen from Derby, and contiguous to the demesnes of the Earl of Shrewsbury, and H. F. O'keover, esq. and in a country abounding with game. To be viewed by applying to the respective tenants. Printed particulars may be obtained at the Green Man, Ashbourn, the George, Leek; Red Lion, Calton Moor; Swan, Stafford; Angel, Macclesfield; King's Head and Midland Counties Hotel, Derby; Lion and Flying Horse, Nottingham; Bulkeley Arms, Stockport; the Hen and Chickens, and at the offices of the Midland Counties Herald, at Birmingham; King's Head, Coventry; Three Crowns and Bell, at Leicester; Bridgewater Arms, Manchester; Royal Hotel, Chester; of Thomas Fellows, esq. solicitor, at Rickmansworth, Herts; of Messrs. Littledale and Bardswell, solicitors, Messrs. Thomas Winstanley and Sons, at Liverpool; and of Messrs. WINSTANLEY, Paternoster-row, London.

LONDON:—Printed by HENRY MORRELL COX, of 74, Great Queen Street, in the Parish of St. Giles in the Fields, in the County of Middlesex, Printer, at his Printing Office, 74 & 75, Great Queen Street aforesaid, and published by JOHN CROCKFORD, of 29, Essex Street, Strand, in the Parish of St. Clement Danes, in the City of Westminster, Publisher, at the Office of the LAW TIMES, No. 29, Essex Street aforesaid, on Saturday, the 12th day of July, 1845.

THE LAW TIMES,

AND JOURNAL OF PROPERTY,

FOR

The Legislator, the Magistrate, and the Lawyer.

Vol. V. No. 120.] SATURDAY, JULY 19, 1845.

SUBSCRIPTION,
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Money to Lend.

MONEY.—2,000*l.* 1,000*l.* 500*l.* and several other sums ready to be advanced on approved landed securities, at moderate rates of interest.

Apply to Mr W Phillips, solicitor, Stourgate, York.

Partnerships Wanted.

TO SOLICITORS.—A Gentleman of gentlemanly habits and experience is desirous of a PARTNERSHIP with a Solicitor of honourable principles and good repute, and practice chiefly Conveyancing, who may be desirous of shortly RETIRING from the Profession The sea-coast would be preferred. Address X Y care of C. Cotes, esq 19, Michael's-place, Brompton, Middlesex

LAW PARTNERSHIP.—A Solicitor of about four years' standing, desirous of being actively engaged in the conduct of a well-established Practice in the country, wishes to negotiate for a PARTNERSHIP. The Advertiser is prepared to pay a Premium

Address G , Mr. Showler, Law Stationer, Cursitor street, Chancery-lane.

LAW PARTNERSHIP.—A Gentleman twenty four years of age, who has been articled in a Conveyancing and Chancery Office, in Town and been admitted, is desirous of PURCHASING a PARTNERSHIP where the share of profits would be not less than 350*l* per annum

Address, H I A. Mr. Thomas bookseller, 6, Brownlow-street, Holborn, with real name, &c None but principals will be treated with.

Situations Wanted.

LAW.—A GENTLEMAN, who, when an opportunity should be afforded him, would become the purchaser of a share in a practice wishes in the interval to assist in the MANAGEMENT of a TOWN or COUNTRY PRACTICE, where full employment would be found him

Address E , Mr Howler, law stationer, Cursitor-street, Chancery-lane

TO LONDON SOLICITORS.—A Gentleman, who has been five years in the Profession, one year of which has been spent in a Barrister's Chambers, and who has had considerable practical experience in Conveyancing is desirous of obtaining a Situation as CONVEYANCING CLERK in an Office of extensive Practice, where he would receive a salary The advertiser has at present about eighteen months of his articles unexpired References of the highest nature as to character and ability can be furnished.

Apply (if by letter, prepaid) to I G LAW TIMES Office, Essex street, Strand.

Situations Vacant.

WANTED.—A Solicitor in active general practice in one of the midland counties whose attention is likely to be for a time partially withdrawn from the ordinary business of his office by another engagement of a temporary nature, is desirous to engage a MANAGING CLERK of character and experience for a period of 6, 12, or 18 months A gentleman of business habits and close application, who has recently served his articles will find this a good opportunity of seeing a variety of practice

Apply, stating age, salary, real name and address, and references as to respectability and competency, to S J R at the LAW TIMES Office.

WANTED, in the Office of a Country Solicitor, a MANAGING CLERK who is well experienced in the general business of a Country Office He must be of gentlemanly manners and address, and one who has not been articled will be preferred The most unexceptionable references as to character and ability will be required

Apply by letter stating the salary required, to Y Z , Ed Willan, esq 35, Bedford row

THE NOTARY PUBLIC resident at GUERNSEY who caused application to be made to Mr MITCHIM, of 5, Red Lion-passage Holborn, London on the subject of an advertisement which appeared in this paper on the 12th inst is requested to renew his application or communicate his address to Mr. Mitchim

TO SOLICITORS, SURVEYORS, RAILWAY PROJECTORS, and OTHERS SWINFORD BROTHERS, LITHOGRAPHIC DRAUGHTSMEN and PRINTERS 270 Strand, have every facility for the execution any description of Railways, Maps, Plans, Sections, &c in the best style of the art. Every branch is executed by writers and artists of first rate talent, thereby ensuring the utmost despatch with the strictest punctuality.

Practice for Sale.

LAW.—To be DISPOSED OF, an old-established PRACTICE, in a large commercial town in the west of England, the profits of which have averaged about 700*l* a year for the last ten years, also a capital DWELLING-HOUSE, with excellent offices adjoining, stabling for three horses, coach house, saddle room, yard, garden, and premises situate in the centre of the town

No notice will be taken of any application unless accompanied by respectable references and satisfactory proof that the party can command from 4,000*l* to 5 000*l*

Further particulars may be known of Mr Sutton, Wood's Hotel, Furnival's Inn, London, by letter only in the first instance, addressed post paid

CHAMBERS or OFFICES in the immediate vicinity of Lincoln's Inn.—To be LET a suite of Three Lofty Spacious, and Commodious ROOMS on the ground floor, with Strong Room and other conveniences completely independent of the house, which is one of the first respectability, and occupied by the proprietor as a private residence is particularly deserving the attention of SOLICITORS and ARCHITECTS Terms, including the use of Fixtures, 65*l* per annum

For cards to view, apply to Messrs VENTOM and HUGHES, Auctioneers and Estate Agents, Angel-court, Throgmorton street.

NEXT of KIN.—Some time last year, 1844, an Advertisement appeared in one of the London Papers relative to the HEIRS of JOHN FINCH, who was a native of Bishop Stortford, Herts and said to have died at the Cape of Good Hope in 1843 Whoever will produce the said Advertisement at 32, Lonsdale-square, Islington, shall be handsomely rewarded for their trouble.

July 18, 1845

In Chancery.—Between Jane Calvert, widow, and Others, Plaintiffs , Edward Godfrey and Others. Defendants.—Kneller Hall and Estate of 103 acres, at Whitton, in the County of Middlesex

MESSRS. DRIVER have been favoured with instructions, pursuant to an Order of the High Court of Chancery and the provisions of an Act of Parliament, and with the approbation of Samuel Duckworth esq one of the Masters of the said Court to offer to PUBLIC COMPETITION at the Auction Mart, Bartholomew-lane on FRIDAY, 25th July, at Twelve in one lot

A highly valuable improvable ESTATE free of great tithes and exonerated from the land tax part Freehold and part Copyhold but being held under the Manors of Isleworth Sion and Isleworth Rectory, may be considered equal to freehold the fines and quit rents being small fixed sums, most eligibly situate at Whitton a short distance from Twickenham, in a beautiful part of the county of Middlesex and only 11 miles from London, comprising a capital and noble Mansion, known as Kneller Hall, replete with every accommodation for a family of the first respectability most delightfully seated in park like grounds, with ornamental pleasure grounds, beautiful lake luxuriant plantations lawn, parterres gravel walks conservatory, green house grapery capital kitchen gardens, gardener's cottage farm house and homestead, and sundry parcels of rich meadow land containing in the whole, including about seven acres of productive arable and garden ground, nearly 103 acres

To be viewed by applying on the premises Printed specifications, with plans annexed may be had at the Master's Chambers Southampton buildings Chancery lane of Messrs Vandercom, Comyn, Cree Law, and Comyn solicitors 23 Bush lane, at the King's Head Twickenham Pigeons Brentford Star and Garter, Richmond, at the Auction Mart, near the Bank of England, and of Messrs DRIVER, surveyors and land agents, No 8 Richmond terrace, Parliament street

ESSEX.—Sundry valuable compact Freehold Farms comprising together nearly 2,400 acres.—To be sold in separate lots, including the valuable Manors of Hempstead and Woodhall otherwise Spains Hall desirably situate about miles from Saffron Walden, 14 from Braintree, and only 42 from the Metropolis By Messrs Driver at the Auction Mart London on Friday, the 1st of August, at Twelve o'clock, in 13 Lots

MESSRS DRIVER have received directions to SUBMIT the above FREEHOLD ESTATE in sundry lots for the convenience of purchasers who are desirous of making eligible investments in freehold land The farms are very compact and are now in the occupation respectively of Mr Samuel Mylad, Mrs Rutland Miss Horner, Mr Mark Major Mrs Green and other very respectable yearly tenants and there are some very valuable woods in hand together with two mansions. This property is situate adjoining excellent roads, within the parishes of Hempstead, Great and Little Sampford, and Finchingfield in the county of Essex

Printed specifications with plans annexed will be ready for delivery after the 7th of July and may then be had at the White Hart Braintree Black Boy Chelmsford Rose and Crown Saffron Walden Crown Hockerill; Red Lion Great Sampford at the Auction Mart near the Bank of England; of Messrs Clark Finmore, and Fladgate, solicitors Craven street, Strand and of Messrs DRIVER Surveyors and Land Agents, 8, Richmond-terrace, Parliament street, London.

Sales by Auction.

SUSSEX and HANTS.—The extensive Freehold Manors of Prinsted and Nutbourne in the Parish of Westbourne, County of Sussex, with all rights, members, and appurtenances thereto belonging, also two Freehold Dwelling Houses, Land-tax redeemed, delightfully situate in Norfolk crescent, Hayling Island, Havant

MESSRS. DRIVER are instructed to offer to PUBLIC COMPETITION, at the Auction Mart, Bartholomew-lane, on Friday, the 25th of July, at Twelve o'clock, in Three Lots, sundry important FREEHOLD ESTATES, comprising the valuable and extensive MANORS of PRINSTED and NUTBOURNE, in the parish of Westbourne, county of Sussex, with Courts Baron, fines arbitrary, heriots, royalties, rights, members, and other appurtenances thereto belonging, contiguous to each other, near Emsworth, about five miles from Chichester and thirteen from Portsmouth, producing in quit rents, fines, and heriots, on the average, nearly 150*l* per annum. Likewise TWO FREEHOLD DWELLING HOUSES, land-tax redeemed, most delightfully situate in Norfolk-crescent, in front of the Esplanade, on the south beach of that fashionable watering-place, Hayling Island, near Havant on the Hampshire coast, sheltered from the strong gales from the south-west by the Isle of Wight and commanding very rich and interesting land and sea views of that delightful island, as well as Spithead, Cumberland Fort, and other beautiful scenery.

Printed specifications may be had at the Royal Hotel, Hayling , the Bear, Havant, Dolphin, Chichester , George, Portsmouth , of William Padwick, esq Hayling Island ; of Messrs Downes, Gamlen, and Scott, 7, Furnival's-inn ; at the Auction Mart, near the Bank of England , and of Messrs. DRIVER, Surveyors and Land Agents, 8, Richmond-terrace, Parliament street, London

HAMPSHIRE.—A highly valuable and delightful Freehold Estate called Sopley Park, comprising a commodious Mansion-house, environed with plantations, with its beautiful park and other lands, containing in the whole about eighty two acres, most eligibly situate in the Valley of the Avon, contiguous to the New Forest, and a short distance from the sea.

MESSRS DRIVER are favoured with instructions to offer to PUBLIC COMPETITION, at the Auction Mart, Bartholomew-lane, on Friday, the 25th of July at twelve o'clock, in one lot, a very valuable FREEHOLD ESTATE, known as SOPLEY PARK, most eligibly situate in a remarkably genteel and select neighbourhood, and surrounded with excellent roads, only five miles distant from Mudiford seven from Bournemouth, three from Christchurch, six from Ringwood, twenty three from Southampton, and within a few hours' ride of London, and which will be further reduced when the projected railway to Dorchester is completed. The Mansion-house is situate on an eminence in the centre of a park of about forty-six acres, commanding most extensive views of the rich forest and other scenery, containing good entrance hall, dining-room, 20 feet by 17 feet ; drawing room, 21 feet 3 inches by 17 feet 8 inches , library, 18 feet by 15 feet , study, 13 feet by 11 feet, and a gentleman's room and water closet , four principal airy bedchambers, and a dressing room, and four servants' rooms. The domestic offices comprise a servants' hall, kitchen, scullery, china closet, pantry, capital arched cellaring and a well of excellent water, lawn, with parterres and plantations, excellent kitchen garden stabling for five horses, coach-house and other requisite outbuildings The park and other lands comprise in the whole about eighty two acres of rich arable, meadow, and pasture land which for richness of soil is not to be surpassed in this luxurious valley The New Forest Hounds are within an easy distance, and immediate possession may be had of the house and thirteen acres The remaining seventy acres being let to yearly tenants at rents producing about 220*l* per annum, that the whole estate may be fairly estimated at 00 guineas per annum.

To be viewed on application to Anthony Brent, the gardener and printed specifications, with plans annexed, may be had at Matcham's Hotel, Southampton , the Hotel, Christchurch the Bath Hotel, Bournemouth, of Robert Davy esq Solicitor Ringwood , at the Auction Mart, near the Bank of England, and of Messrs DRIVER, Surveyors and Land Agents, 8 Richmond terrace, Parliament street, London

MIDDLESEX.—A Valuable Grass Farm of 86 acres most delightfully situate at Northolt near Harrow.

MESSRS DRIVER are instructed to offer to PUBLIC COMPETITION, at the Auction Mart, near the Bank of England, on the 1st of August at Twelve o'clock [illegible] GRASS FARM [illegible] and the [illegible] land tax [illegible] Middlesex [illegible] miles of the [illegible] Harrow [illegible] with [illegible] buildings, [illegible] Mr J [illegible] per annum [illegible] at the [illegible] Edgware, of Messrs Allen Gilly and Allen [illegible] 17, [illegible] square, and of Messrs DRIVER Surveyors and Land Agents, 8, Richmond terrace Parliament street, London.

BERKSHIRE.—Valuable Estate, called Oakley Place, comprising a very commodious Family Residence and desirable Farm, of about 182 acres, most eligibly situate in the parish of Bray, only 2½ miles from Windsor, and within a short distance of the Great Western Railway stations at Slough and Maidenhead.

MESSRS. DRIVER are favoured with instructions to offer to PUBLIC COMPETITION, at the Auction Mart, Bartholomew-lane, on Friday, the 25th of July, at Twelve o'clock, in one lot, a very desirable ESTATE, comprising a commodious FAMILY RESIDENCE, called OAKLEY PLACE, with a productive Farm of 182 acres of rich arable and meadow land, most eligibly situate in the parish of Bray, in an excellent neighbourhood, and contiguous to the frequent meets of her Majesty's stag-hounds, and to a pack of fox-hounds, only 2½ miles from Windsor, 3 from Maidenhead, 16 from Reading, and 10 from Uxbridge, all capital market-towns, and only a short distance from the Great Western Railway stations at Slough and Maidenhead. The house is very pleasantly situate in the centre of the estate, commanding most extensive views of the rich surrounding scenery, and contains good entrance-hall, dining-room, drawing-room, and breakfast-room, 7 bed-chambers, excellent paved kitchen, back kitchen and scullery, with man-servant's room over, and in the basement is a good dairy, and coal, beer, and wine cellars, paved domestic yard, stabling for three horses, a loose box and a coach-house; the lawn and pleasure-grounds are tastefully displayed, and there is an excellent walled kitchen garden. The agricultural buildings are very complete, and comprise stabling for five cart-horses, sundry barns, cow-houses, cattle-sheds, and other useful buildings, with cottage and gardens in two tenements, the whole forming a most desirable estate either for occupation or investment. The estate is ancient demesne or suit-hold of the Manor of Bray, and is equal to freehold. It is subject to a heriot of the best beast on death, but not on alienation.

To be viewed by applying on the premises, and printed particulars, with plans annexed, may be had at the Bear Inn, Maidenhead; White Hart Inn, Windsor; the Hotel at the Slough station; of W. J. Ward, esq. solicitor, Maidenhead; William Trumper, esq. Dorney, near Maidenhead; at the Auction Mart, Bartholomew-lane; and of Messrs. DRIVER, Surveyors and Land Agents, 8, Richmond-terrace, Parliament-street, London.

CHELMSFORD, ESSEX.—Sundry Lots of Freehold Building Ground, land-tax redeemed.

MESSRS. DRIVER are instructed to offer to public competition, at the Black Boy, Chelmsford, on TUESDAY, the 5th day of August, at One for Two o'clock, in 14 lots, sundry very valuable parcels of FREEHOLD BUILDING GROUND, exonerated from land tax (being the remaining unsold portion of the ancient possessions of the Mildmay family), comprising five very eligible Lots for Wharfs, adjoining the Chelmer and Blackwater navigation, 7 lots adjoining the New Road at Moulsham, and the embankment of the Eastern Counties Railway, including a very desirable parcel of nearly 11 acres, situate on the western side of the embankment, eligible for being subdivided into small lots, for the erection of small houses, next to the Writtle estate, one lot near the Three Cups Inn, and another adjoining the New Road, near St. John's Church.

Printed specifications, with plans annexed, may be had at the Black Boy, Chelmsford; of Messrs. Bray, Warren, and Harding, solicitors, Great Russell-street, Bloomsbury; and at the Auction Mart, Bartholomew-lane; and of Messrs. DRIVER, surveyors and land agents, 8, Richmond-terrace, Parliament-street, London.

BROOK-GREEN, HAMMERSMITH.—Desirable Dwelling-house, with Coach-house, Stabling, Gardens, Cottages, Buildings and Paddock of about 5 acres, presumed to contain superior Mule and Brick Earth.

MESSRS. DRIVER are instructed by the Devisees in Trust of the late Edward White, esq. to OFFER to PUBLIC COMPETITION at the Auction Mart, Bartholomew-lane, on Friday, the 25th of July, at Twelve o'clock, in One Lot,—A very valuable COPYHOLD ESTATE, Land-tax redeemed, held of the manor of Fulham, but nearly equal to Freehold, being subject only to a small fine certain of 9s. 6d. on death or alienation, comprising a commodious Dwelling house, with Coach-house, Stabling, Barn, Outbuildings, Gardens, four Cottages, and a Paddock, the whole comprising above 5 acres, most eligibly situate at Brook-Green, in the hamlet of Hammersmith, county of Middlesex, with a valuable Building Frontage, of above 137 feet towards the Green, and only about four miles from London. The above premises are now in the occupation of Messrs. Strong, under a lease for 21 years, which will expire at Michaelmas, 1845, when possession may be had on completion of the purchase.

To be viewed by permission of the tenants, and printed specifications, with plans annexed, may be had of Messrs. Young, Vallings, and Young, solicitors, St. Mildred's court, Poultry; of Mr. Thomas Long, 48, Little Britain; at the Auction Mart, near the Bank of England; and of Messrs. DRIVER, Surveyors and Land Agents, 8, Richmond-terrace, Parliament-street.

First Sale of a Portion of about 30 Acres of Freehold Building Ground, Peckham, in the centre of a complete neighbourhood; and Freehold Ground Rents.

MR. SINGLE has the pleasure to announce that he is authorized to SELL by AUCTION, at the Mart, on Tuesday, July 22, at Twelve, in lots, or to let upon building leases, or to dispose of by private contract, Five or Six Acres of invaluable FREEHOLD BUILDING GROUND, land-tax redeemed, presenting considerable frontages on the Commercial-road, James's-street, &c. Peckham, near the Rosemary Branch Tavern. The estate possesses fine rich brick earth, and is surrounded by a large and highly respectable neighbourhood. The healthfulness ... hich is ... amply secured. Mr. Single has just surveyed ... signed roads, &c. throughout the whole property, and strongly recommends it for those desirous of making ground-rents or building for investment. In twelve months it will realize probably double its present value. Particulars of Messrs. Gregson and Kewell, solicitors, 8, Angel-court, Throgmorton-street; at the Rosemary Branch Tavern, Peckham; and of Mr. SINGLE, 24, Coleman-street, near the Bank.

Periodical Sale of Reversions, Life Interests, Annuities, Life Policies, Advowsons, Next Presentations, and all descriptions of Securities dependent upon human Life, Ground and Improved Rents, Post Obit Bonds, Shares in Railways, Mines, Insurance Companies, and all other public undertakings.

MESSRS. FULLER and MARSH respectfully inform the public, that by their system of periodical sales by Auction they are enabled to offer to persons expectant or otherwise interested in the above description of property the most prompt, economical, and satisfactory mode of disposing thereof, as by classifying these descriptions of interests and properties in the same particular and for the same day, much expense is avoided, and a far greater competition is secured. Their periodical sales of reversions, life interests, annuities, life policies, advowsons, next presentations, and all descriptions of securities dependent upon human life, shares in railways, mines, and all other undertakings, will be continued throughout the present year as follows:—

Thursday, August 7	Thursday, November 6
Thursday, September 4	Thursday, December 4.
Thursday, October 2	

Notice of Sales intended to be effected by the above means should be forwarded to Messrs. Fuller and Marsh a fortnight prior to each date, in order that they may have the full benefit of publicity. Messrs. Fuller and Marsh beg to call the attention of the public to the economy and expedition of this system of business, as they are thereby enabled to include each property for the sum of two guineas and half, including all expenses, should a sale not be effected. Particulars of the next periodical sale may be obtained ... row, Mansion-house, London.

Periodical Sale.—The absolute Reversion to the one-fourth part or share of the sum of 2,000l. Three per Cent. Consolidated Bank Annuities.

MESSRS. FULLER and MARSH have received instructions to include in their next Monthly Sale of Reversionary Property, Policies, &c. appointed to take place at the Auction Mart; on THURSDAY, August 1845, at Twelve o'clock, in several lots, the absolute reversion to the one-fourth part or share of the sum of 2,000 Three per Cent. Consolidated Bank Annuities, receivable on the death of a lady who was baptized in July, 1780, and who it is believed, was then two or three years of age. Particulars may be obtained of Joseph Peers, esq. solicitor, Ruthin; of Messrs. Few, Hamilton, and Fews, solicitors, Henrietta street, Covent-garden, and at Messrs. FULLER and MARSH'S Offices, Charlotte-row, Mansion-house.

TO be PEREMPTORILY SOLD, pursuant to an Order of the High Court of Chancery, made in a cause "Savory v. Barber," with the approbation of John Edmund Dowdeswell, esq. one of the Masters of the said court, by Mr FRANCIS FULLER, at the Auction Mart, in the city of London, on THURSDAY, the 25th day of July, 1845, at Twelve o'clock at noon, in two lots, certain LEASEHOLD ESTATES, late of Jas. Rix Hoffmann, the testator in the pleadings of the said cause named, consisting of Leasehold Mansion, being No. 15, York-terrace, Regent's park, with a detached coach-house and stabling, held under a lease, of which seventy-six years were unexpired on the 5th July, 1845, at a ground-rent of 36l. 15s. And of a Leasehold House, situate and being No. 4, Bishopsgate-street within the city of London, immediately opposite the London Tavern, held under a lease for a term of which fourteen years are unexpired from the 24th day of June, 1845, at a rent of 70l. per annum, and underlet for a term, of which five years were unexpired on the 29th day of September, 1844, at a peppercorn rent, leaving a reversion of nine years and three quarters at the expiration of such under-lease.

Printed particulars whereof may be had (gratis) at the said Master's Office, in Southampton-buildings, Chancery-lane; of Messrs. Downes, Gamlen, and Scott, solicitors, 7 Furnival's-inn; of Mr. Henry Josh. Barber, solicitor, No 2, Clement's-lane, Lombard-street; of Mr. John Kirkman solicitor, 27, Laurence Pountney-lane; and of Messrs FULLER and MARSH, Auctioneers, Charlotte-row, Mansion House, of whom may also be had cards to view the premises.

Valuable Freehold Estates, Mayfield and Heathfield, in the County of Sussex.

MESSRS. FULLER and MARSH have received instructions from the respective Trustees for sale under the wills of the Rev. John Kirby and Mr. Taylor, deceased, to offer by AUCTION, at the Mart, opposite the Bank of England, on THURSDAY, the 7th of August, 1845, at Twelve o'clock, in three lots, the following valuable property, situate in the parishes of Mayfield and Heathfield, in the most picturesque district of the Weald of Sussex, and a few miles from Tonbridge-wells.

Lot 1. An excellent FREEHOLD FARM, called Bungehurst, with a farm residence, oasthouse, two barns, cattle lodges, and all necessary farm buildings; two substantial cottages, forming three dwellings, well placed on different parts of the farm, and about 325a. 1r. 11p. of good productive land, 161a. 2r. 18p. of which are arable, 78a. 2r. 14p. pasture, meadow, and brook-land, 10a. 3r. 38p. hop-ground, and the remainder wood-land of a good description. Of the above, 268a. 1r. 7p. are in Mayfield, and 57a. 0r. 4p. in Heathfield.

Lot 2. A FREEHOLD BRICKYARD, in Mayfield, adjoining, and formerly part of Bungehurst Farm, with a brick-kiln, tile-sheds, and the other requisite conveniences; and a field of about 6 acres containing good brick and tile earth.

The land-tax on the above two lots is redeemed.

Lot 3. A valuable FARM, called Sharnden and Upper Barn Land; comprising a substantial farm-house, with oast-house, two barns, hay barns, cattle lodges, and all requisite farm buildings, and about 269 acres of excellent land, ... chester, and the remainder is freehold.

Mayfield is 9 miles from Tonbridge-wells, 24 from Hastings, and 24 from Brighton.—Descriptive particulars and conditions of sale may be had, 14 days prior to the sale, of Messrs. Barclay and King, solicitors, Mayfield, Sussex; Messrs. Palmer, France, and Palmer, 24, Bedford-row, Holborn, London; and of the Auctioneers, Charlotte-row, Mansion-house, London, and Croydon, Surrey.

Essex Lodge, Brixton Rise, Surrey; the much admired residence of the late Daniel Higley Richardson, Esq. Possession may be had on the completion of the purchase.

MESSRS. FULLER and MARSH have been honoured with instructions from the executors of the above deceased gentleman to SELL by AUCTION, at the Mart, on THURSDAY, August 7, at Twelve (unless in the meantime an acceptable offer be made by private contract), the above singularly attractive VILLA RESIDENCE, most delightfully situate a short distance from the road, on the most preferable part of Brixton-Rise, nearly opposite the church, erected within a few years at a considerable outlay and regardless of expense, and much ingenuity and taste have been displayed in its exterior and interior arrangements. The house is of handsome elevation, and most conveniently and admirably adapted for the reception of a gentleman's family; coach-house, stabling, pleasure-grounds, and kitchen garden. This eligible estate, either for occupation or investment, is held for an unexpired term of 92 years, at a low ground rent.—Particulars may be obtained of H. F. Richardson, esq. solicitor, 40, Coleman-street; at the Auction Mart; and cards to view, of Messrs. FULLER and MARSH, Surveyors and Land Agents, 2, Charlotte-row, Mansion-house.

Leasehold Investments, Somers'-town and Tottenham, Middlesex, adapted to a small Capitalist.

MESSRS. FULLER and MARSH have received instructions to SELL by AUCTION, at the Mart, on MONDAY, August 11, 1845, at Twelve o'clock, TWO LEASEHOLD DWELLING-HOUSES, Nos. 63 and 64, Brill-row, Somers'-town, and THREE HOUSES, Nos. 3, 4, and 8, Factory-row, Tottenham, Middlesex, in the occupation of respectable tenants, and held at low ground-rents.

May be viewed, and particulars obtained of J. Bishop, esq. solicitor, 14, Lincoln's Inn-fields; and at Messrs. FULLER and MARSH'S Offices, 2, Charlotte-row, Mansion-house, and Croydon, Surrey.

Freehold Estate, Paradise-street, Rotherhithe, entitling to a Vote for the Eastern Division of the county of Surrey.—To Builders and Others.

MESSRS. FULLER and MARSH have received instructions to SELL by AUCTION at the Mart, on MONDAY, August 11, at Twelve o'clock, a valuable FREEHOLD PROPERTY, comprising a spacious brick-built dwelling-house, No. 59, Paradise-street, Rotherhithe, with a large garden in the rear, capable of being converted into valuable building land, in the occupation of a respectable tenant, at the low rent of 18l. per annum.

May be viewed, and particulars obtained on the premises; of Mr. G. Drew, solicitor, Bermondsey-street; and at Messrs. FULLER and MARSH'S Offices, Charlotte-row, Mansion-house.

Secure Investments, apportioned in Lots, to meet the convenience of small capitalists.

MESSRS. FULLER and MARSH have received instructions to SELL by AUCTION, at the Mart, on MONDAY, August 11, at Twelve, in 3 Lots, a valuable and rapidly improving LONG LEASEHOLD PROPERTY, consisting of three new, substantially erected, and well-finished residences, Nos. 1, 2, and 3, Bryan street, Chalk-road, Pentonville, in the occupation of very respectable tenants, at rentals amounting to 84l. per annum, held direct from the freeholder for a term of 99 years, from December 1842, at low ground-rents.—May be viewed and particulars obtained on the premises, of John Bishop, esq. solicitor, 14, Lincoln's-Inn-fields, and at Messrs. FULLER and MARSH'S Offices, No. 2, Charlotte-row, Mansion-house.

Valuable Copyhold Estate, High-street, Putney.—Comprising a spacious Family Residence, with Pleasure and Kitchen Gardens, contiguous to the intended Station on the London and Richmond Railway, desirable for occupation or investment.

MESSRS. FULLER and MARSH have received instructions to SELL by AUCTION, at the Mart, on MONDAY, August 11, at Twelve, a spacious detached FAMILY RESIDENCE, with coach-house, stabling, pleasure and kitchen gardens.—May be viewed, and particulars obtained of Messrs. Clayton and Cookson, solicitors, No. 2, New-square, Lincoln's-inn; Red Lion, Putney; and of Messrs. FULLER and MARSH, Auctioneers and Surveyors, Charlotte-row, Mansion-house.

SOMERSETSHIRE.—To Landed Proprietors, Capitalists, and the Public.—A most valuable and desirable ESTATE for SALE, consisting of 179 acres of arable, meadow, pasture, and wood land, tithe-free and land-tax redeemed. To be sold in fee by Auction, at the Egremont Hotel, Williton, Somersetshire, by Mr. THOMAS HAWKS, on TUESDAY, the 29th day of July, 1845, at five o'clock in the afternoon, all that valuable FARM and ESTATE, with the farm-house, outbuildings, and homestead belonging thereto, called Croydon Farm, consisting of about 163 acres of arable, meadow, and pasture land, in the occupation of Mr. Richard Bindon, as tenant thereof.

And also all that WOOD, commonly called Croydon Wood, with the waste lands and coppices adjoining, containing together about 15 acres, and held by the proprietors of the estate.

And also a COTTAGE, with gardens and orchard, containing about three-quarters of an acre, in the occupation of Mr. James Larcombe.

And also the reversion of a COTTAGE and GARDEN, consisting of about a quarter of an acre, held at the yearly rent of 1s. on lease for 99 years, granted in the year 1801, and now determinable with two lives.

The above property is in the parishes of Old Cleeve and Carhampton, or one of them, in the county of Somerset, in the centre of valuable estates belonging to Sir John Trevelyan, bart. J. F. Luttrell, esq. and other gentlemen, lies in a ring fence, and is free from tithes, and the land-tax has been redeemed. It is situated in a fine sporting country, and possesses an excellent stream of water, plentifully supplied with trout.

For a view of the estate, apply to Mr. Richard Bindon, on the premises; and for further particulars, to the Auctioneer, at Williton; to Mr. G. D. Fisher, Widcombe Nursery, Bath; to Mr. James Chapman, solicitor, Warminster, Wilts; or to Messrs. Prideaux and Son, solicitors, Albion Chambers, Bristol.

New Publications.

NECROLOGY.

EARL OF DUNMORE.

We regret to have to announce the death of the Earl of Dunmore, at Streatham, the noble earl's temporary residence, and whither he had gone for the benefit of his health, he having been in a declining state for some time past.

Alexander Murray, Earl of Dunmore, Viscount Fincastle, and Baron Murray, of Blair, Meulin, and Tillemont, in the peerage of Scotland; and Baron Dunmore, of Dunmore, in the Forest of Atholl, county of Perth, in the peerage of the United Kingdom; was the sixth earl (creation 1686); was born June 1, 1804; succeeded his father, George, the fifth earl, November 11, 1836; married at Frankfort-on-the-Maine, September 27, 1836, Catherine, daughter of George Augustus, the eleventh Earl of Pembroke; and has left issue two daughters and a son—namely, Susan Catherine Mary, born July 7, 1837, Constance Euphemia Woronzow, born December 2[illegible], 183[illegible], and a son, Viscount Fincastle, born March 24, 1841, and now Earl of Dunmore. The family estate [illegible] extensive, and lie principally in Stirlingshire and Argyleshire.

MR. J. ADOLPHUS.

[illegible] regret to announce the death of Mr. John Adolphus, the celebrated barrister, which took place suddenly at the house of his son, Mr. J. Leycester Adolphus, in Montague-street, Russell-square, at a late hour on Wednesday night. Mr. Adolphus was one of the oldest members in the criminal courts of this country, and father of the Old Bailey Bar. The deceased gentleman, in early life, raised himself to distinction in the metropolitan courts of criminal jurisprudence, and in a few years worked his way into a large and lucrative practice. Mr. Adolphus on various occasions throughout his professional career had distinguished himself in a very remarkable manner by his extraordinary talents, judgment, and energy, especially during the memorable trial of Thistlewood in 1820, when he was only retained as leading counsel on behalf of the conspirators a few hours before the trial commenced, notwithstanding which, though the trial was one of the most interesting and momentous which perhaps ever took place in a criminal court, involving as it did the liberties and lives of many individuals, he displayed as much legal knowledge, mental acuteness, acquaintance with the facts of the case, and professional talent generally, during the protracted proceedings, as if he had devoted an entire month to the preparation of the defence. The manner in which he acquitted himself was equally the admiration of the Bench, the Bar, and the public. That he was physically equal to the subject was the surprise of all who were aware of the fact that he had sat up the whole of the previous night for the purpose of mastering the principal facts of the case, scattered as they were over a mass of evidence. His statements and arguments were as clear and ingenious as his cross-examination of witnesses was skilful and felicitous. Mr. Adolphus spoke with much ease and fluency, and on all important occasions displayed talent and eloquence of the highest order. He has died sincerely lamented by a very numerous circle of friends. Among the literary efforts of the deceased gentleman may be mentioned the *History of the Reign of George III.* the seventh volume of which has just appeared; the *Political State of the British Empire*, 4 vols.; *Biographical Memoirs of the French Revolution; Life of Bannister*, 2 vols. &c.

BIRTHS, MARRIAGES, AND DEATHS.

[The charge for the insertion of the above is 5s.]

BIRTHS.

BARCLAY.—On Monday, the 14th inst. in Tavistock-square, the lady of Thomas Fraser Barclay, esq. of the Middle Temple, of a son.

WORLLEDGE.—On the 11th inst. at No. 56, Ebury-street, Eaton-square, the lady of John Worlledge, jun. esq. barrister-at-law, of a daughter.

MARRIAGES.

BROWNE, Martin, esq. of Loddon, in the county of Norfolk, solicitor, second son of the late John Browne, esq. of Norton-hall, in the said county, to Elizabeth Janet, second daughter of John Innes, esq. of Forest-green, Surrey, on the 10th inst. at the parish church of St. Peter's Port, in the island of Guernsey.

ELLIOT, William Frank, esq. of Bishopsull, to Elizabeth Anne, youngest daughter of William Norman, esq. of Courtlands, Somersetshire, on the 10th inst. at Norton Fitzwarren.

EDWARDS, Richard Sharwood, esq. of Halstead, Essex, to Harriett, eldest daughter of Orbell Hustler, esq. solicitor, Halstead, on the 8th inst. at St. Bride's Church, Blackfriars, London.

GANT, John Castle, of Nicholas-lane, Lombard-street, solicitor, eldest son of Lieutenant-colonel Gant, to Cecilia Ann, elder daughter of G. S. Heales, of Stoke Newington, esq. on the 12th inst. at St. Mary's, Stoke Newington

[illegible]STLER, Charles Devereux, esq. eldest son of Orbell Hustler, esq. solicitor, Halstead, Essex, to Marianne Arabella, youngest daughter of the Rev. Thomas Castley, Rector of Cavendish, on the 24th ult. at Cavendish Church, Sussex.

HAMILTON, Alexander, esq. Writer to the Signet, to Mary Chisholm, eldest daughter of Charles Robertson, esq. of Kindeace, Ross-shire, at Edinburgh, on the 15th inst.

DEATHS.

ADOLPHUS, John, esq. of Gower-street, barrister-at-law, of the Inner Temple, on the 17th inst. suddenly, at the house of his son, Montague-street, Russell-square, aged 75.

BLANCHE, Louisa, eldest daughter of the Rev. George Sandby, vicar of Flixton, Suffolk, on the 10th inst. of consumption, aged 11.

STRICKLAND, Charles, esq. late lieutenant-colonel of the 59th regt. of foot, and senior magistrate and alderman of the borough of Dorchester, on the 6th inst. at Dorchester, aged 69.

PENSIONS.—The following is a list of all pensions granted between the 20th day of June, 1844, and the 20th day of June, 1845, and charged upon the Civil List:—On the 28th of January, to Patrick Frazer Tytler, esq. in consideration of his eminent literary attainments and merits as an historian, 200*l*. On the 28th of January, to Mrs. Jane Hood, 100*l*.; to William Elliott, M.D. in trust for her, as the wife of Thomas Hood, esq. author of various popular works, in consideration of his literary merit and infirm state of health. On the 28th of January, to Susan Robertson, 50*l*.; Mary Robertson, 50*l*.; Eleanor Robertson, 50*l*.; Elizabeth Robertson, 50*l*.; the four daughters of Lieutenant-Colonel Robertson Macdonald, and grand-daughters of the late Principal Robertson, in consideration of the eminent literary merits of their grandfather as an historian, and their own destitute situation; in trust to James Rolland, esq. and John Stewart, esq. writers to the signet, in Edinburgh. On the 31st of January, to Jane Caroline Stoddart, 75*l*.; Frances Agnes Stoddart, 75*l*.; sisters of the late Lieutenant-Colonel Stoddart, murdered at Bokhara, in consideration of the services of their brother, and of there being no adequate provision for them; in trust to John Kitson, esq. of Thorpe, near Norwich. On the 5th of March, to Mademoiselle Augusta Emma D'Este, 500*l*.; in trust to Edward Majoribanks, esq. and Sir Edward Antrobus, bart. for her, in consideration of her just claims on the royal beneficence. On the 11th of June, to Clara Maria Susanna Lowe, 50*l*. daughter of the late General Sir Hudson Lowe, in consideration of the services of her father, and her own destitute condition; in trust to Sir Joshua Rickets Rowley, bart. captain, R.N., and Lieutenant Edward William De Lancy Lowe, 32nd regiment of foot. Total, 1,200*l*. The return is dated Whitehall, Treasury Chambers, July 7, 1845, and signed by Edward Cardwell.

To Readers and Correspondents.

FAIR PLAY.—*We have exposed the advertisements of Mr. Weston so often that there is no need to repeat them.*

T. A. M. (Bath.)—*We cannot insert his letter; for, however true, as we doubt not it is, it would be a libel.*

A CORRESPONDENT (Bradford.)—*We are compelled to avoid discussions of this nature, as, once admitted, they would be endless.*

JOHN CORNWALL, jun.—*The question is needless. The usual costs would be allowed, as if the prisoner had been tried.*

H. P. C.—*Nothing more has been heard of this case.*

A. M. (Birmingham.)—*We are unable to find the case he names. It is not in the Index as yet.*

THE REPORTS.

[These are usually brought down to the Wednesday preceding publication. Where *Cur. adv. vult*, the case is not reported till judgment given. All written judgments are taken in shorthand, and reported *verbatim*. Rules *nisi* are reported.]

The following are the names of gentlemen who favour the LAW TIMES with the Reports:—

PRIVY COUNCIL by THOMAS CAMPBELL FOSTER, Esq. of the Middle Temple, Esq. Special Pleader.

EQUITY COURTS.

LORD CHANCELLOR'S COURT by RICHARD GRIFFITHS WELFORD, Esq. of the Inner Temple, Barrister-at-Law.

VICE-CHANCELLOR of ENGLAND'S COURT, by GEORGE GOLDSMITH, Esq. of the Middle Temple, Barrister-at-Law.

ROLLS COURT, by J. MACAULAY, Esq. of the Inner Temple, Barrister-at-Law.

VICE-CHANCELLOR KNIGHT BRUCE'S COURT by GEO. S. ALLNUTT, Esq. of the Middle Temple, Barrister-at-Law.

VICE-CHANCELLOR WIGRAM'S COURT, by J. VESEY DAWSON, Esq. of the Middle Temple, Barrister-at-Law.

COMMON LAW COURTS.

The QUEEN'S BENCH, by J. C. SYMONS, Esq. of the Middle Temple, Barrister-at-Law, and EDWARD WISE, Esq. of the Middle Temple, Barrister-at-Law.

The COURT of COMMON PLEAS, by W. PATERSON, Esq. of Gray's-inn, Barrister-at-Law.

The COURT of EXCHEQUER by JOHN BRIDGE ASPINALL, Esq. of the Middle Temple, Barrister-at-Law, and H. T. COLE, Esq. of the Middle Temple, Barrister-at-Law.

The BAIL COURT by T. W. SAUNDERS, Esq. of the Middle Temple, Barrister-at-Law.

The EXCHEQUER CHAMBER by A. A. FRY, Esq. of Lincoln's-inn, Barrister-at-Law.

BANKRUPT AND INSOLVENT COURTS.

The COURT of REVIEW by GEO. S. ALLNUTT, Esq. of the Middle Temple, Barrister-at-Law.

LONDON COMMISSIONERS' COURTS and the INSOLVENT COURT, by B. TALBOT, Esq. of the Middle Temple, Barrister-at-Law.

BRISTOL DISTRICT COURT, by J. ANGUS HOMES, Esq. Barrister-at-Law.

NISI PRIUS, CIRCUITS, AND CROWN CASES.

CENTRAL CRIMINAL COURT, by B. C. ROBINSON, Esq. of the Middle Temple, Barrister-at-Law.

CROWN CASES (before all the Judges) by A. BITTLESTON, Esq. of the Inner Temple, Barrister-at-Law.

NORTHERN CIRCUIT, York and Liverpool, by J. B. ASPINALL, Esq. Barrister-at-Law. The other parts of the Circuit, by G. F. H. OLIPHANT, Esq. Barrister-at-Law.

WESTERN CIRCUIT, by EDWARD W. COX, Esq. of the Middle Temple, Barrister-at-Law.

OXFORD CIRCUIT, by JOHN LANE, Esq. D.C.L. of the Inner Temple, Barrister-at-Law.

NORFOLK CIRCUIT by JNO. B. DASENT, Esq. Barrister-at-Law.

SITTINGS AT NISI PRIUS AFTER TERM, by JOHN LANE, Esq. D.C.L. of the Inner Temple, Barrister-at-Law; E. WISE, Esq. Barrister-at-Law; and others.

ELECTION LAW.

REGISTRATION APPEALS in the COMMON PLEAS by EDWARD W. COX, Esq. of the Middle Temple, Barrister-at-Law; and HENRY TINDAL ATKINSON, Esq. of the Middle Temple, Barrister-at-Law.

ELECTION COMMITTEES by EDWARD W. COX, Esq. of the Middle Temple, Barrister-at-Law.

REGISTRATION COURTS, collected and edited by EDW. W. COX, Esq. of the Middle Temple, Barrister-at-Law.

IRISH REPORTS.

The LORD CHANCELLOR'S COURT by WILLIAM DUGGAN, Esq. Barrister-at-Law.

QUEEN'S BENCH and CRIMINAL COURTS by WM. ST. LEGER BASINGTON, LL.D. Barrister-at-Law.

N.B.—The names of the reporters of such important points as may arise upon Circuit will be announced as the arrangements for each are completed.

The Written Judgments are reported verbatim in Shorthand by Mr. H. GREGORY, Short-hand Writer.

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Printed particulars may be had of Messrs. Overton and Hughes, solicitors, 25, Old Jewry; at the Auction Mart of Messrs. VENTOM and HUGHES, Auctioneers, Angel-court, Throgmorton-street; and of Mr. Brown, auctioneer, Herne Bay, Kent.

Freehold Ground-rent of 25l. per annum.

TO BE SOLD by AUCTION, by Messrs VENTOM and HUGHES, at the Auction Mart, on Wednesday, the 23rd of July, 1845, at Twelve o'clock, a FREEHOLD GROUND-RENT of 25l. per annum, arising out of twelve brick-built houses, Nos. 1 to 12, Edmund's-place, next to Osborne-place, Great Arthur-street, Golden-lane, in the parish of St. Luke, land-tax redeemed.

May be viewed; printed particulars had of Messrs. Overton and Hughes, solicitors, 25, Old Jewry; of Messrs. VENTOM and HUGHES, Estate and Land Agents, Angel-court, Throgmorton-street; at the Auction Mart; and of Mr. Brown, auctioneer, Herne Bay, Kent.

KENTISH TOWN.—Copyhold Residence, with large Garden, Chaise-house, and Stabling By VENTOM and HUGHES, at the Auction Mart, on WEDNESDAY, 23rd July, 1845, at Twelve, by order of the proprietors, with the concurrence of the mortgagees. A very desirable, substantial, brick-built RESIDENCE, possessing ample accommodation for a family of respectability, eligibly situate in Willow-walk, Kentish Town, with large garden, stabling for three horses, coach-house, and various out-buildings, let to Mr. Wood, a highly respectable tenant, at 57l. 15s.—May be viewed; printed particulars had at the Baker's, opposite; the Mother Red Cap, Kentish Town; Messrs. Overton and Hughes, solicitors, 25, Old Jewry; VENTOM and HUGHES, Angel-court, Throgmorton-st.; and at the Auction Mart.

NOTE. The above is subject to a trifling quit rent and nominal fine on death or alienation.

Desirable Freehold Property, Tottenham-court-road.

MESSRS. VENTOM and HUGHES have been favoured with directions to SELL by PUBLIC AUCTION, at the Mart, on WEDNESDAY, 23rd July, 1845, at Twelve, in one lot, by order of the proprietors, with the concurrence of the mortgagees, five substantial brick-built HOUSES, numbered 1 to 5, Donaldson's-buildings, Tottenham-court-road, on lease to Mr. John Lansdall, of No. 2, Tottenham-court-road, whereof 13 years are unexpired, at the very low rent of 25l. per annum.—May be viewed, and printed particulars had of Messrs. Overton and Hughes, solicitors, 25, Old Jewry; VENTOM and HUGHES, Angel-court, Throgmorton-street; and at the Auction Mart.

THE MANOR HOUSE, KENTISH-TOWN. Eligible COPYHOLD ESTATE. By VENTOM and HUGHES, at the Mart, on WEDNESDAY, 23rd July, 1845, at Twelve, by direction of the proprietors, with consent of the mortgagees, the "MANOR HOUSE," being a brick-built residence, seated within its own grounds, containing five chambers, drawing and dining rooms, breakfast parlour, domestic offices, large size garden and greenhouse, delightfully situated in the rear of Willow-walk, Kentish-town, in the occupation of Mrs. Tharratt, a yearly tenant, at the low rent of 30l. The above is subject to a trifling quit rent and nominal fine.

May be viewed by permission of the tenant; printed particulars had at the Mother Red Cap, Kentish-town; Messrs. Overton and Hughes, solicitors, 25, Old Jewry; VENTOM and HUGHES, Angel-court, Throgmorton-street; and at the Auction Mart.

Donaldson's Buildings, in the rear of Hanway-street, Tottenham-court-road. Freehold Houses, producing 32l. per annum.

MESSRS. VENTOM and HUGHES have received directions from the proprietors, with the concurrence of the mortgagees, to SELL by AUCTION, at the Mart, on WEDNESDAY, 23rd July, 1845, at Twelve, TWO FREEHOLD BRICK-BUILT HOUSES, formerly 6 and 7, Donaldson's Buildings, Tottenham-court-road, forming the rear of the two houses numbered each 14 in Hanway-street, on lease to Mrs. Rees, whereof [illegible] years are unexpired, at a rent of 32l.—May be viewed. Printed particulars may be had of Messrs. Overton and Hughes, solicitors, 25, Old Jewry; VENTOM and HUGHES, Angel-court, Throgmorton-street; and at the Auction Mart.

Claremont House, Kentish Town.

MESSRS. VENTOM and HUGHES have received instructions from the proprietors, with concurrence of the mortgagees, to sell by Auction at the Mart, on WEDNESDAY, July 23, 1845, at Twelve, a commodious and spacious Copyhold brick-built Family Residence, known as "CLAREMONT HOUSE," Willow Walk, Kentish Town, in good repair. It contains numerous chambers, drawing and dining rooms, breakfast parlour, superior domestic offices, and good garden; is in hand, and of which immediate possession may be had, and was recently let at 45l per annum. The above is subject to a trifling quit rent and nominal fine.—May be viewed on application at the Baker's opposite, of whom printed particulars may be obtained; also at the Mother Red Cap, Kentish Town; Messrs. Overton and Hughes, solicitors, 25, Old Jewry; VENTOM and HUGHES, Angel-court, Throgmorton street; and at the Auction Mart.

Freehold Ground Rent of 121l. per annum.

MESSRS. VENTOM and HUGHES are favoured with instructions from the proprietor, with the concurrence of the mortgagee, to submit to PUBLIC COMPETITION, at the Auction Mart, on WEDNESDAY July 23, 1845, at Twelve, a well-secured GROUND-RENT of 121l. arising from the following extremely valuable property, formerly No. 4 and 5, which have been pulled down, and within the last eight years a substantial brick-built modern residence, spacious glazed-fronted shop and warehouses, have been erected, being No. 5, Tottenham-court-road, the corner of Hanway-street, with a separate entrance from the same, occupied by Mr. James Franklin, as a silversmith and pawnbroker; also, two brick-built Houses with shops, Nos 1 and 15 in Hanway-street, in the tenure of Messrs. Swan and Stone. The whole of the above are on lease to Mr. James Franklin for a term of 60 years, whereof 51 are unexpired, at a ground-rent of 121l.

NOTE.—The reversionary interest in the above is very valuable, the whole being of the annual value of 400l.

Printed particulars may be had of Messrs. Overton and Hughes, solicitors, 25, Old Jewry; Messrs. VENTOM and HUGHES, Angel-court, Throgmorton-street; and at the Auction Mart.

CASTLE-STREET, HOLBORN.

MESSRS. VENTOM and HUGHES are instructed to SELL by AUCTION, at the Mart on WEDNESDAY, July 23, 1845, at Twelve, by order of the proprietors and trustees for sale, and with the concurrence of the mortgagees, an UNDIVIDED THIRD-PART or SHARE of those BRICK-BUILT PREMISES, No. 12 the corner of Castle-street, Holborn, held for the residue of the term of 99 years, from the 18th day of September, 1793 containing on the third floor, two chambers; second floor, sitting-room and kitchen; first floor, large show-room; principal floor, a glazed fronted shop fronting Holborn, with warehouse extending down Castle-court, show-room over, and side entrance; basement, spacious dry cellar. The above-mentioned premises are let on lease to Mr. Josiah Widnell for a term which will expire at Michaelmas, 1851, at a clear yearly rent of 100l. one-third of which will be payable to the purchaser of this lot. N. B. The premises are not subject to any ground-rent.

Printed particulars may be had of Messrs. Overton and Hughes, solicitors, 25, Old Jewry; at the Auction Mart VENTOM and HUGHES, Angel-court, Throgmorton-street; and of Mr. Brown, auctioneer, Herne Bay, Kent.

Valuable Freehold and Copyhold Property, Lincoln's-inn Fields; West Malling, Kent; an undivided Moiety of a Copyhold House, Malting, Pasture and Arable Land a Little Wenlock, near Shrewsbury—the whole producing 174l. per annum.

MESSRS. VENTOM and HUGHES have received instructions from the Trustees under the will of the late William Rowley, esq. to SELL by AUCTION, at the Auction Mart, London, on THURSDAY, July 24, at Twelve, in Five Lots, without reserve, the following valuable PROPERTY.

Lot 1. Two spacious Freehold substantial brick-built Dwelling-houses, Nos. 27 and 28, Duke-street, the west side of Lincoln's-inn-fields; let to Messrs. Cable and Alder, at rents amounting to 84l. per annum.

Lot 2. Two Freehold brick-built Dwelling-houses, Nos 7 and 8, Princes-street, Little Queen-street, Holborn, let to Messrs. Davis and Bealby, at rents amounting to 40l. per annum.

Lot 3. A Freehold brick-built Three-stall Stable, with loft over, the corner stable in the centre of New-yard, Great Queen-street, in hand, but of the annual value of 15l.

Lot 4. A Freehold brick-built Dwelling-house, opposite the Bear Inn, in the preferable part of the town of West Malling, Kent, in the occupation of Mr. Allshin, at 16l.

Lot 5. The undivided Moiety of a Copyhold Dwelling-house, Malt House, Buildings, Gardens, and Hemphutt, with several pieces or parcels of Land, situate in the township of Enchmarsh, in the parish of Cardington, near Shrewsbury, heretofore in the occupation of Mr. Joseph Mannox, and now of Mr. Wm. Norriss, at a rent of 30l.

May be viewed; and printed particulars had at the Bell Inn, Maidstone; the Lion, Shrewsbury; of Messrs. Allan and Son, solicitors, 1, Frederick's-place, Old Jewry; Messrs. Bridger and Blake, solicitors, Carpenter's Hall, London-wall; Mr. Harpur, solicitor, Kennington-cross; VENTOM and HUGHES, Angel-court, Throgmorton-street; at the Auction Mart; and of Mr. Brown, Auctioneer, Herne Bay, Kent.

FREEHOLD FACTORY, RESIDENCE, and BUILDINGS, St. Bartholomew-close, West Smithfield. By VENTOM and HUGHES, at the Auction Mart, on WEDNESDAY, 23rd July, 1845, at Twelve, by order of the proprietors, and with the concurrence of the mortgagees, a very desirable and extensive FREEHOLD ESTATE, being Nos. 41 and 42, St. Bartholomew-close, comprising a respectable brick-built residence, spacious factory, small residence, stable, workshop, and large fore-court inclosed by iron railing. Let on two leases to Mr. Robert Burgh, frieze and lace maker, which will expire in 1851 and 1863, at very low rents, amounting to 92l. and of the annual value of 150l.—May be viewed by permission of the tenant; printed particulars had of Messrs. Overton and Hughes, solicitors, 25, Old Jewry; VENTOM and HUGHES, Angel-court, Throgmorton-street; and at the Auction Mart.

FREEHOLD HOUSE, and glazed-fronted OIL and COLOUR WAREHOUSE, Tottenham-court-road. By VENTOM and HUGHES, at the Auction Mart, on WEDNESDAY, 23rd July, 1845, at Twelve, by order of the proprietors, and with the concurrence of the mortgagees, a desirable Freehold brick-built House, with stuccoed and glazed-fronted Shop, warehouse behind, with side entrance from the court, on lease to Mr. David Bowman, oil and colourman (who paid a premium for the granting of the same), whereof 6 years are unexpired, at the low rent of 60l. but of the annual value of 100l.—May be viewed by permission of the tenant; printed particulars had of Messrs. Overton and Hughes, solicitors, 25, Old Jewry; Messrs. VENTOM and HUGHES, Angel-court, Throgmorton-street; and at the Auction Mart.

TOTTENHAM COURT ROAD.—Freehold Brick-built House, with glazed-fronted shop. By VENTOM and HUGHES, at the AUCTION MART, on WEDNESDAY, July 23, 1845, at Twelve, by order of the proprietors, and with the concurrence of the mortgagees, a desirable brick-built RESIDENCE and BUSINESS PREMISES, being No. 1, Tottenham-court-road, in the occupation of Moore and others; on lease to Mr. Barnes, whereof 14 years are unexpired, at the low rent of 73l. 10s. but of the annual value of 100l.—May be viewed by permission of the tenants; printed particulars had of Messrs. Overton and Hughes, solicitors, No. 25, Old Jewry; Messrs. VENTOM and HUGHES, Angel-court, Throgmorton-street; and at the Auction Mart.

FREEHOLD BAKER'S SHOP and RESIDENCE, No. 2, Tottenham Court-road. By VENTOM and HUGHES, at the Auction Mart, on WEDNESDAY, July 23, 1845, at Twelve, by order of the proprietors, and with the concurrence of the mortgagees, a substantial brick-built Residence, in excellent repair, with a glazed-fronted shop, and separate entrance, with flour store and bakehouse, being No. 2, Tottenham Court-road, the Oxford-street end, on lease to Mr. John Lansdall (who paid a premium), whereof thirteen years are unexpired, at the low rent of 60l. but of the presumed annual value of 100l.—May be viewed by permission of the tenant, and printed particulars had of Messrs. Overton and Hughes, solicitors, 25, Old Jewry; VENTOM and HUGHES, Angel-court, Throgmorton-street; and at the Auction Mart.

HIGHBURY-GROVE.—Elegant detached Villas, at low ground-rents.

VENTOM and HUGHES are honoured with instructions from the proprietor to SELL by AUCTION, at the Mart, on THURSDAY, July 24, at Twelve, in Three Lots, FOUR SPLENDID brick-built detached VILLAS, most delightfully situate and known as Grove Villas, Highbury-grove; they contain each airy chambers, drawing-room 22 feet by 15 feet, two dining-rooms communicating and opening to a conservatory, noble entrance hall and portico, geometrical stone staircase, with iron balustrades, and Spanish mahogany hand-rail, bath room, breakfast-room, study, patent water-closet, housekeeper's room, store-room, butler's pantry, kitchen, wash-house, amplitude of cellaring, and large garden. The above are held on leases direct from the freeholder for ninety-eight years, at ground-rents of 5l. 15s. for each house; one is let for the whole term to Dr. Brien at a ground-rent of 5l. 15s., another to the Rev. Mr. James, for three years, at the low rent of 70l. but worth 80l. Let to Mr. Shirley for 3 years, at 80l. The other in hand, and of the same value. They are divided from the road by spacious fore courts, iron railing, and stone steps, are elegantly fitted, and finished in a modern style, regardless of expense, and are particularly deserving the attention of the capitalist for investment or occupation.

May be viewed; printed particulars had on the premises; Angel, Islington; Messrs. Overton and Hughes, solicitors, 25, Old Jewry; VENTOM and HUGHES, Angel-court, Throgmorton-street; at the Mart; and Mr. Brown, Auctioneer, Herne Bay, Kent.

Secure Investment.—Valuable Long Leasehold Property, Downham-road and Clarence-terrace, New North-road, Islington, producing a rental of 289l. 10s. per annum.

TO BE SOLD by AUCTION, by Messrs. VENTOM and HUGHES, at the Auction Mart, on Wednesday, July 23, 1845, at Twelve o'clock, in three lots, by order of the proprietor, the following truly desirable and substantial brick-built houses, peculiarly adapted for the residences of genteel families; they have been erected without regard to expense, are finished in a style of modern neatness, and are replete with accommodation:—

Lot 1. A New Brick-built RESIDENCE with slated roof, being No. 42, Downham-road, New North-road, held for ninety-five years at a ground-rent of 5l. 10s. and of the annual value of 40l.

Lot 2. FIVE SUBSTANTIAL RESIDENCES, with slated roofs, being Nos. 29, 30, 31, 32, and 33, Clarence-terrace, Rotherfield-street, Lower-road, Islington; they are seated at a pleasant distance from the road, from which they are divided by fore-courts and iron railing, and approached by stone steps. The are let to respectable tenants at rents amounting to 156l. Held on lease for ninety-five years, at the apportioned ground-rent of 5l. each house.

Lot 3. THREE HOUSES, of a similar description, being Nos. 22, 23, and 24, in the same terrace, let at rents amounting to 93l. 10s. per annum. Held for the like term as lot 2, at the apportioned ground-rent of 5l. for each house.

May be viewed, by permission of the tenants, ten days prior to the sale; printed particulars had of Mr. Beckingham, No. 28, Clarence-terrace; the Rosemary Branch, Hoxton; Angel, Islington; Messrs. Overton and Hughes, solicitors, 25, Old Jewry; Mr. Brown, auctioneer, Herne Bay, Kent; of Messrs. VENTOM and HUGHES, Auctioneers and Estate Agents, Angel-court, Throgmorton-st.; and at the Auction Mart.

UPPER HOLLOWAY.—Four substantial brick-built Houses, at low Ground-rents.—By Messrs. VENTOM and HUGHES, at the AUCTION MART, on THURSDAY, July 24, at Twelve, in Two Lots, by Order of the Proprietors.

FOUR newly-erected and substantial Brick-built HOUSES, with Slated roofs, divided from the roads and fore-courts and iron railing, and numbered 1, 2, 6, and 7, Seymour-place, John-street, near the Crown, Upper Holloway, containing each four airy chambers, parlour, kitchen, wash-house, and neat garden, of the annual value of [illegible]l. each; held for a term of 66 years, at a ground-rent of [illegible]l. each. The houses have been built under the superintendence of the proprietors, present a neat and uniform elevation, and commanding extensive views of the surrounding country.

May be viewed: printed particulars had of Mr. Lawrence, No. 6; the Rosemary Branch, Hoxton; of John Scarborough, esq., 19, Tokenhouse-yard; the Auction Mart; of Messrs. VENTOM and HUGHES, Angel-court, Throgmorton-street; and of Mr. Brown, Auctioneer, Herne Bay, Kent.

Marine Residence, with Eleven Acres of ornamental Plantations, Gardens, and Paddocks, in Plymouth; and Farms in Egg Buckland, Devonshire, for sale.

TO BE SOLD by AUCTION, by Messrs. WOOD and SON, on MONDAY, the 28th day of July, at the Royal Hotel, Plymouth, precisely at Two o'clock in the afternoon.

Lot 1.—Green Bank, with immediate possession. The villa and grounds are situated at Plymouth, and contain about eleven acres of pasture, gardens, shrubbery, and plantations, within a walled inclosure. The House contains an entrance hall, library, drawing-room, dining-room or picture-gallery, morning-room, conservatories, bath-room, first and second kitchens, servants' hall, and all requisite offices on the ground floor, with extensive cellars under; two staircases, six best bed-rooms, and dressing-room, two water-closets, five servants' rooms, and every domestic arrangement which can be required to render the place fit for the residence of a family of the first respectability. The stable is detached, contains loose boxes and stalls for eight horses, double coach-house, hay-house, granary, and saddle-room, with groom's apartment, the whole inclosed. An abundant supply of excellent spring and soft water. Should this stabling not be required, it could readily be converted into a house or houses, with separate entrances. The estate, whilst it commands uninterrupted views of the Eddystone, Sound, Breakwater, Cawsand Bay, Mount Edgcumbe, and all the adjacent country, is perfectly sheltered, and has a southern aspect. The property forms a most delightful residence, within a short distance of the town end of the intended terminus of the South Devon Railway. It was completed by the proprietor for his own occupation, at a great expense, and is sold in consequence of his having left the neighbourhood.

Lot 2.—An Estate called Skinner's-place, in the parish of Egg Buckland, in the county of Devon, containing about 38 acres, now in the occupation of Mr. John Blake.

Lot 3.—An Estate called Fragmoor, containing about 54 acres, in the occupation of Mr. John Brooking.

Lot 4.—An Estate called Colwell, in Egg Buckland, with the famous Slate Quarry, called Rumple Quarry, containing in the whole about 140 acres. The arable, tillage, and pasture lands are in the occupation of Mr. John Wills, the Quarry and Woods are in hand.

Lot 5.—Three Cottages and a Garden, in Egg Buckland.

Lot 6.—A Cottage and Garden, in the said village.

Lot 7.—The Public-house in the said village, called the New Inn, with the Garden thereto belonging.

Lot 8.—A Cottage, Blacksmith's Shop, and Garden, in the said village.

Lot 9.—A Cottage and Garden, in the said village.

Lot 10.—A Cottage and Garden, in the said village.

Lot 11.—Four Cottages and Gardens, also situated in the said village.

Colwell is within five miles, the other Estates, the Cottages and Inn, are within two miles of Green Bank, and would form a desirable appendage to that Property. The Timber is to be taken at a valuation. The respective tenants will shew the Estates.—Cards of admission to view Green Bank, and further particulars of the whole Property, may be obtained from Mr. Surr, solicitor, 80, Lombard-st. London, or Mr. Elworthy, solicitor, Courtenay-st. Plymouth.

Compact House and Furniture, Curzon-street, Mayfair, held on lease at a low rent, admirably adapted for a bachelor, professional man, or a small family, with immediate possession.

MR. FREDERICK CHINNOCK will SELL by AUCTION, peremptorily, at the Auction Mart, on WEDNESDAY, July 30 (unless previously disposed of by private contract), the above desirable HOUSE, which is furnished with great taste, and is in excellent repair, fit for immediate occupation; it is held for a term of 12 years, at the low rent of 84l. per annum. The fixtures and furniture to be taken, either at a fair valuation or the sum to be fixed at the time of sale.—May be viewed. Particulars obtained at Mr. FREDERICK CHINNOCK'S Offices, 28, Regent-street, Waterloo-place.

Leaseholds, Mount-street, Grosvenor-square, and Devonshire-street, Marylebone.—Capital Investment to pay good interest.

MR. FREDERICK CHINNOCK will SELL by AUCTION, peremptorily, at the Mart, on WEDNESDAY, July 30, at Twelve, a good private HOUSE, let on lease, situate in Mount-street, Grosvenor-square, and TWO private HOUSES, being Nos. 54 and 55, Devonshire-street, Lisson-grove, Marylebone, also well let. Held for long terms, at ground-rents, and producing 98l. per annum.—May be viewed. Particulars had of Messrs. Springall, Thompson, and Powell, solicitors, 4, Raymond-buildings, Gray's Inn; at the Auction Mart; and at Mr. CHINNOCK'S Offices, 28, Regent-street, Waterloo-place.

Capital long Leaseholds, Islington, Spencer-terrace, all well let, producing 180l. per annum.

MR. FREDERICK CHINNOCK has been instructed to SELL by AUCTION, at the Auction Mart, on WEDNESDAY, July 30, at Twelve, FIVE excellent PRIVATE HOUSES, with good gardens front and back, situate in the high road, and being Nos. 5, 6, 7, 8, and 9, Spencer-terrace, Lower-road, Islington, the whole being let to highly respectable tenants at rents amounting to 180l. per annum: held for 80 years at a ground-rent.—May be viewed by permission of the tenants, and particulars obtained of J. Vincent, esq. solicitor, 10, South-square, Gray's-inn; at the Auction Mart; at the Angel Inn, Islington; and of Mr. CHINNOCK, 28, Regent-street, Waterloo-place.

67l. 15s. and 77l. 15s. per annum, well secured valuable premises in Mayfair.

MR. FREDERICK CHINNOCK will SELL by AUCTION, at the Auction Mart, on WEDNESDAY, July 23, at Twelve, an IMPROVED RENTAL of 67l. 15s. for three years, and 77l. 15s. for 21 years, well secured upon commanding premises, 12, Curzon-street, Mayfair. It comprises an elegantly fitted up shop and private dwelling, quite distinct, which has great accommodation for a large family, let for the whole term to highly respectable tenants.—May be viewed by permission of the tenants, and particulars had of Mr. W. ., Mansfield, solicitor, 20, John-street, Bedford-row; at the Auction Mart; and at Mr. CHINNOCK'S offices, 28, Regent-street, Waterloo-place.

Excellent Leaseholds, Old Kent-road, well let.

MR. FREDERICK CHINNOCK is directed by the Mortgagee to SELL by AUCTION, at the Auction Mart, on WEDNESDAY, July 30, TWO well-built private HOUSES, with gardens back and front, let to old and highly respectable tenants, situate and being Nos. 5 and 6, Ann's-place, Old Kent-road. They are held for 68 years from Midsummer 18.., at a low ground-rent, producing 60l. per annum.—M[redacted]viewed, and particulars obtained at Messrs. Springall, Thompson, and Powell's, solicitors, 4, Raymond's-buildings, Gray's-inn; at the Mart and of Mr. CHINNOCK, 28, Regent-st. Waterloo-place.

Gray's-inn-lane, nearly opposite King's-road.—Compact Leasehold Estate, Butchers' and Stationers' Shops, &c.

MR. FREDERICK CHINNOCK will SELL by AUCTION, at the Auction Mart, on WEDNESDAY, July 30, at Twelve, a LEASEHOLD ESTATE, comprising a brick-built house and shop, being No. 71, Gray's-inn-lane, in the occupation of Mr. Pilcher, stationer; No. 72, a ditto house, shop, and slaughter-house, in the occupation of Mr. Puttock, butcher—both let on lease for the remaining term; also a tenement adjoining, in Little Gray's-inn-lane; the whole producing the yearly rent of 134l.; held until Lady-day 1854, at a rent of 75l. per annum.—May be viewed by permission of the tenants, and particulars obtained of Messrs. Richardson, Smith, and Sadler, solicitors, 28, Golden-square; at the Auction Mart; and at Mr. FREDERICK CHINNOCK'S Auction and Estate Offices, 28, Regent-street, Waterloo-place.

St. Peter's-square, Hammersmith.—Very valuable Leaseholds, most substantially built; held for very long terms at exceedingly low ground-rents.

MR. FREDERICK CHINNOCK is directed to OFFER for unreserved SALE by AUCTION, at the Auction Mart, on WEDNESDAY, July 30, at Twelve, SEVEN capital well-built PRIVATE HOUSES, situate in St. Peter's-square, Hammersmith, and numbered 4, 5, 6, 7, 8, 11, and 12; let at rentals amounting to 267l. per annum, and held for a term of 81 years, at a low ground-rent, and presenting a most desirable opportunity for the investment of capital. The premises may be viewed by leave of the tenants.—Particulars may be obtained of Messrs. E. and E. Harrison, solicitors, 14, Southampton-buildings, Holborn; at the Auction Mart; and of Mr. CHINNOCK, 28, Regent-street, Waterloo-place.

ST. JAMES'S-PLACE.—Spacious Family Residence, with noble, lofty suites of apartments, adapted for a public company or professional chambers.

MR. FREDERICK CHINNOCK will SELL by AUCTION, at the Mart, on WEDNESDAY, July 30, at Twelve o'clock, the valuable lease of the spacious FAMILY RESIDENCE, held at the low rent of 250l. per annum, for an unexpired term of 28 years, formerly the residence of the Right Hon. Lord Sandes, arranged in noble suites of apartments on each floor; the saloon measuring 31 feet by 21 feet; a front drawing-room, 30 feet by 14 feet; the others in proportion; the whole, from its accommodation and contiguity to the Courts of Law, the Houses of Parliament, and other public buildings, admirably adapted for a public institution, a railway company, saloon of arts, club chambers, or for any purpose where extensive and noble premises are required.—To be viewed any time previously to the sale; particulars had upon the premises; at the Mart; and at Mr. FREDERICK CHINNOCK'S Auction and Agency Offices, 28, Regent-street, Waterloo-place.

SLOUGH, BUCKS.—To Capitalists and Others.—Superior Freehold and Copyhold Estate, comprising the well-known celebrated Nursery Grounds of Mr. Thos. Brown, offering a most eligible investment.

MR. TEBBOTT has the honour most respectfully to inform the public that he has been favoured with instructions to SUBMIT to COMPETITION the above valuable property, at the Crown Inn, Slough, on THURSDAY, July 31st, 1845, at One for Two o'clock, precisely, in One Lot, by order of the proprietor, who has lately retired from the business in favour of the present occupier, Mr. W. C. Brown, by whom this old-established Nursery, in all its branches, is now carried on in the same spirited manner for which it has been so long celebrated.

The property is of the first-rate description, and contains eight acres (more or less), part Freehold and part Copyhold (tithe-free and land-tax redeemed); with an excellent newly-built Residence in the Italian style, with an admirably arranged interior, finished with superior taste; verandah and lawn in front, inclosed by a neat iron palisade fence; small yard at the back, with a reservoir for rain water; a spacious shop, 37 feet by 15 feet, with loft and counting-house at the back; a conservatory partly of the same dimensions, with corresponding fronts, forming the wings of the house; front and inner yards well inclosed, including three store sheds, cart and packing sheds, two and three stall stables, chaise house, part with lofts, cow-house, and granary over: capital barn, with York stone thrashing-floor, &c. The splendidly arranged gardens are in the highest possible order, and formed into various compartments, intersected by spacious gravel walks, and screened by luxuriant belts, and division fences, of holly, yew, hornbeam, and box, from 6 to 16 feet in height. Numerous greenhouses, propagating ditto, forcing and open pits (part with steam apparatus), potting and fuel sheds, the whole well supplied with fine spring water, &c.; let on lease to a highly respectable tenant at 200l. per annum.

N.B. The dwelling house, out-buildings, greenhouses, &c. stand upon the freehold part, the whole lying extremely compact, and is bounded on the north by land of Wm. Penney, esq. on the west by Mrs. Abbey's estate, on the east with a ... of 160 feet to the Wexham road, and on the south by the turnpike road, to which it has an important frontage of the ... one of the most commanding situations in Slough, within a few minutes walk of the Great Western S... about one mile from Eton, and two from Windsor.

To be ... on of the tenant, of whom particulars may be had, four days prior to the sale; of Wm. Tate, esq. solicitor, 10, Basinghall-st. London; at the Auctioneer's office, Windsor; place of sale; or forwarded by post upon application.

Capital Freehold Residence at Limehouse, for Investment or Occupation.

MESSRS. HUMPHREYS and WALLEN have received instructions to SELL by AUCTION, at the Mart, on THURSDAY, July 24, at Twelve (pursuant to the Will of the late [redacted] Christie, esq.), the substantial brick-built RESIDE[redacted], Albion-terrace, Commercial-road, for many years ... by the testator. The house is one of the best in the vicinity, and possesses all the requisites for the accommodation of a respectable family, whilst as an investment it recommends itself from the circumstance of houses in Albion-terrace being much sought after by principals in the numerous manufacturing and mercantile establishments in the neighbourhood, a fact which is attested by none of them having ever remained many days unoccupied. It is considered that the house in question would immediately let on lease at 65l. per annum.—To be viewed till the sale, and particulars had on the premises; of Robert Ellis, esq. solicitor, Cowper's-court, Cornhill; and at the offices of Messrs. HUMPHREYS and WALLEN, Auctioneers Surveyors, and Estate-agents, 68, Old Broad-street.

Profitable Freehold Investment, near the London and St. Katharine's Docks, with Votes for Middlesex.

MESSRS. HUMPHREYS and WALLEN have received instructions to SELL by AUCTION, at the Mart, on THURSDAY, July 24, at Twelve, in one lot, SIX FREEHOLD HOUSES, in excellent repair, being 22, Cartwright-street, Rosemary-lane, and 1 to 5, Walton's-court adjoining, in the several occupations of Messrs. M'Carthy, Hume, Crocker, Moore, and others, at yearly and monthly rents amounting to 72l. 2s. per annum. The situation of these houses, close to the Docks, will always ensure a regular class of tenants. Mr. Blake, of the King of Prussia Public-house, in Cartwright-street, will shew the houses, and particulars may be had of him; at the Mart; of James Mander, esq. solicitor, 9, New-square, Lincoln's-inn; and at the offices of Messrs. HUMPHREYS and WALLEN, 68, Old Broad-street.

RATCLIFF.—Two Freehold Houses with Shops, and a Warehouse.

MESSRS. HUMPHREYS and WALLEN have received instructions to SELL by AUCTION, at the Mart, on THURSDAY, June 24, at Twelve, in one lot, a desirable FREEHOLD PROPERTY, in a commanding situation at Ratcliff-cross (facing Butcher-row), consisting of the house No. 55, Broad-street, let to Mr. Fulluck, on a three years' tenancy, at the very low rent of 40l.; No. 54, at present unlet, but of the like value of 40l.; and a warehouse at the rear, let on lease to Mr. Ray, coal owner, at 10l.; making together a secure income of 90l. per annum.—To be viewed by leave of the tenants, and particulars had at No. 54; of George Henderson, Esq. solicitor, 26, Mansell-street; at the Mart; and at the offices of Messrs. HUMPHREYS and WALLEN, auctioneers, surveyors, and estate agents, 68, Old Broad-street.

Periodical Sales (established in the year 1803) of Reversions, Life Interests, Annuities, Policies of Assurance, Advowsons, Next Presentations, Rent Charges in lieu of Tithes, Post-obit Bonds, Tontines, Debentures, Ground Rents, Improved Rents, Shares in Docks, Canals, Mines, Railways, Insurance Companies, and all Public Undertakings.

MESSRS. SHUTTLEWORTH and SONS respectfully inform the public, that upwards of 40 years' experience having proved the classification of this species of property to be extremely advantageous and economical to vendors, and equally satisfactory and convenient to purchasers, the PERIODICAL SALES of reversionary interests, policies of insurance, tontines, debentures, advowsons, next presentations, all securities dependent upon human life, shares in docks, canals, mines, railways, and all public undertakings, will be continued through 1845, as follow:—

Friday, Aug. 1.	Friday, Nov. 7.
„ Sept. 5.	„ Dec. 5.
„ Oct. 3.	

Particulars may be had Ten days previous to each sale, at the Royal Hotel, Manchester; the Adelphi Hotel, Liverpool; Dee's Royal Hotel, Birmingham; the Angel, Oxford; the Eagle and Child, Cambridge; at the Mart; and of Messrs. SHUTTLEWORTH and SONS, 28, Poultry.

CLIFF HOUSE, Warwick.—To be LET, on Lease, for five and a quarter, twelve and a quarter, or nineteen and a quarter years, from the 29th of September next, with or without the furniture, a most genteel modern Family Villa, the residence of Robert Wheeler, esq. replete with every possible convenience, and delightfully situated within a mile and a half of the celebrated Royal Leamington Spa, and within ten minutes' walk of the pleasant town of Warwick, commanding a beautiful picturesque view of the towers of Warwick Castle and the churches. It comprises entrance-hall, breakfast, dining, and drawing rooms, and ante-room; four best chambers, with three dressing-rooms, ladies'-maid's room, back staircase, and servants' apartments, store-room, &c.; excellent wine and beer cellars, most convenient domestic offices, spacious stabling for five horses, with lofts over; yard, with double coach-house, harness-room, and excellent coachman's-room; extensive pleasure and kitchen gardens, in a high state of cultivation, containing about three and a half acres; vinery, with vines in full bearing, and a greenhouse, with choice flowers and shrubs. Twelve acres of excellent grass land on rental.

The house is a short distance from the road, and is approached by a carriage drive, with a convenient and handsome lodge; is centered in the middle of the Warwickshire Hunt, and is within ten minutes' walk of the Railway Station.

For further particulars, and for cards to view, apply at the offices of Mr. LOVEDAY, Solicitor, Warwick.

LONDON:—Printed by HENRY MORRELL COX, of 74, Great Queen Street, in the Parish of St. Giles in the Fields, in the County of Middlesex, Printer, at his Printing Office, 74 & 75, Great Queen Street aforesaid, and published by JOHN CROCKFORD, of 29, Essex Street, Strand, in the Parish of St. Clement Danes, in the City of Westminster, Publisher, at the Office of the LAW TIMES, No. 29, Essex Street aforesaid, on Saturday, the 19th day of July, 1845.

THE LAW TIMES,

AND JOURNAL OF PROPERTY,

FOR

The Legislator, the Magistrate, and the Lawyer.

Vol. V. No. 121.]

SATURDAY, JULY 26, 1845.

(GRATIS DOUBLE NUMBER.)

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NECROLOGY.

EARL GREY.

The death of this aged peer took place on Thursday week, at the family residence, Howick Hall, Northumberland, where he had been staying for the last few months with the countess and some of the junior members of the family. The venerable nobleman was in his 82nd year. Some time since the state of the noble earl's health was such as excited the worst fears of the members of his family, but, after a short struggle, he rallied, and was once more enabled, though only for a short time, to join the family. His illness, we believe, was owing to an attack of paralysis. He continued in rather an improved state up to the 12th inst. when he again appeared to droop. On Wednesday he grew considerably worse, and his extreme age, coupled with the violence of the attack, dispelled all further hopes of recovery, and he gradually sank; his medical advisers being still in attendance upon him until a late hour on the Thursday night, when he expired, in the presence of the countess, Viscount Howick (now Earl Grey), the Hon. Capt. Grey, and some of the noble earl's domestics.

Viscount Howick had been in attendance at the House of Commons up to Wednesday, on which day he left for Howick House. Colonel Grey, we believe, only arrived on Friday evening, so that on his arrival he found that the noble earl had expired. The latest accounts received by the Viscountess Howick at her residence in Belgrave-square up to a late hour on Thursday evening, were to the effect, that he was in a most alarming state, and that no hopes were entertained of any further improvement manifesting itself. On Friday morning her ladyship received an express, which announced that her noble father-in-law had been carried off. The illness which thus baffled all medical skill was unaccompanied by excess of pain, and the noble sufferer awaited the approach of his last moments with Christian resignation.

The name of Charles Earl Grey is associated with the recollections of the great men and the memorable events of the bygone generation, and with the many party struggles and politicians of the day.

He was born March 13, 1764, being son of the first Earl Grey, who, when Sir Charles Grey, was a distinguished military commander, having served at the memorable battle of Minden, and at the siege and conquest of Quebec, under General Wolfe. His mother was the daughter of George Gulz, esq., of Southwick. He received his education first at Eton and subsequently at King's College, Cambridge. When but 18, he visited the Continent, and made the tour of several of the European states. He returned to his native country in 1786. In the latter mentioned year he was returned to Parliament for the county of Northumberland, the vacancy having been occasioned by the elevation of Lord Lovain to the Upper House. He had not, however, completed his 21st year until two or three days previous to that on which he took his seat. He almost immediately joined the Whig party, then in opposition under Charles Fox. His first speech was delivered in the debate on Mr. Pitt's commercial treaty with France, and gave presage of the talent by which his long parliamentary career was subsequently distinguished. The oratorical ability which he displayed on this occasion secured him a foremost position in the house, and during the same session, which was his first, he was named one of the managers in the impeachment of Warren Hastings, and from that time he always took a leading part in the debates.

In 1792 Mr. Grey became a member of the Whig Club, and shortly afterwards of the great political confederation known as the "Friends of the People," the avowed object of which was to obtain a reform in the system of parliamentary representation. At the head of this formidable association stood the names of the principal members of the Whig party. Mr. Fox, however, declined to enrol his name among them, observing, "Though I perceive great and enormous abuses, I do not see the remedy." The society, however, continued to grow in numbers and to increase in influence. A series of resolutions, passed at the meetings, and a declaration of the principles and objects of the society, were printed and extensively circulated. On the 30th of April Mr. Grey gave notice, in the House of Commons, of a motion, which, in the course of the next session, he should submit to the consideration of the House, the object of which was a reform in the representation of the people. The debate which arose on the motion when it was brought forward in the following session, and the struggles to which the desire in the country for the attainment of the object gave rise, which were continued for numerous years, are matters of history. The contest was severe and protracted. Its progress was occasionally interrupted by various circumstances; but, like a river, the current of which has received a temporary check, on the removal of the obstructions, the onward course of public opinion was accelerated, and at length became resistless.

In January 1806, Mr. Pitt died, and Mr. Fox was called to the administration of public affairs. Mr. Grey, who by the elevation of his father to the peerage, had become Lord Howick, was appointed First Lord of the Admiralty, with a seat in the cabinet. In October following the country was deprived of the services of Mr. Fox. Lord Howick then became leader of the House of Commons and Secretary of State for Foreign Affairs. The abolition of the slave-trade was proposed by this administration. The sovereign took alarm at the attempt of the ministers to remove some of the existing disabilities on Roman Catholics, and they were dismissed. Parliament was dissolved. Lord Howick, not choosing to contest the county of Northumberland, took his seat for Appleby. The death of his father, which took place shortly after, removed him to the upper house of Parliament. His lordship now took the title of Earl Grey.

For several years after his succession to the peerage Earl Grey took no very prominent part in public affairs. The abortive attempt of George IV. in 1812, to induce him and Lord Grenville to join the Perceval administration, illustrated the integrity of his principles and the consistency of his conduct. The tragical death of Perceval, who was assassinated by Bellingham shortly after, again opened a path for Lord Grey to place and power. There were, however, difficulties, and the noble lord did not take office.

The retirement of Lord Liverpool, in 1827, placed Mr. Canning at the helm of affairs; Lord Grey declined to support that statesman. His lordship, after the death of Mr. Canning, in a speech on the second reading of the Roman Catholic relief bill, in 1829, justified himself for having declined to extend to the deceased statesman's administration his active support.

Lord Grey took a prominent part in the trial of Queen Caroline before the House of Peers, and distinguished himself in the debates upon that occasion. After this the life of Earl Grey was passed principally in the bosom of his family until the sudden termination of the Wellington administration, in 1830, brought him forth from his retirement to assume the reins of government.

During the four years which he continued in office, he carried parliamentary reform and the abolition of slavery. Since his retirement from office, in 1834, he has taken no part in politics, but has resided principally at Howick, with his family. It is almost impossible for us, his contemporaries, to take a calm and dispassionate view of the career of Earl Grey, but his bitterest political opponents admit that his was essentially a great mind. An elegant orator, a conscientious and high-minded statesman, he carries with him to his grave the veneration of his friends

and the respect of those to whom he was politically opposed.

The noble earl married in 1794 the Hon. Mary Elizabeth Ponsonby, only daughter of the first Lord Ponsonby, an Irish peer, and by this lady, who survives him, he leaves a numerous family. He is succeeded to the title and estates by Viscount Howick, M.P. for Sunderland. He was born in 1802, and married in 1832 the youngest daughter of the late Sir Joseph Copley, bart. (she was born in 1803). The noble lord was Under-Secretary of State for the Colonies, from 1830 to 1833, was in 1834 Under-Secretary for the Home department, was Secretary at War in 1839, and represented Winchelsea in the parliament of 1826, Higham Ferrars in that of 1830, and the northern division of Northumberland from 1831 to 1841, and was returned for Sunderland in October 1841.—*Morning Herald.*

LORD BATEMAN.

It is with regret we have to announce the death of Lord Bateman, who expired on the 22nd inst. at the family residence in Portman-square.

The noble lord had been rather unwell since the 13th inst. but not so seriously indisposed as to create the least apprehension as to his recovery. On Sunday afternoon his disorder assumed a more alarming character, and on Monday he gradually became worse, when the medical attendants gave out no hopes of his eventual restoration to health.

The deceased W. Bateman Hanbury, Baron Bateman of Shobdon, county Hereford, in the peerage of the United Kingdom, was eldest son of Mr. W. Hanbury, of Kelmarsh, and Charlotte, daughter of Mr. Charles James Packe. He was born June 24, 1780, and was consequently in his 66th year. His lordship, then Mr. Hanbury, married, August 16, 1822, Elizabeth, second daughter of Lord Spencer Stanley Chichester, brother of the late Marquis of Donegal, by whom, who survives his lordship, he leaves issue three sons and four daughters, his eldest son, the Hon. W. Bateman Hanbury (now Lord Bateman), being in his 20th year.

The late lord represented the borough of Northampton in several parliaments preceding the passing of the Reform Bill, and in 1832 he contested, in conjunction with Viscount Milton (now Earl Fitzwilliam), the representation of the county, in opposition to Lord Brudenell (the Earl of Cardigan) and Mr. Tyson, but was with the latter gentleman rejected. When Viscount Milton was called to the House of Lords, by the death of his father, Earl Fitzwilliam, the late Viscount Milton succeeded, but dying in December 1835, he again unsuccessfully contested the seat with Mr. Thos. P. Maunsell, who was returned by a majority of 600.

In 1837 he was created a peer by Viscount Melbourne. His lordship, on the death of his second cousin, the last Viscount Bateman, whose estates he inherited, took the additional arms and surname of Bateman.

On the death of Earl Somers, in 1841, he was appointed by the then government Lord Lieutenant of Herefordshire, which of course, now at the disposal of the Premier.

By his lordship's demise, the families of Sir S. P. and Lady Micklethwait, Major-General Sir John Hanbury, K.C.H. the Marquis and Marchioness of Donegal, &c. are placed in mourning.

MR. MURRAY, M.P.

Mr. Murray, the member for the Stewartry of Kirkcudbright, whose death occurred this week, will be much and deeply regretted. He was one of the most honourable, upright, high-minded gentlemen in the House of Commons. His political opinions were of the most liberal cast; but he was at the same time perfectly tolerant of those who thought differently from himself, provided he believed them to be sincere. Since he became a member of the House of Commons he has never failed, whenever his health permitted, to attend to his duty, and to give his vote in support of every measure, by whomsoever proposed, that appeared calculated to promote the freedom and well-being of his countrymen. In all the private relations of life he was most admirable. He was at once a safe and a warm friend, a kind and most generous landlord, and an indulgent and liberal master. The improvements he effected at his magnificent seat in the south of Scotland evince the purity of his taste and the elegance of his mind. He was cut off in his 56th year, and has left a blank which few that knew him will be sanguine enough to suppose can be speedily supplied.

MR. E. BOLTON CLIVE, M.P.

We regret to learn that Mr. Edward Bolton Clive, M.P. expired at his son's seat, near Cr[illegible]. He was a Whig in politics, and had for a long series of years represented the city of Hereford in the House of Commons. We understand the honourable member's health had been on the decline ever since the sudden death of Colonel Clive. He was related to the Earl of Powis, being cousin of the last earl.

CORRESPONDENCE.

SMALL DEBTS BILL.

TO THE EDITOR OF THE LAW TIMES.

SIR,—I have read several letters in the LAW TIMES on the subject of what is there properly termed the objectionable clause (viz. the seventh) of the *Small Debts Bill*, now on its passage through the House of Commons. From the strenuous opposition raised against it in your paper, I was led to suppose there must be something objectionable in it that I had failed to discover upon first reading it over. Upon taking up your paper last week I perceived another article on the same subject, but taking a different view of the clause from that previously urged. I have since again carefully read over the Bill, and in my humble opinion neither of the constructions before alluded to is the correct one. There is not any thing in the clause that I can find to authorize any persons whatever to practise in the Court of Bankruptcy. The clause is, if I may use the term, a negative clause,—a clause inserted for the purpose of dispensing with some requirement that now exists. The right of barristers and attorneys to practise in the Court of Bankruptcy was given by a previous Act of Parliament.

I cannot look upon the clause as one merely giving to parties in proceedings in the Court of Bankruptcy a right which everybody was before entitled to, of appearing in person in that court. But according to my view of the clause in question, it has a very definitive object and meaning, which I will endeavour shortly to explain. By a rule of the Court of Bankruptcy, made in pursuance and under the authority of the & 6 Vict. c. 116, the signature of an insolvent is required to be attached to each sheet of his petition and schedule, and to be attested by an attorney of the court. In the schedule of the Act before mentioned, the following form of attestation is given:—"Signed, sealed, and delivered by (the insolvent), in the presence of , *attorney or agent* in the matter of the said petition." This made it necessary for an insolvent, before he presented his petition (a very proper regulation), to employ an attorney or agent to attest his signature to the schedule, which attorney or agent was required by the Act to be the attorney or agent in the matter of the said petition, and it was therefore his duty to see that the petition and schedule were according to the prescribed form. The commissioners decided that *attorney or agent* in the Act meant the attorney of the insolvent or the agent of the attorney (who must of necessity be an attorney also). It is evident that the rule of the Court of Bankruptcy before mentioned was founded on the same construction of the words *attorney or agent*. But such construction, it is well known, gave great offence to Lord Brougham, who [illegible] term *agent* in the Act to mean any person, whether attorney or otherwise, employed by the insolvent Hence this clause, which has been inserted in the Bill for the sole purpose of annulling the rule before mentioned and of upsetting the construction put upon the term "agent" by the commissioners, and of setting up in their stead Lord Brougham's law. Whether the clause, as worded, will have the effect intended is another question. I much doubt if it will have such effect.

There is also another instance in the ninth clause of a like mischievous interference with a well-considered rule of the Court of Bankruptcy; which directs that, before the discharge of an insolvent from custody, the detaining creditor shall have an opportunity of shewing cause against his discharge, which requires also to be narrowly watched.

Should you think these few remarks of any value, you can use them or not, as you please.

I am, Sir, yours obediently,

A BARRISTER.

[There is, after all, between our correspondent and ourself no substantial difference on the subject of his letter. In our leader of last week we stated that the suspicious clause, if interpreted literally, was a superfluity; if construed otherwise, might be detrimental to the interests of the Profession. In either case, we wished to see it struck out, and so, it would seem, does our correspondent.—ED. LAW TIMES.]

MORTGAGE STAMPS.

TO THE EDITOR OF THE LAW TIMES.

SIR,—In the former discussion on this subject, the following point was, I believe, unnoticed, and as the question now arises in practice, I shall be obliged to any of your experienced conveyancing readers for their opinion.

Where two or more separate mortgages are transferred to a single new mortgagee, or are reconveyed to the mortgagor on being paid off, *by one deed*, is a single 35s. stamp sufficient, or should there be a 35s. stamp in respect of each mortgage?

My own opinion, founded on the language of the Act, 3 Geo. 4, c. 117, s. 2, is, that a single stamp is *not* sufficient, but I believe it is opposed to the prevailing practice.

Let me at the same time inquire whether any *progressive* duty is required on the "reconveyance" of mortgages in Great Britain. It will be observed, that that word is omitted in the clause imposing progressive duty in England, but added as to Ireland. The difference was, no doubt, undesigned, but it exists. I am, Sir, yours, &c.

July 19, 1845. J. R.

P.S.—I regard the LAW TIMES as a valuable medium of communication between Professional men, and send this query under that impression.

ABOLITION OF THE SEAL OFFICE.—On Thursday the Act of Parliament to abolish the Seal Office in Inner Temple-lane was issued. From the 31st of December next, the offices of Receiver-General and Comptroller of the Seal are to wholly cease and determine. The Duke of Grafton has an annuity of 843*l.* and his deputy (Pimlott) 300*l.* a-year for his life.

To Readers and Correspondents.

A SUBSCRIBER.—*The question comes within the rule observed by this journal from its commencement; namely, to decline giving a solution to legal questions.*

J. D. S. (Dorking.)—*We are obliged by the suggestion, which shall receive immediate consideration.*

THE REPORTS.

[These are usually brought down to the Wednesday preceding publication. Where *Cur. adv. vult*, the case is not reported till judgment given. All written judgments are taken in shorthand, and reported *verbatim*. Rules *nisi* are reported.]

The following are the names of gentlemen who favour the LAW TIMES with the Reports:—

PRIVY COUNCIL by THOMAS CAMPBELL FOSTER, of the Middle Temple, Esq. Special Pleader.

EQUITY COURTS.

LORD CHANCELLOR'S COURT by RICHARD GRIFFITHS WELFORD, Esq. of the Inner Temple, Barrister-at-Law.

VICE-CHANCELLOR of ENGLAND'S COURT, by GEORGE GOLDSMITH, Esq. of the Middle Temple, Barrister-at-Law.

ROLLS COURT, by J. MACAULAY, Esq. of the Inner Temple, Barrister-at-Law.

VICE-CHANCELLOR KNIGHT BRUCE'S COURT by GEO. S. ALLNUTT, Esq. of the Middle Temple, Barrister-at-Law.

VICE-CHANCELLOR WIGRAM'S COURT, by J. VESEY DAWSON, Esq. of the Middle Temple, Barrister-at-Law.

COMMON LAW COURTS.

The QUEEN'S BENCH, by J. C. SYMONS, Esq. of the Middle Temple, Barrister-at-Law, and EDWARD WISE, Esq. of the Middle Temple, Barrister-at-Law.

The COURT of COMMON PLEAS, by W. PATERSON, Esq. of Gray's-inn, Barrister-at-law.

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MESSRS. FULLER and MARSH have received instructions to offer to SALE by AUCTION, at the Mart, on THURSDAY, August 7, at Twelve, a spacious detached FAMILY RESIDENCE, with coach-house, stabling, pleasure and kitchen gardens.—May be viewed, and particulars obtained on the premises, of Messrs. Clayton and Cookson, solicitors, 2, New-square, Lincoln's-inn; Red Lion, Putney, and of Messrs. FULLER and MARSH, Land Agents, Charlotte-row, Mansion-house.

Leasehold Investments, Somers'-town and Tottenham, Middlesex, adapted to a small Capitalist.

MESSRS. FULLER and MARSH have received instructions to SELL by AUCTION, at the Mart, on MONDAY, August 11, at Twelve, TWO LEASEHOLD DWELLING-HOUSES, Nos. 61 and 64, Bell-row, Somers'-town, and THREE HOUSES, Nos. 3, 4, and 8, Factory-row, Tottenham, Middlesex, in the occupation of respectable tenants, and held at low ground-rents. May be viewed, and particulars obtained of J. Bishop, [illegible], solicitor, 14, Lincoln's Inn-fields; and at Messrs. FULLER and MARSH'S Offices, 2, Charlotte-row, Mansion-house, and Croydon, Surrey.

Freehold Estate, Paradise-street, Rotherhithe, entitling to a Vote for the Eastern Division of the county of Surrey.—To Builders and Others.

MESSRS. FULLER and MARSH have received instructions to SELL by AUCTION, at the Mart, on MONDAY, August 11, at Twelve o'clock, a valuable FREEHOLD PROPERTY, comprising a spacious brick-built dwelling-house No. 59, Paradise-street, Rotherhithe, with a large garden in the rear, capable of being converted into valuable building land, in the occupation of a respectable tenant, at the low rent of 18*l.* per annum. —May be viewed, and particulars obtained on the premises; of Mr. G. Drew, solicitor, Bermondsey-street; and at Messrs. FULLER and MARSH'S Offices, Charlotte row, Mansion-house.

Albion-place, Southgate-road, De Beauvoir-town.—Long Leasehold Investments, with immediate possession.

MESSRS. FULLER and MARSH have been favoured with instructions to SELL by AUCTION, at the Mart, on MONDAY, August 11, at Twelve, in four lots, a very desirable LEASEHOLD ESTATE, consisting of four genteel residences, Nos. 1, 2, 3, and 4, Albion-place, Southgate-road; held for long terms, at low ground-rents.—May be viewed and particulars obtained on the several premises, at the inns in the neighbourhood; and at Messrs. FULLER and MARSH'S Offices, Charlotte-row, Mansion-house.

To small Capitalists, Members of Building Societies, and others. Eligible long leasehold investments, Pentonville.

MESSRS. FULLER and MARSH have received instructions to SELL by AUCTION, at the Mart, on MONDAY, August 11, at Twelve, in Three Lots, a very desirable and compact LEASEHOLD ESTATE, comprising three genteel brick-built residences, Nos. 4, 5, and 6, Bryan-street, Chalk-road, Pentonville, in the occupation of respectable tenants, at rentals amounting to 84*l.* per annum; held for very long terms at low ground-rents.—May be viewed, and particulars obtained on the premises; at the Mart; of J. Bishop, esq. solicitor, 14, Lincoln's-inn-fields; and at Messrs. FULLER and MARSH'S Offices, Charlotte-row, Mansion-house, and Croydon, Surrey.

To Brewers, Coal Merchants, Wharfingers, Builders, Cow-keepers, and others.

MESSRS. FULLER and MARSH have received instructions to SELL by AUCTION, at the Mart, on MONDAY, August 11, at Twelve, without reserve, by order of the Mortgagees, under a power of sale, long LEASEHOLD PREMISES, comprising a brick and timber built stable, a smith's shop, shoeing shed, and extensive yard, chaff-house, situate in Brook-street, and a brick-built Dwelling house, Brook-street, Ratcliff; held for an unexpired term of [illegible] years at a ground-rent of 15*l.* per annum. May be viewed, and particulars obtained on the premises; at the Mart; of Messrs. Hall and Mathews, solicitors, 1, Bury-court, St. Mary-axe; and of Messrs. FULLER and MARSH, Charlotte row, Mansion-house.

Essex Lodge, Brixton-Rise, Surrey, the much admired residence of the late Daniel Higley Richardson, Esq. Possession may be had on the completion of the purchase.

MESSRS. FULLER and MARSH have been honoured with instructions from the executors of the above deceased gentleman to SELL by AUCTION, at the Mart, on THURSDAY, August 7, at Twelve (unless in the meantime an acceptable offer be made by private contract), the above singularly attractive VILLA RESIDENCE, most delightfully situate a short distance from the road, on the most [illegible] part of Brixton-Rise, erected within a few years at a considerable outlay and regardless of expense, and much ingenuity and taste have been displayed in its exterior and interior arrangements. The house is of handsome elevation, and most conveniently and admirably adapted for the reception of a gentleman's family; coach-house, stabling, pleasure-grounds, and kitchen garden. This eligible estate, either for occupation or investment, is held for an unexpired term of 92 years, at a low ground rent.—Particulars may be obtained of H. F. Richardson, esq. solicitor, 36, Coleman-street, at the Auction Mart, and cards to view, of Messrs. FULLER and MARSH, Surveyors and Land Agents, 2, Charlotte-row, Mansion-house.

KENT.—A beautiful Freehold Estate, about 13 miles from Town, with an extensive Right of Fishing in the river Cray.

MESSRS. HEDGER will SELL by AUCTION, at the Auction Mart, on THURSDAY, August 21, at Twelve, a beautiful PROPERTY, called Vale Mascall, situate on the high road from Foot's Cray and North Cray to Bexley, by which it is on one side bounded, and also by the river Cray. Vale Mascall House is a residence replete with accommodation for a gentleman's establishment, every regard to comfort and convenience being studied in an unusual degree; is situate in a pleasing lawn sloping to the river Cray, a clear, rapid, sparkling trout-stream, which for a considerable distance margins the property, and which affords first-rate amusement, from the quantities and qualities of its trout, &c. The house contains handsome reception rooms, excellent bed-chambers, and superior offices, and with pleasure grounds, gardens, and land, altogether exceeds 14 acres. It is in every respect a charming property, in the district of the Crays, surrounded by choice society.—Particulars may be had of Messrs. HEDGER, Land-agents, 10, New Bond-street, opposite the Clarendon.

SOUTHILL PARK, BERKS.—To be Sold by Private Contract, by

MESSRS. ADAM, MURRAY, and SON, the desirable FREEHOLD ESTATE of Southill Park, eligibly situated five miles from Windsor Great Park, and within a short distance from Bagshot and Ascot Heath. This Estate, which was formerly occupied by the late Right Honourable George Canning, and is now vested in the Trustees of the late Right Hon. the Earl of Limerick, comprises a NOBLE MANSION, seated in a Park of about 200 acres, which is watered by a running stream, and ornamented by beautiful upper and lower lakes and cascades; stately oak, chesnut, and other trees of luxuriant foliage; lawn and flower-gardens, walled fruit and kitchen-gardens, with 150 feet of glass in grape and pine succession houses, gardener's house, sheds, melon-ground, &c. There are attached offices of all descriptions, with every convenience for the accommodation of a numerous establishment. Capital farm-yard, barn, sheds, pigstyes, bullock sheds, granary, waggon and cart sheds, and other agricultural buildings, all in good repair. The Estate, including the Park, consists of 765*a.* 1*r.* 32*p.* of arable, meadow, pasture, and wood land, partly in a high state of cultivation, and partly consisting of thriving plantations. For further particulars apply to Willoughby Rockham, esq. solicitor, 46, Lincoln's-inn-fields, or Messrs. ADAM, MURRAY, and SON, Surveyors and Land Agents, 35, Craven-street, Strand.

SUFFOLK, three miles from the port and market town of Woodbridge.—Desirable Freehold and Copyhold Estates, producing a rental of 353*l.* per annum.

MR. W. W. SIMPSON has received directions from the Proprietor to SELL by AUCTION, at the Bull Inn, Woodbridge, on THURSDAY, July 31, at Two o'clock in the afternoon, in lots, the following valuable PROPERTY:—A desirable Farm, situate in the parish of Grandisburgh. It comprises 112 acres of superior arable and pasture land, a convenient farm-house, and appropriate agricultural buildings, in the occupation of Mr. Henry Manby, a most excellent tenant, at the low rent of 140*l.* per annum. A desirable Farm, situate in the parishes of Burgh and Clopton, a short distance from the last lot, comprising an excellent farm-house, garden, two cottages, and conveniently-arranged agricultural buildings, together with 103 acres of productive arable and meadow land, in the occupation of Mr. John Wood, a most respectable tenant, at a rent of 150*l.* per annum. A desirable small Farm, in the parish of Burgh, nearly adjoining the last, containing 36 acres of fertile arable, pasture, and meadow land, together with a cottage and farm buildings, &c. in the occupation of Mr. Wm. Wright, a very respectable tenant, at a rent of 63*l.* per annum. The farms may be viewed, and particulars, with plans annexed, may be obtained on application to John Wood, jun. esq. solicitor, Woodbridge; John Richard Wood, esq. solicitor, 1, Hare-court, Temple; Henry Waid, esq. 51, Lincoln's-inn-fields; White Horse, Ipswich; at the place of sale; and of Mr. W. W. SIMPSON, 18, Bucklersbury.

Kennington-street, Walworth. — Eligible Investment.— Three genteel Residences, with good gardens.

MR. W. W. SIMPSON has received instructions to offer for SALE by AUCTION, at the Mart, on WEDNESDAY, August 6, at Twelve, in one lot, THREE genteel RESIDENCES, with good gardens in the rear, pleasantly situate Nos. 85, 86, and 87, Kennington-street, Walworth, in the parish of St. Mary, Newington. No. 85 is in the occupation of the proprietor, who is willing to rent the same at 35*l.* per annum, and Nos. 86 and 87 are let to respectable tenants at an annual rent of 52*l.* making in the whole a rental of 87*l.* per annum. They are held for an unexpired term of sixty-two years from Lady-day last, at a ground-rent of 10*l.* 10*s.* The situation of this property is one of the most improving near London, and the houses are well adapted for the occupation of those whose avocations require their daily attendance in London, to which place omnibuses are running every five minutes. The houses may be viewed, and particulars may be obtained at the Mart, and of Mr. W. W. SIMPSON, 18, Bucklersbury.

IRELAND.
Just published, Second Edition, price One Shilling,

A DEFENCE of the LANDLORDS of IRELAND, with Remarks on the Relation between Landlord and Tenant, and a Postscript, containing an Extract from a Speech of the Right Hon. the Earl of Devon referring to the condition of Ireland.

By W. W. SIMPSON,
Member of the Royal Dublin Society.

JOHN OLLIVIER, 59, Pall-mall, London; MACHEN and Co. Westmoreland-st. Dublin; and to be had of all Booksellers.

(Extract from the *Times* of 9th November, 1844.)

"Mr. W. W. Simpson, the well-known and deservedly respected auctioneer and land valuator, has recently published a pamphlet, entitled 'A Defence of the Landlords of Ireland, with remarks on the Relation between Landlord and Tenant.' The *Dublin Evening Packet*, in reviewing this work, gives the following character of its author:—' Mr. Simpson, we scarcely need remind our readers, is an Englishman of vast experience in matters relating to the improvement and value of land in his own country. He is, moreover, a gentleman of most comprehensive views, and possesses an understanding naturally strong, and a stock of practical knowledge and sterling sense which falls to the lot of very few persons in his own or any other rank of life. With the social condition of Ireland he has made it his business, almost as a matter of necessity, to make himself thoroughly acquainted. He feels for her wants, and has contributed as much perhaps as any man in his time to improve her resources, by encouraging the investment of British capital in every department of Irish industry. Such a witness as this we therefore hold to be beyond the reach of suspicion on the score either of interest or partiality. His testimony must be regarded as invaluable, as it is unquestionably unimpeachable.' "

SUFFOLK, in the town and port of Woodbridge.—Desirable Residences and Land.

MR. W. W. SIMPSON has received directions from the Proprietor to SELL by AUCTION, at the Bull Inn, Woodbridge, on THURSDAY, July 31, at Two in the afternoon, in lots, the following desirable PROPERTY:—Four valuable inclosures of highly-productive pasture and arable accommodation Land, lying close to the town, containing about 12 acres, and let on lease to Mr. Henry Fiske, for an unexpired term of five years from October, 1844, at a rent of 40*l.* per annum. A capital Residence, with garden, situate in Cumberland-street, fitted up with every convenience and detached office, with back entrance, in the occupation of Samuel Gissing, esq. solicitor, yearly tenant, at the low rent of 30*l.* per annum. A Residence, adjoining Lot 2, with yard, stabling, and an excellent walled-in garden, in the occupation of Mr. Thomas Peake, surveyor, a respectable tenant, at a low rent of 18*l.* per annum. A Beer-shop, yard, and large gardens, with mill-house for manufacturing oatmeal, situate in Theatre-street, and let to Mr. Charles Bedwell, a highly respectable tenant, at the very low rent of 12*l.* per annum. Three Cottages, adjoining the last lot, in the occupation of Messrs. Reid, Joyce, and Driver, at rents amounting to 12*l.* per annum. Two Cottages, situate at Hollesley, about five miles from Woodbridge; let at annual rents amounting to 6*l.* 16*s.* 6*d.* A small Freehold Estate, comprising 11 acres of arable land, situate at Martlesham, with house, barn, &c.; in the occupation of Mr. Thomas Brihten. Most of the property is desirably situate in the town and port of Woodbridge, which will become a station on the contemplated extension line of the Eastern Counties Railway to Yarmouth. The property may be viewed, and particulars may be obtained of John Wood, jun. esq. solicitor, Woodbridge; John Richard Wood, esq. solicitor, 1 Hare-court, Temple; Henry Ward, esq. 51, Lincoln's-inn-fields; White Horse, Ipswich; at the place of sale; and of Mr. W. W. SIMPSON, 18, Bucklersbury.

TO be SOLD in lots, pursuant to an Order of the High Court of Chancery, made in certain causes of "Milbank *v.* Stevens," and "Milbank *v.* Collier," with the approbation of Nassau William Senior, esquire, one of the Masters of the said court, by Mr. W. W. SIMPSON, the person appointed by the said Master to sell the same, on THURSDAY, the 14th day of August, 1845, at Twelve o'clock at noon, at the Auction Mart, in the City of London:—A FREEHOLD FARM, called South Ockendon Hall, comprising Two Dwelling-houses, out-buildings, windmill, and several inclosures of land, containing about 609 acres, in the occupation of Thomas Bennett Sturgeon, at the yearly rent of 1,050*l.*, land-tax redeemed.

A Freehold Messuage, with barns, stables, and other conveniences, and farm, called Little Moullands, in South Ockendon, containing about 213 acres of land, in a ring fence. All the land-tax upon this estate excepting 1*l.* 1*s.* is redeemed.

A Beer-shop, and several Cottages in the village of South Ockendon.

The Advowson of and Next Presentation to the Rectory of South Ockendon. The rectory comprises a parsonage-house in good repair, with stables, coach-house, large garden, lawn, and about sixteen acres of glebe land. The tithes of the parish, exclusive of the glebe, have been commuted at the sum of 828*l.* 1*s.* The present incumbent is in the 51st year of his age.

A Copyhold Farm called Blatches, situate at Eastwood, near Rochford, comprising a farm-house, barns, stables, and about 100 acres of land, now on lease to Mr. Thomas Rickett, at the yearly rent of 150*l.* Land tax redeemed; late the property of John Cliff, esq. deceased.

Particulars may be had gratis, at the said Master's chambers, Southampton-buildings, Chancery-lane, London; at the Auction Mart; of Messrs. Perkins, Jepp, and Veley, of Chelmsford, Essex, solicitors; of Mr. Thomas Wright Nelson, of Gresham-place, Lombard-street, London, solicitor; of Mr. George White, of No. 12, Hatton Garden, London, solicitor; of Messrs. Gadsden and Flower, of No. 14, Furnival's Inn, London, solicitors; of Messrs. Sutton, Ewens, Ommanney, and Prudence, of No. 6, Basinghall-street, London, solicitors; of Mr. Edward Smith Bigg, of Southampton-buildings, aforesaid, solicitor; of Messrs. Lofty and Potter, of No. 36, King-street, Cheapside, London, solicitors; and of Mr. W. W. SIMPSON, of No. 9, Bucklersbury, London, Auctioneer; and at the White Hart Inns, at Romford and Brentwood.

T. W. NELSON,
Gresham-place, Lombard-street.

IRELAND.—In the counties of Galway and Mayo.—Valuable Fee Simple Estates, comprising 2,170 statute acres, in the occupation of a respectable tenantry, at a very low rental.

MR. W. W. SIMPSON has received directions to SELL by AUCTION, at the Commercial-buildings, Dublin, in the month of November next, the following exceedingly desirable FEE SIMPLE ESTATES:—The lands of Corballey Blaney, eligibly situate midway between the excellent market-towns of Galway and Tuam, about eight miles distant from each town, containing 679 statute acres of productive arable and pasture land, including a considerable tract of turlough or bottom, yielding excellent herbage for black cattle and sheep. There are only seven tenants on the estate, who hold chiefly on leases. The lands of Cahernahoon, situate near the last, but a mile nearer to the town of Galway, comprising 175 statute acres of equally productive land, let on leases to good tenants. The lands of Barneville, advantageously situate within a mile of Kilconnell, only five from the great town of Ballinasloe (where the largest cattle fair in the kingdom is held), 16 from Galway. They consist of 345 statute acres of excellent tillage and grazing land, chiefly in the occupation of one tenant, who has a lease, and farms the land remarkably well. Also the lands of Crimlin Boulaboy, and Course Park, situate four miles from Claremorris, three from Ballindangan, and six from Dunmore, comprising 970 statute acres of excellent arable and pasture land, including about 100 ... of bog, in the occupation of good tenants, who hold chiefly on leases. The soil of the above estates is of a kindly description, being on a limestone substratum, and produces excellent corn and green crops. The lands are surrounded by good roads and markets, and occupied by an unexceptionable tenantry, who pay their rents with great punctuality. The estates may be viewed; and particulars, with plans annexed, may shortly be had of Thomas Bermingham, esq. Caramana, near Kilconnell; of Frederick Sutton, esq. solicitor, 19, Kildare street, Dublin; at the place of sale; and of Mr. W. W. SIMPSON, Bucklersbury, London.

SUFFOLK.—Desirable Estate between Beccles and Lowestoffe, consisting of a very complete Family Residence, excellent Farm-houses, Cottages, and Agricultural Buildings, together with upwards of 920 acres of rich Arable, Pasture, productive Wood, and Plantation Land, abundantly stocked with game, lying within a ring fence.

MR. W. W. SIMPSON has received instructions from the Executors of the late John Cooper, esq. to offer for SALE by AUCTION, at the Mart, London, on WEDNESDAY, August 6, at Twelve, in one lot, the following valuable and desirable PROPERTY, designated the North Cove Hall Estate, situate on the high road from Beccles to Lowestoffe. It consists of an excellent residence, with ample accommodation for a family of a high class, coach-house, stabling, and complete domestic offices, a productive walled-in kitchen garden, and upwards of 920 acres of arable, pasture, and marsh land; including also about 70 acres of wood and carrs, forming excellent preserves for the game, which abounds on the estate in great variety. The arable and pasture surfaces are generally of a deep staple and highly productive. The estate is divided into desirable farms, and let to a most respectable and improving tenantry, at rents (including the estimated rental of the mansion and lands in hand) amounting to 1,561*l.* per annum. The mansion is seated on a lawn, approached by a carriage-drive in front, and surrounded by grounds of park-like appearance, studded with ornamental timber, and the pleasure grounds are tastefully laid out, and pleasingly varied with plantations of trees, evergreens, and flowering shrubs. The above property forms one of the most perfect and best-circumstanced estates (for its extent) in this country. The mansion, farm-houses, cottages, and buildings are all in an excellent state of repair. The estate is distant three miles from Beccles, six from Lowestoffe, and twenty-one from Norwich, which is within about half an hour's ride from Yarmouth by the railway; and the navigable river Waveney, from Beccles to the sea, bounds the estate for nearly a mile, and affords excellent fishing. The property may be viewed, and particulars, with plans annexed, may be obtained of Messrs. Margetson and Hartcup, solicitors, Bungay; Messrs. Stevens, Wilkinson, and Satchell, solicitors, 6, Queen-street, Cheapside; at the Mart; and of Mr. W. W. SIMPSON, 18, Bucklersbury.

IRELAND.—County of Antrim.—One of the most improving and extensive Fee Simple Estates in the United Kingdom, containing 50,000 acres, the greater part situate in the manufacturing district of the county.

MR. W. W. SIMPSON has received instructions from the Right Hon. the Earl of Mountcashel to SUBMIT to public COMPETITION, at Belfast, several extensive and exceedingly valuable FEE SIMPLE ESTATES, containing in the whole a surface of 50,000 acres, a large portion of which consists of productive meadow, pasture, and arable land, and the remainder fuel and reclaimable bog, mountain, &c.: the greater part is situate in the manufacturing district of the county of Antrim, and in the occupation of an opulent, respectable, and chiefly Protestant tenantry, many of whom hold under old leases at head-rents, on the falling in of which a very large increase of rental will accrue. The rents at present amount to between 11,000*l.* and 12,000*l.* per annum, exclusive of the castle and demesne, which is in hand. Descriptive particulars will (after a survey has been made by Mr. Simpson) be published, and may then be obtained of Messrs. Reeves and Sons, solicitors, Merrion-square, Dublin; and of Mr. W. W. SIMPSON, 18, Bucklersbury.

In the county of Donegal, 10 miles from Derry.—Desirable Estate, comprising upwards of 4,000 statute acres.

MR. W. W. SIMPSON has received directions from the Proprietor to offer for SALE by AUCTION, in the month of November next, desirable ESTATES, comprising the Four Quarter Lands of Bally-...n, Gortlick, Sharragore, and Teneduff, containing in the whole upwards of 4,000 statute acres, eligibly situate in the barony of Ennishowen, about 10 miles from Derry, in the county of Donegal. Further descriptive advertisements will shortly appear, and particulars may in due time be obtained on application to M. Lloyd, esq. London-street, Derry; of William Elliot, esq. Strabane; and of Mr. W. W. SIMPSON, 18, Bucklersbury.

SUFFOLK, near Woodbridge.—Compact and desirable Farm, comprising 53 acres of superior land.

MR. W. W. SIMPSON has received directions from the Proprietor to SELL by AUCTION, at the Bull Inn, Woodbridge, on THURSDAY, July 31, at Two o'clock in the afternoon, a compact ESTATE, eligibly situate in the parishes of Debach and Charsfield, about four miles and a half from the market-town and port of Woodbridge. It comprises a small farm-house, barn, and agricultural buildings, together with 53 acres of land, of which 43 are arable and the remainder pasture; in the occupation of Mr. John Payne, a very respectable yearly tenant, at a rent of 73*l.* 10*s.* per annum. The estate may be viewed, and particulars, with plans annexed, may be obtained on application to John Wood, jun. esq. solicitor, Woodbridge; John Richard Wood, esq. solicitor, 1 Hare-court, Temple; Henry Ward, esq. 51, Lincoln's Inn-fields; White-horse, Ipswich; at the place of sale; and of Mr. W. W. SIMPSON, 18, Bucklersbury.

SUFFOLK, within two miles and a half of Woodbridge.—A valuable estate, comprising 141 acres of excellent Land, with farm-house, &c.

MR. W. W. SIMPSON has received directions from the Proprietor to SELL by AUCTION, at the Bull Inn, Woodbridge, on THURSDAY, July 31, at Two in the afternoon, a desirable ESTATE, situate in the parish of Bromeswell, about two miles and a half from the market-town and port of Woodbridge. It comprises a convenient farm-house, large garden, and suitable agricultural buildings, together with 141 acres of land, of which 85 acres are arable, and the remainder meadow and pasture. The farm is in the occupation of Mr. Thos. Gross, tenant from year to year, at the low rent of 100*l.* per annum. The estate, of which 107 acres are freehold, and the remainder copyhold, is surrounded by excellent roads, and affords partridge shooting in abundance. The property may be viewed, and particulars, with plans annexed, may be obtained on application to John Wood, jun. esq. solicitor, Woodbridge; John Richard Wood, esq. solicitor, 1, Hare-court, Temple; Henry Ward, esq. 51, Lincoln's-inn-fields; White Horse, Ipswich; at the place of sale; and of Mr. W. W. SIMPSON, 18, Bucklersbury.

LINCOLNSHIRE.—Extensive and highly valuable Freehold Estate, containing near 2,200 Acres, situate near Brigg; together with the valuable Advowson and Next Presentation to the Rectory of Broughton, producing upwards of 1,100*l.* per annum, exclusive of the mansion and glebe.

MR. W. W. SIMPSON will SELL by AUCTION, by direction of the heirs of the late Ellys Anderson Stephens, esq. and their trustees, at the Mart, on THURSDAY, August 28, at Twelve, in one lot, an extensive and highly valuable FREEHOLD ESTATE, eligibly situate in the parish of Broughton, about three miles from Brigg. It comprehends nearly 2,200 acres of generally fertile arable, pasture, carr, and wood land. Those surfaces which are designated Carr Lands are of a very powerful and productive description. Also the Manor of Broughton, with the manorial rights appertaining thereto. The property is bounded by the estates of the Earl of Yarborough on the west (whose fox-hounds are kennelled in the neighbourhood), Sir John Nelthorpe on the south, Charles Winn, esq. on the north, and on the east by T. G. Corbutt, esq.'s lands. The estate, therefore, is highly eligible, and peculiarly adapted to field sports in all their varieties, as the woods which form the coverts are of great extent, and adjoin those of a proprietary who preserve so strictly that a constant stream of game must always supervene, independent of any small expense which the proprietor might choose to incur for direct preservation. There are four woods on the estate, three of which, from their magnitude, namely, the East and Far Woods (nearly adjoining) and West Wood, containing respectively 161, 95, and 169 acres—would each command some of the finest pheasant shooting in the kingdom; added to which, the growing timber and coppice woods yield a certain annual revenue. There are very agreeable sites for the erection of a shooting lodge or lodges.

With the above will be sold the PERPETUAL ADVOWSON and NEXT PRESENTATION to the valuable RECTORY of BROUGHTON, situate about three miles from Brigg, consisting of a splendid and most complete modern Residence, with gardens, pleasure-grounds, &c. together with 94*a.* 1*r.* 20*p.* of glebe-land, and the tithe commutation rent charge, amounting to upwards of 1,100*l.* per annum. The parish contains 16,912 acres. The Rev. Thomas Booth Wright, the present incumbent, is in his 30th year, and the population is about 900. Mr. Simpson will be open to offers for the entire estate till within fourteen days of the day which may be fixed for the Auction. The property may be viewed, and particulars, with plans annexed, may shortly be obtained on application to Mr. James Marshall, at Broughton; Messrs. Sperling and Harris, solicitors, Hatlstead; Messrs. Longmore and Sworder, solicitors, Hertford; at the Mart; and of Mr. W. W. SIMPSON, 18, Bucklersbury.

Periodical Sales (established in the year 1803) of Reversions, Life Interests, Annuities, Policies of Assurance, Advowsons, Next Presentations, Rent Charges in lieu of Tithes, Post-obit Bonds, Tontines, Debentures, Ground Rents, Improved Rents, Shares in Docks, Canals, Mines, Railways, Insurance Companies, and all Public Undertakings.

MESSRS. SHUTTLEWORTH and SONS respectfully inform the public, that upwards of 40 years' experience having proved the classification of this species of property to be extremely advantageous and economical to vendors, and equally satisfactory and convenient to purchasers, the PERIODICAL SALES of reversionary interests, policies of insurance, tontines, debentures, advowsons, next presentations, all securities dependent upon human life, shares in docks, canals, mines, railways, and all public undertakings, will be continued through 1845, as follow:—

Friday, Aug. 1.	Friday, Nov. 7.
" Sept. 5.	" Dec. 5.
" Oct. 3.	

Particulars may be had Ten days previous to each sale, at the Royal Hotel, Manchester; the Adelphi Hotel, Liverpool; Dee's Royal Hotel, Birmingham; the Angel, Oxford; the Eagle and Child, Cambridge; at the Mart; and of Messrs. SHUTTLEWORTH and SONS, 28, Poultry.

STAFFORDSHIRE.—Most Important and Valuable Estates of about 2,000 acres, with an inexhaustible extent of superior Coal, capital and extensive Flint and Pottery Mills, Lime Kilns, &c. offering an influential and first-rate Investment for any great capitalist, and also a fine and beautiful estate for residence, with mansion, manor, woods, plantations, and fishery.

MESSRS. DANIEL SMITH and SON are commissioned by the mortgagees of the property to offer for PUBLIC SALE, at the Auction Mart, in the City of London, on TUESDAY, August 26, in Two lots (unless an acceptable offer shall be previously made) the fine and truly important FREEHOLD ESTATES of Consall and Woodhead, within a short distance of the towns of Cheadle and Leek, and only 18 miles from Buxton, containing about 2,000 acres. The estates consist of the manor, well stocked with game, fishery, fish-ponds, beautiful woods and plantations well stored with thriving oak, and several valuable farms surrounding the mansion of Consall Hall, and containing in all upwards of 1,800 acres. This estate is tithe-free, extra-parochial, and, except one small farm, exonerated of land-tax. It is partly bounded by the river Churnet, and the Trent and Mersey Canal, within a few miles of Alton Towers, the splendid seat of the Earl of Shrewsbury; and added to the great many recommendations of this fine property is the incalculable value of the minerals, about 1,600 acres containing ascertained strata or mines of superior coal, which were opened by the late proprietor of the estate, veins of iron stone, with railroads completed to the canal and turnpike roads, and very superior brick earth; and, also, at a desirable distance from the residence, several first-rate flint and pottery mills, lime works, &c. most substantially and admirably constructed, chiefly of stone and iron, with an immense power of water; stone quarries and wharfs. The estimated value of the property is near 6,000*l.* per annum, with great prospective increase. The proposed Manchester railroad through the Churnet Valley will pass almost close to the boundary of the estate, and the Whitmore station on the London and Liverpool line of railway is only about 16 miles distant. The Mortgagees are ready to receive offers for the whole or any parts of the property. Particulars with plans will be immediately issued, and every information may be obtained of Messrs. Jenkyns and Phelps, Solicitors, 14, Red Lion-square, London; at the Mart; at the Midland Counties Herald Office, and the chief inns at Birmingham, Leeds, Liverpool, Manchester, Stafford, Stone, Cheadle, Shrewsbury, and Wolverhampton; of Mr. Edwin Heaton, of Leek; and of Messrs. DANIEL SMITH and SON, Land Agents, in Waterloo-place, Pall-mall, London, where plans of the estates may be inspected.

The LEE GRANGE ESTATE and MANOR, in the Vale of AYLESBURY, between that and the other Market-towns of Buckingham, Winslow, and Bicester.

MESSRS. DANIEL SMITH and SON are commissioned to announce that some time in August next will be submitted to PUBLIC SALE (unless an acceptable offer shall be previously made), the above very valuable and famous FREEHOLD DAIRY and GRAZING ESTATE; comprising nearly the whole hamlet of Shipton Lee, close to Quainton, and within a few miles of Aylesbury and Buckingham; consisting of several capital dairy farms, with suitable houses and homesteads, in the hands of highly respectable tenants, with some beautiful woodlands, full of thriving young oak, and abounding with game, comprising in a ring fence nearly 1,300 acres, chiefly rich grass land, and embracing the Grange Hill, one of the most prominent and beautiful features of the neighbourhood. The annual value of this fine property is about 2,000*l.* exempt from land-tax, and almost from tithes.

Further particulars will be shortly published; and in the interim information may be had of Messrs. Whitmore, Romieu, and Walters, 9, Lincoln's inn; and of DANIEL SMITH and SON, Land-agents, &c. in Waterloo-place, Pall-mall, and Windsor.

IN ROMNEY MARSH. Capital Freehold Grazing Farms offering most eligible Investments particularly for Trustees and others looking to Income without the Drawback of Repairs or Timber.

MESSRS. DANIEL SMITH and SON will SELL by AUCTION, at the Mart, near the Bank of England, on —— August, in Lots, nearly 580 acres of rich FREEHOLD GRAZING LAND, in Romney Marsh, near the towns of Lydd and New Romney, all let to yearly but highly respectable tenants, at low rents; viz. an estate called Derings, in the occupation of Mr. Stephen Terry, jun.; a farm in the parish of Ivy Church, in the occupation of Mr. George Foord; an estate called Bird Kitchen Land, occupied by Mr. Francis Finn; and another farm in the occupation of Mr. John Prescott, both lying near the town of Lydd; and about 50 acres of rich marsh-land near the town of New Romney, in the occupation of Mr. William Hoskins, with several detached parcels of fertile marsh and arable land; the whole presumed to be of the value of 1,000*l.* per annum.

The estates may be viewed by permission of the tenants; and particulars with plans had in due time at the inns in New Romney, Lydd, Hythe, Rye, &c.; of Mr. Mortimer, solicitor, in the Albany, Piccadilly; of Mr. Austin, solicitor, Canterbury; and of DANIEL SMITH and SON, Land-agents and Surveyors, in Waterloo-place, Pall mall.

HAZELBY, near HIGHCLERE and NEWBURY, a highly picturesque and healthy part of Hants, next Berkshire.

MESSRS. DANIEL SMITH and SON will SELL by AUCTION, at the Mart, on THURSDAY, July 31, at Twelve (unless an acceptable offer shall be previously made by Private Contract), the above desirable FREEHOLD PROPERTY, situate at East Woodhay, within four miles of the town of Newbury; comprising a modern compact residence, with good stabling, cottages, and other conveniences, delightfully placed in the centre of about 60 or 100 acres (at the option of the purchaser) of very finely-timbered park-like grounds, a beautiful wood with old oaks and underwood, adjoining the lawn. The grounds are undulated, well watered, and the house commands a great extent of the magnificent and varied scenery of High Clere and Hampstead Marshall, the splendid seats of Lords Carnarvon and Craven. It is a very productive loamy soil, and the neighbourhood and roads are of the best description. The house has been recently decorated, and immediate possession may be had. For cards to view and particulars apply to Mr. Pinnaker, solicitor, Newbury; and to treat, to Messrs. DANIEL SMITH and SON, Waterloo-place, Pall-mall.

Near TAUNTON.—Sidbrook, one of the most admired and ...... Residences, on a moderate scale, in this beautiful and desirable neighbourhood, with two rich and picturesque Farms, all freehold.

MESSRS. DANIEL SMITH and SON will submit to PUBLIC SALE, at the Mart, near the Bank of England, on · August, at Twelve, in Three Lots unless an acceptable offer shall be previously made by Private Contract), SIDBROOK HOUSE, with its beautiful pleasure-grounds and extensive walks, walled garden, stabling, ornamental lodge, and conservatory; together with Sidbrook and Overton manor farms, delightfully situated near the picturesque village of West Monkton, within three miles of Taunton, and seven of Bridgewater, and only one hour's journey from Exeter, two from Bath and Bristol, and five from London. The estate comprises an elegant villa, erected about twenty years since upon a beautiful and elevated spot, commanding extensive scenery on all sides, embracing the magnificent vale and town of Taunton, the Wellington and Chatham pillars, and other interesting and grandly contrasted objects. The home farm consists of about 115 acres of rich meadow, orchard, and arable land, with a respectable farm-house and buildings of all kinds, and every part of the property in most complete order. Overton farm is on the other side of the village, and consists of a beautifully situated superior farm-house and homestead, and about 125 acres of rich orchard, meadow, and arable land; and Higher Sidbrook farm comprises about 49 acres of excellent land, with bailiff's cottage, barn, ox-sheds, &c.—The estate cannot be viewed without an order, which may be had of Messrs. Druce and Son, solicitors, Billiter-square, City; of William Kinglake, esq. solicitor, Taunton; and of Messrs. DANIEL SMITH and SON, Land-agents and Surveyors, Waterloo-place, Pall-mall, who are alone authorized to treat for the property.

Beautifully situate Tithe-free Estate, in the vicinity of Chertsey, St. Ann's-hill, and Virginia Water, known as the ... Burrow Hills, presenting a delightful site for the erection of a Villa.

MESSRS. DANIEL SMITH and SON offer for PUBLIC SALE, at the Mart, near the Bank of England, on THURSDAY, July 31, at Twelve unless previously disposed of by private contract), a singularly healthy spot for a residence, consisting of a highly picturesque and delightfully situated little DOMAIN of about 100 acres, possessing rare natural beauties, particularly the bold undulations from which it takes its name, judiciously embellished by plantations in a very thriving state, and commanding on all sides very extensive and finely varied scenery. It is chiefly freehold, with a small portion copyhold of equal value. It is approached by capital roads; ... surrounded by numerous gentlemen's seats and objects of interest; only three miles from the town of Chertsey, and five from the Weybridge station on the South-ampton Railway, making only 1½ hours' journey from London; within a pleasant drive of Windsor, Virginia Water, and Ascot, with several packs of hounds in the neighbourhood, and within a walk of the River Wey and the Thames, affording excellent fishing. There is a small cottage and farm-buildings on the property, and it abounds with game, being in the midst of extensive preserves. There is brick-earth on the estate, and good water, with every attraction for building. It may be viewed at any time, and particulars with plans had of D. Grazebrook, esq. solicitor, Chertsey; at the neighbouring inns; at the Auction Mart; and of Messrs. DANIEL SMITH and SON, Land Agents, in Waterloo-place, Pall-mall, and Windsor.

On the bank of the Thames, between Windsor and Maidenhead. A Compact Modern Mansion, on a gentle elevation commanding a fine view of the Castle and the Scenery of the River ... led by about seventeen acres of very rich pasture and meadow land.

MESSRS. DANIEL SMITH and SON will offer for SALE by AUCTION, at the Mart, near the Bank of England, on THURSDAY, July 31, at Twelve (unless an acceptable offer should be previously made by Private Contract), a handsome FREEHOLD RESIDENCE, on a most comfortable scale, within two miles of Windsor, known as "The Hatch," on which considerable sums have been lately expended in improvements and decorative repair, the whole being in the most perfect order. The house is modern and compact, containing rooms of excellent size and proportions, and ample accommodation for a large family, newly built stables, hothouse and conservatory, productive gardens and lawns with gravelled walks, and a rich park-like paddock, ornamentally timbered and belted by plantation; also a capital meadow of seven acres, divided merely by the road, and extending a considerable distance ... magnificent reach of the Thames, affording good boating and fishing. The purchaser may have the modern and handsome furniture at a fair valuation, with immediate possession, on the completion of the purchase. It may be viewed with cards, which, with particulars, may be had at Messrs. SMITH'S Offices, in Waterloo place, Pall-mall, and Windsor, particulars may also be had at the Mart; and at the libraries, Maidenhead, Reading, &c.; also of Messrs. SMITH and ALLISTONS, Solicitors, Warnford-court, Throgmorton-street, City.

In a favourite and beautiful part of Devonshire.—Sandford Orleigh, a delightful Residence, close to the town of Newton Abbott, 16 miles from Exeter, now within 10 hours' journey of London.

MESSRS. DANIEL SMITH and SON are directed by the executor of the late George Templer, esq. to announce for SALE by AUCTION, at the New London Hotel, in Exeter, on —— ——, August ——, the above elegant and beautifully situate MANSION, erected within the last ten years, of the olden style of architecture, ... the requisite appendages for a gentleman's establishment on a moderate scale, in perfect order, and delightfully placed on a healthy and highly picturesque eminence, commanding extensive marine and inland scenery, and sheltered by ornamental shrubberies and plantations, with hot-houses and conservatory, together with a valuable farm and meadows attached, with a newly-built farm-house and all necessary buildings. Further particulars will be shortly published, with the day of sale, and in the interim every information may be obtained of Messrs. Smart and Buller, solicitors, 56, Lincoln's Inn fields; or of Messrs. DANIEL SMITH and SON, Land Agents, Waterloo-place, Pall-mall.

Freehold Cottage Residence at Stanwell, a favourite and picturesque village between Bedfont, Staines, and Windsor.

MESSRS. DANIEL SMITH and SON will SELL by AUCTION, at the Mart, near the Bank of England, on THURSDAY, July 31, at Twelve, by direction of the Executors and Devisees in Trust under the will of William Beach, esq. deceased, STANWELL COTTAGE, a desirable and comfortable country retreat for a moderate family, with offices and out-buildings of every kind, a gardener's cottage and stabling, double coach-house, most productive garden, with lofty fruit walls, lawn, shrubbery, and about four acres of very rich meadow land adjoining. It is pleasantly situated at the western entrance of the village, within an easy distance of the church and chapel. It commands some beautiful scenery, upon a most healthy dry soil, only two miles on the London side from the town of Staines, seven from Windsor, and fifteen miles from Hyde Park-corner, and a railroad projected by Staines. Good fishing and hounds in the immediate neighbourhood.—The estate can only be viewed with cards, which may be had at Messrs. SMITH'S Offices, in Waterloo-place, Pall-mall; Particulars may also be had of Messrs. Rogers, solicitors, Manchester-buildings, Westminster.

DORSETSHIRE.—The very beautiful and important ESTATE of CASTLE-HILL, near the picturesque Village and Church of Buckland Newton, with an elegant Mansion, valuable Manors, and a remarkably rich Domain of about 1,350 Acres, consisting of capital Dairy and other Farms, in excellent order and repair, finely timbered, and intersected by Brooks and ornamental Covers and Plantations, abounding with Fish and Game.

MESSRS. DANIEL SMITH and SON are instructed to submit to SALE by AUCTION, at the Mart, near the Bank of England, on TUESDAY, August 26, at Twelve (unless previously disposed of by Private Contract), the above singularly beautiful and very valuable FREEHOLD ESTATE, the greater part rich grass land, situate between Cerne Abbas, Sherborne, and Dorchester, in the centre of Mr. Farquharson's hunt; comprising a handsome, substantial, and truly comfortable mansion, one of the most admired and favourite seats in the county, of an elegant uniform elevation, designed by Sir William Chambers, and in most excellent order, with suitable offices, excellent stabling, extensive and delightful pleasure-grounds and shrubberies, embellished with a superb variety of timber, ornamental water, grotto, &c. most luxuriant walled gardens, vinery, and conservatory, surrounded by bold park-like paddocks, embracing a celebrated Roman station, and commanding on all sides the most magnificent scenery, extending over the vale of Blackmoor into several counties, together with about 1,350 acres (exclusive of the commons within the manors), with convenient farm-houses and homesteads, keeper's and gardener's cottages, and an inn well known to sportsmen as Revels Inn, upon the Dorchester turnpike-road. The whole let to highly respectable tenants, at low rents, but of the estimated annual value of 2,250*l.* offering a most solid and superior investment for capital, and a very complete and delightful residence. The estate cannot be viewed without an order, and will be shewn by Mr John Foot, of Glanvill's Wootton.—An order, with particulars and plans, may be obtained of Mr. Lambert, Burghfield, near Reading; of Messrs. Dawes and Sons, solicitors, Angel-court, Throgmorton-street; or at the offices of Messrs. DANIEL SMITH and SON, Waterloo-place, Pall-mall, and Windsor, who are authorized to treat for the same.

VALUABLE FREEHOLD and TITHE-FREE ESTATE, in the parish of Cartmel, for SALE. —To be SOLD by AUCTION, by Mr. WILLIAM KILSHAW, at the Crown Hotel, Grange, in the parish of Cartmel, in the northern division of the county of Lancaster, on FRIDAY, the 8th day of August, 1845, at Four o'clock in the afternoon precisely (subject to such conditions of sale as will be then and there produced), all that valuable FREEHOLD ESTATE, comprising a farm called Wyke, with Humphrey Head, and Rough Holme, situate in the said parish of Cartmel, containing 148a. 1r. 11p. of excellent arable, meadow, pasture, and wood land (be the same more or less), divided into convenient inclosures, with substantial homesteads and out-buildings, in a good state of repair; likewise a pew in Flookburgh Church. Upon the estate, and issuing from a projecting limestone rock called Humphrey Head, there is a medicinal spring known as the Holy Well, celebrated for its beneficial properties. The water upon analysis is found to contain 18 grains of sulphate of lime, two grains of sulphate of magnesia, and 49 grains of muriate of soda, in each pint. The whole of the estate is well watered and timbered (there being about 24 acres of wood land), and is situate on the beautiful estuary of Morecambe Bay, within ten miles of Windermere Lake, two from Cartmel, and eight from the market town of Ulverstone. The above very desirable property affords an excellent opportunity for investment and speculation, the farm being in a high state of cultivation, whilst the Holy Well Spa in the hands of parties desirous of affording accommodation to visitors by the erection of a convenient hotel, it is confidently submitted, would be found to possess attraction for the valetudinarian that would speedily lead to its becoming a spa of great resort, and be found a source of considerable profit to the proprietor. The estate is exonerated from tithes and land-tax, and has, in addition to its other advantages, a right of turbary upon 4a. 2r. of Ellerside Moss. Mr. John Bell, the tenant, will shew the estate, and plans may be seen and further particulars obtained at the office of Messrs. W. R. and H. A. Gregg, solicitors, Kirkby Lonsdale; S. Seddon Smith, esq. solicitor, Liverpool; Messrs. Mitton and Nealor, solicitors, 23, Southampton-buildings, Chancery-lane, London; and at the offices of Messrs. Smithson and Jackson, solicitors, Malton, Yorkshire.

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THE LAW TIMES,

AND JOURNAL OF PROPERTY,

FOR

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VOL. V. No. 122.] SATURDAY, AUGUST 2, 1845.

Money Wanted.

MONEY.—Wanted, 7,000*l.* for a term of seven or ten years, on Mortgage of FREEHOLD ESTATES over ample value, for which Five per Cent. interest will be given.

Particulars may be had on application to Mr. WITHERS, Solicitor, Church-house, Holt, Norfolk.

MONEY.—IRISH INVESTMENTS.—Wanted, the sum of 42,000*l.* and two sums of 10,000*l.* each, at Four per Cent. on valuable and adequate fee-simple landed property, of between 3,000*l.* and 4,000*l.* per annum, situate in the County and City of Dublin. Title unexceptionable.

Apply, by letter, to Mr. M'GRATH, 30, Rutland-square, Dublin.

N.B.—None but principals need apply.

MONEY.—The Advertiser, having a clear title to freehold property producing upwards of 3,000*l.* per annum, but being wrongfully kept out of possession, and unable to afford means to enable him to recover the same, wishes to meet with a GENTLEMAN who will ASSIST him. He proposes to give 500*l.* for every 100. advanced.

Every satisfaction will be given as to title, &c. on applying to Mr. LANGLEY, Solicitor, 45, Bedford-row, Holborn.

Situations Wanted.

LAW.—A Young Man, who has been in a country attorney's office for some years, wishes an ENGAGEMENT. Most satisfactory references will be given by his employer. Moderate salary will be accepted. Apply to J. M. No. 2, Spencer-street, Northampton-square.

LAW.—A Gentleman who served his articles in the Country, and was one year in an office in London prior to passing his examination on his being admitted a solicitor last Easter Term, is desirous of obtaining a situation as CLERK in a Solicitor's office of general practice.

Address, prepaid, to J. W. W. care of Messrs. Boyle, law stationers, 59, Carey-street, Lincoln's-inn.

Situations Vacant.

LAW.—WANTED, for a permanency, in a Country Office, about 60 miles from London, a steady, middle-aged Person, as COPYING CLERK. He must also be able to make out bills of costs, attend to magisterial business in the absence of the Principal, and willing to make himself generally useful.

The most satisfactory references as to character and ability will be required, but no one need apply who is not a strict Churchman and Conservative. Salary 100*l.* per annum.

Address to A. B. LAW TIMES Office, Essex-street.

LAW.—A Solicitor, in extensive practice in a large corn-market and assize town, situate in one of the richest and most populous agricultural counties of England, has now a VACANCY for a young gentleman of quiet and domestic habits, as an IN-DOOR ARTICLED CLERK. The advertiser holds a first-rate public appointment, and the practice is a very old-established one, in a healthy locality, about ninety miles from London. A moderate premium would be taken, and he would be treated in every respect as one of the family.

Address, for further particulars (pre-paid), L. LAW TIMES office, Essex-street, Strand, London.

Partnerships Wanted.

LAW PARTNERSHIP.—A GENTLEMAN, sixteen years in practice, holding a high corporate appointment in a populous town in Kent, and who has also an office at an improving and fashionable watering-place, is desirous of engaging with a PARTNER to unite in conducting the business at either of the above places. The expected premium would not be large, but the engagement, to a gentleman of some capital and of assiduous habits, would prove a very lucrative one. Any gentleman wishing to retire from the more arduous labours of his profession to a salubrious and picturesque neighbourhood, would find the advertiser willing to devote himself to the active management of the business, and might, if desirable, be accommodated with apartments at his private house.

Address, by letter only, to A. F. No. 133, Salisbury-square, Fleet-street, London.

Desirable Freehold Investment.

TO be SOLD by PRIVATE CONTRACT, certain commuted RENT-CHARGES in lieu of Tithes, amounting to 62*l.* per annum, arising from, and well secured on, Estates in the county of Wilts.

For further particulars apply (by letter, post paid) to Mr. HULBERT, Solicitor, Corsham, near Chippenham, Wilts.

LAW.—Wanted to purchase a FREEHOLD HOUSE, and garden attached, with an introduction to some Practice in the Law in the West of England; a few acres of land with the house would be desirable.

Address X. Y. EDWD. WHITTAKER, Esq. Lincoln's-inn-fields.

FREEHOLD LAND.—WANTED to PURCHASE, WASTE LAND, or land near a Railway Station, or within from three to five miles of the City. Particulars to be addressed Z., Thomas Pryer, esq. Solicitor, 17, Pavement, Finsbury.

FREEHOLD GROUND-RENTS.—To be SOLD to pay Four per Cent.—FREEHOLD GROUND-RENTS, in various sums amounting to 300*l.* per annum; most amply secured upon excellent property near the City. For particulars, apply to Messrs. ROBERTS and ROBY, Estate Agents, 24, Moorgate-street, Bank.

Freehold, Whitecross-street, for Investment.

MESSRS. VENTOM and HUGHES are directed to SELL, at the Mart, on THURSDAY, August 7, at Twelve, a very desirable FREEHOLD brick-built RESIDENCE, No. 108, Whitecross-street, in the parish of St. Luke's, with a commanding glazed-fronted baker's shop, well-arranged bakehouse, and large flour-store: on lease to Mrs. Gillett for 21 years (in consideration of her putting the property in repair—in perfecting which a sum of nearly 300*l.* has been expended), from Lady-day, 1857, at the very low rent of 40*l.* per annum. The premises have been in the occupation of the present tenant and her family for more than half a century. May be viewed. Printed particulars had of W. J. Boulton, esq. solicitor, Northampton-square; VENTOM and HUGHES, Angel-court, Throgmorton-street; and at the Mart.

Austinfriars, City.—Producing a rental of 445*l.* 5*s.* particularly eligible for investment.

MESSRS. VENTOM and HUGHES have received directions from the proprietor to submit to PUBLIC COMPETITION, at the Mart, on THURSDAY, August 7, at Twelve, the LEASE of that very commanding and noble EDIFICE, comprising Nos. 19 and 20, Austinfriars, of four stories high and basement, let to highly respectable tenants at rents amounting to 415*l.* 5*s.* and held on lease, whereof 17 years are unexpired, at a rent of 150*l.* The property is in the most substantial state of repair, a very large sum having recently been expended on the same. —May be viewed. Printed particulars had of the housekeeper, on the premises; Messrs. Hill and Heald, solicitors, 23, Throgmorton-street; Messrs. VENTOM and HUGHES, Angel-court, Throgmorton-street; at the Auction Mart; and of Mr. Brown, auctioneer, Herne-bay, Kent.

Doughty-street. — Eligible Family Residence, at a low ground-rent, for occupation or investment.

MESSRS. VENTOM and HUGHES are instructed to SELL by AUCTION, at the Mart, on THURSDAY, August 7, at Twelve, by order of the proprietor, a substantially-erected brick-built FAMILY RESIDENCE, being 15, Doughty street, Guildford-street, near Russell-square, on which a considerable sum of money has been expended in substantial and ornamental repair, drainage, &c. and is well adapted for a family of the first respectability. It contains six chambers, drawing and dining-rooms, breakfast parlour, store-room, water-closet, two kitchens, amplitude of cellaring, with every other necessary domestic accommodation, and garden: it is let furnished up to the 15th of October, when possession will be given, and is of the value of 80*l.* per annum; in the rear, and numbered 11, Doughty-mews, is a brick-built House of four rooms, let to Mr. Maunder, at 15*l.* 12*s.*; the whole held on lease, under the Doughty family, whereof 50 years were unexpired at Lady-day last, at a ground-rent of 9*l.* 9*s.*—May be viewed six days prior to the sale, from 3 to 5, by cards only, which with printed particulars may be had of Messrs. VENTOM and HUGHES, Angel-court, Throgmorton-street; particulars may also be had of Messrs. Hill and Heald, solicitors, 23, Throgmorton-street; at the Auction Mart; and of Mr. Brown, auctioneer, Herne-bay, Kent.

BRECONSHIRE.—Valuable Freehold Property for sale.—To be SOLD by AUCTION, by Mr. HUGH JONES, in conjunction with VENTOM and HUGHES, by order of the Mortgagee, under a power of sale, at the Lion Hotel, in the town of Builth, on MONDAY, the 4th day of August, 1845, at Three o'clock in the afternoon, subject to such conditions as shall be then produced, All that desirable and compact FREEHOLD FARM, called MAESYGROES UCHAF, comprising 36a. 1r. 5p. of arable, meadow, and pasture land, with a convenient dwelling-house and farm buildings thereon, situate in the parish of Llanafan Vaur, distant from the market and post town of Builth about eight miles, and within easy distances of the celebrated mineral waters of the Llandrindod and Llanwrted wells, and is now in the occupation of Mr. Peter Lewis, at the low yearly rent of 20*l.* There is a valuable and extensive right of common attached; the tithes have been commuted at 2*l.* 5*s.* per annum, and the rates are moderate.

The tenant will shew the property, and further particulars may be had on application to Messrs. Overton and Hughes, solicitors, 25, Old Jewry, London; Messrs. VENTOM and HUGHES, of Angel-court, Throgmorton-street, London, Auctioneers; or, to Mr. HUGH JONES, Auctioneer, Brecon.

Mile-end.—Five well-built Houses, nearly equal to Freehold.

MR. SINGLE will SELL by AUCTION, at the Mart, on TUESDAY, August 5, at Twelve for One, FIVE HOUSES, newly erected in a superior manner, very eligibly situate for letting, Single-grove West, Single-street, Canal-road, Mile-end-road. They each contain, on the ground-floor, two parlours and kitchen; first-floor, two bed-rooms; and bed-room over kitchen; each let at 18 guineas per annum to respectable tenants; held direct from the freeholder for 99 years; ground-rent 2*l.* 15*s.* per annum each. —Particulars of Messrs. Coombe and Jones, solicitors, 2, Church-court, Clement's-lane, City; and at the offices of Mr. SINGLE, 31, Coleman-street.

New Dover-road.—Baker's Shop, Improved Rents, Houses, &c.

MR. SINGLE will SELL by AUCTION, at the Mart, on TUESDAY, August 5, at Twelve for One, a BAKER'S SHOP, corner of Bland-terrace, New Dover-road; let at 36*l.* per annum; also an improved rent of 45*l.* per annum, arising from a warehouse, residence, thirteen houses, and a woodcutter's yard in the rear; held for about 50 years, at a ground-rent of 30*l.* per annum; let upon lease for the full term, less a few days, at 75*l.* a year. Also a Dwelling-house and Shop, Bland-terrace; let to Mr. Fuller, stationer, at 30*l.* per annum. Particulars are now ready, and may be obtained of Mr. Rogers, solicitor, 16, Union-court, Old Broad-street; and at the offices of Mr. SINGLE, 34, Coleman-street, City.

Absolute Sale of valuable Leasehold Property, Walworth, and near Leicester-square.

MR. SINGLE will SELL by AUCTION, at the Mart, on TUESDAY, August 5, at Twelve for One, for whatever may be offered, there being no reservation as to price, the following valuable LEASEHOLD PROPERTY, comprising all those premises well known as 28, East House, formerly East House Academy, East-lane, Walworth; 28½, a Confectioner's Shop adjoining, corner of Hen-and-Chicken-lane; Four Shops and Dwellings, Hen-and-Chicken-lane aforesaid; the whole let at rentals amounting to 112*l.* per annum; lease nearly forty years unexpired; ground-rent, 30*l.* Also Two desirable Houses, 2, and 3, Princes-court, Whitcomb-street, Princes-street, in the neighbourhood of the new improvements leading to Leicester-square — a densely-populated neighbourhood, famous for letting; let at rentals amounting together to about 87*l.* per annum; lease nearly forty years unexpired; ground-rent, 21*l.* per annum. Particulars may be obtained of Mr. Stringer, solicitor, 1, Trinity-street, Southwark; and at the offices of Mr. SINGLE, 34, Coleman-street, City.

Desirable Leasehold Investment, near Brunswick and Regent Squares.

MR. MELVIN will SELL by AUCTION, at the Mart, early in August, a desirable PRIVATE RESIDENCE, situate No. 9, on the north side of Sidmouth-street, Regent-square, held for a term of 56½ years, at 25 guineas per annum.

May be viewed, and particulars had of James Dougan, esq. Clement's-inn, Strand; at the Mart; and of Mr. MELVIN, Auctioneer, &c. Hunter-street, Brunswick-square.

Leasehold Estate for Investment, near the proposed Terminus of the London and York Railway.

MR. MELVIN will SELL by AUCTION, at the Mart, early in August, in one lot, TWO brick-built TENEMENTS, with wash-houses and yards, and a cottage in the rear, situate Nos. 1 and 2, Thornhill-street, Pentonville, held for 79 years at 30*l.* per annum, producing 95*l.* 10*s.* per annum.

May be viewed; particulars are preparing, and may be had of James Dougan, esq. Clement's-inn, Strand; at the Mart; and of Mr. MELVIN, Auctioneer, Hunter-street, Brunswick-square.

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KNIPE'S RAILWAY MAP of the BRITISH ISLES, shewing also the site of the mineral productions. Size of the map, 5 ft. 6 in. by 4 ft. 6 in. Price in sheets, 1*l.* 10*s.*; coloured and mounted, 2*l.* 2*s.*

All the railways completed, in progress, and projected, are accurately laid down by the respective engineers, or by the proprietor, from their own plans. This map will, therefore, be found the most useful map of reference *extant*.

Orders received by GRANT and GRIFFITH, St. Paul's Churchyard; G. BAILLIERE, 219, Regent-street; and at the Office of Publication, KNIPE, 9, Wine Office-court, Fleet-street, where all communications for the proprietor may be addressed.

CONSIDERABLY ENLARGED.

Just published No. XIII (being the 1st number of vol. 2) price 1*s.* 2*d.* or 1*s.* 3*d.* stamped for post,

THE LAW STUDENTS' MAGAZINE.—This periodical contains exclusive and most ample details of the Examinations; also, the Questions with Answers, and other matters important to Articled Clerks, whose especial organ it is.

London: R. Hastings, 13, Carey-street, to whom communications for the Editors are to be sent.

KENT.—A beautiful Freehold Estate, about 13 miles from Town, with an extensive Right of Fishing in the river Cray.

MESSRS. HEDGER will SELL by AUCTION, at the Auction Mart, on THURSDAY, August 21, at Twelve, a beautiful PROPERTY, called Vale Mascall, situate on the high road from Foot's Cray and North Cray to Bexley, by which it is on one side bounded, and also by the river Cray. Vale Mascall House is a residence replete with accommodation for a gentleman's establishment, every regard to comfort and convenience being studied in an unusual degree; is situate in a pleasing lawn sloping to the river Cray, a clear, rapid, sparkling trout-stream, which for a considerable distance margins the property, and which affords first-rate amusement, from the quantities and qualities of its trout, &c. The house contains handsome reception-rooms, excellent bed-chambers, and superior offices, and with pleasure grounds, gardens, and land, altogether exceeds 14 acres. It is in every respect a charming property, in the district of the Crays, surrounded by choice society.—Particulars may be had of Messrs. HEDGER, Land-agents, 10, New Bond-street, opposite the Clarendon.

LINCOLNSHIRE.—Extensive and highly valuable Freehold Estate, containing nearly 2,200 Acres, situate near Brigg; together with the valuable Advowson and Next Presentation to the Rectory of Broughton, producing upwards of 1,100*l.* per annum, exclusive of the mansion and glebe.

MR. W. W. SIMPSON will SELL by AUCTION, by direction of the heirs of the late Ellys Anderson Stephens, esq. and their trustees, at the Mart, on THURSDAY, August 28, at Twelve, in one lot, an extensive and highly valuable FREEHOLD ESTATE, eligibly situate in the parish of Broughton, about three miles from Brigg. It comprehends nearly 2,200 acres of generally fertile arable, pasture, carr, and woodland. Those surfaces which are designated Carr Lands are of a very powerful and productive description. Also the Manor of Broughton, with the manorial rights appertaining thereto. The property is bounded by the estates of the Earl of Yarborough on the west (whose fox-hounds are kennelled in the neighbourhood), Sir John Nelthorpe on the south, Charles Winn, esq. on the north, and on the east by T. G. Corbutt, esq.'s lands. The estate, therefore, is highly eligible, and peculiarly adapted to field sports in all their varieties, as the woods which form the coverts are of great extent, and adjoin those of a proprietary who preserve so strictly that a constant stream of game must always supervene, independent of any small expense which the proprietor might choose to incur for direct preservation. Three woods on the estate are so extensive, that they would command some of the finest pheasant shooting in the kingdom; added to which, the growing timber and coppice woods yield a certain annual revenue. There are very agreeable sites for the erection of a shooting lodge or lodges.

With the above will be sold the PERPETUAL ADVOWSON and NEXT PRESENTATION to the valuable RECTORY of BROUGHTON, situate about three miles from Brigg, consisting of a splendid and most complete modern Residence, with gardens, pleasure-grounds, &c. together with 94a. 1r. 20p. of glebe land, and the tithe commutation rent-charge, amounting to upwards of 1,100*l.* per annum. The parish contains 6,912 acres. The Rev. Thomas Booth Wright, the present incumbent, is in his 80th year, and the population is about 900. Mr. Simpson will be open to offers for the entire estate till within fourteen days of the day fixed for the Auction. The property may be viewed, and particulars, with plans annexed, may shortly be obtained on application to Mr. James Marshall, at Broughton; Messrs. Sperling and Harris, solicitors, Halstead; Messrs. Longmore and Sworder, solicitors, Hertford; at the Mart; and of Mr. W. W. SIMPSON, 18, Bucklersbury.

TO be SOLD in lots, pursuant to an Order of the High Court of Chancery, made in certain causes of "Milbank *v.* Stevens," and "Milbank *v.* Collier," with the approbation of Nassau William Senior, esquire, one of the Masters of the said court, by Mr. W. W. SIMPSON, the person appointed by the said Master to sell the same, on THURSDAY, the 14th day of August, at Twelve o'clock at noon, at the Auction Mart, in the City of London:—A FREEHOLD FARM, called South Ockendon Hall, comprising Two Dwelling-houses, out-buildings, windmill, and several inclosures of land, containing about 668 acres, in the occupation of Thomas Bennett Sturgeon, at the yearly rent of 1,050*l.*, land-tax redeemed.

A Freehold Messuage, with barns, stables, and other conveniences, and farm, called *Little* Moullands, in South Ockendon, containing about 213 acres of land, in a ring fence. All the land-tax upon this estate excepting 1*l.* 1s. is redeemed.

A Beer-shop, and several Cottages in the village of South Ockendon.

The Advowson and Next Presentation to the Rectory of South Ockendon. The rectory comprises a parsonage-house in good repair, with stables, coach-house, large garden, lawn, and about sixteen acres of glebe land. The tithes of the parish, exclusive of the glebe, have been commuted at the sum of 828*l.* 1s. The present incumbent is in the 51st year of his age.

A Copyhold Farm called Blatches, situate at Eastwood, near Rochford, comprising a farm-house, barns, stables, and about 100 acres of land, now on lease to Mr. Thomas Rickett, at the yearly rent of 150*l.* Land tax redeemed; late the property of John Cliff, esq. deceased.

Particulars may be had gratis, at the said Master's chambers, Southampton-buildings, Chancery-lane, London; at the Auction Mart; of Messrs. Perkins, Jepp, and Veley, of Chelmsford, Essex, solicitors; of Mr. Thomas Wright Nelson, of Gresham-place, Lombard-street, London, solicitor; of Mr. George White, of No. 12, Hatton Garden, London, solicitor; of Messrs. Gadsden and Flower, of No. 14, Furnival's-Inn, London, solicitors; of Messrs. Sutton, Ewens, Ommanney, and Prudence, of No. 6, Basinghall-street, London, solicitors; of Mr. Edward Smith Bigg, of Southampton-buildings, aforesaid, solicitor; of Messrs. Lofty and Potter, of No. 35, King-street, Cheapside, London, solicitors; and of Mr. W. W. SIMPSON, of No. 18, Bucklersbury, London, Auctioneer; and at the White Hart Inns, at Romford and Brentwood.

SUFFOLK.—Desirable Estate between Beccles and Lowestoffe, consisting of a very complete Family Residence, excellent Farm-houses, Cottages, and Agricultural Buildings, together with upwards of 920 acres of rich Arable, Pasture, productive Wood, and Plantation Land, abundantly stocked with game, lying within a ring fence.

MR. W. W. SIMPSON has received instructions from the Executors of the late John Cooper, esq. to offer for SALE by AUCTION, at the Mart, on WEDNESDAY, August 6, at Twelve, in one lot, the following valuable and desirable PROPERTY, designated the North Cove Hall Estate, situate on the high road from Beccles to Lowestoffe. It consists of an excellent residence, with ample accommodation for a family of a high class, coach-house, stabling, and complete domestic offices; a productive walled-in kitchen garden, and upwards of 920 acres of arable, pasture, and marsh land; including also about 70 acres of wood and carrs, forming excellent preserves for the game, which abounds on the estate in great variety. The arable and pasture surfaces are generally of a deep staple and highly productive. The estate is divided into desirable farms, and let to a most respectable and improving tenantry, at rents (including the estimated rental of the mansion and lands in hand) amounting to 1,564*l.* per annum. The mansion is seated on a lawn, approached by a carriage-drive in front, and surrounded by grounds of park-like appearance, studded with ornamental timber, and the pleasure grounds are tastefully laid out, and pleasingly varied with plantations of trees, evergreens, and flowering shrubs. The above property forms one of the most perfect and best-circumstanced estates (for its extent) in this country. The mansion, farm-houses, cottages, and buildings are all in an excellent state of repair. The estate is distant three miles from Beccles, six from Lowestoffe, and twenty-one from Norwich, which is within about half an hour's ride from Yarmouth by the railway; and the navigable river Waveney, from Beccles to the sea, bounds the estate for nearly a mile, and affords excellent fishing. The property may be viewed, and particulars, with plans annexed, may be obtained of Messrs. Margetson and Hartcup, solicitors, Bungay; Messrs. Stevens, Wilkinson, and Satchell, solicitors, 6, Queen-street, Cheapside; at the Mart; and of Mr. W. W. SIMPSON, 18, Bucklersbury.

CHELMSFORD, ESSEX.—Sundry Lots of Freehold Building Ground, land-tax redeemed.

MESSRS. DRIVER are instructed to offer to public competition, at the Black Boy, Chelmsford, on TUESDAY, the 5th day of August, at One for Two o'clock, in 14 lots, sundry very valuable parcels of FREEHOLD BUILDING GROUND, exonerated from land-tax (being the remaining unsold portion of the ancient possessions of the Mildmay family), comprising five very eligible Lots for Wharfs, adjoining the Chelmer and Blackwater navigation, 7 lots adjoining the New Road at Moulsham, and the embankment of the Eastern Counties Railway, including a very desirable parcel of nearly 11 acres, situate on the western side of the embankment, eligible for being subdivided into small lots, for the erection of small houses, next to the Writtle estate; one lot near the Three Cups Inn, and another adjoining the New Road, near St. John's Church.

Printed specifications, with plans annexed, may be had at the Black Boy, Chelmsford; of Messrs. Bray, Warren, and Harding, solicitors, Great Russell-street, Bloomsbury; and at the Auction Mart, Bartholomew-lane; and of Messrs. DRIVER, surveyors and land agents, 8, Richmond-terrace, Parliament-street, London.

Periodical Sales (established in the year 1803) of Reversions, Life Interests, Annuities, Policies of Assurance, Advowsons, Next Presentations, Rent Charges in lieu of Tithes, Post-obit Bonds, Tontines, Debentures, Ground Rents, Improved Rents, Shares in Docks, Canals, Mines, Railways, Insurance Companies, and all Public Undertakings.

MESSRS. SHUTTLEWORTH and SONS respectfully inform the public, that upwards of 40 years' experience having proved the classification of this species of property to be extremely advantageous and economical to vendors, and equally satisfactory and convenient to purchasers, the PERIODICAL SALES of reversionary interests, policies of insurance, tontines, debentures, advowsons, next presentations, all securities dependent upon human life, shares in docks, canals, mines, railways, and all public undertakings, will be continued through 1845, as follow:—

Friday, Sept. 5.	Friday, Nov. 7.
,, Oct. 3.	,, Dec. 5.

Particulars may be had Ten days previous to each sale, at the Royal Hotel, Manchester; the Adelphi Hotel, Liverpool; Dee's Royal Hotel, Birmingham; the Angel, Oxford; the Eagle and Child, Cambridge; at the Mart; and of Messrs. SHUTTLEWORTH and SONS, 28, Poultry.

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London: W. BENNING and Co. Law Booksellers, 43, Fleet-street.

THE REPORTS.

[These are usually brought down to the Wednesday preceding publication. Where *Cur. adv. vult*, the case is not reported till judgment given. All written judgments are taken in shorthand, and reported *verbatim.* Rules *nisi* are reported.]

The following are the names of gentlemen who favour the LAW TIMES with the Reports:—

PRIVY COUNCIL by THOMAS CAMPBELL FOSTER, of the Middle Temple, Esq. Special Pleader.

EQUITY COURTS.

LORD CHANCELLOR'S COURT by RICHARD GRIFFITHS WELFORD, Esq. of the Inner Temple, Barrister-at-Law.

VICE-CHANCELLOR of ENGLAND'S COURT, by GEORGE GOLDSMITH, Esq. of the Middle Temple, Barrister-at-Law.

ROLLS COURT, by J. MACAULAY, Esq. of the Inner Temple, Barrister-at-Law.

VICE-CHANCELLOR KNIGHT BRUCE'S COURT by GEO. S. ALLNUTT, Esq. of the Middle Temple, Barrister-at-Law.

VICE-CHANCELLOR WIGRAM'S COURT, by J. VESEY DAWSON, Esq. of the Middle Temple, Barrister-at-Law.

COMMON LAW COURTS.

The QUEEN'S BENCH, by J. C. SYMONS, Esq. of the Middle Temple, Barrister-at-Law, and EDWARD WISE, Esq. of the Middle Temple, Barrister-at-Law.

The COURT of COMMON PLEAS, by W. PATERSON, Esq. of Gray's-inn, Barrister-at-law.

The COURT of EXCHEQUER by JOHN BRIDGE ASPINALL, Esq. of the Middle Temple, Barrister-at-Law, and H. T. COLE, Esq. of the Middle Temple, Barrister-at-Law.

The BAIL COURT by T. W. SAUNDERS, Esq. of the Middle Temple, Barrister-at-Law.

The EXCHEQUER CHAMBER by A. A. FRY, Esq. of Lincoln's-inn, Barrister-at-Law.

BANKRUPT AND INSOLVENT COURTS.

The COURT of REVIEW by GEO. S. ALLNUTT, Esq. of the Middle Temple, Barrister-at-Law.

LONDON COMMISSIONERS' COURTS and the INSOLVENT COURT, by B. TALBOT, Esq. of the Middle Temple, Barrister-at-Law.

BRISTOL DISTRICT COURT, by J. ANGUS HOMES, Esq. Barrister-at-Law.

NISI PRIUS, CIRCUITS, AND CROWN CASES.

CENTRAL CRIMINAL COURT, by B. C. ROBINSON, Esq. of the Middle Temple, Barrister-at-Law.

CROWN CASES (before all the Judges) by A. BITTLESTON, Esq. of the Inner Temple, Barrister-at-Law.

NORTHERN CIRCUIT, York and Liverpool, by J. B. ASPINALL, Esq. Barrister-at-Law. The other parts of the Circuit, by G. F. H. OLEPHANT, Esq. Barrister-at-Law.

WESTERN CIRCUIT, by EDWARD W. COX, Esq. of the Middle Temple, Barrister-at-Law.

OXFORD CIRCUIT, by JOHN LANE, Esq. D.C.L. of the Inner Temple, Barrister-at-Law.

NORFOLK CIRCUIT by JNO. S. DASENT, Esq. Barrister-at-Law.

SITTINGS AT NISI PRIUS AFTER TERM, by JOHN LANE, Esq. D.C.L. of the Inner Temple, Barrister-at-Law.

ELECTION LAW.

REGISTRATION APPEALS in the COMMON PLEAS by EDWARD W. COX, Esq. of the Middle Temple, Barrister-at-Law; and HENRY TINDAL ATKINSON, Esq. of the Middle Temple, Barrister-at-Law.

ELECTION COMMITTEES by EDWARD W. COX, Esq. of the Middle Temple, Barrister-at-Law.

REGISTRATION COURTS, collected and edited by EDW. W. COX, Esq. of the Middle Temple, Barrister-at-Law.

IRISH REPORTS.

The LORD CHANCELLOR'S COURT by WILLIAM DUGGAN, Esq Barrister-at-Law.

QUEEN'S BENCH and CRIMINAL COURTS by WM. ST. LEGER BABINGTON, LL.D. Barrister-at-Law.

N.B.—The names of the reporters of such important points as may arise upon Circuit will be announced as the arrangements for each are completed.

The Written Judgments are reported verbatim in Short-hand by Mr. H. GREGORY, Short-hand Writer.

Long Leasehold Estate for Investment, Brixton, Surrey.

MESSRS. DAVIS and VIGERS are instructed to SELL by AUCTION, at the Mart, without reserve, on THURSDAY, August 14, at Twelve for One o'clock, in six lots, a valuable and very desirable LEASEHOLD ESTATE, comprising 12 residences newly erected in the cottage style, substantially built and completely finished, situate and being Nos. 1 to 12, Holland-crescent, Barrington-road, Brixton, Surrey, calculated to secure a rental of 430*l*. per annum; held by lease from Lady Holland for 80 years, at low ground-rents. To be viewed by permission of the tenants. Particulars and conditions of sale to be had of Messrs. J. and C. Rogers, Manchester-buildings, Westminster; of Mr. Sutton, on the premises; at the Mart; Green Man, Coldharbour-lane, Brixton; and at the auctioneers' offices, 3, Frederick's-place, Old Jewry.

Elegant Residence, with Capital Offices, Pleasure-grounds, beautiful Gardens, Conservatories, Shrubbery-walks and rich Park-like Paddocks, ornamented with stately forest timber, at Penge, near Beckenham, on the borders of Kent and Surrey, the whole containing upwards of One Hundred and Four Acres.—By Messrs. HOGGART and NORTON, at the Auction Mart, on FRIDAY, August 15, at Twelve, in one lot,

PENGE-PLACE, the elegant FREEHOLD RESIDENCE of JOHN SCOTT, Esq. most substantially erected under the superintendence of an eminent architect, in the Elizabethan style, placed almost on the summit of the hill, sheltered by thriving plantations, and commanding the most uninterrupted views of a country abounding in richness and beauty of scenery not to be surpassed in any situation, however distant, and yet within an hour's ride of any part of town, and fifteen minutes' walk of the Sydenham station on the Croydon Railway. The approach to this beautiful residence, which has been fitted up with great taste and regardless of expense, on either side, is by an ornamental lodge entrance. It contains eight bed-chambers, some of the principal 22ft. by 21ft. dressing-room, bath-room, and water-closets, with every convenience for the addition of more bed-chambers if required; an elegant entrance-hall leading to two conservatories and the principal rooms, which consist of dining-room 26 feet by 21 feet, elegant drawing-room with massive folding doors opening to a library, the two about 48 feet in length and 21 feet wide, finished in great taste with richly-carved oak chimney-pieces, the whole suite of these rooms overlooking the gardens and park-like grounds; a morning-room, and attached and detached servants' offices of every description, stabling for four horses, standing for four carriages, a productive orchard, capital walled garden, pleasure-grounds, shrubbery-walk, noble terrace-walk in front, splendid flower-gardens, planted with the most rare and choice plants, lawn with standard rose trees, American and other flowering shrubs, refreshed by a fountain supplied from a never-failing spring of water, farm-yard, farm buildings, and the rich park-like paddocks which surround the whole, containing together upwards of 104 acres, in the highest possible condition, and without a single intersection, offering to a merchant, banker, or first-rate family, one of the most delightful retreats within so short a distance of the metropolis. The whole freehold, land-tax redeemed, and, except as to a payment of 2s. 6d. per annum, tithe-free.—May be viewed by tickets only, which, with particulars, may be had of Messrs. HOGGART and NORTON, 62, Old Broad-street, Royal Exchange; particulars also of Messrs. Allan and So[illegible] solicitors, Frederick's-place, Old Jewry; and at the Auctn Mart.

BERKSHIRE.—Valuable and important Freehold Estates, in the county of Berks, consisting of sundry Farms, large and small, near to the Farringdon-road station, in the parishes of East Hanney, Goosey, Stanford, Farringdon, Lambourne, and Great Coxwell, containing altogether about 1,240 acres of Land.—By Messrs. HOGGART and NORTON, at the Bear Inn, Wantage, on THURSDAY, August 28, at Twelve, in Twenty-three Lots, by order of the Devisees in Trust of the late E. P. Bastard, esq.

THESE ESTATES are situate in the several parishes of East Hanney, Stanford, Lambourne, Great Coxwell, Goosey, and Farringdon, comprising altogether about 1,300 acres of fine arable and rich dairy land, part in the rich vale of White Horse, celebrated for the productive[illegible] of its soil, and highly esteemed by agriculturists. The estates offer first-rate investments for large or small capitalists, and will be subdivided into lots as follows:—East Hanney Farm, in the parish of East Hanney, with farm-house, farm-buildings, and 279a. 1r. 7p. of arable and pasture land, in the occupation of Mrs. Dormer; Millaway Farm, in the parish of Goosey, with farmhouse, farm-buildings, and 30a. 4p. of arable and meadow land, in the occupation of Mr. A. Barnes; Stanford Farm, in the parish of Stanford, in the vale of White Horse, with a fine old Manor-house, near the church, farm-buildings, and 110a. 1r. 28. of arable and pasture land, in the occupation of Mr. William Farrant. Stanford Park Farm, in the parish of Stanford, in the vale of White Horse, a capital dairy farm, with a good house, farm-buildings, and 310a. 1r. 1p. of arable, pasture, and meadow land, in the occupation of Mr. William Farrant, Mr. Charles Hunter, and others. An excellent House in the village of Great Coxwell, with barn, stable, &c. and 79a. 2r. 15p. of arable, meadow, and pasture land, in the occupation of Mr. James Foreman. Sixty-six acres, two roods, and nineteen perches of arable and pasture land, in Eastbury Field, in the parish of Lambourne, in the occupation of Mr. Spicer. Beckhampton Farm, in the parish of Lambourne, with farm-house, farm-buildings, and 92a. 2r. 9p. of arable and pasture land, in the occupation of Mr. Spicer. Hills Farm, in the parish of Lambourne, with farm-house, farm-buildings, 111a. 3r. 28p. of arable and pasture, and woodland, in the occupation of Mr. Mildenhall. The remaining lots will consist of accommodation plots of fine productive arable, meadow, and pasture land, in Bradfield, near the village of East Hanney, Goosey-green, in the parish of Great Coxwell, Lambourne, and in Eastbury Field, in quantities varying from one to twenty acres. These estates may be viewed, and particulars, with plans, had twenty days prior to the sale, of Messrs. Karslake and Crealock, solicitors, 4, Regent-street; Mr. Ormond, solicitor, Wantage; of Charles Bailey, esq. 5, Stratford-place; and Messrs. Phillips and Westbury, Andover. Particulars also at King's Head, Abingdon; Inn, at Farringdon; Bear, Reading; at the Auction Mart; and of Messrs. HOGGART and NORTON, 62, Old Broad-street, Royal Exchange.

WEST DEVON.—Capital Freehold Estates, Mansion, Park, Plantations, Manors, Fisheries, together with the entire Royalty to the whole of the village or town of Lifton, four miles from Launceston and forty from Exeter, on the mail-coach road, the property of W. A. Harris Arundell, esq.—By Messrs. HOGGART and NORTON, at the Auction Mart, on FRIDAY, September 19, at Twelve, in one lot, and if not then sold, the whole estate will be subdivided into lots, and sold by Auction in October at Launceston.

A Highly important and most valuable FREEHOLD PROPERTY, comprising the LIFTON ESTATE, with the beautiful mansion called Lifton House, seated in a park and surrounded by a rich domain of about five thousand acres, lying nearly within a ring fence, intersected only by the beautiful rivers Tamar and Load, which run through the property, within nine hours' reach of London, and forming altogether one of the finest estates in West Devon, contiguous to the parks and mansions of the noble dukes of Northumberland and Bedford, and in the midst of the finest   in the county. These estates are now chiefly free from life leases, those existing are upon advanced ages. The present income is upwards of 6,000*l*. per annum, and when the life leases drop it will exceed 9,000*l*. per annum. The mansion is approached from the mail-coach road by an ornamental lodge, exclusive of other approaches, placed upon a lawn and park, sheltered by extensive and thriving plantations, through which are carriage turf drives of great extent. The mansion contains every accommodation, the principal apartments consisting of a noble saloon, drawing-room, library, and dining-parlour, each of the dimensions of 30 feet by 24 feet, and 16 feet high, with offices of every description, capital kitchen gardens, with walls clothed with the finest fruit trees, graperies, and greenhouse. The farms attached to this most magnificent estate are chiefly upon a stratum of lime, producing the most abundant crops of corn and turnips, with a proportionate quantity of the finest feeding pastures upon each side of the rivers Tamar and Load. There are also upon the estate two important and most extensive lime-works, from which the tenantry derive considerable advantage. These works supply the agriculturists of West Devon for many miles round, the limestone being of the finest quality and in great request.—The particulars and plans, which are in course of preparation, will fully go into all the detail, and may be had twenty days prior to the sale of W. H. Cotterell, esq. solicitor, Throgmorton-street; J. C. Braddon, esq. solicitor, Camelford, Cornwall; William Denis Moore, esq. solicitor, Exeter; at the Old and New London Inns, Exeter; White Hart, Launceston; Inn at Oakhampton; London Inn, Lifton; at the Auction Mart; and of Messrs. HOGGART and NORTON, 62, Old Broad-street, Royal Exchange.

NORTHUMBERLAND.—Capital Freehold Estates, Mansion, Tithes, extensive and exclusive Sheep-walks, comprising altogether about 3,300 acres. — By Messrs. HOGGART and NORTON, at the Auction Mart, on FRIDAY, August 22, at Twelve, in Three Lots,

THE COLLINGWOOD ESTATE, in the parish of Whittingham, about ten miles from Alnwick, and thirty-six from Newcastle, comprising a most excellent Property, either for investment or residence, in a beautiful part of the county, surrounded by the properties of his Grace the Duke of Northumberland, Lord Ravensworth, Ralph Carr, and Thomas Riddle, esqrs. It is well wooded, and watered by the Aln, a fine trout stream running through the estate. The farm buildings are very commodious, most of the land well drained, and in an excellent agricultural condition. The farms are let to a highly respectable tenantry, who have held as tenants-at-will, and, under circumstances, likely to quit at a moment's notice; consequently the rents are inadequately low, and capable of considerable improvement, considering that 2,400 acres of fine arable and rich feeding pastures now produce only 2,610*l*. per annum. Lot 2. The Tithes, now converted into a rent-charge of about 260*l*. per annum, over and upon the estates of the Duke of Northumberland, Thomas Riddell, and Ralph Carr, esqrs. included in Alnham, Prendwick, and Screenwood. Lot 3. The capital freehold and exclusive sheep-walk, extending over 1,300 acres of fine down land, called Blackhope Moor, also in the parish of Whittingham. The projected railroad to Alnwick will bring this fine property within 12 hours' reach of London.—The estates may be viewed on application to Mr. Smith, of Great Ryle Farm; and particulars [illegible]d, twenty days prior to the sale, of Messrs. Luces, Myers, Rigge, and Roscoe, solicitors, Liverpool; Messrs. Thorp and Dickson, Alnwick; Robert Neilson, esq., Halewood and Liverpool; William Appleby, esq. Eastfield-house, Alnwick; at the Auction Mart; and of HOGGART and NORTON, Old Broad-street.

SURREY.—The Wonham Estate, between Reigate and Dorking, distant two miles from the former, four miles from the latter, and four miles from the Red-hill Station of the Dover and Brighton Railways (at this point they intersect, which is twenty miles from London).

MR. W. BUTCHER has been honoured with instructions from the noble proprietor to SUBMIT to AUCTION, at Garraway's, on THURSDAY, August 7, at Twelve, this distinguished and truly valuable FREEHOLD ESTATE, placed in a much admired part of the county of Surrey, in the vicinage of Boxhill, Denbies, the Deepdene, Berry-hill, and numerous other delightful spots; comprising a well-built mansion of handsome elevation and Gothic design, with pleasure grounds and most prolific gardens, placed in the midst of a beautifully timbered park, with unusually rich meadow land adjoining, in the whole 176 acres, in the highest state of cultivation, the same having been pastured without intermission for many years. The river Mole winds through the centre of the property, from which may be obtained some excellent fishing.—The estate may be viewed upon application to John Lane, at Wonham: descriptive particulars are in course of preparation, with a plan of the estate, which may be had twenty-one days previous to the sale, at the White Hart Hotel, Reigate; Red Lion, Dorking; Greyhound, Croydon and Sutton; Steine Hotel, Worthing; Gloucester Hotel, Brighton; Ship Hotel, Dover; Artichoke, Newington-causeway; at Garraway's; of R. Groom, [illegible] solicitor, 3, Henrietta-street, Cavendish-square; Messrs. Newton and Woodrow, Norwich; and of Mr. W. BUTCHER, estate agent, Epsom.

The very important and valuable Iron Works, upon the Tyne, near Newcastle.—By Messrs. HOGGART and NORTON, at the Auction Mart, in London, on Friday, August 15 (instead of July 25, as previously advertised), at Twelve, by order of the surviving Partners, and in consequence of the demise of Thomas Bell, esq.

THE WALKER IRON WORKS, which have been established for about 40 years, with great success, under the firm of Messrs. Losh, Wilson, and Bell, are now in full work, carrying on a most extensive home and foreign trade, for which latter purpose they are most e[illegible]tially adapted, having the navigation of the Tyne, with wharfs and quays in front of the furnaces, by which superior advantage an enormous expense of transit and dues are exempted. The limits of an advertisement will not allow of the detail which the printed particulars will afford, aided by lithographic plans; but it is perhaps requisite to state that these works have cost upwards of 100,000*l*. which has been a most profitable expenditure, and from the present great demand for Iron, and the prospect of its long continuation, it is fairly assumed that, in a very few years, a purchaser would realize that sum. In this purchase will be included the whole of the substantial buildings, mouldinghouses, inclined planes, furnaces, steam-engines, and lathes, without any valuation whatever, unless it may be for the manufactured iron, or the materials therewith connected. The purchaser will also be let into immediate possession, with the established connection and trade, also to the beneficial existing contracts for the supply of iron. Upon the property are upwards of 150 cottages, and several good houses and premises.—These works may be viewed, and printed particulars, with plans, may be had twenty days prior to the day of sale, on application at the works; particulars also of John Clayton, esq. solicitor, Newcastle; of Messrs. Amory, Sewell, and Moores, solicitors, Throgmorton-street, London; at the hotels, Liverpool, Bristol, Manchester, Birmingham, Edinburgh, Glasgow, and Dublin; and of Messrs. HOGGART and NORTON, 62, Old Broad-street, Royal Exchange.

CLIFF HOUSE, Warwick.—To be LET, on Lease, for five and a quarter, twelve and a quarter, or nineteen and a quarter years, from the 29th of September next, with or without the furniture, a most genteel modern Family Villa, the residence of Robert Wheeler, esq. replete with every possible convenience, and delightfully situated within a mile and a half of the celebrated Royal Leamington Spa, and within ten minutes' walk of the pleasant town of Warwick, commanding a beautiful picturesque view of the towers of Warwick Castle and the churches. It comprises entrance-hall, breakfast, dining, and drawing rooms, and ante-room; four best chambers, with three dressing-rooms, ladies'-maid's room, back staircase, and servants' apartments, store-room, &c.; excellent wine and beer cellars, most convenient domestic offices, spacious stabling for five horses, with lofts over; yard, with double coach-house, harness-room, and excellent coachman's-room; extensive pleasure and kitchen gardens, in a high state of cultivation, containing about three and a half acres; vinery, with vines in full bearing, and a greenhouse, with choice flowers and shrubs. Twelve acres of excellent grass land on rental.

The house is a short distance from the road, and is approached by a carriage drive, with a convenient and handsome lodge; is centered in the middle of the Warwickshire Hunt, and is within ten minutes' walk of the Railway Station.

For further particulars, and for cards to view, apply at the offices of Mr. LOVEDAY, Solicitor, Warwick.

55*l*. Improved Rental, opposite the principal entrance to the London Docks, in an improving situation.

MESSRS. FOOKS and JOHNSON are instructed to SELL by AUCTION, at the Mart, opposite the Bank, on WEDNESDAY, August 13th, 1845, at Twelve o'clock, an IMPROVED RENTAL of 55*l*. per annum, arising out of an excellent house and premises, situate and being No. 107, Upper East Smithfield, opposite the principal entrance to the London Docks, let on lease to a highly respectable firm; is in a good state of repair, and in an excellent situation, the property becoming daily increased in value by the alterations and new streets now in progress.—Particulars at the Mart; of Mr. Hayward and Mr. Trip, solicitors, Adelaide-place, London-bridge; and of Messrs. FOOKS and JOHNSON, Auctioneers, Surveyors, &c. 30, Lincoln's-inn-fields.

Leasehold Estate, Lambeth.

MESSRS. FOOKS and JOHNSON will SELL by AUCTION, at the Mart, opposite the Bank, on WEDNESDAY, August 13, 1845, at Twelve o'clock, by order of the administrator, in lots, SIX very desirable LEASEHOLD HOUSES, situate in the Princes-road, Lambeth, being Nos. 75, 76, 77, 78, 79, and 80, nearly opposite St. Mary's Chapel, held on lease for the remainder of a term of sixty-one years, about thirty-seven of which are unexpired; let to most respectable tenants, and producing a rental of 175*l*. per annum: also a well secured rental of 22*l*. per annum, equal to a ground-rent, on house, workshop, and premises, for the whole of the above unexpired term, situate in Tyer-street, Lambeth, adjoining the above, and leased to a good tenant. The whole of the above property is subject to a ground-rent of only 35*l*. per annum, which will be apportioned.—May be viewed by leave of the respective tenants, particulars had at the Mart; of Messrs. Harbin and Ward, 12, Clement's-inn; and of Messrs. FOOKS and JOHNSON, Auctioneers, Surveyors, &c. 30, Lincoln's-inn-fields.

Cottage Residence, near to Forest Hill.

MESSRS. FOOKS and JOHNSON are instructed to SELL by AUCTION, at the Mart (unless previously disposed of by private contract), on WEDNESDAY, August 13, 1845, at Twelve o'clock, the LEASE of a very desirable COTTAGE RESIDENCE, situate in Lordship-lane, leading to Forest Hill, Sydenham, on an elevated and healthy spot, commanding most picturesque and extensive views. It consists of an entrance-hall, dining and drawing-rooms, four bed-rooms, two dressing-rooms, suitable domestic offices, coach-house, two-stall stable and harness-room, with two men's rooms over; lawn and pleasure ground.

Particulars at the Mart, and at Messrs. FOOKS and JOHNSON'S Offices, 30, Lincoln's Inn-fields.

Periodical Sale of Reversions, Life Interests, Annuities, Life Policies, Advowsons, Next Presentations, and all descriptions of Securities dependent upon human Life, Ground and Improved Rents, Post Obit Bonds, Shares in Railways, Mines, Insurance Companies, and all other public undertakings.

MESSRS. FULLER and MARSH respectfully inform the public, that by their system of periodical sales by Auction they are enabled to offer to persons expectant or otherwise interested in the above description of property the most prompt, economical, and satisfactory mode of disposing thereof, as by classifying these descriptions of interests and properties in the same particular and for the same day, much expense is avoided, and a far greater competition is secured. Their periodical sales of reversions, life interests, annuities, life policies, advowsons, next presentations, and all descriptions of securities dependent upon human life, shares in railways, mines, and all other undertakings, will be continued throughout the present year as follows:—

Thursday, August 7 Thursday, November 6
Thursday, September 4 Thursday, December 4.
Thursday, October 2

Notice of Sales intended to be effected by the above means should be forwarded to Messrs. Fuller and Marsh a fortnight prior to each date, in order that they may have the full benefit of publicity. Messrs. Fuller and Marsh beg to call the attention of the public to the economy and expedition of this system of business, as they are thereby enabled to include each property for the sum of two guineas and a half, including all expenses, should a sale not be effected. Particulars of the next periodical sale may be obtained at the Offices of Messrs. FULLER and MARSH, 2, Charlotte-row, Mansion-house, London.

MESSRS. FULLER and MARSH respectfully call the attention of the capitalists and agriculturists to the SALE of FREEHOLD ESTATES at Mayfield, Sussex, particulars of which may be obtained at their offices, Charlotte-row, Mansion-house.

Periodical Sale.—The absolute Reversion to the one-fourth part or share of the sum of 2,000*l.* Three per Cent. Consolidated Bank Annuities.

MESSRS. FULLER and MARSH have received instructions to include in their next Monthly Sale of Reversionary Property, Policies, &c. appointed to take place at the Auction Mart; on THURSDAY, August 7, 1845, at Twelve o'clock, in several lots, the absolute reversion to the one-fourth part or share of the sum of 2,000*l.* Three per Cent. Consolidated Bank Annuities, receivable on the death of a lady who was baptized in July, 1780, and who, it is believed, was then two or three years of age. Particulars may be obtained of Joseph Peers, esq. solicitor, Ruthin; of Messrs. Few, Hamilton, and Fews, solicitors, Henrietta-street, Covent-garden, and at Messrs. FULLER and MARSH'S Offices, Charlotte-row, Mansion-house.

Periodical Sale.—Absolute Reversion in the Sum of 1,580*l.* West India Dock Stock.

MESSRS. FULLER and MARSH have received instructions to include in their next Periodical Sale of Reversions, Shares, &c. appointed to take place at the Mart, on THURSDAY, August 7, at Twelve, in lots, the ABSOLUTE REVERSION to one-fourth part or share of and in the sum of 1,580*l.* West India Dock Stock, now standing in the name of a highly respectable gentleman, receivable on the death of two gentlemen aged respectively 91 and 51.—Particulars may be obtained of Mr. Thomas Henry Ambrose, solicitor, 89, Chancery-lane; and of the Auctioneers, 2, Charlotte-row, Mansion-house.

Periodical Sale.—Absolute Reversion.

MESSRS. FULLER and MARSH have received instructions to include in their next Monthly Sale of Reversions, &c. appointed to take place at the Mart, on THURSDAY, Aug. 7, at Twelve, in lots, the ABSOLUTE REVERSION to FOUR TWENTY-FOURTH PARTS or SHARES (or one-sixth) of and in the SUM of 1,580*l.* West India Dock Stock, to which the purchaser would be entitled upon the death of two gentlemen aged respectively 91 and 51. Also the Contingent Reversionary Interest in and to the One-twelfth Part or Share of the before-mentioned Sums, subject to the same sums.—Particulars may be obtained of Mr. Thomas Henry Ambrose, solicitor, 89, Chancery-lane; and of the Auctioneers, 2, Charlotte-row, Mansion-house.

Periodical Sale.

MESSRS. FULLER and MARSH have received instructions to include in their Next Monthly Sale of Reversionary Property, appointed to take place at the Auction Mart, on THURSDAY, August 7, at Twelve, in lots, the REVERSION in and to the ONE-EIGHTH PART or SHARE of the proceeds of a FREEHOLD HOUSE and PREMISES, No. 123, High-street, Portsmouth, of the estimated value of 30*l.* per annum, receivable on the decease of a gentleman now in the 66th year of his age.—Particulars may be obtained at the Mart; of Messrs. Bristow and Tarrant, solicitors, Bond-court, Walbrook, and London-street, Greenwich; and at FULLER and MARSH'S Offices, Charlotte-row, Mansion-house.

Periodical Sale. — Absolute Reversion to the Sum of 1,017*l.* 12*s.* 10½*d.* Three per Cent. Consolidated Bank Annuities: age 71.

MESSRS. FULLER and MARSH have been favoured with instructions to include in their next Monthly Sale of Reversionary Property, Shares, &c. appointed to take place at the Auction Mart, on THURSDAY, August 7, at Twelve, in several lots, the ABSOLUTE REVERSION in and to the one-third part or share of the sum of 3,142*l.* 18*s.* 7*d.* Three per Cent. Consolidated Bank Annuities, receivable on the decease of a gentleman who is now in the 71st year of his age; also the contingent benefit of a moiety of the above share, provided one of the interested parties, who is now a minor, does not reach the age of 22.—Particulars may be obtained at the Mart; of Messrs. Bristow and Tarrant, solicitors, Bond-court, Walbrook, and Greenwich; and at the offices of Messrs. FULLER and MARSH for the sale of Reversions, Shares, &c. Charlotte-row, Mansion-house.

Periodical Sale.—Reversionary Interest in the Sums of 8,633*l.* Three per Cent. Consolidated Bank Annuities and 9*l.* 19*s.* Long Annuities.

MESSRS. FULLER and MARSH have been favoured with instructions to include in their next Periodical Sale of Reversions, &c. appointed to take place at the Mart on THURSDAY, August 7, at Twelve, in several lots, the REVERSION of, in, and to the one-eighth Part or Share of the Two Sums of 8,633*l.* Three per Cent. Consolidated Bank Annuities and 9*l.* 19*s.* Long Annuities, receivable on the decease of a gentleman now aged 66. Also a Policy of Assurance for 500*l.* effected with the Atlas Insurance Company.—Particulars may be obtained at the Mart; of Messrs. Bristow and Tarrant, solicitors, Bond-court, Walbrook, and Greenwich; and at Messrs. FULLER and MARSH'S Offices, Charlotte-row, Mansion-house.

Periodical Sale.

MESSRS. FULLER and MARSH have received instructions to include in their next Monthly Sale of Reversions, Shares, &c. appointed to take place at the Auction Mart, on THURSDAY, August 7, at Twelve, in lots, the ABSOLUTE REVERSION in and to the one-third part or share of the moiety of the SUM of 1,535*l.* 17*s.* 3½ per Cents. and 115*l.* sterling, standing in the name of trustees of the highest respectability, and receivable on the decease of a lady now in the 54th year of her age; also a Contingent Interest in and to a similar Share of the above Sums.—Particulars may be obtained at the Mart; of Messrs. Bristow and Tarrant, solicitors, Bond-court, Walbrook, and Greenwich; and at Messrs. FULLER and MARSH'S Offices, Charlotte-row, Mansion-house.

Valuable Freehold Estates, Mayfield and Heathfield, in the County of Sussex, presenting to Capitalists most eligible investments.

MESSRS. FULLER and MARSH have received instructions from the respective Trustees for sale under the wills of the Rev. John Kirby and Mr. Taylor, deceased, to offer by AUCTION, at the Mart, on THURSDAY, August 7, at Twelve, in three lots, the following valuable property, situate in the parishes of Mayfield and Heathfield, in the most picturesque district of the Weald of Sussex, and a few miles from Tonbridge-wells.

Lot 1. An excellent FREEHOLD FARM, called Bungehurst, with a farm residence, oasthouse, two barns, cattle lodges, and all necessary farm buildings; two substantial cottages, forming three dwellings, well placed on different parts of the farm, and about 325a. 1r. 11p. of good productive land, 101a. 2r. 18p. of which are arable, 78a. 2r. 14p. pasture, meadow, and brook land, 10a. 3r. 38p hop-ground, and the remainder wood-land of a good description. Of the above, 268a. 1r. 7p. are in Mayfield, and 57a. 0r. 4p. in Heathfield.

Lot 2. A FREEHOLD BRICKYARD, in Mayfield, adjoining, and formerly part of Bungehurst Farm, with a brick-kiln, tile-sheds, and the other requisite conveniences; and a field of about 6 acres, containing good brick and tile earth.

The land-tax on the above two lots is redeemed.

Lot 3. A valuable FARM, called Sharnden and Upper Barn Land; comprising a substantial farm-house, with oast-house, two barns, hay-barns, cattle-lodges, and all requisite farm buildings, and about 269 acres of excellent land, whereof 88a. 3r. 36p. are arable, 103a. 2r. 4p. meadow and pasture, 6 acres hop-ground, 5 acres orchard, and the remainder wood-land, situate in Mayfield. Of this lot, about 231a. 1r. 6p. are held under a lease for lives of the Vicars of Chichester, and the remainder is freehold.

Mayfield is 9 miles from Tonbridge-wells, 24 from Hastings, and 24 from Brighton.—Descriptive particulars and conditions of sale may be had of Messrs. Barclay and King, solicitors, Mayfield, Sussex; Messrs. Palmer, France, and Palmer, 21, Bedford-row, Holborn, London; and of the Auctioneers, Charlotte-row, Mansion-house, London, and Croydon, Surrey.

Valuable Copyhold Estate, High-street, Putney, comprising a spacious Family Residence, with Pleasure and Kitchen Gardens, contiguous to the intended Station on the London and Richmond Railway, desirable for occupation or investment.

MESSRS. FULLER and MARSH have received instructions to offer to SALE by AUCTION, at the Mart, on MONDAY, August 11, at Twelve, a spacious detached FAMILY RESIDENCE, with coach-house, stabling, pleasure and kitchen gardens.—May be viewed, and particulars obtained on the premises; of Messrs. Clayton and Cookson, solicitors, 2, New-square, Lincoln's-inn; of Messrs. Gregory, 12, Clement's-inn; Red Lion, Putney; and of Messrs. FULLER and MARSH, Land Agents, Charlotte-row, Mansion-house.

Leasehold Investments, Somers'-town and Tottenham, Middlesex, adapted to a small Capitalist.

MESSRS. FULLER and MARSH have received instructions to SELL by AUCTION, at the Mart, on MONDAY, August 11, at Twelve, TWO LEASEHOLD DWELLING-HOUSES, Nos. 63 and 64, Brill-row, Somers'-town, and THREE HOUSES, Nos. 3, 4, and 8, Factory-row, Tottenham, Middlesex, in the occupation of respectable tenants, and held at low ground-rents.—May be viewed, and particulars obtained of J. Bishop, esq. solicitor, 14, Lincoln's Inn-fields; and at Messrs. FULLER and MARSH'S Offices, 2, Charlotte-row, Mansion-house, and Croydon, Surrey.

Freehold Estate, Paradise-street, Rotherhithe, entitling to a Vote for the Eastern Division of the county of Surrey.—To Builders and Others.

MESSRS. FULLER and MARSH have received instructions to SELL by AUCTION, at the Mart, on MONDAY, August 11, at Twelve o'clock, a valuable FREEHOLD PROPERTY, comprising a spacious brick-built dwelling-house, No. 59, Paradise-street, Rotherhithe, with a large garden in the rear, capable of being converted into valuable building land, in the occupation of a respectable tenant, at the low rent of 18*l.* per annum.—May be viewed, and particulars obtained on the premises; of Mr. G. Drew, solicitor, Bermondsey-street; and at Messrs. FULLER and MARSH'S Offices, Charlotte-row, Mansion-house.

Essex Lodge, Brixton-Rise, Surrey, the much admired residence of the late Daniel Higley Richardson, Esq. Possession may be had on the completion of the purchase.

MESSRS. FULLER and MARSH have been honoured with instructions from the executors of the above deceased gentleman to SELL by AUCTION, at the Mart, on THURSDAY, August 7, at Twelve (unless in the meantime an acceptable offer be made by private contract), the above singularly attractive VILLA RESIDENCE, most delightfully situate a short distance from the road, on the most preferable part of Brixton-Rise, erected within a few years at a considerable outlay and regardless of expense, and much ingenuity and taste have been displayed in its exterior and interior arrangements. The house is of handsome elevation, and most conveniently and admirably adapted for the reception of a gentleman's family; coach-house, stabling, pleasure-grounds, and kitchen garden. This eligible estate, either for occupation or investment, is held for an unexpired term of 92 years, at a low ground rent.—Particulars may be obtained of H. F. Richardson, esq. solicitor, 36, Coleman-street; at the Auction Mart; and cards to view, of Messrs. FULLER and MARSH, Surveyors and Land Agents, 2, Charlotte-row, Mansion-house.

To Brewers, Coal Merchants, Wharfingers, Builders, Cow-keepers, and others.

MESSRS. FULLER and MARSH have received instructions to SELL by AUCTION, at the Mart, on MONDAY, August 11, at Twelve, without reserve, by order of the Mortgagees, under a power of sale, long LEASEHOLD PREMISES, comprising a brick and timber built stable, a smith's shop, shoeing shed, and extensive yard, eligibly situate in Brook-street, and a brick-built Dwelling-house, Bere-street, Ratcliff; held for an unexpired term of 46 years, at a ground-rent of 15*l.* per annum.—May be viewed, and particulars obtained on the premises; at the Mart; of Messrs. Hill and Mathews, solicitors, 1, Bury-court, St. Mary-axe; and of Messrs. FULLER and MARSH, Charlotte-row, Mansion-house.

Albion-place, Southgate-road, De Beauvoir-town.—Long Leasehold Investments, with immediate possession.

MESSRS. FULLER and MARSH have been favoured with instructions to SELL by AUCTION, at the Mart, on MONDAY, August 11, at Twelve, in four lots, a very desirable LEASEHOLD ESTATE, consisting of four genteel residences, Nos. 1, 2, 3, and 4, Albion-place, Southgate-road; held for long terms, at low ground-rents.—May be viewed, and particulars obtained on the several premises; at the inns in the neighbourhood; and at Messrs. FULLER and MARSH'S Offices, Charlotte-row, Mansion-house.

To small Capitalists, Members of Building Societies, and others.—Eligible long leasehold investments, Pentonville.

MESSRS. FULLER and MARSH have received instructions to SELL by AUCTION, at the Mart, on MONDAY, August 11, at Twelve, in Three Lots, a very desirable and compact LEASEHOLD ESTATE; comprising three genteel brick-built residences, Nos. 4, 5, and 6, Bryan-street, Chalk-road, Pentonville, in the occupation of respectable tenants, at rentals amounting to 84*l.* per annum; held for very long terms at low ground-rents.—May be viewed, and particulars obtained on the premises; at the Mart; of J. Bishop, esq. solicitor, 14, Lincoln's-inn-fields; and at Messrs. FULLER and MARSH'S Offices, Charlotte-row, Mansion-house, and Croydon, Surrey.

Eligible Investment.—Dover, Kent, four miles from the Town and Railway Station, and five from the Folkstone Station.

MESSRS. BROOKS and GREEN have received instructions to SUBMIT for SALE by AUCTION, at the Auction Mart, opposite the Bank of England, on SATURDAY, August 23, a truly desirable and valuable FREEHOLD ESTATE, land-tax redeemed, comprising an excellent Residence, with every requisite office and outbuilding, productive gardens, and common right of pasturage, together with 180 acres of arable, meadow, and pasture land, let on lease to a very respectable tenant, and good farmer, at the rent of 200*l.* per annum, which is regularly and punctually paid.

Particulars may be obtained of Messrs. Rooper, Birch, and Ingram, solicitors, 68, Lincoln's-inn-fields; and of Messrs. BROOKS and GREEN, Estate Agents, Surveyors and Auctioneers, 28, Old Bond-street, London.

SOUTHILL PARK, BERKS.—To be Sold by Private Contract, by

MESSRS. ADAM, MURRAY, and SON, the desirable FREEHOLD ESTATE of Southill Park, eligibly situated five miles from Windsor Great Park, and within a short distance from Bagshot and Ascot Heath. This Estate, which was formerly occupied by the late Right Honourable George Canning, and is now vested in the Trustees of the late Right Hon. the Earl of Limerick, comprises a NOBLE MANSION, seated in a Park of about 200 acres, which is watered by a running stream, and ornamented by beautiful upper and lower lakes and cascades; stately oak, chesnut, and other trees of luxuriant foliage; lawn and flower-gardens, walled fruit and kitchen-gardens, with 150 feet of glass in grape and pine succession houses, gardener's house, sheds, melon-ground, &c. There are attached offices of all descriptions, with every convenience for the accommodation of a numerous establishment. Capital farm-yard, barn, sheds, pigstyes, bullock sheds, granary, waggon and cart sheds, and other agricultural buildings, all in good repair. The Estate, including the Park, consists of 765a. 1r. 32p. of arable, meadow, pasture, and wood land, partly in a high state of cultivation, and partly consisting of thriving plantations. For further particulars apply to Willoughby Rockham, esq. solicitor, 46, Lincoln's-inn-fields, or Messrs. ADAM, MURRAY, and SON, Surveyors and Land Agents, 35, Craven-street, Strand.

LONDON:—Printed by HENRY MORRELL COX, of 74, Great Queen Street, in the Parish of St. Giles in the Fields, in the County of Middlesex, Printer, at his Printing Office, 74 & 75, Great Queen Street aforesaid, and published by JOHN CROCKFORD, of 29, Essex Street, Strand, in the Parish of St. Clement Danes, in the City of Westminster, Publisher, at the Office of the LAW TIMES, No. 29, Essex Street aforesaid, on Saturday, the 2nd day of August, 1845.

THE LAW TIMES,

AND JOURNAL OF PROPERTY,

FOR

The Legislator, the Magistrate, and the Lawyer.

VOL. V. No. 123.]

SATURDAY, AUGUST 9, 1845.

SUBSCRIPTION.

For One Year, paid in advance..	£2	0	0
For Half Year, paid in advance	1	1	0
Single Numbers, or on credit ..	0	1	0
Double Numbers	0	1	6

Periodical Sales (established in the year 1803) of Reversions, Life Interests, Annuities, Policies of Assurance, Advowsons, Next Presentations, Rent Charges in lieu of Tithes, Post-obit Bonds, Tontines, Debentures, Ground Rents, Improved Rents, Shares in Docks, Canals, Mines, Railways, Insurance Companies, and all Public Undertakings.

MESSRS. SHUTTLEWORTH and SONS respectfully inform the public, that upwards of 40 years' experience having proved the classification of this species of property to be extremely advantageous and economical to vendors, and equally satisfactory and convenient to purchasers, the PERIODICAL SALES of reversionary interests, policies of insurance, tontines, debentures, advowsons, next presentations, all securities dependent upon human life, shares in docks, canals, mines, railways, and all public undertakings, will be continued through 1845, as follow:—

Friday, Sept. 5.	Friday, Nov. 7.
,, Oct. 3.	,, Dec. 5.

Particulars may be had Ten days previous to each sale, at the Royal Hotel, Manchester; the Adelphi Hotel, Liverpool; Dee's Royal Hotel, Birmingham; the Angel, Oxford; the Eagle and Child, Cambridge; at the Mart; and of Messrs. SHUTTLEWORTH and SONS, 28, Poultry.

MR. NEWMAN will SELL by AUCTION, at the Bath Hotel, Bournemouth, on TUESDAY, the 26th day of August, 1845, at Two o'clock, in two Lots (unless otherwise arranged at the time of sale), TWO ACRES of FREEHOLD LAND, situate in the heart of Bournemouth, bounded on the south by the sea-beach, commanding the most delightful views, and singularly valuable as being the only freehold building-site in this much-frequented and fashionable watering-place.

Also, a valuable FREEHOLD ESTATE, of about 20 acres, situate on a rising elevation, and adjoining the noted Chine at Boscombe. This charming and particularly healthful retreat is situate immediately on the Cliff, and within a short mile of Bournemouth; it commands extensive prospects of sea and land, including the Isles of Wight and Purbeck, with the picturesque ruin of Corfe Castle, and Poole Harbour, with the Isle and Castle of Brownsea. The frontage is bounded by the sea-beach, which is easy of access by an excellent carriage-road; and the vicinity of the rendezvous of the Royal Yacht Club at Cowes, the advantage of good anchorage in the Bay, and the always easy approach to the Harbour of Pool, render it a most desirable spot for a yachting gentleman. The town of Christchurch is within a distance of four miles, and the railroad from Southampton to Dorchester will in a few months place Boscombe within four hours' ride of London. The estate abounds with excellent brick earth, and a plentiful supply of pure spring water. This land will be offered in convenient lots.

Further particulars, with lithographic plans, may be obtained on application to Mr. Crighton, Hurn; Mr. Druitt solicitor; and Mr. NEWMAN, Auctioneer, Christchurch, Hants.

In Chancery.—Pursuant to a Decree of the High Court of Chancery, in a cause of "Brown v. Lake," with the approbation of Sir William Horne, one of the Masters of the said Court.—Three valuable Freehold and Copyhold Farms, with numerous Dwelling-houses, Cottages, and Gardens, comprising 164a. 1r. 39p. and producing a rental of 357l. 11s. per annum, most desirably situate in the parishes of North Weald, Magdalen Laver, High Ongar, and Nazing, in the southern division of the county of Essex.

MR. LEIFCHILD (the person appointed by the said Master) respectfully announces that he will OFFER by PUBLIC AUCTION, at Garraway's, on TUESDAY, August 26, at Twelve for One, in four lots, the above Valuable and Important PROPERTY, which consists of a desirable copyhold estate at North Weald, near Epping and Harlow, comprising a very excellent brick-built residence, known as North Weald Lodge, with lawn, flower-garden, and paddock, sufficient farm-buildings and yards, all well supplied with water, and surrounded by 11 inclosures of capital arable and meadow land, and nine convenient and substantial cottages with large gardens; the whole containing 62a. 3r. 26p. The house, gardens, and paddocks are now in hand: the farm is let to Mr. Joseph Hinson, but who has notice to quit at Michaelmas next, and the cottage rents are regularly paid, the whole rental amounting to 146l. 6s. A desirable small Freehold Estate, by the roadside from Epping to Moreton, comprising a substantial dwelling-house, with offices and large garden, and a capital inclosure of rich meadow land, containing together 3a. 0r. 35. now occupied by Mrs. Trummer, at 15l. 15s. per annum. A very valuable Copyhold Grass Farm, called Brundsell's or School-green Farm, desirably situate at North-Weald-Basset, near Epping, and comprising an excellent and convenient dwelling-house and offices, ample barns, stables, cow-house, piggeries, and other outbuildings and yards, with 16 inclosures of very sound pasture and arable land, and two cottages with productive gardens; the whole containing 81a. 0r. 8p. The farm is let to Mr. W. Hurrell, a most respectable tenant, whose holding will expire at Michaelmas next, at 110l. per annum, and the cottages to Messrs. Hemmings and Blatch, at 10l. per annum. Also a very desirable small Dairy Farm, delightfully situate at Nazing, Essex, commanding extensive and beautiful views, and within easy distance of the capital market-towns of Ware, Hertford, Epping, and Waltham, and only two miles from the Broxbourne Station on the Northern and Eastern Railway; it comprises a very commodious dwelling-house, with dairy and offices, barn, stable, cow-house, and other out-buildings, orchard, garden, and yard, with five handsome inclosures of prime pasture and arable land, lying close round the house, well watered and screened by fine young timber; also two substantial cottages, with good gardens, the whole containing 17a. 1r. 10p. The farm is let to Mrs. Woods as yearly tenant, at 35l. per annum, and the cottages to Mansfield and Fairchild, at 10l. 10s. per annum. This farm is land-tax redeemed, is copyhold of the manor of Nazing, and there are valuable common rights attached to this farm. The several properties may be viewed till the sale by applying to the tenants.—Particulars, with plans of the farms, are in preparation, and may be had (gratis), at the said Master's chambers, in Southampton-buildings, Chancery-lane, London; of Messrs. Hindman and Howard, solicitors, Basinghall-street; at the principal inns in the neighbourhood; at Garraway's; and at Mr. LEIFCHILD'S Land and Timber Offices, 62, Moorgate-st. London.

Highly important and extremely valuable Landed Estates, alike eligible either for investment or occupation, most delightfully situate in a rich and fertile district, near the borough-town and port of Harwich, containing altogether nearly 1,100 acres of the finest land in the county of Essex.

MR. LEIFCHILD has been favoured with positive instructions by the devisees in trust for sale to SELL by PUBLIC AUCTION, at Garraway's, on WEDNESDAY, September 17, in various lots, a valuable and most desirable FREEHOLD ESTATE, known as Southall Farm, in the parish of Ramsey; comprising a gentlemanly residence, with ample accommodation for a highly respectable family; lawns, shrubberies, pleasure-grounds, and walled kitchen gardens, large and commodious farm-yards, with numerous well-arranged agricultural buildings of every description, and 378 acres of very superior pasture, arable, and sound rich marsh land in a high state of cultivation. This property, which is admirably situate on an eminence near the town of Harwich, and commanding land and sea views of great extent and beauty, is held under an agreement for lease, which will expire at Michaelmas 1853, by Mr. Wm. Keer, a highly respectable tenant, at the low rent of 600l. per annum. Also a very desirable Freehold Property, adjoining the preceding farm, and formerly held with the same, comprising sundry handsome inclosures of arable and marsh land, containing in the whole 150 acres; let to Mr. John South, a most respectable tenant at will, at an apportioned rent of 200l. per annum. A very eligible and most desirable Freehold Estate, known as Reyden-hall Farm, delightfully situate in the beautiful village of Ramsey; comprising a genteel family residence, with lawns, gardens, and pleasure-grounds, capital farm-yard, with appropriate agricultural buildings, surrounded with numerous handsome inclosures of fine meadow and productive corn land of the first quality, in a high state of cultivation, containing in the whole 278 acres, in a ring fence, now in the occupation of Mr. Robert Giles, a most respectable tenant, at the low rent of 450l. per annum. A very compact and valuable Freehold Estate, known as Stourwood Farm, eligibly situate near the turnpike-road, in the parish of Ramsey; comprising a commodious farm-house, with excellent garden, large farm-yards, and suitable agricultural buildings of every description, surrounded by handsome inclosures of first-rate corn land in high cultivation, containing in the whole 161 acres, now in the occupation of Mr. William Malpas, as tenant at will, at the low rent of 250l. per annum. A small Freehold Estate, known as Fox's Farm, in the parish of Wrabness, with farm-house, yards, and buildings, surrounded by eight inclosures of fine arable land, in excellent cultivation, containing in the whole about 60 acres; let to Mr. Edward Fisher, at the low rent of 90l. per annum.—Mr. Leifchild begs respectfully to commend to the attention of noblemen, capitalists, and trustees the above important properties. The farms are of the very first character, and occupied by highly respectable tenants; the houses and buildings are in excellent repair, and the lands farmed in the best possible manner. In addition to these intrinsic advantages, the local and contingent attractions are very superior; among them may be mentioned the beautiful rides and drives with which the neighbourhood abounds, the well-known fertility of the district, its contiguity to the capital market-town and port of Manningtree, and to the borough-town and port of Harwich, to which a railway is in contemplation for the ensuing year.—The estates may be viewed, with tickets only, by permission of the respective tenants, and full descriptive particulars and lithographic plans of each lot will be ready for delivery twenty-one days previous to the sale, at all the principal inns in the counties of Norfolk, Suffolk, and Essex; at Messrs. Winter, Williams, and Co.'s, solicitors, 16, Bedford-row; at Garraway's; and at Mr. LEIFCHILD'S Land and Timber Offices, 62, Moorgate-st. London.

Eligible and safe Investment of 300l. per annum in the county of Essex.

MR. LEIFCHILD is instructed by the Devisees in Trust for Sale to SELL by PUBLIC AUCTION, at Garraway's, on WEDNESDAY, September 17, at Twelve for One precisely, the valuable TITHE RENT CHARGE, arising out of certain capital lands in the admired parish of Dovercourt, near the borough town and port of Harwich, producing 300l. per annum, and payable half-yearly by 25 responsible parties. Full descriptive particulars, with a terrier annexed, will be issued twenty-one days previous to the sale, and may be had at the principal inns in Essex, Suffolk, and Norfolk; at Messrs. Winter, Williams, and Winter's, solicitors, 16, Bedford-row; at Garraway's; and at Mr. LEIFCHILD'S, Land and Timber Offices, 62, Moorgate-street, London.

Milkhurst Toll Farm.—A desirable Freehold Estate, land-tax redeemed, at Heathfield, a picturesque district, in the county of Sussex.

MR. LEIFCHILD has received instructions, from the Devisees in Trust for Sale, to SELL by PUBLIC AUCTION, at Garraway's, on WEDNESDAY, September 17, at Twelve for One, in one lot, a very desirable FREEHOLD ESTATE, known as Milkhurst Toll Farm, eligibly situate by the side of the turnpike-road leading from Lewes to Burwash, Mayfield, and Tunbridge-wells, in the pleasant village of Heathfield, in the county of Sussex. It consists of an excellent farm-house, with yards and gardens, barns, stables, oast-house, and other out-buildings, together with 24 inclosures of arable, meadow, pasture, hop-garden, and wood land in a ring fence, the whole containing 149a. 2r. 5p., about 60 of which are productive wood-land. The property is now in the occupation of Mr. Thomas Potten, a respectable tenant; it is freehold, and land-tax redeemed, and the commuted tithes are very moderate. The woods are full of fine young oak timber and thriving underwood, and are well adapted for the preservation of game, of which there is abundance at the present time. May be viewed by permission of the tenant and full descriptive particulars, with plans, will be issued 21 days previous to the sale, and may be had on the premises; at the principal inns at Lewes, Hastings, Tunbridge, and Tunbridge-wells, and Mayfield; of Messrs. Winter, Williams, and Winter, solicitors, 16, Bedford-row; at Garraway's; and at Mr. LEIFCHILD'S Land and Timber Offices, 62, Moorgate-street, London.

Compact Freehold Farm, in the parish of Barcombe, in the county of Sussex.

MR. LEIFCHILD is instructed by the Devisees in Trust for Sale to SELL by PUBLIC AUCTION, at Garraway's, on WEDNESDAY, September 17, at Twelve for One, in two lots, a very eligible small FREEHOLD FARM, known as Spithurst or Panthill Farm, pleasantly situate in the parish of Barcombe, within five miles of the capital market-town of Lewes, in the county of Sussex; comprising a small farm-house and suitable buildings, with 14 inclosures of capital arable, pasture, and wood land, in very excellent cultivation; also a genteel cottage residence, with excellent gardens, and two handsome inclosures of meadow land adjoining: the whole containing 61a. 2r. 2p. in the several occupations of Mr. Wright and the Rev. Evan Jones. —May be viewed by permission of the tenants, and full descriptive particulars, with plans, will be issued 21 days previous to the sale, and may be had at the principal inns at Brighton, Lewes, and Hastings, Tunbridge and Tunbridge-wells; on the premises; of Messrs. Winter, Williams, and Winter, solicitors, 16, Bedford-row; at Garraway's; and at Mr. LEIFCHILD'S Land and Timber Offices, 62, Moorgate-street, London.

LAW BOOKS, &c.—Solicitors may have their LAW and other BOOKS bound in the best style of the Art, at moderate Prices, by the BINDER for the LAW TIMES, if transmitted to the Publisher of the LAW TIMES, 29, Essex-street.

N.B. If Forms or other Publications of the VERULAM SOCIETY or LAW TIMES, to the amount of 2l. be ordered to be inclosed in a parcel with Books sent for Binding, they will be sent carriage free.

THE REPORTS.

[These are usually brought down to the Wednesday preceding publication. Where *Cur. adv. vult*, the case is not reported till judgment given. All written judgments are taken in shorthand, and reported *verbatim*. Rules *nisi* are reported.]

The following are the names of gentlemen who favour the LAW TIMES with the Reports:—

PRIVY COUNCIL by THOMAS CAMPBELL FOSTER, of the Middle Temple, Esq. Special Pleader.

EQUITY COURTS.

LORD CHANCELLOR'S COURT by RICHARD GRIFFITHS WELFORD, Esq. of the Inner Temple, Barrister-at-Law.

VICE-CHANCELLOR of ENGLAND'S COURT, by GEORGE GOLDSMITH, Esq. of the Middle Temple, Barrister-at-Law.

ROLLS COURT, by J. MACAULAY, Esq. of the Inner Temple, Barrister-at-Law.

VICE-CHANCELLOR KNIGHT BRUCE'S COURT by GEO. S. ALLNUTT, Esq. of the Middle Temple, Barrister-at-Law.

VICE-CHANCELLOR WIGRAM'S COURT, by J. VESEY DAWSON, Esq. of the Middle Temple, Barrister-at-Law.

COMMON LAW COURTS.

The QUEEN'S BENCH, by J. C. SYMONS, Esq. of the Middle Temple, Barrister-at-Law, and EDWARD WISE, Esq. of the Middle Temple, Barrister-at-Law.

The COURT of COMMON PLEAS, by W. PATERSON, Esq. of Gray's-inn, Barrister-at-law.

The COURT of EXCHEQUER by JOHN BRIDGE ASPINALL, Esq. of the Middle Temple, Barrister-at-Law, and H. T. COLE, Esq. of the Middle Temple, Barrister-at-Law.

The BAIL COURT by T. W. SAUNDERS, Esq. of the Middle Temple, Barrister-at-Law.

The EXCHEQUER CHAMBER by A. A. FRY, Esq. of Lincoln's-inn, Barrister-at-Law.

BANKRUPT AND INSOLVENT COURTS.

The COURT of REVIEW by GEO. S. ALLNUTT, Esq. of the Middle Temple, Barrister-at-Law.

LONDON COMMISSIONERS' COURTS and the INSOLVENT COURT, by B. TALBOT, Esq. of the Middle Temple, Barrister-at-Law.

BRISTOL DISTRICT COURT, by J. ANGUS HOMER, Esq. Barrister-at-Law.

NISI PRIUS, CIRCUITS, AND CROWN CASES.

CENTRAL CRIMINAL COURT, by B. C. ROBINSON, Esq. of the Middle Temple, Barrister-at-Law.

CROWN CASES (before all the Judges) by A. BITTLESTON, Esq. of the Inner Temple, Barrister-at-Law.

NORTHERN CIRCUIT, York and Liverpool, by J. B. ASPINALL, Esq. Barrister-at-Law. The other parts of the Circuit, by G. F. H. OLIPHANT, Esq. Barrister-at-Law.

WESTERN CIRCUIT, by EDWARD W. COX, Esq. of the Middle Temple, Barrister-at-Law.

OXFORD CIRCUIT, by JOHN LANE, Esq. D.C.L. of the Inner Temple, Barrister-at-Law.

NORFOLK CIRCUIT by JNO. B. DASENT, Esq. Barrister-at-Law.

SITTINGS AT NISI PRIUS AFTER TERM, by JOHN LANE, Esq. D.C.L. of the Inner Temple, Barrister-at-Law.

ELECTION LAW.

REGISTRATION APPEALS in the COMMON PLEAS by EDWARD W. COX, Esq. of the Middle Temple, Barrister-at-Law; and HENRY TINDAL ATKINSON, Esq. of the Middle Temple, Barrister-at-Law.

ELECTION COMMITTEES by EDWARD W. COX, Esq. of the Middle Temple, Barrister-at-Law.

REGISTRATION COURTS, collected and edited by EDW. W. COX, Esq. of the Middle Temple, Barrister-at-Law.

IRISH REPORTS.

The LORD CHANCELLOR'S COURT by WILLIAM DUGGAN, Esq. Barrister-at-Law.

QUEEN'S BENCH and CRIMINAL COURTS by WM. ST. LEGER BABINGTON, LL.D. Barrister-at-Law.

N.B.—The names of the reporters of such important points as may arise upon Circuit will be announced as the arrangements for each are completed.

The Written Judgments are reported verbatim in Short-hand by Mr. H. GREGORY, Short-hand Writer.

TO LARGE CAPITALISTS.

MESSRS. DANIEL SMITH and SON respectfully recommend to the notice of capitalists disposed to undertake or join in working a large property, the very important FREEHOLD ESTATE of COUSALL in Staffordshire, as possessing such immense sources of improvement—particularly as to its minerals and power of water, with the old-established pottery and flint mills—as to hold out a most safe, important, and highly improvable investment, certainly of a more solid and permanent nature than many of the railway and other speculations for which companies are daily formed. The sale is fixed for the 26th of August, and the particulars and plans are now ready.—See Advertisement.

Waterloo-place.

STAFFORDSHIRE.—Most Important and Valuable Estates of about 2,000 acres, with an inexhaustible extent of superior Coal, capital and extensive Flint and Pottery Mills, Lime Kilns, &c. offering an influential and first-rate Investment for any great capitalist, and also a fine and beautiful estate for residence, with mansion, manor, woods, plantations, and fishery.

MESSRS. DANIEL SMITH and SON are commissioned by the mortgagees of the property to offer for PUBLIC SALE, at the Auction Mart, in the City of London, on TUESDAY, Aug. 26, at Twelve, in Two lots (unless an acceptable offer shall be previously made) the fine and truly important FREEHOLD ESTATES of Consall and Woodhead, within a short distance of the towns of Cheadle and Leek, and only 18 miles from Buxton, containing about 2,000 acres. The estates consist of the manor, well stocked with game, fishery, fish-ponds, beautiful woods and plantations well stored with thriving oak, and several valuable farms surrounding the mansion of Consall Hall, and containing in all upwards of 1,800 acres. This estate is tithe-free, extra-parochial, and, except one small farm, exonerated of land-tax. It is partly bounded by the river Churnet, and the Trent and Mersey Canal, within a few miles of Alton Towers, the splendid seat of the Earl of Shrewsbury; and added to the great many recommendations of this fine property is the incalculable value of the minerals, about 1,600 acres containing ascertained strata or mines of superior coal, which were opened by the late proprietor of the estate, veins of iron stone, with railroads completed to the canal and turnpike roads, and very superior brick earth; and, also, at a desirable distance from the residence, several first-rate flint and pottery mills, lime works, &c. most substantially and admirably constructed, chiefly of stone and iron, with an immense power of water; stone quarries and wharfs. The estimated value of the property is near 6,000*l.* per annum, with great prospective increase. The proposed Manchester railroad through the Churnet Valley will pass almost close to the boundary of the estate, and the Whitmore station on the London and Liverpool line of railway is only about 16 miles distant. The Mortgagees are ready to receive offers for the whole or any parts of the property. Particulars with plans will be immediately issued, and every information may be obtained of Messrs. Jenkyns and Phelps, Solicitors, 14, Red Lion-square, London; at the Mart; at the Midland Counties Herald Office, and the chief inns at Birmingham, Leeds, Liverpool, Manchester, Stafford, Stone, Cheadle, Shrewsbury, and Wolverhampton; of Mr. Edwin Heaton, of Leek; and of Messrs. DANIEL SMITH and SON, Land Agents, in Waterloo-place, Pall-mall, London; where plans of the estates may be inspected.

In a favourite and beautiful part of Devonshire.—Sandford Orleigh, a delightful Residence, close to the town of Newton Abbott, only 16 miles from Exeter, now within 10 hours' journey of London.

MESSRS. DANIEL SMITH and SON are directed by the executor of the late George Templer, esq. to announce that they will offer for SALE by AUCTION, at the New London Hotel, in Exeter, on FRIDAY, August 15, at Two (unless previously disposed of by private treaty), the above elegant and beautifully situate MANSION, erected within the last ten years, of the olden style of architecture, with all the requisite appendages for a gentleman's establishment on a moderate scale, in perfect order, and delightfully placed on a healthy and highly picturesque eminence, commanding extensive marine and inland scenery, and sheltered by ornamental shrubberies and plantations, with hot-houses and conservatory, together with a valuable farm and meadows attached, with a newly-built farm-house and all necessary buildings.—Further particulars will be shortly published, and in the interim every information may be obtained of Messrs. Smart and Buller, solicitors, 56, Lincoln's Inn-fields; or of Messrs. DANIEL SMITH and SON, Land Agents, Waterloo-place, Pall-mall.

Near TAUNTON.—Sidbrook, one of the most admired and complete Residences, on a moderate scale, in this beautiful and desirable neighbourhood, with two rich and picturesque Farms, all freehold.

MESSRS. DANIEL SMITH and SON will submit to PUBLIC SALE, at the Mart, near the Bank of England, on TUESDAY, Aug. 26, at Twelve, in three Lots (unless an acceptable offer shall be previously made by Private Contract), SIDBROOK HOUSE, with its beautiful pleasure-grounds and extensive walks, walled garden, stabling, ornamental lodge, and conservatory; together with Sidbrook and Overton manor farms, delightfully situated near the picturesque village of West Monkton, within three miles of Taunton, and seven of Bridgewater, and only one hour's journey from Exeter, two from Bath and Bristol, and five from London. The estate comprises an elegant villa, erected about twenty years since upon a beautiful and elevated spot, commanding extensive scenery on all sides, embracing the magnificent vale and town of Taunton, the Wellington and Chatham pillars, and other interesting and grandly contrasted objects. The home farm consists of about 115 acres of rich meadow, orchard, and arable land, with a respectable farm-house and buildings of all kinds, and every part of the property in most complete order. Overton farm is on the other side of the village, and consists of a beautifully situated superior farm-house and homestead, and about 125 acres of rich orchard, meadow, and arable land; and Higher Sidbrook farm comprises about 48 acres of excellent land, with bailiff's cottage, barn, ox sheds, &c.—The estate cannot be viewed without an order, which may be had of Messrs. Druce and Son, solicitors, Billiter-square, City; of William Kinglake, esq. solicitor, Taunton; and of Messrs. DANIEL SMITH and SON, Land-agents and Surveyors, Waterloo-place, Pall-mall, who are alone authorized to treat for the property.

DORSETSHIRE.—The very beautiful and important ESTATE of CASTLE-HILL, near the picturesque Village and Church of Buckland Newton, with an elegant Mansion, valuable Manors, and a remarkably rich Domain of about 1,350 Acres, consisting of capital Dairy and other Farms, in excellent order and repair, finely timbered, and intersected by Brooks and ornamental Covers and Plantations abounding with Fish and Game.

MESSRS. DANIEL SMITH and SON are instructed to submit to SALE by AUCTION, at the Auction Mart, in the City of London, on TUESDAY, August 26, at Twelve (unless previously disposed of by Private Contract), the above singularly beautiful and very valuable FREEHOLD ESTATE, the greater part rich grass land, situate between Cerne Abbas, Sherborne, and Dorchester, in the centre of Mr. Farquharson's hunt; comprising a handsome, substantial, and truly comfortable mansion, one of the most admired and favourite seats in the county, of an elegant uniform elevation, designed by Sir William Chambers, and in most excellent order, with suitable offices, excellent stabling, extensive and delightful pleasure-grounds and shrubberies, embellished with a superb variety of timber, ornamental water, grotto, &c. most luxuriant walled gardens, vinery, and conservatory, surrounded by bold park-like paddocks, embracing a celebrated Roman station, and commanding on all sides the most magnificent scenery, extending over the vale of Blackmoor into several counties, together with about 1,350 acres (exclusive of the commons within the manors), with convenient farm-houses and homesteads, keeper's and gardener's cottages, and an inn well known to sportsmen as Revels Inn, upon the Dorchester turnpike-road. The whole let to highly respectable tenants, at low rents, but of the estimated annual value of 1,850*l.* offering a most solid and superior investment for capital, and a very complete and delightful residence. The estate cannot be viewed without an order, and will be shewn by Mr. John Foot, of Glanvill's Wootton.—An order, with particulars and plans, may be obtained of Mr. Lambert Burghfield, near Reading; of Messrs. Dawes and Sons, solicitors, Angel-court, Throgmorton-street; or at the offices of Messrs. DANIEL SMITH and SON, Waterloo-place, Pall mall, and Windsor, who are authorized to treat for the same.

Mitcham, Newington, Whitechapel, Bethnal Green, Clapton, Mile End, St. George's East, and Spitalfields, desirable Freehold and Leasehold Estates, giving votes for Middlesex and East Surrey, producing 432*l.* per annum very desirable for occupation and investment.

MR. MOORE will SELL by AUCTION, at the Mart, on THURSDAY next, August 14, at Twelve, in fourteen lots, by order of the executors of Mrs. Mary Ferrett, deceased, TWO FREEHOLD 6-roomed HOUSES, with very long gardens, at Lower Mitcham Surrey, on the high road to Brighton, let at 39*l.* per annum. Also Two convenient Dwelling-houses, Nos. 13 and 14 Hood's-terrace, Kennington-street, Walworth, containing six rooms, forecourt, long garden, &c. let at 50*l.* per annum, term 60 years, ground-rent 8*l.* each. Two semi-detached Cottage Residences, with large gardens, delightfully situate in Mount Pleasant-lane, Warwick-road, Clapton, commanding beautiful views of the surrounding country, suitable for the occupation of persons of respectability; term 58 years, ground-rent 5*l.* An 8-roomed Residence, with long garden, chaise-house, and stable, situate No. 23, Gloucester-terrace, New-road, Whitechapel, term 44 years, ground-rent 3*l.* 18*s.* 9*d.* Two 6-roomed Dwelling-houses, Nos. 8 and 10, Ocean-street, Stepney, term 61 years, ground-rent 6*l.* Two smaller Houses, Nos. 11 and 21, Ocean-street, term 61 years, ground-rent 4*l.* 10*s.* Three 5-roomed Freehold Houses, with gardens, Nos. 1 to 3, King-street, Cambridge-road, near the Queen's Head, let at 54*l.* per annum. Four Houses and a piece of ground in John-street, Cambridge-road, let at 42*l.* term 35 years, ground-rent 10*l.* The beneficial lease of a Grocer and Cheesemonger's Premises, and a Private House adjoining, 58 and 59, Lucas-street, St. George's East, and a small Dwelling-house, 15, Upper Cornwall-street, St. George's East, term 30 years, ground-rent 3*l.* 10*s.* An improved Ground-rent of 48*l.* per annum, well secured on 11 houses in Spitalfields, near the church, and a Dwelling-house adjoining, let on lease at 28*l.* held for 35 years from the freeholder, at a peppercorn rent.

May be viewed by leave of the tenants, and particulars had of Godfrey Goddard, esq. 101, Wood-street, Cheapside; Charles Chester, esq. 144, Blackfriars-road; T. Foord, esq. Pinners' Hall, Old Broad-street; Messrs. Sheffield, Old Broad-street; Samuel Prentice, esq. 13, Bedford-square East; T. Keighly, esq. 77, Basinghall-street; Hull Terrell, esq. 30, Basinghall-street; J. Ellerthorp, esq. 37, Colet-place, Commercial-road; at the White Hart, Mitcham; at the Auction Mart; and at the Auctioneer's offices, Mile-end-road.

A Valuable Policy of Assurance for 2,000*l.* in the London Life Association.

MESSRS. ELLIS and SON are directed by the Executors and Devisees under the will of Thomas Butler, esq. deceased, to SELL by AUCTION, at Garraway's, on MONDAY, August 25, at Twelve, a POLICY of ASSURANCE for 2,000*l.* dated the 5th July, 1811, effected in the London Life Association, upon the life of a gentleman now aged 75 years, at the reduced annual premium of 27*l.* 6*s.* The premium originally paid was 75*l.* per annum. Printed particulars may be had, fourteen days prior to the sale, of Mr. George Rutherford, solicitor, 13, Lombard-street; at Garraway's; and of Messrs. ELLIS and SON, Auctioneers, &c. 36, Fenchurch-street.

Shares in the British Gas-light Company, Anti-Dry-Rot Company, and the Mile-end Cemetery, and about Sixteen Dozen of Port and Sherry, the property of the late Samuel Weddell, esq.

MESSRS. ELLIS and SON are directed by the Executors of Samuel Weddell, esq. late of Aldgate, deceased, to SELL by AUCTION, at Garraway's, on MONDAY, August 25, at Twelve, FIFTEEN SHARES of 20*l.* each, in the British Gas-light Company, Fifteen Shares in the Anti-Dry-Rot Company, and Five Shares in the Mile-end Cemetery Company; also, twelve dozen of fine old Port, and a few dozen of Sherry.—Particulars may be had, ten days prior to the sale, of Messrs. Lawford, solicitors, Drapers' Hall, 27, Throgmorton-street; at Garraway's; and of Messrs. ELLIS and SON, Auctioneers, &c. 36, Fenchurch-street.

Freehold beautiful Villa Residence, with Six Acres of Land, at Tanner's-end, near [illegible]gate, seven miles from Town.

MESSRS. ELLIS and SON are directed to SELL by AUCTION, at Garraway's, on MONDAY, August 25, at Twelve (unless previously disposed of by private contract), a FREEHOLD VILLA RESIDENCE, delightfully situate in the centre of its own grounds, which are tastefully disposed and beautifully varied in lawns, shrubberies, and walks, ornamented with fine timber and a stream of water. The house is substantially built, and arranged with much taste and judgment, and is adapted to a moderate-sized family. There are excellent detached offices, with stabling for five horses, double carriage-house, and all the requisite outbuildings, with excellent water. The whole is in the most complete order. Eleven acres of land adjoining are held on lease. Coaches pass several times daily, and it is a short distance from the railway.—To be viewed by tickets only, which, with particulars, may be had by applying to Mr. C. Ellis, 21, Bedford-street, Covent-garden; at Garraway's; and of Messrs. ELLIS and SON, Auctioneers and Estate Agents, 36, Fenchurch-street.

Freehold Residence, Highbury-grove, Islington.

MESSRS. ELLIS and SON are directed to SELL by AUCTION, at Garraway's, on MONDAY, August 25, at Twelve, a FREEHOLD commodious RESIDENCE, desirably situated in Highbury-grove, Islington; comprising, on the two pair, four good chambers; on the first floor, a sitting-room and two excellent bedrooms; ground-floor, a spacious entrance-hall, dining and drawing rooms of good proportions, and patent water-closet; very convenient basement, comprising kitchen, wash-house, and all suitable offices, with good supply of water; a good garden, well planted, laid out in lawn and walks, inclosed by a brick wall. The premises are now in the occupation of Miss Chalmers, who quits at Michaelmas, at a rent of 70*l.* per annum, and pays all taxes and repairs. To be viewed by tickets only. Printed particulars may be had, fourteen days prior to the sale, at Garraway's, and of Messrs. ELLIS and SON, Auctioneers, &c. 36, Fenchurch-street.

TRINITY-SQUARE, TOWER-HILL.—Valuable Freehold Estate, Land-tax redeemed, comprising a Capital Residence and extensive Premises attached, Carriage-house, Stabling, spacious covered Yard, and capacious Wine Vaults of the finest temperature.

MESSRS. ELLIS and SON respectfully announce that they are directed by the Executors and Devisees under the will of the late Thomas Butler, esq. to SELL by AUCTION, at Garraway's, on MONDAY, August 25, at Twelve, a FREEHOLD superior RESIDENCE, most desirably situate, being No. 42, near the Trinity House, Tower-hill, commanding extensive views of the Surrey hills, affording ample accommodation for a merchant, or family of the highest respectability, and particularly adapted to the wine trade (one of the most respectable and extensive concerns in that line in the City having been carried on there for many years by the late proprietor). The house is in the most substantial and complete repair, and contains eight light lofty commodious chambers, with dressing-rooms, noble dining and drawing-rooms, library, gentleman's dressing-room, entrance-hall, waiting-room, spacious light geometrical staircase, and superior domestic arrangements of every description, immediately adjoining is a spacious entrance, inclosed by folding gates, leading to an extensive covered yard, with carriage-house, four-stall stable, lofts, and capacious arched cellaring of the finest temperature. The situation being contiguous to the Docks, Custom House, and Corn Exchange, renders it a most desirable property either for occupation or as an investment.

To be viewed with tickets only, which may be had of Messrs. ELLIS and SON, Auctioneers and Estate Agents, 36, Fenchurch-street. Printed particulars will be ready fourteen days prior to the sale, and may be had as above; also of Mr. George Rutherford, solicitor, 13, Lombard-street; and at Garraway's.

EPSOM, SURREY.—Valuable Copyhold Land.

MESSRS. ELLIS and SON are directed by the Devisees in Trust of the late N. Garland, esq. to SELL by AUCTION, at Garraway's, on MONDAY, August 25, at Twelve, in several Lots, about Forty Acres of valuable COPYHOLD LAND, situate in the Common Field, Epsom, the principal part lying immediately contiguous to the town of Epsom, adjoining the park of Woodcote Grove, now in cultivation as garden ground, on lease to Mr. Barnard, but adapted to building purposes; the remainder arable land, let to Mr. Weston, tenant at will.—To be viewed by application to Mr. Scott, High-street, Epsom, of whom printed particulars and plans may be had 14 days prior to the sale; also, at the Spread Eagle, Epsom; of Messrs. Winter, Williams, and Co. solicitors, 16, Bedford-row; at Garraway's; and of Messrs. ELLIS and SON, Auctioneers and Land Surveyors, 36, Fenchurch-street.

Eligible Investment.—Dover, Kent, four miles from the Town and Railway Station, and five from the Folkstone Station.

MESSRS. BROOKS and GREEN have received instructions to SUBMIT for SALE by AUCTION, at the Auction Mart, opposite the Bank of England, on SATURDAY, August 23, a truly desirable and valuable FREEHOLD ESTATE, land-tax redeemed, comprising an excellent Residence, with every requisite office and outbuilding, productive gardens, and common right of pasturage, together with 180 acres of arable, meadow, and pasture land, let on lease to a very respectable tenant, and good farmer, at the rent of 200*l.* per annum, which is regularly and punctually paid.

Particulars may be obtained of Messrs. Rooper, Birch and Ingram, solicitors, 64, Lincoln's-Inn-fields; and of Messrs. BROOKS and GREEN, Estate Agents, Surveyors, and Auctioneers, 28, Old Bond-street, London.

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AND JOURNAL OF PROPERTY,

FOR

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VOL. V. No. 124.] SATURDAY, AUGUST 16, 1845.

THE REPORTS.

[These are usually brought down to the Wednesday preceding publication. Where *Cur. adv. vult*, the case is not reported till judgment given. All written judgments are taken in shorthand, and reported *verbatim*. Rules *nisi* are reported.]

The following are the names of gentlemen who favour the LAW TIMES with the Reports:—

PRIVY COUNCIL by THOMAS CAMPBELL FOSTER, of the Middle Temple, Esq. Special Pleader.

EQUITY COURTS.

LORD CHANCELLOR'S COURT by RICHARD GRIFFITHS WELFORD, Esq. of the Inner Temple, Barrister-at-Law.

VICE-CHANCELLOR of ENGLAND'S COURT, by GEORGE GOLDSMITH, Esq. of the Middle Temple, Barrister-at-Law.

ROLLS COURT, by J. MACAULAY, Esq. of the Inner Temple, Barrister-at-Law.

VICE-CHANCELLOR KNIGHT BRUCE'S COURT by GEO. S. ALLNUTT, Esq. of the Middle Temple, Barrister-at-Law.

VICE-CHANCELLOR WIGRAM'S COURT, by J. VESEY DAWSON, Esq. of the Middle Temple, Barrister-at-Law.

COMMON LAW COURTS.

The QUEEN'S BENCH, by J. C. SYMONS, Esq. of the Middle Temple, Barrister-at-Law, and EDWARD WISE, Esq. of the Middle Temple, Barrister-at-Law.

The COURT of COMMON PLEAS, by W. PATERSON, Esq. of Gray's-inn, Barrister-at-law.

The COURT of EXCHEQUER by JOHN BRIDGE ASPINALL, Esq. of the Middle Temple, Barrister-at-Law, and H. T. COLE, Esq. of the Middle Temple, Barrister-at-Law.

The BAIL COURT by T. W. SAUNDERS, Esq. of the Middle Temple, Barrister-at-Law.

The EXCHEQUER CHAMBER by A. A. FRY, Esq. of Lincoln's-inn, Barrister-at-Law.

BANKRUPT AND INSOLVENT COURTS.

The COURT of REVIEW by GEO. S. ALLNUTT, Esq. of the Middle Temple, Barrister-at-Law.

LONDON COMMISSIONERS' COURTS and the INSOLVENT COURT, by B. TALBOT, Esq. of the Middle Temple, Barrister-at-Law.

BRISTOL DISTRICT COURT, by J. ANGUS HOMES, Esq. Barrister-at-Law; and T. T. ALLEN, Esq. Barrister-at-Law.

NISI PRIUS, CIRCUITS, AND CROWN CASES.

CENTRAL CRIMINAL COURT, by B. C. ROBINSON, Esq. of the Middle Temple, Barrister-at-Law.

CROWN CASES (before all the Judges) by A. BITTLESTON, Esq. of the Inner Temple, Barrister-at-Law.

NORTHERN CIRCUIT, York and Liverpool, by J. B. ASPINALL, Esq. Barrister-at-Law. The other parts of the Circuit, by G. F. H. OLIPHANT, Esq. Barrister-at-Law.

WESTERN CIRCUIT, by EDWARD W. COX, Esq. of the Middle Temple, Barrister-at-Law.

OXFORD CIRCUIT, by JOHN LANE, Esq. D.C.L. of the Inner Temple, Barrister-at-Law.

NORFOLK CIRCUIT by JNO. B. DASENT, Esq. Barrister-at-Law.

SITTINGS AT NISI PRIUS AFTER TERM, by JOHN LANE, Esq. D.C.L. of the Inner Temple, Barrister-at-Law.

ELECTION LAW.

REGISTRATION APPEALS in the COMMON PLEAS by EDWARD W. COX, Esq. of the Middle Temple, Barrister-at-Law; and HENRY TINDAL ATKINSON, Esq. of the Middle Temple, Barrister-at-Law.

ELECTION COMMITTEES by EDWARD W. COX, Esq. of the Middle Temple, Barrister-at-Law.

REGISTRATION COURTS, collected and edited by EDW. W. COX, Esq. of the Middle Temple, Barrister-at-Law.

IRISH REPORTS.

The LORD CHANCELLOR'S COURT by WILLIAM DUGGAN, Esq. Barrister-at-Law.

QUEEN'S BENCH and CRIMINAL COURTS by WM. ST. LEGER BABINGTON, LL.D. Barrister-at-Law.

N. B.—The names of the reporters of such important points as may arise upon Circuit will be announced as the arrangements for each are completed.

The Written Judgments are reported verbatim in Short-hand by Mr. H. GREGORY, Short-hand Writer.

THE REGISTRATIONS.

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LAW TIMES Office, 29, Essex-street.

The HAFOD ESTATE, in SOUTH WALES.

MESSRS. DANIEL SMITH and SON respectfully apprise the public, and particularly those parties who have had particulars, that they have SOLD this magnificent ESTATE, comprising the splendid mansion and domain of about 14,000 acres, by private contract; as also the other estates of his Grace the Duke of Newcastle in South Wales, altogether upwards of 24,000 acres.

Waterloo-place, Pall Mall, August 12, 1845.

The important and beautiful Freehold Estate and Manor of Lee Grange, in the Vale of Aylesbury, between that and the other Market Towns of Buckingham, Winslow, and Bicester.

MESSRS. DANIEL SMITH and SON are commissioned to announce that, at the Mart, near the Bank of England, on TUESDAY, September 16, at Twelve, will be submitted to PUBLIC SALE (unless an acceptable offer shall be previously made) the above very valuable and famous FREEHOLD DAIRY and GRAZING ESTATE; comprising nearly the whole hamlet of Shipton Lee, close to Quainton, and within a few miles of Aylesbury and Buckingham, consisting of several capital dairy farms, with suitable houses and homesteads, in the hands of highly respectable tenants, with some beautiful woodlands, full of thriving young oak, and abounding with game, comprising in a ring fence nearly 1,380 acres, chiefly rich grass land, and embracing the Grange Hill, one of the most prominent and beautiful features of the neighbourhood. The annual value of this fine property is about 2,000*l.* exempt from land-tax, and almost from tithes.—Further particulars may be had of Messrs. Whitmore, Roumieu, and Walters, 9, Lincoln's-inn; and of DANIEL SMITH and SON, Land Agents, &c. in Waterloo-place, Pall-mall, and Windsor.

IN ROMNEY MARSH.— razing offering most eligible inve ts, particularly for trustees and others looking to without the drawback of repairs or timber.

MESSRS. DANIEL SMITH and SON will SELL by AUCTION, at the Mart, near the Bank of England, on TUESDAY, September 16, at Twelve, in lots, nearly 580 acres of rich FREEHOLD GRAZING LAND, in Romney Marsh, near the towns of Lydd and New Romney, all let to yearly, but highly respectable tenants, at low rents, viz.:—An estate called Derings, in the occupation of Mr. Stephen Tarry, jun.; a farm in the parish of Ivy Church, in the occupation of Mr. George Foord; an estate called Bird Kitchen Land, occupied by Mr. Francis Frim; and another farm in the occupation of Mr. John Prescott, both lying near the town of Lydd; and about 50 acres of rich marsh land near the town of New Romney, in the occupation of Mr. William Hoakins, with several detached parcels of fertile marsh and arable land; the whole presumed to be of the value of 1,000*l.* per annum. The estates may be viewed by permission of the tenants; and particulars, with plans, had at the inns in New Romney, Lydd, Hythe, Rye, &c.; of Mr. Mortimer, solicitor, in the Albany, Piccadilly; of Mr. Austin, solicitor, Canterbury; and of DANIEL SMITH and SON, Land Agents and Surveyors, in Waterloo-place, Pall-mall.

Romantic Freehold Residence, with a valuable Farm, beautiful Woods and Plantations, and a respectable little Inn, in Monmouthshire, only one mile from Abergavenny, on the river Usk, immediately facing the Blorenge Mountain, in the midst of Alpine and other scenery of indescribable magnificence and beauty.

MESSRS. DANIEL SMITH and SON are instructed by the executors of the late R. Alner, esq. to SELL by AUCTION, at the Mart, some time in October next (unless an acceptable offer should be previously made by Private Contract), the PENTRE ESTATE, comprising an elegant modern mansion, compact and economical in its general arrangement for a moderate establishment; with capital stabling, double coach-house, walled garden, cattle-yard, and other buildings; the whole finished in a substantial and admirable manner, seated amidst luxuriant plantations, on the south side of the range of hills at the opening of the beautiful vale of Crickhowell, its parklike grounds skirting the high turnpike road, with the river Usk beyond, from which boldly rises the magnificent Blorenge, immediately opposite the house, forming a grand central link of splendid mountain scenery, in which the Sugar Loaf, the Derry, and the Skyrrid are prominent features. Also a valuable Farm, with a complete homestead, surrounded by nearly 140 acres of excellent arable and grass land, with ornamental plantations, refreshed by several fine springs irrigating the lower grounds; and the Inn, known as the "Lamb and Flag," with its stabling, garden, orchard, and paddock, having an important frontage to the turnpike-road. The land-tax is redeemed.—The estate may be viewed by tickets. Particulars and plans may be had when the day of sale is is fixed, at the chief inns at Abergavenny, Brecon, Monmouth, Chepstow, Hereford, and Bristol; at the Mart; of Henry Walbridge, esq. Llanthewy Court, near Abergavenny; of Mr. Harvey, solicitor, Sturminster Newton, Dorset; and of DANIEL SMITH and SON, Land Agents, in Waterloo-place, Pall-mall, who are authorized to treat in one or two lots.

Valuable Freehold Investments, consisting of Parcels of rich Grazing Land in Romney Marsh, Kent.

MESSRS. DANIEL SMITH and SON will SELL by AUCTION, at the Mart, near the Bank of England, on TUESDAY, September 16, at Twelve, in Two Lots, about 25 acres of very valuable FREEHOLD MARSH LAND, lying in two parcels, close to the town of Dymchurch, on the high road from Rye to Hythe and Folkestone; let to Mr. Blake, at the very low and reduced rent of 175*l.* from year to year, but parts now in the occupation of Messrs. Frim and Hunt, as under-tenants. The estate may be viewed, and particulars with plans, had at the chief inns at Hythe, Folkestone, Rye, New Romney, and Canterbury; of Messrs. Sewell and Co. solicitors, Newport, Isle of Wight; of Messrs. Foster and Westmacott, solicitors, 28, John-street, Bedford-row; of Samuel Selmes, esq. Beckley, Sussex; at the Mart; and of Messrs. DANIEL SMITH and SON, Land Agents, in Waterloo-place, Pall-mall.

In the beautiful and healthy vicinity of HAWKHURST, capital and delightfully situated FREEHOLD RESIDENCE, and very valuable compact estate of about 355 acres, part ornamental, woodlands abounding with game, between Tunbridge Wells and Hastings, in the counties of Kent and Sussex.

MESSRS. DANIEL SMITH and SON are commissioned to offer for SALE by AUCTION, at the Mart, near the Bank of England, in September next (unless previously disposed of by private contract), the valuable FREEHOLD ESTATE of Sea Coxheath, affording most excellent shooting near the picturesque and remarkably healthy village of Hawkhurst, only ten miles from the Staplehurst station on the Dover Railway, 13 from Tunbridge Wells, and 18 from Hastings. It comprises a substantial and comfortable mansion, with gardens, pleasure grounds, stabling, and suitable appendages for a country establishment on a moderate scale, delightfully placed on a fine commanding brow, amidst scenery of great extent and varied beauty, approached from the turnpike-road, near the church, by a handsome stone-built lodge, with a broad terrace carriage-drive through plantations and shrubberies skirting some park-like pastures and the farm-lands in hand. The whole estate consists of 355 acres, of which about 129 acres are ornamental, and very thriving wood-lands (tithe free), the remainder pasture, meadow, arable, and hop land, with convenient farm-houses and homesteads, in part let. Possession may be had of the residence and lands in hand on the completion of the purchase, and with or without the furniture.—The estate may be viewed with cards, which may be had, with any other information, of Messrs. DANIEL SMITH and SON, Land Agents, in Waterloo-place, Pall-mall; and descriptive particulars, with plans, may be had when the day of sale is fixed, at the neighbouring inns at Hastings, Tunbridge Wells, and at the Auction Mart.

Periodical Sale of Reversions, Life Interests, Annuities, Life Policies, Advowsons, Next Presentations, and all descriptions of Securities dependent upon human Life, Ground and Improved Rents, Post Obit Bonds, Shares in Railways, Mines, Insurance Companies, and all other public undertakings.

MESSRS. FULLER and MARSH respectfully inform the public, that by their system of periodical sales by Auction they are enabled to offer to persons expectant or otherwise interested in the above description of property the most prompt, economical, and satisfactory mode of disposing thereof, as by classifying these descriptions of interests and properties in the same particular and for the same day, much expense is avoided, and a far greater competition is secured. Their periodical sales of reversions, life interests, annuities, life policies, advowsons, next presentations, and all descriptions of securities dependent upon human life, shares in railways, mines, and all other undertakings, will be continued throughout the present year as follows:—

Thursday, September 4	Thursday, November 6
Thursday, October 2	Thursday, December 4.

Notice of Sales intended to be effected by the above means should be forwarded to Messrs. Fuller and Marsh a fortnight prior to each date, in order that they may have the full benefit of publicity. Messrs. Fuller and Marsh beg to call the attention of the public to the economy and expedition of this system of business, as they are thereby enabled to include each property for the sum of two guineas and a half, including all expenses, should a sale not be effected. Particulars of the next periodical sale may be obtained at the Offices of Messrs. FULLER and MARSH, 2, Charlotte-row, Mansion-house, London.

In East Kent, on the borders of Sussex, between Tenterden and Rye.—A spacious Family Residence, with Pleasure and Kitchen Gardens, surrounded by about 48 acres of rich Meadow and Pasture Land, eligible for investment or occupation.

MESSRS. FULLER and MARSH have been favoured with instructions from the Executors of the late Richard Knight, esq. to offer for SALE by AUCTION, at the Mart, opposite the Bank of England, on WEDNESDAY, August 27, at Twelve o'clock, a very valuable and rapidly improving ESTATE, consisting of an excellent and spacious Family Residence, surrounded by about 48 acres of rich meadow and pasture land (11 acres of which are marsh), most pleasantly situated on the summit of Underhill, in the parish of Wittesham, midway between the improving town of Tenterden and the port of Rye, 15 miles from the Headcorn Station on the South-Eastern Railway, and 16 from Hastings. This compact little estate commands extensive and picturesque inland and marine views, embracing considerable portions of the counties of Kent and Sussex, with a distant view of the British Channel and the French coast. The Ashford, Rye, and Hastings Railway (a branch from the South-Eastern line), which has obtained the Royal assent, passes within about three miles of this estate, at about which distance it is believed there will be a station, which will enable this estate to be reached in about three hours from the metropolis. The property is leasehold, for an unexpired term of 753 years, at a peppercorn rent, and the land-tax is redeemed.—May be viewed on application, and particulars, with lithographic plans, obtained on the premises; of Wm. Knight, esq. Wittesham; of Mr. Joseph Munn, solicitor, Tenterden; at the George Hotel, Rye; Swan, Hastings; George, Battle, and Roberts-bridge; and of Messrs. FULLER and MARSH, Auctioneers, Surveyors, and Land-agents, Charlotte-row, Mansion-house.

A valuable Plot of Copyhold Building Ground and Arable Land, considered equal to freehold, containing nearly 12 acres, well situate on the Bath road, between Hounslow and Cranford, and a short distance from the Southall Station on the Great Western Railway.

MR. PEISLEY respectfully announces he will SELL by AUCTION, at Garraway's, on WEDNESDAY, August 27, at Twelve, in three lots, the above described valuable PLOT of COPYHOLD BUILDING GROUND and ARABLE LAND, of superior quality, most desirably situate, on the north side of the high Bath and Windsor road, near the 12th mile-stone, and possessing a very long frontage. The beautiful avenue of fine forest oak trees, the admiration of the neighbourhood, nearly skirts this property; it is placed among gentlemen's seats, the views are extensive, the air pure, and the soil proverbially healthy. The whole is free from tithe.—May be viewed, and particulars, with plans annexed, may be had ten days prior to the sale, at the principal inns in the neighbouring towns; at Garraway's; of Messrs. Allen and Holmes, solicitors, 31, Bedford-row; and of Mr. PEISLEY, Auctioneer and Surveyor, Hounslow.

IN MIDDLESEX.—A capital Freehold Family Mansion, beautifully situate, at Feltham, Middlesex, 12 miles from town, with about 46 acres of superior Land, free from tithe, which will be subdivided into building plots, and Plots of Meadow, from two to twelve acres. The Mansion and about 20 acres of Land are Freehold, the remainder Copyhold of Kempton Manor, and considered equal to freehold, the fine being small and certain.

MR. PEISLEY respectfully acquaints the Public he will SELL by AUCTION, at Garraway's, on Wednesday, Aug. 27, at Twelve, in lots, the above-described FREEHOLD MANSION, distinguished as Feltham-place, adjoining Hanworth-park, with the pleasure-grounds, large court-yard, coach-houses, stabling for eight horses, farm-yard, with outbuildings; two large walled gardens, orchard, meadow land, and cottages. The mansion, which is very substantial and in excellent repair, is suited for the reception of a highly respectable family, and contains a spacious entrance hall 24 feet by 14 feet, leading to a handsome saloon 30 feet 6 by 19 feet 6, lofty drawing-room 24 feet 6 by 18 feet 6, dining-room 24 feet 6 by 18 feet 6, morning room, an elegant light principal staircase leading to six principal bedchambers, with three dressing-rooms, and six secondary ditto, water-closet, &c.; housekeeper's room, light lofty kitchen, capital cellarage, and domestic offices. It stands elevated, commanding extensive views, approached by a carriage-drive, with a beautiful lawn, shrubbery, and terrace-walks, adorned with stately timber and other trees, among which is a very large and beautiful cedar, perhaps the finest in England. The building plots are placed in the best part of the village, overlooking Hanworth-park, the large open green, and within an easy walking distance of the church. The meadows, from their contiguity to the village, let readily at high rents. The whole is in good repair, and offers many advantages from the projected lines of railway running near.—May be viewed by applying on the premises. Particulars, with plans annexed, may be had, 10 days prior to the sale, at the principal inns in the neighbouring towns; at Garraway's; of E. White, esq. solicitor, Great Marlborough-street; and of Mr. PEISLEY, auctioneer and surveyor, Hounslow.

CRANFORD, MIDDLESEX.—Valuable Freehold and Copyhold Estate, with nine acres of first-rate Land (the copyhold equal to freehold), consisting of a substantial Family Residence, beautifully situate within its own grounds, at Cranford, Middlesex, twelve miles from town, and a mile and a half only from the Southall Station on the Great Western Railway, with an early prospect of a Windsor and West End Railway running near, on an improved, safe, and economical plan.

MR. PEISLEY begs to apprize the public he will SELL by AUCTION, at Garraway's, on WEDNESDAY, August 27, at Twelve, the above-described FREEHOLD and COPYHOLD ESTATE, which comprises a desirable family residence, with a noble entrance hall and stone staircase, and containing, on the first-floor, eight bed-chambers, with closets and water-closet; on the principal floor, a large lofty drawing-room, about 25 by 20, with three windows opening to the lawn; dining-room, morning-room, and breakfast-room, kitchen and offices, &c. The pleasure-grounds are tastefully laid out and adorned with full-grown trees and shrubs. The gardens are stocked with trees of the best description and very productive. The stabling, suited to four horses, is nearly new, with coach-houses and man's room over, and walled yard. There is a freehold meadow of first-rate land, about six acres, containing good brick earth. The house has been let furnished for several years, at a very low rent, and produces with the land 130*l.* per annum. The furniture may be had at a valuation, or at a price to be named, which will be from 200*l.* to 300*l.* and if not taken will be sold by auction on the premises.—May be viewed with cards only. Particulars, with plans annexed, may be had, ten days prior to the sale, at the principal inns in the neighbouring towns; at Garraway's; of Messrs. Bicham and Dalrymple, 15, Bedford-row; and of Mr. PEISLEY, Auctioneer and Surveyor, Hounslow, of whom cards to view can alone be had.

NORTH BRITISH INSURANCE COMPANY.

Established 1809.

Protecting Capital, 1,000,000*l.* fully subscribed.

His Grace the Duke of Sutherland, K.G. President.

Sir Peter Laurie, Alderman, Chairman of the London Board.

Francis Warden, Esq. (Director H.E.I.C.) Vice Chairman.

John Webster, M.D., F.R.S. 24, Brook-street, Physician.

THIS Institution is incorporated by Royal Charter, and is so constituted as to afford the benefits of Life Insurance in their fullest extent to Policy-holders, combined with perfect security in a fully subscribed Capital of One Million Sterling, besides an accumulated Premium Fund, exceeding 442,000*l.* and a Revenue, from Life Premiums alone, of upwards of 90,000*l.* per annum.

Eighty per cent. or four-fifths of the total profits of the Company, are septennially divided among the Assured.

A Prospectus, containing Tables of Premiums, with the names of the President, Vice-Presidents, Directors, and Managers, who are all responsible PARTNERS, may be obtained of Messrs. B. and M. Boyd, Resident Members of the Board, 4, New Bank Buildings; or of the Actuary, 10, Pall-mall East. JOHN KING, Actuary.

First-class Investment, in the City of London, of 165l. per annum.

MESSRS. MUSGROVE and GADSDEN have received instructions to SELL by AUCTION, at the Mart, on THURSDAY, Aug. 21, at Twelve, all those commanding BUSINESS PREMISES, with excellent Residence, known as No. 2, New Farringdon-street, the corner of Snowhill; they are unexceptionably situate, and have been erected in the most substantial manner. Let under an agreement to the Northern Counties Railway Coal Company, at the moderate rent of 200l. per annum, and held from the City for a long term, at a ground-rent of 35l. per annum.—To be viewed. Particulars may be obtained of Mr. Groves, solicitor, 25, Charlotte-street, Bedford-square; at the Mart; and at Messrs. MUSGROVE and GADSDEN'S Offices, 18, Old Broad-street.

A Leasehold Property for a term of 28 years, situate in Broad-street, Bloomsbury.

MESSRS. MUSGROVE and GADSDEN are instructed by the executors of W. C. Boyd, esq. deceased, to SELL by AUCTION, at the Mart, on THURSDAY, August 21, 1845, at Twelve, in one lot, a LEASEHOLD ESTATE; comprising the Brown Bear wine and spirit vaults, and two houses and shops adjoining, being Nos. 61, 62, and 63, Broad-street, near the corner of Drury-lane, and in continuation of High Holborn, let on leases at low rents amounting to 218l. 10s. per annum.—To be viewed by permission of the tenants, and printed particulars obtained on the respective premises; of Mr. Moger, solicitor, 17, Paternoster-row, Cheapside; at the Mart; and at Messrs. MUSGROVE and GADSDEN'S Offices, 18, Old Broad-street, City.

Leasehold Investment, Dalston.

MESSRS. MUSGROVE and GADSDEN have received instructions to SELL by AUCTION, at the Mart, on WEDNESDAY, September 10, at Twelve, TWO convenient brick-built RESIDENCES, in excellent order, pleasantly situate, and known as Nos. 2 and 3, Forest-row, Dalston, near the Queen's-road; No. 3 is let to Mrs. Bligh, a most respectable yearly tenant, at a rent of 30l. per annum; and No. 2 is at present unoccupied, but of the same annual value: held for an unexpired term of about 70 years at a ground-rent of 7l. per annum.—May be viewed, and particulars had on the premises; at Coventry's Printing-office, Hackney; of Mr. C. W. Davis, solicitor, 24, Charles-square, Hoxton; and at Messrs. MUSGROVE and GADSDEN'S Offices, 18, Old Broad-street, city.

Valuable Freehold Property, Portsmouth, Hants.—The celebrated Establishment known as the Bush Hotel, with suitable Outbuildings, Gardens, and Building Ground.

MESSRS. MUSGROVE and GADSDEN have received instructions from the Directors of the Hope Assurance Company to SELL by AUCTION, on the Premises, on WEDNESDAY, August 27, at Two (or Three o'clock in the afternoon, in lots, all those extensive PREMISES known as the Bush Hotel, at Southsea, in the parish of Portsea, containing about 20 bed-chambers, a noble reception-room, several parlours, private sitting-rooms, a tap-room, kitchens, and all offices necessary for the carrying on a business of magnitude; a large yard with covered shed, stabling for 30 horses, standing for several carriages, garden, and bowling-green, with a considerable building frontage in Park-lane; also, a valuable plot of building ground in Elm-grove adjoining. The Bush Hotel was opened many years ago by the father of the present highly respectable tenant, Mr. Prince, and there is an excellent trade in all its branches attached to the property. The situation is unexceptionable, and of a most improving character, and the beauty of the surrounding country attracts numerous visitors to this fashionable watering-place, now within three hours' journey of London by the South-Western Railway. The contemplated docks at Southsea will also much enhance the value of the estate. It is now let at the inadequate rental of 180l. per annum. To be viewed by permission of the tenant.—Full particulars may be had on the premises; at the India Arms, Gosport; George Hotel, Portsmouth; Star, Southampton; George, Winchester; of Messrs. Wilde, Rees, Humphry, and Wilde, College-hill; and at Messrs. MUSGROVE and GADSDEN'S Offices, 18, Old Broad-street, London.

Freehold Investment, Mile-end.

MESSRS. MUSGROVE and GADSDEN have received instructions to SELL by AUCTION, at the Mart, on WEDNESDAY, September 10, at Twelve o'clock, TWO FREEHOLD DWELLING-HOUSES, known as 16 and 17, Hereford-place, Devonshire-street, Cambridge-road, Mile-end Old Town. No. 17 is let to a respectable tenant at a rent of 14l. per annum, and No. 16 is in hand; the whole of the estimated value of 34l. per annum.—To be viewed. Particulars may be obtained of G. Clark, esq. solicitor, 28, Finsbury-place; at the Mart; and at Messrs. MUSGROVE and GADSDEN'S Offic[illegible] Broad-street.

Freehold Estate.—The Manor-house, on the borders of the Forest, in the neighbourhood of Wanstead and Ilford, six miles from town, near a Railway Station.

MESSRS. MUSGROVE and GADSDEN have received instructions from the executors of the late William Storrs Fry, esq. to SELL by AUCTION, at the Mart, on WEDNESDAY, September 10, a delightful FREEHOLD PROPERTY, known as the Manor-house, on the Ilford road, adjoining the Forest, seated on an eminence, surrounded by lawns and terrace walks, and in the centre of well timbered park-like meadows, the whole occupying 27 acres. The residence is most substantial, of handsome elevation, beautifully situate, and commanding picturesque and diversified views over the Kentish hills and surrounding country. It contains numerous principal and secondary bed chambers, dressing-rooms, and every convenience, elegant drawing-room, dining-room, library and study, spacious hall and landings, domestic offices of a most complete character, separate staircase, and all needful appurtenances; there are also coach-house, stabling, laundry, and farm buildings, with an excellent lodge at the principal entrance from the high road; the whole in a perfect state of repair and decoration, and abundantly supplied with fine water. The pleasure grounds are arranged with much judgment, and the gardens are most productive.—To be viewed by cards only, which with particulars may be had at Messrs. MUSGROVE and GADSDEN'S Offices, 18, Old Broad-street; and of Messrs. Young and Valleys, solicitors, Mildred Court, Poultry; particulars also at the Mart.

In the county of Middlesex.—Valuable and Important Freehold Property, Building Land, &c.

MESSRS. MUSGROVE and GADSDEN have received instructions from the Directors of the Hope Assurance Company to SELL by AUCTION, at the Mart, on THURSDAY, August 21, in lots:—Lot 1. A desirable FREEHOLD ESTATE, known as Sidney House, situate at Hackney-wick, in the parish of Hackney; comprising an elegant modern residence of uniform elevation, standing within its own grounds, and erected in the most substantial manner, at a cost of many thousands. It contains accommodation for a highly respectable family, with capital offices, lawns, pleasure and kitchen gardens, and land; the whole occupying about 10 acres, and now let on a lease to Thos. Ballance, esq. Lot 2. A Freehold Estate, consisting of a flour mill, with a powerful supply of water, dwelling-house, buildings, and a paddock, on lease to Mr. Beckwith, who has expended a considerable sum in plant, &c. at a rent of 100l. per annum. Lot 3. A Freehold Estate, consisting of about seven acres of valuable pasture land adjoining the preceding lot, extending to the road leading from Well-street to Homerton, and communicating therewith, now let at 36l. per annum. Lot 4. Freehold Building Land, containing nine acres, lying remarkably dry and healthy, situate opposite Lot 1, commanding beautiful and extensive views, and possessing a large frontage on the high road; now let at the rent of 35l. per annum.—The property may be viewed by permission of the respective tenants by tickets only, which with particulars may be obtained at Messrs. MUSGROVE and GADSDEN'S Offices, 18, Old Broad-street, City. Particulars also at Coventry's Printing-offices, Hackney; at the Mart; and of Messrs. Wilde, Rees, Humphry, and Wilde, solicitors, College-hill.

An eligible Leasehold Property at Dalston, near Kingsland.

MESSRS. MUSGROVE and GADSDEN are directed by the Executors of W. C. Boyd, esq. deceased, to SELL by AUCTION, at the Mart, on THURSDAY, August 21, at Twelve, in one lot, a desirable ESTATE of four private Residences, with front and back gardens, being Nos. 16, 17, 18, and 19, Dalston-terrace, in front of the high road leading from Kingsland to Hackney; let to Messrs. Greiggs, Greaves, Berry, &c. at rents amounting to 121l. 10s. per annum; held on lease for 35 years, at a low ground-rent.—To be viewed by permission, and particulars obtained on the premises; at Coventry's printing-office, Hackney; of Messrs. Druce, solicitors, Billiter-square, Fenchurch-st.; at the Mart; and at Messrs. MUSGROVE and GADSDEN'S Offices, 18, Old Broad-street.

Copyhold Property, land-tax redeemed, Windmill-hill, Hampstead.

MESSRS. MUSGROVE and GADSDEN have received instructions from the Trustees and Mortgagees of a gentleman deceased to SELL by AUCTION, at the Auction Mart, on WEDNESDAY, September 10, at Twelve o'clock, THREE COPYHOLD DWELLING-HOUSES, with gardens, coach-house, and a four-stall stable; the whole situate on Windmill-hill, Hampstead, near the Holly-bush Tavern. They are let upon leases, at very low rents, amounting to 85l. 18s. per annum, and they are in the several occupations of Messrs. Gall, Barwise, Perry, and Howard.—To be viewed by permission of the respective tenants. Particulars may be had at the Holly-bush Tavern, and Jack Straw's Castle, Hampstead; of Messrs. Lane and Prideaux, solicitors, Goldsmiths'-hall; at the Mart; and at Messrs. MUSGROVE and GADSDEN'S Offices, 18, Old Broad-street, City.

Policy of Assurance for 1,000l. effected in the Amicable Office, in 1828.

MESSRS. WALTERS, LOVEJOY, and SON are instructed to SELL by PUBLIC AUCTION, at Garraway's, on TUESDAY, August 26, at Twelve, by order of the Trustees, under a power of sale, FIVE SHARES, of 200l. each, with accumulations, together computed at 1,200l. or thereabouts, effected in the Amicable Office, in 1828, upon the life of Charles Barrington Jacobs, then aged thirty-eight years; the annual premium is 30l. 15s.—For Particulars apply to Mr. Armstrong, solicitor, Old Jewry; Messrs. Jones and Sons, 4, Millman-place, Bedford-row; Messrs. Overton and Hughes, 25, Old Jewry; at Garraway's; and of the Auctioneers, 53, Chancery-lane.

A Valuable Policy of Assurance for 2,000l. in the London Life Association.

MESSRS. ELLIS and SON are directed by the Executors and Devisees under the will of Thomas Butler, esq. deceased, to SELL by AUCTION, at Garraway's, on MONDAY, August 25, at Twelve, a POLICY of ASSURANCE for 2,000l. dated the 5th July, 1811, effected in the London Life Association, upon the life of a gentleman now aged 75 years, at the reduced annual premium of 27l. 6s The premium originally paid was 75l. per annum. Printed particulars may be had, fourteen days prior to the sale, of Mr. George Rutherford, solicitor, 13, Lombard-street; at Garraw[illegible] and of Messrs. ELLIS and SON, Auctioneers, &c. 36, Fenchurch-street.

Freehold beautiful Villa Residence, with Six Acres of Land, at Tanner's-end, near Southgate, seven miles from Town.

MESSRS. ELLIS and SON are directed to SELL by AUCTION, at Garraway's, on MONDAY, August 25, at Twelve (unless previously disposed of by private contract), a FREEHOLD VILLA RESIDENCE, delightfully situate in the centre of its own grounds, which are tastefully disposed and beautifully varied in lawns, shrubberies, and walks, ornamented with fine timber and a stream of water. The house is substantially built, and arranged with much taste and judgment, and is adapted to a moderate-sized family. There are excellent detached offices, with stabling for five horses, double carriage-house, and all the requisite outbuildings, with excellent water. The whole is in the most complete order. Eleven acres of land adjoining are held on lease. Coaches pass several times daily, and it is a short distance from the railway.—To be viewed by tickets only, which, with particulars, may be had by applying to Mr. C. Ellis, 21, Bedford-street, Covent-garden; at Garraway's; and of Messrs. ELLIS and SON, Auctioneers and Estate Agents, 36, Fenchurch-street.

Freehold Residence, Highbury-grove, Islington.

MESSRS. ELLIS and SON are directed to SELL by AUCTION, at Garraway's, on MONDAY, August 25, at Twelve, a FREEHOLD commodious RESIDENCE, desirably situated in Highbury-grove, Islington; comprising, on the two pair, four good chambers; on the first floor, a sitting-room and two excellent bedrooms; ground-floor, a spacious entrance-hall, dining and drawing rooms of good proportions, and patent water-closet; very convenient basement, comprising kitchen, wash-house, and all suitable offices, with good supply of water; a good garden, well planted, laid out in lawn and walks, inclosed by a brick wall. The premises are now in the occupation of Miss Chalmers, who quits at Michaelmas, at a rent of 70l. per annum, and pays all taxes and repairs. To be viewed by tickets only. Printed particulars may be had, fourteen days prior to the sale, at Garraway's, and of Messrs. ELLIS and SON, Auctioneers, &c. 36, Fenchurch-street.

TRINITY-SQUARE, TOWER-HILL.—Valuable Freehold Estate, Land-tax redeemed, comprising a Capital Residence and extensive Premises attached, Carriage-house, Stabling, spacious covered Yard, and capacious Wine Vaults of the finest temperature.

MESSRS. ELLIS and SON respectfully announce that they are directed by the Executors and Devisees under the will of the late Thomas Butler, esq. to SELL by AUCTION, at Garraway's, on MONDAY, August 25, at Twelve, a FREEHOLD superior RESIDENCE, most desirably situate, being No. 42, near the Trinity House, Tower-hill, commanding extensive views of the Surrey hills, affording ample accommodation for a merchant, or family of the highest respectability, and particularly adapted to the wine trade (one of the most respectable and extensive concerns in that line in the City having been carried on there for many years by the late proprietor). The house is in the most substantial and complete repair, and contains eight light lofty commodious chambers, with dressing-rooms, noble dining and drawing-rooms, library, gentleman's dressing-room, entrance-hall, waiting-room, spacious light geometrical staircase, and superior domestic arrangements of every description; immediately adjoining is a spacious entrance, inclosed by folding gates, leading to an extensive covered yard, with carriage-house, four-stall stable, lofts, and capacious arched cellaring of the finest temperature. The situation being contiguous to the Docks, Custom House, and Corn Exchange, renders it a most desirable property either for occupation or as an investment.

To be viewed with tickets only, which may be had of Messrs. ELLIS and SON, Auctioneers and Estate Agents, 36, Fenchurch-street. Printed particulars will be ready fourteen days prior to the sale, and may be had as above; also of Mr. George Rutherford, solicitor, 13, Lombard-street; and at Garraway's.

EPSOM, SURREY.—Valuable Copyhold Land.

MESSRS. ELLIS and SON are directed by the Devisees in Trust of the late N. Garland, esq. to SELL by AUCTION, at Garraway's, on FRIDAY, August 29, at Twelve, in several Lots, about Forty-six Acres of valuable COPYHOLD LAND, situate in the Common Field, Epsom, the principal part lying immediately contiguous to the town of Epsom, adjoining the park of Woodcote G[illegible] now in cultivation as garden ground, on lease to Mr. Bar[illegible] but adapted to building purposes; the remainder arable land, let to Mr. Weston, tenant at will.—To be viewed by application to Mr. Scott, High-street, Epsom, of whom printed particulars and plans may be had 14 days prior to the sale; also, at the Spread Eagle, Epsom; of Messrs. Winter, Williams, and Co. solicitors, 16, Bedford-row; at Garraway's; and of Messrs. ELLIS and SON, Auctioneers and Land Surveyors, 36, Fenchurch-street.

PECKHAM.—21 Plots Freehold Building-ground, fronting the Commercial-road, and close to the valuable for Residences, Wharfage, &c. &c.

MR. SINGLE will SELL by AUCTION, at the Mart, on TUESDAY, August 26, at Twelve for One, in lots, 21 PLOTS of highly valuable FREEHOLD BUILDING-LAND, most desirably situate on the West side of the Peckham Branch of the Grand Surrey Canal, near to, and partly fronting the Commercial-road, Peckham, offering rare opportunities for dwelling-houses, wharfs, &c. &c.; distance only about 2½ miles from London-bridge, and the neighbourhood one where a larger number of houses have been erected within the last two or three years, on account of the great demand for them, than have been built in any other part of London within the same time.—Particulars may be obtained of Mr. John Butler, solicitor, 134, Tooley-street, Borough; and at the Offices of Mr. SINGLE, 34, Coleman-street, City.

KENT.—A beautiful Freehold Estate, about thirteen miles from town, with an extensive right of fishing in the river Cray.

MESSRS. HEDGER will SELL by AUCTION, at the Auction Mart, on THURSDAY, August 28, at twelve, a beautiful PROPERTY, called Vale Mascall, situate on the high road from Foot's Cray and North Cray to Bexley, by which it is on one side bounded, and also by the river Cray. Vale Mascall House is a residence replete with accommodation for a gentleman's establishment, every regard to comfort and convenience being studied in an unusual degree, is situate in a pleasing lawn sloping to the river Cray, a clear, rapid, sparkling trout stream, which for a considerable distance margins the property, and which affords first-rate amusement from the quantities and qualities of its trout, &c. The house contains handsome reception rooms, excellent bed chambers, and superior offices, and with pleasure-grounds, gardens, and land, altogether exceeds fourteen acres. It is in every respect charming property, in the district of the Crays, surrounded by choice society. Particulars may be had of Messrs. HEDGER, Land Agents, 10, New Bond-street, opposite the Clarendon.

LONDON:—Printed by HENRY MORRELL COX, of 74, Great Queen Street, in the Parish of St. Giles in the Fields, in the County of Middlesex, Printer, at his Printing Office, 74 & 75, Great Queen Street aforesaid, and published by JOHN CROCKFORD, of 29, Essex Street, Strand, in the Parish of St. Clement Danes, in the City of Westminster, Publisher, at the Office of the LAW TIMES, No. 29, Essex Street aforesaid, on Saturday, the 16th day of August, 1845.

THE LAW TIMES,

AND JOURNAL OF PROPERTY,

FOR

The Legislator, the Magistrate, and the Lawyer.

Vol. V. No. 125.] SATURDAY, AUGUST 23, 1845.

(DOUBLE NUMBER.)

THE REPORTS.

[These are usually brought down to the Wednesday preceding publication. Where *Cur. adv. vult*, the case is not reported till judgment given. All written judgments are taken in shorthand, and reported *verbatim*. Rules nisi are reported.]

The following are the names of gentlemen who favour the LAW TIMES with the Reports:—

PRIVY COUNCIL by THOMAS CAMPBELL FOSTER, of the Middle Temple, Esq. Special Pleader.

EQUITY COURTS.

LORD CHANCELLOR'S COURT by RICHARD GRIFFITHS WELFORD, Esq. of the Inner Temple, Barrister-at-Law.

VICE-CHANCELLOR of ENGLAND'S COURT, by GEORGE GOLDSMITH, Esq. of the Middle Temple, Barrister-at-Law.

ROLLS COURT, by J. MACAULAY, Esq. of the Inner Temple, Barrister-at-Law.

VICE-CHANCELLOR KNIGHT BRUCE'S COURT by GEO. S. ALLNUTT, Esq. of the Middle Temple, Barrister-at-Law.

VICE-CHANCELLOR WIGRAM'S COURT, by J. VESEY DAWSON, Esq. of the Middle Temple, Barrister-at-Law.

COMMON LAW COURTS.

The QUEEN'S BENCH, by J. C. SYMONS, Esq. of the Middle Temple, Barrister-at-Law, and EDWARD WISE, Esq. of the Middle Temple, Barrister-at-Law.

The COURT of COMMON PLEAS, by W. PATERSON, Esq. of Gray's-inn, Barrister-at-law.

The COURT of EXCHEQUER by JOHN BRIDGE ASPINALL, Esq. of the Middle Temple, Barrister-at-Law, and H. T. COLE, Esq. of the Middle Temple, Barrister-at-Law.

The BAIL COURT by T. W. SAUNDERS, Esq. of the Middle Temple, Barrister-at-Law.

The EXCHEQUER CHAMBER by A. A. FRY, Esq. of Lincoln's-inn, Barrister-at-Law.

BANKRUPT AND INSOLVENT COURTS.

The COURT of REVIEW by GEO. S. ALLNUTT, Esq. of the Middle Temple, Barrister-at-Law.

LONDON COMMISSIONERS' COURTS and the INSOLVENT COURT, by B. TALBOT, Esq. of the Middle Temple, Barrister-at-Law.

BRISTOL DISTRICT COURT, by J. ANGUS HOMES, Esq. Barrister-at-Law; and F. T. ALLEN, Esq. Barrister-at-Law.

NISI PRIUS, CIRCUITS, AND CROWN CASES.

CENTRAL CRIMINAL COURT, by B. C. ROBINSON, Esq. of the Middle Temple, Barrister-at-Law.

CROWN CASES (before all the Judges) by A. BITTLESTON, Esq. of the Inner Temple, Barrister-at-Law.

NORTHERN CIRCUIT, York and Liverpool, by J. B. ASPINALL, Esq. Barrister-at-Law. The other parts of the Circuit, by G. F. H. OLIPHANT, Esq. Barrister-at-Law.

WESTERN CIRCUIT, by EDWARD W. COX, Esq. of the Middle Temple, Barrister-at-Law.

OXFORD CIRCUIT, by JOHN LANE, Esq. D.C.L. of the Inner Temple, Barrister-at-Law.

NORFOLK CIRCUIT by JNO. B. DASENT, Esq. Barrister-at-Law.

SITTINGS AT NISI PRIUS AFTER TERM, by JOHN LANE, Esq. D.C.L. of the Inner Temple, Barrister-at-Law.

ELECTION LAW.

REGISTRATION APPEALS in the COMMON PLEAS by EDWARD W. COX, Esq. of the Middle Temple, Barrister-at-Law; and HENRY TINDAL ATKINSON, Esq. of the Middle Temple, Barrister-at-Law.

ELECTION COMMITTEES by EDWARD W. COX, Esq. of the Middle Temple, Barrister-at-Law.

REGISTRATION COURTS, collected and edited by EDW. W. COX, Esq. of the Middle Temple, Barrister-at-Law.

IRISH REPORTS.

The LORD CHANCELLOR'S COURT by WILLIAM DUGGAN, Esq. Barrister-at-Law.

QUEEN'S BENCH and CRIMINAL COURTS by WM. ST. LEGER BABINGTON, LL.D. Barrister-at-Law.

N.B.—The names of the reporters of such important points as may arise upon Circuit will be announced as the arrangements for each are completed.

The Written Judgments are reported verbatim in Short-hand by Mr. H. GREGORY, Short-hand Writer.

Published every SATURDAY, price 4d. or 5d. stamped,

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HERTS.—Early in September will be offered for SALE by AUCTION (of the times and places whereof due notice will be given in future papers), unless previously disposed of by private contract, the MANORS of COTTERED and BRADFIELD, situate near Buntingford, in the county of Hertford; with the ancient Mansion-house called Bradfield Hall, beautifully situated amongst extensive woodlands, and upwards of 850 of arable, meadow, pasture, and wood land, with rior farmhouses, cottages, and buildings, convenient situated thereon, in the occupation of respectable tenants; moderately stocked with game, and well adapted for preserving. The whole is freehold and tithe-free, and is situated within thirty miles of London, and, with the exception of a few acres, bounded by a ring fence. The estate is surrounded by good roads, and the poor-rates and other are extremely moderate.—Mr. Samuel Cooper, of C. will shew the estate; and further particulars may be had on application to Messrs. Jessopp, Son, and Burnaby, solicitors, Derby; or to Mr. Thomas Miles, surveyor, Leicester.

Derby, August 2, 1845.

Periodical Sales (established in the year 1803) of Reversions, Life Interests, Annuities, Policies of Assurance, Advowsons, Next Presentations, Rent Charges in lieu of Tithes, Post-obit Bonds, Tontines, Debentures, Ground Rents, Improved Rents, Shares in Docks, Canals, Mines, Railways, Insurance Companies, and all Public Undertakings.

MESSRS. SHUTTLEWORTH and SONS respectfully inform the public, that upwards of 40 years' experience having proved the classification of this species of property to be extremely advantageous and economical to vendors, and equally satisfactory and convenient to purchasers, the PERIODICAL SALES of reversionary interests, policies of insurance, tontines, debentures, advowsons, next presentations, all securities dependent upon human life, shares in docks, canals, mines, railways, and all public undertakings, will be continued through 1845, as under:—

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Particulars may be had Ten days previous to each sale, at the Royal Hotel, Manchester; the Adelphi Hotel, Liverpool; Dee's Royal Hotel, Birmingham; the Angel, Oxford; the Eagle and Child, Cambridge; at the Mart; and of Messrs. SHUTTLEWORTH and SONS, 28, Poultry.

FREEMASONS' AND GENERAL LIFE ASSURANCE LOAN, ANNUITY, AND REVERSIONARY INTEREST COMPANY, 11, Waterloo Place, Pall Mall, London.

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THIS Institution is incorporated by Royal Charter, and is so constituted as to afford the benefits of Life Insurance in their fullest extent to Policy-holders, combined with perfect security in a fully subscribed Capital of One Million Sterling, besides an accumulated Premium Fund, exceeding 442,000*l.* and a Revenue, from Life Premiums alone, of upwards of 90,000*l.* per annum.

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A Prospectus, containing Tables of Premiums, with the names of the President, Vice-Presidents, Directors, and Managers, who are all responsible PARTNERS, may be obtained of Messrs. B. and M. Boyd, Resident Members of the Board, 4, New Bank Buildings; or of the Actuary, 10, Pall-mall East.

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This old-established Society has recently received additional powers, by special Act of Parliament, and affords facilities in effecting Insurances to suit the views of every class of insurers.

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The last bonus under this provision was declared on the 27th of June, 1845, being an additional bonus of Ten per cent. on all the premiums paid by the holders of policies of insurance for the whole term of life, with corresponding additions to holders of policies of endowment.

Those who are insured to the amount of 300*l.* and upwards for the whole term of life, are admitted to vote at the half-yearly general meetings of the proprietors.

DAVID FOGGO, Secretary.

DEEDS FOR EXECUTION ABROAD.—Messrs. J. and R. M'CRACKEN, Foreign Agents, No. 7, Old Jewry, beg to inform the Legal Profession, that they undertake to forward Deeds for Execution by Parties abroad, through their correspondents on the Continent, for the costs of transmission, and a simple Commission.

List of Correspondents, and for further information, apply as above.

NEW BASTARDY FORMS.—The Forms prescribed by the New Act may now be had in any quantity (as printed for the Verulam Society). Price 1s. per doz. They may be procured, by order, of any Bookseller in the country, on express directions given that they are published at the LAW TIMES Office; and orders should state the No. of each form as stated in the schedule of the Act.

LAW TIMES Office, 29, Essex-street.

Early in September will be published,

THE LAW of INFERIOR COURTS for the RECOVERY of DEBTS; with the New Act. By J. MOSELEY, Esq. Barrister-at-Law.

Part I. treats of Courts—Officers—Jurisdiction—Process—Pleadings—Trial—Verdict—Judgment—Execution—Prohibition—Certiorari, &c.—Writ of Error, &c.—Quo Warranto—Mandamus—Actions against Officers, &c. Part II. treats of Courts of Requests—County Courts—Hundred Courts—Courts Baron—Borough Courts.

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In a few days will be published, in 12mo.

THE REAL PROPERTY ACTS of 1845, with Introductory Observations and Notes, by E. VANSITTART NEALE, Esq. of Lincoln's-inn, Barrister-at-Law, author of a work on the "Law of Feasts and Fasts."

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LEICESTERSHIRE.

TO be SOLD, by PRIVATE CONTRACT, a FREEHOLD DAIRY and PLOUGH FARM, in an excellent state of cultivation, situate within a short distance of the terminus of the Leicester and Swannington Railway, containing about 100 acres, 51 of which are in old turf and meadow. Coal of nearly two yards' thickness has been proved in an adjoining estate at a depth of little more than a hundred yards, and mines are in active operation in the immediate neighbourhood, leaving no doubt whatever of the existence of coal under the whole of this farm. No consideration, however, is demanded for the mines, a fair surface value only being required.

For further particulars, and to treat, apply (by pre-paid letters) to Messrs. SPENCER and ROLLINGS, Solicitors, Waterloo-street, Birmingham.

WEST LODGE, CLAPHAM-COMMON.—Capital Freehold Residence, with Lodge, Gardens, and Pleasure Grounds, Green-house, and Meadow Land, altogether about eight acres; land-tax redeemed.

MESSRS. WINSTANLEY are instructed to SELL by AUCTION, at the Mart, on TUESDAY, September 16, a most eligible FREEHOLD RESIDENCE, erected and finished in a very superior style of elegant neatness, planned for the occupation of a family of the first respectability, and situate at the north-west extremity of Clapham-common; containing a handsome entrance hall, with two staircases, library and drawing-room, a dining-room 25 feet by 17, gentleman's room, two water-closets, a boudoir, five best bed-chambers with closets, dressing-rooms, &c. three secondary rooms, a billiard-room or large nursery, excellent kitchen, and wash-house, amply supplied with fine spring and soft water, servants' hall, dairy, larder, and other attached offices, and capital cellarage, a paved carriage yard, two coach-houses, gig-house, four-stall stable, laundry, and other suitable detached buildings; the lawn, fore-court, and shrubberies are beautifully laid out, the walks encircling the meadows and extending to the Wandsworth-road, to which there is a considerable building frontage. To be viewed by cards only, which, with descriptive particulars, may be had of Messrs. WINSTANLEY, Paternoster-row; particulars may also be had at the office of Mr. Wright, solicitor, 7, Rathbone-place, Oxford-street; and at the place of sale.

QUEMERFORD, near Calne, Wilts.—To Manufacturers, Millers, Brewers, and other Capitalists. Valuable and extensive Freehold Flour Mill and Factory, possessing both steam and water power, with Two private Residences, Cottage, Gardens, and Two Closes of rich Pasture Land, land-tax redeemed. Mr. PARRY has received instructions from the Trustees, under the will of the late Markham Heale, esq. to offer for SALE by AUCTION, at the Lansdown Arms Inn, Calne, on FRIDAY, the 29th day of August, 1845, at Three o'clock in the afternoon, in two lots, and subject to such conditions as will be then produced, the above valuable PROPERTY, viz.—Lot 1. All that Freehold Flour Mill or Factory, situate at Quemerford, about half-a-mile from the town of Calne, and six miles from the Great Western Railway station at Chippenham, possessing a frontage of 167 feet, recently fitted up as a flour mill, with machinery of the very best description. The mill or factory has a constant and powerful supply of water, with a fall of 8 feet, 6 inches, possessing the advantage of not being stopped by flood or frost. The water wheel has recently been erected at an expense exceeding 300*l.* on the most scientific principles. The steam engine, which is by Boulton and Watt, is of 18-horse power. There are also convenient and commodious buildings, which have been appropriated to the manufacture of woollen cloths to a great extent.

Also a very good and convenient Family Residence, near the above, with spacious and numerous rooms, detached brewery, and domestic offices, four-stall stable and chaise-house, productive garden, foreman's cottage, and paddock of rich pasture land; the whole containing about six acres. Lot 2. A most convenient and desirable Villa Residence, replete with every convenience and comfort, fit for the occupation of a gentleman's family, approached by a carriage drive, with lawn, garden, and close of meadow land, comprising nearly three acres. The residence is stone built and well finished, with convenient offices, near to lot 1, but quite detached from it. The entire property is in most substantial repair. 2,000*l.* of the purchase money of lot 1 may remain on the security of that lot at 4½ per cent. To view, apply on the premises. Printed particulars may be had at the following places:—Messrs. Hubbard and Son's, Leeds; Mr. Martin's, Bradford, Yorkshire; Messrs. Howard and Son's, Rochdale; the Swan, Bradford, Wilts; George, Trowbridge; George, Frome; Bath Arms, Warminster; White Lion, Bristol; Castle and Ball, Bath; Bell, Gloucester; Barrett's Hotel, Ross; George, Chepstow; Mr. CLARKSON, Solicitor, Calne; Mr. Davis's, 58, Mark-lane, London; and the Auctioneer's, High-street, Calne.

NORFOLK.—Denham Lodge, together with about 300 acres of superior Arable, Pasture, and [illegible] Land; also the Manor of Little Dunham, extending over 1,[illegible] acres.

MR. W. W. SIMPSON has the pleasure to announce that the above valuable FREEHOLD ESTATE, which was offered for sale by auction in last month, has since been DISPOSED OF by Private Contract, to Robert Copeman, esq. of Aylsham.—Bucklersbury, Aug 16, 1845.

KENT.

MR. W. W. SIMPSON has received instructions to SELL by AUCTION, pursuant to an order of the High Court of Chancery, made in a cause, "Hill against Hanson," with the approbation of Andrew Henry Lynch, esq. one of the Masters of the said Court, at the Crown Inn, Cranbrook, on THURSDAY, September 4, the FEE SIMPLE of and in a certain MESSUAGE or TENEMENT, called Cowshorn, in the parish of Cranbrook, in the county of Kent, together with several closes, pieces, or parcels of land, meadow, pasture, and wood, with the appurtenances belonging to the said messuage, and occupied therewith, containing 40a. 1r. 30p. and now in the occupation of John Hague, as tenant from year to year, at the yearly rent of 70*l.*; the land-tax amounts to 8*l.* 8s. per annum. Particulars may be had (gratis) at the said Master's chambers, Southampton-buildings, Chancery-lane, London; of Messrs. Willis, Bower, and Willis, solicitors, Tokenhouse-yard, London; Messrs. J. N. Carter and Son, Spalding, Lincolnshire; Thomas Greetham, esq. Stanfield Hall, near Wragley, Messrs. Sharpe, Field, and Jackson, solicitors, Bedford-row, London; Messrs. Unthank and Co. Norwich; Mr. Thomas Smith, solicitor, 15, Furnival's inn, London; Mr C. Singleton, 21, Great James-street, Bedford-row, London; at the place of sale, at the principal inns at Dover, Deal, Canterbury, Maidstone, and Cranbrook; and of Mr. W. W. SIMPSON, 19, Bucklersbury, London.

LINCOLNSHIRE.—Extensive and highly valuable Freehold Estate, containing nearly 2,200 Acres, situate near Brigg; together with the valuable Advowson and Next Presentation to the Rectory of Broughton, producing upwards of 1,100*l.* per annum, exclusive of the mansion and glebe

MR. W. W. SIMPSON will SELL by AUCTION, by direction of the heirs of the late Ellys Anderson Stephens, esq. and their trustees, at the Mart, on THURSDAY, August 28, at Twelve, in one lot, an extensive and highly valuable FREEHOLD ESTATE, eligibly situate in the parish of Broughton, about three miles from Brigg. It comprehends nearly 2,200 acres of generally fertile arable, pasture, carr, and woodland. Those surfaces which are designated Carr Lands are of a very powerful and productive description. Also the Manor of Broughton, with the manorial rights appertaining thereto. The property is bounded by the estates of the Earl of Yarborough on the west (whose fox-hounds are kennelled in the neighbourhood), Sir John Nelthorpe on the south, Charles Winn, esq on the north, and on the east by T. G. Corbutt, esq's lands. The estate, therefore, is highly eligible, and peculiarly adapted to field sports in all their varieties, as the woods which form the coverts are of great extent, and adjoin those of a proprietary who preserve so strictly that a constant stream of game must always supervene, independent of any small expense which the proprietor might choose to incur for direct preservation. Three woods on the estate are so extensive, that they would command some of the finest pheasant-shooting in the kingdom; added to which, the growing timber and coppice woods yield a certain annual revenue. There are very agreeable sites for the erection of a shooting lodge or lodges.

With the above will be sold the PERPETUAL ADVOWSON and NEXT PRESENTATION to the valuable RECTORY of BROUGHTON, situate about three miles from Brigg, consisting of a splendid and most complete modern Residence, with gardens, pleasure-grounds, &c together with 94a. 1r. 20p. of glebe land, and the tithe commutation rent-charge, amounting to upwards of 1,100*l.* per annum. The parish contains 6,912 acres. The Rev Thomas Booth Wright the present incumbent, is in his 29th year, and the population is about 900. Mr. Simpson will be open to offers for the entire estate till within fourteen days of the day fixed for the Auction The property may be viewed, and particulars, with plans annexed, price 1s. each, may now be obtained on application to Mr. James Marshall, at Broughton; Messrs. Spolling and Harris, solicitors, Halstead, Messrs Longmore and Sworder, solicitors, Hertford, at the Mart, and of Mr W. W SIMPSON, 19, Bucklersbury.

MR. NEWMAN will SELL by AUCTION, at the Bath Hotel, Bournemouth, on TUESDAY, the 26th day of August, 1845, at Two o'clock, in two Lots (unless otherwise arranged at the time of sale), TWO ACRES of FREEHOLD LAND, situate in the heart of Bournemouth, bounded on the south by the sea-beach, commanding the most delightful views, and singularly valuable as being the only freehold building-sits in this much-frequented and fashionable watering-place

Also, a valuable FREEHOLD ESTATE, of about 20 acres, situate on a rising elevation, and adjoining the noted Chine at Boscombe. This charming and particularly healthful retreat is situate immediately on the Cliff, and within a short mile of Bournemouth; it commands extensive prospects of sea and land, including the Isles of Wight and Purbeck, with the picturesque ruin of Corfe Castle, and Poole Harbour, with the Isle and Castle of Brownsea The frontage is bounded by the sea-beach, which is easy of access by an excellent carriage-road; and the vicinity of the rendezvous of the Royal Yacht Club at Cowes, the advantage of good anchorage in the Bay, and the always easy approach to the Harbour of Pool, render it a most desirable spot for a yachting gentleman The town of Christchurch is within a distance of four miles, and the railroad from Southampton to Dorchester will in a few months place Boscombe within four hours' ride of London. The estate abounds with excellent brick earth, and a plentiful supply of pure spring water. This land will be offered in convenient lots.

Further particulars, with lithographic plans, may be obtained on application to Mr. Crighton, Hurn; Mr. Druitt solicitor, and Mr. NEWMAN, Auctioneer, Christchurch, Hants

DENBIGHSHIRE.

FREEHOLD ESTATES OF INHERITANCE.—To be SOLD by AUCTION, by Messrs. CHURTON and SONS, at the Lion Inn, Ruthin, in the county of Denbigh, on MONDAY, the [illegible] day of September, 1845, at Three o'clock in the afternoon, subject to conditions of sale to be then and there produced, the following Freehold Property, either all together, or in the following or such other lots as shall be determined upon at the time of sale, that is to say.—

Lot 1. All that messuage or tenement, together with the several fields, closes or parcels of arable and pasture land (which are of the very best quality) thereunto belonging, lying in a ring fence, in the parish of Llanfair Dyffryn Clwyd, in the county of Denbigh, and containing by admeasurement 36a. 0r. 19p. or thereabout (be the same more or less,) and called by the name of Garreglwyd, now in the holding of Mrs Ellin Williams, her under-tenants or assigns This lot nearly adjoins the road leading from Ruthin to Wrexham.

Lot 2.—All that messuage or tenement with the several fields, closes, and parcels of arable and pasture land of the same quality thereunto belonging, lying in a ring fence, in the parish of Llanfair Dyffryn Clwyd aforesaid, containing by admeasurement 27a. 0r. 17p. or thereabout (be the same more or less), and called by the name of Plas Isaf otherwise Ty Isaf, also called Pentre Cacholyn, and now in the holding of Mr. John Williams, his under-tenants or assigns. This lot also nearly adjoins the said road leading from Ruthin to Wrexham, and is opposite to the last lot

Lot 3 —All those fields, closes, and parcels of rich arable and pasture land, called by the name of the Pentre Coch Fields, otherwise the Plas Coch Fields, situate in the said parish of Llanfair Dyffryn Clwyd, and containing by admeasurement 15a 2r. 25p. or thereabout (be the same more or less), and now in the holding of Mr. Jones, his under-tenants or assigns.

Lot. 4 All those three Dwelling-Houses, Cottages, and Stable, adjoining the last Lot, together with the gardens and appurtenances thereunto belonging and adjoining, and containing one rood of land or thereabout (be the same more or less), and now in the respective holdings of Moses Williams, John Hughes, and Anne Davies, their respective under-tenants or assigns.

The lands comprised in each of the above three first lots are of the richest quality, well supplied with water, most eligibly situated, and afford opportunities for erecting genteel Family Mansions in the most pleasant and picturesque part of the much admired and fertile Vale of Clwyd The view from the above property commands a full and extensive range of the whole of the Vale, terminating in the Irish Sea, along the coast of which the Chester and Holyhead Railway is intended to pass, and is now in progress. Limestone in abundance may be had at a very cheap rate within the immediate neighbourhood, also coal at the distance of 10 miles. The roads in every direction leading from the above property are very good and always kept so; materials for that purpose being had in the neighbourhood. There are also excellent trout streams within a very short distance. Packs of fox-hounds and harriers are hunted in the vicinity of the property, and there is abundance of game in the neighbourhood; the same adjoining extensive preserves. The projected line of railway in continuation of the "Trent Valley Railway," and to join the Chester and Holyhead Railway, is within a few miles of the property, and the road to the same is the good turnpike-road to Mold. The estate is situated within about two miles of the market-town of Ruthin, where there are public conveyances to Liverpool, Chester, Manchester, Barmouth, Carnarvon, Holyhead, and other places—14 miles from Wrexham, 11 from Llangollen, 16 from Corwen, 8 from Mold, 10 from Denbigh, and 18 from the celebrated watering-places of Rhyl and Abergele, where steam-packets sail regularly for Liverpool The estates adjoin property belonging to Sir Watkin Williams Wynn, Bart. M P. Wilson Jones, esq William Jones, esq. Miss Jones, of Plas Newydd, John Greathead Harris, esq. Joseph Ablett, esq Bevis Thelwall, esq Thomas Hughes, esq. Mrs. Lewis, Pentre-celyn, John Jones, esq Mr. Peter Smart, and others.

For further particulars apply to Mr. John Welch, land agent, Bachymbyd, near Ruthin; Mr John Williams, Pentre-celyn (who will shew the premises); Messrs Edwards and Peake, solicitors, 11, New Palace-yard, London, and at the offices of Mr James Vaughan Horne, solicitor, Denbigh where plans are left for inspection.

MR. FLINT will SELL by AUCTION, at Garraway's, on WEDNESDAY, August 27, at Twelve precisely, a desirable improvable ESTATE of THREE HOUSES situate and being Nos 16 17, and 18, Hamilton-row, Bagnigge-wells road, Battle-bridge, let upon lease at a ground rent of 18*l* per annum, which will expire in seven years when the estimated value of the same will be 70 guineas per annum; a desirable estate of Three well-built Houses, situate and being Nos 1, 2, and 3, China-walk, near Lambeth-walk, let upon lease at rents amounting to 91*l* per annum, held for nearly 30 years at a peppercorn; an Improved Rent of 38*l* 10s for a period of 21 years, arising from three substantial houses, being Nos. 1, 2, and 3, Sermon-lane, St. Paul's; also Two genteel private Residences, situate and being Nos. 6 and 7, Shepperton-place, New North road, Islington, let to respectable tenants at 48*l* per annum, and held for 63 years at 8*l* per annum. The respective premises may be viewed by leave of the tenants, and printed particulars had thereon; also of John Wright, Esq, solicitor, Rathbone-place, Oxford street; at Garraways; and of the Auctioneer, Edgware-road.

BUCKLAND ST. MARY, Somerset.—To be SOLD by AUCTION, by Mr MAYNARD, at the Chard Arms Hotel, in Chard, on MONDAY, the 8th day of September next, precisely at Six o'clock in the evening, the FEE SIMPLE and INHERITANCE of all that compact and most desirable FARM and ESTATE called Colley Farm, consisting of a convenient farm house, with all necessary out-houses, and 225a. 1r 36p statute measure, of excellent orchard, meadow, pasture, and arable land, situate in the parish of Buckland St Mary, Somerset, and now in the occupation of Mr Robert Doble, as yearly tenant. Buckland St. Mary is situate about six miles from Chard and Taunton, through which latter place passes the great Western Railway The estate lies within a ring fence, and is well calculated for the preservation of game For viewing the premises apply to the tenant, and for further particulars at the offices of Mr Penny, Taunton, or Clark and Co., Chard, solicitors.

MILE-END.—[illegible] Residence, and about half an acre of [illegible] Ground, leasehold.

MR. SINGLE will SELL by AUCTION, at the Mart, on TUESDAY, August 26, at Twelve for One, a most desirable FREEHOLD RESIDENCE, pleasantly situate, 5, [illegible]-street, between Grove-road and Globe-road, Mile-end. It stands retired a considerable distance from the road, has large garden in front, portico entrance, [illegible]; on the ground floor two lofty parlours [illegible] handsome dining-room, kitchen, washhouse, scullery, &c.; first floor, three lofty bed-rooms. In the rear is about half an acre of part freehold and part leasehold ground, rent 10*l.* per annum, desirable for building.—Particulars may be obtained of Mr. Robert [illegible], solicitor, 5, Assembly-row, Mile-end-road; and at the Offices of Mr. SINGLE, 34, Coleman-street, City.

Improved Rental of 34*l.* 15s. per annum, arising from a capital Residence, No. 38, West-square, St. George's-road, Southwark.

MR. SINGLE will SELL by AUCTION, at the Mart, on TUESDAY, August 26, at Twelve for One, an IMPROVED RENTAL of 34*l.* 15s. per annum, arising from a capital residence, very desirably situate, No. 38, West-square, St. George's-road, Southwark. It contains about 11 rooms, and is held on lease for a term, of which 37 years (less 14 days) were unexpired at Michaelmas last, at a ground-rent of 5*l.* 5s per annum, and let to ——, esq. solicitor, on an agreement for a lease for the same term, less a few days, at the rent of 35*l.* per annum, and a further rent of 5*l.* per annum for the use of the fixtures. The fixtures will be included in the purchase. The house has been let for years past at a rental of 59*l.* 10s. per annum.—Particulars may be obtained of Mr. Thomas Prior, solicitor, 17, Pavement, Finsbury; and at the office of Mr. SINGLE, 34, Coleman-street, city.

PECKHAM.—21 Plots Freehold Building-ground, partly fronting the Commercial-road, and close to the Canal, valuable for Residences, Wharfs, &c. &c.

MR. SINGLE will SELL by AUCTION at the Mart, on TUESDAY, August 26, at Twelve for One, in lots, 21 PLOTS of highly valuable FREEHOLD BUILDING-LAND, most desirably situate on the West side of the Peckham Branch of the Grand Surrey Canal, near to, and partly fronting the Commercial-road, Peckham, offering rare opportunities for dwelling-houses, wharfs, &c. The distance only about 2½ miles from London-bridge; the neighbourhood is one where a larger number of houses have been erected within the last two or three years, on account of the great demand for them, than have been built in any other part of London within the same time.—Particulars may be obtained of Mr. John Butler, solicitor, 134, Tooley-street, Borough, and at the Offices of Mr. SINGLE, 34, Coleman-street, City.

KENT.—A beautiful Freehold Estate, about thirteen miles from town, with an extensive right of fishing in the river Cray.

MESSRS. HEDGER will SELL by AUCTION, at the Auction Mart, on THURSDAY, August 28 at twelve, a beautiful PROPERTY, called Vale Mascall, situate on the high road from Foot's Cray and North Cray to Bexley, by which it is on one side bounded, and also by the river Cray. Vale Mascall House is a residence replete with accommodation for a gentleman's establishment, every regard to comfort and convenience being studied in an unusual degree, it situate in a pleasing lawn sloping to the river Cray, a clear, rapid, sparkling trout stream, which for a considerable distance margins the property, and which affords first-rate amusement from the quantities and qualities of its trout, &c The house contains handsome reception rooms, excellent bed chambers, and superior offices, and with pleasure-grounds, gardens, and land, altogether exceeds fourteen acres It is in every respect charming property, in the district of the Crays, surrounded by choice society. Particulars may be had of Messrs. HEDGER, Land Agents, 19, New Bond-street, opposite the Clarendon.

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Thursday, September 4	Thursday, November 6
Thursday, October 2	Thursday, December 4.

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AND JOURNAL OF PROPERTY,

The Legislator, the Magistrate, and the Lawyer.

VOL. V. No. 126.] SATURDAY, AUGUST 30, 1845.

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BIRTHS, MARRIAGES, AND DEATHS.

[The charge for the insertion of the above is 5s.]

BIRTHS.

FOWLER.—On the 23rd inst, at Duffield Bank, near Derby, the wife of John Coke Fowler, esq. Barrister-at-Law, of a son.

LEE.—On the 27th inst. at 1, Chester-place, Regent's Park, the lady of F. Valentine Lee, esq. Barrister-at-Law, of a daughter.

MARRIAGES.

BENSON, Henry Roxby, esq. Captain in her Majesty's 17th Lancers, third son of Thomas Starling Benson, esq. of the Manor House, Teddington, to Mary Henrietta, second daughter of the Hon. Mr. Justice Wightman, on Tuesday, the 26th inst. at St. Paul's, Belgrave-sq.

DEATHS.

BELL.—On the 22nd instant, at his residence, in Cloudesley-st. Islington, Janet, the wife of Mr. Bell, of Bow Church-yard, solicitor.

COOPER.—On the 21st inst. at Stanhope-st. Mary Justina, widow of the late Sir George Cooper, judge of the Supreme Court of Judicature, at Madras, daughter of John Lloyd, esq. of Dale Castle, Pembrokeshire, Mabus, Cardigan, aged 65.

DAVIES, Edward, esq. Master in Equity, on the 2nd ult. at Bombay.

OTTLEY, the Hon. Sir Richard, late Chief Justice of the Supreme Court in Ceylon, on the 23rd inst. at Boulogne-sur-Mer, aged 62.

TOPPING.—On the 23rd inst. at Ffryth, near Wrexham, Elizabeth Sarah, fourth daughter of the late James Topping, esq. King's Counsel.

LORD SEAFORD.—Probate of the will of the Right Hon. Charles Rose Baron Seaford, of Seaford, in the county of Sussex, but late of Woodend, in the same county, was granted on the 20th inst. to the executors, the Right Hon. Frederick William Hervey, commonly called Earl Jermyn, and the Right Hon. Charles Viscount Canning, a power being reserved to the Right Hon. Charles Augustus Baron Howard de Walden and Seaford, the son, and an executor, to prove hereafter. He directs that his wife, Anne Louisa Emily, Baroness Seaford, shall be paid in advance from the jointure under the marriage settlement, and bequeaths for her immediate use a legacy of 500*l.*; also leaves her the carriages and household furniture, and that she may continue to reside at Woodend; the plate at her decease he leaves to his eldest son. He directs that the old Montpelier estate in Jamaica shall be released from all claims prior to those of his wife, and that all sums due therefrom to the Crown shall be discharged; and leaves the absolute interest in all his West India property to his eldest son. All other his estates, real, copyhold, and leasehold, at Seaford, Woodend, Audley-square, or elsewhere, he gives, devises, and bequeaths to his son, Lord Howard de Walden and Seaford. The personal estate in England is sworn under 20,000*l.* The will is dated the 7th of September, 1843, signed "Seaford." His lordship died the 1st of July last, in his 74th year.

THE REPORTS.

[These are usually brought down to the Wednesday preceding publication. Where *Cur. adv. vult*, the case is not reported till judgment given. All written judgments are taken in shorthand, and reported *verbatim*. Rules *nisi* are reported.]

The following are the names of gentlemen who favour the LAW TIMES with the Reports:—

PRIVY COUNCIL by THOMAS CAMPBELL FOSTER, of the Middle Temple, Esq. Special Pleader.

EQUITY COURTS.

LORD CHANCELLOR'S COURT by RICHARD GRIFFITHS WELFORD, Esq. of the Inner Temple, Barrister-at-Law.

VICE-CHANCELLOR of ENGLAND'S COURT, by GEORGE GOLDSMITH, Esq. of the Middle Temple, Barrister-at-Law.

ROLLS COURT, by J. MACAULAY, Esq. of the Inner Temple, Barrister-at-Law.

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Sir Peter Laurie, Alderman, Chairman of the London Board.
Francis Warden, Esq. (Director H.E.I.C.) Vice Chairman.
John Webster, M.D., F.R.S. 24, Brook-street, Physician.

THIS Institution is incorporated by Royal Charter, and is so constituted as to afford the benefits of Life Insurance in their fullest extent to Policy-holders, combined with perfect security in a fully subscribed Capital of One Million Sterling, besides an accumulated Premium Fund, exceeding 442,000*l.* and a Revenue, from Life Premiums alone, of upwards of 90,000*l.* per annum.

Eighty per cent. or four-fifths of the total profits of the Company, are septennially divided among the Assured.

A Prospectus, containing Tables of Premiums, with the names of the President, Vice-Presidents, Directors, and Managers, who are all responsible PARTNERS, may be obtained of Messrs. B. and M. Boyd, Resident Members of the Board, 4, New Bank Buildings; or of the Actuary, 10, Pall-mall East. JOHN KING, Actuary.

Periodical Sale of Reversions, Life Interests, Annuities, Life Policies, Advowsons, Next Presentations, and all descriptions of Securities dependent upon human Life, Ground and Improved Rents, Post Obit Bonds, Shares in Railways, Mines, Insurance Companies, and all other public undertakings.

MESSRS. FULLER and MARSH respectfully inform the public, that by their system of periodical sales by Auction they are enabled to offer to persons expectant or otherwise interested in the above description of property the most prompt, economical, and satisfactory mode of disposing thereof, as by classifying these descriptions of interests and properties in the same particular and for the same day, much expense is avoided, and a far greater competition is secured. Their periodical sales of reversions, life interests, annuities, life policies, advowsons, next presentations, and all descriptions of securities dependent upon human life, shares in railways, mines, and all other undertakings, will be continued throughout the present year as follows:—

Thursday, September 4	Thursday, November 6
Thursday, October 2	Thursday, December 4.

Notice of Sales intended to be effected by the above means should be forwarded to Messrs. Fuller and Marsh a fortnight prior to each date, in order that they may have the full benefit of publicity. Messrs. Fuller and Marsh beg to call the attention of the public to the economy and expedition of this system of business, as they are thereby enabled to include each property for the sum of two guineas and a half, including all expenses, should a sale not be effected. Particulars of the next periodical sale may be obtained at the Offices of Messrs. FULLER and MARSH, 2, Charlotte-row, Mansion-house, London.

Periodical Sale.—Policy for 2,300*l.* in the Argus Life Assurance Company.

MESSRS. FULLER and MARSH have received instructions to include in their next Monthly Sale of Reversions, Policies of Assurance, &c. appointed to take place at the Mart on THURSDAY next, September 4, at Twelve, in lots, a POLICY for 2,300*l.* effected with the Argus Life Assurance Company, on the life of a gentleman now in the 45th year of his age.—Particulars may be obtained at the Mart; and at Messrs. FULLER and MARSH'S Offices, Charlotte-row, Mansion-house.

Periodical Sale.—A Life Interest of 24*l.* per annum, arising from Freehold Property.

MESSRS. FULLER and MARSH have received instructions from the Assignees to SELL by AUCTION, at the Mart, on THURSDAY next, September 4, at Twelve, a LIFE INTEREST of 24*l.* per annum, arising from a freehold messuage and premises, and receivable during the life of a gentleman now aged 45.—Particulars may be obtained at the Mart; of Mr. John Biggenden, solicitor, 5, Walbrook; of J. F. Groom, esq. official assignee, Abchurch-lane; and of Messrs. FULLER and MARSH, Charlotte-row, Mansion-house.

Periodical Sale.—Two Policies in the Asylum Life-office for 500*l.* each, age 60.

MESSRS. FULLER and MARSH have received instructions to include in their next Monthly Sale of Reversions, Life Policies, &c. appointed to take place at the Mart, on THURSDAY next, September 4, at Twelve, in lots, TWO POLICIES OF ASSURANCES, for 500*l.* each, effected with the Asylum Life-office in the year 1838, on the life of a gentleman now aged 60.—Particulars may be obtained at the Mart; of Mr. H. Clarke, solicitor, George-street, Mansion-house; and at Messrs. FULLER and MARSH'S offices, Charlotte-row, Mansion-house.

Periodical Sale.—Reversionary Interests and Policies of Insurance.

MESSRS. FULLER and MARSH have been favoured with instructions to include in their next Monthly Sale of Reversionary Properties, Shares, &c. appointed to take place at the Mart, on THURSDAY next, September 4, at Twelve, in several lots, several REVERSIONARY INTERESTS, Policies of Assurance, in the Argus and Asylum Life Offices, and Shares in the Old Greenwich Steam Packet Company. Detailed particulars will appear in future advertisements.

Charlotte-row, Mansion-house, August 15.

Periodical Sale.—Reversionary Interest in the sum of 1,502*l.* 4s. 3½ per Cent. Consols.

MESSRS. FULLER and MARSH have received instructions to include in their next Periodical Sale of Reversionary Property, &c. appointed to take place at the Mart, on THURSDAY next, September 4, at Twelve, in lots, the ABSOLUTE REVERSION in and to ONE-SEVENTH PART or SHARE of the SUM of 1,502*l.* 4s., 3½ per Cent. Consols, standing in the names of trustees, and receivable on the death of a person now aged 62 years.—Particulars may be obtained of Messrs. Burrell and Patterson, solicitors, White Hart-court, Lombard-street; or of the Auctioneers, Charlotte-row, Mansion-house.

Periodical Sale—Absolute Reversion in and to One-seventh Part or Share of the sum of 1,502*l.* 4s. Consols.

MESSRS. FULLER and MARSH have been favoured with instructions to include in their next Monthly Sale of Reversions, appointed to take place at the Mart, on THURSDAY next, September 4, at Twelve, in lots, the ABSOLUTE REVERSION in and to the ONE-SEVENTH PART or SHARE of the SUM of 1,502*l.* 4s. Three-and-a-Quarter per Cents. standing in the names of trustees, and receivable on the death of a person now aged 67.—Particulars may be obtained of Messrs. Burrell and Patterson, solicitors, White Hart-court, Lombard-street; or Messrs. FULLER and MARSH, Surveyors and Land Agents, Charlotte-row, Mansion-house.

Periodical Sale,—Shares in Hansom's Patent Safety Cabriolet Company.

MESSRS. FULLER and MARSH have received instructions to include in their next Periodical Sale, appointed to take place at the Mart, on THURSDAY next, September 4, at Twelve, in lots, TWENTY-FIVE SHARES in Hansom's Patent Safety Cabriolet Company.—Particulars may be obtained at the Mart; and of the Auctioneers, Charlotte-row, Mansion-house.

Peckham-lane, New-cross, Surrey.—Valuable Long Leasehold Investments.

MESSRS. FULLER and MARSH have received instructions to SELL by AUCTION, at the Mart, on THURSDAY next, September 4, at Twelve, in lots, TWO substantial and modern brick-built VILLAS, Nos. 3 and 4, Carlton-grove, Peckham-lane, each containing three bed-rooms, two sitting-rooms (communicating by folding-doors), entrance-hall, back and front kitchens, cellars, &c. The houses are fitted up regardless of expense, and are inclosed by a neat iron palisading, with small garden; are held for a period of eight years at a ground-rent of 8*l.* per annum. On the above property nine shares have been advanced by a building society; the annual payments on such share amount to 75*l.* 12s. and the property is sold subject to such payments, which it is confidently expected will terminate in eight or nine years.—Particulars may be obtained on the premises; at the Mart; and of Messrs. FULLER and MARSH, 2, Charlotte-row, Mansion-house.

LITTLE BUSHEY, HERTS.—Cottage Residence, Garden, and three acres of Meadow Land.

MESSRS. FULLER and MARSH have been favoured with instructions to SELL by AUCTION, at the Mart, on THURSDAY, September 25, at Twelve, without reserve, a valuable COPYHOLD ESTATE, situate at Little Bushey, Herts; consisting of a very desirable detached cottage residence, newly built, with about three acres of superior meadow land; let at rents amounting to 33*l.* per annum. The meadow land possesses valuable building frontages to the road from Bushey to Elstree and Watford.—Particulars may be obtained at the Mart; of Mr. Nation, solicitor, 4, Orchard-street, Portman-square; of Mr. Fairthorne, solicitor, St. Alban's; of Mr. Blagg, solicitor, St. Alban's; at the Three Crowns, Bushey Heath; at the Rose and Crown, Watford; and of the Auctioneers, Charlotte-row, Mansion-house.

Freehold Estates, Battersea, Surrey.

MESSRS. FULLER and MARSH have received instructions to SELL by AUCTION, at the Mart, on THURSDAY, September 25, at Twelve, a desirable FREEHOLD PROPERTY, situate near to the new church, in Battersea-fields; comprising two substantial brick-built family residences, with excellent gardens in the front and rear; also four well-built cottages in Sleaford-street, all of which are let to respectable tenants, and produce a rental of 92*l.* per annum.—The property may be viewed on application to the tenants, and particulars obtained on the premises; of Mr. Haclam, solicitor, Copthall-court, Throgmorton-street; and at Messrs. FULLER and MARSH'S Offices, 2, Charlotte-row, Mansion-house.

KENT.—A compact Freehold Farm.

MR. W. MARSHALL will SELL by AUCTION, at the Mart, on THURSDAY, September 1, at One precisely, a very desirable FREEHOLD FARM, comprising about 50 acres of very fertile land, known as Park-farm, Smarden, near Biddenden, adjoining the property of Sir Edward Deering. The lands are in a high state of cultivation, have been in the possession of the present family for many years, and can be safely recommended as a profitable and secure investment of capital, the present proprietor being willing to rent the same on lease.—Particulars, and cards to view may be obtained of Thomas Blackman, esq. Lashenden, near Biddenden; at the Mart; and at the offices of the Auctioneer, 23, Moorgate-street, Bank.

Valuable Reversion in Funded Property and Freehold Ground-rents, and in a Moiety of 5,000*l.* secured by a policy in the Equitable.

MESSRS. WINSTANLEY respectfully announce that they have been directed to SELL by AUCTION, at the Mart, on THURSDAY, 9th of October, in Three Lots, the following property, viz.:—

Lot 1.—The absolute Reversion in One Moiety expectant on the decease of a gentleman aged 65, in the undermentioned stock, now standing in the names of trustees in the Bank of England—600*l.* Three-and-a-Quarter Reduced, 729*l.* 13s. 6d. and 700*l.* Consols, and 2,485*l.* 10s. 5d. New Three-and-a-Quarter per Cents.

Lot 2.—The Absolute Reversion expectant on the decease of the same gentleman, in One Moiety of One Fifth Share of a Freehold Estate, consisting of about 27 acres of land in the Liverpool-road, Islington, extending from the workhouse to Park-lane, now covered with houses, and known as the Barnsbury Park Estate, let upon long leases, and producing a total rent of 808*l.* 14s.

Lot 3. A Moiety of the sum of 5,000*l.* secured by a policy in the Equitable, receivable on the death of the same party, the premiums on which, during the life of the party assured, are payable by trustees out of the rents of the freehold property at Islington.

Printed particulars may be had of Messrs. Bischoff and Coxe, solicitors, 19, Coleman-street, at the Mart, and of Messrs. WINSTANLEY, Paternoster-row.

WEST LODGE, CLAPHAM-COMMON.—Capital Freehold Residence, with Lodge, Gardens, and Pleasure Grounds, Green-house, and Meadow Land, altogether about eight acres. land-tax redeemed.

MESSRS. WINSTANLEY are instructed to SELL by AUCTION, at the Mart, on TUESDAY, September 16, a most eligible FREEHOLD RESIDENCE, erected and finished in a very superior style of elegant neatness, planned for the occupation of a family of the first respectability, and situate at the north-west extremity of Clapham-common; containing a handsome entrance hall, with two staircases, library and drawing-room, a dining-room 25 feet by 17, gentleman's room, two water-closets, a boudoir, five best bed-chambers with closets, dressing-rooms, &c. three secondary rooms, a billiard-room or large nursery, excellent kitchen, and wash-house amply supplied with fine spring and soft water, servants' hall, dairy, larder, and other attached offices, and capital cellarage, a paved carriage yard, two coach-houses, gig-house, four-stall stable, laundry, and other suitable detached buildings; the lawn, fore court, and shrubberies are beautifully laid out, the walks encircling the meadows and extending to the Wandsworth-road, to which there is a considerable building frontage.—To be viewed by cards only, which, with descriptive particulars, may be had of Messrs. WINSTANLEY, Paternoster-row; particulars may also be had at the office of Mr. Wright, solicitor, 7, Rathbone-place, Oxford-street; and at the place of sale.

CLAPHAM.—Long Leasehold Investment.

MESSRS. FOOKS and JOHNSON are instructed to SELL by AUCTION, at the Mart, opposite the Bank of England, on WEDNESDAY, September 17, in lots, five very desirable long LEASEHOLD HOUSES, adjoining each other, being "Pleasant-place," Manor-street, Clapham. These houses are exceedingly well built, in a good situation, let to very respectable tenants, at a rental of 158*l.* per annum, which is considered much under their value, and form altogether an exceedingly eligible investment; held on lease for 73 years, from March 25, 1842, at the low ground-rent of 23*l.* per annum, which will be apportioned.—May be viewed by leave of the respective tenants. Particulars at the Mart; of Messrs. Harbin and Ward, solicitors, 12, Clement's-inn; and of Messrs. FOOKS and JOHNSON, Auctioneers, Surveyors, &c. 30, Lincoln's-inn-fields.

LAMBETH.—Three good Leasehold Houses and Shop in an excellent situation.

MESSRS. FOOKS and JOHNSON are instructed by the administrator to SELL by AUCTION, at the Mart, on WEDNESDAY, Sept. 17, 1845, at Twelve o'clock, THREE very excellent LEASEHOLD HOUSES and SHOP, with good premises in the rear, situate and being Nos. 75, 76, and 78, Prince's-road, Lambeth. These houses are well built, in good repair, and let to respectable tenants, producing altogether a rental of about 85*l.* per annum. The lease is for 61 years, about 37 years of which are unexpired; and this property will be sold free of ground-rent, affording, therefore, a most desirable investment.—May be viewed by leave of the respective tenants. Particulars may be obtained of Messrs. Harbin and Ward, solicitors, 12, Clement's-inn, at the Mart, and of Messrs. FOOKS and JOHNSON, Auctioneers, Surveyors, &c. 30, Lincoln's-inn-Fields.

VALUABLE FREEHOLD ESTATE.—Maunby; North Riding of Yorkshire.—For SALE by AUCTION, at the house of Mrs. Andrews, Three Tuns Inn, in Thirsk, in the county of York, on MONDAY, the 22nd September, 1845, at One o'clock in the afternoon; either altogether or in Lots, as may be agreed upon at the time of sale, and subject to conditions to be then produced, all that the MANOR or LORDSHIP of MAUNBY-UPON-SWALE, in the parish of Kirkby Wiske, in the North Riding of Yorkshire, with the rights, royalties, members, and appurtenances thereunto belonging or appertaining. Together with all that Ferry or Passage over the said river Swale, at Maunby aforesaid, with all the dues, duties, payments, privileges, and customs thereunto belonging or therewith enjoyed. Also, all that Valuable Freehold Estate, situate, lying, and being at Maunby aforesaid, containing in the whole by estimation, 473 acres or thereabouts, and forming the two very compact and convenient farms following, viz.:—All those several closes or parcels of excellent arable, pasture, and meadow land, containing in the whole by admeasurement, 220 acres or thereabouts. Together with the commodious farm house, farming buildings, and conveniences thereto belonging, commonly called or known by the name of the Maunby Demesne Farm, now in the tenure or occupation of Mr. George Nicholson. And all those several closes or parcels of excellent arable, pasture, and meadow land, containing, in the whole by admeasurement, 252 acres, or thereabouts. Together with the farm house, farming buildings and conveniences thereto belonging, commonly called or known by the name of the Maunby Rush Farm, and now in the tenure or occupation of Mrs. Elizabeth Jordison. The above estate which is respectably tenanted, contains some of the best pasture and feeding land in the North-Riding of Yorkshire, and the arable land is very productive and in a high state of cultivation. This very eligible property offers a most desirable investment to the capitalist, the whole of it is covered by a modus or customary payment in lieu of tithes, with the exception of a very small portion of the Maunby Rush Farm, the tithes of which have been commuted. The estate is well stocked with game, and the owner of it will have the exclusive fishing in the river Swale to considerable extent. Possession of the entire estate can be given to the purchaser in the spring of 1846. Maunby is situate within a convenient distance from the market towns of Northallerton and Thirsk, and near the Otterington Station on the Great North of England Railway. The tenants will show their respective farms, and printed particulars, with plans of the estate, may be had on and after the 1st of September next, at the place of Sale, from Messrs. Sharpe, Field, and Jackson, solicitors, 41, Bedford-row, London; Mr. Farmery, solicitor, Ripon; or, Mr. JOHN PREST, solicitor, Masham, Yorkshire.—Masham, August 12, 1845.

HERTS. — Shortly will be offered for SALE by AUCTION (of the times and places whereof due notice will be given in future papers), unless previously disposed of by private contract, the MANORS of COTTERED and BRADFIELD, situate near Buntingford, in the county of Hertford; with the ancient Mansion-house called Bradfield Hall, beautifully situated amongst extensive woodlands, and upwards of 930 acres of arable, meadow, pasture, and wood land, with superior farmhouses, cottages, and buildings, conveniently situated thereon, in the occupation of respectable tenants; moderately stocked with game, and well adapted for preserving. The whole is freehold and tithe-free, and is situated within thirty miles of London, and, with the exception of a few acres, bounded by a ring fence. The estate is surrounded by good roads, and the poor-rates and outgoings are extremely moderate.—Mr. Samuel Cooper, of Cottered, will shew the estate; and further particulars may be obtained on application to Messrs. Jessopp, Son, and Burnaby, solicitors, Derby; or to Mr. Thomas Miles, surveyor, Leicester.

Derby, August 2, 1845.

LONDON:—Printed by HENRY MORRELL COX, of 74, Great Queen Street, in the Parish of St. Giles in the Fields, in the County of Middlesex, Printer, at his Printing Office, 74 & 75, Great Queen Street aforesaid, and published by JOHN CROCKFORD, of 29, Essex Street, Strand, in the Parish of St. Clement Danes, in the City of Westminster, Publisher, at the Office of the LAW TIMES, No. 29, Essex Street aforesaid, on Saturday, the 30th day of August, 1845.

THE LAW TIMES,

AND JOURNAL OF PROPERTY,

FOR

The Legislator, the Magistrate, and the Lawyer.

VOL. V. No. 127.] SATURDAY, SEPTEMBER 6, 1845.

SUBSCRIPTION.
For One Year, paid in advance.. £2 0 0
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Single Numbers, or on credit .. 0 1 0
Double Numbers 0 1 6

Money Wanted.

WANTED between 15,000*l.* and 20,000*l.* on MORTGAGE of valuable Freehold Land of ample value, situate within three miles of the City.
For further particulars apply, by letter, to Z. Z., 27, Trafalgar-square, Mile-end.

TO CAPITALISTS and Persons in search of Safe and Profitable Investments.—Mr. WILLIAM MARSHALL begs respectfully to state that he has several FREEHOLD and LONG LEASEHOLD HOUSES, situate in the most preferrable part of Moorgate-street, to DISPOSE of by PRIVATE CONTRACT, which will pay a high rate of interest.
For particulars apply to Mr. WM. MARSHALL, Auctioneer and Estate Agent, 23, Moorgate-street.

Situations Vacant.

LAW.—WANTED, in an Office of extensive Practice in Town, a CLERK (who has not been articled) competent to take the chief management of the Conveyancing under the superintendence of the Principals, and to act in their absence if needed. The most satisfactory references will be required.
Applications by letter (pre-paid), stating age, previous employment, and amount of salary expected, may be addressed to T. R. Boyle and Co. Law Stationers, Carey-street, Lincoln's-inn, London.

LAW STATIONERY.—WANTED, for the country, a COPYING CLERK, who must be competent, if required, to take the management of a business. Good testimonials will be required, and the amount of salary expected must be stated.
Application to be made, post-paid, with specimens of the writing and engrossing of the applicant, to W. R., Post-office, King William-street, City, London.

LAW.—WANTED for a Permanency, a Respectable MAN who can copy and engross neatly and expeditiously, and draw ordinary drafts. None need apply under 25 years of age, and who cannot give the most satisfactory references as to character and ability.—Address to Mr. TUCKER, Bookseller, Weymouth.

TO ARTICLED CLERKS.—An Attorney of many years' experience would be happy to receive into his house a gentleman attending in London for the purpose of being admitted, who, if desired, would be assisted through a course of study, preparatory to the Examination. Apply by letter (post paid) addressed to C., Mr. Street's, Stationer, Serle-street, Lincoln's-inn, London.

MEDICAL APPRENTICE.—A Medical Man, practising in a large sea-port town, and holding the office of Surgeon to an Infirmary, has a VACANCY for a PUPIL, who will in every respect be treated as a gentleman. From the public appointments which the advertiser holds, he is able to offer very superior advantages, which will be fully communicated by letter.
Address to X. Y. Z., Mr. BANKS, 28, Paternoster-row.

Partnerships Wanted.

LAW.—WANTED to PURCHASE, by a Gentleman of considerable experience in the Profession, a SHARE in an established Business of respectability in Town or Country, for which an adequate premium will be given, with efficient services; or, the PRACTICE of any gentleman desirous of retiring in a short time, and of being relieved of a portion of his labours in the meantime.
Address M. N. at Messrs. Leaver & Shirley's, Law Stationers, Carey-street, Lincoln's-inn.

LAW.—A Gentleman who has been in Practice since his Examination in a Provincial Town, is desirous of meeting with a PARTNERSHIP. He would prefer one where the partner is about middle-aged, or advanced in years, and would require an active person to take the whole of the arduous part of the business.—Address, stating particulars and premium required, to A. B. 26, Northumberland-street, Strand, London.

LAW PARTNERSHIP WANTED.—A Gentleman, aged 32, who has filled his present Situation in an Office of large country practice for fourteen years, during the last eleven of which he has had its entire management, is desirous of a JUNIOR PARTNERSHIP. He is intimately conversant with Conveyancing, Petty Sessions and Parochial Business, Common and Criminal Law, and the general branches of Practice in a country office. His expectations are moderate, and he would not object to a previous six or twelve months' service as Managing Clerk, that his qualifications and habits might become the subject of personal experience. A populous neighbourhood preferred.
Address J. M. W. A., LAW TIMES Office, Essex-street, Strand.

LAW PARTNERSHIP.—A Gentleman of highly respectable family, who was admitted in Easter Term last, is desirous of Purchasing a SHARE in a well-established TOWN PRACTICE, averaging about 300*l.* a year. He would apply himself strictly to business.
Also, a Gentleman, recently admitted, wishes *to have the run* of a respectable Country Office for a few months, in order to acquaint himself with the routine of Country Practice. An office having a tolerable Conveyancing Business would be preferred. He would, of course, be willing to assist in whatever might be required. No salary. The most satisfactory references will be given.
Address, pre-paid, to J. M., Mr. SYDENHAM'S, Bookseller, Poole, Dorset.

WRITING INK.—WHITAKER and CO.'S FRENCH JET WRITING INK.—This freely flowing Ink is adapted to be used with either Steel or Quill Pens, and from its durability it will be found the best Ink manufactured for Records and Office use, &c. as TIME and CLIMATE can never efface its brilliancy.
Sold by all respectable booksellers and stationers, and wholesale at the manufactory, 69, Hatton-garden, London.

TO BE SOLD.—A good FREEHOLD FARM, called Hagg Hill, Kemp House, and High Cross Wood, consisting of a good farm-house, and every requisite, farming building, and 107 acres of land, situate in Smarden, Kent, occupied by John Vane, except the woodland, which is in hand.
For further particulars apply to the owner, Mr. George Ballard, of Sandhurst, Kent; and to Messrs. Beecham and Upperton, solicitors, Hawkhurst.

Sales by Auction.

Periodical Sale of Reversions, Life Interests, Annuities, Life Policies, Advowsons, Next Presentations, and all descriptions of Securities dependent upon human Life, Ground and Improved Rents, Post Obit Bonds, Shares in Railways, Mines, Insurance Companies, and all other public undertakings.

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Thursday, October 2 | Thursday, November 6
Thursday, December 4.
Notice of Sales intended to be effected by the above means should be forwarded to Messrs. Fuller and Marsh a fortnight prior to each date, in order that they may have the full benefit of publicity. Messrs. Fuller and Marsh beg to call the attention of the public to the economy and expedition of this system of business, as they are thereby enabled to include each property for the sum of two guineas and a half, including all expenses, should a sale not be effected. Particulars of the next periodical sale may be obtained at the Offices of Messrs. FULLER and MARSH, 2, Charlotte-row, Mansion-house, London.

TO BE PEREMPTORILY SOLD, pursuant to a Decree of the High Court of Chancery, made in a cause *Broadbent* v. *Broom*, and *Clegg* v. *Broom*, with the approbation of John Edmund Dowdeswell, esquire, one of the Masters of the said Court, by Mr. JOHN OUSEY, at the Crown Inn, New Mills, in the county of Derby, on WEDNESDAY, the 17th day of September instant, at five o'clock in the afternoon, in two lots, certain FREEHOLD ESTATES, in the hamlet of Whitle, in the parish of Glossop, in the county of Derby, consisting of a capital Messuage or Mansion House, with the outbuildings, gardens, and appurtenances thereto, with a cottage adjoining, and several pieces or parcels of land, known as the WHITLE BANK ESTATE, containing 48 acres 3 roods and 15 perches statute measure.
Also an Estate contiguous and adjoining to the last-mentioned property, known as the TAN PITS ESTATE, consisting of two Farmhouses and buildings and lands, together with two Messuages or Cottages, and gardens thereto, containing in the whole 19 acres 1 rood and 15 perches, statute measure.
Printed particulars whereof may be had (gratis) at the said Master's office, Southampton-buildings, Chancery-lane; of Messrs. Mayhew and Son, 26, Carey-street, Lincoln's-inn; Mr. John Spinks, jun. Great James-street, Bedford-row; Messrs. Milne, Parry, Milne, and Morris, Temple, London; of Mr. Richard Redfern, solicitor, Oldham; Mr. Walmsley, solicitor, Marple, near Stockport; Mr. HALSALL, Solicitor, Middleton, near Manchester (where a plan of the estates may be seen); at the place of sale; and also of Mr. John Taylor, land surveyor, New Mills.

GLAMORGANSHIRE, SOUTH WALES.—Capital FREEHOLD ESTATE and FREEHOLD MINERAL PROPERTY, to be SOLD by AUCTION by Messrs. ADAM MURRAY and SON, at the Mackworth Arms Inn, in the borough and seaport town of Swansea, in October next, unless disposed of in the mean time by Private Contract, of which due notice will be given, a House, in High-street, and a good Wharf near the Town Hall, and several Farms (twenty in number), and the coal under upwards of 1,600 acres of land, all situate in the several parishes of Llansamlet, Swansea, St. John-juxta-Swansea, Llanyefelach, Llanyuke, Llandilo-talybort, Loughor, Ilstone, and Llanridian. Some of the coal is of as good quality for steam-packet purposes as any in the kingdom, and the situation commands an excellent outlet to the sea for exportation. The South Wales, Welsh Midland, and Swansea Vale Railways will pass through parts of the property, and will increase the facilities of bringing the coal to market. A portion of the coal in Llanyefelach and St. John's has been leased at sleeping rents and royalties to most responsible tenants.—Printed particulars will be ready by the middle of September, and may be had of Messrs. Llewellyn and Randall, solicitors, Neath; Messrs. Rowland, Hacon, and Rowland, solicitors, 38, Threadneedle-street, London; at the office of Messrs. ADAM MURRAY and SON, 35, Craven-street, Strand, London; at the inns at Bristol and Swansea, and at the Commercial Rooms at Liverpool, Newcastle-upon-Tyne, Manchester, and Glasgow.

HERTS.—Shortly will be offered for SALE by AUCTION (of the times and places whereof due notice will be given in future papers), unless previously disposed of by private contract, the MANORS of COTTERED and BRADFIELD, situate near Buntingford, in the county of Hertford; with the ancient Mansion-house called Bradfield Hall, beautifully situated amongst extensive woodlands, and upwards of 830 acres of arable, meadow, pasture, and wood land, with superior farmhouses, cottages, and buildings, conveniently situated thereon, in the occupation of respectable tenants; moderately stocked with game, and well adapted for preserving. The whole is freehold and tithe-free, and is situated within thirty miles of London, and, with the exception of a few acres, bounded by a ring fence. The estate is surrounded by good roads, and the poor-rates and outgoings are extremely moderate.—Mr. Samuel Cooper, of Cottered, will shew the estate; and further particulars may be obtained on application to Messrs. Jessopp, Son, and Burnaby, solicitors, Derby; or to Mr. Thomas Miles, surveyor, Leicester.
Derby, August 2, 1845.

Valuable Reversion in Funded Property and Freehold Ground-rents, and in a Moiety of 5,000*l.* secured by a policy in the Equitable.

MESSRS. WINSTANLEY respectfully announce that they have been directed to SELL by AUCTION, at the Mart, on THURSDAY, 9th of October, in Three Lots, the following property, viz.:—
Lot 1.—The absolute Reversion in One Moiety expectant on the decease of a gentleman aged 65, in the undermentioned stock, now standing in the names of trustees in the Bank of England—600*l.* Three-and-a-Quarter Reduced, 729*l.* 13*s.* 6*d.* and 700*l.* Consols, and 2,485*l.* 10*s.* 5*d.* New Three-and-a-Quarter per Cents.
Lot 2.—The Absolute Reversion expectant on the decease of the same gentleman, in One Moiety of One Fifth Share of a Freehold Estate, consisting of about 27 acres of land in the Liverpool-road, Islington, extending from the workhouse to Park-lane, now covered with houses, and known as the Barnsbury Park Estate, let upon long leases, and producing a total rent of 808*l.* 11*s.*
Lot 3. A Moiety of the sum of 5,000*l.* secured by a policy in the Equitable, receivable on the death of the same party, the premiums on which, during the life of the party assured, are payable by trustees out of the rents of the freehold property at Islington.
Printed particulars may be had of Messrs. Bischoff and Coxe, solicitors, 19, Coleman-street, at the Mart, and of Messrs. WINSTANLEY, Paternoster-row.

WEST LODGE, CLAPHAM-COMMON.—Capital Freehold Residence, with Lodge, Gardens, and Pleasure Grounds, Green-house, and Meadow Land, altogether about eight acres: land-tax redeemed.

MESSRS. WINSTANLEY are instructed to SELL by AUCTION, at the Mart, on TUESDAY, September 16, a most eligible FREEHOLD RESIDENCE, erected and finished in a very superior style of elegant neatness, planned for the occupation of a family of the first respectability, and situate at the north-west extremity of Clapham-common; containing a handsome entrance hall, with two staircases, library and drawing-room, a dining-room 25 feet by 17, gentleman's room, two water-closets, a boudoir, five best bed-chambers with closets, dressing-rooms, &c. three secondary rooms, a billiard-room or large nursery, excellent kitchen, and wash-house amply supplied with fine spring and soft water, servants' hall, dairy, larder, and other attached offices, and capital cellarage, a paved carriage yard, two coach-houses, gig-house, four-stall stable, laundry, and other suitable detached buildings; the lawn, fore-court, and shrubberies are beautifully laid out, the walks encircling the meadows and extending to the Wandsworth-road, to which there is a considerable building frontage.—To be viewed by cards only, which, with descriptive particulars, may be had of Messrs. WINSTANLEY, Paternoster-row; particulars may also be had at the office of Mr. Wright, solicitor, 7, Rathbone-place, Oxford-street; and at the place of sale.

Bibliotheca Blackstonciana, consisting of 4,500 volumes in Theological, Classical, Law, and general Literature, and numerous beautifully-illustrated Works; exceedingly valuable Paintings of a character highly interesting and worthy the greatest attention, as the collection possesses many unquestioned originals by esteemed masters; amongst them may be noticed the Portraits of the celebrated Judge Blackstone and his Lady, by Gainsborough; a Scene in Venice, by Franzo de Guardi, formerly in the collection of Lord Charles Spencer, and undoubtedly the chef d'œuvre of this great master; an interesting Portrait of Charles I. from the same nobleman's collection, and many other choice specimens; the service of Plate, consisting of 2,000 ounces; also, some Bronzes, double-barrelled Gun, and superior miscellaneous effects, late the property of W. S. Blackstone, esq. M.P. the greater part having been collected by the learned Judge Blackstone and Dr. Blackstone, of Oxford, and removed from the country seat, at Wallingford, Berks.

MR. PRICE has been favoured with instructions to SELL by AUCTION, at his Rooms, Quality-court, 48, Chancery-lane, on WEDNESDAY, September 10, and two following days, at Twelve for One each day, the above valuable LIBRARY, consisting of 4,500 volumes, including many Sermons and Lectures by eminent divines; Paley's Works, Warburton's Divine Legation of Moses, Black Letter Bible, 1592; Macklin's Bible, 7 vols. folio, fine plates; D'Oyly and Mant's Bible, and many Theological Works; Demosthenes, Schæfferi, Gr. et Lat.; Thucydides, Hackii, Gr. et Lat.; Sophocles, Hermanni; Homeri Opera, Græce, Editio Princeps, Florent. 1488; Herodoti Historia; Ciceronis Opera, Ernesti; the Delphin Classics, 151 vols., and other Classical Works; Pickering's Edition of the Statutes at Large, 85 vols.; Prynne's Parliamentary Writs, 4 vols. 1659-64. In the general Literature will be found the Works of Dryden, Pope, Sterne, Johnson, Spenser, Burke, Shakspeare, Swift, Bolingbroke, Robertson, Bacon, Locke, Hume and Smollett's History, Lingard's ditto, Universal History, ancient and modern, Rollin's Ancient History, Allison's History of Europe; Naturalists' Library, 40 volumes; Rees's Cyclopædia, plates, 45 vols.; History of Oxford, &c. Also the following illustrated works:—Boydell's Shakspeare, Boydell's History of the Thames, Illustrations of Oxford, Venise les Principaux Monumens, Read's Etchings, Marmora Oxoniensis, Coney's Ancient Cathedrals, Coney's Ecclesiastical Edifices, Monumenta Societat. Antiq. Londini; Heath's Picturesque and other Annuals; the Marlborough Gems, 2 vols. privately printed; Finden's Illustrations of Lord Byron, Galerie de Napoleon, Hogarth's Works, Grose's Antiquities, Skelton's Antiquities of Oxfordshire, Pyne's Costumes of various Nations, with many others. Amongst the valuable paintings may be also noticed fine specimens of the following esteemed masters:—

Poussin	Vandyck	Old Francks	Spagnoletto
Brueghel	Vandervelde	Vanni	Guercino
Paul Brill	Berghem	Bamboccio	Tintoretto
Rothenhamer	Vander Helst	Sneyders	Watteau,&c.

The Plate consists of 2,000 ounces, and comprises a set of silver corner dishes, with heaters, a 20-inch oblong tray, a circular salver, and several small waiters, handsome chased coffee service, table candlesticks, epergne, spoons, forks, salt-cellars, Argyll and some capital plated articles, soup tureens, ice pails, branch candlesticks, &c.; also miscellaneous articles.

May be viewed two days prior and mornings of sale, and catalogues had, at 6d. each (ten days prior to the sale), at the Angel Hotel, Oxford; the Hoop Hotel, Cambridge; of Edward Jennings, esq. 16, Chancery-lane; and of Mr. T. E. PRICE, Auctioneer, 48, Chancery-lane, London.

Insurance Companies.

UNITED KINGDOM LIFE ASSURANCE COMPANY.

TEMPORARY OFFICES DURING THE ALTERATIONS, No. 28, REGENT-STREET, WATERLOO-PLACE, LONDON.

Established by Act of Parliament in 1834.

DIVISION OF PROFITS AMONG THE ASSURED

HONORARY PRESIDENTS.

Earl of Errol.	Earl Somers.
Earl of Courtown.	Lord Viscount Falkland.
Earl Leven and Melville.	Lord Elphinstone.
Earl of Norbury.	Lord Belhaven and Stenton.
Earl of Stair.	

DIRECTORS.

James Stuart, Esq., Chairman.
Hananel De Castro, Esq., Deputy Chairman.

Samuel Anderson, Esq.	Charles Graham, Esq.
Hamilton Blair Avarne, Esq.	F. Charles Maitland, Esq.
Edw. Boyd, Esq., Resident.	William Railton, Esq.
E. Lennox Boyd, Esq., Asst. Resident.	John Ritchie, Esq.
Charles Downes, Esq.	F. H. Thomson, Esq.

Surgeon—F. Hale Thomson, Esq., 48, Berners-street.

This Company, established by Act of Parliament, affords the most perfect security in a large paid-up Capital, and in the great success which has attended it since its commencement in 1834,

Its Annual Income being upwards of £72,000.

In 1841, the Company declared an addition to the Shareholders of one-half of their Stock, and also added a Bonus of 2*l*. per cent. per annum on the sum insured to all policies of the participating class from the time they were effected

The Bonus added to policies from March, 1834, to the 31st Dec. 1840, is as follows:—

Sum Assured.	Time Assured.	Sum added to Policy
£5,000	6 Yrs. 10 Months.	£683 6s. 8d.
5,000	6 Years	600 0 0
5,000	4 Years	400 0 0
5,000	2 Years	200 0 0

The Premiums nevertheless are on the most moderate scale, **and only one-half need be paid for the first Five Years,** where the Insurance is for Life.

Every information will be afforded on application to the Resident Directors, EDWARD BOYD, Esq., and E. LENNOX BOYD, Esq., at the Temporary Offices during the Alterations, 28, Regent-street, Waterloo-place, London.

THE LEGAL AND COMMERCIAL LIFE ASSURANCE SOCIETY. Temporary Offices, 68, Cheapside. "Registered provisionally," in pursuance of the statute 7 & 8 Vict. c. 110.

Capital, 500,000*l*. in 10,000 shares of 50*l*. each.

TRUSTEES.

Sir John Dean Paul, bart.
Frederick Mildred, esq.
Charles Buller, esq. M.P.
Sir G. A. Lewin, Q.C.
Samuel Martin, esq. Q.C.

DIRECTORS.

Anderdon, Thos. Oliver, esq. Q.C. Lincoln's-inn.
Burmester, John, esq. Lincoln's-inn.
Brook, George Henry, esq. King's Arms Yard and Huddersfield.
Cockburn, Alex. Edward, esq. Q.C. Temple.
Chambers, Montagu, esq. Q.C.
Courtenay, Philip W. esq. Temple.
Caldecott, Andrew, esq. Cheapside.
Dillon, John, esq. Fore-street.
Dutton, Richard, esq. Basinghall-street.
Ellis, Robert, esq. Cowper's-court, Cornhill.
Elliot, William, esq. M.D. Stratford.
Fry, Peter Wickens, esq. Cheapside.
Gladstone, John, esq. Stockwell-lodge.
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Harrison, Thomas, esq. Walbrook.
James John, esq. Secondary of London.
James Edwin, esq. Temple.
Laing, the Rev. David, M.A., F.R.S. Cambridge-Terrace
Lillwall, Richard, esq. Lime-street.
Ohrly, Henry Gerard, esq. Hackney.
Sheppard, Alfred Byard, esq. Lincoln's-Inn-fields and Frome.
Terrell, Thomas Hull, esq. Lincoln's-Inn.
Venning, Walter Charles, esq. Tokenhouse-yard.
Wood, John, esq. Falcon-square.

AUDITORS.

Charles Bourdillon, esq. Lincoln's-Inn.
William Bagshaw, esq. Coleman-street.
Dalton, H. Serrell, esq. Tokenhouse-yard.

JOINT-SOLICITORS.

S. P. Hook, esq. Tokenhouse-yard.
W. B. James, esq. Basinghall-street.

PHYSICIAN.

John Harris, esq. M.D. Albemarle-street.

SURGEON.

Henry James, esq. Finsbury-square.

BANKERS.

Messrs. Strahan, Paul, and Co. 217, Strand.
Messrs. Masterman and Co. Nicholas-lane.

ACTUARY AND SECRETARY.

J. C. Hardy, esq.

The Society having completed its arrangements, is now ready to receive proposals.

Solicitors in the country desirous of becoming agents are requested to address applications to the Secretary.

NORTH BRITISH INSURANCE COMPANY,
Established 1809.

Protecting Capital, 1,000,000*l*. fully subscribed.
His Grace the Duke of Sutherland, K.G. President.
Sir Peter Laurie, Alderman, Chairman of the London Board.
Francis Warden, Esq. (Director H.E.I.C.) Vice Chairman.
John Webster, M.D., F.R.S. 24, Brook-street, Physician.

THIS Institution is incorporated by Royal Charter, and is so constituted as to afford the benefits of Life Insurance in their fullest extent to Policy-holders, combined with perfect security in a fully subscribed Capital of One Million Sterling, besides an accumulated Premium Fund, exceeding 442,000*l*. and a Revenue, from Life Premiums alone, of upwards of 90,000*l*. per annum.

Eighty per cent. or four-fifths of the total profits of the Company, are septennially divided among the Assured.

A Prospectus, containing Tables of Premiums, with the names of the President, Vice-Presidents, Directors, and Managers, who are all responsible PARTNERS, may be obtained of Messrs. B. and M. Boyd, Resident Members of the Board, 4, New Bank Buildings; or of the Actuary, 10, Pall-mall East. JOHN KING, Actuary.

FREEMASONS' AND GENERAL LIFE ASSURANCE LOAN, ANNUITY, AND REVERSIONARY INTEREST COMPANY,
11, Waterloo Place, Pall Mall, London.

DIRECTORS.

Swynfen Jervis, esq. Chairman.

The Hon. Capt. Carnegie, M.P.	James Jephson, esq.
	William King, esq.
William Day, esq.	G. G. Kirby, esq. Managing Director.
Sir Wm. H. Dillon, R.N. K.C.H.	George Henry Lewes, esq.
Frederick Dodsworth, esq	Sir Thomas Usher, R.N. C.B. and K.C.H.
Joseph Holl, esq.	

THIS Office unites the Benefit of a Mutual Association with the security of a Proprietary Company, and offers to the Assured the following advantages:—

1. Credit until death, with privileges of payment at any time previously, for one-half of the premiums for the first five years, upon Assurances for the whole of Life,—a plan peculiarly advantageous for securing Loans.
2. In Loan transactions the lender secured against the risk of the borrower going out of Europe.
3. Sums assured to become payable AT GIVEN AGES OF DEATH, if previous.
4. Policies indefeasible; fraud alone, not error, vitiating them; and in case the Renewal Premium remain unpaid, the Assurance may be revived at any time within SIX MONTHS, upon satisfactory proof of health, and payment of a trifling fine.
. Officers in the Army and Navy, and persons residing abroad or proceeding to any part of the world, assured at low rates.
6. Immediate, Survivorship, and Deferred Annuities granted; and Endowments for Children, and every mode of provision for Families arranged.

Information, and Prospectuses furnished, on application at the Office.

JOSEPH BERRIDGE, Secretary.

EUROPEAN LIFE INSURANCE and ANNUITY COMPANY. Established January, 1819. Empowered by special Act of Parliament, 7 & 8 Victoria, cap. 48.

Office—No. 10, Chatham-place, Blackfriars.

BOARD OF DIRECTORS.

JOHN ELLIOT DRINKWATER BETHUNE, Esq. Chairman.

John Rivett Carnac, esq.	Alex. H. Macdougall, esq.
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John Thoyts, esq.

PHYSICIANS.

Thomas Thompson, M.D.; Henry Davies, M.D.

This old-established Society has recently received additional powers, by special Act of Parliament, and affords facilities in effecting Insurances to suit the views of every class of insurers.

Premiums are received yearly, half-yearly, or quarterly, or upon an increasing or decreasing scale.

Two-thirds of the profits are added septennially to the policies of those insured for life; one-third is added to the guarantee fund for securing payment of the policies of all insurers.

The last bonus under this provision was declared on the 27th of June, 1845, being an additional bonus of Ten per cent. on all the premiums paid by the holders of policies of insurance for the whole term of life, with corresponding additions to holders of policies of endowment.

Those who are insured to the amount of 500*l*. and upwards for the whole term of life, are admitted to vote at the half-yearly general meetings of the proprietors.

DAVID FOGGO, Secretary.

THE REPORTS.

[These are usually brought down to the Wednesday preceding publication. Where *Cur. adv. vult*, the case is not reported till judgment given. All written judgments are taken in shorthand, and reported *verbatim*. Rules *nisi* are reported.]

The following are the names of gentlemen who favour the LAW TIMES with the Reports:—

PRIVY COUNCIL by THOMAS CAMPBELL FOSTER, of the Middle Temple, Esq. Special Pleader.

EQUITY COURTS.

LORD CHANCELLOR'S COURT by RICHARD GRIFFITHS WELFORD, Esq. of the Inner Temple, Barrister-at-Law.

VICE-CHANCELLOR of ENGLAND'S COURT, by GEORGE GOLDSMITH, Esq. of the Middle Temple, Barrister-at-Law.

ROLLS COURT, by J. MACAULAY, Esq. of the Inner Temple, Barrister-at-Law.

VICE-CHANCELLOR KNIGHT BRUCE'S COURT by GEO. S. ALLNUTT, Esq. of the Middle Temple, Barrister-at-Law.

VICE-CHANCELLOR WIGRAM'S COURT, by J. VESEY DAWSON, Esq. of the Middle Temple, Barrister-at-Law.

COMMON LAW COURTS.

The QUEEN'S BENCH, by J. C. SYMONS, Esq. of the Middle Temple, Barrister-at-Law, and EDWARD WISE, Esq. of the Middle Temple, Barrister-at-Law.

The COURT of COMMON PLEAS, by W. PATERSON, Esq. of Gray's-inn, Barrister-at-law.

The COURT of EXCHEQUER by JOHN BRIDGE ASPINALL, Esq. of the Middle Temple, Barrister-at-Law, and H. T. COLE, Esq. of the Middle Temple, Barrister-at-Law.

The BAIL COURT by T. W. SAUNDERS, Esq. of the Middle Temple, Barrister-at-Law.

The EXCHEQUER CHAMBER by A. A. FRY, Esq. of Lincoln's-inn, Barrister-at-Law.

BANKRUPT AND INSOLVENT COURTS.

The COURT of REVIEW by GEO. S. ALLNUTT, Esq. of the Middle Temple, Barrister-at-Law.

LONDON COMMISSIONERS' COURTS and the INSOLVENT COURT, by B. TALBOT, Esq. of the Middle Temple, Barrister-at-Law.

BRISTOL DISTRICT COURT, by J. ANGUS HOMES, Esq. Barrister-at-Law; and F. T. ALLEN, Esq. Barrister-at-Law.

NISI PRIUS, CIRCUITS, AND CROWN CASES.

CENTRAL CRIMINAL COURT, by B. C. ROBINSON, Esq. of the Middle Temple, Barrister-at-Law.

CROWN CASES (before all the Judges) by A. BITTLESTON, Esq. of the Inner Temple, Barrister-at-Law.

NORTHERN CIRCUIT, York and Liverpool, by J. B. ASPINALL, Esq. Barrister-at-Law. The other parts of the Circuit, by G. F. H. OLEPHANT, Esq. Barrister-at-Law.

WESTERN CIRCUIT, by EDWARD W. COX, Esq. of the Middle Temple, Barrister-at-Law.

OXFORD CIRCUIT, by JOHN LANE, Esq. D.C.L. of the Inner Temple, Barrister-at-Law.

NORFOLK CIRCUIT by JNO. B. DASENT, Esq. Barrister-at-Law.

SITTINGS AT NISI PRIUS AFTER TERM, by JOHN LANE, Esq. D.C.L. of the Inner Temple, Barrister-at-Law.

ELECTION LAW.

REGISTRATION APPEALS in the COMMON PLEAS by EDWARD W. COX, Esq. of the Middle Temple, Barrister-at-Law; and HENRY TINDAL ATKINSON, Esq. of the Middle Temple, Barrister-at-Law.

ELECTION COMMITTEES by EDWARD W. COX, Esq. of the Middle Temple, Barrister-at-Law.

REGISTRATION COURTS, collected and edited by EDW. W. COX, Esq. of the Middle Temple, Barrister-at-Law.

IRISH REPORTS.

The LORD CHANCELLOR'S COURT by WILLIAM DUGGAN, Esq. Barrister-at-Law.

QUEEN'S BENCH and CRIMINAL COURTS by WM. ST. LEGER BABINGTON, LL.D. Barrister-at-Law.

N.B.—The names of the reporters of such important points as may arise upon Circuit will be announced as the arrangements for each are completed.

The Written Judgments are reported verbatim in Short-hand by Mr. H. GREGORY, Short-hand Writer.

FORM OF APPLICATION FOR SHARES.

To the Provisional Directors of the "Sovereign Life Assurance Company."

Gentlemen,

I request you will allot me Shares in the above Company; and I undertake to accept the same, or such less number as you may appropriate to me, and to pay the Deposit, and sign the necessary legal documents, when required.

Dated this day of 1845.

Name in full ____________________

Profession or Business ____________________

Address ____________________

Name of Reference ____________________

Address of Reference ____________________

PUBLICATIONS OF THE VERULAM SOCIETY,

To be had at the Society's Offices, 29, Essex-street, or, by order, of any Bookseller in Town or Country.

N.B. The members of the Society are entitled to all or any of the publications of the Society at one-fourth less than the prices named below. A Prospectus of the Society forwarded to any application.

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Price only 5s. for each Part, containing as much matter as a 10s. Part of the other Reports.

Parts already published.

REAL PROPERTY and CONVEYANCING CASES, in all the Courts of Law and Equity, recently decided. By (L. C.) R. G. Welford; (V. C.) G. Goldsmith; (M. R.) J. Macaulay; (V. C. Br.) G. F. Allnutt; (V. C. Wig.) H. Baker; (Q. B.) J. C. Symons; (C. P.) H. T. Atkinson and W. Paterson; (Ex.) H. B. Aspinall and H. Mills; (Q. B. P. C.) T. W. Saunders, Barristers-at-Law. Parts I. II. and III. price 5s. each.

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COX'S CRIMINAL LAW CASES, before all the Judges, in the Central Criminal Court and on Circuit, reported by Barristers, whose names are appended to their reports, and edited by Edward W. Cox, Esq. Barrister-at-Law. Part I. price 5s. and Nos. 5 and 6, price 1s. 6d. each.

REGISTRATION APPEALS and ELECTION CASES, by Edward W. Cox and H. Tindal Atkinson, Esqrs. Barristers-at-Law. No. I. price 1s. 6d. containing all the Appeals of Michaelmas Term last. The Appeals of the last Term will be published as soon as possible after the Judgments are delivered.

PRACTICE CASES, in LAW and EQUITY (together with Cases in Evidence), namely, Queen's Bench, by J. C. Symons and Edward Wise, Esqrs.; Exchequer, by H. B. Aspinall and H. Mills, Esqrs.; Common Pleas, by H. Tindal Atkinson and W. Paterson, Esqrs.; and the Bail Court, by T. W. Saunders, Esq. Barristers-at-law. The Equity Courts by various Barristers, whose names are appended. Part I. price 5s. and No. 5, price 1s. 6d. are now ready, containing the Cases of Trinity, Michaelmas, and Hilary Terms last.

N.B. These reports are published in numbers of 32 pages each, handsomely printed in large octavo, and may be had stamped for transmission by post. Four numbers of each series are stitched into a wrapper, forming a part. They may be had, or by order, of all Booksellers. Each series is complete in itself. The charge to Members of the Verulam Society is only 1s. for each number, and 4s. for each part.

FORMS FOR OFFICES.

A complete series of Forms for Offices is in preparation, as settled by Counsel. The following are now ready, and may be had in quantities of not less than *one dozen* of each, at the office, or by order of any Bookseller in Town or Country. Orders should specify the number of the Forms required, as in the following list.

I.—COMMON LAW FORMS.

No. 1. Copy Writ of Summons. 6d. per doz.
Ditto. On parchment, 9d. per doz.
No. 2. Copy Subpœna ad test. 6d. per doz.
Ditto. On parchment, 9d. per doz.
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Ditto. On parchment, 2s. per doz.
No. 4. Notice to quit. 9d. per doz.
No. 5. Letter for Payment of Debt. 1s. per doz.
No. 6. Affidavit of Service of Writ. 9d. per doz.
No. 7. Warrant of Distress. 9d. per doz.
No. 8. Notice and Inventory of Distress. 9d. per doz.
No. 14. Notice of Declaration. Fcp. ½ sheets, 9d. per doz.
No. 9. Ditto Ditto Ditto, with or without fly leaf, 9d. per doz.
No. 10. Copy Subpœna duc. tec. for the assizes.
No. 11. Bill of costs on judgment by default.
No. 12. Declaration in debt. 2d. per doz.
No. 13. Ditto promises. 9d. per doz.
No. 15. Notice to inspect and admit. Fcp. 9d. per doz.
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No. 17. Notice to produce documents. 9d. per doz.
No. 18. Notice to inspect and admit. Quarto, for the country, 9d. per doz.
No. 19. Notice of Particulars of Demand. 9d. per doz.
No. 20. Declaration in Ejectment, single demise, 9d. per doz.
No. 21. Ditto. Ditto. double demise. 9d. per doz.
No. 22. Affidavit of service and attendance on summons.
No. 23. Affidavit of service and attendance on summonses.
No. 25. Cognovit for payment of debt. 2s. per doz.
No. 26. Ditto by instalments, 2s. per doz.
No. 27. Warrant of attorney to confess judgment. 2s. per doz.
Precipes. 6d. per doz.

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No. 31. General Retainer. 1s. per doz.
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III.—CONVEYANCING.

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IN THE PARISH OF TRAWSFYNYDD.

No.	Tenements. Tenants' Names.	Acreage.		
1	Goppa, John and Elisabeth Jones	288	3	38
2	Llwyn Derw, Griffith Richards	89	2	24
3	Tyddyn y Felin Issa, Richard Davies	86	0	
4	Tyddyn y Felin Ucha, John Jones	178	3	
5	Gwern Cyfrdwy, Laura Williams	230	2	22
6	Wern bach, Evan Thomas	19	0	0
7	Bronys gellog, Richard Jones	253	1	33
8	Aber and Ffrith, Evan Williams	203	1	5
9	Bryn Teg, Owen Williams and W. Nicholas	166	0	30
10	Gors Wen, Catherine Humphreys	30	2	32
11	Bryn Crwn, David Hughes	114	3	
12	Tyddyn y Sais, John Hughes	101	1	10
13	Tyddyn y Garreg, Evan Thomas	213	1	8
14	Bryn Ysguboriau, Morris Roberts	246	2	27

The rents are very moderate, and in many instances would admit of a considerable advance without any injustice to the tenants; the tithes are commuted, the poor-rates low, and the land-tax upon the whole property redeemed.

This Estate presents to capitalists and others desirous of a safe investment, a most favourable opportunity, as the land abounds in minerals, and the certainty of unlocking the resources of the country by the projected railways, enhances its prospective value to an incalculable extent.

The Mansion House of Goppa on Lot 1, with a trifling outlay, would form a suitable residence for a gentleman of fortune; several trout streams pass through and adjoin the property; and the covers are notorious for early woodcocks.

Every Lot on the Estate has the advantage of having extensive sheep-walks attached, and on most of them are labourers' cottages.

The property is situate on both sides of the turnpike-road leading from Dolgelley to Maentwrog, and is distant from the former place twelve miles, and from the latter five miles.

The lots may be viewed on application to the tenants.

All further information, together with particulars and lithographic plans, may be obtained from Francis Hallowes, esq. Coed, near Dolgelly; Walter Powell Jones, esq. Cefn Rug, near Corwen; Mr. Robert Roberts, Bodtegin, near Cerrig-y-druidion; Messrs. Law and Tindal, solicitors, 10, New-square, Lincoln's-inn, London; and at the office of Mr. Thomas Hughes, solicitor, Denbigh; at the Hall of Commerce, London; and at the Auctioneer's Offices, Well-street, Ruthin.

NOTICE.—THE DELL adjoining WINDSOR PARK.

MESSRS. DANIEL SMITH and SON respectfully apprize the Public that the late Sale of this much admired and delightful retreat, the property of Lord Rossmore, having been abandoned, offers will be again received for the estate with or without the furniture.

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MESSRS. DANIEL SMITH and SON are commissioned to SELL by AUCTION, at the Mart, near the Bank of England, on FRIDAY, September 26, at Twelve (instead of Sept. 16, as before advertised, unless an acceptable offer shall be previously made), the above very valuable and famous FREEHOLD DAIRY and GRAZING ESTATE; comprising nearly the whole hamlet of Shipton Lee, close to Quainton, and within a few miles of Aylesbury and Buckingham, consisting of several capital dairy farms, with suitable houses and homesteads, in the hands of highly respectable tenants, with some beautiful woodlands, full of thriving young oak, and abounding with game, comprising in a ring fence nearly 1,350 acres, chiefly rich grass land, and embracing the Grange Hill, one of the most prominent and beautiful features of the neighbourhood. The annual value of this fine property is about 2,000*l*. exempt from land-tax, and almost from tithes.—Further particulars may be had of Messrs. Whitmore, Roumieu, and Walters, 9, Lincoln's-inn; and of DANIEL SMITH and SON, Land Agents, &c. in Waterloo-place, Pall-mall, and Windsor.

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TO BE PEREMPTORILY SOLD, pursuant to an Order of the High Court of Chancery, made in the causes *Smart* v. *Kenrick*, and *Smart* v. *Sturgis*, with the approbation of the Honourable Sir George Rose, one of the Masters of the said Court, at the Cross Foxes Inn, at Ruthin, in the county of Denbigh, on TUESDAY, the 23rd day of September, 1845, at Five o'clock in the afternoon, a MESSUAGE or TENEMENT, called Tythin-ucha, or Tyucha, situate in the parish of Derwin, in the county of Denbigh, with the pieces or parcels of land held therewith, containing in the whole 41a. 3r. 36p. or thereabouts, now in the occupation of Edward Roberts, as tenant from year to year.—Particulars and conditions may be had (gratis) at the said Master's chambers, in Southampton-buildings, Chancery-lane, London; of Messrs. Few, Hamilton, and Fews, solicitors, Henrietta-street, Covent-garden, London; of Messrs. Milne, Parry, Milne, and Morris, solicitors, 2, Harcourt-buildings, Temple, London; of Mr. Marter, solicitor, 5, Furnival's-Inn, London; of Mr. Peers, solicitor, Ruthin; at the place of sale; and at the principal inns in the neighbourhood. JOSEPH PEERS, Ruthin,
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THE HEADLAM HALL ESTATE, DARLINGTON, DURHAM.—To be SOLD by AUCTION, at the King's Head Hotel, Darlington, in the county of Durham, on MONDAY, the 13th day of October, 1845, at Twelve o'clock, by Mr. WETHERELL, Auctioneer (unless previously disposed of by private contract, of which due notice will be given), a most desirable MANSION, called HEADLAM HALL, with spacious gardens, lawn, orchard, pleasure-grounds, and plantations, well suited for the accommodation of a gentleman's family; and a valuable FREEHOLD ESTATE, land-tax redeemed, comprising about 165 acres of superior meadow, pasture, and arable land, with several cottages for farm-labourers, situate adjoining the pleasant and rural village of Headlam, and about a mile and a half from Gainford, beautifully situate on the banks of the river Tees. The estate, which is in excellent condition, and in the occupation of a highly-respectable tenant, is situate in the best and most picturesque part of the county of Durham, and is easily accessible by good roads to the best markets, being distant from Darlington eight miles, from Barnard-castle eight miles, and from Bishop Auckland eight miles and a half. It is also in a good sporting country, being only three miles distant from the Duke of Cleveland's residence of Raby Castle, where a first-rate pack of fox-hounds is kept. The continuous lines of railway meeting at Darlington afford a ready means of communication with all parts of the kingdom.

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AND JOURNAL OF PROPERTY,

The Legislator, the Magistrate, and the Lawyer.

VOL. V. No. 128.] SATURDAY, SEPTEMBER 13, 1845.

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CHANCERY ORDERS.—The continuation of Mr. BEAVAN'S COLLECTION of ORDERS (Ordines Cancellariæ) has already been printed, and will shortly be published by Messrs. WM. BENNING and Co. 43, Fleet-street.

In a few days will be published,

THE LAW and PRACTICE of SUMMONING TRADER-DEBTORS to the COURTS of BANKRUPTCY, under Statutes 1 & 2 Vict. c. 110, and 5 & 6 Vict. c. 122, with Forms. To which is added, THE SMALL DEBTS ACT, with Notes and Explanations, and a copious Index.

By FRANCIS THOMAS ALLEN, Esq., Of Lincoln's-Inn, Barrister-at-Law.

Price 3s. 6d.

Published at the office of the LAW TIMES.

TO THE LAW STUDENT, &c.

On the 15th inst. will be published No. I. and to appear monthly on the 15th, price 1s. 2d. or 1s. 3d. stamped for post.

THE LAW STUDENTS' LIBRARY.—No. I. commences "Littleton's Tenures," to be completed in four more numbers. The changes in the Law, up to and including 7 & 8 Vict. are incorporated in the text, and also fully explained in the notes.

R. HASTINGS (office of "Law Students' Magazine"), 13, Carey-street, Lincoln's-inn.

Just published, in 12mo. price 12s.

THE ORDERS of the HIGH COURT of CHANCERY, from Hilary Term, 1828, to Trinity Term, 1845, as at present applicable to the Practice; with the Cases decided under each order. By R. LEVINGE SWIFT, Esq. of the Middle Temple, Barrister-at-law.

"The utility of this work will be apparent from a perusal of its title-page. The orders now in force are collected and arranged according to their subjects in alphabetical order, and appended to each are all the reported decisions upon them. A copious index affords a further means of reference. Mr. Swift has executed his task with diligence." —*Law Times*.

OWEN RICHARDS, Law Bookseller, &c. 194, Fleet-street.

DANIELL'S CHANCERY PRACTICE, now complete.—This day is published, Vol. 3, 8vo. 9s. bds. A Treatise on the Practice of the High Court of Chancery, with some Practical Observations on the Pleadings of that Court.

By EDMUND ROBERT DANIELL, F.R.S. Barrister-at-Law.

V. and R. STEVENS and G. S. NORTON, Law Booksellers and Publishers (successors to the late J. and W. T. Clarke, of Portugal-street), 26 and 39, Bell-yard, Lincoln's-Inn.

Just published.

THE SMALL DEBTS ACT, with Introduction, Notes, and copious Index. By EDWARD W. COX, Esq. Barrister-at-Law. Price 2s. bds.

The REAL PROPERTY STATUTES of the SESSION 8 and 9 Vict. with Introduction, Notes, Forms, and an Index. By GEORGE S. ALLNUTT, Esq. Barrister-at-Law. Price 3s.

The Fourth Edition of

The REGISTRATION of ELECTORS ACTS, incorporating the Reform Acts, with Introduction, Index, and Notes of all the Cases Decided on Appeal to the Common Pleas. By EDWARD W. COX, Esq. Barrister-at-Law. Price 5s. boards.

LAW TIMES Office, 22, Essex-street.

Early in September will be published,

THE LAW of INFERIOR COURTS for the RECOVERY of DEBTS; with the New Act.

By J. MOSELEY, Esq. Barrister-at-Law.

Part I. treats of Courts—Officers—Jurisdiction—Process—Pleadings—Trial—Verdict—Judgment—Execution—Prohibition—Certiorari, &c.—Writ of Error, &c.—Quo Warranto—Mandamus—Actions against Officers, &c. Part II. treats of Courts of Requests—County Courts—Hundred Courts—Courts Baron—Borough Courts.

V. and R. STEVENS and G. S. NORTON, Law Booksellers and Publishers (successors to the late J. and W. T. Clarke, of Portugal-street), 26 and 39, Bell-yard, Lincoln's-inn.

Sales by Auction.

Leasehold Residence, with Coach-house and Stable, Brixton-place, near the new church, Brixton.

MR. FREDERICK CHINNOCK is instructed by the Executors to SELL by AUCTION, upon the Premises, on WEDNESDAY, October 8, at Two o'clock precisely, the LEASE of a private RESIDENCE, being 29, Brixton-place, having gardens in front and rear, with coach-house and two-stall stable, and fit for the immediate reception of a respectable family; held for an unexpired term of 17 years, at the low rent of 45*l.* per annum.—May be viewed, and particulars obtained at the Mart; of Messrs. Richardson, Smith, and Sawyer, solicitors, 28, Golden-square; and at Mr. F. CHINNOCK'S Offices, 28, Regent-street, Waterloo-place.

First-rate Leaseholds for investment or occupation, Ampthill-square, Hampstead-road, held direct from the Duke of Bedford, for long terms, at very low ground rents.

MR. FREDERICK CHINNOCK is instructed to SELL, peremptorily, at the Mart, on WEDNESDAY, October 8, at One precisely, FOUR substantially-built private RESIDENCES, two being No. 5, Ampthill-square, and No. 2, Ridgmount-place, let on lease to highly responsible tenants, at rents amounting to 161*l.* per annum; the others being Nos. 3 and 4, Ampthill-square, ready for occupation. Mr. Chinnock particularly recommends this property for either investment or occupation. The houses are, most substantially built, well finished, and decorated with great taste, situate in a highly improving neighbourhood, and held direct from the Duke of Bedford for 99 years, at ground rents of 5*l.* and 6*l.* each.—Descriptive particulars will be published early, and may be obtained of J. Ivemey, esq. solicitor, 1, Ampthill-square, and 26, Chancery-lane; at the Auction Mart; and at Mr. CHINNOCK'S Offices, 28, Regent-street, Waterloo-place.

WINDMILL-HILL, GRAVESEND. — Valuable Freehold Property, known as the Shrubbery Tea Gardens.

MR. FREDERICK CHINNOCK will SELL by AUCTION, at the Mart, on WEDNESDAY, October 8, at Twelve, without the slightest reservation, a valuable PLOT of FREEHOLD BUILDING GROUND, situate on the north-eastern side of Windmill-hill, presenting a considerable undulation of surface, and enjoys from every point the unrivalled panoramic views for which this spot is so justly celebrated. Considerable sums have been expended from time to time upon it by inclosing it with a 5-feet oak fence, sinking a well to a considerable depth, and numerous erections, among others a grated rustic saloon 50 feet by 128, ...er-houses, &c. A portion of the ground could with advantage be allotted as building land without deteriorating from the beauties of the spot, the whole combining to form a ...e investment for capital, and a trifling outlay in the repairing the walks and approaches will ensure a good income in the ensuing season: the whole forming a most compact freehold estate, containing 6a. 2r. 5p.—May be viewed any time previously to the sale. Particulars had of Messrs. Coombe and Sharland, solicitors, Town-hall, Gravesend; at the Mart; and at Mr. F. CHINNOCK'S Auction and Agency Offices, 28, Regent-street, Waterloo-place.

In Chancery.—"Coombe versus Chapman."—Greenhithe, Kent.—Two freehold Villa Residences, with large garden, coach-house, and stabling, of the value of 70*l.* per annum, with immediate possession.

MR. FREDERICK CHINNOCK is instructed, pursuant to a decree made by the High Court of Chancery in the above cause, and with the approbation of Wm. Wingfield, esq. the Master in the above cause, to SUBMIT to AUCTION, at the Auction Mart, London, on WEDNESDAY, October 8, at Twelve, TWO handsome brick-built FREEHOLD VILLA RESIDENCES, situate on the summit of Galley-hill, on the Great Dover-road, 19 miles from town, three miles from Gravesend, and ten minutes' walk from the Greenhithe-pier, where packets call every half-hour. The premises enjoy a fine panoramic view of the river Thames in its course from Belvedere Castle to the Sea-reach, and the adjacent richly diversified country.—May be viewed, and particulars had of Messrs. Coombe and Jones, solicitors, Church-court, Clement's-lane; at the Mart; at the Master's chambers, Southampton-buildings, Chancery-lane; and of Mr. CHINNOCK, Auctioneer, 28, Regent-street, Waterloo-place.

New North-road, City-road, Commercial-road, Mile-end, and Stratford.—Very desirable Residences for occupation, and eligible small Investments, by order of the Executor of Mr. Joseph Clements, deceased, in 13 lots.

MR. MOORE will SELL by AUCTION, at the Mart, on THURSDAY, September 18, at Twelve, THREE substantially and newly-built RESIDENCES, respectably situate Nos. 95 to 97, Murray-street, New North-road; each contains three bed-rooms, three sitting-rooms, kitchens, and garden, finished in superior style; let at 33*l.* per annum each; term, 97 years; ground-rent, 1*l.* 1s. per annum. Also a compact six-roomed house, with cellars and garden, 21, Arbour-street East (on the Mercers' Estate), Arbour-square, Commercial-road; term, 69 years; ground-rent, 4*l.*; suitable for a pilot or revenue officer. Four Houses and a piece of Ground near Mile-end turnpike; held for 25 years, at 10*l.* ground-rent. Four Cottages at Maryland Point, Stratford: term, 83 years; ground-rent, 5*l.* A Copyhold Estate of two Houses, one a corner shop in John-street, Limehouse-fields, let at 35*l.*; fine certain, 10s.; quit-rent, 2d. Four well-built Dwelling-houses, 1 to 4, Walbrook-street, Eagle Wharf-road, New North-road, each containing six rooms, area, wash-house, cellars, and long garden; lease, 59 years; ground-rent, 3*l.* each; let at 24*l.* each. A seven-roomed House and Shop adjoining; term, 50 years; ground-rent, 3*l.* 10s.; and a well-built House and Shop, 25, East-road, City-road, let at a net rent of 30*l.* per annum; term, 40 years; ground-rent, 6*l.*—May be viewed by leave of the tenants, and particulars had of W. H. Turner, esq. Whitechapel-mount; S. Prentice, esq. 13, Bedford-square East; J. Ellerthorp, esq. Colet-place, Commercial-road; Messrs. J. and W. Sheffield, 64, Old Broad-street; of W. J. Boulton, esq. Northampton-square; Mercers' Hall; Swan, Stratford; the Mart; and at the Auctioneer's offices, Mile-end-road.

TO BE PEREMPTORILY SOLD, pursuant to an Order of the High Court of Chancery, made in the causes *Smart v. Kenrick*, and *Smart v. Sturgis*, with the approbation of the Honourable Sir George Rose, one of the Masters of the said Court, at the Cross Foxes Inn, at Ruthin, in the county of Denbigh, on TUESDAY, the 23rd day of September, 1845, at Five o'clock in the afternoon, a MESSUAGE or TENEMENT, called Tythin-ucha, or Tyucha, situate in the parish of Derwin, in the county of Denbigh, with the pieces or parcels of land held therewith, containing in the whole 41a. 2r. 36p. or thereabouts, now in the occupation of Edward Roberts, as tenant from year to year.—Particulars and conditions may be had (gratis) at the said Master's chambers, in Southampton-buildings, Chancery-lane, London; of Messrs. Few, Hamilton, and Fews, solicitors, Henrietta-street, Covent-garden, London; of Messrs. Milne, Parry, Milne, and Morris, solicitors, 2, Harcourt-buildings, Temple, London; of Mr. Marter, solicitor, 5, Furnival's-Inn, London; of Mr. Peers, solicitor, Ruthin; at the place of sale; and at the principal inns in the neighbourhood. JOSEPH PEERS, Ruthin, Plaintiff's Solicitor.

GLAMORGANSHIRE, SOUTH WALES. —Capital FREEHOLD ESTATE and FREEHOLD MINERAL PROPERTY, to be SOLD by AUCTION by Messrs. ADAM MURRAY and SON, at the Mackworth Arms Inn, in the borough and seaport town of Swansea, in October next, unless disposed of in the mean time by Private Contract, of which due notice will be given, a House, in High-street, and a good Wharf near the Town Hall, and several Farms (twenty in number), and the coal under upwards of 1,600 acres of land, all situate in the several parishes of Llansamlet, Swansea, St. John-juxta-Swansea, Llanyefelach, Llanyuke, Llandilo-talybont, Loughor, Pistone, and Llanridian. Some of the coal is of as good quality for steam-packet purposes as any in the kingdom, and the situation commands an excellent outlet to the sea for exportation. The South Wales, Welsh Midland, and Swansea Vale Railways will pass through parts of the property, and will increase the facilities of bringing the coal to market. A portion of the coal in Llanyefelach and St. John's has been leased at sleeping rents and royalties to most responsible tenants.—Printed particulars will be ready by the middle of September, and may be had of Messrs. Llewellyn and Randall, solicitors, Neath; Messrs. Rowland, Hacon, and Rowland, solicitors, 38, Threadneedle-street, London; at the office of Messrs. ADAM MURRAY and SON, 35, Craven-street, Strand, London; at the inns at Bristol and Swansea, and at the Commercial Rooms at Liverpool, Newcastle-upon-Tyne, Manchester, and Glasgow.

Highly important and extremely valuable Landed Estates, alike eligible either for investment or occupation, most delightfully situate in a rich and fertile district, near the borough-town and port of Harwich, containing altogether nearly 1,100 acres of the finest land in the county of Essex.

MR. LEIFCHILD has been favoured with positive instructions by the Devisees in Trust for Sale, to SELL by PUBLIC AUCTION, at Garraway's, on WEDNESDAY, September 17, in various lots, a valuable and most desirable FREEHOLD ESTATE, known as Southall Farm, *in the parish of Ramsey*; compris[illegible] gentlemanly residence, with ample accommodation fo[r] a highly respectable family; lawn[illegible]ls, and walled kitchen gardens, large and [illegible]tious farm-yards, with numerous well-arranged agricultural building of every description, and 378 acres of very superior pasture arable, and sound rich marsh land in a high state of cultivation. This property, which is admirably situate on an eminence near the town of Harwich, and commanding land and sea views of great extent and beauty, is held under an agreement for lease, which will expire at Michaelmas 1853, by Mr. Wm. Keer, a highly respectable tenant, at the low rent of 600*l*. per annum. Also a very desirable Freehold Property, adjoining the preceding farm, and formerly held with the same, comprising sundry handsome inclosures of arable and marsh land, containing in the whole 160 acres; let to Mr. John South, a most respectable tenant at will, at an apportioned rent of 200*l*. per annum. A very eligible and most desirable Freehold Estate, known as Royden-hall Farm, delightfully situate in the beautiful vill[age] [of] Ramsey, comprising a genteel family residence, with lawns, gardens, and pleasure-grounds, capital farm-yard, with appropriate agricultural buildings, surrounded with numerous handsome inclosures of fine meadow and productive corn land of the first quality, in a high state of cultivation, containing in the whole 278 acres, in a ring fence, now in the occupation of Mr. Robert Giles, a most respectable tenant at the low rent of 450*l*. per annum. A very compact and val[uable] Freehold Estate, known as Stourwood Farm, eligibly situate near the turnpike-road, in the parish of Ramsey; comprising a commodious farm-house, with excellent garden, large farm-yards, and suitable agricultural buildings of every description, surrounded by handsome inclosures of first-rate corn land in high cultivation, containing in the whole 161 acres, now in the occupation of Mr. William Malpas, as tenant at will, at the low rent of 250*l*. per annum. A small Freehold Estate, known as Fox's Farm, in the parish of Wratness, with farm-house, yards, and buildings, surrounded by eight inclosures of fine arable land, in excellent cultivation, containing in the whole about 60 acres; let to Mr. Edward Fisher, at the low rent of 90*l*. per annum.—Mr. Leifchild begs respectfully to commend to the attention of noblemen, capitalists, and trust[ees] the above important properties. The farms are of the very first character, and occupied by highly respectable tenants; the houses and buildings are in excellent repair, and the lands farmed in the best possible manner. In addition to these intrinsic advantages, the local and contingent attractions are very superior; among them may be mentioned the beautiful rides and drives with which the neighbourhood abounds, the well-known fertility of the district, its contiguity to the capital market-town and port of Manningtree, and to the borough-town and port of Harwich, to which a railway is in contemplation for the ensuing year.—The estates may be viewed, with tickets only, by permission of the respective tenants, and full descriptive particulars and lithographic plans of each lot may be had at all the principal inns in the counties of Norfolk, Suffolk, and Essex; at Messrs. Winter, Williams, and Co.'s, solicitors, 16, Bedford-row, at Garraway's; and at Mr. LEIFCHILD'S Land and Timber Offices, 62, Moorgate-st. London.

Eligible and safe Investment of 300*l*. per annum in the county of Essex.

MR. LEIFCHILD is instructed by the Devisees in Trust for Sale, to SELL by PUBLIC AUCTION, at Garraway's, on WEDNESDAY, September 17, at Twelve for One precisely, the valuable TITHE RENT CHARGE, arising out of certain capital lands in the admired parish of Dovercourt, near the borough town and port of Harwich, producing 300*l*. per annum, and payable half-yearly by 25 responsible parties.—Full descriptive particulars, with a terrier annexed, may be had at the principal inns in Essex, Suffolk, and Norfolk; at Messrs. Winter, Williams, and Winter's, solicitors, 16, Bedford-row; at Garraway's; and at Mr. LEIFCHILD'S Land and Timber Offices, 62, Moorgate-street, London.

Milkhurst Toll Farm.—A desirable Freehold Estate, land-tax redeemed, at Heathfield, a picturesque district, in the county of Sussex.

MR. LEIFCHILD has received instructions, from the Devisees in Trust for Sale, to SELL by PUBLIC AUCTION, at Garraway's, on WEDNESDAY, September 17, at Twelve for One, in one lot, a very desirable FREEHOLD ESTATE, known as Milkhurst Toll Farm, eligibly situate by the side of the turnpike-road leading from Lewes to Burwash, Mayfield, and Tunbridge-wells, in the pleasant village of Heathfield, in the county of Sussex. It consists of an excellent farm-house, with yards and gardens, barns, stables, oast-house, and other out-buildings, together with 24 inclosures of arable, meadow, pasture, hop-garden, and wood land in a ring fence, the whole containing 149a. 2r. 5p., about 60 of which are productive wood-land. The property is now in the occupation of Mr. Thomas Potten, a respectable tenant; it is freehold, and land-tax redeemed, and the commuted tithes are very moderate. The woods are full of fine young oak timber and thriving underwood, and are well adapted for the preservation of game, of which there abundance at the present time.—May be viewed by permission of the tenant, and full descriptive particulars, with plans, will be issued previous to the sale, and may be had on the premises; at the principal inns at Lewes, Hastings, Tunbridge and Tunbridge-wells, and Mayfield; of Messrs. Winter, Williams, and Winter, solicitors, 16, Bedford-row; at Garraway's; and at Mr. LEIFCHILD'S Land and Timber Offices, 62, Moorgate-street, London.

Compact Freehold Farm, in the parish of Barcombe, in the county of Sussex.

MR. LEIFCHILD is instructed by the Devisees in Trust for Sale, to SELL by PUBLIC AUCTION, at Garraway's, on WEDNESDAY, September 17, at Twelve for One, in two lots, a very eligible small FREEHOLD FARM, known as Spithurst or Panthill Farm, pleasantly situate in the parish of Barcombe, within five miles of the capital market-town of Lewes, in the county of Sussex; comprising a small farm-house and suitable buildings, with 14 inclosures of capital arable, pasture, and wood land, in very excellent cultivation; also a genteel cottage residence, with excellent gardens, and two handsome inclosures of meadow land adjoining: the whole containing 61a. 2r. 2p. in the several occupations of Mr. Wright and the Rev. Evan Jones. —May be viewed by permission of the tenants, and full descriptive particulars, with plans, may be had at the principal inns at Brighton, *Lewes*, and *Hastings*, Tunbridge and Tunbridge-wells; on the premises; of Messrs. Winter, Williams, and Winter, 16, Bedford-row; at Garraway's; and at Mr. LEIFCHILD'S Land and Timber Offices, Moorgate-street, London.

TO CAPITALISTS.—Carmarthenshire and Glamorganshire, South Wales.—The Agent of an extensive Estate calls the attention of Iron-masters, Colliers, Manufacturers, Farmers, and Capitalists in general, to this announcement. He is prepared to enter into engagements with respectable parties for the leasing, on long terms, of various descriptions of property, now the objects of public attention: Anthracite, Bituminous and Steel Coal, Culm, Iron-stone, Limestone, Marble, Flag, and other QUARRIES, Fire Clay, and Brick Earth, Sites for Building at and [nea]r a flourishing and fast rising Commercial Town, Sea port, and Floating Dock, for Manufactories, Ship-building Yards, Wharfs, Store and Dwelling-houses; and in the Coal and Iron district, sites for works joining a railroad and canal, leading by their main trunks and branches to three sea-ports—water-power is almost general. Situations for rural and marine residences in the most beautiful parts of the country, commanding views of Swansea and Carmarthen Bays, and the Black Mountain, with good roads, cheap markets, and daily communication with Bristol, Gloucester, and the Metropolis. The sportsman will find his pursuits rewarded with woodcock, snipe, and other game in winter and in summer, trout, salmon, and the much-esteemed sewin, a fish peculiar to the principality.

The estate containing twelve thousand acres, is situated in twenty-four parishes, offering every variety of soil and scenery to the admirer of the picturesque, and numerous objects of interest to the geologist.

As an inducement to capitalists to embark in such agricultural improvements as draining, planting, erection of proper homesteads, &c. which now so deservedly occupy public attention, leases of ninety-nine years (a term usually confined to building-leases) will be granted for these purposes. Cheap food, cheap labour, cheap fuel, and cheap raw material of every description, will give the manufacturer an advantage over every other part of Great Britain; while the large and still increasing trade in coal affords an intercourse with all parts of the world, for the transmission of raw materials from other localities, at cheap back freights, and for forwarding to their destination the manufactured articles. This more particularly applies to those undertakings where the consumption of coal forms a principal ingredient.

The South Wales Railway will pass through the town and the three sea-ports, and through and near a large proportion of the estate near the sea-coast; while the contemplated Welsh Midland Railway will bring the collieries, iron-stone, limestone, and other quarries within an easy distance of the agricultural counties of Hereford and Worcester, and the great chain of railway communication connecting Birmingham, Liverpool, Manchester, and all the important manufacturing districts of England.

For further particulars apply to Mr. F. L. Brown, solicitor, Llanelly, Carmarthenshire; or to Mr. John Williams, solicitor, 1, Verulam-buildings, Gray's-inn, London.

CLAPHAM.—Long Leasehold Investment.

MESSRS. FOOKS and JOHNSON are instructed to SELL by AUCTION, at the Mart, opposite the Bank of England, on WEDNESDAY, September 17, in lots, five very desirable long LEASEHOLD HOUSES, adjoining each other, being "Pleasant-place," Manor-street, Clapham. These houses are exceedingly well built, in a good situation, let to very respectable tenants, at a rental of 155*l*. per annum, which is considered much under their value, and form altogether an exceedingly eligible investment; held on lease for 73 years, from March 25, 1842, at the low ground-rent of 23*l*. per annum, which will be apportioned.—May be viewed by leave of the respective tenants. Particulars at the Mart; of Messrs. Harbin and Ward, solicitors, 12, Clement's-inn; and of Messrs. FOOKS and JOHNSON, Auctioneers, Surveyors, &c. 30, Lincoln's-inn-fields.

LAMBETH.—Three good Leasehold Houses and Shop in an excellent situation.

MESSRS. FOOKS and JOHNSON are instructed by the administrator to SELL by AUCTION, at the Mart, on WEDNESDAY, Sept. 17, 1845, at Twelve o'clock, THREE very excellent LEASEHOLD HOUSES and SHOP, with good premises in the rear, situate and being Nos. 75, 76, and 79, Prince's-road, Lambeth. These houses are well built, in good repair, and let to respectable tenants, producing altogether a rental of about 85*l*. per annum. The lease is for 61 years, about 37 years of which are unexpired; and this property will be sold free of ground-rent, affording, therefore, a most desirable investment.—May be viewed by leave of the respective tenants. Particulars may be obtained of Messrs. Harbin and Ward, solicitors, 12, Clement's-inn, at the Mart, and of Messrs. FOOKS and JOHNSON, Auctioneers, Surveyors, &c. 30, Lincoln's-inn-Fields.

THE REPORTS.

[These are usually brought down to the Wednesday preceding publication. Where *Cur. adv. vult*, the case is not reported till judgment given. All written judgments are taken in shorthand, and reported *verbatim*. Rules *nisi* are reported.]

The following are the names of gentlemen who favour the LAW TIMES with the Reports:—

PRIVY COUNCIL by THOMAS CAMPBELL FOSTER, of the Middle Temple, Esq. Special Pleader.

EQUITY COURTS.

LORD CHANCELLOR'S COURT by RICHARD GRIFFITHS WELFORD, Esq. of the Inner Temple, Barrister-at-Law.

VICE-CHANCELLOR of ENGLAND'S COURT, by GEORGE GOLDSMITH, Esq. of the Middle Temple, Barrister-at-Law.

ROLLS COURT, by J. MACAULAY, Esq. of the Inner Temple, Barrister-at-Law.

VICE-CHANCELLOR KNIGHT BRUCE'S COURT by GEO. S. ALLNUTT, Esq. of the Middle Temple, Barrister-at-Law.

VICE-CHANCELLOR WIGRAM'S COURT, by J. VESEY DAWSON, Esq. of the Middle Temple, Barrister-at-Law.

COMMON LAW COURTS.

The QUEEN'S BENCH, by J. C. SYMONS, Esq. of the Middle Temple, Barrister-at-Law, and EDWARD WISE, Esq. of the Middle Temple, Barrister-at-Law.

The COURT of COMMON PLEAS, by W. PATERSON, Esq. of Gray's-inn, Barrister-at-law.

The COURT of EXCHEQUER by JOHN BRIDGE ASPINALL, Esq. of the Middle Temple, Barrister-at-Law, and H. T. COLE, Esq. of the Middle Temple, Barrister-at-Law.

The BAIL COURT by T. W. SAUNDERS, Esq. of the Middle Temple, Barrister-at-Law.

The EXCHEQUER CHAMBER by A. A. FRY, Esq. of Lincoln's-inn, Barrister-at-Law.

BANKRUPT AND INSOLVENT COURTS.

The COURT of REVIEW by GEO. S. ALLNUTT, Esq. of the Middle Temple, Barrister-at-Law.

LONDON COMMISSIONERS' COURTS and the INSOLVENT COURT, by B. TALBOT, Esq. of the Middle Temple, Barrister-at-Law.

BRISTOL DISTRICT COURT, by J. ANGUS HOMES, Esq. Barrister-at-Law; and F. T. ALLEN, Esq. Barrister-at-Law.

NISI PRIUS, CIRCUITS, AND CROWN CASES.

CENTRAL CRIMINAL COURT, by B. C. ROBINSON, Esq. of the Middle Temple, Barrister-at-Law.

CROWN CASES (before all the Judges) by A. BITTLESTON, Esq. of the Inner Temple, Barrister-at-Law.

NORTHERN CIRCUIT, York and Liverpool, by J. B. ASPINALL, Esq. Barrister-at-Law. The other parts of the Circuit, by G. F. H. OLIPHANT, Esq. Barrister-at-Law.

WESTERN CIRCUIT, by EDWARD W. COX, Esq. of the Middle Temple, Barrister-at-Law.

OXFORD CIRCUIT, by JOHN LANE, Esq. D.C.L. of the Inner Temple, Barrister-at-Law.

NORFOLK CIRCUIT by JNO. B. DASENT, Esq. Barrister-at-Law.

SITTINGS AT NISI PRIUS AFTER TERM, by JOHN LANE, Esq. D.C.L. of the Inner Temple, Barrister-at-Law.

ELECTION LAW.

REGISTRATION APPEALS in the COMMON PLEAS by EDWARD W. COX, Esq. of the Middle Temple, Barrister-at-Law; and HENRY TINDAL ATKINSON, Esq. of the Middle Temple, Barrister-at-Law.

ELECTION COMMITTEES by EDWARD W. COX, Esq. of the Middle Temple, Barrister-at-Law.

REGISTRATION COURTS, collected and edited by EDW. W. COX, Esq. of the Middle Temple, Barrister-at-Law.

IRISH REPORTS.

The LORD CHANCELLOR'S COURT by WILLIAM DUGGAN, Esq. Barrister-at-Law.

QUEEN'S BENCH and CRIMINAL COURTS by WM. ST. LEGER BABINGTON, LL.D. Barrister-at-Law.

N. B.—The names of the reporters of such important points as may arise upon Circuit will be announced as the arrangements for each are completed.

The Written Judgments are reported verbatim in Short-hand by Mr. H. GREGORY, Short-hand Writer.

FORM OF APPLICATION FOR SHARES.

To the Provisional Directors of the "Sovereign Life Assurance Company."

GENTLEMEN,

I request you to allot me Shares in the above Company; and I undertake to accept the same, or such less number as you may appropriate to me, and to pay the Deposit, and sign the necessary legal documents, when required.

Dated this day of 1845.

Name in full ________________

Profession or Business ________________

Address ________________

Name of Reference ________________

Address of Reference ________________

THE DORKING, BRIGHTON, and ARUNDEL ATMOSPHERIC RAILWAY, by Horsham and Shoreham. (Provisionally registered pursuant to the Act 7th and 8th Victoria, c. 110.) Capital 1,000,000*l*. in 50,000 Shares of 20*l*. each. Deposit 2*l*. 2*s*. per Share.

Arrangements are in progress for the formation of a Company to make at Atmospheric Railway from Dorking (*vià* Epsom) to Brighton through Horsham and Shoreham, and from Horsham to Arundel, thereby affording (either by means of a junction with the Direct London and Portsmouth Atmospheric Railway at Dorking, or the Croydon Atmospheric Railway at Epsom) to the intermediate very populous and wealthy district, the important advantages of a direct communication with the metropolis, and also with the coast from which it is at present excluded, as well as forming the best connecting link between that district and the ports of Shoreham, Arundel, Portsmouth, and Southampton, and the principal towns of Surrey, Sussex, Kent, and Hants.

A detailed prospectus, with the names of the Provisional Committee, will be shortly published, and in the meantime communications may be addressed to Messrs. Campbell and Witty, 21, Essex-street, Strand; Messrs. Attree, Clarke, and MacWhinnie, and Messrs. Upperton, Verrall, and Veysey, Brighton; Messrs. Coppard and Rawlinson, Horsham; Messrs. Everest and Wardroper, Epsom; and Richard Holmes, esq. Arundel.

CAMPBELL and WITTY, Solicitors for the Bill.

DIRECT NORTHERN and WESTERN

Malmesbury, Cirencester, Burford, Deddington, and Towcester, joining the Northampton and Peterborough line at Blisworth, and from Peterborough by the projected lines on to Boston and Great Grimsby; and by branches of the North-Eastern Railway to Yarmouth; thus uniting the three ports of Bristol, Boston, and Yarmouth. (Provisionally registered.) Capital 1,250,000*l*. in 50,000 Shares, at 25*l*. per share. Deposit, 2*l*. 12*s*. 6*d*. per Share.

This important line is projected for the purpose of opening a direct, uninterrupted, continuous communication between the northern, north-eastern, and western counties of England, uniting the important shipping port of Bristol with the agricultural and manufacturing districts in the north and midland counties; and, as it runs in a transverse direction, it will not interfere with any line now in operation; but, on the contrary, whilst it receives, will give support to all the northern, midland, and north-eastern lines.

Prospectuses, with a plan, will be issued in a few days; in the meantime applications for shares may be addressed to the Solicitors to the Company,

Messrs. CAMPBELL and WITTY,
21, Essex-street, Strand.

Sales by Auction.

Periodical Sale of Reversions, Life Interests, Annuities, Life Policies, Advowsons, Next Presentations, and all descriptions of Securities dependent upon human Life, Ground and Improved Rents, Post Obit Bonds, Shares in Railways, Mines, Insurance Companies, and all other public undertakings.

MESSRS. FULLER and MARSH respectfully inform the public, that by their system of periodical sales by Auction they are enabled to offer to persons expectant or otherwise interested in the above description of property the most prompt, economical, and satisfactory mode of disposing thereof, as by classifying these descriptions of interests and properties in the same particular and for the same day, much expense is avoided, and a far greater competition is secured. Their periodical sales of reversions, life interests, annuities, life policies, advowsons, next presentations, and all descriptions of securities dependent upon human life, shares in railways, mines, and all other undertakings, will be continued throughout the present year as follows:—

Thursday, October 2 | Thursday, November 6
Thursday, December 4.

Notice of Sales intended to be effected by the above means should be forwarded to Messrs. Fuller and Marsh a fortnight prior to each date, in order that they may have the full benefit of publicity. Messrs. Fuller and Marsh beg to call the attention of the public to the economy and expedition of this system of business, as they are thereby enabled to include each property for the sum of two guineas and a half, including all expenses, should a sale not be effected. Particulars of the next periodical sale may be obtained at the Offices of Messrs. FULLER and MARSH, 2, Charlotte-row, Mansion-house, London.

An ANNUITY of 100*l*. per Annum.

MESSRS. VENTOM and HUGHES are instructed by the Assignees of James Lane, an Insolvent, to SELL by AUCTION, at the Mart, on THURSDAY, Sept. 18, at Twelve, an ANNUITY of 100*l*. per annum, settled on a Gentleman, after the death of his wife, both in their 46th year, the Lady being the senior by three months, which annuity is vested in the public funds in the names of respectable trustees.—Printed particulars may be had of G. J. Graham, esq. official assignee, 25, Coleman-street; Mr. Chambers, solicitor, 11, Basinghall-street; VENTOM and HUGHES, 7, Angel-court, Throgmorton-street; and at the Auction Mart.

GREENWICH.—Eleven Houses, Thames-street, Frederick-street, and Coltman-street.

MR. SINGLE will SELL by AUCTION, at the Mart, on TUESDAY, September 23, at Twelve for One, ELEVEN well-built HOUSES, in good repair, and desirably situate in the centre of Greenwich, where houses let as well as in the City of London: No. 5 to 11, Frederick-street, Thames-street, a capital corner shop, situate at the end of Coltman-street, in Thames-street, two houses adjoining, and one in the rear in Coltman-street. The houses contain each four rooms and wash-house, and are let at rentals amounting to about 147*l*. per annum: term of lease 51½ years from Michaelmas-day next; ground-rent 23*l*. 10*s*. on the whole.—Particulars will be ready in due time, and may be obtained of Messrs. C. and R. Parker, solicitors, Thornton row, Greenwich, and at the offices of Mr. SINGLE, 34, Coleman-street, City.

OLD KENT-ROAD.—Three Acres of Freehold Building Land, in plots, and Six Freehold Residences.

MR. SINGLE will SELL by AUCTION, at the Mart, on TUESDAY, September 23, 1845, at Twelve for One, in plots, nearly three acres of valuable FREEHOLD BUILDING LAND, desirably situate near the Rising Sun, Old Kent-road, presenting considerable frontages on roads made up. Some of the plots are of corner situation, and some being contiguous to the Grand Surrey Canal are likely to become valuable as wharfs. The distance is only about two miles and a half from London-bridge; and the hundreds of houses which have been erected on those portions of the estate which Mr. Single sold two or three years since prove, beyond all doubt, that the property is desirable as building ground.

Also, Six FREEHOLD RESIDENCES on the same estate.

Particulars will be ready in due time, and may be obtained of Messrs. Barker, Rose, and Norton, solicitors, 50, Mark-lane; of Messrs. Smith and Taylor, solicitors, 4, Basinghall-street; and at the offices of Mr. SINGLE, 34, Coleman-street, City.

THE HEADLAM HALL ESTATE, DARLINGTON, DURHAM.—To be SOLD by AUCTION, at the King's Head Hotel, Darlington, in the county of Durham, on MONDAY, the 13th day of October, 1845, at Twelve o'clock, by Mr. WETHERELL, Auctioneer (unless previously disposed of by private contract, of which due notice will be given), a most desirable MANSION, called HEADLAM HALL, with spacious gardens, lawn, orchard, pleasure-grounds, and plantations, well suited for the accommodation of a gentleman's family; and a valuable FREEHOLD ESTATE, land-tax redeemed, comprising about 165 acres of superior meadow, pasture, and arable land, with several cottages for farm-labourers, situate adjoining the pleasant and rural village of Headlam, and about a mile and a half from Gainford, beautifully situate on the banks of the river Tees. The estate, which is in excellent condition, and in the occupation of a highly-respectable tenant, is situate in the best and most picturesque part of the county of Durham, and is easily accessible by good roads to the best markets, being distant from Darlington eight miles, from Barnard-castle eight miles, and from Bishop Auckland eight miles and a half. It is also in a good sporting country, being only three miles distant from the Duke of Cleveland's residence of Raby Castle, where a first-rate pack of fox-hounds is kept. The continuous lines of railway meeting at Darlington afford a ready means of communication with all parts of the kingdom.

Also to be SOLD at the same time, a compact well-built HOUSE, of moderate size, fronting upon the village-green of Headlam, with a good garden and paddock, in the occupation of Mrs. Brockett. Mrs. Brockett will, upon application, send a person to shew the estate.

Particulars, and a lithographic plan of the estate may be obtained of Messrs. Meredith and Reeves, solicitors, 8, New-square, Lincoln's-inn; and Messrs. Harbin and Wards, solicitors, 12, Clement's-inn, Strand, London; at the George Hotel, York; King's Arms Hotel, Lancaster; King's Head Hotel, Darlington; of the Auctioneer, Durham; and of Mr. Bowser, solicitor, Bishop Auckland, who is authorised to treat for the sale of the estate.

Extensive and Important Sale of Freehold Property, in Merionethshire, North Wales.

MR. LLOYD has been honoured with instructions from the Trustees of the late Richard Parry, esq. of Llwen Ynn, to submit to PUBLIC AUCTION, on TUESDAY, the 7th of October, 1845, at Twelve o'clock, at the Golden Lion Hotel, Dolgelly, in the following, or such lots as may be agreed upon, the GOPPA ESTATE, situate in the parish of Trawsfynydd, in the county of Merioneth, comprehending upwards of 2,200 acres of arable, pasture, and meadow land, with substantial farm-houses and commodious out-buildings, in good repair, and most respectably tenanted.

IN THE PARISH OF TRAWSFYNYDD.

No.	Tenements. Tenants' Na	Acreage.		
1	Goppa, John and Elizabeth Jones . . .	253	3	38
2	Llwyn Derw, Griffith Richards . . .	89	2	24
3	Tyddyn y Felin Issa, Richard Davies . .	85	0	7
4	Tyddyn y Felin Ucha, John Jones . . .	178	3	0
5	Gwern Cyfrdwy, Laura Williams . . .	230	2	22
6	Wern bach, Evan Thomas	19	0	0
7	Bronysgellog, Richard Jones . . .	253	1	33
8	Aber and Ffrith, Fvin Williams . . .	203	1	5
9	Bryn Teg, Owen Williams and W. Nicholas	166	0	30
10	Gors Wen, Catherine Humphreys . . .	30	2	32
11	Bryn Crwn, David Hughes	114	3	7
12	Tyddyn y Suis, John Hughes . . .	101	1	10
13	Tyddyn y Garreg, Evan Thomas . . .	219	1	8
14	Bryn Ysguboriau, Morris Roberts . . .	246	2	27

The rents are very moderate, and in many instances would admit of a considerable advance without any injustice to the tenants; the tithes are commuted, the poor-rates low, and the land-tax upon the whole property redeemed.

This Estate presents to capitalists and others desirous of a safe investment, a most favourable opportunity, as the land abounds in minerals, and the certainty of unlocking the resources of the country by the projected railways, enhances its prospective value to an incalculable extent.

The Mansion House of Goppa on Lot 1, with a trifling outlay, would form a suitable residence for a gentleman of fortune; several trout streams pass through and adjoin the property, and the covers are notorious for early woodcocks.

Every Lot on the Estate has the advantage of having extensive sheep-walks attached, and on most of them are labourers' cottages.

The property is situate on both sides of the turnpike-road along from Dolgelley to Maentwrog, and is distant from the former place twelve miles, and from the latter five miles.

The lots may be viewed on application to the tenants.

All further information, together with particulars and lithographic plans, may be obtained from Francis Hallowes, esq. Coed, near Dolgelly; Walter Powell Jones, esq. Cefn Rug, near Corwen; Mr. Robert Roberts, Bodtegin, near Cerrig-y-druidion; Messrs. Law and Tindal, solicitors, 10, New-square, Lincoln's-inn, London; and at the office of Mr. Thomas Hughes, solicitor, Denbigh; at the Hall of Commerce, London; and at the Auctioneer's Offices, Well-street, Ruthin.

Periodical Sales (established in the year 1803) of Reversions, Life Interests, Annuities, Policies of Assurance, Advowsons, Next Presentations, Rent Charges in lieu of Tithes, Post-obit Bonds, Tontines, Debentures, Ground Rents, Improved Rents, Shares in Docks, Canals, Mines, Railways, Insurance Companies, and all Public Undertakings.

MESSRS. SHUTTLEWORTH and SONS respectfully inform the public, that upwards of 40 years' experience having proved the classification of this species of property to be extremely advantageous and economical to vendors, and equally satisfactory and convenient to purchasers, the PERIODICAL SALES of reversionary interests, policies of insurance, tontines, debentures, advowsons, next presentations, all securities dependent upon human life, shares in docks, canals, mines, railways, and all public undertakings, will be continued through 1845, as follow:—

Friday, Oct. 3. | Friday, Nov. 7.
Friday, Dec. 5.

Particulars may be had Ten days previous to each sale, at the Royal Hotel, Manchester; the Adelphi Hotel, Liverpool; Dee's Royal Hotel, Birmingham; the Angel, Oxford; the Eagle and Child, Cambridge; at the Mart; and of Messrs. SHUTTLEWORTH and SONS, 28, Poultry.

WEST LODGE, CLAPHAM-COMMON.—Capital Freehold Residence, with Lodge, Gardens, and Pleasure Grounds, Green-house, and Meadow Land, altogether about eight acres: land-tax redeemed.

MESSRS. WINSTANLEY are instructed to SELL by AUCTION, at the Mart, on TUESDAY, September 16, a most eligible FREEHOLD RESIDENCE, erected and finished in a very superior style of elegant neatness, planned for the occupation of a family of the first respectability, and situate at the north-west extremity of Clapham-common; containing a handsome entrance hall, with two staircases, library and drawing-room, a dining-room 35 feet by 17, gentleman's room, two water-closets, a boudoir, five best bed-chambers with closets, dressing-rooms, &c., three secondary rooms, a billiard-room or large nursery, excellent kitchen, and wash-house amply supplied with fine spring and soft water, servants' hall, dairy, larder, and other attached offices, and capital cellarage, a paved carriage yard, two coach-houses, gig house, four-stall stable, laundry, and other suitable detached buildings; the lawn, fore-court, and shrubberies are beautifully laid out, the walks encircling the meadows and extending to the Wandsworth-road, to which there is a considerable building frontage.—To be viewed by cards only, which, with descriptive particulars, may be had of Messrs. WINSTANLEY, Paternoster-row; particulars may also be had at the office of Mr. Wright, solicitor, 7, Rathbone-place, Oxford-street; and at the place of sale.

SPALDING and COWBIT.—To be SOLD by AUCTION, by Mr. POLLARD, at the White Hart Inn, in Spalding, in the county of Lincoln, on TUESDAY, September 23, 1845, at Six o'clock in the evening, subject to such conditions of sale as shall be then and there produced, and in the following or such other Lots as shall be agreed upon at the time of Sale.

Lot 1.—All that plot of valuable BUILDING GROUND, situate in Hall-street, and opposite to the Town-hall, and near to the Market-place and Stock-market of Spalding aforesaid, abutting on the south-west on the estate of Mr. Riley, and containing by admeasurement 112 square yards, or thereabouts, having a frontage next the Town Street of about 17 feet, as the same is now staked out, together with the building materials now standing thereon, and being the third part or thereabouts of an ancient messuage and conveniences, now divided into three tenements, and in the respective occupations of Thomas Woods and William Wright.

Lot 2.—All that other plot of building ground, fronting the Town-street aforesaid, adjoining Lot 1 on the south-west, and containing by admeasurement 110 square yards or thereabouts, having a frontage next the Town-street of about 17 feet, as the same is now staked out, together with the building materials thereon, and being one other third part of thereabouts of the said ancient messuage and conveniences.

[illegible] that other plot of Building Ground, adjoining south-west, and the stall-house on the north-west, and near to the stock-market of Spalding aforesaid, containing by admeasurement 110 square yards, or thereabouts, having a frontage next the Town-street of about 17 feet, as the same is now staked out, together with the building materials thereon, as now marked out, and being the remaining third part, or thereabouts, of the said ancient messuage and conveniences.

The situation of the above lots for business purposes is excellent, being in the centre of the populous and improving town of Spalding, opposite to the Town-hall, and contiguous to the market-place and the stock-market.

Lot 4. All that Freehold Close of Arable Land, situate within the first district in the South Fen, in Cowbit, numbered 35 on the plan annexed to the award of the Commissioners for the drainage of Spalding, Cowbit, and other commons, containing by admeasurement 6a. 2r. 23p. (more or less), bounded, north, by land of Mr. John Hutchinson, east by the river Welland and the Cradge Bank, south by land of William Hurrey, and west by the Park Engine Drain, and now in the occupation of James Wade.

Lot 5. All that Freehold Close of Land, situate in Cowbit Wash, in the parish of Pinchbeck, numbered 156 on the plan annexed to the said Commissioners' award, bounded on the south-east by Lord Brownlow's-road, and now in the occupation of Richard Harrison.

The respective purchasers can be accommodated with the whole or any part of their purchase-moneys on approved security.—For further particulars apply to the Auctioneer, or at the offices of Mr. C. S. Todd, solicitor, Hull; or Messrs. S. and W. Edwards, solicitors, Spalding.

Spalding, 8th September, 1815.

LONDON:—Printed by HENRY MORRELL COX, of 74, Great Queen Street, in the Parish of St. Giles in the Fields, in the County of Middlesex, Printer, at his Printing Office, 74 & 75, Great Queen Street aforesaid, and published by JOHN CROCKFORD, of 29, Essex Street, Strand, in the Parish of St. Clement Danes, in the City of Westminster, Publisher, at the Office of the LAW TIMES, No. 29, Essex Street aforesaid, on Saturday, the [illegible] day of Sept., 1845.

THE LAW TIMES,

AND JOURNAL OF PROPERTY,

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VOL. V. No. 129.] SATURDAY, SEPTEMBER 20, 1845.

New Publications.

BIRTHS, MARRIAGES, AND DEATHS.

[The charge for the insertion of the above is 5s.]

BIRTHS.

SHADWELL.—On the 15th inst. in Nottingham-place, the lady of Lancelot Shadwell, esq. of a son.

SHAPTER.—On Friday, the 12th inst. at 20, Devonshire-place, the wife of John Shapter, esq. barrister-at-law, of a son.

WILLIAMS.—On the 16th inst. in Devonport-street, the lady of Joshua Williams, esq. barrister-at-law, of a daughter.

WOOD.—On the 10th inst. at Holly Villa, Finchley-common, the wife of Charles William Wood, esq. barrister-at-law, of a son.

MARRIAGES.

BROWN, Robert, esq. surgeon, of Brixton-hill, Surrey, to Sarah, youngest daughter of Charles Few, esq. solicitor, Covent-garden, London, at the parish church, Streatham, Surrey.

COWLING, John, esq. of the Inner Temple, barrister-at-law, to Edrica, daughter of J. W Faulkner, esq. of the Phillippines, Kent, on the 15th inst. at St. George's, Hanover-square.

ROUTH, Robert Alfred, esq. of Lincoln's-inn, youngest son of the late Rev. S. Routh, rector of Boyton, Wilts, to Sarah Rachel, youngest daughter of the late William Greene, esq. of Melksham, Wilts, on Tuesday, the 9th inst. at the residence of his Excellency the British Ambassador in Paris.

DEATHS.

JONES, Jacob Hugh, esq. eldest son of Jacob Jones, esq. barrister-at-law, of typhus fever, on the 7th inst. aged 21.

TOLLER, Elizabeth Mellor, wife of S. Bush Toller, of Lincoln's-inn, esq. barrister-at-law, on the 11th inst. at Hampstead, aged 38.

THE LIVERPOOL ASSIZE COURTS.—On the 13th we took a hasty glance at the interior of this noble pile of buildings, and found that the work continues still to make a very slow progress. The sound of the hammer and chisel is to be heard at every angle; and we have no doubt, from what we saw and learned on our visits, although the walls are bare, and the building itself is neither roofed nor floored, that a very considerable portion of the preparatory part of the workmanship has been accomplished. The 24 granite columns which are to adorn St. George's-hall have arrived from Aberdeen, and the inauguration of the first of them into its position will take place to-day. The columns will have an extremely grand and imposing effect, the granite being of the richest vein we ever had the opportunity of inspecting. The only other columns in the kingdom which bear any comparison to them are the four in the British Museum in London. There the columns are each hewn from the one block, and present to the eye of a beholder a very elegant appearance. Here, in order to save expense, each column will consist of five or six different pieces, and the joinings must necessarily detract to some extent from the general effect. Still, viewed from either end of the magnificent hall, which will be 199 feet in length, the grandeur and massiveness of the sight will be unequalled. The columns for the front entrance are also nearly completed, and so are the 16 Corinthian capitals. The capitals are from the design of Mr. S. C. Kelsey, of London, who has been superintending their execution; and some idea of their massiveness will be gathered from the fact that each of the circular ones weighs 9 tons, and each of the square ones 11 tons. Many of the internal embellishments, though not yet fixed in their respective places, are either completed or in a state of great forwardness; and we may add, that Mr. Elmes, the architect, has at present 170 workmen daily employed. There appears to be very little difference of opinion, however, on this important point,—that it will take from two to three years, at the very least, to finish the building. But, however distant the period of its completion may be, it will, when finished, be such an ornament to Liverpool as no other town in the kingdom can boast of. Its extreme length will be 498 feet. The length of the hall, as we have said, will be 199 feet; its width 72 feet 9 inches; its height 87 feet 6 inches. The length of the courts will be 59 feet 9 inches; their width 50 feet 6 inches; their height about 30 feet. The concert-room will be 70 feet square by about 40 feet high.—*Liverpool Albion.*

THE REPORTS.

[These are usually brought down to the Wednesday preceding publication. Where *Cur. adv. vult*, the case is not reported till judgment given. All written judgments are taken in shorthand, and reported *verbatim*. Rules *nisi* are reported.]

The following are the names of gentlemen who favour the LAW TIMES with the Reports:—

PRIVY COUNCIL by THOMAS CAMPBELL FOSTER, of the Middle Temple, Esq. Special Pleader.

EQUITY COURTS.

LORD CHANCELLOR'S COURT by RICHARD GRIFFITHS WELFORD, Esq. of the Inner Temple, Barrister-at-Law.

VICE-CHANCELLOR of ENGLAND'S COURT, by GEORGE GOLDSMITH, Esq. of the Middle Temple, Barrister-at-Law.

ROLLS COURT, by J. MACAULAY, Esq. of the Inner Temple, Barrister-at-Law.

VICE-CHANCELLOR KNIGHT BRUCE'S COURT by GEO. S. ALLNUTT, Esq. of the Middle Temple, Barrister-at-Law.

VICE-CHANCELLOR WIGRAM'S COURT, by J. VESEY DAWSON, Esq. of the Middle Temple, Barrister-at-Law.

COMMON LAW COURTS.

The QUEEN'S BENCH, by J. C. SYMONS, Esq. of the Middle Temple, Barrister-at-Law, and EDWARD WISE, Esq. of the Middle Temple, Barrister-at-Law.

The COURT of COMMON PLEAS, by W. PATERSON, Esq. of Gray's-inn, Barrister-at-law.

The COURT of EXCHEQUER by JOHN BRIDGE ASPINALL, Esq. of the Middle Temple, Barrister-at-Law, and H. T. COLE, Esq. of the Middle Temple, Barrister-at-Law.

The BAIL COURT by T. W. SAUNDERS, Esq. of the Middle Temple, Barrister-at-Law.

The EXCHEQUER CHAMBER by A. A. FRY, Esq. of Lincoln's-inn, Barrister-at-Law.

BANKRUPT AND INSOLVENT COURTS.

The COURT of REVIEW by GEO. S. ALLNUTT, Esq. of the Middle Temple, Barrister-at-Law.

LONDON COMMISSIONERS' COURTS and the INSOLVENT COURT, by B. TALBOT, Esq. of the Middle Temple, Barrister-at-Law.

BRISTOL DISTRICT COURT, by J. ANGUS HOMES, Esq. Barrister-at-Law; and F. T. ALLEN, Esq. Barrister-at-Law.

NISI PRIUS, CIRCUITS, AND CROWN CASES.

CENTRAL CRIMINAL COURT, by B. C. ROBINSON, Esq. of the Middle Temple, Barrister-at-Law.

CROWN CASES (before all the Judges) by A. BITTLESTON, Esq. of the Inner Temple, Barrister-at-Law.

NORTHERN CIRCUIT, York and Liverpool, by J. B. ASPINALL, Esq. Barrister-at-Law. The other parts of the Circuit, by G. F. H. OLEPHANT, Esq. Barrister-at-Law.

WESTERN CIRCUIT, by EDWARD W. COX, Esq. of the Middle Temple, Barrister-at-Law.

OXFORD CIRCUIT, by JOHN LANE, Esq. D.C.L. of the Inner Temple, Barrister-at-Law.

NORFOLK CIRCUIT by JNO. B. DASENT, Esq. Barrister-at-Law.

SITTINGS AT NISI PRIUS AFTER TERM, by JOHN LANE, Esq. D.C.L. of the Inner Temple, Barrister-at-Law.

ELECTION LAW.

REGISTRATION APPEALS in the COMMON PLEAS by EDWARD W. COX, Esq. of the Middle Temple, Barrister-at-Law; and HENRY TINDAL ATKINSON, Esq. of the Middle Temple, Barrister-at-Law.

ELECTION COMMITTEES by EDWARD W. COX, Esq. of the Middle Temple, Barrister-at-Law.

REGISTRATION COURTS, collected and edited by EDW. W. COX, Esq. of the Middle Temple, Barrister-at-Law.

IRISH REPORTS.

The LORD CHANCELLOR'S COURT by WILLIAM DUGGAN, Esq. Barrister-at-Law.

QUEEN'S BENCH and CRIMINAL COURTS by WM. ST. LEGER BABINGTON, LL.D. Barrister-at-Law.

N. B.—The names of the reporters of such important points as may arise upon Circuit will be announced as the arrangements for each are completed.

The Written Judgments are reported in Short-hand by Mr. H. GREGORY, Writer.

TO RAILWAY PROJECTORS, CIVIL ENGINEERS, ARCHITECTS, SURVEYORS, &c. —SWINFORD, Brothers, Lithographic Printers, 276, Strand, are prepared to undertake any quantity of Railway Maps, Plans, Sections, &c. Having had considerable experience, and being practical Lithographers themselves, they are enabled to execute the above with the utmost expedition, and in the most accurate manner.

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THIS Office unites the Benefit of a Mutual Association with the security of a Proprietary Company, and offers to the Assured the following advantages:—

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4. Policies indefeasible; fraud alone, not error, vitiating them; and in case the Renewal Premium remain unpaid, the Assurance may be revived at any time within SIX MONTHS, upon satisfactory proof of health, and payment of a trifling fine.
5. Officers in the Army and Navy, and persons residing abroad or proceeding to any part of the world, assured at low rates.
6. Immediate, Survivorship, and Deferred Annuities granted; and Endowments for Children, and every mode of provision for Families arranged.

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JOSEPH BERRIDGE, Secretary.

UNITED KINGDOM LIFE ASSURANCE COMPANY,
8, WATERLOO-PLACE, PALL-MALL, LONDON.
Established by Act of Parliament in 1834.
DIVISION OF PROFITS AMONG THE ASSURED

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Earl of Courtown.	Lord Viscount Falkland.
Earl Leven and Melville.	Lord Elphinstone.
Earl of Norbury.	Lord Belhaven and Stenton.
Earl of Stair.	

DIRECTORS.
James Stuart, Esq., Chairman.
Hananel De Castro, Esq., Deputy Chairman.

Samuel Anderson, Esq.	Charles Graham, Esq.
Hamilton Blair Avarne, Esq.	F. Charles Maitland, Esq.
Edw. Boyd, Esq., Resident.	William Railton, Esq.
E. Lennox Boyd, Esq., Asst. Resident.	John Ritchie, Esq.
Charles Downes, Esq.	F. H. Thomson, Esq.

Surgeon—F. Hale Thomson, Esq., 48, Berners-street.

This Company, established by Act of Parliament, affords the most perfect security in a large paid-up Capital, and in the great success which has attended it since its commencement in 1834,

Its Annual Income being upwards of £72,000.

In 1841, the Company declared an addition to the Shareholders of one-half of their Stock, and also added a Bonus of 2*l*. per cent. per annum on the sum insured to all policies of the participating class from the time they were effected.

The Bonus added to policies from March, 1834, to the 31st Dec. 1840, is as follows:—

Sum Assured.	Time Assured.	Sum added to Policy
£5,000	6 Yrs. 10 Months.	£683 6s. 8d.
5,000	6 Years	600 0 0
5,000	4 Years	400 0 0
5,000	2 Years	200 0 0

The Premiums nevertheless are on the most moderate scale, **and only one-half need be paid for the first Five Years,** where the Insurance is for Life.

Every information will be afforded on application to the Resident Directors, EDWARD BOYD, Esq., and E. LENNOX BOYD, Esq., of No. 8, Waterloo-place, Pall-mall, London.

NORTH BRITISH INSURANCE COMPANY,
Established 1809.
Protecting Capital, 1,000,000*l*. fully subscribed.
His Grace the Duke of Sutherland, K.G. President.
Sir Peter Laurie, Alderman, Chairman of the London Board.
Francis Warden, Esq. (Director H.E.I.C.) Vice Chairman.
John Webster, M.D., F.R.S. 24, Brook-street, Physician.

THIS Institution is incorporated by Royal Charter, and is so constituted as to afford the benefits of Life Insurance in their fullest extent to Policy-holders, combined with perfect security in a fully subscribed Capital of One Million Sterling, besides an accumulated Premium Fund, exceeding 442,000*l*. and a Revenue, from Life Premiums alone, of upwards of 90,000*l*. per annum.

Eighty per cent. or four-fifths of the total profits of the Company, are septennially divided among the Assured.

A Prospectus, containing Tables of Premiums, with the names of the President, Vice-Presidents, Directors, and Managers, who are all responsible PARTNERS, may be obtained of Messrs. B. and M. Boyd, Resident Members of the Board, 4, New Bank Buildings; or of the Actuary, 10, Pall-mall East. JOHN KING, Actuary.

EQUITY & LAW LIFE ASSURANCE SOCIETY, No. 26, Lincoln's-Inn-Fields, London.
Capital, 1,000,000*l*. in 10,000 Shares, of 100*l*. each.

TRUSTEES.
The Right. Hon. Lord Monteagle.
The Right Hon. the Lord Chief Baron.
The Hon. Mr. Justice Coleridge.
The Hon. Mr. Justice Erle.
Chas. Purton Cooper, esq. Q.C., LL.D., F.R.S.
George Capron, esq.

DIRECTORS.

John E. Armstrong, esq.	Henry H. Oddie, esq.
Thomas Wm. Capron, esq.	Sir Francis Palgrave, F.R.S.
Mr. Serjeant Clarke.	J. Phillimore, D.C.L., F.R.S.
John E. Clowes, esq.	George W. K. Potter, esq.
William I. Denne, esq.	F. Newman, Rogers, esq. Q.C.
Sir Fortunatus Dwarris.	
Francis Ewart, esq.	George Rooper, esq.
Samuel I. Fearon, esq.	Nassau W. Senior, esq.
N. Hollingsworth, esq.	E. Wilbraham, esq. Q.C.
John H. Koe, esq. Q.C.	

AUDITORS.

J. T. Graves, esq. F.R.S.	R. J. Phillimore, D.C.L.
C. H. Moore, esq.	Eric Rudd, esq.

BANKERS.
Messrs. Hoare, Fleet-street.
SOLICITORS.
Messrs. Lucas and Parkinson, Argyll-street, Regent-street.
PHYSICIAN.
Robert Willis, M.D. Dover-street, Piccadilly.
SURGEON.
B. Atkinson, esq. King William-street, City.
ACTUARY AND SECRETARY.
J. J. Sylvester, esq. M.A., F.R.S.

Assurances are granted by this Society on the lives of persons in every profession and station of life.

The Assured have the option of participating in the profits, or of effecting their policies without participation, at a reduced rate of premium.

Four-fifths of the profits of the Society are divided every five years among the participating members, in the form of an immediate or reversionary bonus, or by reduction of premium, at the option of the Assured.

Where a life assured by another has gone beyond the prescribed limits without the knowledge of the party interested, this Society renews the policy on the same terms as they would have required for its continuance had their consent been previously obtained.

Assurances for which immediate despatch is required may be effected on the same day that they are proposed.

The Tables of Premiums, founded on the Government returns of mortality for the whole kingdom, have been calculated on the lowest scale consistent with security.

Prospectuses and information relative to Assurance in all its branches may be obtained by applying, personally or by letter, to the Actuary at the Office.

Applications from Solicitors in the country desirous of acting as Agents of the Society may be addressed to the Secretary.

The usual commission allowed to all Solicitors.

THE LEGAL AND COMMERCIAL LIFE ASSURANCE SOCIETY. Temporary Offices, 68, Cheapside. "Registered provisionally," in pursuance of the statute 7 & 8 Vict. c. 110.
Capital, 500,000*l*. in 10,000 shares of 50*l*. each.

TRUSTEES.
Sir John Dean Paul, bart.
Frederick Mildred, esq.
Charles Buller, esq. M.P.
Sir G. A. Lewin, Q C.
Samuel Martin, esq. Q.C.

DIRECTORS.
Anderdon, Thos. Oliver, esq. Q C. Lincoln's-inn.
Burmester, John, esq. Lincoln's inn.
Brook, George Henry, esq. King's Arms Yard and Huddersfield.
Cockburn, Alex. Edward, esq. Q.C. Temple.
Chambers, Montagu, esq. Q.C.
Courtenay, Philip W. esq. Temple.
Caldecott, Andrew, esq. Cheapside.
Dillon, John, esq. Fore-street.
Dutton, Richard, esq. Basinghall-street.
Ellis, Robert, esq. Cowper's-court, Cornhill.
Elliot, William, esq. M.D. Stratford.
Fry, Peter Wickens, esq. Cheapside.
Gladstone, John, esq. Stockwell-lodge.
Hall, Frederic James, esq. Lincoln's-Inn.
Harrison, Thomas, esq. Walbrook.
James John, esq. Secondary of London.
James Edwin, esq. Temple.
Laing, the Rev. David, M.A., F.R.S. Cambridge-Terrace
Lillwall, Richard, esq. Lime-street.
Ohrly, Henry Gerard, esq. Hackney.
Sheppard, Alfred Byard, esq. Lincoln's-Inn-fields and Frome.
Terrell, Thomas Hull, esq. Lincoln's-Inn.
Venning, Walter Charles, esq. Tokenhouse-yard.
Wood, John, esq. Falcon-square.

AUDITORS.
Charles Bourdillon, esq. Lincoln's-Inn.
William Bagshaw, esq. Coleman-street.
Dalton, H. Serrell, esq. Tokenhouse-yard.

JOINT-SOLICITORS.
S. P. Hook, esq. Tokenhouse-yard.
W. B. James, esq. Basinghall-street.

PHYSICIAN.
John Harris, esq. M.D. Albemarle-street.

SURGEON.
Henry James, esq. Finsbury-square.

BANKERS.
Messrs. Strahan, Paul, and Co. 217, Strand.
Messrs. Masterman and Co. Nicholas-lane.

ACTUARY AND SECRETARY.
J. C. Hardy, esq.

The Society having completed its arrangements, is now ready to receive proposals.

Solicitors in the country desirous of becoming agents are requested to address applications to the Secretary.

SOVEREIGN LIFE ASSURANCE COMPANY.
(Provisionally registered.)
5, ST. JAMES'S-STREET, LONDON.
To be established by Act of Parliament, for the Assurance of Lives, and for effecting all other contracts depending upon life contingencies, and also for granting loans, upon a new and highly beneficial system.

Capital £1,000,000, in 100,000 Shares of £10 each.
Deposit £1. 10s. per share.

Note.—In pursuance of the Act of Parliament, 10s. per cent. only (or 1s. per share) will be received until the Company obtains a certificate of complete registration, when notice will be given for the payment of the residue of the deposit, and the Company will commence its operations.

TRUSTEES.
The Right Hon. Lord Rossmore.
Sir Augustus Brydges Henniker, Bart., Hawley, Stowmarket, Suffolk.
Benjamin Bond Cabbell, Esq., F.R.S., F.S.A., Temple.
Henry Pownall, Esq., Russell-square, and Spring-grove, Hounslow.
Claude Edward Scott, Esq., Cavendish-square.

PROVISIONAL DIRECTORS.
Lord Arthur Lennox, M.P., Chesham-place, Belgrave-square.
The Right Hon. Lord Macdonald.
Henry Broadwood, Esq., M.P., Whitehall.
Thomas Colpitts Granger, Esq., M.P., Temple.
Charles Farebrother, Esq., Alderman, Lancaster-place, Strand.
John Ashburner, Esq., M.D., Wimpole-street, Cavendish-square.
William Tulloh Fraser, Esq., Manchester-square and Crosby-square.
John Gardiner, Esq., Avenue-road, Regent's-park.
Alexander Ogilvie, Esq., Northumberland-street.
Aaron Asher Goldsmid, Esq., Cavendish-square.
Philip Patton Blyth, Esq., Austin-friars, and Sion-house, Clapton.
Henry William Pownall, Esq., Russell-square.
(With power to add to their number.)

AUDITORS.
James Fraser, Esq., Park-square West, Regent's-park.
James Gernon, Esq., Conduit-street.
William Wallace, Esq., Austin-friars and Cadogan-place.
Edward Watson, Esq., St. Helen's-place and Frognal, Hampstead.

Bankers—Sir Claude Scott, Bart., and Co., Cavendish square.
Standing Counsel—Mr. Serjeant Manning, Serjeant's Inn; W. H. Rough, Esq., Middle Temple.
Solicitors—Messrs. Davies and Son, Warwick-street, Regent-street.
Consulting Physician—John Power, Esq., M.D., Great Queen-street, Westminster.
Medical Referees—Edward Duke Moore, Esq., Arlington-street; Francis Graydon Johnston, Esq., Savile-row.
Consulting Actuary—J. J. Sylvester, Esq., M.A., F.R.S.
Surveyors—Arthur Mee, Esq., Carlton-chambers, Regent-street;
Frederick C. J. Parkinson, Esq. Sackville-street.
Secretary—George Cumming, Esq.

This Company, in addition to all the usual business of Assurance Companies, offers to the public a new system of Loans, more beneficial to the borrower, and yielding a better return to the Shareholder, than any system at present in use.

Thus any person effecting an assurance with this Company can borrow the *full amount* of the sum secured by his policy, upon giving collateral security for the payment of an increased rate of premium, fixed by the tables of the Company, according to the age of the person borrowing and the amount borrowed, and interest on the loan for a limited number of years only; which will, in effect, repay the money borrowed, and maintain a policy on the life of the borrower, and he will not, as in ordinary cases, be liable to be called upon to repay, in one sum, and by a given day, the principal money lent.

A reference to the Prospectuses of the Company (which have been already advertised at length in the papers), and which contain specimens of the Tables, will shew the mode by which the Company effects this object.

The Company will also advance money on Annuity, Mortgage, or other security.

Shareholders will receive a large remuneration in the shape of Bonus, arising from the operations of the Company, augmented by the profits on Premiums, paid in connection with Loans, in addition to interest upon their capital invested in shares; besides, by the mode of distribution proposed by the Company, the certainty, in addition to an increasing rate of interest, of a proportionate increase in the value of the capital, by the appropriation of a certain portion of the accumulated profits to the Capital Fund of the Company.

Prospectuses, containing specimens of the tables and every information, can be obtained from, and applications for shares, in the annexed form, made to, the Secretary, at the Company's offices, No. 5, St. James's-street, London; Messrs. Davies and Son, solicitors, 21, Warwick-street, Regent-street; Messrs. Tucker, Barnett, and Ellis, brokers, Change-alley, Cornhill, and John Eykyn, Esq., broker, Change-alley, Cornhill, London; Messrs. D. and J. B. Neilson, brokers, Liverpool; Robert M'Ewen, Esq., broker, Manchester; J. B. Mundy, Esq., broker, Bath; Messrs. John Robertson and Co., brokers, Messrs. Gordon, Stuart, and Cheyne, W. S., and John R. Calvert, Esq., W. S., Edinburgh; Messrs. Mein and Cunningham, brokers, Glasgow; W. N. Fish, Esq., North British Exchange Company, Aberdeen; and George Gatherer, Esq. solicitor, Elgin.

FORM OF APPLICATION FOR SHARES.
To the Provisional Directors of the Sovereign Life Assurance Company.

Gentlemen,—I request you to allot me shares in the above Company, and I undertake to accept the same, or such less number as you may appropriate to me, and to pay the deposit, and sign the necessary legal documents when required.

Dated this day of , 1845.
Name in full———
Profession or Business ———
Address—
Name of Reference -
Address of Reference -

Extensive and Important Sale of Freehold Property, in Merionethshire, North Wales.

MR. LLOYD has been honoured with instructions from the Trustees of the late Richard Parry, esq. of Llwyn Ynn, to submit to PUBLIC AUCTION, on TUESDAY, the 7th of October, 1845, at Twelve o'clock, at the Golden Lion Hotel, Dolgelly, in the following, or such lots as may be agreed upon, the GOPPA ESTATE, situate in the parish of Trawsfynydd, in the county of Merioneth, comprehending upwards of 2,200 acres of arable, pasture, and meadow land, with substantial farm-houses and commodious out-buildings, in good repair, and most respectably tenanted.

IN THE PARISH OF TRAWSFYNYDD.

No.	Tenements. Tenants' Names.	Acreage.		
1	*Goppa*, John and Elizabeth Jones . .	288	3	38
2	*Llwyn Derw*, Griffith Richards . .	89	2	24
3	Tyddyn y Felin Issa, Richard Davies .	86	0	
4	Tyddyn y Felin Ucha, John Jones . .	178	3	
5	Gwern Cyfrdwy, Laura Williams . .	230	2	22
6	Wern bach, Evan Thomas . . .	19	0	0
7	Bronys gellog, Richard Jones . .	253	1	33
8	Aber and Ffrith, Evan Williams . .	203	1	5
9	Bryn Teg, Owen Williams and W. Nicholas	166	0	30
10	Gors Wen, Catherine Humphreys . .	30	2	32
11	Bryn Crwn, David Hughes . . .	114	3	7
12	Tyddyn y Sais, John Hughes . .	101	1	10
13	Tyddyn y Garreg, Evan Thomas . .	213	1	8
14	Bryn Ysguboriau, Morris Roberts . .	216	2	27

The rents are very moderate, and in many instance would admit of a considerable advance without any injustice to the tenants; the tithes are commuted, the poor-rates low, and the land-tax upon the whole property redeemed.

This Estate presents to capitalists and others desirous of a safe investment, a most favourable opportunity, as the land abounds in minerals, and the certainty of unlocking the resources of the country by the projected railways, enhances its prospective value to an incalculable extent.

The Mansion House of Goppa on Lot 1, with a trifling outlay, would form a suitable residence for a gentleman of fortune; several trout streams pass through and adjoin the property; and the covers are notorious for early woodcocks.

Every Lot on the Estate has the advantage of having extensive sheep-walks attached, and on most of them are labourers' cottages.

The property is situate on both sides of the turnpike-road leading from Dolgelley to Maentwrog, and is distant from the former place twelve miles, and from the latter five miles.

The lots may be viewed on application to the tenants.

All further information, together with particulars and lithographic plans, may be obtained from Francis Hallowes, esq. Coed, near Dolgelly; Walter Powell Jones, esq. Cefn Rug, near Corwen; Mr. Robert Roberts, Bodtegin, near Cerrig-y-druidion; Messrs. Law and Tindal, solicitors, 10, New-square, Lincoln's-inn, London; and at the office of Mr. Thomas Hughes, solicitor, Denbigh; at the Hall of Commerce, London; and at the Auctioneer's Offices, Well-street, Ruthin.

Periodical Sale of Reversions, Life Interests, Annuities, Life Policies, Advowsons, Next Presentations, and all descriptions of Securities dependent upon human Life, Ground and Improved Rents, Post Obit Bonds, Shares in Railways, Mines, Insurance Companies, and all other public undertakings.

MESSRS. FULLER and MARSH respectfully inform the public, that by their system of periodical sales by Auction they are enabled to offer to persons expectant or otherwise interested in the above description of property the most prompt, economical, and satisfactory mode of disposing thereof, as by classifying these descriptions of interests and properties in the same particular and for the same day, much expense is avoided, and a far greater competition is secured. Their periodical sales of reversions, life interests, annuities, life policies, advowsons, next presentations, and all descriptions of securities dependent upon human life, shares in railways, mines, and all other undertakings, will be continued throughout the present year as follows:—

Thursday, October 2 | Thursday, November 6
Thursday, December 4.

Notice of Sales intended to be effected by the above means should be forwarded to Messrs. Fuller and Marsh a fortnight prior to each date, in order that they may have the full benefit of publicity. Messrs. Fuller and Marsh beg to call the attention of the public to the economy and expedition of this system of business, as they are thereby enabled to include each property for the sum of two guineas and a half, including all expenses, should a sale not be effected. Particulars of the next periodical sale may be obtained at the Offices of Messrs. FULLER and MARSH, 2, Charlotte-row, Mansion-house, London.

Freehold Estates, Battersea, Surrey.

MESSRS. FULLER and MARSH have received instructions to SELL by AUCTION, at the Mart, on THURSDAY, September 25, at Twelve, a desirable FREEHOLD PROPERTY, situate near to the new church, in Battersea-fields; comprising two substantial brick-built family residences, with excellent gardens in the front and rear; also four well-built cottages in Sleaford-street, all of which are let to respectable tenants, and produce a rental of 92*l*. per annum.—The property may be viewed on application to the tenants, and particulars obtained on the premises; of Mr. Haslam, solicitor, Copthall-court, Throgmorton-street; and at Messrs. FULLER and MARSH'S Offices, 2, Charlotte-row, Mansion-house.

To Railway Contractors, Brickmakers, Builders, and others.

MESSRS. FULLER and MARSH have received instructions to SELL by AUCTION, on TUESDAY, October 7, at Twelve o'clock, precisely, in suitable lots, in the Brick-fields adjoining the road from Folkestone to Cherrington, and within a short distance of the railway station, FIFTY-SIX CLAMPS of BRICKS, containing about 3,000,000.—May be viewed. Catalogues obtained at the principal inns in Folkestone, Dover, and Canterbury; and of Messrs. FULLER and MARSH, Surveyors and Land Agents, 2, Charlotte-row, Mansion-house.

Thirteen desirable detached Villa Residences, Folkestone, Kent.

MESSRS. FULLER and MARSH beg to announce that they have received instructions from Messrs. Grissell and Peto to SELL by AUCTION, at the Mart, London, on THURSDAY, September 25, at Twelve, in lots, THIRTEEN FREEHOLD VILLA RESIDENCES, very prettily situate at Folkestone, near to the viaduct, and within a few minutes' walk of the railway station. The residences, which have only been lately erected, are unusually well built, in excellent condition, and fit for immediate occupation.—The property may be viewed, and particulars obtained on the premises; of Mr. Fraser, Glennie-house, Folkestone; the Rose Inn, Folkestone; Mr. George, Sandgate; George, Rye; Swan, Hastings; Crown, Tunbridge; Sussex Hotel, Tunbridge-wells; of James Taylor, esq. 15, Furnival's-inn; and of Messrs. FULLER and MARSH, Auctioneers and Land Agents, 2, Charlotte-row, Mansion-house, and Croydon, Surrey.

Sandgate, near Folkestone, Kent.—Elegant Marine Mansion, and Two desirable Family Residences, with immediate possession.

MESSRS. FULLER and MARSH are instructed by Messrs. Grissell and Peto to SELL by AUCTION, at the Mart, London, on THURSDAY, Sept. 25, at Twelve, an elegant MARINE MANSION and TWO FAMILY RESIDENCES, delightfully situate at Sandgate, commanding a most splendid sea view. The mansion is let on lease for 14 years, at 240*l*. per annum; and the others are held on very long leases, at small ground rents. They are remarkably well built, and in excellent condition.—May be viewed. Particulars obtained on the premises; of Mr. George, Sandgate; the Rose, Folkestone; Swan, Hastings; Sussex Hotel, Tunbridge wells; of James Taylor, esq. Furnival's-inn; and of Messrs. FULLER and MARSH, Auctioneers and Land Agents, 2, Charlotte-row, Mansion-house, and at Croydon, Surrey.

LITTLE BUSHEY, HERTS.—Cottage Residence, Garden, and Three Acres of Meadow Land.

MESSRS. FULLER and MARSH have been favoured with instructions to SELL by AUCTION, at the Mart, on THURSDAY, September 25, at Twelve, without reserve, a valuable COPYHOLD ESTATE, situate at Little Bushey, Herts; consisting of a very desirable detached cottage residence, newly built, with about three acres of superior meadow land; let at rents amounting to 33*l*. per annum. The meadow land possesses valuable building frontages to the road from Bushey to Elstree and Watford.—Particulars may be obtained at the Mart; of Mr. Nation, solicitor, 4, Orchard-street, Portman-square; of Mr. Fairthorne, solicitor, St. Alban's; of Mr. Blagg, solicitor, St. Alban's; at the Three Crowns, Bushey Heath; at the Rose and Crown, Watford and of the Auctioneers, Charlotte-row, Mansion-house.

To Builders and others.—Eligible opportunities of Investment.—Islington.

MESSRS. FULLER and MARSH have received instructions peremptorily to SELL by AUCTION, at the Mart, on THURSDAY, September 25, at Twelve, in four lots, FOUR substantial and well-finished CARCASSES, situate in Rotherfield-street, Islington, held under a lease for a long term, at a moderate ground-rent. The proprietor would allow the greater part of the purchase-money to remain on mortgage (if required), and would not object to make advances for the completion of the houses. —Particulars and conditions of sale may be obtained at the Mart; of Messrs. J. and J. W. Linklater, solicitors, 115, Leadenhall-street; and of Messrs. FULLER and MARSH, Auctioneers and Surveyors, 2, Charlotte-row, Mansion-house.

OLD KENT-ROAD.—Three Acres of Freehold Building Land, in plots, and Six Freehold Residences.

MR. SINGLE will SELL by AUCTION, at the Mart, on TUESDAY, September 23, 1845, at Twelve for One, in plots, nearly three acres of valuable FREEHOLD BUILDING LAND, desirably situate near the Rising Sun, Old Kent-road, presenting considerable frontages on roads made up. Some of the plots are of corner situation, and some, being contiguous to the banks of the Grand Surrey Canal, are likely to become valuable as wharfs. The distance is only about two and a half miles from London-bridge; and the hundreds of houses which have been erected on those portions of the estate which Mr. Single sold two or three years since prove, beyond all doubt, that the property is desirable as building ground.

Also, Six FREEHOLD RESIDENCES on the same estate.

Particulars will be ready in due time, and may be obtained of Messrs. Barker, Rose, and Norton, solicitors, 50, Mark-lane; of Messrs. Smith and Taylor, solicitors, 4, Basinghall-street; and at the offices of Mr. SINGLE, 34, Coleman-street, City.

Forty-five Pounds per annum on Lease, arising from a Freehold Public-house, known as the Golden Anchor, Golden-lane, Cripplegate.

MR. SINGLE will SELL by AUCTION, at the Mart, on TUESDAY, September 23, at Twelve for One, a capital FREEHOLD PUBLIC-HOUSE, in full trade, situate in the populous and famous neighbourhood for business, Golden-lane, Cripplegate: let upon lease for a term of which about eleven years are unexpired, at 45*l*. per annum; a rental which may be considered almost as safe as a ground rent.—Particulars may be obtained, in due time, at the offices of Mr. SINGLE, 34, Coleman-street, City.

LEASEHOLD INVESTMENTS.—From 1,000*l*. to 30,000*l*. may be advantageously laid out in the PURCHASE of LEASEHOLD HOUSES of the best description within four miles west of London. They are all let to most respectable tenants at reasonable rents, and will be sold to pay good interest to the purchasers. Term 80 years; ground-rent 10*l*. per house, redeemable. They are semi-detached, with nice gardens, coach-house, stable, &c. and an acre of land may be had with each house if desired. The money is wanted to lay out in buildings on the same property.

Apply to Mr. G. W. Jones, Castelnau, Barnes.

SPALDING and COWBIT.—To be SOLD by AUCTION, by Mr. POLLARD, at the White Hart Inn, in Spalding, in the county of Lincoln, on TUESDAY, September 23, 1845, at Six o'clock in the evening, subject to such conditions of sale as shall be then and there produced, and in the following or such other Lots as shall be agreed upon at the time of Sale.

Lot 1.—All that plot of valuable BUILDING GROUND, situate in Hall-street, and opposite to the Town-hall, and near to the Market-place and Stock-market of Spalding aforesaid, abutting on the south-west on the estate of Mr. Hiley, and containing by admeasurement 112 square yards, or thereabouts, having a frontage next the Town Street of about 17 feet, as the same is now staked out, together with the building materials now standing thereon, and being the third part or thereabouts of an ancient messuage and conveniences, now divided into three tenements, and in the respective occupations of Thomas Woods and William Wright.

Lot 2.—All that other plot of building ground, fronting the Town-street aforesaid, adjoining Lot 1 on the south-west, and containing by admeasurement 110 square yards or thereabouts, having a frontage next the Town-street of about 17 feet, as the same is now staked out, together with the building materials thereon, and being one other third part or thereabouts of the said ancient messuage and conveniences.

Lot 3. All that other plot of Building Ground, adjoining Lot 2 on the south-west, and the stall-house on the north-west, and near to the stock-market of Spalding aforesaid, containing by admeasurement 110 square yards, or thereabouts, having a frontage next the Town-street of about 17 feet, as the same is now staked out, together with the building materials thereon, as now marked out, and being the remaining third part, or thereabouts, of the said ancient messuage and conveniences.

The situation of the above lots for business purposes is excellent, being in the centre of the populous and improving town of Spalding, opposite to the Town-hall, and contiguous to the market-place and the stock-market.

Lot 4. All that Freehold Close of Arable Land, situate within the first district in the South Fen, in Cowbit, numbered 35 on the plan annexed to the award of the Commissioners for the drainage of Spalding, Cowbit, and other commons, containing by admeasurement 6a. 2r. 23p. (more or less), bounded, north, by land of Mr. John Hutchinson, east by the river Welland and the Cradge Bank, south by land of William Hurrey, and west by the Park Engine Drain, and now in the occupation of James Wade.

Lot 5. All that Freehold Close of Land, situate in Cowbit Wash, in the parish of Pinchbeck, numbered 156 on the plan annexed to the said Commissioners' award, bounded on the south-east by Lord Brownlow's-road, and now in the occupation of Richard Harrison.

The respective purchasers can be accommodated with the whole or any part of their purchase-moneys on approved security.—For further particulars apply to the Auctioneer, or at the offices of Mr. C. S. Todd, solicitor, Hull; or Messrs. S. and W. Edwards, solicitors, Spalding.

Spalding, 8th September, 1845.

First-rate Fee-simple Landed Investment in Ireland, between Dublin and Galway.

MESSRS. DANIEL SMITH and SON respectfully apprize the Public that, unless previously disposed of by Private Contract, the fine and important ESTATE and TOWN MANOR of CLOGHAN will be offered for SALE by AUCTION, in Dublin, some time in November next; comprising about 3,000 statute acres, and producing a net and very improvable rental of about 2,400*l*. per annum, punctually paid by a highly-respectable tenantry, and possessing all the advantages of good roads, canals, and rivers.—For particulars and rent-rolls apply to George Kelly, esq. solicitor, 18, Bachelor's-walk, Dublin; or at the offices of DANIEL SMITH and SON, Land Agents, in Waterloo-place, Pall-mall, London, where plans may be seen, and every information obtained.

The important and beautiful Freehold Estate and Manor of Lee Grange, in the Vale of Aylesbury, between that and the other Market-towns of Buckingham, Winslow, and Bicester.

MESSRS. DANIEL SMITH and SON are commissioned to SELL by AUCTION, at the Mart, near the Bank of England, on FRIDAY, September 26 (instead of September 16, as before advertised), at Twelve (unless an acceptable offer shall be previously made), the above very valuable and famous FREEHOLD DAIRY and GRAZING ESTATE; comprising nearly the whole hamlet of Shipton Lee, close to Quainton, and within a few miles of Aylesbury and Buckingham, consisting of several capital dairy farms, with suitable houses and homesteads, in the hands of highly respectable tenants, with some beautiful woodlands, full of thriving young oak, and abounding with game, comprising in a ring fence nearly 1,350 acres, chiefly rich grass land, and embracing the Grange Hill, one of the most prominent and beautiful features of the neighbourhood. The annual value of this fine property is about 2,000*l*. exempt from land-tax, and almost from tithes.—Further particulars may be had of Messrs. Whitmore, Roumieu, and Walters, 9, Lincoln's-inn; and of DANIEL SMITH and SON, Land Agents, &c. in Waterloo-place, Pall-mall, and Windsor.

WRITING INK.

WHITAKER and CO.'S FRENCH JET WRITING INK.—This freely flowing Ink is adapted to be used with either Steel or Quill Pens, and from its durability it will be found the best Ink manufactured for Records and Office use, &c. as TIME and CLIMATE can never efface its brilliancy.

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LONDON:—Printed by HENRY MORRELL COX, of 74, Great Queen Street, in the Parish of St. Giles in the Fields, in the County of Middlesex, Printer, at his Printing Office, 74 & 75, Great Queen Street aforesaid, and published by JOHN CROCKFORD, of 29, Essex Street, Strand, in the Parish of St. Clement Danes, in the City of Westminster, Publisher, at the Office of the LAW TIMES, No. 29, Essex Street aforesaid, on Saturday, the 20th day of Sept., 1845.

THE LAW TIMES,

AND JOURNAL OF PROPERTY,

The Legislator, the Magistrate, and the Lawyer.

Vol. V. No. 130.] SATURDAY, SEPTEMBER 27, 1845.

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Legal Notices.

WARWICKSHIRE SESSIONS.—NOTICE IS HEREBY GIVEN, that the GENERAL QUARTER SESSIONS of the PEACE for the WARWICK DIVISION of the said County will be held at WARWICK on MONDAY, the 13th day of October next, at Eleven o'clock in the morning, and will commence with the County Business; and at Two o'clock the Trial of Prisoners will be proceeded with; and on Tuesday, the 14th, at Ten o'clock in the morning, Appeals will be heard.
The said Quarter Sessions will be held by Adjournment, for the COVENTRY DIVISION of the said County, at COVENTRY, on WEDNESDAY, the 15th day of October, at Eleven o'clock in the morning, for the Trial of Prisoners; and on Thursday, the 16th of October, at Ten o'clock in the morning, Appeals will be heard.
W. O. HUNT, Clerk of the Peace.
Stratford-upon-Avon, September, 22, 1845.

LEEDS BOROUGH SESSIONS.—NOTICE IS HEREBY GIVEN, that the next GENERAL QUARTER SESSIONS of the PEACE for the Borough of Leeds, in the County of York, will be holden before Thomas Flower Ellis, esq. Recorder of the said borough, at the COURT HOUSE, in Leeds, on WEDNESDAY, the 22nd day of October next, at Two o'clock in the afternoon, at which time and place all Jurors, Constables, Police Officers, Prosecutors, Witnesses, Persons bound by Recognizances, and others having business at the said Sessions, are required to attend.
And NOTICE IS HEREBY also GIVEN, that all Appeals and Proceedings under the Highway Acts, not previously disposed of, will be heard on the opening of the Court, on FRIDAY, the 24th day of October next, provided all cases of Felony and Misdemeanor shall then have been disposed of, or otherwise as soon as the Criminal business of the Sessions shall be concluded.
By Order, JAMES RICHARDSON,
Clerk of the Peace for the said Borough.
Leeds, 19th September, 1845.

COUNTY OF DENBIGH.—NOTICE IS HEREBY GIVEN that an adjournment of the QUARTER SESSIONS of the PEACE for the County of Denbigh, for the purpose of auditing and allowing the bills due from the County, will be held at the COUNTY HALL in DENBIGH, on MONDAY, the 13th day of October next, at Eleven o'clock in the forenoon, when and where the business relating to the assessment, application, or management of the county stock or rate will commence.
AND NOTICE IS HEREBY GIVEN that the GENERAL QUARTER SESSIONS of the PEACE of the same County will be held at the same place on TUESDAY, the 14th day of October, 1845, at Ten o'clock in the forenoon, and that the business relating to the assessment, application, or management of the county stock or rate will commence at Twelve o'clock at noon.
AND NOTICE IS HEREBY GIVEN that the business relating to the Act 2 & 3 Victoria, cap. 93, intituled "An Act for the Establishment of County and District Constables by the Authority of Justices of the Peace," and to the Act 3 & 4 Victoria, cap. 88, intituled "An Act to amend an Act for the Establishment of County and District Constables," will commence at the said adjourned Sessions, at Twelve o'clock at noon, and at the said General Quarter Sessions at One o'clock P.M.
AND NOTICE IS HEREBY FURTHER GIVEN, in pursuance of an Order made at the GENERAL QUARTER SESSIONS of the PEACE held at DENBIGH, in and for the County of Denbigh, on TUESDAY, the 18th day of March last (of which due notice has been before given), that it is intended, pursuant to the Act 3 & 4 Victoria, cap. 88, intituled "An Act to amend an Act for the Establishment of County and District Constables," at the next MICHAELMAS QUARTER SESSIONS of the PEACE for the said County, to be held at DENBIGH in and for the said County on TUESDAY, the 14th day of October next, at the hour of One in the afternoon, to be taken into consideration whether a report should be made to one of her Majesty's principal Secretaries of State, that the constables appointed under the statute 2 & 3 Victoria, cap. 93, intituled "An Act for the Establishment of County and District Constables by the Authority of Justices of the Peace," are no longer needed in the County of Denbigh, and that if three-fourths of the justices assembled at the said Michaelmas Quarter Sessions should resolve to make such report, then that such report will be made to such Secretary of State as aforesaid.
By the Court,
JOSEPH PEERS, Clerk of the Peace.
Ruthin, September 23, 1845.

PLYMOUTH and DEVONPORT COURT of REQUESTS.—The Commissioners having determined to appoint a Judge of this Court (being a Barrister-at-Law, duly qualified), under the powers contained in the Act or Acts of Parliament recently passed enabling them so to do, such Gentlemen of the Bar as may be desirous of offering themselves as CANDIDATES for the office of JUDGE of such Court are requested to signify the same to me by letter, accompanied by their testimonials, on or before the 20th day of October next.
By order of the Commissioners,
WILLIAM JACOBSON,
Chief Clerk of the said Court.
Court House, Wyndham Race, Plymouth,
September 22, 1845.

WEST RIDING of YORKSHIRE.—MICHAELMAS SESSIONS. NOTICE IS HEREBY GIVEN, That the MICHAELMAS GENERAL QUARTER SESSIONS of the Peace for the West Riding of the County of York will be opened at KNARESBOROUGH, on TUESDAY, the 14th day of October next, at Ten o'clock in the forenoon; and by Adjournment from thence will be holden at LEEDS, on WEDNESDAY, the 15th day of the same month of October, at Ten of the Clock in the forenoon; and also, by further Adjournment from thence, will be holden at DONCASTER, on MONDAY, the 20th day of the same month of October, at Half-past Ten of the Clock in the forenoon, when all Jurors, Suitors, Persons bound by Recognizance, and others having business at the said several Sessions, are required to attend the Court on the several days, and at the several hours above mentioned.
Solicitors are required to take Notice, that the Order of Removal, copies of the Notice of Appeal, and examination of the Pauper, are required to be filed with the Clerk of the Peace on the entry of the Appeal; and that no Appeals against Removal Orders can be heard unless the Chairman is also furnished by the Appellants with a copy of the Order of Removal, of the Notice of Chargeability, of the Examination of the Pauper, and of the Notice and grounds of Appeal. C. H. ELSLEY, Clerk of the Peace.
Clerk of the Peace's Office, Wakefield,
18th Sept. 1845.

Sales by Auction.

New Publications.

THE REPORTS.

[These are usually brought down to the Wednesday preceding publication. Where *Cur. adv. vult*, the case is not reported till judgment given. All written judgments are taken in shorthand, and reported *verbatim*. Rules *nisi* are reported.]

The following are the names of gentlemen who favour the LAW TIMES with the Reports:—

PRIVY COUNCIL by THOMAS CAMPBELL FOSTER, of the Middle Temple, Esq. Special Pleader.

EQUITY COURTS.

LORD CHANCELLOR'S COURT by RICHARD GRIFFITHS WELFORD, Esq. of the Inner Temple, Barrister-at-Law.

VICE-CHANCELLOR of ENGLAND'S COURT, by GEORGE GOLDSMITH, Esq. of the Middle Temple, Barrister-at-Law.

ROLLS COURT, by J. MACAULAY, Esq. of the Inner Temple, Barrister-at-Law.

VICE-CHANCELLOR KNIGHT BRUCE'S COURT by GEO. S. ALLNUTT, Esq. of the Middle Temple, Barrister-at-Law.

VICE-CHANCELLOR WIGRAM'S COURT, by J. VESEY DAWSON, Esq. of the Middle Temple, Barrister-at-Law.

COMMON LAW COURTS.

The QUEEN'S BENCH, by J. C. SYMONS, Esq. of the Middle Temple, Barrister-at-Law, and EDWARD WISE, Esq. of the Middle Temple, Barrister-at-Law.

The COURT of COMMON PLEAS, by W. PATERSON, Esq. of Gray's-inn, Barrister-at-law.

The COURT of EXCHEQUER by JOHN BRIDGE ASPINALL, Esq. of the Middle Temple, Barrister-at-Law, and H. T. COLE, Esq. of the Middle Temple, Barrister-at-Law.

The BAIL COURT by T. W. SAUNDERS, Esq. of the Middle Temple, Barrister-at-Law.

The EXCHEQUER CHAMBER by A. A. FRY, Esq. of Lincoln's-inn, Barrister-at-Law.

BANKRUPT AND INSOLVENT COURTS.

The COURT of REVIEW by GEO. S. ALLNUTT, Esq. of the Middle Temple, Barrister-at-Law.

LONDON COMMISSIONERS' COURTS and the INSOLVENT COURT, by B. TALBOT, Esq. of the Middle Temple, Barrister-at-Law.

BRISTOL DISTRICT COURT, by J. ANGUS HOMES, Esq. Barrister-at-Law; and F. T. ALLEN, Esq. Barrister-at-Law.

NISI PRIUS, CIRCUITS, AND CROWN CASES.

CENTRAL CRIMINAL COURT, by B. C. ROBINSON, Esq. of the Middle Temple, Barrister-at-Law.

CROWN CASES (before all the Judges) by A. BITTLESTON, Esq. of the Inner Temple, Barrister-at-Law.

NORTHERN CIRCUIT, York and Liverpool, by J. B. ASPINALL, Esq. Barrister-at-Law. The other parts of the Circuit, by G. F. H. OLIPHANT, Esq. Barrister-at-Law.

WESTERN CIRCUIT, by EDWARD W. COX, Esq. of the Middle Temple, Barrister-at-Law.

OXFORD CIRCUIT, by JOHN LANE, Esq. D.C.L. of the Inner Temple, Barrister-at-Law.

NORFOLK CIRCUIT by JNO. B. DASENT, Esq. Barrister-at-Law.

SITTINGS AT NISI PRIUS AFTER TERM, by JOHN LANE, Esq. D.C.L. of the Inner Temple, Barrister-at-Law.

ELECTION LAW.

REGISTRATION APPEALS in the COMMON PLEAS by EDWARD W. COX, Esq. of the Middle Temple, Barrister-at-Law; and HENRY TINDAL ATKINSON, Esq. of the Middle Temple, Barrister-at-Law.

ELECTION COMMITTEES by EDWARD W. COX, Esq. of the Middle Temple, Barrister-at-Law.

REGISTRATION COURTS, collected and edited by EDW. W. COX, Esq. of the Middle Temple, Barrister-at-Law.

IRISH REPORTS.

The LORD CHANCELLOR'S COURT by WILLIAM DUGGAN, Esq. Barrister-at-Law.

QUEEN'S BENCH and CRIMINAL COURTS by WM. ST. LEGER BABINGTON, LL.D. Barrister-at-Law.

N.B.—The names of the reporters of such important points as may arise upon Circuit will be announced as the arrangements for each are completed.

The Written Judgments are reported verbatim in Shorthand by Mr. H. GREGORY, Short-hand Writer.

Just published.

THE SMALL DEBTS ACT, with Introduction, Notes, and copious Index. By EDWARD W. COX, Esq. Barrister-at-Law. Price 2s. bds.

The REAL PROPERTY STATUTES of the SESSION 8 and 9 Vict. with Introduction, Notes, Forms, and an Index. By GEORGE S. ALLNUTT, Esq. Barrister-at-Law. Price 3s.

The Fourth Edition of

The REGISTRATION of ELECTORS ACTS, incorporating the Reform Acts, with Introduction, Index, and Notes of all the Cases Decided on Appeal to the Common Pleas. By EDWARD W. COX, Esq. Barrister-at-Law. Price 5s. boards.

LAW TIMES Office, 22, Essex-street.

Sales by Auction.

Periodical Sales (established in the year 1803) of Reversions, Life Interests, Annuities, Policies of Assurance, Advowsons, Next Presentations, Rent Charges in lieu of Tithes, Post-obit Bonds, Tontines, Debentures, Ground Rents, Improved Rents, Shares in Docks, Canals, Mines, Railways, Insurance Companies, and all Public Undertakings.

MESSRS. SHUTTLEWORTH and SONS respectfully inform the public, that upwards of 40 years' experience having proved the classification of this species of property to be extremely advantageous and economical to vendors, and equally satisfactory and convenient to purchasers, the PERIODICAL SALES of reversionary interests, policies of insurance, tontines, debentures, advowsons, next presentations, all securities dependent upon human life, shares in docks, canals, mines, railways, and all public undertakings, will be continued through 1845, as follow:—

Friday, Oct. 3. | Friday, Nov. 7.
Friday, Dec. 5.

Particulars may be had Ten days previous to each sale, at the Royal Hotel, Manchester; the Adelphi Hotel, Liverpool; Dee's Royal Hotel, Birmingham; the Angel, Oxford; the Eagle and Child, Cambridge; at the Mart; and of Messrs. SHUTTLEWORTH and SONS, 28, Poultry.

Valuable Long Leasehold Investments, producing a Rental of 1,085*l.* per Annum.

MESSRS. SHUTTLEWORTH and SONS are instructed to offer for SALE, in 17 lots, a highly valuable PROPERTY, most eligibly situated in one of the most improving neighbourhoods at the west side of the Metropolis, comprising Seventeen excellent Modern DWELLING-HOUSES, with roomy and capacious shops, with plate glass fronts and private entrances, presenting a uniform and handsome elevation, and erected in a superior and durable manner, the whole let on lease to very respectable tenants, and producing a rental of 1,085*l.* per annum, held on lease for a term of 97 years unexpired, at a ground-rent of 170*l.* per annum, leaving a net income of 915*l.* presenting to capitalists a favourable opportunity for safe and profitable investments.—May be viewed with tickets only, which, with particulars, may be had of Messrs. SHUTTLEWORTH and SONS, 28, Poultry.

THE HEADLAM HALL ESTATE, DARLINGTON, DURHAM.—To be SOLD by AUCTION, at the King's Head Hotel, Darlington, in the county of Durham, on MONDAY, the 13th day of October, 1845, at Twelve o'clock, by Mr. WETHERELL, Auctioneer (unless previously disposed of by private contract, of which due notice will be given), a most desirable MANSION, called HEADLAM HALL, with spacious gardens, lawn, orchard, pleasure-grounds, and plantations, well suited for the accommodation of a gentleman's family; and a valuable FREEHOLD ESTATE, land-tax redeemed, comprising about 165 acres of superior meadow, pasture, and arable land, with several cottages for farm-labourers, situate adjoining the pleasant and rural village of Headlam, and about a mile and a half from Gainford, beautifully situate on the banks of the river Tees. The estate, which is in excellent condition, and in the occupation of a highly-respectable tenant, is situate in the best and most picturesque part of the county of Durham, and is easily accessible by good roads to the best markets, being distant from Darlington eight miles, from Barnard-castle eight miles, and from Bishop Auckland eight miles and a half. It is also in a good sporting country, being only three miles distant from the Duke of Cleveland's residence of Raby Castle, where a first-rate pack of fox-hounds is kept. The continuous lines of railway meeting at Darlington afford a ready means of communication with all parts of the kingdom.

Also, to be SOLD at the same time, a compact well-built HOUSE, of moderate size, fronting upon the village-green of Headlam, with a good garden and paddock, in the occupation of Mrs. Brockett. Mrs. Brockett will, upon application, [illegible]nd a person to shew the estate.

Particulars, and a lithographic plan of the estate may be obtained of Messrs. Meredith and Reeves, solicitors, 8, New-square, Lincoln's-inn; and Messrs. Harbin and Wards, solicitors, 12, Clement's-inn, Strand, London; at the George Hotel, York; King's Arms Hotel, Lancaster; King's Head Hotel, Darlington; of the Auctioneer, Durham; and of Mr. Bowser, solicitor, Bishop Auckland, who is authorised to treat for the sale of the estate.

ADVOWSONS for SALE in the County of DEVON.

No. 1. Net annual income about 500*l.* Early possession may be arranged.

No. 2. Net annual income about 600*l.* with the opportunity of obtaining the curacy.

No. 3. Net annual income about 950*l.*

No. 4. Net annual income about 350*l.* with the opportunity of obtaining the curacy.

No. 5. Net annual income about 250*l.* with a probability of the curacy.

No. 6. Net annual income about 600*l.*

Full particulars of any or either of the above may be known on application to Mr. RENDELL, Solicitor, Tiverton.

Tiverton, September 16, 1845.

P.S. If desired, a portion of the purchase-money may remain on security of the property.

Manors, Freehold Land, Cottages, &c. at Wereham.

MR. BUTCHER is instructed by the Executors of the late Abraham Sewell, esq. deceased, to SELL by AUCTION, at the Crown Inn, Stoke Ferry, NORFOLK, on FRIDAY, October 3, 1845, at Twelve o'clock at noon, in fifteen lots, the undermentioned valuable PROPERTY, at Wereham, in Norfolk, viz:—

Lot 1. Three Cottages and Gardens, in the occupation of Barker, Bruce and Francis.

Lot 2. Four Cottages and Gardens, near Lot 1, occupied by five tenants.

Lot 3. Two Gothic Cottages and Gardens, in the occupation of Jane Wilson and Edward Bruce.

Lot 4. A Cottage and Garden, in the occupation of Thomas Barker.

Lot 5. Another Cottage and Garden, occupied by William Claxton.

Lot 6. Another Cottage and Garden, in the occupation of Lazarus Boyden.

Lot 7. Another Cottage and Garden, occupied by William Mason.

Lot 8. Another Cottage and Garden, occupied by William Jakes.

Lot 9. Another Cottage and Garden, occupied by —— Cross.

Lot 10. Another Cottage and Garden, occupied by Margaret Porter, and a Kitchen Garden.

Lot 11. Another Cottage and Garden, with Shed, in the occupation of Martha Hubbard.

Lot 12. Three Inclosures of very fine Arable Land, containing 12a. 2r. 30p.

Lot 13. Three Inclosures of remarkably fine Land, containing 14a. 0r. 23p. adjoining the Lynn turnpike-road.

Lot 14. A small Farm-house and Garden adjoining, excellent Barn and Yard, &c. newly erected Sheds, with walled-in yard and piece of Pasture Land adjoining, called the Home Close, containing altogether by survey, with the site of the buildings, 3a. 3r. 16p.

Lot 15. The several Manors or Lordships of Wereham-hall, in Wereham, and Iron-hall, in Wereham, Stoke, and Wretton, with the rights, royalties, and privileges thereto belonging.

Particulars may be had at the office of Mr. Edward James Smythe, Brandon, Suffolk; Crown Inn, Stoke Ferry; Crown Inn, Wereham; and of Mr. BUTCHER, Auctioneer, Norwich.

BRITISH and FOREIGN GASLIGHT and METER COMPANY.—(Provisionally registered.) Capital 500,000*l.* in 20,000 shares of 25*l.* each. Deposit 1*l.* 5s. per share. Office, 9, Gresham-street, Guildhall.

DIRECTORS.

Andrew Spottiswoode, esq. Governor of the London Gas-light Company, 17, Carlton-house-terrace, Governor.
Joseph Clowes, esq. Coldharbour-lane, Camberwell, Managing Director.
Henry Garrett Key, esq. Director of the London Gas-light Company, Director of the Newport and Abergavenny Railway, Tokenhouse-yard.
Lieut.-Gen. Sir John Foster Fitzgerald, K.C.B. Director of the London and Manchester Direct Independent Railway, 36, Connaught-square, Hyde-park.
Octave Delepierre, esq. Attaché to the Belgian Legation, 44, Welbeck-street.
William Ward, esq. 14, Wyndham-place, Bryanston-square.
John Joseph Keene, esq. Director of the National Bank of Ireland, St. John's-wood.
John Mee Matthew, esq. Director of the Derbyshire, Worcestershire, and Staffordshire Railway, Mecklenburgh-square.
William King, esq. Waterloo-place, Director of the Freemasons' Insurance Company.
William Tatham, esq. 61, Oxford-terrace, Hyde-park.
Lieut.-Colonel Fitch, Director of the Oxford and Worcester Railway, 36, York-terrace, Regent's-park.
Auditors—Charles S. Rayner, esq. Kew; Henry Dodson, esq. Suffolk House, Tulse-hill.
Bankers—The Union Bank of London; Messrs. P. A. Reynolds and Co. 77, Montagne de la Cour, Bruxelles.
Engineer—Stephen Hutchison, esq. Engineer-in-Chief to the London Gas-light Company.
Solicitors—Messrs. Watts, Galsworthy, and Galsworthy, 19, Ely-place, Holborn.

This Company is established under particularly advantageous circumstances, having made arrangements for obtaining the right and use of Hutchison's patent aerometer, or dry gas meter, which indicates precisely the quantity of gas consumed. This meter has obtained in England great celebrity for its precision, utility, and simplicity of indication, and is now in use by the London Gas-light Company and others. Patents have been taken out for England, Scotland, Ireland, France, Belgium, Holland, Bavaria, Saxony, Austria, Russia, Prussia, the two Sicilies, and Portugal—the benefits of all thi[illegible] have been secured to this Company.

The objects of the Company are as follow, viz.—The supplying with gas such places in Great Britain and elsewhere as may from time to time be found to [illegible]duction, so as to secure a remunerative [illegible] holders; the manufacture of gas-meters on the principle of the patents referred to, and the supply of the same to gas companies and to consumers, both by sale and on hire; the granting of licences under the patents; and also the manufacture of a superior description of coke, available particularly for railway purposes, this advantage being afforded by an economical arrangement of the heating apparatus to be employed in the production of this Company's gas.

With respect to the supply of gas to such cities and towns both here and abroad as may be desirable, 10 per cent. on the capital to be employed in that branch of the Company's operations is the estimated return, and it is calculated that the capital to be engaged in the meter department will yield a dividend of 20 per cent.

The Directors have already received orders for the supply of meters from companies established in England, and they are in treaty with the concessionaires for the exclusive right of supplying gas to several towns in Belgium.

The capital will be required to be paid up by instalments, only as opportunities for its beneficial employment present themselves, and at intervals of not less than three months.

Applications for shares, in the usual form, should be addressed to the solicitors of the Company; to Mr. George Henderson, Plymouth and Stonehouse Gas Company, 11, George-street, Plymouth; to Messrs. Reynolds and Co., Brussels; or to Charles Williams, esq. Bruges; or at the office of the Company.

SOVEREIGN LIFE ASSURANCE COMPANY.
(Provisionally registered.)
5, ST. JAMES'S-STREET, LONDON.

To be established by Act of Parliament, for the Assurance of Lives, and for effecting all other contracts depending upon life contingencies, and also for granting loans, upon a new and highly beneficial system.

Capital £1,000,000, in 100,000 Shares of £10 each.
Deposit £1. 10s. per share.

Note.—In pursuance of the Act of Parliament, 10s. per cent. only (or 1s. per share) will be received until the Company obtains a certificate of complete registration, when notice will be given for the payment of the residue of the deposit, and the Company will commence its operations.

TRUSTEES.

The Right Hon. Lord Rossmore.
Sir Augustus Brydges Henniker, Bart., Hawley, Stowmarket, Suffolk.
Benjamin Bond Cabbell, Esq., F.R.S., F.S.A., Temple.
Henry Pownall, Esq., Russell-square, and Spring-grove, Hounslow.
Claude Edward Scott, Esq., Cavendish-square.

PROVISIONAL DIRECTORS.

Lord Arthur Lennox, M.P., Chesham-place, Belgrave-square.
The Right Hon. Lord Macdonald.
Henry Broadwood, Esq., M.P., Whitehall.
Thomas Colpitts Granger, Esq., M.P., Temple.
Charles Farebrother, Esq., Alderman, Lancaster-place, Strand.
John Ashburner, Esq., M.D., Wimpole-street, Cavendish-square.
William Tulloh Fraser, Esq., Manchester-square and Crosby-square.
John Gardiner, Esq., Avenue-road, Regent's-park.
Alexander Ogilvie, Esq., Northumberland-street.
Aaron Asher Goldsmid, Esq., Cavendish-square.
Philip Paton Blyth, Esq., Austin-friars, and Sion-house, Clapton.
Henry William Pownall, Esq., Russell-square.
(With power to add to their number.)

AUDITORS.

James Fraser, Esq., Park-square West, Regent's-park.
James Gernon, Esq., Conduit-street.
William Wallace, Esq., Austin-friars and Cadogan-place.
Edward Watson, Esq., St. Helen's-place and Frognal, Hampstead.

Bankers—Sir Claude Scott, Bart., and Co., Cavendish square.
Standing Counsel—Mr. Serjeant Manning, Serjeant's Inn; W. H. Rough, Esq., Middle Temple.
Solicitors—Messrs. Davies and Son, Warwick-street, Regent-street.
Consulting Physician—John Power, Esq., M.D., Great Queen-street, Westminster.
Medical Referees—Edward Duke Moore, Esq., Arlington-street;
Francis Graydon Johnston, Esq., Saville-row.
Consulting Actuary—J. J. Sylvester, Esq., M.A., F.R.S.
Surveyors—Arthur Mee, Esq., Carlton-chambers, Regent-street;
Frederick C. J. Parkinson, Esq. Sackville-street.
Secretary—George Cumming, Esq.

This Company, in addition to all the usual business of Assurance Companies, offers to the public a new system of Loans, more beneficial to the borrower, and yielding a better return to the Shareholder, than any system at present in use.

Thus any person effecting an assurance with this Company can borrow the *full amount* of the sum secured by his policy, upon giving collateral security for the payment of an increased rate of premium, fixed by the tables of the Company, according to the age of the person borrowing and the amount borrowed, and interest on the loan for a limited number of years only; which will, in effect, repay the money borrowed, and maintain a policy on the life of the borrower, and he will not, as in ordinary cases, be liable to be called upon to repay, in one sum, and by a given day, the principal money lent.

A reference to the Prospectuses of the Company (which have been already advertised at length in the papers), and which contain specimens of the Tables, will shew the mode by which the Company effects this object.

The Company will also advance money on Annuity, Mortgage, or other security.

Shareholders will receive a large remuneration in the shape of Bonus, arising from the operations of the Company, augmented by the profits on Premiums, paid in connection with Loans, in addition to interest upon their capital invested in shares; besides, by the mode of distribution proposed by the Company, the certainty, in addition to an increasing rate of interest, o[illegible] proportionate increase in the value of the capital, by [illegible] appropriation of a certain portion of the accumulated p[illegible]fits to the Capital Fund of the Company.

Prospectuses, containing specimens of the tables and every information, can be obtained from, and applications for shares, in the annexed form, made to, the Secretary, at the Company's offices, No. 5, St. James's-street, London; Messrs. Davies and Son, solicitors, 21, Warwick-street, Regent-street; Messrs. Tucker, Barnett, and Ellis, brokers, Change-alley, Cornhill, and John Eykyn, Esq., broker, Change-alley, Cornhill, London; Messrs. D. and J. B. Neilson, brokers, Liverpool; Robert M'Ewen, Esq., broker, Manchester; J. B. Mundy, Esq., broker, Bath; Messrs. John Robertson and Co., brokers, Messrs. Gordon, Stuart, and Cheyne, W. S., and John R. Calvert, Esq., W. S., Edinburgh; Messrs. Mein and Cunningham, brokers, Glasgow; W. N. Fish, Esq., North British Exchange Company, Aberdeen; and George Gatherer, Esq. solicitor, Elgin.

RES.

To the Provisional Directors of the Sovereign Life Assurance Company.

Gentlemen,—I request you to allot me shares in the above Company, and I undertake to accept the same, [illegible] such less number as you may appropriate to me, and to pay the deposit, and sign the necessary legal documents when required.

Dated this day of , 1845.

Name in full—
Profession or Business
Address—
Name of Reference -
Address of Reference -

GRAND TRUNK RAILWAY, forming a connecting line between the MIDLAND and GRAND JUNCTION RAILWAYS, with a branch from ASHBY-DE-LA-ZOUCH to DERBY.

(Provisionally Registered.)

CAPITAL, £1,000,000, IN 50,000 SHARES OF £20 EACH.

DEPOSIT, £2 2s. PER SHARE.

PROVISIONAL COMMITTEE.

Sir John Edmund De Beauvoir, bart. Connaught-terrace, Hyde-park.
Francis Valentine Lee, esq. Chester-place, Regent's-park, Director of the Eastern Counties Railway.
William Simpson Potter, esq. 7, Sussex-gardens, Hyde-park, Director of the Oxford, Gosport, and Southampton Railway.
Andrew Spottiswoode, esq. Carlton House-terrace, Chairman of the Irish North Midland Railway.
James Beech, esq. the Shawe, Staffordshire, and Brandon Hall, Warwickshire.
Barnet Laurence Phillips, esq. Cornwall-terrace, Regent's-park, Director of the Direct Western Railway.
Valentine Knight, esq. 3, Cornwall-terrace, Regent's-park, Director of the Dendre Valley Railway.
Henry Garrett Key, esq. Director of the Newport and Abergavenny Railway.
Hugh Henshall Williamson, esq. Greenway Bank, Newcastle-under-Lyne, Deputy Lieutenant for the county of Stafford.
John Robinson, esq. Silcoats-cottage, Wakefield, Director of the Bradford, Wakefield, and Midland Railway, and of the Leeds, York, and Midland Junction Railway.
Stephen Hutchison, esq. London Gas Company, Vauxhall.
Henry Cave Leahy, esq. 5, St. James's-square, Director of the Great Welch Junction Railway.
John Shawe, esq. Wolverhampton, Director of the South Staffordshire Junction Railway.
Daniel M'Mahon, esq. Wolverhampton, Director of the Derbyshire, Staffordshire, and Worcestershire Railway.
Samuel Walker, esq. Wolverhampton, Director of the South Staffordshire Junction Railway.
Thomas Timmins, esq. Wolverhampton.
Thomas Randle Andrews, esq. Wolverhampton, Director of the Shrewsbury Grand Junction Railway.
William Griffiths, esq. Park House, Wellington, Salop, Director of the Derbyshire, Staffordshire, and Worcestershire Railway.
Herbert Broom, esq. Kidderminster, and Essex-court, Temple.
Caleb Norris, esq. Lancaster-place, Strand, Director of the Exeter, Dorchester, and Weymouth Railway.
John Hayes, esq. South Fields, Leicester.
Charles J. Mason, esq. Fenton, Staffordshire Potteries, Director of the South Union and Birmingham Junction Railway.
Joseph Henry, esq. South-street, Finsbury, Director of the London, Hounslow, and Western Railway.
Edward Gulson, esq. Clonmel, Ireland, Director of the Coventry, Nuneaton, and Leicester Railway.
William B. Costello, esq. Wyke House, Middlesex, Director of the Direct London and Exeter Railway.
Martin Stuteley, esq. 6, Cambridge-terrace, Regent's-park, Director of the Direct Western; Dublin and Belfast; and London and South Essex Railways.
Robert Bramwell, esq. Brembo Iron Works, Wrexham, North Wales, and Cannon-street, Director of the Oxford, Southampton, Gosport and Portsmouth; and of the Direct Western Railways.
Thomas Wynne, esq. Longton, Staffordshire, Director of the South Union and Birmingham Junction Railway.
Henry Dodson, esq. Suffolk House, Upper Tulse-hill, Director of the Grand Junction, Great Western, and South-Western Railway Junction.
Joseph Loxdale Warren, esq. the Lodge, Market Drayton, and Consall-hall, near Cheadle, Director of the Manchester and Liverpool District Bank, Director of the Cambrian and Grand Railway Junction.
Alfred Brodie, esq. Upper Montagu-street, Montagu-square.
Robert Chaplin, esq. Ashby-de-la-Zouch.
Edward Mammatt, esq. Ashby-de-la-Zouch.
John Heavington, esq. Ashby-de-la Zouch.
T. S. Kirkland, esq. Ashby-de-la-Zouch.
Thomas Cantrell, esq. Ashby-de-la-Zouch.
William Mathew, esq. Staunton Harold, Lessee of the Staunton Harold Coal, Lead, and Lime Works.
Joseph Bostock, esq. Breedon-on-the-Hill, Lessee of the Breedon Lime Works.
James Reeves, esq. 150, Cheapside, Director of the Direct London and Manchester Railway.
Harvey, Wyatt, esq. Acton Hill, Stafford, Director of the Trent Valley, Midlands and Grand Junction Railways, and of the Dudley, Madeley, Brosely, and Iron Bridge Railway.
Benjamin Payne, esq. Leicester, Director of the Rugby, Warwick, and Worcester Railway, and the Leicester and Birmingham Direct Railway.
Thomas Farmer Cook, esq. Leicester, Director of the Rugby, Warwick, and Worcester Railway, and the Leicester and Birmingham Direct Railway.
John Carter, esq. F.R.A.S. Park-lodge, Stockwell, Director of the Exeter, Dorchester, and Weymouth Junction Coast Railway.
Joseph Carrington Ridgway, esq. Roehampton-lodge.
Edward Tylecote, esq. Great Heywood, Staffordshire.
William Field, esq. Rugeley, Staffordshire.
Samuel Ginders, esq. Ingestre, Staffordshire, agent to the Right Hon. the Earl Talbot, K.G.
R. S. J. Winterton, esq. Sketchley Hall, near Hinckley, a Magistrate of the County, Director of the Coventry, Nuneaton, and Leicester Railway.
James Morrison, esq. St. Mary-at-Hill, Director of the Bridgwater and Minehead Railway.
C. H. Rogers Harrison, esq. Upper Montagu-street, Montagu-square.
George Augustus McDermott, esq. Chesterton Hall, near Newcastle-under-Lyne.
Captain Macdougal, Fir Grove, North Brixton.
James Lamb, esq. Hyde Park-square.
William [illegible] Fraser, esq. Gloucester-place, Portman-square.
Wm. [illegible] Bradden, esq. Regency-square, Brighton.
George [illegible], esq. Mansfield-house, Russell-square.
John Lowe, esq. Norfolk Crescent, Hyde Park.
John Griffith Frith, esq. Chairman of the Londonderry and Coleraine Railway.
Major-General Pasley, C.B. Rutland Gate, Director of the London, Bristol, and South Wales Railway, and Manchester and Rugby Railway.
John Anderson, esq. Director of the South and Midlands Junction Railway, and Tring, Reading, and Basingstoke Railway.
Samuel Griffiths, esq. Penn Fields, Wolverhampton.
Henry Turner, esq. Brewood Hall, Brewood, Staffordshire, Director of the Shropshire Mineral Railway.
Henry Scott, esq. Banker, Waterford, and 17, Pall Mall.
Lewis Adamis, esq. Basford Hall, Stoke-upon-Trent.
Thomas Miller, jun. esq. Banker, Leicester.

BANKERS.—The Union Bank of London.

STANDING COUNSEL.
Charles Howard Whitehurst, esq. Q.C.
John Mee Mathew, esq. F.S A.

ENGINEER.—J. U. Rastrick, esq.

ACTING ENGINEER.—Robert Nicholson, esq.

SOLICITORS.
Messrs. Watts, Galsworthy, and Galsworthy, 19, Ely-place, Holborn.

SECRETARY.—Samuel Stanway, esq.

Prospectuses, with a Map of the Lines, may be had of the Solicitors to the Company, Messrs. Watts, Galsworthy, and Galsworthy, 19, Ely-place, Holborn, London; of the Secretary, at the Offices of the Company, 3, Adelaide-place, London-bridge; and of the following

LOCAL SOLICITORS.
Messrs. Keen and Hand, Stafford.
Thomas Bolton, esq. Wolverhampton.
E. Kem Jarvis, esq. Hinckley.
Messrs. Keary and Sheppard, Stoke-upon-Trent.
Thomas Piddocke, esq. Ashby-de-la-Zouch.
F. J. Hamel, esq. Tamworth.
John Perks, esq. Burton-upon-Trent.
Beauvoir Brock, esq. Loughborough.
Charles Griesley, esq. Lichfield.
Messrs. Moore and Gregory, Leicester.

Also of the following

SHARE BROKERS.
London—Messrs. Hill, Fawcett, and Hill, Threadneedle-street.
Messrs. Harris and Sons, Change-alley.
Mr. A. Sym, Tokenhouse-yard.
Liverpool—Messrs. Townley and Whitehead.
Bristol—Messrs. Tate and Nash.
Leeds—Mr. James Jamieson, and Mr. W. Cronhelm.
Messrs. Weatherburn and Jennings.
Birmingham—Mr. J. R. Lane.
Newcastle—Mr. W. W. Dickinson.
Bradford—Mr. William Mason.
Sheffield—Messrs. Bardwell and Sons.
Hull—Mr. Francis Stamp.
Wakefield—Mr. S. H. Armitage.
Nottingham—Mr. C. Spencer.
Worcester—Mr. W. Miles.
York—Messrs. Grayston and Erle.
Blackburn—Mr. Thomas Boardman.
Southampton—Mr. Joseph Clark, jun.
Exeter—Messrs. H. Beaumont and Co.
Edinburgh—Mr. Charles Couper, 30, St. Andrew's Square.
Cheltenham—Mr. James Stokes.
Leicester—Messrs. Williams and Sunderland.
Messrs. Englefield and Co.
Newcastle-under-Lyne—Mr. Tompkinson.

To whom, also, applications for shares in the usual form should be addressed.

Sales by Auction.

BOXMOOR, HERTFORDSHIRE, adjacent to the Birmingham Railway Station

MESSRS. BROOKS and GREEN have received instructions from the proprietor, to SELL by AUCTION, at the Mart, on WEDNESDAY, October 29, in one or more Lots, a most desirable FREEHOLD ESTATE, whether for residence or investment; comprising a villa, adapted for a gentleman's family, with pleasure-grounds, gardens, coach-house, and stables; two neat villa residences, with gardens, adapted for small families, and the carcasses of six others, with gardens, &c., plantation, and park-like paddocks; in the whole upwards of 10 acres, commanding extensive views over the surrounding country, presenting many eligible sites for the erection of villas of a superior description, and is well worthy the immediate attention of the capitalist, builder, and others. The neighbourhood is highly respectable and healthy, and is surrounded by good fishing, hunting, and shooting.—Further particulars, with plans of the estate, will shortly be published, and may then be had of Messrs. DUFAUR and BLAKENEY, 3, Bedford-row; and of Messrs. BROOKS and GREEN, Estate Agents and Auctioneers, 28, Old Bond-street.

Investment.—St. Helena-place and William-street, Spa-fields.

MESSRS. BROOKS and GREEN will SELL by AUCTION, at the Mart, opposite the Bank of England, on WEDNESDAY, October 29, at Twelve o'clock, by direction of the Mortgagee, a long LEASEHOLD ESTATE, comprehending Four Houses and Two Ground-rents, producing an income of 102l. 6s. per annum.—Full particulars may be had of Mr. Martin Sangster, solicitor, 31, St. Swithin's-lane, Lombard-street; at the Mart; and of Messrs. BROOKS and GREEN, Estate Agents, Surveyors, and Auctioneers, 28, Old Bond-street.

Leasehold Estate, Annett's-crescent, Ball's-pond-road: an eligible Investment.

MESSRS. MUSGROVE and GADSDEN will SELL by AUCTION, at the Mart, on WEDNESDAY, October 8, at Twelve, THREE very convenient and genteel RESIDENCES, in excellent order, being Nos. 8, 9, and 10, Annett-crescent, let to Mr. Weston, Mr. Atkins, and Mr. Cannon, at rents amounting to 116l. per annum; held for an unexpired term of 52 years at a ground-rent.—May be viewed by permission of the respective tenants. Particulars may be obtained on the premises; at the Mart; and at Messrs. MUSGROVE and GADSDEN'S Offices, 18, Old Broad-street, city.

Commercial-road and King-street, New North-road.—Improved Ground-rent of 105l. per annum, undeniably secured upon upwards of 50 houses, including the George IV. public-house, and other premises of the value of 700l. per annum; also a Leasehold Ground Rent and a Residence, producing 57l. 15s. per annum.

MESSRS. MUSGROVE and GADSDEN have received instructions from the Executors to SELL by AUCTION, at the Mart, on WEDNESDAY, October 8, at Twelve, in two lots, an improved GROUND-RENT of 105l. per annum, arising out of the George IV. public-house and numerous other houses in Berners-street, Henry-street, and Everard-street, and a dwelling-house with large yard and premises in North-street, close to the Commercial-road, and near Whitechapel, the whole of the annual value of about 700l. Also a convenient Residence and garden, in King-street, New North-road, on lease to Mr. Coffee, at a rent of 47l. 5s. per annum; and a Ground-Rent of 10l. 10s. per annum, arising out of the residence adjoining the preceding, held for a long term at a low ground rent.—To be viewed until the sale, by permission of the tenants, and full particulars with plans may be had of Mr. Watson, solicitor, 27, Worship-street; of Mr. Humphrey, solicitor, East India-chambers, Leadenhall-street; at the Mart; and at Messrs. MUSGROVE and GADSDEN'S Offices, 18, Old Broad-street.

Surrey.—Valuable Freehold Plots of Building Ground.

MESSRS. MUSGROVE and GADSDEN have received instrutions to SELL by AUCTION, at the Mart, on TUESDAY, Octotber 14, at 12, 14 lots of valuable BUILDING GROUND, in the parish of Horley, adjoining the station of the Brighton Railway, and part having frontages upon the high road from Reigate to Cuckfield; the whole being well situate and adapted for building purposes. — To be viewed. Particulars may be obtained at the King's Arms Inn, Horley; Grapes, Reigate; at the Mart; and at Messrs. MUSGROVE and GADSDEN'S Offices, 18, Old Broad-street, City.

Numerous Houses and Shops, in front of the Hackney-road, and several Ground Rents arising out of adjoining property.

MESSRS. MUSGROVE and GADSDEN are instructed by the Executors to SELL by AUCTION, at the Mart, on TUESDAY, October 14, at Twelve, in one lot, an extensive and improvable LEASEHOLD ESTATE, consisting of the principal part of the London-terrace, on the south side of the Hackney-road, and being Nos. 11 to 28 respectively, including the ground rent of the modern structure, intended for a public-house, at the corner of London-street; also ground rents, amounting to £42 a year, secured upon property at the rear thereof and in Nelson-street; let on a building lease to Mr. Thomerson and another. The present gross rental amounts to nearly £460 per annum, subject to a ground rent of £70 per annum, and other outgoings for insurance, &c.—Printed descriptive particulars may be obtained on the premises; of Mr. George Cox, solicitor, Sise-lane, Bucklersbury; at the Mart; and at Messrs. MUSGROVE and GADSDEN'S Office, 18, Old Broad-street, City.

Valuable Freehold and Copyhold Estates in front of the Commercial-road, High-street, Poplar, and nearly opposite the church at Shadwell, producing at low old rents about 300l. per annum.

MESSRS. MUSGROVE and GADSDEN are instructed by the Trustees under the Will of Mrs. Williams, deceased, to SELL by AUCTION, at the Mart, on TUESDAY, October 14, at Twelve, in four lots, an eligible FREEHOLD and COPYHOLD PROPERTY; comprising the residence and business premises, No. 5, Dean's-buildings, Commercial-road, together with a leasehold plot of ground at the rear, forming the foundry, altogether on lease to Messrs. Brown and Redpath, engineers, at a rent of 150l. per annum; two Copyhold Houses and gardens, Nos. 74 and 75, High-street, Poplar, in the occupation of Messrs. Turner and Ellison, at rents amounting to 45l. per annum; two Copyhold Houses, shops, and extensive premises, distinguished as Nos. 223 and 224, Shadwell—one on lease to Mr. Croucher, chymist, at the very low rent of 45l. and the other on lease to Messrs. Rix, ironmongers, at only 60l. per annum. The whole of the Copyholds are held at nominal fines and quit-rents.—To be viewed by permission of the respective tenants. Printed particulars on the premises; at the Auction Mart; of Messrs. Morris, Stone, and Townson, solicitors, Moorgate-street-chambers; and at Messrs. MUSGROVE and GADSDEN'S Offices, 18, Old Broad-street, City.

LEASEHOLD INVESTMENTS.—From 1,000l. to 30,000l. may be advantageously laid out in the PURCHASE of LEASEHOLD HOUSES of the best description within four miles west of London. They are all let to most respectable tenants at reasonable rents, and will be sold to pay good interest to the purchasers. Term [illegible] years; ground-rent 10l. per house, redeemable. They are semi-detached, with nice gardens, coach-house, stable, &c. and an acre of land may be had with each house if desired. The money is wanted to lay out in buildings on the same property.

Apply to Mr. G. W. Jones, Castelnau, Barnes.

TO RAILWAY PROJECTORS, CIVIL ENGINEERS, ARCHITECTS, SURVEYORS, &c.—SWINFORD, Brothers, Lithographic Printers, 276, Strand, are prepared to undertake any quantity of Railway Maps, Plans, Sections, &c. Having had considerable experience, and being practical Lithographers themselves, they are enabled to execute the above with the utmost expedition, and in the most accurate manner.

LONDON:—Printed by HENRY MORRELL COX, of 74, Great Queen Street, in the Parish of St. Giles in the Fields, in the County of Middlesex, Printer, at his Printing Office, 74 & 75, Great Queen Street aforesaid, and published by JOHN CROCKFORD, of 29, Essex Street, Strand, in the Parish of St. Clement Danes, in the City of Westminster, Publisher, at the Office of the LAW TIMES, No. 29, Essex Street aforesaid, on Saturday, the 27th day of Sept., 1845.